



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

**MEETING:  
November 27, 2018**

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

MICHAEL H. VINCENT, PRESIDENT  
GEORGE B. COLE, VICE PRESIDENT  
ROBERT B. ARLETT  
IRWIN G. BURTON III  
SAMUEL R. WILSON JR.



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ROBIN GRIFFITH  
CLERK

# Sussex County Council

## A G E N D A

NOVEMBER 27, 2018

10:00 A.M.

### Call to Order

### Approval of Agenda

### Approval of Minutes

### Reading of Correspondence

### Public Comments

### Consent Agenda

1. Wastewater Agreement No. 1064  
Sussex County Project No. 81-04  
Middle Creek Preserve - Phase 1  
Angola Neck Sanitary Sewer District
2. Wastewater Agreement No. 1032-1  
Sussex County Project No. 81-04  
Lewes Crossing - Phase 8 (Plan Approval and Construction Record)  
West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District
3. Wastewater Agreement No. 990-5  
Sussex County Project No. 81-04  
Ocean View Beach Club - Phase 3B  
Bethany Beach Sanitary Sewer District
4. Wastewater Agreement No. 638-19  
Sussex County Project No. 81-04  
The Estuary - Phase 2-1 (Construction Record)  
Miller Creek Sanitary Sewer District



**Todd Lawson, County Administrator**

1. 2019 Council Meeting Schedule and Holiday Schedule
2. Administrator's Report

**10:15 a.m. Public Hearing**

**“AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$16,634,748 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE WESTERN SUSSEX REGIONAL SANITARY SEWER DISTRICT PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”**

**10:30 a.m. Public Hearing**

**“AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLE XIX, SECTIONS 115-83.26, 115-83.27, 115-83.31 AND “115 ATTACHMENT 4, SUSSEX COUNTY TABLE IV”**

**Councilman I.G. Burton III**

1. Discussion and possible action related to the Pending Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115 (“ZONING”), ARTICLE III (“PROVISIONS APPLICABLE TO ALL DISTRICTS”), ARTICLE IV (“AR-1 AND AR-2 AGRICULTURAL RESIDENTIAL DISTRICTS”) AND ARTICLE XXV (“SUPPLEMENTARY REGULATIONS”) WITH RESPECT TO THE CALCULATION OF PERMITTED DENSITY”

**Hans Medlarz, County Engineer**

1. South Coastal Library Reading Garden Alterations, Project L19-03
  - A. Change Order 2

**Jim Hickin, Airport Manager**

1. Delaware Coast Line Railroad
  - A. Lease Agreement
  - B. Consent to Sublease

**John Ashman, Director of Utility Planning**

1. Lakeside Annexation of the Sussex County Unified Sanitary Sewer District (Blades Area)
  - A. Request to Post Notices

**Janelle Cornwell, Planning and Zoning Director**

1. Consideration and approval of the response to PLUS comments from the Office of State Planning Coordination regarding the 2018 Comprehensive Plan
2. Consideration and approval of Future Land Use Map within the 2018 Comprehensive Plan
3. Consideration and approval of the Proposed Ordinance entitled “AN ORDINANCE ADOPTING THE 2018 COMPREHENSIVE PLAN FOR SUSSEX COUNTY AND REPEALING ORDINANCE NO. 1980, THE 2007 UPDATE OF THE COMPREHENSIVE PLAN, ADOPTED JUNE 24, 2008”

**Grant Requests**

1. Beacon Middle School for the choir’s travel expenses
2. Beacon Middle School for the band’s travel expenses
3. Good Samaritan Aid Organization for the annual Christmas outreach for needy families
4. Western Sussex Chamber of Commerce for the Seaford Christmas Parade

**Introduction of Proposed Zoning Ordinances**

**Council Members’ Comments**

**Executive Session – Pending Litigation pursuant to 29 Del.C. §10004(b)**

**Possible Action on Executive Session Items**

**1:30 p.m. Public Hearings**

**Change of Zone No. 1860 filed on behalf of Nassau DE Acquisition Co., LLC**  
“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 12.50 ACRES, MORE OR LESS” (lying on the east side of Coastal Highway (Route One) approximately 150 feet north of Old Mill Road, and on the north side of Old Mill Road approximately 708 feet east of Coastal Highway (Route One) (Tax I.D. Nos. 334-1.00-15.00 (portion of) and 334-1.00-15.03) (911 Address: None Available)

**Conditional Use No. 2147 filed on behalf of Nassau DE Acquisition Co., LLC**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 12.50 ACRES, MORE OR LESS” (lying on the east side of Coastal Highway (Route One) approximately 150 feet north of Old Mill Road and on the north side of Old Mill Road approximately 708 feet east of Coastal Highway (Route One) (Tax I.D. Nos. 334-1.00-15.00 (portion of) and 334-1.00-15.03) (911 Address: None Available)**

**Change of Zone No. 1861 filed on behalf of Nassau DE Acquisition Co., LLC**

**“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.662 ACRES, MORE OR LESS” (lying on the east side of Coastal Highway (Route One) approximately 150 feet north of Old Mill Road) (Tax I.D. No. 334-1.00-15.00 (portion of) (911 Address: None Available)**

**Change of Zone No. 1859 filed on behalf of Boardwalk Development, LLC c/o Joseph Reed (Henlopen Meadows)**

**“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND GR GENERAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 60 ACRES, MORE OR LESS” (lying at the southeast corner of Angola Road and Angola Beach Road) (Tax I.D. Nos. 234-12.00-3.00 and 6.00) (911 Address: None Available)**

**Adjourn**

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Sussex County Council meetings can be monitored on the internet at [www.sussexcountycle.gov](http://www.sussexcountycle.gov).

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In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on November 20, 2018 at 4:15 p.m., and at least seven (7) days in advance of the meeting.

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

Agenda items listed may be considered out of sequence.

####

## 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
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# Sussex County

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

BRAD HAWKES  
DIRECTOR OF UTILITY ENGINEERING

November 15, 2018

### **FACT SHEET**

SUSSEX COUNTY PROJECT 81-04  
MIDDLE CREEK PRESERVE - PHASE 1  
AGREEMENT NO. 1064

#### **DEVELOPER:**

Ms. Megan Conner  
BDRP, LLC  
5950 Symphony Woods Drive  
Suite 408  
Columbia, MD 21044

#### **LOCATION:**

Angola Road

#### **SANITARY SEWER DISTRICT:**

Angola Neck Sanitary Sewer District

#### **TYPE AND SIZE DEVELOPMENT:**

54 Single family lots.

#### **SYSTEM CONNECTION CHARGES:**

\$343,440.00

#### **SANITARY SEWER APPROVAL:**

Sussex County Engineering Department Plan Approval  
12/20/17

Department of Natural Resources Plan Approval  
1/17/18

#### **SANITARY SEWER CONSTRUCTION DATA:**

Construction Days – 120

Construction Admin and Construction Inspection Cost – \$24,450.83

Proposed Construction Cost – \$163,005.50



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## ENGINEERING DEPARTMENT

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PUBLIC WORKS	(302) 855-7703
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November 15, 2018

### **FACT SHEET**

SUSSEX COUNTY PROJECT 81-04  
LEWES CROSSING - PHASE 8 (PLAN APPROVAL AND CONSTRUCTION RECORD)  
AGREEMENT NO. 1032 - 1

### **DEVELOPER:**

Megan Conner  
Lewes Crossing Capital Partners, LLC  
12154 Hayland Farm Way  
Ellicott City, MD 21044

### **LOCATION:**

S/Beaver Dam Road (Rd285), 2,500 feet,  
W/Plantations Road (Rd275). West of Salt Marsh  
Blvd.

