

Sussex County Council Public/Media Packet

**MEETING:
October 29, 2019**

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**Sussex County Council
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(302) 855-7743**

COUNTY COUNCIL

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



Sussex County

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SUSSEX COUNTY COUNCIL

AGENDA

OCTOBER 29, 2019

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Public Comments

Presentation - Delaware 4-H Association

Presentation - Delaware Center for the Inland Bays

Councilman Irwin G. Burton, III

1. Proposed Resolution supporting “Never Let Them Go”

Todd Lawson, County Administrator

1. Administrator’s Report

Brandy Nauman, Housing Coordinator & Fair Housing Compliance Officer

1. LSA Planning Presentation – Housing Opportunities and Market Evaluation (HOME) Final Report and Recommendations



Hans Medlarz, County Engineer

1. Delaware Coastal Business Park
 - A. Chesapeake Utilities Corporation Customer Advance Agreement Addendum
2. Inland Bays Regional Wastewater Facility – Regional Biosolids and Septage Facilities
 - A. Chesapeake Utilities Corporation – Approval of Gas Service Agreement

John Ashman, Director of Utility Planning

1. Use of Existing Infrastructure Agreement for Parkside (Dukes Lane LLC)

Grant Requests

1. Del-Mar-Va Council, Boy Scouts of America, for Sussex Distinguished Citizen Award Event Fundraiser

Introduction of Proposed Zoning Ordinances

Council Members' Comments

Executive Session – Collective Bargaining pursuant to 29 Del.C.§10004(b)

Possible Action on Executive Session Items

1:30 p.m. Public Hearings

**Conditional Use No. 2188 filed on behalf of Donovan's Painting and Drywall, LLC
c/o Jose Sandoval**

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONTRACTOR'S OFFICE AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.69 ACRE, MORE OR LESS” (land lying on the south side of Lewes Georgetown Highway (Route 9), approximately 187 feet west of Church Street (Tax I.D. No. 334-5.00-205.01 and 208.00) (911 Address: 32454 Lewes Georgetown Highway, Lewes)

Conditional Use No. 2190 filed on behalf of Steven and Helene Falcone

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.26 ACRE, MORE OR LESS” (land lying on the northwest corner of Beaver Dam Road and Church Street) (Tax I.D. No. 334-5.00-212.00 and 213.00) (911 Address: 17662 Beaver Dam Road, Lewes)

Conditional Use No. 2192 filed on behalf of Thomas and Judy Munce (Napoleon Hernandez)

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CONDITIONAL USE NO. 1979 TO ALLOW FOR NIGHTCLUB TYPE ACTIVITIES AND AN ELECTRONIC MESSAGE CENTER SIGN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.033 ACRES, MORE OR LESS” (land lying on the east side of DuPont Blvd. (Route 113), approximately 0.51 mile north of Beach Highway (Route 16) (Tax I.D. No. 230-26.00-35.01) (911 Address: 12327 DuPont Boulevard (Route 113), Ellendale)

Adjourn

Sussex County Council meetings can be monitored on the internet at www.sussexcountydela.gov.

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on October 22, 2019 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.

###

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 22, 2019

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 22, 2019, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

Call to Order

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

Mr. Vincent called the meeting to order.

**M 512 19
Amend
and
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to amend the agenda by striking the 1:30 p.m. Public Hearing on Change of Zone No. 1890 filed on behalf of W&B Hudson Family LTD, and to approve the agenda, as amended.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of October 8, 2019 were approved by consent.

**Public
Comments**

A public comment period was held and the following spoke: Adele Jones, Paul Reiger and Dan Kramer.

**Present-
ation/
“Never Let
Them Go”
Campaign**

A presentation was given by members of the Beacon Middle School’s Odyssey of the Mind Team on their “Never Let Them Go” Campaign. The group’s goal is to help ban the release of bio and nonbiodegradable balloons to protect farms and wild, ocean and air life. The group asked for the County’s support of its initiative to raise awareness about the harm balloon litter causes.

**Recognition/
Jim Hickin**

The Council recognized Jim Hickin, Airport Manager, who is retiring after 14 years of service to Sussex County.

**Lodging
Tax
Ordinance
Discussion**

Mr. Lawson presented the Draft Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 103 (“TAXATION”) OF THE CODE OF SUSSEX COUNTY TO INCLUDE A NEW ARTICLE VI, §§ 103-39 THROUGH 103-42 WHICH SHALL PERMIT THE IMPOSITION OF A LOCAL LODGING TAX OF NO MORE THAN 3% OF THE RENT FOR ANY ROOM IN A HOTEL, MOTEL OR TOURIST HOME IN THE UNINCORPORATED AREAS OF SUSSEX COUNTY”.

This ordinance amends Chapter 103 (“Taxation”) of the Sussex County Code by adopting a new Article VI, §§ 103-39 through 103-42 which shall permit the imposition of a local lodging tax of no more than 3% of the rent for any room in a hotel, motel or tourist home in the unincorporated areas of Sussex County in accordance with 9 Del. C. § 8112(b). The effective date for the tax imposed by this ordinance is January 1, 2020. Accordingly, operators of hotels, motels and tourist homes shall remit to the Sussex County Department of Finance, or its designee, the lodging tax imposed herein for January 2020 no later than February 15, 2020.

Mr. Lawson explained that this initiative started more than a year ago when the Delaware General Assembly approved enabling legislation for New Castle County to enact a lodging tax in that county only. With legislators’ support, both Sussex and Kent counties were successful in having the General Assembly pass enabling legislation for the remaining two counties this year (House Bill 228). Per the legislation, Sussex County may impose up to a 3% tax of the rent for any room or rooms in a hotel, motel, or tourist home, as defined by Delaware Code. The tax only applies to venues within unincorporated Sussex County. The legislation approved for Sussex County limited the funding categories. The lodging tax funding only can be spent on projects within Sussex County and only on the following: capital and operating costs of beach nourishment, waterway dredging, economic development, tourist programs, recreational activities, and water quality and flood control projects. In addition, Sussex is permitted us use up to 5% of the funding for administration costs. To implement this new lodging tax, Council is required to pass an ordinance establishing the levy.

**Introduction
of Proposed
Ordinance**

Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 103 (“TAXATION”) OF THE CODE OF SUSSEX COUNTY TO INCLUDE A NEW ARTICLE VI, §§ 103-39 THROUGH 103-42 WHICH SHALL PERMIT THE IMPOSITION OF A LOCAL LODGING TAX OF NO MORE THAN 3% OF THE RENT FOR ANY ROOM IN A HOTEL, MOTEL OR TOURIST HOME IN THE UNINCORPORATED AREAS OF SUSSEX COUNTY”.

The Proposed Ordinance will be advertised for Public Hearing.

**Public
Hearing**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES IV, V, VI, VII, VIII, IX, X, XI, XII, XIII, XIV, XV AND XXVII BY

**Public
Hearing/
Adminis-
trative
Approval
Processes
(continued)**

AMENDING SECTIONS 115-20, 115-23, 115-29, 115-32, 115-40 115-48, 115-53, 115-56, 115-64, 115-69, 115-72, 115-75.2, 115-75.4, 115-75.9, 115-75.11, 115-80, 115-83.6, 115-83.11, 115-83.13, 115-83.18, 115-83.20, 115-83.26, 115-83.28, 115-83.33, 115-83.35, 115-83.40, 115-83.42, 115-88, 115-94, 115-97, 115-105, 115-114, 115-210 AND TABLE IV TO ESTABLISH ADMINISTRATIVE APPROVAL PROCESSES FOR THE USE OF A MANUFACTURED HOME-TYPE STRUCTURE FOR A BUSINESS, COMMERCIAL OR INDUSTRIAL USE, FOR STUDIO/GARAGE APARTMENTS AND MANUFACTURED HOME-TYPE STRUCTURES IN AN EMERGENCY OR HARDSHIP SITUATION’.

Janelle Cornwell, Planning and Zoning Director, and Vince Robertson, Assistant County Attorney, presented the Proposed Ordinance.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on September 26, 2019 and recommended approval.

(See the minutes of the Planning and Zoning Commission dated September 26, 2019.)

Ms. Cornwell stated that, currently the Code for manufactured home type structures, to be used as offices, garage/studio apartments, portable classrooms, and other similar uses requires an application for a Special Use Exception to be made to the Board of Adjustment; that the garage/studio apartments also require a Special Use Exception to the Board of Adjustment as do medical hardship applications; that a medical hardship is where a medical need to have a manufactured home on the property exists, and would allow two homes on the property until the second home is no longer needed; that staff is looking to create an administrative process that is similar to the existing administrative variance process; that it would allow for an Applicant to submit an application to Planning and Zoning, that Planning and Zoning staff would notify the adjacent property owners of the application; that if Planning and Zoning does not receive any letters of opposition, then the Department would be able to consider the approval of the application; that if there is a letter in opposition to the application, the Applicant can pay the remaining fee and go before the Board of Adjustment for a public hearing; that staff is trying to reduce the time needed to process applications that are typically less contentious; that if the application is not granted through the administrative process, an Applicant can still solicit a public hearing before the Board of Adjustment; that there is already an administrative process in place for variances and this is designed to take some of the load off of the Board of Adjustment for applications that are minor or routine.

Public comments were heard.

Paul Reiger raised questions about the age restriction on a mobile home for placement for medical hardship, requirements such as skirting on mobile

**Public Hearing/
Administrative
Approval
Processes
(continued)**

homes, an established time frame for a medical hardship, possible deed restrictions on a property, size limitations for garage/studio apartments, and the need for a definition of a medical hardship.

Dan Kramer raised a question regarding travel trailers and he noted that there are “too many open doors that need to be closed” in the Proposed Ordinance.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 513 19
Adopt
Ordinance
No. 2684**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Ordinance No. 2684 entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES IV, V, VI, VII, VIII, IX, X, XA, XB, XI, XIA, XIB, XIC, XID, XIE, XIF, XII, XIII, XIV, XV AND XXVII BY AMENDING SECTIONS 115-20, 115-23, 115-29, 115-32, 115-40 115-48, 115-53, 115-56, 115-64, 115-69, 115-72, 115-75.2, 115-75.4, 115-75.9, 115-75.11, 115-80, 115-83.6, 115-83.11, 115-83.13, 115-83.18, 115-83.20, 115-83.26, 115-83.28, 115-83.33, 115-83.35, 115-83.40, 115-83.42, 115-88, 115-94, 115-97, 115-105, 115-114, 115-210 AND TABLE IV TO ESTABLISH ADMINISTRATIVE APPROVAL PROCESSES FOR THE USE OF A MANUFACTURED HOME-TYPE STRUCTURE FOR A BUSINESS, COMMERCIAL OR INDUSTRIAL USE, FOR STUDIO/GARAGE APARTMENTS AND MANUFACTURED HOME-TYPE STRUCTURES IN AN EMERGENCY OR HARDSHIP SITUATION”.

Motion Adopted: 5 Yeas.

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

**Adminis-
trator’s
Report**

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

1. Delaware State Police Activity Report

The Delaware State Police year-to-date activity report for September 2019 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 194 troopers assigned to Sussex County for the month of September.

2. Referendum – Chapel Branch Area

The Sussex County Engineering Department will be conducting a

Administrator's Report (continued)

referendum at Conley's United Methodist Church, Lewes, Delaware, on Saturday, October 26th, from 9:00 a.m. until 12:00 p.m. The purpose of the referendum is to revise the assessment method for the Chapel Branch Area of the Sussex County Unified Sanitary Sewer District.

3. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Governors – Phase 3A, effective October 7th; Vincent Overlook – Phase 7A, Vincent Overlook – Phase 7B, and Colonial Oaks, LLC Hotel, effective October 8th; and Belle Terre – Phase 1C (Construction Record), effective October 14th.

4. Robert Faucett

It is with sadness that we note the passing of County pensioner Robert Faucett on Friday, October 11th. Mr. Faucett began his career with Sussex County in December 2004 where he worked in Utility Construction, Engineering Department, until January 2018, for a total of 14 years of service. We would like to extend our condolences to the Faucett family.

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

Robinsonville Road Core Infrastructure Project/Tidewater Financing Agreement

Hans Medlarz, County Engineer, presented the Tidewater Financing Agreement for the Robinsonville Road Core Infrastructure Project (Project S19-16). In June 2018, the Council granted permission to post notices for the Robinsonville Road Expansion of the Unified Sanitary Sewer District. Following a Public Hearing in July 2018, the Council passed a Resolution revising the district boundary to include a number of large parcels. At each presentation, the Engineering Department conveyed the intent for a combined core sewer infrastructure approach covering all three (3) proposed projects in this expansion. This project approach required the acquisition of three off-site easements which were obtained at appraised value. The County's sewer easements are either shared or paralleled by a water easement for Tidewater Utilities. The largest easement is located on an agricultural property and the owner only granted it under the condition of a one-time interruption of the farming activities with stringent topsoil removal and restoration requirements. This condition, written in both easements, forced a combined water/sewer construction bid which is currently being advertised. With the sewer being the deeper installation, the County had to take the lead, requiring a financing agreement with Tidewater Utilities, Inc. The agreement is structures after other municipal ones previously executed by the Council.

M 514 19 Approve Financing Agreement

A Motion was made by Mr. Burton, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department, that Council approves the Financing Agreement for the Robinsonville Road

M 514 19 **Core Infrastructure Project, with Tidewater Utilities, Inc., as presented.**
(continued)

Motion Adopted: 5 Yeas.

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

City of
Seaford
Utility
Service
Agreement

Hans Medlarz, County Engineer, presented a Utility Service Agreement between the City of Seaford and Sussex County relating to the new Paramedic Station in Seaford. The County desires to obtain municipal water and sewer services for the Paramedic Station on Route 13 in Seaford; the City desires to provide water and sewer services, including fire suppression service, to the Paramedic Station in return for a capital contribution in the amount of \$200,000.00. Mr. Medlarz noted that this Agreement allows the connection to the Western Sussex Force Main, which is turned over to the City of Seaford, but constructed under the County's contract. Mr. Medlarz reviewed the terms of the Agreement, including the stipulation that, if the property becomes contiguous to and eligible for annexation to the City of Seaford, the County agrees that it shall seek the property's annexation to the City.

M 515 19
Approve
Agreement
with City
of Seaford

A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that the Council approves the Utility Service Agreement with the City of Seaford, as presented.

Motion Adopted: 4 Yeas, 1 Nay.

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

SCRWF
Materials –
Forcemain
Consolida-
tion Project/
Bid
Results

Hans Medlarz, County Engineer, presented the bid results for the Materials – Forcemain Consolidation at South Coastal Regional Wastewater Facility (SCRWF) Project, Project M20-11. Three bids were received; the lowest responsible bidder was Core & Main LP of Milton in the amount of \$271,438.60. The Engineering Department developed a SCRWF forcemain consolidation design in house to be accomplished under the General Labor & Equipment Contract, with additional construction cost saving efforts through direct purchase of materials associated with the work.

M 516 19
Award
Bid/SCRWF
Materials-
Forcemain
Consolida-
tion Project

A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Project M20-11, Materials Purchase for Forcemain Consolidation at South Coastal Regional Wastewater Facility (SCRWF), be awarded to Core & Main LP of Milton, Delaware, at the bid amount of \$271,438.60.

M 516 19
(continued)

Motion Adopted: 5 Yeas.

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

**Amend-
ments to
EJCDC
Base
Engineering
Agreement/
KCI**

Hans Medlarz, County Engineer, presented Amendment No. 1 to the EJCDC Base Engineering Agreement with KCI Technologies, Inc. for the Joy Beach Sewer Expansion Project, Project S20-12, and Amendment No. 2 to the EJCDC Base Engineering Agreement with KCI Technologies, Inc. for the Mulberry Knoll Sewer Expansion Project, Project S20-14.

