



Sussex County Council Public/Media Packet

**MEETING:
September 27, 2022**

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

COUNTY COUNCIL

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



Sussex County

DELAWARE
sussexcountype.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

A G E N D A

SEPTEMBER 27, 2022

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes – September 20, 2022

Reading of Correspondence

Public Comments

Presentation & Discussion by Sussex Sports Center Foundation

Consent Agenda

1. Use of Existing Sewer Infrastructure – IUA GP170.03
Grotto Pizza Corporate Headquarters (West Rehoboth Area)
2. Use of Existing Sewer Infrastructure – IUA 407-1
Plover Point (Oak Orchard Area)

Todd Lawson, County Administrator

1. Recognition of Retirees
 - a. Sherita R. Belle
 - b. Holly R. Brittingham
 - c. Mary Catherine Hopkins



2. Administrator's Report

Karen Brewington, Human Resources Director

1. Third Quarter Employee Recognition Awards

Robert Schoonover, EMS Manager of Logistics

1. Milton Medic 111 Station Lease Renewal

Old Business

1. Conditional Use No. 2300 filed on behalf of MRBP, LLC

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

2. “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 72, ARTICLE II, SECTIONS 72-16 THROUGH 72-28 AND CHAPTER 115, ARTICLE IV, V, VI, VII AND VIII SECTIONS 115-20, 115-25, 115-29, 115-34, 115-37, 115-42, 115-45, 115-50, 115-53 AND 115-58 REGARDING AFFORDABLY PRICED RENTAL UNITS AND THE SUSSEX COUNTY RENTAL UNIT (SCRUP) PROGRAM”

Grant Requests

1. Autism Delaware, Inc. for their Walk for Autism

Introduction of Proposed Zoning Ordinances

Council Members' Comments

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

Possible action on Executive Session items

1:30 p.m. Public Hearings

Conditional Use No. 2356 filed on behalf of Sun Massey's Landing RV, LLC

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITION NO. 9 IN ORDINANCE NO. 2378 (CONDITIONAL USE NO. 1963) TO AMEND THE REQUIREMENT THAT NO CAMPERS OR RVS SHALL BE STORED ON THE CAMPGROUD DURING THE PERIOD THAT THE CAMPGROUND IS CLOSED TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 54.33 ACRES, MORE OR LESS” (property lying on the north side and south side of Long Neck Road, within the Massey's Landing RV Park) (911 Addresses: 20628 Long Beach Drive, 20636 Long Beach Drive, 32464 Sailfish Lane and 22814 Conch Road, Millsboro) (Tax Parcel: 234-25.00-31.02 & 31.05)

Change of Zone No. 1963 filed on behalf of ES Motors, Inc.

“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 DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 9.54 ACRES, MORE OR LESS” (property lying on the south side of Vines Creek Road [Rt. 26], approximately 0.5 mile east of Armory Road [Rt. 382]) (911 Address: 30028 and 30032 Vines Creek Road) (Tax Parcel: 233-11.00-172.00)

Conditional Use No. 2316 filed on behalf of Southern Delaware Medical Center, LLC

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MEDICAL OFFICE BUILDINGS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.29 ACRES, MORE OR LESS” (property lying on the southeast side of Shady Road [S.C.R. 276], approximately 0.14-mile northeast of the intersection of Shady Road and Plantations Road [Rt. 1D]) (911 Addresses: 17611, 17623 & 17637 Shady Road, Lewes) (Tax Parcels: 334-6.00-511.02, 511.06 & 513.00)

“AN ORDINANCE TO AMEND THE TEXT AND MAPS OF CHAPTER 13 (MOBILITY ELEMENT) OF THE COMPREHENSIVE PLAN IN ADDITION TO AMENDMENTS TO THE EXISTING AND FUTURE LAND USE MAPS OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 235-16.00-50.02, 235-22.00-441.00, AND 235-22.00-442.00” (property lying on the west side of Coastal Highway [Route 1], west of the intersection of Coastal Highway and Eagles Crest Road [S.C.R. 264] (911 Address: 29763 Eagles Crest Road, Milton)

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on September 20, 2022 at 4:15 p.m. and at least seven (7) days in advance of the meeting.

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

Agenda items may be considered out of sequence.

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

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

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

To join the meeting via telephone, please dial:

Conference Number: 1-302-394-5036

Conference Code: 570176

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

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

#

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 20, 2022

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 20, 2022, at 10:00 a.m., in Council Chambers, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 429 22
Approve
Agenda**

Mr. Lawson reported that a request to postpone CU2311 filed on behalf of Phillip Jackson has been received, therefore, it can be removed from today's agenda. A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to approve the Agenda as amended.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of the August 30, 2022 meeting were approved by consensus.

**Corres-
pondence**

Mr. Moore read a letter from Kody's Kids, Inc. thanking Council for a donation that was received.

**Public
Comment**

Public comments were heard.

Ms. Jill Hicks read a statement prepared by Ms. Eul Lee. The statement was in reference to adopting a code of ethics and disclosure requirements.

Ms. Jill Hicks spoke about adopting a code of ethics and rules regarding conflicts of interest.

Ms. Judy Zoeller Hartzell spoke about ethical standards and conflict of interest rules. She also spoke about the ground water in Sussex County.

Ms. Carol Conroy spoke about putting a code of conduct or a code of ethics

**Public
Comment
(continued)**

in place.

Ms. Janet Digadel spoke about developers taking advantage of the recently adopted Comprehensive Plan. She also commented on a code of ethics and whistle blowing protection.

**M 430 22
Approve
Consent
Agenda**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to approve the following item under the Consent Agenda:

**Use of Existing Sewer Infrastructure Agreement, IUA 1141 (Revised)
Scenic Manor, Mulberry Knoll Area**

Motion Adopted: 5 Yeas

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

**Adminis-
trator's
Report**

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

1. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, The Estuary – Phase 3E (Construction Record) and Headwater Cove – Phase 2 (Construction Record) received Substantial Completion effective September 9th and September 15th respectively.

2. Proclamation – Literacy Month

Sussex County Council directs this proclamation in celebration of September as Literacy Month and September 18th through September 24th as Adult Education and Family Literacy Week in Sussex County, Delaware.

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

**EMS Public
Safety Bldg./
CO17**

Hans Medlarz, County Engineer presented Change Order No. 17 for the EMS Public Safety building for Council's consideration. Mr. Medlarz reported that the Change Order is the result of several RFI's, material lead-time issues, and modifications to avoid conflicts during construction.

**M 431 22
Approve
CO17/EMS
Public**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it moved based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 17 for Contract C19-04, Sussex County Public Safety Building, be approved, for an increase of \$30,089.13.

Safety Bldg. Motion Adopted: 5 Yeas

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

GMB/Amendment No. 4/Medic Stations 101, 103 & 11 Hans Medlarz, County Engineer presented an architectural service contract with George, Miles and Buhr. Inc. for Amendment No. 4 for Medic Stations 101, 103 & 111 for Council's consideration.

M 432 22 Approve Amendment No. 4/Medic Stations 101, 103 & 111 A Motion was made by Mr. Schaeffer, seconded by Mrs. Green, be it moved, based upon the recommendation of the Sussex County Engineering Department, that Amendment No. 4 to the Architectural Services Contract with George, Miles & Buhr, Inc. be approved in the amount not to exceed \$452,000.00 for design, bidding, and construction administration services for Medic Stations 101, 103 and 111.

Motion Adopted: 5 Yeas

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

Ellendale Water District Hans Medlarz, County Engineer presented a balancing Change Order and Substantial Completion for the Ellendale Water District, Project W20-17 for Council's consideration. The project is now complete and fully operational which means all the unit quantities can be finalized.

M 433 22 Approve CO & Substantial Completion/Project W20-14 A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it moved based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 2 for Contract W20-17, Ellendale Water District, be approved, increasing the contract by \$77,971.93, for a new final contract total of \$5,347,951.93, and that substantial completion be granted for September 20, 2022, and any held retainage be released in accordance with the contract documents.

Motion Adopted: 5 Yeas

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

DE Coastal Business Park/CO No. 1 Mark Parker, Assistant County Engineer presented Change Order No. 1 for the Delaware Coastal Business Park Improvements for Council's consideration. Mr. Parker reported that the Change Order is being requested to cover the site changes required to accommodate Great Outdoor Cottages. All of the changes have been agreed upon by all parties involved. Mr. Parker noted that discussions are being held with representatives from Great Outdoor Cottages regarding cost sharing

responsibilities in reference to the changes.

M 434 22
Approval
CO No. 1/
DE Coastal
Business
Park

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it moved, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 1 be approved in the amount of \$128,630.00 to A-Del Construction.

Motion Adopted: 5 Yeas

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

Permission
to Prepare
& Post
Notices/Ter-
rapin Island

John Ashman, Director of Utility Planning and Design Review presented a request to prepare and post notices for Terrapin Island Annexation into the Sussex County Unified Sanitary Sewer District (Angola Neck Area). The Engineering Department has received a request from Pennoni on behalf of their client Ribera Development, LLC, the owners/developers of a project to be known as Terrapin Island. The request includes parcel 243-18.00-31.00 and is proposed at 42 single family homes on 30.08 acres. The project will be responsible for System Connection Charges in place at the time.

M 435 22
Approve
Prepare &
Post
Notices/Ter-
rapin Island

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, that be it moved by Sussex County Council that the Sussex County Engineering Department is authorized to prepare and post notices for the Terrapin Island Expansion of the Sussex County Unified Sanitary Sewer District to include parcel 243-18.00-31.00 located along Camp Arrowhead Road as presented.

Motion Adopted: 5 Yeas

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

Old
Business/
CU2300

Under Old Business, Jamie Whitehouse, Planning and Zoning Director presented Conditional Use No. 2300 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 56.93 ACRES, MORE OR LESS" filed on behalf of MRBP, LLC.

Mr. Whitehouse reminded Council that County Council held a Public Hearing on the application on August 23, 2022. At the conclusion of that Public Hearing, a motion was made and passed to hold the record open for an additional period of seven days for the receipt of additional written comments. Mr. Whitehouse confirmed that additional comments were received and they have been circulated in the paperless packet.

M 436 22 **A Motion was made Mr. Hudson, seconded by Mr. Schaeffer to close the**
Close Public **Public Record on a Proposed Ordinance entitled “AN ORDINANCE TO**
Record/ **GRANT A CONDITIONAL USE OF LAND IN AN AR-1**
CU2300 **AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT TO**
 BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND
 BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING
 56.93 ACRES, MORE OR LESS” filed on behalf of MRBP, LLC.

Motion Adopted: 5 Yeas.

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

Grant
Requests **Mrs. Jennings presented grant requests for Council’s consideration.**

M 437 22 **A Motion was made by Mr. Schaeffer, seconded by Mrs. Green to give**
United Way **\$5,000 (\$5,000 from Countywide Youth Grant Account) to United Way of**
of Delaware **Delaware Inc. for Delaware Goes Purple program on behalf of Sussex**
 County Health Coalition.

Motion Adopted: 5 Yeas

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

M 438 22 **A Motion was made by Mr. Hudson, seconded by Mr. Rieley to give \$1,000**
Western **(\$1,000 from Mr. Vincent’s Councilmanic Grant account) to Western**
Sussex **Sussex Chamber of Commerce for their Broad Creek Bike and Brew event.**
Chamber of
Commerce

Motion Adopted: 5 Yeas

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

M 439 22 **A Motion was made by Mr., Hudson, seconded by Mr. Rieley to give \$3,500**
Delaware **(\$2,500 from Mr. Hudson’s Councilmanic Grant Account, \$500 from Mr.**
Botanic **Rieley’s Councilmanic Grant Account and \$500 Mr. Vincent’s**
Gardens, **Councilmanic Grant Accounts) to the Delaware Botanic Gardens, Inc. for**
Inc. **their 2022 Annual Fundraising dinner.**

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. Schaeffer introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ESTHETICIAN BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.28 ACRE, MORE OR LESS” filed on behalf of Jose Netto and Karyne DeSilva.

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 GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 0.75 ACRE, MORE OR LESS” filed on behalf of Jeffrey & Linda Babinski.

Mr. Hudson reintroduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY UNITS (3 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.4 ACRES, MORE OR LESS” filed on behalf of Kent Walston, LLC.

Mr. Rieley introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCELS 135-15.00-98.00 & 98.01”.

Mr. Rieley introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL 135-11.00-65.00”.

The Proposed Ordinances will be advertised for Public Hearings.

**Council
Members’
Comments**

Mrs. Green questioned the Realty Transfer Tax Monthly Report.

**M 440 22
Go Into
Executive
Session**

At 10:42 a.m., a Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to recess the Regular Session, and go into Executive Session for the purpose of discussing matters relating to pending/potential litigation and land acquisition.

Motion Adopted: 5 Yeas

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

Executive Session At 10:46 a.m., an Executive Session of the Sussex County Council was held in the Council Chambers to discuss matters relating to pending/potential litigation and land acquisition. The Executive Session concluded at 11:34 a.m.

M 441 22 Reconvene A Motion was made by Mr. Hudson, seconded by Mr. Rieley to come out of Executive Session to go back into Regular Session.

E/S Action There was no action relating to Executive Session matters.

M 442 22 Recess A Motion was made by Mr. Rieley, seconded by Mr. Hudson to recess until 1:30 p.m. Public Hearings.

Motion Adopted: 5 Yeas

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

M 443 22 Reconvene At 1:32 p.m., a Motion was made by Mr. Schaeffer, seconded by Mrs. Green to reconvene.

Motion Adopted: 3 Yeas, 2 Absent

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

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

Public Hearing/ General Obligation Bonds/Herring Creek A Public Hearing was held on a Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$1,900,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE CONSTRUCTION AND EQUIPPING OF AN EXTENSION OF SANITARY SEWER SERVICES TO HERRING CREEK AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH".

Hans Medlarz, County Engineer explained that supplemental funding is needed for the last part of the project.

There were no public comments.

The Public Hearing and the public record were closed.

M 444 22 Adopt Ordinance A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 2883 entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$1,900,000 OF GENERAL OBLIGATION BONDS

No. 2883
General
Obligation
Bonds/Herr-
ing Creek

OF SUSSEX COUNTY IN CONNECTION WITH THE CONSTRUCTION AND EQUIPPING OF AN EXTENSION OF SANITARY SEWER SERVICES TO HERRING CREEK AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.

Motion Adopted: 5 Yeas

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

USDA
Resolution

Hans Medlarz, County Engineer presented a USDA Loan Resolution for Herring Creek Area for Council’s consideration.

M 445 22
Adopt
Resolution/
Herring
Creek

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, that the Sussex County Council approve the Loan Resolution authorizing and providing for the incurrence of indebtedness for the purpose of providing a portion of the cost of acquiring, constructing, enlarging, improving, and/or extending Herring Creek sewer services.

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/
CU2312

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE AND SHOWROOM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 0.65 ACRES, MORE OR LESS” filed on behalf of G. Fedale (property lying on the north side of DuPont Blvd. [Rt. 113], approximately 730 feet northwest of Speedway Road [S.C.R. 325]) (911 Addresses: 24207 & 24217 DuPont Boulevard, Georgetown) (Tax Parcel: 133-2.00-38.00)

The Planning and Zoning Commission held a Public Hearing on this application on August 11, 2022, and on August 25, 2022, the Planning & Zoning Commission recommended approval of the application for the six reasons stated and subject to the eight recommended conditions.

(See the minutes of the Planning and Zoning Commission dated August 11 and 25, 2022.)

Jamie Whitehouse, Planning and Zoning Director presented the application.

Public

The Council found that Mr. Matthew Wiley spoke on behalf of the

Hearing/
CU2312
(continued)

Application; that he is the General Manager at G. Fedale in Sussex County; that the building was purchased about a year ago; that it is planned for the building to be a showroom and office for their roofing and siding business; that it was previously Shore Electric; that he agrees with all of the conditions given; that there is adequate parking there; that the hours are 7:30 a.m. until 4:30 p.m. Monday through Friday.

There were no public comments.

The Public Hearing and public record were closed.

M 446 22
Adopt
Ordinance
No. 2884/
CU2312

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 2884 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE AND SHOWROOM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 0.65 ACRES, MORE OR LESS" for the reasons given by Planning and Zoning as follows:

1. This site has a history of small business uses. It was previously occupied by Shore Electric for the past 15 years, and a flower and gift shop prior to that. This use will be consistent with the prior usage of this property.
2. The property is located along Route 113, which is one of the main highways in Sussex County. This location is appropriate for this business use.
3. The applicant has stated that this site will only be for office and showroom purposes. Although the applicant owns and operates a roofing company, all of the construction work will occur off-site.
4. The proposed use will not generate a significant amount of traffic, and it will not have any adverse effect on area roadways.
5. The proposed use is very limited in nature, and it will not have any adverse impact on neighboring properties or the community.
6. No parties appeared in opposition to the application.
7. This recommendation is subject to the following conditions:
 - A. The use shall be limited to use as an office and showroom.
 - B. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.
 - C. The applicant shall comply with any DelDOT entrance and roadway improvement requirements.
 - D. Parking areas for all vehicles and equipment shall be shown on the Final Site plan and clearly marked on the site itself.
 - E. All dumpsters shall be screened from view of neighboring properties and roadways.
 - F. All security lighting shall be directed downward so that it does not shine on neighboring properties or roadways.
 - G. Failure to comply with these conditions may result in the revocation

of the Conditional Use approval.
H. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion Adopted: 5 Yeas

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

**Public
Hearing/
CU2313**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REALTY OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.57 ACRES, MORE OR LESS” filed on behalf of John Ford (property lying on the southside of Savannah Road [Rt. 9] approximately 0.16-mile northeast of Wescoats Road [Rt. 12]) (911 Address: 1528 Savannah Road, Lewes) (Tax Parcel: 335-12.06-49.00)

The Planning and Zoning Commission held a Public Hearing on this application on August 11, 2022, and on August 25, 2022, the Planning & Zoning Commission recommended approval of the application for the six reasons stated and subject to the eight recommended conditions.

(See the minutes of the Planning and Zoning Commission dated August 11 and 25, 2022.)

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Ms. Mackenzie Peet, Esq., with Baird Mandalas Brockstedt Federico & Cardea, spoke on behalf of the Application C/U 2313 John Ford; that Mr. Ford is a real estate broker with Remax Associates Delaware; that the Applicant submitted the Conditional Use application on September 8, 2021, to pursue a Conditional Use of land located within the AR-1 (Agricultural Residential) Zoning District to allow for a realty office to be located on the property; that the property is located on Savannah Rd. in Lewes, near the intersection of Savannah Rd. and Old Orchard Rd., also known as Five Points; that the property is the former location of the Henlopen Grange No. 20; that Mr. Ford purchased the property on June 11, 2021, as evidenced in the Deed included in the documents; that the site has an existing building and adequate parking area located at the front of the property; that properties located adjacent to the site are located within the B-1 (Neighborhood Business) and AR-1 (Agricultural Residential) Zoning Districts; that other parcels within the vicinity of the site being within the B-1 (Neighborhood Business) and AR-1 (Agricultural Residential) and MR (Medium-Density Residential) Zoning Districts; that within the memorandum prepared by the staff, there have been eight

**Public
Hearing/
CU2313
(continued)**

Conditional Uses approved, within a .25 mile radius of the site, since 2011; that the requested Conditional Uses were for professional offices, hair studios, medical offices and multi-family use; that the Applicant appeared before the Commission on August 11, 2022 and on August 25, 2022, the Commission recommended approval of the application; that the applicant has reviewed all of the conditionals for approval and has no recommended edits and accepts them.

There were no public comments.

The Public Hearing and public record were closed.

**M 447 22
Amend
Conditions/
CU2313**

A Motion was made by Mr. Schaeffer, seconded by Mrs. Green to amend Condition 7 E. to read “Any trash receptacle shall be screened from view by neighboring properties and roadways”.

Motion Adopted: 5 Yeas

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

**M 448 22
Adopt
Ordinance
No. 2885/
CU2313**

A Motion was made by Mr. Schaeffer, seconded by Mrs. Green to Adopt Ordinance No. 2885 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REALTY OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.57 ACRES, MORE OR LESS” for the reasons and conditions given by Planning and Zoning as amended by this Council:

- 1. This site is along Savannah Road where a variety of conditional uses have been approved. It is close to Westcoats Corner, where several commercially zoned properties are located. It is within a section of Savannah Road where other professional and medical offices and other small businesses exist. Most of these are located within a structure that has existed for years, or they have a residential appearance. This use will be consistent with the way that this area of Savannah Road has developed.**
- 2. The applicant intends to use the former Grange Building for a real estate office.**
- 3. This site will only be for sales and office uses and a majority of the real estate work will occur off-site.**
- 4. This small business use within the existing structure will not generate a significant amount of traffic or adversely affect area roadways, neighboring properties, or the community.**
- 5. No parties appeared in opposition to the application.**
- 6. This recommendation is subject to the following conditions:**
 - A. The use shall be limited to use as a real estate office within the**

**M 448 22
Adopt
Ordinance
No. 2885/
CU2313
(continued)**

- existing structure. Any modifications to the floorplan of the existing structure shall be shown on the Final Site Plan.
- B. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.**
 - C. The applicant shall comply with any DelDOT entrance and roadway improvement requirements.**
 - D. Any security lighting shall be directed downward so that it does not shine on neighboring properties or roadways.**
 - E. Any trash receptacle shall be screened from view by neighboring properties and roadways.**
 - F. The Final Site Plan shall designate all parking areas, and these shall be clearly marked on the site itself.**
 - G. The failure to comply with these conditions may result in the revocation of this Conditional Use approval.**
 - H. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas

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

**M 449 22
Adjourn**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to adjourn at 1:54 p.m.

Motion Adopted: 5 Yeas

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

Respectfully submitted,

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

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

ENGINEERING DEPARTMENT

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



Sussex County


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

FROM: John J. Ashman 
Director of Utility Planning & Design Review

RE: *Existing Wastewater Infrastructure Use Agreement
Grotto Pizza Corporate Headquarters – IUA GP170.03
File: OM 9.01*

DATE: September 27, 2022

The Existing Wastewater Infrastructure Use Agreement is an arrangement that collects financial contributions based on development built out flows for available capacity in the existing wastewater transmission infrastructure previously funded by the County while at the same time eliminating the granting of “oversizing” credits.

The Engineering Department requests approval of an agreement for the existing wastewater infrastructure use with **Ocean South Associates, LLC** for the **Grotto Pizza Corporate Headquarters** project in the West Rehoboth Area. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County.

Under the proposed arrangement, the **Grotto Pizza Corporate Headquarters** project will connect to the existing County owned wastewater infrastructure. In return for utilization of said **Ocean South Associates, LLC** will contribute **\$48,148.00** for the financial catch-up contribution of the existing infrastructure to serve **13.57** Equivalent Dwelling Units. Payment of the contribution will be required prior to issuance of a connection permit. System Connection Charges in place at the time of building permit request will still apply.



EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT

Grotto Pizza Corporate Offices – IUA GP170.03

THIS AGREEMENT (“Agreement”), made this 7th day of SEPTEMBER 2022, by and between:

SUSSEX COUNTY, a political subdivision of the State of Delaware, hereinafter called the “County,” and;

OCEAN SOUTH ASSOCIATES, LLC a Limited Liability Company and developer of a project known as **Grotto Pizza Corporate Offices**, hereinafter called the “Developer.”

WITNESSETH:

WHEREAS, Developer is developing a tract of land identified as Tax Map parcel 334-19.00-170.03 to be known as **Grotto Pizza Corporate Offices** (“Project”) and;

WHEREAS, the Project is within the boundary of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area) and;

WHEREAS, the Project will utilize available capacity in existing wastewater infrastructure previously funded by Sussex County.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, which is hereby acknowledged by both parties as sufficient consideration, the parties hereby agree as follows:

- (1) Developer is proposing to utilize County’s existing collection and transmission capacity by connecting to existing regional infrastructure used by multiple pump stations.
- (2) In exchange for permission to connect up to 13.57 additional equivalent dwelling units to County’s existing system and to utilize the existing capacity in said system, Developer agrees to financial catch-up contribution in the amount of \$48,148.00 for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution must be submitted prior to issuance of a connection permit.**
- (5) If the Project (as currently submitted) is amended and County determines in its sole discretion that such amendments materially affect this Agreement, this Agreement

may be declared by County to be null and void, and any unused payments made pursuant to this Agreement shall be returned to Developer, unless the parties otherwise agree. Nothing herein shall prevent the parties from the negotiation of a new agreement with respect to the amended Project, as the parties may deem appropriate.

- (6) The contribution is to be placed in County's sewer capital fund and expended towards overall debt reduction or at such time when any transmission infrastructure in County's Unified Sanitary Sewer District requires capital improvements (See Chapter 110-96 of the Sussex County Code).
- (7) Developer shall be responsible for payment of any and all undiscounted system connection charges in accordance with and pursuant to the requirements of the *Sussex County Code* for all lots, due at such time the Developer receives the sewer connection permit.
- (8) Developer shall comply in all aspects with the *Sussex County Code* and any other local, state, county, or federal laws, regulations, or policies that may be applicable and as such may be hereinafter amended.
- (9) Prior to the commencement of construction of any sanitary sewer facilities for the Project, Developer shall obtain a project construction permit from the County in accordance with and pursuant to the requirements of the *Sussex County Code*.
- (10) In order to allow the opportunity for a County representative to be present as the County so chooses, Developer shall send written notice to County of the date upon which connection to the County regional transmission system will be made. Developer shall follow County's written or verbal instructions in making said connection to the County sanitary sewer system.
- (11) Developer may assign this Agreement in whole or in part to any entity controlled directly or indirectly by Developer or to any third party who purchases, leases or otherwise controls any portion of Developer's property without the consent of County. Developer, and any subsequent assignees or successors shall provide County at least ten (10) days' written notice of any such assignment. Any other assignments, transfers, or conveyances with respect to this Agreement are prohibited without prior written consent of County.
- (12) To the extent permitted by law, Developer shall indemnify and hold harmless County, and its appointed and elected officials, employees, licensees, and agents for any claims, losses, liabilities, suits, or damages, including but not limited to reasonable attorneys' fees, professional engineering fees, and any other costs of litigation, arising out of Developer's negligence in connection with its performance of this Agreement, including but not limited to damage to the County's infrastructure

in making connection to County's regional transmission system. The obligations of this Paragraph shall survive the termination of this Agreement.

- (13) All the terms, covenants, and conditions of this Agreement shall in all respects be governed and construed under and pursuant to the Laws of the State of Delaware without respect to its conflict of law provisions. This Agreement may only be amended, supplemented or modified by a subsequent written agreement executed by all the parties hereto.
- (14) This Agreement and exhibits constitute the final, entire and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties or agreements, whether written or oral, made in connection with the Agreement described herein.
- (15) It is mutually agreed between the parties that no review, approval, acceptance, and/or payment made under this Agreement shall be conclusive evidence of the performance of the Agreement, either wholly or in part, and that no review, approval, acceptance, and/or payment shall be construed as acceptance of defective work by County, nor in any way relieve Developer of its responsibility for the adequacy of its work.
- (16) The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Neither party shall be deemed to have waived any rights under this Agreement unless such waiver is expressly given in writing and signed by the waiving party. No delay or omission on the part of either party in exercising any right shall operate as a waiver of such right or any other right.
- (17) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.
- (18) If any provision of this Agreement shall be deemed invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not render invalid or unenforceable any of the other provisions of this Agreement which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Agreement are hereby deemed to be severable.
- (19) Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is **20376 Coastal Highway, Rehoboth Beach, Delaware 19971.**

IN WITNESS, WHEREOF, the respective parties hereto have affixed their hands and seals the day and year aforesaid.

FOR THE COUNTY:


{Seal}

By: _____
(President - Sussex County Council)
_____ (DATE)

ATTEST:

Tracy Torbert
Clerk of the County Council

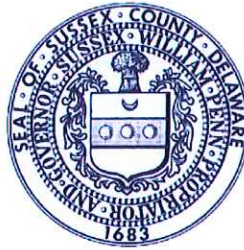
FOR OCEAN SOUTH ASSOCIATES, LLC

By:  _____ (Seal)
Jeffrey Gosnear- Authorized Signatory
9/7/22 (DATE)

WITNESS:  _____

ENGINEERING DEPARTMENT

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



Sussex County


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

FROM: John J. Ashman 
Director of Utility Planning & Design Review

RE: *Existing Wastewater Infrastructure Use Agreement
Plover Point – IUA407-1
File: OM 9.01*

DATE: September 27, 2022

The Existing Wastewater Infrastructure Use Agreement is an arrangement that collects financial contributions based on development built out flows for available capacity in the existing wastewater transmission infrastructure previously funded by the County while at the same time eliminating the granting of “oversizing” credits.

The Engineering Department requests approval of an agreement for the existing wastewater infrastructure use with **Double H Development, LLC** for the **Plover Point** project in the Oak Orchard Area. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County.

Under the proposed arrangement, the **Plover Point** project will connect to the existing County owned wastewater infrastructure. In return for utilization of said **Double H Development, LLC** will contribute **\$114,888.00** for the financial catch-up contribution of the existing infrastructure to serve **152.00** Equivalent Dwelling Units. Payment of the contribution will be required prior to substantial completion of on-site collection system. System Connection Charges in place at the time of building permit request will still apply.



EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT

PLOVER POINT – IUA407-1

THIS AGREEMENT (“Agreement”), made this 27 day of SEPTEMBER 2022, by and between:

SUSSEX COUNTY, a political subdivision of the State of Delaware, hereinafter called the “County,” and;

DOUBLE H DEVELOPMENT,LLC a Delaware Limited Liability Company and developer of a project known as Plover Point, hereinafter called the “Developer.”

WITNESSETH:

WHEREAS, Developer is developing several tracts of land identified as Tax Map parcels 234-34.00-97.00 to be known as Plover Point (“Project”) and;

WHEREAS, the Project is within the boundary of the Sussex County Unified Sanitary Sewer District (Oak Orchard Area) and;

WHEREAS, the Project will utilize available capacity in existing wastewater infrastructure previously funded by Sussex County.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, which is hereby acknowledged by both parties as sufficient consideration, the parties hereby agree as follows:

- (1) Developer is proposing to utilize County’s existing collection and transmission capacity by connecting to existing regional infrastructure used by multiple pump stations.
- (2) In exchange for permission to connect up to **152.00** additional equivalent dwelling units to County’s existing system and to utilize the existing capacity in said system, Developer agrees to financial catch-up contribution in the amount of **\$114,888.00** for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution must be submitted prior to receiving substantial completion of the on-site collection system.**
- (5) If the Project (as currently submitted) is amended and County determines in its sole discretion that such amendments materially affect this Agreement, this Agreement may be declared by County to be null and void, and any unused payments made

pursuant to this Agreement shall be returned to Developer, unless the parties otherwise agree. Nothing herein shall prevent the parties from the negotiation of a new agreement with respect to the amended Project, as the parties may deem appropriate.

- (6) The contribution is to be placed in County's sewer capital fund and expended towards overall debt reduction or at such time when any transmission infrastructure in County's Unified Sanitary Sewer District requires capital improvements (See Chapter 110-96 of the Sussex County Code).
- (7) Developer shall be responsible for payment of any and all undiscounted system connection charges in accordance with and pursuant to the requirements of the *Sussex County Code* for all lots, due at such time the Developer receives the sewer connection permit.
- (8) Developer shall comply in all aspects with the *Sussex County Code* and any other local, state, county, or federal laws, regulations, or policies that may be applicable and as such may be hereinafter amended.
- (9) Prior to the commencement of construction of any sanitary sewer facilities for the Project, Developer shall obtain a project construction permit from the County in accordance with and pursuant to the requirements of the *Sussex County Code*.
- (10) In order to allow the opportunity for a County representative to be present as the County so chooses, Developer shall send written notice to County of the date upon which connection to the County regional transmission system will be made. Developer shall follow County's written or verbal instructions in making said connection to the County sanitary sewer system.
- (11) Developer may assign this Agreement in whole or in part to any entity controlled directly or indirectly by Developer or to any third party who purchases, leases or otherwise controls any portion of Developer's property without the consent of County. Developer, and any subsequent assignees or successors shall provide County at least ten (10) days' written notice of any such assignment. Any other assignments, transfers, or conveyances with respect to this Agreement are prohibited without prior written consent of County.
- (12) To the extent permitted by law, Developer shall indemnify and hold harmless County, and its appointed and elected officials, employees, licensees, and agents for any claims, losses, liabilities, suits, or damages, including but not limited to reasonable attorneys' fees, professional engineering fees, and any other costs of litigation, arising out of Developer's negligence in connection with its performance of this Agreement, including but not limited to damage to the County's infrastructure in making connection to County's regional transmission system. The obligations of this Paragraph shall survive the termination of this Agreement.

- (13) All the terms, covenants, and conditions of this Agreement shall in all respects be governed and construed under and pursuant to the Laws of the State of Delaware without respect to its conflict of law provisions. This Agreement may only be amended, supplemented or modified by a subsequent written agreement executed by all the parties hereto.
- (14) This Agreement and exhibits constitute the final, entire and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties or agreements, whether written or oral, made in connection with the Agreement described herein.
- (15) It is mutually agreed between the parties that no review, approval, acceptance, and/or payment made under this Agreement shall be conclusive evidence of the performance of the Agreement, either wholly or in part, and that no review, approval, acceptance, and/or payment shall be construed as acceptance of defective work by County, nor in any way relieve Developer of its responsibility for the adequacy of its work.
- (16) The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Neither party shall be deemed to have waived any rights under this Agreement unless such waiver is expressly given in writing and signed by the waiving party. No delay or omission on the part of either party in exercising any right shall operate as a waiver of such right or any other right.
- (17) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.
- (18) If any provision of this Agreement shall be deemed invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not render invalid or unenforceable any of the other provisions of this Agreement which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Agreement are hereby deemed to be severable.
- (19) Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is **28107 Beaver Dam Road, Laurel Delaware 19956.**

IN WITNESS, WHEREOF, the respective parties hereto have affixed their hands and seals the day and year aforesaid.

FOR THE COUNTY:

{Seal}

By: _____
(President - Sussex County Council)

_____ (DATE)

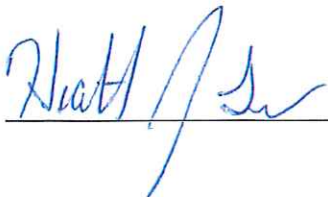
ATTEST:

Robin A. Griffith
Clerk of the County Council

FOR DOUBLE H DEVELOPMENT, LLC

By: Robert E. Horsey (Seal)
Robert E. Horsey - Authorized Signatory

Sept 20, 2022 (DATE)

WITNESS: 



Caring People, Quality Service

SUSSEX COUNTY EMERGENCY MEDICAL SERVICES

22215 Dupont Blvd. • P.O. Box 589 • Georgetown, DE 19947 • 302-854-5050 • FAX 302-855-7780

Robert W. Murray
Director



September 22, 2022

Memorandum

TO: Sussex County Council

The Honorable Michael H. Vincent, President

The Honorable Douglas B. Hudson, Vice President

The Honorable John L. Rieley

The Honorable Cynthia Green

The honorable Mark Schaeffer

FROM: Robert L. Schoonover, EMS Manager of Logistics

RE: Milton Medic 111 Station Lease Renewal

Attached is a lease renewal for the Milton based Medic 111 station. This medic unit provides 12 hours a day, 7 days a week primary paramedic coverage to Milton and back up to Lewes and Ellendale. The lease has been reviewed and approved by the county attorney, county insurance carrier & Cheer Inc.

The lease is for a one-year period, October 1, 2022, to September 30, 2023, with three addition automatic renewals unless either party provides 90 days notification to terminate. The monthly lease fee is \$ 200.00 per month up from previous lease amount of \$100.00 per month. Even with the increase we are the amount is far below fair market value for rent.

