

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

**MEETING:  
November 9, 2021**

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

## COUNTY COUNCIL

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



# Sussex County

DELAWARE  
sussexcountyde.gov  
(302) 855-7743

## SUSSEX COUNTY COUNCIL

### A G E N D A

NOVEMBER 9, 2021

10:00 A.M.

#### Call to Order

#### Approval of Agenda

#### Approval of Minutes – October 26, 2021

#### Reading of Correspondence

#### Public Comments

#### Consent Agenda

1. Existing Sewer Infrastructure Use Agreement – IUA-1173  
Leisure Point, Long Neck Area
2. Existing Sewer Infrastructure Use Agreement – IUA-1100  
Friendship Creek, Miller Creek Area
3. Existing Sewer Infrastructure Use Agreement – IUA-1099  
Windswept of Lewes, Angola Neck Area
4. Existing Sewer Infrastructure Use Agreement – IUA-993-1  
Rehoboth Shores Area II, Long Neck Area
5. Existing Sewer Infrastructure Use Agreement – IUA-1107  
Tanager Woods, West Rehoboth Area



## **10:15 – Public Hearing**

### **Bayhealth Medical Center Project – Bond Issuance up to \$103,000,000**

1. Public Hearing to satisfy Section 147(f) of the Internal Revenue Service Code
2. Resolution to satisfy Section 147(f) of the Internal Revenue Service Code authorizing the issuance of bonds

### **Presentation & Discussion related to DelDOT Initiatives including the FAST Program & Development Coordination**

#### **Councilman Mark Schaeffer**

1. Discussion and Possible Action related to the Collection of the Accommodations Tax

#### **Todd Lawson, County Administrator**

1. Discussion related to County Council Redistricting
2. Administrator's Report

#### **John Ashman, Sr. Manager of Utility Planning and Design**

1. Blackwater Village Public Hearing Results

#### **Hans Medlarz, County Engineer**

1. Conley's Chapel Sewer Extension PO Approval

#### **Grant Requests**

1. Delmarva Clergy United in Social Action Foundation for Christmas gifts for children
2. Coastal Concerts for music scholarships
3. Urban Youth Golf Program Association for the First Tee School Program
4. Sussex Technical High School for busing costs for STEM tour

#### **Introduction of Proposed Zoning Ordinances**

#### **Council Members' Comments**

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

#### **Possible action on Executive Session items**

**Conditional Use No. 2265 filed on behalf of Pro Carpet, LLC**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CARPET BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.52 ACRE, MORE OR LESS” (property lying on the east side of Miller Street, approximately 0.16 mile north of Mount Joy Road (S.C.R. 297) (Tax I.D. No. 234-21.00-189.00) (911 Address: 26315 Miller Street, Millsboro)**

**Conditional Use No. 2266 filed on behalf of MDO Dreamlands, LLC**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR OUTDOOR EQUIPMENT AND MATERIAL STORAGE AND A DUMPSTER RENTAL BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.53 ACRES, MORE OR LESS” (property lying on the western side of Harbeson Road (Route 5) approximately 0.47 mile north of Hurdle Ditch Road (S.C.R. 290) (Tax I.D. No. 234-10.00-1.01) (911 Address: 28751 Reid Lane, Harbeson)**

**Conditional Use No. 2267 filed on behalf of Cynthia B. Gibbs**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CATERING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6.12 ACRES, MORE OR LESS” (property lying on the southwest side of Hollytree Road (S.C.R. 226) approximately 0.28 mile southeast of Fleatown Road (S.C.R. 224) (Tax I.D. No. 230-20.00-9.10) (911 Address: 11420 Hollytree Road, Lincoln)**

**Conditional Use No. 2268 filed on behalf of Staci C. and Winfield S. Walls, Jr.**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BOAT SHRINK WRAPPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.97 ACRES, MORE OR LESS” (property lying on the southwest side of Gull Point Road (S.C.R. 313), approximately 0.52 mile southeast of John J. Williams Highway (Route 24) (Tax I.D. No. 234-33.00-44.00) (911 Address: 30600 and 30606 Gull Point Road, Millsboro)**

**Conditional Use No. 2269 filed on behalf of Dennis Nelson, Jr.**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR TRACTOR TRAILER PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 2.17 ACRES, MORE OR LESS” (property lying on the northeast side of Craigs Mill Road (S.C.R. 556) approximately 0.42 mile north of Woodland Road (S.C.R. 536) (Tax I.D. No. 531-12.00-129.00) (911 Address: 26147 Craigs Mill Rd., Seaford)**



-MEETING DETAILS-

In accordance with 29 DeI.C. §10004(e)(2), this Agenda was posted on November 2, 2021 at 4:55 p.m. and at least seven (7) days in advance of the meeting.

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

Agenda items may be considered out of sequence.

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

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

To join the meeting via telephone, please dial:

**Conference Number: 1-302-394-5036**

**Conference Code: 570176**

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

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

# # # #

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 26, 2021**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 26, 2021, at 10:00 a.m., in Council Chambers, with the following present:

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

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

**Call to Order**

Mr. Vincent called the meeting to order.

**M 454 21  
Approve  
Agenda**

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

Motion Adopted: 5 Yeas.

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

**Minutes**

The minutes of October 19, 2021 were approved by consent.

**Public  
Comments**

There were no public comments.

**M 455 21  
Consent  
Agenda**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to approve the following items listed under the Consent Agenda.

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

Motion Adopted: 5 Yeas.

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

**Appeal/  
Terrapin  
Island**

**The Council considered an Appeal on the Sussex County Planning and Zoning Commission’s decision to approve Subdivision Application No. 2020-13 (Terrapin Island). The Appeal was heard on October 19, 2021.**

**Mr. Vincent handed over the gavel to Mr. Rieley.**

**M 456 21  
Affirm  
Decision of  
Planning &  
Zoning  
Commission**

**A Motion was made by Mr. Vincent, and seconded by Mrs. Green, to affirm the decision of the Planning and Zoning Commission in its approval of Application No. 2020-13 for Terrapin Island (F.K.A. Salt Cedar) for the following reasons:**

**It is important to focus on the standard of review. As you will see, this standard does not permit us to substitute our own opinion for that of the Commission, nor does it permit a rehearing of what was before the Commission. It is, and was, a hearing of record.**

**In reviewing the Commission’s decision on appeal, Sussex County Code, § 99-39(2) states that,**

**“[t]he Council shall review the record of the hearing before the Commission and shall make a determination as to whether the Commission's decision was the result of an orderly and logical review of the evidence and involved the proper interpretation and application of the chapter....”**

**The Delaware Supreme Court held that the Commission’s consideration of a preliminary subdivision plan application acts in a manner that is “partly in a ministerial and partly in a judicial capacity” [and, therefore, on appeal the appealing body must] determine whether the decision is supported by substantial evidence and is free from legal error. Substantial evidence ‘means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.’” *Tony Ashburn & Son, Inc. v. Kent County Regional Planning Comm’n*, 962 A.2d 235, 239 (Del. 2008). The Council’s review is “limit[ed] to correcting errors of law and determining whether substantial evidence exists to support the [Commission’s] findings of fact” and that “[w]hen substantial evidence exists, [the Council] will not reweigh it or substitute [its] own judgment for that of the [Commission].” *See Rehoboth Art League, Inc. v. Board of Adjustment of the Town of Henlopen Acres*, 991 A.2d 1163, 1166 (Del. 2010).**

**Therefore, if there is substantial evidence that demonstrates the Commission’s decision was based on an “orderly and logical review of the evidence and the law was accurately applied, the Council must uphold the Commission’s approval.**

**M 456 21  
Affirm  
Decision of  
Planning &  
Zoning  
Commission  
(continued)**

In addition, the Council is not permitted to consider any issues and arguments raised by Appellant on appeal that were not raised below as they are considered waived on appeal. *See, e.g., Hartigan v. Sussex County Bd. of Adjustment*, 2018 WL 1559938 \*3 (Del. Super.); *Rehoboth Art League*, 991 A.2d at 1166.

It is also important to note that the property is zoned AR-1 which, with the cluster development in a Coastal Area, permits a density of 2.17 units per acre as a matter of right; Terrapin Island's density is well under the density permitted by right.

The Delaware Supreme Court has explained the property owners' right to rely on the uses outlined in the zoning ordinance and the limitations on the Commission's ability to rule otherwise.

When people [own] land zoned for a specific use, they are entitled to rely on the fact that they can implement that use provided the project complies with all of the specific criteria found in ordinances and subject to reasonable conditions which the Planning Commission may impose in order to minimize any adverse impact on nearby landowners and residents. To hold otherwise would subject a purchaser of land zoned for a specific use to the future whim or caprice of the Commission by clothing it with the ability to impose ad hoc requirements on the use of land not specified anywhere in the ordinances. The result would be the imposition of uncertainty on all landowners respecting whether they can safely rely on the permitted uses conferred on their land under the zoning ordinances.

*Tony Ashburn*, 962 A.2d at 241 (citing *DiFrancesco v. Mayor and Town Council of Elsmere*, 2007 WL 1874761, at \*3 (Del. Super. June 28, 2007)). Despite public opposition to the application, the Commission was not permitted to deny a subdivision application that otherwise fully conformed to all applicable Sussex County Code provisions. *Id.*

Furthermore, it is important to note that the Commission's decision was for the "preliminary" approval only. That means that the Applicant met the requirements of preliminary approval, not final approval.

With the preliminary approval, the Applicant now has to follow up with all other state, county, and possibly federal, agencies. If the Applicant does not get these approvals, the project does not get built. For example, there was discussion about the long road and cul-de-sac. As Mr. Forsten acknowledged in his presentation on appeal, if the Fire Marshal does not approve that road, the project does not get built.

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Decision of  
Planning &  
Zoning  
Commission  
(continued)**

The Appellants claimed that the Commission did not adequately consider this project, but the record shows that they did. The record in this case is voluminous. There was a lengthy application which contained information concerning property ownership, plots, maps, developer information and more. The Appellants point to alleged flaws in the application concerning ownership of the project, among other things.<sup>1</sup>, Those alleged flaws were either technical in nature, do not go to the merits of the Application, were addressed in the Commission's conditions, will be addressed as part of the Final Subdivision Approval process, were irrelevant to the standards on this appeal and/or were waived by the Appellants failure to raise them at the hearing. The Applicant's attorney, engineer and wetlands specialist also provided evidence at the hearing. There was also a large number of people who testified, and many letters were submitted in opposition to this Application. This matter was deferred for review and further consideration and then passed after a lengthy motion which had 22 conditions, a larger than normal number of conditions.

During the appeal, the Appellants spent much time arguing the buffers and setbacks and location of the high water mark. Those were delineated on the preliminary plot plan submitted into the record by the Applicant's engineer with input from its wetlands specialist.

The Commission had the preliminary plot plan, which was prepared by a licensed engineer, reviewed it thoroughly and added specific conditions of approval to address these issues. The two mandatory conditions which address the buffer and high water mark read:

- e. There shall be a vegetated or forested buffer that is at least 20 feet wide installed along the perimeter of this subdivision, except wetland areas. This buffer shall utilize existing forest or similar vegetation if it exists in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the

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<sup>1</sup> Appellants raised other arguments that include: (a) the erroneous statement that the plans were not "sealed" by a professional engineer; (b) technical issues, such as the inadvertent omission of 8 property owner names on the plan; (c) an allegation that the Commission did not properly consider the State Fire Marshal, County Engineer and other agencies' general comments pertaining to the street length for the cul-de-sac; (d) whether this project is considered "infill"; (e) the property's designation as Investment Level 4 in the Delaware Strategies for State Policies and Spending; (f) whether the broad purposes of the Comprehensive Plan can override the applicable provisions of the Sussex County Code; (g) whether the vehicular beach access easement was shown in sufficient detail on the preliminary plan; (h) Appellants claim that certain documents were missing from the paperless packet which is provided as a public convenience. The actual record is located in the Planning and Zoning office; (i) that the wetlands on the preliminary plan are not properly delineated; (j) whether the minimum lot size has been met; (k) that the preliminary plan was required to comply with § 115-25F. even though this application was filed prior to the date it became effective; (l) minor inconsistencies in the Commission's hearing minutes; (m) whether a Federal wetlands permit was required for purposes of the preliminary plan approval and the likelihood of a permit being granted; and (n) alleged conflicts of interest.

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Commission  
(continued)**

area within the buffer shall be prohibited. All silt fencing shall be located along the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the “Limit of Disturbance” to prevent disturbance of the buffer area. In addition, there shall be a 10-foot-wide area set aside between the perimeter buffer and any lot to be utilized for stormwater conveyance.

- h. There shall be a buffer that is at least 50 feet wide from the mean high-water line of all tidal waters, tidal tributary streams, tidal wetlands, perennial rivers, and nontidal streams. There shall be minimum disturbance of trees and other vegetation within these buffer areas. Required silt fencing shall be installed upland of these buffer areas (using the edge of the buffer nearest the interior development) to avoid disturbance. Construction activities within the buffer area shall be minimum. Any disturbance in the buffer area shall be indicated on the Final Site Plan and the “Limits of Disturbance” shall be indicated on the Final Site Plan.

The condition that addresses setbacks reads:

- i. In addition to the buffer required in Condition H above, there shall be a 25-foot building setback from all non-tidal wetlands.

As noted above, these are several of the many conditions of approval that were part of the motion to approve. These conditions must be complied with, or the project will not get built. I am not going to read all of the conditions at this time since they are in the record.

In summary, the Commission’s findings speak for themselves and demonstrate that the Commission “engaged in an orderly and logical review of the evidence and involved the proper interpretation and application of the [applicable zoning] chapter”. See *Sussex County Code*, § 99-39(2). The Commission’s findings include detailed reasons for its vote to approve the application, including the fact that the property is located in an AR-1 zoning district which enables the Applicant to develop up to 2.17 units per acre by right. The Commission also adopted 22 conditions of approval which minimize any adverse impact on the property owners and residents in the area, many of which address the items raised by Appellant, including setbacks, buffers and the high water mark. In fact, the conditions for this approval are among the longest the Commission has ever placed on a preliminary subdivision approval. This clearly demonstrates that the Commission used careful consideration in its review and approval of the

**M 456 21  
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Zoning  
Commission  
(continued)**

application. The Preliminary Subdivision Plan further defines additional requirements that must be met for the Applicant to obtain Final Subdivision Plan Approval which is a prerequisite to the project's commencement. Any information contained on the Preliminary Plan which needs clarification can be included on the Final Subdivision Plan. Having met the standards set forth in the zoning ordinance, the Commission was required to approve this application for Preliminary Subdivision Plan approval. *See, Tony Ashburn, 962 A.2d at 241.*

**Motion Adopted: 5 Yeas.**

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

**Presentation  
/Discussion  
Workforce  
Housing**

Mr. Lawson, along with Mrs. Brandy Nauman, Mr. Vince Robertson and Mr. Jamie Whitehouse gave a presentation on recommendations for Workforce Housing. The 2018 Comprehensive Land Use Plan generated substantial input related to the lack of affordable housing in Sussex County. In 2019, the County contracted with LSA Planning for a Housing Needs & Market Analysis, an Economic Feasibility Analysis and a Housing Opportunities and Market Evaluation (HOME). The final three strategy recommendations resulting from the Housing Opportunities and Market Evaluation (Home) are as follows:

1. Modify the County Zoning Code to promote housing affordability in growth areas identified in the Comprehensive Plan
2. Establish a Local Housing Trust Fund
3. Preserve the existing supply of affordable housing

Today's presentation focused on Strategy #1. Mr. Lawson noted that Mrs. Nauman discussed Strategy #2 a few months ago, and that the County actively preserves the existing supply of workforce housing through the Community Development & Housing Office.

Mr. Robertson stated there is currently a Sussex County rental program in existence. However, there isn't much use of the program; it hasn't provided the incentives to cause developers to come forward with a Workforce Housing project. The County is currently looking to create a new permitted use for Workforce Housing. This would mean permitted by-right (no public hearing, no Planning & Zoning meeting, no Council meeting for each project) It would come in for preliminary site plan review and final site plan review by the Planning & Zoning Office. It would be permitted by-right in the following growth areas: Coastal Area, Developing Area and Town Center. This would narrow the area where they could be and follows the Comprehensive Plan. It was recommended by LSA Planning for a higher

**Presentation  
/Discussion  
Workforce  
Housing  
(continued)**

density, with a maximum density up to 12 units per acre. There needs to be enough density to make the workforce housing units economically viable. Mr. Robertson then reviewed the design criteria.

Mrs. Nauman spoke regarding the housing requirements. These units would be multi-family designation and rental units. At least 30% would be restricted units for families at 80% of AMI (area median income) or less. The AMI is updated every year by the US Department of Housing and Urban Development and is specific to Sussex County. There will be compliance reporting based on submitted audits and certifications. There would be financial penalties paid to the Sussex County Housing Trust Fund for noncompliance of rental units.

Mr. Whitehouse along with AE Comm, applied the design criteria in growth areas to identify undeveloped parcels. Mr. Whitehouse ran a scenario using the design requirements, as presented, and found that they could comply with those requirements.

Following no objection from Council, an Ordinance will be drafted and presented at a future meeting.

**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 2021 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 189 troopers assigned to Sussex County for the month of September.

2. Frank Calio

It is with sadness that we note the passing of County pensioner Frank Calio on Tuesday, October 19<sup>th</sup>. Mr. Calio began his career with Sussex County in April 1991 and retired as the Director of Economic Development in 2002 with 10 years of service. We would like to extend our condolences to the Calio family.

3. Council Meeting Schedule

A reminder that Council will not meet on Tuesday, November 2<sup>nd</sup>. The next regularly scheduled Council meeting will be held on Tuesday, November 9<sup>th</sup>.

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



**Proposed Ordinance Disabled Veterans Tax Credit** Katrina Mears, Manager of Business Services, presented for consideration a Proposed Ordinance to amend the Sussex County Code to include a New Article VII, Real Property Tax Credit, For Disabled Veterans. This would establish a real-property value-based tax credit for totally disabled veterans who are residents of Sussex County and who meet the eligibility criteria under the State of Delaware Disabled Veterans' School Tax Credit. The ordinance will exempt veterans with a 100% disability rating from County property taxes if they qualify for the State program. It is estimated to cost the County \$44,000 annually.

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

The Proposed Ordinance will be advertised for Public Hearing.

Mr. Schaeffer commented on the implementation of the accommodations tax.

**Human Service Grants** Mrs. Jennings provided the FY2022 Human Service Grants recommendation and an overview of the program. This program provides grants to countywide non-profit agencies for the purpose of enhancing health and human services, which contribute to a safe, healthy, and self-sufficient community. This program provides grants that assist organizations with operating or capital expenses.

**M 457 21 Approve FY2022 Human Service Grants** Mrs. Jennings explained the application process. She discussed the online application and the formula-based approach to awarding Human Service Grants. Mrs. Jennings outlined the method and criteria for determining recommended grant amounts and presented the recommended Human Service Grants for Fiscal Year 2022 (funds totaling \$224,800.00).

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, that the Sussex County Council approves the Fiscal Year 2022 Human Service Grants allocation, as presented.

**Motion Adopted:** 5 Yeas.

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

**Mobile  
Integrated  
Healthcare  
Pilot  
Program  
Extension**

**Robbie Murray, EMS Director, requested Council's approval to extend the Mobile Integrated Healthcare Pilot Program which was initially approved in August 2019. This program allowed trained Sussex County paramedics the opportunity to pilot a program to function as a transitional care provider team serving a targeted chronic obstructive pulmonary disease (COPD) population with a common history of frequent Emergency Department (ED) admissions. The initial goal of the program was 50 patients; to date 36 patients have graduated from the program. Beebe Medical Foundation is securing on going funding to support the program moving forward. Mr. Murray stated that all three parties involved in the pilot program (State of Delaware, Beebe Healthcare and Sussex County EMS) would like to see this program extended.**

**M 458 21  
Approve  
Extension/  
Mobile  
Integrated  
Healthcare  
Program**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley, that the Sussex County Council, through the EMS Department, continue the Mobile Integrated Healthcare Program in collaboration with Beebe Healthcare and the State of Delaware for a period of up to three years.**

**Motion Adopted: 5 Yeas.**

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

**Lochwood  
Communi-  
ties Area  
Expansion**

**Hans Medlarz, County Engineer, presented a standalone engineering agreement for the Lochwood sewer area expansion design project.**

**M 459 21  
Approve  
Lochwood  
Communi-  
ties Area  
Expansion**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that the engineering services agreement with Davis, Bowen & Friedel be approved in the amount not to exceed \$179,850.00, for the design, permitting and bidding phases of Sussex County project S22-07, Lochwood community sewer area expansion, contingent upon USDA concurrence.**

**Motion Adopted: 5 Yeas.**

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

**C. Magee  
Farms  
Lease  
Modification**

**Hans Medlarz, County Engineer, presented a modification to the agricultural farmland lease of C. Magee Farms, LLC (Chris Magee) adding the two Georgetown parcels to the existing farmland lease without changing the terms.**

**M 460 21**      **A Motion was made by Mr. Rieley, seconded by Mr. Hudson, based upon the**  
**Approve**      **recommendation of the Sussex County Engineering Department, that the**  
**C. Magee**      **Sussex County Council approves the addendum to the C. Magee farms**  
**Farms**      **agricultural lease, as presented.**  
**Lease**

**Modification**      **Motion Adopted:      5 Yeas.**

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

**EMS Site**      **Hans Medlarz, County Engineer, presented Amendment No. 1, for Medic**  
**Plans**      **Stations 101, 103, 110 modifications and Station 111 Site Plans. All**  
**Amendment**      **stations will have an identical architectural footprint but individual site,**  
**No. 1**      **stormwater management, fire suppression and DeDOT entrance plans.**  
**In addition, two of the stations will require on-site wastewater disposal**  
**options. Furthermore, the IT Department is moving forward with the**  
**budgeted data center for the north Seaford Station 110 site requiring a**  
**modification of the site and electrical plans.**

**M 461 21**      **A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, based upon the**  
**Approve**      **recommendation of the Sussex County Engineering Department, that Amendment**  
**EMS Site**      **No. 1 to the EJCDC 2019 miscellaneous engineering base contract with George, Miles**  
**Plans**      **& Buhr, be approved in the amount not to exceed \$295,000.00 for various site**  
**Amendment**      **modifications for four EMS stations.**  
**No. 1**

**Motion Adopted:      5 Yeas.**

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

**Old**      **Under Old Business, the Council considered the Conditional Use No. 2248**  
**Business/**      **filed on behalf of Gulfstream Development, LLC.**  
**CU2248**

**The Planning and Zoning Commission held a Public Hearing on this**  
**application on July 22, 2021 at which time action was deferred. On August**  
**12, 2021, the Commission recommended approval with the following**  
**conditions.**

- a. The maximum number of residential units shall be 19.**
- b. The Developer and then the condominium association shall be responsible**  
**for the perpetual maintenance of the development roadway, buffers,**  
**stormwater management facilities, erosion and sedimentation control**  
**facilities and other common areas.**
- c. All entrance, intersection, roadway and multi-modal improvements shall**  
**be completed by the Developer in accordance with all DeDOT**  
**requirements.**

**Old  
Business  
CU2248  
(continued)**

- d. The project shall be served by Sussex County sewer. The Developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.**
- e. The project shall be served by central water to provide drinking water and fire protection.**
- f. There shall be a vegetated or forested buffer of at least 20 feet in width along the perimeter of this development. This buffer shall utilize existing forest or similar vegetation if it exists in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the “Limit of Disturbance” to prevent disturbance of the buffer area.**
- g. As stated by the Applicant, the clearing, disturbance or altering of existing vegetation shall be limited as needed to accommodate proposed construction and for the removal of dead and dying trees which pose a threat to public safety on adjacent private property. The Applicant shall submit as part of the Final Site Plan a landscape plan showing the proposed tree and shrub landscape design, including the buffer areas and the forested areas that will be preserved. This landscape plan shall further identify all “Limits of Disturbance” within the site.**
- h. Construction activities, including site work and deliveries, shall only occur between 7:30 a.m. and 7:00 p.m. Monday through Friday, and between 8:00 a.m. and 2:00 p.m. on Saturdays. There shall be no construction activities at the site on Sundays. A 24 inch by 36 inch “NOTICE” sign in English and Spanish confirming these hours shall be prominently displayed at all entrances to the site during construction.**
- i. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Department.**
- j. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- k. Any streetlights shall be shielded and downward screened so that they do not shine on neighboring properties or roadways.**
- l. The interior street design shall meet or exceed Sussex County’s street design requirements.**
- m. If requested by the local school district, a school bus stop shall be provided. The location of the bus stop shall be shown on the Final Site Plan.**
- n. The Final Site Plan shall include a grading plan for the site. No building permits shall be issued until an individual lot grading plan has been supplied to and approved by Sussex County. No Certificate of Occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.**
- o. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**

**Old Business CU2248 (continued)** p. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

The Council held a Public Hearing on this application on August 31, 2021 at which time action was deferred.

