

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

**MEETING:  
April 18, 2023**

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

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

## COUNTY COUNCIL

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



# Sussex County

DELAWARE  
sussexcountyde.gov  
(302) 855-7743

## SUSSEX COUNTY COUNCIL

### A G E N D A

APRIL 18, 2023

10:00 A.M.

#### Call to Order

#### Approval of Agenda

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

#### Reading of Correspondence

#### Public Comments

#### Todd Lawson, County Administrator

1. Proclamation – Fair Housing Month
2. Administrator's Report

#### 10:15 a.m. Public Hearings

1. American Storage Annexation into the Sussex County Unified Sanitary Sewer District (Long Neck Area)
2. Mulberry Knoll Store Annexation into the Sussex County Unified Sanitary Sewer District (West Rehoboth Area)



**Hans Medlarz, County Engineer**

**1. Joy Beach Sewer Expansion, Project S20-12**

**A. Recommendation to Award**

**B. Change Order No. 1**

**Grant Request**

- 1. First State Community Action Agency for their 8<sup>th</sup> Annual “It’s A Partee” Miniature Golf Tournament to support their youth groups**

**Introduction of Proposed Zoning Ordinances**

**Council Members’ Comments**

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

**Possible action on Executive Session items**

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

**Conditional Use No. 2340 filed on behalf of Inland Bays Preservation Company, LLC**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A WASTEWATER RECLAMATION TREATMENT FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 26.05 ACRES, MORE OR LESS” (property lying on the northeast side of Banks Road [S.C.R. 298], approximately 400 feet northwest of Green Road [S.C.R. 298A]) (911 Address: N/A) (Tax Parcel: 234-17.00-170.00 [P/O])**

**Conditional Use No. 2349 filed on behalf of Lessard Builders**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (10 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.84 ACRE, MORE OR LESS” (property lying on the northwest side and the southeast side of Oak Orchard Road [Rt. 5], approximately 300 feet east of River Road [S.C.R. 312]) (911 Address: 32768 Oak Orchard Road, Millsboro) (Tax Parcel: 234-35.09-6.00)**

**Adjourn**

**-MEETING DETAILS-**

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on April 11, 2023 at 4:15 p.m. and at least seven (7) days in advance of the meeting.

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

Agenda items may be considered out of sequence.

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

The County provides a dial-in number for the public to comment during the appropriate time of the meeting. **Note, the on-line stream experiences a 30-second delay.**

Any person who dials in should listen to the teleconference audio to avoid the on-line stream delay.

To join the meeting via telephone, please dial:

**Conference Number: 1-302-394-5036**

**Conference Code: 570176**

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

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

## ##

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

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

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

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

**Call to  
Order**

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

**M 145 23  
Approve  
Agenda**

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

**Motion Adopted: 4 Yeas, 1 Absent**

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

**Minutes**

**The minutes from March 21, 2023, were approved by consensus.**

**Corre-  
spondence**

**There was no correspondence.**

**Public comments were heard.**

**Public  
Comments**

**Ms. Susan Petze-Rosenblum spoke about buffers and clear cutting.**

**Mr. William Kinnick thanked Council for a grant received. He spoke about sewer and water issues that are going into the Nanticoke River.**

**Delaware  
Department  
of**

**DelDOT Secretary Nicole Majeski and DelDOT Deputy Secretary Shante Hastings provided an update of projects in Sussex County.**

**Transport-  
ation Update**

**Ms. Majeski shared a chart outlining the 2023 Delaware traffic fatalities which is updated weekly. Ms. Majeski reported that to date, there has been**

**Delaware  
Department  
of  
Transport-  
ation Update  
(continued)**

**31 facilities which is a decline from last year. Staff analyzes each crash to determine things that can be done from an engineering standpoint to make roads safer.**

**Ms. Majeski reported that there was legislative passed last session to increase the enforcement of tractor trailer parking. This allows for law enforcement to enforce illegal truck parking. In addition, additional truck parking is being looked into so that truckers have a place to go and park safely so they are not on the side of the road. Automated speed enforcement was also piloted this year. It was reported that currently, we do not have the ability to do this in our State, but it was requested through the bond bill to provide the authority to pilot it along the I-95 Restore the Corridor project in Wilmington. Ms. Majeski discussed the initiatives that are currently used such as rapid flashing beacons for pedestrian access, rumble strips, dynamic chevrons, cable median barrier and HFST on curves. Ms. Majeski explained new technology that has been piloted on Route 1 to deploy if someone were to enter a ramp the wrong way.**

**Ms. Majeski reported that with Delaware being a low-lying state which makes flooding a concern. She discussed frequently flooded roadways and the efforts to mitigate the flooding. In addition, she discussed funding that was received for EV charging stations and where they are planned to be placed. Ms. Majeski discussed the issue of littering on the roadways that is increasing each year throughout the state.**

**From a transit standpoint, the beach bus will be back in operation on May 22<sup>nd</sup>. In addition, all-electric buses continue to be deployed into the fleet; by the end of this year, 11% of the fleet will be all-electric. DART connect continues to be successful.**

**Ms. Majeski discussed the multi-modal projects that are in design with construction to start within the next two years in Sussex County. She further discussed DelDOT's partnership with the County for Land Use. Ms. Majeski pointed out that DelDOT owns and maintains 90% of the roadways, however, the County has the land use decisions. The Henlopen Southeast Sussex/Roxana TID's and Coastal Corridors Study were discussed.**

**The MOU between the County and DelDOT was updated on September 22, 2020. Ms. Majeski discussed the FY23-28 CTP information that is updated every two years. It is planned to spend \$4.45B over the next six years.**

**Ms. Hastings discussed and provided project highlights ongoing in Sussex County. The Route 54 bridge will be fully replaced and will be reconstructed in halves to allow one lane open to traffic. She then discussed work that is underway or planned for the Route 1, US113, Route 24 and Route 9 Corridor projects. An update was also provided for the Cave Neck/Hudson/Sweetbriar intersection project.**

**Adminis-  
trator’s  
Report**

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

**1. Holiday and Council Meeting Schedule**

**A reminder that Council will not meet on Tuesday, April 4<sup>th</sup>, or Tuesday, April 11<sup>th</sup>. In addition, County Offices will be closed on Friday, April 7<sup>th</sup>, to observe the Good Friday holiday. The next regularly scheduled Council meeting will be held on Tuesday, April 18<sup>th</sup> at 10:00 a.m.**

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

**Public  
Hearing/  
Proposed  
Ordinance/  
Amend  
Budget/  
Kitchen  
Incubator**

**A Public Hearing was held for a Proposed Ordinance entitled “AN ORDINANCE AMENDING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2023 TO INCORPORATE NEW FEES AND EXPENSES FOR THE KITCHEN INCUBATOR PROJECT”.**

**Mrs. Jennings reported that the kitchen incubator will soon be opened. In order for that to occur, a budget amendment is needed to include the fees.**

**Bill Pfaff, Economic Development Director reviewed the proposed fees.**

**There were no public comments.**

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

**M 146 23  
Adopt  
Ordinance  
No. 2915/  
Kitchen  
Incubator**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt Ordinance No. 2915 entitled “AN ORDINANCE AMENDING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2023 TO INCORPORATE NEW FEES AND EXPENSES FOR THE KITCHEN INCUBATOR PROJECT”.**

**Motion Adopted: 4 Yeas, 1 Absent**

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

**ARPA  
Update**

**Gina Jennings, Finance Director presented an update on the American Rescue Plan Act. Ms. Jennings reviewed the timeline of the funding. She then reviewed the County’s established goals for allocation. The project must meet ARPA requirements and be completed or under contract by December 31, 2024. In addition, the plan was to not “grow” government with these temporary funds, duplicate efforts and have the projects align with Council priorities. The allocations of funds was shown and discussed.**

**Mrs. Jennings discussed the non-profit grant program that was rolled out**



**ARPA Update (continued)**

last year to assist with large projects. The housing and low-income programs funds were then discussed. There was a direct buyer assistance program, development loan fund and rehabilitation funds (with clean-hands assistance).

Mrs. Jennings shared a chart showing the original allocation, amount spent to date, amount expected to be spent through December 2024 and the amount that could be repurposed. The recommendation is to have a new non-profit grant program adding another \$1M. Additionally, add more money for the low-income rehabilitation program (\$1M) and low-income buyer assistance program (\$600,000).

Mrs. Jennings discussed the qualifications for the new non-profit ARPA small grant program. The grant application process for the small ARPA grant program and second grant application for housing development will be opened up on April 3<sup>rd</sup>.

**Permission to Prepare & Post Notices/ Forest Landing**

John Ashman, Director of Utility Planning and Design presented a request for permission to prepare and post notices for Forest Landing (Ellendale Area).

The Engineering Department received a request from Davis, Bowen & Friedel, Inc. on behalf of their client OA Forest Landing, LLC, owners/developers of parcels 230-19.00-112.00 & 230-20.00-12.00 along N. Old State Road. The parcels have been annexed into the Town of Ellendale and Sussex County provides the sanitary sewer for the town. The parcels are located in the Tier 3 Area for sewer service and with annexation into the town Sussex County is the best option for service. The project will be responsible for System Connection Charges of \$6,600 per EDU based on current rates.

**M 147 23 Approve Permission to Prepare & Post Notices/ Forest Landing**

A Motion was made by Mrs. Green, seconded by Mr. Hudson, that be it moved that the Sussex County Council that the Sussex County Engineering Department is authorized to prepare and post notices for the Forest Landing expansion of the Sussex County Unified Sanitary Sewer District to include parcels 230-19.00-112.00 & 230-20.00-12.00 as presented.

**Motion Adopted: 4 Yeas, 1 Absent**

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

**Grant Requests**

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

**M 148 23 Nanticoke Senior Center**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$2,500 (\$2,500 from Mr. Vincent's Councilmanic Grant Account) to the Nanticoke Senior Center for a new sound system.

**Motion Adopted: 4 Yeas, 1 Absent**

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

**M 149 23** A Motion was made by Mrs. Green, seconded by Mr. Rieley to give \$1,000  
**H.O.** (\$1,000 from Mrs. Green's Councilmanic Grant Account) to H.O.  
**Brittingham** Brittingham Elementary School for their Robotics World Championship.  
**Elementary**  
**School**

**Motion Adopted: 4 Yeas, 1 Absent**

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

**M 150 23** A Motion was made by Mrs. Green, seconded by Mr. Rieley to give \$1,500  
**H.O.** (\$1,500 from Mrs. Green's Councilmanic Grant Account) to H.O.  
**Brittingham** Brittingham Middle School for their Robotics World Championship.  
**Middle**  
**School**

**Motion Adopted: 4 Yeas, 1 Absent**

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

**M 151 23** A Motion was made by Mr. Hudson, seconded by Mr. Rieley to give \$2,000  
**Cape** (\$1,000 from Mr. Schaeffer's Councilmanic Grant Account, \$500 from Mr.  
**Henlopen** Rieley's and \$500 from Mr. Hudson's Councilmanic Grant Accounts) to  
**Senior** Cape Henlopen Senior Center for their Rehoboth Concert Band  
**Center** Fundraiser.

**Motion Adopted: 4 Yeas, 1 Absent**

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

**M 152 23** A Motion was made by Mr. Hudson, seconded by Mr. Rieley to give \$2,000  
**Fraternal** (\$1,000 from Mr. Schaeffer's Councilmanic Grant Account and \$500 from  
**Order of** Mr. Hudson and \$500 from Mr. Rieley's Councilmanic Grant Accounts) to  
**Police** Fraternal Order of Police of Sussex County Lodge No. 2 Inc. for their  
**Sussex** charities supported by the FOP Lodge #2 program.  
**County**

**Lodge No. 2** **Motion Adopted: 4 Yeas, 1 Absent**

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

**Introduction  
of Proposed  
Ordinances**

**Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL DISTRICT TO AN LI-1 LIMITED INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 14.426 ACRES, MORE OR LESS” filed on behalf of John H. Legg.**

**Mr. Vincent introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AC-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.219 ACRES, MORE OR LESS” filed on behalf of Waste Management of Delaware Inc.**

**Mr. Vincent introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM ON A 23.357 ACRE PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 53.891 ACRES, MORE OR LESS” filed on behalf of Consolidated Edison Development, Inc.**

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

**Council  
Member  
Comments**

**There were no Council member comments.**

**M 153 23  
Go Into  
Executive  
Session**

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

**Motion Adopted: 4 Yeas, 1 Absent**

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

**Executive  
Session**

**At 11:25 a.m., an Executive Session of the Sussex County Council was held in the Council Chambers for the purpose of discussing matters relating to land acquisition. The Executive Session concluded at 11:32 a.m.**

**M 154 23  
Reconvene**

**At 11:33 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to come out of Executive Session and reconvene the Regular Session.**

**Motion Adopted: 4 Yeas, 1 Absent**

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

**Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

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

**M 155 23**      **At 11:34 a.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson**  
**Recess**      **to recess until 1:30 p.m. Public Hearings.**

**Motion Adopted:      4 Yeas, 1 Absent**

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

**M 156 23**      **At 1:30 p.m., a Motion was made by Mr. Hudson, seconded by Mrs. Green**  
**Reconvene**      **to reconvene.**

**Motion Adopted:      4 Yeas, 1 Absent**

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

**Rules**      **Mr. Moore read the rules and procedures for public hearings.**

**Public**      **A Public Hearing was held on a Proposed Ordinance entitled “AN**  
**Hearing/**      **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-**  
**CU2366**      **1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GROUP HOME**  
      **FOR MORE THAN 10 PEOPLE TO BE LOCATED ON A CERTAIN**  
      **PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED,**  
      **SUSSEX COUNTY, CONTAINING 17.26 ACRES, MORE OR LESS”**  
      **(property lying on the north side of Boyce Road [S.C.R. 547], approximately**  
      **0.15 mile east of Neals School Road [S.C.R. 553]) (911 Address: 4973 Boyce**  
      **Road, Seaford) (Tax Map Parcel: 531-9.00-7.03) filed on behalf of Impact**  
      **Life, Inc.**

**The Planning & Zoning Commission held a Public Hearing on the**  
**application on February 23, 2023. At the meeting of March 9, 2023, the**  
**Planning & Zoning Commission recommended approval of the application**  
**for the 9 reasons stated and subject to the 13 recommended conditions as**  
**outlined.**

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

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

**The Council found that Mr. Bradley Owens spoke on behalf of the**

**Public  
Hearing/  
CU2366  
(continued)**

**Application; that he is the executive director of IMPACT Life, Inc.; that the organization is opening a sober living house; that the proposed property is a farm consisting of 17 acres; that the application is to increase the number of beds allowed in the dwelling from 10 to 13 beds; that this will allow the program to help three additional women; that the house is staffed 24/7; that it is considered a 3.1 treatment facility; that it is staffed with clinical staff, case management and peer support staff; that there will be live animals including goats and pigs; that there will be a full-time farm educator; that this is one of eight properties that they manage state-wide; that there are about 30 staff total and they continue to grow; that the curfew was questioned; that a 8:00 p.m. curfew was recommended by the Planning and Zoning Commission; that farm care especially in the summer time can go beyond 8:00 p.m.; that the residents will be responsible for the farm duties; that their other house that is next on the agenda had a similar condition, however, the curfew was set at 10:30 p.m.; that he believes something similar would be fair; that the farming operation is part of the treatment.**

**Mr. Rieley questioned the need for the additional three beds. Mr. Owens replied that there is a need; that if three more people can be served than they desire to do that; that they have the space and staff to provide it.**

**Public comments were heard.**

**Ms. Domenica Personte spoke in favor of the application; that she is the CEO of IMPACT Life, Inc.; that she is an individual in long-term recovery; that she has served, in some capacity, within Delaware for 25 years; that this will be traditional residential care; that a licensed therapist, peer support, farm care coordinator, women's care coordinator and children's care coordinator will be there 24/7; that there is about 10 leadership staff members that are all accessible; that they follow the standards of the NARR; that the beds must be 5 feet apart; that there cannot be any bunk beds; that the house is about 4,000 square feet; that Delaware is number 2 right now for overdose fatalities; that the extra three beds will allow for three additional women to receive treatment and be in a safe space; that she was in a program like this when she was 18 years old; that she participated in a program called Bayard House in Wilmington; that the program offered her the most lifechanging experience, by providing life skills she needed; that the Application proposes to make the 17 acre farm a safe environment, allowing the program to teach mothers the life skills needed.**

**Ms. April Calloway spoke in opposition of the application; that these recovery homes do not fit into every community; that with these types of services, come with some certain undesirable situations; that she believes that there needs to be a change to the zoning laws while these facilities are given grants and contributions to purchase homes; that property values will impact the property owners in the area; that it can take 30 minutes or more for state police to respond; that she questioned what would happen if one of the residents abusive husbands or boyfriends come looking for them; that she questioned the security that would be provided for the residents to**

**Public  
Hearing/  
CU2366  
(continued)**

protect them; that she questioned if IMPACT Life would be financially responsible for any damage done to neighboring properties by their residents; that she questioned the septic situation; that IMPACT Life states they want to form relationships with their communities they move into, however, the community has been lied to by them; that it was told that this facility would only house recovering alcoholic woman; that they are now they are stating that they will be recovering from all drug substances; that it was told there would only be 10 people in the facility and now they want 13 people; that she believes that they will continue to come back requesting for more people for this facility; that she was not initially told that the request was to allow the woman to bring their children; that request was never spoken of before the zoning meeting; that the home has small bedrooms; that the home does not have a large dining room to accommodate large family meals; that the ideas provided for this project will require them to ask for more space to build to accommodate the residents; that she questioned if the 13 included the people that must stay and work there overnight; that she questioned where those people would stay; that there is no transportation available to their residents; that it is not within walking distance to medical care or food; that she has fears of who will be walking their roads; that the people in her community choose to buy or build their homes in the country for a reason; that they wanted a peaceful place to raise their children and go outside without fear; that she is requesting that the Council deny the application; that she was given no say in this facility coming to her community; that the community deserves for their voices to be heard on how many residents they can accommodate; that permeant residents in the community vote for who they want on Council; that the residents of the recovery facility do not vote.

Mr. Dale Short spoke in opposition of the application; that he does not understand why they are requesting to change the curfew; that farming is mostly done before 8:00 p.m.; that there is a big pond in the back of the property; that nothing has been discussed about the safety for the children relating to the pond; that he expects the value of his property to decrease; that he has lived in the aera for almost 30 years; that he had to work hard for what he has; that if more beds are given, it changes the safety in the neighborhood.

Ms. Chelsea Mulford spoke in opposition of the application; that she requested that the increased number of residents not be approved; that they stated in the last hearing that transportation is hard in this area; that there is no transportation in place for the residents; that there is not enough room there currently to support the number of people; that they will need to add more space to accommodate more residents; that there is entirely too many uncertainties around this agenda; that they have only cared about their agenda since day one and not the community or residents surrounding the property; that the only people that have come to their defense is people that work for or are apart of their group; that not one from outside of their group or community have spoken in support; that they will continue to ask for more and more people to live here; that it is a quiet country setting; that

**Public  
Hearing/  
CU2366  
(continued)**

they did not do their research on this area; that there is a registered sex offender a few houses down; that she questioned what type of security measures are in place for the children; that there are too many unanswered questions; that people are being brought from other states; that there is not proper manpower with state police; that it takes thirty minutes to an hour for state police to respond; that there is no trust with the organization due to lies that have been told; that this is something that she does not want in her community.

The Public Hearing and public record were closed.

**M 157 23  
Open Public  
Hearing &  
Record  
Up/CU2366**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to open the public hearing and public record back up.

**Motion Adopted: 4 Yeas, 1 Absent**

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

Mr. Rieley questioned what was going to be grown on the farm and if the curfew meant that you have to be in the house or just on the property; that Melissa Sellers came forward; that she is the farm educator; that the assumption was that you have in the house; that children will not come to the house right away; that it will only be woman; that it is planned to have all sorts of livestock; that currently there are goats and pigs; that they plan to get sheep, rabbits and cows; that there is a 2-acre garden.

Ms. Domenica Personte came forward; that it is not planned to have children at the property until it is determined how to fence in the pond; that the pond goes to ten feet; that federal funds were received to allow them to expand it to women with children; that originally with the state, it was a program just for women; that it is not planned to have children in the house until the pond is secured; that there is a mommy and me house in Seaford; that house does not always sit at occupancy so there is available there; that the plan is for that to be the step down house; that the bed configuration changes based on the number of women that are in the house and the amount of children that each woman has; that they try to go with single rooms and they allow up to two children 12 and under for every woman who is there; that the rooms are set up as all doubles with the exception of the house manager who gets their own room; that the request is for 13 with the ability to adjust the configuration accordingly based on a mom that comes in with her children; that the understanding is that they would be in single rooms; that an adult bed would be given up if a woman came in with two children; that the house looks different than the floor plan; that some of the rooms are bigger than they originally were; that children would not be placed in a room with a stranger adult; that there are partnerships that can be used if needed; that a woman and her children would be in a room together with no other adult; that they do have vans available; that

**residents are not allowed to go off the property without staff.**

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

**M 158 23  
Defer  
Action/  
CU2366**

**A Motion was made by Mr. Vincent, seconded by Mr. Hudson to defer a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GROUP HOME FOR MORE THAN 10 PEOPLE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 17.26 ACRES, MORE OR LESS”.**

**Motion Adopted: 4 Yeas, 1 Absent**

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

**Public  
Hearing/  
CU2367**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GROUP HOME FOR MORE THAN 10 PEOPLE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.86 ACRES, MORE OR LESS” (property lying on the east side of Hurdle Ditch Road [S.C.R. 290], approximately 0.28 mile north of Hollyville Road [Rt. 48]) (911 Address: 22703 Hurdle Ditch Road, Harbeson) (Tax Map Parcel: 234-10.00-69.01) filed on behalf of AtTack Addition Foundation.**

**The Planning & Zoning Commission held a Public Hearing on the application on February 23, 2023. At the meeting of March 9, 2023, the Planning & Zoning Commission recommended approval of the application for the 9 reasons stated and subject to the 14 recommended conditions as outlined.**

**(See the minutes of the Planning & Zoning Commission dated February 23, and March 9, 2023.)**

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

**The Council found that Mr. Don Keister spoke on behalf of the Application; that he represents the Applicant, AtTack Addiction Foundation; that the Conditional Use request is to increase the number of residents for their fourth recovery residence, located in Harbeson; that currently it is approved for ten residents; that three of which would be house managers; that it being requested that the number be increased to 16; that the organization obtained the property through a grant procedure, which was conducted by the Delaware State Housing Authority, by a project they call**