We experience a great relationship everyday with the Cheer Inc. and their staff.

I will be presenting the lease and will answer any questions.

Todd F. Lawson
Administrator



LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made this ____ day of September, 2022 between Cheer, Inc., a corporation of the State of Delaware, with an address of 546 S. Bedford Street, Georgetown, DE 19947 ("Landlord"), and Sussex County, a political subdivision of the State of Delaware, with an address of 2 The Circle, P.O. Box 589, Georgetown, DE 19947 ("Tenant").

The parties hereto, each intending to be legally bound hereby, do mutually covenant and agree as follows:

- 1) The Landlord hereby leases to the Tenant, subject to the conditions hereinafter expressed, exclusive use of a portion of the CHEER building located at 24855 Broadkill Road, Milton, DE 19968 (Sussex County Tax Parcel No. 235-14.00-122.02) consisting of the all-inclusive room located on the northwest side of the building with direct access to the outside, being approximately 504 square feet, together with uninterrupted access (24 hours per day, 7 days per week) to and non-exclusive use of the fitness center, if and for as long as the Landlord, in its sole discretion maintains and operates an on-site fitness center and to bathrooms located within the interior of the CHEER Center, and uninterrupted driveway access and parking as more fully set forth in paragraph 6 hereof ("Leased Premises").
- 2) The Term of this Lease shall commence at midnight on the 1st day of October, 2022 and shall continue for a period of one (1) year until 11:59 p.m. on the 30th day of September, 2023 unless modified by mutual agreement of both parties or terminated by either party by providing the other party at least ninety (90) days' written notice of its intent to terminate the Lease. Unless the Tenant provides Landlord with written notice of its intent not to renew at least sixty (60) days prior to the end of the initial, or any subsequent, Lease Term, this Lease shall automatically renew on the same terms and conditions for an additional one (1) year term for up to two (2) additional one (1) year terms.
- 3) Tenant agrees to pay the Landlord a monthly rental of Two Hundred Dollars (\$200.00), said monthly rental payment to be due and payable commencing on the 1st day of October, 2022 and continuing on the first day of each month thereafter during the entire term of this Lease. Tenant shall send the monthly rental payment to the Landlord at the address set forth in paragraph 22 hereof.
- 4) It is expressly agreed and understood that the Tenant relies upon the General Assembly of the State of Delaware for the funding of the paramedic operations of Sussex County, Delaware, and should the General Assembly of Delaware at any time fail to appropriate sufficient funds for the purpose of maintaining this Lease, the Tenant's total liability under this Lease shall be limited to the funds designated for this Lease by the Sussex County Council and the Tenant's obligation under this Lease shall immediately terminate when the funds available have been exhausted in making payments as provided for in this Lease.
- 5) The Tenant may use and occupy the Leased Premises for any paramedic services and operations, or such other lawful uses designated by the Sussex County Council. The Tenant shall not use or knowingly permit any part of the Leased Premises to be used

for any unlawful purpose.

- 6) During the term of this Lease, the Landlord leases to the Tenant the right to the uninterrupted use of the presently existing driveway and parking lot to be shared with Landlord and the exclusive use of six (6) designated parking spaces for two (2) paramedic units and four (4) employees, and canopy to be installed, which shall be located immediately adjacent to the Leased Premises. The Landlord shall maintain a clear, uninterrupted thoroughfare for ingress/egress of Paramedic vehicles at all times.
- 7) The Tenant shall not place or erect any signs of any nature on any part of the Leased Premises, or the sidewalk adjoining the Leased Premises, or on any part of the Landlord's property adjacent to the Leased Premises which do not conform to requirements of any State, Federal, Municipal or county law, ordinance, rule or regulation. Said sign(s) shall not be placed without the prior consent of the Landlord, which consent shall not be unreasonably withheld.
- 8) The Tenant, upon the payment of the rent herein reserved, and upon performance of all the terms of this Lease, shall at all times during the term of this Lease, and during any extension or renewal hereof, peaceably and quietly enjoy and have the free and uninterrupted right of exclusive access and possession of the Leased Premises without any disturbance from the Landlord or from any other person claiming through the Landlord.
- 9) Maintenance and Repairs
 - a. The Landlord shall maintain and make all necessary repairs to the foundations, load bearing walls, roof, gutters, downspouts, exterior water and sewer lines, fixtures, glass and equipment on or associated with the Leased Premises (including but not limited to heating and air conditioning systems, hot water heater, and plumbing and electrical systems), sidewalks and landscaping on or appurtenant to the building.
 - b. Unless specifically identified herein as a Landlord responsibility, Tenant shall maintain and keep the Leased Premises in good repair. Tenant shall also maintain and keep the Leased Premises free of refuse and rubbish.
 - c. Tenant shall attend to the painting of and repairs to all interior surfaces, including walls, floors and ceilings.
 - d. Notwithstanding the other provisions of this paragraph, any repairs and replacements necessitated by any act, omission or negligence of either party or its agents or servants shall be made at the expense of that party.
 - e. Landlord shall keep the grounds surrounding the building mowed and trimmed to provide a kept appearance to the property.
 - f. Landlord shall be responsible for the timely removal of snow and ice from all sidewalks.
 - g. Tenant shall be responsible for the timely removal of snow and ice from the driveway, entrances/exits and parking areas of the entire property as shown on the drawing attached hereto as Exhibit A which is incorporated herein by reference. Landlord acknowledges that this service is being provided as a courtesy and for convenience

only, and that Tenant shall have no liability whatsoever for any claims for bodily injury (including death) and property damage to Landlord, its employees, volunteers, guests, invitees, representatives or contractors, arising out of Tenant's actions or inactions with regard to snow and ice removal. Landlord acknowledges that any such claims arising from Tenant's actions or inactions for snow and ice removal as set forth herein are expressly excepted from Tenant's obligations under the indemnification provision in paragraph 17c.

- h. Tenant shall be permitted to change the main exterior door lock and main interior door lock so as to be compatible with Tenant's standard key. Tenant shall provide Landlord with four (4) copies of the key. Landlord shall maintain close control over the keys which shall be provided to: (i) the Chief Executive Officer, (ii) the Facilities Manager, (iii) the Information Technology Manager, and (iv) the 4th key shall be kept securely in the CHEER Center's Director's office. Landlord shall only gain access to the Leased Premises by use of Tenant's keys in the event of an on-site emergency and if Tenant is not present.
- 10) Landlord shall provide all electricity, and other utilities required for adequate lighting and heating, as well as water, sewer and access to Landlord's internet and basic cable TV, the cost of which is included in Tenant's monthly rent. Tenant shall provide all hardware, such as a router, switches, etc., required to use the existing cable TV and internet services. Tenant shall be responsible for the additional cost of any internet or cable TV upgrades incurred by Landlord at Tenant's request which shall be in addition to the monthly rent stated herein. At no additional cost, Tenant shall also be permitted to: (a) use Landlord's dumpster for the disposal of house hold grade waste; and (b) have access to the outside water spigot at the rear of the building for general use, including, but not limited to, washing Tenant's paramedic units, weather permitting.
- 11) a. Any alterations to the Leased Premises to be made by the Tenant shall be done only with Landlord's prior approval, which shall not be unreasonably withheld, and shall conform to the requirements of any applicable municipal, county, state or federal law, ordinance, rule or regulation. Any alterations to the Leased Premises made by the Tenant shall be maintained at all times by the Tenant in conformance with the terms hereof and shall be removed upon the expiration of the term of the Lease or its earlier termination, at the option of the Landlord, provided Tenant repairs any damage done in connection with such removal.
- b. Notwithstanding the foregoing in paragraph 11a., Landlord expressly approves Tenant's purchase and installation of a semi-permanent truck canopy 22 feet by 21 feet to accommodate primary and secondary backup Suburban style medic unit trucks which shall have continuous electric service. The canopy color shall closely match the exterior color of the building and shall be agreed upon by the parties prior to the Tenant's purchase and installation thereof. Tenant shall provide the cord reels and interior lighting which shall be installed by Landlord's electrician. Landlord acknowledges that the canopy is Tenant's property which Tenant may, at its sole option, remove at the expiration of the Lease Term, any renewals thereof, or earlier termination of this Lease.
- 12) At the expiration of this Lease, the Tenant shall surrender the Leased Premises in as good condition as it was in the beginning of the term, reasonable use and wear and damages by

the elements excepted, or as otherwise provided herein.

- 13) The Landlord acknowledges that no security deposit will be required.
- 14) At Landlord's option, this Lease shall thereupon become null and void, and the Landlord shall have the right to repossess the Leased Premises by summary proceedings if: (a) the Tenant defaults in the payment of rent or any sum collectable by Landlord as rent, and such default shall continue for fifteen (15) days after notice thereof by Landlord to Tenant; or (b) Tenant defaults in the prompt and full performance of any covenant, condition, agreement or provision of this Lease and such default shall continue for fifteen (15) day after written notice thereof; provided, however, that in the case of a default which Tenant cannot with due diligence correct within a period of fifteen (15) days, Tenant shall have such additional time to correct the same as may reasonably be necessary, provided Tenant proceeds promptly and with due diligence to correct such default.
- 15) The Landlord or its agents shall have the right to enter the Leased Premises at all reasonable times during normal business hours in order to examine it or to show it to prospective lessees, upon no less than twenty-four (24) hours' prior notice to Tenant, unless otherwise agreed to by both parties. All showings shall be in the company of a representative of the Tenant, unless Tenant agrees otherwise. The Landlord's right of entry shall not be deemed to impose upon the Landlord any obligation, responsibility or liability for the care, supervision or repair of the Leased Premises other than as herein provided.
- 16) Through the term of this Lease, the Landlord shall pay and maintain insurance coverage on the Leased Premises, including fire and windstorm insurance casualty insurance, comprehensive public liability insurance with a responsible insurance company licensed to do business in Delaware.
- 17) Insurance and Indemnification:
 - a. Tenant shall secure and maintain, at its own expense the following insurance coverages on the Leased Premises, with a responsible insurance company licensed to do business in the State of Delaware:
 - i. All risk (special form) property insurance which insures against direct physical loss of or damage to Tenant's business personal property, including improvements and betterments to the Leased Premises made at Tenant's expense, with limits sufficient to insure Tenant's interest therein.
 - ii. All risk (special form) business income and extra expense insurance in amounts satisfactory to protect Tenant's interests for loss of income and/or extra expense that results from direct physical loss of or damage to Tenant's property situated at the Leased Premises.
 - iii. Commercial general liability insurance which insures against bodily injury, property damage, and personal injury claims arising from Tenant's occupancy of the Leased Premises or operation incidental thereto, with a combined single limit of

\$1,000,000 per occurrence and a general aggregate limit of \$2,000,000. Such insurance shall include Landlord as an additional insured. Tenant shall provide proof of insurance prior to occupancy.

- b. Landlord shall secure and maintain, at its own expense, the following insurance coverages on the Leased Property, with a responsible insurance company licensed to do business in the State of Delaware:
 - i. All risk (special form) property insurance which insures against direct physical loss of or damage to the building at the Leased Premises and Landlord's personal property situated at the Leased Premises, on a replacement cost valuation basis, with limits not¹ less than 100% of the insurable replacement cost of Landlord's property.
 - ii. All risk (special form) business income and extra expense insurance in amounts sufficient to insure Landlord's loss of income and/or extra expense that results from direct physical loss of or damage to Landlord's property (Leased Premises and any other property located thereon).
 - iii. Commercial general liability insurance which insures against bodily injury, property damage, and personal injury claims arising from Landlord's ownership, maintenance or use of the Leased Premises or operations incidental thereto, with a combined single limit of \$1,000,000 per occurrence and a general aggregate limit of \$2,000,000 (combined single limit).

- c. To the extent permitted by law, the Tenant shall indemnify, defend and hold Landlord harmless, including court costs, expenses and attorneys' fees, from and against claims for bodily injury (including death) and property damage arising out of Tenant's occupancy of the Leased Premises or operations incidental thereto, unless such claims arise from the negligence or willful act of the Landlord. The above provisions of this subparagraph are not intended to waive, alter, or otherwise amend the immunity of the parties under the Delaware Code or otherwise, including but not limited to the County and Municipal Tort Claims Act. Additionally, the above provisions are not intended to violate any constitutional principles of the State of Delaware or United States. To the extent that any of the above obligations of this paragraph are determined by court or arbitration order or other judicial action to waive, alter, or otherwise amend such immunity or to be constitutionally prohibited or otherwise not in accordance with the laws in effect at the time of any such claim, liability, cost or expense, the offending language shall be stricken from this Agreement by such authority and considered invalid and unenforceable to the extent necessary to allow the application of such immunity to any claims, losses, damages, or suits asserted against either party or to the extent necessary to correct such violation of the

law. The parties agree that any claims, liabilities, damages, costs and expenses that are permitted under this Paragraph shall be subject to the provisions of the County and Municipal Tort Claims Act, including the limitations on damages.

- d. To the extent permitted by law, the Landlord shall indemnify, defend and hold Tenant harmless, including court costs, expenses and attorney's fees, from and against claims for bodily injury (including death) and property damage arising out of Landlord's ownership, maintenance or use of the Leased Premises or operations incidental thereto, unless such claims arise from the negligence or willful act of the Tenant.
- e. To the fullest extent permitted by law, Landlord and Tenant waive all rights of recovery from the other party and their respective elected and appointed officials, officers, directors, members, employees, agents and consultants for loss of or damage to their respective real and/or personal property and any resulting loss of business income and/or extra expenses resulting from such loss or damage. Any insurance policies maintained by Landlord and Tenant shall permit such waivers of subrogation by endorsement or otherwise. It is agreed that, if it is determined that Tenant's negligence resulted in damage to Landlord's property located on the Leased Premises during the term hereof, Tenant shall reimburse Landlord for the amount of its deductible not to exceed Five Thousand Dollars (\$5,000.00). It is further agreed that, if it is determined that Landlord's negligence resulted in damage to Tenant's property located on the Leased Premises during the term hereof, Landlord shall reimburse Tenant for the amount of its deductible not to exceed Five Thousand Dollars (\$5,000.00).

18) If, during the term of the Lease, the building is so injured by fire or otherwise that the Leased Premises are rendered wholly unfit for occupancy and said Leased Premises cannot be repaired within ninety (90) days from the date of such injury, then the Lease shall cease and terminate from the date of such injury. In such case, the Tenant shall pay the rent apportioned to the time of injury and shall surrender to the Landlord, who may enter upon and repossess the Leased Premises. If the injury is such that the Leased Premises can be repaired within the ninety (90) days thereafter, Landlord shall enter and repair with reasonable promptness, and this Lease shall not be affected, except that the rent shall be suspended while such repairs are being made.

19) In the event Landlord defaults on any of its obligation under this Lease Tenant shall provide Landlord with written notice of Landlord's default and Landlord shall have a period of ten (10) days from the date of the notice to cure the default. The notice shall be delivered in accordance with paragraph 22 of this Lease. In the event Landlord fails or refuses to cure the default within the 10-day cure period, Tenant shall, at its sole discretion, have the right to terminate this Lease and shall have no further

obligation hereunder. In the event Landlord does not cure the default and Tenant does not terminate the Lease, Tenant's failure to terminate shall not act as a waiver of any potential future default on Landlord's behalf.

- 20) Any controversy which shall arise between the Landlord and the Tenant regarding the rights, duties or liabilities hereunder of either party may be settled by arbitration, if mutually agreed upon by the parties. Such arbitration shall be before one disinterested arbitrator if one can be agreed upon, otherwise before three disinterested arbitrators, one named by the Landlord, one named by the Tenant, and one by the two arbitrators thus chosen. The arbitrator or arbitrators shall determine the controversy in accordance with the laws of the State of Delaware, as applied to the facts found by him or them. The arbitrator's decision shall be non-binding. Nothing herein contained shall be construed as a waiver by either party to file suit, either in law or in equity, against the other party to resolve any and all disputes under this Lease.
- 21) The Tenant may not sublet or assign any or all of the Leased Premises without the prior written consent of the Landlord. Such written consent by the Landlord shall not be unreasonably withheld, provided that the business or occupation of the subtenant is not extra hazardous, disreputable, or illegal. The consent by the Landlord to an assignment or subletting shall not be construed to relieve the Tenant from obtaining the consent in writing of the Landlord to any further assignment or subletting.
- 22) All notices, requests, demands and other communications, including a notice to quit, required or permitted under this Lease shall be in writing, signed by or on behalf of the person giving such notice and may be served in any one of the following manners and shall be effective as of the time specified: (a) If by personal service upon Landlord or Tenant, on the date of such service when served by an adult person upon the party to receive the notice or upon an adult member of the household or upon the agent of any corporation, or other business entity; (b) If by posting on the Leased Premises, on the date of posting the same in a conspicuous place on the Leased Premises (this method of service to be used only for notices, requests, demands and other communications, including notices to quit, from Lessor to Lessee); or (c) If by registered or certified mail, on the date of receipt of the same as evidenced by the return receipt if signed by the party to be served or an adult member of the household or agent of the corporation or other business entity. If the same is returned by the U.S. Postal Service bearing notations such as "Refused" or "Unclaimed," service shall be deemed to have been made on the first business day following mailing of the same.

The Landlord hereby designates his address as:

Cheer, Inc.
546 S. Bedford Street
Georgetown, DE 19947

The Tenant designates its address as:

Sussex County Council
P.O. Box 589
Georgetown, DE 19947

With a copy to:

J. Everett Moore, Jr. Esquire
Moore & Rutt, P.A.
122 W. Market Street
P.O. Box 584
Georgetown, DE 19947

- 23) The language in all parts of this Lease shall in all cases be simply construed according to its fair meaning and not strictly for or against Landlord or Tenant.
- 24) If any particular term, covenant or provision of this Lease shall be determined to be invalid, illegal, void or unenforceable, the same shall not affect the remaining provisions of this Lease which shall nevertheless remain in full force and effect and said term, covenant or provision shall be deemed modified to conform with the law. This Lease shall be governed under the laws of the State of Delaware. The parties acknowledge and agree that this is a Commercial Lease. Accordingly, this Lease shall NOT be governed by the Delaware Landlord-Tenant Code 25 Del. C., Section 5101 et seq.
- 25) This Lease sets forth all the promises or representations, agreements and undertakings between Landlord and Tenant relative to the Leased Premise. There are no promises, representations, agreements or undertakings, either oral or written, between Landlord or Tenant except as set forth herein. No amendment, change or addition to this Lease shall be binding upon either party unless reduced to writing and signed by both parties. This Lease shall be binding upon Landlord and Tenant, their heirs, executors, administrators, assigns and successors, both Landlord and Tenant being duly authorized to execute the same.
- 26) This Lease may be executed in two (2) counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Electronic signatures and photocopies or facsimile copies of signatures shall be deemed to have the same force and effect as originals.
- 27) In the event any action is brought to enforce the terms of this Lease, the prevailing party shall be entitled to collect costs and reasonable attorney's fees arising therefrom.
- 28) This Lease is the product of the parties hereto and no conclusion shall be made as to its drafter in the event of any dispute.
- 29) The parties to this Lease agree to waive their rights to demand a jury trial in any action

which may be brought to enforce any portion of this Lease.

30) Time shall be of the essence for the performance of all terms of this Lease.

IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have here unto set their hands and seals on the respective day(s) and year set forth below.

LANDLORD:

Cheer, Inc.

By: _____ (SEAL)
Kenneth S. Bock, CEO, CHEER

Attest: _____

Date

Print Name and Title

TENANT:

Sussex County

By: _____ (SEAL)
Michael H. Vincent, President

Attest: _____

Date

Print Name and Title

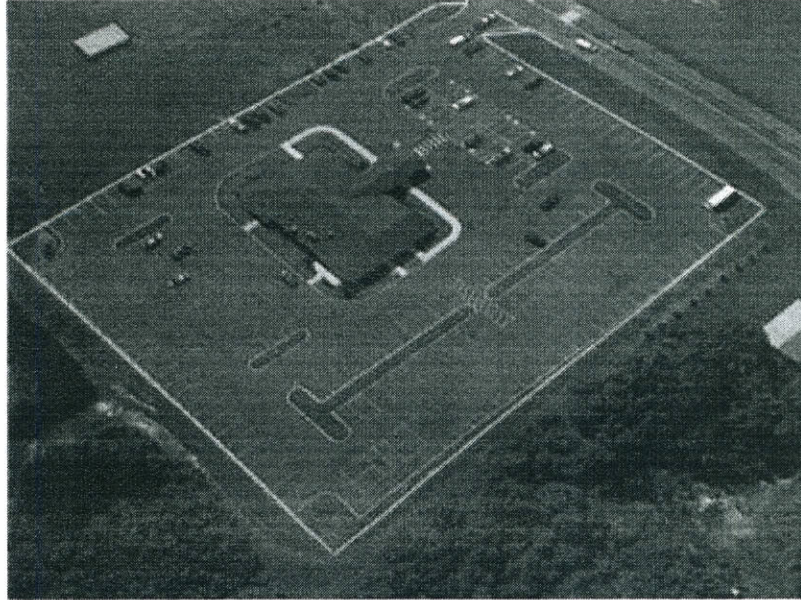
Approved as to Form:

Date

J. Everett Moore, Jr.,
Sussex County Attorney

EXHIBIT A

Drawing of Parking Area to be Maintained by Tenant for Snow
Removal (Sussex County Tax Parcel No. 235-14.00-122.02)



Be it moved the Sussex County Council approve the lease agreement between Cheer, Inc. and Sussex County Council, as per the terms and conditions of the written lease agreement.

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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

CC: Everett Moore, County Attorney

Date: September 21, 2022

RE: County Council Report for C/U 2300 filed on behalf of MRBP, LLC

The Planning and Zoning Department received an application (C/U 2300 filed on behalf of MRBP, LLC) for a Conditional Use for parcel 533-5.00-38.00 and 41.04 for a borrow pit. The property is lying on the southwest side of McCary Road [S.C.R. 385], approximately 857-ft south of Frankford School Road [S.C.R. 92]). The parcel size is 56.93 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on July 14, 2022. At the meeting of August 11, 2022, the Planning & Zoning Commission recommended approval of the application subject to 8 reasons stated and subject to 20 recommended conditions as outlined within the motion (copied below).

The County Council held a Public Hearing on the application on August 23, 2022. At the conclusion of the hearing, a motion was made and passed to hold the record open for an additional period of seven days for the receipt of additional written comments. The additional comments received were circulated to County Council prior to the meeting of September 20, 2022. At the meeting of September 20, 2022, County Council closed the public record and deferred action on the application for further consideration.

Below is a link to the County Council meeting minutes for the meeting of August 23, 2022.

[Link to the Minutes of the Sussex County Council Meeting of August 23, 2022](#)

Below are the minutes from the Planning & Zoning Commission meetings of July 14, 2022 and August 11, 2022.



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

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

Ms. Wingate recused herself from the next Application and left Council Chambers.

C/U 2300 MRBP, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 56.93 ACRES MORE OR LESS. The property is lying on the southwest side of McCary Road (S.C.R. 385), approximately 857-ft south of Frankford

School Road (S.C.R. 92). 911 Address: N/A. Tax Parcels: 533-5.00-38.00 & 41.04.

Mr. Whitehouse advised the Commission that submitted into the record was the Exhibit Booklet, the Environmental Assessment, the Applicant's proposed Conditions of Approval, the staff analysis, a letter from Sussex County Engineering Department Utility Planning Division, the Technical Advisory Committee (TAC) comments, the DelDOT Service Level Evaluation Response and zero comments.

The Commission found that Mr. Steve Marsh, Engineer with GMB, Inc., spoke on behalf of the Application; that also present were Mr. R. Lawton Myrick, Business and Property Owner of MRBP, LLC., and Mr. Edward Launay, with Environmental Resources, Inc.; that MRBP, LLC, is seeking a Conditional Use for the site, located on McCary Rd., for a borrow pit operation; that the total acreage is 57.03 acres; that the Conditional Use application was submitted on June 28, 2021; that the parcels are located within the AR-1 (Agricultural Residential) Zoning District; that the parcels are located within the Coastal Area; that the immediate area consists primarily of agricultural use and low-density residential; that there are some substantial chicken farm operations in the area; that there is significant development activity plan in the general area, particularly in the Town of Millville, starting as far south as the intersection of Peppers Corner and Powell Farm Rd., at the intersection with Rt. 17; that no public water or sewer services are proposed for the operation; that stormwater management will meet the requirements of the Sussex Conservation District; that the bulk of the operational activity is contained to the interior of the site; that a 100-ft. planted buffer is required and proposed along all road frontage; that a 50-ft. wooded buffer is required for all other adjacent property boundaries; that much of the 50-ft. buffer is already in place; that some planting will be required in areas where the buffer is not located or requires enhancing; that the single access to the site will be a small commercial entrance from McCary Rd.; that Century Engineering, Inc. prepared the entry plan; that DelDOT approved the entrance plan on April 6, 2021; that due to the length of time needed to schedule the public hearing, the DelDOT approval will be required to be renewed; that the owner is anticipating an average of 30 trips per day; that Mr. Edward Launay performed a site investigation in 2021; that Environmental Resources, Inc. has advised GMB that the proposed plan avoids impacts to any potential wetland areas; that a wetland report and plan will be submitted to the U.S. Army Corp of Engineers; that tax ditches run along the western and southern boundary of the site; that no tax ditches are proposed to be disturbed by the project; that the property does contain some man-made channels internal of the site; that impacts to drainage channels at the perimeter of the project have been avoided in order to maintain drainage conditions for adjacent properties; that during the permitting process, a design team will ensure that drainage from adjacent properties is maintained, causing no negative impacts; that the State Historic Preservation Office noted the site's historical and archeological significance and potential is low; that if anything should be encountered of archeological significance,

operations would stop and the State Historic Preservation Office would be notified; that the site is located within the Coastal Area; that the Coastal Area is a designated growth area; that the preferred option, following the completion of the borrow pit operations would be to work with Sussex County Land Trust to explore options of creating a public park; that the project has been through the PLUS process; that the PLUS responses and Environmental Assessment and Public Facility Evaluation Report were included in the project binders.

Mr. Mears questioned if the Applicant would be proffering a condition relating to the property being placed with Sussex Land Trust after the completion of the borrow pit activities.

Mr. R. Lawton Myrick stated he wanted to suggest the property be placed with Sussex Land Trust after the completion of the operations; that he does not request it be made a Condition of Approval; that he has not yet spoken to Sussex Land Trust and it is currently an option he is considering.

Mr. Robertson stated borrow pits are regulated significantly by provisions of the Zoning Code, which references Conditional Uses for borrow pit use; that there are conditions required by the Code; that the Commission and County Council, historically, impose a standard set of conditions on borrow pits and he suspected the Application would be deferred to allow for review of the required and proposed conditions.

The Commission found that Mr. Tyler White spoke in opposition to the Application; that his primary residence is in Wilmington, Delaware; that he is part owner of the farm located adjacent to the property; that he owns more property directly across the street from the property; that he, as well as the other owners of the farm, oppose the project; that he feels, as an invested land owner, the area property values will be reduced; that he questioned who would want to live next to a hole in the ground; that he has not heard how many years the project is proposed to be digging; that he questioned if the digging will be based on the number of projects awarded; that he did have concerns regarding the notification process; that he questioned if the buffer would be installed before the digging process would begin; that there are multiple soccer fields located on the adjacent property; that kids will be having competitions, camps, and training next to the borrow pit; that he feels this should raise some safety concerns; that even with a provided buffer, the buffer is only foliage, not being a solid fence; that he is concerned to the unknown impact of the project to underground water sources; that he is concerned about the unknown length of time the project may operate; that if the borrow pit is based on the number of industrial projects rewarded, the operations could go on to an undetermined amount of time; that he questioned if the State or County require an escrow account stating who is responsible to maintain the property should the owner be unable to; that there was a home located on the property, which had burned down; that he questioned if there would be any historic relevance to the home; that there is no residential use currently on the property and he and his partners oppose the project.

Chairman Wheatley questioned the estimated time of operations; that he questioned if there was information regarding the impact on nearby wetland areas and neighboring wells, the sequencing of construction and operations of the borrow pit and if any safety measures are being proposed for the project.

Mr. R. Lawton Myrick stated they are proposing in the Conditions of Approval that a permit be granted, permitting operations for 30 years; that they anticipate the operation of the borrow pit to be 10 years or less; that certain portions of the property have existing hedgerows and forested areas which will serve the purpose of a buffer from construction; that where the buffer is insufficient, they are

proposing to plant fast-growing seedlings; that they may place the seedlings on top of a berm made from the existing topsoil; that they will attempt to speed up the process where possible; that they propose small trees initially; that there is an existing tax ditch along the perimeter boundary of the site; that parts of the perimeter are wooded; that safety would be a case of trespassing laws; that he does not anticipate children coming onto the property and he feels the proximity of the soccer fields would be a benefit in the long term.

Chairman Wheatley stated the Code places requirements concerning landscape buffers; that if the project should be approved, the landscape buffer will need to comply with the Code requirements; that he does not want the pit to be an attractive nuisance and he stated the Commission has the authority to place conditions on Conditional Use applications.

Mr. Steven Marsh stated he does not anticipate any negative impact on the water quality to the wells in the area; that the project is a hydraulic dredging operation; that the operations are well regulated; that the concern from a pollutant aspect would be sediment getting out into the ditches; that there are many regulations to prevent that from happening; that the children from River Soccer Club would be required to cross the existing tax ditch to access the property; that the borrow pit will be constructed under the same requirements as a stormwater management pond; that the side slopes are 4:1, with a 10-ft safety bench; that a safety bench is a flat area, being 10-ft. wide, located under the water level; that if someone were to approach the water, there would be no drop off immediately to below water surface; that a person would have to fall in the water, then walk 10-ft. out into the water before going off the edge of the bench; that the depth becomes 3:1 after the edge of the bench; that those meet the guidelines within the DNREC requirements for stormwater management ponds and they intend to meet all of the DNREC safety guidelines.

The Commission found that Mr. Chris White spoke in opposition to the Application; that he is a part owner of the adjacent farm; that the farm has been in his family for over 100 years; that it was mentioned a renewal is required for the entrance to the project; that he would like to have concrete answers as to the location of the entrance; that if the project is proposed for 30 years, he does not believe the road will withstand the traffic; that he is concerned about property values dropping; that he is concerned about security; that the project may propose parking at the site and possible drug activity; that dumping is a big issue in the area; that safety is a concern; that recently, someone drowned at the Sand Town Dump in Kent County; that the drowning occurred even with the placement of fence; that he questioned the times of operations; that he questioned if there would be set guidelines to when the diesel trucks could run; that he assumed there would be a diesel truck on site to help convert the water from one side to the other; that he has environmental concerns; that the requirement of other agency approvals is an issue; that it is difficult to reach State agencies when there are issues; that often there is no remedy to raised issues; that he has concerns to how the project would affect their property values in the future; that he had concerns regarding bugs and mosquitos, being the borrow pit is an open body of water, and he stated a man is welcome to do what he needs to do for his family as long as what he is proposing does not hurt others.

The Commission found that Mr. Art Ford, II spoke in opposition to the Application; that he lives adjacent to the property; that the McCary Rd. has many trees; that near his home, there are no trees; that the Applicant is not proposing to place any trees nearest to his home; that there will be no buffer between the project and his back yard; that he requested to submit a photograph taken from his backyard to the proposed site of the borrow pit; that he has a clear view to where the operations are proposed; that any existing trees on the property have fallen into the tax ditch or onto his property,

where he was required to cut the trees down; that it was proposed the operations would provide 30 loads a day; that a dump truck is equal to 16 yards of dirt; that he averaged the total to equal 13.5 years of digging operations; that McCary Rd. is a 45-MPH road; that he questioned the safety of the dump trucks pulling out of the small entrance way while being surrounded by trees; that the soccer fields have hundreds of children playing on site every weekend; that he felt the project has not been well thought out; that he requested the Commission give great consideration to what the project will affect; that he and his wife have experience in real estate; that he knows the project will affect adjacent property values; that he requested, if the project is approved, there be limitations placed on the project and he is entitled to peaceful, quiet enjoyment of his property, within the limits of the law.

The Commission found that Mr. Nicholas Harrington spoke in opposition to the Application; that he has had previous conversations with the Applicant about some of his concerns; that he is not in complete opposition to the borrow pit use; that he is opposed to the potential use of a park after the borrow pit operations are completed; that DNREC is understaffed; that this will cause a park to not be monitored; that without monitoring there will be drug activity within the proposed park; that he would like to know the hours of operations proposed for the project; that McCary Rd. is barely a two-lane road; that drivers speed frequently on the road; that if trucks leaving the property only exit to the left, they will avoid 90% of McCary Rd., as the majority of the homes are located to the right and regardless of the way the trucks exit, there is no easy access to main roads.

Mr. Mears questioned if the watering equipment, moving water from one pit to another, operating 24/7 will be part of the proposed operation activities and if a diesel motor will be associated with the dredging.

Mr. Myrick stated they have suggested the hours of operations be 8:00 am until 6:00 pm, Monday through Friday and 8:00 am until 2:00 pm on Saturdays; that there would be no hours of operations on Sundays; that there would be a gate on-site; that the dredge may operate 24/7; that the dredge does not cause any noise and he was unsure if a diesel motor would be required to operate the dredge.

Mr. Robertson stated previously, that the dredging issues have been based on the location of the borrow pit; that previously trucking has been limited, but the dredge was able to operate up to 12 to 18 hours a day and the condition primarily depended on the surrounding properties.

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

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

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

In relation to Application C/U 2300 MRBP, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 3-0.

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

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

Ms. Wingate had abstained from this Application’s original public hearing on July 14, 2022.

Mr. Mears moved that the Commission recommend approval of C/U 2300 MRBP for a borrow pit based on the record made during the public hearing and for the following reasons:

1. This application is for a borrow pit on 56.93 acres. The total excavated area of the pit itself will not exceed 40 acres.
2. A need exists in the area for dirt, sand, and gravel. The material removed from this site will be used throughout the County for a variety of residential and commercial uses and road construction.
3. The site is generally surrounded by poultry farms and farmland as well as a few residential properties. It is also adjacent to the open areas of an outdoor soccer field.
4. The site is in the “Coastal Area” according to the Sussex County Comprehensive Plan. A borrow pit is an appropriate use in this Area according to the Plan.
5. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on traffic or the neighboring properties or community.
6. As a source of fill dirt available to the entire County, the project is essential and desirable for the general convenience, safety, and welfare of the current and future residents of the County.
7. The vegetated buffers will be maintained or established along the boundaries of this land and lands of other ownership.
8. The use is subject to approvals from State Agencies including DelDOT and DNREC.
9. This recommendation for approval is subject to the following conditions and stipulations:
 - A. No materials shall be brought from off the site for processing, mixing or similar purposes.
 - B. The excavated borrow pit area shall not exceed 40 acres.
 - C. Water or a water truck shall be available to control dust from road traffic when conditions require.
 - D. The only entrance to the pit shall be a paved road from McCary Road. The entrance shall be fenced or gated to prevent access at unauthorized times.
 - E. Any roadway and entrance improvements required by DelDOT shall be completed by the Applicant. All entrances shall be secured when the borrow pit is not in operation.
 - F. The project shall meet or exceed stormwater management system regulations set forth by the Sussex Conservation District and DNREC through a combination of Best Management Practices and Best Available Technologies. The Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
 - G. The hours of trucking and equipment operations shall be between the hours of 8:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. until 2:00 p.m. on Saturdays. No Sunday trucking operations shall be permitted.
 - H. Although the dredge may operate at any time, the dredge and pumps shall be powered by electric motors. No diesel or gasoline engines shall be utilized for dredging or pumping operations. All pumping operations shall be silent only.

