

Sussex County Council Public/Media Packet

**MEETING:
September 21, 2021**

****DISCLAIMER****

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

COUNTY COUNCIL

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



Sussex County

DELAWARE
sussexcountyde.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

A G E N D A

SEPTEMBER 21, 2021

12:30 P.M.

Call to Order

Approval of Agenda

Approval of Minutes – September 14, 2021

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. Presentation and discussion related to buffers, wetlands and drainage
2. Administrator's Report

Hans Medlarz, County Engineer

1. Agricultural Farm Lease for Bunting Farm and Georgetown Parcels
 - A. Bid Results and Recommendation to Award

John Ashman, Director of Utility Planning & Design

1. Warrington Road Annexation Update
2. Proposed Resolution to establish the Slaughter Beach Area of the Sussex County Unified Sanitary Sewer District



Introduction of Proposed Zoning Ordinances

Council Members' Comments

1:30 p.m. Public Hearings

“AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLE XX BY AMENDING SECTION 115-156 TO CLARIFY THAT THE LOT AREA WITHIN TABLES II AND III REFERS TO THE LOT AREA WITHIN EACH PARTICULAR ZONING DISTRICT”

Change of Zone No. 1945 filed on behalf of Gulfstream Development, LLC

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 8.33 ACRES, MORE OR LESS” (property lying on the southwest side of Sand Cove Road (S.C.R. 394) approximately 750 feet southeast of Lighthouse Road [Route 54]) (Tax I.D. No. 533-19.00-56.05) (911 Address: None Available)

Conditional Use No. 2292 filed on behalf of Gulfstream Development, LLC

”AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (32 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 8.33 ACRES, MORE OR LESS” (property lying on the southwest side of Sand Cove Road (S.C.R. 394) approximately 750 feet southeast of Lighthouse Road [Route 54]) (Tax I.D. No. 533-19.00-56.05) (911 Address: None Available)

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on September 14, 2021 at 4:30 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, SEPTEMBER 14, 2021

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 14, 2021, at 10:00 a.m., in Council Chambers, with the following present:

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

Call to Order The Invocation and Pledge of Allegiance were led by Mr. Vincent.
Mr. Vincent called the meeting to order.

M 404 21 Approve Agenda A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, to approve the Agenda, as posted.
Motion Adopted: 5 Yeas.
Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea

Minutes The minutes of August 31, 2021 were approved by consent.

Correspondence Mr. Moore reported that correspondence was received from the Community Food Pantry and from Make-A-Wish in appreciation of grants.

Public Comments Public comments were heard and the following spoke:
Steve Dulin spoke regarding the past history of The Peninsula and his previous opposition to amending the build-out of the project.
Jim Heston and Ray Naughton spoke in regards to the promised amenities in The Vines of Sandhill project.

Recognition of Former Board of Adjustment Members The Sussex County Council recognized two former Board of Adjustment members, Jeffrey Hudson and Brent Workman, for their service to Sussex County. Jeffrey Hudson served on the Board of Adjustment from 1998 to 2017. Brent Workman served on the Board of Adjustment from 2002 – 2021.

**Adminis-
trator's
Report**

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

1. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Linkside Village, Phase 2 (formerly known as Nutter's Grant & Bridgeville Park Center) received Substantial Completion on August 30, 2021.

2. Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County will meet September 20th at 10:00 a.m. at the Sussex County Administrative Offices West Complex, 22215 North DuPont Boulevard, in Georgetown.

3. Reassessment Town Hall Meetings

Sussex County, in conjunction with Tyler Technologies, will host 5 town hall meetings to provide an overview of the upcoming reassessment process. The public meetings are scheduled for:

- Thursday, September 23rd from 2 to 4 p.m. at the Milton Fire Department;**
- Thursday, September 23rd from 6 to 8 p.m. at the Delaware Technical Community College – Owens Campus – Carter Partnership Center;**
- Monday, September 27th from 6 to 8 p.m. at the Delaware National Guard-Bethany Beach Training Site;**
- Wednesday, September 29th from 6 to 8 p.m. at the Millsboro Town Center; and**
- Thursday, September 30th from 6 to 8 p.m. at the Seaford Fire Department.**

In addition, one virtual session featuring the same presentation will be conducted. That meeting will be held Monday, September 27th from 2 to 4 p.m. Anyone interested in viewing the virtual session please visit the County website at www.sussexcountype.gov for more information and the meeting link.

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

**Public
Safety
Building
Project**

Hans Medlarz, County Engineer, reported on the need for a revised Change Order No. 1 for EMS Public Safety Building, Project C19-04. On August 30th, Council awarded Change Orders for structural and light weight steel materials. On August 10, 2021, Council awarded the project to Bancroft

Public Safety Building Project C19-04/ Revised Change Order No. 1 (continued)

Construction Company in the amount of \$8,282,169.00. On August 31, 2021, the Council approved Change Order No. 1 in the not-to-exceed amount of \$40,000 and Change Order No. 2 in the amount of \$8,800 for steel material price increases. The structural steel material change order No. 1 was based on August 12, 2021 pricing. When Bancroft transmitted the “letter of intent to award” to their subcontractor from Iron Works, Inc. on August 30th, they in turn issued material purchase orders. However, the material suppliers responded that material quotations are only binding for one week. Mr. Medlarz reported that the Engineering Department, in consultation with the Finance Director, authorized Bancroft to lock in at the August 30th material costs triggering a revision to Change Order No. 1. The Engineering Department now requests Council’s approval of a Change Order No. 1 revision to a fixed amount of \$62,829.00.

M 405 21 Approve Revised Change Order No. 1/ Public Safety Building

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department, that the previously issued Change Order No. 1 for Contract C19-04, Sussex County Public Safety Building, be rescinded and replaced with the revised Change Order No. 1, increasing the Contract in the now fixed amount of \$62,829.00.

Motion Adopted: 5 Yeas.

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

Town of Georgetown and Coastal Business Park and Airport/ Sewer and Water Inter-connection/ Amendment No. 5 to the 2019 Misc. Eng. Base Agreement

Hans Medlarz, County Engineer, presented Amendment No. 5 to the Miscellaneous Engineering Contract with Davis Bowen & Friedel. He noted that amendments are only amendments to the Base Contract where a new task order is issued. Amendment No. 3 was the sewer and water interconnection between the Town of Georgetown and the Coastal Business Park and Airport; the sewer piece was to go along the railroad track and tie into Artesian at the “handshake point” on Park Avenue. Mr. Medlarz stated that this was anticipated to be relatively easy and two things convoluted the process: when it was submitted initially to DelDOT, a lengthy list came back of requirements to install this, i.e. railroad safety. The most opportune response was that the County will drill the pipe in and get out of six or seven requirements. After this, the Engineering Department had to deal with the force main, i.e. Eastern Shore Natural Gas installed on Park Avenue; this requires a change in alignment which requires an easement from the Bakers. In conclusion, Mr. Medlarz stated that more funding is needed to complete the connection.

M 406 21 Approve Amendment No. 5

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, based upon the recommendation of the Sussex County Engineering Department, that Amendment No. 5 to the 2019 Miscellaneous Engineering Base Agreement with Davis Bowen & Friedel, Inc. be approved in the amount not to exceed

M 406 21 **\$25,000.00 for additional engineering services associated with the Town of**
Approve **Georgetown wastewater interconnection scope modification.**
Amendment

No. 5 **Motion Adopted: 5 Yeas.**

(continued)

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

North
Georgetown
Area
of the
SCUSSD

John Ashman, Director of Utility Planning & Design, presented an update on the North Georgetown Area of the Sussex County Unified Sanitary Sewer District. The Engineering Department appeared before Council on April 27, 2021 to request permission for this expansion and notices were prepared and posted for the public hearing. The Public Hearing was held on June 15, 2021 at which time a revision to the boundary was required and Council voted on July 15, 2021 to establish the boundary. The Engineering Department held a strictly mail-in referendum based on there being only three parcel owners; thereafter, all property owners returned their ballots and the results of the referendum were 3 in favor and 0 in opposition.

M 407 21 **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to Adopt**
Adopt **Resolution No. R 020 21 entitled “NORTH GEORGETOWN AREA OF THE**
R 020 21 **SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT**
DECLARED UNDER THE PROVISIONS OF TITLE 9, CHAPTER 65 OF
THE DELAWARE CODE”.

Motion Adopted: 5 Yeas.

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

Grant
Request/
Delaware
Goes
Purple

Peggy Geisler, Executive Director of the Sussex County Health Coalition, presented the grant request from the United Way of Delaware, Inc. for Sussex County Health Coalition, Inc. for the Delaware Goes Purple Substance Abuse Awareness Program. Ms. Geisler presented information on the Awareness and Prevention Campaign. Ms. Geisler noted that all of the money granted by Sussex County Council goes to youth awareness programs.

M 408 21 **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to give**
County- **\$5,000.00 from Countywide Youth Grants to United Way of Delaware, Inc.**
wide **for Sussex County Health Coalition, Inc. for the Delaware Goes Purple**
Youth **Substance Abuse Awareness Program.**
Grant

Motion Adopted: 5 Yeas.

**Public
Hearing/
Scenic
Manor
Expansion**

A Public Hearing was held to consider the Scenic Manor Expansion of the Sussex County Unified Sanitary Sewer District.

Hans Medlarz, County Engineer, reported that the Engineering Department received a request from Morris & Ritchie Associates, Inc. on behalf of their client, MKR Land Investment, LLC, the owners/developers of a project known known as Scenic Manor. The project is proposing 319 units. This request is to include Parcel No. 334-18.00-43.00. Mr. Medlarz noted that the request was received in December 2019; however, the Engineering Department has not acted on the request because the land use process had not fully moved through the process. Additionally, this parcel is within the Tier II sewer district area, which means sewer service can only be provided by Sussex County, so there is no other option for the owners/developers. Mr. Medlarz noted that the Council granted approval to the Engineering Department to post the property for the annexation in the Mulberry Knoll Area of the Unified District, because it would allow the County to spread the user assessment of the Mulberry Knoll Area over a larger user base. Mr. Medlarz also noted that this project is not only subject to the sewer connection charges and the infrastructure use agreement based on contribution. The project will be responsible for System Connection Charges of \$6,600.00 per EDU based on current rates, an Infrastructure Use Agreement based contribution and yet to be determined infrastructure upgrades commensurate with the units required. Lastly, Mr. Medlarz noted that any downstream associated system improvements are also tacked on; this flow will go through the Beacon Middle School Pump Station, which will need to be improved by Scenic Manor. Mr. Medlarz advised that Scenic Manor has been made aware of all of this. He also advised that there are a number of requirements attached to this expansion which are all Code-based.

Mr. Medlarz advised that one comment has been received in strong opposition.

There were no public comments during the public hearing.

The Public Hearing and public record were closed.

**M 411 21
Adopt
R 022 21**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to Adopt Resolution No. R 022 21 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) MULBERRY KNOLL AREA, TO INCLUDE THE PROPOSED SCENIC MANOR SUBDIVISION PROJECT LOCATED IN THE LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE”.

Motion Adopted: 5 Yeas.

**M 411 21
(continued)**

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

**Old
Business/
CZ 1942**

Under Old Business, the Council considered the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT, CR-1 COMMERCIAL RESIDENTIAL DISTRICT AND GR GENERAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 64.32 ACRES, MORE OR LESS” (Change of Zone No. 1942) filed on behalf of Bay Developers, LLC, Twin Cedars, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on May 13, 2021 at which time action was deferred. On June 10, 2021 the Commission recommended approval with the following conditions:

- a. There shall be no more than 254 dwelling units consisting of 168 apartments, 44 townhomes and 42 single family units.**
- b. A homeowners association shall be formed to provide for the perpetual maintenance, repair and replacement of buffers, stormwater management facilities, streets, amenities and other common areas.**
- c. All entrances, intersections, roadways, and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT’s requirements.**
- d. The RPC shall be served by Sussex County sewer. The Developer shall comply with all requirements and specifications of the County Engineering Department.**
- e. The RPC shall be served by central water for drinking water and for protection.**
- f. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices.**
- g. Interior street design shall meet or exceed Sussex County’s street design requirements. There shall also be street lighting and sidewalks on both sides of the streets within the RPC.**
- h. The development shall be served by its own on-site amenities including a clubhouse, pool, walking paths along the wooded open space and a tot-lot. All amenities shall be completed and open for use prior to the issuance of a building permit for the 100th unit on the site or the building containing the 100th unit on the site.**
- i. A 20-foot wide vegetated or forested buffer shall be established along the perimeter of the site. This buffer shall utilize existing forest or similar vegetation if it exists in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the**

**Old
Business/
CZ 1942
(continued)**

- 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.
- j. If requested by the local school district, a school bus stop shall be provided by the entrance to the development, with the location and any related parking to be approved by the school district’s transportation supervisor. The location of the bus stop area shall be shown on the Final Site Plan.**
 - k. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
 - l. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
 - m. The Final Site Plan shall include a landscape plan confirming all landscaping to be provided, the preservation of all buffer areas and the forested areas that will be preserved. The landscape plan shall also identify all “Limits of Disturbance” within the site. This landscape plan shall also provide enhanced screening and landscape berms along the front entrance as well as the sides of the property (excluding the rear open space), as presented during the Public Hearing and described at Pages 15, 16 and 17 of the Applicant’s project notebook.**
 - n. The Final Site Plan shall include a grading plan that shall be submitted to County staff for review and approval.**
 - o. Construction, site work, grading, and deliveries of construction materials shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. and 6:00 p.m. A 24 inch by 36 inch “NOTICE” sign, in English and Spanish, confirming these hours shall be prominently displayed at all entrances to the site during construction.**
 - p. The Final Site Plan and the recorded governing documents for this development shall include the Agricultural Use Preservation Notice. These documents shall also include similar notices that there is a camping/RV park adjacent to the site and that hunting activities occur in the vicinity of this site.**
 - q. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**M 412 21
Amend
Condition/
CZ 1942**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to amend Condition m to read as follows: “The Final Site Plan shall include a landscape plan confirming all landscaping to be provided, the preservation of all buffer areas and the forested areas that will be preserved. The landscape plan shall also identify all “Limits of Disturbance” within the site. This landscape plan shall also provide enhanced screening and landscape berms along the property frontage along Zion Church Road (Route 20), as presented during the public hearing and described at Pages 15, 16 and 17 of the Applicant’s project notebook.”

**M 412 21
(continued)**

Motion Adopted: 5 Yeas.

