

# **Sussex County Council Public/Media Packet**

**MEETING:  
SEPTEMBER 29, 2020**

**\*\*DISCLAIMER\*\***

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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  
IRWIN G. BURTON III, VICE PRESIDENT  
DOUGLAS B. HUDSON  
JOHN L. RIELEY  
SAMUEL R. WILSON JR.



**Sussex County**

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**SUSSEX COUNTY COUNCIL**

**A G E N D A**

**SEPTEMBER 29, 2020**

**1:00 P.M.**

**\*AMENDED on September 24, 2020 at 4:30 p.m.<sup>1</sup>**

**PLEASE REVIEW MEETING INSTRUCTIONS AT THE BOTTOM OF THE AGENDA**

**Call to Order**

**Approval of Agenda**

**Approval of Minutes – September 22, 2020**

**Reading of Correspondence**

**Public Comments**

**Todd Lawson, County Administrator**

1. Appointment – Advisory Committee for the Aging and Adults with Physical Disabilities
2. Administrator’s Report

**Patrick Brown, Project Engineer**

1. James Farm Master Plan Implementation Phase II

**A. FY 2021 ORPT Grant Request – Approval of Resolution**

**Introduction of Proposed Zoning Ordinances**

**Council Members’ Comments**

**\*Executive Session - Land Acquisition, Personnel, and Job Applicants’ Qualifications pursuant to 29 Del.C.§10004(b)**



Possible action on Executive Session items

1:30 p.m. Public Hearings

**PLEASE REVIEW MEETING INSTRUCTIONS AT THE BOTTOM OF THE AGENDA.**

**Conditional Use No. 2220 filed on behalf of Sussex Land Company, LLC (Victor Little)**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FENCE CONSTRUCTION BUSINESS AND FOR OUTDOOR STORAGE OF CONSTRUCTION MATERIALS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6.00 ACRES, MORE OR LESS” (land lying on the west side of Holly Tree Road approximately 0.21 mile south of Fleatown Road (S.C.R. 224) (Tax I.D. No. 230-20.00-9.09) (911 Address: 11412 Holly Tree Road, Lincoln)**

**Conditional Use No. 2226 filed on behalf of Jonathan E. and Karen M. Hearn**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 (AGRICULTURAL RESIDENTIAL DISTRICT) FOR AN EVENTS VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 3.024 ACRES, MORE OR LESS” (land lying on the north side of Cannon Road approximately 0.92 mile west of Sussex Highway (Route 13) (Tax I.D. No. 131-18.00-33.00 (Part of) (911 Address: 8275 Cannon Road, Seaford)**

**Conditional Use No. 2229 filed on behalf of D.R.’s Lawn Maintenance, LLC**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING AND LAWN MAINTENANCE BUSINESS ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.678 ACRES, MORE OR LESS” (land lying on the north side of Hollis Road (S.C.R. 295) approximately 0.38 mile east of the intersection of Gravel Hill Road (Route 30) and Hollis Road (S.C.R. 295) (Tax I.D. No. 135-16.00-43.09) (911 Address: 25479 Hollis Road, Harbeson)**

**Conditional Use No. 2230 filed on behalf of Ralph A. Kemmerlin, Sr.**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 (AGRICULTURAL RESIDENTIAL DISTRICT) FOR A PROFESSIONAL GUNSMITHING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.74 ACRES, MORE OR LESS” (land lying on the south side of the intersection of Elks Lodge Road (S.C.R. 211) and Hammond Drive approximately 0.74 mile southeast of Marshall Street (S.C.R. 225) (Tax I.D. No. 330-11.18-41.00) (911 Address: 19306 Elks Lodge Road, Milford)**

**Adjourn**

**In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on September 22, 2020 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.**

**Further meeting access instructions are listed below.**

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**<sup>1</sup> Per 29 Del. C. § 10004 (e) (5) and Attorney General Opinion No. 13-IB02, this agenda was amended to add Executive Session items to include Personnel and Job Applicants' Qualifications listed therein. The agenda amendment was required to address matters which need immediate Council attention and which arose after the initial posting of the agenda but before the start of the Council meeting.**

-MEETING INSTRUCTIONS-

The Sussex County Council is holding this meeting under the authority issued by Governor John C. Carney through Proclamation No. 17-3292.

The public is encouraged to view the meeting on-line. Any person attending in-person will be required to go through a wellness and security screening, including a no-touch temperature check. The public will be required to wear a facial mask.

Chambers seating capacity is limited and seating assignments will be enforced.

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

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

To join the meeting via telephone, please dial:

Conference Number: 1-302-394-5036

Conference Code: 570176

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

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

If any member of the public would like to submit comments electronically, please feel free to send them to [rgriffith@sussexcountye.gov](mailto:rgriffith@sussexcountye.gov). All comments shall be submitted by 4:30 P.M. on Monday, September 28, 2020.

# # # #

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 22, 2020**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 22, 2020, at 10:00 a.m., in Council Chambers, with the following present:

<b>Michael H. Vincent</b>	<b>President</b>
<b>Irwin G. Burton III</b>	<b>Vice President</b>
<b>Douglas B. Hudson</b>	<b>Councilman</b>
<b>John L. Rieley</b>	<b>Councilman</b>
<b>Samuel R. Wilson Jr.</b>	<b>Councilman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>Gina A. Jennings</b>	<b>Finance Director</b>
<b>J. Everett Moore, Jr.</b>	<b>County Attorney</b>

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

**Call to  
Order**

Mr. Vincent called the meeting to order.

**M 361 20  
Approve  
Agenda**

A Motion was made by Mr. Hudson, seconded by Mr. Wilson, to approve the Agenda, as posted.

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Minutes**

The minutes of August 25, 2020 were approved by consent.

**Public  
Comments**

Public comments were heard and the following spoke: Eul Lee, Paul Reiger and Kevin Burdette.

**DelDOT  
MOU  
Update  
and  
Consider-  
ation**

Mr. Lawson reported that the County has been working with the Delaware Department of Transportation (DelDOT) since 2019 to update the Memorandum of Understanding (MOU) for land development coordination. The current MOU has been in place since 1988. Since the Public Hearing held in January 2020, staff has addressed the feedback received and worked with DelDOT on updating the document. In July 2020, an update was provided to Council and based on feedback, the County again worked with DelDOT in regard to changes and suggestions. Mr. Lawson noted that since the packet was posted and distributed to Council, there has been a single word edit. Vince Robertson, Assistant County Attorney, reviewed the proposed changes that have been made to the previous version which was presented to Council on July 14, 2020.

**M 362 20  
Approve  
2020  
DelDOT  
MOU**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Sussex County Council approves the 2020 Sussex County / Delaware Department of Transportation Memorandum of Understanding for land development coordination, as presented, effective immediately.

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
Proposed  
Island  
Watersports  
Expansion**

A Public Hearing was held to consider expanding the boundary of the Bay View Estates Area of the Sussex County Unified Sanitary Sewer District to include a property known as Island Watersports - Bay View Estates Area. John Ashman, Director of Utility Planning, reported that the expansion was requested by Mike Ferrari from Island Watersports for Parcel 533-11.00-287.02. The parcel is located along Williamsville Road and is contiguous to the County's existing sewer district boundary. The expansion will consist of 5.40 acres, more or less. The parcels will be responsible for system connection charges of \$6,360.00 per EDU based on current rates.

There were no public comments.

The Public Hearing and public record were closed.

**M 363 20  
Adopt  
R 012 20**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Resolution No. R 012 20 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) BAY VIEW ESTATES AREA, TO INCLUDE THE ISLAND WATERSPORTS PROPERTY LOCATED IN BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE, AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE".

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**DelDOT  
TID  
Update  
and  
Discussion**

Sarah Coakley, Principal Planner with DelDOT, gave a presentation on the Delaware Department of Transportation (DelDOT) Henlopen Transportation Improvement District (TID). Also present were the following DelDOT staff members who were in attendance to provide an update and associated information: Jennifer Cohan, Secretary of DelDOT, Mark Coté, Director of Planning, and Shanté Hastings, Chief Engineer. Ms. Coakley stated that DelDOT last attended a Council meeting on November 19, 2019 to discuss the Henlopen TID. Thereafter, DelDOT held a successful public workshop in February 2020. Ms. Coakley discussed the

**DelDOT  
TID  
Update  
and  
Discussion  
(continued)**

**following: (1) the terms of the initial agreement to establish the TID, (2) the terms of an Infrastructure Recoupment Agreement to be executed with individual developers within the TID, and a draft infrastructure fee program. Ms. Coakley discussed the elements included in the TID Agreement including TID boundaries, specific service standards, land use map and transportation improvement map, TID Capital Transportation Program, and an initial fee schedule. Also discussed were administrative procedures, development contributions, transitional rules, monitoring program, and public involvement. Ms. Coakley also discussed the included elements and administrative procedures for the Infrastructure Recoupment Agreement. Also discussed was the Infrastructure Fee Program.**

**DelDOT and Council discussed reasons for creating a TID: comprehensive infrastructure planning, TID projects advance in DelDOT's CTP, TID fees stay local, equitable treatment of competing developers, known costs for developers, and expedited development reviews.**

**Mr. Lawson referenced the amount of information presented on the proposed Henlopen TID stating that Council can review the information and contact him with any questions/comments. Mr. Lawson noted that since this is an agreement with an agency, a Public Hearing is not required, unless Council decides otherwise.**

**No action was taken on this date.**

**Public  
Hearing/  
Proposed  
Property  
Main-  
tenance  
Ordinances  
Amending  
Chapters  
52, 80  
and 115**

**A Public Hearing was held on the following three Proposed Ordinances:**

**“AN ORDINANCE TO AMEND CHAPTER 52 OF THE CODE OF SUSSEX COUNTY GRANTING THE BOARD OF ADJUSTMENTS AND APPEAL AUTHORITY TO HEAR APPEALS OF VIOLATIONS UNDER CHAPTER 80 (“PROPERTY MAINTENANCE CODE”) AND CHAPTER 115 (“ZONING”), ARTICLE XXV (“SUPPLEMENTARY REGULATIONS”), §115-191 AND ITS SUBSECTIONS PERTAINING TO VEHICLES AND TRAILERS AND PROHIBITED ACCUMULATIONS”**

**“AN ORDINANCE TO AMEND CHAPTER 80 (“LOT MAINTENANCE”) OF THE CODE OF SUSSEX COUNTY RELATING TO LOT MAINTENANCE, INCLUDING THE ADOPTION OF ENFORCEMENT AND PENALTY PROVISIONS PURSUANT TO TITLE 9, CHAPTER 72 OF THE DELAWARE CODE”**

**“AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXV, “SUPPLEMENTARY REGULATIONS”, §§ 115-191 THROUGH 115-191.8 OF THE CODE OF SUSSEX COUNTY RELATING TO “PARKING, STORING AND MAINTAINING VEHICLES AND TRAILERS” AND “PROHIBITED ACCUMULATIONS”, INCLUDING THE ADOPTION OF ENFORCEMENT AND PENALTY PROVISIONS PURSUANT TO TITLE 9, CHAPTER 72 OF THE DELAWARE CODE”**



**Public Hearing/  
Proposed Property Maintenance Ordinances Amending Chapters 52, 80 and 115 (continued)**

**On August 13, 2020, the Planning and Zoning Commission held a Public Hearing on these Proposed Ordinances at which time the Commission recommended approval, subject to the revisions recommended by legal staff.**

**(See the minutes of the Planning and Zoning Commission dated August 13, 2020.)**

**Mike Costello, Government Affairs Manager, reported that, on February 10, 2020, Governor Carney signed H.B. 118 into law authorizing Sussex County Council to promulgate, administer and enforce property maintenance ordinances, rules and regulations.**

**Mr. Costello gave a presentation on Sussex County property maintenance complaints and enforcement; he discussed three avenues of enforcement which are: criminal enforcement, civil enforcement, and administrative enforcement. Mr. Costello stated that the current process is a criminal enforcement process and that a new administrative approach would allow the County to have an in-house program which better allows for the timely correction of violations. It would require a method for appealing a violation and that could be done by authorizing the Board of Adjustment and Appeals to hear property maintenance cases. It would also empower the property owners in their efforts to correct the conditions by making requests for extensions. A notice of violation provided to the owner would serve as the only notice for the year. Properties engaged in active agricultural uses are exempt from these ordinances as they are under the current process. The proposed administrative process would allow for Code officials to issue a ticket to an owner or person responsible when they fail to correct a violation; the proposed fine is set at \$100.00 and there would be a mechanism for appeal. Under the proposed procedure, fines and costs that go unpaid would be added to the real estate taxes for the property. Mr. Costello stated that in an administrative enforcement approach, sections of the County Code need to be amended to accommodate the process. Mr. Costello reviewed the four steps of the new process. Mr. Costello reported that items added to the list of items to be considered under the property maintenance code are inoperable appliances and tires. Currently, the County does not have any regulations on either of these items. Under the proposed revisions, 20 or more tires become a violation. It was noted that DNREC does have jurisdiction over tire piles of 100 or more (scrap tires only). Mr. Costello reviewed the compliance timeline stating that they want cases closed out in 30 days or less and a process is needed to abate it or compel owners to take care of a violation. Mr. Costello stated that these ordinance modifications will help by providing compliance periods that are realistic for the violation, matters will be removed from the criminal justice system, the notification system will be less restrictive and costly, recovering abatement costs will be simplified, due process will take place in a timely manner, and compliance will be achieved much faster.**

**Public comments were heard.**

**Public Hearing/  
Proposed  
Property  
Main-  
tenance  
Ordinances  
Amending  
Chapters  
52, 80, 115  
(continued)**

**Paul Reiger spoke in support of the Proposed Ordinances and commented on the need for tire regulations.**

**There were no additional public comments.**

**Mr. Moore questioned the proposed amendments recommended by the Planning and Zoning Commission. Mr. Costello stated that an outline of the revisions was provided in the meeting's packets (Council packets and public packets).**

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

**M 364 20  
Adopt  
Ordinance  
No. 2737**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Ordinance No. 2737 entitled "AN ORDINANCE TO AMEND CHAPTER 52 OF THE CODE OF SUSSEX COUNTY GRANTING THE BOARD OF ADJUSTMENTS AND APPEAL AUTHORITY TO HEAR APPEALS OF VIOLATIONS UNDER CHAPTER 80 ("PROPERTY MAINTENANCE CODE") AND CHAPTER 115 ("ZONING"), ARTICLE XXV ("SUPPLEMENTARY REGULATIONS"), §115-191 AND ITS SUBSECTIONS PERTAINING TO VEHICLES AND TRAILERS AND PROHIBITED ACCUMULATIONS".**

