

Sussex County Council Public/Media Packet

**MEETING:
May 17, 2022**

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

COUNTY COUNCIL

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



Sussex County

DELAWARE
sussexcountyde.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

A G E N D A

MAY 17, 2022

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes – May 9 & May 10, 2022

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. Tribute – Delaware Small Business Owner of the Year
2. Tribute – Delaware Woman-Owned Small Business Person of the Year
3. Administrator's Report

John Ashman, Director of Utility Planning and Design Review

1. Request to prepare and post notices for The Estuary – Phase 4 Annexation of the Sussex County Unified Sanitary Sewer District (Miller Creek Area)



10:15 a.m. Public Hearing

1. “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$1,329,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH INCREASED COSTS ASSOCIATED WITH THE MULBERRY KNOLL SEWER DISTRICT PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”

10:30 a.m. Public Hearing

1. “AN ORDINANCE TO AMEND CHAPTER 52, § 52-1 OF THE CODE OF SUSSEX COUNTY TO ADOPT THE BUILDING CONSTRUCTION STANDARDS IN THE INTERNATIONAL BUILDING CODE 2021 EDITION AND THE INTERNATIONAL RESIDENTIAL CODE 2021 EDITION”

Hans Medlarz, County Engineer

1. Clean Water Enhancements Program Continuation
 - A. Eisenhardt Enterprises
2. PS No. 316 Abandonment
 - A. Associated Easement Acquisition
 - B. Construction Contract Award
3. EMS Public Safety Building – Project C19-04
 - A. Change Order No. 13

Old Business

1. “AN ORDINANCE TO AMEND CHAPTER 99, SECTIONS 99-5, 99-6, 99-7, 99-23, 99-24, 99-26, AND 99-30, AND CHAPTER 115 SECTIONS 115-4, 115-25, 115-193, 115-220 AND 115-221 REGARDING CERTAIN DRAINAGE FEATURES, WETLAND AND WATER RESOURCES AND THE BUFFERS THERETO”

Grant Requests

1. City of Seaford for Nanticoke Riverfest
2. Grace-N-Mercy Ministries for Summer Youth Camp

Introduction of Proposed Zoning Ordinances

Council Members' Comments

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

Possible action on Executive Session items

1:30 p.m. Public Hearings

Conditional Use No. 2318 filed on behalf of V&M, LLC

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONVENIENCE STORE AND OFFICE BUILDING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.305 ACRES, MORE OR LESS” (properties lying on the southeast corner of the intersection of John J. Williams Highway [Route 24] and Mulberry Knoll Road [S.C.R. 284] also on the southeast side of John J. Williams Highway [Route 24] and also on the southwest side of Mulberry Knoll Road [S.C.R. 284]) (911 Addresses: 19429, 19425, 19405 & 19387 John J. Williams Highway & 19676, 19662, 19646, & 19634 Mulberry Knoll Road, Lewes) (Tax Parcels: 334-12.00-108.00, 108.01, 109.00, 109.01, 110.00, 111.00, 111.01, 112.00)

Change of Zone No. 1962 filed on behalf of Jeff-Kat, LLC

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PORTION OF A PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.19 ACRES, MORE OR LESS” (property lying on the east side of Kings Highway [Route 9] approximately 0.36 mile northeast of the intersection of Kings Highway [Route 9] and Gills Neck Road [S.C.R. 267]) (911 Address: 1005 & 1007 Kings Highway, Lewes) (Tax Parcel: 335-8.00-39.00 [portion of])

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on May 10, 2022 at 4:15 p.m. and at least seven (7) days in advance of the meeting.

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

Agenda items may be considered out of sequence.

The meeting will be streamed live at <https://sussexcountye.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://sussexcountye.gov/agendas-minutes/county-council>.

#

SUSSEX COUNTY COUNCIL

BUDGET WORKSHOP

MAY 9, 2022

The Sussex County Council held a Budget Workshop on May 9, 2022, beginning at 9:00 a.m. at the Sussex County West Complex in Georgetown for the purpose of discussing the Proposed FY 2023 Budget.

The following were present:

Michael H. Vincent	President
Douglas B. Hudson	Vice President
John L. Rieley	Councilman
Cynthia C. Green	Councilwoman
Mark G. Schaeffer	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
Kathy Roth	Deputy Finance Director

Mr. Lawson stated that the purpose of the Budget Workshop was to hold an open discussion among the County Council, County Administrator, and staff regarding budget matters and initiatives which will affect the FY 2023 Budget.

An overview of FY 2022 Budget highlights of the Proposed FY 2023 Budget were presented.

Department presentations were provided by the following departments: Human Resources, Paramedics (Operating and Capital), Planning & Zoning, Information Technology, Planning & Zoning, and Engineering - Water and Sewer (Operating and Capital). Presentations were also given on Grants and Capital projects.

No action was taken.

The workshop concluded at 3:50 p.m.

Respectfully submitted,

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

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 10, 2022

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, May 10, 2022, at 10:00 a.m., in Council Chambers, with the following present:

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

Call to Order	The Invocation and Pledge of Allegiance were led by Mr. Vincent. Mr. Vincent called the meeting to order.
M 188 22 Approve Agenda	A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to approve the Agenda as presented. Motion Adopted: 5 Yeas. Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea
Minutes	The minutes of the April 26, 2022 meeting were approved by consensus.
Corres- pondence	Mr. Moore reported correspondence was received from H.O. Brittingham Elementary Robotics Club and Delaware Technical Community College in appreciation for Council's support.
Public Comment	There were no public comments.
M 189 22 Approve Consent Agenda Items	A Motion was made by Mr. Rieley, seconded by Mr. Hudson to approve the following items listed under the Consent Agenda: Use of Existing Sewer Infrastructure Agreement, IUA-873 Bay Knolls, Fenwick Island Area Use of Existing Sewer Infrastructure Agreement, IUA 1141 Scenic Manor, Mulberry Knoll Area Motion Adopted: 5 Yeas.

**M 189 22
(continued)**

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

**Proclamation/EMS
Week**

A Proclamation entitled “PROCLAIMING THE WEEK OF MAY 15 THROUGH MAY 21 AS EMERGENCY MEDICAL SERVICES WEEK” was read.

**Proclamation/Comm.
Action
Month**

A Proclamation entitled “PROCLAIMING THE MONTH OF MAY AS COMMUNITY ACTION MONTH” was read.

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

**Adminis-
trator’s
Report**

1. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Chase Oaks – Phase 1 (Construction Record – Gravity Sewer Only) received Substantial Completion effective April 19th.

2. Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County will meet May 16th at 10:00 a.m. at the Sussex County Administrative Offices West Complex, 22215 North DuPont Boulevard, in Georgetown. A copy of the agenda is attached.

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

**Reassess-
ment Update**

Chris Keeler, Director of Assessment provided a timeline of the reevaluation project. Ms. Mary Noldy, Tyler Technologies Project Supervisor shared an overview of the project and current status.

Ms. Noldy reported that for public communications, six meetings were held in the fall of 2021. These public meetings were advertised through local media. A project website has been created and is updated weekly to show current activity and staff.

Ms. Noldy then discussed the imagery for the project. Field data collectors are capturing street-level photos of each improved property visited during data collection. To date, approximately 19,000 photos have been collected. All improved properties will be photographed by the end of the data collection phase. All photos will be uploaded into the County’s property database and will be visible by County employees starting in

**Reassess-
ment Update
(continued)**

early summer 2022. Ms. Noldy explained that as part of the appraisal services contract, Tyler Technologies has entered into an agreement with Eagelview for the purchase of aerial and ortho photography. The agreement provides both Tyler Technologies and County employees access to current and historical aerial imagery during the reevaluation project.

As of May 4, 2022, 19,680 parcels have been visited for data collection which represents 11% of the full parcel inventory. Currently, there are twenty-one employees working for Tyler Technologies that are working to collect property data in the field. She further explained that employee turnover has been high in this position. Ms. Noldy reported that commercial data collection began in early April. It is expected to have data collection completed in May of 2023.

Ms. Noldy reported that the data entry office is staffed with five Tyler Technologies employees who support the field operations. In addition, they handle requests from the public who inquire about the reassessment process. There are three employees dedicated to reviewing sales for the purpose of market analysis. The period of review for sales being used for Sussex County is January 1, 2021, through June 30, 2023. Currently, identification of market neighborhoods is underway; tentatively 70% of the parcels have been mapped for neighborhood delineation.

Ms. Noldy discussed valuation analysis. A third-party vendor (Safeguard Organic Analytics) is working for Tyler Technologies. They have started collecting income and cost data for commercial and industrial properties. Sources for this data include local real estate listing services, published rental data, local construction estimates and national sources for cost data such as Core-Logic, also known as Marshall and Swift cost estimator.

Ms. Noldy then reviewed the action items. These include ongoing hiring and training of office and field staff, field data collection and projected field data collection work areas for dashboard view.

Mrs. Green questioned how her employees are being received in the field. Ms. Noldy replied that it has been a mixture, however, majority of the time, it is well received once they understand the process. In addition, if they are not home when the assessor visits the property, the measurements of the improvements on the property are completed where access can be provided.

**Building
Outline
Pictometry
Recommendation**

Ms. Noldy explained the benefits of pictometry. One of the benefits include showing the changes to land and improvements over the years. Another benefit is efficient workflow for assessors; it allows them to continue their workflow during inclement weather. In addition, it supports conformation of valid assessment changes made by data collectors and allows access to properties that are otherwise inaccessible.

Ms. Noldy shared that Pictometry has a feature known as change finder. This feature enables discovery of improvements and is particularly useful in areas where permit information is lacking. In addition, it will add increased tax base and revenue. She further explained how it works; it takes the building footprints and shows the difference between the building footprint and the sketch that the County has on file. For example, if a property has a deck that is added or demolished, it will show up on the change finder and provide a report that the assessors can pull to then show an inspection of the property is needed. During appeals and property review, the aerial imagery can be used as a defense.

Mr. Rieley questioned if it was being noted which properties include manure sheds since those sheds are tax exempt. Ms. Noldy explained that all improvements on the property are valued regardless of its taxable status. In addition, if it was previously exempt, that status will not be changed. The staff is doing their best to identify those while they are working in the field.

Mrs. Megan Nehrbas, Senior Manager of GIS, provided a demonstration showing what would be available and what would be possible once all of the reassessment data is collected should the agreement be approved.

Mrs. Nehrbas shared that one of the goals from the previous County's Hazard Mitigation Plan was to increase the building stock data. In alignment with this reassessment, many of the building stock data will be collected which would meet that goal.

**M 190 22
Approval of
Building
Outline
Pictometry**

A Motion was made by Mr. Hudson, seconded by Mrs. Green, to enter into an agreement with Eagleview in the amount of \$59,400 to purchase the footprints already accessible through Eagleview's contract purchased by Tyler Technologies.

Motion Adopted: 5 Yeas

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

Mr. Vincent, Yea

**Public
Hearing/
Brookland
Farm
Annexation
Into
SCUSSD**

A Public Hearing was held on the Proposed Brookland Farm Annexation into the Sussex County Unified Sanitary Sewer District (Johnson's Corner Area). John Ashman, Director of Utility Planning and Design Review, reported that, the Council granted permission to prepare and post notices. The Engineering Department had received a request from Land Tech Planning, LLC on behalf of Gulfstream Development, LLC the owners/developers of a project to be known as Brookland Farm. The request includes parcel 533-11.00-87.00 and is proposed at 92 single family homes. The project will be responsible for System Connection Charges of \$6,600.00 per EDU based on current rates and an Infrastructure Use Agreement will be required. The Engineering Department posted notices on April 11, 2022, added to the County website, and advertised on April 27th and May 3rd. Mr. Ashman noted there have been no comments in support or opposition at this time.

There were no public comments.

The Public Hearing and public record were closed.

**M 191 22
Adopt
R 004 22/
Brookland
Farm
Annexation
SCUSSD**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt Resolution No. R 004 22 entitled "A RESOLUTON TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER (SCUSSD) JOHNSON'S CORNER AREA, TO INCLUDE THE BROOKLAND FARM AREA LOCATED IN THE BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
The Knoll
Annexation
Into
SCUSSD/
Holt's
Landing
Area**

A Public Hearing was held to consider extending the boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD), Holt's Landing Area, to include The Knoll. John Ashman, Director of Utility Planning and Design Review, reported that, Council granted permission to prepare and post notices for The Knoll expansion of the Sussex County Unified Sanitary Sewer District (Holt's Landing Area) on March 22, 2022. The Engineering Department had received a request from Land Tech Planning, LLC on behalf of Irons Knoll, LLC, the owners/developers of a project to be known as The Knoll. The request include parcel 134-7.00-163.00 and is proposed at 33 lots. The project will be responsible for System Connection Charges of \$6,600.00 per EDU based on current rates and an Infrastructure Use Agreement will be required. The Engineering Department posted notices on April 11, 2022, added to the county website, and advertised on April 27th

and May 3rd. The department received an email request from the intervening parcel on April 4th requesting their parcel 134-7.00-164.00 be included in the annexation. It is requested to include this parcel as part of the annexation at this time as it can be served as part of this annexation. At this time, there have been no comments received in support or opposition.

There were no public comments.

The Public Hearing and public record were closed.

M 192 22 Adopt R005 22/ The Knoll Annexation into SCUSSD	A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to Adopt Resolution No. R 005 22 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) HOLTS LANDING AREA, TO INCLUDE THE PROPOSED THE KNOLL SUBDIVISION AND AN ADJACENT PARCEL, LOCATED IN THE BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE”.
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Motion Adopted: 5 Yeas.

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

Resolution/ Indian River Acres Area	John Ashman, Director of Utility Planning and Design Review presented a Resolution Establishing the Indian River Acres Area for Council’s consideration. The Engineering Department appeared before Council on October 12, 2021, to request permission to prepare and post notices for a public meeting to establish a proposed boundary for the Indian River Acres area of the SCUSSD. The Engineering Department held a Public Hearing on November 20, 2021, with the community at the Community Lutheran Church in Omar. County Council approved the final boundary on December 14, 2021. The department sent notices to all property owners pertaining to the referendum with explanation of how to request absentee ballots. The Engineering Department held a referendum on March 26, 2022, at the Community Lutheran Church in Omar. The results of the referendum, including 25 absentee ballots, are as follows: 51 for (27 in-person, 24 absentee) and 2 against (1 in-person, 1 absentee).
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M 193 22 Adopt R 00622 /Establish- ing Indian River Area	A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt Resolution No. R006 22 entitled “INDIAN RIVER ACRES AREA OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT DECLARED UNDER THE PROVISIONS OF TITLE 9, CHAPTER 65 OF THE DELAWARE CODE, Whereas, the eligible voters of the proposed Indian River Acres Area approved the creation of the sewer area by a vote of 51 to 2 in an election held on March 26, 2022.
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Motion Adopted: 5 Yeas.

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

SCWRF & RBWTP Project C19-11/CO No. 22 Hans Medlarz, County Engineer, presented Change Order No. 22 for general construction for Project C19-11. The Change Order includes enclosure of the pole building. In addition, the roof dates back to the original construction and is in need of full replacement and has areas of compromised decking.

M 194 22 Approve CO No. 22/ Project No. C19-11 A Motion was made by Mr. Rieley, seconded by Mr. Hudson, be it moved based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 22 for Contract C19-11, South Coastal WRF Treatment Process Upgrade No. 3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2 – General Construction, be approved, increasing the contract by \$306,692.52.

Motion Adopted: 5 Yeas.

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

SCWRF & RBWTP Project C19-17/CO No. 17 Hans Medlarz, County Engineer, presented Change Order No. 17 for electrical construction for Project C19-17 for Council's consideration. Mr. Medlarz explained that there were five RFP's requested over the last few months. Mr. Medlarz noted that up to this point, the electrical change order balance still reflects a total net credit.

M 195 22 Approve CO No. 17 /Project C19-17 A Motion was made by Mr. Hudson, seconded by Mr. Rieley, be it moved based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 17 for Contract C19-17, SCWF Treatment Process Upgrade No. 3 & RBWP Capital Improvement Program, Phase 2 – Electrical Construction, be approved, for an increase of \$189,323.38.

Motion Adopted: 5 Yeas.

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

Bulk Delivery/ Sodium Hypochl- Hans Medlarz, County Engineer, presented a recommendation to award for bulk delivery of sodium hypochlorite, Project M22-29 for Council's consideration. Mr. Medlarz explained that the supply is used at each of the four wastewater facilities for treatment of wastewater and the Airpark

orite **water plant. The current contract expires June 30, 2022.**

M 196 22 **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it**
Approval **moved, based upon the recommendation of the Sussex County Engineering**
Bulk **Department, that Bid Item A for Sussex County Project M22-29, “Bulk**
Delivery of **Delivery of Sodium Hypochlorite”, be awarded to Univar Solutions at the**
Sodium **bid amount of \$1.44 per gallon and George S. Coyne Chemical Company,**
Hypochl- **be awarded Bid Item B in the amount of \$335.00 per 30 gallon drum.**
orite

Motion Adopted: 5 Yeas.

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

WS USSD/ **Hans Medlarz, County Engineer, presented a recommendation to award**
Segment C **Contract 5 – Segment C Rebid, Project S19-29 for Council’s consideration.**
Rebid/ **The bids were rejected by Council on February 22, 2022, and an invitation**
Project S19- **to rebid was sent out. In addition, Mr. Medlarz presented Amendment No.**
29 **4 that includes base engineering for the contract.**

M 197 22 **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it**
Award of **moved upon the recommendation of the Sussex County Engineering**
WS USSD **Department, that Segment C for Contract S19-29, Western Sussex Unified**
Segment C **Sewer District, Contract 5, be awarded to Zack’s Excavating, Inc., in the**
 amount of \$551,585.16, contingent upon DNREC concurrence.

Motion Adopted: 5 Yeas.

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

M 198 22 **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, be it**
Approval **moved upon the recommendation of the Sussex County Engineering**
Amendment **Department, that Amendment No. 4 to the base engineering contract for the**
No. 4 WS **Western Sussex Sanitary District with Davis, Bowen & Friedel, Inc. be**
USSD **approved, in the amount not to exceed \$80,000.00.**

Motion Adopted: 5 Yeas.

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

2019 Misc. **Hans Medlarz, County Engineer, presented Amendment No. 6 of the water**
Eng. Base **interconnection and wastewater redirection inspection services. The project**
Contract **is now transitioning to the construction phase. In addition, the wastewater**
Amendment **redirection scope includes directional drilling alongside the Railroad right-**

No. 6 **of-way and extending under Park Avenue.**

M 199 22 **A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, be it moved**
Approval **based upon the recommendation of the Sussex County Engineering**
Amendment **Department, that Amendment No. 6 to the 2019 Miscellaneous Engineering**
No. 6/ 2019 **Base Agreement with Davis, Bowen & Friedel, be approved in the amount**
Mis. Eng. **not to exceed \$55,000.00, for part-time inspection and on-call services**
Agreement **associated with the Town of Georgetown Wastewater Interconnection**
 project.

Motion Adopted: 5 Yeas.

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

M 200 22 **A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, be it moved**
Approval **based upon the recommendation of the Sussex County Engineering**
Directional **Department, that the directional drill work, associated with the Town of**
Drill Work **Georgetown Wastewater Interconnect Project, be awarded to Teal**
 Construction, Inc. for their proposal in the amount of \$402,040.00.

Motion Adopted: 5 Yeas.

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

Mallard **Hans Medlarz, County Engineer, presented a recommendation to award**
Creek Sewer **Amendment No. 1 for the Mallard Creek Sewer Expansion, Project S20-26**
Expansion **for Council's consideration. Mr. Medlarz explained that for this project, the**
 low bidder is not being awarded the bid due to their bid being incomplete
 and non-responsive.

M 201 22 **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, that be it**
Approval **moved based upon the recommendation of the Sussex County Engineering**
Mallard **Department, that Contract S20-26 Mallard Creek Sewer Expansion, be**
Creek Sewer **awarded to Teal Construction, Inc. for their total base bid of \$1,338,338.00,**
Expansion **contingent upon USDA concurrence.**

Motion Adopted: 5 Yeas.

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

M 202 22 **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it**
Approval **moved, based upon the recommendation of the Sussex County Engineering**
GMB **Department, that Amendment No. 1 to the EJCDC base engineering**

**Contract for
Mallard
Creek SSD** **contract for the Mallard Creek Sanitary Sewer District with George, Miles & Buhr, Inc. be approved in the amount not to exceed \$167,729.00, for construction administration and inspection services, contingent upon USDA concurrence.**

Motion Adopted: 5 Yeas.

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

**Sale of
County
Owned
Property** **Hans Medlarz, County Engineer, presented a request for County owned property for parcel 334-5.00-178.01 for Council's consideration. Mr. Medlarz explained that the parcel falls entirely in the DelDOT required set back area from Beaver Dam Road. Earlier this year, the pump station was abandoned when the associated gravity sewer system was integrated in the Lewes Crossing sewer system expansion.**

**M 203 22
Approval
Sale of
Parcel 334-
5.00-178.01** **A Motion was made by Mr. Rieley, seconded by Mr. Hudson, be it moved upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approved the Sale of Parcel 334-5.00-178.01 in the amount of \$1,250.00, the cost of appraisal.**

Motion Adopted: 5 Yeas.

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

**Grant
Requests** **Mrs. Jennings presented grant requests for Council's consideration.**

**M 204 22
Lewes
Historical
Society** **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to give \$1,500 (\$1,500 from Mr. Schaeffer's Councilmanic Grant Account) to the Lewes Historical Society for their Canalfront Maritime Museum Initiative.**

Motion Adopted: 5 Yeas.

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

**M 205 22
Town of
Laurel** **A Motion was made by Mr. Hudson, seconded by Mr. Rieley to give \$1,500 (\$1,500 from Mr. Vincent's Councilmanic Grant Account) to the Town of Laurel for the Independence Day Committee's July 4th fireworks display.**

Motion Adopted: 5 Yeas.

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

Mr. Vincent, Yea

Introduction of Proposed Ordinances **Mrs. Green introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A 5.8 MEGAWATT GROUND MOUNTED SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 57.12 ACRES, MORE OR LESS”**

Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR BOAT RESTORATION BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.20 ACRES, MORE OR LESS”

Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A 35 ACRE SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 35.58 ACRES, MORE OR LESS”

Introduction of Proposed Ordinances (continued) **Mr. Rieley introduced a Proposed Ordinance entitled “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 GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 25.00 ACRES, MORE OR LESS”**

The Proposed Ordinances will be advertised for Public Hearing.

Council Member Comments’ **Mr. Rieley pointed out that three requests for solar farms were just introduced. He questioned if the zoning has been reviewed to be sure there is a provision that allows this type of use in an AR-1 district. Mr. Moore replied that all solar farms have been coming in as conditional uses in AR-1. Mr. Rieley added that Kent County has taken some steps to introduce some regulations around solar farms.**

Mr. Vincent shared that there is a bill in Dover that is being circulated that would require all Counties to reassess every 5 years.

M 206 22 **At 11:16 a.m., a Motion was made by Mr. Schaeffer, seconded by Mr.**
Go Into **Hudson, to recess the Regular Session and go into Executive Session for the**
Executive **purpose of discussing matters relating to pending/potential litigation, and**
Session **land acquisition.**
M 206 22 **Motion Adopted: 5 Yeas.**

Go Into Executive Session (continued)	Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea
Executive Session	At 11:20 a.m., an Executive session of the Sussex County Council was held in the Council Chambers to discuss matters relating to potential/pending litigation, and land acquisition. The Executive Session concluded at 11:32 a.m.
M 207 22 Reconvene	At 11:34 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to come out of Executive Session and into Regular Session. Motion Adopted: 5 Yeas. Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea
E/S Action	There was no action on Executive Session items.
M 208 22 Recess	A Motion was made by Mr. Schaeffer, seconded by Mrs. Green to recess until 1:30 p.m. Public Hearings. Motion Adopted: 5 Yeas. Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea
M 209 22 Reconvene	A Motion was made by Mr. Hudson, seconded by Mr. Rieley to come out of recess back into Public Hearings. Motion Adopted: 3 Yeas, 2 absent Vote by Roll Call: Mrs. Green, Absent; Mr. Schaeffer, Absent; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea
Rules	Mr. Moore read the procedure for public hearings on zoning matters.
Public Hearing/ CU2290	A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONTRACTOR FLEX SPACE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 7.12 ACRES, MORE OR LESS" (property lying on the west side of the intersection of Lewes Georgetown Highway [Route 9] and Prettyman Road [S.C.R. 254]) (911 Address: N/A) (Tax Parcel: 235-30.00-

**Public
Hearing/
CU2290
(continued)**

6.21 [portion of])

The Planning and Zoning Commission held a Public Hearing on this application on March 24, 2022, and on April 14, 2022, the Commission recommended approval of the application for the six reasons stated and subject to the thirteen recommended conditions.

(See the minutes of the Planning and Zoning Commission dated March 24, and April 14, 2022.)