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

**M 413 21
Adopt
Ordinance
No. 2797/
CZ 1942**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Ordinance No. 2797 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT, CR-1 COMMERCIAL RESIDENTIAL DISTRICT AND GR GENERAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 64.32 ACRES, MORE OR LESS” (Change of Zone No. 1942) filed on behalf of Bay Developers, LLC, Twin Cedars, LLC, with the following conditions, as amended:

- a. There shall be no more than 254 dwelling units consisting of 168 apartments, 44 townhomes and 42 single family units.**
- b. A homeowners association shall be formed to provide for the perpetual maintenance, repair and replacement of buffers, stormwater management facilities, streets, amenities and other common areas.**
- c. All entrances, intersections, roadways, and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT’s requirements.**
- d. The RPC shall be served by Sussex County sewer. The Developer shall comply with all requirements and specifications of the County Engineering Department.**
- e. The RPC shall be served by central water for drinking water and for protection.**
- f. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices.**
- g. Interior street design shall meet or exceed Sussex County’s street design requirements. There shall also be street lighting and sidewalks on both sides of the streets within the RPC.**
- h. The development shall be served by its own on-site amenities including a clubhouse, pool, walking paths along the wooded open space and a tot-lot. All amenities shall be completed and open for use prior to the issuance of a building permit for the 100th unit on the site or the building containing the 100th unit on the site.**
- i. A 20-foot wide vegetated or forested buffer shall be established along the perimeter of the site. This buffer shall utilize existing forest or similar vegetation 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**

**M 413 21
Adopt
Ordinance
No. 2797/
CZ 1942
(continued)**

- 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.
- j. If requested by the local school district, a school bus stop shall be provided by the entrance to the development, with the location and any related parking to be approved by the school district’s transportation supervisor. The location of the bus stop area shall be shown on the Final Site Plan.**
 - k. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
 - l. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
 - m. The Final Site Plan shall include a landscape plan confirming all landscaping to be provided, the preservation of all buffer areas and the forested areas that will be preserved. The landscape plan shall also identify all “Limits of Disturbance” within the site. This landscape plan shall also provide enhanced screening and landscape berms along the property frontage along Zion Church Road (Route 20), as presented during the public hearing and described at Pages 15, 16 and 17 of the Applicant’s project notebook.**
 - n. The Final Site Plan shall include a grading plan that shall be submitted to County staff for review and approval.**
 - o. Construction, site work, grading, and deliveries of construction materials shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. and 6:00 p.m. A 24 inch by 36 inch “NOTICE” sign, in English and Spanish, confirming these hours shall be prominently displayed at all entrances to the site during construction.**
 - p. The Final Site Plan and the recorded governing documents for this development shall include the Agricultural Use Preservation Notice. These documents shall also include similar notices that there is a camping/RV park adjacent to the site and that hunting activities occur in the vicinity of this site.**
 - q. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**Introduction
of Proposed
Ordinances**

Mr. Hudson introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT- RESIDENTIAL PLANNED COMMUNITY TO AMEND CONDITIONS OF APPROVAL OF

**Introduction
of Proposed
Ordinances
(continued)**

CHANGE OF ZONE NO. 1883 (ORDINANCE NO. 2690) AND CHANGE OF ZONE NO. 1475 (ORDINANCE NO. 1573) RELATING TO THE MAXIMUM NUMBER AND TYPES OF HOUSING PERMITTED FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 778.39 ACRES, MORE OR LESS” (Change of Zone No. 1936) filed on behalf of OA-BP Marina Bay-Lakeside, LLC (Tax I.D. Nos. 234-30.00-1.00 through 430.00) (911 Address: None Available).

Mrs. Green introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT AND AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 4.33 ACRES AND 0.08 ACRE, MORE OR LESS” (Change of Zone No. 1947) filed on behalf of Kenneth P. Adams (Tax I.D. Nos. 133-6.00-50.00 & p/o 50.02) (911 Addresses: 25116, 25076 & 25136 DuPont Boulevard, Georgetown).

Mr. Hudson introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT, RESIDENTIAL PLANNED COMMUNITY TO A MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT, RESIDENTIAL PLANNED COMMUNITY TO AMEND CONDITIONS OF APPROVAL NUMBER 15 OF C/Z 1538 (ORDINANCE NO. 1700) AND C/Z 1926 (ORDINANCE NO. 2786) IN RELATION TO PIERS, DOCKS, BOAT RAMPS AND OTHER WATER RELATED RECREATIONAL FACILITIES FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 180.60 ACRES, MORE OR LESS” (Change of Zone No. 1948) filed on behalf of The Grande at Canal Point Maintenance Corporation (Tax I.D. No. 334-13.00-334.00, 1448.00 through 1750.00) (911 Address: None Available).

Mrs. Green introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 22.60 ACRES, MORE OR LESS” (Change of Zone No. 1952) filed on behalf of Samantha Broadhurst (Tax I.D. No.: 135-9.00-26.00) (911 Address: None Available).

The Proposed Ordinances will be advertised for Public Hearing.

M 414 21 **At 10:52 a.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson, to**
Go Into **recess the Regular Session and go into Executive Session for the purpose of**
Executive **discussing matters relating to pending/potential litigation and land acquisition.**
Session

Motion Adopted: 5 Yeas.

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

Executive **At 11:00 a.m., an Executive Session of the Sussex County Council was held in**
Session **the Basement Caucus Room to discuss matters relating to pending/potential**
litigation and land acquisition. The Executive Session concluded at 11:18 a.m.

M 415 21 **At 11:23 a.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson, to**
Reconvene **come out of Executive Session and reconvene the Regular Session.**
Regular
Session

Motion Adopted: 5 Yeas.

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

M 416 21 **A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that Sussex**
Approve **County is an Eligible Subdivision within the pending settlement agreements**
Agreement **related to the opioid crisis in Delaware; and Be It Further Moved, that the**
Regarding **Sussex County Council agrees to enter a certain settlement agreement known**
Prescription **as the ‘Remediating Opioids Across Delaware through State-Municipal**
Opioid **Abatement Partnership Agreement’ and to join the State of Delaware by**
Settlement **participating in the distribution of the Prescription Opioid Settlement Fund.**

Motion Adopted: 5 Yeas.

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

M 417 21 **At 11:25 a.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson,**
Recess **to recess until 1:30 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

M 418 21 Reconvene At 1:30 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley, to reconvene.

Motion Adopted: 5 Yeas.

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

Rules Mr. Moore read the rules of procedure for zoning hearings.

**Public Hearing/
CU 2255** A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE O GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE SALE, RENTING, STORAGE, AND REPAIR OF BICYCLES AND RELATED ACCESSORIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.9 ACRES, MORE OR LESS" (Conditional Use No. 2255) filed on behalf of John Sommers (Tax I.D. No. 134-15.00-95.03) (911 Address: 32650 Roxana Road, Frankford).

The Planning and Zoning Commission held a Public Hearing on this application on August 12, 2021 at which time action was deferred. On August 26, 2021, the Commission recommended approval with the following conditions:

- a. This use shall be limited to the business of selling, renting, and repairing bicycles and related accessories. No other business shall be conducted on the site.
- b. One lighted sign shall be permitted. It shall be no larger than 32 square feet per side.
- c. The hours of operation for the business shall be from 8:00 a.m. until 8:00 p.m.
- d. Any security lighting shall be shielded and downward screened so that it does not shine on neighboring properties and roadways.
- e. There was testimony during the hearing about a water valve on the neighbor's property that is served and controlled from this property. The Applicant shall disconnect any plumbing or water service that crosses from his property onto the neighboring property.
- f. There shall be a row of tree planting along the northern boundary of this site to sufficiently screen it from the view of the adjacent property. The nature, type, and location of the plantings shall be shown on the Final Site Plan.
- g. The Final Site Plan shall depict the area of the Conditional Use as being between the frontage along Roxanna Road and the ditch that bisects the property. There shall also be "No Trespassing" signs placed along the northern boundary to deter anyone from disturbing the farm animals next door.

**Public
Hearing/
CU 2255
(continued)**

- h. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- i. The Final Site Plan shall clearly show all areas for parking, and these areas shall be clearly marked on the site itself. There shall not be any parking within the property's setbacks.**
- j. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
- k. The Final Site Plan shall be subject to review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated August 12 and August 26, 2021.)

Jamie Whitehouse, Planning and Zoning Director, presented the application.

One (1) letter of opposition has been received.

The Council found that Jay Sommers was present on behalf of his application. He stated that he is the owner of Fenwick Island Bicycle Shop and Ocean Cycles of Bethany Beach; that he wants to open another bicycle shop on his property; that he lives in a subdivision; that as the market for beach homes has expanded outward from the beach area, he has noticed that the demand for rental bikes has increase and the need often comes from other subdivisions; that he has noticed an increase in bicycling on nearly every road in the area; that this, along with many homes being built directly in the area around his property, has led him to believe that this area is a good spot for the opening of another bicycle shop to expand his business and to service the needs of an expanding area and population; that a lot of the area subdivisions are connected or will be connected by multi-use paths; that his parcel is located in the Coastal Area according to the Comprehensive Plan and small scale business growth is acceptable and promoted in the Coastal Area; that the property is screened from surrounding properties by trees and will have additional trees planted or a fence constructed as per a request from his neighbor; that the adjacent property has a Conditional Use for an office and warehousing; and that commercial uses and zonings continue to creep south along Route 17 and away from Route 26 as residential development continues to expand.

There were no public comments.

The Public Hearing and public record were closed.

**M 419 21
Adopt
Ordinance
No. 2797/
CU 2255**

A Motion was made by Mr. Rieley, seconded from Mr. Schaeffer, to Adopt Ordinance No. 2797 entitled "AN ORDINANCE O GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE SALE, RENTING, STORAGE, AND REPAIR OF BICYCLES AND RELATED ACCESSORIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN

**M 419 21
Adopt
Ordinance
No. 2797/
CU 2255
(continued)**

BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.9 ACRES, MORE OR LESS” (Conditional Use No. 2255) filed on behalf of John Sommers, with the following conditions:

- a. This use shall be limited to the business of selling, renting, and repairing bicycles and related accessories. No other business shall be conducted on the site.**
- b. One lighted sign shall be permitted. It shall be no larger than 32 square feet per side.**
- c. The hours of operation for the business shall be from 8:00 a.m. until 8:00 p.m.**
- d. Any security lighting shall be shielded and downward screened so that it does not shine on neighboring properties and roadways.**
- e. There was testimony during the hearing about a water valve on the neighbor’s property that is served and controlled from this property. The Applicant shall disconnect any plumbing or water service that crosses from his property onto the neighboring property.**
- f. There shall be a row of tree planting along the northern boundary of this site to sufficiently screen it from the view of the adjacent property. The nature, type, and location of the plantings shall be shown on the Final Site Plan.**
- g. The Final Site Plan shall depict the area of the Conditional Use as being between the frontage along Roxanna Road and the ditch that bisects the property. There shall also be “No Trespassing” signs placed along the northern boundary to deter anyone from disturbing the farm animals next door.**
- h. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- i. The Final Site Plan shall clearly show all areas for parking, and these areas shall be clearly marked on the site itself. There shall not be any parking within the property’s setbacks.**
- j. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
- k. The Final Site Plan shall be subject to review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CU 2257**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GENERAL RESIDENTIAL DISTRICT FOR OUTDOOR BOAT STORAGE AND OVERFLOW PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.006 ACRES, MORE OR

**Public
Hearing/
CU 2257
(continued)**

LESS” (Conditional Use No. 2257) filed on behalf of Indian River Volunteer Fire Co. Inc. (Tax I.D. No. 234-34.08-53.00 [part of]) (911 Address: None Available).

The Planning and Zoning Commission held a Public Hearing on this application on August 12, 2021 at which time action was deferred. On August 26, 2021, the Planning and Zoning Commission recommended approval with the following conditions:

- a. The use shall be limited to the storage of boats and overflow parking. No other storage of vehicles or equipment shall occur on the site.**
- b. The facility shall only be accessible from 8:00 a.m. until dusk.**
- c. The perimeter of the site shall be fenced with a 6-foot high fence that screens the property from neighboring and adjacent properties and roadways.**
- d. No sales or maintenance of boats shall occur on the site.**
- e. All security lighting shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.**
- f. The storage area shall be covered with a pervious stabilizing material. The location and type of this material shall be shown on the Final Site Plan.**
- g. The use shall be subject to all DelDOT requirements regarding the entrance and roadway improvements necessary to provide access to the site.**
- h. No hazardous materials or fuel shall be stored on the property other than what may be in the tanks of boats located on the site.**
- i. One lighted sign shall be permitted on the site. It shall not exceed 32 square feet in size.**
- j. No junked or unregistered boats or boat trailers shall be stored on the site.**
- k. The failure to abide to these conditions of approval may result in the revocation of this Conditional Use.**
- l. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated August 12 and August 26, 2021.)

Jamie Whitehouse, Planning and Zoning Director, presented the application.

Two (2) letters of support have been received.

The Council found that Patrick Miller, President of the Indian River Volunteer Fire Company (IRVFC) was present on behalf of the application. He stated that the IRVFC has partnered with its neighbors, the Community Church of Oak Orchard and the WMF Watercraft Company, which currently leases parcels between the fire company and the watercraft business but they have expanded across the street and have built additional

**Public
Hearing/
CU 2257
(continued)**

boat service facilities there; that between their facility and the church, the large parcel is owned by the IRVFC; that the IRVFC has been approached to see if they would be conducive to leasing the property for them to utilize it for additional boat storage (from being brought in for service to finalize for winter storage and moved to their other facilities; the firehouse has utilized that parcel of land since the early 1970's and has always allowed the church to utilize it for overflow parking and they still anticipate doing that; that they have earmarked a segment of land for the church to utilize, for the fire company for overflow parking and for the boat storage; and that they have no objections to the conditions recommended by the Planning and Zoning Commission.

There were no public comments.

The Public Hearing and public record were closed.

