

Sussex County Council Public/Media Packet

**MEETING:
August 30, 2022**

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**Sussex County Council
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Georgetown, DE 19947
(302) 855-7743**

COUNTY COUNCIL

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



Sussex County

DELAWARE
sussexcountyde.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

A G E N D A

AUGUST 30, 2022

1:15 P.M.

***AMENDED on August 24, 2022 at 10:45 a.m.¹**

Call to Order

Approval of Agenda

Approval of Minutes – August 23, 2022

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. Committee Appointments
2. Discussion and possible action related to the disposition of County property
3. Administrator's Report

Megan Nehrbas, Senior Manager of GIS

1. ESRI Enterprise Agreement Discussion and Possible Approval

Old Business

“AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP ELEMENT OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 334-12.00-16.04” (property lying on the west side of John J. Williams Highway (Route 24), approximately 0.25



mile southwest of Mulberry Knoll Road (S.C.R. 284) (911 Address: N/A) (Tax Parcel: 334-12.00-16.04)

Change of Zone No. 1949 filed on behalf of J.G. Townsend Jr. & Co.

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 21.62 ACRES, MORE OR LESS” (property lying on the west side of John J. Williams Highway [Route 24], approximately 0.25 mile southwest of Mulberry Knoll Road [S.C.R. 284]) (911 Address: N/A) (Tax Parcel: 334-12.00-16.04)

Conditional Use No. 2304 filed on behalf of J.G. Townsend Jr. & Co.

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (84 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 21.62 ACRES, MORE OR LESS” (property lying on the west side of John J. Williams Highway [Route 24], approximately 0.25 mile southwest of Mulberry Knoll Road [S.C.R. 284]) (911 Address: N/A) (Tax Parcel: 334-12.00-16.04)

Grant Requests

- 1. Rehoboth Beach Historical Society for the Rehoboth Beach Museum’s 150th Anniversary Exhibit**
- 2. Chamber of Commerce for Greater Milford Inc. for their Riverwalk Festival**
- 3. Town of Greenwood Inc. for a playground handicap upgrade**
- 4. Great Futures Fund for their Great Futures Gala for the Oak Orchard/Riverdale Boys and Girls Club program**
- 5. Laurel Women’s Civic Club for Wreathes Across America project**
- 6. American Cancer Society Inc. for Relay for Life of Sussex County**

Introduction of Proposed Zoning Ordinances

Council Members’ Comments

1:30 p.m. Public Hearings

Conditional Use No. 2309 filed on behalf of Rockswitch Properties, LLC

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REAL ESTATE OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.38 ACRES, MORE OR LESS” (property lying on the north side of Coastal Highway [Route 1] approximately 0.14 mile southeast of Deep Branch Road [S.C.R. 234]) (911 Address: 12537 Coastal Highway, Milton) (Tax Parcel: 235-8.00-62.00)

Conditional Use No. 2310 filed on behalf of Milton Community Food Pantry, Inc.

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A FOOD PANTRY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.966 ACRES, MORE OR LESS” (property lying on the west side of Union Street Ext. [Rt. 5], approximately 0.24 mile south of Reynolds Pond Road [S.C.R. 231]) (911 Address: 12898 Union Street Ext.) (Tax Parcel: 235-7.00-18.00)

Adjourn

¹Per 29 Del. C. §10004 (e) (5) and Attorney General Opinion No. 13-IB02, this agenda was amended to address a matter which arose after the initial posting of the agenda but before the start of the Council meeting.

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on August 23, 2022 at 4:15 p.m. and at least seven (7) days in advance of the meeting.

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

Agenda items may be considered out of sequence.

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

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

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

To join the meeting via telephone, please dial:

Conference Number: 1-302-394-5036

Conference Code: 570176

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

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

#

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 23, 2022

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 23, 2022, at 10:00 a.m., in Council Chambers, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 383 22
Approve
Agenda**

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

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of the August 9, 2022 meeting were approved by consensus.

**Corres-
pondence**

Mr. Moore read correspondence received from Girl Scouts of the Chesapeake Bay and Delaware Technical Community College in appreciation for Council's support.

**Public
Comment**

There were no public comments.

**Lochwood
Communit-
ies Area
Sewer
Extension**

Hans Medlarz, County Engineer presented a request for approval of a purchase order for Headwater Cove sewer modifications for Council's consideration.

**M 384 22
Approve
PO/Headwa-
ter Cove
Sewer**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, that be it moved based upon the recommendation of the Sussex County Engineering Department that County Council approve a purchase order to Melvin L. Joseph Construction Co. in the amount of \$49,836.00 for the modifications to the Headwater Cove sewer infrastructure.

Modifications

Motion Adopted: 5 Yeas

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

EMS Public Safety Bldg/CO No. 16

Hans Medlarz, County Engineer presented Change Order No. 16 for the EMS Public Safety Building for Council's consideration. Mr. Medlarz explained that the Change Order includes changes with signage.

**M 385 22
Approve CO No. 16/EMS Public Safety Bldg.**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, that be it moved based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 16 for Contract C19-04, Sussex County Public Safety Building, be approved, for an increase of \$2,361.79.

Motion Adopted: 5 Yeas

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

South Coastal WRF/CO No. 24

Hans Medlarz, County Engineer presented Change Order No. 24 for general construction, project C19-11 for Council's consideration. Mr. Medlarz explained that the County asked for additional programming options on the new blowers on the emergency power operation that required additional programming. In addition, the Change Order includes installation of a isolation valve.

**M 386 22
Approve CO No. 24/South Coastal WRF**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, that be it moved based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 24 for Contract C19-11, South Coastal WRF Treatment Process Upgrade No. 3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2 – General Construction, be approved, increasing the contract by \$12,829.83.

Motion Adopted: 5 Yeas

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

Lead & Copper Proposal

Hans Medlarz, County Engineer presented a proposal for lead and copper rule revisions for Council's consideration. Mr. Medlarz explained that Delaware Rural Water has spearheaded this since it is so unusual.

**M 387 22
Approval of
Lead &
Copper
Proposal**

A Motion was made by Mr. Schaeffer, seconded Mr. Rieley, that be it moved based upon the recommendation of the Sussex County Engineering Department, County Council approve the 120-water proposal, in the amount not to exceed \$37,500.00 over a 3-year period, to achieve compliance with the EPA's lead and copper rule revisions.

Motion Adopted: 5 Yeas

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

**LBPW
Mutual Aid
Agreement**

Hans Medlarz, County Engineer presented a mutual aid agreement with Lewes Board of Public Works for Council's consideration. Mr. Medlarz explained that it is on the agenda for LBPW to consider during their scheduled meeting tomorrow. The long-range planning study is nearing completion.

**M 388 22
Approval of
LBPW
Mutual Aid
Agreement**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, that be it moved based upon the recommendation of the Sussex County Engineering Department, that County Council approve the agreement for Mutual Operational assistance with the Lewes Board of Public Works, as presented.

Motion Adopted: 5 Yeas

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

**Herring
Creek
Sanitary
Sewer
Expansion
CO**

Hans Medlarz, County Engineer presented Herring Creek Sanitary Sewer Expansion Change Orders for Council's consideration. Mr. Medlarz reported that there are some claims that are believed to have some merit but nowhere near the compensation levels requested. Therefore, JJID and the Department have agreed to pause operations to allow review of this issue. In order to achieve a mutually agreeable solution, the Department suggests seeking a "no fault" contract close out balancing Change Order of Project S20-07 where both parties withdraw any and all claims, the County grants final acceptance of the infrastructure installed and pays out any retainage held under the contract. Once achieved, the County would issue a quantity adjustment Change Order under Project S20-08 at the respective unit prices bid, completing the missing infrastructure under the S20-07 project.

**M 389 22
Approval of
CO/Herring
Creek
Sanitary**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, that be it moved, that County Council authorize the Engineering Department to pursue a no-fault close-out balancing Change Order for Herring Creek Contract S20-07 & a unit quantity increase Change Order for Contract S20-08 with final approval by County Council.

**Sewer
Expansion**

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. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: The Villages at Red Mill Pond South – Phase 3 (Construction Record) effective August 5th, Beach Tree Preserve – Phase 1 (Construction Record) effective August 12th, and Beach Tree Preserve – Phase 2A (Construction Record) effective August 12th.

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

**Delaware
Transit
Reimburse-
ment
Program
Request**

Mrs. Jennings reported that DART, a division of DelDOT has allocated \$796,868.00 for funding of transportation expenses for various senior centers in Sussex County. Mrs. Jennings noted that this amount is the same as last year. The County’s responsibility is to approve a recommended funding amount for Fiscal Year 2023 as per State law; this process is an allocation of State grant funds to various senior agencies for transportation purposes. The recommended funding for each agency is the same as the previous year:

Nanticoke Senior Center	\$ 44,962
Indian River Senior Center	2,100
Laurel Senior Center	99,083
Lewes Senior Center	27,123
Cape Henlopen Senior Center	43,066
CHEER, Inc.	<u>580,534</u>
TOTAL	\$796,868

**M 390 22
Approve
Allocation of
DART
Funds**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that be it moved that the Sussex County Council approve the recommended allocation to the various senior centers in Sussex County, as presented.

Motion Adopted: 5 Yeas

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

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

**Agreement
for Removal
of Improve-
ments**

Michael Costello, Government Affairs Manager presented an agreement to remove improvements on County property in Millsboro. Mr. Costello added that this is the future site for an EMS station. A RFP was issued to solicit bids for the sale and removal of the improvements. There was one bid received in the amount of \$10,000.

**M 391 22
Approval of
Agreement
for Removal
of Improve-
ments**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that be it moved that the Sussex County Council approve the agreement for removal of improvements on 26897 Dickerson Road in Millsboro in the amount of \$10,000.

Motion Adopted: 5 Yeas

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

**Clinical
Agreement/
DTCC**

Robbie Murray, Director of Emergency Services presented a clinical agreement between Delaware Technical Community College and Sussex County EMS for Council's consideration. Mr. Murray explained that as part of their accreditation requirement, they are required to have clinical agreements on file with all clinical partners. Since 2017, Sussex County EMS have hosted final semester nursing students on the paramedic trucks and allowed them to get clinical hours by riding along.

**M 392 22
Approval of
Clinical
Agreement/
DTCC**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it moved that Sussex County enter into the proposed clinical agreement with Delaware Technical Community College that allows Sussex County EMS to be recognized as a clinical site for their nursing program.

Motion Adopted: 5 Yeas

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

**Expansion
of SCUSSD/
Permission
to Prepare
& Post
Notices/
Bethany
Forest Area**

John Ashman, Director of Utility Planning & Design Review reported that the Engineering Department received a request from the Homeowners Association several years ago and sent petitions in October 2019. There was insufficient interest at that time and the project was shelved. The HOA had a meeting more recently and there was again the topic of central sewer for the community. The HOA distribute polling letters to all residents of the community. The results they submitted to the Engineering Department showed 60 in favor, 12 opposed and 21 failed to respond. The Engineering Department would like to request permission to prepare and post notices

for a Public Hearing on the annexation of the area.

M 393 22 **A Motion was made by Mr. Hudson, seconded by Mr. Rieley, be it moved**
Approval to **by the Sussex County Council that the Sussex County Engineering**
Prepare & **Department is authorized to prepare and post notices for the Bethany**
Post Notices/ **Forest Expansion of the Sussex County Unified Sanitary Sewer District to**
Bethany **include parcels within the Bethany Forest subdivision as presented.**
Forest Area

Expansion **Motion Adopted: 5 Yeas**
into

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

Expansion **John Ashman, Director of Utility Planning & Design Review reported that**
of SCUSSD/ **this includes all parcels within the Warwick Park Subdivision, Gull Point &**
Permission **Warwick Cove. The Engineering Department received a request from the**
to Prepare **President of the Warwick Cove Condominium Association for information**
& Post **and petitions for annexation into the sewer district. Within a few days,**
Notices/ **another interest was received from the Warwick Park Co-President**
Warwick **requesting polling letters for their community. A call was also received from**
Park **Gull Point Condominium Association looking for additional information on**
 possibly being included. Therefore, the three entities were grouped together
 into one request. The Engineering Department would like to request
 permission to prepare and post notices for a Public Hearing on annexation
 of the area.

M 394 22 **A Motion was made by Mr. Hudson, seconded by Mr. Rieley, be it moved**
Approval to **by the Sussex County Council that the Sussex County Engineering**
Prepare & **Department is authorized to prepare and post notices for the Warwick Park**
Post Notices/ **Area Expansion of the Sussex County Unified Sanitary Sewer District to**
Warwick **include parcels within the Warwick Park Subdivision, Gull Point &**
Park **Warwick Cove as presented.**

Expansion **Motion Adopted: 5 Yeas**
into

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

Old **Under Old Business, Jamie Whitehouse, Planning and Zoning Director**
Business/ **presented Ordinance No. 22-05, CZ1949 and CU2304 filed on behalf of**
Ordinance **J.G. Townsend Jr., Co.; all three relate to the same site which is a 21.62-**
No. 22-05/ **acre parcel located on the west side of John J. Williams Highway**
CZ1949/ **approximately 0.25 mile southwest of Mulberry Knoll Road [S.C.R. 284].**
CU2304 **All three items were subject to a public hearing that were held on July**
 26, 2022. At that time, all three items were deferred for further
 consideration with the record being left open for the applicant to submit

a response in relation to the design. Mr. Whitehouse confirmed that a written response was received on August 9th and has been included in the record for the applications.

**Old
Business/
Ordinance
No. 22-05**

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 NO. 334-12.00-16.04”.

The public record was closed.

**Old
Business/
CZ1949**

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 TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 21.62 ACRES, MORE OR LESS” filed on behalf of J.G. Townsend Jr. & Co.

The public record was closed.

**Old
Business/
CU2304**

Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (84 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 21.62 ACRES, MORE OR LESS” filed on behalf of J.G. Townsend Jr. & Co.

The public record was closed.

**Grant
Requests**

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

**M 395 22
West Side
New
Beginnings**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$2,500 (\$2,500 from Mr. Schaeffer’s Councilmanic Grant Account) to the West Side New Beginnings, Inc. for Project Safety Street Lights.

Motion Adopted: 5 Yeas

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

**M 396 22
Delaware
State
College**

A Motion was made by Mr. Schaeffer, seconded by Mrs. Green to give \$1,000 (\$1,000 from Mr. Schaeffer’s Councilmanic Grant account) to Delaware State College Alumni Association for Band to the Beach.

**Alumni
Association**

Motion Adopted: 5 Yeas

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

**M 397 22
Friends of
the Milton
Public
Library**

A Motion was made by Mrs. Green, seconded by Mr. Schaeffer to give \$500 (\$500 from Mrs. Green's Councilmanic Grant Account) to Friends of the Milton Public Library for restoration of Milton High School yearbooks 1950-1974.

Motion Adopted: 5 Yeas

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

**M 398 22
AIDS
Delaware,
Inc.**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$1,000 (\$500 from Mr. Schaeffer's Councilmanic Grant Account and \$500 from Mr. Hudson's Councilmanic Grant Account) to AIDS Delaware, Inc. for their AIDS Walk Delaware.

Motion Adopted: 5 Yeas

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

**M 399 22
Autism
Delaware,
Inc.**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$2,000 (\$400 from each Councilmanic Grant Account) to Autism Delaware, Inc. for their Blue Jean Ball.

Motion Adopted: 5 Yeas

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

**M 400 22
Lewes
Public
Library**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to give \$2,000 (\$1,500 from Mr. Schaeffer's Councilmanic Grant Account and \$500 from Mr. Rieley's Councilmanic Grant Account) to Lewes Public Library for their "A Christmas Carol" event.

Motion Adopted: 5 Yeas

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

**M 401 22
Concerns of
Police
Survivors,
Inc.**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$1,000 (\$500 from Mr. Schaeffer's Councilmanic Grant Account and \$250 from Mr. Hudson's Councilmanic Grant Account and \$250 from Mr. Rieley's Councilmanic Grant Account) to Concerns of Police Survivors, Inc. for their 20th Anniversary Celebration of the Delaware Chapter.

Motion Adopted: 5 Yeas

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

**Introduction
of Proposed
Ordinances**

Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT TO AN LI-2 LIGHT INDUSTRIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 19.71 ACRES, MORE OR LESS"

Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A PORTION OF CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.4 ACRES, MORE OR LESS"

Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY UNITS (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.4 ACRES, MORE OR LESS"

Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL 134-17.07-173.02 (portion of)"

Mr. Schaeffer introduced a Proposed Ordinance entitled "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"

Mr. Schaeffer introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR

Introduction of Proposed Ordinances (continued) **(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 Proposed Ordinances will be advertised for Public Hearings.

Council Member Comments

Mr. Schaeffer commented on the passing of Senator Richard Cordrey.

**M 402 22
Go Into Executive Session**

At 10:44 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to recess the Regular Session, and go into Executive Session for the purpose of discussing matters relating to land acquisition and pending/potential litigation.

Motion Adopted: 5 Yeas

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

Executive Session

At 10:50 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to land acquisition and pending/potential litigation. The Executive Session concluded at 11:24 a.m.

**M 403 22
Reconvene**

At 11:26 a.m., a Motion was made by Mr. Schaeffer, seconded by Mrs. Green to reconvene.

Motion Adopted: 5 Yeas

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

E/S Action

There was no action on Executive Session matters.

**M 404 22
Recess**

A Motion was made by Mr. Hudson, seconded by Mrs. Green to recess until 1:30 Public Hearings.

Motion Adopted: 5 Yeas

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

**M 405 22
Reconvene**

At 1:30 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to reconvene.

Motion Adopted: 5 Yeas

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

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

**Public
Hearing/
CU2300**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 56.93 ACRES, MORE OR LESS” (property lying on the southwest side of McCary Road [S.C.R. 385], approximately 857-ft south of Frankford School Road [S.C.R. 92]) (911 Address: N/A) (Tax Parcels: 533-5.00-38.00 & 41.04)

The Planning and Zoning Commission held a Public Hearing on this application on July 14, 2022, and on August 11, 2022, the Planning & Zoning Commission recommended approved of the application for the eight reasons stated and subject to the twenty recommended conditions.

(See the minutes of the Planning and Zoning Commission dated July 14, and August 11, 2022.)

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. Steve Marsh, Engineer with GMB, Inc., spoke on behalf of the Application; that also present were Mr. R. Lawton Myrick, Business and Property Owner of MRBP, LLC., Mr. Doug Brown of Bunting and Murray and Mr. Edward Launay, with Environmental Resources, Inc.; that MRBP, LLC, is seeking a Conditional Use for the site, located on McCary Rd., for a borrow pit operation; that the total acreage is approximately 57.03 acres; that the Conditional Use application was submitted on July 16, 2021; that the parcels are zoned AR-1 (Agricultural Residential) Zoning District; that the parcels are located within the Coastal Area; that the immediate area consists primarily of agricultural use and low-density residential; that there are some substantial chicken farm operations in the area; that there is significant development activity plan in the general area, particularly in the Town of Millville; that no public water or sewer services are proposed for the operation; that stormwater management will meet the requirements of the Sussex Conservation District; that there is no intended discharge from the site; that the bulk of the operational activity is contained to the interior of the site; that a 100-ft. buffer is required along all road frontage; that a 50-ft. buffer is required for all other adjacent property boundaries; that much of the 50-ft. buffer is already in place; that some planting will be required in areas where the buffer is not located or requires enhancing; that the single access to the site will be a small commercial entrance from McCary Rd.; that Century Engineering, Inc. prepared the entry plan; that DelDOT approved the

Public
Hearing/
CU2300
(continued)

entrance plan in April of 2021; that the owner is anticipating an average of 30 trips per day; that Mr. Edward Launay performed a site investigation in 2021; that Environmental Resources, Inc. has advised GMB that the proposed plan avoids impacts to any potential wetland areas; that a wetland report and plan will be submitted to the U.S. Army Corp of Engineers; that tax ditches run along the western and southern boundary of the site; that no tax ditches are proposed to be disturbed by the project; that the property does contain some man-made channels; that impacts to drainage channels at the perimeter of the project have been avoided in order to maintain drainage conditions for adjacent properties; that during the permitting process, a design team will ensure that drainage from adjacent properties is maintained, causing no negative impacts; that the site is located within the Coastal Area; that the Coastal Area is a designated growth area; that the project has been through the PLUS process; that the PLUS responses and Environmental Assessment and Public Facility Evaluation Report were included in the project binders.

The Council found that Mr. Myrick spoke on behalf of the application; that he and his wife are the owners of MRBP, LLC and are seeking a Conditional Use to operate a borrow pit; that the original intent was to mine the pit for the duration of its useful life and then potentially create a public park for locals and visitors; that he spoke with a representative from the Sussex County Land Trust regarding their potential interest in the site as open space; that there is some interest on their part but there have not been any commitments made at this time; that he has also met in person with the closest neighbor, Mr. Harrington and listened to his thoughts about a public space being hard to police properly and his concerns about potential drug activity within the space; that taking those concerns into account, there have been no final commitments made for the site; that the site will remain in private ownership until it is decided the highest and best use of the property; that part of the long term may include a private residence for personal use; that the slopes will be seeded and stabilized as part of the immediate process; that there was concerns regarding the duration of the permitted use so a proposed condition has been changed to a 15-year window of operation vs 30-years; that it is anticipated that the life of the pit will be approximately 10-12 years but he would like a little margin to account for market conditions and weather; that the proposed hours of operation have been changed; that there will be no hours of operation on Saturday; that a 7:00 a.m. start time Monday through Friday was compromised; that other neighbors have concerns about the final look of the small lake that will be the result of the mining operation; that Mr. Myrick shared pictures of an existing borrow pit and a completed borrow pit for reference; that that when the project is complete, the finished product will be a small lake that natural blends into the existing environment; that another neighbor has a concern about noise and sight lines into the project from his background; that the proposed site plan has been altered to include an additional planted buffer within a 50 foot required planted buffer; that part of this planted buffer will be in the area adjacent to the residence in question; that the Sussex County Code requires

**Public
Hearing/
CU2300
(continued)**

all borrow pits to be at least 200 feet from any residences of other ownership; that the proposed pond is 347 feet away; that the existing residence of the easterly border is 347 feet away and the closest neighbor is over 260 feet away; that originally, the request was for a dredge to operate 24 hours a day; that it is likely that no dredge will be required and the borrow pit operations will be accomplished with a traditional excavator and load; that it is being proposed that no heavy equipment operate after 5:30 p.m.; that it is being requested that screened top soil be allowed as import to the site as part of the final reclamation of the finished borrow pit.

Mr. Hudson questioned the maximum depth of the borrow pit. Mr. Myrick replied that it is about 32-35 feet deep. Mr. Hudson discussed the depth of the wells that were close to the properties and questioned if the drinking water could be affected. Mr. Myrick replied that it should not be because it is believed that those wells would be greater than 35 feet.

Mr. Hudson asked how many loads were anticipated per day. Mr. Myrick replied that the range would be between 30-50 with an average of 40 trucks a day.

Mr. Hudson questioned the road width. Mr. Myrick explained that an approved small commercial entrance from DelDOT was received that just expired. He does not anticipate an issue getting it renewed if approval is given.

Public Comments were heard.

Mr. Mack McCary spoke in opposition of the application. Mr. McCary distributed a paper with names of 17 people that own property or live on McCary Road who are against this project. He added that there are 19 properties on McCary Road, and the road is only 1.2 miles long and 19 foot wide. Mr. MacCary expressed concerns about noise, truck traffic, where the trucks would exit and enter and equipment noise. Mr. McCary then discussed the length of the permit and that many people will not want to buy a piece of property next to an active borrow pit. Therefore, he believes that their property values will decrease. Mr. McCary requested for action to be deferred on this application. Mr. Moore explained that if action is deferred today, that does not mean that people will be able to come back to speak on this matter because the hearing would close today. He added that the Council does have the opportunity to keep the record open for written comments only.

Mr. Art Ford spoke in opposition of the application. He stated that this would become a mosquito lake and bring noise. He added that the number of trucks mentioned has increased that will be coming and going from this site. There are no trees to block him from seeing their trucks and hearing the constant noise from his property. In addition, the generators that they need to use for the pumps will bring a lot of noise that will have to run 24 hours a day.

**Public
Hearing/
CU2300
(continued)**

Mr. Jeff Lynch spoke in opposition of the application. Mr. Lynch stated that currently this is all farmland that will go away if this project moves forward. He expressed concerns that this would affect his chicken farm, water quality and truck traffic.

Mr. Tyler White spoke in opposition of the application. Mr. White expressed concerns about the water, flooding, noise and property values decreasing. Mr. White believes that this land should be zoned agricultural; it is a commercial site. Mr. White shared concerns about the dangerous hole and children falling in or drowning.

The public hearing was closed.

**M 406 22
Defer
Action/
CU2300**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to defer action and to leave the record open for a week to allow either side to submit written comments and one week after that period of time for anyone to respond to the comments.

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/
CU2301**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.00 ACRES, MORE OR LESS” (property lying on the west side of Roxana Road [Rt. 17] approximately 0.23 mile south of the intersection Powell Farm Road [S.C.R. 365] and Peppers Corner Road [S.C.R. 365]) (911 Address: 34018 Roxana Road, Frankford) (Tax Parcel: 134-15.00-20.04)

The Planning and Zoning Commission held a Public Hearing on this application on July 14, 2022 and on July 28, 2022, the Planning & Zoning Commission recommended approval of the application for the five reasons stated and subject to the twelve recommended conditions.

(See the minutes of the Planning and Zoning Commission dated July 14, and July 28, 2022.)

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found Mr. Jason Tedesco spoke on behalf of his Application; that he and his wife began a small landscape maintenance company 15

**Public
Hearing/
CU2301
(continued)**

years ago; that their operation should not impact the traffic; that he has a total of 6 full time employees; that there are numerous businesses located on Rt. 17, which are already zoned for commercial use; that normal working hours are 7:30 a.m. until 5:30 p.m.; that shown was a drawing of a proposed mulch bin area; that he had no problems with the conditions set by the Planning and Zoning Commission.

There were no public comments.

The Public Hearing and public record were closed.

**M 407 22
Adopt
Ordinance
No. 2879/
CU2301**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Ordinance No. 2879 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.00 ACRES, MORE OR LESS" for the reasons and conditions given by the Planning and Zoning Commission as follows:

1. The property is zoned AR-1 Agricultural Residential. The use of the property as a landscaping business is consistent with the underlying agricultural zoning of the property.
2. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. This low-impact type of use is appropriate within this Area.
3. The use will not adversely affect area roadways or neighboring properties.
4. The applicant has stated that his landscaping company provides a service to a wide variety of Sussex County residents and businesses. This intended use is of a public or semi-public character that will benefit the residents and businesses of Sussex County.
5. There are other small businesses in the area with approved conditional uses, including another landscaping business and an indoor/outdoor storage facility. This conditional use is consistent with these other existing small businesses.
6. This recommendation is subject to the following conditions:
 - A. This use shall be limited to a landscaping and lawn care business. The area set aside for the landscaping operations shall be shown on the Final Site Plan.
 - B. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials and the dyeing of mulch or similar materials.
 - C. There shall not be any retail sales occurring from the site.
 - D. One lighted sign shall be permitted. It shall not exceed 32 square feet on each side.
 - E. The hours of operation shall be limited to 8:00 a.m. through 6:30 p.m., Monday through Saturday. There shall not be any Sunday hours. The Applicant shall be able to operate beyond these hours on

**M 407 22
Adopt
Ordinance
No. 2879/
CU2301
(continued)**

- an as-needed basis for limited situations such as snow removal, storm damage cleanup, and similar events.
- F. There shall not be any dumping of trees, branches, grass, or other debris on the site.**
 - G. The on-site storage of mulch, stone, topsoil, and similar materials shall be located in bins or enclosures. The location of these storage areas shall be shown on the Final Site Plan.**
 - H. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
 - I. The applicant shall comply with all DeIDOT requirements, including any entrance or roadway improvements.**
 - J. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.**
 - K. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
 - L. 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**

**Public
Hearing/
CU2303**

A Public Hearing was held on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FOOD TRUCK BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.238 ACRES, MORE OR LESS" (property lying on the northwest side of Jersey Road [S.C.R. 305], approximately 500-feet southwest of the intersection of John J. Williams Highway [Rt. 24] and Hollyville Road [S.C.R. 305]) (911 Address: 26719 Jersey Road) (Tax Parcel: 234-32.00-55.00)

The Planning and Zoning Commission held a Public Hearing on this application on July 14, 2022 and on July 28, 2022, the Planning & Zoning Commission recommended denial of the application for the seven reasons stated.

(See the minutes of the Planning and Zoning Commission dated July 14, and July 28, 2022.)

Jamie Whitehouse, Planning and Zoning Director presented the application.

There was no representative present for the application.

**Public Hearing/
Code
Amendment**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, BY AMENDING SECTION 115-77.1 (LARGE SCALE USES) TO CLARIFY HOW FLOOR AREA IS CALCULATED”.

Jamie Whitehouse, Planning and Zoning Director presented the application.

Public comments were heard.

Mr. David Hutt, attorney with Morris & James spoke in support of the Ordinance. He added that this will help prepare site plans.

The public hearing and the public record were closed.

**M 408 22
Adopt
Ordinance
No.
2880/Code
Amendment**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt Ordinance No. 2880 entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, BY AMENDING SECTION 115-77.1 (LARGE SCALE USES) TO CLARIFY HOW FLOOR AREA IS CALCULATED”.

Motion Adopted: 5 Yeas

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

The Public Hearing and public record were closed for CU2303.

**M 409 22
DENIED/
CU2303**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to approve CU2303 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FOOD TRUCK BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.238 ACRES, MORE OR LESS”.

Motion Denied: 5 Nays

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

**M 410 22
Adjourn**

A Motion was made by Mr. Rieley, seconded by Mrs. Green to adjourn at 2:33 p.m.

Motion Adopted: 5 Yeas

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

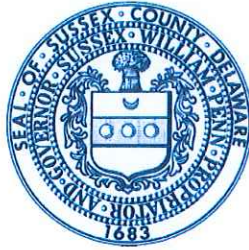
**Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Respectfully submitted,

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

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


TODD F. LAWSON
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Sussex County
DELAWARE
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Memorandum

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

FROM: Todd F. Lawson 
County Administrator

RE: **DISPOSITION OF COUNTY PROPERTY – PARK AVENUE PHASE II**

DATE: August 26, 2022

During Tuesday's meeting, Council is scheduled to discuss and consider the disposition of County owned property that consists of multiple properties in the area of the Delaware Coastal Airport. The disposition is required for the Delaware Department of Transportation's (DelDOT) preferred realignment of Park Avenue around the Airport. There are several properties involved and DelDOT is either acquiring fee simple title or an easement for access.

The respective tax parcel IDs are: 135-15.00-138.00; 135-20.00-75.00; 135-20.00-152.01; 135-20.00-153.00; and 135-20.00-154.03.

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

The Park Avenue realignment is a joint effort between DelDOT and Sussex County given the mutual benefits each entity will experience from this transportation improvement. The Park Avenue project will improve traffic around Georgetown and will ultimately allow the County to extend Runway 4-22 at the Delaware Coastal Airport. In anticipation of the airport expansion and road realignment, the County began acquiring properties on current Park Avenue as far back as the 1990s.



Through its appraisal process, DelDOT estimates the value of its acquisitions from Sussex County to be worth approximately \$109,000. However, given the benefits to the County and DelDOT's commitment to construct necessary road improvements in Phase II of the Park Avenue project, the County will donate the property to DelDOT and forego the acquisition payment.

Council approval is required to finalize the purchase contracts and easements with the State.

Please let me know if you have any questions.

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Sussex County
DELAWARE
sussexcountyde.gov

Memorandum

August 26, 2022

TO: Sussex County Council

The Honorable Michael H. Vincent, President

The Honorable Douglas B. Hudson, Vice President

The Honorable Cynthia Green

The Honorable Mark Schaeffer

The Honorable John L. Rieley

FROM: Megan Nehrbas, Sr. GIS Manager

RE: Agreement for Enterprise GIS Licensing

The Sussex County Geographic Information Office (formerly Mapping and Addressing) has been utilizing ESRI (Environmental Systems Research Institute) GIS (Geographic Information) software systems since the advent of the addressing project in 1994. The products and usage at the County have evolved dramatically over the last 30 years. We have hit a critical point of reliance on our GIS systems, and it is a system with critical dependencies across virtually all county departments for internal use. Our online offerings are also used heavily by the public, our real estate, and legal communities.

We have collaborative portals with other state agencies allowing for seamless sharing of information between organizations in a secure fashion with our arcgisonline organizations. As we approach a necessary rehosting of our architecture, we need additional licensing to support our ever-growing user population.

The Enterprise Licensing agreement allows us to continue our growth and support of future endeavors as well as maintaining collaboration between the County and state agencies, supporting a robust enterprise infrastructure while also realizing an overall cost savings.

I will make a presentation before Council on August 30th seeking your approval to execute an Enterprise License agreement with a capped cost of 140,000 per year.



JAMIE WHITEHOUSE, AICP
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Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

CC: Everett Moore, County Attorney

Date: August 25, 2022

RE: County Council Old Business Report for Ord. 22-05 – Future Land Use Map Element of the Comprehensive Plan

On June 7, 2022 an Ordinance was introduced by the County Council to amend the Comprehensive Zoning Map element of the Comprehensive Plan in relation to Tax Parcel No. 334-12.00-16.04. The property is lying on the west side of John J. Williams Highway (Route 24), approximately 0.25 mile southwest of Mulberry Knoll Road (S.C.R. 284). 911 Address: N/A. The amendment to the Comprehensive Plan is to change the area designation of the parcel from the Commercial Area (shaded red on the Future Land Use Map) to the Coastal Area (Shaded yellow on the Future Land Use Map).

The Planning and Zoning Department has also received applications relating to the parcels (C/Z 1949 filed on behalf of J.G. Townsend Jr. & Co. and C/U 2304 filed on behalf of J.G. Townsend Jr. & Co.)

The Planning and Zoning Commission held a public hearing on June 23, 2022. At the meeting of July 14, 2022, the Commission recommended approval of the Ordinance for the 4 reasons as outlined within the motion (included below).

The County Council held a Public Hearing on July 26, 2022. At the conclusion of the Public Hearing, the Council deferred action on the Ordinance and left the record open for application C/U 2304 for the limited purpose of allowing the Applicant the opportunity to discuss with their engineer whether or not they would like a new proposal for the design that will preserve the forested area and then the record would be closed after that. The County Council closed the Public Record on August 23, 2022.

Below is a link to the County Council minutes of the July 26, 2022 meeting.

[Link to the July 26, 2022 County Council Meeting Minutes](#)



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

Below are the minutes from the Planning & Zoning Commission meetings of June 23, 2022 and July 14, 2022.

Minutes of the June 23, 2022 Planning & Zoning Commission Meeting

Chairman Wheatley stated the applicant had requested to combine the presentations for the Ordinance, C/Z 1949, and C/U 2304 as they are all related Applications of J.G. Townsend Jr. & Co. and he stated the motions for the three applications would be made separately.

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP ELEMENT OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 334-12.00-16.04. The property is lying on the west side of John J. Williams Highway (Route 24), approximately 0.25 mile southwest of Mulberry Knoll Road (S.C.R. 284). 911 Address: N/A. Tax Parcel: 334-12.00-16.04.

Mr. Whitehouse advised the Commission that submitted into the record was the Exhibit Booklet, Conceptual Site Plan, Environmental Assessment, Public Facility Evaluation Report, Staff Analysis, Traffic Impact Study, DelDOT’s response to the Traffic Impact Study, a letter from Sussex County Engineering Department Utility Planning Division, 20 letters in opposition and a written petition of 156 signatures.

