

## COUNTY COUNCIL

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



# Sussex County

DELAWARE  
sussexcountyde.gov  
(302) 855-7743

## SUSSEX COUNTY COUNCIL

### A G E N D A

AUGUST 31, 2021

10:00 A.M.

\*\*AMENDED on August 25, 2021 at 9:30 a.m.<sup>1</sup>

\*\*\*AMENDED August 30, 2021 at 11:40 a.m. <sup>1</sup>

### Call to Order

### Approval of Agenda

### Approval of Minutes – August 24, 2021

### Reading of Correspondence

### Public Comments

### Todd Lawson, County Administrator

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

### \*\*Jamie Whitehouse, Director of Planning and Zoning

1. Recommendation to award contracts for On-Call Planning Services

### Hans Medlarz, County Engineer

1. EMS 200/Medic 110 Station, Project C19-08
  - A. Final Balancing Change Order and Substantial Completion



**2. Inland Bays Regional Wastewater Facilities, Project 18-19**

**A. Change Order 11**

**3. Herring Creek Sewer District Area**

**A. WRA Amendment No. 4**

**\*\*\* 4. Public Safety Building**

**A. Change Order 1 & 2 – Structural Steel & Lightweight Steel Price Increases**

**10:30 a.m. Public Hearing**

**Chappell Farm Annexation into the Sussex County Unified Sanitary Sewer District  
(West Rehoboth Area)**

**Grant Request**

- 1. Pop Warner Little Scholars for the Woodbridge Youth Football Association's equipment and uniform expenses**

**Introduction of Proposed Zoning Ordinances**

**Council Members' Comments**

**Executive Session – Pending/Potential Litigation and Personnel pursuant to 29  
Del.C.§10004(b)**

**Possible action on Executive Session items**

**1:30 p.m. Public Hearings**

**Conditional Use No. 2253 filed on behalf of Chester V. Townsend IV and Shirley D.  
Townsend**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENTS VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.0 ACRES, MORE OR LESS” (property lying on the north side of Vines Creek Road [Route 26], approximately 0.20 mile east of Sandy Landing Road [S.C.R. 342]) (Tax I.D. No. 134-11.00-2.02 & 134-11.00-3.00) (911 Address: 32859 & 32805 Vines Creek Road, Dagsboro)**

**Conditional Use No. 2256 filed on behalf of Jerry Micklejohn, LLC**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR HARDSCAPING, OUTDOOR LIVING CONSTRUCTION AND A COMMERCIAL BUSINESS TO BE LOCATED**

**ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.65 ACRES, MORE OR LESS” (property lying on the south side of Frankford School Road [S.C.R. 92] approximately 0.37 mile east of McCary Road [S.C.R. 385]) (Tax I.D. No. 533-5.00-86.00) (911 Address: 32252 Frankford School Road, Frankford)**

**Conditional Use No. 2248 filed on behalf of Gulfstream Development, LLC**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (19 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.93 ACRES, MORE OR LESS” (property lying on the northwest corner of Parker House Road [S.C.R. 362] and Muddy Neck Road [S.C.R. 361]) (Tax I.D. No. 134-16.00-382.00) (911 Address: None Available)**

**Change of Zone No. 1931 filed on behalf of Lighthipe, LLC**

**“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY AND TO AMEND THE CONDITIONS OF APPROVAL OF CZ 1768 (ORDINANCE 2411) TO INCREASE THE GROSS SITE AREA BY 5.253 ACRES AND TO INCREASE THE NUMBER OF PERMITTED UNITS WITHIN THE RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 56.372 ACRES, MORE OR LESS” (property lying on the north side of Muddy Neck Road [S.C.R. 361] approximately 0.52 mile southeast of Parker House Road [S.C.R. 362]) (Tax I.D. No. 134-17.00-12.02) (911 Address: None Available)**

**Adjourn**

<sup>1</sup> Per 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 24, 2021 at 4:50 p.m. and at least seven (7) days in advance of the meeting.

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

Agenda items may be considered out of sequence.

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

The County provides a dial-in number for the public to comment during the appropriate time of the meeting. **Note, the on-line stream experiences a 30-second delay.** Any person who dials in should listen to the teleconference audio to avoid the on-line stream delay.

To join the meeting via telephone, please dial:

**Conference Number: 1-302-394-5036**

**Conference Code: 570176**

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

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

# # # #

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 24, 2021**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 24, 2021, at 10:00 a.m., in Council Chambers, with the following present:

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

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

**Call to  
Order**

Mr. Vincent called the meeting to order.

**M 367 21  
Approve  
Agenda**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, to approve the Agenda, as posted.

**Motion Adopted: 4 Yeas, 1 Absent.**

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

**Minutes**

The minutes of August 10, 2021 were approved by consent.

**Corre-  
spondence**

Mr. Moore reported that correspondence was received from the Sussex Montessori School and Seaford Community Food Closet in appreciation of grant funding.

Mr. Hudson joined the meeting.

**Public  
Comments**

Public comments were heard and the following spoke:

Francine Panzo, homeowner at The Vines of Sandhill Development in Milton, spoke regarding the amenities promised by the Builder/Developer by the Summer of 2021. She stated that the Builder/Developer has on multiple occasions changed the date for starting the amenities; that the Builder/Developer is in violation; that the Planning and Zoning Commission found that the Builder/Developer is in violation of the original signed agreement and declared they were to complete construction of all amenities by November 2022 or by the permitting of Lot 136, whichever is first; and that the homeowners have subsequently learned that the Builder/Developer has now been able to get a date of completion moved to May 2023. Ms. Panzo

**Public  
Comments  
(continued)**

stated that this information should have been made public and that the Owner/Developer has failed to be transparent and has not met the obligations to the community, including scheduling meetings and receiving minutes of the Board of Directors. Ms. Panzo stated that the residents want Council to be aware of these matters and they hope an investigation can be initiated.

Mr. Vincent stated that he would have the Planning and Zoning Director contact her.

Jim Nealon of Beaver Dam Road in Ellendale spoke in regard to a neighboring property where multiple problems and violations exist, including the mortgage not being paid, people living on the property with no utilities, over 25 cars on blocks, using/selling drugs and running prostitution on the property, etc. Mr. Nealon commented on his numerous calls to the County, stated that this needs to be suppressed, and he asked for the Council's help.

Another individual spoke (name unknown) regarding The Vines of Sandhill Development in Milton and the delay in the construction of amenities. He raised questions on what will happen if the Builder/Developer goes out of business, i.e. what assurances do they have that the amenities will be constructed.

William Walton of Ellendale spoke regarding the water district in the Town of Ellendale, stating that his property has been singled out for connection and he wishes be to be left out of the water district until such time as the Town accepts County water.

**DelDOT  
CTP  
Present-  
ation/**

A presentation was given by the Delaware Department of Transportation (DelDOT). Josh Thomas, DelDOT Planning Supervisor; Mark Luszcz, DelDOT Deputy Director of Design; and Jennifer Cinelli-Miller, DelDOT Transportation Planner, were in attendance to discuss DelDOT's Capital Transportation Program (CTP) that is in development at the present time (the Proposed FY2023 – FY2028 CTP). Also in attendance by teleconference was Pam Steinbach, DelDOT Director of Division of Planning. Mr. Thomas noted that in June 2021, DelDOT presented to Council the candidate projects for the Draft CTP. They reported that the Draft CTP has now been published and can be accessed at [www.ctp.deldot.gov](http://www.ctp.deldot.gov). The next step is the public hearing/workshop and the written comment portion of the program. They also provided a status update on current projects and a listing of projects actively in design, some of which are under construction. Additionally, they reviewed next steps, i.e. virtual public workshops around the State in September 2021. Council members raised questions about project timelines, project funding, DelDOT's overall budget, various projects not on the CTP listing, pedestrian/bicycle bridge (Route 9/Coolspring), and Transportation Improvement Districts.

**Administrator's Report**

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

**1. Delaware State Police Activity Report**

The Delaware State Police year-to-date activity report for July 2021 is attached listing the number of violent crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 193 troopers assigned to Sussex County for the month of July.

**2. Projects Receiving Substantial Completion**

Per the attached Engineering Department Fact Sheets the following projects have received Substantial Completion: Ocean View Beach Club North – Phase 2 (FKA Lighthipe) (Construction Record) effective August 9<sup>th</sup>; Belle Terre – Phase 2A (Construction Record) effective August 10<sup>th</sup>; Americana Bayside – Village A – Phase 4 (Construction Record) effective August 11<sup>th</sup>; Seagrove (aka Harlton) – Phase 4 effective August 12<sup>th</sup>; and The Estuary – Phase 3B (Construction Record) effective August 13<sup>th</sup>.

**3. Mary Sue Sharp**

It is with sadness that we note the passing of County pensioner Mary Sue Sharp on Monday, August 16<sup>th</sup>. Ms. Sharp began her career with Sussex County in July 1976 and retired as a Financial Representative III in April 2018 with 41 years of service. We would like to extend our condolences to the Sharp family.

(Attachments to the Administrator's Report are not attached to the minutes.)

**Third Quarter Employee Recognition Awards**

Karen Brewington, Human Resources Director, announced the Third Quarter recipients of the Shining Star Employee Recognition Program. This program recognizes and celebrates employees who demonstrate exceptional performance, service, and accomplishments that reinforce the County's mission, vision and goals. Third Quarter recipients are Sharon Palmer of the South Coastal Library, Shari Sheridan of the Register of Wills, and Scott Thornton of the Engineering Department.

**Delaware Transit Reimbursement 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. The County's responsibility is to approve a recommended funding amount for Fiscal Year 2022 as per State law; this is an allocation of State grant funds to various senior agencies for transportation purposes. The recommended funding for each agency is similar to previous years:

<b>Delaware Transit Reimburse- ment Program Request (continued)</b>	<b>Nanticoke Senior Center Indian River Senior Center Laurel Senior Center Lewes Senior Center Cape Henlopen Senior Center CHEER, Inc.</b>	<b>\$ 44,962.00 2,100.00 99,083.00 27,123.00 43,066.00 <u>580,534.00</u></b>
	<b>TOTAL</b>	<b>\$796,868.00</b>

**M 368 21**      **A Motion was made by Mr. Rieley, seconded Mr. Schaeffer, that the Sussex County Council approves the allocation of State funds to various senior agencies within 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**

**Comcast Easement/  
Business  
Park**      **Hans Medlarz, County Engineer, reported that the Engineering Department has re-established a working relationship with Comcast of Delmarva, LLC, who is proposing to install communication services within the Delaware Coastal Business Park. In order to provide the service to businesses in the Delaware Coastal Business Park, Comcast is proposing to install a conduit from Baltimore Avenue to Nanticoke Avenue. The alignment over the County’s property will cross over an unencumbered portion of the Park property; Comcast has accepted that alignment and is requesting a communication utility easement to be granted. The Engineering Department recommends the granting of the easement to Comcast in exchange for payment of “cost of appraisal” in the amount of \$2,000.00.**

**M 369 21**      **A Motion was made by Mr. Rieley, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the granting of a Communication Utility Easement to Comcast of Delmarva, LLC for Tax Parcel 135-20.00-75.00, in the amount of \$2,000.00, equal to the cost of the appraisal.**

**Motion Adopted:      5 Yeas.**

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

**Concord Road/  
Route 13  
Utility  
Upgrade**      **Hans Medlarz, County Engineer, presented information on the Concord Road Expansion of the Blades Sanitary Sewer District Commercial Construction Project (Contract No. 15-03). He advised that the County Engineering Department agreed to redo the parking lot of the Church of the Nazarene which was torn up in the construction process and in consideration**



**Concord Road (continued)** of the impact the lengthy construction project had on the Church. Mr. Medlarz reported that the Contractor and the Engineer agreed to cover the repaving of the compromised parking lot on a 66%/33% split, respectively.

**M 370 21 Approve Close-Out Purchase Order/ Concord Road/ Route 13 Utility Upgrade** A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department, that Council approves the close-out of the Stand-Alone Contract Continuation Purchase Order (Concord Road / Route 13 Utility Upgrade) to Zack Excavating, Inc., in the reduced amount of \$541,196.88 and authorize payment of the additional expenses and stored materials in the amount of \$30,799.471.

**Motion Adopted:** 5 Yeas.

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

**Construct General Aviation Apron Expansion, Phase II/ Contract Bid Results and Delta Task Order 3** Hans Medlarz, County Engineer, reported that the County Engineering Department is requesting Council's approval of two (2) Federal Aviation Administration (FAA) Airport Improvement Program grant offers: AIP Grant 3-10-0007-038-2021 is offered in the amount of \$166,666.00 and AIP Grant 3-10-0007-038-2021 is offered in the amount of \$1,990,631.00. The offers provide \$2,157,299 in federal funds for 100% of the allowable costs incurred during the construction phase of the Expand General Aviation Apron project. In March, the project was advertised and three (3) bids were received; George & Lynch, Inc. submitted the lowest responsive bid. The Engineering Department and Delta Airport Consultants, Inc. recommend award of the contract to George & Lynch, Inc. in the amount of \$1,933,799.00 contingent upon FAA concurrence. In addition, the Engineering Department solicited a fixed fee proposal from Delta Airport Consultants for professional construction administration services in the amount of \$220,000.00. FAA requirements include an independent fee estimate which was performed for \$3,500.00 supporting the reasonableness of Delta Airport Consultants fixed fee price. The Engineering Department recommends acceptance of Task Order No. 2 to Delta Airport Consultants in the not to exceed amount of \$220,000.00 contingent upon FAA concurrence.

**M 371 21 Accept FAA Grants** A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council accepts two (2) Federal Aviation Administration Grants, total offer of \$2,157,299.00 for 100 percent of the allowable costs incurred during the construction phase of the Expand General Aviation Apron Project.

**Motion Adopted:** 5 Yeas.

**M 371 21**  
**(continued)**      **Vote by Roll Call:**      **Mrs. Green, Yea; Mr. Schaeffer, Yea;**  
**Mr. Hudson, Yea; Mr. Rieley, Yea;**  
**Mr. Vincent, Yea**

**M 372 21**  
**Award**  
**Contract/**  
**Construct**  
**General**  
**Aviation**  
**Apron**  
**Expansion**      **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, based upon the recommendation of the Sussex County Engineering Department, that Contract A20-36, Construct General Aviation Apron Expansion, Phase II, be awarded to George & Lynch, Inc. for their total bid of \$1,933,799.00 and associated Task Order No. 2 to Delta Airport Consultants be approved in the amount not to exceed \$220,000.00 for Construction Administration Services, both contingent upon FAA funding approval.**

**Motion Adopted:**      **5 Yeas.**

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

**Request**  
**to Post**  
**Public**  
**Hearing**  
**Notices/**  
**Blackwater**  
**Village**  
**Utilities**      **John Ashman, Director of Utility Planning & Design, presented a request to prepare and post notices for the Public Hearing on additional utilities in the Blackwater Village Area. In February 2021, the Council adopted a Resolution establishing the Blackwater Village Area of the Sussex County Unified Sanitary Sewer District. Immediately thereafter, the County Engineering Department received a packet of petitions requesting that the County provide water service, street lighting, and drainage improvements. The Engineering Department prepared and distributed polling letters to the entire community on their interest in these three additional utilities. The County received responses representing 171 of the 277 recorded lots in the community: 98 interested in water service, 118 interested in street lighting and 97 interested in drainage improvements. Mr. Ashman advised that the Engineering Department requests permission to prepare and post notices for a Public Hearing to provide additional information to the community including potential costs, impacts and timelines. Following the Public Hearing, the Engineering Department will schedule a referendum and place all three additional utilities on the ballot as separate items and have the entire area vote.**

**M 373 21**  
**Grant**  
**Permission**  
**to Post**  
**Public**  
**Hearing**  
**Notices/**  
**Blackwater**  
**Village**  
**Utilities**      **A Motion was made by Mr. Rieley, seconded by Mr. Hudson, based on the receipt of petitions submitted pursuant to 9 Del.C. 6503, Sussex County Council hereby grants permission for the Sussex County Engineering Department to prepare and post notices for a Public Hearing to establish a boundary for the Proposed Blackwater Village Additional Utilities.**

**Motion Adopted:**      **5 Yeas.**

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

**Request  
Permission  
to Post  
Public  
Hearing  
Notices/  
Knapp  
Parcels  
Expansion**

**John Ashman, Director of Utility Planning and Design, presented a request to prepare and post notices for the Proposed Knapp Parcels Expansion of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area). The Engineering Department received a request from Davis, Bowen & Friedel, Inc. on behalf of their client, Leslie Gay Knapp Marini, Successor Trustee Under Revocable Trust Agreement of Halsey G. Knapp and Joan D. Knapp, the owners/developers of ten (10) parcels along New Road. One (1) parcel is already in the sewer district and a recent property line adjustment has left one parcel partially in the sewer district; the remaining eight (8) parcels were previously served with sewer laterals but never included in the District. The project will be responsible for System Connection Charges of \$6,600.00 per EDU based on current rates. The Engineering Department is requesting permission to prepare and post notices for a Public Hearing on the annexation of the area.**

**M 374 21  
Authorize  
Public  
Hearing  
Notices/  
Knapp  
Parcels  
Expansion**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, that the Sussex County Engineering Department is authorized to prepare and post notices for the Knapp Parcels Expansion of the Sussex County Unified Sanitary Sewer District to include the balance of Parcel 335-7.00-6.12 and 6.13 through 6.20, 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**

**Grant  
Requests**

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

**M 375 21  
Council-  
manic  
Grant**

**A Motion was made by Mrs. Green, seconded by Mr. Schaeffer, to give \$1,000.00 (\$500.00 each from Mrs. Green's and Mr. Schaeffer's Councilmanic Grant Accounts) to the Chamber of Commerce for Greater Milford for festival expenses.**

**Motion Adopted: 5 Yeas.**

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

**M 376 21  
Council-  
manic  
Grant**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to give \$3,500.00 (\$2,500.00 from Mr. Rieley's Councilmanic Grant Account, \$500.00 from Mr. Hudson's Councilmanic Grant Account and \$500.00 from Mr. Vincent's Councilmanic Grant Account) to the Delaware Botanic Gardens for a virtual dinner to benefit operations.**

**Motion Adopted: 5 Yeas.**

**M 376 21  
(continued)**

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

**M 377 21  
Council-  
manic  
Grant**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to give \$2,600.00 from Mr. Hudson's Councilmanic Grant Account to Delaware State College Alumni Association, Sussex County Chapter, for Band to the Beach trip expenses.**

**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  
Zoning  
Ordinances**

**Mr. Schaeffer introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (4 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.25 ACRES, MORE OR LESS" (Conditional Use No. 2262) filed on behalf of Matthew Hete (Tax I.D. No. 334-6.00-686.00) (911 Address: 34360 Postal Lane, Lewes).**

**Mr. Vincent introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TOWING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.078 ACRES, MORE OR LESS" (Conditional Use No. 2296) filed on behalf of Michael Milligan (Tax I.D. No. 232-19.00-12.02) (911 Addresses: 31531 Jestice Farm Road, Laurel).**

**Mr. Hudson introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 2046 (ORDINANCE NO. 2479) RELATED TO PERMITTED HOURS OF CONSTRUCTION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 36.61 ACRES, MORE OR LESS" (Conditional Use No. 2297) filed on behalf of Schell Brothers, LLC (Tax I.D. No. 334-12.00-127.02) (911 Address: None Available).**

**Mr. Rieley introduced the 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**

**Introduction of Proposed Ordinances (continued)** **IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 56.93 ACRES, MORE OR LESS” (Conditional Use No. 2300) filed on behalf of MRBP, LLC (Tax I.D. Nos. 533-5.00-38.00 & 41.04) (911 Address: None Available).**

**Mrs. Green introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT, A GR GENERAL RESIDENTIAL DISTRICT, AND A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A 75 MEGAWATT SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 350.96 ACRES, MORE OR LESS” (Conditional Use No. 2298) filed on behalf of Freeman Solar, LLC (Tax I.D. Nos. 130-3.00-246.00, 247.00 & 247.02, 130-6.00-75.00, 76.00, 92.00, 94.00, 95.00, 96.00 & 97.00) (911 Addresses: None Available).**

**The Proposed Ordinances will be advertised for Public Hearing.**

**M 378 21 Go Into Executive Session** **At 11:15 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 pending/potential litigation and personnel.**

**Motion Adopted: 5 Yeas.**

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

**Executive Session** **At 11:19 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to pending/potential litigation and personnel. The Executive Session concluded at 12:38 p.m.**

**M 379 21 Reconvene Regular Session** **At 12:43 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to come out of Executive Session and reconvene the Regular Session.**

**Motion Adopted: 3 Yeas, 2 Absent.**

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

**M 380 21 Recess** **At 12:43 p.m., a Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to recess until 1:30 p.m.**

**Motion Adopted: 4 Yeas, 1 Absent.**



**Public  
Hearing/  
CU 2249  
(continued)**

occurred; that the project is consistent with other nearby uses; that amenities are proposed onsite which would include a pool, pool house and a kayak launch; that stormwater management will meet the requirements of the Sussex Conservation District; that a minimum 50 foot tidal buffer is proposed from tidal waters and tidal wetlands; that a 25 foot buffer from non-tidal wetlands is proposed; that the non-tidal wetlands are wooded and will remain wooded; that a 30 foot planted buffer is proposed adjacent to existing developed areas; that a 75 foot vegetated buffer is proposed along the roadway / property frontage; that a 30 foot vegetative buffer will be placed around the property in the areas adjacent to all other properties; that the amount of tidal wetlands is small; that only the upland area of the site will be developed; that the project site is surrounded by development; that open space would consist of 63 percent of the site; that the proposed type of housing is in demand; that 108 parking spaces are proposed; that parking would include parking spaces below the homes; that DelDOT did not require a Traffic Impact Study; that there will be a required multi-modal path along Williamsville Road; that sidewalks will be located on one side of the street adjacent to the stormwater pond; that the project is located in Investment Levels 3 and 4 according to the Strategies for State Policies and Spending but that the comments are a guide and not the reality of the area; that there will be two stormwater ponds and stormwater management is subject to the approval of the Sussex Conservation District; that the proposed kayak launch would be at the lagoon that leads into the bay; that the project will be served by County sewer and central water by Artesian; that single family homes are the best fit for the property; that the project will have a “boutique” feel in comparison to a larger subdivision; that the intent for the style of the homes is for a raised beach-house style with room for parking and storage underneath, with the first floor being finished off to the owners’ liking; that the Applicant is partnering with a local builder; and that the Applicants are considering owning one of the homes and becoming residents of the community.

Mr. Myrick provided schematic design drawings of the architecture of the proposed homes and he stated that he does not anticipate needing any pilings for the foundation of the homes and that the homes can be constructed on concrete footings. He explained that a condominium is a type of ownership and he confirmed that the 41 homes would be detached single family homes.

Discussion was held regarding the man-made lagoon/canal along the Delaware – Maryland state line, the ditches in the area, maintenance of ditches in the area, drainage and stormwater plans, and the topography of the land.

Public comments were heard.

There were no public comments in support of the application.

**Public  
Hearing/  
CU 2249  
(continued)**

**Public comments were heard in opposition to the project. James Flynn (President of the Bayview Estates HOA), Susie Higginson of Hidden Harbor in Maryland, Joann Burke of Hidden Harbor, Jackie Funk of Hidden Harbor, Sanden Swanson of Williamsville Road, and Wendy Megee of Williamsville Road spoke in opposition to the proposed project. They stated that the property line for the proposed project borders on 20 properties in Bayview Estates; that flooding on those 20 lots is a major concern; that if the Applicant closes ditches in the area, they will have flooding; that the existing agricultural ditches surrounding and through the proposed development must be maintained to permit storm water to continue to drain off surrounding properties, which will preserve the existing drainage to the bay; that 64% of the proposed project will be hard surface resulting in additional water run-off; that sediment is currently impacting the Bay View Estates boat launch and the proposed project will create additional sediment; that Bayview Estates owns their canals and is responsible for the maintenance of the canals which is costly; that they do not want jet skis traveling down the lagoon and into their canals; that the proposed kayak launch will have access to their canals; that the topography of the land will change from agriculture to residential; that Hidden Harbor has been given ownership of “top of bank” and a 2014 survey reflects that ownership; that they are opposed to a pier over their property (Hidden Harbor); that no one has contacted the State of Maryland regarding this proposal; that they question why a Traffic Impact Study (TIS) was not required; that based on a 2019 study, a lot of things have changed on Williamsville Road; that road traffic and safety is a major concern; that Williamsville Road is already a dangerous road to travel; that there is a blind curve on the road; that the entrance to this project is proposed on that curve; that a traffic study is needed; that the proposed homes will be out of character with the area; that the area consists largely of ranch style homes and two story homes; that even Bayside has no three-level condo houses within eyesight of Route 54 or Williamsville Road (only internally); that there is concern about the lamp posts proposed and that there are no lamp posts on Williamsville Road; that they question where the water from the ditches will go; that 41 houses are proposed on 13 buildable acres, which is too dense; that they question where sewer and water lines will go; that they question if Williamsville Road will need to be closed for a period of time for sewer and water lines construction; that Williamsville Road is in bad condition and needs to be widened and needs a bike/pedestrian path; that there is potential for flooding in a major storm as some properties are lower lying; that they would like to see a berm between the properties to help prevent flooding; that a 75 foot buffer is needed from other homes; that the Applicant proposes too many homes in a small amount of acreage that is buildable; that ownership of the lagoon/canal is questionable; that if the lagoon/canal backs up, there is no where for the water to go; that they disagree with the proposed kayak launch; that the lagoon/canal is actually a water run-off ditch; that the proposal poses a great threat to their farmette (Wendy Megee); and that they hope the Applicant will communicate with the residents in the area.**



**Public  
Hearing  
(continued)**

**There were no additional public comments.**

**The Public Hearing and public record were closed.**

**M 382 21  
Defer  
Action/  
CU 2249**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to defer action on Conditional Use No. 2249 filed on behalf of Mayapple Farm, LLC.**

**Motion Adopted: 5 Yeas.**

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

**M 383 21  
Adjourn**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, to adjourn at 3:22 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,**

**Robin A. Griffith  
Clerk of the Council**

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

JAMIE WHITEHOUSE, AICP  
DIRECTOR OF PLANNING & ZONING  
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**Sussex County**

DELAWARE  
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## Memorandum

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

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

CC: Everett Moore, County Attorney

Date: August 26, 2021

RE: Recommendation to Award in Relation to Proposals for On-Call Planning Services

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On February 21, 2021 the Planning & Zoning Department published a Request for Proposals (“RFP”) for on-call planning services for Sussex County. The purpose of the RFP was to seek multiple firms to provide on-call planning services for various projects for a three-year period. The anticipated scope of the services includes, but is not limited to:

1. Potential text and map amendments to the 2019 Sussex County Comprehensive Plan
2. Updates to existing Ordinances
3. Miscellaneous planning reports and advice

A total of four (4) consultant proposals were received. Based on the criteria established, an evaluation committee was selected to read, screen, and rank in writing all proposals. The criteria for evaluation included: experience, expertise, capacity to perform, credentials and certifications, and familiarity with Sussex County.

In accordance with 29 Del. C. § 6982, the evaluation committee met on April 12, 2021 to determine that all applicants meet the minimum qualifications to perform the services. Having found that all four applicants met the minimum qualifications, the evaluation committee then, based on the ranking of the four proposals, selected the three highest ranking firms to interview.

Interviews were held with three firms on April 26, 2021. A summary of the services offered by each firm is provided below (in no particular order):



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

AECOM Technical Services, Inc.

The AECOM Team is located in Sussex County and provides Planning, Engineering and related services to multiple municipal clients. The Delaware AECOM offices do not undertake work for developers, so there is no possibility of conflicts of interest arising. The AECOM Team has experience in Comprehensive Planning work and Site Plan review across multiple municipalities including City of Rehoboth, Millville, Dagsboro, and Ocean View.

Century Engineering, Inc.

Century Engineering has offices located in Newark and Dover with access to over 500 employees. The Century Engineering team has an excellent understanding of transportation matters in Sussex County, having worked previously on the Sussex County/DelDOT Memorandum of Understanding. The Century Engineering team also has considerable experience in Comprehensive Planning, Transportation Improvement Districts and Area Wide Masterplans. Team members within the Century Engineering team have previously worked on the Sussex County Comprehensive Plan, which was adopted in 2018 and certified by the Governor of Delaware in March 2019.

McCormick Taylor, Inc.

McCormick Taylor is a full-service consulting firm with over 400 staff throughout 17 offices. They have offices in Newark, Delaware and Salisbury, Maryland. Through a prior on-call planning services contract, McCormick Taylor worked on the Sussex County Comprehensive Plan, which was adopted in 2018 and certified by the Governor of Delaware in March 2019. In addition to possessing significant experience in working with Ordinance updates and Comprehensive Plan updates, McCormick Taylor offers an ability to provide reports and advice across multiple disciplines, including economic development, market feasibility analysis, housing, and transportation. McCormick Taylor's Team also possesses significant experience in stakeholder engagement – particularly in relation to Comprehensive Planning work.