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

The Council found that Mr. David Hutt, Esq. with Morris James, spoke on behalf of the Application; that he was representing the owner of the property, as well as the Applicant, Toback Development, LLC.; that also present was Mr. Matt Toback, the Principal of Toback Development, LLC and Mr. Carlton Savage, Professional Engineer with Scaled Engineering; that the subject Application is for Contractor Flex Space; that Contractor Flex Space is a building, where there are multiple units for businesses, with an opportunity in the front of the building for the location of a business office, as well as a showroom; that at the rear of the unit there would be a warehouse and storage type area; that the unit has a proposed entry for people; that in the rear of the unit there is a garage door; that Mr. Toback is a builder in the area; that many of his trade partners are looking for a space of this proposed nature; that it would allow his trade partners to have a small business office, a showroom type area and a place for material storage; that what is proposed is not a new concept; that these types of arrangements exist throughout Sussex County; that a similar example of the proposed use would be the Harbeson Business Park, which is located further down Route 9; that within Harbeson Business Park is Rogers Graphics, Bath, Kitchen & Tile Company, and many other wholesale activities which are present for contactors; that within some of the units there is a small showroom area and office, located at the front for a person to stop by; that the property is slightly over seven acres; that the property is located at the intersection of Route 9 and Prettyman Road; that DelDOT recently completed the widening of the Route 9 and Route 5 intersection and added additional turn lanes; that there is the new Royal Farms on the corner and the Harbeson Cemetery; that further east on Route 9 is Trails of Beaver Creek Residential Subdivision; that along Route 5 is the Meadows of Beaver Creek; that the property is zoned AR-1 (Agricultural Residential); that Bayhealth Medical Center, which is currently being constructed, is in vicinity of the site; that Dollar General is located across the street; that further west there is a series of properties zoned commercial; that Royal Farms, Allen Harim Plant, Compass Point Associates, LLC, Beaver Dam Estates, Deer Wood, Hawthorne, the DelDOT maintenance yard, Besche Furniture and the new Weston Willow Apartments are all within the surrounding area of the site; that the State Strategies Map designate the area as being in Investment Level 4; that the property is located with a low

**Public
Hearing/
CU2290
(continued)**

density area according to the Future Land Use Map; that this use is consistent with the guidelines of permitted uses within the low density area, because it provides convenient areas for businesses, addressing the needs of homes and property owners within the immediate and surrounding areas; that the property is not located within a flood plain, as it is designated Flood Zone X unshaded; that according to the FEMA maps, there are no wetlands located on the site; that Artesian has the CPCN to provide water and sanitary sewer services to the property; that a Service Level Evaluation Request was submitted to DelDOT; that DelDOT responded stating the proposed project would have a minor impact on the area roadways; that DelDOT is permitting the Applicant to pay an area wide study fee in lieu of a Traffic Impact Study (TIS); that there was a TIS performed in 2019 for Azalea Woods, which DelDOT included within their response; that the project proposed 46,800 sq. ft. of contractor flex space between the two buildings; that the building, located along Route 9, is 27,000 sq. ft.; that the building to the rear is approximately 19,800 sq. ft.; that the proposed entrance is off Prettyman Road; that the entrance would come in past the first stormwater pond; that the stormwater pond is proposed to be an infiltration pond; that the entrance would provide access to the units; that the front of the units would have an office/showroom face of the business; that located to the rear of each unit there would be a garage door for larger deliveries; that the rear unit doors of the two buildings would face each other; that at the rear of the property there is another stormwater management pond, which is proposed to be a wet pond; there is an architectural rendering to show what is proposed; that Conditional Uses are appropriate when the use is of a public or a semi-public character, when the use is in character of the area, when the use promotes the convenience and welfare of area residents and will promote the general convenience, orderly growth and prosperity of Sussex County; that proposed Findings and Conditions were included within the submitted project booklet; that a proposed condition listed is that all work will be performed indoors; that this condition is similar to a C-2 (Medium Commercial) zoning classification; that another proposed condition is there will be no outside storage of materials; that proposed is a condition allowing for signage on each road frontage; that this would allow signage on the Route 9 frontage, as well as the Prettyman Road frontage; that he took the proposed wall signage condition from the wall sign provision from the C-2 Zoning Code for Sussex County; that this provides an objective standard, which the Planning & Zoning office applies regularly when considering signage applications; that the thought process behind many of the proposed conditions were taken from the recently approved Change of Zone application for Executive Lawns; that Executive Lawns is located slightly west of the property; that many of the concepts, principals and findings for Executive Lawn are applicable to the subject Application; that both properties are located near each other, both having frontage along Rt. 9; that the Application for Executive Lawns discussed performance of consumer sales and consumer services within the area, which applies equally to the proposed Conditional Use Application; that being located off Route 9 designates the property as being in an appropriate location to

**Public
Hearing/
CU2290
(continued)**

businesses which will support the area; that given the property's proximity to Route 5 and Route 9 the proposed use will provide support to Harbeson, Georgetown, Milton, Lewes and other areas.

There were no public comments.

The Public Hearing and Public Record were closed.

**M 210 22
Adopt
Ordinance
No. 2849
/CU2290**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to Adopt Ordinance No. 2849 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR CONTRACTOR FLEX SPACE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 7.12 ACRES, MORE OR LESS" (Conditional Use No. 2290) filed on behalf of Toback Development, LLC, for the following reasons and conditions given by the Planning and Zoning Commission:

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 buildings for contractor "floor" space, with offices or showrooms in the front portion of each unit and storage areas in the rear of each unit.
2. The use is situated on a 7.12-acre parcel of land. There are other small businesses and structures in the area. 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. This use is compatible with the surroundings.
3. Traffic generated by the proposed use will be minimal and will not have a negative impact on the neighboring properties or roadways.
4. 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 small businesses operated in the County.
5. 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.
6. The site is served by central water and sewer.
7. This recommendation is subject to the following conditions:
 - A. The project shall be used for contractor floor space only. "Contractor" shall have the meaning attributed by Title 6, Section 3501(2) of the Delaware Code. Each unit shall consist of office or showroom space in the front and storage in the back. The contractor units shall be located in two buildings and the total combined square footage of these buildings shall not exceed 46,800 square feet. No businesses that primarily involve or are similar to the following uses

**M 210 22
Adopt
Ordinance
No. 2849
/CU2290
(continued)**

- shall be permitted: business or professional offices; retail; gyms or fitness centers, breweries or brewpubs, or food service.
- B. There shall not be any outside storage, including boat materials, RVs, or equipment within the site.**
 - C. No vehicle repair or fueling operations shall be performed on-site.**
 - D. There shall be no manufacturing on the site, and all contractor work shall occur indoors.**
 - E. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.**
 - F. 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.**
 - G. 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.**
 - H. The applicant shall comply with all DelDOT requirements for entrance and roadway improvements.**
 - I. There shall be an adequate 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.**
 - J. Signage for the Property shall be limited to and comply with the following requirements: (1) One indirectly illuminated on-premises ground sign shall be permitted along Route 9 and along Prettyman Road, not to exceed 64 square feet of sign area per side; and (2) On-premises wall, illuminated awning, marquee, or projecting signs with a total sign area of 150 square feet shall be permitted with respect to each separate unit.**
 - K. 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.**
 - L. 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.**
 - M. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CZ1954,**

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

**CZ1955 &
CU2315**

DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.27 ACRES, MORE OR LESS” (Change of Zone No. 1954) filed on behalf of American Storage of Delaware, LLC (property lying on the west side of John J. Williams Highway [Route 24], approximately 0.25 mile south of the intersection of Autumn Road [S.C.R. 299] and Bay Farm Road [Route 299]) (911 Address: N/A) (Tax I.D.: 234-29.00-49.02 [portion of])

The Planning and Zoning Commission held a Public Hearing on this application on March 24, 2022, and on April 14, 2022, the Commission recommended approval of the application for the seven reasons stated.

(See the minutes of the Planning and Zoning Commission dated March 24, and April 14, 2022.)

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 MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A PORTION OF CERTAIN PARCELS OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 17.63 ACRES, MORE OR LESS” (Change of Zone No. 1955) filed on behalf of American Storage of Delaware, LLC (property lying on the west side of John J. Williams Highway [Route 24] approximately 0.25 mile south of the intersection of Autumn Road [S.C.R. 299] and Bay Farm Road [Route 299]) (911 Address: N/A) (Tax Parcels: 234-29.00-49.02 [portion of], 49.03 & 50.00)

The Planning and Zoning Commission held a Public Hearing on this application on March 24, 2022, and on April 14, 2022, the Commission recommended approval of the application subject to the eight reasons stated.

(See the minutes of the Planning and Zoning Commission dated March 24, 2022, and April 14, 2022.)

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTIFAMILY UNITS (140 UNITS) TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 17.63 ACRES, MORE OR LESS” (Conditional Use No. 2315) filed on behalf of American Storage of Delaware, LLC (property lying on the west side of John J. Williams Highway [Route 24], approximately 0.25 mile south of the intersection of Autumn Road [S.C.R. 299] and Bay Farm Road [Route 299]) (911 Address: N/A) (Tax Parcels: 234-29.00-49.02 [portion of], 49.03 & 50.00)

The Planning and Zoning Commission held a Public Hearing on this

**Public
Hearing/
CZ1954,
CZ1955
&CU2315
(continued)**

application on March 24, 2022, and on April 14, 2022, the Commission recommended approval of the application subject to the six reasons stated and subject to the sixteen recommended conditions.

(See the minutes of the Planning and Zoning Commission dated March 24, 2022, and April 14, 2022.)

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

The Council found that Ms. Mackenzie Peet, Esq. with Baird Mandalas Brockstedt, LLC, spoke on behalf of the Applicant, American Storage of Delaware, LLC; that also present were Mr. Steven Spence, Co-Council and Mr. Carlton Savage, P.E., Scaled Engineering, Inc.; that the Applicant is intending to construct a mixed-use development, involving multi-family residential housing and a commercial storage facility component; that the site is located on the western side of Route 24 (John J. Williams Highway) and south of Yeshua Lane in Millsboro, Delaware; that the site is located within the Indian River Hundred; although submitted are three separate applications, she has consolidated her presentation to address all three Applications with one presentation, with the understanding the Council will vote on each Application separately; that C/Z 1954 requested a rezoning of a 8.27-acre portion of Tax Map Parcel No. 234-29.00-49.02, from AR-1 (Agricultural Residential) to C-3 (Heavy Commercial); that this area is defined as Parcel 1 on the Preliminary Site Plan; that the rezoning was requested with the intention to develop 150,000 sq. ft. of commercial storage space, which would also include 1,200 sq. ft. of office space; that the commercial storage space would be for a three-story miniature warehouse; that currently the warehouse is proposed to have 838 units; that this use is permitted within the C-3 (Heavy Commercial) Zoning District; that this is the reasoning for the rezoning request; that C/Z 1955 requested rezoning for AR-1 (Agricultural Residential) to a MR (Medium-Density Residential) Zoning for the remaining, 17.63-acre portion of Tax Map Parcel No.: 234-29.00-49.02, as well as the entirety of parcels identified as 234-29.00-49.03 and 234-29.00-50.00; that this rezoning is requested with the intention of developing multi-family units; that this area is defined as Parcel 2 on the Preliminary Site Plan; that related to that Application is C/U 2315 which requests a Conditional Use for the development of 140 multi-family units to be located on the parcels previously mentioned, which are proposed to be rezoned from AR-1 to MR; that the project is located within Investment Level 2 and Level 3 according to the Strategies of State Policies and Spending Map; that Investment Level 2 reflects areas where growth is anticipated in the near term; that Investment Level 3 reflects areas where growth is anticipated within a longer term; that as confirmed by the PLUS comments, the Office of State Planning and Coordination have no objection to the proposed rezoning and development provided it is compliant with the Comprehensive Plan and all applicable Codes and Ordinances; that nearby commercial and residential communities exist; that some of the nearby residential developments are Victoria's Landing, River Breeze and

**Public
Hearing/
CZ1954,
CZ1955
&CU2315
(continued)**

Seabrook; that nearby commercial uses include the shopping center located at intersection of John J. Williams Highway and Bay Farm Road; that past the intersection of Route 24 and Route 23 are commercial uses such as a car wash, Giant grocery store, Arcadia Healthcare, and multiple fast-food establishments including Dunkin Donuts and McDonalds; that at the intersection of Route 24 and Mount Joy Road is Royal Farms, a church and a small strip mall, as well as a deli and tattoo parlor; that the Coastal Area is designated as a growth area within Sussex County; that mixed-use development, like the proposed Application, is permitted within the Coastal Area; that the Applicant's plan is consistent with the Comprehensive Plan and complies with the Coastal Area requirements of Section 115-194.3 of the County Code; that Section 115-194.3 of the Sussex County Code requires the Applicant's submission of the Environmental Assessment and Public Facility Evaluation Report and sketch plan for the project, as it proposes 50 or more dwelling units and 75,000 sq. ft. or more of floor area for commercial use; that an Environmental Assessment Report, prepared by Mr. Ed Launay and the Public Facility Evaluation Report, prepared by Scaled Engineering, Inc. are contained within Exhibit F; that Scaled Engineering report, which also included Mr. Launay's report, stated a combination of wet ponds, planted buffers and infiltration practices will be used for stormwater treatment; that stormwater will be discharged in accordance with the State of Delaware and Sussex Conservation District requirements; that water will be provided by Tidewater Utilities; that Tidewater Utilities did provide a Will Serve letter for the project, which is included within Exhibit F; that the Sewer Service Evaluation confirmed the project is located within Tier 2 with a need for 146 EDU's, with 140 EDU's for the multi-family component and 3 for the office component; that sewer and water infrastructure necessary to connect to the public utilities will be constructed by the developer; that electric will be provided by Delmarva Power; that the increase in traffic and effect on surrounding roadways will be analyzed, reviewed and approved by DelDOT; that indicated within the PLUS comments, the improvements will generate less than 2,000 average daily trips and less than 200 peak hour vehicle trips; that this allows the developer to pay an area wide study fee in lieu of performing a Traffic Impact Study; that the fee would require an estimate payment of \$11,710.00; that DelDOT anticipates to have the developer contribute to a DelDOT project presently scheduled for construction in the summer of 2022 at the intersection of Route 24 and Mount Joy Rd. and the intersection of Route 24 and Bay Farm Rd.; that the mandatory shared-use path, as required by DelDOT, will be added to the Final Site Plan; that Mr. Launay's Assessment of Environmental Assessments and Features Report confirmed that no critical habitat areas exist on the site; no federally listed or endangered species are located on the site; that no wetlands, streams and drainage conveyances exist on or nearby the site; that the site is presently vacant and consist of 11.5-acres of agricultural land; that 14.4-acres of immature trees, which were previously cut in 2004, according to Mr. Launay's report; that the Applicant understands the preservation of natural resources and open space is strongly encouraged in the Coastal Area; that the project proposed roughly 11-acres of open space to be

Public
Hearing/
CZ1954,
CZ1955
&CU2315
(continued)

preserved; that the Applicant's first request is C/Z 1954, which requests a rezoning of a 8.27-acre portion of Tax Map Parcel 234-29.00-49.02 from AR-1 to C-3 to develop 150,000 sq. ft. of commercial space, a permitted use within C-3 or a similarly permitted use; that the proposed rezoning is compatible with the surrounding community and will have not an adverse effect on immediately adjacent properties or properties within the vicinity of the site; that the C-3 (Heavy Commercial District) is usually intended for larger scale service businesses along major arterial roads; that the intended rezoning is consistent with the purposed of the C-3 Zoning District; that the Applicant's second request is C/Z 1955, requesting a rezoning of a 17.63-acre portion of Tax Map Parcel 234-29.00-49.02 and the entire other parcel referenced from AR-1 (Agricultural Residential) to MR (Medium-Density Residential) for the purpose to develop 140 multi-family units; that all surrounding properties are zoned AR-1, with the remaining parcels on the opposite side of Rt. 24 zoned as C-1 (General Commercial District) and GR (General Residential); that the proposed rezoning is compliant with the zoning code; that the rezoning request from AR-1 to MR is consistent with the Comprehensive Plan and Future Land Use Map; that the last request is for a Conditional Use, which is subject to the approval C/Z1955 for the development of 140 multi-family units, which will include a clubhouse and playground amenity; that the proposed development is consistent with surrounding land uses being of semi-public to public character and by promoting the general convenience and welfare of Sussex County; that with nearby properties of Peninsula Lakes and The Peninsula similarly zoned, as well as being located in the vicinity of residential and commercial properties; that MR, GR and C-1 are all subject to the same height, area and bulk requirements for multi-family units; that proposed Conditions of Approval have been submitted into the record and for all the reasons stated the Conditional Use is compliant with the Zoning Code, compatible with surrounding land uses and consistent with the Future Land Use Map and Comprehensive Plan; that the Applicant requests that Condition N of the Planning and Zoning Commission recommendation be amended to state "that the Applicant or a Condominium Association shall be responsible for the maintenance of all interior roadways"; that in Reason One provided by the Planning and Zoning Commission for the CU, it refers to density at 4 units per acre for single-family homes, the Applicant requests that the reason also reflect permitted density for multi-family units; that Mr. Whitehouse shared that for a Conditional Use, it can go up to 12 units to the acre; that Mr. Whitehouse suggests the language state that the permitted density within the MR district as a Conditional Use is up to 12 dwelling units to the acre; that the intention is to sell the units at market rate; that the first phase of the project developed would be the commercial portion.

Public comments were heard.

Ms. Sharon Harring came forward to speak in opposition of the Application. Her property borders the west side of the proposed project. Ms. Harring reached out to the developer to request a barrier along her property when she received notice of the project. To date, she has not heard

**Public
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CZ1954,
CZ1955
&CU2315
(continued)**

back from the property owner. She requested that a barrier or fencing be placed along her property. In addition, she requested the rezoning be deferred to another date so that her deed can be looked into further. On her deed, it states her property is 3.118 acres, however, it was submitted by the Applicant that her property is 3 acres. She added that Tyler Technologies confirmed that her property is 3.118 acres during the reassessment process. Mr. Moore pointed out that what is shown or submitted would not have any effect on Ms. Harring's land or acres. Ms. Harring noted that there are many developments that are still under construction. She suggested to wait until they are near completion to see what impact they will have on medical facilities and roadways. She then spoke on the wildlife impact.

The Public Hearings and Public Record were closed for the three Applications.

**M 211 22
Defer
Action/
CZ1954**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to defer action on an Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN THE INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.27 ACRES, MORE OR LESS".

Motion Adopted: 5 Yeas.

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

**M 212 22
Defer
Action/
CZ1955**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to defer action on an Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A PORTION OF CERTAIN PARCELS OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 17.63 ACRES, MORE OR LESS".

Motion Adopted: 5 Yeas.

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

**M 213 22
Defer
Action/
CU2315**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to defer action on an Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTIFAMILY UNITS (140 UNITS) TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 17.63

ACRES, MORE OR LESS”.

Motion Adopted: 5 Yeas.

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

**M 214 22
Adjourn**

**A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to adjourn at
2:36 p.m.**

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

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

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

Vincent.
OK. 5/7.

Council Grant Form

Legal Name of Agency/Organization	City of Seaford
Project Name	Nanticoke Riverfest
Federal Tax ID	51-6000241 OK
Non-Profit	No
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	The mission at the City of Seaford is to provide its residents and businesses with good governance, positive customer service, and a desirable quality of life.
Address	414 High Street
Address 2	PO BOX 1100
City	Seaford
State	Delaware
Zip Code	19973
Contact Person	Katie Hickey ✓
Contact Title	Superintendent of Parks & Recreation

**Contact Phone
Number** 302-629-6809

**Contact Email
Address** khickey@seafordde.com

**Total Funding
Request** 2500.00

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

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

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

**If YES, approximately
what percentage of
the project's funding
does the Council
grant represent?** 16

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

**Program Category
Other** Community Outreach

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 3000

Scope We have been hosting this community-driven festival, known as the Nanticoke Riverfest, for now 27 years. Though there are budgets in place as to how much money is being spent each year, we primarily rely on sponsorships and donations to cover the costs of the event. A portion of the residents that live within city limits are low-income. It is important to host events like this so those families are not burdened with having to figure out if they can afford to go. Therefore, it is imperative for us to provide quality entertainment, educational and cultural demonstrations for all ages, free of charge, year after year during this event.

This event also benefits the business owners in downtown. This event brings thousands of people, near and far, each year. The Nanticoke Riverfest is an opportunity to showcase the growth of Seaford's downtown and give residents and visitors a reason to come back after the festival.

In recent years, the festival has struggled financially. To accommodate the amount of attendees during the event takes lots of planning, funding, volunteers, and local support. We are grateful to have such a supportive community, but still hope that you will consider supporting the Nanticoke Riverfest, in order for us to continue this beloved event.

**Religious
Components**

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

15,000.00

Description Advertising ✓

Amount 2,000.00

Description Entertainment ✓

Amount 3,000.00

Description Rentals (sound, seating, tents, etc.) ✓

Amount 7,000.00

Description Event Activities (Children's Area, Hidden Idol, Duck Dash, etc.)

Amount 3,500.00

Description Logistics

Amount 2,500.00

Description Miscellaneous

Amount 3,200.00

Description

Amount

Description

Amount

TOTAL EXPENDITURES 21,200.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -6,200.00

Name of Organization City of Seaford

**Applicant/Authorized
Official** Katie Hickey

Date 05/03/2022

Affidavit Yes
Acknowledgement

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

Green
OK. 5/9.

Council Grant Form

Legal Name of Agency/Organization	Grace -N- Mercy Ministries Inc.
Project Name	Summer Youth Camp
Federal Tax ID	38-3655598 ✓
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	Our summer youth camp provides a group-centered experience for children and young adults designed to enrich and develop each participant's social, emotional and physical skills.
Address	PO BOX 70
Address 2	
City	Greenwood
State	Delaware
Zip Code	19950
Contact Person	Tonekia Showell
Contact Title	Secretary

Contact Phone Number 4438594763

Contact Email Address tonekia.showell@seaford.k12.de.us

Total Funding Request 5000

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? 50

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

Program Category Other

Primary Beneficiary Category	Youth
Beneficiary Category Other	
Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	30
Scope	<p>The last two years we have had to revamp our summer camp. We have not been able to charge a fee due to many of our parents in the low to moderate pay scale. Our participants are low- moderate income families in Sussex County, Delaware. There is a need for our program with proven results. Our current camp attendee's live in the following cities: Delmar, Laurel, Seaford, Blades, Bridgeville, Greenwood, Milford and Lincoln.</p> <p>We have structured our program that the children are able to participate in activities they have never experienced. On Monday's, we have presenters from the University of Delaware 4H Extension. Every Tuesday, we travel to a local theatre. Every Wednesday, we travel to Killen's Pond to the waterpark. On Thursday's, there are different activities each week including the fire department, state police, and Spatulearn (Chef) this is the day we do stay on location. We use Monday, Thursday and some Friday's to teach social skills through structured play.</p>
Religious Components	
Please enter the current support your organization receives	5,000.00

for this project (not
entire organization
revenue if not
applicable to request)

Description	Cleaning Supplies (Toilet Paper/Paper Towels/Clorox Wipes/Clorox Cleanup)
Amount	300.00
Description	CALODY Portable Car Air Purifier,3 True HEPA Filter (4) x \$50
Amount	200.00
Description	Masks (and Hand Sanitizer (Gallon Bottles)
Amount	200.00
Description	Fuel for (2) 15 passenger vans Van #1 Lincoln, Milford, Greenwood, Ellendale Van #2 Seaford, Laurel, Blades, Bridgeville and Delmar/ 5days for 5 weeks
Amount	2,000.00
Description	Killen's Pond Entry Fees/ 5 weeks
Amount	850.00
Description	Meals for Breakfast & Lunch for 5 days/ 5 weeks
Amount	1,100.00
Description	Office Supplies
Amount	150.00
Description	Movie Theatre (Every Tuesday) for 5 weeks

Amount	200.00
TOTAL EXPENDITURES	5,000.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	0.00
Name of Organization	Grace -N- Mercy
Applicant/Authorized Official	Tonekia Showell
Date	05/04/2022
Affidavit Acknowledgement	Yes

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

ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

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

hans.medlarz@sussexcountysde.gov



Sussex County

DELAWARE
sussexcountysde.gov

Memorandum

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

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

RE: ***Professional Environmental Services, Project 19-05***
A. Approval of Eisenhardt Enterprises

DATE: May 17, 2022

The Engineering Department advertised a Request for Proposals in May of 2018 to support the County's five (5) year capital projects plan which contains projects requiring specialized environmental engineering services. On September 11, 2018, County Council approved the selection of RK&K to provide such environmental services under a base contract, in the amount of \$250,000 for (i) implementation of the County's Water Quality Enhancement Program and (ii) design of a constructed "Submerged Gravel Wetland", one of the year-round alternate effluent outlets at the Inland Bays Regional Wastewater Facility.

The environmental engineering services included planning & drafting of County Code for programmatic governance, environmental assessment and remediation, science-based development of nutrient loading baselines, engineering design of water quality as well as runoff reduction projects, programmatic assistance in setting up storm water management districts and/or stormwater management banking in the Inland Bays and the Sussex County portion of the Chesapeake Bay watersheds and developing Banking and Management Offset District(s) regulatory framework, transaction documentation and accounting processes as well as identify responsibilities of DNREC within the overall governance.

The draft documents were submitted to DNREC initially in 2019 and resubmitted in 2020 after addressing all comments. Mr. James Eisenhardt was the lead on this effort. Mr. Eisenhardt was also the lead in the specialized assistance to the Sussex County's Working Group on buffers through the development of a draft ordinance covering all aspects of the outline presented to Council on September 10, 2019. With today's approval of the Ordinance, there will be a remaining balance.



Mr. Eisenhardt has left the employment of RK&K and started his sole proprietor firm Eisenhardt Enterprises. The Engineering Department is requesting County Council's concurrence in the issuance of a not to exceed \$10,000.00 purchase order for the completion of the County's Water Quality Enhancement Program documentation.

EISENHARDT ENTERPRISES

9 Kevin Way
Malvern, PA 19355
Phone: 302 382 5812
JEisenhardtEE@aol.com

April 28, 2022

Sussex County
ATTN: Hans Medlarz, County Engineer
Engineering Department
PO Box 589
2 The Circle
Georgetown, DE 19947

**RE: Retention Letter – Proposal: Professional Consulting Services –
Clean Water Enhancement Program – Pilot Program Agency Negotiations
Sussex County, Delaware**

Dear Mr. Medlarz:

Per your request, attached is a completed Vendor Package and proposal to provide professional consulting services for Sussex County, Delaware. This letter serves as acknowledgement that James M. Eisenhardt (DBA Eisenhardt Enterprises: A Sole Proprietorship) will be retained as consultant on behalf of the County while supporting the County in negotiations with Delaware Department of Natural Resources and Environmental Control (DNREC) regarding the Clean Water Enhancement Program (CWEP) Pilot Program. It is Eisenhardt Enterprises' understanding that Sussex County via Hans Medlarz County Engineer, will serve as the point of contact for the County and that all communication and coordination on behalf of the County will be with Hans Medlarz, unless otherwise directed by the County.

Thank you for the opportunity to assist you with this project. Given the communicated project schedule needs, tasks have initiated under this proposal per verbal confirmation of the County Engineer.

Do not hesitate to contact me with any questions or additional information needs.

Sincerely,



James M. Eisenhardt, CFM
DBA: Eisenhardt Enterprises

Exhibits: Vendor Package
 Proposal: Scope of Work and Fee

PROPOSAL

Effective Date: April 15, 2022

Owner: Sussex County, Delaware

POC: Hans Medlarz, County Engineer

Consultant: Eisenhardt Enterprises

POC: Jim Eisenhardt

Project: Clean Water Enhancement Program: Pilot Program – Agency Negotiations

Fee: Not to Exceed: \$10,000.00

Payment Schedule: Monthly

Scope of Work

Sussex County has been negotiating approvals with DNREC for the Clean Water Enhancement Program (CWEP). Draft documents have been submitted and DNREC has provided comments. Sussex County has requested support from Eisenhardt Enterprises (EE) in responding to DNREC comments and assisting with the negotiations to approve the Pilot Program for the CWEP. EE will not commit to any decisions or outcomes with the agencies without consultation and ultimate approval of Sussex County. It is understood that Sussex County has granted permission for EE to communicate with the agencies and coordinate activities directly. EE will be named as owner's representative (owner's agent) with the agencies.