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

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Nay; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**M 365 20  
Adopt  
Ordinance  
No. 2738**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Ordinance No. 2738 entitled "AN ORDINANCE TO AMEND CHAPTER 80 ("LOT MAINTENANCE") OF THE CODE OF SUSSEX COUNTY RELATING TO LOT MAINTENANCE, INCLUDING THE ADOPTION OF ENFORCEMENT AND PENALTY PROVISIONS PURSUANT TO TITLE 9, CHAPTER 72 OF THE DELAWARE CODE", as amended.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**It was noted that in Title 9, Chapter 72, of the Delaware Code, an enabling statute, all references to Chapter 72 have been changed to Chapter 71 because the Code revisers renumbered the Chapter after it was signed into law.**

**M 366 20  
Adopt  
Ordinance  
No. 2739**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Ordinance No. 2739 entitled "AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXV, "SUPPLEMENTARY REGULATIONS", §§ 115-191**

**M 366 20**  
**Adopt**  
**Ordinance**  
**No. 2739**  
**(continued)**

**THROUGH 115-191.8 OF THE CODE OF SUSSEX COUNTY RELATING TO “PARKING, STORING AND MAINTAINING VEHICLES AND TRAILERS” AND “PROHIBITED ACCUMULATIONS”, INCLUDING THE ADOPTION OF ENFORCEMENT AND PENALTY PROVISIONS PURSUANT TO TITLE 9, CHAPTER 72 OF THE DELAWARE CODE”, as amended.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**It was noted again that in Title 9, Chapter 72, of the Delaware Code, an enabling statute, all references to Chapter 72 have been changed to Chapter 71 because the Code revisers renumbered the Chapter after it was signed into law.**

**CARES**  
**Act**  
**CDBG-CV1**  
**Grant**  
**Discussion**  
**and**  
**Award**  
**Recom-**  
**mendation**

**Brad Whaley, Director of Community Development and Housing, and Brandy Nauman, Housing Coordinator and Fair Housing Compliance Officer, provided an update on the CARES Act CDBG-CV1 funding received by the County. In Delaware, all of the recipients of this funding have agreed to focus on a COVID-19 pandemic response and prevention through eligible public services. Delaware State Housing Authority (DSHA) had about \$1 million set aside for Sussex County; they are retaining a significant portion of that funding for a direct partnership with Delaware Health and Social Services and State Service Centers for hotel/motel vouchers for homelessness. Also there are administrative costs leaving a balance of \$250,000 eligible to distribute by Sussex County. This funding was made available via an advertised competitive application process. The County’s Community Development Office received seventeen (17) applications for this funding. The Scoring Committee reviewed, scored and ranked the applications. Mr. Whaley presented the funding recommendation totaling \$250,000.00, as follows: La Red Health Center - \$50,000; Community Legal Aid Society - \$50,000; Community Resource Center - \$50,000; Jesus Love Evangelist Assoc. - \$5,600; La Esperanza - \$25,700; Boys & Girls Club of DE - \$25,000; LOVE INC/Code Purple - \$33,700; Harry K Foundation - \$10,000. Ms. Nauman noted that before any funding is distributed, there will be a review process and contract with the DSHA and the awarded entities. Ms. Nauman noted that even though all seventeen (17) applications could not be funded, they are all eligible to apply directly to the DSHA for the second and third round of the CARES Act funding.**

**M 367 20**  
**Approve**  
**CARES**  
**Act – CDBG**  
**CVI Award**  
**Allocation**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley, that the Sussex County Council approves the recommended CARES Act CDBG-CV1 award allocations, as presented.**

**Motion Adopted: 5 Yeas.**

**M 367 20  
(continued)**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**IBRWF  
Biosolids &  
Septage  
Facilities  
Project  
18-19**

**Hans Medlarz, County Engineer, gave an overview of the Inland Bays Regional Wastewater Facility – Biosolids & Septage Facilities (Project 18-19) and presented requests for a Change Order and Spare Parts Procurement for the bio-solids drying system portion of the project.**

**M 368 20  
Approve  
C/O for  
Contract  
18-19**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 7 for Contract No. 18-19, Inland Bays Regional Wastewater Facility – Biosolids & Septage Facilities, be approved, increasing the contract amount by \$56,432.84 for a new contract total of \$13,965,082.43.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**M 369 20  
Approve  
Purchase  
Order/  
Contract  
18-19**

**A Motion was made by Mr. Burton, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department, to approve a purchase order in the net amount of \$128,603.00 to Komline-Sanderson to purchase start-up parts for the drying system.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Project  
19-01 C/O**

**Hans Medlarz, County Engineer, presented a Change Order to the FY 2019 General Labor & Equipment Contract Project (Project No. 19-01).**

**M 370 20  
Approve  
C/O  
Project  
19-01**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 1, FY 2021, for Contract 19-01, FY 2019 General Labor & Equipment Contract, be approved, increasing the contract amount by \$2,100,000 for a new total of \$7,270,000.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**SCRWF  
Treatment  
Process  
Upgrade/  
Rehoboth  
Beach WTP  
Project**

**Hans Medlarz, County Engineer, updated the Council on the South Coastal RWF Treatment Process Upgrade No. 3 and Rehoboth Beach WTP Capital Improvement Program, Phase 2, and the following related items: a Town of Selbyville Outfall Agreement, Change Order No. 5 to the General Construction Project C19-11, Change Order No. 6 and 7 to the Electrical Construction Project C19-17, and Material Screening Purchase Order update.**

**M 371 20  
Approve  
Change  
Orders/  
Contract  
19-17**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Change Order Nos. 6 and 7 for Contract 19-17, South Coastal Wastewater Treatment Plant Process Upgrade No. 3 and Rehoboth Beach Wastewater Treatment Plant Capital Improvement Program, Phase 2, Electrical Construction, be approved, increasing the contract by \$16,500.00 and \$307,300.00 respectively, for a new contract total of \$21,785,529.20.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**M 372 20  
Approve  
Change  
Order/  
Contract  
C19-11**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 5 for Contract C19-11, South Coastal Treatment Plant Process Upgrade No. 3 and Rehoboth Beach Wastewater Treatment Plant Capital Improvement Program, Phase 2, General Construction, be approved, increasing the contract by \$32,991.66, for a new contract total of \$40,604,559.63.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Request  
to Post  
Notices/  
Friendship  
Hall  
Expansion**

**John Ashman, Director of Utility Planning, presented a request to prepare and post notices for a Public Hearing on the Proposed Friendship Hall Expansion of the Sussex County Unified Sanitary Sewer District. The proposed expansion includes Parcel 134-16.00-39.00. The expansion would consist of 47.72 acres, more or less. The request was received from Solutions IPEM on behalf of their client RH Orr, LLC, the owners/developers of the proposed Friendship Hall project. Friendship Hall is proposing 133 condos with a clubhouse, located south of the Forest Landing community along Central Avenue, and is contiguous to an existing district boundary.**

**M 373 20  
Authorize  
Notices**

**A Motion was made by Mr. Burton, seconded by Mr. Wilson, that the Sussex County Engineering Department is authorized to prepare and post notices for the Friendship Hall Expansion of the Sussex County Unified**

**M 373 20**            **Sanitary Sewer District (Miller Creek Area), as presented.**  
**Authorize**  
**Notices**            **Motion Adopted:        5 Yeas.**  
**for the**  
**Friendship**        **Vote by Roll Call:     Mr. Hudson, Yea; Mr. Rieley, Yea;**  
**Hall Exp.**            **Mr. Wilson, Yea; Mr. Burton, Yea;**  
**(continued)**        **Mr. Vincent, Yea**

**Request to**        **John Ashman, Director of Utility Planning, presented a request to prepare**  
**Post Notices/**    **and post notices for a Public Hearing on the Proposed Countryside Hamlet**  
**Countryside**    **Expansion of the Sussex County Unified Sanitary Sewer District (Dagsboro**  
**Hamlet**            **Frankford Area). The proposed expansion includes Parcel 533-4.00-20.00.**  
**Expansion**        **The expansion would consist of 10.98 acres, more or less. The request was**  
                          **received from Matthew Davis, Manager of the Countryside Hamlet.**  
                          **Countryside Hamlet Mobile Home Park is an existing 47 lot subdivision**  
                          **located south of Frankford on Lazy Lagoon Road, and is contiguous to an**  
                          **existing district boundary.**

**M 374 20**            **A Motion was made by Mr. Burton, seconded by Mr. Wilson, that the**  
**Authorize**        **Sussex County Engineering Department is authorized to prepare and post**  
**Notices**        **notices for the Countryside Hamlet Expansion of the Sussex County Unified**  
**for the**            **Sanitary Sewer District (Dagsboro Frankford Area), as presented.**  
**Countryside**  
**Hamlet**            **Motion Adopted:        5 Yeas.**  
**Expansion**        **Vote by Roll Call:     Mr. Hudson, Yea; Mr. Rieley, Yea;**  
                          **Mr. Wilson, Yea; Mr. Burton, Yea;**  
                          **Mr. Vincent, Yea**

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

**M 375 20**            **A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to give**  
**Council-**        **\$3,500.00 (\$2,500.00 from Mr. Rieley's Councilmanic Grant Account and**  
**manic**            **\$500.00 each from Mr. Hudson's and Mr. Vincent's Councilmanic Grant**  
**Grant**            **Accounts) to Delaware Botanic Gardens for their annual fundraiser.**  
                          **Motion Adopted:        5 Yeas.**  
                          **Vote by Roll Call:     Mr. Hudson, Yea; Mr. Rieley, Yea;**  
                          **Mr. Wilson, Yea; Mr. Burton, Yea;**  
                          **Mr. Vincent, Yea**

**M 376 20**            **A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to give**  
**Countywide**    **\$5,000.00 (\$2,000.00 from Countywide Youth Grants, \$2,500.00 from Mr.**  
**Youth**            **Rieley's Councilmanic Grant Account, and \$500.00 from Mr. Vincent's**  
**Grant and**        **Councilmanic Grant Account) to Clothing Our Kids for program expenses.**  
**Council-**  
**manic**            **Motion Adopted:        5 Yeas.**  
**Grant**

**M 376 20  
(continued)**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**M 377 20  
Council-  
manic  
Grant**

**A Motion was made by Mr. Wilson, seconded by Mr. Hudson, to give \$2,500.00 from Mr. Wilson's Councilmanic Grant Account to the Town of Georgetown for the South Race Street dining area beautification project.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Introduction  
of Proposed  
Ordinances**

**Mr. Burton introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GO-KART TRACK AND CONCESSION, GO-KART REPAIR AND SALES SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 78.36 ACRES, MORE OR LESS" (Conditional Use No. 2238) filed on behalf of Michael Parsons (Tax I.D. No. 234-10.00-102.03 & 103.00) (911 Address: 20478 Beaver Dam Road, Harbeson).**

**Mr. Hudson introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PUBLIC UTILITY ELEVATED STORAGE TANK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.32 ACRE, MORE OR LESS" (Conditional Use No. 2240) filed on behalf of Tidewaters Utilities, Inc (Tax I.D. No. 334-12.00-107.00 (portion of) (911 Address: 19483 John J. Williams Highway, Lewes).**

**Mr. Rieley 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 B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 25.63 ACRES, MORE OR LESS" (Change of Zone No. 1925) filed on behalf of Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut (Tax I.D. No. 134-19.00-22.00 (portion of) (911 Address: None Available).**

**Mr. Rieley introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT, RESIDENTIAL PLANNED COMMUNITY TO A MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT, RESIDENTIAL**

**Introduction  
of Proposed  
Ordinances  
(continued)**

**PLANNED COMMUNITY TO AMEND CONDITIONS OF APPROVAL OF CZ 1538 (ORDINANCE 1700) IN RELATION TO PIERS, DOCKS, BOAT RAMPS AND OTHER WATER RELATED RECREATIONAL FACILITIES FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 180.60 ACRES, MORE OR LESS” (Change of Zone No. 1926) filed on behalf of CP Townhomes, LLC (Tax I.D. No. 334-13.00-334.00, 1448.00 through 1750.00) (911 Address: None Available).**

**Mr. Rieley introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TRUCK AND TRAILER REPAIR BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 2.69 ACRES, MORE OR LESS” (Conditional Use No. 2241) filed on behalf of Jonathan J. Bowman (Tax I.D. No. 333-7.00-32.00) (911 Address: 34647 Millsboro Highway, Millsboro).**

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

**Adminis-  
trator’s  
Report**

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

**1. Sussex County AAA Bond Rating**

**On Friday, September 11, 2020, S & P Global Ratings moved the County’s general obligation bond rating from AA+ to AAA, the highest mark possible. The bump up is the second change in the County’s bond rating in the past 14 months, mirroring one from Moody Investor Services in July 2019. Concurrent with S&P’s action, Moody’s also reviewed and maintained its top Aaa rating for the County.**

**S & P said in its rating action statement “the County’s diversifying and growing economy and its strong financial management practices that, among other things, have led to very strong budgetary performance over several years, including during the current and past recessions”. The County was praised for its “conservative and prudent budgeting practices,” noting those, along with healthy reserves, have positioned the County well in the face economic pressures brought on by the COVID-19 pandemic.**

**The credit for this great accomplishment goes to the County Finance Director, Ms. Gina Jennings, for her management of the County’s finances and oversight of its operations. Her practices are the reason for the County accomplishing a AAA bond rating. Congratulations to Ms. Jennings and her staff.**

**2. Projects Receiving Substantial Completion**



**Administrator's Report (continued)**

**Per the attached Engineering Department Fact Sheets, Silver Woods – Phase 5A and H&D Townhouses (AKA Sea Edge) received substantial completion effective September 15<sup>th</sup> and September 18<sup>th</sup> respectively.**

**3. Delaware State Police Activity Report**

**The Delaware State Police year-to-date activity report for August 2020 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 194 troopers assigned to Sussex County for the month of August.**

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

**M 378 20  
Go Into  
Executive  
Session**

**At 1:00 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Wilson, to recess the Regular Session and go into Executive Session to discuss matters relating to land acquisition.**

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

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Absent;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Executive  
Session**

**At 1:05 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to land acquisition. This portion of the Executive Session ended at 1:35 p.m. to be continued after the 1:30 p.m. public hearings.**

**M 379 20  
Reconvene  
Regular  
Session**

**At 1:37 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Burton, to come out of Executive Session and to reconvene the Regular Session.**

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

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Absent; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**E/S Action**

**Mr. Moore reported that no action was needed on Executive Session items and that the Executive Session would reconvene following the 1:30 p.m. public hearings.**