**M 462 21 Amend Conditions/ CU2248** A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to amend Condition F recommended by the Planning and Zoning Commission by adding a sentence at the end that states “In addition, there shall be a 20 foot building setback from the inner edge of the vegetated buffer to prevent any disturbance of it during construction or by future homeowners.”

**Motion Adopted: 5 Yeas.**

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

**M 463 21 Amend Conditions/ CU2248** A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to revise Condition O recommended by the Planning and Zoning Commission to state “Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.”

**Motion Adopted: 5 Yeas.**

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

**M 464 21 Amend/ Conditions CU2248** A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to add a new Condition P and renumber the existing Condition P as Condition Q, and that Condition P will read as follows: “All structures including accessory structures, patios, porches, outside showers, decks or other structures shall be located entirely within the building footprint areas shown on the Final Site Plan.”

**Motion Adopted: 5 Yeas.**

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

**M 465 21 Amend/ Conditions CU2248** A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to amend Condition A recommended by the Planning and Zoning Commission to state “The maximum number of residential units shall be 16.”

**Motion Adopted: 5 Yeas.**

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

**M 466 21  
Adopt  
Ordinance  
No. 2805  
CU2248**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to Adopt Ordinance No. 2805 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (19 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.93 ACRES, MORE OR LESS” (Conditional Use No. 2248) filed on behalf of Gulfstream Development LLC, with the following conditions, as amended:**

- a. The maximum number of residential units shall be 16.**
- b. The Developer and then the condominium association shall be responsible for the perpetual maintenance of the development roadway, buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas.**
- c. All entrance, intersection, roadway and multi-modal improvements shall be completed by the Developer in accordance with all DeIDOT requirements.**
- d. The project shall be served by Sussex County sewer. The Developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.**
- e. The project shall be served by central water to provide drinking water and fire protection.**
- f. There shall be a vegetated or forested buffer of at least 20 feet in width along the perimeter of this development. This buffer shall utilize existing forest or similar vegetation if it exists in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the “Limit of Disturbance” to prevent disturbance of the buffer area. In addition, there shall be a 20 foot building setback from the inner edge of the vegetated buffer to prevent any disturbance of it during construction or by future homeowners.**
- g. As stated by the Applicant, the clearing, disturbance or altering of existing vegetation shall be limited as needed to accommodate proposed construction and for the removal of dead and dying trees which pose a threat to public safety on adjacent private property. The Applicant shall submit as part of the Final Site Plan a landscape plan showing the proposed tree and shrub landscape design, including the buffer areas and the forested areas that will be preserved. This landscape plan shall further identify all “Limits of Disturbance” within the site.**
- h. Construction activities, including site work and deliveries, shall only occur between 7:30 a.m. and 7:00 p.m. Monday through Friday, and**

**M 466 21  
Adopt  
Ordinance  
No. 2805  
CU2248  
(continued)**

- between 8:00 a.m. and 2:00 p.m. on Saturdays. There shall be no construction activities at the site on Sundays. A 24 inch by 36 inch “NOTICE” sign in English and Spanish confirming these hours shall be prominently displayed at all entrances to the site during construction.
- i. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Department.
  - j. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
  - k. Any streetlights shall be shielded and downward screened so that they do not shine on neighboring properties or roadways.
  - l. The interior street design shall meet or exceed Sussex County’s street design requirements.
  - m. If requested by the local school district, a school bus stop shall be provided. The location of the bus stop shall be shown on the Final Site Plan.
  - n. The Final Site Plan shall include a grading plan for the site. No building permits shall be issued until an individual lot grading plan has been supplied to and approved by Sussex County. No Certificate of Occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.
  - o. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.
  - p. All structures including accessory structures, patios, porches, outside showers, decks or other structures shall be located entirely within the building footprint areas shown on the Final Site Plan.
  - q. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

**Motion Adopted: 5 Yeas.**

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

**Old  
Business  
CU2249**

**The Council considered Conditional Use No. 2249 filed on behalf of Mayapple Farm, LLC.**

**The Planning and Zoning Commission held a Public Hearing on this application on July 8, 2021 at which time action was deferred. On July 22, 2021, the Commission recommended approval with the following conditions.**

- a. The maximum number of residential units within this entire development shall be 41.
- b. The Applicant shall form a condominium association to be responsible for the perpetual maintenance of the development’s roadways, buffers, stormwater management facilities, erosion, and sedimentation control facilities, and other common areas.

**Old  
Business  
CU 2249  
(continued)**

- c. All entrance, intersection, roadway, and multi-modal improvements shall be completed by the developer in accordance with all DelDOT requirements.**
- d. The project shall be served by Sussex County sewer. The developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.**
- e. The project shall be served by central water to provide drinking water and fire protection.**
- f. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.**
- g. The Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- h. All streetlights shall be shielded and downward screened so that they do not shine on neighboring properties or roadways.**
- i. The interior street design shall meet or exceed Sussex County's Street design requirements. There shall be sidewalks on at least one side of all streets.**
- j. If requested by the local school district, a school bus stop shall be provided. The location of the bus stop shall be shown on the Final Site Plan.**
- k. Recreational amenities shall be completed no later than the issuance of the 20<sup>th</sup> Residential Building Permit.**
- l. As required by Section 115-22 of the Zoning Code for multi-family developments in the AR-1 Zone, the Site Plan shall be revised to include at least 40% of the site as open space and there shall be a 75-foot-wide perimeter buffer along the County Road. The development shall comply with the design, vegetation type, planting, and other requirements of Section 115-22G regarding multi-family dwellings in the AR-1 District.**
- m. Construction, site work, and deliveries shall only occur on the site between the hours of 8:00 a.m. through 5:00 p.m., Monday through Friday. No Saturday or Sunday hours are permitted. A 24 inch by 36-inch "NOTICE" sign confirming these hours in both English and Spanish shall be prominently displayed at all entrances to the site during construction.**
- n. There shall be a buffer that is at least 50 feet wide from all tidal waters, tidal tributary streams, tidal wetlands, perennial rivers, and nontidal streams. There shall also be a 25-foot-wide buffer from all non-tidal wetlands. There shall be minimum disturbance of trees and other vegetation within these buffer areas. This specifically includes the existing woodlands along the southeastern boundary of the development between the proposed units and the adjacent property. Required silt fencing shall be installed upland of these buffer areas (using the edge of the buffer nearest the interior development) to avoid disturbance. Construction activities within the buffer area shall be minimum. Any disturbance in the buffer area shall be indicated on the Final Site Plan and the "Limits of Disturbance" shall be indicated on the Final Site Plan.**
- o. The Final Site Plan shall include a Landscape Plan confirming all landscaping to be provided, the preservation of all buffer areas, and the**



**Old  
Business  
CU 2249  
(continued)**

- forested areas that will be preserved. This Landscape Plan shall further identify all “Limits of Disturbance” within the site.
- p. The Final Site Plan shall include a Grading Plan for the site. No building permit shall be issued for individual lots until an individual lot grading plan has been supplied to and approved by Sussex County. No certificate of occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.
  - q. As proffered by the Applicant, the Final Site Plan and the recorded condominium covenants shall prohibit the application of fertilizers or similar soil additives on the property by the individual unit owners. All such applications shall be managed by the Condominium Association and a contractor of its designation using Best Management Practices to seek to minimize the risk of runoff into the stormwater management system, wetlands, and waterways.
  - r. Because the proposed stormwater management pond is located adjacent to a property used for agricultural purposes including live animals, there shall not be any fountains or similar equipment that might generate noise or spray used in these ponds.
  - s. The Final Site Plan and recorded condominium documents shall contain the “Agricultural Use Protection Notice.”
  - t. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

The Council held a Public Hearing on this application on August 24, 2021 at which time action was deferred.

**M 467 21  
Amend/  
Conditions  
CU2249**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, to revise Condition T recommended by the Planning and Zoning Commission to add “All recreational amenities shall be shown on the final site plan. No additional amenities shall be permitted without an approved final site plan from the Planning and Zoning Commission.”

**Motion Adopted: 5 Yeas.**

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

**M 468 21  
Adopt  
Ordinance  
No. 2806  
CU2249**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to Adopt Ordinance No. 2806 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI FAMILY (41 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 20.91, MORE OR LESS” (Conditional Use No. 2249) filed on behalf of Mayapple Farm LLC. with the following conditions as amended:

**M 468 21  
Adopt  
Ordinance  
No. 2806  
CU2249  
(continued)**

- a. **The maximum number of residential units within this entire development shall be 41.**
- b. **The Applicant shall form a condominium association to be responsible for the perpetual maintenance of the development's roadways, buffers, stormwater management facilities, erosion, and sedimentation control facilities, and other common areas.**
- c. **All entrance, intersection, roadway, and multi-modal improvements shall be completed by the developer in accordance with all DelDOT requirements.**
- d. **The project shall be served by Sussex County sewer. The developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.**
- e. **The project shall be served by central water to provide drinking water and fire protection.**
- f. **Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.**
- g. **The Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- h. **All streetlights shall be shielded and downward screened so that they do not shine on neighboring properties or roadways.**
- i. **The interior street design shall meet or exceed Sussex County's Street design requirements. There shall be sidewalks on at least one side of all streets.**
- j. **If requested by the local school district, a school bus stop shall be provided. The location of the bus stop shall be shown on the Final Site Plan.**
- k. **Recreational amenities shall be completed no later than the issuance of the 20<sup>th</sup> Residential Building Permit.**
- l. **As required by Section 115-22 of the Zoning Code for multi-family developments in the AR-1 Zone, the Site Plan shall be revised to include at least 40% of the site as open space and there shall be a 75-foot-wide perimeter buffer along the County Road. The development shall comply with the design, vegetation type, planting, and other requirements of Section 115-22G regarding multi-family dwellings in the AR-1 District.**
- m. **Construction, site work, and deliveries shall only occur on the site between the hours of 8:00 a.m. through 5:00 p.m., Monday through Friday. No Saturday or Sunday hours are permitted. A 24 inch by 36-inch "NOTICE" sign confirming these hours in both English and Spanish shall be prominently displayed at all entrances to the site during construction.**
- n. **There shall be a buffer that is at least 50 feet wide from all tidal waters, tidal tributary streams, tidal wetlands, perennial rivers, and nontidal streams. There shall also be a 25-foot-wide buffer from all non-tidal wetlands. There shall be minimum disturbance of trees and other vegetation within these buffer areas. This specifically includes the existing woodlands along the southeastern boundary of the development between the proposed units and the adjacent property. Required silt fencing shall be installed upland of these buffer areas (using the edge of the buffer**

**M 468 21  
Adopt  
Ordinance  
No. 2806  
CU2249  
(continued)**

- nearest the interior development) to avoid disturbance. Construction activities within the buffer area shall be minimum. Any disturbance in the buffer area shall be indicated on the Final Site Plan and the “Limits of Disturbance” shall be indicated on the Final Site Plan.
- o. The Final Site Plan shall include a Landscape Plan confirming all landscaping to be provided, the preservation of all buffer areas, and the forested areas that will be preserved. This Landscape Plan shall further identify all “Limits of Disturbance” within the site.**
  - p. The Final Site Plan shall include a Grading Plan for the site. No building permit shall be issued for individual lots until an individual lot grading plan has been supplied to and approved by Sussex County. No certificate of occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.**
  - q. As proffered by the Applicant, the Final Site Plan and the recorded condominium covenants shall prohibit the application of fertilizers or similar soil additives on the property by the individual unit owners. All such applications shall be managed by the Condominium Association and a contractor of its designation using Best Management Practices to seek to minimize the risk of runoff into the stormwater management system, wetlands, and waterways.**
  - r. Because the proposed stormwater management pond is located adjacent to a property used for agricultural purposes including live animals, there shall not be any fountains or similar equipment that might generate noise or spray used in these ponds.**
  - s. The Final Site Plan and recorded condominium documents shall contain the “Agricultural Use Protection Notice.”**
  - t. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission. All recreational amenities shall be shown on the final site plan. No additional amenities shall be permitted without an approved final site plan from the Planning and Zoning Commission.**

**Motion Adopted: 5 Years.**

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

**Old Business  
CZ1913**

**The Council considered Change of Zone No. 1913 filed on behalf of Lighthipe, LLC.**

**The Planning and Zoning Commission held a public hearing on July 22, 2021 at which time action was deferred. On August 12, 2021 the Commission recommended approval with the following conditions:**

- Old Business  
CZ1913  
(continued)**
- a. This 5.253-acre parcel shall only be developed with single family lots. No townhomes or multi-family homes shall be permitted in this location.
  - b. Condition A of Ordinance #2411 is hereby removed, and the new condition A shall be inserted in its place, as follows: “The maximum number of residential units shall not exceed 164 units, which shall consist of 120 single family units and 44 townhouse units, plus the single family lots permitted under Change in Zone #1931 on the 5.253-acre parcel that is added to the Residential Planned Community.”
  - c. The site plan for this additional 5.253 acres shall be designed so that there is a twenty-foot forested buffer set back an additional twenty feet from the perimeter of the site along the common boundary with Ocean Way Estates.
  - d. All roads providing access to the new single family lots shall be designed and oriented to minimize headlights shining into properties within Ocean Way Estates. If necessary, additional landscaping shall be added and shown on the RPC Master Plan to screen headlights from the Ocean Way Estates subdivision.
  - e. The lots within this additional 5.253 acres shall have access from Muddy Neck Road via the existing streets and roads within the Ocean View Beach Club community.
  - f. All other conditions of the RPC approved as Ordinance # 2411 and Change in Zone #1768 shall remain in effect, and the 5.253-acre parcel that is the subject of this Change in Zone #1931 shall be bound by those existing conditions of approval.
  - g. The developer shall submit a revised Master Plan for the entire RPC, including the single family lots within the additional 5.253 acres.

The Council held a Public Hearing on this application on August 31, 2021 at which time action was deferred.

**M 469 21  
Adopt  
Ordinance  
No. 2807  
CZ1931**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to Adopt Ordinance No. 2807 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY AND TO AMEND THE CONDITIONS OF APPROVAL OF CZ 1768 (ORDINANCE 2411) TO INCREASE THE GROSS SITE AREA BY 5.253 ACRES AND TO INCREASE THE NUMBER OF PERMITTED UNITS WITHIN THE RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 56.372 ACRES, MORE OR LESS” (Change of Zone 1931) filed on behalf of Lighthipe LLC, with the following conditions:

- a. This 5.253-acre parcel shall only be developed with single family lots. No townhomes or multi-family homes shall be permitted in this location.
- b. Condition A of Ordinance #2411 is hereby removed, and the new condition A shall be inserted in its place, as follows: “The maximum

**M 469 21**  
**Adopt**  
**Ordinance**  
**No. 2807**  
**CZ1931**  
**(continued)**

number of residential units shall not exceed 164 units, which shall consist of 120 single family units and 44 townhouse units, plus the single family lots permitted under Change in Zone #1931 on the 5.253-acre parcel that is added to the Residential Planned Community.”

- c. The site plan for this additional 5.253 acres shall be designed so that there is a twenty-foot forested buffer set back an additional twenty feet from the perimeter of the site along the common boundary with Ocean Way Estates.
- d. All roads providing access to the new single family lots shall be designed and oriented to minimize headlights shining into properties within Ocean Way Estates. If necessary, additional landscaping shall be added and shown on the RPC Master Plan to screen headlights from the Ocean Way Estates subdivision.
- e. The lots within this additional 5.253 acres shall have access from Muddy Neck Road via the existing streets and roads within the Ocean View Beach Club community.
- f. All other conditions of the RPC approved as Ordinance # 2411 and Change in Zone #1768 shall remain in effect, and the 5.253-acre parcel that is the subject of this Change in Zone #1931 shall be bound by those existing conditions of approval.
- g. The developer shall submit a revised Master Plan for the entire RPC, including the single family lots within the additional 5.253 acres.

**Motion Adopted: 5 Yeas.**

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

**Introduction**  
**Of Proposed**  
**Ordinances**

**Mr. Vincent introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.918 ACRES, MORE OR LESS” (Conditional Use No. 2274) filed on behalf of R&J Farms Limited Partnership (Tax I.D. 232-9.00-5.01) (911 Address: 28274 East Trap Pond Road, Laurel).**

**Mr. Rieley introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FOOD TRUCK BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.238 ACRES, MORE OR LESS” (Conditional Use No. 2303) filed on behalf of Antonia Lopez Lopez (Tax I.D. 234-32.00-55.00) (911 Address: 26719 Jersey Road, Millsboro).**

**Introduction Of Proposed Ordinances (continued)** Mr. Schaeffer introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (84 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 21.62 ACRES, MORE OR LESS” (Conditional Use No. 2304) filed on behalf of J.G. Townsend Jr. Co., (Tax I.D. 334-12.00-16.04) (911 Address: None Available).

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 AN I-1 INSTITUTIONAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.5 ACRES, MORE OR LESS” (Change of Zone No. 1950) filed on behalf of Roxana Volunteer Fire Company (Tax I.D. 533-12.00-93.00, 93.01, 93.02) (911 Address: 36843, 36855 and 36873 Lighthouse Road, Selbyville).

**M 470 21 Go Into Executive Session** At 11:47 a.m., a Motion was made by Mr. Rieley, seconded by Mrs. Green, to recess the Regular Session and go into Executive Session to discuss matters relating to pending litigation and land acquisition.

**Motion Adopted:** 5 Yeas.

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

**Executive Session** At 11:55 a.m., an Executive Session was held in the Basement Caucus Room to discuss matters relating to pending litigation and land acquisition. The Executive Session concluded at 1:05 p.m.

**M 471 21 Reconvene** At 1:09 p.m., A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, to come out of Executive Session and to reconvene the Regular Session.

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

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

**E/S Action** There was no action on Executive Session matters.

**M 472 21 Adjourn** At 1:10 p.m., a Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to adjourn.

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

**M 472 21  
Adjourn  
(continued)**

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

**Respectfully submitted,**

**Bobbi Albright  
Executive Administrative Assistant**

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

DRAFT

**Consent Agenda 11-09-2021**

**Leisure Point**

**Existing Sewer Infrastructure Use Agreement – IUA-1173  
Sun Leisure Point Resort, LLC to pay \$17,175.00 for 14.50 EDUs  
Long Neck Area**

**Friendship Creek**

**Existing Sewer Infrastructure Use Agreement – IUA-1100  
Friendship Creek, LLC to pay \$80,693.00 for 138.00 EDUs  
Miller Creek Area**

**Windswept of Lewes**

**Existing Sewer Infrastructure Use Agreement – IUA-1099  
Boardwalk Development, LLC to pay \$134,826.00 for 206.00 EDUs  
Angola Neck Area**

**Rehoboth Shores Area II**

**Existing Sewer Infrastructure Use Agreement – IUA-993-1  
Nanticoke Shores Associates, LLC to pay \$46,439.00 for 57.00 EDUs  
Long Neck Area**

**Tanager Woods**

**Existing Sewer Infrastructure Use Agreement – IUA-1107  
Tanager Woods, LLC to pay \$175,998.00 for 173.00 EDUs  
West Rehoboth Area**



**EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT**

**LEISURE POINT - IUA1173**

THIS AGREEMENT (“Agreement”), made this \_\_\_\_\_ day of \_\_\_\_\_ 2021, by and between:

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

**SUN LEISURE POINT RESORT, LLC** a Michigan Limited Liability Company and developer of a project known as Leisure Point, hereinafter called the “Developer.”

**WITNESSETH:**

**WHEREAS**, Developer is developing several tracts of land identified as Tax Map parcels 234-24.00-39.02 & 39.06 to be known as Leisure Point (“Project”) and;

**WHEREAS**, the Project is within the boundary of the Sussex County Unified Sanitary Sewer District (Long Neck 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 **14.50** 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 **\$17,175.00** for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution must be submitted prior to receiving connection permits.**
- (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 **27777 Franklin Road, Suite 200, Southfield MI 48034.**

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

**FOR THE COUNTY:**

{Seal}

By: \_\_\_\_\_  
(President - Sussex County Council)

\_\_\_\_\_ (DATE)

ATTEST:

\_\_\_\_\_  
Robin A. Griffith  
Clerk of the County Council

**FOR SUN LEISURE POINT RESORT, LLC**

By:  \_\_\_\_\_ (Seal)  
John McLaren - Authorized Signatory

10-19-21 (DATE)

WITNESS: Carla Chulio

**EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT**

**Friendship Creek IUA 1100**

THIS AGREEMENT (“Agreement”), made this \_\_\_\_\_ day of \_\_\_\_\_ 2021, by and between:

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

**FRIENDSHIP CREEK, LLC.** a Limited Liability Corporation and developer of a project known as **Friendship Creek (Friendship Hall/Orr Property)**, hereinafter called the “Developer.”