Task 1: Background Information Review/Data Collection/Coordination

Task 2: Prepare/Negotiate V2 Draft of Pilot Program Documents

Task 3: Prepare/Negotiate V3 Draft of Pilot Program Documents

Task 4: Agency Meetings/Communications

Task 5: Client Communications/Coordination

Schedule: Work has initiated on the project per verbal agreement with County Engineer. Services are anticipated to be completed by December 2022.

ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

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

hans.medlarz@sussexcountysde.gov



Sussex County

DELAWARE
sussexcountysde.gov

Memorandum

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

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

RE: ***EMS Public Safety Building – Project C19-04***
A. Change Order No. 13

DATE: May 17, 2022

The single Public Safety Building concept was first introduced in the FY 2019 Budget Ordinance consolidating all EMS training, administration, and logistics functions in one facility. The scope and cost were updated in accordance with a space allocation programming effort in the FY 2020 Budget Ordinance and further refined based on design stages in the FY 2021 & FY 2022 Budget Ordinances reflecting a total project expense of \$12.00 million. The anticipated overall project expenses are still well within budget.

Following a publicly advertised process, Council awarded the EMS Department's - Architectural Consulting Services base contract to the George, Miles and Buhr, Inc. The subsequent Public Safety Building Project C19-04 base agreement covered professional services for an initial not to exceed amount of \$300,000.00.

The State's fire prevention regulations required a single-entry point necessitating a full sprinkler distribution system design and due to the critical nature of the facility, a secondary air conditioning backup in the form of a cooling tower was desired. Council authorized a \$31,720.00 stand-alone purchase order to RMF Engineering for these specialty designs.

In October of 2020, the Departments presented the 60% design review to County Council followed by a 75% design presentation in March of 2021. Based on the County's request, GMB was asked to create fiber optic cabling, audio/visual, security/alarm and fit out specialty scopes for procurement under Cooperative Purchasing Agreements, increasing the project design complexity. Hence, Council approved on March 23, 2021, GMB's Amendment No.1 increasing the not to exceed threshold by \$61,500.00.

Following the March Council presentation, the scope still evolved considerably due to design revisions and added design features. Consequently, GMB and its subconsultants exceeded the



previously approved allocations bringing the project to bid. GMB offered a discounted fee of \$75,000.00 to cover these services. In addition, they proposed a construction services fee of \$244,500.00. Overall, the professional services were well below 10% of construction, comparing favorably with industry standards and on August 10, 2021, County Council authorized issuance of GMB's Amendments No. 2 & 3 increasing the overall not to exceed amount to \$681,000.00.

In June the Public Safety Building, Project C19-04 was publicly advertised. On July 14, 2021, eight (8) bids were received and on August 10, 2021, Council awarded the project to Bancroft Construction Company in the amount of \$8,282,169.00.

The documents as bid included provisions to recover pandemic related price increases between *bid and award* for structural and light weight steel material costs. Therefore, on August 31, 2021, Council approved Change Order No. 1 in the not to exceed amount of \$40,000 for structural and Change Order No. 2 in the amount of \$8,800 for light weight steel material price increases.

The structural steel material change order no.1 was based on August 12, 2021, pricing. When Bancroft transmitted the "letter of intent to award", their subcontractor Iron Works, Inc. on August 30th in turn issued material purchase orders. However, the material suppliers responded that material quotations are only binding for one week due to supply chain impacts and volatile steel markets. In consultation with County Leadership, the Engineering Department authorized Bancroft to lock in at the August 30th material costs triggering a \$22,829.00 revision to change order no. 1 approved by Council on September 14, 2021.

When the project bid, the Fire Marshall site permit had been issued but the associated building permit was still under review. When it was finalized two issues had to be addressed (i) fire protection details in the plenum and (ii) a secondary emergency egress from the mezzanine.

The plenum needed to be either sprinkled or all materials had to be fire rated. The only material not meeting the rating was the water piping. The County requested the PVC piping for ease of maintenance and the mechanical subcontractor suggested to add fire rated insulation but switch the valving to PVC under a partial credit for a net Change Order No. 3 cost of \$13,554.94. In addition, the County EMS team had initiated a proposed Change Order No. 4 for air filtration system safety upgrades, paid for through American Rescue Plan Act funds in the amount of \$4,740.28. On November 20, 2021, County Council approved both change orders.

The Department and the contractor concluded the change order scope associated with the emergency mezzanine exit required a permit. The work was complex requiring scope modifications for eight (8) trades. The electrical trade also included some minor changes to the outlet configurations to accommodate the selected A/V equipment for a total \$58,245.80 which County Council approved under Change Order No. 5 on January 11, 2022.

The existing EOC allegedly had dual primary electric power feeds based on original design drawings, staff recollection as well as DP&L records. Upon examination of the actual EOC transformer by DP&L, it was determined that the facility had only one feed. Prior to that, the electrical sub-contractor had initiated some limited conduit installations, Council issued a reimbursement Change Order No. 6 in the amount of \$1,905.85.

However, for the project to proceed, DP&L and the County's General Labor & Equipment contractor had to extend primary power to the existing transformer from the opposite side of Rudder Lane. In addition, the transformer and generator location for the building was revised, as

well as vehicle charging circuits added. These changes were priced out and approved by Council on March 1, 2022 under Change Order No. 9 in the amount of \$56,830.98.

In December 2021, following a detailed Miss Utility locate, the Team recognized that there were conflicts between the proposed gravity storm drainage pipe and the existing high voltage lines off site. The stormwater management design had the stormwater pipe system crossing the intersection of Airport Road and Aviation Avenue. Close examination revealed that this crossing was not plausible as the stormwater pipe intersected approximately eight other utilities primarily high voltage electric lines and sewer force mains at different elevations.

While investigating stormwater options, two existing roof drainage pipe conflicts came to light. The combination of both these impacts required a re-work of the entire grading plan, along with the redirection of the storm drainage piping along Airport Road. The Department and the contractor agreed on the scope and pricing, including the required fill and on March 1, 2022, Council issued the associated Change Order No. 7 in the amount of \$62,924.75.

In the filling process of “Lake Thomas”, unsuitable soils were encountered. The site work contractor undercut these areas and restored them with suitable materials. This work was performed on a time and materials basis under Change Order No. 11. Also covered under this request is an adjustment to a drop ceiling and bulkhead location in the corridor leading to the northside of the existing EOC building. On March 22, 2022 Council accepted Change Order No. 11 in the amount of \$5,427.58.

Bancroft had submitted RFI#44 seeking clarification regarding the EOC kitchen renovations due to a lack of existing condition documentation on the mechanical drawings and insufficient detailing of connections. GMB’s plan envisioned an open ceiling concept with cabinet & countertop which was unable to incorporate the two roof drains in the existing exercise room and kitchen. With an acceptable resolution plan needed, the Department worked with Bancroft and developed the attached “Owner Resolution Plan No.3 addressing the existing conditions and on March 22, 2022 Council accepted credit Change Order No. 12 in the amount of (\$15,118.52).

The heating and hot water systems were designed based on availability of natural gas. Chesapeake Utilities’ service extension project from the Coastal Business Park to Rudder Lane is delayed and may not be ready at the time of building commissioning. The utility directed us to seek an interim solution using their subsidiary, Sharp Energy, which already supplies propane to the Joint Maintenance Facility under this arrangement. The Engineering & Finance Departments developed a purchase order, and the line is installed.

Due to a conflict in the existing lobby, the stud wall had to be extended alongside the existing beam, allowing the proposed wall to bypass the structural steel. Bancroft submitted PCO #013 to modify said exterior stud wall framing and to extend the drywall and batt insulation to the structure in the rooms Team EMS requested for sound attenuation based on sensitive medical discussions. For the extension of the drywall and batt insulation, the price per unit is \$11.57/sf of wall in the event more rooms are added. The Engineering Department recommends acceptance by County Council of the resulting Change Order No. 13 in the amount of \$16,711.84 and the unit of \$11.57/sf.

The EOC staff has made the Engineering Department aware of issues with the State Police IT equipment server room. The room is overheating more often because equipment has been added over time. This room is the only server room w/o a dedicated source of cooling.

J.T. Richardson is the mechanical subcontractor for Bancroft working on the Public Safety Building. They were willing to work for the County directly with the concurrence of Bancroft and in March 2022 we issued an on-call mechanical PO for urgent repairs at the Complex. We are proposing to use this same approach in this case based on the same hourly rates and agreed upon mark-ups. Richardson is already aware of requirements to work inside the EOC.



***SUSSEX COUNTY
CHANGE ORDER REQUEST***

A. ADMINISTRATIVE:

1. Project Name: **SUSSEX COUNTY PUBLIC SAFETY BUILDING**
2. Sussex County Project No. C19-04
3. Change Order No. 13
4. Date Change Order Initiated - 5/17/22
5.
 - a. Original Contract Sum \$8,282,169.00
 - b. Net Change by Previous Change Orders \$ 260,140.66
 - c. Contract Sum Prior to Change Order \$8,542,309.66
 - d. Requested Change \$ \$16,711.84
 - e. Net Change (No. of days)
 - f. New Contract Amount \$8,559,021.50
6. Contact Person: Hans Medlarz, P.E.
Telephone No. (302) 855-7718

B. REASON FOR CHANGE ORDER (CHECK ONE)

- ☐ 1. Differing Site Conditions
- ☐ 2. Errors and Omissions in Construction Drawings and Specifications
- ☐ 3. Changes Instituted by Regulatory Requirements
- ☒ 4. Design Change
- ☐ 5. Overrun/Underrun in Quantity

- 6. Factors Affecting Time of Completion
- 7. Other (explain below):

C. BRIEF DESCRIPTION OF CHANGE ORDER:

Modify exterior stud wall framing and extend the drywall and batt insulation.

D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?

Yes X No

E. APPROVALS

1. Bancroft Construction Company, Contractor

Signature Date

Representative's Name in Block Letters

2. Sussex County Engineer

Signature Date

3. Sussex County Council President

Signature Date



PCO #013

Bancroft Construction
1300 N Grant Ave Ste 101
Wilmington, Delaware 19806
Phone: 302 655 3434

Project: CSED0001 - Public Safety Bldg. Addition
21911 Rudder Lane
Georgetown, Delaware 19947

DRAFT

Prime Contract Potential Change Order #013: CE #018 - RFI #16: all Changes

TO:	Sussex County Delaware 2 The Circle P.O. Box 589 Georgetown Delaware, 19947	FROM:	Bancroft Construction Company 1300 N. Grant Avenue Suite 101 Wilmington Delaware, 19806
PCO NUMBER/REVISION:	013 / 0	CONTRACT:	CSED001 - Public Safety Bldg. Addition Prime Contract
REQUEST RECEIVED FROM:		CREATED BY:	Cheryl Fearn (Bancroft Construction Company)
STATUS:	Draft	CREATED DATE:	5/9/2022
REFERENCE:		PRIME CONTRACT CHANGE ORDER:	None
FIELD CHANGE:	No		
LOCATION:		ACCOUNTING METHOD:	Amount Based
SCHEDULE IMPACT:		PAID IN FULL:	No
		TOTAL AMOUNT:	\$16,711.84

POTENTIAL CHANGE ORDER TITLE: CE #018 - RFI #16: all Changes

CHANGE REASON: Design Change

POTENTIAL CHANGE ORDER DESCRIPTION: (The Contract Is Changed As Follows)

CE #018 - RFI #16: Dimensions from Walls to Face of Metal

Per RFI #16 - Add 83' of wall per NEC CO #4 & extend drywall & batt in rooms 124, 125, 127, 129, 131, 133, 135 & 142 per NEC #5

ATTACHMENTS:

[Change Order 5.doc](#) [Change Order 4.doc](#)

#	Cost Code	Description	Type	Amount
1	09-250 - Gypsum Board	NEC CO #4	Subcontract	\$8,066.76
2	09-250 - Gypsum Board	NEC CO #5	Subcontract	\$6,941.30
Subtotal:				\$15,008.06
BCC GCs (5.00% Applies to all line item types.):				\$750.40
Bond (1.00% Applies to all line item types.):				\$157.58
Profit (5.00% Applies to all line item types.):				\$795.80
Grand Total:				\$16,711.84

Morgan Helfrich (George, Miles & Buhr, LLC)

400 High Street
Seaford Delaware 19973

Sussex County Delaware

2 The Circle P.O. Box 589
Georgetown Delaware 19947

Bancroft Construction Company

1300 N. Grant Avenue Suite 101
Wilmington Delaware 19806

SIGNATURE

DATE

SIGNATURE

DATE

SIGNATURE

DATE



NORTH EAST CONTRACTORS, INC.
Commercial • Residential • General Contracting

Change Order #4

Bancroft
Attn: Josh Callahan
Date: March 13, 2022

Project: Sussex County Public Safety Building
Drawings by: George, Miles & Buhr
Dated: 5/28/21

Reference: RFI 16

Added 83' of wall

Scope of Work	pieces	height	\$/unit	material \$	hours	rate	labor \$	subtotal
800S162-43	25	15	57.75	\$ 1,443.75	8	78.21	\$ 625.68	\$ 2,069.43
362S162-54	50	8	23.84	\$ 1,192.00	8	78.21	\$ 625.68	\$ 1,817.68
362T125-43	6	10	20.2	\$ 121.20	8	78.21	\$ 625.68	\$ 746.88
362T125-54	6	10	24.6	\$ 147.60	8	78.21	\$ 625.68	\$ 773.28
362S162-68	6	8	29.68	\$ 178.08	8	78.21	\$ 625.68	\$ 803.76
E687 Clips	50	1	2.95	\$ 147.50	8	78.21	\$ 625.68	\$ 773.18
subtotal								\$ 6,984.21
							subtotal	\$ 6,984.21
							10% overhead	\$ 698.42
							5% profit	\$ 384.13
							TOTAL	\$ 8,066.76

87 Blue Hen Drive • Newark, DE 19713
Phone (302)286-NECI(6324) • Fax (302)286-0566



NORTH EAST CONTRACTORS, INC.
Commercial • Residential • General Contracting

Change Order #5

Bancroft
Attn: Josh Callahan
Date: May 5, 2022

Project: Sussex County Public Safety Building
Drawings by: George, Miles & Buhr
Dated: 5/28/21

Reference: county request

extend drywall and batt in rooms 124, 125, 127, 129, 131, 133, 135, and 142

Scope of Work	length	height	sq/ft	\$/unit	material \$	hours	rate	labor \$	subtotal
R-11	150	4	600	0.37	\$ 222.00	12	78.21	\$ 938.52	\$ 1,160.52
Drywall	300	4	1200	0.48	\$ 576.00	38	78.21	\$ 2,971.98	\$ 3,547.98
Finishing	300	4	1200	0.1	\$ 120.00	16	73.83	\$ 1,181.28	\$ 1,301.28
subtotal									\$ 6,009.78
								subtotal	\$ 6,009.78
							10%	overhead	\$ 600.98
							5%	profit	\$ 330.54
								TOTAL	\$ 6,941.30

87 Blue Hen Drive • Newark, DE 19713
Phone (302)286-NECI(6324) • Fax (302)286-0566

ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

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

hans.medlarz@sussexcountysde.gov



Sussex County

DELAWARE
sussexcountysde.gov

Memorandum

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

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

RE: ***Pump Station No. 316 (Bay Ridge Woods Subdivision) - Abandonment***
A. Associated Easement Acquisition TP: 234-12.00-260.00
B. Construction Contract Award

DATE: May 17, 2022

Both the Bay Ridge Woods subdivision and the tax parcel underlying the Hailey's Glen development, were part of the original Angola Neck Sanitary Sewer District creation. The associated referendum was held on August 18, 2007, and County Council approved a Resolution declaring the district area on August 21, 2007. Therefore, the Hailey's Glen developers did not have to annex the parcel in the district, but they had to sign an Infrastructure Use Agreement valued at \$32,208.00 for 67 EDUs which was approved by Council on October 15, 2021.

The agreement further required the developers to construct the new pump station at a sufficient depth to serve Bay Ridge Woods and extend the gravity service to the Bay Ridge Woods boundary with the future intent to eliminate the Bay Ridge Woods station. The offsite wastewater redirection scope includes +/- 265 feet of gravity sewer extension through the property of Mr. & Mrs. DiFelice. The proposed sewer alignment falls outside of the building setbacks identical to a scenario in the Longneck Communities sewer extension project. The appraisal in that case was completed in April of 2022 and resulted in a \$4.08/sf value and an easement vs fee simple discount of 15%. In addition, to the appraised value the County either pays for trees removed at a standard rate or replaces them at a 3 to 1 ratio. We are proposing to apply the same principles in this case. The picture below depicts the existing conditions with numerous trees along the alignment. However, the DiFelices agreed to a limited monetary compensation not to exceed a number of sixteen (16) trees if the fee simple pump station plot is converted to an easement and incorporated into their property. The Engineering and Finance Departments are proceeding with the acquisition under these arrangements.



This extension must meet a specific, tightly controlled invert depth due to the upstream pump station tie-in. This type of work should only be performed by experienced contractors with a proven track record of deep sewer excavation. Corrado Construction Company has been working for and performed well on the deep gravity sewer work for Haley's Glen. Therefore, the Engineering Department requested a quotation for the offsite extension to the handshake point. In order to obtain competitive pricing, we solicited a second quotation from George & Lync, Inc. who has performed this type of work for the County before under the General Labor & Equipment Contract. The lump sum quotations were close with George & Lynch, Inc. providing the low offer of \$88,817.00. In addition, we requested contingent pricing in case dewatering will be required. Therefore, the Engineering Department recommends award of the wastewater interconnection in the lump sum amount of \$88,817.00 and the not to exceed amount for contingent dewatering of \$18,272.00 to George & Lynch, Inc.



- Pipe alignment is to the right of the string in the middle of the picture.



May 12, 2022

Ref: 22M014

Mr. Hans Medlarz
Sussex County Engineering Department
2 The Circle, P.O. Box 589
Georgetown, Delaware 19947

RE: Hailey's Glen to Bay Ridge Sewer Connection

Dear Mr. Medlarz,

George & Lynch, Inc. is pleased to provide our proposal of \$ 88,817.00 for the above referenced project. Our scope of work includes:

Scope of Work

1. Clearing a 25' wide path for the entire length of work by chainsaw with the branches chipped and left on site, trunks removed and stumps ground in place
2. Furnish and install approximately 270 LF of 8" SDR35 gravity sewer main
3. Core drill a 12" hole into existing pump station and tie into station with link seal

Contingent Items:

206	LF	Dewatering	\$ 18,272.00
-----	----	------------	--------------

Exclusions/Qualifications:

- The proposal is based on one mobilization. Additional mobilizations will require additional cost
- Native material will be utilized to backfill pipe trench. If imported material is required it can be provided for an additional fee
- Pump station abandonment is not included in this proposal
- All relocations of existing utilities by others
- Payment and performance bonds are not included
- All permitting is by others
- Any downtime delays to G&L's HDD crew will be billed on a time & material basis
- George & Lynch is a NON-Union contractor; any union requirements are to be met by others
- Prevailing wage rates are not included
- Terms-Net 30 days from date of invoice. A 1 ½ % per month service charge will be added to all unpaid balances after 45 days from date of invoice
- Start date will be mutually agreed upon by both companies
- Prices are valid for 60 days
- Retainage is not applicable

George & Lynch, Inc.
150 Lafferty Lane Dover, Delaware 19901
Phone: 302-736-3031 / Fax: 302-342-3160 / E-mail: mmegonigal@geolyn.com



Thank you for the opportunity to bid this project.

Sincerely,
GEORGE & LYNCH, INC.

Michael R. Megonigal
Process/Utilities Manager

C.C. File

Acceptance of Proposal – The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified.

Date of Acceptance: _____

Owners Representative
Signature: _____

Kaycee Widen

From: Kevin Rowe <KRowe@Corrado.com>
Sent: Tuesday, May 10, 2022 3:53 PM
To: Hans Medlarz
Cc: Keith Bryan; Greg Casenta; Jack Tucker; Active Jobs
Subject: RE: Hailey's Glen / Bay Ridge Sewer Connection
Attachments: BAY RIDGE SEWER CONNECTION 220510.pdf

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Hans,

See attached.

- We eliminated the manhole, it is assumed we can align SS-C2 for a straight run into the side of existing PS-316.
- We did not well point when running from B5 to C1 so for now we removed well pointing from the base bid but added additional money in general conditions for sump dewatering
- Clearing was revised to bucket truck / hand crews and stumps ground in place as needed.

Please let us know if you have any questions.

Thanks,

Kevin Rowe
Project Manager



Corrado Construction Company
302-669-6049 direct
302-383-8527 cell
302-652-2239 fax
www.corradoconstruction.com

From: Hans Medlarz <hans.medlarz@sussexcountysde.gov>
Sent: Tuesday, May 10, 2022 1:26 PM
To: Kevin Rowe <KRowe@Corrado.com>
Cc: Keith Bryan <kbryan@sussexcountysde.gov>; Greg Casenta <GCasenta@Corrado.com>; Jack Tucker <jack.tucker@schellbrothers.com>; Active Jobs <ActiveJobs@Corrado.com>
Subject: RE: Hailey's Glen / Bay Ridge Sewer Connection

Kevin, do you have the updated proposal ready. I will need it by COB Thursday. Thanks, Hans

From: Kevin Rowe <KRowe@Corrado.com>
Sent: Thursday, May 5, 2022 7:22 AM
To: Hans Medlarz <hans.medlarz@sussexcountysde.gov>

Cc: Keith Bryan <kbryan@sussexcountyde.gov>; Greg Casenta <GCasenta@Corrado.com>; Jack Tucker <jack.tucker@schellbrothers.com>; Active Jobs <ActiveJobs@Corrado.com>
Subject: RE: Hailey's Glen / Bay Ridge Sewer Connection

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Hans,

Appreciate the additional information. I will have Greg adjust and we should have a final proposal to you by end of business tomorrow.

Thanks,

Kevin Rowe
Project Manager



Corrado Construction Company
302-669-6049 direct
302-383-8527 cell
302-652-2239 fax
www.corradoconstruction.com

From: Hans Medlarz <hans.medlarz@sussexcountyde.gov>
Sent: Thursday, May 5, 2022 7:15 AM
To: Kevin Rowe <KRowe@Corrado.com>
Cc: Keith Bryan <kbryan@sussexcountyde.gov>; Greg Casenta <GCasenta@Corrado.com>; Active Jobs <ActiveJobs@Corrado.com>; Jack Tucker <jack.tucker@schellbrothers.com>
Subject: RE: Hailey's Glen / Bay Ridge Sewer Connection

Some people who received this message don't often get email from hans.medlarz@sussexcountyde.gov. [Learn why this is important](#)

Greetings Kevin:

Jack Tucker and I met with the Owners and we have a general agreement. Below you will see a picture representing conditions of the route for the +/-270LF sewer extension. Hard clearing is limited to 20-feet with some limited clearing along the +/-2-3 feet of the route edges. It must be conducted by chainsaw, branches to be chipped and left on site, trunks to be removed and stumps to be ground in place prior to excavation. Minimal compaction required simply leave backfill high and allow natural settlement over time.

Looking forward to your final proposal.

Regards, Hans

Hans M. Medlarz, P.E.
Sussex County Engineer
2 The Circle | PO Box 589
Georgetown, DE 19947
hans.medlarz@sussexcountype.gov
(302) 855-7728



From: Hans Medlarz
Sent: Friday, April 29, 2022 4:32 PM
To: Kevin Rowe <KRowe@Corrado.com>
Cc: Keith Bryan <kbryan@sussexcountype.gov>; Greg Casenta <GCasenta@Corrado.com>; Active Jobs <ActiveJobs@Corrado.com>
Subject: RE: Hailey's Glen / Bay Ridge Sewer Connection

Greetings Kevin, good talking to you.

Please change the dewatering to a lump sum and the clearing to 25 feet wide. You will have access from the other side through the County pump station access lane. Please resubmit accordingly.

We will also price this out through our General Labor & Equipment contract. If the easement can be secured we plan to award on 5/17.

Have a great weekend.

Hans

Hans M. Medlarz, P.E.
Sussex County Engineer
2 The Circle | PO Box 589
Georgetown, DE 19947
hans.medlarz@sussexcountype.gov
(302) 855-7728

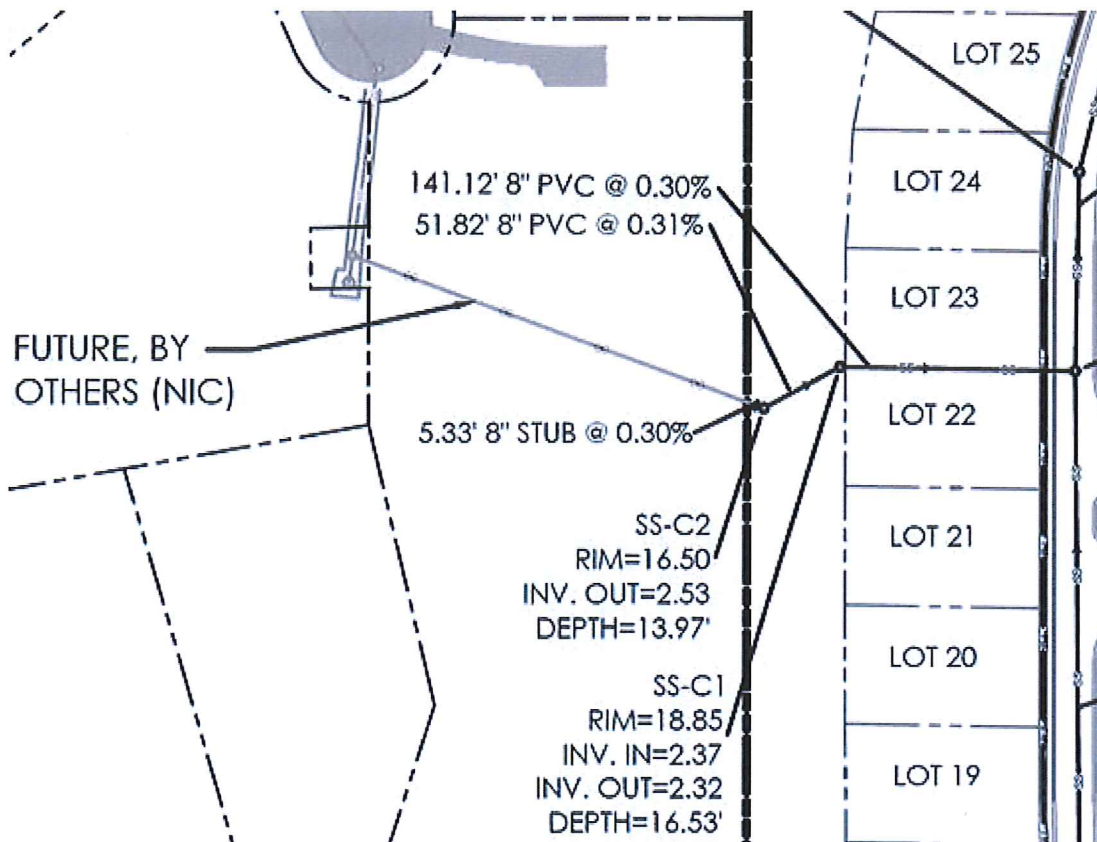
From: Kevin Rowe <KRowe@Corrado.com>
Sent: Thursday, April 28, 2022 12:09 PM
To: Hans Medlarz <hans.medlarz@sussexcountype.gov>
Cc: Keith Bryan <kbryan@sussexcountype.gov>; Greg Casenta <GCasenta@Corrado.com>; Active Jobs <ActiveJobs@Corrado.com>
Subject: Hailey's Glen / Bay Ridge Sewer Connection

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Hans/Keith,

Attached is pricing for the offsite connection from Hailey's Glen manhole SS-C2 to the existing pump station at Bay Ridge Woods. We had to make a few assumptions but if you'd like to discuss further were open for a meeting to discuss options. I understand there are some concerns with the neighbors, trees, and easement for the work. For now we have assumed clearing 50' wide for the entire length of the work.