Mr. Medlarz reported that a request was made for KCI to develop and submit a scope of work with fee estimate for preliminary design, final design, and bidding phase services associated with the Joy Beach Sewer Expansion Project. As requested, KCI provided Amendment No. 1 to the Base Owner-Engineer Professional Services Agreement; the Engineering Department has reviewed the scope of services and estimated fee provided by KCI, and recommends Council authorize award of Amendment No. 1 for professional services at a not-to-exceed value of \$340,300.00 for design and bidding of the Joy Beach Sewer Expansion Project, Project S20-12.

Mr. Medlarz reported that a request was made for KCI to develop and submit a scope of work with fee estimate for preliminary design, final design, and bidding phase services associated with the Mulberry Knoll Sewer Expansion Project. As requested, KCI provided Amendment No. 2 to the Base Owner-Engineer Professional Services Agreement; the Engineering Department has reviewed the scope of services and estimated fee provided by KCI, and recommends Council authorize award of Amendment No. 2 for professional services at a not-to-exceed value of \$314,700.00 for design and bidding of the Mulberry Knoll Sewer Expansion Project, Project S20-14.

M 517 19
Approve
Amendment
**No. 1/
EJCDC
Base
Engineering
Agreement/
KCI**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Amendment No. 1 to the Five (5) Year Miscellaneous Engineering Services Agreement with KCI Technologies, Inc. be approved in the amount not to exceed \$340,300.00, for the design and bidding phases of Sussex County Project S20-12, Joy Beach Sewer Expansion.

Motion Adopted: 5 Yeas.

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

M 518 19
Approve
Amendment
No. 2

A Motion was made by Mr. Wilson, seconded by Mr. Burton, based upon the recommendation of the Sussex County Engineering Department, that Amendment No. 2 to the Five (5) Year Miscellaneous Engineering Services

M 518 19
(continued) **Agreement with KCI Technologies, Inc. be approved in the amount not to exceed \$314,700.00, for the design and bidding phases of Sussex County Project S20-14, Mulberry Knoll Sewer Expansion.**

Motion Adopted: 5 Yeas.

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

Request to Post Notices/ Milo's Haven Expansion **John Ashman, Director of Utility Planning, presented a request to prepare and post notices for the Milo's Haven Expansion of the Sussex County Unified Sanitary Sewer District. The expansion was requested by Davis Bowen & Friedel on behalf of their clients Norman Stephen Price Revocable Trust for Parcels 134-19.00-13.03 and 134-18.00-38.00. The expansion will consist of 93.00 acres more or less. The project is proposed at 179 EDUs and wishes to connect to existing infrastructure installed by the County. An Infrastructure Use Agreement will be required. The property owner(s) will be responsible for System Connection Charges of \$6,360.00 per EDU based on current rates.**

M 519 19
Authorize Posting of Notices/ Milo's Haven Expansion **A Motion was made by Mr. Wilson, seconded by Mr. Hudson, that the Sussex County Engineering Department, is authorized to prepare and post notices for the Milo's Haven Expansion of the Sussex County Unified Sanitary Sewer District (Millville Area), as presented.**

Motion Adopted: 5 Yeas.

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

Request to Post Notices/ Chase Oaks Expansion **John Ashman, Director of Utility Planning, presented a request to prepare and post notices for the Chase Oaks Expansion of the Sussex County Unified Sanitary Sewer District (Angola Neck Area). The expansion was requested by Solutions IPeM on behalf of their clients Charter Oaks Investment LLC for Parcels 234-6.00-96.00, 97.00 and 98.00. The expansion will consist of 175.34 acres more or less. The project is proposed at 254 EDUs and wishes to connect to existing infrastructure installed by the County. An Infrastructure Use Agreement will be required. The property owner(s) will be responsible for System Connection Charges of \$6,360.00 per EDU based on current rates.**

M 520 19
Authorize Posting of Notices/ Chase Oaks Expansion **A Motion was made by Mr. Burton, seconded by Mr. Wilson, that the Sussex County Engineering Department is authorized to prepare and post notices for the Chase Oaks Expansion of the Sussex County Unified Sanitary Sewer District (Angola Neck Area), as presented.**

Motion Adopted: 5 Yeas.

M 520 19
(continued)
Grant
Requests

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

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

M 521 19
Countywide
Youth
Grant

A Motion was made by Mr. Burton, seconded by Mr. Rieley, to give \$2,100.00 from Countywide Youth Grants to the Optimist International Foundation for the Optimist Club of Sussex County's Essay and Oratorical Contests and Youth Appreciation Day.

Motion Adopted: 5 Yeas.

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

M 522 19
Council-
manic
Grant

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to give \$1,000.00 (\$500.00 each from Mr. Hudson's and Mr. Rieley's Councilmanic Grant Accounts) to the Fraternal Order of Police, Sussex County Lodge #2, for their Community Outreach Initiative for Sussex County.

Motion Adopted: 5 Yeas.

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

M 523 19
Council-
manic
Grant

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to give \$200.00 from Mr. Wilson's Councilmanic Grant Account to Sussex Community Crisis Housing Services for the Housing Mitigation Fund (Housing Locator Program).

Motion Adopted: 5 Yeas.

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

M 524 19
Council-
manic
Grant

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to give \$500.00 from Mr. Vincent's Councilmanic Grant Account to the Western Sussex Chamber of Commerce for the Seaford Christmas Parade.

Motion Adopted: 5 Yeas.

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

**Introduction
of Proposed
Ordinances**

Mr. Hudson introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY TO AMEND A CONDITION OF APPROVAL TO ALLOW FOR A MIXED USE BUILDING FOR CHANGE OF ZONE NO. 1005, ORDINANCE NO. 600, FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.22 ACRE, MORE OR LESS” (Change of Zone No. 1905) filed on behalf of George Cole Jr. and Charles Cole (Tax I.D. No. 134-13.00-1843.00) (911 Address: 698 Bethany Loop, Bethany Beach).

Mr. Rieley introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 2.6 ACRES, MORE OR LESS” (Change of Zone No. 1906) filed on behalf of Eliud Samuel Ramirez-Mejia (Tax I.D. No. 233-5.00-172.00) (911 Address: 27436 Dagsboro Road, Dagsboro).

The Proposed Ordinances will be advertised for Public Hearing.

**M 525 19
Go Into
Executive
Session**

At 11:28 a.m., a Motion was made by Mr. Burton, seconded by Mr. Hudson, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to land acquisition.

Motion Adopted: 5 Yeas.

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

**Executive
Session**

At 11:35 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to land acquisition. The Executive Session concluded at 12:05 p.m.

**M 526 19
Reconvene
Regular
Session**

At 12:07 p.m., a Motion was made by Mr. Burton, seconded by Mr. Hudson, to come out of Executive Session and reconvene the Regular Session.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 527 19
Authorize
Land
Acquisition**

A Motion was made by Mr. Burton, seconded by Mr. Rieley, that the Sussex County Council authorizes the Administrator and staff to negotiate, enter into contracts, and proceed to settlement on a parcel known as Land 2019-P.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 528 19
Recess**

At 12:08 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley, to recess until 1:30 p.m.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 529 19
Reconvene**

At 1:30 p.m., a Motion was made by Mr. Burton, seconded by Mr. Hudson, to reconvene.

Motion Adopted: 4 Yeas, 1 Absent.

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

Mr. Wilson joined the meeting.

Rules

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

**Public
Hearing/
CZ 1899**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT AND AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.8016 ACRES, MORE OR LESS” (Change of Zone No. 1899) filed on behalf of Harbeson Farm Revex, LLC (Tax I.D. No. 235-30.00-131.01 (portion of) (911 Address: 18865 Harbeson Road, Harbeson).

The Planning and Zoning Commission held a Public Hearing on this application on October 1, 2019 at which time action was deferred. On October 10, 2019, the Commission recommended approval.

**Public
Hearing
CZ 1899
(continued)**

(See the minutes of the Planning and Zoning Commission dated October 1 and 10, 2019.)

Janelle Cornwell, Planning and Zoning Director, presented the application.

The Council found that David Hutt, Attorney, was present with Kay Dukes, one of the principals of Harbeson Farm Revex, LLC. Mr. Hutt provided an overview of the area, including the new Royal Farms store and intersection improvements at Route 9 and Route 5; reviewed area zonings and uses noting the mixture of various zoning classifications in the rural area; and commented on the application's compliance with the Comprehensive Plan. Mr. Hutt stated that the U.S. Postal Service is looking for a new location in the Harbeson area and has selected this site; that the property is currently split-zoned; and that the property is located along a high capacity / major collector road with shoulders.

Mr. Burton commented on parking concerns and Mr. Hutt responded that this concern will be noted to the Postal Service.

There were no public comments.

The Public Hearing and public record were closed.

**M 530 19
Adopt
Ordinance
No. 2685/
CZ 1899**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt Ordinance No. 2685 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT AND AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.8016 ACRES, MORE OR LESS" (Change of Zone No. 1899) filed on behalf of Harbeson Farm Revex, LLC

Motion Adopted: 5 Yeas.

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

**M 531 19
Adjourn**

At 1:53 p.m., a Motion was made by Mr. Burton, seconded by Mr. Hudson, to adjourn.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

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

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

DRAFT

RESOLUTION NO. R --- 19

A RESOLUTION PLEDGING SUSSEX COUNTY COUNCIL'S SUPPORT FOR THE BEACON MIDDLE SCHOOL NEVER LET THEM GO AWARENESS CAMPAIGN

WHEREAS, Americans have many reasons and ways to celebrate life's special moments, be it weddings, baby announcements, graduations, birthdays and anniversaries; and

WHEREAS, increasingly such celebrations are punctuated by balloon releases, which serve as a visible show of joy and jubilation, but mask a more sullied and sinister side; and

WHEREAS, balloons released into the air inevitably find their way back to earth, trashing our forests, shorelines, waterways, and other natural settings; and

WHEREAS, the party balloon industry is a \$220 million enterprise annually in the United States, with many products marketed for the growing trend of balloon releases; and

WHEREAS, balloons often marketed as 'environmentally friendly' or 'biodegradable' can nonetheless take weeks, months, even years to fully break down, and in that time, the remnants litter the landscape and pose a risk to wildlife that can become entangled or mistake the debris as food; and

WHEREAS, education is the key to changing minds and methods; and

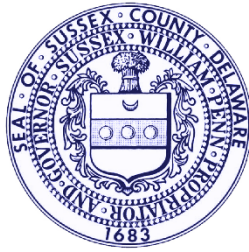
WHEREAS, the Beacon Middle School Odyssey of the Mind team's Never Let Them Go campaign, born out of the students' participation in a beach cleanup event, is aimed at bringing about awareness, education and prevention to combat the harm balloon releases represent to our environment and wildlife by encouraging the public to look for alternatives to balloon releases, such as re-usable banners and flags, or planting memorial trees and gardens; and

WHEREAS, through youth-driven efforts such as the Never Let Them Go campaign, everyone in our community has a chance to make a meaningful contribution that will protect our environment for today's generation, and those to come;

NOW, THEREFORE, BE IT RESOLVED that the Sussex County Council does hereby join with the students of the Beacon Middle School Odyssey of the Mind team in proclaiming its support for their Never Let Them Go initiative, and encourages all citizens to do their part to keep balloons from littering and harming our precious environment.

ENGINEERING DEPARTMENT

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



Sussex County

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

Memorandum

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

FROM: Hans Medlarz, County Engineer

RE: *Delaware Coastal Business Park
Chesapeake Utilities Corporation Customer Advance Agreement
Approval of Addendum*

DATE: October 29, 2019

On November 29, 2016, Council authorized the purchase of the King Farm Industrial Park and the assumption of existing contractual arrangements held by Georgetown Airport Center, LLC. Under this arrangement, the County assumed Melvin L. Joseph Construction Co., Inc.'s contract. On March 14, 2017, Council approved the assumption of Georgetown Airport Center, LLC's Professional Engineering Contract and retained the Engineer of Record, Becker Morgan Group, Inc., as the consultant for Delaware Coastal Business Park. On October 10, 2017, Council approved a Memorandum of Understanding with AIC Building, LLC to achieve a better roadway alignment.

On January 16, 2018, Council approved Becker Morgan Group, Inc.'s scope amendment no.1 for the realignment of Baltimore Avenue creating a four-way intersection with Baltimore Avenue and a roadway serving lease areas 2 & 3 as well as the associated stormwater management. On December 18, 2018, Council approved scope amendment no. 2 for Becker Morgan Group, Inc. for the Coastal Business Park design phase II, further extending Baltimore Avenue as well as the stormwater over-management, allowing additional unmanaged development in the northern drainage basin of the Coastal Airport property.

The Delaware Coastal Business Park, Phase I project was publicly advertised and four (4) bids were received on December 6, 2018. On December 18, 2019, Council awarded the project to Melvin Joseph Construction at the total bid amount of \$1,446,633.75.



In order to provide all utilities desired by businesses in the Coastal Business Park, on December 18, 2018, Council also approved a natural gas Customer Advance Agreement with Chesapeake Utilities Corporation. It provided for an equal capital cost share between the parties in the originally estimated amount of \$264,224.00 each. In addition, it included a 5-year reimbursement opportunity for the County based on actual customer gas consumption.

In the course of the construction document review, the Engineering Department requested an increased length and depth for all the gas main crossings under storm drainage pipes, increasing the estimated cost by \$20,195.00. Rather than deducting 100% of the cost increase from future reimbursements as per the approved Agreement, Chesapeake Utilities Cooperation offered an addendum equally sharing the increase. Since this arrangement has a potential upside for the County, the Engineering Department recommends approval of the Addendum as presented.

**ADDENDUM TO
CUSTOMER ADVANCE AGREEMENT**

CHESAPEAKE UTILITIES CORPORATION

THIS ADDENDUM TO CUSTOMER ADVANCE AGREEMENT (“Addendum”), executed in duplicate as of the _____ day of October 2019 (effective Date), by and between Chesapeake Utilities Corporation (hereinafter called “Company”), party of the First part, and Sussex County Council (hereinafter called “Applicant”), party of the Second part, witnessed:

WHEREAS, the Customer Advance Agreement (“Agreement”) executed on January 8, 2019 between the Company and Applicant included an estimated total construction cost of \$528,448.00 for extension of natural gas service (“Extension”); and

WHEREAS, subsequent to execution of the Agreement the estimated total construction cost for the Extension was increased to \$548,643.00, to include an additional cost of \$20,195.00 in order to maintain 54” minimum clearance under storm drainage pipes;

NOW, THEREFORE, in consideration of these premises, and of the respective and mutual covenants and agreements contained herein and originally set forth in the Agreement and intending to be legally bound hereby, the parties hereto with each other agree to amend the Agreement, replacing Section 2 of the Agreement, in whole, with the following:

2. Applicant shall provide a total cash contribution to the Company in the amount of \$274,321.50 for one half (1/2) of the cost of the Extension.

The Applicant having already remitted a cash contribution of \$265,224.00 to the Company within thirty (30) days of the effective date of the Agreement in accordance with original terms of the Agreement, the remaining cash contribution balance due to the Company from the Applicant is \$10,097.50, payable within thirty (30) days of the effective date of the Addendum.

All other terms, mutual covenants and agreements of the original Agreement remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Service Agreement.

