

Sussex County Council Public/Media Packet

**MEETING:
June 14, 2022**

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

COUNTY COUNCIL

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



Sussex County

DELAWARE
sussexcountyde.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

A G E N D A

JUNE 14, 2022

12:30 P.M.

Call to Order

Approval of Agenda

Approval of Minutes – June 7, 2022

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. Administrator's Report

Karen Brewington, Director of Human Resources

1. Second Quarter Employee Recognition Awards

Hans Medlarz, County Engineer

1. Bulk Delivery of Seed and Chemical, Project M19-31
 - A. FY 2023 Funding Approval
2. Artesian Water Company, LLC
 - A. Ellendale Water District Agreement – Amendment No. 2



Old Business

1. **Conditional Use No. 2315 filed on behalf of American Storage of Delaware, LLC**
“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTIFAMILY UNITS (140 UNITS) TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 17.63 ACRES, MORE OR LESS” (property lying on the west side of John J. Williams Highway [Route 24], approximately 0.25 mile south of the intersection of Autumn Road [S.C.R. 299] and Bay Farm Road [Route 299]) (911 Address: N/A) (Tax Parcels: 234-29.00-49.02 [portion of], 49.03 & 50.00)
2. **Change of Zone No. 1954 filed on behalf of American Storage of Delaware, LLC**
“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.27 ACRES, MORE OR LESS” (property lying on the west side of John J. Williams Highway [Route 24], approximately 0.25 mile south of the intersection of Autumn Road [S.C.R. 299] and Bay Farm Road [Route 299]) (911 Address: N/A) (Tax Parcel: 234-29.00-49.02 [portion of])
3. **Change of Zone No. 1955 filed on behalf of American Storage of Delaware, LLC**
“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A PORTION OF CERTAIN PARCELS OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 17.63 ACRES, MORE OR LESS” (property lying on the west side of John J. Williams Highway [Route 24] approximately 0.25 mile south of the intersection of Autumn Road [S.C.R. 299] and Bay Farm Road [Route 299]) (911 Address: N/A) (Tax Parcels: 234-29.00-49.02 [portion of], 49.03 & 50.00)

Grant Requests

1. Pop Warner Little Scholars, Inc. for a concession trailer upgrade
2. Southern Delaware Women’s Multisport Club for uniforms
3. True Blue Jazz, Inc. for festival expenses

Introduction of Proposed Zoning Ordinances

Council Members’ Comments

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

Possible action on Executive Session items

1:30 p.m. Public Hearings

Change of Zone No. 1946 filed on behalf of Ronald and Candice Gray

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.564 ACRES, MORE OR LESS” (property lying on the west side of Roxana Road [Rt. 17], approximately 0.69-mile northeast of the intersection of Roxana Road and Daisey Road [S.C.R. 370]) (911 Address: N/A) (Tax Parcel: 134-15.00-20.12)

Conditional Use No. 2293 filed on behalf of Ronald and Candice Gray

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR 703 STORAGE UNITS AND OUTDOOR STORAGE FOR BOATS AND RV’S TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 8.424 ACRES, MORE OR LESS” (property lying on the west side of Roxana Road [Rt. 17] approximately 0.68-mile northeast of the intersection of Roxana Road and Daisey Road [S.C.R. 370]) (911 Address: N/A) (Tax Parcel: 134-15.00-20.06)

Conditional Use No. 2294 filed on behalf of Horsey Family, LLC

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE EXPANSION OF CU 1741 (ORDINANCE 2021) FOR THE EXPANSION OF A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 62.204 ACRES, MORE OR LESS” (property lying on the east side of Asbury Road [S.C.R. 446] approximately 0.35 mile south of County Seat Highway [Rt. 9]) (911 Address: N/A) (Tax Parcel: 231-21.00-21.00)

Conditional Use No. 2298 filed on behalf of Freeman Solar, LLC

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT, A GR GENERAL RESIDENTIAL DISTRICT, AND A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A 75 MEGAWATT SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 350.96 ACRES, MORE OR LESS” (property lying on the east and west side of Calhoun Road [S.C.R. 621] and South Shawnee Road [Route 36] approximately 1,267 feet south of Shawnee Road [Route 36]) (911 Address: N/A) (Tax Parcels: 130-3.00-246.00-247.00 & 247.02, 130-6.00-75.00, 76.00, 92.00, 94.00, 95.00, 96.00 & 97.00)

Conditional Use No. 2363 filed on behalf of Laurel Wesleyan Church - c/o Reverend M. Scott Conn

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR AN ELECTRONIC MESSAGE CENTER SIGN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 7.03 ACRES, MORE OR LESS” (property lying on the west side of Seaford Road [Rt. 13A] approximately 0.53 mile northwest of Discount Land Road [S.C.R. 468]) (911 Address: 30186 Seaford Road, Laurel) (Tax Parcel: 232-12.10-3.00)

Conditional Use No. 2352 filed on behalf of CB Lewes, LLC

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM-DENSITY RESIDENTIAL DISTRICT TO AMEND THE CONDITIONS OF APPROVAL OF CONDITIONAL USE NO. 1845 (ORDINANCE NO. 2106) TO INCREASE THE NUMBER OF PERMITTED MULTIFAMILY UNITS FROM 168 TO 198 FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 18.08 ACRES, MORE OR LESS” (property lying on the northeast side of Plantations Road [Rt. 1D], 850 feet north west of Robinsonville Road [S.C.R. 271]) (911 Address: N/A) (Tax Parcel: 334-6.00-504.02)

Adjourn

-MEETING DETAILS-

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

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

Agenda items may be considered out of sequence.

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

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

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

To join the meeting via telephone, please dial:

Conference Number: 1-302-394-5036

Conference Code: 570176

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

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

#

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 7, 2022

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 7, 2022, at 1:00 p.m., in Council Chambers, with the following present:

| | |
|------------------------------|-----------------------------|
| Michael H. Vincent | President |
| Douglas B. Hudson | Vice President |
| John L. Rieley | Councilman |
| Mark G. Schaeffer | Councilman |
| Todd F. Lawson | County Administrator |
| 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 243 22
Approve
Agenda**

Mr. Lawson reported that the Administrator's Report can be removed from the Agenda. A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to approve the Agenda as amended.

Motion Adopted: 4 Yeas, 1 Absent

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

Minutes

The minutes of the May 24, 2022 meeting were approved by consensus.

**Corres-
pondence**

Mr. Moore reported that correspondence was received from Shoes That Fit in appreciation of a grant received.

**Public
Comment**

There were no public comments.

**Bulk WW
Services
Agreement/
Addendum
No. 6**

Hans Medlarz, County Engineer presented a credit adjustment for a bulk wastewater services agreement with Artesian Wastewater Management, Inc. and Addendum No. 6 for the Bulk Wastewater Services Agreement for Council's consideration.

**M 244 22
Bulk WW
Services &
Addendum
No. 6
Approval**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson that be it moved based upon the recommendation of the Sussex County Engineering and Finance Department, that the Sussex County Council approve the credit adjustment letter agreement as well as Addendum No. 6 to the Bulk Wastewater Services Agreement between Sussex County and Artesian Wastewater Management, as presented.

Motion Adopted: 4 Yeas, 1 Absent

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

**Appraisal
Services
Contract
Extension**

Hans Medlarz, County Engineer presented a one-year extension request for appraisal services for Council's consideration. Mr. Medlarz explained that the contract is due to expire on August 1, 2022. The current vendor, W.R. McCain is willing to honor their fees as they were proposed five years ago.

**M 245 22
Contract
Extension
Approval**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer that be it moved based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approve a one-year extension period to the current agreement with W.R. McCain.

Motion Adopted: 4 Yeas, 1 Absent

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

**SCWRF &
RB WTP/
Project C19-
11/CO No.
23**

Hans Medlarz, County Engineer presented Change Order No. 23 for Project C19-11, general construction for SCWRF Treatment Process Upgrade No. 3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2 for Council's consideration. The Change Order includes painting of the original 1970s mechanical building pump room.

**M 246 22
Project C19-
11/CO No.
23 Approval**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson that be it moved based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 23 for 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 \$7,893.90.

Motion Adopted: 4 Yeas, 1 Absent

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

**SCWRF &
RB WTP/
Project C19-
17/CO No.
18**

Hans Medlarz, County Engineer presented Change Order No. 18 for Project C19-17, electrical construction for South Coastal WRF Treatment Process Upgrade No. 3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2 for Council's consideration. The Change Order covers the electrical and control upgrades associated with the pump and rail systems that were previously approved. In addition, the request includes a safety and security upgrade regarding the lighting and ability to access cameras as well as network access points.

M 247 22 **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson that be it**
Project C19- **moved based upon the recommendation of the Sussex County Engineering**
17/CO No. **Department, that Change Order No. 18 for contract C19-17, SCRWF**
18 Approval **Treatment Process Upgrade No. 3 & RBWTP Capital Improvement**
 Program, Phase 2 – Electrical Construction, be approved, for an increase of
 \$143,076.73.

Motion Adopted: 4 Yeas, 1 Absent

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

Grant

Requests

Mrs. Wall presented grant requests for Council’s consideration.

M 248 22 **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give**
Children’s **\$2,000 (\$1,000 from Mr. Schaeffer’s Councilmanic Grant Account and**
Beach House **\$1,000 from Mr. Hudson’s Councilmanic Grant Account) to Children’s**
 Beach House, Inc. for Youth Development Program.

Motion Adopted: 4 Yeas, 1 Absent

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

M 249 22 **A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to give**
Millsboro **\$3,000 (\$2,000 from Mr. Rieley’s Councilmanic Grant Account and \$500**
Historical **from Mr. Hudson and Mr. Schaeffer’s Councilmanic Grant Accounts) to**
Society **Millsboro Historical Society for Godwin School maintenance.**

Motion Adopted: 4 Yeas, 1 Absent

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

M 250 22 **A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$2,500**
Greater **(\$2,500 from Mr. Rieley’s Councilmanic Grant Account) to Greater**
Georgetown **Georgetown Chamber of Commerce for the Pathways to Aviation program.**
Chamber of
Commerce

Motion Adopted: 4 Yeas, 1 Absent

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

M 251 22 **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give**
Rehoboth **\$1,130 (\$1,130 from the Countywide Youth Grant Account) to Rehoboth**

Summer Children's Theatre

Summer Children's Theatre for operating expenses.

Motion Adopted: 4 Yeas, 1 Absent

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

**M 252 22
Town of Millsboro**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to give \$3,895 (\$3,895 from Mr. Rieley's Councilmanic Grant Account) to the Town of Millsboro for their interceptor power bike program.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Absent; 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 AMEND THE TEXT AND MAPS OF CHAPTER 13 (MOBILITY ELEMENT) OF THE COMPREHENSIVE PLAN IN ADDITION TO AMENDMENTS TO THE EXISTING AND FUTURE LAND USE MAPS OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 235-16.00-50.02, 235-22.00-441.00, AND 235-22.00-442.00"

Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 (AGRICULTURAL RESIDENTIAL DISTRICT) FOR A HORSE-RIDING ACADEMY WITH OVERNIGHT ACCOMODATIONS AND ASSOCIATED AGRICULTURAL ACTIVITIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS"

Mr. Hudson introduced 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-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.83 ACRES, MORE OR LESS "

Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR MEDIUM RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.64 ACRES, MORE OR LESS"

Mr. Schaeffer introduced a Proposed Ordinance entitled "AN ORDINANCE

Introduction of Proposed Ordinances (continued) **TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 334-12.00-16.04”**

The Proposed Ordinances will be advertised for Public Hearings.

Council Member Comments’

There were no Council Member comments.

M 253 22 Go Into Executive Session

At 1:21 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to land acquisition.

Motion Adopted: 4 Yeas, 1 Absent

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

Executive Session

At 1:23 p.m., an Executive session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to land acquisition. The Executive Session concluded at 1:42 p.m.

M 254 22 Reconvene

At 1:45 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to come out of Executive Session and back into Regular Session.

Motion Adopted: 3 Yeas, 2 Absent

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

E/S Action

There was no action on Executive Session items.

Rules

Mr. Moore read the procedure for public hearings on zoning matters.

**Public Hearing/
CZ1933**

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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.62 ACRES, MORE OR LESS” (property lying on the south side of Lighthouse Road [Route 54], approximately 0.39 mile east of Johnson Road [S.C.R. 390]) (911 Address: 33006 Lighthouse Road, Selbyville) (Tax Parcel: 533-18.00-59.00)

The Planning and Zoning Commission held a Public Hearing on this application on April 28, 2022, and on May 12, 2022, the Commission recommended approval of the application for the eight reasons stated.

**Public
Hearing/
CZ1933
(continued)**

(See the minutes of the Planning and Zoning Commission dated April 28 and May 12, 2022.)

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. Daniel Bunting spoke on behalf of Applications, CZ 1933 Route 54 Limited Partnership and CZ 1934 Bunting Holdings, LLC; that the area of Route 54 has grown with residential housing and subdivisions all around; that it is believed that the C-2 zoning around areas that are all zoned C-1 would allow planning for the future and serve those residents best; that there are no immediate plans for the site; that once this rezoning occurs, it will help plan for the future; that the property to the left is the location for the Bunting Construction office; that both properties have been placed through the PLUS process; that both Applications have received no objection from DelDOT or DNREC; that a 4-0 favorable vote was received from the Planning and Zoning Commission.

There were no public comments.

The Public Hearing and Public Record were closed.

**M 255 22
Adopt
Ordinance
No. 2855/
CZ1933**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Ordinance No. 2855 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.62 ACRES, MORE OR LESS” for the reasons given by Planning and Zoning numbered 1 through 8 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 located along Lighthouse Road, also known as Route 54. It is surrounded by other properties that are zoned C-1 General Commercial. This rezoning makes one connected block of commercial zoning in this area of Lighthouse Road.**
- 3. C-2 Zoning at this location in the middle of the existing C-1 Zoning along Lighthouse Road will benefit nearby residents and visitors of Sussex County by providing a convenient location for retail uses or consumer services.**
- 4. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.**
- 5. This site is in the “Coastal Area” according to the Sussex County Land Use Plan and Future Land Use Map. This is an appropriate location for C-2 Zoning according to the Plan.**
- 6. No parties appeared in opposition to this rezoning application.**
- 7. The proposed rezoning meets the general purpose of the Zoning**

**M 255 22
Adopt
Ordinance
No. 2855/
CZ1933
(continued)**

Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.

8. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion Adopted: 4 Yeas, 1 Absent

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

**Public
Hearing/
CZ1934**

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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.18 ACRES, MORE OR LESS” (property is a landlocked parcel of land lying on the south side of Lighthouse Road [Route 54] approximately 0.39 mile each of Johnson Road [S.C.R. 390]) (911 Address: N/A) (Tax Parcel: 533-18.00-58.00)

The Planning and Zoning Commission held a Public Hearing on this application on April 28, 2022, and on May 12, 2022, the Commission recommended approval of the application for the nine reasons stated.

(See the minutes of the Planning and Zoning Commission dated April 28 and May 12, 2022.)

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. Daniel Bunting spoke on behalf of Applications, CZ 1933 Route 54 Limited Partnership and CZ 1934 Bunting Holdings, LLC; that the area of Route 54 has grown with residential housing and subdivisions all around; that it is believed that the C-2 zoning around areas that are all zoned C-1 would allow planning for the future and serve those residents best; that there are no immediate plans for the site; that once this rezoning occurs, it will help plan for the future; that the property to the left is the location for the Bunting Construction office; that both properties have been placed through the PLUS process; that both Applications have received no objection from DelDOT or DNREC; that a 4-0 favorable vote was received from the Planning and Zoning Commission.

There were no public comments.

The Public Hearing and Public Record were closed.

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Ordinance No. 2856 entitled “AN ORDINANCE TO AMEND THE

**M 256 22
Adopt
Ordinance
No. 2856/
CZ1934**

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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.18 ACRES, MORE OR LESS” for the reasons given by Planning and Zoning numbered 1-9 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 landlocked immediately west of the property fronting on Lighthouse Road (Route 54). With the exception of the property that is the subject of CZ 1933 for C-2 Zoning, all of the property in this area along Lighthouse Road is zoned Commercial. This rezoning is consistent with the existing zoning in this area.**
- 3. This property’s only access is via the property this is the subject of C/Z 1933, which is under the same ownership or control as this property. As a result, it is appropriate for both properties to be uniformly zoned as C-2.**
- 4. C-2 Zoning at this location along Lighthouse Road will benefit nearby residents of Sussex County by providing a convenient location for retail uses or consumer services.**
- 5. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.**
- 6. This site is in the “Coastal Area” according to the Sussex County Land Use Plan and Future Land Use Map. This is an appropriate location for C-2 Zoning according to the Plan.**
- 7. No parties appeared in opposition to this rezoning application.**
- 8. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.**
- 9. 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, Absent; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CZ1980**

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-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.91 ACRES, MORE OR LESS” (property lying on the south side of Atlantic Avenue [Route 26] approximately 475 ft. east of Powell Farm Road [S.C.R. 365]) (911 Address: 34464 Atlantic Avenue, Ocean View) (Tax Parcel: 134-11.00-191.00)

**Public
Hearing/
CZ1980
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on April 28, 2022, and on May 12, 2022, the Commission recommended approval of the application for the nine reasons stated.

(See the minutes of the Planning and Zoning Commission dated April 28 and May 12, 2022.)

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Ms. Mackenzie Peet, Esq, spoke on behalf of the Application; that she is an attorney with Baird Mandalas Brockstedt, LLC; that also present were members of MARS-RE, LLC, Mr. Roger Schwandtner, as well as, Mr. John Murray, Senior Project Manager with Mott MacDonald Company; that the Applicant submitted a supplemental exhibit packet to Planning and Zoning on April 14, 2022; that the Applicant appeared before the Planning and Zoning Commission on April 28, 2022; that on May 12, 2022, the Commission recommended unanimous approval for nine reasons; that the site is located on the southwest side of Atlantic Ave., Rt. 26; that the site is located approximately 350-ft. east of the four way intersection of Powell Farm Rd., Omar Rd., Vines Creek Rd. and Atlantic Ave.; that nearby commercial and residential developments, which include a property located on the opposite side of the property, which is zoned CR-1 (Commercial Residential); that the property operates as a Carquest Auto Parts and Marine store; that the next adjacent site is a Goodyear Tire Center; located east on Atlantic Ave. is Good Earth Market, which is zoned CR-1 (Commercial Residential); that at the intersection of Roxana Rd. and Atlantic Ave. there are properties zoned as C-1 (General Commercial), B-2 (Business Community), and CR-1 (Commercial Residential); that at the intersection of Roxana Rd. and Atlantic Ave. there are a number of commercial uses, which include the Creative Concepts furniture store, Liberty gas station, Hockers store and Walgreens; that in the opposite direction of the intersection of Roxana Rd. and Atlantic Ave. is the location of St. George's Church, as well as properties zoned as MR (Medium-Density Residential) and GR (General Residential); that the site is currently vacant with trees bordering the rear yard perimeter of the site; that a small area of non-tidal wetlands, consisting of 0.45-acres; that within the Conceptual Site Plan it is shown the wetlands wrap around the rear yard and along the side yard; that open space has been prioritized; that the non-tidal wetlands will remain as an undisturbed area; that the project is located with the St. George's Tax Ditch Watershed, which is noted on the Site Plan; that the Applicant will submit the plan to DNREC's Tax Ditch Section, subject to the approval of the rezoning request; that the project is located within Tier I of the Sussex County Unified Sewer District; that central sewer is anticipated to be provided by Sussex County; that central water is anticipated to be provided by Tidewater Utilities, Inc.; that the stormwater management system will meet or exceed the requirements of the State and Sussex County; that the project is located within Investment Level 2 and Investment Level 3; that the intended future use is a mixed-use

**Public
Hearing/
CZ1980
(continued)**

development which will consist of a commercial space and multi-family residential units or any other permitted use within C-3 (Heavy Commercial); that other permitted uses with C-3 (Heavy Commercial) are agricultural related uses, such as commercial greenhouses and wholesale nurseries, residential uses such as hotels and motels, and commercial uses including convenience stores, gas stations, restaurants, business parks and professional offices; that it is believe that this rezoning request is consistent with the Comprehensive Plan and surrounding uses.

Mr. Hudson asked for clarification regarding the building height. Ms. Peet replied that in the initial submission of the application, there was a different engineer working on the project. In addition, the original rezoning request was to HR-2, not C-3. Therefore, the height of the proposed building will comply with the 42 feet height requirement for C-3 subject to the approval.

There were no public comments.

The Public Hearing and Public Record were closed.

**M 257 22
Adopt
Ordinance
No. 2857/
CZ1980**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Ordinance No. 2857 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.91 ACRES, MORE OR LESS” for the reasons given by Planning and Zoning numbered 1-9 as follows:

1. C-3 Heavy Commercial Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices, and vehicle service stations.
2. This property is located along Route 26, which is considered to be a Major Collector roadway according to DelDOT’s roadway classification. Major Collector roads are appropriate locations for C-3 Zoning.
3. The parcel is in a section of Route 26 where there are commercial zones and business and commercial uses that have developed. This includes 6 commercial rezoning’s in the area since 2011. This location along this part of Route 26 is appropriate for this type of zoning, and it will not adversely affect the neighboring properties.
4. The site is served by central water and sewer.
5. This property is located in the Coastal Area according to the current Sussex County Land Use Plan. This proposed commercial zoning is appropriate in this Area according to the Plan.
6. C-3 Zoning at this location along Route 26 will provide convenient commercial services to visitors and residents of Sussex County.
7. The proposed rezoning meets the general purpose of the Zoning Code by promoting orderly growth, convenience, order prosperity, and

welfare of the County.

8. No parties appeared in opposition to this rezoning application.
9. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion Adopted: 4 Yeas, 1 Absent

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

Mr. Whitehouse reported that on June 2, 2022, a letter was received from the applicant requesting CZ1956 be withdrawn.

CZ1956

**Withdraw
Request**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to allow the applicant of CZ1956 to withdraw their application.

M 258 22

**Accept
Withdraw/
CZ1956**

Motion Adopted: 4 Yeas, 1 Absent

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

**Public
Hearing/
CU2341**

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 FARM TRACTOR AND TRUCK REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 20 ACRES, MORE OR LESS” (property lying on the southeast side of Shawnee Road [Route 36], approximately 0.23 mile south of Abbots Pond Road [S.C.R. 620]) (911 Address: N/A) (Tax Parcel: 130-6.00-22.00)

The Planning and Zoning Commission held a Public Hearing on this application on April 28, 2022, and on May 12, 2022, the Commission recommended approval of the application subject to the six reasons stated and thirteen recommended conditions.

(See the minutes of the Planning and Zoning Commission dated April 28 and May 12, 2022.)

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. Caden Oplinger spoke on behalf of his Application; that he is seeking a conditional use for a farm tractor and truck repair shop; that he has been leasing property to do this type of work; that he would like to get his own place; that there will be no tractors or trucks parked outside; that all of the repairs will occur inside in the shop;

**Public
Hearing/
CU2341
(continued)**

that he is agrees with the conditions recommended by the Planning and Zoning Commission.

There were no public comments.

The Public Hearing and Public Record were closed.

**M 259 22
Adopt
Ordinance
No. 2858/
CU2341**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to Adopt Ordinance No. 2858 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FARM TRACTOR AND TRUCK REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 20 ACRES, MORE OR LESS" for the reasons 1-6 and conditions 7 A-M given by Planning and Zoning as follows:

1. The proposed 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 location is mostly surrounded by farms and other large tracts of land. The Applicant lives behind the site and his grandfather lives next door. The Applicant stated that none of the neighbors oppose his plans.
3. The proposed use provides a service to Sussex County farmers and small businesses in the area by providing a convenient location for diesel repair services for trucks and agricultural equipment.
4. The Applicant proposes to use a 60-foot by 80-foot building for the business. This use, within the proposed workshop building, is very similar to the type of repair and maintenance work that a farmer would be permitted to do on his or her farm equipment under the existing AR-1 zoning.
5. No parties appeared in opposition to this Application.
6. The Applicant seeks a Conditional Use for the entire 20-acre parcel. The Applicant has stated that he only needs a Conditional Use for the front portion of the property where the proposed use will actually be located. As a result, this recommendation is to approve the Conditional Use for the entire front 350 feet of the property, which extends beyond the proposed workshop building with enough extra space for reasonable expansion and setbacks.
7. This recommendation for approval is subject to the following conditions and stipulations:
 - A. The use shall be limited to repairs on trucks and farm equipment. There shall not be any retail sales occurring on the property.
 - B. The use shall be limited to the front 350 feet of the property. The Final Site Plan shall clearly depict this reduced area of the Conditional Use.
 - C. One lighted sign shall be permitted. It shall not be larger than 32 square feet per side.

**M 259 22
Adopt
Ordinance
No. 2858/
CU2341**

- D. Security lighting shall be shielded and downward screened so that it is directed away from neighboring properties and roadways.**
- E. Any dumpsters shall be screened from the view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.**
- F. All repairs shall occur indoors within the proposed building. No outside storage of parts or other materials associated with the use shall be permitted.**
- G. No junked, unregistered, or permanently inoperable vehicles, trucks or trailers shall be stored on the site.**
- H. There shall not be any parking in the front yard setback.**
- I. The parking areas shall be shown on the Final Site Plan and clearly marked on the site itself. Trucks and farm equipment shall only be parked within these designated areas.**
- J. 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.**
- K. The site shall be subject to DelDOT entrance and roadway requirements.**
- 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.**

Motion Adopted: 4 Yeas, 1 Absent

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

**M 260 22
Adjourn**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to adjourn at 2:13 p.m.

Motion Adopted: 4 Yeas, 1 Absent

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

Respectfully submitted,

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

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

ENGINEERING DEPARTMENT

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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 Douglas B. Hudson, Vice President
The Honorable Cynthia G. Green
The Honorable John L. Rieley
The Honorable Mark G. Schaeffer

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

RE: ***Delivery of Seed and Chemical, Project No. M19-31
A. FY 2023 Funding Approval***

DATE: June 14, 2022

The County continues to perform agricultural activities at the Wolfe Neck & Inland Bays Regional Wastewater Facilities' irrigated lands with in-house staff. This approach has significantly reduced the loss of irrigation days due to scheduling conflicts with agricultural activities.

Costs for the purchase and delivery of seed and chemicals associated with farming rises to the procurement threshold for material purchases. Therefore, a two (2) year contract was first publicly advertised for bids in 2017. On September 19, 2017, Council awarded the contract to the low bidder, Growmark FS, LLC, in the first year FY18 amount of \$81,766.46.00.

On June 4, 2019, Council approved re-establishing a base contract for FY20 & 21 with Growmark FS, LLC for bid items 1,2 & 4-6 in the aggregate amount of \$77,150.50 per year.

On February 2, 2021, a change order was presented for the Environmental Services Division to perform farming operations at the Inland Bays Facility. Change Order No. 1 in the amount of \$111, 828.80 was approved by Council for a new contract total of \$188,979.30 per year for the remainder of the contract term.

On February 22, 2022, Council approved extension of the contract with Growmark FS, LLC through December 31, 2022, to allow for the new contract bid to be advertised during the off season. The Engineering Department is now requesting funding approval for FY 23, in the amount of \$188,979.30. The Department intends to readvertise the contract for delivery of seed and chemicals in the fall on a calendar year basis avoiding the dual approval process.



ENGINEERING DEPARTMENT

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Sussex County
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MEMORANDUM

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

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

RE: *Artesian Water Company.*
A. Ellendale Water District Agreement – Amendment No. 2

DATE: June 14, 2022

On June 26, 2018, Council approved Resolution No. R 009 18 establishing the boundary of the Ellendale Water District for a September 15, 2018 referendum. This boundary and referendum followed a previous effort in 2017 which did not receive enough votes to proceed. The second referendum revealed eligible voters to be in favor of the revised project boundary and on October 2, 2018 Council approved the Ellendale Water District by Resolution No. R 015 18.

On January 29, 2019, Council approved the Ellendale Water District Agreement (Agreement), identifying the Artesian Water Company (AWC) as bulk supplier of potable water. The Agreement further outlined certain services of AWC at rates and terms meeting the referendum approved, maximum average user rate of \$430.00, for the average residential District account.

Funding applications to the State Drinking Water SRF were approved in two successive State fiscal years through all-grant Bond Bill allocations. The project was designed, bid and constructed over the past two years and over 100 accounts are now served.

The original Agreement intended for construction of an elevated water tower, however, the permitted design identified a more advantageous pressure tank approach. In the best long-term interest of users, the Engineering Department approached AWC to request a modification of the Agreement to address services related to the tank. On November 10, 2020, Council approved Amendment No. 1 to the Ellendale Water District Agreement, whereas AWC assumed operational responsibility of the pressure tank system under the established bulk water rate, while the County assumed construction and maintenance costs of the pressure tank system.

Under the original Agreement, obligations were defined for both Sussex County and AWC covering various needs of the water system's operation. However, as the system was



constructed, approved for operation and customers connected, the actual monitoring and reporting requirements for the concurrent water system became clarified under the State oversight. The Agreement did not clearly define some of these details. At the Department's request, AWC provided temporary support with licensed operators performing the necessary routine monitoring, water sampling and monthly State reporting, understanding Sussex County would eventually staff this work. An efficiency is realized in having AWC provide such contract operations as they are already present in the area operating the main water system and source water treatment at Ingram Village. The Engineering Department approached AWC for a proposal for continued licensed operator services by expanding AWC's obligations over the remainder of the Agreement term, through February 2029.

The arrangement for contract operator services in the concurrent water system is in the best interest of users and the Department requests Council's approval of Amendment No. 2 to the Ellendale Water District Agreement with the Artesian Water Company, including one-time lump sum fee payment of \$100,000.00.

**SECOND AMENDMENT TO THE
ELLENDALE WATER DISTRICT AGREEMENT**

This Second Amendment to the Ellendale Water District Agreement (“Second Amendment”) is made and entered into this _____ day of _____, 2022, by and between ARTESIAN WATER COMPANY, INC., 664 Churchmans Road, Newark, Delaware 19702, a Delaware corporation (“Artesian”), and SUSSEX COUNTY, a political subdivision of the State of Delaware, 2 The Circle, Georgetown, Delaware 19947 (“County”, and collectively with Artesian, the “Parties”).

WHEREAS, the Parties entered into that certain Ellendale Water District Agreement on or about February 7, 2019, as amended by Amendment to the Ellendale Water District Agreement dated December 7, 2020 (as amended, the “Agreement”); and

WHEREAS, the Parties deem it mutually beneficial to clarify and amend certain aspects of the Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and other consideration hereinafter expressed, the Parties hereto agree as follows:

1. New Paragraph (9) f. is hereby added to the Agreement as follows: “Artesian will provide contract operator services for the consecutive water system known as the Greater Ellendale Water District as follows:
 1. **Periodic Visits & Sampling:** Artesian's licensed operator will visit the consecutive water system known as the Greater Ellendale Water District five (5) business days per week (excluding Artesian holidays), during normal business hours to inspect the operation of your system. The status of the system and monitoring parameters for chlorine, pH, and fluoride residuals will be recorded each time. A bacteria and compliance fluoride sample will be taken monthly within the system. All other sampling, including lead and copper sampling, will be conducted and/or coordinated by the Delaware Office of Drinking Water or Sussex County at the expense of Sussex County.
 2. **Monthly Reports.** Each month, Artesian will provide a detailed report listing the dates and times the licensed operator was at your system. The report will include field notes, analytical results, notification of any regulatory changes of which Artesian is aware that may affect your operation. Artesian will prepare and submit the required monthly operations report to the Division of Public Health and will copy Sussex County.
 3. **Consumer Confidence Reports.** Consumer Confidence Reports detailing water quality are required for all community water systems on an annual basis. Artesian will provide a link to the water system report serving your consecutive system for you to add to your consumer confidence report.

4. **Installation of Sample Station.** Artesian Water will install a sample station within the distribution system to be utilized for daily monitoring of parameters.

5. **Consideration.** In consideration of the contract operator services, Sussex County shall pay to Artesian a one-time lump sum fee of \$100,000.00 upon its execution of this Second Amendment. Each service as described shall continue for the duration of the initial term of the Agreement. If the term of the Agreement is renewed, the provision of each service shall be subject to additional negotiation and consideration.”

2. New Paragraph (9) g. is hereby added to the Agreement as follows: “Artesian will provide on-call additional services for the consecutive water system known as the Greater Ellendale Water District, above and beyond the obligations defined by the Agreement. Periodic situations that require an immediate response by Artesian, with employees on duty 24 hours per day/7 days per week can be reported at any time and Artesian will dispatch an operator or repair crew to handle the situation. Rates for on-call service are listed below; such rates are subject to an annual increase of 3.0%, with such increase occurring each January:

- Hourly Rates for Personnel
 - Mon. – Fri. / 8:00 a.m. to 5:00 p.m. \$ 89.50/hour
 - After Between 5:00 p.m. – 8:00 a.m. & Weekends & Holidays \$133.87/hour
- Equipment Rates (Portal to Portal)
 - Dump Truck \$ 69.00/Hour
 - Backhoe \$ 75.00/Hour
- Materials & Outside Services Cost + 15%”


3. Except as set forth in this Second Amendment, all other terms of the Agreement shall remain valid and binding.

IN WITNESS WHEREOF, the Parties hereto have caused this Second Amendment to be executed by their proper officers and their respective corporate seals to be hereunto affixed, the day and year first above written.


SUSSEX COUNTY

ARTESIAN WATER COMPANY, INC.

By: _____
Michael H. Vincent, Council President

By: 
Nicholle R. Taylor, President

Attest: _____
Clerk of Council

Attest: 
Name: Joseph A. DiNunzio
Title: Executive Vice President & Secretary

Date: _____

Date: _____

JAMIE WHITEHOUSE, AICP
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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 10, 2022

RE: County Council Report for C/U 2315 filed on behalf of American Storage of Delaware, LLC

The Planning and Zoning Department received an application (C/U 2315 filed on behalf of American Storage of Delaware, LLC) for a Conditional Use for parcels 234-29.00-49.02 (portion of) and 49.03, and 50.00 for multi-family units (140 units). The property is located within the Agricultural Residential (AR-1) Zoning District and is located on the west side of John J. Williams Highway (Rt. 24), approximately 0.25 mile south of Autumn Road (S.C.R. 299). The parcel size is 17.63 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on March 24, 2022. At the meeting of April 14, 2022, the Planning & Zoning Commission recommended approval of the application subject to 6 reasons stated and subject to 16 recommended conditions as outlined within the motion (copied below).

The County Council held a Public Hearing on the application on May 10, 2022. At the conclusion of the hearing, action on the application was deferred for further consideration. A link to the minutes of the May 10, 2022 County Council meeting is below:

[Minutes of the May 10, 2022 County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meetings of March 24, 2022 and April 14, 2022.



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

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

C/U 2315 American Storage of Delaware, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTIFAMILY UNITS (140 UNITS) TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 17.63 ACRES, MORE OR LESS.

The property is lying on the west side of John J. Williams Highway (Route 24), approximately 0.25 mile south of the intersection of Autumn Road (S.C.R. 299) and Bay Farm Road (Route 299). 911 Address: N/A. Tax Parcels: 234-29.00-49.02 (portion of), 49.03 & 50.00.

Mr. Whitehouse advised the Commission that submitted into the record is the Applicant's Site Plan, the staff analysis, the DelDOT Service Level Evaluation Response, the PLUS comments, a letter from Sussex County Engineering Department Utility Planning Division, and seven mail returns.

