



Sussex County Council Public/Media Packet

**MEETING:
June 27, 2023**

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

COUNTY COUNCIL

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



Sussex County

DELAWARE
sussexcountyde.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

A G E N D A

JUNE 27, 2023

12:30 P.M.

Call to Order

Approval of Agenda

Approval of Minutes – June 20, 2023

Reading of Correspondence

Public Comments

Consent Agenda

1. Proclamation Request – Kitty Cole 100th Birthday

Todd Lawson, County Administrator

1. Discussion and Possible Action related to Planning and Zoning Commission Nominees
 - a. Gregory Scott Collins
 - b. Robert D. Mitchell
2. Administrator's Report

Jamie Whitehouse, Planning and Zoning Director

1. Comprehensive Land Use Plan Annual Report



Hans Medlarz, County Engineer

1. **Mulberry Knoll Sewer Collection, Project S20-22**
 - A. **Change Order No. 2 – Final Balancing**

2. **Western Sussex Unified Sewer District, Contract 5A – Project S19-29**
 - A. **Recommendation to Award**

3. **Sussex County Unified Sanitary Sewer District
Chapel Green, Conley’s Chapel Village & Wil King Road South Area,
Project S20-16**
 - A. **Change Order Nos. 1, 2 and Substantial Completion**

Old Business

Conditional Use No. 2349 filed on behalf of Lessard Builders

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

Ordinance No. 22-07

“AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCELS 135-15.00-98.00 & 98.01” (properties located on the south side of Lewes Georgetown Highway [Route 9], approximately 0.4-mile east of the intersection of Sand Hill Road [S.C.R. 319] and Lewes Georgetown Highway) (911 Address: 22242 Lewes Georgetown Highway, Georgetown) (Tax Parcels: 135-15.00-98.00 & 98.01)

Conditional Use No. 2369 filed on behalf of Leeward Chase DE, LLC

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (106 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 50.80 ACRES, MORE OR LESS” (properties are located on the south side of Lewes Georgetown Highway [Route 9], approximately 0.4-mile east of the intersection of Sand Hill Road [S.C.R. 319] and Lewes Georgetown Highway) (911 Address: 22242 Lewes Georgetown Highway, Georgetown) (Tax Parcels: 135-15.00-98.00 & 98.01)

Grant Requests

- 1. Harry K Foundation for their Desert Oasis Feeding Program**
- 2. Make-A-Wish Foundation of Philadelphia, Delaware & Susquehanna Valley for wishes for children with critical illnesses**
- 3. Nanticoke Indian Association, Inc. for their 45th Annual Indian Powwow**

Introduction of Proposed Zoning Ordinances

Council Members' Comments

Executive Session – Land Acquisition to 29 Del.C.§10004(b)

Possible Action on Executive Session items

1:30 p.m. Public Hearings

Change of Zone No. 1981 filed on behalf of Luke Neiswander

“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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.296 ACRES, MORE OR LESS” (property lying on the southwest side of Sam Lucas Road [S.C.R. 256], approximately 0.55 mile north of Harbeson Road [Rt. 5]) (911 Address: 16394 Sam Lucas Road, Milton) (Tax Map Parcel: 235-21.00-5.00)

Change of Zone No. 1979 filed on behalf on J.G. Townsend, Jr. & Co.

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS” (property lying on the east side of Kings Highway [Rt. 9] and Gills Neck Road [S.C.R. 267], at the intersection of Kings Highway [Rt. 9] and Gills Neck Road [S.C.R. 267]) (911 Address: 16673 Kings Highway, Lewes) (Tax Map Parcel: 335-12.00-3.00 [p/o])

Conditional Use No. 2359 filed on behalf of J.G. Townsend Jr. & Co.

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR (MEDIUM RESIDENTIAL DISTRICT) FOR MULTI-FAMIY (102 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS” (property lying on the east side of Kings Highway [Rt. 9] and the south side of Gills Neck Road [S.C.R. 267], at the intersection of Kings Highway [Rt. 9] and Gills Neck Road [S.C.R. 267]) (911 Address: 16673 Kings Highway, Lewes) (Tax Map Parcel: 335-12.00-3.00 [p/o])

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on June 20, 2023 at 4:15 p.m. and at least seven (7) days in advance of the meeting.

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

Agenda items may be considered out of sequence.

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

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

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

To join the meeting via telephone, please dial:

Conference Number: 1-302-394-5036

Conference Code: 570176

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

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

##

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 20, 2023

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 20, 2023, at 10:00 a.m., in Council Chambers, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 292 23
Approve
Amended
Agenda**

Mr. Lawson reported that under Hans Medlarz, County Engineer, Item No. 1 can be removed from the Agenda. A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to approve the Agenda as amended.

Motion Adopted: 5 Yeas

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

Minutes

The minutes from June 13, 2023, were approved by consensus.

**Corre-
spondence**

There was no correspondence.

There were no public comments.

**Public
Comments**

Mr. Lawson reported that Mr. Bruce Mears, District 4 appointment is due for reappointment for an additional three years to the Planning and Zoning Commission.

**PZ
Reappoint-
ment**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it moved that the Sussex County Council approves the reappointment of Mr. Bruce Mears to the Sussex County Planning and Zoning Commission effective immediately for a term of three years, and until such time expires in June 2026.

**M 293 23
Approve**

**PZ
Reappoint-
ment**

Motion Adopted: 5 Yeas

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

**Public
Interview**

The Council conducted a public interview for Planning and Zoning Commission nominee Gregory Scott Collins (District 3).

**PZ
Commission**

The Council conducted a public interview for Planning and Zoning Commission nominee Robert D. Mitchell (District 2).

**M 294 23
Defer**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on the two applications for one week.

**Action/
PZ
Commission
Nominees**

Motion Adopted: 5 Yeas

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

**Adminis-
trator's
Report**

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

1. Delaware State Police Activity Report

The Delaware State Police year-to-date activity report for May 2023 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 190 troopers assigned to Sussex County for the month of May.

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

**FY2024
Budget
Hearings**

Public Hearings were held on the FY 2024 budget.

A Public Hearing was held on the Assessment Rolls for Sewer and Water Districts. Mrs. Jennings reported that the Assessment Rolls reflect the County's records for equivalent dwelling units (EDUs) and billable front footage for each sewer and water district. These records have been made available in the billing office for public inspection and review. These records are subject to individual appeal via the Board of Assessment Review. Mrs. Jennings noted that this Public Hearing is on the list of properties and their applicable front footage and EDU's that will be billable by the rates established in the rate ordinance.

There were no public comments.

The Public Hearing and public record were closed.

**M 295 23
Adopt
Assessment
Rolls**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, that be it moved that the Sussex County Council adopts the Assessment Rolls for the Sussex County Unified Sewer and Water District for the period July 1, 2023 through June 30, 2024.

Motion Adopted: 5 Yeas

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

**Public
Hearing/
Sewer Rates
and Charges
Ordinance**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SANITARY SEWER DISTRICTS”.

Mrs. Jennings reviewed highlights of the sewer and water budget. (A comprehensive presentation was given at the May 23, 2023 Council meeting.)

There were no public comments.

The Public Hearing and public record were closed.

**M 296 23
Adopt
Ordinance
No. 2929**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt Ordinance No. 2929 entitled “AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SANITARY SEWER DISTRICTS”.

Motion Adopted: 5 Yeas

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

**Public
Hearing/
Proposed
FY2024
Budget
Ordinance**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2024”.

Mrs. Jennings reviewed highlights of the \$278.6 million annual operating budget for Fiscal Year 2024. (A comprehensive presentation was given at

**Public Hearing/
Proposed
FY2024
Budget
Ordinance
(continued)**

the May 23, 2023 Council meeting.)

There were no public comments.

The Public Hearing and public record were closed.

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 2930 entitled “AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2024”.

**M 297 23
Adopt
Ordinance
No. 2930**

Motion Adopted: 5 Yeas

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

**FY2024
Insurance
Recommen-
adition**

Andrea Wall, Manager of Accounting, discussed the renewal of the County’s insurance package on July 1. The County’s broker, Alliant, recommended that the County not market its property and liability package; all other lines were marketed.

Despite a difficult state of the market where rates are increasing significantly, and capacity is shrinking as well as extenuating events Alliant was able to secure pricing that was in line with budget projections. Although a cost increase is being presented, it reflects market conditions. Mrs. Wall and the County’s insurance agent, Angela Tennis recommended that the County renew with the following insurers:

- Package Policy (Property, Inland Marine, Auto and Liability)-Glatfelter
- Pipeline Floater-Chubb
- Equipment Breakdown-CNA
- Workers’ Compensation-Liberty Mutual
- Airport Liability-Chubb
- Public Officials-Indian Harbor/RSUI
- Crime-Great American
- Cyber-Lloyds/Crum & Forster
- Pollution-Chubb
- Fiduciary-Hudson

Angela Tennis, the County’s insurance consultant, was in attendance and discussed the renewal and marketing process.

**M 298 23
Authorize
Placement of
Insurance
Coverage**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, based upon the recommendation of Alliant Insurance Services, Inc. and Insurance Buyers Council, and the Sussex County Finance Department, that Sussex County Council authorizes the placement of insurance coverage, as presented, for the period of July 1, 2023, through June 30, 2024, at a cost

not to exceed \$2,129,305.00.

Motion Adopted: 5 Yeas

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

**IB Biosolids
& Bulk WW
Services
Agreements**

Hans Medlarz, County Engineer presented a biosolids agreement and bulk wastewater services agreement for Inland Bays Preservation Company, LLC for Council's consideration. Mr. Medlarz reported that a new facility is being built off of Banks Road which allows the exchange of wastewater. In addition, the county's regional biosolids facility has unused capacity benefitting from more customers.

**M 299 23
Approve
Biosolids &
Bulk WW
Services
Agreement**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that be it moved based upon the recommendation of the Sussex County Engineering Department that County Council approve the biosolids agreement and the bulk handling agreements with the Inland Bay Preservation Company, LLC as presented.

Motion Adopted: 4 Yeas, 1 Absent

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

**Mallard
Creek CO
Nos. 1, 2**

Hans Medlarz, County Engineer presented change order nos. 1 and 2 and a substantial completion request for Mallard Creek Sewer Expansion for Council's consideration. Mr. Medlarz reported that the request includes a time extension change order, a balancing change order and substantial completion.

**M 300 23
Approve CO
Nos. 1, 2 &
Substantial
Completion**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, that be it moved based upon the recommendation of the Sussex County Engineering Department that change order nos. 1 and 2 for contract S20-26, Mallard Creek Sewer Expansion be approved for a no cost time extension, a decrease of \$95,829.25 and that substantial completion be granted effective May 25, 2023, with any held retainage released in accordance with the contract document, contingent upon USDA concurrence.

Motion Adopted: 4 Yeas, 1 Absent

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

**WSUSD CO
No. 4**

Hans Medlarz, County Engineer presented change order no. 4 for Western Sussex contract for Council's consideration. Mr. Medlarz reported that the

change order relates to repairs for comprised infrastructure discovered while completing the original scope.

**M 301 23
Approve CO
No. 4/
WSUSD**

A Motion was made by Mrs. Green, seconded by Mr. Schaeffer, that be it moved based upon the recommendation of the Sussex County Engineering Department that change order no. 4 for contract S19-29, Western Sussex Unified Sewer District Segment D, be approved in the amount not to exceed amount of \$75,500.00 and increasing the contract time by 4 weeks contingent upon SRF concurrence.

Motion Adopted: 5 Yeas

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

**Old
Business/
Ord. No. 23-
01**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE SUSSEX COUNTY SEWER TIER MAP OF THE COMPREHENSIVE PLAN FROM THE TIER 4 AREA (SYSTEM OPTIONAL AREAS) TO THE TIER 2 (SUSSEX COUNTY PLANNING AREA) IN RELATION TO TAX PARCELS 533-11.00-23.00, 23.03 & 23.04” (properties lying on the southwest side of Zion Church Road [Route 20], approximately 605 feet northwest of Deer Run Road [S.C.R. 388], and the north side of Deer Run Road [S.C.R. 388], approximately 159 feet southwest of Zion Church Road [Route 20] (911 Address: 36054 Zion Church Road, Frankford) (Tax Map Parcels: 533-11.00-23.00, 23.03 & 23.04) (Zoning: AR-1 [Agricultural Residential])

The County Council held a Public Hearing on the application at its meeting of April 25, 2023. At that time, Council deferred action to allow for the Ordinance to be reported to the State of Delaware Preliminary Land Use Review Service (PLUS). Mr. Whitehouse reported that written comments have been received back from PLUS. The State does not object to the proposed Comprehensive Plan amendment, but they did note that any development that comes forward may be subject to further review.

**M 302 23
Adopt
Ordinance
No. 2931**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to Adopt Ordinance No. 2931 entitled “AN ORDINANCE TO AMEND THE SUSSEX COUNTY SEWER TIER MAP OF THE COMPREHENSIVE PLAN FROM THE TIER 4 AREA (SYSTEM OPTIONAL AREAS) TO THE TIER 2 (SUSSEX COUNTY PLANNING AREA) IN RELATION TO TAX PARCELS 533-11.00-23.00, 23.03 & 23.04” for the reasons given by the Planning and Zoning Commission as follows:

- 1. The Sussex County Engineering Department is in favor of this map amendment and provided reasons in support of it.**
- 2. The property is currently within the Coastal Area and the Developing Area according to the Sussex County Comprehensive Plan. Both of these areas are “Growth Areas”, and the Plan suggests**

**M 302 23
Adopt
Ordinance
No. 2931
(continued)**

- that “central sewer is strongly encouraged” in them. This Tier Map amendment is in furtherance of the goal of the Comprehensive Plan.
3. This map amendment does not affect the future development of this property, which will require a separate public hearing in the future if and when any attempt to develop this property shall occur.
 4. No parties appeared in opposition to this map amendment request.

Motion Adopted: 5 Yeas

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

**Old
Business/
CU2346**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 63.86 ACRES, MORE OR LESS” (property lying on the north side of Dorothy Road [Rt. 64] and the west side of Sussex Highway [Rt. 13]) (911 Address: N/A) (Tax Map Parcel: 332-7.00-19.00) filed on behalf of TPE DE SSU114, LLC

The County Council held a Public Hearing on the application at its meeting of April 25, 2023. At the conclusion of the Public Hearing, Council deferred action on the application for further consideration.

The gavel was given to Mr. Rieley.

Mr. Vincent proposed an amendment to the conditions of approval to make this solar farm conditional use compliant with the amendment originally made to the Zoning Code to create uniform conditions for all solar farms in Sussex County.

**M 303 23
Amend
Conditions/
CU2346**

A Motion was made by Mr. Vincent, seconded to Mr. Schaeffer, to add a new condition, Condition L to state as follows: In accordance with Ordinance No. 2920 which amended §115-172 of the Zoning Code, there should be a buffer strip of open space a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines. There should be no solar panels in this buffer strip and notwithstanding the submitted conceptual site plan. There should be no solar panels within 200 feet of any dwelling on the property of other ownership. The required buffer should be clearly shown on the final site plan.

Motion Adopted: 5 Yeas

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

**M 304 23
Adopt
Ordinance
No. 2932/
CU2346**

A Motion was made by Mr. Vincent, seconded by Mr. Schaeffer to Adopt Ordinance No. 2932 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 63.86 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning and Zoning Commission as follows and as amended:

- 1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.**
- 2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar farm will be located on approximately 27 acres of a larger 63.86-acre tract.**
- 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. There was testimony that this solar farm will benefit residential, business, and municipal subscribers with lower power costs.**
- 4. With the conditions imposed in this recommendation including landscaped buffers, the proposed use will not have any adverse impact on the neighborhood. In addition, there is information in the record that solar facilities do not have a negative impact upon adjacent property values.**
- 5. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.**
- 6. Based upon the testimony in the record, it is evident that no significant noise, glare, dust, or odor will be generated by the facility.**
- 7. There will be a buffer of planted vegetation along the east and south sides of this site to screen the view of the solar farm from the nearby residential properties while allowing the solar arrays to function properly. The trees on the northern and western sides of the property will be maintained.**
- 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. The use shall be for a ground-mounted solar farm. No other types of electric generation shall be permitted at the site.**
 - b. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar farm as well as the remaining acreage that is not part of this Conditional Use.**
 - c. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or**

**M 304 23
Adopt
Ordinance
No. 2932/
CU2346
(continued)**

- roadways.
- d. **One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.**
 - e. **The site shall be secured by fencing with a gate with a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown on the Final Site Plan.**
 - f. **Any transformers or similar equipment or structures shall be centrally located on the site away from any nearby residential uses. The location of these structures and equipment shall be shown on the Final Site Plan.**
 - g. **The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.**
 - h. **Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.**
 - i. **There shall be a 25-foot-wide buffer of planted vegetation along the eastern and southern sides of the solar area. These buffer areas shall be clearly shown on the Final Site Plan. These buffers shall screen solar arrays while allowing the solar arrays to function properly. As stated by the Applicant, this planted area shall include 12 trees and 15 understory shrubs per 100 linear feet. The trees shall be at least 9 feet tall with a caliper of at least 2.5 inches at the time of planting.**
 - j. **The Final Site Plan shall identify a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.**
 - k. **The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**
 - l. **In accordance with the Ordinance No. 2920 which amended §115-172 of the Zoning Code, there should be a buffer strip of open space a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines. There should be no solar panels in this buffer strip and notwithstanding the submitted conceptual site plan. There should be no solar panels within 200 feet of any dwelling on the property of other ownership. The required buffer should be clearly shown on the final site plan.**

Motion Adopted: 5 Yeas

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

The gavel was given back to Mr. Vincent.

Old Under Old Business, Mr. Whitehouse presented a Proposed Ordinance

**Business/
CU2347**

entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 39.33 ACRES, MORE OR LESS” (property lying on the east side of North Old State Road [S.C.R. 213], approximately 0.10 mile north of the intersection of Haflinger Road [S.C.R. 625]))911 Address: N/A) (Tax Map Parcel: 230-12.00-39.00) filed on behalf of TPE DE SU94, LLC

The County Council held a Public Hearing on the application at its meeting of April 25, 2023. At the conclusion of the meeting, Council deferred action on the application for further consideration.

**M 305 23
Adopt
Ordinance
No. 2933/
CU2347**

A Motion was made by Mrs. Green, seconded by Mr. Hudson to Adopt Ordinance No. 2933 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 39.33 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning and Zoning Commission as follows:

- 1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.**
- 2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar farm will be located on approximately 18 acres of a larger 39.76-acre tract.**
- 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. There was testimony that this solar farm will benefit residential, business, and municipal subscribers with lower power costs.**
- 4. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighboring or adjacent properties and there are no homes in close proximity to this site. In addition, there is information in the record that solar facilities do not have a negative impact upon adjacent property values.**
- 5. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.**
- 6. Based upon the testimony in the record, it is evident that no significant noise, dust, glare, or odor will be generated by the facility.**
- 7. The site is surrounded by land that is actively farmed. As a result, no buffer is required.**
- 8. The proposed use provides a renewable energy source that is a**

**M 305 23
Adopt
Ordinance
No. 2933/
CU2347
(continued)**

- benefit to the residents and businesses of Sussex County.**
- 9. This recommendation is subject to the following conditions:**
- a. The use shall be for a ground-mounted solar farm. No other types of electric generation shall be permitted at the site.**
 - b. Any lighting on the facility shall only consist of perimeter lighting needed for security measures. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
 - c. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.**
 - d. The site shall be secured by fencing with a gate with a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown on the Final Site Plan.**
 - e. Any transformers or similar equipment or structures shall be centrally located on the site away from any nearby residential uses. The location of these structures and equipment shall be shown on the Final Site Plan.**
 - f. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.**
 - g. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.**
 - h. The Final Site Plan shall identify a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.**
 - i. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

Motion Adopted: 5 Yeas

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

**Old
Business/
Ord. No. 23-
02**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NOS. 334-5.00-153.00 & 334-5.00-153.02” (properties lying on the west side of Janice Road, approximately 0.10 mile west of Nassau Commons Boulevard) (911 Address: 32172 Janice Road, Lewes) (Tax Parcels: 334-5.00-153.00 & 334-5.00-153.02) filed on behalf of Janice CRP3, LLC

The County Council held a Public Hearing on the application at its meeting of March 7, 2023. At the conclusion of the Public Hearing, Council deferred

action on the application for further consideration.

**M 306 23
Approve
Ord. 23-02/
DENIED**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NOS. 334-5.00-153.00 & 334-5.00-153.02” for the reasons given by the Planning and Zoning Commission numbered 1-8.

Motion DENIED: 3 Nays, 2 Yeas

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

The Motion was denied based on the reasons given by Council Member Vincent.

**Old
Business/
CZ1995**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND C-1 GENERAL COMMERCIAL DISTRICT TO AN MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 61.39 ACRES, MORE OR LESS” (property lying on the west side of Janice Road, approximately 0.10 mile west of Nassau Commons Boulevard) (911 Address: 32172 Janice Road, Lewes) (Tax Parcel: 334-5.00-153.02) filed on behalf of Janice CRP3, LLC

The County Council held a Public Hearing on the application at its meeting of March 7, 2023. At the conclusion of the Public Hearing, Council deferred action on the application for further consideration.

**M 307 23
Approve
CZ1995/
DENIED**

A Motion was made by Mr. Rieley, seconded Mr. Hudson to Adopt a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND C-1 GENERAL COMMERCIAL DISTRICT TO AN MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 61.39 ACRES, MORE OR LESS” for the reasons given by Planning and Zoning numbered 1-9 with conditions 10A-P.

Motion DENIED: 5 Nays

Vote by Roll Call: Mrs. Green, Nay; Mr. Schaeffer, Nay;

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

**Introduction
of Proposed
Ordinance**

Mr. Rieley 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-2 MEDIUM COMMERCIAL DISTRICT FOR A 2.47 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.42 ACRES, MORE OR LESS” filed on behalf of Fernando Robles

**Council
Member
Comments**

The Proposed Ordinance will be advertised for a Public Hearing.

There were no Council member comments.

**M 308 23
Adjourn**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to adjourn at 11:47 a.m.

Motion Adopted: 5 Yeas

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

Respectfully submitted,

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

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

COUNTY COUNCIL

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



Sussex County

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REPORT TO GOVERNOR'S ADVISORY COUNCIL ON PLANNING

SUSSEX COUNTY, DELAWARE

2022-2023

June 27, 2023

INTRODUCTION

This is the fourth annual report regarding Sussex County's 2018 Comprehensive Plan ("the Plan"), which was adopted by County Council on Tuesday, December 4, 2018. The Plan was subsequently certified by Governor John C. Carney on March 19, 2019, as being in compliance with Title 9, Chapter 69, Subchapter II (The Quality of Life Act) of the Delaware Code.

This report is intended to comply with Title 9, Section 6958 of the Delaware Code. Delaware law mandates that all Counties and municipalities have a Comprehensive Plan in place. Counties and municipalities must review and update those plans for State certification every 10 years, while also providing annual updates on the progress of implementation.

NEW INITIATIVES

In the July 2022 to June 2023 reporting year, Sussex County has undertaken a number of initiatives to implement the strategies within the Comprehensive Plan.

FY 25-30 Capital Transportation Program (CTP) Update for Sussex County

Every two years the Department of Transportation develops a 6-year Capital Transportation Program (CTP) that identifies anticipated capital investments. This program is developed in cooperation with the Salisbury-Wicomico Metropolitan Planning Organization, and Sussex County. The program



COUNTY ADMINISTRATIVE OFFICES
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provides information on various DelDOT capital and maintenance programs and on the estimated cost expenditures for the project phasing of a capital project that are anticipated in each specific fiscal year. In May 2023, Sussex County finalized its submissions for new CTP candidates for the FY 25-30 Capital Transportation Program Update. The Draft FY 25-30 CTP is anticipated to be circulated in August 2023, by the Council on Transportation. A Public Hearing is likely to be held September, 2023.

A link to an online map showing the FY 25-30 CTP Projects, which the County has requested to be included in the next CTP update, can be found at the link below:

[Capital Transportation Program \(CTP\) - Delaware Department of Transportation \(deldot.gov\)](https://deldot.gov/capital-transportation-program-ctp)

As the CTP update continues, it is anticipated that the additional projects will also be shown online.

Coastal Corridors

On June 6th, 2023, Sussex County worked with Delaware Department of Transportation to facilitate a joint public workshop outlining the progress and recommendation of the Coastal Corridors study group. DelDOT's Coastal Corridors Study is focused on identifying transportation solutions for east-west routes in Sussex County including Route 16 and Routes 404/9 between US 113 and SR 1 as well as Redden Road and other local roads in the area. These roadways represent the primary east-west corridors in the northern part of Sussex County that are currently congested or are at risk for congestion based on anticipated growth.

The workshop was a successful event, with the final recommendations, based upon over 12-months of study, being presented to the Public to enable the receipt of public comments. The Coastal Corridors Study group will now review the comments received as part of its goal of generating recommendations for the future of the Coastal Corridors.

Long Range Transportation Plan

During the review period, the County continued with Work with Delaware Department of Transportation to create a Long-Range Transportation Plan. The Plan, once complete, is likely to form a component of the Mobility Chapter in the County's next Comprehensive Plan update.

Henlopen Transportation Improvement District

The County has successfully implemented Strategy 13.1.1.2 of the Comprehensive Plan by working with Delaware Department of Transportation to implement the County's first Transportation Improvement District for the 24 square mile Henlopen area south of Rt. 9 and west of SR.1. The Henlopen TID was adopted on October 29, 2020 and unless a development falls within a specified exemption, is required to contribute to planned transportation infrastructure improvements within the District.

Projects have continued to come forward for consideration during the review period. As of June, 2023, the total amount of financial commitments for the Henlopen TID now stands at \$5.8 million. The table below illustrates the new commitments that have come forward during the review period

Project Name	Total Amount
Southern Delaware Medical	\$128,200.42
Price Automotive	\$82,342.35
Lands of DGAS	\$5,634.00
Total	\$216,184.77

Roxana Transportation District

In April 2023, the Sussex County Planning & Zoning Department began a land-use study to assist the Delaware Department of Transportation with a long-range land use forecast for a new potential Transportation Improvement District that is being explored. The TID is located in the south-east of Sussex County between Selbyville and the Indian River Bay. The land use forecast will be used by the Delaware Department of Transportation to predict likely infrastructure growth in the study area out to the year 2055.

A map showing the location of the new potential Transportation Improvement District is below.



Resource Buffer Ordinance

Objective 4.3.1 of the Future Land Use Element outlines an objective to consider strategies for preserving environmental areas from development and the protection of wetlands and waterways. Objective 4.3.2 promotes new development that incorporates preserved usable open space and mitigates for the protection or replacement of environmental resources in subdivision design. There are multiple strategies within the Comprehensive Plan that flow from these objectives including, Strategy 4.3.2.1 and 4.3.2.2 and 4.4.1.1.

County Council, at its Tuesday, May 17, 2022, meeting, adopted an Ordinance that overhauls the County’s environmental safeguards for critical waterways and wetland areas as development springs up near and around those features. The action represents the most significant update to the County’s environmental protection laws in more than 30 years including greater distances between development and nature – for protecting and preserving some of the County’s most critical environmental areas.

The Ordinance follows a yearslong process – called for under the County’s adopted Comprehensive Plan – that began in early 2019 and involved nearly two dozen stakeholders with expertise or interests in various disciplines, including land use, environmental science, agriculture, and public policy. The County conducted numerous workshops, as well as Public Hearings, that culminated in County Council’s decision.

Among the most significant changes, the Ordinance will:

- Double, from 50 feet to 100 feet, the size of buffering along and around new residential communities that adjoin tidal wetlands and waterways, such as rivers, bays, and streams;
- Add a 30-foot buffer requirement – up from none currently – for new developments along non-tidal wetlands and intermittent streams;
- Prohibit the clear-cutting of trees and other vegetation in buffer areas, leaving them largely in their natural state;
- Give project designers flexibility and incentives in certain zones to ‘average’ a buffer’s size in order to preserve worthwhile ecological features;
- Require site plans to show points of access to buffered waterways for maintenance work, such as removing debris and sediment, that can cause blockages and lead to flooding;
- Establish penalties, up to \$10,000 a quarter-acre per occurrence, for intrusion into and/or damage caused to buffers and forested areas.

Following the adoption of the Ordinance, the Planning & Zoning Department has worked to implement the new requirements as part of day-to-day application processing.

Potential Master-Planned Zoning District (MPZ)

As part of Strategy 4.4.1.5, Strategy 12.2.2.2, Strategy 13.1.1.3 & Strategy 13.6.2.1, the County has continued to explore the creation of a new Zoning District designed to secure a superior planned design in new larger-scale mixed-use developments. The potential new Zoning District, which would be targeted at developments of more than 400 units, or with gross site areas greater than 200 acres, would allow for a more streamlined approach to decision-making by front-loading larger amounts of information into the application process. It is anticipated that work will continue on the preparation of this Ordinance during the upcoming reporting year. The Ordinance was reported to the State of

Delaware's PLUS review service in Spring 2023 and the State's comments are being explored as the Ordinance continues to be considered.

LAND USE

In the reporting year, there has been a change in the number and type of applications received. Since July 1, 2022, the Planning & Zoning Department has received a total of 68 applications for Conditional Uses and 25 Changes of Zone, compared with a total of 83 and 42 respectively for the previous 12-month period.

	Change of Zone	Conditional Use
July 1, 2019 – June 30, 2020	30	41
July 1, 2020 – June 30, 2021	21	55
July 1, 2021 – June 30, 2022	42	83
July 1, 2022 – June 30, 2023	25	68

Total Conditional Use and Change of Zone applications by received date

During the reporting year, the total number of Major Subdivision applications has decreased from 32 to 19, and the total number of lots proposed has decreased from the previous year, as outlined below:

	Total Number of Applications	Total Number of Lots Proposed
July 1, 2019 – June 30, 2020	24	942
July 1, 2020 – June 30, 2021	34	1,817
July 1, 2021 – June 30, 2022	32	3,334
July 1, 2022 – June 30, 2023	19	1556

Total of Major Subdivision Applications by received date

Major subdivisions include applications for the creation of more than 5 lots, or on parcels where the permitted number of minor subdivisions has been utilized. The above subdivision totals do not include Change of Zone applications for Residential Planned Communities.

Whilst the rate of growth has slowed compared with recent years, the County continues to see growth across all sectors including residential, commercial, agricultural and industrial. Along with this growth is a recent increase in applications for solar farms.

WASTEWATER

Sussex County continues to increase the availability of central sewer to environmentally sensitive areas of the county. Construction is complete and connections have begun to sections of the Herring Creek project, Mallard Creek, and Mulberry Knoll projects. The balance of the Herring Creek project is scheduled to be completed by the end of 2023 and connections will be immediately available. County mainline sanitary sewer infrastructure and transmission systems for Long Neck Communities, Lochwood, and Joy Beach Phase 1 are going to construction. Several other projects currently in design are scheduled for construction of central sewer, those areas include Countryside Hamlet, Wolfe Runne, Oak Acres, Tanglewood/New Marydels, Slaughter Beach, Blackwater Village, Briarwood, and the Warwick Sewer Project. Additional areas in the unified sanitary sewer district in the pipeline for design include North Georgetown, Indian River Acres, and Bethany Forest.

The County continues its effort to utilize private utility infrastructure owned by regulated utilities under bilateral agreement(s) in an effort to prevent the installation of parallel underutilized infrastructure. One such effort is the connection for Slaughter Beach which will pump via forcemain to a private providers facility for treatment and disposal. The County will also be utilizing a portion of this forcemain to divert the effluent from North Ellendale and New Market Village to the same facility in an effort to alleviate capacity issues at the Town of Georgetown treatment facility.

There is an ongoing effort to gauge the desire for central sewer service to other areas of Sussex County including Morningside Village and Country Glen an area east of Bridgeville. The County is currently collecting letters of interest for sewer service from Red Fox Run. The County circulates polling letters, at the request of the homeowners to determine if there is sufficient interest in a central water system for their community. If deemed sufficient a public hearing will be held addressing the potential impacts and a proposed boundary prior to annexation or scheduling a referendum of legal voters.

The County continues its easement acquisition and design of a major transmission line from the Piney Neck Regional Wastewater Facility to the South Coastal Regional Wastewater Facility for treatment and disposal. This transmission line will eliminate the need for the Piney Neck facility.

Water

The County completed the installation of the water transmission system for the residents of the Greater Ellendale Water District. The town requested that the county provide a loop to the existing system with funding assistance from the town. The County applied for and received a majority of the CPCNs for those additional parcels impacted by the loop, designed and completed this area and all parcels are now served.

County Council approved a Resolution creating the Optimized Winding Creek Village water district in October 2017. Following the completion of the wastewater infrastructure for the area the water infrastructure will begin. Start time anticipated in the fourth quarter of 2023. The County has applied for and been granted the Certificate of Convenience and Necessity (CPCN) for the Optimized Winding Creek Village water district.

Constructed Wetlands Project

The Inland Bays Submerged Gravel Wetland constructed in 2023 is an innovative option using enhanced polishing and disposal for wastewater effluent as well as groundwater with elevated nutrient levels. Although this project does not conform to the standard wastewater disposal paradigm, it attempts to follow the applicable sections of the existing regulations for wastewater disposal. The process will provide an effective enhanced treatment of effluent and contaminated groundwater in terms of nutrient uptake while using a smaller, runoff-controlled footprint than the conventional spray irrigation systems.

The Project was designed and constructed in coordination with DNREC under a 5-year “operational testing” program and permitted by the Sussex Conservation District. A standard wastewater operation permit application was submitted concurrently with this request for “operational testing.” Based on the data from the basin test and the information provided in the preceding sections, it is estimated

that between 750,000 and 900,000 gallons of treated effluent, supplemental groundwater, and stormwater could be passed through the facility daily without excessive mounding under the wetlands or at the associated infiltration gallery.

HOUSING

Sussex County continues to promote fair and affordable housing through the Planning & Zoning Department and the Community Development and Housing Department. The construction of the first large-scale housing project approved under the Sussex County Rental Program (SCRCP) known as Coastal Tide (formerly known as The Arbors of Cottagedale Apartments) was expanded in 2023. Coastal tide is an 18.08 ac. parcel of land located in Lewes and Rehoboth Hundred (Tax parcel 334-6.00 504.02). The Final Site Plan includes 198 apartments including 1, 2, and 3-bedroom units, with 32 of the apartments set-aside as affordably priced housing units through SCRCP. To date, 18 SCRCP units are occupied by eligible tenants earning less than 80% of Area Median Income for Sussex County.

The County continues to work with applicants proposing residential developments to explore ways to deliver an increase in affordably priced units within the County.

Following the final report and recommendations in October 2019 from LSA Planning, the organization contracted to provide an intensive housing study, an internal County working group composed of Administration, Community Development and Housing, Planning, and Zoning, and Legal worked to develop an implementation plan to expand affordable housing opportunities. The plan was approved in the County's FY2022 budget and includes a Housing Trust Fund and updates to the County's inclusionary zoning programs. The Sussex County Housing Trust Fund (SCHTF) was officially launched in April 2022, funded by Sussex County Council and American Rescue Plan (ARPA) dollars. SCHTF includes two main components: a direct homebuyer assistance program and a developer grant program. The homebuyer assistance program provides grants of up to \$30,000 for down payment and closing for households below 120% AMI seeking to purchase a home in Sussex County. To date, the County has provided direct homebuyer assistance to thirty-seven (37) qualifying households. The developer grant program offers up to \$500,000 per project for applicants seeking to create or preserve affordable housing for households earning 65% or below AMI. More than \$4

million has been awarded to projects across Sussex County for the construction and/or preservation of nearly 200 affordable housing units.

In addition, and based in large part on the findings of the LSA Report, in October 2022, Sussex County Council approved an ordinance seeking to provide more affordable rental opportunities for Sussex County residents. This ordinance not only amended Chapter 72 of the Sussex County Code to streamline the SCRCP process but also added a new and substantial change to the zoning code to allow “by-right” multi-family housing projects at a density of twelve units per acre if at least thirty percent of those units are set aside as SCRCP units. As of this writing, one application has been submitted through the new ordinance, which will result in the creation of 42 affordable rental units in Lewes.