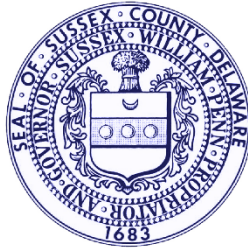
Recommendation

The Planning & Zoning Department hereby recommends that the County Council award three year contracts to:

- i) AECOM Technical Services, Inc; and
- ii) Century Engineering, Inc.; and
- iii) McCormick Taylor, Inc.

## ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
ENVIRONMENTAL SERVICES	(302) 855-7730
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UTILITY ENGINEERING	(302) 855-7717
UTILITY PERMITS	(302) 855-7719
UTILITY PLANNING	(302) 855-1299
FAX	(302) 855-7799



# Sussex County

DELAWARE  
sussexcountyde.gov

HANS M. MEDLARZ, P.E.  
COUNTY ENGINEER

## Memorandum

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

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

**RE:** *EMS 200/Medic 110 Station, Project C19-08*  
*A. The Whayland Company, LLC, Change Order No. 2*  
*B. Granting of Final Acceptance*

**DATE:** August 31, 2021

The new Medic 110/EMS 200 Station was programmed north of Seaford to replace the current location in Blades as a capital project in FYs 2019 & 2020. In June of 2018 Council approved the purchase of the new site formerly known as "Old Pet Emporium". After a publicly advertised request for proposal process, Council awarded the EMS Department's - Architectural Consulting Services base contract to George, Miles and Buhr, Inc. (GMB) for a five (5) year term on July 17, 2018. The first two task orders covered the North Seaford Medic Station 110 with a budget up to \$150,000. The intent was to match the Rehoboth/Lewes station design. However, the State's fire prevention code had changed since then, now requiring a fire suppression sprinkler system.

On June 6, 2019, Invitations to Bid were initially advertised and on July 15, 2019, four (4) bids were received. The station cost was significantly higher than the last station built with the main drivers being the on-site fire suppression system, the significant demolition effort and the DelDOT entrance & intersection signaling improvements. Therefore, Council rejected all bids on August 20, 2019 and authorized the rebid under a modified scope. At the same meeting Council also approved GMB's architectural task order no. 3 for rebidding, contract administration and inspection services not to exceed \$104,400.00.

Procurement of a standalone demolition contract had been identified as a cost saving measure and documents were publicly advertised on August 30, 2019. Council awarded the demolition contract to Swain Excavating, Inc. on October 8, 2019, in the amount of \$59,948.75. It was



closed out on January 7, 2020 with Council approving a balancing Change Order No. 1 in the amount of \$2,200.00 and granting substantial project completion.

Furthermore, Council authorized negotiations with the City of Seaford regarding public utility services. Therefore, the EMS and Engineering Departments had reached out to the City to discuss the possibility of accelerating the extension of public water service to the site in exchange for a \$200,000 one-time capital contribution by the County. In addition to the accelerated capital improvement schedule, the County would receive in-City utility rates. On October 22, 2019 Council approved the Utility Service Agreement previously approved by Seaford City Council.

During the fall of 2019 the Team developed revised contract documents including a dedicated turn lane on Swain Road and an Opticom controlled safety warning system on Route 13. The Invitations to Bid were re-advertised in May of 2020 and on June 4, 2020, twelve (12) bids were received. County Council awarded the project on June 23, 2020 to The Whayland Company, LLC for the base bid and add alternate 3 covering the County's portion of the safety warning system in the overall amount of \$1,406,000.00.

Through the fall of 2020 the project was progressing on schedule with one weather related, non-compensatory time extension change order. Up to that point most minor construction scope differences had been resolved without a change order. However, the request for inclusion of a cathedral ceiling in the kitchen/break room could not be resolved. As mentioned earlier in the memo the intent was to match the Lewes/Rehoboth station design by sharing the original design drawings. Unfortunately, the original Pennoni drawings show a cupola in the kitchen without vaulted ceiling. The GMB bid documents for bids 1 & 2 show that same non vaulted ceiling approach.

It appears, the vaulted ceiling was an undocumented modification to the Lewes/Rehoboth station which was not reflected in either the design or the as-builts documents. In order to accommodate that change for the vaulted ceiling/cupola seventeen trusses had to be chamfered. The Engineering Department obtained the original quote from the supplier Concord Truss dated before the bid as well as the final invoice received on October 29, 2020. The Whayland Company agreed to resolve all other identified scope discrepancies without compensation. Therefore, County Council issued change order no.1 on December 1, 2020 to The Whayland Company in the documented net material cost difference of \$5,326.84 without general contractor mark-up or additional profit.

In the spring of 2021, the project was progressing towards completion when during the final DelDOT entrance inspection a new issue surfaced. The Department required that the existing entrance and fencing on the adjacent, previously separate, also County owned lot be removed and regraded. This work was outside of Whayland's subcontractors "as bid" scope. The Engineering Department requested and reviewed a proposed change order but ultimately decided to perform the work cheaper and faster through the County's General Labor & Equipment Contract. The work was completed in May but final acceptance was held up over grass germination which was resolved on June 8, 2021 with DelDOT's entrance acceptance.

The natural gas supplied generator proved equally challenging. The design called for the gas piping to be above ground, but the County requested a change to an underground installation

after the piping was installed. The installation required a different subcontractor certified by Chesapeake Utilities for underground work. Further complicating the issue were conflicting line sizes which can be crucial in pressure sensitive gas feeds. Chesapeake Utilities provided a 1 ¼" diameter service pipe to the property. Hence the installation started with a 1 ¼" versus the 2" design diameter. During load bank testing the generator stalled down at 50% of the full load. The County insisted on a reinstallation of the 2" line as originally designed which resulted in a better performance but ultimately the generator failed the 2<sup>nd</sup> load bank testing at 75%. The issue was finally resolved with the assistance of the senior technician from Fidelity, the generator supplier, who found that the pressure regulator was fitted with an incorrect spring for the application. Natural gas feed fluctuates and does not flow as consistently as the liquid propane causing the spring & diaphragm, within the regulator to oscillate which generates pressure fluctuations. The solution was a spring with a wider pressure range for stability in the gas flow/volume.

On August 5, 2021 the team achieved >95% of load without a shutdown of the generator and sustained that load for over an hour after turning on all other gas consuming devices in the station. On August 10, 2021 a failure to automatically transfer the electric load added to the saga but it was quickly resolved on August 17<sup>th</sup> with the assistance of the Environmental Service team. Now the unit is fully functional and under the control of the SCADA center. Pictures of these challenges are included in the memorandum.

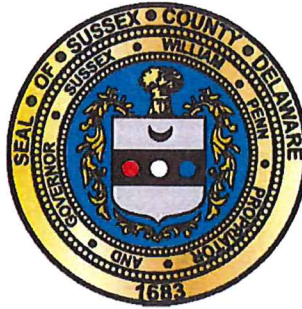
Despite all the encountered difficulties the contract did not use all of the contingencies built into the bid. After reviewing the various costs with Whayland, the Engineering Department proposed splitting these expenses and the contingency credit for a net close out credit change order no. 2 in the amount of (\$6,175.00) bringing the project in under the original contract award. In conclusion, the Engineering Department request issuance of Change Order No. 2 and granting of project final acceptance.



Generator with final natural gas piping configuration



Adjacent lot after fence and entrance removal



**SUSSEX COUNTY  
CHANGE ORDER REQUEST**

**A. ADMINISTRATIVE:**

1. Project Name: **EMS 200/MEDIC 110 STATION**
2. Sussex County Project No.           C19-08
3. Change Order No.           2
4. Date Change Order Initiated -           8/25/21
5.
  - a. Original Contract Sum           \$1,407,250.00
  - b. Net Change by Previous Change Orders           \$ 5,326.84
  - c. Contract Sum Prior to Change Order           \$1,412,576.84
  - d. Requested Change           -\$ 6,175.00
  - e. Net Change (No. of days)           0
  - f. New Contract Amount           \$1,406,401.84
6. Contact Person: Hans Medlarz, P.E.  
Telephone No. (302) 855-7718

**B. REASON FOR CHANGE ORDER (CHECK ONE)**

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





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# Sussex County

DELAWARE  
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HANS M. MEDLARZ, P.E.  
COUNTY ENGINEER

## Memorandum

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

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

**RE:** ***IBRWF –BIOSOLIDS & SEPTAGE FACILITIES, PROJECT 18-19***  
***A. Supplemental Purchase Order Issuance***

**DATE:** August 31, 2021

On June 2, 2015, County Council initiated a comprehensive biosolids approach at the Inland Bays Regional Wastewater Facility (IBRWF) by approving Whitman, Requardt & Associates' (WRA) base contract Amendment No. 5 for the evaluation of Class A sludge drying options. During the FY17 County Council budget workshop, the Engineering Department presented drying alternatives and a list of potential municipal partners.

Due to timing Project 18-19 was designed and bid under the assumption that a third storage lagoon would be required and on June 26, 2018 County Council awarded the project to Bearing Construction, Inc. in the amount of \$13,668,346.00.

DNREC's support of the elimination of the storage lagoon later allowed a modification of the "as bid" gravity discharge piping, netting a credit of \$73,697.95. However, during the submittal process it became evident that larger sludge cake handling pumps and an associated pump station footprint increase were required resulting in a cost increase of \$73,376.48. The resulting Change Order No. 1, in the net deduct amount of (\$321.47) was approved by Council on October 1, 2019.

IBRWF is one of the sites where the County is pursuing regional stormwater quality improvements. However, at the time of submittal the proposed banking program was under DNREC review and comments were only received in November of 2020. Therefore, the anticipated stormwater enhancements were not available for use. Project 18-19's construction documents "as bid", envisioned an innovative low-cost solution which ultimately was rejected by DNREC. The basic, regulatory compliant approach later approved by the Sussex Conservation District, was more involved but still less expensive than paying the State's "fee



in lieu”. Therefore, the permitted solution was pursued under a time & material approach resulting in Change Order No. 2 in the amount of \$258,451.63 using material excavated from the stormwater facility in beneficial regrading.

The time required by WRA and the Department to work through the modification associated with the stormwater improvements triggered a compensatory 81 calendar day contract time extension with contractor’s staff was on-site for a total of 45 days in that period. The Engineering Department concurred with Change Order No. 3 in amount of \$61,878.66 to compensate for costs incurred by the contractor during the 81-day time extension.

In an initial value engineering attempt, the Department identified an option which would eliminate process by-pass pumping during construction with a Credit Change Order No. 4 value in the deduct amount of (\$77,000.00). The associated Change Order Nos. 2, 3 & 4 were approved by Council on January 14, 2020.

The County’s IT Department requested a scope modification from multi-mode fiber to single mode fiber for improved communication capability in addition, the Environmental Services Division requested a communication ductbank extension to the future filtration building location resulting in a combined valuation of \$16,954.95.

The elimination of the storage lagoon no. 3 had allowed a modification in the plant’s gravity discharge piping resulting in the credit covered under Change Order No.1. Additional cost savings were identified by no longer routing the effluent forcemain as well as the electrical ductbank around the deleted lagoon shortening the distance significantly for a credit valued at (\$92,258.68). On April 28, 2020 County Council approved Change Order No. 5 covering both items in the net deduct amount of (\$75,303.73).

By regrading the entrance section of the facility, the Department was able to partially eliminate a stormwater pipe run under PCO-007. The material cost credit in addition to the reduced labor and equipment utilization resulted in an overall credit of (\$23,011.34). Unfortunately, a large area south of the sludge cake storage building was holding water and could not be drained requiring an infiltration basin at a time & material cost of \$92,361.50 covered under PCO-016. A value engineering opportunity resulted in a reduction of impervious surface area, the addition of level spreaders with infiltration wells and addressed the utility adjustments of all existing electrical manholes for a credit amount of (\$13,902.92) summarized in PCO-015.

The other item which surfaced at that time was the sludge cake piping. Change Order No. 1 had already addressed the increase in pump size however, the associated discharge piping issue within the station was left unresolved. The Engineering Department, in direct cooperation with the equipment manufacturer Komline-Sanderson, developed an alternate piping plan for the interior sludge cake pump station. The topic had been discussed between WRA and manufacturer during the design phase but was never fully incorporated in the construction documents. The associated cost for PCO-017 was \$17,151.26. On July 28, 2020, Council approved Change Order No. 6 encompassing PCOs 007 & 015-017 in the combined amount of \$72,598.50.

During the final construction stages electric scope gaps were identified in PCO-018 in the amount of \$14,499.29 for conveyor sensors and auger emergency shut offs. Furthermore, additional utility air and water piping, fittings, valves, and insulation to satisfy overall system performance were addressed under PCO-019 in the amount of \$41,933.55. On September 22, 2020 Council approved Change Order No. 7 covering PCOs 018 & 019 in the combined amount of \$56,432.84.

In September all parties anticipated a full start up in early October. However, two days into start up on October 6, 2020 the thermal fluid pump started cavitating. Upon investigation, it was determined that the coating of the thermal fluid piping system had delaminated leaving no choice but complete piping replacement. The replacement was accomplished under an expedited time & material approach and completed within three weeks under PCO-021 at a cost of \$82,838.58. The thermal fluid pump performed as designed during the November 3, 2020 restart despite a significant number of residual coating pieces still found in the strainer.

Sludge drying at IBWRF was conceived as a 9-months, non-freezing weather operation in an open two-sided structure. This approach allowed the building to be permitted without a sprinkler system. In the light of the start-up delays and the mounting sludge inventories, the Department requested PCO-020 valued at \$22,700.36 for a polyethylene curtain wall at the east side of the structure allowing extended operational capabilities. The curtain is installed but experienced significant movement during one of the more intense storms. Therefore, the Department requested PCO-025 valued at \$4,488.00 to secure the curtain during high winds.

On November 17, 2020 County Council issued Change Order No. 8 encompassing PCOs 020 & 021 in the combined amount of \$105,538.94.

PCO-017 part of approved Change Order No. 6 issued by Council on July 28, 2020, covered the interior sludge piping. Unfortunately, since then it was determined the underground sludge piping appears to be another significant contributor to the excessive pump discharge pressure encountered during the November 2, 2020 second start-up attempt. The Department, in cooperation with the contractor, developed an alternate aerial sludge piping system which has been implemented under PCO-022 on a time & material basis at a cost of \$156,164.02. This cost includes system betterments such as flushing capabilities for the winterization of the system. These features were successfully used in December 2020 during the system's seasonal shut down.

The third start up attempt in November 2020 was successful and the sludge feed was delivered to the dryer. The pressure in the piping system is now at 200psi maximum with the optimum design pressure being less than 150psi. Therefore, the Department laid out a lubrication system which was priced out by the contractor under PCO-024 at \$65,780.40. This application will bring the operating pressures within the optimum range allowing long-term benefits. In addition, we determined that the sludge cake pump room floor was holding water. In order to achieve positive drainage, the Department requested PCO-022 to install a sloped epoxy flooring system valued at a discounted cost of \$15,204.00. On January 12, 2021 Council approved Change Order No. 9 in the accumulative value of \$241,636.42.

In early February 2021 Bearing Construction, Inc. agreed to withdraw the previously submitted compensatory time extension change order and its associated costs in exchange for the County's withdrawal of potential liquidated damages. In addition, the County and WRA settled on their contribution towards the three (3) time & material change orders associated with the site design, thermal fluid piping and the sludge discharge piping.

The dryer was restarted in March 2021 for County staff training and the required final performance testing. However, shortly after the restart several new operational problems surfaced requiring the following time & material modifications valued at \$20,640.54:

In addition, to the administratively approved work order the Department required the downtime of the unit be added to the performance test period extending it beyond the original test period finish date of April 15th. Since then the dryer has been performing within specification and County Council granted substantial completion on May 25, 2021.

With County staff performing continuous operations dust concerns have been raised. The issue was reviewed by the in-house safety team resulting in short term and long-term counter measure recommendations. The short-term approach was the direct purchase of a dust suppression system which is now on site being installed. Bearing Construction, Inc. submitted change order pricing for the installation valued at \$25,702.69. On May 25, 2021 County Council issued close out Change Order No. 10 in the aggregate amount of \$46,343.23 covering the T&M work as well as the dedusting system.

In early June the progressive cavity type sludge cake pumps started experiencing operational problems leading to the complete failure of all four units. Investigations revealed foreign matter in the sludge cake had destroyed the stators requiring replacement. In addition, two of the four isolation type pressure sensors were damaged beyond repair. Due to the long lead time the Engineering & Finance Departments issued an emergency purchase order covering the material purchase as well as the immediate repair of two units using spare parts. In addition, Environmental Services implemented quality control measures to prevent foreign matter from entering the biosolids stream. The Engineering Department is now requesting issuance of a supplemental purchase order to cover the reinstallation of the remaining two pumps and pressure rings in the amount of \$18,222.20.

Outstanding items include the long-term dust control, site transportation of cake biosolids and temperature solution to the compressor assembly initially covered under change order 10. The latter is being worked on in house. For the dust control we are pursuing the construction of a compartmentalized wall separating the dryer operations from the truck bay. It must be self-supported with removable panel sections for dryer access. The Department is working with Bearing Construction, Inc on a design build proposal outside of the original contract since this work cannot be implemented until the dryer is winterized again in December of 2021. The transportation of cake around the site is leading to residue on the asphalt with unacceptable run-off during storm events. The Department is working with M.F. Ronca, the South Coastal contractor to provide a conveyor solution like the one implemented under the South Coastal contract.



805 Shine Smith Road  
Sudlersville, MD 21668  
P: 410.556.6100 ● F: 410.556.6574

**INLAND BAYS REGIONAL WASTEWATER TREATMENT FACILITY  
REGIONAL BIOSOLIDS AND SEPTAGE FACILITIES  
Sussex County Project: 18-19**

## **PROPOSED SUPPLEMENTAL PURCHASE ORDER**

PPO #18117-028 T&M Work: Stators & Pressure Ring (removal & installation)  
8/23/2021

**Background:** Sussex County requests T&M work to be performed for re-installation of Stators & Pressure Rings with gauge/switch, and related pipe hangers.

**Scope Narrative:** Bearing Construction and its subcontractors will procure the necessary materials, make the necessary modifications, and perform the installations requested, as directed by Sussex County.

This proposal may be withdrawn if not accepted within fourteen (14) calendar days.

This total proposed net supplemental purchase order <adder> including labor, materials, equipment, overhead, profit and bond costs is: **\$18,222.20.**

Respectfully submitted,

*Robert L. Saia, Jr.*

Robert Saia  
Project Manager  
Bearing Construction, Inc.



805 Shine Smith Road  
Sudlersville, MD 21668  
P: 410.556.6100 F: 410.556.6574

## PROPOSED CHANGE ORDER

Date: 23-Aug-21

Proposed Change Order Number: 18117-028

Inland Bays Regional Wastewater Facility Upgrades

### Scope of Work

T&M Work: Stators & Pressure Rings

<b>Materials &amp; Labor</b>		<b>Material</b>	<b>Labor</b>	<b>Equipment</b>
Project Management		\$ -	\$ 760.00	\$ -
Mechanic/Technician	(Pipe Hangers)	\$ -	\$ 3,500.00	\$ -
Labor		\$ -	\$ 20,378.00	\$ -
Materials (pipe stands/hangers)		\$ 7,500.00	\$ -	\$ -
		\$ -	\$ -	\$ -
Materials Subtotal:		\$ 7,500.00		
Labor Total:			\$ 24,638.00	
Equipment Subtotal:				\$ -
10% Overhead:		\$ 750.00	\$ 2,463.80	\$ -
Labor, Materials, Equipment Costs with Taxes & Overhead:			\$ 35,351.80	
<b>Subcontract</b>				
Geiger	Stators	\$ 20,938.00		
Komline-Sanderson	Pressure Ring, Gauge/Switch	\$ 2,630.00		
Ferguson		\$ -		
		\$ -		
Subcontract Subtotal:		\$ 23,568.00		
5% Overhead on Subcontract Work:		\$ 1,178.40		
Subcontract Costs with Overhead:		\$ 24,746.40		
Total of Labor & Materials:		\$ 35,351.80		
Total of Subcontract:		\$ 24,746.40		
Credit of Emergency Purchase Order:		\$ 41,876.00		
Cost of Bond:		\$ -		
<b>Total Proposed Supplemental PO:</b>		<b>\$ 18,222.20</b>		



# Komline-Sanderson

## Parts & Filter Fabrics Sales

12 Holland Avenue, Peapack, NJ

Phone: 07977

(908) 234-1000 or

Fax Orders To: (800) 225-5457

Now Accepting Visa, Mastercard  
and American Express Credit Cards

NOTE: Please Advise Quotation Number When Ordering Parts

## SALES QUOTATION

QUOTE NO: AMQ27584

QUOTE DATE: 7/8/2021

REVISION NO: 0

QUOTE TYPE:

PORTAL NO:

THIS QUOTATION HAS BEEN PREPARED IN RESPONSE TO YOUR REQUEST

### BILL TO:

Bearing Construction

ATTN: Jim Merrell

805 Shine Smith Road

Sudlersville MD 21668

USAPh: 410-556-6100 Fx: 410-556-6574

### SHIP TO:

Inland Bays Regional Wastewater Facility

29445 Inland Bay Road

Millsboro DE 19966

USA

<b>REFERENCE</b> D0597	<b>SHIP VIA</b> *Best Way	<b>FOB</b> Peapack, NJ	<b>SALESPERSON</b> DIECKMANN,JOHN W
<b>EXPIRATION</b> 8/7/2021	<b>TERMS</b> Net 30 Days	<b>FREIGHT TERMS</b> Prepaid & Add	<b>REPRESENTATIVE</b> Home Office

LINE	ITEM DESCRIPTION	Est. Shipping	U/M	QTY/break	UNIT PRICE	EXT PRICE
1	K-S Job# D-0597 <b>D059767</b> Assy, Iso-ring 8", Gauge/Switch <b>Customer Item: PI&amp;PSH-2000A/2001A</b> Discharge gauge/switch assemblies for PCP-201 & 202	5-6 wks	ea	2.00	2,630.00	5,260.00

**Grand Total:** 5,260.00 USD





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<b>EXPIRATION</b> 8/7/2021	<b>TERMS</b> Net 30 Days	<b>FREIGHT TERMS</b> Prepaid & Add	<b>REPRESENTATIVE</b> Home Office			
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Minimum Order is \$ 50.00 in USA; \$ 100.00 outside of USA

Freight Terms: Freight Extra unless otherwise specified above

**Taxes:** Prices are exclusive of any local, state, or Federal sales or manufacturer's taxes of any sort and such taxes and/or charges pertaining thereto are to be borne by the purchaser.

**Restocking:** It is the policy of Komline-Sanderson that there be a standard restocking charge of 25% or \$ 50.00 minimum on all goods returned that are stocked by Komline-Sanderson. A credit will be issued against future purchases only.

Items that are made to order cannot be restocked and therefore are not returnable.

Goods can only be returned within 3 months of shipment with the exception of electrical items which cannot be restocked.

All requests for restocking must be authorized by the Filter Fabrics or Parts Department prior to return shipment.

A return goods tag number will be issued for authorized returns. All shipping charges are to be borne by the customer.

This quotation is valid for 30 days and is subject to change thereafter without notice.

See complete terms and conditions.

Typographical or clerical errors in quotations are subject to correction by KS.

On shipments outside the U.S.A.: All Freight, Customs, Duty, Taxes, Transfer And Any Other Fees Are The Buyers Responsibility.



Geiger Pump & Equipment Co.  
 830 Tryens Road  
 Aston, PA 19014  
 610.459.1212 phone  
 610.459.3992 fax

Date: June 24, 2021

To: Bearing Construction  
 Attention: Jim Merrell

From: Alan Greve Email: AGreve@geigerinc.com

Quote #: Q-210624-3312-D5 - 0  
 Reference: Moyno Parts

Thank you for giving us the opportunity to provide you with this quotation.

Per your request, we are pleased to offer the following:

Description	Price Per Unit	Quantity	Extended Price	Lead Time
Part # 4251859104, CD340HQ, Stator, 4 stage 065, RR101, with temperature probe.	\$10,368.30	2	\$20,736.60	10-12 weeks
Part # 4082000900, Stator Gasket	\$23.75	4	\$95.00	1-2 weeks
Part 4082000600, Retaining Ring Stator	\$26.60	4	\$106.40	1-2 weeks

**Quote Total: \$20,938.00**

All prices are quoted FOB shipping point and are offered per our standard terms and conditions included here. Freight will be Allowed.

Please let me know if you have any questions or require any additional information.

Best regards,

Alan Greve  
 Environmental Sales Engineer



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805 Shine Smith Road  
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P: 410.556.6100 ● F: 410.556.6574

**INLAND BAYS REGIONAL WASTEWATER TREATMENT FACILITY  
REGIONAL BIOSOLIDS AND SEPTAGE FACILITIES  
Sussex County Project: 18-19**

## **PROPOSED SUPPLEMENTAL PURCHASE ORDER**

PPO #18117-028 T&M Work: Stators & Pressure Ring (removal & installation)  
8/23/2021

**Background:** Sussex County requests T&M work to be performed for re-installation of Stators & Pressure Rings with gauge/switch, and related pipe hangers.

**Scope Narrative:** Bearing Construction and its subcontractors will procure the necessary materials, make the necessary modifications, and perform the installations requested, as directed by Sussex County.

This proposal may be withdrawn if not accepted within fourteen (14) calendar days.

This total proposed net supplemental purchase order <adder> including labor, materials, equipment, overhead, profit and bond costs is: **\$18,222.20.**

Respectfully submitted,

*Robert L. Saia, Jr.*

Robert Saia  
Project Manager  
Bearing Construction, Inc.



805 Shine Smith Road  
Sudlersville, MD 21668  
P: 410.556.6100 F: 410.556.6574

## PROPOSED CHANGE ORDER

Date: 23-Aug-21

Proposed Change Order Number: 18117-028

Inland Bays Regional Wastewater Facility Upgrades

### Scope of Work

T&M Work: Stators & Pressure Rings

<b>Materials &amp; Labor</b>		<b>Material</b>	<b>Labor</b>	<b>Equipment</b>
Project Management		\$ -	\$ 760.00	\$ -
Mechanic/Technician	(Pipe Hangers)	\$ -	\$ 3,500.00	\$ -
Labor		\$ -	\$ 20,378.00	\$ -
Materials (pipe stands/hangers)		\$ 7,500.00	\$ -	\$ -
		\$ -	\$ -	\$ -
Materials Subtotal:		\$ 7,500.00		
Labor Total:			\$ 24,638.00	
Equipment Subtotal:				\$ -
10% Overhead:		\$ 750.00	\$ 2,463.80	\$ -
Labor, Materials, Equipment Costs with Taxes & Overhead:			\$ 35,351.80	
<b>Subcontract</b>				
Geiger	Stators	\$ 20,938.00		
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QUOTE DATE: 7/8/2021

REVISION NO: 0

QUOTE TYPE:

PORTAL NO:

THIS QUOTATION HAS BEEN PREPARED IN RESPONSE TO YOUR REQUEST

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Sudlersville MD 21668

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USA

<b>REFERENCE</b> D0597	<b>SHIP VIA</b> *Best Way	<b>FOB</b> Peapack, NJ	<b>SALESPERSON</b> DIECKMANN,JOHN W
<b>EXPIRATION</b> 8/7/2021	<b>TERMS</b> Net 30 Days	<b>FREIGHT TERMS</b> Prepaid & Add	<b>REPRESENTATIVE</b> Home Office

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 Environmental Sales Engineer





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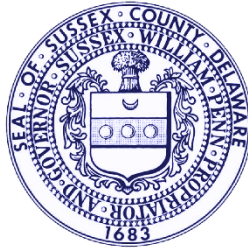
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Best regards,

Alan Greve  
 Environmental Sales Engineer

## ENGINEERING DEPARTMENT

ADMINISTRATION (302) 855-7718  
AIRPORT & INDUSTRIAL PARK (302) 855-7774  
ENVIRONMENTAL SERVICES (302) 855-7730  
PUBLIC WORKS (302) 855-7703  
RECORDS MANAGEMENT (302) 854-5033  
UTILITY ENGINEERING (302) 855-7717  
UTILITY PERMITS (302) 855-7719  
UTILITY PLANNING (302) 855-1299  
FAX (302) 855-7799



# Sussex County

DELAWARE  
sussexcountyde.gov

HANS M. MEDLARZ, P.E.  
COUNTY ENGINEER

## Memorandum

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

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

**RE:** *Herring Creek Sanitary Sewer District  
A. Whitman, Requardt & Associates – Amendment No. 4  
Construction Administration and Project Inspection*

**DATE:** August 31, 2021

On January 24, 2014, County Council awarded a five (5) year, cost plus fixed fee type, base contract regarding engineering services for the North Coastal Planning Area to Whitman, Requardt and Associates, LLP (WRA). On November 1, 2016, the first scope of work for the EJCDC Herring Creek Sanitary Sewer District Agreement was approved, in the amount of \$102,649.00, for aerial mapping and environmental assessment issues.

On August 2, 2016, County Council approved the addition of the Herring Creek area to the Unified Sewer District. On March 20, 2017, the Finance & Engineering Departments filed a \$20,500,000 overall funding application with USDA/Rural Development. Due to the size of the project, USDA approached the County with a three-part funding plan. Part 1 encompasses the pump stations and pressure mains in conjunction with the necessary the right-of-way acquisitions. Part 2 provides the sewer collection system for all subdivisions off Sloan Road while Part 3 provides the collection system for all minor and major subdivisions off Banks Road.