**Rules**

**Mr. Moore read the rules of procedure for public hearings.**

**Public  
Hearing/  
CU 2227**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A 19.342 ACRE BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 150 ACRES, MORE OR LESS” (Conditional Use No. 2227) filed on behalf of Mark J. Davis and Leona E. Davis (Tax I.D. No. 231-15.00-8.00) (911 Address: 24294 Asbury Road, Georgetown).**

**The Planning and Zoning Commission held a Public Hearing on this application on August 13, 2020 at which time action was deferred. On August 27, 2020, the Commission recommended approval with conditions.**

**(See the minutes of the Planning and Zoning Commission dated August 13 and 27, 2020.)**

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

**The Council found that David Hutt was present on behalf of the Applicants. He stated that the application is for a borrow pit; that the site was used previously for a borrow pit (1960s to 1970s); that currently, the woodlands are trying to reclaim the borrow pit area; that the 2018 Comprehensive Plan designates this area as a rural area; that the 2020 State Strategies Map identifies this area as being in an Investment Level 4 Area; that the property consists of approximately 150 acres and approximately 33 of those acres are crop land and the balance of the property is wooded; that there are no disturbed wetlands; that this property has been submitted to an Agricultural Preservation District; that the approximately 20-acre portion of the property for the proposed borrow pit location is not within the limits of the District; that the final reclamation plan is for a wildlife pond surrounded by woods on the property; that the proposed borrow pit will be approximately 15 acres; that there will be a 50 foot buffer; that DelDOT did not require a Traffic Impact Study; that a water truck will be available to wet down gravel roads to control dust; that this borrow pit will meet the six special requirements (in Section 172 of the Zoning Code) for a borrow pit; that there is a need for the product from the borrow pit; and that the proposed use is of a semi-public nature; that the location is ideal for the proposed use; and that much of the land owned in the immediate area is owned by the Applicants.**

**There were no public comments.**

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

**M 380 20  
Adopt  
Ordinance  
No. 2740**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to Adopt Ordinance No. 2740 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A 19.342 ACRE BORROW PIT TO BE**

**M 380 20  
Adopt  
Ordinance  
No. 2740  
(continued)**

**LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 150 ACRES, MORE OR LESS” (Conditional Use No. 2227) filed on behalf of Mark J. Davis and Leona E. Davis, with the following conditions:**

- a. The Conditional Use shall comply with all of the requirements of Section 115-172B of the Sussex County Zoning Code regarding borrow pits.
- b. No materials shall be brought from off the site for processing, mixing or similar purposes.
- c. The borrow pit area shall not exceed 20 acres, which includes the 50-foot buffer around the pit area.
- d. Water or a water truck shall be available to control dust from road traffic when conditions require.
- e. There shall be a single entrance to the pit. That entrance shall be via Asbury Road and it shall be fenced or gated to prevent unauthorized access.
- f. Any roadway and entrance improvements required by DelDOT shall be completed by the Applicant.
- g. Borrow pit operations shall only be between 7:00 a.m. to 5:00 p.m. Monday through Friday and 7:00 a.m. to 2:00 p.m. on Saturdays. No Sunday hours shall be permitted.
- h. No materials shall be stored on any access roads or within any buffer area.
- i. No fuel shall be stored on-site.
- j. No stumps, branches, debris or similar items shall be buried or placed in the site of the borrow pit.
- k. Any safety lights shall be downward screened so that they do not shine on neighboring properties or roadways.
- l. 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 50 feet.
- m. Permanent concrete markers or signs shall be placed at appropriate locations to designate the boundaries of the subject property and the pit areas. The markers shall be raised and marked so that they are clearly visible to anyone nearing the site.
- n. 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 and protect existing and future developments.
- o. The Applicant shall comply with all State and County erosion and sediment control regulations.
- 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 of other ownership, and 50 feet from all other property lines of other ownership. The buffer area shall be a vegetated buffer of existing

**M 380 20  
Adopt  
Ordinance  
No. 2740  
(continued)**

- vegetation or native species vegetation.
- q. The approval shall expire 50 years from the date of approval for the conditional use ordinance.
  - r. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
CU 2232**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENTS VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 98.60 ACRES, MORE OR LESS” (Conditional Use No. 2232) filed on behalf of Covered Bridge Inn, LLC (Hopkins Henlopen Homestead, LLC) (Tax I.D. No. 334-10.00-69.01) (911 Address: None Available).**

**The Planning and Zoning held a Public Hearing on this application on August 13, 2020 at which time action was deferred. As of this date, action is still deferred and the record is open for the receipt of the decision of the Delaware Agricultural Lands Preservation Foundation. Once received, the application will be brought back to the Planning and Zoning Commission for a recommendation. Thereafter, the matter will be placed on a County Council meeting agenda under Old Business.**

**(See the minutes of the Planning and Zoning Commission dated August 13, 2020.)**

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

**The Council found that Amy Hopkins and Ingrid Hopkins were present on behalf of the application. They stated that there is currently a Conditional Use for an events venue in one of the historic barns on the family’s working dairy farm; that the business has grown and they wish to expand to include an additional venue; that they would like to renovate another historic smaller barn to use for a smaller venue space; that the hours of operation would be Friday, Saturday and Sunday from 10:00 a.m. – 10:00 p.m.; that ADA compliant bathrooms would be provided; and that additional parking would be created.**

**There were no public comments.**

**The Public Hearing was closed.**

**Public  
Hearing  
(continued)**

**The Council's public record was closed except to remain open for a letter from the Delaware Agricultural Lands Preservation Foundation and for a recommendation from the Planning and zoning Commission.**

**M 381 20  
Defer  
Action/  
CU 2232**

**A Motion was made by Mr. Burton, seconded by Mr. Wilson, to defer action on Conditional Use No. 2232 filed on behalf of Covered Bridge Inn, LLC (Hopkins Henlopen Homestead, LLC) for the purpose of leaving the record open for a letter from the Delaware Agricultural Lands Preservation Foundation and for a recommendation from the Planning and Zoning Commission.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**M 382 20  
Reconvene  
Executive  
Session**

**At 2:15 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley, to recess the Regular Session and reconvene the Executive Session.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Executive  
Session**

**At 2:20 p.m., an Executive Session of the Sussex County Council was held in Council Chambers for the purpose of discussing matters relating to land acquisition. The Executive Session concluded at 3:00 p.m.**

**M 383 20  
Reconvene  
Regular  
Session**

**At 3:00 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Burton, to come out of Executive Session and reconvene the Regular Session.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**E/S Action**

**There was no action on Executive Session matters.**

**M 384 20  
Adjourn**

**At 3:01 p.m., a Motion was made by Mr. Burton, seconded by Mr. Wilson, to adjourn.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Respectfully submitted,**

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

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

DRAFT

## 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) 853-5881



# Sussex County

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

## Memorandum

**TO:** Sussex County Council  
The Honorable Michael H. Vincent, President  
The Honorable Irwin G. Burton III, Vice President  
The Honorable Douglas B. Hudson  
The Honorable John L. Rieley  
The Honorable Samuel R. Wilson, Jr.

**FROM:** Patrick Brown, Project Engineer III

**RE:** ***JAMES FARM MASTER PLAN IMPLEMENTATION PHASE II  
FY 2021 ORPT Grant Request - Approval of Resolution***

**DATE:** September 29, 2020

Sussex County and the Delaware Center for Inland Bays (CIB) have a long-standing relationship with regards to the James Farm Ecological Preserve, beginning in 1998 with the first occupancy lease agreement. On September 19, 2017, Council granted a 20-year occupancy extension to the original agreement.

In 2016, a Master Plan was completed, detailing recreational, educational and preservation improvements which accommodate visitation growth. Several Phases of improvements were outlined by the Master Plan. Design and permitting of Phase I was completed in August 2017, focusing on the Cedar Neck Road entrance and on-site parking. On behalf of the CIB, Sussex County applied for a DNREC Outdoor Recreation Parks and Trail (ORPT) Grant and received \$67,000 through Agreement 18-247T. This funding coupled with County allocations allowed construction activities to begin. Council approved change order 1 on December 11, 2018 expanding the project to complete Phase 1, with substantial completion granted April 30, 2019.

In 2019 the County pre-applied for a DNREC ORPT grant with the funding match consisting of both CIB contributions and a County allocation of the FY 20 budget. Council approved submission of the grant application on August 13, 2019 with adoption of Resolution R 017 19. DNREC awarded \$82,250 by Agreement ORPT 19-190, allowing professional architectural & engineering services to be secured for design and permitting the partial implementation of Phase II improvements. A County selection process occurred and on April 28, 2020 Council authorized the Engineering Department to negotiate agreements with Kimley Horn & Associates for applicable work over a 5-year period. On June 30, 2020 Council authorized the agreement for Project C20-38, James Farm Master Plan Implementation: Phase 2 with a not-to-exceed fee of \$71,435.00 for design and permitting selected components from Phase II. The remaining allocated funds are intended for an initial Phase 2 construction activity to be presented to Council in the future.



Pre-application materials for a DNREC 2020 ORPT matching grant were submitted earlier this year. By letter dated June 11, 2020, DNREC recommended Sussex County submit a 2020 ORPT grant application not exceeding \$100,000.00, to further implement Phase 2 of the James Farm Ecological Preserve Master Plan.

The CIB developed the 2020 ORPT matching grant application materials in coordination with the Engineering Department. The application indicates that Sussex County would allocate the required funds over two fiscal years to provide the 2020 ORPT match requirement of \$100,000.00. All funding allocated by the County and awarded by DNREC will be utilized to further implement Phase 2 of the Master Plan, including construction of maintenance and education facilities, ADA compliant restrooms, and other related improvements selected as funding allows, with additional design and permitting work as applicable.

Therefore, the Engineering Department recommends adoption of the associated Resolution to approve and acknowledge application of the DNREC ORPT grant for 2020.



## RESOLUTION

### **TO SUBMIT A REQUEST TO THE DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL'S (DNREC) OUTDOOR RECREATION, PARKS AND TRAILS (ORPT) PROGRAM FOR A MATCHING GRANT TO FINANCE CONTINUED IMPLEMENTATION OF THE PHASE II JAMES FARM ECOLOGICAL PRESERVE MASTER PLAN**

**WHEREAS**, in 1998, Sussex County began leasing the property, known as the James Farm Ecological Preserve, to the Delaware Center for the Inland Bays, a non-profit organization, to provide property management, offer educational opportunities, and allow public outreach to foster sustainable use and enhancement of the Inland Bays watershed; and

**WHEREAS**, in 2014, Sussex County agreed with the Delaware Center for the Inland Bays for the need of a James Farm Ecological Preserve Master Plan, detailing site improvements to accommodate the significant growth in the number of visitors at the Preserve; and

**WHEREAS**, from 2015 through 2018, Sussex County, allocated funds allowing the Delaware Center for the Inland Bays to submit DNREC matching ORPT Grant requests, and having been awarded DNREC ORPT Grants, completed design, permitting and construction of Phase I of the James Farm Ecological Preserve Master Plan in partnership with the Delaware Center for the Inland Bays, as more particularly described in County Resolution R 017 19; and

**WHEREAS**, in 2019 Sussex County allocated \$42,000.00 of FY20 Budget allowing the Delaware Center for the Inland Bays, with constituent donations as well as EPA programmatic funding in a total amount of \$40,250.00, to submit a DNREC matching ORPT Grant request in the amount of \$82,250 for partial Phase II Implementation of the James Farm Ecological Preserve Master Plan; and

**WHEREAS**, the DNREC ORPT Grant was awarded allowing Sussex County and the Delaware Center for the Inland Bays, after a compliant selection process of Kimley Horn & Associates for a 5-year on-call professional services agreement, to enter an agreement for partial design and permitting of Phase II of the James Farm Ecological Preserve Master Plan; and

**WHEREAS**, in 2020 Sussex County received a recommendation from DNREC, based on their review of pre-application materials, to submit an ORPT matching Grant request in a not-to-exceed amount of \$100,000.00 to further support Phase II of the James Farm Ecological Preserve Master Plan; and

**NOW, THEREFORE, BE IT RESOLVED THAT** the Sussex County Council of Sussex County, Delaware hereby acknowledges its support of the ongoing operations and maintenance of the James Farm Ecological Preserve; Approves and acknowledges the Engineering Department's application and submission on behalf of the Delaware Center for the Inland Bays for a 2020 DNREC matching ORPT Grant in the amount of \$100,000.00 consisting of \$57,000.00 in allocated FY21 funds and a commitment to introduce an amount of at least \$43,000.00 in the FY22 Sussex County budget ordinance for assistance in the continued funding of Phase II Implementation of the James Farm Ecological Preserve Master Plan; and Furthermore designates the Delaware Center for the Inland Bays' Program Manager, Bob Collins, to serve as the ORPT Grant's Project Manager, in conjunction with the County Engineer, if an ORPT Grant is awarded.

**To Be Re-Introduced 09/29/20**

**Council District No. 4 - Hudson  
Tax I.D. No. 234-31.00-4.00 (portion of)  
911 Address: 37254 Sandpiper Road, Millsboro**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EXPANSION TO A RESTAURANT (SEASIDE BAR AND GRILL) WITHIN A MANUFACTURED HOME PARK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.3 ACRES, MORE OR LESS**

**WHEREAS, on the 27th day of May 2020, a conditional use application, denominated Conditional Use No. 2191, was filed on behalf of Al Tortella; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2191 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2020, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County 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 and XXIV, Subsections 115-22 and 115-172, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2191 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 at the end of Sandpiper Road in the Pot Nets Seaside development and being more particularly described in the attached legal description prepared by Ellis & Szabo, LLP, said parcel containing 1.3 acres, more or less.**

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

**To Be Introduced 09/29/2020**

**Council District 3 - Burton  
Tax I.D. No. 334-4.00-34.02 & 34.03  
911 Address: None Available**

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

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.5 ACRES, MORE OR LESS**

**WHEREAS, on the 18th day of August 2020, a zoning application, denominated Change of Zone No. 1927 was filed on behalf of Preston Lynch Dyer and Mason Dyer; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1927 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2020, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,**

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

**Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of AR-1 Agricultural Residential District and adding in lieu thereof the designation 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 Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the north side of Lewes Georgetown Highway (Route 9) approximately 0.12 mile west of the Josephs Road (S.C.R. 281) and being more particularly described in the attached legal description prepared by Parkowski, Guerke & Swayze, P.A., said parcel containing 2.5 acres, more or less.**

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

**To Be Introduced 09/29/2020**

**Council District 3 - Burton  
Tax I.D. No. 334-12.00—52.00 (Portion of)  
911 Address: None Available**

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

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 11.570 ACRES, MORE OR LESS**

**WHEREAS, on the 21st day of August 2020, a zoning application, denominated Change of Zone No. 1928 was filed on behalf of Plantation Partners, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1928 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2020, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,**

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

**Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of AR-1 Agricultural Residential District and adding in lieu thereof the designation 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 Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the southwest side of Plantations Road (S.C.R. 275) and the southeast side of Cedar Grove Road (S.C.R. 283) approximately 0.63 mile northwest of the John J. Williams Highway (Route 24) and being more particularly described in the attached legal description prepared by Davis, Bowen & Friedel, Inc., said parcel containing 11.570 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**

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sussexcountyde.gov

## Memorandum

To: Sussex County Council  
The Honorable Michael H. Vincent, President  
The Honorable Irwin G. Burton III, Vice President  
The Honorable Douglas B. Hudson  
The Honorable John L. Rieley  
The Honorable Samuel R. Wilson, Jr.

