

Sussex County Council Public/Media Packet

**MEETING:
October 26, 2021**

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



Sussex County

DELAWARE
sussexcountyde.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

A G E N D A

OCTOBER 26, 2021

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes – October 19, 2021

Reading of Correspondence

Public Comments

Consent Agenda

1. Use of Existing Wastewater Infrastructure Agreement, IUA-1023
Osprey Point, West Rehoboth Area
2. Use of Existing Wastewater Infrastructure Agreement, IUA-1097
Hailey's Glen, Angola Neck Area

Discussion and possible action related to an Appeal on the Sussex County Planning and Zoning Commission's decision to approve Subdivision Application No. 2020-13 (Terrapin Island)

Todd Lawson, County Administrator

1. Presentation and discussion related to Workforce Housing
2. Administrator's Report



Gina Jennings, Finance Director

1. Discussion and Possible Introduction of a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE SUSSEX COUNTY CODE TO INCLUDE A NEW ARTICLE VII, REAL PROPERTY TAX CREDIT, FOR DISABLED VETERANS, UNDER PART II, GENERAL LEGISLATION, TAXATION, §103-43 THROUGH §103-47, TO ESTABLISH A REAL PROPERTY VALUE-BASED TAX CREDIT FOR TOTALLY DISABLED VETERANS WHO ARE RESIDENTS OF SUSSEX COUNTY AND WHO MEET ELIGIBILITY CRITERIA UNDER THE STATE OF DELAWARE DISABLED VETERANS’ SCHOOL TAX CREDIT PURSUANT TO 14 DEL. C. 1917”
2. Human Service Grant Program Recommendation and Possible Awards

Robert Murray, Director of Emergency Medical Services

1. Mobile Integrated Healthcare Pilot Program – Extension

Hans Medlarz, County Engineer

1. Lochwood Communities Area Expansion
 - A. Davis, Bowen & Friedel – Standalone EJCDC Engineering Agreement
2. C. Magee Farms Lease Modification
3. George, Miles & Buhr – 2019 Miscellaneous Engineering Base Contract
 - A. Amendment No. 1 – EMS Site Plans

Old Business

1. Conditional Use No. 2248 filed on behalf of Gulfstream Development, LLC
“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (19 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.93 ACRES, MORE OR LESS” (Tax I.D. No. 134-16.00-382.00) (911 Address: None Available)
2. Conditional Use No. 2249 filed on behalf of Mayapple Farm, LLC
“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI FAMILY (41 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 20.91, MORE OR LESS” (Tax I.D. No. 533-19.00-289.05) (911 Address: None Available)

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

**“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY AND TO AMEND THE CONDITIONS OF APPROVAL OF CZ 1768 (ORDINANCE 2411) TO INCREASE THE GROSS SITE AREA BY 5.253 ACRES AND TO INCREASE THE NUMBER OF PERMITTED UNITS WITHIN THE RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 56.372 ACRES, MORE OR LESS”
(Tax I.D. No. 134-17.00-12.02) (911 Address: None Available)**

Introduction of Proposed Zoning Ordinances

Council Members’ Comments

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

Possible action on Executive Session items

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on October 19, 2021 at 4:30 p.m. and at least seven (7) days in advance of the meeting.

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

Agenda items may be considered out of sequence.

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

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

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

To join the meeting via telephone, please dial:

Conference Number: 1-302-394-5036

Conference Code: 570176

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

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

#

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 19, 2021

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 19, 2021, at 9:00 a.m., in Council Chambers, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 450 21
Approve
Agenda**

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

Motion Adopted: 5 Yeas.

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

**Appeal/
Subdivision
Application
No.
2020-13/
Terrapin
Island**

The Council considered an Appeal on the Sussex County Planning and Zoning Commission's decision to approve Subdivision Application No. 2020-13 (Terrapin Island).

Mr. Vincent introduced The Honorable Charles Toliver IV, Superior Court Judge Retired, who would preside over the appeal hearing and rule on matters of procedure.

Judge Toliver reviewed the basic matters of procedure for the appeal hearing. He advised that subdivision appeals are totally based on the record and that no new evidence would be allowed.

In accordance with Sussex County Code §99-39B(2), the Council shall act on the record of the hearing before the Commission within sixty (60) days from the receipt of the transcript on September 3, 2021.

It was noted that, in accordance with Sussex County Code, if the Council finds that the Commission misapplied or misinterpreted the applicable sections of the chapter [of Sussex County Code §99-39B(2)] or that its findings were not the result of an orderly and logical review of the evidence

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and the applicable provisions of the chapter of the Sussex County Code (§99-39B(2), the Council can either affirm, reverse, or order a new hearing before the Planning and Zoning Commission within a specific period of time and/or issue a written decision with findings.

Richard Forsten, Attorney representing the Applicant for the Terrapin Island Subdivision Application No. 2020-13, stated they do object to any attempt to raise issues that were not raised at the hearing before the Planning and Zoning Commission.

Michele Forzley stated that she and Keith Steck would be presenting the appeal on behalf of a group of 165 appellants. She noted that the 165 people who filed this appeal are from two communities, Bay Front and West Bay Park, and other parts of the County and along Camp Arrowhead Road. Ms. Forzley noted for the record that Bay Front Homeowners Association is not an appellant.

Ms. Forzley stated that, in their presentation, they would be talking about the submitted statement (dated August 6, 2021) and supplemental statement (dated October 11, 2021).

Ms. Forzley stated that the appellants are in opposition to the proposed development because it is in violation of a number of Code provisions. She noted that all of the materials (922 pages) in the application folders in the Planning and Zoning Office were not included in the paperless packets; that not all of the materials were presented to the Commission before the Public Hearing on June 24, 2021 and that some of the materials in the record were submitted on June 24th just prior to the Commission's hearings, i.e. proposed findings and conditions submitted by the Applicant on that day. She further noted that there is a question as to what is the record and what was before the Commission on June 24th.

Keith Steck presented on some of the topics that are the basis of the appeal: errors in the record that raise the question of what was approved, gaps in the application including confusion on ownership; the application omitting any reference to the easement that was in favor of the Bay Front Homeowners Association; rejection should have occurred at the staff level; the first step of an orderly and logical review was not performed; the matters of street design and cul-de-sacs and safety issues; and multiple instances of a misapplication of the Comprehensive Plan and its maps on such topics as infill and urban rural designations. Mr. Steck stated that there are a number of problems and errors in the record and he reviewed those errors including (1) errors in the application, i.e. preliminary site plan information was supposed to be on the plat and the issue of ownership is not clear; (2) the record is incomplete (does not include emails, phone records and minutes of staff meetings with developers and does not include the February 2020 contract); (3) the misapplication of the Comprehensive Plan, (4) errors in the minutes, especially in comparison to the transcript (i.e. the name of the owner of the

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property, the reference to the Contract, and the Motion by Commission Member Stevenson); (5) the question of the validity of the minutes of the Planning and Zoning Commission dated June 24, 2021; (6) there is no contract in the file between the landowners and the developers; (7) multiple instances of misapplication by the Applicant (i.e. the Army Corp granting the permit for the road over the wetlands); (8) the Applicant challenging the validity of the Investment Level 4 status in the PLUS report; (9) the characterization of the project site and the area as urban and the Applicant incorrectly portraying the property as an infill project in an urban area; (10) there are no provisions in the County's Subdivision Ordinance nor the Sussex County Code for infill development; (11) the site is in a pristine rural area, an area of environmental importance; (12) the Applicant failed to address their reasons for disregarding the PLUS report, and (13) the Director failed to prepare a report as required by Section 115-194.3(B)(3).

Ms. Forzley stated that no Bay Front easement was shown on the plat as required by §99-20 and 23 Del. C. §81-209 and in the staff letter; there was a deed in the file but no easement was shown; that a decision by the Planning and Zoning Commission can effectively negate the easement which is what they ultimately did, because there is nothing in the record that discusses an agreement with the easement beneficiary; and that there is a condition in the decision that says that the Developer will give Bay Front an access through the road that they want to put in but there is no discussion on consent on the part of the easement-holder.

Ms. Forzley discussed the location of the property in a Coastal Area and in a Growth Area, and the designation as being in a Level 4 Area. She referenced what the Comprehensive Plan says about the Coastal Area: only appropriate forms of concentrated new development are allowed, especially when environmental features are in play, and in regard to Level 4, special scrutiny should be applied in spending decisions and development proposals, and additional consideration should be taken into account.

Ms. Forzley discussed the special considerations: wetland buffers (tidal and non-tidal), setbacks, forested buffers, and areas of disturbance over wetlands (the proposed roads over wetlands). She stated that there are three locations for tidal wetland 50 foot buffers; that the Developer has placed the buffer in the wetlands and the Planning and Zoning Commission approved a plat showing it out in the Bay; that the tidal wetlands are to be mapped and regulated by DNREC; that this is a flood prone area; that there is a continuous non-tidal setback of 25 feet; that the forested buffer is applied incorrectly; and that there are areas of disturbance over wetlands. Ms. Forzley presented the definitions of buffer zones, the mean high-water line of tidal water, and forested buffers in accordance with the Code of Sussex County. She discussed where the buffers are to be placed and discussed the effects on the proposed project when the tidal wetland buffers and the forested buffer are applied incorrectly.

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(continued)**

At 10:20 a.m., Mr. Vincent declared a ten minute recess.

The Council reconvened at 10:32 a.m.

Richard Forsten, Attorney on behalf of the property owners and the Developer/Applicant, was present with Jim Fuqua, Attorney representing the Applicant on the Subdivision Application; Mark Davidson, Project Engineer; and John Stamato on behalf of the Developer, Ribera Development, LLC.

Mr. Forsten stated that so much of what has been said is irrelevant to the question that is before the Council today, which is – is this plan entitled to preliminary subdivision plan approval. He stated that he doesn't care if this property is characterized as urban or suburban or rural; that the County's Zoning Code permits development in rural areas on property with the AR designation; that there are 1,100 homes within a mile of this property and yet somehow the Appellant states that this is a pristine, agricultural, rural area; that the property is in an Investment Level 4 which is a State designation and which is entirely irrelevant to whether or not preliminary subdivision plan approval was properly granted or not; that the Investment Level 4 Area extends to the north and south of the Terrapin Island project, which are developed areas; that if something is not raised in front of the body (the Planning and Zoning Commission), you cannot then complain on appeal that a particular issue was not addressed and it is not grounds for reversal; that the owners have been identified; that if the opponents had a problem with that, they should have asked that question at the Public Hearing before the Planning and Zoning Commission; that it was stated that material was missing from the paperless packet but it was not told what material was missing; that the paperless packet was on the website prior to the public hearing; that it should have been stated at the public hearing if someone thought materials were missing so that the materials could be provided; that there was also a complaint that materials were presented at the public hearing, i.e. the conditions submitted by the Applicant, which is standard practice; that they were told there was an easement not shown on the plan and so the plan should be invalidated; that there was claim that the Bay Front HOA had an easement but they are not in attendance complaining about that; that if Bay Front has an easement, the Applicant could not find it; that at the end of the road in Terrapin Island, they are going to give Bay Front an easement to get to their beach, so they will have vehicular access to their beach; that there is currently no vehicular access to that beach; that the buffers are not in the wetlands and the buffer begins at the edge of the wetlands; that they have a 50 foot buffer from tidal wetlands as delineated by DNREC; that DNREC's approval is one of the many approvals they will need to proceed with this project; that they anticipate getting the wetlands permit any day; that they will need to obtain a permit from the Army Corps; that when this plan was submitted to the County over a year ago, there was no buffer requirement for non-tidal wetlands; that in February 2021, the County approved a buffer regulation; however, when the new buffer

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regulation was approved, it was stated that it did not apply to any plans under review, and, therefore, it did not apply to this project; that this was stated at the public hearing; that they are providing a 25 foot building setback from the non-tidal wetlands; that in terms of wetlands, they have done everything right; that the Appellant showing pictures and drawings with unmeasured lines and lines not drawn to scale does not prove anything; that in regards to the forested buffer, the provisions in the Code (§115-25 F) became applicable to plans effective February 2021 and it does not apply to this plan; that in regard to the 30 foot wide vegetated buffer (§115-25 E), it does not apply to this plan; and that if the Appellant had complaints about these issues, they should have brought them to the Planning and Zoning Commission's public hearing.

Ms. Forzley presented her rebuttal and closing remarks. She stated that there are multiple letters from the Bay Front community outlining all of the issues the Appellants raised; that they have not raised issues from a substantive point of view in terms of Code applicability in this appeal that they have not already raised; that the appeal standard talks about the record and the record is all of it, it is not just what was presented on June 24th; and that the record is the minutes, the transcript, paperwork, opposition, etc. – it is everything that has been submitted.

In response to questions raised by Judge Toliver, Ms. Forzley stated that she does not think all of the opposition's material was in the paperless packet that was given to the Planning and Zoning Commission prior to the public hearing or that was made available to the public; and that on the night of June 24th, some of that material could not be found in the file, and since then, some of it could not be found in the file, and that subsequently, it has been found and is now in the record. She also referenced the contract which was also not included in the record. In response to further questions, Ms. Forzley stated that she does not have a list of the missing documents.

Ms. Forzley stated that the standard of review says that if there is a misinterpretation or misapplication of sections of the chapter, or the findings were not the result of an orderly and logical review of the evidence and the applicable provisions of the chapter, that the Council only has to find an error before it can make a decision to reverse; and that the Appellant has given multiple examples of errors. Ms. Forzley referenced the easement again and she stated that it's not enough that the Applicant says they are going to give an access – there is no agreement with the holder of the easement that it is acceptable and it's not okay for the Planning and Zoning Commission to make a decision that essentially overrides a deed easement. Ms. Forzley referenced the tidal wetlands and the 50 foot and 25 foot buffers and stated that the maps that were used were given to them by the Applicant; that it is a critical issue where the 50 foot buffer goes and it is not explained anywhere in the record; and that if this buffer issue was resolved correctly, this plan could never have been approved.

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Ms. Forzley stated that she is concerned about what took place at the Planning and Zoning Commission's public hearing on this matter and she referenced the Oath of Office that the Planning and Zoning Commission members take.

In conclusion, she stated that the Planning and Zoning Commission did not apply special scrutiny in its review and did not conduct an orderly and logical review of the evidence. She also stated that the property is not suitable for construction which is what the PLUS report states. She also expressed concern about how the opposition was treated by the Planning and Zoning Commission's Chairman and she stated that the Planning and Zoning Commission turned a blind eye to this non-Code-compliant property, and that they have no confidence that the Commission would do the right job if the application is sent back to them. She asked that the Council reverse the decision of the Planning and Zoning Commission.

Ms. Forzley presented suggestions/recommendations to the County regarding the subdivision application and appeal process and regarding the makeup of the Planning and Zoning Commission.

Vince Robertson, Assistant County Attorney, stated that he represents the Planning and Zoning Commission; however, he noted that it was previously determined in a pre-hearing conference on process and procedure that the Planning and Zoning Commission was not a party to this appeal and that he is abiding by that even though he does not agree with it. However, he advised that he felt compelled to state, on behalf of the Commission, that the Commissioners do take seriously their Oath of Office and the jobs that they do; that the Commissioners' job is to follow the law (the Code). Mr. Robertson also stated that the Commission did not ignore the buffer or misapply it, as was stated previously; that this is a preliminary stage and has to go through all agency comments; that the application may not get Final Site Plan approval if it does not get all the necessary agency approvals; that the Commission is not the expert on where wetlands lines are; that the Commission relies on the comments of engineers and State agencies; that the Commission did make that a condition of approval; and that the implication that there wasn't a consideration of that is not based on the record.

Mr. Robertson read Condition H of the Commission's decision: "There shall be a buffer that is at least 50 feet wide from the mean high-water line of all tidal waters, tidal tributary streams, tidal wetlands, perennial rivers and nontidal streams." He stated that this is what the Code says and the Commission went further than that and added: "There shall be a minimum disturbance of trees and other vegetation within these buffer areas. Required silt fencing shall be installed upland of these buffer areas (using the edge of the buffer nearest the interior development) to avoid disturbance. Construction activities within the buffer area shall be minimum. Any disturbance in the buffer area shall be indicated on the Final Site Plan and the "Limits of Disturbance" shall be indicated on the Final Site Plan." Mr.

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Robertson stated that wherever that line might fall, it will be determined by engineers and reviewed by DNREC and possibly the U.S. Army Corp of Engineers.

Mr. Robertson noted that there were more than twenty (20) conditions of approval stipulated by the Commission which shows a thoughtful deliberation on the application.

Judge Toliver clarified his statement in the pre-hearing conference in regards to Planning and Zoning Commission not being a party to this appeal and he noted his understanding of Mr. Robertson's position.

Judge Toliver stated that the Council should consider everything that the Planning and Zoning Commission considered and whether the law was properly applied.

Mr. Moore referenced the Appellant's supplemental statement dated October 11, 2021 and specifically, Paragraph 9, regarding Conflicts of Interest, and he commented on an unsolicited letter, dated August 11, 2021, from David White of the Office of Disciplinary Counsel regarding Supreme Court Rule 72 – *Pro Hac Vice* before Local Boards/Administrative Agencies. It was noted that this letter was received prior to this matter (this subdivision appeal) and does not pertain to this appeal. It was also noted that the letter does not apply to Ms. Forzley in this matter and that Ms. Forzley is an Attorney but presented to Council on this matter as an Appellant.

At 11:49 a.m., Mr. Vincent declared a 10 minute recess.

The meeting reconvened at 11:58 a.m.

Judge Toliver stated that the appeal proceedings were at an end.

(Note: These minutes are not a transcript of the appeal hearing, rather, they are a summary of presentations and comments made. An audio recording of this meeting is available on the County's website.)

**M 451 21
Go Into
Executive
Session**

At 11:59 a.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson, to recess and go into Executive Session for the purpose of discussing matters relating to pending/potential litigation.

Motion Adopted: 5 Yeas.

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

Executive Session	At 12:10 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to pending/potential litigation. The Executive Session concluded at 12:55 p.m.
M 452 21 Reconvene Regular Session	At 12:57 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson, to come out of Executive Session and to reconvene the Regular Session. Motion Adopted: 4 Yeas, 1 Absent. Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea
E/S Action	There was no action on Executive Session matters. Mr. Schaeffer joined the meeting.
Minutes	The minutes of October 12, 2021 were approved.
Comments	There were no public comments.
Adminis- trator's Report	Mr. Lawson read the following information in his Administrator's Report: 1. <u>Project Receiving Substantial Completion</u> Per the attached Engineering Department Fact Sheet, Peninsula Lakes – Phase 8 (Construction Record) received substantial completion effective October 13, 2021. [Attachments to the Administrator's Report are not attached to the minutes.]
Report on CU 2262	Jamie Whitehouse, Planning and Zoning Director, reported on Conditional Use No. 2262 filed on behalf of Matthew Hete. The Sussex County Council held a Public Hearing on this matter on October 12, 2021 at which time the Public Hearing was closed and the public record was left open for the recommendation of the Planning and Zoning Commission. Mr. Whitehouse stated that the purpose of the matter being placed on the agenda on this date is to announce the receipt of the Planning and Zoning Commission's decision. Mr. Whitehouse reported that the Planning and Zoning Commission held a Public Hearing on this matter on September 9, 2021 at which time action was deferred. On October 13, 2021, the Commission recommended approval with the following conditions:

**Report on
CU 2262
(continued)**

- a. The maximum number of residential units shall be 4.
- b. All entrance, intersection, roadway and multi-modal improvements shall be completed by the Developer in accordance with all DelDOT requirements.
- c. There shall be a 75-foot buffer along the road frontage that complies with the requirements of Section 115-22 of the Zoning Code for multi-family dwellings in the AR-1 District.
- d. The Applicant shall submit as part of the Final Site Plan a landscape plan showing the proposed tree and shrub landscape design, including the buffer areas.
- e. The project shall be served by Sussex County sewer. The Developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.
- f. The project shall be served by central water to provide drinking water and fire protection.
- g. Construction and site work on the property, including deliveries of materials to or from the property, shall only occur between 7:00 a.m. and 5:00 p.m. Monday through Friday. There shall be no construction activities at the site on Saturdays or Sundays. A 24 inch by 36 inch "NOTICE" sign in English and Spanish confirming these hours shall be prominently displayed at all entrances to the site during construction.
- h. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Department.
- i. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- j. All streetlights shall be downward screened so that they do not shine on neighboring properties or roadways.
- k. The Applicant must pay the bonus density fee required by Chapter 62, Section 62-7 of the Code of Sussex County for the two additional units in excess of two units per acre.
- l. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

**Introduction
of Proposed
Ordinances**

Mr. Vincent stated that, as of this date, the public has five (5) days to comment, in writing, on this matter. The record will remain open until the close of business at 4:30 p.m. on Monday, October 25, 2021 (due to the fifth day falling on the weekend).

Mr. Schaeffer introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE USE OF COMMERCIAL DELIVERIES OF PARTS TO BE SOLD OFFSITE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.99 ACRES, MORE OR LESS" (Conditional Use No. 2273) filed on behalf of Michael Parsons (Tax I.D. No. 234-5.00-49.00) (911 Address: 30274 Pecan Drive, Lewes).

Introduction of Proposed Ordinances (continued) **Mr. Schaeffer introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 532-12.00-1.00, 532-12.00-27.00, 532-18.00-42.00, 532-18.00-44.00 AND 532-19.00-1.00”.**

Mr. Schaeffer introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 235-23.00-2.02 (PORTION OF), 235-23.00-1.00, 235-23.00-1.04, 235-23.00-2.00, AND 235-23.00-2.01”.

The Proposed Ordinances will be advertised for Public Hearing.

M 453 21 Adjourn **A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, to adjourn at 1:03 p.m.**

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

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

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

Consent Agenda 10-26-2021

Osprey Point

Existing Sewer Infrastructure Use Agreement – IUA-1023

Osprey Point Preserve, LLC to pay \$122,177.00 for 223.00 EDUs

West Rehoboth Area

Hailey's Glen

Existing Sewer Infrastructure Use Agreement – IUA-1097

Schell Brothers, LLC to pay \$32,208.00 for 67.00 EDUs

Angola Neck Area

EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT

Hailey's Glen - IUA1097

THIS AGREEMENT ("Agreement"), made this 15th day of October 2021, by and between:

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

SCHELL BROTHERS, LLC, a Delaware Limited Liability Company and developer of a project known as Hailey's Glen, hereinafter called the "Developer."

WITNESSETH:

WHEREAS, Developer is developing a tract of land identified as Tax Map parcel 234-12.00-11.00, to be known as Hailey's Glen ("Project") and;

WHEREAS, the Project is located in the Sussex County Unified Sanitary Sewer District (Angola Neck Area) and;

WHEREAS, County has determined by study known as North Coastal Planning Study, that the Project can be served by the regional infrastructure and;

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

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

- (1) Developer is proposing to utilize County's existing collection and transmission capacity by connecting to an existing regional pipeline used by multiple pump stations.
- (2) In exchange for permission to connect up to 67 equivalent dwelling units to County's existing transmission system and to utilize the existing capacity in said system, Developer agrees to a financial catch-up contribution towards the debt service of said transmission facilities in the amount of \$32,208.00.
- (3) The contribution amount in the case of multiple pump stations using an existing transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.

- (4) **Payment of the contribution is due prior to beneficial acceptance of the on-site infrastructure.**
- (5) If the Project (as currently approved) is amended and County determines in its sole discretion that such amendments materially affect this Agreement, this Agreement may be declared by County to be null and void, and any unused payments made pursuant to this Agreement shall be returned to Developer, unless the parties otherwise agree. Nothing herein shall prevent the parties from the negotiation of a new agreement with respect to the amended Project, as the parties may deem appropriate.
- (6) The contribution is to be placed in County's sewer capital fund and expended at such time when any transmission infrastructure in County's Unified Sanitary Sewer District requires upgrades or replacement.
- (7) Developer shall be responsible for payment of any and all undiscounted system connection charges in accordance with and pursuant to the requirements of the *Sussex County Code* for all lots, due at such time the Developer receives the sewer connection permit.
- (8) Developer shall comply in all aspects with the *Sussex County Code* and any other local, state, county, or federal laws, regulations, or policies that may be applicable and as such may be hereinafter amended.
- (9) Prior to the commencement of construction of any sanitary sewer facilities for the Project, Developer shall obtain a project construction permit from the County in accordance with and pursuant to the requirements of the *Sussex County Code*.
- (10) In order to allow the opportunity for a County representative to be present as the County so chooses, Developer shall send written notice to County of the date upon which connection to the County regional transmission system will be made. Developer shall follow County's written or verbal instructions in making said connection to the County sanitary sewer system.
- (11) Developer may assign this Agreement in whole or in part to any entity controlled directly or indirectly by Developer or to any third party who purchases, leases or otherwise controls any portion of Developer's property without the consent of County. Developer, and any subsequent assignees or successors shall provide County at least ten (10) days' written notice of any such assignment. Any other assignments, transfers, or conveyances with respect to this Agreement are prohibited without prior written consent of County.
- (12) To the extent permitted by law, Developer shall indemnify and hold harmless County, and its appointed and elected officials, employees, licensees, and agents for any claims, losses, liabilities, suits, or damages, including but not limited to

reasonable attorneys' fees, professional engineering fees, and any other costs of litigation, arising out of Developer's negligence in connection with its performance of this Agreement, including but not limited to damage to the County's infrastructure in making connection to County's regional transmission system. The obligations of this Paragraph shall survive the termination of this Agreement.