The Commission found that Mr. David Hutt, Esq. spoke on behalf of the Application; that he is an attorney with Morris James; that he is representing the owner of the property and Applicant, J.G. Townsend Jr. & Co.; that also present were Mr. Paul Townsend, a shareholder in J.G. Townsend Jr. & Co., Mr. Doug Motley, a representative of the development group, Mr. Ring Lardner, Engineer with Davis, Bowen and Friedel, and Mr. Edward Launay, Wetland Scientist with Environmental Resources, Inc.; that he requested to make a correction for the records in respect to C/Z 1949 and C/U 2304; that it was indicated the Traffic Impact Study was undertaken by the Applicant; that the Applicant did not undertake a Traffic Impact Study; that DelDOT included a recent Traffic Impact Study in their response to the Service Level Evaluation Request; that the provided Traffic Impact Study was previously performed to the Belle Terre Community; that the site is known as the “Howeth Property”; that this name was provided after J.G. Townsend Jr. & Co. purchased the land from Howeth Family; that historically the Howeth Farm was much larger than it currently is; that in 2014 the Howeth Farm was as more than 70 acres; that approximately a decade ago, J.G. Townsend Jr. & Co. were approached by various institutions and bodies which included the Cape Henlopen School District, the State of Delaware on behalf of the Delaware State Police, and Sussex County; that these agencies were looking for a location along that particular section of Rt. 24 to place various facilities; that the results of those discussions was a minor subdivision plan; that the minor subdivision was recorded in 2014; that Parcel A1 of the minor subdivision was conveyed to the Cape Henlopen School District in 2015; that it has now become the home of the Love Creek Elementary School; that Parcel B was conveyed to the State of Delaware; that it is now the home of Troop 7; that the history is important as it answers many questions regarding the property; that located to the north is the Love Creek Elementary School; that located to the south is the Saddle Ridge Community; that Rt. 24 runs along the frontage of the property; that the Beacon Middle School is located across from Love Creek Elementary; the property is located in close proximity to the Beebe Medical Campus, Seaglass Apartments, The Residence Inn Hotel, Hearts Landing Community, Love Creek Manufactured Home Community, The Residences at Rehoboth Bay Condominium and Marina, as well as the various

commercial businesses located along Rt. 1; that on the 2020 Delaware State Strategies Map it shows almost the entire area as being within Investment Level 2; that there is a small area located on the property which is located within Investment Level 3; that the area located within Investment Level 3 is an isolated area of wetlands; that within the 2045 Future Land Use Map within Sussex County's Comprehensive Plan shows many parcels within the Commercial Area along Rt. 24; that the other surrounding area is located within the Coastal Area; that the Coastal Area is one of the seven Growth Areas for Sussex County; that one of the requests is to change the Future Land Use Map designation for a portion of the property; that 2/3 of the property is shown as Commercial; that 1/3 of the property is shown in the Coastal Area; that the Applicant's intention is to have the entire property located within the Coastal Area; that the Coastal Area is a designation which would allow uses other than only commercial uses; that Saddle Ridge, Love Creek Elementary School, Beacon Middle School and the site across from Beacon Middle School is shown as being in the Commercial Area on the Future Land Use Map; that there is a mixture of zoning classifications along that corridor of Rt. 24; that there is a mixture of C-1 (General Commercial), CR-1 (Commercial Residential), I-1 (Institutional), B-1 (Neighborhood Business) and MR (Medium-Density Residential); that the Change of Zone Application is seeking to change the zoning from AR-1 (Agricultural Residential) to MR (Medium-Density Residential); that there was three Applications being presented in relation to the same property; that the first request is to amend the Future Land Use Map creating one designation to the Coastal Area for the property; that the second request is for a Change of Zone from AR-1 (Agricultural Residential) to MR (Medium-Density Residential); that the third Application is a Conditional Use request to allow 84 townhomes; that each set of townhomes contains six units; that 14 townhomes are proposed across the site; that the project was reviewed during the PLUS process; that in Summer 2021 the Future Land Use Amendment request was reviewed by the Office of State Planning Coordination through the PLUS process; that the comments of no objection made by the Office of State Planning Coordination was included as part of the record; that Investment Level 2 areas are described as an area where the State anticipates growth for an area in the near future; that the Office of State Planning Coordination stated in their comments "*in Investment Level 2 areas, like Investment Level 1 areas, State investments and policies should support and encourage a wide range of uses and densities*" and "*Investments should encourage departure from the typical single-family dwelling development and promote a broader mix of housing types and commercial sites encouraging compact mixed-use development where applicable*", which ensure the State encourages a departure from typical single-family homes, offering a broader mix of housing options; that Section 8.2 of the County Code states "*while the County allows for multi-family (duplexes, townhouses and apartments etc.) the primary housing type is detached single-family (stick-built, modular and manufactured homes)*"; that in 2016, Sussex County issued 1,778 building permits; that of those building permits, 1,615 building permits were for single-family homes, equaling to 90.8%; that less than 10% of the issued building permits were for multi-family structures; that in 2017, 2,068 building permits issued; that 1,961 building permits, or 94.8%, were for single-family homes; that in 2018, 1,057 building permits were issued before the cut off for the Comprehensive Plan; that of those building permits, 992 building permits, or 93.8%, were issued for single-family homes; that within Chapter 8 of the Comprehensive Plan, it stated the County should consider the ability to establish other housing types or reduce the need for a Conditional Use for multi-family development; that the proposed Application does help address the mentioned needs; that within Chapter 4 of the Comprehensive Plan, the Coastal Area is described as one of the fastest growing areas within Sussex County; that the Comprehensive Plan does recognize the environmental concerns which may arise in the Coastal Area; that there is a buffer provided to the isolated wetlands, which proposed some environmental concern; that the proposed buffer to the wetlands exceeds Sussex County's recently adopted Buffer Ordinance requirements; that within the County Code, it states permitted uses and densities within each of the Growth Areas; that within the permitted use section for the Coastal Area, the Comprehensive Plan

states that a range of housing types should be permitted, including single-family homes, townhouses and multi-family units; that the next Section it states that medium and higher densities (4 to 12 units per acre) can be appropriate in certain locations and medium and higher densities could be supported in areas where there is central water and sewer, near sufficient commercial uses and employment centers, where it is in keeping with the character for the area, where it is along a main road, being located at or near a major intersection, where there is adequate level of service, or where other considerations exist that are relevant to the requested project and density; that the density for the proposed project is 3.9 units to the acre; that the medium and higher density requirements are all met by the proposed project; that Tidewater Utilities will provide water services; that central sewer is available through Sussex County; that the property is located in an area where there are commercial uses and employment centers; that the project is located along RT. 24, which is a major collector road; that the project is located at a signalized intersection on Rt. 24; that Rt. 24 does have DART transportation, with a Rehoboth, Longneck and Millsboro DART connection; that because the project is located within the TID, a fee per unit is required as part of the project's contribution to DelDOT; that although some adjacent properties are listed as AR-1 (Agriculture Residential), the Love Creek Elementary School is not an agricultural use; that the Love Creek Elementary School is over 89,000 sq. ft., which was granted by a Conditional Use approval; that located across the street is Beacon Middle School, being over 77,000 sq. ft. and was granted a Conditional Use Approval; that the County recently considered an application for the V&M site, which received approval for a 5,000 sq. ft. convenience store and fueling stations; that a 12,000 sq. ft. office building will also be located on the V&M property; that there were multiple other Conditional Use approvals mentioned within the submitted material; that the requested zoning classification for the property is MR (Medium-Density Residential), as it is an appropriate zoning district for the proposed use; that townhomes is a Conditional Use within the MR (Medium-Density Residential) Zoning District; that Conditional Uses are generally of a public or semi-public character and our essential for the general convenience and welfare of the County; that Conditional Uses to require some Planning judgement; that the purpose of the MR Zoning District is to provide for medium density residential development in areas which are expected to become generally urban in character, which is a good description of Rt. 24; that the Future Land Use Map for the property shows the commercial designation; that by allowing the area to be rezoned the area would avoid concentrations of retail and service uses, as well as hotels, motels, carwashes, auto dealerships, as well as other medium and large scale uses not primarily targeted to immediately adjacent residents and areas; that institutional and industrial uses may also be appropriate in the Commercial Zoning District; that the current Application proposes a far less intensive use than the potential permitted uses under Commercial Zoning; that traffic was a main theme within the comments made in opposition; that the use of the entryway was always anticipated; that there was a Service Level Evaluation Request sent to DelDOT as part of the Application; that within DelDOT's response indicated that the traffic impact for the project would be minor; that in having a minor impact the project became eligible for to participate in the Area Wide Study Fee Program; that however, the property is located within the Henlopen Transportation Improvement District (TID); that due to this the Area Wide Study Fee does not apply; that the fee per unit does apply; that another concern mentioned in opposition was the appropriateness of multi-family units being located adjacent to a school; that the concern is in contrary to many school which currently exist in Sussex County; that Cape Henlopen High School, HOB Brittingham School, Mariner Middle School, East Millsboro Elementary School, Rehoboth Elementary School are all located immediately adjacent to or nearby multi-family residential communities; that Chapter 8 of the Comprehensive Plan indicates the proposed area is appropriate for the proposed zoning and for the proposed Conditional Use for townhomes; that the Applicant requested approval to amend the Future Land Use Map, allowing the property to be located completely within the Coastal Area, changing the County's Zoning Map from AR-1 to MR Zoning and an approval for the Conditional Use permitted 84 townhomes; that he did

submit proposed Findings of Fact and Conditions of Approval for the Change of Zone Application and the Conditional Use Application; that one of the proposed requirements is that there must be a Property Owners Association to care for amenities; that it is proposed that the amenities would be constructed by the seventh building permit and each building will receive a building permit for all six units within it; that in reality, the amenities would be completed by the 42nd building permit when considering per units.

The Commission found that Mr. Ring Lardner spoke on behalf of the Application; that he is an engineer for Davis, Bowen and Friedel; that the site is located along John J. Williams Hwy., which is classified as a major collector road per the DelDOT Functional Classification Map; that the project is located within the Henlopen Transportation Improvement District (Henlopen TID); that the TID was a group effort between DelDOT and Sussex County; that the agreement was approved on October 30, 2020; that DelDOT noted the traffic for the proposed project was consistent with the TID; that the project was eligible to pay the TID fee, rather than performing a Traffic Impact Study (TIS); that a TID fee based on a per lot basis on January 31, 2020 was \$341,796.00; that the fee does increase annually on January 31st; that the fee is due at the time of building permit issuance; that the fee will continue to increase until the building permits are released; that the TID fees help fund the various project within the Transportation Improvement District to help improve the TID area; that the assumed land use was underestimated as it was assigned 37 single-family homes; that for the current Application they were able to stay within the perimeters for traffic; that the vehicle trips generated by townhouses is less than those generated by single-family homes; that this is the reasoning DelDOT considered the project consistent with the TID; that the project is not located within the Well Head Protection Area or Excellent Recharge Area; that the project is located outside of the 100 Year Flood Plain; that there is a small pocket of wetlands located on the site; that the wetlands were delineated by Environmental Resources Inc.; that the wetlands are located along the common boundary line of the site and the Saddle Ridge Community; that an approved Jurisdictional Determination was completed by the U.S. Army Corp of Engineers; that Mr. Edward Launay, with Environmental Resources did prepare an Environmental Review for wildlife habitat considerations; that Mr. Launay's review does contain a consultation with the U.S. Fish and Wildlife Service; that there are no records of federally listed threatened or endangered species being located on site; that the Monarch Butterfly was located onsite; that the site does not have the proper vegetation to support the Monarch Butterfly, therefore it was assumed that the site was not the home for the Monarch Butterfly; that within DNREC's Fish and Wildlife comments from the PLUS review mention three State rare species; that all three species are located within the Hetty Fisher Pond, which is located over 740-ft. from the site; that it was Mr. Launay's opinion that the development of the Howeth Property, now known as School Lane, will not adversely impact the amphibious species of State concern; that the layout of the site first began at the intersection of John J. Williams Hwy. as it is the combined entrance for the Love Creek Elementary School, Troop 7 and the proposed project; that when the Love Creek Elementary School was approved, traffic for the proposed project was already preassigned for the intersection; that the intersection was designed for the proposed project traffic; that as part of the improvement and approval for Love Creek Elementary School the stub was connect to the parcel; that this allowed for interconnectivity, providing one access onto Rt. 24; that they did design a 20-ft. landscape buffer along the property border of Love Creek Elementary School, Belle Terre and Saddle Ridge Communities; that the communities for Belle Terre and Saddle Ridge also have buffers on their property; that this has created two sets of buffers adjacent to each other; that they established a 50-ft wetland buffer to the isolated wetlands on site; that the Application was submitted prior to the adoption of the recent Buffer Ordinance; that the proposed buffer exceeds the requirement of the recently adopted Buffer Ordinance; that the townhouses will be fee simple lots, meaning the lots will

be owner occupied; that no lots will be located back to back; that the stormwater pond is proposed to be centrally located on the site; that the proposed stormwater pond location will minimize grading changes to the site; that active amenities are proposed along the other side of Road A, to ensure amenities would not be located in the rear yard of the lots; that they attempted to minimize dead-end streets; that currently there are two dead-ends proposed on Road B and Road C on the Site Plan; that they did provide overflow parking areas throughout the site for guests; that the internal roads will meet and/or exceed the requirements of Sussex County Road Standards; that the roads will be privately maintained; that Sussex County Geographic Information Office (GIO) (F.K.A. Mapping and Addressing Department) has approved the subdivision name of “School Lane” as well as the road names; that proposed amenities are a pool house, pool, centralized mailbox and a sports field area; that the proposed open space for the project is 11.42-acres, or 52% of the project site; that the project will be served by Tidewater Utilities, Inc. for water services; that Sussex County will provide sanitary sewer services; that they have received Willing and Able to Serve letters from Tidewater Utilities, Inc., Chesapeake Utilities, Delaware Electric Coop, and a Sewer Service Concept Evaluation from Sussex County Engineering; that the project was reviewed by PLUS on December 16, 2020; that the PLUS comments and the Applicant’s response can be found in the submitted Exhibit Booklet; that the comments provided were general in nature; that the Applicant will comply with all regulatory requirements; that his office prepared an Environmental Assessment and Public Facilities Evaluation Report and the project complies with the Comprehensive Plan.

Ms. Stevenson questioned how parking is proposed for the project and if additional parking could be added to Road A on the west side.

Mr. Lardner stated each lot will have two parking spaces per unit, via the driveway or the garage; that they have provided overflow parking throughout the project; that they have exceeded the two-unit per lot requirement, and he stated they could consider additional options to add parking to the area Ms. Stevenson mentioned.

Chairman Wheatley advised the Commission that Mr. Bill Brockenbrough, County Coordinator with DelDOT was present for questioning via teleconference; that he requested Mr. Brockenbrough explain how the entrance came to be and why it was constructed the way it was.

Mr. Brockenbrough stated when the property was acquired for Love Creek Elementary School, J.G. Townsend Jr. & Co., the seller of the property retained access through the existing driveway with the intention to utilize the driveway for access to the subject property; that the construction of the entranceway is desirable by DelDOT; that he did not recall the specific history of when the school was developed; that the entranceway is consistent with the preferred construction from DelDOT’s view, to minimize the number of access points; that in minimizing fewer access points, it allows fewer decision points for a driver and it opens the possibility for signalized access for the development, which would help manage left-hand turns.

Ms. Stevenson questioned if the pool house is proposed to only hold supplies for the pool, or if the pool house was proposed to be larger and utilized by residents and requested the Applicant consider making the pool house a meeting spot for residents.

Mr. Hutt stated a better description of the pool house would be a bathhouse; that it would not be proposed as a clubhouse with exercise equipment and that the pool house is proposed to be a changing area and restroom area.

Mr. Robertson stated the Applications are for a Change of Zone and a Conditional Use and the Commission does have the authority to apply discretion.

Chairman Wheatley stated property owners do have a right to subdivide their land and property owners do not have the right to Change the Zoning for their property; that the Change of Zone is purely discretionary, and the Commission has the authority to make that discretion.

The Commission found Mr. Steve Kittka spoke in opposition to the Application; that he lives within the Saddle Ridge Community; that he opposes the project as it is currently proposed; that it was said the townhomes would generate less traffic; that the proposed townhomes are larger than almost any home located within the Saddle Ridge Community; that the townhomes are 4,600 sq. ft.; that he did not invest in his property with any idea that the adjacent zoning would be changed; that he feels the proposed development will cause an enormous amount of traffic; that he understood there was not a Traffic Impact Study performed for the proposed project specifically; that a lot has changed since previous traffic analysis; that one of the reasons for this is COVID-19 which has led to an increase in traffic to Love Creek Elementary School; that with the traffic currently on Rt. 24, there are frequent accidents and near accidents all the time; that within the last three weeks there have been three accidents within a mile of the proposed development; that two of the accidents were at the intersection of Rt. 24 and Warrington Rd.; that those two accidents caused Rt. 24 to shut down; that the third accident was between Saddle Ridge and Harts Landing; that he has no objection to the Applicant developing the property; that he objects to the proposal of medium density; that he is also concerned with the disturbance to the wildlife and he objects to the Change of Zoning request.

Chairman Wheatley stated that if a Traffic Impact Study (TIS) was performed for a nearby development, DelDOT does not require an additional TIS as the information remains remotely the same.

Mr. Robertson stated DelDOT and Sussex County established the Transportation Improvement District (TID) that the project is part of; that DelDOT has performed the analysis for all the roadway improvements within the entire TID area; that they had to design all road improvements based on the anticipated development within the TID; that then, based on the improvements, a cost is assigned as to what it cost to construct the road improvements; that then a required fee is calculated for each developer to develop the road improvements and the Applicant did not perform a Traffic Impact Study as it is already included in the greater TID.

Mr. Robertson questioned the status of the dualization of Rt. 24.

Mr. Mears requested Mr. Brockenbrough's opinion on townhomes generated vehicle traffic versus residential communities generated traffic.

Mr. Brockenbrough stated the construction began in March 2022 for the dualization of Rt. 24; that it was proposed to be completed in 2023; that he believed completion will be in 2024; that the improvements are proposed to widen to two lanes each way; that sidewalks are proposed on both sides of the road; that DelDOT relies on Transportation Engineers Trip Generation Manual, which provides National-level data on various land uses, including single-family detached houses and townhouses; that generally single-family detached houses generate the most traffic; that townhouses, apartments and various types of multi-family development generate less per dwelling unit and

regarding the comment of the size of the townhomes, DeDOT would not have data to support or dispute the fact.

Chairman Wheatley questioned if anyone could provide a comment on the proposed size of the units.

Mr. Ring Lardner stated that they do not know the exact size of the townhouses currently; that the lot widths are 20-ft. wide with a depth of 115-ft.; that the widest lot could be 28-ft.; that after including setback requirements, it would be 20'x75'; that the proposed units are two-story with a first-floor master; that at the largest, an approximate average is 3,000 sq. ft.; that the average size will be 2,000 sq. ft. to 2,500 sq. ft.; that confirmation of size cannot be determined until they find a builder and the proposed size is much less than the size testified by Mr. Kittka.

The Commission found that Ms. Nancy Guerin spoke in opposition to the Application; that she lives in Hart's Landing; that she has concerns about the Love Creek Bridge; that the bridge is not proposed to be expanded; that this will cause a traffic bottleneck, as the traffic will go from four lanes down to two lanes; that currently, she has difficulty exiting her development onto Rt. 24; that she feels after hearing Mr. Hutt explain all the types of development located along Rt. 24, she does not believe another development is needed; that she questioned if any of the mentioned schools and the developments they are adjacent to share a road as is proposed in the current Application; that due to COVID-19, there has been increased traffic to the schools; that this has created a back up of traffic on Rt. 24 down to Mulberry Rd. and she does not feel the Traffic Impact Study for Belle Terre, and the time in which it was performed, took in to account the additional traffic she sees currently.

The Commission found that Mr. Kenny Delmar spoke in opposition to the Application; that he lives in Hart's Landing; that he has a background in real estate, with many decades of experience; that in his experience the last thing a person should want to do is build a development next to a slaughter house, a factory making toxic chemicals or an elementary school; that it would be a kiss of death; that he assured the Commission that the developer, owner and attorneys have not had a discussion with a real estate broker to question what would be coming down the road; that he felt two weeks ago a ceiling was hit; that from here on out it will become more difficult to make a profit with a residential development; that a smart choice to make, would be not to build your development next to an elementary school, while sharing the same entrance with the school; that it would not be a smart choice; that the choice would not be considered good business; that he questioned if any of the attorneys, engineers or developer have children in Love Creek Elementary; that he questioned what will happen with construction traffic caused by the development; that it will be another years lost to a child who is attempting to get an education; that because of the construction, there will be noise from 7:00 am until 4:00 pm for at least a year; that the children who are in school trying to learn, will have to listen to construction noise for at least a year and the future residents will not want to deal with the noise generated by an elementary school on a normal school day.

The Commission found that Mr. Shunli Zhang spoke in opposition to the Application; that he lives in Saddle Ridge Development; that he agrees with all the previously mentioned concerns; that he is concerned about the approximate six acres of forest located on the property; that on one side of the forest is a natural pond; that on the other side of the forest are wetlands; that the current forest is full of life; that the forest life includes bald eagles and he requested the Commission reconsider approving the project, or request a modification to the plan, to help protect the forest, wildlife and natural beauty of the forest.

The Commission found that Mr. Laymen Grant spoke in opposition to the Application; that he is a resident of Belle Terre; that it was his understanding that a signalized light will be placed at the intersection of Rt. 24 and Mulberry Knoll Rd.; that the current traffic attempting to get onto Rt. 24 is ugly; that with the proposed 84 townhouses; that he would estimate one and a half vehicles per unit; that most families have at least two cars; that there will be 120 additional vehicles with the proposed development, which will be required to merge onto Rt. 24; that occasionally the children at Love Creek Elementary School play outside in the adjacent field; that Beacon Middle School has athletic fields; that he feels placing the development without the red light would be a disaster; that there will be an accident; that he has only lived in Sussex County a year; that there are times he cannot figure out how to cross Rt. 24; that people will take a chance, shooting out onto Rt. 24; that he feels there would be a chance they head into the field, where children may be at play; that in the evening hours, there is limited lighting in the area; that he does not have an issue with the development of the property but he does have an issue with the traffic.

Mr. Brockenbrough stated he believed the plan was to place a signalized red light at the intersection of Mulberry Knoll Rd. and Rt. 24.

The Commission found that Mr. Maureen Burns spoke in opposition to the Application; that she lives within Belle Terre directly behind the proposed project; that she questioned if the Commission approves the Change of Zone request, could the Applicant change their proposed plans; that the elevation of the proposed site is higher than her property; that she is concerned she will receive all of the water run off when it would rain; that she questioned if there are proposed balconies for the townhouses and she is concerned about her privacy and the ability of future residents to look through her windows.

Mr. Robertson stated the Commission would make a recommendation to County Council; that County Council would approve or deny the Change of Zone request; that if the Change of Zone were to be approved, the Applicant could potentially propose a subdivision; that a subdivision would require another public hearing; that the maximum building height would be 42-ft.; that if the Change of Zone were approved, the Applicant would be permitted to do anything permitted within MR (Medium-Density Residential) Zoning District.

Chairman Wheatley stated the stormwater regulations are regulated and enforced by the Sussex Conservation District; that Sussex Conservation District regulations stated the Applicant must contain the property's stormwater on-site; that the Applicant must dispose of the water runoff either on the property site or through a properly regulated design outfall and the Applicant would not be permitted to allow any runoff onto Ms. Burns property.

Mr. Ring Lardner stated they cannot speak to the design of the townhomes; that there is a 20-ft. landscape buffer proposed on the property site; that there is a 50-ft. landscape buffer on the Belle Terre property and that the buffers would allow for a 70-ft landscape buffer between the homes.

Mr. Robertson questioned what the rear setback requirements for the proposed units were.

Mr. Whitehouse stated that each unit must have an agricultural buffer; that the Applicant can split the buffer, however, the plan would be required to be seen before the Commission for site plan review; that it is required to be a minimum of 40-ft. spread front and back; that the buildings can be no closer than 40-ft. from each other; that the minimum landscape buffer required is 20-ft. or the Applicant

would be required to obtain a variance; that there is 40-ft. between the buildings and the property lines; that within the 40-ft. setback there is a 20-ft. landscape buffer and any setback and landscaping located on the Belle Terre property.

The Commission found that Ms. Patricia Hutchinson spoke in opposition to the Application; that she lives with Belle Terre; that she has concerns with the wild life, the removal of the existing woods and transportation issues; that she is a retired educator; that she knows what happens on an elementary school property; that she knows the amount of traffic comes and goes from the property; that she knows the amount of children that play outside; that she does have concerns with the construction and the issues it will cause for the children; that she is concerned children will not be able to go outside for recess, which the children just experienced during the COVID-19 pandemic; that she is concerned about the additional traffic coming and going from the site; that she would appreciate a signalized red light; that she is concerned about other permitted building that would be permitted with an approval to the Change in Zone request; that she is concerned about the possibilities of a transient population or rental population being placed next to an elementary school and a community for the 55+ year community; that she has concern regarding the water runoff; that she was told that Belle Terre previously proposed mixed development, which included townhomes; that the townhouses were denied at that time; that she feels the townhouses would not be similar to surrounding communities; that she does understand if the zoning is changed the Applicant is permitted to construct anything permitted within that zoning and the neighbors would get no say in what the Applicant were to propose.

The Commission found that Mr. Thomas Negran spoke in opposition to the Application; that he is a resident of Belle Terre; that the lovely 21-acre cornfield will be removed; that 84 multi-family units are proposed for the area; that only single-family homes and an elementary school border the property; that a major concern is the increased traffic; that the proposed development will share the entrance with Love Creek Elementary school; that according to the documentation there will be 598 additional vehicles daily; that the area is already congested; that the increased traffic may pose a threat to the safety of the Love Creek Elementary children; that according to the Site Plan, the backyards of 18 units will directly face the school property; that the water runoff from the 14 units roofs will flow into the direction of Belle Terre residents back yards; that he saw no proposed retention ponds in the area bordering Belle Terre; that four acres of woodlands will be destroyed; that 7.9 acres of impervious material will replace the field; that according to the report from DNREC, there are several rare and/or endangered species in the project area; that multi-family units sell for a lower price point than single-family homes; that the lower price point often leads to investors purchasing units for rental; that transient neighbors may not be the most desirable neighbors, especially to school-aged children; that the Land Elevation Map, located on page 72, of the Paperless Packet indicates a natural slope downward to 25-ft. above sea level at the rear of the property; that the elevation drops to 21-ft. above sea level on Decatur Street in Belle Terre; that the runoff could become detrimental to the Belle Terre community with the removal of the trees; that he questioned if the Applicant plans to sell the property to a developer, to develop themselves, to receive subsidies for low-income housing and what the expected selling price is for the proposed townhomes; that he commends Sussex County for purchasing land in efforts to preserve land; that he requested Sussex County purchase the subject property to be preserved and/or utilized as a park or recreational area and he stated the revenue to Sussex County will receive, from the 1.5% transfer tax from Belle Terre alone will amount to at least \$2,000,000.00 and could be put to good use for the residents of Sussex County.

Mr. Robertson stated the Commission does not discriminate at all based on income levels, housing type, type of owner, or type of tenant; that the question is inappropriate and will not be required by the Commission.

Ms. Stevenson stated Mr. Ring Lardner serves on the Sussex County Land Trust; that the Sussex County Land Trust is a non-profit organization that purchased land to preserve; that she recommends people contact him to discuss donating.

The Commission found that Ms. Martha Eisenhower spoke in opposition to the Application; that she lives on Retz Lane; that her property back up to the Love Creek Elementary School property; that she was happy to hear when a school was being proposed behind her property; that she would rather a school than a convenience store; that she is opposed to the Change of Zone request; that currently, the Applicant knows two units to the acre is permitted within the AR-1 Zoning District; that this would allow for 43 homes; that the Applicant would place 43 homes on the property while preserving the woodlands; that she has lived on her property for 43 years; that within the last year she has noticed an influx of wildlife in her yard and the only thing she can attribute it to, is the fact that we are destroying the woodlands, creating nowhere else for the wildlife to go.

The Commission found that Mr. Victor Mantarro spoke in opposition to the Application; that he lives within the Saddle Ridge Community; that he had a concern about the proposed stormwater drainage; that his backyard faces the wetland area; that one year, there was an extraordinary amount of rain, which caused the wetland area to fill quickly; that the overflow of water ran into the existing woods; that the woods help maintain the 15 inches of water from the back of his house and his neighbor's house; that the project will be adding additional runoff; that he is not convinced that the Applicant will be able to control the runoff flowing into the wetlands and he is concerned if the Applicant cannot control the runoff it will cause runoff onto his property.

The Commission found that Ms. Susan Armato spoke in opposition to the Application; that she is a resident of Belle Terre; that she supports development; that she is opposed to the Change of Zone request; that she believes the owner has the right to the permitted use within the AR-1 Zoning District; that proposing 84 units would be a disservice to all nearby residents; that approval will set the precedence for anyone with AR-1 Zoning to request rezoning as well.

The Commission found that Mr. Paul Paolini spoke in opposition of the Application; that he has been a resident within Saddle Ridge Community for a year; that he has been in real estate for 25 years; that he is a landscape architect by degree and practice; that he agrees with Mr. Delmar, who stated a property adjacent to a school is a challenge due to the unknowns of school traffic and noise of the children; that he previously sold a home between a men's prison and a women's prison; that he believes selling that home between two prisons would be easier than selling a home next to a school; that he played recordings of emergency sirens for the Commission; that he stated the sirens are sometimes heard up to five times a day along this corridor of Rt. 24; that the representative of the Applicant did a good job identifying what is along the Rt. 24 corridor; that soon the residents of Saddle Ridge will be required to cross two lanes to make a left turn onto Rt. 24; that the whole corridor has a high level of activity and that is the reasoning for his opposition to the zoning change of the parcel.

The Commission found that Ms. Bettina Peronti spoke in opposition to the Application; that she is a resident of Belle Terre; that she had concerns about sharing the entranceway with the elementary school, being located adjacent to the elementary school, that she feels the Traffic Impact Study was

based on the Applicant putting in 37 single-family homes, with two vehicles a home; that with 37 single-family homes the total vehicles would be 74 vehicles; that when placing 84 townhomes, at one vehicle is 84 vehicles; that she would like clarification put on record stating that the multi-family units will not cause more traffic than single-family homes; that she is opposed to the rezoning; that the representative to the Applicant did a good job describing development within the area; that she feels the Applicant can develop the property under the existing AR-1 Zoning; that she questioned if there is a percentage the County is requiring or identified as a target as a percentage of permits to single-family homes as opposed to multi-family units; that she questioned if we are meeting the target or percentage as a community; that the Commission needs to take into consideration the location, impact and use of the land and not only considering the number of permits provided to single-family or multi-family homes approved over the last three years.

The Commission found that Ms. Judy Seibert spoke in opposition to the Application; that she is a resident of the Saddle Ridge Community; that she is opposed to both the Change of Zone and Conditional Use Applications; that as a local resident, she believed there will be an adverse effect on adjacent neighborhoods; that left turns onto Rt. 24 is a challenge; that adding 84 townhomes will exacerbate the issue; that she believes the project will have an adverse effect on Love Creek Elementary School; that she understood DelDOT accepted the Belle Terre Traffic Impact Study from 2016; that Love Creek Elementary School was not built until 2017; that she does understand the property is located within the Henlopen TID; that her opinion is a current Traffic Impact Study at the discretion of the Commission; that a TIS should be required because of the additional traffic cause by the COVID-19 pandemic and the change in school districts for children; that the dualization of Rt. 24 will narrow down to one lane, west bound, in front of the Saddle Ridge Community; that this will cause increased congestion at their intersection; that one lane will turn into a right lane only turning into the Saddle Ridge Development; that there is a possibility of the townhomes being used as rentals; that the townhomes would be ideal for the use of rentals; that the units are large in size, being from 3,080 sq. ft. to 4,600 sq. ft; that if the townhomes were used for rentals it could increase the vehicle traffic dramatically; that she appreciated Mr. Robertson's comments that the public comments can be taken into account when considering Change of Zone requests and she requested the Commission use their discretion, not recommending approval for the Change of Zone request.

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

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

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

In relation to the Ordinance for Tax Parcel No. 334-12.00-16.04. Motion by Mr. Mears, seconded by Ms. Stevenson and carried unanimously to defer for further consideration. Motion carried 5-0.

Minutes of the July 14, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Ordinance which had been deferred since June 23, 2022.

Mr. Mears moved that the Commission recommend approval of Ordinance No. 22-05 to amend the Future Land Use Map in the current Sussex County Comprehensive Plan for a portion of Parcel 334-

12.00-16.04 from a Commercial Area Designation to a Coastal Area Designation based on the record made during the public hearing and for the following reasons:

1. The parcel is 21.62 acres of land. A portion of it is designated as the “Commercial Area” according to the Future Land Use Map. The rest of it is designated as “Coastal Area”. This results in the property having two different designations according to the Map. Given the differing rules for the Commercial Area and the Coastal Area, it is appropriate for this property to have one classification on the Future Land Use Map.
2. With the exception of the Saddle Ridge development to the west of this site (which is developed as an MR Medium-Density residential subdivision that is itself inconsistent with its own “Commercial Area” designation), all of the properties that are in the area and that have developed residentially have the “Coastal Area” designation. It is appropriate to bring this entire site under the single “Coastal Area” designation.
3. This revision to the Future Land Use Map will not adversely affect neighboring properties, area roadways, or future land-use planning in the area.
4. This revision of the Future Land Use Map is appropriate given the particular circumstances involved, including the fact that the property has two different Area designations according to the current Future Land Use Map and the fact that the property is in the vicinity of other Coastal Areas that have developed residentially according to the Future Land Use Map. When several factors like this exist, the consideration and approval of an amendment to the Future Land Use Map is appropriate.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of Ordinance No. 22-05, in relation of a portion of 334-12.00-16.04 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.

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: June 23rd, 2022

Application: Ord. 22-05 Howeth Property

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

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

Site Location: Lying on the west side of John J. Williams Highway (Route 24), approximately 0.25 mile southwest of Mulberry Knoll Road (S.C.R. 284).

Current Zoning: Agricultural Residential (AR-1) District

Proposed Use: 84 Multifamily Units and other associated site improvements

Comprehensive Land Use Plan Reference: Commercial Area & Coastal Area (subject to FLUM Amendment to change portion designated as Commercial Area to Coastal Area.)

Councilmanic District: Mr. Schaeffer

School District: Cape Henlopen School District

Fire District: Lewes Fire Department

Sewer: Sussex County

Water: Tidewater Utilities

Site Area: 21.62 acres +/-

Tax Map IDs.: 334-12.00-16.04





Sussex County

PIN: 334-12.00-16.04

Owner Name TOWNSEND J G JR
CO

Book 0

Mailing Address PO BOX 430

City GEORGETOWN

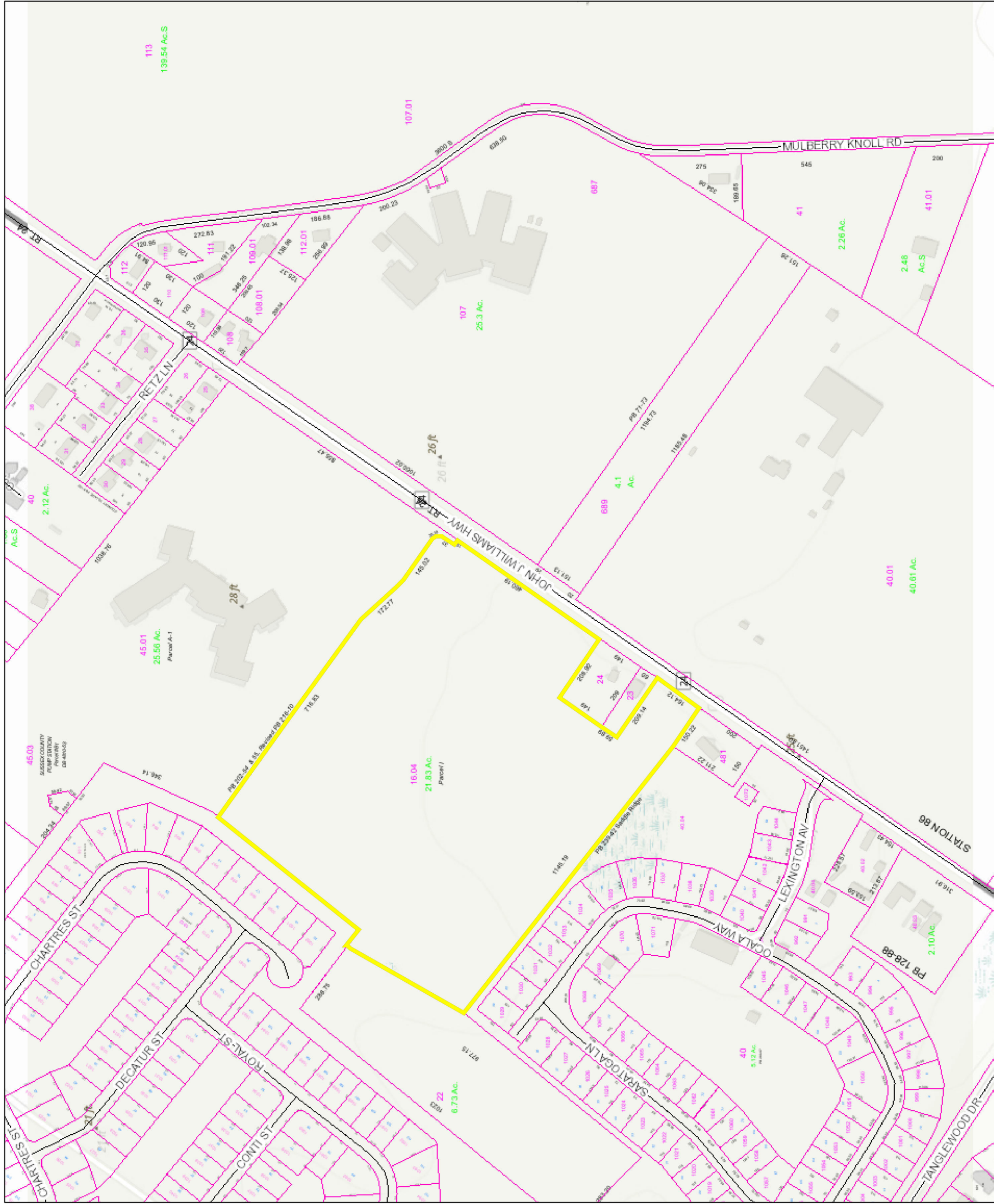
State DE

Description NW/RT 24

Description 2 SW/RT 284

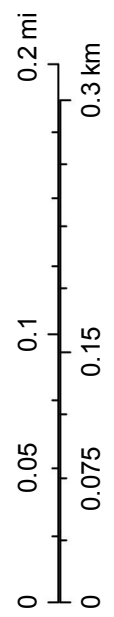
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Land Code



