



Sussex County Council Public/Media Packet

**MEETING:
June 13, 2023**

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

COUNTY COUNCIL

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



Sussex County

DELAWARE
sussexcountyde.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

A G E N D A

JUNE 13, 2023

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes – June 6, 2023

Reading of Correspondence

Public Comments

Consent Agenda

1. Use of Existing Sewer Infrastructure Agreement, Sussex Shores Water Company (Plant #2), Cedar Neck Area
2. Use of Existing Sewer Infrastructure Agreement, IUA S-18-96 Orchard Plaza, West Rehoboth Area
3. Use of Existing Sewer Infrastructure Agreement, IUA S-18-94 Tranquility at Breakwater, West Rehoboth Area
4. Proclamation Request – Selbyville Fire Company 100th Anniversary
5. Proclamation Request – Delaware State Police 100th Anniversary



Todd Lawson, County Administrator

1. Library Advisory Board Appointment
2. Discussion and possible action related to the disposition of County property
3. Administrator's Report

10:15 a.m. Public Hearing

1. Suncrest Annexation into the Sussex County Unified Sanitary Sewer District (Angola Neck Area)

Brandy Nauman, Director of Community Housing and Development

1. Housing Trust Fund Award Recommendation and Possible Action
2. CARES Act Update and Possible Action

Hans Medlarz, County Engineer

1. Dewey Tower
 - A. Sprint Lease Agreement Extension

Old Business

1. **Conditional Use No. 2323 filed on behalf of Leslye Brossus**

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A TREEHOUSE AND YURT TO BE UTILIZED FOR SHORT-TERM RENTALS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.26 ACRES, MORE OR LESS” (property lying on the south side of Reading Street, approximately 0.14 mile south of Old Mill Road [Route 349] and is Lot 45 within the Banks Acres Subdivision) (911 Address: 31631 Reading Street, Millville) (Tax Parcel: 134-12.00-1198.00)

2. **Conditional Use No. 2325 filed on behalf of David & Sandra Blank**

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CAMPGROUND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 30.76 ACRES MORE OR LESS” (property lying on the northeast side of Jay Patch Road [S.C.R. 376A], approximately 0.5-mile southeast of Pepper Road [S.C.R. 376]) (911 Address: N/A) (Tax Parcel: 533-9.00-58.00)

3. Conditional Use No. 2366 filed on behalf of IMPACT Life, Inc.

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

4. Conditional Use No. 2367 filed on behalf of AtTack Addiction Foundation

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

Grant Requests

- 1. Town of Georgetown for their Outreach Program**
- 2. City of Seaford for the Nanticoke Riverfest event**
- 3. Blades Police Department for their National Night Out**

Introduction of Proposed Zoning Ordinances

Council Members’ Comments

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on June 6, 2023 at 4:15 p.m. and at least seven (7) days in advance of the meeting.

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

Agenda items may be considered out of sequence.

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

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

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

To join the meeting via telephone, please dial:

Conference Number: 1-302-394-5036

Conference Code: 570176

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

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

#

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 6, 2023

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 6, 2023, at 10:00 a.m., in Council Chambers, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 251 23
Approve
Agenda**

Mr. Lawson reported that the Presentation from Ms. Sarah Carter and Mr. Dan Cruce, United Way of Delaware could be removed from today's agenda. A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to approve the Agenda as amended.

Motion Adopted: 4 Yeas, 1 Absent

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

Minutes

The minutes from May 23, 2023, were approved by consensus.

**Corre-
spondence**

Mr. Moore read a letter received from Delaware Technical Community College and Delaware Community Foundation thanking Council for their grant received.

**Public
Comments**

Public comments were heard.

Ms. Renita Harmon spoke about homelessness and changing laws relating to housing.

Ms. Jill Hicks commented about disabling the public's ability to call-in with their comments during the P&Z meetings and hearings.

Consent Agenda	A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to approve the following item under the Consent Agenda:
M 252 23 Approve Consent Agenda	Proclamation Request – Cape Henlopen Boys Volleyball Team State Championship Motion Adopted: 5 Yeas Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea
SCEMS Team Recognition	Mr. Lawson recognized the SCEMS Team for winning the 2023 JEMS games gold medal.
Administrator's Report	Mr. Lawson read the following information in his Administrator's Report: 1. <u>Ann Tyndall</u> It is with sadness that we note the passing of County pensioner Ann Tyndall on Sunday, May 14th. Ms. Tyndall began her career with Sussex County in January 1970 and retired from the Assessment Department as an Assessment Clerk in July 1991 for a total of 21 years of service. We would like to extend our condolences to the Tyndall family. [Attachments to the Administrator's Report are not attached to the minutes.]
Pension Update & Recommendation	Gina Jennings, Finance Director presented a pension update and recommendation to change investment policy statements for Council's consideration. Mrs. Jennings reported that included in the packet was a quarterly pension report and the minutes from the Pension Committee that was held on May 18th. During the May meeting, two items were discussed: <ul style="list-style-type: none">• Marquette Associates, the County's investment advisor, reviewed the County's investment performance. As of the end of April, the pension fund was valued at \$145.8 million and realized a net return of 6.8% and the OPEB fund was valued at \$59.2 million and realized a net return of 6.7%• The Pension Commission discussed changing the investment policy statements for both funds to increase performance and lower risk. Mrs. Jennings reported that today, she will be making the pension committee's recommendation to add bank loans to our investment policy in return lowering our risk to equities. The recommendation will also include decreasing our allocation to real estate and adding more weight to infrastructure.

**Pension
Update &
Recommendation**

Mr. Pat Wing, Marquette Associates came forward to provide an explanation on what it would look like if the changes are implemented that are being recommended by the pension committee.

Mr. Wing explained that it is believed that it is worth considering the changes to the strategic asset allocation. The reasons to consider these changes are:

- The Actuarial Assumed Rate of Return was lowered from 7.00% to 6.75%.
- The outlook for fixed income has improved considerably given the rise in interest rates.
- Opportunity to diversify the equity risk within the Funds.
- The outlook for Core Real Estate is concerning.

Mr. Wing reviewed the asset class roles, bank loan characteristics, historical correlations for the last 15 years and asset allocation targets. In addition, he showed a graph outlining cumulative returns annualized and a graph showing future projections.

**M 253 23
Approve
Pension
Committee
Recommendation**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer that be it moved, through the recommendation of the Pension Committee, Sussex County Council changes both the Pension and OPEB investment policy statements to add Bank Loans with a 3% target by decreasing the domestic equities target by 3% and also increasing the infrastructure target 2% by decreasing the real estate target by 2%.

Motion Adopted: 5 Yeas

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

**Auditing
Services
RFP**

Gina Jennings, Finance Director presenting auditing services RFP results and a possible award for Council's consideration. Mrs. Jennings reported that three proposals were received: BDO USA, LLP; CliftonLarsonAllen LLP; UHY, LLC. A summary of the bid evaluations were included in the packet. The bids were graded on experience and reputation, quality of audit firm, capacity to perform, credentials and experience, and price.

It is being recommended to select BDO USA, LLP to perform audit services for the next three fiscal years with the option to extend the contract for another three one-year periods, by mutual agreement.

**M 254 23
Approve
Auditing
Services
RFP**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, that be it moved through the recommendation by the Finance Department, the Sussex County Council approve entering into an auditing services agreement with BDO, USA LLP 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**

ARAP Non-Profit Grant Program Recommendations

Gina Jennings, Finance Director presented ARPA non-profit grant program recommendations for Council's consideration. Mrs. Jennings reported that in March, an update on the County's ARPA funds was presented to Council. At that time, it was recommended that the Council endorse a grant program that would allow non-profits to demonstrate they were financially impacted by the pandemic.

After review by the Finance Department, it is being recommended to award 23 entities amounts ranging from \$1,568 to \$40,000. The awards were based on both the financial calculation and clarification that the financial impacts were COVID-19 related.

If approved, the Finance Department will reach out to the entities and notify them of their award. The non-profit will then sign a certification provided prior to the funds are released.

**M 255 23
Approve
ARPA Non-Profit
Grants**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, that be it moved though the recommendation by the Finance Department, the Sussex County Council award the non-profit ARPA grants contingent on the non-profit final certification being signed.

Motion Adopted: 5 Yeas

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

**SC WRF/
CO No. 28**

Hans Medlarz, County Engineer presented change order no. 28 for project C19-04, South Coastal WRF treatment process upgrade no. 3 & Rehoboth Beach WTP capital improvements program, phase 2, general construction for Council's consideration.

**M 256 23
Approve CO
No. 28/ SC
WRF**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer it moved based upon the recommendation of the Sussex County Engineering and Finance Departments that change order no. 28 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 \$108,583.52.

Motion Adopted: 5 Yeas

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

Mr. Vincent, Yea

**EMS Bldg/
CO No. 25
& Close-out** **Hans Medlarz, County Engineer presented change order no. 25 and a close-out request for the EMS public safety building, project C19-04 for Council's consideration.**

**M 257 23
Approve
EMS Bldg
CO No. 25
& Close-out** **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it moved based upon the recommendation of the Sussex County Engineering Department that change order no. 25 for contract C19-04, Sussex County public safety building, be approved, for an increase of \$42,416.59 and that substantial completion be granted effective June 5, 2023, with any held retainage released in accordance with the contract documents.**

Motion Adopted: 5 Yeas

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

**Mulberry
Knoll/CO
No. 1** **Hans Medlarz, County Engineer presented change order no. 1 and a request for granting substantial completion for Mulberry Knoll sewer collection system, project S20-22 for Council's consideration. Mr. Medlarz reported that most of the change order items are related to DelDOT items.**

**M 258 23
Approve
Mulberry
Knoll/CO
No. 1** **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, be it moved based upon the recommendation of the Sussex County Engineering Department that change order no. 1 for contract S20-22, Mulberry Knoll sewer collection system, be approved, for an increase of \$119,215.57 and that substantial completion be granted effective May 25, 2023, with any held retainage released in accordance with the contract documents, contingent upon SRF concurrence.**

Motion Adopted: 5 Yeas

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

**SC Library
Roof Top
Unit Replac-
ement** **Hans Medlarz, County Engineer presented a recommendation to award for South Coastal Library roof top unit replacement for Council's consideration. Mr. Medlarz reported that the unit serving the Childrens Room, and several other spaces is at the end of its service life.**

**M 259 23
Approve SC
Library
Roof Top
Unit Replac-
ment** **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 the contract for the South Coastal Library roof top unit replacement be awarded to Joseph T. Richardson for their total bid of \$63,300.**

Motion Adopted: 5 Yeas

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

**Cannon Rd/
IB Drainage
Improve/CO
No. 1** Hans Medlarz, County Engineer presented change order no. 1 for Cannon Road – Inland Bays Road drainage improvements and constructed wetlands, project S22-05 for Council’s consideration.

**M 260 23
Approve CO
No. 1/IB
Drainage
Improvem-
ents** 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. 1 for contract S22-05, Cannon Road/Inland Bays Road drainage improvements and constructed wetlands, be approved, increasing the contract by \$34,953.00.

Motion Adopted: 5 Yeas

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

**Old
Business/
CU2336** Under Old Business, Mr. Whitehouse presented 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 PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 25.012 ACRES, MORE OR LESS” filed on behalf of Community Power Group, LLC.

The County Council held a Public Hearing on the application at its meeting of January 24, 2023. At the conclusion of the Public Hearing, action on the application was deferred for further consideration.

**M 261 23
Adopt
Ordinance
No. 2924/
CU2336** A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Ordinance No. 2924 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 PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 25.012 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning and Zoning Commission as follows:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more intensive development.

**M 261 23
Adopt
Ordinance
No. 2924/
CU2336
(continued)**

3. The proposed facility promotes Goal 7.9 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar farms.
4. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighboring or adjacent properties.
5. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
6. The entire site is 39.45 acres in size. The solar farm will only utilize approximately 25 acres of the property.
7. Based upon the testimony in the record, it is evident that no significant noise, dust, or odor will be generated by the facility.
8. There will be a buffer to screen the view of the solar farm from the nearby residential properties while allowing the solar arrays to function properly.
9. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
10. This recommendation is subject to the following conditions:
 - a. The use shall be for a ground-mounted solar farm. No other types of electric generation shall be permitted at the site.
 - b. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - c. One unlighted sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - d. The site shall be secured by fencing with a gate with a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown on the Final Site Plan.
 - e. Any transformers or similar equipment shall be centrally located on the site away from any nearby residential uses.
 - f. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
 - g. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - h. There shall be a vegetated buffer that is at least 15 feet wide planted with deciduous and evergreen trees and shrubs around the perimeter of the solar arrays wherever there is not an existing vegetated buffer. These buffers shall screen solar arrays while allowing the solar arrays to function properly. These plantings shall include a double row of screening along the western boundary and the existing screening shall be bolstered along the southern and eastern

- M 261 23**
Adopt
Ordinance
No. 2924/
CU2336
(continued)
- boundaries.
- i. The Final Site Plan shall identify a Decommissioning Plan that includes financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
 - j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion Adopted: 5 Yeas

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

Grant
Requests

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

M 262 23
True Blue
Jazz, Inc.

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$10,000 (\$1,000 from Mr. Rieley's Councilmanic Grant Account, \$2,000 from Mr. Schaeffer's Councilmanic Grant Account, \$200 from Mrs. Green's Councilmanic Grant Account, \$2,000 from Countywide Youth Grant, \$3,000 from Mr. Vincent's Councilmanic Grant Account and \$1,800 from Mr. Hudson's Councilmanic Grant Account) to True Blue Jazz, Inc. for operating expenses.

Motion Adopted: 5 Yeas

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

M 263 23
Greenwood
Police
Department

A Motion was made by Mrs. Green, seconded by Mr. Hudson to give \$1,000 (\$1,000 from Mrs. Green's Councilmanic Grant Account) to Greenwood Police Department for their Night Out event.

Motion Adopted: 5 Yeas

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

M 264 23
Slaughter
Neck
Community
Action
Organizati-
on, Inc.

A Motion was made by Mrs. Green, seconded by Mr. Hudson to give \$1,000 (\$1,000 from Mrs. Green's Councilmanic Grant Account) to Slaughter Neck Community Action Organization, Inc. for their Senior Center program.

Motion Adopted: 5 Yeas

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

M 265 23
Eastern
Shore
AFRAM
Festival

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$1,000 (\$1,000 from Mr. Vincent's Councilmanic Grant Account) to Eastern Shore AFRAM Festival Inc. for their annual festival.

Motion Adopted: 5 Yeas

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

Introduction of Proposed Ordinances

Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (5 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.4 ACRES, MORE OR LESS" filed on behalf of Kent Walston, LLC

Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 1492 (ORDINANCE NO. 1653), RELATING TO CONTRACTING WORK, OFFICE WORK, AND GENERAL BUSINESS TO BE CONDUCTED ON THE SITE, AND ALSO RELATING TO OCCUPANCY OF THE UNITS AS A PRINCIPAL PLACE OF BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 10.80 ACRES, MORE OR LESS" filed on behalf of Beach Buggies, LLC

Mr. Vincent 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 26.7189 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 40.9655 ACRES, MORE OR LESS" filed on behalf of Seaford Community Energy Initiative, LLC

Mr. Vincent 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 30.1 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 143.09 ACRES, MORE OR LESS" filed on behalf of Consolidated Edison Development, Inc.

The Proposed Ordinances will be advertised for Public Hearings.

CC Member
Comments

There were no Council member comments.

- M 266 23**
Go Into
Executive
Session
- At 11:17 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to recess the Regular Session and go into Executive Session to discuss matters relating to land acquisition and pending/potential litigation.
- Motion Adopted: 5 Yeas
- Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea
- Executive**
Session
- At 11:22 a.m., an Executive Session the Sussex County Council was held in the Basement Caucus for the purpose of discussing matters relating to land acquisition and pending/potential litigation. The Executive Session concluded at 12:16 p.m.
- M 267 23**
Reconvene
- At 12:18 p.m., a Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to come out of Executive Session and reconvene the Regular Session.
- Motion Adopted: 4 Yeas, 1 Absent
- Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Absent; Mr. Rieley, Yea;
Mr. Vincent, Yea
- E/S Action**
- There was no action relating to Executive Session matters.
- M 268 23**
Recess
- At 12:19 p.m., a Motion was made by Mr. Rieley, seconded by Mrs. Green to recess until 1:30 p.m. Public Hearings.
- Motion Adopted: 4 Yeas, 1 Absent
- Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Absent; Mr. Rieley, Yea;
Mr. Vincent, Yea
- M 269 23**
Reconvene
- At 1:30 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to reconvene.
- Motion Adopted: 5 Yeas
- Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea
- Rules**
- Mr. Moore read the rules and procedures for public hearings.

**Public
Hearing/
CU2353**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A 28.09 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 55.00 ACRES, MORE OR LESS” (properties lying on the south side of Gum Tree Road [S.C.R. 405], the west side of DuPont Boulevard [Rt. 113], and the north side of Blueberry Lane [S.C.R. 402]) (911 Address: N/A) (Tax Map Parcels: 433-6.00-18.00, 20.00 & 26.00) filed on behalf of Sussex CSG 2, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on May 11, 2023. At the meeting of May 25, 2023, the Planning & Zoning Commission recommended approval of the application for the 10 reasons stated and subject to the 11 recommended conditions as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. James Fuqua, Esq. with Fuqua, Willard & Schab, P.A., spoke on behalf of the Applicant. Mr. Fuqua stated also present were Mr. Nick Walsh on behalf of the Applicant and Mr. Alan Decktor of Pennoni Associates; that both this application and the following application are for solar array facilities, being filed by the same Applicant; that he requested to have the comments for the current Application be included into the record for the next application, C/U 2354 Sussex CSG 1, LLC; that there was an exhibit booklet submitted into the record, containing information about the Application; that the applicant is owned by a company called Dimension Renewable Energy, who is a national company that focuses on community solar facilities; that Dimension operates many community facilities throughout the United States; that he was first contacted by the company in October 2021; that the solar facilities Conditional Use applications were both filed about a year ago; that at the time community solar facilities were fairly new to him and the Council; that both the Planning Commission and County Council have had numerous public hearings on community solar applications; that this application involves three tax map parcels containing a total of about 54 acres of land; that the land is owned by Frankford Center, LLC; that the 54 acre parcel is located just west of Frankford; that it has road frontage on the Southside of Gum Tree Road on the North; that the west side of the property borders Route 113; that the applicant will be leasing about 29.01 acres of the 54 acres site; that the western portion of the property is what is being leased; that the lease will be a 25 year term with two five year options to extend the lease; that the Conditional Use area will border the remainder of the parcel to the North and the East; that there is a tax ditch and a DPL right-of-way to the west of the site; that there are several residential properties located at the south portion of the site; that a portion of the 54 acres is zoned C-1; that the remainder of the site is zoned AR-1; that the Conditional Use

**Public
Hearing/
CU2353
(continued)**

area is all contained within the AR-1 zoned area; that under the Comprehensive Plan Land Use Map, the C-1 is designated as Commercial and the AR land is part of a town center area and a developing area; that 7.3 of the Sussex County Comprehensive Plan encourages the use of renewable energy options such as community solar facilities; that the site entrance will be from Gum Tree Road to the north; that the entrance will be designated and constructed in accordance with DelDOT requirements; that there will be a gravel access road that will extend along the western side of the solar array field; that there will be one unlit site at the entrance not to exceed 32 square feet; that DelDOT indicated the traffic impact would be diminutive; that there are no on-site employees; that the equipment is monitored remotely; that there will be a seven-foot security fence around the perimeter of the solar array area, with an emergency key box located at the entrance; that the solar arrays will be ground mounted, flex track, solar panels; that other equipment will consist of inverters and transformers, which are to be located on an equipment pad located on the site; that the solar grounds will be seeded with a pollinator seed mix, providing a slow growing and environmentally friendly ground cover; that a landscaper buffer is shown on the plan; that a detailed landscaping will be submitted; that there is no noise or other nuisance type impacts associated with the facility; that a Glare Analysis was performed; that the study indicated a very minimal potential for glare at limited times of the year; that glare would have a slight impact based on the location of the site; that stormwater management will comply with state and local regulations; that there is no sewer or water impact from the operation; that the facility is anticipated to generate 7.62 GW hours of electricity; that the facility will connect to the DPL grid near the entrance; that the anticipated production of the life of the facility is 30-35 years; that there is a copy of the decommissioning plan in the exhibit book; that the estimated cost of the security decommissioning bond would be provided as part of the Final Site Plan; that the facility would operate in compliance with Title 26 of the Delaware Code, which regulates community owned energy generating facilities and the Planning and Commission recommended approval subject to the conditions provided which the applicant approves.

There were no public comments.

The Public Hearing and public record were closed.

**M 270 23
Defer
Action/
CU2353**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A 28.09 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 55.00 ACRES, MORE OR LESS".

Motion Adopted: 5 Years

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

**Public
Hearing/
CU2354**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 23.58 ACRES, MORE OR LESS” (property lying on the south side of Old Racetrack Road [S.C.R. 502], approximately 0.75 mile east of Delmar Road [Route 54]) (911 Address: N/A) (Tax Map Parcel: 532-20.00-14.00) filed on behalf of Sussex CSG 1, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on May 11, 2023. At the meeting of May 25, 2023, the Planning & Zoning Commission recommended approval of the application for the 9 reasons stated and subject to the 11 recommended conditions as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. James Fuqua, Esq. with Fuqua, Willard & Schab, P.A., spoke on behalf of the Applicant. Mr. Fuqua stated also present were Mr. Nick Walsh on behalf of the Applicant and Mr. Alan Decktor of Pennoni Associates; that both this application and the following application are for solar array facilities, being filed by the same Applicant; that there was an exhibit booklet submitted into the record, containing information about the Application; that the applicant is owned by a company called Dimension Renewable Energy, who is a national company that focuses on community solar facilities; that Dimension operates many community facilities throughout the United States; that he was first contacted by the company in October 2021; that the solar facilities Conditional Use applications were both filed about a year ago; that at the time community solar facilities were fairly new to him and the Council; that currently he believed both the Planning Commission and County Council have had numerous public hearings on community solar applications; that the Conditional Use request is for a solar facility to be located on a portion of a 49 acre parcel that is owned by Shore Properties, Inc.; that the land is located on the south side of Old Racetrack Rd., being northwest of the Town of Delmar municipal limits; that the Applicant would be leasing approximately 23.58 acres, located at the southeastern portion, of the 49 acre site; that the lease would be for 25 years, with two five year renewal options; that the Conditional Use area borders woodlands to the south; that the Conrail Railroad track is located to the east; that HI (Heavy Industrial) land is located to the north of the site; the entire parcel is zoned AR-1 (Agricultural Residential);

**Public
Hearing/
CU2354
(continued)**

that the site is designated as Industrial Area under the Comprehensive Plan's Future Land Use Map; that the solar field is located in the south east corner of the site; that the entrance would be from Old Racetrack Rd., located to the north; that the entrance would be designed and constructed to DelDOT's requirements; that a gravel access road would cross a portion of the unleashed land, to access the site, per an easement agreement; that DNREC has indicated that they have no objection to the proposed crossing of the Meadow Branch tax ditch, which runs across the property; that there would be one unlighted sign at the entrance, not exceeding 32 sq. ft. in size; that DelDOT indicated the traffic impact would be diminutive; that construction access would be very minimal and limited to inspections and maintenance; that there will be a seven-foot security fence around the perimeter of the solar array area, with an emergency key box located at the entrance; that the solar arrays will be ground mounted, flex track, solar panels; that other equipment will consist of inverters and transformers, which are to be located on an equipment pad in the middle of the solar array field; that the solar grounds will be seeded with a pollinator seed mix, providing a slow growing and environmentally friendly ground cover; the a Maintenance and Operations Plan is included within the exhibit book; that there will be no impact on sewer and water; that stormwater management will comply with State and County requirements; that there is a small area of Federal non-tidal wetlands located at the southern boundary of the solar array area; that the site design provides for a 25 ft. wide buffer around the edge of the wetlands; that in that area the perimeter boundary fence would be placed outside of the wetland buffer area; that the buffer would be located outside of the fence, with no intrusion within 25 ft of the wetland line; that there is an existing tree line located along a portion of the northern, eastern and southern boundaries of the site; that the trees will remain as a natural buffer, except for some selective trimming or removal of trees to allow the solar panels to function properly; that there is no noise or other nuisance type impacts associated with the facility; that a Glare Analysis was performed; that the study indicated a very minimal potential for glare at limited times of the year; that glare would have a slight impact based on the location of the site; that the facility is anticipated to generate 6.69 GW of electricity, which is equivalent to service the annual power needs of 750 homes; that the project will connect to the Delmarva Power grid at a location near the site entrance along Old Racetrack Rd.; that there is a substation located across the road; that a Decommissioning Plan was included within the exhibit booklet; that the estimated cost of the security decommissioning bond would be provided as part of the Final Site Plan; that the facility would operate in compliance with Title 26 of the Delaware Code, which regulates community owned energy generating facilities; that at the May 25th, the PZ Commission recommended approval of the application subject to conditions; that the applicants finds all conditions acceptable; and he requested for approval of the application.

There were no public comments.

The Public Hearing and public record were closed.

**M 271 23
Defer
Action/
CU2354**

A Motion was made by Mr. Hudson, seconded by Rieley to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 23.58 ACRES, MORE OR LESS”.

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 /
CU2372**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS” (property lying on the west side of Cedar Corners Road [S.C.R. 638], approximately 0.8 mile south of Redden Road [Rt. 40]) (911 Address: 17490 Cedar Corners Road, Bridgeville) (Tax Map Parcel: 430-17.00-62.00) filed on behalf of Augusto Morales Morales

The Planning & Zoning Commission held a Public Hearing on the application on May 11, 2023. At the meeting of May 25, 2023, the Planning & Zoning Commission recommended approval of the application for the 7 reasons stated and subject to the 11 recommended conditions as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. Kevin Morales Perez spoke on behalf of his father’s Application. Mr. Perez stated he was presenting on behalf of his father, that they own a small, family-owned landscape business; that they have a few dump trucks and trailers; that the equipment is stored outdoors; that there is other equipment that stays outdoors but is covered with a roof; that small equipment is stored inside; that the lot is wooded; that it was shown where the equipment was stored outside; that conditions were provided to the applicant which were understood; that there would not be any retail sales.

There were no public comments.

The Public Hearing and public record were closed.

**M 272 23
Adopt
Ordinance
No. 2925
/CU2372**

A Motion was made by Mrs. Green, seconded by Mr. Hudson to Adopt Ordinance No. 2925 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS” for the reasons and conditions as given by the Planning and Zoning Commission as follows:

- 1. The property is located on a 5-acre parcel, among other large parcels of land. Only a small portion of the site will be used for the business. It is an appropriate location for this limited type of use.**
- 2. The site is located within a Low-Density Area according to the Sussex County Comprehensive Plan. This low-impact type of use is appropriate within this Area.**
- 3. The property is zoned AR-1 Agricultural Residential. The use of the property as a landscaping business is consistent with the underlying agricultural zoning of the property.**
- 4. The use will not adversely affect area roadways or neighboring properties.**
- 5. A landscaping company provides a service to a wide variety of Sussex County residents and businesses, and it has a public or semi-public character that will benefit the residents and businesses of Sussex County.**
- 6. The applicant stated that if any grass clippings, wood, dirt, or other materials are brought back to the site, they are composted or recycled back into agricultural use.**
- 7. There was no opposition to this application.**
- 8. This recommendation is subject to the following conditions:**
 - a. This use shall be limited to a landscaping business.**
 - b. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.**
 - c. As stated by the Applicant, there shall not be any retail sales occurring from the site.**
 - d. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
 - e. The hours of operation shall be limited to 7:00 am through 8:00 pm, Monday through Friday, and from 7:00 am until 3:00 pm on Saturdays. There shall not be any Sunday hours. The Applicant shall be able to operate beyond these hours on an as-needed basis for limited situations such as snow removal, storm damage cleanup, and similar events.**
 - f. The areas set aside for composting or recycling of materials brought back to the site shall be shown on the Final Site Plan with the type of containment used to keep them in place.**
 - g. The applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**

**M 272 23
Adopt
Ordinance
No. 2925
/CU2372
(continued)**

- h. Since this conditional use will only occupy a small portion of the property, the Final Site Plan shall show the area where this conditional use will be located.**
- i. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.**
- j. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
- k. 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/
CU2391**

A Public Hearing was held on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 0.46 ACRES, MORE OR LESS" (property lying on the northeast side of Cedar Lane [S.C.R. 318], approximately 950 ft. southeast of Wood Branch Road [S.C.R. 321]) (911 Address: 22491 Cedar Lane, Georgetown) (Tax Map Parcel: 135-20.00-142.00) filed on behalf of M.R.O. Auto Repair, LLC

The Planning & Zoning Commission held a Public Hearing on the application on May 11, 2023. At the meeting of May 25, 2023, the Planning & Zoning Commission recommended approval of the application for the 5 reasons stated and subject to the 13 recommended conditions as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. Danny Perez spoke on behalf of the Applicant. Mr. Perez stated he is the agent for the Conditional Use; that also present was the Applicant, Mr. Mario Roblero Ortiz; that the application is for a small auto repair shop to be located on the Applicant's property; that he provided the name of the company that will be picking up the used oil, Crystal Clean which is out of Baltimore; that the repairs will be done in the garage on the site; that there is a fence on the property; that the auto repair business is small and does not operate seven days a week; that the hours of operation are limited to 10:00 a.m. until 5:00 p.m.; that only two to three vehicles will be worked on at a time.

**Public
Hearing/
CU2391
(continued)**

There were no public comments.

The Public Hearing and public record were closed.