- (13) All the terms, covenants, and conditions of this Agreement shall in all respects be governed and construed under and pursuant to the Laws of the State of Delaware without respect to its conflict of law provisions. This Agreement may only be amended, supplemented or modified by a subsequent written agreement executed by all of the parties hereto.
- (14) This Agreement and exhibits constitute the final, entire and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties or agreements, whether written or oral, made in connection with the Agreement described herein.
- (15) It is mutually agreed between the parties that no review, approval, acceptance, and/or payment made under this Agreement shall be conclusive evidence of the performance of the Agreement, either wholly or in part, and that no review, approval, acceptance, and/or payment shall be construed as acceptance of defective work by County, nor in any way relieve Developer of its responsibility for the adequacy of its work.
- (16) The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Neither party shall be deemed to have waived any rights under this Agreement unless such waiver is expressly given in writing and signed by the waiving party. No delay or omission on the part of either party in exercising any right shall operate as a waiver of such right or any other right.
- (17) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.
- (18) If any provision of this Agreement shall be deemed invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not render invalid or unenforceable any of the other provisions of this Agreement which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Agreement are hereby deemed to be severable.
- (19) Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is **2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947**, and the address of the Developer is **20184 Phillips Street, Rehoboth Beach, Delaware 19971**.

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

FOR THE COUNTY:

{Seal}

By: _____
(President - Sussex County Council)

_____ (DATE)

ATTEST:

Robin A. Griffith
Clerk of the County Council

FOR SCHELL BROTHERS, LLC

By: Tim Green (Seal)
Tim Green - Preston Schell

10/15/2021 (DATE)

WITNESS: Ann-Margaret Donato
Ann-Margaret Donato

EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT

OSPREY POINT IUA-1023

THIS AGREEMENT ("Agreement"), made this 15th day of October 2021, by and between:

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

OSPREY POINT PRESERVE, LLC, a Limited Liability Corporation and developer of a project known as **Osprey Point**, hereinafter called the "Developer."

WITNESSETH:

WHEREAS, Developer is developing a tract of land identified as Tax Map parcels 334-18.00-83.00 be known as **Osprey Point** ("Project") and;

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

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

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

- (1) Developer is proposing to utilize County's existing collection and transmission capacity by connecting to existing regional infrastructure used by multiple pump stations.
- (2) In exchange for permission to connect up to **223.00** additional equivalent dwelling units to County's existing system and to utilize the existing capacity in said system, Developer agrees to financial catch-up contribution in the amount of **\$122,177.00** for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution must be submitted prior to beneficial acceptance of the on-site infrastructure.**
- (5) If the Project (as currently submitted) is amended and County determines in its sole discretion that such amendments materially affect this Agreement, this Agreement may be declared by County to be null and void, and any unused payments made

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

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

- (13) All the terms, covenants, and conditions of this Agreement shall in all respects be governed and construed under and pursuant to the Laws of the State of Delaware without respect to its conflict of law provisions. This Agreement may only be amended, supplemented or modified by a subsequent written agreement executed by all the parties hereto.
- (14) This Agreement and exhibits constitute the final, entire and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties or agreements, whether written or oral, made in connection with the Agreement described herein.
- (15) It is mutually agreed between the parties that no review, approval, acceptance, and/or payment made under this Agreement shall be conclusive evidence of the performance of the Agreement, either wholly or in part, and that no review, approval, acceptance, and/or payment shall be construed as acceptance of defective work by County, nor in any way relieve Developer of its responsibility for the adequacy of its work.
- (16) The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Neither party shall be deemed to have waived any rights under this Agreement unless such waiver is expressly given in writing and signed by the waiving party. No delay or omission on the part of either party in exercising any right shall operate as a waiver of such right or any other right.
- (17) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.
- (18) If any provision of this Agreement shall be deemed invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not render invalid or unenforceable any of the other provisions of this Agreement which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Agreement are hereby deemed to be severable.
- (19) Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is **14127 Rottweiler Road, Laurel Delaware 19956.**

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

FOR THE COUNTY:

{Seal}

By: _____
(President - Sussex County Council)

_____ (DATE)

ATTEST:

Robin A. Griffith
Clerk of the County Council

FOR OSPREY POINT PRESERVE, LLC

By: Kathy Horsey (Seal)
Kathy Horsey - Authorized Signatory

October 15, 2021 (DATE)

WITNESS:

[Signature]

GINA A. JENNINGS, MBA, MPA
FINANCE DIRECTOR

(302) 855-7741 T
(302) 855-7749 F
gjennings@sussexcountyde.gov



Sussex County
DELAWARE
sussexcountyde.gov

Memorandum

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

FROM: Gina A. Jennings
Finance Director/COO

DATE: October 22, 2021

RE: **Veterans with 100% Disabled Rating Property Tax Credit**

House Bill 214 with House Amendment 1 passed the General Assembly on June 30, 2021 and was signed by Governor Carney on August 10, 2021. This legislation authorized school districts (not including vo-tech schools) to provide a 100% credit against school taxes for disabled veterans that meet the definition of a “qualified person” owning “qualified property”, as each term is defined in §1917(d)(1) of Title 14 of the Delaware Code, beginning with the 2022 property tax bill. Qualified individuals must apply to the County each year by April 1st.

The State’s legislation does not exempt veterans from the County portion of the property tax bill. On Tuesday, Katrina Mears and I will be presenting a draft ordinance that would piggy-back on the State’s legislation and exempt the same qualified individuals from the County portion of the property tax bill. Attached is a copy of Tuesday’s presentation, the drafted ordinance, and the State’s legislation (HB 214 with HA 1).

In summary, the ordinance will exempt veterans with a 100% disability rating from County property taxes if they qualify for the State program. According to the National Center for Veterans Analysis & Statistics’ August 2021 report, there are 516 individuals who may qualify in Sussex County. It is estimated to cost the County \$44,000 annually.

Please contact me if you have any questions or concerns.

Attachments



SUSSEX COUNTY DISABLED VETERAN TAX ASSISTANCE PROGRAM

October 2021



STATE OF DELAWARE DISABLED VETERAN PROPERTY TAX RELIEF

- Signed into law August of 2021
- Will be available on the 2022 tax bill
- Not retroactive
- 3-year residency requirement
- Application and approval process
- 100% disabled veteran
- Primary residence and owner occupied
- Must be current on prior tax bills
- May not participate in Senior Property Tax program or any other assistance programs
- Application process to begin November 2021
- Up to full credit against school tax (excludes Sussex Tech)

SUSSEX COUNTY DISABLED VETERAN TAX ASSISTANCE PROGRAM

- Per the Office of Veterans Affairs, as of August 2021 there are 516 veterans that are considered 100% disabled residing in Sussex.
 - *For cost estimates we have mirrored the state and assumed that 75% of disabled veteran's own a home.*
- Average Assessed Value for Residential Parcels is \$25,280.
- Average County portion of a Residential tax bill is \$112.50.
- The County program mirrors the State's offering of up to a 100% exemption of County tax portion of the annual bill.
 - Non-value-based charges (i.e., street- lights, ditches, constable fees, sewer assessment) are not included in the exemption.



COST TO SUSSEX COUNTY

- Based on 2021 assessments and assumed demographics the cost to the County would be approximately \$112.50 per approved veteran for a total of \$43,537.50 per year.
- This is .002% of the total we bill for County and Library tax.

SHORT TITLE FOR INTRODUCTION

- AN ORDINANCE TO AMEND THE SUSSEX COUNTY CODE TO INCLUDE A NEW ARTICLE VII, REAL PROPERTY TAX CREDIT FOR DISABLED VETERANS, UNDER PART II, GENERAL LEGISLATION, TAXATION, §103-43 THROUGH §103-47, TO ESTABLISH A REAL PROPERTY VALUE-BASED TAX CREDIT FOR TOTALLY DISABLED VETERANS WHO ARE RESIDENTS OF SUSSEX COUNTY AND WHO MEET ELIGIBILITY CRITERIA UNDER THE STATE OF DELAWARE DISABLED VETERANS' SCHOOL TAX CREDIT PURSUANT TO 14 DEL. C. 1917.

To Be Introduced 10/26/21

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE SUSSEX COUNTY CODE TO INCLUDE A NEW ARTICLE VII, REAL PROPERTY TAX CREDIT FOR DISABLED VETERANS, UNDER PART II, GENERAL LEGISLATION, TAXATION, §103-43 THROUGH §103-47, TO ESTABLISH A REAL PROPERTY VALUE-BASED TAX CREDIT FOR TOTALLY DISABLED VETERANS WHO ARE RESIDENTS OF SUSSEX COUNTY AND WHO MEET ELIGIBILITY CRITERIA UNDER THE STATE OF DELAWARE DISABLED VETERANS' SCHOOL TAX CREDIT PURSUANT TO 14 DEL. C. 1917.

WHEREAS, Sussex County desires to adopt an ordinance which shall provide Sussex County residents who are totally disabled veterans with a Sussex County value-based real property tax credit subject to criteria as more fully set forth in the ordinance and the Delaware Code; and

WHEREAS, as part of its implementation of this Sussex County value-based real property tax credit, Sussex County desires to adopt application process and eligibility criteria set forth in 14 DEL. C. 1917. the State of Delaware Disabled Veterans' School Tax Credit; and

WHEREAS, the proposed tax credit shall remain in effect so long as the applicant or applicant's surviving spouse owns the real property and the dwelling located thereon and continues to meet all of the conditions mandated by the State of Delaware Disabled Veterans' School Tax Credit.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Code of Sussex County, is hereby amended by adopting a new Article VII, entitled, "Real Property Tax Credit for Disabled Veterans" under Part II, General Legislation, Taxation, §103-43 through §103-47 by inserting the underlined language as follows:

"Article VII Real Property Tax Credit for Disabled American Veterans

§103-43 Credit granted.

§103-44 Contents of application.

§103-45 Application procedure.

§103-46 Term of credit.

§103-47 Appeals.

§103-43 Credit granted.

Every person who shall be a resident of this county, who shall be totally disabled as determined by the State of Delaware Disabled Veterans' School Tax Credit program established under 14 DEL. C. 1917, and who shall reside in a dwelling owned by him or her which is a constituent part of his or her real property shall be entitled, to a credit against County value-based property tax.

§103-44 Contents of application.

A completed application for the State of Delaware Disabled Veterans' School Tax credit shall serve as application for the Real Property County Tax Credit for Disabled American Veterans.

§103-45 Application procedure.

Application for credit pursuant to this article shall be made in the same manner and with the same parameters and approval process as the State of Delaware Disabled Veterans' School Tax Credit.

§103-46 Term of credit.

A credit granted pursuant to this article shall remain in effect so long as the real property and the dwelling house thereon are owned by the applicant or his surviving spouse under the conditions set forth in the State of Delaware Disabled Veterans' School Tax Credit.

§103-47 Appeals.

Any applicant for this credit who shall be aggrieved by the disposition of his claim may appeal such disposition in the manner provided by law."

Section 2. Effective Date. This Ordinance shall become effective upon approval.

Synopsis

This Ordinance amends the Sussex County Code by adopting a new Article VII, entitled, "Real Property Tax Credit for Disabled Veterans" under Part II, General Legislation, Taxation, §103-43 through §103-47, which grants a value-based real property tax credit to totally disabled veterans who are residents of Sussex County, own real property and reside in a dwelling which is a constituent part of said real property. The tax credit is subject to the applicant's completion of the State of Delaware Disabled Veterans' School Tax Credit application demonstrating applicant has met the parameters and has been approved therefor. The tax credit shall remain in effect so long as the applicant or applicant's surviving spouse owns the real property and the dwelling located thereon and continues to meet all of the conditions mandated by the State of Delaware Disabled Veterans' School Tax Credit.

No text has been deleted. All new text is underlined and in quotations.



SPONSOR: Rep. Carson & Rep. Bush & Rep. Dorsey Walker & Rep. Ramone & Rep. D. Short & Rep. Michael Smith & Sen. Ennis & Sen. Lawson
Reps. Brady, Briggs King, Gray, Griffith, Hensley, Mitchell, Morrison, Shupe, Vanderwende, Yearick; Sens. Bonini, Brown, Gay, Hansen, Hocker, Lockman, Lopez, Mantzavinos, S. McBride, Paradee, Pettyjohn, Pinkney, Poore, Richardson, Sokola, Sturgeon, Townsend, Walsh, Wilson

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 214
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 14 AND 29 OF THE DELAWARE CODE RELATING TO DISABLED VETERANS' SCHOOL TAX CREDIT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 1917, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows.

§ 1917. Collection and deposit of school taxes.

(a) The receiver of taxes and county treasurer shall collect school taxes in the same manner and at the same time as provided by law for the collection of taxes for other purposes, and, except as provided in subsection (c) and (d) of this section, shall allow no abatement or discount upon any taxes levied for school purposes required to be collected by them. The Receiver of Taxes and County Treasurer for New Castle County only shall, after September 1 in the year in which the tax rolls shall be delivered to them, assess a penalty of 5% to taxes which are due and owing but unpaid, and shall each month thereafter add to such unpaid taxes a penalty of 1% per month until the same shall be paid. The Receiver of Taxes of Kent and Sussex Counties only shall, after September 30 in the year in which the tax rolls shall be delivered to them, assess a penalty of 1% per month until the same shall be paid.

(d) (1) If authorized by majority vote of the whole school board of the local school district pursuant to § 6102(r) of Title 29, there shall be allowed a credit against taxation in the full amount of tax liability imposed pursuant to this chapter on the valuation of any qualified property. For purposes of this subsection, "qualified property" shall mean property owned and occupied as a dwelling by and as the principal residence of a qualified person. A "qualified person" means a veteran who receives from the United States Department of Veterans Affairs or its successor agency 100% disability compensation due to a service-connected, permanent and total disability based on individual unemployability or a 100% disability rating, who is legally domiciled in this State for a period of at least 3 consecutive years. Mere seasonal or temporary residence

within the State, of whatever duration, shall not constitute domicile within the State for the purposes of this section. Absence from this State for a period of 12 months shall be prima facie evidence of abandonment of domicile in this State. The burden of establishing that the claimant meets the definition of qualified person shall be upon the claimant. The receiver of taxes and county treasurer shall apply such credit after any change to the current expense tax rate pursuant to § 6102 of Title 29.

(2) No credit against taxation on the valuation of real property as provided in this subsection shall be allowed except in accordance with a form of written application prescribed by the Secretary of Finance in consultation with the receiver of taxes and county treasurer and provided by the receiver of taxes and county treasurer for use by the claimants under this subsection. Such application shall be filed with and received by the receiver of taxes or county treasurer no later than April 30 immediately prior to the beginning of that tax year.

(3) The Secretary of Finance shall have the authority to waive the date of application in the case that an individual is financially disabled defined herein as unable to manage such individual financial affairs by reason of a medically determinable physical or mental impairment (excluding impairment caused by voluntary use of alcohol or unlawful use of a controlled substance as defined in Chapter 47, Title 16) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months, but shall not include individuals for whom an individual's spouse, guardian, or any other person is authorized to act on behalf of such individual in financial matters.

(4) a. Where title to property on which a credit is claimed is held by claimant and another or others, either as tenants in common or as joint tenants, claimant shall not be allowed a credit against that claimant's interest in said property in excess of the assessed valuation of that claimant's proportionate share in said property, which proportionate share, for the purposes of this subsection, shall be deemed to be equal to that of each of the other tenants unless it is shown that the interests in question are not equal, in which event claimant's proportionate share shall be as shown.

b. Nothing in this subsection shall preclude more than 1 tenant, whether title be held in common or joint tenancy, from claiming a credit against the property so held, but no more than the equivalent of 1 full credit in regard to such property shall be allowed in any year, and in any case in which the claimants cannot agree as to the apportionment thereof, the credit shall be apportioned between or among them in proportion to their interests. Property held by husband and wife as tenants by the entirety shall be deemed wholly owned by each tenant, but not more than 1 credit in regard to such property shall be allowed in any year.

c. Right to claim a credit under this subsection shall extend to property the title to which is held by a partnership to the extent of the claimant's interest as a partner therein, or by a guardian, trustee, committee,

conservator or other fiduciary for any person who would otherwise be entitled to claim a credit under this subsection, but not to property the title to which is held by a corporation.

d. Right to claim credit under this subsection shall be withdrawn for the subsequent tax year from any taxpayer who has not paid in full such taxpayer's property tax bill by the end of the tax year for which a credit was reported for that taxpayer to the Secretary of Finance by the receiver of taxes and county treasurer. Taxpayers who fail to pay in full their property tax bill by the end of the tax year for which a credit was reported for that taxpayer to the Secretary of Finance by the receiver of taxes and county treasurer may qualify for credits under this subsection in subsequent tax years upon the payment in full of property taxes and penalties owed prior to the beginning of the subsequent tax year. A claimant must notify the receiver of taxes or county treasurer of any modification in status that results in the claimant no longer meeting the definition of qualified person set forth in paragraph (d)(1) of this section.

e. To the extent that a claimant qualifies for a credit pursuant to both this subsection and subsection (c) of this section, the claimant shall be entitled to the credit authorized under this subsection and shall have no right to claim a credit authorized under subsection (c) of this section.

(5) The Secretary of Finance may, in consultation with the receiver of taxes and county treasurer, promulgate such rules and regulations and prescribe such forms as the Secretary shall deem necessary to implement this subsection. The Secretary may require that any return or other writing required to be filed with respect to the credit allowed under authority of this subsection be signed by the maker of such return or writing under oath or affirmation, subject to the penalties of perjury.

(6) An aggrieved taxpayer may appeal from the disposition of a claim for credit under this subsection in the same manner as provided for appeals from property tax assessments generally.

(7) Whenever the Secretary of Finance shall determine that a credit has been claimed in disregard of the conditions under which such claims may be made and for which the Secretary has authorized payment under § 1919 (e) of this title, the Secretary may assess such claimant for the amount of the credit and, unless it is shown that such disregard is due to reasonable cause and not due to wilful neglect, with a penalty of 20% of the credit claimed along with interest at 1% for any month or fraction of a month commencing on the date on which the claim for credit was filed.

Section 2. Amend § 1919, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1919. Report of school tax collections and payment of collected taxes.

(d) For tax years beginning on or after May 1, 2000, each receiver of taxes and county treasurer shall report to the Secretary of Finance the amount of credits allowed under § 1917(c) of this title for that tax year within 90 days of the date of any property tax billing. Such reports shall contain such further information and be in such form as the Secretary shall prescribe. The Secretary shall pay over to the State Treasurer, no later than 30 days following receipt of such report, an amount from the Elderly Property Tax Relief and Education Expense Fund established pursuant to § 6102(q) of Title 29 equal to the allowable credits which shall be deposited into a separate account in the depository for other school moneys to the credit of the district.

(e) For tax years beginning on or after May 1, 2022, each receiver of taxes and county treasurer shall report to the Secretary of Finance the amount of credits allowed under § 1917(d) of this title for that tax year within 90 days of the date of any property tax billing. Such reports shall contain such further information and be in such form as the Secretary shall prescribe. The Secretary shall pay over to the State Treasurer, no later than 30 days following receipt of such report, an amount from the Disabled Veterans Property Tax Relief and Education Expense Fund established pursuant to § 6102(r) of Title 29 equal to the allowable credits which shall be deposited into a separate account in the depository for other school moneys to the credit of the district.

Section 3. Amend § 6102, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6102. Composition of General Fund; Delaware Higher Education Loan Program Fund.

(q) (1) A special fund of the State is created in the Department of Finance to be known as the “Elderly Property Tax Relief and Education Expense Fund,” to which shall be deposited \$13,000,000 received in any revenue source not otherwise committed to a special fund and from which shall be paid claims made under this subsection and § ~~1919~~1919(d) of Title 14. Should such claims exceed \$13,000,000 during any fiscal year, the Secretary of Finance, with the approval of the Director of the Office of Management and Budget and Controller General, may transfer from the general contingency line in the Department of Education to the Elderly Property Tax Relief and Education Expense Fund the amount of such reasonably foreseen additional claims. Any balance remaining in the Elderly Property Tax Relief and Education Expense Fund at the conclusion of any fiscal year shall revert to the General Fund.

(2) Sums appropriated pursuant to this ~~section~~ subsection shall be allocated to school districts using a method that recognizes factors including, but not limited to, the number of primary residential households owned by persons 65 or over who meet the durational residency requirement of § ~~1917~~ 1917(c) of Title 14 in each school district, the relative value of residential property owned by persons 65 and over, the relative property values of each school district, the school tax rates of each school district, and the average rate of application for tax relief pursuant to this ~~section~~

subsection. The final method and allocation of these moneys shall be approved by the Secretary of Finance in consultation with the Controller General.

(3) Local school boards shall decide through majority vote of the whole school board whether to authorize a credit against taxation imposed pursuant to Chapter 19 of Title 14 on the valuation of any qualified property, as defined in § ~~1917~~1917(c) of Title 14. The maximum such credit shall be the lesser of 50% of such tax remaining after taking into account any exemption pursuant to Title 9 and Title 22, or \$500. The receiver of taxes and county treasurer shall apply such credit after any change to the current expense tax rate pursuant to this section. Should the local school board decide to authorize less than the maximum amount of credit against taxation, the local school board shall develop a plan for using moneys received pursuant to this subsection, provide appropriate and reasonable public notice and comment on the proposed plan, and approve the plan through majority vote of the local school board. Local school boards shall submit the approved plan to the Secretary of Finance, the Secretary of Education, the Director of the Office of Management and Budget and the Controller General. In the event that local school boards choose not to authorize the aforementioned credit against taxation, the sums appropriated herein will result in increased state funding for education-related expenses of the school districts. Education-related expenses for the purposes of this subsection shall be defined as including, but not being limited to, computer hardware and software, library resources and other instructional materials, and minor capital improvements to school facilities. Local school boards and all other responsible parties under this paragraph are hereby directed to cause such conditions to be met as soon as practicable after the enactment of this section, but in no event later than October 30, 1999, and shall notify the Secretary of Finance and the Controller General as soon as such conditions are met. Notwithstanding any of the foregoing to the contrary, funds received pursuant to this section shall not be used for major capital improvements or debt service.

(r) (1) A special fund of the State is created in the Department of Finance to be known as the “Disabled Veterans Property Tax Relief and Education Expense Fund,” to which shall be deposited \$1,000,000 received in any revenue source not otherwise committed to a special fund and from which shall be paid claims made under this subsection and § 1919(e) of Title 14. Should such claims exceed \$1,000,000 during any fiscal year, the Secretary of Finance, with the approval of the Director of the Office of Management and Budget and Controller General, may transfer from the general contingency line in the Department of Education to the Disabled Veterans Property Tax Relief and Education Expense Fund the amount of such reasonably foreseen additional claims. Any balance remaining in the Disabled Veterans Fund at the conclusion of any fiscal year shall revert to the General Fund.

(2) Sums appropriated pursuant to this subsection shall be allocated to school districts using a method that recognizes factors including, but not limited to, the number of primary residential households owned by disabled

veterans in each school district, the relative value of residential property owned by disabled veterans, the relative property values of each school district, the school tax rates of each school district, and the average rate of application for tax relief pursuant to this subsection. The final method and allocation of these moneys shall be approved by the Secretary of Finance in consultation with the Controller General.

(3) Local school boards shall decide through majority vote of the whole school board whether to authorize a credit against taxation imposed pursuant to Chapter 19 of Title 14 on the valuation of any qualified property, as defined in § 1917(d) of Title 14. The credit shall be for the full amount of tax remaining after taking into account any exemption pursuant to Title 9 and Title 22. The receiver of taxes and county treasurer shall apply such credit after any change to the current expense tax rate pursuant to this subsection. In the event that local school boards choose not to authorize the aforementioned credit against taxation, the sums appropriated herein will revert to the General Fund. In the first year after a school board authorizes a credit, the Secretary of Finance, in consultation with the receiver of taxes or county treasurer, shall determine the effective date of such credit based upon reasonable implementation requirements and operational capacity.

Section 4. This Act takes effect upon enactment.

Section 5. In FY 2022, the Secretary of Finance may use up to 5% of the amount appropriated for the Disabled Veterans Property Tax Relief and Education Expense Fund established pursuant to this Act to offset administrative expenses. The Secretary of Finance shall pay over to each receiver of taxes and county treasurer an amount equal to 2% of the amount appropriated for the Disabled Veterans Property Tax Relief and Education Expense Fund established pursuant to this Act to offset administrative expenses.