The Commission found that Ms. Mackenzie Peet, Esq. with Baird Mandalas Brockstedt, LLC, spoke on behalf of the Applicant, American Storage of Delaware, LLC; that also present were Mr. Alexander Pires and Mr. Nate Graulich, representatives of the Applicant, Mr. Steven Spence, Co-Council, Mr. Carlton Savage, P.E., Scaled Engineering, Inc and Mr. Ed Launay, Senior Professional Wetland Scientist and Principal of Environmental Resources, Inc; that the Applicant is intending to construct a mixed-use development, involving multi-family residential housing and a commercial storage facility component with office space; that the site is located on the western side of Rt. 24 (John J. Williams Hwy.) and south of Yeshua Lane in Millsboro, Delaware; that the site is located within the Indian River Hundred; that together the site consists of 25.9-acres; although submitted are three separate applications, she has consolidated her presentation to address all three Applications with one presentation, with the understanding the Commission will vote on each Application separately; that C/Z 1954 requested a rezoning of an 8.27-acre portion of Tax Map 234-29.00-49.02, from AR-1 (Agricultural Residential) to C-3 (Heavy Commercial); that this area is defined as Parcel 1 on the Preliminary Site Plan; that the rezoning was requested with the intention to develop 150,000 sq. ft. of commercial storage space, which would also include 1,200 sq. ft. of office space; that the commercial storage space would be for a three-story miniature warehouse; that currently the warehouse is proposed to have 838 units, but would be subject to change; that this use is permitted within the C-3 (Heavy Commercial) Zoning District; that this is the reasoning for the rezoning request; that C/Z 1955 requested rezoning for AR-1 (Agricultural Residential) to and MR (Medium-Density Residential) Zoning for the remaining, 17.63-acre portion of Tax Map: 234-29.00-49.02, as well as the entirety of parcels identified as 49.03 and 50.00; that this rezoning is requested with the intention of developing 140 multi-family units; that this area is defined as Parcel 2 on the Preliminary Site Plan; that related to that Application is C/U 2315 which requests a Conditional Use for the development of 140 multi-family units to be located on the parcels previously mentioned, which are proposed to be rezoned from AR-1 to MR; that she has submitted into the record proposed Conditions of Approval for C/U 2315 specifically; that the Applicant submitted into the record, the Land Use Application and Preliminary Site Plan, prepared by Scaled Engineering, Inc. for each request; that the Applicant submitted property and deed information concerning each parcel, confirming the owner and applicant as American Storage of Delaware, LLC; that the Applicant submitted legal descriptions for each parcel contained in Exhibit A; that a DelDOT Service Level Request and response are contained Exhibit B; that the Service Level Response confirms the proposed land use would considered to have a minor

impact to the local area roadways; that the PLUS Application and PLUS comments dated, March 23, 2021 are contained within Exhibit C; that a rendering of the proposed commercial use is contained in Exhibit D; that aerial maps of the site reflecting Zoning Districts, Conditional Uses, Future Land Use and Sewer Tier Overlays are included with Exhibit E; that an Environmental Assessment Report, prepared by Mr. Ed Launay and the Public Facility Evaluation Report, prepared by Scaled Engineering, Inc. are contained within Exhibit F; that both reports are required within the Coastal Area, in which the project is located; that the Coastal Area is designated as a growth area within Sussex County; that the Coastal Area generally includes the areas on the southeastern side of Sussex County within an area previously referred to as “Environmentally Sensitive Developing Area”; that mixed-use development, like the proposed Application, is permitted within the Coastal Area; that the Applicant’s plan is consistent with the Comprehensive Plan and complies with the Coastal Area requirements of Section 115-194.3 of the County Code; that the project is located within Investment Level 2 and Level 3 according to the Strategies of State Policies and Spending Map; that Investment Level 2 reflects areas where growth is anticipated in the near term; that Investment Level 3 reflects areas where growth is anticipated within a longer term; that as confirmed by the PLUS comments, the Office of State Planning and Coordination have no objection to the proposed rezoning and development provided it is compliant with the Comprehensive Plan and all applicable Codes and Ordinances; that nearby commercial and residential communities exist; that some of the nearby residential developments are Victorias Landing, River Breeze, Seabrook, The Peninsula and Peninsula Lakes; that The Peninsula and Peninsula Lakes are zoned as MR (Medium-Density Residential); that nearby commercial uses include the shopping center located at intersection of John J Williams Hwy. and Bay Farm Rd.; that the intersection of Rt. 24 and Rt. 23 are commercial uses such as a car wash, Giant grocery store, Arcadia Healthcare, and multiple fast-food establishments including Dunkin Donuts and McDonalds; that at the intersection of Rt. 24 and Mount Joy Rd. is Royal Farms, a church and a small strip mall, where the Liberty gas station is located, as well as a deli and tattoo parlor; that Section 115-194.3 of the Sussex County Code requires the Applicant’s submission of the Environmental Assessment and Public Facility Evaluation Report and sketch plan for the project, as it proposes 50 or more dwelling units and 75,000 sq. ft. or more of floor area for commercial use; that Scaled Engineering report, which also included Mr. Launay’s report, stated a combination of wet ponds, planted buffers and infiltration practices will be used for stormwater treatment; that stormwater will be discharged in accordance with the State of Delaware and Sussex Conservation District requirements; that water will be provided by Tidewater Utilities; that Tidewater Utilities did provide a Will Serve letter for the project, which is included within Exhibit F; that sewer service will be provided by Sussex County; that she just received that day, the Sewer Service Concept Evaluation, which she submitted into the record; that the Sewer Service Evaluation confirmed the project is located within Tier 2 with a need for 146 EDU’s, with 140 EDU’s for the multi-family component and three for the office component; that the increase in traffic and affect on surrounding roadways will be analyzed, reviewed and approved by DelDOT; that indicated within the PLUS comments, the improvements will generate less than 2,000 average daily trips and less than 200 peak hour vehicle trips; that this allows the developer to pay an area wide study fee in lieu of performing a Traffic Impact Study; that the fee would require an estimate payment of \$11,710.00; that DelDOT anticipates to have the developer contribute to a DelDOT project presently scheduled for construction in the summer of 2022 at the intersection of Rt. 24 and Mount Joy Rd. and the intersection of Rt. 24 and Bay Farm Rd.; that the mandatory shared-use path, as required by DelDOT, will be added to the Final Site Plan; that the Applicant will also address DelDOT’s comments stating at least two walkways connecting to the

interior of the site to Rt. 24; that one walkway will be along the driveway at the north edge of the property and one walkway on the south end of the frontage connecting to the parking lot from the business park to the frontage of the property may be required; that Mr. Launay's Assessment of Environmental Assessments and Features Report confirmed that no critical habitat areas exist on the site; no federally listed or endangered species are located on the site; that no wetlands, streams and drainage conveyances exist on or nearby the site; that the site is presently vacant and consist of 11.5-acres of agricultural land, which is located at the front of the property; that 14.4-acres of immature trees, which were previously cut in 2004, according to Mr. Launay's report; that the Applicant understand the preservation of natural resources and open space is strongly encouraged in the Coastal Area; that the project proposed roughly 11-acres of open space to be preserved; that the Applicant's first request is C/Z 1954, which requests a rezoning of a 8.27-acre portion of Tax Map 234-29.00-49.02 from AR-1 to C-3 to develop 150,000 sq. ft. of commercial space, a permitted use within C-3 or a similarly permitted use; that this component will include 838 storage units and 1,200 sq. ft. of office space; that these are all permitted uses within C-3 according to Section 115-83.8A of the Code; that other C-3 permitted uses include agricultural uses such as greenhouses and wholesale nurseries, residential uses including hotels and motels and commercial uses including convenient stores, gas station, restaurants, business parks and professional offices; that the C-3 (Heavy Commercial District) is usually intended for larger scale service businesses along major arterial roads; that the intended rezoning is consistent with the purposed of the C-3 Zoning District; that the Applicant acknowledges the need to go through the Final Site Plan process and approval, should the rezoning be approved; that there is a demand for storage facilities in Sussex County with many people relocating to the area; that she believes the Commission recognizes the need for commercial development in appropriate areas; that the assessment, prepared by Scaled, notes the use is proposed in a centralized location, with adequate access off Rt. 24; that the proposed rezoning from AR-1 to C-3 is consistent with the Comprehensive Plan and the Future Land Use Map; that specifically the project is located within the Coastal Area, which is a growth area compatible for retail, large shopping centers, offices and office parks when located along arterial roads, like Rt. 24, which is classified as a major collector road; that the proposed C-3 rezoning is consistent with surrounding land uses, as the site is located near commercially zoned properties; that within the Planning & Zoning memorandum, it was noted there have been five Change of Zone applications submitted within a .25-mile radius of the site; that these Change of Zone applications were for gas stations, convenient stores, retail and consumer related services; that the property is adjacent to CR-1 (Commercial Residential) which is identified as Tax Map 234-23.00-115.00, as well as multiple other properties across the street from the site, at the intersection of Autumn Rd. and Rt. 24, which are also zoned C-1; that there is multiple other commercial development along Rt. 24 and Rt. 5, Rt. 24 and Rt. 23 and Rt. 24 and Bay Farm Rd.; that Table 4.5-2 of the Zoning Code confirms C-3 is an applicable district within the Coastal Area; that for all the reasons stated the proposed rezoning is compatible with the surrounding community; that the rezoning request will not have an adverse effect or impact on properties near or adjacent to the site; that the Applicant's second request is C/Z 1955, requesting a rezoning of a 17.63-acre portion of Tax Map 234-29.00-49.02 and the entire other parcel referenced from AR-1 (Agricultural Residential) to MR (Medium-Density Residential) for the purpose to develop 140 multi-family units; that all surrounding properties are zoned AR-1, with the remaining parcels on the opposite side of Rt. 24 zoned as C-1 (General Commercial District) and GR (General Residential); that Peninsula Lakes and The Peninsula, located in the nearby vicinity of the site, are also zoned MR; that the MR Zoning District provides for Medium-Density Residential development in areas which are expected to become

generally urban in character, where sanitary sewer and public water supplies may or may not be available at the time of construction, together with churches, recreational facilities and accessory uses, as may be necessary or compatible with residential surroundings; that the proposed rezoning is compatible with surrounding land use; that this includes not only the MR zoned properties, but also the properties zoned GR and C-1; that the general table of height, area and bulk requirements and the table for multi-family units confirm that MR and GR districts are subject to the same bulk requirements; that everything around the site is consistent with surrounding land uses; that the rezoning request from AR-1 to MR is consistent with the Comprehensive Plan and Future Land Use Map; that the project is located within the Coastal Area, which is a growth area; that the Comprehensive Plan states this is an area most desirable for new housing for a range of housing types, including multi-family; that medium and higher-density residential development in between four to 12 units per acre is appropriate and supported within the Coastal Area, where central water and sewer access and in close proximity to commercial uses and employment centers, where the use is compatible with the character of the area, located along a main road, such as Rt. 24 and where there are adequate levels of service; that the adequate levels of service has been provided through submissions into the record; that detailed in the assessment prepared by Scaled, central water and sewer will be provided by DelDOT and Sussex County respectively; Title 4.5-2 of the Comprehensive Plan confirms MR is an appropriate district for the Coastal Area; that for all the reasons stated the proposed rezoning from AR-1 to MR is not only compliant with the Zoning Code but also consistent with the Comprehensive Plan and Future Land Use Map; that the last request is for a Conditional Use, which is subject to the approval C/Z 1955 for the development of 140 multi-family units, which will include a clubhouse and playground amenity on a part of parcel 49.02 and the entirety of parcels for 49.03 and 50.00; that as shown on the Preliminary Site Plan, the Applicant is proposing five buildings, with 28 units each, as well as a clubhouse and playground amenity; that parking meets the Code requirements of 280 parking spaces, which equals two units per apartments; that the units are being proposed as apartment units specifically; that the required seven handicap spaces will be provided; that the Applicant is proposing 283 parking spaces with 12 handicap spaces; that this will equal a total of 295 parking spaces; that Section 115-31 of the Zoning Code permits multi-family dwelling units as Conditional Uses subject to the provisions of Section 115-219 for a Site Plan review; that the proposed development will comply with Section 115-188 of the Code for multi-family development; that the proposed development is consistent with surrounding land uses being of semi-public to public character and by promoting the general convenience and welfare of Sussex County; that with nearby properties of Peninsula Lakes and The Peninsula similarly zoned, as well as being located in the vicinity of residential and commercial properties; that MR, GR and C-1 are all subject to the same height, area and bulk requirements for multi-family units; that the proposed development is consistent with the Future Land Use Map, as the Coastal Area confirms the area is an appropriate and desirable area for new housing; that proposed Conditions of Approval have been submitted into the record and for all the reasons stated the Conditional Use is compliant with the Zoning Code, compatible with surrounding land uses and consistent with the Future Land Use Map and Comprehensive Plan.

Ms. Wingate stated when she was originally looking at the Preliminary Plans, she did not understand why the Applicant chose to place the storage at the front of the property, but she now appreciated the choice, as she realized the intent is to leave as many trees as possible.

Ms. Stevenson questioned why the Applicant chose to rezone to a C-3 (Heavy Commercial District) versus a C-2 (Medium Commercial District).

Mr. Robertson reminded the Commission if the rezoning is granted the Application will still require returning to Commission for Site Plan Review for whichever permitted use is requested.

Chairman Wheatley reminded the Commission once a parcel is rezoned the property could be proposed for any use permitted within the approved zoning district.

Ms. Peet stated the C-2 District is limited in regard to what can be done with storage; that C-3 Zoning allows for parking and storage and warehouse-type storage; that C-2 Zoning is more limited regarding storage requirements and for the proposed permitted use, C-3 is more compatible than C-2 Zoning and the Applicant does understand the Application must return for Site Plan review and approval.

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

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

At the conclusion of the Public Hearing, the Commission discussed the Applications.

In relation to C/U 2315 American Storage of Delaware, LLC. Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to defer action for further consideration. Motion carried 5-0.

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

The Commission discussed the application which has been deferred since March 24, 2022.

Ms. Stevenson moved that the Commission recommend approval of C/U 2315 American Storage of Delaware, LLC, for Multi-Family Dwelling structures in an MR Medium Density Residential Zoning District based upon the record made at the public hearing and for the following reasons:

1. According to the Sussex County Zoning Code, the purpose of the MR District is to provide for medium-density residential uses with central water and sewer that are considered more urban in character than other parts of Sussex County. The permitted density within the MR District is 4 units per acre. This application complies with the purpose and density of the MR Zoning District.
2. The property is in the vicinity of a mixture of commercially and residentially zoned properties, including GR properties, C-1 properties, and CR-1 properties. There is also a townhouse development that is across Route 24 from this site. The use as multi-family residential is consistent with these other zoning classifications and uses.
3. The proposed Conditional Use is appropriate for this site because residential development of this type is appropriate where central sewer and water are available. Sewer will be provided by Sussex County and water will be provided by Tidewater Utilities.
4. The proposed use is consistent with the County's Comprehensive Land Use Plan. It is in the Coastal Area according to the Plan, which is a Growth Area. The Plan states that medium and higher densities can be appropriate where, like here, there are features such as central water and sewer and nearby commercial uses and employment centers. The Plan also states that a range of housing types should be permitted in the Coastal Area, including single-family

- homes, townhouses, and multi-family units.
5. DelDOT has reviewed the proposed project and has determined development's traffic impact will be Minor. When DelDOT determines that traffic impact will be Minor, a developer is eligible to pay an Area Wide Study Fee instead of obtaining a Traffic Impact Study. Paying this fee does not eliminate the developer's obligation to construct or pay for offsite road improvements that are required by DelDOT.
 6. With the conditions placed upon this recommendation, there will be no adverse impact upon traffic or the neighboring area.
 7. This recommendation is subject to the following conditions:
 - A. There shall be no more than 140 units within the development.
 - B. All entrances, intersections, roadways, and multimodal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determination.
 - C. Recreational Amenities shall be completed on or before the issuance of the 84th Building Permit. These amenities shall include a community center/clubhouse and an outdoor pool.
 - D. Central sewer shall be provided to the development by Sussex County. The developer shall comply with all requirements and specifications of the Sussex County Engineering Department.
 - E. The development shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
 - F. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures. The Final Site Plan shall contain the approval of the Sussex Conservation District.
 - G. Interior street design shall comply with or exceed Sussex County standards and shall include sidewalks or multi-modal pathways on one side of all streets with street lighting.
 - H. Road naming and addressing shall be subject to the review and approval of the Sussex County Geographic Information Office.
 - I. The applicant shall consult with the local school district's transportation manager to determine if a school bus stop is appropriate. The location of such a bus stop shall be shown on the Final Site Plan.
 - J. Construction, site work, excavation, grading, and deliveries to or from the property shall only occur between the hours of 7:00 a.m. to 6:00 p.m., Monday through Saturday. A 24-inch by 36-inch "NOTICE" sign in English and Spanish confirming these hours shall be prominently displayed at all entrances to the site during construction.
 - K. There shall be a vegetated or forested buffer that is at least 20 feet wide installed along the perimeter of this development. This buffer shall utilize existing forest or similar vegetation where it exists in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the "Limit of Disturbance" to prevent disturbance of the buffer area.
 - L. The developer shall preserve as many existing trees as possible on the site. These areas

- of non-disturbance shall be clearly shown on the Final Site Plan.
- M. The Final Site Plan shall include a landscape plan for the development, including all buffer areas.
- N. The Applicant shall form a condominium association to be responsible for the maintenance of all interior roadways and parking areas, buildings, buffers, stormwater management areas, recreational amenities, and open space.
- O. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
- P. The Final Site Plan shall be subject to the review and approval of the Sussex Planning & Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to recommend approval for C/U 2315 American Storage of Delaware, LLC for the reasons and conditions stated in the motion. Motion carried 4-0.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: March 24th, 2022

Application: C/U 2315 American Storage of Delaware, LLC

Applicant: American Storage of Delaware, LLC
113 Dickinson Street
Dewey Beach, DE 19971

Owner: American Storage of Delaware, LLC
113 Dickinson Street
Dewey Beach, DE 19971

Site Location: Lying on the west side of John J. Williams Highway (Route 24), approximately 0.25 mile south of the intersection of Autumn Road (S.C.R. 299) and Bay Farm Road (Route 299).

Current Zoning: Agricultural Residential (AR-1) District

Proposed Use: Multi-Family (140 units)

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Indian River Fire Department

Sewer: Sussex County

Water: Tidewater

Site Area: 17.63 acres +/-

Tax Map ID.: (portion of) 234-29.00-49.02, 49.03 & 50.000



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PLANNING & ZONING DIRECTOR
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Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Ms. Lauren DeVore, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: February 21, 2022
RE: Staff Analysis for C/U 2315 American Storage of Delaware, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/U 2315 American Storage of Delaware, LLC to be reviewed during the March 24, 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 a portion of Tax Parcels: 234-29.00-49.02, 49.03 and 50.00 to allow the construction of 140 multifamily units (apartments), a clubhouse, a playground amenity, and other ancillary improvements. The properties are located on the west side of John J. Williams Highway (Route 24), approximately 0.25 mile south of the intersection of Autumn Road (S.C.R. 299) and Bay Farm Road (Route 299). The parcels comprise a total area of 17.63 acres +/-.

Further Site Considerations

It should be noted that an opportunity for potential interconnectivity exists for this proposal by way of Baylis Avenue within the adjacent and proposed Baylis Estates (2004-55, 2017-01 & 2021-13) Subdivision.

Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcels have a designation of "Coastal Area" The parcels to the north, east and west also have a Future Land Use Map designation of "Coastal Area." The adjacent parcels to the north and south of the subject properties also retain the Future Land Use Map designation of "Coastal Area." The properties on the opposite side of John J. Williams Highway (Route 24) are also designated as "Coastal Areas." The balance of the property to the northwest of the subject site contains the Future Land Use Map designation of "Low Density Area" with four properties on the eastern side of John J. Williams Highway (Route 24) containing a Future Land Use Map designation of "Commercial Area."

As outlined within the 2018 Sussex County Comprehensive Plan, Coastal Areas are areas that can accommodate development provided special environmental concerns are addressed. A range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units. Retail and office uses are appropriate but larger shopping centers and office



parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should also be allowed. In doing so, careful mixtures of homes with light commercial, office and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home. Major new industrial uses are not proposed in these areas. (Sussex County Comprehensive Plan, 4-15).

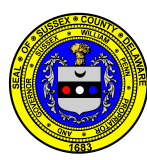
Zoning Information

The subject properties are zoned Agricultural Residential (AR-1). All surrounding properties to the south and 90 degrees due east on the opposite side of John J. Williams Highway (Route 24) are zoned Agricultural Residential (AR-1). The remaining parcels on the opposite side of John J. Williams Highway (Route 24) to the northeast are zoned General Commercial (C-1) and General Residential (GR).

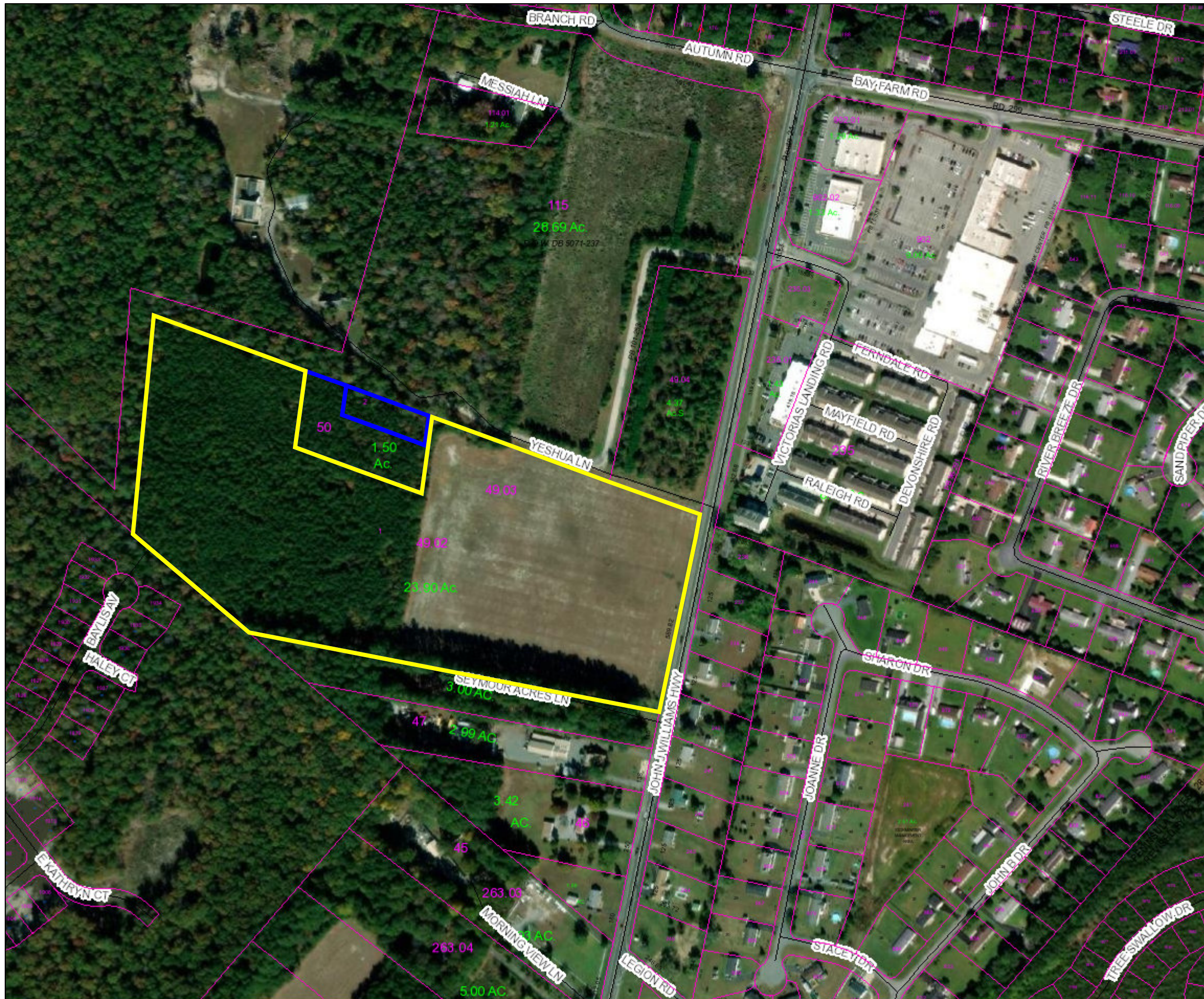
Existing Conditional Uses within the Vicinity of the Subject Site

Since 1970, there have been five (5) Conditional Use applications within less than a 0.25-mile radius of the application site. The first application is Conditional Use No. 990 Charles Coursey to allow for removal of soil for aquaculture in the Agricultural Residential (AR-1) of which the Application was withdrawn. The second application is Conditional Use No. 1575 for the American Legion Post 28 to allow for a carnival and circus events in the Agricultural Residential (AR-1) Zoning District. This application was approved by the Sussex County Council on Tuesday, January 4, 2005, and this change was adopted through Ordinance No. 1741. The third application is Conditional Use No. 1893 Toby L. Schlick to permit a lawn and tree service to be located in the Agricultural Residential (AR-1) Zoning District. This application was approved by the Sussex County Council on Tuesday, June 7, 2011, and this change was adopted through Ordinance No. 2209. The fourth application is Conditional Use No. 1643 Lloyd Saunders for purposes of allowing a roofing company in an Agricultural Residential (AR-1) Zoning District. This application was approved by the Sussex County Council on Tuesday, September March 28, 2006, and adopted through Ordinance No. 1839. The fifth application is Conditional Use No. 2021 VIII P-Loan Portfolio Holding to allow for multifamily (288 units) to be located within a Commercial Residential (CR-1) Zoning District of which the Application was withdrawn.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow for the construction of 140 multifamily units (apartments), a clubhouse, a playground amenity and other ancillary improvements in this location, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.



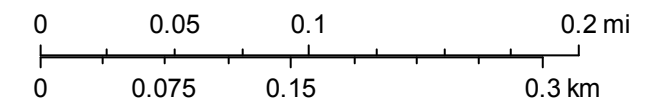
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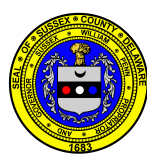


| | |
|------------------------|----------------------------------|
| PIN: | 234-29.00-49.02 |
| Owner Name | AMERICAN STORAGE OF DELAWARE LLC |
| Book | 5328 |
| Mailing Address | 113 DICKINSON ST STE 100 |
| City | DEWEY BEACH |
| State | DE |
| Description | W/RT 24 |
| Description 2 | PARCEL 1 |
| Description 3 | |
| Land Code | |

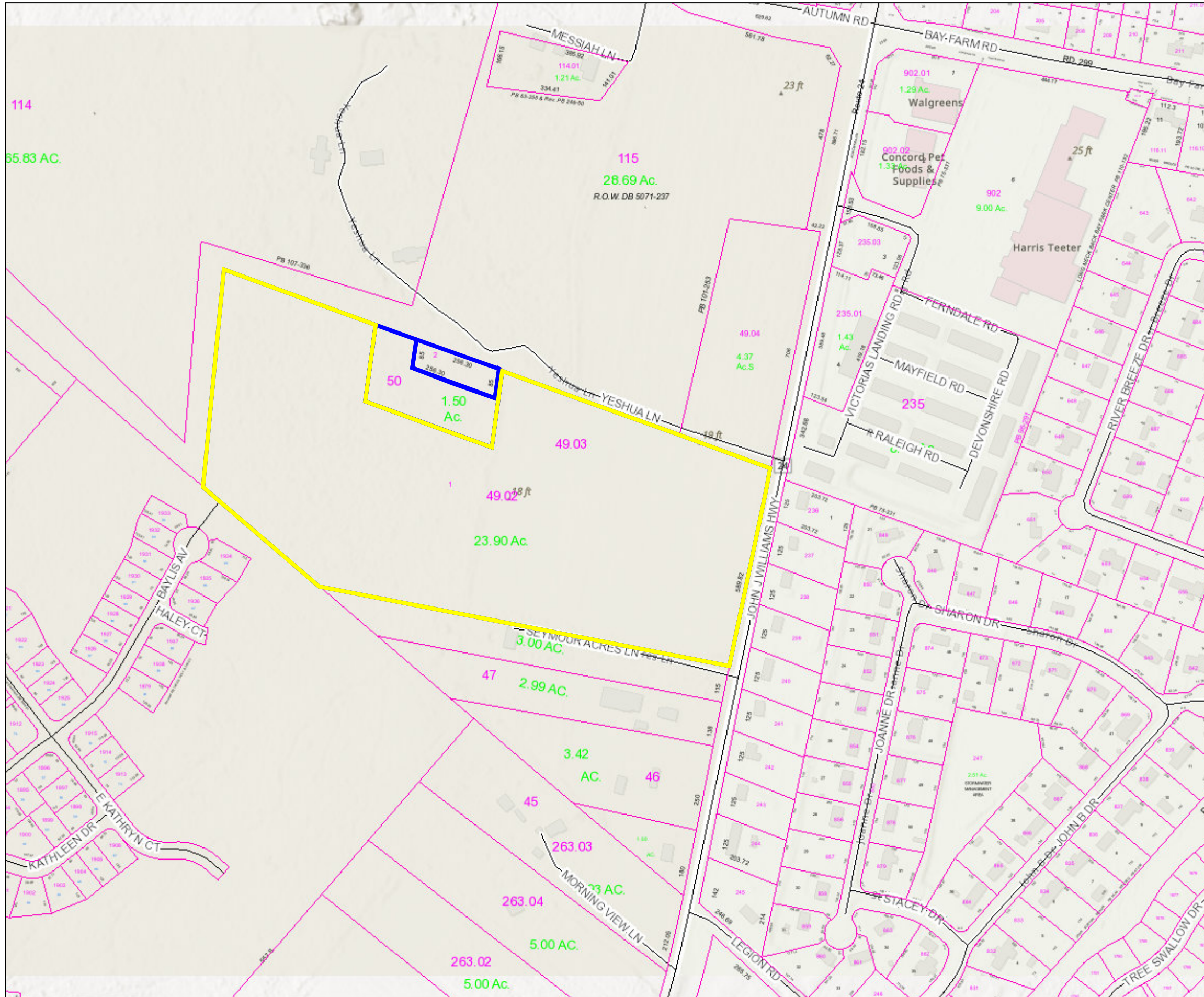
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 - Override 1
- Tax Parcels
- Streets
- County Boundaries

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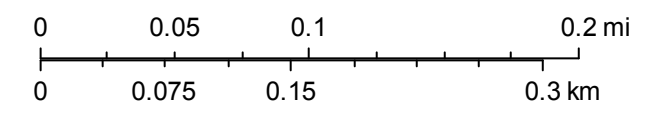
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| State | DE |
| Description | W/RT 24 |
| Description 2 | PARCEL 1 |
| Description 3 | |
| Land Code | |

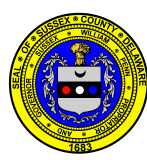
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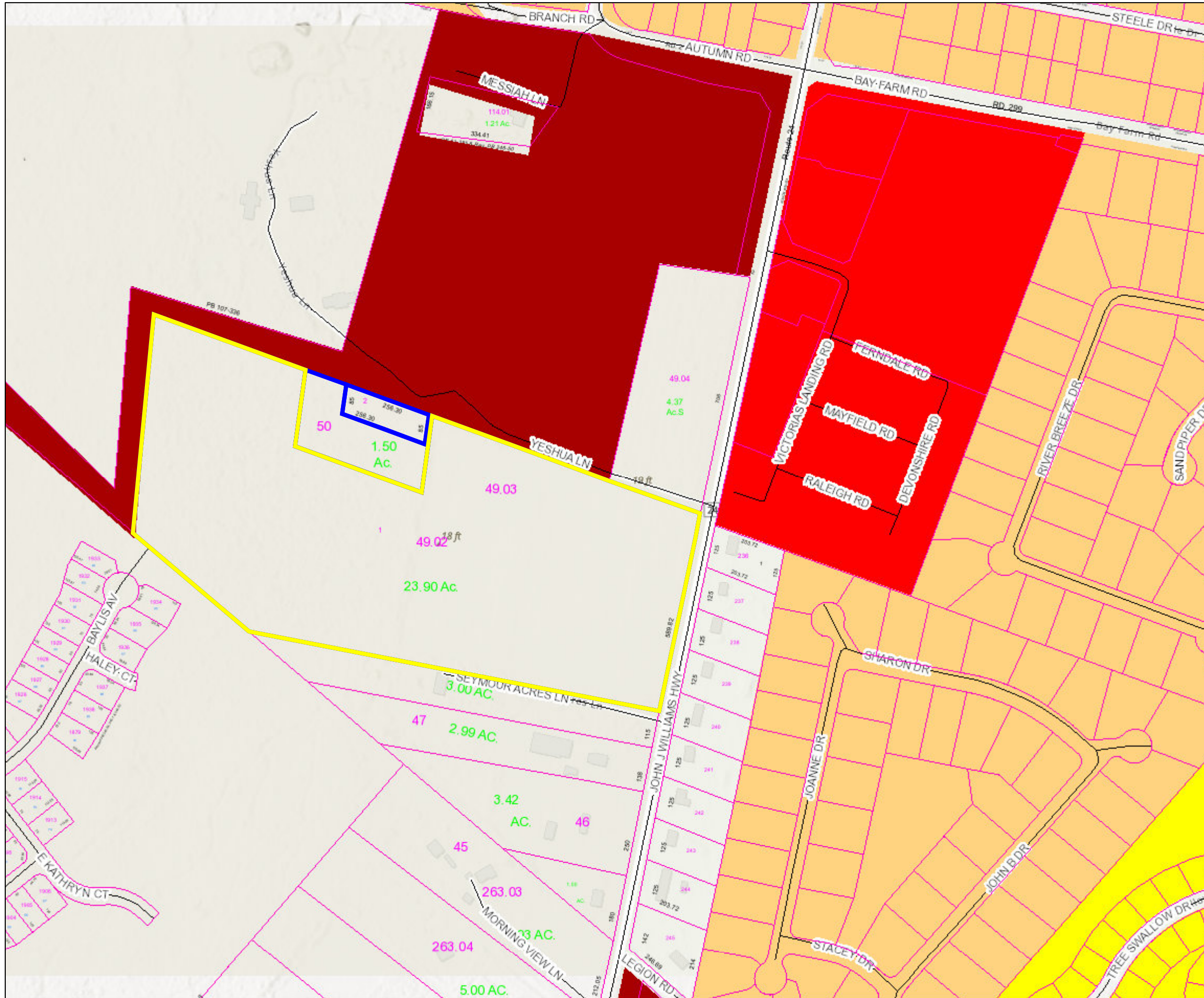
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- Tax Parcels
- Streets
- County Boundaries

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Sussex County



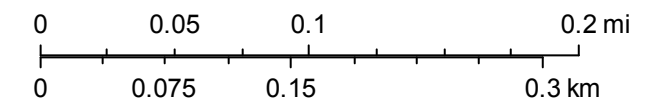
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| State | DE |
| Description | W/RT 24 |
| Description 2 | PARCEL 1 |
| Description 3 | |
| Land Code | |

- polygonLayer**

 - Override 1
- polygonLayer**

 - Override 1
- Tax Parcels
- Streets

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Introduced 12/07/21

Council District 4 – Hudson
Tax I.D. Nos.: (portion of) 234-29.00-49.02, 49.03 & 50.00
911 Address: None Available

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTIFAMILY UNITS (140 UNITS) TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 17.63 ACRES, MORE OR LESS

WHEREAS, on the 22nd day of September 2021, a conditional use application, denominated Conditional Use No. 2315 was filed on behalf of American Storage of Delaware, LLC; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2315 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. 2315 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the west side of John J. Williams Highway (Route 24), approximately 0.25 mile south of the intersection of Autumn Road (S.C.R. 299) and Bay Farm Road (Route 299), being Parcel #2 shown on the site plan entitled, “American Storage of Delaware” prepared by Scaled Engineering and being more particularly described in the attached legal description prepared by Scaled Engineering, said parcel containing 17.63 acres, more or less.

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

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
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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 10, 2022

RE: County Council Report for C/Z 1954 filed on behalf of American Storage of Delaware, LLC

The Planning and Zoning Department received an application (C/Z 1954 filed on behalf of American Storage of Delaware, LLC) to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a C-3 Heavy Commercial District. The property is located on the west side of John J. Williams Hwy (Rt.24) approximately 0.25 mile south of Bay Farm Road (SCR. 299). The change of zone is for 8.27 acres, more or less.

The Planning and Zoning Commission held a public hearing on March 24, 2022. At the meeting of April 14, 2022, the Commission recommended approval of the application for the 7 reasons as outlined within the motion (included below). The County Council held a Public Hearing on the application on May 10, 2022. At the conclusion of the hearing, action on the application was deferred for further consideration. A link to the minutes of the May 10, 2022 County Council meeting is below:

[Minutes of the May 10, 2022 County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meetings of March 24, 2022 and April 14, 2022.

[Approved Minutes of the March 24 2022 Planning & Zoning Commission Meeting](#)

C/Z 1954 American Storage of Delaware, LLC

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A PORTION OF A CERTAIN PARCEL OF



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

LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.27 ACRES, MORE OR LESS. The property is lying on the west side of John J. Williams Highway (Route 24), approximately 0.25 miles south of the intersection of Autumn Road (S.C.R. 299) and Bay Farm Road (Route 299). 911 Address: N/A. Tax Parcel: 234-29.00-49.02 (portion of)

Mr. Whitehouse advised the Commission that submitted into the record is the Applicant's Site Plan, the PLUS response, the DelDOT Service Level Evaluation Response, the Applicant's Exhibit Booklet, the Environmental Assessment, the Public Facility Evaluation Report, a letter from Sussex County Engineering Department Utility Planning Division and six mail returns.