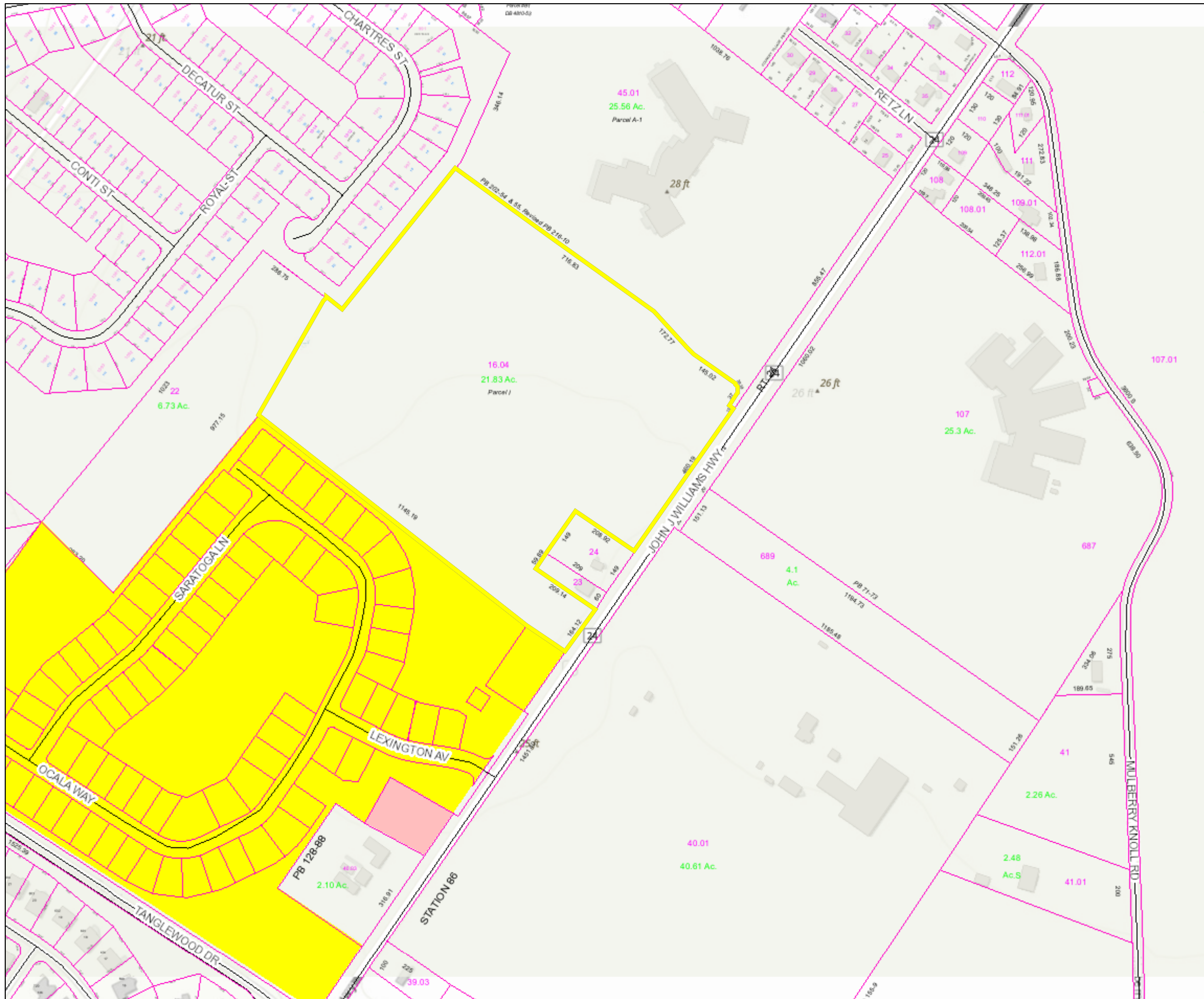
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Override 1
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Override 1
- Tax Parcels
- Streets
- County Boundaries

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Sussex County



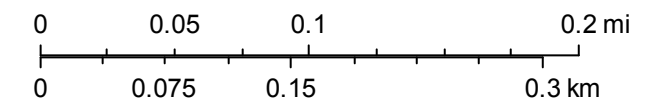
PIN:	334-12.00-16.04
Owner Name	TOWNSEND J G JR CO
Book	0
Mailing Address	PO BOX 430
City	GEORGETOWN
State	DE
Description	NW/RT 24
Description 2	SW/RT 284
Description 3	PARCEL 1
Land Code	

- polygonLayer**

 - Override 1
- polygonLayer**

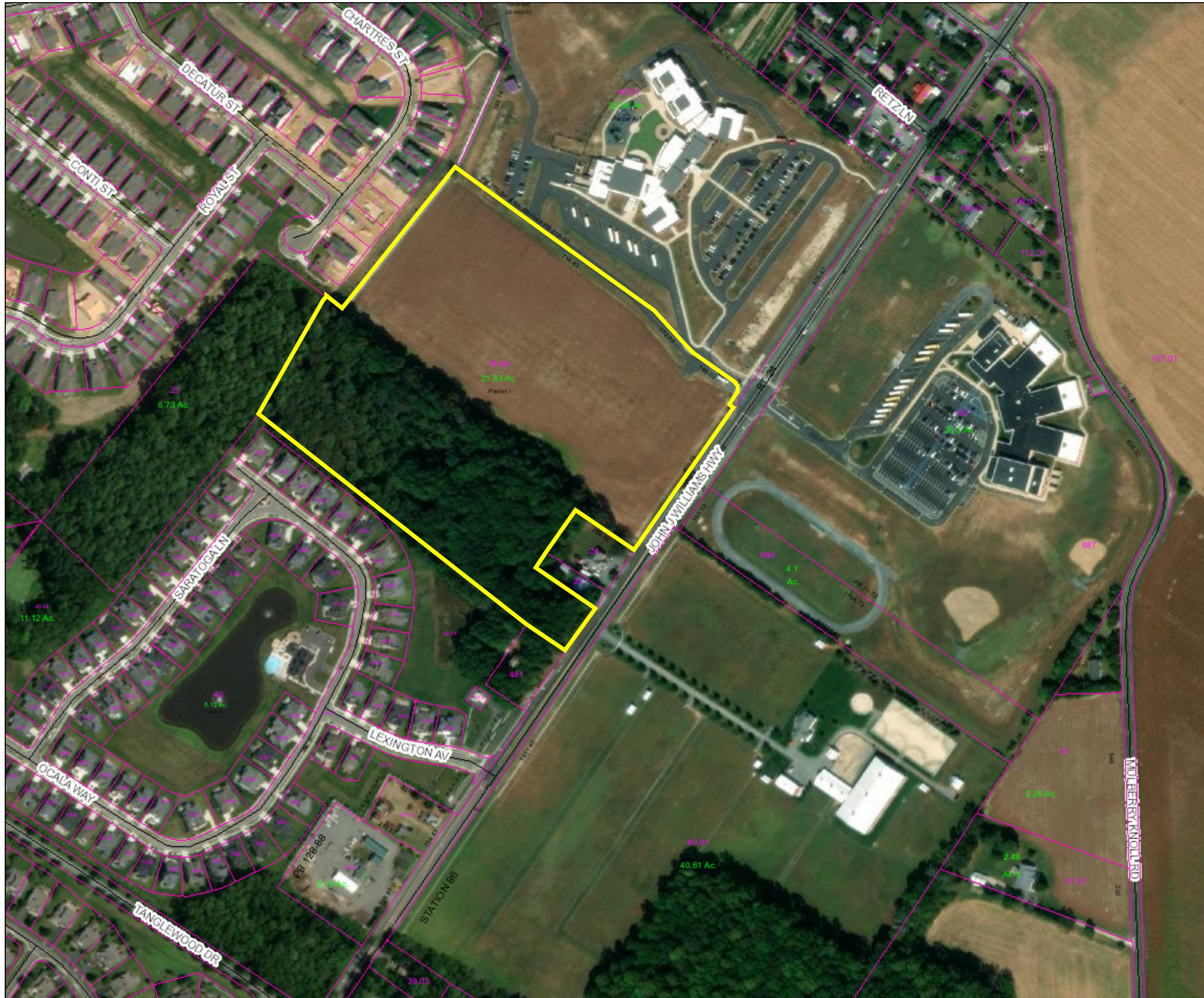
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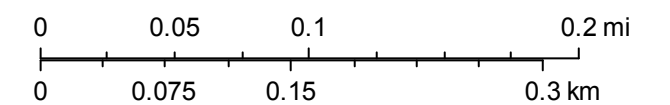
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- polygonLayer**
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Sussex County

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Memorandum

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

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

CC: Everett Moore, County Attorney

Date: August 25, 2022

RE: County Council Report for C/Z 1949 filed on behalf of J.G Townsend Jr. & Co.

The Planning and Zoning Department received an application (C/Z 1949 filed on behalf of J.G. Townsend Jr. & Co.) to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a MR Medium Density Residential District. The property is located on the west side of John J. Williams Highway (Rt. 24), approximately 0.25 mile southwest of Mulberry Knoll Road (S.C.R 284). The change of zone is for 21.62 acres, more or less.

The Planning and Zoning Department has also received applications relating to the parcels (C/U 2304 filed on behalf of J.G Townsend Jr. & Co. and Ord. 22-05)

The Planning and Zoning Commission held a public hearing on June 23, 2022. At the meeting of July 14, 2022, the Commission recommended approval of the application for the 7 reasons as outlined within the motion (included below).

The County Council held a Public Hearing on July 26, 2022. At the conclusion of the Public Hearing, the Council deferred action on the application and left the record open for application C/U 2304 for the limited purpose of allowing the Applicant the opportunity to discuss with their engineer whether or not they would like a new proposal for the design that will preserve the forested area and then the record would be closed after that. The County Council closed the Public Record on August 23, 2022.

Below is a link to the County Council minutes of the July 26, 2022 meeting.

[Link to the July 26, 2022 County Council Meeting Minutes](#)

Below are the minutes from the Planning & Zoning Commission meetings of June 23, 2022 and July 14, 2022.



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

Minutes of the June 23, 2022 Planning & Zoning Commission Meeting

Chairman Wheatley stated the applicant had requested to combine the presentations for the Ordinance, C/Z 1949, and C/U 2304 as they are all related Applications of J.G. Townsend Jr. & Co. and he stated the motions for the three applications would be made separately.

C/Z 1949 J.G. Townsend Jr. & Co.

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 21.62 ACRES, MORE OR LESS. The property is lying on the west side of John J. Williams Highway (Route 24), approximately 0.25 mile southwest of Mulberry Knoll Road (S.C.R. 284). 911 Address: N/A. Tax Parcel: 334-12.00-16.04.

Mr. Whitehouse advised the Commission that submitted into the record was the Exhibit Booklet, Conceptual Site Plan, Environmental Assessment, Public Facility Evaluation Report, Staff Analysis, Traffic Impact Study, DelDOT's response to the Traffic Impact Study, a letter from Sussex County Engineering Department Utility Planning Division, 20 letters in opposition and a written petition of 156 signatures.

The Commission found that Mr. David Hutt, Esq. spoke on behalf of the Application; that he is an attorney with Morris James; that he is representing the owner of the property and Applicant, J.G. Townsend Jr. & Co.; that also present were Mr. Paul Townsend, a shareholder in J.G. Townsend Jr. & Co., Mr. Doug Motley, a representative of the development group, Mr. Ring Lardner, Engineer with Davis, Bowen and Friedel, and Mr. Edward Launay, Wetland Scientist with Environmental Resources, Inc.; that he requested to make a correction for the records in respect to C/Z 1949 and C/U 2304; that it was indicated the Traffic Impact Study was undertaken by the Applicant; that the Applicant did not undertake a Traffic Impact Study; that DelDOT included a recent Traffic Impact Study in their response to the Service Level Evaluation Request; that the provided Traffic Impact Study was previously performed to the Belle Terre Community; that the site is known as the "Howeth Property"; that this name was provided after J.G. Townsend Jr. & Co. purchased the land from Howeth Family; that historically the Howeth Farm was much larger than it currently is; that in 2014 the Howeth Farm was as more than 70 acres; that approximately a decade ago, J.G. Townsend Jr. & Co. were approached by various institutions and bodies which included the Cape Henlopen School District, the State of Delaware on behalf of the Delaware State Police, and Sussex County; that these agencies were looking for a location along that particular section of Rt. 24 to place various facilities; that the results of those discussions was a minor subdivision plan; that the minor subdivision was recorded in 2014; that Parcel A1 of the minor subdivision was conveyed to the Cape Henlopen School District in 2015; that it has now become the home of the Love Creek Elementary School; that Parcel B was conveyed to the State of Delaware; that it is now the home of Troop 7; that the history is important as it answers many questions regarding the property; that located to the north is the Love Creek Elementary School; that located to the south is the Saddle Ridge Community; that Rt. 24 runs along the frontage of the property; that the Beacon Middle School is located across from Love Creek Elementary; the property is located in close proximity to the Beebe Medical Campus, Seaglass Apartments, The Residence Inn Hotel, Hearts Landing Community, Love Creek Manufactured Home Community, The Residences at Rehoboth Bay Condominium and Marina, as well as the various commercial businesses located along Rt. 1; that on the 2020 Delaware State Strategies Map it shows

almost the entire area as being within Investment Level 2; that there is a small area located on the property which is located within Investment Level 3; that the area located within Investment Level 3 is an isolated area of wetlands; that within the 2045 Future Land Use Map within Sussex County's Comprehensive Plan shows many parcels within the Commercial Area along Rt. 24; that the other surrounding area is located within the Coastal Area; that the Coastal Area is one of the seven Growth Areas for Sussex County; that one of the requests is to change the Future Land Use Map designation for a portion of the property; that 2/3 of the property is shown as Commercial; that 1/3 of the property is shown in the Coastal Area; that the Applicant's intention is to have the entire property located within the Coastal Area; that the Coastal Area is a designation which would allow uses other than only commercial uses; that Saddle Ridge, Love Creek Elementary School, Beacon Middle School and the site across from Beacon Middle School is shown as being in the Commercial Area on the Future Land Use Map; that there is a mixture of zoning classifications along that corridor of Rt. 24; that there is a mixture of C-1 (General Commercial), CR-1 (Commercial Residential), I-1 (Institutional), B-1 (Neighborhood Business) and MR (Medium-Density Residential); that the Change of Zone Application is seeking to change the zoning from AR-1 (Agricultural Residential) to MR (Medium-Density Residential); that there was three Applications being presented in relation to the same property; that the first request is to amend the Future Land Use Map creating one designation to the Coastal Area for the property; that the second request is for a Change of Zone from AR-1 (Agricultural Residential) to MR (Medium-Density Residential); that the third Application is a Conditional Use request to allow 84 townhomes; that each set of townhomes contains six units; that 14 townhomes are proposed across the site; that the project was reviewed during the PLUS process; that in Summer 2021 the Future Land Use Amendment request was reviewed by the Office of State Planning Coordination through the PLUS process; that the comments of no objection made by the Office of State Planning Coordination was included as part of the record; that Investment Level 2 areas are described as an area where the State anticipates growth for an area in the near future; that the Office of State Planning Coordination stated in their comments " *in Investment Level 2 areas, like Investment Level 1 areas, State investments and policies should support and encourage a wide range of uses and densities*" and " *Investments should encourage departure from the typical single-family dwelling development and promote a broader mix of housing types and commercial sites encouraging compact mixed-use development where applicable*", which ensure the State encourages a departure from typical single-family homes, offering a broader mix of housing options; that Section 8.2 of the County Code states " *while the County allows for multi-family (duplexes, townhouses and apartments etc.) the primary housing type is detached single-family (stick-built, modular and manufactured homes)*"; that in 2016, Sussex County issued 1,778 building permits; that of those building permits, 1,615 building permits were for single-family homes, equaling to 90.8%; that less than 10% of the issued building permits were for multi-family structures; that in 2017, 2,068 building permits issued; that 1,961 building permits, or 94.8%, were for single-family homes; that in 2018, 1,057 building permits were issued before the cut off for the Comprehensive Plan; that of those building permits, 992 building permits, or 93.8%, were issued for single-family homes; that within Chapter 8 of the Comprehensive Plan, it stated the County should consider the ability to establish other housing types or reduce the need for a Conditional Use for multi-family development; that the proposed Application does help address the mentioned needs; that within Chapter 4 of the Comprehensive Plan, the Coastal Area is described as one of the fastest growing areas within Sussex County; that the Comprehensive Plan does recognize the environmental concerns which may arise in the Coastal Area; that there is a buffer provided to the isolated wetlands, which proposed some environmental concern; that the proposed buffer to the wetlands exceeds Sussex County's recently adopted Buffer Ordinance requirements; that within the County Code, it states permitted uses and densities within each of the Growth Areas; that within the permitted use section for the Coastal Area, the Comprehensive Plan states *that a range of housing types should be permitted, including single-family homes, townhouses and multi-family*

units; that the next Section it states that medium and higher densities (4 to 12 units per acre) can be appropriate in certain locations and medium and higher densities could be supported in areas where there is central water and sewer, near sufficient commercial uses and employment centers, where it is in keeping with the character for the area, where it is along a main road, being located at or near a major intersection, where there is adequate level of service, or where other considerations exist that are relevant to the requested project and density; that the density for the proposed project is 3.9 units to the acre; that the medium and higher density requirements are all met by the proposed project; that Tidewater Utilities will provide water services; that central sewer is available through Sussex County; that the property is located in an area where there are commercial uses and employment centers; that the project is located along RT. 24, which is a major collector road; that the project is located at a signalized intersection on Rt. 24; that Rt. 24 does have DART transportation, with a Rehoboth, Longneck and Millsboro DART connection; that because the project is located within the TID, a fee per unit is required as part of the project's contribution to DelDOT; that although some adjacent properties are listed as AR-1 (Agriculture Residential), the Love Creek Elementary School is not an agricultural use; that the Love Creek Elementary School is over 89,000 sq. ft., which was granted by a Conditional Use approval; that located across the street is Beacon Middle School, being over 77,000 sq. ft. and was granted a Conditional Use Approval; that the County recently considered an application for the V&M site, which received approval for a 5,000 sq. ft. convenience store and fueling stations; that a 12,000 sq. ft. office building will also be located on the V&M property; that there were multiple other Conditional Use approvals mentioned within the submitted material; that the requested zoning classification for the property is MR (Medium-Density Residential), as it is an appropriate zoning district for the proposed use; that townhomes is a Conditional Use within the MR (Medium-Density Residential) Zoning District; that Conditional Uses are generally of a public or semi-public character and our essential for the general convenience and welfare of the County; that Conditional Uses to require some Planning judgement; that the purpose of the MR Zoning District is to provide for medium density residential development in areas which are expected to become generally urban in character, which is a good description of Rt. 24; that the Future Land Use Map for the property shows the commercial designation; that by allowing the area to be rezoned the area would avoid concentrations of retail and service uses, as well as hotels, motels, carwashes, auto dealerships, as well as other medium and large scale uses not primarily targeted to immediately adjacent residents and areas; that institutional and industrial uses may also be appropriate in the Commercial Zoning District; that the current Application proposes a far less intensive use than the potential permitted uses under Commercial Zoning; that traffic was a main theme within the comments made in opposition; that the use of the entryway was always anticipated; that there was a Service Level Evaluation Request sent to DelDOT as part of the Application; that within DelDOT's response indicated that the traffic impact for the project would be minor; that in having a minor impact the project became eligible for to participate in the Area Wide Study Fee Program; that however, the property is located within the Henlopen Transportation Improvement District (TID); that due to this the Area Wide Study Fee does not apply; that the fee per unit does apply; that another concern mentioned in opposition was the appropriateness of multi-family units being located adjacent to a school; that the concern is in contrary to many school which currently exist in Sussex County; that Cape Henlopen High School, HOB Brittingham School, Mariner Middle School, East Millsboro Elementary School, Rehoboth Elementary School are all located immediately adjacent to or nearby multi-family residential communities; that Chapter 8 of the Comprehensive Plan indicates the proposed area is appropriate for the proposed zoning and for the proposed Conditional Use for townhomes; that the Applicant requested approval to amend the Future Land Use Map, allowing the property to be located completely within the Coastal Area, changing the County's Zoning Map from AR-1 to MR Zoning and an approval for the Conditional Use permitted 84 townhomes; that he did submit proposed Findings of Fact and Conditions of Approval for the Change of Zone Application

and the Conditional Use Application; that one of the proposed requirements is that there must be a Property Owners Association to care for amenities; that it is proposed that the amenities would be constructed by the seventh building permit and each building will receive a building permit for all six units within it; that in reality, the amenities would be completed by the 42nd building permit when considering per units.

The Commission found that Mr. Ring Lardner spoke on behalf of the Application; that he is an engineer for Davis, Bowen and Friedel; that the site is located along John J. Williams Hwy., which is classified as a major collector road per the DelDOT Functional Classification Map; that the project is located within the Henlopen Transportation Improvement District (Henlopen TID); that the TID was a group effort between DelDOT and Sussex County; that the agreement was approved on October 30, 2020; that DelDOT noted the traffic for the proposed project was consistent with the TID; that the project was eligible to pay the TID fee, rather than performing a Traffic Impact Study (TIS); that a TID fee based on a per lot basis on January 31, 2020 was \$341,796.00; that the fee does increase annually on January 31st; that the fee is due at the time of building permit issuance; that the fee will continue to increase until the building permits are released; that the TID fees help fund the various project within the Transportation Improvement District to help improve the TID area; that the assumed land use was underestimated as it was assigned 37 single-family homes; that for the current Application they were able to stay within the perimeters for traffic; that the vehicle trips generated by townhouses is less than those generated by single-family homes; that this is the reasoning DelDOT considered the project consistent with the TID; that the project is not located within the Well Head Protection Area or Excellent Recharge Area; that the project is located outside of the 100 Year Flood Plain; that there is a small pocket of wetlands located on the site; that the wetlands were delineated by Environmental Resources Inc.; that the wetlands are located along the common boundary line of the site and the Saddle Ridge Community; that an approved Jurisdictional Determination was completed by the U.S. Army Corp of Engineers; that Mr. Edward Launay, with Environmental Resources did prepare an Environmental Review for wildlife habitat considerations; that Mr. Launay's review does contain a consultation with the U.S. Fish and Wildlife Service; that there are no records of federally listed threatened or endangered species being located on site; that the Monarch Butterfly was located onsite; that the site does not have the proper vegetation to support the Monarch Butterfly, therefore it was assumed that the site was not the home for the Monarch Butterfly; that within DNREC's Fish and Wildlife comments from the PLUS review mention three State rare species; that all three species are located within the Hetty Fisher Pond, which is located over 740-ft. from the site; that it was Mr. Launay's opinion that the development of the Howeth Property, now known as School Lane, will not adversely impact the amphibious species of State concern; that the layout of the site first began at the intersection of John J. Williams Hwy. as it is the combined entrance for the Love Creek Elementary School, Troop 7 and the proposed project; that when the Love Creek Elementary School was approved, traffic for the proposed project was already preassigned for the intersection; that the intersection was designed for the proposed project traffic; that as part of the improvement and approval for Love Creek Elementary School the stub was connect to the parcel; that this allowed for interconnectivity, providing one access onto Rt. 24; that they did design a 20-ft. landscape buffer along the property border of Love Creek Elementary School, Belle Terre and Saddle Ridge Communities; that the communities for Belle Terre and Saddle Ridge also have buffers on their property; that this has created two sets of buffers adjacent to each other; that they established a 50-ft wetland buffer to the isolated wetlands on site; that the Application was submitted prior to the adoption of the recent Buffer Ordinance; that the proposed buffer exceeds the requirement of the recently adopted Buffer Ordinance; that the townhouses will be fee simple lots, meaning the lots will be owner occupied; that no lots will be located back to back; that the stormwater pond is proposed to

be centrally located on the site; that the proposed stormwater pond location will minimize grading changes to the site; that active amenities are proposed along the other side of Road A, to ensure amenities would not be located in the rear yard of the lots; that they attempted to minimize dead-end streets; that currently there are two dead-ends proposed on Road B and Road C on the Site Plan; that they did provide overflow parking areas throughout the site for guests; that the internal roads will meet and/or exceed the requirements of Sussex County Road Standards; that the roads will be privately maintained; that Sussex County Geographic Information Office (GIO) (F.K.A. Mapping and Addressing Department) has approved the subdivision name of "School Lane" as well as the road names; that proposed amenities are a pool house, pool, centralized mailbox and a sports field area; that the proposed open space for the project is 11.42-acres, or 52% of the project site; that the project will be served by Tidewater Utilities, Inc. for water services; that Sussex County will provide sanitary sewer services; that they have received Willing and Able to Serve letters from Tidewater Utilities, Inc., Chesapeake Utilities, Delaware Electric Coop, and a Sewer Service Concept Evaluation from Sussex County Engineering; that the project was reviewed by PLUS on December 16, 2020; that the PLUS comments and the Applicant's response can be found in the submitted Exhibit Booklet; that the comments provided were general in nature; that the Applicant will comply with all regulatory requirements; that his office prepared an Environmental Assessment and Public Facilities Evaluation Report and the project complies with the Comprehensive Plan.

Ms. Stevenson questioned how parking is proposed for the project and if additional parking could be added to Road A on the west side.

Mr. Lardner stated each lot will have two parking spaces per unit, via the driveway or the garage; that they have provided overflow parking throughout the project; that they have exceeded the two-unit per lot requirement, and he stated they could consider additional options to add parking to the area Ms. Stevenson mentioned.

Chairman Wheatley advised the Commission that Mr. Bill Brockenbrough, County Coordinator with DelDOT was present for questioning via teleconference; that he requested Mr. Brockenbrough explain how the entrance came to be and why it was constructed the way it was.

Mr. Brockenbrough stated when the property was acquired for Love Creek Elementary School, J.G. Townsend Jr. & Co., the seller of the property retained access through the existing driveway with the intention to utilize the driveway for access to the subject property; that the construction of the entranceway is desirable by DelDOT; that he did not recall the specific history of when the school was developed; that the entranceway is consistent with the preferred construction from DelDOT's view, to minimize the number of access points; that in minimizing fewer access points, it allows fewer decision points for a driver and it opens the possibility for signalized access for the development, which would help manage left-hand turns.

Ms. Stevenson questioned if the pool house is proposed to only hold supplies for the pool, or if the pool house was proposed to be larger and utilized by residents and requested the Applicant consider making the pool house a meeting spot for residents.

Mr. Hutt stated a better description of the pool house would be a bathhouse; that it would not be proposed as a clubhouse with exercise equipment and that the pool house is proposed to be a changing area and restroom area.

Mr. Robertson stated the Applications are for a Change of Zone and a Conditional Use and the Commission does have the authority to apply discretion.

Chairman Wheatley stated property owners do have a right to subdivide their land and property owners do not have the right to Change the Zoning for their property; that the Change of Zone is purely discretionary, and the Commission has the authority to make that discretion.

The Commission found Mr. Steve Kittka spoke in opposition to the Application; that he lives within the Saddle Ridge Community; that he opposes the project as it is currently proposed; that it was said the townhomes would generate less traffic; that the proposed townhomes are larger than almost any home located within the Saddle Ridge Community; that the townhomes are 4,600 sq. ft.; that he did not invest in his property with any idea that the adjacent zoning would be changed; that he feels the proposed development will cause an enormous amount of traffic; that he understood there was not a Traffic Impact Study performed for the proposed project specifically; that a lot has changed since previous traffic analysis; that one of the reasons for this is COVID-19 which has led to an increase in traffic to Love Creek Elementary School; that with the traffic currently on Rt. 24, there are frequent accidents and near accidents all the time; that within the last three weeks there have been three accidents within a mile of the proposed development; that two of the accidents were at the intersection of Rt. 24 and Warrington Rd.; that those two accidents caused Rt. 24 to shut down; that the third accident was between Saddle Ridge and Harts Landing; that he has no objection to the Applicant developing the property; that he objects to the proposal of medium density; that he is also concerned with the disturbance to the wildlife and he objects to the Change of Zoning request.

Chairman Wheatley stated that if a Traffic Impact Study (TIS) was performed for a nearby development, DelDOT does not require an additional TIS as the information remains remotely the same.

Mr. Robertson stated DelDOT and Sussex County established the Transportation Improvement District (TID) that the project is part of; that DelDOT has performed the analysis for all the roadway improvements within the entire TID area; that they had to design all road improvements based on the anticipated development within the TID; that then, based on the improvements, a cost is assigned as to what it cost to construct the road improvements; that then a required fee is calculated for each developer to develop the road improvements and the Applicant did not perform a Traffic Impact Study as it is already included in the greater TID.

Mr. Robertson questioned the status of the dualization of Rt. 24.

Mr. Mears requested Mr. Brockenbrough's opinion on townhomes generated vehicle traffic versus residential communities generated traffic.

Mr. Brockenbrough stated the construction began in March 2022 for the dualization of Rt. 24; that it was proposed to be completed in 2023; that he believed completion will be in 2024; that the improvements are proposed to widen to two lanes each way; that sidewalks are proposed on both sides of the road; that DelDOT relies on Transportation Engineers Trip Generation Manual, which provides National-level data on various land uses, including single-family detached houses and townhouses; that generally single-family detached houses generate the most traffic; that townhouses, apartments and various types of multi-family development generate less per dwelling unit and

regarding the comment of the size of the townhomes, DeDOT would not have data to support or dispute the fact.

Chairman Wheatley questioned if anyone could provide a comment on the proposed size of the units.

Mr. Ring Lardner stated that they do not know the exact size of the townhouses currently; that the lot widths are 20-ft. wide with a depth of 115-ft.; that the widest lot could be 28-ft.; that after including setback requirements, it would be 20'x75'; that the proposed units are two-story with a first-floor master; that at the largest, an approximate average is 3,000 sq. ft.; that the average size will be 2,000 sq. ft. to 2,500 sq. ft.; that confirmation of size cannot be determined until they find a builder and the proposed size is much less than the size testified by Mr. Kittka.

The Commission found that Ms. Nancy Guerin spoke in opposition to the Application; that she lives in Hart's Landing; that she has concerns about the Love Creek Bridge; that the bridge is not proposed to be expanded; that this will cause a traffic bottleneck, as the traffic will go from four lanes down to two lanes; that currently, she has difficulty exiting her development onto Rt. 24; that she feels after hearing Mr. Hutt explain all the types of development located along Rt. 24, she does not believe another development is needed; that she questioned if any of the mentioned schools and the developments they are adjacent to share a road as is proposed in the current Application; that due to COVID-19, there has been increased traffic to the schools; that this has created a back up of traffic on Rt. 24 down to Mulberry Rd. and she does not feel the Traffic Impact Study for Belle Terre, and the time in which it was performed, took in to account the additional traffic she sees currently.

The Commission found that Mr. Kenny Delmar spoke in opposition to the Application; that he lives in Hart's Landing; that he has a background in real estate, with many decades of experience; that in his experience the last thing a person should want to do is build a development next to a slaughter house, a factory making toxic chemicals or an elementary school; that it would be a kiss of death; that he assured the Commission that the developer, owner and attorneys have not had a discussion with a real estate broker to question what would be coming down the road; that he felt two weeks ago a ceiling was hit; that from here on out it will become more difficult to make a profit with a residential development; that a smart choice to make, would be not to build your development next to an elementary school, while sharing the same entrance with the school; that it would not be a smart choice; that the choice would not be considered good business; that he questioned if any of the attorneys, engineers or developer have children in Love Creek Elementary; that he questioned what will happen with construction traffic caused by the development; that it will be another years lost to a child who is attempting to get an education; that because of the construction, there will be noise from 7:00 am until 4:00 pm for at least a year; that the children who are in school trying to learn, will have to listen to construction noise for at least a year and the future residents will not want to deal with the noise generated by an elementary school on a normal school day.

The Commission found that Mr. Shunli Zhang spoke in opposition to the Application; that he lives in Saddle Ridge Development; that he agrees with all the previously mentioned concerns; that he is concerned about the approximate six acres of forest located on the property; that on one side of the forest is a natural pond; that on the other side of the forest are wetlands; that the current forest is full of life; that the forest life includes bald eagles and he requested the Commission reconsider approving the project, or request a modification to the plan, to help protect the forest, wildlife and natural beauty of the forest.

The Commission found that Mr. Laymen Grant spoke in opposition to the Application; that he is a resident of Belle Terre; that it was his understanding that a signalized light will be placed at the intersection of Rt. 24 and Mulberry Knoll Rd.; that the current traffic attempting to get onto Rt. 24 is ugly; that with the proposed 84 townhouses; that he would estimate one and a half vehicles per unit; that most families have at least two cars; that there will be 120 additional vehicles with the proposed development, which will be required to merge onto Rt. 24; that occasionally the children at Love Creek Elementary School play outside in the adjacent field; that Beacon Middle School has athletic fields; that he feels placing the development without the red light would be a disaster; that there will be an accident; that he has only lived in Sussex County a year; that there are times he cannot figure out how to cross Rt. 24; that people will take a chance, shooting out onto Rt. 24; that he feels there would be a chance they head into the field, where children may be at play; that in the evening hours, there is limited lighting in the area; that he does not have an issue with the development of the property but he does have an issue with the traffic.

Mr. Brockenbrough stated he believed the plan was to place a signalized red light at the intersection of Mulberry Knoll Rd. and Rt. 24.

The Commission found that Mr. Maureen Burns spoke in opposition to the Application; that she lives within Belle Terre directly behind the proposed project; that she questioned if the Commission approves the Change of Zone request, could the Applicant change their proposed plans; that the elevation of the proposed site is higher than her property; that she is concerned she will receive all of the water run off when it would rain; that she questioned if there are proposed balconies for the townhouses and she is concerned about her privacy and the ability of future residents to look through her windows.

Mr. Robertson stated the Commission would make a recommendation to County Council; that County Council would approve or deny the Change of Zone request; that if the Change of Zone were to be approved, the Applicant could potentially propose a subdivision; that a subdivision would require another public hearing; that the maximum building height would be 42-ft.; that if the Change of Zone were approved, the Applicant would be permitted to do anything permitted within MR (Medium-Density Residential) Zoning District.

Chairman Wheatley stated the stormwater regulations are regulated and enforced by the Sussex Conservation District; that Sussex Conservation District regulations stated the Applicant must contain the property's stormwater on-site; that the Applicant must dispose of the water runoff either on the property site or through a properly regulated design outfall and the Applicant would not be permitted to allow any runoff onto Ms. Burns property.

Mr. Ring Lardner stated they cannot speak to the design of the townhomes; that there is a 20-ft. landscape buffer proposed on the property site; that there is a 50-ft. landscape buffer on the Belle Terre property and that the buffers would allow for a 70-ft landscape buffer between the homes.

Mr. Robertson questioned what the rear setback requirements for the proposed units were.

Mr. Whitehouse stated that each unit must have an agricultural buffer; that the Applicant can split the buffer, however, the plan would be required to be seen before the Commission for site plan review; that it is required to be a minimum of 40-ft. spread front and back; that the buildings can be no closer than 40-ft. from each other; that the minimum landscape buffer required is 20-ft. or the Applicant

would be required to obtain a variance; that there is 40-ft. between the buildings and the property lines; that within the 40-ft. setback there is a 20-ft. landscape buffer and any setback and landscaping located on the Belle Terre property.

The Commission found that Ms. Patricia Hutchinson spoke in opposition to the Application; that she lives with Belle Terre; that she has concerns with the wild life, the removal of the existing woods and transportation issues; that she is a retired educator; that she knows what happens on an elementary school property; that she knows the amount of traffic comes and goes from the property; that she knows the amount of children that play outside; that she does have concerns with the construction and the issues it will cause for the children; that she is concerned children will not be able to go outside for recess, which the children just experienced during the COVID-19 pandemic; that she is concerned about the additional traffic coming and going from the site; that she would appreciate a signalized red light; that she is concerned about other permitted building that would be permitted with an approval to the Change in Zone request; that she is concerned about the possibilities of a transient population or rental population being placed next to an elementary school and a community for the 55+ year community; that she has concern regarding the water runoff; that she was told that Belle Terre previously proposed mixed development, which included townhomes; that the townhouses were denied at that time; that she feels the townhouses would not be similar to surrounding communities; that she does understand if the zoning is changed the Applicant is permitted to construct anything permitted within that zoning and the neighbors would get no say in what the Applicant were to propose.

The Commission found that Mr. Thomas Negran spoke in opposition to the Application; that he is a resident of Belle Terre; that the lovely 21-acre cornfield will be removed; that 84 multi-family units are proposed for the area; that only single-family homes and an elementary school border the property; that a major concern is the increased traffic; that the proposed development will share the entrance with Love Creek Elementary school; that according to the documentation there will be 598 additional vehicles daily; that the area is already congested; that the increased traffic may pose a threat to the safety of the Love Creek Elementary children; that according to the Site Plan, the backyards of 18 units will directly face the school property; that the water runoff from the 14 units roofs will flow into the direction of Belle Terre residents back yards; that he saw no proposed retention ponds in the area bordering Belle Terre; that four acres of woodlands will be destroyed; that 7.9 acres of impervious material will replace the field; that according to the report from DNREC, there are several rare and/or endangered species in the project area; that multi-family units sell for a lower price point than single-family homes; that the lower price point often leads to investors purchasing units for rental; that transient neighbors may not be the most desirable neighbors, especially to school-aged children; that the Land Elevation Map, located on page 72, of the Paperless Packet indicates a natural slope downward to 25-ft. above sea level at the rear of the property; that the elevation drops to 21-ft. above sea level on Decatur Street in Belle Terre; that the runoff could become detrimental to the Belle Terre community with the removal of the trees; that he questioned if the Applicant plans to sell the property to a developer, to develop themselves, to receive subsidies for low-income housing and what the expected selling price is for the proposed townhomes; that he commends Sussex County for purchasing land in efforts to preserve land; that he requested Sussex County purchase the subject property to be preserved and/or utilized as a park or recreational area and he stated the revenue to Sussex County will receive, from the 1.5% transfer tax from Belle Terre alone will amount to at least \$2,000,000.00 and could be put to good use for the residents of Sussex County.

Mr. Robertson stated the Commission does not discriminate at all based on income levels, housing type, type of owner, or type of tenant; that the question is inappropriate and will not be required by the Commission.

Ms. Stevenson stated Mr. Ring Lardner serves on the Sussex County Land Trust; that the Sussex County Land Trust is a non-profit organization that purchased land to preserve; that she recommends people contact him to discuss donating.

The Commission found that Ms. Martha Eisenhower spoke in opposition to the Application; that she lives on Retz Lane; that her property back up to the Love Creek Elementary School property; that she was happy to hear when a school was being proposed behind her property; that she would rather a school than a convenience store; that she is opposed to the Change of Zone request; that currently, the Applicant knows two units to the acre is permitted within the AR-1 Zoning District; that this would allow for 43 homes; that the Applicant would place 43 homes on the property while preserving the woodlands; that she has lived on her property for 43 years; that within the last year she has noticed an influx of wildlife in her yard and the only thing she can attribute it to, is the fact that we are destroying the woodlands, creating nowhere else for the wildlife to go.