On June 21, 2017, the County accepted the letter of conditions and the obligating document associated with the first partial funding in the amounts of \$4,287,000 for loan and \$990,000 and grant funding respectively. On January 30, 2018, Council approved the USDA Loan Resolution and introduced the associated ordinance which was approved on March 13, 2018.

On June 8, 2018, the County accepted the letter of conditions and the obligating document associated with the second partial funding in the amount of \$5,600,000 of loan and



\$1,899,000 of grant funding. On June 19, 2018 Council approved the USDA Loan Resolution and the associated ordinance was approved on July 17, 2018.

On August 2, 2018, the County accepted the letter of conditions and the obligating document associated with the third partial funding in the amount of \$5,601,000 of loan and \$1,900,000 of grant funding. On September 11, 2018, Council approved the USDA Loan Resolution and the associated borrowing ordinance.

With funding for all three phases in place, WRA's Amendment No. 1 covering final design of the Herring Creek Sanitary Sewer District Pump Station, Force Main and Sewers was subsequently approved by Council on October 2, 2018.

On October 8, 2019, Council awarded the construction contract for Herring Creek Project S20-06 consisting of the pump stations to Chesapeake Turf, LLC in the amount of \$4,256,760.00. On November 19, 2019, Council approved WRA's Amendment No.2 to the EJCDC Base Agreement in a "not to exceed" amount of \$307,304.00 for construction administration and project inspection of said project.

On June 25, 2020, bids for the North Gravity Sewer and Force Main, Project S20-07 were publicly advertised and on July 23, 2020, eight (8) bids were received. JJID, Inc, of Bear, Delaware submitted the low base bid. On August 11, 2020 County Council awarded Project S20-07 to JJID, Inc. in the amount of \$5,091,000.

On May 28, 2021, invitations to bid for the South Gravity Sewer and Force Main, Project S20-08 were publicly advertised and on July 1, 2021, seven (7) bids were received. Teal Construction, Inc. of Dover, Delaware submitted the lowest responsive base bid. On July 13, 2021 County Council awarded Project S20-08 to Teal Construction, Inc. in the amount of \$4,242,738.00.

The overall project cost numbers have been adjusted accordingly and despite built in contingencies, most likely some supplemental federal funding will be required. The last remaining project to be bid is the gravity sewer system in Winding Creek Village.

On February 16, 2021, Council approved Amendment No. 3 in the not to exceed amount of \$448,676.00 for construction administration and inspection services associated with all three gravity sewer construction contracts contingent upon USDA concurrence.

The Herring Creek Project S20-06 awarded to Chesapeake Turf, LLC has experienced significant delays beyond reasons justified by the ongoing pandemic. This additional time triggered related contract administration as well as inspection expenses summarized in WRA's Amendment No. 4. In order to recover some of these expenses the contractor was advised that liquidated damages will be assessed.

The Department is now requesting approval of WRA's Amendment No. 4 to the EJCDC Base Agreement in the not to exceed amount of \$68,852.00 for additional construction administration and inspection services associated with contract S20-06, contingent upon USDA concurrence.

This is EXHIBIT K, consisting of [ ] pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated [ ].

AMENDMENT TO OWNER-ENGINEER AGREEMENT  
Amendment No. 4

The Effective Date of this Amendment is: \_\_\_\_\_.

Background Data

Effective Date of Project Order:

Owner: Sussex County

Engineer: Whitman, Requardt & Associates

Project: Herring Creek Sanitary Sewer District

Nature of Amendment:

- Additional Services to be performed by Engineer
- Modifications to services of Engineer
- Modifications to responsibilities of Owner
- Modifications of payment to Engineer
- Modifications to time(s) for rendering services
- Modifications to other terms and conditions of the Agreement

Description of Modifications:

*Additional Services See Attachment A – Scope of Services for details.*

*Modifications to other terms and conditions of the Agreement:*

Add the following after 8.05 D – Federal Requirements

8.05 E - CONSULTING ENGINEER RESPONSIBILITIES REGARDING AMERICAN IRON & STEEL:

In order to comply with American Iron & Steel (AIS) requirements, the Consulting Engineer must ensure the following actions are taken:

(1) Include costs of compliance with AIS in engineering fees (if appropriate) and in engineer's opinions of probable cost and associated revisions.

- (2) Agreements for engineering services: Include AIS language (see Section 16).
- (3) Plans, specifications, bidding documents and bid addenda: Include required AIS language (see Section 16 of Bulletin 1780-35). For any AIS products specified by brand names, obtain a manufacturer's certification letter (see Exhibit D of Bulletin 1780-35) from the manufacturer to verify the products comply with AIS.
- (4) Certify that plans, specifications, and bidding documents comply with AIS and commit that bid addenda, executed contracts and change orders will comply with AIS and submit a letter to the Agency prior to authorization to advertise for bids (see Exhibit B of Bulletin 1780-35).
- (5) Award: Provide copies of manufacturers' certification letters to the general contractor on any specified brand name AIS products in the plans, specifications and bidding documents including any bid addenda. RUS Bulletin 1780-35 Page 14.
- (6) Shop drawing submittal: Review shop drawings and change orders to ensure compliance with AIS. For shops drawings under consideration for any brand name, equal and/or substitute, and any iron and steel products subject to AIS, obtain a manufacturers' certification letter (see Exhibit D of Bulletin 1780-35) from the general contractor to verify the products comply with AIS.
- (7) Keep all certification letters (including those from the engineer, contractor and any manufacturer providing AIS products) in the engineer's project file.
- (8) Change Order: For any change order under consideration for any AIS products, obtain a manufacturer's certification letter (see Exhibit D of Bulletin 1780-35) from parties submitting the change proposal to ensure compliance with AIS.
- (9) Acknowledge responsibility for compliance with AIS requirements by signing change orders (i.e. C-941 of EJCDC) and partial payment estimates (i.e. C-620 of EJCDC).
- (10) Substantial completion of project: Obtain the contractors' certification letter (see Exhibit C of Bulletin 1780-35) and copies of manufacturers' certification letters for all AIS products used in the project. Provide copies of engineer's, contractors', and manufacturers' certification letters to the owner and copy of contractor's certification letter to the Agency. Provide a list of manufacturers to the RD State Engineer for AIS products used in the project (including manufacturer name and location, product(s)).

Project Order Summary:

Original Project Order amount:	<u>\$102,649.00</u>
Net change for prior amendments:	<u>\$1,499,514.00</u>
This amendment amount:	<u>\$68,852.00</u>
Adjusted Project Order amount:	<u>\$1,671,015.00</u>

Change in time for services (days or date, as applicable): \_\_\_\_\_

The foregoing Project Order Summary is for reference only and does not alter the terms of the Agreement or the Project Order, including those set forth in Exhibit C.

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect.

OWNER:

Sussex County Council

By: \_\_\_\_\_  
Print  
name: \_\_\_\_\_

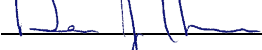
Title: President, Sussex County Council

Date Signed: \_\_\_\_\_

(SEAL)

ENGINEER:

Whitman, Requardt and Associates, LLP

By:   
Print  
name: Dennis J. Hasson, PE, BCEE

Title: Partner

Date Signed: August 18, 2021

PREVIOUSLY APPROVED FORM

ATTEST:

\_\_\_\_\_  
Ms. Robin Griffith  
Clerk of the County

**SCOPE OF SERVICES****HERRING CREEK SANITARY SEWER DISTRICT (HCSSD)  
CONTRACT S20-06****CONSTRUCTION ADMINISTRATION  
AND  
PROJECT INSPECTION**

This attachment outlines the required Scope of Services for completion services for **HCSSD Construction Administration and Project Inspection for County Contract S20-06**. Contract's S20-06 notice to proceed was given on January 13, 2020 and had an original completion date of July 10, 2020 for Phase 1 (PS#415) and February 15<sup>th</sup>, 2021 for all other pump stations. Neither phases have reached substantial completion to date. As such, a change order is required to provide additional construction administration and inspection services. This proposal provides construction administration services from August 2021 through December 1, 2021 (Assumed Substantial Completion), with one additional month for project closeout.

**PART A - CONSTRUCTION ADMINISTRATION**

1. **General Construction Administration.** WRA will consult with Sussex County and act as the County's representative during the duration of all construction projects. This effort involves the day to day coordination of in-house and field personnel during the construction phase. This proposal assumes approximately 6 hours/week for general construction administration by the Construction Manager.
2. **Monthly Progress Meetings.** WRA will prepare meeting agendas, conduct monthly progress meetings and issue meeting minutes. It is assumed that there will be one progress meeting day per month during the duration noted above, which will be attended by the construction manager and resident project representative.
3. **Specialized Site Visits by Specialized Inspectors.** During the startup of the pump stations, WRA will make visits to the site by specialized inspectors (SCADA, electrical, mechanical) when requested by Sussex County. WRA will produce a project completion list for use by the County. It is assumed that the Pump Station startups will be performed on a combined 3 consecutive days for all eight pump stations.
4. **Requests for Information (Clarifications).** When requested by Sussex County, respond to Requests for Information (RFIs) relating to the contract documents. This proposal assumes a total of three (3) RFIs total will be required.
5. **Change Orders and Work Change Directives.** Upon the request of Sussex County, WRA will review the Contractor's change order requests. WRA will document its findings in a memorandum to Sussex County. It is assumed that no more than Two (2) change order requests in total (including the final balancing change order submitted by the Contractor for each contract) will be required.

6. ***Operation and Maintenance Manuals.*** WRA will review Operation and Maintenance Manuals provided by the Contractor. It is assumed that a maximum of two reviews will be required.
7. ***Applications for Payment.*** Based on WRA's observations and on a review of the Contractor's Monthly Applications for Payment and accompanying supporting documentation, determine the amounts that WRA recommends the Contractor be paid by Sussex County. Such observations and review, mean that, to the best of WRA's knowledge, information and belief, the Contractor's work has progressed to the point indicated, the quality of such work is generally in accordance with the Contract Documents, subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, and the conditions precedent to the Contractor being entitled to such payment appear to have been fulfilled insofar as it is WRA's responsibility to observe the Contractor's Work. In the case of unit price work, WRA's recommendations of payment will include final determinations of quantities and classifications of Contractor's Work (subject to any subsequent adjustments allowed by the Contract Documents).
8. ***Substantial Completion.*** At the request of the County, WRA will assist the County in conducting an inspection for each contract to determine if the Work is Substantially Complete.
9. ***Contractor's Completion Documents.*** At the completion of the Construction Phase, WRA will coordinate with the Contractors to obtain as-built information and will provide the County with final electronic CADD files from the original contracts, as well as the Contractors electronic as-builts. The County will generate final as-builts from the information provided.

## **PART B - PROJECT INSPECTION**

WRA shall furnish one Resident Inspector for the inspection and field contract administration. The Inspector will observe the work done by the Contractor and promptly inform the County of deviations from the Contract Documents. The Resident Inspector will serve as WRA's representative in the field, providing information on the daily progress of the job to WRA technical personnel. It is assumed that the Resident Inspector will provide part time inspection (8 hours/week) for the 4-month duration, with one additional month of project closeout at 4 hours per week.



PROJECT NAME: Herring Creek Construction Administration and Inspection Contract S20-06 Project Closeout																	REVISION		Attachment A			
MANHOUR ESTIMATE AND PROPOSAL																	DATE		8/17/2021			
CLIENT: Sussex County Engineering Department																	BY		DJH/WFH			
TASK	PROJECT DESCRIPTION: Construction Administration and Resident Project Representation	Project Manager	Civil Engineer	Civil Designer / CADD	Geotech Engineer	Struct. Engineer	Struct. Designer / CADD	Mech. Assoc. / Proj. Engr.	Mech. Engineer	Mech. Designer / CADD	Elect. Engineer	Electrical CAD	SCADA Engineer	Resident Inspector	Project Inspector	Construction Manager	WRA TOTALS	WRA EXPENSES	Subcontractor hours	Subcontractor Payroll	Subcontractor Expenses	
Phase A - Construction Administration																	T, R, E	T, R, E				
Use Labor Cost Rates for year: 2021																	S, or L	S, or L				
		\$77	\$59	\$43	\$61	\$65	\$43	\$75	\$60	\$50	\$61	\$44	\$72	\$43	\$32	\$61						
A1	General construction administration	2														132	134	T	\$200		-	\$
A2	Monthly progress meetings (4 meetings)															32	32	T	\$100		-	\$
A3	Specialized site visits by specialized inspectors									36	36		36			24	132	T	\$1,800		-	\$
A4	Request for information (clarifications)	3														3	6	-	\$		-	\$
A5	Change orders and work change directives	2														4	6	-	\$		-	\$
A6	Operation and Maintenance Manuals							16			16		16				48	-	\$		-	\$
A7	Application for Payment (4 Applications)															16	16	-	\$		-	\$
A8	Substantial Completion															8	8	-	\$		-	\$
A9	Contractors Completion Documents	2		2						2			2				8	-	\$		-	\$
PHASE A SUBTOTALS =		9	0	2	0	0	0	16	0	38	52	0	54	0	0	219	390	\$2,100				
																	Subcontractor Total		\$0			
																	PHASE A TOTAL		\$54,029			

Phase B - Resident Project Representation																	T, R, E		T, R, E			
Use Labor Cost Rates for year: 2021																	S, or L		S, or L			
Legend																	Legend		Legend			
B1	Project Inspector (Contract S20-06)															160	160	T	\$100		-	\$
PHASE B SUBTOTALS =		0	0	0	0	0	0	0	0	0	0	0	0	0	0	160	160	T	\$100		-	\$
PHASE B SUB-TOTAL DOLLARS =		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$14,723	\$0	\$0	\$14,723			
		Civil	\$0	Geotech	Structural	\$0	0	Mech.	\$0	0	Electrical	\$0	160	\$14,723	0							
																	Subcontractor Total		\$0			
																	Profit on Sub		0.0%			
																	WRA Total		\$14,823			
																	PHASE B TOTAL		\$14,823			
																	Total		\$68,852			

	Project Manager	Civil Engineer	Civil Designer / CADD	Geotech Engineer	Struct. Engineer	Struct. Designer / CADD	Mech. Assoc. / Proj. Engr.	Mech. Engineer	Mech. Designer / CADD	Elect. Eng.	Electrical CAD	SCADA Engineer	Resident Inspector	Project Inspector	Construction Manager	
Bare Labor Cost rates for year	2021	\$77.25	\$59.00	\$43.00	\$60.80	\$65.00	\$42.80	\$74.50	\$59.85	\$50.00	\$60.75	\$44.35	\$71.75	\$43.00	\$32.00	\$61.00
Contract Rates - LOADED LABOR AT A FACTOR OF:	2.14	\$165.32	\$126.26	\$92.02	\$130.11	\$139.10	\$91.59	\$159.43	\$128.08	\$107.00	\$130.01	\$94.91	\$153.55	\$92.02	\$68.48	\$130.54
Bare Labor Cost rates for year																
Contract Rates - LOADED LABOR AT A FACTOR OF:		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Bare Labor Cost rates for year																
Contract Rates - LOADED LABOR AT A FACTOR OF:		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

WRA EXPENSES

T = Travel @.48/mile  
R = Reproduction  
E = Equipment Rental  
S = Subcontractor  
L = Laboratory Cost









## IRON WORKS INC

Structural and Miscellaneous Steel Fabrication & Erection

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14726 Gravel Hill Rd. • Milton, DE 19968 • (302) 684.1887 phone • (302) 684.1980 fax

---

Michael Kalafut

08/24/2021

Bancroft Construction Company  
1300 North Grant Avenue, Suite 101  
Wilmington, DE 19806

RE: Sussex County Public Safety Building.

Michael,

I am sure you are aware that structural steel, joist, and decking has been going through continuous price increases since Covid-19 pandemic has begun.

We are sending you this notice to inform you that the steel, joists, and decking included in our bid dated **7-14-2021** cost from the steel suppliers (Durrett Sheppard, Infra-Metals and Triad Metals) and Canam Steel Corporation of a combined total amount of **\$520,431.00** has increased.

Our proposal has been revised with the current material prices from the above-mentioned suppliers (as of **8-12-2021**) showing the cost increase to **\$560,431.00**, an increase of **\$40,000.00**.

We have revised our proposal to show this increase and noted the price is good for seven days and then subject to possible steel increases.

We are also requiring the project owner to agree to paying for stored material net 30 days after purchase to help lock in pricing.

Thank you,

*Bob Chille*

Bob Chille

Estimator

IRON WORKS, INC.

14298 Isaacs Road

Milton, DE 19968

PH: (302) 684 – 1887

[bobchille@ironworksde.com](mailto:bobchille@ironworksde.com)



August 26, 2021

Mr. Bob Chille  
Iron Works  
14726 Gravel Hill Rd  
Milton, Delaware 19968

Subject: Sussex County Public Safety Building  
Structural Steel

Dear Tom,

Bancroft Construction Company has reviewed your proposal for the above referenced project and is pleased to inform you that your company has been recommended to Delaware Technology Park for the Electrical Service Work per your subcontract scope of work.

The total contract amount recommended for award will be \$810,000.00 as follows:

Base Bid:	\$810,000.00
Total Contract Amount:	\$810,000.00

It is the intent of Bancroft Construction Company to enter into a formal subcontract agreement with Iron Works with funding as released per a Bancroft purchase order, Upon receipt of contract from Sussex County. The terms and conditions of the Bancroft Subcontract Agreement and Purchase Order will take precedence over this Letter of Intent. In the meantime, we ask that you proceed with Submittals and shop Drawings for this this work. We look forward to working with your organization on this important project.

Sincerely,  
Bancroft Construction Company

Michael Kalafut

Sr. Project Manager

cc: Rob Jadick, Cheryl Fearn, David Roberts

**DELAWARE**  
1300 N. Grant Avenue, Suite 101  
Wilmington, DE 19806  
302.655.3434

**NEW JERSEY**  
700 Alexander Park, Suite 302  
Princeton, NJ 08540  
609.436.5888

**MARYLAND**  
2324 W Zion Road, Suite 108  
Salisbury, MD 21801  
410.844.8080

## Steel Material Price Increase

	<u>Original</u>	<u>Increase</u>	<u>Increased Amount</u>
<u>Durrett Sheppard</u> -	<u>24,345.00</u>	<u>26,865.00</u>	<u>2,520.00</u>
<u>Infra – Metals</u> -	<u>22,606.00</u>	<u>24,115.00</u>	<u>1,509.00</u>
<u>Triad Metals</u> -	<u>97,874.00</u>	<u>105,341.00</u>	<u>7,467.00</u>
<u>SUBTOTAL</u> -	<u>144,825.00</u>	<u>156,321.00</u>	<u>11,496.00</u>
<u>Canam Steel Corp.</u> -	<u>375,606.00</u>	<u>396,750.00</u>	<u>21,144.00</u>
<u>GRAND TOTAL</u> -	<u>520,431.00</u>	<u>553,071.00</u>	<u>32,640.00</u>

Current increase amount \$32,640.00 plus \$7,360.00 toward next anticipated increase to arrive at \$40,000.00 that will make our current Bid amount of \$810,000.00.



**SUSSEX COUNTY  
CHANGE ORDER REQUEST**

**A. ADMINISTRATIVE:**

1. Project Name: **SUSSEX COUNTY PUBLIC SAFETY BUILDING**
2. Sussex County Project No. C19-04
3. Change Order No. 2
4. Date Change Order Initiated - 8/30/21
5.
  - a. Original Contract Sum \$8,282,169.00
  - b. Net Change by Previous Change Orders \$ 40,000.00
  - c. Contract Sum Prior to Change Order \$8,322,169.00
  - d. Requested Change \$ 8,800.00
  - e. Net Change (No. of days) \_\_\_\_\_
  - f. New Contract Amount \$8,330,969.00
6. Contact Person: Hans Medlarz, P.E.  
Telephone No. (302) 855-7718

**B. REASON FOR CHANGE ORDER (CHECK ONE)**

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

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

C. **BRIEF DESCRIPTION OF CHANGE ORDER:**  
Supply chain impact costs.

D. **JUSTIFICATION FOR CHANGE ORDER INCLUDED?**

Yes  No

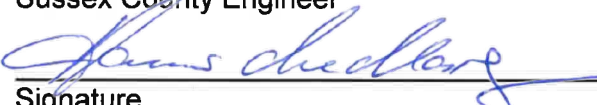
E. **APPROVALS**

1. Bancroft Construction Company, Contractor

 8/30/21  
Signature Date

MICHAEL F. VALAFUT  
Representative's Name in Block Letters

2. Sussex County Engineer

 8/30/2021  
Signature Date

3. Sussex County Council President

\_\_\_\_\_  
Signature Date



July 27, 2021

## Additional Price Increase Announcements

To Our Valued Customers:

Due to the continued inflationary environment with steel, ClarkDietrich will implement a minimum price increase of 10% on all steel products for all markets effective **October 1, 2021**.

This announcement is in addition to our August and September increase announcements. As a reminder, invoice pricing is determined at time of shipment.

ClarkDietrich will continue to honor all existing quotes in accordance with our current job quote policy. As a reminder, job quotes that are not committed within 30 days after issuance are invalid and will be requoted to reflect new price levels upon request. A copy of our policy can be found on our website at:  
[www.clarkdietrich.com/support-tools/sales-forms](http://www.clarkdietrich.com/support-tools/sales-forms).

If you have any questions, please contact your local Sales Representative.

Thank you for your continued support.

Sincerely,

ClarkDietrich



August 26, 2021

Mr. Lenny Stanwell  
North East Contractors, INC  
87 Blue Hen Drive  
Newark, Delaware 19713

Subject: Sussex County Public Safety Building  
Framing, drywall, and ACT

Dear Lenny,

Bancroft Construction Company has reviewed your proposal for the above referenced project and is pleased to inform you that your company has been recommended to Sussex County for the framing, drywall, and ACT Work per your subcontract scope of work.

The total contract amount recommended for award will be \$604,960.00 as follows:

Base Bid Framing & Drywall:	\$490,000.00
Base Bid Acoustical Ceiling Tile:	\$116,360.00
Add: Detail 11/A9.3:	\$5,500.00
Deduct 2" Rigid Insulation:	\$6,900.00
Total Contract Amount:	\$604,960.00

It is the intent of Bancroft Construction Company to enter into a formal subcontract agreement with North East Contractors with funding as released per a Bancroft purchase order, Upon receipt of contract from Sussex County. The terms and conditions of the Bancroft Subcontract Agreement and Purchase Order will take precedence over this Letter of Intent. In the meantime, we ask that you proceed with Submittals and shop Drawings for this this work. We look forward to working with your organization on this important project.

Sincerely,  
Bancroft Construction Company

Michael Kalafut

Sr. Project Manager

cc: Rob Jadick, Cheryl Fearn, David Roberts

**DELAWARE**  
1300 N. Grant Avenue, Suite 101  
Wilmington, DE 19806  
302.655.3434

**NEW JERSEY**  
700 Alexander Park, Suite 302  
Princeton, NJ 08540  
609.436.5888

**MARYLAND**  
2324 W Zion Road, Suite 108  
Salisbury, MD 21801  
410.844.8080

# NEC

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

## Metal Framing Cost Increase

Bancroft

**Attn: David Roberts**

Date: August 25, 2021

Project: Sussex County Public Safety Building

Drawings by: George, Miles & Buhr

Dated: 5/28/21

### October 1, 2021 increase

- This would be an add to 8/24/21 NEC framing and drywall proposal.
- Manufacturer metal studs, track, clips, and accessories increase by 10%
- See page two for official manufacturer announcement.
- Announcement occurred post bid.
- Bid submission - 7/14/21, announcement – 7/27/21.
- Material increases are a direct result of the COVID pandemic.
- NOTE: Suppliers have alerted contractors that metal manufacturers have announced a 10% minimum increase for 1/1/22. An official announcement has not yet been distributed by manufacturers but is expected in November.
- NOTE: My material cost for metal framing was \$73,375.00, which did not include profit and overhead. The number below reflects my adding 10% profit and 10% overhead, then adding the 10% metal increase.

**ADD Total \$8,880.00**

## ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
ENVIRONMENTAL SERVICES	(302) 855-7730
PUBLIC WORKS	(302) 855-7703
RECORDS MANAGEMENT	(302) 854-5033
UTILITY ENGINEERING	(302) 855-7717
UTILITY PERMITS	(302) 855-7719
UTILITY PLANNING	(302) 855-1299
FAX	(302) 855-7799



# Sussex County

DELAWARE  
sussexcountype.gov

HANS M. MEDLARZ, P.E.  
COUNTY ENGINEER

JOHN J. ASHMAN  
DIRECTOR OF UTILITY PLANNING

## Proposed Chappell Farm Expansion of the Sussex County Unified Sanitary Sewer District

### PUBLIC HEARING FACT SHEET

- Expansion of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area)
- The Engineering Department has received a request from Becker Morgan Group, Inc. on behalf of their client Chappell Farm, LLC the owners/developers of a project known as Chappell Farm on parcel 235-23.00-1.02.
- Permission to Prepare and Post notices was granted on July 13, 2021.
- The project will be responsible for System Connection Charges of \$6,600.00 per EDU based on current rates and a Infrastructure Use Agreement will be required.
- The Engineering Department posted advertised week of Aug. 15 & 22nd and posted notices on August 2, 2021.
- To date we have received no correspondence either in support or opposition to this annexation.



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

# PUBLIC NOTICE

EXPANSION OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT  
CHAPPELL FARM EXPANSION – WEST REHOBOTH AREA  
FILE NUMBER: OM 9.13-AQ

NOTICE IS HEREBY GIVEN that the Sussex County Council voted on **July 13, 2021**, to consider expanding the boundary of the West Rehoboth Area of the Sussex County Unified Sanitary Sewer District (SCUSSD) to include a property situated on the west side of State Route 1 (Coastal Highway). The parcel is located in the Broadkill Hundred, Sussex County, Delaware and recorded in the Office of the Recorder of Deeds, in and for Sussex County, Delaware.

**BEGINNING** at a point, situate at the intersection of the westerly right of way (ROW) of Coastal Highway, the southerly ROW of Cave Neck Road, a point on the existing boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD); thence leaving said Coastal Highway ROW and continuing by and with said Cave Neck Road ROW and SCUSSD boundary in a southwesterly direction a distance of 850'± to a point; thence leaving said ROW and SCUSSD boundary and proceeding across Cave Neck Road in a northwesterly direction a distance of 60'± to a point, said point being on the northerly ROW of Cave Neck Road, said point also being the southernmost property corner of lands N/F of Chappell Farm LLC; thence leaving said ROW and proceeding by and with said Chappell Farm boundary the following bearings and distances (1) North 51°09'48" West 843.80' to an iron rod, (2) North 37°45'07" East 501.41' to a stone marker, (3) South 51°06'08" East 342.23 to a stone marker, (4) North 39°40'47" East 410.66' to an iron pipe, said iron pipe being a shared property corner of lands N/F Chappell Farm LLC and lands N/F of Three D Corporation, said pipe also being on the westerly ROW of Coastal Highway; thence leaving said property corner and ROW and proceeding across Coastal Highway in a northeasterly direction a distance of 150'± to a point, said point being on the easterly ROW of Coastal Highway, said point also being on the southwesterly property line of land N/F Overbrook Acres LLC; thence proceeding by and with said ROW and Overbrook Acres property line in a southeasterly direction a distance of 589' ± to a point; thence leaving said ROW and lands of Overbrook Acres and proceeding in a southwesterly direction across Coastal Highway a distance of 150'± to a point, said point being that of the **BEGINNING**.

The proposed expansion of the SCUSSD is within these boundaries and said to contain 14.92 acres more or less. The boundary description has been prepared using Sussex County tax map numbers 235-23.00.

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

The public hearing will be held on this issue at **10:30 am on August 31, 2021** in the Sussex County Council Chambers. All interested persons, officials, residents, voters, taxpayers, property owners, or corporations in any way affected by this boundary extension are welcome to attend. There will be an opportunity for questions and answers. The Sussex County Council following the hearing, at one of their regularly scheduled meetings, will make the final decision on the boundary extension.