- I. No materials shall be stored on any access roads or within any buffer area.
- J. No stumps, branches, debris, or similar items shall be buried or placed in the site of the borrow pit.
- K. The proposed pit will have a 4:1 side slope down to a 10-foot level bench that will be approximately near or 1 foot below the static water surface. Below the water level, the borrow pit shall have 3:1 slopes. The depth of the proposed borrow pit will not exceed 40 feet.
- L. A final site plan, including all pit slopes, excavation phasing, and reclamation plans shall be reviewed and approved by the Planning and Zoning Commission prior to the commencement of operations. Reclamation plans shall indicate finished grading, seeding, and planting schedules designed to create a pleasing appearance.
- M. The Applicant shall comply with all State and County erosion and sediment control regulations.
- N. Permanent concrete markers and signs shall be placed at appropriate locations to designate the boundaries of the subject property and pit areas. The boundary markers shall be clearly visible to anyone nearing the site.
- O. The Applicant shall comply with all of the requirements set forth in Section 115-172B of the Sussex County Zoning Ordinance.
- P. The borrow pit shall be surrounded by a buffer strip a minimum distance of 100 feet from any street lines, 200 feet from any dwelling or other ownership, and 50 feet from all other property lines of other ownership. The buffer area shall be a vegetated buffer using existing vegetation or native species vegetation. The location and vegetation within this buffer area shall be shown on the Final Site Plan.
- Q. The 57.03-acre parcel shall be divided into three (3) phases of 19 acres each. Phase two will not be started until 75% of Phase one is completed. Phase three shall not be started until 75% of Phase two is completed. The total excavated area shall not exceed 40 acres. These phases shall be shown on the Final Site Plan.
- R. Five (5) years after the start of digging, the Planning and Zoning Department shall perform an inspection of the site and shall request written comments from all appropriate State agencies so that the Planning and Zoning Commission can review the comments to verify compliance with all then-existing regulations.
- S. Equipment within the borrow pit area shall be equipped with bbs-tek white sound alarms or a similar system that adjusts to the ambient noise that provides a warning of imminent danger.
- T. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Mr. Hopkins and carried unanimously to recommend approval of C/U 2300 MRBP, LLC for the reasons and conditions stated in the motion. Motion carried 4-0. Ms. Wingate abstained.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: July 14th, 2022

Application: C/U 2300 MRBP, LLC

Applicant: MRBP, LLC
5973 Smithy’s Lane
Salisbury, MD 21801

Owner: MRBP, LLC
5973 Smithy’s Lane
Salisbury, MD 21801

Site Location: Lying on the southwest side of McCary Road (S.C.R. 385), approximately 857 feet south of Frankford School Road (S.C.R. 92).

Current Zoning: Agricultural Residential (AR-1) District

Proposed Use: Borrow Pit

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Roxana Fire Department

Sewer: Sussex County

Water: Artesian

Site Area: 56.93 acres +/- (per County’s online map)
56.71 acres +/- (as indicated on Application)

Tax Map IDs.: 533-5.00-38.00 & 41.04



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Sussex County

DELAWARE
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Memorandum

To: Sussex County Planning Commission Members
From: Ms. Lauren DeVore, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: June 13, 2022
RE: Staff Analysis for C/U 2300 MRBP, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/U 2300 MRBP, LLC to be reviewed during the July 14, 2022, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcels 533-5.00-38.00 and 41.04 to allow for a borrow pit operation and other ancillary related uses. The property is lying on the southwest side of McCary Road (S.C.R. 385), approximately 857 feet south of Frankford School Road (S.C.R. 92). The property consists of 56.93 acres +/-.

Further Site Considerations

County records indicate that there is a Tax Ditch located on the property (specifically on parcel 38.00) which spans the entire perimeter of this parcel known as the Bear Hole Tax Ditch. There is a related Tax Ditch right-of-way on the property as well which runs along the western, southern and eastern side of the property. The Tax Ditch ROW is measured 80-ft from the Top of Bank (TOB) of the tax ditch.

The property is not located within any established Transportation Improvement District (TID).

The property is located within Flood Zone "X" – Areas determined to be outside of the 100-year Floodplain.

Agency Comments Received

In accordance with §115-172(D) of the Sussex County Code, the project plans were sent to the Sussex County Technical Advisory Committee (TAC) for purposes of agency review and receipt of agency review comments. All comments received have been collated and included in the Commission's packet this evening.

Comprehensive Plan Analysis

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



of Coastal Area.” All surrounding properties to the north, south, east and west of the subject site contain the Future Land Use Map designation of “Coastal Area.”

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

Zoning Information

The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories”, the Agricultural Residential (AR-1) District is listed as an Applicable Zoning District within the “Coastal Area.” (Sussex County Comprehensive Plan, 4-25).

The property (to include both Tax Parcels) is zoned Agricultural Residential (AR-1) District. The adjacent parcels to the north, south, west and east of subject property are zoned Agricultural Residential (AR-1) District. The properties to the north on the opposite side of McCary Road (S.C.R. 385) are also zoned Agricultural Residential (AR-1) District.

It should be noted that there is a single parcel to the southeast that is zoned General Commercial (C-1).

Existing Conditional Uses within the Vicinity of the Subject Site

Since 1970, there have been three (3) Conditional Use applications within a 0.25-mile radius of the application site. The first application is for C/U 1468 Lane M. Brown to allow for a playing area for paintball games within an Agricultural Residential (AR-1) District. The Planning and Zoning Commission recommended approval for the use at their meeting of Thursday, November 14, 2002. The Sussex County Council approved the use at their meeting of Tuesday, December 10, 2002 and the change was adopted through Ordinance No. 1575. The second application is for C/U 2256 Jerry Meiklejohn, LLC to allow for hardscaping, outdoor living construction and commercial business within an Agricultural Residential (AR-1) District. The Planning and Zoning Commission recommended approval for the use at their meeting of August 12, 2021. The Sussex County Council approved the use at their meeting of Tuesday, August 31, 2021 and the change was adopted through Ordinance No. 2796. The third application is for C/U 2288 Broom Solar Partners to allow for a solar farm to be located within an Agricultural Residential (AR-1) District. The Planning and Zoning Commission recommended approval for the use at their meeting of Thursday, March 10, 2022. The Sussex County Council approved the use at their meeting of Tuesday, March 22, 2022 and the change was adopted through Ordinance No. 2841.

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

| Conditional Use Applications (w/in a 0.25 mile radius of the subject site)* | | | | | | | | |
|--|-------------------------|-----------------------|--|-------------------------|------------------------------|--------------------|-------------------------|-------------------------|
| Application Number | Application Name | Current Zoning | Proposed Use | P&Z Decision | P&Z Decision Date | CC Decision | CC Decision Date | Ordinance Number |
| C/U 1468 | Lane M. Brown | AR-1 | Playing Area for Paintball Games | Recommended Approval | 11/14/2002 | Approved | 12/10/2002 | 1575 |
| C/U 2256 | Jerry Micklejohn, LLC | AR-1 | Hardscaping, outdoor living construction & commercial business | Recommended Approval | 11/12/2021 | Approved | 8/31/2021 | 2796 |
| C/U 2288 | Broom Solar Partners | AR-1 | Solar Farm | Recommended Approval | 3/10/2022 | Approved | 3/22/2022 | 2841 |



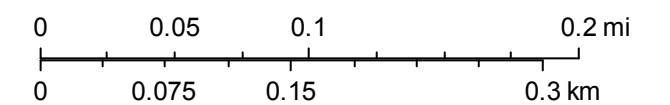
Sussex County



| | |
|------------------------|-----------------|
| PIN: | 533-5.00-38.00 |
| Owner Name | MRBP LLC |
| Book | 5447 |
| Mailing Address | 5973 SMITHYS LN |
| City | SALISBURY |
| State | MD |
| Description | SW/RT 385 |
| Description 2 | |
| Description 3 | |
| Land Code | |

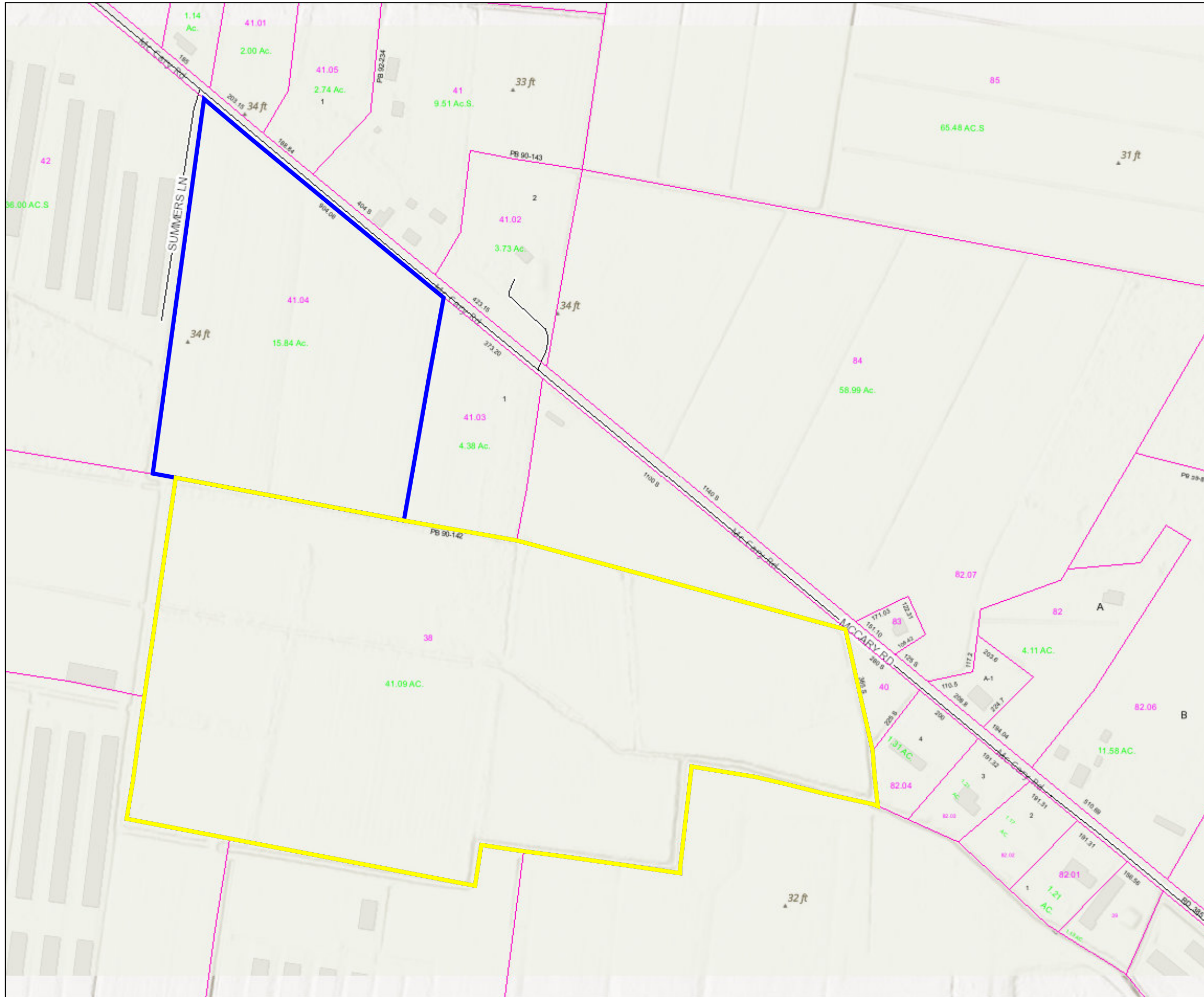
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Override 1
- Tax Parcels
- Streets
- County Boundaries

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Sussex County



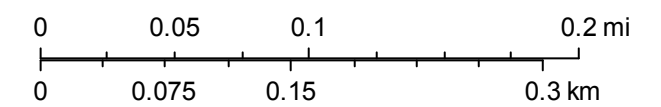
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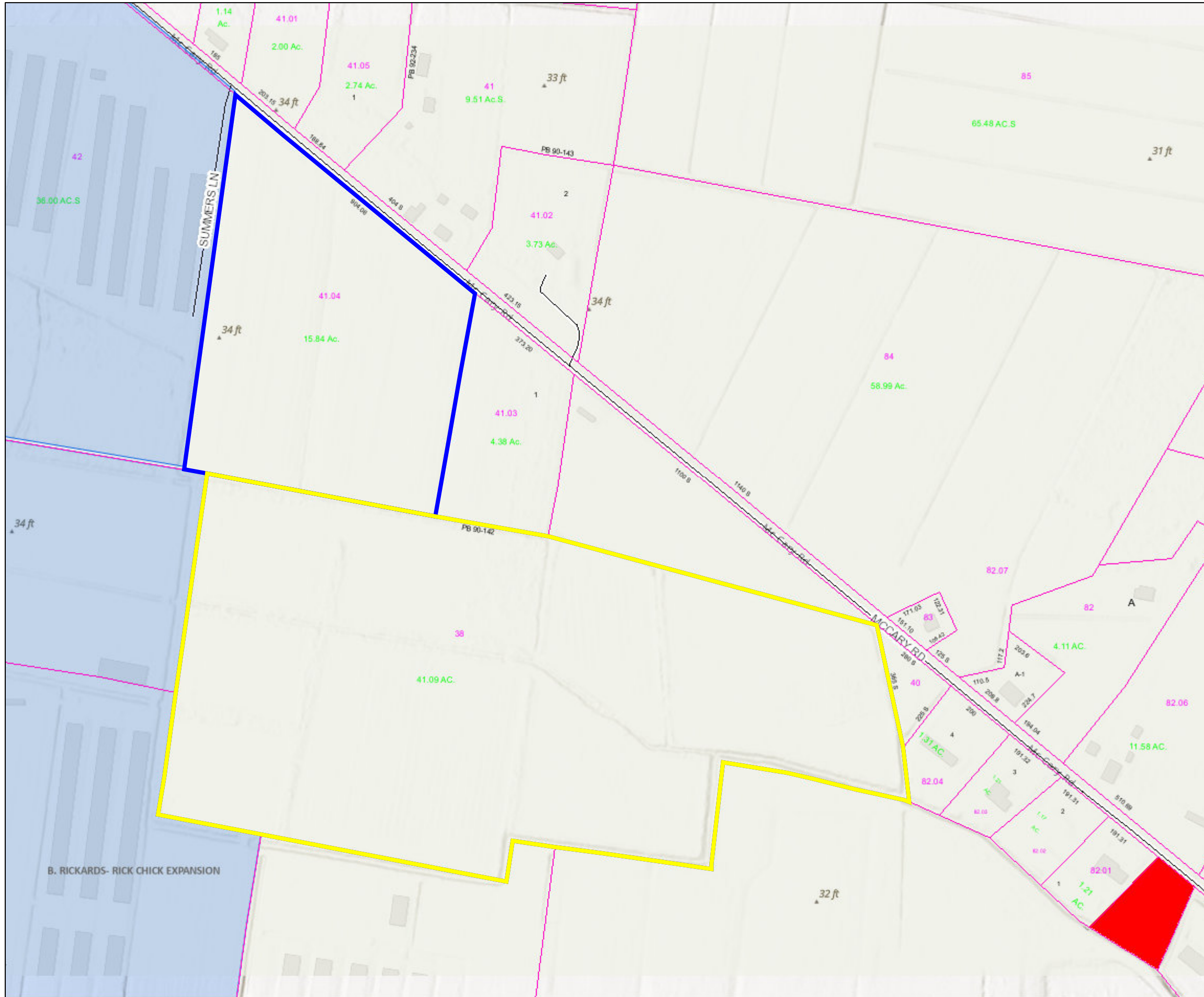
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- Tax Parcels
- Streets
- County Boundaries

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Sussex County



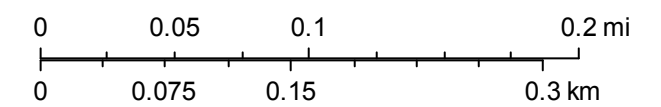
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|------------------------|-----------------|
| PIN: | 533-5.00-38.00 |
| Owner Name | MRBP LLC |
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| Mailing Address | 5973 SMITHYS LN |
| City | SALISBURY |
| State | MD |
| Description | SW/RT 385 |
| Description 2 | |
| Description 3 | |
| Land Code | |

- polygonLayer**

 - Override 1
- polygonLayer**

 - Override 1
- Tax Parcels
- Streets

1:4,514



Introduced 08/24/21

**Council District 5 - Rieley
Tax I.D. Nos. 533-5.00-38.00 & 41.04
911 Address: None Available**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 56.93 ACRES, MORE OR LESS

WHEREAS, on the 16th day of July 2021, a conditional use application, denominated Conditional Use No. 2300 was filed on behalf of MRBP, 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. 2300 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2300 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 McCary Road (S.C.R. 385), approximately 857 feet south of Frankford School Road (S.C.R. 92) and being more particularly described in the attached legal descriptions prepared by Scott and Shuman, P.A., said parcels containing 56.93 acres, more or less.

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

JAMIE WHITEHOUSE, AICP
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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 21, 2022

RE: County Council Old Business Report for an Ordinance relating to Affordably Priced Rental Units and the Sussex County Rental Unit (SCRP) Program.

On March 29, 2022 the County Council introduced an Ordinance to amend the Code of Sussex County in relation to Affordably Priced Rental Units and the Sussex County Rental Unit (SCRP) Program.

The Planning and Zoning Commission held a public hearing on the Ordinance on April 28, 2022. At the meeting of April 28, 2022, the Commission left the Public Record open until the next regular meeting for the receipt of additional comments. At the meeting of May 12, 2022 the Commission was provided with an update of the additional comments received. At the conclusion of the meeting, the Commission left the record open until the next regular meeting.

At the Planning & Zoning Commission meeting of May 26, 2022, the Commission discussed the Ordinance and closed the Public Record. The Commission then deferred action on the Ordinance for further consideration. At the Planning & Zoning Commission meeting of June 9, 2022, the Commission recommended that Council Council adopt the Ordinance for the 8 reasons stated in the motion and subject to the 4 recommended revisions outlined in the motion.

A Public Hearing was held before the County Council at its meeting of June 28, 2022. At the conclusion of the Public Hearing, the record was left open for a period of two weeks for the receipt of additional written comments only. The minutes of the County Council meeting of June 28, 2022 can be found at the link below. On August 9, 2022, the County Council discussed the application and action on the Ordinance was deferred for further consideration.

[Link to Minutes for County Council meeting of June 28, 2022](#)



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

A copy of the minutes of the meetings of April 28, May 12, May 26 and June 9, 2022 is included below:

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

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 72, ARTICLE II, SECTIONS 72-16 THROUGH 72-28 AND CHAPTER 115, ARTICLE IV, V, VI, VII AND VIII SECTIONS 115-20, 115-25, 115-29, 115-34, 115-37, 115-42, 115-45, 115-50, 115-53 AND 115-58 REGARDING AFFORDABLY PRICED RENTAL UNITS AND THE SUSSEX COUNTY RENTAL UNIT (SCRP) PROGRAM

Mr. Whitehouse advised the Commission the Ordinance was noticed and posted on the Sussex County website; that one letter raising comment was submitted and has been circulated to the Commission.

The Commission found that Mr. Vincent Robertson spoke on behalf of the Ordinance; that also present was Ms. Brandy Nauman, who runs the Community Development and Housing Office for Sussex County; that the Ordinance originated back in 2018 with the 2018 Comprehensive Land Use Plan; that there was a lot of input offered related to the lack of affordable workforce housing in Sussex County; the basis for the initiative is cited in the Where As clauses of the Ordinance; that there is a housing vision which supports the initiative; that in 2018 the Comprehensive Plan recognized an influx of new residents in Sussex County, which fueled prosperity within the County's real estate market, hospitality industry and related economic sectors; that most housing, particularly on the eastern side of the County is new and often unaffordable to low-income families, seasonal employees, entry-level workers, and recent college graduates; that the Comprehensive Plan also recognized the shortage of affordable housing remains a very real problem for low to moderate household within Sussex County; that there were a few objectives discussed within the housing element where the need to improve the Sussex County Rental (SCRP) Program, by providing incentives to properly reflect the housing market, while incentivizing developers to participate in the provision for affordable housing; that one of the strategies mentioned explore ways for private developers to provide multi-family affordable housing opportunities in Sussex County; that there were several objectives and strategies which mentioned facilitating and promoting land use policies that enable and increase in the supply of affordable housing in areas with adequate infrastructure, increase affordable housing options, which include supplying rental units near employment opportunities, review of County Code to determine if there are regulatory barriers to development of affordable housing, to revisit the Zoning Code to determine in districts where multifamily housing is currently considered a Conditional Use versus being considered a permitted use, where water and sewer area already present to the site; that there are other objectives mentioned in the housing element as well; that Ms. Brandy Nauman's office, in following the directives of the Comprehensive Plan developed and RFP for a housing consultant to provide recommendation for Sussex County, which was done in April 2021; that the County contracted with LSA to perform a Housing Needs, Market Analysis, Economic Feasibility Analysis, Housing Opportunity and Market Evaluations; that these were broad topics within the Comprehensive Plan; that he believes people do understand the need to address and increase the affordable and workforce housing opportunities in Sussex County; that it is one thing to discuss the need, but it is another issue to figure out way which works for Sussex County, the future residence and the developers who will build the units; that there is a current Rental Unit Program for Sussex County; that this program is known as the SCR Program; that when the SCR Program was originally initiated around 2008 or 2009, there was no study performed; that there were incentives offered in the

initial program; that some of these incentives were expediting the Application, bonus density and other incentives; that within the last 14 years, there has only been one developer to utilize the SCRP Program; that the feedback from the SCRP Program was the program was economically in-viable and the process was not smooth to go through, which resulted in no one utilizing the program; that the first issue was to identify why that was and try not to make the same mistake twice when developing a new program; that they attempted to develop a new program based on expert opinions and facts which confirms affordable and workforce housing could be supplied and Sussex County would be able to partner with the development community in a way which would be economically viable for developers; that there are elements to those areas within the LSA report; that LSA did have discussions with people who are involved and engaged in the process; that LSA had discussion with people from the public sector, private sector, housing sector and Sussex County staff; that there are a lot of different variables which went into this, such as the land use costs; that land use costs are higher on the coastal side of the County than on the western side of the County; that on the flip side of the situation, the market rate rent is higher on the coastal side of the County than on the western side of the County; that meanwhile the fixed costs and construction costs essentially remain the same on both sides of the County; that this example is an oversimplification; that the math of the situation is, there must be enough density, referenced by LSA as “Cross Subsidizing”, where there must be enough of the market rate units to make the affordable and workforce housing units viable; that when there are lower property values on the western side of the County for market rate units; that it is tough to offer the units on the western side; that it is also difficult to offer on the eastern side, as there is higher rent, but also having higher land use; that the LSA report can be found on the Sussex County website; the LSA report determined 12 units per acre is required to make the program work; that within the LSA report it was stated the Zoning Code should be modified to promote housing and affordability within the growth areas identified within the Comprehensive Plan, which should include the by right allowance of a maximum density of 12 units per acre, where affordable units are provided; that they learned from the experience of developing the only SCRP project, known as Coastal Tide, located behind Home Depot in Lewes; that Coastal Tide was a good test case; that the existing SCRP Code provisions are located in Chapter 72; that the way the SCRP provisions are drafted, it places Sussex County in partnership with the property management, by evaluating tenants; that it creates Sussex County to become a duplicate property management agency, despite there already being a property management agency present, who works for the developer; that they chose to change this issue by allowing all of the requirements to remain in place, but require the property manager or the developer to certify that they are complying with the requirements and supply the information and certification to Sussex County on an annual basis; that this allows for checks and balances within the processes, without duplicating work which is already being performed; that this is one of the big changes made to Chapter 72 of the County Code; that it removes the bonus and expedited densities; that the proposed Ordinance states if housing is provided to the qualified individuals, the developer would be permitted to do 12 units to the acre in all the residential zoning districts; that 12 units to the acres is already permitted within the HR Zoning Districts; that this would be allowed within AR-1 and AR-2 (Agricultural Residential) Zoning Districts as well; that there are conditions and requirements placed; that there were three main strategies mentioned within the final recommendations from the LSA report; that the strategy currently being focused on is for the modification to the County Zoning Code to help promote affordability in growth areas identified in the Comprehensive Plan; that the Local Housing Trust Fund is a separate initiative, which is currently underway; that the third strategy to preserve the existing supply of affordable housing is an ongoing initiative; that they have added the

annual audit requirements; that the audit must be prepared by a Certified Public Accountant (CPA), who is not otherwise affiliated with the developer; that the County requires a third-party, independent auditor; that the auditor must certify that all Chapter 72 requirements and all the terms of the SCRP agreement are being adhered to; that the auditor must confirm the status of each leased or vacant SCRP unit; that the auditor must certify that each of eligible tenants renting an SCRP unit within the project are eligible as of the date of the report; that the auditor must certify and provide the status and duration of any SCRP unit vacancies; that the auditor must certify any marketing efforts to re-rent any vacant SCRP units; that the auditor must provide a status list of any eligible SCRP tenants waiting for an available SCRP unit; that the auditor must provide any other information requested by the Certified Public Accountant's (CPA) office or by the Sussex County Community Development Department; that by setting these requirements, it will allow the developer to run the project, providing housing to tenants; that it also allows Ms. Brandy Nauman and the Sussex County Community Development Department to perform their jobs more efficiently; that they did place a penalty provision in the Ordinance, in the attempt to avoid a developer sitting on a SCRP unit or not making a concerted effort to rent a SCRP unit; that there is a provision in place which states if a SCRP unit is rented at market rate, the developer will be required to pay the rent occurred to Sussex County, where it is placed back into the Housing fund for the County; that this penalty does provide an incentive to rent the units; that within the proposed Ordinance, affordable housing would be permitted by right in the Coastal Area, Developing Area and the Town Center Area; that these areas are all considered growth areas within Sussex County; that they placed standards within the Ordinance as to where the affordable housing could be located within the growth areas; that without the placement of the standards, it would almost eliminate the purpose of zoning; that they attempted to make sure the projects would be placed in appropriate locations, with appropriate perimeters; that the Planning & Zoning Office hired AECOM to take the proposed perimeters, attempting to confirm if development would be feasible with the proposed perimeters; that the LSA report confirmed the economic elements would work at 12 units to the acre; that AECOM was hired to ensure that the 12 units to the acre could be constructed, while meeting the separation, parking and stormwater management requirements; that stated in the proposed Design Criteria, at least 30% of the project units must be SCRP units; that there must be a perimeter buffer of 100-ft.; that the permitted building height increased to 52-ft. and four stories; that due to the height limits, many of the multi-family and apartment complexes within Sussex County have flat roofs; that they hoped of offer more flexibility for design ingenuity, where a pitched roof may be possible; that the open space is required to be at least 50%; that central water and sewer are required; that the LSA report did mention the necessity for central utilities; that he feels the project could move forward without central water, but he feels central sewer would be essential; that without central sewer, the project would require a lot more land to accommodate the required drain field for a project without central sewer; that he does understand this requirement will limit geographically where projects can be constructed; that if a commercial zoned property is located adjacent, there must be interconnectivity provided; that all sidewalks and streets will be interconnected with surrounding sidewalk systems; that walking and biking trails are required to be interconnected; that the trails would be permitted within the 100-ft buffer perimeter; that primary views for all units will be directed to open spaces and amenities; that this is a design requirement to avoid all of the units being crammed onto a parcel; that this is similar to the superiority design perimeters for cluster subdivisions; that projects should be located near and existing and/or planned DART route; that the idea is for the projects to be located near employment centers or allowing access to employment centers; that within the current Ordinance, it requires projects to be located within a half mile of an existing or proposed

DART route; that DART had mentioned excitement in the Ordinance requirement, as it would promote DART ridership; that the housing requirements state only multi-family and rental units would be permitted; that the current Ordinance does not include home ownership; that home ownership is part of a separate plan for Sussex County; that home ownership would not require a property manager or developer running a project with market rate and SCRIP units; that at least 30% of restricted units that average 80% of AMI or less; that compliance reporting is required, based on submitted audits and certifications; that there is financial penalties if the requirements are violated; that AECOM did produce two site plan analysis on a 10 acre parcel and a 30 acre parcel using the proposed perimeter requirements;

Chairman Wheatley suggested an exception be made for small projects, such as projects under 20 or 40 units; that he does not know if it would be feasible but wanted to offer the suggestion.

Mr. Robertson stated should exceptions for small projects be considered, he would suggest they reach out to the experts and Mr. Hans Medlarz with Sussex County Engineering, to obtain his opinion.

Ms. Stevenson stated she did attend a Low-Income Housing symposium; that there was a non-profit organization out of Salisbury present, that would be interested in projects of the proposed use and maybe companies like them would be interested in smaller-scale projects.

Mr. Whitehouse stated there is guidance from the Federal Highway Administration as to distances that are deemed walkable; that with a bicycle considered, the distances become greater and the location distance, relative to DART routes was based on the distances deemed “physically walkable”.

Ms. Wingate stated if central sewer and water are required, it would more likely be in an area of a DART route as well.

Mr. Hopkins questioned the 30% requirement of restricted units in relation to the 12.5% requirement; that he questioned if the 30% of units that average 80% of AMI or less; that AMI stands for Average Median Income; that he questioned if the definition of “moderate to low income” within the Ordinance is 30% to 80% and he questioned if a tenant must be 30% of 80%, how does the requirement play into the big picture of almost half of the workforce, as stated by the LSA report, being considerably under 80%.

Mr. Robertson stated the 12.5% was the requirement within the current SCRIP program which they propose to remove and replace with the 30% requirement, which is the newly proposed requirement; that the State statute requires any deletions from an Ordinance, must be placed within brackets; that anything added to the Ordinance must be underlined and placed in italics; that this makes reading a document very hard to follow when in black and white print; that it is particularly difficult to locate where the brackets begin and end; that on the first part of Chapter 72, they attempted to highlight in red any place there was a change; that everything proposed to be removed is located within brackets and everything proposed to be added is referenced with underlining and italics.

Ms. Brandy Nauman stated the percentages can get confusing; that under requirement No. 2, to be eligible to receive permitted use, 30% of the project must be offered as affordable SCRIP units; that for example 30 units out of 100 units must be offered as affordable SCRIP units; that the 30% of SCRIP units must serve a population that is 80% of the AMI or less and this is a standard that is considered moderate to low income.

Chairman Wheatley stated that 80% or less of AMI does contain a large portion of the workforce.

Ms. Stevenson questioned what 80% or less of AMI would look like in real income number statistics.

Ms. Nauman stated AMI stands for Area Median Income; that AMI does not differentiate between the east and the west side; that the AMI is County specific; that for a household of two people, the range would be \$18,030 to \$48,100 earned annually; that a one-bedroom rental unit is \$590, \$705 for a two-bedroom rental unit and \$815 for a three-bedroom rental unit; that those are the current rental prices being used within Coastal Tide; that the 2022 Income Limits were just released that week; that they will be updating the prices based off of the reported income limits, which did go up and that a family of four can earn up to \$60,100.

Mr. Whitehouse stated that they had to make certain assumptions; that they had AECOM provide site plan analysis to show projects could be constructed on a 10-acre parcel as well as a larger parcel; that for the 10-acre parcel, they assumed 1,000 sq. ft. per unit, with four floors and four units per floor; that this was able to be constructed in compliance to the 100-ft. setback requirement; that they were able to construct the project at 12 dwelling units to the acre while meeting the numerical requirements, parking requirements, setback requirements and include assumptions for stormwater management, as well as a community-building; that the model shows the flexibility and possibility to achieve development on a 10-acre parcel; that comments they received included flexibility of parking being important in allowing the arrangement of the buildings to work; that shown on the 30-acre model they used the same principle and same design assumptions, they were able to assume eight units per floor at 1,000 sq. ft. per unit with four floors; that this would allow for 30 units per building; that when again assuming 12 dwelling units to the acre, they were able to provide 360 dwelling units; that 30% of the 360 dwelling units would produce 72 Workforce Housing units; that they did show the 30 acre parcel as a slightly irregular parcel, not being a perfect rectangle; that even on the irregular parcel, they were able to consider stormwater management and the potential for the presence of wetlands; that they were able to establish that the project would be viable physically, in terms of the design and layout; that interconnectivity was able to be achieved; that they were able to place a community building at the front; that all the design criteria, unit number were met and all complied with required setbacks and this was all achieved without significant compromise and with room left over.

Ms. Stevenson questioned if there is a minimum lot requirement, or if anyone could build if they meet the requirements of the Ordinance.

Mr. Whitehouse stated there is nothing within the Ordinance that states a parcel must be a minimum of 10 acres or 30 acres and they chose those numbers for modeling purposes only.

Mr. Robertson mentioned the site plan analysis were all done to scale.

Ms. Wingate questioned if storage buildings are normally included with affordable housing.

Mr. Robertson stated they looked at several other projects; that they did not consider storage units and most affordable housing units do not offer separate storage units, as storage is typically built into the units themselves.

Mr. Hopkins questioned if the current Ordinance proposes 12 units to the acre, what would encourage developers to develop at 12 units to the acre if they are required to sacrifice 30% of their units, as they

are currently only required to sacrifice 12% of the units and questioned if developers would be permitted to develop anywhere in Sussex County.

Mr. Robertson stated the proposed Ordinance permits 12 units to the acre as a permitted use; that in being a permitted use, there is no requirement for a public hearing before the Planning & Zoning Commission or County; that a developer would be permitted to go straight to Site Plan Review and a developer would be permitted to develop 12 units to the acre if they meet all the proposed Ordinance criteria.

Mr. Hopkins questioned if Robinsonville Rd would be an ideal location.

Mr. Robertson stated he could not speak to any specific locations, but one of the criteria is near an existing or proposed DART route; that he does not believe the location of Robinsonville Rd. would meet the DART route criteria; that he stated the State controls DART routes, and the presence of DART routes will be a limiting factor for projects.

Mr. Hopkins questioned if a developer could obtain a DART route from the State, they could potentially be able to develop a project.

Ms. Wingate stated DART may expand its proposed routes if they were guaranteed opportunities for ridership.

Mr. Robertson currently stated the existing DART route consists of Rt. 9, Rt. 24, Rt. 54, Rt. 26, Rt. 1, and Rt. 113

Chairman Wheatley questioned if a developer could secure a commitment for DART to extend a route within a half-mile of a proposed site would the parcel, then qualify.

Mr. Robertson stated Final Site Plan approval shall not be granted until a route is in existence and operated by DART.

Mr. Robertson stated there is a well-established acknowledgment that Sussex County does not have enough affordable or workforce housing; that they have looked at ways to achieve more workforce housing; that Sussex County itself, does not own housing developments; that Sussex County does not build them, does not own them, does not develop them; that the LSA report did mention what can be done to create affordable housing that is not currently being built in Sussex County; that the only way for affordable housing to be achieved is through the proposed density and by allowing the density to be a permitted use; that a lot of people will want affordable housing, but if a public hearing is required, there will always be arguments regarding density; that this creates everyone being put on the spot, creating unpredictability and uncertainty and the public hearing process takes time to get through for approvals.

Ms. Stevenson stated everyone who currently does not live in Sussex County wants to see affordable workforce housing, everyone within the Government wants affordable workforce housing but the current residents of Sussex County do not necessarily want affordable workforce housing.

Mr. Robertson stated with the data he has received and the comments he has heard, he believes many people are in support of affordable workforce housing; that he stated Ms. Brandy Nauman's office

has had discussions with Cape Henlopen School District regarding the issue of being unable to get teachers for the district because the teachers cannot afford to live in Sussex County.

Mr. Hopkins stated he agrees there is a current problem; that he believes the LSA report was well written; that he strongly encourages everyone to read the whole report; that the report clearly shows that half of Sussex County's workforce cannot afford a \$250,000 house; that the LSA evaluation mentions both ownership as well as rentals and he questioned if the Ordinance was referencing rental units only.