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

CC: Everett Moore, County Attorney

Date: September 24, 2020

RE: County Council Report for CU 2220 Sussex Land Company (Victor Little)

---

The Planning and Zoning Department received an application (CU 2220 filed on behalf of Sussex Land Company (Victor Little)) for a Conditional Use for parcel 230-20.00-9.09 to allow for a fence construction business and for outdoor storage of construction materials at 11412 Holly Tree Rd, Lincoln. The parcel is zoned AR-1 Agricultural Residential Zoning District. The parcel size is 6.0 acres, more or less.

The Planning and Zoning Commission held a public hearing in relation to the Conditional Use application on August 27, 2020. At the meeting of September 10, 2020, the Commission recommended approval of the application for the 7 reasons and 8 conditions outlined within the motion (included below).

Below are the approved minutes from the Planning & Zoning Commission meeting of August 27, 2020 and the draft minutes of the September 10, 2020 Planning & Zoning Commission meeting.

[Approved Minutes of the August 27, 2020 Planning & Zoning Commission Meeting](#)

### **C/U 2220 Sussex Land Company, LLC (Victor Little)**

**An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a fence construction business and for outdoor storage of construction materials to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 6.00 acres, more or less.** The property is lying on the west side of Holly Tree Road approximately 0.21 mile south of Fleatown Road (S.C.R. 224). 911 Address: 11412 Holly Tree Road, Lincoln. Tax Parcel: 230-20.00-9.09



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

Mr. Whitehouse advised the Commission that they have received a site plan, an exhibit book, a staff analysis, a copy of the DelDOT service level evaluation response, and comments from the Sussex County Engineering Department Utility Planning Division.

The Commission found that John Sergovic, Esquire was present on behalf of the Application, that also present is the Applicant, Victor Little; that Mr. Little has been in the fencing business in Sussex County for 21 years; that the business primarily services residential fencing needs; that the business has been at this location for approximately eight years; that included in the exhibit are some photographs which show that the business is screened from the view of neighbors; that there are deed restrictions for this subdivision; that Mr. Little has provided eight signatures of approval when seven would suffice; that DelDOT does not require a traffic study; that although this area is designated as a low-density area, it would make sense if it were developing area as there is a twelve-home subdivision and a railroad line which operates twice a day; that it is in compliance with the land use plan; and that this applicant is appropriate for recommendation of approval to County Council.

Mr. Little stated that his dwelling is approximately 200 ft. off the road; that the fencing for dogs extends approximately 180 ft beyond the dwelling and the pole building for the business is beyond that making it approximately 400 ft. from the road; that there is a 7 ft. tall wooden fence which extends beyond the pole building to the rear where trucks and fencing materials are stored; that the area used for his business cannot be seen from the road; that the public does not come to this location; that there is no showroom; that hours of operation would be Monday through Saturday from 7:00 a.m. – 6:00 p.m.; that no sign is being requested; and that lighting is not intrusive to neighbors.

The Commission found that one person spoke in favor of and none in opposition to the Application.

Ms. Annette Wright asked for clarification about the requested conditional use application.

Mr. Robertson explained that there are restrictive deed covenants for this subdivision; that to change the covenant, seven signatures from subdivision property owners would be required; that the applicant provided eight signatures; and that the change would only apply to this property.

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

At the conclusion of the Public Hearings, the Commission discussed C/U 2220 – Sussex Land Company, LLC (Victor Little). Motion by Ms. Stevenson, second by Ms. Wingate, to defer action for further consideration. Motion carried 5-0.

#### Draft Minutes of September 10, 2020 Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since August 27, 2020.

Ms. Stevenson moved that the Commission recommend approval for Conditional Use 2220 Sussex Land Company, LLC (Victor Little) based upon the record made during the Public Hearing and for the following reasons:

1. There is a need for this type of use in this area of Sussex County. The Applicant stated that this site is centrally located in the County.
2. The applicant has stated that the work is mostly performed offsite, and that retail sales will not occur on the site.
3. The use does not require any regular deliveries during the day. The only traffic is typically in the morning and afternoon when employees take the equipment to offsite job locations. Most of the materials are delivered to the off-site location where a fence will be built.
4. The Applicant stated that he will reside on the site. His residence is set back approximately 200 feet from the roadway, and the area where the fencing business is located is another 180 feet or so beyond that. The pole barn associated with the fencing business is approximately 400 feet from the roadway and cannot easily be seen from the road.
5. The Applicant presented an approved amendment to the restrictive covenants governing the property which will allow this use to occur on this property. In addition, one letter in support of the application was provided.
6. With the conditions and limitations of this approval, the use will not adversely affect neighboring properties, roadways or traffic.
7. The applicant has stated that his company provides a service to Sussex County by providing a conveniently located fencing business. This use is of a public or semi-public character that will benefit the residents and businesses of Sussex County.
8. This recommendation is subject to the following conditions:
  - a. This use shall be limited to the applicant's fencing business and storage of equipment and materials related to that use. No retail sales or other business shall be conducted from the site.
  - b. The hours of operation shall be limited to 7:00 am through 6:00 pm, Monday through Saturday.
  - c. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
  - d. The applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.
  - e. All maintenance of vehicles and equipment associated with the use shall be performed indoors.
  - f. The Final Site Plan shall clearly show all areas for vehicle and equipment parking and material storage. These areas shall also be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.
  - g. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.
  - h. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Ms. Wingate, and carried unanimously to recommend approval for the reasons and with the conditions stated in the Motion. Motion carried 5-0.

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

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JAMIE WHITEHOUSE, AICP, MRTPI  
DIRECTOR

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date August 27, 2020.

Application: (CU 2220) Sussex Land Company

Applicant: Victor Little  
11412 Holly Tree Road  
Lincoln, DE 19966

Owner: Mark A. Casey  
28517 Warwick Road  
Millsboro, DE 19960

Site Location: Located on the west side of Holly Tree Road, approximately 0.21 mile south of Fleatown Road

Current Zoning: Agricultural Residential (AR-1)

Proposed Use: Fence Construction Business and Outside Storage of Construction Materials

Comprehensive Land Use Plan Reference: Low Density

Councilmanic District: Mr. Burton

School District: Milford School District

Fire District: Ellendale Fire District

Sewer: Private, On-Site

Water: Private, On-Site

Site Area: 6.00 acres +/-

Tax Map ID: 230-20.00-9.09





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**Sussex County**

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## Memorandum

To: Sussex County Planning Commission Members  
From: Lauren DeVore, Planner III  
CC: Vince Robertson, Assistant County Attorney and applicant  
Date: August 21, 2020  
RE: Staff Analysis for CU 2220 Sussex Land Company

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This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2220 Sussex Land Company to be reviewed during the August 27, 2020 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 230-20.00-9.09 to allow for a fence construction business and for outdoor storage of construction materials to be located on the west side of Holly Tree Road, approximately 0.21 mile south of Fleatown Road. The property address is 11412 Holly Tree Road in Lincoln, Delaware. The size of the property is 6.00 acres +/-

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

The adjacent parcels to the north, south and east are also designated as "Low Density Areas." The primary uses envisioned in "Low Density Areas" are agricultural activities and homes. Business development should be largely confined to businesses addressing the needs of these two uses. Industrial and agribusiness uses that support or depend on agriculture should be permitted. The focus of retail and office uses in "Low Density Areas" should be providing convenience goods and services to nearby residents. Commercial uses in these residential areas should be limited in their location, size and hours of operation. More intense commercial uses should be avoided in these areas.

The properties to the west of the parcel are designated as a "Developing Area." "Developing Areas" are newer, emerging growth areas that demonstrate the characteristics of developmental pressures. A range of housing types are appropriate in "Developing Areas," including single family homes, townhouses, and multi-family units. In selected areas and at appropriate intersections, commercial uses should be allowed. A variety of office uses would be appropriate in many areas. Portions of the "Developing Areas" with good road access and few nearby homes should allow for business and industrial parks. Appropriate mixed-use development should also be allowed. In doing so, careful mixtures of homes with light commercial and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home.



Additionally, the property is zoned Agricultural Residential (AR-1) Zoning District. The properties located to the north, south, and east of the subject site are zoned Agricultural Residential (AR-1) Zoning District. The properties located to the west are zoned General Residential (GR), with a single property off of Fleatown Road being zoned Heavy Industrial (HI-1) Zoning District.

Since 2011, there has been one Conditional Use application within a 1-mile radius of the application site. This application is Conditional Use (CU 2218), which was a proposal to allow for a small machine shop to be located within an Agricultural Residential (AR-1) Zoning District. This application was dismissed by the Planning and Zoning Commission at their meeting of Thursday, August 13, 2020 on the basis that the proposed use could be permitted as a home occupation. This application is scheduled to be heard by County Council at their upcoming meeting scheduled for Tuesday, September 22, 2020.




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



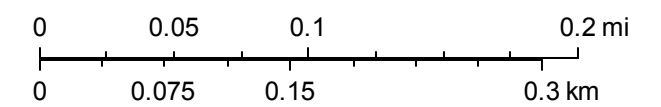
# Sussex County



<b>PIN:</b>	230-20.00-9.09	
<b>Owner Name</b>	SUSSEX	LAND COMPANY LLC
<b>Book</b>	4534	
<b>Mailing Address</b>	25051 WARD FARM LN	
<b>City</b>	MILLSBORO	
<b>State</b>	DE	
<b>Description</b>	RAILROAD MEADOWS	
<b>Description 2</b>	LOT 7 CT#49834	
<b>Description 3</b>	N/A	
<b>Land Code</b>		

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

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# Sussex County



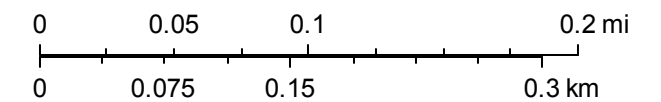
<b>PIN:</b>	230-20.00-9.09	
<b>Owner Name</b>	SUSSEX	LAND COMPANY LLC
<b>Book</b>	4534	
<b>Mailing Address</b>	25051 WARD FARM LN	
<b>City</b>	MILLSBORO	
<b>State</b>	DE	
<b>Description</b>	RAILROAD MEADOWS	
<b>Description 2</b>	LOT 7 CT#49834	
<b>Description 3</b>	N/A	
<b>Land Code</b>		

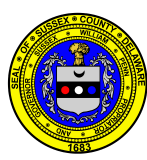
- polygonLayer

Override 1
- polygonLayer

Override 1
- Tax Parcels
- Streets
- County Boundaries

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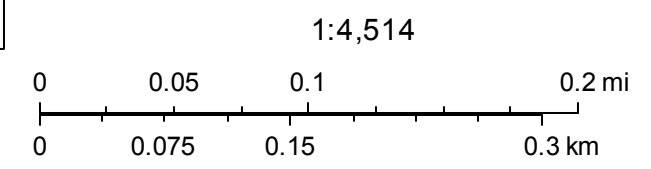


# Sussex County



<b>PIN:</b>	230-20.00-9.09	
<b>Owner Name</b>	SUSSEX	LAND COMPANY LLC
<b>Book</b>	4534	
<b>Mailing Address</b>	25051 WARD FARM LN	
<b>City</b>	MILLSBORO	
<b>State</b>	DE	
<b>Description</b>	RAILROAD MEADOWS	
<b>Description 2</b>	LOT 7 CT#49834	
<b>Description 3</b>	N/A	
<b>Land Code</b>		

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



**Introduced 01/28/20**

**Council District No. 3 – Burton  
Tax I.D. No. 230-20.00-9.09  
911 Address: 11412 Holly Tree Road, Lincoln**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FENCE CONSTRUCTION BUSINESS AND FOR OUTDOOR STORAGE OF CONSTRUCTION MATERIALS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6.00 ACRES, MORE OR LESS**

**WHEREAS, on the 7th day of January 2020, a conditional use application, denominated Conditional Use No. 2220, was filed on behalf of Sussex Land Company, LLC (Victor Little); and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2220 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2020, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County 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. 2220 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 Cedar Creek Hundred, Sussex County, Delaware, and lying on the west side of Holly Tree Road, approximately 0.21 mile south of Fleatown Road, and being more particularly described in the attached legal description prepared by The Smith Firm, LLC, said parcel containing 6.00 acres, more or less.**

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

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

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## Memorandum

To: Sussex County Council  
The Honorable Michael H. Vincent, President  
The Honorable Irwin G. Burton III, Vice President  
The Honorable Douglas B. Hudson  
The Honorable John L. Rieley  
The Honorable Samuel R. Wilson, Jr.

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

CC: Everett Moore, County Attorney

Date: September 24, 2020

RE: County Council Report for CU 2226 Johnathan E. and Karen M. Hearn

---

The Planning and Zoning Department received an application (CU 2226 filed on behalf of Jonathan E. and Karen M. Hearn) for a Conditional Use for parcel 131-18.00-33.00 (part of) to allow for an events venue at 8275 Cannon Road, Seaford. The parcel is zoned AR-1 Agricultural Residential Zoning District. The parcel size is 3.024 acres, more or less.

The Planning and Zoning Commission held a public hearing in relation to the Conditional Use application on August 27, 2020. At the meeting of September 10, 2020, the Commission recommended approval of the application for the 8 reasons and 5 conditions outlined within the motion (included below).

Below are the approved minutes from the Planning & Zoning Commission meeting of August 27, 2020 and the draft minutes of the September 10, 2020 Planning & Zoning Commission meeting.

Approved Minutes of the August 27, 2020 Planning & Zoning Commission Meeting

### **C/U 2226 Jonathan E. & Karen M. Hearn**

**An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for an events venue to be located on a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, containing 3.024 acres, more or less.** The property is lying on the north side of Cannon Rd. approximately 0.92 mile west of Sussex Hwy. (Route 13). 911 Address 8275 Cannon Road, Seaford. Tax Parcel: 131-18.00-33.00 (part of)

Mr. Whitehouse advised the Commission that they have received an applicant site plan, a staff analysis, a copy of the DelDOT service level evaluation response, comments from the Sussex County Engineering Department Utility Planning Division, and an exhibit book with eight (8) letters of



support.