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

Hans M. Medlarz, P.E.  
County Engineer

Proposed Annexation  
Chappell Farm – 235-23.00-1.02

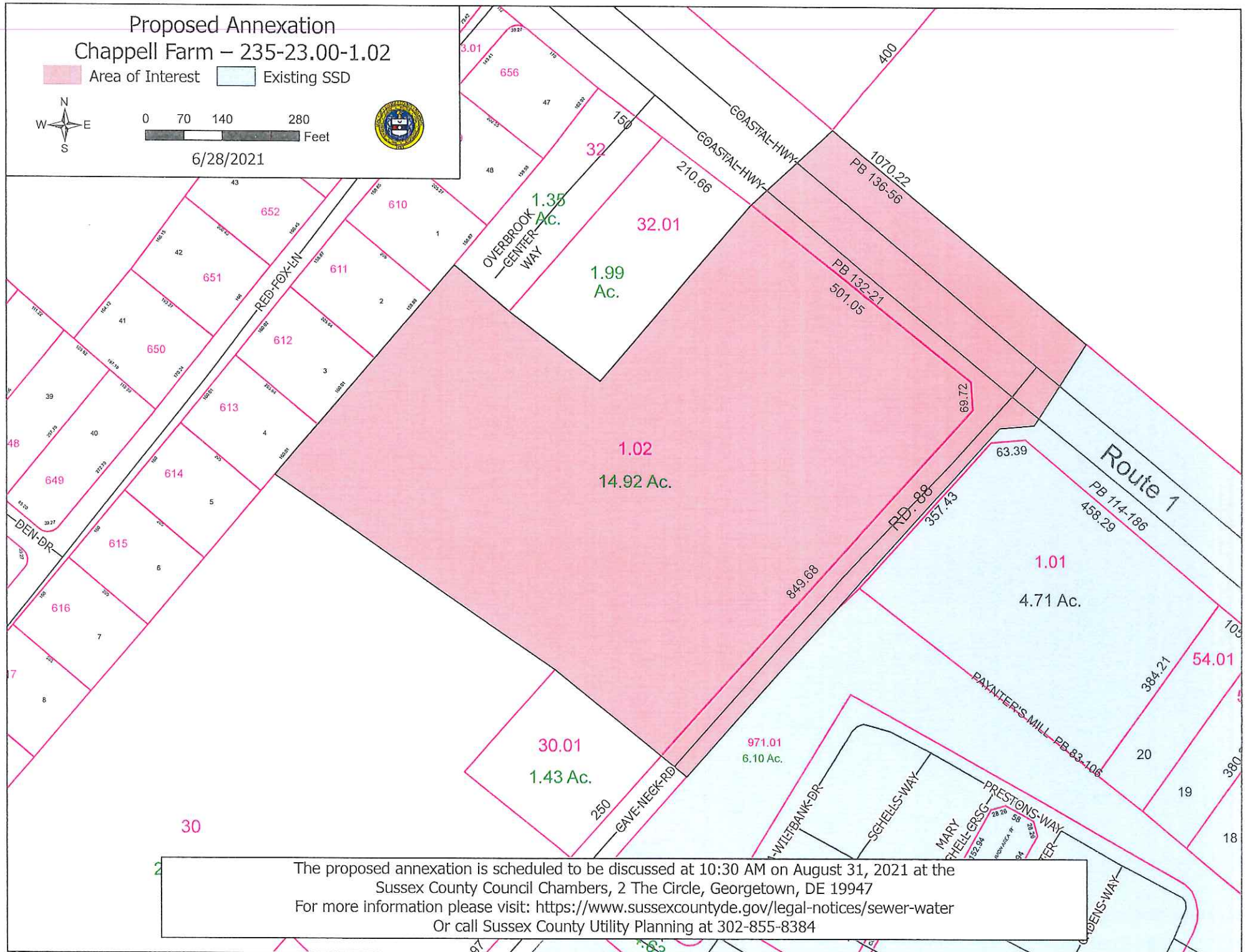
Area of Interest Existing SSD



0 70 140 280 Feet



6/28/2021



The proposed annexation is scheduled to be discussed at 10:30 AM on August 31, 2021 at the  
Sussex County Council Chambers, 2 The Circle, Georgetown, DE 19947  
For more information please visit: <https://www.sussexcountype.gov/legal-notice/sewer-water>  
Or call Sussex County Utility Planning at 302-855-8384

## RESOLUTION

A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD), TO INCLUDE PARCEL 235-23.00-1.02 ON THE WEST SIDE OF COASTAL HIGHWAY. THE PARCEL IS LOCATED IN THE BROADKILL HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE.

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

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

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

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

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

NOW, THEREFORE,

BE IT RESOLVED the Sussex County Council hereby revises the boundary of the SCUSSD to encompass the lands mentioned above situated on the west side of Coastal Highway, as follows:

**Beginning** at a point, situate at the intersection of the westerly right of way (ROW) of Coastal Highway, the southerly ROW of Cave Neck Road, a point on the existing boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD); thence leaving said Coastal Highway ROW and continuing by and with said Cave Neck Road ROW and SCUSSD boundary in a southwesterly direction a distance of 850'± to a point; thence leaving said ROW and SCUSSD boundary and proceeding across Cave Neck Road in a northwesterly direction a distance of 60'± to a point, said point being on the northerly ROW of Cave Neck Road, said point also being the southernmost property corner of lands N/F of Chappell Farm LLC; thence leaving said ROW and proceeding by and with said Chappell Farm boundary the following bearings and distances (1) North 51°09'48" West 843.80' to an iron rod, (2) North 37°45'07" East 501.41' to a stone marker, (3) South 51°06'08" East 342.23 to a stone marker, (4) North 39°40'47" East 410.66' to an iron pipe, said iron pipe being a shared property corner of lands N/F Chappell Farm LLC and lands N/F of Three D Corporation, said pipe also being on the westerly ROW of Coastal Highway; thence leaving said property corner and ROW and proceeding across Coastal Highway in a northeasterly direction a distance of 150'± to a point, said point being on the easterly ROW of Coastal Highway, said point also being on the southwesterly property line of land N/F Overbrook Acres LLC; thence proceeding by and with said ROW and Overbrook Acres property line in a southeasterly direction a distance of 589' ± to a point; thence leaving said ROW and lands of Overbrook Acres and proceeding in a southwesterly direction across Coastal Highway a distance of 150'± to a point, said point being that of the **Point of Beginning**.

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

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



PROPOSED CHAPPELL FARM EXPANSION  
AFFIDAVIT FOR PUBLIC HEARING

STATE OF DELAWARE )(

:

COUNTY OF SUSSEX )(

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

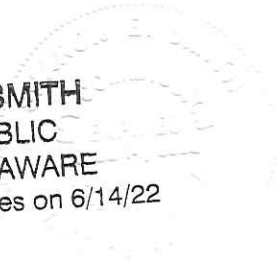
- A. On August 2, 2021 he was a Planning Tech for the Sussex County Engineering Department, Sussex County, State of Delaware; and
- B. On August 2, 2021 he did post the attached "Public Notice," prepared by the Sussex County Engineering Department, at the following locations:
1. On a post in the northerly Right-Of-Way (ROW) OF Cave Neck Road 133'± southwest of Coastal Highway,
  2. On a post in the westerly ROW of Coastal Highway 124'± northwest of Cave Neck Road,
  3. On a post in the northely ROW of Cave Neck Road 514'± southwest of Coastal Highway,
  4. On a post in the northerly ROW of Cave Neck Road 927'± southwest of Coastal Highway,
  5. On a post in front of Stop sign at the exit of Paynter's Mill,
  6. On a post front of DEC Pole 30424 in the southerly ROW of Cave Neck Road 776'± southwest of Coastal Highway,
  7. On a post in front of a stop sign in the southerly ROW of Best Road at the intersection with Coastal Highway,
  8. On a post in front of a stop sign in the southerly ROW of Pondview Drive at the intersection with Coastal Highway.

  
PHILLIP C. CALIO

SWORN TO AND SUBSCRIBED before me on this 3rd day of Aug A.D., 2021

  
NOTARY PUBLIC

My Commission Expires 6/14/22

  
SHARON E. SMITH  
NOTARY PUBLIC  
STATE OF DELAWARE  
My Commission Expires on 6/14/22

## Council Grant Form

Legal Name of Agency/Organization	Pop Warner Little Scholars, Inc. <del>Woodbridge Youth Football Association</del>
Project Name	2021 Football Season
Federal Tax ID	<del>86-3058821</del> 51-0348574
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	The mission of Woodbridge Youth Football Association is to provide the fundamentals of football and cheer for the youth in our community. To encourage and develop our youth to strive for personal, educational and athletic excellence and to become well-disciplined student-athletes both on the field and in the community.
Address	PO Box 871
Address 2	
City	Bridgeville
State	DE
Zip Code	19933
Contact Person	Amber Vanderwende-Campbell

<b>Contact Title</b>	Treasurer
<b>Contact Phone Number</b>	302-604-0452
<b>Contact Email Address</b>	<a href="mailto:woodbridgeayf@gmail.com">woodbridgeayf@gmail.com</a>
<b>Total Funding Request</b>	\$10,000.00
<b>Has your organization received other grant funds from Sussex County Government in the last year?</b>	No
<b>If YES, how much was received in the last 12 months?</b>	N/A
<b>Are you seeking other sources of funding other than Sussex County Council?</b>	No
<b>If YES, approximately what percentage of the project's funding does the Council grant represent?</b>	N/A
<b>Program Category (choose all that apply)</b>	Educational, Other
<b>Program Category Other</b>	Youth Sports
<b>Primary Beneficiary Category</b>	Youth

**Beneficiary Category**  
**Other**

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

125

**Scope**

Our 2021 Season is underway and we have 120 players registered, ages 5-13. We currently have enough equipment and uniforms for 90 players. Due to the nationwide shortage on football equipment (helmets, pads, uniforms, chin straps, etc.), there has been a tremendous price increase on these items. To equip the additional 30 players in our program, it will cost us an average of \$340.00 per player. This per player cost does not reflect funds needed for referees, insurance, annual league fees, or travel costs. A large population of our players we serve are from low-income families with a higher poverty rate. Requesting our families to provide all of these funds is nearly impractical, especially considering some have multiple children registered. It is our ultimate goal to make it possible for every child who has registered, to have the opportunity to play and participate this season. We hope that you will consider our Organization for this funding and support our mission to provide every child with an equal opportunity to learn and play football and to become well-disciplined student-athletes.

**Religious Components**

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

0.00



<b>TOTAL DEFICIT FOR PROJECT OR ORGANIZATION</b>	-10,200.00
<b>Name of Organization</b>	Woodbridge Youth Football
<b>Applicant/Authorized Official</b>	Amber Vanderwende-Campbell
<b>Date</b>	07/29/2021
<b>Affidavit Acknowledgement</b>	Yes

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

**To Be Introduced 08/31/21**

**Council District: Mr. Schaeffer  
Tax I.D. No. 335-8.18-15.00 & 335-8.18-16.00  
911 Addresses: 1302 & 1304 Savannah Road, Lewes**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR PROFESSIONAL OFFICES TO BE LOCATED ON A CERTAIN PARCELS OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.68 ACRES, MORE OR LESS**

**WHEREAS, on the 29<sup>th</sup> day of January 2021, a conditional use application, denominated Conditional Use No. 2264 was filed on behalf of Laudan Investments, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2264 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, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2264 as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tracts, pieces or parcels of land, lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the southeastern side of Savannah Road (S.C.R. 443A), approximately 0.77 mile northeast of Wescoats Road (Rt. 12), and being more particularly described in the attached deed prepared by The Law Office of Gregory W. Williams, said parcel containing 0.34 acres, more or less, and also described in the attached deed prepared by Fuqua, Willard, Stevens & Schab, P.A., said parcel containing 0.34 acres, more or less.**

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

**To Be Introduced 08/31/21**

**Council District: Mr. Schaeffer  
Tax I.D. No. 234-10.00-1.01  
911 Address: 28751 Reid Lane, Harbeson**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR OUTDOOR EQUIPMENT AND MATERIAL STORAGE AND A DUMPSTER RENTAL BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.53 ACRES, MORE OR LESS**

**WHEREAS, on the 1<sup>st</sup> day of February 2021, a conditional use application, denominated Conditional Use No. 2266 was filed on behalf of MDO Dreamlands, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2266 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, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2266 as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece or parcel of land, lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the western side of Harbeson Road (Rt. 5), approximately 0.47 mile north of Hurdle Ditch Road (S.C.R. 290), and being more particularly described in the attached deed prepared by Tunnell & Raysor, P.A, said parcel containing 5.53 acres, more or less.**

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



**To Be Introduced 08/31/21**

**Council District: Mr. Schaeffer  
Tax I.D. No. 230-20.00-9.10  
911 Address: 11420 Hollytree Road, Lincoln**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CATERING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6.12 ACRES, MORE OR LESS**

**WHEREAS, on the 4<sup>th</sup> day of February 2021, a conditional use application, denominated Conditional Use No. 2267 was filed on behalf of Cynthia Gibbs; 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. 2267 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 IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2267 as it applies to the properties hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece or parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, Delaware, and lying on the southwest side of Hollytree Road (S.C.R. 226), approximately 0.28 mile southeast of Fleatown Road (S.C.R. 224), and being more particularly described in the attached deed prepared by Autman & Bredt, P.A., said parcel containing 6.12 acres, more or less.**

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

**To Be Introduced 08/31/21**

**Council District Mr. Rieley  
Tax I.D. No. 533-18.00-25.00  
911 Address: 33095 and 33113 Lighthouse Road, Selbyville**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CONDITIONAL USE NO. 1920 (ORDINANCE NO. 2240) TO ALLOW FOR OFFICE SPACE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.35 ACRES, MORE OR LESS**

**WHEREAS, on the 25<sup>th</sup> day of February 2021, a conditional use application, denominated Conditional Use No. 2271 was filed on behalf of Chris Brasure; 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. 2271 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 IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2271 as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the northeast corner of the intersection of Lighthouse Rd. (Route 54) and Dickerson Road (S.C.R. 389) and being more particularly described in the attached legal description prepared by Raymond E. Tomasetti, Jr., said parcel containing 1.35 acres, more or less.**

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

**To Be Introduced 08/31/21**

**Council District Mr. Hudson  
Tax I.D. No. 234-33.00-44.00  
911 Address: 30600 and 30606 Gull Point Road**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BOAT SHRINK WRAPPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.97 ACRES, MORE OR LESS**

**WHEREAS, on the 4<sup>th</sup> day of February 2021, a conditional use application, denominated Conditional Use No. 2268 was filed on behalf of Staci C. and Winfield S. Walls, Jr.; 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. 2268 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 IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2268 as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece or parcel of land, lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the southwest side of Gull Point Rd. (S.C.R. 313) approximately 0.52 mile southeast of John J. Williams Highway (Route 24) and being more particularly described in the attached legal description prepared by Cordrey & Clark, P.A., said parcel containing 3.97 acres, more or less.**

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

**To Be Introduced 08/31/21**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 234-23.00-270.00**

WHEREAS, on March 9<sup>th</sup>, 2020, the Sussex County Planning and Zoning Office received an application for Change of Zone No. 1922

WHEREAS, the Sussex County Council will consider Change of Zone No. 1922 from a B-1 Neighborhood Business District, C-1 General Commercial District and CR-1 Commercial Residential District to a HR-RPC High Density Residential District Residential Planned Community for certain parcels of land lying and being in Indian River Hundred, Sussex County, containing 31.11 acres, more or less (The entirety of Tax Parcel No. 234-23.00-270.00) (the “Property”); and

WHEREAS, the Property is designated as being within the Commercial Area as set forth in the Future Land Use Map identified as Figure 4.5-1 in the Plan, and the Commercial Area does not permit such HI-1 Zoning; and

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

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

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

**Section 1.** The Future Land Use Map identified as Figure 4.5-1 of the Sussex County Comprehensive Plan is hereby amended to change the Area designation of Sussex County Parcel No. 234-23.00-270.00 from the Commercial Area to the Coastal Area. The Sussex County Parcel No. 234-23.00-270.00 so changed is identified in Exhibit A, attached hereto and incorporated herein.

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



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



**Sussex County**

DELAWARE  
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## Memorandum

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

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

CC: Everett Moore, County Attorney

Date: August 27, 2021

RE: County Council Report for CU 2253 filed on behalf of Chester V. Townsend and Shirley D. Townsend

---

The Planning and Zoning Department received an application (CU 2253 filed on behalf of Chester V. Townsend and Shirley D. Townsend) for a Conditional Use for parcels 134-11.00-2.02 and 134-11.00-3.00 for an events venue. The property is within the Agricultural Residential (AR-1) Zoning District and the 911 Address is 32859 & 32805 Vines Creek Road, Dagsboro. The parcel size is 6.0 acres +/-.

The Planning and Zoning Commission held a public hearing on July 22, 2021. At the meeting of August 12, 2021 the Commission recommended approval of the application for the 6 reasons and subject to the 5 recommended conditions outlined within the motion (included below).

Below are the draft minutes from the Planning & Zoning Commission meeting of July 22, 2021 and the draft minutes from the Planning & Zoning Commission meeting of August 12, 2021.

### Draft Minutes of the July 22, 2021 Planning & Zoning Commission Meeting

#### **C/U 2253 Chester and Shirley Townsend**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENTS VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.0 ACRES, MORE OR LESS.** The property is lying on the north side of Vines Creek Road (Rt. 26), approximately 0.20 mile east of Sandy Landing Road (S.C.R. 342). 911 Address: 32859 & 32805 Vines Creek Road, Dagsboro. Tax Parcels: 134-11.00-2.02 & 3.00



Mr. Whitehouse advised the Commission that submitted into the record is a copy of DelDOT Service Level Evaluation Response, a copy of the Applicant's Conceptual Site Plan, a copy of the Applicant's survey, a copy of the Applicant's legal description, no comments of opposition, no comments of support and two mail returns.

The Commission found that Ms. Shirley Townsend spoke on behalf of her Application, Chester and Shirley Townsend; that also present were Ms. Veronica Townsend and Mr. Chester Townsend, Jr.; that Fishkiller's Lobster Shack was originally located on the property of 32805 Vines Creek Rd.; that he husband pursued making a vineyard, built a small golf course and planted a field of sunflowers on the adjacent property; that during the COVID-19 pandemic they had the idea of make the adjacent property an event venue without having to change the character of the property; that people could bring in and bring out amenities, such as a tent or portable restrooms; that she envisions children's birthday parties or small weddings; that she does not envision big events as it is not a huge piece of property; that both properties are affected as the entranceway to the event venue would be located on the other parcel of land where her son lives, and additional parking could be located in the grass behind the home.

Ms. Wingate questions if outdoor music would be an event on the property, what the hours of live music would be if there will be any other structures placed on the property, if a sign is needed and if there will be any hired employees.

Ms. Townsend stated she feels that 10:00 pm would be the end time for all outdoor music; that the red concession trailer on the other property has been sold but the home is still present; that currently her son lives in the home with two roommates and they have no intention of using the property for anything other than that; that there is a frame of a building to the back of the property; that she would like to possibly make that a restroom; that she would like to have a sign; that she does not envision having many if any employees

Ms. Stevenson requested more information about the location of parking.

Ms. Townsend stated the entranceway would be located on the 32805 Vines Creek lot; that people would park in the grass behind the home; that she has no intention of doing any paving and it would be similar to parking at the Delaware State Fair.

Mr. Wheatley mentioned that if the Application is approved, a site plan which will require the Applicant to speak with DelDOT and they may have conditions regarding the entranceway.

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

Upon there being no further questions, Chairman Wheatley closed the Public Hearing.

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

In relation to Application C/U 2253 Chester and Shirley Townsend, Motion by Ms. Stevenson to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 4-0.

Draft Minutes of the August 12, 2021 Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since July 22, 2021.

Ms. Wingate moved that the Commission recommend approval of C/U # 2253 for Chester and Shirley Townsend for an events venue based upon the record made during the public hearing and for the following reasons:

1. The site is 6.0 acres of land owned by the applicant.
2. The property is located along Vines Creek Road, also known as Route 26. This is an appropriate location for this type of limited use.
3. The applicants intend to hold events that include weddings, birthday parties and similar events.
4. The site will have sufficient areas for parking.
5. With the conditions and limitations placed upon the Conditional Use, it will not adversely affect neighboring or adjacent properties or area roadways.
6. No parties appeared in opposition to this application.
7. This recommendation is subject to the following conditions:
  - a. Food and beverage service and music or similar entertainment is permitted. As stated by the Applicant, food and beverage service shall be provided by catering services, as there will not be any kitchen facilities on-site.
  - b. All parking areas shall be shown on the Final Site Plan. No parking shall be permitted on any nearby County Roads.
  - c. All entrance locations shall be subject to the review and approval of DelDOT.
  - d. All events shall conclude prior to 10:00 at night.
  - e. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried to recommend approval of C/U 2253 for Chester and Shirley Townsend for the reasons and conditions stated in the motion. Motion carried 4 – 0.



**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, MRTPI, AICP  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: July 22, 2021

Application: CU 2253 Chester V. Townsend IV & Shirley D. Townsend

Applicant: Chester V. Townsend IV & Shirley D. Townsend  
32523 Falling Point Road  
Dagsboro, DE 19939

Owner: Chester V. Townsend IV & Shirley D. Townsend  
32523 Falling Point Road  
Dagsboro, DE 19939

Site Location: 32859 & 32805 Vines Creek Road, Dagsboro

Current Zoning: Agricultural Residential (AR-1)

Proposed Use: Events Venue

Comprehensive Land  
Use Plan Reference: Coastal Area

Councilmanic  
District: Mr. Hudson

School District: Indian River School District

Fire District: Millville Fire Department

Sewer: Private, on-site septic

Water: Private, on-site well

Site Area: 6.0 ac. +/-

Tax Map ID.: 134-11.00-2.02 & 3.00



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# Sussex County

DELAWARE  
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## Memorandum

To: Sussex County Planning Commission Members  
From: Chase Phillips, Planner I  
CC: Vince Robertson, Assistant County Attorney and applicant  
Date: July 13, 2021  
RE: Staff Analysis for CU 2253 (Chester V. Townsend IV & Shirley D. Townsend)

---

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2253 (Chester V. Townsend IV & Shirley D. Townsend) to be reviewed during the July 22, 2021 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcels 134-11.00-2.02 & 3.00 to allow for an events venue. The size of the property is approximately 6.0 acres +/- . The property is zoned AR-1 (Agricultural Residential Zoning District) and is located at on the north side of Vines Creek Road (Rt. 26), approximately 0.20 mile east of Sandy Landing Road (S.C.R. 342).

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework for 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 property has the land use designation of Coastal Area. The primary land uses envisioned in the Coastal Area could include various types of residential uses, retail and office uses, and mixed-use development in select locations. The Coastal Area is designated as a Sussex County Growth Area, and growth is encouraged given that special environmental concerns are addressed. Each parcel to the north, south, east, and west area all within the Coastal Area.

The property is within an Agricultural Residential (AR-1) Zoning District. All adjacent parcels to the north, south, east, and west are also within an AR-1 Zoning District.

Since 2011, there have been two (2) Conditional Use approvals within a one-mile radius of the application site. One of the approvals was for the subject site. Conditional Use No. 1936, which permitted a food vendor, was approved by the Sussex County Council on September 11, 2012 and adopted through Ordinance 2275. Not related to the subject site was Conditional Use No. 1953. This Conditional Use granted approval for a two-unit multi-family structure and was approved on February 5, 2013 and adopted through Ordinance 2292.

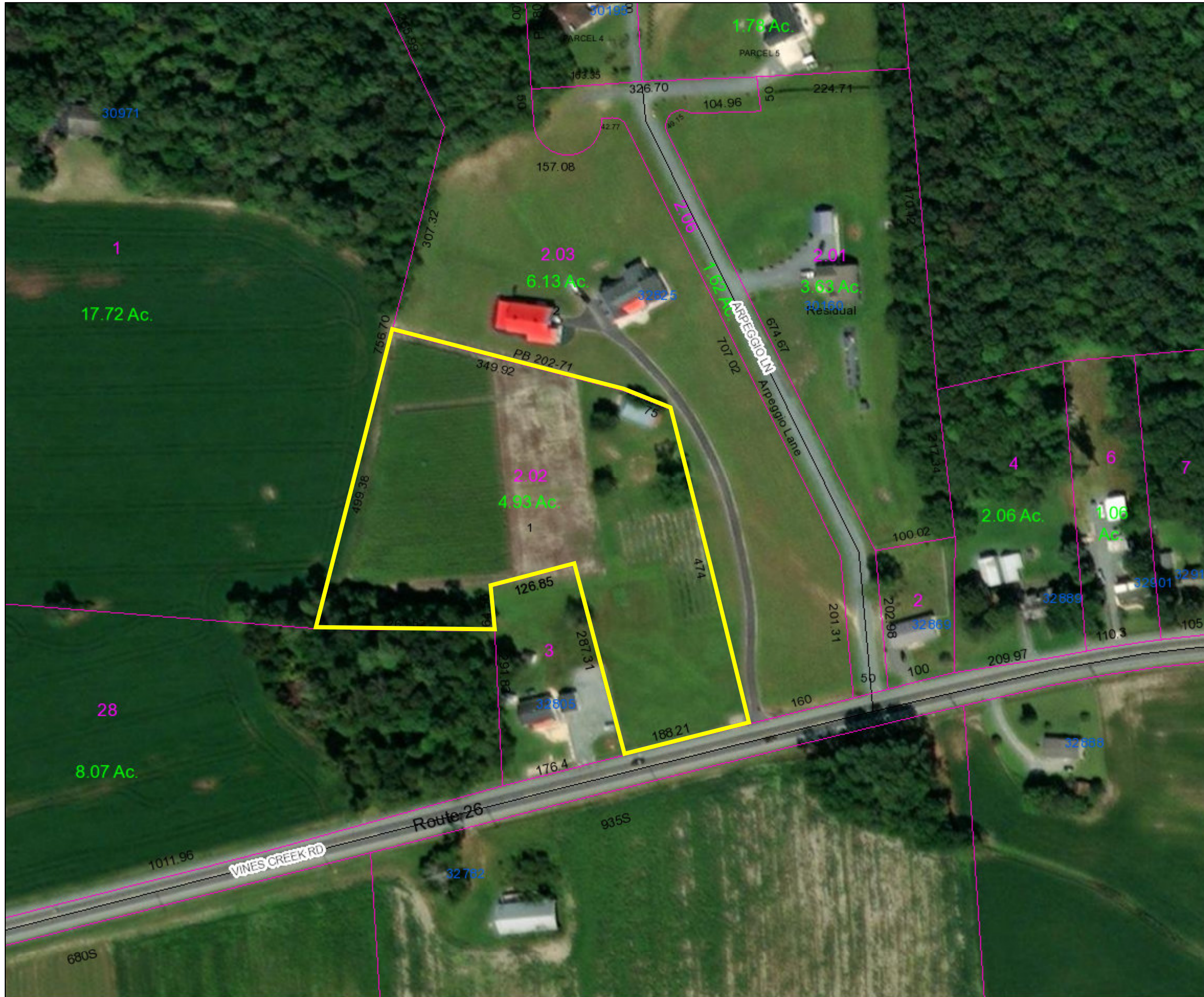
Based on the analysis provided, the Conditional Use for an events venue, subject to considerations of scale and impact, could be considered as being consistent with the surrounding land uses, zoning, and environment.