**M 273 23
Adopt
Ordinance
No. 2926/
CU2391**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 2926 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 0.46 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning and Zoning Commission as follows:

- 1. The proposed automobile repair facility is small, and with the conditions and stipulations placed upon it, it will not have an adverse impact on the neighboring properties or community. It is also small enough that it will not negatively impact traffic or nearby roadways.**
- 2. The site is located in a Developing Area according to the Sussex County Comprehensive Plan. This type of use is appropriate in this Area according to the Comprehensive Plan.**
- 3. There is a home on the site and the repairs will occur inside of a separate building on the site. The Applicants intend to keep the residential appearance of the property.**
- 4. The use as an automotive repair facility is of a public or semi-public character and is desirable for the general convenience and welfare of the area.**
- 5. No parties appeared in opposition to this application, and a neighbor testified in support of this application.**
- 6. This recommendation for approval is subject to the following conditions and stipulations:**
 - a. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
 - b. Any security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.**
 - c. The area of this use shall be screened from the view of neighbors and roadways with fencing. The location and type of fencing shall be shown on the Final Site Plan.**
 - d. All repairs shall be performed indoors. No automobile parts shall be stored outside, and no more than 3 cars awaiting service shall be parked outside at any one time.**
 - e. No junked, unregistered, or permanently inoperable vehicles or trailers shall be stored on the site.**
 - f. There shall not be any parking in the front yard setback.**
 - g. The parking areas shall be shown on the Final Site Plan and clearly marked on the site itself. Vehicles shall only be parked within these designated areas.**
 - h. No cars shall be sold on the property.**

**M 273 23
Adopt
Ordinance
No. 2926/
CU2391
(continued)**

- i. All oils and other fluids shall be properly stored indoors in appropriate containers. The applicant shall also comply with all state and federal requirements for the disposal of these fluids.
- j. The site shall be subject to all DelDOT entrance and roadway requirements.
- k. The hours of operation shall be 8:00 a.m. through 8:00 p.m., Monday through Friday, and 9:00 a.m. until 5:00 p.m. on Saturdays. There shall not be any Sunday hours.
- l. Any violation of these conditions may be grounds for termination of this conditional use.
- m. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

**Public
Hearing/
CZ1986**

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 C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.22 ACRES, MORE OR LESS” (property lying on the north side of Johnson Road [S.C.R. 207], approximately 0.12 mile east of DuPont Boulevard [Rt. 113]) (911 Address: 18017 & 18033 Johnson Road, Lincoln) (Tax Map Parcel: 130-6.00-115.00) filed on behalf of JKJ Properties, LLC

The Planning & Zoning Commission held a Public Hearing on the application on April 27, 2023. At the meeting of April 27, 2023, the Planning & Zoning Commission recommended approval of the application for the 8 reasons as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Commission found that Mr. Mark Davidson, Principal Land Planner with Pennoni Associates, LLC spoke on behalf of the Applicant, JKJ Properties, LLC; that also present was Mr. Jim Weller, the managing member of JKJ Properties, LLC. Mr. Davidson stated that Mr. Weller may also be known as the owner of Weller Utility Trailers, located and he is also the host of the Weller Does Delmarva live broadcast on 105.9 FM News Talk; that the application is requesting approval to rezone the land being within AR-1 (Agricultural Residential) zoning district, located on 1.22 acres, on the north side of Johnson Rd., approximately 300-ft. east of DuPont Blvd., within Cedar Creek Hundred; that the Applicant is requesting to rezone the property to C-2 (Medium Commercial) Zoning; that the property was purchased by Mr. Weller on November 5, 2021; that Mr. Weller additionally owns the properties out front, along Rt. 113; that Mr. Weller purchased his first property at 16 years of age and he had worked at that property since the age of nine; that he later purchased the corner commercial property, which is located adjacent to the subject property; that the property is bordered on the south by Johnson Rd., which is a major collector road; that the property is

**Public
Hearing/
CZ1986
(continued)**

bordered on the north and east side by some AR-1 (Agricultural Residential) zoned lands; that Mr. Weller owns to the adjacent property to the west, which is zoned C-1 (General Commercial) and currently being the location for Stokely Materials; that in Ordinance 2550, Sussex County Council desired to create a more specific C-2 (Medium Commercial) Zoning District, with smaller, more related uses within the district to promote better planning and predictability in Sussex County; that the purpose of the C-2 (Medium Commercial) district is to support uses that include retail sales, performance and consumer services, that permits a variety of retail, professional and services businesses; that the Ordinance states the district shall be primarily located near arterial and collector streets, while accommodating community commercial uses that do not have outside storage or sales; that by granting the request to rezone to C-2 (Medium Commercial) will allow Mr. Weller to expand his existing commercial use, located on Rt. 113, which will allow him to continue his business plan to create quality commercial flex space, that will focus on customers from the nearby and existing future communities; that in the property's present state, Mr. Weller anticipates the ability to lease the property to small contractors, plumbers, and electricians, with the right to utilize the existing buildings and the property for office and inside storage; that currently the property is being leased for residential use, as there are two single-family dwellings on the property; that there are storage buildings located to the rear of the property; that there are currently two addresses listed for the property; that the property is located within the vicinity of other commercially zoned properties and uses; that they feel the rezoning would not diminish or impair property values within the neighborhood, will not create a public nuisance or result in any increase in public expenditures; that the property is identified to be in an area classified as Low Density per the 2019 Sussex County Comprehensive Plan; that the property is located to adjacent commercial properties, as well as, located adjacent to other developing areas; that the Sussex County Plan suggests that each application should be reviewed on its own merit, and does not have a negative impact on the surrounding area or the County in general; that Mr. Weller does own the adjacent properties, which are the current locations for Stockley Materials and Bean's Attic, LLC retail and antique shop; that the property is located in an area that has traditionally been used for both commercial and industrial uses; that located on the submitted aerial zoning map of the area, the grey colored area, located within the upper right-hand corner, reflects Industrial Zoning; that the Industrial zoned areas are the location of the Fitzgerald Savage yard; that there is a B-1 (Neighborhood Business) property located directly across the street; that located across Johnson Rd. is a property subject to a Conditional Use for an auto repair shop; that although the Town of Lincoln is not incorporated, the subject property is part of the Lincoln community, being just west of the Town Center of Lincoln; that the property is located along a major collector road, which according to DelDOT's Highway Functional classification; that additional right of ways and easements will be dedicated during final planning for the

**Public
Hearing/
CZ1986
(continued)**

property; that DelDOT did not require a Traffic Impact Study (TIS); that the focus for the retail and offices uses within the Low Density areas is to provide convenience goods and services to the nearby residences; that since the Comprehensive Plan is a guide for the future use of land, the County's Zoning Map must be consistent with the uses and intensities of uses provided in the Future Land Use Plan; that Table 4.5-2 is provided as a tool for assisting; that C-2 (Medium Commercial) is an applicable zoning district within the a Low Density are; that the 2020 Strategies for State Policies and Spending indicate the property is located within Investment Level 3; that there are no wetlands located on the property; that the property is located within Flood Zone X; that there are no historical or natural features located on the site; that stormwater will be placed on the site, using all best management practices, as well as, meet all the minimum requirements State requirements for stormwater management, until central sewer is located in the Lincoln area; that the site will utilize an on-site sanitary sewer system within the property; that the wells located on the property will all be permitted by DNREC; that the proposed rezoning meets the general purpose of the Zoning Ordinance; that the site is located in an appropriate location, by meeting the purpose of the district, the Future Land Use Plan, and the strategies and objectives of the Comprehensive Plan; that the proposed rezoning promotes growth and development through community design, mobility, utilities, transportation and economic development in an area where a general mixture of commercial and service activity now exists and is essential and desirable for the general convenience, orderly growth, prosperity and welfare of the County.

There were no public comments.

The Public Hearing and public record were closed.

**M 274 23
Adopt
Ordinance
No. 2927/
CZ1986**

A Motion was made by Mrs. Green, seconded by Mr. Schaeffer to Adopt Ordinance No. 2927 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.22 ACRES, MORE OR LESS" for the reasons given by the Planning and Zoning Commission as follows:

1. C-2 Medium Commercial Zoning is designed to support retail sales and the performance of consumer services. It is intended to be located near arterial and collector roads.
2. The Applicant's property is currently zoned AR-1 along Route 113, near the intersection with Johnson Road. The property is adjacent to the property at the intersection that is zoned C-1 and other properties at the intersection are zoned C-1, HI, and B-1. This is an appropriate location for C-2 zoning.
3. C-2 Zoning at this location along Johnson Road near its

**M 274 23
Adopt
Ordinance
No. 2927/
CZ1986
(continued)**

intersection with Route 113 will benefit nearby residents of Sussex County by providing a convenient location for the uses permitted in that Zone.

- 4. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.**
- 5. The site is mostly in the “Low-Density Area” according to the Sussex County Land Use Plan and Future Land Use Map. C-2 Zoning is appropriate in Low-Density Areas according to the Plan.**
- 6. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.**
- 7. No parties appeared in opposition to the rezoning application.**
- 8. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Absent

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

**M 275 23
Adjourn**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to adjourn at 2:28 p.m.

Motion Adopted: 4 Yeas, 1 Absent

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

Respectfully submitted,

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

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

ENGINEERING DEPARTMENT

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

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HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Memorandum

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

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

RE: *Existing Wastewater Infrastructure Use Agreement
Sussex Shores Water Company (Plant #2)
File: OM 9.01*

DATE: June 6, 2023

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

The Engineering Department requests approval of an agreement for the existing wastewater infrastructure use with **Sussex Shore Water Company** for the **Sussex Shore Water Company (Plant #2)** project in the **Cedar Neck Area**. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County.

Under the proposed arrangement, the **Sussex Shore Water Company (Plant #2)** project will connect to the existing County owned wastewater infrastructure. In return for utilization of said **Sussex Shore Water Company** will contribute **\$5,752.00** for the financial catch-up contribution of the existing infrastructure to serve **12.00** Equivalent Dwelling Units. Payment of the contribution will be required prior to substantial completion of on-site collection system. System Connection Charges in place at the time of building permit request will still apply.



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

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

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HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Memorandum

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

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

RE: *Existing Wastewater Infrastructure Use Agreement*
Orchard Plaza IUA S-18-96
File: OM 9.01

DATE: June 6, 2023

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

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

Under the proposed arrangement, the **Orchard Plaza** project will connect to the existing County owned wastewater infrastructure. In return for utilization of said **Old Orchard Ventures, LLC** will contribute **\$55,095.00** for the financial catch-up contribution of the existing infrastructure to serve **71.65** Equivalent Dwelling Units. Payment of the contribution will be required prior to substantial completion of on-site collection system. System Connection Charges in place at the time of building permit request will still apply.



ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
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FAX	(302) 855-7799



Sussex County

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HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Memorandum

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

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

RE: ***Existing Wastewater Infrastructure Use Agreement
Tranquility at Breakwater IUA S-18-94
File: OM 9.01***

DATE: June 6, 2023

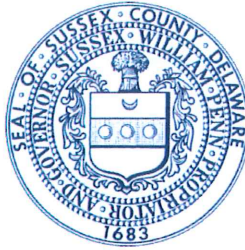
The Existing Wastewater Infrastructure Use Agreement is an arrangement that collects financial contributions based on development built out flows for available capacity in the existing wastewater transmission infrastructure previously funded by the County while at the same time eliminating the granting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

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

Under the proposed arrangement, the **Tranquility at Breakwater** project will connect to the existing County owned wastewater infrastructure. In return for utilization of said **Old Orchard Ventures, LLC** will contribute **\$37,226.00** for the financial catch-up contribution of the existing infrastructure to serve **50.17** Equivalent Dwelling Units. Payment of the contribution will be required prior to substantial completion of on-site collection system. System Connection Charges in place at the time of building permit request will still apply.



TODD F. LAWSON
COUNTY ADMINISTRATOR
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Sussex County
DELAWARE
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Memorandum

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

FROM: Todd F. Lawson
County Administrator

RE: **DISPOSITION OF COUNTY PROPERTY – DELMARVA
CHRISTIAN SCHOOL – GEORGETOWN**

DATE: June 9, 2023

During Tuesday's meeting, Council is scheduled to discuss and consider the disposition of County owned property adjacent to the Delmarva Christian School in Georgetown.

The County acquired the property in 2008 for the purpose of any potential airport expansion. In 2021, Sussex County and the Delaware Department of Transportation (DelDOT) entered into an agreement to allow DelDOT to acquire nearly 10 acres of the property for the purpose of the construction of the Park Avenue realignment. That road construction is currently taking place.

Officials with Delmarva Christian School approached the County about the potential purchase of 10 acres adjacent to their current campus. The land is needed for the school's expansion plans. An illustration highlighting the approximate location of the land to be sold is attached.

The property appraised at a present fair market value of eight thousand dollars (\$8,000) per acre.


Per the County Property Disposition Policy, County Directors were asked if they had a need for the property and they do not.

Council approval is required to dispose of the property and enter into a sales agreement with the school.

Please let me know if you have any questions.



Delmarva Christian Schools Acquisition

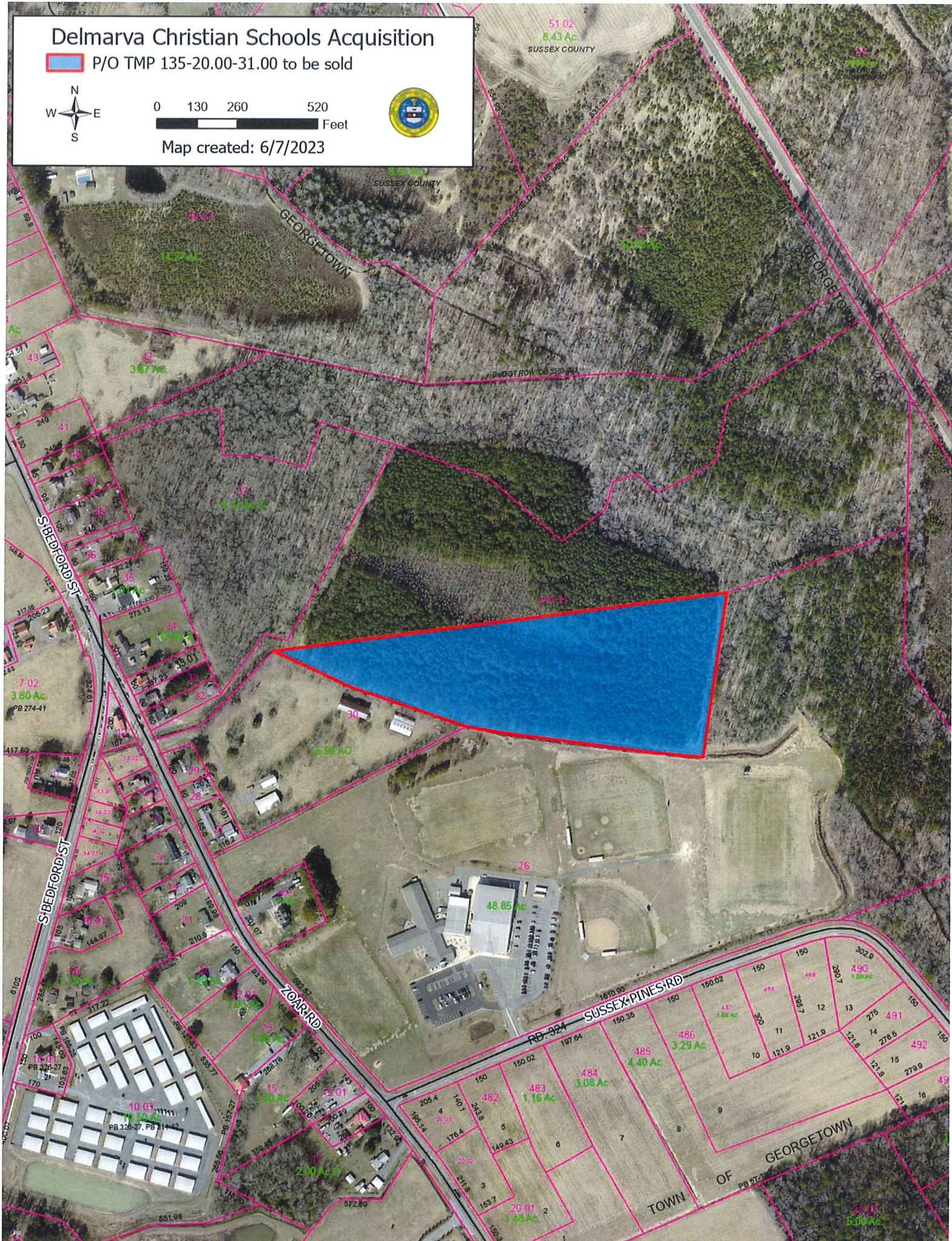
 P/O TMP 135-20.00-31.00 to be sold



0 130 260 520
Feet



Map created: 6/7/2023



ENGINEERING DEPARTMENT

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ENVIRONMENTAL SERVICES	(302) 855-7730
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HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Proposed Suncrest Expansion of the Sussex County Unified Sanitary Sewer District

PUBLIC HEARING FACT SHEET

- County Council approved permission to prepare and post notices on April 25, 2023, for an Expansion of the Sussex County Unified Sanitary Sewer District (Angola Neck Area)
- The Engineering Department had received a request from Davis, Bowen & Friedel Inc. on behalf of their client WV3, LLC the owners/developers of a project to be known as Suncrest formerly Marsh Homestead.
- The request includes parcel 243-12.00-22.31.
- The project is proposed at 36 single family homes and has preliminary subdivision approval.
- The project will be responsible for System Connection Charges in place at prior to issuance of connection permits and subject to an Infrastructure Use Agreement.
- The Engineering Department advertised May 31, 2023, June 7, 2023, and on the County webpage.
- The area was posted on May 16, 2023, to date with have had no correspondence either in support or opposition to the annexation.



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

PUBLIC NOTICE

PROPOSED SUNCREST EXPANSION OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (ANGOLA NORTH AREA)

NOTICE IS HEREBY GIVEN that the Sussex County Council voted on **April 25, 2023** to consider extending the boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD), Angola North Area, to include the parcel 234-12.00-22.31 (tracts 1 & 2) along Waterview Road, being situate in Indian River Hundred, Sussex County, Delaware.

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

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

Tract 1

Beginning at a point, said point being on the SCUSSD (Angola Neck Area) boundary, said point also being on the easterly property line of lands Now-or-Formerly (N/F) Marsh Farm, LLC; thence proceeding with the following 11 courses and distances (1) N11°34'24"W 769.87', (2) N74°36'58"E 750.04', (3) S15°24'58"E 300.00', (4) N69°31'25"E 410.89', (5) S02°26'30"W 203.49', (6) S41°22'19"W 854.24', (7) N34°49'18"W 39.14', (8) N41°40'44" E 116.27', (9) N85°25'33"W 210.70', (10) S76°07'29"W 124.25', (11) S69°23'36"W 197.02' to a point, said point **being that of the BEGINNING.**

Tract 2

Beginning at a point, said point being on the SCUSSD (Angola Neck area) boundary, said point also being on the easterly property line of other lands N/F of Marsh Farm, LLC; thence proceeding with the following 6 courses and distances, (1) N11°34'25"W 279.08', (2) N69°25'24"E 237.52', (3) on a curve to the right having a central angle of 20°23'03", a radius of 280.00', an arc length of 99.62', chord N79°36'56"E, a distance of 99.09', (4) N89°48'27"E 17.57' (5) a curve to the right having a central angle of 43°48'38", a radius of 140.00', an arc length of 107.05', a chord S68°17'14"E, a distance of 104.46', (6) S48°23'16"W 506.21' to a point, said point **being that of the BEGINNING**

NOTE: The above descriptions have been prepared using Sussex County Tax Map 234-12.00 and Sussex County property assessment records. The annexation contains 18.02 acres more or less.

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

The public hearing will be held on this issue at 10:15 a.m. on June 13, 2023 in the Sussex County Council Chambers, 2 The Circle, Georgetown, Delaware 19947. All interested persons, officials, residents, voters, taxpayers, property owners, or corporations in any way affected by this boundary extension are welcome to attend. There will be an opportunity for questions and answers. The Sussex County Council following the hearing, at one of their regularly scheduled meetings, will make the final decision on the boundary extension.

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

Hans M. Medlarz, P.E.
County Engineer

Proposed Annexation Suncrest

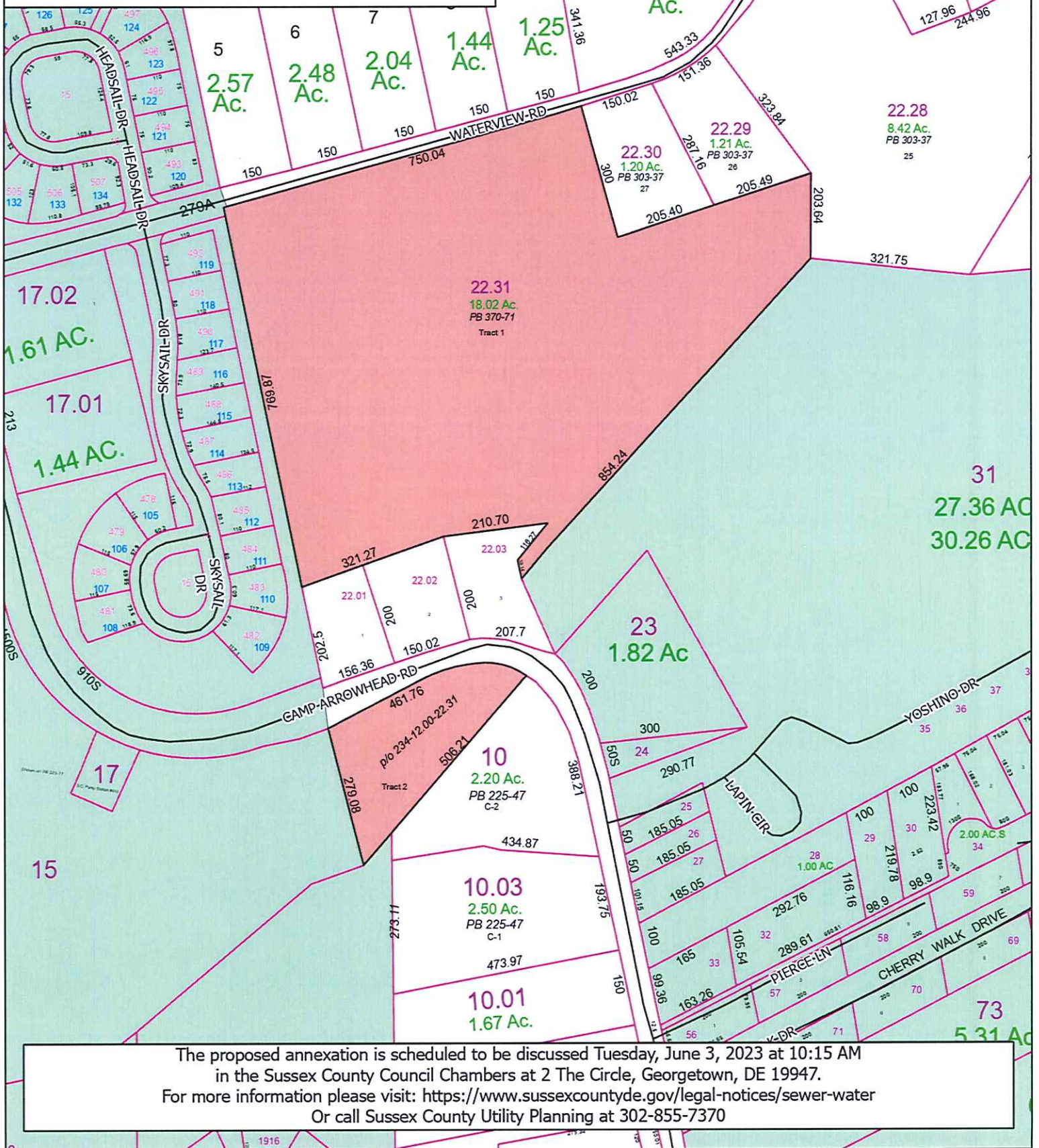
Existing SSD TMP 234-12.00-22.31



0 85 170 340
Feet



5/3/2023



The proposed annexation is scheduled to be discussed Tuesday, June 3, 2023 at 10:15 AM
in the Sussex County Council Chambers at 2 The Circle, Georgetown, DE 19947.
For more information please visit: <https://www.sussexcountyde.gov/legal-notice/sewer-water>
Or call Sussex County Utility Planning at 302-855-7370

SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT
SUNCREST EXPANSION
AFFIDAVIT FOR PUBLIC HEARING

STATE OF DELAWARE)(

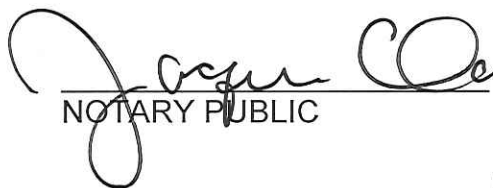
COUNTY OF SUSSEX)(

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

- A. On May 16, 2023 he was a Utility Planner for the Sussex County Engineering Department, Sussex County, State of Delaware; and
- B. On May 16, 2023 he did post the attached "Public Notice," prepared by the Sussex County Engineering Department, at the following locations:
 - 1. On a post in front of a stop sign in the southerly Right-of-Way (ROW) of Angola Road @ the intersection with Camp Arrowhead Road,
 - 2. On a post in front of a stop sign in the northerly ROW of Waterview Road @ the intersection with Camp Arrowhead Road,
 - 3. On a post in front of a stop sign in the northerly ROW of Bookhammer Landing Road @ the intersection of with Waterview Road,
 - 4. On a post in front of stop sign in the northerly ROW of Waterview Road @ the intersection of with Camp Arrowhead Road across from Bay Winds Drive,
 - 5. On the site of the annexation in the following 4 locations
 - a. On a post in the southerly ROW of Waterview Road across from DEC Pole 155779,
 - b. On a post in the southerly ROW of Waterview Road across from DEC Pole 155780,
 - c. On a post in the southerly ROW of Waterview Road across from DEC Pole 155781,
 - d. On a post in the southerly ROW of Camp Arrowhead Road across from 22127 Camp Arrowhead Road.


PHILLIP C. CALIO

SWORN TO AND SUBSCRIBED before me on this 17 day of may A.D., 2023


NOTARY PUBLIC

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

My Commission Expires _____

RESOLUTION

A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) ANGOLA NECK AREA, TO INCLUDE THE SUNCREST AREA, ON THE SOUTH SIDE OF CAMP ARROWHEAD ROAD AND THE SOUTH SIDE OF WATERVIEW ROAD LOCATED IN THE INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE.

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

WHEREAS, in the best interests of the present district and to enhance the general health and welfare of that portion of Sussex County in the vicinity of Terrapin Island area, the inclusion of this area will be beneficial; and

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

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

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

NOW, THEREFORE,

BE IT RESOLVED the Sussex County Council hereby revises the boundary of the SCUSSD to encompass the lands mentioned above in the Suncrest area and further described as follows:

Tract 1

Beginning at a point, said point being on the SCUSSD (Angola Neck Area) boundary, said point also being on the easterly property line of lands Now-or-Formerly (N/F) Marsh Farm, LLC; thence proceeding with the following 11 courses and distances (1) N11°34'24"W 769.87', (2) N74°36'58"E 750.04', (3) S15°24'58"E 300.00', (4) N69°31'25"E 410.89', (5) S02°26'30"W 203.49', (6) S41°22'19"W 854.24', (7) N34°49'18"W 39.14', (8) N41°40'44" E 116.27', (9) N85°25'33"W 210.70', (10) S76°07'29"W 124.25', (11) S69°23'36"W 197.02' to a point, said point **being that of the BEGINNING.**

Tract 2

Beginning at a point, said point being on the SCUSSD (Angola Neck area) boundary, said point also being on the easterly property line of other lands N/F of Marsh Farm, LLC; thence proceeding with the following 6 courses and distances, (1) N11°34'25"W 279.08', (2) N69°25'24"E 237.52', (3) on a curve to the right having a central angle of 20°23'03", a radius of 280.00', an arc length of 99.62', chord N79°36'56"E, a distance

of 99.09', (4) N89°48'27"E 17.57' (5) a curve to the right having a central angle of 43°48'38", a radius of 140.00', an arc length of 107.05', a chord S68°17'14"E, a distance of 104.46', (6) S48°23'16"W 506.21' to a point, said point **being that of the BEGINNING**

NOTE: The above description has been prepared using Sussex County Tax Map 234-12.00 and Sussex County property assessment records. The annexation contains 18.02 acres more or less.

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

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

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

BRANDY BENNETT NAUMAN
DIRECTOR OF COMMUNITY
DEVELOPMENT & HOUSING
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bnauman@sussexcountype.gov



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MEMORANDUM

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

FROM: Brandy B. Nauman, Director

RE: **Sussex County Housing Trust Fund Award Recommendations**

DATE: June 8, 2023

On March 28, 2023, Gina Jennings presented the annual update to County Council on the American Rescue Plan Act (ARPA) funding. At that meeting, Council was amenable to opening up the second round of grant funding for affordable housing developers available through the Sussex County Housing Trust Fund (SCHTF).

The second round of funding was opened on April 3, 2023 and closed on May 1, 2023. Eight (8) applications were received during that period. On June 7, 2023, the SCHTF Advisory Board met to review applications. On Tuesday, I will present the four (4) applications that the Advisory Board recommends for funding.

Please do not hesitate to contact me with any questions. Thank you.

Attachment

CC: Gina A. Jennings, Finance Director/COO



Sussex County Housing Trust Fund

Round 2 - June 2023

Award Recommendations

Applicant Name	Project Name	Project Description	Recommended Amount of Funding	Location
NeighborGood Partners	Central Avenue Apartments	New construction of 36 multi-family apartments specifically serving the agricultural/poultry workforce in Laurel; 36/36 units will be affordable to households 50% AMI	\$500,000	Laurel
Sussex Habitat for Humanity	Sussex County Habitat Homeownership Project	New construction of 10 single family homes scattered through Sussex County; 10/10 units will be sold to households <60% AMI	\$500,000	Milford (1), Georgetown (2), Seaford (2), Laurel (5)
Leon N. Weiner & Associates	Georgetown Apartments	Preservation/Revitalization of 75 multi-family units in Georgetown; 75/75 units will be affordable to households <65% AMI & 50/75 units will be affordable to households <50% AMI	\$500,000	Georgetown
Commonwealth Development Corp.	Chapel Branch Apartments	New construction of 42 multi-family units in Lewes; 35/42 units will be affordable to households <65% AMI & 7/42 units will be affordable to <80% AMI	\$500,000	Lewes

Total Award Recommendation \$2,000,000

BRANDY BENNETT NAUMAN
DIRECTOR OF COMMUNITY
DEVELOPMENT & HOUSING
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MEMORANDUM

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

FROM: Brandy B. Nauman, Director

RE: **CARES Act Update**

DATE: June 8, 2023

On September 22, 2020, County Council approved \$250,000 in CARES Act funding for eight (8) non-profit organizations in Sussex County. All recipients of funding were tasked with supporting the efforts of COVID-19 Pandemic Response and Prevention through eligible public service activities.

On Tuesday, I will share an update on the progress of those organizations, as well as seek County Council's approval to reallocate unutilized funding.

Please do not hesitate to contact me with any questions. Thank you.

Attachment

CC: Gina A. Jennings, Finance Director/COO



CARES Act Funding

Status as of June 8, 2023

	Organization	Funding Category	Award	Spent	Balance
1	Boys & Girls Clubs of DE	Food & Food Delivery	\$25,000.00	\$25,000.00	\$0.00
2	Community Legal Aid Services, Inc.	Legal Services	\$50,000.00	\$5,109.91	\$44,890.09
3	Community Resource Center	Subsistence Payments	\$50,000.00	\$50,000.00	\$0.00
4	Harry K	Food & Food Delivery	\$10,000.00	\$0.00	\$10,000.00
5	Jesus Love Temple	Food & Food Delivery	\$2,400.00	\$0.00	\$2,400.00
		Subsistence Payments	\$3,200.00	\$0.00	\$3,200.00
6	La Esperanza	Legal Services	\$25,700.00	\$0.00	\$25,700.00
7	La Red	Health-Related Supportive Services	\$50,000.00	\$50,000.00	\$0.00
8	LOVE INC	Subsistence Payments	\$25,000.00	\$21,202.64	\$3,797.36
		Food & Food Delivery	\$8,700.00	\$0.00	\$8,700.00
		Total	\$250,000.00	\$151,312.55	\$98,687.45

Proposed Reallocation

	Organization	Funding Category	Award	Spent	Balance
1	Boys & Girls Clubs of DE	Food & Food Delivery	\$25,000.00	\$25,000.00	\$0.00
2	Community Legal Aid Services, Inc.	Legal Services	\$50,000.00	\$5,109.91	\$44,890.09
3	Community Resource Center	Subsistence Payments	\$50,000.00	\$50,000.00	\$0.00
4	Harry K	Food & Food Delivery	\$10,000.00	\$0.00	\$10,000.00
5	Jesus Love Temple	Food & Food Delivery	\$0.00	\$0.00	\$0.00
		Subsistence Payments	\$0.00	\$0.00	\$0.00
6	La Esperanza	Legal Services	\$25,700.00	\$0.00	\$25,700.00
7	La Red	Health-Related Supportive Services	\$50,000.00	\$50,000.00	\$0.00
8	LOVE INC	Subsistence Payments	\$30,600.00	\$21,202.64	\$9,397.36
		Food & Food Delivery	\$8,700.00	\$0.00	\$8,700.00
		Total	\$250,000.00	\$151,312.55	\$98,687.45

ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

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Sussex County

DELAWARE
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Memorandum

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

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

RE: ***Dewey Beach Water Tower, Sprint Spectrum Company, LLC Lease***
A. Approval of First Amendment

DATE: June 13, 2023

An agreement for Sprint Spectrum Company, LLC's equipment on the Dewey Beach Water Tower was approved by Council on March 23, 1999. The original term was for five (5) years with an automatic renewal for four (4) additional 5-year extensions expiring in March of 2024. In April of this year a representative of Sprint Spectrum Company, LLC contacted the County regarding the referenced lease. After consultation with Environmental Services and the Finance Department it was determined that both parties were interested in extending the lease under the same terms and conditions for five (5) additional 5-year terms.