Witness:

Chesapeake Utilities Corporation

By: _____

By: _____

Shane Breakie, Vice President, Chesapeake Utilities

Witness:

Sussex County

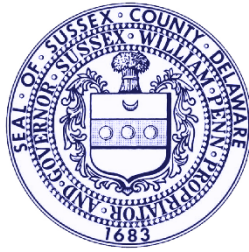
By: _____

By: _____

Michael H. Vincent, President County Council

ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
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Sussex County

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HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

Memorandum

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

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

RE: *IBRWF – Regional Biosolids & Septage Facilities,
Chesapeake Utilities Corporation
Approval of Gas Service Agreement*

DATE: October 29, 2019

On June 2, 2015, County Council initially considered a comprehensive biosolids approach at the Inland Bays Regional Wastewater Facility (IBRWF) by approving Whitman, Requardt & Associates' (WRA) Amendment 5 to the base contract for evaluation of Class A sludge drying options. During the May 2, 2016, FY17 budget workshop, the Engineering Department presented drying alternatives and a list of potential municipal partners.

On August 30, 2016, County Council approved WRA's Amendment 7 for design of the IBRWF's Phase 2 Regional Biosolids Upgrades. Subsequently, improved facility design changes associated with the biosolids drying unit were developed and approved by Council via Amendment 7A on April 24, 2018. The completed design package was publicly advertised and ultimately two bids were received. On June 26, 2018, Council awarded the contract to Bearing Construction, Inc. in the amount of \$13,668,346.00.

As the Phase 2 contract was moving forward, WRA continued with the design of Phase 3 covering the treatment expansion and the effluent distribution loop connecting to alternative outlets. With DNREC's support of providing alternative outlets, the design could be modified eliminating the expanded storage lagoon. This positive change resulted in Council's approval of credit change order no. 1. The parties are still finalizing a time & material change order no. 2 to Council, associated with the stormwater management component of the project.

The Cities of Rehoboth Beach and Seaford, the Lewes Board of Public Works, the Town of Georgetown as well as Artesian Wastewater Management, Inc. provide treatment services for various areas of the Unified Sanitary Sewer District. In a cooperative engineering effort, the



County's biosolids drying unit design has anticipated transfer of Class B biosolids to IBRWF for final treatment. The County has executed biosolids agreements with all five jurisdictions the latest one was approved by Council on October 8, 2019, increasing the estimated annual drying unit runtimes by 11% with operations now anticipated during nine (9) months out of the year. The annual natural gas usage for the unit is estimated at 31,635 Mcf. This number is reflected in the agreement as the Minimum Annual Delivery ("MAD"). The Tariff requires the County to pay Chesapeake Utilities each month in accordance with the pricing provisions of said Tariff, regardless of actual usage. Should the County fail to take delivery of the MAD, a deficiency charge is charged. However, we conservatively estimated the MAD to reduce this exposure. The utility "balances" the gas as part of the Tariff but the County must procure the gas at the NYMEX.

Natural gas futures are purchased through an energy resource company in "strips" of at least 12-months delivered at the Henry Hub in Louisiana. The energy resource company charges a "basis" for delivery to Eastern Shore Natural Gas's "City gate" in zone R2/D3. From there it is a fixed transportation cost reflected in the tariff to the pressure reducing station from which Chesapeake Utilities takes over. It is beneficial for the County to purchase natural gas futures, allowing significant hedging activity to manage risk in the highly volatile natural gas price driven by weather-related demand.

The drying unit's full production start is scheduled on or before May 1, 2020. This means the natural gas supply has to be available at IBRWF a few weeks prior for testing and start-up. The County has explored several supply options and determined that the interruptible transportation service approach is the most cost effective since the seasonal business model can easily accommodate the rare interruption. The main component of the Tariff is the Delivery Service Rate for the MAD, currently \$3.25 per Mcf, which allows the utility to recover the capital expense of extending the service to IBRWF without a capital contribution by the County. After the conclusion of the 5-year term of the agreement, the County can either switch to a different tariff model or renegotiate the delivery service rate at a much lower cost.

The Finance and Engineering Departments recommend approval of the Gas Service Agreement with Chesapeake Utilities Corporation under the interruptible transportation service tariff. In addition, the departments request authorization for the Finance Director and the County Engineer to purchase natural gas in the NYMEX through an energy resource company.

GAS SERVICE AGREEMENT

CHESAPEAKE UTILITIES CORPORATION

DELAWARE DIVISION

And

SUSSEX COUNTY, DELAWARE

Minimum Use Agreement

Subject to the terms and conditions of this Service Agreement, Chesapeake Utilities Corporation, a Delaware corporation, through its Delaware Natural Gas Division (Seller), agrees to provide interruptible gas service to Sussex County Council (Buyer) at Buyer's facility located at 29445 Inland Bay Rd, Millsboro, DE 19966 (the "Facility"). This Service Agreement shall be effective upon May 1, 2020 and shall continue in effect thereafter for a period of five (5) years or until such earlier time that Buyer meets their minimum delivery obligation.

I DEFINITIONS

When used in this Service Agreement:

- A. "Gas" shall mean natural gas or any commonly accepted and suitable equivalent.
- B. "Ccf" shall mean one hundred (100) cubic feet.
- C. "Mcf" shall mean one thousand (1,000) cubic feet.
- D. "Service" shall mean the transportation and delivery of Buyer's gas on an interruptible basis pursuant to the terms and conditions of the Seller's Interruptible Transportation Rate tariff (the "Tariff") on file with the Delaware Public Service Commission, as the same may be amended from time to time, at the outlet side of Seller's measuring and regulating equipment at the Facility.
- E. "Five-Year Service Period" shall mean the period of five (5) years following May 1, 2020.
- F. "Commission" shall mean the Delaware Public Service Commission.

II GENERAL SERVICE PROVISIONS AND REGULATIONS

- A. Seller operates and maintains facilities for the distribution of natural gas in the State of Delaware and proposes to deliver natural gas to the Buyer on an interruptible basis.
- B. Seller's applicable rate schedules and general service provisions set forth in the Tariff and on file with the Commission, whether of general or specific applicability, as they may be amended, modified, or changed from time to time, are hereby incorporated into this Service Agreement by reference. Seller reserves the right to amend, modify or change unilaterally its tariffs and rate schedules for terms and rates such as the Customer Charge, Firm Balancing Rate, and potential fees such as Franchise Fees, subject to the approval of the Commission.

III PRICING TERMS

For all Service to Buyer during the Five-Year Service Period, Buyer shall pay Seller each month in accordance with the pricing provisions of the Tariff, as amended from time to time with approval of the Commission. The Buyer will take Service under Rate Schedule *ITS – Interruptible Transportation Service* for all gas transported on Seller’s natural gas distribution system to the Facility during the Five-Year Service Period. In addition, Buyer shall pay the Seller each month in accordance with the general terms and conditions and pricing provisions of the Tariff, specifically the Delivery Service Rate, currently \$0.325 per Ccf, the Customer Charge, and the Interruptible Balancing Service Rate. During the Five-year Service Period, Buyer agrees to a Minimum Annual Delivery (“MAD”) of natural gas at the Facility which will follow the schedule outlined in section IV.

IV REQUIREMENTS

Buyer’s total gas requirements are estimated to be 158,175 Mcf in a five-year period.

- A. As a financial guarantee, Seller requires *Minimum Annual Deliveries* of gas (“MAD”) for each twelve-month delivery period as follows: **31,635 Mcf**.
- B. As used herein, the term “twelve-month delivery period” shall mean each twelve-month period within the Five-Year Service Period beginning May 1, 2020.
- C. If Buyer fails to take delivery of the MAD in any twelve-month delivery period, Buyer shall pay Seller a deficiency charge calculated as follows: the difference between the applicable MAD and the actual quantity of gas delivered during the twelve-month delivery period, multiplied by the delivery service rate in effect at the end of the twelve-month delivery period. Seller will invoice Buyer for the deficiency charge within thirty (30) days after the end of each twelve-month delivery period, and Buyer shall pay said invoice within thirty (30) days of receipt. Each party’s performance obligation hereunder shall abate proportionately during a Force Majeure event and during any period that a party is unable to perform its obligations due to the other party’s performance failure. The term of this Service Agreement shall be extended for a period equal to the length of any such abatement(s).
- D. If, during any twelve-month delivery period, the actual quantity of gas delivered to the Facility exceeds the applicable MAD, said excess shall be carried forward to the next twelve-month delivery period for purposes of calculating any deficiency charge hereunder.

V TERMINATION CHARGES

If Buyer terminates Service hereunder after execution of this agreement, Buyer shall pay Seller in full the remainder of the MAD deficiency charges. Buyer agrees that it will make any such deficiency charge payment to Seller within thirty (30) days after receipt of Seller’s invoice.

VI NOTICES

All notices in connection with this Service Agreement shall be in writing, and conveyed by first class mail, except for notices of pricing changes and notices of service interruptions (if any), which shall be provided in accordance with the Tariff and Delaware law.

Notices to Buyer shall be addressed to:

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

Notices to Seller shall be addressed to:

Shane Breakie
Assistant Vice President
Chesapeake Utilities
500 Energy Lane, Suite 100
Dover, DE 19901

The date of mailing shall constitute the date of notice for all notices given under this Service Agreement, unless otherwise specified.

VII MISCELLANEOUS TERMS

- A. This Service Agreement, together with the Tariff and any attachments hereto, constitute the entire agreement between the parties, and no statement, promise, or inducement made by either party or agent of either party which is not contained in this Service Agreement or the Tariff shall be binding upon either party. Subject to the other provisions of this Service Agreement, this Service Agreement may not be modified or altered except in writing signed by the parties.
- B. This Service Agreement is subject to the regulatory authority of the Commission. If any part, term, or provision of this Service Agreement is specifically held by a court, the Commission, or any other regulatory authority having jurisdiction in the matter, to be illegal or in conflict with applicable law or regulation, the validity of the remaining portions or provisions shall not be affected thereby, and the rights and obligations of the parties shall be construed and enforced as if the Service Agreement did not contain the particular part, term, or provision so held to be illegal or in conflict.
- C. This Service Agreement shall be binding upon, and inure to the benefit of the parties hereto and their respective successors and assigns.
- D. This Service Agreement shall be interpreted, performed, and enforced in accordance with the laws of the State of Delaware.

In witness whereof, the parties have executed this Service Agreement effective _____.

Witness:

Chesapeake Utilities Corporation

By: _____

By: _____

Name: Shane Breakie

Title: Assistant Vice President, Chesapeake Utilities

Witness:

Sussex County

By: _____

By: _____

Name: Michael H. Vincent

Title: President, Sussex County Council

ENGINEERING DEPARTMENT

ADMINISTRATION (302) 855-7718
AIRPORT & INDUSTRIAL PARK (302) 855-7774
ENVIRONMENTAL SERVICES (302) 855-7730
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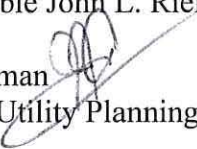
Sussex County

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

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Memorandum

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

FROM: John J. Ashman 
Director of Utility Planning

RE: *Use of Existing Infrastructure Agreement
Parkside
File: OM 9.01*

DATE: October 29, 2019

In July of 2016, the Engineering Department gave a presentation on Sussex County's proactive wastewater infrastructure planning in the North Coastal Planning Area. The planning effort identified infrastructure needs and matched them to transmission and treatment capacity upgrades respectively. This arrangement collects financial contributions based on development built out flows for available capacity in the existing wastewater transmission infrastructure previously funded by the County while at the same time eliminating the granting of "oversizing" credits.

The Engineering Department requests approval of an agreement for the Use of Existing Infrastructure with **Dukes Lane, LLC** for the **Parkside** project in the Millville Area. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County.

Under the proposed arrangement, **Parkside** project will connect to the existing County owned infrastructure. In return for utilization of said infrastructure **Dukes Lane, LLC** will contribute **\$62,204.00** for the financial catch-up contribution of the existing infrastructure to serve **95.00** additional Equivalent Dwelling Units. Payment will be required upon execution of this agreement. System Connection Charges in place at the time of building permit request will still apply.

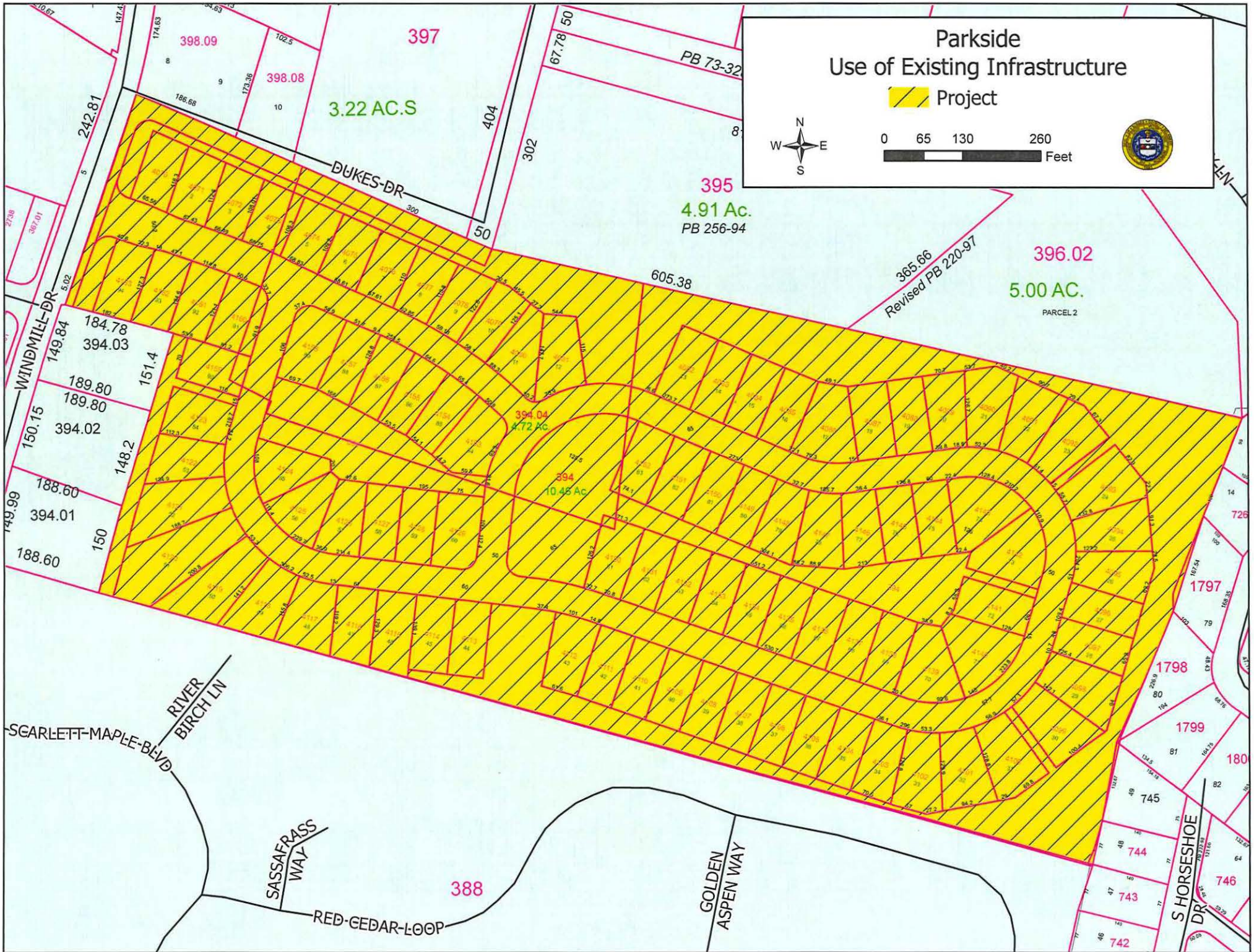


Parkside Use of Existing Infrastructure

 Project



0 65 130 260
Feet



USE OF EXISTING INFRASTRUCTURE AGREEMENT

INFRASTRUCTURE USE AGREEMENT – IUA1117

THIS AGREEMENT (“Agreement”), made this _____ day of _____ 2019, by and between:

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

Dukes Lane
~~SCHIFF LAND DEVELOPMENT~~, LLC a Delaware Limited Liability Company and developer of a project known as Parkside, hereinafter called the “Developer.”