### **SANITARY SEWER DISTRICT:**

West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District

### **TYPE AND SIZE DEVELOPMENT:**

42 Single Family Lots.

### **SYSTEM CONNECTION CHARGES:**

\$267,120.00

### **SANITARY SEWER APPROVAL:**

Sussex County Engineering Department Plan Approval  
09/05/17

Department of Natural Resources Plan Approval  
10/23/17

### **SANITARY SEWER CONSTRUCTION DATA:**

Construction Days – 90

Construction Admin and Construction Inspection Cost – \$15,967.80

Proposed Construction Cost – \$106,452.00



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RECORDS MANAGEMENT	(302) 854-5033
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# Sussex County

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HANS M. MEDLARZ, P.E.  
COUNTY ENGINEER

BRAD HAWKES  
DIRECTOR OF UTILITY ENGINEERING

November 15, 2018

### **FACT SHEET**

SUSSEX COUNTY PROJECT 81-04  
OCEAN VIEW BEACH CLUB - PHASE 3B SEWER  
AGREEMENT NO. 990 - 5

### **DEVELOPER:**

Mr. Colby Cox  
Windansea, LLC  
172 Center St., Suite 204  
P.O. Box 1686  
Jackson Hole, WY 83001

### **LOCATION:**

North side of Muddy Neck Road East of Beaver  
Dam Road

### **SANITARY SEWER DISTRICT:**

Bethany Beach Sanitary Sewer District

### **TYPE AND SIZE DEVELOPMENT:**

31 Single family lots.

### **SYSTEM CONNECTION CHARGES:**

\$197,160.00

### **SANITARY SEWER APPROVAL:**

Sussex County Engineering Department Plan Approval  
5/29/13

Department of Natural Resources Plan Approval  
07/29/13

### **SANITARY SEWER CONSTRUCTION DATA:**

Construction Days – 28

Construction Admin and Construction Inspection Cost – \$18,653.85

Proposed Construction Cost – \$124,359.00



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ENVIRONMENTAL SERVICES	(302) 855-7730
PUBLIC WORKS	(302) 855-7703
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# Sussex County

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HANS M. MEDLARZ, P.E.  
COUNTY ENGINEER

BRAD HAWKES  
DIRECTOR OF UTILITY ENGINEERING

November 20, 2018

### **FACT SHEET**

SUSSEX COUNTY PROJECT 81-04  
THE ESTUARY - PHASE 2-1 (CONSTRUCTION RECORD)  
AGREEMENT NO. 638 - 19

#### **DEVELOPER:**

Mr. Steve Brodbeck  
Estuary Development, LLC  
8965 Guilford Road, Suite 200  
Columbia, MD 20146

#### **LOCATION:**

Southeast of Double Bridges Rd. and intersected  
by Camp Barnes Rd.

#### **SANITARY SEWER DISTRICT:**

Miller Creek Sanitary Sewer District

#### **TYPE AND SIZE DEVELOPMENT:**

Residential Community consisting of 26 single  
family homes

#### **SYSTEM CONNECTION CHARGES:**

\$165,360.00

#### **SANITARY SEWER APPROVAL:**

Sussex County Engineering Department Plan Approval  
11/06/15

Department of Natural Resources Plan Approval  
11/24/15

#### **SANITARY SEWER CONSTRUCTION DATA:**

Construction Days – 30

Construction Admin and Construction Inspection Cost – \$31,966.49

Proposed Construction Cost – \$213,109.95



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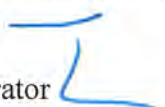
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## **Memorandum**

TO: Sussex County Council  
The Honorable Michael H. Vincent, President  
The Honorable George B. Cole, Vice President  
The Honorable Robert B. Arlett  
The Honorable Irwin G. Burton III  
The Honorable Samuel R. Wilson Jr.

FROM: Todd F. Lawson  
County Administrator 

RE: **2019 MEETING AND HOLIDAY SCHEDULE**

DATE: November 21, 2018

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During Tuesday's meeting, the Council is scheduled to discuss and approve the 2019 Meeting and Holiday Schedule. As in past years, the County will follow the typical holiday schedule and will be closed on the traditional holidays, including:

- New Year's Day
- Martin Luther King Jr. Day
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Election Day
- Veterans Day
- Thanksgiving
- Christmas

Regarding the County Council's meeting schedule, the Council is scheduled to meet every Tuesday except on days affected by a holiday and days selected to not meet, as we have done over the past several years. I will review the full schedule during Tuesday's meeting. Of course, if additional meetings are required, Council can always schedule them.

Please let me know if you have any questions or concerns.



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

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$16,634,748 OF  
GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH  
THE WESTERN SUSSEX REGIONAL SANITARY SEWER DISTRICT PROJECT  
AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION  
THEREWITH**

WHEREAS, pursuant to Title 9, Delaware Code, Section 7001(a) Sussex County (the "County") has "all powers which, under the Constitution of the State, it would be competent for the General Assembly to grant by specific enumeration, and which are not denied by statute" (the "Home Rule Power");

WHEREAS, acting pursuant to its Home Rule Power, and pursuant to Title 9, Delaware Code, Chapters 65 and 67, the County has authorized the design, construction and equipping of the Western Sussex Regional Sanitary Sewer District Project, consisting of the transfer of sewer flows from Bridgeville and Greenwood to the existing City of Seaford sewer system and wastewater treatment facility, utilizing existing and proposed infrastructure to be owned and maintained by the County to serve what will be known as the Western Sussex Sewer District (the "Project");

WHEREAS, pursuant to Title 9, Delaware Code, Section 6706, the County is authorized to issue its bonds and to pledge its full faith and credit thereto, to finance the cost of any object, program or purpose for which the County is authorized to raise, appropriate or expend money under Chapter 67 of Title 9; and

WHEREAS, acting pursuant to the aforesaid authority, the County desires to authorize the issuance of general obligations of the County to finance the costs of the Project and for the other purposes described herein.

NOW THEREFORE THE COUNTY OF SUSSEX HEREBY ORDAINS (AT LEAST FOUR FIFTHS OF THE MEMBERS OF COUNCIL CONCURRING HEREIN):

Section 1. Amount and Purpose of the Bonds. Acting pursuant to Title 9, Delaware Code, Chapters 65 and 67, Sussex County shall issue its negotiable general obligations in the maximum aggregate principal amount not to exceed \$16,634,748 (the "Bonds") to finance or reimburse the County for a portion of the cost of the design, construction and equipping of the Project, with the expectation that up to \$3,200,000 of principal forgiveness will be applied in order to reduce the principal amount of the Bonds outstanding to \$13,434,748 upon Project completion.