The rent adjustment at the end of each term is set at 15% unless a higher percentage, not to exceed 20%, is negotiated through mutual agreement. The current monthly lease payment is \$2,623.51, which falls in the same range as the County's other cellular lease agreements.

In addition to the extension, both parties agreed to increase the insurance coverage to match the County's requirements and correct the addressing of the notices. In summary, the Engineering and Finance Departments recommend approval of the First Amendment to the Personal Communication System (PCS) Site Agreement.



569739v4

Site Name: Dewey Beach

Site I. D.: 2SX440A

Sprint

1. **Premises and Use.** Owner leases to Sprint Spectrum L.P., a Delaware limited partnership ("SSLP"), the site ("Site") described below:

[Check appropriate box(es)]

- ☐ Land consisting of approximately _____ square feet upon which SSLP will construct its ☐ equipment base station and ☐ antenna structure;
- ☐ Building interior space consisting of approximately _____ square feet;
- ☒ Building exterior space for attachment of antennas;
- ☒ Building exterior space for placement of base station equipment;
- ☐ Tower antenna space between the _____ foot and _____ foot level on the Tower;
- ☒ Space required for cable runs to connect PCS equipment and antennas,

in the location(s) ("Site") shown on Exhibit A, together with a non-exclusive easement for reasonable access thereto and to the appropriate, in the discretion of SSLP, source of electric and telephone facilities. The Site will be used by SSLP for the purpose of installing, removing, replacing, modifying, maintaining and operating, at its expense, a personal communications service system facility ("PCS"), including, without limitation, antenna equipment, cable wiring, back-up power sources (including generators and fuel storage tanks), related fixtures and, if applicable to the Site, an antenna structure. SSLP will use the Site in a manner which will not unreasonably disturb the occupancy of Owner's other tenants. SSLP will have access to the Site twenty-four (24) hours per day, seven (7) days per week.

2. **Term.** The term of this Agreement (the "Initial Term") is five years, commencing on the date ("Commencement Date") both SSLP and Owner have executed this Agreement. This Agreement will be automatically renewed for four additional terms (each a "Renewal Term") of five years each, unless SSLP provides Owner notice of intention not to renew not less than 180 days prior to the expiration of the Initial Term or any Renewal Term. In the event SSLP does not provide Owner with the aforementioned 180 day notice of termination but still wishes to terminate this Agreement at the expiration of the Initial Term or any Renewal Term, SSLP may terminate this Agreement by furnishing Owner with an early termination fee equal to 6 months rent, at the rate then in effect. The Owner shall have the right to terminate this Agreement at the end of the second Renewal Term provided that Owner furnishes SSLP with written notice of its intention to terminate this Agreement not less than 180 days prior to expiration of the second Renewal Term. If such notice of termination is not given by Owner at that time, Owner shall be deemed to have waived its right to terminate pursuant to the terms of this paragraph.

3. **Rent.** On the Commencement Date, SSLP shall pay to Owner a one time signing fee of \$10,000.00. Until the earlier of (a) that date which is 30 days after the issuance of a building permit, or (b) the first day of the month following the commencement of the physical preparation of the Site, the rent will be a one-time aggregate payment of \$100.00, the receipt of which Owner acknowledges. Thereafter, rent will be paid on the first (1st) day of each month to the attention of Mr. Jeff James, Engineering Department Accountant, P.O. Box 589, Georgetown, DE 19947, in equal monthly installments of \$1,500.00 (until increased as set forth herein), partial months to be prorated, in advance. Rent for each Renewal Term will be the annual rent in effect for the final year of the Initial Term or prior Renewal Term, as the case may be, increased by fifteen percent (15%); provided however, that after expiration of the first Renewal Term, the parties shall negotiate in good faith based on similar tenancies to determine whether the percentage increase in Rent for the remaining Renewal Terms shall be greater than fifteen percent. If the parties agree that the Rent for the remaining Renewal Terms shall be increased by a percentage greater than fifteen percent, then the Rent for the remaining Renewal Terms shall be increased by such greater percentage effective as of the first day of the first Renewal Term, but in no event shall the percentage increase exceed twenty percent (20%).

4. **Title and Quiet Possession.** Owner represents and agrees (a) that it is the Owner of the Site; (b) that it has the right to enter into this Agreement; (c) that the person signing this Agreement has the authority to sign; (d) that SSLP is entitled to access to the Site at all times and to the quiet possession of the Site throughout the Initial Term and each Renewal Term so long as SSLP is not in default beyond the expiration of any cure period; and (e) that Owner will not have unsupervised access to the PCS equipment.

5. **Assignment/Subletting.** SSLP may not assign or transfer this Agreement or sublet all or any portion of the Site without the prior written consent of Owner which consent shall not be unreasonably conditioned, withheld or delayed; provided, however, SSLP shall have the right to sublease or assign its rights under this Agreement to any of its subsidiaries, affiliates or successor legal entities or to any entity acquiring substantially all of the assets of SSLP without the consent of Owner.

6. **Notices.** All notices must be in writing and are effective only when deposited in the U.S. mail, certified and postage prepaid, or when sent via

overnight delivery, to the address set forth below, or as otherwise required by law.

7. **Improvements.** SSLP may, at its expense, make such improvements on the Site as it deems necessary from time to time for the operation of the PCS system. Owner agrees to cooperate with SSLP with respect to obtaining any required zoning approvals for the Site and such improvements. Upon termination or expiration of this Agreement, SSLP may remove its equipment and improvements and will restore the Site to substantially the condition existing on the Commencement Date, except for ordinary wear and tear and casualty loss. Prior to the commencement of any construction at the Site, SSLP shall submit to Owner copies of all construction plans detailing the proposed installation by SSLP (the "Plans"). Owner shall have twenty (20) days from the receipt of the Plans to approve or disapprove of same. If the Owner does not notify SSLP of its disapproval of the Plans, in writing, within the aforementioned twenty (20) day period, the Plans shall be deemed approved.

8. **Compliance with Laws.** Owner represents that Owner's property (including the Site), and all improvements located thereon, are in substantial compliance with building, life/safety, disability and other laws, codes and regulations of applicable governmental authorities. SSLP will substantially comply with all applicable laws relating to its possession and use of the Site.

9. **Interference.** SSLP will resolve technical interference problems with other equipment located at the Site on the Commencement Date or any equipment that becomes attached to the Site at any future date when SSLP desires to add additional equipment to the Site. Likewise, Owner will not permit or suffer the installation of any future equipment which (a) results in technical interference problems with SSLP's then existing equipment or (b) encroaches onto the Site.

10. **Utilities.** Owner represents that utilities adequate for SSLP's use of the Site are available. SSLP will pay for all utilities used by it at the Site. Owner will cooperate with SSLP in SSLP's efforts to obtain utilities from any location provided by Owner or the servicing utility, including signing any easement or other instrument reasonably required by the utility company.

11. **Termination.** SSLP may terminate this Agreement at any time by notice to Owner without further liability if SSLP does not obtain all permits or other approvals (collectively, "approval") required from any governmental authority or any easements required from any third party to operate the PCS system, or if any such approval is canceled, expires or is withdrawn or terminated, or if Owner fails to have proper ownership of the Site or authority to enter into this Agreement, or if SSLP, for any other reason, in its sole discretion, determines that it will be unable to use the Site. Upon termination, all prepaid rent will be retained by Owner unless such termination is due to Owner's failure of proper ownership or authority, or such termination is a result of Owner's default.

12. **Default.** If either party is in default under this Agreement for a period of (a) 10 days following receipt of notice from the non-defaulting party with respect to a default which may be cured solely by the payment of money, or (b) 30 days following receipt of notice from the non-defaulting party with respect to a default which may not be cured solely by the payment of money, then, in either event, the non-defaulting party may pursue any remedies available to it against the defaulting party under applicable law, including, but not limited to, the right to terminate this Agreement. If the non-monetary default may not reasonably be cured within a 30 day period, this Agreement may not be terminated if the defaulting party commences action to cure the default within such 30 day period and proceeds with due diligence to fully cure the default.

13. **Indemnity.** To the fullest extent permitted by law, SSLP agrees to hold harmless, indemnify and defend Owner and its appointed and elected officials, officers, directors, trustees and employees from and against all claims, damages, or liability resulting from or arising from SSLP's PCS equipment and SSLP's operations at the Site. This indemnity does not apply to any claims arising from the sole negligence or intentional misconduct of the indemnified party. The indemnity obligations under this Paragraph will survive termination of this Agreement.

SSLP waives its right to recover from Owner the cost of any loss or damage to SSLP's PCS equipment, including the equipment, cabling, wiring and accessories to be installed or used in the installation of SSLP's PCS equipment upon the Site. Any insurance policy maintained by SSLP shall permit such waiver by SSLP, and SSLP shall cause each insurance policy obtained by it to provide that the insurance company waives all rights of recovery against the Owner in connection with such loss or damage to SSLP's PCS equipment.

14. **Hazardous Substances.** Owner represents that it has no knowledge of any substance, chemical or waste (collectively, "substance") on the Site that is identified as hazardous, toxic or dangerous in any applicable federal, state

or local law or regulation. SSLP will not induce or use any such substance on the Site in violation of any applicable

15. Subordination and Non-Disturbance. This Agreement is subordinate to any mortgage or deed of trust now of record against the Site. However, promptly after the Agreement is fully executed, Owner will use diligent efforts to obtain a non-disturbance agreement reasonably acceptable to SSLP from the holder of any such mortgage or deed of trust.

16. Taxes. SSLP will be responsible for payment of all personal property taxes assessed directly upon and arising solely from its use of the communications facility on the Site. SSLP will pay to Owner any increase in real property taxes attributable solely to any improvements to the Site made by SSLP within sixty (60) days after receipt of satisfactory documentation indicating calculation of SSLP's share of such real estate taxes and payment of the real estate taxes by Owner. Owner will pay when due all other real estate taxes and assessments attributable to the property of Owner of which the Site is a part.

17. Insurance. SSLP will procure and maintain commercial general liability insurance, with limits of not less than \$2,000,000 combined single limit per occurrence, for bodily injury and property damage liability, with original certificates of insurance to be furnished to Owner prior to SSLP's taking possession of the Site or SSLP's allowing any contractor to commence work on the Site. All insurers underwriting SSLP's insurance must be allowed to do business in the State of Delaware. The commercial general liability policy shall afford coverage for liability assumed in written contract and shall include Owner and its appointed and elected officials, officers, directors, trustees and employees as additional insureds (but not as named insureds), with respect to claims arising from SSLP's PCS equipment and SSLP's operations at the Site. Such policies will provide that cancellation, non-renewal, material change or reduction in coverage will not occur without at least sixty (60) days prior written notice to Owner. No acceptance or approval of any insurance by Owner shall be construed as relieving SSLP from any liability or obligation imposed by this Agreement.

SSLP shall maintain workers compensation insurance with statutory benefits as required by any applicable state or federal law with the following minimum limits: \$100,000 each accident for bodily injury by accident; \$100,000 each employee for bodily injury by disease; and \$500,000 policy limit for bodily injury by disease. SSLP shall furnish Owner upon request with certificates of certifying that SSLP has complied with the above-specified workers compensation insurance requirements.

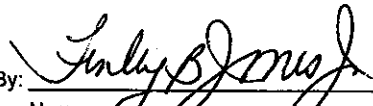
18. Maintenance. SSLP will be responsible for repairing and maintaining the PCS system and any other improvements installed by SSLP at the Site in a proper operating and reasonably safe condition; provided, however if any such repair or maintenance is required due to the acts of Owner, its agents or employees, Owner shall reimburse SSLP for the reasonable costs incurred by SSLP to restore the damaged areas to the condition which existed immediately prior thereto. Owner will maintain and repair all other portions of the property of which the Site is a part in a proper operating and reasonably safe condition. In the event that SSLP, its agents or representatives, solely cause damage to the Site in the course of performing the maintenance referred to in this paragraph, SSLP agrees to repair such damage within a mutually agreed upon reasonable period of time after written notice detailing such damage is received by SSLP from Owner; provided however, if such damage caused solely by SSLP requires that Owner complete an emergency repair of the Site to protect public health or the integrity of the water supply, then SSLP shall reimburse Owner for the reasonable costs incurred by Owner to complete said emergency repairs.


19. Miscellaneous. (a) This Agreement applies to and binds the heirs, successors, executors, administrators and assigns of the parties to this Agreement; (b) This Agreement is governed by the laws of the State in which the Site is located; (c) If requested by SSLP, Owner agrees promptly to

execute and deliver to SSLP a recordable Memorandum of this Agreement in the form of Exhibit B; (d) This Agreement (including the Exhibits) constitutes the entire agreement between the parties and supersedes all prior written and verbal agreements, representations, promises or understandings between the parties. Any amendments to this Agreement must be in writing and executed by both parties; (e) If any provision of this Agreement is invalid or unenforceable with respect to any party, the remainder of this Agreement or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, will not be affected and each provision of this Agreement will be valid and enforceable to the fullest extent permitted by law; and (f) The prevailing party in any action or proceeding in court or mutually agreed upon arbitration proceeding to enforce the terms of this Agreement is entitled to receive its reasonable attorneys' fees and other reasonable enforcement costs and expenses from the non-prevailing party.

The following Exhibits are attached to and made a part of this Agreement: Exhibit A, B and C.

OWNER: Sussex County

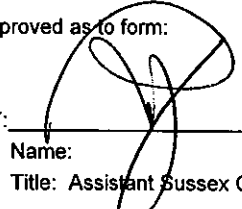
By: 
Name: _____
Title: President of Sussex County Council

By: 
Name: ROBIN A. GRIFFITH
Title: Clerk of Sussex County Council

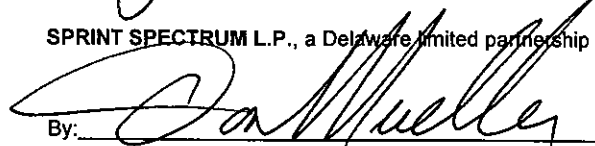
Tax No.: 51-6000161

Address: P.O. Box 589
GEORGETOWN, DE 19947
Date: 3.23.99

Approved as to form:

BY: 
Name: _____
Title: Assistant Sussex County Attorney

SPRINT SPECTRUM L.P., a Delaware limited partnership

By: 
Don Mueller
Director, Site Development-Ease
Address: 1 International Blvd., Suite 800

Mahwah, NJ 07495

Date: 4-1-99

Attach Exhibit A - Site Description and Exhibit B - Memorandum of PCS Site Agreement, and C

Site Name **Dewey Beach**

Site Description

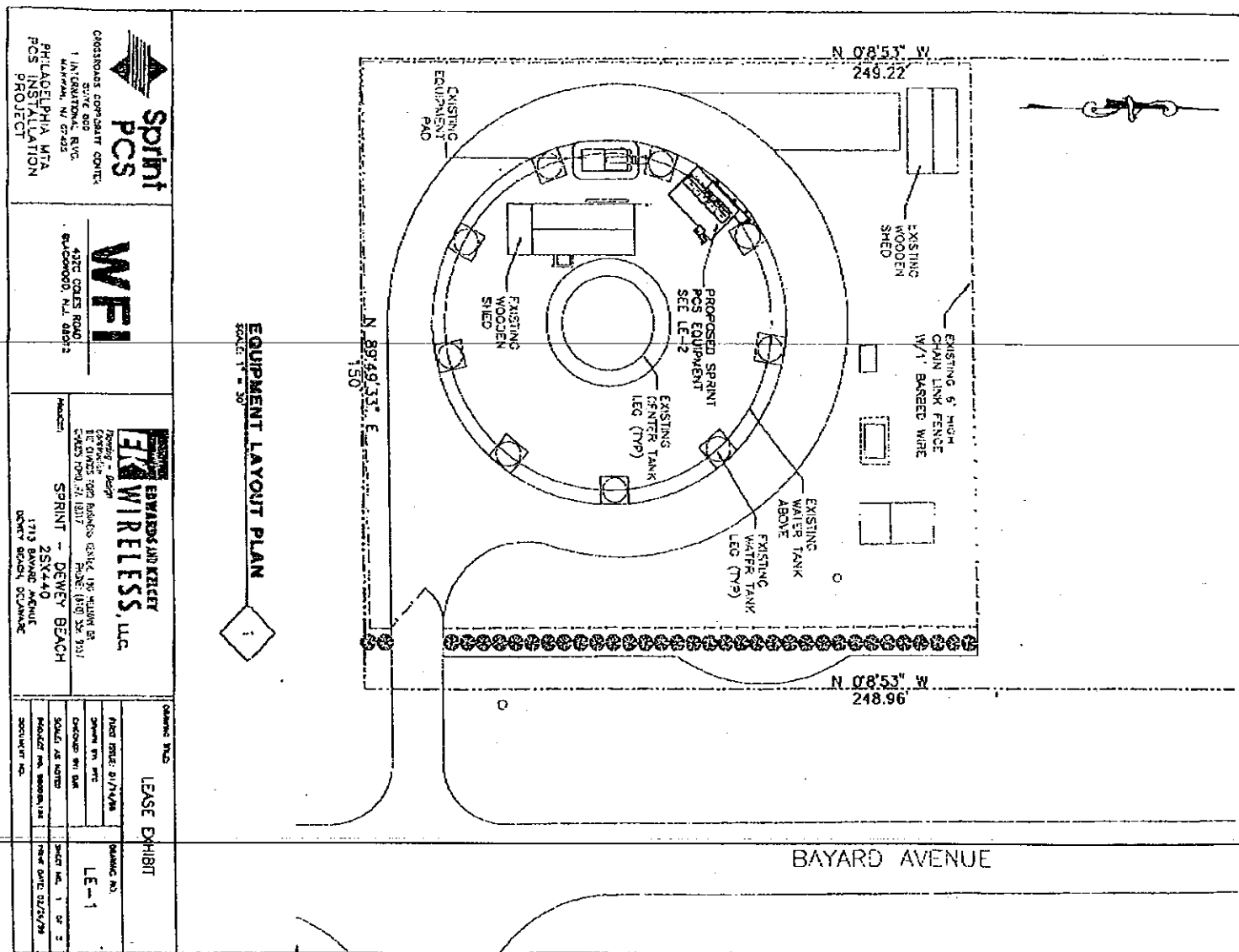
Site I. D. PL13XC440A

Site situated in the City of Dewey Beach, County of Sussex, State of Delaware commonly described as follows:

Legal Description:

Parcel Number 3-34-20.14-4.00

Sketch of Site:



Owner Initials MA 830

SSLP Initials MD

Note: Owner and SSLP may, at SSLP's option, replace this Exhibit with an exhibit setting forth the legal description of the property on which the Site is located and/or an as-built drawing depicting the Site.

*[Use this Exhibit A for PCS Site Agreement, Memorandum of PCS Site Agreement, Option Agreement and Memorandum of Option Agreement.]

Site Name Dewey Beach

Site Description

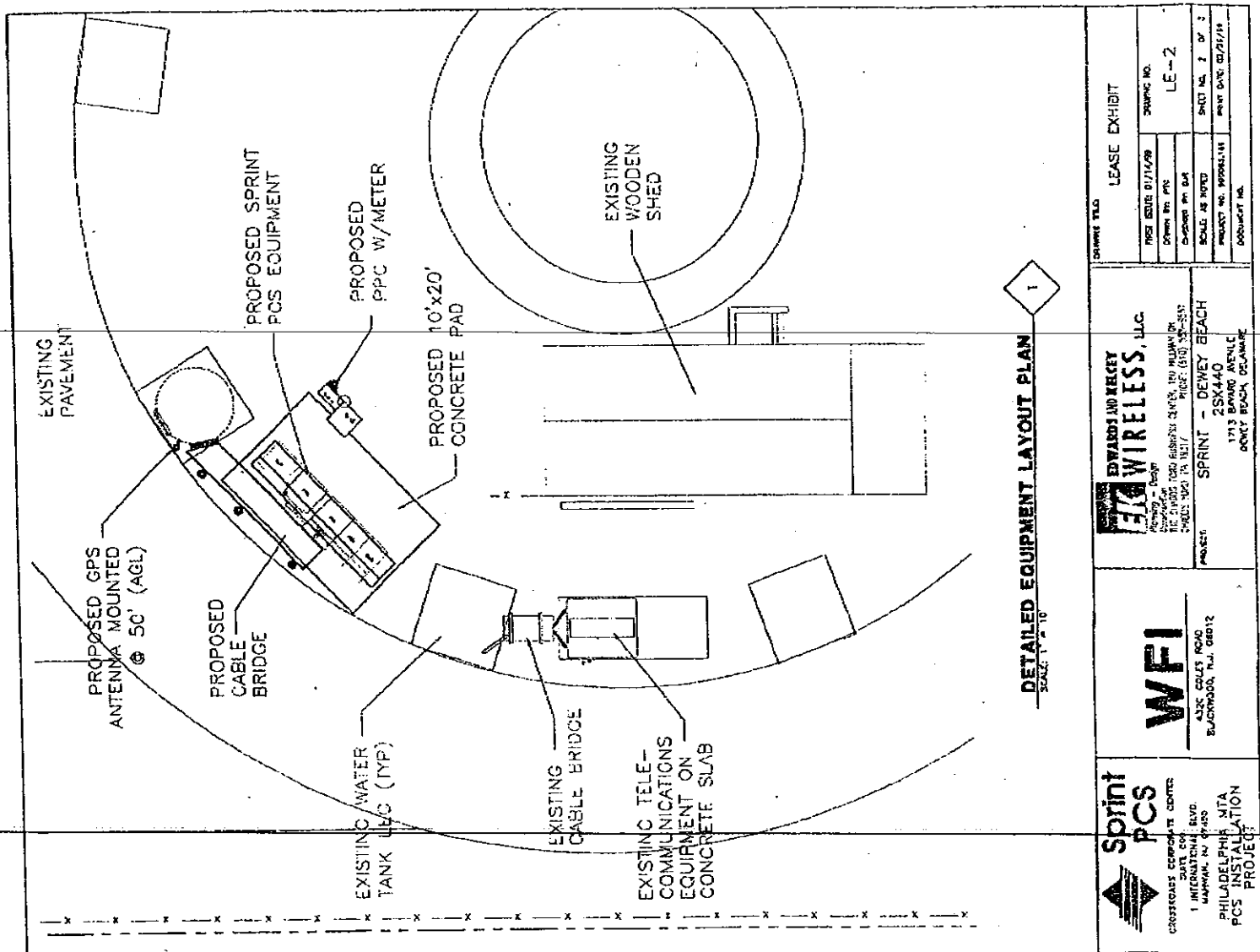
Site I. D. PL13XC440A

Site situated in the City of Dewey Beach, County of Sussex, State of Delaware commonly described as follows:

Legal Description:

Parcel Number 3-34-20.14-4.00

Sketch of Site:



Owner Initials MA 330

SSLP Initials DM

Note: Owner and SSLP may, at SSLP's option, replace this Exhibit with an exhibit setting forth the legal description of the property on which the Site is located and/or an as-built drawing depicting the Site.

*[Use this Exhibit A for PCS Site Agreement, Memorandum of PCS Site Agreement, Option Agreement and Memorandum of Option Agreement.]

Site Name Dewey Beach _____

Site Description _____

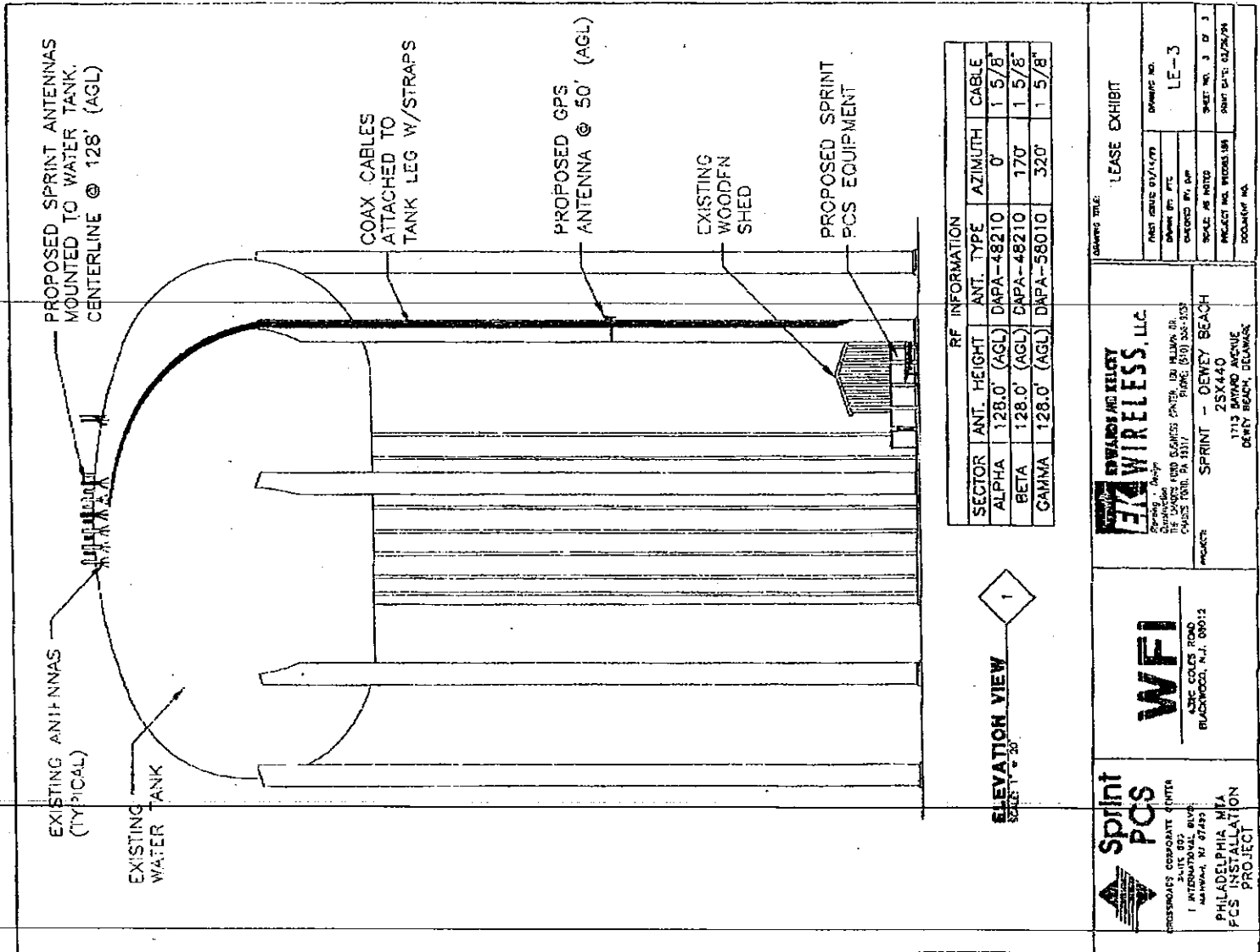
Site I. D. PL13XC440A

Site situated in the City of Dewey Beach, County of Sussex, State of Delaware commonly described as follows:

Legal Description:

Parcel Number 3-34-20.14-4.00

Sketch of Site:



Owner Initials _____

SSLP Initials _____

Note: Owner and SSLP may, at SSLP's option, replace this Exhibit with an exhibit setting forth the legal description of the property on which the Site is located and/or an as-built drawing depicting the Site.

*[Use this Exhibit A for PCS Site Agreement, Memorandum of PCS Site Agreement, Option Agreement and Memorandum of Option Agreement.]

Site Name Dewey Beach

PCS Site Agreement

Site I. D.2SX440A

Memorandum of PCS Site Agreement

This memorandum evidences that a lease was made and entered into by written PCS Site Agreement dated _____, 1999, between Sussex County ("Owner") and Sprint Spectrum L.P., a Delaware limited partnership ("SSLP"), the terms and conditions of which are incorporated herein by reference.

Such Agreement provides in part that Owner leases to SSLP a certain site ("Site") located at 1713 Bayard Avenue, City of Dewey Beach, County of Sussex, State of Delaware, within the property of Owner which is described in Exhibit A attached hereto, with grant of easement for unrestricted rights of access thereto and to electric and telephone facilities for a term of five (5) years commencing on _____, 19__, which term is subject to four (4) additional five (5) year extension periods by SSLP.

IN WITNESS WHEREOF, the parties have executed this Memorandum as of the day and year first above written.

"OWNER"

"SSLP"

OWNER: Sussex County

Sprint Spectrum L.P., a Delaware limited partnership

By: _____

Name:

Title: President of Sussex County Council

By: _____

Name:

Title: Clerk of Sussex County Council

By: _____

Don Mueller

Director, Site Development-East

Address: 1 International Blvd., Suite 800

Mahwah, NJ 07495

Address: _____

P.O. Box 589

GEORGETOWN, DE 19947

Owner Initials _____

SSLP Initials _____

Attach Exhibit A - Site Description

OWNER NOTARY BLOCK:

STATE OF DELAWARE

COUNTY OF Sussex

The foregoing instrument was acknowledged before me this 23rd day of March, 1999, by Finley Jones and Robin Griffith, the President and Clerk of Sussex County Council on behalf of Sussex County, a political subdivision of the State of Delaware, on behalf of the county.

(AFFIX NOTARIAL SEAL)

Jacqueline Chandler
(OFFICIAL NOTARY SIGNATURE)
NOTARY PUBLIC—STATE OF Delaware

My commission expires:

Jacqueline Chandler
(PRINTED, TYPED OR STAMPED NAME OF NOTARY)
COMMISSION NUMBER: N/A

SPRINT SPECTRUM L.P. NOTARY BLOCK:

STATE OF New Jersey
COUNTY OF Bergen

Jacqueline D. Chandler
Notary Public
State of Delaware
Commission expires 6-11-99

The foregoing instrument was acknowledged before me this 1 day of April, 1999, by Don Mueller, Director, Site Development-East of Sprint Spectrum, L.P., a Delaware limited partnership, who executed the foregoing instrument on behalf of such limited partnership.