We stopped the gravity sewer at SS-C1 per your request. We are targeting an early June pave date for phase 2 of Hailey's and should be on track for a July/August startup of the pump station with the exception of the generator. Just wanted to give you a heads up to see how this work will fall in line. Obviously it would need to be completed before Schell begins building on lots 22 & 23.



Thanks,

Kevin Rowe
Project Manager

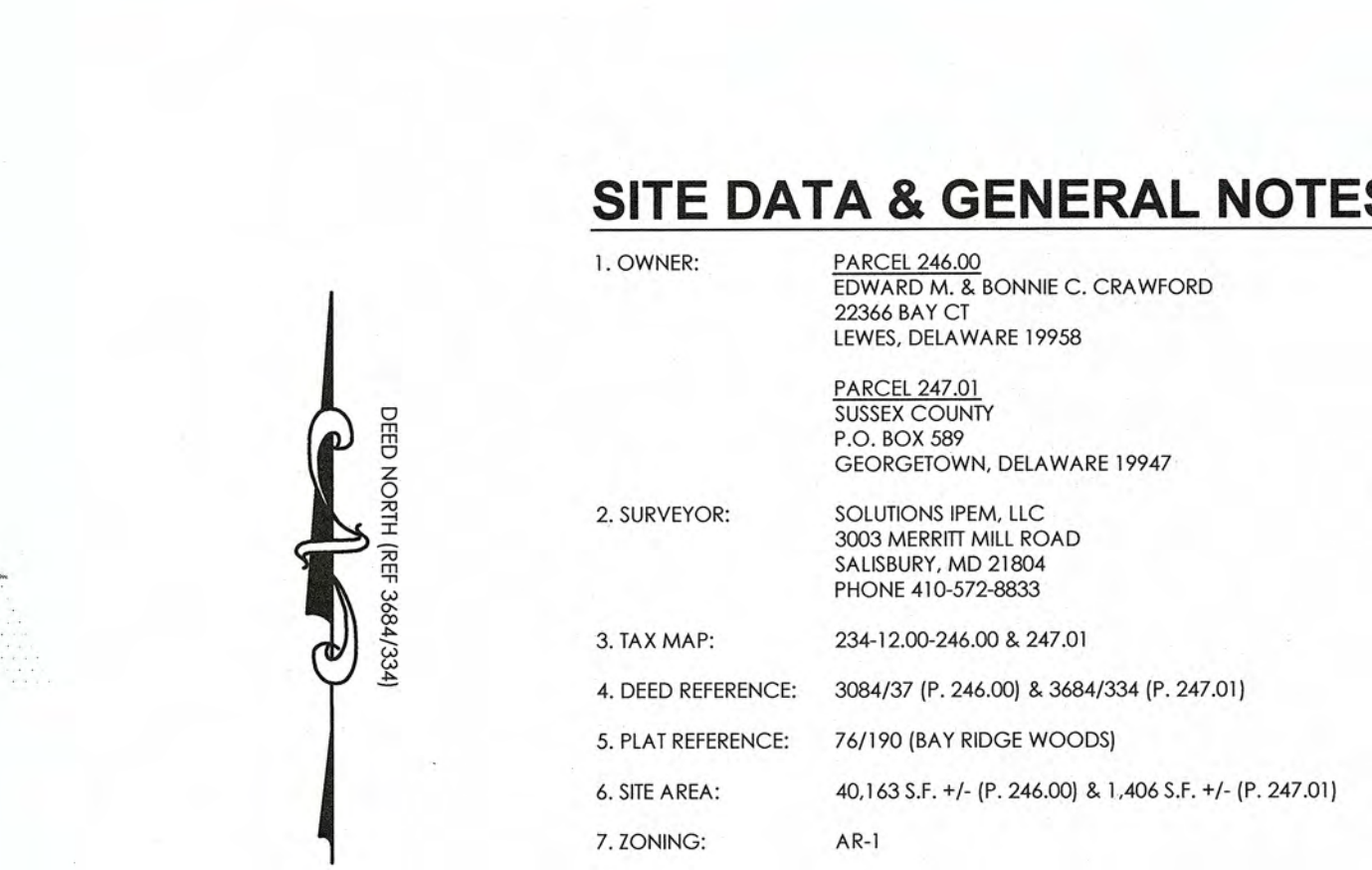


Corrado Construction Company
302-669-6049 direct
302-383-8527 cell
302-652-2239 fax
www.corradoconstruction.com

BAY RIDGE / HAILEY'S SEWER CONNECTION

05/10/2022 3:13 PM

Biditem	Description	Quantity	Units	Unit Price	Bid Total
1000	GENERAL CONDITIONS / LAYOUT/ PUMPING FOR DEWATER	1.000	LS	14,250.00	14,250.00
2000	CLEARING BUDGET 25' WIDE X 260' LONG HAND	1.000	LS	20,650.00	20,650.00
4000	TIE INTO EXISTING WET WELL	1.000	LS	9,950.00	9,950.00
5000	8" SDR26	266.000	LF	215.00	57,190.00
5400	TESTING	266.000	LF	4.50	1,197.00
5500	RESTORATION OF GRASS AREAS	1.000	LS	1,600.00	1,600.00
	BASE BID				\$104,837.00
10000	WELL POINTING MIN CHARGE IF NEEDED	266.000	LF	78.00	20,748.00
	Bid Total				\$125,585.00



1. OWNER: BARCEL 244 00


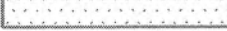

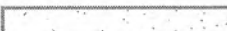








1. OWNER:
FR 246.00
EDWARD M. & BONNIE C. CRAWFORD
22366 BAY CT
LEWES, DELAWARE 19958
- PARCEL 247.01
SUSSEX COUNTY
P.O. BOX 589
GEORGETOWN, DELAWARE 19947
2. SURVEYOR: SOLUTIONS IPEM, LLC
3003 MERRITT MILL ROAD
SALISBURY, MD 21804
PHONE 410-572-8833
3. TAX MAP: 234-12.00-246.00 & 247.01
4. DEED REFERENCE: 3084/37 (P. 246.00) & 3684/334 (P. 247.01)
5. PLAT REFERENCE: 76/190 (BAY RIDGE WOODS)
6. SITE AREA: 40,163 S.F. +/- (P. 246.00) & 1,406 S.F. +/- (P. 247.01)
7. ZONING: AR-1
8. PROPERTY IS LOCATED WITHIN FLOOD ZONE X (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) BASE FLOOD ELEVATIONS DETERMINED, PER FIRM MAP NUMBER 10005C0341K, MAP EFFECTIVE DATE 3/16/2015.
9. OTHER THAN SHOWN, THIS SURVEY DOES NOT VERIFY THE EXISTENCE OR NON-EXISTENCE OF RIGHTS-OF-WAYS OR EASEMENT.
10. HORIZONTAL DATUM IS BASED ON DEED NORTH 3684/334 AND VERTICAL DATUM IS REFERENCED TO NAVD 88 BY DICARLO GPS NETWORK.

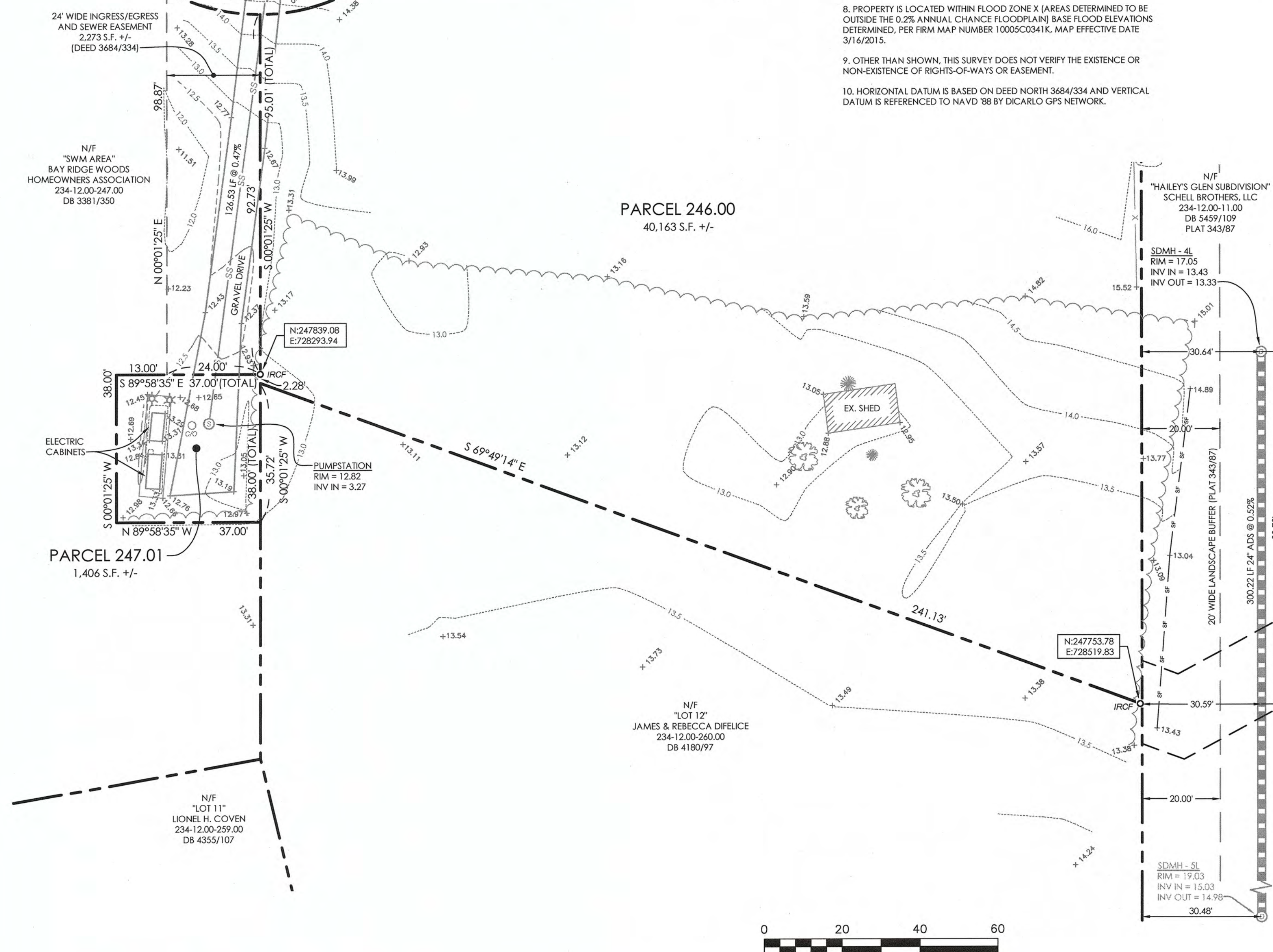


SCALE: 1" = 2 000' +/-

SCALE: 1 = 2,000 ft.

Y LINE ————

- | | |
|----------------------|--|
| EASEMENT LINE | — |
| IRON ROD & CAP FOUND | ○ IRCF |
| MAG NAIL SET | ● NS |
| BENCH MARK | BM  |
| SPOT ELEV. LABEL | +19.25 |
| MAJOR CONTOUR | ---- |
| MINOR CONTOUR | ----- |
| PAVEMENT |  |
| CONCRETE |  |
| GRAVEL |  |
| BUILDING OUTLINE | ===== |
| BUILDING HATCH |  |
| FENCE LINE | — X — |
| STORM MANHOLE |  |
| STORM PIPE |  |
| SANITARY MANHOLE |  |
| SANITARY PIPE | — SS — |
| LIGHT POLE |  |
| DECIDUOUS TREE |  |
| CONIFEROUS TREE |  |
| TREE LINE |  |
| SILT FENCE | — SF — SF — |



THIS PLAT AND SURVEY WERE PERFORMED UNDER MY SUPERVISION,
TO THE LOCAL STANDARD OF CARE, AND SUBSTANTIALLY MEET THE
"MINIMUM STANDARDS FOR THE PRACTICE OF LAND SURVEYING"
AS PROMULGATED BY THE BOARD OF REGISTRATION FOR
PROFESSIONAL LAND SURVEYORS FOR A SUBURBAN CLASS
SURVEY.

SOLUTIONS INTEGRATED PLANNING
ENGINEERING & MANAGEMENT, INC.
by STEVEN W. FULLER, AGENT



 1/14/2022

STEVEN W. FULLER,
PROFESSIONAL LAND SURVEYOR
DELAWARE NO. 823

DATE

[illegible]

BOUNDARY & TOPOGRAPHIC SURVEY PLAN
OF THE LANDS OF
SUSSEX COUNTY (PARCEL 247.01)
EDWARD M. & BONNIE C.
CRAWFORD (PARCEL 261.00)
SUSSEX COUNTY, DELAWARE
INDIAN RIVER HUNDRED

Date:	1/13/22
Job Number:	G21122
Scale:	1" = 20'
Drawn By:	MRB
Checked By:	SWF
Approved By:	SWF

Sheet No.:

File Name:
21057-County-Topo-12-7-21.dwg

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 Estuary Phase 4 Expansion **of the Sussex County Unified Sanitary Sewer District**

PERMISSION TO POST FACT SHEET

- Expansion of the Sussex County Unified Sanitary Sewer District (Miller Creek Area)
- The Engineering Department has received a request from GMB, LLC on behalf of their client Estuary Development, LLC the owners/developers of a project to be known as Estuary Phase 4.
- The request includes parcels 134-21.00-10.00, 10.01, 11.00 & 11.12 however parcel 134-21.00-11.00 is already in the district.
- The project is proposed at 115 single family homes.
- The project will be responsible for System Connection Charges of \$6,600.00 per EDU based on current rates.
- The Engineering Department would like to request permission to prepare and post notices for a Public Hearing on the annexation of the area.
- A tentative Public Hearing is currently scheduled for June 28, 2022 at the regular County Council meeting.



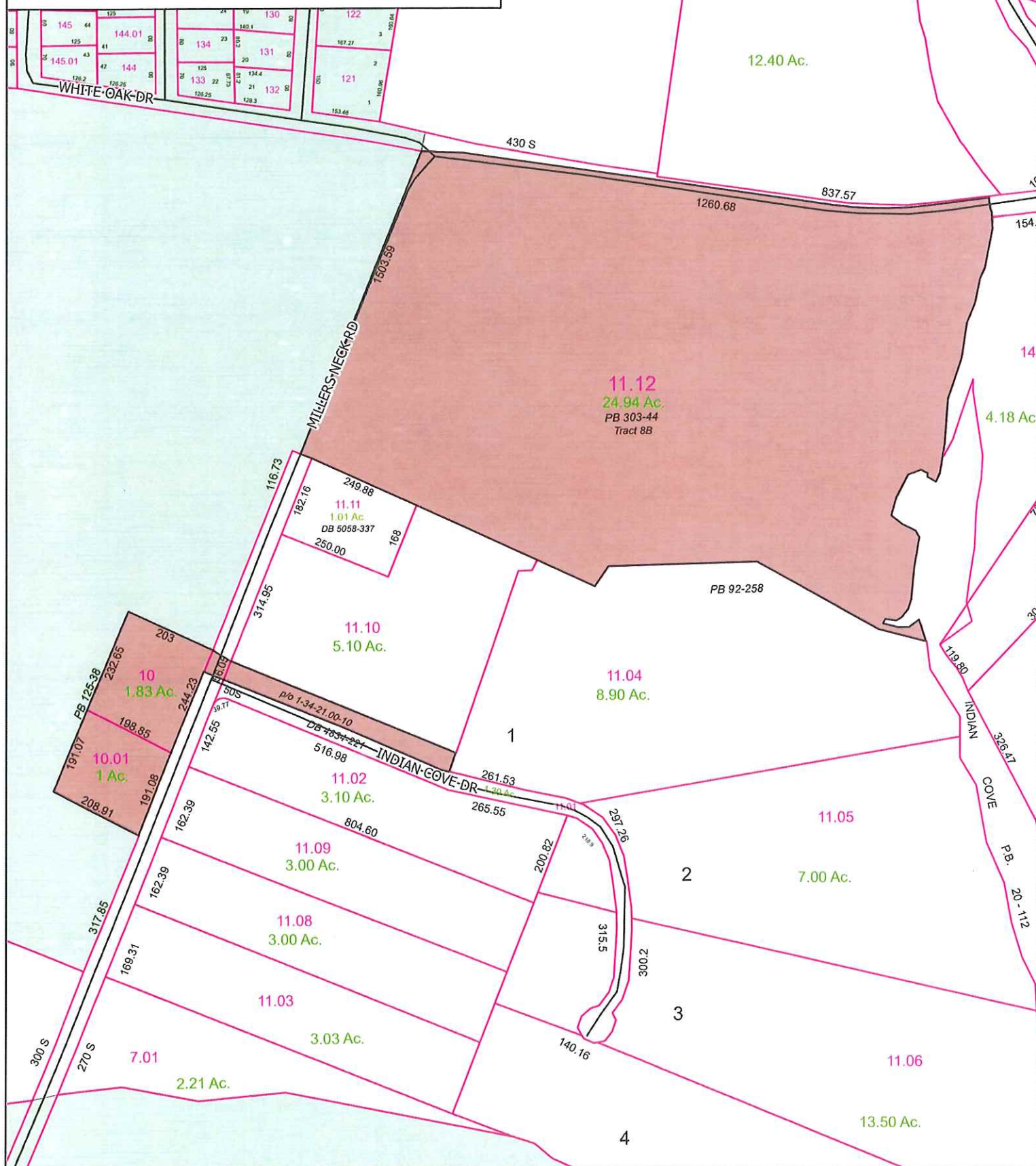
 Parcels of Interest Existing SSD



A horizontal number line with tick marks at 0, 90, 180, and 360. The word "Feet" is written at the right end. The segment between 90 and 180 is shaded gray.



12/17/2021





GEORGE, MILES & BUHR, LLC

■ ■ ■ ■

ARCHITECTS
ENGINEERS

206 WEST MAIN STREET
SALISBURY, MD 21801

PH: 410.742.3115

PH: 800.789.4462

FAX: 410.548.5790

SALISBURY
BALTIMORE
SEAFORD

www.gmbnet.com

■ ■ ■ ■

December 2, 2021

Sussex County Engineering Department
Utility Planning
Sussex County Administrative
Office Building, 3rd Floor
2 The Circle, P.O. Box 589
Georgetown, DE 19947

Attn: Mr. John Ashman

Re: Estuary Phase 4
Agreement # 638-35
Tax Map Parcel Number: 134-21.00-10.00, 10.01, ~~11.00~~ & 11.12
Sewer System Extension Request
GMB Job No. 140049.F

Already in DISTRICT

Dear Mr. Ashman:

Please accept this letter and fee (\$1,500 based on 144.31 acres) as our request for the above reference parcel to be annexed into the Sussex County Unified Sanitary Sewer District.

This phase of the Estuary will consist of 115 single family homes.

If you should have any questions, please feel free to contact me at 410-742-3115.

Sincerely,

Christopher J. Pfeifer, P.E.
Project Manager

Enclosure

JAMES H. WILLEY, JR., P.E.
PETER A. BOZICK, JR., P.E.
JUDY A. SCHWARTZ, P.E.
CHARLES M. O'DONNELL, III, P.E.
W. BRICE FOXWELL, P.E.
A. REGGIE MARINER, JR., P.E.
JAMES C. HOAGESON, P.E.
STEPHEN L. MARSH, P.E.
DAVID A. VANDERBEEK, P.E.
ROLAND E. HOLLAND, P.E.
JASON M. LYTLE, P.E.
CHRIS B. DERBYSHIRE, P.E.
W. MARK GARDOCKY, P.E.
MORGAN H. HELFRICH, AIA
KATHERINE J. MCALLISTER, P.E.
ANDREW J. LYONS, JR., P.E.

JOHN E. BURNSWORTH, P.E.
VINCENT A. LUCIANI, P.E.
AUTUMN J. WILLIS
CHRISTOPHER J. PFEIFER, P.E.

AN ORDINANCE TO AMEND CHAPTER 99, SECTIONS 99-5, 99-6, 99-7, 99-23, 99-24, 99-26, AND 99-30, AND CHAPTER 115 SECTIONS 115-4, 115-25, 115-193, 115-220 AND 115-221 REGARDING CERTAIN DRAINAGE FEATURES, WETLAND AND WATER RESOURCES AND THE BUFFERS THERETO.

WHEREAS, Pursuant to the provisions of Title 9, Chapters 68 and 69 of the Delaware Code, the Sussex County Government has the power and authority to regulate the use of land and to adopt a Comprehensive Land Use Plan; and

WHEREAS, Pursuant to Chapters 99 and 115 of the Code of Sussex County, the Sussex County Government has undertaken to regulate the use of land; and

WHEREAS, the existing Section 115-193 of the Code of Sussex County currently regulates the use of land adjacent to certain wetlands and water bodies; and

WHEREAS, the existing Section 115-193 of the Code of Sussex County is in need of improvement regarding its interpretation, application and protection of Resources; and

WHEREAS, certain Resources are in need of substantial enhancements to ensure that Sussex County's drainage network is improved now and maintained in the future; and

WHEREAS, the 2019 Sussex County Comprehensive Plan contemplates the review and improvement of the protection of wetlands and waterways in Sussex County; and

WHEREAS, Goal 4.3 and Objective 4.3.1 of the Future Land Use Element of the 2019 Sussex County Comprehensive Plan states that Sussex County should "Consider strategies for preserving environmental areas from development and the protection of wetlands and waterways", and this Ordinance carries out that Objective; and

WHEREAS, Goal 4.6 and Strategy 4.6.2 of the Future Land Use Element of the 2019 Sussex County Comprehensive Plan states that Sussex County should "Recognize the Inland Bays, their tributaries and other waterbodies as valuable open space areas of ecological importance", and this Ordinance carries out that Strategy; and

WHEREAS, Goal 5.1 of the Conservation Element of the 2019 Sussex County Comprehensive Plan states that Sussex County should “Encourage development practices and regulations that support natural resource protection”, and this Ordinance carries out that Goal; and

WHEREAS, Strategy 5.1.2.2 of the Conservation Element of the 2019 Sussex County Comprehensive Plan states that Sussex County should “Review appropriate sections of Sussex County’s zoning and subdivision codes to determine if amendments are needed that will better help protect groundwater, waterways, sensitive habitat areas and other critical natural lands in Sussex County”, and this Ordinance carries out that Strategy; and

WHEREAS, Goal 5.3 of the Conservation Element of the 2019 Sussex County Comprehensive Plan calls for the protection of the natural functions and quality of the County’s surface waters, groundwater, wetlands and floodplains, and as part of that Goal, the Plan includes Strategies 5.3.1.1, 5.3.1.2 and 5.3.1.6, which respectively state that Sussex County should “Consider developing a program for wetlands and waterways protection”, “Identify an appropriate range of wetlands buffer distances based upon location and context”, and “Recognize the Inland Bays, their tributaries and other waterbodies as valuable open space areas of ecological and economic importance”, and this Ordinance carries out these Goals and Strategies; and

WHEREAS, in adopting this Ordinance, it is the intent of Sussex County Council to balance the protection of land equity with the protection of the Resources defined in the Ordinance and their associated functions; and

WHEREAS, in adopting this Ordinance, it is the intent of Sussex County to establish a framework under which future property owners and Owners Associations will maintain the Resources, Resource Buffers, the properties they are on or adjacent to, and the systems that they are a part of in the future and to ensure the ongoing positive conveyance of drainage features; and

WHEREAS, it has been determined that this Ordinance promotes and protects the health, safety, convenience, orderly growth and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Code of Sussex County, Chapter 99, Article I, §99-5 “Definitions,” is hereby amended by inserting the italicized and underlined language alphabetically:

§99-5 Definitions.

For purposes of this Chapter, certain terms and words are hereby defined:

...

EPHEMERAL STREAMS

A feature, excluding laterals draining agricultural fields, that carries only runoff in direct response to precipitation with water flowing only during and shortly after large precipitation events. An Ephemeral Stream may or may not have a well-defined channel, its aquatic bed is always above the water table during a year of normal rainfall, and runoff is its primary source of water. An Ephemeral Stream typically lacks the biological, hydrological, and physical characteristics commonly associated with the continuous or intermittent conveyance of water.

...

INTERMITTENT STREAMS

A well-defined channel, excluding laterals draining agricultural fields, that contains flowing water for only part of the year, typically during winter and spring when the aquatic bed is below the water table, connecting otherwise isolated Non-Tidal Wetlands to downstream Tidal/Perennial Waters/Streams. The flow may be heavily supplemented by runoff. An Intermittent Stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water.