The Commission found that Ms. Mackenzie Peet, Esq. with Baird Mandalas Brockstedt, LLC, spoke on behalf of the Applicant, American Storage of Delaware, LLC; that also present were Mr. Alexander Pires and Mr. Nate Graulich, representatives of the Applicant, Mr. Steven Spence, Co-Council, Mr. Carlton Savage, P.E., Scaled Engineering, Inc and Mr. Ed Launay, Senior Professional Wetland Scientist and Principal of Environmental Resources, Inc; that the Applicant is intending to construct a mixed-use development, involving multi-family residential housing and a commercial storage facility component with office space; that the site is located on the western side of Rt. 24 (John J. Williams Hwy.) and south of Yeshua Lane in Millsboro, Delaware; that the site is located within the Indian River Hundred; that together the site consists of 25.9-acres; although submitted are three separate applications, she has consolidated her presentation to address all three Applications with one presentation, with the understanding the Commission will vote on each Application separately; that C/Z 1954 requested a rezoning of an 8.27-acre portion of Tax Map 234-29.00-49.02, from AR-1 (Agricultural Residential) to C-3 (Heavy Commercial); that this area is defined as Parcel 1 on the Preliminary Site Plan; that the rezoning was requested with the intention to develop 150,000 sq. ft. of commercial storage space, which would also include 1,200 sq. ft. of office space; that the commercial storage space would be for a three-story miniature warehouse; that currently the warehouse is proposed to have 838 units, but would be subject to change; that this use is permitted within the C-3 (Heavy Commercial) Zoning District; that this is the reasoning for the rezoning request; that C/Z 1955 requested rezoning for AR-1 (Agricultural Residential) to and MR (Medium-Density Residential) Zoning for the remaining, 17.63-acre portion of Tax Map: 234-29.00-49.02, as well as the entirety of parcels identified as 49.03 and 50.00; that this rezoning is requested with the intention of developing 140 multi-family units; that this area is defined as Parcel 2 on the Preliminary Site Plan; that related to that Application is C/U 2315 which requests a Conditional Use for the development of 140 multi-family units to be located on the parcels previously mentioned, which are proposed to be rezoned from AR-1 to MR; that she has submitted into the record proposed Conditions of Approval for C/U 2315 specifically; that the Applicant submitted into the record, the Land Use Application and Preliminary Site Plan, prepared by Scaled Engineering, Inc. for each request; that the Applicant submitted property and deed information concerning each parcel, confirming the owner and applicant as American Storage of Delaware, LLC; that the Applicant submitted legal descriptions for each parcel contained in Exhibit A; that a DelDOT Service Level Request and response are contained Exhibit B; that the Service Level Response confirms the proposed land use would considered to have a minor impact to the local area roadways; that the PLUS Application and PLUS comments dated, March 23, 2021 are contained within Exhibit C; that a rendering of the proposed commercial use is contained in Exhibit D; that aerial maps of the site reflecting Zoning Districts, Conditional Uses, Future Land Use

and Sewer Tier Overlays are included with Exhibit E; that an Environmental Assessment Report, prepared by Mr. Ed Launay and the Public Facility Evaluation Report, prepared by Scaled Engineering, Inc. are contained within Exhibit F; that both reports are required within the Coastal Area, in which the project is located; that the Coastal Area is designated as a growth area within Sussex County; that the Coastal Area generally includes the areas on the southeastern side of Sussex County within an area previously referred to as “Environmentally Sensitive Developing Area”; that mixed-use development, like the proposed Application, is permitted within the Coastal Area; that the Applicant’s plan is consistent with the Comprehensive Plan and complies with the Coastal Area requirements of Section 115-194.3 of the County Code; that the project is located within Investment Level 2 and Level 3 according to the Strategies of State Policies and Spending Map; that Investment Level 2 reflects areas where growth is anticipated in the near term; that Investment Level 3 reflects areas where growth is anticipated within a longer term; that as confirmed by the PLUS comments, the Office of State Planning and Coordination have no objection to the proposed rezoning and development provided it is compliant with the Comprehensive Plan and all applicable Codes and Ordinances; that nearby commercial and residential communities exist; that some of the nearby residential developments are Victorias Landing, River Breeze, Seabrook, The Peninsula and Peninsula Lakes; that The Peninsula and Peninsula Lakes are zoned as MR (Medium-Density Residential); that nearby commercial uses include the shopping center located at intersection of John J Williams Hwy. and Bay Farm Rd.; that passed the intersection of Rt. 24 and Rt. 23 are commercial uses such as a car wash, Giant grocery store, Arcadia Healthcare, and multiple fast-food establishments including Dunkin Donuts and McDonalds; that at the intersection of Rt. 24 and Mount Joy Rd. is Royal Farms, a church and a small strip mall, where the Liberty gas station is located, as well as a deli and tattoo parlor; that Section 115-194.3 of the Sussex County Code requires the Applicant’s submission of the Environmental Assessment and Public Facility Evaluation Report and sketch plan for the project, as it proposes 50 or more dwelling units and 75,000 sq. ft. or more of floor area for commercial use; that Scaled Engineering report, which also included Mr. Launay’s report, stated a combination of wet ponds, planted buffers and infiltration practices will be used for stormwater treatment; that stormwater will be discharged in accordance with the State of Delaware and Sussex Conservation District requirements; that water will be provided by Tidewater Utilities; that Tidewater Utilities did provide a Will Serve letter for the project, which is included within Exhibit F; that sewer service will be provided by Sussex County; that she just received that day, the Sewer Service Concept Evaluation, which she submitted into the record; that the Sewer Service Evaluation confirmed the project is located within Tier 2 with a need for 146 EDU’s, with 140 EDU’s for the multi-family component and three for the office component; that the increase in traffic and effect on surrounding roadways will be analyzed, reviewed and approved by DelDOT; that indicated within the PLUS comments, the improvements will generate less than 2,000 average daily trips and less than 200 peak hour vehicle trips; that this allows the developer to pay an area wide study fee in lieu of performing a Traffic Impact Study; that the fee would require an estimate payment of \$11,710.00; that DelDOT anticipates to have the developer contribute to a DelDOT project presently scheduled for construction in the summer of 2022 at the intersection of Rt. 24 and Mount Joy Rd. and the intersection of Rt. 24 and Bay Farm Rd.; that the mandatory shared-use path, as required by DelDOT, will be added to the Final Site Plan; that the Applicant will also address DelDOT’s comments stating at least two walkways connecting to the interior of the site to Rt. 24; that one walkway will be along the driveway at the north edge of the property and one walkway on the south end of the frontage connecting to the parking lot from the business park to the frontage of the property may be required; that Mr. Launay’s Assessment of

Environmental Assessments and Features Report confirmed that no critical habitat areas exist on the site; no federally listed or endangered species are located on the site; that no wetlands, streams and drainage conveyances exist on or nearby the site; that the site is presently vacant and consist of 11.5-acres of agricultural land, which is located at the front of the property; that 14.4-acres of immature trees, which were previously cut in 2004, according to Mr. Launay's report; that the Applicant understand the preservation of natural resources and open space is strongly encouraged in the Coastal Area; that the project proposed roughly 11-acres of open space to be preserved; that the Applicant's first request is C/Z 1954, which requests a rezoning of a 8.27-acre portion of Tax Map 234-29.00-49.02 from AR-1 to C-3 to develop 150,000 sq. ft. of commercial space, a permitted use within C-3 or a similarly permitted use; that this component will include 838 storage units and 1,200 sq. ft. of office space; that these are all permitted uses within C-3 according to Section 115-83.8A of the Code; that other C-3 permitted uses include agricultural uses such as greenhouses and wholesale nurseries, residential uses including hotels and motels and commercial uses including convenient stores, gas station, restaurants, business parks and professional offices; that the C-3 (Heavy Commercial District) is usually intended for larger scale service businesses along major arterial roads; that the intended rezoning is consistent with the purposed of the C-3 Zoning District; that the Applicant acknowledges the need to go through the Final Site Plan process and approval, should the rezoning be approved; that there is a demand for storage facilities in Sussex County with many people relocating to the area; that she believes the Commission recognizes the need for commercial development in appropriate areas; that the assessment, prepared by Scaled, notes the use is proposed in a centralized location, with adequate access off Rt. 24; that the proposed rezoning from AR-1 to C-3 is consistent with the Comprehensive Plan and the Future Land Use Map; that specifically the project is located within the Coastal Area, which is a growth area compatible for retail, large shopping centers, offices and office parks when located along arterial roads, like Rt. 24, which is classified as a major collector road; that the proposed C-3 rezoning is consistent with surrounding land uses, as the site is located near commercially zoned properties; that within the Planning & Zoning memorandum, it was noted there have been five Change of Zone applications submitted within a .25-mile radius of the site; that these Change of Zone applications were for gas stations, convenient stores, retail and consumer related services; that the property is adjacent to CR-1 (Commercial Residential) which is identified as Tax Map 234-23.00-115.00, as well as multiple other properties across the street from the site, at the intersection of Autumn Rd. and Rt. 24, which are also zoned C-1; that there is multiple other commercial development along Rt. 24 and Rt. 5, Rt. 24 and Rt. 23 and Rt. 24 and Bay Farm Rd.; that Table 4.5-2 of the Zoning Code confirms C-3 is an applicable district within the Coastal Area; that for all the reasons stated the proposed rezoning is compatible with the surrounding community; that the rezoning request will not have an adverse effect or impact on properties near or adjacent to the site; that the Applicant's second request is C/Z 1955, requesting a rezoning of a 17.63-acre portion of Tax Map 234-29.00-49.02 and the entire other parcel referenced from AR-1 (Agricultural Residential) to MR (Medium-Density Residential) for the purpose to develop 140 multi-family units; that all surrounding properties are zoned AR-1, with the remaining parcels on the opposite side of Rt. 24 zoned as C-1 (General Commercial District) and GR (General Residential); that Peninsula Lakes and The Peninsula, located in the nearby vicinity of the site, are also zoned MR; that the MR Zoning District provides for Medium-Density Residential development in areas which are expected to become generally urban in character, where sanitary sewer and public water supplies may or may not be available at the time of construction, together with churches, recreational facilities and accessory uses, as may be necessary or compatible with residential surroundings; that the proposed rezoning is

compatible with surrounding land use; that this includes not only the MR zoned properties, but also the properties zoned GR and C-1; that the general table of height, area and bulk requirements and the table for multi-family units confirm that MR and GR districts are subject to the same bulk requirements; that everything around the site is consistent with surrounding land uses; that the rezoning request from AR-1 to MR is consistent with the Comprehensive Plan and Future Land Use Map; that the project is located within the Coastal Area, which is a growth area; that the Comprehensive Plan states this is an area most desirable for new housing for a range of housing types, including multi-family; that medium and higher-density residential development in between four to 12 units per acre is appropriate and supported within the Coastal Area, where central water and sewer access and in close proximity to commercial uses and employment centers, where the use is compatible with the character of the area, located along a main road, such as Rt. 24 and where there are adequate levels of service; that the adequate levels of service has been provided through submissions into the record; that detailed in the assessment prepared by Scaled, central water and sewer will be provided by DelDOT and Sussex County respectively; Title 4.5-2 of the Comprehensive Plan confirms MR is an appropriate district for the Coastal Area; that for all the reasons stated the proposed rezoning from AR-1 to MR is not only compliant with the Zoning Code but also consistent with the Comprehensive Plan and Future Land Use Map; that the last request is for a Conditional Use, which is subject to the approval C/Z 1955 for the development of 140 multi-family units, which will include a clubhouse and playground amenity on a part of parcel 49.02 and the entirety of parcels for 49.03 and 50.00; that as shown on the Preliminary Site Plan, the Applicant is proposing five buildings, with 28 units each, as well as a clubhouse and playground amenity; that parking meets the Code requirements of 280 parking spaces, which equals two units per apartments; that the units are being proposed as apartment units specifically; that the required seven handicap spaces will be provided; that the Applicant is proposing 283 parking spaces with 12 handicap spaces; that this will equal a total of 295 parking spaces; that Section 115-31 of the Zoning Code permits multi-family dwelling units as Conditional Uses subject to the provisions of Section 115-219 for a Site Plan review; that the proposed development will comply with Section 115-188 of the Code for multi-family development; that the proposed development is consistent with surrounding land uses being of semi-public to public character and by promoting the general convenience and welfare of Sussex County; that with nearby properties of Peninsula Lakes and The Peninsula similarly zoned, as well as being located in the vicinity of residential and commercial properties; that MR, GR and C-1 are all subject to the same height, area and bulk requirements for multi-family units; that the proposed development is consistent with the Future Land Use Map, as the Coastal Area confirms the area is an appropriate and desirable area for new housing; that proposed Conditions of Approval have been submitted into the record and for all the reasons stated the Conditional Use is compliant with the Zoning Code, compatible with surrounding land uses and consistent with the Future Land Use Map and Comprehensive Plan.

Ms. Wingate stated when she was originally looking at the Preliminary Plans, she did not understand why the Applicant chose to place the storage at the front of the property, but she now appreciated the choice, as she realized the intent is to leave as many trees as possible.

Ms. Stevenson questioned why the Applicant chose to rezone to a C-3 (Heavy Commercial District) versus a C-2 (Medium Commercial District).

Mr. Robertson reminded the Commission if the rezoning is granted the Application will still require returning to Commission for Site Plan Review for whichever permitted use is requested.

Chairman Wheatley reminded the Commission once a parcel is rezoned the property could be proposed for any use permitted within the approved zoning district.

Ms. Peet stated the C-2 District is limited in regard to what can be done with storage; that C-3 Zoning allows for parking and storage and warehouse-type storage; that C-2 Zoning is more limited regarding storage requirements and for the proposed permitted use, C-3 is more compatible than C-2 Zoning and the Applicant does understand the Application must return for Site Plan review and approval.

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

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

At the conclusion of the Public Hearing, the Commission discussed the Applications.

In relation to C/Z 1954 American Storage of Delaware, LLC. Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to defer action for further consideration. Motion carried 5-0.

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

The Commission discussed the application which has been deferred since March 24, 2022.

Ms. Stevenson moved that the Commission recommend approval of C/Z 1954 American Storage of Delaware, LLC, for a Change in Zone from AR-1 to C-3 “Heavy Commercial” based upon the record made during the public hearing and for the following reasons:

1. C-3 Heavy Commercial Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices, and vehicle service stations. Although a number of uses are permitted, this Applicant intends to construct a mini-storage facility on this site.
2. Route 24 is considered to be a Major Collector roadway according to DelDOT’s roadway classification. Major Collector roads are appropriate locations for C-3 Zoning.
3. The parcel is in a section of Route 24 where there are commercial districts and business and commercial uses that have developed. This includes a shopping center with a large grocery store, a smaller strip mall, and other similar uses. This location along this part of Route 24 is appropriate for this type of zoning.
4. This property is located in the Coastal Area according to the current Sussex County Land Use Plan. This proposed commercial zoning is appropriate in this Area according to the Plan.
5. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.
6. No parties appeared in opposition to this rezoning application.
7. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 1954 American Storage of Delaware, LLC, for the reasons and conditions stated in the motion. Motion carried 4-0.

The vote by roll call: Ms. Stevenson – Yea, Mr. Hopkins – 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: March 24th, 2022

Application: C/Z 1954 American Storage of Delaware, LLC

Applicant: American Storage of Delaware, LLC
113 Dickinson Street
Dewey Beach, DE 19971

Owner: American Storage of Delaware, LLC
113 Dickinson Street
Dewey Beach, DE 19971

Site Location: Lying on the west side of John J. Williams Highway (Route 24), approximately 0.25 mile south of the intersection of Autumn Road (S.C.R. 299) and Bay Farm Road (Route 299).

Current Zoning: Agricultural Residential (AR-1) District

Proposed Zoning: Heavy Commercial (C-3) District

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Indian River Fire Department

Sewer: Sussex County

Water: Tidewater

Site Area: 8.27 acres +/-

Tax Map ID.: (portion of) 234-29.00-49.02



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Sussex County

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Memorandum

To: Sussex County Planning Commission Members
From: Michael Lowrey, Planner III
CC: Vince Robertson, Assistant County Attorney and applicant
Date: February 21st, 2021
RE: Staff Analysis for CZ 1954 American Storage of Delaware, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1954 American Storage of Delaware, LLC to be reviewed during the March 24, 2022, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcel 234-29.00-49.02 to allow for a change of zone from an Agricultural Residential (AR-1) District to a Heavy Commercial (C-3) District. The parcel is located on the west side of John J. Williams Highway (Route 24), approximately 0.25 mile south of the intersection of Autumn Road (S.C.R. 299) and Bay Farm Road (Route 299). The parcel contains 23.90 acres +/-, with the portion of the parcel to be rezoned containing 8.27 acres +/- and is located at the front of the site adjacent to John J. Williams Highway.

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." The properties to the north, south, and east also have the land use designation of Coastal Area with one (1) parcel to the northwest having a Future Land Use designation of Low Density.

As outlined in the 2018 Sussex County Comprehensive Plan, the 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.

Zoning Information

The property is zoned Agricultural Residential (AR-1). The adjacent parcels to the north of the subject property are zoned Agricultural Residential (AR-1) and Commercial Residential (CR-1) Zoning District and consist of an agricultural use with a homesite, a commercial use, and an unimproved parcel owned by the Delaware Department of Transportation. The properties to the



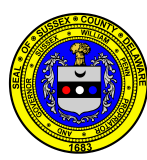
east across John J. Williams Highway are zoned Agricultural Residential (AR-1) and consist of single-family residential improvements and four properties on the eastern side of John J. Williams Highway (Route 24) containing a Future Land Use Map designation of “Commercial Area”. The parcels to the south of the subject properties are zoned Agricultural Residential (AR-1) with one containing a detached single-family dwelling and the other containing the Baylis Estates Cluster Subdivision.

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

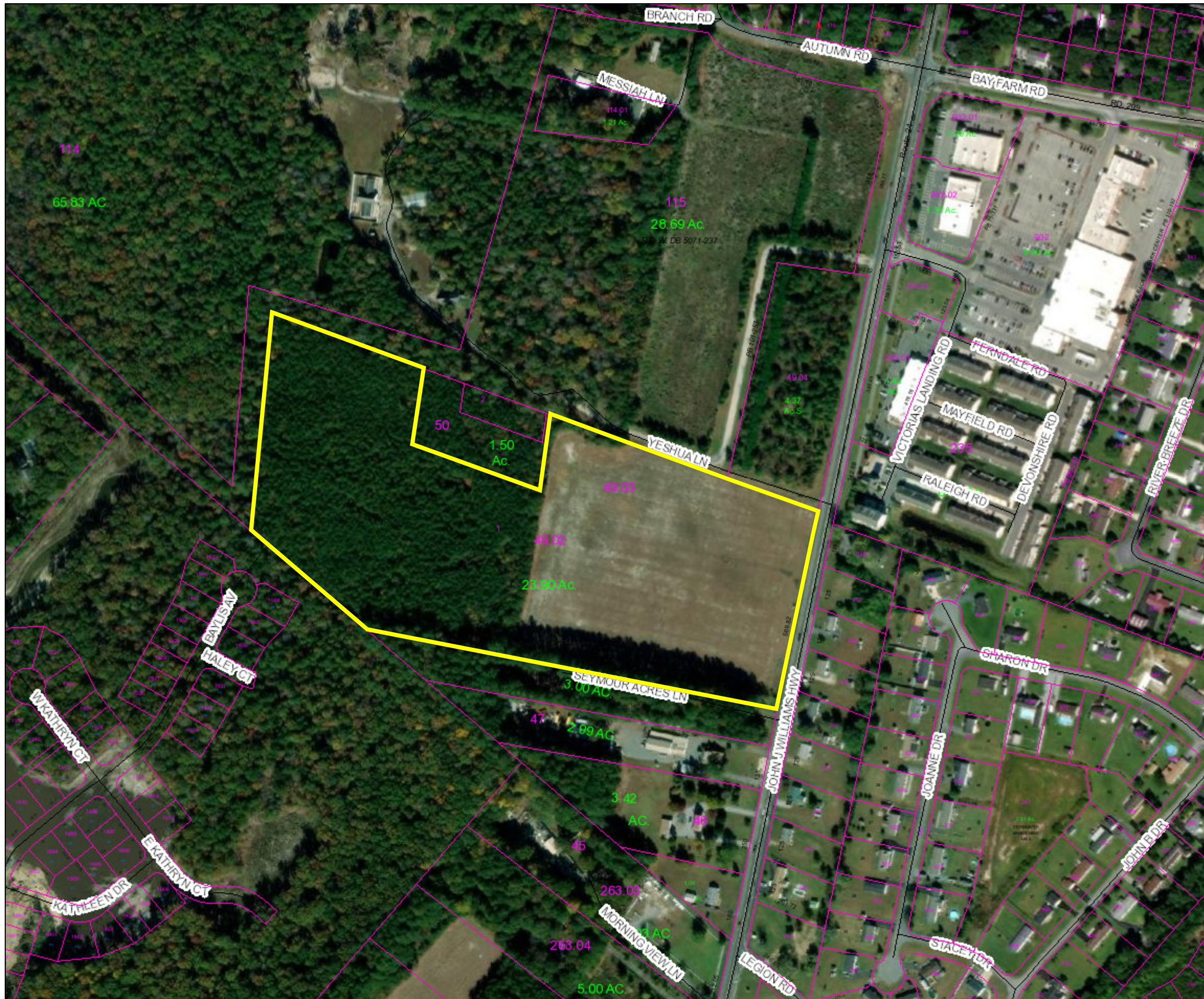
Existing Changes of Zone within the Vicinity of the Subject Site

Since 2011, there have been five (5) Change of Zone applications within a 0.25-mile radius of the application site. The first application is for Change of Zone No. 1788 Upesh Vyas for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Commercial Residential (CR-1) Zoning District. The application was approved by the Sussex County Council on December 1, 2015 and the change was adopted through Ordinance No. 2427. The second application is for Change of Zone No. 1880 Craig Kormanik for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Medium Commercial (C-2) Zoning District. The application was approved by the Sussex County Council on July 16, 2019 and the change was adopted through Ordinance No. 2669. The third application is for Change of Zone 1911 Schiff Land Development Co., LC (Mr. TJ Schiff) (Patriots Glen Phase 2) for a change of zone from Medium-Density (MR) Residential District and a Commercial Residential (CR-1) District to Medium-Density (MR-RPC) Residential District - Residential Planned Community. The application was approved by the Sussex County Council on April 20, 2021 and the change was adopted through Ordinance No. 2770. The fourth application is for Change of Zone 1940 Community Bank Delaware c/o Stephen W. Spence for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Medium Commercial (C-2) Zoning District. The application was approved by the Sussex County Council on February 1, 2022 and the change was adopted through Ordinance No. 2829. The last application is for Change of Zone No. 1791 Carillon Square Apartments, LLC for a change of zone from an Agricultural Residential (AR-1) Zoning District and a General Commercial (C-1) Zoning District to a High-Density (HR-1) Residential District. The application was approved by the Sussex County Council on April 12, 2016 and adopted through Ordinance No. 2444.

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



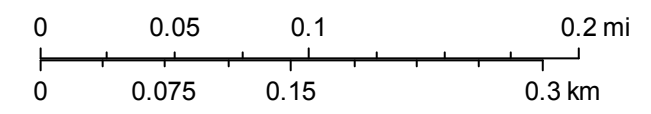
Sussex County

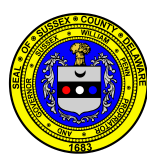


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|------------------------|----------------------------------|
| PIN: | 234-29.00-49.02 |
| Owner Name | AMERICAN STORAGE OF DELAWARE LLC |
| Book | 5328 |
| Mailing Address | 113 DICKINSON ST STE 100 |
| City | DEWEY BEACH |
| State | DE |
| Description | W/RT 24 |
| Description 2 | PARCEL 1 |
| Description 3 | N/A |
| Land Code | |

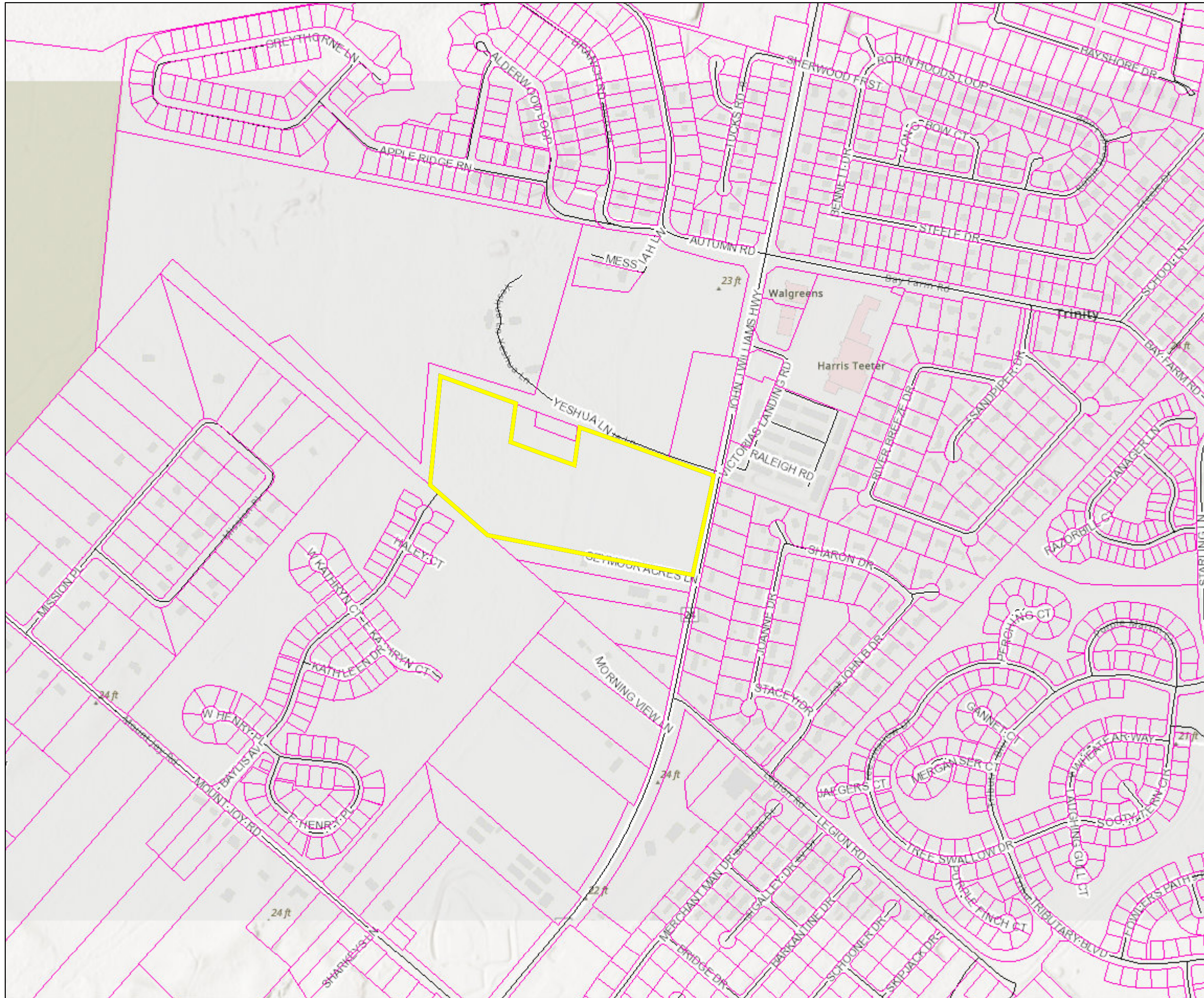
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- ⋯ Tax Parcels
- Streets

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Sussex County



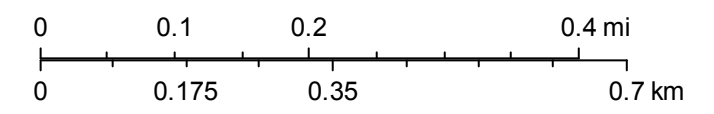
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| Description 2 | PARCEL 1 |
| Description 3 | N/A |
| Land Code | |

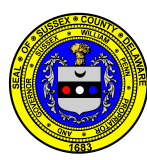
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 - Override 1
- polygonLayer**

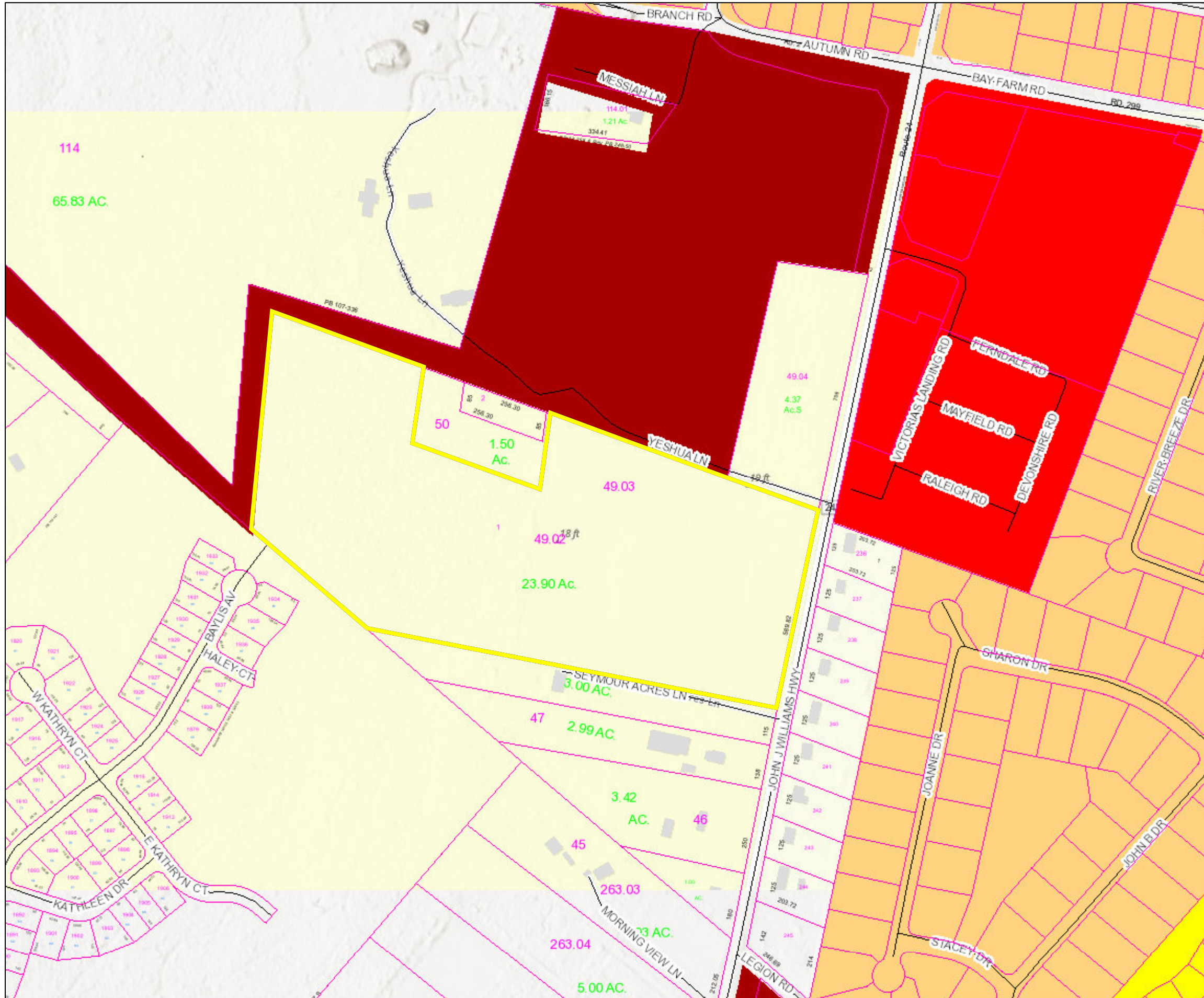
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- Tax Parcels
- Streets

1:9,028





Sussex County



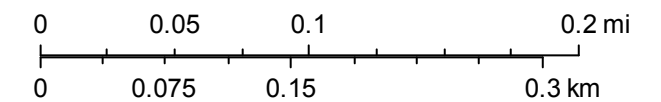
| | |
|------------------------|----------------------------------|
| PIN: | 234-29.00-49.02 |
| Owner Name | AMERICAN STORAGE OF DELAWARE LLC |
| Book | 5328 |
| Mailing Address | 113 DICKINSON ST STE 100 |
| City | DEWEY BEACH |
| State | DE |
| Description | W/RT 24 |
| Description 2 | PARCEL 1 |
| Description 3 | N/A |
| Land Code | |

- polygonLayer**

 - Override 1
- polygonLayer**

 - Override 1
- Tax Parcels
- Streets

1:4,514



Introduced 12/07/21

Council District 4 – Hudson
Tax I.D. No: 234- 29.00-49.02 (portion of)
911 Address: None Available

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.27 ACRES, MORE OR LESS

WHEREAS, on the 22nd day of September 2021, a zoning application, denominated Change of Zone No. 1954 was filed on behalf of American Storage of Delaware, LLC; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1954 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the west side of John J. Williams Highway (Route 24), approximately 0.25 mile south of the intersection of Autumn Road (S.C.R. 299) and Bay Farm Road (Route 299), being Parcel #1 shown on the site plan entitled, “American Storage of Delaware” prepared by Scaled Engineering and being more particularly described in the attached legal description prepared by Scaled Engineering, said parcel containing 8.27 acres, more or less.

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

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
(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: May 10, 2022

RE: County Council Report for C/Z 1955 filed on behalf of American Storage of Delaware, LLC

The Planning and Zoning Department received an application (C/Z 1955 filed on behalf of American Storage of Delaware, LLC) to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a MR Medium Density Residential District. The property is located on the west side of John J. Williams Hwy (Rt.24) approximately 0.25 mile south of Bay Farm Road (SCR. 299). The change of zone is for 17.63 acres, more or less.

The Planning and Zoning Commission held a public hearing on March 24, 2022. At the meeting of April 14, 2022, the Commission recommended approval of the application for the 8 reasons as outlined within the motion (included below). The County Council held a Public Hearing on the application on May 10, 2022. At the conclusion of the hearing, action on the application was deferred for further consideration. A link to the minutes of the May 10, 2022 County Council meeting is below:

[Minutes of the May 10, 2022 County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meetings of March 24, 2022 and April 14, 2022.

[Approved Minutes of the March 24, 2022 Planning & Zoning Commission Meeting](#)

C/Z 1955 American Storage of Delaware, LLC

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A PORTION OF CERTAIN



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

PARCELS OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 17.63 ACRES, MORE OR LESS. The property is lying on the west side of John J. Williams Highway (Route 24), approximately 0.25 mile south of the intersection of Autumn Road (S.C.R. 299) and Bay Farm Road (Route 299). 911 Address: N/A. Tax Parcels: 234-29.00-49.02 (portion of), 49.03 & 50.00.

Mr. Whitehouse advised the Commission that submitted into the record is the Applicant's Site Plan, the staff analysis, the DelDOT Service Level Evaluation Response, the PLUS comments, and six mail returns.

The Commission found that Ms. Mackenzie Peet, Esq. with Baird Mandalas Brockstedt, LLC, spoke on behalf of the Applicant, American Storage of Delaware, LLC; that also present were Mr. Alexander Pires and Mr. Nate Graulich, representatives of the Applicant, Mr. Steven Spence, Co-Council, Mr. Carlton Savage, P.E., Scaled Engineering, Inc and Mr. Ed Launay, Senior Professional Wetland Scientist and Principal of Environmental Resources, Inc; that the Applicant is intending to construct a mixed-use development, involving multi-family residential housing and a commercial storage facility component with office space; that the site is located on the western side of Rt. 24 (John J. Williams Hwy.) and south of Yeshua Lane in Millsboro, Delaware; that the site is located within the Indian River Hundred; that together the site consists of 25.9-acres; although submitted are three separate applications, she has consolidated her presentation to address all three Applications with one presentation, with the understanding the Commission will vote on each Application separately; that C/Z 1954 requested a rezoning of an 8.27-acre portion of Tax Map 234-29.00-49.02, from AR-1 (Agricultural Residential) to C-3 (Heavy Commercial); that this area is defined as Parcel 1 on the Preliminary Site Plan; that the rezoning was requested with the intention to develop 150,000 sq. ft. of commercial storage space, which would also include 1,200 sq. ft. of office space; that the commercial storage space would be for a three-story miniature warehouse; that currently the warehouse is proposed to have 838 units, but would be subject to change; that this use is permitted within the C-3 (Heavy Commercial) Zoning District; that this is the reasoning for the rezoning request; that C/Z 1955 requested rezoning for AR-1 (Agricultural Residential) to and MR (Medium-Density Residential) Zoning for the remaining, 17.63-acre portion of Tax Map: 234-29.00-49.02, as well as the entirety of parcels identified as 49.03 and 50.00; that this rezoning is requested with the intention of developing 140 multi-family units; that this area is defined as Parcel 2 on the Preliminary Site Plan; that related to that Application is C/U 2315 which requests a Conditional Use for the development of 140 multi-family units to be located on the parcels previously mentioned, which are proposed to be rezoned from AR-1 to MR; that she has submitted into the record proposed Conditions of Approval for C/U 2315 specifically; that the Applicant submitted into the record, the Land Use Application and Preliminary Site Plan, prepared by Scaled Engineering, Inc. for each request; that the Applicant submitted property and deed information concerning each parcel, confirming the owner and applicant as American Storage of Delaware, LLC; that the Applicant submitted legal descriptions for each parcel contained in Exhibit A; that a DelDOT Service Level Request and response are contained Exhibit B; that the Service Level Response confirms the proposed land use would considered to have a minor impact to the local area roadways; that the PLUS Application and PLUS comments dated, March 23, 2021 are contained within Exhibit C; that a rendering of the proposed commercial use is contained in Exhibit D; that aerial maps of the site reflecting Zoning Districts, Conditional Uses, Future Land Use and Sewer Tier Overlays are included with Exhibit E; that an Environmental Assessment Report,

prepared by Mr. Ed Launay and the Public Facility Evaluation Report, prepared by Scaled Engineering, Inc. are contained within Exhibit F; that both reports are required within the Coastal Area, in which the project is located; that the Coastal Area is designated as a growth area within Sussex County; that the Coastal Area generally includes the areas on the southeastern side of Sussex County within an area previously referred to as “Environmentally Sensitive Developing Area”; that mixed-use development, like the proposed Application, is permitted within the Coastal Area; that the Applicant’s plan is consistent with the Comprehensive Plan and complies with the Coastal Area requirements of Section 115-194.3 of the County Code; that the project is located within Investment Level 2 and Level 3 according to the Strategies of State Policies and Spending Map; that Investment Level 2 reflects areas where growth is anticipated in the near term; that Investment Level 3 reflects areas where growth is anticipated within a longer term; that as confirmed by the PLUS comments, the Office of State Planning and Coordination have no objection to the proposed rezoning and development provided it is compliant with the Comprehensive Plan and all applicable Codes and Ordinances; that nearby commercial and residential communities exist; that some of the nearby residential developments are Victorias Landing, River Breeze, Seabrook, The Peninsula and Peninsula Lakes; that The Peninsula and Peninsula Lakes are zoned as MR (Medium-Density Residential); that nearby commercial uses include the shopping center located at intersection of John J Williams Hwy. and Bay Farm Rd.; that passed the intersection of Rt. 24 and Rt. 23 are commercial uses such as a car wash, Giant grocery store, Arcadia Healthcare, and multiple fast-food establishments including Dunkin Donuts and McDonalds; that at the intersection of Rt. 24 and Mount Joy Rd. is Royal Farms, a church and a small strip mall, where the Liberty gas station is located, as well as a deli and tattoo parlor; that Section 115-194.3 of the Sussex County Code requires the Applicant’s submission of the Environmental Assessment and Public Facility Evaluation Report and sketch plan for the project, as it proposes 50 or more dwelling units and 75,000 sq. ft. or more of floor area for commercial use; that Scaled Engineering report, which also included Mr. Launay’s report, stated a combination of wet ponds, planted buffers and infiltration practices will be used for stormwater treatment; that stormwater will be discharged in accordance with the State of Delaware and Sussex Conservation District requirements; that water will be provided by Tidewater Utilities; that Tidewater Utilities did provide a Will Serve letter for the project, which is included within Exhibit F; that sewer service will be provided by Sussex County; that she just received that day, the Sewer Service Concept Evaluation, which she submitted into the record; that the Sewer Service Evaluation confirmed the project is located within Tier 2 with a need for 146 EDU’s, with 140 EDU’s for the multi-family component and three for the office component; that the increase in traffic and affect on surrounding roadways will be analyzed, reviewed and approved by DelDOT; that indicated within the PLUS comments, the improvements will generate less than 2,000 average daily trips and less than 200 peak hour vehicle trips; that this allows the developer to pay an area wide study fee in lieu of performing a Traffic Impact Study; that the fee would require an estimate payment of \$11,710.00; that DelDOT anticipates to have the developer contribute to a DelDOT project presently scheduled for construction in the summer of 2022 at the intersection of Rt. 24 and Mount Joy Rd. and the intersection of Rt. 24 and Bay Farm Rd.; that the mandatory shared-use path, as required by DelDOT, will be added to the Final Site Plan; that the Applicant will also address DelDOT’s comments stating at least two walkways connecting to the interior of the site to Rt. 24; that one walkway will be along the driveway at the north edge of the property and one walkway on the south end of the frontage connecting to the parking lot from the business park to the frontage of the property may be required; that Mr. Launay’s Assessment of Environmental Assessments and Features Report confirmed that no critical habitat areas exist on the

site; no federally listed or endangered species are located on the site; that no wetlands, streams and drainage conveyances exist on or nearby the site; that the site is presently vacant and consist of 11.5-acres of agricultural land, which is located at the front of the property; that 14.4-acres of immature trees, which were previously cut in 2004, according to Mr. Launay's report; that the Applicant understand the preservation of natural resources and open space is strongly encouraged in the Coastal Area; that the project proposed roughly 11-acres of open space to be preserved; that the Applicant's first request is C/Z 1954, which requests a rezoning of a 8.27-acre portion of Tax Map 234-29.00-49.02 from AR-1 to C-3 to develop 150,000 sq. ft. of commercial space, a permitted use within C-3 or a similarly permitted use; that this component will include 838 storage units and 1,200 sq. ft. of office space; that these are all permitted uses within C-3 according to Section 115-83.8A of the Code; that other C-3 permitted uses include agricultural uses such as greenhouses and wholesale nurseries, residential uses including hotels and motels and commercial uses including convenient stores, gas station, restaurants, business parks and professional offices; that the C-3 (Heavy Commercial District) is usually intended for larger scale service businesses along major arterial roads; that the intended rezoning is consistent with the purposed of the C-3 Zoning District; that the Applicant acknowledges the need to go through the Final Site Plan process and approval, should the rezoning be approved; that there is a demand for storage facilities in Sussex County with many people relocating to the area; that she believes the Commission recognizes the need for commercial development in appropriate areas; that the assessment, prepared by Scaled, notes the use is proposed in a centralized location, with adequate access off Rt. 24; that the proposed rezoning from AR-1 to C-3 is consistent with the Comprehensive Plan and the Future Land Use Map; that specifically the project is located within the Coastal Area, which is a growth area compatible for retail, large shopping centers, offices and office parks when located along arterial roads, like Rt. 24, which is classified as a major collector road; that the proposed C-3 rezoning is consistent with surrounding land uses, as the site is located near commercially zoned properties; that within the Planning & Zoning memorandum, it was noted there have been five Change of Zone applications submitted within a .25-mile radius of the site; that these Change of Zone applications were for gas stations, convenient stores, retail and consumer related services; that the property is adjacent to CR-1 (Commercial Residential) which is identified as Tax Map 234-23.00-115.00, as well as multiple other properties across the street from the site, at the intersection of Autumn Rd. and Rt. 24, which are also zoned C-1; that there is multiple other commercial development along Rt. 24 and Rt. 5, Rt. 24 and Rt. 23 and Rt. 24 and Bay Farm Rd.; that Table 4.5-2 of the Zoning Code confirms C-3 is an applicable district within the Coastal Area; that for all the reasons stated the proposed rezoning is compatible with the surrounding community; that the rezoning request will not have an adverse effect or impact on properties near or adjacent to the site; that the Applicant's second request is C/Z 1955, requesting a rezoning of a 17.63-acre portion of Tax Map 234-29.00-49.02 and the entire other parcel referenced from AR-1 (Agricultural Residential) to MR (Medium-Density Residential) for the purpose to develop 140 multi-family units; that all surrounding properties are zoned AR-1, with the remaining parcels on the opposite side of Rt. 24 zoned as C-1 (General Commercial District) and GR (General Residential); that Peninsula Lakes and The Peninsula, located in the nearby vicinity of the site, are also zoned MR; that the MR Zoning District provides for Medium-Density Residential development in areas which are expected to become generally urban in character, where sanitary sewer and public water supplies may or may not be available at the time of construction, together with churches, recreational facilities and accessory uses, as may be necessary or compatible with residential surroundings; that the proposed rezoning is compatible with surrounding land use; that this includes not only the MR zoned properties, but also

the properties zoned GR and C-1; that the general table of height, area and bulk requirements and the table for multi-family units confirm that MR and GR districts are subject to the same bulk requirements; that everything around the site is consistent with surrounding land uses; that the rezoning request from AR-1 to MR is consistent with the Comprehensive Plan and Future Land Use Map; that the project is located within the Coastal Area, which is a growth area; that the Comprehensive Plan states this is an area most desirable for new housing for a range of housing types, including multi-family; that medium and higher-density residential development in between four to 12 units per acre is appropriate and supported within the Coastal Area, where central water and sewer access and in close proximity to commercial uses and employment centers, where the use is compatible with the character of the area, located along a main road, such as Rt. 24 and where there are adequate levels of service; that the adequate levels of service has been provided through submissions into the record; that detailed in the assessment prepared by Scaled, central water and sewer will be provided by DelDOT and Sussex County respectively; Title 4.5-2 of the Comprehensive Plan confirms MR is an appropriate district for the Coastal Area; that for all the reasons stated the proposed rezoning from AR-1 to MR is not only compliant with the Zoning Code but also consistent with the Comprehensive Plan and Future Land Use Map; that the last request is for a Conditional Use, which is subject to the approval C/Z 1955 for the development of 140 multi-family units, which will include a clubhouse and playground amenity on a part of parcel 49.02 and the entirety of parcels for 49.03 and 50.00; that as shown on the Preliminary Site Plan, the Applicant is proposing five buildings, with 28 units each, as well as a clubhouse and playground amenity; that parking meets the Code requirements of 280 parking spaces, which equals two units per apartments; that the units are being proposed as apartment units specifically; that the required seven handicap spaces will be provided; that the Applicant is proposing 283 parking spaces with 12 handicap spaces; that this will equal a total of 295 parking spaces; that Section 115-31 of the Zoning Code permits multi-family dwelling units as Conditional Uses subject to the provisions of Section 115-219 for a Site Plan review; that the proposed development will comply with Section 115-188 of the Code for multi-family development; that the proposed development is consistent with surrounding land uses being of semi-public to public character and by promoting the general convenience and welfare of Sussex County; that with nearby properties of Peninsula Lakes and The Peninsula similarly zoned, as well as being located in the vicinity of residential and commercial properties; that MR, GR and C-1 are all subject to the same height, area and bulk requirements for multi-family units; that the proposed development is consistent with the Future Land Use Map, as the Coastal Area confirms the area is an appropriate and desirable area for new housing; that proposed Conditions of Approval have been submitted into the record and for all the reasons stated the Conditional Use is compliant with the Zoning Code, compatible with surrounding land uses and consistent with the Future Land Use Map and Comprehensive Plan.