(AFFIX NOTARIAL SEAL)

[Signature]
(OFFICIAL NOTARY SIGNATURE)
NOTARY PUBLIC—STATE OF NJ
Attorney at Law

My commission expires:

Michael O'Brien
(PRINTED, TYPED OR STAMPED NAME OF NOTARY)
Attorney at Law State of NJ

EXHIBIT C

SITE ACCESS AND INFORMATION

SITE NAME: Dewey Beach

SITE NUMBER 2SX440A:

SITE ADDRESS: 1713 Bayard Avenue

MUNICIPALITY: Dewey Beach

STATE: Delaware

COUNTY: Sussex

ZIP CODE: 19971

LATITUDE: 38-41-50

LONGITUDE: 75-04-42

ANTENNA HEIGHT 120(AGL)

0 ± (AMSL)

AREA FOR EQUIPMENT: under tank

OWNER/SITE MANAGER: Michael A. Izzo, P.E.

PHONE: (302) 855-7718

SITE/BLDG. CONTACT: Paul Bradley

PHONE: (302) 227-6310 or (302) 644-2761

EMERGENCY CONTACT: Sussex County Emergency Operations Center (302) 855-7803, ask for Operator to beep pager #85

SITE/BLDG. ENTRY PROCEDURES: Locked Gate

NORMAL HOURS:7-5

AFTER NORMAL HOURS AND WEEKENDS: See Emergency Contact

FIRST AMENDMENT TO PCS SITE AGREEMENT

This First Amendment to PCS Site Agreement (the “**First Amendment**”) is made effective as of the date of execution by the last party to sign, by and between **Sussex County, a Political Subdivision of the State of Delaware**, (“**Owner**”) and **Sprint Spectrum Realty Company, LLC. (formerly a limited partnership), successor in interest to Sprint Spectrum L.P.” (“SSRC”)**. Owner and SSRC are collectively referred to herein as the “**Parties**.”

RECITALS

WHEREAS, Owner and SSRC’s predecessors in interest entered into that certain PCS Site Agreement effective April 1, 1999 (collectively, the “**Agreement**”), pursuant to which SSRC is leasing space for a telecommunications facility at 1713 Bayard Avenue Rehoboth Beach, DE 19971 (as more fully described in the Agreement, the “**Site**”). SSRC and Owner now wish to further amend the Agreement as set forth below.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The foregoing Recitals are expressly made a part of this First Amendment and are incorporated herein by this reference. All capitalized terms used but not defined herein shall have the same meaning as in the Agreement.
2. The term of the Agreement is hereby effective to midnight on March 31, 2024 (the “**Current Term**”), and SSRC shall have the right to extend this Agreement for five (5) additional five-year terms (each, a “**Renewal Term**”), respectively, on the same terms and conditions as set forth in the Agreement except as amended. The Agreement shall automatically renew for each Renewal Term unless SSRC notifies Owner, in writing, of SSRC's intention not to renew the Agreement at least thirty (30) days prior to the expiration of the immediately preceding Current Term or Renewal Term. If SSRC shall remain in possession of the Site at the expiration of this Agreement without a written agreement, such tenancy shall be deemed a month-to-month tenancy under the same terms and conditions of the Agreement, as amended.
3. SSRC’s addresses for notice purposes shall be incorporated herein to the Agreement with the following:

Sprint Property Services
Sprint Site ID No.: PL13XC440_1SU4377A
Mailstop KSOPHD0101-Z2650
6220 Sprint Parkway
Overland Park, KS 66251-2650

With a copy to:

Sprint Law Department
Attn.: Real Estate Attorney
Sprint Site ID No.: PL13XC440_1SU4377A
Mailstop KSOPHD0101-Z2020
6220 Sprint Parkway
Overland Park, KS 66251-2020

Owner's contact information for rent purposes in section 3 of the Agreement is hereby amended with the following:

Rent payments shall continue in accordance with Section 3 of the Agreement and to the **attention of Finance Department.**

4. Section 17 of the Agreement is hereby amended with the following:

Sentence 1 of section 17 is hereby amended so that the commercial general liability insurance limits shall not be less than \$5,000,000.00 combined single limit per occurrence and in the aggregate. All other terms in this section shall remain in full force and effect.

5. Each person signing this First Amendment on behalf of Owner or SSRC represents that he or she is duly authorized to sign this First Amendment and to bind the Party on behalf of which such person is signing. If there is a conflict between the Agreement and this First Amendment, this First Amendment shall prevail.

6. Owner warrants and represents that the consent or approval of no third party, including, without limitation, a lender, is required with respect to Owner's execution of this First Amendment, or if any such third party consent or approval is required, Owner has obtained any and all such consents or approvals.

7. The Agreement remains in full force and effect as amended by this First Amendment and is hereby ratified and confirmed by the Parties.

8. This First Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute a single instrument. Signed facsimile and electronic copies of this First Amendment shall legally bind the parties to the same extent as original documents.

SIGNATURES APPEAR ON NEXT PAGE

IN WITNESS WHEREOF, the Parties hereto have caused this First Amendment to be executed by their duly authorized representatives as of the date first written above.

Owner:

Sussex County, a Political Subdivision of the State of Delaware

By: _____

Print Name: _____

Title: _____

Date: _____

SSRC:

Sprint Spectrum Realty Company, LLC., a Delaware Limited Liability Company

By:  _____

Print Name: Soufiane Toury

Title: Sr. Market Director

Date: 5/16/2023



TMO Signatory Level : L06

T-Mobile Contract Attorney

AJ
Digitally signed by AJ
Date: 2023.05.11 08:23:36 -04'00'

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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

CC: Everett Moore, County Attorney

Date: June 9, 2023

RE: County Council Old Business Report for C/U 2323 filed on behalf of Leslye Brossus

The Planning and Zoning Department received an application (C/U 2323 filed on behalf of Leslye Brossus) for a Conditional Use for parcel 134-12.00-1198.00 for a treehouse and yurt to be utilized for short-term rentals. The property is located at 31631 Reading Street, Millville and is within the Banks Acres Subdivision. The parcel size is 0.26 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on October 13, 2022. At that meeting, the Planning & Zoning Commission closed the record and deferred for further consideration. At the meeting of November 17, 2022 the Planning & Zoning Commission recommended approval of the application for the 3 reasons stated and subject to the 8 recommended conditions as outlined in the motion.

The County Council held a Public Hearing on the application at its meeting of November 15, 2022. At the conclusion of the Public Hearing, the County Council left the record open to allow additional time to receive a recommendation from the Planning & Zoning Commission. Below is a link to the approved minutes of the November 15, 2022, County Council meeting:

[Approved Minutes of the November 15, 2022, County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meeting of October 13, 2022.

[Minutes of the October 13, 2022 Planning & Zoning Commission Meeting](#)

Mr. Mears recused himself from the next public hearing and left Council Chambers.



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

C/U 2323 Leslye Brossus

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A TREEHOUSE AND YURT TO BE UTILIZED FOR SHORT-TERM RENTALS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.26 ACRES, MORE OR LESS. The property is lying on the south side of Reading Street, approximately 0.14 mile south of Old Mill Road (Route 349) and is Lot 45 within the Banks Acres Subdivision. 911 Address: 31631 Reading Street, Millville. Tax Parcel: 134-12.00-1198.00.

Mr. Whitehouse advised the Commission that submitted into the record was a letter from the Applicant, the Staff Analysis, the DelDOT Service Level Evaluation Response, a copy of the Applicant's building permit information, the Site Plan, a letter from Sussex County Engineering Department Utility Planning Division, and a copy of guest books, containing customer reviews which were submitted by the Applicant. Mr. Whitehouse advised the Commission there had been one letter received in opposition, two letters received in support, and one mail return.

The Commission found that Ms. Leslye Brossus spoke on behalf of her Application; that it is her intent to have the Application as her supporting business through Air B&B; that the business does come with good insurances; that the Application will create two additional vehicles to her property, four and a half months out of the year; that these vehicles would be for the customers of the yurt and treehouse; that the yurt does not remain in place throughout the whole year; that she did obtain building permits for all structures before they were placed; that the property is served by sewer; that she is the only person living in the trailer located on the property; that when she is fully booked, it would be herself, possibly two people within the treehouse and two people within the yurt located on the property and using the sewer; that a Service Level Evaluation was performed; that DelDOT stated the use would have a diminutive impact on traffic; that the Banks Acres Subdivision does not have a Homeowners Association; that there are no deed restrictions for the development; that the most impacted adjacent property is located to the left with a trailer; that she owns that property; that she rents the trailer through Air B&B; that she only rents the trailer up to four and a half months out of the year; that there is a large agricultural field located behind the property; that there is a very heavy tree line located on the property line closest to the yurt; that the dwelling on the property closest to the yurt, sits far up on the property, closest to the road; that due to this there is no line-of-sight of the yurt; that she did submit a packet of photographs reflecting appropriate parking on the property; that during the months she rents the structures the trees are in full bloom; that when the trees are in full bloom the structures cannot be seen from the road; that one would be required to pull into the parking area before the structures could be seen; that she does not feel trash is a concern; that her customers are those which love to enjoy the environment; that her customers enjoy to be out in nature, which is the appeal of the property; that her customers leave a very small footprint; that she does have trash and recycling pick up on a regular basis; that should the property become overloaded, she has the adjacent property where she has year-round trash removal services; that she keeps a close eye on things, to avoid any negative reviews; that she mostly uses solar lights on the property; that all of the lights are downward facing; that some of the lights are activated by motion; that she attempts to not add to light pollution as the stars are what people come to the property to see; that noise is not an issue; that she has a no party policy; that the treehouse was made from 80% recycled materials; that she feels the property is a small piece of artwork; that she would like to think she is adding to the community; that anyone within the community has always been invited to view the property with her open door policy; that this allows for adjacent neighbors to know exactly what goes on at the property and she does inform people how they may take a video walk through on her Air B&B website.

Ms. Wingate stated she feels the treehouse was very nicely done; that she questioned when the structures are rented; that she did see sufficient parking at the site; that she did see a small sign on the property, and she questioned if Ms. Brossus would like a larger sign on the property.

Ms. Stevenson questioned if the structures have kitchens; that she questioned if the structures have running water and she questioned Mr. Robertson if there are any special restrictions for the intended use within the GR (General Residential) Zoning District.

Mr. Robertson stated the property is located within GR (General Residential), therefore does not permit a multi-family use and that this was the reason the Conditional Use was required.

Mr. Whitehouse stated GR (General Residential) does permit the placement of a single-wide mobile home.

Ms. Brossus stated she begins renting around Memorial Day weekend; that she begins to rent on weekends only around mid-August; that by mid-September she closes the structures down for the season; that she does not desire a larger sign for the property; that she desires to only have online advertising for the property, to avoid interface to the activity at the site; that her customers are looking for the “off the beaten path” accommodations; that if someone was not specifically looking for her particular use of the property, no one would know the uses were onsite; that the yurt does have a microwave; that the treehouse does not have a kitchen area; that the treehouse does have a miniature refrigerator in the case her customers were to bring home leftovers from a local eatery; that neither structure has running water within them; that there is an outdoor bathroom, one bathroom for each structure, located on the property; that the bathroom area has hot and cold water, with a sink and a toilet; that one bathroom has a shower; that the other bathroom has a shower-tub combination; that the outdoor bathroom area are two bathrooms built back to back; that she did submit photographs of the bathrooms into the record; that the bathrooms were constructed with outdoor materials; that she does the use with intent; that her use is not to slap something up to make a buck on it; that it took her a lot of time to construct; that she curated the use; that she keeps the property tidy; that she does not use any weed killers in the summer as her clientele is very wholesome and outdoorsy and her clientele often want to drink the water, with no desire to use a water bottle.

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

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

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

In relation to Application C/U 2323 Leslye Brossus. Motion by Ms. Wingate to defer for further consideration, seconded by Ms. Stevenson and carried unanimously. Motion carried 4-0. Mr. Mears abstained.

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

The Commission discussed the Application which had been deferred since October 13, 2022.

Ms. Wingate moved that the Commission recommend approval of C/U 2323 Leslye Brossus for a treehouse and yurt based on the record made during the public hearing and for the following reasons:

1. This Application is for a treehouse and yurt as short-term vacation rental units in addition to the existing house on the property.
2. With the conditions and limitations included in this recommendation, it will not adversely affect neighboring properties or roadways.
3. No parties appeared in opposition to this Application.
4. This recommendation is subject to the following conditions:
 - a. As part of the Sussex County Council hearing process, Council and its attorney should consider whether there are any recorded restrictive covenants that may impact this proposed use.
 - b. There shall be no more than one treehouse and one “yurt”-style structure on this property in addition to the existing mobile home. A “yurt” is a semi-permanent tent-like structure built upon a permanent platform. This use shall be considered a tourist home under the Code and neither the yurt nor the treehouse shall have kitchen facilities.
 - c. The location of the yurt and treehouse, along with the bathroom facilities, shall be shown on the Final Site Plan.
 - d. There shall be at least one on-site parking space designated for each structure in addition to the two spaces required for the existing home. These shall be shown on the Final Site Plan and clearly marked at the site itself.
 - e. The yurt, treehouse, and bathroom facilities shall be screened from the view of neighboring properties and roadways by a vegetative buffer. The location, dimensions, and plantings of this buffer shall be shown on the Final Site Plan.
 - f. One small unlighted sign shall be permitted. It shall not exceed 8 square feet in size.
 - g. All trash receptacles shall be screened from the view of neighboring properties and roadways. The location of these receptacles shall be shown on the Final Site Plan.
 - h. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to recommend approval of C/U 2323 Leslye Brossus for the reasons and conditions stated in the motion. Motion carried 4-0. Mr. Mears abstained.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: October 13th, 2022

Application: C/U 2323 Leslye Brossus

Applicant: Ms. Leslye A. Brossus
31631 Reading Street
Millville, DE 19970

Owner: Ms. Leslye A. Brossus
31631 Reading Street
Millville, DE 19970

Site Location: 31631 Reading Street, Millville. The property is lying on the south side of Reading Street, approximately 0.14 mile south of Old Mill Road (Route 349) and is Lot 45 within the Banks Acres Subdivision.

Current Zoning: General Residential (GR) District

Proposed Use: Treehouse & Yurt for Short Term Rentals

Comprehensive Land
Use Plan Reference: Coastal Area

Councilmanic
District: Mr. Hudson

School District: Indian River School District

Fire District: Millville Fire Department

Sewer: Sussex County

Water: Private (Well)

Site Area: 0.26 acres +/-

Tax Map ID: 134-12.00-1198.00



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: Ms. Lauren DeVore, AICP, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: September 7, 2022
RE: Staff Analysis for C/U 2323 Leslye Brossus

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/U 2323 Leslye Brossus to be reviewed during the October 13th, 2022, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel 134-12.00-1198.00 to allow for a treehouse and yurt structure for the purpose of providing short-term rentals. The property is lying on the south side of Reading Street, approximately 0.14 mile south of Old Mill Road (Route 349) and is Lot 45 within the Banks Acres Subdivision. The property is located approximately 0.17 mile north of the town limits of the Town of Millville. The property consists of 0.26 acres +/-.

Further Site Considerations

Staff note that Building Permits were obtained for a 12-ft x 10-ft lean to, two (2) outdoor restrooms of 3-ft by 8-ft (BP # 160045, which was issued on 6/25/2021,) and a 12-ft x 14-ft treehouse 7 to 8-ft in height with a 8-ft by 12-ft deck (BP #140685, which was issued on 9/17/2020). This information has been included in the Commission's packet this evening.

County records indicate that there are no Tax Ditches or related Tax Ditch Rights-of-Way (ROW) located on the property.

The property is not located within any established Transportation Improvement District (TID).

The property is located within Flood Zone "X" – Areas determined to be outside of the 0.2 Percent Annual Chance Flood Zone.

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 subject property has a land use designation of "Coastal Area." All surrounding properties to the north, south, east and west of the subject site contain the Future Land Use Map designation of "Coastal Area."



As outlined in the 2018 Sussex County Comprehensive Plan, Coastal Areas are areas that can accommodate development provided that special environmental concerns are addressed. A range of housing types should be permitted in Coastal Areas, including single-family homes, 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 all 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. (Sussex County Comprehensive Plan, 4-15).

Zoning Information

The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories,” the General Residential (GR) District is listed as an Applicable Zoning District within the “Coastal Area.” (Sussex County Comprehensive Plan, 4-25).

The adjacent parcels to the north, west and east of subject property lying within the Banks Acres Subdivision are zoned General Residential (GR) District. The property immediately to the south of the subject property is zoned Medium Density Residential (MR) District. It should also be noted that a single parcel to the south is zoned Neighborhood Business (B-1) District.

The properties further west on the opposite side of Railway Road (S.C.R./Route 350) within the Banksville Park Subdivision are also zoned General Residential (GR) District. The properties to the south of Banksville Park, also located on the opposite side of Railway Road (S.C.R./Route 350), are zoned Medium Density Residential (MR) District.

Existing Conditional Uses within the Vicinity of the Subject Site

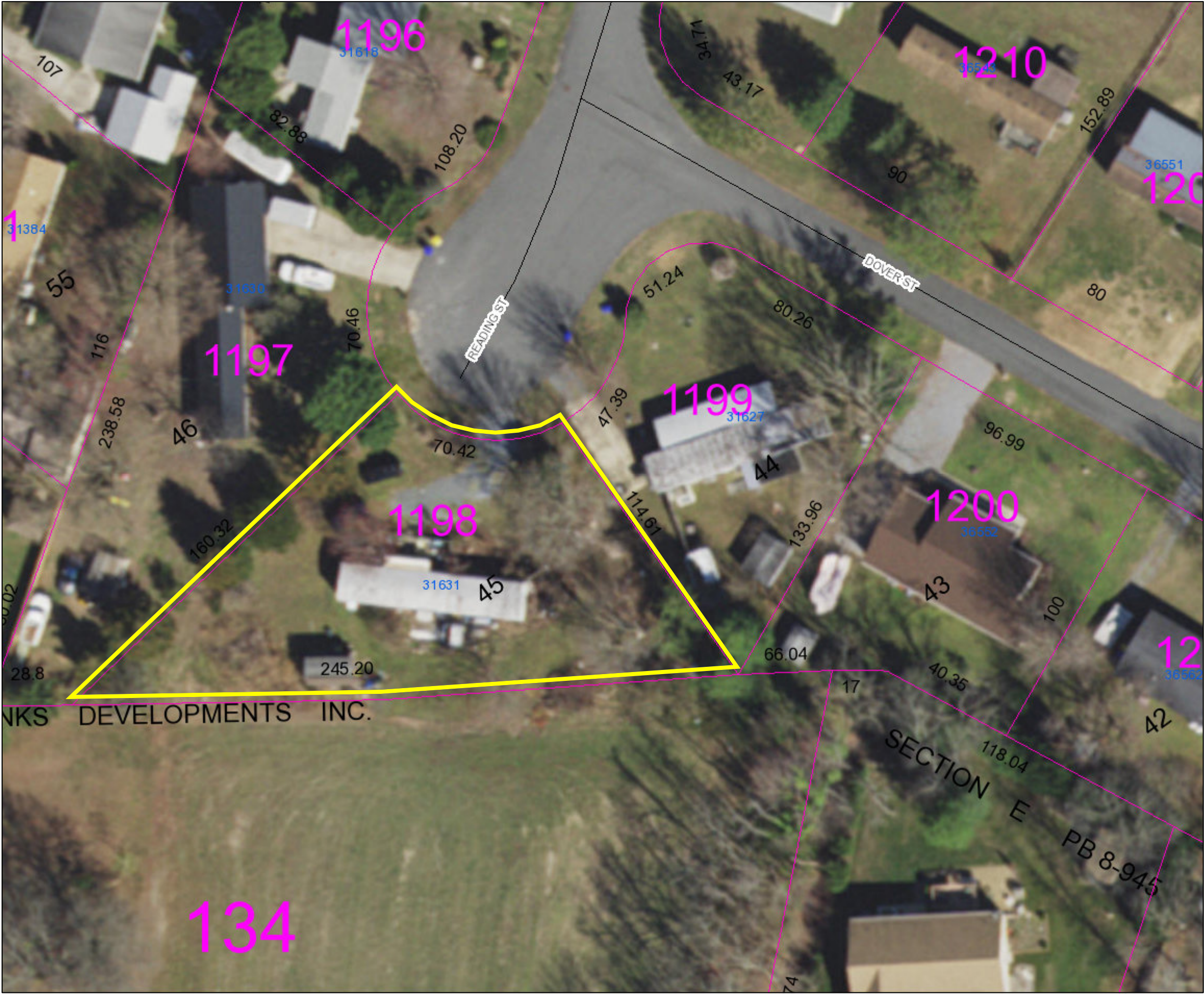
Since 1970, there have been two (2) Conditional Use applications within a 0.30-mile radius of the application site. The first application is for C/U 1148 Great Scott Broadcasting to allow for a radio broadcast tower to be located in an Agricultural Residential (AR-1) District. The Planning and Zoning Commission recommended approval for the use at their meeting of Thursday, February 22, 1996. The Sussex County Council approved the use at their meeting of Tuesday, March 12, 1996, and the change was adopted through Ordinance No. 1081. The second application is for C/U 2206 Linder & Company, Inc. (Evans Farm) to allow 200 multifamily units to be located in an Agricultural Residential (AR-1) District. The Planning and Zoning Commission recommended approval for the use at their meeting of Thursday, April 8, 2021. The Sussex County Council approved the use at their meeting of Tuesday, June 15, 2021, and the change was adopted through Ordinance No. 2776.

A Supplemental Map has been supplied which provides the location of all other Conditional Uses which are greater than 0.30-mile distance from the subject site.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow for a treehouse and yurt structure for the purpose of providing short-term rentals, subject to

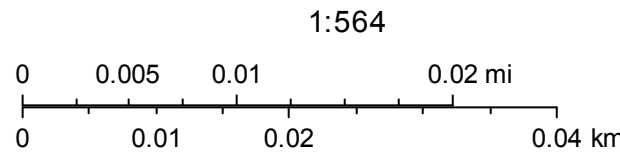
considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

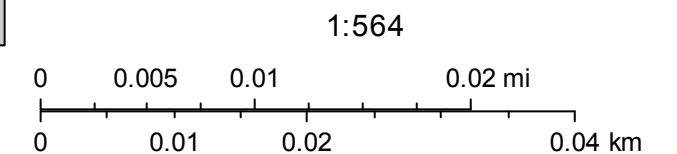
Conditional Use Applications (w/in a 0.30 mile radius of the subject site)*								
Application Number	Application Name	Current Zoning	Proposed Use	P&Z Decision	P&Z Decision Date	CC Decision	CC Decision Date	Ordinance Number
C/U 1148	Great Scott Broadcasting	AR-1	Radio Broadcast Tower	Recommended Approval	2/22/1996	Approved	3/12/1996	1081
C/U 2206	Linder & Company (Evans Farm	AR-1	200 Multifamily Units	Recommended Approval	4/8/2021	Approved	6/25/2021	2776

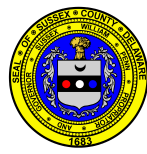


PIN:	134-12.00-1198.00
Owner Name	BROSSUS LESLYE A
Book	2635
Mailing Address	31631 READING ST BANKS
City	MILLVILLE
State	DE
Description	BANKS ACRES
Description 2	LOT 45
Description 3	T#22032
Land Code	

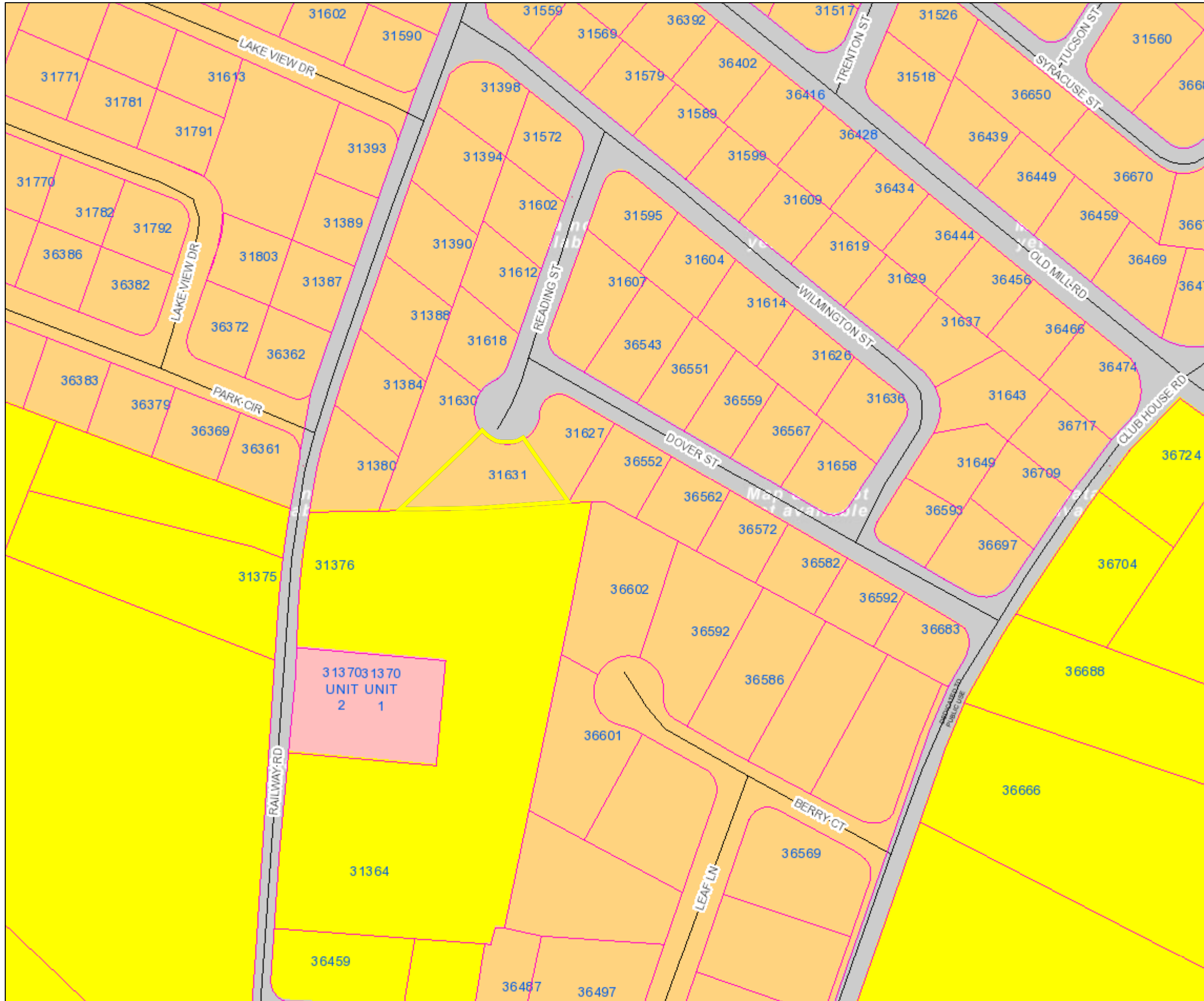
- polygonLayer**
- Override 1
- polygonLayer**
- Override 1
 - Tax Parcels
 - 911 Address
 - Streets
 - County Boundaries







Sussex County



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polygonLayer
Override 1

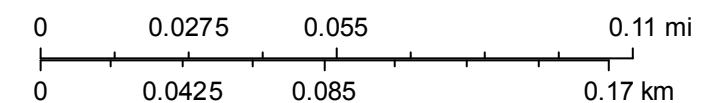
polygonLayer
Override 1

Tax Parcels

911 Address

Streets

1:2,257



Introduced: 2/8/22

Council District 4: Mr. Hudson
Tax I.D. No.: 134-12.00-1198.00
911 Addresses: 31631 Reading Street, Millville

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A TREEHOUSE AND YURT TO BE UTILIZED FOR SHORT-TERM RENTALS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.26 ACRES, MORE OR LESS.

WHEREAS, on the 16th of November 2021, a conditional use application, denominated Conditional Use No. 2323 was filed on behalf of Leslye Brossus 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. 2323 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article 115, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2323 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, being lot 45 within the Banks Acres Subdivision, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the south side of Reading Street, approximately 0.14 mile south of Old Mill Road (Route 349) and being more particularly described in the attached legal description prepared by Superior Title Corporation, containing 0.26 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: June 9, 2023

RE: County Council Old Business Report for C/U 2325 filed on behalf of David & Sandra Blank

The Planning and Zoning Department received an application (C/U 2325 filed on behalf of David & Sandra Blank) for a Conditional Use for parcel 533-9.00-58.00 for a campground. The property is located on the northeast side of Jay Patch Road (S.C.R 376A), approximately 0.5-mile southeast of Pepper Road (S.C.R 376). The parcel size is 30.76 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on November 17, 2022. At the meeting of December 8, 2022, the Planning & Zoning Commission recommended approval of the application for the 3 reasons stated and subject to the 14 recommended conditions as outlined within the motion (copied below).

The County Council held a Public Hearing on the application at its meeting of January 24, 2023. At the conclusion of the Public Hearing, Council deferred action on the application for further consideration. Below is a link to the minutes of the January 24, 2023 meeting.

[Minutes of the January 24, 2023 County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meetings of November 17, 2022 and December 8, 2022.

[Minutes of the November 17, 2022 Planning & Zoning Commission Meeting](#)

C/U 2325 David & Sandra Blank

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CAMPGROUND TO BE



LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 30.76 ACRES MORE OR LESS. The property is lying on the northeast side of Jay Patch Road (S.C.R. 376A), approximately 0.5-miles southeast of Pepper Road (S.C.R. 376). 911 Address: N/A. Tax Parcel: 533-9.00-58.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Site Plan, a letter from Sussex Conservation District, a letter from Sussex County Engineering Department Utility Planning Division, the Staff Analysis, and the DelDOT Service Level Evaluation Response. Mr. Whitehouse advised the Commission that five letters were received in opposition to the Application.

The Commission found that Mr. David Blank spoke on behalf of his Application; that also present was his wife, Ms. Sandra Blank; that he and his wife had moved to India in 1992 for the U.S. State Department Professor Exchange; that in India he began working on a technical solution for Asia's most serious health and climate problem; that his work led to a breakthrough, which led him to Sussex County to commercialize vehicular engines to operate more efficiently without creating air pollution; that eight years ago, they established a research laboratory in Williamsville Industrial Park; that at the same time, they purchased their property along Jay Patch Rd., with the intention of placing a single-family home on the property; that the technology they are attempting to pioneer will benefit the planet; that the technology is a disruptive technology in which car manufacturers and energy companies would want to put on the shelf; that due to this, they have had to finance the commercialization of the technology themselves; that this has caused a delay in building their house on Jay Patch Rd.; that they are currently seeking to establish a non-commercial campground to live on until their funds become adequate to complete their house; that after the home is constructed, they hope to continue the use of a private campground for their family and close friends; that their intention is to semi-permanently place one travel-trailer on each of the two campsites; that DelDOT stated the proposed use of the private campground on Jay Patch Rd. will not add to traffic; that their plan accounts for more than adequate off road parking; that in discussions with the Planning & Zoning Department, they have considered the nine Ordinance requirements for their Conditional Use application; that their request is in compliance with all of the Ordinance requirements, as well as the design standards for Jay Patch Rd.; that their request is simply for two, 2,000 sf, private campsites and they have no intension of moving the trailers on and off the property as they desire to have the trailers placed semi-permanently.

Mr. Mears questioned that the campground use would be private use by the Applicant until their home is constructed; that he questioned how much time would be required for the campsite until the home is completed and he questioned if the presence of the two campers could create difficulty when attempting to build their home.

Mr. Robertson stated he will need to perform more research; that he does not believe it would cause difficulty as the Conditional Use would be granted and worded in addition to the house; that campgrounds do have a distance requirement from dwellings of other owners, and he believes the Applicant would be fine.