**151st GENERAL ASSEMBLY
FISCAL NOTE**

BILL:	HOUSE BILL NO. 214
AS AMENDED BY:	HA 1
SPONSOR:	Representative Carson
DESCRIPTION:	AN ACT TO AMEND TITLES 14 AND 29 OF THE DELAWARE CODE RELATING TO DISABLED VETERANS' SCHOOL TAX CREDIT.

Assumptions:

1. This Act becomes effective upon signature by the Governor.
2. This Act authorizes local school boards through a majority vote to allow a tax credit for property taxes and local school taxes for disabled veterans who meet the following requirements:
 - a. Receiving 100% disability compensation from the United States Department of Veterans Affairs due to a service-connected, permanent, and total disability based on individual unemployability, or a 100% disability rating;
 - b. The property for which the exemption is sought must be owned and occupied by and as the principal residence of a qualified person; and
 - c. The claimant must be legally domiciled within the state.
3. This Act also establishes the Disabled Veteran Property Tax Relief and Education Expense Fund (the Fund) to which \$1,000,000 received from any revenue source not otherwise committed to a special fund and from which claims made under this Act shall be paid. Should claims exceed \$1,000,000 the Secretary of Finance, with the approval of the Director of the Office of Management and Budget and the Controller General, may transfer from the Department of Education's general contingency line the amount of such reasonably foreseen additional claims.
4. For Fiscal Year 2022, this Act authorizes the Secretary of Finance to use up to 5% of the amount appropriated for the Fund to offset administrative expenses. Additionally, the Secretary of Finance shall pay an amount equal to 2% of the amount appropriated to the Fund to each County Receiver of Taxes.
5. There are 1,978 disabled veterans living in Delaware with a 100% disability rating. Specifically, there are 640 in Kent County, 857 in New Castle County, and 481 in Sussex County. (Source: National Center for Veterans Analysis & Statistics' October 2019 report.)
6. Actual homeownership rates among the 1,978 eligible veterans are difficult to determine, but the following information provides for a potential range:
 - a. The United States Department of Veterans Affairs estimates that 75% of all veterans own a home. ($1,978 \times 75\% = 1,475$ eligible veterans)
 - b. Utilization of existing county property tax exemptions for the eligible population may indicate a lower rate of homeownership. Specifically, approximately 100 participants are reported in Kent County and 239 applicants in New Castle County. Sussex County data was unavailable. However, existing county exemptions do not consider percentage of disability and may have differing criterion. Based on this information, a homeownership rate of 30% is also included in the potential impact calculations. ($1,978 \times 30\% = 584$ eligible veterans)
7. Upon enactment, school districts may authorize a credit. Using median home values (per the 2014-2018 American Community Survey, U.S. Census Bureau), average assessment ratios, and average school property tax rates by county, the average annual residential school property tax impacts are as follows:

County	Average Residential School Property Tax	Eligible Veteran Homeowners		Total School Property Tax Impact Potential	
		30%	75%	30%	75%
Kent	\$715.63	183	471	\$130,960	\$337,062
New Castle	\$1,396.80	257	643	\$358,978	\$898,142
Sussex	\$800.15	144	361	\$115,222	\$288,854
Totals:		584	1,475	\$605,159	\$1,524,058

8. Upon enactment, vocational and technical ("vo-tech") school districts may authorize a credit. Using median home values (per the 2014-2018 American Community Survey), average assessment ratios, and vo-tech property tax rates, the average annual residential vo-tech property tax impacts are as follows:

County	Average Residential Vo-Tech Property Tax	Eligible Veteran Homeowners		Total Vo-Tech Property Tax Impact Potential	
		30%	75%	30%	75%
Kent	\$69.22	183	471	\$12,667	\$32,603
New Castle	\$108.20	257	643	\$27,807	\$69,573
Sussex	\$54.25	144	361	\$7,812	\$19,584
Totals:		584	1,475	\$48,287	\$121,759

9. Upon enactment, there may be eligible veteran homeowners who currently receive the state senior property tax credit (of up to \$400 per property owner). Because the property tax credit provided under this Act would eliminate the need for such senior property tax credits, there may be savings realized to the State. However, because the age of eligible veteran homeowners is not available, potential savings are indeterminable.
10. Upon enactment local school boards shall decide through a majority vote whether to authorize a credit against taxation for disabled veterans; therefore, a cost of \$1,000,000 in the amount to be appropriated to the Fund is assumed for Fiscal Year 2022.
11. Total cost calculations include a 2% inflation factor.

Cost:

Fiscal Year 2022: \$1,000,000
Fiscal Year 2023: \$1,000,000 - \$1,645,818
Fiscal Year 2024: \$1,000,000 - \$1,678,734

Prepared by Nicole Polite
Office of the Controller General

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Sussex County
DELAWARE
sussexcountype.gov

MEMORANDUM:

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

FROM: Gina A. Jennings
Finance Director/Chief Operating Officer

RE: **FY2022 HUMAN SERVICE GRANTS**

DATE: October 22, 2021

Attached is a schedule of the FY2022 Human Service Grants, as well as an overview of the program. On Tuesday, I will be recommending to Council that we approve those grants listed for payment.

Please call me if you would like to discuss further.

Attachments

pc: Todd F. Lawson

Human Service Grant Application					
Name of Organization	Project	Last Year's Grant	Grant Request	Recommended Grant	
Abbott's Mill - Delaware Nature Society	Summer Camp Scholarships	1,500	1,750	1,190	
Agape Love Transitional Home	Fix It Up	1,500	8,727	1,790	
American Legion Auxiliary, Department of Delaware	ALA Delaware Girls State	1,000	1,000	1,000	
ARK Educational Consulting, Inc.	The ARK Educational Resource Center After-School Tutoring Program	1,900	5,000	2,040	
Barbara K Brooks Transition House, Inc	Barbara K. Brooks Transition House	1,350	4,000	1,690	
Best Buddies International, Inc.	Best Buddies Sussex County Friendships	-	5,000	1,600	
Big Brothers Big Sisters of Delaware, Inc.	Sussex County Youth Programs	1,000	4,000	1,300	
Boys and Girls Club of Delaware Inc. at Dagsboro	Power Hour	2,000	5,000	2,000	
Boys & Girls Club of Delaware Inc. at Georgetown	Power Hour	2,000	5,000	2,000	
Boys & Girls Club of Delaware Inc. at Laurel	Power Hour	2,000	5,000	2,000	
Boys and Girls Club of Delaware Inc. at Oak Orchard/Riverdale	Power Hour	2,000	5,000	2,000	
Boys and Girls Club of Delaware Inc. at Rehoboth Beach	Power Hour	2,000	5,000	2,000	
Boys & Girls Club of Delaware Inc. at Seaford	Power Hour	2,000	5,000	2,000	
Bridgeville Senior Citizens Center Inc	Homebound Program	5,600	6,500	5,550	
Calliope Project Inc.	Youth Performing Arts Programs	1,850	3,150	1,690	
Cancer Support Community Delaware	Hybrid Programming for Cancer Support Community DE	2,200	4,000	3,490	
Cape Henlopen Senior Center	Cape Henlopen Senior Center	5,600	9,000	5,550	
Champions for Children's Mental Health	Connecting Champions	2,150	5,000	1,440	
CHEER, INC (Georgetown)	Greenwood CHEER	5,600	6,500	5,550	
CHEER, INC (Greenwood)	Harbour Lights (Lewes) CHEER	5,600	6,500	5,550	
CHEER, INC (Lewes)	Long Neck CHEER	5,600	6,500	5,550	
CHEER, INC (Long Neck)	Milton CHEER	5,600	6,500	5,550	
CHEER, INC (Milton)	Ocean View CHEER	5,600	6,500	5,550	
CHEER, INC (Ocean View)	Roxana CHEER	5,600	6,500	5,550	
CHEER, Inc. (Roxana)	Georgetown CHEER	5,600	6,500	5,550	
Clothing Our Kids	Clothe a Kid	3,450	5,000	2,740	
Colonial Chapter of The Paralyzed Veterans of America, INC.	Membership Program	1,450	5,000	1,850	
Community Inspired Actions	R.I.S.E	1,600	15,000	2,040	
Community Resource Center	Comprehensive Day Program for Sussex Homeless Population	2,400	10,000	2,040	
Delaware Adolescent Program, Inc.	DAPI Nutrition Ambition	1,800	8,957	1,250	
Delaware Breast Cancer Coalition	Yes2Health	2,600	5,000	1,900	
Delaware Community Reinvestment Action Council, Inc.	DCRAC Law	2,150	10,000	1,900	
Delaware Crime Stoppers, Inc.	Delaware Crime Stoppers Sussex County Crime Reduction Program	1,500	1,500	1,500	
Delaware Ecumenical Council on Children and Families (DECCF)	Volunteer Caregivers for Sussex Elderly	1,100	2,500	1,050	
Delaware HIV Services Inc.	Michael Brossette Memorial Fund	-	2,500	1,600	
Delaware Hospice, Inc.	Delaware Transitions	2,150	6,000	2,040	
Delaware Lions Foundation, Inc	Service Projects Matching Funds	1,750	3,000	1,600	
Delaware Seashore Preservation Foundation Inc.	Fire Control Tower #3 Restoration Project	-	4,500	2,690	
Delaware Senior Olympics Inc	Delaware Senior Olympics	500	500	500	
Delmarva Clergy United In Social Action Foundation	Griffin Place of DCUSA	2,000	5,000	690	
DFRC Inc	DFRC Blue-Gold Hand-in-Hand Program	2,150	5,000	1,900	
Down Syndrome Association of Delaware	Camp Expansion	1,250	10,000	1,900	
Easter Seals Delaware & Maryland's Eastern Shore	Day Program for Adults with Intellectual Disabilities	1,000	1,000	1,000	
Everlasting Hope Ministries, Inc.	Tony's House	2,400	7,000	1,990	
First State Community Action Agency, Inc.	Food Pantry Service Upgrades	1,650	10,230	2,190	

Name of Organization	Project	Last Year's Grant	Grant Request	Recommended Grant
Food Bank of Delaware Inc.	Backpack Program for Children	3,100	10,000	1,690
Friends of Sussex CASA Inc.	Client Support	2,300	5,000	1,740
Girl Scouts of the Chesapeake Bay Council Inc.	Girl Scouting for Latina Girls in Sussex County	1,350	2,000	550
Harry K Foundation	Desert Oasis Feeding Program	2,900	5,000	2,340
Housing Alliance Delaware Inc.	Sussex Housing Group	-	5,000	1,600
Independent Resources, Inc.	Youth Transition Life Skill Program	2,300	20,000	2,040
Indian River Senior Center, Inc.	Maintenance and upkeep of the Center	5,500	7,530	5,550
ITN Southern Delaware, Inc.	ITN- Back on the Road to Recovery	3,350	5,000	2,490
Junior Achievement of Delaware, Inc.	Maintaining Momentum During COVID Transition Period	3,850	4,000	3,350
Just a Hand Up Community Navigation	"Just a Hand Up Resource Shack Program"	2,250	2,160	2,160
Kent-Sussex Industries, Inc.	Transportation Fuels Success	2,150	4,000	1,990
La Esperanza Inc.	Immigration Services	2,500	3,000	2,190
Laurel Community Foundation, Inc.	Hope House I & II	1,550	5,000	1,440
Laurel Senior Center	Meal Program	5,600	8,000	5,550
Lewes Senior Citizens Center Inc	New Van	5,000	28,000	5,550
Lighthouse For Broken Wings	A Sheltering Heart	2,400	30,000	2,040
Literacy Delaware Inc.,	Continued Program Expansion	1,450	5,000	1,050
Love Drives Foundation	Protecting Little Hearts Initiative	2,650	20,000	2,040
Love INC of Mid-Delmarva Inc	Western Sussex Job Center	2,100	20,500	2,690
Mid-Atlantic Symphony Orchestra	2021-2022 Concert Series	2,100	3,000	2,550
Milford Housing Development Corporation	Mutual Self-Help Housing and Credit Counseling	1,800	12,000	2,040
Milford Senior Center, Inc	Meal Program	5,500	8,000	5,550
Milton Community Food Pantry	Building Acquisition and Temporary Site for Distribution	4,200	9,000	3,490
Multiplying Good Inc.	Delaware Students In Action Fall Leadership Conference	1,300	1,300	1,300
Nanticoke River Watershed Conservancy	Installing new electrical service from pole	2,063	3,800	2,640
Nanticoke Senior Center Inc.	Office Furniture Replacement	-	6,000	5,550
National Council on Agricultural Life & Labor Research Fund, Inc	Spanish Language Housing Counseling	-	5,000	1,600
New Coverdale Outreach Mission, Inc.	Thanksgiving Project & Christmas Project	-	6,000	2,990
New Hope Recreation and Development Center Inc.	New Hope RDC After School Program	1,200	1,400	1,400
Pathways to Success, Inc.	Pathways to Success- Support Services for Underserved Students	1,900	5,000	1,990
People's Place II, Inc.	People's Place Veterans Outreach	1,750	5,000	1,440
Primeros Pasos Inc.	Early Learning Curriculum Materials	1,100	3,000	1,440
Read-Aloud Delaware	Professional Development Workshop For Our Volunteers	1,500	2,600	2,600
RICHARD ALLEN COALITION	HVAC	2,200	10,300	2,090
Ronald McDonald House of Delaware Inc.	Housing & Support Services for Sussex County Families	2,400	5,000	2,850
Southern Delaware Therapeutic and Recreational Horseback Riding,	SDTR - Operations	850	2,500	1,440
Survivors of Abuse in Recovery Inc.	Continuing Victim Care	2,150	10,000	2,000
Sussex Community Crisis Housing Services, Inc	Crisis House Homeless Shelter upgrades	1,900	5,000	1,740
Sussex County Habitat for Humanity	Family Empowerment	2,750	10,000	2,040
Sussex County Volunteer Delaware 50 Plus Advisory Council Inc.	Nimble Fingers	500	700	700
The Arc of Delaware Inc.	Social events in Sussex County	-	2,100	1,500
Veterans Reentry Resources Alliance, Inc	VRERA Incarcerated Veterans Transition Program	-	10,000	1,650
Way Home, Inc	Assessing Reentry	-	20,000	2,040
West Side New Beginnings, Inc.	Surveillance Cameras	850	2,430	640
What Is Your Voice	What is Your Voice's Hub Expansion	2,650	22,000	1,990

FY2022 Human Service Grants

Name of Organization	Project	Last Year's Grant	Grant Request	Recommended Grant
YMCA of Delaware	Water Wise at the Sussex Family YMCA	4,200	10,000	3,490
YWCA Delaware Inc.	YWCA's Sexual Assault Response Center	2,050	5,000	2,450
Total			625,634	224,800

The background of the slide features the official seal of Sussex County, Delaware. The seal is circular with a gold border. The outer ring contains the text "COUNTY OF SUSSEX" at the top and "DELAWARE" at the bottom, separated by small circles. Inside this is a blue ring with the word "WILLIAM" at the top and "PENNSYLVANIA" at the bottom, also separated by small circles. The center of the seal depicts a shield with a landscape scene, flanked by ornate gold scrollwork. Above the shield is a tree. Below the shield is a banner with the year "1683".

Sussex County Human Service Grant Program

Fiscal Year 2022

Human Service Grant Purpose

Grants to countywide non-profit agencies for the purpose of enhancing health and human services, which contribute to a safe, healthy and self-sufficient community. Funds provide grants that assist organizations with resources in support of programs or capital purchases.



Process

- Organizations submitted application online
- Finance reviewed
 - Organizations' statuses
 - Past due County obligations
 - Scope of request
- Finance created a formula, based on number of beneficiaries, other financial support and financial need, to best utilize the grant funds



Formula to Distribute (Budget of \$225,000)

Sussex County Beneficiary Criteria	Base Grant Amount	Additional Amount if main operations are in Sussex County	Additional Amount if other funding is 25% or greater	Additional Amount if need is \$5,000 or greater	Additional Amount if need is \$10,000 or greater	Maximum Grant Amount
Up to 49 Beneficiaries	\$1,000	\$140	\$50	\$250	\$250	\$1,700
50 to 249 Beneficiaries	\$1,250	\$140	\$50	\$300	\$300	\$2,050
250 to 499 Beneficiaries	\$1,500	\$140	\$50	\$350	\$350	\$2,400
500 to 999 Beneficiaries	\$2,000	\$140	\$50	\$400	\$400	\$3,000
1,000 or more Beneficiaries	\$2,500	\$140	\$50	\$450	\$450	\$3,600

CHEER & Senior Centers \$5,550

Boys and Girls Clubs \$2,000

Organizations were capped at their demonstrated need and request.

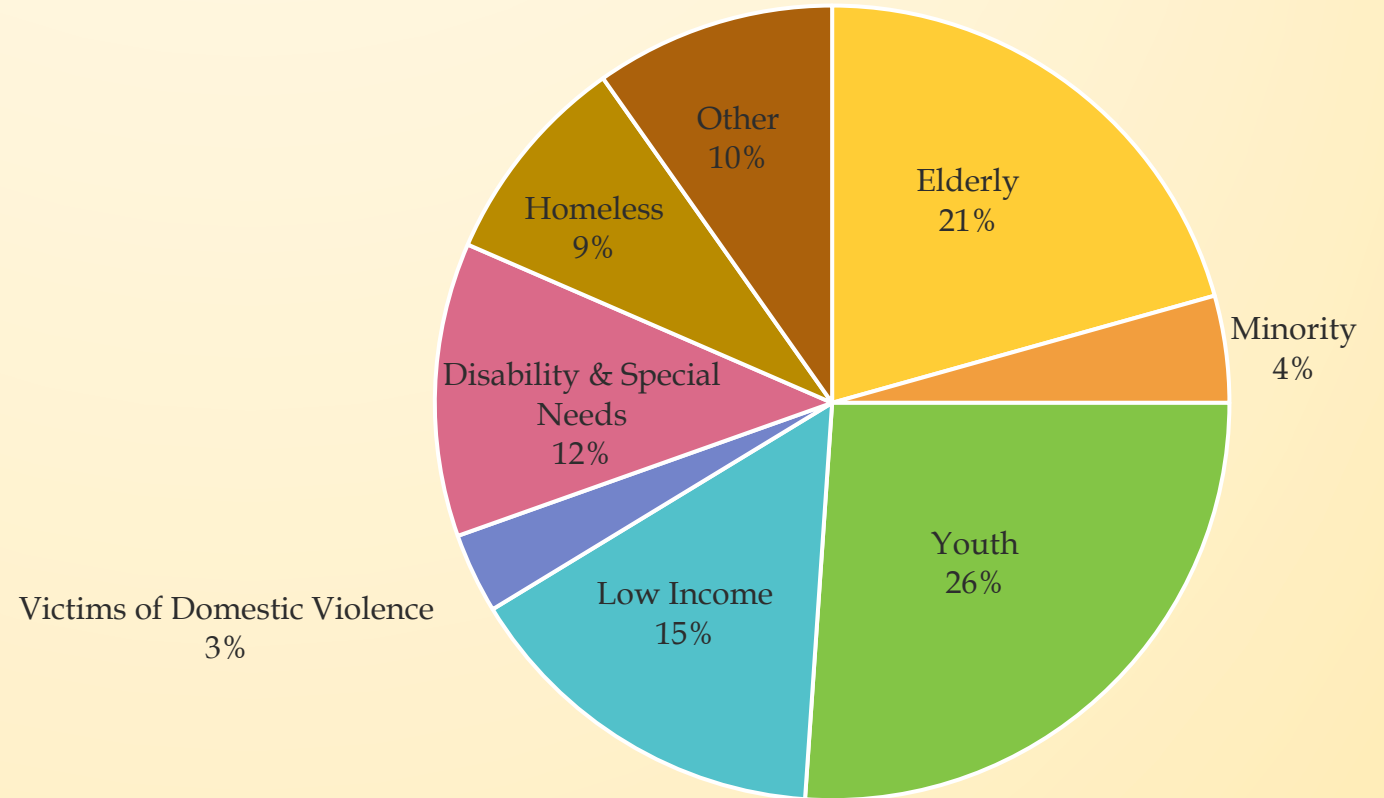
If another County grant was awarded within the last 12 months, 50% of the original grant, up to \$750, was deducted.



Application Statistics

- Received \$625,634 in requests from 92 qualified organizations
- 10 new organizations
- 177,114 Sussex County beneficiaries
- Organizations raise approximately \$6.8 million of other types of support for these projects

Type of Beneficiaries



Fiscal Year 2022 Recipients

Abbott's Mill - Delaware Nature Society	Delaware Community Reinvestment Action Council, Inc.	Milford Housing Development Corporation
Agape Love Transitional Home	Delaware Crime Stoppers, Inc.	Milford Senior Center, Inc
American Legion Auxiliary, Department of Delaware	Delaware Ecumenical Council on Children and Families	Milton Community Food Pantry
ARK Educational Consulting, Inc.	Delaware HIV Services Inc.	Multiplying Good Inc.
Barbara K Brooks Transition House, Inc	Delaware Hospice, Inc.	Nanticoke River Watershed Conservancy
Best Buddies International, Inc.	Delaware Lions Foundation, Inc	Nanticoke Senior Center Inc.
Big Brothers Big Sisters of Delaware, Inc.	Delaware Seashore Preservation Foundation Inc.	National Council on Agricultural Life & Labor Research Fund, Inc
Boys and Girls Club of Delaware Inc. at Dagsboro	Delaware Senior Olympics Inc	New Coverdale Outreach Mission, Inc.
Boys & Girls Club of Delaware Inc. at Georgetown	Delmarva Clergy United In Social Action Foundation	New Hope Recreation and Development Center Inc.
Boys & Girls Club of Delaware Inc. at Laurel	DFRC Inc	Pathways to Success, Inc.
Boys and Girls Club of Delaware Inc. at Oak Orchard/Riverdale	Down Syndrome Association of Delaware	People's Place II, Inc.
Boys and Girls Club of Delaware Inc. at Rehoboth Beach	Easter Seals Delaware & Maryland's Eastern Shore	Primeros Pasos Inc.
Boys & Girls Club of Delaware Inc. at Seaford	Everlasting Hope Ministries, Inc.	Read-Aloud Delaware
Bridgeville Senior Citizens Center Inc	First State Community Action Agency, Inc.	Richard Allen Coalition
Calliope Project Inc.	Food Bank of Delaware Inc.	Ronald McDonald House of Delaware Inc.
Cancer Support Community Delaware	Friends of Sussex CASA Inc.	Southern Delaware Therapeutic and Recreational Horseback Riding, Inc.
Cape Henlopen Senior Center	Girl Scouts of the Chesapeake Bay Council Inc.	Survivors of Abuse in Recovery Inc.
Champions for Children's Mental Health	Harry K Foundation	Sussex Commmunity Crisis Housing Services, Inc
CHEER, INC (Georgetown)	Housing Alliance Delaware Inc.	Sussex County Habitat for Humanity
CHEER, INC (Greenwood)	Independent Resources, Inc.	Sussex County Volunteer Delaware 50 Plus Advisory Council Inc.
CHEER, INC (Lewes)	Indian River Senior Center, Inc.	The Arc of Delaware Inc.
CHEER, INC (Long Neck)	ITN Southern Delaware, Inc.	Veterans Reentry Resources Alliance, Inc
CHEER, INC (Milton)	Junior Achievement of Delaware, Inc.	Way Home, Inc
CHEER, INC (Ocean View)	Just a Hand Up Community Navigation	West Side New Beginnings, Inc.
CHEER, Inc. (Roxana)	Kent-Sussex Industries, Inc.	What Is Your Voice
Clothing Our Kids	La Esperanza Inc.	YMCA of Delaware
Colonial Chapter of The Paralyzed Veterans of America, INC.	Laurel Community Foundation, Inc.	YWCA Delaware Inc.
Community Inspired Actions	Laurel Senior Center	
Community Resource Center	Lewes Senior Citizens Center Inc	
Delaware Adolescent Program, Inc.	Lighthouse For Broken Wings	
Delaware Breast Cancer Coalition	Literacy Delaware Inc.,	
	Love Drives Foundation	
	Love INC of Mid-Delmarva Inc	
	Mid-Atlantic Symphony Orchestra	

Motion

Be it moved that the Sussex County Council, approve the Fiscal Year 2022 Human Service Grant allocation as presented.





Caring People, Quality Service


SUSSEX COUNTY EMERGENCY MEDICAL SERVICES

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

Robert W. Murray
Director



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

FROM: Robert Murray, Director 

RE: Mobile Integrated Healthcare Pilot Program - Extension

DATE: October 14, 2021

In August 2019 and again in July 2020, we presented our Mobile Integrated Healthcare (MIH) Pilot Program. This collaboration between Beebe Healthcare, the State of Delaware and Sussex County was approved beginning September 1, 2019 and the Memorandum of Understanding (MOU) was signed allowing it to continue for one year. An amendment was signed in July 2020 allowing a one-year extension. Our primary goal was to enlist 50 COPD patients and through home visits with paramedics reduce hospital readmissions.

We have been successful. During the three-month program, our patients have experienced a reduced readmission rate, reduced healthcare cost, and an improvement in their quality of life.