The monies raised from the sale of the Bonds (including the investment earnings thereon) after the payment of the costs of issuance, shall be held in one or more Project accounts and shall be expended only for the purposes authorized herein or as may otherwise be authorized by subsequent action by County Council. Authorized purposes include the costs of planning, constructing, acquiring and equipping the Project or any portion thereof; interest on the Bonds and any interim financing during the construction period and for

a period of up to one year following the estimated date of completion; the reasonable costs of issuance of the Bonds and any interim financing; the repayment of temporary loans incurred with respect to the Project; and the reimbursement of authorized costs previously expended by the County from other funds.

Section 2. Security for the Bonds. The principal, interest and premium, if any, on the Bonds may be paid by ad valorem taxes on all real property subject to taxation by the County without limitation as to rate or amount, except as limited by Title 9, Delaware Code Section 8002 (c). Pursuant to Title 9, Delaware Code, Section 6706, the full faith and credit of the County is pledged to such payment. The Bonds shall contain a recital that they are issued pursuant to Title 9, Delaware Code, Chapter 67, which recital shall be conclusive evidence of their validity and of the regularity of their issuance. While the Bonds are backed by the County's full faith and credit, it is expected that the debt service will be paid from revenues of the Western Sussex Sewer District.

Section 3. Terms of the Bonds. The Bonds shall be sold at such prices and upon such other terms and conditions consistent with the provisions of this Ordinance and otherwise as the County Administrator shall determine to be in the best interests of the County. The Bonds shall bear interest at such rate or rates and shall mature in such amounts and at such times, but not exceeding thirty (30) years from the date of completion of the Project, and shall be subject to redemption, as the County Administrator shall determine.

Section 4. Sale of the Bonds. The Bonds may be issued in one or more series and shall be sold in one or more public sales or private negotiated transactions upon such terms and conditions as the County Administrator shall determine shall be in the best interest of the County. It is anticipated that the Bonds will be sold to the State of Delaware Water Pollution Control Revolving Fund (acting by and through the Delaware Department of Natural Resources and Environmental Control) (or any successor agency).

Section 5. Details of the Bonds. The County Administrator is authorized to determine the details of the Bonds including the following: the date or dates of the Bonds; provisions for either serial or term bonds; sinking fund or other reserve fund requirements; due dates of the interest thereon; the form of the Bonds; the denominations and designations of the Bonds; registration, conversion and transfer provisions; provisions for the receipt, deposit and investment of the proceeds of the Bonds; provisions for the replacement of lost, stolen, mutilated or destroyed Bonds; and provisions for issuing uncertificated obligations and all procedures appropriate for the establishment of a system of issuing uncertificated debt. The Bonds shall be executed by the manual or facsimile signature of the County Administrator, shall contain an impression of the County seal or a facsimile thereof and shall be attested by the manual signature of the County Clerk. The County Administrator shall determine the form of the Bonds.

Section 6. Debt Limit. It is hereby determined and certified, as of the effective date hereof, that the issuance of the Bonds is within the legal debt limit of the County.

Section 7. Further Action. The President of the County Council, the County Administrator, the Finance Director and the County Clerk are authorized and directed to take such other action on behalf of the County, as may be necessary or desirable to effect the adoption of this Ordinance and the issuance and sale of the Bonds and to provide for their security and to carry out the intent of this Ordinance, including the publication of notices and advertisements and the execution and delivery of customary closing certificates.

Section 8. Effective Date. This Ordinance shall become effective immediately upon its passage.

The County Clerk is hereby directed to publish a notice of the adoption hereof in accordance with Section 7002(m)(2) of Title 9 of the Delaware Code, as amended.

ADOPTED this \_\_\_\_\_ day of October, 2018.

SUSSEX COUNTY, DELAWARE

Attest:

\_\_\_\_\_  
Clerk  
Sussex County Council

\_\_\_\_\_  
President  
Sussex County Council

[SEAL]

APPROVED AS TO LEGALITY AND FORM:

\_\_\_\_\_  
County Attorney

**SYNOPSIS:** This Ordinance provides for the issuance of up to \$16,634,748 of Sussex County General Obligation Bonds in order to finance or reimburse the County for a portion of the costs for the design, construction and equipping of the Western Sussex Regional Sanitary Sewer District Project, consisting of the transfer of sewer flows from Bridgeville and Greenwood to the existing City of Seaford sewer system and wastewater treatment facility, utilizing existing and proposed infrastructure to be owned and maintained by the County to serve what will be known as the Western Sussex Sewer District (the "Project"), with the expectation that up to \$3,200,000 of principal forgiveness will be applied in order to reduce the principal amount of the Bonds outstanding to \$13,434,748 upon Project completion.

JANELLE M. CORNWELL, AICP  
PLANNING & ZONING DIRECTOR  
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## Memorandum

To: Sussex County Council Members

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: November 20, 2018

RE: County Council Report for Ord. 18-12 Amendments to C-4 Zoning District

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The Planning and Zoning Commission held a public hearing on October 25, 2018. The following are the draft minutes for the Conditional Use from the Planning and Zoning Commission meetings.

Ms. Cornwell advised the Commission these are amendments to the new C-4 Zoning District; that there were some items that needed to be addressed; that there were some clarification items regarding how to calculate the number of acres in the land area for the area; that they allow it for mixed use and the 20% for residential does not seem to be working; that staff inserted a place holder of 40% in the text that would allow for residential. Ms. Stevenson questioned whether at 40% or 20% would a developer still be requested to provide commercial as well; that Ms. Cornwell stated if the requirement was changed to 40% residential then, as drafted 60% would have to be commercial.

The Commission found that Mr. Ring Lardner was in support of the proposed amended Ordinance; that Mr. Lardner stated C-4 is good to allow for mixed-use; that 20% does not allow for live work; that a percentage should not be applied as the base for determining the residential area; that they should limit the density; that he would like to propose a density of 8 units per acre with a mixture of housing types; that a single family home in the right context could be appropriate in a mixed-use community; that a multi-family use has been 3,630 square feet whereas now the proposed area is 7,500 square feet; and that he is in support of the changes.

The Commission found that Mr. Hutt stated the percentage should be no less than 60% or 70% for mixed-uses; that what Mr. Lardner has come up with is an alternate approach; that he would like four or 12 units per the acre and that is the limitation that currently exist; and that he thought the C-4 was intended to allow for the mixed- used of a site.

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

At their meeting on November 15, 2018, the Planning Commission discussed the application which has been deferred since October 25, 2018.



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The Commission held a discussion regarding the Ordinance; that there was a discussion on the number of residential units per acre and what should count towards the overall density.

Ms. Wingate moved that the Commission recommend approval for Ord. 18-12 based upon the record from the public hearing and with the following conditions:

1. The maximum amount of residential development increase from 20% to 65%.
2. Mixed-use buildings shall not count towards the residential density calculation.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to recommend approval of the proposed ordinance with changes. Motion carried 4-0. Mr. Hudson was absent.

## PLANNING & ZONING

JANELLE M. CORNWELL, AICP  
DIRECTOR

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# Sussex County

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## Memorandum

To: Sussex County Planning Commission Members

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Vince Robertson, Assistant County Attorney

Date: October 19, 2018

RE: Background Information for Ord. 18-12 C-4 Amendments

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This memo is to provide background for the Planning Commission to consider as a part of application Ord. 18-12 C-4 Amendments to be reviewed during the October 25, 2018 Planning Commission Meeting. This information 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 Ordinance was drafted and introduced. Since adoption of the new zoning district staff identified inconsistencies in the code. The proposed ordinance will address those inconsistencies. One of the items to be addressed is the determination of the amount of land for the C-4 zone. The intent of the code was to allow for multiple parcels that meet or exceed 3 ac. in size to be rezoned to C-4. The way the code reads it that it is a single parcel of land that needs to have a minimum of 3 ac. There was contradiction in a few of the permitted uses. The revision will clarify the permitted uses. Staff has had several meetings with developers and engineers regarding the desire to use the C-4 zoning and include mixed use. The code currently allows a maximum of 20% of the development to be residential. The proposed amendment would allow a maximum of 40% of the development to be residential.



**AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLE XID, SECTIONS 115-83.26, 115-83.27, 115-83.31 AND “115 ATTACHMENT 4, SUSSEX COUNTY TABLE IV”.**

WHEREAS, on February 27, 2018, Sussex County Council adopted an ordinance establishing multiple new business and commercial districts; and

WHEREAS, one of the new districts is the “C-4 ‘Planned Commercial’” District that allows for planned, large scale commercial development including certain limited residential uses with site plan review integrated into the rezoning process; and

WHEREAS, subsequent to adoption, Sussex County has become aware of minor revisions to the “C-4 ‘Planned Commercial’” District to allow its use and implementation to occur, including minimum lot sizes and types and percentages of residential uses permitted in the district.

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

**Section 1.** The Code of Sussex County, Chapter 115, Article XID, §115-83.26 “Minimum District Dimensions” is hereby amended by deleting the language in brackets and adding the italicized and underlined language:

...

C. The land areas may contain a single parcel or multiple parcels. *The minimum district area is 3 acres.*

...

E. The [parcel] *district* may have a maximum of [20] *40%* of its developable area consist of duplexes, townhomes or multifamily dwellings.

....

**Section 2.** The Code of Sussex County, Chapter 115, Article XID, §115-83.27 “Permitted Uses” is hereby amended by deleting the language in brackets:

**§115-83.27 Permitted Uses.**

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

...

**RESIDENTIAL USES**

Dwelling, duplex

Dwelling, multi-family

[Dwelling, single family]

Dwelling, townhouses

Home Occupation

Hotel, motel or motor lodge

....

**Section 3.** The Code of Sussex County, Chapter 115, Article XID, §115-83.31 “Height, Area and Bulk Requirements” is hereby amended by deleting the language in brackets and adding the italicized and underlined language:

**§115-83.31 Height, Area and Bulk Requirements.**

A. Minimum lot sizes. Minimum lot sizes shall be as follows:

Use	Minimum Area** (square feet)	Maximum Area** (square feet)	Width* (feet)	Depth (feet)
Permitted Uses:	[3 acres] <u>7,500</u>	--	75	100

\*NOTE: A lot fronting on a numbered road shown on the General Highway Map for Sussex County of 1964, as revised, shall have a minimum lot width of 150 feet.

\*\*NOTE: Any lot which is not connected to a central sewer system, as defined by §115-194A, or which is located within a planning area as defined by a sewer planning study approved by the Sussex County Council, shall have a minimum area of  $\frac{3}{4}$  acre.

....

**Section 4.** The Code of Sussex County, Chapter 115, “115 Attachment 4, Sussex County Table IV” is hereby amended by deleting “P<sup>4</sup>” from the line identified as “Dwelling, Single Family Detached, including Modular” within the column identified as “Zone C-4”.

**Section 5.** Effective Date.

This ordinance shall take effect upon the date of adoption by Sussex County Council.

PROPOSED

# ZONING

## 115 Attachment 4

### Sussex County

TABLE IV

#### Permitted Uses Commercial Sussex County

Blank P SUE A D	=Not permitted =Permitted use =Special use Exception, see Sec. ** =Permitted Accessory Use, see Sec. ** = Definition, see Sec. **	Zone B-2	Zone B-3	Zone C-2	Zone C-3	Zone C-4	Zone C-5	Zone I-1
<b>Agriculture-Related Uses</b>								
Agriculture-Related Business							P <sup>2</sup>	
Agricultural Uses (less than 5 acres) Farm, Truck Garden, Orchard or Nursery Uses							P <sup>2</sup>	
Aquaculture							P <sup>2</sup>	
Greenhouse, commercial	D	P			P,	A	P	
Wholesale, retail, nurseries for sale of products produced on site	D	P		P <sup>1</sup>	P	P	P <sup>2</sup>	
<b>Residential Uses</b>								
Residential within structure commercial or office uses		A		A	A <sup>3</sup>	A <sup>4</sup>		
Bed & Breakfast (Tourist Homes)	D	P		P				
Dwelling, Duplex	D					P <sup>4</sup>		
Dwelling, Manufactured Home	D							
Dwelling, Multi-family	D					P <sup>4</sup>		
Dwelling, Single Family Detached, including Modular	D					[P <sup>4</sup> ]		
Dwelling, Townhouse	D					P <sup>4</sup>		
Home Occupation	D	A				P		
Hotel, motel or motor lodge	D	P	P	P	P	P		
<b>Sales &amp; Rental of Goods, Merchandise, and Equipment</b>								
Convenience store	D	P	A	P <sup>1</sup>	P	P		
Convenience store, Fuel Station (1 to 6 fuel dispensers)(no restriction on number of nozzles)		P		P <sup>1</sup>	P	P		
Convenience store, Fuel Station (7 or more fuel dispensers) (no restriction on number of nozzles)					P	P		
Retail sales establishments 3,500 SF or less	D	P	A	P <sup>1</sup>	P	P	P	
Retail sales establishments 3,501 SF to 7,500 SF	D	P	A	P <sup>1</sup>	P	P	P	
Retail sales establishments 7,501 SF to 35,000 SF	D	P		P <sup>1</sup>	P	P		
Retail sales establishments 35,001 SF to 75,000 SF	D			P <sup>1</sup>	P	P		