**WITNESSETH:**

**WHEREAS**, Developer is developing a tract of land identified as Tax Map parcels 134-16.00-39.00 be known as **Friendship Creek** (“Project”) and;

**WHEREAS**, the Project is within the boundary of the Sussex County Unified Sanitary Sewer District (Miller Creek 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 **138.00** 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 **\$80,693.00** for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution must be submitted prior to beneficial acceptance of the on-site pumpstation.**
- (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 **940 West Sproul Road, Suite 301 Springfield, PA 19064**

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

**FOR THE COUNTY:**

{Seal}

By: \_\_\_\_\_  
(President - Sussex County Council)  
\_\_\_\_\_ (DATE)

ATTEST:

\_\_\_\_\_  
Robin A. Griffith  
Clerk of the County Council

**FOR FRIENDSHIP CREEK, LLC**

By:  \_\_\_\_\_ (Seal)  
Kevin E. McLaughlin - Authorized Signatory  
10-25-2021 (DATE)

WITNESS:  \_\_\_\_\_



**EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT**

**WINDSWEPT OF LEWES - IUA1099**

THIS AGREEMENT ("Agreement"), made this 26<sup>th</sup> day of October 2021, by and between:

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

**BOARDWALK DEVELOPMENT LLC**, a Delaware Limited Liability Company and developer of a project known as Windswept of Lewes, hereinafter called the "Developer."

**WITNESSETH:**

**WHEREAS**, Developer is developing several tracts of land identified as Tax Map parcels 234-12.00-3.00 & 6.00 to be known as Windswept of Lewes ("Project") and;

**WHEREAS**, the Project is within the boundary of the Sussex County Unified Sanitary Sewer District (Angola Neck 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 **206.00** 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 **\$134,826.00** for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution must be submitted prior to receiving substantial completion of the on-site pumpstation.**
- (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 **28855 Lewes Georgetown Hwy, Lewes Delaware 19958.**

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

**FOR THE COUNTY:**

{Seal}

By: \_\_\_\_\_  
(President - Sussex County Council)  
\_\_\_\_\_ (DATE)

ATTEST:

\_\_\_\_\_  
Robin A. Griffith  
Clerk of the County Council

**FOR BOARDWALK DEVELOPMENT, LLC**

By:  \_\_\_\_\_ (Seal)  
Joseph Reed - Authorized Signatory  
\_\_\_\_\_ 10/26/21 (DATE)

WITNESS:  \_\_\_\_\_

**EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT**

**REHOBOTH SHORES AREA II – IUA993-1**

THIS AGREEMENT (“Agreement”), made this 27<sup>th</sup> day of OCTOBER 2021, by and between:

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

LLC  
NANTICOKE SHORES ASSOCIATES, ~~INC.~~ A Delaware Corporation and developers of a project known as **Rehoboth Shores Area II**, hereinafter called the “Developer.”

**WITNESSETH:**

**WHEREAS**, Developer is developing a tract of land identified as Tax Map parcels 335-12.06-1.00 to be known as **Rehoboth Shores Area II** (“Project”) and;

**WHEREAS**, the Project is within the boundary of the Sussex County Unified Sanitary Sewer District (Long Neck 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 57.00 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 \$46,439.00 for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution must be submitted at the time of execution of the 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.

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 **P.O. Box 15101 Baltimore MD 21282.**

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

**FOR THE COUNTY:**

{Seal}

By: \_\_\_\_\_  
(President - Sussex County Council)  
\_\_\_\_\_  
(DATE)

ATTEST:

\_\_\_\_\_  
Robin A. Griffith  
Clerk of the County Council

**FOR NANTICOKE SHORES ASSOCIATES INC. jllc**

By: Richard Berman (Seal)  
Richard Berman - Authorized Signatory  
Oct 27, 2021 (DATE)

WITNESS: Jane H.



**EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT**

**Tanager Woods IUA - 1107**

THIS AGREEMENT ("Agreement"), made this 28<sup>th</sup> day of October 2021, by and between:

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

**TANAGER WOODS, LLC** a Limited Liability Corporation and developer of a project known as **Tanager Woods**, hereinafter called the "Developer."

**WITNESSETH:**

**WHEREAS**, Developer is developing a tract of land identified as Tax Map parcels 234-6.00-58.00 & 85.00 be known as **Tanager Woods** ("Project") and;

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

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

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

- (1) Developer is proposing to utilize County's existing collection and transmission capacity by connecting to existing regional infrastructure used by multiple pump stations.
- (2) In exchange for permission to connect up to **173.00** 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 **\$175,998.00** for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution must be submitted prior to beneficial acceptance of the onsite collection system.**
- (5) If the Project (as currently submitted) is amended and County determines in its sole discretion that such amendments materially affect this Agreement, this Agreement may be declared by County to be null and void, and any unused payments made

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

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

- (13) All the terms, covenants, and conditions of this Agreement shall in all respects be governed and construed under and pursuant to the Laws of the State of Delaware without respect to its conflict of law provisions. This Agreement may only be amended, supplemented or modified by a subsequent written agreement executed by all the parties hereto.
- (14) This Agreement and exhibits constitute the final, entire and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties or agreements, whether written or oral, made in connection with the Agreement described herein.
- (15) It is mutually agreed between the parties that no review, approval, acceptance, and/or payment made under this Agreement shall be conclusive evidence of the performance of the Agreement, either wholly or in part, and that no review, approval, acceptance, and/or payment shall be construed as acceptance of defective work by County, nor in any way relieve Developer of its responsibility for the adequacy of its work.
- (16) The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Neither party shall be deemed to have waived any rights under this Agreement unless such waiver is expressly given in writing and signed by the waiving party. No delay or omission on the part of either party in exercising any right shall operate as a waiver of such right or any other right.
- (17) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.
- (18) If any provision of this Agreement shall be deemed invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not render invalid or unenforceable any of the other provisions of this Agreement which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Agreement are hereby deemed to be severable.
- (19) Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is **5950 Symphony Woods Drive, Suite 408, Columbia, Maryland 21044.**

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

**FOR THE COUNTY:**

{Seal}

By: \_\_\_\_\_  
(President - Sussex County Council)

\_\_\_\_\_ (DATE)

ATTEST:

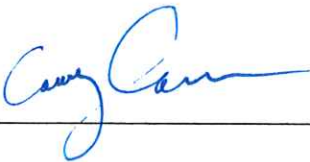
\_\_\_\_\_  
Robin A. Griffith  
Clerk of the County Council

**FOR TANAGER WOODS, LLC**

By:  (Seal)  
Megan Conner -Authorized signatory

10-28-21 (DATE)

WITNESS:

  
\_\_\_\_\_

GINA A. JENNINGS, MBA, MPA  
FINANCE DIRECTOR

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



**Sussex County**  
DELAWARE  
sussexcountyde.gov

## **Memorandum**

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

FROM: Gina A. Jennings  
Finance Director/COO

DATE: November 5, 2021

RE: **Bayhealth Medical Center**  
**Requirements of Section 1479(f) of the Internal Revenue Code**

Bayhealth Medical Center is in the process of issuing tax-exempt revenue bonds to provide financing for eligible costs. The \$103 million in tax-exempt debt will be used with other financing to expand their services in both Sussex and Kent counties.

In order for the bonds to be tax-exempt under the Internal Revenue Code, an elected representative of the governmental unit that has jurisdiction over the area where the facilities are located shall approve the issuance of the bonds after a public hearing.

There is no obligation of the County for these bonds. Approving the issuance only allows the bonds to be considered tax exempt under section 147(f) of the Internal Revenue Code. The bonds are not a debt of Sussex County and do not obligate the County to pay any portion of the bonds. Neither the faith and credit nor the taxing power of Sussex County shall be pledged to the payment of the bonds or any incidental costs.

On Tuesday, we will give the public the opportunity to speak about the bonds. Any comments would then be passed on to the issuing Wisconsin firm. After the public has had the opportunity to speak, Council will then be presented with a resolution that would approve the issuance of the bonds. Both the required IRS notice and resolution are attached for your reference.

Kent County has held a similar hearing since some of the facilities are also located in their county.

Please contact me if you have any questions or concerns.

Attachments



## NOTICE OF PUBLIC HEARING

Sussex County Council will hold a public hearing, as required by Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”), on Tuesday, November 9, 2021, at 10:15 a.m.. in Sussex County Council Chamber, County Administration Building, 2 The Circle, Georgetown, Delaware, with respect to the proposed issuance by the Public Finance Authority (the “Authority”) of its Revenue Bonds, Bayhealth Medical Center Project in one or more series (the “Bonds”), pursuant to a plan of finance, in an amount not to exceed \$103,000,000. The Bonds are expected to be issued pursuant to Section 66.0304 of the Wisconsin Statutes, as amended, by the Authority, a commission organized under and pursuant to the provisions of Sections 66.0301, 66.0303 and 66.0304 of the Wisconsin Statutes, as amended.

The proceeds from the sale of the Bonds will be loaned to Bayhealth Medical Center, Inc. (the “Borrower”) a non-stock, non-profit corporation under the laws of the State of Delaware which is described in Section 501(c)(3) of the Code and exempt from federal income tax under Section 501(a) of the Code and used to finance (a) the payment to or the reimbursement of the Borrower for all or a portion of the costs of acquiring, constructing, renovating, improving and equipping of some or all of the health care facilities described below (the “Project Facilities”) in the maximum estimated amounts and at the locations set forth below and (b) the costs of issuance of the Bonds.

Description of Project Facilities	Address	Estimated Maximum Principal Amount
<b>Sussex County, Delaware</b>		
24-bed acute care unit and C-section suite	Bayhealth Hospital, Sussex Campus located at 100 Wellness Way, Milford, Sussex County, Delaware (“ <u>Sussex Campus</u> ”)	\$19,000,000
On-call rooms and related facilities for Graduate Medical Education Program	Sussex Campus	\$3,400,000
Ambulatory care facility with hybrid freestanding emergency department	Approximately 18 acres of land located along Lewes Georgetown Highway (Route 9) at the intersection of Hudson Road, approximately one mile east of Harbeson Road (Route 5) in Harbeson, Sussex County, Delaware	\$39,000,000
Renovations to Internal Medicine Continuity Clinic	804 N. Dupont Boulevard, Milford, Sussex County, Delaware	\$225,000
<b>Kent County, Delaware</b>		
6 floor expansion of patient care tower and other budgeted capital expenditures	Bayhealth Hospital, Kent Campus located at 640 South State Street, Dover, Kent County, Delaware (“ <u>Kent Campus</u> ”)	\$50,000,000
On-call rooms and related facilities for Graduate Medical Education Program	Kent Campus	\$2,200,000

<b>Description of Project Facilities</b>	<b>Address</b>	<b>Estimated Maximum Principal Amount</b>
Simulation lab for Graduate Medical Education Program	Kent Campus	\$2,500,000
Academic office suite for Graduate Medical Education Program	Kent Campus	\$2,250,000
New endoscopy suite and post anesthesia care unit expansion	Kent Campus	\$5,400,000
Renovation of sterile processing department	Kent Campus	\$4,400,000
Renovation of catheterization laboratory	Kent Campus	\$3,240,000
Reconfiguration of parking lot	Kent Campus	\$1,500,000
Dover Medical Neighborhood-specialty clinical services and administration space.	655 South Bay Road, Dover, Kent County, Delaware	\$39,500,000
Family medicine continuity clinic for Graduate Medical Education Program	1074 South State Street, Dover, Kent County, Delaware	\$4,600,000
Single-story medical office building	16681 S. DuPont Highway, Harrington, Kent County, Delaware	\$3,750,000
Renovations of and an addition to Bayhealth Emergency Center	Bayhealth Emergency Center, 401 N. Carter Road, Smyrna, Kent County, Delaware	\$2,600,000
<b>System-wide</b>		
Enterprise Resource Planning Software	Kent County, Delaware and Sussex County, Delaware	\$7,700,000

The Project Facilities will initially be owned and operated by the Borrower.

The Bonds will be special limited obligations of the Authority payable solely from the loan repayments to be made by the Borrower to the Authority, and certain funds and accounts established by the bond indenture for the Bonds. Debt financings of the Authority are not obligations of Sussex or Kent Counties, the State of Delaware or any political subdivision thereof. Neither Sussex County nor Kent County will have financial liability for the Bonds.

Interested persons will be given a reasonable opportunity to be heard at the aforesaid time and place. Written comments may be submitted in advance by contacting Gina Jennings, Finance Director, Sussex County, Delaware at (302)855-7850. This notice is published in accordance with, the public notice

requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder.

[IF POSTING ON WEBSITE, PLEASE INCLUDE AND COMPLETE THE FOLLOWING:]

Posted: November 1, 2021  
Revised:  
Posted by: Courtland Plummer  
Time: \_\_\_\_11:00 AM  
Take down: Upon Replacement or on November 9, 2021



## SUSSEX COUNTY, DELAWARE

### RESOLUTION

#### **APPROVING, IN ACCORDANCE WITH SECTION 147(f) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, AND IN ACCORDANCE WITH SECTION 66.0304(11)(A) OF THE WISCONSIN STATUTES, THE ISSUANCE OF BONDS TO FINANCE PROJECTS FOR BAYHEALTH MEDICAL CENTER, INC.**

WHEREAS, Bayhealth Medical Center, Inc., a non-stock, non-profit corporation organized under the laws of the State of Delaware (the “Borrower”), has requested the Public Finance Authority, (the “Authority”), a bond issuing commission created under Sections 66.0301, 66.0303 and 66.0304 of the Wisconsin Statutes, to issue tax-exempt revenue bonds (the “Tax-Exempt Bonds”) to provide financing for eligible costs of a project (the “Tax-Exempt Project”) consisting of the acquisition, construction, reconstruction, installation and equipping of some or all of the health care facilities, a portion of which facilities are or will be located in Sussex County, at the sites as described in the notice of public hearing attached hereto as EXHIBIT A; and

WHEREAS, the Borrower has additionally requested the Authority to issue taxable revenue bonds (the “Taxable Bonds” and together with the Tax-Exempt Bonds, the “Bonds”) to provide financing of a project (collectively, the “Taxable Project” and together with the Tax-Exempt Project, the “Project”) consisting of, (a) the acquisition, construction, renovation, improvement, and equipping of some or all of (i) the Borrower’s 50% portion of a two-story, 40-bed rehabilitation hospital to be constructed at the Borrower’s Sussex County Campus and/or (ii) an approximately 80,000 square foot medical office building at the Borrower’s Sussex Campus to be used by employed and private physicians; and (b) other general corporate expenditures, a portion of which expenditures will be used for costs in Sussex County; and

WHEREAS, the Bonds will be special limited obligations of the Authority payable solely from the loan repayments to be made by the Borrower to the Authority, and certain funds and accounts established by the bond indenture for the Bonds; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”) requires that the applicable elected representative of the governmental unit on behalf of which bonds are issued and of each governmental unit having jurisdiction over the area in which any facilities with respect to which financing is to be provided from the net proceeds of such bonds is located, approve bonds after a public hearing in order for a private activity bond to be a qualified bond under the Code; and

WHEREAS, the Sussex County Council is the applicable elected representative of the governmental unit having jurisdiction over the area in which portions of the Tax-Exempt Project are located; and

WHEREAS, in accordance with Section 147(f) of the Code, a public hearing was held in connection with the issuance of the Tax- Exempt Bonds by this Council on November 9, 2021 in Sussex County Council Chamber, County Administration Building, 2 The Circle, Georgetown, Delaware, following the posting of a notice of such hearing on this County’s website not less than 7 days prior to the date of the public hearing and [no comments were received from the general public at such hearing]; and

WHEREAS, pursuant to Section 66.0304(11)(a) of the Wisconsin Statutes, prior to their issuance, bonds issued by the Authority must be approved by the governing body or highest ranking executive or administrator of the political jurisdiction within whose boundaries the project is to be located; and

WHEREAS, the Borrower has requested that the Sussex County Council approve the issuance of the Bonds and the financing of the Sussex County Project in order to satisfy the requirements of Section 147(f) of the Code and the requirements of Section 4 of the Amended and Restated Joint Exercise of Powers Agreement Relating to the Public Finance Authority, dated as of September 28, 2010 (the “Joint Exercise Agreement”), and Section 66.0304(11)(a) of the Wisconsin Statutes.

NOW, THEREFORE, BE IT RESOLVED BY THE SUSSEX COUNTY COUNCIL:

SECTION 1. The issuance of the Tax-Exempt Bonds for the purpose of financing the portions of the Tax-Exempt Project located in the Sussex County is hereby approved for purposes of Section 147(f) of the Code.

SECTION 2. The Sussex County Council hereby approves the issuance of the Bonds by the Authority for the purpose of financing the portions of the Project located in Sussex County. It is the purpose and intent of the Sussex County Council that this Resolution constitute approval of the issuance of the Bonds by Sussex County, which is one of the governmental units having jurisdiction over the area in which the Project is located, in accordance with Section 66.0304(11)(a) of the Wisconsin Statutes and Section 4 of the Joint Exercise Agreement.

SECTION 3. The Bonds are not a debt of Sussex County, the State of Delaware, or any political subdivision thereof and do not, directly, indirectly or contingently, obligate, in any manner, Sussex County, the State of Delaware, or any political subdivision or agency thereof or any political subdivision approving the issuance of the bonds to levy any tax or to make any appropriation for payment of the Bonds or any costs incidental thereto. Neither the faith and credit nor the taxing power of Sussex County, the State of Delaware or any political subdivision

or agency thereof or any political subdivision approving the issuance of the Bonds, shall be pledged to the payment of the principal of, premium, if any, or interest on the Bonds or any costs incidental thereto.

SECTION 4. The foregoing approval is for the purposes of the applicable provisions of the Code, the Wisconsin Statutes and the Joint Exercise Agreement, as aforesaid, and does not constitute approval for any permit, license or zoning required for the construction or occupancy of any facilities to be financed or refinanced as part of the Project.

[Remainder of page left blank intentionally]

SECTION 5. The President of the County Council and the County Administrator, and other personnel, at the direction of such officers, of Sussex County are hereby authorized and empowered to take all such further action, and execute additional documents as they may deem appropriate to carry out the purpose of this Resolution.

SECTION 6. Any resolution or part of any resolution conflicting with the provisions of this resolution is hereby repealed insofar as the same affects this Resolution. This Resolution shall take effect immediately.

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF A RESOLUTION ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 9<sup>th</sup> DAY OF NOVEMBER, 2021.**

---

Robin A. Griffith  
Clerk of the Sussex County Council

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

FROM: John J. Ashman, Sr. Manager of Utility Planning & Design Review  
Hans Medlarz, County Engineer

RE: ***Additional Utilities Public Hearing***  
***Blackwater Village***  
***File: BWV-1.07***

DATE: November 9, 2021

On August 24, 2021 the Engineering Department requested and received County Council approval to prepare and post notices for a public hearing for additional utility services for the Blackwater Village Area (BWV). The hearing was scheduled for October 1, 2021, posted in the area, advertised in the newspaper, published on the County's website and communicated via direct mail to all property owners.

The public hearing was held at the Community Lutheran Church in Omar where the Department presented estimated costs, timelines, and referendum/voting guidelines. The residents in attendance objected to the estimated costs stating that they had no knowledge of these costs prior to submitting the petition. The residents inquired about a path forward without involving a referendum. Upon their inquiry Mr. Medlarz and myself explained that following the Winding Creek Village precedence they could submit notarized letters from at least 50% of the lot owners for County Council's consideration.

To date 147 signed and notarized letters for the revocation of their interest in central water, street lighting and drainage improvements have been submitted. With 268 improved lots in BWV 135 constitute a majority. Based on the number of notarized letters received the Department recommends terminating the process, stop the referendum and proceed with the County Council central sewer project.



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

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

**RE:** *Conley's United Methodist Church*  
*Approval of Purchase Order for Sewer Extension to Historic Chapel*  
*File: ANG 7.18*

**DATE:** November 9, 2021

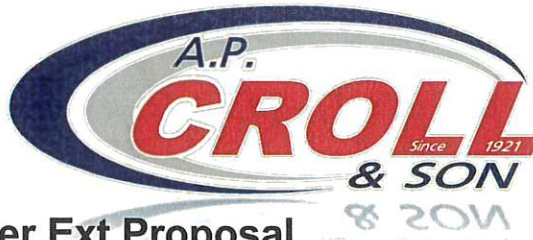
The Engineering Department received a letter from Conley's United Methodist Church Council Chair and Pastor inquiring about the availability and cost of public sewer service for the historic chapel and thrift store. The property in question contains 3.55 acres of land at the intersection of Conley's Chapel Road and Robinsonville Road a large portion of which is the cemetery.

The Department had previously approved construction plans for a residential subdivision known as Beachtree Preserve across Robinsonville Road from the Chapel. The Department was also able to secure a "no cost" easement from the developers extending from the interior right-of-way of Beachtree Preserve where existing sewer is located to Robinsonville Road across from the Chapel.

The Beachtree Preserve project is currently under construction and we solicited a proposal from A.P. Croll & Son, contractor of record, for the Beachtree Preserve project in the amount of \$18,989.25 to install sewer infrastructure for a connection across Robinsonville Road into the existing manhole utilizing the easement. If the work is completed prior to Beachtree's installation of sidewalk, curbing and pavement improvements substantial costs for the installation and repair of the sewer infrastructure could be avoided. Therefore, the Department requests Council's concurrence in the issuance of a purchase order to A.P. Croll & Son in the amount of \$18,989.25.







## Beachtree SCED Sewer Ext Proposal

**From:** A.P. Croll and Son, Inc.  
 P.O. Box 748  
 Georgetown, DE 19947  
 Phone: 302-856-6177  
 Fax: 302-856-3482

**Project:** BEACHTREE SEWER EXT - MH 30  
**Description:** Sewer Extension for Church of Conley's United Methodist, Inc.


**To:** Sussex County Engineering Dept.  
 John Ashman  
 2 The Circle  
 Georgetown, DE 19947

ITEM	DESCRIPTION	BID QTY	U/M	UNIT BID	AMOUNT
01000	Layout & Asbuilt	1.000	LS	1,245.00	\$1,245.00
04545	Tie Into Existing Sewer Manhole	1.000	LS	2,520.00	\$2,520.00
04415	6 Inch SDR-35	150.000	LF	38.45	\$5,767.50
04510	6" Connection Cleanout	1.000	EA	950.00	\$950.00
04500	1 1/4 " FM Bore & Open Cut W/Fittings	165.000	LF	45.95	\$7,581.75
04550	1 1/4" Curb Stop & Box	1.000	DY	925.00	\$925.00
				<b>TOTAL BID:</b>	<b>\$18,989.25</b>

Per attached SCED Plan dated 9/15/21 labelled 234-11.00-49.00 (Beachtree LLC) and notes marked up on plan.