During the reporting year, Sussex County has expanded the home repair program with American Rescue Plan Act (ARPA) funding and assisted nearly 300 households with owner-occupied rehabilitation and emergency repairs, water and sewer hookups for low- and moderate-income households. The County continues to work and partner with the Sussex Housing Group and its affiliates to coordinate public/private partnerships that leverage dollars for community development efforts in impacted communities.

RECREATION AND OPEN SPACE

The Sussex County Subdivision Code allows for applicants to apply under the cluster development option whereby the lot size and lot width requirement of the AR-1 Zoning District is reduced for subdivisions that provide a minimum of 30% of the site area as open space. This option is also available within the Coastal Area. During the review period, the following areas of open space were approved or recommended for approval under this option:

<u>County Project Reference Number</u>	<u>Subdivision Name</u>	<u>Total # of Lots</u>	<u>Open Space Retained (in Acres)</u>
2019-02	The Estates at Bridgewater (Bent Creek Estates & Old Mill Landing South)	156	100.62

2019-13	Bridgewater (F.K.A. Bent Creek & Old Mill Landing North)	71	20.19
2019-29	Scenic Manor (F.K.A. Estates at Mulberry Knoll)	319	80.50
2020-13	Atlantic East (F.K.A. Terrapin Island & Salt Cedars)	42	19.91
2021-02	Estuary (Phase 4)	17	81.05
2021-11	Lightship Cove (F.K.A. Fisher Road)	97	26.5
2021-12	Miralon (F.K.A. Cool Spring)	119	36.16
2021-25	Four Winds Farm*	336	86.56
2021-31	Black Oak (F.K.A. Glenwood)*	127	42.043
2021-32	Riverwood*	117	32
2021-34	Suncrest (F.K.A. Marsh Homestead)*	41	7.863
2021-36	Wynford Preserve (F.K.A. Prettyman Residential)*	100	24.703
2022-03	Paradise Meadows*	191	43.85
2022-08	Walden III*	21	11.048
2022-11	Hunter's Creek*	95	6.92
2022-16	Armada*	67	33.31
S-23-25	Chapel Branch Apartments (Chapel Branch, LLC)	84	4.75
TOTAL		1,916	657.97

Note: Developments with a * means that Subdivision has Preliminary Approval Only

The total new open space approved during the review period is 657.97 Acres which is a notable increase from the 453.02 Acres of open space that was created through subdivision approvals during the 2021-2022 review period. The table below illustrates the total amount of open space created over the past 3 years.

Year	Total Open Space Protected
July 1, 2020-June 30, 2021	362.33 ac.
July 1, 2021-June 30, 2022	453.02 ac.
July 1, 2022-June 30, 2023	657.97 ac.
3-Year Total	1,473.32 ac.

In addition to the above, in May 2023, as part of the County’s Fiscal Budget, Sussex County announced the acquisition of four new tracts – on opposite ends of the County – that will be protected in perpetuity as open space. The properties, totaling a little more than 300 acres, include:

- A 294-acre tract known as the Forest of Broadkill Preserve, bordering Ingram Branch, off Shingle Point Road outside Milton. The property, a mix of fields and wooded areas costing \$1.85 million, will be managed by the Sussex County Land Trust, and is expected to eventually include a publicly accessible trail system;
- An 11-acre assemblage of three wooded parcels, known as the Wright properties, along the Nanticoke River near Seaford. The parcels, costing approximately \$460,000, will be managed by the Nanticoke Conservancy and feature public access at a later date.

These additions add to those lands reported in the 2022 update to the State of Delaware. The parcels previously announced include:

- Fifty-one acres known as the Hopkins Preserve, along Sweetbriar Road, just north of U.S. 9, outside Lewes, for a price of \$1.5 million. The property owner, Walter Hopkins and his family (a fourth-generation farmer), discounted the sale price by 50 percent in exchange for the parcel being used at a later time as open space and a recreational amenity, specifically as part of a trailhead that will be developed and managed by the Sussex County Land Trust for the still-under-construction Georgetown to Lewes Trail;
- Forty-seven acres known as the Jones Family tract, for \$650,000, located off Conaway Road adjacent to the State-owned Midlands Wildlife Area, west of Millsboro;

- Forty acres, named the Dawson Bros. tract, for a price of \$2.5 million, located along the south side of Del. Route 24, near the Nanticoke Indian Center, east of Millsboro;
- Thirteen acres, for a sale price of \$400,000, adjoining a larger parcel acquired by the County in 2020 and collectively known as the Dorman Family Farm Preserve, located along Herring Creek and Sarah Run, near Angola.

INTER-GOVERNMENTAL COORDINATION

In addition to cooperating with State Agencies on various technical matters throughout the year, Sussex County continues to work with the municipalities within Sussex County to share and receive data to provide accurate information to the public. In June 2023, the Planning & Zoning Department provide input to the Bethany Beach Comprehensive Plan Update.

In addition to providing comments on emerging Comprehensive Plans, the Planning & Zoning Department has continued to participate in Delaware Department Public Workshops and events held throughout the year, including the DelDOT Five Points group, the Southeast Sussex Study, and the Coastal Corridors Study workshops held between 2022-2023.

CONCLUSION

The 2022-2023 reporting period has seen solid progress toward the implementation of the Strategies contained within the 2018 Comprehensive Plan. The County looks forward to continuing to implement the Comprehensive Plan during the 2023-2024 reporting period. Based upon the solid progress made, the County does not anticipate a need for a 5-year update to the Comprehensive Plan, and will instead shift its focus to the 10-year Comprehensive Plan Update expected in 2027-2028.

ENGINEERING DEPARTMENT

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Sussex County

DELAWARE
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Memorandum

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

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

RE: ***Mulberry Knoll Sewer District Area***
A. Change Order No. 2 – Final Balancing

DATE: June 27, 2023

On June 6, 2017 Resolution R 011 17 was adopted by County Council establishing the Mulberry Knoll Unified Sewer District Area. On August 13, 2019, after conducting a public hearing for the State Clean Water State Revolving Fund offer, Ordinance No. 2672 was adopted, for the issuance of a General Obligation Bond up to \$3,135,379 for the project, with principal forgiveness up to \$1,941,000 reducing the principal amount to \$1,194,379 upon completion.

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

Contract Documents for Project S20-22, Mulberry Knoll Collection System were advertised and on September 23, 2021, seven (7) bids were received. The Department initiated a bid evaluation, noting the low bidder appeared to provide a response without acknowledging Addendum #1 of the bidding documents and on October 12, 2021, Council rejected all bids and authorized readvertisement of the Project.

Updated Contract Documents were re-advertised, and ten (10) bids were received. On November 30, 2021, Council awarded Project S20-22 to Carrow Construction for a total amount of \$1,861,538.00 contingent upon DNREC concurrence of project financing.

Total project financing was evaluated using the bids received for Project S20-22 in combination with the construction contract for Project S20-14 and related costs. Construction market and material pricing required additional funding to maintain overall project financing and on November



30, 2021, Council authorized submission of a supplemental SRF funding request in the amount of \$1,329,000. The request was reviewed by the State's WIAC on March 16, 2022 and subsequently approved by DNREC with 100% principal loan forgiveness and interest only during construction. On May 17, 2022, Council approved the introduction and approval of the associated Ordinance.

Construction efforts commenced shortly after issuance of the Notice to Proceed effective April 26, 2022. The depth of excavation coupled with significant dewatering needs, unanticipated utility conflicts and singular DeIDOT roadway access into and out of the community resulted in relatively slow construction. However, steady progress continued, and pipeline work was mostly completed before the end of 2022. At times issues arose between constructability and DeIDOT permit requirements resulting in various changes to temporary roadway conditions as well as modifications to permit defined permanent restoration. An agreement was reached between Sussex County, DeIDOT and Carrow Construction whereas Carrow Construction would provide additional roadway construction outside of the base contract work in accordance with a time and materials compensation method. Additionally, based on time of year / weather conditions and sub-contractor coordination, all roadway restoration work was scheduled to occur in spring under improved paving conditions.

The sewer expansion project was completed, and operations began with sewer connection notices mailed to property owners effective May 22, 2023. A final progress meeting and walk through with DNREC occurred May 25, 2023. Carrow Construction submitted Change Order No. 1 in the amount of \$119,215.57 encompassing their DeIDOT related roadway restoration above permit requirements, the undocumented utility conflict resolution as well as a no-cost time extension through May 25th. On June 6, 2023, County Council approved Change Order No. 1 at the referenced amount, increasing the contract total to \$1,980,753.57 with the no-cost contract time extension through May 25, 2023. Substantial Completion was also granted effective May 25, 2023.

Coordination of project close-out including review of as-built drawings has provided final quantities and projected invoicing. Change Order 2 was developed for final balancing of the project cost. Final paving values reflected a significant overrun (179%) of the hot-mix asphalt item as previously noted. This item along with the other minor over / underrun adjustments result in a \$33,271.56 increase of the contract total or +/-1.75%.

The Engineering Department recommends Council approve balancing Change Order 2, increasing the contract by \$33,271.56 to a final value of \$2,014,025.13.

Date of Issuance: 6/20/2023	Effective Date: 6/27/2023
Owner: Sussex County	Owner's Contract No.: S20-22
Contractor: Carrow Construction	Contractor's Project No.:
Engineer: Sussex County	Engineer's Project No.:
Project: Mulberry Knoll Sewer Collection System	Contract Name:

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

Final DelDOT paving work as per permit changes and Final Balancing of Contract Quantities per as-built survey.

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES <i>[note changes in Milestones if applicable]</i>
Original Contract Price: \$ <u>1,861,538.00</u>	Original Contract Times: NTP 4/26/2022 Substantial Completion: _____ Ready for Final Payment: _____ 240 calendar days
Increase from previously approved Change Orders No. 1 to No. <u>1</u> : \$ <u>119,215.57</u>	Increase from previously approved Change Orders No. <u>1</u> to No. <u>1</u> : Substantial Completion: <u>5/25/2023</u> Ready for Final Payment: _____ 0 calendar days
Contract Price prior to this Change Order: \$ <u>1,980,753.57</u>	Contract Times prior to this Change Order: Substantial Completion: <u>5/25/2023 per CO 1</u> Ready for Final Payment: _____ 240 calendar days
Increase of this Change Order: \$ <u>33,271.56</u>	[Increase] [Decrease] of this Change Order: N/A days Substantial Completion: <u>5/25/2023 per CO 1</u> Ready for Final Payment: _____
Contract Price incorporating this Change Order: \$ <u>2,014,025.13</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>5/25/2023 per CO 1</u> Ready for Final Payment: _____

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By: <u>[Signature]</u>	By: _____	By: <u>Dean Carrow</u>
Engineer (if required)	Owner (Authorized Signature)	Contractor (Authorized Signature)
Title: <u>PROJECT ENGINEER</u>	Title: _____	Title: <u>Operating Manager</u>
Date: <u>6/20/2023</u>	Date: _____	Date: <u>6/22/2023</u>

Approved by Funding Agency (if applicable)

By: _____ Date: _____
Title: _____

ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

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

hans.medlarz@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

RE: ***Western Sussex Unified Sewer District:
Contract 5A, Project S19-29
A. Recommendation to Award***

DATE: June 27, 2023

In February 2017, the municipal councils of Bridgeville and Greenwood requested investigation of an alternate County Sewer District based scenario. Upon review of the findings both municipal Councils requested formation of a County sewer district pursuant to Title 9 Del. Code § 6501, and on August 22, 2017, County Council adopted a resolution establishing the Western Sussex Area of the Unified Sanitary Sewer District.

The County requested funding consideration under the Clean Water State Revolving Fund and on August 14, 2018, the State issued a binding commitment offer in the overall amount of \$16,634,748 to be repaid within 30-years with 2.5% interest. On November 27, 2018, Council accepted the offer and approved the associated borrowing ordinance. After project completion, \$3,200,000 will be applied in principle forgiveness reducing the overall borrowing. On May 15, 2020 the County filed a supplemental CWSRF funding request in the amount of \$850,000 to cover unanticipated change orders associated with the DeIDOT restoration on RT-13. The County's request was approved by the Water Infrastructure Advisory Council during their July 15, 2020 meeting in the form of "Loan Forgiveness.

Council also authorized a 2nd request for supplemental funding for the Western Sussex District Area Expansion Project through the CWSRF in the amount of \$1,336,315.00. Once an offer is received, an associated debt ordinance would be introduced and voted on by Council after a public hearing. Since the project is already at the affordability limits an offer in the form of mostly "Loan Forgiveness" is expected.



The project has three components; transmission under Contracts 1-4, treatment plant demolition/system rehabilitation Contract 5, maintenance garage under Contract 6 and a Bridgeville Branch restoration project spearheaded by the Sussex Conservation District.

The construction of the transmission project was further broken down in the following four (4) individual contracts based on DelDOT's schedule requirements:

- Contract No.1 to A-Del Construction Co, Inc. in the amount of \$3,224,820.00, for the force main work in the RT-13 rights-of-way. Awarded by Council on May 14, 2019.
- Contract No.2 to Pact One LLC in the amount of \$2,063,255.00, for the gravity sewer upgrades. Awarded by Council on May 14, 2019.
- Contract No.3 to A-Del Construction Co, Inc. in the amount of \$2,980,602.00, for the force main work in the RT-13 Alternate and Herring Road rights-of-way. Awarded by Council on January 7, 2020.
- Contract No.4 to Zack's Excavating, Inc. in the amount of \$3,236,939.00, for gravity sewer equalization chambers and two (2) pump stations. Awarded by Council on November 12, 2019.
- Contract No. 6 to GGI, Inc. in the amount of \$410,525.00, for construction of a new Office/Garage Building. Awarded by Council on June 23, 2020.

During the construction of Contract No.1 awarded to A-Del Construction Co, Inc., DelDOT did not allow the reuse of most of the excavated trench material and required Type C Borrow instead. Therefore, this unit price item went considerably above the bid quantity. In addition, a wider concrete base course was encountered under the Cannon Road crossing. Rather than using hot-mix for restoration, DelDOT required reinstallation of the concrete base course adding 25% to the cost of this lump sum item. On February 4, 2020, Council approved the associated Change Order No.1 in the amount of \$254,188.92. During the final restoration phase DelDOT required additional matting and utility adjustments resulting in a final balancing Change Order No. 2 in the amount of \$26,486.65. Council issued Change Order No.2 and granted final project completion on June 2, 2020.

The award of Contract No.2 to Pact One, LLC included the base bid and two alternate bid items. At the time of award, the Alternate Bid Item D5 was not awarded due its significantly higher than anticipated cost. In subsequent discussions, Pact One LLC realized they had misinterpreted the scope for Item D5 and submitted an alternate proposal at approximately 16% of the original bid. On September 10, 2019 Council awarded Change Order No. 1 in the amount of \$96,840.00 to cover item D5. On June 2, 2020 Council approved a final balancing Change Order No. 2 in the credit amount of (\$128,708.70) and granted final project completion.

Contract No.3 awarded to A-Del Construction Co, Inc. encountered no issues and on June 15, 2021 Council approved the balancing Change Order No. 1 in the credit amount of \$643,915.22 together with final project completion as of April 7, 2021.

During the construction of Contract No. 4 awarded to Zack's Excavating, Inc. a groundwater contamination was encountered, in addition to a construction sequencing issue at the Bridgeville site. In response, the Department developed a value engineering approach approved by Council on June 2, 2020 under Change Order No.1 in the amount of \$40,045.00. The north Seaford pump station included RT-13 entrance improvements which required a more substantial reconstruction due to lack of an existing base course as well as a compromised subbase. In response Council approved Change Order No. 2 in the amount of \$22,642.78 on July 28, 2020. On September 30, 2020 Zack's Excavating, Inc. encountered a previously unknown ductile iron water pipe within the area of the deep excavation of the Bridgeville pump station structures. On November 10, 2020 Council approved Change Order No. 3 in the total amount of \$32,644.19 for the time and material relocation effort.

On February 3, 2021, Delmarva Power and Light contacted Sussex County with an opportunity for net schedule and cost savings by adjusting the transformer type from pad mount to a pole mounted system. While this decreased the charges from Delmarva Power and Light, it increased Zack Excavating Inc.'s electrical subcontractor's scope by \$5,504.87. However, the coordination with DP&L did affect the critical schedule and caused a two-week delay. In addition, the Environmental Services team did additional assessments of the Heritage Shores Pump Station pre-existing conditions and recommended additional upgrades to the existing SCADA system to bring it up to the current county standard exceeding the stipulated contract allowance by \$16,000.00. On March 9, 2021 Council approved Change Order No. 4 in the amount of \$21,504.87 and the associated two-week contract time extension.

The final gravity sewer line to transferred to the new Bridgeville pump station had significant, previously unknown, infiltration. The Department requested a change order for the necessary repairs but Zack's Excavating, Inc. declined any further change orders. Subsequently, after receiving concurrence from the funding agency, the Engineering Department mobilized the County's General Labor & Equipment contractor to the site. Furthermore, the Department suggested to transition Zack's contract to a lump sum approach, requesting credit proposals for several remaining incidental work items and allowances. On May 25, 2022 Council issued the close out credit Change Order No. 5 in the amount of (\$92,704.30) as well as the granting of substantial project completion.

The Invitation to Bid for the last remaining Western Sussex Unified Sewer District, Contract 5, Project S19-29 was advertised in the local newspaper, available to view on the County website and directly forwarded to interested contractors. On February 9, 2022, seven (7) bids were received.

On February 22, 2022, Council made the following three awards 7 one rejection:

- Segment A to A-Del Construction Co., Inc. for \$427,000.00
- Segment B to Richard E. Pierson Construction Co., Inc. for \$920,800.00
- Segment D to Standard Pipe Services, LLC for \$525,100.00
- Segment C due to irregularities in the low bid, Council rejected all bids for Segment C and authorized an immediate re-bid.

On March 25, 2022, two (2) re-bids were received and on April 26, 2022 Council awarded Segment C to Zack's Excavating, Inc. in the amount of \$551,585.16.

Western Sussex Unified Sewer District Contract 5, Project S19-29 change order requests and substantial completion summary.

- Segment A was awarded to A-Del Construction Co, Inc for \$427,700.00. The contractor stated they were 'substantially complete' as of June 23, 2022, with the last remaining waste materials picked up from the Bridgeville Wastewater Treatment plant for disposal. Part of this last removal were some additional chemicals not in the original bid inventory sheets. The additional chemicals in Change Order No. 1 amounted to \$2,628.88 for a new contract amount of \$430,328.88. The substantial complete balancing Change Order No. 2 with consideration for less than anticipated removal of residual liquids, solids and sludger resulted in a surplus of \$216,097.35. On July 12, 2022, Council approved Change Order No. 1. On June 23, 2022 Council approved the balancing Change Order No. 2 and granted substantial completion.
- Segment B was awarded to Richard E. Pierson Construction Co., Inc. for \$920,800.00. In the process of demolition, Richard E. Pierson recognized that the existing water main crossing the site could not be sustained in its current location. Therefore, Richard E. Pierson Construction Co., Inc. proposed Change Order No. 1 for the relocation of the main in the amount of \$27,743.89 which was approved by Council on July 12, 2022. The project contained contingency items which were not all used and on October 18, 2022, Council approved the balancing Change Order No. 2 in a credit amount of \$177,857.89 as well as the granting substantial completion effective October 11, 2022.
- Segment C rebid was awarded to Zack's Excavating, Inc. for \$551,585.16. Zack's Excavating, Inc. requested a Change Order No.1 for additional unit price work at the Bridgeville Pump Station and the Engineering Department is requesting to uncouple the work at the heritage Shores Pump Station.
 - Bridgeville Pump Station repair with existing condition challenges relative to the position of the existing gravity sewer pipe and the existing inverts at the manholes required 62.75 feet of additional length to ensure adequate slope.
 - The railing system of the equalization chamber was damaged in a recent emergency response triggering an increase of the previously bid repair amount.
 - Heritage Shores Pump Station has new upgrade requirements for the pump station including access and odor control triggering another redesign.

On December 6, 2022 County Council approved Change Order No. 1 for Zack's Excavating, Inc. in the aggregate credit amount of (\$229,133.70).

- Segment D was awarded to Standard Pipe Services, LLC for \$525,100.00. Standard Pipe Services, LLC proposed Change Order No. 1 in the amount of \$52,500.00 for unit rates covering camera work beyond the main for locating, cleaning and televising laterals estimated and Change Order No. 2 in the amount of \$33,900.00 or contingent

unit rates approval for heavy cleaning services prior to camera work. Council approved both change orders on July 12, 2022.

At the end of 2022 Standard Pipe Services, LLC proposed a no-cost extension of the contract timeline by 180-day due in part to:

- Equipment down time associated with the heavy cleaning effort.
- Delays associated with the consolidation, formatting, reviewing, and analysis of the videos from Standard Pipe Services and supplemental video support from the Sussex County team.
- Based on the video more lining work than the original bid quantities is proposed.

On December 6, 2022, County Council approved Standard Pipe Services, LLC's Change Order No. 3. for a 180-day no-cost extension from December 18, 2022, to June 23, 2023.

The Standard Pipe Services, LLC is now requesting Change Order No. 4 for repairs to additional compromised infrastructure discovered while completing the original scope within the Town of Bridgeville. In addition, the County camera crews have identified repairs, as they were mapping lateral connections to the mains. In total, these repairs are estimated using the unit prices bid, at approximately \$75,500.00. With the June 23rd contract completion date approaching, the Department is also proposing a four-week contract time extension to July 21st, 2023.

On June 20, 2023, Council approved Change Order No. 4 to Standard Pipe Services, LLC's contract in the not to exceed amount of \$75,500.00 for additional repair scope at the unit prices bid and a four (4) week contract extension associated with the scope expansion contingent upon SRF concurrence.

The Heritage Shores Pump Station scope was originally included in the Segment C rebid but Council removed it on December 6, 2022 via Change Order No. 1 from Zack's Excavating, Inc.'s contract. The Heritage Shores Pump Station upgrade requirements including access and odor control were redesigned and invitations to bid were advertised on May 17th and 24th in the local newspaper, and available to view on the County website. In addition, the information was directly forwarded to a number of contractors.

On June 14, 2023, three (3) bids were received. The Engineering Department recommends award of Western Sussex Contract 5A to the low bidder, Hopkins Construction, Inc. in the amount of \$786,810.00, subject to DNREC approval.



Sussex County

BID TABULATION SHEET

Project: Western Sussex Contract 5A

Project No.: S19-29

Award Date: N/A

Awarded Bidder: N/A

Bidder	Total Bid
Hopkins Construction	\$786,810.00
A-Del Construction	\$818,700.00
Chesapeake Turf	\$1,169,679.00



Memorandum

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

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

RE: *Sussex County Unified Sanitary Sewer District
Chapel Green, Conley's Chapel Village & Wil King Road South Area,
Project S20-16*
A. *Change Order Nos. 1, 2 and Substantial Completion*

DATE: June 27, 2023

On November 1, 2016, County Council established the Chapel Branch Area of the Sussex County Unified Sanitary Sewer District after a successful referendum under a front-foot based assessment. In March of 2019, the Department received letters from the Chapel Green & Oak Crest Farms Homeowner Associations requesting the assessment method to be changed to an EDU basis. The County Attorney advised that a second public hearing and referendum would be required. After a positive referendum result on November 19, 2019 County Council approved a Resolution changing the re-payment method to an EDU basis.

On November 1, 2016, County Council had also approved Amendment No. 9 to Whitman & Requardt and Associates base engineering contract for aerial mapping of the Chapel Branch Area. On March 13, 2018, County Council approved Amendment No.12 in a "not to exceed" amount of \$329,119.00 for the overall Chapel Branch design & permitting. This amendment did not include contract administration nor on-site inspection. However, this project is County funded and the Engineering Department has covered these services.

The Chapel Branch area is served by two County owned and two Artesian Wastewater Resources owned pump stations under the Bulk Wastewater Agreement. Therefore, the overall design was complex, and the project was broken down in the following segments:

1. Initial connection of Oak Crest Farms septic effluent to the County's transmission system on an emergency basis via a temporary pump station.
2. Construction of County pump stations no. 408 & 409 under the Herring Creek, Contract 1.



3. Construction of the Artesian owned pump station in Anchor's Run and modification of Artesian's pump station in Oakwood Village, both using private funding.
4. Reconstruction of part of the Oak Crest Farms gravity system under the General Labor & Equipment Contract.
5. Abandonment of septic tanks in Chapel Green and modification to the sewer lateral, also under the General Labor & Equipment Contract.
6. The Chapel Green, Conley's Chapel Village & Wil King Road South Area gravity system under the Pact One contract.
7. The Wil King Road North Area pressure system under a standalone bid later on in 2023 in connection with a private development.

Invitations to the Chapel Green, Conley's Chapel Village & Wil King Road South Area bid were advertised and on March 30, 2022, bids for were opened. Six (6) bids were received. The bid contained an alignment alternate for placement of a short section of gravity sewer in the southbound travel lane of Wil King Road. On April 26, 2022. Council awarded Bid Alternate (Parts B, C & D) to Pact One, LLC in the amount of \$2,129,050.00.

During the connection of the Chapel Green gravity system to the County pump station an elevation and alignment issue arose in December of 2022 requiring design modifications. The solution resulted in the addition of +/-250 feet of 10-inch gravity sewer and a manhole administratively approved based during construction. The Engineering Department is now requesting final approval of Change Order 1 in the amount of \$44,955.00 & balancing Change Order 2 in the amount of -\$80,941.90, for a final contract value of \$2,093,063.10. The Department further recommends Substantial Completion be granted effective May 5, 2023, with release of retainage authorized.



**SUSSEX COUNTY
CHANGE ORDER REQUEST**

A. ADMINISTRATIVE:

1. Project Name: **Chapel Green & Conley's Chapel Village Expansion**
2. Sussex County Project No. S20-16
3. Change Order No. 1
4. Date Change Order Initiated - 6/20/23
5.
 - a. Original Contract Sum \$2,129,050.00
 - b. Net Change by Previous Change Orders \$ 0
 - c. Contract Sum Prior to Change Order \$2,129,050.00
 - d. Requested Change \$44,955.00
 - e. Net Change (No. of days)
 - f. New Contract Amount \$2,174,005.00
6. Contact Person: Hans Medlarz, P.E.
Telephone No. (302) 855-7718

B. REASON FOR CHANGE ORDER (CHECK ONE)

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

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

C. BRIEF DESCRIPTION OF CHANGE ORDER:

Additional pay item due to an elevation difference at the existing pump station causing downtime, electrical feed relocations and an upsizing to a 10-inch pipe.

D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?

Yes No

E. APPROVALS

1. Pact One, LLC, Contractor

[Signature] 6/21/23
 Signature Date

Genrik Maxian, Manager
 Representative's Name in Block Letters

2. Sussex County Engineer

[Signature] 6/21/2023
 Signature Date

3. Sussex County Council President

 Signature Date

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

C. BRIEF DESCRIPTION OF CHANGE ORDER:

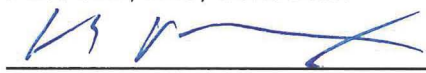
Balancing final quantities.

D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?

Yes X No


E. APPROVALS

1. Pact One, LLC, Contractor

 6/21/23
Signature Date

Henrik P. Maxian, Manager
Representative's Name in Block Letters

2. Sussex County Engineer

 6/23/2023
Signature Date

3. Sussex County Council President

Signature Date



Memorandum

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

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

CC: Everett Moore, County Attorney

Date: April 6, 2023

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

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

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

Below are the minutes from the Planning & Zoning Commission meetings of February 9, 2023 and March 9, 2023. The County Council held a Public Hearing at its meeting of April 18, 2023. At the conclusion of the Public Hearing, the record was left open until May 2nd, to allow for additional time for the public to submit additional comments. At the meeting of May 2nd Council closed the record and action was deferred on the application for further consideration. Below is a link to the minutes of the County Council meeting of April 18, 2023.

[Link to the Minutes of the April 18, 2023 County Council Meeting](#)

[Minutes of the February 9, 2023, Planning & Zoning Commission Meeting](#)

C/U 2349 Lessard Builders

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



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

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

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

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

pave the private road, as well as the entrance onto Smiths Landing Rd.; that the pavement would be constructed to Sussex County standards; that the Applicant proffered in proposed Condition L to note on the Final Site Plan the perpetual easement granted to be used by the general public; that the site is bulkheaded; that the bulkhead wraps around the two corners of the property; that there is an existing pier, which is in a state of disrepair; that the pier does extend 500-ft. into the Indian River Bay; that there are 10 boat slips located at the end of the pier; that there is an existing building, with a front setback from the bulkhead of 26-ft.; that there is a covered porch area extending from the building to the bulkhead; that there is a shed and dumpster pad located next to the building; that the rest of the property is vacant; that a portion of the site had previously been used as a gravel parking lot; that in the current Application, the existing building is proposed to be removed; that the bulkhead and boat slips will be repaired and renovated; that the Applicant anticipates the pier length will be shortened; that the pier will maintain ten boat slips; that all repair and renovations would be in accordance with approval and permits from DNREC; that the new building would be located on the waterfront portion of the site, with a front setback of 30-ft. from the bulkhead; that the 30-ft. setback is the same setback requirement approved by Sussex County for the 2010 C/U 1863; that the proposed setback for the new building is greater than the setback of the existing building; that the new building is proposed to be three stories that will not exceed 42-ft.; that the first floor would contain four units, consisting of three two-bedroom units and one one-bedroom unit; that the second floor would have four two-bedroom units; that the third floor would have two four-bedroom units; that that one-bedroom unit would contain 1,146 sq. ft.; that the two-bedroom units would contain 1,350 sq. ft.; that the four-bedroom units would contain 2,400 sq. ft.; that the building will have elevator; that outdoor open space and access to the pier will be located on the bayside of the building; that each of the ten unit owners would require the right to the exclusive use of a designated boat slip; that the boat slips are not proposed to be rented to the general public; that the private road will be paved to Sussex County standards; that a sidewalk is proposed along the building side of the private road; that parking would be provided on the northern portion of the site; that 20 parking spaces are required; that 25 parking spaces are being provided, which will include two handicap spaces; that no on-site or on-road parking, within the property, would be permitted; that a 30' x 30' storage building is proposed at the north of the site; that the storage building will provide secured storage areas within the building for each of the ten unit owners; that in addition, there would be a community storage area for maintenance equipment and community items; that a 20' x 20' enclosure for trash receptacles will be located next to the storage building; that the three sides of the parking area, being located adjacent to properties of other ownership, would have a four foot high solid fence to screen vehicle headlights; that the parking area would have minimal, non-intrusive, directional lighting for safety purposes; that the building area, parking area, storage area, and trash receptacles would be attractively landscaped; that a detailed landscape plan will be submitted as part of the Final Site Plan review; that architectural renderings were submitted reflecting the bay view and street view of the building; that the building look and design is handsome in appearance, which will enhance property values of surrounding properties; that the residential units will be a high-end type of units; that the units will not contribute to workforce housing; that the units are intended to be owner occupied; that a part of ownership does involve the right to rent or lease a property; that there will be a private restriction placed within the condominium documents restricting rentals to at least a month or more; that weekly short-term rentals will not be permitted; that the Applicant proposes to replace a deteriorating building, pier and bulkhead, which would be replaced by an architecturally attractive building with appropriate landscaping and fencing, which are anticipated to significantly increase surrounding property values; that the proposed design allows for paving of the private road and a perpetual easement to be granted to the public, which will ensure that the road would never be closed by any future owner of the property; that in 2010, the County determined the site was appropriate for five residential units, a 2,800 sq. ft. restaurant, a 700

sq. ft. patio, 1,600 sq. ft. rental store and ten boat slips for lease; that the current Application is requesting to substitute five residential units in the place of the restaurant and retail store and the five residential units would have a significantly less of an impact in terms of noise, odors, hours of operation, traffic impact, and impact on property values than the commercial uses previously approved.

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

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

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

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

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

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

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

The Commission found that Mr. Patrick Miller, President of the Indian River Fire Company, was neutral to the Application, but spoke with concerns regarding the Application; that he personally owned the Lot 27 & 28 nearby the site; that he confirmed the sewer lines do run under the private road; that the private roadway has been in existence since the late 1960's into early 1970s; that the vacant lot was previously the parking lot for the previously existing restaurant; that he did confirm that a deed for the private roadway does not exist; that as of the week prior to the public hearing, DelDOT considered the private lane as a road; that in many documents, Oak Orchard Rd. and Oak Orchard Avenue are synonymous; that the two roads are different roads; that when coming down Oak Orchard Avenue from Delaware Avenue, the road ends before Smiths Landing Rd.; that the parcels along Smiths Landing Rd. would be completely landlocked; that the fire company has grave concern, as Oak Orchard Avenue only has a 20-ft. road width; that the fire company requested the continuation of there being no parking along Oak Orchard Avenue from either direction to prevent difficulty of emergency apparatus getting by; that the fire company have four concerns; that Oak Orchard is not a hydrant community; that the nearest hydrant is located at Chiefs Rd and Oak Orchard Rd.; that it is also the location where the largest water main ends; that this location is approximately 1.25 mile from the site; that the fire company had been told the water pipes are not sufficient to hydronated that area from Chiefs Rd. down to the site; that at the fire house, there is no hydrant or fill station; that the fire company was required to place their own well and pumping station to fill their apparatus; that it is their understanding that there is no reasonable water suppression system that will accommodate the required flow; that the fire company had suggested the dry hydrant; that if a dry hydrant should materialize, the hydrant would require perpetual maintenance and operation due to sediment filling in the pipes; that the fire company has experience with dry hydrant systems at Massey's Landing Campground; that they have had frequent issues with the piping being filled in with sand and becoming unproductive; that the fire company was very pleased to hear the installation of sprinklers were proposed; that in the 1980s, Parcel 4 had caught fire; that at that time, there was a two-story dwelling located along the waterfront; that the fire company was not able to gain access to the property by aerial apparatus due to the existing overhead wires; that the overhead electrical wire run consistent with the road, as well as water and sewer piping; that in the past, tractor trailer trucks have pulled the telephone and utility wiring down from the Oak Orchard properties to the Smiths Landing properties; that the parcel is not easily accessible for any large sized apparatus, which would be needed to address emergencies of a three-story building; that the water runoff runs to the only drain, located at Oak Orchard Rd. and River Rd. intersection; that with heavy rain and/or high tide the road floods; that the fire company is neutral for the application; the fire house does feel their issues could be mitigated with proper planning; that Mr. Lessard and the current owners of the property have never indicated they intended to close the private road; that previous owners of the property had made threats to close the road; that the potential closing of the private road had always been a concern for the public; that Tidewater Utilities, Inc. is to maintain with the property's existing infrastructure; that the existing infrastructure is grossly insufficient; that at times, when the fire company accesses the hydrants along Banks Rd, Long Neck Rd. and School Lane, they have run dry; that the motors burn up because the water flow cannot be accommodated; that other resources were required to bring in water; that the small width of the roads to not allow for fire apparatuses to be parked side by side, which would cause an issue for homes along Smiths Landing Rd.; that the fire company currently has difficulty getting a F350 truck down Smiths Landing Rd.; that further down Smiths Landing Rd. are manufactured homes, which have a risk of burning more quickly than wood homes; that the fire company does have tank trucks; that the fire company also rely on mutual aid tankers from Millsboro and Lewes and those are the current comments and concerns of the Indian River Volunteer Fire Company.

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

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

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

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

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

the site, 20 additional vehicles may be more than a minimal impact; that the fire company placed an addition to their building; that the fire company was not able to sprinker system the fire company due to the water line being four inches along Old Orchard Rd.; that a fire hydrant uses a six inch waterline; that the fire company uses six inch fire hoses; that you cannot pull six inches from a four inch waterline; that these concerns have existed for a long time and he felt the mentioned issues should be taken into consideration.