WITNESSETH:

WHEREAS, Developer is developing a tract of land identified as Tax Map parcels 134-12.00-394.00 & 394.04 to be known as Parkside (“Project”) and;

WHEREAS, the Project is within the boundary of the Sussex County Unified Sanitary Sewer District (Millville 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 95.00 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 \$62,204.00 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 is due at time of execution of this agreement.**
- (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 **16054 S. DuPont Highway, Harrington DE 19952.**

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

FOR THE COUNTY:

{Seal}

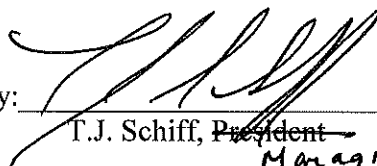
By: _____
(President - Sussex County Council)

(DATE)

ATTEST:

Robin A. Griffith
Clerk of the County Council

Dukes Lane
FOR SCHIFF LAND DEVELOPMENT, LLC

By:  _____ (Seal)
T.J. Schiff, ~~President~~ *Managing Member*
10/15/19 (DATE)

WITNESS:  _____



SUSSEX COUNTY GOVERNMENT

GRANT APPLICATION

SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: Del-Mar-Va Council, Boy Scouts of America
PROJECT NAME: Sussex Distinguished Citizen Award
FEDERAL TAX ID: 51-0065733 NON-PROFIT: YES NO

DOES YOUR ORGANIZATION OR ITS PARENT ORGANIZATION HAVE A RELIGIOUS AFFILIATION?
 YES NO *IF YES, FILL OUT SECTION 3B.

ORGANIZATION'S MISSION: The mission of the Boy Scouts of America is to prepare young people to make moral and ethical decisions throughout their lives by instilling in them the values of the Scout Oath & Law.

ADDRESS: 1910 Baden Powell Way
Dover DE 19904
(CITY) (STATE) (ZIP)

CONTACT PERSON: Chris Chapdelaine
TITLE: Development Director
PHONE: 302-531-6730 EMAIL: cchapdelaine@dmvc.org

TOTAL FUNDING REQUEST: \$1,200

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

If YES, how much was received in the last 12 months? 1000

If you are asking for funding for building or building improvements, do you own the building in which the funding will be used for? YES NO

Are you seeking other sources of funding other than Sussex County Council? YES NO

If YES, approximately what percentage of the project's funding does the Council grant represent? 2.4%

SECTION 2: PROGRAM DESCRIPTION

PROGRAM CATEGORY (choose all that apply)

- | | | |
|--|---|---|
| <input type="checkbox"/> Fair Housing | <input checked="" type="checkbox"/> Health and Human Services | <input checked="" type="checkbox"/> Cultural |
| <input type="checkbox"/> Infrastructure ¹ | <input type="checkbox"/> Other _____ | <input checked="" type="checkbox"/> Educational |

BENEFICIARY CATEGORY

- | | | |
|---|---|---|
| <input type="checkbox"/> Disability & Special Needs | <input type="checkbox"/> Victims of Domestic Violence | <input type="checkbox"/> Homeless |
| <input type="checkbox"/> Elderly Persons | <input checked="" type="checkbox"/> Low to Moderate Income ² | <input checked="" type="checkbox"/> Youth |
| <input type="checkbox"/> Minority | <input type="checkbox"/> Other _____ | |

BENEFICIARY NUMBER

Approximately the total number of Sussex County Beneficiaries served annually by this program:
1,100 _____

SECTION 3: PROGRAM SCOPE

- A. Briefly describe the program for which funds are being requested. The narrative should include the need or problem to be addressed in relation to the population to be served or the area to benefit.

Each year, the Del-Mar-Va Council selects an individual in Sussex County who exemplifies the values of Scouting as a role model to our youth to receive the Distinguished Citizen Award. Recipients are chosen based on their contributions to the area in their career, avocation, community service, and as a positive role model who demonstrates traits like trustworthiness, leadership, and kindness, among other merits. As a part of issuing this award, the organization hosts a reception which both celebrates our honoree and serves as the Council's largest fundraising & outreach event for the County. This year's honoree is Pat Campbell-White, who has distinguished herself as a leader through her work with the Delaware Association of Realtors, Center for the Inland Bays, Rotary, and many other organizations.

Each year, this Distinguished Citizen Award Event raises nearly \$50,000 to provide Scouting programs to young people in Sussex County. We use these funds for several different purposes including financial aid to help under-resourced families pay for uniforms, books, and camp fees, support staff to help recruit volunteers and organize activities for Scouts, and to purchase any supplies the council needs to provide Scouting in our community. Scouting programs, which include traditional programs like Cub Scouts & Scouts BSA, our workforce development Explorer program, and school based programs like STEM Scouts, are open to all youth in our community. The Del-Mar-Va Council is committed to providing these programs to EVERY family and young person who would like to participate, regardless of their economic situation. Events like this Distinguished Citizen Award Reception help us accomplish this goal.

B. IF RELIGIOUS AFFILIATION WAS CONFIRMED ABOVE IN SECTION 1, PLEASE FILL OUT THE FOLLOWING SECTION. IF RELIGIOUS AFFILIATION WAS NOT CHECKED IN SECTION 1, THIS SECTION MAY BE LEFT BLANK.

A faith-based nonprofit organization is eligible to receive and apply for a grant on the same basis as other nonprofit organizations, with respect to programs which are eligible. In the selection of grantees, the County will not discriminate for or against an organization on the basis of the organization's religious characterization or affiliation. However, certain requests to utilize funding for programs with religious purposes may not be eligible due to constitutional principles of the United States and/or the State of Delaware.

Briefly describe the components of the program that involve religious purposes and the components that involve secular purposes, or non-religious purposes. If both non-religious and religious purposes are involved in the program, this narrative must include the specific actions that will be implemented in order to ensure that the funding is solely used for non-religious purposes and will not be used to advance or inhibit religious or faith-based activities.

After the awarded funds have been made, receipts of the non-religious purchases shall be submitted in accordance with Section 5 below before funds will be disbursed.

SECTION 4: BUDGET

REVENUE	
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	
TOTAL REVENUES	50,000.00
EXPENDITURES	
Please enter the total projected budget for the project (not entire organization expense if not applicable to request). Example of expenditure items: PERSONNEL-one lump sum that would include benefits, OPERATING COSTS-supplies, equipment, rent/lease, insurance, printing telephone, CONSTRUCTION/ACQUISITION-acquisition, development, rehab hard cost, physical inspections, architectural engineering, permits and fees, insurance, appraisal. (Put amounts in as a negative)	
Event Specific Expenses	\$ 7,500.00
Sussex Program Development & Delivery Assistance	\$ 78,625.00
Financial Aid Assistance	\$ 4,650.00
TOTAL EXPENDITURES	\$ 90,755.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	\$ -40,775.00

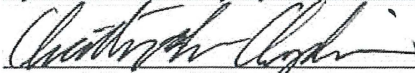
SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the Del-Mar-Va Council, BSA agrees that:
(Name of Organization)

- 1) For non-religious organizations, all expenditures must have adequate documentation and must be expended within one (1) year of receipt of award funds. The funding awarded to the organization must be used in substantial conformity with the anticipated expenditures set forth in the submitted application. All accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.
- 2) For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before the funding is released.
- 3) No person, on the basis of race, color, or national origin, should be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination under the program or activity funded in whole or in part by these Grant funds.

SECTION 5: STATEMENT OF ASSURANCES (continued)

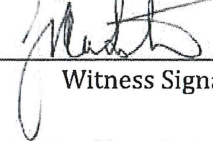
- 4) All information and statements in this application are accurate and complete to the best of my information and belief.
- 5) All funding will benefit only Sussex County residents.
- 6) All documents submitted by the applicant are defined as public documents and available for review under the Freedom of Information Act of the State of Delaware.
- 7) All funding will be used exclusively for secular purposes, i.e., non-religious purposes and shall not be used to advance or inhibit religious purposes.
- 8) **In the event that the awarded funding is used in violation of the requirements of this grant, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.**



Applicant/Authorized Official Signature

09/24/2019

Date



Witness Signature

9/24/19

Date

Completed application can be submitted by:

Email: gjennings@sussexcountyde.gov

Mail: Sussex County Government
Attention: Gina Jennings
PO Box 589
Georgetown, DE 19947

SUSSEX COUNTY COUNCIL NON-PROFIT GRANT PROGRAM
GUIDELINES FOR SUBMITTAL AND AFFIDAVIT OF UNDERSTANDING

The Sussex County Council makes available a limited amount of funding to non-profit organizations that serve the citizens of Sussex County. Each application for funding shall be evaluated by Sussex County administrative staff and shall be subject to final approval from Sussex County Council.

In the attached application, each organization must outline its intended uses for the awarded funding and provide a detailed breakdown of the expenses and costs for such uses. Any funding awarded to the organization must be used in substantial conformity with anticipated expenditures of the submitted application.

All expenditures must have adequate documentation and must be expended within one (1) year of award of funds.

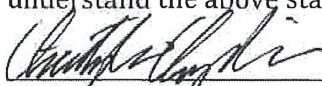
For non-religious organizations, all accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.

For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before funding is released. Grant is relinquished if supporting documentation is not provided within one year of County Council award.

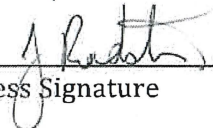
Certain programs are not eligible for funding pursuant to United States Constitution and State of Delaware Constitution. Those constitutional principles prohibit the use of funding to advance or inhibit religious activities. By signing below, the organization acknowledges that the funding shall be used exclusively for secular purposes, i.e., non-religious purposes and shall not be used to advance or inhibit religious activities.

In the event that such funding is used in violation of the requirements and assurances contained in this grant application, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.

I acknowledge and represent on behalf of the applicant organization that I have read and understand the above statements.

 Christopher
Chapdelaine
Applicant/Authorized Official Signature

Development Director
Title


Witness Signature

09/25/19
Date

Vincent
10-17-19
Rev. 02/2019

To Be Introduced 10/29/19 (Reintroduction)

**Council District No. 4 – Hudson
Tax I.D. No. 334-12.00-127.01 and 127.10
911 Address: Not Available**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (224 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 18.793 ACRES, MORE OR LESS

WHEREAS, on the 8th day of August 2019, a conditional use application, denominated Conditional Use No. 2199, was filed on behalf of OA-Rehoboth, LLC; and

WHEREAS, on the ____ day of _____ 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2199 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article XIA, Subsection 115-83.5, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2199 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 south of John J. Williams Highway (Route 24), approximately 0.29 mile east of Warrington Road, and being more particularly described in the attached legal description prepared by Davis, Bowen & Friedel, Inc., said parcel containing 18.793 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 10/29/19

**Council District No. 3 – Burton
Tax I.D. No. 235-6.00-28.00 & 28.09
911 Address: None Available**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR AN EXPANSION OF AND AMEND CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 1724 TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 127.37 ACRES, MORE OR LESS

WHEREAS, on the 18th day of October 2019, a conditional use application, denominated Conditional Use No. 2208, was filed on behalf of Artesian Wastewater Management, Inc.; and

WHEREAS, on the ____ day of _____ 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2208 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2208 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 Broadkill Hundred, Sussex County, Delaware, and lying on the east side of Isaacs Road, approximately 610 feet south of Reynolds Road and on the southwest side of Reynolds Road, approximately 635 feet east of Isaacs Road and being more particularly described in the attached legal description prepared by Artesian Wastewater Inc., said parcel containing 127.37 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 10-29-19 (Reintroduction)

**Council District No. 2 - Wilson
Tax I.D. No. 133-6.00-43.00
911 Address: Not Available**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 17.25 ACRES, MORE OR LESS

WHEREAS, on the 4th day of September 2019, a zoning application, denominated Change of Zone No. 1903, was filed on behalf of W. Wayne Baker; 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. 1903 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 of C-2 Medium Commercial District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Dagsboro Hundred, Sussex County, Delaware, and lying on the southwest corner of DuPont Boulevard (Route 113) and Governor Stockley Road, and being more particularly described in the attached legal description prepared by Pennoni Associates, Inc., said parcel containing 17.25 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.

JANELLE M. CORNWELL, AICP
PLANNING & ZONING DIRECTOR
(302) 855-7878 T
(302) 854-5079 F
janelle.cornwell@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: October 25, 2019

RE: County Council Report for CU 2188 Donovan's Painting and Drywall, LLC c/o Jose Sandoval

The Planning and Zoning Department received an application (CU 2188 Donovan's Painting and Drywall, LLC c/o Jose Sandoval) for a Conditional Use for parcels 334-5.00-205.01 and 208.00 to allow for a contractor's office and storage to be located at 32454 Lewes-Georgetown Hwy. The Planning and Zoning Commission held a public hearing on September 26, 2019. The following are the draft minutes for the Conditional Use from the Planning and Zoning Commission meetings.

Ms. Cornwell advised the Commission that submitted into the record were staff analysis, and Exhibit Booklet, a Site Plan, results from the DelDOT Service Level Evaluation request, and comments from the Sussex County Engineering Department of Utility Planning. One letter in opposition to the application was read by Ms. Cornwell into the record.

That the Commission found that Mrs. Shannon Carmean Burton, and Attorney with Sergovic, Carmean, Weidman, McCartney and Owens, Mr. Jose Sandoval, the Applicant and owner of Donovan's, and Mr. Ken Christenbury, with Axiom Engineering were present on behalf of the Applicant; that Mrs. Burton stated the Applicant is requesting a Conditional Use if land in an AR-1 (Agricultural Residential District) and it is for purpose of constructing a contractors office and storage building; that this is for an existing/established Sussex County painting and drywall business known as Donovan's Painting and Drywall, LLC; that Exhibit Booklets had been submitted into the record; that the business was established in 2007; that the current office is located on Coastal Highway; that the Applicant purchased the two parcels in 2018; that the Applicant would like to relocate and expand his existing business and meet the needs in the area; that Mr. Christenbury stated the property is located near the Five Points intersection, Church Road, and is located in the vicinity of Stockley Materials; that the parcel is located in the State Spending Strategies Level 1; that the Land Use Classification per the 2019 Comprehensive Plan the land is in the "Coastal Area"; that light commercial uses are considered by the Comprehensive Plan as being appropriate in the "Coastal



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

Area”; that the north side of Route 9 is zoned for commercial uses; that the parcel consists of 0.7 acres with the two parcels combined; that the property does have some vegetated cover on the property lines; that the Applicant would try to retain as much vegetation as possible; that the Applicant would not want a fence so that he would not have to remove the trees; that the house is encroaching into the site; that there are commercial uses in the area; that the proposal is for a 2,600 square foot contractors office and a 1,800 square foot storage building that requires 13 parking spaces; that the Applicant is going to provide 14 parking spaces; that central water is not provided and central sewer is provided by Sussex County; that one loading space is required and has been provided; that the existing trees would remain after construction; that Chairman Wheatley asked for clarification as to where the DelDOT Right-of-Way line is located; that Mr. Christenbury stated that there would be a 10-foot Right-of-Way dedication to DelDOT; that DelDOT is requiring 15-feet for a permanent easement; that there would be 40-foot front yard setback; that there would be no parking in the front yard setback; that they would try to use the existing entrance; that the existing sidewalk would remain; that most of the woods would remain; that the Applicant is trying to be sensitive of the ongoing transition in the area from residential to commercial use; that the objection letter is not from an occupier living adjacent to the site; that Mrs. Burton stated the proposed office use is a permitted Conditional Use under the Zoning Code and is consistent with the purposes and goals of the Comprehensive Land Use Plan; that the property is located on a major collector road; that the property is located west of the Five Points intersection; that the property is located in the AR-1 District; that the proposed use is similar to other commercial uses in the area; that there are a number of Conditional Uses in the area; that the Land Use Classification per the 2019 Comprehensive Plan is in the “Coastal Area”; that to the north of the property is also designated Coastal Area and highway commercial areas; that a mixture of uses is appropriate in the Coastal Area and this use is compatible; that an old single wide trailer was located on the site but has been removed; that the Applicant proposes to build buildings consisting of 2,600 square feet and 1,800 square feet; that the proposed use would enhance the character of the neighborhood; that the Applicant does have 18 employees and only three of the employees would be on-site; that the business hours are 7:00 am to 7:00 pm, Monday through Friday and 7:00 am to 12:00 pm on Saturday; that the Applicant proposes to provide 13 parking spaces and one handicapped accessible parking space; that the materials would be stored in the proposed storage building and served by a loading area; that sewer services would be provided by Sussex County; that a private well is proposed; that there are no wetlands on the property; that there is a natural forested buffer around most of the perimeter of the property and the Applicant would prefer to keep the remaining buffer; that lighting would be downward screened; and that DelDOT did not require a Traffic Impact Study (“TIS”).