The Commission found that Mr. Victor Mantarro spoke in opposition to the Application; that he lives within the Saddle Ridge Community; that he had a concern about the proposed stormwater drainage; that his backyard faces the wetland area; that one year, there was an extraordinary amount of rain, which caused the wetland area to fill quickly; that the overflow of water ran into the existing woods; that the woods help maintain the 15 inches of water from the back of his house and his neighbor's house; that the project will be adding additional runoff; that he is not convinced that the Applicant will be able to control the runoff flowing into the wetlands and he is concerned if the Applicant cannot control the runoff it will cause runoff onto his property.

The Commission found that Ms. Susan Armato spoke in opposition to the Application; that she is a resident of Belle Terre; that she supports development; that she is opposed to the Change of Zone request; that she believes the owner has the right to the permitted use within the AR-1 Zoning District; that proposing 84 units would be a disservice to all nearby residents; that approval will set the precedence for anyone with AR-1 Zoning to request rezoning as well.

The Commission found that Mr. Paul Paolini spoke in opposition of the Application; that he has been a resident within Saddle Ridge Community for a year; that he has been in real estate for 25 years; that he is a landscape architect by degree and practice; that he agrees with Mr. Delmar, who stated a property adjacent to a school is a challenge due to the unknowns of school traffic and noise of the children; that he previously sold a home between a men's prison and a women's prison; that he believes selling that home between two prisons would be easier than selling a home next to a school; that he played recordings of emergency sirens for the Commission; that he stated the sirens are sometimes heard up to five times a day along this corridor of Rt. 24; that the representative of the Applicant did a good job identifying what is along the Rt. 24 corridor; that soon the residents of Saddle Ridge will be required to cross two lanes to make a left turn onto Rt. 24; that the whole corridor has a high level of activity and that is the reasoning for his opposition to the zoning change of the parcel.

The Commission found that Ms. Bettina Peronti spoke in opposition to the Application; that she is a resident of Belle Terre; that she had concerns about sharing the entranceway with the elementary school, being located adjacent to the elementary school, that she feels the Traffic Impact Study was

based on the Applicant putting in 37 single-family homes, with two vehicles a home; that with 37 single-family homes the total vehicles would be 74 vehicles; that when placing 84 townhomes, at one vehicle is 84 vehicles; that she would like clarification put on record stating that the multi-family units will not cause more traffic than single-family homes; that she is opposed to the rezoning; that the representative to the Applicant did a good job describing development within the area; that she feels the Applicant can develop the property under the existing AR-1 Zoning; that she questioned if there is a percentage the County is requiring or identified as a target as a percentage of permits to single-family homes as opposed to multi-family units; that she questioned if we are meeting the target or percentage as a community; that the Commission needs to take into consideration the location, impact and use of the land and not only considering the number of permits provided to single-family or multi-family homes approved over the last three years.

The Commission found that Ms. Judy Seibert spoke in opposition to the Application; that she is a resident of the Saddle Ridge Community; that she is opposed to both the Change of Zone and Conditional Use Applications; that as a local resident, she believed there will be an adverse effect on adjacent neighborhoods; that left turns onto Rt. 24 is a challenge; that adding 84 townhomes will exacerbate the issue; that she believes the project will have an adverse effect on Love Creek Elementary School; that she understood DelDOT accepted the Belle Terre Traffic Impact Study from 2016; that Love Creek Elementary School was not built until 2017; that she does understand the property is located within the Henlopen TID; that her opinion is a current Traffic Impact Study at the discretion of the Commission; that a TIS should be required because of the additional traffic cause by the COVID-19 pandemic and the change in school districts for children; that the dualization of Rt. 24 will narrow down to one lane, west bound, in front of the Saddle Ridge Community; that this will cause increased congestion at their intersection; that one lane will turn into a right lane only turning into the Saddle Ridge Development; that there is a possibility of the townhomes being used as rentals; that the townhomes would be ideal for the use of rentals; that the units are large in size, being from 3,080 sq. ft. to 4,600 sq. ft; that if the townhomes were used for rentals it could increase the vehicle traffic dramatically; that she appreciated Mr. Robertson's comments that the public comments can be taken into account when considering Change of Zone requests and she requested the Commission use their discretion, not recommending approval for the Change of Zone request.

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

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

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

In relation to the Application C/Z 1949 J.G. Townsend Jr. & Co. Motion by Mr. Mears, seconded by Ms. Stevenson and carried unanimously to defer for further consideration. Motion carried 5-0.

Minutes of the July 14, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since June 23, 2022.

Mr. Mears move that the Commission recommend approval of C/Z 1949 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. This application satisfies the stated purpose of the MR District.
2. Both central water and central sewer will be available on this site.
3. This site is the location of Route 24 at a lighted intersection. DelDOT is planning to widen and improve this section of Route 24 in the near future. Given its location adjacent to these roadways and this intersection, MR zoning is appropriate for this property.
4. The property is adjacent to the Saddle Ridge development that was developed as an MR residential development. The site is also adjacent to the Love Creek Elementary campus. There are other C-1, CR-1, and B-1 zoning districts along this area of the Route 24 corridor as well. This rezoning is consistent with other zoning and land uses in the area.
5. 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.
6. The site is located within the Commercial Area and the Coastal Area according to the Future Land Use Map in the Sussex County Comprehensive Plan. Both of these are “Growth Areas” according to this Plan. By separate motion, this Commission has recommended that the Map be amended so that the entire parcel is designated as being within the Coastal Area. MR Zoning is appropriate in this Area according to the Plan.
7. For all of these reasons, MR zoning is appropriate for this site.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 1949 J.G. Townsend, Jr. & Co., 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.

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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DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: June 23rd, 2022

Application: CZ 1949 J.G. Townsend Jr. & Co.

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

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

Site Location: The property is lying on the west side of John J. Williams Highway (Route 24), approximately 0.25 mile southwest of Mulberry Knoll Road (S.C.R. 284).

Current Zoning: AR-1 – Agricultural Residential District

Proposed Zoning: MR – Medium Density Residential District

Comprehensive Land Use Plan Reference: Commercial Area & Coastal Area (FLUM Amendment proposal to change the Commercial Area portion to 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: 21.62 acres +/-

Tax Map ID.: 334-12.00-16.04



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Sussex County

DELAWARE
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Memorandum

To: Sussex County Planning Commission Members
From: Ms. Lauren DeVore, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and applicant
Date: May 23, 2022
RE: Staff Analysis for C/Z 1949 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 1949 Route 54 Limited Partnership to be reviewed during the June 23, 2022, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcel 334-12.00-16.04 to allow for a change of zone from an Agricultural Residential (AR-1) District to a Medium Density Residential (MR) District. The property is lying on the west side of John J. Williams Highway (Route 24), approximately 0.25 mile southwest of Mulberry Knoll Road (S.C.R. 284). The parcel consists of 21.62 acres +/-.

Further Site Considerations

Per County records, there do not appear to be any Tax Ditches or related Tax Ditch rights-of-way (ROW) on the subject property. The property is located within the "X" Flood Zone "Areas determined to be outside of the 100-year floodplain."

The property is located within the Henlopen Transportation Improvement District (TID) and shall be subject to all requirements as provided for as part of any subsequent Transportation Improvement District Agreement including payment of any required fees and related improvements as may be deemed necessary by the County and DeDOT.

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 "Commercial Area" and "Coastal Area." The properties to the south (including on the opposite side of Route 24 (John J. Williams Highway), the properties to the southwest (to include the entire Saddle Ridge Subdivision) and the properties to the northeast along Route 24 all have a land use designation of "Commercial Area." The properties to the southeast and to the northwest to include the adjacent lands of the Four Seasons at Belle Terre Subdivision also contain the land use designation of "Coastal Area."



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

Conversely, Commercial Areas include concentrations of retail and service uses that are mainly located along arterials, and highways. As opposed to small, traditional downtown areas that are often historic and pedestrian-friendly, Commercial Areas include commercial corridors, shopping centers, and other medium and large commercial vicinities geared towards vehicular traffic. In addition to primary shopping destinations, this area would also be the appropriate place to locate hotels, motels, car washes, auto dealerships, and other medium and larger scale commercial uses not primarily targeted to the residents of immediately adjacent residential areas. These more intense uses should be located along main roads or near major intersections. Institutional and commercial uses may be appropriate depending on surrounding uses. Mixed-use buildings may also be appropriate for these areas (Sussex County Comprehensive Plan, 4-17).

Zoning Information

The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories”, the Medium Density Residential (MR) District is listed as an Applicable Zoning District within the “Coastal Area.” (Sussex County Comprehensive Plan, 4-25). However, the Medium Density Residential (MR) District is not listed as an Applicable Zoning District within the “Commercial Area.”

However, it should be noted that there is a related Application to amend the Future Land Use Map which has been submitted in conjunction with this application (Ordinance No. 21-13) to amend the Commercial portion of the property to the Coastal Area.

The property is zoned Agricultural Residential (AR-1) District. The adjacent parcels to the north, northeast and south of the subject property are zoned Agricultural Residential (AR-1) District. The properties located to the southwest of the subject site are zoned Medium Density Residential (MR) District. There is also a single parcel to the southwest that is zoned Neighborhood Business (B-1) District.

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

Since 2011, there have been four (4) Change of Zone applications within a 0.25-mile radius of the application site. The first application is for Change of Zone No. 1737 Robert & Julie Norwood for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Commercial Residential (CR-1) District. The application was recommended denial by the Planning and Zoning Commission at their meeting of Thursday, November 14, 2013, and the Application was

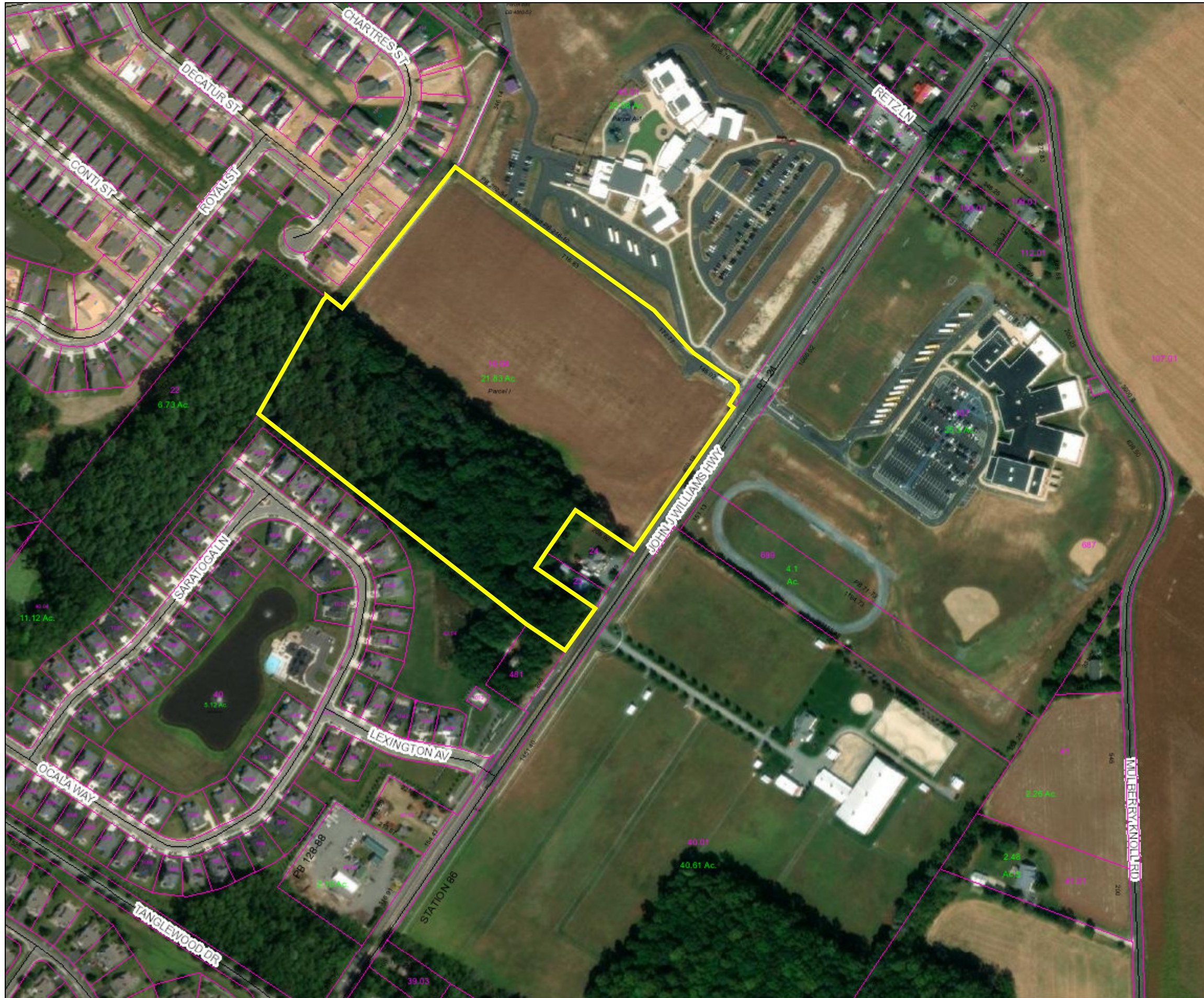
subsequently withdrawn. The second application is for Change of Zone No. 1742 Seaside Communities, RDC, LLC for a change of zone from an Agricultural Residential (AR-1) District to a Medium Density Residential, Residential Planned Community (MR-RPC). The application was approved by the Sussex County Council at their meeting of Tuesday, September 30, 2014, and the change was adopted through Ordinance No. 2366. The third application is for Change of Zone No. 1800 Sussex Real Estate Partners, LLC for a change of zone from an Agricultural Residential (AR-1) District to a Medium Density Residential, Residential Planned Community (MR-RPC). The application was recommended denial by the Planning and Zoning Commission at their meeting of Thursday, August 25, 2016, and the Application was subsequently withdrawn. The last application was for Change of Zone No. 1901 Mary and Victor Rico for a change of zone from an Agricultural Residential (AR-1) District to a Medium Density Residential (MR) District. The Sussex County Council denied this proposal at their meeting of Tuesday, February 18, 2020.

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

Change of Zone Applications (w/in a 0.25 mile radius of the subject site)*								
Application Number	Application Name	Current Zoning	Proposed Zoning	P&Z Decision	P&Z Decision Date	CC Decision	CC Decision Date	Ordinance Number
CZ 1737	Robert & Julie Norwood	AR-1	CR-1	Recommended Denial	11/14/2013	Withdrawn on 3/25/14	N/A	N/A
CZ 1742	Seaside Communities, RDC, LLC	AR-1	MR-RPC	Recommended Approval	5/22/2014	Approved	9/30/2014	2366
CZ 1800	Sussex Real Estate Partners, LLC	AR-1	MR-RPC	Recommended Denial	8/25/2016	Withdrawn on 9/1/16	N/A	N/A
CZ 1901	Mary and Victor Rico	AR-1	MR	Recommended Denial	1/9/2020	Denied	2/18/2020	N/A



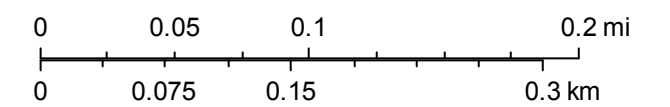
Sussex County



PIN:	334-12.00-16.04
Owner Name	TOWNSEND J G JR CO
Book	0
Mailing Address	PO BOX 430
City	GEORGETOWN
State	DE
Description	NW/RT 24
Description 2	SW/RT 284
Description 3	PARCEL 1
Land Code	

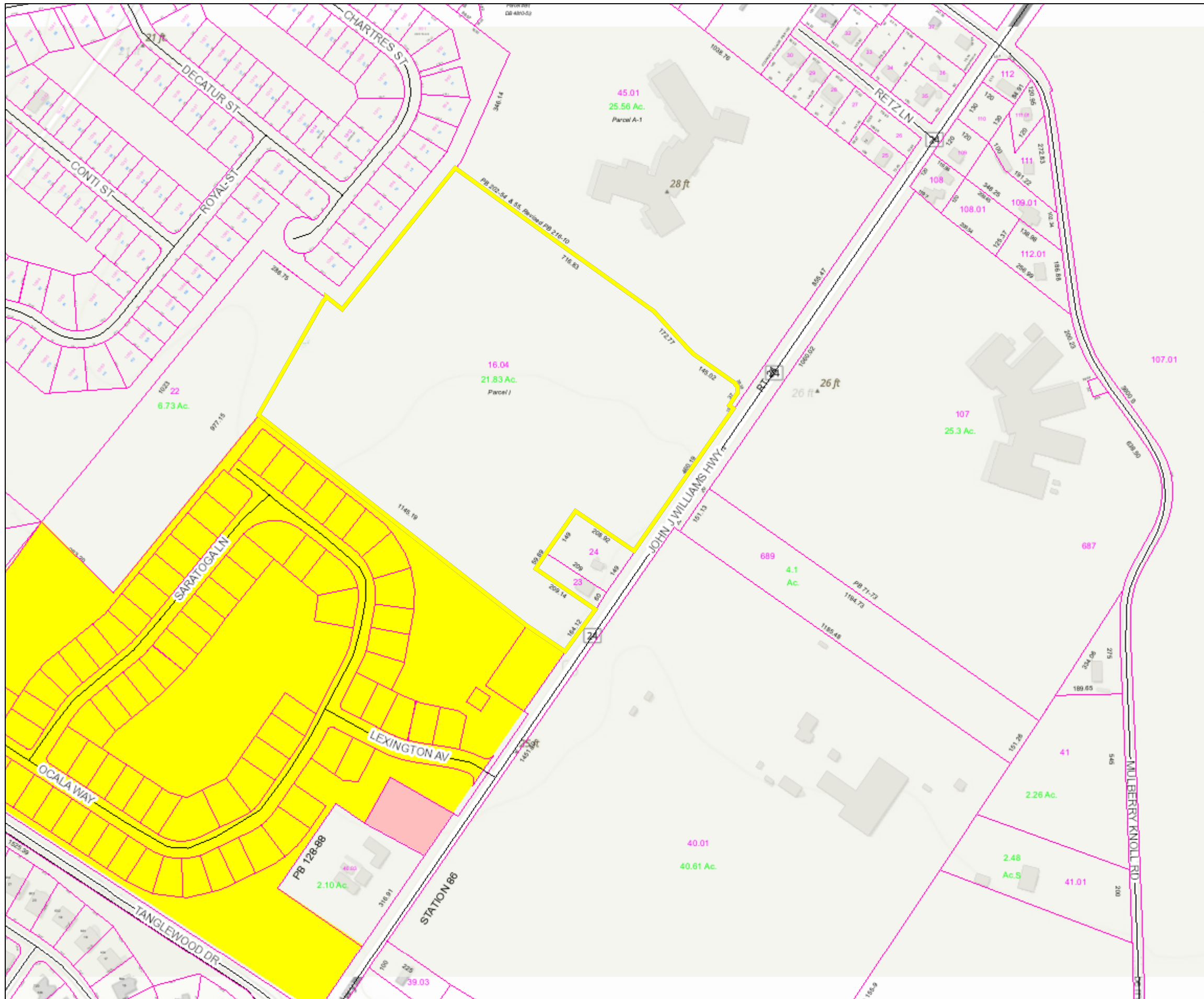
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- Override 1
- Tax Parcels
- Streets
- County Boundaries

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Sussex County



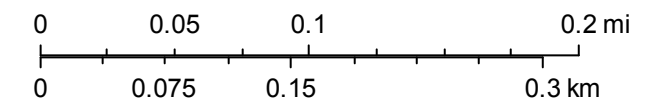
PIN:	334-12.00-16.04
Owner Name	TOWNSEND J G JR CO
Book	0
Mailing Address	PO BOX 430
City	GEORGETOWN
State	DE
Description	NW/RT 24
Description 2	SW/RT 284
Description 3	PARCEL 1
Land Code	

- polygonLayer**

 - Override 1
- polygonLayer**

 - Override 1
 - Tax Parcels
 - Streets

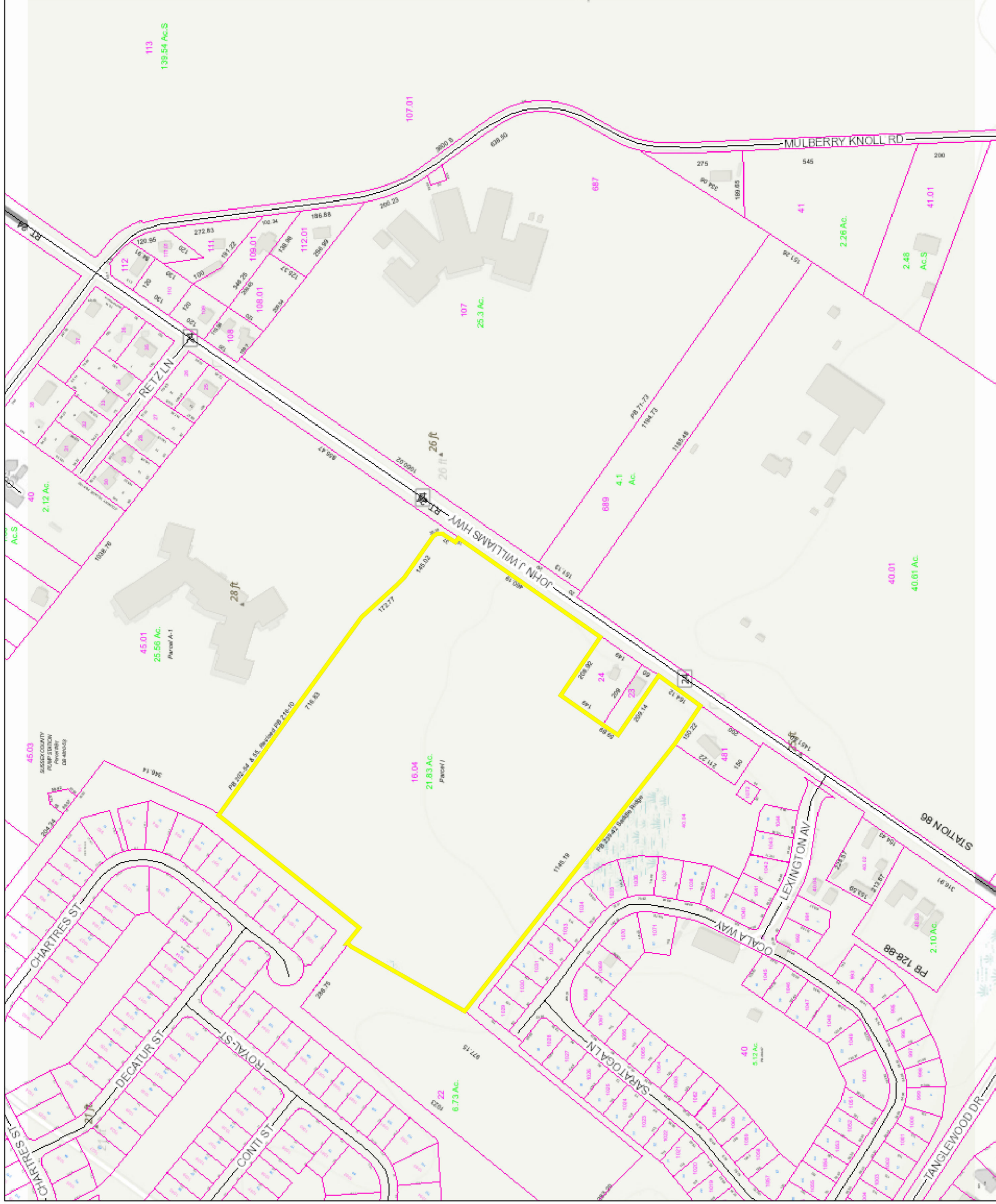
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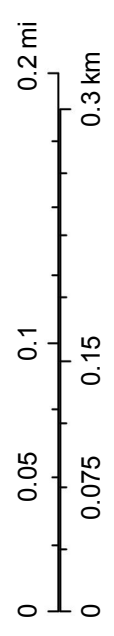
Sussex County

PIN:	334-12.00-16.04
Owner Name	TOWNSEND J G JR
	CO
Book	0
Mailing Address	PO BOX 430
City	GEORGETOWN
State	DE
Description	NW/RT 24
Description 2	SW/RT 284
Description 3	PARCEL 1
Land Code	



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

1:4,514



Introduced 11/09/21

**Council District 3 – Schaeffer
Tax I.D. No. 334-12.00-16.04
911 Address: None Available**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 21.62 ACRES, MORE OR LESS

WHEREAS, on the 30th day of July 2021, a zoning application, denominated Change of Zone No. 1949 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. 1949 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the west side of John J. Williams Highway (Route 24) approximately 0.25 mile southwest of Mulberry Knoll Road (S.C.R 284) and being more particularly described in the attached legal description prepared by Davis, Bowen & Friedel, Inc., said parcel containing 21.62 acres, more or less.

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

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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

CC: Everett Moore, County Attorney

Date: August 25, 2022

RE: County Council Report for C/U 2304 filed on behalf of J.G. Townsend Jr. & Co.

The Planning and Zoning Department received an application (C/U 2304 filed on behalf of J.G. Townsend Jr. & Co.) for a Conditional Use for parcel 334-12.00-16.04 for multi-family dwellings (84 units). The property is located on the west side of John J. Williams Highway (Rt.24), approximately 0.25 mile southwest of Mulberry Knoll Road (SCR 284). The parcel size is 21.62 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on June 23, 2022. At the meeting of July 14, 2022, the Planning & Zoning Commission recommended approval of the application subject to 10 reasons stated and subject to 16 recommended conditions as outlined within the motion (copied below).

The County Council held a Public Hearing on July 26, 2022. At the conclusion of the Public Hearing, the Council deferred action on the application and left the record open for application C/U 2304 for the limited purpose of allowing the Applicant the opportunity to discuss with their engineer whether or not they would like a new proposal for the design that will preserve the forested area and then the record would be closed after that. The Applicant submitted a written response on August 9, 2022. The Council closed the Public Record on August 23, 2022.

Below is a link to the County Council minutes of the July 26, 2022 meeting.

[Link to the July 26, 2022 County Council Meeting Minutes](#)

Below are the minutes from the Planning & Zoning Commission meetings of June 23, 2022, and July 14, 2022.



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

Minutes of the June 23, 2022 Planning & Zoning Commission Meeting

Chairman Wheatley stated the applicant had requested to combine the presentations for the Ordinance, C/Z 1949, and C/U 2304 as they are all related Applications of J.G. Townsend Jr. & Co. and he stated the motions for the three applications would be made separately.

C/U 2304 J.G. Townsend Jr. & Co.

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTIFAMILY (84 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 21.62 ACRES, MORE OR LESS. The property is lying on the west side of John J. Williams Highway (Route 24), approximately 0.25 mile southwest of Mulberry Knoll Road (S.C.R. 284). 911 Address: N/A. Tax Parcel: 334-12.00-16.04.

Mr. Whitehouse advised the Commission that submitted into the record was the Exhibit Booklet, Conceptual Site Plan, Environmental Assessment, Public Facility Evaluation Report, Staff Analysis, Traffic Impact Study, DelDOT's response to the Traffic Impact Study, a letter from Sussex County Engineering Department Utility Planning Division, PLUS comments, the Applicant's response to the PLUS comments, 20 letters in opposition; that the 156 signature petition did not specifically refer to both Applications and was submitted under the other record.

The Commission found that Mr. David Hutt, Esq. spoke on behalf of the Application; that he is an attorney with Morris James; that he is representing the owner of the property and Applicant, J.G. Townsend Jr. & Co.; that also present were Mr. Paul Townsend, a shareholder in J.G. Townsend Jr. & Co., Mr. Doug Motley, a representative of the development group, Mr. Ring Lardner, Engineer with Davis, Bowen and Friedel, and Mr. Edward Launay, Wetland Scientist with Environmental Resources, Inc.; that he requested to make a correction for the records in respect to C/Z 1949 and C/U 2304; that it was indicated the Traffic Impact Study was undertaken by the Applicant; that the Applicant did not undertake a Traffic Impact Study; that DelDOT included a recent Traffic Impact Study in their response to the Service Level Evaluation Request; that the provided Traffic Impact Study was previously performed to the Belle Terre Community; that the site is known as the "Howeth Property"; that this name was provided after J.G. Townsend Jr. & Co. purchased the land from Howeth Family; that historically the Howeth Farm was much larger than it currently is; that in 2014 the Howeth Farm was as more than 70 acres; that approximately a decade ago, J.G. Townsend Jr. & Co. were approached by various institutions and bodies which included the Cape Henlopen School District, the State of Delaware on behalf of the Delaware State Police, and Sussex County; that these agencies were looking for a location along that particular section of Rt. 24 to place various facilities; that the results of those discussions was a minor subdivision plan; that the minor subdivision was recorded in 2014; that Parcel A1 of the minor subdivision was conveyed to the Cape Henlopen School District in 2015; that it has now become the home of the Love Creek Elementary School; that Parcel B was conveyed to the State of Delaware; that it is now the home of Troop 7; that the history is important as it answers many questions regarding the property; that located to the north is the Love Creek Elementary School; that located to the south is the Saddle Ridge Community; that Rt. 24 runs along the frontage of the property; that the Beacon Middle School is located across from Love Creek Elementary; the property is located in close proximity to the Beebe Medical Campus, Seaglass Apartments, The Residence Inn Hotel, Hearts Landing Community, Love Creek Manufactured Home Community, The Residences at Rehoboth Bay Condominium and Marina, as well as the various

commercial businesses located along Rt. 1; that on the 2020 Delaware State Strategies Map it shows almost the entire area as being within Investment Level 2; that there is a small area located on the property which is located within Investment Level 3; that the area located within Investment Level 3 is an isolated area of wetlands; that within the 2045 Future Land Use Map within Sussex County's Comprehensive Plan shows many parcels within the Commercial Area along Rt. 24; that the other surrounding area is located within the Coastal Area; that the Coastal Area is one of the seven Growth Areas for Sussex County; that one of the requests is to change the Future Land Use Map designation for a portion of the property; that 2/3 of the property is shown as Commercial; that 1/3 of the property is shown in the Coastal Area; that the Applicant's intention is to have the entire property located within the Coastal Area; that the Coastal Area is a designation which would allow uses other than only commercial uses; that Saddle Ridge, Love Creek Elementary School, Beacon Middle School and the site across from Beacon Middle School is shown as being in the Commercial Area on the Future Land Use Map; that there is a mixture of zoning classifications along that corridor of Rt. 24; that there is a mixture of C-1 (General Commercial), CR-1 (Commercial Residential), I-1 (Institutional), B-1 (Neighborhood Business) and MR (Medium-Density Residential); that the Change of Zone Application is seeking to change the zoning from AR-1 (Agricultural Residential) to MR (Medium-Density Residential); that there was three Applications being presented in relation to the same property; that the first request is to amend the Future Land Use Map creating one designation to the Coastal Area for the property; that the second request is for a Change of Zone from AR-1 (Agricultural Residential) to MR (Medium-Density Residential); that the third Application is a Conditional Use request to allow 84 townhomes; that each set of townhomes contains six units; that 14 townhomes are proposed across the site; that the project was reviewed during the PLUS process; that in Summer 2021 the Future Land Use Amendment request was reviewed by the Office of State Planning Coordination through the PLUS process; that the comments of no objection made by the Office of State Planning Coordination was included as part of the record; that Investment Level 2 areas are described as an area where the State anticipates growth for an area in the near future; that the Office of State Planning Coordination stated in their comments "*in Investment Level 2 areas, like Investment Level 1 areas, State investments and policies should support and encourage a wide range of uses and densities*" and "*Investments should encourage departure from the typical single-family dwelling development and promote a broader mix of housing types and commercial sites encouraging compact mixed-use development where applicable*", which ensure the State encourages a departure from typical single-family homes, offering a broader mix of housing options; that Section 8.2 of the County Code states "*while the County allows for multi-family (duplexes, townhouses and apartments etc.) the primary housing type is detached single-family (stick-built, modular and manufactured homes)*"; that in 2016, Sussex County issued 1,778 building permits; that of those building permits, 1,615 building permits were for single-family homes, equaling to 90.8%; that less than 10% of the issued building permits were for multi-family structures; that in 2017, 2,068 building permits issued; that 1,961 building permits, or 94.8%, were for single-family homes; that in 2018, 1,057 building permits were issued before the cut off for the Comprehensive Plan; that of those building permits, 992 building permits, or 93.8%, were issued for single-family homes; that within Chapter 8 of the Comprehensive Plan, it stated the County should consider the ability to establish other housing types or reduce the need for a Conditional Use for multi-family development; that the proposed Application does help address the mentioned needs; that within Chapter 4 of the Comprehensive Plan, the Coastal Area is described as one of the fastest growing areas within Sussex County; that the Comprehensive Plan does recognize the environmental concerns which may arise in the Coastal Area; that there is a buffer provided to the isolated wetlands, which proposed some environmental concern; that the proposed buffer to the wetlands exceeds Sussex County's recently adopted Buffer Ordinance requirements; that within the County Code, it states permitted uses and densities within each of the Growth Areas; that within the permitted use section for the Coastal Area, the Comprehensive Plan

states that a range of housing types should be permitted, including single-family homes, townhouses and multi-family units; that the next Section it states that medium and higher densities (4 to 12 units per acre) can be appropriate in certain locations and medium and higher densities could be supported in areas where there is central water and sewer, near sufficient commercial uses and employment centers, where it is in keeping with the character for the area, where it is along a main road, being located at or near a major intersection, where there is adequate level of service, or where other considerations exist that are relevant to the requested project and density; that the density for the proposed project is 3.9 units to the acre; that the medium and higher density requirements are all met by the proposed project; that Tidewater Utilities will provide water services; that central sewer is available through Sussex County; that the property is located in an area where there are commercial uses and employment centers; that the project is located along RT. 24, which is a major collector road; that the project is located at a signalized intersection on Rt. 24; that Rt. 24 does have DART transportation, with a Rehoboth, Longneck and Millsboro DART connection; that because the project is located within the TID, a fee per unit is required as part of the project's contribution to DelDOT; that although some adjacent properties are listed as AR-1 (Agriculture Residential), the Love Creek Elementary School is not an agricultural use; that the Love Creek Elementary School is over 89,000 sq. ft., which was granted by a Conditional Use approval; that located across the street is Beacon Middle School, being over 77,000 sq. ft. and was granted a Conditional Use Approval; that the County recently considered an application for the V&M site, which received approval for a 5,000 sq. ft. convenience store and fueling stations; that a 12,000 sq. ft. office building will also be located on the V&M property; that there were multiple other Conditional Use approvals mentioned within the submitted material; that the requested zoning classification for the property is MR (Medium-Density Residential), as it is an appropriate zoning district for the proposed use; that townhomes is a Conditional Use within the MR (Medium-Density Residential) Zoning District; that Conditional Uses are generally of a public or semi-public character and our essential for the general convenience and welfare of the County; that Conditional Uses to require some Planning judgement; that the purpose of the MR Zoning District is to provide for medium density residential development in areas which are expected to become generally urban in character, which is a good description of Rt. 24; that the Future Land Use Map for the property shows the commercial designation; that by allowing the area to be rezoned the area would avoid concentrations of retail and service uses, as well as hotels, motels, carwashes, auto dealerships, as well as other medium and large scale uses not primarily targeted to immediately adjacent residents and areas; that institutional and industrial uses may also be appropriate in the Commercial Zoning District; that the current Application proposes a far less intensive use than the potential permitted uses under Commercial Zoning; that traffic was a main theme within the comments made in opposition; that the use of the entryway was always anticipated; that there was a Service Level Evaluation Request sent to DelDOT as part of the Application; that within DelDOT's response indicated that the traffic impact for the project would be minor; that in having a minor impact the project became eligible for to participate in the Area Wide Study Fee Program; that however, the property is located within the Henlopen Transportation Improvement District (TID); that due to this the Area Wide Study Fee does not apply; that the fee per unit does apply; that another concern mentioned in opposition was the appropriateness of multi-family units being located adjacent to a school; that the concern is in contrary to many school which currently exist in Sussex County; that Cape Henlopen High School, HOB Brittingham School, Mariner Middle School, East Millsboro Elementary School, Rehoboth Elementary School are all located immediately adjacent to or nearby multi-family residential communities; that Chapter 8 of the Comprehensive Plan indicates the proposed area is appropriate for the proposed zoning and for the proposed Conditional Use for townhomes; that the Applicant requested approval to amend the Future Land Use Map, allowing the property to be located completely within the Coastal Area, changing the County's Zoning Map from AR-1 to MR Zoning and an approval for the Conditional Use permitted 84 townhomes; that he did

submit proposed Findings of Fact and Conditions of Approval for the Change of Zone Application and the Conditional Use Application; that one of the proposed requirements is that there must be a Property Owners Association to care for amenities; that it is proposed that the amenities would be constructed by the seventh building permit and each building will receive a building permit for all six units within it; that in reality, the amenities would be completed by the 42nd building permit when considering per units.