Blank	=Not permitted							
P	=Permitted use							
SUE	=Special use Exception, see Sec. **							
A	=Permitted Accessory Use, see Sec. **							
D	= Definition, see Sec. **							
		Zone B-2	Zone B-3	Zone C-2	Zone C-3	Zone C-4	Zone C-5	Zone I-1
Retail sales establishments 75,001 SF or more	D				P	P		
Pharmacy or related uses, 12,000 SF or less	D	P	A	P <sup>1</sup>	P <sup>1</sup>	P		
Pharmacy or related uses, 12,001 SF to 35,000 SF	D	P		P <sup>1</sup>	P <sup>1</sup>	P		
Restaurant 3,500 SF or less		P	A	P <sup>1</sup>	P	P	P <sup>2</sup>	
Restaurant 3501 SF to 7,500 SF	D	P	A	P <sup>1</sup>	P	P	P <sup>2</sup>	P
Restaurant 7,501 SF or more	D			P <sup>1</sup>	P	P		
Brew Pub 7,500 SF or less		P	A	P <sup>1</sup>	P	P		
Brew Pub 7,501 SF or more				P <sup>1</sup>	P	P		
Wholesale trade establishment	D			P <sup>1</sup>	P	P	P <sup>2</sup>	
<b>Office, Clerical, Research, Personal Service and Similar Enterprises Not Primarily Related to Goods</b>								
Business service establishments	D	P	P	P <sup>1</sup>	P	P	P <sup>2</sup>	
Banks		P	P	P <sup>1</sup>	P	P		
Professional Offices	D	P	P	P <sup>1</sup>	P	P	P <sup>2</sup>	
Personal service establishments	D	P	P	P <sup>1</sup>	P	P	P <sup>2</sup>	
Entertainment establishments 7,500 SF or less	D	P	A	P <sup>1</sup>	P	P		
Entertainment establishments more than 7,501 SF	D		A	P <sup>1</sup>	P	P		
Social service establishments	D	P	P	P <sup>1</sup>	P	P		P
<b>Manufacturing, Assembling, Processing</b>								
Winery, Brewery or Distillery under 7500 SF	D	P		P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>2</sup>	
Winery, Brewery or Distillery over 7501 SF							P <sup>2</sup>	
Manufacturing	D		P <sup>1</sup>				P <sup>2</sup>	
Material Storage Yard w/ on-site mulching, pulping or manufacturing of material	D						P <sup>2</sup>	
<b>Educational, Cultural, Religious, Philanthropic, Social, Fraternal</b>								
Bio Tech Campus	D		P					P
Biotech Industry	D		P <sup>1</sup>					P <sup>1</sup>
Recreational Facility, Private	D					P		
Recreational Facility, Commercial (Indoor Only)	D	P		P	P	P		
Recreational Facility, Commercial (Indoor & Outdoor)	D	P			P	P		
Club Indoor, private such as clubs, lodges, and other annual membership clubs	D	P		P	P	P		
Aquariums, commercial						P		
Educational institutions, public and private	D							P

Blank	=Not permitted							
P	=Permitted use							
SUE	=Special use Exception, see Sec. **							
A	=Permitted Accessory Use, see Sec. **							
D	= Definition, see Sec. **							
Places of worship	D	P	P	P	P	P	P	P
<b>Institutional, Residence, Care, Confinement &amp; Medical Facilities</b>								
Family Child Day care center (1-6 children)	D	P		P	P	P		
Large Family Child Care Homes (7-12 children)	D	P		P	P	P		
Early Care and Education and school-Age Centers (13 or more children)	D	P	P	P	P	P		P
Residential Child Care Facilities and Day Treatment Programs	D	P		P	P	P		P
Child Placing Agencies	D	P	P	P	P	P		P
Hospital	D							P
Medical clinic	D	P	P	P	P	P		P
Independent Care Facility	D			P	P	P		P
Assisted Living Facility	D	P		P	P	P		P
Extended Care Facility	D	P		P	P	P		P
Intermediate Care Facility	D	P		P	P	P		P
Long-term Care Facility	D	P		P	P	P		P
Graduate Care Facility						P		P
Surgical center	D	P			P	P		P
Fitness / wellness center		P	P	P <sup>1</sup>	P	P		P
Museums, Non-profit art galleries	D	P		P <sup>1</sup>	P	P		P
Community Centers	D	P		P <sup>1</sup>	P	P		P
<b>Transportation-Related Sales &amp; Service</b>								
Motor & non-motor vehicle sales, rental, repair, service and storage					P	P	P <sup>2</sup>	
Motor-vehicle washes		P			P	P		
Airports and landing fields or seaplane bases, provided that they shall comply with the recommendations of the Federal Aviation Administration								
<b>Storage &amp; Parking</b>								
Distribution center	D		P		P		P <sup>2</sup>	
Garage, public or commercial parking		A	A	A	A	P	A	A
Self-storage facility	D	P		P <sup>1</sup>	P	P	P <sup>2</sup>	
Warehouse	D			P <sup>1</sup>	P	P	P <sup>2</sup>	
<b>Public, Semi-Public, Utilities, Emergency</b>								
Government facilities and services, local	D	P	P	P <sup>1</sup>	P	P		P
Government facilities and services, non-local	D	P	P	P <sup>1</sup>	P	P		P

Blank	=Not permitted							
P	=Permitted use							
SUE	=Special use Exception, see Sec. **							
A	=Permitted Accessory Use, see Sec. **							
D	= Definition, see Sec. **							
Parks		P	P	P <sup>1</sup>	P	P		P
Public safety facilities including, ambulance, fire, police, rescue, and national security	D	P	P	P <sup>1</sup>	P	P	P	P
Utility service facilities	D	P	P	P <sup>1</sup>	P	P	P	P
Communication Towers		P	P	P	P	P	P	P <sup>1</sup>
Recreational Facility, Government	D	P	P	P <sup>1</sup>	P	P		P
<b>Not Grouped Elsewhere</b>								
Off-Premise Signs					SUE	SUE	SUE	
Cemeteries		P						P
Funeral home		P		P <sup>1</sup>				P
Commercial kennels, provided that no open pens, runs, kennels or cages are located within 200 feet of land that is used or zoned residential and 50 feet from any property line)					P <sup>1</sup>		P <sup>1</sup>	
Animal Hospital and Veterinary clinics		P		P <sup>1</sup>	P			P <sup>1</sup>
Technology Center			P			P	P	P
Temporary Removable Vendor Stands		P	P		P	P	P	P

Note: Where, in the judgment of the Commission, a use is not specifically referenced but is similar to those listed as permitted, it may be permitted by approval of the Commission. In the event of any discrepancy between the information in this Table and the text of Chapter 115, the text of Chapter 115 shall be controlling.

P Permitted Use

<sup>1</sup> No outdoor sales and or storage permitted

<sup>2</sup> Uses permitted only with an on-site retail component

<sup>3</sup> Mixed use building must consist of at least 25% commercial space

<sup>4</sup> Residential uses within the C-4 district shall not exceed 12 units per acre or exceed floor area ratio maximums

A Use permitted as the accessory use of the parcel

SUE – Special Use Exception - Only permitted by Board of Adjustment

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**Sussex County**  
DELAWARE  
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## Memorandum

To: Sussex County Council Members

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: November 20, 2018

RE: County Council Old Business Report for Ord. 18-11 Density Calculation - Wetlands

---

County Council held a public hearing on October 9, 2018. Council left the record open for 30 days for written comments. The record closed on November 9, 2018. The Planning and Zoning Commission held a public hearing on September 13, 2018 and September 27, 2018. The following are the draft minutes for the proposed Ordinance from the Planning and Zoning Commission meetings.

Ms. Cornwell introduced the Ordinance and explained that staff have prepared a memo in relation to the background for the Ordinance; that it [the Ordinance] was introduced at the request of Councilman Burton; that the Ordinance determines how density is calculated for a proposed development; that the Ordinance seeks to eliminate the ability to count wetlands when calculating the overall density of a proposed subdivision; that staff were not taking a position on the matter.

Ms. Cornwell presented examples of previous subdivision applications to the Commission, and illustrated how the Ordinance, if approved, would reduce the total number of units permitted on those sites.

Mr. Hudson asked for clarification on how densities are currently calculated for a parcel.

Mr. Robertson explained that, currently in the AR-1 Zoning District, the max density is approximately double the site area.

Mr. Wheatley commented that there are often cases where the maximum base density is not achievable due to limitations of the site, such as the need to provide open space, and other design considerations, such as the inability to build upon wetlands.