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

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

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

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

The Commission found that Mr. Harry Jarmon spoke in opposition to the Application; that his property is located across from the proposed dumpsters; that his primary concern is safety; that he agrees with the other concerns mentioned as well; that 200 single-family units are being constructed north of the site, along Oak Orchard Rd.; that with both of the projects will create additional traffic; that he felt the road is traveled frequently; that he confirmed the wires had been torn down along the road; that a front-end loader will be required to remove the dumpster; that the parking lot is tight quartered and will cause a safety concern for large vehicles that need to access the area; that he had a major concern to the location of the dumpster across from his property; that dumpsters are not clean, frequently omitting odors and he is pleased with the aesthetics of the proposed building.

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

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

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

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

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

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

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

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

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

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

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

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

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

1. This application seeks the approval of ten (10) multi-family structures on approximately .84 acres of land. The land is actually separated by a roadway historically used by residents and visitors to the Oak Orchard Area. 10 units is simply too much density on this unusually shaped, small parcel of land that is divided by the roadway. While the roadway splitting the land is not State-owned, the record shows that it has historically been used as a public roadway, and it is the only means of access for several nearby properties.
2. The small roads and tightly packed properties in this area of Oak Orchard cannot support 10 new multi-family units on this site. There was testimony in the record that the required parking alone would adversely affect the neighboring and adjacent properties by squeezing the necessary parking spaces among the adjacent small residential properties.
3. Six new multifamily units in this location will not overburden this property and the area, including nearby roadways. Six units is an appropriate density, and they will improve and redevelop a property that has deteriorated over the years.
4. The site is in the Coastal Area according to the Sussex County Comprehensive Plan. This type of development is appropriate in this Area according to the Plan, which states that “a range of housing types” are acceptable here, including medium and high densities when a site is near commercial areas, is served by central water and sewer, where the use is in keeping with the character of the area and other similar factors. These types of considerations exist with regard to this site.
5. As part of this approval, the issue of access to the roadway connecting the two ends of Oak Orchard Road across this property will be resolved by a dedication of the roadway to public use.
6. With this six-unit limitation, the proposed development will not have an adverse impact on the neighboring properties or community.
7. With the six units, the project will not have an adverse impact upon traffic or roadways.
8. The development will be served by central sewer provided by Sussex County.
9. The development will be served by central water.
10. This recommendation is subject to the following conditions:
 - A. The maximum number of residential units shall be six (6).
 - B. The developer and then the condominium association shall be responsible for the perpetual maintenance of the project’s stormwater management facilities, erosion, and sedimentation control facilities, and other common areas.
 - C. All entrance, intersection, roadway, and multi-modal improvements shall be completed by the developer as required by DelDOT.

- D. The Final Site Plan shall dedicate the roadway across this site connecting the two ends of Oak Orchard Road to public use.
- E. At least one parking space for each unit shall be located on the riverside portion of the property, whether enclosed in a garage or under the building, or in a driveway or outdoor parking area. None of the parking shall be located within a setback area.
- F. The trash receptacles shall be standard roll-out residential containers assigned to the six (6) units. They shall be stored in an enclosed area on the area of this site where the building is located. No dumpster shall be permitted.
- G. The project shall be served by Sussex County sewer. The developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.
- H. The project shall be served by central water to provide drinking water and fire protection.
- I. Construction activities, including site work and deliveries, shall only occur between 7:30 am and 7:00 pm Monday through Friday, and between 8:00 am and 2:00 pm on Saturdays. There shall be no construction activities at the site on Sundays. A 24-inch by 36-inch “NOTICE” sign in English and Spanish confirming these hours shall be prominently displayed at all entrances to the site during construction.
- J. The Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- K. The Final Site Plan shall include a Grading Plan for the site. No building permits shall be issued until an individual lot grading plan has been supplied to and approved by Sussex County. No certificate of occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.
- L. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

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

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

PLANNING & ZONING COMMISSION

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KIM HOEY STEVENSON, VICE-CHAIRMAN
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DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: February 9th, 2023

Application: CU 2349 Lessard Builders

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

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

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

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

Proposed Use: Multi-family Dwellings

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Ms. Hudson

School District: Indian River School District

Fire District: Indian River Fire Department

Sewer: Sussex County

Water: Tidewater Utilities, Inc.

Site Area: 0.84 acres +/-

Tax Map ID: 234-35.09-6.00



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Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

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

Comprehensive Plan Analysis

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

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

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



Zoning Information

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

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

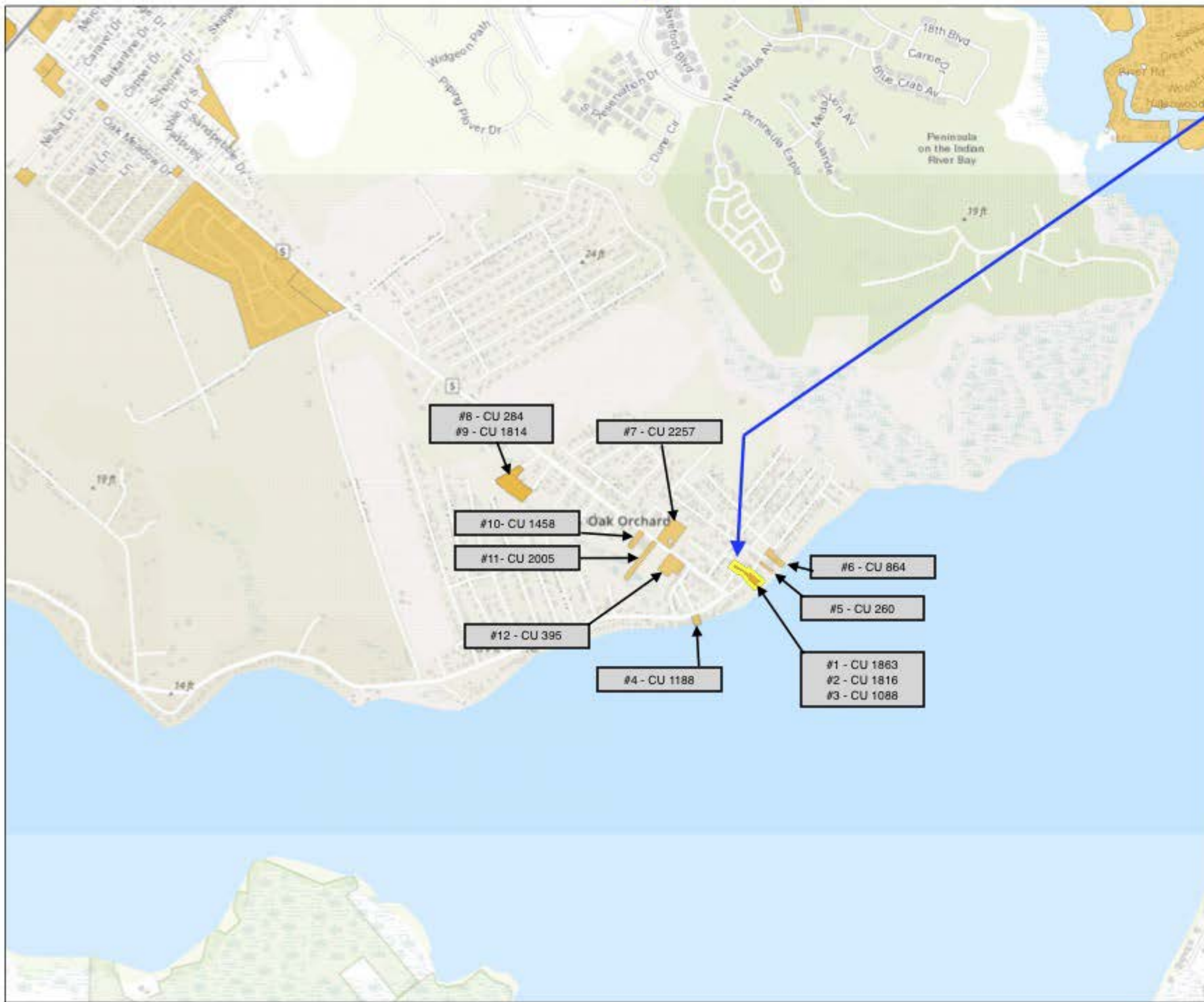
Change of Zone Applications (Within a 0.5-mile radius of the subject site)							
Item # on Attached Map	Application Number	Application Name	Zoning District	Proposed Use	CC Decision	CC Decision Date	Ordinance Number
#1	<u>CU 1863</u>	Andrew & Carol Walton	MR	Marina/Restaurant/Etc.	Approved	6/8/2010	Ord.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

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

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

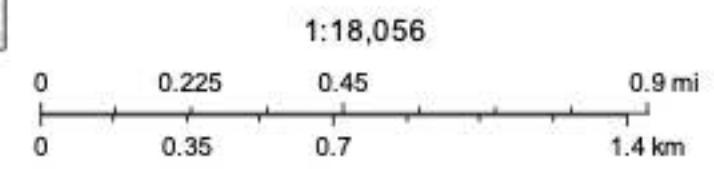


Sussex County



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

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 Override 1
 polygonLayer
 Override 1
 Conditional Use





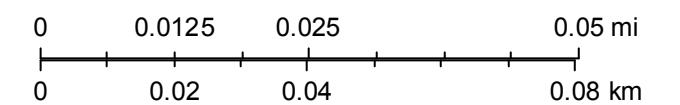
Sussex County

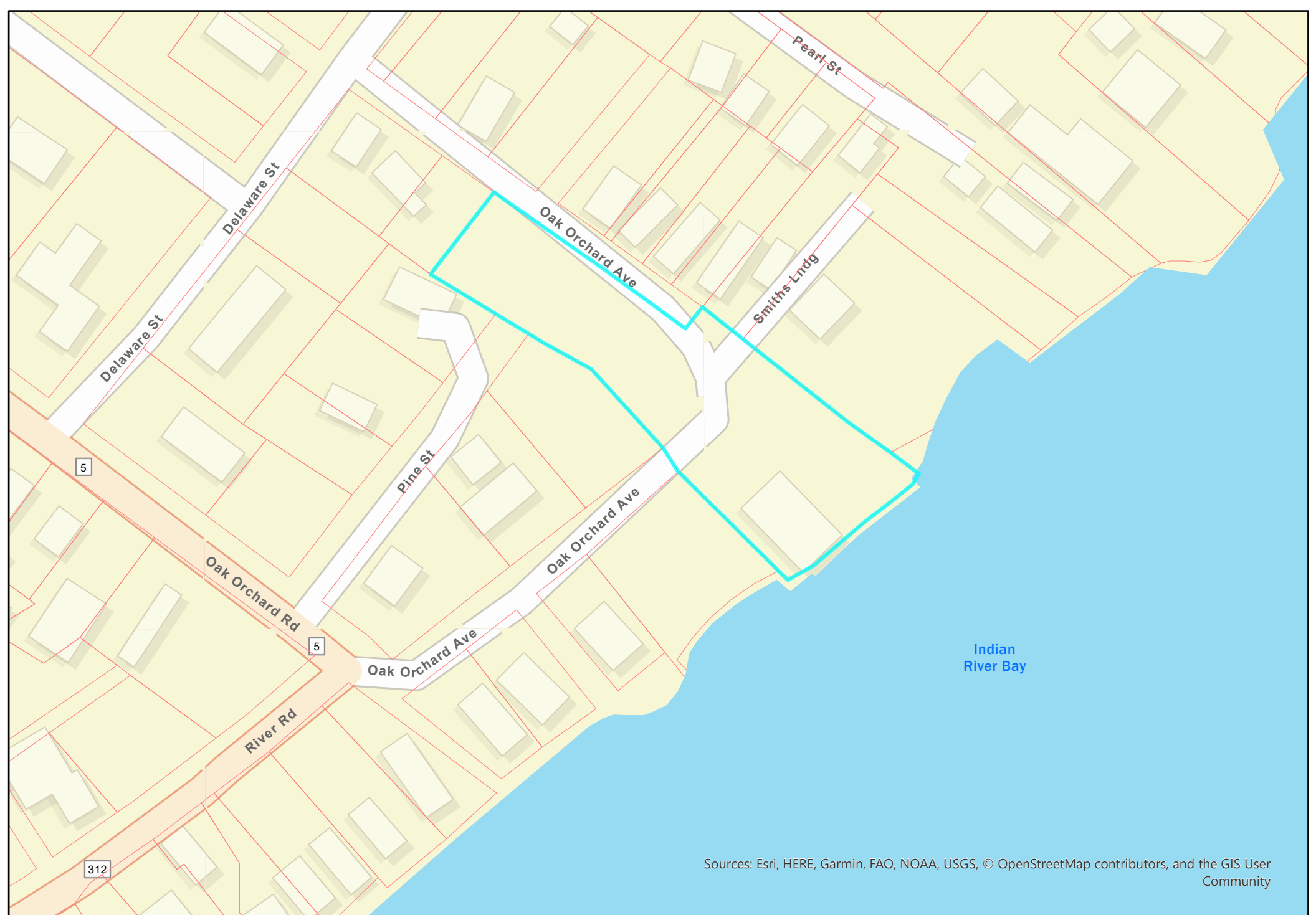


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 - Override 1
- polygonLayer**
 - Override 1
- Tax Parcels
- 911 Address
- Streets
- Tax Ditch Segments**
 - Tax Ditch Channel
 - DeIDOT Maintained
 - HOA Maintained
 - Pipe - DeIDOT
 - Pipe - Tax Ditch
 - Pipe - Private
 - Pond Feature
- Special Access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

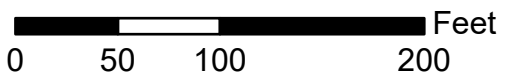
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Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

Text



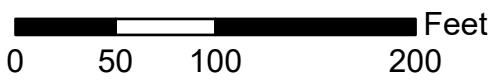


- ### Zoning
- Agricultural Residential - AR-1
 - Agricultural Residential - AR-2
 - Medium Residential - MR
 - General Residential - GR
 - High Density Residential - HR-1
 - High Density Residential - HR-2
 - Vacation, Retire, Resident - VRP
 - Neighborhood Business - B-1
 - Neighborhood Business -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

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



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



Introduced: 1/10/23

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

ORDINANCE NO. ____

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

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

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

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article V, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2349 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the northwest side and the southeast side of Oak Orchard Road (Route 5) approximately 300 feet east of River Road (S.C.R. 312) and being more particularly described in the attached legal description prepared by Davis, Bowen & Friedel, Inc., said parcel containing 0.84 acre, more or less.

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

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
pandz@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

CC: Everett Moore, County Attorney

Date: June 23, 2023

RE: County Council Old Business Report for Ord. 22-07 relating to the Future Land Use Map Element of the Comprehensive Plan in relation to Tax Parcels 135-15.00-98.00 & 98.01

The Planning and Zoning Department received an application (Ord 22-07 filed on behalf of Leeward Chase DE, LLC) requesting an amendment to the Future Land Use Map element of the Comprehensive Plan in relation to Tax Parcels 135-15.00-98.00 & 98.01. The property is located at 22242 Lewes Georgetown Highway, Georgetown. The parcel size is 50.80 acres +/-.

The requested change is to change the area designation of the parcel from the Commercial Area to the Developing Area. On September 20, 2022, an Ordinance was introduced by the County Council to consider a potential amendment of the Comprehensive Plan.

The Planning & Zoning Commission held a Public Hearing on the application on January 26, 2023. At the meeting of February 23, 2023, the Planning & Zoning Commission recommended approval of the Ordinance for 8 reasons as outlined within the motion (copied below). The County Council held a Public Hearing on both C/U 2369 and Ord. No. 22-07 on February 28, 2023. At the conclusion of the meeting, the Council deferred action on application Ord. 22-07, holding the record open to receive PLUS comments from the State of Delaware. Below is a link to the minutes of the meeting of February 28, 2023. PLUS comments were received on April 20, 2023.

At the County Council meeting of May 9, 2023, the PLUS comments were reported for Ordinance No. 22-07 and the record was closed. Action was then deferred for further consideration.

Below is a link to the County Council minutes of the February 28, 2023, meeting.

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



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

Below are the minutes from the Planning & Zoning Commission meetings of January 26, 2023, and February 23, 2023.

Minutes of the January 26, 2023, Planning & Zoning Commission Meeting

Ord. 22-07

An Ordinance to amend the Future Land Use Map of the Comprehensive Plan in relation to Tax Parcels 135-15.00-98.00 & 98.01. The properties are located on the south side of Lewes Georgetown Highway (Route 9), approximately 0.4-miles east of the intersection of Sand Hill Road (S.C.R. 319) and Lewes Georgetown Highway. 911 Address: 22242 Lewes Georgetown Highway, Georgetown. Tax Parcels: 135-15.00-98.00 & 98.01.

Mr. Whitehouse advised the Commission that the Ordinance request was to amend the area designation on the Future Land Use Map from the Commercial Area to the Developing Area. Mr. Whitehouse advised the Commission that submitted into the record were the Application form, an Exhibit Map, a copy of the Ordinance introduced by the County Council on January 3, 2023, and a copy of the Applicant's statement made to PLUS. Mr. Whitehouse advised the Commission that no PLUS comments had been received regarding the Ordinance and the Ordinance is required to go through the new PLUS process.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Applicant's Exhibit Booklet, a letter from the Sussex County Engineering Department Utility Planning Division, the DelDOT Service Level Evaluation Response, the State's PLUS comments, the Applicant's response to the State's PLUS comments, a letter received from the Federal Aviation Administration, a letter received from Tidewater Utilities, Inc., and the Applicant's Assessment of Environmental Conditions.

Mr. Whitehouse advised the Commission that no comments were received for either Application.

The Commission found that Mr. James Fuqua, Esq., with Fuqua, Willard & Schab, P.A., spoke on behalf of the Applications Ord. 22-07 and C/U 2369 Leeward Chase DE, LLC in a combined presentation; that also present were Mr. Jack Hayes, Mr. Jason Palkewicz, and Mr. Edward Launay; that the Conditional Use Application requested the proposed use of multi-family dwellings, consisting of 106 units, within 53 duplex buildings; that the development is proposed to be called Leeward Chase; that the second Application is a request to amend the parcel's Future Land Use designation per the Comprehensive Plan from the Commercial Area designation to a Developing Area designation; that the parcel contains 50.79 acres; that the property is located on the southside of Rt. 9, being just east of the Town of Georgetown municipal boundary; that the site contains a wide variety of existing uses; that residential uses and woodlands are located to the west of the site; that Sussex Academy School is located to the west of the site; that residential homes are located to the north of the site; that a strip of C-1 (General Commercial) zoned land is located to the north, containing various businesses, which include Servepro, Dixie Construction Co. Inc., Delaware Home Health Care, Inc., and Techgas Inc.; that there are various other businesses within the surrounding area which were granted Conditional Uses; that to the east of the site is the location of the Route 9 Liquors; that the remaining eastern

boundary of the site is adjacent to Sports at the Beach facility; that Sports at the Beach was previously approved as a Conditional Use as a baseball facility, geared toward youth baseball tournaments; that Sports at the Beach is approximately 100 acres, containing 16 baseball fields, welcome center, concession stands, an academy building and onsite accommodations for players and their families; that these accommodations include playgrounds, basketball courts and a swimming pool; that the southern boundary of the site will be adjacent to the future Lewes Georgetown Bike Trail; that the trail currently exists from Lewes to Fisher Rd.; that the first section of the trail, heading east from Georgetown, has been constructed; that once the trail is fully completed, pedestrians will have the ability to ride from Georgetown to Lewes or Rehoboth via the bike trail; that the bike trail is located adjacent, on the northernly side of the railroad right of way track; that the railroad right of way goes from Georgetown to Gravel Hill; that the railroad track has been decommissioned from Lewes to Gravel Hill, however is currently in use; that there will be a security chain link fence placed between the bike trail and the rail line for security purposes; that on the other side of the railroad line is the location of the Delaware Coastal Airport, which is zoned Industrial; that the airport is owned and operated by Sussex County; that this area is surrounded by many uses involving, planes, trains, bikes, sports, commercial and residential uses; that the Leeward Chase project was reviewed through the PLUS process in March 2022; that a PLUS comment letter was issued by the Office of State Planning Coordination in April 2022; that the PLUS letter stated the property is located within Investment Levels 2 & 3 under the State Strategies Plan; that Investment Levels 2 & 3 are areas where growth is anticipated; that the PLUS comments state the property is located within a Growth Area under the Comprehensive Plan; that most, if not all, of the proposed site development will be located within Investment Level 2, which is an area where the State does support, encouraging a wide variety of uses, including departure from typical single-family developments in order to promote a broader mix of housing types with open space a recreational activities; that the Investment Level 3 areas contain wetlands, which will remain undisturbed; that the Application proposes 53 duplex buildings, which will contain 106 residential units; that the property is zoned AR-1 (Agricultural Residential); that multi-family dwellings, such as duplexes, are permitted within the AR-1 district as a Conditional Use in accordance with the provisions of the Zoning Ordinance in §115-22; that the site of a Conditional Use for multi-family units with AR-1 Zoning must be located within certain growth areas as designated by the Comprehensive Plan, being Town Center, Coastal and Developing Growth Areas; that the site is located within the Commercial Growth Area; that due to this, the Applicant additionally filed an application for a Future Land Use Designation Amendment, requesting the designation be changed from the Commercial Growth Area to the Developing Growth Area; that the majority of the land adjacent to and surrounding the site is currently located within the Developing Growth Area; that the requested change would be consistent and in character with the designations of the surrounding properties; that the Developing Area designation is a less intense classification than the existing Commercial Growth Area designation; that the Comprehensive Plan states, within Commercial Growth Areas can included concentrations of retail and service uses, which include shopping centers and other medium and large commercial uses, such as hotels, motels, car washes and auto dealerships; that the Developing Area designation would not permit the majority of the uses permitted in the Commercial Area; that the Developing designation offers a range of housing types, some office use and limited commercial uses within selected locations; that the Developing Area designation would result in a residential community, which would have much less potential for adverse impacts related to noise, lights, hours of operations and traffic; that the Future Land Use Map designates the property

in the Commercial Area, however, the Zoning Map designates the property within AR-1; that the Zoning Ordinance states the developer of multi-family units, within an AR-1 zone, is permitted to pay a development fee for each unit requested in excess of two units per gross acre; that the site contains 50.797 acres; that the site, at two units to the acre, would support 101.594 units; that the Applicant is proposing 106 units, which is 4.406 units in excess of the permitted two units to the acre; that the Ordinance provides the required development fee within the Georgetown Developing Area is \$15,000.00; that if the Application were approved for the request 106 units, the Applicant would be responsible for paying the County a development fee of approximately \$66,090.00; that the required development fee is noted within the Applicant's proposed Conditions of Approval; that central sewer will be provided by Sussex County; that the development will have gravity sewer lines, which will connect to an onsite pump station; that Sussex County Engineering Department indicated that wastewater capacity is available for the project; that originally the County suggested the Applicant contact the Town of Georgetown for sewer service; that the Town of Georgetown stated they would not have the ability to provide sewer services to the project; that central water service will be provided by Tidewater Utilities, Inc.; that an Ability to Serve Letter was provided by from Tidewater Utilities, Inc.; that service will require an expansion of Tidewater's franchise area to include the site; that stormwater management facilities will be designed and constructed in accordance with the DNREC Sediment and Erosion Control Regulations and will be reviewed and approved by the Sussex Conservation District; that a wetland delineation was performed on the site by Mr. Edward Launay of Environmental Resources, Inc.; that the delineation determined that the site contained 17.55 acres of Federal Jurisdictional Non-Tidal wetlands; that the wetlands are located on three site areas; that the wetland areas are located along the western boundary, the center of the site and a larger area along the south east boundary, within the wooded area of the site; that U.S. Army Corp of Engineers did provide approved Jurisdictional Determination; that the non-tidal wetland areas are forested and will remain undisturbed, except for a road crossing and a pedestrian trail crossing, proposed over a small area; that the road crossing is located along the line of trees located to the east of the property; that the proposed crossing would be constructed in accordance with the U.S. Army Corp regulations and authorized under existing law; that the Application was filed before the adoption of the newly adopted Buffer Resource Ordinance; that the Application would not be subject to the new Buffer Ordinance; that the Applicant is proposing a voluntary 30-ft. buffer to all of the non-tidal wetlands areas, except for the locations for the road and trail crossings; that the proposed 30-ft. buffer complies with the new Buffer Ordinance; that the property is located within Flood Zone X; that the Coastal Airport Area is located to the rear of the property; that the airport runway path goes over the Sports at the Beach property; that the subject site is not impacted by the airport runway path; that the Applicant did contact the Federal Aviation Administration (FAA), who conducted an Aeronautical Study; that the FAA did issue a Determination to No Hazard to Air Navigation Letter dated April 3, 2022; that the U.S. Fish & Wildlife Service indicated there were no federally listed species or critical habitats found on the site; that DelDOT indicated that based on traffic generation, the Application would be permitted to pay an Area Wide Study Fee in lieu of a Traffic Impact Study (TIS); that Rt. 9 physically meets the DelDOT road standards, with 12-ft travel lanes and 10-ft. shoulders; that no additional road improvements are required on Rt. 9; that the Applicant will dedicate a 50-ft right-of-way from the centerline of Rt. 9, along the site frontage, if the right of way does not currently exist; that the Applicant will dedicate a 15-ft. wide easement along the frontage right of way to DelDOT; that the Applicant will construct a shared use path along the frontage of Rt. 9; that the site is located within the Sussex

Central School District; that the Georgetown Volunteer Fire Company will provide fire protection to the site; that the proposed density would be 2.08 per acre, which is consistent with the density permitted within the AR-1 Zoning District; that 60% of the units would be two-bedroom units, with a one vehicle garage; that 40% of the units would be three-bedroom units, with a two vehicle garage; that the entrance to the development is proposed from Rt. 9, from approximately the center of the site; that the entrance location will be reviewed and approved by DelDOT, being designed and constructed in conformity with DelDOT requirements; that the buildings, internal streets, and the stormwater facilities locations are reflected on the Preliminary Site Plan; that sidewalks are proposed on both sides of the development streets; that non-intrusive street lighting will be provided to the development; that the cul-de-sac roads offer turn around areas in appropriate locations; that additional off-road parking is provided for the development; that a 10-ft. public shared use path is proposed along Rt. 9; that reinforced emergency-only access is proposed for the development; that a school bus stop is proposed along Rt. 9; that the location of the bus stop would be coordinated with the school district; that a centrally located recreational amenities area is proposed, which would contain an outdoor pool, bathhouse, meeting room building, and storage area; that the recreational amenities are proposed to be completed prior to the issuance of the 60th residential unit building permit, which would equal the 30th duplex building permit; that a trail will connect the units located to the rear of the site to the recreation area in the center of the site; that if permitted by DelDOT, an internal trail is proposed to connect the streets to the bike trail; that a 20-ft wide landscape buffer is proposed at appropriate locations along the perimeter of the property; that a 75-ft vegetated buffer is proposed along the site frontage along Rt. 9; that there will be a voluntary 30-ft buffer provided from the non-tidal wetlands; that the open space, which includes wetland areas, buffers and recreational areas, totals 35.9 acres of the site, being approximately 70% of the site; that the 70% is in excess of the 40% open space requirement per the Ordinance for a multi-family Conditional Use; that the project does provide for a use which is public or semi-public in character; that the project is essential and desirable to the general convenience and welfare of Sussex County residents; that the units are not proposed to be sold; that the development is planned to be a Residential Rental Community, which is also known as Build to Rent; that the proposed rentals should benefit the Affordable Housing issue; that the developer will be the owner of the property and all units; that the developer will be responsible for all maintenance, all repair, all management associated with the buildings, roads, recreational amenities, common areas, buffers etc.; that the development will be a Market Rate Rental Community; that residents will enter into a Residential Lease Agreement; that the developers business plan is based on the existing need for more affordable housing in the Georgetown area and the needs for employees working in the Lewes and Rehoboth Beach areas; that the Georgetown 2021 Comprehensive Plan stated that Georgetown recognized the importance of affordable housing and supported a balance of housing for all ages and incomes, including Workforce Housing; that Chapter 8 of the Sussex County 2019 Comprehensive Plan states a shortage of affordable housing is a problem for low and medium income households in Sussex County, including many families with full-time, year-round employment; that the County Comprehensive Plan states there is a particular shortage of affordable housing in eastern Sussex County and that a lot of the workforce have long commutes from eastern Sussex County; that additionally, the PLUS letter stated reviewed comments from the Delaware State Housing Authority indicated the need for additional housing, affordable to a broader spectrum of County residents is well documented and that additional market-rate, multi-family, rental units will provide a more affordable housing option to help mitigate the current housing insecurity; that the Delaware

State Housing Authority is in support of the Application; that from a land use perspective, there is no distinction from a rental unit to a sold unit, however rental units are the Applicant's business plan; that should a situation arise, where the property would be sold in the future, it would be subject to the Delaware Condominium Law, where the responsibilities of the Developer would be taken over by a Condominium Association; that currently, there is no intent to establish a condominium regime; that with one owner, being the Developer, a condominium regime is not necessary; that there is a lack of housing; that it is very expensive to purchase a home in eastern Sussex County; that aside from the price of the home, a 20% down payment is required, a mortgage payment, property taxes, homeowners insurance and property maintenance; that the business plan proposes a person would have the ability to rent a modern home, with space, not having other residents located above or below them; that the proposed duplexes will have a parting wall between them; that the two and three bedroom units will have yards and garages; that the Applicant believes the Conditional Use is appropriate as it is essential and desirable for the general convenience and welfare, providing an affordable housing option for Sussex County residents; that the proposed use is consistent with and responsive to the State and the County and Town of Georgetown Comprehensive Plans by addressing the current need for more affordable housing; that the location is surrounded by a wide range of existing uses, including residential, retail service businesses, sports complex, bike trail and airport; that the location is an appropriate place for the proposed use; that the proposed Future Land Use Map designation from Commercial Area to Developing Area would provide less intensive uses to the area and the Applicant requested the Commission recommend approval for the requested Applications.

Ms. Wingate stated she liked the proposal of rental units for the area, and she questioned if there were plans to have an onsite property manager.

Ms. Stevenson questioned how many parking spaces are provided for the development; that she had concerns regarding potential road parking, which may create difficulties for emergency personnel; that she expressed concern about the lighting from the Sports at the Beach facility spilling over onto the proposed homes; that she questioned if any measure is proposed to mitigate a lighting issue and she questioned the current market rate for a two-bedroom unit.

Mr. Fuqua stated the Applicant does propose to have an onsite resident manager; that the units will have one to two-vehicle garages, that up to four vehicles could fit in the driveway; that additional parking is provided in front of the recreational center and throughout the development; that the intention is to have no road parking for the development; that the proposed parking does meet the Code requirements; that the plan will be reviewed and approved by the Delaware Fire Marshal Office; that the Applicant can attempt to add additional parking to the proposed plan; that he believed the Sports at the Beach lighting are directional lights, specifically to the ball fields; that he did not believe there was anything that could be done to the sports facility lighting and he did not believe the ball games ran late in the evenings.

Mr. Jack Hayes stated he had spent a lot of time performing studies on the rental market, approximately a year apart; that the studies confirmed little to no vacancy; that the majority of the units constructed five to six years ago are full and have remained full; that there was little family-oriented homes offered; that the proposed housing product has been built very successfully in Florida,

for younger families and for families requiring more affordable housing; that the study suggested a three-bedroom unit would rent approximately between \$1,700 and \$1,800 per month; that the monthly cost would include all exterior and lawn maintenance; that the smaller units would rent approximately between \$1,375 to \$1,400 per month; that there is a cost savings; that aside from a dividing wall, the units are essentially single-family units; that due to this, it allows for some cost savings, which allows them to be competitive; that proposed are annual rentals; that there is no intention to change the business plan to sell off as condominiums; that the intension is to hold the units, potentially refinance them with the Federal Housing Administration (FHA) 223 Program, placing the pool of mortgages in a certificate; that his partners have performed this many times before and the proposed use is a niche that is not being fulfilled in Sussex County currently.

Mr. Jason Palkewicz stated in regards to the lighting issue from Sports at the Beach, there are maintenance buildings, two ponds, and two hedge rows between the baseball fields and the subject property.

The Commission found there were two people present who wished to speak in opposition to the Application.

The Commission found that Mr. Raymond Hopkins spoke in opposition to the Application, also present was his wife, Ms. JoAnn Hopkins; that he and his wife own property, adjacent to Servepro, located directly across the street from the subject site; that his concern was to the potential traffic generated by the project; that many employees and customers enter and exit from Servepro and he requested the Commission consider traffic safety measures for the Servepro customers and employees.

The Commission found that Mr. Harry Larson, III, spoke in opposition to the Application; that his property is located adjacent to the subject site; that he was not in support of or in opposition to the Applications; that he wanted to ensure the Application is developed in the right way; that he is disheartened to see a development be placed, but understood, as it is the change of the times; that he had concerns regarding drainage and flooding; that he had experienced 14 inches of flooding around his house; that the ditch, located between his property and the subject site, relieves a lot of water; that a State representative previously informed him, that his property catches the majority of the water run off from the Sports at the Beach facility all the way down to the intersection of Rogers Avenue; that he would like to ensure the drainage situation be address; that additionally he requested consideration be given to the placement of an eight foot vinyl privacy fence, separating his property from the development; that within the last five years, traffic has become a nightmare; that the lighting from the Sports at the Beach facility lights up his backyard and he hears the National Anthem every Saturday and Sunday morning.

The Commission found that Ms. Jennifer Cinelli-Miller, with DelDOT Planning, provided neutral comment regarding the Applications; that her comments were not made in support or opposition to the Applications; that she wanted to remind the Commission and the Applicant that the DelDOT Coastal Corridors Study, which is the second joint effort between Sussex County and DelDOT, is still ongoing; that DelDOT is in the process of conducting State Corridors conversations with the Corridors Committee; that the Corridors Committee will be discussing U.S. 9 Corridor on February

13, 2023; that DelDOT anticipates to attend a public workshop later in the spring; that she estimates a final report will be available in late summer or early fall; that there is a lot needing to be done, in conjunction with the Applicant and DelDOT Development Coordination; that anything which may come out of the study, which may be a recommendation or plan for traffic improvements around the subject corridor would need to be adhered to; that the Applicant may be asked to contribute to potential changes or the implementation of future projects and the study is currently moving forward in a very positive way.

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

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

At the conclusion of the public hearings, the Commission discussed the Applications.

In relation to Ord. 22-07 related to Tax Parcels 135-15.00-98.00 & 98.01. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 5-0.

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

The Commission discussed the Application which had been deferred since January 26th, 2023.

Ms. Wingate moved that the Commission recommend approval of Ordinance No. 22-07 to amend the Future Land Use Map in the current Sussex County Comprehensive Plan for Parcels 135-15.00-98.00 and 98.01, based on the record made during the public hearing and for the following reasons:

1. The parcel is currently designated as the Commercial Area according to the Future Land Use Map. This application seeks to convert the property to the “Developing Area” designation.
2. The Developing Area and Commercial Area are both “Growth Areas” according to the Comprehensive Plan, so this revision does not result in a substantial change to the Future Land Use Map.
3. The parcel has frontage on Route 9, which is an appropriate location for the Developing Area designation.
4. Although the site was originally given the Commercial Area designation in the Comprehensive Plan due to its proximity to the railroad, the County Industrial Park, Route 9, and Sports at the Beach, there has not been any movement to develop it commercially. The Developing Area designation is equally appropriate, since it will permit the property to be residentially developed at a location that is in close proximity to the Town of Georgetown and the employment opportunities and commercial uses.
5. This revision to the Future Land Use Map will not adversely affect neighboring properties, area roadways, or future land-use planning in the area.
6. There is central sewer and water available to the property.
7. No parties appeared in opposition to this Map Amendment.

8. This revision of the Future Land Use Map is appropriate given the particular circumstances involved at this location. When several factors like these exist, the consideration and approval of an amendment to the Future Land Use Map is appropriate.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of ORD. 22-07 in relation to Tax Parcels 135-15.00-98.00 & 98.01 for the reasons stated in the motion. Motion carried 4-0.

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

Introduced: 9/20/22

Council District 5: Mr. Rieley
Tax I.D. No. 135-15.00-98.00 & 98.01

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCELS 135-15.00-98.00 & 98.01.