Core existing MH #30 and install sand collar tie-in to accomadate new 6" pipe at top of bench.  
 Install approx. 150 LF +/- SDR35 - 6" Sewer Pipe.  
 Install 6" FM Connection Cleanout  
 Install approx. 165 LF of 1 1/4" DR11 FM via open cut and Bore under Robinsonville Road. No casing required per Rob Bragg with DeIDOT.  
 Install 1 1/4" Curb Stop and Box at Church Property Line.

  
 Submitted by: A.P. Croll & Son, Inc. Date: Oct 28, 2021

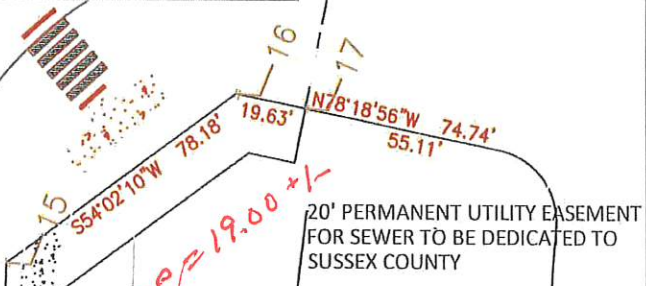
  
 Cond. Accepted by: SCED Date: 11/2/2021

SCR #280B  
 (Ex. 50' R.O.W.  
 a.k.a. Conleys  
 Chapel Road)

# Conley's United Methodist Church Sewer Ext.

55.13'  
 S78°18'56"E 85.14'

EX. 15" RCP  
 EX. 15" RCP  
 EX. BRICK WALL EX. BRICK WALL  
 EX. 15" RCP  
 EX. 15" RCP  
 COMMERCIAL EX. 28" PAVEMENT ENTRANCE ONLY



SSMH- 30  
 RIM: 19.03  
 II: 10.85  
 IO: 10.80  
 DEPTH: 8.23'



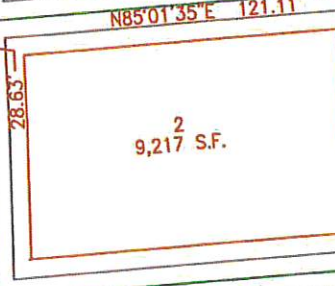
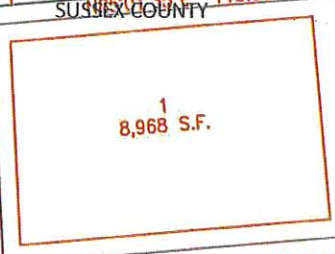
20' TEMPORARY UTILITY EASEMENT FOR SEWER TO BE DEDICATED TO SUSSEX COUNTY

20' UTILITY EASEMENT FOR WATER DISTRIBUTION TO BEWAY TO PROPERTY UTILITIES, AND ESTABLISHED AS PER THIS PLAN  
 TRM# 234-11.00-00.00  
 CHURCH TRUSTEES OF  
 CONLEY'S UNITED  
 METHODIST, INC.

1 1/4" CURB  
 STOP + Box

RD. 277

FR. 10' WIDE SHAPED USE PAIR  
 1 1/4" FM  
 1 1/4" DR 11 165' 4.5' +/-  
 1 1/4" DR 11 165' 4.5' +/-



NOTE: PROPERTY LINES ARE APPROXIMATE AND HAVE NOT BEEN SURVEYED



SUSSEX COUNTY ENGINEERING DEPARTMENT

DATE 9/15/2021

234-11.00-49.00 (BEACHTREE LLC)





## **Council Grant Form**

**Legal Name of Agency/Organization**

Delmarva Clergy United In Social Action Foundation

**Project Name**

DCUSA Christmas Giveaway

**Federal Tax ID**

22-5330018

**Non-Profit**

Yes

**Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)**

No

**Organization's Mission**

DCUSA FOUNDATION MISSION

This proposal is toward providing a mean for residents in local low-income communities to move from dependence towards independence. Delmarva Clergy United in Social Action Foundation, for over a three decades, has provided service to single adolescent parents, youth at risk for negative life outcomes including pregnancy, disease, crime, poverty, homeless and education deprived. DCUSA will be a catalyst in which persons in the community will be able to acquire their education and everyday life skills from our programs. The goals are listed below:

- To improve self-esteem in the community
- To decrease illiteracy
- To help decrease child abuse
- To increase the knowledge and technology skills
- To decrease juvenile crime, alcohol and drugs within the area
- To curtail those individuals that is of low-income and

disadvantaged and improves or enhance the lives of others

The Delmarva Clergy United in Social Action Foundation, is a group of people from all ages and religious affiliations that strive to develop and cultivate the human potential of self-esteem and dignity of all people. We practice the principles of love, caring inclusiveness, justice and peace and to enhance the emotional physical and social well-being of individuals and families in our communities.

The DCUSA Educational Program services Board of Directors believes that there is many factors that are not at work simultaneously that are the root of low-income families and dysfunction in "Ellendale". Poverty is one of the main contributing factors of observed antisocial behavior. Further, they believe these programs as detailed in this proposal, are needed to confront each of these concerns to give people avenues in which they can become independent and further their education gain about themselves and their families.

#### OBJECTIVES

- Improving their education/persons will improve their present skills through GED classes, Computer and Typing classes
- Effective Parenting Seminars for parents and children to improve their interpersonal relationship
- Participants will attend GED program
  
- Transport individuals to designated Educational Facility

#### METHODS

- Increasing the educational opportunities for people in targeting areas to enable them to escape poverty by:

Providing GED classes

Tutorial Program for school age children  
Provide Computer and Typing classes to increase their job opportunity skills  
Provide childcare services for all participants while attending classes  
Provide transportation for persons to get to the educational facility  
Recent dropouts (encouraging them to go back to school and obtain their GED or High School Diploma)

#### JOB TRAINING

- To enhance and motivate individuals to get trained to get qualified job skills by:

Developing Resume  
Positive Attitude  
Counseling  
Speakers

- Reducing substance and alcohol abuse by:

Outreach to substance abusers to them in the program  
Counseling

<b>Address</b>	13726 South Old State Road
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<b>Address 2</b>	
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<b>City</b>	Ellendale
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<b>State</b>	Delaware
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<b>Zip Code</b>	19941
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<b>Contact Person</b>	Helena Gibbs
-----------------------	--------------

<b>Contact Title</b>	Entities COO
----------------------	--------------

<b>Contact Phone Number</b>	3024222350
<b>Contact Email Address</b>	<a href="mailto:info@dcusafoundation.org">info@dcusafoundation.org</a>
<b>Total Funding Request</b>	2000
<b>Has your organization received other grant funds from Sussex County Government in the last year?</b>	Yes
<b>If YES, how much was received in the last 12 months?</b>	2500
<b>Are you seeking other sources of funding other than Sussex County Council?</b>	Yes
<b>If YES, approximately what percentage of the project's funding does the Council grant represent?</b>	33
<b>Program Category (choose all that apply)</b>	Other
<b>Program Category Other</b>	Christmas

<b>Primary Beneficiary Category</b>	Youth
<b>Beneficiary Category Other</b>	
<b>Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program</b>	500
<b>Scope</b>	<p>Let me start by saying that I have witnessed your generosity towards worthwhile projects in Sussex County. Bishop Major Foster and I are currently working on a project providing Christmas Gifts for the younger boys and girls as well as to our teenagers at DCUSA Foundation.</p> <p>As we all are aware COVID-19 has taken a toll on everyone across the nation. Though we are unable to help the entire nation, our focus is still here in Sussex County. Each year we reach out to your organization for support with our yearly Christmas Giveaway. Our goal is to support as many families as we can who is not fortunate as others during this time of year. This year our goal is to go above and beyond the NORM of families we assist, because of the effect COVID-19 has had on the economy.</p> <p>We here at DCUSA Foundation are trying to put a little happiness in as many less fortunate children's lives as we can this year. Would you help us to make our boys and girls happy on this Christmas?</p> <p>We are asking for your assistance in the amount \$2,000.00 to help with this project. This will also help towards providing at least (500) children or more the opportunity to get something that they may benefit from such as Outlet</p>

wear, under garments, coats, hats and a small toy this year for Christmas.

We are hoping you will find this a worthwhile cause at DCUSA Foundation, for this Christmas. If you have any questions, please feel free to contact me at 302-422-2350.

Thank you,

Helena Gibbs Dr. Bishop Major Foster  
Executive Director President/CEO

**Religious  
Components**

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

4,000.00

**Description**

Operating Costs

**Amount**

6,000.00

**Description**

**Amount**

**Description**

**Amount**

**Description**

<b>Amount</b>	
<b>Description</b>	
<b>Amount</b>	
<b>Description</b>	
<b>Amount</b>	
<b>Description</b>	
<b>Amount</b>	
<b>Description</b>	
<b>Amount</b>	
<b>TOTAL EXPENDITURES</b>	6,000.00
<b>TOTAL DEFICIT FOR PROJECT OR ORGANIZATION</b>	-2,000.00
<b>Name of Organization</b>	Delmarva Clergy United In Social Action Foundation
<b>Applicant/Authorized Official</b>	Helena Gibbs
<b>Date</b>	10/14/2021
<b>Affidavit Acknowledgement</b>	Yes

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# SUSSEX COUNTY GOVERNMENT

## GRANT APPLICATION

### SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: Coastal Concerts, Inc. ✓  
PROJECT NAME: 2021-2022 Season Music Scholarships  
FEDERAL TAX ID: 51-0390279 ✓ 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:

Coastal Concerts promotes classical music appreciation through live concerts, outreach, and educational activities. Specifically, Coastal Concerts achieves that mission by:  
Presenting an annual live concert subscription series in a season running from October through March, plus a sixth non-subscription "wild card" concert in April, with discounted admission. These concerts feature world-class professional musicians who concert goers would typically have to travel to large, culturally rich metropolitan areas to hear.  
Offering free admission to all concerts for youths ages 18 and under, including free admission for one adult accompanying each youth, discounted admission is available for students 19 and older as well as for active duty military, military veterans and first responders.  
Sponsoring an annual scholarship competition for musically talented middle and high school students on the Delmarva Peninsula who wish to pursue further musical education or training.  
Collecting donations of used but playable musical instruments for use in the Sussex County instructional music programs, and in other Southern Delaware non-profit instructional music programs for youths.  
Presenting free in-school educational concerts in Sussex County public schools, using professional classical music musicians, usually from our subscription concert series.  
Presenting free or low cost outreach programs, open to the public, to promote the appreciation of classical music.

ADDRESS:

P.O. Box 685

Lewes

(CITY)

Delaware

(STATE)

19958

(ZIP)

CONTACT PERSON:

Carol Dennis

TITLE:

Executive Director

PHONE:

410-745--5699

EMAIL:

coastalcarol226@gmail.com

TOTAL FUNDING REQUEST: \$2500

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? \_\_\_\_\_

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? 33%



## SECTION 2: PROGRAM DESCRIPTION

### PROGRAM CATEGORY (choose all that apply)

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Fair Housing                | <input type="checkbox"/> Health and Human Services | <input checked="" type="checkbox"/> Cultural |
| <input type="checkbox"/> Infrastructure <sup>1</sup> | <input type="checkbox"/> Other _____               | <input 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 type="checkbox"/> Low to Moderate Income <sup>2</sup> | <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:

6 expected \_\_\_\_\_

## 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.

Coastal Concerts is pleased to be able to award music scholarships each year to help musically talented middle and high school students continue their music education. Since 2006 we have awarded more than \$47,700 to a total of 47 deserving students in the Delmarva area. For the 2021-22 season, Coastal Concerts will again award scholarships to students in the state with a focus on Sussex County students.

Despite having to cancel our entire 2020-21 season, we were still able to keep our Scholarship Program alive and awarded several scholarships. It is to be noted that Coastal Concerts did not apply for scholarship money last year from the Council, but with the help of several patrons and the Dorothy and Elizabeth Musical Scholarship Fund provided by one of our longtime patrons, we were able to extend scholarships this past year to a number of very talented students, two of whom were from Sussex County. Eighteen students auditioned this past year (a record number) and a total of \$5,000 was awarded to eight of the students.

While our annual scholarship is just one element of Coastal Concerts' comprehensive commitment to promoting classical music appreciation, other initiatives include school-based performances by professional concert artists, free youth and discounted student admission to concerts, free community lectures and performances and collection of gently used but playable musical instruments for donation to local schools. The "Toot Your Own Horn" Program will allow instruments to be placed in the hands of those students who might not otherwise be able to afford them.

With your support and the support of other donors this year, we hope to raise the total amount of available scholarship money to \$6,000 that would allow us to reach more students in Sussex County and other areas of the state.

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.

N/A



### SECTION 4: BUDGET

<b>REVENUE</b>	
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	
<b>TOTAL REVENUES</b>	6,000.00
<b>EXPENDITURES</b>	
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. <b>(Put amounts in as a negative)</b>	approximately 6 scholarships @an average of \$1,000 each.
Expected Scholarships	-\$ 6,000.00
<b>TOTAL EXPENDITURES</b>	-\$ 6,000.00
<b>TOTAL DEFICIT FOR PROJECT OR ORGANIZATION</b>	\$ 0.00

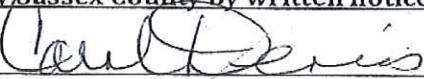
### SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the Coastal Concerts, Inc. 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

10/27/2021

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Witness Signature

10/27/2021

\_\_\_\_\_  
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.

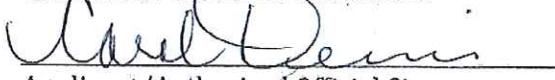
For non-religious organizations, all accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.

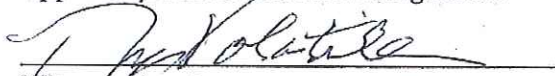
For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before funding is released. Grant is relinquished if supporting documentation is not provided within one year of County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

  
Applicant/Authorized Official Signature

  
Witness Signature

Executive Director

Title

10/27/2021

Date

## Council Grant Form

<b>Legal Name of Agency/Organization</b>	Urban Youth Golf Program Association ✓ <del>First Tee Delaware</del>
<b>Project Name</b>	First Tee School Program
<b>Federal Tax ID</b>	33-1103722 ✓
<b>Non-Profit</b>	Yes
<b>Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)</b>	No
<b>Organization's Mission</b>	First Tee – Delaware is a local chapter of First Tee National youth development organization introducing the game of golf and its inherent values to young people. We help shape the lives of young people from Delaware and the Tri-State area by providing in school and after-school educational programs that build character, instill life-enhancing values and promote healthy choices through the game of golf.
<b>Address</b>	First Tee – Delaware Ed Oliver Golf Club
<b>Address 2</b>	800 North DuPont Road
<b>City</b>	Wilmington
<b>State</b>	DE
<b>Zip Code</b>	19807
<b>Contact Person</b>	Scott Allen

**Contact Title** Senior Southern Delaware Coordinator

**Contact Phone Number** (703) 861-9818

**Contact Email Address** [ScottTFTDE@gmail.com](mailto:ScottTFTDE@gmail.com)

**Total Funding Request** \$1,200

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

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

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

**If YES, approximately what percentage of the project's funding does the Council grant represent?** 12

**Program Category (choose all that apply)** Educational

**Program Category Other**

**Primary Beneficiary Category** Youth

**Beneficiary Category**

**Other**

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

900

**Scope**

The Physical Education Budget in many public schools have been cut and PE teachers are looking for safe, fun activities to use during a pandemic. The First Tee is a national non-profit with over 150 chapters across the country. Our First Tee - Delaware ([www.firstteedelaware.org](http://www.firstteedelaware.org)) chapter has made a significant investment in growing our programs in southern Delaware. We use golf as a vehicle to deliver our Life Skills curriculum to over 20,000 youth statewide. The First Tee School Program incorporates our revolutionary golf and life skill curriculum with national and state PE standards to make golf a part of the PE curriculum at Sussex County schools. Are curriculum is currently being used in 18 schools in the Cape, Henlopen, Indian River, Laurel, and Woodbridge School District. We are currently speaking with the Seaford and Indian Rive School Districts. The First Tee picks up a size-able portion of the program costs (75%). We then work individual schools to help them raise the remaining 25% if that money is not currently in their budget. A grant from Sussex County would help us make up the difference for 3 additional schools in Sussex County.

**Religious Components**

**Please enter the current support your organization receives for this project (not entire organization**

13,500.00



revenue if not applicable to request)

**Description** First Tee School Curriculum including equipment bag for 48 students and on-line training, support, and continuing education . Six bags at \$3,000 per bag, shared by two schools

**Amount** 18,000.00

**Description**

**Amount**

**Description**

**Amount**

**Description**

**Amount**

**Description**

**Amount**

**Description**

**Amount**

**Description**

**Amount**

**Description**

**Amount**

**TOTAL EXPENDITURES** 18,000.00

**TOTAL DEFICIT FOR PROJECT OR ORGANIZATION** -4,500.00

**Name of Organization** First Tee - Delaware

**Applicant/Authorized Official** W. Scott Allen

**Date** 10/29/2021

**Affidavit Acknowledgement** Yes

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## **Council Grant Form**

**Legal Name of Agency/Organization**      Sussex Technical High School ✓

**Project Name**      Health Sciences STEM Tour

**Federal Tax ID**      516000279 ✓

**Non-Profit**      Yes

**Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)**

No

**Organization's Mission**

Sussex Technical High School's mission is to ensure career and technical education growth and academic growth. To support Sussex Tech's mission, we have a group of twenty-one students who will travel to Europe to study the medical system in Scotland and England. The Health Sciences STEM tour will provide students opportunities for additional technical and academic growth during the summer by providing them with the opportunity to discover Edinburgh, Scotland's rich medical history. While in Scotland, students will investigate anatomical artifacts and medical innovations at the Surgeons' Hall Museum. Students will meet with a British medical professional to learn more about the healthcare system in Europe. Sussex Tech plans to maintain a high-quality workforce, which this STEM tour will foster in our students. When students participate in this STEM tour, they will learn about the medical system in Scotland and England and visit the oldest medical institution in the English speaking world. As instructors at Sussex Tech, we developed this Health Sciences STEM Tour to support the

mission of the high school, and with special consideration of missed opportunities for students during the pandemic.

<b>Address</b>	17099 County Seat Highway
<b>Address 2</b>	
<b>City</b>	Georgetown
<b>State</b>	Delaware
<b>Zip Code</b>	19947
<b>Contact Person</b>	Michele Thomas
<b>Contact Title</b>	Science Instructor
<b>Contact Phone Number</b>	302-448-6369
<b>Contact Email Address</b>	<a href="mailto:michele.thomas@sussexvt.k12.de.us">michele.thomas@sussexvt.k12.de.us</a>
<b>Total Funding Request</b>	\$1400.00
<b>Has your organization received other grant funds from Sussex County Government in the last year?</b>	No
<b>If YES, how much was received in the last 12 months?</b>	N/A

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

Yes

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

1.1

**Program Category (choose all that apply)**

Cultural, Educational, Health and Human Services

**Program Category Other**

**Primary Beneficiary Category**

Youth

**Beneficiary Category Other**

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

26

**Scope**

During the summer of 2022, twenty-one Sussex County high school students interested in allied health fields and five adult chaperones will travel to Scotland and England to trace the history of medicine in the English speaking world. We request funds for a school bus to transport our group which will ensure each students participation in this tour.



During the 2020-21 school year, students were not able to attend school with their peers and had to suffer with remote activities and learning topics like the bones and markings of the skeletal system via computer. During the pandemic, students did not have the same educational opportunities that students in other school years have had. For example, students in Anatomy & Physiology class had to watch a brain dissection on video rather than participating in a hands-on dissection. As instructors for students interested in medicine, we decided to provide our students with a once in a lifetime experience by organizing the Health Science STEM Tour to Scotland and England. Students who participate in this tour will have unique opportunities to supplement their education by engaging in activities centered around medicine. Students will visit numerous historical medical institutions and participate in a variety of activities. While in Europe, students will visit The University of Edinburgh which is the oldest medical institution in the English speaking world, Mary King's Close, The Florence Nightingale Museum, The Surgeon's Hall Museum, The Royal London Hospital and The London School of Medicine and Dentistry. We are very excited to bring this program to our students who missed out on many hands on experiences last year. Over the past two years, students have worked diligently to raise money for this trip by writing grants and fundraising. To ensure that each child is able to participate in this trip, our request is for monies for a school bus to transport our group from Sussex Tech to the Philadelphia airport and then back after the tour. This will ensure that all of the students will arrive at the airport together and that students won't be stranded on the highway in traffic or with mechanical difficulties.