The Commission found that John Murray, The Kersher Group was present on behalf of the Application, that also present is the Applicant, Jonathan Hearn; that the Hearn Group which is owned by Jonathan and Karen Hearn is proposing a 4,800 square foot reception hall/venue on the subject parcel; that it is located on 3.024 acres and located on the north side of Cannon Road; that it is approximately 0.86 mile to Route 13 and 3 miles to the center of Bridgeville town center; that the venue could be rented for wedding receptions, reunions, parties and other gatherings; that the proposed hall is situated towards the rear of the property; that per Sussex County Code 84 parking spaces are required; that the Applicant is proposing 96 parking spaces; that the front of the property will be landscaped to screen the parking lot from Cannon Road; that the property would be served by a private well and septic system; that this was approved by DNREC on March 13, 2020; that no wetlands will be within the subject parcel as the proposal is only on part of tax parcel 131-18.00-33.00; that Sussex County Future Land Use Map identifies the property as being within the developing area; that the property is in the level three investment area per the State Planning and Coordination Strategies for State spending; that the level three investment area is defined as an area which is suburbanizing and a growth area; that stormwater management has been discussed with the Sussex County Conservation District; that following a meeting with DelDOT the entrance to the site will be moved to share the entrance to the residential site which is the dwelling of the Applicant; that DelDOT does not require a traffic impact study; that the preliminary site plan has been approved by the State Fire Marshall's office; that eight letters of support from neighboring properties has been submitted; that proposed findings of fact and conditions have been submitted by the Applicant; that the hours of operation would be Monday through Friday noon – 10:30 p.m. and Saturday and Sunday 8:00 a.m. – 10:30 p.m.; that the parking lot will be paved;

Mr. Hearn stated that the chicken houses located near this property are no longer in use; that he has spoken with neighbors and has their support; that the building will have sound damping devices and good acoustics; that he requests permission to place a sign; that all lighting will be downward screened;

One person spoke in favor of and none in opposition to the Application.

Dave Speicher stated that he is related to the Applicants and lives approximately a half mile from the proposed venue; that this will be a great opportunity for western Sussex County; that there are very few event venues in this area and people have to travel to the east side of the County; that it will attract visitors to the area; that it will be a positive image and be positive for the economy of western Sussex County.

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

At the conclusion of the Public Hearings, the Commission discussed C/U 2226 – Jonathan E. & Karen M. Hearn. Motion by Mr. Hopkins, second by Ms. Wingate, to defer action for further consideration. Motion carried 5-0.



Draft Minutes of September 10, 2020 Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since August 27, 2020.

Mr. Hopkins moved that the Commission recommend approval for Conditional Use 2226 Jonathan E. & Karen M. Hearn based upon the record made during the Public Hearing and for the following reasons:

1. The site is 3.024 acres of a larger a 17.26-acre parcel of land owned by the applicant. The use will occur within a structure set back from the roadway.
2. The property is less than a mile from Route 13 and approximately 3 miles from the center of Bridgeville. This is an appropriate location for this type of use.
3. The applicants will continue to reside on the property during its operation as an event venue.
4. The applicants intend to hold events that include weddings, birthday parties and similar events.
5. The site will have sufficient areas for parking.
6. With the conditions and limitations placed upon the Conditional Use, it will not adversely affect neighboring or adjacent properties or area roadways.
7. There is a need for this type of use in western Sussex County, and it will provide an economic benefit to this area of the County.
8. No parties appeared in opposition to this application, and one person appeared in support of it. The record also contains 8 letters in support of the application.
9. This recommendation is subject to the following conditions:
  - a. Food and beverage service and music or similar entertainment is permitted. As stated by the Applicant, food and beverage service shall be provided by catering services, as there will not be any kitchen facilities on-site.
  - b. All parking areas shall be shown on the Final Site Plan. No parking shall be permitted on any nearby County Roads.
  - c. All entrance locations shall be subject to the review and approval of DelDOT.
  - d. All events shall conclude prior to 10:30 at night.
  - e. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried unanimously to recommend approval for the reasons and with the conditions stated in the Motion. Motion carried 5-0.

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

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JAMIE WHITEHOUSE, MRTPI, AICP  
DIRECTOR

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: August 27, 2020

Application: (CU 2226) Jonathan E. & Karen M. Hearn

Applicant/Owner: Jonathan E. & Karen M. Hearn  
8275 Cannon Road  
Seaford, DE 19973

Site Location: Located on the north side of Cannon Road approximately 0.92 mile west of  
Sussex Hwy (Route 13)

Current Zoning: AR-1 (Agricultural Residential District)

Proposed Use: An Events Venue

Comprehensive Land  
Use Plan Reference: Developing Area

Councilmanic  
District: Mr. Vincent

School District: Woodbridge School District

Fire District: Bridgeville Fire District

Sewer: Septic

Water: Private

Site Area: 17.26 Acres +/-

Tax Map ID.: 131-18.00-33.00 (portion of)



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jamie.whitehouse@sussexcountyde.gov



**Sussex County**

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sussexcountyde.gov

## Memorandum

To: Sussex County Planning Commission Members  
From: Lauren DeVore, Planner III  
CC: Vince Robertson, Assistant County Attorney and applicant  
Date: August 21, 2020  
RE: Staff Analysis for CU 2226 Jonathan E. & Karen M. Hearn

---

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2226 Jonathan E. & Karen M. Hearn to be reviewed during the August 27, 2020 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 a portion of tax parcel 131-18.00-33.00 to allow for an events venue to be located on the north side of Cannon Road, approximately 0.92 mile west of Sussex Highway (Route 13). The property address is 8275 Cannon Road (Route 18), Seaford, Delaware. The size of the property is 3.024 acres +/-

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

The properties to the south, east and west of the parcel are also designated as “Developing Areas.” “Developing Areas” are newer, emerging growth areas that demonstrate the characteristics of developmental pressures. A range of housing types are appropriate in “Developing Areas,” including single family homes, townhouses, and multi-family units. In selected areas and at appropriate intersections, commercial uses should be allowed. A variety of office uses would be appropriate in many areas. Portions of the “Developing Areas” with good road access and few nearby homes should allow for business and industrial parks. Appropriate mixed-use development should also be allowed. In doing so, careful mixtures of homes with light commercial and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home.

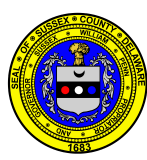
The parcel to the north has the land use designation of “Municipalities” and is located within the incorporated limits of the Town of Bridgeville.

Additionally, the property is zoned Agricultural Residential (AR-1) Zoning District. The properties located to the east, west and south of the subject site are zoned Agricultural Residential (AR-1) Zoning District.



Since 2011, there have been no Conditional Use applications within a 1-mile radius of the application site.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use for the abovementioned use, subject to considerations of scale and impact, may be considered as being consistent with the land use, area zoning and surrounding uses.



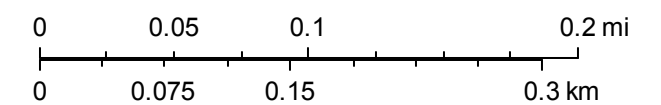
# Sussex County

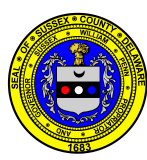


<b>PIN:</b>	131-18.00-33.00
<b>Owner Name</b>	HEARN JONATHAN EDISON KAREN
<b>Book</b>	4306
<b>Mailing Address</b>	8275 CANNON RD
<b>City</b>	BRIDGEVILLE
<b>State</b>	DE
<b>Description</b>	CANNONGEORGETOWN
<b>Description 2</b>	N RT 18 ACROSS FROM
<b>Description 3</b>	RT 46 FX
<b>Land Code</b>	

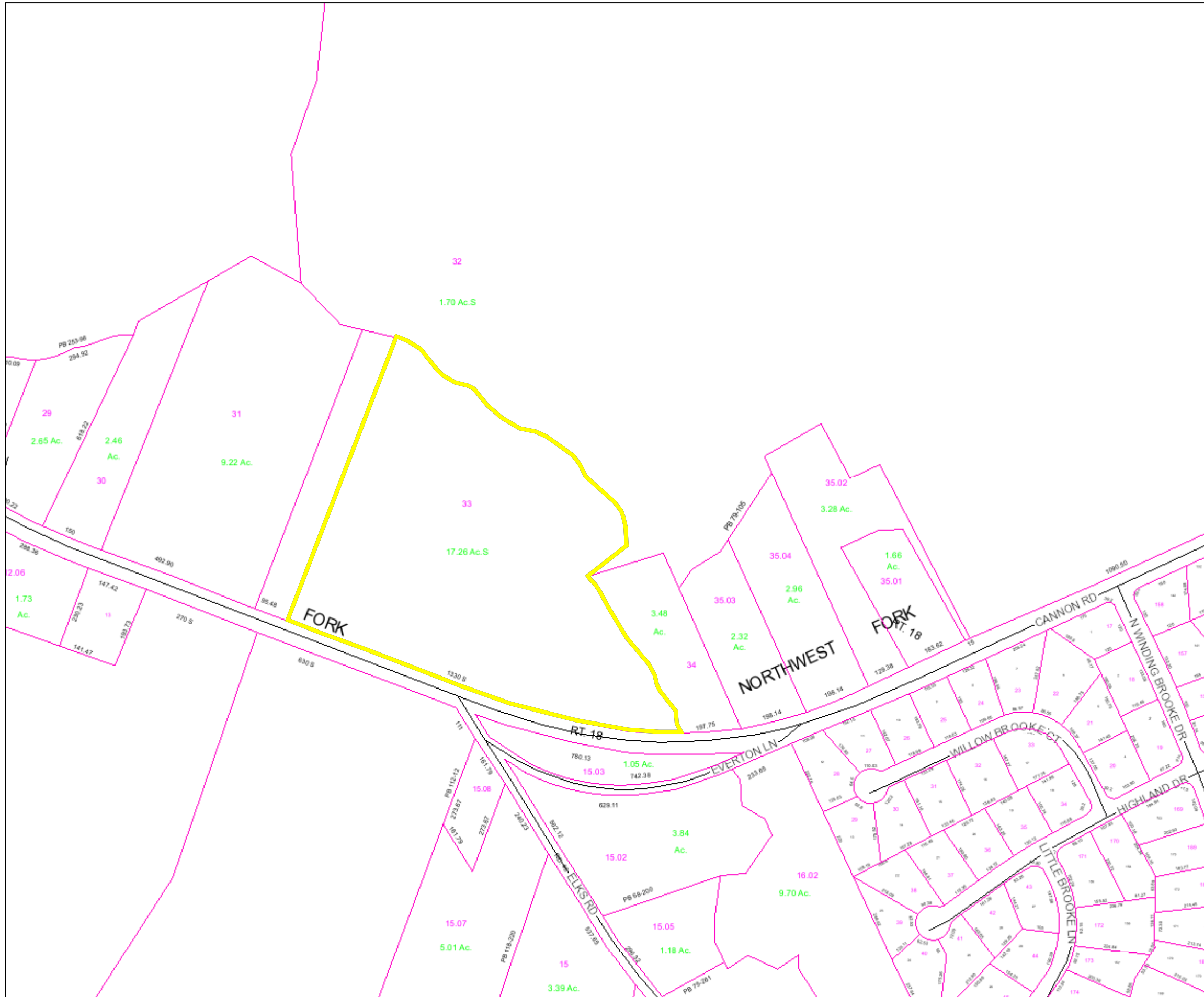
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- Override 1
- Tax Parcels
- Streets
- County Boundaries

1:4,514





# Sussex County



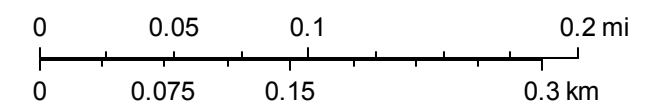
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<b>Owner Name</b>	HEARN JONATHAN EDISON KAREN
<b>Book</b>	4306
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<b>Description</b>	CANNONGEORGETOWN
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<b>Land Code</b>	

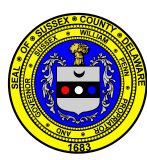
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- polygonLayer**

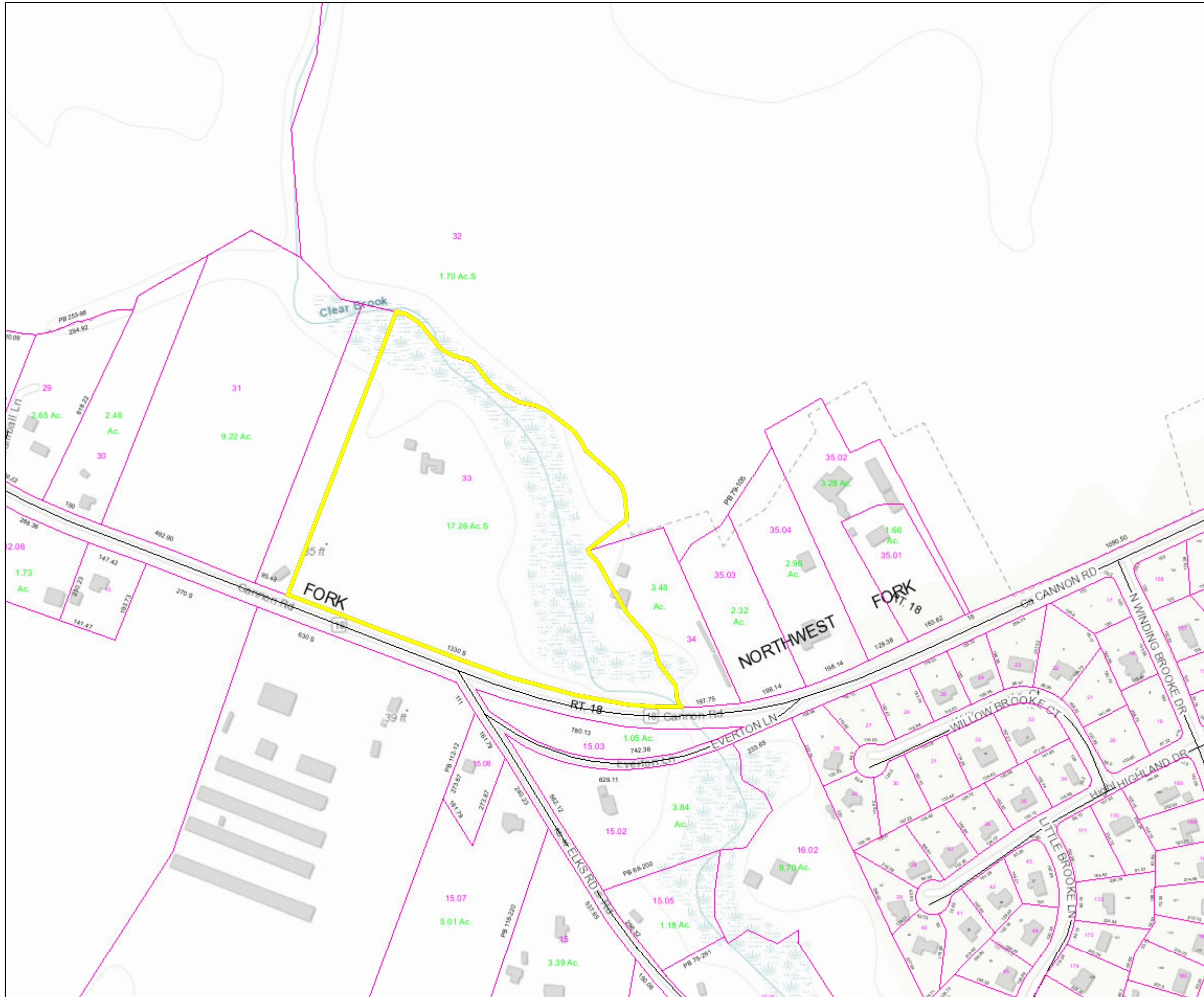
Override 1
- Tax Parcels
- Streets
- County Boundaries