WHEREAS, on April 28, 2022, the Sussex County Planning and Zoning Office received an application for a Comprehensive Plan Amendment Request to amend the Future Land Use Map element of the Comprehensive Plan to change the Area designation of a portion of Sussex County Parcel Nos. 135-15.00-98.00 & 98.01 from the Commercial Area to the Developing Area; and

WHEREAS, the Parcel approximating 50.797 acres of land, lying and being within Georgetown Hundred, and located on the south side of Lewes Georgetown Highway (Route 1), approximately 0.4-miles east of the intersection of Sand Hill Road (S.C.R. 319) and Lewes Georgetown Highway.

WHEREAS, The Property is designated as being within the Commercial Area as set forth in the Future Land Use Map identified as Figure 4.5-1 in the 2018 Comprehensive Plan for Sussex County.

WHEREAS, Sussex County Council desires to adopt this Ordinance amending the Future Land Use Map of the Plan with minor amendments; and

WHEREAS, in accordance with the required process for public hearings on Ordinances such as this one, both Sussex County Council and the Sussex County Planning & Zoning Commission will hold public hearings on this Ordinance but limited in scope to this specific proposed amendment to the Future Land Use Map contained in the Plan.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Future Land Use Map identified as Figure 4.5-1 of the Sussex County Comprehensive Plan is hereby amended to change the area designation of Sussex County Parcel Nos. 135-15.00-98.00 & 98.01 from the Commercial Area to the Developing Area. The entirety of Sussex County Parcel Nos. 135-15.00-98.00 & 98.01 so changed is identified in Exhibit A, attached hereto, and incorporated herein.

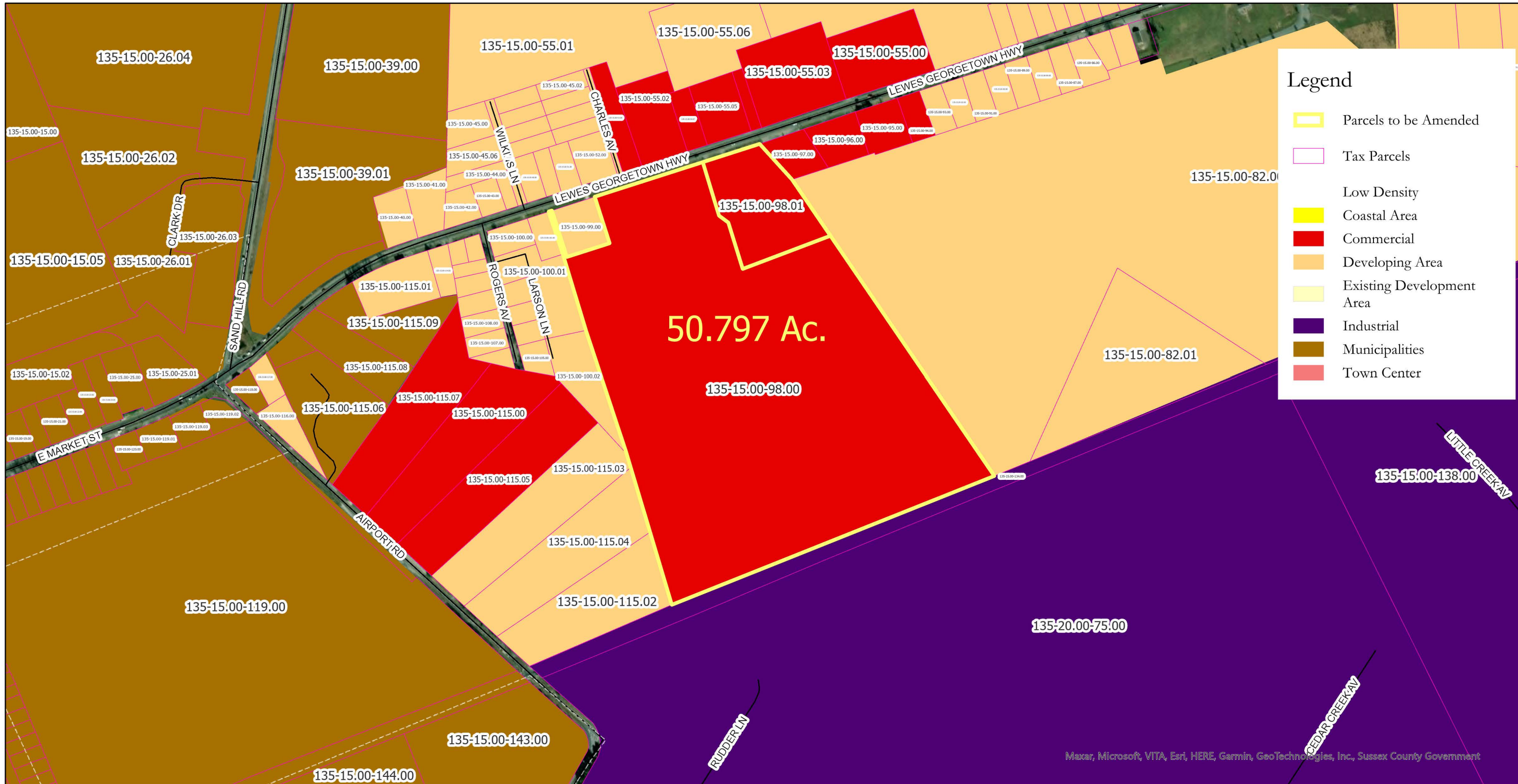
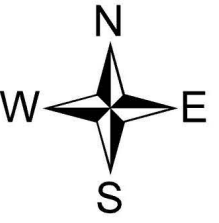
Section 2. This Ordinance shall also take effect following its adoption by majority vote of all members of the County Council of Sussex County, Delaware, and upon certification by the State of Delaware.

EXHIBIT A:

Potential Comprehensive Plan
Amendment Parcels



Sussex County

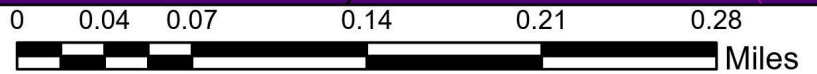


Legend

- Parcels to be Amended
- Tax Parcels
- Low Density
- Coastal Area
- Commercial
- Developing Area
- Existing Development Area
- Industrial
- Municipalities
- Town Center

50.797 Ac.

135-15.00-98.00



Maxar, Microsoft, VITA, Esri, HERE, Garmin, GeoTechnologies, Inc., Sussex County Government



**STATE OF DELAWARE
OFFICE OF MANAGEMENT AND BUDGET
OFFICE OF STATE PLANNING COORDINATION**

April 20, 2023

Jamie Whitehouse, AICP
Sussex County Planning & Zoning
2 The Circle
P.O. Box 417
Georgetown, DE 19947

RE: PLUS review – 2023-03-06; Sussex County Comprehensive Plan Amendment

Dear Mr. Whitehouse:

Thank you for meeting with State agency planners on March 22, 2023 to discuss the proposed Sussex County comprehensive plan amendment. According to the application, the County desires to amend parcels 135-15.00-98.00 & 135-15.00-98.01 on the Future Land Use Map within the Certified Comprehensive Plan to depict the parcel as being Developing Area instead of the current Future Land Use designation of Commercial Area.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting.

This office has received the following comments from State agencies:

Office of State Planning Coordination – Contact: Dorothy Morris 739-3090

Regarding the Future Land Use map change, this office has no objections or comments. Regarding development of this property, these parcels are located in a Level 2 and 3 area according to the 2020 Strategies for State Policies and Spending. The State reviewed the site plan for this parcel under PLUS 2022-03-03. During that PLUS meeting we noted that development of this site may be consistent with the Strategies for State Policies and Spending based on its location in Levels 2 and 3. Investment Level 2 reflects areas where growth is anticipated by local, county, and State plans in the near-term future. Investment Level 3 reflects areas where growth is anticipated by local, county, and State plans in the longer-term future, or areas that may have environmental or other constraints to development.

122 Martin Luther King Jr. Blvd. South – Haslet Armory · Third Floor · Dover, DE 19901
Phone (302)739-3090 · Fax (302) 739-5661 · www.stateplanning.delaware.gov

We also noted during the 2022 PLUS review that this parcel is also within the Growth area of Georgetown with a Future Land Use of Commercial. Although it is not contiguous so it could not be annexed, the developer should work with the town on density and design to ensure the develop meets their goals regarding development.

The state stands by these comments and asks the County to consider these comments and the other agency comments received as part of these reviews when determining what type of development is appropriate for this site.

In addition, DelDOT is currently studying the cumulative impacts of growth and development along the Route 9 corridor, and we encourage the County to consider the outcome and recommendations of the Coastal Corridors study before final determination is made.

Department of Transportation – Contact Stephen Bayer 302-760-4834

- DelDOT has no comments on the proposed amendment. Should the subject location be developed in the future all projects will require any applicable review and approval.

Department of Natural Resources and Environmental Control – Contact Clare Quinlan 735-3495

Disclaimer Clause: Staff from the Delaware Department of Natural Resources and Environmental Control (DNREC) reviewed the project submitted for PLUS review. The absence of comments regarding specific resources does not indicate that there are not additional constraints or environmental issues on site, nor does it indicate DNREC support of a project.

Sussex County proposes an amendment to the Comprehensive Plan to change one parcel from a future land use designation of Commercial Area to Developing Area. DNREC reviewers have no objections to the proposed amendment. Please see below for specific comments related to the environmental resources on the site.

Concerns Identified Within the Development Footprint

Wetlands

- Maps from the Statewide Wetlands Mapping Project indicate the presence of non-tidal wetlands on the eastern, central, and southwestern portions of the site. Wetlands, including non-jurisdictional wetlands, are a critical part of our natural environment. They reduce the impacts of flooding, absorb pollutants,

and improve water quality. Wetlands provide habitat for animals and plants and many contain a wide diversity of life, supporting plants and animals that are found nowhere else.

Mature Forest

- An analysis of historical data indicates that the forest area located on the western and central portion of the site has likely maintained some degree of forest cover since 1937 and could be considered mature forest. Forests filter water for improved water quality, provide habitat for wildlife, absorb nutrients, infiltrate stormwater, moderate temperatures, and store atmospheric carbon which would otherwise contribute to climate change. Additionally, mature forests possess the potential for rare, threatened, or endangered species that rely on this type of habitat.

Wildlife Displacement

- Development of this site may displace local wildlife. Delaware is home to a rich array of wildlife species, which greatly depend on forests and other habitat types for food, water and cover. Wildlife displaced by encroaching development may also become a nuisance for homeowners.

Delaware Emergency Management Agency – Contact Phillip Cane 302-659-2325

- DEMA has no objections, concerns, or comments regarding the Comprehensive Plan Amendment.

State Historic Preservation Office – Contact Carlton Hall 736-7400

- There are no known archaeological sites or known National Register listed or eligible properties in the project area. The potential for precontact resources in the project area are low based on the prevalence of poorly drained soils and the distance to relict sources of fresh water. However, the potential for historic resources in the area is high based on the review of historic maps and aeriels, which indicate a number of agricultural dwellings in the area. One of these dwellings appears to have been within the parcel and is reported to have belonged to a T.B. Sipple. Assuming that disturbance in the project area has not impacted all of the parcels, it is likely that archaeological deposits associated with this dwelling are within with the project area. This office recommends that an archaeologist investigate the parcel prior to any ground disturbance.
- It is important that developer be aware of the Unmarked Human Burials and Human Skeletal Remains Law of 1987 (Delaware Code: Title 7, Chapter 54), which pertains to the discovery and disposition process of such remains. Abandoned or unmarked family cemeteries are very common in Delaware,

especially on historic farm sites, rural areas, or open space lands. Disturbing unmarked burials triggers Delaware's Unmarked Human Burials and Human Skeletal Remains Law of 1987 (Delaware Code: Title 7, Chapter 54), and such discoveries can result in substantial delays while the procedures required under this law are carried out.

Delaware State Fire Marshall's Office – Contact Duane Fox 739-4394

- The Office of the State Fire Marshal has no objection to the approval of this comprehensive plan amendment.
- Although not a requirement of the Delaware State Fire Prevention Regulations, the Office of the State Fire Marshal encourages home builders to consider the benefits of residential fire sprinkler protection in all residential dwellings.

Once the amendment is voted on by Planning and Zoning and/or county council, please forward a copy of the decision regarding the amendment to this office for our files. Thank you for the opportunity to review this amendment. If you have any questions, please contact me at 302-739-3090.

Sincerely,



David L. Edgell, AICP
Director, Office of State Planning Coordination

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
pandz@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

CC: Everett Moore, County Attorney

Date: June 23, 2023

RE: County Council Old Business Report for C/U 2369 filed on behalf of Leeward Chase DE, LLC

The Planning and Zoning Department received an application (C/U 2369 filed on behalf of Leeward Chase, LLC) for a Conditional Use for parcels 135-15.00-98.00 and 98.01 for multi-family dwellings (106 units). The property is located at 22242 Lewes Georgetown Highway, Georgetown. The parcel size is 50.80 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on January 26, 2023. At the meeting of February 23, 2023, the Planning & Zoning Commission recommended approval of the application for the 10 reasons stated and subject to the 19 recommended conditions as outlined within the motion (copied below).

The County Council held a Public Hearing on the application at its meeting of February 28, 2023. At the conclusion of the Public Hearing, Council deferred action on the application and left the record open to receive PLUS comments for Ordinance No. 22-07, which is a separate Ordinance that relates to these parcels. At the County Council meeting of May 9, 2023, the PLUS comments were reported for Ordinance No. 22-07 and the record was closed for that Ordinance. Action was then deferred on application CU 2369 for further consideration due to its association with Ordinance No. 22-07.

Below is a link to the County Council minutes of the February 28, 2023, meeting.

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

Below are the minutes from the Planning & Zoning Commission meetings of January 26, 2023, and February 23, 2023.



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

Minutes of the January 26, 2023, Planning & Zoning Commission Meeting

Mr. Whitehouse advised the Commission that the Ordinance request was to amend the area designation on the Future Land Use Map from the Commercial Area to the Developing Area. Mr. Whitehouse advised the Commission that submitted into the record were the Application form, an Exhibit Map, a copy of the Ordinance introduced by the County Council on January 3, 2023, and a copy of the Applicant's statement made to PLUS. Mr. Whitehouse advised the Commission that no PLUS comments had been received regarding the Ordinance and the Ordinance is required to go through the new PLUS process.

C/U 2369 Leeward Chase DE, LLC

An Ordinance to grant a Conditional Use of land in an Agricultural Residential District for multi-family dwellings (106 units) to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 50.80 acres, more or less. The properties are located on the south side of Lewes Georgetown Highway (Route 9), approximately 0.4-miles east of the intersection of Sand Hill Road (S.C.R. 319) and Lewes Georgetown Highway. 911 Address: 22242 Lewes Georgetown Highway, Georgetown. Tax Parcels: 135-15.00-98.00 & 98.01.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Applicant's Exhibit Booklet, a letter from the Sussex County Engineering Department Utility Planning Division, the DelDOT Service Level Evaluation Response, the State's PLUS comments, the Applicant's response to the State's PLUS comments, a letter received from the Federal Aviation Administration, a letter received from Tidewater Utilities, Inc., and the Applicant's Assessment of Environmental Conditions.

Mr. Whitehouse advised the Commission that no comments were received for either Application.

The Commission found that Mr. James Fuqua, Esq., with Fuqua, Willard & Schab, P.A., spoke on behalf of the Applications Ord. 22-07 and C/U 2369 Leeward Chase DE, LLC in a combined presentation; that also present were Mr. Jack Hayes, Mr. Jason Palkewicz, and Mr. Edward Launay; that the Conditional Use Application requested the proposed use of multi-family dwellings, consisting of 106 units, within 53 duplex buildings; that the development is proposed to be called Leeward Chase; that the second Application is a request to amend the parcel's Future Land Use designation per the Comprehensive Plan from the Commercial Area designation to a Developing Area designation; that the parcel contains 50.79 acres; that the property is located on the southside of Rt. 9, being just east of the Town of Georgetown municipal boundary; that the site contains a wide variety of existing uses; that residential uses and woodlands are located to the west of the site; that Sussex Academy School is located to the west of the site; that residential homes are located to the north of the site; that a strip of C-1 (General Commercial) zoned land is located to the north, containing various businesses, which include Servepro, Dixie Construction Co. Inc., Delaware Home Health Care, Inc., and Techgas Inc.; that there are various other businesses within the surrounding area which were granted Conditional Uses; that to the east of the site is the location of the Route 9 Liquors; that the remaining eastern boundary of the site is adjacent to Sports at the Beach facility; that Sports at the Beach was previously approved as a Conditional Use as a baseball facility, geared toward youth baseball tournaments; that Sports at the Beach is approximately 100 acres, containing 16 baseball fields, welcome center,

concession stands, an academy building and onsite accommodations for players and their families; that these accommodations include playgrounds, basketball courts and a swimming pool; that the southern boundary of the site will be adjacent to the future Lewes Georgetown Bike Trail; that the trail currently exists from Lewes to Fisher Rd.; that the first section of the trail, heading east from Georgetown, has been constructed; that once the trail is fully completed, pedestrians will have the ability to ride from Georgetown to Lewes or Rehoboth via the bike trail; that the bike trail is located adjacent, on the northernly side of the railroad right of way track; that the railroad right of way goes from Georgetown to Gravel Hill; that the railroad track has been decommissioned from Lewes to Gravel Hill, however is currently in use; that there will be a security chain link fence placed between the bike trail and the rail line for security purposes; that on the other side of the railroad line is the location of the Delaware Coastal Airport, which is zoned Industrial; that the airport is owned and operated by Sussex County; that this area is surrounded by many uses involving, planes, trains, bikes, sports, commercial and residential uses; that the Leeward Chase project was reviewed through the PLUS process in March 2022; that a PLUS comment letter was issued by the Office of State Planning Coordination in April 2022; that the PLUS letter stated the property is located within Investment Levels 2 & 3 under the State Strategies Plan; that Investment Levels 2 & 3 are areas where growth is anticipated; that the PLUS comments state the property is located within a Growth Area under the Comprehensive Plan; that most, if not all, of the proposed site development will be located within Investment Level 2, which is an area where the State does support, encouraging a wide variety of uses, including departure from typical single-family developments in order to promote a broader mix of housing types with open space a recreational activities; that the Investment Level 3 areas contain wetlands, which will remain undisturbed; that the Application proposes 53 duplex buildings, which will contain 106 residential units; that the property is zoned AR-1 (Agricultural Residential); that multi-family dwellings, such as duplexes, are permitted within the AR-1 district as a Conditional Use in accordance with the provisions of the Zoning Ordinance in §115-22; that the site of a Conditional Use for multi-family units with AR-1 Zoning must be located within certain growth areas as designated by the Comprehensive Plan, being Town Center, Coastal and Developing Growth Areas; that the site is located within the Commercial Growth Area; that due to this, the Applicant additionally filed an application for a Future Land Use Designation Amendment, requesting the designation be changed from the Commercial Growth Area to the Developing Growth Area; that the majority of the land adjacent to and surrounding the site is currently located within the Developing Growth Area; that the requested change would be consistent and in character with the designations of the surrounding properties; that the Developing Area designation is a less intense classification than the existing Commercial Growth Area designation; that the Comprehensive Plan states, within Commercial Growth Areas can included concentrations of retail and service uses, which include shopping centers and other medium and large commercial uses, such as hotels, motels, car washes and auto dealerships; that the Developing Area designation would not permit the majority of the uses permitted in the Commercial Area; that the Developing designation offers a range of housing types, some office use and limited commercial uses within selected locations; that the Developing Area designation would result in a residential community, which would have much less potential for adverse impacts related to noise, lights, hours of operations and traffic; that the Future Land Use Map designates the property in the Commercial Area, however, the Zoning Map designates the property within AR-1; that the Zoning Ordinance states the developer of multi-family units, within an AR-1 zone, is permitted to pay a development fee for each unit requested in excess of two units per gross acre; that the site contains

50.797 acres; that the site, at two units to the acre, would support 101.594 units; that the Applicant is proposing 106 units, which is 4.406 units in excess of the permitted two units to the acre; that the Ordinance provides the required development fee within the Georgetown Developing Area is \$15,000.00; that if the Application were approved for the request 106 units, the Applicant would be responsible for paying the County a development fee of approximately \$66,090.00; that the required development fee is noted within the Applicant's proposed Conditions of Approval; that central sewer will be provided by Sussex County; that the development will have gravity sewer lines, which will connect to an onsite pump station; that Sussex County Engineering Department indicated that wastewater capacity is available for the project; that originally the County suggested the Applicant contact the Town of Georgetown for sewer service; that the Town of Georgetown stated they would not have the ability to provide sewer services to the project; that central water service will be provided by Tidewater Utilities, Inc.; that an Ability to Serve Letter was provided by from Tidewater Utilities, Inc.; that service will require an expansion of Tidewater's franchise area to include the site; that stormwater management facilities will be designed and constructed in accordance with the DNREC Sediment and Erosion Control Regulations and will be reviewed and approved by the Sussex Conservation District; that a wetland delineation was performed on the site by Mr. Edward Launay of Environmental Resources, Inc.; that the delineation determined that the site contained 17.55 acres of Federal Jurisdictional Non-Tidal wetlands; that the wetlands are located on three site areas; that the wetland areas are located along the western boundary, the center of the site and a larger area along the south east boundary, within the wooded area of the site; that U.S. Army Corp of Engineers did provide approved Jurisdictional Determination; that the non-tidal wetland areas are forested and will remain undisturbed, except for a road crossing and a pedestrian trail crossing, proposed over a small area; that the road crossing is located along the line of trees located to the east of the property; that the proposed crossing would be constructed in accordance with the U.S. Army Corp regulations and authorized under existing law; that the Application was filed before the adoption of the newly adopted Buffer Resource Ordinance; that the Application would not be subject to the new Buffer Ordinance; that the Applicant is proposing a voluntary 30-ft. buffer to all of the non-tidal wetlands areas, except for the locations for the road and trail crossings; that the proposed 30-ft. buffer complies with the new Buffer Ordinance; that the property is located within Flood Zone X; that the Coastal Airport Area is located to the rear of the property; that the airport runway path goes over the Sports at the Beach property; that the subject site is not impacted by the airport runway path; that the Applicant did contact the Federal Aviation Administration (FAA), who conducted an Aeronautical Study; that the FAA did issue a Determination to No Hazard to Air Navigation Letter dated April 3, 2022; that the U.S. Fish & Wildlife Service indicated there were no federally listed species or critical habitats found on the site; that DelDOT indicated that based on traffic generation, the Application would be permitted to pay an Area Wide Study Fee in lieu of a Traffic Impact Study (TIS); that Rt. 9 physically meets the DelDOT road standards, with 12-ft travel lanes and 10-ft. shoulders; that no additional road improvements are required on Rt. 9; that the Applicant will dedicate a 50-ft right-of-way from the centerline of Rt. 9, along the site frontage, if the right of way does not currently exist; that the Applicant will dedicate a 15-ft. wide easement along the frontage right of way to DelDOT; that the Applicant will construct a shared use path along the frontage of Rt. 9; that the site is located within the Sussex Central School District; that the Georgetown Volunteer Fire Company will provide fire protection to the site; that the proposed density would be 2.08 per acre, which is consistent with the density permitted within the AR-1 Zoning District; that 60% of the units would be two-bedroom units, with

a one vehicle garage; that 40% of the units would be three-bedroom units, with a two vehicle garage; that the entrance to the development is proposed from Rt. 9, from approximately the center of the site; that the entrance location will be reviewed and approved by DelDOT, being designed and constructed in conformity with DelDOT requirements; that the buildings, internal streets, and the stormwater facilities locations are reflected on the Preliminary Site Plan; that sidewalks are proposed on both sides of the development streets; that non-intrusive street lighting will be provided to the development; that the cul-de-sac roads offer turn around areas in appropriate locations; that additional off-road parking is provided for the development; that a 10-ft. public shared use path is proposed along Rt. 9; that reinforced emergency-only access is proposed for the development; that a school bus stop is proposed along Rt. 9; that the location of the bus stop would be coordinated with the school district; that a centrally located recreational amenities area is proposed, which would contain an outdoor pool, bathhouse, meeting room building, and storage area; that the recreational amenities are proposed to be completed prior to the issuance of the 60th residential unit building permit, which would equal the 30th duplex building permit; that a trail will connect the units located to the rear of the site to the recreation area in the center of the site; that if permitted by DelDOT, an internal trail is proposed to connect the streets to the bike trail; that a 20-ft wide landscape buffer is proposed at appropriate locations along the perimeter of the property; that a 75-ft vegetated buffer is proposed along the site frontage along Rt. 9; that there will be a voluntary 30-ft buffer provided from the non-tidal wetlands; that the open space, which includes wetland areas, buffers and recreational areas, totals 35.9 acres of the site, being approximately 70% of the site; that the 70% is in excess of the 40% open space requirement per the Ordinance for a multi-family Conditional Use; that the project does provide for a use which is public or semi-public in character; that the project is essential and desirable to the general convenience and welfare of Sussex County residents; that the units are not proposed to be sold; that the development is planned to be a Residential Rental Community, which is also known as Build to Rent; that the proposed rentals should benefit the Affordable Housing issue; that the developer will be the owner of the property and all units; that the developer will be responsible for all maintenance, all repair, all management associated with the buildings, roads, recreational amenities, common areas, buffers etc.; that the development will be a Market Rate Rental Community; that residents will enter into a Residential Lease Agreement; that the developers business plan is based on the existing need for more affordable housing in the Georgetown area and the needs for employees working in the Lewes and Rehoboth Beach areas; that the Georgetown 2021 Comprehensive Plan stated that Georgetown recognized the importance of affordable housing and supported a balance of housing for all ages and incomes, including Workforce Housing; that Chapter 8 of the Sussex County 2019 Comprehensive Plan states a shortage of affordable housing is a problem for low and medium income households in Sussex County, including many families with full-time, year-round employment; that the County Comprehensive Plan states there is a particular shortage of affordable housing in eastern Sussex County and that a lot of the workforce have long commutes from eastern Sussex County; that additionally, the PLUS letter stated reviewed comments from the Delaware State Housing Authority indicated the need for additional housing, affordable to a broader spectrum of County residents is well documented and that additional market-rate, multi-family, rental units will provide a more affordable housing option to help mitigate the current housing insecurity; that the Delaware State Housing Authority is in support of the Application; that from a land use perspective, there is no distinction from a rental unit to a sold unit, however rental units are the Applicant's business plan; that should a situation arise, where the property would be sold in the future, it would be subject to the

Delaware Condominium Law, where the responsibilities of the Developer would be taken over by a Condominium Association; that currently, there is no intent to establish a condominium regime; that with one owner, being the Developer, a condominium regime is not necessary; that there is a lack of housing; that it is very expensive to purchase a home in eastern Sussex County; that aside from the price of the home, a 20% down payment is required, a mortgage payment, property taxes, homeowners insurance and property maintenance; that the business plan proposes a person would have the ability to rent a modern home, with space, not having other residents located above or below them; that the proposed duplexes will have a parting wall between them; that the two and three bedroom units will have yards and garages; that the Applicant believes the Conditional Use is appropriate as it is essential and desirable for the general convenience and welfare, providing an affordable housing option for Sussex County residents; that the proposed use is consistent with and responsive to the State and the County and Town of Georgetown Comprehensive Plans by addressing the current need for more affordable housing; that the location is surrounded by a wide range of existing uses, including residential, retail service businesses, sports complex, bike trail and airport; that the location is an appropriate place for the proposed use; that the proposed Future Land Use Map designation from Commercial Area to Developing Area would provide less intensive uses to the area and the Applicant requested the Commission recommend approval for the requested Applications.

Ms. Wingate stated she liked the proposal of rental units for the area, and she questioned if there were plans to have an onsite property manager.

Ms. Stevenson questioned how many parking spaces are provided for the development; that she had concerns regarding potential road parking, which may create difficulties for emergency personnel; that she expressed concern about the lighting from the Sports at the Beach facility spilling over onto the proposed homes; that she questioned if any measure is proposed to mitigate a lighting issue and she questioned the current market rate for a two-bedroom unit.

Mr. Fuqua stated the Applicant does propose to have an onsite resident manager; that the units will have one to two-vehicle garages, that up to four vehicles could fit in the driveway; that additional parking is provided in front of the recreational center and throughout the development; that the intention is to have no road parking for the development; that the proposed parking does meet the Code requirements; that the plan will be reviewed and approved by the Delaware Fire Marshal Office; that the Applicant can attempt to add additional parking to the proposed plan; that he believed the Sports at the Beach lighting are directional lights, specifically to the ball fields; that he did not believe there was anything that could be done to the sports facility lighting and he did not believe the ball games ran late in the evenings.

Mr. Jack Hayes stated he had spent a lot of time performing studies on the rental market, approximately a year apart; that the studies confirmed little to no vacancy; that the majority of the units constructed five to six years ago are full and have remained full; that there was little family-oriented homes offered; that the proposed housing product has been built very successfully in Florida, for younger families and for families requiring more affordable housing; that the study suggested a three-bedroom unit would rent approximately between \$1,700 and \$1,800 per month; that the monthly cost would include all exterior and lawn maintenance; that the smaller units would rent approximately

between \$1,375 to \$1,400 per month; that there is a cost savings; that aside from a dividing wall, the units are essentially single-family units; that due to this, it allows for some cost savings, which allows them to be competitive; that proposed are annual rentals; that there is no intention to change the business plan to sell off as condominiums; that the intension is to hold the units, potentially refinance them with the Federal Housing Administration (FHA) 223 Program, placing the pool of mortgages in a certificate; that his partners have performed this many times before and the proposed use is a niche that is not being fulfilled in Sussex County currently.

Mr. Jason Palkewicz stated in regards to the lighting issue from Sports at the Beach, there are maintenance buildings, two ponds, and two hedge rows between the baseball fields and the subject property.

The Commission found there were two people present who wished to speak in opposition to the Application.

The Commission found that Mr. Raymond Hopkins spoke in opposition to the Application, also present was his wife, Ms. JoAnn Hopkins; that he and his wife own property, adjacent to Servepro, located directly across the street from the subject site; that his concern was to the potential traffic generated by the project; that many employees and customers enter and exit from Servepro and he requested the Commission consider traffic safety measures for the Servepro customers and employees.

The Commission found that Mr. Harry Larson, III, spoke in opposition to the Application; that his property is located adjacent to the subject site; that he was not in support of or in opposition to the Applications; that he wanted to ensure the Application is developed in the right way; that he is disheartened to see a development be placed, but understood, as it is the change of the times; that he had concerns regarding drainage and flooding; that he had experienced 14 inches of flooding around his house; that the ditch, located between his property and the subject site, relieves a lot of water; that a State representative previously informed him, that his property catches the majority of the water run off from the Sports at the Beach facility all the way down to the intersection of Rogers Avenue; that he would like to ensure the drainage situation be address; that additionally he requested consideration be given to the placement of an eight foot vinyl privacy fence, separating his property from the development; that within the last five years, traffic has become a nightmare; that the lighting from the Sports at the Beach facility lights up his backyard and he hears the National Anthem every Saturday and Sunday morning.

The Commission found that Ms. Jennifer Cinelli-Miller, with DelDOT Planning, provided neutral comment regarding the Applications; that her comments were not made in support or opposition to the Applications; that she wanted to remind the Commission and the Applicant that the DelDOT Coastal Corridors Study, which is the second joint effort between Sussex County and DelDOT, is still ongoing; that DelDOT is in the process of conducting State Corridors conversations with the Corridors Committee; that the Corridors Committee will be discussing U.S. 9 Corridor on February 13, 2023; that DelDOT anticipates to attend a public workshop later in the spring; that she estimates a final report will be available in late summer or early fall; that there is a lot needing to be done, in conjunction with the Applicant and DelDOT Development Coordination; that anything which may

come out of the study, which may be a recommendation or plan for traffic improvements around the subject corridor would need to be adhered to; that the Applicant may be asked to contribute to potential changes or the implementation of future projects and the study is currently moving forward in a very positive way.

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

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

At the conclusion of the public hearings, the Commission discussed the Applications.

In relation to C/U 2369 Leeward Chase DE, LLC. Motion by Ms. Wingate to defer action for further consideration, seconded by Ms. Stevenson and carried unanimously. Motion carried 5-0.

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

The Commission discussed the Application which had been deferred since January 26th, 2023.

Ms. Wingate moved that the Commission recommend approval of C/U 2369 Leeward Chase DE, LLC for a Conditional Use to allow 106 multifamily dwellings, based upon the record made during the public hearing and for the following reasons:

1. The property is zoned AR-1 Agricultural Residential. The property is in the vicinity of the Town of Georgetown, other residential developments, schools, commercial uses and a large sports complex. This is an appropriate location for this Conditional Use.
2. The Applicant seeks approval of duplex-style multi-family structures. The Comprehensive Plan states that this type of development is appropriate in areas near main roadways, near commercial areas and employment centers, and with central water and sewer. All of the considerations are satisfied here. This use is also consistent with the Town of Georgetown's 2021 Comprehensive Plan.
3. The proposed development will have no more than 106 homes on 50.80 acres. The Applicant will be required to contribute bonus density funds for each unit above the base density of two units per acre.
4. The County Engineering Department has indicated that adequate wastewater capacity is available for this site. Central water will also be provided.
5. DelDOT has determined that the project will have a minor impact upon area roadways.
6. The Applicant is providing a buffer of at least thirty feet from all non-tidal wetlands and the development will include approximately 35.98 acres of open space, which represents approximately 70% of the site.
7. The project will not adversely affect the neighborhood or surrounding community. There are existing land uses in the immediate area with similar or more intensive characteristics.
8. The Commission has recommended that the Future Land Use Map for this property be changed from Commercial Area designation to a Developing Area designation. Development

such as this Multifamily Conditional Use is appropriate in the Developing Area according to the Plan.

9. The Applicant has favorably addressed the items set forth in Section 99-9C of the Subdivision Code.
10. With the conditions and stipulations placed upon it, this residential Conditional Use is appropriate for this location.
11. This recommendation is subject to the following conditions:
 - A. There shall be no more than 106 dwelling units within this project. The Applicant shall be required to pay the bonus density fee for each unit that exceeds two (2) units per acre as required by Section 115-25 of the Sussex County Zoning Code.
 - B. The Applicant shall comply with the requirements of Section 115-22 “Conditional Uses” regarding a multifamily conditional use in the AR-1 Zoning District.
 - C. A condominium association shall be formed to provide for the perpetual maintenance, repair and replacement of buffers, stormwater management facilities, streets, amenities, and other common areas.
 - D. All entrances, intersections, roadways, and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT’s requirements.
 - E. The development shall be served by Sussex County sewer and comply with all requirements of the County Engineering Department.
 - F. The development shall be served by central water.
 - 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. Interior street design shall comply with or exceed Sussex County standards. Sidewalks shall be installed on both sides of the interior streets. All streetlighting shall be directed downward so that it does not shine on neighboring properties or roadways.
 - I. All recreational amenities shall be shown on the Final Site Plan. They shall be open for use prior to the issuance of the 30th duplex building permit or the 60th unit.
 - J. A 20-foot wide vegetated or forested buffer shall be established along the perimeter of the site. This buffer shall utilize existing forest or similar vegetation where it is currently present 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 edge 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.
 - K. As proffered by the Applicant, there shall be a minimum setback from nontidal wetlands of at least 30 feet. 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 unless indicated on the Final Site Plan. All silt fencing shall be located along the interior limit of this 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 buffer area except as noted on the Final Site Plan.
- L. If requested by the local school district, a school bus stop shall be provided by the entrance to the development. The location of the bus stop area shall be shown on the Final Site Plan.
 - M. Road naming and addressing shall be subject to the review and approval of Sussex County Geographic Information Office.
 - N. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
 - O. The Final Site Plan shall include a landscape plan confirming all landscaping to be provided, the preservation of all buffer areas and the forested areas that will be preserved. The landscape plan shall also identify all “Limits of Disturbance” within the site.
 - P. Given the proximity to the nearby airport, the Applicant shall comply with all applicable requirements of the Federal Aviation Administration regarding the development, construction, and use of the project.
 - Q. The Final Site Plan shall include a grading plan that shall be submitted to County Staff for review and approval.
 - R. Construction, site work, grading, and deliveries of construction materials shall only occur from Monday through Saturday and only between the hours of 7:00a.m. and 6:00p.m. 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 constructions.
 - S. The Final Site Plan shall be subject to the review & approval of the Sussex County Planning & Zoning Commission.