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



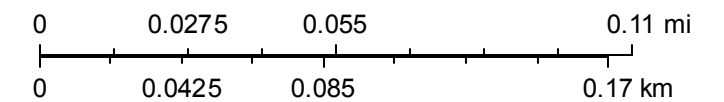
# Sussex County



<b>PIN:</b>	134-11.00-2.02
<b>Owner Name</b>	TOWNSEND CHESTER V IV
<b>Book</b>	4327
<b>Mailing Address</b>	32523 FALLING POINT RD
<b>City</b>	DAGSBORO
<b>State</b>	DE
<b>Description</b>	N/RT 26
<b>Description 2</b>	LOT 1
<b>Description 3</b>	N/A
<b>Land Code</b>	

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

1:2,257





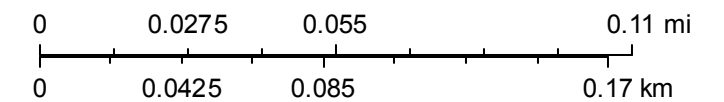
# Sussex County

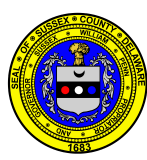


<b>PIN:</b>	134-11.00-2.02
<b>Owner Name</b>	TOWNSEND CHESTER V IV
<b>Book</b>	4327
<b>Mailing Address</b>	32523 FALLING POINT RD
<b>City</b>	DAGSBORO
<b>State</b>	DE
<b>Description</b>	N/RT 26
<b>Description 2</b>	LOT 1
<b>Description 3</b>	N/A
<b>Land Code</b>	

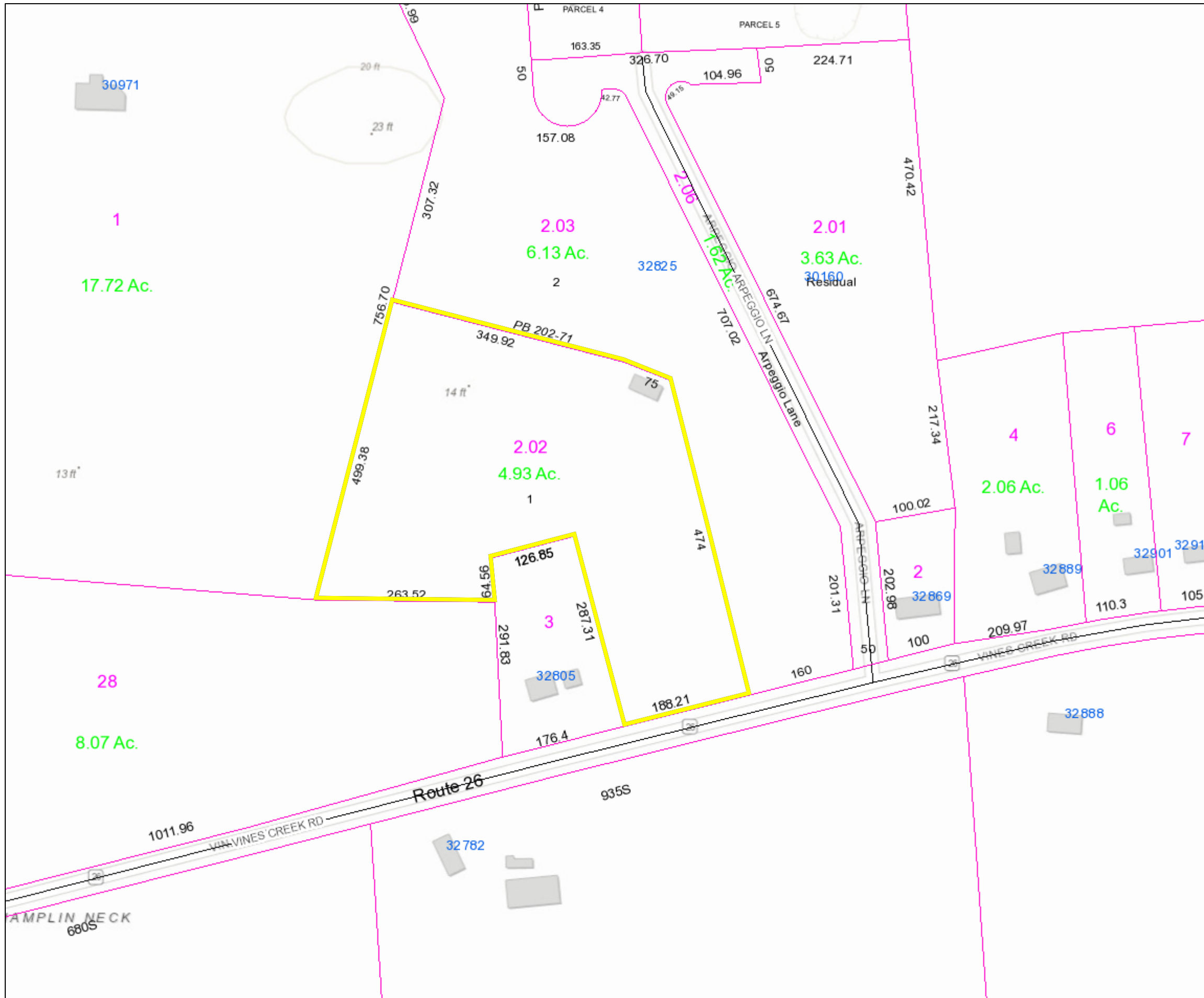
- polygonLayer  
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- polygonLayer  
 Override 1
- Tax Parcels
- 911 Address
- Streets

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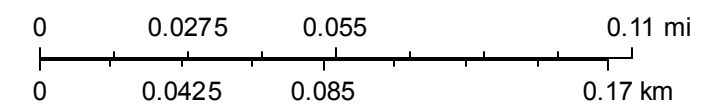
# Sussex County



<b>PIN:</b>	134-11.00-2.02
<b>Owner Name</b>	TOWNSEND CHESTER V IV
<b>Book</b>	4327
<b>Mailing Address</b>	32523 FALLING POINT RD
<b>City</b>	DAGSBORO
<b>State</b>	DE
<b>Description</b>	N/RT 26
<b>Description 2</b>	LOT 1
<b>Description 3</b>	N/A
<b>Land Code</b>	

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

1:2,257



Council District: Hudson  
Tax I.D. No. 134-11.00-2.02 & 134-11.00-3.00  
911 Address: 32859 & 32805 Vines Creek Road, Dagsboro

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENTS VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.0 ACRES, MORE OR LESS**

WHEREAS, on the 30th day of November 2020, a conditional use application, denominated Conditional Use No. 2253 was filed on behalf of Chester V. Townsend IV and Shirley D. Townsend; 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. 2253 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 IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2253 as it applies to the properties hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tracts, pieces or parcels of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the north side of Vines Creek Road (Rt. 26), approximately 0.20 mile east of Sandy Landing Road (S.C.R. 342), and being more particularly described in the attached deeds prepared by the Law Office of Susan Pittard Weidman, P.A., said parcels containing 6.0 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  
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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 27, 2021

RE: County Council Report for CU 2256 filed on behalf of Jerry Micklejohn, LLC

---

The Planning and Zoning Department received an application (CU 2256 filed on behalf of Jerry Micklejohn, LLC) for a Conditional Use for parcel 533-5.00-86.00 for hardscaping, outdoor living construction and a commercial business at 32252 Frankford School Road, Frankford. The property is within the Agricultural Residential (AR-1) Zoning District. The parcel size is 6.65 acres +/-.

The Planning and Zoning Commission held a public hearing on July 22, 2021. At the meeting of August 12, 2021 the Commission recommended approval of the application for the 4 reasons and subject to the 14 recommended conditions outlined within the motion (included below).

Below are the draft minutes from the Planning & Zoning Commission meeting of July 22, 2021 and the draft minutes from the Planning & Zoning Commission meeting of August 12, 2021.

Draft Minutes of the July 22, 2021 Planning & Zoning Commission Meeting

### C/U 2256 Jerry Micklejohn, LLC

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR HARDSCAPING, OUTDOOR LIVING CONSTRUCTION AND A COMMERCIAL BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.65 ACRES, MORE OR LESS.** The property is lying on the south side of Frankford School Rd. (S.C.R 92) approximately 0.37 mile east of McCary Road (S.C.R. 385). 911 Address: 32252 Frankford School Road, Frankford. Tax Parcel: 533-5.00-86.00

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the staff analysis, a copy of the DelDOT Service Level Evaluation Response, a copy of a letter that has been received



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

from Sussex County Engineering Department Utility Planning Division, a copy of the Applicant's exhibits, a copy of the property survey, there have no comments and no mail returns.

The Commission found that Ms. Mackenzie Peet, Esq. was present on behalf of the Application, Jerry Micklejohn, LLC; that also present is Mr. Jerry Micklejohn, who is the member and owner of the hardscaping outdoor living construction and commercial business and operation serving Sussex County for the past nine years; that the Applicant request a Conditional Use to Sussex County Zoning Code Section 115-22 for operation of the Applicant's business; that when the Application was made the property was advertised as being 6.6-acres more or less; that the property is currently five acres more or less as a result of a subdivision of land on the other side of the ditch that runs across the property; that the proposed use will occupy 1.5-acres of the five acre parcel; that the Applicant received three notices of violation related to the operation of his business on March 6, 2020 including running his business on the site in the AR-1, Agricultural Residential District, installing a fence without a building permit and storage of vehicles on unapproved property; that the Applicant did apply for and received a permit for the fence; that the Applicant now seeks a Conditional Use to remedy the operation of his business on the site; that Mr. Lester Shaffer, Sussex County Constable, has been notified that the Applicant is applying for the Conditional Use and will make sure the proposed conditions of approval address the Applicant's vehicle violation; that all surrounding properties are also zoned in the AR-1 Zoning District; that all structures are located within the property setbacks; that the property meets minimum lot requirements; that the 2018 Sussex County Comprehensive Plan and Future Land Use Map designates the property as being in the Coastal Area with all surrounding properties being the same; that the Coastal Area recognized appropriate commercial development, such as the Applicant's business use; that since 1971 there have been 12 conditional use applications within a one mile radius of the property; that nine of the applications were approved, two withdrawn and one pending; that the approved Conditional Uses consist of two more intensive uses which are a barrow pit and poultry house; that in a memorandum, Nick Torrance, Planning and Zoning Planner stated that the proposed use could be considered as consistent with the land use, area zoning and surrounding areas; that DelDOT's Service Level Evaluation stated the traffic impact to be insignificant and that a Traffic Impact Study (TIS) was not required; that pictures of the site were submitted at the Public Hearing as they were failed to be included beforehand; that there is a gravel driveway that leads to a 5,000 sq. ft. pole barn located in the rear of the property; that the pole barn is used to store material needed for the Applicant's business; that there is a gravel parking area two dump trucks are stored and also used for additional onsite parking; that there is also an area near the pole barn and parking area to store pavers, stone and dirt used in the operation of the Applicant's business; that the storage area is kept in a neat and presentable appearance; that there is an existing fence on the one side of the existing use; that the Applicant does plan to install more fencing around the existing use in the future for privacy screening; that the Applicant's business operates Monday through Saturday; that the hours of operation are 7:00 am to 7:00 pm with some variation in hours as a result of weather; that the Applicant has two six wheeled dump trucks, three to five trailers and three to five trucks located on site at any given time depending on if repairs are needed; that the Applicant has no employees and solely works with subcontractors on the jobs that he performs; that the subcontractors drive to the site in the morning for materials and return at the end of the business day; that is creates minimal traffic to and from the site; that there is a dumpster on site where waste is disposed; that waste is picked up and removed from the site weekly and the Applicant is interested in installing a sign within the perimeters of the Sussex County Code.

Ms. Wingate questions if any hazardous material will be stored on-site, if there would be any noise or work done outside and if anyone lived in the house in the front of the property.



Ms. Peet states no hazardous material will be stored onsite; that no manufacturing that will create noise will be done on-site; that no manufacturing on-site is listed as a proposed condition; that a tenant is living on the property to the front of the Applicant's property; that the Applicant has a very good relationship with the current tenant; that there has been no correspondence with the owner of the property; that there have been multiple correspondences with the current tenant on the property who has no issue with the proposed Application and that the requested use is set back away from the tenant's property.

Mr. Hopkins questioned how long the Applicant has been at the current location, hours and days of operation, and sign preferences.

Mr. Jerry Micklejohn stated he purchased the property three years ago; that he built the building approximately one year after purchasing the land; that he did not begin to utilize the property until the beginning of 2020; that he did obtain a building permit for the pole building; that the property was a bit unorganized when Constable Shaffer came to visit the site; that he has since organized the area, completed the site work placing gravel around the whole area; that he is attempting to get the area as usable as possible with his building acting as a buffer; that he has created two dirt berms that have not yet been planted; that once the berms are planted they should naturally buffer the building; that he does own a skid steer that will load material occasionally; that this is the loudest operation that would be performed onsite and the area is mostly an area for storage of equipment and other materials for operations; that he normally begins work at 7:30 am and typically finishes at 5:00 pm; that he request days of operation to be Monday through Saturday with the exception of snow removal and he does prefer a lighted sign.

The Commission found that Mr. Vic Bartell spoke in opposition to the Application; that his property borders the Applicant's property; that he did have opposition to the Application until hearing the presentation; that his main concern is that Frankford School Rd. is a very rural road being only 17-ft. wide, not stripped with tax ditches on both sides; that it is a major road for cyclist; that he is concerned if the Applicant decides to grow with the commercial use application the vehicle traffic will increase with heavy-duty trucks using the road without road improvements; that he feels like this will become a safety and traffic hazard and the road is not designed for the Applicant's type of business.

Mr. Wheatley stated that in the proposed conditions the limit of the operations of the Conditional Use will be for only 1.5 acres; that a site plan will have to be submitted; that he will have to abide by any DelDOT requirements and the road issues fall under DelDOT.

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

Upon there being no further questions, Chairman Wheatley closed the Public Hearing.

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

In relation to Application C/U 2256 Jerry Micklejohn, LLC, Motion by Ms. Wingate to defer action for further consideration, seconded by Ms. Stevenson, and carried unanimously. Motion carried 4-0.

Draft Minutes of the August 12, 2021 Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since July 22, 2021.

Ms. Wingate moved that the Commission recommend approval of C/U # 2256 for Jerry Micklejohn, LLC for hardscaping and outdoor living construction business based upon the record made during the public hearing and for the following reasons:

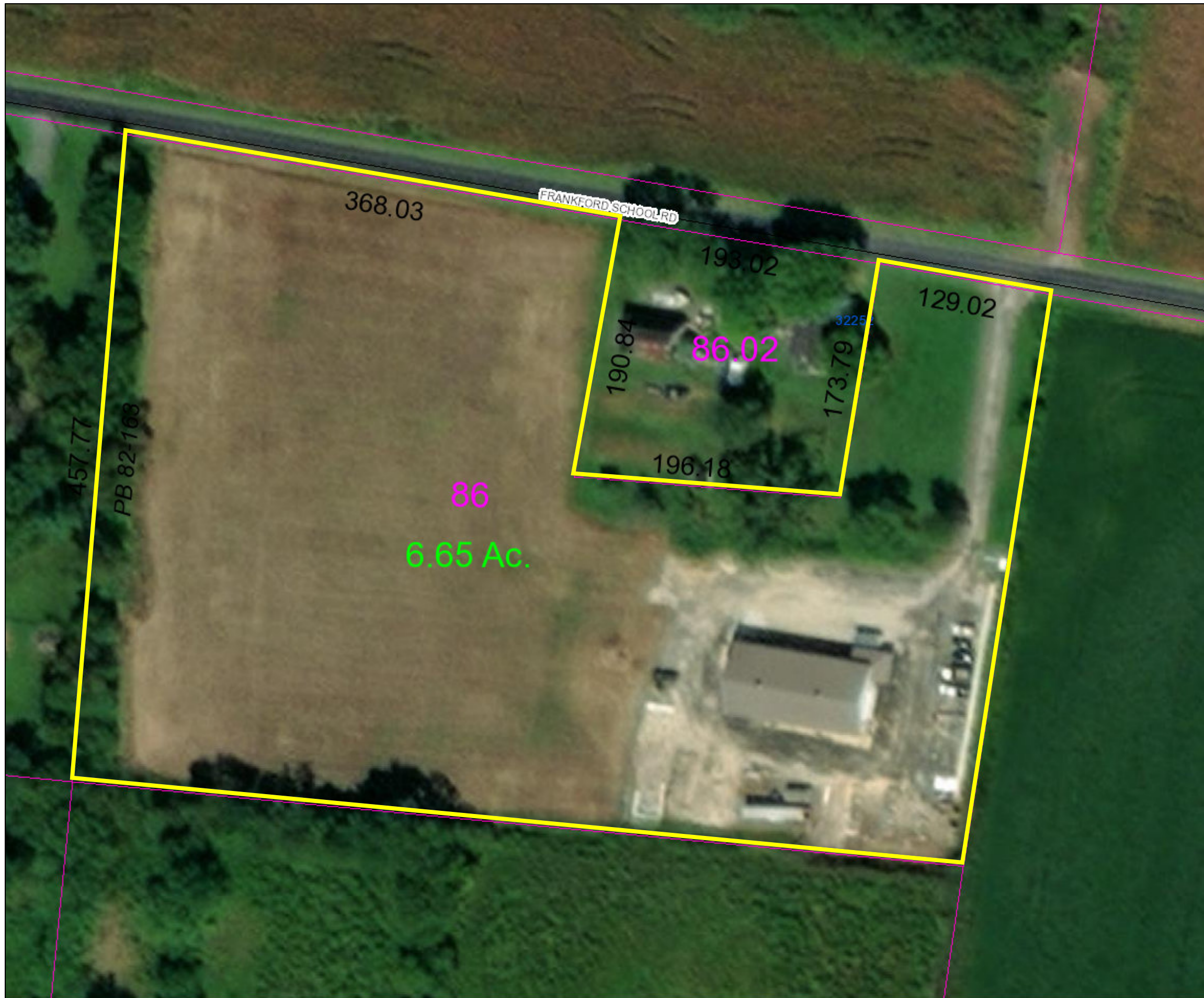
1. The property is located on a 6.65-acre parcel that is zoned AR-1 and it is surrounded by properties that have a similar size. This conditional use will occur within a 1.5 acre portion of the property. This is an appropriate location for this limited type of use.
2. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. The Coastal Area is a Developing Area according to the Plan. This type of small-business use is appropriate within this Area.
3. The use will not adversely affect area roadways or neighboring properties.
4. The 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. This recommendation is subject to the following conditions:
  - a. The use shall be limited to the hardscaping and outdoor living construction business proposed by the Applicant, and the storage of equipment and materials associated with that use.
  - b. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.
  - c. As stated by the Applicant, there shall not be any retail sales occurring from the site.
  - d. The hours of operation shall be limited to 7:00 am through 7:00 pm, Monday through Saturday. There shall not be any Sunday hours. The Applicant shall be able to operate beyond these hours on an as - needed basis for limited situations such as snow removal, storm damage cleanup, and similar events.
  - e. The on-site storage of stone, dirt, pavers, and similar materials associated with the use shall be in bins or enclosures. The location of these storage areas shall be shown on the Final Site Plan.
  - f. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
  - g. The applicant shall comply with all DeIDOT requirements, including any entrance or roadway improvements.
  - h. 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.
  - i. One lighted sign shall be permitted. It shall be no larger than 32 square feet on each side.
  - j. The dumpster locations shall be shown on the Final Site Plan.
  - k. Before Final Site Plan approval occurs, the Applicant shall clean up the property and remove any inoperable trucks, trailers, or vehicles. No junked, unregistered, or permanently inoperable vehicles trucks, or trailers shall be stored on the site.

- l. The Applicant shall install privacy fence around the 1.5-acre portion of the property. The location and type of fencing shall be shown on the Final Site Plan.
- m. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.
- n. The Final Site Plan shall depict the 1.5 acre are of this approved conditional use. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried to recommend approval of C/U 2256 for Jerry Micklejohn, LLC for the reasons and conditions stated in the motion. Motion carried 4 – 0.

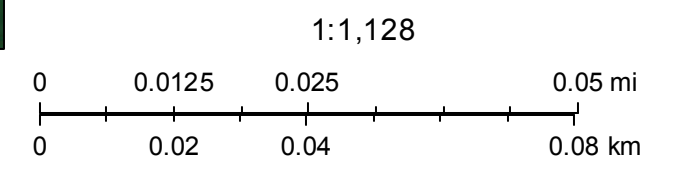


# Sussex County



<b>PIN:</b>	533-5.00-86.00
<b>Owner Name</b>	MEIKLEJOHN JERRY TTEE REV TR
<b>Book</b>	5446
<b>Mailing Address</b>	30622 SANDY LANDING RD
<b>City</b>	DAGSBORO
<b>State</b>	DE
<b>Description</b>	S/RT 92
<b>Description 2</b>	N/A
<b>Description 3</b>	N/A
<b>Land Code</b>	

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



**PLANNING & ZONING COMMISSION**

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



**Sussex County**

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

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**

Planning Commission Public Hearing Date: July 22<sup>nd</sup>, 2021

Application: CU 2256 John Micklejohn LLC

Applicant: Jerry Micklejohn LLC  
30622 Sandy Landing Road  
Dagsboro, DE 19939

Owner: Jerry Micklejohn  
30622 Sandy Landing Road  
Dagsboro, DE 19939

Site Location: Lying on south side of Frankford School Rd. (S.C.R 92) approximately  
0.37 mile east of McCary Road (S.C.R. 385)

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

Proposed Use: Hardscaping, Outdoor Living Construction and a Commercial Business

Comprehensive Land  
Use Plan Reference: Coastal Area

Councilmanic  
District: Mr. Rieley

School District: Indian River School District

Fire District: Roxana Fire Department

Sewer: Septic

Water: Well

Site Area: 6.65 acres +/-

Tax Map ID.: 533-5.00-86.00



JAMIE WHITEHOUSE, AICP, MRTPI  
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 Planning Commission Members  
From: Nicholas Torrance, Planner I  
CC: Vince Robertson, Assistant County Attorney and applicant  
Date: July 15<sup>th</sup>, 2021  
RE: Staff Analysis for CU 2256 Jerry Meiklejohn LLC

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This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2256 Jerry Meiklejohn LLC to be reviewed during the July 22<sup>nd</sup>, 2021 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 533-5.00-86.00 to allow for a Conditional Use of land in an Agricultural Residential (AR-1) Zoning District for hardscaping, outdoor living construction and a commercial business. The parcel is located on the south side of Frankford School Rd. (S.C.R 92) approximately 0.37 mile east of McCary Road (S.C.R. 385). The area of the site is approximately 6.65 acres +/-.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework for 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 property has the land use designation of the "Coastal Area." All neighboring properties in Sussex County's jurisdiction are also designated as "Coastal Area."

The Coastal Area land use designation recognizes that a range of housing types should be permitted in Coastal Area, including single-family homes, townhouses, and multifamily units. Retail and office uses are appropriate but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should also be allowed. It also recognizes a careful mixture of homes with light commercial, office and institutional uses can be appropriate to provide convenient services and to allow people to work close to home.

The property is within an Agricultural Residential (AR-1) Zoning District. All surrounding parcels are also zoned Agricultural Residential (AR-1).

Since 1971, there have been 12 Conditional Use applications within a one-mile radius of the application site. Of the 12 Conditional Use applications within a one-mile radius, 9 have been approved, 2 have been withdrawn and 1 is currently pending.

Since 1971, there have been no other applications located on this tax parcel.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow for hardscaping, outdoor living construction and a commercial business, subject to considerations

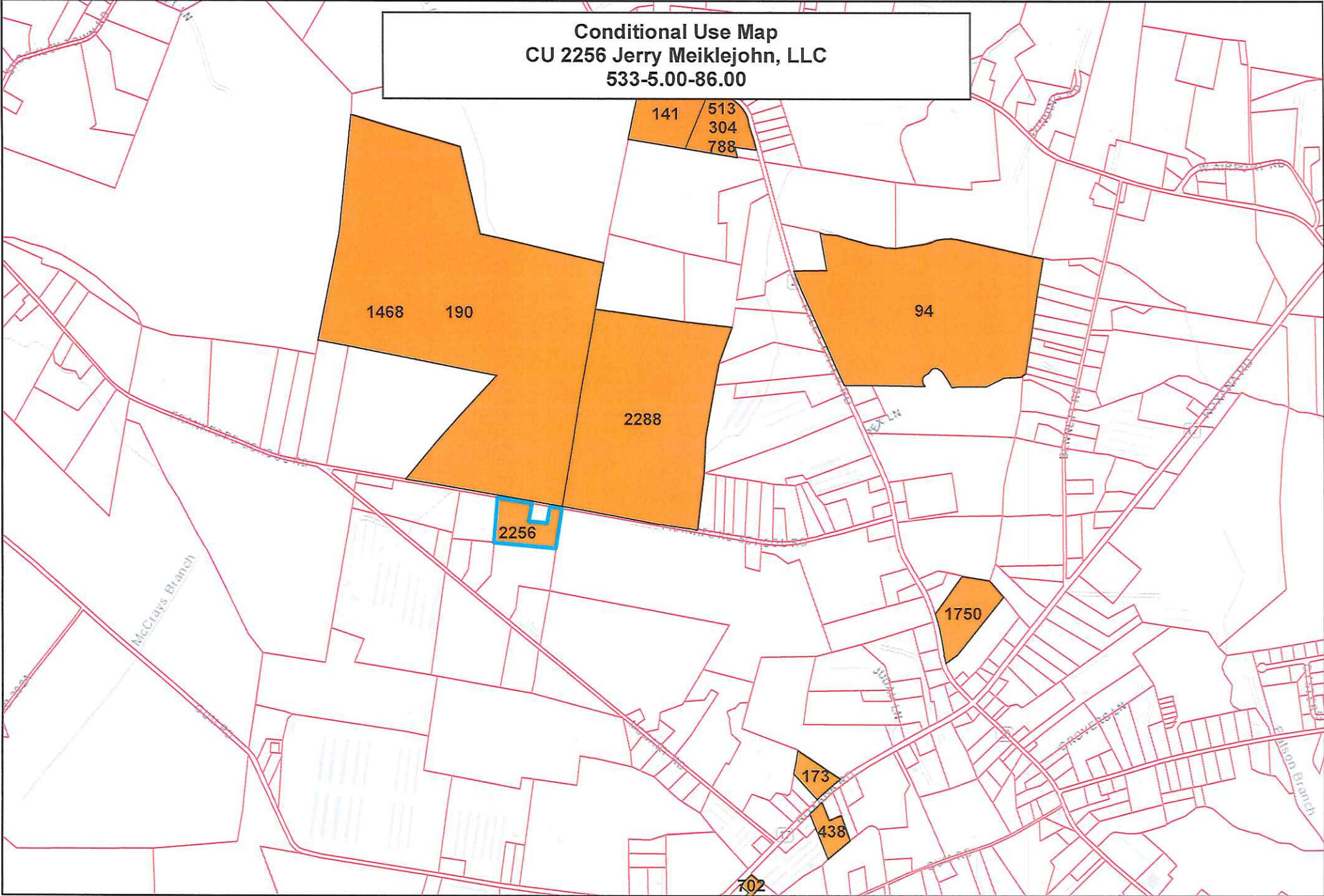


of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.



# Sussex County

Conditional Use Map  
CU 2256 Jerry Meiklejohn, LLC  
533-5.00-86.00

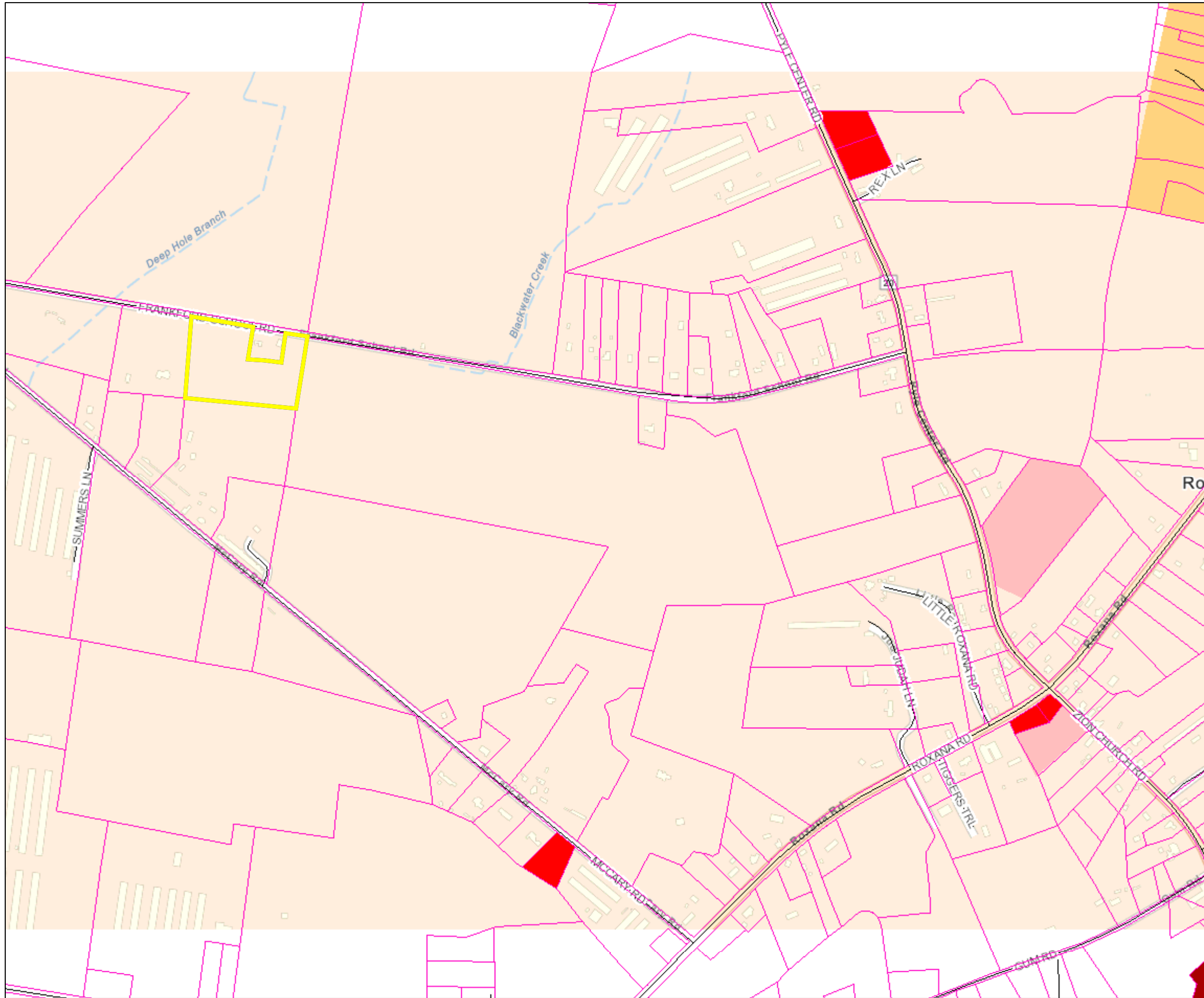




CU #	Tax Parcel	APPLICANT	Zoning	Proposed Use	P&Z Recommendation	P&Z Recommendation Date	CC Decision	CC Decision Date
94	533-5.00-67.00	C S Holder	AR-1	manufactured home park	N/A	<Null>	Approved	<Null>
141	533-5.00-62.00	Edward W Pyle Estate	AR-1	medical service center	N/A	<Null>	Approved	<Null>
173	533-5.00-81.00	Janice L. Bunting	AR-1	beauty shop	N/A	<Null>	Approved	<Null>
190	533-5.00-46.00	Brasford Service Corp	AR-1	Borrow Pit	N/A	<Null>	Approved	3/12/1974
304	533-5.00-63.00	Blue Willow Gift Shop	AR-1	shop for sale of gifts, antiques, gard & patio furnishings, flower arrangements & the like	N/A	<Null>	Approved	12/9/1975
438	533-10.00-51.00	Jessie E Bivens	AR-1	poultry house on less than 5-acres	N/A	<Null>	Approved	<Null>
513	533-5.00-63.00	Elizabeth Rogers Atkinson	AR-1	Wedding Mall	N/A	<Null>	Approved	1/16/1979
702	533-10.00-49.01	Judy Rogers & Asher	AR-1	beauty shop	Withdrawn	<Null>	Withdrawn	<Null>
788	533-5.00-63.00	Elizabeth Rogers Atkinson	AR-1	amend CU 513	Withdrawn	<Null>	Withdrawn	<Null>
1468	533-5.00-46.00	Lane N. Brown	AR-1	playing area for paintball games	Recommended Approval	11/14/2002	Approved	12/10/2002
1750	533-6.00-25.01	John Gilman	AR-1	Athletic Fields	Recommended Approval	10/23/2008	Approved	10/28/2008
2256	533-5.00-86.00	Jerry Meiklejohn LLC	AR-1	Hardscaping, Outdoor Living Construction, and Commerical Business	<Null>	<Null>	<Null>	<Null>
2288	533-5.00-47.00	Broom Solar Partners	AR-1	Solar Farm	<Null>	<Null>	<Null>	<Null>



# Sussex County



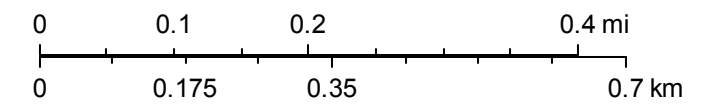
<b>PIN:</b>	533-5.00-86.00
<b>Owner Name</b>	MEIKLEJOHN JERRY TTEE REV TR
<b>Book</b>	5446
<b>Mailing Address</b>	30622 SANDY LANDING RD
<b>City</b>	DAGSBORO
<b>State</b>	DE
<b>Description</b>	S/RT 92
<b>Description 2</b>	N/A
<b>Description 3</b>	N/A
<b>Land Code</b>	

- polygonLayer**

  - Override 1
- polygonLayer**

  - Override 1
- Tax Parcels
- Streets

1:9,028





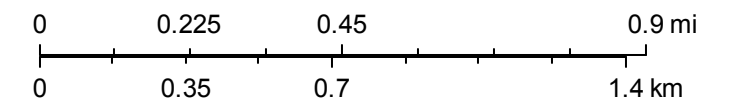
# Sussex County



<b>PIN:</b>	533-5.00-86.00
<b>Owner Name</b>	MEIKLEJOHN JERRY TTEE REV TR
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<b>State</b>	DE
<b>Description</b>	S/RT 92
<b>Description 2</b>	N/A
<b>Description 3</b>	N/A
<b>Land Code</b>	

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

1:18,056



Introduced 02/16/21

Council District 5: Rieley  
Tax I.D. No. 533-5.00-86.00  
911 Address: 32252 Frankford School Road, Frankford

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR HARDSCAPING, OUTDOOR LIVING CONSTRUCTION AND A COMMERCIAL BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.65 ACRES, MORE OR LESS**

WHEREAS, on the 16th day of December 2020, a conditional use application, denominated Conditional Use No. 2256 was filed on behalf of Jerry Meiklejohn LLC, and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2256 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 IV, Subsections 115-22, of the Code of Sussex County, be amended by adding the designation of Conditional Use No. 2256 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on south side of Frankford School Road (S.C.R. 92) approximately 0.37 mile east of McCary Road (S.C.R. 385) and being more particularly described in the attached legal description prepared by D. Stephen Parsons, P.A., said parcel containing 6.65 acres, more or less.