The funding is managed by the Beebe Medical Foundation. Initially, a grant was received by Jesse Ball DuPont Fund (\$31,500) and Discover Bank (\$61,500). The Beebe Medical Foundation is currently securing on-going funding to support the program moving forward.

This continues to be the only MIH program in the state. We have proven that this program, and similar programs, can be successful. We believe this type of program plays a key role in healthcare, ensuring that our patients receive timely, convenient, appropriate care.

We are asking that you consider allowing this program to continue for up to three additional years (as staffing and funding permit).

Enclosure - Proposed - MOU-22-253

Todd F. Lawson
Administrator



Motion - Mobile Integrated Healthcare

Be it moved that Sussex County through the EMS department continue the Mobile Integrated Healthcare program in collaboration with Beebe Healthcare and the State of Delaware for a period of up to three years.



*DELAWARE HEALTH
AND SOCIAL SERVICES*

MEMORANDUM OF UNDERSTANDING # 22-253
BETWEEN
THE DIVISION OF PUBLIC HEALTH,
DELAWARE DEPARTMENT OF HEALTH & SOCIAL SERVICES,
STATE OF DELAWARE
AND
SUSSEX COUNTY
AND
SUSSEX COUNTY EMERGENCY MEDICAL SERVICES (SCEMS)
AND
BEEBE HEALTHCARE
TO

PARTICIPATE IN THE MOBILE INTEGRATED HEALTHCARE PARAMEDIC PILOT PROGRAM

A. Introduction and Purpose:

1. This Agreement is entered into between Delaware Department of Health and Social Services (the “Department”), Division of Public Health (the “Division”), and Sussex County, a political subdivision of the State of Delaware, and Sussex County Emergency Medical Services (alternatively “Sussex County” or “SCEMS”) and Beebe Healthcare.
2. The purpose of this Agreement is to allow trained Sussex County Paramedics the opportunity to pilot a program to function as a transitional care provider team serving a targeted chronic obstructive pulmonary disease (COPD) population with a common history of frequent Emergency Department (ED) admissions. The goal of this program is to produce better health outcomes and reduce the number of ambulance transports, visits to the emergency department and hospital re-admissions for the targeted COPD population. Beebe Healthcare will provide medical oversight of the program. A detailed Scope of Work is attached in Appendix A.
3. The Agreement shall commence on **November 15, 2021** and will continue in effect until **August 31, 2024**, unless modified by mutual agreement of the parties, or may be terminated as referenced in Section B. 3. of this Agreement.

B. Administrative Requirements.

1. **SCEMS and Beebe Healthcare** agree to comply with all State and Federal licensing standards and all other applicable standards as required to provide services under this Agreement, to assure the quality of services provided under this Agreement. **SCEMS and Beebe Healthcare** shall immediately notify the Department in writing of any change in the status of any accreditations, licenses, or certifications in any jurisdiction in which they provide services or conduct business. If this change in status regards the fact that its accreditation, licensure, or certification is suspended, revoked, or otherwise impaired in any jurisdiction, **SCEMS and Beebe Healthcare** understands that such action may be grounds for termination of the Agreement.

2. **SCEMS and Beebe Healthcare** agree to provide to the Divisional Contract Manager, on an annual basis, if requested, information regarding its client population by race, color, national origin, or disability. This information shall be general demographic information and shall not include identification of any specific individual who has received care under the terms of this Agreement.
3. This Agreement may be terminated in whole or part upon thirty (30) calendar days written notice, with or without cause, by either the Department, Division, Sussex County, **SCEMS** or **Beebe Healthcare** to the other parties. **SCEMS or Beebe Healthcare** shall be permitted to terminate this Agreement at any time upon loss of grant funding.
4. In the event of amendments to current Federal or State laws which nullify any term(s) or provision(s) of this Agreement, the remainder of the Agreement will remain unaffected.
5. This Agreement shall not be altered, changed, modified or amended except by written consent of both parties to the Agreement.
6. **SCEMS and Beebe Healthcare** agree that no information obtained pursuant to this Agreement may be released in any form except in compliance with applicable laws and policies on the confidentiality of information and except as necessary for the proper discharge of the **SCEMS and Beebe Healthcare's** obligations under this Agreement.
7. A party's waiver of any default or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent default or breach of any provisions of this Agreement, nor shall it be construed to be a modification of the terms of this Agreement unless stated to be such in writing, signed by the parties, including an authorized representative of the Department, and attached to the original Agreement.
8. The relationship between **Beebe Healthcare and SCEMS** is that of independent contractors.
9. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, the venue lying in Sussex County. In the event of a dispute between parties, each party shall be entitled to pursue any action at law or in equity in a court of competent jurisdiction in the State of Delaware.
10. This Agreement shall be binding upon and inure to the benefit of the parties, their respective heirs, successors, and assigns.
11. All pronouns and any variations thereof used in this Agreement shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the context may require.
12. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Electronic signatures and photocopies or facsimile copies of signatures shall be deemed to have the same force and effect as originals.

C. SCEMS and Beebe Healthcare and the Division mutually agree that:

1. No person shall; on the basis of race, color, creed, sex, national origin, age, or disability, be subjected to any discrimination prohibited by the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act, as amended, American with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, Title IX of the Educational Amendments of 1972, and other applicable laws, regulations, and Executive Orders.
2. No compensation is expected pursuant to this Agreement. However, this Agreement does not preclude other contractual agreements concerning the program within this Agreement.
3. Nothing in this Agreement shall be deemed a waiver of the doctrine of sovereign immunity on the part of the State of Delaware.
4. Nothing contained herein is intended to waive, alter, or otherwise amend Sussex County's immunity under the Delaware Code or otherwise, including but not limited to the County and Municipal Tort Claims Act. Additionally, nothing contained herein is intended to violate any constitutional principles of the State of Delaware or United States. To the extent that any obligations contained in this Agreement are determined by court or other judicial action to waive, alter, or otherwise amend such immunity or to be constitutionally prohibited or otherwise not in accordance with the laws in effect at the time of any such claim, liability, cost or expense, the offending language shall be stricken from this Agreement by such authority and considered invalid and unenforceable to the extent necessary to allow the application of such immunity to any claims, losses, damages, or suits asserted against either party or to the extent necessary to correct such violation of the law. The parties agree that any claims, liabilities, damages, costs, and expenses shall be subject to the provisions of the County and Municipal Tort Claims Act, including the limitations on damages.

D. SCEMS and Beebe Healthcare agrees to:

1. Have on file the proof of state registration, current licensure, certification, and/or appropriate credentials of any participants requiring those licenses, certifications, or credentials.
2. **SCEMS and Beebe Healthcare** shall separately contract for and be solely responsible for any wages and/or stipends paid to the SCEMS and Beebe Healthcare staff participating under the terms of this Agreement.
3. **SCEMS and Beebe Healthcare** shall be solely responsible for ensuring that participating staff are covered by appropriate health and liability insurance, Workers Compensation, and any other appropriate insurance. More specifically, during the term of this MOU and any extension thereof, **Sussex County and Beebe Healthcare** shall each secure and maintain, at their own expense, the following types and amounts of insurance coverages as set forth herein; each policy of insurance required shall be written by insurers with a Best's Financial Strength Rating of "A-" or better, and a Financial Size Category of "Class VII" or better in the latest evaluation of the A.M. Best Company, unless otherwise approved by the other party and allowed to do business in the State of Delaware: Commercial General Liability Insurance, written on an ISO "occurrence form" or an equivalent form including coverage for bodily injury and property damage claims assumed in a contract with limits of \$1,000,000 combined single limit each occurrence, \$2,000,000 combined single limit general aggregate,

\$1,000,000 combined single limit products/completed operations aggregate and \$1,000,000 personal and advertising injury any one person or organization; Workers' Compensation Insurance in compliance with the statutory requirements of the State of Delaware and Employers' Liability Insurance with limits of \$500,000 each Accident and Disease per Employee/Policy Limit; Business Auto Liability Insurance covering all owned, hired and non-owned vehicles for which each party may be responsible with limits of \$1,000,000 combined single limit per accident; Excess/Umbrella liability insurance with follow form coverage of underlying insurance including Commercial General Liability (including products and completed operations), Business Auto Liability, and Employers' Liability, in an amount of not less than \$9,000,000 per each occurrence and aggregates; Professional liability insurance including errors and omissions, property damage, and personal injury coverage, affording protection of not less than \$1,000,000 combined single limit and \$3,000,000 in the aggregate; Insurance coverage for third party liability arising out of breach of privacy, inclusive of confidential and proprietary business information, HIPAA violations, and other breaches of Personally Identifiable Information and/or Protected Health Information, that may arise from the performance of duties under this MOU with minimum limits of \$1,000,000.00 per claim and \$1,000,000.00 aggregate; Privacy Breach Notification and Credit Monitoring with minimum limits of \$500,000.00 each claim. Prior to the commencement of services hereunder, **Sussex County** will submit to the **Beebe Healthcare**, and **Beebe Healthcare** will submit to **Sussex County**, a certificate of insurance evidencing their respective insurance. Each Party shall notify the other at least thirty (30) days in advance prior to cancellation of coverage.

4. **SCEMS and Beebe Healthcare** agree to save and hold harmless the Division from any liability which may arise as a result of **SCEMS and Beebe Healthcare's** negligent performance, or and/or the negligent performance of SCEMS and Beebe Healthcare's staff, under this Agreement.
5. Assure both faculty and staff adherence to the Division's policies regarding client confidentiality.

E. The Division of Public Health shall:

1. Allow Mobile Integrated Healthcare (MIH) pilot program paramedics to perform functions that expand the role of EMS practitioners, with appropriate training and medical oversight, but does not change the paramedic scope of practice.
2. Provide staff assistance and support throughout the Mobile Integrated Healthcare pilot program.

Remainder of this page intentionally left blank.

Certification:

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Molly K. Magarik
Cabinet Secretary
Department of Health & Social Services

Date

CM & P Approval _____

DIVISION OF PUBLIC HEALTH

Karyl T. Rattay, MD, MS
Director
Division of Public Health

Date

Division Approval: _____

OFFICE OF EMERGENCY MEDICAL SERVICES

Britany Huss
Deputy Director
Office of Emergency Medical Services

Date

IRM Approval: _____

Training Approval: _____

BEEBE HEALTHCARE, a corporation of the State of Delaware

David Tam, MD,MBA, FACHE
President and CEO

Date

SUSSEX COUNTY, a political subdivision of the State of Delaware

By: _____
Michael H. Vincent, President
Sussex County Council

Attest: _____
Robin Griffith, Clerk of the
Sussex County Council

Date

**SUSSEX COUNTY EMERGENCY MEDICAL SERVICES, a department of Sussex
County**

Robert Murray
Director

Date

Approved as to Form:

J. Everett Moore, Jr., Esquire
Sussex County Attorney

Date

APPENDIX A

DETAILED SCOPE OF WORK

- *SCEMS and Beebe Healthcare agree to train a minimum of three current SCEMS paramedics as Mobile Integrated Healthcare (MIH) paramedics. .*
- *Beebe Healthcare agrees to provide a clinical rotation for a mutually agreed upon number of community paramedics, in the areas of transitional care management, care coordination, in-hospital pulmonary navigation and rehabilitation, in addition to outpatient pulmonary observation, based on clinical rotation and observational guidelines. Activities will include training then evaluating the community paramedic's ability to correctly perform each assessment and provide appropriate resources. Beebe Healthcare and/or SCEMS may provide additional training hours if both parties agree that it would be mutually beneficial to the program.*
- *Beebe Healthcare agrees to provide the medical oversight for the MIH program. SCEMS agrees that an EMS Medical Director shall be appointed liaison to work with the Beebe Healthcare MIH program medical director. The Beebe Healthcare MIH program medical director agrees to create and oversee patient care protocols and quality care provided by the MIH paramedics.*
- *SCEMS will ensure staffing of the MIH paramedic unit up to two days a week. MIH paramedics will continue to work their regularly scheduled shifts when not assigned to the MIH unit.*
- *Should the MIH paramedics encounter a patient deemed ill enough to require emergency care or transportation to an Emergency Department the MIH paramedic will activate the 911 response through the county EOC, start a 911 incident, render appropriate care under the State of Delaware Paramedic Standing Orders and complete a State of Delaware ALS Patient Care report in the statewide reporting system.*
- *SCEMS agrees to provide the vehicles and currently utilized equipment needed for the MIH unit.*
- *Beebe Healthcare agrees to provide any additional supplies needed for the MIH program.*
- *SCEMS agrees to establish the MIH paramedic role as providing follow-up, in-home outreach and patient education following discharge from the emergency department.*
- *This MIH pilot program will serve the identified area, encompassing the Beebe catchment area to include Millsboro, Long Neck, Lewes, Rehoboth, and the eastern portion of southern Sussex County.*
- *Participants agree to share patient records as is necessary to provide care and will follow corresponding confidentiality policies. The patient record created by the MIH paramedic will be entered into Beebe Healthcare's Athena patient care reporting system.*
- *Participants agree to run data requests on certain measurable outcomes for use by both parties. Data will be presented in aggregate without patient identifiers. Beebe Healthcare will share program evaluation results with SCEMS.*

- *At the completion of the pilot program, SCEMS and Beebe Healthcare shall complete and submit to the Office of EMS an outcome summary report regarding quality of life, medication reconciliation, home safety inspections, utilization of 911 and emergency department services, cost of the program, cost of reduction to the healthcare system, and both primary care and pulmonologist satisfaction.*
- *Beebe Healthcare shall formally request a home visit by the MIH paramedic through a physician order, based on services that are within the scope and expertise of the paramedic. A MIH paramedic will act on the order between 8:00 am and 5:00 pm within 24 –48 hours of receipt, and based on urgency and availability, unless otherwise agreed upon by the issuing provider. Beebe Healthcare physicians and medical providers shall provide medical oversight and have ultimate responsibility regarding their patients in the program.*
- *SCEMS and Beebe Healthcare shall participate in case reviews when appropriate, in order to improve the quality of the program and document specific outcomes for evaluation purposes.*
- *Beebe Healthcare shall administer and provide the medical oversight for the MIH program through its Medical Directors, Delaware-licensed physicians. All Medical Directors shall be physician's board certified in pulmonary medicine or MIH related alternative ("Program Medical Director").*
- *SCEMS EMS Medical Directors shall work in conjunction with the MIH Program Medical Director.*
- *Beebe Healthcare shall provide proof of a certificate of liability insurance for Medical Malpractice listing all physicians participating in the program.*
- *The program Medical Director shall possess thorough knowledge of skills assigned by standing orders to the Paramedics.*
- *The program Medical Director shall possess thorough knowledge of the laws and administrative rules of the State of Delaware pertaining to Paramedics.*
- *The Program Medical Director shall oversee issuance, review, and maintenance of standing orders within the scope of practice not to exceed the certification level of the Paramedics.*
- *The program Medical Director shall explain the standing orders to the Paramedics, making sure they are understood and not exceeded.*
- *The program Medical Director shall establish that the Paramedics are currently certified and in good standing with the Board of Medical Licensure and Discipline.*
- *The program Medical Director shall provide regular review of the Paramedics' practice by conducting one or more of the following at least 2 times per year;*
 - *Direct observation of prehospital care performance by riding with the transitional care provider team;*
 - *Indirect observation using one or more of the following:*
 - *MIH patient care form;*

- *Prehospital communications tapes review;*
 - *Immediate critiques following presentation of reports;*
 - *Demonstration of technical skills;*
 - *Post-care patient or receiving physician interviews using questionnaire or direct interview techniques;*
 - *Provide or coordinate formal care reviews*
- *SCEMS agrees to fully fund this program with grant funding secured by Beebe Medical Foundation. Funds are anticipated to cover training programs and up to three years of home visits.*
 - *SCEMS agrees to ensure internal controls are in place that remove all expenses associated with the pilot program from the request for State Paramedic Grant in Aid reimbursement.*

ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

(302) 855-7370 T
(302) 854-5391 F

hans.medlarz@sussexcountype.gov



Sussex County

DELAWARE
sussexcountype.gov

Memorandum

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

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

RE: ***Lochwood Community Sewer Area Expansion***
A. Davis, Bowen & Friedel – Standalone EJCDC Engineering Agreement

DATE: October 26, 2021

In August of 2018, the Lochwood Property Owner's Association requested an Engineering department presentation at their annual community meeting on October 27, 2018 regarding estimated costs for central County sewer service. At that meeting, the majority of the members present, requested the County to distribute a polling letter to all property owners. The responses to the polling letter being favorable, the Engineering Department conducted an official public hearing on September 7, 2019. The positive public hearing results were presented to County Council on September 17, 2019 and Council voted to extend the Sussex County Unified Sanitary Sewer District to include the Lochwood subdivision.

In April of 2020, the Engineering Department finalized the Preliminary Engineering Report and the Environmental Information Documents required for submittal of the funding application to USDA-Rural Development. On May 14, 2020, these documents were combined with the overall funding application prepared by the Finance Department and filed with USDA/Rural Development, Rural Utility Service for approximately \$8,440,000. On May 21, 2021, the County accepted the letter of conditions and on May 24, 2021, the obligating documents associated in the loan amount of \$4,723,000 and the associated \$3,717,000 of grant funding.

On June 15, 2021, Council approved the USDA Loan Resolution and introduced the debt service ordinance authorizing issuance of up to \$4,287,000 in general obligation bonds in connection with the design & construction of the Lochwood Expansion of the Unified Sanitary Sewer District. The ordinance was approved on July 13, 2021.



On May 14, 2019, County Council awarded a five (5) year base contract for miscellaneous engineering services to Davis, Bowen & Friedel, Inc. Since then, Council has approved five amendments for various projects, as well as a standalone agreement for the Ellendale Water District.

The Engineering Department determined that Davis, Bowen & Friedel, Inc. is the most suitable on-call firm to implement the design of the project. Therefore, we request approval for a standalone engineering agreement for the Lochwood sewer area expansion design project in the not to exceed amount of \$179,850.00 contingent upon USDA concurrence.

The request includes allowances for various specialty services associated with the required permitting process as well as funding for the known required four easement surveys.

October 15, 2021
Revised October 19, 2021

*Michael R. Wigley, AIA, LEED AP
W. Zachary Crouch, P.E.
Michael E. Wheedleton, AIA, LEED GA
Jason P. Loar, P.E.
Ring W. Lardner, P.E.
Jamie L. Sechler, P.E.*

Sussex County Engineering
Sussex County Administrative Office
2 The Circle
P.O. Box 589
Georgetown, Delaware 19947

Attn: Mr. Hans Medlarz, P.E.
County Engineer

RE: **Engineering Base Contract
Professional Engineering Services
Lochwood Subdivision Sewer Service**
Sussex County, Delaware
DBF #P1897B21.040

Dear Mr. Medlarz:

Davis, Bowen & Friedel, Inc., (DBF) is pleased to submit this proposal for providing Survey, Design, and Permitting Phase services for the above-referenced project. The County will provide sanitary sewer to the residents of Lochwood Subdivision via a vacuum sewer system that will ultimately discharge into the Headwater Cove Subdivision. The project will be funded by USDA and will utilize their approved CJCDC documents for this project.

A description of our proposed scope of services and associated fees for each portion of the work is as follows.

A. SURVEY SERVICES

Our office will perform necessary topographic and utility location survey within the subdivision and new force main route. We will locate strategic property corners that will allow us to recreate the recorded plat in CAD and tie-in to the found property corners. We will locate all existing surface features within the proposed project area, as are visible from the surface, including roadway, swales, drainage structures, utilities, manholes, cleanouts, valves, fences, landscaping, mailboxes, signs, exposed property corners, and other natural and man-made features pertinent to the design of the project. We will determine the elevations of all stormdrain piping and inverts of sewer mains that might be affected within the project area. In addition, we will survey the ground elevation at the primary structure and locate the location of the sewer line leaving the house and the location of the on-site system.

B. DESIGN AND PERMITTING

Utilizing the survey information identified above along with design information provided by the vacuum sewer vendor, our office will prepare the project construction documents and obtain construction permits for the project as described in the introductory section of this proposal. This work shall include:

- Preparation of plans, profiles, and details for the proposed sewer system. Preparation of plans, profiles, and details for the proposed force main to include the directional bore under the waterway. Preparation of site plans for the proposed building. All work will be in accordance with the latest Sussex County and/or State standards.
- Preparation of pre-final design documents consisting of construction drawings, contract documents and specifications, including a meeting with the County to review prior to sending out for construction permitting.
- Preparation of submittals to Sussex County, Sussex Conservation District, Delaware Department of Natural Resources and Environmental Control (DNREC), Delaware Health and Social Services (DHSS) - Division of Public Health Office of Engineering, and other agencies as necessary to obtain construction permits. *(Please note the County will be responsible for any fees associated with agency submittals.)*
- Address agency comments and resubmit for obtaining final plan approval and approval.

C. PRE-PACKAGED / PRE-ENGINEERED BUILDING ASSISTANCE

Our office, using the topographical survey and geo-technical investigation, will prepare a slab and footer design for the proposed pre-packaged wastewater pump station designed by the manufacturer. In addition, our office or subconsultant will prepare electrical plans for the pump station, back-up generator, control panel for the pump station, and electrical assistance for the building. The plans will be submitted to the County for internal review of the pump station electrical system.

D. BID ASSISTANCE

Our office will assist the County during the bid process. Our services may include, attending a pre-bid meeting, responding to requests for information, bid tabulation, bid review and award.

E. ALLOWANCE 1 – GEO-TECHNICAL INVESTIGATION

The proposed vacuum system will require a building for the equipment and soil borings are required for the building design, but the quantity and depth are unknown at this time. In addition, the project is located next to the closed Angola Landfill #3 and additional borings should be performed to determine groundwater elevations that will be needed for design and construction purposes.

F. ALLOWANCE 2 – ARCHAEOLOGICAL ASSISTANCE

The proposed vacuum system and associated building may be located on lands that may require archaeological studies to comply with project funding requirements. Our office will coordinate with a subcontractor, Ed Otter, Inc., as necessary to meet the requirements of USDA and/or SHPO.

G. ALLOWANCE 3 – WETLAND / WATERWAY INVESTIGATION / PERMITTING

The proposed force main will cross a navigable waterway. A permit will be required from DNREC Subaqueous Lands Section, and a permit may be required from the Army Corps of Engineers. Our office will coordinate with a subcontractor, Environmental Resources, Inc., for the permitting requirements.

H. UNIT PRICE 1 – EASEMENT ASSISTANCE

Our office will assist with easement exhibits and legal descriptions should they be needed for this project.

I. FEES

We propose to complete the scope of services as described above for the following fees:

A. Survey Services:	\$27,500.00
B. Design and Permitting:	\$50,250.00
C. Pre-Packaged/Pre-Engineering Building Assistance:	\$20,000.00
D. Bid Assistance:	\$3,500.00
E. Allowance 1:	\$10,000.00
F. Allowance 2:	\$50,000.00
G. Allowance 3:	\$15,000.00
H. Unit Price 1:	\$900.00 per Easement

J. EXCLUDED SERVICES

Excluded from our above scope of services is work associated with the following services. If required, this work can be performed on a unit price basis or under a separate proposal to the County.

- Phase 1 or 2 Environmental Assessments or Permitting
- Easement Acquisition Services
- Building Permits
- Architectural Design
- Construction Administration/Inspection Services
- Construction Survey Services
- As-Built Surveys
- Application and Permit Fees
- Financial Administration Services
- Reimbursable Expenses

Mr. Hans Medlarz, P.E.
October 15, 2021
Revised October 19, 2021
Page 4

We proposed to complete the scope of services as described above for the fees identified above. Billing of lump sum fees will be based upon percentage of work completed during the previous month. Additional services and/or direct or reimbursable expenses will be provided on an hourly and unit price basis and invoiced for work completed during the previous month in accordance with the enclosed Schedule of Rates. Please refer to the attached schedule of rates for other terms and conditions.

Should you find this proposal acceptable, please execute below and return one (1) copy to us and retain one (1) copy for your files. Receipt of the signed copy will be considered our authorization to proceed.

On behalf of Davis, Bowen & Friedel, Inc., we are fully committed to provide a product that will meet or exceed your expectations. We look forward to completing this project with you and appreciate the opportunity to be of continued service to Sussex County. Should you have any questions, comments, concerns, or would like to discuss this further please give me a call at your convenience.

Sincerely,
DAVIS, BOWEN & FRIEDEL, INC.