**M 420 21
Adopt
Ordinance
No. 2799/
CU 2257**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to Adopt Ordinance No. 2799 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR OUTDOOR BOAT STORAGE AND OVERFLOW PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.006 ACRES, MORE OR LESS" (Conditional Use No. 2257) filed on behalf of Indian River Volunteer Fire Co., Inc., with the following conditions:

- a. The use shall be limited to the storage of boats and overflow parking. No other storage of vehicles or equipment shall occur on the site.
- b. The facility shall only be accessible from 8:00 a.m. until dusk.
- c. The perimeter of the site shall be fenced with a 6-foot high fence that screens the property from neighboring and adjacent properties and roadways.
- d. No sales or maintenance of boats shall occur on the site.
- e. All security lighting shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
- f. The storage area shall be covered with a pervious stabilizing material. The location and type of this material shall be shown on the Final Site Plan.
- g. The use shall be subject to all DelDOT requirements regarding the entrance and roadway improvements necessary to provide access to the site.
- h. No hazardous materials or fuel shall be stored on the property other than what may be in the tanks of boats located on the site.
- i. One lighted sign shall be permitted on the site. It shall not exceed 32 square feet in size.
- j. No junked or unregistered boats or boat trailers shall be stored on the site.

**M 420 21
Adopt
Ordinance
No. 2799/
CU 2257
(continued)**

- k. The failure to abide to these conditions of approval may result in the revocation of this Conditional Use.**
- l. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CU 2261**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE UNITS AND OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.63 ACRES, MORE OR LESS” (Conditional Use No. 2261) filed on behalf of What Is Your Voice, Inc. (Tax I.D. No. 334-6.00-515.00) (911 Addresses: 17583 Shady Road, Lewes).

The Planning and Zoning Commission held a Public Hearing on this application on August 12, 2021 at which time action was deferred. On August 26, 2021, the Commission recommended approval, with the following conditions:

- a. The use shall be limited to an office and four storage units within the existing structures on the site.**
- b. There shall not be any outside storage of any materials or equipment.**
- c. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.**
- d. Any dumpsters on the site shall be screened from the view of neighboring properties and roadways.**
- e. The Applicant shall comply with all DeIDOT requirements for entrance and roadway improvements.**
- f. As stated by the Applicant, no signs shall be located on the site.**
- g. The parking shall comply with the County parking requirements. All vehicle parking areas shall be shown on the Final Site Plan and clearly marked on the site itself. All vehicles must only be parked within the designated areas.**
- h. The existing vegetation on the sides and rear of the site shall remain in place to act as a screen from neighboring properties. The Final Site Plan shall confirm the existence and location of this vegetation.**
- i. The Applicant shall comply with all requirements of the Sussex Conservation District regarding stormwater management on the site.**
- j. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
- k. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**Public
Hearing/
CU 2261
(continued)**

(See the minutes of the Planning and Zoning Commission dated August 12 and August 26, 2021.)

Jamie Whitehouse, Planning and Zoning Director, presented the application.

The Council found that Rachel Bleshman, Esq. was present on behalf of the Applicant. She stated that the Applicant wishes to maintain an office in the existing garage on the parcel and the four rental storage units in the existing one-story pole building; that the request is in connection with the Applicant’s non-profit organization; that the non-profit organization was established in 2013 to combat domestic violence, family violence and teen violence; that in addition to the proposed uses, the Applicant intends to use the existing dwelling on the property for residential purposes; that one employee will be on-site and will monitor the site; that the purpose of this application is to efficiently provide critically needed services to the vulnerable and expanding population of Sussex County; that this is not a new use for the property; that the Applicant did receive a Notice of Violation from the Sussex County Constable; that the Applicant was unaware that the use was not permitted without a Conditional Use; that the general area is a mixed-use area, which includes residential and commercial uses; that DeIDOT did not require a Traffic Impact Study; and that the application is in compliance with the Sussex County Zoning Code and Comprehensive Plan.

There were no public comments.

The Public Hearing and public record were closed.

**M 421 21
Adopt
Ordinance
No. 2800/
CU 2261**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, to Adopt Ordinance No. 2800 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE UNITS AND OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.63 ACRES, MORE OR LESS” (Conditional Use No. 2261) filed on behalf of What Is Your Voice, Inc., with the following conditions:

- a. The use shall be limited to an office and four storage units within the existing structures on the site.**
- b. There shall not be any outside storage of any materials or equipment.**
- c. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.**
- d. Any dumpsters on the site shall be screened from the view of neighboring properties and roadways.**
- e. The Applicant shall comply with all DeIDOT requirements for entrance and roadway improvements.**
- f. As stated by the Applicant, no signs shall be located on the site.**
- g. The parking shall comply with the County parking requirements. All vehicle parking areas shall be shown on the Final Site Plan and clearly**

**M 421 21
Adopt
Ordinance
No. 2800/
CU 2261
(continued)**

- marked on the site itself. All vehicles must only be parked within the designated areas.
- h. The existing vegetation on the sides and rear of the site shall be remain in place to act as a screen from neighboring properties. The Final Site Plan shall confirm the existence and location of this vegetation.**
 - i. The Applicant shall comply with all requirements of the Sussex Conservation District regarding stormwater management on the site.**
 - j. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
 - k. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CU 2289**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR AN OUTDOOR MARKETPLACE WITH SIMILAR ACTIVITIES AND OFF-SITE PARKING TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.247 ACRES AND 0.327 ACRES, MORE OR LESS” (Conditional Use No. 2289) filed on behalf of Leah Beach (Tax I.D. Nos. 334-13.20-21.00 & 334-13.19-79.00 [p/o]) (911 Addresses: 19897 Hebron Road & 19826 Central Avenue, Rehoboth Beach).

The Planning and Zoning Commission held a Public Hearing on this application on August 12, 2021 at which time action was deferred. On August 26, 2021, the Commission recommend approval with the following conditions:

- a. This use shall be limited to an outdoor marketplace, which may include food and beverage service and live music.**
- b. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.**
- c. The hours of operation shall be limited to 11:00 a.m. through 9:00 p.m., Thursday through Monday of each week.**
- d. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- e. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- f. There shall not be any dumping on the site. Also, no junk or unsold items shall accumulate outdoors on the site.**
- g. Any dumpsters associated with the use shall be screened from view from neighboring properties or roadways.**

**Public
Hearing/
CU 2289
(continued)**

- h. The Final Site Plan shall clearly show all parking areas, stage locations and other structures associated with the use as well as the areas set aside for the outdoor sales. It shall also clearly show the location for the sale of alcoholic beverages, and the fencing or similar enclosures required by the Delaware Alcoholic Beverage Control Commission for such sales.**
- i. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated August 12 and August 26, 2021.)

Jamie Whitehouse, Planning and Zoning Director, presented the application.

The Council found that Leah Beach was present on behalf of her application. She stated that she is the Executive Director and Founder of The Developing Artist Collaboration; that the mission of the organization is to support the careers of artists; that Creative Market began in 2020; that this event was held in downtown Rehoboth; that the organization's headquarters is located in West Rehoboth; that the organization has committed itself to dedicate as much programming as possible to take place in West Rehoboth; that this is due to the location of the organization's facilities and the priority to honor the culture and rich history of the historic community of color; that Creative Market is located on a lot that is owned by the landlord of another one of the organization's other buildings that they rent in the neighborhood; that they have created a weekly marketplace that features local and regional artists; that the Creative Market also includes live music, food trucks and responsible alcohol service to create a cultural experience for the community; that public safety and crowd management are a priority; that live music is cut off at 9:00 p.m.; that they would like the option to hold event 7 days per week; and that they are very respectful of the community.

Public comments were heard.

Brenda Milbourne, Executive Director of West Side New Beginnings Children and Youth Programs, Rick Poppleton, property owner in West Rehoboth, and Robert Paul spoke in support of the application.

There were no public comments in opposition to the application.

The Public Hearing and public record were closed.

**M 422 21
Amend
Condition/
CU 2289**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to amend Condition C recommended by the Planning and Zoning Commission to read as follows: "The hours of operation shall be limited to 9:00 a.m. through 9:00 p.m., seven (7) days per week."

**M 422 21
(continued)**

Motion Adopted: 5 Yeas.

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

**M 423 21
Adopt
Ordinance
No. 2801/
CU 2289**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to Adopt Ordinance No. 2801 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR AN OUTDOOR MARKETPLACE WITH SIMILAR ACTIVITIES AND OFF-SITE PARKING TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.247 ACRES AND 0.327 ACRES, MORE OR LESS” (Conditional Use No. 2289) filed on behalf of Leah Beach, with the following conditions, as amended:

- a. This use shall be limited to an outdoor marketplace, which may include food and beverage service and live music.**
- b. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.**
- c. The hours of operation shall be limited to 9:00 a.m. through 9:00 p.m., seven (7) days per week.**
- d. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- e. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- f. There shall not be any dumping on the site. Also, no junk or unsold items shall accumulate outdoors on the site.**
- g. Any dumpsters associated with the use shall be screened from view from neighboring properties or roadways.**
- h. The Final Site Plan shall clearly show all parking areas, stage locations and other structures associated with the use as well as the areas set aside for the outdoor sales. It shall also clearly show the location for the sale of alcoholic beverages, and the fencing or similar enclosures required by the Delaware Alcoholic Beverage Control Commission for such sales.**
- i. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CU 2278**

A Public Hearing was held on the Proposed Ordinance entitled “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 NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 1.902 ACRES, MORE OR LESS” (Conditional Use No. 2278) filed on behalf of Branson James (Tax I.D. No. 231-22.00-16.00) (911 Address: 17638 Dusty Road, Georgetown).

The Planning and Zoning Commission held a Public Hearing on this application on August 12, 2021 at which time action was deferred. On August 26, 2021, the Commission recommended that the application be denied.

(See the minutes of the Planning and Zoning Commission dated August 12 and August 26, 2021.)

Jamie Whitehouse, Planning and Zoning Director, presented the application.

One (1) letter and one (1) petition containing twenty-one (21) signatures were received in opposition to the application. Six (6) letters of support were received in support of the application.

The Council found that Branson James was present on behalf of his application. He stated that this Conditional Use application is for an events venue that can be used for small concerts, community movie nights, craft shows, weddings, etc.; that they are looking to host events with up to approximately 200 people or less; that the events would not go longer than 11:00 p.m.; that they have porta-johns on site as well as running water for hand washing; that when they serve alcohol, they work with non-profits that obtain a gathering license; that currently, the non-profit they work with is Kristi’s Kats but they would like to work with others in the future if allowed to continue; that they are no longer requesting camping as part of the Conditional Use application; that they can safely fit 100 vehicles for parking on the property; that they would no longer allow any parking along the roadway; that DelDOT determined that the use would not have a major impact on the roadways; that they work with a security team to keep everyone safe, including a licensed EMT when they do host events; that they have a noise maintenance plan that has been submitted; that they have never received noise complaints or parking violations; that they did receive a violation from Sussex County; that they were granted a Special Event Permit (with conditions) for their most recent event; and that when they held that event under the Special Event Permit, they did not hear about any complaints.

Public comments were heard.

There were no public comments in support of the application.

**Public
Hearing/
CU 2278
(continued)**

Tom Moody, Kelley Short, Austin Short and Jerry Dukes spoke in opposition to the application. They expressed concern about the noise levels, especially at night; that sometimes the music is played past midnight, and one time until 5:00 a.m.; that police have been called on several occasions; that they can hear the music in their homes with doors and windows closed; that the proposed uses are not appropriate for the area; that the parcel is not large enough for this type of venue; and that surrounding properties would be devalued if the Conditional Use is approved.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 424 21
Adopt
Proposed
Ordinance
No. 2278**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt the Proposed Ordinance entitled “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 NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 1.902 ACRES, MORE OR LESS” (Conditional Use No. 2278) filed on behalf of Branson James.

DENIED

Motion Denied: 4 Nays, 1 Yea.

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

**M 425 21
Adjourn**

A Motion was made by Mr. Schaeffer, seconded by Mrs. Green, to adjourn at 2:38 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.}

ENGINEERING DEPARTMENT

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Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

RE: *Agricultural Farm Lease for Bunting Farm and Georgetown Parcels*
A. Bid Results and Recommendation to Award

DATE: September 21, 2021

Sussex County owns a number of agricultural properties five (5) of which listed below had been leased on a year-over-year basis.

	Tax Map Parcel Numbers	Location	Acreage
	135-19.00-63.00	Georgetown	28 Acres
	233-6.00-115.00/116.00	Dagsboro	60 Acres
	135-20.00-152.01, 153.00 & 154.03	Georgetown	42.5 Acres
	135-20.00-64.00	Georgetown	18 Acres
	134-16.00-388.01 & 134-17.00-21.00	Frankford	15 Acres

In 2018 the Engineering Department canceled these types of leases and publicly advertised the leases for four (4)-crop seasons, terminating on December 31, 2022. On October 31, 2018, four (4) bids were received and on November 13, 2018 County Council awarded the agricultural farmland leases to the highest bidders.

Under the Western Sussex expansion of the Unified Sewer District the County acquired the Town of Bridgeville's spray irrigation farm. With the facility decommissioned in the spring of 2021 the Engineering Department advertised that lease for a five (5)-crop season term terminating on December 15, 2025. On March 29, 2021, (5) bids were received and on April 13, 2021 County Council award the agricultural farm lease to Hill Farms, Inc.

Now the Engineering Department prepared agricultural lease bid documents for the Bunting Farm located on the north side of RT-54 and two small Georgetown parcels next to the RR-track off Park Avenue. The documents were publicly advertised on July 1st and 8th in



addition to sending direct notices to local farmers. On July 26, 2021, one bid was received from Magee Farms for the Bunting Farm parcel at a net annual fee of \$4,500.00. No bids were received for the Georgetown parcels.

The Bunting Farm originally comprised of two parcels on both sides of RT-54. For the smaller southern parcel County Council previously approved wetland mitigation measures which are completed, water quality enhancement projects in cooperation with the Center for the Inland Bays and a weighted land exchange which is still in progress. Therefore, the southern parcel was excluded from the advertised lease.

The northern parcel containing sixty (60) tillable net acres is one of only two approved sites for the application of Class B biosolids under State Permit AGU 2005-S-03. In addition, the parcel is slated for field borders along the tax ditch segments, as per the attached map, in cooperation with NRCS. Biosolids spreading and field border establishment and maintenance are requirements under the lease and were identified in the bid as cost centers deducted from the proposed lease.

The Engineering Department recommends award of the five (5) year agricultural lease for the Bunting Farm to Magee Farms for a net annual fee of \$4,500.00. In addition, the Department recommends engaging Sussex Conservation District for the establishment of a meadow at the Georgetown parcel.