Ms. Stevenson questioned the reason for the Conditional Use and questioned if the campers would ever be rented out.

Mr. Whitehouse advised the Commission that a Conditional Use is required due to the number of dwellings located on one parcel and within AR-1 (Agricultural Residential) there are restrictions to the placement of single-wide mobile homes and size restrictions to dwellings constructed within the district.

Mr. Banks stated the campsite would be for private use by them until their home is complete; that they wished to keep the campground after their home is complete but if a condition must be placed, he estimated it would be two to three years before their home was completed; that they have a son, who is a Navy Seal; that they are both veterans; that they wish to keep the campground for occasional private use by their family and close friends; that based on DNREC requirements, they did modify Ordinance 9 related to a campground managers residence; that there proposed single-family home would be considered as the campground managers residence; that the site plan will be modified to include their home as part of the campground; that they have no intention to rent out the campers and they have no intention to make the campground for commercial purposes.

The Commission found that Mr. Mark Meckes spoke in opposition to the Application; that the Application stated the proposed use is for a campground for mobile homes, trailers, tents, camper trailers and travel vans; that after hearing the Applicant's testimony, he believes the proposed use is different than that stated on the Application; that his property is located within the AR-1 (Agricultural Residential) Zoning District; that he purchased his property in 2014 for peaceful and quiet nature to build his retirement home, which is almost complete; that he does not want to hear or see a campground, across the road, when sitting on his front porch, located less than 100 ft. away; that the campground would cause additional traffic to Jay Patch Rd., which is a dead-end road; that Jay Patch Rd. is barely wide enough to pass oncoming passenger cars and pick-up trucks without difficulty; that if any large tractor trailers were to enter Jay Patch Rd., the trailers would need to back out completely to Pepper Rd. as there is no place along Jay Patch Rd. to turn around; that he and his wife have concern to strangers coming and going, all different hours of the day and night, all year long; that the idea of campfires burning is concerning as there have been two major fires on the subject property since 2014; that one of the previous fires destroyed a camper located on the property a few years ago; that there was a fire in the woods; that the Selbyville Fire Company was dispatched for both fires; that Jay Patch Rd. is a no outlet road; that no commercial use should be permitted in an area that is not zoned from commercial use; that after hearing the Applicant's testimony, he is still opposed to the proposed use; that once the Conditional Use is granted, it will allow the Applicant to use the campground for commercial use in the future; that one the site place the access road goes to the two campsites; that he questioned if a site plan would be revised to reflect the campsites versus the house; that he also had concerns regarding septic and if DNREC had confirmed requirements for septic.

Chairman Wheatley stated if the Conditional Use is approved the site plan will be required to have Final Site Plan review and approval as well as obtain approvals from all required agencies.

The Commission found that Ms. Karen Tyre spoke in opposition to the Application; that there was a lot of conflicting information as to what was proposed on the Application and what was currently presented; that she did submit a letter into the record; that she stated concerns regarding the increased vehicle and foot traffic, the interruption of wetlands, safety concerns due to the limited width of the road and the cul-de-sac, the potential to bring a “party scene” to a quiet neighborhood, insufficient septic and water facilities; that there is no other campground in the area; that the presence of a campground would negatively impact nearby property values; that there is no commercial uses within the area; that she has owned her residential property for 37 years; that her family and herself have been the owners of Jay Patch Farm for 80 years; that Jay Patch Farm is a well-maintained working farm; that the campground is not welcome in the area and the campground is totally out of character.

The Commission found Mr. Glenn Campbell spoke in opposition to the Application; that he purchased his property in 2006 with plans to retire; that he wants to retire in a nice, quiet neighborhood, and does not want a campground located across the street from him.

The Commission found that Mr. Matt Mitchell spoke in opposition to the Application; that he built his home in 2007; that he and his family perform a lot of target practice in his backyard; that despite warning signs, he has had numerous people trespass onto his property and he had concerns regarding the campground will create increased foot traffic and hikers, which may create safety concerns.

Ms. Wingate expressed concern that if the Applicant did not build their home, would there be two campgrounds now available to be used by others besides friends and family.

Mr. Mears stated the Application is not for commercial use, but rather for Conditional Use and the Commission can limit and condition the proposed Conditional Use.

The Commission found that Mr. Robert Hammond spoke in opposition to the Application; that Mr. Blank purchased the property approximately seven years ago; that the Applicant moved a trailer on the site; that he does not believe there is any water or sewage service to the area; that he has never seen a sanitation truck access the property; that the Applicants have not built their proposed house in the seven years they have owned the property; that he does not want trailers placed on the property that could be rented out to others and since the Applicant has owned the property there have been two unexplained fires.

The Commission found that Ms. Rachel Hockstedtler spoke in opposition to the Application; that there have been fires previously on the property; that she had concerns about the location of the septic system as it proposed in close proximity to her property; that her property and for as long as she has ownership of it will remain a wildlife property; that when the previous camper caught on fire, all of the burnt items and debris sat on the property for a year and she is opposed to the Application as she does not believe the use will benefit the area.

The Commission found that Mr. Dave Wiley spoke in opposition to the Application; that there was confusion about the proposed use; that he stated as long as the Applicant would not be permitted to

rent the campers out or have multiple campers come and go from the site, he would have no opposition with the Applicants living in a camper located on their 30 acres of land.

The Commission found that Ms. Jessica Tyre spoke in opposition to the Application; that she requested clarification on the Applicant's proposed use; that she stated there is already an RV located on the property and questioned if the two proposed sites would include the RV already existing on the site, or would the existing RV be in addition to the two campsites and proposed home.

Mr. Whitehouse advised the Commission that it was his understanding the provided description was taken directly from the Code, and he believes the provided description encompassed more than what the Applicant is proposing.

The Commission found that Mr. Stewart McGee spoke in opposition to the Application; that he questioned concerns about the registration of a campground; that if the public were to perform a Google search, they may come looking for the campground; that Jay Patch Rd. only has a 30-ft. right-of-way and has no cul-de-sac; that there is no area to construct a cul-de-sac and traffic may be increased in attempts to located the campground.

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

Mr. Whitehouse advised the Commission that a dwelling, absent of all kitchen facilities, could be permitted as an accessory structure, by right, subject to obtaining a building permit and compliance with setbacks; that a campground would not receive the same accessory use; that a dwelling would have to be placed on the property first and an RV is not a permitted dwelling.

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

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

In relation to C/U 2325 David & Sandra Blank. Motion by Mr. Mears to defer for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

Minutes of the December 8, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since November 17, 2022.

Mr. Mears moved that the Commission approval of C/U 2325 David & Sandra Blank for a small campground consisting of only two campsites based on the record made during the public hearing and for the following reasons:

1. This conditional use for the creation of a 2-campsite campground located on a 30-acre property. Because the Applicants are seeking to install campsites for RVs or tents, this small campground still falls under the requirements for a campground conditional use. This use is so small that with the conditions imposed, it will not have any adverse impact on neighboring properties or roadways.

2. The proposed conditional use will not adversely affect the congestion of roads or streets as confirmed by DelDOT. In accordance with the MOU between Sussex County and DelDOT, the campground would only have a diminutive impact on area roadways.
3. The two proposed campsites will comply with the requirements of Section 115-172H of the Sussex County Zoning Code for the approval, design, and operation of campgrounds.
4. This recommendation is subject to the following conditions:
 - a. There shall be no more than two campsites located on the property, in addition to the property owners' residence.
 - b. The applicants shall comply with all DelDOT requirements associated with the use.
 - c. The two campsites and other facilities shall be connected to adequate on-site wastewater treatment facilities approved by the Department of Natural Resources and Environmental Control. The type and location of the approved on-site wastewater facilities shall be shown on the Final Site Plan.
 - d. Stormwater Management and sediment and erosion control facilities shall be constructed as required by State and County requirements.
 - e. The two campsites shall be surrounded by a 50-foot landscaped buffer. This buffer may include existing vegetation. The buffer shall be shown on the Final Site Plan.
 - f. Because the Applicants have stated that this use will not be operated as a commercial enterprise, no signage or advertising (including print, electronic, or social media) shall be permitted.
 - g. There shall be no accessory buildings located on the two campsites.
 - h. All units to be used for the purpose of human habitation on the campsites shall be tents, travel trailers, recreation vehicles, or equipment manufactured specifically for camping purposes.
 - i. The Applicant shall identify all "dwellings" in the vicinity of the property that require a 400-foot buffer pursuant to Section 115-172H (3) of the Sussex County Code. The campsites shall be a minimum of 400 feet away from any dwelling that exists at the time of the Final Site Plan approval.
 - j. The two campsites must be 2,000 square feet in size and at least 40 feet wide. The location of the campsites shall be clearly marked on the site plan and the site itself.
 - k. Neither campsite shall have direct access to any road outside of the boundaries of the campground. Access to the campsites shall be restricted so that they are not accessible when not in use.
 - l. The campground shall comply with all of the requirements of Section 115-172H.
 - m. This Conditional Use shall be reviewed for compliance and continued compatibility with the area by the Planning & Zoning Commission 4 years after County Council has approved the use.
 - n. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Mr. Hopkins and carried unanimously to recommend approval for C/U 2325 David & Sandra Blank for the reasons and conditions stated in the motion. Motion carried 3-0.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: November 17th, 2022

Application: CU 2325 David Blank Campground

Applicant: David & Sandra Blank
37509 Mahogany Street
Ocean View, DE 19970

Owner: David & Sandra Blank
37509 Mahogany Street
Ocean View, DE 19970

Site Location: Located on the north side of Jay Patch Road (S.C.R. 376A),
approximately 0.5-miles southeast of the intersection of Jay Patch Road
and Pepper Road (S.C.R. 376).

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

Proposed Use: Year-round campground

Comprehensive Land
Use Plan Reference: Developing Area

Councilmanic
District: Mr. Hudson

School District: Indian River School District

Fire District: Selbyville Fire Co.

Sewer: On-site septic

Water: On-site Well

Site Area: 30.76

Tax Map ID.: 533-9.00-58.00



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



Sussex County

DELAWARE
sussexcountype.gov

Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Mr. Elliott Young, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: November 7, 2022
RE: Staff Analysis for CU 2325 David Blank

The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application CU 2325 for David Blank to be reviewed during the November 17th, 2022, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 533-9.00-58.00, to allow for a campground, to be located off Jay Patch Road (S.C.R. 376A), Selbyville, Delaware. The property is lying on the north side of Jay Patch Road (S.C.R. 376A), approximately 0.50-miles southeast of the intersection of Jay Patch Road and Pepper Road (S.C.R. 376). The parcel consists of 30.77-acres +/-.

Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcel has a designation of "Developing Area." The adjoining parcels to the north, west, and east also have a Future Land Use Map designation of "Developing Area", one adjoining parcel to the northeast has the Future Land Use Map designation of "Coastal Area". The parcels to the south, across Jay Patch Road (S.C.R. 376A) also have a Future Land Use Map designation of "Developing Area".

As outlined within the 2018 Sussex County Comprehensive Plan, The Developing Areas are newer, emerging growth areas that demonstrate the characteristics of developmental trends. Most of the proposed Developing Areas are adjacent to municipalities, within or adjacent to potential future annexation areas of a municipality, or adjacent to Town Centers. – A range of housing types are appropriate in Developing Areas, including single family homes, townhouses, and multi-family units. In selected areas and at appropriate intersections, commercial uses should be allowed. A variety of office uses would be appropriate in many areas. Portions of the Developing Areas with good road access and few nearby homes should allow for business and industrial parks. Appropriate mixed-use development should also be allowed. In doing so, careful mixtures of homes with light commercial and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home (Sussex County Comprehensive Plan, 4-14).



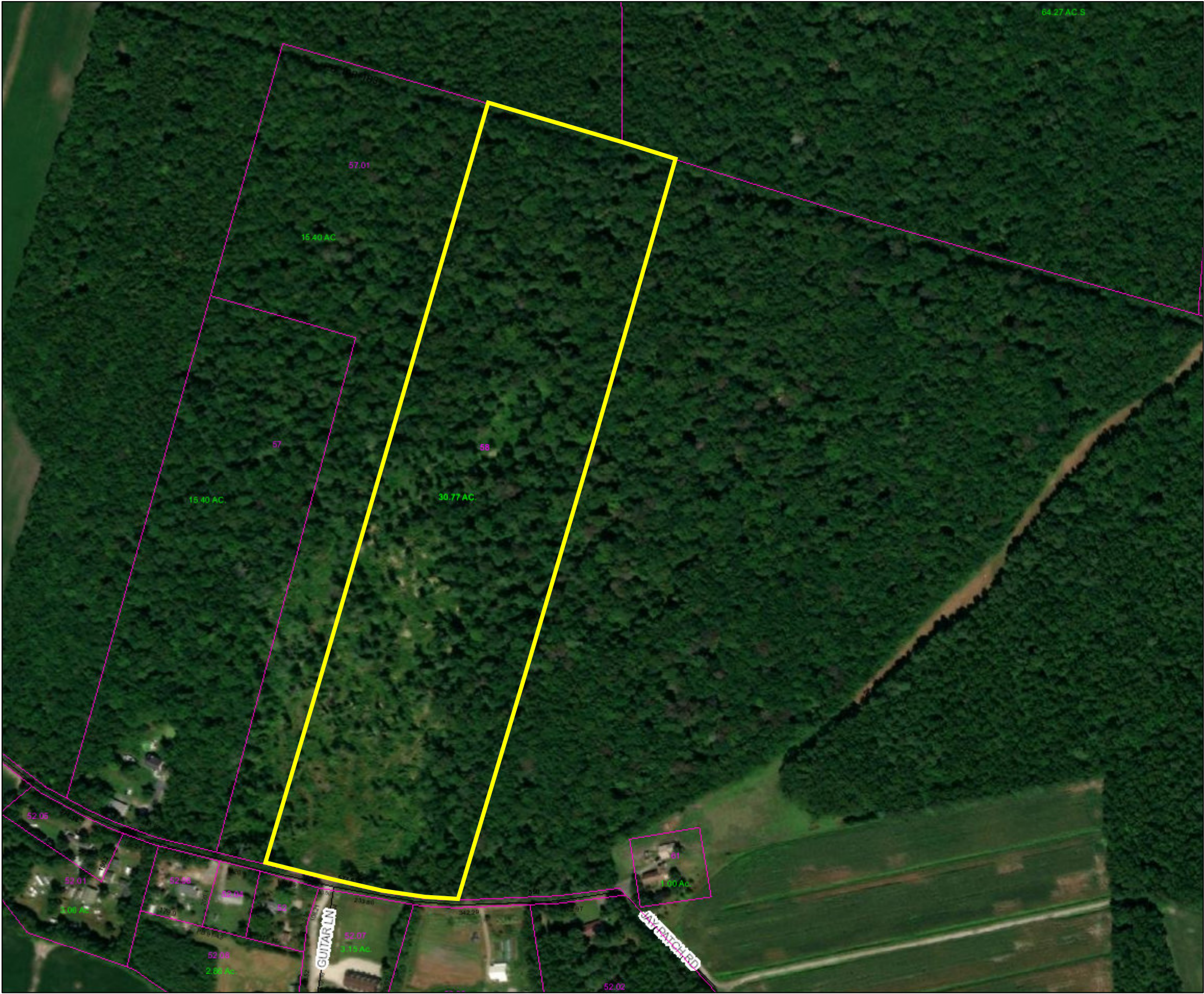
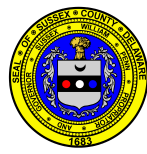
Zoning Information

The subject property is zoned Agricultural Residential (AR-1) District. All adjacent properties to the north, west, and east of the subject property are zoned Agricultural Residential (AR-1) District. The parcels to the south of the subject property, on the opposite side of Jay Patch Road (S.C.R. 376A), are also zoned Agricultural Residential (AR-1) District.

Existing Conditional Uses within the Vicinity of the Subject Property

Though there are several existing Conditional Uses in the area, since 2011, there has been zero (0) Conditional Use application within a one (1) mile radius of the application site.

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




PIN:	533-9.00-58.00
Owner Name	BLANK DAVID A
Book	4354
Mailing Address	38288 LONDON AVE UNIT 9
City	SELBYVILLE
State	DE
Description	N/RD FRANKFORD TO
Description 2	SELBYVILLE
Description 3	N/A
Land Code	

polygonLayer

Override 1

polygonLayer

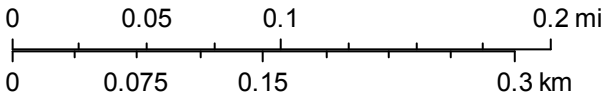
Override 1

 Tax Parcels

 Streets

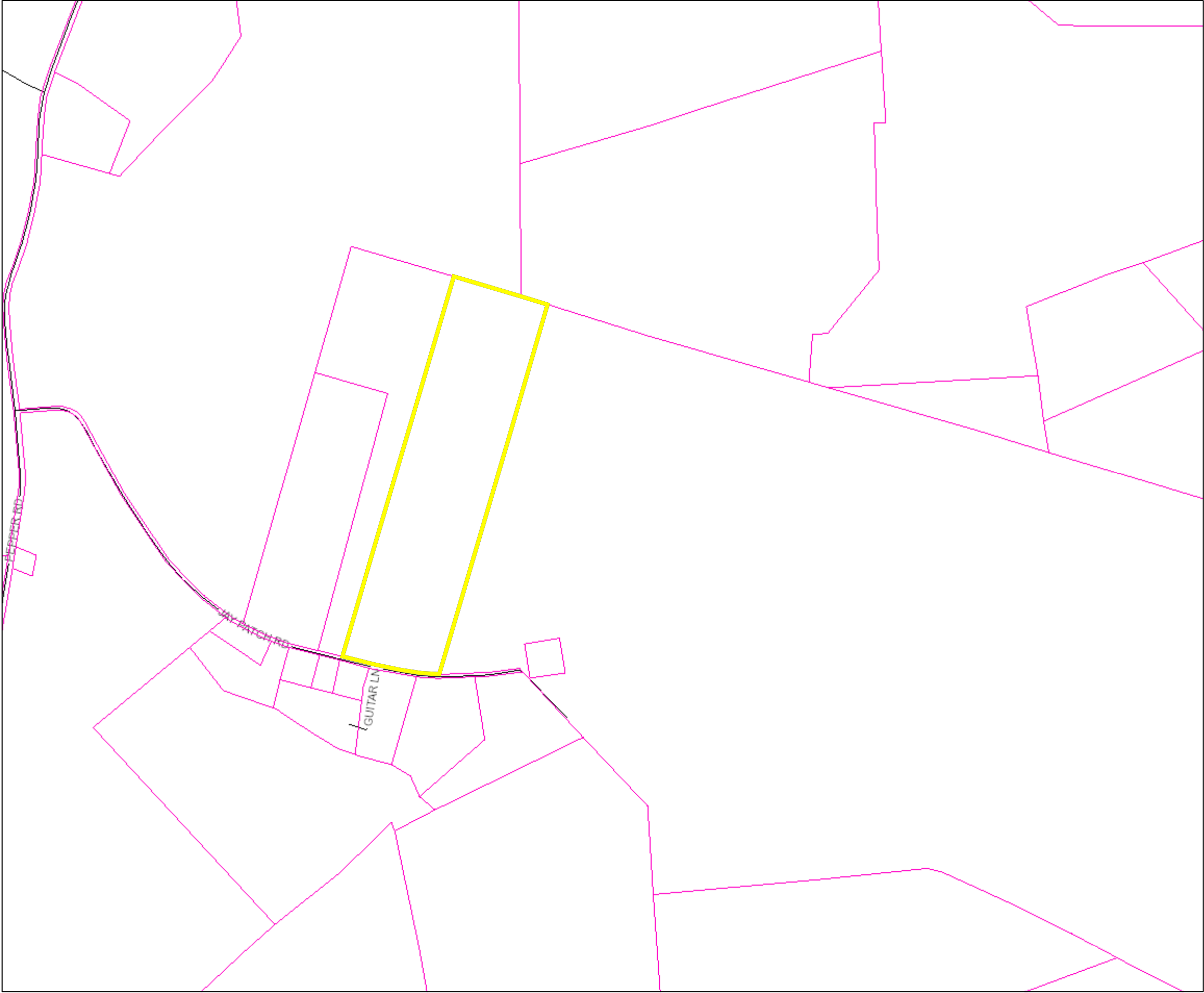
 County Boundaries

1:4,514





Sussex County

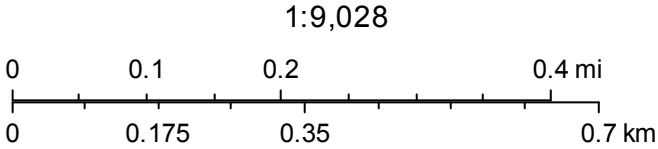


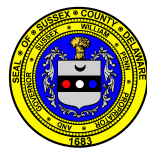
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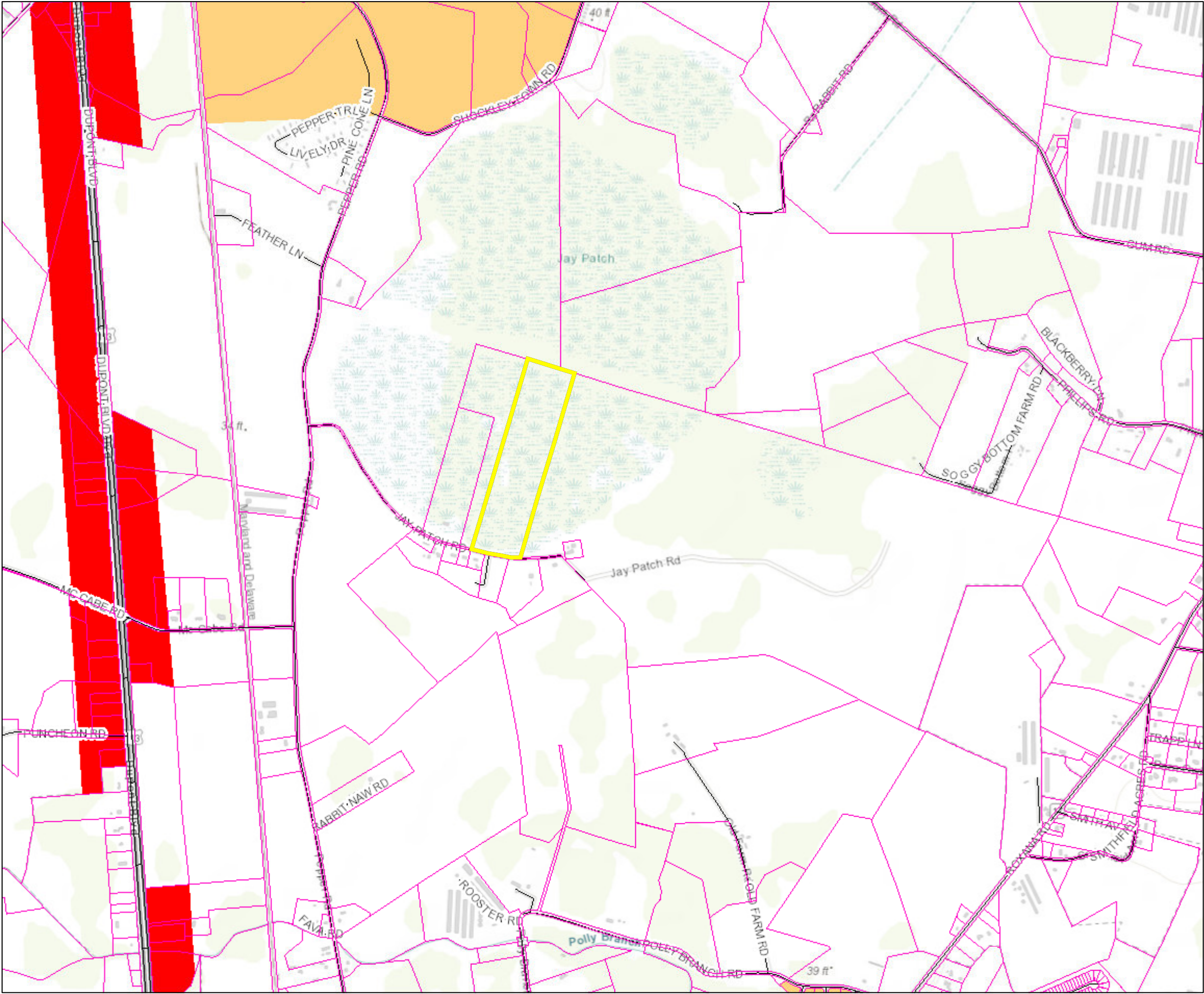
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Override 1
- Tax Parcels
- Streets
- County Boundaries





Sussex County

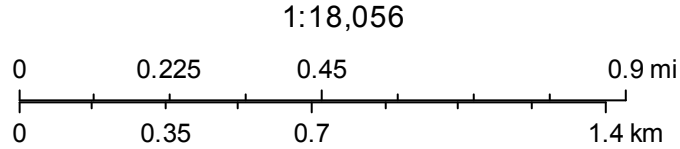


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Override 1
- polygonLayer

Override 1
- Tax Parcels
- Streets



Introduced: 2/8/22

Council District 5: Mr. Rieley
Tax I.D. Nos. 533-9.00-58.00
911 Address: Jay Patch Road, Selbyville

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CAMPGROUND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 30.76 ACRES MORE OR LESS

WHEREAS, on the 17th day of November 2021, a conditional use application, denominated Conditional Use No. 2325 was filed on behalf of David & Sandra Blank; 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. 2325 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. 2325 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the northeast side of Jay Patch Road (S.C.R. 376A) approximately 0.5 miles southeast of Pepper Road (S.C.R. 376) and being more particularly described in the attached legal descriptions prepared by Elzufon Austin Tarlov & Mondell, P.A., said parcels containing 30.76 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: June 9, 2023

RE: County Council Old Business Report for C/U 2366 filed on behalf of IMPACT Life, Inc.

The Planning and Zoning Department received an application (C/U 2366 filed on behalf of Impact Life, Inc.) for a Conditional Use for parcel 531-9.00-7.03 for a group home for more than 10 people. The property is located at 4973 Boyce Road, Seaford. The parcel size is 17.26 acres +/-.

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

The County Council held a Public Hearing on the application at its meeting of March 28, 2023. At the conclusion of the meeting, Council deferred action on the application for further consideration. Below is a link to the minutes of the March 28, 2023, County Council meeting.

[Link to the Minutes of the March 28, 2023, County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meetings of February 23, 2023 and March 9, 2023.

[Minutes of the February 23, 2023, Planning & Zoning Commission Meeting](#)

C/U 2366 IMPACT Life, Inc.

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GROUP HOME FOR MORE THAN 10 PEOPLE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 17.26



ACRES, MORE OR LESS. The property is lying on the north side of Boyce Road (S.C.R. 547), approximately 0.15 mile east of Neals School Road (S.C.R. 553). 911 Address: 4973 Boyce Road, Seaford. Tax Map Parcel: 531-9.00-7.03.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Property Survey, the DelDOT Service Level Evaluation Response, a legal description of the property, the Staff Analysis, and a letter from Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse advised the Commission that one letter of support from the Delaware Housing Authority and one letter of opposition were received on behalf of the Application.

The Commission found that Ms. Domenica Personte spoke on behalf of the Application; that she is the Founder and CEO of IMPACT Life, Inc.; that she is an individual in long-term recovery; that she has served, in some capacity, within Delaware for 25 years; that she was born and raised in Delaware; that IMPACT Life, Inc. was started during the COVID-19 pandemic, offering help to those who were sick and suffering, and unable to access treatment; that during the pandemic, the hospitals were over run by COVID positive patients, there were individuals overdosing and/or needing treatment, but were unable to obtain a hospital bed; that her program would triage individuals in parking lots, to help get them care; that when CARES Act became available, they began the program with two staff members; that the program has grown, currently to 26 staff members; that she began working in the field as a peer since 1998; that the proposed property is a farm consisting of 17 acres; that they started with 10 beds; that they applied for the HUD (Housing and Urban Development) grant; that they added a handicap accessible bedroom; that they performed renovations, which provided for additional room; that the program serves woman and their children; that the Conditional Use request is to add three beds; that this will allow the program to help three additional women; that they do have a Compliance Director who has been working in residential treatment for 20 years; that together, with the Compliance Director, it was determined they could safely offer three additional beds, which led to the Conditional Use request; that the program currently offers services to adolescents and adults statewide; that they have a harm reduction program, which offers outreach within the community; that they provide all types of outreach; that they recently provided 101 meals for the community; that they have also provided safe-sex kits, healthcare navigation and workforce development for members of the community; that they provide outreach within the schools; that six months ago they began an outreach program within multiple schools in New Castle; that they are currently working their way into Kent and Sussex County schools; that they operate houses in partnership with AtTack Addiction Foundation; that their program currently operates 52 beds; that the program offers beds in Seaford; that they recently acquired the program, Square One; that they run a Mommy & Me house, as well as a house for men; that they operate a house in Milford, in partnership with AtTack Addiction Foundation; that they provided houses in New Castle County; that the Conditional Use would add three additional beds for a total of 13 beds; that they have a property they are operating in partnership with AtTack Addiction, located in Harbeson; that they are currently in partnership with another organization, to acquire their 86 beds; that she has a background in running much larger facilities of 140 to 180 beds; that she is fully confident she can manage the proposed 13 beds; that she was invited to speak at Whitehouse in 2016, relating to residential treatment program, evidence-based practices and how to run them safely and effectively; that everything they implemented in 2016, has become a whitepaper, being everything implemented within the programs they operate; that she is a licensed clinician; that the program is licensed through the Division of Substance Abuse and Mental Health; that their program is also governed by a the organization NARR (National Reliance of Recovery Residences); that NARR requires certain perimeters which the program must follow in order to remain credentialed with the NARR organization; that their program is familiar with and in full compliance

of the NARR standards; that they are in compliance with the State of Delaware to operate a licensed residential facility; that she entered into treatment at the age of 14, within the State of Delaware; that upon getting sober, she enrolled within a 4-H program; that she feels participating in the 4-H program greatly contributed to her sobriety; that she had a child at the age of 18; that she participated in a program called Bayard House in Wilmington; that the Bayard House program teaches moms, who may not be ready for motherhood, how to perform the duties of a mother; that she is a domestic abuse survivor; that the program offered her the most lifechanging experience, by providing life skills she needed; that the Application proposes to make the 17 acre farm a safe environment, allowing the program to teach mothers the life skills needed; that through compassion, connection and kinship, the program will allow mothers to build their self-esteem; that the programs purpose is that mothers will not feel the need to use substances; that the program hopes to decrease the rates of relapse, which will decrease the rates of overdoses; that in 2023, the rates of overdoses have increased significantly; that Sussex County specifically has been impacted the most; that the programs goal is to create a long term program, which is intended to be a nine to 12 month program; that woman would have a place to stay, where their children can join them; that having children is a huge barrier which hinders people from attending treatment; that the program will teach mothers how to do thing differently, allowing them the tools to stay sober; that the program is staffed 24 hours per day, seven days per week; that there is never a time staff is not located on site; that security systems have been installed; that the house is alarmed; that they have internal and external cameras; that the closest staff member resides seven minutes from the property; that other staff members live within 10 to 15 minutes from the site in the event additional staff would be required; that their program is based off other programs which are evidenced to be successful; that the program will add 15 full-time employment positions for residents of Sussex County; that they have a leadership team comprised of 26 staff members who oversee the program statewide; that individuals are coming into the program sober and the proposed use is neither a detox facility or a rehabilitation facility.