Public  
Hearing/  
CU2367  
(continued)

the Recovery Housing Project (RHP); that the deed states the organization must maintain the house as a recovery residence for 20 years; that the Application was submitted on November 30th, 2021; that settlement was conducted on May 20th, 2022; that the interior of the home is just under 6,000 sq. ft.; that the property is comprised of just under two acres; that the property is zoned AR-1 (Agricultural Residential); that meetings were set up by Representative Ruth Briggs King to discuss the project; that there were two formal meetings and several informal meetings; that the neighbors presented a list of requests which have been provided to the Council along with their replies; that the future residents have the potential to make a real difference in Sussex County; that the interior of the dwelling has been adapted to provide offices, bedrooms for the housing managers, large meeting spaces, exercise area and room for individual counseling sessions; that the residence is handicap accessible; that the large lot would provide several opportunities for gardening and exercise; that the space provided is more than adequate to house 16 residents; that the proposed use is a vital need in Sussex County; that this need has been recognized in the past three quarters of 2022, as reported by the Delaware Drug Monitoring Initiative, there are 85 drug related deaths; that the final results for 2022 have not yet been reported; that in the third quarter alone, 968 drug arrests were made in Sussex County; that the new residence, located in Harbeson, will be considered a NARR Level 4 residence; that the residence will also be considered a 3.1 residence according to Audience American Society of Addiction Medicine (ASAM); that the proposed property, along with the proposed property for IMPACT Life, Inc, will be the first 3.1 ASAM residence located in Sussex County; that both properties are subject to a host of State guidelines, which can be found with the 6001 Substance Abuse Facility Licensing Standards; that these regulations help promote the health and wellbeing of consumers/clients receiving services in substance abuse treatment centers located within the State; that there are 19 standards within the required guidelines, which AtTack Addiction and IMPACT Life must adhere to in order to remain licensed; that Ms. Dominica Personte with IMPACT Life, Inc. will be operating the residence for AtTack Addition; that Ms. Personte has been a fixture within the recovery community for many years; that Ms. Personte is highly respected throughout the State; that Ms. Personte was recently the CEO of a property owned by Recovery Centers of America; that part of the licensing requirements, is to maintain staff, 24 hour, seven days per week, 365 days per year staff, to monitor the facility; that staff will include one part-time physician, being a licensed Practitioner, to be onsite during the day, and on-call around the clock when not onsite; that additional staff will include several house managers, with someone awake to provide supervision around the clock; that there will be several persons available to establish provision, support and a safe environment for the residents; that the need for this assistance in Sussex County is evident; that by supporting additional residents at the Harbeson location will benefit the citizens of Sussex County, especially those individuals who will be able to receive help; that both organizations have demonstrated their ability to provide meaningful opportunities to persons with Substance Use Disorder, in a safe,

**Public  
Hearing/  
CU2367  
(continued)**

**healthy and supportive environment; that the Harbeson residence will be inspected, licensed and under the direct supervision from the State; that increasing the density of the proposed property, will allow six additional residents within Sussex County to receive suitable treatment and support; that the dwelling is capable of accommodating the requested number of residents, while providing adequate space, programs and safety; that the organization provides meaningful programs for their residents; that the residents are not criminals, they are not bad people; that the residents are sick people, who are taking steps to become well, and take back their life; that he requested the Council grant approval, allowing the program to additional Sussex County residents.**

**Public comments were heard.**

**Mr. Adam Center spoke in support of the application; that he is a social worker; that he has been invited to work with IMPACT Life; that he has been working in the field of addiction for the past decade; that he has witnessed a lot of challenges and stigma; that he understands the concerns being expressed; that the recovery and victories are not discussed enough; that there is now more data about recovery; that he is looking forward to the opportunity to help.**

**Mr. Joe Gordan spoke in opposition of the application; that that he resides approximately 120 yards from the property; that since he was made aware of the half-way house, he has learned many new things, such as NIMBY (Not In My Back Yard) and NARR (National Alliance Recovery Residences); that he had also learned that his current neighbors are good people, with good hearts; that they too, have lost loved ones, and have had to live lives where their friends and family's lives were destroyed because of the opioid epidemic; that no one denies that individual need help; that there is a right way and wrong way of doing everything; that they need reassurances that the needs and wellbeing of the community are being addressed, as well as the needs and wellbeing of the participants in the program; that the community has worked hard together, to create a quiet, peaceful neighborhood; that each of them have moved to the area, because they feel safe and the value the peace and quiet the area brings; that the community's primary concern is that the peace and quiet that they worked hard to create will be disrupted or compromised by the presence of the program; that for months, AtTack Addiction proceeded to establish the assisted living facility with absolutely no contact with the neighborhood; that it was only by word-of-mouth the community became aware of the proposed use; that meetings were not scheduled by AtTack Addition, but rather by Representative Ruth Briggs King, per the community's request; that per the briefing of St. Leonard's Society of Canada, it was stated to be successfully integrated into a community, a half-way house needs a public that understands the purpose and neighbors who are comfortable with its procedures; that from the community's perspective, AtTack Addition did not do their due diligence in preparing their neighborhood for their assisted living facility as documented by nearly every recovery residence**

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Hearing/  
CU2367  
(continued)**

**organization; that by eliminating this important step, they have unfortunately created additional resentment and lack of trust towards AtTack Addition, as well as fear against future participants; that there are concerns of safety; that an average police response time on a good day is about thirty minutes; that NARR Standard 3.0 states responsiveness should be provided to neighbors' concerns; that Principal J states the organization should be a good neighbor; that the NARR Code of Ethics states that operators are to maintain an environment that promotes the peace and safety of surrounding neighborhood and the community at large; that they collectively feel that AtTack Addition has not been a good neighbor and did not take the community's concerns seriously; that their next door neighbor is a woman with PTSD from being attacked from fellow serviceman; that Don still refused to finish the fence around the property; that the neighbor across the street is doing everything that she can to hold onto her fragile, function existence; that he questioned if they thought about the affect that they are having on their neighbors; that that it stands to reason that the more residents there are in the house, the more likely there will be a conflict; that NARR Code of Ethics states a safe, homelike environment should be provided, while meeting NARR standards; that in his opinion, 16 residents is too many to allow for a homelike environment; that one study, published in the Journal of Substance Abuse Treatment, analyzed factors associated with positive outcomes of sober living houses; that the study found that facilities having a smaller number of residents were associated with higher rates of employment, which could reflect the benefits of low resident to staff ratio, with greater focus and attention afforded to each individual; that similar to class sized in school, the community would much rather see lower numbers, with a higher success rate, than a higher number of participants with a lower success rate; that based on the meetings had with AtTack Addition, it was much as said, the federal government wants this, and there is not much anyone can do; that the community hopes that this is not the case; that they hope that everyone's concerns will be addressed; that at a August 30, 2022 meeting, it was stated that it would start with 10 participants and increase to 13 next year; that he requests that it start with no more than 10 participants; that the success rate has not been shared or what they expect it to be; that a success rate of 33% was mentioned; that the residents may fall back into the drug lifestyle which would affect the safety of the neighborhood; that he believes that the conditional use should state that residents should not have been convicted of any sex offense, any violent offenses as defined in Title 11 of the Delaware Code and all participants are to come from Sussex County; that the need is understood; that he encourages the house to start with 10 participants and then apply for additional participants.**

**Ms. Norma Kline spoke in opposition of the application; that she resides directly adjacent to the site; that she is an Iraq Veteran; that she is a survivor of military sexual trauma; that anytime there is a gathering of men, it stresses her out; that her and her husband do not go where there is a lot of people; that her goal is to stop the approval of more than ten men being permitted to reside at the property; that her safety concerns have**

**Public  
Hearing/  
CU2367  
(continued)**

increased; that her post traumatic stress (PTSD) will increase; that as a veteran, loud noises trigger her; that she fears the residents may get fireworks for the Fourth of July; that she feels that they should have come over and introduced themselves when they purchased the home; that the fence only goes half way down the property; that the fence does not go to the back; that they can go around and peep at anytime because there is no closure; that she does not feel protected; that during the meeting, it was said that the residents could go do whatever they want without a staff member; that she does not go outside in the dark; that she requested it stop at ten people; that she moved to this house because she felt safe and secure; that she no longer feels safe; that she has seen people that go back and do the drugs.

Mr. Carl Thomas spoke in opposition of the application; that he is currently building a home about 150 feet away; that he was made aware of the home through his neighbors; that the group reached out to AtTack Addition on several occasions to arrange meetings seeking information of their plans; that four meetings were scheduled; that their principals showed up to two of those meetings; that at these meetings, nothing was presented in writing; that they contradicted their written home standards at the PZ hearing regarding transportation; that if you look on their website, it repeatedly states that there is no transportation; that the narrative is changed as it suits; that the nearest area to access DART transportation is 4.2 to 4.4 miles away in either direction; that the area roads are not conducive to walking or bicycle pedestrians; that Zillow, the real estate site, rated the roads a zero out of 100 relating to walking suitability; that Zillow rated a 26 out of 100, relating to biking suitability; that Ms. Personte was not able to provide any information as to the success rates for their homes; that Ms. Personte did state about a 33% success rate; that they have been unable to provide any written documentation to their claims; that the national average for relapse is 40-60%; that as a RN, he finds it unsettling that there is not a written plan of action for these patients; that he works as a nurse in an Intensive Care Unit; that he sees the criminal activity that comes with substance use disorder; that over 75% of patients are either incarcerated or have police or P&P involved in their case; that many offenders commit a crime under the influence of drugs; that violent offenses are done to get drugs or get money for drugs; that his concern is because of the high occurrence of criminal activity, what is going to be done to get these people out of the community; that they have no written procedures of transporting residents who relapse away from the facilities; that there is a petition signed by 65 property owners that was submitted; that they all oppose the expansion of the home at this time; that there are young children, mentally and physically handicapped and elderly in the area; that there is a home across the street with five children under the age of 13; that there is not sufficient parking for the staff and residents; that there is not a site plan addressing parking and trash receptacles location has been submitted; that the septic system is not adequate for the proposed number of residents at the current number of 10; that at the current capacity, they have enough for only 6 residents; that is being requested that Sussex County require

**Public  
Hearing/  
CU2367  
(continued)**

**compliance with current regulations; that it is being requested that the home be kept at its current capacity of no more than 10 until a track record of success is established for a period of no less than 3 years operating at capacity.**

**The Council found that Mr. Daniel Oliveria spoke in opposition of the Application; that he is building a house across the street; that he is concerned about this project; that he has a daughter and wife that would be home alone; that he has a concern about the safety; that he questioned that when the school bus comes home and the safety of the children; that there is a lot of conflicting information; that he understands the substance disorder and what it can do to a family; that he believes that the increase of residents is harming the nearby neighbors; that he does believe that they should be able to increase the number of beds; that all of the concerns of the neighbors were not met; that the fence was not completed; that he would like the curfew to be 8:00 p.m.; that he would rather than the 10 people with no conditions than the 16 people with conditions.**

**Mr. Rieley questioned if transportation was provided. Ms. Personte replied that both programs have purchased vans that will be specific to the Harbeson house. She added that they must be with staff when leaving the house. It was added that the fence can be completed fenced in if desired. Ms. Personte reported that sex offenders are not accepted into this program and this house will not take any sex offenders. She added that there are talks for one house in New Castle County that will be a sex offender residence.**

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

**M 159 23  
Defer  
Action/  
CU2367**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GROUP HOME FOR MORE THAN 10 PEOPLE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.86 ACRES, MORE OR LESS”.**

**Motion Adopted: 4 Yeas, 1 Absent**

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

**Public  
Hearing/  
CU2371**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BUSINESS PARK TO INCLUDE WAREHOUSES AND OFFICE BUILDINGS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 22.29 ACRES, MORE OR LESS” (property lying on the southwest side of**

**Public  
Hearing/  
CU2371  
(continued)**

**Prettyman Road [S.C.R. 254] approximately 0.52-mile northeast of Lewes Georgetown Highway [Rt. 9] (911 Address: N/A) (Tax Parcel: 235-30.00-6.00) filed on behalf of Georgetown Business Plaza, LLC.**

**The Planning & Zoning Commission held a Public Hearing on the application on February 23, 2023. At the meeting of March 9, 2023, the Planning & Zoning Commission recommended approval of the application for the 7 reasons stated and subject to the 16 recommended conditions as outlined.**

**(See the minutes of the Planning & Zoning Commission dated February 23, 2023, and March 9, 2023.)**

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

**The Council found that Ms. Mackenzie Peet, Esq. with Saul Ewing, spoke on behalf of the Application; that also present on behalf of the Applicant were Mr. G. Michael Glick, Vice President of Lighthouse Construction, and Mr. Jamie Sechler, Professional Engineer with Davis, Bowen & Friedel, Inc.; that the Applicant submitted a Conditional Use application to pursue a Conditional Use of land within the AR-1 (Agricultural Residential) Zoning District, for a business park to include warehouses and office buildings to be located on a very uniquely shaped property; that the property consists of a 22.285-acre parcel, located on the southwest side of Prettyman Road and the northwest side of Rt. 9; that the proposed use is a business park intended to be developed in two phases; that Phase 1 will consist of two medical and professional office buildings, with a total area of 39,520 sq. ft., to be located on a 2.8-acre portion of the site; that to the rear of the property, seven flex buildings are proposed as Phase 2; that the flex spaces would consist of offices and warehouse spaces, being located on 8.269 acre portion of the property; that leaving the remainder of the property as residual land; that parking calculations for each phase are reflected on the cover page of the revised plan; that the parking is proposed behind the proposed buildings; that central parking is proposed within the flex space portion of the property; that the flex spaces is proposed to be for office and warehouse space; that the Code defines an office as “a room, or group of rooms used for conducting the affairs of a business, profession, service industry or government and generally furnished with desks, tables, files and communications equipment”; that the Code also defines a warehouse as “a building use primarily for storage of goods and materials”; that the use of each flex building may consist of just office or warehouse space, as defined in the Code, or a mix of each, depending on the demand of the end user; that the property will be accessed from Rt. 9; that currently, for the development of the proposed portion of the site, there is no intention to utilize the Prettyman Rd. access, primarily for the reasons is that portion of the property is not the subject of the current Conditional Use request; that to gain access from the Conditional Use area to Prettyman Rd., existing vegetation would be required to be cleared; that the Prettyman Rd. access is**

**Public  
Hearing/  
CU2371  
(continued)**

more of a private driveway; that there are easements recorded that benefit the property owners who live along Old Wood Dr.; that the developer desires to ensure service oriented traffic does not travel through the residential area; that the access may serve as an emergency access for future development of the parcel; that the Applicant submitted an Exhibit Booklet, which was prepared by DBF, Inc.; that the Exhibit Booklet included, a project overview, a data column, the Conditional Use application, the original Site Plan, the amended Site Plan and the Landscape Plan; that she requested a change to Condition A and Reason 1.

There were no public comments.

The Public Hearing and public record were closed.

**M 160 23  
Amend  
Conditions/  
CU2371**

A Motion was made by Mr. Rieley, seconded Mr. Hudson that No. 1 be changed to warehouse and/or office and 8A be changed to warehouse and/or office.

**Motion Adopted: 4 Yeas, 1 Absent**

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

**M 161 23  
Adopt  
Ordinance  
No. 2916/  
CU2371**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Ordinance No. 2916 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BUSINESS PARK TO INCLUDE WAREHOUSES AND OFFICE BUILDINGS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 22.29 ACRES, MORE OR LESS" for the reasons and conditions given by the Planning and Zoning Commission as follows and amended by this Council:

1. The site is located along Route 9, which is classified as a Principal Arterial Roadway in Sussex County. This use is appropriate for this location. This Application seeks approval of two medical or office buildings closest to Route 9 with warehouse and/or office space in buildings behind them.
2. The use is situated on a part of a larger 22.285-acre parcel of land. This conditional use shall only be located on the eastern portion of the site as depicted during the public hearing. The remainder of the site shall not be developed without an additional public hearing.
3. There are other small businesses and structures in the area including a similar project nearby approved as Conditional Use #2290. It is also near the Route 9 and Harbeson Road intersection. There are various zoning districts in this area, including MR, C-1, CR-1, and C-2. With the limitations placed upon it, this use is compatible with the surroundings.

**M 161 23  
Adopt  
Ordinance  
No. 2916/  
CU2371  
(continued)**

- 4. DELDOT has stated that traffic generated by the proposed use will be minor and will not have a negative impact on the neighboring properties or roadways.**
- 5. The use is of a public or semi-public character that is desirable for the general convenience and welfare of the area and the County. It is also a location along Route 9 that is convenient for residents and small businesses.**
- 6. The property is located in the Low-Density Area according to the Sussex County Comprehensive Plan. The conditional use is consistent with the Plan's guidelines for the Low-Density Area, since it will provide convenient areas for businesses addressing the needs of homeowners and property owners in this area of Sussex County.**
- 7. The site is served by central water and sewer.**
- 8. This recommendation is subject to the following conditions:**
  - a. The project shall consist of 2 medical or professional office buildings fronting on Route 9 and 7 warehouse and/or office buildings behind them.**
  - b. No businesses that primarily involve or are similar to the following uses shall be permitted: retail; gyms or fitness centers; breweries or brewpubs; or restaurants and food service.**
  - c. This conditional use is limited to the eastern portion of the site as depicted during the public hearing. The remainder of the site shall not be developed without an additional public hearing. The Preliminary and Final site plans shall clearly depict limits of this conditional use.**
  - d. There shall not be any outside storage, including boats, construction materials, RVs, or equipment within the site.**
  - e. No vehicle repair or fueling operations shall be performed on-site.**
  - f. There shall be no manufacturing on the site, and any contractor work shall only occur indoors.**
  - g. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.**
  - h. A 20-foot landscaped buffer shall be installed along the perimeter of this project. The buffer shall comply with the planting requirements for the Forested and/or Landscaped Buffer Strip contained in Section 99-5 of the Sussex County Code.**
  - i. Any dumpsters on the site are to be screened from the view of neighboring properties and roadways. The dumpster locations shall be shown on the Final Site Plan.**
  - j. The applicant shall comply with all DelDOT requirements for entrance and roadway improvements.**
  - k. There shall be an adequate parking area for all tenants and employees as required by Code. The parking areas shall be clearly shown on the Final Site Plan and on the site itself. There shall be no parking within the property's setbacks.**
  - l. Signage for the Property shall comply with the following requirements: One indirectly illuminated on-premises ground sign shall be permitted along Route 9, not to exceed 64 square feet of sign**



**M 161 23  
Adopt  
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CU2371  
(continued)**

- area per side; and one On-premises wall, illuminated awning, marquee, or projecting sign with a total sign area of 32 square feet shall be permitted with respect to each building.
- m. The Applicant shall submit as part of the Final Site Plan a landscape plan showing the proposed tree and shrub landscape design, including the buffer areas. The landscape plan shall also identify all “Limits of Disturbance” within the Property. These “Limits of Disturbance” shall be clearly marked on the Property itself.
  - n. There shall not be any access to this site from Prettyman Road.
  - o. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
  - p. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

**Motion Adopted: 4 Yeas, 1 Absent**

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

**Public  
Hearing/  
CZ2003**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HI-1 HEAVY INDUSTRIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING INNORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 167 ACRES, MORE OR LESS” (properties lying on the west side of Sussex Highway [Route 13] and the north side of E. Newton Road [S.C.R. 584]) (911 Address: N/A) (Ta Map Parcels: 530-16.00-11.00 & 12.00) filed on behalf of KAR Farming Company, LLC.**

**The Planning & Zoning Commission held a Public Hearing on the application on February 23, 2023. At the meeting of March 9, 2023, the Planning & Zoning Commission recommended approval of the application for the 11 reasons as outlined.**

**(See the minutes of the February 23, 2023 and March 9, 2023 Planning and Zoning Commission meeting.)**

**The Council found that Mr. David Hutt, Esq., with Morris James, LLP, spoke on behalf of the Application and the Applicant, KAR Farming Company, LLC; that KAR Farms is a subsidiary of Mountaire Farms; that also present were the President of Mountaire, Mr. Phillip Plylar, the Vice President of Operation Services, Mr. Scott Thompson, the Community Relations Manager, Mr. Zach Evans, , the Director of Communications, Ms. Catherine Bassett, the Senior Director of Engineering Scott Heavner, the Regional Feed Mill Manager Will West, and the Director of Grain Facilities, Mr. Samuel Parker; that the property is located immediately west**

Public  
Hearing/  
CZ2003  
(continued)

of Rt. 13, being immediately north of E Newton Rd., which is also known as Rt. 404; that the Application seeks to change the zoning of two parcels which consist of 167 acres from AR-1 (Agricultural Residential) to HI-1 (Heavy Industrial); that should the Application be acted favorably upon, the proposed use will create 87 full-time employment positions in the very important agribusiness industry for Sussex County; that agribusiness is one of the dominant forces for Sussex County's economy; that the subject Application will support agribusiness on a number of levels; that it will provide a location for farmers to sell grains and crops; that the Application will provide poultry growers with a source of feed for poultry farms and houses; that due to the proposed location within Sussex County, the location of the properties in relation to transportation and the properties location to similar uses within the area, the proposed use seems to make sense; that Rt. 13 forms the eastern boundary of the property; that E Newton Rd. (Rt. 404) forms the southern boundary of the property; that the property's western boundary had two neighbors, the Delmarva Central Railroad, and the DelDOT's Bridgeville Maintenance Yard; that the northern boundary contains a wooded area, which contains Polk Branch and the Grubby Neck Branch; that there are significant transportation features available to the site; that Rt. 13 and Rt. 404 are major highways within Sussex County, being classified as other arterials by DelDOT; that the Sussex County Zoning Code defines both roads as major arterials; that to the west of the property is another source of transportation being the railroad; that these are part of the reasons the properties were chosen for the potential location of a feed mill; that the site is located within Investment Level 2 along E Newton Road, moving in an Investment Level 3 area according to the State Strategies Map; that Level 2 areas are areas where the State anticipates growth in the near term future; that within the State Strategies it states that State investments and policies should support and encourage a wide range of uses within the Level 2 areas; that the State Strategies go on to state Level 2 areas are considered "priority areas" for job creation and retention; that the proposed location will allow for job creation and retention for the area; that according to Sussex County's Future Land Use Map the property is located within the Industrial Area; that properties to the west and some to the south are also located within and Industrial Area; that other surrounding properties are located within the Developing Area, which is another Sussex County growth area; that a nearby property was also the subject property for a Conditional Use in 2020; that on the east side of Rt.13 there are more properties located within the Developing Area; that the Zoning Map reflects the Future Land Use Map with a mixture of industrial and commercial zoning designation near the site along E. Newton Rd and Rt. 13; that in 2020, a Change of Zone application, being C/Z 1919 on behalf of Newton Farms was filed; that the application requested to change the zoning classification of 23.7 acres, from C-1 (General Commercial) to LI-2 (Light Industrial-2); that C/Z 1919 was approved by County Council; that the first eight acres of the rezoning request, is currently under construction, and will be the home of Miller Metal; that there are several Conditional Uses surrounding the area, which also reflect the commercial and industrial nature of the uses for the area; that the immediate

**Public  
Hearing/  
CZ2003  
(continued)**

**Conditional Uses to the west belongs to the DelDOT maintenance yard; that the immediate property to the north contains two Conditional Uses, being for warehouses and contractor flex space for Artic Air; that the Woodbridge High School is located northwest of the site; that Insight Homes, A.C. Shultes of Delaware, Inc. are located east of the site; that south of the property are multiple industrial uses, belonging to O.A. Newton, Lindenmere Store, Miller Metal, News Print Shop, Old Dominion Freight Line, a solar array and the Eastern Shore Natural Gas compressor station; that along the western side, on the other side of the railroad track, is Perdue's Feed Mill Granary, that the site meets the bulk area requirements with a minimum requirement of two acres and a minimum depth and width of 200-ft. in either direction; that water and sewer would be provided by onsite systems; that the majority of the property is not located within a flood plain; that a small portion of the property, along Polk Branch and Grubby Neck Branch, is located within Flood Zone A; that the site area located within Flood Zone A will have no impact or interference on the proposed use or development; that if any wetlands are present, they would be within the wooded areas along the branches; that any environmental features within the wooded area would not be impacted by the proposed development; that a Service Level Evaluation Request was filed with DelDOT; that DelDOT's responses stated the traffic impact would be considered minor; that the definition of a minor impact states more than 50 vehicle trips are anticipated within a peak hour, with more than 500 vehicle trips per day, but less than 200 vehicle trips in any peak hour and less than 2,000 vehicle trips per day; that DelDOT also noted the proposed use would not require a Traffic Impact Study (TIS); that the project would be able to avail itself of paying the Area Wide Study fee; that the Zoning Code described the HI (Heavy Industrial) zoning to provide for a variety of industrial operations, to preserve the land within the district for industrial use, excluding new residential or commercial development, except for certain specified uses deemed appropriate uses in addition to industrial operations; that there is no residential development within the nearby areas of the site; that the surrounding uses are commercial and industrial; that the proposed use of the site is for a feed mill, which would produce 30,000 tons of feed per week; that feed mills do not require outdoor activities or storage of items; that the only industrial zoning district that specifically describes the permitted use for feed mills is the HI-1 (Heavy Industrial) Zoning District; that within the HI-1 Zoning District, feed mills are described as a potentially hazardous use; that due to this, the proposed use will require approval from County Council for the Change of Zone request, and will then be required to attend a public hearing before the Board of Adjustment for a potential hazardous use determination.**

**The Council found that Mr. Zach Evans, Mountaire Farms Community Relations Manager, spoke on behalf of the Application; that the proposed project is important not only for Mountaire Farms, but also for agriculture within the Sussex County community; that currently, Mountaire is celebrating the 100th Anniversary of the chicken industry on Delmarva, which was started in Sussex County; that in 1923, Ms. Cecile Steele from**

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(continued)

Ocean View, Delaware began the industry; that this woman would typically order 50 chicks; that she received 500 chicks in error; that by the end of the year, Ms. Steele sold all 500 birds at 62 cents per pound in 1923, which equates to almost \$11.00 of buying power today; that Mountaire was founded in 1914 by Mr. Guy Cameron of Little Rock, Arkansas, who owned and started a family-owned feed company; that in 1968, current Chairman, Mr. Ronnie Cameron joined Mountaire; that Mr. Ronnie Cameron is the third generation of the Cameron family to own and operate Mountaire Farms; that Mountaire's current CEO, Mr. Kevin Garland is the fourth generation of the Cameron family to own and operate Mountaire Farms; that the fifth generation of the Cameron family recently married and moved to Sussex County; that Mountaire Farms is a family owned and operated business; that in 1977 Mountaire purchased their first poultry plant on Delmarva, in Selbyville, Delaware; that they have been expanding slowly and strategically since that time, acquiring the assets necessary to support the farmer who raise the birds; that in 1996, Mountaire expanded into North Carolina; that in 2000, Mountaire purchased the complex located in Millsboro; that in 2019, Mountaire built their fourth plant in Siler City, North Carolina; that they invested in granaries, hatcheries and feed mill resources to support their farmers; that currently Mountaire is a billion dollar plus business, with over 10,000 employees; that Mountaire currently does business in five states; that Mountaire support 5,000 jobs across Delmarva; that Mountaire has 581 growers on Delmarva; that Mountaire has more growers than any other integrator on Delmarva; that they have more family farms on the Delmarva Peninsula than any other integrates that are operating and doing business in Sussex County; that Mountaire strives to do well as a company, so the company can do well by its employees and communities; that Mountaire Cares has participated in programs such as Thanksgiving for Thousands; that they are gearing up for an Easter for Thousands; that it will provide 5,000 meal boxes for families; that they will work with 200 plus community volunteers to distribute 20,000 meals to help feed people for the Easter holiday; that Mountaire Cares delivers free chicken to 45 food pantries; that Mountaire Cares also participates in volunteer projects on Earth Day, Arbor Day and Christmas; that Mountaire has built playground for schools, which allows their employees the opportunity to give back to their community; that during the Covid-19 pandemic, Mountaire donated chickens to local healthcare workers, first responders and families that experienced food insecurity; that disaster response teams are sent when an event happens; that over 2022 fiscal year, Mountaire Cares supported over 500 organizations, donated 1,142,060 pounds of chicken, which equates to 2,855,150 servings of chicken, hosted over 25 events, provided 976 volunteer opportunities and provided 3,904 volunteer hours; that the proposed project is great for agriculture and the community at large.