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

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



**Sussex County**

DELAWARE  
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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 27, 2021

RE: County Council Report for CU 2248 filed on behalf of Gulfstream Development, LLC

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The Planning and Zoning Department received an application (CU 2248 filed on behalf of Gulfstream Development, LLC) for a Conditional Use for parcel 134-16.00-382.00 for multi-family (19 units). The property is within the General Residential (GR) Zoning District and is located on the northwest corner of Parker House Road (S.C.R. 362) and Muddy Neck Road (S.C.R. 361). The parcel size is 3.93 acres +/-.

The Planning and Zoning Commission held a public hearing on July 22, 2021. At the meeting of August 12, 2021 the Commission recommended approval of the application for the 7 reasons and subject to the 16 recommended conditions outlined within the motion (included below).

Below are the draft minutes from the Planning & Zoning Commission meeting of July 22, 2021 and the draft minutes from the Planning & Zoning Commission meeting of August 12, 2021.

Draft Minutes of the July 22, 2021 Planning & Zoning Commission Meeting

### **C/U 2248 Gulfstream Development, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (19 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.93 ACRES, MORE OR LESS.** The property is lying on the northwest corner of Parker House Rd. (S.C.R 362) and Muddy Neck Rd. (S.C.R 361). 911 Address: N/A. Tax Parcel: 134-16.00-382.00



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

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the Applicant's exhibit book, which includes a copy of a Wetland Delineation Report and a Conceptual Site Plan, a copy of PLUS comments received from the State Planning Office, and the Applicant's response to the comments, a copy of the DelDOT Service Level Evaluation Response, a copy of staff analysis, a copy of a letter received from Sussex County Mapping and Addressing Department, a copy of the Applicant's environmental assessment, a copy of a letter received by Tidewater Utilities, Inc., 12 letters of support and 11 letters of opposition.

The Commission found that Mr. Jeff Clark spoke on behalf of the Applicant, Gulfstream Development, LLC; that also present were the Applicant, Mr. Robert Harris and Mr. Ronald Sutton; that the parcel of land was subject to a previous application C/Z 1895 and C/U 2195 for Kent Apartments in October 2019; that both C/Z 1895 and C/U 2195 were approved; that the current Application proposes a totally different land use for approval; that the site is 3.93-acres; that it sits at the intersection of Parker House Rd. and Muddy Neck Rd.; that the parcel is located just outside the municipal Ocean View town limits; that the entire property is zoned GR – General Residential; that it is currently owned by Gulfstream Development, LLC; that surrounding the site is a mixture of residential developments, including a manufactured home subdivision, a multi-family townhouse community with commercial uses across the street from the property; that to the north of the site is the existing, fully developed, Providence community which is zoned HR-1 High Density Residential; that there are seven three-story multi-family building with a total of 49 homes immediately adjacent to the proposed Kent Village project and existing Shady Dell Park subdivision; that to the south and west of the Shady Dell Park subdivision is a single-family mobile home subdivision consisting of both single-wide and double-wide mobile homes with some stick built homes dispersed throughout the development in a GR General Residential zone; that to the east across Muddy Neck Rd., directly across from the development, is a seasonal produce stand and an older single-family residence on a large rural lot which is presently zoned AR-1 Agricultural Residential; that south-east of the development is the commercial Melson's Funeral Home property with a large parking lot in a B-1 Neighborhood Business District; that a field investigation was conducted by Mr. Jim McCulley with Watershed Eco; that investigation found no jurisdictional wetlands; that it did identify a small section of femoral ditch to the western portion of the site; that under current U.S. Army Corps of Engineers regulations, that were amended in June 2020, the femoral ditch is no longer jurisdictional; that there was no rare or endangered species found during the field investigation; that in the predesign phase it was found that an existing eight inch Sussex County Sanitary Sewer Level had been extended into the property from Mimosa St., within the Shady Dell Park subdivision; that the Sussex County Engineering Department has confirmed out of the capacity exist to accommodate the proposed land use; adequate potable and fiber texture water supplies is available to serve the project as designed from an existing 12-in. water main running on the east side of Muddy Neck Rd.; that there is a letter from Tidewater Utilities stating this; that the Applicant requests a Conditional Use to develop the site following the Sussex County requirements for multi-family dwellings; that the preliminary land use plan for Kent Village is a total of 19 separate detached single-family homes; that the homes are arranged in groups of two to three; that each home is separated from its neighbor by 15-ft.; that each group of homes are separated by at least 40-ft. per Sussex County Code; that the project is being developed by the same developer as previous Conditional Use project, Salt Air, located in Ocean View; that Salt Air was approved in September 2018; that the architecture and building types in that project are identical to the proposed project; that the site meets the Fire Marshal fire protection and emergency

access requirements; that the driveways and parking area space meet the Sussex County Code requirements with additional vehicle parking spaces to accommodate guests; that off-street parking is available, allowing two vehicles in the driveways and two vehicles under the houses, as the homes are on pilings; that the total is 89 parking spaces for the 19 home community; that there is a single commercial entrance plan off of Muddy Neck Rd. to align with an existing subdivision street called Butler Blvd. per DelDOT's recommendation; that DelDOT stated in both the PLUS comments and Service Level Evaluation that the proposed plan will generate fewer than 50 vehicle trips in any hour, fewer than 500 trips daily and will not require a Traffic Impact Study (TIS); that DelDOT characterized the Traffic Impact as negligible; that DelDOT will require the developer to improve both Muddy Neck Rd. and Parker House Rd. along the entire site frontage; that the project was review in October 2020 by the Office of State Planning Coordination in the PLUS process; that the site resides in Investment Levels 1 and 2; that the Kent Village is an infill project; that the PLUS comments from the State Historical and Preservation Office confirmed there is very low archeological and historical potential; that in the PLUS comments DNREC agencies encouraged the use of green stormwater management technologies; that interior landscaped areas will be planted in coordination to a detailed plan to be prepared by the project landscape architect which would be part of the final site plan; that Kent Village will become a condominium; that all common areas will be maintained collectively by vendors hired by the association; that trash collection will be by single-hauler containers; that each home will have its own container to be kept underneath of the home; that no street lighting is proposed; that all exterior lighting is on the homes themselves and will be directed downward; that in the GR Zoning District multi-family structures when permitted may be developed in a lot area of 3,630 sq. ft. each; that this would equal to 12 units per acre or potentially 47 homes on this project where only 19 homes are proposed; that the Kent Village proposal is consistent with the adjoining land uses in the area zoning; that the proposal will not have an adverse impact on traffic, roadways, neighboring properties or communities; that the proposed project has been planned in accordance with the 2018 Comprehensive Plan and Future Land Use Map; that the property is located in the Coastal area where medium & higher density can be appropriate when there are central water and sewer, commercial uses and employment centers and keeping in characteristics of the area; that the Comprehensive Plan states that a range of housing types should be permitted in the Coastal area; that this includes single-family homes, town homes and multi-family units and given the surrounding areas of Ocean View, Millville and Bethany Beach, there is an abundance of services, markets and employment available to the future residents.

The Commission found that Mr. Ronald Sutton also spoke on behalf of the Application, Gulfstream Development, LLC; that he is a professional engineer with Civil Engineering Associates; that in accordance with DelDOT the developer must improve Muddy Neck Rd. and Parker House Rd.; that the right-of-way required both streets to be 40-ft.; that the current right-of-way on Parker House Rd. is 50-ft.; that the developer will have to dedicate 15-ft. from the property to DelDOT; that Muddy Neck Rd. is currently 70-ft; that the developer will have to dedicated approximately five feet to DelDOT; that all measurements are taken from the centerline of the road; that the developer must improve the roads, as well as the entrance to the property; that DelDOT requires 11-ft. lanes and eight foot shoulders on both Muddy Neck Rd. and Parker House Rd.; that a 15-ft. permanent easement will be placed and a 10-ft. shared use path along the entire frontage of Parker House Rd. and Muddy Neck Rd.; that drainage flow is from west to east ending the in Assawoman Canal; that a new ditch system is proposed to be installed on the edge of the site between Providence and Kent Village that will

correct the ponding water that happens at Shady Dell Park; that the new ditch will most likely pool into the project's stormwater management systems; that by doing this it will offer better quality and quantity management for the existing water; that the proposed stormwater management system includes a wet pond and a submerged gravel wetland which are approved by DNREC; that the stormwater management system will meet or exceed DNREC's requirements; that the project will provide both quality and quantity management for the RPV, CV and FV storm events and the site's discharge rates will not exceed the current discharge rates.

The Commission found that Mr. Robert Harris also spoke on behalf of the Application, Gulfstream Development, LLC; that he is one of the owners of Gulfstream Development, LLC; that the original Application was for 45 apartments on the four acres and relatively high in density; that the current Application has changed to lower density with single-family home condominiums; that the parcel is still the same, offering the same advantages as the previous Application; that the Application is similar to the Salt Air project which was very successful; that in the early 2000's he was part of the development of Providence; that it was rezoned to HR High-Density Residential to allow mixed uses on the property and it was a very successful project; that proposed hours of construction would be 7:30 am until 7:00 pm, Monday through Friday, Saturdays 8:00 am until 5:00 pm and no construction on Sundays.

Mr. Clark submitted the proposed conditions.

Ms. Stevenson stated this location is a wet spot, that she agrees with the homes being on pilings; that she questions what the driveways will be constructed of.

Mr. Clark stated all driveways will be constructed of gravel.

The Commission found that Ms. Diana Emlet spoke in opposition to the Application; that she lives in a condo behind the proposed development; that she does agree that the proposed Application is better than the previous proposal of 45 apartments; that she questions why the proposed Application is for 19 homes and not 16 homes as approved by Sussex County Council on a previous Application; that she states a maximum number of units shall be 16; that there is a ditch that runs parallel with the Providence development and along Shady Dell Park; that she has picture of flooding and standing water in the area of the proposed homes; that the Application only proposes 10 feet of buffer; that she does not understand why she is only getting 20-ft. of buffer; that there was flooding on July 11, 2013 in the Providence area adjacent to the proposed Application; that at the same time the pond in her development of Providence the pond overflowed into the parking lot; that the current buffer is completely wooded; that she currently has 20-ft. of buffer; that the Applicant is only offering her ten feet of trees for a buffer; that the current trees absorb a lot of the areas water; that the Salt Air community only has a 10 foot buffer with a ten foot back yard; that someone in the Salt Air community placed a deck on their home creating only a 10 foot buffer; that she is concerned about the lights from the vehicles parking underneath the homes; that she would proposed that a fence boarder the communities the surround the proposed Application to stop the headlights from shining onto the adjacent property; that she is not stating the property should not be built on, but would like to find a compromise and would like more of an explanation of what will be done to the ditch along Providence.



The Commission found that Mr. John Zarck spoke in opposition to the Application; that he lives in Providence; that a year and a half ago an application went before the Commission; that the Commission stated only 16 homes would be approved and the drainage ditch must be maintained; that this was based on the testimonies regarding flooding, traffic safety, and child safety; that he does not feel anything has changed with the new proposed Application; that he feels the developer is trying to get 20% more homes in; that flooding will increase with the installation of hard surfaces; that the drainage ponds will overflow and everything will be under water; that all the letters of support he saw were from the Salt Air community; that Salt Air community is three miles away from the proposed Application and that Salt Air has a completely different situation than the proposed Application site.

The Commission found that Mr. Pat Emlet spoke in opposition to the Application; that he had written a letter of opposition for all the reasons his wife, Ms. Diana Emlet already stated; that he does have questions after hearing the presentation; that he questions if the new drainage ditch along Providence going to be part of the proposed buffer; that if the ditch is part of the buffer he will have no vegetative buffer between the drainage ditch and the property of the proposed home; that he is concerned about the flooding; that he is concerned about the proximity of the structures to his back property line; that he is concerned what is proposed will make the flooding worse on his property; that he request instead of a ten-foot buffer, the buffer be increased to a 20-ft. buffer; that the current forest and vegetation should be left alone and requests a fence much like what was placed in Salt Air.

Mr. Sutton stated that the ditch running through the property is higher in the middle of the site; that this is trapping water in the existing ditch not allowing water to flow from east to west; that this creates ponding; that eventually it will evaporate or infiltrate; that the new proposed ditch does not place the ditch on the property line, but places it on the Applicant's property; that this will allow the Applicant to pull it through, providing some additional management while directing it out to Muddy Neck Road then on to Assawoman Bay; that he believes some of the stormwater management issues on the Providence site is due to stormwater management being constructed only for the 2 and the 10 year storm; that the 100 year storm is not managed; that the proposed ditch system will not affect the Providence property the water will not be directed toward that property; that it is being directed to Muddy Neck Rd. to an existing drainage swale that is within DelDOT's right-of-way; that the water will not leave the site at any higher rate than it is currently leaving; that the flooding of Providence does not currently come on the Applicant's property; that it is Shady Dell Park that drains through the Applicant's property and with the proposed ditch there would still be room to place a fence.

The Commission found that Mr. Frederick Zappala spoke in opposition to the Application; that he lives in Providence, closest to the property line of the proposed Kent Village; that from his home to the property line there are minimal trees and mostly small scrubs; that within 10 feet there are some trees; that within 20-feet there are well-matured trees; that he would have no reservations to the Application if there was some way to protect the current buffer; that he did write a letter with concerns about flooding; that he does question the 19-units versus 16-units; that his biggest concern is the boarder and when he sits on his back deck he will be looking directly into a Kent Village resident's backyard.

The Commission found that Mr. Ted Schonbrunner spoke in opposition to the Application; that he lives in Shady Dell Park; that he did not see any sewer plans for the proposed Application; that stormwater management is the main problem in Delaware; that when reviewing the soil report on

page 78 he concluded the soils are very poor; that depending on how the grading of the proposed site goes will depend on how the property will drain; that he questions what the capacity of the ponds are; that he has questions regarding the ditch and how the water will get to the Assawoman Bay; that he questions who will be paying for the future perpetual maintenance of the stormwater management; that he would like to see elevation points of the property, how the drainage will go and the retention ponds and where they are discharging to should be shown.

The Commission found that Ms. Lori Fry spoke in opposition to the Application; that her fence is right next to the proposed Kent Village property line; that she questions if the proposed lots will have a 10-ft. or 20-ft. setback from her fence; that she requests to have a fence similar to the fence at Salt Air and requests for pine trees to the back of her property for privacy.

The Commission found that Ms. Kimberlee Cullen spoke in opposition to the Application; that she lives directly across the street; that her main concern is the retention pond closest to the road; that she feels if there is flooding this would make for dangerous driving hazards; that she questions is anything will be placed to catch any overflow from the retention pond and she mentions there is a house across the street that is not pictured in the map.

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

Upon there being no further questions, Chairman Wheatley closed the Public Hearing.

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

In relation to Application C/U 2248 Gulfstream Development, LLC, Motion by Ms. Wingate to defer action for further consideration, seconded by Ms. Stevenson, and carried unanimously. Motion carried 4-0.

#### Draft Minutes of the August 12, 2021 Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since July 22, 2021.

Ms. Wingate moved that the Commission recommend approval of C/U # 2248 for Gulfstream Development, LLC for multi-family dwelling units (19 Units) in a General Residential District based upon the record made during the public hearing and for the following reasons:

1. This application seeks the approval of 19 multi-family structures on approximately 3.93 acres. Although the units will be condominiums, they will have the appearance of single-family dwellings.
2. The property is in an area where a variety of development has occurred. Lands to the north of this property are zoned HR-RPC with a multi-family residential development. Lands to the west and south are developed under GR Zoning and there is nearby B-1 Zoning and other commercial uses. This project is consistent with these nearby uses.
3. The site is in the Coastal Area according to the Sussex County Comprehensive Plan. This type of development is appropriate in this Area according to the Plan, which states that “a range of housing types” are acceptable here, including medium and high densities when a site is near commercial uses, is served by central water and sewer, where the use is in keeping with

the character of the area and other similar factors. These types of considerations exist with regard to this site.

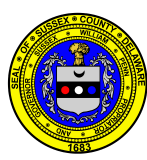
4. The proposed development will not have an adverse impact on the neighboring properties or community.
5. The project will not have an adverse impact upon traffic or roadways. DelDOT has stated that it will generate less than 50 vehicle trips per hour, and less than 500 trips per day, leading that agency to conclude that the traffic impact will be negligible.
6. The development will be served by central sewer provided by Sussex County.
7. The development will be served by central water.
8. This recommendation is subject to the following conditions:
  - a. The maximum number of residential units shall be 19.
  - b. The developer and then the condominium association shall be responsible for the perpetual maintenance of the development roadway, buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas.
  - c. All entrance, intersection, roadway and multi-modal improvements shall be completed by the developer in accordance with all DelDOT requirements.
  - d. The project shall be served by Sussex County sewer. The developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.
  - e. The project shall be served by central water to provide drinking water and fire protection.
  - f. There shall be a vegetated or forested buffer of at least 20 feet in width along the perimeter of this development. This buffer shall utilize existing forest or similar vegetation if it exists in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the "Limit of Disturbance" to prevent disturbance of the buffer area.
  - g. As stated by the Applicant, the clearing, disturbance or altering of existing vegetation shall be limited as needed to accommodate proposed construction and for the removal of dead and dying trees which pose a threat to public safety on adjacent private property. The applicant shall submit as part of the Final Site Plan a landscape plan showing the proposed tree and shrub landscape design, including the buffer areas and the forested areas that will be preserved. This Landscape Plan shall further identify all "Limits of Disturbance" within the site.
  - h. Construction activities, including site work and deliveries, shall only occur between 7:30 am and 7:00 pm Monday through Friday, and between 8:00 am and 2:00 pm on Saturdays. There shall be no construction activities at the site on Sundays. A 24 inch by 36 inch "NOTICE" sign in English and Spanish confirming these hours shall be prominently displayed at all entrances to the site during construction.
  - i. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.
  - j. The Final Site Plan shall contain the approval of the Sussex County Conversation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
  - k. Any streetlights shall be shielded and downward screened so that they do not shine on neighboring properties or roadways.
  - l. The interior street design shall meet or exceed Sussex County's street design requirements.

- m. If requested by the local school district, a school bus stop shall be provided. The location of the bus stop shall be shown on the Final Site Plan.
- n. The Final Site Plan shall include a Grading Plan for the site. No building permits shall be issued until an individual lot grading plan has been supplied to and approved by Sussex County. No certificate of occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.
- o. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.
- p. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

The Commission discussed the recommended conditions.

Ms. Wingate amended her Motion for Item H, Construction activities, including site work and deliveries, shall only occur between 7:30 am and 7:00 pm Monday through Friday. There shall be no construction activities at the site on Saturdays and Sundays. A 24 inch by 36 inch "NOTICE" sign in English and Spanish confirming these hours shall be prominently displayed at all entrances to the site during construction.

Motion by Ms. Wingate, seconded by Mr. Mears and carried to recommend approval of C/U 2248 for Gulfstream Development, LLC for the reasons and conditions stated in the motion. Motion carried 3 – 1 with Ms. Stevenson dissenting.

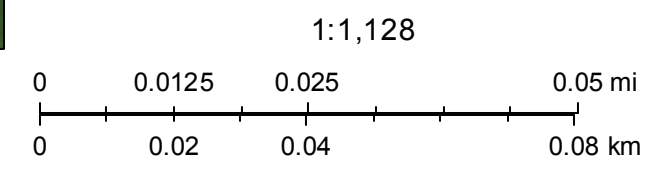


# Sussex County



<b>PIN:</b>	134-16.00-382.00
<b>Owner Name</b>	GULFSTREAM DEVELOPMENT LLC
<b>Book</b>	5028
<b>Mailing Address</b>	27 ATLANTIC AVE
<b>City</b>	OCEAN VIEW
<b>State</b>	DE
<b>Description</b>	W/RT 361 CORNER NW/
<b>Description 2</b>	RT 362 P/O MIMOSA ST
<b>Description 3</b>	
<b>Land Code</b>	

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



**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, MRTPI, AICP  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: July 22<sup>nd</sup>, 2021

Application: CU 2248 Gulfstream Development, LLC

Applicant: Gulfstream Development, LLC  
27 Atlantic Avenue  
Ocean View, DE 19970

Owner: Gulfstream Development, LLC  
27 Atlantic Avenue  
Ocean View, DE 19970

Site Location: West side of the intersection of Muddy Neck Rd (S.C.R 361) & Parker House Road (S.C.R. 362)

Current Zoning: General Residential (GR) Zoning District

Proposed Use: 19 Single-Family Condominiums

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Milville Fire Department

Sewer: Sussex County

Water: Tidewater Utilities

Site Area: 3.93 acres +/-

Tax Map ID.: 134-16.00-382.00



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# Sussex County

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sussexcountyde.gov

## Memorandum

To: Sussex County Planning Commission Members  
From: Nicholas Torrance, Planner I  
CC: Vince Robertson, Assistant County Attorney and applicant  
Date: July 15<sup>th</sup>, 2021  
RE: Staff Analysis for CU 2248 Gulfstream Development, LLC

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This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2248 Gulfstream Development, LLC to be reviewed during the July 22<sup>nd</sup>, 2021 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcels 134-16.00-382.00 to allow for a Conditional Use of land in a General Residential (GR) Zoning District for 19 single-family condominiums. The parcel is located on the west side of the intersection of Muddy Neck Rd (S.C.R 361) & Parker House Road (S.C.R. 362) in Ocean View. The area of the site is approximately 3.93 acres +/-.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework for 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 property has the land use designation of the "Coastal Area." All neighboring properties in Sussex County's jurisdiction are also designated as "Coastal Area." The municipality of Ocean View is located across Muddy Neck Road.

The Coastal Area land use designation recognizes that a range of housing types should be permitted in Coastal Area, including single-family homes, townhouses, and multifamily units. Retail and office uses are appropriate but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should also be allowed. It also recognizes a careful mixture of homes with light commercial, office and institutional uses can be appropriate to provide convenient services and to allow people to work close to home.

The property is within a General Residential (GR) Zoning District. The parcels to the south and west are also zone General Residential (GR). The parcel located to the north is zoned High Density Residential – Residential Planned Community (HR-RPC). Across Muddy Neck Road to the east are properties located in the town limits of Ocean View.

Since 1971, there have been 12 Conditional Use applications within a one-mile radius of the application site. Of the 12 Conditional Use applications within a one-mile radius, 9 have been approved, 2 have been denied and 1 was withdrawn.



Since 1971, there has been 1 Conditional Use application located on this same parcel. Conditional Use No. 2195 for 45 apartment units was approved by County Council at their meeting of December 17<sup>th</sup>, 2019 and adopted through Ordinance No. 2695.

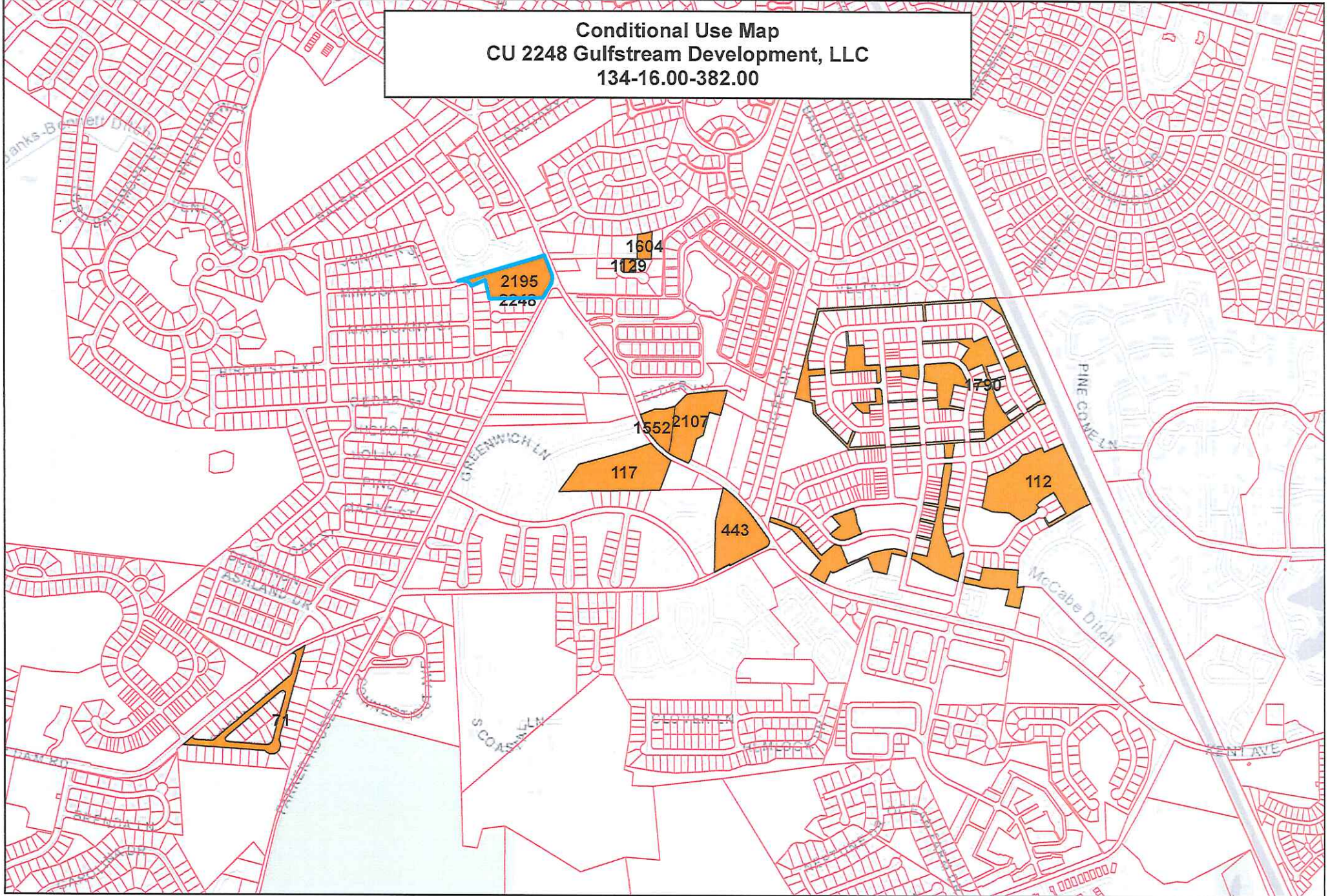
Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow for 19 single-family condominiums, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.