Mr. Robertson stated the Ordinance currently focuses on rental units only; that this is due to Sussex County having a completely separate section of the County Code regarding homeownership; that when dealing with homeownership, one has to be very careful to ensure investors do not purchase the properties and flip them; that this requires Sussex County to be the regulator, ensuring the homeowner occupied properties remain that way in perpetuity; that he acknowledges the fact the homeownership issue needs to be tackled as well but right not the Ordinance is tackling rental units.

Mr. Hopkins questioned how many units are needed and how long; that if the Ordinance is peeling off tenants who just fall under the 80% criteria, he questions what happens to everyone else; that he stated the only issue he had with the LSA evaluation is the fact they had to work off the consortium numbers; on page two and page 13 it shows the projection between 2020 and 2030 which states over those 10 years, new permits are projected to be 10,290 and between 2030 and 2040 another 5,000 permits are projected; that within the last three years, Sussex County has nearly hit the 15,000 range and he believed building permits last year to have 5,200 +/-.

Mr. Whitehouse stated the permit total would include all permits located for in-town and permits within Sussex County and if one were to total all permits pulled in town and unincorporated areas, the average is approximately 5,000 permits per year.

Mr. Robertson questioned if the 5,000 permits per year include deck and accessory structures, or dwelling units.

Mr. Whitehouse stated the permits would include single-family homes, manufactured homes, and multi-family homes.

Mr. Hopkins stated the current subject is a sore subject for the Commission members who participated in the many meetings in 2017 and 2018; that currently, only three years later, Sussex County has burnt through, what the consortium stated would take 20 years to do and he requested Ms. Stevenson read a paragraph from page two of the LSA report.

Ms. Stevenson read from page two of the LSA report that:

“However, Sussex County has not seen the construction of new homes at rents and prices that are affordable to lower-income households, including individuals in key sectors of the local economy and individuals living on fixed incomes. Currently, there are nearly 10,700 households in Sussex County that are severely cost-burdened, spending more than half of their income on housing each month. To help mitigate current and future housing challenges, support economic growth, and promote a high quality of life for County residents. Sussex County should encourage the reduction of rental and for-sale homes affordable to households in different income ranges as follows.”

Mr. Hopkins stated that the LSA report goes on to list information in the table, which was based on the information provided by the consortium; that it is stated the 80% to 100% and lower; that one would take the less than 30% of AMI, the 30% to 50% of AMI, the 50% to 80% of AMI; that these are the numbers which are reference in the proposed Ordinance as medium and low categories; that it states Sussex County should be building the 99, the 131 and the 171 to keep up with the demand; that it was stated we should not touch the 10,700 households mention in the paragraph Ms. Stevenson previously read; that Sussex County should be generating 401 based on the total number of units of 1,549; that last year the total number of units was not 1,549; that it was 5,200 units, being the same the year before and the year before that; that based off of previous years, one could think the provided numbers are going to increase as well; that he suggested they use the provided numbers, which state Sussex County should be providing 401 units annually and he states Sussex County first need address how large the problem is, then how does the County achieve what is needed.

Ms. Wingate stated she feels the proposed Ordinance is a great first step in the right direction; that it used to be 70% and is proposed to increase to 80% to attempt to help those who were previously being missed; that she appreciates the work that has been placed into the Ordinance; that the models prepared by AECOM clearly shows the projects can be done and the other great part being the Ordinance does not require a public hearing.

Mr. Robertson stated with the current SCR Program has only provided 30 units, within Coastal Tide, in the last 14 years.

Mr. Hopkins mentioned on page 20 of the LSA report it is stated the best-case rental scenario, the model becomes viable at 10 units per acre at 12 units per acre, the project could support a 25% units set aside affordable to households earning 80% or below; that he feels the LSA analysis has already proven the Ordinance wrong; that the Ordinance proposes 12 units to the acre while setting aside 35%, which seems to be in opposition to the LSA report.

Mr. Robertson stated on page 20 of the LSA report it states that in a best-case rental scenario, the coastal model at 12 units to the acre, the project could support a 25% set aside of units affordable to households earning 80%; that they took it a step further, in the attempt to shoot a little higher, requesting 30%; that this was in the attempt to obtain more affordable units out of the 12 units to the acre; that the Ordinance is going to allow, by right, a permitted 12 units to the acre, Sussex County should get something back in return; that it would be a lot easier to begin at 30% and back the percentage down to 25% than to begin at 25% and attempt to increase to 30%.

Mr. Hopkins stated within the next sentence on page 20 of the LSA report it stated to achieve the level of housing affordable to 50% or less of AMI, the project would need at least 16 units per acre.

Mr. Robertson stated the statement Mr. Hopkins referenced within the LSA report is correct, however, they attempted to reach a greater range of people by looking at 80% or less of AMI.

Mr. Hopkins stated that 80% is higher and is considered a higher income.

Mr. Robertson stated that 80% is a higher income; that the LSA report referenced that many residents within Sussex County are at the 80% and lower who currently cannot afford rental and homeownership in Sussex County, and they are attempting to capture 80% and down, even below 50% of AMI.

Mr. Hopkins stated that to capture 80% and lower one must look at the lowest number; that provisions must be made for the 30% tenant; that a 30% tenant will not fit within an 80% category, and he feels the Ordinance has it backward.

Ms. Nauman stated this is one of the reasons they hired someone to perform all the math; that it was her understanding that all the mentioned scenarios were played out as part of the provided modeling; that the level of incomes that would be able to be viable at the proposed model location.

Mr. Hopkins questioned an explanation of the sentence within the LSA report, which stated, *“to achieve about this level of housing affordable to 50% AMI and below the project would need at least 16 units per acre.”*

Mr. Hopkins stated the statement is correct; that if one were to only look at 50% and below, a lower rental rate would be charged, which would require more units to be offered at market rate to offset the 50%.

Mr. Hopkins questioned if Sussex County is attempting to help the 50% or below AMI tenants, or only those tenants who are at 80% of AMI.

Mr. Robertson stated tenants are eligible at 80% or less of AMI, it allows for tenants at 80%, 70%, 60%, 50%, 40%, 30%, and below to be eligible.

Mr. Hopkins stated as Sussex County makes provisions for the people who make less money, there is a need for more units to be offered.

Mr. Robertson stated the proposed Ordinance states, based on the LSA report if a person were to bring in tenants of 80% of AMI and less, going all the way down, allowing for 80%, 50%, and 30%, 12 units to an acre is required at 25% of the units.

Mr. Hopkins disagreed with Mr. Robertson stating he does not believe him to be correct and he feels the math is not correct.

Mr. Robertson stated the presented Ordinance is based on the information provided to them by the hired experts; that the statement Mr. Hopkins referenced is regarding the attempt to look at only tenants at 50% and below of AMI; that in that circumstance, one would not capture the 80% to 50% of AMI range of people; that if the goal was to only look at 50% and below of AMI, the stated 16 units per acre would be required, which would be four additional units per acre to offset that 50%; that if one looks at 80% and below of AMI, it can be achieved at 12 units per acre and 30% of proposed units and they do not want to exclude the people located within the 50% to 80% of AMI range; that the people in this range make up the majority of the workforce for Sussex County.

Mr. Hopkins stated by only building 12 units to the acre, Sussex County will only accommodate people located within the 80% range, not people located within the 50% and below range.

Mr. Robertson stated Mr. Hopkins's view was not correct; that he was not certain how else to explain the Ordinance and if Sussex County looks at people at 80% and below of AMI it would include 78%, 77%, 76%, and below.

Mr. Hopkins stated he did not see Mr. Robertson's information to be true; that he stated that 80% of \$100 is \$80; that he understood the Ordinance to state he would be eligible at \$80 when everyone else

is paying \$100; that he would be sliding in just under the threshold at 80%; that he questioned what happens if he only makes \$50 and he would not be eligible to rent.

Ms. Wingate stated the Ordinance proposes 80% and down.

Mr. Robertson stated they are not proposing to take just anyone at 80%; that if an eligible tenant came forward at 50%, they would be accepted; that if an eligible tenant came in at 60% or 70%, they would be accepted, and the Ordinance provides a wider range.

Ms. Stevenson questioned how it is determined that the rentals are a good mixture of all percentages, making sure rentals are not only going to tenants at 80% and no tenants at 30%.

Ms. Nauman stated the slide stated the request for an average of mixed incomes; that it is very difficult to get someone at precisely at 80% of AMI; that someone may come in at 60% of AMI and another person come in at 100% of AMI; that if the average of the units is 80% of AMI annually, that is what they are hoping to achieve.

Mr. Hopkins questioned if the people who provided the LSA report, or any of the other mentioned providers and stakeholders, were in any way involved in writing the proposed Ordinance.

Ms. Nauman stated the mentioned providers were a part of many focus groups and stakeholders to develop the provided report and the provided report was used to construct the proposed Ordinance.

Mr. Hopkins stated his intention is not to give everyone a hard time; that he wants the Ordinance to work; that the Ordinance is a big deal; that the affordable workforce housing issue is one of the biggest issues Sussex County is currently dealing with; that he feels the issue should be handled with all hands on deck; that he appreciates the models provided by AECOM and he would like to hear and receive opinions from developers as well.

Mr. Robertson stated the report reflects the information provided by housing developers and others.

Mr. Hopkins questioned if those developers were part of the writing of the Ordinance.

Mr. Robertson stated the developers were not part of the writing of the Ordinance itself, but the comments and suggestions provided within the LSA report were the guidelines for the writing of the Ordinance.

Mr. Hopkins stated he feels the devil is in the details.

Chairman Wheatley stated he understood where Mr. Hopkins is coming from, however, they are not the people who write Ordinances.

Mr. Hopkins questioned why there is a 100-ft buffer requirement.

Mr. Robertson stated they attempted to ensure if this type of high density were to be placed in other residential areas, they offer some separation; that this type of separation is offered in other areas of the County Code, such as with RPCs; that also due to the permitted height increase; that they considered ratios of the height to the setbacks, but this was found to be very complicated to plan; that they proposed the 100-ft. buffer as it would provide a vegetated buffer and separation from the property boundaries and the development; that this is one reason they requested AECOM; that they wanted to ensure they were not impacting the ability to construct 12 units to the acre by imposing

the 100-ft. separation and buffer; that they, as staff, drafted the proposed Ordinance based on the information provided in the LSA report and the Comprehensive Plan; that many people had an opportunity to participate in the drafting of the Comprehensive Plan; that they did not invent an Ordinance that was not based upon all of the stakeholder information provided in the LSA report and Comprehensive Plan; that there was a lot of thought that went into the Ordinance, as well as a lot of verification was performed to ensure the Ordinance would work;

Chairman Wheatley stated he feels there should be some consideration given to small projects that may be achievable without central water and sewer; that he is very concerned about the DART route requirement; that he feels the DART route requirement will be the chokepoint for the Ordinance; that he feels consideration should be given for a circumstance where DART was to agree, in writing, to provide service for a complex once the apartments are available for rent, even if the service or route does not currently exist; that otherwise, construction of projects would be waiting on DART; that if one can build the project, people will come and if one cannot get permission to build a project, the people will not come.

Mr. Robertson stated they did have conversations regarding the DART requirement; that they wanted to allow the Applicant to approach DART to request a new route be created; that this would allow an Applicant to move forward with preliminary site plan approval and all State agency approvals; that the thought was during the preliminary stages, a new DART route would be in the process of being established; that the DART route would be established in time for final site plan approval, allowing building permits to be pulled and construction underway; that the Ordinance is subject to change; that their intention was to ensure there would not be constructed projects without DART nearby and they did obtain the distance number from the federal standards.

Mr. Hopkins stated the program in 2014 was a failure; that he does not want the proposed Ordinance to be a failure; that he feels the LSA report, and the proposed Ordinance are completely different and that he would like to see more involvement.

Chairman Wheatley stated that public hearings are held to promote involvement from developers and members of the public.

Mr. Robertson stated when the SCRIP Program was established in 2008, everyone thought it would work; that conversations were had with developers, who provided comments they thought the SCRIP Program was great; that in reality, the program did not work; that even with an amendment to the SCRIP Program, it still had the same outcome; that the program only results in 30 units in the last 14 years; that with the current proposed Ordinance, they chose to frontload with hiring an expert in the field providing information on what works based on their own experience; that the experts did have conversations with advocates for housing, towns with current housing issues, housing developers, such as Christian Hudson, Doug Motley, Jack Lingo, Joseph Mastrangelo, Carl Freeman, Boardwalk Development, Kevin Gilmore with Habitat for Humanity; Ryan Homes, Ocean Atlantic, and Milford Housing; that a lot of the mentioned developers are developing multi-family housing projects currently; that the developers know the land costs; that listed in the appendix of the LSA report, it mentioned where they looked at the economics; that the numbers provided to them, were real cost numbers provided by real developers who are currently constructing and involved in multi-family projects within Sussex County; that they do not want to make the same mistake twice and they also want the Ordinance to work.

Mr. Hopkins stated he had spoken to a developer, who he believes had developed more low-income and affordable housing than anyone else; that the developer had stated he would not touch the proposed Ordinance with a 10-ft. pole.

Chairman Wheatley stated he hoped the developer would be present at the current public hearing and would tell the Commission his reasons why he does not agree with the Ordinance.

Mr. Hopkins stated the developer he mentioned was not present at the public hearing.

Chairman Wheatley questioned if Mr. Hopkins knew what the developer's issues were with the proposed Ordinance and he appreciates feedback from developers, however, if the feedback cannot be provided to the Commission it does not mean much.

Mr. Hopkins questioned if anyone was concerned that no developers had made comments regarding the proposed Ordinance.

Chairman Wheatley stated he is not yet concerned, as the public hearings are part of the public comment process; that he is not sure what else the Commission can provide other than public hearings where public comment can be given; that developers were consulted by the team who constructed the LSA report; that it is not a fact where developers had no idea the Ordinance is being proposed and if developers do not care enough to be present at the public hearings, offering concerns and comments, the Commission cannot help them.

Mr. Hopkins stated his main concern is that the density number is not high enough and the 50% open space requirement and if developers cannot make the same percentage, they will not be interested in the Ordinance.

Mr. Robertson stated they wanted to have the 50% open space, without impacting the 12 units to the acre; that they hired AECOM to ensure the requirements are achievable; that the LSA report does discuss what a developer needs to make on return; that the report looks at return on cost and yield on cost; that they mention a hurdle rate, which is the minimum percentage a project must achieve to be financially viable; that the hurdle rate is the threshold which must be met before a developer begins making any money; that the LSA report looked at what those yields were; that they mentioned return on cost at 25% and a minimum yield on cost at 7.5%; that the provided information is the reason they hired LSA to provide the evaluation and report, based off of information provided by the developers who are currently building within Sussex County; that they made every attempt to establish the Ordinance the right way, compared to the previous way in 2008 and the proposed Ordinance was constructed based off of actual data.

Mr. Hopkins stated he felt the LSA evaluation and provided data were good; that he would like to see a focus group, constructed of developers the Commission respects, voicing their interest in the Ordinance.

Ms. Stevenson stated she felt it should be mentioned within the Comprehensive Plan, locations in which Sussex County would like to see the development of this nature; that she questioned if there had been any consideration regarding the State Investment Levels and Spending and she stated the Ordinance will eventually become a political talking point.

Mr. Robertson stated consideration was not made directly based on the Delaware Strategies for State Policies and Spending; that this was due to the fact the State Levels state they are not to be used as land use tools for Sussex County to follow; that there is a strong indirect correlation with projects being limited to Growth, Developing, Coastal and Townhome Center areas; that these areas are mostly located within Investment Level Areas 1 and 2; that there have been Investment Level 4 areas being applied for development; that the Coastal Area is not located within Investment Level 4; that he does believe the Delaware Office of State Planning & Spending recently updated their Investment Level map; that they chose to keep the Ordinance compatible with Sussex County land use and the Sussex County Comprehensive Plan; that the State can always change where Investment Levels are located, which could impact the Ordinance and locations where Sussex County desires the projects be built; that the Henlopen TID is based on density assumptions; that if a project were to be located within the Henlopen TID, the project would be required to go through the TIS process; that the developer would not be permitted to pay the TID fee and continue as the project is not two units to the acre.

Ms. Stevenson questioned if there were an additional incentive for anyone who would construct an infill project, increasing the density where it is presently located, which is mostly located within city centers where people can walk to work.

Mr. Robertson stated the Ordinance cannot offer incentives for that circumstance as those areas are located within municipalities.

Chairman Wheatley stated the Ordinance will only permit projects within Sussex County; that the requirement for central water and sewer will limit the locations projects can be located; that central water and sewer are not offered throughout Sussex County; that central water and sewer are offered more on the eastern side of the County, but not as much on the western side; that the majority of sewer is controlled within municipalities and is the reason he suggested considering a small project exemption to create a greater opportunity to expand projects within Sussex County.

Ms. Stevenson feels most of the need is on the eastern side; that most of the traffic she frequently gets stuck in is the workforce leaving the eastern side to go home to the western side and questioned if there was more affordable workforce housing located on the western side of the County.

Chairman Wheatley stated there is lower-priced housing located on the western side of the County.

Mr. Robertson stated the Ordinance is not limiting central water and sewer to be provided by Sussex County; that the water and sewer could be provided by another company, and they are not considering only housing-cost burdens, but also transportation-cost burdens; that with current gas prices, they attempted to get people living closer to the locations they work to help minimize travel costs.

Ms. Stevenson stated she agreed with Mr. Robertson, but she questioned if people will utilize transit opportunities; that the kids attempting to work at the beach, will ride the bus for 45 minutes to work and the next day decide they would rather park in town.

Chairman Wheatley stated he does agree that there should be buy-in from the developers who could be constructing the projects; that he requested to ensure a draft of the proposed Ordinance gets circulated to all the people and developers on the list within the LSA report allowing the opportunity to receive comments from them.

Ms. Stevenson questioned if Sussex County is looking at accessory dwelling units (ADU), allowing people to live in RVs and other options; that she feels other alternative options would allow a solution to the current problem without requiring people to sell all their farmland to developers.

Ms. Nauman stated she believes considering alternative dwelling options is on the radar for Sussex County, as it was mentioned during the Comprehensive Plan; that another initiative happening currently within her office is the Housing Trust Fund; that the Housing Trust Fund just rolled out at the beginning of April; that the Housing Trust Fund initiative is hoping to address the homeownership components of the LSA report; that Sussex County is offering direct homeownership assistance with the Housing Trust Fund; that they are offering down payment closing and offering a developer grant program for those who are building affordable housing; that between the current proposed Ordinance and the current Housing Trust Fund initiative, it has been two large lifts for the six staff members within the Sussex County Community Development Department and homelessness is also an issue they hope to address.

The Commission found that Mr. Christian Hudson spoke on behalf of the proposed Ordinance; that he is glad to see Sussex County attempting to address the affordable housing issue; that he feels affordable housing is a massive crisis; that he feels it has taken too much time for action to be taken for the issue; that he had not heard any comment, since providing comment to LSA in the summer of 2019; that he had heard no talk regarding the current Ordinance or any other Ordinance related to the affordable housing issue; that the provided population consortium numbers are laughable; that had Sussex County used other population growth estimates back when the 2018 Comprehensive Plan was written, Sussex County would most likely not be in its current predicament; that many people within the development community warned Sussex County during the Comprehensive Plan process and the 37 public hearings; that the 10-acre model provided by AECOM is completely unworkable; that he does not believe AECOM was aware of current Fire Marshal regulations; that the buildings do not have drive-aisle or fire lanes located on all four sides of the buildings; that he would assume, based on the model, AECOM does not know much about the groundwater table for Sussex County, especially locations down below the Indian River; that there are no turning radiuses referenced in the model parking lot; that depicted on the model are nice, square, right angle turns; that there are violations to the Sussex County Code in regards to how many parking spaces can be placed side by side; that he can point out these issues, which ensure the model is a very unbuildable plan, after only reviewing the plan for 30 seconds; that the mentioned issues are the reasons he greatly advocates for a task force or working group where the people included on LSA's list and any other person could be requested to provide critical input and feedback on the proposed Ordinance; that he mentioned the Ordinance stated projects are subject to "public" sewer and water; that he would suggest the Ordinance state projects are subject to "central" sewer and water to allow Artesian and Tidewater to provide those services; that he does understand and agrees with the concern and comments regarding the location distance to nearby DART routes; that he feels the limiting factors should be the project location near a DART route and central sewer and water; that he does not feel the limitation should be the DART route, central water and sewer and growth zoning; that he feels with all three requirements, a lot of Sussex County will be cut out; that this is due to the map for the State Strategies for Spending are not always accurate; that years ago, he was before the Commission for his application for Chapel Farm; that DelDOT had budgeted \$30,000,000 for infrastructure at the intersection of Cave Neck Rd. and Rt. 1; that the Chapel Farm project bordered the proposed infrastructure improvements on two sides

and yet the project was designated within Level 4; that within Level 4 designates for no State spending; that he had approached Mr. David Edgell's predecessor regarding updating the Investment Level maps to reflect what DelDOT had included within their budget; that the State Planning Office refused to update the maps at that time; that he questioned if there were an idea of how many units the Ordinance will provide or impact analysis performed; that a shortened version of his comments would be, good, congratulations, too little too late, we are in a crisis and the current Ordinance is a band-aid; that he feels the Ordinance is a band-aid on a big gaping wound, in a submarine hole, completely underwater; that the report was done in 2019, and prices have increased drastically since then; that he was looking at a housing project, which had been constructed near Plantation Rd. and Rt. 24 intersection; that the homes were constructed by a large home builder; that the project had been approved years ago; that the homes started at \$500,000; that now, the same homes with the same floor plan is listed within the \$800,000 range; that this price increase was over a two year time period, similar to the two year period of the home evaluation performed by LSA; that the housing crisis is even more acute than the LSA report reflected a few years ago; that when he said too little too late, he is not trying to criticize the Council; that he believes the Ordinance is heading in the right direction, however, he feels Sussex County needs to head in the right direction a lot faster; that everyone is dealing with inflation and shortages in labor, materials and supplies; that housing costs are going up; that wages have become stagnant; that this is a toxic mix for the work force; that a major issue for many employers he has spoken with is housing their workforce; that many employers are now seeking to purchase housing, to house their workforce; that he has heard stories about company towns and how awful those scenarios were; that is the direction Sussex County is heading if the housing issue does not get solved and he is in support of the permitted use provision of the Ordinance.

Mr. Robertson stated the term "public" versus "central" in regards to water and sewer, was discussed and the term used was taken from Chapter 110 of the County Code; that an impact analysis would almost require a prediction of how many parcels would utilize the Ordinance, the acreage of the parcels and the density would be; that their goal was to maximize density at 12 units to the acre; that there has been discussion at 16 units to the acre; that they chose 12 units to the acre as that is the maximum density permitted within Sussex County in any zoning; that they wanted to stay consistent with the density; that they did not go into the Ordinance with any projected numbers and he feels the proposed Ordinance is much more ambitious than the current SCRP Program.

Chairman Wheatley stated he feels the permitted use provision of the Ordinance is the biggest driving force of the Ordinance; that the current proposed Ordinance is not meant to answer the whole housing crisis within Sussex County; that it is intended to deal one this one particular part of the housing issue; that for now, they need to attempt to get this Ordinance right; that the comments made regarding the site plan model are well taken and he hopes to study the model, as the mentioned issues are concerning and he questioned if Mr. Hudson had any recommendations to how the Commission and Council could provide relief to the housing situation in a faster manner.

Mr. Hudson stated he feels the bulk standards could be lessened; that he felt the 100-ft. buffer was almost discriminative against low-income residents, in the fact, the Ordinance would require a 100-ft. buffer, but does not require single-family housing to have a 100-ft. buffer; that he questioned if the Ordinance wants density, why is there a requirement to take away land; that if the project is considered permitted and the projects are limited on the location they can be constructed, why would we not maximize the density; that these densities would be specifically located near the DART routes, with

central water and sewer and located near major highway corridors; that those areas should be the densest areas within Sussex County; that the height requirement is a huge issue when considering all the other setback requirements; that he questioned if Sussex County cared what the shape or look of the building would be; that he questioned if the look and shape of the building should be an issue for the developer or the people who live in the units; that he questioned why a building could not be required to meet a square footage; that the bulk requirements are the largest limiting factor; that this is the reason every apartment building looks like every other apartment building within Sussex County; that it is because the design is maxed out and the maximum allowed by County Code; that to allow these buildings to be efficient to build, there are exterior corridors instead of interior corridors; that this limits elevators and other ADA amenities; that there is a lot of limitation to the height requirements within the Code; that he just built a hotel; that he had to place his HVAC underground to meet the height restriction of the County Code; that a peak on a roof offers more design flexibility and allows for a more attractive look; that he suggested a working group as there are many provisions within the County Code which are technical in nature; that there has been a lot of great work completed by the Commission and by LSA; that on page 30 of the LSA report it stated *“the restrictive Land Use and Zoning Code in Sussex County born out of the efforts to reduce traffic congestion, promote environmental stewardship, preserve the County’s agricultural landscape and/or reduce strain on infrastructure, is setting rules and regulations that place limits on the number and type of housing units that can be built in areas of the County that have been designated for growth”*; that in other words, although projects may be located within a growth zone, it is still limited to what you can construct, therefore affordability is impacted; that the report continues to state *“while well intentioned the Zoning Code is inadvertently placing upward pressure on housing prices and exacerbating the same policies the restrictions are working to address, low density single-use developments, increased traffic congestion, lengthy commutes to work, the cost of installing new infrastructure and the degradation of even more land from sprawling development”*; that due to the non-by-right nature and lack of inventory of other zonings encourages sprawling development; that his application for Chapel Farm, which was approved for 10.4 units to the acre, has been the highest density the Commission has approved in the last 20 years; that the LSA report suggested a minimum of 12 units to the acre to solve the issue; that would be 1,500 units per year, being almost 30% of Sussex County built last year; that those are phenomenal numbers Sussex County must achieve; that the by-right provision is the key part of the Ordinance; that politicians are required to be re-elected every two to four years; that it is difficult to approve property for 12 units to the acre for low-income housing, when the higher-income residents will oppose; that this issue is a very big disservice to Sussex County; that this issue is causing our children a major crisis and our children are not making enough money to afford a \$800,000 home in Lewes and Rehoboth.

Mr. Robertson stated that some of the suggested bulk requirements were initiated by Fire Marshal requirements; that Mr. Hudson made many very good points; that this Ordinance is not the end of the affordable housing discussion; that there may be other areas that require attention within the Zoning Code and the limiting factors it may be causing; that he requested whatever the ending result of the proposed Ordinance would be, we get a better Ordinance through; that he would hate to see the Ordinance be held up for the rewriting of the Zoning Code, which could take years and the Zoning Code was written in 1973.

Chairman Wheatley stated he agreed with Mr. Robertson; that he does not want to get the Ordinance through and go back to sleep; that he wants to get the current Ordinance through and move on to the next affordable housing issue.

Mr. Robertson stated when Sussex County staff came up with the Ordinance the biggest factor being considered were what would the density be, and would the density be permitted; that the 100-ft buffer or the 50-ft open space requirements are not going to make or break the Ordinance; that they are components of the Ordinance, but less important than providing the housing at the density required while expediting the process by making it permitted.

Chairman Wheatley stated he agreed with Mr. Robertson's point; that he stated the buffer and open space requirements do have an impact and he feels those requirements should be reconsidered as they may potentially become the limiting factors in the proposed Ordinance.

Ms. Stevenson questioned if there was any input from the Fire Marshal's Office on the proposed Ordinance.

Mr. Whitehouse stated the model was a special concept and it did look at stormwater and separation distances and some vehicle parking standards.

The Commission found that Ms. Katie Millard who spoke in support of the Ordinance; that she supports the by-right aspect of the Ordinance; that she wished to add a personal face to the affordable housing issue of the Ordinance; that she works within Sussex County for Habitat for Humanity; that the day before the current public hearing, she gave up her apartment as she could no longer afford the rent; that she has had to move back in with her parents while attempting to find a new apartment; that it is very difficult to find affordable housing in Sussex County; that she wanted to ensure she expressed how important the proposed Ordinance is; that it will affect many people within Sussex County and she hopes it is most impactful Ordinance, ensuring the most affordable units possible.

The Commission found that Mr. Kevin Gilmore spoke on behalf of the Ordinance; that he works for Sussex County Habitat for Humanity; that he supports the proposed Ordinance; that he wanted to express how enthusiastic he is to the conversation taking place on affordable housing; that for 18 years he has worked toward addressing affordable housing within Sussex County; that in those 18 years he had never seen the current level of conversation take place regarding affordable housing; that a lot of the conversation had was regarding how does Sussex County move forward in addressing the affordable housing issues; that the proposed Ordinance is the first step in helping to fix the current issue; that he was one of the people who provided comment in the early conversations for the provided LSA report; that the big topic pieces previously discussed, shine through in the proposed Ordinance; that the key pieces to the Ordinance is the by-right use and the permitted density; that he is not a developer who focuses on rentals; that he currently focuses on affordable homeownership; that he hopes to be present to support an Ordinance for homeownership in the future; that he does appreciate some of Chairman Wheatley's comments regarding DART routes and reconsideration to smaller scale projects; that he lends his support to the Ordinance and thanked the Commission for the work they do.

Mr. Robertson requested Mr. Gilmore explain to the Commission what Habitat for Humanity is currently doing and how many houses they are constructing a year.

Mr. Gilmore stated Habitat for Humanity has built over 160 affordable homes in Sussex County; that it has taken 30 years to achieve the 160 homes; that the majority home have been built within the last 15 years; that they average about 10 to 12 affordable units per year; that Habitat for Humanity finances the unit to allow affordability to the homebuyer; that they maintain the values in the community, but allow the payments to become affordable to the homebuyer; that they have been exploring other ideas on how to make the unit affordable; that they have launched impressive programs in the past to help keep people in their current homes; that there is an aging population, who is on a fixed income, who may not always be able to perform minor repairs to their home; that last year Habitat for Humanity performed 100 repairs to homes in Sussex County; that this helped keep residents in their current homes; that these repairs were everything from placing skirting around manufactured homes, to help improve energy efficiency to placing grab bars, tub cuts, ramps and updated windows; that the home improvements has been a growing aspect of what Habitat for Humanity does; that they are not going to be able to just build their way out of the affordable housing crisis at only 10 to 12 homes a year; that they have had over 30,000 volunteers help build houses in Sussex County; that they asked themselves what they could do in their current public forum; that they felt they could help improve housing conditions to homes, even if they are not constructing the homes themselves; that Habitat for Humanity has received support from Sussex County Council for many years; that he appreciates working with Ms. Brandy Nauman and the Sussex County Housing Development team; that they tag team on many projects to help the community; that they perform a lot of work intown as well; that they have been doing a lot of work in Georgetown, Seaford and Laurel; that they have been focusing on blocks; that if a block has eight houses, they may try to focus on five homes to improve; that this may be tearing down homes and rebuilding or renovating existing homes and by doing this is causes the market to go up and encourages people to invest more money into the properties.

Chairman Wheatley stated the work performed by Habitat for Humanity has made a big difference in the town of Laurel.

The Commission found that Mr. Robert Mitchell spoke on behalf of the Ordinance; that he has been a mortgage banker for the last 30 years; that affordable housing has recently been getting a lot of press; that the press and conversation is a great move forward in the right direction; that the LSA report was done in 2019; that unfortunately in the last three years the curve for housing has gone straight up; that the need for housing has increased due to the pricing of housing; that within the last three years Sussex County has issued 1,500 building permits; that he questioned what the average price was for the homes issued building permits; that two and a half years ago it was recognized there was an issue with affordable housing; that over the last three years Sussex County has issued 1,500 building permits, for the vast majority of the houses to unaffordable for the majority of Sussex County residents; that he looked over the LSA report; that he feels the LSA report establishes the 12 units to the acre as a minimum; that the Ordinance does require 100-ft buffer on each side of the property; that when meeting the Ordinance, projects will be utilizing less than 50% of the property; that the 100-ft. buffer requirement, placed on a nine acre parcel, would create almost five acres of open space when located on a perfectly square lot; that he questioned how many parcels are available to meet the Ordinance criteria and requirements; that he questioned if there was an analysis to how much acreage it would take to perform a project; that staff had two and a half years to perform these analysis; that he asked these questions in hopes to obtain a goal; that the goal would help provide a target number of affordable homes the Ordinance would be projected to provide; that he questioned if 12 units to the acre enough density to provide the units needed; that he questioned if the people who have had to leave their homes care about the 100-ft. buffer and 50% open space; that he questioned why the Ordinance could not propose 15 to 16 units to the acre; that he feels the 100-ft. buffer requirement is

a lot to be required on every side of the property; that when reading the Ordinance he felt it portrayed, affordable housing being an issue, the Ordinance being what Sussex County wants to do about the issue, but the Ordinance is also how Sussex County will protect certain areas of the County from affordable workforce housing from being built, that he is concerned the Ordinance will be pushed through, but be impossible to make work

Mr. Whitehouse stated Sussex County would be able to state the estimated cost for building the home, which received a building permit, but Sussex County would not know the selling price of the home, as Sussex County does not collect data on selling price; that he would estimate, under \$200,000 on average, considering all units that received building permits; that manufactured homes do bring down the pricing of larger homes; that they did conduct an analysis to look at how many parcels could be subdivided, how many parcels are undeveloped near transit areas; that he did not have the number in front of him, but an analysis was performed; that they do have a number to the acreage, but he did not have the exact number at that moment

Mr. Robertson stated the 50% open space and 100-ft buffer requirements are not separate; that those requirements may overlap each other; that the setback areas may be counted toward the 50% open space requirement of the Ordinance and they do have the number related to acreage; that the information regarding acreage can be pulled from the Sussex County GIS Mapping System; that they currently do not have the exact number in front of them; that he questioned Mr. Mitchell if he is suggesting Commission hold the Ordinance until the numbers and information are provided; that based on the comments and complaints on how long the Ordinance has taken to come forward, he struggled with the idea of holding the Ordinance any longer, unless there were valid reasons to do so; that the number of 12 units to the acre was provided by the LSA report; that 12 units to the acre are also the current maximum density permitted in any zoning with Sussex County Code; that the reasoning for the proposed design criteria is due to projects being located in areas that are not high density areas; that the by-right portion of the Ordinance would permit 12 units to the acre in AR-1, where currently only two units to the acre is permitted; that the Code does currently have separation requirements for residential adjacent to commercial, for example; that the reason for the design requirements was due to the potential difference in density; that the proposed numbers are a starting point; that they could consider reduction of the 50% open space or the 100-ft. buffer to ensure the 12 units to the acre or would it allow better design flexibility to build a better project; that he questioned what number Mr. Mitchell felt would work regarding the open space and buffer requirements; that he stated the other portion of the Ordinance is it increases the permitted height from 42-ft to 52-ft. to allow for an extra story and a pitched roof; that the thought process was if it was permitted to go up, the project to could come in more and spread out less; that this would create more of a Cluster design;

Chairman Wheatley stated if Mr. Mitchell had an issue with the timing of the performed analysis and Ordinance, he would need to express his issues with Sussex County Council, as they are the governing body that regulates the time management of the Ordinance; that he agrees if the questions to the number of units and acreage can be calculated with accuracy, he agreed, the Commission should review the numbers; that he feels the market will answer some of the questions; that in some cases the answer will be a judgment call; that there may be a parcel that meets the Ordinance requirements, but may not be a location that developers would be interested building in; that there may also be a case where there are geological issues which exclude the parcel but would not be found in a calculation; that he understands Mr. Mitchell's desire to have answers to his questions, but he questions how valuable the information and numbers would be;

Mr. Mears stated he disagreed with Mr. Mitchell on his impression of what the proposed Ordinance is trying to achieve, and he does not feel the proposed Ordinance is being put through to, in the end, not want to do it.