1:4,514





# Sussex County



<b>PIN:</b>	131-18.00-33.00
<b>Owner Name</b>	HEARN JONATHAN EDISON KAREN
<b>Book</b>	4306
<b>Mailing Address</b>	8275 CANNON RD
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<b>State</b>	DE
<b>Description</b>	CANNONGEORGETOWN
<b>Description 2</b>	N RT 18 ACROSS FROM
<b>Description 3</b>	RT 46 FX
<b>Land Code</b>	

**polygonLayer**

Override 1

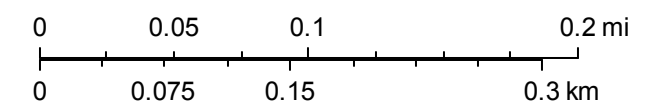
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Override 1

Tax Parcels

Streets

1:4,514



**Introduced 06/09/20**

**Council District 1 - Vincent  
Tax I.D. No. 131-18.00-33.00 (Part Of)  
911 Address: 8275 Cannon Road, Seaford**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 (AGRICULTURAL RESIDENTIAL DISTRICT) FOR AN EVENTS VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 3.024 ACRES, MORE OR LESS**

**WHEREAS, on the 13th day of February 2020, a conditional use application, denominated Conditional Use No. 2226 was filed on behalf of Jonathan E. & Karen M. Hearn; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2226 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2020, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County 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. 2226 as it applies to the property hereinafter described.**

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

**ALL that certain tract, piece or parcel of land, lying and being situate in Northwest Fork Hundred, Sussex County, Delaware, and lying on the north side of Cannon Road approximately 0.92 mile west of Sussex Hwy. (Route 13) and being more particularly described in the attached legal description prepared by Miller-Lewes, Inc. Land Surveying, said parcel containing 3.024 acres, more or less.**

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



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



**Sussex County**

DELAWARE  
sussexcountyde.gov

## Memorandum

To: Sussex County Council  
The Honorable Michael H. Vincent, President  
The Honorable Irwin G. Burton III, Vice President  
The Honorable Douglas B. Hudson  
The Honorable John L. Rieley  
The Honorable Samuel R. Wilson, Jr.

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

CC: Everett Moore, County Attorney

Date: September 24, 2020

RE: County Council Report for CU 2229 D.R's Lawn Maintenance, LLC

---

The Planning and Zoning Department received an application (CU 2229 filed on behalf of D.R's Lawn Maintenance, LLC) for a Conditional Use for parcel 135-16.00-43.09 to allow for landscaping and lawn maintenance business at 25479 Hollis Road, Harbeson. The parcel is zoned AR-1 Agricultural Residential Zoning District. The parcel size is 5.678 acres, more or less.

The Planning and Zoning Commission held a public hearing in relation to the Conditional Use application on August 27, 2020. At the meeting of September 10, 2020, the Commission recommended approval of the application for the 8 reasons and 13 conditions outlined within the motion (included below).

Below are the approved minutes from the Planning & Zoning Commission meeting of August 27, 2020 and the draft minutes of the September 10, 2020 Planning & Zoning Commission meeting.

Approved Minutes of the August 27, 2020 Planning & Zoning Commission Meeting

### **C/U 2229 D.R.'s Lawn Maintenance, LLC**

**An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a landscaping and lawn maintenance business on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 5.678 acres, more or less.** The property is lying on the north side of Hollis Rd. (S.C.R. 295), approximately 0.38 mile east of the intersection of Gravel Hill Rd. (Rt. 30) & Hollis Rd. (S.C.R. 295). 911 Address: 25479 Hollis Rd., Harbeson. Tax Parcel: 135-16.00-43.09

Mr. Whitehouse advised the Commission that they have received an applicant survey plan, a staff analysis, and comments from the Sussex County Engineering Department Utility Planning Division.



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

The Commission found that Ms. Mackenzie Peet, Esquire was present on behalf of the Application, that also present is the Applicant, Devon Rice; that D.R.'s Lawn Maintenance, LLC has been in business serving Sussex County for 15 years; that the previous location for this business was on Beaver Dam Road which also had a conditional use; that the business has outgrown that property and moved to the subject property in 2019; that the Applicant is seeking a conditional use for the subject property; that the property is 5.678 acres and the portion dedicated to the business will occupy approximately 0.62 acre; that the 2018 Sussex County Comprehensive Plan and the Sussex County Future Land Use Map identify the area as low-density area; that this use is consistent with the land use area zoning; that the Applicant's dwelling is also on this parcel and is located to the front of the property; that the property is heavily vegetated and screens the business from the view of neighbors; that there is a 1,600 square foot pole building on the parcel for the business; that the hours of operation are 7:00 a.m. – 6:30 p.m. during the summer months and 8:00 a.m. – 6:30 p.m. in the winter months; that there may be some days where the business may have alternate hours due to weather conditions; that there are 8-9 trucks and 10-11 trailers which will be stored on-site; that the business has 18 employees with on-site gravel parking area provided for them; that mulch, stone and top-soil is stored on-site; that the Applicant has spoken with neighbors and is considering privacy fencing to further screen the business from the view of neighbors; and that the location of this business is compatible with surrounding uses and is buffered with vegetation.

Mr. Rice stated that all debris will be removed from the subject property; that oil-changes for the vehicles may be completed on-site but vehicles are taken to a mechanic shop for all other repairs; oil is disposed of at the transfer station on Route 5 or at the mechanic's shop; and that a sign is not requested.

The Commission found that two people spoke in favor of and none in opposition to the Application.

Ms. Donna Atkinson stated that she and her husband, Jesse are neighbors; that if a fence is installed, they would support the Application; and that the Applicant has improved the property.

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

At the conclusion of the Public Hearings, the Commission discussed C/U 2229 – D.R.'s Lawn Maintenance, LLC. Motion by Ms. Stevenson, second by Ms. Wingate, to defer action for further consideration. Motion carried 5-0.

#### Draft Minutes of September 10, 2020 Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since August 27, 2020.

Ms. Stevenson moved that the Commission recommend approval for Conditional Use 2229 D.R.'s Lawn Maintenance, LLC based upon the record made during the Public Hearing and for the following reasons:

1. The site is part of a 5.678-acre parcel. The conditional use will only occupy approximately .62 acres of the entire site.
2. The site is located within a Low-Density Area according to the Sussex County Comprehensive Plan. This low impact type of use is appropriate within this Area.
3. The site is heavily vegetated, which will screen the use from neighboring properties.
4. The property is zoned AR-1 Agricultural Residential. The use of the property as a landscaping business is consistent with the underlying agricultural zoning of the property.
5. The use will not adversely affect area roadways or neighboring properties.
6. The applicant has stated that his landscaping company provides a service to a wide variety of Sussex County residents and businesses. This intended use is of a public or semi-public character that will benefit the residents and businesses of Sussex County.
7. Two people spoke in favor of the application, including one of the neighboring property owners.
8. The Applicant has stated that he will reside upon the property.
9. This recommendation is subject to the following conditions:
  - a. This use shall be limited to a landscaping and lawn care business. The use shall only occupy a .62-acre portion of the entire site, and this area shall be shown on the Final Site Plan.
  - b. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials and the dyeing of mulch or similar materials.
  - c. As stated by the Applicant, there shall not be any retail sales occurring from the site.
  - d. A sign was not requested by the Applicant, so no sign shall be permitted on the site.
  - e. The hours of operation shall be limited to 7:00 am through 6:30 pm, Monday through Saturday. There shall not be any Sunday hours. The Applicant shall be able to operate beyond these hours on an as - needed basis for limited situations such as snow removal, storm damage cleanup, and similar events.
  - f. There shall not be any dumping of trees, branches, grass or other debris on the site.
  - g. The on-site storage of mulch, stone, topsoil and similar materials shall be located in bins or enclosures. The location of these storage areas shall be shown on the Final Site plan.
  - h. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
  - i. The applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.
  - j. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.
  - k. The Applicant has stated that a privacy fence will be installed along the common boundary with one of the neighboring properties. The location and type of fencing shall be shown on the Final Site Plan.
  - l. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.
  - m. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Ms. Wingate, and carried unanimously to recommend approval for the reasons and with the conditions stated in the Motion. Motion carried 5-0.

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

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

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: August 27, 2020

Application: CU 2229 D.R.'s Lawn Maintenance, LLC

Applicant/Owner: Devin S. Rice  
25479 Hollis Road  
Harbeson, DE 19951

Site Location: 25479 Hollis Rd. On the north side of Hollis Rd. (S.C.R. 295),  
approximately 0.38 miles east of Gravel Hill Rd. (Rt. 30)

Current Zoning: AR-1 (Agricultural Residential District)

Proposed Use: Landscaping and Lawn Maintenance Business

Comprehensive Land  
Use Plan Reference: Low Density

Councilmatic  
District: Mr. Burton

School District: Indian River School District

Fire District: Georgetown Volunteer Fire Company

Sewer: Septic

Water: Private

Site Area: 5.678 Acres +/-

Tax Map ID.: 135-16.00-43.09



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



# Sussex County

DELAWARE  
sussexcountype.gov

## Memorandum

To: Sussex County Planning Commission Members  
From: Christin Headley, Planner I  
CC: Vince Robertson, Assistant County Attorney and applicant  
Date: August 20<sup>th</sup>, 2020  
RE: Staff Analysis for CU 2239 D.R.'s Lawn Maintenance, LLC

---

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2229 D.R.'s Lawn Maintenance, LLC to be reviewed during the August 27<sup>th</sup>, 2020 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 parcel 135-16.00-43.09 to allow for a Landscaping & Lawn Maintenance business. The size of the property is 5.678 acre +/- . The property is zoned AR-1 (Agricultural Residential Zoning District) and located at 25479 Hollis Rd. on the north side of Hollis Rd. (S.C.R. 295) approximately 0.38 miles east of Gravel Hill Rd. (Rt. 30).

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

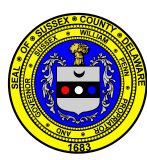
The surrounding parcels to the southwest, west, and northwest are all designated on the Future Land Use Map as "Low Density". The uses that the Low-Density Area land use designation recognizes are primarily agricultural activities and homes. Business development should be largely confined to businesses addressing the needs of these two uses. Industrial and agribusiness uses that support or depend on agriculture should be permitted. The focus of retail and office uses in Low Density should be providing convenience goods and services to nearby residents. Commercial uses in these residential areas should be limited in their location, size and hours of operation. More intense commercial uses should be avoided in these areas.

The property is zoned AR-1 (Agricultural Residential Zoning District). The adjoining and surrounding properties located within the county jurisdiction to the southwest, west, and northwest are all zoned AR-1 (Agricultural Residential Zoning District).

Since 2011, there have been no Conditional Use approvals within a 1-mile radius of the application.

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





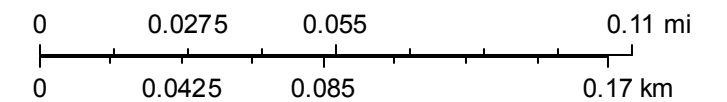
# Sussex County



<b>PIN:</b>	135-16.00-43.09
<b>Owner Name</b>	RICE DEVIN SHEA
<b>Book</b>	5145
<b>Mailing Address</b>	17834 BEAVER DAM RD
<b>City</b>	LEWES
<b>State</b>	DE
<b>Description</b>	N/RT 295
<b>Description 2</b>	1580' E/RT 30
<b>Description 3</b>	24078
<b>Land Code</b>	