The Commission found that Mr. Ring Lardner spoke on behalf of the Application; that he is an engineer for Davis, Bowen and Friedel; that the site is located along John J. Williams Hwy., which is classified as a major collector road per the DelDOT Functional Classification Map; that the project is located within the Henlopen Transportation Improvement District (Henlopen TID); that the TID was a group effort between DelDOT and Sussex County; that the agreement was approved on October 30, 2020; that DelDOT noted the traffic for the proposed project was consistent with the TID; that the project was eligible to pay the TID fee, rather than performing a Traffic Impact Study (TIS); that a TID fee based on a per lot basis on January 31, 2020 was \$341,796.00; that the fee does increase annually on January 31st; that the fee is due at the time of building permit issuance; that the fee will continue to increase until the building permits are released; that the TID fees help fund the various project within the Transportation Improvement District to help improve the TID area; that the assumed land use was underestimated as it was assigned 37 single-family homes; that for the current Application they were able to stay within the perimeters for traffic; that the vehicle trips generated by townhouses is less than those generated by single-family homes; that this is the reasoning DelDOT considered the project consistent with the TID; that the project is not located within the Well Head Protection Area or Excellent Recharge Area; that the project is located outside of the 100 Year Flood Plain; that there is a small pocket of wetlands located on the site; that the wetlands were delineated by Environmental Resources Inc.; that the wetlands are located along the common boundary line of the site and the Saddle Ridge Community; that an approved Jurisdictional Determination was completed by the U.S. Army Corp of Engineers; that Mr. Edward Launay, with Environmental Resources did prepare an Environmental Review for wildlife habitat considerations; that Mr. Launay's review does contain a consultation with the U.S. Fish and Wildlife Service; that there are no records of federally listed threatened or endangered species being located on site; that the Monarch Butterfly was located onsite; that the site does not have the proper vegetation to support the Monarch Butterfly, therefore it was assumed that the site was not the home for the Monarch Butterfly; that within DNREC's Fish and Wildlife comments from the PLUS review mention three State rare species; that all three species are located within the Hetty Fisher Pond, which is located over 740-ft. from the site; that it was Mr. Launay's opinion that the development of the Howeth Property, now known as School Lane, will not adversely impact the amphibious species of State concern; that the layout of the site first began at the intersection of John J. Williams Hwy. as it is the combined entrance for the Love Creek Elementary School, Troop 7 and the proposed project; that when the Love Creek Elementary School was approved, traffic for the proposed project was already preassigned for the intersection; that the intersection was designed for the proposed project traffic; that as part of the improvement and approval for Love Creek Elementary School the stub was connect to the parcel; that this allowed for interconnectivity, providing one access onto Rt. 24; that they did design a 20-ft. landscape buffer along the property border of Love Creek Elementary School, Belle Terre and Saddle Ridge Communities; that the communities for Belle Terre and Saddle Ridge also have buffers on their property; that this has created two sets of buffers adjacent to each other; that they established a 50-ft wetland buffer to the isolated wetlands on site; that the Application was submitted prior to the adoption of the recent Buffer Ordinance; that the proposed buffer exceeds the requirement of the recently adopted Buffer Ordinance; that the townhouses will be fee simple lots, meaning the lots will

be owner occupied; that no lots will be located back to back; that the stormwater pond is proposed to be centrally located on the site; that the proposed stormwater pond location will minimize grading changes to the site; that active amenities are proposed along the other side of Road A, to ensure amenities would not be located in the rear yard of the lots; that they attempted to minimize dead-end streets; that currently there are two dead-ends proposed on Road B and Road C on the Site Plan; that they did provide overflow parking areas throughout the site for guests; that the internal roads will meet and/or exceed the requirements of Sussex County Road Standards; that the roads will be privately maintained; that Sussex County Geographic Information Office (GIO) (F.K.A. Mapping and Addressing Department) has approved the subdivision name of “School Lane” as well as the road names; that proposed amenities are a pool house, pool, centralized mailbox and a sports field area; that the proposed open space for the project is 11.42-acres, or 52% of the project site; that the project will be served by Tidewater Utilities, Inc. for water services; that Sussex County will provide sanitary sewer services; that they have received Willing and Able to Serve letters from Tidewater Utilities, Inc., Chesapeake Utilities, Delaware Electric Coop, and a Sewer Service Concept Evaluation from Sussex County Engineering; that the project was reviewed by PLUS on December 16, 2020; that the PLUS comments and the Applicant’s response can be found in the submitted Exhibit Booklet; that the comments provided were general in nature; that the Applicant will comply with all regulatory requirements; that his office prepared an Environmental Assessment and Public Facilities Evaluation Report and the project complies with the Comprehensive Plan.

Ms. Stevenson questioned how parking is proposed for the project and if additional parking could be added to Road A on the west side.

Mr. Lardner stated each lot will have two parking spaces per unit, via the driveway or the garage; that they have provided overflow parking throughout the project; that they have exceeded the two-unit per lot requirement, and he stated they could consider additional options to add parking to the area Ms. Stevenson mentioned.

Chairman Wheatley advised the Commission that Mr. Bill Brockenbrough, County Coordinator with DelDOT was present for questioning via teleconference; that he requested Mr. Brockenbrough explain how the entrance came to be and why it was constructed the way it was.

Mr. Brockenbrough stated when the property was acquired for Love Creek Elementary School, J.G. Townsend Jr. & Co., the seller of the property retained access through the existing driveway with the intention to utilize the driveway for access to the subject property; that the construction of the entranceway is desirable by DelDOT; that he did not recall the specific history of when the school was developed; that the entranceway is consistent with the preferred construction from DelDOT’s view, to minimize the number of access points; that in minimizing fewer access points, it allows fewer decision points for a driver and it opens the possibility for signalized access for the development, which would help manage left-hand turns.

Ms. Stevenson questioned if the pool house is proposed to only hold supplies for the pool, or if the pool house was proposed to be larger and utilized by residents and requested the Applicant consider making the pool house a meeting spot for residents.

Mr. Hutt stated a better description of the pool house would be a bathhouse; that it would not be proposed as a clubhouse with exercise equipment and that the pool house is proposed to be a changing area and restroom area.

Mr. Robertson stated the Applications are for a Change of Zone and a Conditional Use and the Commission does have the authority to apply discretion.

Chairman Wheatley stated property owners do have a right to subdivide their land and property owners do not have the right to Change the Zoning for their property; that the Change of Zone is purely discretionary, and the Commission has the authority to make that discretion.

The Commission found Mr. Steve Kittka spoke in opposition to the Application; that he lives within the Saddle Ridge Community; that he opposes the project as it is currently proposed; that it was said the townhomes would generate less traffic; that the proposed townhomes are larger than almost any home located within the Saddle Ridge Community; that the townhomes are 4,600 sq. ft.; that he did not invest in his property with any idea that the adjacent zoning would be changed; that he feels the proposed development will cause an enormous amount of traffic; that he understood there was not a Traffic Impact Study performed for the proposed project specifically; that a lot has changed since previous traffic analysis; that one of the reasons for this is COVID-19 which has led to an increase in traffic to Love Creek Elementary School; that with the traffic currently on Rt. 24, there are frequent accidents and near accidents all the time; that within the last three weeks there have been three accidents within a mile of the proposed development; that two of the accidents were at the intersection of Rt. 24 and Warrington Rd.; that those two accidents caused Rt. 24 to shut down; that the third accident was between Saddle Ridge and Harts Landing; that he has no objection to the Applicant developing the property; that he objects to the proposal of medium density; that he is also concerned with the disturbance to the wildlife and he objects to the Change of Zoning request.

Chairman Wheatley stated that if a Traffic Impact Study (TIS) was performed for a nearby development, DelDOT does not require an additional TIS as the information remains remotely the same.

Mr. Robertson stated DelDOT and Sussex County established the Transportation Improvement District (TID) that the project is part of; that DelDOT has performed the analysis for all the roadway improvements within the entire TID area; that they had to design all road improvements based on the anticipated development within the TID; that then, based on the improvements, a cost is assigned as to what it cost to construct the road improvements; that then a required fee is calculated for each developer to develop the road improvements and the Applicant did not perform a Traffic Impact Study as it is already included in the greater TID.

Mr. Robertson questioned the status of the dualization of Rt. 24.

Mr. Mears requested Mr. Brockenbrough's opinion on townhomes generated vehicle traffic versus residential communities generated traffic.

Mr. Brockenbrough stated the construction began in March 2022 for the dualization of Rt. 24; that it was proposed to be completed in 2023; that he believed completion will be in 2024; that the improvements are proposed to widen to two lanes each way; that sidewalks are proposed on both sides of the road; that DelDOT relies on Transportation Engineers Trip Generation Manual, which provides National-level data on various land uses, including single-family detached houses and townhouses; that generally single-family detached houses generate the most traffic; that townhouses, apartments and various types of multi-family development generate less per dwelling unit and

regarding the comment of the size of the townhomes, DelDOT would not have data to support or dispute the fact.

Chairman Wheatley questioned if anyone could provide a comment on the proposed size of the units.

Mr. Ring Lardner stated that they do not know the exact size of the townhouses currently; that the lot widths are 20-ft. wide with a depth of 115-ft.; that the widest lot could be 28-ft.; that after including setback requirements, it would be 20'x75'; that the proposed units are two-story with a first-floor master; that at the largest, an approximate average is 3,000 sq. ft.; that the average size will be 2,000 sq. ft. to 2,500 sq. ft.; that confirmation of size cannot be determined until they find a builder and the proposed size is much less than the size testified by Mr. Kittka.

The Commission found that Ms. Nancy Guerin spoke in opposition to the Application; that she lives in Hart's Landing; that she has concerns about the Love Creek Bridge; that the bridge is not proposed to be expanded; that this will cause a traffic bottleneck, as the traffic will go from four lanes down to two lanes; that currently, she has difficulty exiting her development onto Rt. 24; that she feels after hearing Mr. Hutt explain all the types of development located along Rt. 24, she does not believe another development is needed; that she questioned if any of the mentioned schools and the developments they are adjacent to share a road as is proposed in the current Application; that due to COVID-19, there has been increased traffic to the schools; that this has created a back up of traffic on Rt. 24 down to Mulberry Rd. and she does not feel the Traffic Impact Study for Belle Terre, and the time in which it was performed, took in to account the additional traffic she sees currently.

The Commission found that Mr. Kenny Delmar spoke in opposition to the Application; that he lives in Hart's Landing; that he has a background in real estate, with many decades of experience; that in his experience the last thing a person should want to do is build a development next to a slaughter house, a factory making toxic chemicals or an elementary school; that it would be a kiss of death; that he assured the Commission that the developer, owner and attorneys have not had a discussion with a real estate broker to question what would be coming down the road; that he felt two weeks ago a ceiling was hit; that from here on out it will become more difficult to make a profit with a residential development; that a smart choice to make, would be not to build your development next to an elementary school, while sharing the same entrance with the school; that it would not be a smart choice; that the choice would not be considered good business; that he questioned if any of the attorneys, engineers or developer have children in Love Creek Elementary; that he questioned what will happen with construction traffic caused by the development; that it will be another years lost to a child who is attempting to get an education; that because of the construction, there will be noise from 7:00 am until 4:00 pm for at least a year; that the children who are in school trying to learn, will have to listen to construction noise for at least a year and the future residents will not want to deal with the noise generated by an elementary school on a normal school day.

The Commission found that Mr. Shunli Zhang spoke in opposition to the Application; that he lives in Saddle Ridge Development; that he agrees with all the previously mentioned concerns; that he is concerned about the approximate six acres of forest located on the property; that on one side of the forest is a natural pond; that on the other side of the forest are wetlands; that the current forest is full of life; that the forest life includes bald eagles and he requested the Commission reconsider approving the project, or request a modification to the plan, to help protect the forest, wildlife and natural beauty of the forest.

The Commission found that Mr. Laymen Grant spoke in opposition to the Application; that he is a resident of Belle Terre; that it was his understanding that a signalized light will be placed at the intersection of Rt. 24 and Mulberry Knoll Rd.; that the current traffic attempting to get onto Rt. 24 is ugly; that with the proposed 84 townhouses; that he would estimate one and a half vehicles per unit; that most families have at least two cars; that there will be 120 additional vehicles with the proposed development, which will be required to merge onto Rt. 24; that occasionally the children at Love Creek Elementary School play outside in the adjacent field; that Beacon Middle School has athletic fields; that he feels placing the development without the red light would be a disaster; that there will be an accident; that he has only lived in Sussex County a year; that there are times he cannot figure out how to cross Rt. 24; that people will take a chance, shooting out onto Rt. 24; that he feels there would be a chance they head into the field, where children may be at play; that in the evening hours, there is limited lighting in the area; that he does not have an issue with the development of the property but he does have an issue with the traffic.

Mr. Brockenbrough stated he believed the plan was to place a signalized red light at the intersection of Mulberry Knoll Rd. and Rt. 24.

The Commission found that Mr. Maureen Burns spoke in opposition to the Application; that she lives within Belle Terre directly behind the proposed project; that she questioned if the Commission approves the Change of Zone request, could the Applicant change their proposed plans; that the elevation of the proposed site is higher than her property; that she is concerned she will receive all of the water run off when it would rain; that she questioned if there are proposed balconies for the townhouses and she is concerned about her privacy and the ability of future residents to look through her windows.

Mr. Robertson stated the Commission would make a recommendation to County Council; that County Council would approve or deny the Change of Zone request; that if the Change of Zone were to be approved, the Applicant could potentially propose a subdivision; that a subdivision would require another public hearing; that the maximum building height would be 42-ft.; that if the Change of Zone were approved, the Applicant would be permitted to do anything permitted within MR (Medium-Density Residential) Zoning District.

Chairman Wheatley stated the stormwater regulations are regulated and enforced by the Sussex Conservation District; that Sussex Conservation District regulations stated the Applicant must contain the property's stormwater on-site; that the Applicant must dispose of the water runoff either on the property site or through a properly regulated design outfall and the Applicant would not be permitted to allow any runoff onto Ms. Burns property.

Mr. Ring Lardner stated they cannot speak to the design of the townhomes; that there is a 20-ft. landscape buffer proposed on the property site; that there is a 50-ft. landscape buffer on the Belle Terre property and that the buffers would allow for a 70-ft landscape buffer between the homes.

Mr. Robertson questioned what the rear setback requirements for the proposed units were.

Mr. Whitehouse stated that each unit must have an agricultural buffer; that the Applicant can split the buffer, however, the plan would be required to be seen before the Commission for site plan review; that it is required to be a minimum of 40-ft. spread front and back; that the buildings can be no closer than 40-ft. from each other; that the minimum landscape buffer required is 20-ft. or the Applicant

would be required to obtain a variance; that there is 40-ft. between the buildings and the property lines; that within the 40-ft. setback there is a 20-ft. landscape buffer and any setback and landscaping located on the Belle Terre property.

The Commission found that Ms. Patricia Hutchinson spoke in opposition to the Application; that she lives with Belle Terre; that she has concerns with the wild life, the removal of the existing woods and transportation issues; that she is a retired educator; that she knows what happens on an elementary school property; that she knows the amount of traffic comes and goes from the property; that she knows the amount of children that play outside; that she does have concerns with the construction and the issues it will cause for the children; that she is concerned children will not be able to go outside for recess, which the children just experienced during the COVID-19 pandemic; that she is concerned about the additional traffic coming and going from the site; that she would appreciate a signalized red light; that she is concerned about other permitted building that would be permitted with an approval to the Change in Zone request; that she is concerned about the possibilities of a transient population or rental population being placed next to an elementary school and a community for the 55+ year community; that she has concern regarding the water runoff; that she was told that Belle Terre previously proposed mixed development, which included townhomes; that the townhouses were denied at that time; that she feels the townhouses would not be similar to surrounding communities; that she does understand if the zoning is changed the Applicant is permitted to construct anything permitted within that zoning and the neighbors would get no say in what the Applicant were to propose.

The Commission found that Mr. Thomas Negran spoke in opposition to the Application; that he is a resident of Belle Terre; that the lovely 21-acre cornfield will be removed; that 84 multi-family units are proposed for the area; that only single-family homes and an elementary school border the property; that a major concern is the increased traffic; that the proposed development will share the entrance with Love Creek Elementary school; that according to the documentation there will be 598 additional vehicles daily; that the area is already congested; that the increased traffic may pose a threat to the safety of the Love Creek Elementary children; that according to the Site Plan, the backyards of 18 units will directly face the school property; that the water runoff from the 14 units roofs will flow into the direction of Belle Terre residents back yards; that he saw no proposed retention ponds in the area bordering Belle Terre; that four acres of woodlands will be destroyed; that 7.9 acres of impervious material will replace the field; that according to the report from DNREC, there are several rare and/or endangered species in the project area; that multi-family units sell for a lower price point than single-family homes; that the lower price point often leads to investors purchasing units for rental; that transient neighbors may not be the most desirable neighbors, especially to school-aged children; that the Land Elevation Map, located on page 72, of the Paperless Packet indicates a natural slope downward to 25-ft. above sea level at the rear of the property; that the elevation drops to 21-ft. above sea level on Decatur Street in Belle Terre; that the runoff could become detrimental to the Belle Terre community with the removal of the trees; that he questioned if the Applicant plans to sell the property to a developer, to develop themselves, to receive subsidies for low-income housing and what the expected selling price is for the proposed townhomes; that he commends Sussex County for purchasing land in efforts to preserve land; that he requested Sussex County purchase the subject property to be preserved and/or utilized as a park or recreational area and he stated the revenue to Sussex County will receive, from the 1.5% transfer tax from Belle Terre alone will amount to at least \$2,000,000.00 and could be put to good use for the residents of Sussex County.

Mr. Robertson stated the Commission does not discriminate at all based on income levels, housing type, type of owner, or type of tenant; that the question is inappropriate and will not be required by the Commission.

Ms. Stevenson stated Mr. Ring Lardner serves on the Sussex County Land Trust; that the Sussex County Land Trust is a non-profit organization that purchased land to preserve; that she recommends people contact him to discuss donating.

The Commission found that Ms. Martha Eisenhower spoke in opposition to the Application; that she lives on Retz Lane; that her property back up to the Love Creek Elementary School property; that she was happy to hear when a school was being proposed behind her property; that she would rather a school than a convenience store; that she is opposed to the Change of Zone request; that currently, the Applicant knows two units to the acre is permitted within the AR-1 Zoning District; that this would allow for 43 homes; that the Applicant would place 43 homes on the property while preserving the woodlands; that she has lived on her property for 43 years; that within the last year she has noticed an influx of wildlife in her yard and the only thing she can attribute it to, is the fact that we are destroying the woodlands, creating nowhere else for the wildlife to go.

The Commission found that Mr. Victor Mantarro spoke in opposition to the Application; that he lives within the Saddle Ridge Community; that he had a concern about the proposed stormwater drainage; that his backyard faces the wetland area; that one year, there was an extraordinary amount of rain, which caused the wetland area to fill quickly; that the overflow of water ran into the existing woods; that the woods help maintain the 15 inches of water from the back of his house and his neighbor's house; that the project will be adding additional runoff; that he is not convinced that the Applicant will be able to control the runoff flowing into the wetlands and he is concerned if the Applicant cannot control the runoff it will cause runoff onto his property.

The Commission found that Ms. Susan Armato spoke in opposition to the Application; that she is a resident of Belle Terre; that she supports development; that she is opposed to the Change of Zone request; that she believes the owner has the right to the permitted use within the AR-1 Zoning District; that proposing 84 units would be a disservice to all nearby residents; that approval will set the precedence for anyone with AR-1 Zoning to request rezoning as well.

The Commission found that Mr. Paul Paolini spoke in opposition of the Application; that he has been a resident within Saddle Ridge Community for a year; that he has been in real estate for 25 years; that he is a landscape architect by degree and practice; that he agrees with Mr. Delmar, who stated a property adjacent to a school is a challenge due to the unknowns of school traffic and noise of the children; that he previously sold a home between a men's prison and a women's prison; that he believes selling that home between two prisons would be easier than selling a home next to a school; that he played recordings of emergency sirens for the Commission; that he stated the sirens are sometimes heard up to five times a day along this corridor of Rt. 24; that the representative of the Applicant did a good job identifying what is along the Rt. 24 corridor; that soon the residents of Saddle Ridge will be required to cross two lanes to make a left turn onto Rt. 24; that the whole corridor has a high level of activity and that is the reasoning for his opposition to the zoning change of the parcel.

The Commission found that Ms. Bettina Peronti spoke in opposition to the Application; that she is a resident of Belle Terre; that she had concerns about sharing the entranceway with the elementary school, being located adjacent to the elementary school, that she feels the Traffic Impact Study was

based on the Applicant putting in 37 single-family homes, with two vehicles a home; that with 37 single-family homes the total vehicles would be 74 vehicles; that when placing 84 townhomes, at one vehicle is 84 vehicles; that she would like clarification put on record stating that the multi-family units will not cause more traffic than single-family homes; that she is opposed to the rezoning; that the representative to the Applicant did a good job describing development within the area; that she feels the Applicant can develop the property under the existing AR-1 Zoning; that she questioned if there is a percentage the County is requiring or identified as a target as a percentage of permits to single-family homes as opposed to multi-family units; that she questioned if we are meeting the target or percentage as a community; that the Commission needs to take into consideration the location, impact and use of the land and not only considering the number of permits provided to single-family or multi-family homes approved over the last three years.

The Commission found that Ms. Judy Seibert spoke in opposition to the Application; that she is a resident of the Saddle Ridge Community; that she is opposed to both the Change of Zone and Conditional Use Applications; that as a local resident, she believed there will be an adverse effect on adjacent neighborhoods; that left turns onto Rt. 24 is a challenge; that adding 84 townhomes will exacerbate the issue; that she believes the project will have an adverse effect on Love Creek Elementary School; that she understood DelDOT accepted the Belle Terre Traffic Impact Study from 2016; that Love Creek Elementary School was not built until 2017; that she does understand the property is located within the Henlopen TID; that her opinion is a current Traffic Impact Study at the discretion of the Commission; that a TIS should be required because of the additional traffic cause by the COVID-19 pandemic and the change in school districts for children; that the dualization of Rt. 24 will narrow down to one lane, west bound, in front of the Saddle Ridge Community; that this will cause increased congestion at their intersection; that one lane will turn into a right lane only turning into the Saddle Ridge Development; that there is a possibility of the townhomes being used as rentals; that the townhomes would be ideal for the use of rentals; that the units are large in size, being from 3,080 sq. ft. to 4,600 sq. ft; that if the townhomes were used for rentals it could increase the vehicle traffic dramatically; that she appreciated Mr. Robertson's comments that the public comments can be taken into account when considering Change of Zone requests and she requested the Commission use their discretion, not recommending approval for the Change of Zone request.

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

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

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

In relation to the Application C/U 2304 J.G. Townsend Jr. & Co. Motion by Mr. Mears, seconded by Ms. Stevenson and carried unanimously to defer for further consideration. Motion carried 5-0

Minutes of the July 14, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since June 23, 2022.

Mr. Robertson read the motion into the record as requested by Mr. Mears.

Mr. Mears moved that the Commission recommend approval of C/U 2304 J.G. Townsend, Jr. & Co., for 84 Multi-Family Units based upon the record made during the public hearing and for the following reasons:

1. The Commission has recommended that this property be rezoned 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 along Route 24 at a lighted intersection that was designed by DelDOT to accommodate this project as well as the adjacent school and police barracks. DelDOT is also planning to improve and widen Route 24 in the near future. Multi-family development is appropriate for this property adjacent to these roadways and this intersection. In addition, although the property is in the Henlopen Transportation Improvement District, or "T.I.D.", DelDOT has stated that the traffic impact of the development would have a "minimal" impact on area roadways.
4. The site is in the T.I.D. The Developer will be required to pay a set fee into the T.I.D program to cover the cost of off-site roadway improvements throughout the T.I.D Area.
5. The property is in the immediate vicinity of other properties with a variety of residential and institutional uses. The site is next to Love Creek Elementary School and across from Beacon Middle School. It is also near a State Police Barracks. Other residential developments exist nearby along with business and commercial uses along the Route 24 corridor. This conditional use at approximately 4 units per acre is consistent with the mixture of other uses and residential developments in the area.
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 recommended that the entire property be within the Coastal Area according to the Plan, which is a Growth Area. The property is also surrounded by other properties that are designated as being within either the Coastal Area or the Commercial Area according to the Plan. 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 are limited wetlands on the property, and a buffer of at least 50 feet will be provided from them.
9. Approximately 11.42 acres or 52% of the site will be preserved as open space including a substantial amount of the existing woodlands.
10. In summary, the proposed project creates additional residential housing options at a density of 3.9 units per acre, an appropriate density in an area served by County sewer and central water, which is near a significant number of commercial uses and employment centers, is in keeping with the character of the area, situated along a main road – a Major Collector (John J. Williams Highway), at a signalized entrance, where DelDOT has ongoing projects on the Capital Transportation Improvement Program consistent with the purpose of both the MR (Medium-Density Residential District) and the Coastal Area designation on the Comprehensive Plan.
11. This recommendation is subject to the following conditions:

- A. There shall be no more than 84 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. The developer shall also participate in the TID program and comply with the requirements of it.
- C. All recreational amenities shall be completed within the development on or before the issuance of the building permit for the 7th residential building to be constructed on the Site. These amenities shall include a pool and bathhouse.
- 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. Sidewalks shall be included on both sides of all streets except "Road A". The sidewalks shall connect with the multi-modal paths required by DelDOT.
- H. Road naming and addressing shall be subject to the review and approval of the Mapping and Addressing Department (A.K.A. Geographic Information Office (GIO)).
- I. The Applicant shall consult with the local school district's transportation manager to determine if a school bus stop is appropriate. The location of such a bus stop shall be shown on the Final Site Plan.
- J. Construction, site work, and deliveries shall only occur on the site between the hours of 7:00 a.m. through 6:00 p.m., Monday through Saturday. 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.
- K. A 20-foot-wide forested buffer shall be installed along the northern, eastern, and western perimeters of the development and the two outparcels along Route 24. This buffer area shall comply with the planting requirements for such a buffer as contained in Section 99-5 of the Sussex County Code.
- L. There shall be a buffer that is at least 50 feet wide from all wetlands on the site. There shall be a minimum disturbance of trees and other vegetation within these buffer areas. Required silt fencing shall be installed upland of these buffer areas (using the edge of the buffer nearest the interior development) to avoid disturbance. Construction activities within the buffer area shall be minimum. Any disturbance in the buffer area shall be indicated on the Final Site Plan and the "Limits of Disturbance" shall be indicated on the Final Site Plan.
- M. The Final Site Plan shall include a landscape plan for the development showing the proposed tree and shrub landscape design, including the buffer areas.
- N. 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.
- O. A street lighting system that provides lighting in a downward direction with minimal uplighting shall be provided.

- P. 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 Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2304 J.G. Townsend Jr. & Co., 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.

PLANNING & ZONING COMMISSION

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



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JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: June 23rd, 2022

Application: CU 2304 J.G. Townsend Jr. & Co.

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

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

Site Location: Lying on the west side of John J. Williams Highway (Route 24), approximately 0.25 mile southwest of Mulberry Knoll Road (S.C.R. 284).

Current Zoning: Agricultural Residential (AR-1) District

Proposed Use: 84 Multifamily Units and other associated site improvements

Comprehensive Land Use Plan Reference: Commercial Area & Coastal Area (subject to FLUM Amendment to change portion designated as Commercial Area to Coastal Area.)

Councilmanic District: Mr. Schaeffer

School District: Cape Henlopen School District

Fire District: Lewes Fire Department

Sewer: Sussex County

Water: Tidewater Utilities

Site Area: 21.62 acres +/-

Tax Map IDs.: 334-12.00-16.04



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Sussex County

DELAWARE
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Memorandum

To: Sussex County Planning Commission Members
From: Ms. Lauren DeVore, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: May 23, 2022
RE: Staff Analysis for C/U 2304 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 2304 J.G. Townsend Jr. & Co. to be reviewed during the June 23, 2022, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel 334-12.00-16.04 to allow for eighty-four (84) multifamily units and other associated site improvements. The property is lying on the west side of John J. Williams Highway (Route 24), approximately 0.25 mile southwest of Mulberry Knoll Road (S.C.R. 284). The parcel consists of 21.62 acres +/-.

Further Site Considerations

Per County records, there do not appear to be any Tax Ditches or related Tax Ditch rights-of-way (ROW) on the subject property. The property is located within the "X" Flood Zone "Areas determined to be outside of the 100-year floodplain."

The property is located within the Henlopen Transportation Improvement District (TID) and shall be subject to all requirements as provided for as part of any subsequent Transportation Improvement District Agreement including payment of any required fees and related improvements as may be deemed necessary by the County and DelDOT.

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 "Commercial Area" and "Coastal Area." The properties to the south (including on the opposite side of Route 24 (John J. Williams Highway), the properties to the southwest (to include the entire Saddle Ridge Subdivision) and the properties to the northeast along Route 24 all have a land use designation of "Commercial Area." The properties to the southeast and to the northwest to include the adjacent lands of the Four Seasons at Belle Terre Subdivision also contain the land use designation of "Coastal Area."

As outlined in the 2018 Sussex County Comprehensive Plan, Coastal Areas are areas that can accommodate development provided that special environmental concerns are addressed. A range



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

Conversely, Commercial Areas include concentrations of retail and service uses that are mainly located along arterials, and highways. As opposed to small, traditional downtown areas that are often historic and pedestrian-friendly, Commercial Areas include commercial corridors, shopping centers, and other medium and large commercial vicinities geared towards vehicular traffic. In addition to primary shopping destinations, this area would also be the appropriate place to locate hotels, motels, car washes, auto dealerships, and other medium and larger scale commercial uses not primarily targeted to the residents of immediately adjacent residential areas. These more intense uses should be located along main roads or near major intersections. Institutional and commercial uses may be appropriate depending on surrounding uses. Mixed-use buildings may also be appropriate for these areas (Sussex County Comprehensive Plan, 4-17).

Zoning Information

The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories”, the Medium Density Residential (MR) District is listed as an Applicable Zoning District within the “Coastal Area.” (Sussex County Comprehensive Plan, 4-25). However, the Medium Density Residential (MR) District is not listed as an Applicable Zoning District within the “Commercial Area.”

However, it should be noted that there is a related Application to amend the Future Land Use Map which has been submitted in conjunction with this application (Ordinance No. 21-13) to amend the Commercial portion of the property to the Coastal Area.

The property is zoned Agricultural Residential (AR-1) District. The adjacent parcels to the north, northeast and south of the subject property are zoned Agricultural Residential (AR-1) District. The properties located to the southwest of the subject site are zoned Medium Density Residential (MR) District. There is also a single parcel to the southwest that is zoned Neighborhood Business (B-1) District.

Existing Conditional Uses within the Vicinity of the Subject Site

Since 1970, there have been six (6) Conditional Use applications within less than a 0.25-mile radius of the application site. The first application is for C/U 392 Gwen Dickerson for the provision of a beauty salon within the Agricultural Residential (AR-1) District. The Application was approved by the Sussex County Council at their meeting of Tuesday, December 2, 1976. The second application is for C/U 2016 Cape Henlopen School District to allow for the establishment of an elementary school to be located within the Agricultural Residential (AR-1) District. The Application was approved by the Sussex County Council at their meeting of Tuesday, June 16, 2015, and the change was adopted through Ordinance No. 2402. The third application is for C/U 2059 Julie Norwood

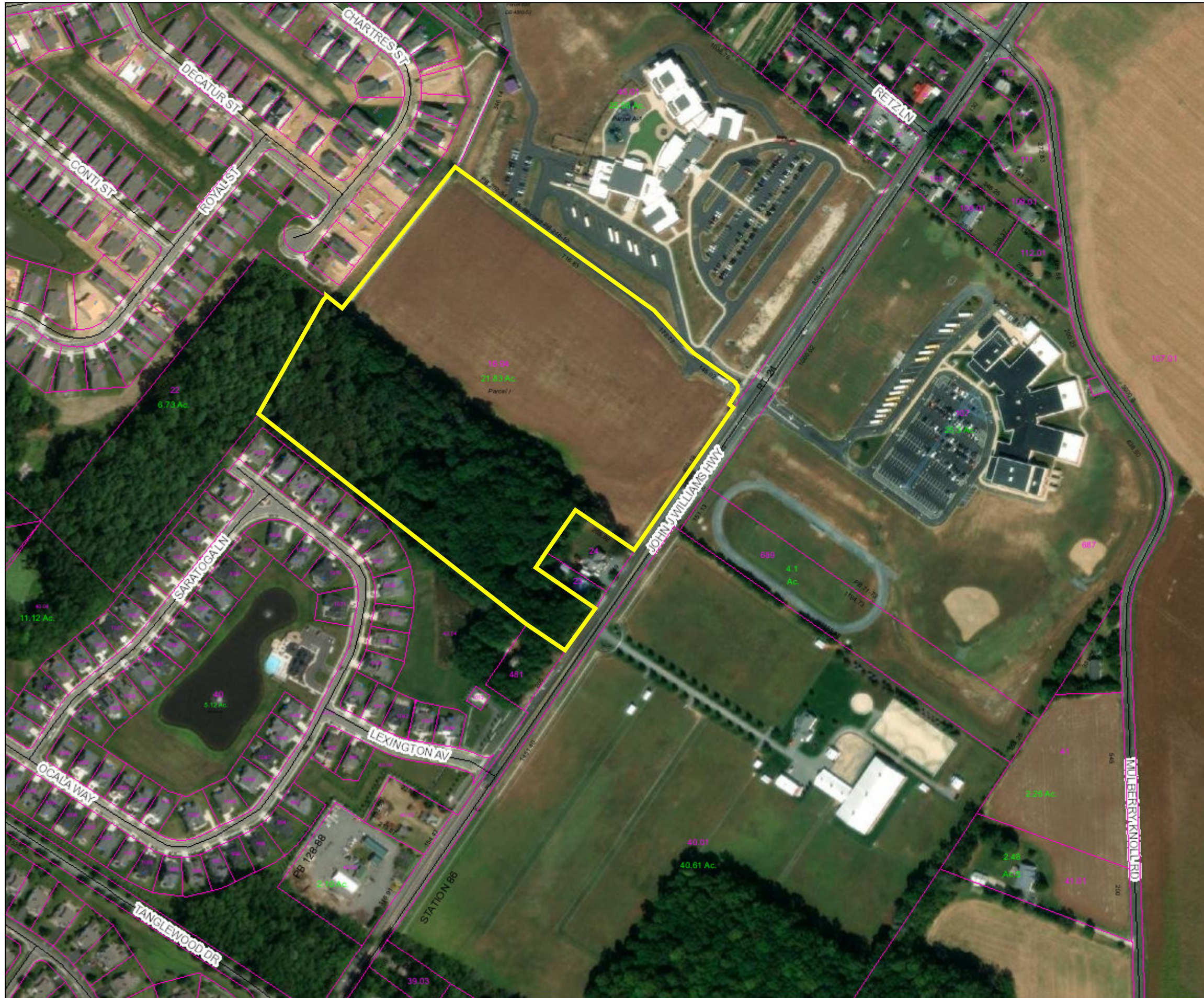
for the provision of a beauty salon within the Agricultural Residential (AR-1) District. The Application was approved by the Sussex County Council at their meeting of Tuesday, October 25, 2016, and the change was adopted through Ordinance No. 2478. The fourth application is for C/U 2240 Tidewater Utilities Inc. to allow for the construction of an Elevated Storage Tank within the Agricultural Residential (AR-1) District. The Application was subsequently withdrawn. The fifth application is for C/U 2246 Bee Wise, LLC to allow for the creation of a Real Estate Business within the Agricultural Residential (AR-1) District. The Application was approved by the Sussex County Council at their meeting of Tuesday, June 8, 2021, and the change was adopted through Ordinance No. 2275. The sixth application is for C/U 2318 V&M LLC to permit a convenience store and office building within the Agricultural Residential (AR-1) District. The Application was approved by the Sussex County Council at their meeting of Tuesday, May 17, 2022, and the change was adopted.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow for the construction of eighty-four (84) multifamily units and other ancillary improvements in this location, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

Conditional Use Applications (w/in a 0.25 mile radius of the subject site)*								
Application Number	Application Name	Current Zoning	Proposed Use	P&Z Decision	P&Z Decision Date	CC Decision	CC Decision Date	Ordinance Number
C/U 392	Gwen Dickerson	AR-1	Beauty Salon	N/A	N/A	Approved	12/28/1976	N/A
C/U 2016	Cape Henlopen School District	AR-1	Elementary School	Recommended Approval	5/7/2015	Approved	6/16/2015	2402
C/U 2059	Julie Norwood	AR-1	Beauty Salon	Recommended Approval	11/17/2016	Approved	10/25/2016	2478
C/U 2240	Tidewater Utilities, Inc.	AR-1	Elevated Storage Tank	Recommended Approval	10/22/2020	Approved	11/10/2020	2751
C/U 2246	Bee Wise, LLC	AR-1	Real Estate Business	Recommended Approval	4/22/2021	Approved	6/8/2021	2775
C/U 2318	V&M, LLC	AR-1	Convenience store and office building	Recommended Approval	4/28/2022	Approved	5/17/2022	?