The Council found that David Hutt spoke on behalf of the application; that a common question is why the need for 167 acres to be rezoned to HI-1; that Mr. Hutt presented the Council with a preliminary print of the site, reflecting the location of the feed mill plant and the area where the railroad

**Public  
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(continued)**

**loop would be located; that the railroad loop is part of the reasons why the proposed amount of acreage is necessary for the facility; that Mountaire has a similar feed mill site within Scotland County, North Carolina, which was awarded 2022 Integrator Facility of the Year; that the proposed feed mill is similar to the Perdue Feed Mill located across from the site on E. Newton Road; that the proposed application complies with any number of chapters, goals, strategies and objectives stated in the Comprehensive Plan; that Chapter 4, for Future Land Use, reflects the Industrial Zoning District as an applicable zoning district for the site; that the Comprehensive Plan stated industrial lands are lands devoted to larger industrial uses, including heavy industry, light industry warehouse and flex space, and large, more intensive, stand-alone uses should also be directed to these areas; that within Chapter 4.4 states the future land use of Sussex County should be handled to promote farming, preserving agricultural land values and agrobusiness; that the proposed project achieves this in two ways; that the proposed use will create a place for local farmers to sell their grains, as well as create a source for growers to obtain feed for their bird; that within Goal 9.3 within the Comprehensive Plan states preservation and encouragement should be given to the expansion of the agricultural industry; that Strategy 9.3.1.2 is to promote and expand land use, zoning and conservation policies and incentives that keep agriculture economically viable in Sussex County; that Strategy 9.3.1.3 states the accomplishment of the goal will come from ensuring zoning regulations accommodate the agribusiness, forestry and similar uses in appropriate locations including businesses that promote new uses for agricultural products; that they believe the requested zoning is appropriate to achieve the economic development goal; that Goal 13.5 within the Mobility Chapter of the Comprehensive Plan states the goal is to facilitate freight movement throughout Sussex County; that Strategy 13.5.1.3 states exploration should be given to incentives for businesses to switch from truck to rail freight, which can reduce freight costs and road traffic congestion; that another strategy suggests to work with railroad partners, to aid in their strategic planning efforts, helping to identify potential rail customers; that one of the submitted letters of support was provided by the railroad company immediately to the west of the site; that a number of support letters were submitted for the Application, being from State Senators, State representatives, the Department of Agriculture, the Department of Education, the Farm Bureau, the Delmarva Chicken Association and many agricultural business partners, which support the Application's importance and the investment the project will bring to Sussex County and the support letter provided by the Delmarva Central Railroad Company summarized the Application best by stating, "The Delmarva Central Railroad Company heartedly backs this generational investment in the sustainable future of Bridgeville, Sussex County, the State of Delaware, and the entire Delmarva Peninsula."**

**Public comments were heard.**

**Ms. Karen Breeding spoke in favor of the application; that she is an Agricultural Science teacher for Woodbridge High School; that the**

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(continued)**

**Woodbridge Agricultural Science Program looks forward to working with Mountaire in the Department of Education's Work Based Learning Program; that the site is located nearby Woodbridge High School, which is very convenient for Woodbridge students who may have transportation difficulties; that they look forward to partnering with them on service projects.**

**Senator Dave Wilson spoke in favor of the application; that he has personally watched 18 wheelers go north daily and return with an empty trailer; that in the early 1970s, little consideration was given to the rail; that now with diesel fuel price increases, rail is being considered again; that rezoning this land is allowing Mountaire to better utilize the already existing railway system; that it is rewarding to see a local company invest in the local economy; that he requested the Council give favorable consideration to the Application, allowing the proposed project to move forward and to further promote the chicken industry for Sussex County.**

**Mr. Nick Combaras spoke in favor of the application; that recently his organization partnered with Mountaire to trying to renovate the ballfield and concession stands in Selbyville; that Mountaire provided over \$80,000 of funding; that the work has been completed; that Mountaire provides community support; that he supports this application.**

**Mr. Richard Wilkins spoke in favor of the application; that he is a life-long resident of Sussex County; that the Mid-Atlantic Soybean Association represents approximately 9,000 soybean farmers in the Mid-Atlantic states, with approximately 1.4 million acres of soybeans; that Mid Atlantic Soybean Association is in full support of the rezoning request; that a University of Delaware Economic Analysis confirmed that every dollar of direct revenue, received by a Delaware farmer, creates an additional eight dollars, or more, of economic activity in our local community; that agriculture is the largest economic driver to Sussex County and the State of Delaware; that agriculture is the least expensive type of economic activity for government entities to provide services to; that our County and State have been blessed for centuries, by the inspiration of work ethic and dedication to community, which is exhibited by the agrarian lifestyle and traditional values of its farmers; that they contend it should be very desirable to ensure agriculture remain a viable pursuit for Sussex County residents; that the greater the ability of Sussex County's agricultural land, to provide for our families, educate our children, support our community institutions, provide for our retirements and senior care, without expecting or requiring support from the government, make our social fabric stronger; that due to this, it becomes less enticing to allow our agricultural land to be converted for other uses, which do require greater services to be provided by government entities; that he is a life-long farmer in Greenwood; that he asked for this change of zone be granted and requested that help be provided with the permitting process.**

**Mr. Rob Rider with O.A. Newton & Son Company. spoke in support of the**

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(continued)**

**Application; that he represented the fourth-generation property owner for the land, the Newton Family; that his family started off in the poultry industry in 1916; that they have not been in the poultry business since 1970; that they agreed the proposal represented the Newton family values; that he supports the use.**

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

**M 162 23  
Adopt  
Ordinance  
No. 2917/  
CZ2003**

**A Motion was made by Mrs. Green, seconded by Mr. Rieley to Adopt Ordinance No. 2917 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HI-1 HEAVY INDUSTRIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING INNORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 167 ACRES, MORE OR LESS” for the reasons given by the Planning and Zoning Commission as follows:**

- 1. In the 2019 Sussex County Comprehensive Plan update, this property was identified as being within the Industrial Area according to the Plan’s Future Land Use Map. The properties to the west and south are designated as being within either an Industrial Area or the Developing Area. The properties to the east are designated as being within the Developing Area. The Industrial Area is a Growth Area and Table 4.5-2 titled “Zoning Districts Applicable to Future Land Use Categories” identifies HI-1 (Heavy Industrial District) as an applicable zoning district for the Industrial Area.**
- 2. The description of the Industrial Area within Chapter 4 of the Comprehensive Plan describes this Area as containing “lands devoted to concentrations of larger industrial uses including heavier industry, light industry, warehousing, and flex space. . . [l]arge, more intensive stand-alone industrial uses should also be directed to these areas.”**
- 3. This site is in on a property that has frontage along East Newton Road in close proximity to Route 13 and near a rail line. This is an appropriate location for HI-1 Zoning.**
- 4. The purpose of the HI-1 Heavy Industrial District is to “provide for a variety of industrial operations. . .to preserve the land in the district for industrial use and to exclude new residential or commercial development, except for certain specified uses deemed appropriate adjuncts to industrial operations.” The intended use of the property (feed mill) is consistent with these permitted uses.**
- 5. There are industrially and commercially zoned properties in the area and there are a variety of uses nearby, including a large grain operation, an agricultural supply business, and a new manufacturing company. The proposed HI-1 area is compatible with the surrounding zoning and uses.**
- 6. The nearby railroad is operated by the Delmarva Central Railroad Company, which connects to other rail service providers. The rezoning to HI-1 will promote additional economic opportunities for**

**M 162 23**

**Adopt  
Ordinance  
No. 2917/  
CZ2003  
(continued)**

**rail service in Sussex County. It is also in furtherance of Goal 13.5 of the Comprehensive Plan to “[f]acilitate freight movement throughout Sussex County”.**

- 7. It has been stated that the rezoning to HI-1 is needed to construct a feed mill on the property with rail access. This promotes the continued vitality of agricultural operations in Sussex County, which is a goal stated throughout Sussex County’s Comprehensive Plan. This rezoning is in furtherance of that goal.**
- 8. This rezoning to HI-1 promotes transportation goals in the Sussex County Land Use Plan, which states in Section 13.2.2 that “The County’s goods movement (freight) network is an integral component of the transportation network as well as the economy.” However, “the main element of the freight network is the roadway system, which carries trucks (motor freight).” One means of reducing truck impacts is to shift more freight to rail, although opportunities to do that are limited. This site presents an opportunity to achieve this goal.**
- 9. No parties appeared in direct opposition to the rezoning.**
- 10. The proposed project meets the purpose of the Zoning Ordinance in that it promotes the orderly growth, convenience, order, prosperity, and welfare of the County and is consistent with the County’s goals of promoting agribusiness and, specifically, Goal 9.3 of the Economic Development Chapter of the Comprehensive Plan, which is to “[p]reserve and encourage the expansion of the agriculture industry, forestry industry, and other similar industries in the County.”**
- 11. Any future development of the property will require site plan review by the Sussex County Planning & Zoning Commission.**

**Motion Adopted: 4 Yeas, 1 Absent**

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

**M 163 23  
Adjourn**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson to adjourn at 4:08 p.m.**

**Motion Adopted: 4 Yeas, 1 Absent**

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

## Proposed American Storage Expansion of the Sussex County Unified Sanitary Sewer District

### PUBLIC HEARING FACT SHEET

- County Council granted permission to post notices for the public hearing on February 28, 2023 for an expansion of the Sussex County Unified Sanitary Sewer District (Long Neck Area)
- The Engineering Department had received a request from Pennoni Associates, Inc. on behalf of their client American Storage of Delaware, LLC the owners/developers of parcels 234-29.00-49.02, 49.03 & 50.00 on Route 24 near Autumn Road.
- The project consists of 140 residential apartments and 3-story self-storage buildings, the project has P & Z conditional use approval.
- The project will be responsible for System Connection Charges of \$6,600.00 per EDU based on current rates.
- The project was advertised on the weeks of April 5<sup>th</sup> and 12<sup>th</sup>.
- The parcel was posted on March 23<sup>rd</sup>, to date we have had no correspondence either in support or opposition to this expansion.



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

# **PUBLIC NOTICE**

## **PROPOSED AMERICAN STORAGE EXPANSION OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (LONG NECK AREA)**

**NOTICE IS HEREBY GIVEN** that the Sussex County Council voted on **February 28, 2023**, to consider extending the boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD), Long Neck Area, to include the American Storage of Delaware, LLC properties along the west side of John J. Williams Highway, being situate in Indian River Hundred, Sussex County, Delaware. The parcels being district – map – parcel 234-29.00-49.02, 49.03 & 50.00.

This action is in conformity with 9 Del.C §6502.

A description of the area, which is contiguous to and to be added to the SCUSSD is described as follows:

**Beginning** at a point, said point being on the SCUSSD boundary, said point also being the southernmost property corner of lands Now-or-Formerly (N/F) of State of Delaware Department of Transportation (DelDOT), said point further being on the westerly Right-of-Way (ROW) of John J. Williams Highway (Rt. 24); thence proceeding by and with said ROW in a southwesterly direction a distance of 589.82' to a point, said point being the easternmost property corner of lands N/F of Sharon A. Haring; thence leaving said ROW and proceeding with said Haring lands in a northwesterly direction a distance of 1,281.94' to a point, said point being on the northeasterly property line of lands N/F of Baylis Estates Investments LLC; thence leaving said Haring lands and proceeding with said Baylis lands in a northwesterly direction a distance of 368.92' to a point, said point being a property corner of lands N/F of Four Diamonds Development & Consulting LLC; thence leaving said Baylis lands and proceeding with said Four Diamonds lands in a northeasterly and southeasterly direction a distance of 2,364.19' to a point, said point being the westernmost property corner of lands N/F of said DelDOT; thence leaving said Four Diamonds lands and proceeding with said DelDOT lands in a southeasterly direction a distance of 284.00' to a point, said point being that of the **beginning**.

NOTE: The above description has been prepared using Sussex County Tax Map 234-29.00 and Sussex County property assessment records. The parcel contains 26.52 acres more or less.

A map outlining and describing the extension of the SCUSSD is attached. The area involved is crosshatched.

**The public hearing will be held on this issue at 10:15 a.m. on April 18, 2023 at the regularly scheduled Sussex County Council meeting.** All interested persons, officials, residents, voters, taxpayers, property owners, or corporations in any way affected by this boundary extension are welcome to attend. There will be an opportunity for questions and answers. The Sussex County Council following the hearing, at one of their regularly scheduled meetings, will make the final decision on the boundary extension.

For further information, please call or write the Sussex County Engineering Department, 2 The Circle, Post Office Box 589, Georgetown, DE 19947 – (302) 855-1299).

Hans M. Medlarz, P.E.  
County Engineer

SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT  
AMERICAN STORAGE EXPANSION  
AFFIDAVIT FOR PUBLIC HEARING

STATE OF DELAWARE )(

COUNTY OF SUSSEX )(

BE IT REMEMBERED, That the subscriber, PHILLIP C. CALIO, personally appeared before me and known to me personally to be such, who being by me duly sworn to law did depose and say as follows:

- A. On March 23, 2023, he was a Utility Planner for the Sussex County Engineering Department, Sussex County, State of Delaware; and
- B. On March 23, 2023, he did post the attached "Public Notice," prepared by the Sussex County Engineering Department, at the following locations:
  - 1. On a post in front of a STOP sign in the northerly Right-of-Way of Indian Mission Road, at the exit of Nanticoke Crossing;
  - 2. On a post in front of a STOP sign at the intersection of Indian Mission Road and Silicato Drive;
  - 3. On a post in front of a STOP sign at the intersection of John J. Williams Highway and Silicato Drive;
  - 4. On a post in front of a STOP sign at the exit of Back Bay Shopping Center at the intersection with John J. Williams Highway;
  - 5. On a post in the westerly ROW of John J. Williams Highway, 1,300'± south of Autumn Road;
  - 6. On a post in the westerly ROW of John J. Williams Highway, 1500'± south of Autumn Road,
  - 7. On a post in the westerly ROW of John J. Williams Highway, 1,650'± south of Autumn Road,
  - 8. On a post in the westerly ROW of John J. Williams Highway, 1,800'± south of Autumn Road.

  
PHILLIP C. CALIO

SWORN TO AND SUBSCRIBED before me on this 27 day of March A.D., 2023

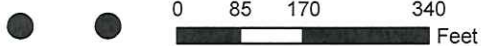
  
NOTARY PUBLIC

My Commission Expires \_\_\_\_\_

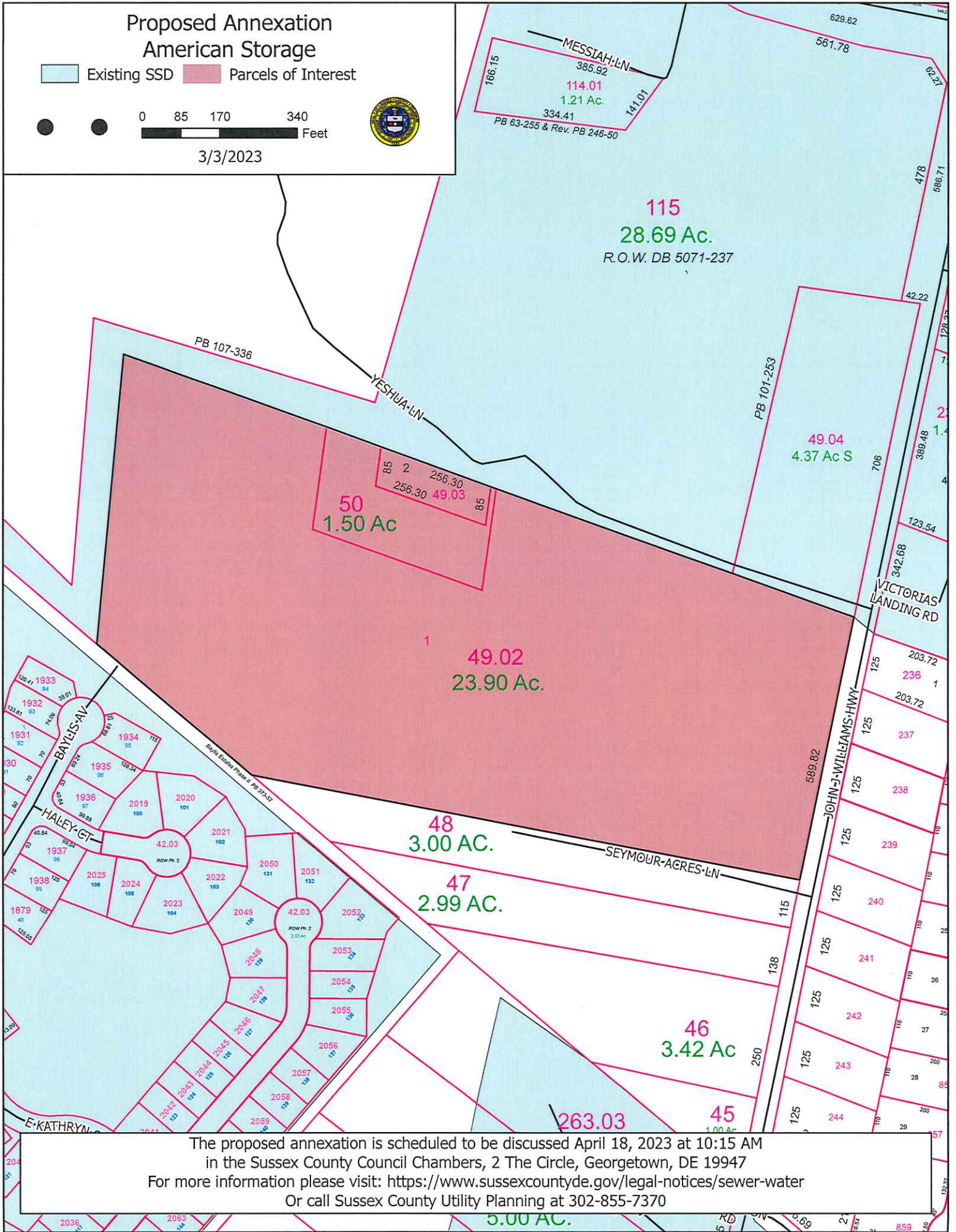
JACQUELINE D. CLARK  
NOTARY PUBLIC  
STATE OF DELAWARE  
My Commission Expires on May 30, 2023

# Proposed Annexation American Storage

Existing SSD    Parcels of Interest



3/3/2023



The proposed annexation is scheduled to be discussed April 18, 2023 at 10:15 AM  
in the Sussex County Council Chambers, 2 The Circle, Georgetown, DE 19947  
For more information please visit: <https://www.sussexcountyde.gov/legal-notices/sewer-water>  
Or call Sussex County Utility Planning at 302-855-7370

## RESOLUTION

A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD), TO INCLUDE PARCEL 234-29.00-49.02, 49.03 & 50.00 ON THE WEST SIDE OF JOHN J. WILLIAMS HIGHWAY (RT. 24). THE PARCELS ARE LOCATED IN THE INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE.

WHEREAS, Sussex County has established the Sussex County Unified Sanitary Sewer Sanitary Sewer District (SCUSSD); and

WHEREAS, in the best interests of the present district and to enhance the general health and welfare of that portion of Sussex County in the vicinity of John J. Williams Highway (Rt. 24), the inclusion of this area will be beneficial; and

WHEREAS, in accordance with 9 Del.C., Section 6502 (a), the Sussex County Council may, upon request of the County Engineer, revise the boundary of an established sewer district when 50 or more houses have been connected by posting a public notice in four public places in the district describing the new or revised boundary; and

WHEREAS, the Sussex County Council has caused to be posted a public notice in at least four public places in the district, as verified by the affidavit of Phillip C. Calio, a copy of which affidavit and public notice is attached hereto and made a part hereof; and

WHEREAS, in accordance with 9 Del.C., Section 6502 (b), the Sussex County Council shall, within ninety days after posting the public notices pass a formal resolution establishing the new boundary of the district;

NOW, THEREFORE,

BE IT RESOLVED the Sussex County Council hereby revises the boundary of the SCUSSD to encompass the lands mentioned above situated on the north side of John J. Williams Highway, as follows:

**Beginning** at a point, said point being on the SCUSSD boundary, said point also being the southernmost property corner of lands Now-or-Formerly (N/F) of State of Delaware Department of Transportation (DelDOT), said point further being on the westerly Right-of-Way (ROW) of John J. Williams Highway (Rt. 24); thence proceeding by and with said ROW in a southwesterly direction a distance of 589.82' to a point, said point being the easternmost property corner of lands N/F of Sharon A. Harring; thence leaving said ROW and proceeding with said Harring lands in a northwesterly direction a distance of 1,281.94' to a point, said point being on the northeasterly property line of lands N/F of Baylis Estates Investments LLC; thence leaving said Harring lands and proceeding with said Baylis lands in a northwesterly direction a distance of 368.92' to a point, said point being a property corner of lands N/F of Four Diamonds Development & Consulting LLC; thence leaving said Baylis lands and proceeding with said Four Diamonds lands in a northeasterly and southeasterly direction a distance of 2,364.19' to a point, said point being the westernmost property corner of lands N/F of said DelDOT; thence leaving said Four Diamonds lands and proceeding with said DelDOT lands in a southeasterly direction a distance of 284.00' to a point, said point being that of the **Beginning**.