Mr. Hudson asked for an estimate to be provided of the reduction in units/value of a site that would result from the Ordinance; he suggested that this might be 20-30%. Ms. Cornwell commented that the specific example being discussed was 13%. Mr. Robertson pointed out that it was a reduction of 13% from the maximum possible density. Ms. Cornwell commented that the specific example being discussed was zoned AR-1 (Agricultural Residential Zoning District).



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

Mr. Wheatley commented that the definition of wetlands has changed over time. Mr. Hudson commented that the Ordinance changed the calculation from Gross Area to Net Area. Mr. Robertson confirmed that the Ordinance focused on wetlands as defined in Chapter 193 of the Sussex County Code.

Mr. Wheatley explained the procedures for people wishing to speak before the Commission.

The Commission found Mr. Chris Basin, the Executive Director for the Centre for the Inland Bays was present; that the Centre established a comprehensive management plan for the Bays within Sussex County; that this includes the waters within the bays and degraded habitats; that the Ordinance would prevent concentration of development near to ecologically sensitive lands and waterways such as those of the inland bays; that the Ordinance would reduce the risk of exposure of residents to hazards such as flooding; that wetlands are essential for the fish and wildlife populations of the bays; this includes fish and shellfish within the bays; that wetlands have a high concentration of rare species of plants; that the beneficial quality of wetlands have been declining over time; that they are in poor health due to disturbances including, but not limited to, development; that 32% of wetlands have been lost already; that this Ordinance would help to protect wetlands in numerous ways; that salt marshes in particular would benefit from this Particular Ordinance; that less density and more open space would allow wetlands to migrate inland; that this reduces the impacts associated with intense precipitation events and flooding; and that intense precipitation events are increasing.

Ms. Cornwell commented that eight letters of support had been received from members of the public and these are part of the record.

The Commission found that Ms. Jan O'Mears was present; that she supported the Ordinance; that the objectives were reasonable and responsible; that the Ordinance aligns with other changes to County Code, such as commercial zoning; and that it makes sense to modernize the Code.

The Commission found that Mr. Jim McCulley was present, that he is the President of the Homebuilder's Association of Delaware; that he thinks that the Ordinance is bad idea; that it would lead to the destruction of thousands of acres of natural resources; that they have tremendous value to the public, that they have limited value to the landowner; that he has experienced situations whereby landowners may seek to remove natural resources, such as trees, where they may limit potential future development; that there should be an incentive to keep natural features on a property; such as density bonuses where environmental resources are protected; otherwise the number of units lost would be developed elsewhere; and that sprawl would be increased.

The Commission found that Mr. Robert Murphy was present; that he believes that the Commission should consider future smart growth; and that the proposed Ordinance was an example of smart growth, and that he supported it.

The Commission found that Mr. Ring Lardner was present; that he was speaking on behalf of the Delaware Chapter of the American Council of Engineering Companies (ACEC); that density has been an issue for many years; that the base density of AR-1 lands was 2.178 DU/AC, that gross acreage is the total amount of land that you start with, that net acreage is the amount remaining after wetlands are discounted; that developers can purchase additional bonus density in the ESDDOZ; that the Ordinance would result in sprawl due to lots being located on other sites; that the County does not have the infrastructure to support the growth; that Kent County includes wetlands and uses gross density for calculating density; that they use 3 DU/AC in their growth area; that Newcastle County uses both gross and net density; that the clauses within the Ordinance do not explain the overall

objective; and that the ACEC requests a working group to be formed to enable professionals and residents to continue to discuss the Ordinance.

The Commission found that Mr. Bob Thornton, State Director for the Home Builders Association, was present; that he stated that there are approximately 260-270,000 developable acres remaining in the County, that a reduction of 20-30% of the development would result in a takings case; that it would reduce house building in the County; that building is the way of the County, that other jurisdictions have tried similar protection measures; that billions of dollars would effectively be wiped out; and that other experts should look into the Ordinance.

The Commission found that Mr. Dave Carey was present; that he farms within the County; that the wetlands have value to farmers in addition to providing other valuable functions; that the Ordinance diminishes his property value; that the Ordinance would result in sprawl; that he believes that landowners should be compensated for their whole property and not part of it; and that he requests Sussex County to consider the formation of a working group.

The Commission found that Mr. Frank Kea, Principal and Land Developer with Solutions was present; that the Ordinance would result in sprawl; that wetlands are already preserved; that the effect of sprawl would require longer pipes, longer streets and more trips throughout the County; and that the impacts of this would be a considerable negative consequence of the Ordinance.

The Commission found that Mr. Bobby Horsey was present; that he opposed the Ordinance; that he believes that it is a violation of his property rights; that landowners have invested in the County and developed sweat equity; that the designation of 2 DU/AC was established in 1970; that this doesn't need to change; that the market should dictate what is placed on a property; that the permitted density is often not utilized; that the Ordinance would result in a takings case against the County; that the Ordinance would result in increased sprawl; and that representations were made during the drafting of the Comprehensive Plan as to the need to protect densities.

The Commission found that Mr. James H. Baxter IV was present; that he has previously spoken with Mr. Burton on behalf of 2,000 farmers, that he believes that the Ordinance appears to be an equity snatching; that Sussex County is a very viable business due to the large numbers of people wishing to live in the County; that the Ordinance would take away his equity in his land; that this reduces the value of his property; and that half to three quarters of some properties could be reduced to no value for the purposes of obtaining loans for farming purposes.

The Commission found that Mr. James Lebello was present; that he believes that the proposal makes sense; that most things in society are based on net calculations; such as a resident's pay; this is calculated with gross and net; that the Ordinance is similar; that the Ordinance protects land and reduces development; that water quality would be protected; that fish are dying in Indian River Bay; that non-tidal wetlands are not protected; and that the Ordinance makes a lot of common sense and ties together with the Comprehensive Plan.

The Commission found that Mr. Michael Johnson was present; that he previously served the Commission for over 11 years; that in his experience there were subdivisions where multiple subdivisions were considered that contained wetlands; that he believed that wetlands could be utilized to maximize densities on certain parcels; that some parcels contain very large areas of wetlands; that some contain up to 40% of the total areas as wetlands; and that he is a supporter of growth and the increase in residents within the County.

The Commission found that Mr. Wayne Baker was present; that he is lifelong resident of the county; that he owns farmland within the County; that losing the value of wetlands would result in a loss of equity for farmers; that this would affect the livelihood of future generations; that this would result in a major lawsuit against the County; that the Ordinance only penalizes owners of undeveloped land; and that he would request the Commission to oppose the Ordinance.

The Commission discussed the proposed Ordinance.

Ms. Stevenson commented that the hearing was being held during harvest season. Mr. Wheatley commented that a further meeting would allow for further discussion by interested parties. Ms. Stevenson suggested that the record be left open if the public hearing were to be continued at a future meeting of the Planning & Zoning Commission.

Motion by Ms. Stevenson to defer action on Ordinance #18-11 until the next regular meeting of the Planning & Zoning Commission (September 27, 2018), with the public hearing left open to enable the submission of additional written comments and the submission of additional verbal comments during the continuation of the public hearing, seconded by Mr. Hudson. Motion carried 5-0.

At their meeting on September 27, 2018, the Planning Commission continued the public hearing from September 13, 2018.

Ms. Cornwell advised the Commission that this is a continuation of the public hearing; that it is for an Ordinance to address how the county calculates density; and that the proposed Ordinance will remove the ability to count wetlands towards the overall density of a property. One letter in support of the application and one letter of opposition to the application were read into the record.