Ms. Wingate stated when she was originally looking at the Preliminary Plans, she did not understand why the Applicant chose to place the storage at the front of the property, but she now appreciated the choice, as she realized the intent is to leave as many trees as possible.

Ms. Stevenson questioned why the Applicant chose to rezone to a C-3 (Heavy Commercial District) versus a C-2 (Medium Commercial District).

Mr. Robertson reminded the Commission if the rezoning is granted the Application will still require returning to Commission for Site Plan Review for whichever permitted use is requested.

Chairman Wheatley reminded the Commission once a parcel is rezoned the property could be proposed for any use permitted within the approved zoning district.

Ms. Peet stated the C-2 District is limited in regard to what can be done with storage; that C-3 Zoning allows for parking and storage and warehouse-type storage; that C-2 Zoning is more limited regarding storage requirements and for the proposed permitted use, C-3 is more compatible than C-2 Zoning and the Applicant does understand the Application must return for Site Plan review and approval.

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

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

At the conclusion of the Public Hearing, the Commission discussed the Applications.

In relation to C/Z 1955 American Storage of Delaware, LLC. Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to defer action for further consideration. Motion carried 5-0.

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

The Commission discussed the application which has been deferred since March 24, 2022.

Ms. Stevenson moved that the Commission recommend approval of C/Z 1955 American Storage of Delaware, LLC, for a Change in Zone from AR-1 to MR based upon the record made during the public hearing and for the following reasons:

1. This application seeks a Change in Zone from AR-1 to MR. The purpose of the MR zone is to provide housing in an area that is expected to become urban in character and where central water and sewer is available.
2. Both central water and central sewer are available at this site.
3. This site is situated along Route 24 near the Route 24 and Bay Farm Road intersection. Route 24 is considered a Major Collector roadway by DelDOT. Given its location along Route 24, MR zoning is appropriate for this property.
4. The property is adjacent to a property that is zoned CR-1 and it is generally across from properties that are zoned C-1. These uses include a shopping center with a large grocery store. There are also other properties in the area being used for business or commercial uses. MR zoning is appropriate in this location where these other uses exist.
5. There is extensive GR-zoned property and there is a townhome development across Route 24 from this site. MR zoning is consistent with these nearby residential zoning districts and uses.
6. The proposed MR Zoning meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.
7. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. MR Zoning is appropriate in this Area according to the Plan.
8. For all these reasons, MR zoning is appropriate for this site.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 1955 American Storage of Delaware, LLC, for the reasons and conditions stated in the motion. Motion carried 4-0.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: March 24th, 2022

Application: C/Z 1955 American Storage of Delaware, LLC

Applicant: American Storage of Delaware, LLC
113 Dickinson Street
Dewey Beach, DE 19971

Owner: American Storage of Delaware, LLC
113 Dickinson Street
Dewey Beach, DE 19971

Site Location: Lying on the west side of John J. Williams Highway (Route 24), approximately 0.25 mile south of the intersection of Autumn Road (S.C.R. 299) and Bay Farm Road (Route 299).

Current Zoning: Agricultural Residential (AR-1) District

Proposed Zoning: Medium Density Residential (MR) District

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Indian River Fire Department

Sewer: Sussex County

Water: Tidewater

Site Area: 17.63 acres +/-

Tax Map ID.: (portion of) 234-29.00-49.02, 49.03 & 50.00



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Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Ms. Lauren DeVore, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: February 21, 2022
RE: Staff Analysis for C/Z 1955 American Storage of Delaware, LLC

This memo provides background and an analysis for the Planning Commission to consider as a part of Change of Zone No. 1955 American Storage of Delaware, LLC. This analysis has been completed for the March 24, 2022, Planning and Zoning Commission meeting, and it should be included in the record. This analysis is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zoning for a portion of Tax Parcels: 234-29.00-49.02, 49.03 and 50.00 to allow for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Medium Density Residential (MR) Zoning District. The properties are located on the east side of John J. Williams Highway (Route 24) approximately 0.25 mile south of the intersection of Autumn Road (S.C.R. 299) and Bay Farm Road (Route 299). The parcels comprise a total area of 17.63 acres +/-.

Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcels have a designation of "Coastal Area." The parcels to the north, east and west also have a Future Land Use Map designation of "Coastal Area." The adjacent parcels to the north and south of the subject properties also retain the Future Land Use Map designation of "Coastal Area." The properties on the opposite side of John J. Williams Highway (Route 24) are also designated as "Coastal Areas." The balance of the property to the northwest of the subject site contains the Future Land Use Map designation of "Low Density Area" with four properties on the eastern side of John J. Williams Highway (Route 24) containing a Future Land Use Map designation of "Commercial Area."

As outlined within the 2018 Sussex County Comprehensive Plan, Coastal Areas are areas that can accommodate development provided special environmental concerns are addressed. A range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units. Retail and office uses are appropriate but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should also be allowed. In doing so, careful mixtures of homes with light commercial, office and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home. Major new industrial uses are not proposed in these areas. (Sussex County Comprehensive Plan, 4-15).



Zoning Information

The subject properties are zoned Agricultural Residential (AR-1). All surrounding properties to the south and 90 degrees due east on the opposite side of John J. Williams Highway (Route 24) are zoned Agricultural Residential (AR-1). The remaining parcels on the opposite side of John J. Williams Highway (Route 24) to the northeast are zoned General Commercial (C-1) and General Residential (GR).

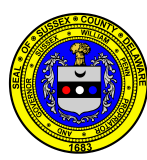
Applicability to Comprehensive Plan

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

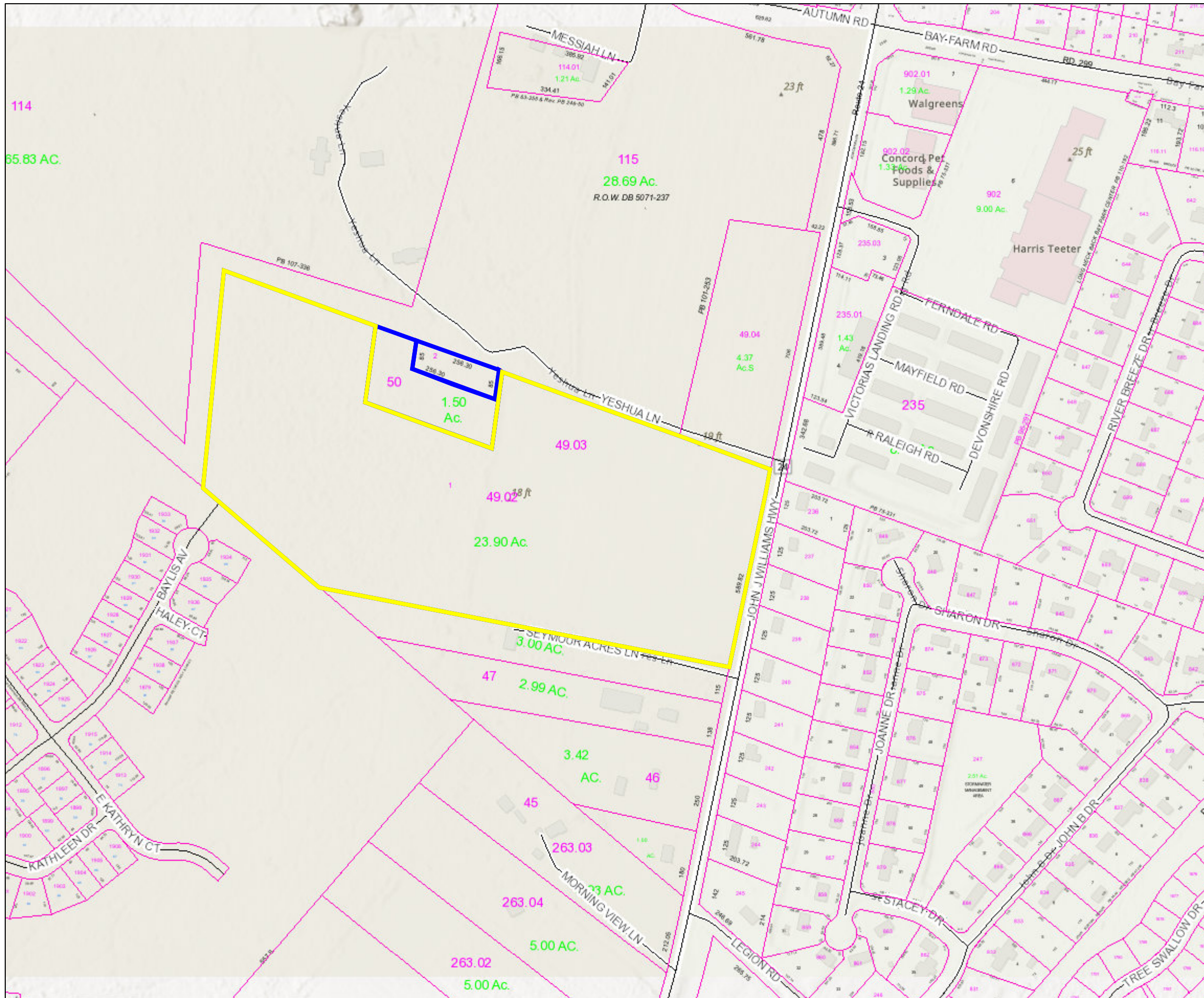
Existing Changes of Zone within the Vicinity of the Subject Site

Since 2011, there have been five (5) Change of Zone applications within a 0.25 mile radius of the application site. The first application is Change of Zone 1788 Upesh Vyas for a change of zone from an Agricultural Residential (AR-1) District to a Commercial Residential (CR-1) District which was approved by the Sussex County Council on Tuesday, September 15, 2015. This change was adopted through Ordinance No. 2427. The second application is Change of Zone 1791 Carillon Square Apartments, LLC for a change of zone from an Agricultural Residential (AR-1) District and General Commercial (C-1) District to a High Density Residential (HR-1) District which was approved by the Sussex County Council at their meeting of Tuesday, April 12, 2016. This change was adopted through Ordinance No. 2444. The third application is Change of Zone 1880 Craig Kormanik for a change of zone from an Agricultural Residential District (AR-1) to a Medium Commercial (C-2) Zoning District which was approved by the Sussex County Council on Tuesday, July 16, 2019, and adopted through Ordinance No. 2669. The fourth application is Change of Zone 1911 Schiff Land Development Co., LC (Mr. TJ Schiff) (Patriots Glen Phase 2) for a change of zone from a Medium Density Residential (MR) District and a Commercial Residential (CR-1) District to a Medium Density Residential, Residential Planned Community (MR-RPC) which was approved by the Sussex County Council on Tuesday, April 20, 2021. This change was adopted through Ordinance No. 2770. The fifth application is Change of Zone 1940 Community Bank Delaware c/o Stephen W. Spence for a change of zone from an Agricultural Residential (AR-1) District to a Medium Commercial (C-2) District which was approved by the Sussex County Council on Tuesday, February 1, 2022. This change was adopted through Ordinance No. 2829.

Based on the analysis provided, a change from an Agricultural Residential (AR-1) Zoning District to a Medium Density Residential (MR) Zoning District could be considered as consistent with the surrounding land uses and zoning.



Sussex County



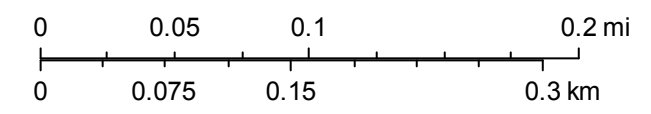
| | |
|------------------------|----------------------------------|
| PIN: | 234-29.00-49.02 |
| Owner Name | AMERICAN STORAGE OF DELAWARE LLC |
| Book | 5328 |
| Mailing Address | 113 DICKINSON ST STE 100 |
| City | DEWEY BEACH |
| State | DE |
| Description | W/RT 24 |
| Description 2 | PARCEL 1 |
| Description 3 | |
| Land Code | |

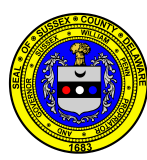
- polygonLayer**

 - Override 1
- polygonLayer**

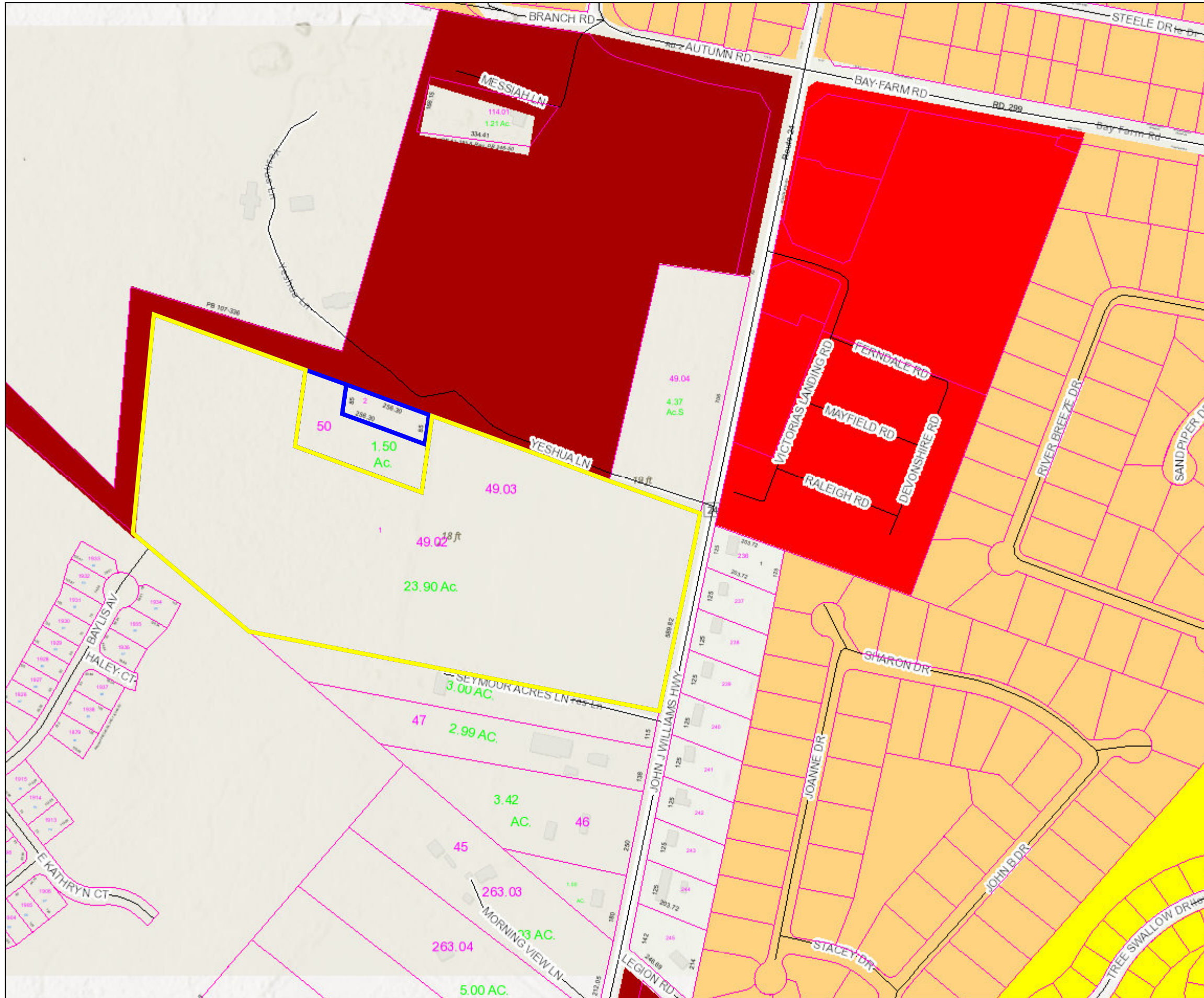
 - Override 1
 - Tax Parcels
 - Streets
 - County Boundaries

1:4,514





Sussex County



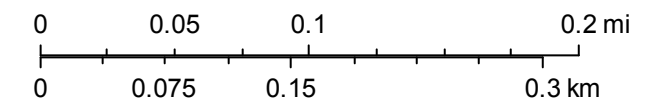
| | |
|------------------------|----------------------------------|
| PIN: | 234-29.00-49.02 |
| Owner Name | AMERICAN STORAGE OF DELAWARE LLC |
| Book | 5328 |
| Mailing Address | 113 DICKINSON ST STE 100 |
| City | DEWEY BEACH |
| State | DE |
| Description | W/RT 24 |
| Description 2 | PARCEL 1 |
| Description 3 | |
| Land Code | |

- polygonLayer**

 - Override 1
- polygonLayer**

 - Override 1
- Tax Parcels
- Streets

1:4,514



Introduced 12/07/21

**Council District 4 – Hudson
Tax I.D. Nos: (portion of) 234- 29.00-49.02, 49.03 & 50.00
911 Address: None Available**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A PORTION OF CERTAIN PARCELS OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 17.63 ACRES, MORE OR LESS

WHEREAS, on the 22nd day of September 2021, a zoning application, denominated Change of Zone No. 1955 was filed on behalf of American Storage of Delaware, LLC; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1955 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the west side of John J. Williams Highway (Route 24), approximately 0.25 mile south of the intersection of Autumn Road (S.C.R. 299) and Bay Farm Road (Route 299), being Parcel #2 shown on the site plan entitled, “American Storage of Delaware” prepared by Scaled Engineering and being more particularly described in the attached legal description prepared by Scaled Engineering, said parcel containing 17.63 acres, more or less.

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

Council Grant Form

| | |
|---|---|
| Legal Name of Agency/Organization | Milford Pop Warner Pop Warner Little Scholars Inc |
| Project Name | Concession Trailer |
| Federal Tax ID | 51-0274696 ✓ |
| Non-Profit | Yes |
| Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.) | No |
| Organization's Mission | Pop Warner Football is an international program operated for the benefit of its youthful participants since 1971. The program philosophy has been Academics and Athletics go hand in hand. Pop Warner seeks to develop well rounded young men and woman who learn not only the fundamentals of football and cheerleading, but also the importance of education, in an atmosphere conducive to developing sound mind, body and character and having a good time along the way. |
| Address | PO Box 154 |
| Address 2 | |
| City | Milford |
| State | DE |

Zip Code 19963

Contact Person Danielle Dixon

Contact Title Cheer Director

Contact Phone Number 302-265-7816

Contact Email Address danielle@mastenrealty.com

Total Funding Request 1000

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

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

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

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

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

**Program Category
Other** Youth Sports

**Primary Beneficiary
Category** Youth

**Beneficiary Category
Other**

**Approximately the
total number of
Sussex County
Beneficiaries served,
or expected to be
served, annually by
this program** 50

Scope We are seeking funding to restore & upgrade our concession trailer to fundraise for our organization. We did not have a season or income in 2020 due to covid and spent most of the 2021 season playing catch up and trying to get through the season. We would like to get our trailer back to usable conditions to be able to fundraise more and keep the costs low for our parents.

**Religious
Components**

**Please enter the
current support your
organization receives
for this project (not
entire organization)** 0.00

revenue if not applicable to request)

Description Generator

Amount 1,500.00

Description Ice Machine

Amount 2,000.00

Description Vinyl

Amount 3,000.00

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

TOTAL EXPENDITURES 6,500.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -6,500.00

Name of Organization Milford Pop Warner

**Applicant/Authorized
Official** Danielle Dixon

Date 05/24/2022

**Affidavit
Acknowledgement** Yes

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Hudson.
YES - 6.6.22

Council Grant Form

| | |
|---|--|
| Legal Name of Agency/Organization | Southern Delaware Women's Multisport Club ✓ |
| Project Name | So Del Represent! Uniforms for Southern Delaware Women's Multisport Club |
| Federal Tax ID | 87-3496192 ✓ |
| Non-Profit | Yes |
| Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.) | No |
| Organization's Mission | Southern Delaware Women's Multisport Club is a nonprofit corporation organized and operated to foster national or international amateur sports competition for women in multisport events (including but not limited to triathlon, biathlon, duathlon, aquathlon, swim-run, off road, winter triathlon, quadrathlon, and aquabike) and their individual sport disciplines. |
| Address | 31607 Charleys Run |
| Address 2 | |
| City | Bethany Beach |
| State | DE |
| Zip Code | 19930 |

Contact Person Michelle Mc Guinness

Contact Title President

Contact Phone Number 3023060234

Contact Email Address SoDelFoxes@gmail.com

Total Funding Request \$5000

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

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

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

If YES, approximately what percentage of the project's funding does the Council grant represent? 50

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

Program Category Fitness
Other

Primary Beneficiary Category Other

Beneficiary Category Women
Other

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program 50

Scope

Southern Delaware Women's Multisport Club is a new triathlete club based in Bethany Beach. We do not have uniforms for our club members. Uniforms will help us share our pride in hailing from Southern Delaware when we attend races and events.

Unlike typical one sport athletes, triathletes train and compete in 3 different disciplines and could cost athletes \$1000+ each. The typical uniform costs for a triathlete are:
Swimsuit or Triathlon Skinsuit: \$70-200
Cycling Jersey or Tri Top \$55-120
Cycling Shorts or Trishort: \$60-120
Running Top: \$40-60
Running Short: \$40-\$60
Running/Cycling Jacket: \$60-80
Running/Cycling Pants: \$60-80
Team Fleece/Sweatshirt: \$50-80

The purpose of this grant request is to provide a 50% match up to \$100 of uniform costs for the first 50 club members

that Sussex County residents who take advantage of the program. The total grant allocation for uniforms would be \$5000. Club members would be responsible for all remaining uniform costs.

**Religious
Components**

Not Applicable

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

0.00

Description

Uniforms

Amount

5,000.00

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

TOTAL EXPENDITURES 5,000.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -5,000.00

Name of Organization Southern Delaware Women's Multisport Club

**Applicant/Authorized
Official** Michelle Mc Guinness

Date 05/29/2022

**Affidavit
Acknowledgement** Yes

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

Council Grant Form

| | |
|---|--|
| Legal Name of Agency/Organization | True Blue Jazz Inc. ✓ |
| Project Name | 2022's 10th Anniversary True BLue Jazz Festival |
| Federal Tax ID | 47-1429059 ✓ |
| Non-Profit | Yes |
| Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.) | No |
| Organization's Mission | Our Mission Statement reads "Preservation through Performance". We accomplish this in several ways; the first and most obvious method is by bringing bonafide American Jazz Artists that are committed purveyors of the American Jazz Catalogue. Jazz Artists building their reputation, or the Legends of Jazz who have helped to forge Jazz into the singular American Art Form, recognized & embraced around the world. |
| Address | 31408 Heron Circle |
| Address 2 | |
| City | Lewes |
| State | DE |
| Zip Code | 19958 |

| | |
|---|--|
| Contact Person | Eddie Sherman |
| Contact Title | Pres. / Exec Prd |
| Contact Phone Number | 610-804-5048 |
| Contact Email Address | info@truebluejazz.org |
| Total Funding Request | 7500.00 |
| 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? | 5000.00 |
| Are you seeking other sources of funding other than Sussex County Council? | Yes |
| If YES, approximately what percentage of the project's funding does the Council grant represent? | 4 |
| Program Category (choose all that apply) | Cultural, Educational, Other |

Program Category Tourism
Other

Primary Beneficiary Category Youth

Beneficiary Category
Other

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program 5000

Scope

In support of our Mission Statement ("Preservation through Performance"), Youth Jazz Education is our primary focus. Providing opportunities to perform Live On Stage for area Jazz Students, as well as access to Real Life Working Professional Artists through Master Class Workshops & Clinics is extremely inspirational for young musicians. Here, in a Workshop setting, Jazz Students receive mentoring as a Band, as a Section, & individually. It's here, also, that discussion occurs regarding the "business" side of working professionally as a musician....learning "the ropes" of the business. True Blue Jazz also offers Instrument Donations to Students of Need. Additionally, we make Merit-based Scholarship Awards. 2021 Cape Henlopen Graduates received 4 Scholarship at \$1000 each this year, a Master Class Workshop with Alto Sax Legend Bobby Watson, & On Stage Performance Time with Trumpeter/Vocalist Benny Benack III.

Education is the issue we are addressing through the work of our True Blue Jazz Festival. We can easily point many other "JINO" Festivals (that's JAZZ IN Name ONLY), & they

are perhaps racking up larger Ticket Sales, drawing more people to their location....but they are operating oblivious to the Music Students of their Community, introducing them to American Jazz. Most Schools in our State don't feature a single Jazz Chart for their Music Students to work on. We KNOW we are making a difference here in our community, & beyond, working the Youth Jazz Programs that we make available to area music students. True Blue Jazz just conducted an Opera Clinic with Internationally Acclaimed & Award Winning Tenor- Paul Spencer Adkins, with the Cape High School Choral Department. And, Cape HS Band Director Chris Burkhart informed us at their Spring Concert that all 5 "1st Chair Positions" in our Delaware All-State Band were won by our Cape Henlopen High School Jazz Band Rhythm Section Members. We KNOW we are getting results. Rare in many, practically any, academic programs. And the Contribution that we receive from Sussex County Council is going straight to our Music Students, either as Scholarships Recipients, or more broadly with the presence of Touring Professional Jazz Artists there in their band room, sharing a universe of Jazz Experiences with our True Blue Jazz Kids.

**Religious
Components**

**Please enter the
current support your
organization receives
for this project (not
entire organization
revenue if not
applicable to request)** 127,886.00

Description Artist & Entertainer Fees

Amount 40,180.00

| | |
|--|---|
| Description | Ads / Promo |
| Amount | 17,785.00 |
| Description | Travel / Hotels / F&B Meals |
| Amount | 13,725.00 |
| Description | Accounting, Permits & Svc Fees |
| Amount | 3,073.00 |
| Description | Scholarships / Donations |
| Amount | 6,900.00 |
| Description | Festival / Indie Event Insurance / Office Mgmt Exps |
| Amount | 25,415.00 |
| Description | Venue Rental |
| Amount | 7,720.00 |
| Description | Equip't Rental / Purchase |
| Amount | 14,500.00 |
| TOTAL EXPENDITURES | 129,298.00 |
| TOTAL DEFICIT FOR PROJECT OR ORGANIZATION | -1,412.00 |
| Name of Organization | True Blue Jazz Inc. |

**Applicant/Authorized
Official** Eddie Sherman

Date 05/30/2022

Affidavit Yes

Acknowledgement

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

To Be Introduced: 6/14/22

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, BY AMENDING SECTION 115-77.1 (LARGE SCALE USES) TO CLARIFY HOW FLOOR AREA IS CALCULATED

WHEREAS, pursuant to the provisions of Title 9, Chapter 69 of the Delaware Code, Sussex County has been granted the power and authority to regulate zoning; and

WHEREAS, the Sussex County Zoning Code currently provides in Section 115-77.1 (Large Scale Uses) that “total gross building area” is to be used for the purposes of calculating the maximum floor area of a building or a group of buildings within a General Commercial (C-1) Zoning District.

WHEREAS, the Sussex County Zoning Code currently provides in Section 115-83.2 and 83.3 that the “total floor area” is to be used for the purposes of calculating the maximum floor area of a building or group of buildings within a Commercial Residential (CR-1) Zoning District.

WHEREAS, Sussex County wishes to amend the Zoning Code to ensure consistency in the way in which maximum floor areas are calculated.

WHEREAS, Sussex County Council believes that this legislation will promote the health, safety, morale, convenience, order, prosperity and/or welfare of its citizens.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Code of Sussex County, Chapter 115, §115-77.1 “Large-scale uses”, A thereof, is hereby amended by deleting the language in brackets and inserting the italicized and underlined language:

Section 115-77.1 Large-scale uses.

...

A. It is recognized that there may be large-scale commercial or retail uses planned in the C-1 General Commercial District, generally serving a regional area. Such uses are defined as those where the total [gross building] *floor* area of any building or group of buildings shall be equal to or exceed 75,000 square feet. Such uses shall be adjacent to a major arterial roadway, as defined in § 99-5 of the Subdivision Ordinance, Chapter 99 of the Code of Sussex County, and be located where adequate infrastructure is existing, planned or funded and shall be completed prior to the issuance of a certificate of compliance. Such uses are not characterized by extensive warehousing, frequent heavy trucking activity, open storage of materials or the nuisance factors of dust, odor and noise associated with manufacturing. Such uses must comply with the provisions contained within this section.

To Be Introduced: 6/14/22

Council District 3: Mr. Hudson
Tax I.D. No.: 533-18.00-35.03
911 Address: 32634 Lighthouse Road, Selbyville

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BUSINESS PARK CONTAINING MIXED-USE BUILDINGS FOR OFFICE AND RETAIL PURPOSES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.15 ACRES, MORE OR LESS

WHEREAS, on the 4TH day of March 2022, a conditional use application, denominated Conditional Use No. 2355 was filed on behalf of Dan Velez and Maricryst Birao; 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. 2355 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. 2355 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the south side of Lighthouse Road (Rt. 54) approximately 0.30 mile east of Hudson Road (S.C.R. 387) and being more particularly described in the attached legal description prepared by Brian Murray, Esq., said parcel containing 1.15 acres, more or less.

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

To Be Introduced: 6/14/22

Council District 1: Mr. Vincent
Tax I.D. No.: 532-11.00-6.18
911 Address: 4742 White Deer Road, Delmar

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.247 ACRES, MORE OR LESS

WHEREAS, on the 28th day of February 2022, a zoning application, denominated Change of Zone No. 1977 was filed on behalf of Dare Clough Jr. and Chelsea Clough; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1977 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Little Creek Hundred, Sussex County, Delaware, and lying on the south side of White Deer Road (S.C.R. 508) approximately 0.54 mile east of Mount Herman Circle (S.C.R. 507) and being more particularly described in the attached legal description prepared by The Smith Firm, LLC., said parcel containing 1.247 ac., more or less.

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

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: May 10, 2022

RE: County Council Report for C/Z 1946 filed on behalf of Ronald and Candice Grey

The Planning and Zoning Department received an application (C/Z 1946 filed on behalf of Ronald and Candice Grey to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a B-2 Business Community District. The property is located on west side of Roxana Road [Rt. 17], approximately 0.69-mile northeast of the intersection of Roxana Road and Daisey Road [S.C.R. 370]). The change of zone is for 1.654 acres, more or less.

The Planning and Zoning Commission held a public hearing on May 26, 2022. At the meeting of June 9, 2022, the Commission recommended approval of the application for the 7 reasons as outlined within the motion (included below).

Below are the minutes from the Planning & Zoning Commission meetings of May 26, 2022 and June 9, 2022.

Draft Minutes of the May 26, 2022 Planning & Zoning Commission Meeting

Chairman Wheatley stated the next two public hearings for C/Z 1946 and C/U 2293 for Ronald & Candice Gray will be consolidated into one presentation.

C/Z 1946 Ronald & Candice Gray

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.564 ACRES, MORE OR LESS. The property is lying on the west side of Roxana Road (Rt. 17),



approximately 0.69-miles northeast of the intersection of Roxanna Road and Daisey Road (S.C.R. 370)
911 Address: N/A. Tax Parcel: 134-15.00-20.12.

Mr. Whitehouse stated that submitted into the record were the Conceptual Site Plan, the PLUS comments received, the Applicant's response to the PLUS comments, the DelDOT Service Level Evaluation Response, a letter from Sussex County Engineering Department Utility Planning Division and zero comments.

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

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

In relation to the Application C/Z 1946 Ronald & Candice Gray. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Hopkins, and carried unanimously. Motion carried 4-0.

Draft Minutes of the June 9, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since May 26, 2022.

Ms. Wingate moved that the Commission recommend approval of C/Z 1946 Ronald & Candice Gray for a Change in Zone from AR-1 to B-2 "Business Community" based upon the record made during the public hearing and for the following reasons:

1. B-2 Business Community Zoning is designed to allow office, retail shopping and personal service uses that serve a relatively small area, including low density and medium density neighborhoods.
2. This location is along Roxana Road. B-2 zoning is appropriate in this area because it will provide a convenient location for office, retail, and personal uses in a location that will eliminate the need for nearby residents to travel to Route 54 and Route 26.
3. The rezoning will not adversely affect area roadways or traffic.
4. The rezoning will also not adversely affect nearby properties or property values.
5. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.
6. No parties appeared in objection to the application.
7. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of C/Z 1946 Ronald & Candice Gray for the reasons and conditions stated in the Motion. Motion carried 5-0.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: May 26th, 2022

Application: C/Z 1946 Ronald and Candice Gray

Applicant: Ronald & Candice Gray
37176 Sunset Cove
Selbyville, DE 19975

Owner: Ronald & Candice Gray
37176 Sunset Cove
Selbyville, DE 19975

Site Location: Lying on the west side of Roxana Road (Route 17), approximately 0.69-miles northeast of the intersection of Roxanna Road and Daisey Road (S.C.R. 370).

Current Zoning: Agricultural Residential (AR-1) District

Proposed Zoning: Business Community (B-2) District

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Rieley

School District: Indian River School District

Fire District: Roxana Fire Department

Sewer: Septic

Water: Well

Site Area: 1.56 acres +/-

Tax Map ID.: 134-15.00-20.12



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 Commission Members
From: Elliott Young, Planner I
CC: Vince Robertson, Assistant County Attorney, and applicant
Date: May 18, 2022
RE: Staff Analysis for CZ 1946 Ronald and Candice Gray

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1946 Ronald and Candice Gray to be reviewed during the May 26, 2022, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcel 134-15.00-20.12 to allow for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Business Community Zoning District (B-2). The property is lying on the east side of Roxana Road (Rt. 17) approximately 0.45-miles south of the intersection of Peppers Corner Road (S.C.R. 365), Powell Farm Road (S.C.R. 365) and Roxana Road. The parcel to be rezoned contains 1.56 acres +/-.

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

As outlined in the 2018 Sussex County Comprehensive Plan, the 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.

The property is zoned Agricultural Residential (AR-1) Zoning District. Adjacent parcels to the north, south, east are zoned Agricultural Residential (AR-1) Zoning District. The properties to the west are also zoned Agricultural Residential (AR-1) Zoning District.

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

Since 2011, there has been zero (0) Change of Zone applications within a 1-mile radius of the application site.

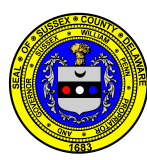


Staff Analysis

CZ 1946 Ronald and Candice Gray

Planning and Zoning Commission for May 26, 2022

Based on the analysis of the land use, surrounding zoning and uses, a Change of Zone from an Agricultural Residential Zoning District (AR-1) to a Business Community Zoning District (B-2) could be considered as being consistent with the land use, based on size and scale, with area zoning and surrounding uses.