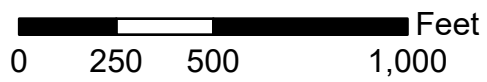
Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of C/U 2369 Leeward Chase DE, LLC for the reasons and conditions stated in the motion. Motion carried 4-0.

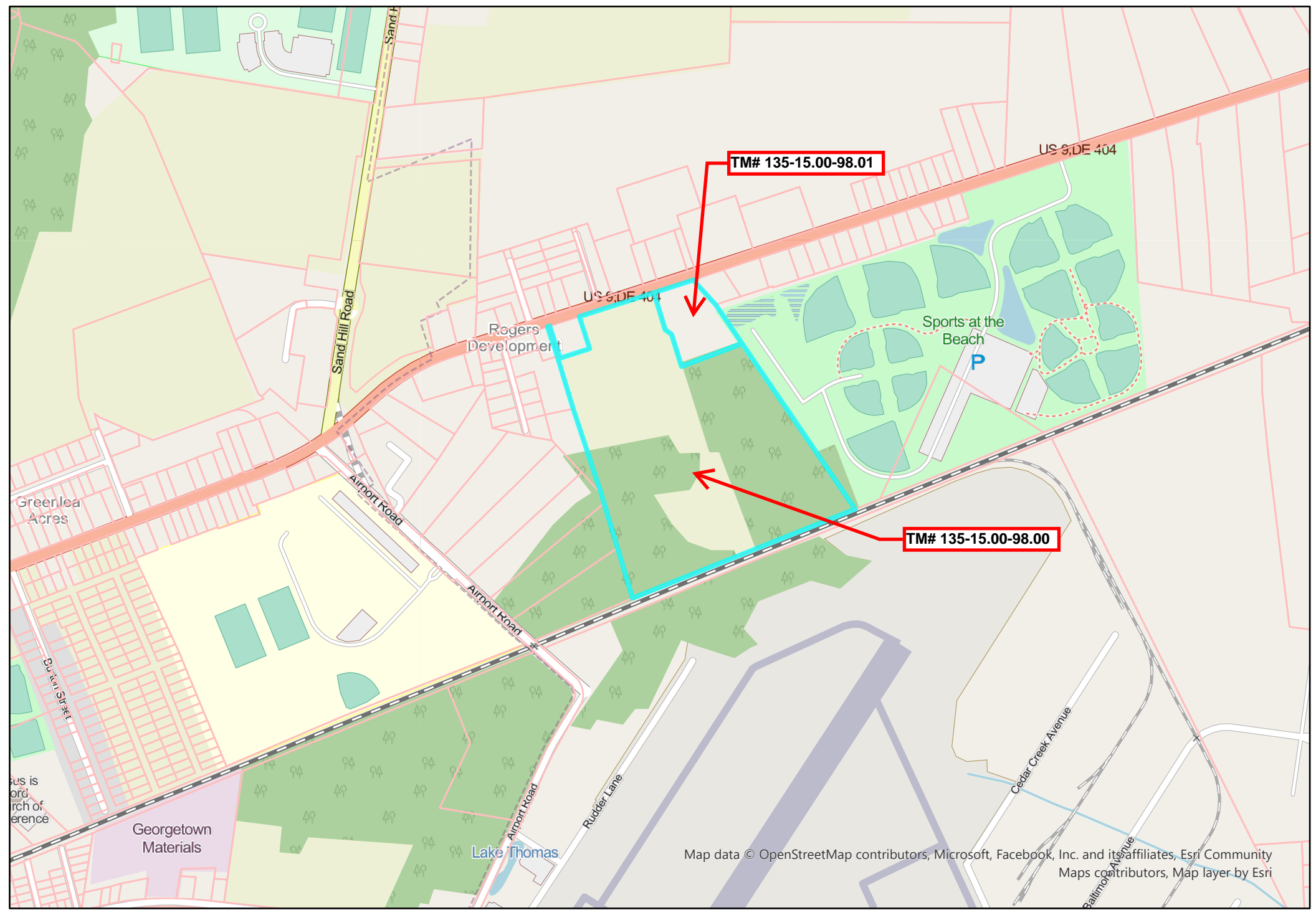
Vote by roll call: Mr. Hopkins – yea, Ms. Wingate – yea, Mr. Mears – yea, Chairman Wheatley - yea



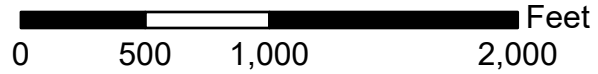
Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community, Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

Aerial Map
CU 2369 -Leeward Chase, LLC
P&Z Meeting - 01/26/2023


























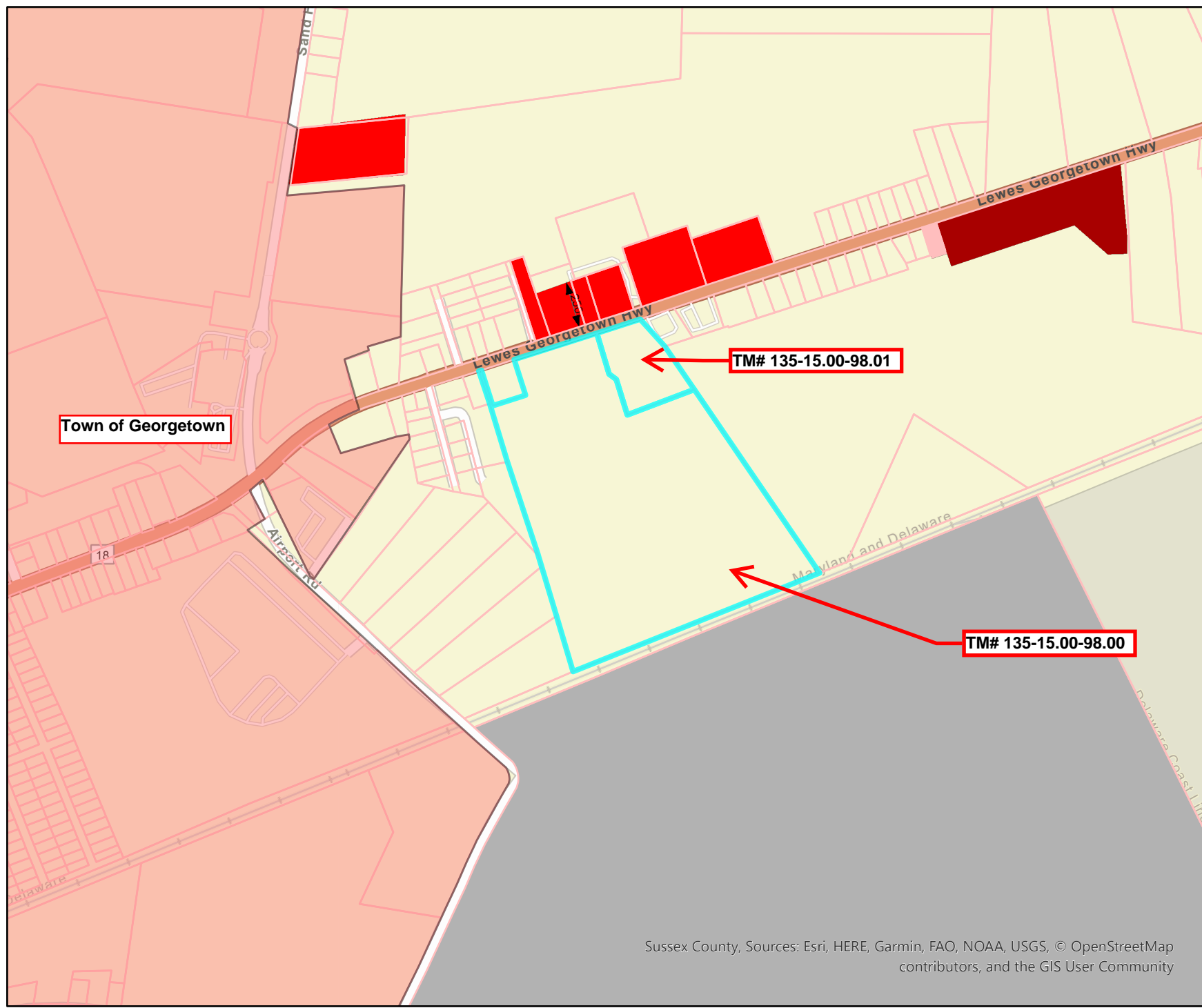
Street Map
CU 2369 -Leeward Chase, LLC
P&Z Meeting - 01/26/2023



Map data © OpenStreetMap contributors, Microsoft, Facebook, Inc. and its affiliates, Esri Community Maps contributors, Map layer by Esri

Zoning

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



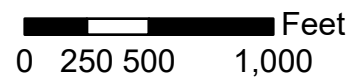
Town of Georgetown

TM# 135-15.00-98.01

TM# 135-15.00-98.00

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

Zoning Map
 CU 2369 -Leeward Chase, LLC
 P&Z Meeting - 01/26/2023



Introduced: 1/3/23

Council District 5: Mr. Rieley
Tax I.D. No. 135-15.00-98.00 & 98.01
911 Address N/A & 22242 Lewes Georgetown Highway, Georgetown

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (106 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 50.80 ACRES, MORE OR LESS

WHEREAS, on the 28th day of April 2022, a conditional use application, denominated Conditional Use No. 2369 was filed on behalf of Leeward Chase DE, LLC; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County, and said Planning and Zoning Commission recommended that Conditional Use No. 2369 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2369 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 situated in Georgetown Hundred, Sussex County, Delaware, and located on the south side of Lewes Georgetown Highway (Route 9), approximately 0.4-miles east of the intersection of Sand Hill Road (S.C.R. 319) and Lewes Georgetown Highway and being more particularly described in the attached legal description prepared by Solutions Integrated Planning Engineering & Management, LLC, said parcel containing 50.80 acres, more or less.

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

Schaeffer
Yes. 6/14.

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Tuesday, June 13, 2023 4:57 PM
To: Casey Hall
Subject: Sussex County DE - Council Grant Form: Form has been submitted

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

Council Grant Form

**Legal Name of
Agency/Organization**

Harry K Foundation ✓

Project Name

Desert Oasis Feeding Program

Federal Tax ID

46-2934019 ✓

Non-Profit

Yes

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

No

**Organization's
Mission**

The mission of the Harry K Foundation is to halt hunger and food insecurity among underprivileged children in Delaware. The foundation's objectives are to: 1) Support the Public School Backpack Program, and 2) Establish Food Pantries throughout Delaware public schools and other facilities. The School Backpack program provides under-served children with backpacks full of food to supplement what is available in their households. The food pantry program establishes pantries in public schools across the state so that parents can access nourishing food as needed, helping them to better meet their budgets and adequately feed their children.

Participants are selected by school personnel who are aware that hunger and food insecurity often lead to absenteeism, illness, and poor academic performance. Students come from all cultural backgrounds, predominantly Hispanic and African-American, but it is a culturally diverse population being served. Many of these families struggle to provide adequate, healthy food for their children on a monthly basis.

Address 313 S. Boardwalk

City Rehoboth Beach

State DE

Zip Code 19971

Contact Person Laura Glascoe

Contact Title Executive Director

Contact Phone Number 302-945-3324

Contact Email Address laura3173@gmail.com

Total Funding Request 2500

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? 2410

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)

Health and Human Services

Primary Beneficiary Category

Youth

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

5000

Scope

As of 2023, the Harry K Foundation supports 44 food pantries located in public schools across the State, with 24 of those in Sussex County. Over 550 children now receive backpacks each Friday before they leave school so that they have nourishing food over the weekend. Every month over 200 children and their families receive food from each pantry, and we are expanding constantly as the need grows for new pantries in schools, community centers and now in area colleges and universities.

The Harry K Foundation has provided these services for 10 years and we have seen the number of children served and our number of supporters grow annually. However, COVID-19 opened our eyes to the fact that in the case of a community emergency that forces schools and other

community centers to close, our programs are vulnerable. Therefore, we needed to develop new programs to ensure that no child in Delaware goes to bed hungry at night.

With that in mind, in 2020 the Harry K Foundation developed the Desert Oasis Feeding Program to provide food to children and families in the most vulnerable communities of Sussex County and Delaware during the COVID-19 period when school food pantries were closed. Once schools reopened in 2021, we realized there was still a need for the Desert Oasis program to reach children in remote areas. With help from the Delaware Department of Education, we purchased a refrigerated van to load with perishable foods and transport to remote locations.

The identified distribution sites in Sussex County are at the American Legion Post in Long Neck, which acts as a staging area for our operations; in West Rehoboth, where low-income children are provided after-school and summer care; and another location that is being established in Seaford. The children being served are culturally diverse, with Hispanic and African American families comprising about 60% of those receiving support, but all cultural backgrounds are represented.

Since this is a crucial need within our community, the Harry K Foundation hopes to expand the Desert Oasis Feeding Program to feed as many children as possible and provide nutritional meals to at least 5,000 children in Sussex County during the upcoming school year and summer months. This will mean adding an additional Desert Oasis Feeding program site in the Georgetown area of Sussex County beginning in the late summer/fall of 2023.

Although we currently have food pantries in this area, we are aware there are many very vulnerable children we are not reaching. With the help of the nonprofit organization La Red, the Harry K Foundation has identified a site near Georgetown where we can reach children from low- to low-moderate income families who live in more rural areas, and who are experiencing food insecurity on weekends or when school is out of session. Accordingly, the Harry K

Foundation is requesting a grant of \$2,500 from the Sussex County Council to help us open a Desert Oasis Feeding site in the Georgetown area of Sussex County beginning in the late summer/fall of 2023. Grant funds will be used specifically for the purchase of food to stock the site.

Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request) 52,200.00

Description Personnel
Amount 20,000.00

Description Mobile Delivery Van Insurance and Gas
Amount 15,000.00

Description Purchase of Food
Amount 10,000.00

Description Food Storage
Amount 7,500.00

Description Administrative Support
Amount 2,200.00

TOTAL EXPENDITURES 54,700.00

TOTAL DEFICIT FOR PROJECT OR ORGANIZATION -2,500.00

Name of Organization Harry K Foundation

**Applicant/Authorized
Official** Laura Glascoe

Date 06/13/2023

**Affidavit
Acknowledgement** Yes

VINCENT.
YES. 6/14.

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Wednesday, June 14, 2023 9:16 AM
To: Casey Hall
Subject: Sussex County DE - Council Grant Form: Form has been submitted

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

Council Grant Form

Legal Name of Agency/Organization	Make-A-Wish Foundation of Philadelphia, Delaware & Susquehanna Valley ✓
Project Name	Wishes Transforming Lives in Sussex County
Federal Tax ID	22-2755963 ✓
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	Together, we create life-changing wishes for children with critical illnesses.
Address	100 W. 10th Street, 106
City	Wilmington
State	DE
Zip Code	19801
Contact Person	Karen L. Traten

Contact Title Sr. Director of Development

Contact Phone Number 12159873147

Contact Email Address ktraten@philadesv.wish.org

Total Funding Request 10,000

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

If YES, how much was received in the last 12 months? 8000

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

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

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

Primary Beneficiary Category Youth

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

10

Scope

As the leading wish-granting organization, Make-A-Wish serves children and their families in every community of the United States through 58 chapters. We are a national organization with a local focus. In 2023, Morning Consult selected Make-A-Wish as the #1 most trusted non-profit operating locally across 50 states.

Make-A-Wish® Philadelphia, Delaware & Susquehanna Valley has granted nearly 8,000 transformational wishes for local children with critical illnesses since opening its doors in 1986. Each year, approximately 10 to 12 Sussex County children are supported through our program. A little-known fact about Make-A-Wish is that although we are a national organization, we rely on the local community to fund our 100% contribution driven program through gifts and grants. Sussex community donations stay local and support families dealing with a health crisis.

We have only one program with a goal to bring every eligible child's wish to life because having a wish journey is an integral part of a child's treatment plan. A wish experience is more than just a nice thing to do for a critically ill child. It can change a child's perspective about his/her illness which can provide tangible benefits that can help improve health outcomes. Make-A-Wish released new research in the form of a 2022 Wish Impact Study that provides quantitative data demonstrating the powerful results of how wish-fulfillment can help children build the physical and emotional strength they need to fight a critical illness. 90% of medical providers said they have observed children increasing compliance with treatment after learning they received a wish; 90% of wish alumni said their wish improved their overall quality of life; and 91% of wish

parents believe the wish experience is a necessary part of a child's medical journey.

Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request) 60,000.00

Description Wish Expense

Amount 55,000.00

Description Staffing Support

Amount 15,000.00

Description supplies, travel, other

Amount 2,500.00

TOTAL EXPENDITURES 72,500.00

TOTAL DEFICIT FOR PROJECT OR ORGANIZATION -12,500.00

Name of Organization Make-A-Wish Philadelphia, Delaware & Susquehanna Valley

Applicant/Authorized Official Karen Traten

Date 06/14/2023

Affidavit Acknowledgement Yes

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Tuesday, June 13, 2023 10:53 PM
To: Casey Hall
Subject: Sussex County DE - Council Grant Form: Form has been submitted

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

Council Grant Form

Legal Name of Agency/Organization	The Nanticoke Indian Association Inc ✓
Project Name	The 45th Annual Nanticoke Indian Powwow
Federal Tax ID	51-0261316 ✓
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	"The Mission of The Nanticoke Indian Association (NIA) is to improve and promote the well-being of the Nanticoke Indian Community and to increase the visibility of American Indian cultures in rural areas, to cultivate awareness, understanding, and respect while Preserving the Existence of the Nanticoke Indian Tribe as an Aboriginal/Indigenous Society through Conservation, Education and Cultural Awareness Programs."
Address	27073 John J Williams Hwy
City	Millsboro

State	DE
Zip Code	19966
Contact Person	Avery "Leaving Tracks" Johnson
Contact Title	Chief
Contact Phone Number	3025840537
Contact Email Address	ajpowerline@aol.com
Total Funding Request	\$7,500
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?	8

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

**Primary Beneficiary
Category** Low to Moderate Income

**Approximately the
total number of
Sussex County
Beneficiaries served,
or expected to be
served, annually by
this program** 20000

Scope

Our Nanticoke Indian Powwow objective is to educate and enhance the public's respectful and compassionate engagement in Native American history, traditions, values, beliefs, and culture. Our primary focus is to interactively educate people about the history and culture of the Nanticoke Tribe, which is presented with several engaging approaches such as native spirituality, Mother Earth, storytelling, ancestry/genealogy, traditional native dancing, and native music.

The Nanticoke Indian Powwow educates various people and groups throughout the entire state of Delaware and the surrounding Eastern Shore. Specific target populations include but are not limited to private/public school systems (K-12), post-secondary educational institutions including the University of Delaware, Delaware State University, Wilmington University, Del Tech Community College, Senior Centers, state parks, Lewes Historical Society, Milton Historical Society, Millsboro Art League, Beebe Healthcare, visitors, tourist, seniors, retirees, and other community groups.

Other than our tribal community, the population, and demographics we serve reflect the cultural diversity throughout Delaware, the surrounding states, and notably Sussex County, including the poor and disadvantaged.

Religious Components N/A

Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request) 10,000.00

Description Personnel - State Police - Traffic Control and Security

Amount 15,000.00

Description Paramedics and Fire Police

Amount 3,500.00

Description Equipment - Canopies, Bleachers, Generators, Fencing etc

Amount 20,000.00

Description Performers - Dancers, Drummers, Singers,

Amount 17,500.00

Description Merchandise and Food products

Amount 18,000.00

Description Temporary Traffic Control Lights Route One

Amount 7,500.00

Description Caterer

Amount 5,000.00

Description	Land Rent
Amount	3,000.00
TOTAL EXPENDITURES	89,500.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-79,500.00
Name of Organization	The Nanticoke Indian Association Inc
Applicant/Authorized Official	Avery Johnson
Date	06/13/2023
Affidavit Acknowledgement	Yes

To Be Introduced: 6/27/23

Council District 1: Mr. Vincent
Tax I.D. No. 532-6.00-42.00
911 Address 34900 Bi State Blvd., Delmar

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN GR GENERAL RESIDENTIAL DISTRICT FOR A CAR DEALERSHIP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.06 ACRES MORE OR LESS

WHEREAS, on the 16th day of November 2022, a conditional use application, denominated Conditional Use No. 2408 was filed on behalf of Efren Fernando Acevedo; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2408 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article VI, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2408 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcels of land lying and being situate in Little Creek Hundred, Sussex County, Delaware, and lying on the west side of Bi State Boulevard (Rt. 13A) approximately 0.32 mile south of Dorothy Road (Rt. 64) and being more particularly described in the attached legal description prepared by Fuqua, Willard, Stevens & Schab, P.A. said parcels containing 1.02 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.

To Be Reintroduced: 6/27/23

Council District 2: Mrs. Green
Tax I.D. No.: 131-15.00-51.00
911 Addresses: N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM ON A 42.74 ACRE, PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 93.66 ACRES, MORE OR LESS

WHEREAS, on the 1st of July 2022, a conditional use application, denominated Conditional Use No. 2388 was filed on behalf of Rifle Range Road Solar, LLC; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2388 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2388 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 Northwest Fork Hundred, Sussex County, Delaware, and lying on the south side of Rifle Range Road (S.C.R. 545), approximately 1.14 mile east of Sussex Highway (Rt. 13), and being more particularly described in the attached legal description prepared by Transition Engineering Surveying, said portion of the parcel containing 42.74 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: 6/27/23

Council District 1: Mr. Vincent
Tax I.D. No.: 432-3.00-41.06
911 Address: 8982 Morning Glory Farms Road, Laurel

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENTS VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 8.45 ACRES, MORE OR LESS

WHEREAS, on the 1st day of June 2022, a conditional use application, denominated Conditional Use No. 2373 was filed on behalf of Sarah Peterson; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2373 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2373 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 Morning Glory Farm Road on the northwest side of Portsville Road (S.C.R. 492) approximately 0.84 mile east of S. Shell Bridge Road (S.C.R 492A) and being more particularly described in the attached legal description prepared by Sergovic Carmean Weidman McCartney & Owens, P.A. , said parcel containing 8.45 acres, more or less.

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



Memorandum

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

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

CC: Everett Moore, County Attorney

Date: June 23, 2023

RE: County Council Report for C/Z 1981 filed on behalf of Luke Neiswander

The Planning and Zoning Department received an application (C/Z 1981 filed on behalf of Luke Neiswander) for a Change of Zone of parcel 235-21.00-5.00 from an AR-1 Agricultural Residential Zoning District to a GR General Residential Zoning District. The property is located at 15394 Sam Lucas Road, Milton. The parcel size is 0.22 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on May 25, 2023. At the meeting of May 25, 2023, the Planning & Zoning Commission recommended approval of the application for the 5 reasons as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting of May 25, 2023.

Minutes of the May 25, 2023, Planning & Zoning Commission Meeting

C/Z 1981 Luke Neiswander

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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.296 ACRES, MORE OR LESS. The property is lying on the southwest side of Sam Lucas Road (S.C.R. 256), approximately 0.55 mile north of Harbeson Road (Rt. 5). 911 Address: 16394 Sam Lucas Road, Milton. Tax Map Parcel: 235-21.00-5.00.

Mr. Whitehouse advised the Commission that submitted into the record were the copy of the Staff Analysis, the DelDOT Service Level Evaluation Response, the Applicant's exhibits, and the property



survey. Mr. Whitehouse advised the Commission that staff received zero comments for the Application.

The Commission found that Mr. Luke Neiswander spoke on behalf of his Application. Mr. Neiswander stated he purchased the property in 2019 with the intention of putting a single-wide mobile home on it; that when he purchased the property it was overgrown with brush and briars; that he spent many weekends clearing the property; that there is was an abandoned U-Haul trailer, which he cut up and hauled to the dump; that while clearing the lot, a neighbor had introduced herself, stating she used to live on the property and that a single-wide mobile home used to be placed on the property; that after he had the lot cleared, he hired Beacon Engineering to prepare a site plan; that Beacon Engineering prepared the site plan and submitted the plan to the State; that the State reviewed the site plan and approved it; that once the site plan was approved, he then hired a contractor to install the septic system; that the mound system is large, leaving room for a driveway and the rear of the lot for a dwelling; that currently he has a well and septic system installed; that he was preparing to purchase the mobile home, a questioned was raised regarding the wind zone; that at the point is when he found that the current zoning did not allow for his proposed single-wide mobile home; that this is the reasoning for his Change of Zone request to GR (General Residential); that he had spoken with his neighbors regarding his proposal; that they did not seem to have any opposition to his request and he had prepared a letter which he submitted into the record with his application.

Chairman Wheatley questioned if there was any record of a single-wide being on the site.

Mr. Neiswander stated he had previously met with Mr. Chase Phillips – Planner II regarding his application; that Chase performed a review and had found records from the 1980s.

Chairman Wheatley stated he found it odd a single-wide mobile home was present in the 1980s after the adoption of the County Code in the 1970s.

Mr. Whitehouse stated if a single-wide mobile home existed on the property with a building permit, since the 1970s, and an application for a building permit was submitted to replace the existing mobile home with a newer single-wide mobile home, it would have been permitted and he did believe there was another element to the history, however, a Change of Zone would remedy the issue either way.

Chairman Wheatley stated he does not care for spot zoning; however, the request is a residential class, in a residential class area and it is not the same as a commercial zoning request in a residential area.

Mr. Robertson stated the property is small in size and with being located within GR, there is not much else to do with the property.

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

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

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

Chairman Wheatley stated he did not have any problem with approving the Change of Zone request, and requested the Commission recommend approval.

Mr. Robertson provided a motion for the record as requested by the Commission.

Ms. Wingate moved that the Commission recommend approval of C/Z 1981 Luke Neiswander to change the zone from AR-1 (Agricultural Residential) to GR (General Residential) District for the following reasons:

1. There was provided testimony on record that the site had previously been allowed to have a single-wide manufactured home on the property.
2. The Change of Zone to the GR Zoning District will allow what was previously there to be replaced with a new single-wide manufactured home.
3. Given the small size of the property, the Change of Zone to GR will not allow for any expansive uses on the property.
4. The Change of Zone to GR will not adversely affect neighboring properties or area roadways.
5. No properties appeared in opposition to the Application.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to recommend approval of C/Z 1981 Luke Neiswander for the reasons stated in the motion. Motion carried 5-0.

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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: May 25, 2023

County Council Public Hearing Date: June 27, 2023

Application: C/Z 1981 Luke Neiswander

Applicant: Luke Neiswander
405 Maple Lane NW
Glen Burnie, MD 21061

Owner: Luke Neiswander
405 Maple Lane NW
Glen Burnie, MD 21061

Site Location: Lying on the southwest side of Sam Lucas Road (S.C.R. 256), approximately 0.55 mile north of Harbeson Road (Rt. 5).

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

Proposed Zoning: General Residential (GR) Zoning District

Proposed Use: Placement of a single-wide manufactured home

Comprehensive Land Use Plan Reference: Town Center

Councilmanic District: Ms. Green

School District: Cape Henlopen School District

Fire District: Milton Fire Department

Sewer: Onsite septic

Water: Onsite well

Site Area: 0.296 acres +/-

Tax Map IDs: 235-21.00-5.00



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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Mx. Jesse Lindenberg, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney, and applicant
Date: May 23, 2023
RE: Staff Analysis for C/1981 Luke Neiswander

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/Z 1981 Luke Neiswander to be reviewed during the May 25, 2023, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcel 235-21.00-5.00 to allow for a change of zone from an Agricultural Residential (AR-1) District to a General Residential (GR) District. The property is lying on the southwest side of Sam Lucas Road (S.C.R. 256), approximately 0.55 miles north of Harbeson Road (Rt. 5). The parcel consists of 0.296 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 subject property has land use designation of "Town Center." The properties to the north, south, west, and east (across Sam Lucas Rd) all have a land use designation of "Town Center."

As outlined in the 2018 Sussex County Comprehensive Plan, the uses that the Town Center Area land use designation recognizes are uses similar to the neighboring municipality. Significant growth is proposed to be concentrated around municipalities and many of these areas are formally designated as future annexation areas in their local comprehensive plan. Permitted uses in this area are designed around housing, commercial that will serve the daily needs of resident's, workers and visitors and retail compatible with surrounding uses.

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



Zoning Information

The property is zoned Agricultural Residential (AR-1) District. The adjacent parcels to the north, south, west, and east (across Sam Lucas Rd) of the subject property are also zoned Agricultural Residential (AR-1) District.

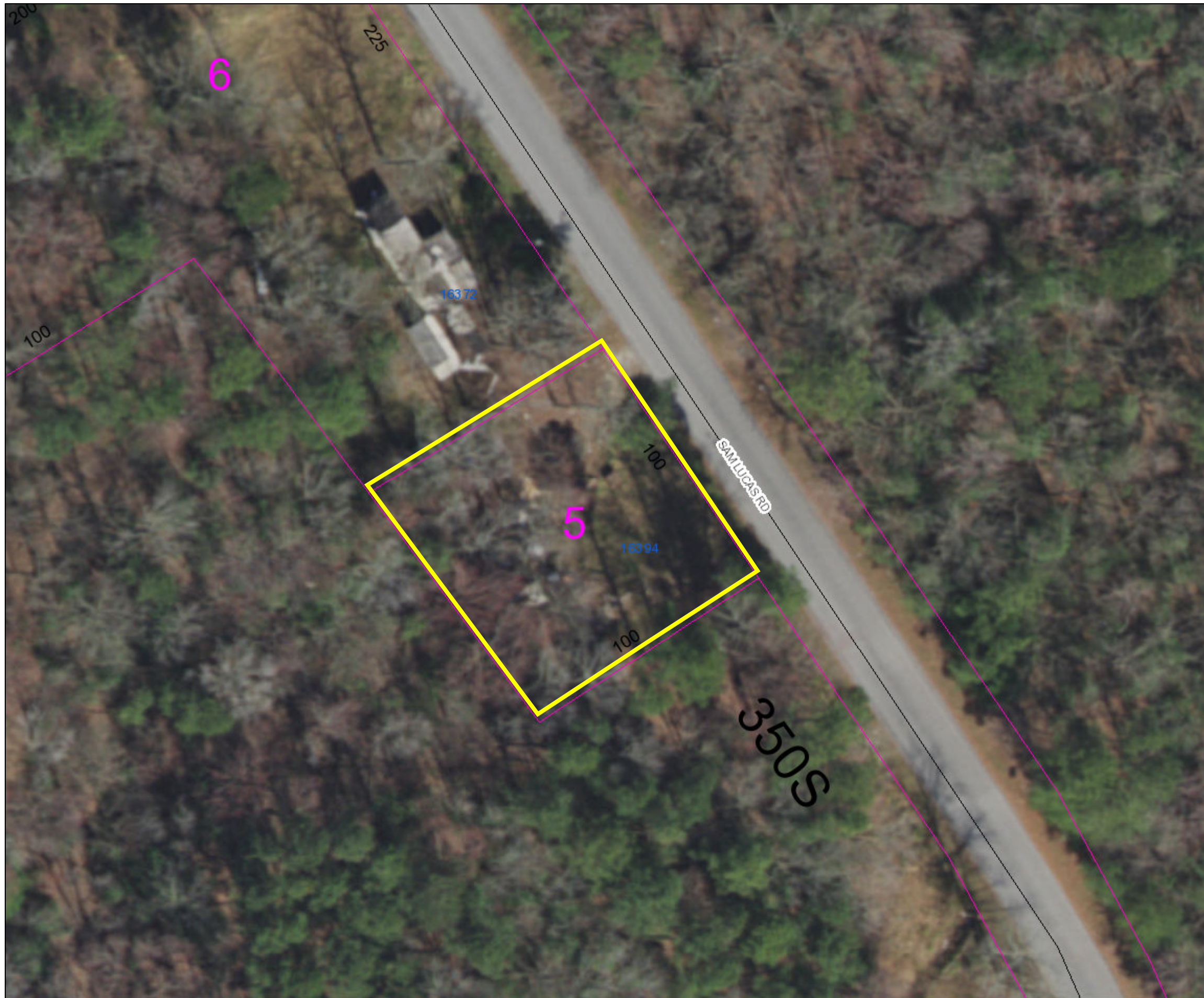
Existing Change of Zone Applications within the Vicinity of the Subject Site

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

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



Sussex County



PIN:	235-21.00-5.00
Owner Name	NEISWANDER LUKE
Book	5096
Mailing Address	405 MAPLE LANE
City	GLEN BURNIE
State	MD
Description	W/RT 256
Description 2	N/A
Description 3	N/A
Land Code	

polygonLayer

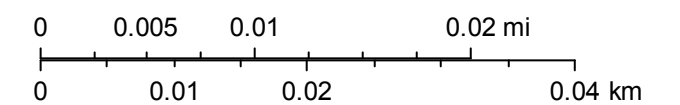
Override 1

polygonLayer

Override 1

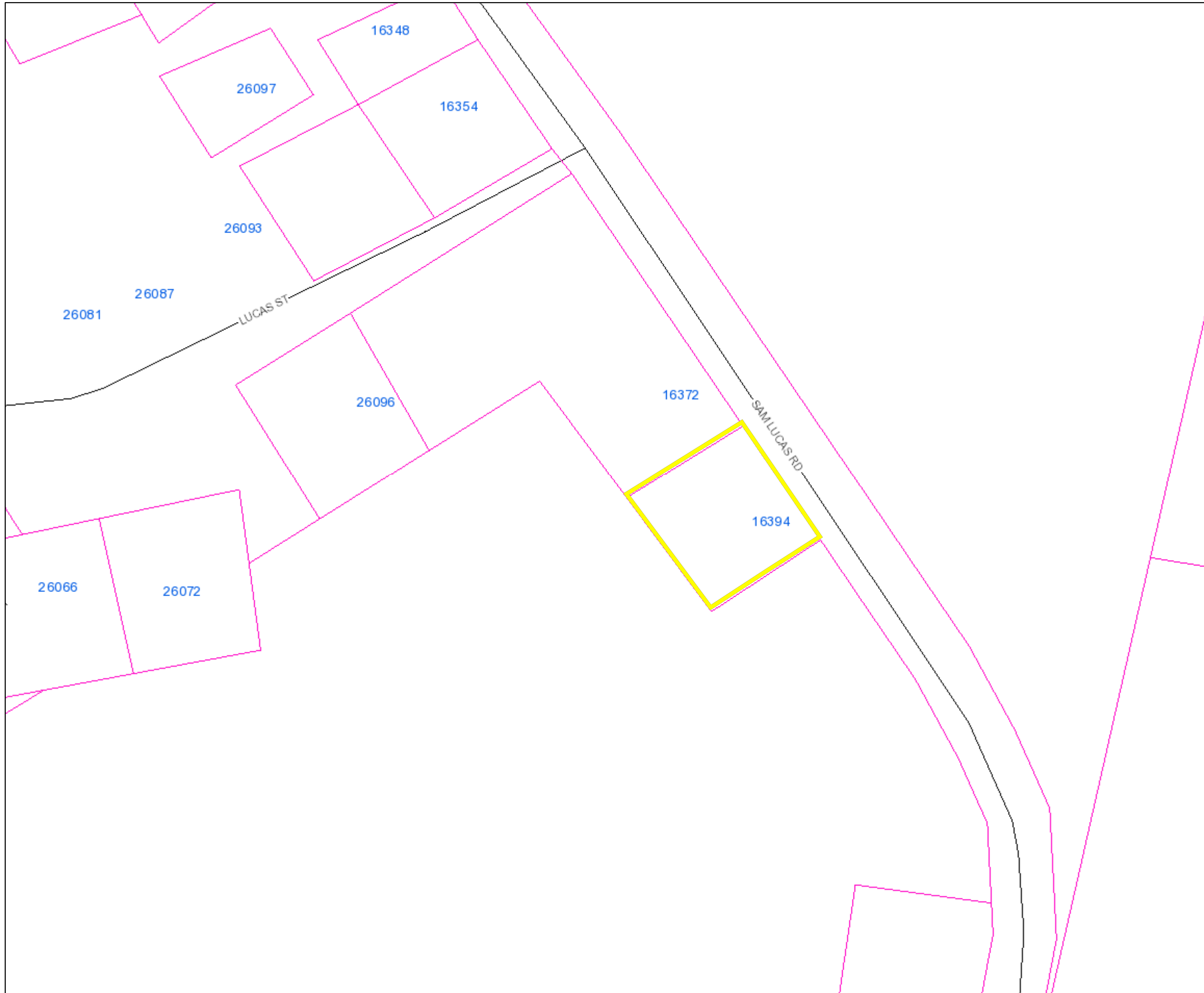
- Tax Parcels
- 911 Address
- Streets
- County Boundaries

1:564





Sussex County



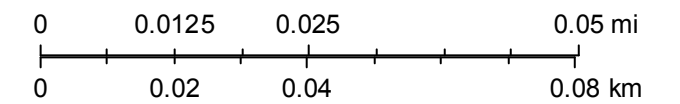
PIN:	235-21.00-5.00
Owner Name	NEISWANDER LUKE
Book	5096
Mailing Address	405 MAPLE LANE
City	GLEN BURNIE
State	MD
Description	W/RT 256
Description 2	N/A
Description 3	N/A
Land Code	

- polygonLayer**

 - Override 1
- polygonLayer**

 - Override 1
- Tax Parcels
- 911 Address
- Streets

1:1,128



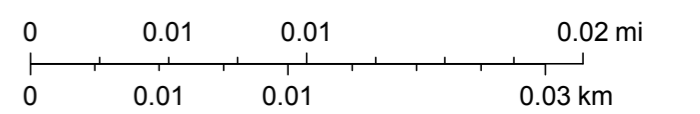
Sussex County



February 7, 2023

- | | | | | |
|-------------|---------------------------------|----------------------------------|-------------------------------|---------------------------|
| Override 1 | Zoning | High Density Residential - HR-2 | General Commercial - C-2 | Marine - M |
| Override 1 | Agricultural Residential - AR-1 | Vacation, Retire, Resident - VRP | General Commercial - C-3 | Limited Industrial - LI-1 |
| Tax Parcels | Agricultural Residential - AR-2 | Neighborhood Business - B-1 | General Commercial - C-4 | Light Industrial - LI-2 |
| 911 Address | Medium Residential - MR | Neighborhood Business - B-2 | General Commercial - C-5 | Heavy Industrial - HI-1 |
| Streets | General Residential - GR | Business Research - B-3 | Commercial Residential - CR-1 | County Boundaries |
| | High Density Residential - HR-1 | General Commercial - C-1 | Institutional - I-1 | |

1:564



State of Delaware, Maxar, Microsoft, Sussex County, Sussex County Government, Sussex County Mapping and Addressing

Introduced: 07/26/22

Council District 2: Mrs. Green
Tax I.D. No. 235-21.00-5.00
911 Address: 16394 Sam Lucas Road, Milton

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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.296 ACRES, MORE OR LESS

WHEREAS, on the 30th day of March 2022, a zoning application, denominated Change of Zone No. 1981 was filed on behalf of Luke Neiswander; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1981 be _____; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County 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 [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 Broadkill Hundred, Sussex County, Delaware, and lying on the southwest side of Sam Lucas Road (S.C.R. 256), approximately 0.55 mile north of Harbeson Road (Rt. 5), and being more particularly described in the attached legal description prepared by Sergovic, Carmean, Weidman, McCartney & Owens, P.A., said parcel containing 0.296 acres, more or less.