All County agricultural leases, besides the Bunting Farm, contain provisions that Environmental Services can spread aerobically digested Class A bio-solids throughout the duration of the respective lease under State Permit DM 2101-S-03. In addition, tenants must implement crop rotation for the summer season and plant a winter cover crop. The tenants are required to supply a record of all site management activities undertaken the previous year, such as planting, reseeding, harvesting of crops, commercial fertilizer and chemical additions and the proposed Nutrient Management plan to Environmental Services.

BID OFFER FORM

The undersigned hereby makes an offer to lease the agricultural lands referenced by Tax Map Parcels 533-18.00-15.00

I, Ellen M Magee

(Signature of Bidder)

of Magee Farms, having carefully examined the contract

(Name of Business)

Documents within this prospectus and having inspected the site of agricultural lands, do hereby submit my offer for the privilege of farming agricultural lands owned by Sussex County referenced by Tax Map Parcel 533-18.00-15.00, as outlined on the attached map, hereby attached to the lease for the following annual fee:

Bid: \$ 100.00 per Acre @ 60 ~~66.3~~ Tillable Acres = \$ 6000.00 /Year

If selected, the successful applicant agrees to execute the Lease with the COUNTY as described and shown in this prospectus within fifteen (15) working days after notice of the award of contract has been received.

Name: Ellen M Magee Telephone: 302-462-5310

Address: 34857 Lighthouse Rd

City: Selbyville State: De Zip Code: 19975

TERMS AND SPECIFICATIONS

1. **TERM OF LEASE.** The initial term of this Lease shall be for five (5) years beginning on the date of execution and terminating on December 31, 2026. Either party may provide notice of its intent not to extend the lease by or before September 15, 2026. If said notice is not presented by either party, the lease will automatically extend for a one-year term and shall continually extend to the following year until notice is provided by either party of its intent not to extend the lease.

2. **RENTAL FEE.** Lessee (TENANT) agrees to pay COUNTY a net annual rental fee as outlined below for the parcel of land involved in the Lease as shown in *Attachment A*.

Annual Lease Payment: \$ 6000.00 for approximately ~~66.3~~₆₀ tillable acres

Annual Bio-solids Charge: (\$) for spreading & incorporation

Annual Field Border Charge: (\$ 1500.00) for establishment & maintenance

Net annual TOTAL Payment \$ 4500.00

Lease for year 1 shall be due within 30 days of execution of Lease. Each succeeding year's annual rental fee shall be paid to COUNTY on or before January 15th for that lease year.

3. **SECURITY INTEREST.** TENANT hereby grants COUNTY a security interest in the agricultural commodities grown by TENANT on the leased land during the term of this Lease, whether such crops are standing, grown, in storage or in transit, and in any proceeds from the sale, exchange, transfer or other disposition of the collateral or proceeds, to ensure the performance by TENANT under all agreements with COUNTY, as well as payment of any and all sums now, heretofore and hereafter owing to COUNTY by TENANT as a result of TENANT entering into this Lease with COUNTY.

4. **GENERAL USE OF LEASED LAND.** The leased land is not irrigated. However, TENANT may install irrigation at his/her expense. Land may be used for producing agricultural commodities, including, but not limited to, corn, grain, hay and forage crops. TENANT shall note crop planting and harvesting restrictions as contained in the permitting documents referenced in Section 5 of this document.

TENANT agrees to follow good farm management practices and to farm the land in a good and husband-like manner to avoid degradation of the surrounding environment and further agrees to the following:



Common Land Unit Tract Boundary

- Non-Cropland
- Cropland

Wetland Determination Identifiers

- Restricted Use
- ▼ Limited Restrictions
- Exempt from Conservation Compliance Provisions

Tract Cropland Total: 60.00 acres

2021 Program Year
 Map Created September 27, 2020

Farm 11297
Tract 37847

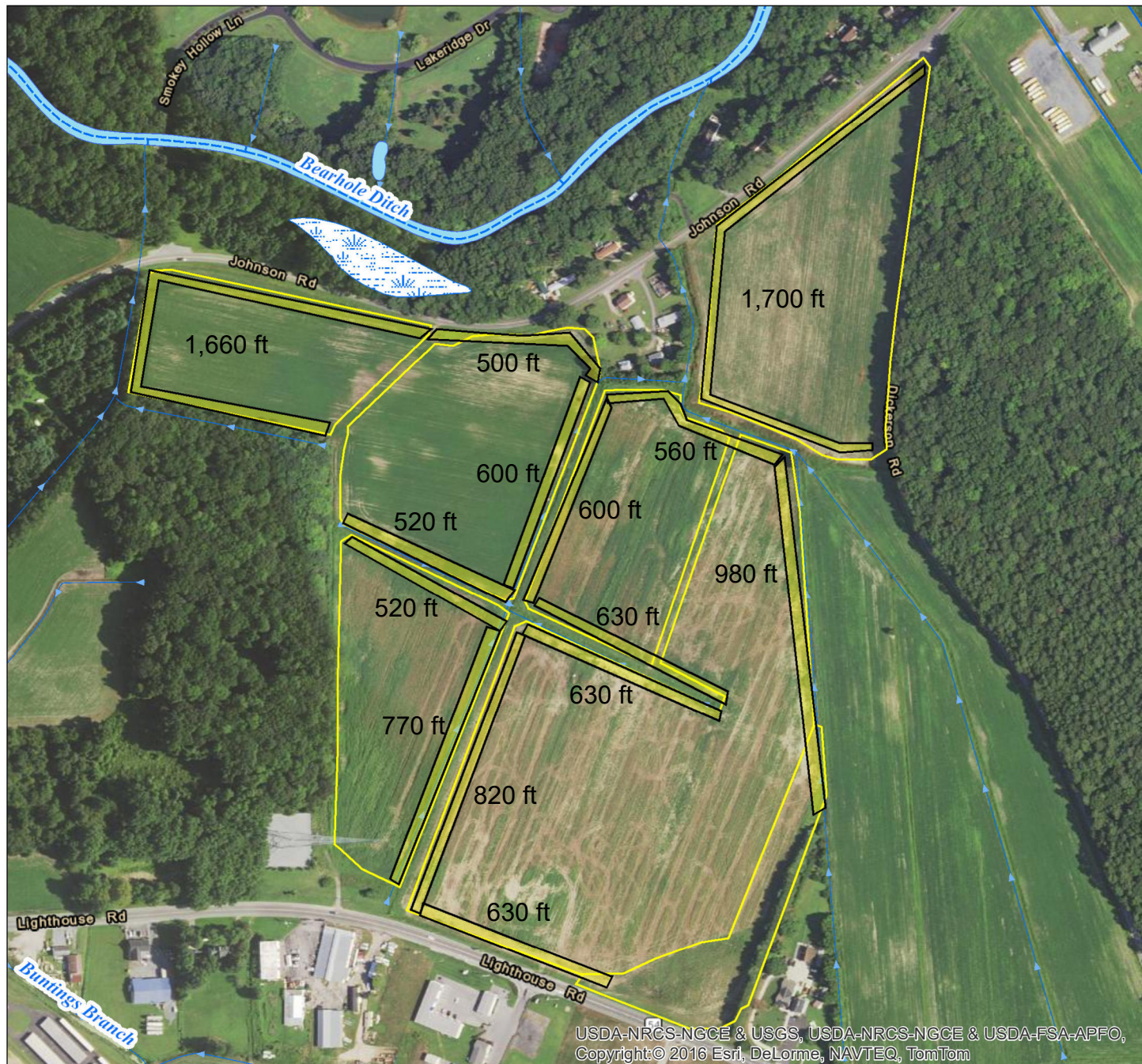
United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS).

TAX PARCEL 533-18.00-15.00 Proposed Field Borders

Client(s): SUSSEX COUNTY COUNCIL
Sussex County, Delaware

Assisted By: EMILY PALMER
USDA NRCS
GEORGETOWN SERVICE CENTER


Land Units: Tract 37847, Fields 11,16,17,20,21,22,29



USDA-NRCS-NGCE & USGS, USDA-NRCS-NGCE & USDA-FSA-APFO, Copyright:© 2016 Esri, DeLorme, NAVTEQ, TomTom

Prepared with assistance from USDA-Natural Resources Conservation Service



 Practice Schedule
PLUS

All borders are 25 ft wide
Total approximate field border area: 6.38 ac



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



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HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Memorandum

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

FROM: John J. Ashman 
Director of Utility Planning

Hans Medlarz
County Engineer

RE: ***Town of Slaughter Beach
Sewer Area Resolution
File: SB 1.01***

DATE: September 21, 2021

The Engineering Department participated in several meetings with the Town of Slaughter Beach pertaining to possibility of the county providing sewer service to the town. The department received and reviewed the request from the town for Sussex County to form a sewer district to provide public sewer services to the Town of Slaughter Beach. The town has passed Ordinance 2021-05 authorizing Sussex County to provide sewer services within the municipal boundaries of the Town of Slaughter Beach. The department has reviewed the ordinance and the request and finds the proposal acceptable and has submitted a draft Resolution to the County's legal counsel for review and approval.



**TOWN OF SLAUGHTER BEACH
ORDINANCE NO. 2021-05**

**ORDINANCE REQUESTING SUSSEX COUNTY TO FORM A SEWER DISTRICT TO
PROVIDE PUBLIC SEWER SERVICES TO THE TOWN OF SLAUGHTER BEACH
AND AUTHORIZING THE MAYOR TO EXECUTE THE NECESSARY
AGREEMENTS ON BEHALF OF THE TOWN**

WHEREAS, there is currently no public sewer system available to serve the residents of the Town of Slaughter Beach ("Town") and the Town is financially unable to install, own, and operate its own public sewer system;

WHEREAS, Sussex County owns and operates a public sewer system and has the means and ability to provide sewer services to the residents of the Town;

WHEREAS, 9 *Del. C.* § 6501 authorizes Sussex County to establish sewer districts when doing so will be "conducive to the preservation of the public health";

WHEREAS, 9 *Del. C.* § 6703 requires the Town of Slaughter Beach to adopt an ordinance authorizing Sussex County to provide sewer services within the municipal boundaries of the Town of Slaughter Beach; and

WHEREAS, in the opinion of the Town Council, it is in the best interest of the public health, safety, and welfare for Sussex County to establish a sewer district within the municipal limits of the Town of Slaughter Beach whereby the County may install, own, and operate a sewer system that would provide sewer services to the residents of Slaughter Beach.


NOW THEREFORE, BE IT HEREBY ORDAINED by the Town Council of the Town of Slaughter Beach, a majority thereof concurring in Council duly met, that the Town Council hereby authorizes the Sussex County Council to establish a sewer district encompassing the municipal limits of the Town of Slaughter Beach wherein Sussex County can install, own, and operate a sewer system servicing the residents of the Town of Slaughter Beach.

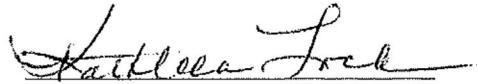
BE IT FURTHER ORDAINED that this Ordinance is expressly conditioned on the property owners in the Town of Slaughter not having an annual Sussex County sewer assessment in excess of \$1,200.00 (one thousand two hundred dollars) per property to fund the construction of the Slaughter Beach Area sewer system of the Sussex County Uniform Sewer District unless otherwise expressly agreed to by the Mayor and Council of the Town of Slaughter Beach in a separate ordinance.

BE IT FURTHER ORDAINED that the Mayor of Slaughter Beach, or in the Mayor's absence the Vice Mayor of Slaughter Beach, is hereby authorized to execute, on behalf of the Town, those agreements with Sussex County that are necessary realize the provisions of this ordinance.

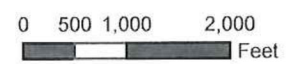
This shall certify that this is a true and correct copy of the Ordinance that was duly adopted by the Town Council of the Town of Slaughter Beach at its regular meeting held on August 9, 2021.

So certifies:

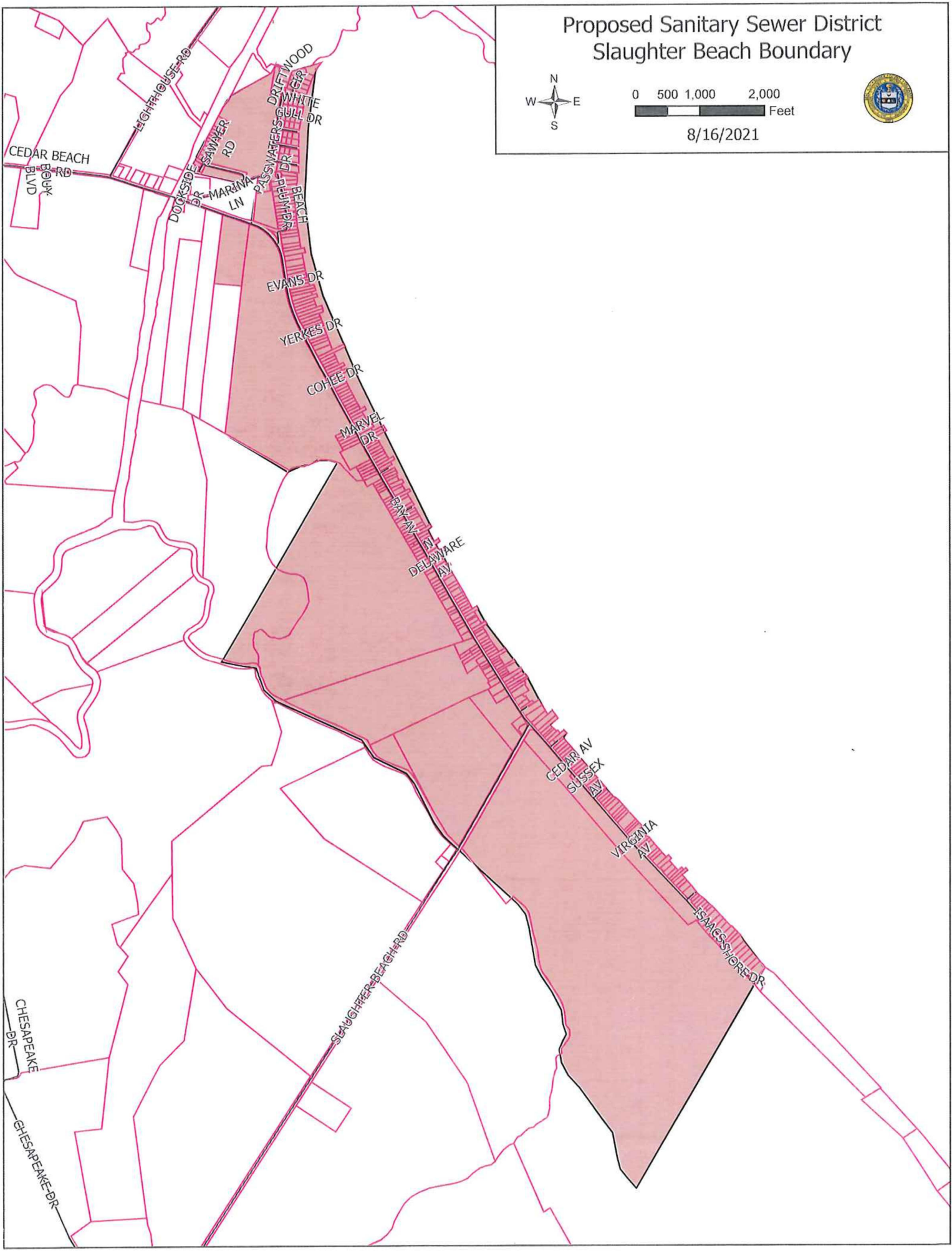
Attest: 
Ivan Lanier, Secretary


Kathleen Lock, Mayor

Proposed Sanitary Sewer District Slaughter Beach Boundary



8/16/2021



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



Sussex County

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Memorandum

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

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

CC: Everett Moore, County Attorney

Date: September 17, 2021

RE: County Council Report for Ordinance Relating to the Calculation of Density

On July 13, 2021 the County Council introduced an Ordinance relating to Chapter 115 Article XX of the Code for Sussex County. The purpose of the Ordinance was to clarify the calculation of density so that it is clear that only the area of land within a particular Zoning District or within the area of a Conditional Use to allow such structures shall be used to calculate the density for multi-family structures.