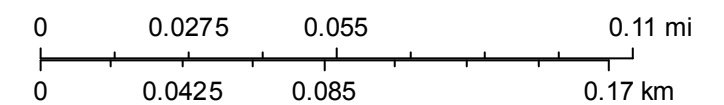
Sussex County

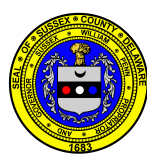


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| Book | Text |
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| City | SELBYVILLE |
| State | DE |
| Description | NW/ROXANA RD |
| Description 2 | |
| Description 3 | |
| Land Code | |

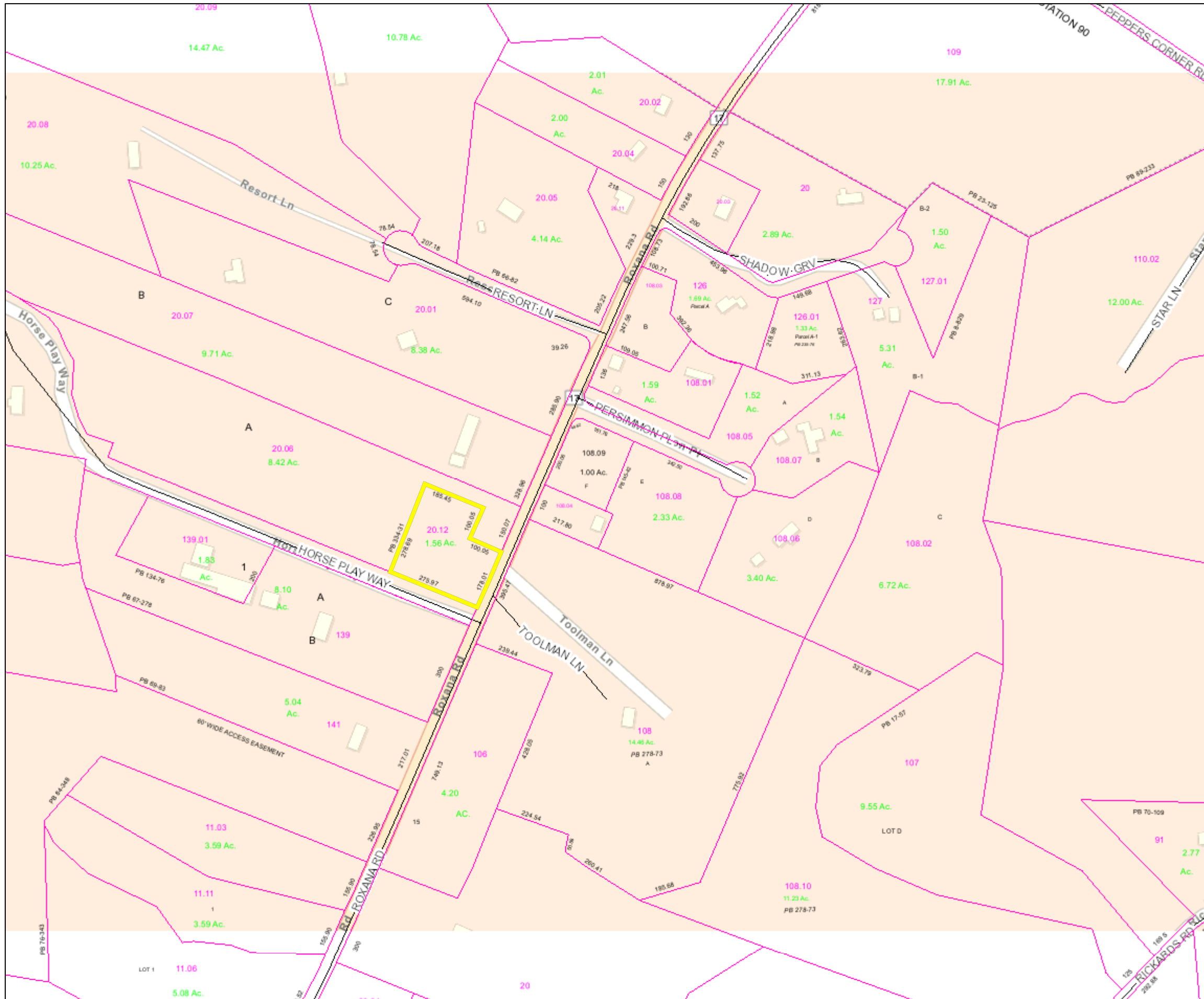
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- 911 Address
- Streets

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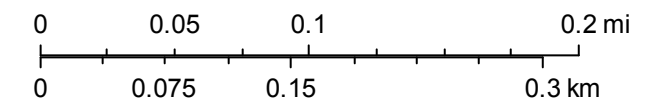
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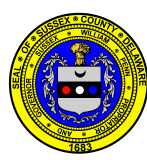
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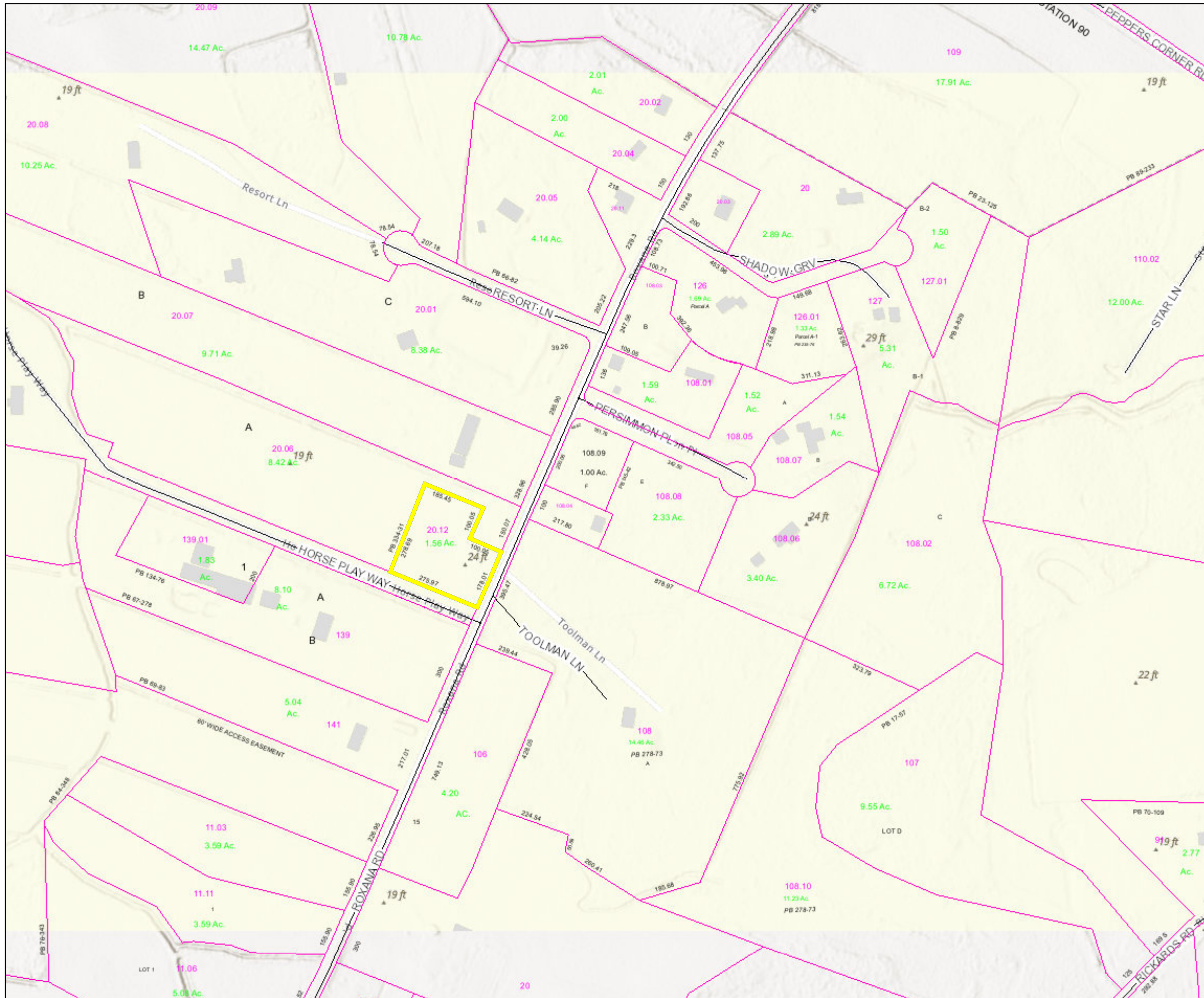
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- Streets

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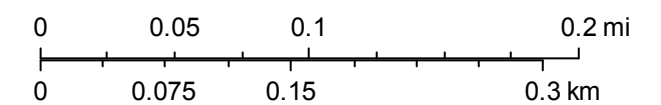
Sussex County



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| PIN: | 134-15.00-20.12 |
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| City | SELBYVILLE |
| State | DE |
| Description | NW/ROXANA RD |
| Description 2 | |
| Description 3 | |
| Land Code | |

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

1:4,514



Introduced: 2/1/22

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.564 ACRES, MORE OR LESS

WHEREAS, on the 22nd day of June 2021, a zoning application, denominated Change of Zone No. 1946 was filed on behalf of Ronald & Candice Gray; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1946 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the west side of Roxana Road (Rt. 17), approximately 0.69-miles northeast of the intersection of Roxana Road and Daisey Road (S.C.R. 370), being more particularly described in the attached survey prepared by Christopher Waters, P.L.S., said parcel containing 1.564 acres, more or less.

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

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



Sussex County

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Memorandum

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

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

CC: Everett Moore, County Attorney

Date: June 10, 2022

RE: County Council Report for C/U 2293 filed on behalf of Ronald and Candice Grey

The Planning and Zoning Department received an application (C/U 2293 Ronald and Candice Grey) for a Conditional Use for parcel 134-15.00-20.06 for 703 storage units and outdoor storage for boats and RV's. The property is located within the Agricultural Residential (AR-1) Zoning District and is located on the west side of Roxana Road [Rt. 17] approximately 0.68-mile northeast of the intersection of Roxana Road and Daisey Road [S.C.R. 370]. The parcel size is 8.424 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on May 26, 2022. At the meeting of June 9, 2022, the Planning & Zoning Commission recommended approval of the application subject to 7 reasons stated and subject to 13 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of May 26, 2022 and June 9, 2022.

Draft Minutes of the May 26, 2022 Planning & Zoning Commission Meeting

Chairman Wheatley stated the next two public hearings for C/Z 1946 and C/U 2293 for Ronald & Candice Gray will be consolidated into one presentation.

C/U 2293 Ronald & Candice Gray

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR 703 STORAGE UNITS AND OUTDOOR STORAGE FOR BOATS AND RV'S TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 8.424 ACRES, MORE OR LESS. The property is lying on the west



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

side of Roxana Road (Rt. 17), approximately 0.68-miles northeast of the intersection of Roxanna Road and Daisey Road (S.C.R. 370). 911 Address: N/A. Tax Parcel: 134-15.00-20.06.

Mr. Whitehouse stated that submitted into the record were the Conceptual Site Plan, the PLUS comments received, the Applicant's response to the PLUS comments, the DelDOT Service Level Evaluation Response, a letter from Sussex County Engineering Department Utility Planning Division and zero comments.

The Commission found that Ms. Shannon Carmean Burton, Esq. spoke on behalf of both Applications, C/Z 1946 and C/U 2293 for Ronald & Candice Gray; that she is an attorney with Sergovic Carmean Weidman McCartney & Owens, P.A.; that also present were Mr. Tim Metzner with Davis, Bowen & Friedel, Mr. Ron Gray, the Applicant and Mr. Edward Launay, with Environmental Resources, Inc., that there are two applications being present to the Commission; that the first request to amend the Comprehensive Zoning Map of Sussex County from AR-1 (Agricultural Residential) Zoning District to B-2 (Business Community) Zoning District; that the other Application is for a Conditional Use of land within an AR-1 (Agricultural Residential) Zoning District for purposes of constructing 703 storage units, with outdoor storage for boats, boat trailers and RVs; that they have submitted exhibit booklets for review; that the exhibit booklet for the Conditional Use does contain proposed Findings of Fact and Conditions of Approval; that both properties are located on Roxanna Rd., approximately .45-mile south of the intersection of Peppers Corner Rd., Powell Farm Rd. and Roxanna Rd.; that the property being proposed for a Change of Zone contains approximately 1.56-acres; that the property for the Conditional Use request consists of approximately 8.424-acres of land; that both properties are both zoned AR-1 (Agricultural Residential); that the property requested for Change of Zone has been a vacant lot since purchased by the Applicant in 2018; that the 8.424-acre property, requested for Conditional Use, has historically been used for farming purposes; that the Applicant's have submitted both requests for the same purpose being to make better economic use of the properties, as well as to provide needed services and employment opportunities; that the Conditional Use will allow the Applicants to meet the storage needs; that the surrounding area is rapidly growing; that many people moving to the area are downsizing, but do not want to get rid of their possessions; that this proposes a need for additional storage space in the area; that the 8.242-acre property is being proposed for storage purposes; that the Applicants intend to develop the 1.56-acre property for office use; that they do have Conceptual Site Plan to present to show the intention for the future use of the property and the Applicant does not have intentions to develop the property until central sewer is available.

The Commission found that Mr. Tim Metzner spoke on behalf of the Application; that for the 8.242-acre site, requested for Conditional Use, they are proposing 94,800 sq. ft. of enclosed storage space; that this square footage would be comprised of 14 buildings; that the 14 buildings would contain a total of 703 storage units; that the Conditional Use site is surrounded by roadways; that Rt. 17 (Roxanna Rd.) is located to the east of the property; that along the southern side of the property is a driveway utilized for ingress and egress access for the residential homes to the west; that on the southside of Horse Play Way is commercial and residential uses; that located to the north is another residential property; that on the west side of the property there is a tax ditch which borders the property; that along the north side there is an agricultural ditch which borders the property, along with existing vegetation and screening from the adjacent property to the north; that as proposed within the

Conditional Use plan for the storage units, no vegetation is being proposed to be removed; that the screening located to the north will remain; that stormwater is proposed to be located to the south, along the property line and will tie into the tax ditch located to the left; that the property entrance and exit is located off Rt. 17; that in Tab K of the Exhibit Booklet, is the DelDOT Service Level Evaluation Response for C/U 2293 and C/Z 1946; that the DelDOT response stated the projects will generate less than 50 vehicle trips in any hour, being less than 500 vehicle trips per day; that DelDOT stated a Traffic Impact Study (TIS) to be negligible; that due to this a TIS is not required by DelDOT; that the Conditional Use site is classified as AB and AD soils per the Natural Resources Conservation District (NRCS) Soils Map; that AB is the better, well-draining soils; that AD soils can be well-draining or poorly-draining soils; that during the engineering process of the site, they will be required to provide positive drainage and stormwater management for the site; that this would bring the site into compliance with the A soils; that when they presented the project a few years ago to the Commission, the site was classified within Investment Level 4 according to the State Strategies Map; that the State has since revised the site to Investment Level 2 and Level 3; that Level 2 and Level 3 do support future growth; that within the PLUS comments no objection was given to the proposed use and development of the property; that within Tab C of the Exhibit Booklet, it references the water services territories; that to the north of site, approximately 4,250-ft. away, is the nearest connection for central water; that the Conditional Use property does not require central sewer and water service; that they are proposing a layout that will not require sprinklers; that the layout will meet the Fire Code; that within Tab D of the Exhibit Booklet, references the sewer service are which is to the north, approximately 4,250-ft. away; that area is continuing to grow, being the location of the Beebe Medical Facility and future apartment complexes; that they do understand they are requesting a Change of Zone and not site plan approval; that the Applicant has been before the Commission previously, with the same layout for a different site and the site plan submitted is simply to provide the intention of the site.

The Commission found that Mr. Ronald Gray spoke on behalf of his Application; that he has owned the properties since 2018; that he had previously been before the Commission to request rezoning of a 10-acre parcel with the same proposed use of storage units; that he is now proposing the same use again, but on two properties, one being of one and a half acre property and one 8.5-acre property; that within the previous public hearings there were no concerns raised at the public hearing before Planning and Zoning Commission; that there were several complaints raised at the County Council public hearing; that due to the several complaints, he decided to pull the request for complete rezoning; that a Conditional Use approval would assure anyone concerned that the specific portion of the property would only be used for the proposed use of storage; that there has been an increased demand for storage units throughout the area, being from Fenwick Island to Millsboro in the last two years; that there was previously a need for storage, but starting in the middle of 2020, the storage industry blew up in the area; that he currently has two facilities; that he currently get about three calls a day for storage rentals; that typically a person has a storage unit until they decide to move out; that many people do not plan ahead, calling with the expectation of obtaining a rental unit the same day; that those people get placed on a waiting list; that when he is able to offer a space two months later, the people have already gone elsewhere; that he had spoken with Ms. Deborah Botchie, who is the Town Manager for Town of Millville; that there is an enormous amount of units present already; that Millville by the Sea has about 2,800 units approved within the Town of Millville; that currently they have built 541 of 931 approved; that there are an additional 391 units coming on board; that in addition to this, there are 508 units currently going through the planning process with the Town of Millville; that the

Town of Millville recently approved a project called Hudson's Reserve, which is 124 residential units; that his proposed project Peppers Corner, Powell Farm Rd. and Daisey Rd.; that there is a parcel in the middle of Millville by the Sea called, Egret Shores, which is 135 units; that there is an 216 unit apartment complex planned near the hospital; that Bishop's Landing has over 850 homes; that the area is growing quickly, creating the great need for storage space; that he does not wish to create more traffic, but to serve the residents who live in the area; that there has been a lot of discussion of the visibility of the storage area from neighboring properties; that the Parler Family expressed opposition to the proposed project; that the photos submitted into the exhibit booklet were taken from the north of the property, on April 1, 2022; that the Parler Family's property is not very visible to the north; that there is 30-ft. to 40-ft. of vegetation which he intends to leave in place; that there is an agricultural ditch in that location; that he referenced a photo of a 10,000 sq. ft. retail building, which was intended for office space; that the building is currently occupied by Edward Jones and a physical therapy office; that one proposed building would be approximately three quarters of the 10,000 sq. ft. building; that the other proposed building would be approximately half the size; that the buildings would be spread across the whole area of storage; that due to this, the storage area would not be visible from Rt. 17 once the project is completed; that to the north of the property there are trees which create a buffer;

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

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

In relation to the Application C/U 2293 Ronald & Candice Gray. Motion by Ms. Wingate to defer action for further consideration, seconded by Ms. Stevenson, and carried unanimously. Motion carried 4-0.

Draft Minutes of the June 9, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since May 26, 2022.

Ms. Wingate moved the Commission recommend approval of C/U 2293 Ronald & Candice Gray to operate a storage facility with outdoor storage for boats and RVs based on the record made during the public hearing and for the following reasons:

1. The use as indoor storage with outdoor storage for boats and RVs is of a public or semi-public character and is desirable for the general convenience and welfare of neighboring properties and uses in the area.
2. The use is to be located along Roxana, which is an arterial road. This is an appropriate location.
3. There are many houses and businesses in this area that will utilize this facility. It will also help reduce traffic on other roadways by eliminating the need to travel to Route 26 or Route 54 for this type of facility.
4. There are nearby deed restricted residential developments that have limitations on storage or keeping boats and RVs on a lot. This use provides a convenient location for those needs.
5. This type of storage facility generates a relatively minor amount of traffic when compared with other types of uses. It will not adversely affect traffic on area roadways.

6. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.
7. No parties appeared in objection to this application.
8. This recommendation for approval is subject to the following conditions and stipulations:
 - A. There shall be no more than 703 indoor storage units at the site.
 - B. All sites for storing boats and RVs shall be shown on the Final Site Plan and clearly marked on the site itself.
 - C. Any security lights shall only be installed on the buildings and shall be screened with downward illumination so that they do not shine on any neighboring properties or roadways.
 - D. The perimeter of the Storage area shall be fenced and gated. The location and type of fencing shall be shown on the Final Site Plan.
 - E. There shall be only one lighted sign allowed on the site. It shall be no larger than 32 square feet per side.
 - F. Stormwater management shall be maintained on site using Best Management Practices.
 - G. There shall be a landscaping buffer between the outside of the fence and the adjacent residential properties to screen the use and the fence from those adjacent homes. The Final Site Plan for this use shall include a landscaping plan for this buffer area.
 - H. No sales or maintenance of boats or RVs shall occur on the site.
 - I. The use shall be subject to all DelDOT requirements regarding the entrance and roadway improvements necessary to provide access to the site.
 - J. No hazardous materials or fuel shall be stored on the property other than what may be in the tanks of boats and RVs located on the site.
 - K. No junked or unregistered boats, boat trailers or RVs shall be stored on the site.
 - L. Any violations of the conditions of approval of this Conditional Use may result in the termination of this Conditional Use.
 - M. The Final Site Plan shall be subject to the approval of the Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of C/U 2293 Ronald & Candice Gray for the reasons and conditions stated in the Motion. Motion carried 5-0.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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302-854-5079 F
JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: May 26th, 2022

Application: CU 2293 Ronald & Candice Gray

Applicant: Ronald & Candice Gray
37176 Sunset Cove
Selbyville, DE 19975

Owner: Ronald & Candice Gray
37176 Sunset Cove
Selbyville, DE 19975

Site Location: Lying on the west side of Roxana Road (Route 17), approximately 0.68-miles northeast of the intersection of Roxanna Road and Daisey Road (S.C.R. 370).

Current Zoning: Agricultural Residential (AR-1) District

Proposed Zoning: Agricultural Residential (AR-1) District

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Rieley

School District: Indian River School District

Fire District: Roxana Fire Department

Sewer: Septic

Water: Well

Site Area: 8.424 acres +/-

Tax Map ID.: 134-15.00-20.06



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



Sussex County

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Memorandum

To: Sussex County Planning Commission Members
From: Elliott Young, Planner I
CC: Vince Robertson, Assistant County Attorney, and applicant
Date: May 18, 2022
RE: Staff Analysis for CU 2293 Ronald and Candice Gray

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2293 Ronald and Candice Gray to be reviewed during the May 26, 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 134-15.00-20.06 to allow for 703 storage units as well as outdoor storage for boats and RV's. The property is lying on the east side of Roxana Road (Rt. 17) approximately 0.45-miles south of the intersection of Peppers Corner Road (S.C.R. 365), Powell Farm Road (S.C.R. 365) and Roxana Road. The parcel contains 8.42 acres +/-.

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

As outlined in the 2018 Sussex County Comprehensive Plan, the 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.

The property is zoned Agricultural Residential (AR-1) Zoning District. Adjacent parcels to the north, south, east are zoned Agricultural Residential (AR-1) Zoning District. The properties to the west are also zoned Agricultural Residential (AR-1) Zoning District.

Since 1970, there has been five (5) Conditional Use applications within a 1-mile radius of the application site. CU 163 was approved 11/6/73 by County Council for the use of a fishpond. CU 1355 was approved through ordinance 1399 by County Council on 9/26/2000 for the use of a cabinet shop and storage. CU 1432 was approved through ordinance 1519 by County Council on 1/29/2002 for the use of a landscaping business/equipment storage. CU 1735 was approved through ordinance 1981 by the County Council for use of an Airport/Helipad. CU 2301 is still undecided and has a hearing with the County Council on 8/9/2022.



Based on the analysis of the land use, surrounding zoning and uses, a storage facility with outdoor storage could be considered as being consistent with the land use, based on size and scale, with area zoning and surrounding uses.

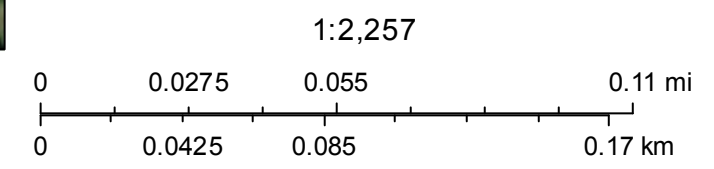


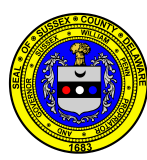
Sussex County



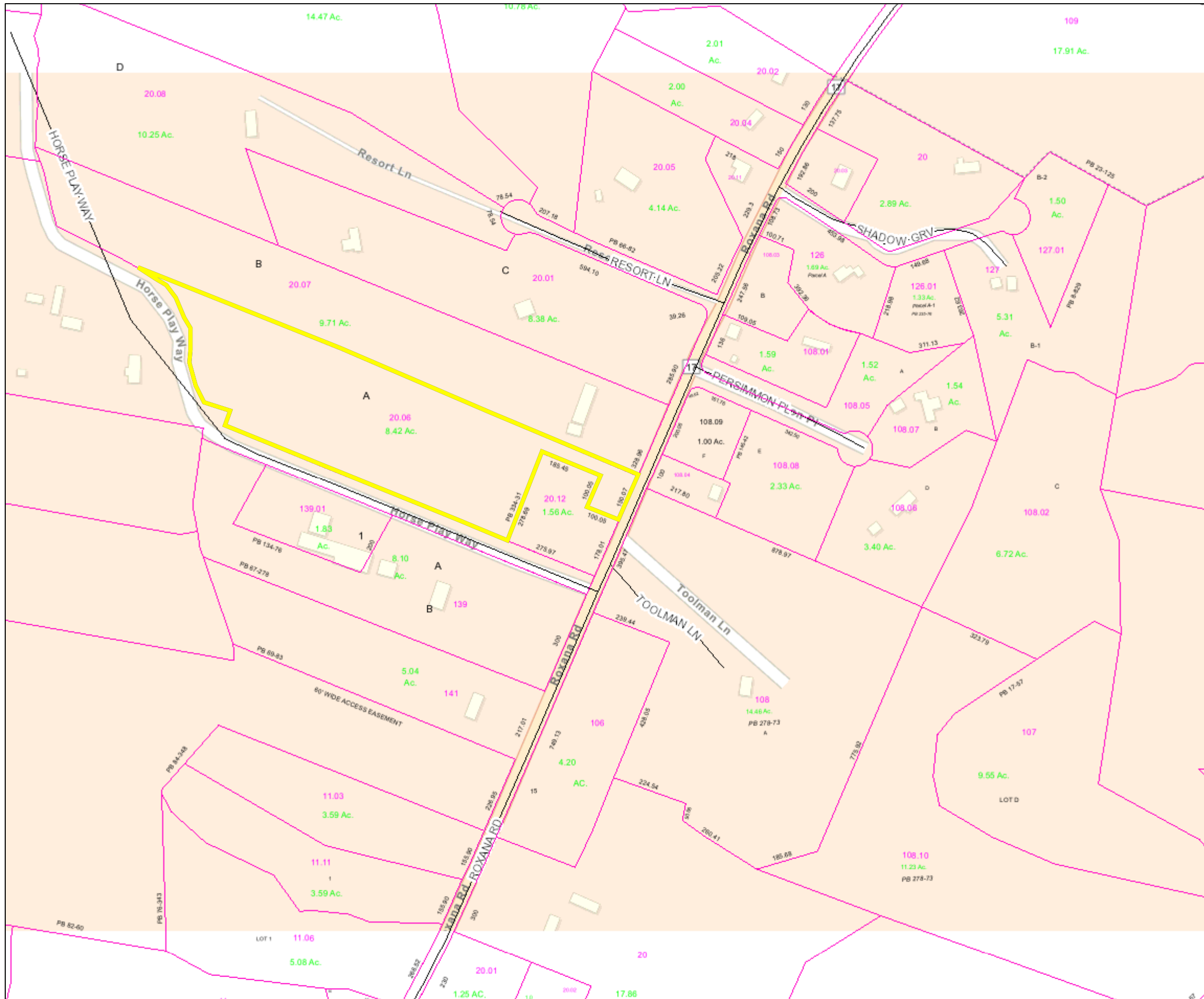
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| PIN: | 134-15.00-20.06 |
| Owner Name | GRAY RONALD E |
| Book | 4863 |
| Mailing Address | 37176 SUNSET CV |
| City | SELBYVILLE |
| State | DE |
| Description | NW/ROXANA RD |
| Description 2 | RESIDUAL LANDS |
| Description 3 | N/A |
| Land Code | |

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- ⋯ Tax Parcels
- 911 Address
- Streets
- County Boundaries





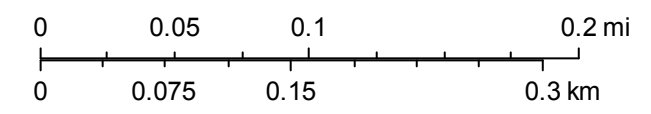
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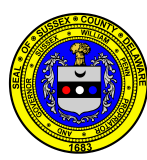


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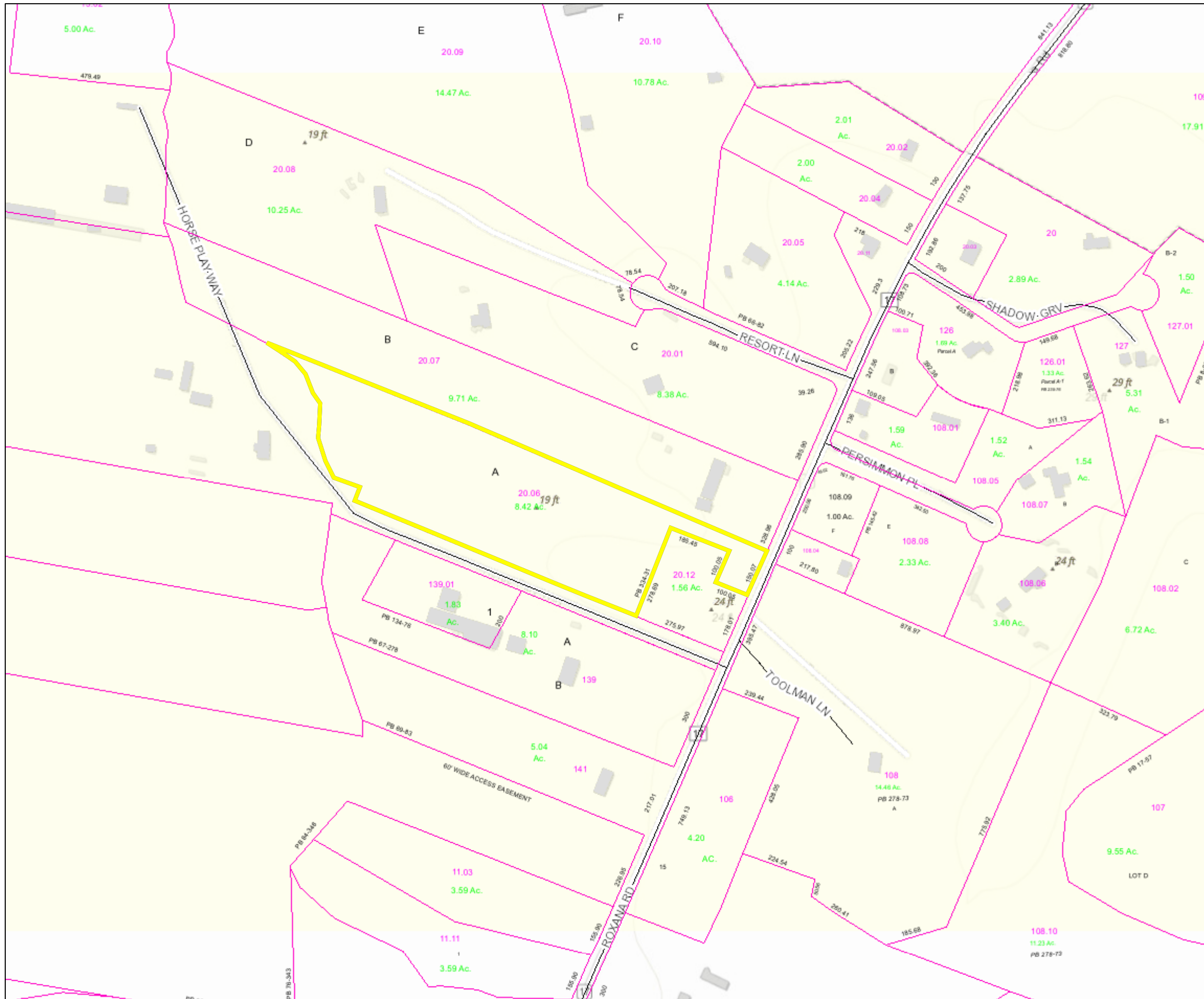
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- County Boundaries

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Sussex County



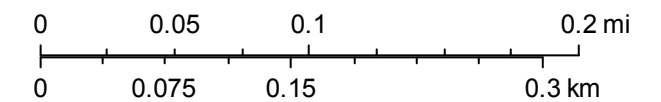
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- polygonLayer**

 - Override 1
- polygonLayer**

 - Override 1
 - Tax Parcels
 - Streets

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ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR 703 STORAGE UNITS AND OUTDOOR STORAGE FOR BOATS AND RV'S TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 8.424 ACRES, MORE OR LESS

WHEREAS, on the 22nd day of June 2021, a conditional use application, denominated Conditional Use No. 2293 was filed on behalf of Ronald and Candice Gray; 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. 2293 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. 2293 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 west side of Roxana Road (Route 17), approximately 0.68-miles northeast of the intersection of Roxana Road and Daisey Road (Route 370), being the remaining lands shown on the survey prepared by Christopher Waters, P.L.S. and being more particularly described in the attached survey, said parcel containing 8.424 acres, more or less.

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

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
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Sussex County

DELAWARE
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Memorandum

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

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

CC: Everett Moore, County Attorney

Date: June 10, 2022

RE: County Council Report for C/U 2294 filed on behalf of Horsey Family, LLC

The Planning and Zoning Department received an application (C/U 2294 filed on behalf of Horsey Family, LLC) for a Conditional Use for parcel 231-21.00-21.00 for the expansion of C/U 1741 (Ordinance No. 2021) for the expansion of a borrow pit. The property is located on the east side of Asbury Road [S.C.R. 446] approximately 0.35 mile south of County Seat Highway [Rt. 9]. The parcel size is 62.204 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on May 26, 2022. At the meeting of June 9, 2022, the Planning & Zoning Commission recommended approval of the application subject to 8 reasons stated and subject to 17 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of May 26, 2022 and June 9, 2022.

Draft Minutes of the May 26, 2022 Planning & Zoning Commission Meeting

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE EXPANSION OF C/U 1741 (ORDINANCE 2021) FOR THE EXPANSION OF A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 62.204 ACRES, MORE OR LESS. The property is lying on the east side of Asbury Road (S.C.R. 446), approximately 0.35 mile south of County Seat Highway (Rt. 9). 911 Address: N/A. Tax Parcel: 231-21.00-21.00.



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Mr. Whitehouse stated that submitted into the record were the Conceptual Site Plan, the Applicant's exhibit booklet, the DelDOT Service Level Evaluation Response, a copy of Ordinance 2021 dated December 16, 2008, a staff analysis, and zero comments.

The Commission found that David Hutt, Esq. was present on behalf of the of the Application, that also present are Bobby Horsey representing the Horsey Family, LLC, and Clifford Mumford, Professional Engineer with Davis, Bowen and Friedel; that this Application deals with a 62 acre tract of land off of Route 9 on Asbury Road; that this is located in an Agricultural and Woodland area of Sussex County with single-family homes dispersed throughout; that the property is zoned AR-1; that the 2020 State Strategies Map designate this as a Level IV area; that the Ordinance referenced by Mr. Whitehouse was the Approval in 2008 of CU 1741 for a 199.5 acre borrow pit that is currently under operation; that the entrance is located on Hardscrabble Road; that Vulcan is mining at this site and have asked the owner to extend to the north; that DelDOT responded that the traffic impact is diminutive; that no new entrance is being proposed and the expansion area would use the existing entrance; that a Borrow Pit has special requirements per Sussex County Code; the first being that no materials are brought to the site for processing or mixing; the second is that excavation be controlled to offer reasonable protection to surrounding properties with respect to odor and dust; that the Applicant will be submitting a proposed set of Findings of Fact which address those requirements; that the proposed hours of operation are Monday through Friday from 6:00 am – 6:00 pm and Saturday from 6:00 am – 2:00 pm with no Sunday hours; that the third special requirement is that the location of the excavation is done in a way that is in respect to the water table with appropriate slopes; the dredge is set at 97 ft. and side slopes of 4:1 which will be shown on the site plan; that there are wetlands on the property will be formally delineated on the final site plan and shall have a 100 ft. buffer; that the fourth special requirement is that the borrow pit be surrounded by a landscaped unexcavated buffer strip of open space a minimum of 100 ft from any street lines and a minimum of 50 ft from all property lines; that the Applicant proposes to double those requirements; that the fifth special requirement is that the borrow pit be at least 200 ft from any dwelling on property of other ownership; that this application exceeds those requirement; that the sixth requirement is that the site plan be submitted with various requirements for existing conditions, excavation area; reclamation area; approvals from other agencies and typical site plan considerations which is essentially the Planning and Zoning Commission's typical site plan process; the ultimate reclamation plan is for it to be a wildlife pond for fish and pond when it is no longer being used as a borrow pit; that the general Conditional Use requirements are that the use would promote the general convenience, orderly growth and prosperity of the County; that the aggregates removed from the borrow pit will be used by the residents of Sussex County as records show that most aggregates are used within a 30 – 50 mile radius from where they were extracted from the earth; and that the current slide on the screen shows the number of minerals, metals and fuels consumed by American's in their lifetime.

Chairman Wheatley asked if there will be any increase in traffic based on the expansion.

Mr. Horsey stated there won't be more trucks on the road; that this expansion will extend the longevity of the borrow pit; and that the hours of operation stated by Mr. Hutt only refer to trucking hours as the dredging hours continue until midnight.

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

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

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

In relation to the Application C/U 2294 Horsey Family, LLC. Motion by Mr. Hopkins to defer action for further consideration, seconded by Ms. Stevenson, and carried unanimously. Motion carried 4-0.

Draft Minutes of the June 9, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since May 26, 2022.

Mr. Hopkins moved that the Commission recommend approval of C/U 2294 Horsey Family, LLC for an expansion of an existing borrow pit based upon the record made during the public hearing and for the following reasons:

1. The subject property is adjacent to an existing, operational borrow pit that was approved by Sussex County Council as Conditional Use #1741 by Ordinance # 2021. This application is for a reasonable expansion of that existing borrow pit operation.
2. The subject property is zoned AR-1, and the surrounding properties are primarily used for agricultural purposes. This expansion of the existing borrow pit will not adversely affect the surrounding properties and the uses that occur on them.
3. The Sussex County Comprehensive Plan identifies this property as being in the “Rural Area”. Borrow pit operations are appropriate within this designated Area according to the Plan.
4. The proposed expansion of the existing borrow pit will not increase the congestion on nearby roadways. This is confirmed by DelDOT, which has stated that the proposed Conditional Use will have a “diminutive” impact upon area roadways. In fact, there should be no significant increase in traffic beyond what is currently generated by the existing borrow pit operations.
5. This expansion of the existing borrow pit is generally of a public or semi-public character and is essential and desirable for the general convenience and welfare of Sussex County residents, visitors, public works projects, and businesses. This application will provide additional borrow pit materials that will be used in the construction of public and private projects throughout Sussex County.
6. The Applicant will be required to comply with the requirements of Section 115-172B of the Sussex County Zoning Code, which are specific to borrow pit operations.
7. The Applicant has stated that upon completion of the borrow pit operations, the reclamation plan will enable the site to become a wildlife pond for fish and fowl.
8. No parties appeared in opposition to this Application.
9. This recommendation is subject to the following conditions:
 - A. No materials shall be brought from off the site for processing, mixing, or similar purposes.
 - B. Water or a water truck shall be available to control dust from road traffic when conditions require.