Chairman Wheatley questioned if the property was currently operating under an existing permit or approval, or if a violation was issued.

Mr. Whitehouse advised the Commission that the Code does permit housing up to 10 people with disabilities, with State approval, who share a single kitchen facility; that once 10 individuals are exceeded, regardless of whether being State-operated or not, it requires a Conditional Use; that there has been no violation; that the Applicant came to the Planning & Zoning Department with the Conditional Use request.

Mr. Hopkins questioned if the proposed use is for 13 adults, if the goal is to help the women obtain employment; that he questioned how the detox process work in relation to the program; that he questioned if the residents would participate in the economics of the housing, where the room is rented and provides accountability; that he questioned if the goal is to assist the women for nine to 12 months, have the residents move on and bring in new residents; that he questioned how the program will allow children to be with their mothers; that he questioned how potential relapse is handled in the program; that he questioned how often drug tests are performed; that he questioned the current number of homes and residents Ms. Personte is overseeing and he questioned the success rate of the program and if the program has any history of adjacent neighbors experiencing problems.

Ms. Wingate questioned if the NARRS organization had any jurisdiction over the facility, if the NARRS organization would perform random compliance checks on the facility, if the facility would have a curfew; that she read for the record, *"Delaware has the highest rate of opioid death per capita in the*

Country, and Sussex County is the worst of the three counties.”, and she expressed her appreciation for the service the program and its staff are providing.

Ms. Personte stated the proposed use is not yet in operation; that there is no current residence on the property, as they are waiting to receive approval from the State Fire Marshal for the sprinkler system; that they currently have staff hired for the proposed locations; that they currently have no residents; that the Conditional Use request is to increase the beds offered by three, for a total of 13 beds offered; that the program proposed to initially operate with 13 women; that they will provide services to the adolescents through case management services with the community or with Division of Family Services; that once they are comfortable in the future, they plan to return to request permission for additional individuals to accommodate the children of the mothers; that the woman will come into the program; that the program allows the women 60 days to focus on treatment, sobriety, overcoming trauma and to find employment; that the program has a Workforce Development Program; that their goal is to create a sustainable program at the proposed location; that individuals come into the program sober, and must remain sober; that detox periods depend on the substance the individual is detoxing from; that the detox period is typically anywhere from five days for 14 days; that their program has no medical components; that their residents will arrive to them from a higher level of care; that the process typically starts with detox and then moves for residential, typically lasting for 21 days; that once residents enter their program, they are provided 60 days to move in, get stable, before the program will require the residents to obtain employment; that they recently received a Federal grant to operate an animal assisted therapeutic program at the farm, as well as an agricultural assisted therapeutic program; that they have partnered with University of Delaware to help create a sustainable farm model; that this will allow the program to teach the women all the duties and skills required to run a fully operational farm, as well as the animal assisted therapy; that the goal of the program, is to provide the women all the tools necessary to stay sober, while learning workforce development; that where the property is located, the employment piece will be extremely difficult for the residents due to lack of transportation; that the program will provide as much assistance in house as possible; that the program will help find the women employment once they are prepared to move out; that the program does not charge any fees; that the program has obtained a Federal grant; that the residents will not rent to stay on the farm; that currently, they only proposed to operate with 13 women, with no children; that there is a pond located on the property; that before kids would be permitted to stay there, the program would need to provide safety measures from the pond; that the women will have their children for visitation only; that the majority of mothers who come into the programs are involved with DFS (Division of Family Services) or a family member has custody of the children; that their goal is reunification, allowing for rebuilding of the family unit; that the mother will either reunite with her children after graduating the program or they will work with them; that typically, a mother obtaining custody of her children is contingent on the mother completing their program; that eventually, in the future, the program does desire to provide housing for children; that currently, the program is not prepared for the housing of children; that currently within the program, a few things can take place with the occurrence of relapse; that if there is any suspicion of abuse, the resident is tested; that if the resident is found positive, a referral to treatment is offered; that the program works with the individual until they can be placed in a in-patient treatment program; that residents are then required to follow the recommendations of the treatment program in order to return to the IMPACT Life, Inc. program; that the program performs random drug testing once a week; that drug testing is provided more frequently when warranted; that she currently oversees seven different locations, with 52 total residents; that the current homes, are considered lower level housing; that there is a house in New Castle County that has minimal turnover; that their program sits at about 95% occupancy at any given time; that the women's houses have a bit more turnover than the men's housing; that typically

the average stay in the program is six to nine months; that they do have some residents who have been in their programs for 18 months; that each house has its own culture, which makes a difference in the turnaround rate; that success rates are difficult to obtain; that she can provide data on individuals who stayed in touch with the program; that they do have individuals who complete the program, leave the program and are never heard from again; that they reach out a few months after the individual leaves the program; that the touch points are not consistent as there is no requirement for individuals to touch base with the program; that drug testing is provided at random, to every resident, every week; that the drug testing is performed and tracked by staff; that over the past 18 months, in partnership with AtTack Addiction, the police have been required twice; that on both occasions, it involved two residents getting into a verbal altercation, where a resident felt threatened and called 911; that both of these occasions occurred in Wilmington; that the program has never experienced an issue involving a resident and adjacent neighbor; that the residents at a home in Wilmington mow the neighbor's lawn; that the neighbors at a different location cook for their residents; that the program does not tolerate nonsense; that the program is very structured; that residents must attend meetings five days per week; that residents must have a sponsor; that residents must be enrolled in a support group; that the residents must meet with a case manager; that not everyone is ready for the structure the program provides; that those individuals are not for the program; that if individuals tend to not meet the program requirements, they are referred to a different program; that Division of Substance Abuse and Mental Health will have jurisdiction over the facility, allowing for the ability to perform random compliance checks once licensed; that these inspections are typically performed annually, but can be performed at any time unannounced; that once they are licensed, Division of Substance Abuse and Mental Health will perform an inspection within the first 90 days, with annual inspections annually following the first inspection; that with NARR, the program is placed through a process and are provided credentials, which allow for NARR to arrive unannounced to perform spot checks as well; that there is no set time for NARR spot checks; that the facility is proposing a curfew of 8:00 pm and the program's goal is that residents stay in the house and stay on the property.

The Commission found that there were four people present who wished to speak in favor of the Application.

The Commission found that Ms. Lauren Steward spoke in support of the Application; that she is the controller of IMPACT Life, Inc. and AtTack Addiction Foundation; that she does understand the concern of adjacent neighbors; that these areas, comprised of neighbors who care about their communities, are communities the program desires their residents to be a part of; that IMPACT Life, Inc. and AtTack Addition are different from a lot of other programs because the programs are structured; that their residents love the programs because the programs are structured, but still allow residents the ability to have a say; that the programs teach residents to be self-sustainable; that the programs help individuals place their lives back together; that Ms. Personte created the program to bridge the gaps, as there are many factors that play into the individual's situation; that she worked in healthcare for a long time; that her sister was a heroin addict; that her sister is now a nurse manager for women of high risk pregnancies; that she is thankful for second chances and programs like IMPACT Life, Inc. and AtTack Addition; that people will want these types of organizations accessible for their loved ones; that they are attempting to help addicts become productive citizens; that the residents are coming into the programs voluntarily to put their lives back together; that if at any point, a resident decides they are not ready to be in the program, staff help the individual access the level of care they require; that they do not force residents to stay; that the program currently has waitlists; that there are not enough houses to get the people in; that if you were to speak to a loved one of an addict, they will tell you, there are not enough services; that their goal is to help individuals, help control the

increasing addiction numbers, and prevent deaths; that the amount of people dying from overdose in Sussex County is heartbreaking and she appreciated the opportunity to potentially offer more of the services that are desperately needed in Sussex County.

The Commission found that Ms. Leslie Palladino spoke in support of the Application; that she is the Director of Outreach for IMPACT Life, Inc.; that she is a staff member for the program; that she is in long-term recovery; that she became sober 11 years ago; that without programs, like the programs they offer, she would not be here today; that the programs she went through were not nearly as dedicated as the programs they have created; she requested the Commission take great consideration with the Conditional Use request; that she did understand the amount of push back from the community; that they are attempting to address the concerns with a different approach; that the statistics are read about addiction but does not always have a face and she doubted there was a person present who had not been impacted in some way by addiction.

The Commission found that Mr. Bradley Owens spoke in support of the Application; that he is the Executive Director of IMPACT Life, Inc.; that he was born and raised in Lewes, Delaware; that he attended Cape Henlopen High School; that he tragically lost his sister to alcohol in 2009; that the subject of drugs and alcohol is important to him; that he inspires to educate himself, and work in a professional setting which allows him the ability to have a positive impact of these issues; that he has worked in corrections and behavioral health; that he previously attended law school, obtaining a law degree; that he had been offered many other jobs in law, which would provide him more money; that he chose public and social service; that he takes his reputation extremely seriously; that he has only been a part of IMPACT Life, Inc. for nine weeks; that he made the decision to join IMPACT Life, Inc. because of their team and the services and work they provide; that IMPACT Life, Inc. and AtTack Addition Foundation are both support by the Delaware Housing Authority, Lieutenant Governor, and the Behavioral Health Commission; that these programs are supported tremendously by organizations which run the State; that he believed in the programs enough to leave his previous job to join the team for the reputation they have and the work they do; that he trusts the organization; that the organization's goal is to address a need and he had faith the organization will address the need better than any other organization.

The Commission found that Mr. Steven Frotum spoke in support of the Application; that he felt there was one piece of recovery he wished to speak to, which is the subject of children; that he has been sober 37 years; that he has five children and ten grandchildren; that there was a time he did not have his five children; that the only way, he was able to get his children back to a place they trusted him was to go through the process of recovery; that he did that process; that the process was sustainable; that he had to place the pieces back, allowing his family to come back together; that by doing this, he now has ten grandchildren; that addiction seems to be running rapid through the Country and the world; that he would like to focus on the positives; the he and every other person who goes through the process of recovery is a miracle; that this is the beauty of recovery; that everyone in the industry will say the exact same thing; that in recovery it is about living, not about dying and living is the focus.

Chairman Wheatley advised the Commission and the public that the focus of the Application is very narrow; that although the Commission greatly appreciated the testimonies given, the issue before them today is related to the land use of the property.

The Commission found that one person was present in the room who wished to speak in opposition to the Application.

The Commission found that Mr. Dale Short spoke in opposition to the Application; that he resides along Boyce Rd., adjacent to the property; that he was hoping to obtain information from the presentation, but he was left with a lot of questions; that he questioned the number of individuals who will be living in the house, that he is not in favor of the request, as he believed there were too many unanswered questions to the Application; that he understood the Application request; that he believed the request made sense and being an adjacent land owner, who has seen the previous uses of the farm, he would like to see the farm stay as it currently is.

Chairman Wheatley stated the Conditional Use request is for 13 beds; that should the Applicant want to increase the number, they will be required to submit a new application request.

The Commission found there were three people present by teleconference who wished to speak on the Application.

The Commission found that Ms. Kelsey Mumford spoke by teleconference in opposition to the Application, with concerns relating to safety, potential relapse, the number of individuals proposed, the potential for noise, increase in pedestrian and vehicle traffic, the amount of time required for State Police to respond to calls, the lack of Police employed for the area, potential decrease in property values; she stated that no one has been taking care of the goats currently existing on the site and she stated the storyline has changed multiple times which has led to a lot of confusion.

The Commission found that Mr. Derek Calloway spoke by teleconference in opposition to the Application; that he stated if the organization cared about the community, they would have provided the opportunity to meet and address the concerns the community had; that he had concerns relating to the density of the site, if children are allowed to stay, the potential the site could become a rehabilitation center in the future, the security measures being placed; that he questioned if insurance had been obtained in the circumstance residents may cause damage to the community and he expressed concerns of additional building potentially being placed on the property.

The Commission found that Ms. April Calloway spoke by teleconference in opposition to the Application; that she agrees with all concerns previously mentioned; that Ms. Personte had previously relayed to the community different information relating to the proposed use; that she had concerns relating to decreasing property values; that the community felt they had been lied to and now the community has no trust in the organization.

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

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

In relation to C/U 2366 IMPACT Life, Inc. Motion by Mr. Hopkins to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

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

The Commission discussed the Application which had been deferred since February 23rd, 2023.

Mr. Hopkins moved that the Commission recommend approval of C/U 2366 for Impact Life, Inc. for a group home for more than ten (10) people based upon the record made during the public hearing and for the following reasons:

1. This application seeks a residential recovery home for women recovering from drug addiction along with their children.
2. The Sussex County Zoning Code permits “A group residential facility licensed and approved by the appropriate state agencies serving 10 or fewer persons with disabilities on a twenty-four-hour-per-day basis”. The Applicant is seeking a residential recovery home for up to 13 women, plus their children.
3. It is undisputed that there is a serious opioid and drug addiction crisis in Sussex County. This Applicant seeks to provide decent and safe housing in a structured home environment for women who are successfully addressing their addiction. It will not be a detox or rehabilitation facility. Instead, it will provide transitional housing for women and their children after they have completed their detox and/or rehabilitation programs.
4. There was testimony in the record that this program will be structured, with programming and 24-hour on-site supervision. The organization that will operate the home is licensed and has prior experience running other residential facilities in Delaware, including ones in Seaford, Milford, and New Castle County.
5. It is a Goal throughout the Sussex County Comprehensive Plan to provide safe and decent housing for Sussex County residents, including group homes. This application is in furtherance of that Goal.
6. The Delaware State Housing Authority, or DSHA, has provided its support for this Application noting that Sussex County has one of the highest opioid overdose rates in Delaware and that Delaware has one of the highest per capita overdose rates in the United States. As a result, the DSHA has stated that it is critical for the state and county to support housing initiatives such as this one to address this crisis.
7. This site is an existing home on 17 acres of land in a rural area of Sussex County. It will maintain its residential and agricultural character. This is an appropriate location for this type of use, and the acreage will allow the residents and their children to participate in agricultural activities on the property.
8. There is no compelling evidence in the record that the use will have a negative effect on area roadways or nearby properties.
9. This use satisfies the purpose of a conditional use under our Sussex County Zoning Code. Because it addresses the serious opioid crisis in Sussex County, it has a public or semipublic character and is essential and desirable for the general convenience and welfare of Sussex County and its residents.
10. This recommendation is subject to the following conditions:
 - A. The property shall be operated as a residential recovery home for women and their children. There shall be no more than 13 adults, in addition to resident supervisors, living in the home at any one time. This number does not include the children of the women who reside in the home.
 - B. The home shall not be used as a detoxification facility.

- C. The home shall be staffed by qualified supervisors at all times.
- D. The home shall maintain its residential appearance all times.
- E. The home shall be operated in accordance with all federal, state, and county requirements governing the use as a residential recovery home.
- F. The use of the home shall comply with all of the standard state agency requirements that may apply, including, but not limited to those mandated by DelDOT, DNREC, the Sussex Conservation District, and the State Fire Marshall's Office.
- G. There shall be sufficient parking on the site for the use. The parking spaces shall be shown on the Final Site Plan and clearly marked on the site itself.
- H. There shall be a curfew between 8:00 pm and 5:30 am for all residents of the facility.
- I. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
- J. Any dumpsters or trash receptacles shall be enclosed and screened from the view of neighboring properties or roadways.
- K. The Final Site Plan shall not be issued without confirmation that DNREC has approved a septic system that is suitable for the number of residents who will reside on this property.
- L. The failure to comply with any of these conditions may be grounds for the termination of this Conditional Use.
- M. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Hopkins, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2366 IMPACT Life, Inc. for the reasons and conditions stated in the motion. Motion carried 4-0.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: February 23rd, 2023

Application: CU 2366 IMPACT Life, Inc.

Applicant: IMPACT Life Inc.
115 Arielle Drive
Newark, DE 19702

Owner: IMPACT Life Inc.
115 Arielle Drive
Newark, DE 19702

Site Location: North side of Boyce Road (S.C.R. 547), approximately 0.15 mile east
of Neals School Road (S.C.R. 553)

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

Proposed Use: Group home for more than 10 persons

Comprehensive Land
Use Plan Reference: Low Density

Councilmanic
District: Mr. Vincent

School District: Seaford School District

Fire District: Seaford Fire Co.

Sewer: On-site septic

Water: On-site well

Site Area: 17.05 acres +/-

Tax Map ID.: 531-9.00-7.03



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 and Zoning Commission Members
From: Ms. Lauren DeVore, AICP, Planner III (on behalf of Mr. Chase Phillips, Planner II)
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: February 16th, 2023
RE: Staff Analysis for C/U 2366 IMPACT Life, Inc.

The purpose of this Memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application C/U 2366 IMPACT Life, Inc. to be reviewed during the February 23rd, 2023, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel 531-9.00-7.03 to allow for a Group Home for more than ten (10) persons (with accommodations for up to thirteen (13) persons) to be located at 4973 Boyce Road in Seaford, Delaware. The proposal will also include three (3) small offices to be constructed in the current shed/outbuilding. The property is lying on north side of Boyce Road (S.C.R. 547), approximately 0.15 mile east of Neals School Road (S.C.R. 533). The parcel consists of 17.05 acres +/-.

Further Site Considerations

The subject property is not located within any established Transportation Improvement Districts. The County's Online Mapping System also confirms that there are no Tax Ditches or Tax Ditch Rights-Of-Way (ROW) on the property. Additionally, the County's Online Mapping System confirms that the rear portion of the site is located within Flood Zone "A" – Areas inundated by the 1% annual chance flood.

Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcel has a Rural Area Future Land Use Map designation of "Low Density". The surrounding and adjacent parcels to the north, east and west of the subject property also contain the "Low Density" Future Land Use Map designation. All parcels on the opposite side of Boyce Road have a Future Land Use Map designation of "Low Density." The balance of the remaining lands surrounding the property have a Future Land Use Map designation of Low Density Area.

As outlined in the 2018 Sussex County Comprehensive Plan, Low Density areas are intended to support agricultural uses and low-density single-family housing. Specifically, the Comprehensive Plan states that single family homes have a density of up to two dwelling units to the acre (Sussex



County Comprehensive Plan, 4-18). Low-Density Areas allow for businesses that support nearby residents and the agricultural economy. The Comprehensive Plan also states that, “More intense commercial uses should be avoided in these areas” (Sussex County Comprehensive Plan, 4-19). While residential growth is expected and permitted within the Low Density Area, the Comprehensive Plan intends for the rural landscape to be maintained and for farmland to be preserved in select locations.

Zoning Information

The subject property is zoned Agricultural Residential (AR-1) District. All adjacent properties to the north, west and east of the property are also zoned Agricultural Residential (AR-1) District. All remaining surrounding land within a 0.50-mile radius are zoned Agricultural Residential (AR-1) District, with the exception of a cluster of parcels which are zoned General Residential (GR) District which span the entire length of the lands between Wild Turkey Road and Neal’s School Road.

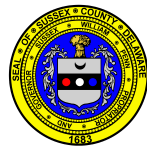
Existing Conditional Uses within the Vicinity of the Subject Property

Although there have been several Conditional Use Applications in the vicinity of the Application Site, there have only been four (4) that are within a 2-mile radius of the Application site. Of these Applications, a total of three (3) were recommended approval by the Planning and Zoning Commission and were subsequently approved by the Sussex County Council. One (1) Application appears to have been withdrawn (C/U 211 Geoffrey Scholfield for a 2-unit townhouse).

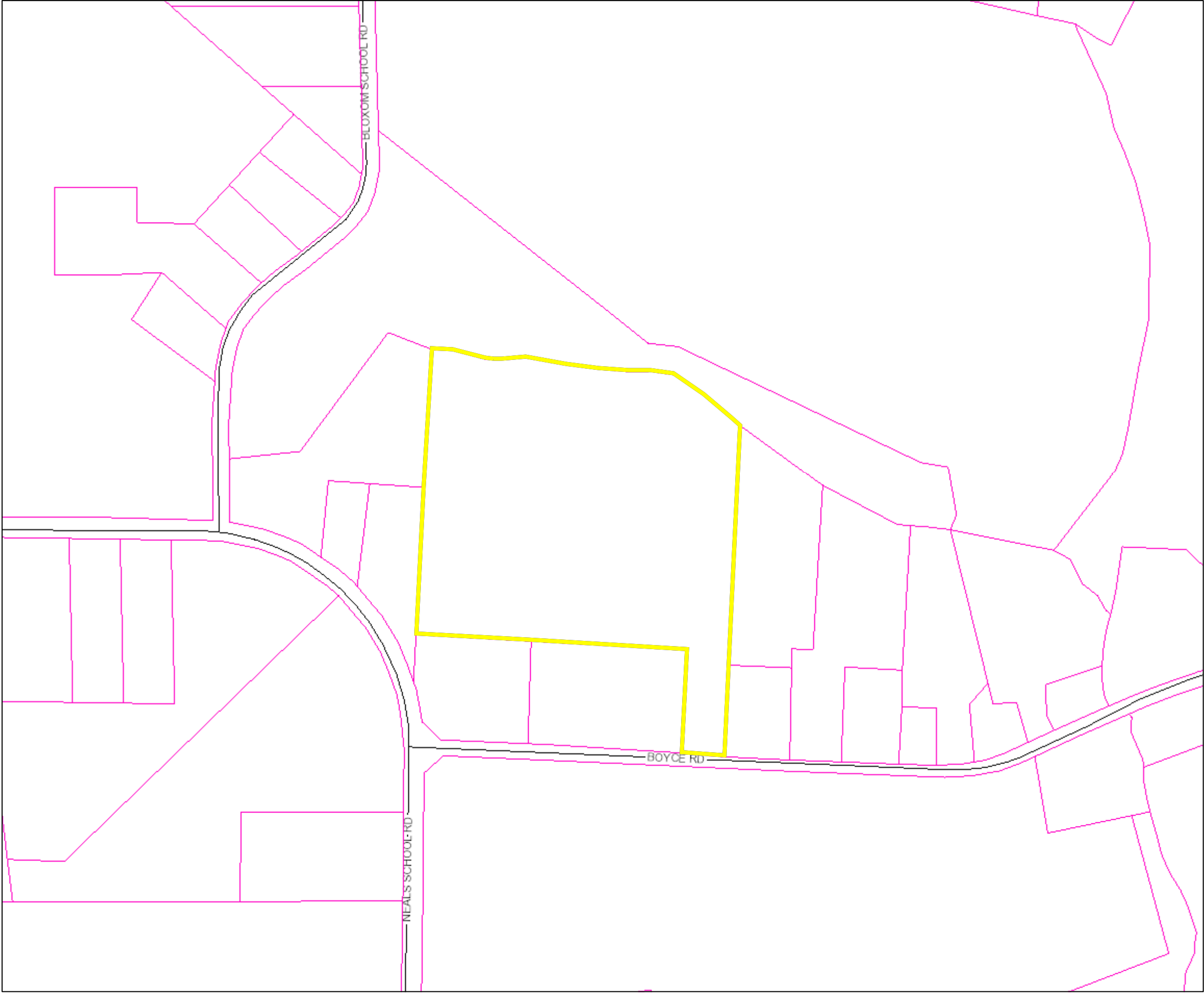
A Supplemental Table has been provided which contains further information regarding the abovementioned Conditional Use Applications which are located within a 2-mile radius of the Application site.

Conditional Use Applications (w/in a 2-mile radius of the subject site)*								
Application Number	Application Name	Current Zoning	Proposed Use	P&Z Decision	P&Z Decision Date	CC Decision	CC Decision Date	Ordinance Number
C/U 211	Geoffrey Scholfield	AR-1	2-unit townhouse	Withdrawn	Withdrawn	Withdrawn	Withdrawn	Withdrawn
C/U 1095	Harry W. & Vesta Mitchell	AR-1	Electrical contractor storage/parts	Recommended Approval	12/8/1994	Approved	1/3/1995	1002
C/U 1923	Donna Massey	AR-1	Multi-family dwelling structure	Recommended Approval	3/22/2012	Approved	1/22/2013	2290
C/U 2165	Vanderwende Acres, LLC	AR-1	Event Venue	Recommended Approval	3/28/2019	Approved	4/16/2019	2648

Based on the analysis provided, the Conditional use to allow for a Group Home for more than ten (10) persons (with accommodations for up to thirteen (13) persons) in this location could be considered as being consistent with the surrounding land use, zoning, and uses, subject to considerations of scale and impact.



Sussex County

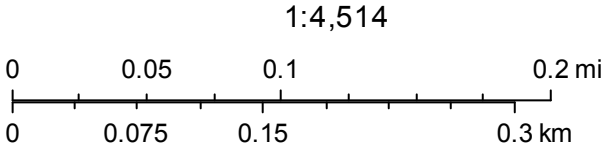


PIN:	531-9.00-7.03
Owner Name	IMPACT LIFE INC
Book	5698
Mailing Address	115 ARIELLE DR
City	NEWARK
State	DE
Description	N/RT 547
Description 2	705' E/RT 553
Description 3	N/A
Land Code	

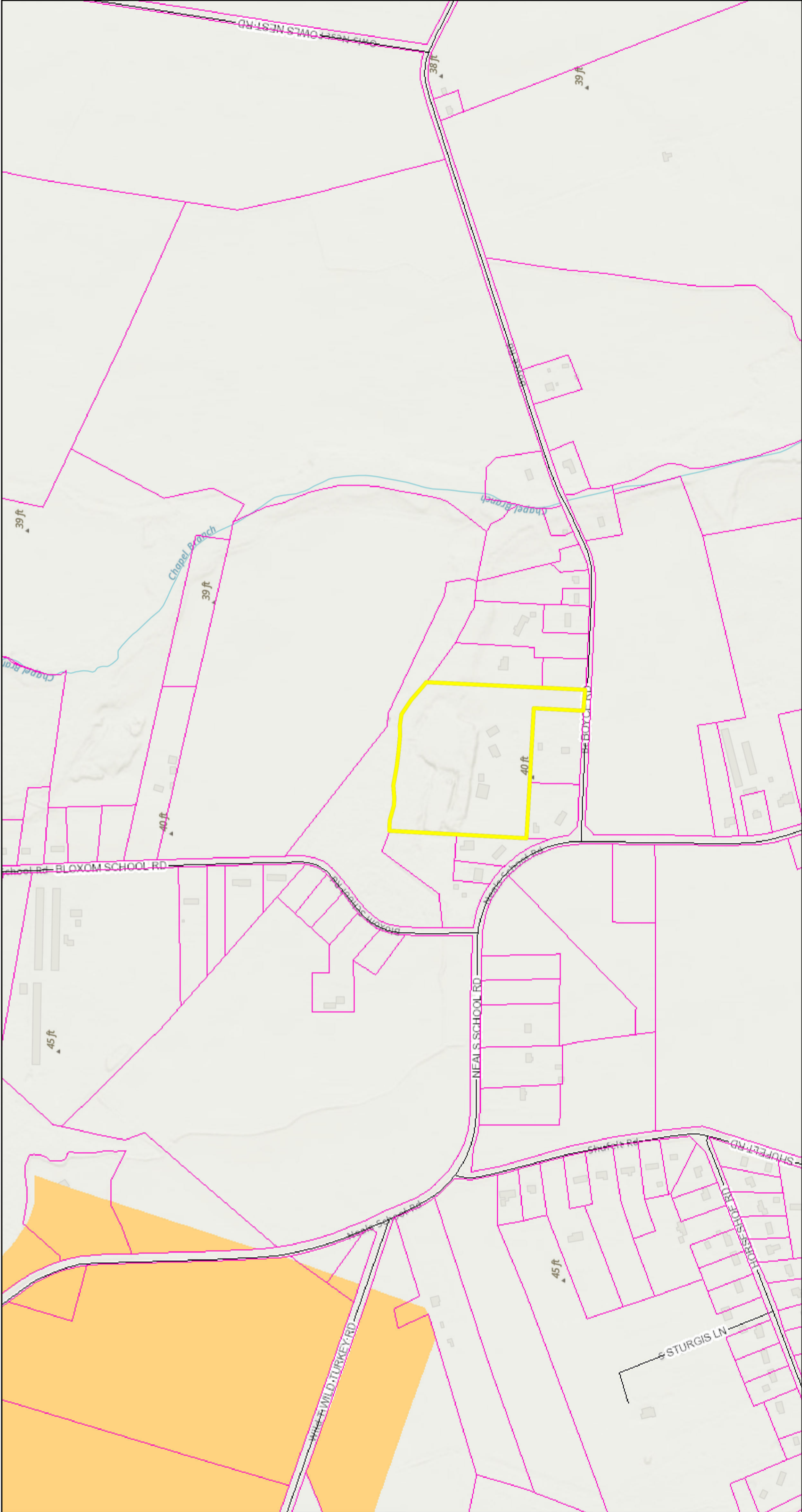
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Override 1
- Tax Parcels
- Streets
- County Boundaries



Sussex County



January 23, 2023

Override 1

Override 1

Tax Parcels

Streets

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

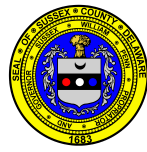
Heavy Industrial - HI-1

County Boundaries

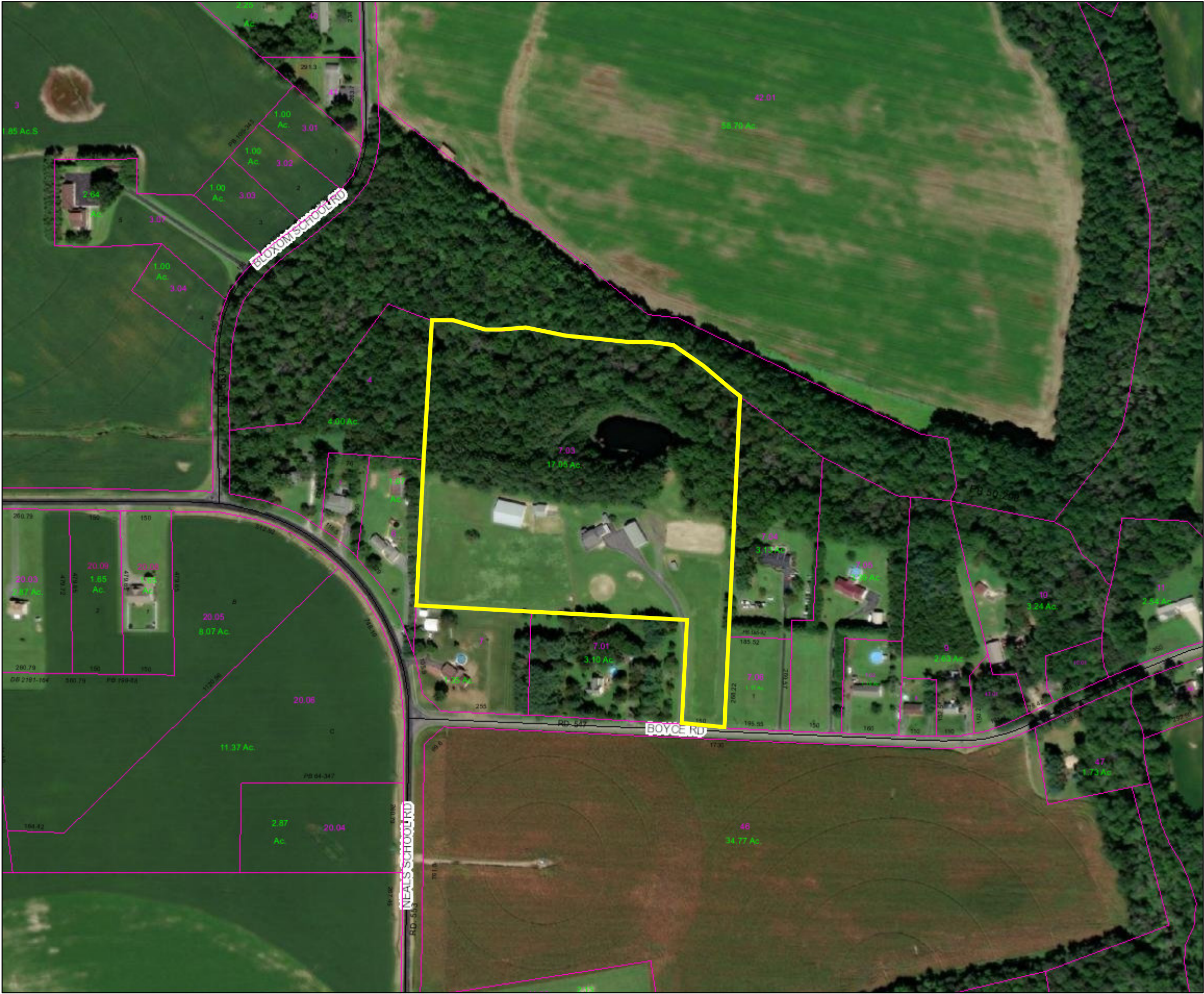
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1:9,028

Esri, NASA, NGA, USGS, FEMA, Sussex County, Sussex County Government, Esri Community Maps Contributors, County of Sussex, DE, Delaware FirstMap, VGIN, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA



Sussex County



PIN:	531-9.00-7.03
Owner Name	IMPACT LIFE INC
Book	5698
Mailing Address	115 ARIELLE DR
City	NEWARK
State	DE
Description	N/RT 547
Description 2	705' E/RT 553
Description 3	N/A
Land Code	

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Override 1

polygonLayer

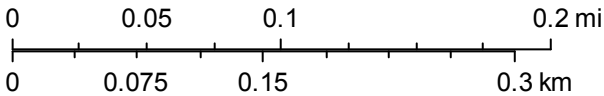
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--- Tax Parcels

— Streets

--- County Boundaries

1:4,514



Introduced: 12/13/22

Council District 1: Mr. Vincent
Tax I.D. No. 531-9.00-7.03
911 Address 4973 Boyce Road, Seaford

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GROUP HOME FOR MORE THAN 10 PEOPLE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 17.26 ACRES, MORE OR LESS

WHEREAS, on the 12th day of April 2022, a conditional use application, denominated Conditional Use No. 2366 was filed on behalf of Impact Life, Inc.; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2366 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2366 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 north side of Boyce Road (S.C.R. 547) approximately 0.15 mile east of Neals School Road (S.C.R. 553) and being more particularly described in the attached legal description prepared by The Pelsa Company, said parcel containing 17.26 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: June 9, 2023

RE: County Council Report for C/U 2367 filed on behalf of AtTack Addiction Foundation

The Planning and Zoning Department received an application (C/U 2367 filed on behalf of AtTack Addiction Foundation) for a Conditional Use for parcel 234-10.00-69.01 for a group home for more than 10 people. The property is located at 22703 Hurdle Ditch Road, Harbeson. The parcel size is 1.86 acres +/-.