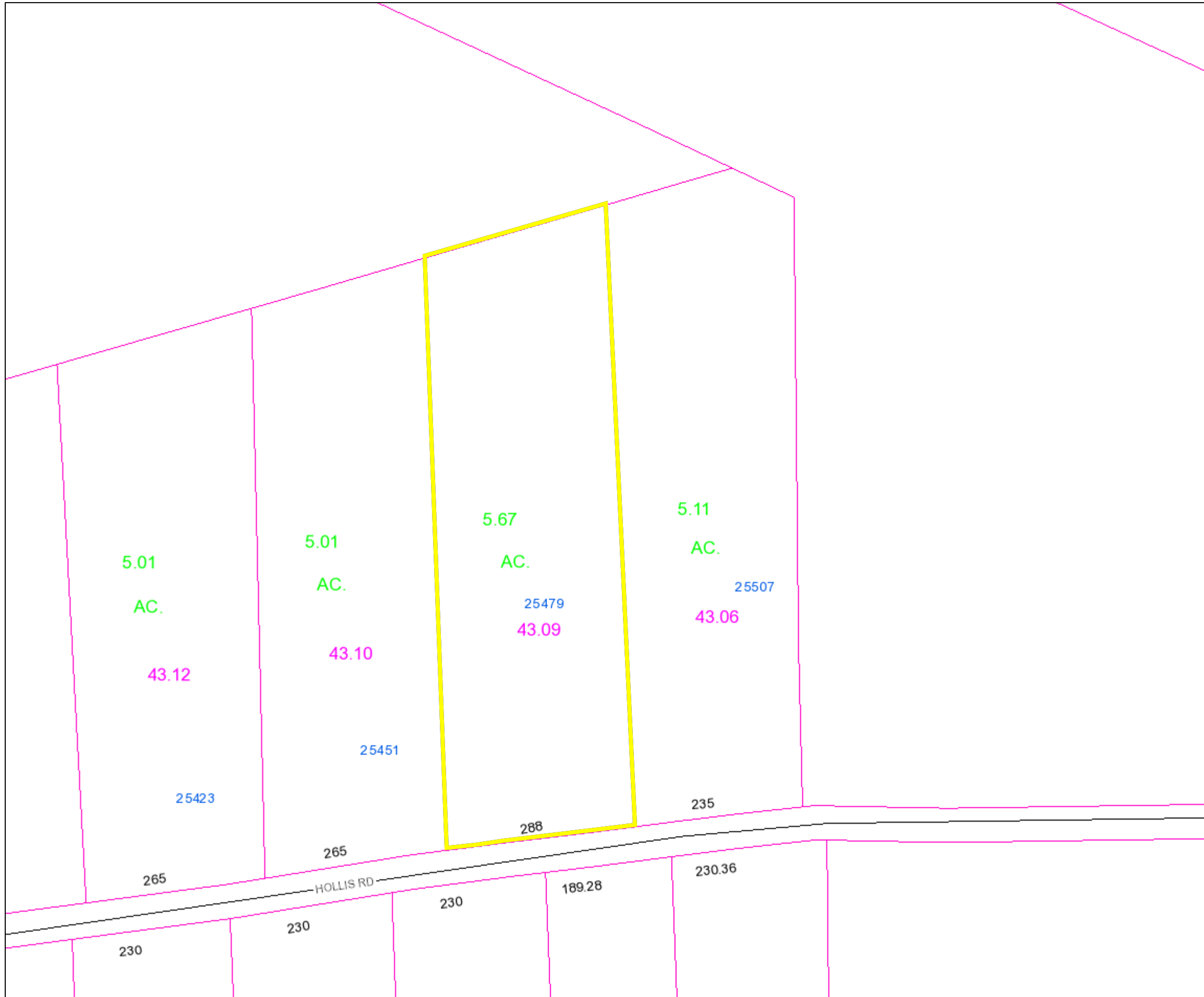
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- Tax Parcels
- 911 Address
- Streets

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# Sussex County



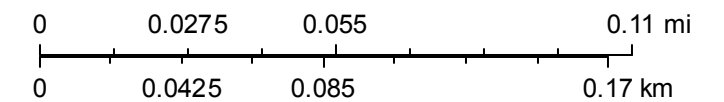
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  - Override 1
- polygonLayer**

  - Override 1
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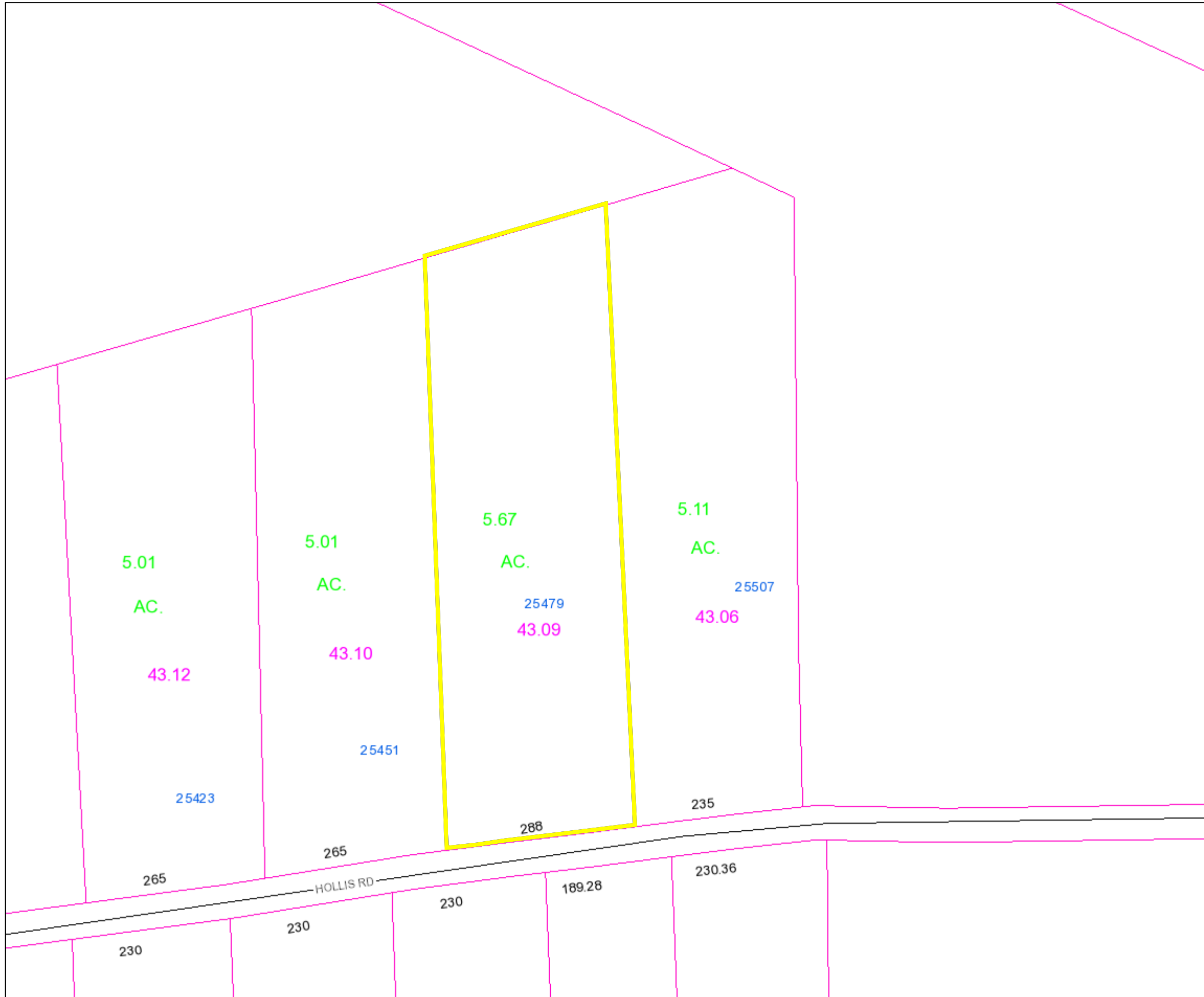
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# Sussex County



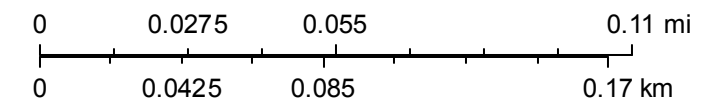
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<b>Land Code</b>	

- polygonLayer**

  - Override 1
- polygonLayer**

  - Override 1
- Tax Parcels
- 911 Address
- Streets

1:2,257



**Introduced 06/30/20**

**Council District 3 - Burton  
Tax I.D. No. 135-16.00-43.09  
911 Address 25479 Hollis Rd, Harbeson**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING AND LAWN MAINTENANCE BUSINESS ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.678 ACRES, MORE OR LESS**

**WHEREAS, on the 10<sup>th</sup> day of March 2020, a conditional use application, denominated Conditional Use No. 2229 was filed on behalf of D.R.'s Lawn Maintenance, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2229 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2020, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County 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. 2229 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 Georgetown Hundred, Sussex County, Delaware, and lying on the north side of Hollis Rd (S.C.R. 295) approximately 0.38 mile east of the intersection of Gravel Hill Rd. (Rt 30) and Hollis Rd (S.C.R. 295) and being more particularly described in the attached legal description prepared by The Smith Firm, LLC, said parcel containing 5.678 acres, more or less.**

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

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



**Sussex County**

DELAWARE  
sussexcountyde.gov

## Memorandum

To: Sussex County Council  
The Honorable Michael H. Vincent, President  
The Honorable Irwin G. Burton III, Vice President  
The Honorable Douglas B. Hudson  
The Honorable John L. Rieley  
The Honorable Samuel R. Wilson, Jr.

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

CC: Everett Moore, County Attorney

Date: September 24, 2020

RE: County Council Report for CU 2230 Ralph A. Kemmerlin, Sr.

---

The Planning and Zoning Department received an application (CU 2230 filed on behalf of Ralph A. Kemmerlin, Sr.) for a Conditional Use for parcel 330-11.18-41.00 to allow for a professional gunsmithing business at 19306 Elks Lodge Rd, Milford. The parcel is zoned AR-1 Agricultural Residential Zoning District. The parcel size is 0.74 acres, more or less.

The Planning and Zoning Commission held a public hearing in relation to the Conditional Use application on August 27, 2020. At the meeting of September 10, 2020, the Commission recommended approval of the application for the 9 reasons and 6 conditions outlined within the motion (included below).

Below are the approved minutes from the Planning & Zoning Commission meeting of August 27, 2020 and the draft minutes of the September 10, 2020 Planning & Zoning Commission meeting.

### Approved Minutes of the August 27, 2020 Planning & Zoning Commission Meeting

#### **C/U 2230 Ralph A. Kemmerlin, Sr.**

**An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a professional gunsmithing business to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 0.74 acres, more or less.** The property is lying on the south side of the intersection of Elks Lodge Rd. (S.C.R 211) and Hammond Dr. approximately 0.74 mile southeast of Marshall St (S.C.R. 225). 911 Address: 19306 Elks Lodge Road, Milford. Tax Parcel: 330-11.18-41.00

Mr. Whitehouse advised the Commission that they have received an applicant site plan, a staff analysis, a copy of the DelDOT service level evaluation response, comments from the Sussex County



Engineering Department Utility Planning Division and one letter of support.

The Commission found that the Applicant, Ralph Kemmerlin, Sr. was present on behalf of the Application; that Mr. Kemmerlin stated that he has extensive experience in law enforcement; that he is a member of the International Law Enforcement of Educators and Trainers Association, American Gunsmithing Institute and American Gunsmithing Club; that a gunsmith helps a citizen understand the design of the weapon, how the weapon functions and is able to repair weapons when they malfunction; that there is very little interaction with the public except for drop off or pick up of the weapon; that there are no complaints from neighbors; that there may be some gun sales but gunsmithing is the primary objective of the conditional use; that the hours of operation are Monday through Friday 4:00 p.m. – 8:00 p.m. and Saturday 8:00 a.m. – 8:00 p.m. with no Sunday hours; that the use will have no impact on traffic; that customers would be seen on an appointment base only; that a small sign is being requested; that all gunsmithing activities will take place indoors; and that there will be no discharging of firearms on the property, all testing is completed at a local gun range.

Mr. Robertson suggested that the hours of operation may not be required.

Ms. Stevenson asked why this Application would not be considered a home occupation business.

Mr. Whitehouse stated that it would not fall under the home occupation because of customer traffic.

Mr. Robertson stated that also for gunsmithing or gun sales, the ATF may require specific approvals from the County.

The Commission found that one person spoke in favor of and none in opposition to the Application.

Mr. Dominic Romano stated that his property is directly across the street from the Applicant; that he supports the Application and that as gun ownership is on the rise, gunsmiths are needed.

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

At the conclusion of the Public Hearings, the Commission discussed C/U 2230 – Ralph A. Kemmerlin, Sr. Motion by Mr. Hopkins, second by Ms. Stevenson, to defer action for further consideration. Motion carried 5-0.

#### Draft Minutes of September 10, 2020 Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since August 27, 2020.

Ms. Stevenson moved that the Commission recommend approval for Conditional Use 2230 Ralph A. Kemmerlin, Sr. based upon the record made during the Public Hearing and for the following reasons:

1. The use is for a retail gunsmithing business located within the applicant's existing residence.

2. The Applicant has stated that he is a member of several professional organizations regarding firearm education, training and gunsmithing. He also has extensive experience in law enforcement.
3. The use is small in nature and is very nearly a home occupation which would be a permitted use on this property.
4. The Applicant has stated that there will be very little interaction with the public except for appointments made for drop-off or pick-up of a firearm that is left at the business for servicing.
5. The Applicant has stated that there will be some gun sales from the premises, but gunsmithing will be the primary business that will occur.
6. The use will not adversely affect neighboring properties or roadways.
7. The Applicant has stated that there will not be a firing range located on the premises and firearms will not be discharged on the premises.
8. The use provides a needed service for residents of Sussex County who own firearms. As a result, the use has a public or semi-public character.
9. No parties appeared in opposition to the application, and one neighbor appeared in support of it.
10. This recommendation is subject to the following conditions:
  - a. The use shall be a professional gunsmithing business, with firearm sales associated with the use. Gunsmithing shall remain the primary business.
  - b. The Applicant must comply with all Federal and State licenses and regulations for the use.
  - c. As stated by the Applicant, no firearms shall be discharged on the site.
  - d. As stated by the Applicant, the use shall occur within the Applicant's exiting home on the site. No gunsmithing activities shall occur outdoors.
  - e. One unlighted sign, no larger than 4 feet by 4 feet in size, shall be permitted.
  - f. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried unanimously to recommend approval for the reasons and with the conditions stated in the Motion. Motion carried 5-0.

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

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JAMIE WHITEHOUSE, MRTPI, AICP  
DIRECTOR

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: August 27th, 2020

Application: CU 2230 Ralph A. Kemmerlin Sr.

Applicant/Owner: Ralph A. Kemmerlin Sr.  
19306 Elks Lodge Road  
Milford, DE 19963

Site Location: 19306 Elks Lodge Road. On the south side of the intersection of Elks Lodge Rd (S.C.R 211) and Hammond Dr approximately 0.74 southeast of Marshall St (S.C.R. 225).

Current Zoning: AR-1 (Agricultural Residential District)

Proposed Use: Gunsmithing Business

Comprehensive Land Use Plan Reference: Town Center

Councilmatic District: Mr. Wilson

School District: Milford School District

Fire District: Carlisle Fire District

Sewer: Septic

Water: Private

Site Area: 33,000 Sq. Ft.

Tax Map ID.: 330-11.18-41.00



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

DELAWARE  
sussexcountyde.gov

## Memorandum

To: Sussex County Planning Commission Members  
From: Nick Torrance, Planner I  
CC: Vince Robertson, Assistant County Attorney and applicant  
Date: August 20<sup>th</sup>, 2020  
RE: Staff Analysis for CU 2230 Ralph A. Kemmerlin Sr.