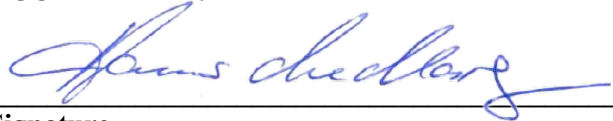


Ring W. Lardner, P.E.
Principal

Enclosures

\\Proposals\Sussex...\P1897B21.040—HM Lochwood Subdivision Sewer Service

ACCEPTED BY:



10/21/2021

Signature

Date

Hans M. Medlarz, Sussex County Engineer
Printed Name

DAVIS, BOWEN & FRIEDEL, INC. ("DBF")
SCHEDULE OF RATES AND GENERAL CONDITIONS
SUSSEX COUNTY ON-CALL SERVICES
Effective June 11, 2019

<u>CLASSIFICATION</u>	<u>HOURLY RATE</u>
Principal	\$190.00
Senior Architect	\$170.00
Architect	\$130.00
Senior Landscape Architect	\$170.00
Landscape Architect	\$130.00
Senior Engineer	\$170.00
Engineer	\$130.00
Construction Administrator	\$130.00
Senior Traffic Engineer	\$170.00
Traffic Engineer	\$130.00
GIS Specialist	\$105.00
Senior Surveyor	\$170.00
Surveyor	\$130.00
Senior Designer	\$115.00
Designer	\$100.00
CADD I	\$90.00
CADD II	\$80.00
2 Man Field Crew	\$140.00
3 Man Field Crew	\$175.00
GPS Unit (1 Man)	\$110.00
GPS Unit (2 Man Crew)	\$150.00
GPS Unit (3 Man Crew)	\$200.00
Resident Project Representative	\$90.00
Computer Graphics Designer	\$85.00
Computer Administrator	\$100.00
Clerical	\$60.00
Travel	\$0.58
Direct Expense	Cost
Prints	\$2.50/sheet
Overtime	(1.5 x Above Hourly Rate)

ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

(302) 855-7370 T
(302) 854-5391 F

hans.medlarz@sussexcountysde.gov



Sussex County

DELAWARE
sussexcountysde.gov

Memorandum

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

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

RE: ***C. Magee Farms Agricultural Lease Modification***

DATE: October 13, 2021

In July 2021 the Engineering Department prepared agricultural lease bid documents for the Bunting Farm located on the north side of RT-54 and two Georgetown Parcels No. 135-20.00-51.01 & 51.02 located on Springfield Lane next to the RR-track off Park Avenue. The documents were publicly advertised on July 1st and 8th in addition to sending direct notices to local farmers. On July 26, 2021, one bid was received from Magee Farms for the Bunting Farm parcel at a net annual fee of \$4,500.00. No bids were received for the Georgetown parcels with approximately 17.30 Acres.

On September 21, 2021 County Council awarded a five (5) year agricultural lease for the Bunting Farm to Magee Farms for a net annual fee of \$4,500.00 and directed the Department to find alternatives for the Georgetown parcels. The Engineering Department contacted the Sussex Conservation District for the establishment of a meadow. However, the District is not geared for creation of meadowland and therefore the Department contacted C. Magee Farms, LLC the leaseholder for the other parcels along Park Avenue.

C. Magee Farms offered to pay the same \$75 lease fee per acre as for the other Georgetown parcels. Therefore, the Sussex County Engineering Department recommends award of an agricultural farmland lease modification to C. Magee Farms, LLC. (Chris Magee) adding the Parcels No. 135-20.00-51.01 & 51.02 to the existing farmland lease without changing the term. Hence, the agreement will expire on December 31, 2022.



ADDENDUM TO LEASE AGREEMENT

THIS ADDENDUM TO LEASE AGREEMENT made this 26th day of October, A.D. 2021, by and between: C. Magee Farms, LLC, of 35039 Lighthouse Rd, Selbyville, DE 19975, hereinafter referred to as “Owner”,

-AND-

SUSSEX COUNTY, a political subdivision of the State of Delaware, hereinafter referred to as “County”.

WHEREAS, the parties hereto have previously entered into a Lease of farmland, for several parcels off Park Avenue in Georgetown Parcels, and

WHEREAS, the parties hereto are desirous of modifying the same for the purpose of including the hereinafter stated provisions,


NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein agree to modify the original agreement, as follows:

1. Parcels 135-20.00-51.01 & 51.02 are hereby added to the existing Farmland Lease Agreement of C. Magee Farms, LLC. The cost per acre will be maintained at \$75.00 for both additional parcels. This provision shall inure to the benefit of the County, the County’s representative, successors or assigns and shall continue in force and effect for so long as the original Lease of Farmland shall remain in effect, and at the expiration of that period be of no further force or effect.

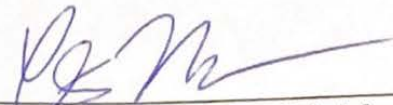
2. Except as modified herein, the original Lease of Farmland dated the 18th day of December 2018 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereunto have caused this lease agreement to be executed on the day and year first above written hereof by their duly authorized officers.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:


Witness

OWNER:


C. Magee Farms, LLC (Chris Magee)

(SEAL)

ATTEST: _____
Clerk of Sussex County Council

SUSSEX COUNTY

President, Sussex County Council

C. Magee Farms LLC
3503 _____ Rd
Seli _____ 075

ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

(302) 855-7370 T
(302) 854-5391 F

hans.medlarz@sussexcountype.gov



Sussex County

DELAWARE
sussexcountype.gov

Memorandum

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

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

RE: ***George, Miles & Buhr – 2019 Miscellaneous Engineering Base Contract
A. Amendment No.1, Medic Stations 101, 103, 110 mods & 111 Site Plans***

DATE: October 26, 2021

After a publicly advertised request for proposal process, Council awarded the EMS Department's - Architectural Consulting Services base contract to George, Miles and Buhr, Inc. (GMB) for a five (5) year term on July 17, 2018. One of the first two task orders was the North Seaford Medic Station 110. This station was the first one which had to meet the revised State's fire prevention code requiring a fire suppression sprinkler system. The EMS Department is now proceeding with the relocations of the existing stations 101 in Lincoln, 103 in Dagsboro and 111 in Milton.

All stations will have an identical architectural footprint but individual site, stormwater management, fire suppression and DelDOT entrance plans. In addition, two of the stations will require on-site wastewater disposal options under challenging site conditions especially in Lincoln. Furthermore, the IT Department is moving forward with the budgeted data center for the north Seaford Station 110 site requiring a modification of the site and electrical plans.

In summary, the Department is requesting approval of Amendment No.1 to George, Miles & Buhr's – 2019 Miscellaneous Engineering Base Contract in the not to exceed amount of \$295,000.00 to be billed in accordance with GMB's audited hourly rates.



This is **EXHIBIT K**, consisting of [] pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated 08/20/2019.

**AMENDMENT TO OWNER-ENGINEER AGREEMENT
Amendment No. 1**

The Effective Date of this Amendment is: October 26, 2021

Background Data

Effective Date of Owner-Engineer Agreement: August 20, 2019

Owner: Sussex County

Engineer: George, Miles & Buhr

Project: Medic Stations 101, 103, 110 mods & 111 Site Plans

Nature of Amendment: [Check those that are applicable and delete those that are inapplicable.]

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

Description of Modifications:

This Amendment includes modifications to Exhibit A – Engineer’s Services and selection and use of Exhibit C, Compensation Packet AS-1.

Agreement Summary:

Original Agreement Amount:	\$ <u> 0 </u>
Net Change for prior amendments:	\$ <u> 0 </u>
This amendment amount:	\$ <u>295,000.00</u>
Adjusted Agreement amount:	\$ <u>295,000.00</u>

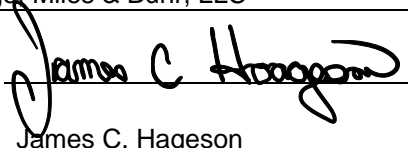
Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect.

OWNER:

By: _____
Print
name: _____
Title: _____
Date Signed: _____

ENGINEER:

George Miles & Buhr, LLC

By: 
Print
name: James C. Hageson
Title: Sr. Vice President
Date Signed: 10/23/2021

■ ■ ■ ■

**ARCHITECTS
ENGINEERS**

206 WEST MAIN STREET
SALISBURY, MD 21801
PH: 410.742.3115
PH: 800.789.4462
FAX: 410.548.5790

SALISBURY
BALTIMORE
SEAFORD

www.gmbnet.com

■ ■ ■ ■

JAMES H. WILLEY, JR., P.E.
PETER A. BOZICK, JR., P.E.
JUDY A. SCHWARTZ, P.E.
CHARLES M. O'DONNELL, III, P.E.
W. BRICE FOXWELL, P.E.
A. REGGIE MARINER, JR., P.E.
JAMES C. HOAGESON, P.E.
STEPHEN L. MARSH, P.E.
DAVID A. VANDERBEEK, P.E.
ROLAND E. HOLLAND, P.E.
JASON M. LYTLE, P.E.
CHRIS B. DERBYSHIRE, P.E.
W. MARK GARDOCKY, P.E.
MORGAN H. HELFRICH, AIA
KATHERINE J. MCALLISTER, P.E.
ANDREW J. LYONS, JR., P.E.

JOHN E. BURNSWORTH, P.E.
VINCENT A. LUCIANI, P.E.
AUTUMN J. WILLIS
CHRISTOPHER J. PFEIFER, P.E.

Revised October 20, 2021

Sussex County Engineering Department
2 The Circle
PO Box 589
Georgetown, DE 19947

Attn: Mr. Hans Medlarz
County Engineer

Re: Proposal for Civil Engineering Professional Services
Sussex County EMS Facilities - *Revised*

Dear Hans:

We are pleased to present this proposal for Civil/Site Design for three (3) planned Emergency Medical Service (EMS) Facilities located in Sussex County, DE. Our proposal is more particularly described as follows.

PROJECT LOCATIONS

N. Old State Road, Lincoln, Delaware – (2.1 acres)
Handy Road, Millsboro, Delaware – (2.7 acres)
Cave Neck Road, Milton, Delaware – (1.9 acres)

PROJECT DESCRIPTION

Preparation of site plans for three (3) planned EMS facilities. The three (3) sites have been depicted in the Property Acquisition site plans as furnished by Sussex County, copies attached.

SCOPE OF SERVICES: EMS CIVIL/SITE

A. Preliminary Design – 50%

1. Kickoff meeting to review project and contract agreement.
2. Site survey to establish horizontal and vertical control and prepare base drawings showing topographic contours and locations of existing structures and site features i.e., entrances, pavement, curbing, sidewalks, utilities, woods line, ditches, culverts, etc. as needed to prepare a base drawing. Proposed fee is based upon the acres referenced above for the various site locations.
3. Perform Stormwater Assessment Study (SAS) per DNREC format as starting point for stormwater design. Hold Pre-Application Meeting with the Sussex Conservation District (SCD). Develop preliminary design criteria for stormwater management and water quality improvement practices, incorporating input from the Sussex Conservation District, and accounting for the 2019 revisions to the Delaware Sediment and Stormwater Regulations.

4. Coordinate with Geotechnical Subconsultant for soil borings and infiltrometer testing as needed for site analysis and design of stormwater management facilities.
 5. Prepare Concept Site/Entrance Plan per DelDOT format and submit to DelDOT for initial input. Attend Pre-Development meeting at DelDOT in Dover and serve as your agent to acquire a Letter of No Objection to Recordation (LONOR). Comments will be coordinated within the DelDOT LONOR process.
 6. Prepare preliminary water and sewer design concepts. The following is our understanding for water and sewer service to the various sites:
 - a. Lincoln, DE – onsite septic system and well to include site evaluation. The Lincoln site has an existing onsite septic system which will be evaluated to determine if it can be expanded. In addition, the Lincoln site has two existing wells which will be evaluated to determine if existing capacity is sufficient to provide domestic and fire flows.
 - b. Millsboro, DE – Extend Town water and sewer to serve site.
 - c. Milton, DE – new onsite septic system and well to include site evaluation. The Milton site has moved east from the original proposed location. The domestic water system design shall be based on the number of proposed fixture units. A test well is proposed for this location to determine available capacity to provide fire protection.
 7. Prepare Preliminary Site Plan in accordance with Owner, zoning code, and applicable permit agency requirements. Submit Preliminary Site Plan to County (or Town) for review. Attend one (1) Planning & Zoning meeting. Incorporate County/Town review comments.
 8. Attend up to two (2) meetings with the Owner at appropriate milestones during the 50% design phase to discuss the progress of the design and incorporate Owner comments.
 9. Provide 50% Construction Documents to Owner for review and comment, consisting of items above and outline specifications.
- B. Final Design and Permitting – 100%**
1. Develop Preliminary Site and Stormwater Management design, computations and report. Submit to Sussex Conservation District (SCD) for review and comment. Incorporate comments and finalize. Submit Final Site and Stormwater Management Plan to SCD for review and comment. Incorporate comments and finalize.

Excluded: Analysis and design of off-site or upstream or downstream drainage systems are not included in the proposed fee since they are currently undefined.

2. Prepare Highway Entrance Construction Plans to include road frontage improvements (site only), and submit to DelDOT for approval. Coordinate Highway Entrance Construction Plans with DelDOT LONOR comments. Incorporate review comments and finalize.

Excluded: Design of off-site highway improvements or drainage improvements are not included in the proposed fee since they are currently undefined.

3. Prepare Fire Marshal Plan and submit to the State Fire Marshal Office (SFMO) for Site Plan approval. Incorporate comments and finalize.
4. Prepare final water and sewer plans as indicated in preliminary design and submit to DNREC and DHSS as applicable.
5. Submit Final Site Plan and agency approval documents to Owner and/or Town for final review and approval. Attend one (1) County or Town Council meeting.

SCOPE OF SERVICES: NORTH SEAFORD EMS SCOPE AMENDMENT

A. Development of Contract Drawings

1. Prepare contract drawings for the placement of a prefabricated data center. County to provide shop drawings of the proposed prefabricated building, anticipated size is 13'6" 'x 47'. Design to include extension of onsite water service to the humidifier, extension of electrical service to the prewired building (full load module power is 136kw), 100 kw generator, structural design of the base slab for prefabricated building with integral condenser pad, generator pad, minor site grading, and sidewalk connection to parking spaces. No permits are anticipated

EXCLUSION, ASSUMPTIONS, AND CONSIDERATIONS

- Excludes value engineering or substantial modification of the 50%.
- Coordinate with Traffic Subconsultant for preparation of Traffic Impact Study (TIS) or Traffic Operational Analysis (TOA) which will be required by DelDOT for traffic impacts greater than 200 trips per day is excluded. Estimated number of site ADT is less than 200.
- It is assumed if a fire suppression system is needed, it will be via an onsite storage system, unless the proposed water system can provide adequate flow and pressure. Design is excluded from this proposal.
- Reimbursable expenses are an estimate and includes estimated permit fees per site are: SFMO, \$150.00, DNREC NOI \$195, SCD, \$6,600.00, DelDOT, \$1,500, and miscellaneous expenses, \$1,555.00.
- DNREC Construction Permit application is not necessary as each facility will generate less than 2,000 gpd of wastewater.
- Bidding, Construction Administration, and Inspection services are excluded from the proposed fee and are expected to be contracted separately

- It is assumed that wetlands do not exist on either sites.
- Additional permit and application fees, other than those mentioned above, are excluded from this agreement.
- Any item not specifically indicated herein is excluded from this agreement.

FEE SUMMARY

We propose to provide the above defined Preliminary and Final Design Services in accordance with EJCDC, EXHIBIT C - COMPENSATION PACKET BC-2: Basic Services – Standard Hourly Rates per the following breakdown of fees:

N. Old State Road, Lincoln, DE

Civil/Site Design:	\$ 73,000.00
Geotechnical:	\$ 3,000.00
Reimbursable Expenses:	<u>\$ 10,000.00</u>
Subtotal	\$ 86,000.00

Dickerson Road, Millsboro, DE

Civil/Site Design:	\$ 67,000.00
Geotechnical:	\$ 3,000.00
Reimbursable Expenses:	<u>\$ 10,000.00</u>
Subtotal	\$ 80,000.00

Cave Neck Road, Milton, DE

Civil/Site Design:	\$ 73,000.00
Geotechnical:	\$ 3,000.00
Test Well:	\$ 23,000.00
Reimbursable Expenses:	<u>\$ 10,000.00</u>
Subtotal	\$109,000.00

North Seaford EMS Scope Amendment

Civil/Site Design:	\$ 5,350.00
Structural:	\$ 2,250.00
Electrical:	<u>\$ 2,400.00</u>
Subtotal	\$ 10,000.00

Explore Fire Suppression Options

Allowance:	<u>\$ 10,000.00</u>
Subtotal	\$ 10,000.00

TOTAL CIVIL/SITE DESIGN FEE: \$295,000.00

SCHEDULE

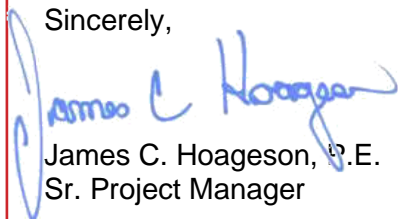
We propose to begin the Preliminary Design for this project within two (2) weeks upon receipt of this signed proposal for all three (3) locations and estimate 3 to 4 months to complete. We estimate 9 to 12 months for completion of the Final Design and Permitting. Once the plans are submitted to the various permitting and approval agencies, we are

no longer in control of the schedule. We will maintain communication with the agencies to facilitate the review process.

If this proposal meets with your approval, please execute in the space provided below and return one (1) copy to our office as acceptance and notification to proceed.

If you have any questions, do not hesitate to call me. We thank you for this opportunity.

Sincerely,



James C. Hoageson, P.E.
Sr. Project Manager

JCH/slh

Enclosures:

Property Acquisition Plans

APPROVED BY SUSSEX COUNTY ENGINEERING:

By: _____

Printed Name: _____

Date: _____

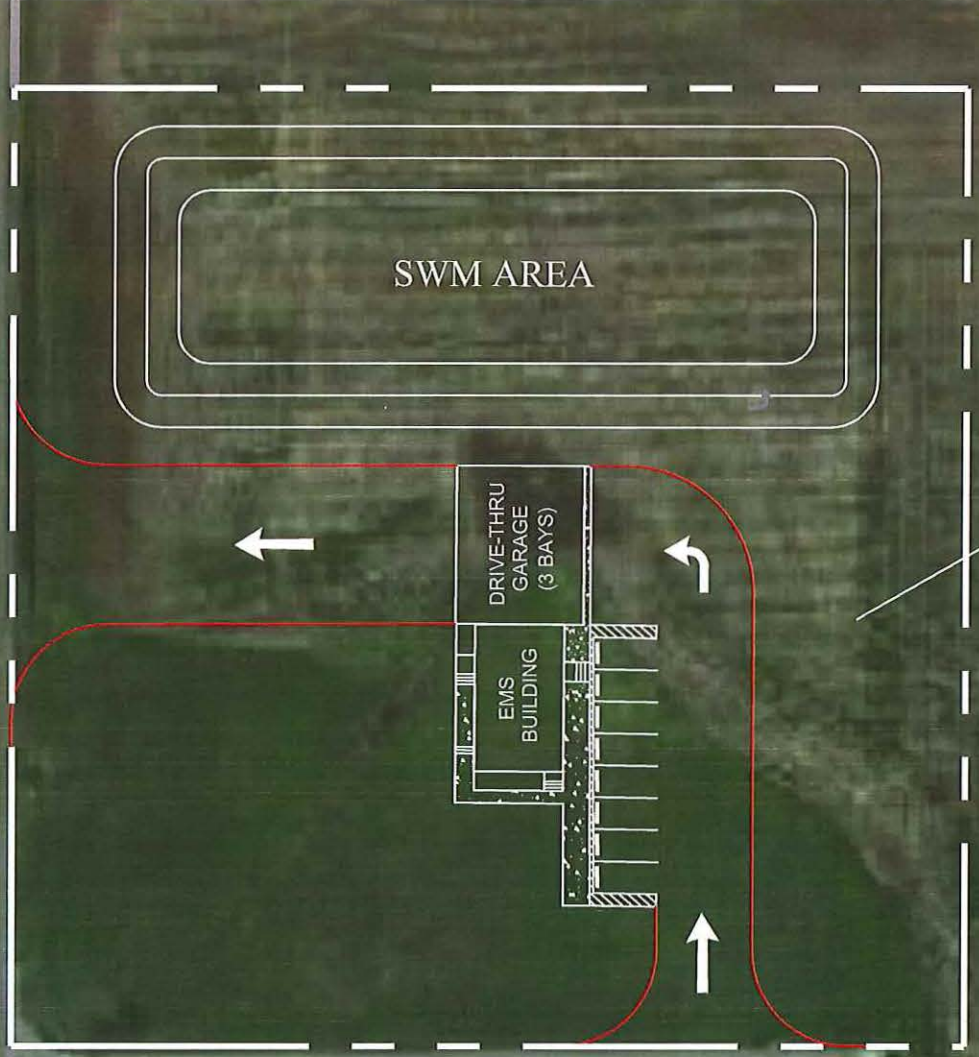
Title: _____

Phone Number: _____

Email Address: _____



N. OLD STATE RD.



SWM AREA

DRIVE-THRU
GARAGE
(3 BAYS)

EMS
BUILDING

FIRE HOUSE

P/O 230-12.00-36.00
90,000 SQ FT (2.07 ACRES)

230-5.20-56.00
ELIZABETH CALDWELL
DEED: 5203 263

230-12.00-36.00
ELLENDALE FIRE COMPANY
DEED: 3971 57

230-12.00-37.00
ROJAS GUSTAVO DIAZ
DEED: 2525 245

COMMENTS

SUSSEX COUNTY ENGINEERING DEPARTMENT
PROPOSED LINCOLN EMS STATION
PROPERTY ACQUISITION DRAWING



SCALE: 1" = 60'
60 0 60 120 180 240
SIZE: 11"x17" PAPER

DESIGNED BY: ADG
DRAWN BY: ADG
CHECKED BY: HMM



Google Earth

<p>COMMENTS</p>	<p>SUSSEX COUNTY ENGINEERING DEPARTMENT PROPOSED MILLSBORO EMS STATION PROPERTY ACQUISITION DRAWING</p>	 <p>SEAL</p>	<p>50 0 50 100 150 200</p> <p>SCALE: 1" = 50' SIZE: 11"x17" PAPER</p>	<p>DESIGNED BY: ADG DRAWN BY: ADG CHECKED BY: HMM</p>
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LAND ACQUISITION DATA		<div>SUSSEX COUNTY ENGINEERING DEPARTMENT</div> <div>PROPOSED MILTON EMS STATION</div> <div>PROPERTY ACQUISITION DRAWING - OPTION #2</div>	<div></div> <div>SEAL</div>	<div>SCALE: 1" = 40'</div> <div></div> <div>(PAPER SIZE = 11" X 17")</div>	<div>DESIGNED BY: ADG</div> <div>DRAWN BY: ADG</div> <div>CHECKED BY: HMM</div>
235-21.00-44.06 = 22,050 SQ FT					
235-21.00-44.05 = 22,050 SQ FT					
P/O 235-21.00-44.00 = 37,620 SQ FT					
TOTAL =81,720 SQ FT (1.88 ACRES)					



Memorandum

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

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

CC: Everett Moore, County Attorney

Date: October 21, 2021

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

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

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

The County Council held a public hearing for the application at its meeting of August 31, 2021. At the conclusion of the public hearing, action on the application was deferred for further consideration.

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

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

C/U 2248 Gulfstream Development, LLC

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

the northwest corner of Parker House Rd. (S.C.R 362) and Muddy Neck Rd. (S.C.R 361). 911 Address: N/A. Tax Parcel: 134-16.00-382.00

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

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

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

The Commission found that Mr. Ronald Sutton also spoke on behalf of the Application, Gulfstream Development, LLC; that he is a professional engineer with Civil Engineering Associates; that in accordance with DelDOT the developer must improve Muddy Neck Rd. and Parker House Rd.; that the right-of-way required both streets to be 40-ft.; that the current right-of-way on Parker House Rd. is 50-ft.; that the developer will have to dedicate 15-ft. from the property to DelDOT; that Muddy Neck Rd. is currently 70-ft; that the developer will have to dedicate approximately five feet to DelDOT; that all measurements are taken from the centerline of the road; that the developer must improve the roads, as well as the entrance to the property; that DelDOT requires 11-ft. lanes and eight foot shoulders on both Muddy Neck Rd. and Parker House Rd.; that a 15-ft. permanent easement will

be placed and a 10-ft. shared use path along the entire frontage of Parker House Rd. and Muddy Neck Rd.; that drainage flow is from west to east ending the in Assawoman Canal; that a new ditch system is proposed to be installed on the edge of the site between Providence and Kent Village that will correct the ponding water that happens at Shady Dell Park; that the new ditch will most likely pool into the project's stormwater management systems; that by doing this it will offer better quality and quantity management for the existing water; that the proposed stormwater management system includes a wet pond and a submerged gravel wetland which are approved by DNREC; that the stormwater management system will meet or exceed DNREC's requirements; that the project will provide both quality and quantity management for the RPV, CV and FV storm events and the site's discharge rates will not exceed the current discharge rates.

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

Mr. Clark submitted the proposed conditions.

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

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

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

compromise and would like more of an explanation of what will be done to the ditch along Providence.