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

The County Council held a Public Hearing on the application at its meeting of March 28, 2023. At the conclusion of the Public Hearing, Council deferred action on the application for further consideration. Below is a link to the minutes of the March 28, 2023 County Council meeting.

[Link to the minutes of the March 28, 2023 County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meetings of February 23, 2023 and March 9, 2023.

Minutes of the February 23, 2023, Planning & Zoning Commission Meeting

C/U 2367 AtTack Addiction Foundation

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GROUP HOME FOR MORE THAN 10 PEOPLE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING



AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.86 ACRES, MORE OR LESS. The property is lying on the east side of Hurdle Ditch Road (S.C.R. 290), approximately 0.28 mile north of Hollyville Road (Rt. 48). 911 Address: 22703 Hurdle Ditch Road, Harbeson. Tax Map Parcel: 234-10.00-69.01.

Chairman Wheatley stated due to the Application being similar to the application before it, he would allow the comments and testimony that were given for C/U 2366 IMPACT Life, Inc. to be incorporated into the record on behalf of C/U 2367 AtTack Addiction Foundation.

Mr. Robertson advised the Commission and the public that the Commission's focus relates to the land use aspect of the Application, deciding if the proposed use is appropriate for the proposed parcel of land.

Mr. Whitehouse advised the Commission that submitted into the record were the DelDOT Service Level Evaluation Response, the legal description, the Staff Analysis, a letter received from the Sussex County Engineering Department Utility Planning Division, and a letter received from Delaware State Housing Authority. Mr. Whitehouse advised the Commission that one letter of support was received for the Application.

The Commission found that Mr. Don Keister spoke on behalf of the Application; that he represents the Applicant, AtTack Addiction Foundation; that currently, there are zero residents on the property; that the program is permitted for 10 residents; that the Conditional Use request is to increase that number to 16 residents; that square footage calculations, they would be permitted to house up to 16 residents; that AtTack Addition is a 501(c)(3); that he and his wife began the organization in October 2013, following the death of their 24 year old son, Tyler; that the board is currently comprised of five parents who have lost children; that the remainder of the board is comprised of individuals who have been impacted by Substance Use Disorder (SUD); that aside from one part-time financial staff member, the board consists of all volunteers; that there are no paid employees; that through the years the organization has consulted and taken an active roll in supporting 34 separate bills and State legislature; that nine of the 34 bills were initiated by AtTack Addition Foundation, and passed within the same year; that they currently own three recovery residences; that two residences are for all males and one residence is all females; that these residences are operated by IMPACT Life, Inc.; that two of the board members have been appointed by Attorney General Jennings to the Opioid Settlement Distribution Commission; that the organizations have received numerous awards which include the Governor's Outstanding Volunteer Award; that the goal is to stabilize and help those in recovery and their families; that the Conditional Use request is to increase the number of residents for their fourth recovery residence, located in Harbeson; that the dwelling on the site was built in 2010 by Mr. Evans Norwood, who was also the owner of the property; that the organization obtained the property through a grant procedure, which was conducted by the Delaware State Housing Authority, by a project they call the Recovery Housing Project (RHP); that the deed states the organization must maintain the house as a recovery residence for 20 years; that the Application was submitted on November 30th, 2021; that settlement was conducted on May 20th, 2022; that since the time of settlement, they have been working on the installation of fire sprinkler system, by Wayman Fire Protection, Inc.; that an alarm system will be installed by Security Instrument; that these processes have been drawn out by the requirements of the State Fire Marshal; that currently the residence is furnished and ready for occupancy; that the interior of the home is just under 6,000 sq. ft.; that the property is comprised of just under two acres; that the property is zoned AR-1 (Agricultural Residential); that the future residents have the potential to make a real difference in Sussex County;

that the interior of the dwelling has been adapted to provide offices, bedrooms for the housing managers, large meeting spaces, exercise area and room for individual counseling sessions; that the residence is handicap accessible; that the large lot would provide several opportunities for gardening, exercise and other agricultural activities; that the space provided is more than adequate to house 16 residents; that the proposed use is a vital need in Sussex County; that this need has been recognized in the past three quarters of 2022, as reported by the Delaware Drug Monitoring Initiative, there are 85 drug related deaths; that the final results for 2022 have not yet been reported; that in the third quarter alone, 968 drug arrests were made in Sussex County; that currently there are 10 State supported recovery residences located in Sussex County, comprised of four homes for men, four homes for women and children, and two homes for women; that all of the homes are considered NARR Level 2 or Level 3 residences; that the new residence, located in Harbeson, will be considered a NARR Level 4 residence; that the residence will also be considered a 3.1 residence according to Audience American Society of Addiction Medicine (ASAM); that the proposed property, along with the proposed property for IMPACT Life, Inc, will be the first 3.1 ASAM residence located in Sussex County; that both properties are subject to a host of State guidelines, which can be found with the 6001 Substance Abuse Facility Licensing Standards; that these regulations help promote the health and wellbeing of customers/clients receiving services in substance abuse treatment centers located within the State; that the department is authorized by the Delaware Code, Title 16, Chapter 22 for the Substance Abuse Treatment Act; that no organization or entity should operate a substance abuse treatment facility within the State of Delaware, unless the organization has been licensed by the department; that there are 19 standards within the required guidelines, which AtTack Addiction and IMPACT Life must adhere to in order to remain licensed; that Ms. Dominica Personte with IMPACT Life, Inc. will be operating the residence for AtTack Addition; that Ms. Personte has been a fixture within the recovery community for many years; that Ms. Personte is highly respected throughout the State; that Ms. Personte was recently the CEO of a property owned by Recovery Centers of America; that part of the licensing requirements, is to maintain staff, 24 hour, seven days per week, 365 days per year staff, to monitor the facility; that staff will include one part-time physician, being a licensed Practitioner, to be onsite during the day, and on-call around the clock when not onsite; that additional staff will include several house managers, with someone awake to provide supervision around the clock; that there will be several persons available to establish provision, support and a safe environment for the residents; that the need for this assistance in Sussex County is evident; that by supporting additional residents at the Harbeson location will benefit the citizens of Sussex County, especially those individuals who will be able to receive help; that both organizations have demonstrated their ability to provide meaningful opportunities to persons with Substance Use Disorder, in a safe, healthy and supportive environment; that the Harbeson residence will be inspected, licensed and under the direct supervision from the State; that increasing the density of the proposed property, will allow six additional residents within Sussex County to receive suitable treatment and support; that the dwelling is capable of accommodating the requested number of residents, while providing adequate space, programs and safety; that the organization provides meaningful programs for their residents; that the residents are not criminals, they are not bad people; that the residents are sick people, who are taking steps to become well, and take back their life; that he requested the Commission grant approval, allowing the program to assist 16 Sussex County residents rather than 10 residents.

Mr. Robertson requested Mr. Keister speak to the proposed property, the surrounding neighborhood, any potential impacts the proposed use may have on surrounding properties, and if the dwelling will maintain its current residential appearance.

Ms. Wingate questioned if a curfew will be in place for the residents and she questioned if the proposed

residence would fall under the same regulations and jurisdictions for unannounced spot-check inspections by authorities to ensure compliance.

Mr. Mears questioned if there were any measures taken to provide sound control for the property.

Mr. Hopkins questioned if staff remain at the property 24 hours per day, seven days a week.

Mr. Keister stated adjacent neighbors submitted concerns as part of Not In My Backyard (NIMBY); that the organization has conducted two formal meetings with the neighbors and with Ruth Briggs King; that the organization conducted a few informal meetings with neighbors as well; that they were provided a list from the neighbors of things they would like the organization to provide; that the organization has responded to two items on the list; that they have provided privacy fencing and covered windows provided at the two edges of the house; that he feels this property will have no negative impact to adjacent properties; that their other locations have not generated any negative impacts; that their other locations have had no negative impact of adjacent property values; that many of the neighbors to the other locations, find it helpful to visit and interact with the residents; that they currently do not have any residences holding more than ten residents; that consider the positive impact the organization makes, and the services needed in the community, the organization feels it is important they provide as many opportunities as they can; that the organization has attempted to corporate with the concerns of the neighbors; that he does not feel the organization can address the concerns, until the adjacent neighbors see how well the residence will be run; that there will be little to no interaction between the residents and the adjacent properties; that all residents will be supervised, managed and taken care of; that the residence will remain its existing appears as a single-family dwelling; that there are guidelines established, by the rules and regulations the residents receive; that he believed the current curfew is 10:00 pm; that in all their other residences, the residents stay to the rear of the house; that there is no lounging around the front of the house; that the proposed residence is designated a 3.1 house by ASAM; that ASAM place very strict rules, which the organization and residence must abide by; that there will be 16 residents, however, all 16 residents will not be located in the backyard at the same time; that the property has cameras established at three corners of the house; that they have installed interior cameras; that they will be monitoring the cameras; that staff members will be located at the residence at all times, being 24 hours per day, seven days per week; that a counselor will be located onsite 16 hours; that the counselor will be on call around the clock when not onsite and there will be supervision provided 24 hours per day.

The Commission found that five people were present in the room who wished to speak in support of the Application.

The Commission found Ms. Lauren Steward spoke in support of the Application; that she performs gardening projects with residents; that residents enjoy the work and the pride it brings; that she had met a lot of adjacent neighbors, of the existing houses while performing gardening projects; that the adjacent neighbors love the residents; that their residents are not mean, violent people; that they are simply people who found themselves in a bad way; that the residents are people who are trying to put their lives back together again; that she feels there are still existing stigmas; that AtTack Addition has performed a lot of work in the attempt to address stigmas; that there is still work to do in that regard; that they are good neighbors and she hopes adjacent neighbors will allow them the chance to prove it.

The Commission found that Mr. Ron Romine spoke in support of the Application; that he is board

member of AtTack Addiction; that he ran an existing men's AtTack Addiction house, in New Castle, for five years; that when they first open the house, the adjacent neighbors expressed the same concerns that were currently being expressed; that there were a lot of fear-based concerns; that within his five years, he had the New Castle County Police to the property on two occasions; that on both occasions, a member had relapsed; that through the New Castle County Police and the Hero Help program, he was able to assist in getting the resident help; that relating to crime, there was crime within their neighborhood; that one of the residents had their bicycle stolen; that there is always crime somewhere; that the crime was not being generated from his residents; that his residence was located on a cul-de-sac; that when he moved in, the two adjacent properties valued at \$110,000; that in 2018, one of the homes sold for just under \$300,000; that in 2021, the other adjacent property sold for \$349,000; that on trash pick-up days, his residents would deliver the trash cans to adjacent neighbors houses; that the residents helped shovel snow on sidewalks for the adjacent neighbors; that the adjacent neighbors loved the residents; that one would not know the home was a recovery house; that the house is very family oriented; that having the support of someone going through the same thing as you, is the benefit of a recovery house; that everyone is there for the same reason, to get better and the more beds they can provide, the more people they can assist in getting well.

The Commission found that Mr. Nick Gregory spoke in support of the Application; that he is the Housing Supervisor for IMPACT Life, Inc. and AtTack Addition; that he is also a person in long-term recovery; that he went through a long-term program, similar to the programs being started in Sussex County; that the men will be programming all day; that the men will not be running in and out of the house; that they will not be leaving to go to the store; that they will not have visitors; that there will already be ten men on the site; that by adding six additional men, it will allow six additional lives to be impacted and saved in Delaware; that the organization takes pride in what they do; that they run their programs really well; that they have a great reputation in the community and there do what they do to help their fellow human beings.

The Commission found that Ms. Charla Sharp spoke in support of the Application; that she is an employee of IMPACT Life, Inc.; that she part of a healthcare employment, which was the cause of the opioid epidemic; that while she was in the role of medical employment her mindset was much different; that an individual would walk through the door and she would know exactly what the individual was coming in for; that by chance, she fell into the recovery community; that she has learned a lot about recovery and the people in recovery; that she used to be someone with no experience in recovery and had a lot of judgement; that with the education and understanding she now has, it has completely changed her mentality and compassion for others; that she can understand why adjacent neighbors would not understand the need and the importance of six additional beds; that allowance of six more beds will allow them to help six more people and their program will allow their residents to become productive citizens within their communities, who will raise their children who will become other productive citizens.

The Commission found that Mr. Brad Owens spoke in support of the Application; that the back yard of the site is huge; that with staff being present at the site, around the clock, there will be a increase in traffic and parking on the site; that the existing driveway is extremely long; that that four cars can park at the interior of the driveway, with several other vehicles parking along the driveway; that there will be no need to park anywhere else on or around the site; that the residents do not have vehicles; that even if all 16 men were outside at the same time, there is ample amount of space and property to accommodate the residents; that there is no intention to have frequent outdoor parties; that there is ample amount of space and privacy in the rear yard; that there will be constant supervision to make

sure the property is maintained and control; that they will make sure the driveway is maintained and all parking is located within the driveway area and they will have the security cameras with constant surveillance.

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

The Commission found that Ms. Norma Kline spoke in opposition to the Application; that she resides directly adjacent to the site; that she has lived there for two years; that she is an Iraq Veteran; that she is a survivor of military sexual trauma; that she has accepted the fact the recovery house will be located there regardless of the Commission's approval; that her goal is to stop the approval of more than ten men being permitted to reside at the property; that her safety concerns have increased; that her post traumatic stress (PTSD) as increased; that as a sexual assault survivor, darkness scares her; that she is not trying to insinuate the men will be dangerous people; that she hopes the Commission can understand her fear, when there is the presence of ten or more people residing beside her, potentially being heard during the night; that currently the community is very quiet; that she would request the home be left as is, with the approval of ten men residents; that she moved to her property from Rehoboth for the quietness; that the area she lives allowed her to heal some of her PTSD and her sexual trauma; that the fencing placed only comes half way up the side yard; that she does not feel safe with the presence of the men being there; that she understands that her fear is based on her own personal history; that her fear is not a judgement against the residents; that as a veteran, loud noises trigger her; that she fears the residents may get fireworks for the Fourth of July; that she questioned if the program and residents will take into consideration her history of an Iraq veteran who served two tours and she would like to see a change to the residents curfew.

Chairman Wheatley stated the Conditional Use process does allow the Commission to place specific conditions on an application; that ten residents are currently permitted; that because the Application has come before the Commission, it does allow the opportunity for the Commission to enforce conditions and limitations of the proposed use.

The Commission found Mr. Tim Willard, Esq., with Fuqua, Willard & Schab, P.A, spoke on behalf of Mr. Daniel Bezzerro, Mr. Carol Thomas, and Mr. Joseph Gordon, who were in opposition to Application; that the opposition was in a weird place; that if the Application does not get approved, the organization can carry on, as is, with no conditions; that if the Application is approved, conditions and restrictions are able to be placed on the Application; that he requested the Commission recommend approval for one additional resident, while placing conditions on the Application; that he understands the request for six additional residents, as it allows help to six additional people; that when this use is being place in a residential neighborhood, he felt the organization should first get their foot in the door; that the organization met the group residential facility approval, which is required to obtain a license; that currently they are permitted to have ten residents, being individuals with disabilities, in a home with one shared kitchen; that his clients are concerned about transparency and accountability; that he informed his clients the organization has many licensing requirements, but by placing conditions, it allowed adjacent residents to have some teeth in restrictions as well; that the Conditional Use section of the Code states the Preliminary Site Plan must comply with Article 28, which states an application shall accompany the application for conditional use with such information required for the determination of the nature of the proposed use and the impact on the neighborhood and surrounding properties; that all applications for zoning permits, shall be accompanied by a drawing or plat, including such other information which may be necessary to provide for the enforcement of these regulations; that the drawing shall contain suitable notations indicating the proposed use of the

land and buildings; that with this Application, the submitted site plan is a basic survey of the property; that in previous applications he has been involved in, they are remised if the site plan or survey does not include some detail pertaining to the proposed use; that the Applicant's have discussed parking, yet there is no notes relating to parking on the submitted plan; that with the current approval for ten residents could generate a lot of parking; that the submitted plan did not reflect any proposed fencing; that in their proposed conditions, they have requested more fencing, as well as additional conditions relating to the site plan; that the Comprehensive Plan designates the property to be within the Low Density area; that all surrounding properties to the north, south, east and west are also located within the Low Density area; that the Staff Memorandum and Sussex County Mapping System confirms the property is not located within a Flood Zone; that the property is not located within a Transportation Improvement District; that Low Density areas call for single-family housing; that the property is located with AR-1 (Agricultural Residential); that all properties adjacent to the north, west and east are all zoned AR-1; that the surrounding area is important when considering proposed uses; that the Commission should not allow more residents, due to the density guidance provided by the Code; that

The Commission found that Mr. Joseph Gordon spoke in opposition to the Application; that he resides approximately 100 yards from the property; that since was made aware of the half-way house, he has learned many new things, such as NIMBY (Not In My Back Yard) and NARR (National Alliance Recovery Residences); that he had also learned that his current neighbors are good people, with good hearts; that they too, have lost loved ones, and have had to live lives where their friends and family's lives were destroyed because of the opioid epidemic; that no one denies that individual need help; that there is a right way and wrong way of doing everything; that they need reassurances that the needs and wellbeing of the community are being addressed, as well as the needs and wellbeing of the participants in the program; that the community has worked hard together, to create a quiet, peaceful neighborhood; that each of them have moved to the area, because they value the peace and quiet the area brings; that the community's primary concern is that the peace and quiet that they worked hard to create will be disrupted or compromised by the presence of the program; that NARR Standard 3.0 Living Space states the living space is conducive to building community of the participants; that there must be verification of a meeting place that is large enough to accommodate all residents; that there must be verification that the kitchen and dining areas are large enough to accommodate all residents while sharing meals together; that the standard building industry recommends a 24 inch minimum width for each individual at a table; that they have been in the proposed residence; that he does not understand how the NARR Standard is met; that nearly a half a year, AtTack Addiction proceeded to establish the assisted living facility with absolutely no contact with the neighborhood; that it was only by word-of-mouth the community became aware of the proposed use; that meetings were not scheduled by AtTack Addition, but rather by Ruth Briggs King, per the community's request; that per the briefing of St. Leonard's Society of Canada, it was stated to be successfully integrated into a community, a half-way house needs a public that understands the purpose and neighbors who are comfortable with its procedures; that from the community's perspective, AtTack Addition did not do their due diligence in preparing their neighborhood for their assisted living facility as documented by nearly every recovery residence organization; that by eliminating this important step, they have unfortunately created additional resentment and lack of trust towards AtTack Addition, as well as fear against future participants; that the community has received conflicting information from AtTack Addiction, such as the level of the house and the proposed fencing; that they were told participants will be driven everywhere; that online it stated the organization does not provide transportation; that they were told visitors are not permitted; that in the presentation it was stated family members and sponsors may visit; that they were told no participants with felony charges are permitted within the first two years; that in their next meeting they were told no

participants with felony charges within the first year; that felony charges means the individual is a convict, therefore, there would be convicts residing at the site; that they were originally told participants would be arriving between October and November; that currently no participants are residing on the property; that there has been a lot of conflicting information provided by the organization; that it seemed to him that the organization is getting their feet wet in the establishment of the facility; that the quiet, residential neighborhood is comprised of a vulnerable population of elderly, handicap and very young children within feet of the site; that they have valid concerns for their safety, as the average police response time is 30 minutes at best; that NARR Standard 3.0 states responsiveness should be provided to neighbors concerns; that Principal J states the organization should be a good neighbor; that the NARR Code of Ethics states that operators are to maintain an environment that promotes the peace and safety of surrounding neighborhood and the community at large; that they collectively feel that AtTack Addition has not been a good neighbor and did not take the community's concerns seriously; that the community feels like they were a nuisance to AtTack Addiction; that every organization stated AtTack Addiction must grab the community's buy-in for not only the house, but for the participants who will be living there; that when you try to force 16 people into a house, rather than six or ten, without communicating anything to the community, they are asking for trouble; that he feels by doing this, the organization has not done a good job achieving their goals; that more residents will create more conflict; that he has concerns to the ratio of staff to residents; that he questioned if a four residents to one staff member is a good ratio to have; that NARR Code of Ethics states a safe, homelike environment should be provided, while meeting NARR standards; that in his opinion, 16 residents is too many to allow for a homelike environment; that he felt six participants would be more appropriate for the area; that if he was running the company, he would not have angered everyone in the neighborhood, scare them to death, creating lack of sleep, creating them to purchase guns and security lights and place security cameras; that the organization could have placed only six people, get the facility established, while educating the community; that the organization could have then asked the community if they felt comfortable increasing the number of residents; that it is the community's neighborhood that the organization is, in another person's words, "blowing up"; that given AtTack Addiction is new to providing a Level 3.1 house, the community requests that AtTack Addiction bring up their staffing levels, which will bring up the comfort level of the community prior to increasing their number of participants; that one study, published in the Journal of Substance Abuse Treatment, analyzed factors associated with positive outcomes of sober living houses; that the study found that facilities having a smaller number of residents were associated with higher rates of employment, which could reflect the benefits of low resident to staff ratio, with greater focus and attention afforded to each individual; that similar to class sized in school, the community would much rather see lower numbers, with a higher success rate, than a higher number of participants with a lower success rate; that based on the meetings had with AtTack Addition, it was much as said, the federal government wants this, and there is not much anyone can do; that the community hopes that this is not the case; that they hope that everyone's concerns will be addressed; that the organization has had an economic impact on the community by making them feel the need to buy security lights and security cameras; that he did not feel he needed to tell the Commission what the proposed use will do to adjacent property values; that according to the Not In My Back Yard article, the impact of a substance abuse treatment centers on property values, specifically to treat opioid addiction will lose as much as 17% in property values; that he questioned if the Commission would want their 26 year old daughter, who's career is just taking off, to move into a house next two 16 recovering drug addicts and that he would not want his daughter in that situation.

Chairman Wheatley questioned what authority was quoted in Mr. Gordon's presentation relating to decreased property values; that only the title of the article was quoted; that sources are required to be

stated when providing facts of that nature, and that otherwise the statements are considered an opinion.

The Commission found that Mr. Carl Thomas spoke in opposition to the Application; that the NARR Standards state, *operator, attests and claims made in marketing materials and advertising be honest and substantiated, and does not employ any of the following: false or misleading statements, unfounded claims or exaggerations*; that he visited AtTack Addictions website, where he found many discrepancies; that additionally, he visited Ms. Personte's Facebook page, which advertised that, *the sanctuary at IMPACT Life farm, located in Seaford, will serve 13 pregnant and/or parenting women; that the men's program is located in Harbeson and will serve 13 men*; that he believed the information was misleading; that regardless of the source, the information advertised and is misleading to the public; that the residents will be in their early stages of recovery per AtTack Addition's website; that the nearest area to access DART transportation is 4.2 to 4.4 miles away in either direction; that the area roads are not conducive to walking or bicycle pedestrians; that Zillow, the real estate site, rated the roads a zero out of 100 relating to walking suitability; that Zillow rated a 27 out of 100, relating to biking suitability; that he had concerns to the non-compliance of the property; that he understands everyone needs a second chance; that what had not been discussed, is what happens when a situation turns bad; that he had seen the situation when things turn bad; that he works as a nurse in an Intensive Care Unit; that he is the person who cleans up the mess that is made when people fall out of recovery; that it is heart wrenching to see; that his wife was a Probation & Parole officer for five years; that she had also witnessed the devastation that comes from relapse; that he is happy to hear about the success stories; that what he wanted to hear was the stories of what happens when the individuals fall off the path; that he does not feel his question had been addressed in anyway; that it was testified the organization scheduled two meetings; that in fact, it was a total of four meetings; that the organization staff only attended two meetings out of the four; that the organization is not responsive to the community; that they have not been good neighbors; that he questioned to organization's past history; that a lot of what was provided was personal testimony; that the statements relating to the organization's successes does not compare to what is presented on the organization's website, down to the number of beds in the houses and the number of current houses; that there are discrepancies and inaccuracies everywhere; that the organization spoke about helping the residents find employment; that he visited Indeed.com, an employment site; that in the surrounding communities, Harbeson is the third worst for employment postings; that there are many other places in Sussex County, which would have placed the residents in much closer proximity to employment; that the program is to help low to moderate income individuals; that there are additional challenges, such as transportation, for low to moderate income individuals to find employment and he would like to see conditions placed to allow for local oversight of the property and use.

Mr. Keister stated at the organization's other houses, they have very few individuals who park vehicles or use vehicles at the homes, and they did purchase a seven-passenger van, which will be utilized to provide transportation to a variety of places for the residents.

Ms. Personte stated both facilities have seven-passenger vans; that all their case managers transport residents as well; that all case managers are required to go through a driving record investigation; that the organization confirms they can insure the case manager; that the organization ensures the case managers, allowing them to transport residents individually and as a group; that the organization did not initially offer the transportation by the vans, as the recently purchased the vans within the past month and the case managers have been providing transportation for the residents since the program started.

Ms. Wingate questioned the square footage of the home.

Mr. Keister stated the home is approximately 6,000 square feet.

Mr. Mears questioned how circumstances of relapse and overdose are handled and the protocol relating to altercations between residents.

Mr. Hopkins questioned how many chances a resident is provided related to relapse.

Ms. Personte stated if a resident relapses, the organization directs them to treatment; that staff will remain with the resident until they can get into treatment; that all the facilities have Narcan; that all staff members are trained to administer Narcan, recovery breathing, and recovery positioning; that in the event of an overdose, the policy is that a staff member would provide Narcan, call 911 and the resident would be transported to the hospital via EMS; that the resident would not be permitted to return to the home until the individual completes the treatment plan of care; that the organization has never had an overdose at any of their facilities; that if a resident were to relapse, the individual would be required to leave the home, attending treatment; that the only circumstance a resident may be permitted to stay in the home is with alcohol; that if a resident were to drink alcohol, the resident is provided one additional opportunity before being required to leave the home; that if a resident were to relapse with opioids in any form, the resident will be required to leave the home and placed into treatment; that the policy is not negotiable; that once a resident attends treatment, the organization follows the treatment plan provided by the medical recommendation; that typically the recommendation is 21 to 30 days; that once the resident completes treatment, they are permitted to return to the home; that upon returning, the resident will be provided a higher level of case management; that if a resident were to relapse for a second time, the resident is referred onto a different program; that in the event of an altercation between the residents, they attempt to determine who began the altercation; that in cases where they can clearly determine who began the altercation, the individual who began the fight is required to leave the home; that staff will remain with the individual, helping the individual pack their belongings, and the individual leaves the home that day; that the organization does work with the resident until they have a place to go; that any physical altercation does require the resident to leave the home; that in the event the organization cannot determine who began the altercation, the organization has been required to discharge both residents involved and the facilities do have internal cameras, which allows staff to determine to individual responsible.

The Commission found that Mr. Daniel Bezerra spoke in opposition to the Application; that he resides across the road from the site; that Mr. Keister was cutting grass one day, when Mr. Bezerra decided to approach him with questions; that he had attended meetings with the organization, where a lot of information was provided that differed from information provided in a different meeting; that he expressed his concern of safety with his wife and young daughter alone, across the street from 16 men, while he is at work; that he is aware of addiction as he had experienced the issue in his family; that Mr. Keister had told him, it would not be an issue; that the residents are human beings; that they are not bad people and not violent; that Mr. Bezerra understood these things, but Mr. Keister never addressed the concern Mr. Bezerra had for his family; that he would have appreciated an initial response providing the information that the residents would be monitored by staff; that he was told the cameras were installed in the case the staff need to check on the residents; that it was his understanding that the cameras would not be monitored around the clock, as was implied during the presentation; that all of the community's questions and concerns regarding safety were not addressed by the

organization; that the fencing has only been placed half way on the sides of the property; that he was under the impression the property would be fenced in; that his questions made to the organization were never answered; that Ms. Personte arrived an hour late to their first scheduled meeting; that when Ms. Personte did arrive, they were required to start the meeting all over because the answers provided did not match what Ms. Personte stated; that he felt there was a lot of misleading information provided by the organization; that he was expecting to see the house plans during the presentation; that a lot of the communities concerns cannot be addressed as there is only a basic survey submitted for the property; that he questioned how it can be determined that the organization has a kitchen large enough to accommodate 16 residents at the same time; that one of the NARR standards is to answer questions from the community; that nothing has been provided to the community proving the 16 residents are able to eat in the kitchen at the same time; that there was never an attempt from the organization to each out to the community; that he was the first member of the community to reach out to the organization and for his safety concerns, he was opposed to increasing the number of residents.