NOTE: The above description has been prepared using Sussex County Tax Map 234-29.00 and Sussex County property assessment records.

A map outlining and describing the extension of the SCUSSD is attached. The area involved is crosshatched.

BE IT FURTHER RESOLVED that the Sussex County Council directs the County Engineer and the Attorney for the County Council to procure the necessary lands and right-of-way by purchase, agreement, or condemnation in accordance with the existing statutes; and

BE IT FURTHER RESOLVED that the County Engineer is hereby authorized to prepare maps, plans, specifications, and estimates, let contracts for and supervise the construction and maintenance of, or enlarging and remodeling of, any and all structures required to provide for the safe disposal of sewage in the sanitary sewer district, as amended.

## ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
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PUBLIC WORKS	(302) 855-7703
RECORDS MANAGEMENT	(302) 854-5033
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FAX	(302) 855-7799



# Sussex County

DELAWARE  
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HANS M. MEDLARZ, P.E.  
COUNTY ENGINEER

JOHN J. ASHMAN  
DIRECTOR OF UTILITY PLANNING

## Proposed Mulberry Knoll Store Expansion of the Sussex County Unified Sanitary Sewer District

### PUBLIC HEARING FACT SHEET

- County Council granted permission to post notices for the public hearing on February 28, 2023, for an expansion of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area)
- The Engineering Department had received a request from Davis, Bowen & Friedel, Inc. on behalf of their client V & M, LLC the owners/developers of the project at the corner of Route 24 and Mulberry Knoll Road.
- The project is proposed to consist of a convenience store and office building. The project has P & Z conditional use approval.
- The project will be responsible for System Connection Charges of \$6,600.00 per EDU based on current rates.
- The project was advertised on the weeks of April 5<sup>th</sup> and 12<sup>th</sup>.
- The parcel was posted on March 23<sup>rd</sup>, to date we have had one letter inquiring as to how new development is able to get sewer and water and their existing parcel is not yet served. We explained our process of gathering interest prior to annexing parcels advising them to have the neighbors contact the department and we can look at a possible project to serve.
- They had previously been provided an option to obtain sewer by the installation of a grinder pump and forcemain if they needed a more immediate connection.
- Other than the letter we have had no other correspondence either in support or opposition to this expansion.



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



# **PUBLIC NOTICE**

## **PROPOSED MULBERRY KNOLL STORE EXPANSION OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (WEST REHOBOTH AREA)**

**NOTICE IS HEREBY GIVEN** that the Sussex County Council voted on **February 28, 2023**, to consider extending the boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD), West Rehoboth Area, to include several parcels on the south side of John J. Williams Highway (Rt. 24), being situate in Lewes & Rehoboth Hundred, Sussex County, Delaware.

This action is in conformity with 9 Del. C §6502.

A description of the area, which is contiguous to and to be added to the SCUSSD is described as follows:

**Beginning** at a point, said point being the northwesternmost property corner of lands Now or Formerly (N/F) of J. G. Townsend, Jr. Co., said point also being on the SCUSSD boundary, said point further being on the easterly Right-of-Way (ROW) of the intersection of John J. Williams Highway (Rt. 24) and Mulberry Knoll Road (SCR 284); thence proceeding by and with said Townsend lands, sewer boundary and ROW in a generally southerly direction a distance of 660'± to a point, said point being on the easterly ROW of Mulberry Knoll Road (SCR 284); thence proceeding in a northwesterly direction a distance of 55'± to a point, said point being on the westerly ROW of Mulberry Knoll Road (SCR 284), said point also being on the northeasterly property corner of lands N/F on Ralk Properties, LLC, said point also being the southeastern property corner of lands N/F of V&M, LLC; thence proceeding by and with said Ralk lands in a northwesterly and southwesterly direction respectively a distance of 264.35' to a point, said point being on the northeasterly property line of lands N/F of Cape Henlopen School District, said point also being a property corner of other lands of V&M, LLC; thence proceeding by and with said V&M, LLC lands in a northwesterly and northeasterly direction respectively a total distance of 751.14' to a point, said point being on the southeasterly ROW of John J. Williams Highway (Rt. 24); thence proceeding in a northeasterly direction crossing Mulberry Knoll Road (SCR 284) a distance of 60'± to a point, said point being **that of the Beginning**.

NOTE: The above description has been prepared using Sussex County Tax Map 334-12.00 and Sussex County property assessment records. The annexation contains 4.12 acres more or less.

A map outlining and describing the extension of the SCUSSD is attached. The area involved is crosshatched.

**The public hearing will be held on this issue at 10:15 a.m. on April 18, 2023 in the Sussex County Council Chambers, County Administrative Offices, 2 The Circle, Georgetown, Delaware.** All interested persons, officials, residents, voters, taxpayers, property owners, or corporations in any way affected by this boundary extension are welcome to attend. There will be an opportunity for questions and answers. The Sussex County Council following the hearing, at one of their regularly scheduled meetings, will make the final decision on the boundary extension.

For further information, please call or write the Sussex County Engineering Department, 2 The Circle, Post Office Box 589, Georgetown, DE 19947 – (302) 855-7370).

Hans M. Medlarz, P.E.  
County Engineer

PROPOSED MULBERRY KNOLL STORE EXPANSION  
AFFIDAVIT FOR PUBLIC HEARING

STATE OF DELAWARE )(

COUNTY OF SUSSEX )(

BE IT REMEMBERED, That the subscriber, PHILLIP C. CALIO, personally appeared before me and known to me personally to be such, who being by me duly sworn to law did depose and say as follows:

- A. On March 23, 2023, he was a Planning Tech for the Sussex County Engineering Department, Sussex County, State of Delaware; and
- B. On March 23, 2023, he did post the attached "Public Notice," prepared by the Sussex County Engineering Department, at the following locations:
1. On a post in the southeasterly Right-of-Way of John J. Williams Hwy., 490'± southwest of Mulberry Knoll Road,
  2. On a post in front of Pole VZ59 in the southeasterly ROW of John J. Williams Hwy., 200'± southwest of Mulberry Knoll Road,
  3. On a post in the easterly ROW of Mulberry Knoll Road, 640'± south of John J. Williams Hwy.,
  4. On a post in the easterly ROW of Mulberry Knoll Road, 300'± south of John J. Williams Hwy.,
  5. On a post in front of a STOP sign in the northeasterly ROW of Mulberry Knoll Road at the intersection with John J. Williams Hwy.,
  6. On a post in front of DEC Pole 101682 in the southeasterly ROW of Warrington Road, 40'± southeast of Highwood Drive @ Wellesley,
  7. On a post in the southeasterly ROW of Dorman Farm Ln. at the intersection with Mulberry Knoll Road,
  8. On a post in front of a STOP sign at the intersection of John J. Williams Hwy. and Lexington Ave. @ Saddle Ridge



PHILLIP C. CALIO

SWORN TO AND SUBSCRIBED before me on this 27 day of March A.D., 2023



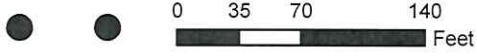
NOTARY PUBLIC

My Commission Expires \_\_\_\_\_

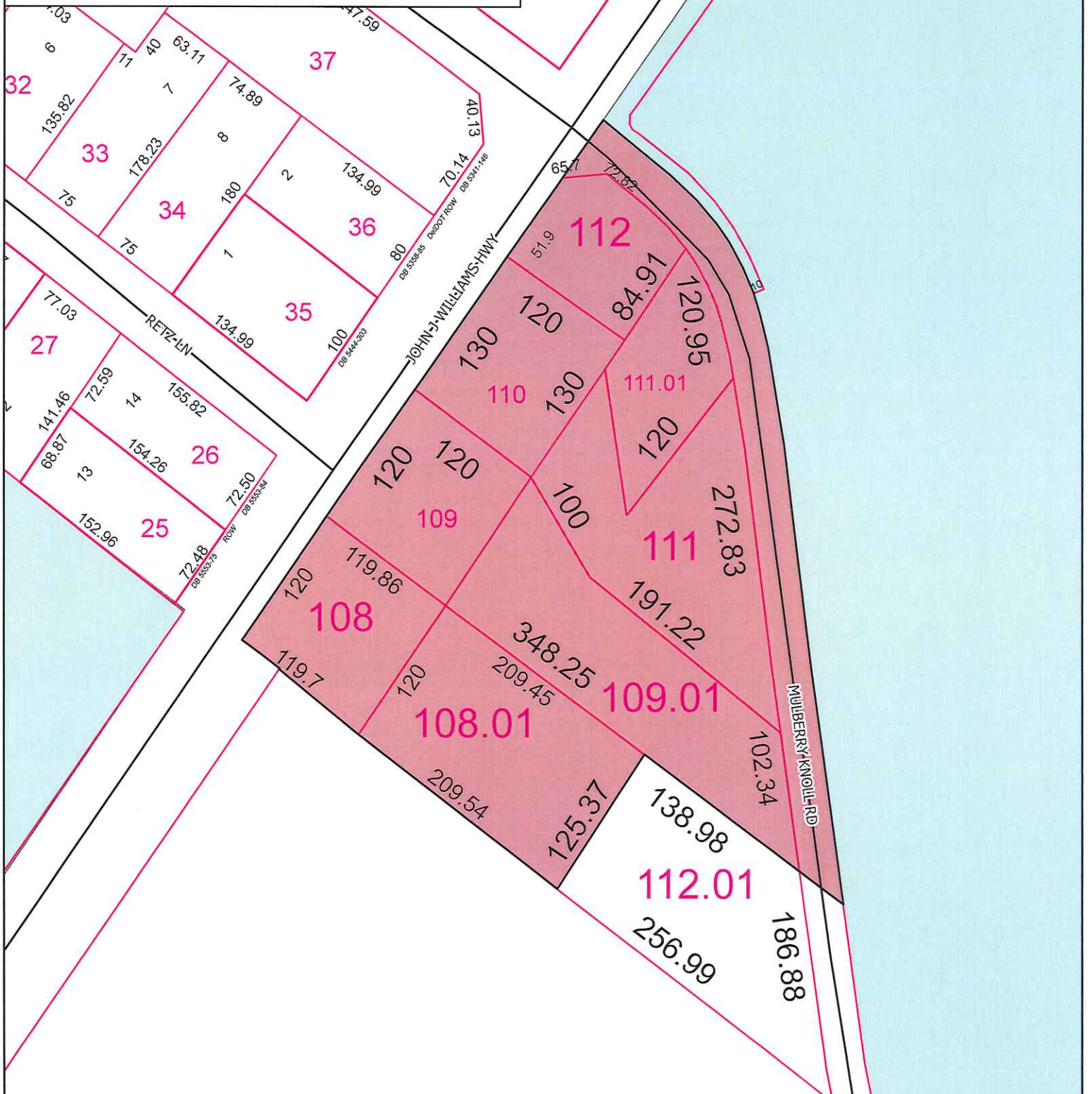
JACQUELINE D. CLARK  
NOTARY PUBLIC  
STATE OF DELAWARE  
My Commission Expires on May 30, 2023

# Proposed Annexation Mulberry Knoll Store

Existing SSD    Parcels of Interest



3/2/2023



The proposed annexation is scheduled to be discussed April 18, 2023 at 10:15 AM  
in the Sussex County Council Chambers, 2 The Circle, Georgetown, DE 19947  
For more information please visit: <https://www.sussexcountyde.gov/legal-notice/ sewer-water>  
Or call Sussex County Utility Planning at 302-855-7370

## RESOLUTION

A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD), TO INCLUDE EIGHT PARCELS ON THE SOUTHEAST SIDE OF JOHN J. WILLIAMS HWY. THE PARCELS ARE LOCATED IN THE LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE.

WHEREAS, Sussex County has established the Sussex County Unified Sanitary Sewer Sanitary Sewer District (SCUSSD); and

WHEREAS, in the best interests of the present district and to enhance the general health and welfare of that portion of Sussex County in the vicinity of John J. Williams Hwy., the inclusion of this area will be beneficial; and

WHEREAS, in accordance with 9 Del.C., Section 6502 (a), the Sussex County Council may, upon request of the County Engineer, revise the boundary of an established sewer district when 50 or more houses have been connected by posting a public notice in four public places in the district describing the new or revised boundary; and

WHEREAS, the Sussex County Council has caused to be posted a public notice in at least four public places in the district, as verified by the affidavit of Phillip C. Calio, a copy of which affidavit and public notice is attached hereto and made a part hereof; and

WHEREAS, in accordance with 9 Del.C., Section 6502 (b), the Sussex County Council shall, within ninety days after posting the public notices pass a formal resolution establishing the new boundary of the district;

NOW, THEREFORE,

BE IT RESOLVED the Sussex County Council hereby revises the boundary of the SCUSSD to encompass the lands mentioned above situated on the north side of New Road, as follows:

**Beginning** at a point, said point being the northwesternmost property corner of lands Now or Formerly (N/F) of J. G. Townsend, Jr. Co., said point also being on the SCUSSD boundary, said point further being on the easterly Right-of-Way (ROW) of the intersection of John J. Williams Highway (Rt. 24) and Mulberry Knoll Road (SCR 284); thence proceeding by and with said Townsend lands, sewer boundary and ROW in a generally southerly direction a distance of 660'± to a point, said point being on the easterly ROW of Mulberry Knoll Road (SCR 284); thence proceeding in a northwesterly direction a distance of 55'± to a point, said point being on the westerly ROW of Mulberry Knoll Road (SCR 284), said point also being on the northeasterly property corner of lands N/F on Ralk Properties, LLC, said point also being the southeastern property corner of lands N/F of V&M, LLC; thence proceeding by and with said Ralk lands in a northwesterly and southwesterly direction respectively a distance of 264.35' to a point, said point being on the northeasterly property line of lands N/F of Cape Henlopen School District, said point also being a property corner of other lands of V&M, LLC; thence proceeding by and with said V&M, LLC lands in a northwesterly and northeasterly direction respectively a total distance of 751.14' to a point, said point being on the southeasterly ROW of John J. Williams Highway (Rt. 24); thence proceeding in a northeasterly direction crossing Mulberry Knoll Road (SCR 284) a distance of 60'± to a point, said point being **that of the Beginning**.

NOTE: The above description has been prepared using Sussex County Tax Map 334-12.00 and Sussex County property assessment records.

A map outlining and describing the extension of the SCUSSD is attached. The area involved is crosshatched.

BE IT FURTHER RESOLVED that the Sussex County Council directs the County Engineer and the Attorney for the County Council to procure the necessary lands and right-of-way by purchase, agreement, or condemnation in accordance with the existing statutes; and

BE IT FURTHER RESOLVED that the County Engineer is hereby authorized to prepare maps, plans, specifications, and estimates, let contracts for and supervise the construction and maintenance of, or enlarging and remodeling of, any and all structures required to provide for the safe disposal of sewage in the sanitary sewer district, as amended.

## ENGINEERING DEPARTMENT

HANS M. MEDLARZ  
COUNTY ENGINEER

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

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



# Sussex County

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

## Memorandum

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

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

RE: ***Joy Beach Sewer Expansion, Project 20-12***  
***A. Recommendation to Award***  
***B. Change Order No. 1***

DATE: April 18, 2023

On August 29, 2017, County Council authorized polling letters and posting notices for an October 20, 2017 public hearing regarding the Joy Beach Community and adjacent parcels area expansion of the Sussex County Unified Sewer District. Based on a recommendation from the Engineering Department, annexation of the proposed sewer boundary was adopted on November 7, 2017, by Resolution R 030 17.

During the August 13, 2019 public hearing County Council adopted Ordinance No. 2671 providing for issuance of Sussex County General Obligation Bonds up to \$5,691,821 to finance or reimburse the County for a portion of costs for design, construction and equipping of the Project, with an expectation of principal forgiveness up to \$3,396,000 to reduce the principal amount to \$2,295,821 upon Project completion.

The Engineering Department's procurement process for 5-year Professional Service Contracts began in January 2019 with issuance of RFP 19-22, Miscellaneous Engineering Services. On May 14, 2019 Council approved the selection of Davis, Bowen & Friedel (DBF); George Miles and Buhr (GMB); and KCI Technologies, Inc. (KCI). Additionally, Council authorized the Engineering Department to negotiate Base Professional Service Agreements for a five-year period of July 1, 2019 through June 30, 2024. Project-based contract amendments under these base agreements were to be brought to Council for authorization.

The Department requested KCI to submit a scope of work and fee estimate for preliminary design, final design, and bidding phase services associated with the Joy Beach Sewer Expansion Project.



Subsequently, KCI provided Amendment No. 1 to the Base Owner-Engineer Professional Services Agreement dated September 10, 2019, for design and bidding services associated with the Joy Beach Sewer Expansion Project, with an estimated total cost of \$340,300.00. On October 22, 2019, Council awarded Amendment No. 1 for professional services at a not-to-exceed value of \$340,300.00, for design and bidding of the Joy Beach Sewer Expansion.

After a lengthy easement acquisition and permitting phase Invitations to Bid were advertised in the local newspaper, as well as available to view on the County website early in 2023. In addition, the information was directly forwarded to several contractors. Nine (9) contractors attended the pre-bid meeting on February 1, 2023, and on February 22, 2023, six (6) bids were received. The low bidder was Chesapeake Turf, LLC at \$4,758,640.00. The Engineering Department recommends award to Chesapeake Turf in the same amount.

During the Engineering Department's pre-award debriefing with Chesapeake Turf, the contractor proposed two cost saving means & methods changes. The first one replaced the open cut method of forcemain installation with a directional drill approach. The Engineering Department agreed if all driveway restoration unit cost items (26,27&28) were zeroed out as well as any additional air release manholes provided by the contractor at no cost. In addition, Chesapeake Turf suggested to replace the boring and jacking installation method of the steel casing under Waterview Road with a directional drill for a 10%-unit price reduction of item 17 and the acquisition of the associated temporary construction easement at their expense. The Engineering Department supports the alternate approaches and requests Council's approval of Change Order No. 1 in the overall reduction amount of \$63,250.00.

Date of Issuance: 4/10/23	Effective Date: 4/18/23
Owner: Sussex County	Owner's Contract No.: S20-12
Contractor: Chesapeake Turf, LLC	Contractor's Project No.:
Engineer: KCI Technologies	Engineer's Project No.:
Project: Joy Beach Sewer Expansion	Contract Name:

The Contract is modified as follows upon execution of this Change Order:

Installation of forcemain via directional drilling in exchange for removal of all driveway restoration unit price items (26,27&28) as well as assumption of any air release manhole expenses necessary due to high points created on the process. Installation of the steel casing under Waterview Road via directional drill for a 10%-unit price reduction of item 17 and the acquisition of the associated temporary construction easement at contractor's expense.

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES <i>[note changes in Milestones if applicable]</i>
Original Contract Price:  \$ <u>4,758,640.00</u>	Original Contract Times: Substantial Completion: _____ Ready for Final Payment: _____ 300 calendar days
Increase from previously approved Change Orders No. 1 to No. <u>1</u> :  \$ <u>0.00</u>	Increase from previously approved Change Orders No. <u>N/A</u> to No. <u>   </u> : Substantial Completion: _____ Ready for Final Payment: _____ 300 calendar days
Contract Price prior to this Change Order:  \$ <u>4,758,640.00</u>	Contract Times prior to this Change Order: Substantial Completion: _____ Ready for Final Payment: _____ 300 calendar days
Decrease of this Change Order:  -\$ <u>63,250.00</u>	[Increase] of this Change Order: Substantial Completion: _____ Ready for Final Payment: _____ 300 calendar days
Contract Price incorporating this Change Order:  \$ <u>4,695,390.00</u>	Contract Times with all approved Change Orders: Substantial Completion: _____ Ready for Final Payment: _____ 300 calendar days

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By: <u></u> By: _____ By: <u></u>	Engineer (if required)	Owner (Authorized Signature)
Title: <u>Sussex County Engineer</u>	Title: _____	Title: <u>Managing Member</u>
Date: <u>4/12/2023</u>	Date: _____	Date: <u>04/11/2023</u>

Approved by Funding Agency (if applicable)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: \_\_\_\_\_