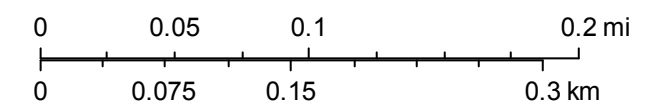
Sussex County



PIN:	334-12.00-16.04
Owner Name	TOWNSEND J G JR CO
Book	0
Mailing Address	PO BOX 430
City	GEORGETOWN
State	DE
Description	NW/RT 24
Description 2	SW/RT 284
Description 3	PARCEL 1
Land Code	

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

1:4,514





Sussex County

PIN: 334-12.00-16.04

Owner Name TOWNSEND J G JR
CO CO

Book 0

Mailing Address PO BOX 430

City GEORGETOWN

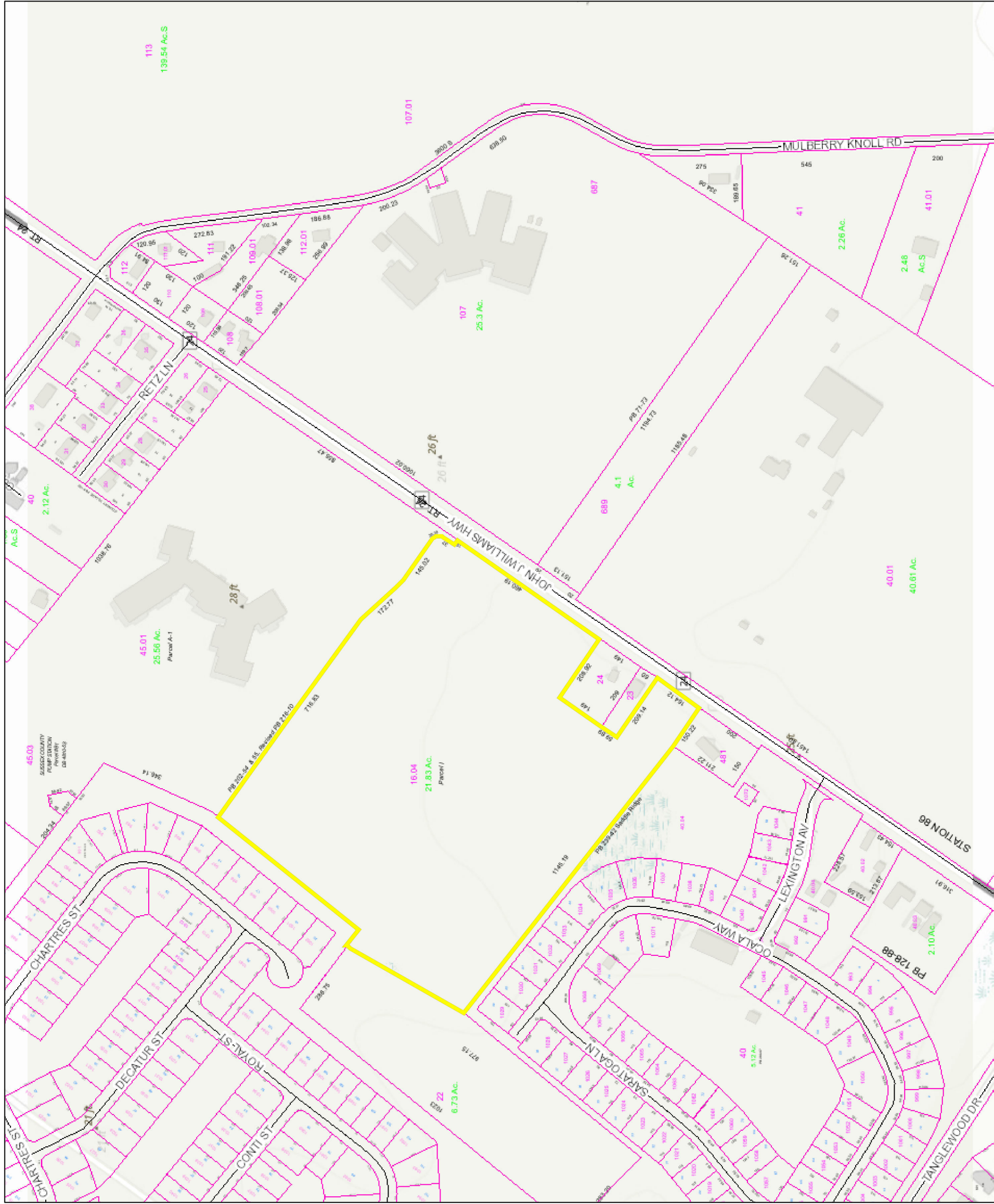
State DE

Description NW/RT 24

Description 2 SW/RT 284

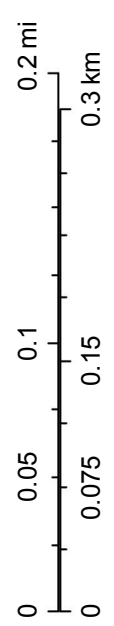
Description 3 PARCEL 1

Land Code



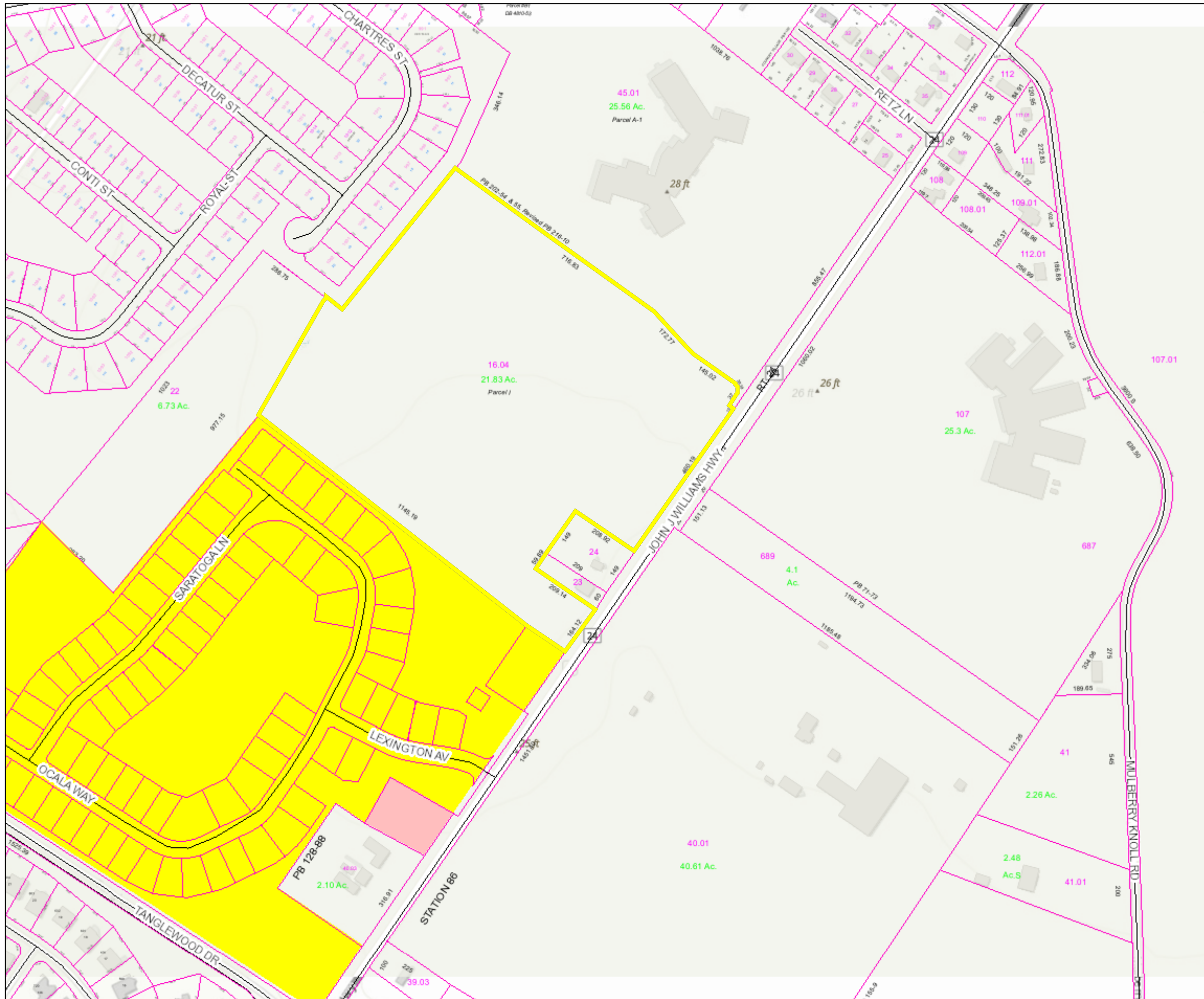
- polygonLayer**
- Override 1
- polygonLayer**
- Override 1
- Tax Parcels
- Streets
- County Boundaries

1:4,514





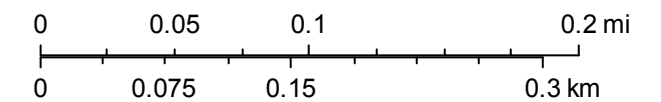
Sussex County



PIN:	334-12.00-16.04
Owner Name	TOWNSEND J G JR CO
Book	0
Mailing Address	PO BOX 430
City	GEORGETOWN
State	DE
Description	NW/RT 24
Description 2	SW/RT 284
Description 3	PARCEL 1
Land Code	

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

1:4,514





David C. Hutt
302.856.0018
dhutt@morrisjames.com

August 9, 2022

VIA: Hand Delivery

The Honorable Michael H. Vincent
The Honorable Cynthia Green
The Honorable Mark Schaeffer
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
c/o Todd F. Lawson, Sussex County Administrator
Sussex County Building
2 The Circle
Georgetown, DE 19947

Re: Howeth Property, now known as School Lane
2045 FLUM Amendment, CZ #1949, CU #2304
Sussex County Tax Parcel No. 334-12.00-16.04

Dear Council Members:

This firm represents J.G. Townsend, Jr., & Co. (“JGT”), the owner of the above-referenced property and applicant for the above-referenced applications. At the conclusion of the public hearing on July 26, 2022, Mr. Schaeffer made a motion requesting that the applicant see if the entirety of the woods on the property could be preserved with a similar number of units. The applicant undertook the challenge of addressing this unprecedented request—*i.e.*, preservation of all the woods on a property despite the fact that the only landscaping/woods that are required to be maintained are those within the twenty-foot buffer around the perimeter of the proposed project. The short answer to Council’s question is that it is not possible to accomplish the requested task and meet all the regulations for developing the property, *e.g.*, storm-water management and parking. However, the applicant provided further instruction to the design team and its environmental professionals to see if there were other opportunities to address the questions that were raised during the public hearing.

To address the questions, it is important to recall the history of the property and design process for the site described by me and Mr. Lardner during the public hearing on July 26th. As was demonstrated, for more than a decade the owner has been working with the State of Delaware and the Cape Henlopen School District on the development of this parcel and the surrounding area. The proposed residential component is the last part of that development plan.

County Council
August 9, 2022
Page 2

It was surprising to hear the statements of several members of the public during the public hearing, demanding that all the woods on the property be preserved. Neither the applicant nor any of its professionals could locate a similar project where all the woods on a site were required to be preserved. More importantly, as was discussed at some length during the public hearing by me, Mr. Lardner and Mr. Launay, the preservation of the woods and wetlands were some of the driving factors in the design of the project and the pending applications.

For example, a standard, as zoned, by-right subdivision of the property (20,000 square foot lots) results in a 25-lot subdivision with the loss of eighty-three percent (83%) of the woods on the site and the filling of existing non-regulated wetlands similar to what occurred when the adjacent Saddle Ridge community was developed. A design for a potential layout of a 25-lot standard subdivision is attached as Exhibit A for Council's review and comparison to the proposed townhome project. Of course, a standard subdivision would not require any of the pending applications, *i.e.*, the requested Future Land Use Map Amendment, change of zone or conditional use. Instead, there would be a single subdivision application and a public hearing before the Planning Commission to confirm that the application met the requirements found in Chapter 99 (Subdivision of Land) of the Sussex County Code.

During its initial design process for this site, the applicant recognized the existence of both the wetland area and the wooded area on the property and looked for alternatives to the standard, by-right subdivision that would present a similar return while preserving more of the wooded area. The result of those considerations and that planning was the townhome project presented to Council on July 26th which preserved fifty-eight percent (58%) of the existing woods.

In listening to the public's comments and reading the written submissions, two of the primary themes were the preservation of existing trees and creating continuity (contiguous connection) with the forest around the Hetty Fisher Pond. During the public hearing, the applicant confirmed its intention to preserve existing trees within the buffer. With respect to protecting the continuity of the wooded areas, Council may recall that Mr. Launay, the only licensed professional who spoke on the subject, issued a written report and confirmed in his presentation that the nearest point of the Hetty Fisher Pond was more than 700' away. Thus, this proposed project is at the end of the line and is not a corridor connecting wildlife areas, which is best demonstrated by the terminus of the wooded area being the multiple lanes of Route 24.

After listening to the concerns raised during the public hearing, and in its further attempts to preserve the wooded area with a connection to the wooded areas on adjacent properties, the applicant authorized Mr. Lardner to see if a similar number of units would be able to be placed solely within the tilled (open) area of the property. As indicated at the outset of this letter, that review demonstrated that it is not possible to accomplish the preservation of all the woods. However, the applicant spoke with the design team and its environmental professionals about the appropriate connection to provide for the woods proposed to be preserved on this property with the woods on adjacent properties.

Specifically, the applicant asked Mr. Launay if there were standards for maintaining connectivity for wooded areas. Mr. Launay advised that the minimum width for maintaining forest continuity and travel corridor is generally accepted as being between 35 and 50 feet. Mr. Launay's discussion of that standard and this property is found in his letter dated August 9, 2022, attached hereto as Exhibit B. Using this information, the design team worked with Mr. Launay preparing a revised site plan removing the four (4) units at the end of Road C resulting in an additional fifty-two feet (52') of woods to remain to enhance the continuity between the woods on this property and the adjacent woods which exist at this time. A copy of the revised site plan is attached hereto as Exhibit B. While the twenty-foot (20') landscaped buffer for the proposed project as well as the existing twenty-foot (20') landscaped buffer in Saddle Ridge would have met the area needed to maintain forest continuity, the applicant removed four units to more than double the corridor leaving a corridor with an overall width of ninety-two feet (92').

JGT trusts that this information helps Council and demonstrates that any development of this property will require removal of some (or even all) of the wooded area. The application, as filed and presented, sought to maintain more than half of those woods and to preserve the wetlands within those woods. With the additional buffer area proposed along the western boundary more of the existing woods are preserved and a substantial connection is made to the wooded area on the adjacent properties.

Should Council accept the unanimous recommendation of the Planning Commission for these applications, the applicant respectfully suggests that the following conditions of approval be modified for Conditional Use No. 2304 (removing the language with a ~~strike through~~ and adding the underlined language) to match these proposed changes to the plan:

11. This recommendation is subject to the following conditions:
 - A. There shall be no more than 8480 units within the development.
 - K. A 20-foot-wide forested buffer shall be installed along the northern, and eastern, ~~and western~~ perimeters of the development and the two outparcels along Route 24. This buffer area shall comply with the planting requirements for such a buffer as contained in Section 99-5 of the Sussex County Code. Along the western perimeter, there shall be a minimum seventy-two-foot-wide (72') forested buffer to connect the existing woods to the wooded areas on adjacent properties. Clearing, disturbance or altering of existing vegetation in these perimeter buffers shall be limited to only accommodate the proposed construction and for the removal of dead or dying trees that pose a threat to public safety or adjacent properties.

County Council
August 9, 2022
Page 4

JGT thanks Council for the opportunity to further address the concerns raised during the public hearing.

Respectfully submitted,

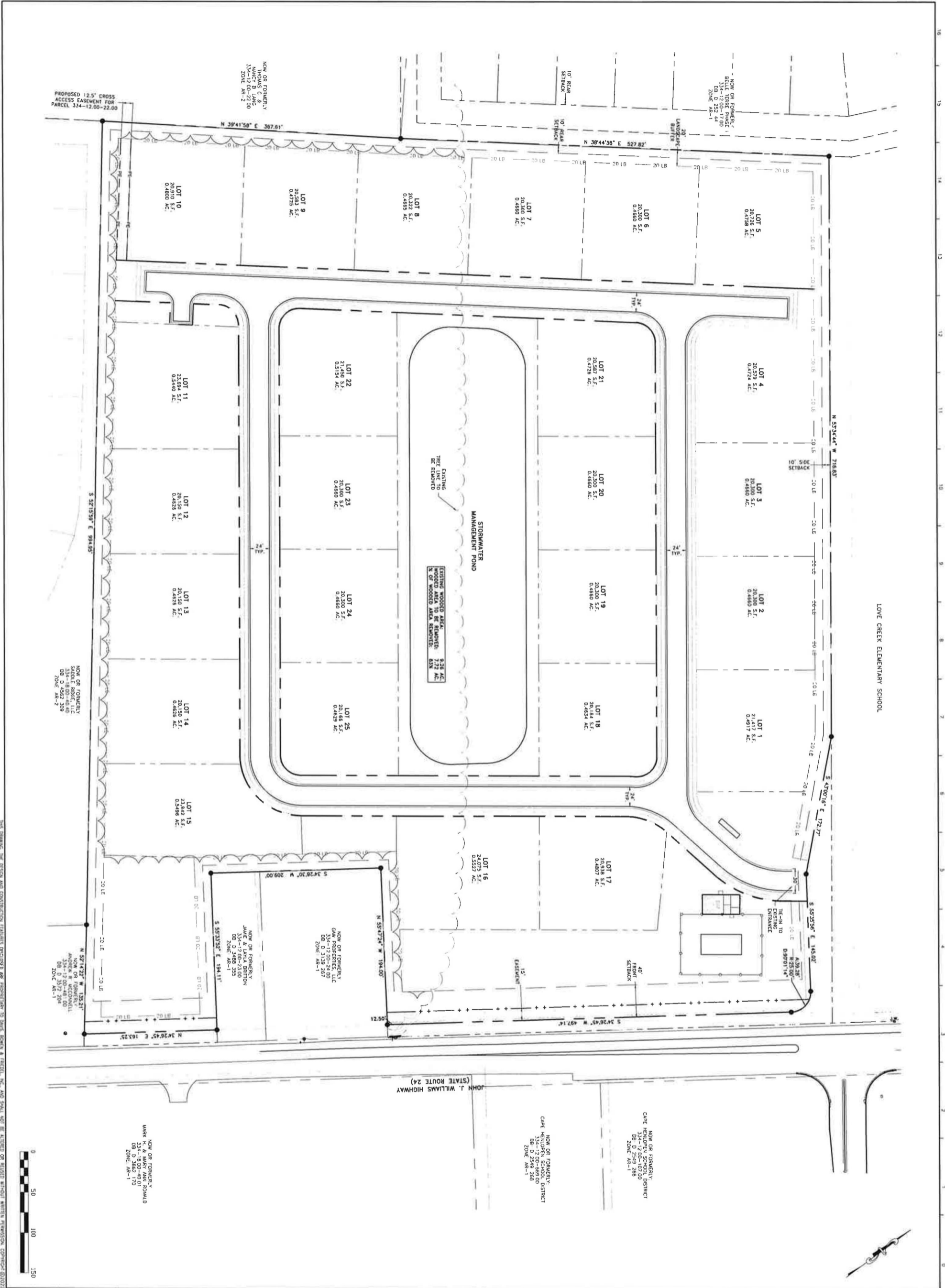
MORRIS JAMES LLP


David C. Hutt, Esquire

Enclosures: Exhibit A, Standard (By-Right) Subdivision Plan
Exhibit B, Environmental Resources, Inc. Letter
Exhibit C, Revised Site Plan

Cc: Todd F. Lawson (Email to tlawson@sussexcountyde.gov)
Tracy Torbert (Email to tracy.torbert@sussexcountyde.gov)
Jamie Whitehouse (Email to jamie.whitehouse@sussexcountyde.gov)
J. Everett Moore, Jr., Esquire (Email to jemoore@mooreandrutt.com)

EXHIBIT “A”



<p>SCHOOL LANE LEWES AND REHOBOTH HUNDRED SUSSEX COUNTY, DELAWARE</p>	<p>DAVIS, BOWEN & FRIEDEL, INC. ARCHITECTS ENGINEERS SURVEYORS</p> <p>SALISBURY, MARYLAND (410) 543-8091 MILFORD, DELAWARE (302) 424-1441 EASTON, MARYLAND (410) 774-1740</p>
<p>Date: AUGUST, 2022 Scale: 1" = 50' Dwn By: TCB Proj No: 2261J013 Dwg No: C-2</p>	<p>Revised:</p>

THIS DRAWING, THE DESIGN AND CONSTRUCTION FEATURES DEPICTED ARE INTENTIONAL TO SHOW, BOUND & PRELIM. NO. AND SHALL NOT BE ALTERED OR REPRODUCED WITHOUT WRITTEN PERMISSION. COPYRIGHT © 2022

EXHIBIT “B”

August 9, 2022

ERI Project No. 0004-0459

Mr. Jamie Whitehouse, Director
Planning and Zoning Department
Sussex County Administrative Department
2 The Circle
Georgetown, DE 19947

Mr. Cliff Mumford, PE.
Davis Bowen & Friedel, Inc.
601 East Main Street, Suite 100
Salisbury, MD 21804

**RE: Howeth Property (School Lane) Site Plan Revision
Environmental Review for Wildlife Habitat and Landscape Buffer Considerations
Tax Map No.: 334-12.00-16.04
Lewes – Rehoboth Hundred, Sussex County, Delaware**

Dear Mr. Whitehouse and Mr. Mumford,

Environmental Resources, Inc. (ERI) attended and provided expert testimony at the Sussex County Council land use hearing for this project held on July 26, 2022. I listened carefully to all the public testimony given about the project. As you know, the Council asked the applicant to consider ways in which the site development plan being reviewed could be amended to further minimize possible environmental impacts.

An extensive amount of testimony expressed concerns about possible impacts to the existing wooded landscape buffer along and within the northwest corner of the existing Saddle Ridge residential community. In regard to the proposed limits of forest clearing within the School Lane project, discussion about maintaining wildlife corridors and the continuity of the remaining forest block on the Howeth (School Lane) and adjacent properties was also provided to the Council.

I have been provided with a revised site plan for the project by Davis, Bowen & Friedel, Inc. entitled "*School Lane, Drawing Number C-3*", dated August 2022 which will be submitted to Council as part of the applicant's response. I have carefully reviewed that revised plan and comments on it will follow.

As I mentioned at the hearing, I served as the environmental consultant for both Saddle Ridge and the Four Seasons at Belle Terre project. I made site investigation of resources on these sites prior to their development, and I attended and provided testimony at their Planning Commission and County Council land use hearings. Those project sites and a long standing residential community known as Briarwood Estate directly abut a feature known as Hetty Fisher Pond. Hetty Fisher Pond is an isolated and water filled wetland feature which has a historic DNREC record of supporting three species of tree frogs which are regionally secure but rare within the state of Delaware.

Development of both the Saddle Ridge and Four Seasons of Belle Terre residential communities resulted in habitat impacts around the immediate vicinity of Hetty Fisher Pond since they directly abut it. There were provisions in each site plan to maintain a forest buffer around Hetty Fisher Pond. On the Four Seasons at Belle Terre project, a forest buffer area of between 60 to 140 feet was maintained around Hetty Fisher Pond, but significant forest clearing outside of that area was approved as part of that project. On the Saddle Ridge project, an existing forested area directly bordering Hetty Fisher Pond of approximately 30 to 100 feet in width was maintained as part of that project. Of note in regard to Saddle Ridge is that part of another isolated forested wetland located on Saddle Ridge which extends on to the Howeth (School Lane) property was filled for development. This wetland is not regulated by the Corps of Engineers since it is isolated, however the proposed School Lane project will preserve all of the remaining wetland area. The site plan for School Lane also illustrates a 50 foot wide wetland buffer around that wetland and beyond that additional forest is being preserved.

I would also like to recap a few things mentioned in the letter I submitted to you on June 10th, 2022, about the environmental conditions of the Howeth property. The School Lane site is approximately 740 feet northeast of Hetty Fisher Pond. Unlike a number of previously approved projects, Hetty Fisher Pond will not be impacted by any aspect of the proposed project.

The forest area located along the southerly portion of the Howeth property does connect with forest on the abutting Thomas & Nancy Lane property (Tax Map Parcel 334-12.00-22.00) and areas of forest on the Saddle Ridge and Four Seasons at Belle Terre projects which was preserved adjacent to Hetty Fisher Pond.

A total of 9.26 acres of forest exists on the Howeth property. Of that amount 2.09 acres is unregulated forested wetland to be preserved. As previously proposed, over half the wooded area on site is being preserved (4.91 acres). The revised August 2022 site plan will retain an additional 0.35 acre or 5.26 acres in total outside of the 20 foot wide forest landscape buffer previously proposed along the project property lines. More important is where the additional forest retention will occur. The revised site plan will eliminate the two townhouse unit from the buildings nearest the Saddle Ridge property line at the northwest corner of that site. Along the portion of the School Lane project where townhouse construction will occur next to Saddle Ridge, a 72 foot wide existing forest buffer will now be retained in it's natural state.

As stated earlier in this letter, Saddle Ridge residents expressed concern that a more substantial property line buffer was needed in order to ensure that the wooded landscape buffer on the Saddle Ridge side would not be adversely impacted. Any concern that the School Lane project

will impact any buffer or land on Saddle Ridge is eliminated by the revision to the School Lane site plan.

Another concern stated at the County Council hearing was maintenance of forest continuity and corridors for wildlife travel. The reality of the situation is that the development of the Howeth property is an infill situation. It is in a developing coastal area. Saddle Ridge, Four Seasons at Belle Terre, Briarwood Estates, the Love Creek Elementary School and the Delaware State Police Troop 7 facility surround it. Even before all the surrounding development occurred, the original forest block that the current forest is part of what was only about 30 acres including Hetty Fisher Pond. Due to its limited size, well under 100 acres, this amount of forest area is not of special significance. Large contiguous forest block did occur on other parts of the Four Seasons at Belle Terre and lands to the west, but they do not include the forest on the Howeth property.

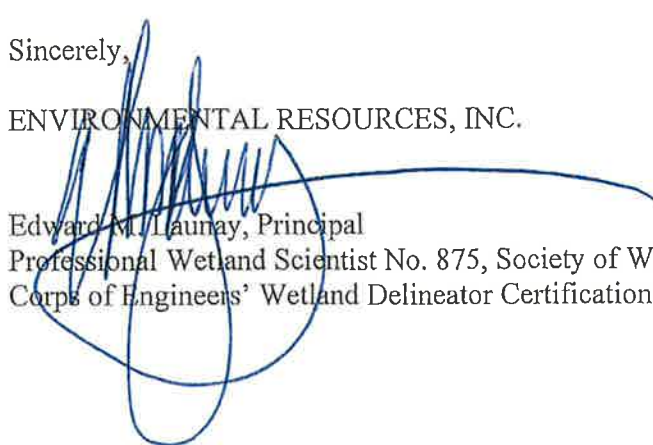
As stated earlier, J.G. Townsend Jr. & Company has incorporated a significant forest conservation effort into their original plan. The forest conserved includes unregulated wetland habitat and the uplands preserved around it does result in over five acres of contiguous forest retention. Fragmentation of forest areas does not occur since no breaks in the forest are proposed. The expanded 72 foot wide existing landscape buffer with Saddle Ridge when added to their landscape buffer will provide a 92 foot wide corridor connecting with forest on the Howeth property. That in turn connects with other wooded buffers on Saddle Ridge and the wooded areas currently preserved around Hetty Fisher Pond. Forest continuity is maintained and a corridor for wildlife movement is provided. The minimum width for maintaining forest continuity and travel corridor is generally accepted as between 35 and 50 feet. This can be seen when reviewing regulations such as Maryland's Forest Conservation Act and underlying consideration for maintaining blocks of forest interior dwelling bird habitat. The revised plan will provide a minimum 92 foot wide corridor.

As a final topic related to public testimony provided at the County Council hearing, there was a claim that the Monarch Butterfly (*Danars plexippus*) is a federally listed species protected under the Endangered Species Act. That is incorrect. Please refer to my June 10th letter and the correspondence from the U.S. Fish and Wildlife Service provided. The Monarch Butterfly is being evaluated as a candidate species throughout the entire mid-Atlantic region and elsewhere. There are no conservation measures currently required or in place. It is not a listed species.

Upon review of this updated report, I am available at your convenience should you have any comments or concerns.

Sincerely,

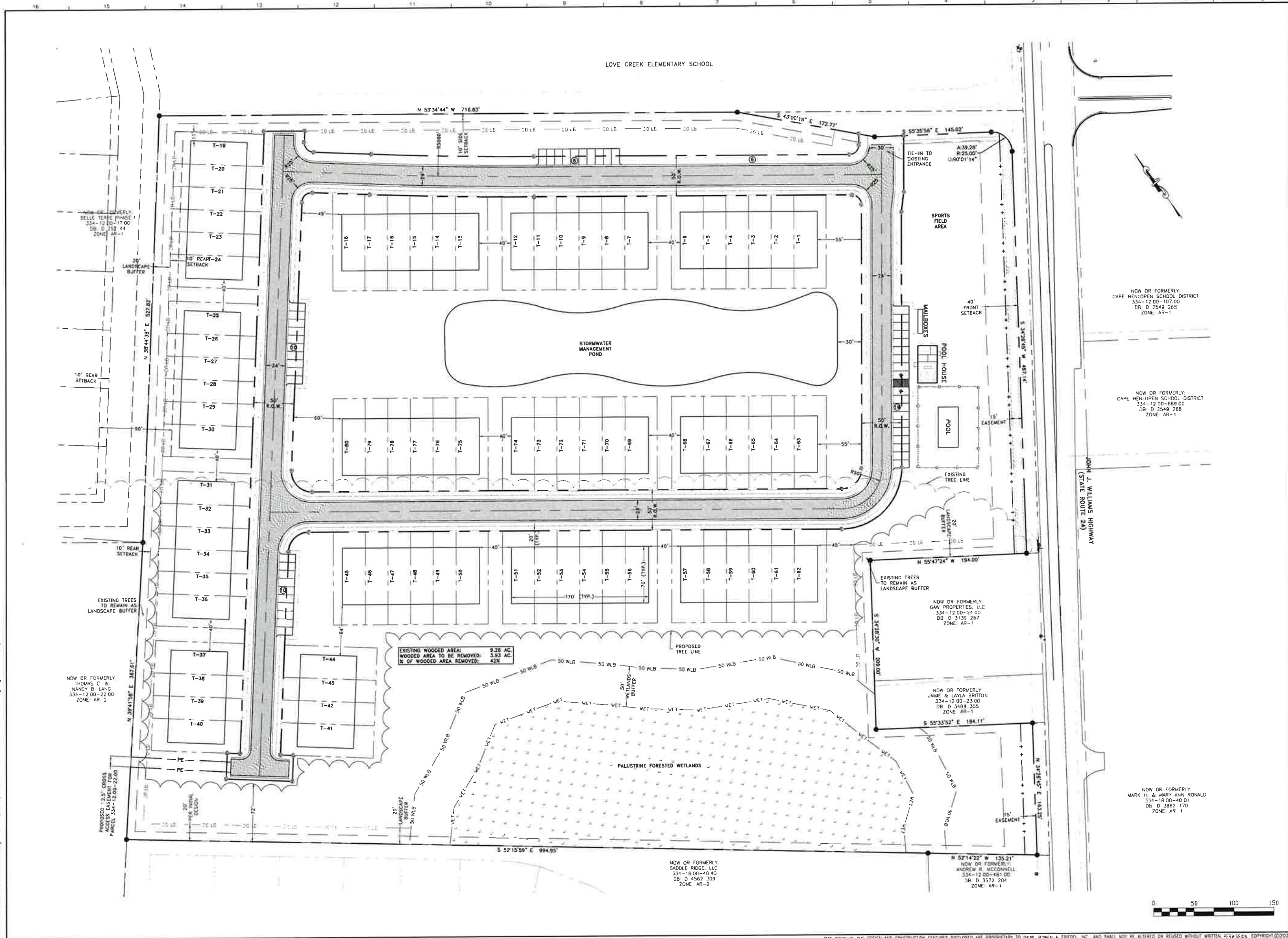
ENVIRONMENTAL RESOURCES, INC.



Edward M. Launay, Principal
Professional Wetland Scientist No. 875, Society of Wetland Scientists
Corps of Engineers' Wetland Delineator Certification No. WDCP93MD0510036B

EXHIBIT “C”

P:\UG Tommasini\226-1013 School Lane\226-1013-TOWN CONCEPT SITE PLAN.dwg Aug 08, 2022 - 1:58pm MASS



EXISTING WOODED AREA: 9.26 AC.
 WOODED AREA TO BE REMOVED: 3.93 AC.
 % OF WOODED AREA REMOVED: 42%

PALUSTRINE FORESTED WETLANDS

NOW OR FORMERLY:
 MARK H. & MARY ANN RONALD
 334-1800-40 D1
 DB D 3862 170
 ZONE AR-1

NOW OR FORMERLY:
 GAW PROPERTIES, LLC
 334-1200-24 D0
 DB D 3139 267
 ZONE AR-1

NOW OR FORMERLY:
 JAMIE & LAYLA BRITTON
 334-1200-23 D0
 DB D 3488 355
 ZONE AR-1

NOW OR FORMERLY:
 CAPE HENLOPEN SCHOOL DISTRICT
 334-1200-107 D0
 DB D 2549 268
 ZONE AR-1

NOW OR FORMERLY:
 CAPE HENLOPEN SCHOOL DISTRICT
 334-1200-88 D0
 DB D 2549 268
 ZONE AR-1

NOW OR FORMERLY:
 SABLE RIDGE, LLC
 334-1800-40 A0
 DB D 4562 309
 ZONE AR-2

N 52°14'22" W 135.21'
 NOW OR FORMERLY:
 ANDREW R. MCCONNELL
 334-1200-483 D0
 DB D 3572 204
 ZONE AR-1

NOW OR FORMERLY:
 THOMAS C. &
 NANCY B. LANG
 334-1200-22 D0
 ZONE AR-2

PROPOSED 12.5' GRADE
 ACCESS EASEMENT FOR
 PARCEL 334-1200-22.00

95% ORIGINAL
 DESIGN

JOHN J. WILLIAMS HIGHWAY
 (STATE ROUTE 2A)

LOVE CREEK ELEMENTARY SCHOOL

DAVIS, BOWEN & FRIEDEL, INC. ARCHITECTS ENGINEERS SURVEYORS
 SALESARY, MARYLAND (410) 843-8000
 MARYLAND (410) 843-1441
 DELAWARE (302) 621-1441
 DISTRICT OF COLUMBIA (202) 272-4444

SCHOOL LANE LEWES AND REHOBOTH HUNDRED SUSSEX COUNTY, DELAWARE

TOWNHOUSE CONCEPT SITE PLAN

Revisions:
 Date: AUGUST, 2022
 Scale: 1" = 50'
 Dwn By: TCB
 Proj No.: 2261J013
 Dwg No.:

C-3

Introduced 10/26/21

**Council District 3 - Schaeffer
Tax I.D. No. 334-12.00-16.04
911 Address: None Available**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (84 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 21.62 ACRES, MORE OR LESS

WHEREAS, on the 30th of July 2021, a conditional use application, denominated Conditional Use No. 2304 was filed on behalf of J.G. Townsend Jr. & Co.; and

WHEREAS, on the ____ day of _____ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2304 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article 115, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2304 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the west side of John J. Williams Highway (Route 24) approximately 0.25 mile southwest of Mulberry Knoll Rd. (S.C.R 284) and being more particularly described in the attached legal description prepared by Davis, Bowen & Friedel, Inc., said parcel containing 21.62 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.

Schaeffer
yes 8.17

Council Grant Form

Legal Name of Agency/Organization The Rehoboth Beach Historical Society ✓

Project Name Rehoboth Beach Museum 150th Rehoboth Beach Anniversary Exhibit

Federal Tax ID ~~51-0207355~~ 51-0203755 ✓

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 Rehoboth Beach Historical Society celebrates the history and culture of the city of Rehoboth Beach. The Society operates a museum, and hosts educational programs including lectures, walking tours, and exhibits. Special events highlight the city's unique culture.

Address 511 Rehoboth Avenue

Address 2

City Rehoboth Beach

State DE

Zip Code 19971

Contact Person Nancy Alexander

Contact Title	Director
Contact Phone Number	(302) 227-7310
Contact Email Address	director@rehobothbeachmuseum.org
Total Funding Request	\$5,000
Has your organization received other grant funds from Sussex County Government in the last year?	No
If YES, how much was received in the last 12 months?	N/A
Are you seeking other sources of funding other than Sussex County Council?	Yes
If YES, approximately what percentage of the project's funding does the Council grant represent?	50
Program Category (choose all that apply)	Cultural, Educational

Program Category
Other

Primary Beneficiary Category Other

Beneficiary Category Residents and Visitors
Other

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program 2500

Scope Rehoboth Beach Museum Exhibit: 150th Anniversary of the Founding of the Rehoboth Camp Meeting Association

The Rehoboth Beach Museum will be holding an exhibit from 2022-2023 celebrating 150 years since the founding of the Camp Meeting Association in Rehoboth, which directly led to its establishment as a bustling resort town. The exhibit will extend outside of the museum's gallery through community programs, lectures, walking tours, and a strong online presence. By creating several virtual components to our exhibit, accessible through the museum's website and social media, we expect to nearly double our anticipated visitors/participants from past exhibits.

In the 1800s outdoor religious revivals, or "camp meetings" were one way to try to convert those who were not regulars at the local churches. Tents were pitched in groves of shady trees as the meetings often lasted days in the late summer heat. Alcohol was banned within a mile of the camp site and men and women were seated separately around the

platform in rows fanning out from the center. Some described the meetings as “religious picnics.”

As the yearly meetings became more popular, they also became more social and the settings more permanent. Roofs were added to preachers' platforms to create pavilions, or “tabernacles” as they were called. Canvas tents with cook stoves at the back and rocking chairs out front later became very small one- and two-story houses.

Rehoboth's own Camp Meeting Association was formed between 1871 and 1873. The Reverend Robert Todd, who visited a camp meeting site in Ocean Grove, New Jersey, set out to found a similar site within a reasonable distance of his parish in Wilmington, Delaware, with the goal of establishing “a resort with religious influences, including a yearly camp meeting.” Land was found near Cape Henlopen and soon John Marsh and Lorenzo D. Martin were enticed to sell 400 acres for about \$15,000. The tabernacle was located where Grove Park is today. Streets surrounding the grove were laid out, and shares were sold for \$50. A newspaper, The Rehoboth Beacon, was published, promoting the virtues of the camp sites and the surrounding area. The new railroad line made it easier for the faithful to attend meetings and the Surf House Hotel made it more comfortable for them to stay.

The exhibit will connect the Rehoboth of 150 years ago to the Rehoboth Beach of today.

**Religious
Components**

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

5,000.00

revenue if not applicable to request)

Description Printing/Exhibit Display

Amount 3,000.00

Description Personnel

Amount 2,000.00

Description Video editing

Amount 1,500.00

Description New Exhibit Case

Amount 2,000.00

Description Research fees

Amount 500.00

Description Collections Acquisition - items for display

Amount 1,000.00

Description

Amount 0.00

Description

Amount

TOTAL EXPENDITURES 10,000.00

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

Name of Organization The REhoboth Beach Historical Society

**Applicant/Authorized
Official** Nancy Alexander

Date 08/12/2022

Affidavit Yes

Acknowledgement

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

Green
YES - 8.18.