# Sussex County

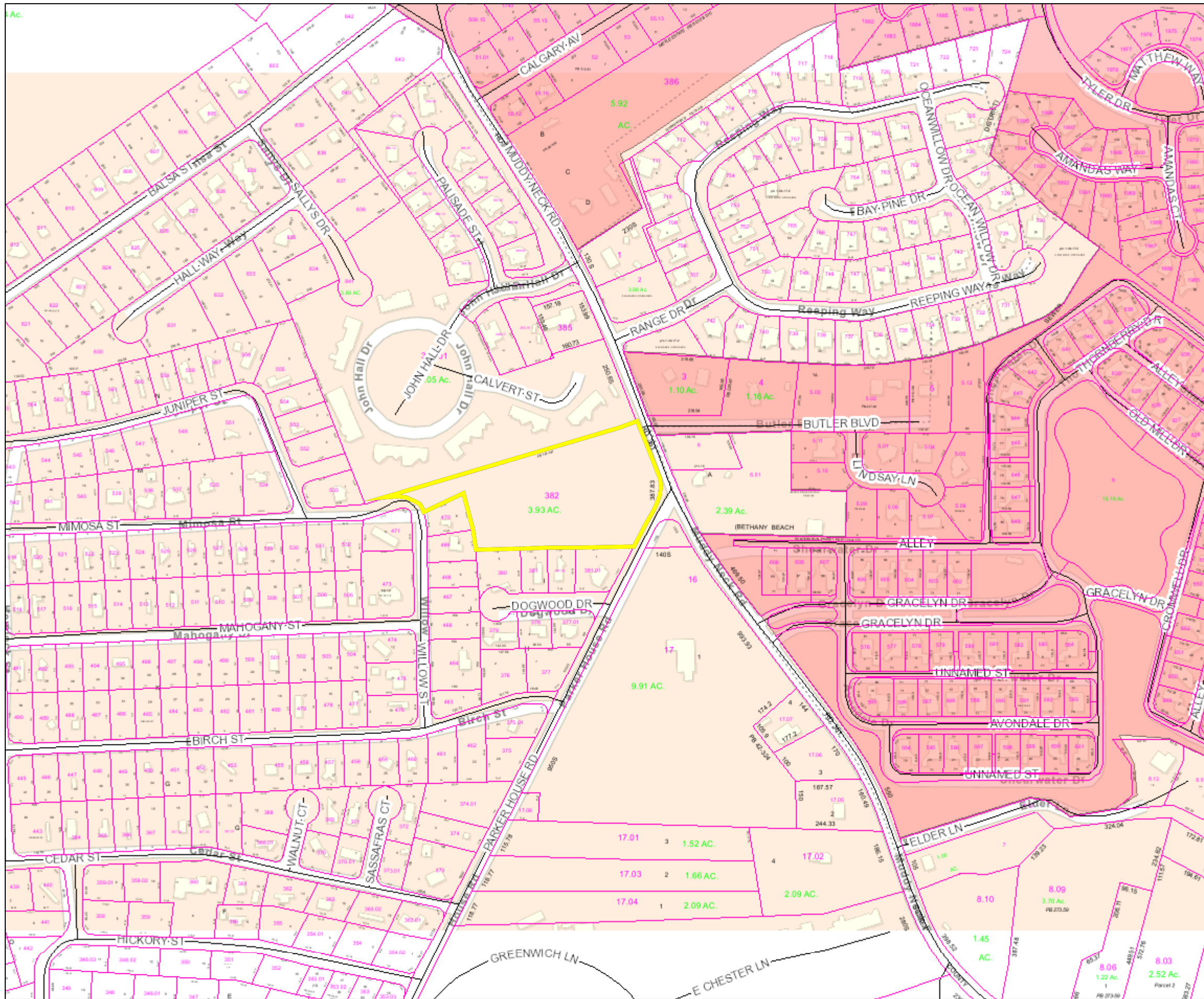
Conditional Use Map  
CU 2248 Gulfstream Development, LLC  
134-16.00-382.00



CU #	Tax Parcel	APPLICANT	Zoning	Proposed Use	P&Z Recommendation	P&Z Decision Date	CC Decision	CC Decision
71	134-16.00-50.00	Cee Bee Inc	GR	manufactured home park	N/A	<Null>	Approved	<Null>
112	134-17.00-11.00	Sea T.V. Co	AR-1	tv reception tower & headend building	N/A	<Null>	Approved	<Null>
117	134-17.00-18.00	Hayward Daisey	AR-1	barber shop	N/A	<Null>	Approved	<Null>
443	134-17.00-19.00	Donald J Cooper & Jean	AR-1	poultry house on less than 5-acres	N/A	<Null>	Approved	<Null>
993	134-13.00-47.00	John W. Cooper	AR-1	Professional Office & General Business	Recommended Approval	12/19/1991	Denied	1/21/1992
1122	134-17.00-5.01	Brice J. Butler, Jr.	AR-1	plumbing supply storage	Withdrawn	<Null>		<Null>
1129	134-17.00-5.01	Brice Butler, Jr.	AR-1	plumbing business w/related storage	Recommended Approval	8/24/1995	Approved	9/12/1995
1552	134-17.00-8.10	NCORB, LLC	AR-1	professional offices	Recommended Approval	8/19/2004	Approved	9/21/2004
1604	134-17.00-5.00	Regina A. O' Rourke	AR-1	multi-family	Recommended Approval	4/7/2005	Approved	4/26/2005
1790	134-17.00-12.00	Marthas Light. LLC (VOID)	MR	Care/Retirement Community	Recommended Approval	5/22/2008	Approved	6/3/2008
2107	134-17.00-8.09	Galbraith Development Group	AR-1	mini-storage	Recommended Approval	12/14/2017	Denied	2/27/2018
2195	134-16.00-382.00	Gulfstream Development, LLC (Kent Apartments)	GR	multi-family (45 apartment units)	Recommended Approval	10/10/2019	Approved	12/17/2019
2248	134-16.00-382.00	Gulfstream Development, LLC	GR	Multi-family (19 units)		<Null>		<Null>



# Sussex County



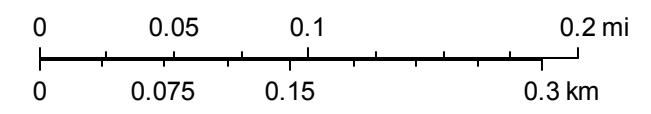
<b>PIN:</b>	134-16.00-382.00
<b>Owner Name</b>	GULFSTREAM DEVELOPMENT LLC
<b>Book</b>	5028
<b>Mailing Address</b>	27 ATLANTIC AVE
<b>City</b>	OCEAN VIEW
<b>State</b>	DE
<b>Description</b>	W/RT 361 CORNER NW/
<b>Description 2</b>	RT 362 P/O MIMOSA ST
<b>Description 3</b>	N/A
<b>Land Code</b>	

- polygonLayer**

Override 1
- polygonLayer**

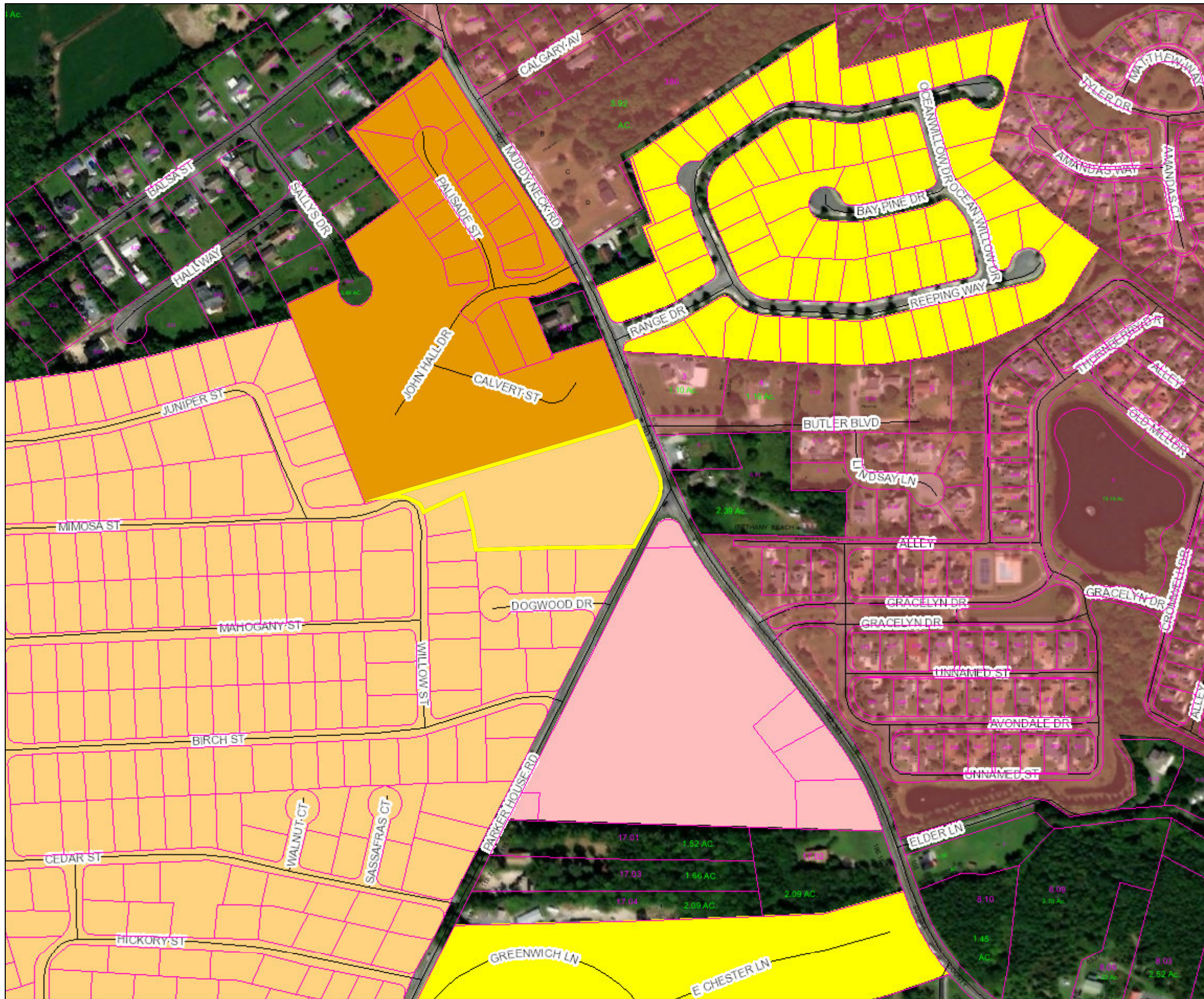
Override 1
- Tax Parcels
- Streets
- County Boundaries
- Municipal Boundaries

1:4,514





# Sussex County



<b>PIN:</b>	134-16.00-382.00
<b>Owner Name</b>	GULFSTREAM DEVELOPMENT LLC
<b>Book</b>	5028
<b>Mailing Address</b>	27 ATLANTIC AVE
<b>City</b>	OCEAN VIEW
<b>State</b>	DE
<b>Description</b>	W/RT 361 CORNER NW/
<b>Description 2</b>	RT 362 P/O MIMOSA ST
<b>Description 3</b>	N/A
<b>Land Code</b>	

**polygonLayer**

Override 1

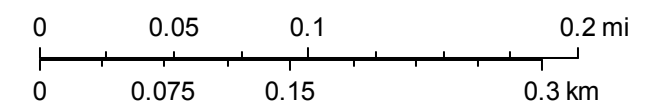
**polygonLayer**

Override 1

Tax Parcels

Streets

1:4,514



**To Be Introduced**

**Council District 4 - Hudson  
Tax I.D. No. 134-16.00-382.00  
911 Address: None Available**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (19 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.93 ACRES, MORE OR LESS**

**WHEREAS, on the 26<sup>th</sup> day of October 2020, a conditional use application, denominated Conditional Use No. 2248 was filed on behalf of Gulfstream Development, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2248 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 IV, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2248 as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the northwest corner of Parker House Road (S.C.R 362) and Muddy Neck Road (S.C.R 361) and being more particularly described in the attached legal description prepared by Parsons & Robinson, P.A., said parcel containing 3.93 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 27, 2021

RE: County Council Report for CZ 1931 filed on behalf of Lighthipe, LLC

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The Planning and Zoning Department received an application (CZ 1931 filed on behalf of Lighthipe, LLC to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a MR-RPC Medium Density Residential District – Residential Planned Community and to amend the conditions of approval of CZ 1768 (Ordinance 2411) to increase the gross site area by 5.253 acres and to increase the number of permitted units within the residential planned community. The property is lying on the north side of Muddy Neck Road [S.C.R. 361] approximately 0.52 mile southeast of Parker House Road (S.C.R. 362). The change of zone is for 56.372 acres, more or less.

The Planning and Zoning Commission held a public hearing on July 22, 2021. At the meeting of August 12, 2021, the Commission recommended approval of the application for the 10 reasons and subject to the 7 recommended conditions as outlined within the motion (included below).

Below are the approved minutes from the Planning & Zoning Commission meeting of July 22, 2021 and the draft minutes of the Planning & Zoning Commission meeting of August 12, 2021.

Minutes of the July 22, 2021 Planning & Zoning Commission Meeting

### **C/Z 1931 Lands of Lighthipe, LLC**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY AND TO AMEND THE CONDITIONS OF APPROVAL OF CZ 1768 (ORDINANCE 2411) TO INCREASE THE GROSS SITE AREA BY 5.253 ACRES AND TO**



**INCREASE THE NUMBER OF PERMITTED UNITS WITHIN THE RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 56.372 ACRES, MORE OR LESS.** The property is lying on the north side of Muddy Neck Road (S.C.R. 361), approximately 0.52 mile southeast of Parker House Road (S.C.R. 362). 911 Address: N/A. Tax Parcel: 134-17.00-12.02.

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the Applicant's exhibit book, a copy of the DelDOT Service Level Evaluation Request, a copy of the PLUS Comments, a copy of the Applicant's response to the PLUS Comments, a copy of the Ordinance 2411 from 2015, a copy of the Applicant's Chapter 99-9C response, a copy of a letter from U.S Army Corps of Engineers (USACE), a copy of the Applicant's Environmental Assessment, a copy of the staff analysis, a copy of a letter from Sussex County Engineering Department Utility Planning Division, 55 letters of opposition with some duplicates, zero letters of support and three mail returns.

The Commission found that Mr. David Hutt, Esq. spoke on behalf of the Application, Lands of Lighthipe, LLC; that also present are Mr. Spencer Van Schaack with Lighthipe, LLC and Mr. Zac Crouch, and engineer with Davis, Bowen and Friedel, Inc.; that the Application is a 5.253-acre parcel; that it is half a mile down the road from the proposed Kent Village Application; that the parcel is described as a flag parcel, that the bulk of the parcel is located between Ocean View Beach Club North and Ocean View Beach Club South; that Ocean View Beach Club North was originally known as Lighthipe; that this was the original Application which is referenced as Ordinance 2411; that the flag pole portion of the property extends out to Muddy Neck Rd.; that there will not be an entranceway place from that portion of the property; that the entranceway will come from the existing entrance with Ocean View Beach Club; that the Application Public Hearing did get pushed back and re-advertised due to referencing and mapping concerns; that Ocean View Beach Club North and South, as well as the Application parcel were previously owned by Ms. Mary Lighthipe; that Ms. Mary Lighthipe gifted all the lands to the Trustees of the Protestant Episcopal Church of the Diocese of Delaware; that over time these lands were sold to the developer; that in March 2007 the Town Council of Ocean View adopted Ordinance 214, which annexed Ocean View Beach Club South into the municipal limits of the Town of Ocean View; that as part of that the zoning was an RPC; that the initial approval included 300 residential units, consisting of 150 single-family dwellings and 150 multi-family dwellings with 1.6 acres for commercial activities; that the Applicant went through the Ocean View site plan review process; that in July 2013 the Town of Ocean View Planning Commission granted final site plan approval for the Ocean View Beach Club project which had the same number of dwelling units; that in August 2015 Ocean View Beach Club North was approved by Sussex County Council's Adoption of Ordinance 2411; that Ordinance 2411 approved the Change of Zone Application 1768; that the Change of Zone Application changed the zoning classification for 49.5 acres from AR-1 Agricultural Residential to MR-RPC Medium Density Residential – Residential Planned Community; that within the RPC there were 164 dwelling units which included 120 single-family dwellings and 44 townhome units; that on March 23, 2017 the Planning and Zoning Commission conducted a site plan review of the MR-RPC of Lighthipe, which became Ocean View Beach Club North; that there were two other requests along with the site plan review; that one request was to convert three townhome units to single-family units which was approved on March 23, 2017; that this made the makeup of the 164 dwelling units became 123 single-family dwellings and 41

townhome units on the 49.6 acres; that the 5 acres of the Application was discussed during the Public Hearings in 2015 for the original PRC; that in the Ordinance 2411 there is a reference to the discussion about the acreage in the Findings of Fact; that it noted there was a prior Conditional Use where Ocean View Beach Club North is currently; that the Conditional Use Application was for a continuing care retirement facility that the trustees had considered; that it indicated the trustees were planning to retain the 5 acres with intention of a church in the future; that no church was placed and the land was sold to Lighthiipe, LLC who has prepared the current Application; that the current Application seeks to change the zoning classification of the 5+ acres from AR-1 to MR-RPC and to modify the MR-RPC for Lighthiipe or also known as Ocean View Beach Club North so that it will include the Application's 5.25-acre parcel and increase the number of units allowed; that the request is to subtract one single-family unit and to add 21 townhome units with a total of 184 units consisting of 122 single-family units and 62 townhome units; that to the west of the property is Hunters Run Community; that to the north of the property is Ocean Way Estates; that to the east of the property is the Assawoman Canal and Sea Colony West; that to the Southeast of the property is Waterside; that to the south of the property is Clearwater; that to the west of the property is Bethany Meadows and South Hampton; that the property is currently unimproved, but used for staging during the construction of the Ocean View Beach Club Community; that the Application is in the Level 2 area in accordance with the 2020 State Strategies Map; that the Application did go through the PLUS process; that the Application falls in the Coastal Area which is part of Sussex County's seven growth areas; that there are a variety of housing types that are encouraged in the area; that single-family homes, multi-family and townhomes are specifically mentioned within the Coastal Area of the Comprehensive Plan; that due to being in the Coastal Area there is an environmental assessment report that was filed with the Application in the project notebook and Chapter 99-9C responses; that DelDOT did respond to the Service Level Evaluation request; that DelDOT indicated due to the number of trips being less than 50 in any hour and 500 in any day, a Traffic Impact Study was not required; that DelDOT considers the traffic impact to be negligible; that 4 units to the acre are permitted within the MR Medium Residential Zoning District where public water and sewer exist; that the proposed Application results in a gross density of 3.35 units per acre and a net density at 4 units per acre; that there are no wetlands on the property; that 5.2 acres of the property are located in Flood Zone X which is not within a flood plain; that there are 0.02 acre, which is along the ditch, located in the AE Flood Zone; that one of the objectives of the Application was to integrate the property into the existing RPC and to share an entrance; that there will be a comprehensive set of amenities for all of the Ocean Beach Club community; that by integrating the two parcels it will increase the overall open space; that for the 5.25-acre parcel it is proposed for 60% open space which is an increase of 3 acres for the property; that many letters of opposition stated allegations that the Applicant misled or misrepresented members of the Ocean View Beach Club regarding the future use of the proposed property; that Lighthiipe, LLC has not sold any one of the units, that have already been sold to a purchaser, to one of those individuals; that Lighthiipe LLC is the developer of the project; that there are other builders who have taken down agreements; that the builders purchase the properties from Lighthiipe, LLC, construct the homes and then sell them to the public; that allegations stating Lighthiipe, LLC has represented to them something about the proposed property, would have to be inaccurate as it would not be the correct contact point within the process; that these statements are not to absolve the developer in playing a role in the process; that in 2009 the Legislator adopted a comprehensive section in the Delaware Code; that this is known as the Delaware Uniform Common Interest Ownership Act (DUCIOA); that the purpose of the act



is to establish basic requirements for property owners; that within DUCIOA there is a Consumer Protection Provision; that it states whenever you sell a property in a common interest community that there must be disclosures made to the purchaser of the property; that the document prepared is called a Public Offering Statement which will describe features of the community, what is anticipated to be built within the community, and if the community can or cannot be expanded in the future; that the Public Offering Statement for Ocean View Beach Club, prepared by Lighthiipe LLC, stated in Section 8.09 Master Declarant Development Rights of the Public Offering Statement, the right to add additional property; that Additional Property is listed in appendix, defined as property described on Exhibit A-2; that in Exhibit A-2 contains the Meets and Bounds description of property that can be added to the Ocean View Beach Club Community; that over time the declaration was amended over time; that there was an amended and restated declaration for Ocean View Beach Club; that Section 8.09 did not change, indicating that the master declarant has the right to add additional property as it is defined in the document; that the only property left as additional property would be the proposed Application of 5.2526 acres of land; that this information comes from the Declaration for the Master Association of Ocean View Beach Club; that there are sub-associations within Ocean View Beach Club; that if the Application is approved it would be considered a sub-association; that in Section 8.09 of the Amended and Restated Declaration of Ocean View Beach Club North Fee Ownership Community document it mirrors the declaration for the Master Association indicating the declarant has the right to add additional property and additional property has the same meaning as it does in the declaration for the Master Association; that if the Application were approved the 21 townhome units would become part of the Ocean View Beach Club North Sub-Association as well as the Ocean View Beach Club Master Association; that this allows residents to have access to all amenities; that residents will be responsible for paying dues and assessments as part of the requirements of being a member of the Association; that the proposed property has always been noted as part of the additional lands; that Finding D in the Findings of Fact for Ordinance 2411 covers the proposed Application in great detail for reasons stated in the presentation; that the Planning and Zoning Commission previously referred to the 49.6 acres that make up Ocean View Beach Club North as an infill property and the Applicant would argue that this property immediately adjacent would qualify as infill property as well; that proposed conditions are to change the legal description of the MR-RPC district boundaries to include the 5.25 acres, to change the unit count to the updated unit count and all conditions of Ordinance 2411 remain in effect for the entire MR-RPC, including the additional 5.25 acres.

The Commission found that Mr. Zac Crouch spoke on behalf of the Applicant, Lands of Lighthiipe, LLC; that the project will consist of 21 townhouses; that one of the single-family homes will be removed to allow an extension of the street; that stormwater management will be located at the northern part of the site; that there is an existing ditch that runs to the west and north of the site; that sewer will be managed with the Sussex County Engineering; that Tidewater Utilities will supply water to the site; that the Applicant did receive a letter from the Town of Ocean View regarding buffers, the proximity of a road to property lines and regarding the existing ditch; that the Applicant added a 20-ft. additional buffer; that on the western part of the parcel the buffer will be a total of 40 feet; that the Applicant pulled the road back so that it was not as close to the buffer; that from the original plan the total area for the lots was 30.1147 acres, which increased to 31.771 acres and the total increase was from 49.84 acres to 54.91 acres; that the sewer will be served by an existing pump station located at the end of the parcel near Muddy Neck Rd.; that no improvements will be needed to the existing pump station; that per DelDOT, no TIS or road improvements are required and there could not be

an access lane on Muddy Neck Rd. due to electric lines overhanging the area, not allowing large vehicles to enter.

Ms. Wingate questioned the reasoning for the inability of an access road off Muddy Neck Rd., an access road running across the property line, the length of the forested buffer, and the distance between unit 1001 in relation to the lot to the left of the access road.

Mr. Zac Crouch stated the small access road running along the property line allows Sussex County access to the pump station and that no construction equipment is currently using the access; that the proposed forested buffer would be 40 feet and the distance between the lots is 15 feet, but there will also be setbacks.

Mr. David Hutt stated based on the requests from the Town of Ocean View, the blocks of homes were moved further east so that the end of the road did not come close to encroaching the setback or into the ditch area.

Ms. Stevenson questions what area the townhomes will be in according to the site plan, what type of backyard the townhomes will have, specifically the townhomes to the south, and who will be doing the building on the project.

Mr. Robertson stated the rectangles on the site plan are the property boundaries; that, unlike a condo, residents will own the lot that the townhome will be situated on; that there is a 20-ft easement, a 20-ft landscape buffer, and a 10-ft rear yard setback equaling about 50 feet of setback into the backyard.

Mr. Whitehouse stated the setbacks of the property will depend on the design of the unit but they will be required to have a setback of no less than 40 feet.

Mr. Hutt states the townhomes proposed will be the same units as the townhomes adjacent to the property and the current builder is D.R. Horton.

Chairman Wheatley questions who will maintain the development and streets, how people will get to the townhomes and he questions the impact the addition will have on the roads the HOA will be responsible to maintain.

Mr. Hutt stated that one portion of the property will fall under the Town of Ocean View with the other portion within Sussex County and the roads are private streets within the Sussex County portion.

Mr. Crouch stated the roads of the proposed Application would be maintained by the Ocean View Beach Club Homeowners Association (HOA) until you get to the jurisdiction of the Town of Ocean View and the entrance that the residents will use will run through the roads maintained by the Town of Ocean View.

Mr. Robertson stated this is a very unique Application; that on the site plan there is a dashed line that runs through the middle of the project; that the bottom half from the dashed line is under the jurisdiction of the Town of Ocean View and the top half from the dash is under the jurisdiction of Sussex County.

Chairman Wheatley states if the residents of the proposed project will be using the amenities of the existing development that he suggests that the residents should pay for that privilege through the Property Owners Association.

Chairman Wheatley questioned what the proposed construction route for construction traffic to get to the project site will be.

Mr. Hutt stated that the construction traffic would access the site the same way it currently is; that the Ocean View Beach Club HOA does not yet have maintenance responsibilities of the roads and there is high construction activity in the area; that if the Application is approved the residents will have to pay toward the maintenance of the roads and will be part of the process.

The Commission found that Mr. Maxwell Stearns spoke in opposition to the Application; that he lives on the north side of Fogland Lane; that he was told for a \$15,000 lot premium he would be given a greater setback and that the land was implausible to develop due to it being Agricultural land; that he was told the only possible use would be to build a church; that he and his wife made their decision based on these statements; that he feels this was misleading marketing; that at the HOA meeting in October 2020 the homeowners asked if there were plans to develop the lot; that the homeowners were told no at that time; that he later found out that the Application was filed in August 2020; that the project is not consistent with the character of the community; that the townhomes are 26 feet wide; that they look nothing like the surrounding homes; that the developer has the right to request rezoning but that does not make him entitled to it; that the Application is out of character with the 75% single-family homes; that the amenities will be overburdened; that the proposed Application is likely to be investment purchased and rented, with high occupancy to more than likely young adults; that the builder stated the property would not be developed; that the \$15,000 was a lot premium and a separate entry; that the lot premium was for a better lot of land, allowing an additional setback and that the proposed lot could not be developed for anything other than a church and Mr. Spencer Van Schaack stated there was no plans for development at the HOA meeting in October 2020.

Chairman Wheatley questioned if the conversation at the HOA meeting of October 2020 took place the way Mr. Maxwell Stearns had stated.

Mr. Spencer Van Schaack stated the HOA meetings run as long as Planning and Zoning Commission meetings and he cannot recall what was said at that meeting.