Chairman Wheatley stated the housing requirements are determined by the elected State regulators; that the community would not have any regulation over this requirement; that he was concerned by the consistent testimony of discrepancies with the organization's provided information, and he questioned if the discrepancies were a result of the fact the program was just taking shape.

Mr. Willard stated he felt the organization got off on the wrong foot with a lack if provided information; that he submitted proposed conditions for the Commission's consideration; that he requested the Commission request to see the floor plan of the facility; that he believes the floor plan was of relevance; that he believed the covenants provided by the Housing Authority should be part of the imposed conditions; that he felt if the County included the covenants in the Conditions of Approval, it will allow a better ability to regulate the covenants; that he also requested the NARR Code and the Delaware ASAM Level 3.1 requirements be placed in the conditions; that he additionally requested the Final Site Plan approved by the Commission include, all required agency approvals, which include DelDOT, DNREC, Sussex Conservation District and State Fire Marshal, if necessary; that he stated the property used to have a septic system for three bedrooms; that the standard for a nursing or assisted living home is 100 gallon units per day; that the previously issued permit was for 720 gallons per day and he submitted a petition which was signed by 45 individuals located near the property.

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

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

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

In relation to C/U 2367 AtTack Addiction Foundation. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 4-0.

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

The Commission discussed the Application which had been deferred since February 23rd, 2023.

Ms. Wingate moved that the Commission recommend approval of C/U 2367 for AtTack Addiction Foundation for a group home of more than ten (10) people based upon the record made during the public hearing and for the following reasons:

1. This application seeks a residential recovery home for men recovering from drug addiction.
2. The Sussex County Zoning Code permits “A group residential facility licensed and approved by the appropriate state agencies serving 10 or fewer persons with disabilities on a twenty-four-hour-per-day basis”. The Applicant is seeking a residential recovery home for up to 16 men.
3. It is undisputed that there is a serious opioid and drug addiction crisis in Sussex County. This Applicant seeks to provide decent and safe housing in a structured home environment for men who are successfully addressing their addiction. It will not be a detox or rehabilitation facility. Instead, it will provide transitional housing for men after they have completed their detox and/or rehabilitation programs.
4. There was testimony in the record that this program will be structured, with programming and 24-hour on-site supervision. The organization that will operate the home owns three other recovery residences. This one, like the others, will be operated by Impact Life, Inc., which itself has experience operating similar facilities throughout Delaware.
5. It is a Goal throughout the Sussex County Comprehensive Plan to provide safe and decent housing for Sussex County residents, including group homes. This application is in furtherance of that Goal.
6. The Delaware State Housing Authority, or DSHA, has provided its support for this Application noting that Sussex County has one of the highest opioid overdose rates in Delaware and that Delaware has one of the highest per capita overdose rates in the United States. As a result, the DSHA has stated that it is critical for the state and county to support housing initiatives such as this one to address this crisis.
7. This site is a large lot with an existing residential home that is owned by the Applicant. It will maintain its residential character.
8. There is no compelling evidence in the record that the use will have a negative effect on area roadways or nearby properties. The concerns raised by neighboring property owners will also be mitigated by the conditions imposed upon this conditional use.
9. This use satisfies the purpose of a conditional use under our Sussex County Zoning Code. Because it addresses the serious opioid crisis in Sussex County, it has a public or semipublic character and is essential and desirable for the general convenience and welfare of Sussex County and its residents.
10. This recommendation is subject to the following conditions:
 - A. The property shall be operated as a residential recovery home for men. There shall be no more than sixteen (16) men, in addition to resident supervisors, living in the home at any one time.
 - B. The property shall not be operated as a detoxification facility.
 - C. The home shall be staffed by qualified supervisors at all times.
 - D. The home shall maintain its residential appearance all times.

- E. There shall be a curfew between 10:00 pm and 5:30 am for all residents of the facility.
- F. The home shall be operated in accordance with all Federal, State, and County requirements governing the use as a residential recovery home.
- G. The use of the home shall comply with all of the standard State agency requirements that may apply, including, but not limited to those mandated by DelDOT, DNREC, the Sussex Conservation District, and the State Fire Marshall's Office.
- H. There shall be sufficient parking on the site for the use. The parking spaces shall be shown on the Final Site Plan and clearly marked on the site itself.
- I. With the exception of the property boundary along Hurdle Ditch Road, the perimeter of the site shall be fenced with residential-style fencing to screen it from the view of neighboring properties.
- J. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
- K. Any dumpsters or trash receptacles shall be enclosed and screened from the view of neighboring properties or roadways.
- L. The Final Site Plan shall not be issued without confirmation that DNREC has approved a septic system that is suitable for the number of residents who will reside on this property.
- M. The failure to comply with any of these conditions may be grounds for the termination of this Conditional Use.
- N. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Hopkins and carried unanimously to recommend approval of C/U 2367 AtTack Addiction Foundation, for the reasons and conditions stated in the motion. Motion carried 4-0.

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

PLANNING & ZONING COMMISSION

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



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DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: February 23rd, 2023

Application: CU 2367 Attack Addiction, Inc.

Applicant: atTAcK Addiction Foundation
P.O. Box 36
Bear, DE 19701

Owner: atTAcK Addiction Foundation
22703 Hurdle Ditch Road
Harbeson, DE 19951

Site Location: East side of Hurdle Ditch Road (S.C.R. 290), approximately 0.28 mile north of Hollyville Road (Rt. 48)

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

Proposed Use: Group Home for more than 10 persons

Comprehensive Land
Use Plan Reference: Low Density

Councilmanic
District: Mr. Rieley

School District: Cape Henlopen School District

Fire District: Millsboro Fire Co.

Sewer: On-site septic system

Water: On-site well

Site Area: 1.86 acres +/-

Tax Map ID.: 234-10.00-69.01



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Sussex County

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sussexcountype.gov

Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Ms. Lauren DeVore, AICP, Planner III (on behalf of Mr. Chase Phillips, Planner II)
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: February 16th, 2023
RE: Staff Analysis for C/U 2367 atTack Addiction Foundation, Inc.

The purpose of this Memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application C/U 2367 atTack Addiction Foundation, Inc. to be reviewed during the February 23rd, 2023, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel 234-10.00-69.01 to allow for a Group Home for more than ten (10) persons (with accommodations for up to sixteen (16) persons) to be located at 22703 Hurdle Ditch Road in Harbeson, Delaware. The property is lying on the east side of Hurdle Ditch Road (S.C.R. 290), approximately 0.28 mile north of Hollyville Road (Route 48). The parcel consists of 1.86 acres +/-.

Further Site Considerations

The subject property is not located within any established Transportation Improvement Districts. The County's Online Mapping System also confirms that there are no Tax Ditches or Tax Ditch Rights-Of-Way (ROW) on the property. Additionally, the County's Online Mapping System confirms the site is located within Flood Zone "X" – Areas determined to be outside the 1% annual chance flood and outside the 500-year floodplain.

Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcel has a Rural Area Future Land Use Map designation of "Low Density". The surrounding and adjacent parcels to the north, east and west of the subject property also contain the "Low Density" Future Land Use Map designation. All parcels on the opposite side of Hurdle Ditch Road have a Future Land Use Map designation of "Low Density."

As outlined in the 2018 Sussex County Comprehensive Plan, Low Density areas are intended to support agricultural uses and low-density single-family housing. Specifically, the Comprehensive Plan states that single family homes have a density of up to two dwelling units to the acre (Sussex County Comprehensive Plan, 4-18). Low-Density Areas allow for businesses that support nearby residents and the agricultural economy. The Comprehensive Plan also states that, "More intense



commercial uses should be avoided in these areas” (Sussex County Comprehensive Plan, 4-19). While residential growth is expected and permitted within the Low Density Area, the Comprehensive Plan intends for the rural landscape to be maintained and for farmland to be preserved in select locations.

Zoning Information

The subject property is zoned Agricultural Residential (AR-1) District. All adjacent properties to the north, west and east of the property are also zoned Agricultural Residential (AR-1) District. There are a cluster of parcels to the north on the north side of Harbeson Road (Route 5) which are zoned Medium Density Residential (MR) District, to include all parcels located within the Danfield Acres Subdivision.

There is a single parcel to the northeast of the subject site on the south side that is zoned Neighborhood Business (B-1) District and there are approximately eleven (11) parcels on the south side of Harbeson Road (Route 5) that are zoned General Commercial (C-1) District.

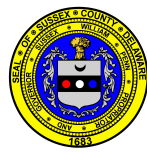
Existing Conditional Uses within the Vicinity of the Subject Property

Although there have been several Conditional Use Applications within a one (1) mile radius of the Site, there have only been six (6) Conditional Use Applications within a 0.25-mile radius of the Application site. Of these Applications, a total of five (5) were recommended approval by the Planning and Zoning Commission and were subsequently approved by the Sussex County Council. There is also one (1) Conditional Use Application (C/U 2376 for Jose Hernandez for a pool business) which is currently pending and awaiting a recommendation of the Planning and Zoning Commission.

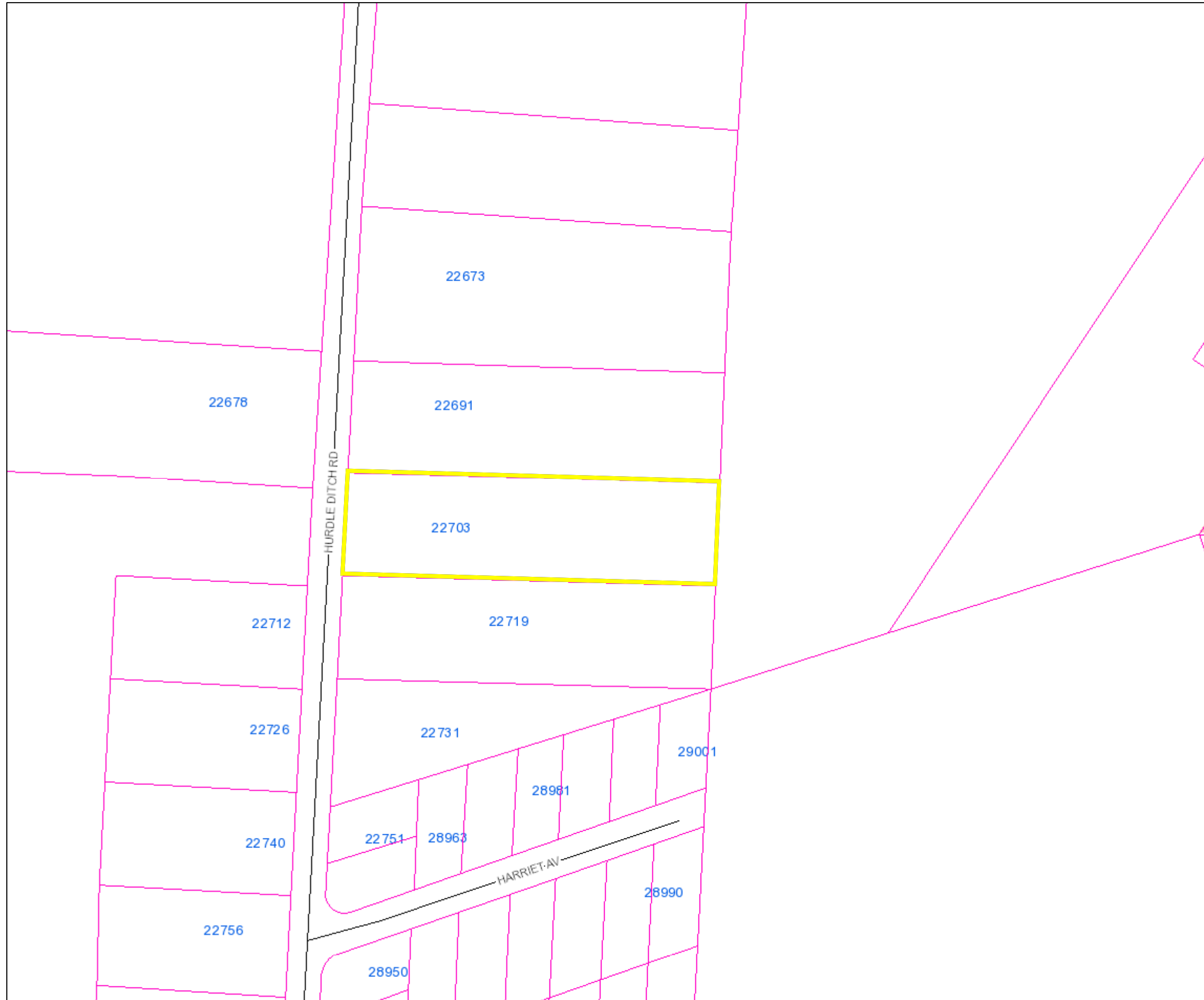
A Supplemental Table has been provided which contains further information regarding the abovementioned Conditional Use Applications which are located within a 0.25-mile radius of the Application site.

Based on the analysis provided, the Conditional use to allow for a Group Home for more than ten (10) persons (with accommodations for up to sixteen (16) persons) in this location could be considered as being consistent with the surrounding land use, zoning, and uses, subject to considerations of scale and impact.

Conditional Use Applications (w/in a 0.25 mile radius of the subject site)*								
Application Number	Application Name	Current Zoning	Proposed Use	P&Z Decision	P&Z Decision Date	CC Decision	CC Decision Date	Ordinance Number
C/U 1364	Melvin A. & Judi A. Foracre	AR-1	Sales/Service of Recreational Vehicles	Recommended Approval	10/26/2000	Approved	11/14/2000	1413
C/U 1585	Hellens Heating and Air, Inc.	AR-1	Office/shop heat & air business	Recommended Approval	1/20/2005	Approved	2/8/2005	1753
C/U 1755	T-Tops, etc.	B-1	Install Boat Tops	Recommended Approval	1/22/2009	Approved	1/27/2009	2029
C/U 1978	John W. Davidson	AR-1	Professional Office w/Contractor Storage	Recommended Approval	2/24/2014	Approved	3/8/2014	2340
C/U 2118	John W. Davidson	AR-1	Professional Office w/Contractor Storage	Recommended Approval	3/8/2018	Approved	3/20/2018	2570
C/U 2376	Jose Hernandez	AR-1	Pool Buiness	Pending	Pending	Pending	Pending	Pending



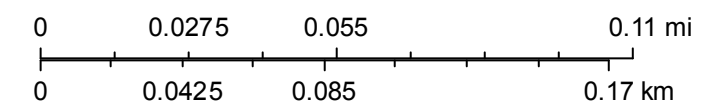
Sussex County

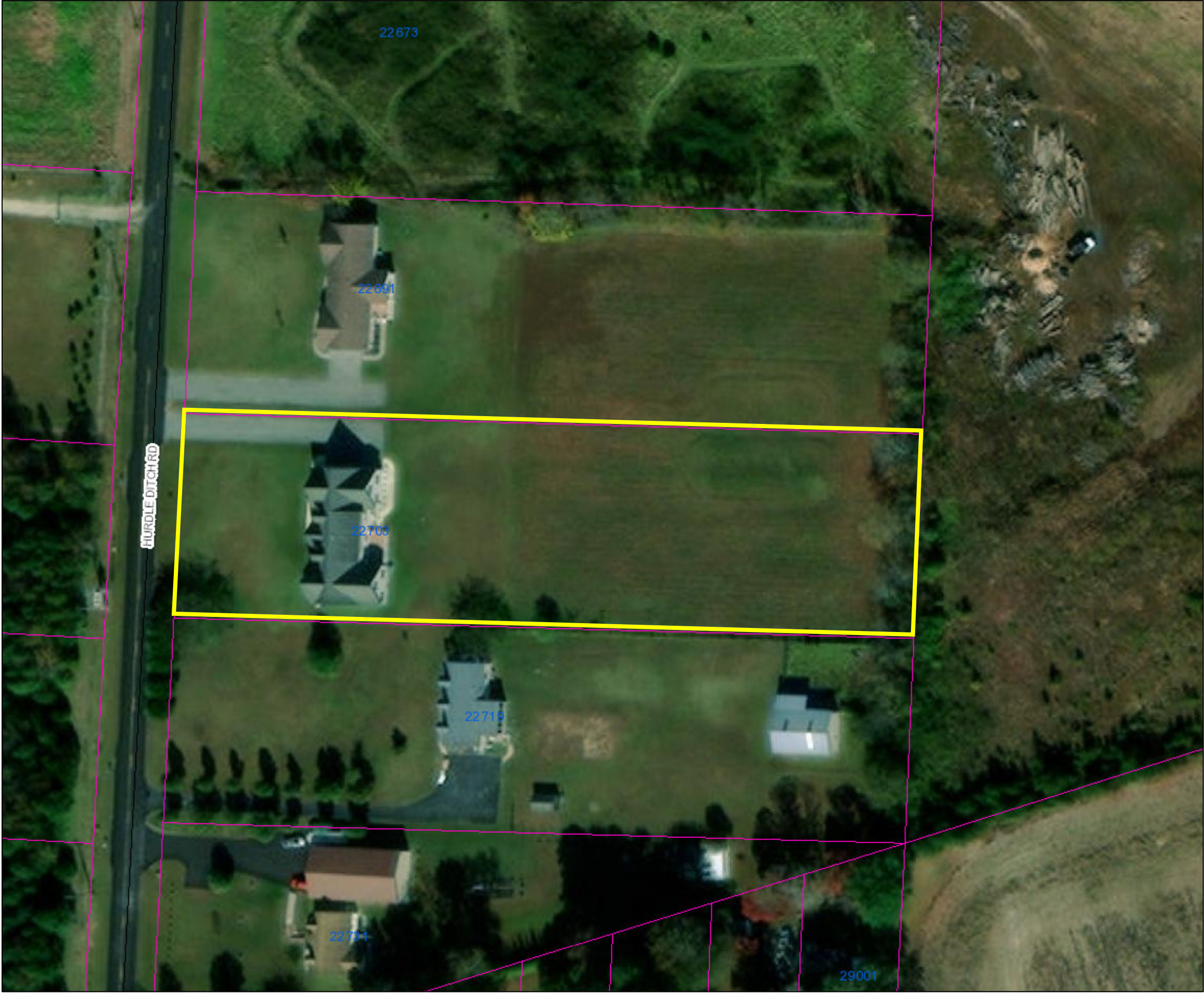
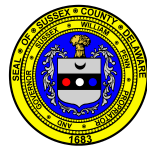


PIN:	234-10.00-69.01	
Owner Name	ATTACK	ADDICTION FOUNDATION INC
Book	5705	
Mailing Address	P.O. BOX 36	
City	BEAR	
State	DE	
Description	E/RT 290	
Description 2	LOT 2	
Description 3	N/A	
Land Code		

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

1:2,257





PIN:	234-10.00-69.01	
Owner Name	ATTACK	ADDICTION FOUNDATION INC
Book	5705	
Mailing Address	P.O. BOX 36	
City	BEAR	
State	DE	
Description	E/RT 290	
Description 2	LOT 2	
Description 3	N/A	
Land Code		

polygonLayer

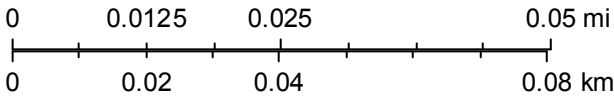
Override 1

polygonLayer

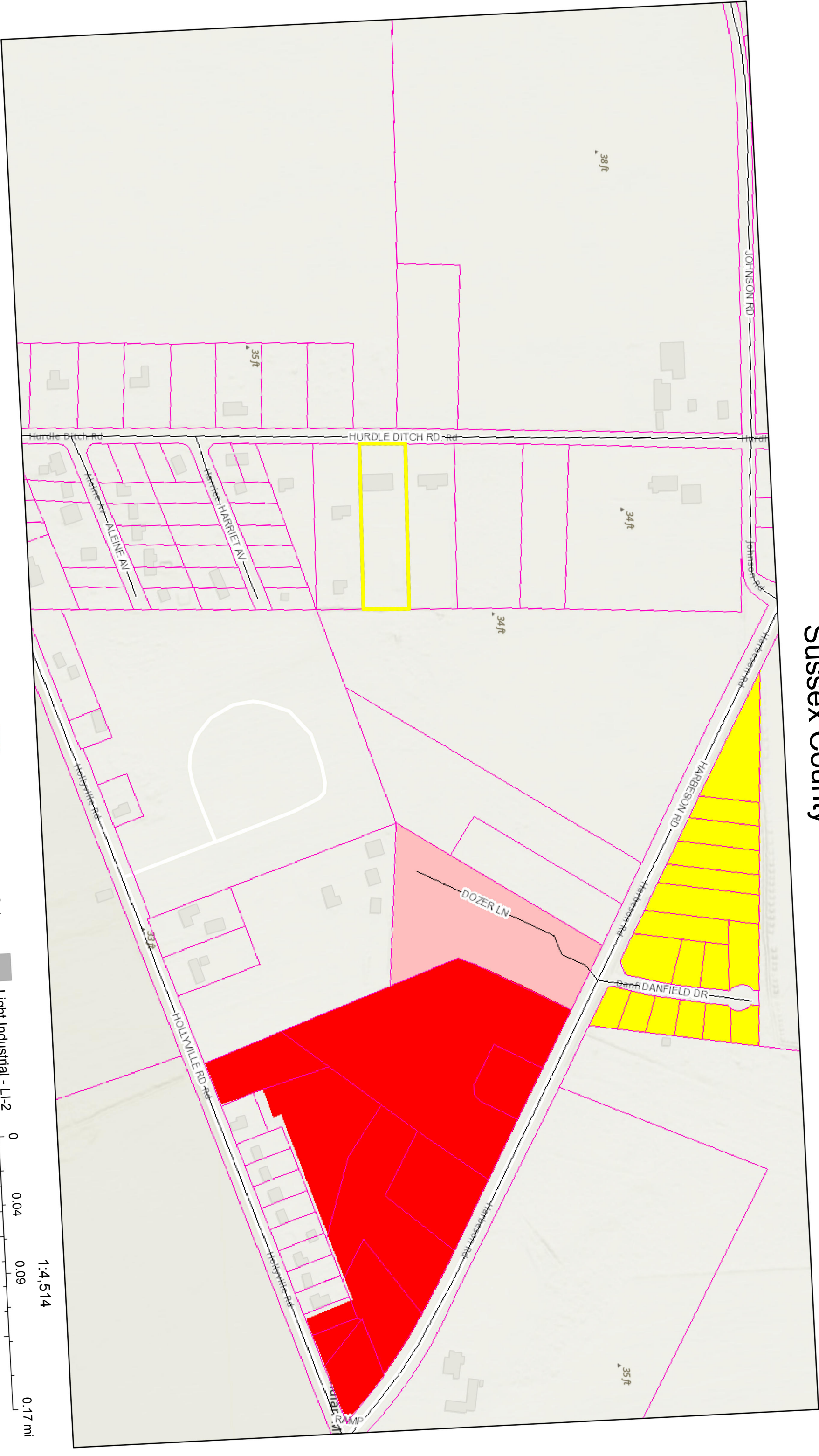
Override 1

- Tax Parcels
- 911 Address
- Streets

1:1,128



Sussex County



January 23, 2023

- Override 1

Override 1

Tax Parcels

Streets

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

Light Industrial - LI-2

Heavy Industrial - HI-1

County Boundaries

General Residential - GR

High Density Residential - HR-1

High Density Residential - HR-2

Vacation, Retire, Resident - VRP

General Commercial - C-1

General Commercial - C-2

General Commercial - C-3

General Commercial - C-4

General Commercial - C-5

Commercial Residential - CR-1

Light Industrial - LI-2

Heavy Industrial - HI-1

County Boundaries
- Override 1

Override 1

Tax Parcels

Streets

Zoning

Agricultural Residential - AR-1

Agricultural Residential - AR-2

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General Commercial - C-3

General Commercial - C-4

General Commercial - C-5

Commercial Residential - CR-1

Light Industrial - LI-2

Heavy Industrial - HI-1

County Boundaries

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

To Be Introduced: 12/13/22

Council District 5: Mr. Rieley

Tax I.D. No. 234-10.00-69.01

911 Address 22703 Hurdle Ditch Road, Harbeson

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GROUP HOME FOR MORE THAN 10 PEOPLE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.86 ACRES, MORE OR LESS

WHEREAS, on the 26th day of April 2022, a conditional use application, denominated Conditional Use No. 2367 was filed on behalf of Attack Addiction Foundation; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2367 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2367 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on east side of Hurdle Ditch Road (S.C.R. 290), approximately 0.28 mile north of Hollyville Road (Rt. 48), and being more particularly described in the attached legal description prepared by Foresight Services, said parcel containing 1.86 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.

Rieley.
yes. 5/30.

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Friday, May 26, 2023 12:10 PM
To: Casey Hall
Subject: Sussex County DE - Council Grant Form: Form has been submitted

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.

Council Grant Form

Legal Name of Agency/Organization	Town of Georgetown
Project Name	Town of Georgetown Outreach
Federal Tax ID	51-6000120
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	Town of Georgetown, County Seat for Sussex County Delaware
Address	37 The Circle
City	Georgetown
State	Delaware
Zip Code	19947
Contact Person	Eugene Dvornick

Contact Title	Town Manager
Contact Phone Number	3028567391
Contact Email Address	gdvornick@georgetowndel.com
Total Funding Request	3,000.00
Has your organization received other grant funds from Sussex County Government in the last year?	Yes
If YES, how much was received in the last 12 months?	9000
Are you seeking other sources of funding other than Sussex County Council?	No
If YES, approximately what percentage of the project's funding does the Council grant represent?	N/A
Program Category (choose all that apply)	Educational
Primary Beneficiary Category	Other

Beneficiary Category	Residents of Georgetown
Other	
Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	7.413
Scope	This program is to promote community outreach to the local residents of Georgetown. Providing information on how we can better serve the residents of Georgetown.
Religious Components	N/A
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	0.00
Description	Pop Up Tent x 1
Amount	637.90
Description	Table Cloth x 1
Amount	252.72
Description	Pens with Logo x 1000
Amount	442.00
Description	Pencils with Logo x 1000

Amount	435.00
Description	Stress Ball with Logo x 500
Amount	734.00
TOTAL EXPENDITURES	2,501.62
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-2,501.62
Name of Organization	Town of Georgetown
Applicant/Authorized Official	Eugene Dvornick
Date	05/26/2023
Affidavit Acknowledgement	Yes

VINCENT
YES. 4/1

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Tuesday, April 25, 2023 4:55 PM
To: Casey Hall
Subject: Sussex County DE - Council Grant Form: Form has been submitted

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Council Grant Form

Legal Name of Agency/Organization	City of Seaford
Project Name	Nanticoke Riverfest
Federal Tax ID	51-6000241
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	The City of Seaford will provide its residents and businesses with good governance, positive customer service, and a desirable quality of life
Address	414 High Street
Address 2	P.O. Box 1100
City	Seaford
State	Delaware

Zip Code	19973
Contact Person	Katie Hickey
Contact Title	Superintendent of Parks & Recreation, Riverfest Chair
Contact Phone Number	302-629-6809
Contact Email Address	khickey@seafordde.com
Total Funding Request	\$2,000.00
Has your organization received other grant funds from Sussex County Government in the last year?	Yes
If YES, how much was received in the last 12 months?	2000
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?	9
Program Category (choose all that apply)	Other

Program Category Other	Community Outreach
Primary Beneficiary Category	Youth
Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	6000
Scope	<p>The Nanticoke Riverfest is celebrating its 28th year. This family-friendly event in downtown Seaford provides residents and visitors with free live entertainment, a large children's area, a vintage car show, and local food and craft vendors, including downtown shoppes and eateries. Among other activities, there is also our signature event, the float-in down the Nanticoke River.</p> <p>This event brings thousands of people from Seaford and surrounding areas to visit the heart of our downtown. Seaford's downtown has experienced a lot of changes over the years, and we are excited that it seems to be coming back to life. Riverfest gives us the opportunity to show off some of the great things that Seaford has to offer.</p> <p>It takes a lot of funding and time to make this event a success, and it is primarily accomplished by a committee of volunteers and donations from local sponsors. We hope that you will consider supporting the Nanticoke Riverfest, which in turn supports our city and especially its downtown.</p>
Please enter the current support your organization receives for this project (not entire organization	22,000.00

revenue if not
applicable to request)

Description	Advertising
Amount	2,200.00
Description	Entertainment
Amount	6,000.00
Description	Grounds and Logistics
Amount	7,500.00
Description	Children's Area
Amount	2,500.00
Description	Various Events
Amount	3,000.00
Description	Miscellaneous
Amount	4,500.00
TOTAL EXPENDITURES	25,700.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-3,700.00
Name of Organization	City of Seaford
Applicant/Authorized Official	Katie Hickey
Date	04/25/2023

Affidavit

Yes

Acknowledgement

VINCENT,
YES. 6/6.

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Tuesday, June 6, 2023 1:26 PM
To: Casey Hall
Subject: Sussex County DE - Council Grant Form: Form has been submitted

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Council Grant Form

Legal Name of Agency/Organization	Blades Police Dept Blades Delaware
Project Name	BLADES NATIONAL NIGHT OUT
Federal Tax ID	51-6001393
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	To bring the community and police together. give out handouts for the children like, child id packs, school items that have Blades Police dept on them.
Address	20 w 4th st
City	Blades
State	DE
Zip Code	19973

Contact Person	Loretta Lynch
Contact Title	Administrator Assistant to the Chief of Police
Contact Phone Number	3026297329
Contact Email Address	loretta.lynch@cj.state.de.us
Total Funding Request	2000.00
Has your organization received other grant funds from Sussex County Government in the last year?	Yes
If YES, how much was received in the last 12 months?	10000.00
Are you seeking other sources of funding other than Sussex County Council?	No
If YES, approximately what percentage of the project's funding does the Council grant represent?	N/A
Program Category (choose all that apply)	Educational
Program Category Other	police

Primary Beneficiary Category	Other
Beneficiary Category Other	police dept
Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	1
Scope	We would like to give handouts to the citizens on Blades National night out Event. This night out is a vital importance of police-community partnership and citizen involvement in our fight to build a safer place for the citizens to live. The funds would be used for merchandise such as children's id packs,, items for children, items for adults.
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	500.00
Description	handouts for nation night out
Amount	2,000.00
TOTAL EXPENDITURES	2,000.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-1,500.00
Name of Organization	Blades Police Dept Blades Delaware

Applicant/Authorized Official	Chief Martin Willey
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Date	06/06/2023
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Affidavit Acknowledgement	Yes
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To Be Introduced: 6/13/23

**Council District 3: Mr. Schaeffer
Tax I.D. No. 234-11.00-56.06, 56.03, 56.09 & 56.02 (p/o)
911 Address 22357 John J. Williams Highway, Lewes**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONVENIENCE STORE AND GAS STATION TO BE LOCATED ON A 3.35 ACRE PORTION OF CERTAIN PARCELS OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 17.24 ACRES, MORE OR LESS

WHEREAS, on the 28th day of March 2022, a conditional use application, denominated Conditional Use No. 2360 was filed on behalf of Royal Farms; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2360 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2360 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcels of land, lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on southeast corner of John J. Williams Highway (Rt. 24) and Angola Road (S.C.R. 277) and being more particularly described in the attached legal description prepared by KCI Technologies, Inc. said parcels containing 3.35 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.