**Religious  
Components**

**Please enter the  
current support your  
organization receives**

78,605.00

for this project (not  
entire organization  
revenue if not  
applicable to request)

**Description** Tour Cost for students and chaperones

**Amount** 121,570.00

**Description** Bus to transport students

**Amount** 1,400.00

**Description**

**Amount**

**Description**

**Amount**

**Description**

**Amount**

**Description**

**Amount**

**Description**

**Amount**

**Description**

**Amount**

**TOTAL EXPENDITURES** 122,970.00

**TOTAL DEFICIT FOR  
PROJECT OR  
ORGANIZATION** -44,365.00

**Name of Organization** Sussex Technical High School

**Applicant/Authorized  
Official** Michele Thomas

**Date** 10/30/2021

**Affidavit  
Acknowledgement** Yes

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**To Be Introduced 11/09/21**

**Council District 3 – Schaeffer  
Tax I.D. No. 334-12.00-16.04  
911 Address: N/A**

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

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 21.62 ACRES, MORE OR LESS**

**WHEREAS, on the 30<sup>th</sup> day of July 2021, a zoning application, denominated Change of Zone No. 1949 was filed on behalf of J.G. Townsend Jr. & Co.; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1949 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2022, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,**

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

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

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

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

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

**To Be Introduced 11/09/21**

**Council District 5 – Rieley  
Tax I.D. No. 333-13.00-5.04  
911 Address: 18667 Little Lane, Delmar**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN IRRIGATION BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 0.65 ACRES, MORE OR LESS**

**WHEREAS, on the 6<sup>th</sup> of August 2021, a conditional use application, denominated Conditional Use No. 2306 was filed on behalf of Amanda Mapp; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2306 be \_\_\_\_\_; and**

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

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

**Section 1. That Chapter 115, Article 115, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2306 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 Gumboro Hundred, Sussex County, Delaware, and lying on the north side of Little Lane approximately 560 feet east of Whaleys Road (S.C.R 62) , and more particularly described in the attached legal description prepared by The Smith Firm, LLC, containing 0.65 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 11/09/21**

**Council District 2 – Green  
Tax I.D. No. 230-26.00-98.00  
911 Addresses: 16848 and 16870 Beach Highway, Ellendale**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONVENIENCE STORE AND FUEL PUMPS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.76 ACRES, MORE OR LESS**

**WHEREAS, on the 11<sup>th</sup> of August 2021, a conditional use application, denominated Conditional Use No. 2307 was filed on behalf of Ellendale Associates, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2307 be \_\_\_\_\_; and**

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

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

**Section 1. That Chapter 115, Article 115, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2307 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 southwest corner of DuPont Blvd. (Route 113) and Beach Hwy. (Route 16), and more particularly described in the attached legal description prepared by the Law Offices of Maull & Maull P.A., containing 2.76 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 11/09/21**

**Council District 3 – Schaeffer  
Tax I.D. No. 235-8.00-62.00  
911 Address: 12537 Coastal Highway, Milton**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REAL ESTATE OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.38 ACRES, MORE OR LESS**

**WHEREAS, on the 13<sup>th</sup> of August 2021, a conditional use application, denominated Conditional Use No. 2309 was filed on behalf of Rockswitch Properties, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2309 be \_\_\_\_\_; and**

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

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

**Section 1. That Chapter 115, Article 115, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2309 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 Broad Creek Hundred, Sussex County, Delaware, and lying on the north side of Coastal Highway (Route 1) approximately 0.14 mile southeast of Deep Branch Road (S.C.R 234), and being more particularly described in the attached legal description prepared by Tunnell & Raysor, P.A., containing 1.38 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 11/09/21**

**Council District 2 – Green  
Tax I.D. No. 133-2.00-38.00  
911 Addresses: 24207 and 24217 DuPont Blvd, Georgetown**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE AND SHOWROOM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 0.65 ACRES, MORE OR LESS**

**WHEREAS, on the 26<sup>th</sup> day of August 2021, a conditional use application, denominated Conditional Use No. 2312 was filed on behalf of G. Fedale; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2312 be \_\_\_\_\_; and**

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

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

**Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2312 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 north side of DuPont Blvd. (Route 113) approximately 730 feet northwest of Speedway Road (S.C.R. 325) and being more particularly described in the attached legal description prepared by Tunnell & Raysor, P.A., said parcel containing 0.65 acres, more or less.**

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

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



**Sussex County**

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## Memorandum

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

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

CC: Everett Moore, County Attorney

Date: November 5, 2021

RE: County Council Report for CU 2265 behalf of Pro Carpet, LLC

---

The Planning and Zoning Department received an application (CU 2265 filed on behalf of Pro Carpet, LLC) for a Conditional Use for parcel 234-21.00-189.00 for a carpet business. The property is within the Agricultural Residential (AR-1) Zoning District and is located at 26315 Miller Street, Millsboro. The parcel size is 0.52 Ac. +/-.

The Planning & Zoning Commission held a Public Hearing on the application on October 14, 2021. At the meeting of October 28, 2021, the Planning & Zoning Commission recommended approval of the application for the 7 reasons and subject to the 9 recommended conditions outlined within the motion (copied below).

Below are the approved minutes from the Planning & Zoning Commission meeting of October 14 and the draft minutes of the October 28, 2021 Planning & Zoning Commission meeting.

Approved Minutes of the October 14, 2021 Planning & Zoning Commission Meeting

### C/U 2265 Pro Carpet, LLC

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CARPET BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.52 ACRE, MORE OR LESS.**

The property is lying on the east side of Miller Street, approximately 0.16 mile north of Mount Joy Rd. (S.C.R. 297). 911 Address: 26315 Miller Street, Millsboro. Tax Parcel: 234-21.00-189.00.

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the Applicant's



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GEORGETOWN, DELAWARE

boundary survey, a copy of the staff analysis, a copy of the DelDOT Service Level Evaluation Response, a copy of a letter from the Sussex County Engineering Department Utility Planning Division, no comments, and no mail returns.

The Commission found that Mr. Juan F. Izara and Mr. Antonio Gomez were present on behalf of their Application; that they are the present owners of Pro Carpet, LLC and agree with the information read into the record by Mr. Whitehouse.

Mr. Robertson asked what the nature of the business was, how many employees and requested a description of the type of property surrounding the area.

Mr. Izara stated that Pro Carpet, LLC is based around all types of flooring; that currently, the business has four employees; that they are applying from the Conditional Use so that their employees may stay on the property for the time the employees are working for them; that at times they hire workers from out of state; that they propose for their employees to be able to stay on their property instead of having to pay for a hotel; that there was a previous complaint from a neighbor for too many vehicles in the driveway; that the number of vehicles is about four to five at a time; that these vehicles are the employees' cars when they report to work; that he was told a Conditional Use is required for the employees to stay at the house on the property; that they do not conduct any business on the proposed property; that no offices are present and no customers are coming to the site; that employees would only stay at the house and two trailers with their company logo would remain on the property.

Mr. Hopkins questioned that the complaint from the neighbor was regarding the number of vehicles in the driveway.

Ms. Stevenson questioned if flooring materials were kept on-site and questioned if Conditional Use was truly needed.

Mr. Izara stated no materials are kept onsite; that they do have a trailer with their company logo parked to the back of the house; that this all began with their neighbor who seemed to become upset with them; that the neighbor was not only upset about the vehicles; that the neighbor had complained about noise of the employees; that the issues were only coming from one person; that this person did not live onsite; that the person was helping to remodel the house; that this was the time the complaints began; that there have been no complaints from the other neighbors; that the complaints only came from one neighbor; now that the house is finished and that individual has left they get along with everyone; that all vehicles on the property were properly tagged; that the neighbor previously complained about the height of the grass being over six inches; that the reason their grass was above six inches was due to their lawnmower breaking down; that they did pay someone else to cut their grass during that time to satisfy their neighbor; that the neighbor then began to complain about excessive trash; that they took pictures of their house and property where no trash was present; that their property did not look the way the complaint had been filed with Sussex County; that during this time there were other properties with taller grass than what was on their property; that he did ask the neighbor why his issues only seemed to be with them; that the Planning and Zoning Department explained with a Conditional Use they would no longer have to worry about neighbors complaining about vehicles; that they do own the house and they let their employees live there.

Mr. Whitehouse stated he was reading over the notes from the Sussex County Constable that date back to February 2020; that it did begin as a grass complaint and it was investigated by the constable; that there is a reference to the constable initially investigating to see if there were multiple kitchens present inside the dwelling; that the complaint was resolved and was removed; that the only remaining issue between the constable and the business owners is in regard to the business activity on the property which resulted in the current Application's submission; that it sounds like the Application is solely for residential; that the question would be how many people are living there; that business activity is not being undertaken and he does question the truck storage on the property.

Mr. Wheatley questioned where their place of business or warehouse is located.

Mr. Izara stated they have a warehouse located in Georgetown by the airport; that this location is where they keep all their materials; that they do not have an office; that they do not sell the floor to customers; that Creative Floorings hires Pro Carpet, LLC to do all their flooring; that Creative Flooring sells all the flooring to the customers; that they do not deal with customers and they have two trailers parked on the property.

Mr. Gomez stated they are subcontractors; that when he started the business in 2006, he was permitted to use his address for his business license; that as the business began to grow they decided to buy the property; that they bought a couple of trucks and hired a few employees and this was the only reason for buying the property.

Chairman Wheatley questioned if Miller Street is a state-maintained or private road or subdivision.

Mr. Whitehouse stated it is a subdivision; that it is the Cordrey Subdivision; that Planning and Zoning staff looked at the history of the subdivision; that it was previously reviewed and approved by the Planning and Zoning Commission in the early 1970s; that staff did check to see if there were any deed restrictions related to it; that staff could not locate any restrictions; that based on the year, it was before the creation of homeowner associations (HOA); that it was only a subdivision plot showing the creation of the lots and they are private streets.

Chairman Wheatley stated his predecessor before him, once told him, for a long time, the Planning and Zoning Commission, has had the policy they do not approve conditional uses in subdivisions; that he is uncertain if that is written anywhere and in the past that has been the policy the Commission followed.

Mr. Robertson stated some subdivisions are technically subdivisions, but they are old and have evolved over time; that some subdivisions predate the Zoning Code and he agrees there is a concern in this regard and more often than not approving Conditional Uses within a subdivision is the case.

Ms. Stevenson asked how large the trailers are and how many vehicles are present on the property.

Mr. Gomez stated the trailers are 16-ft. long

Mr. Wheatley stated a homeowner could have a trailer of that size.

Mr. Izara stated the lot to the left side is an empty lot with trees and the lot to the right is where the individual lived who was flipping the house and that is where most of the issues came from.



Mr. Hopkins stated he visited the property, that he noticed a few business trucks located on a different property further up the road; that he questioned if any of the other neighbors, located between the properties, had any concerns; that he questioned if the employees park and take vans from the proposed site or his personal property and mentioned that the property did not look busy when he rode by.

Mr. Izara stated that the property seen having a vehicle with his business logo is where he lives; that the proposed house is for the company; that the other house is his home; that the other neighbors do not have any concerns; that the employees park and take vans from the company property; that the driveway is wide; that employees from out of state will park their vehicles on the side of the driveway leaving enough room for the company vehicles to come and go; that at the maximum there are five vehicles located on the property; that they had tried to do research but could not locate a maximum number of vehicles allowed on private property; that they do not need a sign and they are not interested in making this property a location for business in the future.

Ms. Wingate questioned how many bedrooms the company home has.

Mr. Gomez stated when they first purchased the house it was very big; that this was the reason for the multiple kitchen concern; that they have torn down one portion of the house; that there is currently one kitchen; that originally it had three kitchens; that the house currently has five bedrooms and a big garage.

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

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

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

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

#### Draft Minutes of the October 28, 2021 Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since October 14, 2021.

Ms. Wingate moved that we recommend approval of Conditional Use 2265 for Pro Carpet, LLC, for a carpet business based on the record made during the public hearing and for the following reasons:

1. Although characterized as a conditional use for a carpet business, the main purpose of this application is to allow the Applicant's employees to park their vehicles and trailers on this site.
2. The site is currently occupied by a home, which will continue to be used for residential purposes.
3. No business will be conducted from the site, and there will not be any customers using the site or deliveries made to the site.
4. The Applicant installs carpeting in new homes. All of this work occurs off-site. The employees either live at the home on this property or come to the property to ride together to the off-site jobs that the business has.

5. The use is really not much different than a company employee driving his or her truck home from work each day and then leaving in the morning to go to a job site.
6. The use will not adversely affect neighboring properties, public facilities or roadways.
7. No parties appeared in opposition to this application.
8. This recommendation is subject to the following conditions:
  - a. The use shall limited to parking of vehicles, trailers and equipment associated with the Applicant's carpet business. No business shall be conducted on the site, and no retail sales shall occur on the site
  - b. Although the Applicant's vehicles are permitted to park on the site, no vehicle maintenance shall occur on the site.
  - c. No junked, inoperable or untitled vehicles or trailers shall be located on the site.
  - d. The areas set aside for vehicle parking shall be clearly shown on the Final Site Plan and these areas shall be clearly marked upon the site itself.
  - e. Any dumpsters or trash containers shall be screened from view of neighboring properties and the front roadway.
  - f. Because this is a primarily residential area, no sign shall be permitted.
  - g. No storage of hazardous materials shall be permitted on the site. Any other materials associated with the use shall only be stored indoors.
  - h. Failure to abide by these conditions of approval may be grounds for revocation of this Conditional Use.
  - i. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Hopkins and carried unanimously to recommend approval of C/U 2265 Pro Carpet, LLC for the reasons and conditions stated in the motion. Motion carried 3-0.

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

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JAMIE WHITEHOUSE, MRTPI, AICP  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: October 14<sup>th</sup>, 2021

Application: CU 2265 Pro Carpet, LLC

Applicant: Pro Carpet, LLC  
26315 Miller Street  
Millsboro, DE 19966

Owner: Pro Carpet, LLC  
26315 Miller Street  
Millsboro, DE 19966

Site Location: southeast side of Miller St. approximately 0.16-mile northeast of Mount Joy Road (S.C.R. 297)

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

Proposed Use: Carpet Business

Comprehensive Land Use Plan Reference: Low Density

Councilmanic District: Mr. Schaeffer

School District: Indian River School District

Fire District: Millsboro Fire Department

Sewer: Septic

Water: Well

Site Area: 0.52 acres +/-

Tax Map ID.: 234-21.00-189.00



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



**Sussex County**

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## Memorandum

To: Sussex County Planning Commission Members  
From: Christin Scott, Planner I  
CC: Vince Robertson, Assistant County Attorney and Applicant  
Date: October 7, 2021  
RE: Staff Analysis for CU 2265 Pro Carpet, LLC

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This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2265 Pro Carpet, LLC to be reviewed during the October 14, 2021 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 234-24.00-189.00 to allow for a carpet business. The parcel lying on the east side of Miller Street, approximately 0.16 mile north of Mount Joy Road (S.C.R. 297). The parcels consist of 0.52 acres +/-.

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

As outlined in the 2018 Sussex County Comprehensive Plan, Low Density areas are intended to support agricultural uses and low-density single-family housing. Specifically, the Comprehensive Plan states that single family homes have a density of up to two dwelling units to the acre. It is envisioned that the Low Density Areas allow for businesses that support nearby residents and the agricultural economy. More intense commercial uses could be limited in scale and impact. While residential growth is expected, the Comprehensive Plan intends for the rural landscape to be maintained and for farmland to be preserved in select locations.

The subject property is zoned Agricultural Residential (AR-1). The adjacent properties surrounding the subject site are also zoned Agricultural Residential (AR-1). There are multiple properties further west and east that are zoned General Residential (GR).

Since 2011, there has been one (1) Conditional Use application within a 1-mile radius of the application site. The application was for Conditional Use No. 2186 Mountaire Farms of Delaware, Inc. to allow sludge and wastewater spray irrigation to be located within an Agricultural Residential (AR-1) and General Residential (GR) Zoning District. This application was approved by the Sussex County Council on February 18, 2020. This change was adopted through Ordinance No. 2706.

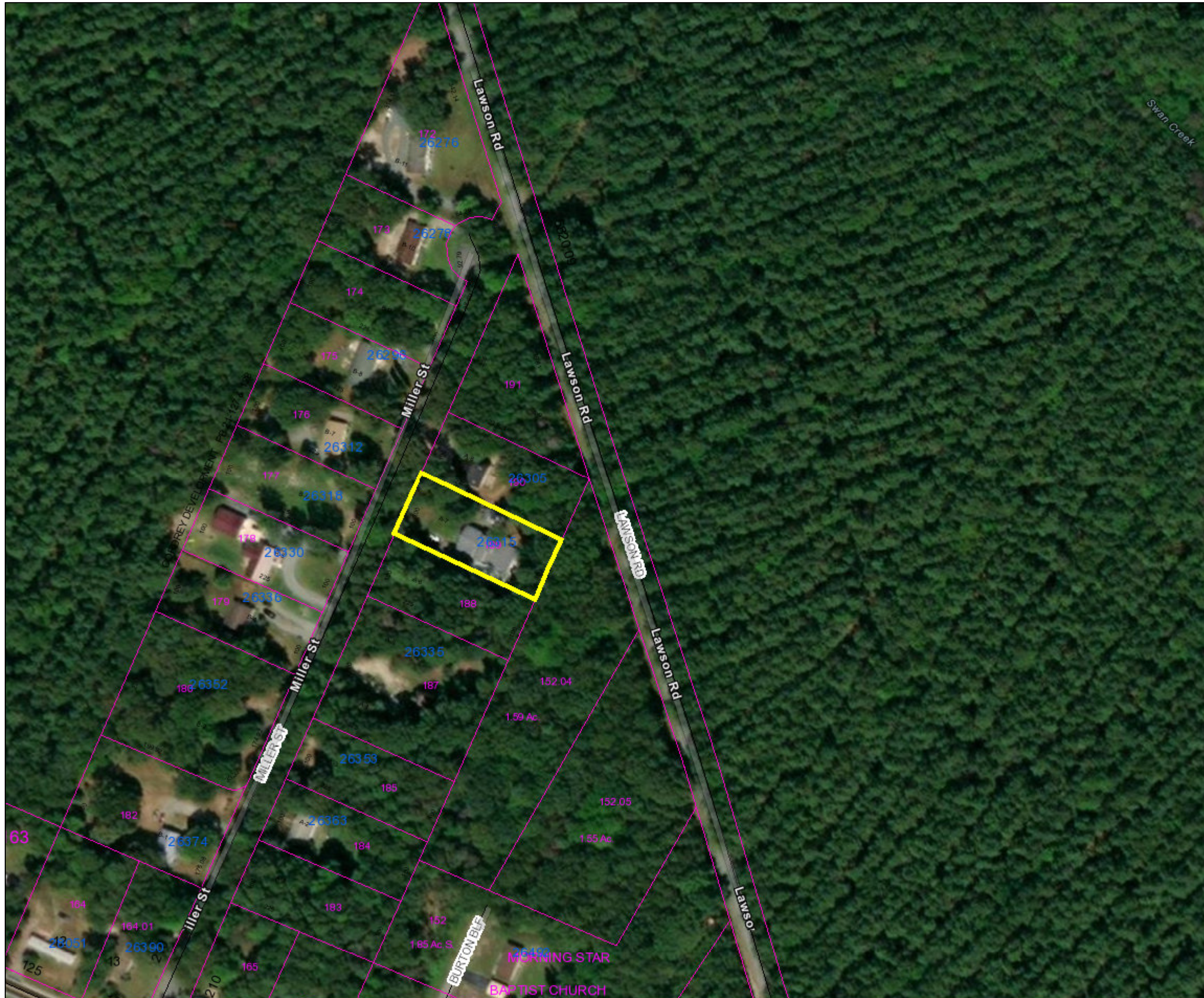


Based on the analysis of the land use, surrounding zoning and uses, the Conditional use to allow for a carpet business, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.





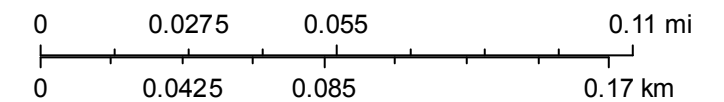
# Sussex County



<b>PIN:</b>	234-21.00-189.00
<b>Owner Name</b>	PRO CARPET LLC
<b>Book</b>	4692
<b>Mailing Address</b>	26315 MILLER ST
<b>City</b>	MILLSBORO
<b>State</b>	DE
<b>Description</b>	CORDREY
<b>Description 2</b>	LOT A7
<b>Description 3</b>	CT#47704
<b>Land Code</b>	

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- Tax Parcels
- 911 Address
- Streets

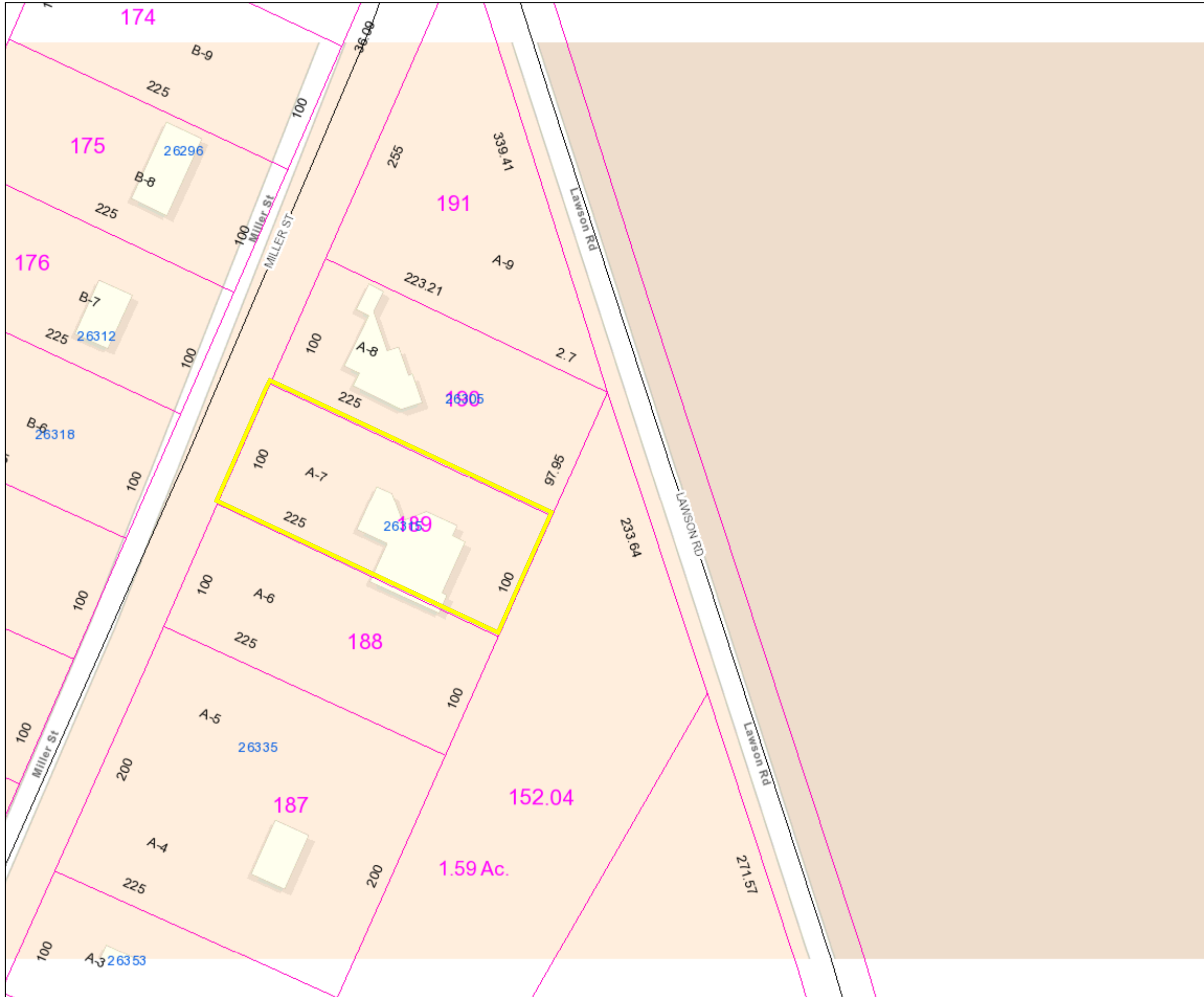
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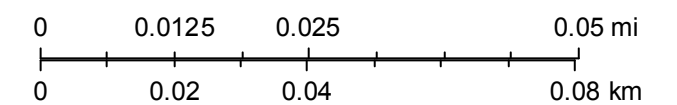
# Sussex County



<b>PIN:</b>	234-21.00-189.00
<b>Owner Name</b>	PRO CARPET LLC
<b>Book</b>	4692
<b>Mailing Address</b>	26315 MILLER ST
<b>City</b>	MILLSBORO
<b>State</b>	DE
<b>Description</b>	CORDREY
<b>Description 2</b>	LOT A7
<b>Description 3</b>	CT#47704
<b>Land Code</b>	