Joy Beach Phase I		Project		Chesapeake Turf		R.E. Pierson		Teal Construction		Kinsley Construction		A-Del Construction		Pact One	
S20-12															
Bid Item	Description of Work	Quantity	Unit	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
<b>BASE BID</b>															
1	Mobilization, Demobilization, Bonds & Insurance	1	LS	\$210,000.00	\$210,000.00	\$230,000.00	\$230,000.00	\$141,633.00	\$141,633.00	\$275,000.00	\$275,000.00	\$230,000.00	\$230,000.00	\$50,000.00	\$50,000.00
2	Maintenance of Traffic and Pedestrians	1	LS	\$114,800.00	\$114,800.00	\$222,000.00	\$222,000.00	\$220,500.00	\$220,500.00	\$160,000.00	\$160,000.00	\$214,000.00	\$214,000.00	\$60,000.00	\$60,000.00
3	Furnish and Install Erosion Sediment Control Measures	1	LS	\$151,500.00	\$151,500.00	\$25,000.00	\$25,000.00	\$18,000.00	\$18,000.00	\$62,565.00	\$62,565.00	\$175,000.00	\$175,000.00	\$20,000.00	\$20,000.00
4	Furnish and Install Package Pump Station	1	LS	\$534,350.00	\$534,350.00	\$800,000.00	\$800,000.00	\$990,000.00	\$990,000.00	\$780,000.00	\$780,000.00	\$550,000.00	\$550,000.00	\$975,000.00	\$975,000.00
5	Furnish and Install SDR-35 PVC Gravity Sewer Main	4,700	LF	\$189.20	\$889,240.00	\$215.00	\$1,010,500.00	\$258.00	\$1,212,600.00	\$265.00	\$1,245,500.00	\$260.00	\$1,222,000.00	\$400.00	\$1,880,000.00
6	Furnish and Install Sanitary Sewer Manholes	95	VF	\$1,430.00	\$135,850.00	\$1,100.00	\$104,500.00	\$1,185.00	\$112,575.00	\$1,352.00	\$128,440.00	\$1,250.00	\$118,750.00	\$1,000.00	\$95,000.00
7	Furnish and Install 6 Inch Sanitary Sewer Service Laterals	1,350	LF	\$113.30	\$152,955.00	\$80.00	\$108,000.00	\$128.00	\$172,800.00	\$122.00	\$164,700.00	\$50.00	\$67,500.00	\$100.00	\$135,000.00
8	Furnish and Install 6 Inch Sanitary Sewer Cleanouts	55	EA	\$2,600.00	\$143,000.00	\$750.00	\$41,250.00	\$890.00	\$48,950.00	\$870.00	\$47,850.00	\$2,200.00	\$121,000.00	\$500.00	\$27,500.00
9	Furnish and Install Standard E-One Simplex Grinder Station Complet	27	EA	\$18,725.00	\$505,575.00	\$15,600.00	\$421,200.00	\$15,400.00	\$415,800.00	\$17,880.00	\$482,760.00	\$25,000.00	\$675,000.00	\$15,000.00	\$405,000.00
10	Furnish and Install Watertight E-One Simplex Grinder Station Comple	14	EA	\$22,700.00	\$317,800.00	\$18,500.00	\$259,000.00	\$18,300.00	\$256,200.00	\$20,600.00	\$288,400.00	\$26,800.00	\$375,200.00	\$18,000.00	\$252,000.00
11	Furnish and Install Standard E-One Simplex Grinder Station Complet	1	EA	\$21,100.00	\$21,100.00	\$17,000.00	\$17,000.00	\$17,800.00	\$17,800.00	\$19,300.00	\$19,300.00	\$26,500.00	\$26,500.00	\$16,000.00	\$16,000.00
12	Furnish and Install Watertight E-One Simplex Grinder Station Compli	2	EA	\$24,200.00	\$48,400.00	\$20,000.00	\$40,000.00	\$36,400.00	\$72,800.00	\$22,250.00	\$44,500.00	\$28,000.00	\$56,000.00	\$18,000.00	\$36,000.00
13	Furnish to County Standard E-One Simplex Grinder Station Model D	3	EA	\$10,200.00	\$30,600.00	\$7,900.00	\$23,700.00	\$27,200.00	\$81,600.00	\$8,700.00	\$26,100.00	\$8,000.00	\$24,000.00	\$9,000.00	\$27,000.00
14	Furnish to County Watertight E-One Simplex Grinder Station Model C	1	EA	\$13,200.00	\$13,200.00	\$10,000.00	\$10,000.00	\$11,640.00	\$11,640.00	\$11,170.00	\$11,170.00	\$10,500.00	\$10,500.00	\$12,000.00	\$12,000.00
15	Furnish & Install Low Pressure 3" PVC DR-21 Sewer Main	5,900	LF	\$26.30	\$155,170.00	\$52.00	\$306,800.00	\$34.00	\$200,800.00	\$57.00	\$336,300.00	\$67.00	\$395,300.00	\$170.00	\$1,003,000.00
16	Furnish and Install Low Pressure 4" PVC DR-18 Sewer Main	1,500	LF	\$40.00	\$60,000.00	\$55.00	\$82,500.00	\$37.00	\$55,500.00	\$68.00	\$102,000.00	\$45.00	\$67,500.00	\$180.00	\$270,000.00
17	Furnish and Install 10" Steel Casing by Jack and Bore Method	100	LF	\$1,100.00	\$110,000.00	\$1,100.00	\$110,000.00	\$505.00	\$50,500.00	\$800.00	\$80,000.00	\$1,460.00	\$146,000.00	\$800.00	\$80,000.00
18	Furnish and Install Low Pressure 1-1/4 Inch Sewer Lateral by Direct	7,500	LF	\$30.20	\$226,500.00	\$41.00	\$307,500.00	\$34.50	\$258,750.00	\$47.00	\$352,500.00	\$31.00	\$232,500.00	\$50.00	\$375,000.00
19	Furnish and Install Low Pressure 1-1/4 Inch Sewer Lateral by Open C	500	LF	\$66.00	\$33,000.00	\$99.00	\$49,500.00	\$89.00	\$44,500.00	\$240.00	\$120,000.00	\$27.00	\$13,500.00	\$50.00	\$25,000.00
20	Furnish and Install Low Pressure 2" Sewer Lateral by Open Cut	20	LF	\$122.00	\$2,440.00	\$196.00	\$3,920.00	\$140.00	\$2,800.00	\$520.00	\$10,400.00	\$63.00	\$1,260.00	\$60.00	\$1,200.00
21	Connect New 4 Inch Force Main to Existing Manhole	1	EA	\$25,200.00	\$25,200.00	\$12,000.00	\$12,000.00	\$5,325.00	\$5,325.00	\$7,040.00	\$7,040.00	\$7,900.00	\$7,900.00	\$3,000.00	\$3,000.00
22	Furnish and Install 1-1/4 Inch Lateral Isolation Valve and Curb Box	55	EA	\$2,835.00	\$155,925.00	\$1,100.00	\$60,500.00	\$1,280.00	\$70,400.00	\$850.00	\$46,750.00	\$4,000.00	\$220,000.00	\$250.00	\$13,750.00
23	Furnish and Install 2 Inch Lateral Isolation Valve and Curb Box	2	EA	\$2,660.00	\$5,320.00	\$1,350.00	\$2,700.00	\$1,355.00	\$2,710.00	\$1,300.00	\$2,600.00	\$3,400.00	\$6,800.00	\$500.00	\$1,000.00
24	Furnish and Install 4 Inch Isolation Valve and Valve Box	1	EA	\$3,095.00	\$3,095.00	\$1,800.00	\$1,800.00	\$1,880.00	\$1,880.00	\$2,000.00	\$2,000.00	\$3,850.00	\$3,850.00	\$1,000.00	\$1,000.00
25	Furnish and Install Toning Wire Box	6	EA	\$1,085.00	\$6,510.00	\$200.00	\$1,200.00	\$280.00	\$1,680.00	\$700.00	\$4,200.00	\$650.00	\$3,900.00	\$1,000.00	\$6,000.00
26	Furnish and Place Asphalt Driveway Restoration	2,500	SF	\$11.00	\$27,500.00	\$7.00	\$17,500.00	\$8.00	\$20,000.00	\$16.25	\$40,625.00	\$8.00	\$20,000.00	\$5.00	\$12,500.00
27	Furnish and Replace Stone or Gravel Driveway	2,500	SF	\$3.50	\$8,750.00	\$1.75	\$4,375.00	\$2.00	\$5,000.00	\$5.00	\$12,500.00	\$3.50	\$8,750.00	\$2.00	\$5,000.00
28	Furnish and Place concrete Driveway Restoration	400	SF	\$40.00	\$16,000.00	\$18.00	\$7,200.00	\$19.75	\$7,900.00	\$62.00	\$24,800.00	\$42.00	\$16,800.00	\$25.00	\$10,000.00
29	Furnish and Install Hot Mix Type "C" Asphalt	1,200	TON	\$178.00	\$213,600.00	\$150.00	\$180,000.00	\$192.00	\$230,400.00	\$145.00	\$174,000.00	\$128.00	\$153,600.00	\$160.00	\$192,000.00
30	Furnish and Install Hot Mix Type "B" Asphalt	1,000	TON	\$178.00	\$178,000.00	\$180.00	\$180,000.00	\$215.00	\$215,000.00	\$165.00	\$165,000.00	\$134.00	\$134,000.00	\$150.00	\$150,000.00
31	Furnish, Place & Compact Graded Aggregate Type "B" Crusher Run	1,200	CY	\$142.00	\$170,400.00	\$110.00	\$132,000.00	\$106.00	\$127,200.00	\$135.00	\$162,000.00	\$117.34	\$140,808.00	\$60.00	\$72,000.00
32	1.5" Pavement Milling	5,600	SY	\$5.60	\$31,360.00	\$3.00	\$16,800.00	\$11.00	\$61,600.00	\$4.25	\$23,800.00	\$3.40	\$19,040.00	\$5.00	\$28,000.00
<b>Bid Bid Subtotal</b>					<b>\$4,697,140.00</b>		<b>\$4,788,445.00</b>		<b>\$5,134,643.00</b>		<b>\$5,402,800.00</b>		<b>\$5,456,958.00</b>		<b>\$6,238,950.00</b>
<b>CONTINGENT ITEMS</b>															
33	Miscellaneous Excavation and Select Backfill	50	CY	\$100.00	\$5,000.00	\$69.00	\$3,450.00	\$61.00	\$3,050.00	\$450.00	\$22,500.00	\$17.50	\$875.00	\$100.00	\$5,000.00
34	Furnish and Place Misc. 4,000 PSI Concrete	20	CY	\$200.00	\$4,000.00	\$825.00	\$16,500.00	\$255.00	\$5,100.00	\$1,080.00	\$21,600.00	\$390.00	\$7,800.00	\$600.00	\$12,000.00
35	Furnish and Place Porous Fill Material, Course Aggregate No. 57	50	CY	\$150.00	\$7,500.00	\$82.00	\$4,100.00	\$61.00	\$3,050.00	\$148.00	\$7,400.00	\$105.00	\$5,250.00	\$60.00	\$3,000.00
36	Furnish and Place Borrow Material, Borrow Type "C"	500	CY	\$50.00	\$25,000.00	\$35.00	\$17,500.00	\$31.00	\$15,500.00	\$57.00	\$28,500.00	\$46.00	\$23,000.00	\$50.00	\$25,000.00
37	Secure Modified Proctor Tests AASHTO T-180 Method A	5	EA	\$500.00	\$2,500.00	\$242.00	\$1,210.00	\$455.00	\$2,275.00	\$440.00	\$2,200.00	\$350.00	\$1,750.00	\$1,500.00	\$7,500.00
38	Secure Field Density Tests, AASHTO T-191	50	EA	\$350.00	\$17,500.00	\$370.00	\$18,500.00	\$91.00	\$4,550.00	\$100.00	\$5,000.00	\$35.00	\$1,750.00	\$300.00	\$15,000.00
<b>Contingency Subtotal</b>					<b>\$61,500.00</b>		<b>\$61,260.00</b>		<b>\$33,525.00</b>		<b>\$87,200.00</b>		<b>\$40,425.00</b>		<b>\$67,500.00</b>
<b>Total Base Bid</b>					<b>\$4,758,640.00</b>		<b>\$4,849,705.00</b>		<b>\$5,168,168.00</b>		<b>\$5,490,000.00</b>		<b>\$5,497,383.00</b>		<b>\$6,306,450.00</b>

Ricicy.  
Yes. 4/4.

### **Council Grant Form**

<b>Legal Name of Agency/Organization</b>	First State Community Action Agency, Inc. ✓
<b>Project Name</b>	8th Annual "It's A Partee" Miniature Golf Tournament
<b>Federal Tax ID</b>	51-0104704 ✓
<b>Non-Profit</b>	Yes
<b>Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)</b>	No
<b>Organization's Mission</b>	To work towards the elimination of poverty and lessen the effects of poverty on people of low income
<b>Address</b>	PO Box 877
<b>Address 2</b>	
<b>City</b>	Georgetown
<b>State</b>	DE
<b>Zip Code</b>	19947
<b>Contact Person</b>	Bernice M. Edwards
<b>Contact Title</b>	Executive Director

**Contact Phone Number** 3028567761

**Contact Email Address** [bedwards@firststatecaa.org](mailto:bedwards@firststatecaa.org)

**Total Funding Request** 2500

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

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

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

**If YES, approximately what percentage of the project's funding does the Council grant represent?** 10

**Program Category (choose all that apply)** Cultural, Educational, Health and Human Services, Other

**Program Category Other** Youth Education and Development

**Primary Beneficiary Category** Low to Moderate Income

**Beneficiary Category Other**

**Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program** 9500

**Scope** On Monday, May 15, 2023, First State Community Action Agency proudly presents our 8th annual "It's a Par-tee" Miniature Golf Tournament at Jungle Jim's in Rehoboth Beach, Delaware. This annual charity event benefits First State's community-based youth programs, which provide educational opportunities for youth to engage in the arts, improve their academic performance through tutoring and homework assistance, and enhance their knowledge of money and banking. Support for this event also provides mentoring and case management for Delaware teens, as well as skills training for the workforce.

**Religious Components**

**Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)** 4,000.00

**Description** Supplies

**Amount** 650.00

**Description** Printing

**Amount** 250.00

**Description** Contracual - DJ, Photographer, Etc.

**Amount** 1,350.00

**Description** Luncheon

**Amount** 8,003.00

**Description**

**Amount**

**Description**

**Amount**

**Description**

**Amount**

**Description**

**Amount**

**TOTAL EXPENDITURES** 10,253.00

**TOTAL DEFICIT FOR  
PROJECT OR  
ORGANIZATION** -6,253.00

**Name of Organization** First State Community Action Agency, Inc.

**Applicant/Authorized  
Official** Bernice M. Edwards

**Date** 04/03/2023

**Affidavit  
Acknowledgement** Yes

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

To Be Reintroduced: 4/18/23

Council District 1: Mr. Vincent  
Tax I.D. No.: 532-20.00-14.00  
911 Address: N/A

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 23.58 ACRES, MORE OR LESS**

WHEREAS, on the 23<sup>rd</sup> day of February 2022, a Conditional Use Application, denominated Conditional Use No. 2354 was filed on behalf of Sussex CSG 1, LLC; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2354 be \_\_\_\_\_; and

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

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

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2354 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 Little Creek Hundred, Sussex County, Delaware, and lying on south side of Old Racetrack Road (S.C.R. 502), approximately 0.75 mile east of Delmar Road (Route 54) and being more particularly described in the attached legal description prepared by Pennoni Associates Inc., said parcel containing 23.58 acres, more or less.

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

JAMIE WHITEHOUSE, AICP  
DIRECTOR OF PLANNING & ZONING  
(302) 855-7878 T  
pandz@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 6, 2023

RE: County Council Report for C/U 2340 filed on behalf of Inland Bays Preservation Company, LLC

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The Planning and Zoning Department received an application (C/U 2340 filed on behalf of Inland Bays Preservation Company, LLC) for a Conditional Use for parcel 234-17.00-170.00 for a wastewater reclamation treatment facility. The property is located at on the northeast side of Banks Road (SCR 298), approximately 400 feet northwest of Green Road (SCR 298A). The parcel size is 26.05 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on February 9, 2023. At the meeting of March 9, 2023, the Planning & Zoning Commission recommended approval of the application for the 5 reasons stated and subject to the 8 recommended conditions as outlined within the motion (copied below).

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

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

### **C/U 2340 Inland Bays Preservation Company, LLC:**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A WASTEWATER RECLAMATION TREATMENT FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 26.05 ACRES, MORE OR LESS.** The property is lying on the northeast side of Banks Road (S.C.R. 298), approximately 400 feet northwest of Green Road (S.C.R. 298A). 911 Address: N/A Tax Parcel: 234-17.00-170.00 (P/O).



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



Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Exhibit Booklet, the Conceptual Site Plan, the Staff Analysis, a letter from Sussex County Engineering Department Utility Planning Division, the DelDOT Service Level Evaluation Response (SLER), and Technical Advisory Committee (TAC) Letters, which included letters from the U.S. Fish & Wildlife, Division of Waste & Hazardous Substances, Sussex County Engineering, Delaware Electric Coop and the Inland Bay Preservation Company. Mr. Whitehouse advised the Commission that zero comments had been received for the Application.

The Commission found that Mr. James Fuqua, Esq., with Fuqua, Willard & Schab, P.A., spoke on behalf of the Application for Inland Bays Preservation Company, LLC; that also present were Mr. Jason Palkewicz with Solutions IPEM, LLC, Mr. Arijit Sarkar, Senior Wastewater Project Manager with Tunnell Companies, LLC, Mr. Edward Nichols with Nichols Environmental, LLC, and Mr. Ashwini Khare, Group Manager, SiCBLOX Wastewater Sustainably Group with OVIVO; that an Exhibit Booklet was submitted for the record; that the Exhibit Booklet does contain architectural renderings of the proposed facility; that the Conditional Use request is for a new wastewater reclamation facility for the Inland Bays Preservation Company; that the Inland Bays Preservation Company was founded by the Tunnell Companies, L.P. in 1988 to provide central sewer service to the Pot Nets developments, located along Long Neck Rd.; that the Inland Bays Preservation Company is a utility company that is regulated by the Delaware Public Service Commission; that the company does hold a Certificate of Public Convenience and Necessity (CPCN) to provide central sewer service in their franchise area along Long Neck Rd.; that the company constructed the existing wastewater facility in approximately 2000, as part of the development of Baywood Greens Residential Community and Golf Course; that the operation consisted of the collection treatment and disposal of domestic wastewater from the Baywood Greens development; that the existing Baywoods facility is located on the golf course of the Baywood Greens development, along the development street name Back Nine Way; that the existing treatment facility is designed to provide tertiary treatment for up to 95,500 gallons per day of domestic wastewater; that the existing treatment facility is designated as a Class 3; that the current facility operation consist of one 4.3 million gallon line treatment lagoon, one 8.3 million gallon lined treatment storage lagoon, a disinfection chamber, a building housed screen filtration unit and a SCADA control unit; that a SCADA control unit is a sophisticated control system, which is comprised of computers with networked data communication and sensors, providing constant supervision of the equipment and operation; that the treated effluent is dispersed by spray irrigation on 54 acres of the golf course, consisting of holes 10 through 18, and the driving range; that the operation produces an effluent that meets or exceeds DNREC's standards; that the Inland Bays Preservation Company's treatment and spray irrigation operations are authorized by issued permits by DNREC; that the current Application only involves the relocation and construction of a new wastewater treatment facility on a parcel of land, located on northside of Banks Rd.; that the subject property is owned by the Tunnell Companies, L.P.; that the property is part of the Keystone Bay subdivision; that once operational, the new facility will replace the existing facility; that the new facility will be designed to treat an average daily flow of up to 390,000 gallons of domestic wastewater; that the operation would be designed under a Class 4 facility classification; that the proposed facility would be constructed in two phases; that the first phase is to include the construction of the building and the processing equipment to treat approximately 193 gallons of wastewater; that the second phase would expand the equipment to allow for treatment of 390,000 gallons of wastewater; that the Conditional Use request only pertains to the wastewater treatment facility; that the two existing lagoons, located on the golf course, will be repurposed as covered storage basins for treated and

disinfected effluent from the new facility; that ultimately, the treated effluent will be sprayed onto the golf course, under the same process currently being performed; that the new facility is designed to address any potential odor and noise concerns; that the operation will be enclosed in the building, which incorporates ventilation, climate control and biological odor control systems; that the solids dewatering operation will be performed in an enclosed building with similar ventilation and control systems; that the systems will minimize or eliminate any potential nuisance from the facility; that the aeration system and blowers systems are designed with sound control enclosures that limit noise levels; that the blower enclosures will be relocated into a separate blower room which will eliminate the blower noise to be heard from outside the building; that all other mechanical equipment, such as pumps and motors, will be installed inside the equipment and operations building; that the facility will be staffed by three to four licensed operators; that the staff will typically be present at the facility from 6:00 am until 4:00 pm; that staff will be present at the facility during off-hours on an as needed basis; that the site consists of 1.7 acres; that the property is part of the Keystone Bay subdivision; that the entrance to the site would be from Banks Rd.; that four parking spaces and a loading zone will be provided; that DelDOT indicated the traffic impact for the proposed use would be negligible; that a 30-ft. forested landscape buffer is proposed along the east and west sides of the property; that the Applicant intends to preserve and incorporate the existing trees along the buffers; that the buffers will be supplemented with additional plants in areas where the buffer requirement is not fully met; that a six foot privacy fence is proposed within the side buffers; that fencing located within the front yard setback will be shorter in height to keep in compliance with the Code; that due to the fence being located within a wooded buffer area, the fencing will not be placed straight, as it will require a creative meandering placement; that a 20-ft. landscape buffer is proposed at the rear of the property, being adjacent to the Keystone Bay development; that stormwater management from the site will be managed as part of the Keystone Bay development system, which is located adjacent to the site; that central water will be provided by the Longneck Water Company; that there are no wetlands located on the site; that the site is located within Flood Zone X, being outside of the Flood Hazard area, according to the FEMA Flood Insurance Maps; that the appearance of the building will be residential in character; that there are several significant reasons for the necessity of the proposed facility; that modern central wastewater facilities are essential for the health and welfare of the current and future residents of Sussex County, as well as offer protection to the environment, specifically being the Inland Bays; that the existing wastewater facility has been in operation for over 20 years; that over the last 20 years the facility's technology has aged, causing a lack of treatment capacity future growth of the area; that the proposed facility will utilize state-of-the-art equipment, that will allow for a much higher quality of treatment than the current operation; that the new facility will provide increase capacity and will be designed to conserve energy consumption; that the main reason for the new facility is to provide the ability to serve the future growth of the area; that the existing facility must remain fully operational until the new facility is fully completed and placed into operation; that there is no sufficient space for the new facility on the existing facility site; that the subject site is part of the Keystone Bay development; that Keystone Bay is a 651 lot cluster subdivision, being located on 319 acres, on both sides of Green Rd.; that Keystone Bay also has frontage along Banks Rd.; that the Keystone Bay subdivision was approved by the Planning & Zoning Commission in January 2020; that the same property had previously been approved for a 597 lot subdivision, by the name of Bridlewood, in 2005; that Bridlewood did not proceed and was voided over time; that under the previous Bridlewood application, the subject site was proposed for the placement of a maintenance building; that the proposed site is located between the Keystone Bay development and Baywood Greens development; that the location of the site will enable the efficient collection and treatment of wastewater from both developments, while allowing storage and spray disposal operations to remain on the golf course; that Sussex County also provides sewer service for the area; that Sussex County

has an existing sewer main running along Banks Rd.; that the proposed site provides efficient means for interconnection between the County and Inland Bays Treatment systems, which can be utilized in the event of a major equipment failure of either system or other emergencies; that within the Sussex County Engineering memorandum, dated January 13, 2023, the Engineering department requested the ability of interconnection be placed along Banks Rd, between the facilities; that the site is zoned AR-1 (Agricultural Residential); that the property is part of the Keystone Bay subdivision; that Conditional Uses for the use of public utilities, including treatment plants, are permitted for AR-1 as a Conditional Use; that the purpose of a Conditional Use is to provide for certain uses of a public or semi-public character, that are essential and desirable for the general convenience and welfare of Sussex County; that the proposed Conditional Use was review as part of the State's PLUS process; that the PLUS Review letter, dated January 13, 2022, stated that the Office of State Planning Coordination had no objection to the proposed Conditional Use for a water reclamation facility; that the Zoning Code recognized the important relationship between a Conditional Use and the Sussex County Comprehensive Plan; that Chapter 7 of the Comprehensive Plan addresses utilities; that the Comprehensive Plan states the envision for utilities is to ensure safe, reliable, economical utility services are available to Sussex County residents and businesses; that on Page 7-13 of the Comprehensive Plan, the Inland Bays Preservation Company is listed as one of the private sewer service providers in Sussex County; that the Comprehensive Plan states that private utility companies are a viable option for wastewater treatment; that Page 7-15 within the Plan contains a map reflecting Inland Bays Preservation Company's service area along Long Neck Rd.; that on Page 7-21 of the Plan it states a goal of the plan is to encourage adequate central sanitary sewer service in a coordinated approach; that the Plan anticipates future demand, with the objectives of continual maintenance and upgrading to the existing sewer infrastructure to ensure sound operations; that the Applicant feels the proposed Conditional Use is in compliance with the goals of the Comprehensive Plan; that the proposed use is essential and desirable for the general convenience and welfare of residents; that the proposed use is necessary for public health, safety and protection of the environment; that proposed Conditions of Approval and proposed Findings of Fact were submitted for consideration and for the reasons stated the Applicant requested a recommendation of approval from the Commission for the proposed Conditional Use.

Ms. Stevenson questioned the noise protection measures being performed for the aeration blowers and if the proposed system will be fully connected to Sussex County's Sewer system.

Ms. Wingate questioned if the SCADA control system will be associated with Sussex County's SCADA system, how long the existing wastewater plant has been operating, and if the existing wastewater facility had experienced any spills or environmental issues in the past.

Mr. Mears questioned what smells would be associated with the proposed use of the property and requested confirmation that the treated wastewater would be placed on the golf course.

Chairman Wheatley stated the subject parcel is a 26-acre parcel; that he questioned if the Applicant is requesting a Conditional Use for all 26 acres or the portion of the parcel.

Mr. Whitehouse stated the short title referenced a request for a portion of the site and the Commission can limit the use to a specific area on the site.