The Commission found that Ms. Elaine Cziraky spoke in opposition to the Application; that she does not live within the Ocean View Beach Club; that she lives in Ocean Way Estates; that she is disappointed that Ocean Way Estates was not mentioned as a neighboring community in the presentation given; that she believes the Application will adversely impact surrounding communities; that her home will have an immediate impact due to the 50-ft wide street that will come to a dead-end in her backyard; that she feels this will affect the value of her property; that within the PLUS comments DelDOT did not require a Traffic Impact Study (TIS); that the last TIS was performed in 2015 which was prior to the approval of the north section of Ocean View Beach Club in August 2015; that she presents a copy of the site plan of Ocean View Beach Club North from 2019; that the speed depicted for Muddy Neck Rd. on the site plan is 45 mph; that in 2018 the speed limit was reduced to 35 mph as a result of the Town of Ocean View Planning and Zoning Director, Mr. Ken Cimino and Chief of Police, Mr. Ken McLaughlin complaining to DelDOT about vehicular, pedestrian and bicycle safety

on the roadway; that the original Ocean View Beach Club North plan was copied from a prior plan, never being updated to reflect correct road conditions and she challenge if site plan provided is accurate; that there is a non-jurisdictional property ditch located behind her home; that there is no storm basin present; that there are swales and side ditches; that all water feeds to the rear non-jurisdictional property ditch; that the non-jurisdictional ditch then feeds to tax ditch, which then feeds to the canal which acts as the source of storm water management for Ocean Way Estates; that the original Application site plan showed a road encroaching on the ditch in multiple places; that she was the person that went to the Town of Ocean View which prompted them to write the letter that is included in the packet; that she did read the response to the Town of Ocean View letter but she disagrees that the problem is adequately solved; that the entrance to the Application is off of Muddy Neck Rd. and located within the Town of Ocean View; that Muddy Neck Rd. services a large source of traffic; that in the Department of Transportation's recommendation, they requested the developer work with DelDOT to investigate another entrance and exit for the community; that it currently is though Ocean Way Estates on Riga Dr.; that the developer responded that they would work with DelDOT on a different entrance and exit, but that it was not indicated during the presentation; that the flow of traffic onto Riga Dr. will directly impact the Ocean Way Estate residents; that Riga Dr. is already used as a shortcut off Rt. 26 to the beach; that on page 44 of the submitted packet the engineering firm stated on August 13, 2020, in the PLUS letter, that no new site access was proposed; that on May 27, 2021 the developer indicated he would work with DelDOT in exploring a new entrance and exit; that he another concern is with light pollution; that she has seen no information in respect to lighting on the submitted plan; that she states there is a comment within the PLUS packet stating there are drainage concerns in the area; that there have already been multiple drainage complaints reported to DNREC; that the response to this issue was that the developer will work with DNREC along with the Soil Conservation District to ensure offsite drainage problems are not created; that she questions what has been done to date to resolve the current drainage issues; that she called Sussex County regarding construction traffic and stock piling; that she was told a Sussex County inspector gave verbal approval that the 5-acre parcel could be used to stock piling and to use as a construction entrance; that when they connected the sewer they decided to fill in the ditch behind three homes on Ogre Dr. so that construction vehicles could access the back of the site; that filling in the ditch is a violation to the original conditions of Ordinance 2411 which states the ditch must be preserved to allow water flow; that due to the ditch being filled the area now has standing water; that surround neighbors have called the Sussex County Constable's office many times as the construction hours exceed what was approved in the conditions of Ordinance 2411; that there have been trucks that arrive at 3:00 am to deliver building supplies; that in 2015 Ocean View Beach Club North was approved under the conditions of the maximum number of units not exceeding 164; that adding the proposed 21 townhomes it will be in violation of Ordinance 2411, and will drop the approval percent to 66%; that in the original Ordinance it states that existing ditches will remain, be cleaned out and that pipes in the ditches will be cleaned out and probably enlarged; that in the Ordinance it stated that additional tot lots and trails will be installed; that she states no tot lots and trails were ever installed in Ocean View Beach Club North; that she states no tot lots or trails are shown on the approved site plan by Sussex County; that in the conditions of the Ordinance it stated the single-family homes would be built along the perimeter; that she feels by adding 21 townhomes this will no longer meet the original condition which does not allow the request for all other conditions of Ordinance 2411 to remain in effect; that the statement that 75% of the original project is required to be single-family

residential is located in Section D on page 4 of document Ordinance 2411; that the revised site plan takes the project and moves it 20 ft. to the west to remedy the ditch issue; that she states the Town of Ocean View recommended a 10-ft. clearance between the buffer of trees and the ditch due to the ditch being tidally influenced; that the proposed trees to be planted can grow from 70-100 ft.; that in time debris can fall into the ditch or the trees and may cause damage to the ditch if planted on the ditch's border; that the Town of Ocean View Planning and Zoning Director recommended there be 20 ft. forested buffer separated by 10 ft. of open space to prevent any issues from the planted trees; that she states there should be a total of 50 feet and the plan is only showing 40 feet; that by moving the project over to the west the developer had to shorten the street; that this creates an issue with Sussex County Code to off-street parking and clearance for emergency vehicles; that on the westerly side near Gooseberry Ave. the road encroached on the open space; that she feels that shifting the project has transferred a problem; that the ditch will not be preserved is there is no distance of open space between the tree line and the ditch; that now the project has created a more congested street by shortening the street; that to the right of the site plan near the 13 townhomes there was originally a 20-ft. utility easement; that the easement is not shown on the current site plan; that she states the 5 acres were originally purchased with the 49 acres; that when C/Z 1768 was approved it included the 5.25 acres in the original conditions; that at that time it was noted as residual lands to be reserved for a church; that she feels it is a scope change of a project than it is a new project; that when C/Z 1768 was approved a member of the Sussex County Council expressed concern over interjurisdictional issues; that at this time the developer stated he would annex Ocean View Beach Club North into the Town of Ocean View so that interjurisdictional issues would not be a safety concern; that this never happened due to the developer and the Town of Ocean View failing to reach an agreement; that the proposed plan does not stay in character to the other homes; that the proposed lots and more dense compared to the average lots size; that the proposed lots to not match how the other homes are intermingled and she questions why the 5 acres were never included in the Master Services Agreement.

Mr. Robertson and Chairman Wheatley stated the statement located in Section D on page 4 of Ordinance 2411 is considered a finding which is different than a condition.

Mr. Robertson stated the utility easement was only proposed and was not an existing easement.

Ms. Wingate states according to Item C of the provided paperwork that the Trustees of the Episcopal Church, except for 5.25-acre parcel with an access easement which is intended for a church in the future; that the property was originally gifted to the Trustees by Ms. Mary Lighthiipe; that the Trustees went into an agreement with Ms. Martha Lighthiipe, LLC who applied for a Conditional Use for a continuous care retirement facility; that it was proposed for buildings to be placed on the 5.25-acre parcel.

Chairman Wheatley stated he believes the intention was always to develop the parcel, that the question was what it would be developed for.

The Commission found that Mr. Richard Capalaces spoke in opposition to the Application; that in 2017 he purchased land with Ocean View Beach Club South; that he and his open greatly enjoy the open space, seeing and watching the wildlife, and if the Application is approved he will see nothing but other homes.

The Commission found that Mr. David Ammenheuser spoke in opposition to the Application; that he lives on Lot 139 in Ocean View Beach Club; that prior to purchasing his home he did extensive research; that he specifically asked about the 5.25 acres which was then owned by the Trustees of the Protestant Episcopal Church of Delaware; that as Mr. Maxwell Stearns previously stated, he was informed that the 5.25 acres would not be developed; that he also paid a premium as he was purchasing one of the better lots; that he questions where else in the surrounding neighborhoods can one find 21 homes similar to the ones proposed; that nowhere near is there 8 to 13 homes in a row; that he does not believe the proposed homes to be in character with surrounding areas; that he questions where residents will park; that his current HOA will state there is no overnight parking on the street; that he is concerned about the increased pressure on the amenities; that currently they have a pool and one tennis court for 400 homes and that he believes the addition of these homes will cause a burden to the current amenities.

Mr. Crouch stated as per Sussex County Code it is required to provide two parking spots per unit; that the proposed units will also have garages as well; that the garage is counted as one parking space and the driveway is counted as two parking spots.

The Commission found that Ms. Andrea Tyminski spoke in opposition to the Application; that she lives on Fogland Lane at Lot S145 in Ocean View Beach Club; that she purchased this lot in April 2017; that they decided to purchase after being told that the 5.25 acres would only be used for agricultural purposes or for the use of a church; that there was an easement in the original documents allowing access to the future church; that she is concerned that the proposed 21 homes are crammed onto the smallest piece of property; that there will only be one way in and one way out; that there is no other place in Ocean View Beach Club that is similar to the proposed Application; that she is concerned about the event of an emergency with the parcel being the furthest away; that within Ocean View Beach Club the majority of the homes are investment properties; that she feels these 21 homes will also be investment properties; that if the proposed homes become investment properties there will be absentee homeowners not people looking to make a community; that she has experienced a lot of rental homes, renting from 10 to 16 people per unit, with up to two to four vehicles; that she feels residents will park on Fogland Lane or Gooseberry Ave. and walk through the yards of current residents to access the property the easiest way possible; that she is concerned about the strain on the amenities; that currently there have been 263 completed homes; that she states the pool is already overcrowded due to multiple rental families using the pool with 12 to 14 people and due to this homeowners are not using their amenities because it is overwhelmed with renters.

The Commission found that Mr. Dick Jennison spoke in opposition to the Application; that he lives on Ogre Drive and not within Ocean View Beach Club; that he is concerned about the increased traffic all of which will be using the same entrance and exit on Muddy Neck Rd.; that Muddy Neck Rd. is the main road for Double Bridges Rd., Beaver Dam Rd; Parker House Rd., Woodland Ave., all of which feed into Muddy Neck Rd.; that traffic is already an issue; that the health and safety of the residents on Ogre Drive are at risk; that residents will cut through the 35 mph Muddy Neck Rd. to the 15 mph Ogre Drive and that Ogre Drive is a small residential road with no sidewalks and the inability to walk on the sides due to concrete swales; that he questions what insurance residents have that the non-jurisdictional ditch will not be filled in; that the residents on Ogre Drive critically depend

on that ditch for their storm water management and he does have a concern about the environmental impacts and the light pollution.

The Commission found that Mr. Tom McAndrews spoke in opposition of the Application; that he lives on Bennett Point Lane in Ocean View Beach Club South; that the increase of the proposed homes will have an impact on the entrance of the community; that within 120 ft. of the Ocean Beach Club entrance there is another intersection that leads to the community clubhouse and indoor pool; that on any given weekend the traffic there is backed up with vehicles, parades of people walking and bicyclist heading to the pool; that much of the pedestrian traffic is young children; that he agrees with Ms. Andrea Tyminski's complaint regarding the rental homes and the increased traffic it creates; that he is concerned about the proposed 20-ft. buffers and he states buffer placed in the past have been failures, such as dead trees.

The Commission found that Ms. Cynthia Tran spoke in opposition of the Application; that she lives near the entrance of Basic Cove Way; that she works from home and can confirm the statements regarding construction traffic and the amount of traffic in the area; that across the street from her are townhomes consisting of four buildings with three townhomes each; that none of the homeowners are full-time residents; that each townhome has a one-car garage that is hardly used; that the garages are very small making them unable to fit larger of vehicles; that the residents park in their driveways, on the street or in the small driveways between the homes and she cannot imagine where residents will park with the proposed 21 townhomes.

The Commission found that Ms. Marcia Bondroff spoke in opposition of the Application, that she is a full-time resident of Ocean View Beach Club; that she states since Memorial Day to the current date there have been 1,226 renters come through the Ocean View Beach Club clubhouse; that number is only with the current completed homes; that all the single-family and townhomes are not completed yet and she cannot imagine the increase with the additional proposed 21 townhomes on top of that; that she is concerned about increased traffic in the one-way entrance and exit; she states children are present and have run into the road and she is also concerned about emergency vehicles getting in and out of the community.

The Commission found the following people spoke by teleconference in opposition to the Application: Ms. Kristin Cziraky, Mr. Jeff Ondo, and Mr. Elliot Newman. The concerns raised were about the proposed Application not being in character with surrounding areas, increased traffic concerns, emergency vehicle access concerns, surrounding residents safety, light pollution, ditch, and stormwater management issues, and concern of the premium paid for lots with the understanding the 5.25 acres would not be developed.

Ms. Stevenson stated she would encourage everyone to look up the Sussex County Land Trust; that it is a non-profit that is in place to buy properties so that they remain undeveloped.

Chairman Wheatley states that he wishes there a way to control builders from selling what they do not own and cannot control; that a resident's right to a view ends at the resident's property line; that within Delaware residents do not have a right to view someone else's property and there are no aesthetic Ordinances in place.

Upon there being no further questions, Chairman Wheatley closed the Public Hearing.

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

In relation to Application C/Z 1931 Lands of Lighthipe, LLC, Motion by Ms. Wingate to defer action for further consideration, seconded by Ms. Stevenson, and carried unanimously. Motion carried 4-0.

Minutes of the August 12, 2021 Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since July 22, 2021.

Ms. Wingate moved that the Commission recommend a limited approval of C/Z # 1931 for Lands of Lighthipe, LLC which seeks to expand and amend the Residential Planned Community that was approved as Ordinance #2411 and Change of Zone #1768 now known as Ocean View Beach Club based upon the record made during the public hearing and for the following reasons:

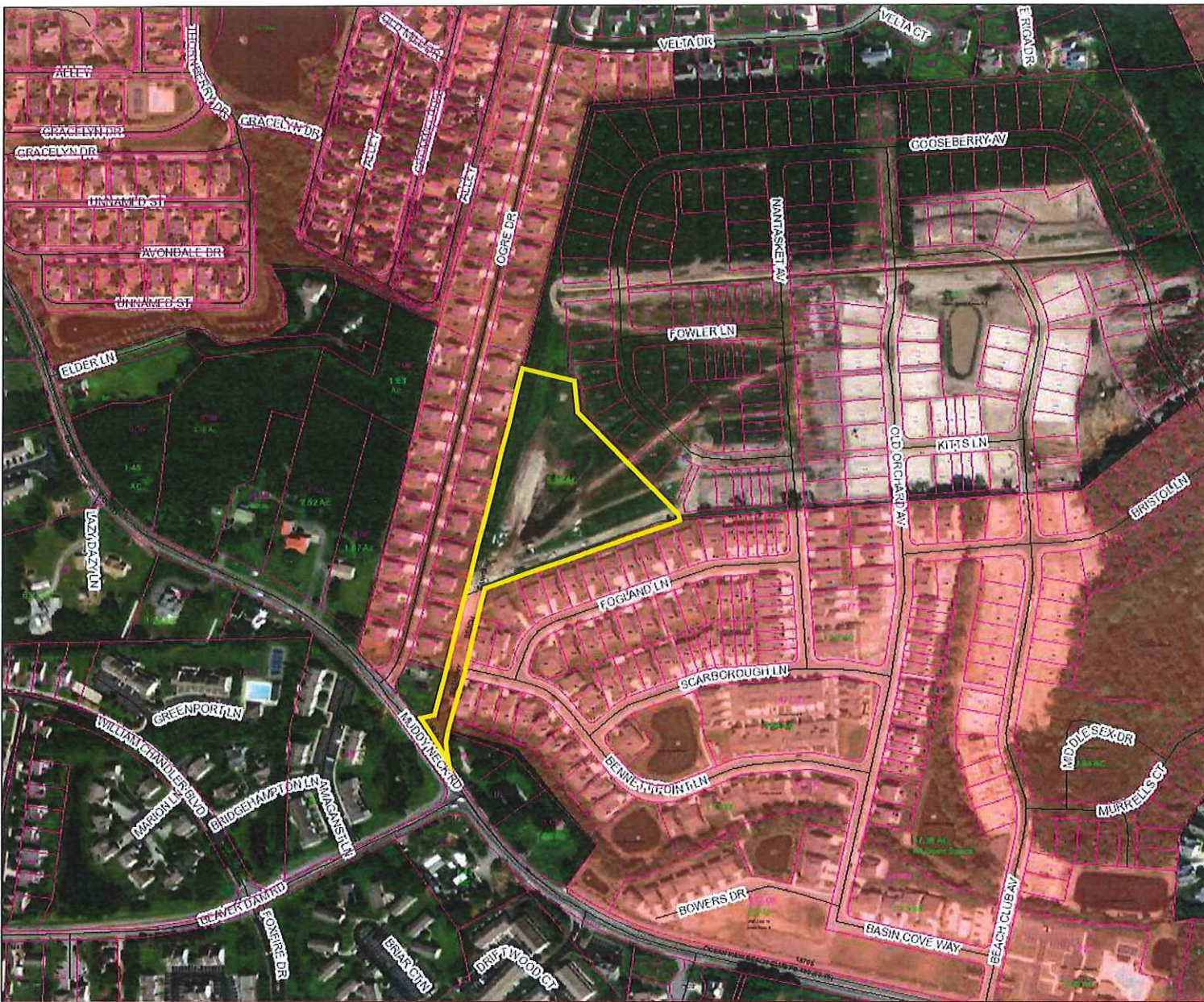
1. This application proposes to remove one single family lot from the Ocean View Beach Club North and add 21 townhomes on a 5.253 acre parcel of land that is adjacent to, but not currently part of the Ocean View Beach Club that was approved as an RPC under Ordinance #2411 and Change of Zone #1768.
2. The 5.253 acre parcel that is the subject of this application was not part of the original RPC. At the time of that application the land was still owned by the Protestant Episcopal Church of the Diocese of Delaware, which was considering the property for use as a Church. The property has since been sold to this applicant.
3. It is appropriate to add this 5.253 acre parcel to the RPC approved by Ordinance #2411 and Change of Zone #1768.
4. This 5.253 acre expansion area is surrounded by single family homes, including lots within the adjacent Ocean Way Estates development and the other lots of the RPC.
5. The original RPC approved under Ordinance # 2411 and Change of Zone #1768 included 120 single family dwellings and 44 townhouse units. According to the Findings of Fact from Ordinance #2411, the original RPC was designed so that “single family homes will be built along the perimeter” of the RPC. The design of the existing RPC places all of the townhomes within the interior of the RPC and not along its perimeter. There are only single family lots along the perimeter of the RPC.
6. The “Review Standards” for an RPC as set forth in Section 115-125 of the Sussex County Zoning Code state that “the Commission shall ensure an appropriate relationship between uses of high intensity or height within an RPC District and uses of low intensity or height, existing or future, outside the proposed RPC District...”
7. There was public testimony from residents within the existing Ocean View Beach Club and also adjacent developments that townhomes are not appropriate for this location based on the original design and approval of the RPC and the inconsistency of having townhomes along the perimeter of the RPC when the rest of them are in the interior of the RPC.
8. In accordance with the standards of Section 115-125 of the Sussex County Zoning Code, the Findings of Fact of Ordinance # 2411 and the design of the existing RPC, there shall not be any townhomes within the 5.253 acre parcel that is the subject of this application. Only single family lots shall be permitted. Single family lots ensure an appropriate relationship with the



existing types of development within this RPC and with the homes outside of the RPC District.

9. The site will be served by central water and sewer.
10. This additional 5.253 acres will become part of the Ocean View Beach Club RPC and community, with the access to Muddy Neck Road via the existing streets and roads within the Ocean View Beach Club community.
11. This recommendation is subject to the following conditions:
  - a. This 5.253 acre parcel shall only be developed with single family lots. No townhomes or multi-family homes shall be permitted in this location.
  - b. Condition A of Ordinance #2411 is hereby removed and the new condition A shall be inserted in its place, as follows: "The maximum number of residential units shall not exceed 164 units, which shall consist of 120 single family units and 44 townhouse units, plus the single family lots permitted under Change in Zone #1931 on the 5.253 acre parcel that is added to the Residential Planned Community."
  - c. The site plan for this additional 5.253 acres shall be designed so that there is a twenty foot forested buffer set back an additional twenty feet from the perimeter of the site along the common boundary with Ocean Way Estates.
  - d. All roads providing access to the new single family lots shall be designed and oriented to minimize headlights shining into properties within Ocean Way Estates. If necessary, additional landscaping shall be added and shown on the RPC Master Plan to screen headlights from the Ocean Way Estates subdivision.
  - e. The lots within this additional 5.253 acres shall have access from Muddy Neck Road via the existing streets and roads within the Ocean View Beach Club community.
  - f. All other conditions of the RPC approved as Ordinance # 2411 and Change in Zone #1768 shall remain in effect, and the 5.253 acre parcel that is the subject of this Change in Zone #1931 shall be bound by those existing conditions of approval.
  - g. The developer shall submit a revised Master Plan for the entire RPC, including the single family lots within the additional 5.253 acres, for review and approval by the Sussex County Planning & Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried to recommend limited approval of C/Z 1931 for Lands of Lighthipe, LLC for the reasons and conditions stated in the motion. Motion carried 3 – 0.

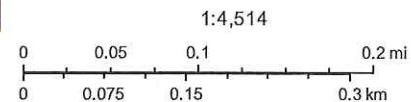


<b>PIN:</b>	134-17.00-12.02
<b>Owner Name</b>	LIGHTHIPE LLC
<b>Book</b>	Text
<b>Mailing Address</b>	PO BOX 1686
<b>City</b>	JACKSON
<b>State</b>	WY
<b>Description</b>	LIGHTHIPE
<b>Description 2</b>	RESIDUAL LANDS
<b>Description 3</b>	
<b>Land Code</b>	

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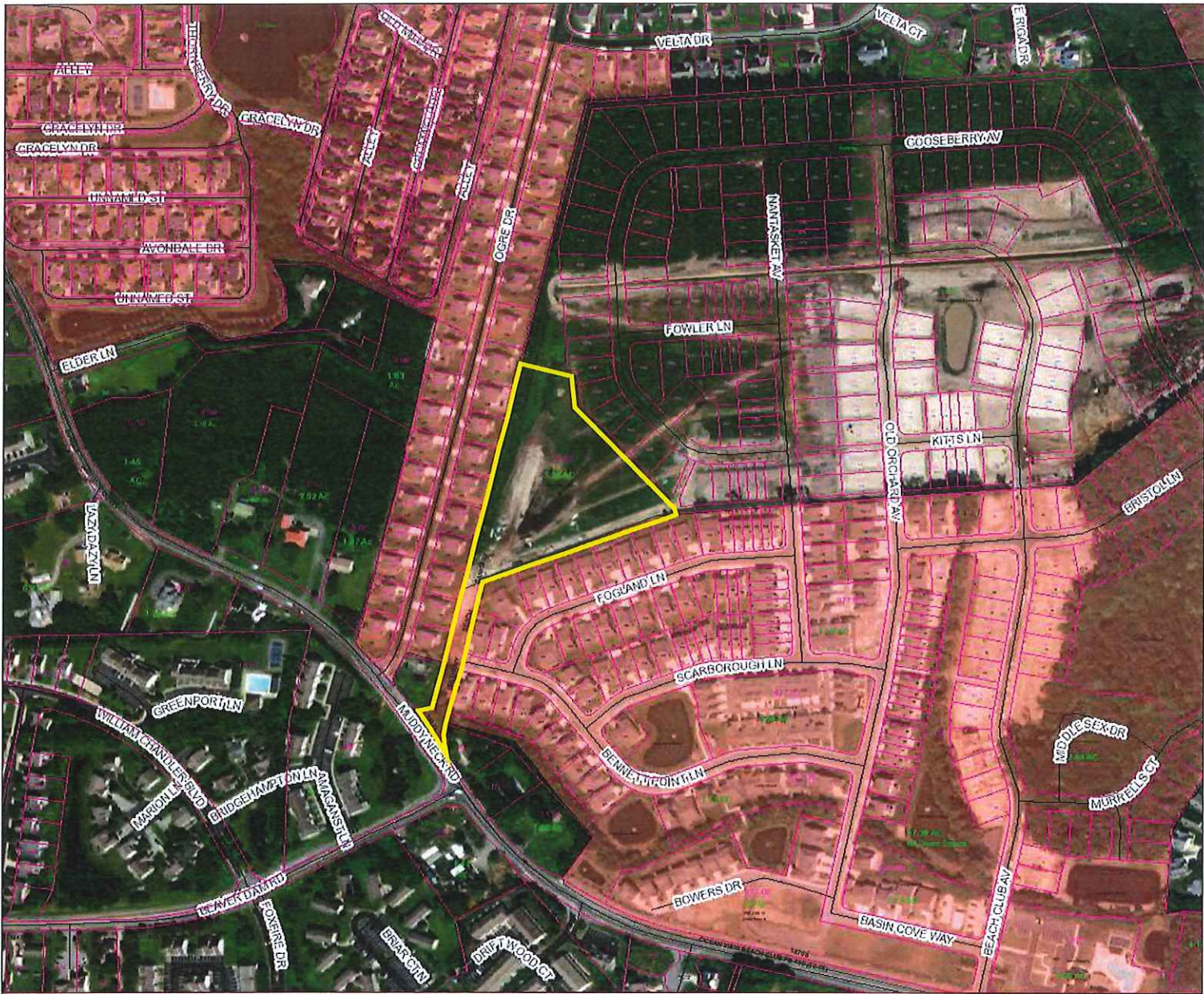
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Override 1
-  Tax Parcels
-  Streets
-  County Boundaries
-  Municipal Boundaries





# Sussex County

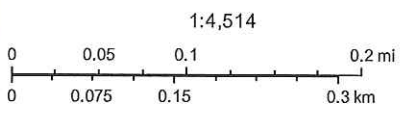


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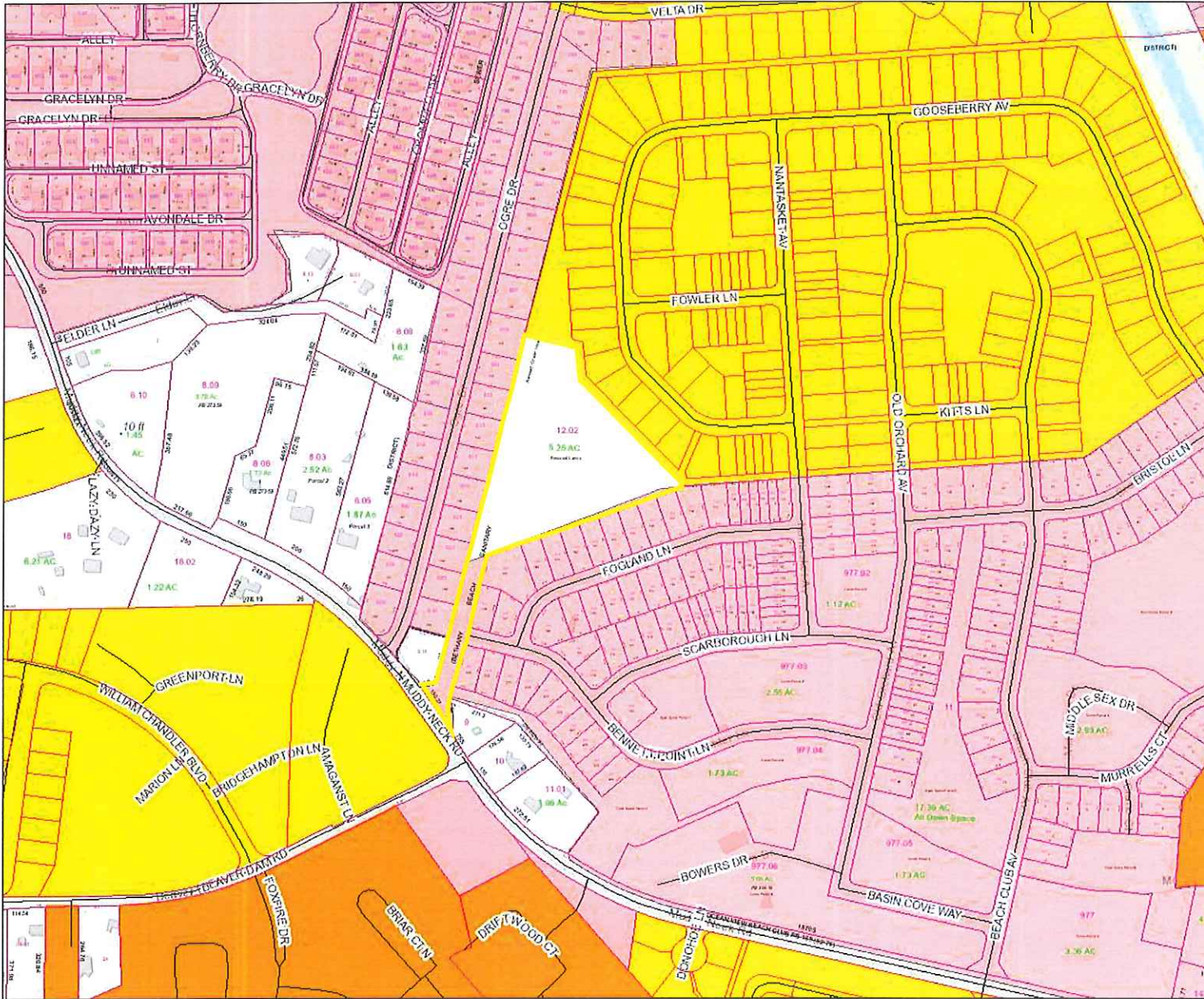
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  - Override 1
- Tax Parcels
- Streets
- ▭ County Boundaries
- ▭ Municipal Boundaries





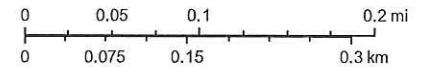
# Sussex County



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<b>Land Code</b>	

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- polygonLayer  
Override 1
- Tax Parcels
- Streets

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**Re-Introduced 06/15/21**

**Council District 4 - Hudson  
Tax I.D. No. 134-17.00-12.02  
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-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY AND TO AMEND THE CONDITIONS OF APPROVAL OF CZ 1768 (ORDINANCE 2411) TO INCREASE THE GROSS SITE AREA BY 5.253 ACRES AND TO INCREASE THE NUMBER OF PERMITTED UNITS WITHIN THE RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 56.372 ACRES, MORE OR LESS**

**WHEREAS, on the 15th day of September 2020, a zoning application, denominated Change of Zone No. 1931 was filed on behalf of Lighthipe, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2020, 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. 1931 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2020, 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-RPC Medium Density Residential District Residential Planned Community as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece or parcel of land lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the north side of Muddy Neck Road (S.C.R 361) approximately 0.52 mile southeast of Parker House Road (S.C.R 362) and being more particularly described in the attached legal description prepared by Davis, Bowen & Friedel, Inc., said parcel containing 56.372 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.**