...

MAJOR SUBDIVISION

Any subdivision of land creating six or more new Lots [involving a proposed new street or the extension of an existing street].

...

MINOR SUBDIVISION

Any subdivision creating five or less Lots [fronting on an existing street and not involving any new street] and not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with any provisions or portion of the County Comprehensive Plan, Official Map, Zoning Ordinance, or this chapter. Only one such subdivision shall be approved per year per parcel. The maximum number of lots created in the minor subdivision process shall not exceed four plus one for each 10 acres of original parcel size.

...

NON-TIDAL WETLANDS

Non-Tidal Wetlands are those wetlands, not classified by this Chapter as Tidal Wetlands, which lie contiguous or abutting to Tidal Waters, Tidal Wetlands, Perennial Streams or those Intermittent Streams providing a surface water connection between adjacent Wetlands and ultimately downstream navigable waters. Non-Tidal Wetlands also include those Wetlands only separated from otherwise contiguous or abutting Wetlands by constructed dikes, barriers, culverts, natural river berms and beach dunes.

...

ORDINARY HIGH WATER MARK DELINEATION

The boundary of Perennial Non-Tidal Rivers or Streams, Intermittent Streams or Ephemeral Streams shall be defined by the Ordinary High Water Mark. Ordinary High Water Mark means the line on a shore or bank established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of

terrestrial vegetation, the presence of litter and debris, or other similar physical characteristics indicating the frequent presence of flowing water.

...

PERENNIAL NON-TIDAL RIVERS AND STREAMS

A well-defined channel that contains flowing water year-round during a year of normal rainfall with the aquatic bed located below the water table for most of the year and which is not subject to tidal influence. Groundwater is the primary source of water for a Perennial Stream, but it also carries runoff. A Perennial Stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

...

RESOURCE BUFFER - WETLANDS AND WATERS

A managed area between residential land uses and Resources that is not subdividable once established, with the exception of a subdivision boundary resulting from an approved phase. Resource Buffers function to:

- Protect the Resources and their associated functions.
- Improve/protect water quality via sediment filtration, reduce impact of nutrient loading on Resources, moderate water temperature, and enhance infiltration and stabilization of channel banks.
- Provide wildlife habitat via nesting, breeding, and feeding opportunities; provide sanctuary/refuge during high water events; protect critical water's edge habitat; and protect rare, threatened, and endangered species associated with each Resource and its upland edge.
- Enhance and/or maintain the flood plain storage functionality via reduction of flood conveyance velocities as well as dissipation of stormwater discharge energy.

...

RESOURCES

Those Wetlands and waters to be provided with a Resource Buffer due to their importance to Sussex County. These Resources include Tidal Waters, Tidal Wetlands, Non-Tidal Wetlands, Perennial Streams, and those Intermittent Streams providing a surface water connection between Wetlands.

...

TAX DITCH

A Tax Ditch is a drainage channel or conveyance and the corresponding right-of-way established and/or formed in accordance with Title 7, Chapter 41 of the Delaware Code, and approved by a “ditch order” entered by the Superior Court of the State of Delaware and County of Sussex.

...

TIDAL WATERS (MEAN HIGH-WATER LINE)

Those waters occurring below the mean high-water line of any tidal water body, tidal stream, or tidal marsh, which is defined as the average height of all the high-tide water recorded over a nineteen-year period as defined by the National Oceanic and Atmospheric Administration.

...

TIDAL WETLANDS

Areas under the jurisdiction of Title 7, Chapter 66 of the Delaware Code, as regulated and mapped by the Department of Natural Resources and Environmental Control.

...

WATER DEPENDENT ACTIVITIES

Activities that are approved through federal and state permit programs that meet the definition of water dependent activities included in those programs. Water-

dependent uses are uses that can only be conducted on, in, over, or adjacent to the water; each involves, as an integral part of the use, direct access to and use of the water. Examples include marinas, boat ramps/launches, docks, piers, water intakes, aquatic habitat restoration, and similar uses.

...

WATER RELATED ACTIVITIES

Water Related Activities are those considered ancillary to and supporting permitted Water Dependent Activities completed on adjacent uplands. Examples include utility connections, limited points of access, loading/unloading areas, and similar uses.

...

WETLANDS

Wetlands are areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Agricultural land consisting of "Prior Converted Croplands" as defined by the National Food Security Act Manual (August 1988), are not wetlands. The procedure for delineating the boundary of all wetlands, except for Tidal Wetlands as defined by this ordinance, shall be the methodology provided in the Corps of Engineers Wetland Delineation Manual (January 1987) and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (November 2010).

Section 2. The Code of Sussex County, Chapter 99, Article I, §99-6 "General Requirements and Restrictions", is hereby amended by deleting the language in brackets and inserting the italicized and underlined language in existing subsections **H and J. and as a new subsection **K.** thereof as follows:**

§99-6 General Requirements and Restrictions.

...

H. When land being subdivided contains wetlands, either state or federal, or a Resource with Resource Buffers, the recorded restrictive covenants or declaration for the subdivision and the deeds to the lots to be conveyed [, containing wetlands] shall include a disclosure statement that reads “This site contains regulated wetlands or a Resource with Resource Buffers governed by the Sussex County Zoning and Subdivision Codes. Activities within these wetlands may require a permit from the U.S. Army Corps of Engineers and/or the State of Delaware. Disturbance of a Resource or Resource Buffer may be a violation of the Sussex County Zoning and Subdivision Codes, for which penalties and other remedies may be imposed by Sussex County.

...

J. A forested and/or landscape buffer, as defined in § 99-5, Subsections A through J must be depicted on the preliminary and final plot plans for each major subdivision of lands [into four or more lots] and must be established in accordance with all the requirements of the definition of "forested and/or landscaped buffer strip," Subsections A through J in § 99-5.

...

K. Resources and Resource Buffers, as defined in § 99-5 must be depicted on the preliminary and final plot plans for each major subdivision of lands and must comply with the requirements of §115-193.

Section 3. The Code of Sussex County, Chapter 99, Article II, §99-7 “Preliminary Conference”, is hereby amended by deleting the language in brackets in subsection C. thereof as follows:

§99-7 Preliminary Conference.

...

C. If the Director determines that the proposed subdivision represents a minor subdivision of a parcel, existing as of the effective date of this amended provision, on a street other than a major arterial roadway, and if the Director determines that

review by the Commission is not necessary or desirable, he may waive the requirement of preparing a preliminary plat and may authorize the preparation of a record plat for purposes of recordation. He may, however, request review assistance from other concerned agencies prior to authorizing preparation of the plat. Lots in any minor subdivision plat approved by the Director, without review by the Commission, shall have a minimum area of 3/4 of an acre and a minimum width of 150 feet and shall utilize entrances as approved by the Delaware Department of Transportation. [Such a minor subdivision shall be limited to four lots per parcel, as well as one additional lot for each 10 acres of parcel size, with a maximum of four subdivided lots approved for recordation per calendar year.]

Section 4. The Code of Sussex County, Chapter 99, Article IV, §99-23 “Information to Be Shown”, is hereby amended by inserting the italicized and underlined language as a new subsection T. thereof:

§99-23 Information to Be Shown.

The preliminary plat shall be drawn in a clear and legible manner and shall show the following information”

...

T. The location of all Water and Wetland Resources and their Resource Buffers.

(1) The boundary and type of any Non-Tidal/Tidal Wetland or water resources (Tidal, Perennial, Intermittent) which require a Resource Buffer. The boundary will be shown per methods identified in the definitions of Wetlands and Ordinary High Water Line Delineation.

(2) All existing (i.e., at the time of application) natural forest, managed forest and non-forest meadow within the future Resource Buffer shall be identified.

(3) The area limits of the required Resource Buffers.

(4) Calculations supporting Resource Buffer width averaging (§115-193B).

(5) Calculations supporting Resource Buffer enhancement calculations and corresponding Forested and/or Landscaped Buffer reductions, if applicable (§115-193F).

(6) Proposed access easement layout for access to Resource Buffers and the adjacent Resources with a note that such access easements are “public access

easements for maintenance purposes”. For purposes of this requirement, “public” shall mean, and be limited to, those parties requiring access for maintenance purposes.

(7) A reference by title, author and date, to the “Drainage Assessment Report” required by Section 115-193.F.2.

(8) Any walking trails, including the method of construction and the materials used to establish the trails.

Section 5. The Code of Sussex County, Chapter 99, Article IV, §99-24 “Supporting Statements”, is hereby amended by inserting the italicized and underlined language as a new subsection G thereof:

§99-24 Supporting Statements

The preliminary plat shall be accompanied by the following written and signed statements in support of the subdivision's application for tentative approval:

...

G. A Resource and Resource Buffer Management Plan that describes measures for managing the Resource and Resource Buffer(s) required pursuant to Chapter 115, Article XXV, Section 115-193 on the site. The Resource and Resource Buffer Management Plan shall be included as part of the recorded declaration for the subdivision.

Section 6. The Code of Sussex County, Chapter 99, Article V, §99-26, “Information to Be Shown”, is hereby amended by inserting the italicized and underlined language as a new subsection A.(21) and C thereof:

§99-26 Information to Be Shown.

A. The final plat shall be legibly and accurately drawn and show the following information:

...

(21) The location of all Resource Buffers.

(a) The boundary and type of any Non-Tidal/Tidal Wetland or water resources (Tidal, Perennial, Intermittent) which require a Resource Buffer. The boundary will be shown per methods identified in the definitions of Wetlands and Ordinary High Water Line Delineation. *In addition, the boundary shall marked on the site itself with permanent markers and signage, with the location and type of signage depicted on the final plat.*

(b) All existing (i.e., at the time of application) natural forest, managed forest and non-forest meadow within the future Resource Buffer shall be identified.

(c) The area limits of the required Resource Buffer.

(d) Calculations supporting Resource Buffer width averaging (§115-193B).

(e) Calculations supporting Resource Buffer enhancement calculations and corresponding Forested and/or Landscaped Buffer reductions, if applicable (§155-193F).

(f) Proposed access easement layout for access to Resource Buffers and the adjacent Resources with a note that such access easements are “public access easements for maintenance purposes”. For purposes of this requirement, “public” shall mean, and be limited to, those parties requiring access for maintenance purposes.

(g) A statement incorporating the Resource and Resource Management and Maintenance Plan by reference.

(h) A reference by title, author and date, to the “Drainage Assessment Report” required by Section 115-193.F.2.

(i) That disturbance of the Resource Buffers on the site may result in penalties imposed pursuant to Section 115-193.K of the Sussex County Zoning Code.

(22) Any walking trails, including method of construction and the materials used to establish the trails.

...

C. An AutoCAD drawing file containing all items required in Section A above shall be submitted in electronic format. The data shall be referenced in NAD 1983 StatePlane Delaware FIPS 0700 (U.S. Feet) Projected Coordinate System.

Section 7. The Code of Sussex County, Chapter 99, Article VI, §99-30, “Plans”, is hereby amended by inserting the italicized and underlined language as a new subsection J. and K. thereof:

§99-30 Plans.

Plans, profiles and specifications for the required improvements shall be prepared by the subdivider and submitted for approval by the appropriate public authorities prior to construction. No construction shall commence prior to the issuance of a notice to proceed by the County Engineer or his or her designee for the required improvements. All plans, profiles and specifications approved by the County Engineer or his or her designee with the issuance of a notice to proceed shall remain valid or, if substantial construction is not actively and continuously underway, they shall expire upon the expiration of the final site plan. Prior to the issuance of a notice to proceed, the County Engineer may require the owner and/or his designee to execute an agreement addressing the required improvements. The plans and profiles submitted for all new construction shall include the following:

...

J. Resources and Resource Buffers.

K. Proposed access easement layout with a note that such access easements are “public access easements for maintenance purposes”. For purposes of this requirement, “public” shall mean, and be limited to, those parties requiring access for maintenance purposes.

Section 8. The Code of Sussex County, Chapter 115, Article I, §115-4 “Definitions and Word Usage,” is hereby amended by inserting the italicized and underlined language alphabetically in Subsection B thereof:

§115-4 Definitions and Word Usage.

....

B. General definitions. For the purpose of this chapter, certain terms and words are hereby defined as follows:

...

EPHEMERAL STREAMS

A feature, excluding laterals draining agricultural fields, that carries only runoff in direct response to precipitation with water flowing only during and shortly after large precipitation events. An Ephemeral Stream may or may not have a well-defined channel, its aquatic bed is always above the water table during a year of normal rainfall, and runoff is its primary source of water. An Ephemeral Stream typically lacks the biological, hydrological, and physical characteristics commonly associated with the continuous or intermittent conveyance of water.

...

INTERMITTENT STREAMS

A well-defined channel, excluding laterals draining agricultural fields, that contains flowing water for only part of the year, typically during winter and spring when the aquatic bed is below the water table, connecting otherwise isolated Non-tidal Wetlands to downstream Tidal/Perennial Waters/Streams. The flow may be heavily supplemented by runoff. An Intermittent Stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water.

...

NON-TIDAL WETLANDS

Non-Tidal Wetlands are those Wetlands, not classified by this Chapter as Tidal Wetlands, which lie contiguous or abutting to Tidal Waters, Tidal Wetlands, Perennial Streams or those Intermittent Streams providing a surface water connection between adjacent Wetlands and ultimately downstream navigable waters. Non-Tidal Wetlands also include those Wetlands only separated from otherwise contiguous or abutting Wetlands by constructed dikes, barriers, culverts, natural river berms and beach dunes.

...

ORDINARY HIGH WATER MARK DELINEATION

The boundary of Perennial Non-Tidal Rivers or Streams, Intermittent Streams or Ephemeral Streams shall be defined by the Ordinary High Water Mark. Ordinary High Water Mark means the line on a shore or bank established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other similar physical characteristics indicating the frequent presence of flowing water.

PERENNIAL NON-TIDAL RIVERS AND STREAMS

A well-defined channel that contains flowing water year-round during a year of normal rainfall with the aquatic bed located below the water table for most of the year and which is not subject to tidal influence. Groundwater is the primary source of water for a perennial stream, but it also carries runoff. A Perennial Stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

RESOURCE BUFFER - WETLANDS AND WATERS

A managed area between residential land uses and Resources that is not subdividable once established, with the exception of a subdivision boundary resulting from an approved phase. Resource Buffers function to:

- Protect the Resources and their associated functions.
- Improve/protect water quality via sediment filtration, reduce impact of nutrient loading on Resources, moderate water temperature, and enhance infiltration and stabilization of channel banks.
- Provide wildlife habitat via nesting, breeding, and feeding opportunities; provide sanctuary/refuge during high water events; protect critical water's edge habitat; and protect rare, threatened, and endangered species associated with each Resource and its upland edge.

- Enhance and/or maintain the flood plain storage functionality via reduction of flood conveyance velocities as well as dissipation of stormwater discharge energy.

...

RESOURCES

Those wetlands and waters to be provided with a Resource Buffer due to their importance to Sussex County. These Resources include Tidal Waters, Tidal Wetlands, Non-Tidal Wetlands, Perennial Streams, and those Intermittent Streams providing a surface water connection between Wetlands.

...

TAX DITCH

A Tax Ditch is a drainage channel or conveyance and the corresponding right-of-way established and/or formed in accordance with Title 7, Chapter 41 of the Delaware Code, and approved by a “ditch order” entered by the Superior Court of the State of Delaware and County of Sussex.

...

TIDAL WATERS (MEAN HIGH-WATER LINE)

Those waters occurring below the mean high-water line of any tidal water body, tidal stream, or tidal marsh, which is defined as the average height of all the high-tide water recorded over a nineteen-year period as defined by the National Oceanic and Atmospheric Administration.

...

TIDAL WETLANDS

Areas under the jurisdiction of Title 7, Chapter 66 of the Delaware Code, as regulated and mapped by the Department of Natural Resources and Environmental Control.

WATER DEPENDENT ACTIVITIES

Activities that are approved through federal and state permit programs that meet the definition of water dependent activities included in those programs. Water-dependent uses are uses that can only be conducted on, in, over, or adjacent to the water; each involves, as an integral part of the use, direct access to and use of the water. Examples include marinas, boat ramps/launches, docks, piers, water intakes, aquatic habitat restoration, and similar uses.

WATER RELATED ACTIVITIES

Water Related Activities are those considered ancillary to and supporting permitted Water Dependent Activities completed on adjacent uplands. Examples include utility connections, limited points of access, loading/unloading areas, and similar uses.

WETLANDS

Wetlands are areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Agricultural land consisting of "Prior Converted Croplands" as defined by the National Food Security Act Manual (August 1988), are not wetlands. The procedure for delineating the boundary of all wetlands, except for Tidal Wetlands as defined by this ordinance, shall be the methodology provided in the Corps of Engineers Wetland Delineation Manual (January 1987) and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (November 2010).

Section 9. The Code of Sussex County, Chapter 115, Article IV, §115-25 "Height, Area and Bulk Requirements," is hereby amended by deleting the language in brackets and inserting the italicized and underlined language in Subsection F(3)(a)[4] thereof:

§115-25 Height, Area and Bulk

F. Review procedures for cluster development

...

(3) The Planning & Zoning Commission shall determine that the following requirements are met before approving any preliminary plan and such application shall be reviewed on an expedited basis.

(a) The cluster development sketch plan and the preliminary plan of the cluster subdivision provides for a total environment and design which are superior, [and] *in* the reasonable judgment of the Planning Commission, to that which would be allowed under the regulations for the standard option. For the purposes of this subsection a proposed cluster subdivision which provides for a total environment and design which are superior to that allowed under the standard option subdivision is one which, in the reasonable judgment of the Planning Commission meets all of the following criteria:

...

[4] [A minimum of 25 feet of permanent setback must be maintained around the outer boundaries of all wetlands, except for tidal waters, tidal tributary streams and tidal wetlands and from the ordinary high water line of perennial nontidal rivers and nontidal streams as provided for in §115-193B under Ordinance No. 774 where a fifty-foot permanent setback is required. No buildings or paving shall be placed within these setbacks.] *The preliminary plan shall comply with the requirements of §115-193.*

Section 10. The Code of Sussex County, Chapter 115, Article XXV, §115-193 “Buffer Zones for Wetlands and Tidal and Nonperennial Waters,” is hereby amended by amending the Title thereof to state “Resource Protection” and

deleting the language in brackets and inserting the italicized and underlined language:

§115-193 [Buffer Zones for Wetlands and Tidal and Nonperennial Waters]
Resource Protection

[A.

Definitions. As used in this section, the following terms shall have the meanings indicated:

BUFFER ZONE

An existing naturally vegetated area or an area purposely established in vegetation which shall not be cultivated in order to protect aquatic, wetlands, shoreline and upland environments from man-made encroachment and disturbances. The "buffer zone" shall be maintained in natural vegetation, but may include planted vegetation where necessary to protect, stabilize or enhance the area.

MEAN HIGH-WATER LINE OF TIDAL WATER

The average height of all the high-tide water recorded over a nineteen-year period as defined by the National Oceanic and Atmospheric Administration tidal datum.

PERENNIAL NONTIDAL RIVERS AND STREAMS

Any body of water which continuously flows during a year and which is not subject to tidal influence.

TIDAL TRIBUTARY STREAM

A stream under tidal influence, either connecting fresh or salt water.

TIDAL WETLANDS

Areas under the jurisdiction of Title 7, Chapter 66, of the Delaware Code, as the chapter appears as of the date of the adoption of this Article, as regulated and mapped by the Department of Natural Resources and Environmental Control.

WETLANDS

A private or state wetland as defined by the Delaware Department of Natural Resources and Environmental Control regulations and maps as promulgated pursuant to Chapter 66, Title 7, of the Delaware Code, as the chapter appears upon the date of the adoption of this Article.

B. A fifty-foot buffer zone is hereby established landward from the mean high water line of tidal waters, tidal tributary streams and tidal wetlands and from the ordinary high water line of perennial nontidal rivers and nontidal streams in Sussex County.

C. Excluded from buffer zone designation are farm ponds, tax ditches and other man-made bodies of water where these waters are not located on or within perennial streams. A buffer zone shall not be required for agricultural drainage ditches if the adjacent agricultural land is the subject of a conservation farm plan established with the Sussex Conservation District.

D. Excluded from buffer zone regulations are facilities necessarily associated with water-dependent facilities (maritime, recreational, educational or fisheries activities that cannot exist outside of the buffer by reason of the intrinsic nature of their operation) and the installation, repair or maintenance of any stormwater management facility, sanitary sewer system, culvert, bridge, public utility, street, drainage facility, pond, recreational amenity, pier, bulkhead, boat ramp, waterway improvement project or erosion-stabilization project that has received the joint approval of the County Engineering Department and the appropriate federal, state and local agencies. An existing public storm-drain system may be extended in order to complete an unenclosed gap or correct a drainage problem, subject to receiving the approval of the County Engineering Department and the appropriate federal, state and local agencies.

E. Grandfathering provision. The following types of land uses may be developed notwithstanding the provisions of this section:

(1) Existing improvements and construction as of the date of the approval of this section may continue. Alterations or expansions which shall be attached to a preexisting structure built on nonconforming land, pursuant to this section, will not be permitted unless proven that such improvement is constructed at an equal distance or landward of the preexisting structure which is most proximate to the wetland area and a variance is granted as provided below.

(2) Subdivision plats and site plans approved and of record in the office of the Director of Planning and Zoning or in the office of the Recorder of Deeds

in and for Sussex County prior to the adoption of this section, originally adopted July 19, 1988, or approved and similarly of record as of the effective date of this amendment, adopted July 2, 1991, may be developed as of record and shall be subject to setbacks or buffer restrictions established for the use when originally approved. Any previously approved and similarly recorded subdivision plats and site plans, if approved prior to the original date of this section on July 19, 1988, or prior to this amendment, adopted July 2, 1991, may be amended if it is determined by the Planning and Zoning Commission that the amended plan represents an equal or less intrusive use on the buffer area or setback area.

F. Variances to the provisions of this section will be considered by the Board of Adjustment under the following conditions:

(1) That findings are made by the Board of Adjustment which demonstrate that special conditions or circumstances exist that are peculiar to the land or structure within the county and that a literal enforcement of provisions within the buffer zone as designated by this section would result in unwarranted hardship.

(2) That the variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming, on any neighboring property.

(3) That the granting of a variance will not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the designated buffer zones and in waters adjacent to buffer zones. Variances will be in harmony with the general spirit and intent of the section and any subsequent regulations.

(4) That applications for a variance will be made, in writing, to the Board of Adjustment, with a copy to the County Administrator.

(3) Any land upon which development has progressed to the point of pouring of a foundation or the installation of structural improvements as of the date of the approval of this section shall be permitted to be developed, provided that there shall be no further encroachment upon the buffer zone, as required in Subsection E(1) above.]

A. Resource Buffer Widths and Markers.

1. Resource Buffer Widths shall be established in accordance with Table 1, with Zone A being closest to the Resource.
2. Resource Buffers are not required landward/adjacent to those portions of Resources to be filled or developed with a valid U. S. Army Corps of Engineers or Delaware Department of Natural Resources and Environmental Control permit.
3. No Resource Buffer shall overlay a Tax Ditch or Tax Ditch Right of Way. If a proposed development contains a Tax Ditch, with a right-of-way of less than the total Resource Buffer Width, then that area of the Resource Buffer outside of the right-of-way shall be designated as Zone B.
4. The upland edge of all Resource Buffers shall be clearly marked with permanent in-ground markers and signage located at one-hundred foot intervals. Such signage shall be at least five inches by 7 inches in size.

694

<u>Table 1: Resource Buffer Widths</u>			
<u>Resource Type</u> <u>(See Definitions, §115-4B)</u>	<u>Full Buffer</u> <u>Width (ft)</u>	<u>Zone A (ft)</u>	<u>Zone B (ft)</u>
<u>Tidal Waters</u>	<u>100</u>	<u>50</u>	<u>50</u>
<u>Tidal Wetlands</u>	<u>100</u>	<u>50</u>	<u>50</u>
<u>Perennial Non-tidal Rivers and Streams</u>	<u>50</u>	<u>25</u>	<u>25</u>
<u>Non-tidal Wetlands</u>	<u>30</u>	<u>15</u>	<u>15</u>
<u>Intermittent Streams</u>	<u>30</u>	<u>15</u>	<u>15</u>
<u>Ephemeral Streams</u>	<u>0</u>	<u>0</u>	<u>0</u>

695

696 B. Resource Buffer Width Averaging.

697

698 1. Resource Buffer width averaging may be utilized **but only within**
 699 **Resources Buffers adjacent to the same Resource** to adjust the required
 700 Zone B Resource Buffer width thereby allowing flexibility for the
 701 proposed development, so long as the overall square footage of the
 702 Zone B Resource Buffer is maintained.

703

704 2. Criteria for utilizing Resource Buffer width averaging:

705 (a) Resource Buffer width averaging is not available for Zone A.

706 (b) The overall square footage of Zone B Resource Buffer must be
 707 achieved within the boundaries of the proposed development unless a
 708 Resource Buffer Option permitted under subsection G is utilized.

709 (c) Resource Buffer width averaging may be used on all of the Zone
 710 B Resource Buffers within the boundaries of the proposed development.

(d) Zone B Resource Buffer averaging shall not be expanded more than double the width of Zone B Resource Buffer as referenced in Section 115-193A.

(e) The overall square footage of Zone B Resource Buffer must be calculated based upon the entire length of the Resource borderline that is located within the boundaries of the proposed development.

(f) The Zone B Resource Buffer averaging shall only occur within the Resource Buffer adjacent to the same Resource.

C. Permitted Activities.

Activities in Zone A and B shall be “Permitted” or “Not Permitted” as set forth in the following Table. Uses not specifically identified shall be prohibited, unless the contrary is clear from the context of the Table, as determined by the Commission.