- C. The entrance to the expansion of the existing pit shall utilize the existing entrance on Hardscrabble Road. There shall be no entrance on S.C.R. 446 (Asbury Road). The entrance on Hardscrabble Road shall be fenced or gated to prevent access. All entrances shall be secured when the borrow pit is not in operation.
- D. Any additional roadway and entrance improvements required by DelDOT shall be completed by the Applicant as required and in accordance with all DelDOT requirements.
- E. The Applicant shall comply with all State and County erosion and sediment control regulations. The project will meet or exceed stormwater management system regulations set forth by the Sussex Conservation District and DNREC through a combination of Best Management Practices (BMP) and Best Available Technologies (BAT). The final site plan shall contain the approval of Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- F. The hours of trucking operations shall be between 6:00 a.m. and 6:00 p.m. Monday thru Friday and between 6:00 a.m. and 2:00 p.m. on Saturdays. Dredging operations may operate 24 hours per day, 6 days per week as permitted under Ordinances #2021. No Sunday hours shall be permitted.
- G. No materials shall be stored on any access roads or within any buffers.
- H. Any fuel stored on the site shall be subject to the jurisdiction of DNREC and the Sussex Soil Conservation District.
- I. No stumps, branches, debris, or similar items shall be buried or placed in the borrow pit site.
- J. The proposed pit will have a 4:1 side slope down to a 10-foot level bench that will be approximately near or 1 foot below the static water surface. Below the water level, the borrow pit shall have 3:1 slopes. The depth of the water in the proposed borrow pit will not exceed 100 feet.
- K. A final site plan, including all pit slopes, excavation phasing, and reclamation plans shall be reviewed and approved by the Planning and Zoning Commission prior to the commencement of operations. Reclamation plans shall indicate finished grading, seeding, and planting schedules designed to create a pleasing appearance and protect existing and future developments.
- L. Permanent concrete markers and signs shall be placed at appropriate locations to designate the boundaries of the subject property and pit areas. The boundary markers shall be raised and marked so that they are clearly visible to anyone nearing the site.
- M. The borrow pit shall be surrounded by a buffer strip a minimum distance of 100 feet from any street lines, 200 feet from any dwelling of other ownership, and 50 feet from all other property lines of other ownership. The buffer area shall be a vegetated buffer of existing vegetation or native species vegetation.
- N. No wetlands on the site shall be disturbed and the pit shall be located at least 100 feet from all delineated wetlands.
- O. This approval shall terminate upon the expiration of fifty (50) years from the date of enactment.
- P. Any safety lights shall be screened downward, so they do not shine on neighboring properties or roadways.
- Q. The final site plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Mr. Mears and carried unanimously to recommend approval of C/U 2294 Horsey Family, LLC for the reasons and conditions stated in the motion. Motion carried 5-0.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: May 12th, 2022

Application: CU 2294 Horsey Farm, LLC

Applicant: Horsey Family, LLC
28107 Beaver Dam Branch Rd
Laurel, DE 19956

Owner: Horsey Family, LLC
28107 Beaver Dam Branch Rd
Laurel, DE 19956

Site Location: The site is on the east side of Asbury Road (S.C.R. 446), south of County Seat Highway (Rt. 9).

Current Zoning: Agricultural Residential (AR-1)

Proposed Zoning: Agricultural Residential (AR-1)

Comprehensive Land Use Plan Reference: Low Density

Councilmanic District: District 1 - Vincent

School District: Seaford School District

Fire District: Georgetown Fire Company

Sewer: On-site septic systems

Water: On-site well

TID: Not Applicable

Site Area: 62.204 acres +/-

Tax Map ID: 231-21.00-21.00



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Sussex County

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Memorandum

To: Sussex County Planning Commission Members
From: Mx. Jesse Lindenberg, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: April 26, 2022
RE: Staff Analysis for CU 2294 Horsey Family, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2294 Horsey Family, LLC to be reviewed during the May 26th, 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: 231-21.00-21.00 to amend Conditional Use No. 1741 (Ordinance No. 2021) to allow for the expansion of an existing borrow pit through the addition of 62.204+/- acres of land. The property is lying on east side of Asbury Road (S.C.R. 446), approximately 0.35 mile south of County Seat Highway (Rt. 9). The parcel consists of 62.204 acres +/-.

It should be noted that the previous Conditional Use (Conditional Use No. 1741) was filed on behalf of David G. Horsey & Sons, Inc. for a borrow pit excavation to be located on a 199.50 acre +/- parcel of land. The Conditional Use was approved by the Sussex County Council on Tuesday, December 16th, 2008, and the change was adopted through Ordinance No. 2021.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcel has a designation of "Low Density." The parcels to the north, south, east, and west also 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. It is envisioned that the Low-Density Areas allow for businesses that support nearby residents and the agricultural economy. More intense commercial uses could be limited in scale and impact. While residential growth is expected, the Comprehensive Plan intends for the rural landscape to be maintained and for farmland to be preserved in select locations.

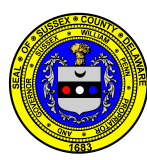
The subject property is zoned Agricultural Residential (AR-1). All surrounding properties to the north, south, east, and west are also zoned Agricultural Residential (AR-1).

Since 2011, there has been one (1) Conditional Use application within a 1-mile radius of the application site. This application was Conditional Use No. 1952 Clinton & McCutchen to allow for

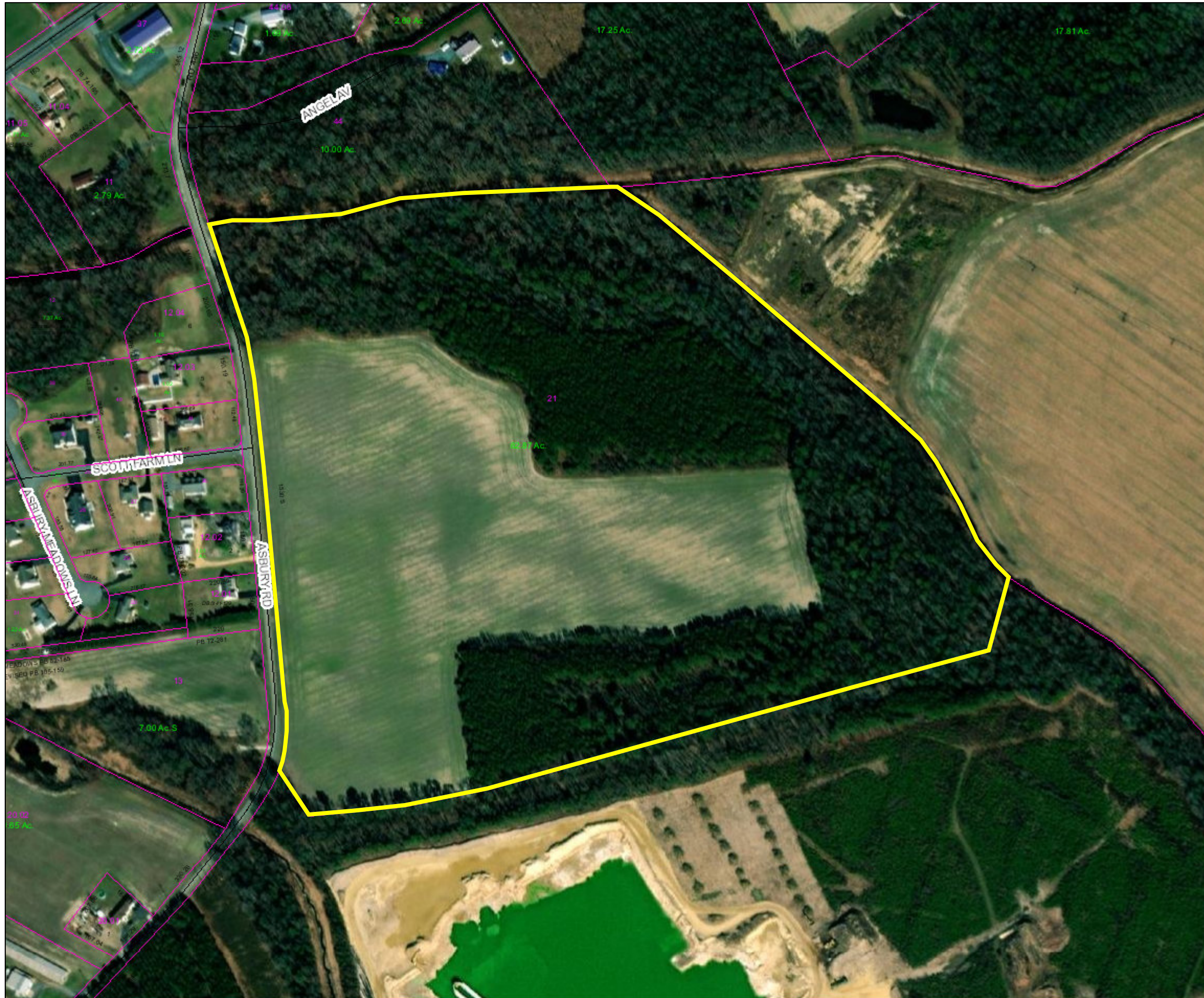


boat repair, storage, and sales to be permitted within an Agricultural Residential (AR-1) Zoning District. This application was approved by the Sussex County Council on Tuesday, March 19, 2013, and this change was adopted through Ordinance No. 2296. Please see the attached excel spreadsheet for information regarding previous Conditional Use Applications prior to 2011.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional use to allow for the amendment of Conditional Use No. 1741 (Ordinance No. 2021) for the expansion of an existing borrow pit through the addition of 62.204 +/- acres of land, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.



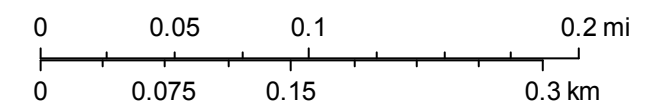
Sussex County

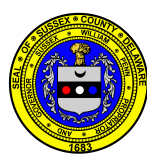


| | |
|------------------------|-----------------------|
| PIN: | 231-21.00-21.00 |
| Owner Name | HORSEY FAMILY LLC |
| Book | 5422 |
| Mailing Address | 28107 BEAVER DAM BRAN |
| City | LAUREL |
| State | DE |
| Description | GEORGETOWNLAUREL |
| Description 2 | E/RT 446 900' |
| Description 3 | S/RT 9 |
| Land Code | |

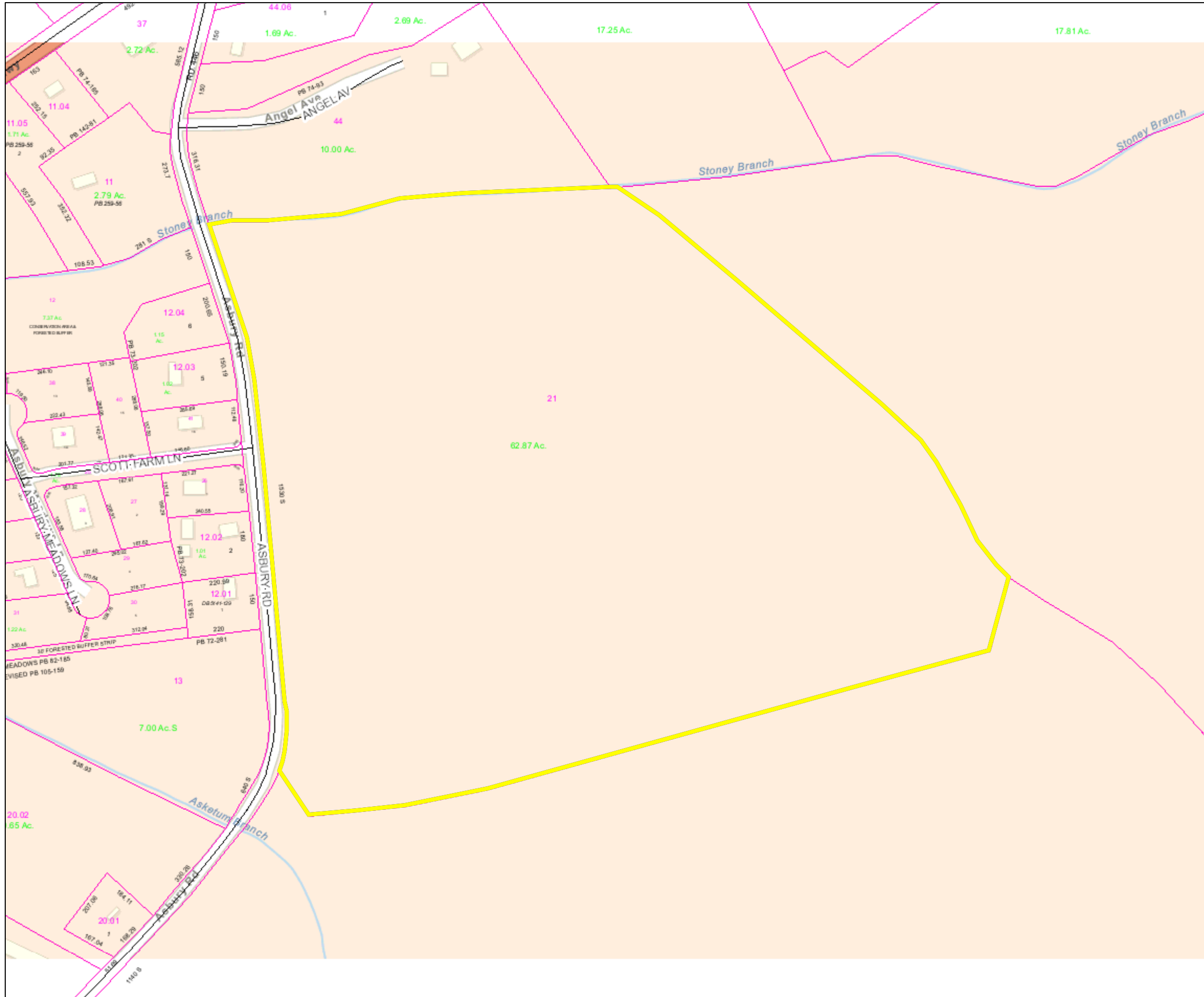
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- Override 1
- Tax Parcels
- Streets
- County Boundaries

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Sussex County



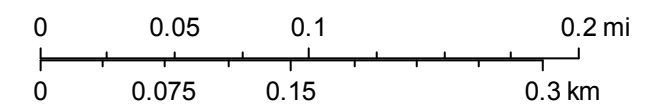
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| PIN: | 231-21.00-21.00 |
| Owner Name | HORSEY FAMILY LLC |
| Book | 5422 |
| Mailing Address | 28107 BEAVER DAM BRAN |
| City | LAUREL |
| State | DE |
| Description | GEORGETOWNLAUREL |
| Description 2 | E/RT 446 900' |
| Description 3 | S/RT 9 |
| Land Code | |

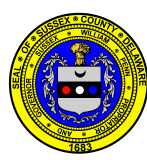
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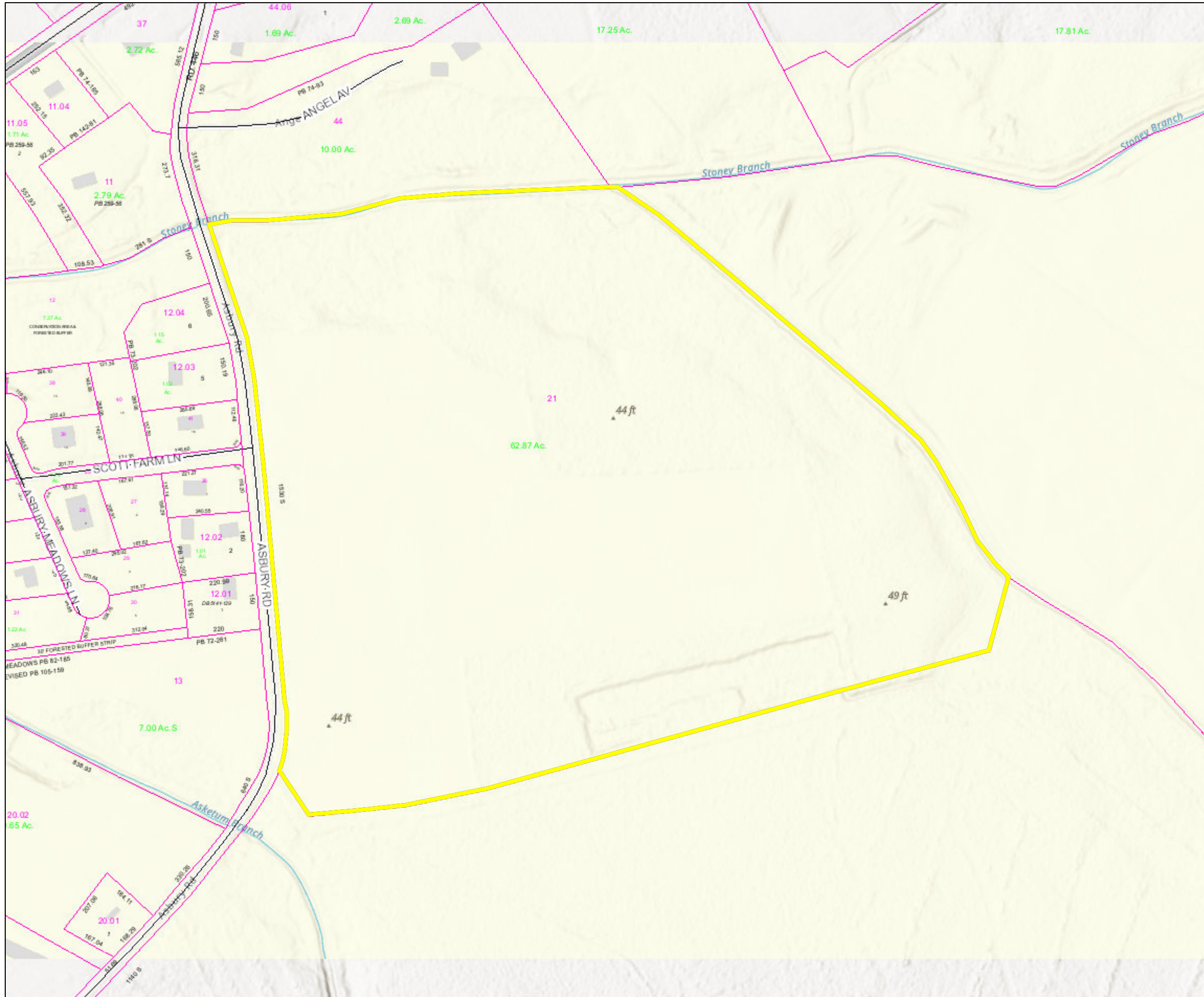
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- Tax Parcels
- Streets
- County Boundaries

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Sussex County



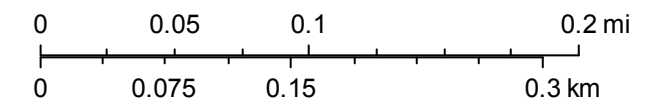
| | |
|------------------------|-----------------------|
| PIN: | 231-21.00-21.00 |
| Owner Name | HORSEY FAMILY LLC |
| Book | 5422 |
| Mailing Address | 28107 BEAVER DAM BRAN |
| City | LAUREL |
| State | DE |
| Description | GEORGETOWNLAUREL |
| Description 2 | E/RT 446 900' |
| Description 3 | S/RT 9 |
| Land Code | |

- polygonLayer**

 - Override 1
- polygonLayer**

 - Override 1
- Tax Parcels
- Streets

1:4,514



Introduced: 03/22/22

Council District 1: Mr. Vincent
Tax I.D. No.: 231-21.00-21.00
911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE EXPANSION OF CU 1741 (ORDINANCE 2021) FOR THE EXPANSION OF A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 62.204 ACRES, MORE OR LESS

WHEREAS, on the 24th day of June 2021, a conditional use application, denominated Conditional Use No. 2294 was filed on behalf of Horsey Family, LLC; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2294 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. 2294 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 Nanticoke Hundred, Sussex County, Delaware, and lying on east side of Asbury Road (S.C.R. 446) approximately 0.35 mile south of County Seat Highway (Rt. 9), and being more particularly described in the attached legal description prepared by Davis, Bowen & Friedel, Inc., said parcel containing 62.204 acres, more or less.

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

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
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Sussex County

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Memorandum

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

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

CC: Everett Moore, County Attorney

Date: June 10, 2022

RE: County Council Report for C/U 2298 filed on behalf of Freeman Solar, LLC

The Planning and Zoning Department received an application (C/U 2298 filed on behalf of Freeman Solar, LLC) for a Conditional Use for parcels 130-3.00-246.00-247.00 & 247.02, 130-6.00-75.00, 76.00, 92.00, 94.00, 95.00, 96.00 & 97.00. for a 75-Megawatt Solar Farm. The property is located on the east and west side of Calhoun Road (S.C.R. 621) and South Shawnee Road (Route 36), approximately 1,267 feet south of Shawnee Road (Route 36). The parcel size is 350.96 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on May 12, 2022. At the meeting of May 26, 2022, the Planning & Zoning Commission recommended approval of the application subject to 8 reasons stated and subject to 11 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of May 12, 2022, and May 26, 2022.

[Approved Minutes of the May 12, 2022 Planning & Zoning Commission Meeting](#)

C/U 2298 Freeman Solar, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT, A GR GENERAL RESIDENTIAL DISTRICT, AND A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A 75 MEGAWATT SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 350.96 ACRES, MORE OR LESS. The property is lying on the east and west side of Calhoun Road (S.C.R. 621) and South Shawnee Road (Route 36), approximately 1,267 feet



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GEORGETOWN, DELAWARE

south of Shawnee Road (Route 36). 911 Address: N/A. Tax Parcels: 130-3.00-246.00-247.00 & 247.02, 130-6.00-75.00, 76.00, 92.00, 94.00, 95.00, 96.00 & 97.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Site Plan, Exhibit Booklet, Staff Analysis, a letter from the Office of State Planning, a letter from DelDOT as part of the Service Level Evaluation Response, a letter from the Sussex County Engineering Department Utility Planning Division, one letter of support, which had been circulated to the Commission.

Mr. David Hutt, Esq., with Morris James, spoke on behalf of the Application; that also present were Mr. Mark Davidson with Pennoni, Mr. John Soinenen with Freeman Solar, LLC, Ms. Donna Calhoun, Mr. Donnie Calhoun; that Freeman Solar, LLC is a subsidiary of Brookfield Renewable US; that a safe, reliable and renewal production of electricity is a primary function of local, state and national government; that in 2021, Governor Carney signed Senate Bill 33 to raise Delaware's Renewable Portfolio Standard to 40% by 2035; that the Bill states by 2035 at least 40% of Delaware's electricity must come from renewable sources; that solar energy is a renewable source of energy; that addition to the governmental programs and mandates, commercial business are also making similar significant pledges to shareholders and consumers, in the desire to modify their environmental footprint; that in 2021 Google committed to run all operations on carbon-free energy by 2030; that in order for Governmental agencies, commercial businesses and private individuals to accomplish those renewable source goals, applications much like the subject Application, are necessary under the Zoning Code to allow for those goals to be achieved; that over the past several years the Commission has seen several similar Applications for local utility level solar fields; that these past solar applications have ranged in size from 40-acres to 90-acres; that the current Application is for a transmission level facility on 350-acres; that the Application does consist of 10 tax parcels, which are located on both sides of Calhoun Rd.; that Calhoun Rd. parallels Rt. 113; that Ms. Donna Calhoun is one of the property owners of the 10-acres; that she lives along Rt. 113; that other members of the family reside within the proposed solar field itself; that Mr. Donnie Calhoun lives on the northern end of the proposed solar field; that the property has been farmed by the Calhoun Family for multiple generations; that the property is presently being farmed, as the total acreage is being used for agricultural use; that according to the Sussex County Zoning Map, there are six different zoning classifications within the area, being MR (Medium-Density Residential), C-1 (General Commercial), B-1 (Neighborhood Business), GR (General Residential), AR-1 (Agricultural Residential) and HI-1 (Heavy Industrial); that according to the Future Land Use Map, the majority of the property is shown in the Developing Area, which is listed as a growth area for Sussex County; that the Future Land Use Map also shows Low Density Area and Industrial Area, as well as the municipal boundaries of the City of Milford; that according to the City of Milford's Zoning map the property is in the vicinity to their C-3 (Highway Commercial District) and R-3 (Garden, Apartment and Townhouse District); that shown on the City of Milford's Future Land Use Map in the dark green color were areas that are proposed to be annexed into the municipal limits of the City of Milford; that much of the area is agriculturally used; that there are a number of residential uses in the area as well; that the subject property does back up to the Fitzgerald's Salvage Yard; that when traveling north from that site, there are residential homes, some of which belong to members of the Calhoun Family; that there is an electrical substation located on an adjacent property, being within the municipal boundaries of the City of Milford; that there is also a Delaware Solid Waste Authority Transfer Station in that area; that further north on Rt. 113 is the location and current construction of the Cypress Hall townhomes and apartments; that the Milford Grain Company is also adjacent to the property; that the northern part of the property is located along Shawnee Rd.;

that according to the State Strategies Map, the 10 properties are located within Investment Level 2 and Level 3; that all the properties are located within Flood Zone X according to the FEMA Map, reflecting the properties to not be within a flood plain; that there are wetlands located on the property; that the wetlands are located to the north-western portion, middle portion along Rt. 113 and between the subject property and the Fitzgerald's Salvage Yard property; that all of the wetland areas have been delineated; that submitted within the project materials, is reference to the proposed 25-ft. setback from the panels from the wetland areas; that one of the positive features of a solar farm, is they do not tax the infrastructure of the County, or any other governmental entities; that the project does not require water or sewer services; that, other than when construction occurs, the site is rarely visited, other than for routine maintenance; that any water needs would be satisfied by the agricultural wells located on the site; that solar farms do not tax the traffic systems or road networks; that DelDOT described the traffic impact as diminutive, which stands for less than 50 vehicle trips per day; that on most days, the number of vehicle trips to and from the site will be zero; that the site will require very little grading; that the contractor will come in and install the solar arrays on the site as it currently is; that the gravel roadways, to access the each inverter station, may require some slight grading; that the gravel roadways are required by Sussex County Code; that the project is proposed to be a 75-megawatt facility; that the facility will produce 150,000 megawatt hours of energy per year; that the project will be comprised of 166,500 solar panels; that the solar panels are installed to withstand hurricane force winds; that the arrays would be aligned in a way to track the sunlight throughout the day; that proposed are 25 inverters located on the site; that the inverters collect the solar energy; that there is a proposed substation located on the site, which will be adjacent to the substation located within the City of Milford; that the life of the solar project is a little greater than 20 years; the Freeman Solar, LLC has a long term lease in place with the Calhoun Family; that Freeman Solar, LLC is a LLC is a subsidiary of Brookfield Renewable US; that Brookfield Renewable of the United States is the oldest and larger owner/operators of renewable energy producers within the United States; that Brookfield Renewables has projects which include hydroelectric projects, wind farms and solar farms; that as the operator of the site, they are responsible for all operations, insurance and similar issues; that they would also be responsible to decommission the site when the solar panels reach the end of their usefulness; that the decommission process consists of them coming to the property to remove the panels, infrastructure and wiring; that the farmland would then be handed back to the Calhoun Family to continue to use for agricultural purposes; that with respect to solar farms, the three general concerns are the impact on adjacent property values, sound issues generated by equipment and the visual appears of the solar panels; that Freeman Solar, LLC did commission study from a nationwide firm, which performed a study regarding the impact of solar farms within various locations; that there is also a site specific supplemental report which references the potential impact of the solar farm located along Calhoun Rd.; that the conclusion of the 185 page report is that there is no consistent negative impact that has occurred to adjacent property, which could be attributed to the adjacent solar farm; that sunlight, nor the solar panel collecting the sunlight generate any sound; that there are invertors and transformers located on the site as part of the process which do generate noise; that there was a active sound study performed on the site by an engineering group; that the noise level, located directly next to the invertors themselves is 60 decibels; that 60 decibels can be compared to a normal conversational tone or a typical residential air compressor; that slightly further away from the invertors, the decibels drop to 45 decibels; that 45 decibels can be compared to a normal home appliance; that the project has been designed to ensure no residential uses located where there is more than 45.8 decibels; that the equipment operates during the daytime; that the noise from the inverters will only exist during the

daylight hours; that there is no local sound ordinance within Sussex County; that DelDOT and DNREC do have noise ordinances as it is generated by industries and business; the when looking at their noise ordinance, it separates the day into two time periods; that daytime is referenced as 7:00 am to 10:00 pm; that nighttime is referenced as 10:00 pm to 7:00 am; that DelDOT's ordinance is in reference to residential uses that are adjacent to highways; that DNREC's ordinance is in reference to businesses adjacent to residential uses; that the Ordinance states 65 decibels cannot be exceeded at the residential use; that the proposed use of a solar field will easily comply with the Ordinance, as the solar field will generate 20 decibels lower than the Ordinance standard; that the nighttime standard for the Ordinance states noise must be lower than 55 decibels; that the solar field, even during the day, will remain 10 decibels lower than the nighttime standard; that generally a major concern for adjacent neighbors is the visual impact of the solar field; that the entire proposed area, pursuant to the National Electric Code, would be surrounded by a seven foot tall fence; that Freeman Solar, LLC proposes to screen in all locations adjacent to residential properties; that the screening will be made with a cross-section of vegetative plantings; that the vegetative plantings are approved by DelDOT to be located close to roadways; that the plantings are not tall-growing plants, as it would interfere with the access to sunlight; that the tallest planting is about 15-ft. in height; that 15-ft. is the maximum height of an installed solar panel; that he did show photo examples of what the plants would look like upon installation along Calhoun Rd., as well as, what the planting would look like after five years of growth; that the Applicant did send out an invitation to nearby properties, to help inform them about the proposed project; that the meeting was held the week before the public hearing; that what was proposed in the project booklet was slightly different than what was being proposed at the public hearing; that the Applicant did go beyond Sussex County's 200-ft. radius around the properties; that the Applicant did invite a greater number of residents along the Calhoun Rd. corridor; that the Applicant has added landscape buffering to adjacent neighbors to the north of the site and neighbors located along Rt. 113; that they may offer a straight line of buffering behind Ms. Calhoun's house, rather than having the break in the buffering shown in the project booklet; that the Applicant is adding 2,600 linear feet of buffer to the project; that the visual impact of the solar field was the primary topic discussed that the meeting held by the Applicant; that the Application request is for a Conditional Use; that Conditional Uses are uses of a public or semi-public character, which are essential and desirable to the general convenience and welfare of Sussex County; that due to the nature of the proposed use, the importance of the relationship to the Comprehensive Plan and possible impact to neighboring properties and larger section of Sussex County, requires the planning judgement from the Commission on location, site plan and project conditions; that the proposed utility of renewable energy source is of public character; that the local, State, National and individual businesses are seeking these types of renewable energy sources, which makes the proposed project desirable and essential, when considering the mandates from the various governmental agencies; that within Chapter 7 of the Comprehensive Plan, it references utilities; that within Goal 7.3 it encourages the use of renewable energy options, such as solar farms; that this is also the reason why the State Planning Office responded, stating the facility will bring more renewable energy to Sussex County, having minimal land use and environmental impacts; that the proposed solar field accomplishes all of those things; that the proposed solar field is a renewable source of energy and complies with all governmental land use requirements; that the proposed solar field will have one of the most minimal impacts there can be on an area locally or regionally; that while the project benefits the environment, it has a very low impact on the environment; that when the project is finished, all of the infrastructure is recycled; that the property is then turned back into agricultural production; that within the project book, on the

Property Value Impact Report, there was a watermark, which indicated the report was a work in progress; that he requested to submit the final version of the Property Value Impact Report, which no longer contained the watermark; that he did request to submit a proposed set of Findings of Fact and Proposed Conditions of Approval; that within the proposed Conditions of Approval, the made an attempt to tract the conditions placed for previous solar farm applications and one of the proposed conditions does contain the landscaping requirements, as it was a major concern to the adjacent neighbors.

The Commission found Mr. John Soininen with Brookfield Renewable U.S., spoke on behalf of the Application; that solar technology has been around since the 1950s; that solar technology is becoming more popular as it has become more cost effective; that in the 1950s the only people who could afford solar technology was NASA; that now solar technology is a very economically viable form of electrical generation; that the technology is simple; that sunlight is an energy wave; that the photons hit the polysilicon crystal cell, which creates an electric current; that the direct current is placed through an inverter, which converts the current to an alternating current; that the alternating current can then be used for the typical household uses; that the proposed use is essentially the same idea, just at a much higher level; that the project is proposed to be 75 megawatts; that the 75 megawatt facility will be broken down into 25 circuits; that each solar array will generate electricity in direct current; that the direct current would go through an inverter; that the inverter is about five feet wide, nine feet long and eight feet high; that the inverter will convert the direct current into alternating current; that the alternating current will go into a step-up transformer; that the step-up transformer will take the alternating current of approximately 680 volts to about 34,500 volts; that the step-up transformer will then go through the collector system and then into the project substation; that the project substation is a larger transformer; that the project substation will covert the 34,500 volts up to the transmission voltage to interconnect to the existing system at 115,000 volts; that off of the equipment is wired together by the Supervisory Control and Data Acquisition System (SCADA System); that the SCADA System is the brains behind the solar panel system; that the SCADA System is wired into a remote operation system, which Brookfield Renewables U.S. controls; that everything is connected to a grid; that all of the electricity production and generation can be monitored remotely to ensure the system is operating properly; that the reason they are interested in the subject location is due to the existing infrastructure; that the farm use substation is operated by DPNL, which is the reason they are interested; that the subject site would allow them the ability to utilize the existing infrastructure; that this will allow them to connect, to produce energy and place the energy into the grid for wholesale and then broader consumption; that they have submitted an application in 2020 to the Reginal Transmission Operator, PJM, which provided them a position in the PJM que; that they have proceeded through the interconnection process; that the interconnection processes is a multistep and multiyear process; that the project typically goes through three levels of studies being the Feasibility Study, a System Impact Study and a Facilities Study; that the Facilities Study is where the upgrades are designed to allow for interconnection; that if everything goes well, a Interconnection Agreement is received, which allows permission to place electricity into the wholesale system under very controlled circumstances; that they have been working through that process for a couple years; that they received the results of the System Impact Study in September 2021; that they then moved into the Facilities Study process; that they did sign an agreement to advance the Facilities Study; that they were informed they would receive feedback from the Facilities Study by May 2023; that subsequently, they have learned there are some issues and constraints within PJM; that PJM currently has a backlog, of 2,000

projects, across the network; that PJM is currently working through a queue reform process; that Freeman Solar, LLC is working in parallel paths; that the subject Application is slightly different than projects proposed in the past and currently developed; that they are not proposing to connect at a distribution system voltage; that they are proposing to connect at transmission voltage; that as a result of that proposal, the project would be regulated by the Federal Energy Regulatory Commission (FERC); that the FERC authorities then delegate down to PJM, who is the Regional Transmission Operator and they are working with PJM, but there are delays in the system, which has made the timing a bit unknown.

Mr. Hopkins stated he did visit the site and he felt it was the perfect spot for the proposed use.

Mr. Robertson questioned if the proposed conditions by the Applicant included the updated buffer requirements mentioned during the public hearing versus the landscaping buffers proffered within the Exhibit Booklet.

Mr. Hutt stated landscaping buffer revision was made based on the concerns and comments offered by adjacent neighbors during the Applicant's public meeting; that Condition E stated *the Applicant shall submit as part of the Final Site Plan, a Landscape Plan showing the proposed landscape design for the location of screening buffering shown on the Preliminary Site Plan during the public hearing.*

The Commission found that Ms. Donna Calhoun spoke in support of the Application; that she is the owner of Calhoun Ventures; that she was approached by Freeman Solar, LLC; that it has been very difficult for her brothers to make a living on farming the land; that she was very hesitant at first; that she had a lot of questions; that she and Freeman Solar, LLC worked together, working through all of her questions and concerns; that her biggest concern was what would happen when the project was finished in 20 years; that she is a believer in the proposed project; that with the recent price increase of gas and electric, as well as the damage being caused to the ecological system, she feels the proposed project will truly make a difference and the project is large enough it will be able to provide power for a lot of different uses.

The Commission found that Mr. Tom Collins spoke in relation to the Application; that he did not have any opposition to the proposed Application; that he wished to commend them for standing by their word provided at the public meeting the week prior; that he was one of the adjacent neighbors with concern to the landscape buffering; that at the time the landscape buffering was not in place; that at the meeting the Applicant stated they would look into remedying his concern; that he was present at the public hearing to ensure the Applicant did as they promised; that he believes they have provided a remedy for his concern; that he does not want the project to move forward unless the landscape buffer is mandatory and based on the revised plan shown, he no longer has opposition to the proposed Application.

Chairman Wheatley stated the project would not go forward if the proposed buffer were not placed.

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

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

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

In relation to Application C/U2298 Freeman Solar, LLC. Motion by Ms. Hopkins to defer action for further consideration, seconded by Ms. Stevenson and carried unanimously. Motion carried 4-0.

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

Draft Minutes of the May 26, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since May 12, 2022.

Mr. Robertson read Mr. Hopkins’s motion.

Mr. Hopkins moved that the Commission recommend approval of C/U 2298 Freeman Solar, LLC for a solar farm in the AR-1, GR, and MR Districts based on the record made during the public hearing and for the following reasons:

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. The Property is currently GR, MR, and AR-1. The surrounding properties in Sussex County contain these same three zoning classifications as well as HI (Heavy Industrial District). The adjacent properties within the municipal limits of the City of Milford are within the City’s C-3 (Highway Commercial District) and R-3 (Garden Apartment and Townhouse District). The adjacent properties are used for agricultural purposes, residential purposes, utilities (substation), refuse/recycling (DWSA Milford Transfer Station and Fitzgerald’s Salvage & Recycling), and other agricultural commercial uses (Milford Grain Company). These zonings and uses are consistent with the proposed solar farm.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar farms.
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 adjacent and neighboring roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels. As a result, DelDOT has determined that the traffic impact of this use will be “diminutive”.
6. No significant noise, dust, or odor will be generated by the facility.
7. 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.
8. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
9. This recommendation is subject to the following conditions:
 - A. No storage facilities shall be constructed on the site.
 - B. 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.