Ms. Stevenson asked what the traffic movements would be like for the business; that Mr. Sandoval stated that the employees would meet in the morning and sometimes in the afternoon; that Ms. Stevenson asked if customers would be coming to the property; that Mr. Sandoval stated that customers would not be coming to the site and it would be the employees coming to the site to pick-up the materials and then leaving to the work-site; that Ms. Stevenson asked if the parking spaces would be used by the employees; that Mr. Sandoval stated the parking spaces would be used by the employees; that Ms. Stevenson asked if the parking lot would be paved; that Mr. Sandoval stated the parking lot would be paved; that Ms. Cornwell stated the parking lot does not have to be paved if it is over 10 parking spaces, but the parking spaces would have to be delineated; and that Ms. Stevenson stated she was okay with the parking not being paved.

Mr. Hopkins asked if the employees would drive their own vans or vehicles; that Mr. Sandoval stated the employees drive their own cars and he provides the vans; that Mr. Hopkins asked how many vans

the Applicant has; that Mr. Sandoval stated he has seven vans; that Mr. Hopkins asked how many employees the Applicant has; that Mr. Sandoval stated he has 18 employees; that Mr. Hopkins asked how many employees drive to the site; that Mr. Sandoval stated eight employees drive to site; that Mr. Hopkins asked the Applicant if he would like to grow his business in the future; that Mr. Sandoval stated he is not planning to grow his business; that Mr. Hopkins asked if the hours of operation on Saturday would be 7:00 am to 12:00 pm; that Mr. Sandoval stated he would like the hours of operation on Saturday to be 7:00 am to 1:00 pm; that Mr. Hopkins asked the Applicant how he handles the storage of his materials on site such as paint; that Mr. Sandoval stated the materials are stored in the office at his current location; that Mr. Hopkins asked if there was anything unique about how the materials are stored; that Mr. Sandoval stated there is no issue with the need for climate control for the materials; that Mr. Robertson asked if all the materials are stored inside; that Mr. Sandoval stated all the materials are stored within the building; that Mr. Mears stated he had concerns with use of the existing driveway; and asked whether there would be changes to the entrance to the site; that Mr. Christenbury stated if DelDOT would approve it that one would be an entrance and one would be an exit; Mr. Mears noted that there was potential for confusion amongst motorists as to which was which; that Chairman Wheatley stated that the Commission could make it a stipulation that only one driveway could be used; that Mr. Hopkins asked if the Applicant would like a sign; that Mrs. Carmean stated the Applicant would like a sign; and that sign would be 32 square feet. Mr. Hopkins noted that a hard-surface, such as asphalt, within the entrance to the site, would be appropriate here.

That the Commission found that no one spoke in favor of or in opposition to the application.

At the conclusion of the public hearing, the Commission discussed this application.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to defer action for further consideration. Motion carried 5-0.

At their meeting on October 10, 2019, the Planning Commission discussed the application which has been deferred since September 26, 2019.

Ms. Stevenson moved that the Planning Commission recommend approval of **C/U #2188** for **DONOVAN'S PAINTING AND DRYWALL, LLC, c/o JOSE SANDOVAL** for a contracting office with storage based upon the record made during the public hearing and for the following reasons:

1. The use is situated on a .69-acre parcel of land. It is located along Route 9, which is classified as a major collector road by DelDOT. There is C-1 General Commercial Zoning across the road along with several conditional uses in the vicinity. These conditional uses include commercial landscaping sales and storage, a landscaping business office and other businesses. This is an appropriate location for this Conditional Use.
2. With the conditions and stipulations of approval, the use will not have a negative impact on the neighboring properties or area roadways.
3. This site is located in the Coastal Area according to the Sussex County Comprehensive Plan. Small businesses such as this one are appropriate in the Coastal Area according to the Plan.
4. The use provides a service to residents and the construction industry in Sussex County. This use has a public or semi-public character that will benefit the residents and businesses of the County.

5. The applicant has stated that most of the work is offsite, so there is not a lot of activity that occurs on this site during the day.
6. There is a natural forested buffer along most of the sides and rear of the property, which will remain in place to screen the use from neighboring properties.
7. This recommendation is subject to the following conditions:
 - A. The use shall be limited to a contracting office with storage.
 - B. There shall not be any outside storage of paint or other materials associated with the use.
 - C. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
 - D. Any dumpsters on the site shall be screened from the view of neighboring properties and roadways.
 - E. The applicant shall comply with all DelDOT requirements for entrance and roadway improvements.
 - F. The hours of operation shall be Monday through Friday from 7:00 a.m. until 7:00 p.m., and from 7:00 am through 1:00 pm on Saturdays. There shall not be any Sunday hours.
 - G. One lighted sign shall be permitted on the site. It shall not exceed 32 square feet per side.
 - H. The parking shall comply with the County Parking Requirements. All vehicle parking and large equipment storage areas shall be clearly shown on the Final Site Plan and clearly marked on the site itself. All vehicles must only be parked within the designated areas.
 - I. The existing vegetation on the sides and rear of the site shall remain in place to act as a screen from neighboring properties. The Final Site Plan shall confirm the existence and location of this vegetation.
 - J. The applicant shall comply with all requirements of the Sussex Conservation District regarding stormwater management on the site.
 - K. Failure to comply with any of these conditions shall be grounds for the termination of the Conditional Use approval.
 - L. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to forward this application to the Sussex County Council with a recommendation that the application be approved for the reasons stated in the motion. Motion carried 5-0.

PLANNING & ZONING

JANELLE M. CORNWELL, AICP
DIRECTOR

(302) 855-7878 T
(302) 854-5079 F



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Samantha Bulkilvish, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: September 17, 2019
RE: Staff Analysis for CU 2188 Donovan's Painting and Drywall

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2188 Donovan's Painting and Drywall to be reviewed during the September 26, 2019 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 parcels 334-5.00-205.01 & 208.00 to allow for a contractor's office and storage to be located on the south side of Lewes - Georgetown Highway, approximately 187 feet west of Church Street. The size of the property is 0.69 ac. +/-.

The 2018 Sussex County Comprehensive Plan Update "the 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 indicates that the property has the land use designation of "Coastal Area".

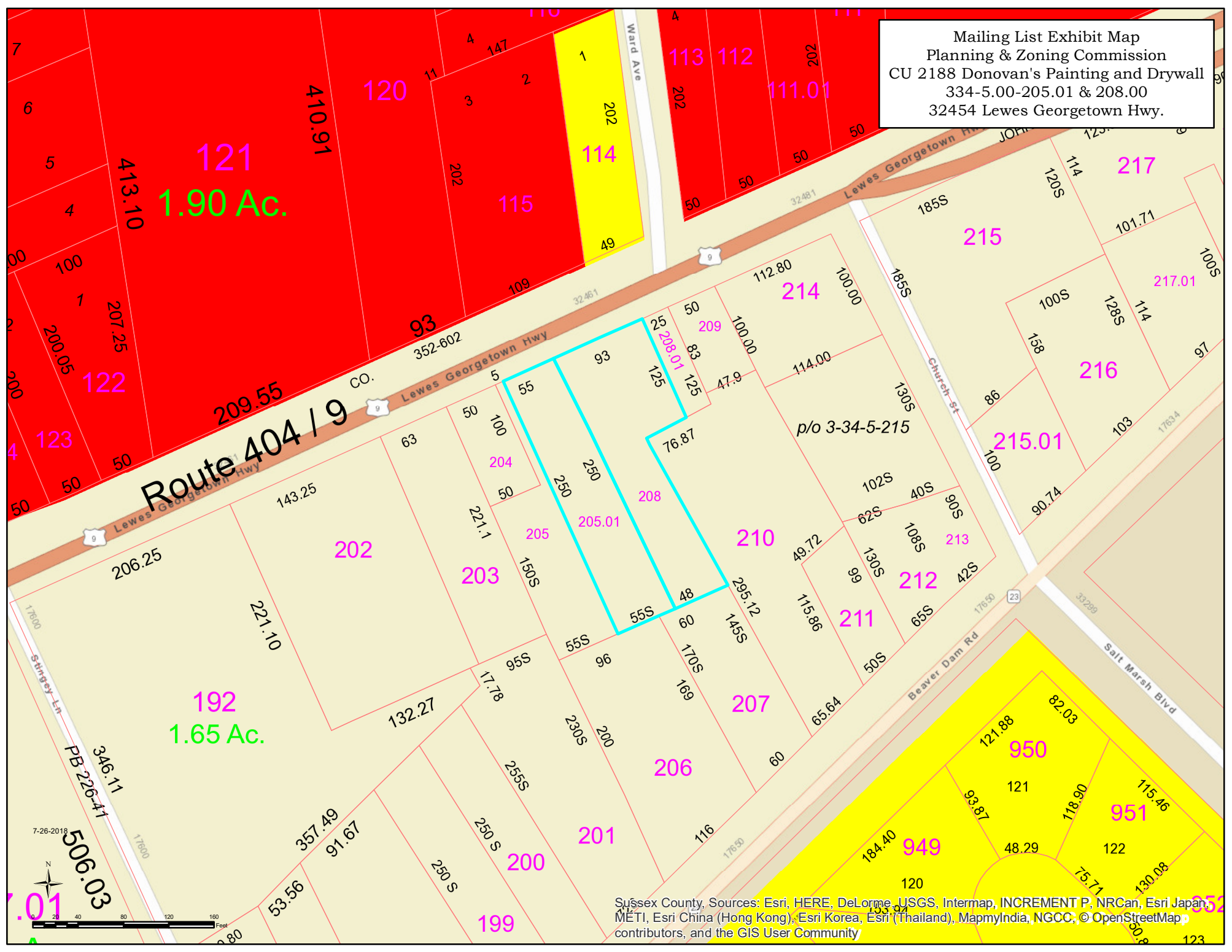
The entire tract of land between Lewes - Georgetown Highway to the north, and Beaver Dam Road to the south is designated as Coastal Area. The Coastal Areas land use designation recognizes that "*a range of housing types should be permitted in Coastal Areas, including single family homes, townhouses, 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 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.*"

The property is zoned AR-1 (Agricultural Residential Zoning District). All of the adjoining properties are zoned AR-1. Most of the adjoining parcels contain single-family dwellings. Parcels located directly across Lewes-Georgetown Highway are zoned C-1 (General Commercial District) some of which contain storage buildings while others appear to be single family dwellings. The County's online zoning map shows that there are several Conditional Uses approved within a 1-mile radius of the application site within the past decade including a Commercial Landscaping Material Sales and Storage Facility (CU 2067), Equipment Storage and Home Office for a Landscaping Business (CU 1928), a Distillery with Tours/Tasting/Retail (CU 2002), 52 Multifamily Units (CU 2106) and 134 Multifamily Units (CU 2012/2149).

Based on the analysis of the land use, surrounding zoning and uses, the proposed Conditional Use for a contractor's office and storage, could be considered as consistent with the land use, area zoning and uses.

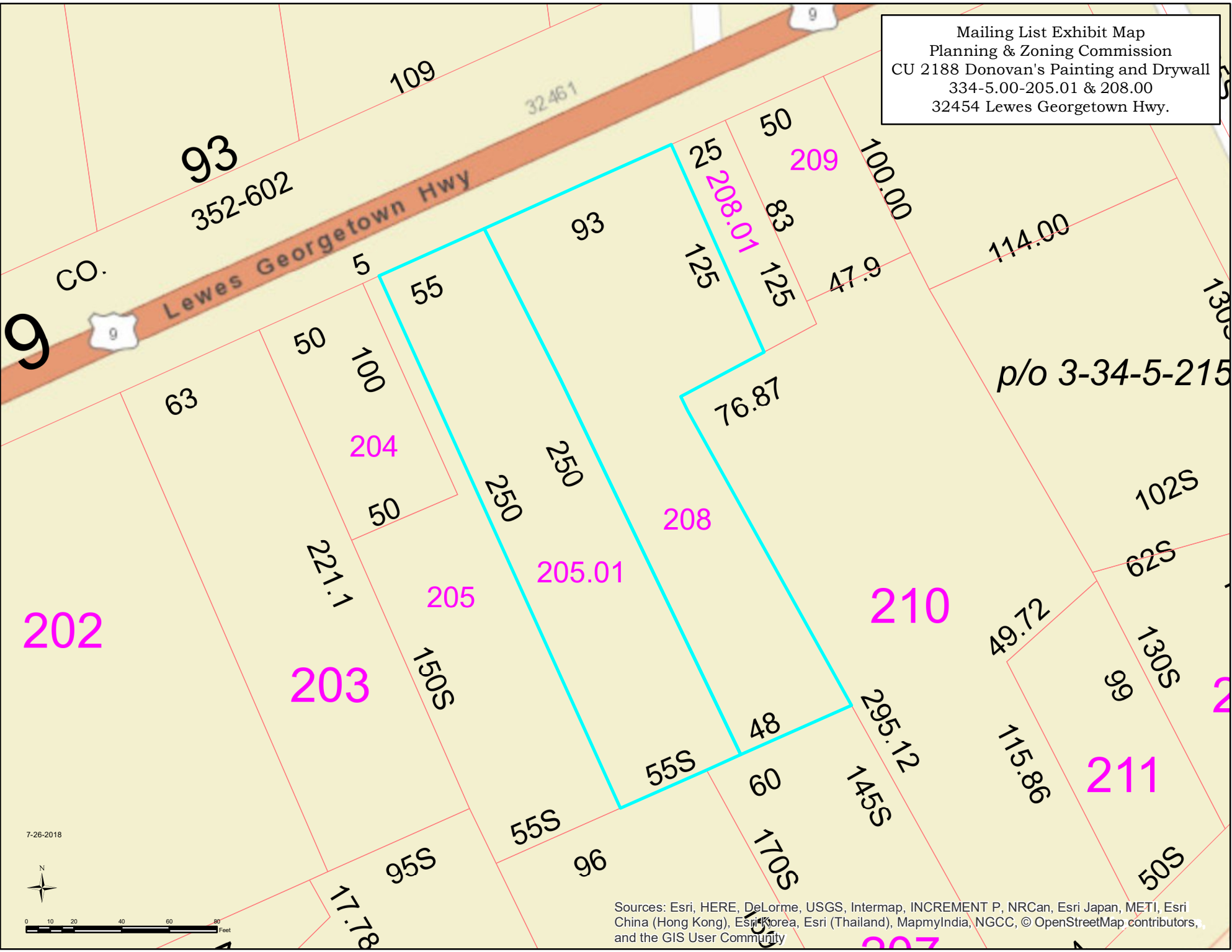


Mailing List Exhibit Map
Planning & Zoning Commission
CU 2188 Donovan's Painting and Drywall
334-5.00-205.01 & 208.00
32454 Lewes Georgetown Hwy.