The Planning and Zoning Commission held a public hearing on August 26 2021. At the conclusion of the public hearing, the Commission recommended that the County Council adopt the Ordinance as introduced.

Below are the draft minutes from the Planning & Zoning Commission meeting of August 26, 2021.

Draft Minutes of the August 26, 2021 Planning & Zoning Commission Meeting

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLE XX BY AMENDING SECTION 115-156 TO CLARIFY THAT THE LOT AREA WITHIN TABLES II AND III REFERS TO THE LOT AREA WITHIN EACH PARTICULAR ZONING DISTRICT

Mr. Whitehouse stated notice of the Ordinance change was published and zero comments of support or opposition have been received.

Mr. Robertson stated that this is a housekeeping matter with a clean-up of the language; that there previously was some confusion and uncertainty about what the Sussex County Code was stating; that when there was a property that contained two different Zoning Districts within the property the way



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the code was worded at times referenced density being calculated based upon the boundaries of the property, not the boundaries of the Zoning District and the proposed Ordinance is to clarify the density is to be calculated upon the area within the Zoning District of the property, not the entire property itself.

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

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

In relation to the Ordinance to amend the Code of Sussex County, Chapter 115, Article XX. Motion to recommend approval by Mr. Mears, seconded by Ms. Wingate, and carried unanimously. Motion carried 4-0.

1 **AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY,**
2 **CHAPTER 115, ARTICLE XX BY AMENDING SECTION 115-156 TO**
3 **CLARIFY THAT THE LOT AREA WITHIN TABLES II AND III REFERS**
4 **TO THE LOT AREA WITHIN EACH PARTICULAR ZONING DISTRICT.**

5
6 WHEREAS, pursuant to the provisions of Title 9, Chapter 69 of the Delaware Code,
7 Sussex County has been granted the power and authority to regulate zoning; and

8
9 WHEREAS, the Sussex County Zoning Code currently provides that the density
10 calculation for multifamily structures is determined based on an entire parcel of land
11 and not the boundaries and area of the zoning district where those structures will be
12 located; and

13
14 WHEREAS, Sussex County wishes to amend the Zoning Code to clarify the
15 calculation of density so that it is clear that only the area of land within a particular
16 zoning district or within the area of a conditional use to allow such structures shall
17 be used to calculate the density for multifamily structures; and

18
19 WHEREAS, Sussex County Council believes that this legislation will promote the
20 health, safety, morale, convenience, order, prosperity and/or welfare of its citizens.

21
22 **NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

23
24 **Section 1. The Code of Sussex County, Chapter 115, Article XX, §115-156**
25 **“Requirements”, B thereof, is hereby amended by deleting the language in**
26 **brackets and inserting the italicized and underlined language:**

27
28 Section 115-156 Requirements.

29
30 . . .

31
32 B. The height, area and bulk requirements for multifamily structures when permitted
33 in the MR, GR, UR, UB, M, [and] *B-1, B-2, B-3*, C-1, CR-1, C-2, C-3, C-4 and C-5
34 Districts (as may be applicable) shall be as set forth in Tables II *and III.*], and in the
35 B-1, B-2 and B-3 Districts (as may be applicable) shall be as set forth in Table III.]
36 *The “Lot Area (square feet per dwelling unit)” calculation set forth in Tables II and*
37 *III shall be determined using only the area of land within the zoning district or*
38 *conditional use where the multifamily structures will be located within the*
39 *development.*

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Sussex County

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Memorandum

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

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

CC: Everett Moore, County Attorney

Date: September 17, 2021

RE: County Council Report for CZ 1945 Gulfstream Development, LLC

The Planning and Zoning Department received an application (CZ 1945 filed on behalf of Gulfstream Development, LLC) to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a MR Medium Density Residential District. The property is lying on the southwest side of Sand Cove Road (SCR 394) approximately 750 feet southeast of Lighthouse Road (Rt. 54). The change of zone is for 8.33 acres, more or less.

The Planning and Zoning Commission held a public hearing on August 26 2021. At the meeting of September 9, the Commission recommended approval of the application for the 7 reasons as outlined within the motion (included below).

Below are the draft minutes from the Planning & Zoning Commission meeting of August 26, 2021 and the draft minutes of the Planning & Zoning Commission meeting of September 9, 2021.

Draft Minutes of the August 26, 2021 Planning & Zoning Commission Meeting

C/Z 1945 Gulfstream Development, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a MR Medium Density Residential District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 8.33 acres, more or less. The property is lying on the southwest side of Sand Cove Road (S.C.R 394) approximately 750 feet southeast of Lighthouse Road (Route 54). 911 Address: N/A. Tax Parcel: 533-19.00-56.05.

At the request of the applicant, the Commission agreed to consolidate the next two items C/Z



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1945 and C/U 2292 into one public hearing. Chairman Wheatley explained that, although the two applications will be heard together, there would ultimately be two votes, one for each application, when any action is taken by the Commission.

Mr. Whitehouse stated the PLUS comments included in the record from January 2017 relating to the subdivision application on parcel 52; that there is an outstanding question about whether the PLUS review is needed for parcel 56.05 which is included in the Application; that it is a question that was unable to be answered prior to the Public Hearing and it is an issue staff would like to resolve prior to any action by the Commission.

Mr. Robertson stated the question is if whether PLUS is satisfied with their prior response stating the Application is not required to have a PLUS review or if PLUS review is now required for the Application; that the record will need to be held open until confirmation is received from PLUS on what the next required steps are; that the Commission is permitted to proceed with the Public Hearing but that will require no action be taken until additional information is received.

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 the PLUS comments received in January 2017 for the adjoining parcel, a copy of the Applicant's exhibit booklets and site plan, a copy of the Applicant's environmental assessment and public facility evaluation reports, zero letters of support and zero letters of opposition.

The Commission found that Mr. David Hutt, Esq. was present on behalf of the Applicant, Gulfstream Development, LLC; that also present are Mr. Robert Harris, who is the Principal of Gulfstream Development, LLC, Mr. Steve Engel with Vista Design Inc. and Mr. Tom Brinker who is one of the current owners of the property; that the Application is for a 8.33 acre parcel located on Sand Cove Rd.; that this is a short distance from the intersection of Sand Cove Rd. and Lighthouse Rd.; that directly across the street is part of the Bayside subdivision; that the Commission previously considered an Application for Bay Knoll on the adjacent property to the west; that the previous Bay Knoll Application was very similar to the proposed Application; that it requested approval for a Change of Zone from AR-1 Agricultural Residential to MR Medium Residential, as well as, sought the approval of 52 duplex multi-family units for the property; that the Application was approved on December 12, 2019; that on January 14, 2020 Sussex County adopted Ordinance 2700 and Ordinance 2701 which were the approvals for C/Z 1896 and C/U 2197; that in the previously approved site plan there is a note to a proposed future access to the Melson property; that the Melson property is part of the property belonging to Heron's Ridge at Bayside; that currently the proposed entrance has been installed; that after the Bay Knoll's Application was approved in January 2020, Gulfstream Development, LLC purchased the 13.3-acre parcel and also placed the current Application's 8 acres under contract; that the 8 acres were placed under contract with the goal of replicating what is currently placed on the 13 acres; that the Applicant requests approval to continue the theme of the 13 acres, to the proposed 8 acres, with hopes to result in a superior project in several respects; that the proposed property is located in a Level 3 on the State Strategies Map; that the proposed property is located in the Coastal Area on the Sussex County Future Land Use Map; that the Coastal Area is one of the seven growth areas; that in the project booklet there is a Chapter 99-9C response and an Environmental Assessment and Public Facility report which is required; that according to the Comprehensive Plan the MR Zoning District is appropriate in the Coastal Area on the Future Land Use map; that the Comprehensive Plan states that medium and higher densities are appropriate when public utilities are available to serve the project; that the project is currently zoned AR-1; that directly

to the west of the property is MR Zoning; that across the street from the property it is zoned MR/RPC Medium Residential Planned Community; that located further down the road is the Bayside Community which is zoned as MR; that in 2014 the Application for the MR/RPC was approved for a combination of single-family homes, townhomes and duplexes; that along Rt. 54 is a parcel previously approved for B-1 Neighborhood Business which was approved in 2016; that also approved in 2016 was the Herron's Ridge at Bayside Application, which is located directly across Sand Cove Rd. from the currently proposed 8-acres; that in 2020 the Bay Knolls Subdivision Application was approved for a Change of Zone to MR along with the 52 unit multi-family Conditional Use; that the proposed Application is consistent with the character and trend of development in the area along Sand Cove Rd.; that currently the property is being used for Agricultural purposes; there are no known archeological sites or national register listed properties; there are no known threatened or endangered species; that it is located in Flood Zone X; that there are no wetlands located on the property; that the stormwater management would be subject to the best management practices and to the review and approval by the Sussex Conservation District; that the proposed plan has 3.59 acres of open space; that this equals about 43% of the 8.3 acre site; that there are some woodlands located along the boundaries of the property; that the woodlands will be preserved to the extent possible, as part of the 20-ft. landscape forested buffer between the proposed project and adjacent properties; that 77% of the existing wooded areas will remain on the property; that water for fire protection and drinking will be provided by Artesian Water Co. Inc.; that the Sussex County Engineering Department states the property is located in Tier I of the Sussex County Unified Sanitary Sewer System; that the capacity is available for the proposed units; that DelDOT stated in the Service Level Evaluation Response that there was no Traffic Impact Study (TIS) required and indicated the traffic impact to be negligible; that the Application proposes the same multi-family duplex housing style located within the adjacent 13 acres; that the Application proposes housing consistent with housing found across the street, as well as the mixture of homes found in the various phases of Bayside; that the proposed Application has a similar density as the 13 acre parcel; that the gross density of the 13 acre parcel is 3.9 units per acre; that the gross density of the proposed Application is 3.84 units per acre; that in the MR Zoning District up to four units to the acre is what is permitted; that there is a consistent amount of open space between the 13 acre parcel and the 8 acre parcel; that the 13 acres piece showed 46% of area reserved for open space; that on the proposed 8 acre parcel the proposed open space is 43%; that there are 5-ft. wide sidewalks proposed through the community; that the sidewalks will connect all of the homes within the community and will connect the community to the streets and the shared-use path along the frontage of the property; that there is a plan to construct community amenities; that these amenities will include a pool and a community center; that the community center will also be utilized a bus stop and drop off for students if the school district chose to designate that area rather than a bus stop on Sand Cove Rd.; that the new entrance is located further away from the intersection of Sand Cove Rd. and Rt. 54 which makes this entrance superior; that the proposed entrance allows the Applicant to align the entrance with the entrance of Herron's Ridge Bayside creating a four-way intersection which is easier to navigate; that the proposed Application is consistent with the surrounding areas; that when combined with the existing approval for Bay Knolls, creates a superior community; that both parcels will be subject to the same Homeowners Association; that the HOA will be responsible for the maintenance of the stormwater ponds, pool, and community center; that he would like to submit into the record 16 letters of support from neighbors in the area and proposed Finds and Conditions of Approval.

Ms. Wingate mentions some concern regarding the turn-around areas, but stated the Fire Marshal's office has jurisdiction over those; that she questioned if the Application would be constructed in phases or all at once and questioned if PLUS comments expire due to the current PLUS comments

being from 2017.

Mr. Harris states the Application is proposed to be phased; that it will be phased into two different phases and he assumes phasing will be evenly split with 40 homes in one phase, and 41 homes in the other.

Mr. Robertson stated he is not certain if PLUS expires or not and questioned if Mr. Hutt had any light to shed on the PLUS comments regarding any previous conversations.

Mr. Whitehouse stated that this question did come up in the previous Change of Zone Application; that there was an email received from the State Planning Office confirming the 2017 PLUS comments are acceptable and there is no specified time period.

Mr. Hutt stated he has nothing further to say in regards to the PLUS comments and that the adjacent parcel has not been submitted to Planning and Zoning for a site plan review due to the parcel needing to be submitted in tandem with the proposed Application depending on approval.

Ms. Stevenson mentioned concern about the adjacent property having potential drainage issues.

Ms. Wingate mentioned there is a pond located in that area.

Chairman Wheatley mentions concern about previous issues regarding sidewalks; that he stated if sidewalks are proposed on a final site plan there is an absolute expectation that the proposed sidewalks will be built; that he requested the Applicant give some thought to this issue up-front to confirm that the Applicant can do what they are proposing to do and mentions this is an issue that is seen before the Planning and Zoning Commission frequently.

The Commission found that Mr. Paul Norvel, Sr. spoke in opposition to the Application; that he lives between Bayside and the proposed property; that he is concerned the Applicant will remove trees and drop them into the pond of his property; that on his property he has 12-acres of a pond; that he would like to see a fence placed by the Applicant so that his trees do not get removed; that he has this concern because Bayside previously cut down the trees and dropped them into his pond in which he had to clean up himself; that he feels they did this to offer the potential home buyers waterfront views of his pond from their homes; that residents often want to fish in his pond; that when residents fish in his pond they often leave behind a lot of trash for him to pick up and he mentions concern about the increased traffic on the single-lane roads.