<u>Table 2: Resource Buffer Activities by Zone</u>		
<u>ACTIVITY</u>	<u>ZONE A</u>	<u>ZONE B</u>
<i><u>1. Impacts to resource buffers resulting from State and/or Federally permitted disturbances to Resources (wetlands/waters) such as maintenance of Resources and Resource Buffers, utilities, roads, bridges, docks, piers, boat ramps, bulkheads, shoreline stabilization, and resources authorized to be filled or disturbed for development.</u></i>	<u>PERMITTED</u>	<u>PERMITTED</u>
<i><u>2. Water-related facilities and ancillary uses required to support water-dependent projects approved by a federal or state permit, including but not limited to: marinas, wharfs, community docking facilities, boat ramps, and canoe/kayak launches.</u></i>	<u>PERMITTED</u>	<u>PERMITTED</u>
<i><u>3. Repair or maintenance of existing infrastructure or utilities, including</u></i>	<u>PERMITTED</u>	<u>PERMITTED</u>

Table 2: Resource Buffer Activities by Zone

<u>ACTIVITY</u>	<u>ZONE A</u>	<u>ZONE B</u>
<u>roads, bridges, culverts, water lines, and sanitary sewer lines.</u>		
<u>4. Temporary impacts resulting from installation of utilities by trenching methods which are part of State or Federally approved utility installation projects or the installation of utilities by directional boring methods.</u>	<u>PERMITTED</u>	<u>PERMITTED</u>
<u>5. Stormwater Management conveyances as approved by the Sussex Conservation District.</u>	<u>PERMITTED</u>	<u>PERMITTED</u>
<u>6. Tax Ditch Maintenance as approved by DNREC Drainage Program.</u>	<u>PERMITTED</u>	<u>PERMITTED</u>
<u>7. Maintenance or repair of drainage conveyances not within a Tax Ditch Right of Way as approved by the Sussex County Engineering Department or Sussex Conservation District.</u>	<u>PERMITTED</u>	<u>PERMITTED</u>
<u>8. Structural crossings of Resources such as bridges or boardwalks which may not require a State or Federal permit.</u>	<u>PERMITTED</u>	<u>PERMITTED</u>
<u>9. Maintenance or modification to previously existing structures and improvements within existing footprint.</u>	<u>PERMITTED</u>	<u>PERMITTED</u>
<u>10. State or Federally approved wetland restoration, creation, and enhancement projects.</u>	<u>PERMITTED</u>	<u>PERMITTED</u>
<u>11. State or Federally approved flood plain restoration, or Resource restoration projects involving the maintenance, repair, restoration, creation, or enhancement of Resources and their Resource Buffers.</u>	<u>PERMITTED</u>	<u>PERMITTED</u>

<u>Table 2: Resource Buffer Activities by Zone</u>		
<u>ACTIVITY</u>	<u>ZONE A</u>	<u>ZONE B</u>
<u>12. Soil Erosion and Sediment Control measures as approved by Sussex Conservation District.</u>	<u>PERMITTED</u>	<u>PERMITTED</u>
<u>13. Forest Management Activities conducted under the guidance and direction of a Licensed Forester, Arborist, Landscape Architect, or Qualified Resource Buffer Professional.</u>	<u>PERMITTED</u>	<u>PERMITTED</u>
<u>14. Invasive Species Control (plant, insect, animal) conducted in accordance with State and Federal law.</u>	<u>PERMITTED</u>	<u>PERMITTED</u>
<u>15. Planting/establishment of non-invasive native species (as listed by DNREC).</u>	<u>PERMITTED</u>	<u>PERMITTED</u>
<u>16. Installation, repair, maintenance, and removal of wells (potable, monitoring, injection as approved by state/federal agencies).</u>	<u>PERMITTED</u>	<u>PERMITTED</u>
<u>17. Walking Trails where any impervious area runoff is managed under a Sussex Conversation District Permit. Walking Trails where any impervious area runoff is managed under a Sussex Conservation District Permit that are generally perpendicular to a Resource for the purpose of providing access to the Resource or a Permitted Activity within the Resource Buffer.</u>	<u>PERMITTED</u>	<u>PERMITTED</u>
<u>18. Extended Detention dry and wet stormwater management ponds.</u>	<u>NOT PERMITTED</u>	<u>NOT PERMITTED</u>

Table 2: Resource Buffer Activities by Zone

<u>ACTIVITY</u>	<u>ZONE A</u>	<u>ZONE B</u>
<u>19. Removal of any dead, dying, damaged, or unstable live tree from a Resource or Resource Buffer which presents an imminent danger to property or public safety.</u>	<u>PERMITTED</u>	<u>PERMITTED</u>
<u>20. Stormwater Management Water Quality BMPs as approved by the Sussex Conservation District.</u>	<u>PERMITTED</u> <i>(Limited to 10% of Total square footage of Zone A in a proposed development)</i>	<u>PERMITTED</u>
<u>21. Sewage disposal facilities.</u>	<u>NOT PERMITTED</u>	<u>NOT PERMITTED</u>
<u>22. Storage of hazardous materials and siting of industrial sites, landfills, or junkyards.</u>	<u>NOT PERMITTED</u>	<u>NOT PERMITTED</u>
<u>23. Swimming pools, community clubhouses, and all Non-Water-Dependent or Non-Water Related improvements not specifically permitted under this section.</u>	<u>NOT PERMITTED</u>	<u>NOT PERMITTED</u>
<u>24. Walking Trails running by and with a Resource (i.e. generally parallel with the Resource) where any impervious area runoff is managed under a Sussex Conservation District Permit.</u>	<u>NOT PERMITTED</u>	<u>PERMITTED</u>

D. Resource Buffer Standards.

- 1. All existing (i.e., at the time of application) conditions, including the vegetative land features, and the proposed conditions within the proposed Resource Buffer shall be identified on the Preliminary Site Plan.**
- 2. If a proposed development contains a Resource, then the associated Resource Buffer shall conform with the following criteria based on vegetative features existing at the time of Preliminary Site plan Submission:**

(a) Established natural forests and non-forest meadows predominated by non-invasive species shall be retained.

(i) Forest: Subject to §115-193C, all existing trees and understory constituting a proposed Resource Buffer shall be preserved and maintained in their natural state. Invasive species may be removed from the Resource Buffer.

(ii) Non-forest Meadow: Subject to §115-193C, all existing meadows constituting a proposed non-forested Resource Buffer that are composed of herbaceous and shrub species shall be preserved and maintained in their natural state. Non-forest meadow may also include old field areas with a mixture of herbaceous vegetation, shrubs and trees transitioning to a forested condition through natural succession. Invasive species may be removed from the Resource Buffer.

(b) Grazed pasture, managed turf, active cropland or areas of bare earth not stabilized with vegetative cover shall be re- established as ~~native~~ native natural forest or non-forest meadow prior to determination of substantial completion of the proposed development phase where that “unstabilized” area is located by planting of non-invasive species or through the process of natural succession augmented with invasive species control.

E. Removal of Invasive Species.

1. Invasive species control shall be completed under the guidance and approval of a Licensed Forester, ISA Certified Arborist, Registered Landscape Architect, or Qualified Resource Buffer Professional.

F. Maintenance of Drainage Conveyances

1. All Resource Buffers identified on a Final Site Plan shall be designated as a drainage and access easement permitting access by any future owners’ association, federal, state or local agency and the public, for the limited purpose of maintenance or monitoring of drainage capacity or conveyance by any future owners’ association; federal state or local agency; and the public. In addition, a corresponding easement for access into each individual

Resource Buffer established on the site shall, whenever possible, be provided from a public road or street within a proposed development.

2. If a Resource Buffer abuts or contains features such as ephemeral, intermittent or perennial streams which are not part of an established Tax Ditch and which convey drainage from or through a site proposed for development, a "Drainage Assessment Report" shall be prepared by a registered Delaware Professional Engineer. As part of the pre-application process, Sussex County will determine the information to be included in the Drainage Assessment Report. At a minimum, the Drainage Assessment Report shall identify the following concerning measures needed for drainage conveyances:

(a) Identification of any unstable or eroding stream banks or conveyance requiring stabilization or restoration measures.

(b) The location of any stream blockages such as debris jams, fallen or unstable trees, beaver dams or similar impediments to conveyance.

(c) The location of any sand or gravel deposition within a channel or conveyance which impedes the flow of water produced by a storm having an annual probability of occurrence of 10%.

(d) A discussion of all recommended measures to remedy any impediment to drainage conveyance or drainage stability.

(e) A summary of required local, state or federal permits required to remedy any impediment to drainage conveyance.

(f) The easement width and a sufficient number of easements to provide adequate access to the Resource for maintenance.

3. Remedies required by Sussex County as a result of the Drainage Assessment Report shall be shown on the Final Site Plan.

G. Resource Buffer Options

1. A proposed development shall be permitted to utilize the following options, consistent with §115-193, Section B. Resource Buffer Width Averaging, to

incentivize the retention of forests, but only for those Resource Buffers adjacent to Perennial Non-Tidal Rivers and Streams, Non-Tidal Wetlands and Intermittent Streams:

(a) When the preservation of a forest within the Resource Buffer that has been in existence for at least five years prior to the date of application as identified by a Licensed Forester, Arborist, Landscape Architect, or Qualified Resource Buffer Professional is achieved, then a corresponding area reduction of either the Resource Buffer Zone B along the entire or part of that Resource; or the Forested and/or Landscaped Buffer required in Chapter 99 in areas adjacent to ~~like-zoned land is permitted~~ a residential subdivision, residential conditional use or residential planned community.

(b) When the Preservation of a natural forest connected to (but not within) a Resource Buffer in excess of the requirements listed in Section 115-193.A. is achieved by adding the area to Zone B, then a corresponding area reduction of either non-Forest Resource Buffer Zone B on the same Resource, or Forested and/or Landscaped Buffer required in Chapter 99 in areas adjacent to ~~like-zoned land is permitted~~ a residential subdivision, residential conditional use or residential planned community.

(c) When the provision of Resource Buffer area in excess of the requirements listed in Section 115-193.A. is achieved, then a corresponding area reduction of the Forested and/or Landscaped Buffer required in Chapter 99 in areas adjacent to ~~like-zoned land is permitted~~ a residential subdivision, residential conditional use or residential planned community.

2. A proposed development shall be permitted to utilize the following options to incentivize the retention or expansion of Resource Buffers or provide additional functional benefit of Resource Buffers forests, but only for those Resource Buffers adjacent to Perennial Non-Tidal Rivers and Streams, Non-Tidal Wetlands and Intermittent Streams:

(a) (i) When the creation of an off-site Resource Buffer is protected under a perpetual conservation easement, then a 75 percent corresponding area reduction of the Resource Buffer Zones ~~s-A and/or~~ B in the same Resource within the development is permitted. The upland line of that new off-site Resource Buffer and perpetual conservation easement shall be considered the edge of the Resource for locating a Resource Buffer in the event that the off-site land is developed in the future. The perpetual conservation easement shall be for the benefit of a conservation organization approved by Sussex County, and it must be located within the same twelve-digit hydrologic unit code as defined by the United States Geological Survey as the proposed development. ~~The area within this conservation easement shall adhere to the requirements of subsection D. herein and shall not be used for agricultural purposes.~~

(ii) When the creation of an off-site Resource Buffer for forest preservation is protected under a perpetual conservation easement, then a 125 percent corresponding area reduction of the Resource Buffer Zones ~~s-A and/or~~ B in the same Resource within the development is permitted. The upland line of that new off-site Resource Buffer and perpetual conservation easement shall be considered the edge of the Resource for locating a Resource Buffer in the event that the off-site land is developed in the future. The perpetual conservation easement shall be for the benefit of a conservation organization approved by Sussex County, and it must be located within the same twelve-digit hydrologic unit code as defined by the United States Geological Survey as the proposed development. ~~The area within this conservation easement shall adhere to the requirements of subsection D. herein and shall not be used for agricultural purposes.~~

(b) Funding, partially or entirely, an off-site restoration project under the Sussex County Clean Water Enhancement Program, subject to approval of the Sussex Conservation District, with completion of the restoration by Sussex County prior to final acceptance of the first phase of the proposed development by the Sussex County Engineering Department in the same twelve digit hydrologic unit code as defined by the United States Geological Survey as the proposed development with a corresponding Resource Buffer Zone ~~A and/or~~ B reduction equal to the

Resource Buffer area on that same resource created in the off-site project.

(c) (i) When a proposed development has a pre-existing property boundary that is located in the center of an Intermittent or Perennial Stream and the entire Resource (including the off-site portion of it) including an off-site Resource Buffer Zone A is protected under a perpetual conservation easement, then a corresponding area reduction of the Resource Buffer Zones B on the same Resource development is permitted. The upland line of that new off-site Resource Buffer Zone A and perpetual conservation easement shall be considered the edge of the Resource for locating a Resource Buffer in the event that the off-site land is developed in the future. The perpetual conservation easement shall be for the benefit of a conservation organization approved by Sussex County. *The area within this conservation easement shall adhere to the requirements of subsection D. herein and shall not be used for agricultural purposes.*

(ii) When a proposed development has a pre-existing property boundary that is located in the center of an Intermittent or Perennial Stream and the entire Resource (including the off-site portion of it) including an off-site Resource Buffer Zone A in the form of a natural forest is protected under a perpetual conservation easement, then a corresponding 125% area reduction of the Resource Buffer Zones B on the same Resource within the development is permitted. The upland line of that new off-site Resource Buffer Zone A and perpetual conservation easement shall be considered the edge of the Resource for locating a Resource Buffer in the event that the off-site land is developed in the future. The perpetual conservation easement shall be for the benefit of a conservation organization approved by Sussex County. *The area within this conservation easement shall adhere to the requirements of subsection D. herein and shall not be used for agricultural purposes.*

3. For purposes of this Subsection G., “Forest” shall mean: A vegetative community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater. Forest includes: (1) areas that have at least 100 trees per acre with at least 50% of those having a two-inch or greater

diameter at 4.5 feet above the ground and larger, and (2) forest areas that have been cut but neither stumps were removed nor the land surface regraded.

H. Resource and Resource Buffer Maintenance and Management.

1. Resource and Resource Buffer Management Plan

Any proposed development where Resource Buffers are required shall submit a Resource and Resource Buffer Management Plan, prepared by a Qualified Resource Buffer Management Professional, that describes measures for maintaining or improving the Resource and the Resource Buffer(s) on the site. The Resource and Resource Buffer Management Plan shall be proffered as part of the Supporting Statement requirements of §99-24, or at the time of Preliminary Site Plan approval for any residential conditional use. The maintenance standards or management actions associated with the Resource and Resource Buffer Management Plan shall be included as an obligation of the owners' association in the recorded declaration for any new development. The Resource and Resource Buffer Management Plan shall describe how the Resource Buffer will be managed to maintain its functions and cite any measures to be implemented for the enhancement of Resource Buffers or their functions. It shall also include a narrative discussing the overall plan for access easements sufficient for expected short- and long-term maintenance and management needs.

2. Any Perennial or Intermittent Stream within a proposed development that does not exhibit a positive conveyance (regardless of whether it is part of a Tax Ditch) shall be identified by phase on the Detailed Grading Plan as follows:

(a) If the deficient Perennial or Intermittent Stream has adjacent Non-Tidal Wetlands, the applicant shall restore the conveyance channel to a positive conveyance (i.e. the removal of conveyance impediments) within the entire site prior to the issuance of substantial completion of the final approved phase. This restoration shall be in compliance with all applicable federal, state and county requirements.

(b) If the deficient Perennial or Intermittent Stream has no adjacent Non-Tidal Wetlands, the applicant shall restore the conveyance

channel to a positive conveyance (i.e. the removal of conveyance impediments) within the entire site prior to the issuance of substantial completion of the first approved phase. This restoration shall be in compliance with all applicable federal, state and county requirements.

I. Modifications and Exceptions.

The Planning and Zoning Commission shall be authorized, as part of the site plan review process, to grant preliminary or final site plan approval with modifications of, or exceptions to, the foregoing requirements upon the submission of a detailed and specific written request from the applicant with supporting documentation from a Qualified Wetland Resource Professional or Qualified Resource Buffer Management Professional, but only upon the satisfaction of all of the following conditions:

1. When the Commission finds that special conditions or circumstances exist that are peculiar to the land or structure and that a literal enforcement of a specific requirement of this section would result in unwarranted hardship.

2. That the modification or exception request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming, on any neighboring property.

3. That the granting of a modification or exception will not adversely affect the functions of the Resource or its Resource Buffer as set forth in the definition of that term. Waivers shall be in harmony with the general spirit and intent of this section and any subsequent regulations.

4. That the basis for the modification or exception cannot be achieved through Resource Buffer Width Averaging as provided by §115-193B.

5. That in no event shall there be a modification or exception to the width requirements of Zone A.

The date of any modification or exception by the Commission shall be noted on the final site plan.

J. These requirements shall only apply to subdivisions governed by Chapter 99, Residential Planned Communities and uses identified in §115-219A(1) and (2).

K. Violations and Penalties

The owner of the land and any person or corporation who shall violate any provisions of this Section shall be subject to the following penalties. Separate violations or a series of violations may be combined to determine the total area where the violation occurred.

(a) A fine of \$10,000.00 per quarter-acre of disturbance or part thereof shall be imposed; and

(b) Resource Buffer rehabilitation and replanting in the area where the violation occurred, in accordance with a Mitigation Plan approved by the Director that complies with the following:

(i) For every tree removed or destroyed with a caliper of six inches or greater at breast height, there shall be at least three replacement trees planted within the buffer area.

(ii) The replacement trees shall be a native species.

(iii) The quality and size of the replacement trees shall be at least two inches caliper at breast height. Any tree that was removed or destroyed shall be replaced through the Mitigation Plan at a ratio of at least one-inch per caliper at breast height for each inch of caliper removed. The property owner and/or party who violates this Section shall be responsible for the health and survival of the replacement trees, including regular necessary watering, for a minimum of two years and shall replace any trees that die within two years of planting.

(iv) The replanting design shown within the Mitigation Plan shall provide adequate space for root and crown development; and

(c) No building or zoning permits shall be issued nor shall any inspections occur within the Phase where the violation occurred (including, but not limited to building code and utility inspections) until the buffer rehabilitation is complete and approved by the Director.

Section 11. The Code of Sussex County, Chapter 115, Article XXVIII, §115-220 “Preliminary Site Plan Requirements”, is hereby amended by inserting the italicized and underlined language as a new Subsection B(17) thereof:

§115-220 Preliminary Site Plan Requirements

...

B. The preliminary site plan shall show the following:

...

(17) In the case of a proposed development with the uses identified in §115-219A(1) and (2) or Residential Planned Communities, the site plan shall include all required Resource Buffers and the following:

(a) The boundary and type of any Non-Tidal/Tidal Wetland or water resources (Tidal, Perennial, Intermittent) which require a Resource Buffer. The boundary will be shown per methods identified in the definitions of Wetlands and Ordinary High Water Line Delineation.

(b) All existing (i.e., at the time of application) natural forest, managed forest and non-forest meadow within the future Resource Buffer shall be indentified.

(c) The limits of the required Resource Buffers.

(d) Calculations supporting Resource Buffer width averaging (§115-193B).

(e) Calculations supporting Resource Buffer enhancement calculations and corresponding Forested and/or Landscaped Buffer reductions, if applicable (§115-193F).

(f) Proposed access easement layout for access to Resource Buffers and the adjacent Resources with a note that such access easements are “public access easements for maintenance purposes”. For purposes of this requirement, “public” shall mean, and be limited to, those parties requiring access for maintenance purposes.

(g) A reference by title, author and date, to the “Drainage Assessment Report” required by Section 115-193.F.2.

(h) Any walking trails, including the method of construction and the materials used to establish the trails.

Section 12. The Code of Sussex County, Chapter 115, Article XXVIII, §115-221 “Final Site Plan Requirements”, is hereby amended by inserting the italicized and underlined language as a new Subsections B(19) and E. thereof:

§115-221 Final Site Plan Requirements

...

B. The final site plan shall show the following:

(19) In the case of a proposed development with the uses identified in §115-219A(1) and (2) or Residential Planned Communities, the site plan shall include all required Resources and Resource Buffers including the following, where applicable:

(a) The boundary and type of any Non-Tidal/Tidal Wetland or water resources (Tidal, Perennial, Intermittent) which require a Resource Buffer. The boundary will be shown per methods identified in the definitions of Wetlands and Ordinary High Water Line Delineation. In addition, the boundary shall marked on the site itself with permanent markers and signage, with the location and type of signage depicted on the final site plan.

(b) All existing (i.e., at the time of application) natural forest, managed forest and non-forest meadow within the future Resource Buffer shall be identified.

(c) The limits of the required Resource Buffers.

(d) Calculations supporting Resource Buffer width averaging (§115-193B).

(e) Calculations supporting Resource Buffer enhancement calculations and corresponding Forested and/or Landscaped Buffer reductions, if applicable (§115-193F).

(f) Proposed access easement layout for access to Resource Buffers and the adjacent Resources with a note that such access easements are “public access easements for maintenance purposes”. For purposes of this requirement, “public” shall mean, and be limited to, those parties requiring access for maintenance purposes.

(g) A statement incorporating the Resource and Resource Management and Maintenance Plan by reference.

(h) A reference by title, author and date, to the “Drainage Assessment Report” required by Section 115-193.F.2.

1087 (i) Any walking trails, including the method of construction and the materials
1088 used to establish the trails.

1089 (j) That disturbance of the Resource Buffers on the site may result in penalties
1090 imposed pursuant to Section 115-193.K of the Sussex County Zoning Code.

1091

1092 . . .

1093 E. An AutoCAD drawing file containing all items required in Section A above
1094 shall be submitted in electronic format. The data shall be referenced in NAD 1983
1095 StatePlane Delaware FIPS 0700 (U.S. Feet) Projected Coordinate System.

1096

1097 **Section 13. Effective Date.**

1098 This Ordinance shall take effect upon six (6) months from the date of adoption by
1099 Sussex County Council. Provided however, that it shall not apply to any completed
1100 applications on file with the Sussex County Office of Planning & Zoning.

ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

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

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Sussex County

DELAWARE
sussexcountysde.gov

Memorandum

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

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

RE: ***Mulberry Knoll Sewer District Area
Supplemental \$1,329,000 Debt Service Ordinance Issuance – Public Hearing***

DATE: May 17, 2022

Council adopted Resolution R 011 17 on June 6, 2017, expanding the Unified Sanitary Sewer District to include the Mulberry Knoll Area. On August 13, 2019, Council conducted a public hearing for a funding offer through the Clean Water State Revolving Fund. Ordinance No. 2672 was adopted, for the issuance of a General Obligation Bond up to \$3,135,379 for design, construction and equipping of the Project, with an expectation of principal forgiveness up to \$1,941,000 reducing the principal amount to \$1,194,379 upon completion.

Contract Documents for Project S20-14, Mulberry Knoll Pump Station & Force Main were advertised and on September 25, 2020, seven (7) bids were received. On November 17, 2020, Council awarded Project S20-14 to Teal Construction Inc. upon concurrence of DNREC to ensure the State's commitment to total project financing. On March 26, 2021, DNREC notified the Department there was no objection to proceeding with the construction of the Mulberry Knoll Pump Station and Force Main Project with the understanding a supplemental funding request will have DNREC's support when necessary.

Contract Documents for Project S20-22, Mulberry Knoll Collection System were advertised and on September 23, 2021, seven (7) bids were received. The Department initiated a review of the bids and requested KCI to perform a bid evaluation, noting the low bidder appeared to provide a response without acknowledging Addendum #1 of the bidding documents. The Department concurred with KCI's recommendation that all bids be rejected, and the project rebid since irregularities were involved in the two lowest bids. On October 12, 2021, Council approved a rejection of all bids and readvertisement of the Project.

Contract Documents were updated, the project re-advertised and ten bids (10) received. On November 30, 2021, Council awarded Project S20-14 to Carrow Construction, for a total amount of \$1,861,538.00.



Total project financing was evaluated using the bids received for Project S20-22 in combination with the current Project S20-14 construction contract and related costs. The current construction market and material pricing required additional funding to maintain overall project financing and on November 30, 2021, Council authorized submission of a supplemental SRF funding request in the amount of \$1,329,000. The request was reviewed by the State's WIAC on March 16, 2022 and subsequently approved by DNREC with 100% principal loan forgiveness and interest only during construction. The Finance & Engineering Departments recommend introduction and approval of the associated Ordinance after public hearing.

ORDINANCE NO. _____

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$1,329,000 OF
GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH
INCREASED COSTS ASSOCIATED WITH THE MULBERRY KNOLL SEWER
DISTRICT PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN
CONNECTION THEREWITH**

WHEREAS, pursuant to Title 9, Delaware Code, Section 7001(a) Sussex County (the “County”) has “all powers which, under the Constitution of the State, it would be competent for the General Assembly to grant by specific enumeration, and which are not denied by statute” (the “Home Rule Power”);

WHEREAS, acting pursuant to its Home Rule Power, and pursuant to Title 9, Delaware Code, Chapters 65 and 67, the County has authorized the design, construction and equipping of the Mulberry Knoll Sewer District Project, which will finance a portion the increased cost of a gravity collection system, sub-regional pump station, and force main to serve 63 Equivalent Dwelling Units in the area south of Route 24, along Mulberry Knoll Road, an area which is a peninsula in the Rehoboth Bay, with the wastewater being pumped to the County’s Inland Bays Regional Wastewater Facility for treatment and disposal, an area which has been created and is now a part of the Sussex County Unified Sanitary Sewer District (collectively, the “Project”);

WHEREAS, pursuant to Title 9, Delaware Code, Section 6706, the County is authorized to issue its bonds and to pledge its full faith and credit thereto, to finance the cost of any object, program or purpose for which the County is authorized to raise, appropriate or expend money under Chapter 67 of Title 9;

WHEREAS, pursuant to Ordinance No. 2672 adopted on August 13, 2019, the County authorized the issuance of its General Obligation Bonds in the maximum principal amount of up to \$3,135,379 for the Project;

WHEREAS, the County previously issued its General Obligation Bond (Mulberry Knoll Sewer District Project) Series 2019C-SRF in the maximum aggregate principal amount of up to \$3,135,379 (the “2019C Bond”) on September 26, 2019 to secure a loan from the Delaware Water Pollution Control Revolving Fund (acting by and through the Delaware Department of Natural Resources & Environmental Control) (“DNREC”) to fund the Project;

WHEREAS, the County requires additional funding due to increased construction costs of the Project and desires to accept a supplemental loan in the amount of \$1,329,000 from DNREC to fund the increased construction costs of the Project; and

WHEREAS, acting pursuant to the aforesaid authority, the County desires to authorize the issuance of general obligations of the County to finance the increased construction costs of the Project and for the other purposes described herein.