Ms. Wingate stated the Commission just went through a similar issue within the Town of Bethany; that she questioned if a project is constructed adjacent to single-story or two-story residential homes, then placing a 52-ft building next to the homes, the people within the 52-ft. units will likely be able to see through the windows of the single-story and double-story homes; that people have previously testified to have concern and issues with that fact; that she stated a 100-ft. buffer may be too large, but there does need to be a consideration for the communities already existing

Mr. Robertson stated that the RPC section of the County Code does discuss that issue and states there needs to be an appropriate transition between densities; that he stated the proposed number may not be right; that they felt having a defined number was more appropriate, than an undefined number and would allow a developer to know the number and progress on.

Mr. Mitchell stated maybe the 100-ft. buffer is needed adjacent to residential communities, but possibly that adjacent to a highway the buffer could be lessened to allow for more units.

Chairman Wheatley stated he feels a 50-ft. buffer would suffice for the projects.

Ms. Wingate and Mr. Mears stated they both agree with Chairman Wheatley's comment that a 50-ft. buffer requirement would suffice for proposed projects.

Ms. Stevenson questioned if the Sussex County Code defines what an apartment is; that she questioned why dorm-style units are not being constructed, where people would have an individual room but would share a kitchen and bathroom; that she questioned if dorm-style units are currently permitted; that she questioned if the location where individual people sleep considered a dwelling unit and she questioned if the sleeping quarters or the kitchen defined a dwelling unit.

Mr. Whitehouse stated in the County Code there is a definition as to what a dwelling unit is; that the definition is based on the number of related and/or unrelated individuals; that this is currently stated in Chapter 115 of the County Code; that if there were eight people sharing cooking facilities, who were unrelated, it would be considered outside the definition of a dwelling unit; that the definition would then become multi-family and the definitions would not be changed by the proposed Ordinance.

Ms. Stevenson stated that dorm-style units could be a solution to help cut into the current affordable housing problem.

The Commission found there was no one present by teleconference who wished to speak in support or opposition to the proposed Ordinance in relation to the workforce housing.

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

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

In relation to the Ordinance. Motion by Mr. Hopkins to hold the record open for written comment until the next regular Planning & Zoning Commission meeting for the receipt of additional written comments, seconded by Ms. Wingate, and carried unanimously. Motion carried 5-0.

Minutes of the May 12, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Ordinance, which was heard on April 28, 2022, and the record was left open until the current meeting to allow for receipt of additional written comments.

Mr. Whitehouse stated that seven additional documents and responses that had been received; that the correspondence was circulated to the Commission within the Paperless Packets; that there were additional comments received after the publication of the Paperless Packet; that those comments were printed and circulated to the Commission; that within the printed documents was a report received from Century Engineering; that there was some discussion during the public hearing regarding the number of parcels County wide could potentially, from a numerical point of view, benefit from the potential Ordinance; that Century Engineering provided a County wide analysis, that the majority of the document outlines the methodology applied within the analysis; that Century Engineering did use real-time data provided from the Planning & Zoning Department; that at the bottom of the second page, the report stated the total number of parcels that met the criteria established as part of the analysis is over 2,521 acres; that a one acre threshold was chosen due to the Ordinance's buffer requirement; that they chose to exclude parcels of less than one acre; that County-wide, 612 potential parcels were found that fulfilled the requirements of the Ordinance; that the 612 parcels totals 6,291-acres; that he mentioned other multi-family housing examples within Sussex County; that not all of the existing multi-family housing examples currently offer affordable housing units within the program; that the offer examples show the ability to offer the proposed number of stories, the number of units and the amount of open space; that Beach Plum Dunes currently has a density of 3.25 dwelling units to the acre, which equals 144 units; that staff requested attention be drawn to the open space of 89%; that the Ordinance requirements are physically capable to being achieved currently in projects that are or have already been built; that Coastal Tide offers 168 units on 18.33 acres; that Coastal Tide was able to deliver 63% open space with a density of 9.17 dwelling units to the acre; that all of the current examples are compliant with the 42-ft. maximum height requirement; that Weston Willows is a three-story building, which still complied with the 42-ft. maximum building height; that Weston Willows offered 287 units, with a density of approximately 10.65 dwelling units to the acre; that Weston Willows was still able to deliver 48% open space for the project; that the final example was Sea Glass, which is a four story building with a flat roof design; that Sea Glass also complied with the 42-ft. maximum building height requirement; that Sea Glass offered 224 units on 18.75 acres; that this offered an approximate density of 11.94 dwelling units to the acre and these examples show, even at below 12 dwelling units to the acre, the deliverable percentages of open space are in the region of 50% or more.

Mr. Robertson stated that there were a couple of variables to mention; that the Commission is somewhat seeing the proposed Ordinance for the first time; that County Council has been discussing the issue for some time; that the examples shown were information staff had when heading into the County Council presentations; that there are some notable differences; that the buildings of Beach Plum Dunes are 42-ft. in height; that the Ordinance proposes 52-ft., which would allow for another

story; that the addition of another story would increase the ability to have more affordable units and greater density; that the threshold for open space within the Ordinance is 50% and the open space offered in Beach Plum Dunes is 89%.

Chairman Wheatley reminded the Commission, that due to not having a full Commission, and without having any serious pressure to vote, the Commission is not obligated to vote; that he did feel it would be good if all five Commissioners had the opportunity to vote and the Commission is welcome to have a discussion.

Mr. Hopkins stated the issue is similar to taking a drink from a fire hydrant; that all the information received as been good information; that the Workforce Housing issue is such a large issue for Sussex County; that he recalled the LSA report stated the approximate total workers within Sussex County was 8,000 workers; that the AMI, at the time, was about \$50,000 annually per worker; that the Commission is trying to help people find homes, allowing them to serve in all the capacities Sussex County needs; that he wished the Commission had the opportunity to be involved in workshops related to the Ordinance; that he views the Ordinance as one solution; that he feels the Commission needs to be unfolding multiple solutions; that he feels the Ordinance is concentrated to locations where the highest dollar amount of land is; that the bulk of the potential locations are within the Coastal Area; that the evaluation discussed multiple different analysis which were made; that the Ordinance made the most sense on areas closest to the shore; that he feels the Ordinance may be good for the three categories mentioned in the Ordinance; that he stated Sussex County also needs workforce housing within the Georgetown area and beyond; that in order for the numbers to work, the Commission must go back to consider density; that it is difficult to attempt to figure everything out on a Thursday evening; that the Ordinance is an amendment to the original Ordinance written in 2008; that the Ordinance was amended in 2016; that no one seemed interested in the previous Ordinances; that County Council has been involved and discussing the issue the past two and a half years; that he counted the items and lines deleted and added from the original Ordinance; that there were about 26 items deleted and 16 items added for the proposed Ordinance; that he does believe the Ordinance will work in the growth areas; that he feels there should be another option, in the other areas, as staff looks at areas further west; that he believes the report reflects the requirement to increase density when moving further west, to allow projects to work and he feels they could do better; that he questioned how many of the 612 parcels are ten acres or more and he requested this numerical data be presented at the next scheduled meeting.

Mr. Whitehouse stated to achieve the number of how many of the 612 parcels are ten acres or more, would require additional math and calculation; that he could provide the information by the next scheduled meeting, and he requested the Commission leave the record open allowing for the receipt of the data information requested in relation to parcel distribution.

Mr. Robertson stated within the past two and a half years, the COVID-19 pandemic stopped everything for a while; that the Commission and County Council were not permitted to have meetings in person to allow discussion; that over the past two and a half years, the Coastal Tide project was being put to use; that Coastal Tide offered real-time education about the SCRIP Program and how the program was working or not working; that staff utilized information learned from experiencing a project in real-time; that this offered opportunities to see issues which needed to be fixed and Chapter 72; that they spent a lot of time reviewing the LSA report; that they spent a lot of time to ensure a

project would be feasible with the Ordinance requirements and the few changed lines was not the cause of the delay.

Chairman Wheatley stated Sussex County will have to do better with the workforce housing issue; that he believes the proposed Ordinance is not the end, but intended to be the beginning; that the Ordinance is one piece of a very large pie; that apartments and houses cost the same amount regardless of where they are built; that housing will cost the same in Seaford, as they would in Rehoboth; that the variable cost for developers is the land; that the construction cost is the same; that the land cost will not come down to the point it will cause a large disparity, due to the construction costs being fixed; that in order to offer more reasonable rents in areas which are less desirable, the Commission may have to consider additional incentives on the western side of the County; that when it comes to specifics, he is still concerned about a 50-ft. setback versus a 100-ft. setback, as well as the 50% versus 30% of open space; that after the numerical data and project examples, he does recognize the 50% open space is achievable; that deferring action would allow the Commission time to digest the newly presented information; that he does agree the Ordinance needs to be advanced; that he stated the Commission should keep in mind, many projects are built upon multiple parcels which are purchased and combined into one parcel; that the data being presented is based on individual tax parcels; and he requested to know the distribution numbers, from one to five acre parcels, five to ten acre parcels, 10 to 20 acre parcels and 20+ acre parcels.

Mr. Hopkins requested the parcel distribution data include parcels of 20 to 30 acres and 30+ acre parcels as well.

Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to defer action, holding the record open for the receipt of additional information requested to be provided from the Planning & Zoning staff. Motion carried 4-0.

The vote by roll call; Ms. Stevenson – yea, Mr. Hopkins – yea, Mr. Mears – yea, Chairman Wheatley – yea

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

The Commission discussed the Ordinance, which had been deferred since April 28, 2022; that the Commission meeting of May 12, 2022, the record was left open for the receipt of additional information requested to be provided from the Planning & Zoning staff in relation to the distribution data to applicable properties within Sussex County.

Mr. Whitehouse advised the Commission that there were no additional comments from members of the public. He submitted the requested GIS Spatial Analysis report into the public record.

The Commission discussed the proposed Ordinance in relation to the SCRP Program.

Motion by Mr. Hopkins, seconded by Ms. Wingate and carried unanimously to defer action for further consideration. Motion 4-0.

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

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

Ms. Wingate moved that the Commission recommend approval of the Ordinance to amend various sections of Chapters 72 and 115 of the Sussex County Code, known as the Affordable Housing Ordinance, based on the record made during the public hearings and for the following reasons:

1. It is undisputed that there is a real need for more affordably priced housing opportunities in Sussex County. This ordinance will help serve that need through incentives to private developers to provide affordably priced units as part of multi-family developments here in Sussex County.
2. This Ordinance is the result of a study commissioned by the Sussex County Council to determine the current deficiencies in the County Code and recommend improvements that can be made to the Code to enable more affordable rental units in Sussex County.
3. Chapter 72 of the Sussex County Code previously established the Sussex County Rental Program or SCRP. In the years that the SCRP Program has been in existence, only one development has utilized it. For that reason and based upon lessons learned from the process involved in establishing the SCRP units within that lone development, an amendment to Chapter 72 is appropriate. This Ordinance significantly improves and streamlines the existing SCRP Program.
4. There was little or no opposition to the Ordinance. Instead, constructive comments were received from the public, housing advocates, and developers suggesting possible improvements so that it is utilized, and more affordably priced rental units are actually constructed in Sussex County.
5. By creating a “by-right” process for multi-family developments that provide at least 30% affordably priced rental units, the uncertainty associated with a rezoning or conditional use is eliminated.
6. As stated in the “Whereas” clauses of the Ordinance, this type of amendment was described in Sussex County’s Comprehensive Plan and its Goals, Objectives, and Strategies.
7. The affordable rental units created by operation of this Ordinance will be monitored by Sussex County’s Community Development and Housing Department to ensure that they are occupied by, and available to, qualifying households.
8. This ordinance promotes the health, safety, and welfare of current and future Sussex County residents by enabling the creation of more affordably priced rental units in Sussex County.
9. This recommendation is subject to the following suggested improvements to the Ordinance:
 - A. In Sections 2, 4, 6, 8, and 10 of the Ordinance, the listing of appropriate “Areas” designated on the Future Land Use Map for the affordably priced units should include the “Commercial Area” in addition to the “Town Center”, “Developing Area” and “Coastal Area” as currently required in the Ordinance. “Commercial Area” locations are appropriate for affordably priced rental units because they are adjacent to major roadways, near DART routes, and by their nature are employment centers.
 - B. In Sections 2, 4, 6, 8, and 10 of the Ordinance, Council should consider reducing the Open Space requirements from 50% to 30%. I am concerned that the 50% Open Space requirement in the ordinance as introduced is too limiting and will inhibit the creation of new affordable housing opportunities.
 - C. In Sections 2, 4, 6, 8, and 10 of the Ordinance, the setback requirements should be revised so that they state that if the proposed buildings do not exceed 42 feet in height, which is the current maximum height for building in these zoning districts, then the setback shall only be 50 feet which is what is currently required by Code. If the building heights exceed 42 feet up to the maximum of 52 feet as provided in the

Ordinance, then the greater setback of 100 feet shall be required as currently stated in the introduced version of the Ordinance.

- D. In Sections 2, 4, 6, 8, and 10 of the Ordinance, the requirement for proximity to DART Routes should be amended so that the development can also occur in a location where DART certifies in writing that a DART Route will be established within 3 years from the date of Final Site Plan approval for the development, OR the Developer obtains a written commitment from DART that it will serve the development no later than when 50% of the leasable units are fully constructed and ready for occupancy.

Motion by Ms. Wingate, seconded by Mr. Mears and carried to recommend approval of the Ordinance to amend various sections of Chapters 72 and 115 of the Sussex County Code, known as the Affordable Housing Ordinance for the reasons and conditions stated in the motion. Motion carried 3-2.

Ms. Stevenson stated: “I vote no. While I agree that there is a need for more workforce and affordable housing in the eastern part of the county, and I appreciate the effort put into this ordinance, I see this as doing little to resolve the actual problems of affordable rental housing in the county. In fact, it could actually exacerbate other problems that already exist.

For every three units created of affordable housing, it would also create another 7 units of market-rate housing.

Those seven units, and indeed the entire 10 units, would contribute to the already overburdened road system of the county and create more congestion and dangerous situations. Yes, I understand the requirement for it to be near a bus route – or what might become a bus route, but the reality is that most, if not all, of the people moving to these apartments, would be using their own automobiles to get around on a regular basis. And much of that driving would probably be on two-lane country roads, as they are often called, where there are little or no shoulders.

The by-rights feature that is said to be needed to make this ordinance work could allow high-density apartment buildings to be built within otherwise low-density housing areas, without allowing for input from those people already living in those areas. Under this ordinance, my understanding is that someone could build an apartment building on a one-acre lot in AR zoning. We don’t even allow duplexes in this zoning, but now we could have an apartment building?

The map areas where these units would be allowed are too broad – The coastal area and developing areas encompass most of the county. An apartment building could crop up almost anywhere under this ordinance. Keeping it within the town center areas and/or possibly creating a new designation on the comprehensive plan maps could keep this type of high density closer to already developed areas where there would be possibilities for walking, biking, and using public transportation on a more regular basis.

I believe this ordinance would provide very little in the way of affordable and workforce housing.

Options such as ADU’s additional dwelling units, and garage apartments could create immediate supply. The county could support dormitory-style housing and non-profits that build workforce housing. The county could also create incentives such as waivers on height restrictions to allow companies to provide housing on top of new business construction. The county could even up-zone

areas where there are already affordable housing developments so more of that housing could be built as in-fill. Support of tiny homes, manufactured housing (land-lease), and even year-round campground options could provide more equitable, faster, and broader relief for the problems we face in the workforce housing arena”.

Mr. Hopkins stated: “In a nutshell, the affordable housing crisis is a supply issue. There simply isn’t a supply of moderately priced housing in Sussex County. This has the greatest negative impact on gainfully employed hard-working middle-class citizens. I think Sussex County should be a wonderful place to work and live for people of all economic backgrounds.

As we all learned in school, when there is an issue of supply and demand, the solution is obvious. There aren’t enough moderately priced houses. Despite the complaints of so many who speak before this commission, the issue in Sussex County isn’t over development, it’s not enough development across the economic spectrum. We need to create more housing for people who want to live, raise a family, and call Sussex County home for generations to come.

I think this can be done without creating sprawl and overdevelopment.

I also think that, if we are not careful, the government will end up being part of the problem rather than the catalyst for the solution. Poor planning by the Sussex County government has played a role in creating the issues we are facing today.

As pointed out in the H.O.M.E. report it is a problem created by County Ordinance and Policy:

Quote:

“The restrictive land use and zoning code in Sussex County, born out of efforts to reduce traffic congestion, promote environmental stewardship, preserve the County’s agricultural landscape, and/or reduce strain on infrastructure, is setting rules and regulations that place limits on the number and type of housing units that can be built in areas of the County that have been designated for growth.

While well-intentioned, the zoning code is inadvertently placing upward pressure on housing prices and exacerbating the same policies, the restrictions are working to address. Low-density, single-use developments increase traffic congestion, lengthen commutes to work, increase costs of installing new infrastructure, and promote the degradation of even more land from sprawling development.”

End of Quote.

The combination of low-density policies, lack of undeveloped inventory in all residential districts except AR-1, overly restrictive bulk standards, and an arbitrary land-use decision-making process has left our middle-class and financially disadvantaged citizens out in the cold. To quote President Ronald Reagan “Government is not the solution, government is the problem”.

It is a government-caused problem that has grown over time into a crisis. According to the 2019 final HOME report, approximately 50% of our workforce can only afford a home that costs \$250,000 or less. As of today, there aren’t many of those to be found.

The County recognized affordable housing was an issue in 2008. This effort failed miserably. So much so that it amazes me that it took ten years to recognize the failure. Even after the 2018

Comprehensive plan review highlighted the growing crisis it has taken the County four years to move forward with a partial solution that doesn't offer a fee simple purchase option. It is noteworthy that home ownership is the single largest store of wealth in the United States.

Ignoring this crisis for so long and then only offering a partial solution indicates that either the County Government simply doesn't care, or it is a governing body that willfully discriminates against its middle- and lower-income citizens.

Even the proposed partial solution was drafted with the intent to limit its success. A proposed 100-foot setback. Really, do these citizens have leprosy or something? A draft with a 50% open space requirement. A requirement that reduces the economic viability of a project. A draft with an arbitrary cap of 12 units per acre even if the project could achieve higher density while adhering to building setbacks and bulk standards. A draft requiring a specific building footprint rather than allowing builders design flexibility which might make a project more economically feasible.

Do you think citizens that are struggling to put a roof over their head want to hear an excuse? That fourteen years after recognizing a problem we couldn't rectify it sooner because of Covid? Well, those citizens have had to live those fourteen years with or without Covid in spite of the inaction of the County.

While I believe this ordinance will perform better than its predecessor, it appears to me that this ordinance was drafted for public relations purposes rather than address the multiple issues clearly identified in the H.O.M.E. report.

I do commend the Commission for recommending changes to improve the ordinance. However, it is not easy attempting to make chicken salad out of chicken manure.

Mr. Chairman, we can do better than this. I am voting against this ordinance. While something is better than nothing, I do not want to be a part of a half-hearted, self-serving effort that does little more than present office holders with a public relations opportunity.

Mr. Chairman, I vote no".

Ms. Wingate voted yes for the reasons stated in the motion.

Mr. Mears stated "That we all know that affordable housing is a massive need. As we discussed in the Hearing, this is a small step of many steps that need to occur. But at least we are making a step, therefore, I vote yes for the reasons stated in the motion".

Chairman Wheatley voted yes for the reasons stated in the motion.

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

As Introduced

1 **AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY,**
2 **CHAPTER 72, ARTICLE II, SECTIONS 72-16 THROUGH 72-28**
3 **AND CHAPTER 115, ARTICLE IV, V, VI, VII AND VIII**
4 **SECTIONS 115-20, 115-25, 115-29, 115-34, 115-37, 115-42, 115-45,**
5 **115-50, 115-53 AND 115-58 REGARDING AFFORDABLY PRICED**
6 **RENTAL UNITS AND THE SUSSEX COUNTY RENTAL UNIT**
7 **(SCRP) PROGRAM.**

8
9 WHEREAS, Sussex County Council has adopted the 2018
10 Comprehensive Development Plan (the “Plan”); and

11
12 WHEREAS, The Housing Element of the Plan contains the following
13 “Housing Vision”: To ensure the provision of decent, safe, affordable and
14 safe housing opportunities to improve communities and quality of life for
15 the residents of Sussex County; and

16
17 WHEREAS, The Housing Element of the Plan recognizes that an influx
18 of new residents in Sussex County has fueled prosperity in the County’s
19 real estate market, hospitality industry, and related economic sectors, yet
20 most housing, particularly on the eastern side of the County, is new and
21 often unaffordable to low-income families, seasonal employees, entry-
22 level workers, or recent college graduates; and

23
24 WHEREAS, The Housing Element of the Plan recognizes that “the
25 shortage of affordable housing remains a very real problem for low to
26 moderate-income households in Sussex County, including many with
27 full-time, year-round jobs; and

28
29 WHEREAS, Goal 8.2 of the Housing Element within the Plan states that
30 Sussex County should “Ensure that a diversity of housing opportunities
31 are available to meet the needs of residents of different ages, income
32 levels, abilities, national origins and household configurations”; and

33

34 WHEREAS, Objective 8.2.1 and Strategy 8.2.1.1 of the Housing Element
35 within the Plan states that Sussex County will “Affirmatively further
36 affordable and fair housing opportunities in the County to accommodate
37 the needs of all residents” and in so doing “improve the County’s SCRP
38 and MPHU Programs to provide incentives to properly reflect the housing
39 market and incentivize developers to participate in the provision of
40 affordable housing”; and

41
42 WHEREAS, Strategy 8.2.1.3 of the Housing Element within the Plan
43 states that Sussex County should “explore ways for private developers to
44 provide multi-family and affordable housing opportunities; and

45
46 WHEREAS, Objective 8.2.3 and Strategies 8.2.3.1, 8.2.3.2 and 8.2.3.6 of
47 the Housing Element within the Plan state that Sussex County should
48 “facilitate and promote land use policies that enable an increase in the
49 supply of affordable housing in areas with adequate infrastructure” by
50 “increasing affordable housing options, including the supply of rental
51 units, near employment opportunities”; by reviewing “County code to
52 determine if there are regulatory barriers to development of affordable
53 housing”; and by “revisiting [the] zoning code to determine in districts
54 where multifamily housing is currently a conditional use, if it should be
55 made a permitted use if water and sewer are already present and available
56 on the site”; and

57
58 WHEREAS, Strategy 8.3.1.1. of the Housing Element within the Plan
59 states that Sussex County should “evaluate current County code on an on-
60 going basis to determine if any regulatory barriers exist that impede the
61 development of multi-family and affordable housing”; and

62
63 WHEREAS, this Ordinance is in furtherance of these Goals, Objectives
64 and Strategies as set forth in the of the Housing Element within the Plan;
65 and

66

67 WHEREAS, Sussex County Council commissioned a study of Housing
68 Opportunities and Market Evaluation to evaluate and recommend
69 strategies and policies designed to promote housing choice and economic
70 vitality for Sussex County’s residents and workforce; and

71
72 WHEREAS, in November of 2019, LSA, the housing consultant retained
73 by Sussex County Council, issued its Final Report on “Housing
74 Opportunities and Market Evaluation” following an eight-month
75 initiative that included input from residents, homebuilders, developers,
76 housing advocates, County staff, County Council and Planning
77 Commissioners (“the LSA Report”); and

78
79 WHEREAS, one of the primary Strategy Recommendations included in
80 the LSA Report was a recommendation to “Modify the Zoning Code to
81 promote housing affordability in the Growth Areas identified in the
82 Comprehensive Plan, including the allowance for a maximum density of
83 12 units per acre “by-right” where affordable housing units are provided;
84 and

85
86 WHEREAS, this Ordinance carries out the Goals, Objectives and
87 Strategies of the Sussex County Comprehensive Plan and the LSA
88 Report; and

89
90 WHEREAS, Sussex County Council, with the assistance of the Office of
91 Community Development and Housing, has determined that the current
92 Sussex County Rental Unit program contained in Chapter 72 of the Code
93 of Sussex County requires an update based upon lessons learned in the
94 implementation and application of that Chapter to the single rental project
95 in Sussex County that has utilized the Program; and

96
97 WHEREAS, Sussex County Council, with the assistance of the Office of
98 Community Development and Housing, has determined that the current
99 Sussex County Rental Unit program contained in Chapter 72 of the Code

100 of Sussex County should be revised to attract more affordable housing
101 developments within Sussex County; and

102
103 WHEREAS, it has been determined that this Ordinance promotes and
104 protects the health, safety, convenience, orderly growth and welfare of
105 the inhabitants of Sussex County.

106
107 **NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY**
108 **ORDAINS:**

109
110 **Section 1. The Code of Sussex County, Chapter 72, Article II, §72-16**
111 **through 72-28 is hereby amended by deleting the language in**
112 **brackets and inserting the italicized and underlined language as**
113 **follows:**

114
115 **§ 72-16 Intent.**

116
117 This chapter seeks to better protect the health, safety and welfare of
118 Sussex County's residents and workforce by stimulating the provision of
119 affordable rental housing for residents with low and moderate incomes
120 and is hereafter known as the "Sussex County Rental Program" or
121 "SCRIP" or "program."

122
123 **§ 72-17 Governmental findings.**

124
125 The Sussex County Council hereby finds that a shortage exists within the
126 County for housing for residents with low and moderate incomes.
127 Specifically, the Council finds that:

- 128
129 A. It is well known that Sussex County rents have inflated far beyond
130 the ability of an average wage earner to pay. It is also known that
131 federal rental assistance programs, such as the state-administered
132 Public Housing and Section 8 Housing Choice Voucher

133 Programs, are unable to completely satisfy the need for affordable
134 rental housing.

135
136 B. Council finds that new development is not adequately addressing
137 the rental housing needs of the County's low- and moderate-
138 income residents and workforce. Without influencing this trend,
139 local employers will have a difficult time maintaining an ample
140 workforce.

141
142 C. Without an adequate supply of affordable rental housing in close
143 proximity to employment and Town Centers, the County's
144 workforce must commute a great distance for work. Not only do
145 long commutes have a negative effect on the environment and
146 transportation, but commuting also comes with high fuel
147 expenses.

148
149 D. Given the proper incentives, the private sector possesses the
150 necessary resources and expertise to provide the type of
151 affordable rental housing needed in Sussex County.

152
153 **§ 72-18 Declaration of public policy.**

154
155 The Sussex County Council hereby declares it to be the public policy of
156 the County to:

157
158 A. Encourage the creation of a full range of housing choices,
159 conveniently located in suitable living environments, for all
160 incomes, ages and family sizes.

161
162 B. Encourage the production of affordable rental units to meet the
163 existing and anticipated future employment needs in the County.

164
165 C. Assure that affordable rental units are dispersed throughout the
166 County consistent with the Comprehensive Plan.

167

168 D. Encourage developments in Growth Areas as defined within the
169 County's most current comprehensive plan and Areas of
170 Opportunity as defined by the Delaware State Housing Authority
171 to include [a minimum percentage of] affordable rental units on
172 public water and sewer systems.

173
174 E. Provide incentives for developers to construct affordable rental
175 units through tools such as the density incentive and expedited
176 review (defined below).

177
178 **§ 72-19 Definitions.**

179
180 The following words and phrases have the following meanings:

181
182 **APPLICANT**

183 Any person, firm, partnership, association, joint venture,
184 corporation, or other entity or combination of entities owning or
185 controlling via contract qualifying land (defined below) and any
186 transferee or successor in interest of all or part of the qualifying land
187 pursuing the development of affordable rental housing under the
188 SCRIP that:

189 A. Submits to the County for approval or extension of approval a
190 plan of housing development for any type of site plan review,
191 subdivision plan or development approval (hereinafter, a "site
192 plan") that provides for the development of affordable rental
193 units on qualifying land in one or more subdivisions, parts of
194 subdivisions, resubdivisions, multi-family townhouse
195 developments or phases of development under the terms and
196 conditions as set forth in this article.

197 B. With respect to land in zones not subject to subdivision approval
198 or site plan review, applies for building permits for the
199 construction of affordable rental units on qualifying land under
200 the terms and conditions as set forth in this article.

201 AREA MEDIAN INCOME

202 The midpoint family income for Sussex County, calculated each year
203 by the U.S. Department of Housing and Urban Development (HUD),
204 adjusted for household size.

205

206 AT ONE LOCATION

207 All land of the [a]Applicant if:

208 A. The property lines are contiguous; or

209 B. The property lines are separated only by a public or private right-of-
210 way at any point; or

211 C. The property lines are separated only by other land of the
212 [a]Applicant and not subject to this section at the time of the
213 submission of an application or development plan by the
214 [a]Applicant.

215

216 [CERTIFICATE OF ELIGIBILITY

217 A certificate valid for a period of time, which is issued to eligible
218 tenants by the landlord (defined below) and supplied to the
219 Department (defined below) as further set forth within this article.
220 This certificate must be issued before a tenant will be permitted to
221 sign a lease agreement.]

222

223 [CONTROL PERIOD

224 The time a SCRP unit is subject to rental controls and occupancy
225 requirements. The control period is 30 years and begins on the date
226 of lease (defined below).]

227

228 DATE OF LEASE

229 The date of the initial lease agreement signing of an approved
230 [e]Eligible [t]Tenant for a SCRP [u]Unit.

231

232 DENSITY INCENTIVE

233 [Any increase in density pursuant to § 72-21 that allows a residential
234 development to achieve a density greater than would have been
235 possible under the applicable provisions of current and future zoning
236 ordinances and the County subdivision regulations then in effect.]
237 The density permitted by §72-21 and as a permitted use for SCRP
238 projects in Chapter 115.

239
240 DEPARTMENT

241 The Sussex County Department of Community Development and
242 Housing or its successors.

243
244 DEPARTMENT-DESIGNATED ENTITY (DDE)

245 Any agency, authority or political subdivision of the State of
246 Delaware or any other public housing development agency or
247 nonprofit housing corporation, land trust or similar entity designated
248 by the Department and approved by the County Administrator.

249
250 DIRECTOR

251 The head of the Department of Community Development and
252 Housing or head of a DDE, as applicable.

253
254 DWELLING

255 Any building, structure, or portion thereof which is occupied as, or
256 designed or intended for occupancy as, a residence; and any vacant
257 land which is offered for sale or lease for the construction or location
258 thereon of any such building, structure, or portion thereof.
259 "Dwelling" shall not include hotels, motels, motor lodges, boarding
260 and lodging houses, tourist houses, or similar structures.

261
262 ELIGIBLE INCOME

263 The levels of income designated by the County Administrator which
264 prohibit or severely limit the financial ability of persons to rent a
265 dwelling unit in Sussex County. Eligible [i]Income is low- to
266 moderate-income, defined as 30% to 80% of the area median
267 income for Sussex County adjusted for household size as defined by

268 the U.S. Department of Housing and Urban Development (HUD).
269 Income includes gross salary, wages, dividends, interest and all
270 other sources recognized by HUD from the [e]Eligible [t]Tenant and
271 all other adults (age 18 and older) who will occupy the SCRP
272 [u]Unit. Income will be verified by a copy of the filed income tax
273 returns from the previous year and any other personal and financial
274 information requested by the [l]Landlord in order to accurately
275 verify the potential tenant's qualifications and income, which may
276 include, but is not limited to, a credit history report and a criminal
277 background report on the proposed adult tenants, so long as these
278 are requirements for all leases in the housing development.

279
280 ELIGIBLE TENANT

281 Person(s):

282 A. Whose household *income is within the Eligible Income* [is of low or
283 moderate income;].

284 [B. Who has been found eligible to participate in the Sussex County
285 Rental Program; and

286 C. Who holds a valid certificate of eligibility from the landlord.]

287
288 EXPEDITED REVIEW

289 A project entering the SCRP will receive priority in the County's
290 planning and zoning process, with the Director of Planning and
291 Zoning and the County Administrator to determine the
292 [a]Applicant's placement in the list of pending applications. The
293 expedited review is provided to the [a]Applicant to assist the
294 [a]Applicant in managing, to the extent possible, the risk of changes
295 to cost, interest rates, schedule and other factors that the [a]Applicant
296 is taking on by virtue of participation in the SCRP. If an [a]Applicant
297 at any time during processing elects to withdraw from the SCRP,
298 any approvals granted for the development through the date of
299 withdrawal will be vacated and the [a]Applicant will have to

300 resubmit the project through the normal County process. A project
301 receiving expedited review does not exempt the project from the
302 County's planning and zoning process, nor guarantee approval
303 through that process.

304
305 FORECLOSURE EVENT

306 A foreclosure, deed-in-lieu of foreclosure or other court-ordered
307 sale of the rental unit or of the subdivision or development in which
308 the unit is located, subject to rental restrictions continuing in force
309 after foreclosure sale of disposition.

310
311 LANDLORD

312 The owner of the property that contains SCRCP [u]Units or an entity
313 designated by the owner to manage and lease dwelling units.

314
315 QUALIFYING LAND

316 All land that:

- 317 A. Is owned by or under contract to the [a]Applicant; and
- 318 B. *[Is located within a Growth Area as defined within the County's most*
319 *current comprehensive plan or within an Area of Opportunity as*
320 *defined by the Delaware State Housing Authority; and] Allows the*
321 *SCRP Units as a Permitted Use pursuant to Chapter 115.*
- 322 *[C. Requires the submission and approval of a site plan or, where a site*
323 *plan is not required, one or more building permits; and*
- 324 *D. Is served by a public water and sewer system; and*
- 325 *E. Is at one location as defined above.]*

326
327 SUSSEX COUNTY RENTAL PROGRAM UNIT (SCRP UNIT)

328 A dwelling which is:

- 329 A. Offered for lease to [e]Eligible [t]Tenants through or pursuant to the
330 provisions of this article and any regulations promulgated

331 thereunder by the Department and approved by the County
332 Administrator; or

333 B. Leased under another government program designated by the County
334 Administrator designed to assist in the construction or occupancy of
335 affordable rental housing.

336

337 **§ 72-20 Minimum standards of eligibility for tenants.**

338

339 A. Eligible [t]Tenants must:

340

341 (1) Have proof of citizenship.

342

343 (2) Be of [e]Eligible [i]Income, as defined in § 72-19 above,
344 and be able to pay the first month's rent and any required
345 security deposit.

346

347 (3) Be employed [and live] in Sussex County for at least one
348 year preceding application to the SCRP. Sussex County
349 employers may seek waivers to this restriction from the
350 Director and County Administrator. Waivers are evaluated
351 on a case-by-case basis and are not guaranteed.

352

353 (4) Provide proof that adult tenants have not been convicted of
354 a felony and have a satisfactory credit and criminal history,
355 so long as these are requirements of all leases within the
356 proposed housing development.

357

358 (5) Occupy the SCRP [u]Unit as the tenant's principal residence
359 during the lease period. Each [e]Eligible [t]Tenant must
360 certify before taking occupancy that the tenant will occupy
361 the SCRP [u]Unit as the tenant's principal residence. Any
362 tenant who violates occupancy requirements will be subject
363 to eviction procedures.

364

365 B. Where necessary or advisable to achieve the objectives of this
366 chapter or to comply with state or federal housing laws, the
367 Department may propose changes to these standards for approval
368 by the County, including changes to eligibility requirements for
369 tenants as recommended by the Department.

370
371 **§ 72-21 Density and expedited review incentives.**

372
373 A. Density incentive. [Subject to meeting the requirements outlined
374 in § 72-22, a proposed development on qualifying land at one
375 location may receive a density bonus of 20%. The project entering
376 the SCRCP with the execution of a SCRCP [a]Agreement will be
377 allowed to utilize the density permitted by the zoning district in
378 which the property is located, provided that the total density,
379 including any SCRCP density bonus, shall not exceed 12 units per
380 acre.] See Permitted Uses in Chapter 115.