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

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

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

In relation to Application C/Z 1945 Gulfstream Development, LLC, Motion by Ms. Wingate to hold the record open for a determination of the suitability of the existing PLUS comments and pending the decision the record to remain open for a new PLUS review if required, seconded by Ms. Stevenson, and carried unanimously. Motion carried 4-0.

Draft Minutes of the September 9, 2021 Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since August 26, 2021.

Ms. Wingate moved that the Commission recommend approval of C/Z # 1945 for GULFSTREAM DEVELOPMENT, LLC for a change in zone from AR-1 to MR based upon the record made during the public hearing and for the following reasons:

1. The project is located in the Coastal Area according to the County Comprehensive Land Use Plan. MR Zoning is appropriate in this Area according to the Plan.
2. This site is intended to be joined with the adjacent property, which was the subject of CZ #1896 and CU #2197 that approved MR zoning and 52 multi-family duplex units on that property.
3. The proposed MR Zoning meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.
4. The property is adjacent to land that is currently zoned MR. In addition, there are other properties in the area that are zoned MR, C-1 and B-1 as well as the Bayside project. This rezoning is consistent with other zoning and land uses in the area.
5. The rezoning to MR will not have an adverse impact on neighboring properties or the community.
6. MR zoning is appropriate for this site because medium density development is appropriate where central water and sewer are available. In this case, sewer service will be provided by Sussex County and adequate wastewater capacity is available. Water service will be provided by a publicly regulated water company.
7. For all of these reasons, MR Medium Density Residential Zoning is appropriate for this location.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to recommend approval for C/Z 1945 Gulfstream development, LLC. Motion carried 5 – 0.

PLANNING & ZONING COMMISSION

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



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JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: August 26th, 2021

Application: CZ 1945 Gulfstream Development, LLC

Applicant: Gulfstream Development, LLC (Robert Harris)
27 Atlantic Ave Suite 101
Ocean View, DE 19970

Owner: Gulfstream Development, LLC (Robert Harris)
27 Atlantic Ave Suite 101
Ocean View, DE 19970

Site Location: The property is lying on the southwest side of Sand Cove Road (S.C.R. 394) approximately 750 feet southeast of Lighthouse Road (Route 54).

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

Proposed Zoning: Medium Density Residential (MR) Zoning District

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Rieley

School District: Indian River School District

Fire District: Roxana Fire Department

Sewer: Sussex County

Water: Artesian

Site Area: 8.33 acres +/-

Tax Map ID.: 533-19.00-56.05



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Sussex County

DELAWARE
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Memorandum

To: Sussex County Planning Commission Members
From: Nick Torrance, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: August 19, 2021
RE: Staff Analysis for CZ 1945 Gulfstream Development, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1945 Bay Gulfstream Development, LLC to be reviewed during the August 26, 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 Change of Zone for Tax Parcel 533-19.00-56.05 to allow for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Medium Density Residential (MR) Zoning District. The parcel is located on the southwest side of Sand Cove Road (S.C.R 394), approximately 750 feet southeast of Lighthouse Road (Route 54). The parcel to be rezoned contains 8.33 acres +/-.

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

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

The property is currently zone Agricultural Residential (AR-1). The properties to the east and south are also zoned Agricultural Residential (AR-1) The property to the west and north located across Sand Cove Road are zoned Medium Density Residential (MR).

This application along with Conditional Use No. 2292 seeks to connect into the adjacent parcel to the northwest (533-19.00-52.00) which is currently zoned Medium Density Residential (MR). Change of Zone No. 1896 was approved by the Sussex County Council on January 14th, 2020 and adopted through Ordinance No. 2700 sought a change of zone from Agricultural Residential (AR-1) to Medium Density Residential as well.



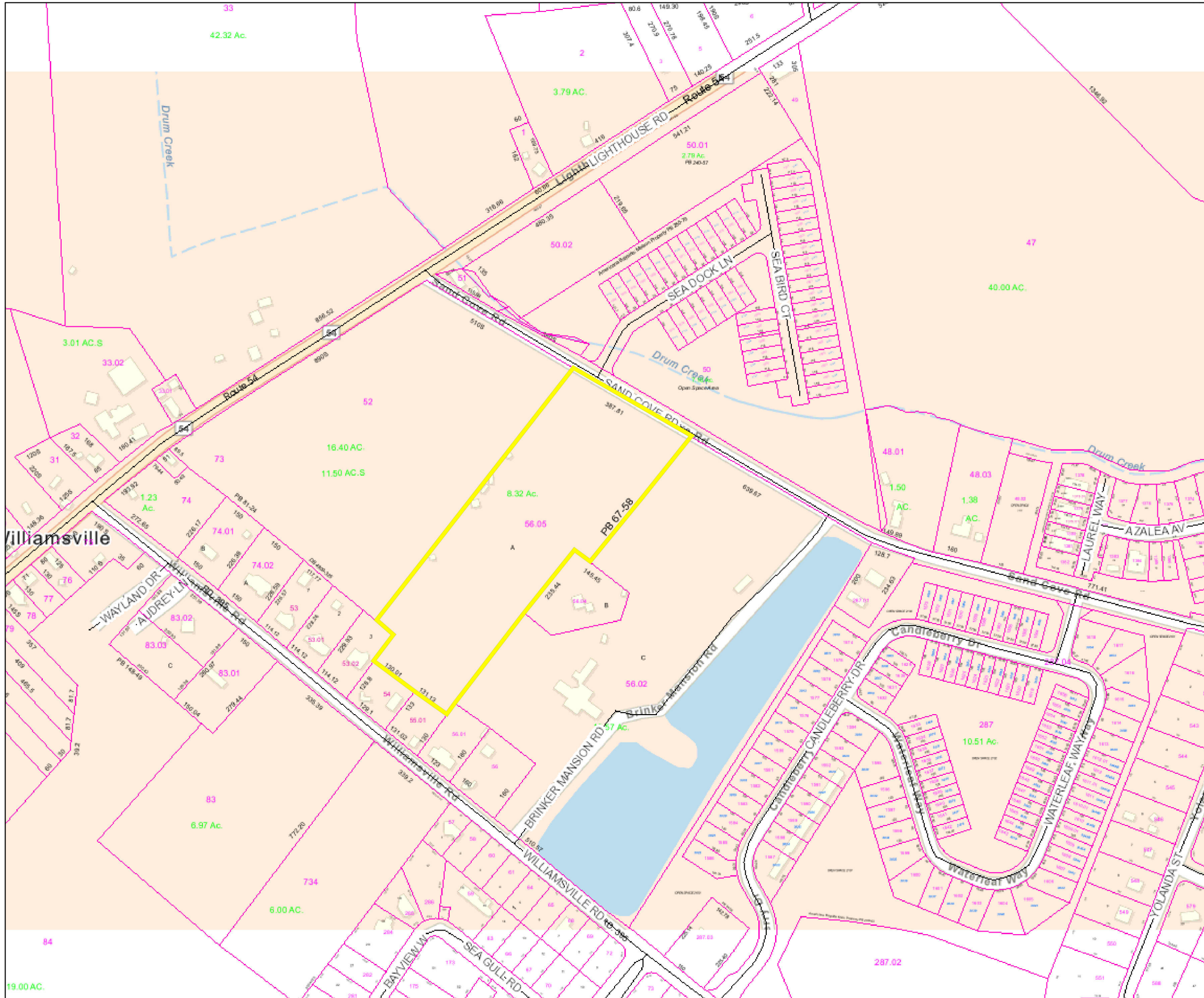
The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories,” the Medium Density Residential (MR) Zoning District is listed as an applicable zoning district in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

Since 2011, there have been six (6) Change of Zone applications within a 1-mile radius of the application site. The first application is for Change of Zone No. 1711 for a change of zone from an Agricultural Residential (AR-1) and General Commercial (C-1) to a Commercial Residential (CR-1) Zoning District. The application was approved by the Sussex County Council on February 14th, 2012 and the change was adopted through Ordinance No. 2241. Next is Change of Zone No. 1748 for a change of zone from an Agricultural Residential (AR-1) to a Medium Density Residential, Residential Planned Community (MR-RPC). The application was approved by the Sussex County Council on July 15th, 2014 and adopted through Ordinance No. 2355. Change of Zone No. 1803 was for a change of zone from an Agricultural Residential (AR-1) to a Medium Density Residential, Residential Planned Community (MR-RPC). The application was approved by the Sussex County Council on August 30th, 2016 and adopted through Ordinance No. 2460. Change of Zone No. 1846 was for a change of zone from an Agricultural Residential (AR-1) to a Medium Density Residential, Residential Planned Community (MR-RPC). The application was approved by the Sussex County Council on June 5th, 2018 and adopted through Ordinance No. 2579. Change of Zone No. 1896 was for a change of zone from an Agricultural Residential (AR-1) to Medium Density Residential (MR). The application was approved by the Sussex County Council on January 14th, 2020 and adopted through Ordinance No. 2700. Lastly, Change of Zone No. 1917 was for a change of zone from an Agricultural Residential (AR-1) to Medium Commercial (C-2). The application was approved by the Sussex County Council on August 11th, 2020 and adopted through Ordinance No. 2731.

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



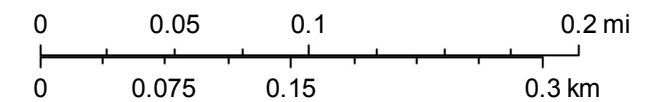
Sussex County



PIN:	533-19.00-56.05
Owner Name	D L T F LLC
Book	3575
Mailing Address	39001 CHICKEN FARM RD
City	SELBYVILLE
State	DE
Description	W/RD 394
Description 2	510'SE/RT 54
Description 3	PARCEL A
Land Code	

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

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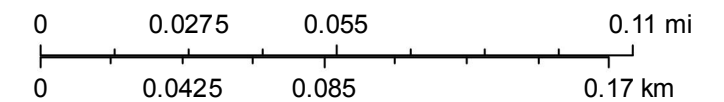
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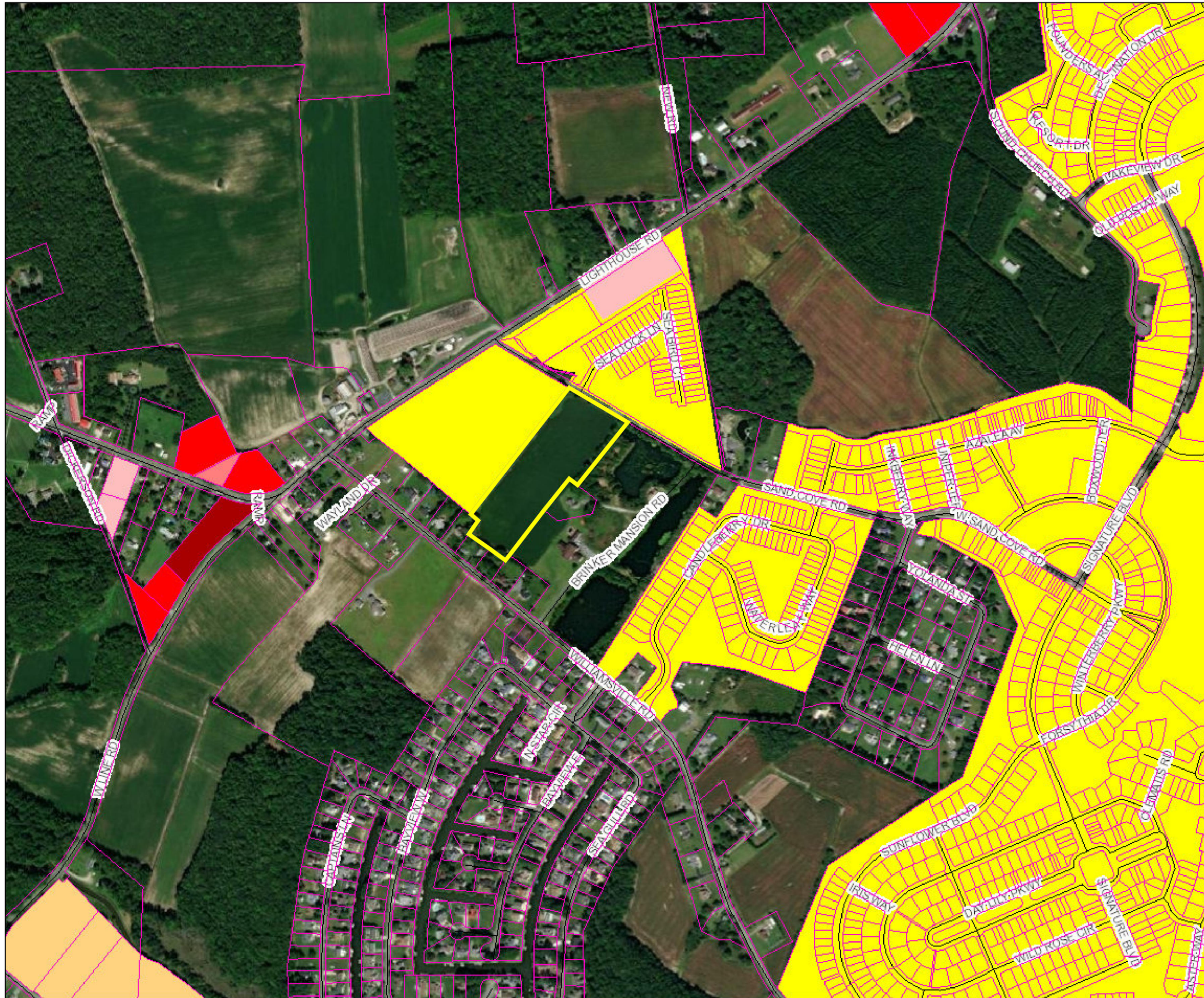
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 - Override 1
 - Tax Parcels
 - 911 Address
 - Streets
 - County Boundaries
 - Municipal Boundaries

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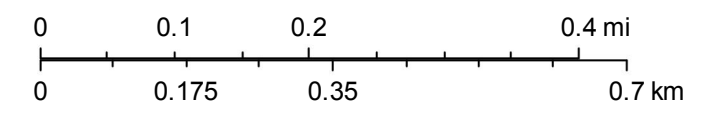
Sussex County



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

1:9,028



Introduced 07/27/21

**Council District 5 - Rieley
Tax I.D. No. 533-19.00-56.05
911 Address: None Available**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 8.33 ACRES, MORE OR LESS

WHEREAS, on the 15th day of June 2021, a zoning application, denominated Change of Zone No. 1945 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 Change of Zone No. 1945 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 has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the southwest side of Sand Cove Road (S.C.R 394) approximately 750 feet southeast of Lighthouse Road (Route 54) and being more particularly described in the attached legal description prepared by Raymond E. Tomasetti, Jr. Esq., said parcel containing 8.33 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.