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

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

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

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

The Commission found that Mr. Ted Schonbrunner spoke in opposition to the Application; that he lives in Shady Dell Park; that he did not see any sewer plans for the proposed Application; that stormwater management is the main problem in Delaware; that when reviewing the soil report on page 78 he concluded the soils are very poor; that depending on how the grading of the proposed site goes will depend on how the property will drain; that he questions what the capacity of the ponds are; that he has questions regarding the ditch and how the water will get to the Assawoman Bay; that he questions who will be paying for the future perpetual maintenance of the stormwater management; that he would like to see elevation points of the property, how the drainage will go and the retention ponds and where they are discharging to should be shown.

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

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

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

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

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

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

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

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

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

1. This application seeks the approval of 19 multi-family structures on approximately 3.93 acres. Although the units will be condominiums, they will have the appearance of single-family dwellings.
2. The property is in an area where a variety of development has occurred. Lands to the north of this property are zoned HR-RPC with a multi-family residential development. Lands to the west and south are developed under GR Zoning and there is nearby B-1 Zoning and other commercial uses. This project is consistent with these nearby uses.

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

- k. Any streetlights shall be shielded and downward screened so that they do not shine on neighboring properties or roadways.
- l. The interior street design shall meet or exceed Sussex County's street design requirements.
- m. If requested by the local school district, a school bus stop shall be provided. The location of the bus stop shall be shown on the Final Site Plan.
- n. The Final Site Plan shall include a Grading Plan for the site. No building permits shall be issued until an individual lot grading plan has been supplied to and approved by Sussex County. No certificate of occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.
- o. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.
- p. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

The Commission discussed the recommended conditions.

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

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

PLANNING & ZONING COMMISSION

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



Sussex County

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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: July 22nd, 2021

Application: CU 2248 Gulfstream Development, LLC

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

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

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

Current Zoning: General Residential (GR) Zoning District

Proposed Use: 19 Single-Family Condominiums

Comprehensive Land
Use Plan Reference: Coastal Area

Councilmanic
District: Mr. Hudson

School District: Indian River School District

Fire District: Milville Fire Department

Sewer: Sussex County

Water: Tidewater Utilities

Site Area: 3.93 acres +/-

Tax Map ID.: 134-16.00-382.00



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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

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

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework for how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the property has the land use designation of the "Coastal Area." All neighboring properties in Sussex County's jurisdiction are also designated as "Coastal Area." The municipality of Ocean View is located across Muddy Neck Road.

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

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

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



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE 19947

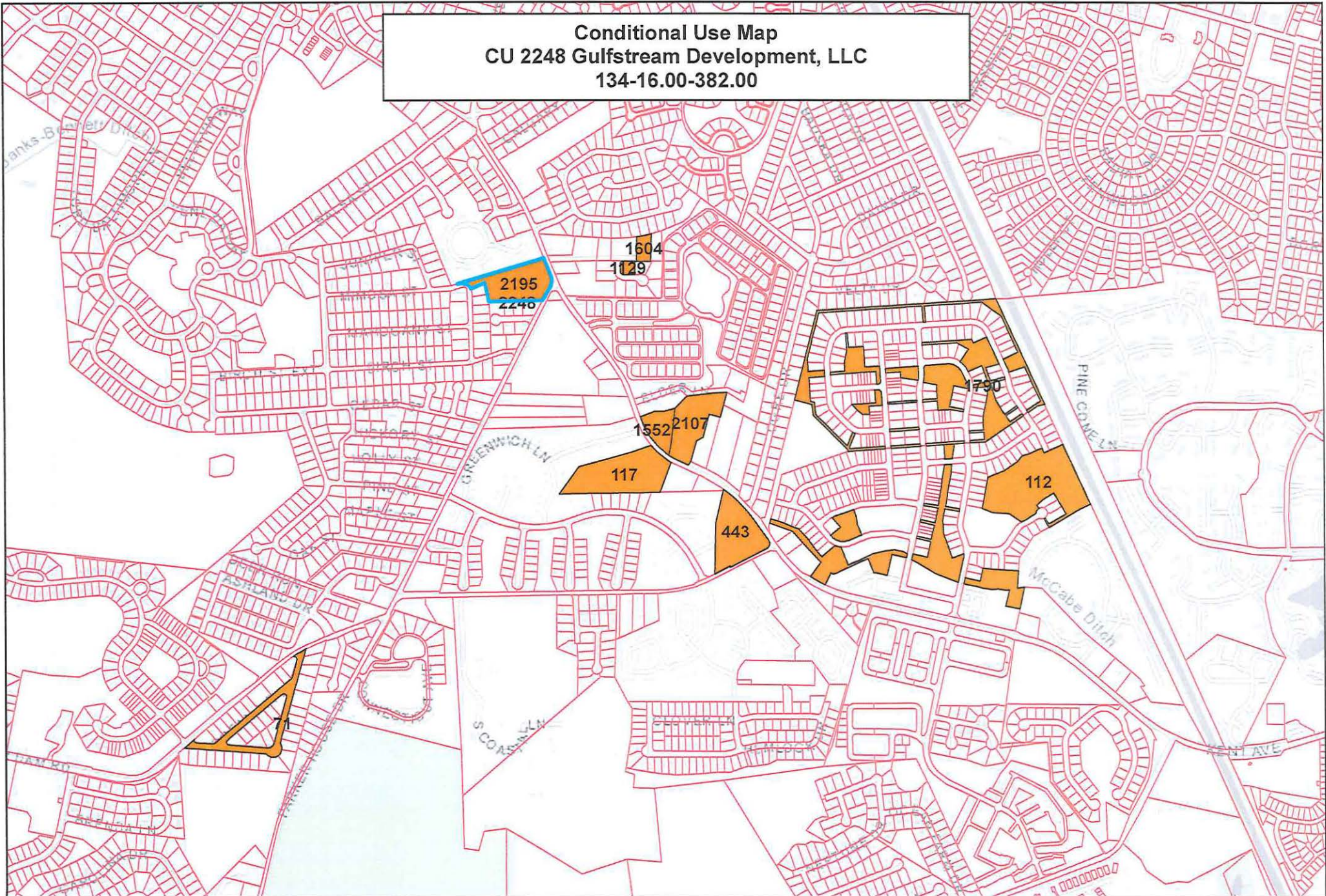
Since 1971, there has been 1 Conditional Use application located on this same parcel. Conditional Use No. 2195 for 45 apartment units was approved by County Council at their meeting of December 17th, 2019 and adopted through Ordinance No. 2695.

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

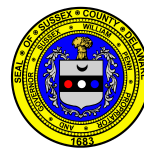


Sussex County

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



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

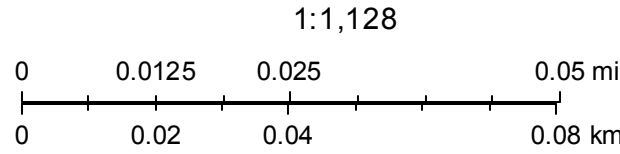


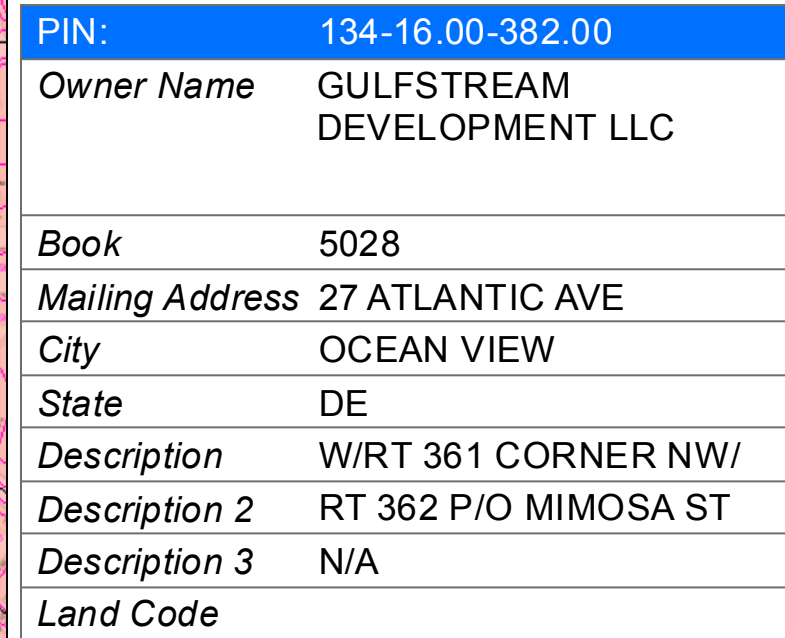
Sussex County



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

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

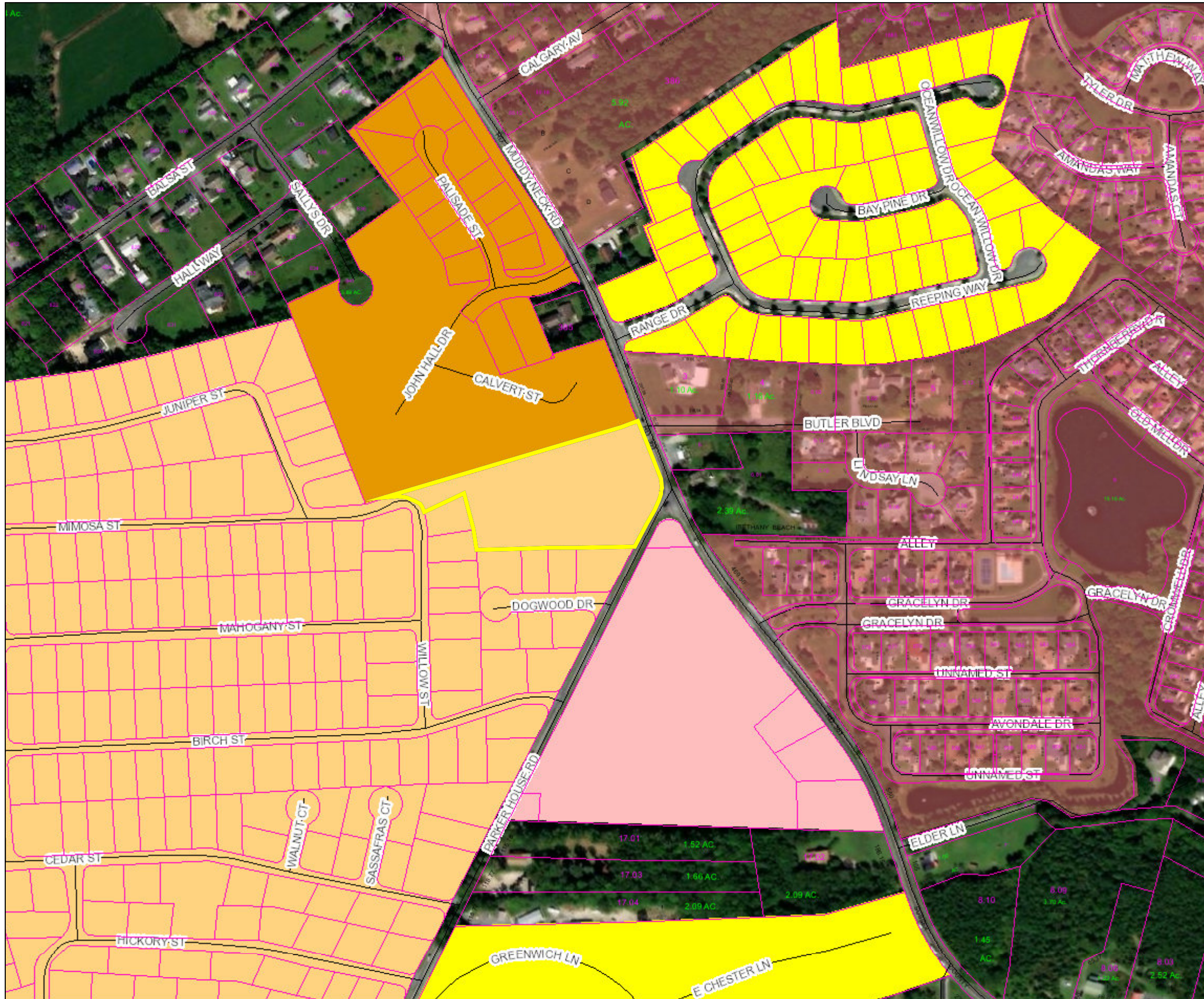


 Municipal Boundaries

A horizontal scale bar with two rows of markings. The top row is labeled in miles (mi) with major ticks at 0, 0.05, 0.1, and 0.2. The bottom row is labeled in kilometers (km) with major ticks at 0, 0.075, 0.15, and 0.3. The bar is divided into segments by vertical tick marks.



Sussex County




PIN:	134-16.00-382.00
Owner Name	GULFSTREAM DEVELOPMENT LLC
Book	5028
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polygonLayer

Override 1

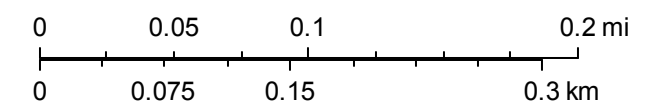
polygonLayer

Override 1

 Tax Parcels

 Streets

1:4,514



Introduced 12/15/20

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

ORDINANCE NO. ____

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

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

WHEREAS, on the ____ day of _____ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2248 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2248 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

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

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



Memorandum

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

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

CC: Everett Moore, County Attorney

Date: October 21, 2021

RE: County Council Report for CU 2249 filed on behalf of Mayapple Farm, LLC

The Planning and Zoning Department received an application (CU 2249 filed on behalf of Mayapple Farm, LLC) for a Conditional Use for parcel 533-19.00-289.05 for multi-family (41 units). The property is within the Agricultural Residential (AR-1) Zoning District and is located on the west side of Williamsville Rd (SCR 395) approximately 0.76 mile southeast of Lighthouse Rd (Rt. 54). The parcel size is 20.91 acres +/-.

The Planning and Zoning Commission held a public hearing on July 8, 2021. At the meeting of July 22, 2021 the Commission recommended approval of the application for the 10 reasons and subject to the 20 recommended conditions outlined within the motion (included below).

The County Council held a public hearing for the application at its meeting of August 24, 2021. At the conclusion of the public hearing action on the application was deferred for further consideration.

Below are the minutes from the Planning & Zoning Commission meeting of July 8, 2021 and the minutes from the Planning & Zoning Commission meeting of July 22, 2021.

Minutes of the July 8, 2021 Planning & Zoning Commission Meeting

C/U 2249 Mayapple Farm, LLC

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for multi-family (41 units) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 20.91 acres, more or less. The property is lying on the west side of Williamsville Road (S.C.R. 395), approximately 0.76 mile southeast of Lighthouse Road (Route 54). 911 Address: N/A. Tax Parcel: 533-19.00-289.05.



Mr. Whitehouse advised the Commission that submitted into the record is a copy of the Applicant's exhibit booklet, a copy of the staff analysis, a copy of the DelDOT Service Level Evaluation Response confirming a Traffic Impact Study is not required, a copy of a letter received from Sussex County Engineering Department Utility Planning Division, a copy of the PLUS letter, two mail returns, and one letter of opposition which has been circulated to the Commission.

The Commission found that Mr. Tim Willard, Esq. was present on behalf of the Applicant, Mayapple Farm, LLC; that also present are the owners of the property, Mr. Lawton Myrick and Mrs. Mindy Myrick, Mr. Steven Marsh with GMB, and Mr. Ed Launay with Environmental Resources, Inc.; that the Application is for a Conditional Use for 41 single-family detached condominium units; that the parcel contains 20.91 acres; that it is off Williamsonville Rd which runs south of Route 54. and north of the Maryland border; that the property is in the Agricultural Residential (AR-1) Zoning District and is designated as being within the Coastal Area on the County's Future Land Use Map; that a variety of uses are permitted in the Coastal Area; that the permitted density is 2.178 per acre; that the Applicant is proposing a density of 1.9 units per acre; that these are single-family homes but all common area would be owned by the Condominium Association; that the maximum number of multi-family dwelling structures will not exceed 2 dwelling units; that there is only 0.05 acre of wetlands; that there will be 12.86 acres, which is 63% of open space; that there will be a 75-foot vegetative buffer along the property frontage on Williamsonville Road; that in the PLUS comments the property is referred to be a Level 3 and Level 4; that the comments are a guide and not the reality of the area; that there is a fair amount of single-family living around the area and Medium Residential Zoning; that to the east of the property is Americana Bayside which includes townhomes and single-family developments; that to the west is Bayview; that the proposed Application is marketed for people looking for second homes, or elderly residents that desire low-maintenance homes; that the Application is consistent with the Sussex County Land Use Plan; that there would be houses with parking below the home; that the floorplan will be more condensed and will provide less impervious area; that the Applicant is trying to do the equivalent of a cluster-design which provides more open space in a way that is more marketable; that there will be a 50-ft. buffer where there are tidal wetlands; that the proposed residents will reside on the uplands; that the non-tidal wetlands are wooded and will remain as it currently is with a 25-ft. buffer; that a 30-ft. vegetative buffer will be placed around the property in the areas adjacent to all other properties; that with Soil Conservation District approval there will be two wet stormwater ponds; that there would be a kayak launch at the lagoon that will lead into the bay; that at the entrance of the property there is a pool and pool complex; that there will be a required multi-modal path along Williamsonville Road; that sidewalks will be located on one side of the street adjacent to the stormwater pond; that there are no endangered species located on the property; that 82 total parking spaces are required but the Applicant is providing 108 parking spaces; that there would be a parking space under the home, in the resident's driveway and additional spaces for guest parking in various places; that Artesian Water Company will provide water; that sewer will be annexed into the West Fenwick Sewer District; that the project will have central water and County sewer; that the project will add an economic benefit to residents in the area by providing construction employment and bring increased financial revenue to the area; that the project integrates into the present terrain by only developing the uplands; that the project has a smaller footprint with the current design; that the project is preserving all the slopes to prevent a lot of grading; that there will be no use of wetlands; that there will be preservation of natural features; that there will be minimal tree and soil removal; that an adjacent property owner, Ms. Carol Camilleo, had concerns about the construction; that there will be conditions to construction limitation times and signage; that the Final Site Plan will obtain the approval of the Sussex Conservation District; that all entrances will comply with all of DelDOT's requirements; that an area for a school bus stop will be established if necessary; that the location of the school bus

stop will be determined by the School District; that road naming and addressing will be subject to further review by the County; that the Final Site Plan and record of Condominium Declarations for the property will prohibit the application of fertilizer or similar soil additives on the property by individual property owners; that all fertilizers and soil additives will be managed by the Condominium Association using best management practices; that all recreational amenities will be completed no later than the 20th Building Permit; that the Final Site Plan will include a landscape plan for all the buffers; that all construction, site work, grading and deliveries will only occur from Monday through Friday, between 7:00 am through 6:00 pm, Saturdays 8:00 am through 4:00 pm, with no Sunday construction; that a 24 x 36" bi-lingual sign will permanently be placed at the entrance of the site confirming the hours during construction and the preliminary approval is contingent upon the Applicant submitting a revised Preliminary Site Plan depicting and noting the conditions and the Final Site Plan will be subject to review.

The Commission found that Mr. Lawton Myrick spoke on behalf of his Application; that it is his goal to create a note-worthy residential project that he would be proud to be associated with; that he feels single-family homes were the best fit for the property site; that the property is in a desirable location; that with the right vision for the site it will lend itself to a nice enclave of homes; that due to small size and semi-custom architecture the neighborhood will have a boutique feel to it compared to larger subdivisions; that a difference in architecture was sought to set Mayapple Farms apart from other developments; that he spent money out-of-pocket to have 3 homes designed at 3 different elevation levels; that the intent is for a raised beach-home style with room for parking and storage underneath and the first floor can be finished to the owners liking; that the main living areas would be on the second and third floors; that he is partnering with a local builder that also shares the Applicant's vision and willing to invest money into further developing the home plans and he and his wife are considering owning one of the homes and becoming residents of the community and not just the developer of the project.

Ms. Wingate questioned if the north-end roadway will be conducive for emergency vehicles to turn around in, if there will be signage for no parking in the area, and asked for clarification on the location of the buffers.

Mr. Steven Marsh, an engineer with GMB, stated that the turn-around at the end will have to meet the State Fire Marshall's requirements and approval; that the area is not for parking and there will be signage posted stating it is a no-parking area.

Mr. Lawton Myrick stated the existing woods will not be taken out and will serve as the wooded buffer; that the intent of the Application will plant a 30-ft. buffer with possible topsoil to create a small berm and the existing woods will remain intact within the 30-ft. designated area where it already pre-exists.

Ms. Wingate stated she did not see the report from Mr. Ed Launay and requested that Mr. Launay confirm the GMB report accurately reflected his findings.

Mr. Ed Launay stated he did write a letter regarding threatened and endangered species on the site; that he also assisted GMB on parts of the PLUS response; that there are no tidal wetlands on the site; that the tidal wetland buffers measure from the lagoon; that the lagoon is tidal waters; that there is a 50-ft. required buffer from the lagoon which is provided; that the U.S. Army Corp of Engineers had previously issued a Jurisdiction of Determination Approval letter; that the letter has since expired; that he has issued a request for a new letter; that a permit is required from DNREC for the canoe and

kayak launch; that it will be a small fixed pier that will go over the water somewhat, but will be close to the shoreline; there will be a cradle attached to the fixed pier that will go up and down with the tide to place their canoe or kayak on; that the intent is not to have boats stationed in the area, but to make it that someone with a boat could potentially pick up a passenger.

Mr. Robertson asked if the lagoon was under the jurisdiction of DNREC or Maryland jurisdiction.

Mr. Ed Launay stated they have thoroughly researched the topic of the lagoon jurisdiction; that Mr. Bob Rigdon surveyed the area; that the lagoon is on the property line; that about 1/3 of the lagoon is located on the Applicant's property; that the other 2/3 of the lagoon is located in Maryland; that the Applicant has enough lagoon located in Delaware to be able to do what needs to be done.

Ms. Wingate questions what the clam-shell parking space is and what it will be used for.

Mr. Myrick stated the clam-shell parking was an aesthetic coastal look that he preferred; that he had originally seen at Bayside; that the location is designated for guest parking; that the driveways will be concrete slabs.

The Commission found that Ms. Wendy Megee spoke in opposition to the Application; that she and her husband have a 2,200 sf. home with a 1,000 sq. ft. full barn; that they recently fenced in 1.5 acres for their equine animals; that she is concerned about the effect of construction and pilings on her equine animals; that she is in favor of development and growth in the area; that she also has concerns about the water and the dense population in the area and the traffic in the area; that Williamsville Road is a small, tow-lane road, located in a agricultural area; that there is no bicycle lane and no sidewalks; that she has seen three accidents involving pedestrians on Williamsville Road in the few months she has lived in the area; that Williamsville Road is currently used as a construction entrance for the Bayside area; that she has concern for the increased amount of construction vehicles and their size on the small road; that she has concerns about the stormwater management plan; that her property borders that portion of the Mayapple Farm property; that it was not mentioned how it will be maintained and who will be responsible for maintaining it; that the area is already an AE 5 Flood Zone; that she had to bring in 50 truck loads of dirt to keep the grade up and the flooding down; that the lagoon will have to be dredged to use for boats and a kayak pier; that she is concerned about additional flooding from the effects of dredging the lagoon; she questions what measure will be taken to protect her property; that the dredging will also affect the ditch line on the Maryland side of the property; that the ditch is not maintained by the State of Delaware; that she request a greater amount of buffer like the additional buffer given to the other adjoining properties or a less amount of town homes in the proposed space; that the homes are large and will obstruct the views from the neighboring residents; that she questions if there will be obstructions or barriers all the way around the property; that she will end up looking at the fill pond; that she is concerned about potential noise from the fill pond and how it will affect her animals; that she did not recall this property being for sale in 2005, but does recall it being for sale in 2018; that she has concerns about the animals in the wooded area getting pushed out onto her or neighboring properties; and that the proposed Application does not fit in the area as a lot of it is agricultural.

The Commission found that Mr. Don Downey spoke in opposition to the Application; that he is concerned about the potential noise of the community; that he understood the buffer to be 30-ft. but had heard 25-ft buffer during the proposal presentation; that he questions who will maintain the vegetated buffer; and that he does not understand why it is sometimes referred to as a townhome and

other times referred to as a condominium; that he is also concerned about the increased traffic impacts on the road; and that he is concerned about vehicle lights on his property.

Chairman Wheatley stated that a condominium is a type of ownership of the home and that cars will not be able to park in the area and the State Fire Marshall's office would not approve that.

The Commission found that Mr. Sanden Swanson spoke by teleconference in opposition of the Application; that his concerns were the dangers of the road with increased traffic, the density of the area, the noise and effects of pile-driving the agricultural ditches; that he did not see some of the agricultural ditches on the proposed drawings and he feels that no construction should be permitted on Saturdays.

Mr. Marsh stated there are many ways to construct pilings; that the Applicant does not anticipate driving the pilings; that they are willing to speak with nearby residents regarding piling construction; that it is a surface water aquifer, not the confined drinking aquifer; that they are two different things; that he feels being on pilings allows the ground to stay at a more natural grade due to not having to put fill there and that he does not see an impact on drinking water under the current construction proposed.