Council Grant Form

Legal Name of Agency/Organization	Chamber of Commerce for Greater Milford Inc. ✓
Project Name	Riverwalk Freedom Festival
Federal Tax ID	51-0319055 ✓
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 Chamber Of Commerce For Greater Milford supports a balanced economic development of the Greater Milford are by promoting civic, industrial, commercial, educational, agri-business, social and quality of life interests of the community.
Address	24 NW Front St. Suite 101
Address 2	
City	Milford
State	Delaware
Zip Code	19963
Contact Person	Debbie Heinsch

Contact Title	Administrative Assistant
Contact Phone Number	3022332298
Contact Email Address	milford@milfordchamber.com
Total Funding Request	2000.00
Has your organization received other grant funds from Sussex County Government in the last year?	No
If YES, how much was received in the last 12 months?	N/A
Are you seeking other sources of funding other than Sussex County Council?	No
If YES, approximately what percentage of the project's funding does the Council grant represent?	N/A
Program Category (choose all that apply)	Other

Program Category Festival Fireworks
Other

Primary Beneficiary Category Other

Beneficiary Category The festival benefits the whole Milford Community.
Other

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program 10000

Scope On September 17, 2021 the Milford Community will celebrate with our 21st anniversary of Riverwalk Freedom Festival. We will have crafters, vendors (over 120), kids games, pet park parade, food vendors, live entertainment, car show, and finish with fireworks (about 20 minutes). All of the City businesses participate with sidewalk sales or special promotions. This event benefits the whole Milford Community.

Religious Components

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

Description Fireworks Cost

Amount 20,000.00

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

TOTAL EXPENDITURES 20,000.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -10,000.00

Name of Organization Chamber of Commerce for Greater Milford

**Applicant/Authorized
Official** Debbie Heinsch

Date 08/16/2022

**Affidavit
Acknowledgement** Yes

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

Green.
Yes - 8.22

Council Grant Form

Legal Name of Agency/Organization	Town of Greenwood De. [✓] Inc.
Project Name	Playground handicap upgrade
Federal Tax ID	510107189 [✓]
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	Add a handicap/wheelchair accessible picnic table under the pavilion at the town playground
Address	5 Water St
Address 2	
City	Greenwood
State	De
Zip Code	19950
Contact Person	Janet Todd
Contact Title	Town Manager
Contact Phone Number	302-349-4534

Contact Email Address jtodd@townofgreenwood.us

Total Funding Request 1000.00

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

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

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

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

Program Category (choose all that apply) Infrastructure

Program Category Other

Primary Beneficiary Category Disability & Special Needs

**Beneficiary Category
Other**

**Approximately the
total number of
Sussex County
Beneficiaries served,
or expected to be
served, annually by
this program** 300

Scope Add a composite material picnic table that is made
handicap accessible for wheelchairs at the pavilion at the
playground on Governors Ave.

**Religious
Components**

**Please enter the
current support your
organization receives
for this project (not
entire organization
revenue if not
applicable to request)** 0.00

Description Purchase of picnic table

Amount 1,000.00

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

TOTAL EXPENDITURES 1,000.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -1,000.00

Name of Organization Town of Greenwood

**Applicant/Authorized
Official** Janet Todd, Town Manager

Date 08/17/2022

**Affidavit
Acknowledgement** Yes

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

Rieley - yes. 8.22
HUDSON-yes 8.16.

Council Grant Form

Legal Name of Agency/Organization	Great Futures Fund ✓
Project Name	Great Futures Gala for the Oak Orchard/Riverdale Boys & Girls Club ✓
Federal Tax ID	83-1919481 ✓
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 Great Futures Fund is an organization formed to raise money for the Oak Orchard/Riverdale (Millsboro) Boys and Girls Club which serves the youth in the surrounding Long Neck, <u>Oak Orchard</u> , and <u>Millsboro</u> neighborhoods of Sussex County, Delaware.
Address	36932 Silicato Drive, Suite 10
Address 2	Attn: Great Futures Fund
City	Millsboro
State	DE
Zip Code	19966
Contact Person	Leanne Silicato Prosser

Contact Title	Executive Director
Contact Phone Number	302-945-3350
Contact Email Address	leanne@silicatodevelopment.com
Total Funding Request	\$2,500
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?	.006
Program Category (choose all that apply)	Cultural, Educational

Program Category
Other

Primary Beneficiary Category Youth

Beneficiary Category
Other

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program 150

Scope

The Boys & Girls Club of Oak Orchard currently provides services for more than 100 children on a daily basis in its facility located on Oak Orchard Road in Millsboro.

With the Oak Orchard, Millsboro and Long Neck areas growing quickly, the need for more services at the Boys & Girls Club has become increasingly apparent over the past two years. Previous fundraising events allowed the club directors, in conjunction with the Boys & Girls Club of Delaware management team, to break ground on the building expansion last month. Total expansion project costs are estimated at approximately \$900,000 and will add 2,400 square feet of space, and allow for the removal of temporary trailers which are currently being used on-site.

"We run before- and after-school programs, a preschool, and a summer camp program here," said Erika Kennedy, club director. "The current programs are running on all cylinders; however, we currently have over 50 children on our waiting list for the 5-12 year old program that would like

to attend our club and we simply don't have the space." "When the expansion is completed in the next 6 to 9 months, we hope to welcome most of our current wait-listed families and children into the club. We want to provide services to as many in our community as needed," said Kennedy.

**Religious
Components**

**Please enter the
current support your
organization receives
for this project (not
entire organization
revenue if not
applicable to request)** 300,000.00

Description Expansion Costs

Amount 900,000.00

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

TOTAL EXPENDITURES 900,000.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -600,000.00

Name of Organization Great Futures Fund

**Applicant/Authorized
Official** Leanne Silicato Prosser

Date 08/12/2022

Affidavit Yes

Acknowledgement

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

Vincent
yes 8.23

Council Grant Form

Legal Name of Agency/Organization	Laurel Women's Civic Club ✓
Project Name	Wreaths across America project
Federal Tax ID	EIN84-4544354 ✓
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	To provide assistance to our local community. All funds raised by the club go directly bac into the community.
Address	P. O. Box 105
Address 2	
City	Laurel
State	Delaware
Zip Code	19956
Contact Person	Leeann Wells
Contact Title	Wreaths Across America Coordinator

Contact Phone Number	3022285800
Contact Email Address	leeannw2007@yahoo.com
Total Funding Request	\$250.00
Has your organization received other grant funds from Sussex County Government in the last year?	No
If YES, how much was received in the last 12 months?	N/A
Are you seeking other sources of funding other than Sussex County Council?	No
If YES, approximately what percentage of the project's funding does the Council grant represent?	N/A
Program Category (choose all that apply)	Cultural, Educational
Program Category Other	
Primary Beneficiary Category	Other

Beneficiary Category general population
Other

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program 1000

Scope Wreaths Across America is a nationwide organization which was started with the goal to remember, honor and teach people about our veterans and the sacrifices they made for our country. Our local nonprofit group, Laurel Women's Civic Club, has taken on the sponsorship of the Oddfellows Cemetery in Laurel. Our goal would be to have a wreath on every veteran's grave in the cemetery. We are at this point, the only nonmilitary cemetery that is sponsored in Sussex County. Last year, thanks in part to a grant from Sussex County Council, we were able to have a ceremony and lay 100 wreaths. We are hoping this year to be able to lay a wreath on each of the 300 Veteran's graves in the cemetery. Dignitaries such as Mayor John Shwed, Laurel and Representative Tim Dukes were speakers at our ceremony. Our group is entirely volunteer, so all of the wreath laying is done by our members. This is a combined service/fundraising project as a portion of the proceeds from the wreaths would be returned to the LWCC. All of the money we receive goes directly back into our community. This past year we have helped the victims of the Rigbie fire, The Hope House, Laurel Library, Laurel Little League, Good Samaritan and Tidal Health and the Laurel School District to name a few. We hope that you will consider our project for support even though it is somewhat out of the scope of your requirements.

Religious Components

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

0.00

Description

purchasing wreaths

Amount

750.00

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

TOTAL 750.00
EXPENDITURES

TOTAL DEFICIT FOR -750.00
PROJECT OR
ORGANIZATION

Name of Organization Laurel Women's Civic Club

Applicant/Authorized Leeann Wells
Official

Date 08/22/2022

Affidavit Yes
Acknowledgement

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

VINCENT.
YES 8.23

Council Grant Form

Legal Name of Agency/Organization	American Cancer Society INC. ✓
Project Name	Relay For Life of Sussex County
Federal Tax ID	13-1788491 ✓
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 American Cancer Society's mission is to save lives, celebrate lives, and lead the fight for a world without cancer.
Address	PO Box 1877
Address 2	
City	Salisbury
State	MD
Zip Code	21802
Contact Person	Debbie White
Contact Title	Sr. Community Manager

Contact Phone Number	410-845-3049
Contact Email Address	debbie.white@cancer.org
Total Funding Request	1500.00
Has your organization received other grant funds from Sussex County Government in the last year?	Yes
If YES, how much was received in the last 12 months?	0.00
Are you seeking other sources of funding other than Sussex County Council?	Yes
If YES, approximately what percentage of the project's funding does the Council grant represent?	2.5
Program Category (choose all that apply)	Health and Human Services
Program Category Other	
Primary Beneficiary Category	Other

Beneficiary Category cancer patients, survivors & their families
Other

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

1500

Scope

Relay For Life is the American Cancer Society's signature fundraising activity which supports our lifesaving programs of groundbreaking cancer research, critical patient care services, and education & prevention initiatives for those currently battling, their families, survivors and anyone who may one day hear "you have cancer". Your donation will help us fight all cancers, for all people, in all communities in Sussex County, across the nation and around the world. Our research has identified new treatments, earlier detection and vaccines to help prevent cancer, while also identifying lifestyle, geographic and genetic triggers. Our Hope Lodge, Road to Recovery, online Cancer Survivor Network and 24/7/365 call center programs assist patients with access to care (the #1 identified issue with most patients) and support. Through local health fairs, volunteer meetings & presentations we are reaching deeper into our local community to increase education and awareness about early detection and prevention.

Religious Components

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

65,000.00

revenue if not applicable to request)

Description Operating Expenses

Amount 400.00

Description Fundraising Expenses

Amount 500.00

Description Personnel

Amount 10,000.00

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

TOTAL EXPENDITURES 10,900.00

TOTAL DEFICIT FOR PROJECT OR ORGANIZATION 54,100.00

Name of Organization American Cancer Society

Applicant/Authorized Official Debbie White

Date 08/22/2022

Affidavit Acknowledgement Yes

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

To Be Introduced: 8/30/22

Council District 3: Mr. Schaeffer
Tax I.D. No.: 334-12.00-23.00
911 Address: 20036 John J. Williams Highway, Lewes

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ESTHETICIAN BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.28 ACRE, MORE OR LESS

WHEREAS, on the 8th day of June 2022, a conditional use application, denominated Conditional Use No. 2374 was filed on behalf of Jose Netto and Karyne DeSilva; 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. 2374 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. 2374 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the west side of John J. Williams Highway (Rt. 24) approximately 0.38 mile southwest of Mulberry Knoll Road (S.C.R. 284) and being more particularly described in the attached legal description prepared by Hudson Jones Jaywork & Fisher, said parcel containing 0.28 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.

To Be Introduced: 08/30/22

Council District 2: Mrs. Green

Tax I.D. No.: 530-9.00-57.03

911 Address: N/A

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 NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 0.75 ACRE, MORE OR LESS

WHEREAS, on the 23rd day of May 2022, a zoning application, denominated Change of Zone No. 1988 was filed on behalf of Jeffrey & Linda Babinski; 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. 1988 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] 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 Northwest Fork Hundred, Sussex County, Delaware, and lying on the west side of Delaware Drive (S.C.R. 16C), approximately 566 feet south of Hickman Road (Rt. 16), and being more particularly described in the attached deed prepared by Haller and Hudson., said parcel containing 0.75 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
(302) 854-5079 F
jamie.whitehouse@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

CC: Everett Moore, County Attorney

Date: August 26, 2022

RE: County Council Report for C/U 2309 filed on behalf of Rockswitch Properties, LLC

The Planning and Zoning Department received an application (C/U 2309 Rockswitch Properties, LLC) for a Conditional Use for parcel 235-8.00-62.00 for a real estate office. The property is located at 12537 Coastal Highway, Milton. The parcel size is 1.38 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on July 28, 2022. At the meeting of August 11, 2022, the Planning & Zoning Commission recommended approval of the application for the 6 reasons stated and subject to 8 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of July 28, 2022 and August 11 2022.

Minutes of the July 28, 2022 Planning & Zoning Commission Meeting

C/U 2309 Rockswitch Properties, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REAL ESTATE OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.38 ACRES, MORE OR LESS. The property is lying on the north side of Coastal Highway (Route 1) approximately 0.14 mile southeast of Deep Branch Road (S.C.R. 234). 911 Address: 12537 Coastal Highway, Milton. Tax Parcel: 235-8.00-62.00

Mr. Whitehouse advised the Commission that submitted into the record were the Staff Analysis, Conceptual Site Plan, Applicant Exhibits, DelDOT Service Level Evaluation Response, a letter from



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GEORGETOWN, DELAWARE

Sussex County Engineering Department Utility Planning Division and that zero comments had been received.

The Commission found that Ms. Mackenzie Peet, Esq., with Baird Mandalas Brockstedt Federico & Cardea, spoke on behalf of the Application; that also present were Mr. Richard Reed and Ms. Karen Reed, who are representatives of Rockswitch Properties, LLC; that Rockswitch Properties, LLC submitted a Conditional Use application on August 13, 2021, to request the Conditional Use of land for a small office space, located within the AR-1 (Agricultural Residential) Zoning District; that the office space would be located in an existing single-family dwelling currently located on the property; that the office space is proposed for their real estate services, property management and construction business; that adjacent properties to the site are zoned AR-1 (Agricultural Residential) and GR (General Residential); that properties located across the street are zoned C-1 (General Commercial); that these properties, located along the southbound side of Rt. 1 include the Valero Gas Station and an auto repair shop; that there is an existing wooded buffer which is proposed to stay intact; that Exhibit A through Exhibit E were submitted with the initial Application; that Exhibit A detailed the property and deed information; that the deed information, located at Plot Book 3830/243, confirmed Rockswitch Properties, LLC to be the current owner of the property; that the DelDOT Service Level Evaluation Response stated the traffic impact for the project to be diminutive; that the Applicant anticipates approximately three vehicle trips, which include staff and customers, to the site per day; that Exhibit B includes the property survey and a Site Plan; that the Site Plan shows the property is 1.3802 acres; that the site is served by septic and private well; that no wetlands are located on the site; that there is a one-story dwelling existing on the site; that the site entrance is off of Coastal Hwy.; that there are six proposed parking spaces, with one space being designated for handicap use; that Exhibit C includes a copy of Section 115-22 of County Code which regulates Conditional Uses within the site's Zoning District; that Exhibit D includes aerial maps of the property, which show existing site conditions and surrounding area uses; that the aerials maps also show the AR-1 District overlay, the Future Land Use overlay which identifies the property to be within a low-density area and an overlay of nearby Conditional Uses; that Exhibit E details the site's land use history; that there was a previous Conditional Use granted for the site in 1980; that the use was for marine sale business; that she is unsure if the business ever operated at the site; that the site is located within the low-density area; that all surrounding properties are located within a low-density area; that all properties designated within low-density areas are also within the AR-1 Zoning District; that the Comprehensive Plan provides guidelines for future growth within low-density areas; that the guidelines provide that future development should be related to agricultural and residential uses; that the guidelines also focus on retail and office uses, stating those uses should provide goods and services to nearby residents; that the proposed use will provided needed services to current and future residents; that the proposed use will provide services to uses which are specifically construction and real estate service related; that the proposed use will provide services to current and future residents looking to construct or renovate a home; that the Comprehensive Plan states and commercial use in a low-density area should be limited in location, size and hours of operation; that the proposed use is a permitted Conditional Use within the AR-1 Zoning District when the purposes of the Zoning Chapter are more fully met by issuing the Conditional Use permit; that Section 115-171 of the Code details the purpose of Article XXIV on Conditional Uses; that the permitted Conditional Uses are of public or semipublic character, being essential and desirable for the general convenience and welfare of nearby residents; that because the nature of the use, the importance of the relationship to the Comprehensive Plan and possible impact to neighboring properties and the County, Conditional Uses require the exercise of planning judgement on proposed location and Site Plan review; that the proposed use is of semi-public character, providing services to present and future Sussex County residents; that the proposed use is

compatible with other surrounding uses; that the proposed use is less intensive than uses operating across the street from the site, being a gas station and a auto repair store; that the proposed use will operate entirely out of the existing residential structure, with parking provided onsite; that the use is not anticipated to negatively impact any of the adjacent properties; that the site has a significant existing vegetated buffer which will screen the proposed use from neighboring properties; that the Applicant did make a supplemental submission on July 11, 2022, proffering proposed Conditions of Approval for the requested Conditional Use; that the proposed conditions stated that the property be used as office space for real estate services, property management and construction business; that the use will occur within the existing structure, which will be renovated by the Applicant; that the renovations will be largely cosmetic and providing an area for parking; that the proposed hours of operation will be 7:00 am through 5:00 pm, Monday through Saturday; that there will be no Sunday hours; that all dumpster and trash receptacles will be located to the rear of the property, being screened from view of neighboring properties and roadways; that the Applicant intends to place a sign in conformity of the Zoning Code requirements; that all designated parking areas will be shown on the Final Site Plan; that the Final Site Plan will be subject to the review and approval of the Planning & Zoning Commission; that the Applicant requested the Commission recommend approval for the proposed Conditional Use of an office for Rockswitch Properties, LLC's real estate service, property management and construction business.

Mr. Hopkins questioned if the Applicant proposed to build any additional buildings on the site, if the trees are proposed to be maintained, if the Applicant would like a lighted sign on the property; the number of proposed employees, and the traffic impact expected for the Conditional Use.

Mr. Mears stated the Site Plan did reflect the proposal of a few trees being removed to allow for the construction of the parking area; that he questioned if any employees would access the site for the property management and construction business services, if there will be any materials stored onsite and if any business vehicles will be stationed at the site.

Mr. Robertson stated the Application was introduced as a real estate office; that one would assume the proposed use was for a real estate broker or real estate agency; that the Application stated the proposed use was for a real estate service business, which is a broader use; that he wanted to provide clarification on this for the Commission and if the Commission should act favorably for the Application, it needs to be made clear that the recommended approval would be for more than just a real estate office.

Mr. Whitehouse stated Coastal Hwy. is within the DelDOT Corridor Capacity Preservation Program; that he questioned if the Application had been discussed with DelDOT.

Madam Chair Stevenson questioned if the Applicant proposed to have any customer traffic to the site.

Ms. Peet stated the Applicant has no intention of placing additional buildings on the site; that the use is intended to operate entirely out of the existing structure, with minor internal renovations; that all existing trees are to remain on the site; that the trees are proposed on the Site Plan; that the Applicant would like a lighted sign in conformity to the Code requirements; that the Applicant proposes one to two employees; that DelDOT stated the traffic impact for the proposed Conditional Use would be minimal with three vehicle trips per day; that the employees associated with the property management and construction business would not access the site; that only one to two employees are proposed to access the site; that no materials are proposed to be stored on site; that no business vehicles are

proposed to be stationed at the site; that the site is proposed for administration purposes only; that she had previously spoken with the Planning & Zoning Department, as well as, had previous conversations with two of the partners within her firm being, Ms. Heidi Gilmore, Esq. and Mr. Glenn Mandalas, Esq. who had also worked with the Application regarding the way the Application was introduced; that she believed there had been preliminary discussions between the engineer, Mr. John Roach, and DelDOT; that it is expected that the Applicant will be permitted to use the existing entrance, as the vehicle trips to the site are minimal and the proposal of three vehicle trips daily does include employee trips and customer trips.

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

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

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

In relation to Application C/U 2309 Rockswitch Properties, LLC. Motion by Mr. Hopkins to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 4-0.

Draft Minutes of the August 11, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since July 28, 2022.

Mr. Mears requested Mr. Robertson read his motion for C/U 2309 Rockswitch Properties, LLC in to the record.

Mr. Mears moved that the Commission recommend approval of C/U 2309 Rockswitch Properties, LLC for a real estate service business based on the record made during the public hearing and for the following reasons:

1. The site was previously approved as a Conditional Use for a marine sales business at this location. This Application is for a less intensive use as a real estate service business office. There will not be any sales from the site. This Application is consistent with the previous use of the site for business and commercial purposes.
2. The Applicant intends to use the existing residential-style structure for a real estate services office.
3. The Applicant has stated that this site will only be used for real estate services, property management, and construction management uses and that a majority of the work will occur off-site. This is a low-impact use that is appropriate for this location.
4. The proposed use will not generate a significant amount of traffic, and it will not have any adverse effect on area roadways.
5. The proposed use is very limited in nature within the existing residential-style structure and it will not have any adverse impact on neighboring properties or the community.
6. No parties appeared in opposition to this application.
7. This recommendation is subject to the following conditions:

- a. The use shall be limited to use as an office within the existing structure for real estate services, property management, and construction management.
- b. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.
- c. The Applicant shall comply with any DelDOT entrance and roadway improvement requirements.
- d. No parking shall be permitted in the front yard setback.
- e. No outside storage of construction equipment, materials, or other items associated with the business shall be permitted. This site shall be used only as an office.
- f. Any dumpsters or trash receptacles on the site shall be screened from the view of neighboring properties and roadways.
- g. Failure to comply with these conditions may result in the revocation of the Conditional Use approval.
- h. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2309 Rockswitch Properties, LLC for the reasons and conditions stated in the motion. Motion carried 4-0. Chairman Wheatley abstained.

The vote by roll call: Ms. Stevenon – yea, Mr. Hopkins – yea, Mr. Mears – yea, Ms. Wingate - yea

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



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sussexcountyde.gov

Sussex County Planning & Zoning Commission

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date July 28, 2022

Application: C/U 2309 Rockswitch Properties, LLC

Owners: Rockswitch Properties, LLC
12300 Rockswitch Street
Milton, DE 19968

Applicant: Rockswitch Properties, LLC
12300 Rockswitch Street
Milton, DE 19968

Site Location: 12537 Coastal Highway, Milton. The property is lying on the north side of Coastal Highway (Route 1), approximately 0.14 miles southeast of Deep Branch Road (S.C.R. 234).

Zoning: AR-1 (Agricultural Residential District)

Current Use: Residential

Proposed Use: Real Estate Office

Comprehensive Land Use Plan Reference: Low Density Area

Councilmatic District: Mr. Schaeffer

School District: Cape Henlopen School District

Fire District: Milton Fire District

Sewer: Septic

Water: Private Well

Site Area: 1.3802 ac. +/-

Tax Map ID.: 235-8.00-62.00



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JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR
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jamie.whitehouse@sussexcountyde.gov



Sussex County

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Memorandum

To: Sussex County Planning Commission Members
From: Michael Lowrey, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: July 13, 2022
RE: Staff Analysis for C/U 2309 Rockswitch Properties, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/U 2309 Rockswitch Properties, LLC to be reviewed during the July 28th, 2022, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 235-8.00-62.00 to allow for a realty office use. The property is located on the north side of Coastal Highway (Route 1), approximately 0.14 miles southeast of Deep Branch Road (S.C.R. 234). The parcel is 1.3802 acres +/-.

Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcel has a designation of “Low Density”, with the parcels immediately to the east and northeast also having a Future Land Use Map designation of “Low Density.” The adjacent parcels to the west and northwest of the subject property have the Future Land Use Map designation of “Existing Development Area” with properties on the opposite side of Coastal Highway (Route 1) also designated as “Existing Development Area.”

As outlined within the 2018 Sussex County Comprehensive Plan, Low Density Areas are areas zoned Agricultural Residential (AR-1). The Plan notes that retail and office uses in Low Density Areas should be focused on providing “convenience goods and services to nearby residents” as well as indicating that the commercial uses “should be limited in their location, size, and hours of operation.” (Sussex County Comprehensive Plan, 4-19) The Plan notes that these policy guidelines are provided to “maintain the rural landscape” in Low Density Areas (Sussex County Comprehensive Plan, 4-18).

Zoning Information

The subject property is zoned Agricultural Residential (AR-1). The properties to the east on both sides of Coastal highway (Route 9) are also zoned Agricultural Residential (AR-1). The parcels immediately south across Coastal Highway (Route 9) and extending westward to the intersection with Deep Branch Road (S.C.R. 234) are zoned General Commercial (C-1). The remaining



properties adjacent to the west of the subject parcel on the north side of Coastal Highway (Route 9) and extending northwest to Deep Branch Road (S.C.R. 234), are zoned General Residential (GR).

Existing Conditional Uses within the Vicinity of the Subject Site

Since 2011, there has been one (1) Conditional Use application within a 0.5-mile radius of the application site. This application was Conditional Use No. 1992 for the lands of W. Ralph Brumbley to permit a vendor (lunch truck) to sell foods and beverages within an Agricultural Residential (AR-1) Zoning District. This application was approved by the Sussex County Council on Tuesday, January 13, 2015, and this was adopted through Ordinance No. 2383.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional use to allow to allow for a real estate office use within an Agricultural Residential (AR-1) Zoning District could be considered as being consistent with the land use, area zoning and surrounding uses.

Sussex County

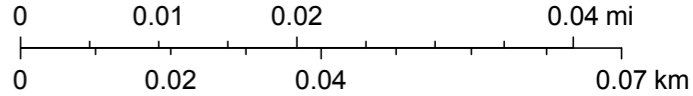


June 28, 2022

TP 235-8.00-62.00

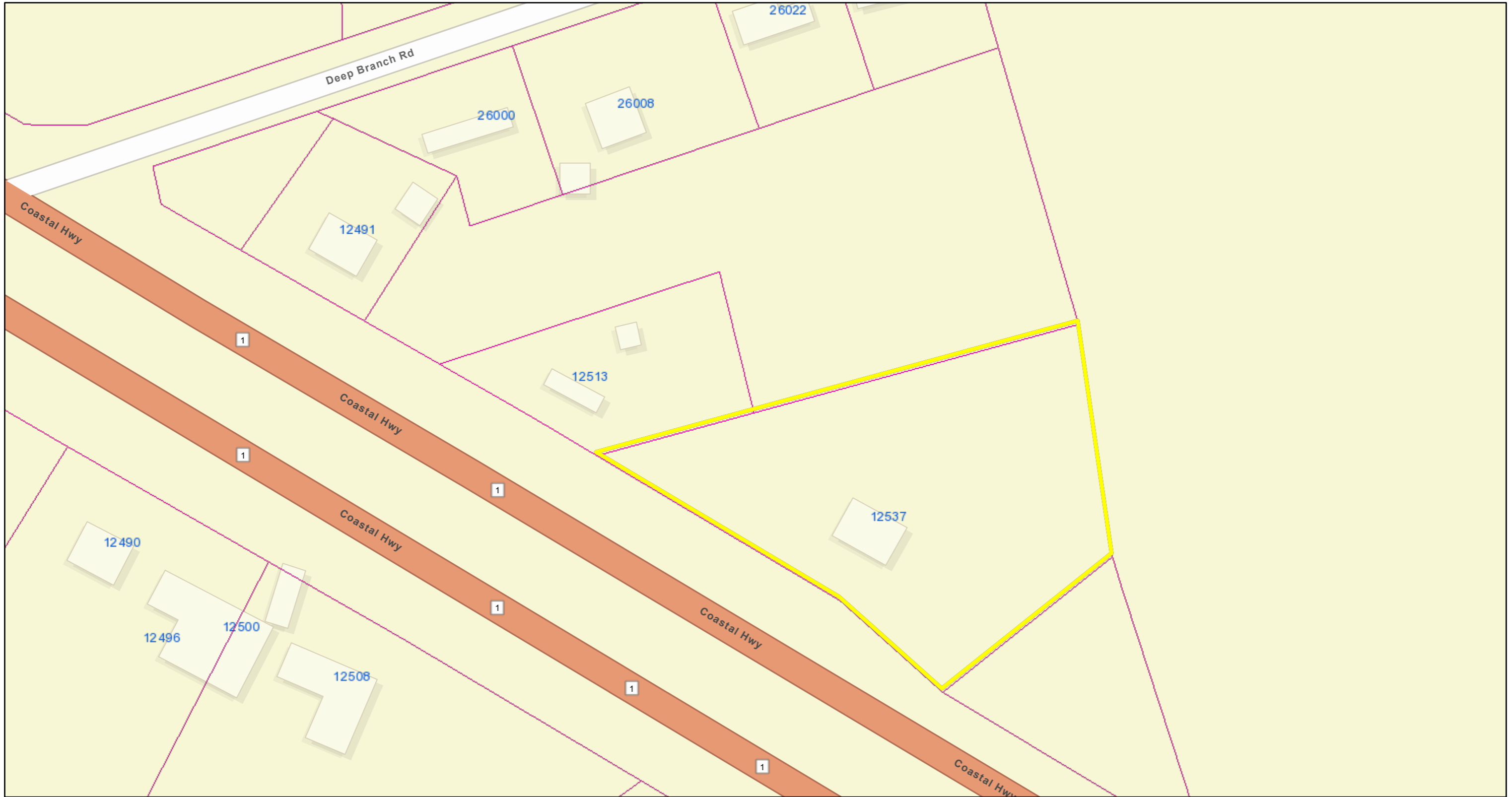
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-  Override 1
-  Override 1
-  Tax Parcels



Maxar, Microsoft, Sussex County Government




Sussex County

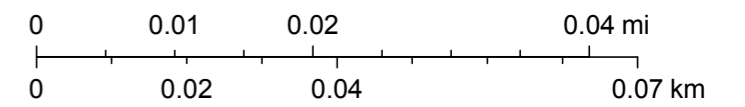


June 28, 2022

TP 235-8.00-62.00

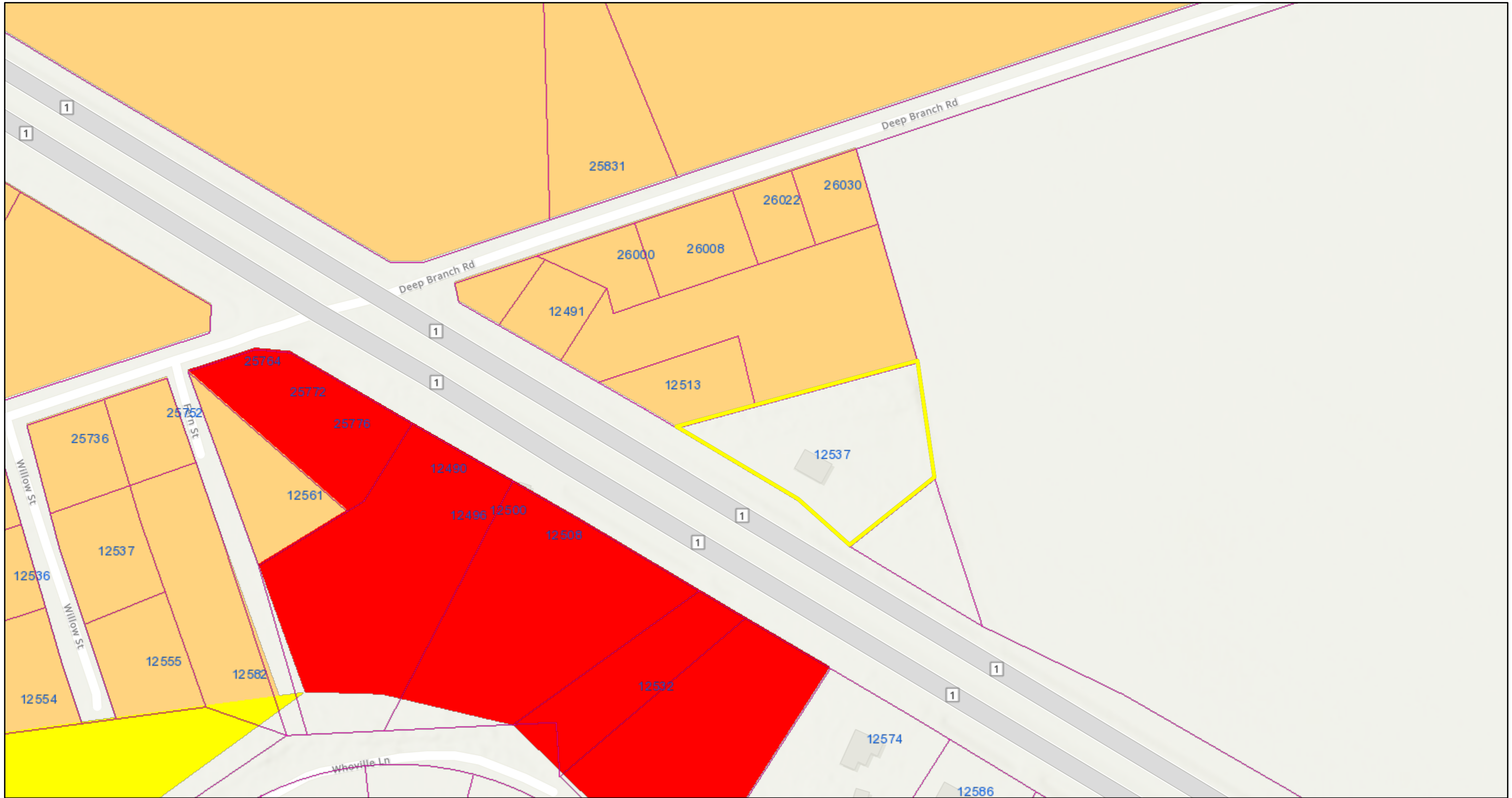
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-  Override 1
-  Override 1
-  Tax Parcels
- 911 Address



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

Sussex County

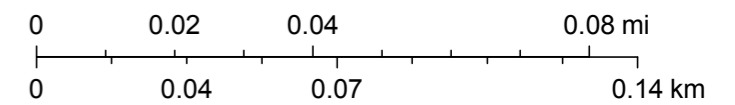


June 28, 2022

- Override 1
- Override 1
- Tax Parcels
- 911 Address
- Zoning**
- Agricultural Residential - AR-1

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

1:2,257



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

Reintroduced: 07/12 /2022

Council District 3: Mr. Schaeffer
Tax I.D. No.: 235-8.00-62.00
911 Address: 12537 Coastal Highway

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REAL ESTATE OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.38 ACRES, MORE OR LESS

WHEREAS, on the 13th of August 2021, a conditional use application, denominated Conditional Use No. 2309 was filed on behalf of Rockswitch Properties, LLC; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2309 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article 115, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2309 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 north side of Coastal Highway (Route 1) approximately 0.14 mile southeast of Deep Branch Road (S.C.R 234), and being more particularly described in the attached legal description prepared by Tunnell & Raysor, P.A., containing 1.38 acres, more or less.

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

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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

CC: Everett Moore, County Attorney

Date: August 26, 2022

RE: County Council Report for C/U 2310 filed on behalf of Milton Community Food Pantry, Inc.

The Planning and Zoning Department received an application (C/U 2310 filed on behalf of Milton Community Food Pantry, Inc.) for a Conditional Use for parcel 235-7.00-18.00 for a food pantry. The property is located at 12898 Union Street, Ext., Milton. The parcel size is 0.966 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on July 28, 2022. At the meeting of August 11, 2022, the Planning & Zoning Commission recommended approval of the application for the 9 reasons stated and subject to 12 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of July 28, 2022 and August 11 2022.

Minutes of the July 28, 2022 Planning & Zoning Commission Meeting

C/U 2310 Milton Community Food Pantry, Inc.

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A FOOD PANTRY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.966 ACRES, MORE OR LESS. The property is lying on the west side of Union Street Ext. (Rt. 5), approximately 0.24 mile south of Reynolds Pond Road (S.C.R. 231). 911 Address: 12898 Union Street Ext., Milton. Tax Parcel: 235-7.00-18.00.

Mr. Whitehouse advised the Commission that submitted into the record were a video presentation submitted by the Applicant, the Staff Analysis, Exhibit Booklet, Conceptual Site Plan, a letter from



the Sussex County Engineering Department Utility Planning Division, the DelDOT Review Letter, the Applicant's proposed Conditions of Approval and Findings of Fact, a letter from the Mayor of the Town of Milton, 19 letters of support, a petition containing 341 signatures in support; that one to two of the support letters may be duplicates and a petition containing 35 signatures in opposition.