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Sussex County

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Memorandum

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

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

CC: Everett Moore, County Attorney

Date: September 17, 2021

RE: County Council Report for CU 2292 filed on behalf of Gulfstream Development, LLC

The Planning and Zoning Department received an application (CU 2292 filed on behalf of Gulfstream Development, LLC) for a Conditional Use for parcel 533-19.00-56.05 for multi-family dwellings (32 units) for a certain parcel of land lying on the southwest side of Sand Cove Road (SCR 394) approximately 750 feet southeast of Lighthouse Road (Rt. 54). The property is within the Medium Density Residential (MR) Zoning District. The parcel size is 8.33 acres +/-.

The Planning and Zoning Commission held a public hearing on August 26, 2021. At the meeting of September 9, 2021 the Commission recommended approval of the application for the 8 reasons and subject to the 15 recommended conditions outlined within the motion (included below).

Below are the draft minutes from the Planning & Zoning Commission meeting of August 26, 2021 and the draft minutes from the Planning & Zoning Commission meeting of September 9, 2021.

Draft Minutes of the August 26, 2021 Planning & Zoning Commission Meeting

C/U 2292 Gulfstream Development, LLC

An Ordinance to grant a Conditional Use of land in a MR Medium Density Residential District for multi-family (32 units) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 8.33 acres, more or less. The property is lying on the southwest side of Sand Cove Road (S.C.R 394) approximately 750 feet southeast of Lighthouse Road (Route 54). 911 Address: N/A. Tax Parcel: 533-19.00-56.05.

Mr. Whitehouse advises the Commission that submitted into the records is a copy of the Applicant's exhibit booklet, a copy of the Applicant's site plan, a copy of the Applicant's environmental assessment and public facility evaluation reports, a copy of the staff analysis, a copy of an e-mail that



has been received from DelDOT, along with a copy of the DelDOT Service Level Evaluation Response, a copy of a letter from Sussex County Engineering Department Utility Planning Division, zero letters of support and zero letters of opposition.

The Commission found that Mr. David Hutt, Esq. was present on behalf of the Applicant, Gulfstream Development, LLC; that also present are Mr. Robert Harris, who is the Principal of Gulfstream Development, LLC, Mr. Steve Engel with Vista Design Inc. and Mr. Tom Brinker who is one of the current owners of the property; that the Application is for a 8.33 acre parcel located on Sand Cove Rd.; that this is a short distance from the intersection of Sand Cove Rd. and Lighthouse Rd.; that directly across the street is part of the Bayside subdivision; that the Commission previously considered an Application for Bay Knoll on the adjacent property to the west; that the previous Bay Knoll Application was very similar to the proposed Application; that it requested approval for a Change of Zone from AR-1 Agricultural Residential to MR Medium Residential, as well as, sought the approval of 52 duplex multi-family units for the property; that the Application was approved on December 12, 2019; that on January 14, 2020 Sussex County adopted Ordinance 2700 and Ordinance 2701 which were the approvals for C/Z 1896 and C/U 2197; that in the previously approved site plan there is a note to a proposed future access to the Melson property; that the Melson property is part of the property belonging to Heron's Ridge at Bayside; that currently the proposed entrance has been installed; that after the Bay Knoll's Application was approved in January 2020, Gulfstream Development, LLC purchased the 13.3-acre parcel and also placed the current Application's 8 acres under contract; that the 8 acres were placed under contract with the goal of replicating what is currently placed on the 13 acres; that the Applicant requests approval to continue the theme of the 13 acres, to the proposed 8 acres, with hopes to result in a superior project in several respects; that the proposed property is located in a Level 3 on the State Strategies Map; that the proposed property is located in the Coastal Area on the Sussex County Future Land Use Map; that the Coastal Area is one of the seven growth areas; that in the project booklet there is a Chapter 99-9C response and an Environmental Assessment and Public Facility report which is required; that according to the Comprehensive Plan the MR Zoning District is appropriate in the Coastal Area on the Future Land Use map; that the Comprehensive Plan states that medium and higher densities are appropriate when public utilities are available to serve the project; that the project is currently zoned AR-1; that directly to the west of the property is MR Zoning; that across the street from the property it is zoned MR/RPC Medium Residential Planned Community; that located further down the road is the Bayside Community which is zoned as MR; that in 2014 the Application for the MR/RPC was approved for a combination of single-family homes, townhomes and duplexes; that along Rt. 54 is a parcel previously approved for B-1 Neighborhood Business which was approved in 2016; that also approved in 2016 was the Herron's Ridge at Bayside Application, which is located directly across Sand Cove Rd. from the currently proposed 8-acres; that in 2020 the Bay Knolls Subdivision Application was approved for a Change of Zone to MR along with the 52 unit multi-family Conditional Use; that the proposed Application is consistent with the character and trend of development in the area along Sand Cove Rd.; that currently the property is being used for Agricultural purposes; there are no known archeological sites or national register listed properties; there are no known threatened or endangered species; that it is located in Flood Zone X; that there are no wetlands located on the property; that the stormwater management would be subject to the best management practices and to the review and approval by the Sussex Conservation District; that the proposed plan has 3.59 acres of open space; that this equals about 43% of the 8.3 acre site; that there are some woodlands located along the boundaries of the property; that the woodlands will be preserved to the extent possible, as part of the 20-ft. landscape forested buffer between the proposed project and adjacent properties; that 77% of the existing wooded areas will remain on the property; that water for fire protection and drinking will

be provided by Artesian Water Co. Inc.; that the Sussex County Engineering Department states the property is located in Tier I of the Sussex County Unified Sanitary Sewer System; that the capacity is available for the proposed units; that DelDOT stated in the Service Level Evaluation Response that there was no Traffic Impact Study (TIS) required and indicated the traffic impact to be negligible; that the Application proposes the same multi-family duplex housing style located within the adjacent 13 acres; that the Application proposes housing consistent with housing found across the street, as well as the mixture of homes found in the various phases of Bayside; that the proposed Application has a similar density as the 13 acre parcel; that the gross density of the 13 acre parcel is 3.9 units per acre; that the gross density of the proposed Application is 3.84 units per acre; that in the MR Zoning District up to four units to the acre is what is permitted; that there is a consistent amount of open space between the 13 acre parcel and the 8 acre parcel; that the 13 acres piece showed 46% of area reserved for open space; that on the proposed 8 acre parcel the proposed open space is 43%; that there are 5-ft. wide sidewalks proposed through the community; that the sidewalks will connect all of the homes within the community and will connect the community to the streets and the shared-use path along the frontage of the property; that there is a plan to construct community amenities; that these amenities will include a pool and a community center; that the community center will also be utilized a bus stop and drop off for students if the school district chose to designate that area rather than a bus stop on Sand Cove Rd.; that the new entrance is located further away from the intersection of Sand Cove Rd. and Rt. 54 which makes this entrance superior; that the proposed entrance allows the Applicant to align the entrance with the entrance of Herron's Ridge Bayside creating a four-way intersection which is easier to navigate; that the proposed Application is consistent with the surrounding areas; that when combined with the existing approval for Bay Knolls, creates a superior community; that both parcels will be subject to the same Homeowners Association; that the HOA will be responsible for the maintenance of the stormwater ponds, pool, and community center; that he would like to submit into the record 16 letters of support from neighbors in the area and proposed Finds and Conditions of Approval.

Ms. Wingate mentions some concern regarding the turn-around areas, but stated the Fire Marshal's office has jurisdiction over those; that she questioned if the Application would be constructed in phases or all at once and questioned if PLUS comments expire due to the current PLUS comments being from 2017.

Mr. Harris states the Application is proposed to be phased; that it will be phased into two different phases and he assumes phasing will be evenly split with 40 homes in one phase, and 41 homes in the other.

Mr. Robertson stated he is not certain if PLUS expires or not and questioned if Mr. Hutt had any light to shed on the PLUS comments regarding any previous conversations.

Mr. Whitehouse stated that this question did come up in the previous Change of Zone Application; that there was an email received from the State Planning Office confirming the 2017 PLUS comments are acceptable and there is no specified time period.

Mr. Hutt stated he has nothing further to say in regards to the PLUS comments and that the adjacent parcel has not been submitted to Planning and Zoning for a site plan review due to the parcel needing to be submitted in tandem with the proposed Application depending on approval.

Ms. Stevenson mentioned concern about the adjacent property having potential drainage issues.

Ms. Wingate mentioned there is a pond located in that area.

Chairman Wheatley mentions concern about previous issues regarding sidewalks; that he stated if sidewalks are proposed on a final site plan there is an absolute expectation that the proposed sidewalks will be built; that he requested the Applicant give some thought to this issue up-front to confirm that the Applicant can do what they are proposing to do and mentions this is an issue that is seen before the Planning and Zoning Commission frequently.

The Commission found that Mr. Paul Norvel, Sr. spoke in opposition to the Application; that he lives between Bayside and the proposed property; that he is concerned the Applicant will remove trees and drop them into the pond of his property; that on his property he has 12-acres of a pond; that he would like to see a fence placed by the Applicant so that his trees do not get removed; that he has this concern because Bayside previously cut down the trees and dropped them into his pond in which he had to clean up himself; that he feels they did this to offer the potential home buyers waterfront views of his pond from their homes; that residents often want to fish in his pond; that when residents fish in his pond they often leave behind a lot of trash for him to pick up and he mentions concern about the increased traffic on the single-lane roads.

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

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

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

In relation to Application C/U 2292 Gulfstream Development, LLC, Motion by Ms. Wingate to hold the record open for a determination of the suitability of the existing PLUS comments and pending the decision the record to remain open for a new PLUS review if required, seconded by Ms. Stevenson, and carried unanimously. Motion carried 4-0.

Draft Minutes of the September 9, 2021 Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since August 26, 2021.

Ms. Wingate moved that the Commission recommend approval of C/U # 2292 for GULFSTREAM DEVELOPMENT, LLC for Multi-Family Dwellings in an MR Medium Density Residential District based upon the record made during the public hearing and for the following reasons:

1. This application seeks the approval of 32 multifamily dwellings on 8.33 acres. This results in a density of approximately 3.84 units per acre. That density is consistent with the adjacent Bay Knolls at 3.90 units per acre and other nearby developments. 3.84 units per acre is also consistent with the MR District, which permits up to four (4) units per acre.
2. This site is in the Coastal Area according to Sussex County Comprehensive Plan. This type of development is appropriate in the Coastal Area according to the Plan, which states that medium and high densities are acceptable 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 here.

3. The proposed development will not have an adverse impact on the neighboring properties or roadways.
4. DelDOT reviewed the applicant's planned project and has issued a letter stating that it will generate fewer than 50 vehicle trips any hour and fewer than 500 vehicle trips per day therefore no Traffic Impact Study is required. DelDOT's review indicated that it considered the proposed development's traffic impact to be "negligible" in the context of DelDOT's agreement with Sussex County regarding land development coordination.
5. Approximately 3.59 acres, or 43% of the project, will be open space.
6. Although this is a Conditional Use, the items set forth in Section 99-9C of the Subdivision Code have also been favorably addressed by the applicant.
7. The development will be served by central sewer provided by Sussex County and central water provided by a publicly regulated water company.
8. This project will be combined with the adjacent Bay Knolls project which will be superior to 2 two separate standalone projects. For example, the present application will add on-site amenities such as a pool and community center for both this site and Bay Knolls. It will also provide a safer single entrance to become part of a four-way intersection with the Herons' Ridge at Bayside Community.
9. This recommendation is subject to the following conditions:
 - a. The maximum number of residential units shall be 32.
 - b. All entrances, intersection, roadway, and multi-modal improvements shall be completed by the developer in accordance with all DelDOT requirements.
 - c. 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.
 - d. The project shall be served by central water to provide drinking water and fire protection.
 - e. Interior Street design shall meet or exceed the Sussex County Street design requirements.
 - f. As proffered by the applicant, there shall be sidewalks on both sides of all streets and roadways.
 - g. The applicant shall submit as part of the Final Site Plan a landscape plan showing the proposed tree and shrub landscape design, including any buffer areas. The landscape plan shall clearly designate all existing forested areas that will be preserved (77% of the existing forested area, according to the Applicant). The landscape plan shall also identify all "Limits of Disturbance" within the site. These "Limits of Disturbance" shall be clearly marked on the site itself.
 - h. All construction and site work on the property, including deliveries of materials to or from the property, shall only occur between 7AM and 6PM Monday through Saturday. 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 amenities shall include a community center and pool area, with at least 20 off-street parking spaces set aside for these areas. These amenities shall be completed and open to use by the residents of this project and Bay Knolls upon the issuance of the 50th building permit within the combined projects.
- k. The applicant shall form a homeowners' or condominium association responsible for the perpetual maintenance, repair, and replacement of the roads, any buffers and landscaping, stormwater management facilities, erosion, and sediment control facilities and other common elements.
- l. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using best management practices.
- m. 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.
- n. The applicant shall coordinate with the Indian River School District to establish a school bus stop area, which shall be shown on the Final Site Plan if required by the District.
- o. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to recommend approval of C/U 2292 for Gulfstream Development, LLC for the reasons and conditions stated in the motion. Motion carried 5 – 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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PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: August 26th, 2021

Application: CU 2292 Gulfstream Development, LLC

Applicant: Gulfstream Development, LLC (Robert Harris)
27 Atlantic Ave Suite 101
Ocean View, DE 19970

Owner: Gulfstream Development, LLC (Robert Harris)
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Ocean View, DE 19970

Site Location: The property is lying on the southwest side of Sand Cove Road (S.C.R. 394) approximately 750 feet southeast of Lighthouse Road (Route 54).