381
382 B. Expedited review. A project entering the SCRCP through execution
383 of an SCRCP [a]Agreement will receive expedited review, as
384 defined in § 72-19 above, through the County's Planning and
385 Zoning process.

386
387 C. Incentives will only be granted to projects submitted for new
388 development that meet all requirements of this program.

389
390 [D. To the extent necessary, Council shall amend the provisions of
391 the County's Zoning Ordinances as needed to achieve the density
392 incentives and the specific design elements (e.g., minimum lot
393 sizes, setbacks, building heights, parking requirements, etc.) of
394 approved SCRCP projects.]

395
396 **§ 72-22 Minimum standards of eligibility for SCRCP developments.**

397
398 [A. Applicants must contribute 12.5% of all units to SCRCP inventory.
399 In applying and calculating the number of affordable units within

400 a proposed development, any decimal fraction less than or equal
401 to 0.50 may be disregarded, and any decimal fraction greater than
402 0.50 shall be constructed as one unit. In the case where the total
403 number of units being constructed is four or less, the minimum
404 number of SCRП units must be one unit.

405
406 B.] A. All parcels in the proposed project must be on qualifying land,
407 as defined in § 72-19.

408
409 [C]B. All units contributed as SCRП [u]Units will remain at the
410 affordable rental rates specified herein [for the remainder of the
411 control period]. SCRП [u]Units shall never be leased as market-
412 rate units [during the control period], regardless of vacancy,
413 except in accordance with § 72-23N(1).

414
415 D. SCRП [u]Units must be fully integrated into the communities of
416 which they are a part and shall not be substantially different in
417 external appearance from market-rate units. SCRП [u]Units shall
418 be equipped with the same basic appliances as the market rate
419 units, such as an oven, refrigerator, dishwasher, and washer and
420 dryer.

421
422 **§ 72-23 SCRП Agreements.**

423
424 To participate in the SCRП and secure any incentives provided for
425 herein, an [a]Applicant must execute an SCRП [a]Agreement
426 prepared by the Department and the County Attorney. Each
427 agreement must include, at a minimum, the following information
428 and/or evidence the following agreements and any others deemed
429 necessary by the Department and the County Attorney to properly
430 implement the chapter:

431
432 A. The specific number of SCRП [u]Units to be constructed in the
433 project. If a final site plan has not been approved when the SCRП
434 [a]Agreement is executed, an amendment to the SCRП

435 [a]Agreement will be made to incorporate the approved final site
436 plan.

437
438 B. [The schedule pursuant to which the SCRP units will be
439 constructed, marketed, and delivered and explaining the
440 relationship between the delivery of market-rate units and the
441 delivery of SCRP units (i.e., a stated number of SCRP units to be
442 created for each market-rate unit created).] A description of how
443 the SCRP Units will be marketed and delivered. The SCRP Units
444 must be constructed and delivered in equal proportion to non-
445 SCRP Units within the development.

446
447 (1) Applicants [should] *shall* affirmatively market the SCRP
448 [U]Units to diverse populations, and meet with the
449 surrounding residents early in the development approval
450 process.

451
452 C. Any economic risk created by changes, whether within or outside
453 of the [a]Applicant's control, in development and construction
454 costs, interest rates, processing and construction schedules,
455 permitting and any other factor impacting the [a]Applicant's costs
456 and development obligations are borne solely by the [a]Applicant.

457
458 D. Building permits, performance bonds and letters of credit.

459
460 [(1)] No building permits shall be issued in any subdivision or
461 housing development where SCRP [u]Units are included until
462 the [a]Applicant executes a valid SCRP [a]Agreement which
463 applies to the entire subdivision.

464
465 [(2)] If an applicant does not build the SCRP units in accordance
466 with the construction schedule along with or before other
467 dwelling units the County Administrator may withhold
468 building permits or call in performance bond or letter of credit
469 from the applicant until the SCRP units contained in the

470 construction schedule are built and contributed to SCRP rental
471 inventory to the satisfaction of the Department.]
472

473 E. Be signed by the [a]Applicant and all other parties having an
474 interest in the property whose signatures are required for the
475 effective and binding execution of contracts conveying real
476 property. SCRP [a]Agreements must be executed in a manner that
477 will enable them to be recorded in the land records of the County.

478 [If the applicant is a corporation or limited liability company, the
479 principal officers of the entity must sign the agreements
480 individually and on behalf of the corporation pursuant to a duly
481 adopted resolution.]
482

483 F. Partnerships, associations, corporations and other entities may not
484 evade the requirements of the SCRP [a]Agreement through
485 voluntary dissolution, bankruptcy, or the sale or transfer of
486 qualifying land.
487

488 G. The SCRP [a]Agreement may only be assigned with the prior
489 written approval of the Department and only if the proposed
490 assignee demonstrates the financial ability to fulfill all of the
491 [a]Applicant's obligations under the SCRP [a]Agreement.
492

493 H. Landlords are responsible for marketing, leasing, and determining
494 tenant eligibility for the SCRP [u]Units. [A lease agreement shall
495 not be signed unless validated by a certificate of eligibility.] A
496 landlord shall not be permitted to refuse to rent a unit to an
497 [e]Eligible [t]Tenant [without providing the Department with just
498 cause, to the Department's satisfaction, for the refusal]. The
499 reasons for a refusal to rent to an Eligible Tenant shall be
500 documented and included in the Annual Audit and Certification
501 required by §72-28
502

503 I. If the [a]Applicant is not also the builder, the relationship between
504 the [a]Applicant and the builder shall be fully disclosed to the

505 Department's satisfaction, as soon as the relationship is
506 established.

507
508 J. SCRP [u]Units must be fully integrated into the communities of
509 which they are a part (not separated geographically from the
510 market rate units and not grouped together) and shall not be
511 substantially different in external appearance from non-SCRIP
512 [u]Units. When the SCRP [u]Units are a part of a phased
513 development, a proportionate number or percentage of said
514 [u]Units will be placed within each phase and/or constructed
515 within each housing type appearing in the development. The
516 planning and design of individual SCRP [u]Units must be
517 consistent with the planning and design of non-SCRIP Units (i.e.
518 market-rate units) within a single project.

519
520 (1) The ratio of SCRP [u]Units by type must reflect the ratio by
521 type of market rate units, to the extent feasible. For instance,
522 if a development has 200 two-bedroom dwelling units and
523 100 one-bedroom dwelling units, the ratio of two-bedroom to
524 one-bedroom SCRP [u]Units should also be 2:1.

525
526 K. [The applicant will execute and record covenants confirming
527 that]The SCRP Agreement shall be recorded in the Office of the
528 Recorder of Deeds confirming that:

529
530 (1) The covenants contained within it will bind the [a]Applicant,
531 any assignee, mortgagee, or buyer and all other parties that
532 receive title to the property. In the event the mortgagee
533 acquires the property through a foreclosure or acceptance of
534 deed-in-lieu of foreclosure, the SCRP [a]Agreement
535 covenants will continue in effect. The covenants must be
536 senior to all instruments securing financing.

537
538 (2) In any deed or instrument conveying title by the [a]Applicant,
539 the property shall remain subject to all of the terms and

540 conditions contained in the SCRP [a]Agreements by the
541 [a]Applicant required under the chapter [during the control
542 period]. The source of the SCRP [a]Agreements and any deed
543 restrictions related thereto must be included in the public land
544 records so that they are readily identifiable in a routine title
545 search.

546
547 L. Where the [a]Applicant is a DDE, agreements will be negotiated
548 between the Department and the DDE so as to be consistent with
549 the mission, strategies, business plans and operating procedures
550 of the DDE and may, with Council approval, deviate from the
551 requirements of this chapter.

552
553 M. The SCRP [a]Agreement requires that the [l]Landlord ensure that
554 the SCRP [u]Units are occupied only by tenants whose [monthly]
555 *annual* income levels do not exceed the eligible income limit, and
556 shall prohibit tenants from subletting or subleasing the [u]Units.
557 [The agreement shall also require the landlord to submit a copy of
558 the initial and all renewal leases to the Director within 30 days of
559 signing the lease.]

560
561 (1) In addition, the [l]Landlord must supply the information listed
562 below in a format acceptable to the Director on an annual
563 basis:

564
565 (a) The number of SCRP [u]Units, by bedroom count, that are
566 leased to [e]Eligible [t]Tenants and those that are vacant,
567 and the monthly rent charged for each SCRP [u]Unit;

568
569 (b) For each SCRP [u]Unit, the tenant's name, household size,
570 and total household income as of the date of the lease, and
571 the effective date of the lease;

572

573 (c) A statement that, to the best of the [l]Landlord's
574 information and knowledge, tenants who are leasing the
575 SCRP [u]Units meet the eligibility criteria[; and
576

577 (d) A copy of each new or revised certificate of eligibility
578 obtained since the last annual report].
579

580 (2) The Department shall audit the report and may require such
581 additional information *monthly* needed to evaluate and accept
582 the annual report.
583

584 N. The tenant must vacate the SCRP [u]Unit if the tenant's household
585 income exceeds 80% of the area median income by 20% *at the*
586 *time of lease renewal*. The [a]Applicant must take the necessary
587 action to have the tenant vacate the SCRP [u]Unit within six
588 months of receiving information that the tenant's household
589 income exceeds the [e]Eligible [i]Income limit.
590

591 (1) Notwithstanding the provisions of § 72-23N above, if the
592 [a]Applicant immediately designates an additional
593 comparable unit as an affordable dwelling unit to be leased
594 under the controlled rental price and requirements of the
595 SCRP program, the tenant of such SCRP [u]Unit referenced
596 in § 72-23N above may continue to lease such [u]Unit at the
597 market value rent.
598

599 *O. The Landlord shall comply with the Annual Audit and*
600 *Certification Requirements of Section 72-28*
601

602 § 72-24 SCRP [u]Units.

603

604 A. Rent.

605

606 (1) Rent shall be established and updated annually by the
607 Department based upon 25% of household income for 50% of

608 the area median income adjusted for household size and unit size
609 and shall not include trash services, parking, water and sewer
610 utilities and any other charges to be paid by the tenant.

611
612 (2) The [e]Eligible [t]Tenant must provide to the [l]Landlord income
613 tax returns (and proof of payment of any taxes owed) from the
614 previous year for all members of the household who were
615 required to file such returns. If an [e]Eligible [t]Tenant was not
616 required to file tax returns or if the [l]Landlord believes that
617 information from the previous tax returns is insufficient to
618 determine income, the [l]Landlord is authorized to request such
619 information as it deems necessary to confirm the income levels
620 of the proposed tenants.

621
622 B. Unit and household size. Households must be placed in units
623 according to the following distribution:
624

| Unit Size (number of bedrooms) | Household Size |
|-----------------------------------|----------------|
| Efficiency | 1 |
| 1 | 1 to 2 |
| 1 plus Den | 2 to 4 |
| 2 | 2 to 4 |
| 2 plus Den | 2 to 4 |
| 3 | 4 to 6 |
| 4 | 5 to 8 |

625 **§ 72-25 Leasing of SCRP [u]Units.**

626
627 A. Leases to [e]Eligible [t]Tenants.

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- (1) Every SCRP [u]Unit constructed under this program must be offered to all [e]Eligible [t]Tenants for lease as the [e]Eligible [t]Tenant's principal residence. Notification to the public of SCRP [u]Unit availability will be made by the [l]Landlord and is recommended to be made by advertising on DelawareHousingSearch.org *and similar sites*. The Department may, but is not obligated to, provide notice of SCRP [u]Unit availability through the Department's website.
- (2) The [l]Landlord will determine SCRP tenant eligibility under § 72-20[, and lease agreements shall not be signed until the tenant has received a certificate of eligibility from the landlord].
- (3) Annually, the Department will provide updated income guidelines and rental rates to the [l]Landlord for use in leasing the SCRP [u]Units.
- (4) Lease agreements shall contain the same terms and conditions as the lease agreements with market-rate renters with the exception of the rental rates and other terms and conditions as required under this article.
- (5) All lease agreements of SCRP [u]Units shall cover a period of one year.
- (6) An [e]Eligible [t]Tenant already occupying a SCRP [u]Unit *[has]shall have a* first-option to renew the lease agreement each year, as long as the tenant maintains good standing with the [l]Landlord and continues to qualify as an [e]Eligible [t]Tenant. *[The Department shall be notified by the landlord of the intent to evict and the reasons therefor at the same time the landlord first provides notice to the tenant.]*

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B. Tenants of SCRP [u]Units shall provide an executed affidavit on an annual basis certifying their continuing occupancy of the unit as their principal residence. Tenants shall provide such affidavit to the [l]Landlord by the date that may be specified in their lease or that may otherwise be specified by the [l]Landlord.

C. In the event the tenant of an SCRP [u]Unit fails to provide his or her [l]Landlord with an executed affidavit as provided for in the preceding paragraph within 30 days of written request for such affidavit, then the lease shall automatically terminate, become null and void and the occupant shall vacate the [u]Unit within 30 days of written notice from the [l]Landlord.

§ 72-26 Foreclosure or default.

A. The [l]Landlord must provide the Department with a copy of any mortgage default notification immediately upon receipt and a written explanation of how the default will be remedied.

B. If a foreclosure event occurs [during the control period], the covenants endure through the transfer of property [until the end of the control period].

[C. If the foreclosure event occurs after the thirty-year control period, then all binding restrictions of this chapter will dissolve.]

§ 72-27 Implementation.

Improvements to concepts, processes and rules and regulations of the SCRP program will be incorporated into future amendments of this article. Council views this article as a living document that will be modified as needed to respond to economic, housing, development, land use and other trends in the County and to best practices in affordable rental programs.

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§72-28 Annual Audit and Certification.

The Landlord shall contract with an independent Delaware Certified Public Accountant that has no other relationship with the Landlord/Developer/Owner/Manager to audit the Landlord's Compliance with this Chapter 72, the conditions of approval for the project, the terms of the SCRP Agreement, the rental of the SCRP Units and the status of the Eligible Tenants (and their Eligible Income) within the project. In this engagement, the Delaware Certified Public Accountant will perform this obligation in accordance with attestation standards established by the American Institute of Certified Public Accountants. This annual audit and report shall certify that the project remains in compliance with (i) all of the Chapter 72 requirements and the terms of the SCRP Agreement; (ii) the status of each of the SCRP Units (whether leased or vacant); (iii) certification that each of the Eligible Tenants renting an SCRP Unit within the project are an Eligible Tenant as of the date of the annual audit and report; (iv) the status and duration of any vacancy of any SCRP Unit; (v) the marketing efforts to re-let any vacant SCRP Unit to an Eligible Tenant; (vi) the status of any list of Eligible Tenants waiting for an SCRP Unit to come available; and (vii) such other information as the Delaware Certified Public Accountant and/or the Community Development and Housing Office may deem appropriate and necessary. This annual audit and report shall be submitted to both the Office of Planning & Zoning and the Community Development & Housing Office no later than March 1 of each year.

§ 72-2[8]9 Government regulations; enforcement.

A. The Department will maintain a list of all SCRP [u]Units constructed and leased under this program, and the Council hereby authorizes the County Administrator to promulgate and

733 adopt regulations and approve the various agreements/documents
734 necessary to administer this program.

735
736 B. The Director may, with Council approval, waive or modify the
737 provisions of the program if the Director finds the program in
738 conflict with state or federal housing laws.

739
740 C. This program applies to all agents, successors, and assigns of an
741 [a]Applicant. A building permit shall not be issued and a
742 preliminary plan of subdivision, development plan, or site plan
743 shall not be approved for a development that will contain
744 affordable rental units to be submitted to this program unless it
745 meets the requirements of this program. The County
746 Administrator may deny, suspend, or revoke any building or
747 occupancy permit upon finding a violation of this program. Any
748 prior approval of a preliminary or final plan of subdivision,
749 development plan or site plan may be suspended or revoked upon
750 the failure to meet any requirement of this chapter. An occupancy
751 permit shall not be issued for any building to any [a]Applicant, or
752 a successor, or assign of any [a]Applicant, for any construction
753 that does not comply with this program. The County
754 Administrator may also withhold or call in performance bond
755 funds, letters of credit, and certificates of compliance or
756 occupancy from the [a]Applicant for any violation of this
757 program.

758
759 D. In the event that the Landlord rents any of the SCRP Units at non-
760 SCRIP Unit rates (i.e. market rental rates) so that the
761 proportionate share of SCRP Units versus non-SCRIP Units as
762 originally approved is not maintained, the Landlord of the project
763 shall be required to pay to Sussex County the monthly market rent
764 collected from any such SCRP Unit that is rented at a non-SCRIP
765 Unit Rate. Any such funds collected by Sussex County shall be
766 used for housing purposes and administered by the Sussex County
767 Office of Community Development and Housing.

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D)E. The Director is authorized to pursue any available remedy, legal or equitable in nature, to enforce the requirements of this program or to prevent or abate a violation of this program.

[E)F. The Director may take legal action to stop or cancel any lease of an SCRIP [u]Unit if any party does not comply with all requirements of this program. The Director may recover any funds improperly obtained from the rental of a SCRIP [u]Unit in violation of this chapter.

[F)G. In the event of litigation to enforce the terms and conditions of this chapter or any agreement or obligation under the SCRIP program, the Department shall be entitled to an award of legal costs and fees to be collected from the party who is determined to be in violation of such agreements and obligations.

Section 2. The Code of Sussex County, Chapter 115, Article IV, §115-20 “Permitted Uses”, is hereby amended by inserting the italicized and underlined language as a new subpart A.(17) thereof as follows:

§115-20 Permitted Uses.

A. A building or land shall be used only for the following purposes:

...

(17) A Sussex County Rental Program, or SCRIP, townhouse or multi-family development governed by, and subject to, Chapter 72, where at least 30% of all dwelling units are SCRIP Units pursuant to Chapter 72. The SCRIP development must satisfy the following criteria:

801 (a) The site must be located within a Town Center, a Developing
802 Area, or the Coastal Area as described within the Land Use
803 Element and as shown on the Future Land Use Plan of the
804 adopted Sussex County Comprehensive Plan.

805
806 (b) The site shall be located within 2,640 feet of an existing or
807 proposed DART Route operated by the Delaware Transit
808 Corporation. In the case of a proposed DART Route, Final Site
809 Plan approval shall not be granted until the Route is in existence
810 and operated by DART.

811
812 (c) The site must be served by a central sewer system and a central
813 water system.

814
815 (d) The total maximum number of dwelling units (including both
816 SCRP Units and non-SCRP Units) that may be permitted shall be
817 determined by dividing the gross area by 3,630 square feet.
818 "Gross area" shall exclude any area designated as a tidal
819 tributary stream or tidal wetlands by § 115-193.

820 (e) There shall be a one-hundred foot wide setback around the
821 entire site, which shall incorporate the "Forested and/or
822 Landscaped Buffer Strip" identified in Section 99-4. This setback
823 shall include walking and biking trails.

824 (f) The height of any townhouse or multi-family buildings shall
825 not exceed 52 feet or four stories, whichever is greater.

826 (g) There shall be sidewalks on all streets, roadways and parking
827 areas, with interconnectivity to adjacent walkway systems.

828 (h) There must be interconnectivity with any adjacent property
829 that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3.

830 (i) There shall be open space that exceeds fifty percent of the
831 gross area of the entire site. The Primary view from each

832 dwelling unit shall be directed to open space and recreational
833 amenities.

834
835 **Section 3. The Code of Sussex County, Chapter 115, Article IV, §115-**
836 **25 “Height, Area and Bulk Requirements”, is hereby amended by**
837 **inserting the italicized and underlined language as a new subpart G**
838 **thereof as follows:**

839
840 **§115-25 Height, Area and Bulk Requirements.**

841
842 . . .

843
844 G. Sussex County Rental Unit development permitted by §115-20A.(17).
845 The minimum lot size, lot area per dwelling unit, open space, height and
846 setback requirements for a Sussex County Rental Unit development
847 permitted by §115-20A.(17) shall be governed by the dimensional
848 requirements set forth in that Section.

849
850 **Section 4. The Code of Sussex County, Chapter 115, Article V, §115-**
851 **29 “Permitted Uses”, is hereby amended by inserting the italicized**
852 **and underlined language as a new subpart K. thereof as follows:**

853
854 **§115-29 Permitted Uses.**

855
856 A building or land shall be used only for the following purposes:

857
858 . . .

859
860 K. A Sussex County Rental Program, or SCRP, townhouse or multi-
861 family development governed by, and subject to, Chapter 72,
862 where at least 30% of all dwelling units are SCRP Units pursuant
863 to Chapter 72. The SCRP development must satisfy the following
864 criteria:

865 (1) The site must be located within a Town Center, a Developing
866 Area, or the Coastal Area as described within the Land Use
867 Element and as shown on the Future Land Use Plan of the
868 adopted Sussex County Comprehensive Plan.

869
870 (2) The site shall be located within 2,640 feet of an existing or
871 proposed DART Route operated by the Delaware Transit
872 Corporation. In the case of a proposed DART Route, Final Site
873 Plan approval shall not be granted until the Route is in existence
874 and operated by DART.

875
876 (3) The site must be served by a central sewer system and a central
877 water system.

878
879 (4) The total maximum number of dwelling units (including both
880 SCRIP Units and non-SCRIP Units) that may be permitted shall be
881 determined by dividing the gross area by 3,630 square feet.
882 "Gross area" shall exclude any area designated as a tidal
883 tributary stream or tidal wetlands by § 115-193.

884 (5) There shall be a one-hundred foot wide setback around the
885 entire site, which shall incorporate the "Forested and/or
886 Landscaped Buffer Strip" identified in Section 99-4. This setback
887 shall include walking and biking trails.

888 (6) The height of any townhouse or multi-family buildings shall
889 not exceed 52 feet or four stories, whichever is greater.

890 (7) There shall be sidewalks on all streets, roadways and parking
891 areas, with interconnectivity to adjacent walkway systems.

892 (8) There must be interconnectivity with any adjacent property
893 that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3.

894 (9) There shall be open space that exceeds fifty percent of the
895 gross area of the entire site. The Primary view from each

896 dwelling unit shall be directed to open space and recreational
897 amenities.

898
899 **Section 5. The Code of Sussex County, Chapter 115, Article V, §115-**
900 **34 “Height, Area and Bulk Requirements”, is hereby amended by**
901 **inserting the italicized and underlined language as a new subpart D.**
902 **thereof as follows:**

903
904 **§115-34 Height, Area and Bulk Requirements.**

905
906 . . .

907
908 D. Sussex County Rental Unit development permitted by §115-29K. The
909 minimum lot size, lot area per dwelling unit, open space, height and
910 setback requirements for a Sussex County Rental Unit development
911 permitted by §115-29K shall be governed by the dimensional
912 requirements set forth in that Section.

913
914
915 **Section 6. The Code of Sussex County, Chapter 115, Article VI, §115-**
916 **37 “Permitted Uses”, is hereby amended by inserting the italicized**
917 **and underlined language as a new subpart C. as follows:**

918
919 **§115-37 Permitted Uses.**

920
921 Permitted uses are as follows:

922 . . .

923
924 C. A Sussex County Rental Program, or SCRP, townhouse or multi-
925 family development governed by, and subject to, Chapter 72, where at
926 least 30% of all dwelling units are SCRP Units pursuant to Chapter
927 72. The SCRP development must satisfy the following criteria:

928 (1) The site must be located within a Town Center, a Developing
929 Area, or the Coastal Area as described within the Land Use
930 Element and as shown on the Future Land Use Plan of the
931 adopted Sussex County Comprehensive Plan.

932
933 (2) The site shall be located within 2,640 feet of an existing or
934 proposed DART Route operated by the Delaware Transit
935 Corporation. In the case of a proposed DART Route, Final Site
936 Plan approval shall not be granted until the Route is in existence
937 and operated by DART.

938
939 (3) The site must be served by a central sewer system and a central
940 water system.

941
942 (4) The total maximum number of dwelling units (including both
943 SCRIP Units and non-SCRIP Units) that may be permitted shall be
944 determined by dividing the gross area by 3,630 square feet.
945 "Gross area" shall exclude any area designated as a tidal
946 tributary stream or tidal wetlands by § 115-193.

947 (5) There shall be a one-hundred foot wide setback around the
948 entire site, which shall incorporate the "Forested and/or
949 Landscaped Buffer Strip" identified in Section 99-4. This setback
950 shall include walking and biking trails.

951 (6) The height of any townhouse or multi-family buildings shall
952 not exceed 52 feet or four stories, whichever is greater.

953 (7) There shall be sidewalks on all streets, roadways and parking
954 areas, with interconnectivity to adjacent walkway systems.

955 (8) There must be interconnectivity with any adjacent property
956 that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3.

957 (9) There shall be open space that exceeds fifty percent of the
958 gross area of the entire site. The Primary view from each

959 dwelling unit shall be directed to open space and recreational
960 amenities.

961
962 **Section 7. The Code of Sussex County, Chapter 115, Article VI, §115-**
963 **42 “Height, Area and Bulk Requirements”, is hereby amended by**
964 **inserting the italicized and underlined language as a new subpart D.**
965 **thereof as follows:**

966 **§115-42 Height, Area and Bulk Requirements.**

967
968 . . .

969
970 D. Sussex County Rental Unit development permitted by §115-37C. The
971 minimum lot size, lot area per dwelling unit, open space, height and
972 setback requirements for a Sussex County Rental Unit development
973 permitted by §115-37C shall be governed by the dimensional
974 requirements set forth in that Section.

975
976 **Section 8. The Code of Sussex County, Chapter 115, Article VII,**
977 **§115-45 “Permitted Uses”, is hereby amended by inserting the**
978 **italicized and underlined language as a new subpart F. thereof as**
979 **follows:**

980
981 **§115-45 Permitted Uses.**

982
983 Permitted uses are as follows:

984
985 . . .

986
987 F. A Sussex County Rental Program, or SCRP, townhouse or multi-
988 family development governed by, and subject to, Chapter 72, where at
989 least 30% of all dwelling units are SCRP Units pursuant to Chapter
990 72. The SCRP development must satisfy the following criteria:

991 (1) The site must be located within a Town Center, a Developing
992 Area, or the Coastal Area as described within the Land Use Element
993 and as shown on the Future Land Use Plan of the adopted Sussex
994 County Comprehensive Plan.

995
996 (2) The site shall be located within 2,640 feet of an existing or
997 proposed DART Route operated by the Delaware Transit
998 Corporation. In the case of a proposed DART Route, Final Site Plan
999 approval shall not be granted until the Route is in existence and
1000 operated by DART.

1001
1002 (3) The site must be served by a central sewer system and a central
1003 water system.

1004
1005 (4) The total maximum number of dwelling units (including both
1006 SCRP Units and non-SCRP Units) that may be permitted shall be
1007 determined by dividing the gross area by 3,630 square feet. "Gross
1008 area" shall exclude any area designated as a tidal tributary stream or
1009 tidal wetlands by § 115-193.

1010 (5) There shall be a one-hundred foot wide setback around the
1011 entire site, which shall incorporate the "Forested and/or Landscaped
1012 Buffer Strip" identified in Section 99-4. This setback shall include
1013 walking and biking trails.

1014 (6) The height of any townhouse or multi-family buildings shall
1015 not exceed 52 feet or four stories, whichever is greater.

1016 (7) There shall be sidewalks on all streets, roadways and parking
1017 areas, with interconnectivity to adjacent walkway systems.

1018 (8) There must be interconnectivity with any adjacent property
1019 that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3.

1020 (9) There shall be open space that exceeds fifty percent of the
1021 gross area of the entire site. The Primary view from each dwelling
1022 unit shall be directed to open space and recreational amenities.

1023
1024 **Section 9. The Code of Sussex County, Chapter 115, Article VII,**
1025 **§115-50 “Height, Area and Bulk Requirements”, is hereby amended**
1026 **by inserting the italicized and underlined language as a new subpart**
1027 **G. thereof as follows:**

1028
1029 **§115-50 Height, Area and Bulk Requirements.**

1030
1031 . . .

1032
1033 G. Sussex County Rental Unit development permitted by §115-45F. The
1034 minimum lot size, lot area per dwelling unit, open space, height and
1035 setback requirements for a Sussex County Rental Unit development
1036 permitted by §115-45F. shall be governed by the dimensional
1037 requirements set forth in that Section.

1038
1039 **Section 10. The Code of Sussex County, Chapter 115, Article VIII,**
1040 **§115-53 “Permitted Uses”, is hereby amended by inserting the**
1041 **italicized and underlined language as a new subpart K. thereof as**
1042 **follows:**

1043
1044 **§115-53 Permitted Uses.**

1045
1046 A building or land shall be used only for the following purposes:

1047
1048 . . .

1049
1050 K. A Sussex County Rental Program, or SCRP, townhouse or multi-
1051 family development governed by, and subject to, Chapter 72, where at

1052 least 30% of all dwelling units are SCRP Units pursuant to Chapter
1053 72. The SCRP development must satisfy the following criteria:

1054 (1) The site must be located within a Town Center, a Developing
1055 Area, or the Coastal Area as described within the Land Use Element
1056 and as shown on the Future Land Use Plan of the adopted Sussex
1057 County Comprehensive Plan.

1058
1059 (2) The site shall be located within 2,640 feet of an existing or
1060 proposed DART Route operated by the Delaware Transit
1061 Corporation. In the case of a proposed DART Route, Final Site Plan
1062 approval shall not be granted until the Route is in existence and
1063 operated by DART.

1064
1065 (3) The site must be served by a central sewer system and a central
1066 water system.

1067
1068 (4) The total maximum number of dwelling units (including both
1069 SCRP Units and non-SCRP Units) that may be permitted shall be
1070 determined by dividing the gross area by 3,630 square feet. "Gross
1071 area" shall exclude any area designated as a tidal tributary stream or
1072 tidal wetlands by § 115-193.

1073 (5) There shall be a one-hundred foot wide setback around the
1074 entire site, which shall incorporate the "Forested and/or Landscaped
1075 Buffer Strip" identified in Section 99-4. This setback shall include
1076 walking and biking trails.

1077 (6) The height of any townhouse or multi-family buildings shall
1078 not exceed 52 feet or four stories, whichever is greater.

1079 (7) There shall be sidewalks on all streets, roadways and parking
1080 areas, with interconnectivity to adjacent walkway systems.

1081 (8) There must be interconnectivity with any adjacent property
1082 that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3.

1083 (9) There shall be open space that exceeds fifty percent of the
1084 gross area of the entire site. The Primary view from each dwelling
1085 unit shall be directed to open space and recreational amenities.

1086

1087 **Section 11. The Code of Sussex County, Chapter 115, Article VIII,**
1088 **§115-58 “Height, Area and Bulk Requirements”, is hereby amended**
1089 **by inserting the italicized and underlined language as a new subpart**
1090 **E. thereof as follows:**

1091

1092 **§115-58 Height, Area and Bulk Requirements.**

1093

1094 . . .

1095

1096 E. Sussex County Rental Unit development permitted by §115-53K. The
1097 minimum lot size, lot area per dwelling unit, open space, height and
1098 setback requirements for a Sussex County Rental Unit development
1099 permitted by §115-53K shall be governed by the dimensional requirement
1100 set forth in that Section.

1101

PROPOSED

Council Grant Form

| | |
|---|--|
| Legal Name of Agency/Organization | Autism Delaware ✓ |
| Project Name | Walk for Autism |
| Federal Tax ID | 20-2110190 ✓ |
| Non-Profit | Yes |
| Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.) | No |
| Organization's Mission | Autism Delaware's mission is to help people and families affected by autism. |
| Address | 17517 Nassau Commons Blvd. |
| Address 2 | Unit 1 |
| City | Lewes |
| State | DE |
| Zip Code | 19958 |
| Contact Person | Kris Grant |
| Contact Title | Interim Community Engagement Manager of Fund. Development |

Contact Phone Number 302-224-6020

Contact Email Address kris.grant@delautism.org

Total Funding Request \$2000

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

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

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

If YES, approximately what percentage of the project's funding does the Council grant represent? 3.6

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

Program Category Other

Primary Beneficiary Category Disability & Special Needs

Beneficiary Category
Other

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program 1200

Scope Funds raised from the Annual Walk for Autism support all the programs and services provided by Autism Delaware. Autism Delaware supports individuals and families affected by autism through a broad range of programs and support services. The two major service areas are: Family Support and POW&R. Family Support services encompass all the support programs, events, and services for families and individuals. Social and recreations programs, sensory friendly events, parent support groups, IEP support, parent mentoring, referral services, and general support. Annually, we serve thousands across the state – over fiscal year '21, we made over 6000 contacts and 20 to 30 percent of those contacts originate from Sussex and Kent counties. We are currently serving approximately 40 individuals in adult services and the remainder number of families are served by our Family Navigators and Family Peer Supports POW&R is a workforce development program specifically for adults with autism. In the past, this program has been recognized nationally in its ability to connect individuals with autism to their own jobs and contributors to their communities.

Religious Components

Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request) 36,000.00

Description Venues & permits

Amount 1,750.00

Description Postage/Signage

Amount 1,500.00

Description Celebration Area

Amount 961.00

Description Tents/Tables/Chairs

Amount 2,842.00

Description Event T-shirts

Amount 2,500.00

Description Software

Amount 1,800.00

Description Misc.

Amount 2,000.00

Description Personnel

| | |
|--|-----------------|
| Amount | 43,000.00 |
| TOTAL EXPENDITURES | 56,353.00 |
| TOTAL DEFICIT FOR PROJECT OR ORGANIZATION | -20,353.00 |
| Name of Organization | Autism Delaware |
| Applicant/Authorized Official | Kris Grant |
| Date | 09/09/2022 |
| Affidavit Acknowledgement | Yes |

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

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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

CC: Everett Moore, County Attorney

Date: September 22, 2022

RE: County Council Report for C/U 2356 filed on behalf of Sun Massey's Landing RV, LLC

The Planning and Zoning Department received an application (C/U 2356 filed on behalf of Sun Massey's Landing RV, LLC) for a Conditional Use for parcels 234-25.00-31.02 & 31.05 for an amendment of Condition No. 9 in Ordinance No. 2378 (Conditional Use No. 1963) to amend the requirement that no campers or RVs shall be stored on the campground during the period that the campground is closed. The property is located at 20628 Long Beach Drive, 20636 Long Beach Drive, 32464 Sailfish Lane and 22814 Conch Road, Millsboro. The parcel size is 54.33 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on August 25, 2022. At the meeting of September 8, 2022, the Planning & Zoning Commission recommended approval of the application for the 4 reasons stated and subject to recommended condition wording as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of August 25, 2022 and September 8, 2022.

Draft Minutes of the August 25, 2022 Planning & Zoning Commission Meeting

C/U 2356 Sun Massey's Landing RV, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITION NO. 9 IN ORDINANCE NO. 2378 (CONDITIONAL USE NO. 1963) TO AMEND THE REQUIREMENT THAT NO CAMPERS OR RVs SHALL BE STORED ON THE CAMPGROUND DURING THE PERIOD THAT THE CAMPGROUND IS CLOSED TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING



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

IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 54.33 ACRES, MORE OR LESS. The property is lying on the north side and south side of Long Neck Road, within the Massey's Landing RV Park. 911 Address: 20628 Long Beach Drive, 20636 Long Beach Drive, 32464 Sailfish Ln, and 22814 Conch Road, Millsboro. Tax Parcel: 234-25.00-31.02 & 31.05.

Mr. Whitehouse advised the Commission that submitted into the record was a copy of the staff analysis, a copy of the DelDOT Service Level Evaluation Response, a copy of the Applicant's exhibit booklet, a copy of Ordinance No. 2378 (CU 1963), a copy of the Applicant's conceptual layout plan, and a copy of the Applicant's cost information. Mr. Whitehouse noted that there were zero comments.