The Commission found that Mr. Timothy Willard, Esq. spoke on behalf of the Application; that also present were Ms. Donna Murawski, President, Mr. Lawrence Bivens, Vice President and Ms. Barbara (Bobbi) Hemmings, Treasurer; that the Milton Community Food Pantry, Inc. is a non-profit organization; that their mission is to combat hunger in the northeast area of Milton; that currently the food pantry is busy; that the food pantry provides a vital service to the community; that the Application request is for a Conditional Use; that the property is located within the GR (General Residential) Zoning District; that the request is for a food pantry; that the submitted petition in opposition referred to the proposed use as a soup kitchen, which it is not; that he requested to present a video on behalf of the Milton Food Pantry; that the video stated the mission began after a minister received a request for help from a mother and her children who had not eaten in over a day; that the minister supplied the mother and children food from her own pantry; that the next day the church began a food pantry ministry; that the food pantry helps approximately 1,200 to 1,500 families every year; that in 2021 the pantry provided food for 5,000 individuals and 60,000 meals that year; that funding for the food pantry mainly comes from donations from local residents and local corporations; that the food pantry recently began getting grants to supplement food; that they have been able to purchase extra food and more fresh produce with the extra funding; that the distribution process takes a lot of work and a lot of volunteers; that for the day of distribution the volunteers use a walkie talkie system; that as vehicles arrive, the volunteers relay how many people are in the family; that volunteers in the building bring out bags of food, which were already prepackaged for the family size in need; that the volunteers place the food in the vehicle; that the vehicle then leaves with their food; that the mission of the food pantry is to alleviate hunger in the Milton and surrounding areas; that the help families in need, regardless if it is for a temporary or permanent status; that the property is located north of Milton along Union St. Extended; that the property is located within the GR General Residential Zoning District; that the GR Zoning District recognizes residential, business, commercial and industrial uses when purposes of the Chapter are more fully met for purposes of a Conditional Use; that the Conditional Use purposes emphasizes the public or semi-public uses for the welfare of the County; that he feels the food pantry is more aligned with this purpose more so than townhouses; that the food pantry use is appropriate; that on the site plan, the existing home is located within the horseshoe area; that the existing home is a small rancher with two bedrooms and a kitchen; that the two accessory buildings to the rear currently existing on the property; that there is a pole barn proposed on the site plan, to be used for food storage; that an entrance only access is proposed at the northern section of the horseshow driveway; that an exit only is proposed for the other entrance to the property; that according to the Comprehensive Plan, the site is located within a Developing Area; that a Developing Area are generally located near municipalities, being suited for a variety of uses, including business and commercial; that the GR (General Residential) Zoning District gives latitude for this Conditional Use specifically; that many letters of support were submitted; that some letters of support were provided by authorities and churches; that a letter of support was provided by the Mayor of the Town of Milton; that there was a petition submitted with 314 signatures in support; that multiple volunteers were present to show support; that the DelDOT Service Level Evaluation (SLE) did not require a Traffic Impact Study (TIS); that DelDOT stated they estimated fewer than 50 vehicle trips per hour for the proposed project; that he was unsure if they would hit 50 vehicle trips in one week; that due to this DelDOT stated the traffic impact is considered negligible; that they propose Mondays to be busier due to distribution; that during the rest of the week a few volunteers may come to the

site; that volunteers may not come to the site every day; that the Applicants own the property; that if the Application is not approved, the Applicant will have to make other plans for the property; that the Applicant has supplied DelDOT with a proposed Site Plan; that the Applicant is still working with DelDOT; that the Applicant will make improvements based on DelDOT requirements; that the DelDOT required improvements are to widen the horseshoe driveway and to establish one entrance and one exit with signage; that DelDOT did seem favorable to the proposed project; that he did present photos taken of the complete distribution process for the Commission; that he believes the petition in opposition was submitted by the residents located to the rear of the property; that the petition submitted was in opposition to a soup kitchen; that the Application is not for a soup kitchen; that a soup kitchen is where people would eat at the site; that he believes there was some misunderstanding to the proposed use; that there were safety concerns to the traffic; that there will be increased activity between 9:00 am and 1:00 pm on Mondays; that other than Mondays, during those times, there will not be much activity at all at the site; that he believes the process is very well managed; that clients will not be permitted to make left turns to enter the food pantry during distribution hours; that clients will be directed to make a right-hand turn onto the site; that the Applicants previously enforced the right-hand entrance only process at the their Waters Edge location; that the volunteers were able to manage that process; that volunteers do have a process to stagger arrival times for clients; that the horseshoe driveway can accommodate 10 to 12 vehicles; that on distribution days, there will be volunteers at the entrance and exit of the site to help manage traffic flow; that the Applicant does propose to use the outbuildings for storage purposes; that there is no use of large delivery vehicles; that there will be no night deliveries; that the majority of deliveries are provided by the volunteers; that he submitted proposed conditions; that the proposed conditions stated that the site is to be the home of the Milton Community Food Pantry; that improvements to the property are to be consistent with the Site Plan; that volunteers may work onsite to collect, store and distribute food; that onsite delivery to clients will take place one day weekly, between the hours of 9:00 am to 1:00 pm; that an additional day may be added after six months of operation if merited; that this condition would allow some flexibility if the food pantry needs grew in the future; that during delivery times, all vehicles must be located on site; that the entrance is subject to DelDOT approval; that lighting shall be inward facing; that a lighted 2'x3' sign, located on the building is requested; that the Final Site Plan is subject to the review and approval of the Planning & Zoning Commission; that proposed Findings of Fact were submitted referencing the requirements of the Comprehensive Plan Developing District, the Zoning Code and the Conditional Use requirements; that the proposed use is appropriate for the area; that the Food Pantry wants to be good neighbors to all surrounding properties; that the proposed use is not an intense use and the proposed use is important to the area.

Ms. Donna Murawski spoke on behalf of the Application; that she is the President and Executive Director of the Milton Community Food Pantry; that in 2014 the food pantry began at Goshen Hall with Goshen United Methodist Church; that the food pantry remained at Goshen Hall until October 2020, when Goshen Church decided to sell Goshen Hall; that they were required to vacate the premises; that while located at Goshen Hall, the 35 to 40 families at a time, would sit at the hall, waiting in line for their food; that with the COVID-19 pandemic, the process was required to change; that the food pantry was forced to begin a drive-thru distribution process; that during the pandemic, they went to the Town of Milton and began distributing within a municipal parking lot, located across from the Milton Library; that at that time, they were able to get an emergency partnership with the Food Bank of Delaware, as they were not able to obtain any food at that point on their own; that all their food rescue resources had dried up; that food was being purchased, but would not consistently come in; that they would obtain food boxes from Food Bank of Delaware; that the volunteers would carry the food boxes from their own homes to the parking lot; that the food boxes were distributed by the

volunteers vehicles from the parking lot; that if any food boxes were left over, the volunteers would take the boxes back to their homes until the next distribution date; that the volunteers were able to continue this from April 2020 until October 2020, only missing one distribution day; that they were then able to move back to Goshen Hall, but operated by drive-thru process; that Goshen Hall has no parking; that they used the parking lot at the church; that they used their walkie talkie system to send one to two vehicles at a time to the hall for food pick up; that the families would drive in, register, a volunteer would pack the food in the car and the family would leave; that at that time, they were serving approximately 40 to 50 families; that many families carpool, or one family will pick up for other families; that this created fewer vehicles; that they may serve 50 families, but only total 39 vehicles to the site; that they also deliver to some families who cannot come to the distribution site; that once Goshen decided to sell the hall, they moved to Waters Edge Church, located on the outskirts of Milton, along Rt. 16 and Reynolds Rd.; that Waters Edge Church allowed them to use their facility for packing, storing and distributing; that the Waters Edge Church location had been working very well until Waters Edge decided to demolish the building the food pantry was using; that they are currently permitted to use the parking lot, but they no longer have the buildings to use; that currently they are working and distributing from two storage pods; that they currently store their food within the freezers, refrigerators and homes of the volunteers; that this creates a hardship on distribution days; that all volunteers must transport the stored food to the distribution parking lot; that the volunteers then do all the food packing outdoors from the parking lot; that the packing is mostly done from the storage pod, which has no air conditioning; that the kitchen staff, who pack all fresh and frozen foods, are working from a gazebo with a dirt floor; that everyone working for the project are volunteers; that the food pantry is a 501(c)(3); that on distribution days they have 12 to 13 volunteers; that they have about 24 volunteers in total; that the main existing dwelling is to be used for the preparation and packing of fresh and frozen foods on distribution days; that the dwelling has two bedrooms; that one of the bedrooms will be utilized as an office; that the other bedroom will be utilized for additional storage; that the exterior of the dwelling will remain the same; that the kitchen and bathroom are proposed to be renovated; that they propose to remove the wall between the kitchen and the living area to create an open floor plan; that they still currently receive food boxes from the Food Bank of Delaware; that the volunteers go to the Food Bank of Delaware to obtain the 72 food boxes; that they load the food boxes onto their own trucks and deliver to their storage areas; that the trucks are not big; that the trucks are typically Ford pickup trucks; that if the Application were to be approved, the food bank boxes would be stored in the proposed pole building onsite; that Food Lion donates discontinued food; that volunteers rescue food from Food Lion, three days weekly; that the volunteers drive SUVs or small cars for those pickups; that typically one to three volunteers arrive to the site, to go through all the donated food; that any produce not used is taken to the Home for the Brave; that she personally shops with other volunteers for all canned goods; that her husband takes his Ford pickup truck, making one to two trips to deliver the canned goods; that they liked the existing horseshoe driveway, as it fit their current drive-thru distribution process; that they performed their own type of traffic study for their process; that they performed the distribution in 15 minute increments; that the most vehicles recorded during those increments were 10 to 12 vehicles at a time; that they believe 10 to 12 vehicles would fit within the horseshoe driveway area; that they plan for Mondays to be the only distribution day; that hours of operations on Mondays are proposed to be 9:00 am until 1:00 pm; that they proposed these times as they felt most people would already be at work and it would not interfere with children coming and going from school; that their clients have learned the food distribution process; that clients now line their vehicles up a certain way; that clients know that no left turns in are permitted and no left turns leaving are permitted; that they have volunteers located at both entrance and exit of their site to help manage traffic flow; that they provide notice of distribution dates and times on their website; that any new clients receive an information

sheet for reference; that a volunteer will register all clients on arrival; that clients do not leave their vehicles; that the volunteer places a post-it note on the window stating the number of family members in each family; that at times one vehicle will pick up food for four to five families; that the vehicle then moves up to the next volunteer; that the volunteer places the Food Bank boxes and prepackaged bags in the vehicle; that they have prepacked bags of canned and dry goods, which are packed based on the number of family members; that from registration to departure, the process takes between three to six minutes, depending on the number of families per vehicle; that the kitchen staff prepackage the fresh and frozen foods; that those packages contain meats, dairy, produce and bakery items based on family size; that the fresh and frozen foods are the last to be distributed before the client exits; that they use all terrain carts to help distribute the food; that often times, the volunteers are ready and waiting with the food when the vehicle pulls up; that she presented a photo of the storage pod they are currently storing their food boxes in and the outdoor gazebo where the kitchen volunteers package the fresh and frozen foods and the meats are currently being stored in multiple coolers.

Mr. Mears questioned if the Applicant desires a sign along the road.

Ms. Wingate thanked the volunteers for their services; that she stated the Food Pantry is a wonderful service for the area; that the DelDOT requirements will include the widening of the driveway and that these improvements will only make the driveway better.

Mr. Hopkins stated there is room for the widening of the driveway; that in the case more vehicles arrive to the site, there would be room to accommodate the vehicles; that he questioned what the speed limit was on Union Street Extension; that he questioned if there would be traffic control for the property; that the traffic is a concern coming and going on a 50 mph road versus in town where the traffic speed is lower; that he questioned if there was a shoulder on the road; that he questioned how much of their food is donated versus how much of their food is purchased by them; that he questioned how many non-governmental donations are being received and he questioned if the house was purchased with donated money or if the house was donated to the food pantry.

Madam Chairman Stevenson questioned if clients can be scheduled distribution times.

Mr. Robertson questioned how clients are notified of distribution dates and times.

Mr. Willard stated the only signed requested was for a 2'x3' lighted sign to be located on the building; that the Applicant does not request a sign by the road; that there will be directional signage placed on the property; that the directional signage will include an entrance sign, exit sign, Do Not Enter sign and a No Left Turn sign, as it was required by DelDOT; that DelDOT is requiring the widening of the entranceway; that the speed limit is 50 mph on Union Street Extension; that on distribution days, more people arrive to site; that previously there have been volunteers located at the entrance and exit of the site; that the volunteers are placed there in the case the site were to become too busy; that the volunteers would have to request the clients return at a later time; that this was their process at their Waters Edge site; that there is much more room at the proposed location due to the existing horseshoe driveway; that he had submitted in an exhibit articles from the Cape Gazette, over the past four years, regarding local business and church donations to the Milton Food Pantry; that there are annual donations being made to the food pantry; that the Applicant had a very successful capital campaign and County Bank was very gracious, as the Applicant worked with them through settlement and there is recognition on the building for County Bank.

Ms. Murawski stated they had looked for properties in town for the past year and a half; that they could not locate an affordable property; that they could not find a property large enough for their proposed use; that there are very few commercial properties; that they had looked at the Quillen place, Atlantic Plastics and the old bank on Rt. 16; that those areas were affordable, but the size was not large enough; that the area is very open; that if volunteers stood at the front of the property, they would be able to see if there were any oncoming traffic; that this was the process they had on Rt. 16, exiting Waters Edge Church; that the process worked well with no issues; that there are shoulders; that DelDOT is requiring them to expand the entrances; that they are able to schedule client pick up times; that they currently are distributing twice a month; that they request to distribute once a week; that some clients return every time; that other clients return once a month; that other clients return on an as needed basis; that Waters Edge Church has agreed to still allow them to use their parking lot for any overflow parking; that they would be able to call vehicles to the site, as room became available; that the Food Pantry is open to the public; that they have a personal website, a Facebook and Instagram; that a lot of the information is spread by word of mouth; that they do not limit how many times a client can come; that the canned goods are prepackaged; that the fresh and frozen foods are packaged onsite; that they do anticipate and pack ahead when able; that they spend about \$3,000 with each distribution, which is every two weeks; that prior to inflation, they were spending approximately \$40,000 per year; that approximately the same amount of food is donated; that this year they received a grant for \$40,000 from Christiana Care to be spent on food only; that they have always had enough money for food; that the extra money from Christiana Care will allow her the ability to purchase fresh fruits and vegetables herself; that the donated fruits and vegetables received from Food Lion can be inconsistent; that some weeks they receive 100 dozen eggs; that other weeks they receive no dairy at all; that they receive an emergency box, which is a USDA box, from the Food Bank of Delaware; that the boxes contain canned vegetables, canned fruits, peanut butter, cereal and oatmeal; that the boxes can vary; that the boxes last received contained only half a box of 14 items; that the boxes at times can contain up to 20 items; that they do not pay for the Food Bank boxes, as they are part of the USDA program; that they do have some people who donate to the food pantry consistently every month; that they currently are not receiving any governmental money; that they are applying for the USDA Rural grant; that the house was purchased with money collected since 2014; that they knew in 2017 they were outgrowing Goshen Hall; that some donations received are earmarked for food purchase only; that they did begin a building campaign; that some donations are earmarked for a building; that they did receive some grants toward the building and they were able to pay for the majority of the building.

The Commission found there was no one present in the room who wished to speak in support of the Application, however, there were 13 people in attendance who expressed their support by a show of hands.

The Commission found that Mr. John Starr spoke in opposition to the Application; that to his knowledge the people within the Teal Point subdivision did not know about the Application; that he is not against feeding the poor; that he is present to discuss a request for a zoning change, traffic, the placement of an entity within a residential area; that the request is much like the food truck in a residential area that does not belong there; that he would like to ask the attorney if it is true the Applicant received a 50 million dollar grant from SolDel; that if true, the food pantry purchased the house for \$240,000; that with required improvements, the food pantry would have 25 million dollars left over; that he questioned why the Applicant could not find a country road, like Reynolds Rd., where a church is located; that the church is located approximately 1.5 mile outside of the Town of Milton; that the subject site is only one mile outside of the Town of Milton; that there is no development

proposed on the north side of Milton; that the last development constructed was Sunland Ranch; that Sunland Ranch was developed 10 years ago; that he questioned why the Applicant could not take their left over money, purchase an acre or two on a side road for their proposed use; that the Applicant received support letters from people within the Town of Milton; that those people do not live where he lives, being adjacent to a proposed food pantry; that there is only one volunteer who lives three doors north of the proposed site; that all other volunteers do not live in the area of the proposed site; that the volunteers do not have to contend with the additional 10 to 12 vehicles; that the proposed site is not going to hold 10 to 12 vehicles unless the Applicant were to double lane; that if they were to double lane, it will create longer distribution times; that the Applicant proposes a pole building for the storage of food; that he questioned if the Conditional Use is granted, what would stop the Applicant from turning the house into a soup kitchen; that he questioned when conditions would be placed on the Application; that he questioned if a condition would be placed limiting the Applicant to only a food pantry; that he questioned if a condition would be place limiting operation hours and permitted days per week; that he questioned how he would know the conditions would be enforced; that he is concerned about traffic; that the Applicant stated the horseshoe driveway will hold 10 to 12 vehicles; that he does not believe that number to be accurate; that Rt. 5 is a main throughfare to Milton, Harbeson and Longneck; that there is a lot of traffic coming from Rt. 1 and down Rt. 5; that many vehicles speed, doing 60 mph, on Rt. 5; that almost 40 people are in opposition of the Application; that there is no commercial entity in the area; that he questioned why the project had to be proposed in a residential area; that he did not understand why the Applicant could not find one to two acres of property, possibly purchasing from a church member or farmer, outside of any residential areas, where they can place their pole barn and horseshoe driveway; that he does not feel there is anything wrong with the Applicant's mission; that he does not feel their proposed use belongs in the current residential area or any other residential area; that there are many other options for the project to be located; that Reynolds Rd. only averages 50 to 100 vehicles per day; that this would allow the proposed use to be located off to the side, allowing the Applicant substantial area to run vehicles; that the Applicant stated it takes about six minutes for a vehicle to move through; that ten vehicles would equal about 50 minutes; that he questioned what will happen if the Applicant begins to serve more people; that the reason the Applicant proposed a pole building is to allow for additional storage and growth and regardless of how many days the Commission were to approved the use, he felt the use did not belong in his residential area.

The Commission stated the question regarding a grant from SolDel is irrelevant to the Application and will not be answered.

Madam Chairman Stevenson stated a Conditional Use allows the Commission to place conditions on the approval; that these conditions would state what the Applicant would be allowed to do and not allowed to do; that the Commission has the right to condition hours of operation and permit the use for a food pantry only; that if the Applicant were to violate the conditions of approval, the Conditional Use may be revoked.; that the placement of conditions is provided at the time of approval; that a condition would be placed for the use of only a food pantry based on the information proffered by the Applicant.

Mr. Robertson stated the information proffered by the Applicant would be placed as Conditions of Approval within an Ordinance, which if adopted by Sussex County Council would have the force of law; that no one would know these Conditions of Approval until the Commission was to make a recommendation of approval, listing required conditions; that County Council would be required to

approve the recommended conditions and the public, nor the Applicant will know the required conditions until the time the Ordinance is adopted by County Council.

The Commission found that Ms. Teresa Ripley spoke by teleconference in support of the Application; that she and her husband run a partner non-profit organization alongside of the Milton Food Pantry; that they try to help the Milton Food Pantry address the food insecurity issues within Sussex County; that in 2020 when she started her non-profit, the national average of families experiencing food insecurity was one in four families; that she stated she could argue that the number of families experiencing food insecurity is growing within Sussex County daily due to inflation; that her organization has been contributing meals to the Milton Food Pantry since 2020; that they have witnessed the creation of the Milton Food Pantry from Goshen Hall to Waters Edge; that the food pantry require space to be able to continue their mission; that the need for the mission of the food pantry far outweighs any of the inconveniences; that food insecurity is a life-threatening issue; that the community needs local organizations which help address this issue for our community and she implored the Commission to approve the Application.

Mr. Whitehouse advised the Commission that the adjacent properties were provided notice by postcard; that he presented an aerial map showing the notified properties; that a notice board was posted on the physical site; that notice was placed in two newspapers of general circulation; that the postcard notice would have been mailed to the address on record within the Sussex County Property Tax records.

Upon there being no further questions, Chairperson Stevenson closed the public hearing.

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

In relation to Application C/U 2310 Milton Community Food Pantry, Inc. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 4-0.

Draft Minutes of the August 11, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since July 28, 2022.

Ms. Stevenson moved that the Commission recommend approval of C/U 2310 Milton Community Food Pantry, Inc. for a food bank based upon the record and for the following reasons:

1. This use is for a community food bank serving the area around Milton and northeastern Sussex County. It is a 501(c)(3) organization that relies upon in-kind donations of canned and packaged goods and monetary donations.
2. The food pantry began on a small scale in 2014. It grew to the point where it currently provides food to approximately 50 families, with an all-volunteer staff of 10-12 people. There is an established need for this service in this area of Sussex County.
3. The food pantry has grown to the point where it needs a centralized building for storage, organization, and distribution. Currently, the food is stored in refrigerators, freezers, and garages in homes owned by volunteers. There is also outdoor storage at a community church.

By having one centralized location, the Applicant will be able to operate more efficiently in an appropriate location.

4. This proposed use satisfies the stated purpose for granting a Conditional Use: it has a public or semi-public character and it is essential and desirable for the general convenience and welfare of Sussex County and its residents.
5. This use will be limited in nature and will not adversely affect the neighboring properties or neighborhood. It will be a food pantry, or food storage and distribution center. No meals will be offered for consumption on-site and it will be prohibited from becoming a soup kitchen or similar operation. There was testimony in the record from the Applicant that the food pantry will only occur on limited days in any given week, and the process is very organized.
6. The use is limited to the existing dwelling and that will be converted to offices and space to organize food donations for distribution and an additional pole building. There are also existing garages on the property that will remain and be utilized for storage. The property will generally maintain its residential appearance at all times except for days when food distribution occurs. The pole building will also be permitted on the site for additional space to store food awaiting distribution.
7. The location along Route 5, just north of Milton, is an appropriate location for this limited type of use. Route 5 is considered a major collector roadway by DelDOT, which makes it an appropriate location for this use.
8. The property is in the Coastal Area according to the Future Land Use Map within the Sussex County Comprehensive Plan. The Coastal Area permits a variety of uses, including commercial uses that are more intensive than this food pantry.
9. There were numerous letters in support of this operation at this location from the Town of Milton, area churches, the Milton Community Foundation, and other organizations and individuals supporting not only the need for this operation but also the proposed location for it. While there was opposition to the location of the food pantry, the stated concerns will be mitigated by the conditions placed upon this use.
10. This recommendation is subject to the following conditions:
 - A. The use shall be limited to a food pantry where donated food is collected for distribution. The food shall be distributed for off-site consumption only. No soup kitchen-type operations or food service for on-site consumption shall occur on the site.
 - B. No loitering shall be permitted on the site, and there shall be signage on the site confirming that loitering is prohibited.
 - C. As stated by the Applicant, food distributions shall only occur one day per week, and shall only occur between the hours of 9:00 am through 1:00 pm. This shall not prohibit the use of the building on other days to receive and organize donations for later distribution or for office use.
 - D. The Applicant shall comply with all roadway and entrance improvement requirements established by DelDOT.
 - E. The Applicant shall not permit parking along Route 5 or stacking of vehicles within the Route 5 Right of Way waiting to access the property. In addition to volunteers directing traffic, there shall be signage placed on the site confirming that no parking or stacking of vehicles shall be permitted along Route 5.

- F. There shall be parking for at least 6 client vehicles on the site in addition to the driveway area and parking for staff and volunteers. These parking spaces shall be shown on the Final Site Plan and clearly marked on the site itself. There shall also be directional signage installed throughout the site to direct the flow of vehicles to and from the site in an orderly manner.
- G. Any security lighting shall be designed so that it does not shine on neighboring properties or roadways.
- H. All dumpsters shall be screened so that they cannot be seen from area properties or roadways.
- I. All donations shall be stored indoors.
- J. One lighted sign, not to exceed 2 feet by 3 feet in size, shall be permitted on the building.
- K. The failure to abide by these conditions of approval may result in the termination of this Conditional Use.
- L. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to recommend approval for C/U 2310 Milton Community Food Pantry, Inc. for the reasons and conditions stated in the motion. Motion carried 4-0. Chairman Wheatley abstained.

The vote by roll call: Mr. Hopkins – yea, Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Ms. Wingate - 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: July 28th, 2022

Application: CU 2310 Milton Community Food Bank, Inc.

Applicant: Milton Community Food Pantry, Inc.
12898 Union Street Ext.
Milton, DE 19968

Owner: Elmer Smith
12898 Union Street Ext.
Milton, DE 19968

Site Location: Lying on the west side of Union Street Ext. (Rt. 5), approximately 0.24 mile south of Reynolds Pond Road (S.C.R. 231)

Current Zoning: General Residential (GR) District

Proposed Use: Food Bank

Comprehensive Land Use Plan Reference: Developing Area

Councilmanic District: Ms. Cynthia Green

School District: Cape Henlopen School District

Fire District: Milton Fire Department

Sewer: On-site

Water: Private Well

Site Area: 0.966 acres +/-

Tax Map IDs.: 235-7.00-18.00



JAMIE WHITEHOUSE, AICP MRTPI
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Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Mx. Jesse Lindenberg, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: July 18th, 2022
RE: Staff Analysis for CU 2310 Milton Community Food Pantry, Inc.

The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application CU 2310 Milton Community Food Pantry, Inc. to be reviewed during the July 28th, 2022, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 235-7.00-18.00, to allow for a food pantry, to be located at 12898 Union Street Ext., Milton. The property is lying on the west side of Union Street Extension (S.C.R. 22), approximately 0.21 mile south of the intersection of Union Street Extension (S.C.R. 22) and Reynolds Pond Road (Rt. 231). The parcel consists of 0.96 acres +/-.

Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcel has a designation of “Developing Area.” The parcels to the north, south, west, and east across Union Street Extension (S.C.R. 22) also have a Future Land Use Map designation of “Developing Area.”

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

Zoning Information

The subject property is zoned General Residential (GR) District. All adjacent properties to the north, south, and west of the subject property are zoned General Residential (GR) District. The



parcel east of the subject property, on the opposite side of Union Street Extension (S.C.R. 22), is zoned Agricultural Residential (AR-1) District.

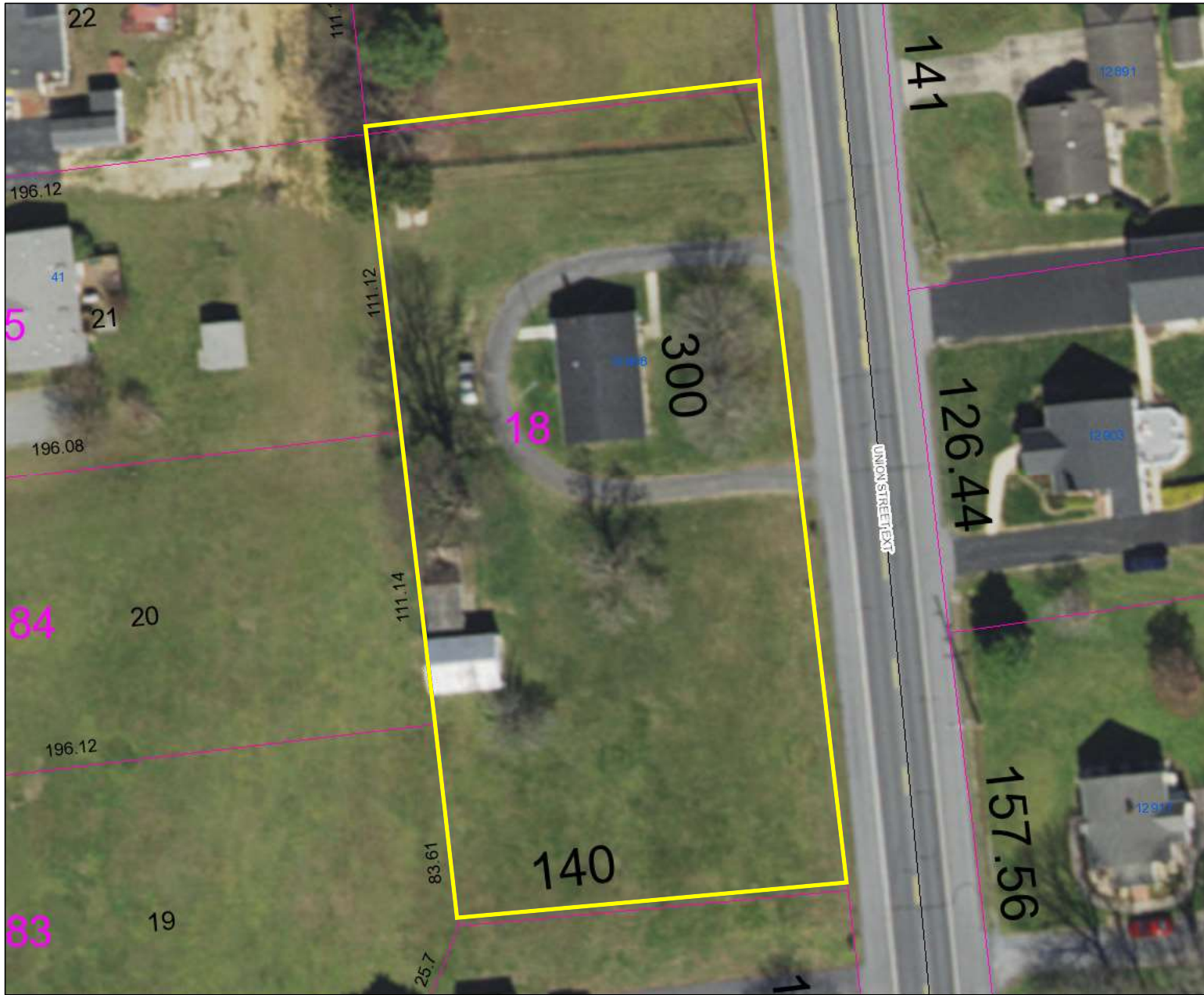
Existing Conditional Uses within the Vicinity of the Subject Property

Since 2011, there has been one (1) Conditional Use application within a one (1) mile radius of the application site. This application was Conditional Use No. 1911 for Forrest Webster to allow for mini storage locker units to be permitted within an Agricultural Residential (AR-1) Zoning District. This application was approved by the Sussex County Council on Tuesday, January 17th, 2011, and this change was adopted through Ordinance No. 2234.

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

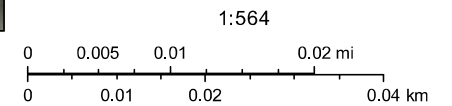


Sussex County



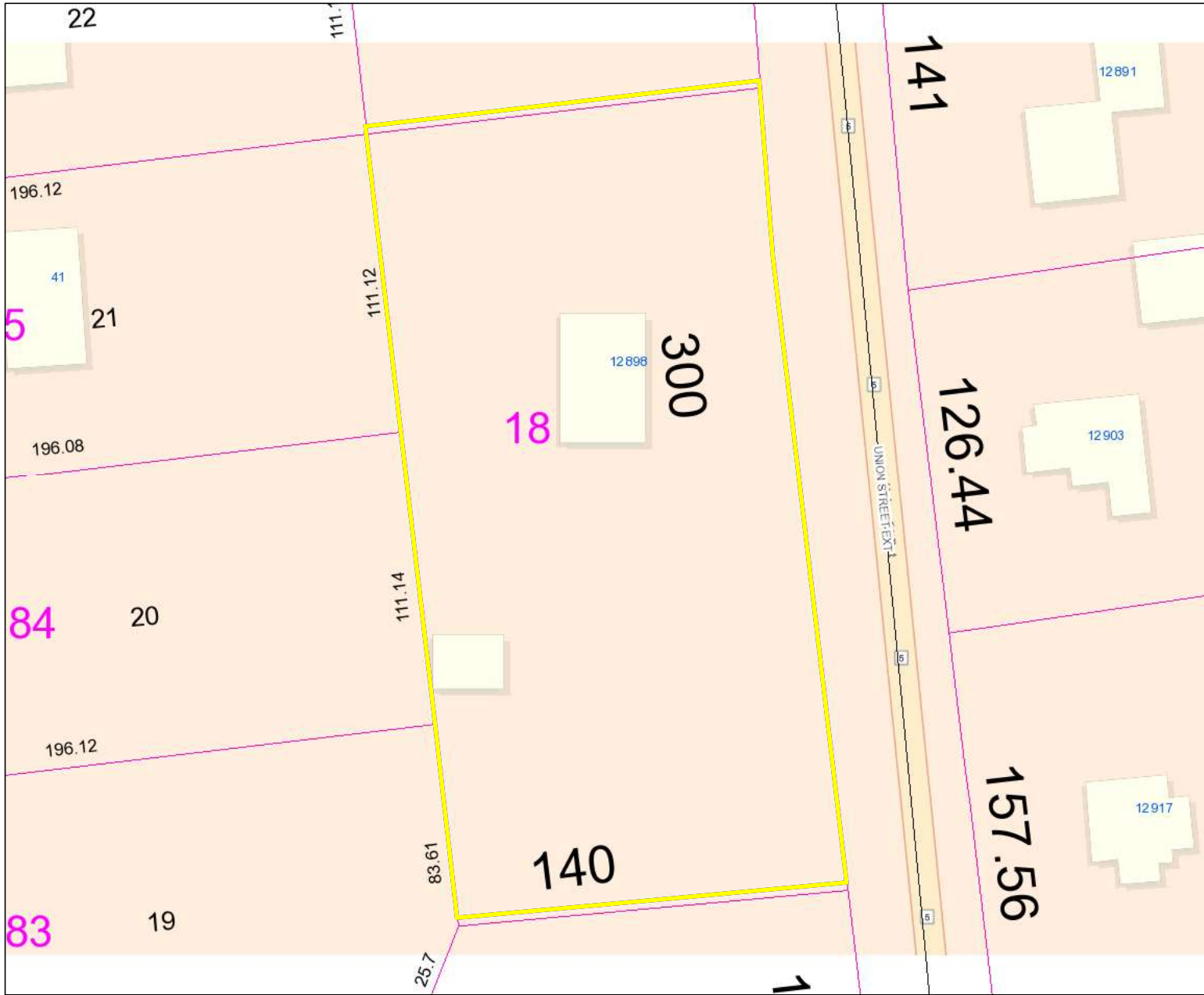
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Owner Name	MILTON COMMUNITY FOOD PANTRY INC
Book	5577
Mailing Address	PO BOX 84
City	MILTON
State	DE
Description	W.SIDE HWY.MILTON
Description 2	TO WAPLES POND
Description 3	LOT WITH IMP.
Land Code	

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



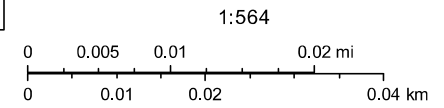


Sussex County



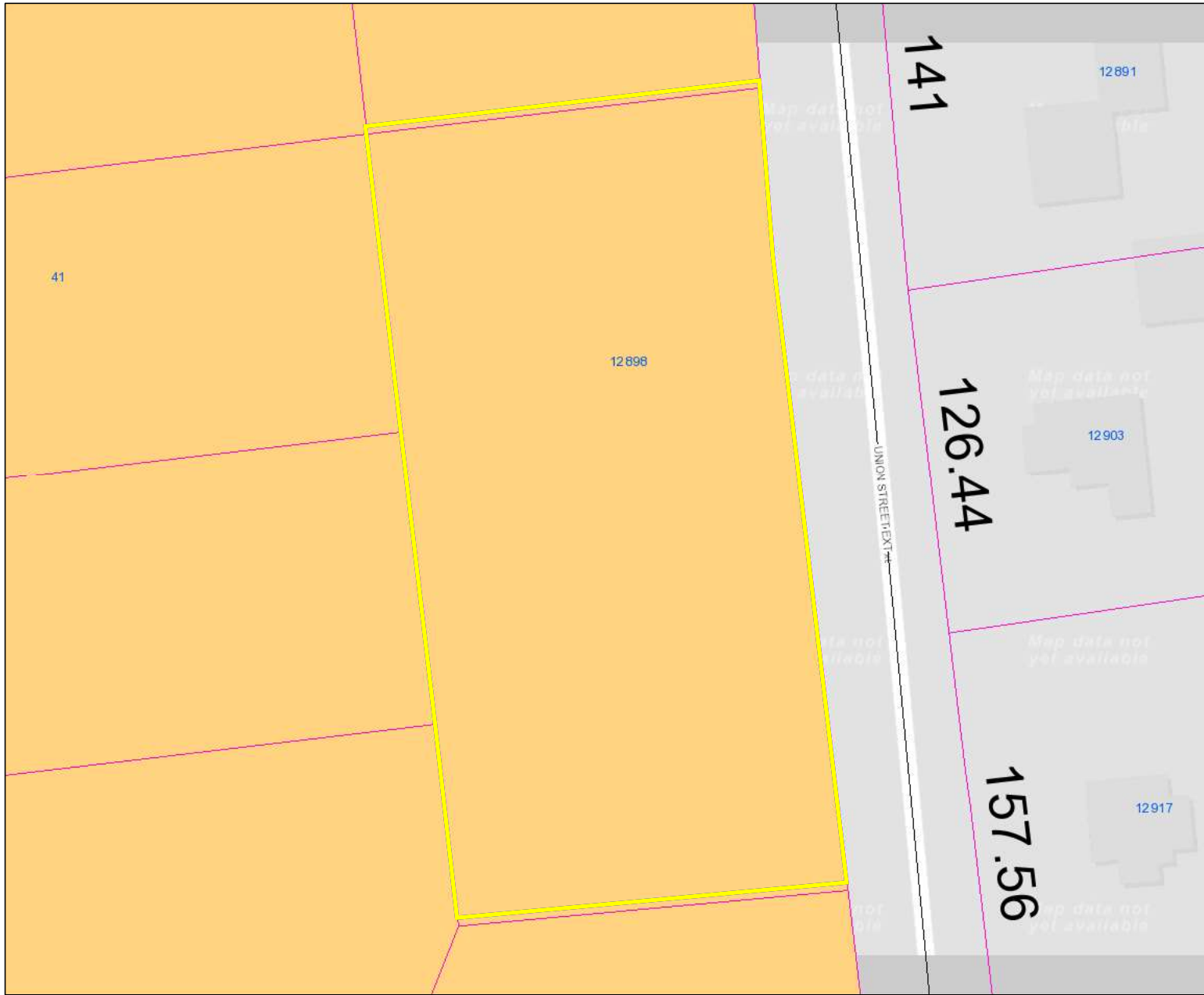
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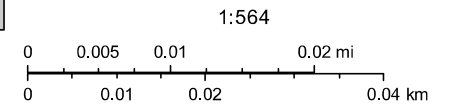


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- Streets



Reintroduced: 06/28/2022

Council District 3: Mr. Schaeffer
Tax I.D. No.: 235-7.00-18.00
911 Address: 12898 Union Street Ext., Milton

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A FOOD PANTRY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.966 ACRES, MORE OR LESS

WHEREAS, on the 17th day of August 2021, a conditional use application, denominated Conditional Use No. 2310 was filed on behalf of Milton Community Food Pantry, Inc.; 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. 2310 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 VI, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2310 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 west side of Union Street Ext. (Rt. 5), approximately 0.24 mile south of Reynolds Pond Road (S.C.R. 231) and being more particularly described in the attached legal description prepared by Fuqua, Willard, Stevens & Schab, P.A., said parcel containing 0.966 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.