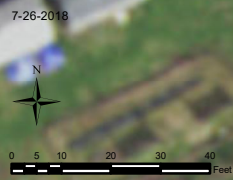
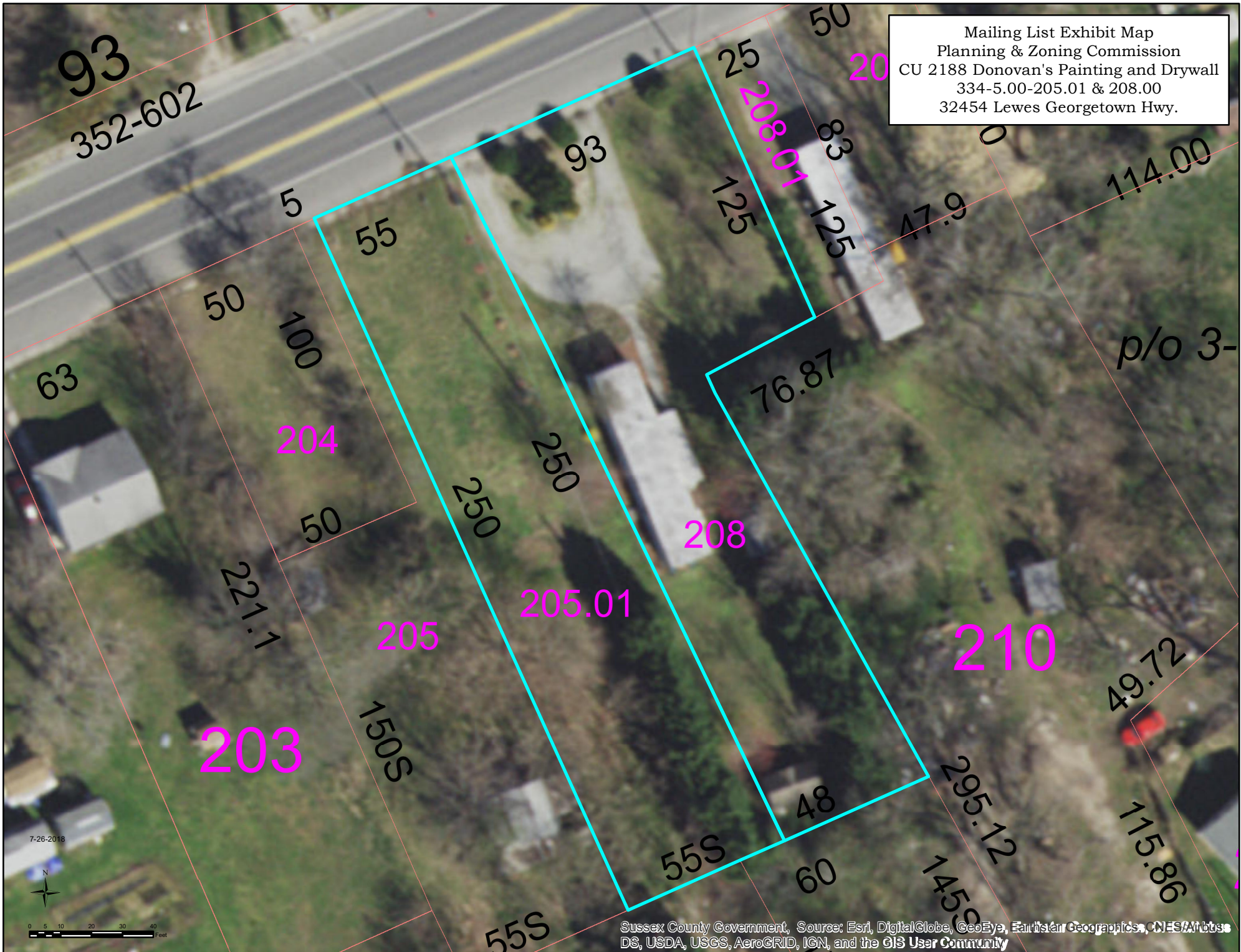
Sussex County, Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, © OpenStreetMap contributors, and the GIS User Community

Mailing List Exhibit Map
Planning & Zoning Commission
CU 2188 Donovan's Painting and Drywall
334-5.00-205.01 & 208.00
32454 Lewes Georgetown Hwy.



Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, © OpenStreetMap contributors, and the GIS User Community

Mailing List Exhibit Map
Planning & Zoning Commission
CU 2188 Donovan's Painting and Drywall
334-5.00-205.01 & 208.00
32454 Lewes Georgetown Hwy.



Introduced 06/04/19

Council District No. 3 – Burton

Tax I.D. No. 334-5.00-205.01 and 208.00

911 Address: 32454 Lewes Georgetown Highway, Lewes

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONTRACTOR'S OFFICE AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.69 ACRE, MORE OR LESS

WHEREAS, on the 22nd day of May 2019, a conditional use application, denominated Conditional Use No. 2188, was filed on behalf of Donovan's Painting and Drywall, LLC, c/o Jose Sandoval; and

WHEREAS, on the ____ day of _____ 2019, 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. 2188 be _____; and

WHEREAS, on the ____ day of _____ 2019, 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. 2188 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 south side of Lewes Georgetown Highway (Route 9), approximately 187 feet west of Church Street, and being more particularly described in the attached legal description prepared by Sergovic Carmean Weidman McCartney & Owens, P.A., said parcel containing 0.69 acre, 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.

JANELLE M. CORNWELL, AICP
PLANNING & ZONING DIRECTOR
(302) 855-7878 T
(302) 854-5079 F
janelle.cornwell@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: October 25, 2019

RE: County Council Report for CU 2190 Steven and Helene Falcone

The Planning and Zoning Department received an application (CU 2190 Steven and Helene Falcone) for a Conditional Use for parcels 335-5.00-212.00 and 213.00 to allow for an office to be located at 17662 Beaver Dam Rd. The Planning and Zoning Commission held a public hearing on September 26, 2019. The following are the draft minutes for the Conditional Use from the Planning and Zoning Commission meetings.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, the results from the DeDOT Service Level Evaluation request, comments from the Sussex County Engineering Department of Utility Planning Division, and a Site Plan.

That the Commission found that Ms. Colette Monaghan an Attorney with Wolfe and Associates, Mr. Steven Falcone and Mrs. Helene Falcone the Applicants were present on behalf of the application; that Ms. Monaghan stated that the Applicants are requesting a Conditional Use in the AR-1 (Agricultural Residential District) for an office for an accounting firm; that the property does consist of 0.26-acres of land; that there were two separate parcels that have been consolidated together; that there is an existing 525 square foot dwelling on the property; that there is also low-quality vegetation; that there are a lot of dilapidated buildings in the area; that there is not agricultural use in the area; that there is agricultural use about 1/3 mile down the road; that Applicant would be able to connect to the Sussex County sewer; that the water is public; that there are residents across the street; that the Applicants would replace the dead trees and shrubs with new landscaping; that the Applicant's accounting firm has four employees; that the hours of operation are 8:00 am to 5:00 pm, Monday through Friday and Saturday 8:00 am to 12:00 pm by appointment during tax season; that the Applicants anticipate a de minimis volume of traffic between the employees and the clients; that most of the work between the clients is done via computer; that applicants would like to display a sign with a light; that there would be no impact on nearby farm land; that there would be minimal impact on



traffic; that the accounting firm is of a public character; and that there would be minimal impact to the neighboring properties.

Ms. Stevenson asked if the proposed parking is in the setbacks for the parcel; that Ms. Monaghan stated the proposed parking is within the setbacks; that Mr. Falcone stated he would like parking as close to the street as possible; that Ms. Stevenson stated would not like to see parking in the setbacks because of possible road construction in the area in the future; that Ms. Stevenson asked Ms. Cornwell how many parking spaces are required; that Ms. Cornwell stated the Site Plan showing the proposed building is likely to require variances because the proposed building does not meet setback requirements; that Chairman Wheatley stated the Commission is not considering the Site Plan at this time and this application is not for Site Plan approval; that this meeting is for a proposed Conditional Use; that Ms. Cornwell stated the proposed office would need six parking spaces; that Chairman Wheatley stated that the Code's approach is to discourage parking in the setback but the Commission has permitted parking in the front yard setback in certain situations in the past; that typically this happens when there is already parking in the setback; that the Applicant does not have that situation; that he encourages the Applicant, should they be successful with their application to explore this further; that Mr. Hopkins asked about the size of the sign and if the Applicant would want a sign it could be up to 32 square feet; Mr. Hopkins asked if the Applicant would want the sign to be lighted; that Ms. Monaghan stated the Applicant would like the sign to be lit at night time; that Mr. Robertson asked if the proposed structure would overlap the footprint of the existing dwelling; that Ms. Cornwell stated the existing dwelling is 34' x 15' and the Applicant is going to expand it to be 30.5' x 34' and they appear to show another addition in the back which would be 26' x 42'; that Mr. Robertson asked if the parking would be paved; that Mr. Falcone stated that it would stone or black top or similar; and that Chairman Wheatley stated he feels that the Commission should disregard the Site Plan concerns at this stage of the process. Mr. Robertson suggested that the Applicant could look into this further with their engineer as a separate matter.

That the Commission found that no one spoke in favor of or in opposition to the application.

At the conclusion of the public hearing, the Commission discussed this application.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to defer action for further consideration. Motion carried 5-0.

At their meeting on October 10, 2019, the Planning Commission discussed the application which has been deferred since September 26, 2019.

Ms. Stevenson moved that the Planning Commission recommend the denial of **C/U #2190** for **STEVEN AND HELENE FALCONE** for an office based upon the record made during the public hearing and for the following reasons:

1. This site is only one quarter of an acre in size, and it is located at the corner of Church Street and Beaver Dam Road.
2. While the proposed use is appropriate for this general location, the record does not indicate that the use will fit on this small parcel of land.
3. The survey that was submitted shows a building that will not fit within the proposed setbacks without at least 3 separate variances. It also shows parking within several setbacks.

4. The survey that was submitted also indicates that there is a significant boundary line discrepancy of 14 feet along the northwest boundary of the site. This further impacts the setback encroachments of the proposed building and parking.
5. While the use may be appropriate, there are just too many unanswered questions about the lot boundaries and whether the proposed use will fit on this property without a substantial re-design and/or multiple variances. Under these circumstances, it is not appropriate to approve this conditional use at this time.
6. If the applicant can resolve the boundary line dispute and design a building that fits on this property or obtain the necessary variances to construct an office building on this property, the applicant should be permitted to re-apply without having to pay another application fee.

Motion by Ms. Stevenson, seconded by Mr. Mears and carried unanimously to forward this application to the Sussex County Council with a recommendation that the application be denied for the reasons stated in the motion. Motion carried 5-0.

PLANNING & ZONING

JANELLE M. CORNWELL, AICP
DIRECTOR

(302) 855-7878 T
(302) 854-5079 F



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Lauren DeVore, Planner III
CC: Vince Robertson, Assistant County Attorney and applicant
Date: September 13, 2019
RE: Staff Analysis for CU 2190 Steven & Helene Falcone

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2190 Steven & Helene Falcone. to be reviewed during the September 26, 2019 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 Condition Use for parcel 334-5.00-212.00 and 213.00 to allow for an office be located at 17622 Beaver Dam Road in Lewes, Delaware. The size of the property is 0.26 acres +/-.

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

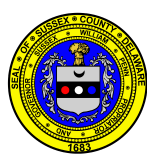
The surrounding land use to the north, south, east and west are designated on the Future Land Use Map as “Coastal Areas” with some properties further to the north designated “Commercial Areas.” Coastal Areas recognize ecologically important and sensitive characteristics. Coastal Areas also support a range of housing types (ie: single-family homes, townhouses and multi-family units.) Additionally, retail and office uses are considered appropriate in this land-use designation per the Comprehensive Plan.

The property is zoned AR-1 (Agricultural Residential Zoning District.) The adjoining and surrounding parcels to the north, south, east and west are all zoned Agricultural Residential (AR-1). Further south, on the opposite side of Beaver Dam Road (Route 29), parcels are zoned Medium Density Residential (MR). To the north beyond Lewes Georgetown Highway (Route 9) parcels are all zoned General Commercial (C-1).

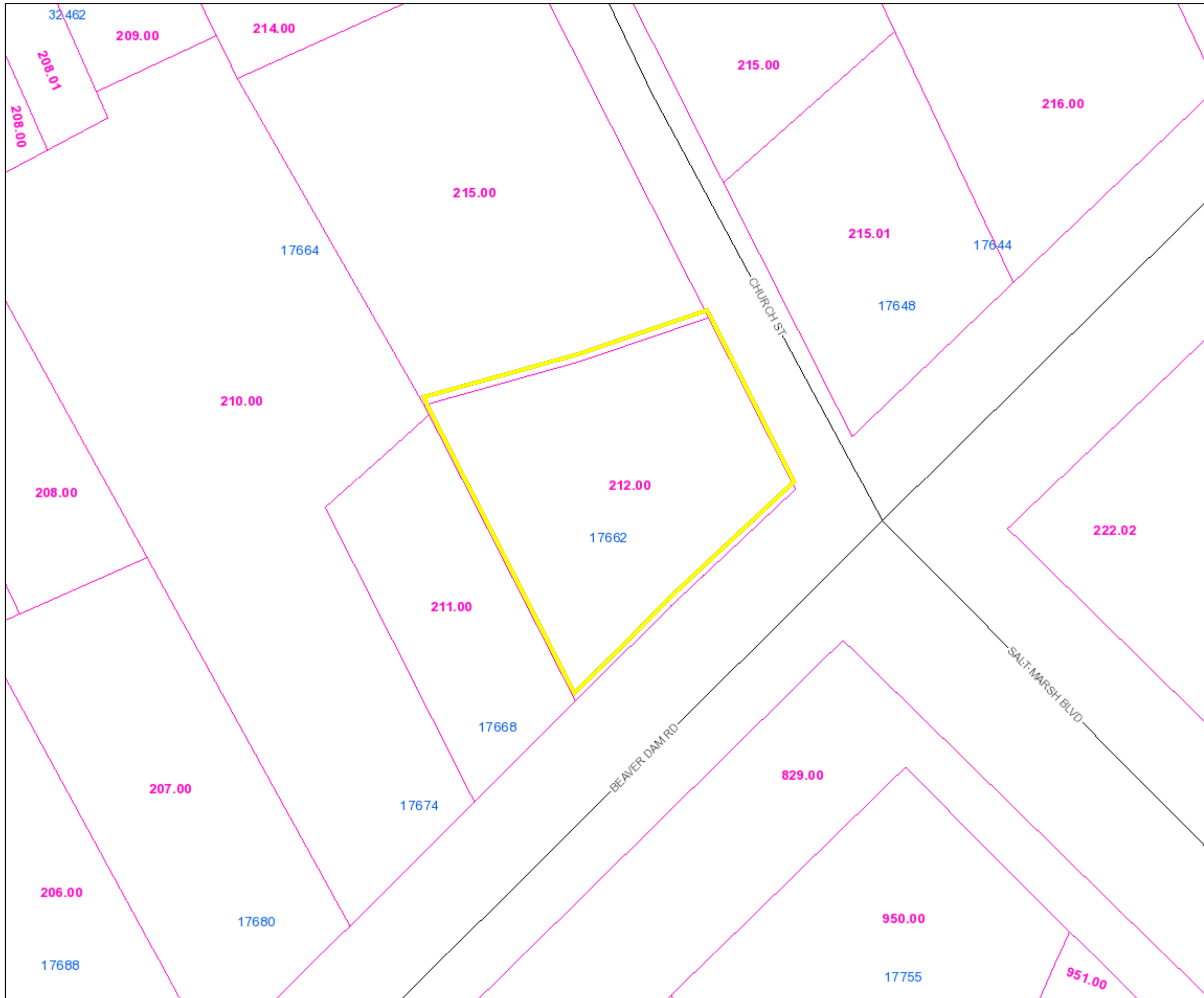
Since 2011, there has been one (1) Conditional Use in the vicinity of the subject parcel: CU 2067 to the west, for a commercial landscaping material sales and storage facility was approved by County Council on April 11, 2017.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use for an office could be considered consistent with the adjoining land uses, area zoning and surrounding uses.