- 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 in the Final Site Plan.
- E. Any transformers or similar equipment other than the proposed substation adjacent to Delaware Power’s substation shall be centrally located on the site away from any nearby residential uses.
- F. All of the grounds, including the area outside of the fence, shall be maintained so that they do 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 in a manner that is consistent with Best Management Practices.
- H. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- I. The site’s boundaries that are immediately adjacent to residential uses will have a buffer planted and maintained in such a manner as to screen the view of the solar farm from the residential properties while allowing the solar arrays to function properly. This buffer and the landscaping within it shall be shown on the Final Site Plan.
- J. There are wetlands located on the property which have been delineated. The solar field shall stay a minimum of twenty-five feet (25’) from the delineated wetlands.
- K. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to recommend approval of C/U 2298 Freeman Solar, LLC for the reasons and conditions stated in the motion. Motion carried 4-0.

The vote by roll call: Ms. Stevenson – yea, Mr. Hopkins – 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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JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: May 12th, 2022

Application: CU 2298 Freeman Solar, LLC

Applicant: Freeman Solar, LLC c/o John Soinenen
200 Liberty Street, 14th Floor
New York, NY 10281

Owner: Calhoun Ventures, LLC c/o Clarence D. Calhoun, Jr.
6714 DuPont Boulevard 7237 Calhoun Road
Milford, DE 19963

Site Location: Lying on the east and west side of Calhoun Road (S.C.R. 621) and South Shawnee Road (Route 36), approximately 1,267 feet south of Shawnee Road (Route 36).

Current Zoning: Agricultural Residential (AR-1), Medium Density Residential (MR) & General Residential (GR) Zoning District

Proposed Use: Solar Farm consisting of 75 Megawatts per acre of photovoltaic electric generation facility.

Comprehensive Land Use Plan Reference: Low Density Area & Developing Area

Councilmanic District: Ms. Green

School District: Milford School District

Fire District: Carlisle Fire Department

Sewer: On-site septic

Water: On-site well

Site Area: 350.96 acres +/-

Tax Map IDs.: 130-3.00-246.00, 247.00 & 247.02 & 130-6.00-75.00, 76.00, 92.00, 94.00, 95.00, 96.00 & 97.00



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Sussex County

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Memorandum

To: Sussex County Planning Commission Members
From: Ms. Lauren DeVore, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: April 26, 2022
RE: Staff Analysis for C/U 2298 Freeman Solar, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/U 2298 Freeman Solar, LLC to be reviewed during the May 12th, 2022, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcels: 130-3.00-246.00, 247.00, 247.02 & 130-6.00-75.00, 76.00, 92.00, 94.00, 95.00, 96.00 & 97.00 to allow for a solar farm consisting of 75 megawatts per acre of photovoltaic electric generation facility. The properties are located on the east and west side of Calhoun Road (S.C.R. 621) and South Shawnee Road (Route 36), approximately 1,267 feet south of Shawnee Road (Route 36). The parcels comprise a total area of 350.96 acres +/-.

Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcels have a designation of “Low Density Area” (to include Parcels 92.00 and 94.00) and “Developing Area” (to include all other parcels as part of this Application). The adjacent parcels to the south and east subject properties retain the Future Land Use Map designation of “Low Density Area.” The properties on the opposite side of S. DuPont Boulevard (Route 113) are also designated as “Low Density Areas.” The parcels to the north and to the west also have a Future Land Use Map designation of “Developing Area.” The balance of the property to the northeast of the subject site contains the Future Land Use Map designation of “Municipalities” as these properties are located within the incorporated town limits of the City of Milford.

As outlined within the 2018 Sussex County Comprehensive Plan, the primary uses envisioned in Low Density Areas are agricultural activities and homes. Business development should be largely confined to businesses addressing the needs of these two uses. Industrial and agribusiness uses that support or depend on agriculture should be permitted. The focus of retail and office uses in Low Density Areas should be providing convenience goods and services to nearby residents. Commercial uses in these residential areas should be limited in their location, size, and hours of operation. More intense commercial uses should be avoided in these areas. Institutional and commercial uses may be appropriate depending on surrounding uses. (Sussex County Comprehensive Plan, 4-19).



Furthermore, as also outlined within the 2018 Sussex County Comprehensive Plan, The Developing Areas are newer, emerging growth areas that demonstrate the characteristics of developmental pressures. 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 properties are zoned Agricultural Residential (AR-1) District, Medium Density Residential (MR) District and General Residential (GR) District. The adjacent properties on the west side of Calhoun Road are zoned General Residential (GR) District. The properties on the east side of Calhoun Road are zoned Agricultural Residential (AR-1) District. The parcels to the north of the subject property on the opposite side of the road Shawnee Road (Route 36) are zoned Medium Density Residential (MR) District with a single property to the northeast at the intersection of Shawnee Road and Old Shawnee Road being zoned Neighborhood Business (B-1) District.

Existing Conditional Uses within the Vicinity of the Subject Site

Since 1970, there have been five (5) Conditional Use applications within less than a 0.25-mile radius of the application site. The first application is Conditional Use No. 183 Milford Grain Co. to allow for a grain dryer, storage tanks and office within an Agricultural Residential (AR-1) and Medium Density Residential (MR) Zoning District. The Application was approved by the Sussex County Council at their meeting of Tuesday, January 8, 1974. The second application is Conditional Use No. 551 Richard and Virginia Roop to allow for the establishment of an automobile sales and repair shop within an Agricultural Residential (AR-1) Zoning District. The Application was approved by the Sussex County Council at their meeting of Tuesday, October 23, 1979. The third application is Conditional Use No. 648 Irving J. Hall to allow for an automobile repair shop to be located within the General Residential (GR) Zoning District. The Application was approved by the Sussex County Council at their meeting of Tuesday, October 13, 1981. The fourth application is Conditional Use No. 911 Fredrick Golden to allow for restoration of antique and custom cars within a Medium Density Residential (MR) Zoning District. The Application was withdrawn on August 15, 1989, after being denied by the Planning and Zoning Commission at their meeting of Thursday, July 27, 1989. The fifth application is Conditional Use No. 1909 Thomas P. Collins to operate a beauty salon within a General Residential (GR) Zoning District. The Application was approved by the Sussex County Council at their meeting of Tuesday, September 20, 2011, and the change was adopted through Ordinance No. 2220.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow for the placement of a 75 megawatt per acre photovoltaic electric generation facility in this location, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

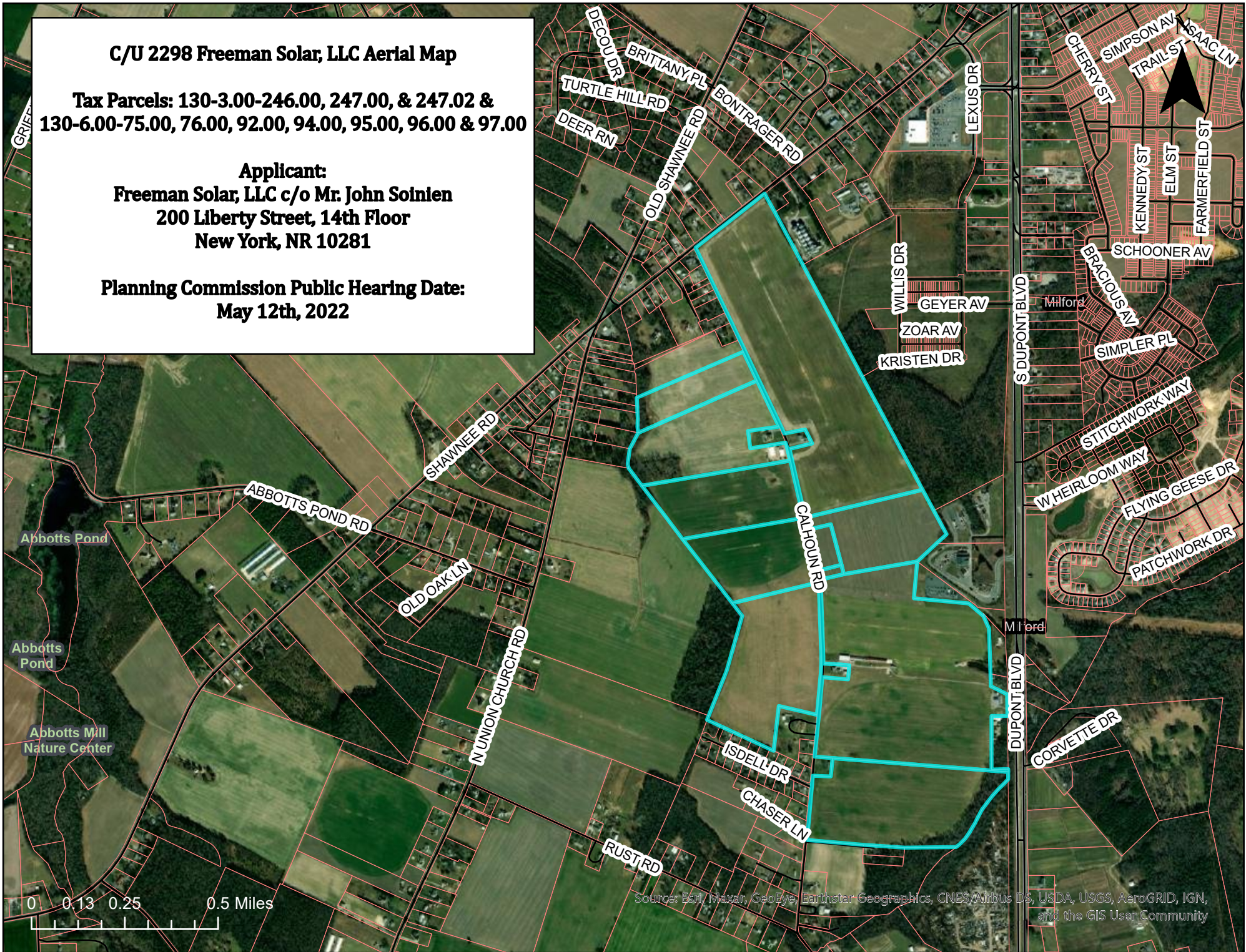
| Conditional Use Applications (w/in a 0.25 mile radius of the subject site)* | | | | | | | | |
|--|-------------------------|-----------------------|--------------------------------------|-------------------------|------------------------------|--------------------|-------------------------|-------------------------|
| Application Number | Application Name | Current Zoning | Proposed Use | P&Z Decision | P&Z Decision Date | CC Decision | CC Decision Date | Ordinance Number |
| CU 183 | Milford Grain Co. | AR-1 & MR | Grain dryer, storage tanks & office | N/A | N/A | Approved | 1/8/1974 | N/A |
| CU 551 | Richard & Virginia Roop | AR-1 | Automobile sales and | N/A | N/A | Approved | 10/23/1979 | N/A |
| CU 648 | Irving J. Hall | GR | Automobile Repair Shop | N/A | N/A | Approved | 10/13/1981 | N/A |
| CU 911 | Fredrick Golden | MR | Restoration of Antique & Custom Cars | Recommended Denial | 7/27/1989 | Withdrawn | Withdrawn | Withdrawn |
| CU 1909 | Thomas P. Collins | GR | Beauty Salon | Recommended Approval | 8/25/2011 | Approved | 9/20/2011 | 2220 |

C/U 2298 Freeman Solar, LLC Aerial Map

**Tax Parcels: 130-3.00-246.00, 247.00, & 247.02 &
130-6.00-75.00, 76.00, 92.00, 94.00, 95.00, 96.00 & 97.00**

**Applicant:
Freeman Solar, LLC c/o Mr. John Sojnien
200 Liberty Street, 14th Floor
New York, NR 10281**

**Planning Commission Public Hearing Date:
May 12th, 2022**

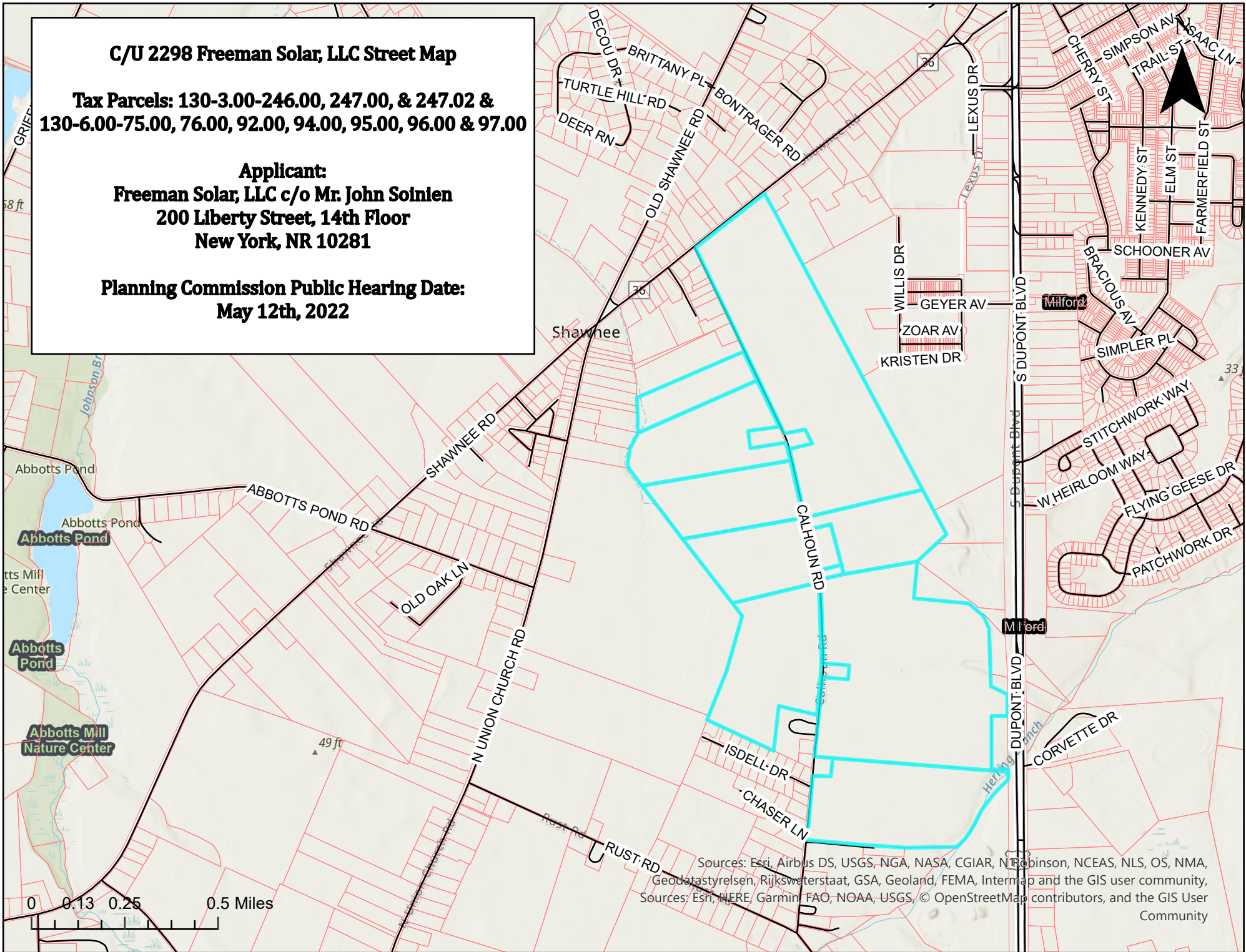


C/U 2298 Freeman Solar, LLC Street Map

**Tax Parcels: 130-3.00-246.00, 247.00, & 247.02 &
130-6.00-75.00, 76.00, 92.00, 94.00, 95.00, 96.00 & 97.00**

**Applicant:
Freeman Solar, LLC c/o Mr. John Sojnien
200 Liberty Street, 14th Floor
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**Planning Commission Public Hearing Date:
May 12th, 2022**

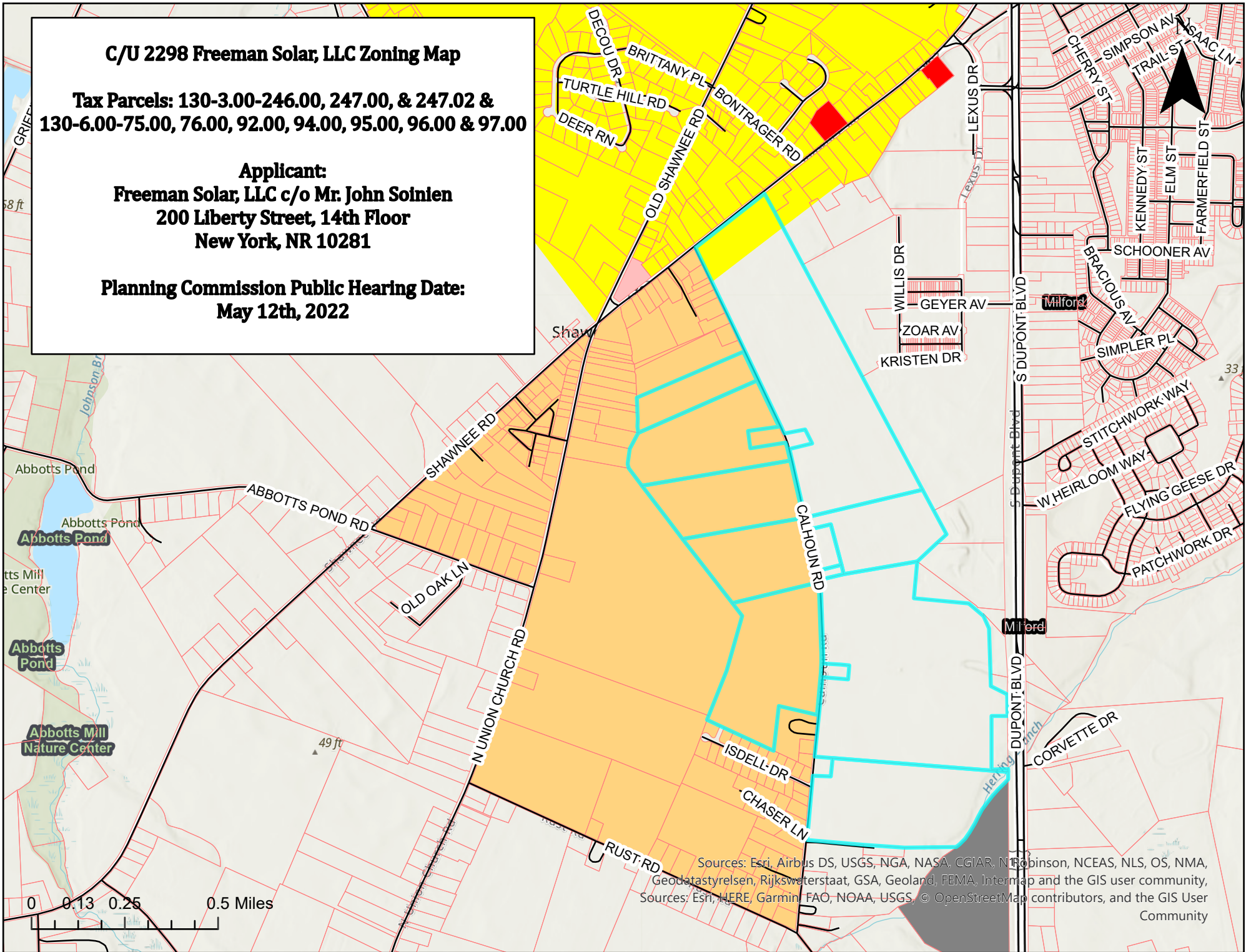


C/U 2298 Freeman Solar, LLC Zoning Map

Tax Parcels: 130-3.00-246.00, 247.00, & 247.02 & 130-6.00-75.00, 76.00, 92.00, 94.00, 95.00, 96.00 & 97.00

Applicant:
Freeman Solar, LLC c/o Mr. John Sojnien
200 Liberty Street, 14th Floor
New York, NR 10281

Planning Commission Public Hearing Date:
May 12th, 2022



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

Introduced 08/24/21

Council District 2 - Green

Tax I.D. Nos. 130-3.00-246.00, 247.00 & 247.02, 130-6.00-75.00, 76.00, 92.00, 94.00, 95.00, 96.00 & 97.00

911 Addresses: None Available

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT, A GR GENERAL RESIDENTIAL DISTRICT, AND A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A 75 MEGAWATT SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 350.96 ACRES, MORE OR LESS

WHEREAS, on the 6th of July 2021, a conditional use application, denominated Conditional Use No. 2298 was filed on behalf of Freeman Solar, LLC; and

WHEREAS, on the ____ day of _____ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2298 be _____; and

WHEREAS, on the ____ day of _____ 2021, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article 115, Subsection 115-79, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2298 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, Delaware, and lying on the east and west side of Calhoun Road (S.C.R. 621) and South Shawnee Road (Route 36), approximately 1,267 feet south of Shawnee Road (Route 36), said property shown on a plat prepared by Pennoni Associates, Inc. and entitled "Conditional Use Site Plan" and being more particularly described in the attached legal description, dated June 30, 2021, prepared by Pennoni Associates, Inc., said parcels containing 350.96 acres, more or less.

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

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
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Sussex County

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Memorandum

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

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

CC: Everett Moore, County Attorney

Date: June 10, 2022

RE: County Council Report for C/U 2363 filed on behalf of Laurel Wesleyan Church – c/o Reverend M. Scott Conn

The Planning and Zoning Department received an application (C/U 2363 filed on behalf of Laurel Wesleyan Church – c/o Reverend M. Scott Conn) for a Conditional Use for parcel 232-12.10-3.00 to allow for an electronic message center sign. The property is located 30186 Seaford Road, Laurel. The parcel size is 7.03 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on May 12, 2022. At the meeting of May 26, 2022, the Planning & Zoning Commission recommended approval of the application subject to 6 reasons stated and subject to 2 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of May 12, 2022, and May 26, 2022.

[Approved Minutes of the May 12, 2022 Planning & Zoning Commission Meeting](#)

C/U 2363 Laurel Wesleyan Church – c/o Reverend M. Scott Conn

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR AN ELECTRONIC MESSAGE CENTER SIGN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 7.03 ACRES, MORE OR LESS. The property is lying on the west side of Seaford Road (Rt. 13A), approximately 0.53 mile northwest of Discount Land Road (S.C.R. 468). 911 Address: 30186 Seaford Road, Laurel. Tax Parcel: 232-12.10-3.00



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

Mr. Whitehouse advised the Commission that submitted into the record was the Staff Analysis, plans, and photos submitted by the Applicant, the comments received from the Sussex County Engineering Department Utility Planning Division; the DeDOT Service Level Evaluation Response, and zero comments were received.

The Commission found that Reverend M. Scott Conn spoke on behalf of his Application; that also present was Ms. Kim Diehl with Kent Sign, Co.; that he is the Pastor at Laurel Wesleyan Church; that the current sign located on the property is 21 years old; that the sign has become aged; that they did consider replacing the sign with a similar style sign; that since technology has changed, he does wish to have an LED sign; that the upgrade to an LED would allow them to relay information better to events of the church; that Ms. Diehl was the designer of the proposed sign; that the proposed sign size is 84-in. wide and 96-in. tall; that the LED portion of the sign is proposed to be 31-in. tall and 81-in. wide; that electric is supplied to the proposed sign area and the sign would be controlled and programmed through WIFI.

Ms. Stevenson requested if the sign projects messages at night, the messages not be relayed with a bright white background, as it causes visual difficulty.

Mr. Hopkins questioned if the size of the sign would be subject to change and if the size of the sign is tentative, they should offer a footnote stating that.

Mr. Whitehouse questioned if the proposed sign would have an environmental sensor, or dimmer, which would reduce the brightness based on the amount of ambient light and he stated this is an Ordinance requirement.

Reverend Conn stated there may be some adjustment to the proposed sign; that the example proposed is a concept of what they would like for a LED sign; that the sign is not intended to be much larger, and he confirmed the sign would contain an environmental sensor which would dim the brightness at night.

Mr. Whitehouse questioned if the proposed sign would have an environmental sensor, or dimmer, which would reduce the brightness based on the amount of ambient light and he stated this is an Ordinance requirement.

Chairman Wheatley questioned Mr. Whitehouse if the sign would be required to have a sign permit; that the review process to obtain the sign permit will ensure the sign fully meets the County Code.

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

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

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

In relation to Application C/U 2363 Laurel Wesleyan Church – c/o Reverend M. Scott Conn. Motion by Ms. Stevenson to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion 4-0.

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

Draft Minutes of the May 26, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since May 12, 2022.

Mr. Robertson read Ms. Wingate’s motion.

Ms. Wingate moved that the Commission recommend approval of C/U 2363 Laurel Wesleyan Church c/o Reverend M. Scott Conn to allow an on-premises electronic message center sign based on the record made during the public hearing and for the following reasons:

1. This is an application for a Conditional Use to install an on-premises electronic message display sign. This type of application is permitted under Section 115-161.1 A. (3) of the Zoning Code.
2. The sign will be used to display information about the Laurel Wesleyan Church and its activities. The Church occupies the site where the sign is located.
3. This sign will replace a prior static-display sign on the site.
4. The sign will be required to comply with all of the sign regulations in the Zoning Code, including brightness and motion.
5. The sign will not adversely affect neighboring properties or area roadways and traffic.
6. No parties appeared in opposition to this Application.
7. This recommendation is subject to the following conditions:
 - A. The Electronic Message Display area shall not exceed 32 feet per side.
 - B. A final site plan showing the location of the sign on the site shall be submitted to the Sussex County Planning & Zoning Commission for approval.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to recommend approval of C/U 2363 Laurel Wesleyan Church – c/o Reverend M. Scott Conn for the reasons and conditions stated in the motion. Motion carried 4-0.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: May 12th, 2022

Application: CU 2363 Laurel Wesleyan Church c/o Reverend M. Scott Conn

Applicant: Laurel Wesleyan Church c/o Reverend M. Scott Conn
30186 Seaford Road
Laurel, Delaware 19956

Owner: Laurel Wesleyan Church
30186 Seaford Road
Laurel, Delaware 19956

Site Location: Lying on the west side of Seaford Road (Rt. 13A), approximately 0.75 mile north of Discount Land Road (S.C.R. 468)

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

Proposed Use: Electronic Message Center

Comprehensive Land
Use Plan Reference: Developing Area

Councilmanic
District: Mr. Vincent

School District: Laurel School District

Fire District: Laurel Fire Department

Sewer: On-site septic

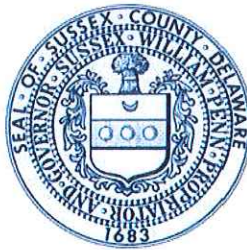
Water: On-site well

Site Area: 7.03 acres +/-

Tax Map IDs.: 232-12.10-3.00



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Sussex County

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Memorandum

To: Sussex County Planning Commission Members
From: Chase Phillips, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: May 3rd, 2022
RE: Staff Analysis for C/U 2363 Laurel Wesleyan Church

The purpose of this memo is to background and analysis for the Planning Commission to consider as a part of application C/U 2363 Laurel Wesleyan Church to be reviewed during the May 12th, 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 232-12.10-3.00 to allow for an on-premises electronic message center (sign). The property is located on the west side of Seaford Road (S.C.R. 13A), approximately 0.53 mile north of Discount Land Road (S.C.R. 468). The property is 7.03 acres, more or less.

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 adjacent parcels to the south and east subject properties retain the Future Land Use Map designation of "Low Density Area." The properties to the north, south, and east are also with the Developing Area. The properties to the west are within the Low Density 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).



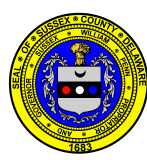
Zoning Information

The subject property is within the Agricultural Residential (AR-1) Zoning District. The principal use of a church/place of religious worship and congregation is a permitted use in this AR-1 Zoning District. The properties to the north, south, east, and west are also within the AR-1 Zoning District.

Existing Conditional Uses within the Vicinity of the Subject Site

There have been almost no major Conditional Use applications within a one-mile radius in the past 25 years. The one exception to this is a Conditional Use approval for an archery repair and sales business that exists approximately 0.3 mile south of the subject site. This CU was approved by the Sussex County Council on September 11th, 2007, through Ordinance No. 232-12.14-16.00.

Based on the analysis provided, the Conditional Use to allow for an electronic message center (sign) could be consistent with the surrounding land uses, zoning, and general environment given considerations of scale and impact.



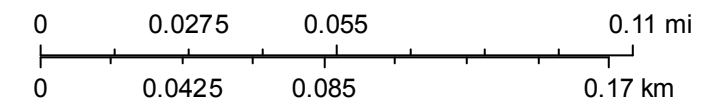
Sussex County

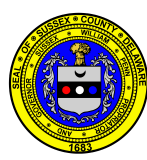


| | | |
|------------------------|--------------------|--------|
| PIN: | 232-12.10-3.00 | |
| Owner Name | CHURCH WESLEYAN | LAUREL |
| Book | 2441 | |
| Mailing Address | PO BOX 68 | |
| City | LAUREL | |
| State | DE | |
| Description | JOHN W MOORE SUB | |
| Description 2 | 49 LOTS | |
| Description 3 | | |
| Land Code | | |

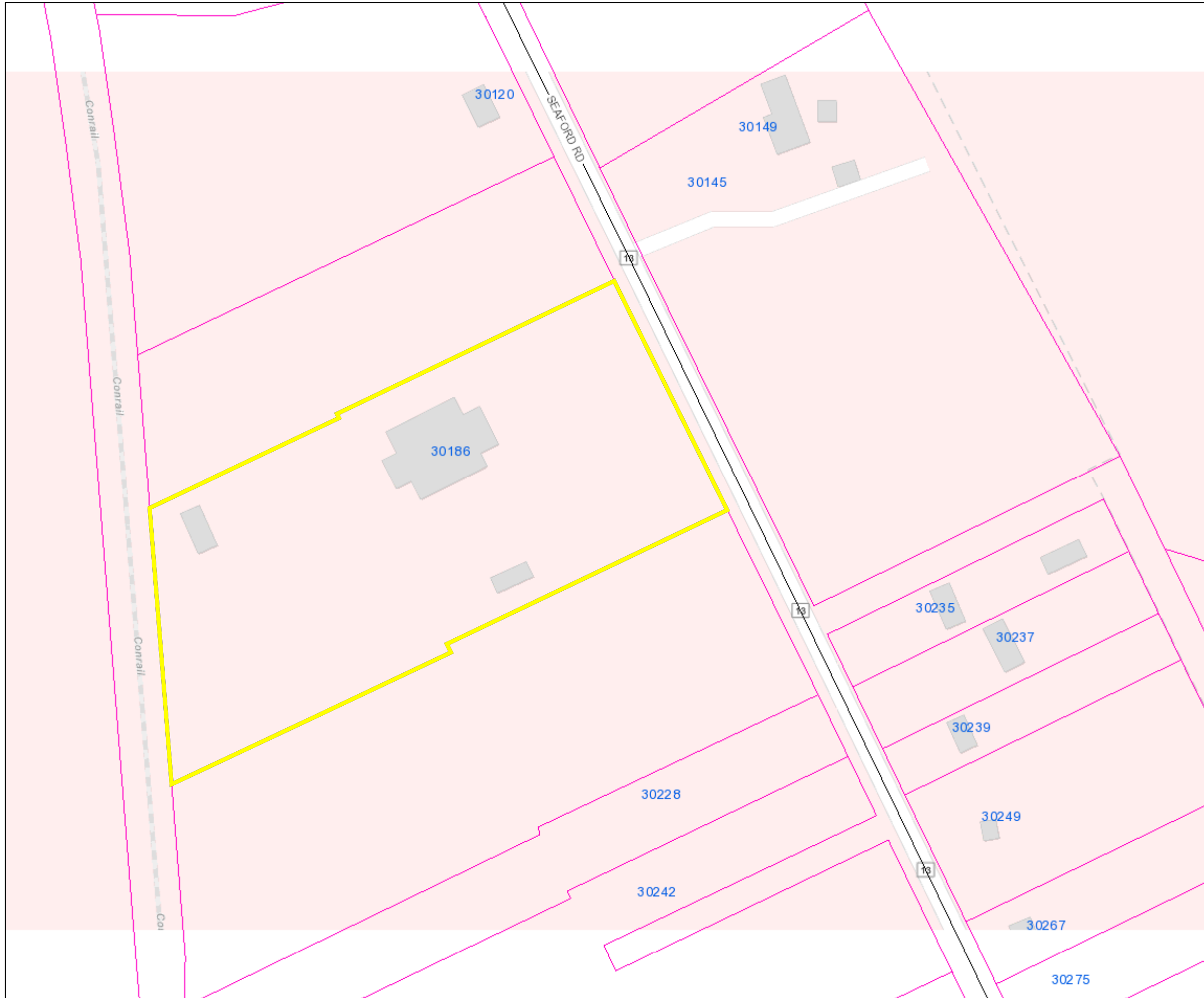
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- Override 1
- Tax Parcels
- 911 Address
- Streets

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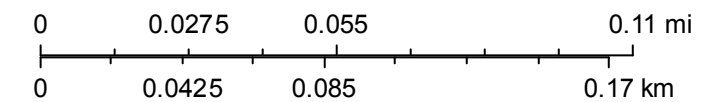
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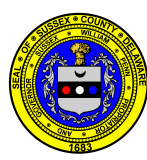


| | | |
|------------------------|------------------|--------|
| PIN: | 232-12.10-3.00 | |
| Owner Name | CHURCH | LAUREL |
| | WESLEYAN | |
| Book | 2441 | |
| Mailing Address | PO BOX 68 | |
| City | LAUREL | |
| State | DE | |
| Description | JOHN W MOORE SUB | |
| Description 2 | 49 LOTS | |
| Description 3 | | |
| Land Code | | |

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

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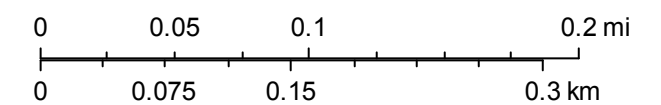
Sussex County



| | | |
|------------------------|--------------------|--------|
| PIN: | 232-12.10-3.00 | |
| Owner Name | CHURCH WESLEYAN | LAUREL |
| Book | 2441 | |
| Mailing Address | PO BOX 68 | |
| City | LAUREL | |
| State | DE | |
| Description | JOHN W MOORE SUB | |
| Description 2 | 49 LOTS | |
| Description 3 | | |
| Land Code | | |

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

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Introduced: 04/26/2022

Council District 1: Mr. Vincent
Tax I.D. No.: 232-12.10-3.00
911 Address: 30186 Seaford Road, Laurel

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR AN ON-PREMISES ELECTRONIC MESSAGE CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 7.03 ACRES, MORE OR LESS

WHEREAS, on the 4th day of April 2022, a conditional use application, denominated Conditional Use No. 2363 was filed on behalf of Laurel Wesleyan Church c/o Reverend M. Scott Conn; 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. 2363 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. 2363 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 Broad Creek Hundred, Sussex County, Delaware, and lying on west side of Seaford Road (Rt. 13A), approximately 0.53 mile northwest of Discount Land Road (S.C.R. 468), and being more particularly described in the attached deed prepared by Moore & Rutt, P.A., said parcel containing 7.03 acres, more or less.

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

JAMIE WHITEHOUSE, AICP
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Memorandum

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

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

CC: Everett Moore, County Attorney

Date: June 10, 2022

RE: County Council Report for C/U 2352 filed on behalf of CB Lewes, LLC

The Planning and Zoning Department received an application (C/U 2352 filed on behalf of CB Lewes, LLC) for a Conditional Use for parcel 334-6.00-504.02 to amend the conditions of approval of C/U 1845 (Ordinance No. 2106) to increase the number of permitted multifamily units from 168 to 198. The property is located on the northeast side of Plantations Road (Rt. 1D), 850 feet northwest of Robinsonville Road (S.C.R. 271). The parcel size is 18.08 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on May 26, 2022. At the meeting of June 9, 2022, the Planning & Zoning Commission recommended approval of the application subject to 9 reasons stated and subject to 2 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of May 26, 2022 and June 9, 2022.

Draft Minutes of the May 26, 2022 Planning & Zoning Commission Meeting

Chairman Wheatley recused himself from the next Application and left Council Chambers

C/U 2352 CB Lewes, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM-DENSITY RESIDENTIAL DISTRICT TO AMEND THE CONDITIONS OF APPROVAL OF C/U 1845 (ORDINANCE NO. 2106) TO INCREASE THE NUMBER OF PERMITTED MULTIFAMILY UNITS FROM 168 TO 198 FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX



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

COUNTY, CONTAINING 18.08 ACRES, MORE OR LESS. The property is lying on the northeast side of Plantations Road (Rt. 1D), 850 feet northwest of Robinsonville Road (S.C.R. 271). 911 Address: N/A. Tax Parcel: 334-6.00-504.02.

Mr. Whitehouse advised the Commission that submitted into the record were the Site Plan, Staff Analysis, a letter from the Sussex County Engineering Department Utility Planning Division, the DelDOT Service Level Evaluation Response, four mail returns, and five letters of opposition, with one letter being a duplicate.