Chairman Wheatley requested that Mr. Marsh address the concerns of flooding onto adjacent properties.

Mr. Marsh stated the Applicant will have to meet the requirements of the Sussex Conservation District; that they will have to show that the capacity that they are discharging does not exceed the capacity of the receiving channel that they are discharging to which is a ditch; that the ditch maintenance is under the maintenance agreement with Sussex Conservation District; that the Applicant can maintain what is on their property; that the Applicant cannot maintain anything on anyone else's property unless there is an agreement in place; that he is certain the Applicant would be willing to work with the Megees to make sure the ditch is maintained appropriately.

Ms. Stevenson requested a response to the concern of light, noise, and privacy issues of the stormwater management system next to the Megee property.

Mr. Willard stated that up to Ms. Megee's property is a 75-ft. buffer which connects to a 30-ft. buffer that goes down to the edge of Ms. Megee's property; that the back edge is already a wooded area that will not be disturbed and stormwater pond will be blocked by the 30-ft. vegetative buffer.

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

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

In relation to Application C/U 2249 Mayapple Farm, LLC, Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears, and carried unanimously. Motion carried 5-0.

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

The Commission discussed this application which has been deferred since July 8, 2021.

Ms. Wingate moved that the Commission recommend approval for Conditional Use # 2249 for MAYAPPLE FARM, LLC for Multi-Family Units in the AR-1 Zoning District based upon the record made during the public hearing and for the following reasons:

1. This application seeks the approval of 41 multi-family units that will have the appearance of single-family homes.
2. The property is in an area where a variety of development has occurred. There is the nearby Bayside development with many single- and multi-family units and there are other developments with similar characteristics and densities nearby. This project is consistent with these other nearby uses and it is appropriate in this location.
3. This application seeks a density of 2.178 units per acre. This is within the permitted density of the AR-1 Zone.
4. The site is in the Coastal Area according to the Sussex County Comprehensive Plan. This type of development is appropriate in this Area according to the Plan, which states that “a range of housing types” and medium and higher densities are acceptable when a site is served by central water and sewer, where the use is in keeping with the character of the area and other similar factors. These types of considerations exist with regard to this site.
5. The proposed development will not have an adverse impact on the neighboring properties or community.
6. The project will not have an adverse impact upon traffic or roadways. The developer will be required to make road improvements required by DelDOT and contribute to other area road improvements to be built by DelDOT.
7. The Level of Service of nearby roadways and intersections will not be significantly adversely affected by this development.
8. The development will be served by central sewer.
9. The development will be served by central water.
10. As a multi-family development in the AR-1 District, this development must comply with the 40% open space and 75-foot buffer requirements of Section 115-22 of the Zoning Code.
11. This recommendation is subject to the following conditions:
 - A. The maximum number of residential units within this entire development shall be 41.
 - B. The Applicant shall form a condominium association to be responsible for the perpetual maintenance of the development’s roadways, buffers, stormwater management facilities, erosion, and sedimentation control facilities, and other common areas.
 - C. All entrance, intersection, roadway, and multi-modal improvements shall be completed by the developer in accordance with all DelDOT requirements.
 - D. The project shall be served by Sussex County sewer. The developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.
 - E. The project shall be served by central water to provide drinking water and fire protection.
 - F. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.
 - G. The Final Site Plan shall contain the approval of the Sussex County Conversation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
 - H. All streetlights shall be shielded and downward screened so that they do not shine on neighboring properties or roadways.

- I. The interior street design shall meet or exceed Sussex County's Street design requirements. There shall be sidewalks on at least one side of all streets.
- J. If requested by the local school district, a school bus stop shall be provided. The location of the bus stop shall be shown on the Final Site Plan.
- K. Recreational amenities shall be completed no later than the issuance of the 20th Residential Building Permit.
- L. As required by Section 115-22 of the Zoning Code for multi-family developments in the AR-1 Zone, the Site Plan shall be revised to include at least 40% of the site as open space and there shall be a 75-foot-wide perimeter buffer along the County Road. The development shall comply with the design, vegetation type, planting, and other requirements of Section 115-22G regarding multi-family dwellings in the AR-1 District.
- M. Construction, site work, and deliveries shall only occur on the site between the hours of 8:00 a.m. through 5:00 p.m., Monday through Friday. No Saturday or Sunday hours are permitted. A 24 inch by 36-inch "NOTICE" sign confirming these hours in both English and Spanish shall be prominently displayed at all entrances to the site during construction.
- N. There shall be a buffer that is at least 50 feet wide from all tidal waters, tidal tributary streams, tidal wetlands, perennial rivers, and nontidal streams. There shall also be a 25-foot-wide buffer from all non-tidal wetlands. There shall be minimum disturbance of trees and other vegetation within these buffer areas. This specifically includes the existing woodlands along the southeastern boundary of the development between the proposed units and the adjacent property. Required silt fencing shall be installed upland of these buffer areas (using the edge of the buffer nearest the interior development) to avoid disturbance. Construction activities within the buffer area shall be minimum. Any disturbance in the buffer area shall be indicated on the Final Site Plan and the "Limits of Disturbance" shall be indicated on the Final Site Plan.
- O. The Final Site Plan shall include a Landscape Plan confirming all landscaping to be provided, the preservation of all buffer areas, and the forested areas that will be preserved. This Landscape Plan shall further identify all "Limits of Disturbance" within the site.
- P. The Final Site Plan shall include a Grading Plan for the site. No building permit shall be issued for individual lots until an individual lot grading plan has been supplied to and approved by Sussex County. No certificate of occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.
- Q. As proffered by the Applicant, the Final Site Plan and the recorded condominium covenants shall prohibit the application of fertilizers or similar soil additives on the property by the individual unit owners. All such applications shall be managed by the Condominium Association and a contractor of its designation using best-managed practices to seek to minimize the risk of runoff into the stormwater management system, wetlands, and waterways.
- R. Because the proposed stormwater management pond is located adjacent to a property used for agricultural purposes including live animals, there shall not be any fountains or similar equipment that might generate noise or spray used in these ponds.
- S. The Final Site Plan and recorded condominium documents shall contain the "Agricultural Use Protection Notice."
- T. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Hopkins and carried to recommend approval of C/U 2249

for Mayapple Farm, LLC for the reasons and conditions stated in the motion. Motion carried 3 – 1 with Ms. Stevenson dissenting.

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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302-854-5079 F
JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET Planning Commission Public Hearing Date July 8, 2021.

Application: Mayapple Farm, LLC (CU 2249)

Applicant: Mayapple Farm, LLC (Attention: Lawton Myrick)
5973 Smithy's Lane
Salisbury, MD 21801

Owner: Mayapple Farm, LLC (Attention: Lawton Myrick)
5973 Smithy's Lane
Salisbury, MD 21801

Site Location: Lying on the west side of Williamsville Road (S.C.R. 395), approximately 0.76-mile property southeast of Lighthouse Road (Route 54).

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

Proposed Use: 41 Multi-family Units

Comprehensive Land
Use Plan Reference: Coastal Area

Councilmatic
District: Mr. Rieley

School District: Indian River School District

Fire District: Roxana Fire District

Sewer: Sussex County Public Works

Water: Artesian Water Company

Site Area: 23.70 acres +/-

Tax Map IDs: 533-19.00-289.05



JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR
(302) 855-7878 T
(302) 854-5079 F
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Sussex County

DELAWARE
sussexcountype.gov

Memorandum

To: Sussex County Planning Commission Members
From: Lauren Devore, Planner III
CC: Vince Robertson, Assistant County Attorney and applicant
Date: July 1st, 2021
RE: Staff Analysis for CU 2249 Mayapple Farm, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/U 2249 Mayapple Farm, LLC to be reviewed during the July 8, 2021, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use (C/U 2249) for 41 multifamily units (single-family detached condominiums) to be located on the west side of Williamsville Road (S.C.R. 395), approximately 0.76 mile southeast of Lighthouse Road (Route 54). The property consists of Tax Parcel 533-19.00-289.05, which contains 20.91 acres +/-.

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

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

The property is zoned Agricultural Residential (AR-1). The properties to the north and west (to include the Bay View Estates Subdivision) are all zoned Agricultural Residential (AR-1) as is the property to the northeast on the opposite side of Williamsville Road (S.C.R. 395). The adjacent community of Americana Bayside to the east of the subject property is zoned Medium Density Residential, Residential Planned Community (MR-RPC).

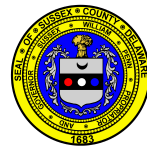
Since 2011, there have been six (6) Conditional Use applications within a 0.5-mile radius of the application site. The first application was for Conditional Use No. 1438 to allow for the expansion of boat storage and amendment to the Conditions of Approval as part of an existing Conditional Use application, C/U 1106. The application was approved by the Sussex County Council at their



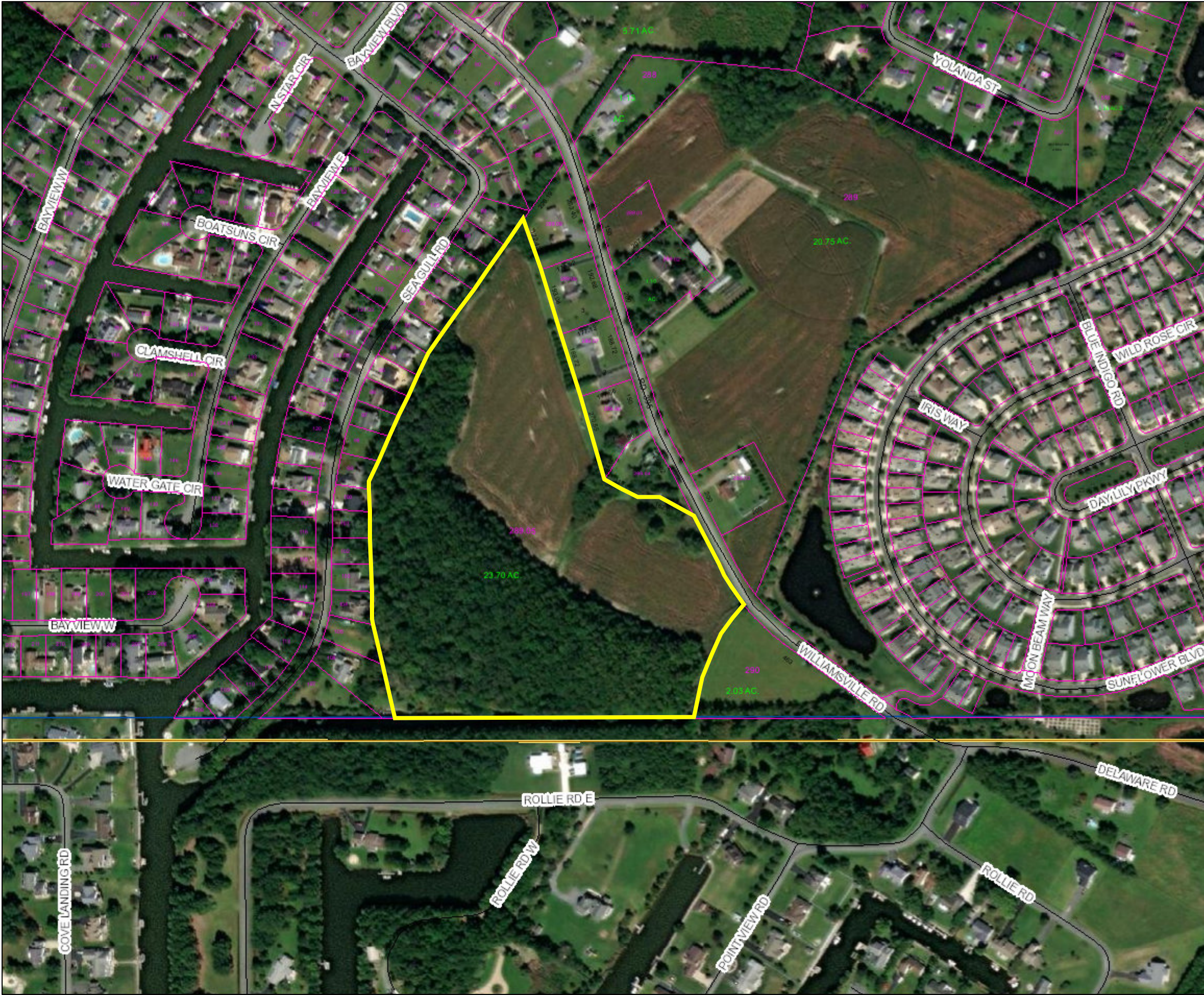
meeting of Tuesday, March 15, 2018 and the use was adopted through Ordinance No. 2575. The second application was Conditional Use No. 1367 to allow for a sign shop. The application was approved by the Sussex County Council at their meeting of Tuesday, November 28, 2000 and the use was adopted through Ordinance No. 1417. The third application was Conditional Use No. 2197 to allow for 62 multifamily units (duplex units). The application was approved by the Sussex County Council at their meeting of Tuesday, December 17, 2019 and the use was adopted through Ordinance No. 2701. The fourth application was for Conditional Use No. 1152 to allow for a retail sales and consignment shop. The application was approved by the Sussex County Council at their meeting of Tuesday, April 30, 1996 and the use was adopted through Ordinance No. 1088. The fifth application was Conditional Use No. 1227 to allow for a corn maze recreation activity. The application was approved by the Sussex County Council at their meeting of Tuesday, April 7, 1998 and the use was adopted through Ordinance No. 1225.

It should be noted that the sixth application, also located near the project site, is currently pending hearings before the Planning and Zoning Commission and the Sussex County Council. This application is for Conditional Use No. 2292 to allow for 32 multifamily duplexes.

Based on the analysis of the land use, surrounding zoning, and uses, a Conditional Use (C/U 2249) to allow for 41 multifamily units in this location could be considered as being consistent with the land use, area zoning, and surrounding uses.



Sussex County



PIN:	533-19.00-289.05
Owner Name	MAYAPPLE FARM LLC
Book	5351
Mailing Address	5973 SMITHYS LN
City	SALISBURY
State	MD
Description	W/RT 395
Description 2	2800' SE/RT 54
Description 3	N/A
Land Code	

polygonLayer

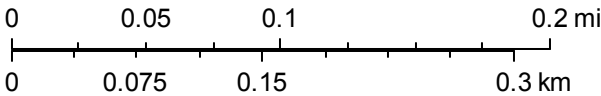
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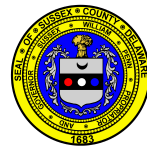
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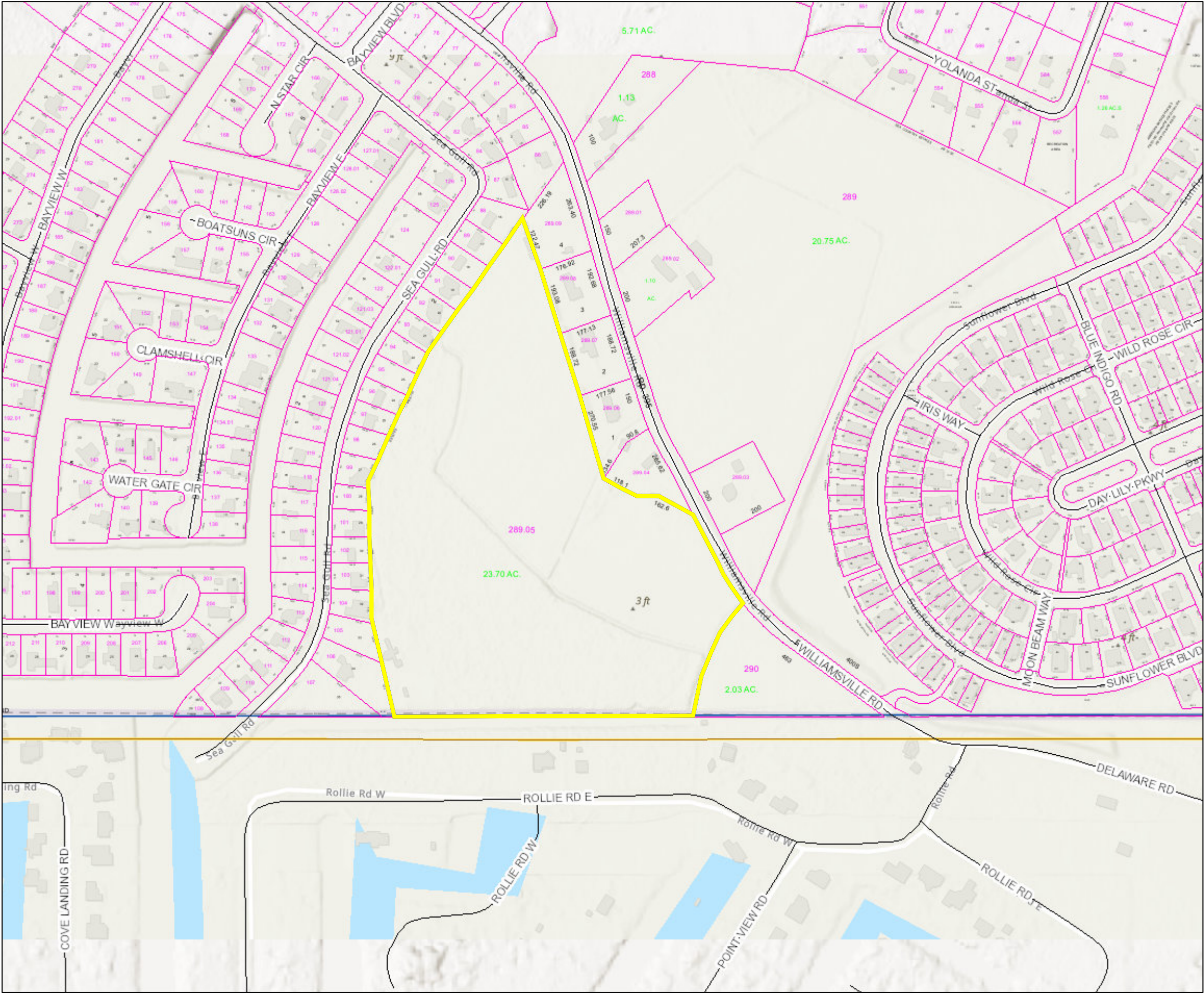
- Tax Parcels
- Streets
- County Boundaries
- DOE School Districts

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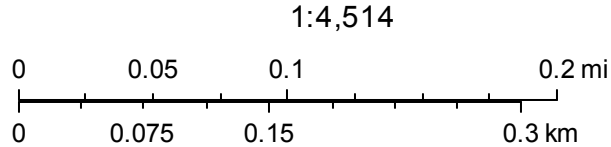


Sussex County



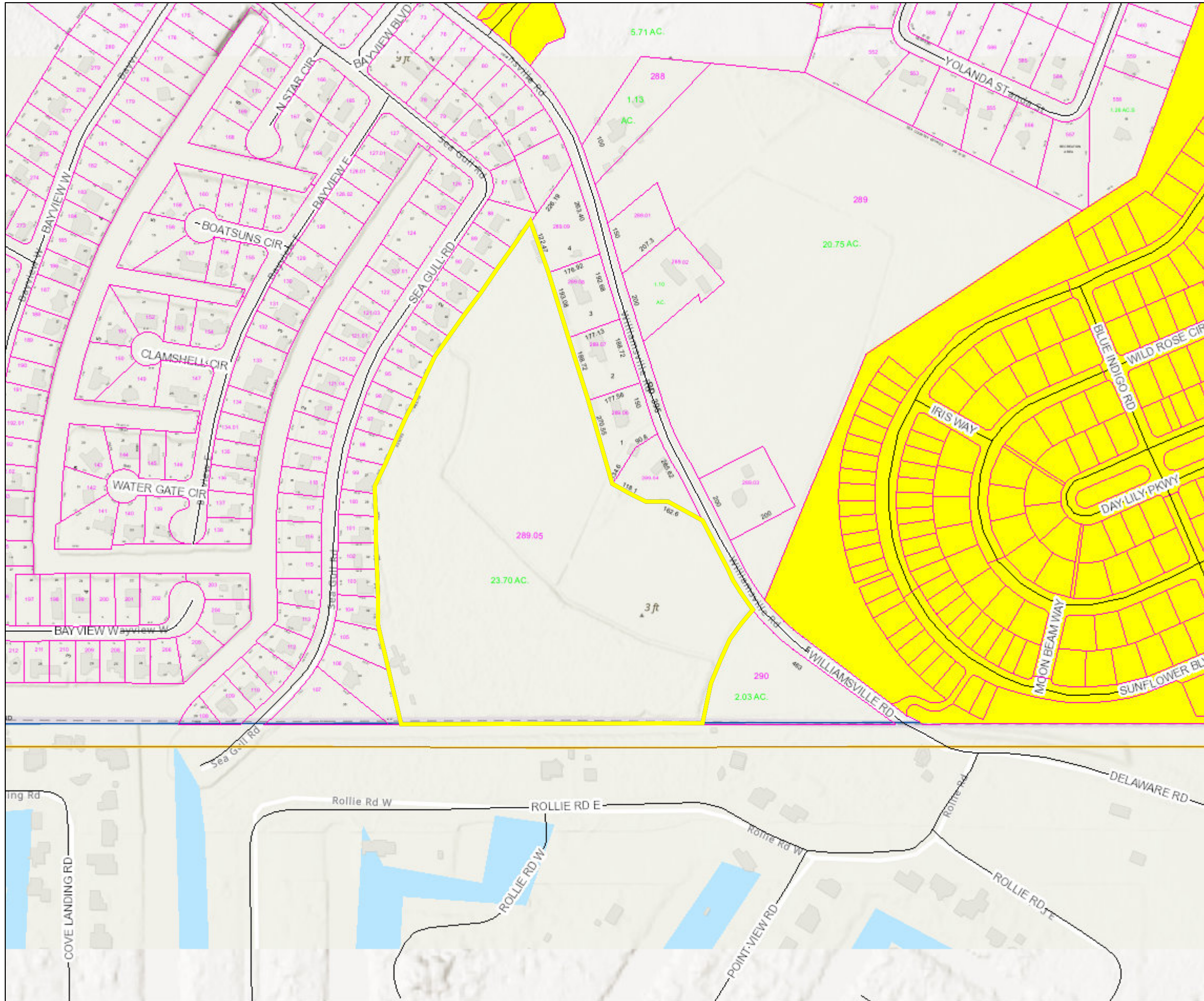
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Description 3	N/A
Land Code	

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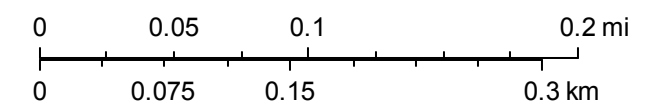
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Description 3	N/A
Land Code	

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Tax Parcels
Streets

1:4,514



Introduced 11/17/20

**Council District 5 - Rieley
Tax I.D. No. 533-19.00-289.05
911 Address: None Available**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI FAMILY (41 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 20.91, MORE OR LESS

WHEREAS, on the 29th day of October 2020, a conditional use application, denominated Conditional Use No. 2249 was filed on behalf of Mayapple Farm, LLC; and

WHEREAS, on the ____ day of _____ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2249 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2249 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on west side of Williamsville Road (S.C.R 395) approximately 0.76 mile southeast of Lighthouse Road (Route 54) and being more particularly described in the attached legal description prepared by Cypress Surveys, LLC, said parcel containing 20.91 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.



Memorandum

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

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

CC: Everett Moore, County Attorney

Date: October 21, 2021

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

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

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

The County Council held a public hearing for the application at its meeting of August 31, 2021. At the conclusion of the public hearing action on the application was deferred for further consideration.

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

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

C/Z 1931 Lands of Lighthipe, LLC

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC



MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY AND TO AMEND THE CONDITIONS OF APPROVAL OF CZ 1768 (ORDINANCE 2411) TO INCREASE THE GROSS SITE AREA BY 5.253 ACRES AND TO INCREASE THE NUMBER OF PERMITTED UNITS WITHIN THE RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 56.372 ACRES, MORE OR LESS. The property is lying on the north side of Muddy Neck Road (S.C.R. 361), approximately 0.52 mile southeast of Parker House Road (S.C.R. 362). 911 Address: N/A. Tax Parcel: 134-17.00-12.02.