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



Memorandum

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

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

CC: Everett Moore, County Attorney

Date: June 23, 2023

RE: County Council Report for C/Z 1979 filed on behalf of JG Townsend Jr. & Co.

The Planning and Zoning Department received an application (C/Z 1979 filed on behalf of JG Townsend Jr. & Co.) for a Change of Zone of parcel 335-12.00-3.00 from an AR-1 Agricultural Residential Zoning District to an MR Medium Residential Zoning District. The property is located at 1667 Kings Highway, Lewes. The parcel size is 25.56 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on May 25, 2023. At the meeting of June 22, 2023, the Planning & Zoning Commission recommended approval of the application for the 8 reasons as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting of May 25, 2023.

Minutes of the May 25, 2023, Planning & Zoning Commission Meeting

Chairman Wheatley approved the request to combine the public hearings for C/Z 1979 J.G. Townsend Jr. & Co. and C/U 2359 J.G. Townsend Jr. & Co. as the property was the subject of both applications.

C/Z 1979 J.G. Townsend Jr. & Co.

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS. The property is lying on the east side of Kings Highway (Rt. 9) and Gills



Neck Road (S.C.R. 267), at the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267). 911 Address: 16673 Kings Highway, Lewes. Tax Map Parcel: 335-12.00-3.00 (p/o).

Mr. Whitehouse advised the Commission that submitted into the record were the DelDOT Service Level Evaluation Response, a copy of the Applicant's Conceptual Site Plan, the Applicant's exhibits, Staff Analysis, a letter from the Sussex County Engineering Department Utility Planning Division, the Environmental Assessment and the Public Facility Evaluation Report. Mr. Whitehouse stated two written comments had been received for the Application.

C/U 2359 J.G. Townsend Jr. & Co.

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR (MEDIUM RESIDENTIAL DISTRICT) FOR MULTI-FAMILY (102 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS. The property is lying on the east side of Kings Highway (Rt.9) and the south side of Gills Neck Road (S.C.R. 267), at the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267). 911 Address: 16673 Kings Highway, Lewes. Tax Map Parcel: 335-12.00-3.00 (p/o).

Mr. Whitehouse advised the Commission that submitted into the record were the DelDOT Service Level Evaluation Response, a copy of the Applicant's Conceptual Site Plan, the Applicant's exhibits, Staff Analysis, a letter from the Sussex County Engineering Department Utility Planning Division, the Environmental Assessment and Public Facility Evaluation Report, and a copy of the Applicant's Wellhead Protection Area responses. Mr. Whitehouse stated nine written responses had been received for the Application.

The Commission found that Mr. David Hutt, Esq., with Morris James, LLP, spoke on behalf of the property owner, J.G. Townsend Jr. & Co., and the Applicant, Jack Lingo Asset Management; that also present were Mr. Nick Hammonds and Mr. Ryan Mitchell with Jack Lingo Asset Management, Mr. Ring Lardner, Professional Engineer with Davis, Bowen & Friedel, Inc. (DBF), Mr. Cliff Mumford, and Mr. Steve Cahill, Professional Geologist with Verdantas, who prepared the submitted Environmental Assessment Report. Mr. Hutt stated that not only are the Application's compliant with the Code, consistent with the Comprehensive Plan, consistent with the nature and character of the area, but they also fit neatly into, what he referred to as the "Master Plan"; that he understood Sussex County currently does not have a Master Plan District; that the property fits neatly into the mold of what can happen when there is a singular property owner for a property over decades; that good land use planning place the most intense uses and the highest densities along major highway; that this was the planning perspective used when designing the Applications; that the most intense uses are located along Kings Hwy.; that nearest to Wolfe Pointe, Wolfe Runne and Hawkseye, are the locations of larger lots and less dense areas; that having a singular property owner allows a long-term master plan vision for better land use planning, as well as, the property owner is able to coordinate other things, such as storm management; that there are shared stormwater management ponds between Senators and Governors; that proposed stormwater management ponds will be shared between Governors and the subject project; that similarly, this provides an opportunity for interconnectivity between all of the various subdivisions and plans as they come along; that Mr. Lardner will speak on the Master Plan, how the site will be accessed and how access will be afforded to Governors through the project; that the intersection of Kings Hwy. and Gills Neck Rd. is well known, as it is a route into Lewes, to the Cape May Lewes Ferry, and an entrance to Cape Henlopen High School; that Crooked Hammock, the future commercial Village Center, the Cape Henlopen Medical Center, the Mitchell's Corner

commercial project, the Mitchell's Corner residential project; Lane Builders and Big Oyster are located within the nearby area of the site; that additionally, the Cape Henlopen High School, Governors, Senators, Hawkseye, The Moorings, Breakwater, Admirals Chase and the bike trail are in the nearby area of the site; that the total acreages is a little over 65 acres; that in the State Planning Coordination's PLUS response to the Application, it was stated that according to the 2020 State Strategies Map, the property is located within Investment Level 1; that Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing and/or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy; that the site is where the State expects and encourages growth to occur; that according to the 2045 Future Land Use Map within the Comprehensive Plan, the site is located within the Coastal Area, being one of the County's seven growth areas; that currently the site is located within the AR-1 (Agricultural Residential) Zoning District; that the current Change of Zone application seeks to change the zone from AR-1 to MR (Medium-Density Residential); that located between the subject site and Kings Hwy is and Area of B-1 (Neighborhood Business), being the location for the Village Center commercial area; that there was a Conditional Use approval granted for the Cape Henlopen Medical Center to operate at the intersection of Gills Neck Rd. and Kings Hwy.; that on the other side of that area is an area zoned for C-2 (Medium Commercial), anticipated to be another similar medical center with professional offices; that there are many areas for residential being the location of the Mitchell's Corner residential project, The Moorings, Breakwater and Admirals Chase; that there are other nearby areas zoned for C-1 (General Commercial) and C-3 (Heavy Commercial); that the subject Applications request to change the zone of 25.5 acres of the total 65 acres from AR-1 (Agricultural Residential) to MR (Medium-Density Residential); that this request would leave approximately 27.8 +/- acres of AR-1 zoned property to be located on the opposite side of Stockley Blvd.; that the balance of the site, being 11.6 acres, is already zoned B-1 (Neighborhood Business), and he requested Mr. Ring Lardner to review the Application's compliance with the Code, the technical features and site plan design.

The Commission found Mr. Ring Lardner, Professional Engineer with Davis, Bowne & Friedel, Inc. spoke on behalf of the Applications. Mr. Lardner stated in 1992 the area was mostly farm fields, with corn crops and pivots; that as of last year, the area had grown into various developments previously described by Mr. Hutt; that the site consists of 65.5 acres total; that the proposed cottages would be located on 25.56 acres of the total acres; that the site is located along Gills Neck Rd, located to the north.; that the Village Center Commercial use is located to the east; that Stockley Blvd. is located to the south, as part of the whole village center and its interconnection into Governors, which has already been planned, stubbed and installed; that Governors is located to the west of the site; that further to the east is Kings Hwy., which is classified as a principal arterial road per DelDOT's Functional Classification Map; that furthermore, Kings Hwy. is defined as a major arterial roadway as per No. 7 of the definition found in Chapter 115, Section 4 of the County Code; that Gills Neck Rd. is classified as a local road per DelDOT; that the proposed cottages will continue the development of Gills Neck Rd. or the corridor as first contemplated decades ago, with the construction of larger communities being Wolfe Pointe, Wolfe Runne, Hawkseye, Showfield, as well as smaller, more dense housing options such as, Breakwater, Senators, Governors and the proposed Village Cottages; that this will ultimately lead to the Village Center, which will provide shopping options to the corridor in the form of a 75,000 sq. ft. neighborhood center; that other developments along Gills Neck Rd. include Admirals Chase, The Moorings and the Mitchell's Corner residential project; that the project was further defined as Governors was designed as there is a lot of shared infrastructure with Governors; that all of this was planned together to develop vehicular and pedestrian interconnectivity; that Architect Union Studio drew up the initial layout to highlight the unique design approved used for the site and submitted as Exhibit 20; that the Village Center cottages is a neighborhood of 102 compact

cottage scale homes, organized around the principles of New Urbanism, which is a philosophy seeking to encourage community interaction, human scale, and walkability in our neighborhoods; that the homes have been carefully cited to help create a series of intimate pedestrian focused neighborhoods, linked by walkways and characterized by common greens and car-free planted courtyards; that each of the neighborhoods within the plan is comprised of 10 to 16 homes, organized around unique and varied courts and park-like edges; that in this way, the overall population of 102 cottages is experienced more as a collection of smaller pocket neighborhoods, where neighbors know one another, and a sense of community is fostered; that parking is accessed from discrete rear lanes, which are carefully corralled, so it does not impinge on the human scale of the plan; that there cars are allowed, they are tucked discreetly to the rear, between units, and shielded from common area spaces; that this allows for vehicle accommodation, but the neighborhood experience is primarily a place to walk; that walkways link up and lead from one pocket neighborhood to another, linking all of the neighborhoods to the community building and to the retail village beyond; that sidewalks will connect everything together; that the homes will range from one to three bedrooms; that the homes will range from 1,000 sq. ft. to 1,500 sq. ft.; that homes will have a small side or rear yard patio, as well as a front porch looking out to a common green or pedestrian right of way; that the individual units are arranged to nest with one another; that the floor plans are being arranged so that living spaces on one unit are never adjacent or visible to the living spaces of another unit; that simple roof forms and tight one slated building envelopes will allow the future possibility of efficient deployment of solar panels and very low net energy usage; that aesthetically, the neighborhood design drew inspiration from coastal styles prevalent in the Mid-Atlantic states, with simple, traditional forms, clad and clapboard, with shingle and painted trim; that although the project is technically considered a multi-family project, they felt that parking should be based on single-family requirements, being two spaces per unit, in lieu of the multi-family requirement, which allows two spaces per unit and a reduction in parking after the first 50 units; that additionally, the cottages will not have more than three bedrooms and therefore extra parking would not apply for the four-bedroom and larger units; that the based on the project calculations, 204 parking spaces are required; that the plan provides 240 parking spaces; the proposed density, based on project area is 3.99 units per acre; that the project proposes a total impervious area, including buildings, streets and sidewalks is 9.67 acres (38%) of the project area; that a minimum of 2,000 sq. ft. clubhouse, with a minimum 1,000 sq. ft. water surface area pool is planned for the middle of the project area; that Street A, Street C and Stockley Blvd. will be designed to Sussex County standards; that parking lanes A, B, C, D, E & G are designed to be narrow at 20-ft wide, to provide off street parking for each block and not under the jurisdiction of Sussex County; that stormwater management will be provided via the existing ponds constructed by the developer of Governors, and being one of the first shared infrastructures; that when Governors was designed, the ponds were designed to account for the full build out of the total 65 acres; that it was approved by Sussex Conservation District; that they assigned curved numbers of commercial uses and townhouses, to allow for planning of any potential uses; that all storm management has been pre-approved, with the only remaining requirement is to validate the drainage areas for planning approval; that no additional stormwater management will be required for the cottages; that a Shared Maintenance Agreement was submitted as Exhibit 9 in the booklet; that the agreement is written such that currently Governors is responsible for 100% of the pond maintenance until the first building permit is issued within the Village Center commercial area or the Village Cottages, at which time, J.G. Townsend will be responsible for 72% of all maintenance costs of the shared ponds; that they are requesting a waiver from providing a forested buffer between Governors and the Village Cottages; that they requested a similar waiver for Governors, which was approved, because the property line bisects the ponds and lands; that there is sufficient separation between the projects as previously mentioned; that Governors and the Village Cottages are separated by two large stormwater ponds; that the closest cottage is 70 ft.

to the property line and 130 ft. to the nearest townhouse unit; that Governors landscaping will be provided between the two properties of the green space to help separate, but not screen, them; that the pump station is proposed to be shared with Governors; that the sewer pump station was also designed for the full build out of the site; that the project area does not contain flood plains or wetlands; that a site investigation was performed by Mr. Edward Launay, with Environmental Resources Inc. and a division of DBF, Inc., noted in Exhibit 11; that the exhibit demonstrates that the project is located within uplands and does not include federally listed, threatened or endangered species, or critical habitats, including the habitat for the monarch butterfly; that a large portion of the project area, being approximately 18.9 acres, is located within the Wellhead Protection Area, with approximately 81% impervious coverage, therefore the project must comply with Chapter 89 of the Sussex County Code; that the Wellhead Protection Area is the well field for the City of Lewes Board of Public Works; that the parcel was previously studied as part of the Village Center commercial rezoning in 2017; that the adjacent Mitchell's Corner also completed an Environmental Assessment Report for their impact on the Wellhead area; that studies found both projects exceeded their requirements for compliance with the County Code; that Verdantas was hired to provide an Environmental Assessment Report; that Mr. Steve Cahill, Geologist was the author of all three reports; that as part of the application process, they met with Mr. Hans Medlarz, Sussex County Engineer, to discuss the project's compliance; that the only requirement for the project is compliance with the Water Climatic Budget, which they have met; that the full report and budget can be found in Exhibits 7 & 8; that his office met with the City of Lewes Board of Public Works; that currently, Lewes Board of Public Works had not shared any objections to the proposed applications; that the project is located within the Sussex County Unified Sewer District; that the project will be served by a gravity sewer system to the Governors pump station; that the property will be served by Delaware Electric Cooperative for electric, Chesapeake Utilities for natural gas, and Tidewater Utilities for water; that all utility companies have provided a Willing and Able Letter, located within Exhibits 13 through 16; that a DelDOT Service Level Evaluation Response and Public Facility Report was submitted, which state the impact of the project is minor and may generate between 50 and 200 peak hour trips or 502,000 daily trips; that the project was part of their larger Traffic Impact Study (TIS), being first contemplated in 2007, which generated a letter agreement in 2009, for all the projects being Showfield, Governors, Senators and The Village Center; that the project was also included as a committed development in the Mitchell's Corner Traffic Impact Study; that the project is part of an ongoing Village Center Operational Analysis, which is part of the commercial; that DelDOT is designing Kings Hwy. to be dualized from Dartmouth Rd. intersection to the city limits; that the configuration of that road include signals or roundabouts, and any other unknown decisions by DelDOT; that the proposed cottages will tie into the interim improvements that will be completed by the Mitchell's Corner project; that the interim improvements include, dualizing Kings Hwy. from the northern portion of the Cape Henlopen High School down to Clay Rd., and modifying Gills Neck Rd. to include dual left-turn lanes onto Gills Neck Rd.; that Village Cottages will also tie into the Clay Rd., Kings Hwy., and Stockley Blvd. improvements and that signal modification, including auxiliary lanes in all four directions; that all of the improvements are designed with the project's traffic accounted for in the design; that the Applicant met with select individuals of the Lewes Byways Committee, as they are committed to working with them on the shared use path, landscaping and fencing; that they are currently awaiting decisions for DelDOT regarding the frontage along Kings Hwy.; that the project was reviewed by PLUS on December 15, 2021; that a copy of the PLUS comments and the Applicant responses were submitted as Exhibit 12; that the comments were general in nature stating that they would comply with all regulatory requirements; that his office prepared the Environmental Assessment and Public Facility Evaluation Report in accordance with the Chapter 115, Section 194.3 of the County Code; that the new responses were submitted in Exhibit 10; that the project has analyzed all aspects of the

respective items and all mitigation measures are consistent with the Comprehensive Plan; that the project is integrated into the existing terrain and surrounding landscape; that the site does not contain wetlands or floodplains; that proposed buffers are provided to screen objectionable features; that the plan prevents pollution of surface and groundwater; that the plan provides for safety of vehicular and pedestrian improvements; that the plan mitigates the effect on area roadways and public transportation and the project is compatible with other area land uses.

Mr. Hutt stated he had already discussed the plans compliance and the reasoning for the Application's requests; that the MR District is to provide for medium-density residential development in areas which are expected to become generally urban in character, where sanitary sewer and public water supply may or may not be available at the time of construction; that when looking at the aerial imagery, the site has certainly become a more urban or semi-urban character; that public water and sewer area available to the site; that multi-family dwellings are permitted as a Conditional Use in the MR (Medium-Density) Residential Zoning District, which is the reasoning for the Conditional Use Application; that Conditional Uses are uses that are generally of a public or semi-public character, being essential and desirable for the general convenience and welfare, but because of the nature of the use and the importance of the relationship to the Comprehensive Plan and possible impact on neighboring properties, it requires the exercise of planning judgement on location and site plan review; that housing has routinely been found to be of public or semi-public character, certainly being essential and desirable for the County; that within the Comprehensive Plan it states that in the Coastal Area, medium and higher densities are appropriate where there is central water and sewer, where there is a significant number of commercial uses and employment centers, where the project is in keeping with the character of the area, and where it is situated along a main road, or being located at or near a major intersection; that every criteria item has been met by the proposed Application; that Table 4.5-2 indicates the zoning districts appropriated and which Future Land Use Map categories; that MR (Medium-Density Residential) is an appropriate zoning district in the Coastal Area, as reflected on Table 4.5-2; that there are a number of townhomes, duplexes and other multi-family uses that currently exist in the area; that there are assisted living facilities, which is a multi-family type use, existing in the area; that immediately adjacent to the site is the townhome section of Governors; that there was correspondence submitted expressing concerns regarding the proposed density of the project, and the ability for the project to fit between the Village Center Commercial Area and the townhome portion of Governor's community; that he had began his presentation with an aerial map outlining several surrounding communities and commercial uses in the area; that Dutchman's Harvest, located within the City of Lewes, has a density of 17.7 unit per acre; that Harbor Town Square has a density of 11.9 units per acre; that Woods Edge is 11 units per acre; that Savannah East Apartments at 11 units per acre; that Jefferson Apartments is 9.8 units per acre; that The Moorings, formally known as Cadbury, has a density of 6.4 units per acre; that the Mitchell Corner project, being located directly across Gills Neck Rd. from the site, has a density of 6.2 units per acre; that Henlopen Gardens is 5.5 units per acre; that Governors is 3.6 units per acre; that Beach Plum Dunes is 3.2 units per acre; that Bay Breeze Estates is 3 units to the acre; that the proposed plan is consistent with the Zoning Map and the MR Zoning classifications, as well as the zoning within the municipal limits of the City of Lewes; that there are a number of multifamily uses, all with densities great than the proposed project; that there are existing MR zoned areas within the immediate area, being located directly across the street, down Gills Neck Rd., back to Admirals Chase, along Kings Hwy and Beach Plum Dunes; that the site's immediate neighbor to the northeast is Governors, which is zoned AR-1, with a density of 3.6 units per acre; that due to the concern expressed regarding the composition density difference of the project in relation to Governors, he requested DBF, Inc. to overlay 25 acres on the immediately adjacent Governors site; that when that was done, the 25 acres included 139 units, which created a density of 5.4 units to the

acre, being more dense than the proposed Villages Cottages; that the Villages Cottages are just under 4 units per acre; that additionally he requested DBF, Inc. to perform the same analysis and overlay on the single-family home section of Governors, resulting in a density of 3.6 units per acre; that this goes back to good land use planning, where more intense and dense uses are located closer to Kings Hwy, decreasing further along Gills Neck Rd.; that the design of the community was purposeful; that good land use principles and shared infrastructure were the themes that guided the project into fruition; that Governors is currently paying for the shared stormwater management; that as proposed, as soon as a building permit is pulled for either the commercial area or the cottages, the numbers shift dramatically; that at that time, 70% will be maintained by the subject 65 acre property, and the Governors share of the maintenance decreases significantly; that there were concerns raised regarding interconnectivity from the Village Center Commercial Area to the Village Center Cottages, and then to the Governors community; that Mr. Lardner had indicated, the interconnectivity had been the master plan from the outset of development; that the Delaware Uniform Common Interest Ownership Act require sellers to provide seller disclosures; that the sellers disclosure did provide notice that Stockley Blvd would be an entrance for the future development of the 65 acre parcel; that various comments of concern were raised regarding traffic; that Mr. Lardner previously indicated the traffic impact had been studied numerous times; that the projects have always been consideration in the studies performed; that no one can control DelDOT, or the pace at which DelDOT completes the improvements along Kings Hwy.; that the Village Center, regardless of what portion is developed first, will be required to be make the improvements previously mentioned by Mr. Lardner, particularly at Clay Rd. and Stockley Blvd., creating a four-way intersection; that additionally, significant improvements will be coming to Kings Hwy in the near future, as the Mitchell's Corner project comes into fruition; that there are interim improvements which have been discussed and reviewed; that they are currently in the process of being approved by DelDOT for those interim improvements; that it is important to remember that, all of the projects, beginning with Wolfe Pointe, Wolfe Runne, Hawkseye, Senators, Governors and the Village Center Commercial Site, all arose from the same fields that existed between Kings Hwy, Gills Neck Rd. and the canal; that these fields have been under the same ownership, and carefully developed throughout time; that essentially, the proposed application is an infill project between the residential area of Governors and the Village Center Commercial Site; that he trusted with the various professional reports and the presentation made, the Commission would agree that the Application is consistent with the County's Code, the Comprehensive Plan, and the character of the area; that he presented to the Commission renderings of the envisioned courtyard areas for the proposed community; that there is nothing wrong with townhomes and duplexes, however, the developer put time, effort and thought into providing the proposed style of units, which is different than anything else currently existing along Gills Neck Rd. or frankly, almost anywhere within Sussex County; that he hoped the Commission would agree that having an alternate way to have units available, through a courtyard type plan, is good for the streetscape and land use plan for Sussex County; that the Applicant requests the Commission recommend approval of the change of zone request from AR-1 to MR (Medium-Density Residential), as well as the Conditional Use request for 102 multifamily units for the site; that he requested to submit proposed Findings and Conditions for each Application; that in proposed Condition F, for C/U 2356, relates to the parking areas; that with favorable recommendation, the Commission typically imposes a condition requiring streets to meet or exceed the County's street design requirements; that the proposed parking areas are not considered streets, therefore, are not required to comply with Sussex County standards; that Condition J states the required minimum square footage of water surface for the pool and clubhouse areas; that Condition L is related to the Chapter 89 requirements; that in the project book materials, there is an email exchange between Mr. Medlarz and Mr. Lardner, regarding certain requirements of the site plan; that the requirements will apply whether it is the Village Center Commercial Area or the Village Center

Cottages; that one of the requirements is that the Engineering Department will review the construction plans, and will review the Water Climatic Budget; that there is a note of prohibition relating to rooftop air conditioning system components that would require intermittent unit blowdown and proposed Condition N states that Saturday construction hours would only be permitted from October 1st through April 30th, which aligns with the timing DelDOT allows construction to be performed in those areas.

Ms. Stevenson stated her only concern related to compliance with the Byways and despite not being within the Commission's purview, she suggested consideration be given to noise reduction as the buildings are located close together.

Ms. Wingate requested confirmation of the required parking total is 204 spaces and the provided parking total for the project is 240 spaces and questioned if the access to the parking area will allow for fire trucks and emergency vehicles.

Mr. Lardner stated Ms. Wingate was correct; that the plan provides for 240 spaces in excess of the required 204 spaces; that Street C is a 24 ft. wide car path, with parking on either side; that the parking lanes are 20 ft. wide, which allows the ability for fire trucks to pass through the parking lane.

Mr. Mears stated he had no questions but stated that he did love to coastal cottage courtyard theme, as it is something different.

The Commission found three people in the room and two people by teleconference commented on the Applications.

Mr. Ken Rehfuß spoke in support but proposed questions about the Application. Mr. Rehfuß stated he thought the cottage concept is great, as there are existing townhouses and duplexes located across the street; that he still had confusion relating to the service lane that backs up to the commercial area; that he assumed it is a pathway to provide for interconnectivity; that he questioned the proposed type of screening; that he is a developer in Washington; that many times, there is a different type of screening required when dealing with commercial uses versus residential; that he felt everything looked appealing and he stated he was a big advocate of the project.

Mr. Lardner stated the road was a service road to provide service to the commercial area; that the parking lanes will tie into the service road to finish connectivity, and avoid a dead end; that they are still working on the screening for both projects; that the screening of both projects are being designed together so that one project's screening does not adversely impact the other; that there will be screening to protect the views from commercial with the residential; that all of the screening details will be forthcoming as the design of the commercial area comes forward; that should Commission and County Council grant approval, all of the screening would be integrated and designed together, to allow the projects to be harmonious with each other.

Mr. Robertson questioned the location of the B-1 area and mentioned that it would all be reviewed during the site plan review process.

Mr. Michael Wolfe spoke in support of the Applications. Mr. Wolfe stated he is a member of the Condominium Association Board for Governors; that the Executive Board of the Governors Condominium Association had submitted a letter around May 15th, which he requested to read to the

Commission; that the letter stated, “*this proposed community lies adjacent to the Governors community, and will share boundaries, common areas, ponds, and streets. While we are not opposed to the new development, we have several concerns regarding the proposed plan. Our primary concern is the proposed street interconnectivity planned with the Governors’ private streets. As proposed, the street interconnectivity will lead to additional traffic within Governors since it almost certainly will be used as a cut-through from Gills Neck Rd. for non-residents. We propose limiting the interconnectivity to emergency traffic, bikes, and pedestrians through the use of gates or other means. Second, Governors has entered into a pond-sharing agreement with J.G. Townsend, that covers the cost of the maintenance electricity to run the pond’s fountains. The agreement will need to be reviewed in light of the plan for the proposed development. Next, the proposed plans for the Village Center Residential Community outlined the property line on the boundary with Governors. When the Governors Executive Board transitioned from the developer, plans for the new community had not yet been published. We request that a new survey be completed to confirm that the true boundary lines between the two communities. Fourth, we would like to better understand the developer’s plan to buffer the trees to the common space that separates Governors from the Village Center. Other than the ponds in the open space, the design plan shows little in the way of trees between the two communities. Governors wish to remain its own standalone community and not appear to be part of the new Village Center. We request that the common area bordering our communities have ample trees and shrubbery to mitigate noise and help differentiate the two communities. Fifth, since the developer of the proposed community and Governors are the same, it appears there is an attempt to share common space with the new development. We request the developer install similar fencing and/or signage at the new development entrance that matches the Gills Neck Rd. entrance. This would help differentiate the two communities and indicate to people trying to pass through, so they know they have entered a new community. We’d also like to raise concern over the density of the new complex on such a small piece of property and the lack of open space within the community. This area is already lacking parks and open space for recreation. Next, we have concerns that the complex is associated with or tied into a new retail center on Kings Hwy. border. We feel plans should be completed and approved before a new residential section is approved. Lastly, improvements are required on Kings Hwy. to accommodate the increased traffic from other developments currently being built. We request the impact of those projects is addressed before additional traffic is added to the existing problem.*”; that he personally had concerns relating to interconnectivity; that he listened to the discussion and the statements made that notice was provided within the documents; that he had reviewed all the documents; that he believes it is a true statement, though it was a very short little blurb; that interconnectivity is subjective; that interconnectivity can mean all types of vehicles are permitted through, or it could also mean interconnectivity is limited to what is practical and safe; that he felt it more appropriate for the interconnectivity to be minimized to only allow emergency vehicles, pedestrian traffic, and bicycles; that this will limit Amazon trucks from flying through, which is unsafe for children on their bikes and scooters and he felt the interconnectivity posed a safety concern.

Mr. Edward Rush spoke with questions regarding the Applications. Mr. Rush stated he also is a member of the Executive Board of the Governors Condominium Association; that he is a retired Fire Chief, who had been in the fire service for over 40 years; that he understood there was a performed traffic study, as part of the Environmental Assessment; that where he previously came from, they had a system of rating roads, and he questioned if there is a similar system in place in Sussex County; that he questioned the road rating for Gills Neck Rd. before and after development; that he had concerns regarding the accessibility of fire apparatus to the parking areas, as the access to the parking is a unique layout; that he felt 20 ft. from the end of one parking space to another is extremely tight for fire apparatus movement; that he is a member of the Lewes Fire Company, and he does not look forward to driving a fire truck in the community as it is proposed; that he questioned the estimated price range or targeted market for the cottages; that he is the Delaware Advocate for the National Fallen Firefighters Foundation – Everyone Goes Home Program; that they push hard for the placement of residential sprinkler; that in the past week, a home in Lewes was destroyed by fire; that had the house been located within Governors, at least three to four houses would have burned due to their close

proximity to each other and he requested the Commission impose a condition requiring residential sprinklers be placed in the units.

Mr. Robertson stated there is a rating system for the roads, and it is contained in the traffic data, and it is more complex than just the rating of the roads, as every specific movement on an intersection is also rated.

Chairman Wheatley stated the entrance is 24 ft. and it is 20 ft. in the parking area; that the price range and targeted market for the projects were beyond the scope of the Commission; that sprinkler system requirements exceed the Commission's authority, as it is more of a Building Code requirement; that the Commission cannot require something that is not dictated in the County Code and the Applications will be present before County Council, who do have the authority to impose the condition.

Mr. Lardner stated he did not have the traffic study in front of him, but he recalled the existing condition of Gills Neck Rd. and Kings Hwy. is a Level of Service F, per the latest Traffic Operational Analysis (TOA) he had seen; that beyond Level F it does not degrade anymore; that the classification of F relates to a time delay to get through an intersection; that with the dualization and improvements, it does improve the rating to a Level of Service D, with interim improvements and the rating will stay as a Level D when DelDOT improvements on Kings Hwy is completed.

Mr. Paul Capriolo spoke by teleconference in opposition to the Application. Mr. Capriolo expressed his concerns regarding overcrowding, the proposed density, traffic congestion, infrastructure, interconnectivity, the erosion of the charm, character and scenic views of the area, the environment and wildlife habitats, the impact on the local ecosystem, preservation of open space and impacts on the water.

Ms. Stevenson stated that donations can be made to Sussex County Land Trust, as they purchase land to preserve it.

Mr. Greg Rutler spoke by teleconference in opposition to the Application. Mr. Rutler stated he agreed with all the points and concerns expressed by Mr. Capriolo, and additionally, he had concerns regarding stormwater management and stormwater treatment.

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

At the conclusion of public hearings, the Commission discussed the Applications.

In relation to C/Z 1979 J.G. Townsend Jr. & Co. Motion by Ms. Stevenson to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

Minutes of the June 22, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since May 25, 2023.

Ms. Stevenson moved that we recommend approval of C/Z 1979 J.G. Townsend, Jr. & Co., 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 which is expected to become urban in character and where central water and sewer is available.
2. The stated purpose of the MR District is satisfied for this site. Both central water and central sewer will be available. It is also in an area with a more urban character since it is near the City of Lewes, in the vicinity of a high school campus, and near various businesses. There is also other MR-Zoned land in the area. This rezoning is consistent with other zoning and land uses in the area.
3. 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.
4. 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.
5. The intended use of this property will be to allow the development of it with multi-family residential units. This is an appropriate use for this location given its surroundings.
6. The Comprehensive Plan suggests that higher densities such as those permitted in the MR District can be appropriate where there is water and sewer available, there are appropriate roadways to handle the density, and there are nearby commercial or employment centers. All of those factors are satisfied with regard to this application.
7. DelDOT has stated that the proposed rezoning to MR will have a “minor” impact upon local area roadways. In addition, the overall traffic in the area has recently been studied through Traffic Impact Studies and Traffic Operations Analyses for other nearby properties. These studies take into account this proposed rezoning as well as DelDOT’s “US9, Kings Highway, Dartmouth Drive to Freeman Highway (DelDOT Contract No. T202212901)”.
8. For all of 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 1979 J.G. Townsend, Jr. & Co., for the reasons stated in the motion. Motion carried 5-0.

Vote by roll call: Mr. Hopkins – yea, Ms. Stevenson – 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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sussexcountyde.gov
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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 25th, 2023

Application: CZ 1979 J. G. Townsend Jr. & Co.

Applicant: Jack Lingo Asset Management, LLC
246 Rehoboth Avenue
Rehoboth Beach, DE 19971

Owner: J. G. Townsend Jr. & Co.
P.O. Box 430
Georgetown, DE 19947

Site Location: Lying on the east side of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267) at the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267)

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

Proposed Zoning: Medium Residential (MR) Zoning District

Proposed Use: 102 Multi-Family Units

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Schaeffer

School District: Cape Henlopen School District

Fire District: Lewes Fire Company

Sewer: Sussex County

Water: Tidewater Utilities

Site Area: 25.56 acre +/-

Tax Map ID: 335-12.00-3.00 (p/o)



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



Sussex County

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Memorandum

To: Sussex County Planning Commission Members
From: Mrs. Christin Scott, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney, and applicant
Date: May 18th, 2023
RE: Staff Analysis for C/Z 1979 J.G. Townsend, Jr. & Co.