Mr. Fuqua stated that the aeration system and blowers would be designed in sound control containment box that limits noise levels; that the containment box will be in a blower room, which will eliminate the blower noise to be heard from outside the building; that it is anticipated the proposed system will have a connection to Sussex County's Sewer system; that the two sewer systems will not be operating together unless there is an emergency; that the existing wastewater plant being in operation approximately 23 years as it began in 2000; that the Applicant had stated he was not aware of any environmental hazards or issues on the existing facility site; that with the proposed technology for the use, any odors associated with the use would be controlled and minimized; that the treated wastewater will be sprayed on the golf course and the Applicant requested the Conditional Use be permitted for the 1.739 acres of the 26 acres, as reflected on the submitted Site Plan.

Mr. Palkewicz stated the proposed SCADA control system will be independent and will not be associated with Sussex County's SCADA system.

The Commission found three people present in opposition to the Application.

The Commission found that Mr. Ray Griffith spoke in opposition to the Application; that he lives adjacent to the site; that the subject area is one of the lowest areas on Banks Rd.; that twice a year the area floods; that raising the property and covering the area in concrete will cause more flooding to his property and he questioned why the facility had to be placed toward the front of the property and not the rear of the property.

Mr. Fuqua stated the property is required to provide stormwater management facilities; that stormwater management will be provided by the existing stormwater management facilities of the Keystone Bay subdivision; that the Keystone Bay facilities are comprised of an extensively designed stormwater management system and due to this, facilities are not required on-site, as the water will be directed into the existing Keystone Bay stormwater management system.

Mr. Robert Tunnell stated there are multiple DelDOT improvements anticipated at the front of the property, along Banks Rd.; that the anticipated improvements are to include catch basins and stormwater management; that all stormwater runoff from the site, down to Winding Creek will be directed onto the Keystone Bay property or the Baywood Greens property, being controlled; that stormwater runoff was a concern he previously discussed with an adjacent neighbor, Ms. Dorothy West before the meeting started; that he had scheduled a meeting with her for Friday, February 10<sup>th</sup>, 2023, to discuss the proposed plans, as well as all future DelDOT improvements and he would be happy to schedule an appointment with Mr. Griffith to discuss the plans.

The Commission found that Ms. Dorothy West spoke in opposition to the Application; that she questioned what the abbreviation, SWM Pond, stood for; that she questioned if the stormwater management ponds would be covered, or mosquito-infested; that she questioned what the loading space was for and what material would be loaded, that she questioned what the abbreviation for CMF Disturbed stood for; that she questioned if there would be any interference with the aquifer and how many ponds will be located on the site; that she questioned what pavement hatching is, if staff would be present on the site and if alarms would sound in an emergency.

Chairman Wheatley stated SWM Pond was the abbreviation for stormwater management pond, which is the area the water runoff drains to; that he did not believe the stormwater ponds would be covered;

that the loading space is an area where trucks can pick up or deliver materials and the SCADA system monitors the operations and site and will provide notification in an emergency.

Ms. Stevenson stated a pond is proposed to be placed directly behind the proposed building on the site.

Mr. Whitehouse stated that hatching is a pattern that is placed on the pavement and the abbreviation CMF stands for concrete monument found and is a surveying reference to a property marker.

Mr. Tunnell stated that through the Keystone Bay development there are a series of stormwater management ponds that are designed to handle the runoff from the community, Banks Rd and Green Rd; that the ponds will be lined; that water will permanently remain within the ponds; that the ponds will look similar to the ponds within Baywood Greens development; that the ponds within Baywood Greens have had no mosquito issues; that there will be sod edges; that a planted buffer of taller vegetation along the waterline; that the ponds and vegetation will be managed professionally; that the ponds are meant to be attractive; that a mosquito infected pond, located within a subdivision, would not be beneficial to the developer; that at the current plant, there is a weekly delivery of chlorine, as well as other materials; that deliveries are performed during normal business hours; that there will be no alarms sounding at the site; that alarms and notifications are provided through the SCADA system by text or email; that all operations will be performed within concrete tanks; that throughout Baywood Greens, upstream through the Keystone Bay development, there is a series of 24 groundwater monitoring wells, which are sampled on a regular basis; that the sample results are reported to DNREC; that as the spray irrigation is performed, the monitoring wells are ensuring the spray irrigation matches the uptake raise of the grass; that this will ensure wastewater is not being dumped and infiltrating the ground and there have never been any issues or violations issued from DNREC in the 23 years the existing plant has operated.

The Commission found that Mr. Mike Masciandro spoke in opposition to the Application; that he questioned if noise and smell concerns could be addressed with more objective information, and he stated that decibels would be an objective measure.

Chairman Wheatley stated he felt there may be comfort in knowing that the Applicant of the proposed facility also has substantial residential real estate investment made to adjacent properties of the proposed use and would be to the Applicant's financial advantage that the proposed use does not create any adverse impacts to adjacent properties.

Mr. Arijit Sarkar, who is the Senior Wastewater Project Manager with a background in wastewater management; that OSHA provides guidelines and specifications for employee noise protection; that the standard is 70 decibels within six feet of the equipment; that there are nine to 12 blowers; the Applicant is taking measures to further minimize perceivable noise; that that blowers are contained within noise-reducing boxes; that the noise-reducing boxes are placed in a secluded building, which will be called the Blower Building; that the blower building is designed to provide additional minimization of noise and sound; that with the proposed measures in place, the anticipation is no audible noise will be heard outside of the building; that there are two markers for smell, being hydrogen sulfide, which smells like sewer gas or rotten egg and mercaptans; that these gases are typically found in certain operations; that when water comes into the facility, there can be stagnant water; that stagnant water may cause a potential odor; that in the processing of the bio-solids there is

a potential for odor; that both of the processes in the proposed design are sequestered in classified buildings; that this ensures no air exchange takes place with the outside; that all of the air from the sequestered buildings are processed through scrubbers; that the scrubbers have specifications to remove certain chemicals and gases; that the scrubbers will remove 99.9% of hydrogen sulfide from the air and these are the measures being proposed for the Application.

The Commission found that no one wished to speak by teleconference in support of 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.

Motion by Ms. Stevenson to defer action for further consideration, seconded by Ms. Hopkins and carried unanimously. Motion carried 5-0.

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

The Commission discussed the Application which had been deferred since February 9, 2023.

Ms. Stevenson moved that the Commission recommend approval of C/U 2340 for Inland Bays Preservation Company based on the record and for the following reasons:

1. The Applicant is a public utility regulated by DNREC, the Public Service Commission, and other Federal, State, and Local agencies. The proposed use will be reviewed, regulated, and approved by DNREC and will be designed and constructed in accordance with all other applicable federal, state, and county requirements.
2. The Applicant proposes to use the site for public utility purposes as a water reclamation facility, a use that is essential and desirable for the general convenience and welfare of neighboring properties and Sussex County.
3. Inland Bay Preservation Company has applied for Certificates of Public Convenience and Necessity to serve the area and has or will have the tariffs approved by the Public Service Commission.
4. This application is in an appropriate location for a regionalized water reclamation facility to insure treatment for existing and future residents of the surrounding area.
5. The Conditional Use requested will promote the health and safety of the residents of Sussex County and with the conditions placed upon it, will not have an adverse impact on the neighboring properties or community.
6. This recommendation is subject to the following conditions:
  - A. All improvements for collection, treatment, and disposal of sanitary waste shall be constructed and maintained in accordance with the requirements of the Sussex County Engineering Department, if any, and the Delaware Department of Natural Resources and Environmental Control, and any other governmental agency with jurisdiction over the use of the site, or any modification thereto.

- B. All equipment needed in the operation of the facility shall be housed indoors with the exception of emergency generators and holding and treatment tanks that may be located on the site. The generators shall be housed in enclosures to reduce noise.
- C. There shall be forested buffers of at least 30-foot-wide along the eastern and western sides of the property consisting of the existing woodlands which shall not be cut or removed except for normal safety and maintenance purposes. There shall be a 20-foot-wide landscaped buffer along the northern rear of the site, adjacent to the Keastone Bay development.
- D. One lighted sign shall be permitted, not to exceed 32 square feet in size. The sign shall identify the operator of the facility and shall provide contact information in case of emergency.
- E. As stated by the Applicant during its presentation, the exterior treatment of the building will be designed with residential-style architectural features and elements.
- F. Any security lighting shall be screened so that it does not shine onto neighboring properties or County Roads.
- G. Construction, site work, and deliveries shall only occur on the site between the hours of 7 a.m. and 6 p.m. Monday through Saturday. No Sunday hours for construction will be permitted. A 24-inch by 36-inch “NOTICE” sign confirming these hours in Spanish and English shall be prominently displayed at the site of the entrance during construction.
- H. The Final Site Plan shall be subject to review and approval by the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2340 Inland Bays Preservation Company for the reasons and conditions stated in the motion. Motion carried 4-0.

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

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

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JAMIE WHITEHOUSE, MRTPI, AICP  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: February 9<sup>th</sup>, 2023

Application: CU 2340 Inland Bays Preservation

Applicant: Inland Bays Preservation Company, LLC  
34026 Anna’s Way, Suite 1  
Millsboro, DE 19966

Owner: Tunnell Companies, LP  
34026 Anna’s Way, Suite 1  
Millsboro, DE 19966

Site Location: Banks Road

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

Proposed Use: Regional Waste Water Treatment Facility

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Schaeffer

School District: Indian River School District

Fire District: Indian River Fire Department

Sewer: Inland Bays Preservation Co. LLC

Water: Long Neck Water Co.

Site Area: 1.739 acres +/-

Tax Map ID.: 234-17.00-170.00 (P/O)





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## Memorandum

To: Sussex County Planning and Zoning Commission Members  
From: Chase Phillips, Planner II  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: January 23, 2023  
RE: Staff Analysis for CU 2340 Inland Bays Preservation Company, LLC

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The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application CU 2340, Inland Bays Preservation Company, LLC., to be reviewed during the February 9<sup>th</sup>, 2023, Planning and Zoning 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 a regional wastewater treatment facility to be located on a portion of Tax Parcel 234-17.00-170.00. The property is located on the northeast side of Banks Road (S.C.R. 298) in Millsboro. The Conditional Use area is 1.739 acres +/- while the total area of the parcel is 26.05 acres +/-.

### Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcel has a designation of "Coastal Area." The adjacent parcels to the north, south, east, and west are all also within the 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.

### Zoning Information

The subject property is zoned Agricultural Residential (AR-1) District. The properties to the north, east, and west are also within the AR-1 Zoning District. The property to the south is within the General Residential (GR) Zoning District.



Existing Conditional Uses within the Vicinity of the Subject Property

Since 1971, there have been 14 Conditional Use applications within a one (1) mile radius of the application site. Below is a table that summarizes these applications:

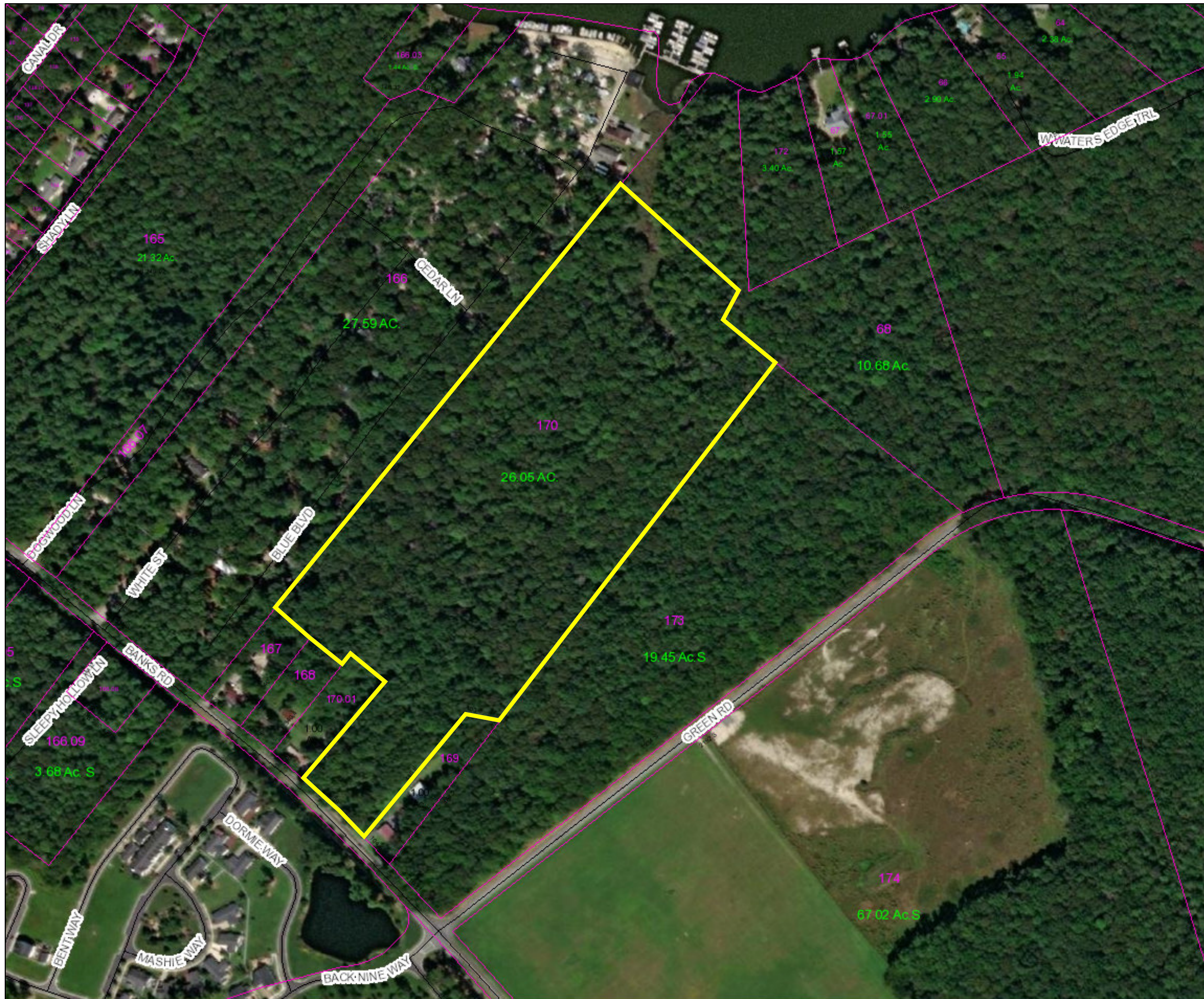
Conditional Use Number	Tax Parcel #	APPLICANT	Proposed Use	CC Decision Date	CC Decision
3	234-17.00-20.00	Robert A. Raley	Camping and Tenting Area		Approved
1738	234-17.00-174.00	Baywood, LLC (Equestrian Center)	Equestrian Center	7/22/2008	Approved
1179	234-23.00-307.01	Destination Development	3 lot addition to MHP	5/13/1997	Approved
1797	234-23.00-270.00	Baywood, LLC	Multi-Family	1/5/2010	Approved
881	234-18.00-22.00	Thomas F. Griner	landing field for aerial advertising	6/14/1988	Denied
749	234-18.00-19.00	Angola Beach	campground for campers and tour vans	9/27/1983	Approved
1124	234-23.00-273.00	Tunnell Companies, L.P.	expand mobile home park	9/26/1995	Approved
262	234-23.00-287.00	Indian River Volunteer Fire Co	fire department substation		Approved
470	234-17.00-165.00	Creekside Mobile Home & Travel Trailer Park Inc	mobile home park		Denied
1275	234-18.00-1.00	Angola Community Partners, LLC	increase boat storage capacity	6/8/1999	Approved
1034	234-23.00-273.00	Tunnell Companies, L.P.	Manufactured Home Community/Golf Course	2/8/1994	Approved
1096	234-18.00-1.00	Angola Community Partners	dry boat storage for existing mhp	1/17/1995	Approved

986	234-18.00-1.00	Kuhn Family Sussex Partnership	Material & Equipment Storage	10/29/1991	Denied
2302	234-17.00-117.01	Carlos Batres	Crab Vendor		Withdrawn

Based on the analysis provided, the Conditional use to allow for a regional wastewater treatment facility could be considered to be consistent with the surrounding land use, zoning, and environment.



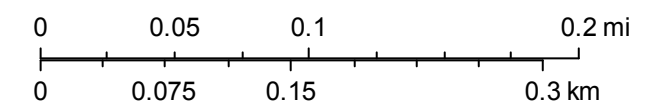
# Sussex County



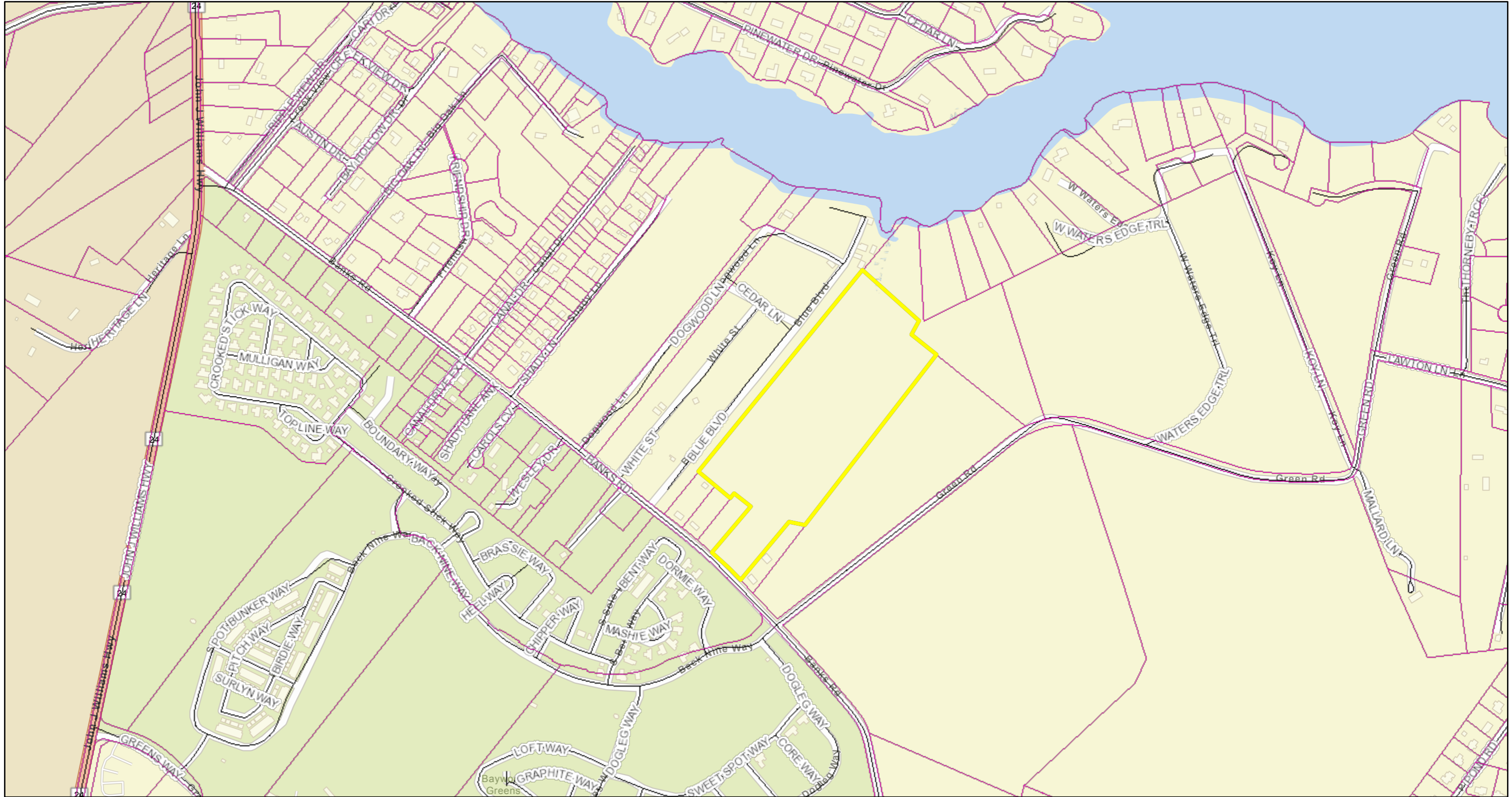
<b>PIN:</b>	234-17.00-170.00
<b>Owner Name</b>	KEASTONE BAY LLC
<b>Book</b>	5732
<b>Mailing Address</b>	34026 ANNAS WAY STE 7
<b>City</b>	MILLSBORO
<b>State</b>	DE
<b>Description</b>	RD LONG NECK TO
<b>Description 2</b>	ANGOLA
<b>Description 3</b>	N/A
<b>Land Code</b>	

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- Override 1
- Tax Parcels
- Streets
- County Boundaries






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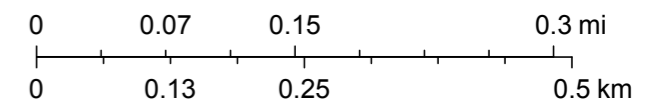
# Sussex County



January 11, 2023

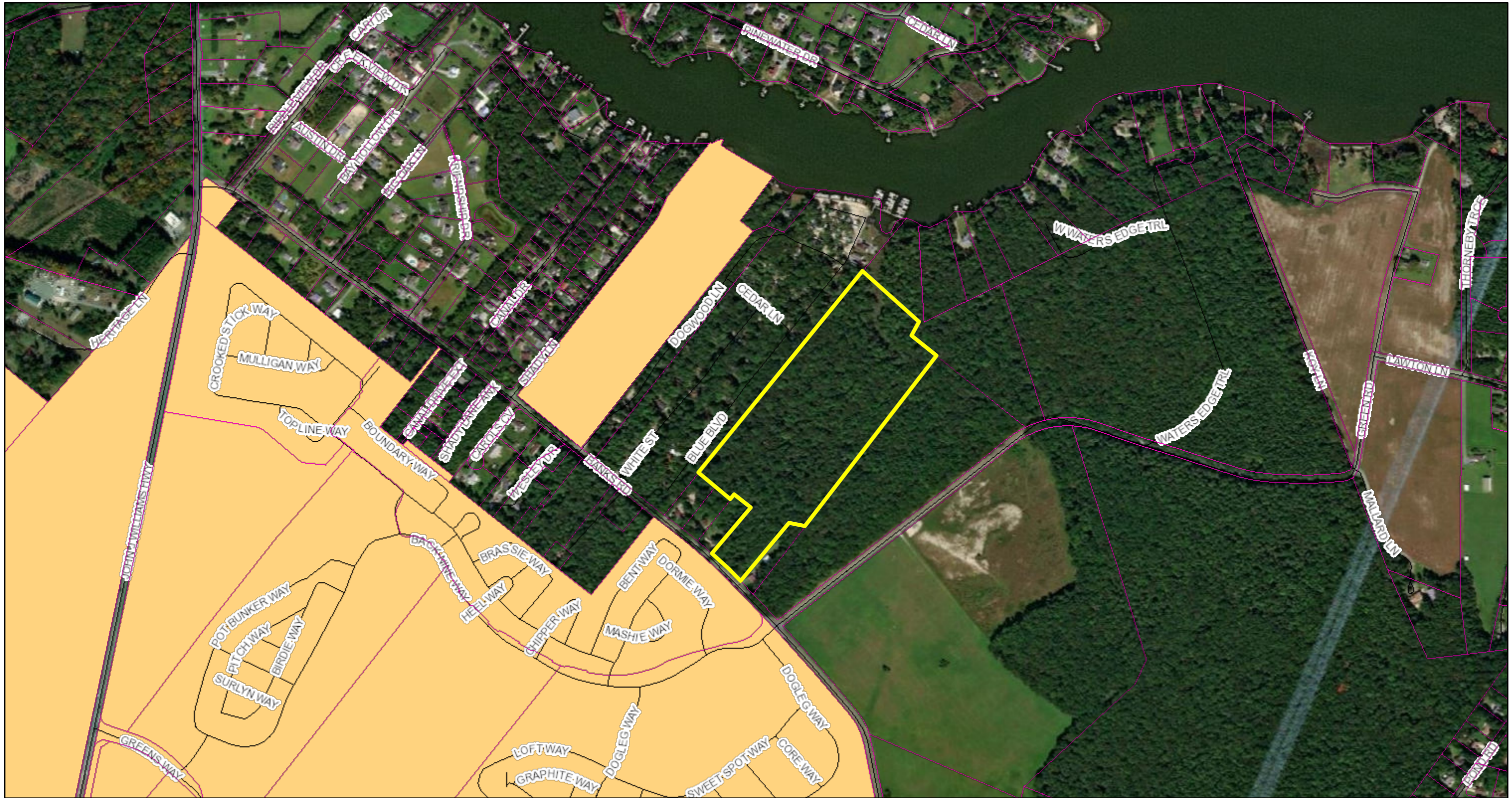
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-  County Boundaries

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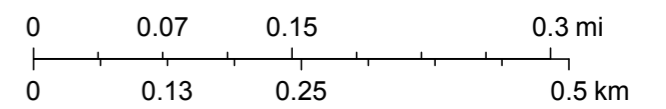
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# Sussex County



January 11, 2023

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Sussex County, Sussex County Government, Maxar

To Be Introduced: 03/22/22

Council District Mr. Schaeffer  
Tax I.D. No. 234-17.00-170.00 (p/o)  
911 Address: N/A

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A WASTEWATER RECLAMATION TREATMENT FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 26.05 ACRES, MORE OR LESS**

WHEREAS, on the 17<sup>th</sup> of December 2021, a conditional use application, denominated Conditional Use No. 2340 was filed on behalf of Inland Bays Preservation Company, LLC Attn: Robert Tunnell; 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. 2340 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 115, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2340 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcels of land, lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the northeast side of Banks Road (S.C.R. 298), approximately 400 feet northwest of Green Road (S.C.R. 298A), and being more particularly described in the attached legal description prepared by Solutions Integrated Planning Engineering & Management, LLC, said parcel containing 26.05 acres, more or less

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



## Memorandum

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

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

CC: Everett Moore, County Attorney

Date: April 6, 2023

RE: County Council Report for C/U 2349 filed on behalf of Lessard Builders

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The Planning and Zoning Department received an application (C/U 2349 filed on behalf of Lessard Builders) for a Conditional Use for parcel 234-35.09-6.00 for multi-family (10 units). The property is located at 32768 Oak Orchard Road, Millsboro. The parcel size is 0.84 acres +/-.