NOW THEREFORE THE COUNTY OF SUSSEX HEREBY ORDAINS (AT LEAST FOUR FIFTHS OF THE MEMBERS OF COUNCIL CONCURRING HEREIN):

Section 1. Amount and Purpose of the Bonds. Acting pursuant to Title 9, Delaware Code, Chapters 65 and 67, Sussex County shall issue its negotiable general obligations in the maximum aggregate principal amount not to exceed \$1,329,000 (the "Bonds") to finance or reimburse the County for a portion of the increased cost of the design, construction, and equipping of the Project, with the expectation that up to \$1,329,000 of principal forgiveness will be applied to the Bonds, resulting in a total forgiveness of \$3,270,000 with respect to the 2019C Bonds and the Bonds, to reduce the combined principal amount of the 2019C Bond and the Bonds outstanding to \$1,194,379 upon Project completion.

The monies raised from the sale of the Bonds (including the investment earnings thereon) after the payment of the costs of issuance, shall be held in one or more Project accounts and shall be expended only for the purposes authorized herein or as may otherwise be authorized by subsequent action by County Council. Authorized purposes include the cost of funding of the construction budget shortfall, additional engineering services associated with the extended construction period and a 15% contingency on the collection system.

Section 2. Security for the Bonds. The principal, interest and premium, if any, on the Bonds may be paid by ad valorem taxes on all real property subject to taxation by the County without limitation as to rate or amount, except as limited by Title 9, Delaware Code Section 8002 (c). Pursuant to Title 9, Delaware Code, Section 6706, the full faith and credit of the County is pledged to such payment. The Bonds shall contain a recital that they are issued pursuant to Title 9, Delaware Code, Chapter 67, which recital shall be conclusive evidence of their validity and of the regularity of their issuance. While the Bonds are backed by the County's full faith and credit, it is expected that the debt service will be paid from revenues of the Mulberry Knoll Sewer District.

Section 3. Terms of the Bonds. The Bonds shall be sold at such prices and upon such other terms and conditions consistent with the provisions of this Ordinance and otherwise as the County Administrator shall determine to be in the best interests of the County. The Bonds shall bear interest at such rate or rates and shall mature in such amounts and at such times, but not exceeding thirty (30) years from the date of completion of the Project, and shall be subject to redemption, as the County Administrator shall determine.

Section 4. Sale of the Bonds. The Bonds may be issued in one or more series and shall be sold in one or more public sales or private negotiated transactions upon such terms and conditions as the County Administrator shall determine shall be in the best interest of the County. It is anticipated that the Bonds will be sold to the State of Delaware Water Pollution Control Revolving Fund (acting by and through DNREC) (or any successor agency).

Section 5. Details of the Bonds. The County Administrator is authorized to determine the details of the Bonds including the following: the date or dates of the Bonds; provisions for either serial or term bonds; sinking fund or other reserve fund requirements; due dates of the interest thereon; the form of the Bonds; the denominations and designations of the Bonds; registration, conversion and transfer provisions; provisions for the receipt, deposit and investment of the proceeds of the Bonds; provisions for the replacement of lost, stolen, mutilated or destroyed Bonds; and provisions for issuing uncertificated obligations and all procedures appropriate for the establishment of a system of issuing uncertificated debt. The Bonds shall be

executed by the manual or facsimile signature of the County Administrator, shall contain an impression of the County seal or a facsimile thereof and shall be attested by the manual signature of the County Clerk. The County Administrator shall determine the form of the Bonds.

Section 6. Debt Limit. It is hereby determined and certified, as of the effective date hereof, that the issuance of the Bonds is within the legal debt limit of the County.

Section 7. Further Action. The President of the County Council, the County Administrator, the Finance Director and the County Clerk are authorized and directed to take such other action on behalf of the County, as may be necessary or desirable to effect the adoption of this Ordinance and the issuance and sale of the Bonds and to provide for their security and to carry out the intent of this Ordinance, including the publication of notices and advertisements and the execution and delivery of customary closing certificates.

Section 8. Effective Date. This Ordinance shall become effective immediately upon its passage.

The County Clerk is hereby directed to publish a notice of the adoption hereof in accordance with Section 7002(m)(2) of Title 9 of the Delaware Code, as amended.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

ADOPTED this _____ day of April, 2022.

SUSSEX COUNTY, DELAWARE

Attest:

Clerk
Sussex County Council

President
Sussex County Council

[SEAL]

SYNOPSIS: This Ordinance provides for the issuance of up to \$1,329,000 of Sussex County General Obligation Bonds in order to finance or reimburse the County for a portion of the increased cost of the design, construction, and equipping of a gravity collection system, sub-regional pump station, and force main to serve 63 Equivalent Dwelling Units in the area south of Route 24, along Mulberry Knoll Road, an area which is a peninsula in the Rehoboth Bay, with the wastewater being pumped to the County's Inland Bays Regional Wastewater Facility for treatment and disposal, an area which has been created and is now a part of the Sussex County Unified Sanitary Sewer District (collectively, the "Project"), with the expectation that up to \$1,329,000 of principal forgiveness will be applied to the Bonds, resulting in a total forgiveness of \$3,270,000 with respect to the 2019C Bonds and the Bonds, to reduce the combined principal amount of the 2019C Bond and the Bonds outstanding to \$1,194,379 upon Project completion.

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

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

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

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

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

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

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

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

34
35 **§ 52-1, Adoption of standards; exemptions.**

36
37 **A.** The International Building Code (hereinafter “IBC”), Chapters 1
38 through 26,[and Chapter 35, 2012] 2021 Edition[and future
39 editions], as promulgated, after 60 days subsequent to the
40 nonchallenged publication of the edition, is hereby adopted as the
41 building standard for construction in Sussex County as it relates to
42 the following structures: multifamily residential dwellings,
43 assembly occupancy, business occupancy, educational occupancy,
44 hazardous occupancy, factory industrial occupancy, institutional
45 occupancy, mercantile occupancy and storage occupancy.

46
47 **B. IBC Exemptions.**

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

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

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

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

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

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

D. IRC Exemptions

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

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

(3) Riser height.

(a) Maximum riser height is 8 ¼ inches.

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

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

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

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

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

Section 4. Effective Date. This Ordinance shall become effective on _____, 2022.

Synopsis

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

Deleted text is in brackets. Additional text is italicized and underlined.

To Be Introduced: 05/17/2022

Council District 1: Mr. Vincent
Tax I.D. No. 332-7.00-19.00
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 63.86 ACRES, MORE OR LESS

WHEREAS, on the 7th day of February 2022, a conditional use application, denominated Conditional Use No. 2346 was filed on behalf of TPE DE SU114, LLC; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2346 be _____; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2346 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 the north side of Dorothy Road (Rt. 64) and the west side of Sussex Highway (Rt. 13) at the intersection of Dorothy Road (Rt. 64) and Sussex Highway (Rt. 13) and being more particularly described in the attached legal description prepared by Kevin A. O'Brien, Esq., said parcel containing 63.86 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.

Council District Mr. Vincent
Tax I.D. No. 331-3.00-129.07
911 Address: 22135 Conrail Rd, Seaford, DE 19973

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR INDOOR AND OUTDOOR STORAGE OF HEATING AND COOLING EQUIPMENT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 4.03 ACRES, MORE OR LESS

WHEREAS, on the 28th day of June 2021, a conditional use application, denominated Conditional Use No. 2295 was filed on behalf of Bones & Sons Heating & Air; 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. 2295 be _____; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2295 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 Seaford Hundred, Sussex County, Delaware, and lying on the east side of Conrail Road (S.C.R. 546), approximately 606 feet south of the intersection of Hearn's Pond Rd (S.C.R. 544), and being more particularly described in the attached legal description prepared by Haller & Hudson, said parcel containing 4.03 acres, more or less.

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

To Be Introduced: 05/17/2022

Council District 2: Mrs. Green
Tax I.D. No. 331-1.00-15.01 (Portion of)
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 SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 27.5 ACRES, MORE OR LESS

WHEREAS, on the 18th day of January 2022, a conditional use application, denominated Conditional Use No. 2342 was filed on behalf of TPE DE SU07, LLC; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2342 be _____; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2342 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

A PORTION of that certain tract, piece or parcel of land, lying and being situate in Seaford Hundred, Sussex County, Delaware, and lying on the west side of Elks Road (Route 46) approximately 0.50 miles west of the intersection of Elks Road (Route 46) and Sussex Highway (Rt. 13) and being more particularly described in the attached legal description prepared by Becker Morgan, said parcel containing 27.5 acres, more or less.

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



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: May 13, 2022

RE: County Council Report for C/Z 1962 filed on behalf of Jeff-Kat, LLC

The Planning and Zoning Department received an application (C/Z 192 filed on behalf of Jeff-Kat, LLC) to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a C-3 Heavy Commercial District. The property is located at 1005 and 1007 Kings Highway, Lewes. The change of zone is for 1.19 acres, more or less.

The Planning and Zoning Commission held a public hearing on April 14, 2022. At the meeting of April 28, 2022, the Commission recommended approval of the application for the 8 reasons as outlined within the motion (included below).

Below are the minutes from the Planning & Zoning Commission meetings of April 14, 2022 and April 28, 2022.

Approved Minutes of the April 14, 2022 Planning & Zoning Commission Meeting

Mr. Robertson recused himself from the next Application and left Council Chambers.

C/Z 1962 Jeff-Kat, LLC

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PORTION OF A PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.19 ACRES, MORE OR LESS. The property is lying on the east side of Kings Highway (Rt. 9) approximately 0.36-mile northeast of the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267). 911 Address: 1005 & 1007 Kings Highway, Lewes. Tax Parcel: 335-



8.00-39.00 (portion of).

Mr. Whitehouse advised the Commission that submitted into the record is the Conceptual Site Plan, Exhibit Booklet, a letter from the Applicant, the DelDOT Service Level Evaluation Response, comments from Sussex County Engineering Department Utility Planning Division, the PLUS response, the Applicant's response to the PLUS response, a copy of Ordinance No 2759 dated December 1, 2020, zero comments in support or opposition and zero mail returns.

The Commission found that Mr. Jeff Hamer spoke on behalf of his Application; that he is a partner in Jeff-Kat, LLC; that his wife is the other partner; that he originally began with 7/10's of an acre; that as his business has grown over the years he has added more parcels; that the first parcel he purchased was commercial; that he has since added two more parcels and had them rezoned to C-3 (Heavy Commercial); that the subject parcel is the last possible parcel he can purchase to grow his business; that his business is growing approximately 20% each year; that he has already purchased the subject property from the Mitchell Farm, LLC; that the Mitchell Farm is currently awaiting approval for 200 +/- homes; that the subject parcel is the last parcel available to help grow his business; that his business is going to be confined to a certain amount of growth; that he purchased the property for multiple reasons; that there are plans to widen Kings Hwy.; that due to this he lose a substantial portion of the front of his property; that he will be losing anywhere from 6,000-ft. to 12,000-ft. of his current use; that it does seem as if he is adding 1.19-acres, however, DelDOT has requested to build a connector road at the rear of his property which will connect to the proposed Mitchell Farm Development; that part of the subject property will be used to construct a connector road to the proposed Mitchell Farm subdivision; that by doing this he will gain access to Gills Neck Rd.; that he will also lose part of the front of the property when the widening of Kings Hwy. takes place; that in essence, he is not gaining much more room to grow his business with the rezoning of the property to commercial; that he is transferring property from the front to the back of the property; that he currently has no specific use for the extra land; that he assumed it will probably be an area to allow for more parking, which they will lose with the widening of Kings Hwy.; that he purchased the property to continue his business and continue with some growth, but mostly to save what he currently has; that the subject property is currently landlocked and there is no other way to access the property other than through his property.

Ms. Stevenson stated her only concern was interconnectivity, which she understands is proposed.

Mr. Hopkins questioned what Mr. Hamer's business was.

Mr. Hamer stated he owns Big Oyster Brewery, and he believes the interconnectivity to the Mitchell Farm subdivision will take some pressure off of Kings Hwy.

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

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

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

In relation to the Application C/Z 1962 Jeff-Kat, LLC. Motion by Ms. Stevenson to defer action for further consideration, seconded by Mr. Hopkins, and carried unanimously. Motion carried 4-0.

Draft Minutes of the April 28, 2022 Planning & Zoning Commission Meeting

The Commission discussed the application which has been deferred since April 14, 2022.

Ms. Stevenson moved that the Commission recommend approval of C/Z 1962 for Jeff-Kat, LLC for a Change in Zone from AR-1 to C-3 “Heavy Commercial” based upon the record made during the public hearing and for the following reasons:

1. C-3 Heavy Commercial Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices, and vehicle service stations.
2. The site is adjacent to the applicant’s property which is currently used for a brewpub/restaurant. This location is appropriate for this type of zoning.
3. As stated by the Applicant, there will be interconnectivity between this site, the existing brewpub restaurant, as well as the adjoining property.
4. The expansion of the Applicant’s C-3 zoning will improve the vehicle movement and parking on the entire site and the area in general.
5. The site will be served by central water and sewer.
6. The site is in the Coastal Area according to the Sussex County Land Use Plan. This type of commercial use is appropriate in these areas according to the Plan.
7. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.
8. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 1962 Jeff-Kat, LLC for the reasons and conditions stated in the motion. Motion carried 5-0.

The vote by roll call: Ms. Stevenson – Yea, Mr. Hopkins – Yea, Ms. Wingate – Yea, Mr. Mears- Yea, Chairman Wheatley – Yea

PLANNING & ZONING COMMISSION

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



Sussex County

DELAWARE
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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: April 14th, 2022

Application: CZ 1962 Jeff-Kat, LLC

Applicant: Jeff-Kat, LLC
1007 Kings Highway
Lewes, De 19958

Owner: Jeff-Kat, LLC
1007 Kings Highway
Lewes, De 19958

Site Location: 1005 Kings Highway, Lewes. Lying on the east side of Kings Highway (Rt. 9), approximately 0.36-mile northeast of the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267)

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

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

Comprehensive Land
Use Plan Reference: Coastal Area

Councilmanic
District: Mr. Schaeffer

School District: Cape Henlopen School District

Fire District: Lewes Fire Department

Sewer: Sussex County

Water: Tidewater

Site Area: 1.23 acres +/-

Tax Map ID.: 335-8.00-39.00 (portion of)



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



Sussex County

DELAWARE
sussexcountye.gov

Memorandum

To: Sussex County Planning Commission Members
From: Christin Scott, Planner I
CC: Vince Robertson, Assistant County Attorney, and applicant
Date: April 7, 2022
RE: Staff Analysis for CZ 1962 Jeff-Kat, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1962 Jeff-Kat, LLC to be reviewed during the March 10, 2022, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for a portion of Tax Parcel 335-8.00-39.00 to allow for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Heavy Commercial (C-3) Zoning District. The property is lying on the east side of Kings Highway (Rt. 9), approximately 0.36 miles northeast of the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267). The portion of the parcel to be rezoned consists of 1.19 acres +/-.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property has a land use designation of "Coastal Area." The properties to the south, east, and west of the subject property also contain the Future Land Use Designation of "Coastal Area." Properties to the north and across Kings Highway to the west are located within the municipality of Lewes.

As outlined within the 2018 Sussex County Comprehensive Plan, Coastal Areas are areas that can accommodate development provided special environmental concerns are addressed. A range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units. Retail and office uses are appropriate but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should also be allowed. In doing so, careful mixtures of homes with light commercial, office and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home. Major new industrial uses are not proposed in these areas.

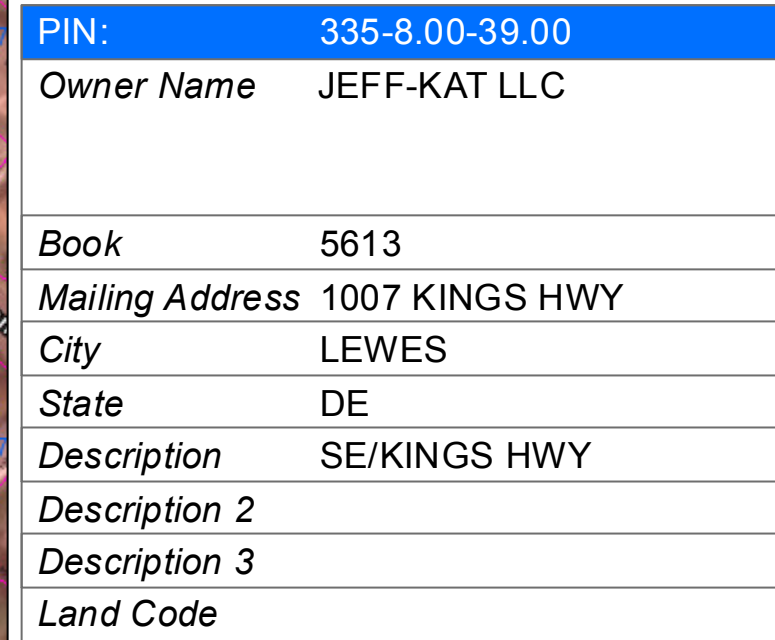
The property is split zoned General Commercial (C-1) Zoning District, Heavy Commercial (C-3) Zoning District and Agricultural Residential (AR-1) Zoning District. Adjacent parcels to the south and east are also zoned Agricultural Residential (AR-1) Zoning District. The properties to the west on the opposite side Kings Highway (Rt. 9) are zone General Commercial (C-1), Agricultural Residential (AR-1) and located in the town limits of Lewes. The adjacent properties to the north are located within the town limits of Lewes.



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

Since 2011, there have been seven (7) Change of Zone applications within a 1-mile radius of the application site. The Change of Zone applications approved include Medium Residential (MR), Commercial Residential (CR-1), Neighborhood Business (B-1), and Heavy Commercial (C-3) Zoning Districts.

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



Override 1

Override 1

911 Address

 Hundred Boundaries

 County Boundaries

 Tax Ditch Channel

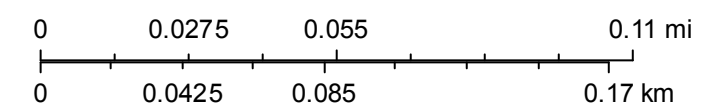
--- Pond Feature

Special Access ROW

- Extent of Right-of-Way

 Municipal Boundaries TID

1:2,257





Sussex County



PIN:	335-8.00-39.00
Owner Name	JEFF-KAT LLC
Book	5613
Mailing Address	1007 KINGS HWY
City	LEWES
State	DE
Description	SE/KINGS HWY
Description 2	
Description 3	
Land Code	

- polygonLayer

Override 1
- polygonLayer

Override 1
- Tax Parcels
- 911 Address
- Streets
- Hundred Boundaries
- County Boundaries
- Tax Ditch Segments

Tax Ditch Channel

Pond Feature

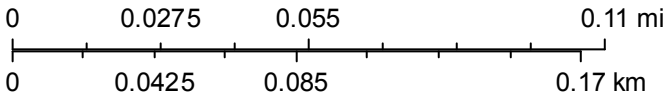
Special Access ROW

Extent of Right-of-Way

Municipal Boundaries

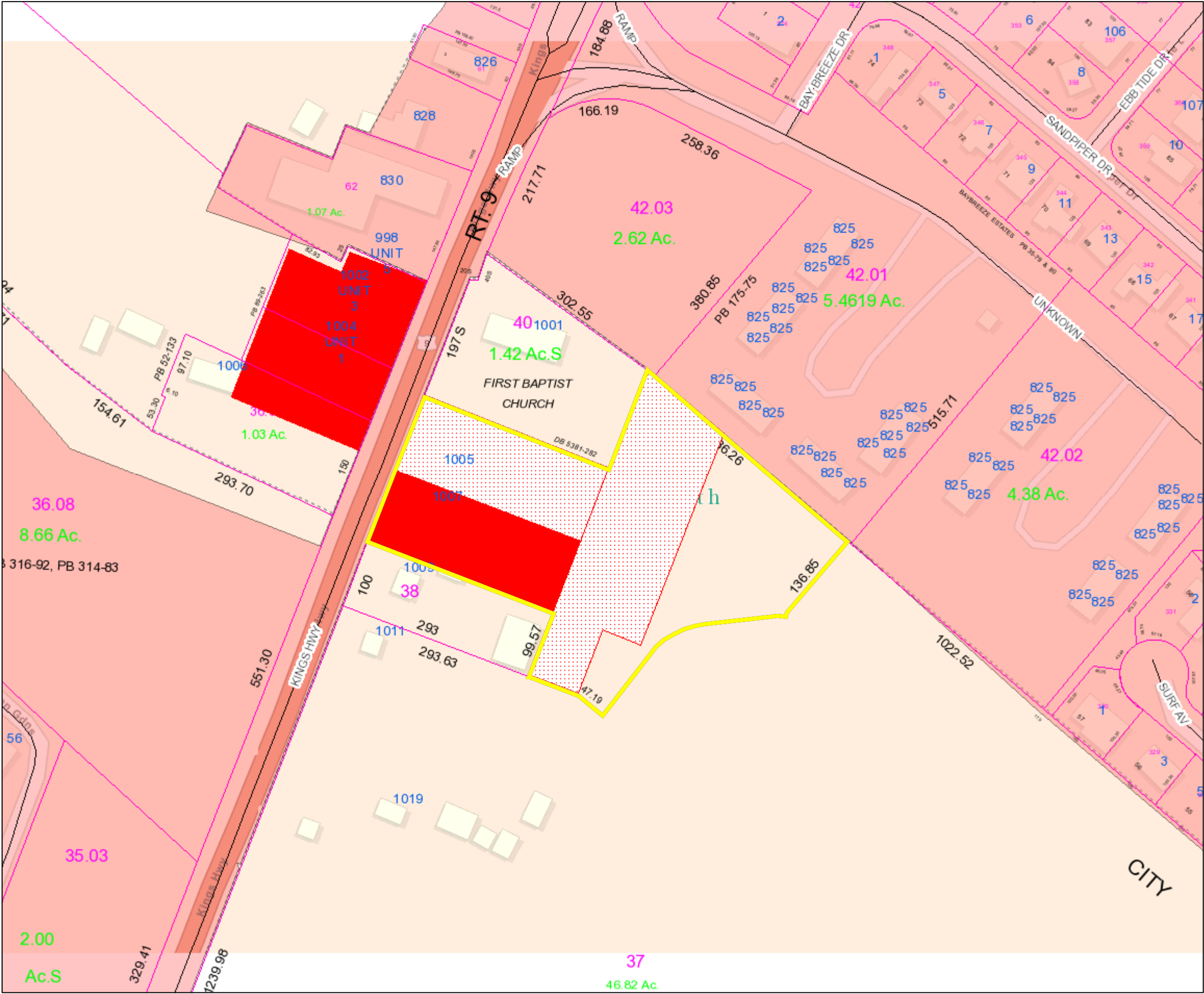
TID

1:2,257





Sussex County

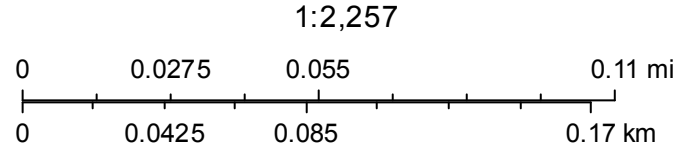


PIN:	335-8.00-39.00
Owner Name	JEFF-KAT LLC
Book	5613
Mailing Address	1007 KINGS HWY
City	LEWES
State	DE
Description	SE/KINGS HWY
Description 2	
Description 3	
Land Code	

- polygonLayer

Override 1
- polygonLayer

Override 1
- Tax Parcels
- 911 Address
- Streets



Introduced: 03/08/2022

Council District 3: Mr. Schaeffer

Tax I.D. Nos: 335-8.00-39.00 (portion of)

911 Addresses: 1007 & 1005 Kings Highway, Lewes, DE

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PORTION OF A PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.19 ACRES, MORE OR LESS

WHEREAS, on the 27th day of October 2021, a zoning application, denominated Change of Zone No. 1962 was filed on behalf of Jeff-Kat, LLC; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1962 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of AR-1 Agricultural Residential District and adding in lieu thereof the designation of C-3 Heavy Commercial District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Lewes & Rehoboth Hundred, Sussex County, Delaware, and lying on the east side of Kings Highway (Rt. 9), approximately 0.36-miles northeast of the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267), being more particularly described in the attached legal description prepared by Davis Bowen & Friedel, Inc. said parcel containing 1.19 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: May 13, 2022

RE: County Council Report for C/U 2318 filed on behalf of V&M, LLC

The Planning and Zoning Department received an application (C/U 2318 filed on behalf of V&M, LLC) for a Conditional Use for parcels 334-12.00-108.00, 108.01, 109.00, 109.01 110.00, 111.00, 111.01 and 112.00 for a convenience store and office building. The property is located within the Agricultural Residential (AR-1) Zoning District and is located at 19429, 19425, 19405 & 19387 John J. Williams Highway and 19676, 19662, 19646 & 19634 Mulberry Knoll Road, Lewes.

The Planning & Zoning Commission held a Public Hearing on the application on April 14, 2022. At the meeting of April 28, 2022, the Planning & Zoning Commission recommended approval of the application subject to 8 reasons stated and subject to 10 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of April 14, 2022 and April 28, 2022.

Approved Minutes of the April 14, 2022 Planning & Zoning Commission Meeting

C/U 2318 V&M, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONVENIENCE STORE AND OFFICE BUILDING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.305 ACRES, MORE OR LESS. The properties are lying on the southeast corner of the intersection of John J. Williams Highway (Route 24) and Mulberry Knoll Road (S.C.R. 284) also on the southeast side of John J. Williams Highway (Rt. 24) and also on the southwest side of Mulberry



Knoll Road (S.C.R. 284). 911 Addresses: 19429, 19425, 19405, & 19387 John J. Williams Hwy. & 19676, 19662, 19646, & 19634 Mulberry Knoll Rd., Lewes. Tax Parcels: 334-12.00-108.00, 108.01, 109.00, 109.01, 110.00, 111.00, 111.01, 112.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Conceptual Site Plan, Exhibit Booklet, the PLUS response, a letter from Sussex County Engineering Department Utility Planning Division, the DelDOT Service Level Evaluation Response, and one comment letter which was circulated to the Commission.