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/Z 1979 J.G. Townsend, Jr. & Co. to be reviewed during the May 25th, 2023, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcel 335-12.00-3.00 (p/o) to change the zoning from an Agricultural Residential (AR-1) Zoning District to a Medium Density Residential (MR) Zoning District. The property is lying on the east side of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267), at the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267). The parcel consists of 25.56 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 subject property has land use designation of "Coastal Area." The properties to the north, south, east, and west all have a land use designation of "Coastal Area" with properties to the northwest, across Kings Highway, having a land use designation of "Commercial Area."

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

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 within the "Coastal Area" (Sussex County Comprehensive Plan, 4-25).



Zoning Information

The property is split zoned Agricultural Residential (AR-1) District and Neighborhood Business (B-1) Zoning District. The adjacent parcels to the east and west of the subject property are zoned Agricultural Residential (AR-1) District. The properties located to the northeast of the subject site, across Gills Neck Road, are zoned Medium Residential (MR-1) Zoning District. A few parcels south, north, and west of the site are zoned General Commercial (C-1), Medium Commercial (C-2), and Neighborhood Business (B-1) Zoning Districts.

Existing Conditional Use Applications within the Vicinity of the Subject Site

Since 2011, there have been seven (7) Change of Zone applications within a one (1) mile radius of the application site. A data table has been provided below.

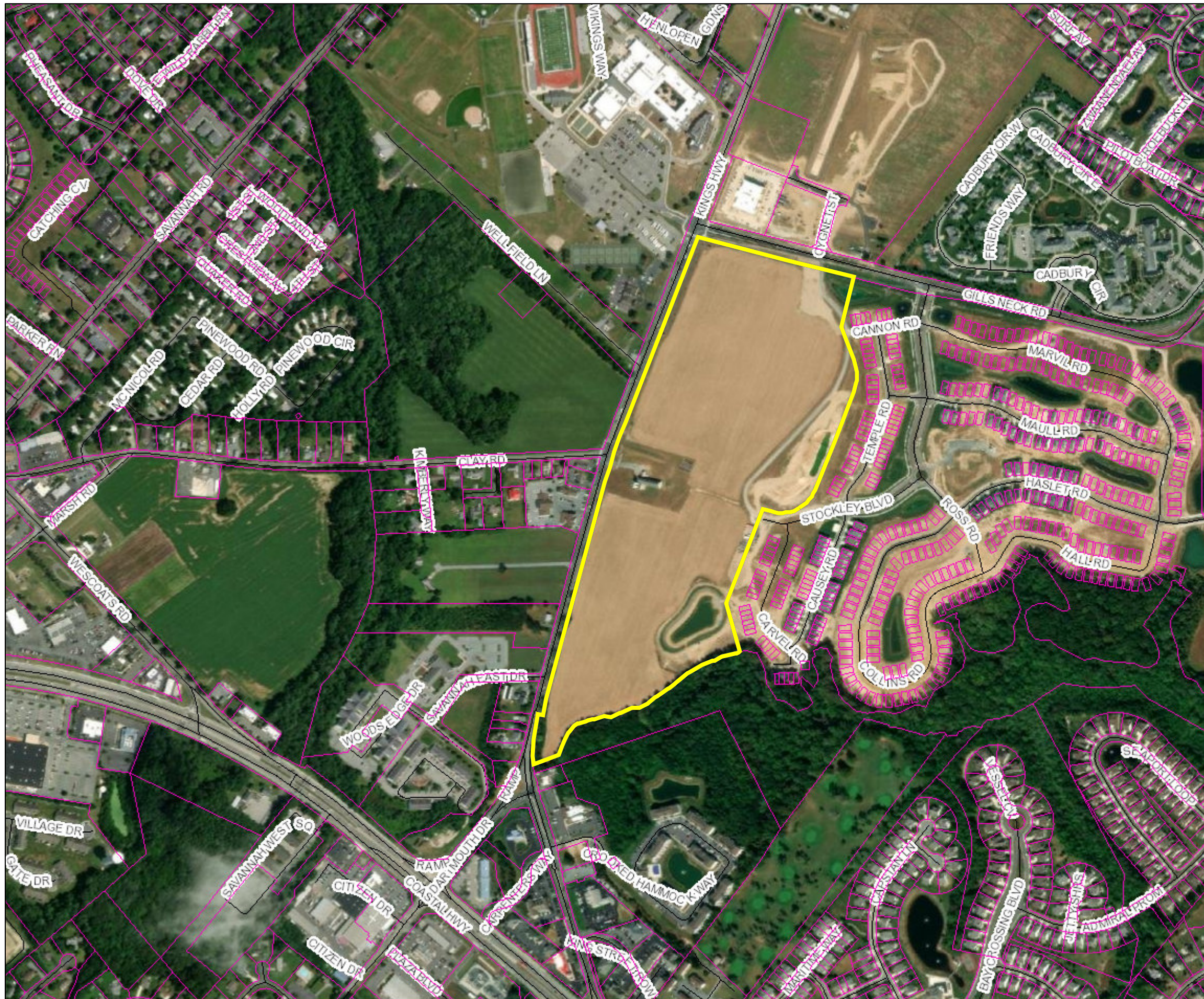
Based on this analysis, a Change of Zone from Agricultural Residential (AR-1) District to Medium Density Residential (MR) District could be considered as being consistent with the land use, area zoning and surrounding uses.

Change of Zone Number	Tax Parcel #	APPLICANT	911 Address or Road Name	Current Zoning	Proposed Zoning	CC Decision	CC Decision Date
1802	335-12.00-3.00	J.G. Townsend Jr. & Co.	Gills Neck Road & Kings Hwy	AR-1	B-1	Approved	12/13/2016
1876	335-12.06-1.00	Robert & Deborah Reed	1525 Savannah Rd.	AR-1	MR	Approved	6/18/2019
1857	335-8.18-28.00	Elizabeth Ann Burkhardt	1500 Savannah Rd.	AR-1	B-2	Denied	10/23/2018
1912	334-6.00-58.00	Beach and Bay LLC	16816 & 16820 Kings Hwy	AR-1	C-2	Approved	7/14/2020
1818	334-6.00-497.08	Ocean Highway, LLC	34130 Citizens Dr., Lewes	AR-1	CR-1	Approved	5/23/2017
1851	335-8.00-44.00	The Evergreen Companies, LLC	16386 Gills Neck Rd.	AR-1	MR	Approved	8/14/2018

1832	334- 6.00- 511.00	MDI Investment Group, LLC (C/O Doug Compher)	17645 Shady Rd. & N/A	AR-1	MR	Approved	3/20/2018
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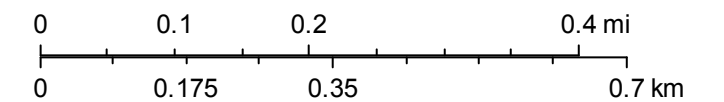
Sussex County



PIN:	335-12.00-3.00
Owner Name	JG TOWNSEND JR CO
Book	361
Mailing Address	PO BOX 430
City	GEORGETOWN
State	DE
Description	E/KINGS HWY
Description 2	S/GILLS NECK RD
Description 3	RESIDUAL LANDS
Land Code	

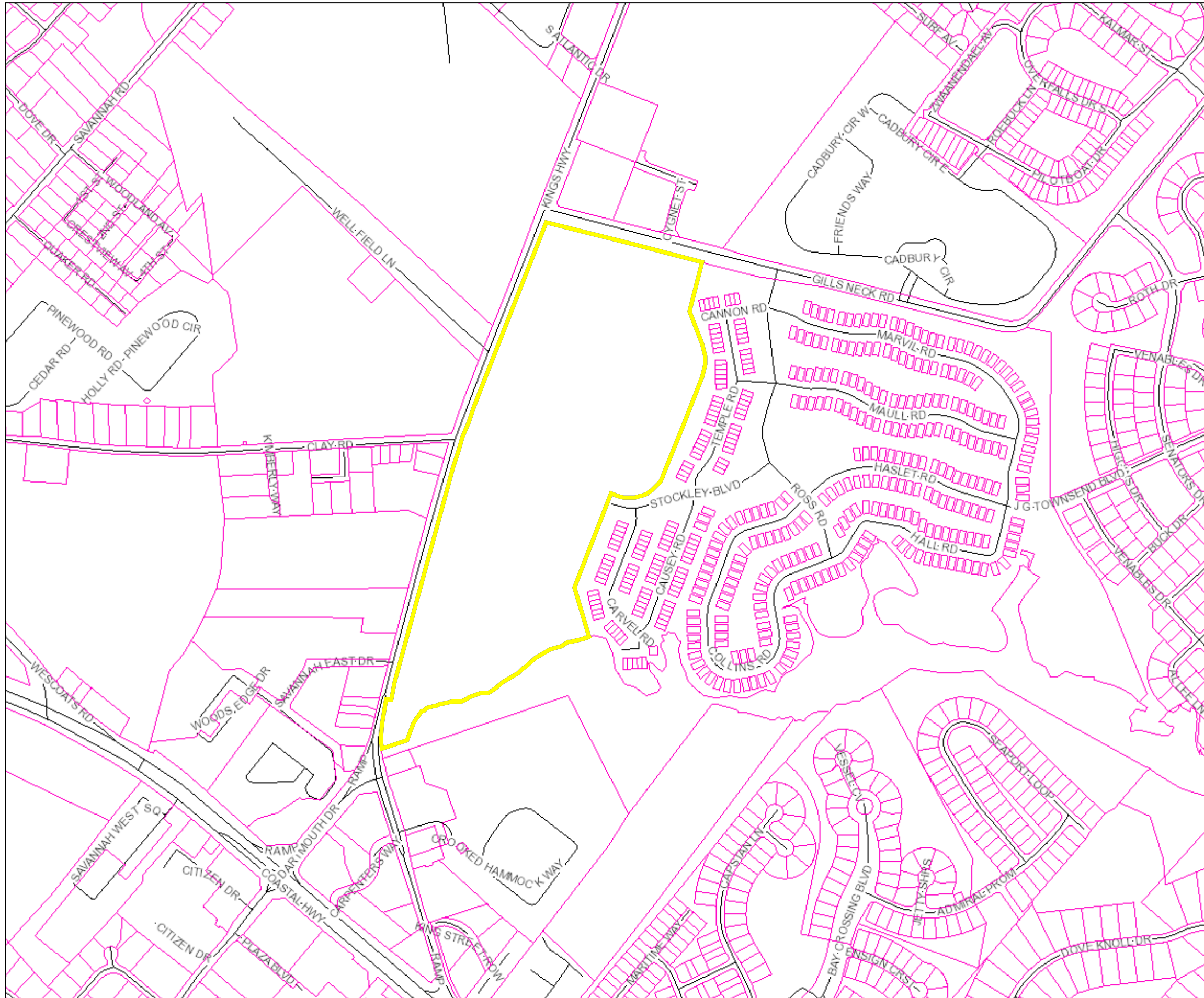
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- Override 1
- Tax Parcels
- Streets
- County Boundaries

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Sussex County



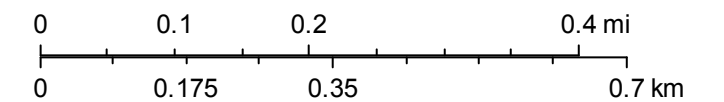
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Owner Name	JG TOWNSEND JR CO
Book	361
Mailing Address	PO BOX 430
City	GEORGETOWN
State	DE
Description	E/KINGS HWY
Description 2	S/GILLS NECK RD
Description 3	RESIDUAL LANDS
Land Code	

- polygonLayer**

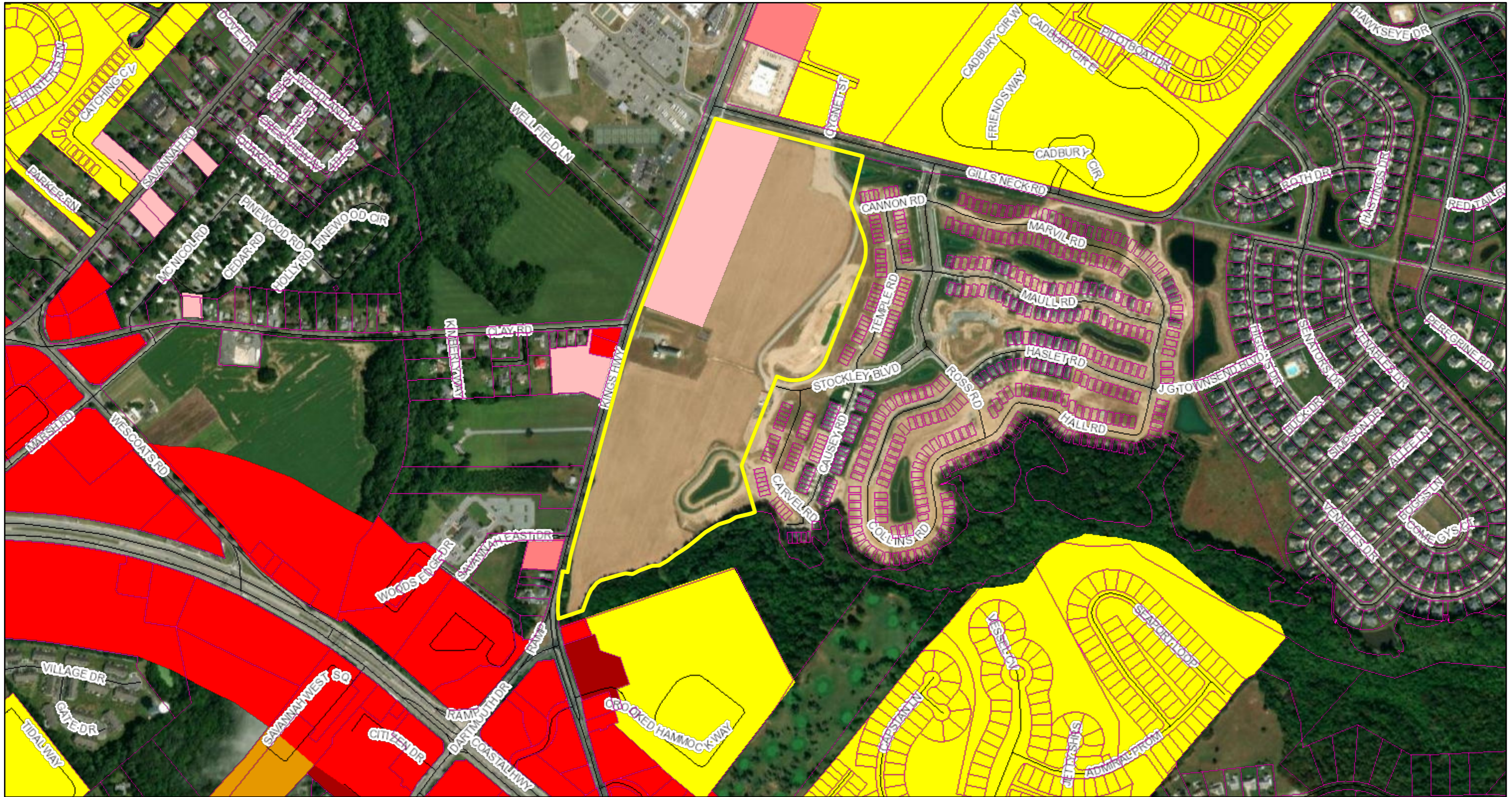
 - Override 1
- polygonLayer**

 - Override 1
 - Tax Parcels
 - Streets
 - County Boundaries

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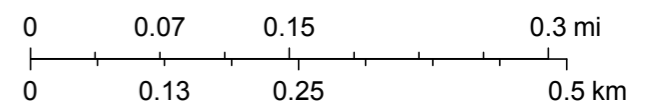
Sussex County



February 7, 2023

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



Sussex County, Sussex County Government, Maxar

Introduced: 08/23/22

Council District 3: Mr. Schaeffer
Tax I.D. No.: 335-12.00-3.00 (p/o)
911 Address: 16673 Kings Highway, Lewes.

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS

WHEREAS, on the 22nd day of March 2022, a zoning application, denominated Change of Zone No. 1979 was filed on behalf of J.G. Townsend Jr. & Co.; 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. 1979 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 [Agricultural Residential District] and adding in lieu thereof the designation Medium 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 Lewes & Rehoboth Hundred, Sussex County, Delaware, and lying on the east side of Kings Highway (Rt. 9) and on the south side of Gills Neck Road (S.C.R. 267) at the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267) and being more particularly described in the attached legal description prepared by Davis, Bowen & Friedel, Inc., said parcel containing 25.56 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.



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 23, 2023

RE: County Council Report for C/U 2359 filed on behalf of JG Townsend Jr. & Co.

The Planning and Zoning Department received an application (C/U 2359 filed on behalf of JG Townsend Jr. & Co.) for multi-family (102 units) on parcel 335-12.00-3.00. The property is located at 1667 Kings Highway, Lewes. The parcel size is 25.56 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on May 25, 2023. At the meeting of June 22, 2023, the Planning & Zoning Commission recommended approval of the application for the 8 reasons and 17 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting of May 25, 2023 and June 22, 2023.

Minutes of the May 25, 2023, Planning & Zoning Commission Meeting

Chairman Wheatley approved the request to combine the public hearings for C/Z 1979 J.G. Townsend Jr. & Co. and C/U 2359 J.G. Townsend Jr. & Co. as the property was the subject of both applications.

C/U 2359 J.G. Townsend Jr. & Co.

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR (MEDIUM RESIDENTIAL DISTRICT) FOR MULTI-FAMILY (102 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS. The property is lying on the east side of Kings Highway (Rt.9) and the south side of Gills Neck Road



(S.C.R. 267), at the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267). 911 Address: 16673 Kings Highway, Lewes. Tax Map Parcel: 335-12.00-3.00 (p/o).

Mr. Whitehouse advised the Commission that submitted into the record were the DelDOT Service Level Evaluation Response, a copy of the Applicant's Conceptual Site Plan, the Applicant's exhibits, Staff Analysis, a letter from the Sussex County Engineering Department Utility Planning Division, the Environmental Assessment and Public Facility Evaluation Report, and a copy of the Applicant's Wellhead Protection Area responses. Mr. Whitehouse stated nine written responses had been received for the Application.

The Commission found that Mr. David Hutt, Esq., with Morris James, LLP, spoke on behalf of the property owner, J.G. Townsend Jr. & Co., and the Applicant, Jack Lingo Asset Management; that also present were Mr. Nick Hammonds and Mr. Ryan Mitchell with Jack Lingo Asset Management, Mr. Ring Lardner, Professional Engineer with Davis, Bowen & Friedel, Inc. (DBF), Mr. Cliff Mumford, and Mr. Steve Cahill, Professional Geologist with Verdantas, who prepared the submitted Environmental Assessment Report. Mr. Hutt stated that not only are the Application's compliant with the Code, consistent with the Comprehensive Plan, consistent with the nature and character of the area, but they also fit neatly into, what he referred to as the "Master Plan"; that he understood Sussex County currently does not have a Master Plan District; that the property fits neatly into the mold of what can happen when there is a singular property owner for a property over decades; that good land use planning place the most intense uses and the highest densities along major highway; that this was the planning perspective used when designing the Applications; that the most intense uses are located along Kings Hwy.; that nearest to Wolfe Pointe, Wolfe Runne and Hawkseye, are the locations of larger lots and less dense areas; that having a singular property owner allows a long-term master plan vision for better land use planning, as well as, the property owner is able to coordinate other things, such as storm management; that there are shared stormwater management ponds between Senators and Governors; that proposed stormwater management ponds will be shared between Governors and the subject project; that similarly, this provides an opportunity for interconnectivity between all of the various subdivisions and plans as they come along; that Mr. Lardner will speak on the Master Plan, how the site will be accessed and how access will be afforded to Governors through the project; that the intersection of Kings Hwy. and Gills Neck Rd. is well known, as it is a route into Lewes, to the Cape May Lewes Ferry, and an entrance to Cape Henlopen High School; that Crooked Hammock, the future commercial Village Center, the Cape Henlopen Medical Center, the Mitchell's Corner commercial project, the Mitchell's Corner residential project; Lane Builders and Big Oyster are located within the nearby area of the site; that additionally, the Cape Henlopen High School, Governors, Senators, Hawkseye, The Moorings, Breakwater, Admirals Chase and the bike trail are in the nearby area of the site; that the total acreages is a little over 65 acres; that in the State Planning Coordination's PLUS response to the Application, it was stated that according to the 2020 State Strategies Map, the property is located within Investment Level 1; that Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing and/or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy; that the site is where the State expects and encourages growth to occur; that according to the 2045 Future Land Use Map within the Comprehensive Plan, the site is located within the Coastal Area, being one of the County's seven growth areas; that currently the site is located within the AR-1 (Agricultural Residential) Zoning District; that the current Change of Zone application seeks to change the zone from AR-1 to MR (Medium-Density Residential); that located between the subject site and Kings Hwy is and Area of B-1 (Neighborhood Business), being the location for the Village Center commercial area; that there was a Conditional Use approval granted for the Cape Henlopen Medical

Center to operate at the intersection of Gills Neck Rd. and Kings Hwy.; that on the other side of that area is an area zoned for C-2 (Medium Commercial), anticipated to be another similar medical center with professional offices; that there are many areas for residential being the location of the Mitchell's Corner residential project, The Moorings, Breakwater and Admirals Chase; that there are other nearby areas zoned for C-1 (General Commercial) and C-3 (Heavy Commercial); that the subject Applications request to change the zone of 25.5 acres of the total 65 acres from AR-1 (Agricultural Residential) to MR (Medium-Density Residential); that this request would leave approximately 27.8 +/- acres of AR-1 zoned property to be located on the opposite side of Stockley Blvd.; that the balance of the site, being 11.6 acres, is already zoned B-1 (Neighborhood Business), and he requested Mr. Ring Lardner to review the Application's compliance with the Code, the technical features and site plan design.

The Commission found Mr. Ring Lardner, Professional Engineer with Davis, Bowne & Friedel, Inc. spoke on behalf of the Applications. Mr. Lardner stated in 1992 the area was mostly farm fields, with corn crops and pivots; that as of last year, the area had grown into various developments previously described by Mr. Hutt; that the site consists of 65.5 acres total; that the proposed cottages would be located on 25.56 acres of the total acres; that the site is located along Gills Neck Rd, located to the north.; that the Village Center Commercial use is located to the east; that Stockley Blvd. is located to the south, as part of the whole village center and its interconnection into Governors, which has already been planned, stubbed and installed; that Governors is located to the west of the site; that further to the east is Kings Hwy., which is classified as a principal arterial road per DelDOT's Functional Classification Map; that furthermore, Kings Hwy. is defined as a major arterial roadway as per No. 7 of the definition found in Chapter 115, Section 4 of the County Code; that Gills Neck Rd. is classified as a local road per DelDOT; that the proposed cottages will continue the development of Gills Neck Rd. or the corridor as first contemplated decades ago, with the construction of larger communities being Wolfe Pointe, Wolfe Runne, Hawkseye, Showfield, as well as smaller, more dense housing options such as, Breakwater, Senators, Governors and the proposed Village Cottages; that this will ultimately lead to the Village Center, which will provide shopping options to the corridor in the form of a 75,000 sq. ft. neighborhood center; that other developments along Gills Neck Rd. include Admirals Chase, The Moorings and the Mitchell's Corner residential project; that the project was further defined as Governors was designed as there is a lot of shared infrastructure with Governors; that all of this was planned together to develop vehicular and pedestrian interconnectivity; that Architect Union Studio drew up the initial layout to highlight the unique design approved used for the site and submitted as Exhibit 20; that the Village Center cottages is a neighborhood of 102 compact cottage scale homes, organized around the principles of New Urbanism, which is a philosophy seeking to encourage community interaction, human scale, and walkability in our neighborhoods; that the homes have been carefully cited to help create a series of intimate pedestrian focused neighborhoods, linked by walkways and characterized by common greens and car-free planted courtyards; that each of the neighborhoods within the plan is comprised of 10 to 16 homes, organized around unique and varied courts and park-like edges; that in this way, the overall population of 102 cottages is experienced more as a collection of smaller pocket neighborhoods, where neighbors know one another, and a sense of community is fostered; that parking is accessed from discrete rear lanes, which are carefully corralled, so it does not impinge on the human scale of the plan; that there cars are allowed, they are tucked discreetly to the rear, between units, and shielded from common area spaces; that this allows for vehicle accommodation, but the neighborhood experience is primarily a place to walk; that walkways link up and lead from one pocket neighborhood to another, linking all of the neighborhoods to the community building and to the retail village beyond; that sidewalks will connect everything together; that the homes will range from one to three bedrooms; that the homes will range from 1,000 sq. ft. to 1,500 sq. ft.; that homes will have a small side or rear yard patio, as well as a front porch

looking out to a common green or pedestrian right of way; that the individual units are arranged to nest with one another; that the floor plans are being arranged so that living spaces on one unit are never adjacent or visible to the living spaces of another unit; that simple roof forms and tight one slated building envelopes will allow the future possibility of efficient deployment of solar panels and very low net energy usage; that aesthetically, the neighborhood design drew inspiration from coastal styles prevalent in the Mid-Atlantic states, with simple, traditional forms, clad and clapboard, with shingle and painted trim; that although the project is technically considered a multi-family project, they felt that parking should be based on single-family requirements, being two spaces per unit, in lieu of the multi-family requirement, which allows two spaces per unit and a reduction in parking after the first 50 units; that additionally, the cottages will not have more than three bedrooms and therefore extra parking would not apply for the four-bedroom and larger units; that based on the project calculations, 204 parking spaces are required; that the plan provides 240 parking spaces; the proposed density, based on project area is 3.99 units per acre; that the project proposes a total impervious area, including buildings, streets and sidewalks is 9.67 acres (38%) of the project area; that a minimum of 2,000 sq. ft. clubhouse, with a minimum 1,000 sq. ft. water surface area pool is planned for the middle of the project area; that Street A, Street C and Stockley Blvd. will be designed to Sussex County standards; that parking lanes A, B, C, D, E & G are designed to be narrow at 20-ft wide, to provide off street parking for each block and not under the jurisdiction of Sussex County; that stormwater management will be provided via the existing ponds constructed by the developer of Governors, and being one of the first shared infrastructures; that when Governors was designed, the ponds were designed to account for the full build out of the total 65 acres; that it was approved by Sussex Conservation District; that they assigned curved numbers of commercial uses and townhouses, to allow for planning of any potential uses; that all storm management has been pre-approved, with the only remaining requirement is to validate the drainage areas for planning approval; that no additional stormwater management will be required for the cottages; that a Shared Maintenance Agreement was submitted as Exhibit 9 in the booklet; that the agreement is written such that currently Governors is responsible for 100% of the pond maintenance until the first building permit is issued within the Village Center commercial area or the Village Cottages, at which time, J.G. Townsend will be responsible for 72% of all maintenance costs of the shared ponds; that they are requesting a waiver from providing a forested buffer between Governors and the Village Cottages; that they requested a similar waiver for Governors, which was approved, because the property line bisects the ponds and lands; that there is sufficient separation between the projects as previously mentioned; that Governors and the Village Cottages are separated by two large stormwater ponds; that the closest cottage is 70 ft. to the property line and 130 ft. to the nearest townhouse unit; that Governors landscaping will be provided between the two properties of the green space to help separate, but not screen, them; that the pump station is proposed to be shared with Governors; that the sewer pump station was also designed for the full build out of the site; that the project area does not contain flood plains or wetlands; that a site investigation was performed by Mr. Edward Launay, with Environmental Resources Inc. and a division of DBF, Inc., noted in Exhibit 11; that the exhibit demonstrates that the project is located within uplands and does not include federally listed, threatened or endangered species, or critical habitats, including the habitat for the monarch butterfly; that a large portion of the project area, being approximately 18.9 acres, is located within the Wellhead Protection Area, with approximately 81% impervious coverage, therefore the project must comply with Chapter 89 of the Sussex County Code; that the Wellhead Protection Area is the well field for the City of Lewes Board of Public Works; that the parcel was previously studied as part of the Village Center commercial rezoning in 2017; that the adjacent Mitchell's Corner also completed an Environmental Assessment Report for their impact on the Wellhead area; that studies found both projects exceeded their requirements for compliance with the County Code; that Verdantas was hired to provide an

Environmental Assessment Report; that Mr. Steve Cahill, Geologist was the author of all three reports; that as part of the application process, they met with Mr. Hans Medlarz, Sussex County Engineer, to discuss the project's compliance; that the only requirement for the project is compliance with the Water Climatic Budget, which they have met; that the full report and budget can be found in Exhibits 7 & 8; that his office met with the City of Lewes Board of Public Works; that currently, Lewes Board of Public Works had not shared any objections to the proposed applications; that the project is located within the Sussex County Unified Sewer District; that the project will be served by a gravity sewer system to the Governors pump station; that the property will be served by Delaware Electric Cooperative for electric, Chesapeake Utilities for natural gas, and Tidewater Utilities for water; that all utility companies have provided a Willing and Able Letter, located within Exhibits 13 through 16; that a DelDOT Service Level Evaluation Response and Public Facility Report was submitted, which state the impact of the project is minor and may generate between 50 and 200 peak hour trips or 502,000 daily trips; that the project was part of their larger Traffic Impact Study (TIS), being first contemplated in 2007, which generated a letter agreement in 2009, for all the projects being Showfield, Governors, Senators and The Village Center; that the project was also included as a committed development in the Mitchell's Corner Traffic Impact Study; that the project is part of an ongoing Village Center Operational Analysis, which is part of the commercial; that DelDOT is designing Kings Hwy. to be dualized from Dartmouth Rd. intersection to the city limits; that the configuration of that road include signals or roundabouts, and any other unknown decisions by DelDOT; that the proposed cottages will tie into the interim improvements that will be completed by the Mitchell's Corner project; that the interim improvements include, dualizing Kings Hwy. from the northern portion of the Cape Henlopen High School down to Clay Rd., and modifying Gills Neck Rd. to include dual left-turn lanes onto Gills Neck Rd.; that Village Cottages will also tie into the Clay Rd., Kings Hwy., and Stockley Blvd. improvements and that signal modification, including auxiliary lanes in all four directions; that all of the improvements are designed with the project's traffic accounted for in the design; that the Applicant met with select individuals of the Lewes Byways Committee, as they are committed to working with them on the shared use path, landscaping and fencing; that they are currently awaiting decisions for DelDOT regarding the frontage along Kings Hwy.; that the project was reviewed by PLUS on December 15, 2021; that a copy of the PLUS comments and the Applicant responses were submitted as Exhibit 12; that the comments were general in nature stating that they would comply with all regulatory requirements; that his office prepared the Environmental Assessment and Public Facility Evaluation Report in accordance with the Chapter 115, Section 194.3 of the County Code; that the new responses were submitted in Exhibit 10; that the project has analyzed all aspects of the respective items and all mitigation measures are consistent with the Comprehensive Plan; that the project is integrated into the existing terrain and surrounding landscape; that the site does not contain wetlands or floodplains; that proposed buffers are provided to screen objectionable features; that the plan prevents pollution of surface and groundwater; that the plan provides for safety of vehicular and pedestrian improvements; that the plan mitigates the effect on area roadways and public transportation and the project is compatible with other area land uses.

Mr. Hutt stated he had already discussed the plans compliance and the reasoning for the Application's requests; that the MR District is to provide for medium-density residential development in areas which are expected to become generally urban in character, where sanitary sewer and public water supply may or may not be available at the time of construction; that when looking at the aerial imagery, the site has certainly become a more urban or semi-urban character; that public water and sewer area available to the site; that multi-family dwellings are permitted as a Conditional Use in the MR (Medium-Density) Residential Zoning District, which is the reasoning for the Conditional Use Application; that Conditional Uses are uses that are generally of a public or semi-public character,

being essential and desirable for the general convenience and welfare, but because of the nature of the use and the importance of the relationship to the Comprehensive Plan and possible impact on neighboring properties, it requires the exercise of planning judgement on location and site plan review; that housing has routinely been found to be of public or semi-public character, certainly being essential and desirable for the County; that within the Comprehensive Plan it states that in the Coastal Area, medium and higher densities are appropriate where there is central water and sewer, where there is a significant number of commercial uses and employment centers, where the project is in keeping with the character of the area, and where it is situated along a main road, or being located at or near a major intersection; that every criteria item has been met by the proposed Application; that Table 4.5-2 indicates the zoning districts appropriated and which Future Land Use Map categories; that MR (Medium-Density Residential) is an appropriate zoning district in the Coastal Area, as reflected on Table 4.5-2; that there are a number of townhomes, duplexes and other multi-family uses that currently exist in the area; that there are assisted living facilities, which is a multi-family type use, existing in the area; that immediately adjacent to the site is the townhome section of Governors; that there was correspondence submitted expressing concerns regarding the proposed density of the project, and the ability for the project to fit between the Village Center Commercial Area and the townhome portion of Governor's community; that he had began his presentation with an aerial map outlining several surrounding communities and commercial uses in the area; that Dutchman's Harvest, located within the City of Lewes, has a density of 17.7 unit per acre; that Harbor Town Square has a density of 11.9 units per acre; that Woods Edge is 11 units per acre; that Savannah East Apartments at 11 units per acre; that Jefferson Apartments is 9.8 units per acre; that The Moorings, formally known as Cadbury, has a density of 6.4 units per acre; that the Mitchell Corner project, being located directly across Gills Neck Rd. from the site, has a density of 6.2 units per acre; that Henlopen Gardens is 5.5 units per acre; that Governors is 3.6 units per acre; that Beach Plum Dunes is 3.2 units per acre; that Bay Breeze Estates is 3 units to the acre; that the proposed plan is consistent with the Zoning Map and the MR Zoning classifications, as well as the zoning within the municipal limits of the City of Lewes; that there are a number of multifamily uses, all with densities great than the proposed project; that there are existing MR zoned areas within the immediate area, being located directly across the street, down Gills Neck Rd., back to Admirals Chase, along Kings Hwy and Beach Plum Dunes; that the site's immediate neighbor to the northeast is Governors, which is zoned AR-1, with a density of 3.6 units per acre; that due to the concern expressed regarding the composition density difference of the project in relation to Governors, he requested DBF, Inc. to overlay 25 acres on the immediately adjacent Governors site; that when that was done, the 25 acres included 139 units, which created a density of 5.4 units to the acre, being more dense than the proposed Villages Cottages; that the Villages Cottages are just under 4 units per acre; that additionally he requested DBF, Inc. to perform the same analysis and overlay on the single-family home section of Governors, resulting in a density of 3.6 units per acre; that this goes back to good land use planning, where more intense and dense uses are located closer to Kings Hwy, decreasing further along Gills Neck Rd.; that the design of the community was purposeful; that good land use principles and shared infrastructure were the themes that guided the project into fruition; that Governors is currently paying for the shared stormwater management; that as proposed, as soon as a building permit is pulled for either the commercial area or the cottages, the numbers shift dramatically; that at that time, 70% will be maintained by the subject 65 acre property, and the Governors share of the maintenance decreases significantly; that there were concerns raised regarding interconnectivity from the Village Center Commercial Area to the Village Center Cottages, and then to the Governors community; that Mr. Lardner had indicated, the interconnectivity had been the master plan from the outset of development; that the Delaware Uniform Common Interest Ownership Act require sellers to provide seller disclosures; that the sellers disclosure did provide notice that Stockley Blvd would be an entrance for the future development of the 65 acre parcel; that various comments of concern were

raised regarding traffic; that Mr. Lardner previously indicated the traffic impact had been studied numerous times; that the projects have always been consideration in the studies performed; that no one can control DelDOT, or the pace at which DelDOT completes the improvements along Kings Hwy.; that the Village Center, regardless of what portion is developed first, will be required to be make the improvements previously mentioned by Mr. Lardner, particularly at Clay Rd. and Stockley Blvd., creating a four-way intersection; that additionally, significant improvements will be coming to Kings Hwy in the near future, as the Mitchell's Corner project comes into fruition; that there are interim improvements which have been discussed and reviewed; that they are currently in the process of being approved by DelDOT for those interim improvements; that it is important to remember that, all of the projects, beginning with Wolfe Pointe, Wolfe Runne, Hawkseye, Senators, Governors and the Village Center Commercial Site, all arose from the same fields that existed between Kings Hwy, Gills Neck Rd. and the canal; that these fields have been under the same ownership, and carefully developed throughout time; that essentially, the proposed application is an infill project between the residential area of Governors and the Village Center Commercial Site; that he trusted with the various professional reports and the presentation made, the Commission would agree that the Application is consistent with the County's Code, the Comprehensive Plan, and the character of the area; that he presented to the Commission renderings of the envisioned courtyard areas for the proposed community; that there is nothing wrong with townhomes and duplexes, however, the developer put time, effort and thought into providing the proposed style of units, which is different than anything else currently existing along Gills Neck Rd. or frankly, almost anywhere within Sussex County; that he hoped the Commission would agree that having an alternate way to have units available, through a courtyard type plan, is good for the streetscape and land use plan for Sussex County; that the Applicant requests the Commission recommend approval of the change of zone request from AR-1 to MR (Medium-Density Residential), as well as the Conditional Use request for 102 multifamily units for the site; that he requested to submit proposed Findings and Conditions for each Application; that in proposed Condition F, for C/U 2356, relates to the parking areas; that with favorable recommendation, the Commission typically imposes a condition requiring streets to meet or exceed the County's street design requirements; that the proposed parking areas are not considered streets, therefore, are not required to comply with Sussex County standards; that Condition J states the required minimum square footage of water surface for the pool and clubhouse areas; that Condition L is related to the Chapter 89 requirements; that in the project book materials, there is an email exchange between Mr. Medlarz and Mr. Lardner, regarding certain requirements of the site plan; that the requirements will apply whether it is the Village Center Commercial Area or the Village Center Cottages; that one of the requirements is that the Engineering Department will review the construction plans, and will review the Water Climatic Budget; that there is a note of prohibition relating to rooftop air conditioning system components that would require intermittent unit blowdown and proposed Condition N states that Saturday construction hours would only be permitted from October 1st through April 30th, which aligns with the timing DelDOT allows construction to be performed in those areas.