The Commission found that Mr. David Hutt was present on behalf of the Applicant, Sun Massey's Landing RV, LLC; that the resort is managed by the Bluewater Development Company and present on their behalf are Rafael Correa and Tony Nichols; that there was a Conditional Use granted for Massey's Landing RV Campground with 24 conditions; that two conditions were modified in 2017; that the request tonight is to change Condition No. 9 which currently reads "The campground/RV park shall remain vacant and no campers or RV's shall be stored on the campground during the period that the campground is closed."; that as part of the request for amendment, there is proposed language for Condition No. 9 which is "The campground/RV park shall remain vacant and no campers or RV's except "Park Model RV's" on approved Park Model campsites shall be stored on the campground during the period that the campground is closed. Park Model RV's in special flood hazard areas shall meet the requirements of 115-141.5B (3) for manufactured homes."; that this change would allow the Park Models to remain at the resort when it is closed; that the second sentence in the proposed change essentially refers to moving any Park Models that are in a special flood hazard area; that the final site plan shows the various types of campsites but all 291 campsites are required to be transient; that there are 216 sites where guest bring their RV's, 5 tent sites, and 70 Park Model sites; that the Park Model sites are highlighted on the site plan; that the sites shaded in tan are with the special flood hazard area and the areas shaded in green are outside the flood hazard areas; that pursuant to the conditions at the end of the first weekend in November each year, the process begins of disassembling those campsites and removing the RV's from the property; that the cost for this process is \$150,000 annually; that during the pandemic, a hauler could not be found to facilitate this process and the RV's remained on the site; that a notice of violation was sent to the property owner and that prompted this application; that there are many RV parks where the RV's remain on the property year round; that during the hearing to amend conditions in 2017 there were three points discussed, one was regarding the special flood area, the second was about the taxation of RV's which receive a title from the Department of Motor Vehicles (DMV), and the third was if they remain on the site on a 12-month basis they essentially become Manufactured Homes and that makes them a permanent structure which is the opposite of an RV park; that these three points will be addressed as this is what the Commission focused on in 2017; that the difference between a Manufactured Home and an RV is clear, an RV must be less than 400 sf. while a manufactured home must be more than 450 sf. that if you bring a manufactured home into a Manufactured Home Community, you surrender the title and it becomes a fixture on the land, and you pay property taxes to Sussex County; that an RV always stays a motor vehicle which is registered through the DMV and each of the 63 RV's on the site are registered through the DMV and are not subject to taxation like a Manufactured Home or single-family home; that the second point was that this is a flood hazard area, however, the same concerns exist when the homes are occupied from April through November; that there would be no danger to individuals as the RV's are not occupied when the park is closed for the season; that Hurricane season ends in November

with the most activity from Mid-August through Mid-October; that County Code has a provision that states exactly what is required if an RV is located in a special flood hazard area; that Sussex County Code Section 115-141.4 G subsection 2 states "Recreational vehicles that are to be placed on a site for more than 180 consecutive days, shall meet the requirements of § **115-141.5B(3)** for manufactured homes or § **115-141.6C(4)**, as applicable."; that those two code sections relate to special flood hazard areas and the second one applies to Coastal High Hazard areas which does not apply here; that the reason for denial in 2017 was best described in reason 4 from the motion; that reason stated the following "Section 115-172.H.9 - No permanent structures for human occupation or manufactured homes other than the one used by the park manager are permitted in a campground"; that this section prohibits the conversion of RV's into permanently anchored structures like a manufactured home; that the Code seems contradictory while it should be read to be harmonious; that in the exhibit there is are pictures of a park model RV with the hitch for towing purposes; that the online packet includes an SFR report from DelDOT which states there would be a minor impact on traffic and an area-wide study fee could be paid and this must be incorrect as this request would not generate any new traffic; that he spoke with the DelDOT staff in attendance at this meeting and they concur; that in fact, if this amendment is approved there would be 126 less trips per year on Long Neck Road as the RV's would remain on the site year round; that they will not be occupied year round as the Park will be closed from Nov through the beginning of April.

Ms. Stevenson asked what happens at the end of the season, are the utilities disconnected?

Mr. Hutt stated that the Park is closed and there are workers on-site who would notice if anyone was squatting and that the units are winterized.

Mr. Rafael Correa stated that all waterlines are disconnected so that the lines do not freeze and there are five or six members of staff on the property preparing for the next season.

Mr. Hopkins asked about the dimensions of the units.

Mr. Correa stated that they are all under 400 sq. ft.

Mr. Hutt stated that they all meet the national standards for an RV.

Mr. Hopkins asked if the Applicant is asking to have these classified as manufactured homes.

Mr. Hutt stated that this is the opposite, that they will always remain as RVs in a flood hazard area or not.

Mr. Hopkins asked if they pay tax to DMV each year.

Mr. Hutt stated that they are registered vehicles, and the registration fees would be paid to DMV.

Mr. Hopkins asked if they were changed over to manufactured homes, then the tax would be paid to Sussex County and not the DMV.

Mr. Hutt stated that it is not possible for this to occur as they would not meet the minimum size for a manufactured home as the RVs are all less than 400 sq. ft.

Mr. Hopkins stated that he would like the exact dimensions.

Ms. Wingate asked if they would have to be pulled off-site to go through the DMV registration process.

Mr. Hutt stated that they are titled as RV and do not have to go through the same process as cars for registration purposes.

Mr. Mears asked if the water is shut off for the entire park.

Mr. Correa responded that the water is not shut off for the entire park as it is needed for maintenance buildings and the welcome center which functions during the winter months.

Mr. Correa stated that the dimensions of the buildings are 13'4" wide by 29'1" long and the length would be 37'7" if you include the deck; that the height of the RV is 11.5'.

Chair Wheatley stated that he would be more comfortable with the change if the condition stated specifically that the units will not be occupied during the winter months.

Mr. Hutt stated that the provision is in the prior condition, but the Applicant would have no opposition to having it added to this condition. Mr. Hutt stated that the deck is not taken into account as part of the 400 sq. ft. maximum size for an RV.

Mr. Robertson asked Mr. Correa to email the drawing showing the model including the dimensions of the RV to Mr. Whitehouse so it may be made part of the record for this Application.

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

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

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

In relation to C/U 2356 Sun Massey's Landing RV, LLC. Motion by Ms. Stevenson to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 5-0.

Draft Minutes of the September 8, 2022 Planning & Zoning Commission Meeting

Ms. Stevenson moved that the Commission recommend approval of C/U 2356 Sun Massey's Landing RV, LLC for a change of Condition No. 9 of Ordinance 2378 (C/U 1963) based on the record made during the public hearing and for the following reasons:

1. Condition # 9 of Ordinance # 1963 currently prohibits campers and RVs from being stored within the campground when it is closed for the season. This includes "Park Model" RVs specifically built for use in this campground.

2. As a result of Condition #9, all "Park Model" RVs must be disconnected from all utilities and transported along the area roadways to an offsite location. This creates additional and unnecessary traffic on those area roadways.
3. This revision will not adversely affect neighboring properties or roadways.
4. No parties appeared in opposition to this request.
5. For these reasons, it is appropriate to amend Condition #9 of Ordinance # 2378 and Conditional Use #1963 so that it now states as follows:

"9. "The campground/RV park shall remain vacant during the period that the campground is closed. No campers or RVs shall be stored on the campground while it is closed, with the exception of "Park Model" RVs located on approved "Park Model" campsites within the site. "Park Model" RVs located within the Special Flood Hazard Areas shall meet the requirements of Section 115-141B (3) of the Sussex County Zoning Code for manufactured homes."

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2356 Sun Massey's Landing RV, LLC, for the reasons and conditions stated in the motion. Motion carried 5-0.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: August 25th, 2022

Application: C/U 2356 Sun Massey’s, LLC

Applicant: Sun Massey’s, LLC
9919 Stephen Decatur Highway
Ocean City, MD 21842

Owner: Sun Massey’s Landing RV LLC
27777 Franklin Road, Suite No. 200
Southfield, MI 21842

Site Location: 20628 Long Beach Drive, Millsboro. Lying on the north side and south side of Vines Creek Road (Rt. 26), approximately 0.5 miles east of Armory Road (Rt. 382).

Current Zoning: AR-1 – Agricultural Residential District

Proposed Zoning: AR-1 – Agricultural Residential District

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Schaeffer

School District: Indian River School District

Fire District: Indian River Fire Company

Sewer: Sussex County

Water: Long Neck Water Company

Site Area: 54.33 acres +/-

Tax Map ID.: 234-25.00-31.02 & 31.05



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



Sussex County

DELAWARE
sussexcountype.gov

Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Mx. Jesse Lindenberg, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney, and Applicant
Date: August 18th, 2022
RE: Staff Analysis for C/U 2356 Sun Massey's LLC

The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application C/U 2356 Sun Massey's LLC to be reviewed during the August 25th, 2022, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel 234-25.00-31.02 & 31.05, to allow for an amendment to Condition No. 9 in Ordinance No. 2378 (Conditional Use No. 1963). to amend the requirement that no campers or RVs shall be stored on the campground during the period that the campground is closed. The property lies on the north side and south side of Vines Creek Road (Rt. 26), approximately 0.5 miles east of Armory Road (Rt. 382). The property consists of 54.33 acres +/-.

The applicant is requesting to amend Condition #9 to state "The campground/RV park shall remain vacant and no campers or RV's except "Park Model RV's" on approved Park Model campsites shall be stored on the campground during the period that the campground is closed. Park Model RV's in special flood hazard areas shall meet the requirements of 115-141.5B (3) for manufactured homes."

Condition No. 9 currently states "The campground/RV park shall remain vacant and no campers or RVs shall be stored on the campground during the period that the campground is closed."

The approved site plan allows for a maximum of 70 Park Model Sites.

Comprehensive Plan Analysis

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

As outlined in the 2018 Sussex County Comprehensive Plan, Coastal Areas are areas that can accommodate development provided that special environmental concerns are addressed. A range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses,



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

Zoning Information

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

Existing Conditional Uses within the Vicinity of the Subject Property

Since 2011, there have been four (4) Conditional Use application within a one (1) mile radius of the application site. The first application was Conditional Use No. 1963 for Ida C. Faucett, Faucett Heirs, LLC, and Massey's Landing Park, Inc. to allow for campgrounds. This application was approved by the Sussex County Council on Tuesday, December 9th, 2014, and this change was adopted through Ordinance No. 2378. The second application was Conditional Use No. 2089 for Massey's Landing Property, LLC to allow for an amendment to the conditions of approval from CU 1963. This application was denied by the Sussex County Council on Tuesday, September 19th, 2017. The third application is Conditional Use No. 2191 for Al Tortella to allow for a Restaurant and Bar expansion. This application is awaiting introduction to council. The fourth application was Conditional Use No. 2332 for Blue Water Hospitality to allow for year rentals for rental cottages. This application was withdrawn and replaced with Conditional Use No. 2356.

Based on the analysis provided, a Conditional Use to allow for an amendment to Condition No. 9 in Ordinance No. 2378 (Conditional Use No. 1963) could be considered as being consistent with the surrounding land uses and zoning subject to considerations of scale and impact.



C/U 2356 Sun Massey's, LLC

Aerial Map

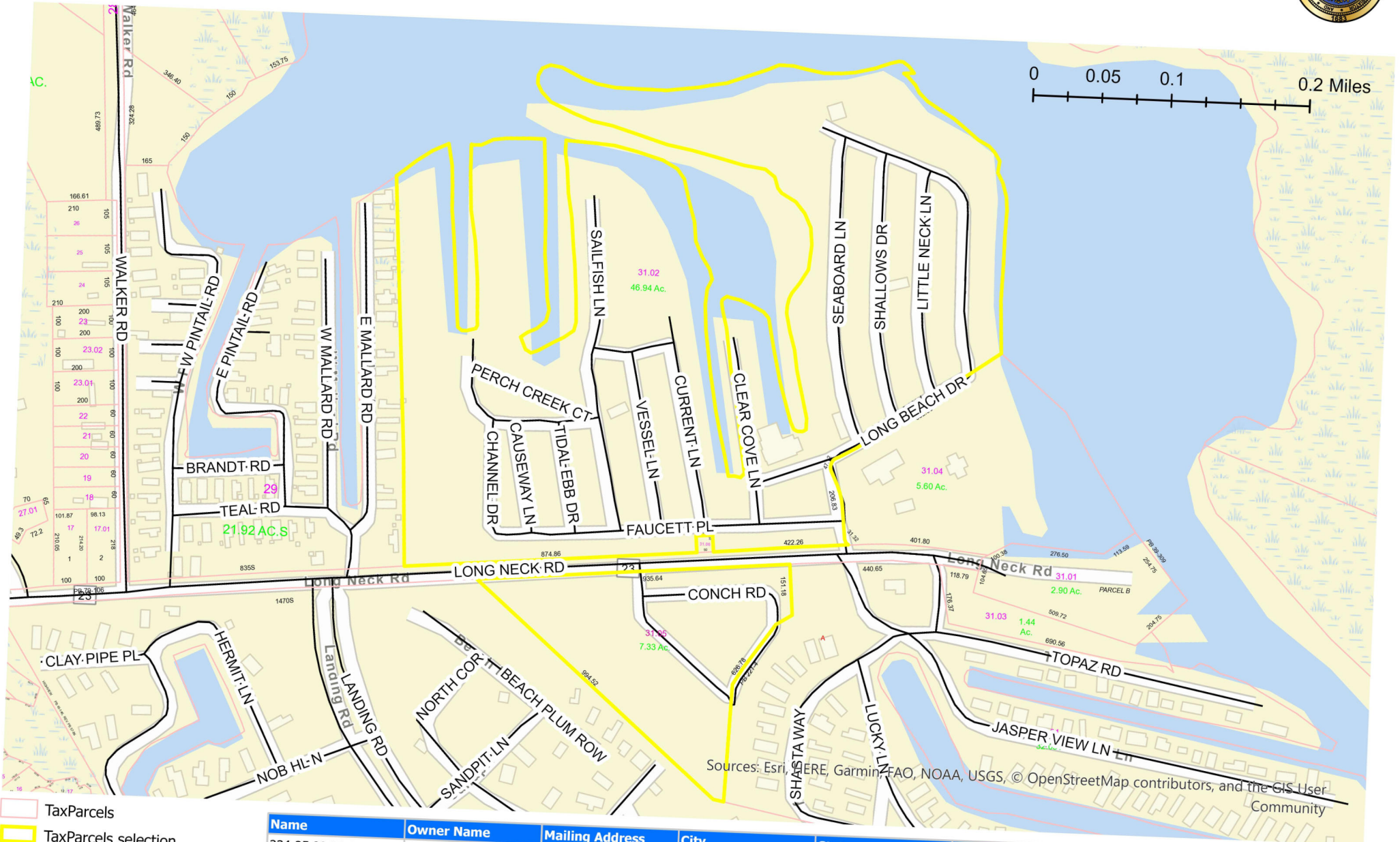


- TaxParcels
- TaxParcels selection
- Streets
- County Boundaries

| Name | Owner Name | Mailing Address | City | State | Description | Description 2 | Description 3 |
|-----------------|----------------------------|-----------------|---------|-------|---------------------|----------------------|---------------|
| 234-25.00-31.05 | SUN MASSEYS LANDING RV LLC | PO BOX 2440 | SPOKANE | WA | S/LONG NECK RD APPR | 560' W/END LONG NECK | RD |
| 234-25.00-31.02 | SUN MASSEYS LANDING RV LLC | PO BOX 2440 | SPOKANE | WA | N/RT 22 | S/ROMAN POND | |



C/U 2356 Sun Massey's, LLC Streets Map



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

- TaxParcels
- TaxParcels selection
- Streets
- County Boundaries

| Name | Owner Name | Mailing Address | City | State | Description | Description 2 | Description 3 |
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| 234-25.00-31.05 | SUN MASSEYS LANDING RV LLC | PO BOX 2440 | SPOKANE | WA | S/LONG NECK RD APPR | 560' W/END LONG NECK | RD |
| 234-25.00-31.02 | SUN MASSEYS LANDING RV LLC | PO BOX 2440 | SPOKANE | WA | N/RT 22 | S/ROMAN POND | |

July 22, 2022



C/U 2356 Sun Massey's, LLC

Zoning Map



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

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

| Name | Owner Name | Mailing Address | City | State | Description | Description 2 | Description 3 |
|-----------------|----------------------------|-----------------|---------|-------|---------------------|----------------------|---------------|
| 234-25.00-31.05 | SUN MASSEYS LANDING RV LLC | PO BOX 2440 | SPOKANE | WA | S/LONG NECK RD APPR | 560' W/END LONG NECK | RD |
| 234-25.00-31.02 | SUN MASSEYS LANDING RV LLC | PO BOX 2440 | SPOKANE | WA | N/RT 22 | S/ROMAN POND | |

Re Introduced: 08/09/22

Council District 3: Mr. Schaeffer

Tax I.D. No. 234-25.00-31.02 & 31.05

911 Address 20628 Long Beach Drive, 20636 Long Beach Drive, 32464 Sailfish Ln, and 22814 Conch Road, Millsboro

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITION NO. 9 IN ORDINANCE NO. 2378 (CONDITIONAL USE NO. 1963) TO AMEND THE REQUIREMENT THAT NO CAMPERS OR RVs SHALL BE STORED ON THE CAMPGROUND DURING THE PERIOD THAT THE CAMPGROUND IS CLOSED TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 54.33 ACRES, MORE OR LESS

WHEREAS, on the 4th day of March 2022, a conditional use application, denominated Conditional Use No. 2356 was filed on behalf of Sun Massey's Landing RV, LLC; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2356 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2356 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on north side and south side of Long Neck Road within the Massey's Landing RV Park and being more particularly described in the attached legal description prepared by Morris, Nichols, Arsht & Tunnell LLP, said parcel containing 54.33 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.

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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

CC: Everett Moore, County Attorney

Date: September 23, 2022

RE: County Council Report for C/Z 1963 filed on behalf of ES Motors, Inc

The Planning and Zoning Department received an application (C/Z 1963 filed on behalf of ES Motors, LLC to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a C-2 Medium Commercial District. The property is located at 30028 and 30032 Vines Creek Road. The change of zone is for 9.54 acres, more or less.

The Planning and Zoning Commission held a public hearing on August 25, 2022. At the meeting of September 8, 2022, the Commission recommended approval of the application for the 7 reasons as outlined within the motion (included below).

Below are the minutes from the Planning & Zoning Commission meetings of August 25, 2022 and September 8, 2022.

Draft Minutes of the August 25, 2022 Planning & Zoning Commission Meeting

C/Z 1963 ES Motors, Inc.

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 DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 9.54 ACRES, MORE OR LESS. The property is lying on the south side of Vines Creek Road (Rt. 26), approximately 0.5 miles east of Armory Road (Rt. 382). 911 Address: 30028 and 30032 Vines Creek Rd. Tax Parcel: 233-11.00-172.00.

Mr. Whitehouse advised the Commission that submitted into the record was a copy of the staff analysis, a copy of a letter received from the Sussex County Engineering Department Utility Planning



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Division, a copy of the Applicant’s conceptual site plan, and a copy of the DelDOT Service Level Evaluation Response. Mr. Whitehouse noted that there were zero comments.

The Commission found that Mr. Tim Willard, Esq. was present on behalf of the Applicant, ES Motors, Inc.; that also present on behalf of their application are Mr. Max Nichai and Mr. Alex Stenevich, principals of the LLC; that this property is located just east of Dagsboro and is comprised of 9.5 acres; that the property is designated as Coastal Area on the Future Land Use Map which recognizes that office uses and light commercial uses are appropriate, therefore the designation of C-2 Medium Commercial would be appropriate; that there are other commercial uses in the area including an RV storage property, a plumbing business, a seafood shop, and a trailer retail business; that this property has a Conditional Use permit which was approved in 2019 for the current use as a Used Car Sales lot and Repair Shop as well as storage for Commercial Vehicles; that the current use would continue but the proposal is to add some storage units on the rear of the property to provide commercial storage for small construction firms and some office buildings; that the subject property is on a minor arterial road which would support such development; and that proposed findings were submitted to the Commission.

Mr. Alex Stenevich confirmed the statements made by Mr. Willard as true and correct.

The Commission found that one person spoke in opposition to the Application.

Ms. Nicole Vance spoke in opposition of the Application. Ms. Vance stated that she is the owner of the two properties to the east of the subject property; that she is concerned that there would be no buffer between the subject property and her property; that she has installed a privacy fence to shield from the current business; and that this would change the peaceful quiet neighborhood to a commercial area.

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 C/Z 1963 ES Motors, Inc. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

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

The Commission discussed the Application which had been deferred since August 25, 2022.

Mr. Mears moved that the Commission recommend approval of C/Z 1963 ES Motors, Inc. for a Change in Zone from AR-1 (Agricultural Residential) Zoning to C-2 (Medium Commercial) Zoning based on the record made during the public hearing and for the following reasons:

1. C-2 (Medium Commercial) Zoning is designed to support retail sales and the performance of consumer services. It is intended to be located near arterial and collector roads.
2. The Applicant’s property is currently zoned AR-1 along Vines Creek Road, a minor arterial road. It is close to land zoned CR-1 General Commercial and next to a non-conforming junkyard. This is an appropriate location for C-2 zoning.

3. The property was previously approved for the sale of used vehicles and related activities as C/U 619. This rezoning is a reasonable expansion of the existing conditional use.
4. C-2 Zoning at this location will benefit nearby residents of Sussex County by providing a convenient location for permitted uses.
5. While there were concerns expressed by one neighbor, those can be addressed as part of the County's site plan review. Such a site plan review must occur for any expansion beyond what currently occurs on the site.
6. The site is in the "Coastal Area" according to the Sussex County Land Use Plan and Future Land Use Map. This is an appropriate location for C-2 Zoning according to the Plan.
7. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 1963 ES Motors, Inc., for the reasons and conditions stated in the motion. Motion carried 3-2.

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

Ms. Stevenson stated she voted no; that with approval for rezoning, many other uses would be permitted for the property; that the uses could operate without the requirement of a public hearing, and it would not allow adjacent property owners to express comment regarding any future use of the property.

Chairman Wheatley stated he voted no for the reasons stated by Ms. Stevenson.

PLANNING & ZONING COMMISSION

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



Sussex County

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JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: August 25th, 2022

Application: C/Z 1963 ES Motors, Inc.

Applicant: ES Motors Inc.
30028 Vines Creek
Dagsboro, DE 19939

Owner: ES Motors Inc.
30028 Vines Creek
Dagsboro, DE 19939

Site Location: Lying on the south side of Vines Creek Road (Rt. 26), approximately 0.5 miles east of Armory Road (Rt. 382).

Current Zoning: MR – Medium Residential District

Proposed Zoning: C-2 – Medium Commercial District

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Dagsboro Fire Company

Sewer: On-site

Water: On-site

Site Area: 9.54 acres +/-

Tax Map ID.: 233-11.00-172.00



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Memorandum

To: Sussex County Planning Commission Members
From: Mx. Jesse Lindenberg, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney, and applicant
Date: August 18th, 2022
RE: Staff Analysis for C/Z 1963 ES Motors, Inc.

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/Z 1963 ES Motors, Inc. to be reviewed during the August 25th, 2022, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcel 233-11.00-172.00 to allow for a change of zone from a Medium Residential (MR) District to a Medium Commercial (C-2) District. The property is lying on the south side of Vines Creek Road (Rt. 26), approximately 0.5 miles east of Armory Road (Rt. 382). The parcel consists of 9.54 acres +/-.

Comprehensive Plan Analysis

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

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

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 Commercial (C-2) District is listed as an Applicable Zoning District within the "Coastal Area" (Sussex County Comprehensive Plan, 4-25).



Zoning Information

The property is zoned Medium Residential (MR) District. The adjacent parcels to the northwest (across Vines Creek Road), south, east, and west of the subject property are zoned Agricultural Residential (AR-1) District. The property located to the northeast of the subject site, across Vines Creek Road, is zoned Commercial Residential (CR-1) District. A few parcels west of the site are the municipal boundaries of the Town of Dagsboro.

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

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

Based on this analysis, a Change of Zone from a Medium Residential (MR) District to a Medium Commercial (C-2) District could be considered as being consistent with the land use, area zoning and surrounding uses.

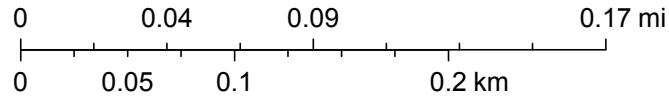
Sussex County



July 22, 2022

- Override 1
- Tax Parcels
- County Boundaries
- Override 1
- Streets
- DE_NWI_2017_Broadkill

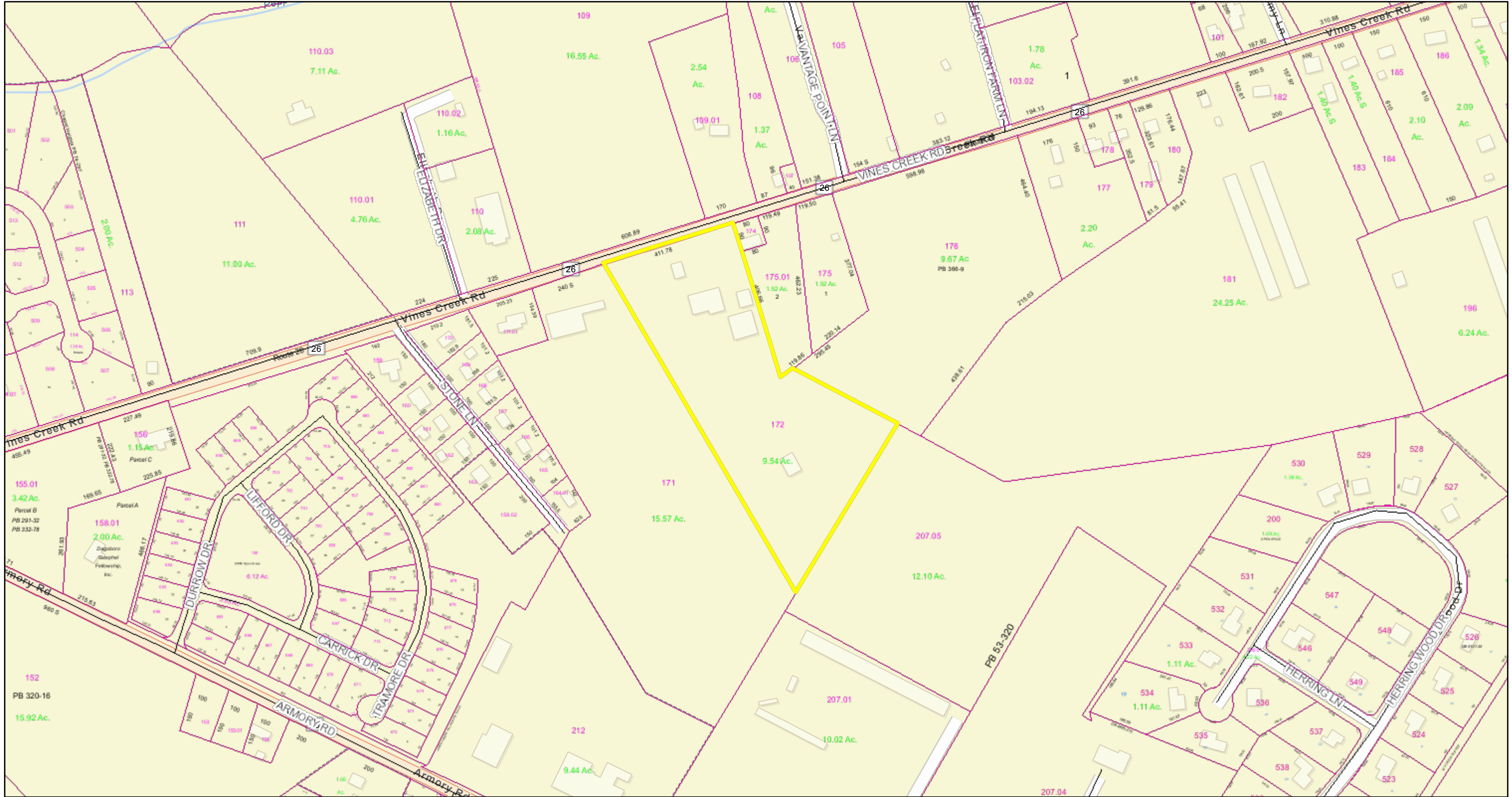
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Wetland mapping is supported with funding provided by the Environmental Protection Agency, Sussex County, Sussex County Government, Delaware Department of Agriculture

Delaware Department of Natural Resources and Environmental

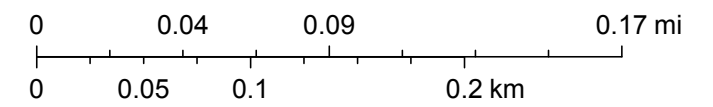
Sussex County



July 22, 2022

- Override 1
- Tax Parcels
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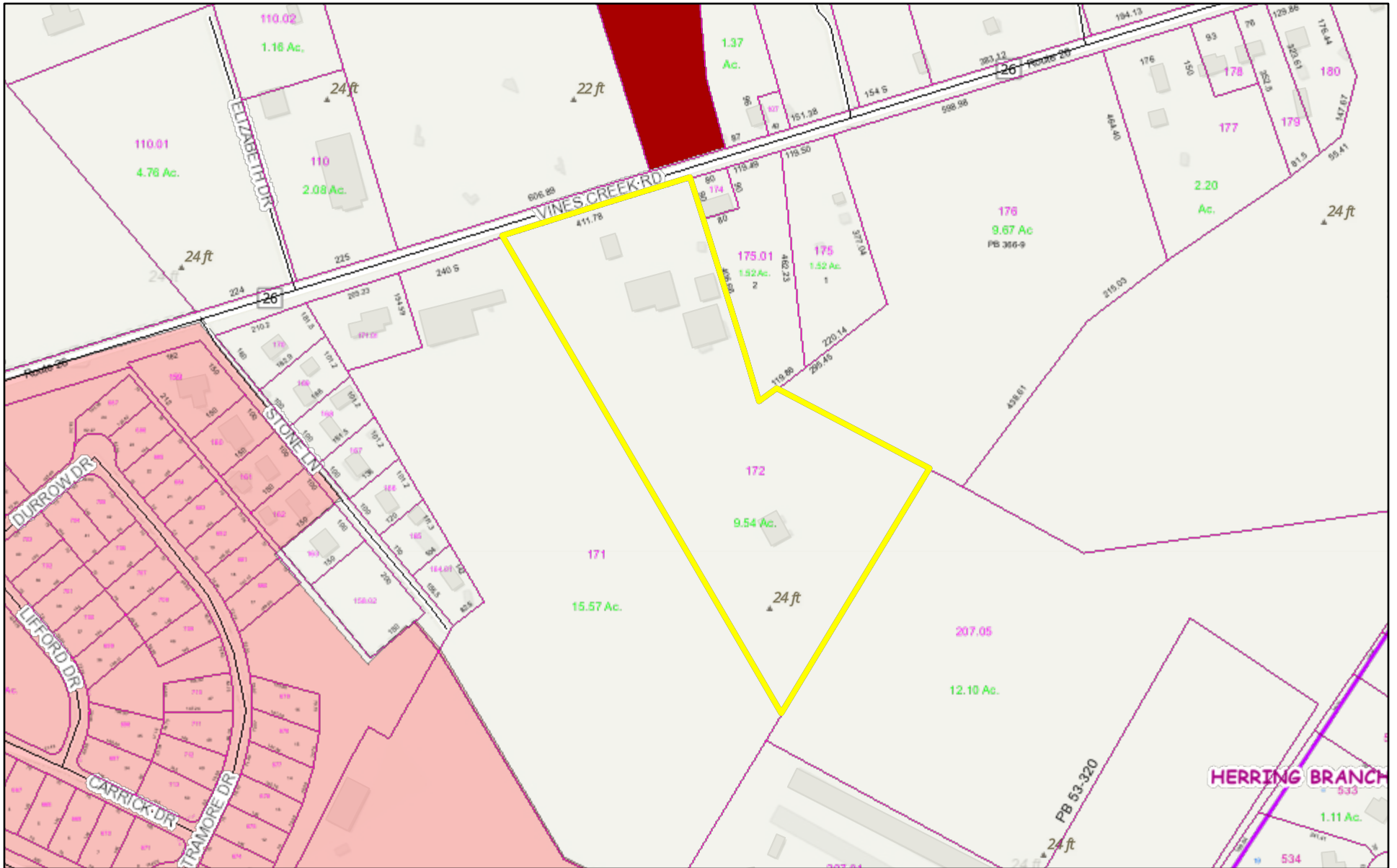
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



Wetland mapping is supported with funding provided by the Environmental Protection Agency., Sussex County, Sussex County Government, Delaware Department of Agriculture

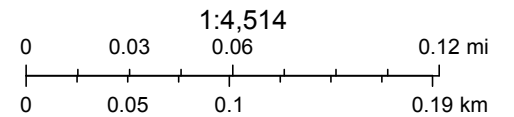
Delaware Department of Natural Resources and Environmental

Sussex County



July 25, 2022

- | | | | | | | | |
|--|-------------|---|---------------------------------|---|---------------------------------|---|----------------------------------|
|  | Override 1 |  | Streets |  | Medium Residential - MR |  | High Density Residential - HR-2 |
|  | Override 1 |  | Zoning |  | General Residential - GR |  | Vacation, Retire, Resident - VRP |
|  | Tax Parcels |  | Agricultural Residential - AR-1 |  | High Density Residential - HR-1 |  | Neighborhood Business - B-1 |
| | |  | Agricultural Residential - AR-2 | | | | |



DNREC, Division of Watershed Stewardship, Drainage Program,
john.inkster@state.de.us, Sussex County, Sussex County Government,

Introduced 3/1/22

Council District 4: Mr. Hudson
Tax I.D. No. 233-11.00-172.00
911 Address: 30028 and 30032 Vines Creek Rd, Dagsboro

ORDINANCE NO. ____

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 DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 9.54 ACRES, MORE OR LESS

WHEREAS, on the 13th day of November 2021, a zoning application, denominated Change of Zone No. 1963 was filed on behalf of ES Motors, Inc.; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1963 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Dagsboro Hundred, Sussex County, Delaware, and lying on the south side of Vines Creek Road (Rt. 26) approximately 0.5 miles east of Armory Road (Rt. 382) and being more particularly described in the attached legal description prepared by Griffin & Hackett. P.A. , said parcel containing 9.54 ac., more or less.

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

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
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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 22, 2022

RE: County Council Report for C/U 2316 filed on behalf of Southern Delaware Medical Center, LLC

The Planning and Zoning Department received an application (C/U 2316 filed on behalf of Southern Delaware Medical Center, LLC) for a Conditional Use for parcels 334-6.00-511.02, 511.06 & 513.00 for medical office buildings. The property is located at 17611, 17623 & 17637 Shady Road, Lewes. The parcel size is 2.29 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on August 25, 2022. At the meeting of September 8, 2022, the Planning & Zoning Commission recommended approval of the application for the 6 reasons stated and subject to the 11 recommended conditions wording as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of August 25, 2022 and September 8, 2022.

Draft Minutes of the August 25, 2022 Planning & Zoning Commission Meeting

C/U 2316 Southern Delaware Medical Center, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MEDICAL OFFICE BUILDINGS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED SUSSEX COUNTY, CONTAINING 2.29 ACRES, MORE OR LESS. The property is lying on the southeast side of Shady Road (S.C.R. 276), approximately 0.14-miles northeast of the intersection of Shady Road and Plantations Road (Rt. 1D).



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911 Address: 17611, 17623 & 17637 Shady Road, Lewes. Tax Parcel: 334-6.00-511.02, 511.06 & 513.00.