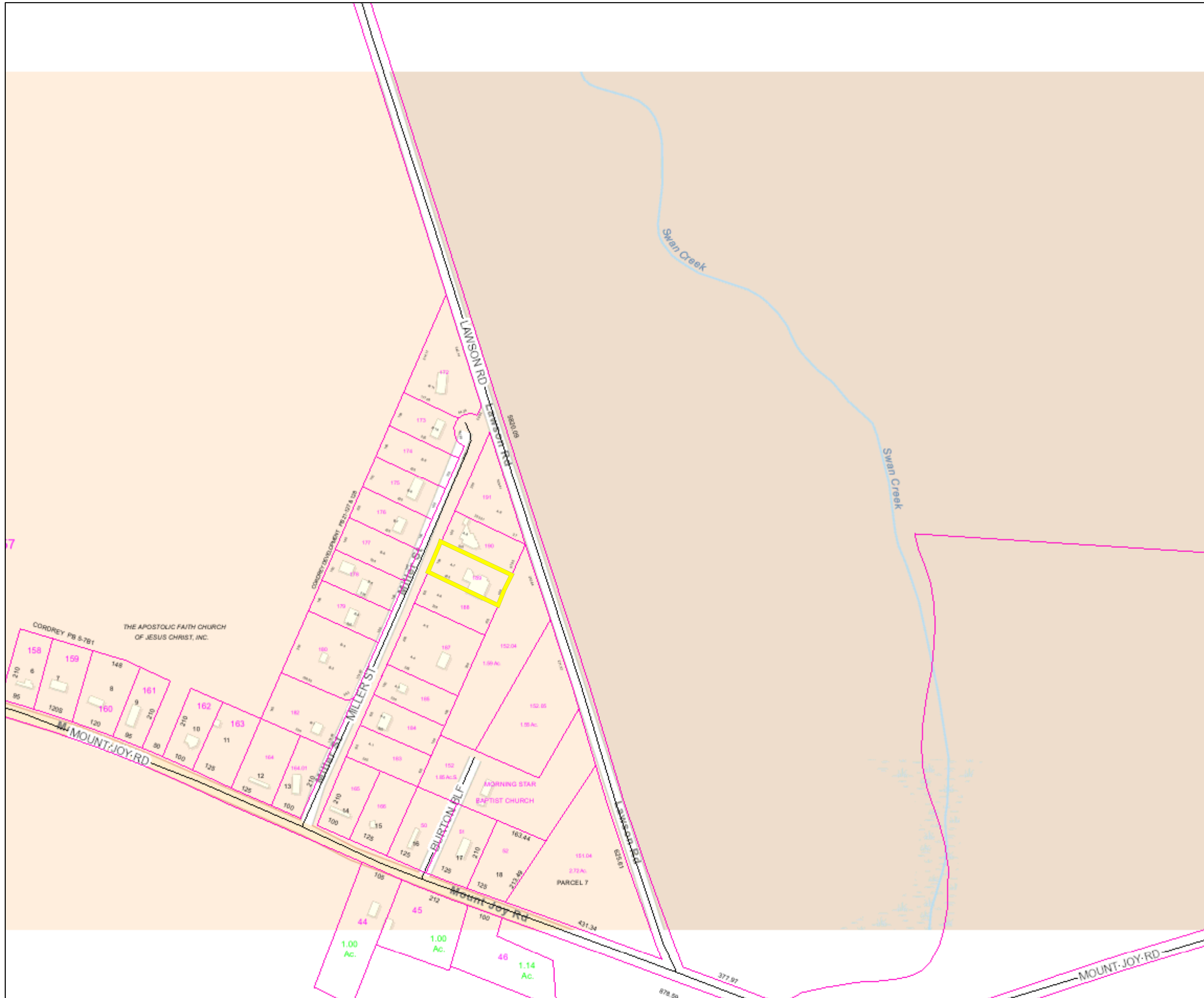
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- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Tax Ditch Segments**
  - Tax Ditch Channel
  - Pond Feature
  - Special Access ROW
  - Extent of Right-of-Way
  - Municipal Boundaries
  - TID

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# Sussex County



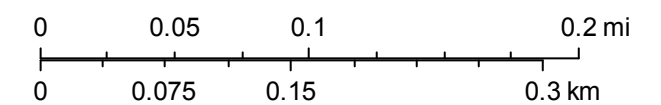
<b>PIN:</b>	234-21.00-189.00
<b>Owner Name</b>	PRO CARPET LLC
<b>Book</b>	4692
<b>Mailing Address</b>	26315 MILLER ST
<b>City</b>	MILLSBORO
<b>State</b>	DE
<b>Description</b>	CORDREY
<b>Description 2</b>	LOT A7
<b>Description 3</b>	CT#47704
<b>Land Code</b>	

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  - Override 1
- Tax Parcels
- Streets

1:4,514





**Introduced 04/20/21**

**Council District: Schaeffer  
Tax I.D. No. 234-21.00-189.00  
911 Address: 26315 Miller Street, Millsboro**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CARPET BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.52 ACRE, MORE OR LESS**

**WHEREAS, on the 2nd day of February 2021, a conditional use application, denominated Conditional Use No. 2265 was filed on behalf of Pro Carpet, LLC, and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2265 be \_\_\_\_\_; and**

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

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

**Section 1. That Chapter 115, Article IV, Subsections 115-22, of the Code of Sussex County, be amended by adding the designation of Conditional Use No. 2265 as it applies to the property hereinafter described.**

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

**ALL that certain tract, piece or parcel of land, lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on east side of Miller Street, approximately 0.16 mile north of Mount Joy Road (S.C.R. 297) and being more particularly described in the attached legal description prepared by Hudson, Jones, Jaywork & Fisher, said parcel containing 0.52 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.**

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

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## Memorandum

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

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

CC: Everett Moore, County Attorney

Date: November 5, 2021

RE: County Council Report for CU 2267 filed on behalf of Cynthia B. Gibbs.

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The Planning and Zoning Department received an application (CU 2267 filed on behalf of Cynthia B. Gibbs) for a Conditional Use for parcel 230-20.00-9.10 for a catering business. The property is within the Agricultural Residential (AR-1) Zoning District and is located at 11420 Hollytree Road, Lincoln. The parcel size is 6.12 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on October 14, 2021. At the meeting of October 28, 2021, the Planning & Zoning Commission recommended approval of the application for the 6 reasons and subject to the 6 recommended conditions outlined within the motion (copied below).

Below are the approved minutes from the Planning & Zoning Commission meeting of October 14 and the draft minutes of the October 28, 2021 meeting.

### Approved Minutes of the October 14, 2021 Planning & Zoning Commission Meeting

#### C/U 2267 Cynthia B. Gibbs

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CATERING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6.12 ACRES, MORE OR LESS.**

The property is lying on the southwest side of Hollytree Road (S.C.R. 226), approximately 0.28 mile southeast of Fleatown Rd. (S.C.R. 224). 911 Address: 11420 Hollytree Road, Lincoln. Tax Parcel: 230-20.00-9.10.



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GEORGETOWN, DELAWARE

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the staff analysis, a copy of the DelDOT Service Level Evaluation response, a copy of the Applicants site plan, a copy of a letter from Sussex County Engineering Department Utility Planning Division; that there have been zero comments received and zero mail returns; that the Planning and Zoning staff has discussed with the Applicant whether this Application is considered a Home Occupation, but base upon the conversations had, and the potential for expansion of the activity, the view was taken that the Application would eventually be a Conditional Use which encouraged the Application.

The Commission found that Ms. Cynthia Brown Gibbs was present on behalf of her Application; that she currently owns a food truck; that she does a lot of business from her food truck; that she desires to begin a catering business due to getting older; that going up and down the stairs could become an issue; that she feels with a catering business she would be more settled; that she would be able to do more and potentially something a little bigger; that these were the main reasons for wanting to start her catering business; that her food truck is only 7x16 and due to the lack of room in the truck it can get a little hectic.

Mr. Hopkins questioned if the request was to perform the same business, she is currently undertaking from her food truck and perform it from the kitchen of her home that she currently lives in; that he questions how many employees she will have; that he questioned how the food is currently delivered; that he questioned how many company vehicles will be needed and questioned if a sign is needed out front.

Ms. Gibbs stated yes, she is requesting to be able to perform the same catering business she currently does from her food truck, from her kitchen within her home; that she currently has one employee; that this employee is necessary as she does not put any more on herself than she can bare; that she does a whole lot on her own so that she knows the job is getting done right; that if she has an event going on, such as the recent Wings & Wheels event, that she preps two weeks in advance to make sure she knows everything has been done right; that the day of the event she does require help; that in the future she may need one more employee; that for right now she does everything on her own aside from large events; that she used to rent a kitchen at the Laurel Flea Market; that after the COVID-19 pandemic she left and did not return; that at that time she did have an employee that helped her on Fridays, Saturdays and Sundays; that she is a reliable and dependable employee; that she currently has one fulltime employee; that when she does festivals she does have other people help her; that mostly she has her one go-to employee; that it is only the two of them right now; that she currently prepares the food and delivers the food with her food truck; that the way she understood the regulations it must be carry-out only; that currently her food truck is a trailer that must be pulled; that it is not something she can drive; that it is a trailer that she converted into a food truck; that she does have to pull the trailer with her own vehicle or have someone pull the trailer for her; that she has purchased a box truck which she will be able to drive herself; that the box truck is currently going through the inspection process; that the box truck would become the delivery truck; that she would like to sell her trailer she is currently using and if she is allowed, she would like to request a lighted sign.

Ms. Stevenson confirmed that no customers would be coming and going from the property and questioned if Ms. Gibbs felt her Application would have any negative impacts on schools, roadways, water, and property values.

Ms. Gibbs stated in the past, there have been times she was in a hurry and did ask customers to pick up their order but for most of the time she delivers all orders; that she is on her food truck three days out of

the week at the new Howard T. Ennis school being built across from Sussex Central High School; that the other two days she watches her Grandson; that she is only on her food truck on Tuesdays, Thursdays, and Fridays; that no customers come to the property for food tastings; that she does not feel her Application will have any negative impacts to nearby schools, roadways, water and property values and she hopes she will have no impact since she lives out in the country.

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

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

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

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

#### Draft Minutes of the October 28, 2021 Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since October 14, 2021.

Mr. Hopkins moved that the Commission recommend approval for Conditional Use 2267 for Cynthia B. Gibbs for a catering business based upon the record made during the public hearing and for the following reasons:

1. Based upon the description of the proposed use made during the public hearing, this use is very nearly a home occupation, as it will occur within the Applicant's residence. Because there may be one or more employees, a conditional use is required.
2. This use will occur within the house on a 6.12-acre property. Except for the catering truck or trailer parked on-site when not in use, it will not even be evident that the catering business will be occurring on the property.
3. No events will be conducted on the property. The Applicant has stated that all of her catered functions occur off-site.
4. The use will not adversely affect neighboring properties or roadways.
5. The use will not require any additional utility services beyond what currently exists for the Applicant's residence on the property.
6. No parties appeared in opposition to this Application.
7. This recommendation is subject to the following conditions:
  - a. The use shall be limited to a catering business. No events catered as part of the Applicant's business shall occur on the site.
  - b. The site shall maintain its residential appearance and the catering business shall be conducted from the home on the property.
  - c. One lighted sign shall be permitted. It shall not be any larger than 32 square feet in size.
  - d. No catered events shall occur on this property.
  - e. The failure to comply with any of these conditions of approval may result in the revocation of this Conditional Use.

- f. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Ms. Wingate and carried unanimously to recommended approval of C/U 2267 Cynthia B. Gibbs for the reason and conditions stated in the motion. Motion carried 3-0.

**PLANNING & ZONING COMMISSION**

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



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JAMIE WHITEHOUSE, MRTPI, AICP  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: October 14<sup>th</sup>, 2021

Application: CU 2267 Cynthia B. Gibbs

Applicant: Cynthia B. Gibbs  
11420 Hollytree Road  
Lincoln, DE 19960

Owner: Cynthia B. Gibbs  
11420 Hollytree Road  
Lincoln, DE 19960

Site Location: southeast side of Hollytree Rd. (S.C.R. 226) approx. 0.28 mile  
southeast of Fleatown Rd. (S.C.R. 224)

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

Proposed Use: Catering Business

Comprehensive Land  
Use Plan Reference: Low Density

Councilmanic  
District: Mr. Schaeffer

School District: Milford School District

Fire District: Ellendale Fire Department

Sewer: Septic

Water: Well

Site Area: 6.12 acres +/-

Tax Map ID.: 230-20.00-9.10



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## Memorandum

To: Sussex County Planning Commission Members  
From: Christin Scott, Planner I  
CC: Vince Robertson, Assistant County Attorney and Applicant  
Date: October 7, 2021  
RE: Staff Analysis for CU 2267 Cynthia B. Gibbs

---

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2267 Cynthia B. Gibbs to be reviewed during the October 14, 2021 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 230-20.00-9.10 to allow for a catering business. The parcel lying on the southwest side of Hollytree Road (S.C.R. 226), approximately 0.28 mile southeast of Fleatown Road (S.C.R. 224). The parcel consists of 6.12 acres +/-.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the parcel has a designation of "Low Density". The surrounding and adjacent parcels to the east and west as well as the north also contain the "Low Density" Future Land Use Map designation. Parcels to the west and southwest have a designation of "Developing Area".

As outlined in the 2018 Sussex County Comprehensive Plan, Low Density areas are intended to support agricultural uses and low-density single-family housing. Specifically, the Comprehensive Plan states that single family homes have a density of up to two dwelling units to the acre. It is envisioned that the Low Density Areas allow for businesses that support nearby residents and the agricultural economy. More intense commercial uses could be limited in scale and impact. While residential growth is expected, the Comprehensive Plan intends for the rural landscape to be maintained and for farmland to be preserved in select locations.

The subject property is zoned Agricultural Residential (AR-1). The adjacent properties surrounding the subject site to the north, south, and east are also zoned Agricultural Residential (AR-1). Parcels to the west are zoned General Residential (GR). A Property further to the west is zoned Heavy Industrial (HI-1).

Since 2011, there has been one (1) Conditional Use application within a 1-mile radius of the application site. The application was for Conditional Use No. 2220 Sussex Land Company, Inc. to allow a fence construction business and outdoor storage of construction material to be located within an Agricultural Residential (AR-1) Zoning District. This application was approved by the Sussex County Council on September 29, 2020. This change was adopted through Ordinance No. 2741.



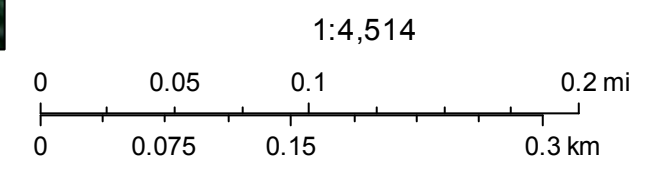
Based on the analysis of the land use, surrounding zoning and uses, the Conditional use to allow for a catering business, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.





<b>PIN:</b>	230-20.00-9.10
<b>Owner Name</b>	BROWN CYNTHIA L
<b>Book</b>	2403
<b>Mailing Address</b>	11420 HOLLY TREE RD
<b>City</b>	LINCOLN
<b>State</b>	DE
<b>Description</b>	RAILROAD MEADOWS
<b>Description 2</b>	LOT 8
<b>Description 3</b>	CT#47622
<b>Land Code</b>	

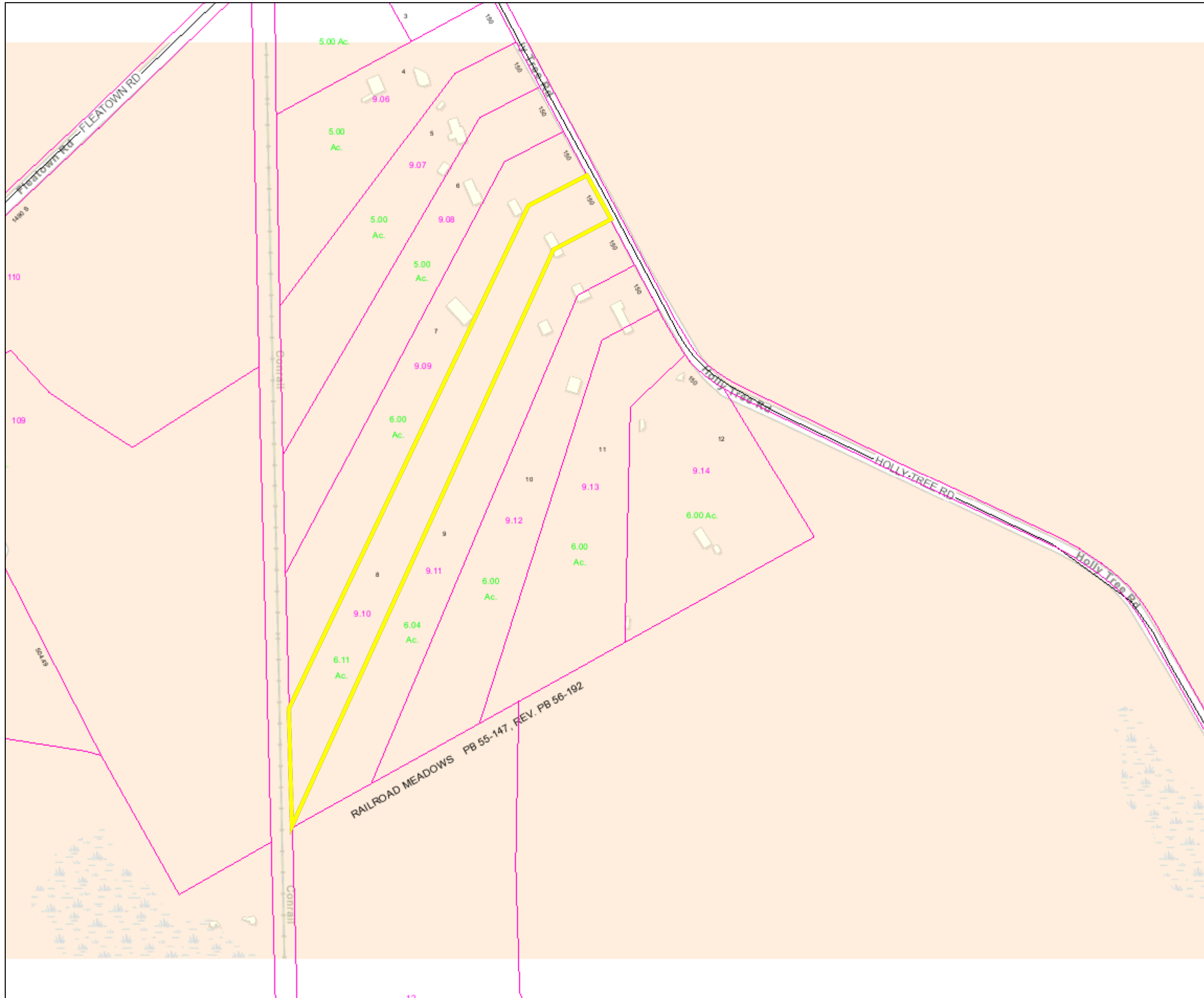
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- Tax Parcels
- Streets
- County Boundaries
- Tax Ditch Segments**  
  - Tax Ditch Channel
  - Pond Feature
  - Special Access ROW
  - Extent of Right-of-Way
  - Municipal Boundaries
  - TID







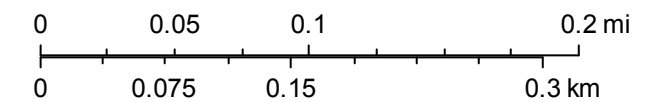
# Sussex County



<b>PIN:</b>	230-20.00-9.10
<b>Owner Name</b>	BROWN CYNTHIA L
<b>Book</b>	2403
<b>Mailing Address</b>	11420 HOLLY TREE RD
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<b>Description</b>	RAILROAD MEADOWS
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<b>Land Code</b>	

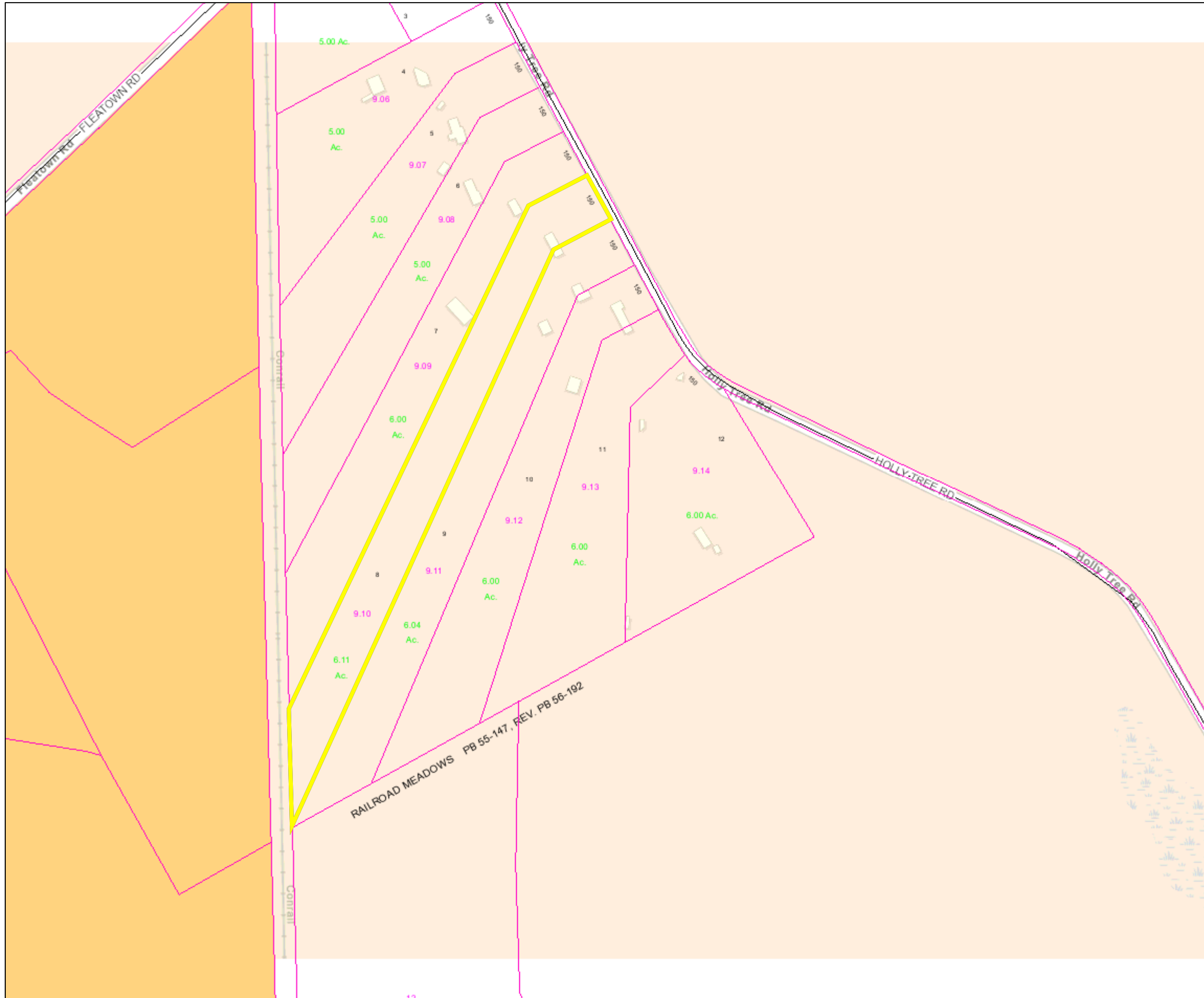
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- Tax Ditch Segments**
- Tax Ditch Channel
- Pond Feature
- Special Access ROW
- Extent of Right-of-Way
- Municipal Boundaries
- TID

1:4,514





# Sussex County



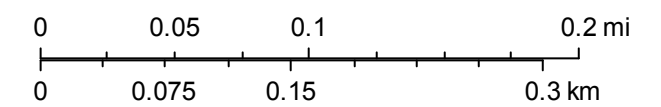
<b>PIN:</b>	230-20.00-9.10
<b>Owner Name</b>	BROWN CYNTHIA L
<b>Book</b>	2403
<b>Mailing Address</b>	11420 HOLLY TREE RD
<b>City</b>	LINCOLN
<b>State</b>	DE
<b>Description</b>	RAILROAD MEADOWS
<b>Description 2</b>	LOT 8
<b>Description 3</b>	CT#47622
<b>Land Code</b>	

- polygonLayer**

  - Override 1
- polylineLayer**

  - Override 1
  - Tax Parcels
  - Streets

1:4,514



**Introduced 08/31/21**

**Council District 3 - Schaeffer  
Tax I.D. No. 230-20.00-9.10  
911 Address: 11420 Hollytree Road, Lincoln**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CATERING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6.12 ACRES, MORE OR LESS**

**WHEREAS, on the 4th day of February 2021, a conditional use application, denominated Conditional Use No. 2267 was filed on behalf of Cynthia Gibbs; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2267 be \_\_\_\_\_; and**

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

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

**Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2267 as it applies to the properties 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 southwest side of Hollytree Road (S.C.R. 226), approximately 0.28 mile southeast of Fleatown Road (S.C.R. 224), and being more particularly described in the attached deed prepared by Autman & Bredt, P.A., said parcel containing 6.12 acres, more or less.**

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

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

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## Memorandum

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

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

CC: Everett Moore, County Attorney

Date: November 5, 2021

RE: County Council Report for CU 2268 filed on behalf of Staci C. and Winfield S. Walls, Jr.