The Commission found that Mr. David Hutt, Esq. with Morris James spoke on behalf of the Application; that also present were Mr. Joseph Calabro with CB Lewes, LLC, and Mr. Alan Hill, Professional Engineer with Hillcrest Associates, Inc.; that the closing of the record for the SCRP Program was very germane to the present Application; that members of the public and the Commission have both raised concerns regarding providing additional opportunities of helping the affordable housing issues within Sussex County; that there is more which needs to be done regarding the affordable housing issues in Sussex County; that the proposed Application presents an opportunity for Sussex County to offer more within the SCRP Program; that the Coastal Tide project originally presented and approved as The Arbors of Cottagedale; that the original approval was for 168 residential rental units; that of the 168 rental units, 26 units were designated to be part of the SCRP Program; that the Application was previously approved through C/U 1845, which was adopted by County Council on February 23, 2010; that as part of the process with the rental program, and Applicant is required to enter into an agreement with Sussex County and various other departments within the County; that there is an agreement and a set a restrictive covenants which the Code refers to, which get recorded with the Recorder of Deeds, providing a permanent record of the agreement; that should the Application be approve, and amendment to the original document on record, which would update the document to add the additional proposed units; that the Application property is located on the block of land between Plantations Rd., also know as Rt. 1D and Rt. 1; that the entrance to existing apartments is located off Plantations Rd. via Mackenzie Way; that all of buildings as part of the original approval are constructed; that six apartment buildings currently exist; that the existing amenities are located right off Mackenzie Way; that two of the buildings on the site are not yet occupied; that one building is still required to be energized; that the other building is awaiting a certificate of occupancy; that prior to the 1960s the site was once called Jackson Pit, which was a borrow pit from which materials were excavated; that once the use of the borrow pit ceased, the area became a dump for household municipal waste; that this use occurred until the early 1980s; that in the early 1990s, DNREC issued a permit allowing certain types of debris to be placed at the site; that the debris included stumps, lumber and trees; that once that use ceased, sand and gravel were brought in and the site was leveled; that the site was not monitored very carefully which led to a lot of illegal dumping at the site; that from 1986 until 2014 there was a series of environmental studies performed on the property; that in 2015 the results of the studies were released; that there was a brownfield investigation perform resulting in an action plan placed, which was approved by DNREC to remediate the site; that there are thousands of documents referencing the remediation and the brownfield investigation; that they were required to excavate all of the debris, properly dispose of the waste and debris and fill the site clean fill; that final report from the engineers indicated 32,736 tons of debris were removed from Jackson Pit during the process; that the expense of the debris removal and proper disposal was nearly six million dollars; that the site did receive a certificate of completion issued by

DNREC, which is a recorded document within the Recorder of Deeds as of 2019; that the property is zoned MR (Medium-Density Residential) Zoning District; that on the County's 2045 Future Land Use Map, the property is shown within the Coastal Area; that the Coastal Area is part of the County's seven Growth Areas; that all properties between Plantations Rd. and Rt. 1 are located within the Coastal Area or zoned for commercial; that the 2020 State Strategies Map the entire area between Plantation Rd. and Rt. 1 is located within Investment Level 1; that Investment Level 1 areas are areas where the State promotes well designed, efficient new growth and new development; that these are active areas where the state anticipates growth and spends money on infrastructure; that the property is not located within a flood plain, as it is designated Flood Zone X; that this is referenced on the FEMA Map as being outside of the 500 Year Flood Plain; that there are no wetlands located on the property; that all necessary utilities are available to the site; that sewer services area provided and currently utilized on site through the Sussex County Unified Sanitary Sewer System; that water services are currently provided by Tidewater Utilities, Inc.; that there are six existing apartment buildings; that each apartment building holds 30 units; that there is a smaller building, located near the front of the property, which contains 18 units; that those apartment buildings total 168 existing units; that on the proposed Preliminary Site Plan, is the proposed seventh apartment building; that the proposed seventh building has the same footprint as the other five existing buildings containing 30 units; that proposed is a three-story apartment building, consisting of 30 units; that six of the 30 units will be utilized for the SCRP Program; that as proposed, 20% of the new units would be part of the SCRP Program; that the Code currently requires 12.5% of units to be part of the SCRP Program; that the proposed Application is offering an additional 7.5% of units; that overall the total percentage of the number of units would be subject to the SCRP Program would be 16% based upon the existing 26 units previously scheduled to be within the program, along with the addition of the six proposed; that one concern proposed within a letter submitted into the record was the density for the project and the area; that the density would change with the addition of the proposed building addition; that currently the density of the site is 9.29 units to the acre; that with addition of the proposed building, with 30 units, the density would increased to 10.95 units to the acre; that the densities within the area vary; that toward Rt. 1, the Savannah West Apartments, which contains 48 units on a four acre site, have a density nearing 12 units to the acre; that Somerset Green has density of eight units to the acre; that within the Rolling Meadows Community, which are single-family homes, generally located on half-acre lots; that there is a mixture of housing styles and densities within the area; that multi-family living is common for the area and consistent to other communities within the area; that the multi-family uses are Plantations, Savannah West, Eagle Point Community, Sunset Glen, Somerset Green and the existing buildings of Coastal Tide; that another concern was regarding traffic; that DelDOT did provide a Service Level Evaluation Response which indicated the traffic generated by the additional 30 units would be negligible, which means less than 50 vehicle trips in any hour; that the property is located with the Henlopen Transportation Improvement District (Henlopen TID); that due to being within the TID, there will be a required to be paid into the TID for each of the 30 units; that there were concerns submitted by the Rolling Meadows Community; that there is a current landscape buffer between the community and the proposed site; that if the buffer requires to be supplemented, it can be accomplished; that another submitted concern, was in regards to the timing of the project; that the comments stated the process has taken years; that the comments are true, as before the construction of the infrastructure, the site was first required to be remediated as it was designated a brownfield site; that it was hoped that by removing the 32,736 tons of debris from the site, it would be considered a benefit to the overall community; that the Commission has seen many revisions to the original site

plan, which referenced the name and parking changes; that located on the proposed site plan there are additional parking spaces, which exceed the parking requirements found within the County Code; that a concern submitted by the Eagle Point Community was regarding an existing stormwater management pond; that the stormwater management pond has been difficult to manage; that within the last few weeks, Sussex Conservation District approved the plan of action to address the stormwater management pond issues and concerns; that the Applicant has ordered the materials necessary; that when the items are delivered, they will be installed, addressing the issues of the stormwater management pond; that the new proposed apartment building will have its own stormwater management pond, being separate from the existing stormwater management concerns; that another concern was regarding fencing; that the original approval required fencing; that the reasoning for the fencing not currently being installed is due to the required stormwater management maintenance for remedy the current issues; that if the Applicant were to place the fencing, the contractor would not be able to access the stormwater management pond; that as soon as the stormwater management remedial work is completed, receiving approval Sussex Conservation District, the fencing will then be installed and completed, which was required for the original Conditional Use; that at that time, there will be fencing placed around the dumpsters located in various locations around the site; that there was a meeting held the day before the public hearing, with members from Eagles Point and the management company for Coastal Tide Apartments, where a number of the issues were explained and discussed; that the two relevant chapters within the Comprehensive Plan is Chapter 4 on land use and Chapter 8 on housing; that within Section 8.2.1.3 it states Sussex County should explore ways for private developers to provide multi-family and affordable housing opportunities; that the project, as proposed, provides that exact opportunity to Sussex County; that the proposed project infill, where there is existing infrastructure; that the Applicant can simply add a building onto the site, which would provide multi-family housing, with six units being subject to the SCRP Program; that the six units will provide affordable housing in an area of Sussex County which needs it; that within Chapter 4 of the Comprehensive Plan, it stated when medium and higher density, four to 12 units per acre, can be appropriate in certain locations; that Chapter 4 states, medium and higher densities can be supported where there is central water and sewer, where located near sufficient commercial uses and employment centers, where it keeps with the character of the area, where it is located along a main road and/or near a major intersection, where there is adequate level of service, or where other considerations existing which are relevant to the requested project and density; that the proposed project would offer affordable housing opportunities in an area in Sussex County which desperately needs it; that the area is served by Sussex County central sewer; that central water is provided by Tidewater Utilities, that it is located near a significant amount of commercial uses and employment centers being near Rt. 1; that the project does keep in character with the area, as there are a number of multi-family units nearby; that the property is situation along a major roadway, Plantations Rd. which DelDOT classifies as a major collector roadway; that Plantations Rd. is in close proximity to Rt. 1 and in close proximity to the DART station near the Lowes; that the proposed use is consistent with the Comprehensive Plan; that the project is consistent with the multi-family unit section within the MR (Medium-Density Residential) section of County Code; that he did request to show photos of the existing apartment units; that there are garages located along the perimeter, which are available separately to unit owners for rent; that within the SCRP it requires all units subject to the SCRP be fully integrated into community in location and appearance; that within the SCRP the price points are set for the units; that he provided a chart listing the SCRP unit pricing within Coastal Tide, as well as the market rate pricing, which proves the SCRP program works; that for a one bedroom with one bathroom unit, the

price for a SCRP unit would be \$660.00; that the same unit at market rate would cost \$1,565.00; that Sussex County is able to ensure these numbers through an Annual Compliance Report provided and reviewed by Sussex County; that this review, allows review of all applications, the units and how the rent is being administered; that this review would also hold true for the proposed six SCRP units for the project; that he requested to submit a proposed Findings of Fact and proposed Conditions of Approval; that the only condition proposed to be changed is Condition A, which references the number of rental units and all of the other conditions for the existing Conditional Use would apply to the proposed project.

Mr. Hopkins questioned how applicants get placed on a list for the SCRP units and questioned if 100% of the applicants get funneled through the Sussex County Department of Housing or not.

Mr. Robertson stated there are representatives of Sussex County Department of Housing who also handle the lists of tenant applications.

Mr. Joseph Calabro stated he is not involved in the day-to-day property management aspect of the project and Ms. Linda Smith with Your Place Property Management, LLC works hand-in-hand with Ms. Brandy Nauman on the property management process; that he has been involved to some degree.

Mr. Hutt stated years ago, Ms. Brandy Smith did make a presentation before County Council regarding how the project of Coastal Tide was being performed.

Ms. Brandy Nauman, accompanied by Ms. Tyesia Dupont-Palmer, stated Your Place Property Management and Coastal Tide Apartments will receive direct referrals from members of the public; that she and her staff also receive calls at their office of Sussex County Department of Housing; that their department direct those calls directly to Coastal Tide Apartments; where the caller would specifically ask to be placed on the waiting list for the Sussex County Rental Program; that the property manager keeps to waiting lists; that one list is for the market rate units and another list for the affordable rental units; that as units become available the property manager assesses each applicant for their eligibility; that in order to generate the initial waiting list, they conducted a lottery, which was a learning process for all involved; that they offered this to provide the most fair way of establishing a waiting list; that there was a four to six week period where members of the public could call or apply online via webform to request to become part of the lottery; that at the end of that period they randomly generated numbers to every applicant; that this information was forward to the property management company, who has been working their way down those lists every since; that at this point the lottery list has been exhausted; that the property management company has now began an open waiting list; that any member of the public who calls will be placed on a waiting list; applicants are taken in order as they call, but also based on family size and units size required and the funnel all requesting applicants directly to the property manager who handles all eligibility criteria.

Ms. Tyesia Dupont-Palmer submitted a document which referenced the bedroom sizes on the waiting list, which consist of one-, two- and three-bedroom units; that they had their first compliance review on February 7th and 8th of 2022; that they review 14 current tenant files; that the files were found to be in compliance; that there was one rejected application which was denied due to unsatisfactory criminal and credit back ground checks; that during the time of the review, for the 14 files, there was

two households at 30% Area Median Income (AMI), eight files at 50% AMI, and four files at 80% AMI; that rent costs, at the time of the review, were \$590.00 for the one bedroom, \$705.00 for the two-bedroom, and \$815.00 for the three-bedroom; that the costs have since increased based on the Sussex County Income Limits; that due to active construction, there were only 14 SCRCP units at the time of review and they currently have 18 SCRCP units within Coastal Tide.

Mr. Hopkins questioned how Sussex County confirms accountability and he questioned how Sussex County confirms the list Sussex County has currently working with is still on file, and will not be changed in the future and he questioned how the SCRCP lottery was performed.

Ms. Tyesia Dupont-Palmer stated currently the Sussex County Department of Housing has a running list; that when she started with the Department, Ms. Brandy Nauman had a list of all applicants for the lottery; that she used the lottery list when performing her compliance review, to ensure the people who had applied for the lottery where the actual tenants who moved into units on the property.

Ms. Brandy Nauman stated the lottery was the initial way to establish a wait list; that there were advertisements and flyers facilitated through all of the area through Ms. Linda Smith and her team at Your Place Property Management, LLC; that the flyers were facilitated to various employment centers in the area, Beebe and Cape Henlopen School District; that an advertisement was placed on social media and press releases; that they received a great response; that they initially received 100 applicant responses for the lottery; that they have facilitated through the lottery list; that they are currently accepting applications; that the property manager sends month reports to Ms. Dupont-Palmer, which she reviews and compares to the months prior to ensure everything complies; that this also creates an easier process during the annual compliance review; that the lottery process began in December 2020; that the lottery stayed open for a period of six weeks; that the lottery began prior to the completion of the first unit; that of the 100 applicants, 18 tenants were provided a SCRCP unit; that they have documentation for the other 82 applicants; that the property manager would schedule appointments, the applicants had already found alternative housing, applicants did not qualify based on background, income, criminal history and other various criteria; that the lottery did not initially assess those criteria; that initially anyone was allowed to apply; that they then were required to filter through the applications for those who would be eligible and there is about 35 applicants currently on the waiting list for the SCRCP Program.

Mr. Hopkins stated he was surprised that so few people applied for the lottery.

Ms. Tyesia Dupont-Palmer stated she receives calls on a daily basis for housing; that she refers the calls to Coastal Tide; that she provides the phone number and address, advising callers to pick up an application and to speak with the property manager; that she keeps a running list of callers; that she did have a lady call last week for housing; that she advised the property manager, who confirm the lady did come in to apply; that Coastal Tide is the only project part of the SCRCP Program; that 10 applicants have been denied since the process began and the denials have been due to unsatisfactory criminal background or for over or below income.

Mr. Robertson stated, as also mentioned by Mr. Hutt, all of the requirements being discussed are requirements listed within Chapter 72, to be placed in an agreement which is required to be recorded

with the Recorder of Deeds; that this was a requirement of the Conditional Use approval, which spells out in more detail what needs to be done in relation to Sussex County Code and the document recorded with Recorder of Deeds.

Mr. Hopkins questioned what the estimated turnover is for the SCRIP units.

Ms. Brandy Nauman stated she does not believe they have data on turnover rates as of yet; that every tenant signs a year lease; that as long as they remain income qualified and remain in good standing with the property manager, they remain within the SCRIP Program and unit.

Ms. Wingate questioned if the two buildings currently existing were committed to RCRP eligible residents.

Ms. Stevenson questioned why the Applicant did not originally request the greater number of units as they had the space to do so and she stated an opposition letter submitted mentioned concern of an Indian burial ground located on the site.

Mr. Joseph Calabro stated the units are identified as to the type of SCRIP units within the buildings; that he is not aware if there are currently signed leases for those units; that it has been a moving target with all of the supply chain issues the past year; that he would have liked to have the other buildings completed months ago; that they have been waiting on water meters and electric gear; that the timelines continue to be pushed out; that he does believe at the time they can begin signing leases the units will be filled in short order by all parties; that other than some short turnover, they have 100% occupancy of the buildings currently completed; that they were not the original developer of the existing project; that they stepped into the project around 2014-2015, when they acquired the property from another developer and he does believe there was a previous developer before that, who took the project through the original Conditional Use approval.

Mr. Hutt stated he believed, based on the meeting minutes provided, when the original application went through there was some concern there was a graveyard on site, requiring protection; that he understood it to be the graveyard was located on another property, across the subject site's boundary line and there was a condition place stating a setback from the graveyard.

Mr. Robertson stated he agreed with Mr. Hutt's comments, that he remembered the graveyard to be located on the adjacent property as well; that from personal knowledge, a sign referencing the graveyard is located at the entrance of Eagle Point; that the graveyard is not located anywhere near the Application site, and he questioned if there was any concern to a graveyard being located in the location the apartment building is proposed.

Mr. Hutt stated there is no graveyard located in the area the apartment building is proposed on the site.

Ms. Stevenson stated she does not have an issue with extra units; that she believes the site is a location where density should be located; that she had concerns that the Commission will set a precedent, which could have a negative impact later, where a developer has 300 acres, only developing 100 units,

then returning at a later time requesting more units with the fact they have already developed the area and she questioned if there was a method to delay the start of the project, if approved, until the existing stormwater management plan is in place and questioned if the Applicant agreed to place additional vegetation.

Mr. Robertson stated the Commission often hears about the density of surrounding projects; that every Application is on its own merit; that this will not set a precedent for an Applicant to sandbag their initial application and return again for another request and he believes Sussex Conservation District will require the stormwater management plan to be approved, design accordingly, that there is adequate stormwater management for the proposed project and these things will happen as a matter of course.

Mr. Hutt stated the Applicant has worked closely with Sussex Conservation District; that the stormwater management plan has already been approved by Sussex Conservation District; that it is just a matter of implementing the stormwater management plan at this time and the new location would have its own storm management review which Mr. Robertson previously referenced, and the Applicant would comply with placing additional vegetation in areas where it is needed.

Mr. Robertson questioned how quickly the other buildings, which have not yet received certificates of occupancy, are predicted to be occupied quickly.

Mr. Joseph Calabro stated he 100% believed the units will fill quickly; that the demand is still robust; that they have currently been pushing people back due to the supply chain issues, which causes some people to be unable to wait, but he feels the demand is still very high.

Ms. Stevenson questioned who owned the large open parcel to the south of the Application property and she stated she is certain the parcel would be developed at some point, and she wishes to avoid more entrances onto Plantations Rd.

Mr. Whitehouse provided the property owner information on the Sussex County Map which referenced Billie Lynn Thompson Trustee as the owner of the property.

Mr. Hutt stated there has been preliminary discussions with DelDOT regarding the property in question; that the discussions have included a four-legged intersection; that as part of the plan, Robinsonville Rd. will be realigned, meeting at a 90-degree angle to Plantations Rd.; that these plans are part of Phase 1 of the DelDOT improvements; that if the other property were to become developed, DelDOT is proposing a four-legged intersection with Plantations Rd., Robinsonville Rd.; that the entrance into the potential future development and the future development would have access from the intersection, not from Mackenzie Way and he does not know if proposed is a traffic light or a four-way stop sign.

Ms. Stevenson stated she would like to see access to Coastal Tide from the future intersection, rather than Mackenzie Way, to help eliminate multiple access points onto Plantations Rd., as she felt it was a safety issue and questioned Mr. Calabro if he would be open to discussing the possibility if/when the property becomes developed.

Mr. Calabro stated he would be agreeable to having discussions regarding access by the four-way intersection, rather than Mackenzie Way with development of the parcel in the future.

The Commission found that Mr. Sheldon Finkerstein spoke in opposition to the Application; that he is the Vice President of the Board of Directors for the HOA of Rolling Meadows; that he stated a letter from Mr. Steven Hyle, the President of the HOA Board of Directors, from May 15, 2022, to Mr. Jamie Whitehouse was submitted into the record; that the letter was included within the provided packet; that he had listened carefully to the comments and questions of the Commission and staff; that along the property's southern border, which is Rolling Meadows northern border, there are parking spots; that he had counted about 30 parking spots or more; that all of the parking areas face outward, onto Rolling Meadows; that, as the plan shows, all of the cars parked in the parking areas will have light shining directly onto Rolling Meadows; that within Mr. Hyles letter of May 15, 2022, he discusses the years of excessive construction, creating noise, the blowing of dust and debris, unpleasant odors, bright lights, and concussive vibrations; that he himself had experienced also; that these issues have made things very difficult within Rolling Meadows for the past few years; that if the plan should be approved, he requested very sincerely and vigorously, to request a specific condition stating, prior to construction, there be hedges placed along the entire border of Rolling Meadows, being their southern border and Rolling Meadows northern border; that the hedges are to be maintained thereafter; that providing the hedges will cut down on the noise, dust and lights, in the short-term and in the long-term; that he had priced the hedges out; that Rolling Meadows would recommend Leyland Cypress trees, as they are fast growing, they establish a privacy screen, and should be plant about eight to 10-ft. apart; that if the Applicant were to provide the hedge, the cost for the entire border would cost approximately \$10,000.00 all in, with planting; that if the Commission were to compare that cost to the gross revenue from the rent charged, should the project be approved; that he pulled numbers off the Applicant's website, applying very simple math; that the came up with approximately \$632,000 in additional gross rent in the first year; that the price may be slight below given some of the units will be for the SCRP Program; that if one were to assume a modest rent increase, taken over the next 10 years, the additional proposed building will provide the developers another \$3.5 million dollars approximately in gross rent; that he understands the reason why the developer would want the Application approved; that when you compare that gross rent to the approximate \$10,000 for the hedges, he considers that a "no brainer"; that the request must be placed as a specific condition; that Rolling Meadows does not have a forested preserve between the backyards of the homeowners and the development; that there is one homeowner in Rolling Meadows, who does have a nice row of hedged currently; that the rest of the homeowners do not; that there is little foliage, but not at the level to be an adequate block to the noise and light; that if the Applicant were to plant the trees eight to 10-ft. apart, creating mature trees at the height of 30-ft. to 40-ft. the Coastal Tide tenant will not have to see the residents of Rolling Meadows and vice versa; that this will allow everyone to be as happy as they can by under the circumstances; that they do understand why the Commission would want to approve the Application; that if some of the homeowners have to endure additional time of noise and disruption, the buffer will help the negative impact to some degree; that there are 171 homeowners in Rolling Meadows and with this concern they stand united.

Ms. Stevenson stated the County Code does require a vegetative buffer be placed between properties.

Mr. Whitehouse stated when using the Sussex County Subdivision design standard, there is a mixture of evergreen and deciduous species, which would include native species; that Rolling Meadows is requesting a very specific evergreen species, at a very specific spacing which is different than the standard Sussex County Subdivision requirements.

Mr. Finklestein requested the Commission ensure the buffer is robust enough to block the dust and the noise.

Mr. Calabro stated without knowing the variety of the specific shrub or tree, it is difficult for him to provide comment; that they would be open to a forested buffer and/or privacy fencing; that he does understand Mr. Finklestein's concern, and he cannot currently comment on the specific variety being requested.

The Commission found that Mr. Steve Hutcherson spoke in opposition to the Application; that he is the Secretary for the HOA of Eagles Point development; that they did have a meeting the day prior to the public hearing with the developer and rental agency; that they did address some of the concerns of Eagles Point; that Eagles Point had previously come to the Commission three years ago with concerns to the fencing and privacy; that at that time it was stated the developer would provide a fence and fencing around the dumpsters; that Eagles Point was told within 90 days fencing would be provided; that at the public hearing three years ago, it was stated there would be a buffer placed; that he currently has lights from the Coastal Tide development shining into his windows every night; that Mr. Finklestein made very good points regarding the buffer; that if the Applicant provides the buffer, the should extend the buffer down and around the border to Eagles Point, as they still have not received their fence, which was promised two years ago; that the excuse provided to Eagles Point, is the developer is waiting on Sussex Conservation District; that if this is true, within the next 90 days, the fence should be provided; that he does feel whatever is done to the border of Rolling Meadows should also be done at border of Eagles Point; that the developer originally proposed to Eagles Point, a fence with landscaping and from his family room he watch a forest of trees be taken down by the developer.

The Commission found that Mr. Glenden Jackson spoke in opposition to the Application; that he has lived on Mackenzie Way for the past 30 years; that he is concerned about the additional traffic the project will create; that the traffic is exacerbated in the summer months; that it is his understanding that DelDOT is to being construction on his section of roadway this year; that he has been told this construction will consist of two lanes, in each direction with a center turn lane; that with the additional units, even with one vehicle per unit, it will create a lot of additional traffic; that he is concerned he may not be able to leave his driveway if the Application is approved; that he also, questioned why the additional building was not requested with the original application; that Mackenzie Way is a narrow road, with sidewalks located on both sides; that the speed limit is 25 mph; that there is an issue with people speeding; that no one travels 25-mph on Mackenzie Way; that the typical speed travels is about 40-mph; that the vehicles speeding also include construction and delivery vehicles as well; that he would like to see speed bumps placed on Mackenzie Way to slow down speeders; that he is concerned for the school children; that he does not understand why the school bus stop is not within the development, preferably located at the clubhouse; that there is a concrete pad at the clubhouse location where children could stand to wait for the bus; that school children are currently being picked up at

the entrance of the development, being at Plantations Rd. and Mackenzie Way; that in the mornings, cars are parked on both sides of the road, at times parked on the sidewalks, waiting for their children to get on the bus; that this location also requires the children to walk from the bus stop back to their homes within the development; that Israel United Methodist Church is located next door; that he is a member and on the board for the church; that since the original project has been constructed, they have had to place no trespassing signs on the property; that people are not respecting the property; that they often have loitering in their graveyard and he does oppose the Application as there are issues still needing to be resolved.

Ms. Stevenson stated the School District determines the location of bus stops.

The Commission found there was one caller by teleconference who spoke in opposition to the Application with concerns of noise, additional traffic and additional speeding traffic through Eagles Point.

Upon there being no further questions, Vice-Chair Stevenson closed the public hearing.

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

In relation to the Application C/U 2352 CB Lewes, LLC. Motion by Ms. Stevenson to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 4-0.

Draft Minutes of the June 9, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since June 14, 2022.

Ms. Stevenson moved that the Commission recommend approval of C/U 2352 CB Lewes, LLC for an expansion of the development, known as Coastal Tide, based on the record made during the public hearing and for the following reasons:

1. This Application is for an expansion to allow 30 additional units within the Coastal Tide apartment project. This project was originally approved as Conditional Use # 1845 through Ordinance # 2106 to allow 168 apartment units. As part of that approval, the project included 26 units set aside as part of the Sussex County Rental Program (SCRP).
2. The Coastal Tide development is partially developed. While all 6 of the approved apartment buildings are constructed, the last two were awaiting Certificates of Occupancy at the time of the public hearing. All available units, including the SCRIP units, have been leased.
3. There was testimony that a need exists in this area of Sussex County for market-rate and SCRIP apartments. This expansion of the existing approval will address that need. As part of the additional thirty units, there will be six additional SCRIP units.
4. The property is within the MR Medium Density Residential Zoning District. It is also in the Coastal Area according to the County's Comprehensive Plan. These are appropriate areas for this expansion of the existing conditional use.
5. The property is in an area that contains a mixture of commercially and residentially zoned properties. There is also a mixture of densities in the area. For example, there are properties zoned MR, HR, AR-1, and C-1 in the immediate area. The nearby residential projects include similar multi-family projects such as The Plantations, Sunset Glen, Eagle Point, Somerset

Glen, and Savannah West. This expansion of Coastal Tide will remain consistent with these other nearby developments.

6. There are no wetlands located on this property.
7. The existing development and the expansion of it is served by central water and central sewer.
8. DelDOT has reviewed this proposed expansion of the existing Conditional Use and has determined that the traffic impact of the thirty additional units is “negligible”.
9. This application is in furtherance of the Housing Element of the Sussex County Comprehensive Plan by providing six additional SCRP units in Sussex County.
10. This recommendation is subject to the conditions imposed by Conditional Use #1845 and Ordinance #2106 for the existing development, with the exception that Conditions 1 and 17 shall be modified to state as follows:
 1. The maximum number of residential units shall not exceed 198.
 17. There shall be a fifty-foot landscaped buffer from the delineated boundary of Eagle Point Development. In addition, there shall be a thirty-foot wide landscaped buffer between this development and the common boundary with Rolling Meadows. The buffer shall be designed in accordance with the planting requirements of Section 99-5 of the Subdivision Code for the Forested and/or Landscaped Buffer Strip so that homes in Rolling Meadows are screened from headlights facing outward from the Coastal Tide parking areas. The location and design of this landscaped area shall be shown on the Final Site Plan.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried to recommend approval of C/U 2352 CB Lewes, LLC for the reasons and conditions stated in the Motion. Motion carried 4-0.

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

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: May 26th, 2022

Application: CU 2352 CB Lewes, LLC

Applicant: CB Lewes, LLC
20408 Silver Lake Drive
Rehoboth Beach, DE 19971

Owner: CB Lewes, LLC
20408 Silver Lake Drive
Rehoboth Beach, DE 19971

Site Location: Lying on the northeast side of Plantations Road (Rt. 1D), approximately 850-feet southeast of Shady Road (S.C.R. 276).

Current Zoning: Medium Density Residential (MR) Zoning District

Proposed Use: 30 additional Work Force Housing Units.

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Schaeffer

School District: Cape Henlopen School District

Fire District: Lewes Fire Department

Sewer: Sussex County

Water: Tidewater

Site Area: 18.08 acres +/-

Tax Map IDs.: 334-6.00-504.02, 504.08, 504.09, & 504.10



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Sussex County

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Memorandum

To: Sussex County Planning Commission Members
From: Elliott Young, Planner I
CC: Vince Robertson, Assistant County Attorney and Applicant
Date: May 18, 2022
RE: Staff Analysis for CU 2352 CB Lewes, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2352 CB Lewes, LLC to be reviewed during the May 26, 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: 334-6.00-504.02 to amend Conditional Use No. 1845 (Ordinance No. 2106), condition "A" relating to total number of allowable units. The parcel is lying on the northeast side of Plantations Road (Rt. 1D), approximately 900-feet southeast of Shady Road (S.C.R. 276). The parcel consists of 16.96 acres +/-.

The parcel has a previously approved Conditional Use Application. The parcel is subject to a Conditional Use Application (Conditional Use No. 1845) to allow for 168 multi-family units. The Conditional Use was approved by the Sussex County Council at their meeting of Tuesday, February 23, 2010 and the change was adopted through Ordinance No. 2106.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the parcel has a designation of "Coastal Area." The surrounding and adjacent properties located to the north, south, east, and west of the subject property also lie within the "Coastal Area" Future Land Use Map designation. There is also a sole parcel adjoining to the west of the property designated as "Commercial Area".

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

The subject property is zoned Medium Residential (MR). The adjacent properties to the north, south, east, and west of the subject sites are zoned Agricultural Residential (AR-1). One adjacent property to the west is also zoned Medium Residential (MR).

Based on the analysis of the land use, surrounding zoning and uses, the Conditional use to amend Conditional Use No. 1845 (Ordinance No. 2106) to allow for increased number of units, subject

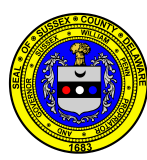


Staff Analysis

CU 2352 CB Lewes, LLC

Planning and Zoning Commission for May 26, 2022

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

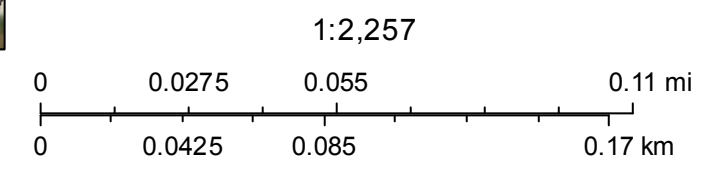


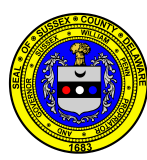
Sussex County



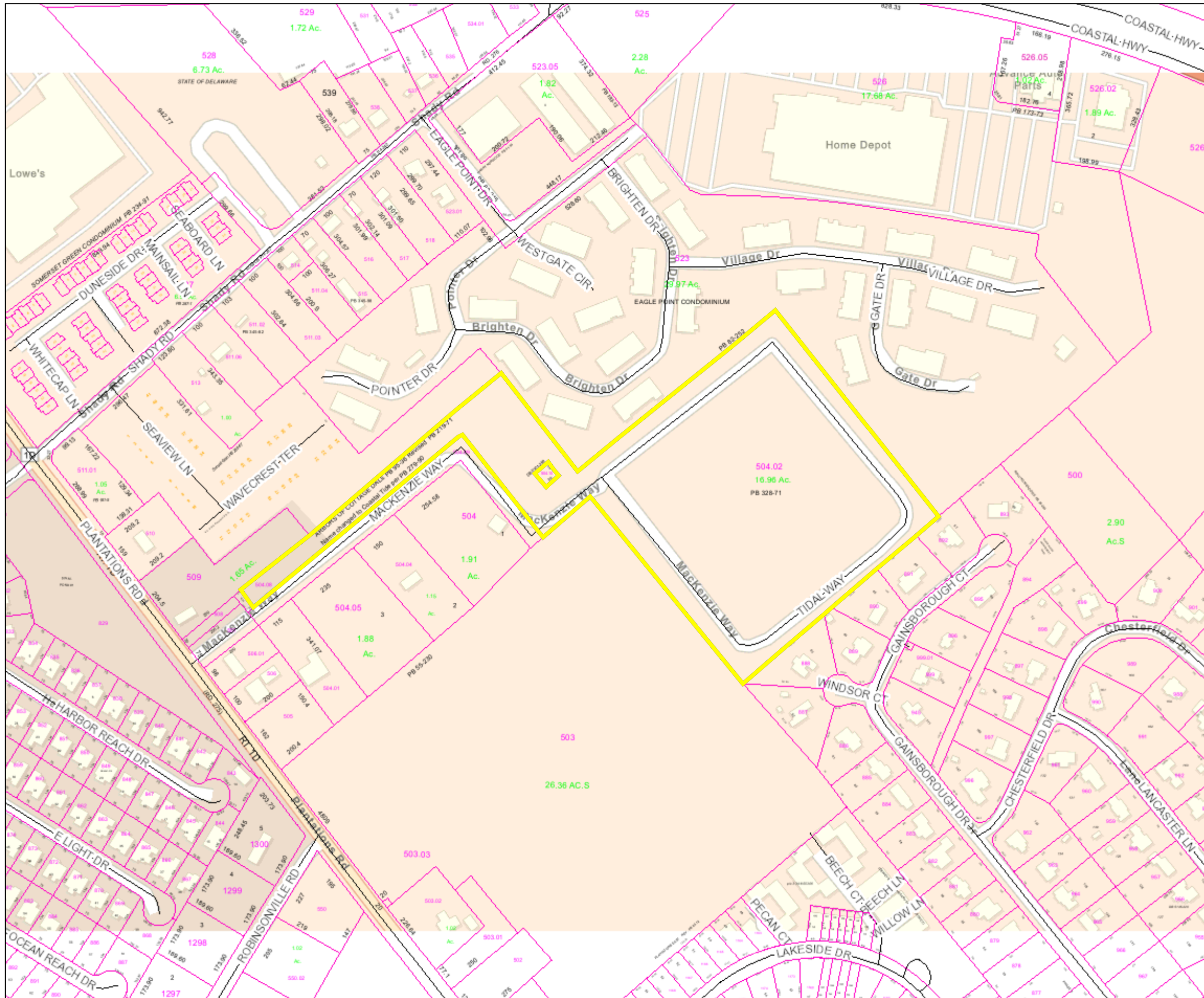
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|------------------------|-------------------------|
| PIN: | 334-6.00-504.02 |
| Owner Name | CB LEWES LLC |
| Book | 4175 |
| Mailing Address | PO BOX 310 |
| City | NASSAU |
| State | DE |
| Description | COASTAL TIDE |
| Description 2 | F/K/A ARBORS OF COTTAGE |
| Description 3 | FUTURE CONDOS |
| Land Code | |

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





Sussex County



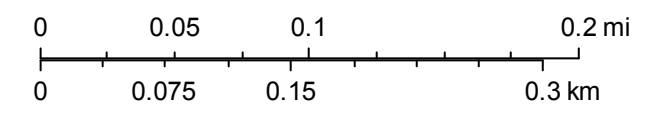
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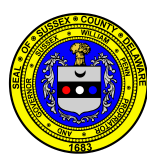
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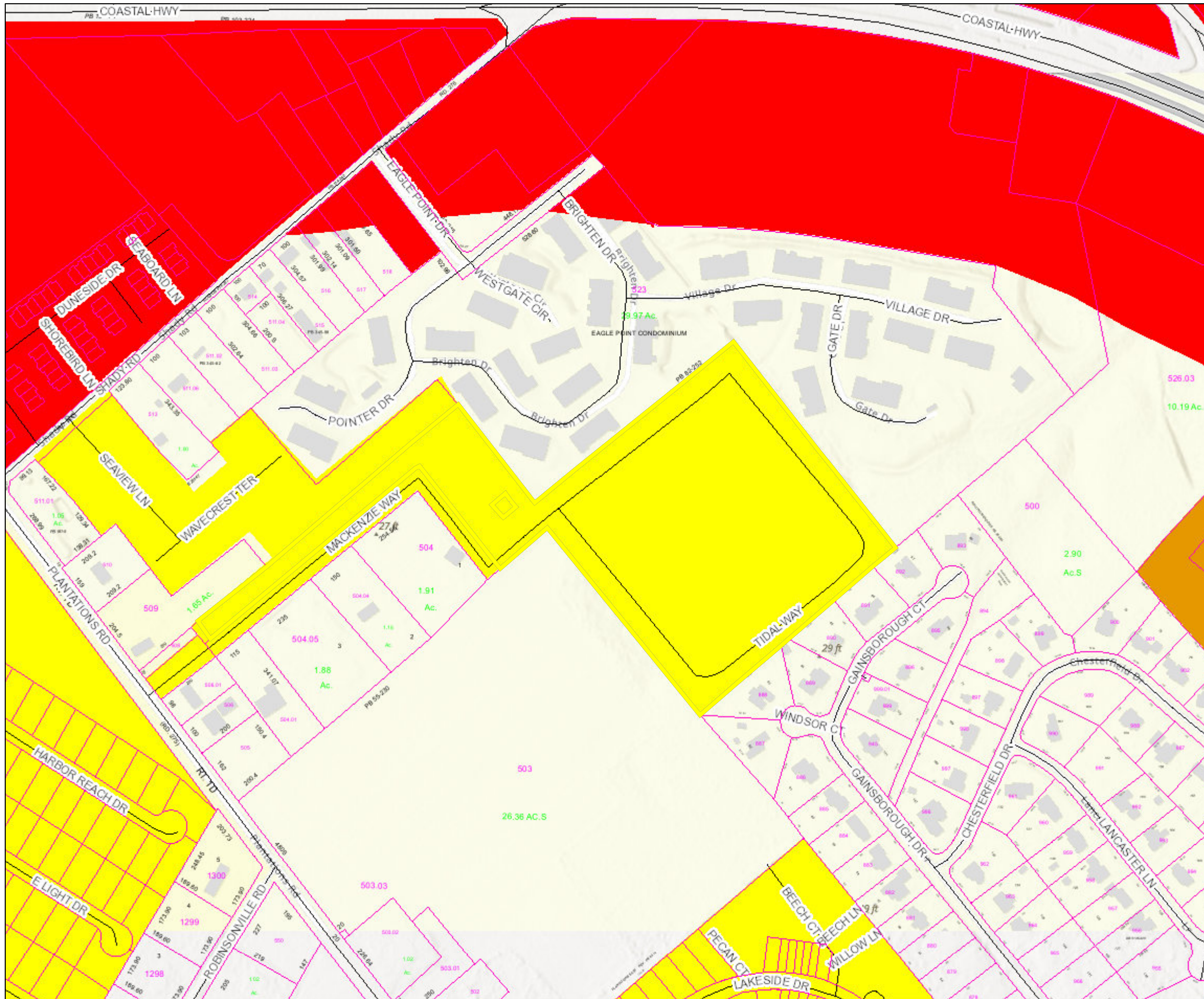
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Sussex County



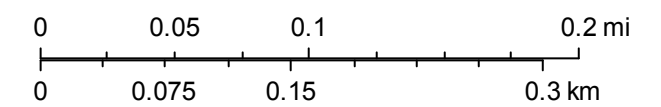
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- polygonLayer**

 - Override 1
- polygonLayer**

 - Override 1
- Tax Parcels
- Streets

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Introduced: 03/29/22

Council District 3: Mr. Schaeffer
Tax I.D. No.: 334-6.00-504.02
911 Address: N/A

ORDINANCE NO. ____

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

WHEREAS, on the 17th day of February 2022, a conditional use application, denominated Conditional Use No. 2352 was filed on behalf of CB Lewes, LLC; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2352 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 V, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2352 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the southwest side of Tidal Way within the Coastal Tide development located on the northeast side of Plantations Road (Rt. 1D), 850-feet north west of Robinsonville Road (S.C.R. 271) and being more particularly described in the attached engineered site plan prepared by Colin Kraucunas, P.E., said parcel containing 18.08 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.