Sussex County

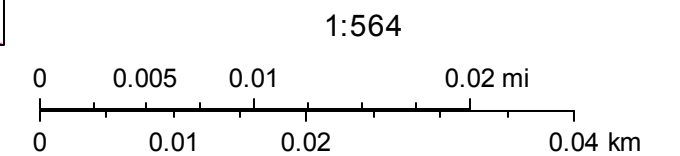


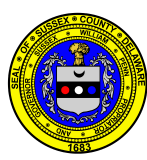
PIN:	334-5.00-212.00
Owner Name	FALCONE STEVEN
Book	5006
Mailing Address	34561 MICHELLE DR
City	REHOBOTH BEACH
State	DE
Description	NW/BEAVER DAM RD
Description 2	SW/CHURCH ST
Description 3	N/A
Land Code	

- polygonLayer**

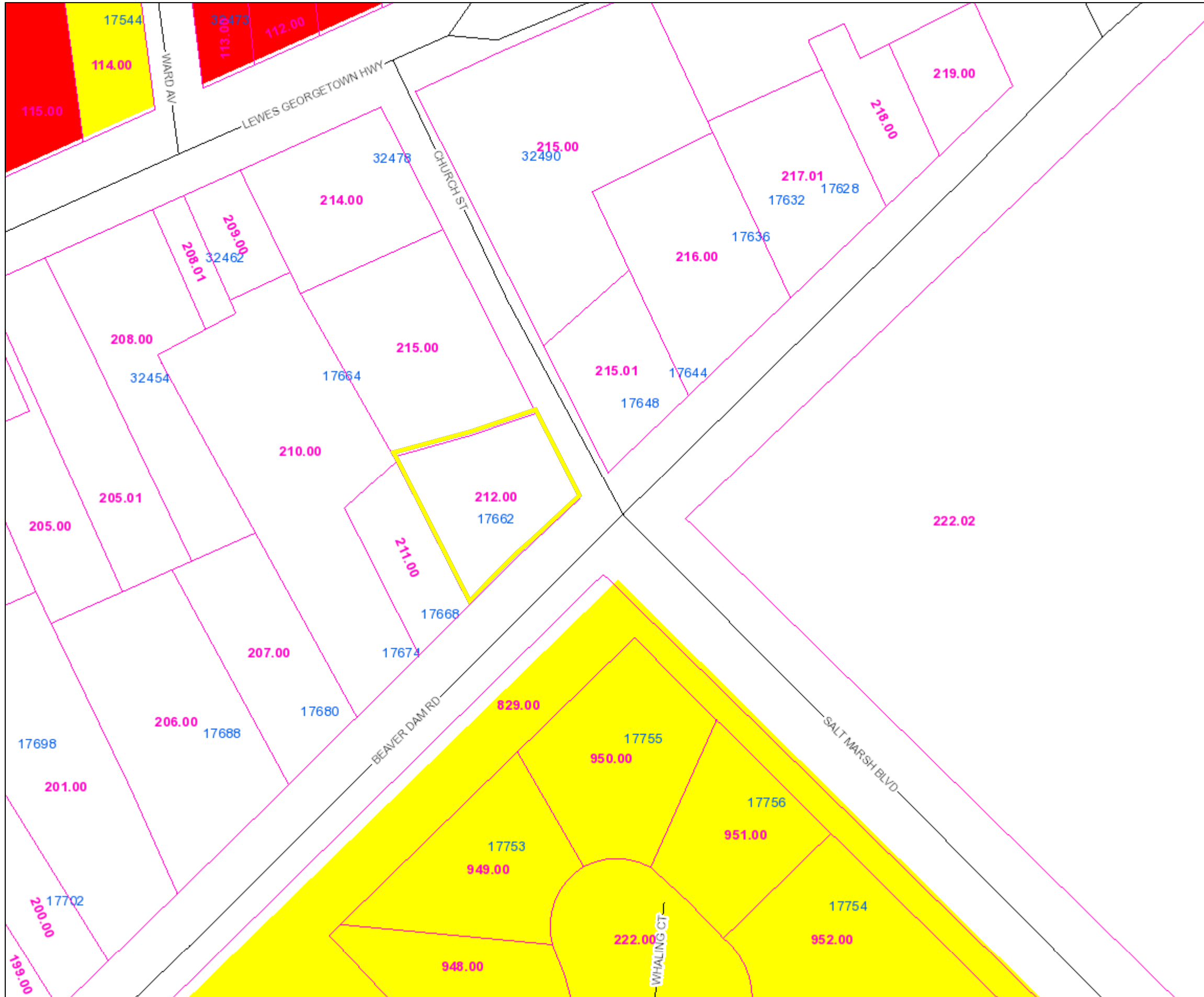
 - Override 1
- polygonLayer**

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





Sussex County



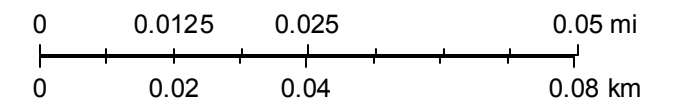
PIN:	334-5.00-212.00
Owner Name	FALCONE STEVEN
Book	5006
Mailing Address	34561 MICHELLE DR
City	REHOBOTH BEACH
State	DE
Description	NW/BEAVER DAM RD
Description 2	SW/CHURCH ST
Description 3	N/A
Land Code	

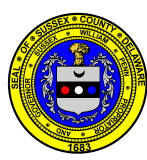
- polygonLayer

 - Override 1
- polygonLayer

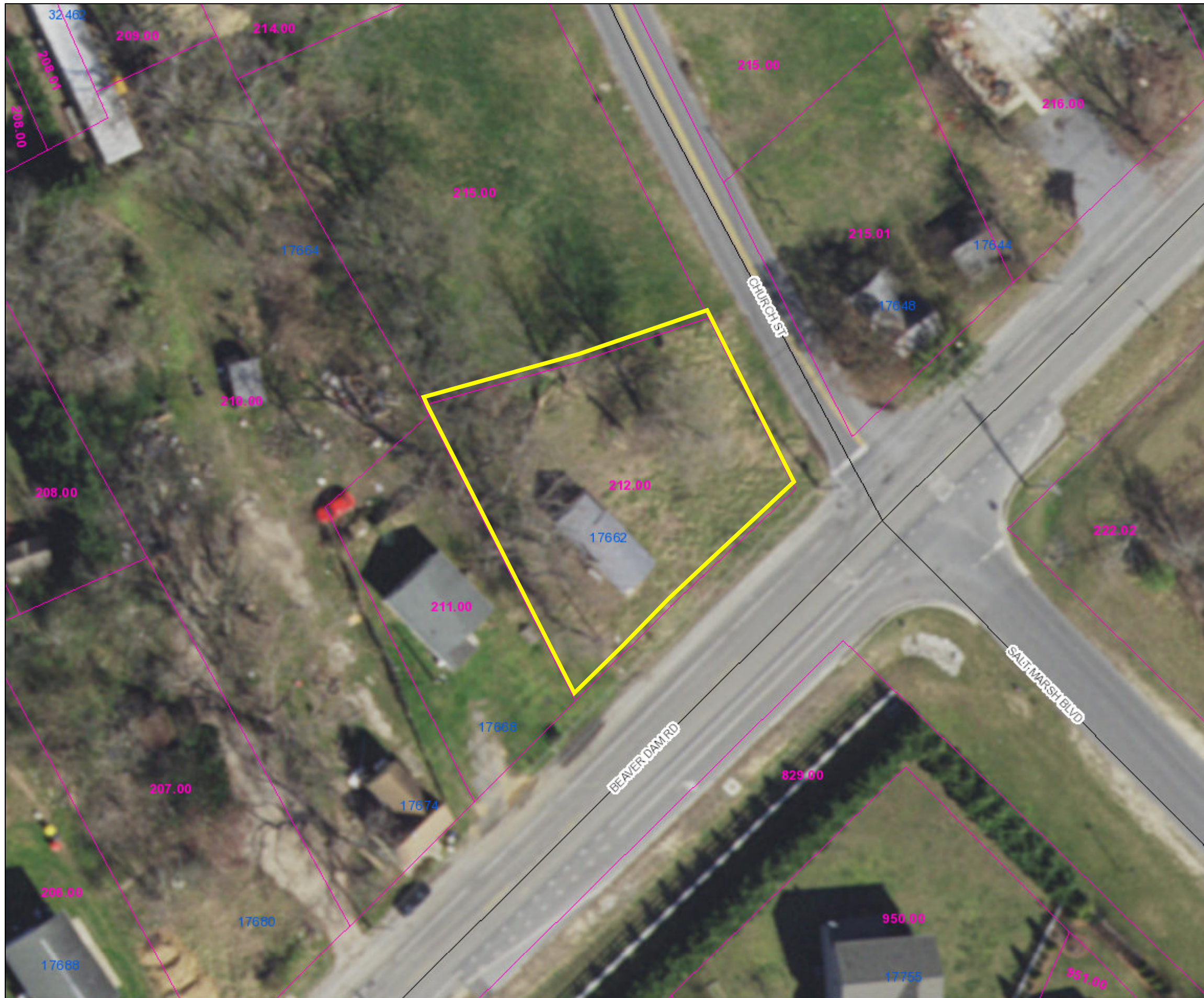
 - Override 1
- Tax Parcels
- 911 911 Address
- Streets

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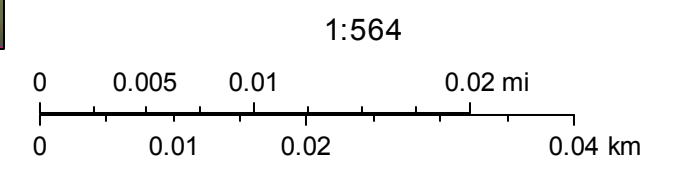


Sussex County



PIN:	334-5.00-212.00
Owner Name	FALCONE STEVEN
Book	5006
Mailing Address	34561 MICHELLE DR
City	REHOBOTH BEACH
State	DE
Description	NW/BEAVER DAM RD
Description 2	SW/CHURCH ST
Description 3	N/A
Land Code	

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



Introduced 06/11/19

**Council District No. 3 – Burton
Tax I.D. No. 334-5.00-212.00 and 213.00
911 Address: 17662 Beaver Dam Road, Lewes**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.26 ACRE, MORE OR LESS

WHEREAS, on the 4th day of June 2019, a conditional use application, denominated Conditional Use No. 2190, was filed on behalf of Steven and Helene Falcone; and

WHEREAS, on the ____ day of _____ 2019, 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. 2190 be _____; and

WHEREAS, on the ____ day of _____ 2019, 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. 2190 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 northwest corner of Beaver Dam Road and Church Street, and being more particularly described in the attached legal description prepared by Wolfe & Associates, LLC, said parcel containing 0.26 acre, 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.

JANELLE M. CORNWELL, AICP
PLANNING & ZONING DIRECTOR
(302) 855-7878 T
(302) 854-5079 F
janelle.cornwell@sussexcountyde.gov



Sussex County
DELAWARE
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Memorandum

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

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: October 25, 2019

RE: County Council Report for CU 2192 Thomas and Judy Munce (Napoleon Hernandez)

The Planning and Zoning Department received an application (CU 2192 Thomas and Judy Munce (Napoleon Hernandez) for a Conditional Use for parcel 230-26.00-35.01 to amend Conditional Use 1979 to allow for nightclub type activities and an electronic message center sign to be located at 12327 DuPont Blvd. The Planning and Zoning Commission held a public hearing on September 26, 2019. The following are the draft minutes for the Conditional Use from the Planning and Zoning Commission meetings.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, the result from the DelDOT Service Level Evaluation request, and comments from the Sussex County Engineering Department of Utility Planning Division. Two letters in opposition to the application were read by Ms. Cornwell into the record.

Mr. Robertson asked if Ms. Cornwell could clarify the status of the existing Conditional Use on the property; that Ms. Cornwell stated the current Conditional Use is for a tavern and a package store; that the use is part of the conditions from 1979; the Change of Zone had been applied for at this property and it was denied; that they wanted to amend the Condition to allow for food and the Applicant never came back to amend the Condition Use; that the condition prohibits the sale of food; that Mr. Robertson asked about the type of liquor license the Applicant has had and the type of approval they have had; and that the license was for a tavern and not a restaurant.

The Commission found that there was no one present to represent this Application.

Chairman Wheatley stated that, as no one was present on behalf of the Applicant, that the application normally would be denied for the lack of record. Mr. Robertson stated that it would therefore call for a motion for denial, based on a lack of a record.



Ms. Cornwell stated the Code was changed to allow for unforeseen circumstances and the Applicant could request a new public hearing, if such circumstances were met, instead of having to wait a full year for another public hearing.

Mr. Robertson and Ms. Cornwell confirmed that the property was posted, and the correct notices were mailed.

Chairman Wheatley noted that the Applicant could be running late, and announced that the Commission would move this public hearing to the end of the agenda and it would then be read into the record again; and that if no one is present on behalf of the application by the end of the Commission's hearings for the evening, then the Commission would then decide how to proceed.

At the conclusion of the public hearing, the Commission discussed this application.

Chairman Wheatley asked if anyone was present to represent C/U 2192 Thomas and Judy Munce (Napoleon Hernandez) and no one was present; that the Rules require that the Commission recommend denial of the application for the lack of a record.

Motion by Mr. Hopkins, seconded by Mr. Mears and carried unanimously that the Planning Commission recommends denial of the application due to the lack of representation at the public hearing and the lack of a record. Motion carried 5-0.

PLANNING & ZONING

JANELLE M. CORNWELL, AICP
DIRECTOR

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Sussex County

DELAWARE
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Memorandum

To: Sussex County Planning Commission Members
From: Christin Headley, Planning Technician
CC: Vince Robertson, Assistant County Attorney and applicant
Date: September 19, 2019
RE: Staff Analysis for CU 2192 Thomas & Judy Munce

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2192 Thomas and Judy Munce to be reviewed during the September 26, 2019 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 Condition Use for parcel 230-26.00-35.01 to amend CU 1979 to allow for nightclub activities and an electronic message center sign to be located at 12327 DuPont Blvd. Ellendale, Delaware. The size of the property is 3.033 acres +/-.

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

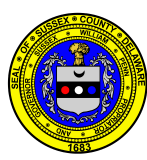
The surrounding parcels to the north, south, and east are designated on the Future Land Use Map as “Developing Areas” with some parcels further to the south designated as “Commercial Areas”. The parcels to the west are designated “Low Density”. Developing Areas recognize newer, emerging growth areas that demonstrate the characteristics of developmental pressures. Developing areas support retail and office use, business and industrial parks, and mixed-used development which are considered appropriate in this land-use designation per the Comprehensive Plan.