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The Planning and Zoning Department received an application (CU 2268 filed on behalf of Staci C. and Winfield S. Walls, Jr.) for a Conditional Use for parcel 234-33.00-44.00 for a boat shrink wrapping business. The property is within the Agricultural Residential (AR-1) Zoning District and is located at 30600 and 30606 Gull Point Road, Millsboro. The parcel size is 3.97 acres +/-, although the use is proposed to operate within a 2.0-acre area of the parcel.

The Planning & Zoning Commission held a Public Hearing on the application on October 14, 2021. At the meeting of October 28, 2021, the Planning & Zoning Commission recommended approval of the application for the 9 reasons and subject to the 14 recommended conditions outlined within the motion (copied below).

Below are the approved minutes from the Planning & Zoning Commission meeting of October 14 and the draft minutes of the October 28, 2021 meeting.

### Draft Minutes of the October 14, 2021 Planning & Zoning Commission Meeting

#### **C/U 2268 Staci C. & Winfield S. Walls Jr.**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BOAT SHRINK WRAPPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.97 ACRES, MORE OR LESS.** The property is lying on the southwest side of Gull Point Road (S.C.R. 313), approximately 0.52 mile southeast of John J. Williams Highway (Route 24). 911 Address: 30600 & 30606 Gull Point Road, Millsboro. Tax Parcel: 234-33.00-44.00.



Mr. Whitehouse advised the Commission that submitted into the record is a copy of the staff analysis, a copy of the DelDOT Service Level Evaluation Response, a copy of a letter from the Sussex County Engineering Department Utility Planning Division, and one mail return.

The Commission found that Ms. Mackenzie Peet was present on behalf of the Applicant, Staci C. & Winfield S. Walls Jr.; that also present are the Applicants Mr. and Ms. Walls; that Mr. Walls, Jr. also goes by the name of Scott; that the Applicants occupy the home located to the front of the property; that they are before the Commission to request a Conditional Use pursuant to Sussex County Zoning Code 115-22 for the operation of a boat shrink wrapping business as to be operated on a roughly two acre portion of their 3.97-acre property; that the proposed use will be concentrated around their roughly 1,500 sq. ft pole barn which is located to the upper middle portion of the property; that the pole barn is also shown on the survey which has been submitted into the record; that the property is located within AR-1 Agricultural Residential Zoning District; that all surrounding properties are also located within AR-1 Zoning District; that properties located to the north and south are in the MR Medium Residential, HR-2 High Density Residential, and Marine Zoning Districts; that there are two approved Conditional Uses and some properties operating commercial business nearby; that specifically since 2011 two conditional uses were approved within a mile radius of the property; that one approved conditional use was for a construction company that includes storage of materials, retail sales and equipment storage for JB Builders, LLC and a conditional use for the operation of an on premise electronic message center sign, that Harmon's Body Shop is located across the street; that WMF Watercraft & Maine is located nearby at the intersection of Rt. 24 and S.C.R. 312; that the proposed use is less intensive use than business operating nearby; that it is compatible with the surrounding area that is very much boat and marina friendly; that there is a boat dealer operating nearby; that a public boat access ramp is located about one mile down the road; that the Marine District is located just south of the Walls' property; that included in the Walls' submission is a copy of their land use Application, DelDOT's Evaluation Level Response which made the determination that the proposed use impact on traffic is insignificant and no Traffic Impact Study (TIS) was required, a copy of the existing condition survey prepared by Miller Lewis, Inc., a copy of the property information sheet and deed, and aerial images of the property; that the survey and aerial images show that there is a gravel driveway that leads to a roughly 1,500 sq. ft. pole barn; that this is located to the upper middle portion of the property; that the proposed use will be concentrated around the current pole barn on the roughly two acre portion of the property; that this will be identified on a final site plan; that she requested to submit into the record pictures and a proposed set of conditions; that the pictures show that the everything around the proposed site is kept in a clean and presentable appearance at all times; that the Walls' existing home is also located in a manner that serves as a privacy screen to the proposed area of the property from the road; that the Applicant's home will screen the proposed use from the street view; that there is also mature trees and vegetation between the Applicant's property and the adjacent neighbor's property; that all trash receptacles and dumpsters will be located on a site plan and also screened from view; that the proposed hours of operation are Monday through Sunday from 7:00 am until 7:00 pm; that there will be limited equipment on site; that any equipment used will be stored inside the pole barn; that Mr. Walls mostly uses a shrink wrap gun to perform the work; that the Walls' also have no employees presently and do not plan to have employees at this time; that the Walls do not anticipate any more than a half a dozen boats to be brought to the property each day; that the shrink wrapping process normally takes about four hours to perform the service; that Mr. Walls does anticipate some occasional need for temporary storage of boats on the site; that the temporary storage will be in the event he is unable to complete the work on the day that the boat is dropped off; that the

Walls are interested in installing a sign in the future that will comply with the Sussex County regulations; that Section 115-22 of Sussex County Code requires a Conditional Use for a business and commercial uses when the purpose of the AR-1 District is more fully met by issuing a Conditional Use; that the business is compatible with surrounding uses; that all structures are located within the setbacks; that the business operation will be limited to roughly a two acres portion of the property concentrated around the pole barn and all business equipment, materials and boats temporarily stored on the site will be kept in a neat and presentable appearance at all times.

Mr. Mears questioned if the business was for shrink wrapping only; that no work will be performed on the engines or trailers for the boats, and he questioned if there will be any hazardous chemicals stored on the site.

Ms. Peet stated the business is only for shrink wrapping purposes; that there will be no hazardous chemicals stored on-site and this is stated as one of the proposed conditions.

Ms. Wingate questioned what the process is for shrink wrapping, what the noise level would be and confirmed that the boat storage would be temporary.

Ms. Peet stated that in discussions with Mr. Walls he stated the process is relatively quiet; that he would use a shrink wrap gun, place the plastic on and then shrink the plastic around the boat; that the noise is equivalent to running a hairdryer and confirmed the boat storage would only be for temporary purposes.

Mr. Hopkins questioned if there would be any employees.

Ms. Peet stated no, there would be no need for employees.

Chairman Wheatley questioned how many boats would be stored on the property at a time; that his main concern is the turnover of boats; that although a specific boat may only be located on-site for 24-hrs. the Commission needs to be aware of a situation where 12 boats will be located on-site all the time, although it would not be the same 12 boats.

Ms. Peet stated it is hard to say how many would need to be stored on-site as the Walls' have never done this proposed business before; that she would prefer that there not be a condition set restricting the number of boats on site and she would guess maybe no more than 12 boats at a time.

The Commission found that Mr. Scott Walls spoke on behalf of his Application; that he does not anticipate multiple boats needing temporary storage very often; that he anticipates this being more of a seasonal business during September, October, and November; that people will pull their boats out during that time and drop them off for shrink wrapping; that in some cases he will pick up the boats himself, perform the job and return the boat; that situations may arise where with residents from up north or out of state that may need boat storage until the next weekend when they arrive back in the area to pick up their boat; that possibly the temporary storage of boats could be up to one week; that he currently owns two boats and normally has three; that there are four to five family members who keep boats to the back of his property as well; that he has no intention of storing customers boats on his property and he deters this as much as possible.

Chairman Wheatley stated the Commission will have to take some time to give the Application some thought; that a boat being stored on-site for a week does not necessarily concern him, but the number of

boats being stored for a week is more of his concern and he does not want to unintentionally create a boat storage yard.

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

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

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

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

#### Draft Minutes of the October 28, 2021 Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since October 14, 2021.

Ms. Wingate moved that the Commission recommend approval of C/U 2268 for Staci C. and Winfield S. Walls, Jr. for a boat shrink wrapping business within the AR-1 District based upon the record made during the public hearing and for the following reasons:

1. The Applicant seeks approval for a boat shrink wrapping business on approximately 3.97 acres. The use will occur on the same property occupied by the Applicants' residence.
2. The shrink wrapping associated with the use will be performed by the Applicants. According to the Applicants, there will not be any additional employees.
3. The proposed Conditional Use is located near Route 24 and along Gull Point Road near area waterways, docks, boat ramps, and marinas. This is an appropriate location for this type of use.
4. There is a need for the use proposed by the Applicant in this area of Sussex County.
5. This use is limited in nature and will not involve any off-site buildings. Boats will be brought to the site for shrink wrapping and then hauled off-site to wherever they will be stored. There will not be any boat storage on the site other than boats owned by the Applicants and their family.
6. There are other businesses in the area, including WMF Marine, a body shop, and a construction business. This use is consistent with these other small business uses in the area.
7. The project, with the conditions and stipulations imposed upon it, will not have an adverse impact upon the neighboring properties or community.
8. The use as a boat shrink wrapping facility is of a public or semi-public character and is desirable for the general convenience and welfare of residents in this area of Sussex County.
9. No parties appeared in opposition to this Application.
10. This recommendation for approval is subject to the following conditions:
  - a. The use shall be limited to a boat shrink wrapping business only, which shall include temporary storage of boats, materials, and equipment related to the operation of this business. The use shall only occupy a 2.0-acre portion of the



entire property, and that 2.0-acre area shall be shown on the Final Site Plan. This area shall be located to the rear of the site so that it is screened from view of Gull Point Road.

- b. There shall be no retail sales occurring from the site.
- c. No maintenance of boats shall occur on-site.
- d. No unregistered or permanently inoperable boats, trailers, or watercraft shall be stored at this site.
- e. There shall not be any boats permanently stored on this site other than the Applicant's own boats or watercraft.
- f. The hours of operation shall be limited to 7:00 a.m. through 7:00 p.m., Monday through Sunday.
- g. All business-related equipment and materials shall be always kept in a neat and presentable appearance.
- h. The existing landscape buffer shall continue to be maintained between the southern side yard property line and the neighboring property for the entire duration the use is operated on the property. The Final Site Plan shall identify this landscape buffer area.
- i. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
- j. One lighted sign shall be permitted. The sign shall be no larger than 32 square feet per side.
- k. Any dumpsters shall be screened from the view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.
- l. The Applicants shall comply with DelDOT requirements, including any entrance or roadway improvements.
- m. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.
- n. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Hopkins and carried unanimously to recommended approval of C/U 2268 Staci C. & Winfield S. Walls, Jr. for the reason and conditions stated in the motion. Motion carried 3-0.

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

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JAMIE WHITEHOUSE, MRTPI, AICP  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: October 28<sup>th</sup>, 2021

Application: CU 2268 Staci and Winfield Walls

Applicant: Staci and Winfield Walls  
30600 Gull Point Road  
Millsboro, DE 19966

Owner: Staci and Winfield Walls  
30600 Gull Point Road  
Millsboro, DE 19966

Site Location: 30600 Gull Point Road in Millsboro

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

Proposed Use: Boat Shrink Wrapping Business

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Indian River Fire Department

Sewer: Septic

Water: Well

Site Area: 3.97 acres +/-

Tax Map ID.: 234-33.00-44.00



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**Sussex County**

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sussexcountyde.gov

## Memorandum

To: Sussex County Planning Commission Members  
From: Christin Scott, Planner I  
CC: Vince Robertson, Assistant County Attorney and Applicant  
Date: October 7, 2021  
RE: Staff Analysis for CU 2268 Winfield & Staci Walls

---

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2268 Winfield & Staci Walls to be reviewed during the October 14, 2021 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 234-33.00-44.00 to allow for a boat shrink wrapping business. The parcel is lying on the southwest side of Gull Point Road (S.C.R. 313, approximately 0.52 mile southeast of John J. Williams Highway (Rt. 24)). The parcel consists of 3.97 acres +/-.

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

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

The subject property is zoned Agricultural Residential (AR-1). The adjacent properties surrounding the subject site to the north, south, west, and east are also zoned Agricultural Residential (AR-1). Parcels further to the north and south are zoned Medium Residential (MR), High Density Residential (HR-2) and Marine (M) Zoning Districts.

Since 2011, there has been two (2) Conditional Use applications within a 1-mile radius of the application site. The first application was for Conditional Use No. 2019 JB Builders, LLC, to allow for a construction company office, storage of materials, retail sales, and equipment storage and rental to be located within an Agricultural Residential (AR-1) Zoning District. This application was approved by the Sussex County Council on August 4, 2015. This change was adopted through Ordinance No. 2409.



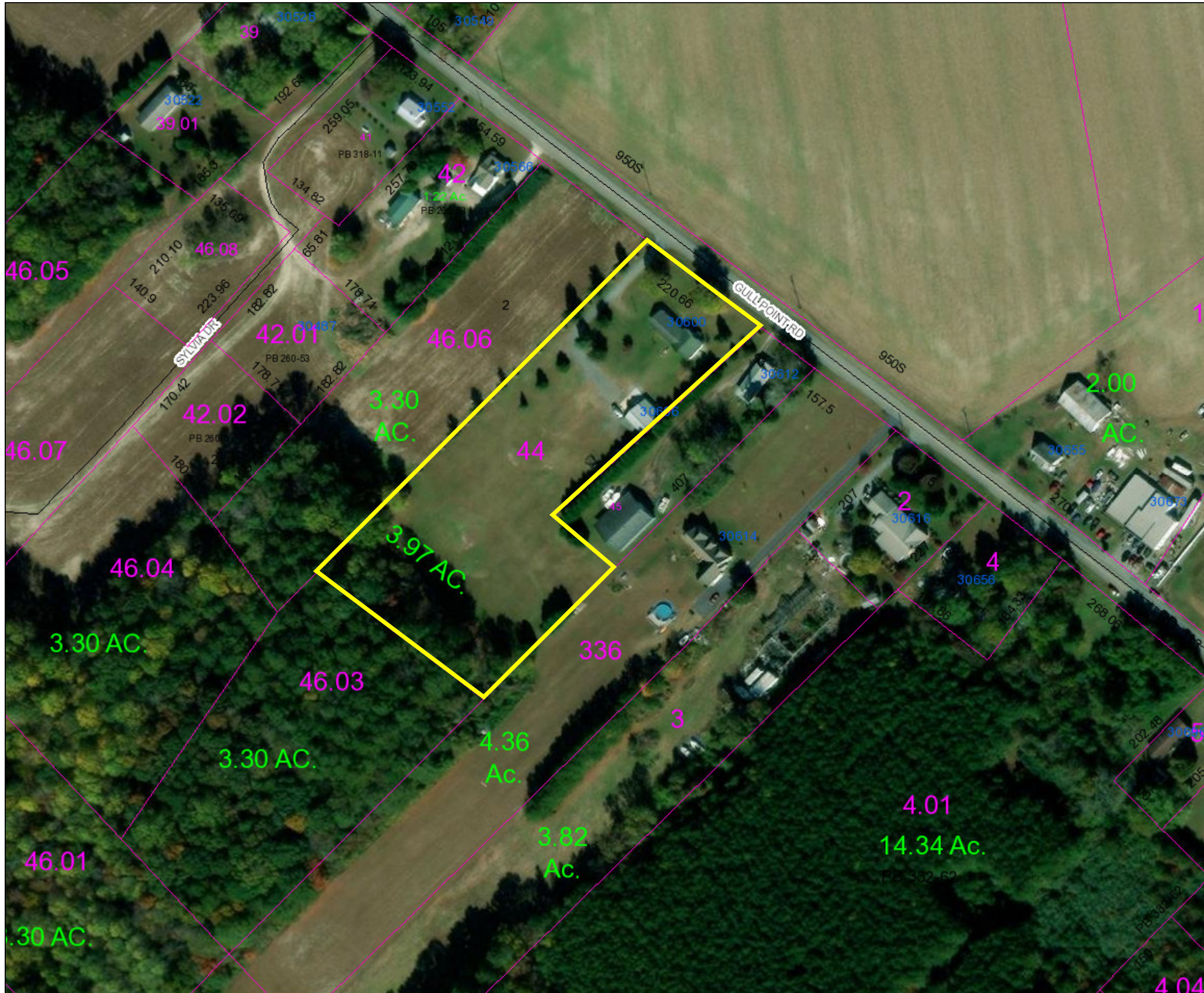
The second application was for Conditional Use No. 2115 Nanticoke Indian Association Inc. to amend a condition of approval to be located within an Agricultural Residential (AR-1) Zoning District. This application was approved by the Sussex County Council on March 13, 2018. This change was adopted through Ordinance No. 2554.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional use to allow for a boat shrink wrapping business, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.



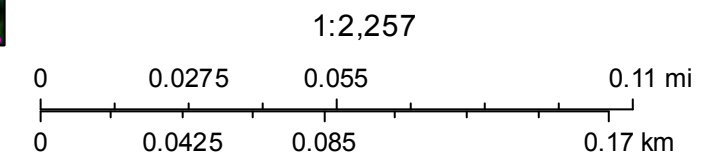


# Sussex County



<b>PIN:</b>	234-33.00-44.00
<b>Owner Name</b>	WALLS WINFIELD S JR & STACI C
<b>Book</b>	2106
<b>Mailing Address</b>	30600 GULL POINT RD
<b>City</b>	MILLSBORO
<b>State</b>	DE
<b>Description</b>	SW/RT 313
<b>Description 2</b>	2750'SE/RT 24
<b>Description 3</b>	N/A
<b>Land Code</b>	

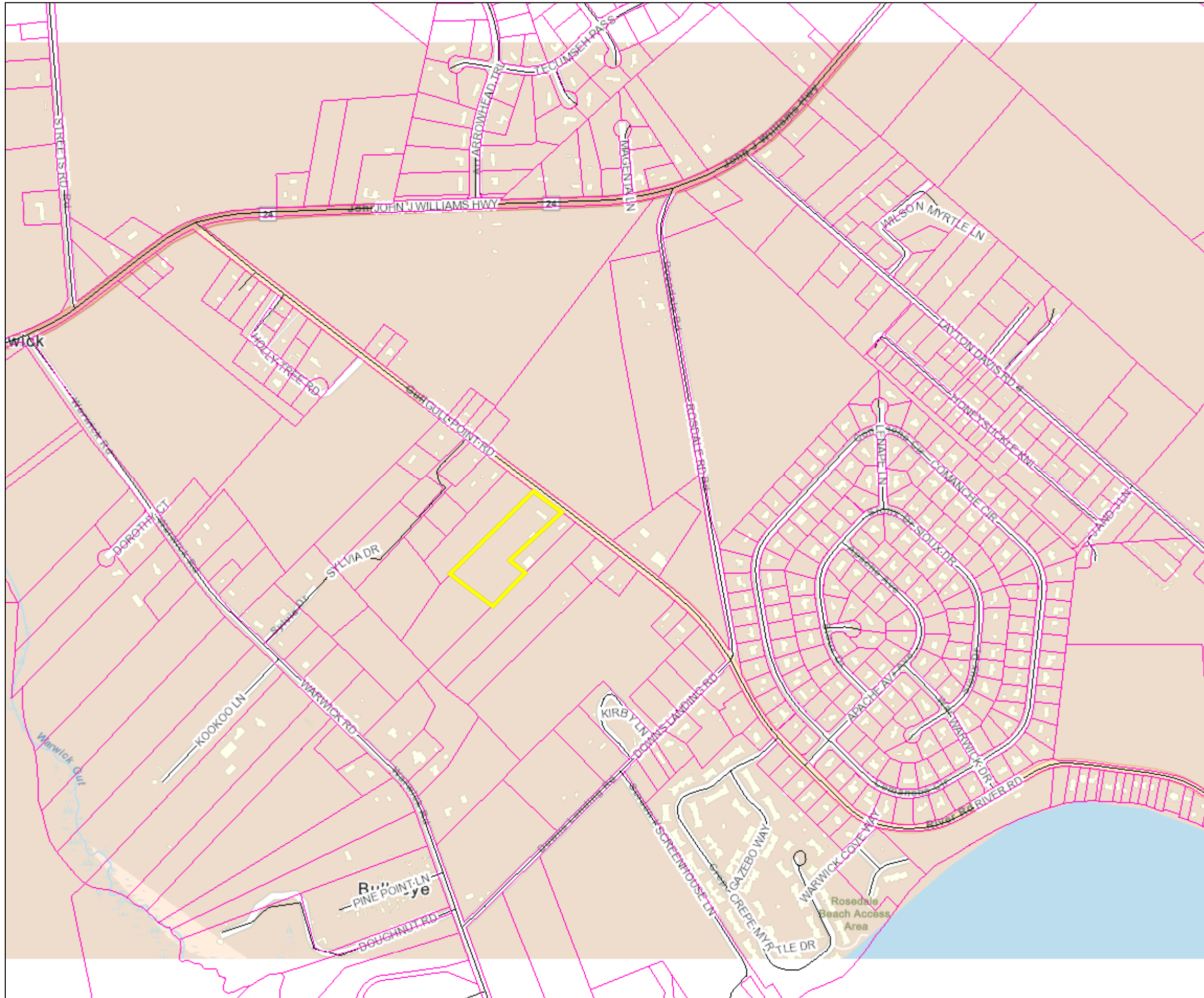
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- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Municipal Boundaries