The Commission found that Martin Ross, Wayne Baker and Robert Horsey spoke in opposition to the proposed Ordinance; that Mr. Ross stated he was in support to Mr. Baxter's statements made at the September 3, 2018 meeting; that property in wetlands, may be used and can get permits; that this may take development rights; that this may decrease the property value; that they need to stop giving away density; that he would like to discuss ways to create a process which enable natural resource preservation inclusive of wetlands; that there is no state or local law regulating non-tidal wetlands; that the proposed Ordinance should be edited to reflect federally regulated wetlands and maps; that the Ordinance impacts non-tidal rivers or stream and tidal and the Ordinance should specify these streams depicted in the Comprehensive Plan; that Mr. Baker stated he understood that the non-tidal wetlands are not considered in the Ordinance; that he has concerns with the definition of wetlands; that this is out of place; that Mr. Horsey stated he agrees with Mr. Baxter about the devaluation of land; and that if they want to preserve the rural look, then you need to preserve the value of land.

The Commission found that Kent Boschwitz spoke in support to the proposed Ordinance; that Mr. Boschwitz stated the Commissioners have the power to shape Sussex County for years to come; that he has concerns with water quality; that there is a need to protect all wetlands and the Ordinance does that; that Sussex County has the weakest regulations on wetlands in the area; that too much density near wetlands is a concern; that the importance of the future is environmental protection over property rights; and that the Ordinance is consistent with the new Comprehensive Plan.

The Commission held a discussion regarding the proposed Ordinance; that they discussed the language in the ordinance should try to find a way to address both issues of farms and environment; that how do we get the ideas we want; that this could be a big impact on a lot of people; and that they need to address the issue.

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

At their meeting of November 15, 2018, the Planning Commission discussed the application which has been deferred since September 27, 2018.

Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to recommend denial as the Commission would prefer the creation of a working group, consideration of the definitions and federal wetlands and that a revised ordinance come back to Planning Commission for a new public hearing. Motion carried 4-0. Mr. Hudson absent

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WHEREAS, pursuant to the provisions of Title 9, Chapter 69 of the Delaware Code, Sussex County has been granted the power and authority to regulate zoning; and

WHEREAS, Sussex County Code also emphasizes the avoidance of wetlands areas, including provisions of Section 99-9C (requiring the minimal use of wetlands), Section 115-25E(6) (prohibiting wetlands within lots in cluster subdivisions) and Section 115-25F (regarding the exclusion of wetlands from lots and requiring a 25 foot buffer in certain cluster subdivisions);

WHEREAS, Sussex County Council believes that this legislation will promote the health, safety, morale, convenience, order, prosperity and/or welfare of its citizens.

**Section 1. Sussex County Code, Chapter 115, Article III, Section 115-15.1 (“Definitions and word usage”) shall be amended by the addition of the underlined language and deletion of the language in brackets, as follows:**

**§ 115-15.1 [(Reserved)] Calculation of permitted density in all districts.**

41  
42 For purposes of calculating the permitted density or allowable density in all  
43 districts, the gross area, as defined herein, shall be divided by the applicable  
44 lot area stated in each district, unless otherwise specifically set forth therein.  
45 “Gross area” shall include the lot areas and the area of land set aside for  
46 common open space or recreational use but shall exclude any area designated  
47 as a perennial nontidal river or stream, tidal tributary stream, tidal wetlands or  
48 nontidal wetlands by §115-193.  
49

50 **Section 2. Sussex County Code, Chapter 115, Article IV, Section 115-25**  
51 **(“Height, area and bulk requirements”) shall be amended by the addition of the**  
52 **underlined language and deletion of the language in brackets, as follows:**  
53

54 **§115-25. Height, area and bulk requirements.**  
55

56 A. Minimum lot sizes for lots using a wastewater disposal system located  
57 entirely on that lot and generally defined as an on-site septic system.  
58

59 . . .

60 (2) Cluster development option. The minimum lot size may be reduced to  
61 one-half acre (21,780 square feet) where soil conditions are suitable as  
62 approved by DNREC. The total number of lots allowed shall not exceed the  
63 number of lots that would be permitted under the standard lot option. The  
64 number of dwelling units permitted shall be determined by dividing the gross  
65 area by 32,670 square feet. “Gross area” shall include the lot area and the area  
66 of land set aside for common open space or recreational use but shall exclude  
67 any area designated as a perennial nontidal river or stream, tidal tributary  
68 stream, tidal wetlands or nontidal wetlands by §115-193. [The area of land set  
69 aside for common open space or recreational use shall be included in  
70 determining the number of dwelling units permitted.] However, if the  
71 proposed cluster development lies within a Low-Density Area as described  
72 within the Land Use Element and as shown on the Future Land Use Plan of  
73 the adopted Sussex County Comprehensive Plan, the total number of lots  
74 permitted shall be determined by first reducing the gross area by 25%.  
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76 B. Minimum lot sizes, dimensions and open space for lots using a central  
77 sewer system as defined by § 115-194A:  
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(3) The number of dwelling units permitted shall be determined by dividing the gross area by 21,780 square feet. [The area of land set aside for common open space or recreational use shall be included in determining the number of dwelling units permitted.] When a cluster development lies within a Town Center, a Developing Area, or an Environmentally Sensitive Developing Area as described within the Land Use Element and as shown on the Future Land Use Plan of the adopted Sussex County Comprehensive Plan, and the developer has proffered to Sussex County for the purpose of creating open space preservation/active and passive recreation areas a development fee per unit for every unit in excess of two units per acre, then the maximum number of dwelling units that may be permitted by the Planning and Zoning Commission shall be determined by dividing the gross area by 10,890 square feet. The development fee shall not be less than the minimum established by the Sussex County Council and shall be paid prior to recording any lot based upon the fee in effect at the time the application was filed. “Gross area” shall include the lot area and the area of land set aside for common open space or recreational use but shall exclude any area designated as a perennial nontidal river or stream, tidal tributary stream, tidal wetlands or nontidal wetlands by §115-193.

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F. Review procedures for cluster development.

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(3) [In respect to any preliminary cluster subdivision application that is submitted after the effective date of this amendment,] I~~i~~f the applicant voluntarily elects to comply with the superior design criteria contained in this Paragraph F.(3) [amendment], the Planning and Zoning Commission shall determine that the following requirements are met before approving any preliminary plan and such application shall be approved on an expedited review basis. The superior design criteria contained in this Paragraph F.(3) [amendment] shall not apply to [applications submitted under the terms of the cluster ordinance, as it existed prior to the date of this amendment, or to] any application hereafter submitted where the applicant does not voluntarily elect to comply with the requirements contained in this amendment.

...

[2] The applicant must submit a “yield plan” that accurately depicts the maximum number of dwelling units possible on the same tract under current applicable conventional (noncluster) development regulations.

[a] The yield plan shall be completed to scale, and accurately depict potential lots, streets and storm drainage facilities. The potential lots shall exclude any area designated as a perennial nontidal river or stream, tidal tributary stream, tidal wetlands or nontidal wetlands by §115-193. However, the yield plan is not required to contain the same level of engineering detail required for a subdivision plan.

[b] The yield plan shall depict all wetlands, wooded areas, waterways and other water bodies.