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

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

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

### C/U 2349 Lessard Builders

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (10 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.84 ACRE, MORE OR LESS.**

The property is lying on the northwest side and the southeast side of Oak Orchard Road (Rt. 5), approximately 300 feet east of River Road (S.C.R. 312). 911 Address: 32768 Oak Orchard Road, Millsboro. Tax Parcel: 234-35.09-6.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Exhibit Booklet, the Engineering Evaluation Report, a letter from Sussex





County Engineering Department Utility Planning Division, copies of the Notice of Decision letters for C/U 1088 and C/U 1863, the Staff Analysis, the DelDOT Service Level Evaluation Response, the Applicant's PLUS responses, the property legal description, the PLUS Comments, and the Applicant's wetland statement and Chapter 99-9(C) responses. Mr. Whitehouse advised the Commission that four letters were received in opposition to the Application.

The Commission found that Mr. James Fuqua, Esq., with Fuqua, Willard & Schab, P.A., spoke on behalf of the Application; that also present were Mr. Brian Lessard and Mr. Zachary Crouch with Davis, Bowen & Friedel, Inc. (DBF, Inc.); that an Exhibit Booklet was submitted which contained information about the Application, architectural renderings of the proposed buildings and additional information; that the Application is a Conditional Use request for multi-family building, to contain ten residential units; that the units would be held in a condominium form of ownership; that Lessard Builders is the contract purchaser of the land; that the land is owned by Mr. Andrew Walton and Ms. Carol Walton, who purchased the property in 2008; that the property is located within Oak Orchard, with frontage on the Indian River Bay of 130-ft.; that the property depth is 360-ft.; that the property contains 36,660 sq. ft., being approximately .84 acre of land; that the property is zoned MR (Medium-Density Residential), as well as most of the surrounding area; that that the MR zoned area, is surrounded by areas zoned as GR (General Residential) and multiple parcels zoned C-1 (General Commercial); that within the MR Zoning District multi-family structures may be permitted as a Conditional Use; that according to the 2019 Comprehensive Plan the site is located within the Coastal Area, which is considered a Growth Area; that the Plan further states that within the Coastal Area, a range of housing types should be permitted, including multi-family units; that medium to higher density, being of four to 12 units per acre, can be appropriate at certain locations; that the Applicant believes the proposed location would be appropriate for the medium to higher density; that Tidewater Utilities, Inc. will provide the site with central water; that sanitary sewer will be provided by Sussex County; that the Sussex County Engineering Department confirm, in a letter dated January 13<sup>th</sup>, 2023, that the site is with the County's Sewer District and that wastewater capacity is available for the proposed use; that there are no tidal or non-tidal wetlands located on the site; that site, as well as surrounding areas, is located within the special Flood Hazard Area Zone per the FEMA Flood Maps; that new construction within the Flood Hazard Area does require compliance with FEMA Coastal Construction Standards, as implemented through the County Building Code; that the proposed building design and base floor elevations will meet or exceed the requirements, fully complying with Article 18 of the Zoning Ordinance regarding construction in flood prone districts; that stormwater management facilities will be constructed in accordance with DNREC's sediment and stormwater regulations and will be reviewed and approved by the Sussex Conservation District; that there is no stormwater management existing currently on site; that the proposed building and the site will comply with all applicable requirements, being reviewed and approved by the Delaware State Fire Marshals Office; that the proposed building will have a sprinkler system; that the Applicant will consult with Tidewater Utilities, Inc. to determine if adequate water pressure is available for the placement of a water hydrant in the area; that there is existing public water in the area, however there are no hydrants in the area; that if a hydrant cannot be placed in the area, a dry hydrant(s) would be installed on site; that DelDOT's Service Level Evaluation Response stated that a Traffic Impact Study (TIS) was not warranted, as the traffic impact would be considered negligible; that the entrance and improvements to the parking area will be designed in compliance with DelDOT standards; that the site is located within the Indian River School District; that the Indian River Volunteer Fire Company, Inc. will provide fire service for the site; that Station No. 1 for the Indian River Volunteer Fire Company, Inc. is located along Old Orchard Rd., being a few blocks away from the site; that the Applicant's reasoning

for the appropriateness of the site is largely based on the property's land use history; that in 1994 a Conditional Use application (C/U 1088) was filed proposing a two-story building, with a bait & tackle shop, a sandwich shop, and a marina office located on the first floor and a residence on the second floor; that in addition to that application, there would be a fishing pier, provide 20 boat slips to be rented by the general public; that the minutes of that Application's Planning & Zoning Commission meeting indicated that the site had previously been the location of the Oak Orchard Hotel and Restaurant; that the Oak Orchard Hotel and Restaurant had the 520-ft. pier extending into the Indian River Bay; that he believed the hotel dated back to when Oak Orchard and Riverdale were popular resort destinations; that the old hotel fell into disrepair, being torn down in 1986; that a Conditional Use was approved the County Council in September 1994; that in 2010, a second Conditional Use (C/U 1863) application was filed by Mr. & Mrs. Walton; that the application proposed the relocation of the existing building on the site to the northern end of the site, which would be converted to a single-family residence; that at the location of the existing building, the application proposed to build a new three-story building containing four multi-family residential units located on the second and third floors, containing 2,000 sq. ft. of floor area; that on the first floor a 2,800 sq. ft. restaurant, a 700 sq. ft. waterfront patio and 1,600 sq. ft. retail store was proposed; that the new building proposed in that application would have a 30-ft. front yard setback from the bulkhead; that the patio would have a 20-ft setback from the bulkhead; that a boardwalk was proposed between the patio and the bulkhead; that the application proposed ten boat slips be provided along the existing pier, which would be available for lease to the general public; that the application proposed 30 parking spaces be provided at the north end of the property; that the Commission unanimously recommended approval of the application; that County Council unanimously approved the application for C/U 1863 in June 2010; that none of the construction proposed for C/U 1863 was started; that the Walton's land use plans for the property were derailed due to their son being in a horrific motorcycle accident, which resulted in catastrophic injuries to their son; that this event consumed all of the Walton's time, energy and resources; that the existing building, pier and bulkheading have all deteriorated over time; that the existing building was vandalized; that the current condition of the site is not an asset to the community; that the Applicant believes the current proposal will remedy the current situation of the site; that the previous Planning & Zoning Commission and County Council meeting minutes for both C/U 1088 and C/U 1863 were included in the record; that the previous meeting minutes from 1994 state the land fronts along a 20-ft. private road; that at the 1994 public hearing, the owner stated that there was no record of a road dedication across the property, but he would allow the road to remain open; that the minutes of the 2010 public hearing also noted the owner did not propose to close the roadway that runs across the property; that according to previous meeting minutes, the property is not two parcels separated by a road; that the minutes confirm there is no road crossing the site; that Oak Orchard Avenue terminates at the northeast and southwest boundaries of the property; that this is also confirmed by the Sussex County Tax Map which shows the site as one contiguous parcel; that that Sussex County online map reflect the public roads terminating at the property boundary; that the Applicant recognizes the use of the road is not only a convenience to the general public, but also provide access to Smiths Landing Rd.; that the Site Plan was designed with the road maintaining its current position; that a building is proposed along the waterfront portion of the site; that parking and a storage building are proposed on the northern portion of the site; that the Applicant proposes to pave the private road, as well as the entrance onto Smiths Landing Rd.; that the pavement would be constructed to Sussex County standards; that the Applicant proffered in proposed Condition L to note on the Final Site Plan the perpetual easement granted to be used by the general public; that the site is bulkheaded; that the bulkhead wraps around the two corners of the property; that there is an existing pier, which is in a state of disrepair; that the pier does extend 500-ft. into the Indian River Bay; that there are 10 boat slips located at the end of the pier; that there is an existing building, with a

front setback from the bulkhead of 26-ft.; that there is a covered porch area extending from the building to the bulkhead; that there is a shed and dumpster pad located next to the building; that the rest of the property is vacant; that a portion of the site had previously been used as a gravel parking lot; that in the current Application, the existing building is proposed to be removed; that the bulkhead and boat slips will be repaired and renovated; that the Applicant anticipates the pier length will be shortened; that the pier will maintain ten boat slips; that all repair and renovations would be in accordance with approval and permits from DNREC; that the new building would be located on the waterfront portion of the site, with a front setback of 30-ft. from the bulkhead; that the 30-ft. setback is the same setback requirement approved by Sussex County for the 2010 C/U 1863; that the proposed setback for the new building is greater than the setback of the existing building; that the new building is proposed to be three stories that will not exceed 42-ft.; that the first floor would contain four units, consisting of three two-bedroom units and one one-bedroom unit; that the second floor would have four two-bedroom units; that the third floor would have two four-bedroom units; that that one-bedroom unit would contain 1,146 sq. ft.; that the two-bedroom units would contain 1,350 sq. ft.; that the four-bedroom units would contain 2,400 sq. ft.; that the building will have elevator; that outdoor open space and access to the pier will be located on the bayside of the building; that each of the ten unit owners would require the right to the exclusive use of a designated boat slip; that the boat slips are not proposed to be rented to the general public; that the private road will be paved to Sussex County standards; that a sidewalk is proposed along the building side of the private road; that parking would be provided on the northern portion of the site; that 20 parking spaces are required; that 25 parking spaces are being provided, which will include two handicap spaces; that no on-site or on-road parking, within the property, would be permitted; that a 30' x 30' storage building is proposed at the north of the site; that the storage building will provide secured storage areas within the building for each of the ten unit owners; that in addition, there would be a community storage area for maintenance equipment and community items; that a 20' x 20' enclosure for trash receptacles will be located next to the storage building; that the three sides of the parking area, being located adjacent to properties of other ownership, would have a four foot high solid fence to screen vehicle headlights; that the parking area would have minimal, non-intrusive, directional lighting for safety purposes; that the building area, parking area, storage area, and trash receptacles would be attractively landscaped; that a detailed landscape plan will be submitted as part of the Final Site Plan review; that architectural renderings were submitted reflecting the bay view and street view of the building; that the building look and design is handsome in appearance, which will enhance property values of surrounding properties; that the residential units will be a high-end type of units; that the units will not contribute to workforce housing; that the units are intended to be owner occupied; that a part of ownership does involve the right to rent or lease a property; that there will be a private restriction placed within the condominium documents restricting rentals to at least a month or more; that weekly short-term rentals will not be permitted; that the Applicant proposes to replace a deteriorating building, pier and bulkhead, which would be replaced by an architecturally attractive building with appropriate landscaping and fencing, which are anticipated to significantly increase surrounding property values; that the proposed design allows for paving of the private road and a perpetual easement to be granted to the public, which will ensure that the road would never be closed by any future owner of the property; that in 2010, the County determined the site was appropriate for five residential units, a 2,800 sq. ft. restaurant, a 700 sq. ft. patio, 1,600 sq. ft. rental store and ten boat slips for lease; that the current Application is requesting to substitute five residential units in the place of the restaurant and retail store and the five residential units would have a significantly less of an impact in terms of noise, odors, hours of operation, traffic impact, and impact on property values than the commercial uses previously approved.

Mr. Mears stated he had never seen a property where residents' parking was located on the other side of a road; that it is generous to offer the perpetual easement and paving; that he questioned if the Applicant proffered this to please the other residents and he did not care for parking being provided in the setback next to an undeveloped residential lot.

Mr. Hopkins stated he agreed with Mr. Mears regarding the private road; that he did not believe the road was heavily traveled; that he questioned if the previous Conditional Uses had expired, and he questioned if the property owner would have the right to deny access to the private road if desired.

Ms. Wingate stated she would anticipate the existing adjacent property owners would be happy to have the perpetual easement agreement in place.

Mr. Robertson stated he remembered the private road being an issue when Sussex County was placing public sewer in Oak Orchard; that the County has a franchised agreement with DelDOT to place sewer lines in areas where DelDOT right-of-ways are located; that during that time, the County was required to obtain an easement through the private property to provide sewer service to the homes located on Smiths Landing Rd. and he confirmed that the road located on the site is not a DelDOT maintained road.

Chairman Wheatley questioned the proposed elevator as he did not see it reflected on the floor plan.

Mr. Fuqua stated the private road has been permitted by previous owners to be used by the general public; that the general public have become accustomed to using the road; that he believed the road is important for safety reasons, allowing access for emergency vehicles; that the private road does provide the only access to Smiths Landing Road; that many people were under the impression the road was a public road; that the Applicant felt by offering the perpetual easement, it would provide any uncertainty regarding the road in the future; that Oak Orchard Avenue is not a highly traveled road; that both C/U 1088 and C/U 1863 had sunset; that as the situation currently stands, the road is not considered a public road; that the road is considered a private lane, therefore the property owner would have the right to close the road; that he anticipated, the closing of the private lane would warrant some type of litigation regarding prescriptive rights or adverse possession; that basic law states the possession would need to be adverse and hostile; that if someone was allowing the use of the private road, it would not be considered adverse or hostile; that the Applicant has taken measures in an attempt to avoid and solve the issue of closing the road; that the elevator was not reflected on the floor plan; that the elevator was not originally planned; that Mr. Lessard had conversations with others who highly suggested an elevator be placed and the flood plan design will remain the same with some slight alterations to accommodate the elevator.

The Commission found that one person was present who was neutral to the Application.

The Commission found that Mr. Patrick Miller, President of the Indian River Fire Company, was neutral to the Application, but spoke with concerns regarding the Application; that he personally owned the Lot 27 & 28 nearby the site; that he confirmed the sewer lines do run under the private road; that the private roadway has been in existence since the late 1960's into early 1970s; that the vacant lot was previously the parking lot for the previously existing restaurant; that he did confirm that a deed for the private roadway does not exist; that as of the week prior to the public hearing, DelDOT considered the private lane as a road; that in many documents, Oak Orchard Rd. and Oak

Orchard Avenue are synonymous; that the two roads are different roads; that when coming down Oak Orchard Avenue from Delaware Avenue, the road ends before Smiths Landing Rd.; that the parcels along Smiths Landing Rd. would be completely landlocked; that the fire company has grave concern, as Oak Orchard Avenue only has a 20-ft. road width; that the fire company requested the continuation of there being no parking along Oak Orchard Avenue from either direction to prevent difficulty of emergency apparatus getting by; that the fire company have four concerns; that Oak Orchard is not a hydrant community; that the nearest hydrant is located at Chiefs Rd and Oak Orchard Rd.; that it is also the location where the largest water main ends; that this location is approximately 1.25 mile from the site; that the fire company had been told the water pipes are not sufficient to hydronated that area from Chiefs Rd. down to the site; that at the fire house, there is no hydrant or fill station; that the fire company was required to place their own well and pumping station to fill their apparatus; that it is their understanding that there is no reasonable water suppression system that will accommodate the required flow; that the fire company had suggested the dry hydrant; that if a dry hydrant should materialize, the hydrant would require perpetual maintenance and operation due to sediment filling in the pipes; that the fire company has experience with dry hydrant systems at Massey's Landing Campground; that they have had frequent issues with the piping being filled in with sand and becoming unproductive; that the fire company was very pleased to hear the installation of sprinklers were proposed; that in the 1980s, Parcel 4 had caught fire; that at that time, there was a two-story dwelling located along the waterfront; that the fire company was not able to gain access to the property by aerial apparatus due to the existing overhead wires; that the overhead electrical wire run consistent with the road, as well as water and sewer piping; that in the past, tractor trailer trucks have pulled the telephone and utility wiring down from the Oak Orchard properties to the Smiths Landing properties; that the parcel is not easily accessible for any large sized apparatus, which would be needed to address emergencies of a three-story building; that the water runoff runs to the only drain, located at Oak Orchard Rd. and River Rd. intersection; that with heavy rain and/or high tide the road floods; that the fire company is neutral for the application; the fire house does feel their issues could be mitigated with proper planning; that Mr. Lessard and the current owners of the property have never indicated they intended to close the private road; that previous owners of the property had made threats to close the road; that the potential closing of the private road had always been a concern for the public; that Tidewater Utilities, Inc. is to maintain with the property's existing infrastructure; that the existing infrastructure is grossly insufficient; that at times, when the fire company accesses the hydrants along Banks Rd, Long Neck Rd. and School Lane, they have run dry; that the motors burn up because the water flow cannot be accommodated; that other resources were required to bring in water; that the small width of the roads to not allow for fire apparatuses to be parked side by side, which would cause an issue for homes along Smiths Landing Rd.; that the fire company currently has difficulty getting a F350 truck down Smiths Landing Rd.; that further down Smiths Landing Rd. are manufactured homes, which have a risk of burning more quickly than wood homes; that the fire company does have tank trucks; that the fire company also rely on mutual aid tankers from Millsboro and Lewes and those are the current comments and concerns of the Indian River Volunteer Fire Company.

Ms. Wingate questioned if any conversations had been started regarding the anticipated utilities or burying the existing overhead lines.

Chairman Wheatley questioned if there was an adequate amount of water being supplied to the site; that he questioned if the Applicant's pump will collapse the pipes once the pump would come on and questioned if the stormwater management system will be located underneath the parking lot area.

Mr. Crouch stated DBF, Inc. had spoken with Tidewater Utilities, Inc.; that they will be required to install a fire pump into the dwelling to ensure the water pressure remains consistent, as well as the duration; that the existing restaurant currently has a fire pump and a sprinkler system; that these measures are typical requirements when there are not hydrants in the area; that a dry hydrant is an additional support; that he had not had any conversation regarding burying the overhead lines; that he believed it would be in everyone's best interest to bury the lines; that typically on new projects, the lines are buried, as there would be a new transformer involved; that the size of the pipes are between four inches to six inches; that DBF, Inc. has performed this with four inch piping in schools; that he could not confirm until they obtain pressure testing results; that 90% of times, the fire pumps will allow and keep up with the requirement; that the Applicant will be required to obtain State Fire Marshal approval for the building, as well as the property site before construction could begin; that there are a number of things that are required to happen first, but based on preliminary numbers they feel the requirements can be met with a fire pump; that the stormwater management system will be located underneath the parking area; that there is no stormwater management within that area currently and placement of the proposed stormwater will help the previously mentioned issues.

The Commission found that seven people spoke in opposition to the Application.

The Commission found that Reverend Alan Miller spoke in opposition to the Application; that he had been a resident for over 30 years; that he has been the Pastor for Community Church of Oak Orchard for the past 32 years; that he is also a firefighter; there are systemic flooding issues in Oak Orchard; that there have been times where they had to sandbag the fire house, which is located .25 mile from the river; that when flooding happens, the church works closely with the fire company; that the fire company purchased a large army-style truck which is used to help people who did not evacuate that area in time; that many places provide refuge in those time for those in need; that the church is not equipped to provide overnight accommodations; that rescued people are brought to the church and taken care of for a few hours until they can be picked up or taken to another shelter location; that when flooding happens, nearby residents tend to bring their vehicles to the church; that the church parking is limited; that parking at the fire station is limited; that parking areas used within dry weather are limited; that many people drop their vehicle off and leave without permission; that when the fire company operate their apparatus to deliver people to the church there is limited access; that an additional 10 to 20 vehicles would add a fair number of vehicles to the issue; that the density within the Oak Orchard area, particularly at the site location, tend to be higher than normal; that in the 1960s and 1970s one could purchase a lot that was 100 ft. by 60 ft.; that the church currently sits on a parcel comprised of 12 lots; that most of Oak Orchard is made up of homes located on very small lots; that this has created there to be minimal to no parking anywhere; that the roads are smaller in size; that the surrounding area to the site tends to be considered an lower-income area; that many younger families tend to live in the area; that there is a lot of children playing and bicycle traffic in the area; that due to this, traffic is a big concern; that DelDOT's consideration that the traffic impact will be minimal may be true when looking at Rt. 24 or Old Orchard Rd.; that within that immediate area of the site, 20 additional vehicles may be more than a minimal impact; that the fire company placed an addition to their building; that the fire company was not able to sprinkler system the fire company due to the water line being four inches along Old Orchard Rd.; that a fire hydrant uses a six inch waterline; that the fire company uses six inch fire hoses; that you cannot pull six inches from a four inch waterline; that these concerns have existed for a long time and he felt the mentioned issues should be taken into consideration.

The Commission found that Mr. Kurt Hepler spoke in opposition to the Application; that he also submitted a letter of opposition on behalf of his neighbor, who was not able to attend the hearing; that the Zoning Ordinance does not provide provisions for the proposed type of use; that the proposed use would be better suited with C-4 (Planned Commercial District) than to have it within the MR (Medium-Density Residential) District; that after reviewing the record, and he requested the Commission recommend denial of the Application.

The Commission found that Mr. Ira Brittingham spoke in opposition to the Application; that he has lived in the Oak Orchard area since 1957; that he had been through the storm of 1962 and hurricane Sandy and every other flooding event within the area; that the proposed townhomes can be constructed to be safe from the water; that he had safety concerns for residents during evacuation; that he does not understand how the proposal of construction and asphalt will improve the flooding situation; that DNREC had performed a survey of the Oak Orchard area; that at that time, the cost to correct that area of flooding was going to cost \$15 million; that prices have increased since that time and people will move here to live by the beautiful river, without realizing the river can turn evil.

The Commission found that Ms. Margaret Hurt spoke in opposition to the Application; that she lives adjacent to the property; that she is concerned about the proposed parking adjacent to the residential lots; that she is concerned about the potential noise; that the area is quiet; that another 20 to 30 vehicles with no parking on the road; that she questioned where visitors will park in the few additional parking spots are filled; that she is concerned about the safety of the area; that she suggested the potential of the project being made smaller; that the idea is appealing and improvements would enhance the area, however, she felt 10 units was excessive.