Current Zoning: Medium Density Residential (MR) Zoning District

Proposed Use: Multi-Family (32 Units)

Comprehensive Land
Use Plan Reference: Coastal Area

Councilmanic
District: Mr. Rieley

School District: Indian River School District

Fire District: Roxana Fire Department

Sewer: Sussex County

Water: Artesian

Site Area: 8.33 acres +/-

Tax Map ID.: 533-19.00-56.05



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Memorandum

To: Sussex County Planning Commission Members
From: Nicholas Torrance, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: August 19th, 2021
RE: Staff Analysis for CU 2292 Gulfstream Development, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2292 Gulfstream Development, LLC to be reviewed during the August 26, 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 533-19.00-56.05 to allow for a Conditional Use of land in a Medium Density Residential (MR) Zoning District for 32 single-family condominiums. The property is lying on the southwest side of Sand Cove Road (S.C.R 394) approximately 750 feet southeast of Lighthouse Road (Route 54) in Selbyville. The area of the site is approximately 8.33 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 currently within an Agricultural Residential (AR-1) Zoning District. Change of Zone No. 1945 seeks to change the zoning of the parcel from an Agricultural Residential (AR-1) Zoning District to a Medium Density Residential (MR) Zoning District. The parcels to the south and east are also zoned Agricultural Residential (AR-1). The parcel located to the northwest is zoned Medium Density Residential (MR) and is the current site the proposed Bay Knolls Community which this application seeks to tie into. The properties across Sand Cove Road are also zoned MR.

During a pre-application meeting, the applicant stated the Conditional Use was to alleviate concerns from the Delaware Department of Transportation in regard to the entrance location. The new plan



proposes to locate the entrance of the proposed Bay Knolls Community in line with Sea Dock Lane, located directed across Sand Cove Road.

Since 1971, there have been 17 Conditional Use applications within a one-mile radius of the application site. Of the 17 Conditional Use applications within a one-mile radius, 12 have been approved, 2 have been denied, 2 are pending and 1 was withdrawn.

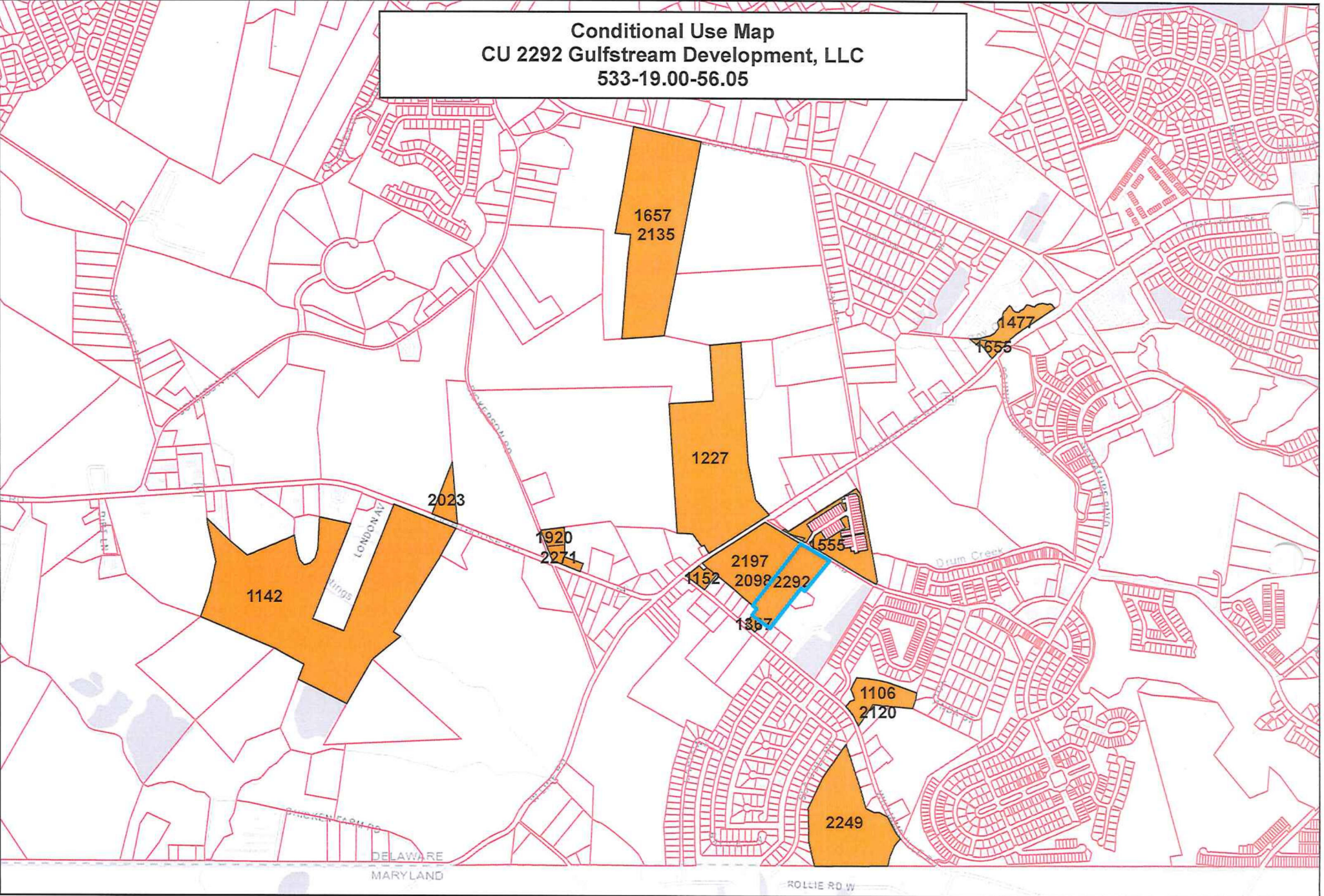
Since 1971, there has been no Conditional Use applications located on this same parcel. Conditional Use No. 2197 for multi-family (62 units) was approved by the County Council and adopted through Ordinance No. 2701 is located on the adjacent parcel 533-19.00-52.00. This application seeks to connect to the previously approved Conditional Use.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow for 32 multi-family units, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.



Sussex County

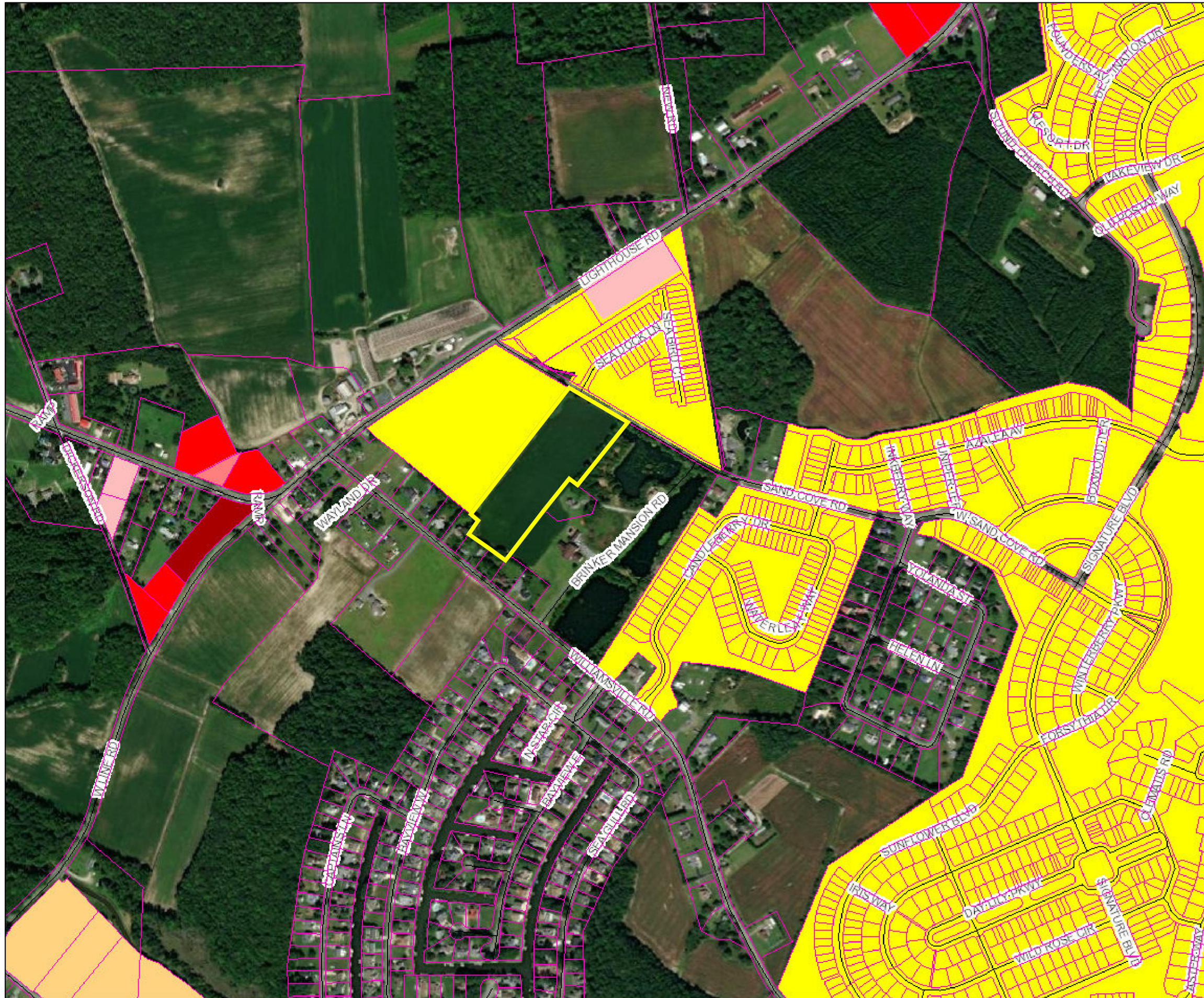
Conditional Use Map
CU 2292 Gulfstream Development, LLC
533-19.00-56.05



CU #	Tax Parcel ID	APPLICANT	Current_Zo	Proposed_U	P&Z Recommendation	P&Z Decision Date	CC Decision	CC Decision Date
2292	533-19.00-56.05	Gulfstream Development, LLC	AR-1	32 Multi-Family Units (Duplexes)		<Null>		<Null>
2271	533-18.00-25.00	Chris Brasure	AR-1	Office for pest control business - amendment to Ordinance 2240 CU 1920		<Null>		<Null>
2249	533-19.00-289.05	Mayapple Farm, LLC	AR-1	Multi Family (41 Units)	Recommended Approval	7/22/2021		<Null>
2197	533-19.00-52.00	Fenwick Commons, LLC	MR	Multi-family (62 Duplex units)	Recommended Approval	12/12/2019	Approved	12/17/2019
2135	533-11.00-104.00	Void - Henry Clay Johnson V	AR-1	amendment to CU 1657 to allow retail and cooking facilities		<Null>		<Null>
2120	533-19.00-287.02	PJM Properties, LLC	AR-1	amend conditions of approval of CU 1106	Recommended Approval	4/26/2018	Approved	5/15/2018
2098	533-19.00-52.00	Fenwick Commons. LLC	MR	Multi-family (62 Duplex Units)	Recommended Approval	11/16/2017	Denied	1/23/2018
2023	533-18.00-12.00	Frank Miranda	AR-1	veterinarian office	Recommended Approval	7/30/2015	Approved	9/15/2015
1920	533-18.00-24.00	Collins 54, LLC	AR-1	Storage Garage for Trucks and Equipment and a Parking Area	Recommended Approval	1/26/2012	Approved	2/7/2012
1657	533-11.00-104.00	Johnson's Country Market	AR-1	Country Market	Recommended Approval	5/25/2006	Approved	6/13/2006
1655	533-19.00-15.00	Edward J. Chiasson	AR-1	gifts	Recommended Approval	1/4/2006	Approved	1/10/2006
1555	533-19.00-50.00	Paul Robino (Robino-Sanibel Village, LLC)	AR-1	multi-family	Recommended Approval	10/28/2004	Denied	12/14/2004
1477	533-19.00-16.01	Carl M. Freeman Communities	MR	public utility water	Recommended Approval	2/13/2003	Approved	3/25/2003
1367	533-19.00-54.00	Jeffrey M. Irving	AR-1	sign shop	Recommended Approval	11/2/2000	Approved	11/28/2000
1227	533-18.00-33.00	Daniel W. Magee T/A Magee Farms	AR-1	Corn Maze Recreation Activity	Recommended Approval	3/26/1998	Approved	4/7/1998
1152	533-18.00-74.00	Connie Kay Cooper	AR-1	retail sales & consignment shop	Recommended Approval	4/11/1996	Approved	4/30/1996
1142	533-18.00-61.00	Richard E. Tucker	AR-1	commerical/business/storage-rental warehouse	Recommended Approval	1/11/1996	Approved	1/30/1996
1106	533-19.00-287.02	Eric H. Ritter	AR-1	outside boat storage/sales/repairs	Recommended Approval	2/23/1995	Approved	5/23/1995



Sussex County



PIN:	533-19.00-56.05
Owner Name	D L T F LLC
Book	3575
Mailing Address	39001 CHICKEN FARM RD
City	SELBYVILLE
State	DE
Description	W/RD 394
Description 2	510'SE/RT 54
Description 3	PARCEL A
Land Code	

polygonLayer

Override 1

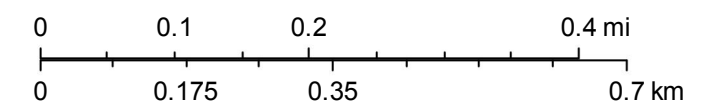
polygonLayer

Override 1

--- Tax Parcels

— Streets

1:9,028



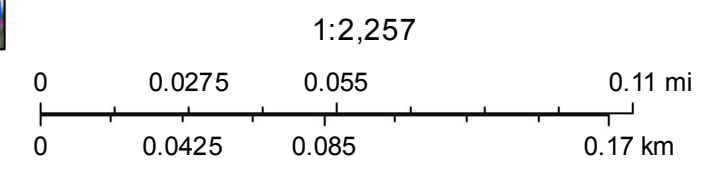


Sussex County



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



Introduced 07/27/21

**Council District 5 - Rieley
Tax I.D. No. 533-19.00-56.05
911 Addresses: None Available**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (32 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 8.33 ACRES, MORE OR LESS

WHEREAS, on the 15th of June 2021, a conditional use application, denominated Conditional Use No. 2292 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. 2292 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article 115, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2292 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 southwest side of Sand Cove Road (S.C.R 394) approximately 750 feet southeast of Lighthouse Road (Route 54), and more particularly described in the attached legal description prepared by Raymond E. Tomasetti, Jr. Esq., containing 8.33 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.