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

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

Beach Club North; that there were two other requests along with the site plan review; that one request was to convert three townhome units to single-family units which was approved on March 23, 2017; that this made the makeup of the 164 dwelling units became 123 single-family dwellings and 41 townhome units on the 49.6 acres; that the 5 acres of the Application was discussed during the Public Hearings in 2015 for the original PRC; that in the Ordinance 2411 there is a reference to the discussion about the acreage in the Findings of Fact; that it noted there was a prior Conditional Use where Ocean View Beach Club North is currently; that the Conditional Use Application was for a continuing care retirement facility that the trustees had considered; that it indicated the trustees were planning to retain the 5 acres with intention of a church in the future; that no church was placed and the land was sold to Lighthipe, LLC who has prepared the current Application; that the current Application seeks to change the zoning classification of the 5+ acres from AR-1 to MR-RPC and to modify the MR-RPC for Lighthipe or also known as Ocean View Beach Club North so that it will include the Application's 5.25-acre parcel and increase the number of units allowed; that the request is to subtract one single-family unit and to add 21 townhome units with a total of 184 units consisting of 122 single-family units and 62 townhome units; that to the west of the property is Hunters Run Community; that to the north of the property is Ocean Way Estates; that to the east of the property is the Assawoman Canal and Sea Colony West; that to the Southeast of the property is Waterside; that to the south of the property is Clearwater; that to the west of the property is Bethany Meadows and South Hampton; that the property is currently unimproved, but used for staging during the construction of the Ocean View Beach Club Community; that the Application is in the Level 2 area in accordance with the 2020 State Strategies Map; that the Application did go through the PLUS process; that the Application falls in the Coastal Area which is part of Sussex County's seven growth areas; that there are a variety of housing types that are encouraged in the area; that single-family homes, multi-family and townhomes are specifically mentioned within the Coastal Area of the Comprehensive Plan; that due to being in the Coastal Area there is an environmental assessment report that was filed with the Application in the project notebook and Chapter 99-9C responses; that DelDOT did respond to the Service Level Evaluation request; that DelDOT indicated due to the number of trips being less than 50 in any hour and 500 in any day, a Traffic Impact Study was not required; that DelDOT considers the traffic impact to be negligible; that 4 units to the acre are permitted within the MR Medium Residential Zoning District where public water and sewer exist; that the proposed Application results in a gross density of 3.35 units per acre and a net density at 4 units per acre; that there are no wetlands on the property; that 5.2 acres of the property are located in Flood Zone X which is not within a flood plain; that there are 0.02 acre, which is along the ditch, located in the AE Flood Zone; that one of the objectives of the Application was to integrate the property into the existing RPC and to share an entrance; that there will be a comprehensive set of amenities for all of the Ocean Beach Club community; that by integrating the two parcels it will increase the overall open space; that for the 5.25-acre parcel it is proposed for 60% open space which is an increase of 3 acres for the property; that many letters of opposition stated allegations that the Applicant misled or misrepresented members of the Ocean View Beach Club regarding the future use of the proposed property; that Lighthipe, LLC has not sold any one of the units, that have already been sold to a purchaser, to one of those individuals; that Lighthipe LLC is the developer of the project; that there are other builders who have taken down agreements; that the builders purchase the properties from Lighthipe, LLC, construct the homes and then sell them to the public; that allegations stating Lighthipe, LLC has represented to them something about the proposed property, would have to be inaccurate as it would not be the correct contact point within

the process; that these statements are not to absolve the developer in playing a role in the process; that in 2009 the Legislator adopted a comprehensive section in the Delaware Code; that this is known as the Delaware Uniform Common Interest Ownership Act (DUCIOA); that the purpose of the act is to establish basic requirements for property owners; that within DUCIOA there is a Consumer Protection Provision; that it states whenever you sell a property in a common interest community that there must be disclosures made to the purchaser of the property; that the document prepared is called a Public Offering Statement which will describe features of the community, what is anticipated to be built within the community, and if the community can or cannot be expanded in the future; that the Public Offering Statement for Ocean View Beach Club, prepared by Lighthipe LLC, stated in Section 8.09 Master Declarant Development Rights of the Public Offering Statement, the right to add additional property; that Additional Property is listed in appendix, defined as property described on Exhibit A-2; that in Exhibit A-2 contains the Meets and Bounds description of property that can be added to the Ocean View Beach Club Community; that over time the declaration was amended over time; that there was an amended and restated declaration for Ocean View Beach Club; that Section 8.09 did not change, indicating that the master declarant has the right to add additional property as it is defined in the document; that the only property left as additional property would be the proposed Application of 5.2526 acres of land; that this information comes from the Declaration for the Master Association of Ocean View Beach Club; that there are sub-associations within Ocean View Beach Club; that if the Application is approved it would be considered a sub-association; that in Section 8.09 of the Amended and Restated Declaration of Ocean View Beach Club North Fee Ownership Community document it mirrors the declaration for the Master Association indicating the declarant has the right to add additional property and additional property has the same meaning as it does in the declaration for the Master Association; that if the Application were approved the 21 townhome units would become part of the Ocean View Beach Club North Sub-Association as well as the Ocean View Beach Club Master Association; that this allows residents to have access to all amenities; that residents will be responsible for paying dues and assessments as part of the requirements of being a member of the Association; that the proposed property has always been noted as part of the additional lands; that Finding D in the Findings of Fact for Ordinance 2411 covers the proposed Application in great detail for reasons stated in the presentation; that the Planning and Zoning Commission previously referred to the 49.6 acres that make up Ocean View Beach Club North as an infill property and the Applicant would argue that this property immediately adjacent would qualify as infill property as well; that proposed conditions are to change the legal description of the MR-RPC district boundaries to include the 5.25 acres, to change the unit count to the updated unit count and all conditions of Ordinance 2411 remain in effect for the entire MR-RPC, including the additional 5.25 acres.

The Commission found that Mr. Zac Crouch spoke on behalf of the Applicant, Lands of Lighthipe, LLC; that the project will consist of 21 townhouses; that one of the single-family homes will be removed to allow an extension of the street; that stormwater management will be located at the northern part of the site; that there is an existing ditch that runs to the west and north of the site; that sewer will be managed with the Sussex County Engineering; that Tidewater Utilities will supply water to the site; that the Applicant did receive a letter from the Town of Ocean View regarding buffers, the proximity of a road to property lines and regarding the existing ditch; that the Applicant added a 20-ft. additional buffer; that on the western part of the parcel the buffer will be a total of 40 feet; that the Applicant pulled the road back so that it was not as close to the buffer; that from the original plan the total area for the lots was 30.1147 acres, which increased to 31.771 acres and the total increase was

from 49.84 acres to 54.91 acres; that the sewer will be served by an existing pump station located at the end of the parcel near Muddy Neck Rd.; that no improvements will be needed to the existing pump station; that per DelDOT, no TIS or road improvements are required and there could not be an access lane on Muddy Neck Rd. due to electric lines overhanging the area, not allowing large vehicles to enter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PLANNING & ZONING COMMISSION

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



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DIRECTOR

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: July 22, 2021

Application: CZ 1931 (Lighthipe, LLC)

Applicant: Lighthipe, LLC
P.O. Box 1686
Jackson, WY 38001

Owner: Lighthipe, LLC
P.O. Box 1686
Jackson, WY 38001

Site Location: Northeastern side of Muddy Neck Road (S.C.R. 361), approximately 0.52 mile southeast of Parker House Road (S.C.R. 362)

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

Proposed Zoning: Medium Density Residential District – Residential Planned Community (MR-RPC) – Amendment to Conditions of Approval

Comprehensive Land
Use Plan Reference: Coastal Area

Councilmanic
District: Mr. Hudson

School District: Indian River School District

Fire District: Millville Fire District

Sewer: Sussex County – Bethany Beach Sewer District

Water: Private Provider – Tidewater Utilities

Site Area: 56.372 ac. +/- in total, 5.253 ac. +/- in new area

Tax Map ID.: 134-17.00-12.02



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Sussex County

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Memorandum

To: Sussex County Planning Commission Members
From: Chase Phillips, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: July 12th, 2021
RE: Staff Analysis for CZ 1931 Lighthipe, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1931 Lighthipe, LLC to be reviewed during the July 22, 2021, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcel 134-17.00-12.02 to allow for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Medium Density Residential – Residential Planned Community (MR-RPC) to increase the gross site area by 5.253 acres and to increase the number of permitted units within the RPC. The parcel is located on the northern side of Muddy Neck Road (S.C.R. 361), approximately 0.52 mile southeast of Parker House Road (S.C.R. 632). The subject site proposed for development is 5.253 acres +/-.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject properties have a land use designation of “Coastal Area.” The parcel of land to the north, which exists as Ocean View Beach Club North, is also designated to be within the Coastal Area. The parcels to the southeast and west are designated as “Municipalities” as they are within the jurisdiction of the Town of Ocean View.

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

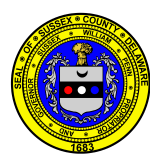
The subject property is currently within an Agricultural Residential (AR-1) Zoning District. The adjacent parcels to the north are within the same district as they are included in the existing Ocean View Beach Club North – Residential Planned Community. The properties to the southeast and west do not have a zoning classification as they are within the jurisdiction of the Town of Ocean View. The parcel(s) to the southeast are within the Ocean View Beach Club, and the parcels to the west are a part of the Ocean Way Estates subdivision. Various parcels on the other side of Muddy Neck Road (S.C.R. 361) are either within a Medium Density Residential – Residential Planned Community (MR-RPC), Neighborhood Business (B-1), or High Density Residential – Residential Planned Community (HR-RPC) Zoning District.



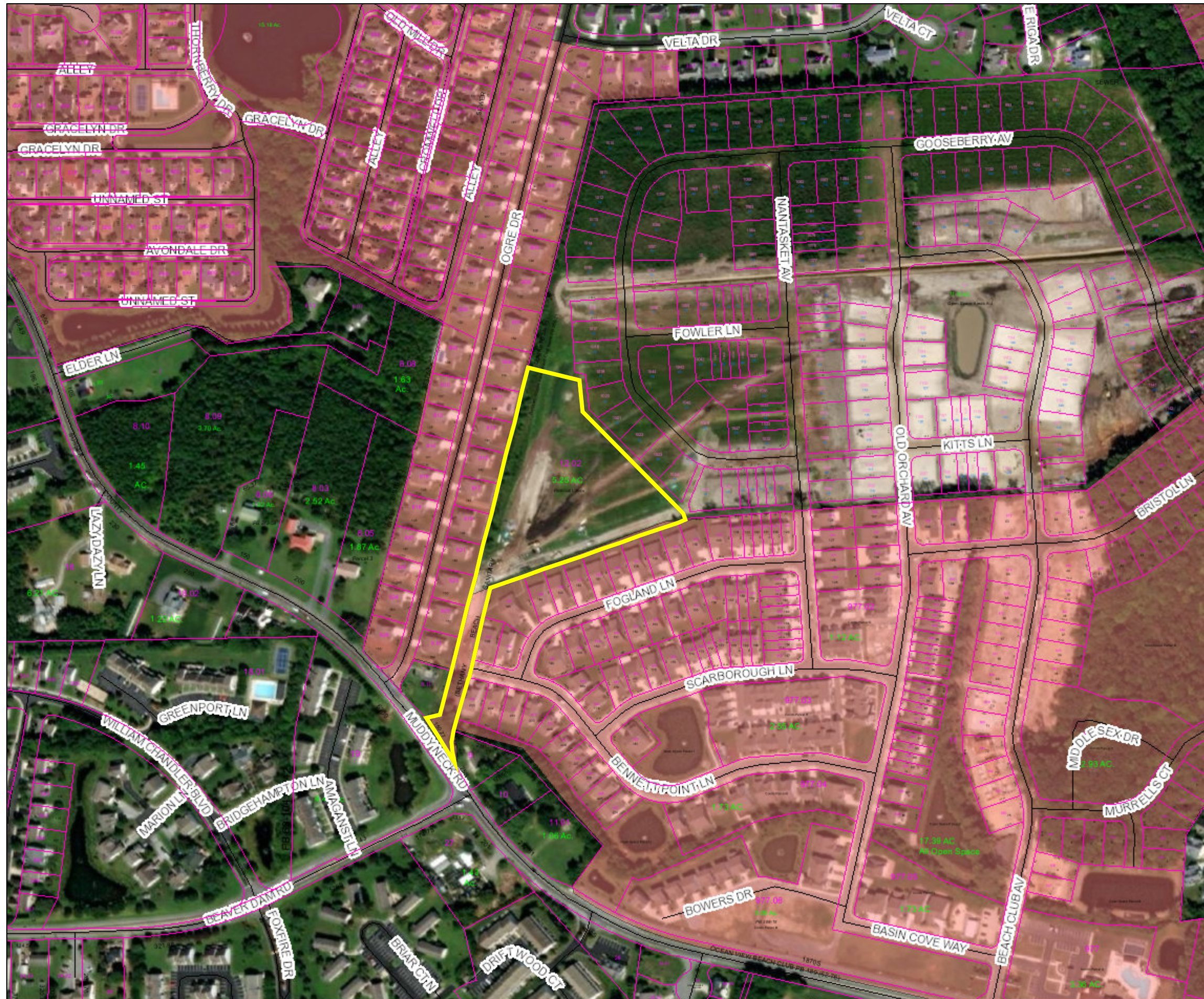
The 2018 Sussex County Comprehensive Plan classifies zoning districts by their applicability to each Future Land Use category. Under Table 4.5-2 titled “Zoning Districts Applicable to Future Land Use Categories,” the Medium Density Residential Zoning District is listed as an applicable zoning district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

Since 2011, there have been three (3) Change of Zone applications within a one-mile radius of the subject property. Foremost, Change of Zone No. 1768 to establish the MR-RPC designation for Ocean View Beach Club was approved on August 11, 2015 and adopted through Ordinance No. 2411. Change of Zone No. 1895, to change a parcel of land from an Agricultural Residential (AR-1) Zoning District to a General Residential (GR) Zoning District was approved on December 10, 2019 through Ordinance No. 2694. Change of Zone No. 1900, to change a parcel of land from a General Residential (GR) Zoning District to a General Residential – Residential Planned Community (GR-RPC) was approved on January 28, 2020 through Ordinance No. 2711.

Based upon the analysis provided this application, which requests a change of zone from an Agricultural Residential (AR-1) Zoning District to a Medium Density Residential – Residential Planned Community (MR-RPC) could be consistent with the surrounding land uses and zoning.



Sussex County







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

polygonLayer

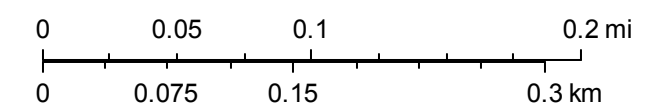
Override 1

polygonLayer

Override 1

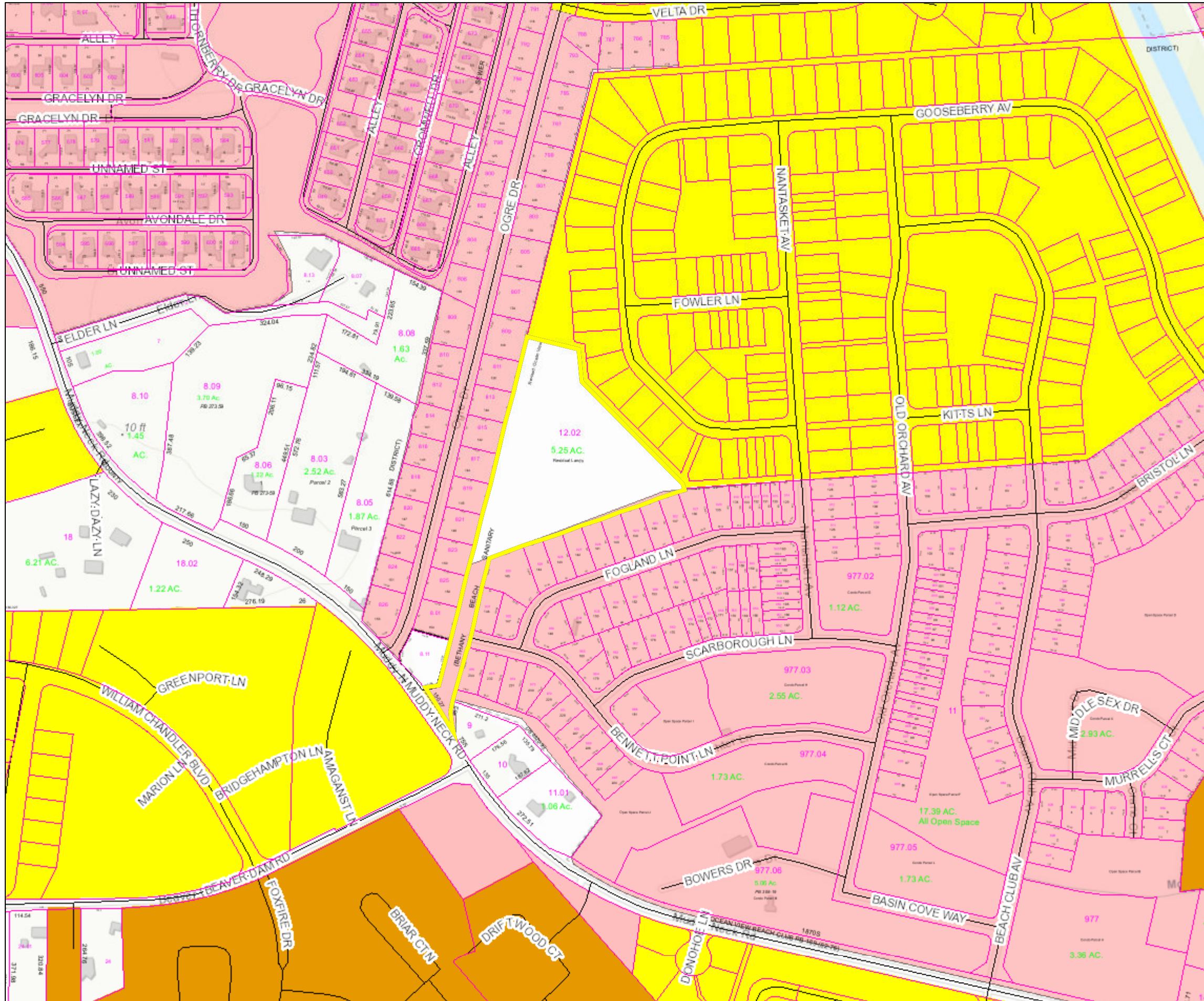
-  Tax Parcels
-  Streets
-  County Boundaries
-  Municipal Boundaries

1:4,514







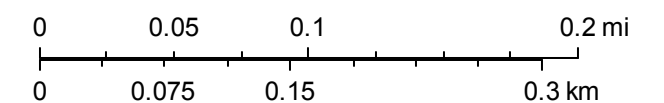
Sussex County



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

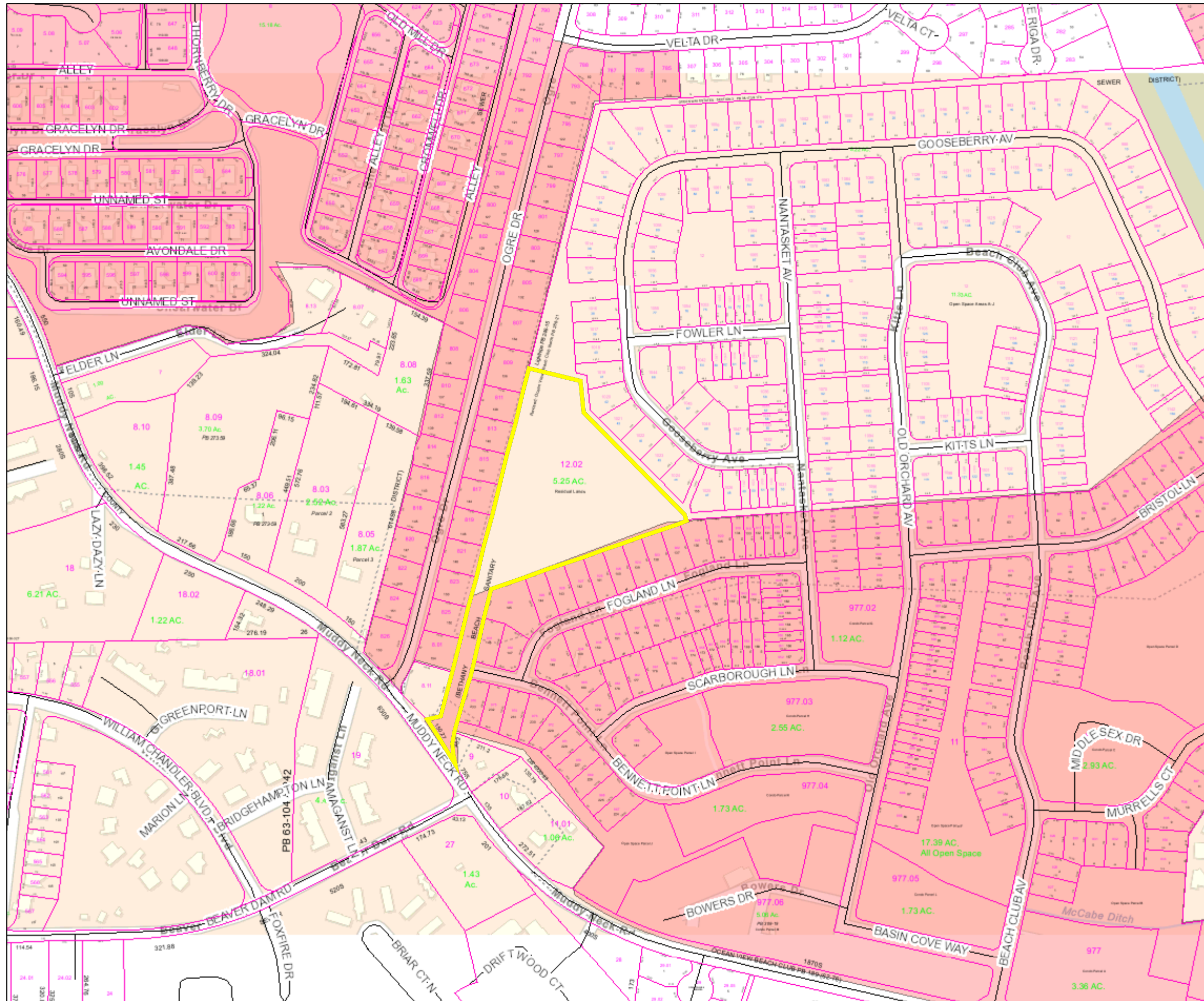
polygonLayer
Override 1
polygonLayer
Override 1
 Tax Parcels
 Streets

1:4,514





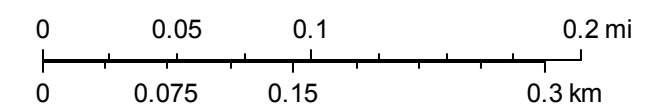
Sussex County



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

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

1:4,514



Re-Introduced 06/15/21

**Council District 4 - Hudson
Tax I.D. No. 134-17.00-12.02
911 Address: None Available**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY AND TO AMEND THE CONDITIONS OF APPROVAL OF CZ 1768 (ORDINANCE 2411) TO INCREASE THE GROSS SITE AREA BY 5.253 ACRES AND TO INCREASE THE NUMBER OF PERMITTED UNITS WITHIN THE RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 56.372 ACRES, MORE OR LESS

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

WHEREAS, on the ____ day of _____ 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1931 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

Section 2. The subject property is described as follows:

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

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

To Be Introduced 10/26/21

Council District 1 - Vincent

Tax I.D. No. 232-9.00-5.01

911 Address: 28274 East Trap Pond Road, Laurel

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.918 ACRES, MORE OR LESS

WHEREAS, on the 3rd day of March 2021, a conditional use application, denominated Conditional Use No. 2274 was filed on behalf of R&J Farms Limited Partnership; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2274 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2274 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 East Trap Pond Road (S.C.R. 62) and being more particularly described in the attached legal description prepared by Moore & Rutt, PA, said parcel(s) containing 0.918 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 10/26/21

**Council District 5 - Rieley
Tax I.D. No. 234-32.00-55.00
911 Address: 26719 Jersey Road, Millsboro**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FOOD TRUCK BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.238 ACRES, MORE OR LESS

WHEREAS, on the 30th day of July 2021, a conditional use application, denominated Conditional Use No. 2303 was filed on behalf of Antonia Lopez Lopez; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2303 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2303 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 situated in Indian River Hundred, Sussex County, Delaware, and lying on the northwest side of Jersey Road (S.C.R. 305), approximately 500 feet southwest of the intersection of John J. Williams Highway (Route 24) and Hollyville Road (S.C.R. 305), and being more particularly described in the attached legal description prepared by Haller & Hudson, P.A., said parcel containing 0.238 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 10/26/21

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

ORDINANCE NO. ____

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

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

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

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

Section 2. The subject property is described as follows:

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

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

To Be Introduced 10/26/21

Council District 5 - Rieley

Tax I.D. Nos. 533-12.00-93.00, 93.01, 93.02

911 Address: 36843, 36855, and 36873 Lighthouse Road, Selbyville

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN I-1 INSTITUTIONAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.5 ACRES, MORE OR LESS

WHEREAS, on the 18th day of August 2021, a zoning application, denominated Change of Zone No. 1950 was filed on behalf of Roxana Volunteer Fire Company; and

WHEREAS, on the ____ day of _____ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1950 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the northeast side of Lighthouse Road (Route 54) approximately 0.53 mile northwest of Bayville Road (S.C.R 58B) and being more particularly described in the attached legal descriptions prepared by Parkowski, Guerke & Swayze, P.A., said parcel containing 1.5 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.