The property is zoned AR-1 (Agricultural Residential Zoning District.) The adjoining and surrounding parcels to the north, south, east and west are all zoned Agricultural Residential (AR-1). Further south, parcels are zoned General Commercial (C-1).

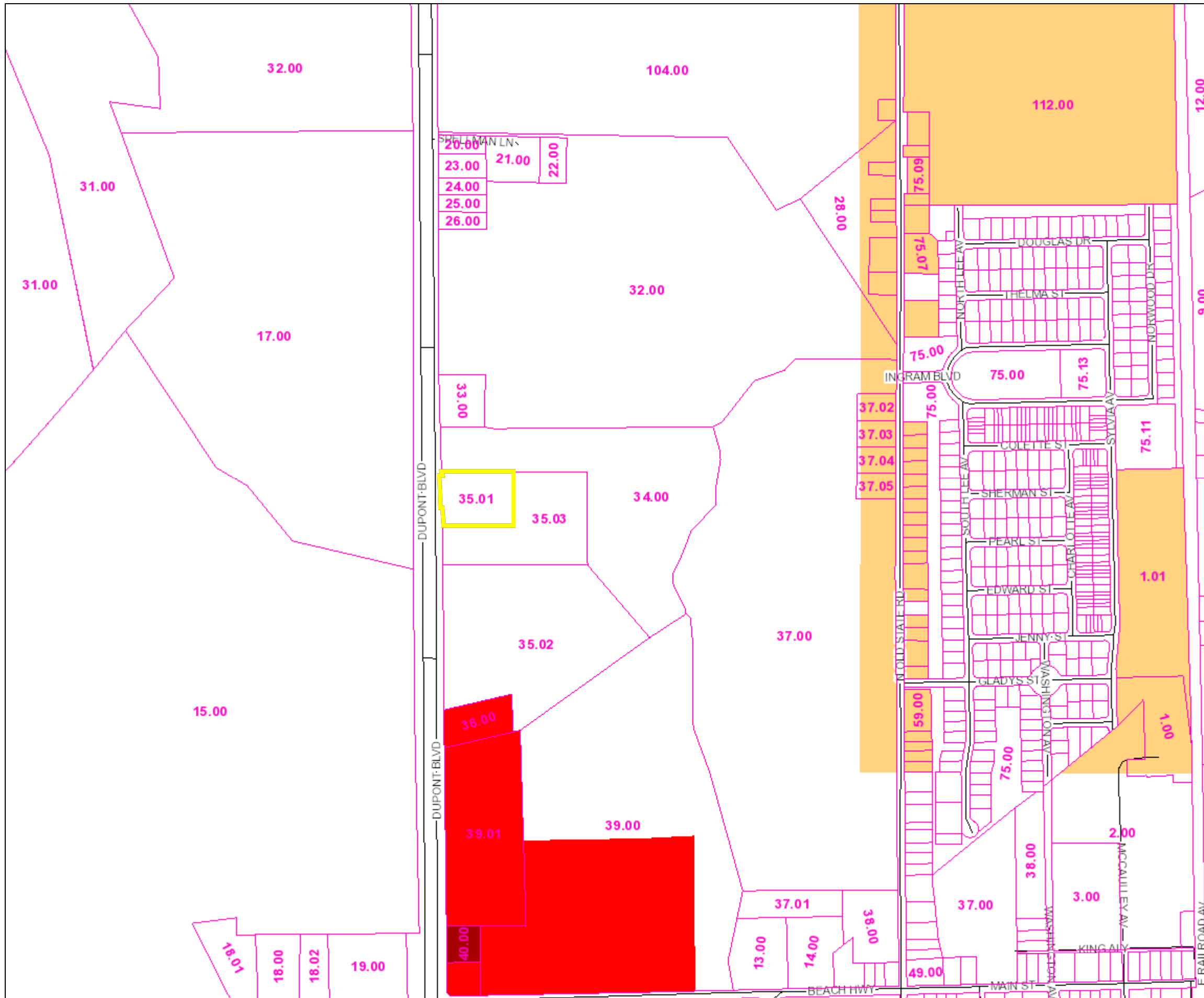
Since 2011, there have been no known Conditional Use approvals in the vicinity of the subject parcel.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use for nightclub activities and an electronic message center sign could be considered as having a degree of consistency with the adjoining land uses, area zoning and surrounding uses.





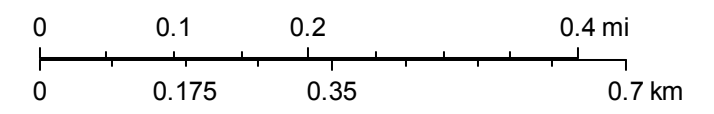
Sussex County



PIN:	230-26.00-35.01
Owner Name	MUNCE THOMAS K JR TRUSTEE
Book	4279
Mailing Address	105 QUAIL RUN
City	CAMDEN WYOMING
State	DE
Description	E/S RT 113 2728'
Description 2	N/RT 16
Description 3	PARCEL 4
Land Code	

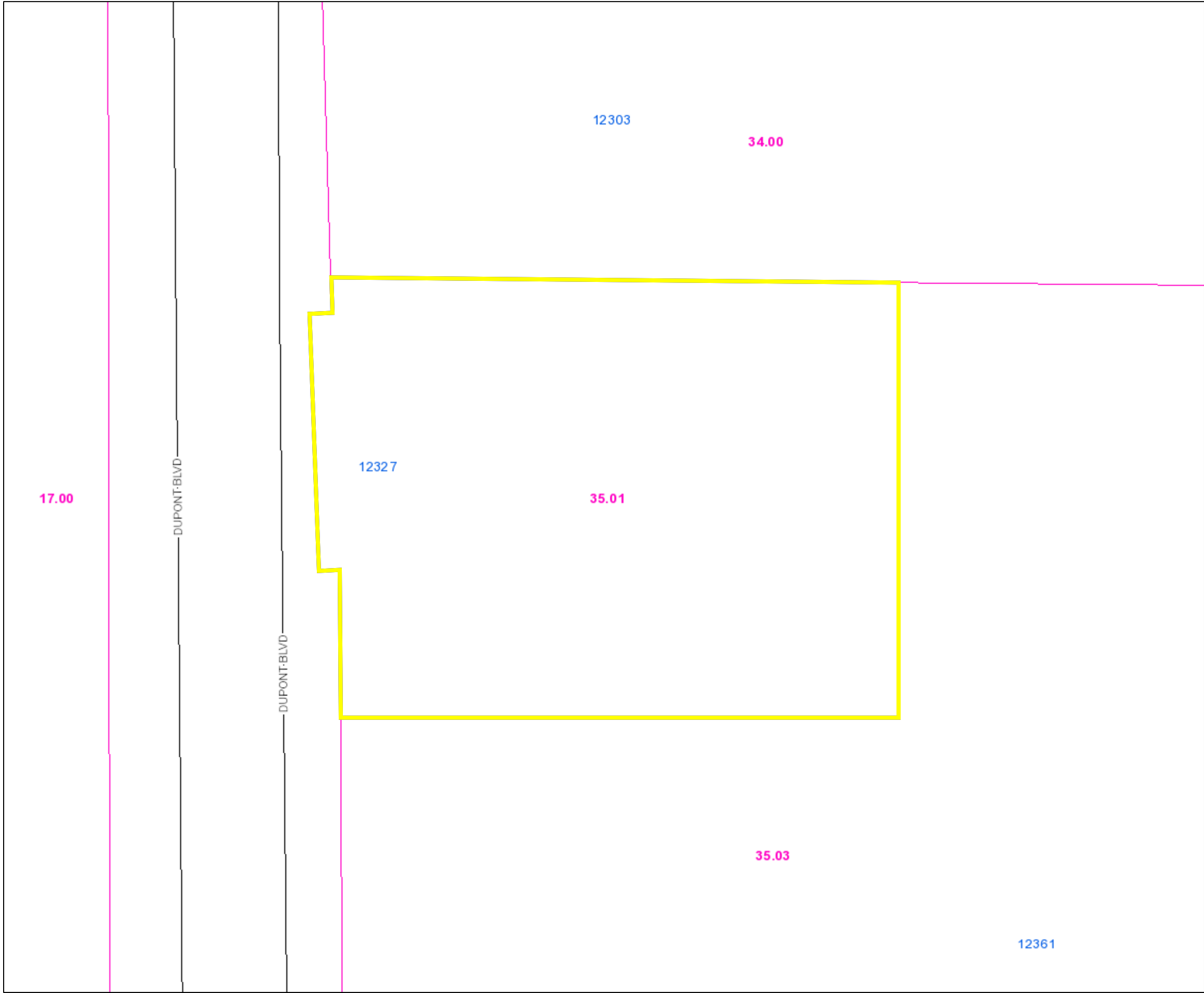
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- Override 1
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- Override 1
 - Tax Parcels
 - Streets
- Zoning**
- Agricultural Residential - AR-1
 - Agricultural Residential - AR-2
 - Medium Residential - MR
 - General Residential - GR
 - High Density Residential - HR-1
 - High Density Residential - HR-2
 - Vacation, Retire, Resident - VRP
 - Neighborhood Business - B-1
 - General Commercial - C-1
 - Commercial Residential - CR-1
 - Marine - M
 - Limited Industrial - LI-1
 - Limited Industrial - LI-2
 - Heavy Industrial - HI-1

1:9,028





Sussex County



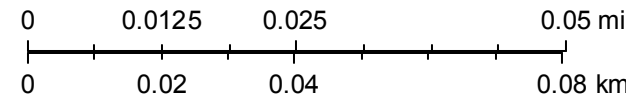
PIN:	230-26.00-35.01
Owner Name	MUNCE THOMAS K JR TRUSTEE
Book	4279
Mailing Address	105 QUAIL RUN
City	CAMDEN WYOMING
State	DE
Description	E/S RT 113 2728'
Description 2	N/RT 16
Description 3	PARCEL 4
Land Code	

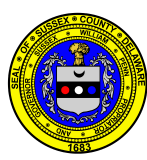
- polygonLayer**

 - Override 1
- polygonLayer**

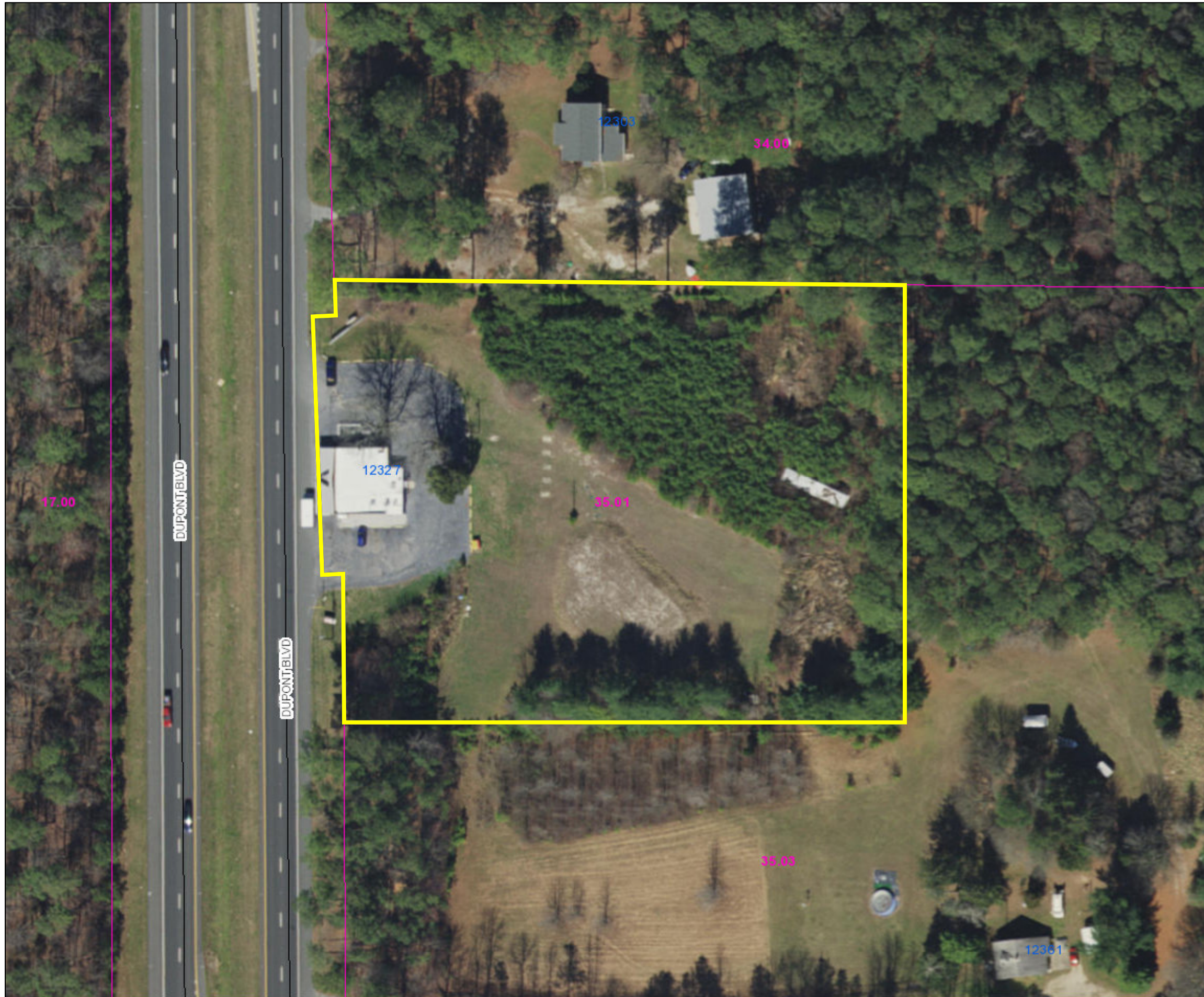
 - Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries

1:1,128








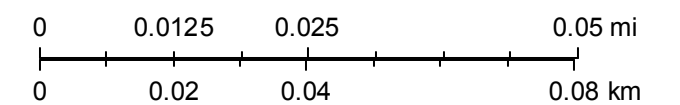
Sussex County



PIN:	230-26.00-35.01
Owner Name	MUNCE THOMAS K JR TRUSTEE
Book	4279
Mailing Address	105 QUAIL RUN
City	CAMDEN WYOMING
State	DE
Description	E/S RT 113 2728'
Description 2	N/RT 16
Description 3	PARCEL 4
Land Code	

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

1:1,128



Introduced 07/16/19

Council District No. 2 – Wilson

Tax I.D. No. 230-26.00-35.01

911 Address: 12327 DuPont Boulevard (Route 113), Ellendale

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CONDITIONAL USE NO. 1979 TO ALLOW FOR NIGHTCLUB TYPE ACTIVITIES AND AN ELECTRONIC MESSAGE CENTER SIGN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.033 ACRES, MORE OR LESS

WHEREAS, on the 18th day of June 2019, a conditional use application, denominated Conditional Use No. 2192, was filed on behalf of Thomas and Judy Munce (Napoleon Hernandez); and

WHEREAS, on the ____ day of _____ 2019, 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. 2192 be _____; and

WHEREAS, on the ____ day of _____ 2019, 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. 2192 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Cedar Creek Hundred, Sussex County, Delaware, and lying on the east side of DuPont Boulevard (Route 113), approximately 0.51 mile north of Beach Highway (Route 16), and being more particularly described as Parcel No. 4 on survey of “Lands of Sheila J. Stevens” as recorded in Plot Book 85, Page 50, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 3.033 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.