The Commission found that Mr. Fuqua, Esq. with Fuqua, Willard, Stevens & Schab, P.A. spoke on behalf of Application C/U 2318 V&M, LLC; that also present was Mr. Vincent Bifferato on behalf of the Applicant and Mr. Zac Crouch, Engineer with Davis Bowen and Friedel, Inc.; that there was an exhibit booklet submitted for the record; that it contains related information including the PLUS response, Environmental Assessment, Public Facilities Evaluation Report, the DelDOT Traffic Impact Study (TIS) Review Letter and a letter agreement between DelDOT and the Applicant; that the Conditional Use Application is for a convenience store, fueling stations and office building on a 3.3-acre parcel; that the site is located at the southwest corner of Rt. 24 and Mulberry Knoll Rd. intersection; that the proposed site is comprised of eight separate tax map parcels, which have been purchased by the Applicant; that the eight parcels have been improved with several older homes and outbuildings; that the land is mostly cleared; that the general surrounding area has experienced significant population growth over the past decade; that there have been many new residential communities being developed in the area; that the trend of increasing population west of Rt. 1 and north and south of Rt. 24 resulted in the construction of Beacon Middle School within the Cape Henlopen School District; that Beacon Middle School is located to the land immediately adjacent to the west of the site; that the Love Creek Elementary School is located on the north side of Rt. 24, across from Beacon Middle School; that the State relocated the Delaware State Police Troop 7 Headquarters onto Mulberry Knoll Rd., on the north side of Rt. 24; that the Application was reviewed during the PLUS process on August 25, 2021; that a PLUS letter was issued by the State Planning Coordination on September 22, 2021; that the site is located in the Investment Level 2 area according to the State Planning Office and the 2020 Strategies for State Policies and Spending Map; that Investment Level 2 reflects areas where growth is anticipated by County and State Plans in the near future; that State investments will support growth in the Investment Level 2 areas; that the PLUS letter further states the Office of State Planning has no objection to the Application; that the State Strategies document is not intended to be used as a land-use plan; that it is a guide to areas where the State plans to invest in infrastructure; that Delaware land-use authority has been delegated to the local governments; that land-use activity must comply with the Comprehensive Plan and the Zoning Ordinance of the local jurisdiction; that the 2019 Comprehensive Plan designated all of Sussex County as being in a growth area or in a rural area; that there are seven types of growths areas; that as indicated on the Future Land Use Map the site is located within the commercial growth area; that the plan describes the commercial growth area as areas for retail and services uses, which are mainly located along arterial roadways and highways; that commercial areas under the plan include commercial corridors, shopping centers and other medium and large commercial uses which are geared to vehicular traffic and not primarily targeted for the residents in the immediate and adjacent areas; that the parcel is zoned AR-1 (Agricultural Residential); that although a Change of Zone request for one of the parcels would be appropriate and consistent with the Comprehensive Plan, no zoning change

is being requested, and the parcel's zoning designation will remain AR-1; that rather to seek rezoning of the property, the Applicant is requesting a Conditional Use for the specific proposed use; that the proposed use is for a 5,000 sq. ft. convenience store with fueling stations and a 12,000 sq. ft. office building; that a Conditional Use for the proposed use is authorized in the AR-1 Zoning District by the Zoning Ordinance; that there are two significant differences between a Change of Zone to commercial and a Conditional Use; that if land is rezoned to commercial, a wide variety of commercial uses are permitted by right currently or in the future; that a Conditional Use authorizes only the specific uses being requested; that a commercial rezoning cannot be issued limitations or conditions on the approval; that a Conditional Use allows the County to impose reasonable conditions of approval on the proposed use and the site plan layout; that Conditional Uses are typically of a public or semi-public character, being essential and desirable for the convenience and welfare of the public; that the Zoning Ordinance indicates that Conditional Uses require planning judgement relating to the location, proposed use, possible impacts and the importance of the uses relationship to the County's Comprehensive Plan; that considering the nature of the area and the applicable land-use regulations, this particular site was chosen for this use for two main reasons; that the population growth in the general area has a great need for the uses which are essential and desirable for the general convenience and welfare of the public; that under the land-use regulations the site is located under Investment Level 2 within the State Plan, where growth is anticipated; that the State of Planning Coordination has no objection to the proposed use; that under the County Comprehensive Plan the site is located within a growth area; that the commercial growth area with the proposed use is specifically deemed appropriate; that central water will be provided by Tidewater Utilities, Inc.; that Tidewater does hold the CPCN to serve the area; that Tidewater Utilities, Inc. was previously granted a Conditional Use by Sussex County in November 2020 to construct a one million gallon water storage tank on land located adjacent to site; that the land is part of the Beacon Middle School property and owned by the Cape Henlopen School District; that the site will be served as part of the Sussex County unified sewer district; that the County Engineering Department confirmed that adequate capacity is available; that connection to the County Sewer District is required; that stormwater management facilities will be designed and constructed in accordance with DNREC regulations; that stormwater management will be reviewed and approved by the Sussex Conservation District; that all stormwater will be directed into the storm drainage network on the site; that they will be using best management practices; that there are no state regulated or federally regulated nontidal wetlands located on the site; that the entire site is located in Flood Zone X according to the FEMA Flood Insurance Rate Map; that the site is located out of the 100 Year Flood Plain; that the site is not located within a Wellhead Protection Area or an Excellent Groundwater Recharge Area; that fire protection would be provided by the Rehoboth Beach Fire Company; that the joint Rehoboth Beach/Lewes fire station is located nearby on Rt. 24; that as a result of the Service Level Evaluation Request DelDOT did determine a Traffic Impact Study (TIS) was warranted; that the site is located within the new Henlopen Transportation Improvement District (Henlopen TID); that normally a commercial use within the TID would be required to pay a fee to DelDOT based on the square footage of use in lieu of performing a TIS; that because this commercial use was not part of the planning when the TID was created, the Application was not eligible to pay the TID fee; that DelDOT did require the full Traffic Impact Study to be performed; that the Applicant requested David Bowen and Friedel, Inc. (DBF) to prepare the TIS in accordance with DelDOT's requirements and directions; that there were already two DelDOT projects underway within the study area, being the Rt. 24 and Mulberry Knoll Rd. to Rt. 1 project and the Rt. 24 and Love Creek to Mulberry Knoll Rd. project; that the DelDOT projects involve safety, operational and

capacity improvements along Rt. 24; that the improvements include extending turn lanes, bicycle, and pedestrian improvements, and the widening of Rt. 24, which will provide two through lanes in both directions; that there will also be signalization turn lanes at the Rt. 24 and Mulberry Knoll Rd. intersection adjacent to the site; that the proposed projects did create a practical complication to the Applicant's proposed use; that it did not make sense to have DelDOT complete improvements, which would be required to be modified or removed if the Conditional Use Application were approved; that DBF approached DelDOT regarding the issue; that DelDOT recognized the issue and agreed to enter into an agreement with the Applicant, dated August 12, 2021, to address the issue; that a copy of the agreement is included in the exhibit booklet; that the agreement with DelDOT is contingent on the Applicant's obtaining a Conditional Use approval for the proposed use; that the Applicant completes a Traffic Impact Study, which has been completed; that the Applicant obtain the required entrance plan approval from DelDOT, which would be a process after receiving approval; that as part of DelDOT's project, and the construction they are performing, DelDOT will construct a right-in and right-out entrance on Rt. 24 onto the site, with a right turn lane along the eastern side of Rt. 24; that the Applicant will reimburse DelDOT for all costs associated with the construction of the entrance, turn lane, and frontage improvements; that currently DelDOT is required to construct four existing entrances for the four tax map parcels that front Rt. 24, which are owned by the Applicant; that those entrances would be constructed at DelDOT's cost and expense; that if the Conditional Use were approved, the four entrances will no longer be necessary; that the agreement provides the Applicant will make a dedication to DelDOT for portions of the Rt. 24 frontage; that this is required by DelDOT for construction of their improvements of stormwater management facilities on the site related drainage from the road frontage improvements, entrance and turn lanes; that in addition to the agreement, there was a TIS performed, which was submitted to DelDOT; that DelDOT issued their TIS Review Letter on March 4, 2022; that as a result of the TIS Review the Applicant will be responsible for all requirements stated within the DelDOT agreement, improvements to Mulberry Knoll Rd. in both directions, within the limits of the site frontage to meet the DelDOT road standards, develop a full movement site access on Mulberry Knoll Rd. with a through lane and a right turn lane on southbound Mulberry Knoll Rd., improve the Rt. 24 and Mulberry Knoll Rd. intersection, beyond the DelDOT improvement projects, by extending the length of the plan northbound Mulberry Knoll Rd. left turn lane by an additional 40-ft. in length to better accommodate left turn movements related to the site; that the developer will dedicate a 15-ft. easement from the edge of the right of way to Mulberry Knoll Rd. frontage, construct a 10-ft. wide shared use path within the easement and a five foot buffer from the right of way; that there is no requirement to construct the same along the Rt. 24 frontage as it is all part of current DelDOT project; that all improvements will include bicycle and pedestrian safety features with pavement markings and signage which is required by DelDOT; that the improvements will comply with ADA standards; that the developer will coordinate with the Delaware Transit Corporation regarding the design and construction of a 5'x8' bus pad fronting on eastbound Rt. 24; that there are two proposed access points to the site; that there is a right-in and right-out access from eastbound Rt. 24, located to the western side of the property; that there will be a full turn entrance from Mulberry Knoll Rd., located at the rear of the site; that the convenience store, centrally located on the site, will have 5,000 sq. ft. of floor area; that the store is setback approximately 200-ft. from the Rt. 24 DelDOT right of way; that directly in front of the store is the fuel dispensing area; that this area would have a total of 10 fuel dispensers, located under a canopy; that the fueling operation would be constructed and operated in compliance with all federal and DNREC safety regulations; that the office building would be located to the west of the convenient store; that the

office building does have a similar setback from Rt. 24; that the office building would be a three-story building containing 12,000 sq. ft. of floor area; that the site would have a total of 75 parking spaces as required; that each building would have a designated loading area; that stormwater facilities would be located to the front northeast corner of the property; that the stormwater facilities will accommodate not only the drainage but also drainage from the DelDOT improvements performed in the area; that signage has not yet been determined; that the Applicant requests to have the type of signage as permitted within the commercial districts, in Section 115-159(5); that there will be a landscape tree buffer provided along the boundary of the site with the lands of the Cape Henlopen School District and to the Lands of Ralk to rear and side of the site; that there will be appropriate landscaping throughout the property as well; that a detailed Landscaping Plan will be prepared and submitted as part of the Final Site Plan Review; that he requested to submit proposed findings and conditions into the record; that the location is appropriate for the proposed use; that the site is located within Investment Level 2; that the State Planning Office has no objection; that there is extensive road improvements being constructed along Rt. 24 at the present time; that the intersection of Mulberry Knoll Rd. and Rt. 24 will become signalized; that all the improvements will accommodate the traffic impact in the area which has experienced significant growth and the site is designated as a commercial area in the 2019 Comprehensive Plan, where the proposed use is deemed to be appropriate.

Chairman Wheatley questioned the location of proposed parking in relation to the location of the office building; that he questioned if there is a proposed use for the office space at this time and he stated it is a lot of office space, which could hold many employees and was curious to how the parking related to the office building.

Mr. Fuqua stated there is no specific proposed use for the office building at this time; that the Applicant intends for the office to be a rental for professional and insurance purposes.

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

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

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

In relation to the Application C/U 2318 V&M, LLC. Motion by Ms. Stevenson to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 4-0.

Draft Minutes of the April 28, 2022 Planning & Zoning Commission Meeting

The Commission discussed the application which has been deferred since April 14, 2022.

Ms. Stevenson moved that the Commission recommend approval of C/U 2318 V & M, LLC for a convenience store and office-based upon the record made during the public hearing and for the following reasons:

1. The site is at the intersection of Route 24 and Mulberry Knoll Road. Route 24 and this intersection are undergoing substantial improvements, with a traffic light to be installed at the intersection. This is an appropriate location for the proposed use.

2. This location serves an area that has experienced residential growth. It is also near two relatively new schools and the recently constructed Troop 7. This Conditional Use will provide a convenient location for retail and automobile fueling for nearby residential developments as well as Route 24 traffic.
3. The Applicant will be required to comply with all DelDOT entrance and roadway improvements as required by DelDOT's TIS Review Letter and DelDOT's Letter Agreement.
4. The site will be served by central water and Sussex County sewer.
5. The site is in the Commercial Area according to the current Sussex County Land Use Plan. This type of business is appropriate in this Area according to the Plan.
6. The proposed Conditional Use lessens the congestion on area roads by providing appropriate commercial activities at the Route 24 and Mulberry Knoll Road intersection so that residents and visitors to the area can meet some of their commercial needs without having to travel to Route One or the Angola areas.
7. The proposed Conditional Use meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.
8. There was no opposition to this Application.
9. This recommendation is subject to the following conditions:
 - a. The use shall be for a 5,000 square foot convenience store with fueling stations and a 12,000 square foot office building.
 - b. The Applicant shall comply with all entrance, intersection, and roadway improvements required by DelDOT.
 - c. Fuel and petroleum products shall be stored and dispensed as required by all State and Federal requirements.
 - d. All security lighting shall be screened so that it does not shine on neighboring properties or roadways.
 - e. Any dumpsters shall be screened from the view of neighboring properties and roadways. The dumpster locations shall be shown on the Final Site Plan.
 - f. The Developer shall comply with all stormwater management requirements and the Final Site Plan shall contain the approval of the Sussex Conservation District.
 - g. The site may have the signage permitted in the C-3 District.
 - h. There shall be a landscape area along the site's common boundary with lands of the Cape Henlopen School District and lands of Ralk Properties, LLC to screen this site from these adjacent properties. A landscaping plan shall be submitted as part of the Final Site Plan.
 - i. The site shall comply with the parking requirements and calculations set forth in the Sussex County Zoning Code. The Final Site Plan shall clearly show these areas and all parking areas shall be clearly marked on the site.
 - j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to recommend approval of C/U 2318 V & M, LLC for the reasons and conditions stated in the motion. Motion carried 5-0.

The vote by roll call: Ms. Stevenson – Yea, Mr. Hopkins – Yea, Ms. Wingate – Yea, Mr. Mears- Yea, Chairman Wheatley – Yea

ROBERT C. WHEATLEY, CHAIRMAN
MARTIN L. ROSS, VICE CHAIRMAN
R. KELLER HOPKINS
DOUGLAS B HUDSON
KIM HOEY STEVENSON



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Sussex County

Planning & Zoning Commission

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date April 14, 2022

Application:	CU 2318 V&M, LLC	MS
Owners:	V&M, LLC P.O. Box 501 Rehoboth Beach, DE 19971	
Applicant:	V&M, LLC P.O. Box 501 Rehoboth Beach, DE 19971	
Site Location:	19429, 19425, 19405, & 19387 John J. Williams Hwy. & 19676, 19662, 19646, & 19634 Mulberry Knoll Rd., Lewes Southerly corner of John J. Williams Highway and Mulberry Knoll Road	
Zoning:	AR-1 (Agricultural Residential District)	
Current Use:	Residential	
Proposed Use:	Commercial / Office	
Comprehensive Land Use Plan Reference:	Commercial Areas	
Councilmatic District:	Mr. Schaeffer	
School District:	Cape Henlopen School District	
Fire District:	Rehoboth Beach Fire District	
Sewer:	Sussex County	
Water:	Tidewater	
Site Area:	3.305 ac. +/- (Entire Site)	
Tax Map ID.:	334-12.00-108.00, 108.01, 109.00, 109.01, 110.00, 111.00, 111.01, & 112.00	



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Sussex County

DELAWARE
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Memorandum

To: Sussex County Planning Commission Members
From: Mr. Michael Lowrey, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: April 1st, 2022
RE: Staff Analysis for C/U 2318 V&M LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/U 2318 V&M LLC to be reviewed during the April 14, 2022, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcels: 334-12.00-108.00, 108.01, 109.00, 109.01, 110.00, 111.00, 111.01, & 112.00 to allow for the construction of two (2) structures including a 5,000 square foot commercial convenience store and a 17,000 square foot office use on the site. The properties are located at the southeast corner of the intersection of John J. Williams Highway (Route 24) and Mulberry Knoll Road (S.C.R. 284). The parcels comprise a total area of 3.3 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 parcels have a designation of "Commercial Area." The parcels to the northwest, south, and west also have a Future Land Use Map designation of "Commercial Area." The adjacent parcels to the east of the subject properties across Mulberry Knoll Road have the Future Land Use Map designation of "Coastal Area."

As outlined within the 2018 Sussex County Comprehensive Plan, Commercial Areas are growth areas that include concentrations of retail and service uses and are primarily located "arterials, and highways." (Sussex County Comprehensive Plan, 4-17) The Plan specifically notes that these areas include commercial corridors geared towards vehicular traffic and recommends they be located along "main roads or near major intersections." While the Plan's Commercial Area category dominates this portion the John J. Williams Highway (Route 24) corridor, much of the surrounding area is designated as "Coastal Area." Coastal Areas are areas that can accommodate development provided special environmental concerns are addressed, noting that commercial and office uses "can be appropriate to provide for convenient services." (Sussex County Comprehensive Plan, 4-15)



Zoning Information

The subject properties are zoned Agricultural Residential (AR-1) with all the immediately surrounding properties zoned (AR-1) as well. The closest commercial use zoning districts lie approximately 1.25 miles north on John J. Williams Highway (Route 24) at the intersection with the Coastal Highway (Route 1) corridor.

Existing Conditional Uses within the Vicinity of the Subject Site

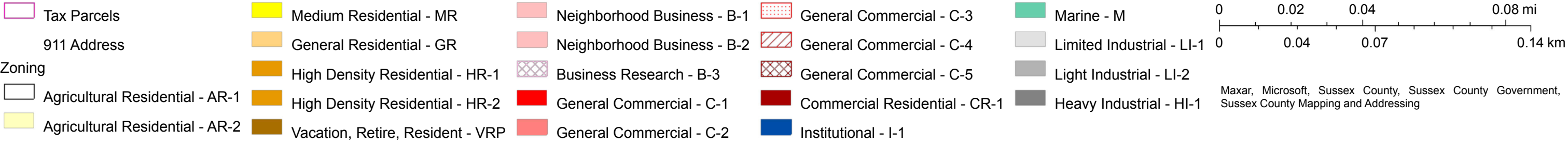
Since 2011, there have been seven (7) Conditional Use applications within less than a 1-mile radius of the application site. The first application is Conditional Use No. 2246 Bee Wise, LLC to allow for a Real Estate Business in the Agricultural Residential (AR-1) Zoning District. This application was approved by the Sussex County Council on Tuesday, June 8, 2021, and adopted through Ordinance No. 2775. The second application is Conditional Use No. 2016 for Cape Henlopen School District to allow for Elementary School in the Agricultural Residential (AR-1) Zoning District. This application was approved by the Sussex County Council on Tuesday, June 16, 2015, and was adopted through Ordinance No. 2402. The third application is Conditional Use No. 2015 Delaware Division of Facilities Management to permit a Public Service Facility (State Police) in the Agricultural Residential (AR-1) Zoning District. This application was approved by the Sussex County Council on Tuesday, June 16, 2015, and was adopted through Ordinance No. 2401. The fourth application is Conditional Use No. 1938 Karen Barwick for purposes of allowing a Therapist Office and Residence in an Agricultural Residential (AR-1) Zoning District. This application was approved by the Sussex County Council on Tuesday, September 11, 2012, and adopted through Ordinance No. 2289. The fifth application is Conditional Use No. 2046 Lockwood Design and Construction, Inc. to allow for Multi-Family Dwelling Structures to be located within a Medium-Density Residential (MR) Zoning District. This application was approved by the Sussex County Council on Tuesday, June 14, 2016, and adopted through Ordinance No. 2479. The sixth application is Conditional Use No. 2297 Schell Brothers, Inc. to allow for an amendment to the Conditions of Approval relating to CU 2046 (Ordinance No. 2479) and the permitted hours of construction to be located within a Medium-Density Residential (MR) Zoning District. This application was approved by the Sussex County Council on County Tuesday, February 22, 2022, and adopted through Ordinance No. 2831. The seventh application is Conditional Use No. 2017 Eli and Victoria Zacharia to allow for Multi-Family Dwelling Structures to be located within a Medium-Density Residential (MR) Zoning District. This application was approved by the Sussex County Council on Tuesday, September 22, 2015, and adopted through Ordinance No. 2436. The final application is Conditional Use No. 2252 Delaware Electric Co-Op to allow for a substation to be located within a Medium-Density Residential (MR) Zoning District. This application was approved by the Sussex County Council on County Tuesday, July 13, 2021, and adopted through Ordinance No. 2788.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow for the construction of commercial and office uses in this location, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

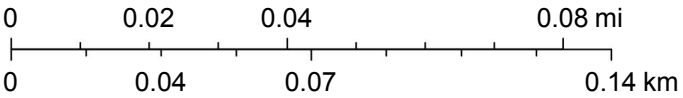
Sussex County



March 16, 2022



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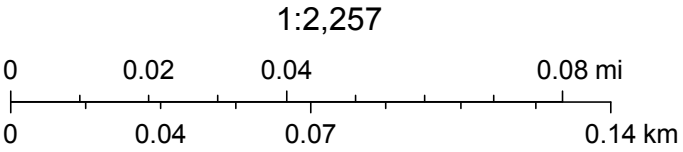
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Sussex County



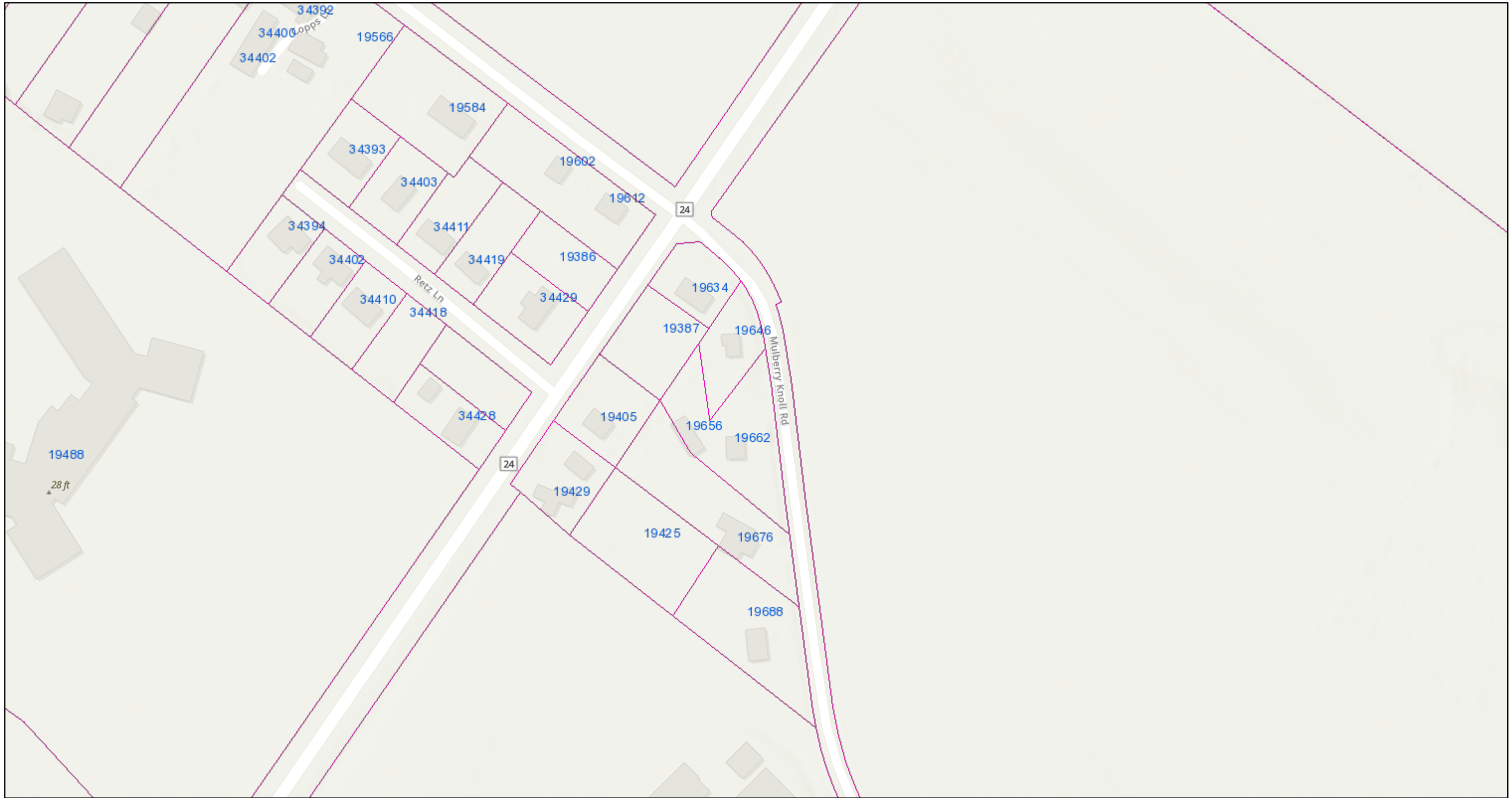
March 16, 2022

 Tax Parcels
 911 Address



Sussex County, Sussex County Government, Esri Community Maps Contributors, County of Sussex, DE, Delaware FirstMap, VITA, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc., METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, Sussex County Mapping and Addressing


Sussex County



March 16, 2022

☐ Tax Parcels
☐ 911 Address

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

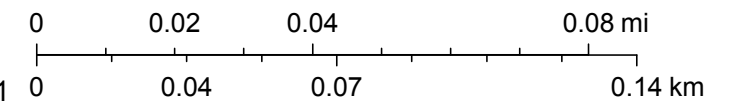
 Marine - M

☐ Limited Industrial - LI-1

Light Industrial - LI-2

Heavy Industrial - HI-1

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Sussex County, Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Sussex County Government, Esri Community Maps Contributors, County of Sussex, DE, Delaware FirstMap, VITA, ©

Introduced: 03/08/2022

Council District 4: Mr. Hudson

Tax I.D. No.: 334-12.00-108.00, 108.01, 109.00, 109.01, 110.00, 111.00, 111.01, & 112.00

911 Addresses: 19429, 19425, 19405, & 19387 John J. Williams Hwy. & 19676, 19662, 19646, & 19634 Mulberry Knoll Rd., Lewes

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONVENIENCE STORE AND OFFICE BUILDING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.305 ACRES, MORE OR LESS

WHEREAS, on the 15th day of October 2021, a conditional use application, denominated Conditional Use No. 2318 was filed on behalf of V&M, LLC; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2318 be _____; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2318 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 Lewes & Rehoboth Hundred, Sussex County, Delaware, and lying on the southeast corner of the intersection of John J. Williams Highway (Rt. 24) and Mulberry Knoll Road (S.C.R. 284) also on the southeast side of John J. Williams Highway (Rt. 24) and also on the southwest side of Mulberry Knoll Road (S.C.R. 284) and being more particularly described in the attached legal description prepared by Baird Mandalas Brockstedt, LLC, said parcels containing 3.305 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.