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This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2230 Ralph A. Kemmerlin Sr. to be reviewed during the August 27<sup>th</sup>, 2020 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 parcel 330-11.18-41.00 to allow for a gunsmithing business. The size of the property is 0.76 acre +/- . The property is zoned AR-1 (Agricultural Residential Zoning District) and located at 19306 Elks Lodge Road on the south side of the intersection of Elks Lodge Rd (S.C.R 211) and Hammond Dr approximately 0.74 southeast of Marshall St (S.C.R. 225).

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

The surrounding parcels to the southwest, west, and northwest are all designated on the Future Land Use Map as "Town Center". The uses that the Town Center Area land use designation recognizes are uses similar to the neighboring municipality. Significant growth is proposed to be concentrated around municipalities and many of these areas are formally designated as future annexation areas in their local comprehensive plan. Permitted uses in this area are designed around housing, commercial that will serve the daily needs of resident's, workers and visitors and retail compatible with surrounding uses. The properties to the north, east and south are all designated on the Future Land Use Map as "Municipality" as they are all located within town limits of Milford.

The property is zoned AR-1 (Agricultural Residential Zoning District). The adjoining and surrounding properties located within the county jurisdiction to the southwest, west, and northwest are all zoned AR-1 (Agricultural Residential Zoning District).

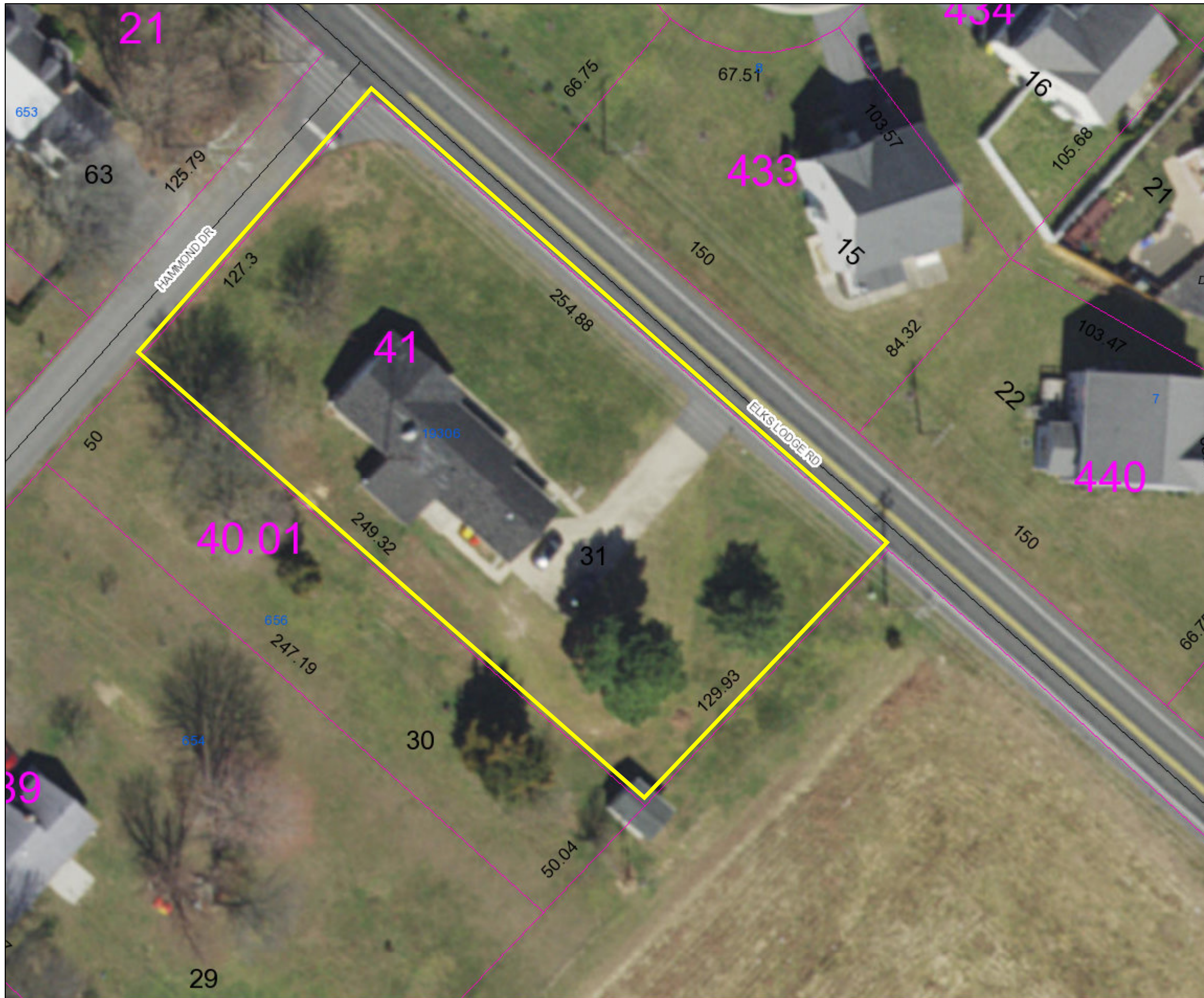
Since 2011, there have been no Conditional Use approvals within a 1-mile radius of the application.

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





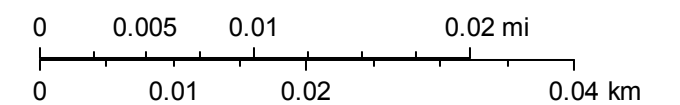
# Sussex County



<b>PIN:</b>	330-11.18-41.00
<b>Owner Name</b>	KEMMERLIN RALPH ANTHON SR &
<b>Book</b>	2293
<b>Mailing Address</b>	19306 ELKS LODGE RD
<b>City</b>	MILFORD
<b>State</b>	DE
<b>Description</b>	EASTMAN HEIGHTS
<b>Description 2</b>	BLK E LOT 31
<b>Description 3</b>	S/HAMMOND DR
<b>Land Code</b>	

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

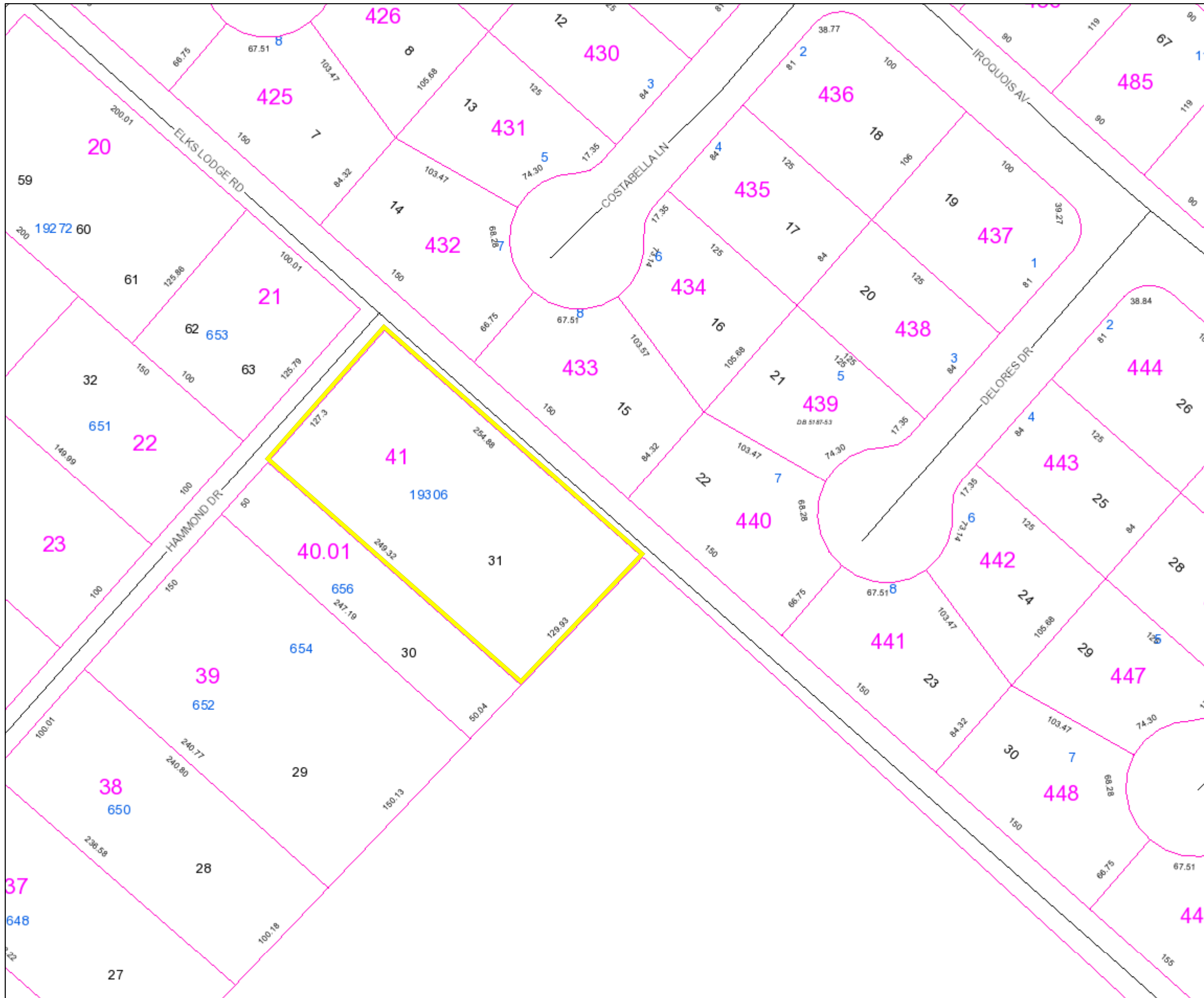
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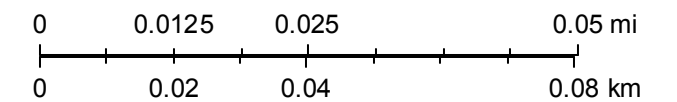
# Sussex County



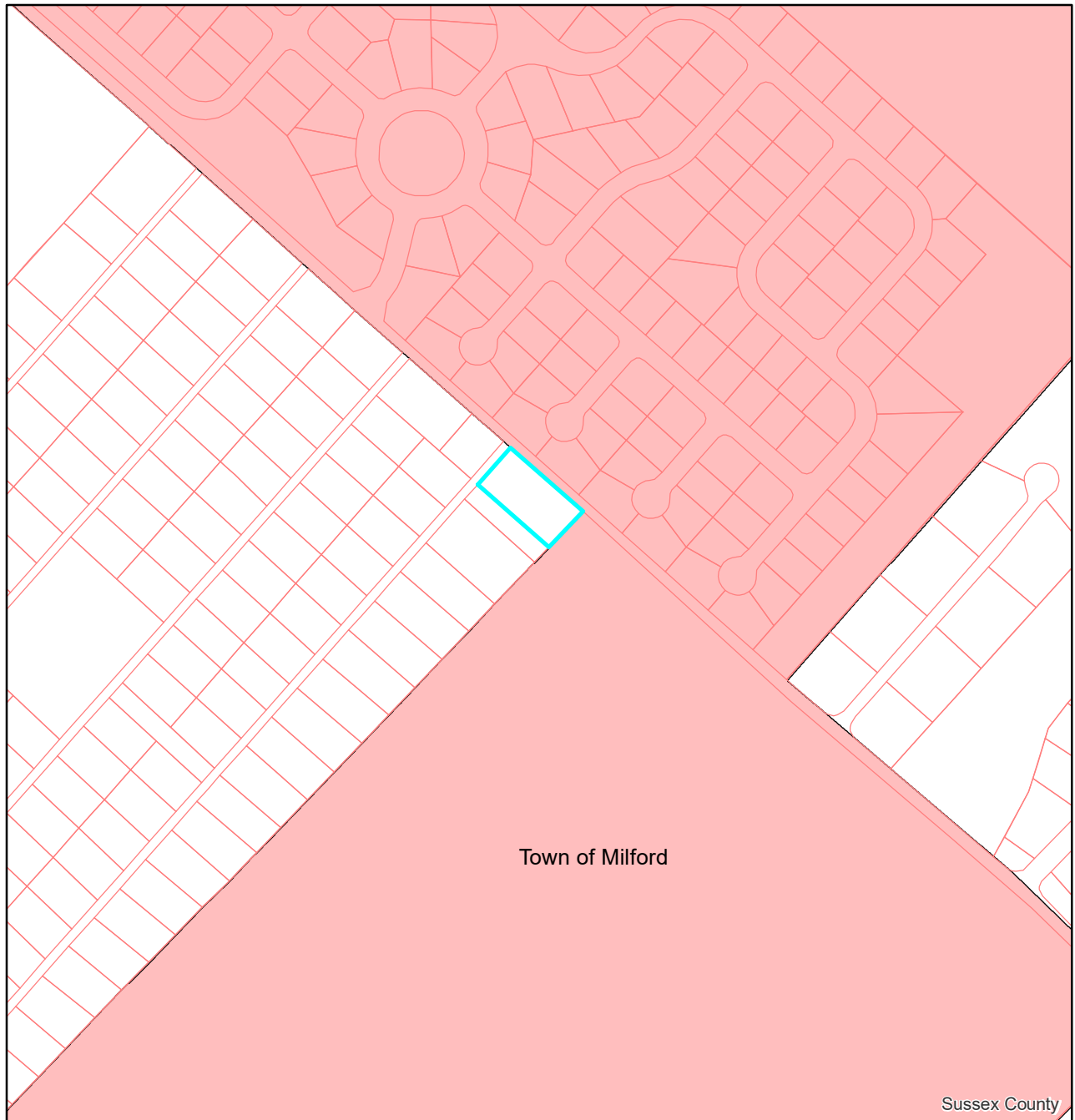
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<b>Land Code</b>	

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

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# CU 2230 Ralph A. Kemmerlin Sr Zoning Map



## Legend

### Zoning

### District

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

**Introduced 06/23/20**

**Council District 2 - Wilson  
Tax I.D. No. 330-11.18-41.00  
911 Address: 19306 Elks Lodge Rd, Milford**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 (AGRICULTURAL RESIDENTIAL DISTRICT) FOR A PROFESSIONAL GUNSMITHING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.74 ACRES, MORE OR LESS**

**WHEREAS, on the 8th day of June 2020, a conditional use application, denominated Conditional Use No. 2230 was filed on behalf of Ralph A Kemmerlin Sr.; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2230 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2020, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County 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. 2230 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 Cedar Creek Hundred, Sussex County, Delaware, and lying on the south side of the intersection of Elks Lodge Rd (S.C.R 211) and Hammond Dr approximately 0.74 mile southeast of Marshall St (S.C.R. 225) and being more particularly described in the attached legal description prepared by Walter G. Feindt, said parcel containing 0.74 acres, more or less.**

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