Ms. Stevenson stated her only concern related to compliance with the Byways and despite not being within the Commission's purview, she suggested consideration be given to noise reduction as the buildings are located close together.

Ms. Wingate requested confirmation of the required parking total is 204 spaces and the provided parking total for the project is 240 spaces and questioned if the access to the parking area will allow for fire trucks and emergency vehicles.

Mr. Lardner stated Ms. Wingate was correct; that the plan provides for 240 spaces in excess of the required 204 spaces; that Street C is a 24 ft. wide car path, with parking on either side; that the parking lanes are 20 ft. wide, which allows the ability for fire trucks to pass through the parking lane.

Mr. Mears stated he had no questions but stated that he did love to coastal cottage courtyard theme, as it is something different.

The Commission found three people in the room and two people by teleconference commented on the Applications.

Mr. Ken Rehfuss spoke in support but proposed questions about the Application. Mr. Rehfuss stated he thought the cottage concept is great, as there are existing townhouses and duplexes located across the street; that he still had confusion relating to the service lane that backs up to the commercial area; that he assumed it is a pathway to provide for interconnectivity; that he questioned the proposed type of screening; that he is a developer in Washington; that many times, there is a different type of screening required when dealing with commercial uses versus residential; that he felt everything looked appealing and he stated he was a big advocate of the project.

Mr. Lardner stated the road was a service road to provide service to the commercial area; that the parking lanes will tie into the service road to finish connectivity, and avoid a dead end; that they are still working on the screening for both projects; that the screening of both projects are being designed together so that one project's screening does not adversely impact the other; that there will be screening to protect the views from commercial with the residential; that all of the screening details will be forthcoming as the design of the commercial area comes forward; that should Commission and County Council grant approval, all of the screening would be integrated and designed together, to allow the projects to be harmonious with each other.

Mr. Robertson questioned the location of the B-1 area and mentioned that it would all be reviewed during the site plan review process.

Mr. Michael Wolfe spoke in support of the Applications. Mr. Wolfe stated he is a member of the Condominium Association Board for Governors; that the Executive Board of the Governors Condominium Association had submitted a letter around May 15th, which he requested to read to the Commission; that the letter stated, *“this proposed community lies adjacent to the Governors community, and will share boundaries, common areas, ponds, and streets. While we are not opposed to the new development, we have several concerns regarding the proposed plan. Our primary concern is the proposed street interconnectivity planned with the Governors’ private streets. As proposed, the street interconnectivity will lead to additional traffic within Governors since it almost certainly will be used as a cut-through from Gills Neck Rd. for non-residents. We propose limiting the interconnectivity to emergency traffic, bikes, and pedestrians through the use of gates or other means. Second, Governors has entered into a pond-sharing agreement with J.G. Townsend, that covers the cost of the maintenance electricity to run the pond’s fountains. The agreement will need to be reviewed in light of the plan for the proposed development. Next, the proposed plans for the Village Center Residential Community outlined the property line on the boundary with Governors. When the Governors Executive Board transitioned from the developer, plans for the new community had not yet been published. We request that a new survey be completed to confirm that the true boundary lines between the two communities. Fourth, we would like to better understand the developer’s plan to buffer the trees to the common space that separates Governors from the Village Center. Other than the ponds in the open space, the design plan shows little in the way of trees between the two communities. Governors wish to remain its own standalone community and not appear to be part of the new Village Center. We request that the common area bordering our communities have ample trees and*

shrubbery to mitigate noise and help differentiate the two communities. Fifth, since the developer of the proposed community and Governors are the same, it appears there is an attempt to share common space with the new development. We request the developer install similar fencing and/or signage at the new development entrance that matches the Gills Neck Rd. entrance. This would help differentiate the two communities and indicate to people trying to pass through, so they know they have entered a new community. We'd also like to raise concern over the density of the new complex on such a small piece of property and the lack of open space within the community. This area is already lacking parks and open space for recreation. Next, we have concerns that the complex is associated with or tied into a new retail center on Kings Hwy. border. We feel plans should be completed and approved before a new residential section is approved. Lastly, improvements are required on Kings Hwy. to accommodate the increased traffic from other developments currently being built. We request the impact of those projects is addressed before additional traffic is added to the existing problem.”; that he personally had concerns relating to interconnectivity; that he listened to the discussion and the statements made that notice was provided within the documents; that he had reviewed all the documents; that he believes it is a true statement, though it was a very short little blurb; that interconnectivity is subjective; that interconnectivity can mean all types of vehicles are permitted through, or it could also mean interconnectivity is limited to what is practical and safe; that he felt it more appropriate for the interconnectivity to be minimized to only allow emergency vehicles, pedestrian traffic, and bicycles; that this will limit Amazon trucks from flying through, which is unsafe for children on their bikes and scooters and he felt the interconnectivity posed a safety concern.

Mr. Edward Rush spoke with questions regarding the Applications. Mr. Rush stated he also is a member of the Executive Board of the Governors Condominium Association; that he is a retired Fire Chief, who had been in the fire service for over 40 years; that he understood there was a performed traffic study, as part of the Environmental Assessment; that where he previously came from, they had a system of rating roads, and he questioned if there is a similar system in place in Sussex County; that he questioned the road rating for Gills Neck Rd. before and after development; that he had concerns regarding the accessibility of fire apparatus to the parking areas, as the access to the parking is a unique layout; that he felt 20 ft. from the end of one parking space to another is extremely tight for fire apparatus movement; that he is a member of the Lewes Fire Company, and he does not look forward to driving a fire truck in the community as it is proposed; that he questioned the estimated price range or targeted market for the cottages; that he is the Delaware Advocate for the National Fallen Firefighters Foundation – Everyone Goes Home Program; that they push hard for the placement of residential sprinkler; that in the past week, a home in Lewes was destroyed by fire; that had the house been located within Governors, at least three to four houses would have burned due to their close proximity to each other and he requested the Commission impose a condition requiring residential sprinklers be placed in the units.

Mr. Robertson stated there is a rating system for the roads, and it is contained in the traffic data, and it is more complex than just the rating of the roads, as every specific movement on an intersection is also rated.

Chairman Wheatley stated the entrance is 24 ft. and it is 20 ft. in the parking area; that the price range and targeted market for the projects were beyond the scope of the Commission; that sprinkler system requirements exceed the Commission's authority, as it is more of a Building Code requirement; that the Commission cannot require something that is not dictated in the County Code and the Applications will be present before County Council, who do have the authority to impose the condition.

Mr. Lardner stated he did not have the traffic study in front of him, but he recalled the existing condition of Gills Neck Rd. and Kings Hwy. is a Level of Service F, per the latest Traffic Operational Analysis (TOA) he had seen; that beyond Level F it does not degrade anymore; that the classification of F relates to a time delay to get through an intersection; that with the dualization and improvements, it does improve the rating to a Level of Service D, with interim improvements and the rating will stay as a Level D when DelDOT improvements on Kings Hwy is completed.

Mr. Paul Capriolo spoke by teleconference in opposition to the Application. Mr. Capriolo expressed his concerns regarding overcrowding, the proposed density, traffic congestion, infrastructure, interconnectivity, the erosion of the charm, character and scenic views of the area, the environment and wildlife habitats, the impact on the local ecosystem, preservation of open space and impacts on the water.

Ms. Stevenson stated that donations can be made to Sussex County Land Trust, as they purchase land to preserve it.

Mr. Greg Rutler spoke by teleconference in opposition to the Application. Mr. Rutler stated he agreed with all the points and concerns expressed by Mr. Capriolo, and additionally, he had concerns regarding stormwater management and stormwater treatment.

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

At the conclusion of public hearings, the Commission discussed the Applications.

In relation to C/U 2359 J.G. Townsend Jr. & Co. Motion by Ms. Stevenson to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 5-0.

Minutes of the June 22, 2023, Planning & Zoning Commission Meeting

C/U 2359 J.G. Townsend Jr. & Co.

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR (MEDIUM RESIDENTIAL DISTRICT) FOR MULTI-FAMILY (102 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS. The property is lying on the east side of Kings Highway (Rt.9) and the south side of Gills Neck Road (S.C.R. 267), at the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267). 911 Address: 16673 Kings Highway, Lewes. Tax Map Parcel: 335-12.00-3.00 (p/o).

The Commission discussed the Application which had been deferred since May 25, 2023.

Ms. Stevenson moved that the Commission recommend approval of CU 2359 J.G. Townsend, Jr. & Co., for 102 Multi-Family Units based upon the record made during the public hearing and for the following reasons:

1. This property has been recommended for approval of a change in zone from AR-1 to MR Medium Density Residential. The purpose of the MR zone is to provide housing in an area which is expected to become urban in character and where central water and sewer is available.

This conditional use application for multi-family units is in compliance with the purposes of the MR zone.

2. Both central water and central sewer will be available to this site.
3. This site is the location of the Gill's Neck Road and King's Highway lighted intersection and the King's Highway and Cave Neck Road lighted intersection. DelDOT is also planning to improve the King's Highway Corridor in the near future. Multi-family development is appropriate for this property in the area of these roadways and intersections.
4. The property is in the immediate vicinity of other properties with a variety of business, commercial, and institutional uses. The site is near the Cape Henlopen High School campus. It is near the City of Lewes with nearby Mixed Residential, General Commercial, and Community Facilities zoning districts within the City. Some nearby residential uses include Dutchman's Harvest within the City of Lewes with 17.7 units per acre; Jefferson Apartments within the City of Lewes with 9.8 units per acre; the Moorings at Lewes in Sussex County with 6.4 units per acre; and Henlopen Gardens in the City of Lewes with 5.5 units per acre. This is also the last parcel of the planned development of Gills Neck Road, with an appropriate density transitioning between the adjacent B-1 property on one side and the existing multifamily units on the other side. This conditional use at approximately six (6) units per acre is consistent with other zoning and multi-family developments in the area.
5. DelDOT has reviewed the proposed project and has determined that its traffic impact will be "Minor". When DelDOT determines that traffic impact will be minor, a project 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. This project has also already been incorporated into other existing Traffic Impact Studies and Traffic Operational Analysis as well as DelDot's Contract No. T202212901 for US9, Kings Highway, Dartmouth Drive to Freeman Highway. As the Site Plan is finalized, DelDOT will also require the developer to provide safe vehicular and pedestrian movement onto Gill's Neck Road and King's Highway.
6. The proposed multi-family conditional use meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.
7. 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 multifamily units.
8. There is no evidence that this project will adversely affect the neighboring properties, area roadways, or community facilities.
9. This recommendation is subject to the following conditions:
 - A. There shall be no more than 102 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. The recreational amenities shall include cottage courts, pocket parks, green area, and a central amenity area, including a pool with at least 10,000 square feet of surface area, and a community center/clubhouse of at least 2,000 square feet in size. These amenities shall be completed within the development as follows:

- i. The Community Center/Clubhouse and pool shall be completed on or before the 60th residential building permit; and
 - ii. The other amenities shall be completed as the adjacent dwellings are completed.
- 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. However, the Sussex County Street design standards shall not apply to the parking lanes within the development.
- H. This project is interconnected with the adjacent commercial areas facing King's Highway as well as the Governor's community which is itself interconnected with the Senator's Community. This interconnection is part of the larger plan for the residential development of King's Highway and Gill's Neck Road. This interconnectivity is important and necessary for safe vehicular and pedestrian movement within the developments to provide a means of access to and from them in addition to use Gill's Neck Road. This interconnectivity has been part of the developer's Master Plan for this entire area, and it has been shown and approved by Sussex County at each stage of development along Gills Neck Road. Therefore, once construction is completed this interconnectivity must remain open to all vehicular traffic at all times without obstruction.
- I. Road naming and addressing shall be subject to the review and approval of the Sussex County Geographic Information Office.
- J. The Applicant shall consult with the local school district's transportation manager to determine if a school bus stop is appropriate. If it is, the location of such a bus stop shall be shown on the Final Site Plan.
- K. Construction, site work, and deliveries shall only occur on the site between the hours of 7:00 a.m. through 6:00 p.m. Monday through Friday and on Saturdays between October 1 and April 30th. No Sunday hours are permitted. A 24-inch by 36-inch "NOTICE" sign confirming these hours in English and Spanish shall be prominently displayed at the site entrance during construction.
- L. The Final Site Plan shall include a landscape plan for the development showing the proposed tree and shrub landscape design for the community including the transitional landscaping used to screen the common boundary between this development and Governors. No buffering shall be required along the stormwater ponds shared with the adjacent Governor's community. The Landscape Plan shall identify all "Limits of Disturbance" within the site and these "Limits of Disturbance" shall be clearly marked on the site itself.
- M. The Applicant shall form a Condominium Association that shall be responsible for the maintenance of all interior roadways and parking areas, buildings, buffers, stormwater management areas, recreational amenities, and open space.

- N. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
- O. The development shall comply with the requirements of Chapter 89 of the Sussex County Code and the following notes shall be included within the Final Site Plan to ensure the long-term viability of the Wellhead Protection Area:

“During construction document plan review, the Applicant/Developer shall provide verification to the Sussex County Engineering Department that the post-development recharge exceeds the pre-development volume as calculated within the Water Climatic Budget. Additional recharge may be required if the side slop infiltration in the existing stormwater management ponds do not meet this requirement.”

“Rooftop air conditioning system components requiring intermittent unit blowdown are prohibited within the cottages project. The recorded condominium declaration for the cottages shall include this prohibition.”

- P. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- Q. The Final Site Plan shall depict or note these conditions of approval and it shall be subject to the review and approval of the Sussex Planning & Zoning Commission.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2359 J.G. Townsend, Jr. & Co., for the reasons and conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Mr. Hopkins – yea, Ms. Stevenson – 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 OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: May 25th, 2023

Application: CU 2359 J. G. Townsend Jr. & Co.

Applicant: Jack Lingo Asset Management, LLC
246 Rehoboth Avenue
Rehoboth Beach, DE 19971

Owner: J. G. Townsend Jr. & Co.
P.O. Box 430
Georgetown, DE 19947

Site Location: Lying on the east side of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267) at the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267)

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

Proposed Zoning: Medium Residential (MR) Zoning District

Proposed Use: 102 Multi-Family Units

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Schaeffer

School District: Cape Henlopen School District

Fire District: Lewes Fire Company

Sewer: Sussex County

Water: Tidewater Utilities

Site Area: 25.56 acre +/-

Tax Map ID: 335-12.00-3.00 (p/o)



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



Sussex County

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sussexcountype.gov

Memorandum

To: Sussex County Planning Commission Members
From: Mrs. Christin Scott, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney, and applicant
Date: May 18th, 2023
RE: Staff Analysis for C/U 2359 J.G. Townsend, Jr. & Co.

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/U 2359 J.G. Townsend, Jr. & Co. to be reviewed during the May 25th, 2023, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for Tax Parcel 335-12.00-3.00 (p/o) to allow for a Conditional Use for one-hundred and two (102) Multi-Family Dwelling Units. The property is lying on the east side of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267), at the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267). The parcel consists of 25.56 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 subject property has land use designation of "Coastal Area." The properties to the north, south, east, and west all have a land use designation of "Coastal Area" with properties to the northwest, across Kings Highway, having a land use designation of "Commercial Area."

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

Zoning Information

The property is split zoned Agricultural Residential (AR-1) District and Neighborhood Business (B-1) Zoning District. The adjacent parcels to the east and west of the subject property are zoned Agricultural Residential (AR-1) District. The properties located to the northeast of the subject site, across Gills Neck Road, are zoned Medium Residential (MR-1) Zoning District. A few parcels



south, north, and west of the site are zoned General Commercial (C-1), Medium Commercial (C-2), and Neighborhood Business (B-1) Zoning Districts.

Existing Conditional Use Applications within the Vicinity of the Subject Site

Since 2011, there have been thirty-two (32) Conditional Use applications within a one (1) mile radius of the application site. A data table has been provided below.

Based on this analysis, a Conditional Use for one-hundred and two (102) Multi-Family Dwelling Units could be considered as being consistent with the land use, area zoning and surrounding uses.

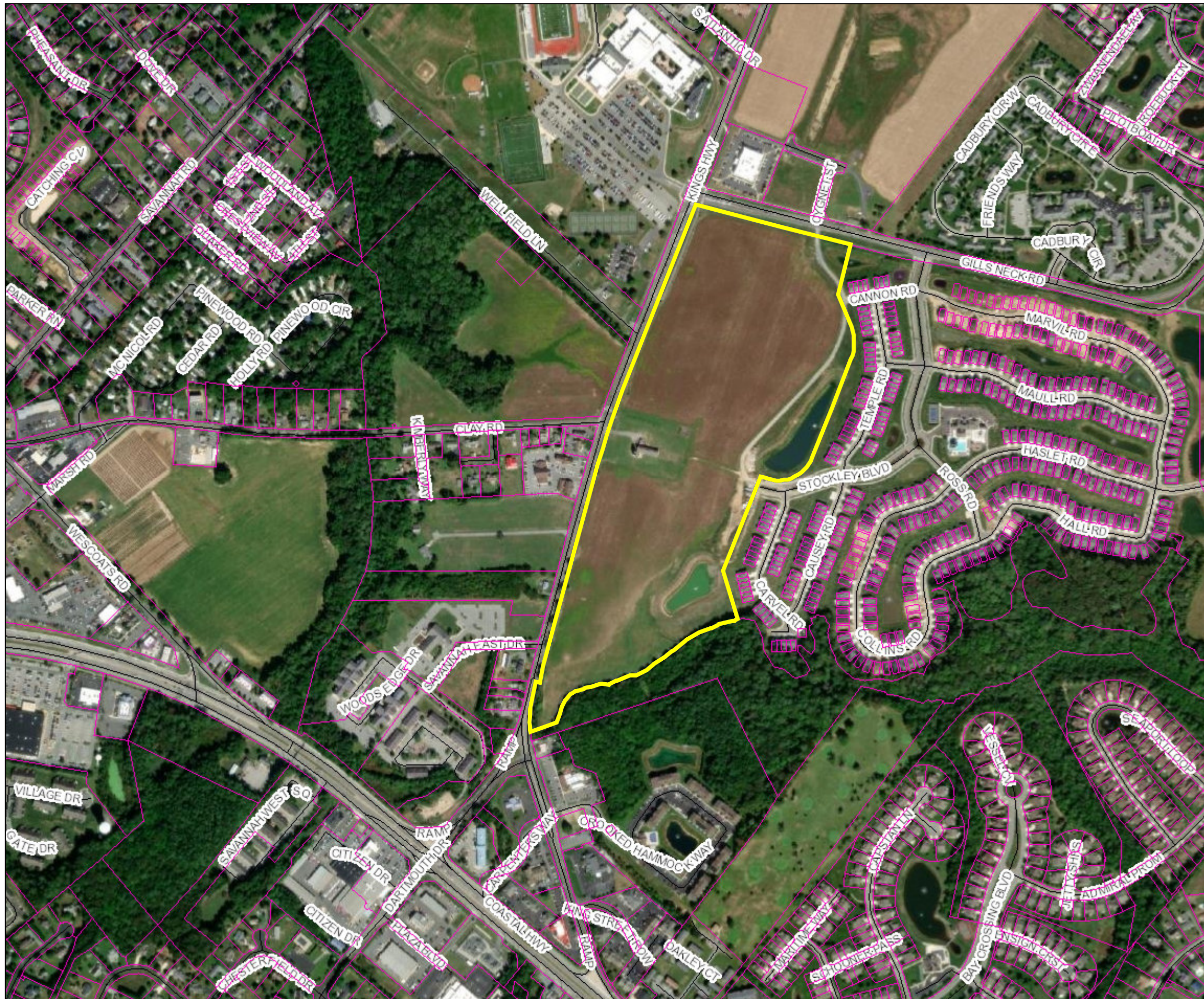
Conditional Use Number	Tax Parcel #	APPLICANT	911 Address or Road Name	Proposed Use	CC Decision Date	CC Decision
2352	334-6.00-504.02	CB Lewes, LLC	Coastal Tide - Tidal Way, Lewes	Multi-family (30 units)	6/14/2022	Approved
2334	335-8.00-37.00	Henlopen Properties, LLC	Kings Hwy & Gills Neck Rd	Multi-family	7/26/2022	Approved
2327	334-12.00-7.00	Howard L. Ritter & Sons, Inc.	33508 Ritter Lake Rd	Expansion of a non-conforming borrow pit	1/24/2023	Approved
2316	334-6.00-511.02	Lighthouse Construction, Inc.	17611 Shady Rd	Office Building	9/27/2022	Approved
2313	335-12.06-49.00	John Ford	1528 Savannah Rd	Realty Office	9/20/2022	Approved
2281	334-12.00-7.00	Susan Riter	Ritter Lake Dr	Borrow Pit	6/8/2021	Withdrawn
2264	335-8.18-15.00	Laudan Investments, LLC	1302 & 1305 Svannah Rd	General Office Use	11/16/2021	Approved
2262	334-6.00-686.00	Matthew Hete	34360 Postal Lane	Multi-family (4-units)	11/16/2021	Approved
2261	334-6.00-515.00	What Is Your Voice, Inc.	17583 Shady Road	Use Existing Garage for Office uses and one-story pole building for rental storage facilities (4 units) in connection w/ Applicant's non-profit corporation	9/14/2021	Approved
2252	334-12.00-2.00	Delaware Electric Co-Op	Cedar Grove Rd	Substation	7/13/2021	Approved

2237	334-12.00-55.01	Sam Warrington II	Postal Ln	Outside Boat & RV Storage	12/1/2020	Approved
2209	334-6.00-686.00	Matthew C. Hete	34360 Postal Ln	Multi-Family (14 Units)	7/28/2020	Denied
2181	335-8.00-37.00	Mitchell Family, LLC	Kings Hwy.	Multi-family (209)	<Null>	<Null>
2169	335-12.06-1.00	Robert & Debora Reed	1525 Savannah Rd.	Multi-family	6/18/2019	Approved
2160	335-12.06-3.00	Procino, Wells, and Woodland, P.A.	1519 Savannah Rd.	Professional Office	3/19/2019	Approved
2159	335-8.18-28.00	Elisabeth Ann Burkhardt	1500 Savannah Rd.	professional office	1/15/2019	Approved
2137	335-12.06-50.00	John W. Ford	1530 Savannah Rd.	professional offices	7/31/2018	Approved
2136	335-8.18-4.00	Christine Degnon	1409 Savannah Rd.	medical offices	10/23/2018	Approved
2134	335-8.00-44.00	The Evergreen Companies, LLC (Admirals Chase)	16386 Gills Neck Rd.	multifamily	8/14/2018	Approved
2133	335-8.14-47.00	Dr. Laima Anthaney and Dr. Michael Cahoon	1200 Savannah Rd.	professional office	7/31/2018	Approved
2132	335-12.06-58.00	Dorothy Darley	33995 Clay Rd.	Hair Studio	7/31/2018	Approved
2116	335-8.18-2.00	William and Stacey Smith	1501 Savannah Rd.	professional offices	3/20/2018	Approved

2112	335-8.00-37.01	Mitchell Family Limited Partnership	SE corner of Kings Hwy. and Gills Neck Rd.	medical office and ancillary medical uses	3/20/2018	Approved
2109	335-8.14-49.00	Quakertown Wellness Center	1204 Savannah Rd.	Holistic Health Center with massage, acupuncture and chiropractor	1/9/2018	Approved
2106	334-6.00-511.00	MDI Investment Group, LLC (C/O Doug Compher)	17645 Shady Rd. & N/A	multi-family (52 townhouses)	3/20/2018	Approved
2074	335-12.06-1.00	Quail Valley 1525, LLC (Midway Fitness)	1523 Savannah Rd	Commercial use as a Therapy and Fitness Center	8/8/2017	Denied
2073	334-6.00-496.00	Delmarva Power & Light Co.	18200 Coastal Hwy., Lewes	Expansion to an existing electrical station	3/7/2017	Approved
2069	335-12.06-58.00	Rudolph Joseph Johnson	34001 Clay Rd	Workout Studio	4/25/2017	Approved
2064	335-12.05-4.00	R & K Partners	1537 Savannah Rd., Lewes	medical offices	3/7/2017	Approved
1974	335-12.06-7.00	Sara Kay I. Phillips	Route 9B (Savannah Road)	Hair Salon	1/14/2014	Approved
1912	335-8.18-30.00	Wm. A. Bell & Kathleen M. Sperl-Bell	Savannarh Road	Professional Office	11/8/2011	Approved
1868	335-12.00-1.10	Old Towne Pointe, L.L.C.	N Village Main Blvd	pharmacy/community service	5/24/2011	Approved



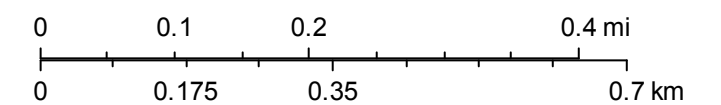
Sussex County



PIN:	335-12.00-3.00
Owner Name	JG TOWNSEND JR CO
Book	361
Mailing Address	PO BOX 430
City	GEORGETOWN
State	DE
Description	E/KINGS HWY
Description 2	S/GILLS NECK RD
Description 3	RESIDUAL LANDS
Land Code	

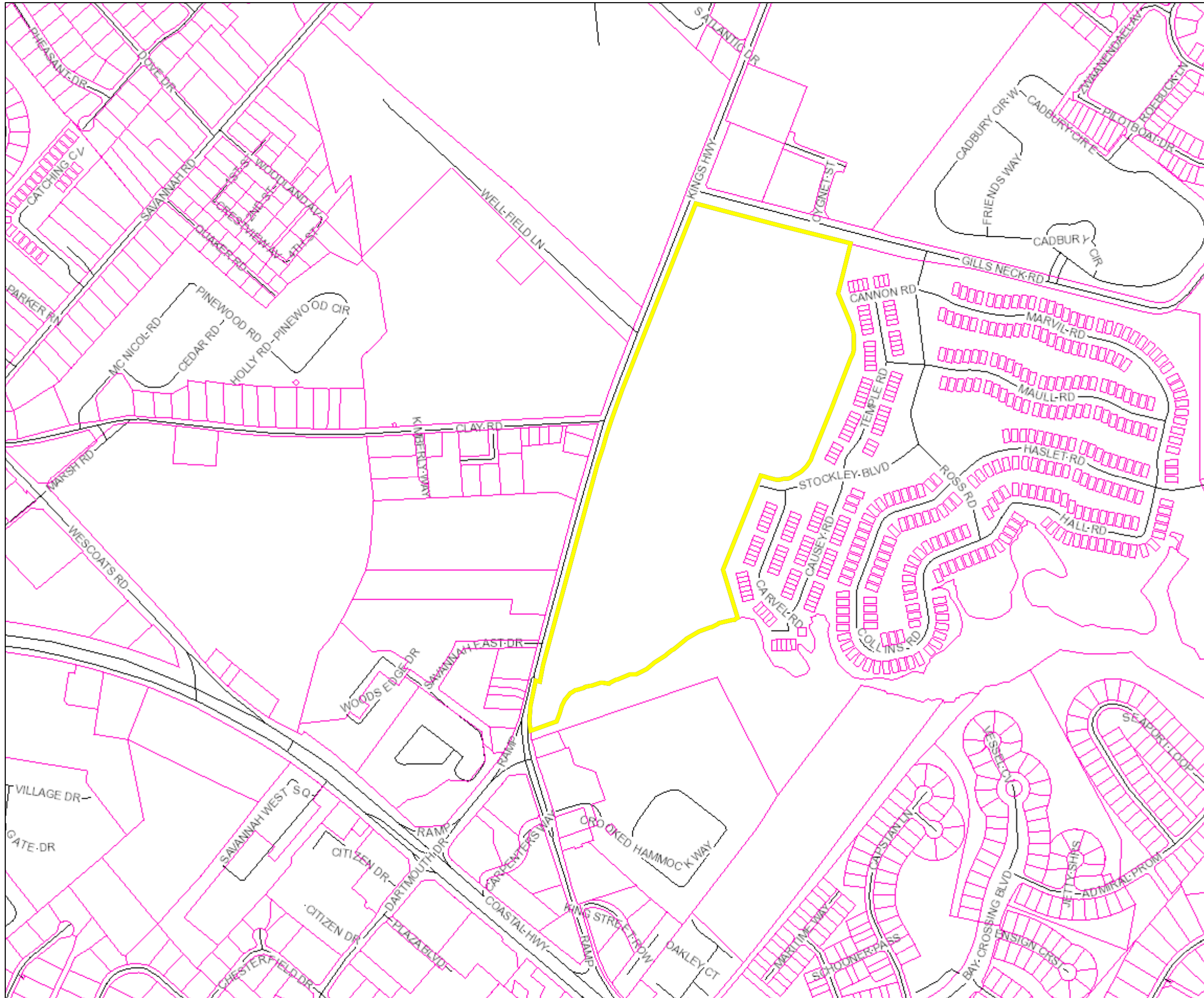
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- Override 1
- Tax Parcels
- Streets
- County Boundaries

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Sussex County



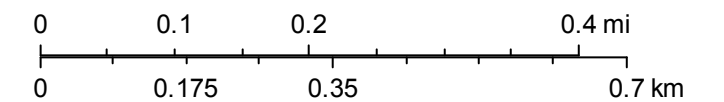
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Book	361
Mailing Address	PO BOX 430
City	GEORGETOWN
State	DE
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Description 2	S/GILLS NECK RD
Description 3	RESIDUAL LANDS
Land Code	

- polygonLayer**

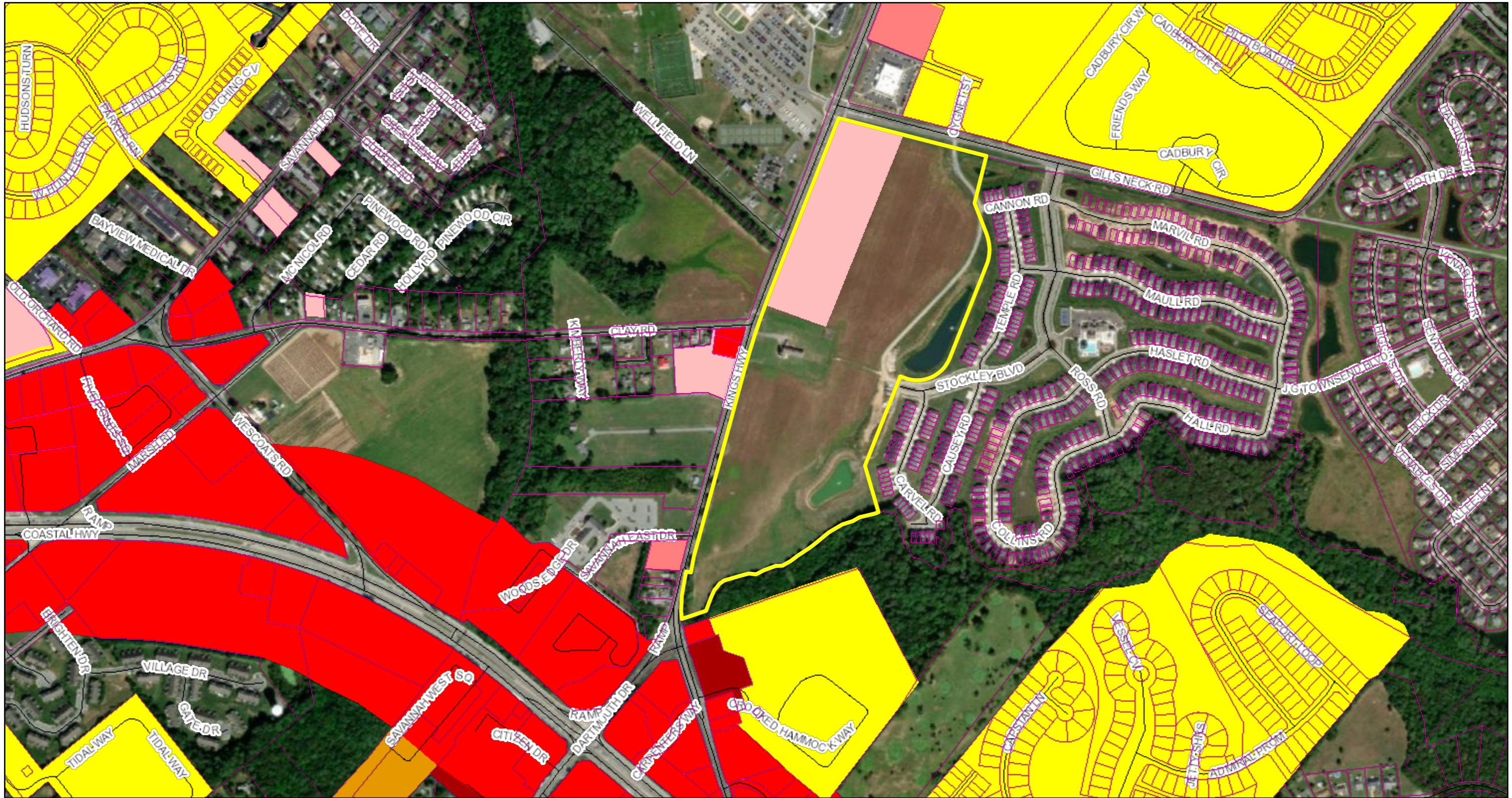
 - Override 1
- polygonLayer**

 - Override 1
 - Tax Parcels
 - Streets
 - County Boundaries

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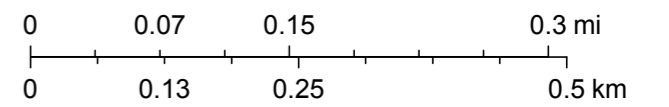
Sussex County



April 25, 2023

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



Sussex County, Sussex County Government, Maxar

Introduced: 08/23/22

Council District 3: Mr. Schaeffer
Tax I.D. No.: 335-12.00-3.00 (p/o)
911 Address: 16673 Kings Highway, Lewes.

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR (MEDIUM RESIDENTIAL DISTRICT) FOR MULTI-FAMILY (102 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS

WHEREAS, on the 22nd day of March 2022, a conditional use application, denominated Conditional Use No. 2359 was filed on behalf of J.G. Townsend Jr. & Co.; 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. 2359 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. 2359 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Lewes & Rehoboth Hundred, Sussex County, Delaware, and lying on the east side of Kings Highway (Rt. 9) and on the south side of Gills Neck Road (S.C.R. 267) at the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267) and being more particularly described in the attached legal description prepared by Davis, Bowen & Friedel, Inc., said parcel containing 25.56 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.