# Sussex County



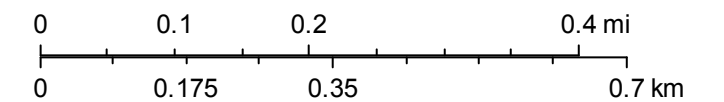
<b>PIN:</b>	234-33.00-44.00
<b>Owner Name</b>	WALLS WINFIELD S JR & STACI C
<b>Book</b>	2106
<b>Mailing Address</b>	30600 GULL POINT RD
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<b>Description</b>	SW/RT 313
<b>Description 2</b>	2750'SE/RT 24
<b>Description 3</b>	
<b>Land Code</b>	

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- polygonLayer**

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  - Streets
  - County Boundaries
  - Municipal Boundaries

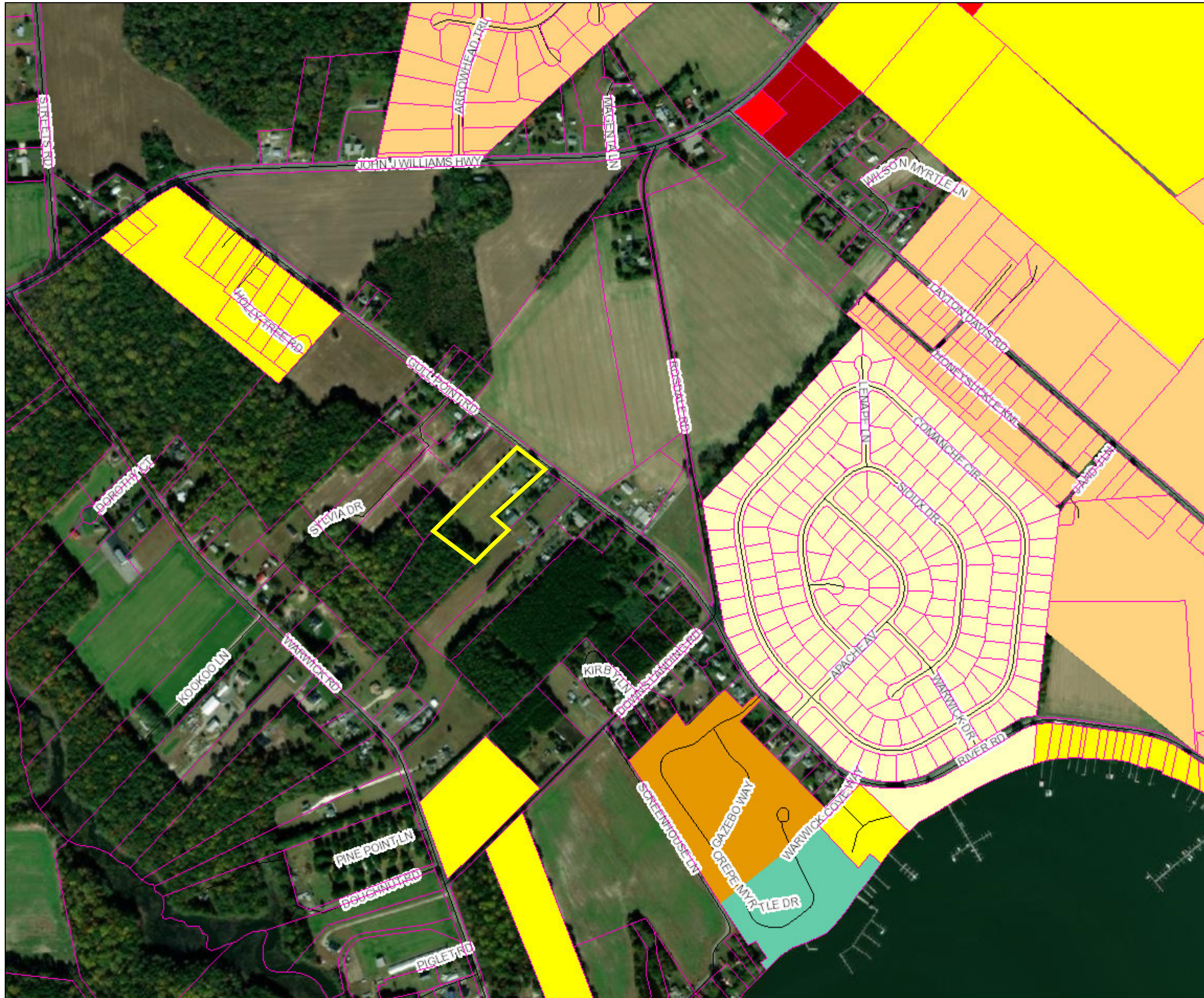
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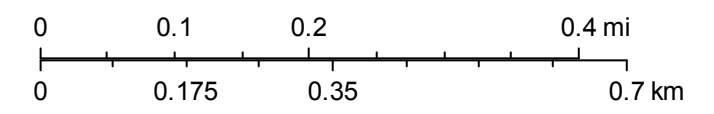
# Sussex County



<b>PIN:</b>	234-33.00-44.00
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<b>Book</b>	2106
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<b>Description 2</b>	2750'SE/RT 24
<b>Description 3</b>	N/A
<b>Land Code</b>	

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

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**Introduced 08/31/21**

**Council District 4 - Hudson  
Tax I.D. No. 234-33.00-44.00  
911 Address: 30600 and 30606 Gull Point Road, Millsboro**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BOAT SHRINK WRAPPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.97 ACRES, MORE OR LESS**

**WHEREAS, on the 4th day of February 2021, a conditional use application, denominated Conditional Use No. 2268 was filed on behalf of Staci C. and Winfield S. Walls, Jr.; and**

**WHEREAS, on the \_\_\_\_\_ day of \_\_\_\_\_ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2268 be \_\_\_\_\_; and**

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

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

**Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2268 as it applies to the property hereinafter described.**

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

**ALL that certain tract, piece or parcel of land, lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the southwest side of Gull Point Road (S.C.R. 313) approximately 0.52 mile southeast of John J. Williams Highway (Route 24) and being more particularly described in the attached legal description prepared by Cordrey & Clark, P.A., said parcel containing 3.97 acres, more or less.**

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

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



**Sussex County**

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## Memorandum

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

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

CC: Everett Moore, County Attorney

Date: November 5, 2021

RE: County Council Report for CU 2269 filed on behalf of Dennis Nelson Jr.

---

The Planning and Zoning Department received an application (CU 2269 filed on behalf of Dennis Nelson Jr.) for a Conditional Use for parcel 531-12.00-129.00 for tractor trailer parking. The property is within the Agricultural Residential (AR-1) Zoning District and is located at 26147 Craigs Mill Rd., Seaford. The parcel size is 2.17 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on October 14, 2021. At the meeting of October 28, 2021, the Planning & Zoning Commission recommended denial of the application for the 7 reasons outlined within the motion (copied below).

Below are the approved minutes from the Planning & Zoning Commission meeting of October 14 and the draft minutes of the October 28, 2021 meeting.

Approved Minutes of the October 14, 2021 Planning & Zoning Commission Meeting

### C/U 2269 Dennis Nelson Jr.

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR TRACTOR TRAILER PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 2.17 ACRES, MORE OR LESS.** The property is lying on the northeast side of Craigs Mill Road (S.C.R. 556), approximately 0.42 mile north of Woodland Road (S.C.R. 536). 911 Address: 26147 Craigs Mill Road, Seaford. Tax Parcel: 531-12.00-129.00.



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

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the DelDOT Service Level Evaluation Response, a copy of the staff analysis, a copy of the Applicant's site plan, a copy of a letter received from Sussex County Engineering Department Utility Planning Division; two letters in objection and one mail return.

The Commission found that Mr. Dennis Nelson Jr. spoke on behalf of his Application; that also present was his wife Ms. Carolyn Nelson; that his business began with only parking the tractor-trailer truck that he was driving on the property; that the business has grown over the past few years and it was brought to his attention that a Conditional Use would be required to park more than one tractor-trailer on the property.

Ms. Wingate questioned how many trucks Mr. Nelson anticipated being parked on the property; that she mentioned when she visited the site, she saw about six trucks on the property with maybe two abandoned trucks as well; she questioned if any maintenance of the trucks would take place on-site and if fuel was delivered to the property; that she questioned what the hours of operations would be

Mr. Nelson stated he anticipated a maximum of six trucks on the property at a time; that he does keep a spare truck on hand; that there are a few trucks he needs to sell; that the main request is to park his trucks on the property; that if he could have permission to work on the trucks on the property that would be beneficial; that fuel is delivered to the property; that all the trucks are owned by him; that the employees that work for him come to his property, pick up the tractor-trailer and run their route; that the hours of operations do vary; that normally the trucks leave between 4:00 am and 6:00 am and return around 4:00 pm Monday through Friday; that there may be an occasional weekend run and he has five employees and himself.

Mr. Mears questioned how the disposal of motor oil is taken care of with the maintenance of vehicles and questioned if there were any other hazardous chemicals kept on the property.

Mr. Nelson stated he takes the motor oil to recycle and that [*inaudible*] is present onsite now and again.

Ms. Stevenson questioned where the maintenance of the trucks is performed and mentioned there have been concerns made regarding the trucks being able to get on and off the property without going off the road.

Mr. Nelson stated he has a four-car garage, but the trucks will not fit inside of it; that he currently keeps all of his tools for working on the trucks inside of the garage; that he is currently renting a shop in town, that the trucks can fit in, to perform maintenance in; that he is unsure how long he will be able to use the location; that in a normal situation the trucks should not go off the road; that he has no trouble getting on and off the property when he is driving his truck; that some trucks do back in but he tries to avoid it and there is a location where the trucks can go onto the property and turn around.

Mr. Hopkins questioned where the location of the turnaround area is and how long Mr. Nelson has lived at the property.

Mr. Nelson stated the trucks go in toward the house, then loop around in front of the garage and come back out; that he has lived at this property for five years; that the business started with only him and he has since added more employees and he has grown faster than he anticipated.

The Commission found that Mr. Joseph Sylvester spoke in opposition to the Application; that he lives around the corner of the proposed property; that he feels Mr. Nelson's business is growing very fast; that his wife is handicap and sometimes goes out to get the mail; that there are also children that live on that road; that the speed limit on the road is 50 mph; that he has clocked the drivers doing 70 mph on that road; that he lives right where the turn is; that he has worked on trucks his whole life; that he knows how hard it is to stop those trucks at times; that his concern is how much bigger will Mr. Nelson's business get before it becomes a nuisance and a problem for the community; that he wishes something could be done within the front entrance of the property as he feels it is currently an eyesore; that there are trucks that have been taken apart sitting out front; that the trucks are tracking mud up and down the road; that the area is agricultural and his main concern is that the issues will only get worse.

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

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

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

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

#### Draft Minutes of the October 28, 2021 Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since October 14, 2021.

Ms. Wingate moved that the Commission recommend denial of Conditional Use 2269 for Dennis Nelson, Jr. for tractor-trailer parking based upon the record made during the public hearing and for the following reasons:

1. This Application was initiated because the Applicant was operating his business from the site without the necessary approvals for it.
2. Although this is identified as an application for tractor-trailer parking, it was revealed at the hearing that the Applicant currently operates his trucking business from the site. Multiple tractor-trailers come and go from the site driven by others. Fuel is delivered to the site. Also, the Applicant is performing repairs to his trucking equipment on the site and keeps several junked trucks on the site that are inoperable or being stripped for parts.
3. This site is not an appropriate location for this type of use. There are no other business or commercial uses in the area and it is surrounded by lands owned by the Nature Conservancy and other environmentally sensitive areas. This is not an appropriate location for this type of industrial use.
4. The property is located on a rural road that is not designed for the regular truck traffic generated by this use. The use would deteriorate these roadways. A use such as this should be

located along a highway or major arterial roadway that is designed and built for heavy truck traffic.

5. Several parties testified in opposition to this use for the reasons outlined in this Motion including concerns about truck traffic, incompatibility with the residential surroundings, environmental concerns, and deterioration of area roadways. I agree with all of these stated concerns.
6. I am not opposed to small businesses and wish them success. In this case, it sounds like the Applicant started a small business with one truck operated by him which has now grown into multiple trucks and drivers. That business growth should be commended. But, the business has outgrown this location, and it should be moved to a more appropriate location.
7. For all of these reasons, I move that we recommend denial of this Conditional Use.

Motion by Ms. Wingate, seconded by Mr. Hopkins and carried unanimously to recommended denial of C/U 2269 Dennis Nelson, Jr. for the reasons stated in the motion. Motion carried 3-0.

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

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JAMIE WHITEHOUSE, MRTPI, AICP  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: October 14<sup>th</sup>, 2021

Application: CU 2269 Dennis Nelson Jr.

Applicant: Dennis Nelson Jr.  
26171 Craigs Mill Road  
Seaford, DE 19973

Owner: Dennis Nelson Jr.  
26171 Craigs Mill Road  
Seaford, DE 19973

Site Location: The property is lying on the northeast side of Craigs Mill Road (S.C.R. 556), approximately 0.42 mile north of Woodland Road (S.C.R. 536).

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

Proposed Use: Tractor Trailer Parking

Comprehensive Land Use Plan Reference: Developing Area

Councilmanic District: Mr. Vincent

School District: Seaford School District

Fire District: Seaford Fire Department

Sewer: Private, On-site (septic)

Water: Private, On-site (well)

Site Area: 2.17 acres +/-

Tax Map ID.: 531-12.00-129.00



JAMIE WHITEHOUSE, AICP MRTPI  
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(302) 854-5079 F  
jamie.whitehouse@sussexcountyde.gov



**Sussex County**

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## Memorandum

To: Sussex County Planning Commission Members  
From: Lauren DeVore, Planner III  
CC: Vince Robertson, Assistant County Attorney and Applicant  
Date: October 7, 2021  
RE: Staff Analysis for CU 2269 Dennis Nelson Jr.

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This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2269 Dennis Nelson Jr. to be reviewed during the October 14, 2021 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 531-12.00-129.00 to allow tractor trailer parking on the property. The parcel is lying on the northeast side of Craigs Mill Road (S.C.R. 556), approximately 0.42 mile north of Woodland Road (S.C.R. 536). The parcel is located at 26171 Craigs Mill Road in Seaford, Delaware and consists of 2.17 acres.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the parcel has a designation of “Developing Area.” The surrounding and adjacent to the north, south, east, and west (on the opposite side of Craigs Mill Road) also contain the “Developing Area” land use designation. The properties on the opposite side of Chapel Branch contain the “Industrial” land use designation.

As outlined within the 2018 Sussex County Comprehensive Plan, Developing Areas are newer, emerging growth areas that demonstrate the characteristics of developmental pressures. Most of the proposed Developing Areas are adjacent to municipalities, within or adjacent to potential future annexation areas of a municipality, or adjacent to Town Centers. – A range of housing types are appropriate in Developing Areas, including single family homes, townhouses, and multi-family units. In selected areas and at appropriate intersections, commercial uses should be allowed. A variety of office uses would be appropriate in many areas. Portions of the Developing Areas with good road access and few nearby homes should allow for business and industrial parks. Appropriate mixed-use development should also be allowed. In doing so, careful mixtures of homes with light commercial and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home.

The subject property is zoned Agricultural Residential (AR-1). The adjacent properties to the north, south and west of the project site are also zoned Agricultural Residential (AR-1). The adjacent property (Parcel 128.00) to the proposed tractor trailer parking is part of a Conservation Easement for Moore Farm. The properties on the opposite side of Chapel Branch, which flanks this property are all zoned Heavy Industrial (HI-1) Zoning District.





Since 1977, there have been two (2) Conditional Use applications within a 2-mile radius of the application site. The first application was for Conditional Use No. 1456 Boyd Taylor to allow for the repair of boats, motors, trailers and the like within the Agricultural Residential (AR-1) Zoning District. The Conditional Use was approved by the Sussex County Council at their meeting of August 3, 2002 and the change was adopted through Ordinance No. 1557-A.

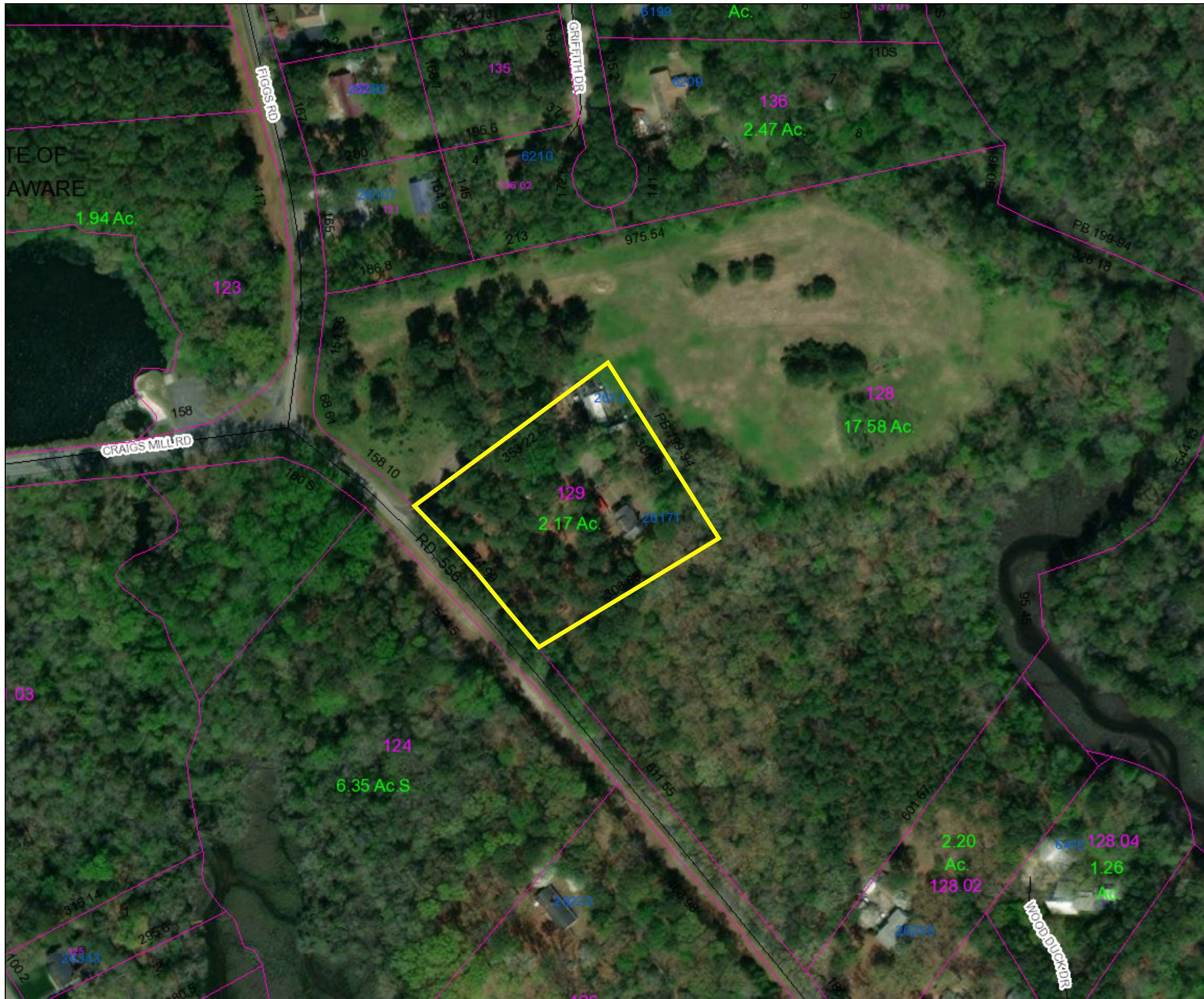
The second application was for Conditional Use No. 415 John Herbert Litchford Jr. to allow for a retail store for the sale of seafood. This application was approved by the Sussex County Council on May 17, 1977.

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



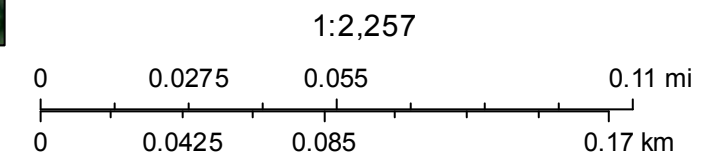


# Sussex County



<b>PIN:</b>	531-12.00-129.00
<b>Owner Name</b>	NELSON DENNIS H
<b>Book</b>	4517
<b>Mailing Address</b>	26171 CRAIGS MILL RD
<b>City</b>	SEAFORD
<b>State</b>	DE
<b>Description</b>	N/CRAIGS MILL RD
<b>Description 2</b>	227'NE/FIGGS RD
<b>Description 3</b>	LOT 1
<b>Land Code</b>	

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







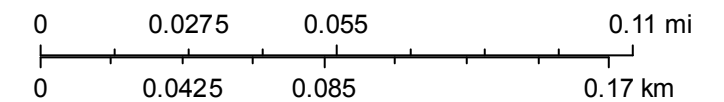
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- Streets
- County Boundaries

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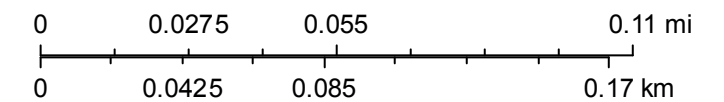
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<b>Land Code</b>	

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

1:2,257



**Introduced 03/23/21**

**Council District 1: Vincent  
Tax I.D. No. 531-12.00-129.00  
911 Address: 26147 Craigs Mill Rd., Seaford**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR TRACTOR TRAILER PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 2.17 ACRES, MORE OR LESS**

**WHEREAS, on the 12th day of February 2021, a conditional use application, denominated Conditional Use No. 2269 was filed on behalf of Dennis Nelson, Jr.; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2269 be \_\_\_\_\_; and**

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

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

**Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2269 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 Seaford Hundred, Sussex County, Delaware, and lying on the northeast side of Craigs Mill Rd. (S.C.R. 556) approximately 0.42 mile north of Woodland Rd. (S.C.R. 536) and being more particularly described in the attached legal description prepared by Brian P. Glancy, Esq., said parcel containing 2.17 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.**