The Commission found that Mr. Mike Masciandro spoke in opposition to the Application; that the site is in horrible condition; that he believes a sentiment among many nearby residents is that 12 years ago there was a hearing before the Commission, with a nice proposal, yet currently the site sits in a state of disaster; that the existing pier has boards blowing off of it; that the previous Conditional Use (C/U 1863) had conditions placed upon the approval which required the Applicant to comply with State and County regulations; that the conditions have not been met; that they have complained to DNREC; that DNREC stated the pier was built and grandfathered before the regulations were written; that residents get stuck in these types of situations, which has resulted in a lot of apprehension; that primary wires run through Oak Orchard Avenue and down Smiths Landing Rd.; that primary wires cannot be placed underground, especially in areas where the water table is four feet below the grade; that he would like to understand why the proposal is for 10 units; that the road only has eight houses located on it; that the proposed units would more than double the amount of existing people living along the road; that the area is concentrated; that he requested the Commission to place similar conditions as those placed on the previously approved Conditional Use; that he requested the Commission get road improvements to Oak Orchard Avenue and two vehicles cannot pass on the road.

The Commission found that Mr. Harry Jarmon spoke in opposition to the Application; that his property is located across from the proposed dumpsters; that his primary concern is safety; that he agrees with the other concerns mentioned as well; that 200 single-family units are being constructed north of the site, along Oak Orchard Rd.; that with both of the projects will create additional traffic; that he felt the road is traveled frequently; that he confirmed the wires had been torn down along the road; that a front-end loader will be required to remove the dumpster; that the parking lot is tight

quartered and will cause a safety concern for large vehicles that need to access the area; that he had a major concern to the location of the dumpster across from his property; that dumpsters are not clean, frequently omitting odors and he is pleased with the aesthetics of the proposed building.

The Commission found that Ms. Jodi Hawk spoke in opposition to the Application; that she agreed with the previously mentioned concerns; that Oak Orchard Road only allows for one vehicle to travel the road; that when two vehicles pass, one vehicle must pull over into another person's property; that she is concerned for bicyclists and pedestrian safety; that the current community is very quaint; that the increased traffic would be an adjustment; that the roads are not in the best condition with large pot holes; that she does not like the location of the parking lot and the potential noise it will cause; that she does not like the location of the dumpsters; that when the area floods, she is stuck at her property; that River Rd. and Delaware Avenue both flood; that currently, many adjacent property owners park their vehicles at the location of the proposed parking lot because it is a higher area to avoid flooding; that she requested the Commission visit the property; that the current residents all know each other and she requested the Commission give consideration to the mentioned concerns.

Ms. Wingate stated the streets are State maintained by DelDOT and it would be DelDOT's authority to require the developer to provide road improvements.

The Commission found that three people spoke by teleconference in opposition to the Application.

The Commission found that Ms. Cindy Battles spoke by teleconference, in opposition to the Application, with concerns regarding the number of boat slips, the location of the transformer and poles for the electrical wires, the location of proposed pavement along her property, the inconsistency of surveys for the area and flooding.

The Commission found that Mr. David Harper spoke by teleconference, in opposition to the Application, with concerns regarding the road width of Oak Orchard Rd. which may cause potential difficulty accessing his property with a truck or boat trailer.

Mr. Fuqua, Esq. stated that the 1994 Conditional Use had proposed 20 boat slips; that the 2010 Conditional Use had proposed 10 boat slips; that permits were issued for the proposed 10 boat slips, which are still valid permits, and the current proposal is for 10 boat slips.

The Commission found that Ms. Diep Koly spoke by teleconference, in opposition to the Application, with concerns regarding the proposed size of the Application, the increased traffic, the electrical wires, the width of the roads and she objected to the proposed number of units for the project.

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

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

Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Stevenson and carried unanimously. Motion carried 5-0.

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



The Commission discussed the Application which has been deferred since February 9, 2023.

Ms. Wingate moved that the Commission recommend approval of C/U 2349 for Lessard Builders but for only six (6) multi-family units in a MR (Medium-Density Residential) District based on the record made during the public hearing and for the following reasons:

1. This application seeks the approval of ten (10) multi-family structures on approximately .84 acres of land. The land is actually separated by a roadway historically used by residents and visitors to the Oak Orchard Area. 10 units is simply too much density on this unusually shaped, small parcel of land that is divided by the roadway. While the roadway splitting the land is not State-owned, the record shows that it has historically been used as a public roadway, and it is the only means of access for several nearby properties.
2. The small roads and tightly packed properties in this area of Oak Orchard cannot support 10 new multi-family units on this site. There was testimony in the record that the required parking alone would adversely affect the neighboring and adjacent properties by squeezing the necessary parking spaces among the adjacent small residential properties.
3. Six new multifamily units in this location will not overburden this property and the area, including nearby roadways. Six units is an appropriate density, and they will improve and redevelop a property that has deteriorated over the years.
4. The site is in the Coastal Area according to the Sussex County Comprehensive Plan. This type of development is appropriate in this Area according to the Plan, which states that “a range of housing types” are acceptable here, including medium and high densities when a site is near commercial areas, is served by central water and sewer, where the use is in keeping with the character of the area and other similar factors. These types of considerations exist with regard to this site.
5. As part of this approval, the issue of access to the roadway connecting the two ends of Oak Orchard Road across this property will be resolved by a dedication of the roadway to public use.
6. With this six-unit limitation, the proposed development will not have an adverse impact on the neighboring properties or community.
7. With the six units, the project will not have an adverse impact upon traffic or roadways.
8. The development will be served by central sewer provided by Sussex County.
9. The development will be served by central water.
10. This recommendation is subject to the following conditions:
  - A. The maximum number of residential units shall be six (6).
  - B. The developer and then the condominium association shall be responsible for the perpetual maintenance of the project’s stormwater management facilities, erosion, and sedimentation control facilities, and other common areas.
  - C. All entrance, intersection, roadway, and multi-modal improvements shall be completed by the developer as required by DelDOT.
  - D. The Final Site Plan shall dedicate the roadway across this site connecting the two ends of Oak Orchard Road to public use.
  - E. At least one parking space for each unit shall be located on the riverside portion of the property, whether enclosed in a garage or under the building, or in a driveway or outdoor parking area. None of the parking shall be located within a setback area.

- F. The trash receptacles shall be standard roll-out residential containers assigned to the six (6) units. They shall be stored in an enclosed area on the area of this site where the building is located. No dumpster shall be permitted.
- G. The project shall be served by Sussex County sewer. The developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.
- H. The project shall be served by central water to provide drinking water and fire protection.
- I. Construction activities, including site work and deliveries, shall only occur between 7:30 am and 7:00 pm Monday through Friday, and between 8:00 am and 2:00 pm on Saturdays. There shall be no construction activities at the site on Sundays. A 24-inch by 36-inch “NOTICE” sign in English and Spanish confirming these hours shall be prominently displayed at all entrances to the site during construction.
- J. The Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- K. The Final Site Plan shall include a Grading Plan for the site. No building permits shall be issued until an individual lot grading plan has been supplied to and approved by Sussex County. No certificate of occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.
- L. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to recommend approval for C/U 2349 Lessard Builders for the reasons and conditions stated in the motion. Motion carried 4-0.

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

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

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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 9<sup>th</sup>, 2023

Application: CU 2349 Lessard Builders

Applicant: Lessard Builders  
257E Camden-Wyoming Avenue  
Camden, DE 19934

Owner: Andrew & Carol Walton  
2138 Graves Road  
Hockessin, DE 19707

Site Location: Lying at the intersection of Oak Orchard Road and Smiths Landing Road extending from Indian River to Pine Street within the Orchard Manor Subdivision.

Current Zoning: Medium-Density Residential (MR) Zoning District

Proposed Use: Multi-family Dwellings

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Ms. Hudson

School District: Indian River School District

Fire District: Indian River Fire Department

Sewer: Sussex County

Water: Tidewater Utilities, Inc.

Site Area: 0.84 acres +/-

Tax Map ID: 234-35.09-6.00



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**Sussex County**

DELAWARE  
sussexcountyde.gov

## Memorandum

To: Sussex County Planning Commission Members  
From: Mr. Michael Lowrey, Planner III  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: January 10, 2023  
RE: Staff Analysis for C/U 2349 Lessard Builders

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This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/U 2349 Lessard Builders to be reviewed during the February 9<sup>th</sup>, 2023, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 234-35.09-6.00 to allow for multifamily dwellings (10 units). The property is lying on the northwest side and the southeast side of Oak Orchard Road (Rt. 5), approximately 300 feet east of River Road (S.C.R. 312). The parcel is comprised of a total of 0.84 acres +/-.

### Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map (FLUM) is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcels have a Growth Area designation of "Coastal Area." The parcels adjacent to the subject property landward and all along Indian River Bay also have the Future Land Use Map (FLUM) designation of "Coastal Area."

Coastal Areas are growth areas that are among "the most desirable locations in Sussex County for new housing" and contain "ecologically important and sensitive characteristics." The Plan also notes that these areas have "significant impact upon water quality within the adjacent bays and inlets" (2018 Sussex County Comprehensive Plan, 4-15). The Plan includes guidelines for growth in Coastal Areas noting "A range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units." Additionally, the Plan notes that "medium and higher density (4-12 units per acre) can be appropriate: "where there is central water and sewer, near sufficient commercial uses, keeping with the character of the area, and where it is along a main road" (2018 Sussex County Comprehensive Plan, 4-16).

Under the guidelines in the Plan, the proposed Conditional Use to permit multifamily dwellings (10 units) could be seen as appropriate at this site.



Zoning Information

The subject parcels are zoned Medium Density Residential (MR) District. The adjacent properties are zoned Medium Density Residential (MR) District as well.

Conditional Use Applications within the Vicinity of the Subject Site  
 (Within a 1-mile radius of the subject site)

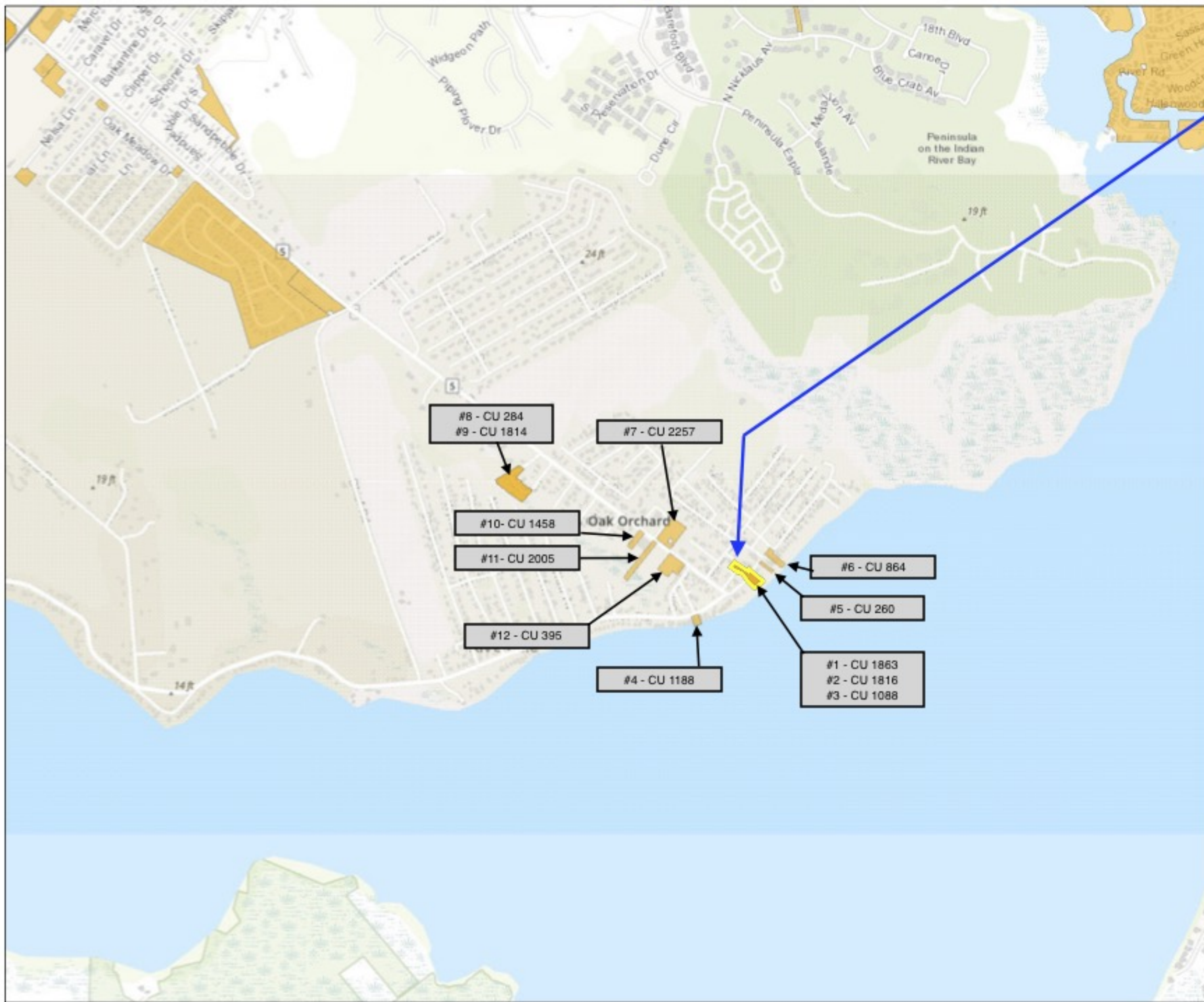
<b>Change of Zone Applications</b> (Within a 0.5-mile radius of the subject site)							
<b>Item # on Attached Map</b>	<b>Application Number</b>	<b>Application Name</b>	<b>Zoning District</b>	<b>Proposed Use</b>	<b>CC Decision</b>	<b>CC Decision Date</b>	<b>Ordinance Number</b>
<b>#1</b>	<b><u>CU 1863</u></b>	Andrew & Carol Walton	MR	Marina/Restaurant/Etc.	<b>Approved</b>	6/8/2010	<b>Ord. No. 2124</b>
<b>#2</b>	<b><u>CU 1816</u></b>	Andrew & Carol Walton	MR	Retail/Multifamily	<b>Withdrawn</b>	3/16/2010	<b>N/A</b>
<b>#3</b>	<b><u>CU 1088</u></b>	Andrew & Carol Walton	MR	Marina & Related Uses	<b>Approved</b>	9/13/1994	<b>Ord. No. 985</b>
<b>#4</b>	<b><u>CU 1188</u></b>	Indian River Marina Pier	C-1	Multifamily	<b>Approved</b>	7/29/1997	<b>Ord. No. 1160</b>
<b>#5</b>	<b><u>CU 260</u></b>	Ulrich & Ruth Willard	MR	Beauty Shop	<b>Denied</b>	3/18/1975	<b>N/A</b>
<b>#6</b>	<b><u>CU 864</u></b>	Jere & Janet Coxon	MR	Multifamily	<b>Approved</b>	5/12/1987	<b>Ord. No. 417</b>

<b>#7</b>	<b><u>CU 2257</u></b>	Indian River Volunteer Fire Co. Inc.	C-1 & GR	Boat Storage and Overflow Parking	<b>Approved</b>	9/14/2021	<b>Ord. No. 2799</b>
<b>#8</b>	<b><u>CU 284</u></b>	John Satterfield	GR	Water System	<b>Approved</b>	7/29/1975	<b>N/A</b>
<b>#9</b>	<b><u>CU 1814</u></b>	John Satterfield	GR	Water System	<b>Withdrawn</b>	N/A	<b>N/A</b>
<b>#10</b>	<b><u>CU 1458</u></b>	Indian River Vol. Fire Co., Inc.	GR	Expand Fire Station	<b>Approved</b>	7/16/2002	<b>Ord. No. 1551</b>
<b>#11</b>	<b><u>CU 2005</u></b>	Indian River Vol. Fire Co., Inc.	GR	Boat Storage Facility	<b>Approved</b>	3/10/2015	<b>Ord. No. 2387</b>
<b>#12</b>	<b><u>CU 395</u></b>	John Satterfield	C-3	Boat Display, Sales & Services	<b>Approved</b>	2/1/1977	<b>N/A</b>

Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use to allow for the construction of multifamily dwellings (10 units) at this site, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

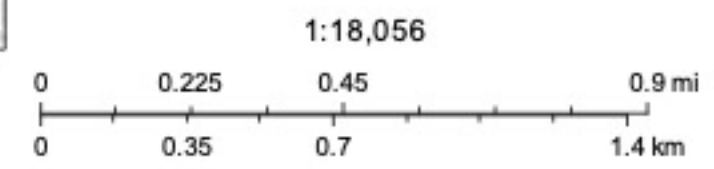


# Sussex County



<b>PIN:</b>	<b>234-35.09-6.00</b>
<b>Owner Name</b>	<b>WALTON COMMERCIAL PROPERTIES LLC</b>
<b>Book</b>	<b>4900</b>
<b>Mailing Address</b>	<b>2138 GRAVES RD</b>
<b>City</b>	<b>HOCKESSIN</b>
<b>State</b>	<b>DE</b>
<b>Description</b>	<b>OAK ORCHARD LOT 15</b>
<b>Description 2</b>	<b>PARCEL</b>
<b>Description 3</b>	<b>N/A</b>
<b>Land Code</b>	

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 Conditional Use





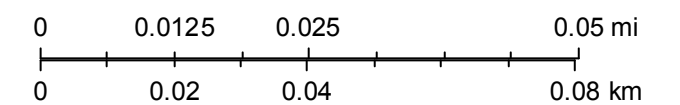
# Sussex County



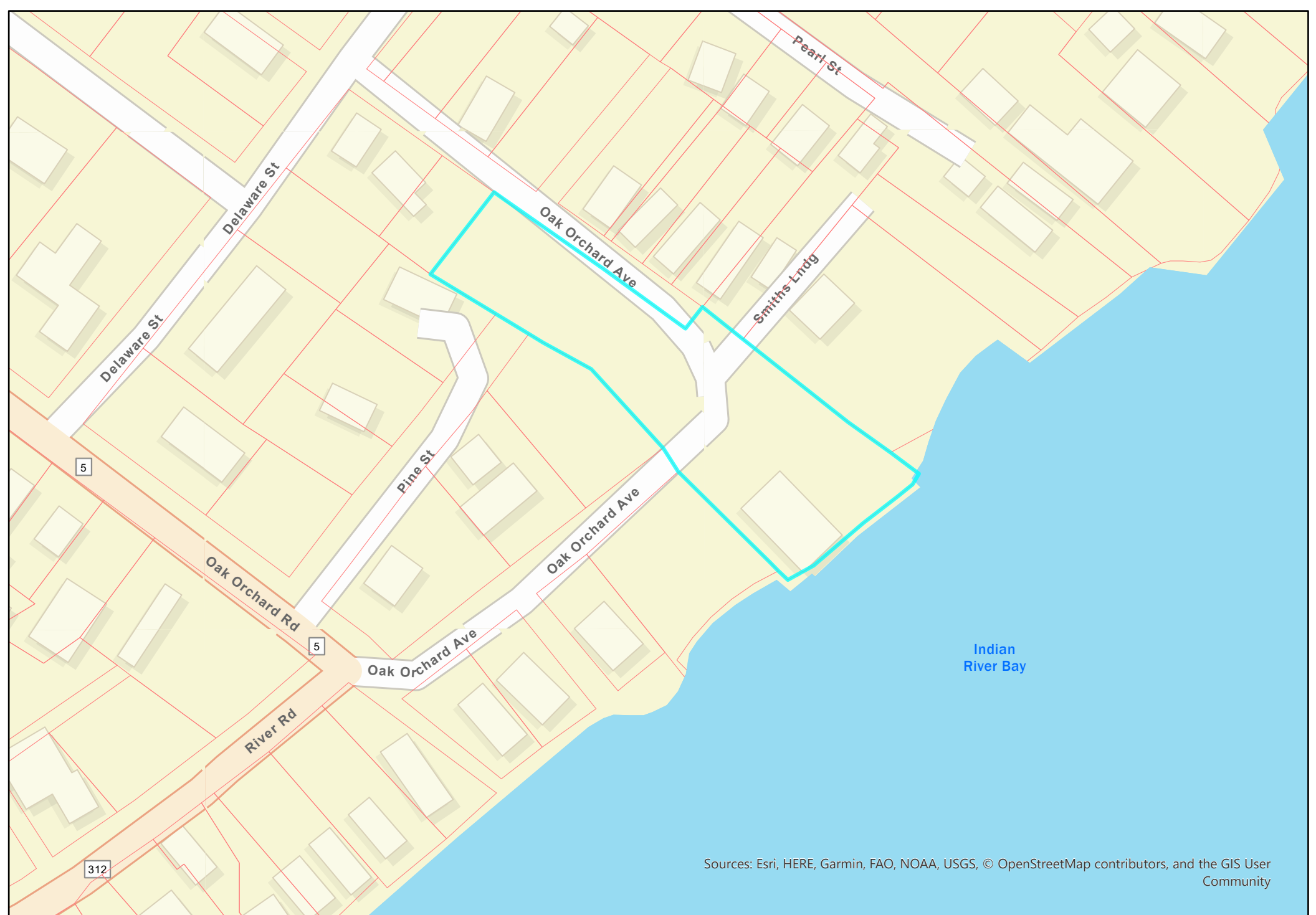
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  - Override 1
- Tax Parcels
- 911 Address
- Streets
- Tax Ditch Segments**
  - Tax Ditch Channel
  - DeIDOT Maintained
  - HOA Maintained
  - Pipe - DeIDOT
  - Pipe - Tax Ditch
  - Pipe - Private
  - Pond Feature
- Special Access ROW
- Extent of Right-of-Way
- Well Head Protection Areas
- Aglands Preservation Districts**
  - Ag Easement
  - District
  - Expansion
  - Forestland Area
  - Forestland Easement
  - Young Farmer
  - Municipal Boundaries
  - Easements
  - TID

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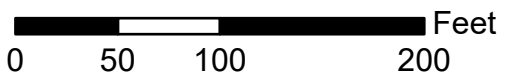






Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

Text





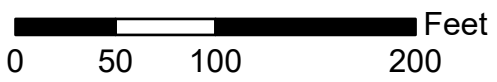
### Zoning

- Agricultural Residential - AR-1
- Agricultural Residential - AR-2
- Medium Residential - MR
- General Residential - GR
- High Density Residential - HR-1
- High Density Residential - HR-2
- Vacation, Retire, Resident - VRP
- Neighborhood Business - B-1
- Neighborhood Business - B-2
- Business Research - B-3
- General Commercial - C-1
- General Commercial - C-2
- General Commercial - C-3
- General Commercial - C-4
- General Commercial - C-5
- Commercial Residential - CR-1
- Institutional - I-1
- Marine - M
- Limited Industrial - LI-1
- Light Industrial - LI-2
- Heavy Industrial - HI-1

Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodastystrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community



Lessard Builders - CU 2349  
 TM# 234-35.09-6.00  
 Groundwater Recharge Potential



Introduced: 1/10/23

Council District 4: Mr. Hudson  
Tax I.D. No. 234-35.09-6.00  
911 Address 32768 Oak Orchard Road, Millsboro

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (10 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.84 ACRE, MORE OR LESS**

WHEREAS, on the 8th day of February 2022, a conditional use application, denominated Conditional Use No. 2349 was filed on behalf of Lessard Builders; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2349 be \_\_\_\_\_; and

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

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

Section 1. That Chapter 115, Article V, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2349 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 and the southeast side of Oak Orchard Road (Route 5) approximately 300 feet east of River Road (S.C.R. 312) and being more particularly described in the attached legal description prepared by Davis, Bowen & Friedel, Inc., said parcel containing 0.84 acre, more or less.

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