Mr. Whitehouse advised the Commission that submitted into the record was a copy of the DelDOT Service Level Evaluation Response, a copy of the Staff Analysis, and a copy of a letter received from the Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse noted that one letter of opposition was received.

The Commission found that Ms. Mackenzie Peet, Esq. was present on behalf of the Applicant, Lighthouse Construction, Inc. and the Owner, Southern Delaware Medical Center, LLC.; that also present are Mike Glick from Lighthouse Construction, Harry and Lynn Caswell, part-owners, Jamie Sechler, P.E. from Davis, Bowen, and Friedel and Lauren Townsend, Architectural Designer with Lighthouse Construction; that the Conditional Use application is for Medical Offices on three AR-1 zoned parcels on the southeast side of Shady Road, Lewes totaling 2.297 acres; that the proposed building will be 32,960 sf. with 127 parking spaces and 4 handicapped parking spaces; that the adjacent properties are zoned AR-1 and MR and the property across the street is zoned C-1; that the property is surrounded by a mix of residential and commercial uses; that a 20 ft. buffer is proposed between the residential property at 17603 Shady Road, the Sunset Glen Community and the subject property; that there is a 6 ft. fence between the subject property and the Sunset Glen Community and some mature trees that separate the subject property from the properties to the rear; that the updated concept plan shows a revised entrance to the property and interconnectivity to the property on the northeast side of the subject property; that the landscape plan shows the landscape buffer and is included in the exhibit booklet; that the property is located in an Investment Level I area according to the State Strategies and Spending Map; that the Traffic Impact Study (TIS) prepared by JMT shows that the property is located in the Henlopen Transportation Improvement District (TID) and shows the Developer anticipated frontage, entrance and off-site improvements; that the Future Land Use Map designates the area as Commercial Area; that Commercial Area consists areas of retail and service uses that are concentrated on arterial roads; that the Comprehensive Plan states that more intense uses are to be located along main roads or near major intersections but also that institutional and commercial uses may be appropriate depending on the surrounding uses; that this proposed use is appropriate for the area because of the close proximity to the commercial uses in the area; that proposed use is of a semi-public character and will provide much needed use for the residents of Sussex County; that Dr. Angela Caswell-Monack, board certified Obstetrician and Gynecologist plans to lease space for her growing practice; that there are no wetlands on the site or no known archeological sites or areas of excellent groundwater recharge or wellhead protection areas; that that site will be served by Tidewater for water, Sussex County for sewer, and Delaware Electric Co-op for electricity; that use is not anticipated to adversely affect neighboring properties; and that the Applicant has submitted proposed Conditions of Approval and some of those conditions include hours of operation and the 20 ft. landscaped buffer to screen the property from neighboring properties.

Ms. Stevenson asked about the interconnectivity.

Ms. Peet stated that there is interconnectivity shown on the site plan between the subject property and the property at 17603 Shady Road.

Ms. Stevenson requested the number of parking spaces being placed in the front yard setback.

Ms. Peet stated that there are 26 parking spaces proposed in the setback area and noted that this is a concept plan.

Ms. Stevenson asked that the Applicant address the parking spaces in the setback area.

The Commission found that two people spoke in support of the Application.

Mr. Christian Hudson spoke in support of the Application. Mr. Hudson stated that Medical Offices are needed in Sussex County, and we need the infrastructure to keep up with the population growth.

Ms. Cathy Asbert spoke in support of the Application. Ms. Asbert spoke of the need for medical offices in the area and that it would be nice to have one within walking distance from her home.

The Commission found that two people spoke in opposition of the Application

Mr. Ray Hellman spoke in opposition to the Application. Mr. Hellman stated that the TIS said that the proposed use will have a minor impact on traffic and that he disagrees with this as Shady Road is already heavily traveled, and the only access will be on Shady Road, and a buffer is needed.

Mr. Fred Solomon spoke in opposition to the Application. Mr. Solomon stated the height of the building is out of proportion to other buildings in the area; that the size of the building is too big for the acreage and should be scaled down; that the proposed use will have an impact on traffic; that the buffer should be greater than 20 ft.

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 C/U 2316 Southern Delaware Medical Center, LLC. Motion by Ms. Stevenson to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 5-0.

Draft Minutes of the September 8, 2022 Planning & Zoning Commission Meeting

C/U 2316 Southern Delaware Medical Center, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MEDICAL OFFICE BUILDINGS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED SUSSEX COUNTY, CONTAINING 2.29 ACRES, MORE OR LESS. The property is lying on the southeast side of Shady Road (S.C.R. 276), approximately 0.14-miles northeast of the intersection of Shady Road and Plantations Road (Rt. 1D). 911 Address: 17611, 17623 & 17637 Shady Road, Lewes. Tax Parcel: 334-6.00-511.02, 511.06 & 513.00.

The Commission discussed the Application which had been deferred since August 25, 2022.

Ms. Stevenson moved that the Commission recommend approval of C/U 2316 Southern Delaware Medical Center, LLC, for a medical office building based on the record made during the public hearing and for the following reasons:

1. The proposed Conditional Use is located along Shady Road. There are other commercial zonings and uses in this area, including the DART hub across the street. Shady Road is evolving with a mixture of high-intensity commercial uses at the Rt. 1 end, a medical center at the Plantations Road end, and multi-family developments, a mixture of zonings, small businesses, and homes in between. This location with such a mixture of uses an appropriate location for medical offices.
2. The use serves a community need by creating medical offices at a convenient location for Sussex County residents near Beebe Hospital and other medical offices on Savannah Road and Plantations Road.
3. The use of a medical office will benefit the health, safety, and welfare of Sussex County residents.
4. The site is within the Coastal Area according to the Sussex County Comprehensive Plan. Medical offices such as this are appropriate within this Area according to the Plan.
5. The use will be served by central water and sewer.
6. The use, with the conditions and limitations placed upon it, will not adversely affect neighboring properties or roadways.
7. This recommendation is subject to the following conditions:
 - a. As stated by the Applicant, there shall be no more than 32,960 square feet of medical and professional office space.
 - b. As stated by the Applicant, the hours of operation shall be between 7:00 am and 7:00 pm Monday through Friday, and between 8:00 am and 4:00 pm on Saturdays. Additional hours for emergency purposes are permitted.
 - c. One lighted sign, not to exceed 50 square feet, shall be permitted on the building. In addition, the applicant may install one additional lighted ground sign that does not exceed 32 square feet in size per side. In addition, the Applicant may install one additional lighted, ground sign that does not exceed 32 square feet in size per side.
 - d. The use shall comply with the parking requirements set forth in the Zoning Code. There shall not be any parking within the front yard setback. In addition, the location shown for possible interconnection with the property to the east shall be included on the Final Site Plan.
 - e. There shall be a 20-foot landscape buffer installed along the site's rear property line and along the common property line with Tax Parcel # 334-6.00-511.03.
 - f. All entrance, intersection, and roadway improvements required by DelDOT shall be completed in accordance with DelDOT's requirements.
 - g. All exterior lighting shall be directed downward so that it does not shine on neighboring properties or roadways.
 - h. Any dumpsters shall be screened from view of neighboring properties and roadways.
 - i. The site shall be served by central water and central sewer.
 - j. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with applicable State and County requirements. These facilities shall be designed and operated using best management practices. The Final Site Plan shall contain the approval of the Sussex Conservation District.
 - k. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2316 Southern Delaware Medical Center, LLC, for the reasons and conditions stated in the motion. Motion carried 5-0.

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

PLANNING & ZONING COMMISSION

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



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JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: August 25th, 2022

Application: CU 2316 Southern Delaware Medical Center, LLC

Applicant: Lighthouse Construction, Inc.
859 Golf Links Lane
Magnolia, DE 19962

Owner: Southern Delaware Medical Center, LLC
859 Golf Links Lane
Magnolia, DE 19962

Site Location: 17611 Shady Road

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

Proposed Use: Medical Office Buildings

Comprehensive Land
Use Plan Reference: Commercial

Councilmanic
District: Mr. Schaeffer

School District: Cape Henlopen School District

Fire District: Lewes Fire Department

Sewer: Sussex County

Water: Tidewater Utilities, Inc.

Site Area: 2.29 ac. +/-

Tax Map ID.: 334-6.00-511.02



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Sussex County

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sussexcountyde.gov

Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Mr. Elliott Young, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: August 3rd, 2022
RE: Staff Analysis for CU 2316 Southern Delaware Medical Center, LLC

The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application CU 2316 Southern Delaware Medical Center, LLC to be reviewed during the August 25th, 2022, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcels: 334-6.00-513.00, 334-6.00-511.06 & 511.02 to allow for medical office buildings, to be located between the 3 existing parcels on Shady Road, Lewes, Delaware. The property is lying on the southeast side of Shady Road (S.C.R. 276), approximately 0.14-miles northeast of the intersection of Plantations Road (Rt. 1D) and Shady Road. The parcels consist of 2.29 acres +/-.

Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcel has a designation of "Commercial Area." The adjoining parcel to the west also has a Future Land Use Map designation of "Commercial Area". The parcels to the north across Shady Road (S.C.R. 276) also have a Future Land Use Map designation of "Commercial".

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

The adjoining parcels to the south and east of the subject parcels contain the Future Land Use Map designation of "Coastal Area".

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



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

Zoning Information

The subject properties are zoned Agricultural Residential (AR-1) District. The adjacent property to the east of the subject properties is zoned Agricultural Residential (AR-1) District. The parcels to the south and west of the subject property, are zoned Medium Residential (MR). While the properties to the north of the subject property across Shady Road (S.C.R. 276) are zoned General Commercial (C-1) District.

Existing Conditional Uses within the Vicinity of the Subject Property

Since 2011, there have been six (6) Conditional Use applications within a half (0.5) mile radius of the application site. Five (5) out of the six (6) applications were approved by the County Council while one (1) of the six (6) is still to be determined through public hearings. Below is a table with the six applications and their associated information.

| Conditional Use No. | Applicant | Use | Zoning | CC Approval Date | Ordinance No. |
|---------------------|----------------------------|--|--------------|--------------------------|---------------|
| 2352 | CB Lewes, LLC | Multi-Family Units (Amend Conditions of Approval) | MR | 6/14/2022 | N/A |
| 2327 | Howard Ritter & Sons, Inc. | Expansion of a non-conforming borrow pit | AR-1 | N/A (Public Hearing TBD) | N/A |
| 2261 | What is Your Voice, Inc. | Existing Garage for office use and one-story pole building for rental facility | AR-1 | 9/14/2021 | 2800 |
| 2190 | Steve & Helene Falcone | Office | AR-1 | 1/7/2020 | 2699 |
| 2106 | MDI Investment Group | Multi-family | MR(Proposed) | 3/20/2018 | 2566 |
| 2034 | Beachfire Brewery Co., LLC | Restaurant and Brewery | AR-1 | 3/8/2016 | 2438 |

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



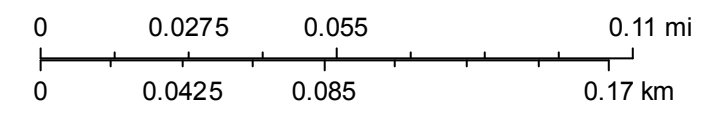
Sussex County



| | |
|------------------------|--------------------------------------|
| PIN: | 334-6.00-513.00 |
| Owner Name | SOUTHERN DELAWARE MEDICAL CENTER LLC |
| Book | 5514 |
| Mailing Address | 859 GOLF LINKS LN |
| City | MAGNOLIA |
| State | DE |
| Description | S/RD 276 |
| Description 2 | |
| Description 3 | |
| Land Code | |

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

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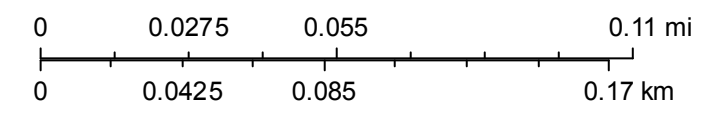
Sussex County



| | |
|------------------------|--------------------------------------|
| PIN: | 334-6.00-511.02 |
| Owner Name | SOUTHERN DELAWARE MEDICAL CENTER LLC |
| Book | 5514 |
| Mailing Address | 859 GOLF LINKS LN |
| City | MAGNOLIA |
| State | DE |
| Description | S/RT 276 |
| Description 2 | T#5266 |
| Description 3 | N/A |
| Land Code | |

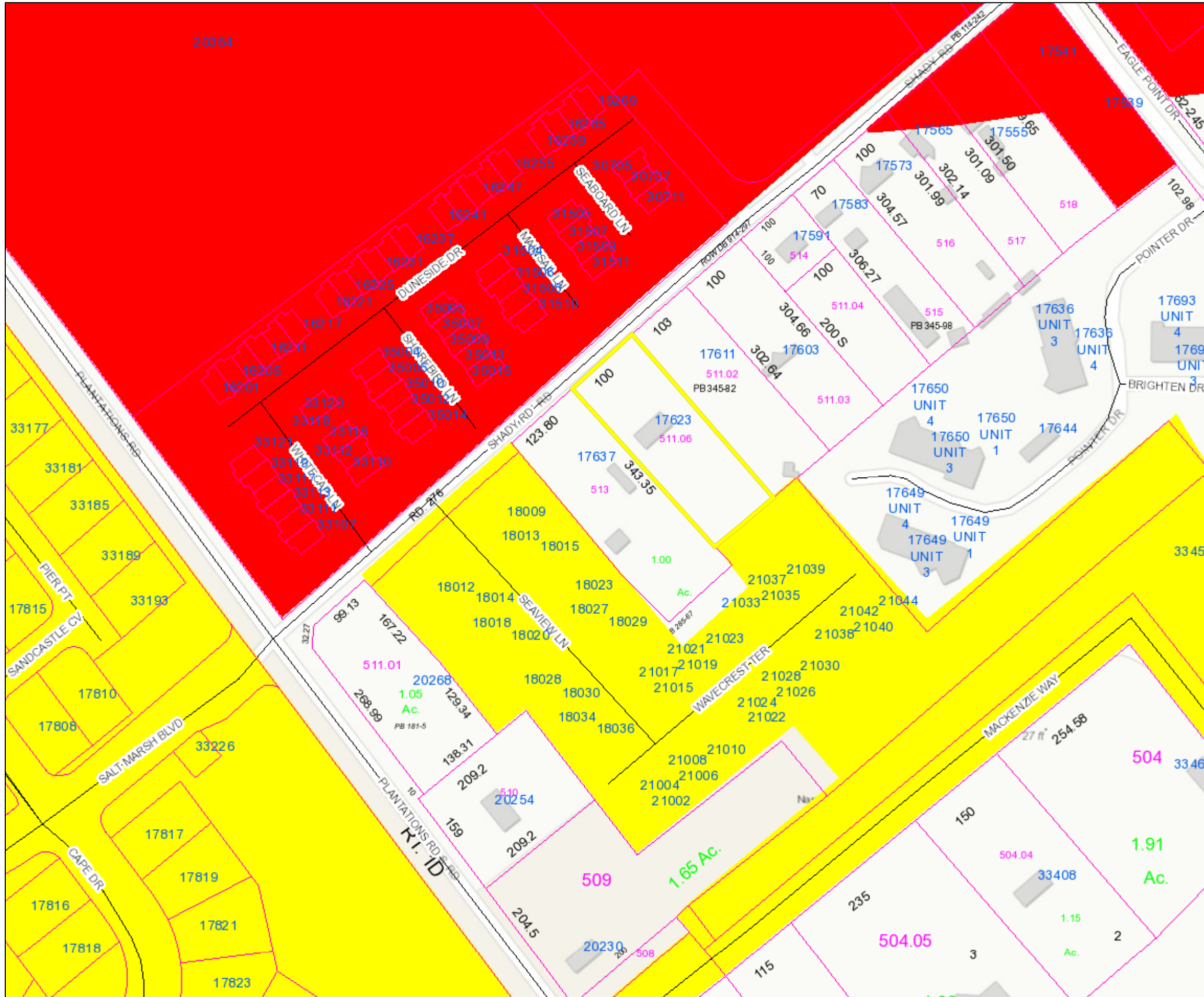
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 - Override 1
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 - Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Flood Zones 2018**
 - 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
 - A
 - AE
 - AO
 - OPEN WATER
 - VE

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Sussex County



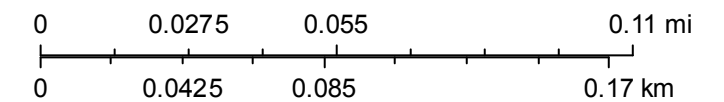
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|------------------------|--------------------------------------|
| PIN: | 334-6.00-511.06 |
| Owner Name | SOUTHERN DELAWARE MEDICAL CENTER LLC |
| Book | 5514 |
| Mailing Address | 859 GOLF LINKS LN |
| City | MAGNOLIA |
| State | DE |
| Description | SE/RT 276 |
| Description 2 | 550' E/RT 275 |
| Description 3 | |
| Land Code | |

- polygonLayer

Override 1
- polygonLayer

Override 1
- Tax Parcels
- 911 Address
- Streets

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Reintroduced: 8/9/22

Council District 3: Mr. Schaeffer

Tax I.D. Nos.: 334-6.00-511.02, 334-6.00-511.06, 334-6.00-513.00

911 Addresses: 17611, 17623 & 17637 Shady Road Lewes, DE 19958

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MEDICAL OFFICE BUILDINGS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.29 ACRES, MORE OR LESS

WHEREAS, on the 22nd day of September 2021, a conditional use application, denominated Conditional Use No. 2316 was filed on behalf of Southern Delaware Medical Center, LLC; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2316 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2316 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the southeast side of Shady Road (S.C.R. 276), approximately 0.14-miles northeast of the intersection of Shady Road and Plantations Road (Rt. 1D). Being more particularly described in the attached legal description prepared by Baird Mandalas Brockstedt, LLC, said parcel(s) containing 2.29 acres, more or less.

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

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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

CC: Everett Moore, County Attorney

Date: September 22, 2022

RE: County Council Report for Ord. 21-06 filed on behalf of Eagle Crest Hudson Airfield

On June 7, 2022, the County Council introduced an Ordinance to amend the text and maps of the Comprehensive Plan in relation to parcels of land located at 29763 Eagles Crest Road, Milton.

The Planning & Zoning Commission held a Public Hearing on the application on August 25, 2022. At the conclusion of the meeting, the Commission closed the Public Record and deferred action on the application for further consideration. At this time, a recommendation from the Planning & Zoning Commission has not been received and will be reported to County Council once this has been received.

Below are the minutes from the Planning & Zoning Commission meeting of August 25, 2022

Draft Minutes of the August 25, 2022 Planning & Zoning Commission Meeting

AN ORDINANCE TO AMEND THE TEXT AND MAPS OF CHAPTER 13 (MOBILITY ELEMENT) OF THE COMPREHENSIVE PLAN IN ADDITION TO AMENDMENTS TO THE EXISTING AND FUTURE LAND USE MAPS OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 235-16.00-50.02, 235-22.00-441.00, AND 235-22.00-442.00. The property is lying on the west side of Coastal Highway (Route 1), west of the intersection of Coastal Highway and Eagles Crest Road (S.C.R. 264). 911 Address: 29763 Eagles Crest Road, Milton.

Mr. Whitehouse advised the Commission that submitted into the record were letters received on behalf of the property owners, a copy of the proposed ordinance introduced at County Council on June 7, 2022, a copy of the property owners' presentation, and documents that have been submitted, a copy of the County's PLUS submission, a copy of the PLUS comments that were received from the



State Planning Office dated July 22, 2021, a copy of the Delaware private use airport and heliport document dated August 2007, a copy of the property owner's exhibits, a copy of the technical assessment submitted on behalf of Century Engineering for Sussex County and a copy of the updates to the technical assessment. Mr. Whitehouse noted that there was one letter of comment which was included in the paperless packet.

Mr. Whitehouse stated that the request for a corrective amendment to the Comprehensive Plan of Sussex County was received by the Planning and Zoning Department from the property owners; that letter was included in the paperless packet; that following receipt of that letter there was discussion with the property owners and a PLUS submission was sent to the State Planning Office; that then an Ordinance was crafted and introduced at County Council this summer; that essentially there are three parts to the Ordinance; that the first part refers to the Future Land Use Map and the request is to change the designation from Low-density to Industrial; that the second part of the request relates to the existing Land Use Map of the County to change from the Utilities and Recreational designation to Industrial; and that the third element relates to Chapter 13 within the Comprehensive Plan to add the airport icons to recognize the airports as shown in Exhibits B & C in the paperless packet; that Mr. Drew Boyce from Century Engineering available to answer questions regarding the technical assessment; and that Staff from DelDOT are also available to answer questions the Commission may have.

Mr. Robertson stated that this is a somewhat unusual Ordinance before the Commission; that Century performed the technical assessment on behalf of the County; that the request is to make the hanger area and runway identified as industrial; that the second is to show the icons; and that the third is to amend some of the text in the Comprehensive Plan.

The Commission found that Mr. John Paradee, Esq. was present on behalf of the property owners; that Christian and Jamin Hudson, property owners are also present; that the first two map amendments are simply corrections to errors that were made in the 2018 Comprehensive Plan that eliminated designations that had been set forth in the 2008 Comprehensive Plan; that the 2018 Plan had identified the air strip and the hangers as industrial designation; that the other request is to add two icons to the maps in Chapter 13 of the Comprehensive Plan; that the power point presentation shows the history of the property, the designation in 2008, the error in the 2018 plan, the draft amendment to Chapter 13 to show the airplane icon, and there is a timeline included; that if the correction is not made it would essentially show that the industrial use was taken away from the property owners; that the icons on the map show the impact of the airport from a land use planning perspective; and that the Eagle Crest airport is the 5th largest airport in Delaware and the 2nd largest in Sussex County.

Chair Wheatley asked Staff about the process if an airport application was submitted in the AR-1 district.

Mr. Whitehouse responded that it would be a Conditional Use application.

Chair Wheatley spoke about historical use and the importance of having it correctly designated so that it cannot be taken away in the future.

Ms. Stevenson stated that it would be a good idea to have different color icons for public and private airports on the Maps in Chapter 13 of the Comprehensive Plan.

Mr. Robertson stated that there is an Agriculture Protection Notice placed as conditions on some applications and it could be reworded to mention the airstrip so that residents moving to the area would know that there is an airport close by.

Mr. Drew Boyce, Century Engineering stated that his company performed a technical assessment of DelDOT's comments regarding a public use airport versus a private airport; that the 2008 Comprehensive Plan referred to both public and private airports; that the 2018 Comprehensive Plan only refers to public airports and only identified the two public airports in Sussex County; that Century provided a technical assessment of the distinction between the two and provided some recommendations for Planning and Zoning and County Council to consider; that the recommendation to this body is that it should be technically correct in the Comprehensive Plan.

The Commission found that three people spoke in favor of the Application.

Mr. John Chirtea spoke in support of the Application. Mr. Chirtea stated that Eagle Crest Aerodrome is a great little airport and urges the support of the Commission.

Mr. Jeff King spoke in support of the Application. Mr. King stated that there are 26 or 27 homes that have access to the airstrip; that it is pretty unique to see this in the United States; that he has been involved on two airport boards; that Eagle Crest private airport is larger than Laurel public airport so it should be shown on the maps; that it is also good for future planning, for people moving to the area to know there is an airport in the area and it will be noisy; and that he supports the Hudson's proposal.

Mr. Steve Bayer, Delaware Department of Transportation (DelDOT), stated that DelDOT has no official position on this ordinance; that they are available as an information resource for the Commission; and that they offer encouragement that what appears in the final plan in terms of symbology and text be factually accurate.

Ms. Jennifer Cinelli-Miller, DelDOT, stated that she was part of the team who worked on the mobility chapter for the 2018 Comprehensive Plan; that DelDOT has no objection to the ordinance; and that the different color icons for public versus private airports are a good idea.

Mr. Joe Larrimore spoke in support of the Application. Mr. Larrimore stated that he owns parcel 50 which adjoins the area that would be changed to Industrial Zoning.

Chair Wheatley explained that the zoning will not be changed to Industrial Zoning that this Ordinance would just be a Land Map designation of Industrial and the only use would be the airport and that to put another use on that property if it is not a permitted use in the AR-1 district then it would require a new application.

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

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

In relation to the Ordinance related to Tax Parcel No. 235-16.00-50.02, 235-22.00-441.00, and 235-22.00-442.00. Motion by Ms. Stevenson to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 5-0.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE TEXT AND MAPS OF CHAPTER 13 (MOBILITY ELEMENT) OF THE COMPREHENSIVE PLAN IN ADDITION TO AMENDMENTS TO THE EXISTING AND FUTURE LAND USE MAPS OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 235-16.00-50.02, 235-22.00-441.00, AND 235-22.00-442.00.

WHEREAS, on November 30th, 2021, the Sussex County Planning and Zoning Office received an application for a Comprehensive Plan Amendment Request to amend the Existing and Future Land Use Map elements of the Comprehensive Plan to change the Area designations of Sussex County Parcel No. 235-16.00-50.02, 235-22.00-441.00 (2.79 Ac. part thereof), and 235-22.00-442.00) (the “Property”).

WHEREAS, the request received on November 30th, 2021 also included a request to amend the text and maps within the Comprehensive Plan to recognize the Property’s airport use.

WHEREAS, the Property is designated as being within the Low-Density Area as set forth in the Future Land Use Map identified as Figure 4.5-1 in the Plan, and is also designated as being within the Utilities and Recreation areas as set forth in the Existing Land Use Map identified as Figure 4.2-1 in the Plan.

WHEREAS, the Existing Land Use Map element of the 2008 Comprehensive Plan designated Parcel No. 235-16.00-50.02, Parcel No. 235-22.00-442.00 and part of Parcel No. 235-22.00-441.00 (2.79 Ac. part thereof), as being within an Industrial Area; and

WHEREAS, Sussex County Council desires to adopt this Ordinance amending the Existing and Future Land Use Maps of the Plan with minor amendments to the text and maps within the plan; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Future Land Use Map identified as Figure 4.5-1 of the Sussex County Comprehensive Plan is hereby amended to change the Area designation of Sussex County Parcel No. 235-16.00-50.02, 235-22.00-441.00 (2.79 Ac. part thereof), and 235-22.00-442.00 from the Low-Density Area to the Industrial Area. The Sussex County

Parcel No. 235-16.00-50.02, 235-22.00-441.00 (2.79 Ac. part thereof), and 235-22.00-442.00 so changed are identified in Exhibit A, attached hereto and incorporated herein.

Section 2. The Existing Land Use Map identified as Figure 4.2-1 of the Sussex County Comprehensive Plan is hereby amended to change the Area designation of Sussex County Parcel No. 235-16.00-50.02, 235-22.00-441.00 (2.79 Ac. part thereof), and 235-22.00-442.00 from the Utilities and/or Recreation area to the Industrial Area.

Section 3. The maps within Chapter 13 (Mobility Element) are amended as follows:

- Figure 13.1-1: Overview of Sussex County Transportation System is hereby amended to add the Airports icons as shown in Exhibit B
- Figure 13.2-8: Airports, Ferries and Navigable Waterways is hereby amended to add the Airports icons as shown in Exhibit C

Section 4. This Ordinance shall also take effect following its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

EXHIBIT A:

Potential Comprehensive Plan
Amendment Parcels

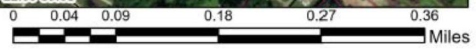


Sussex County



Legend








- Parcels to be Amended
- Tax Parcels



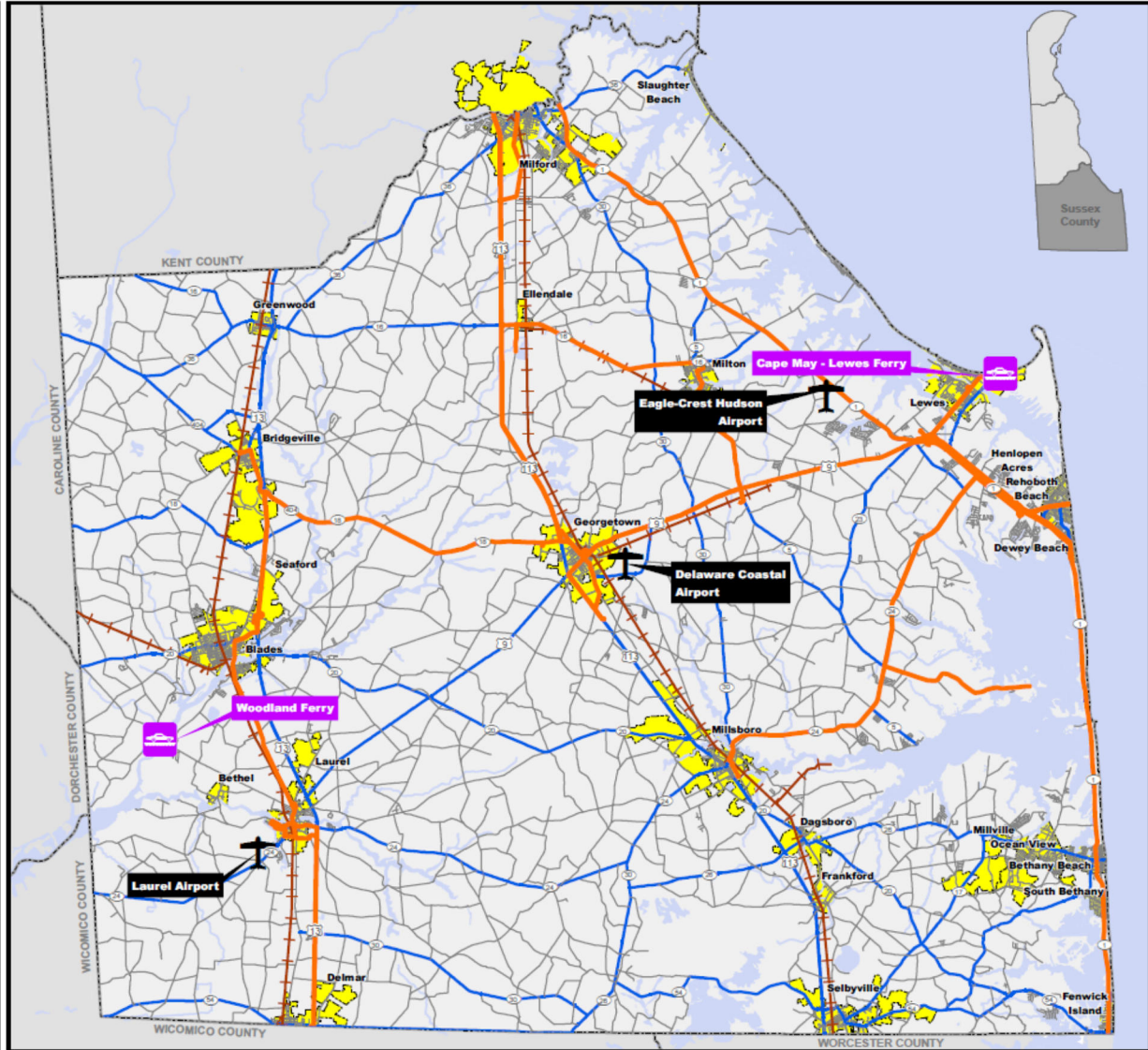


Sussex County
Comprehensive
Plan

Sussex County Transportation Network

-  Airports
-  Ferry
-  Transit Routes
-  Freight Rail
-  Major Roads
-  Other Roads
-  Towns

Sources: DE FirstMap, Sussex County Mapping Dept. Delaware Department of Transportation, Bureau of Transportation Statistics (RITA/BTS) National Transportation Atlas Databases (NTAD) 2006.



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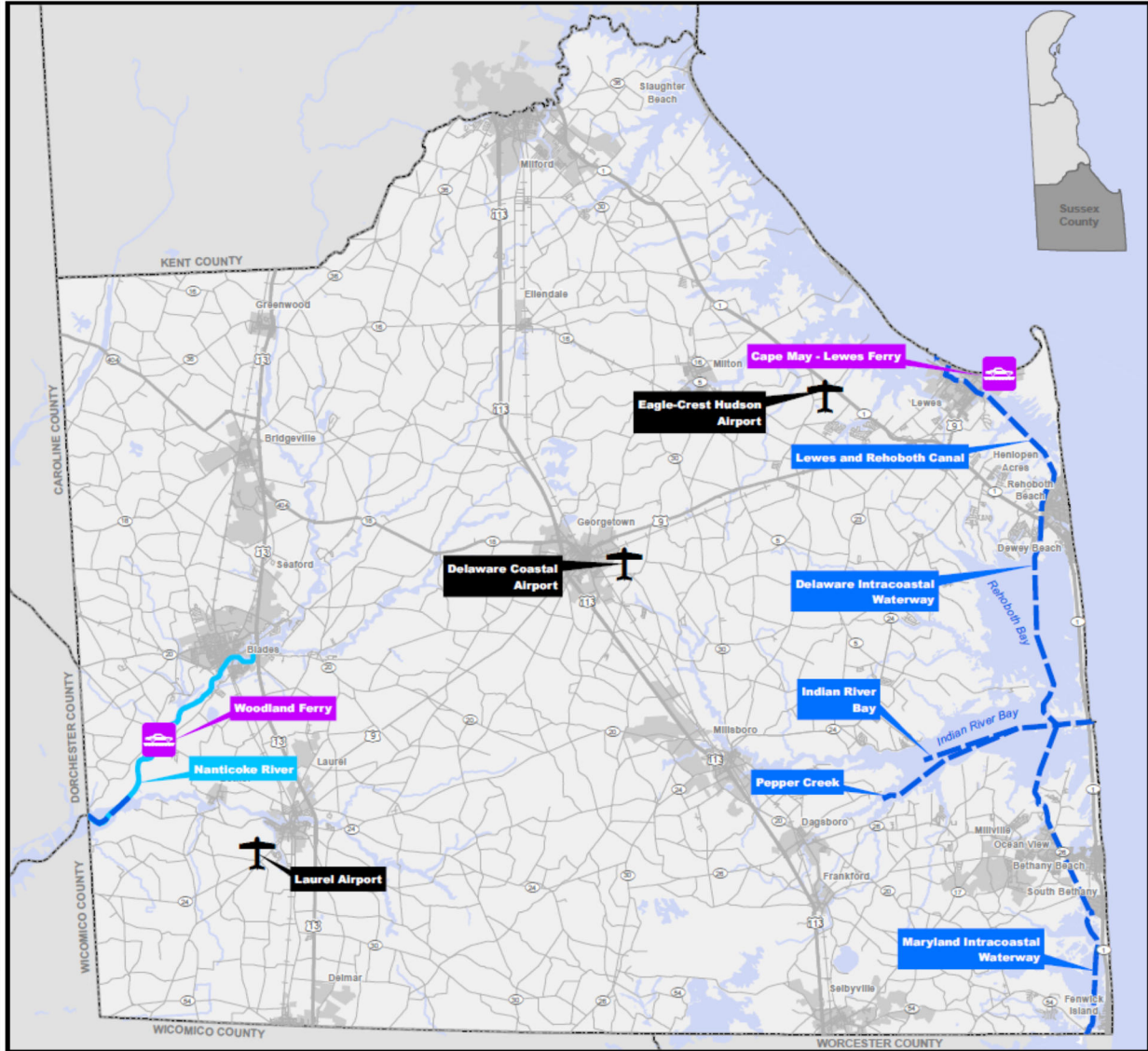


Sussex County
Comprehensive
Plan

Sussex County Airports, Ferries, & Navigable Waterways

- Airports
- Ferry
- National Waterway Network
- Nanticoke River (Navigable Section)
- County Boundaries
- Municipalities

Sources: DE FirstMap, Sussex County Mapping Dept. Delaware Department of Transportation, Bureau of Transportation Statistics (RITA/BTS) National Transportation Atlas Databases (NTAD) 2006.



13 5766 017 Air Sea EagleCrest Approved 11x17 3/24/2022 1:15:20 PM