[c] The applicant shall comply with §115-25A(2) or §115-25B(3), as applicable. In addition, the maximum number of dwelling units allowed on a cluster development tract shall not be greater than the maximum number of dwelling units determined to be possible under the yield plan prepared for that same tract, plus the number of additional units allowed if the applicant proffers the required per unit fee provided under §115-25B(3) and F(3)(d) [as provided for in Ordinance 1842].

[i] The yield plan shall not have any legal standing except for the purposes of determining maximum density allowed under a cluster development.

...

**Section 3. Sussex County Code, Chapter 115, Article XXV, Section 115-194.3 (“ES-1 Environmentally Sensitive Development District Overlay Zone (ESDDOZ)”) shall be amended by the addition of the underlined language and deletion of the language in brackets, as follows:**

**§115-194.3 (“ES-1 Environmentally Sensitive Development District Overlay Zone (ESDDOZ).**

...

C. Permitted uses and densities.

(1) Uses permitted in the Environmentally Sensitive Development District Overlay Zone will be those uses permitted in the underlying zoning category as established by the Sussex County Zoning Ordinance.

(2) Uses prohibited in the underlying zone are also prohibited in the overlay zone.

(3) The maximum density shall be the allowable density of the underlying zoning district for developments using a central water and wastewater collection and treatment system. "Central sewer system" means centralized treatment and disposal facilities as defined in §115-194A. Within this Overlay District, clustering of single-family detached lots to a minimum lot size of 7,500 square feet is permitted in all residential zoning districts using a central water and sewer system. For dwelling units using on-site individual wastewater disposal systems, the allowable density shall be based upon a minimum lot size of  $\frac{3}{4}$  of an acre. The applicant has the option of clustering the lots to a minimum lot size of  $\frac{1}{2}$  of an acre where soil conditions are suitable as determined by DNREC, provided, however, that the number of lots or dwelling units permitted shall not exceed the number permitted in the underlying district. For purposes of this paragraph, the "allowable density" shall be determined by calculating the lot area and the area of land set aside for common open space or recreational use but shall exclude any area designated as a perennial nontidal river or stream, tidal tributary stream, tidal wetlands or nontidal wetlands by §115-193.

(4) For areas within the Conservation Zone, as currently defined in the Sussex County Zoning Ordinance, the minimum lot size and dimension requirements in the Conservation Zone shall apply.

...

**Section 4. This Ordinance shall become effective upon its adoption by a majority of the elected members of Sussex County Council.**

**Synopsis**

This Ordinance amends Sussex County Code to define density calculations in the zoning districts and to exclude wetlands from density calculations as set forth

197 above. This includes density calculations for lots in an AR-1 cluster subdivision,  
198 lots in ESDDOZ subdivisions, and lot area calculations for multi-family dwellings  
199 in all districts.  
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PROPOSED

## 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

## Memorandum

TO: Sussex County Council  
The Honorable Michael H. Vincent, President  
The Honorable George Cole, Vice President  
The Honorable Samuel R. Wilson, Jr  
The Honorable I.G. Burton, III  
The Honorable Robert B. Arlett

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

RE: *South Coastal Library Reading Garden Alterations, Project L19-03  
Change Order No. 2*

DATE: November 27, 2018

The outdoor Reading Garden at the South Coastal Library has no ADA compliant access and experienced water-related issues for years. Inadequate drainage caused water intrusion into the building, short-circuiting of the garden lighting, and settlement of the pavers. A project was designed to address these issues, including the extension of the under-paver drainage system, regrading of the paver base, and replacement of the garden lighting wiring and new suspended fixtures.

Initially, the Engineering Department bid the project on August 22, 2016. Two bids were received, both of which were significantly above the architect's estimate. On August 30, 2016, Council rejected all bids with the instruction to later rebid the project. In June of 2018, the project was re-bid with a reduced scope and an increased County budget. During the application for renewal of the Fire Marshall's permit, the Engineering Department was advised that installation of the proposed roof panels would require a fire suppression system throughout the reading garden. The information was received too late for an addendum and on August 1, 2018, two (2) bids were opened.

John L. Briggs & Co. provided the low base bid Part A in the amount of \$204,800.00. Discussions with John L. Briggs & Co. regarding the possible removal of materials associated with the roof panels resulted in a change order reduction of \$10,012.00. On August 14, 2018, the project was awarded to John L. Briggs & Co. for a revised total project of \$194,788.00.

The removal of the roof panels reduced overall labor costs shown as line item #1 in the summary. This credit will be used to offset proposed scope changes in change order #2. Line item #2 covers the cost associated with replacing the existing edging with a new low-profile edge restraint that will provide superior support and prevent lateral movement of pavers. Line item #3 replaces the residential style bollard lighting listed in the contract documents with a



commercial grade fixture better suited for an institutional application exposed to a salt air environment. Line item #4 provides additional pavers along the perimeter of the garden which will give library staff more room for tables/chairs and allow for the installation of movable planters. This change was requested by library staff as they feel this will increase the use of the Reading Garden and reduce maintenance costs associated with the irrigation lines. The net change from this change order is \$0; thereby keeping the total contract amount at \$194,788.00.

The Engineering Department recommends approval of Change Order No.2.



**SUSSEX COUNTY  
CHANGE ORDER REQUEST**

**A. ADMINISTRATIVE:**

1. Project Name: **South Coastal Library Reading Garden Alterations**
2. Sussex County Project No. L19-03
3. Change Order No. 2
4. Date Change Order Initiated - 11/1/18
5.
  - a. Original Contract Sum \$204,800.00
  - b. Net Change by Previous Change Orders (\$10,012.00)
  - c. Contract Sum Prior to Change Order \$194,788.00
  - d. Requested Change \$ 0
  - e. Net Change (No. of days) 0
  - f. New Contract Amount \$194,788.00
6. Contact Person: Hans Medlarz, P.E.  
Telephone No. (302) 855-7718

**B. REASON FOR CHANGE ORDER (CHECK ONE)**

- ☐ 1. Differing Site Conditions
- ☐ 2. Errors and Omissions in Construction Drawings and Specifications
- ☐ 3. Changes Instituted by Regulatory Requirements
- ☒ 4. Design Change
- ☐ 5. Overrun/Underrun in Quantity

— 6. Factors Affecting Time of Completion

— 7. Other (explain below):

**C. BRIEF DESCRIPTION OF CHANGE ORDER:**

Alternate light fixtures better suited for commercial applications and additional improvements to reduce overall maintenance costs.

**D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?**

Yes   X   No           

**E. APPROVALS**

1. John L. Briggs & Co., Contractor

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Representative's Name in Block Letters

2. Sussex County Engineer

\_\_\_\_\_  
Signature Date

3. Sussex County Council President

\_\_\_\_\_  
Signature Date

**SOUTH COASTAL LIBRARY READING GARDEN ALTERATIONS**  
**PROJECT L19-03**  
**CHANGE ORDER NO. 2**

LINE ITEM	DESCRIPTION	DAYS ADDED TO CONTRACT	CHANGE IN PRICE	
			INCREASE	DEDUCT
1	South Coastal Library Reading Garden Alterations, Item A-1			\$13,403.53
2	Paver Edge Restraint Snapedge	0	\$897.30	
3	Seventeen (17) Alternate Light Bollards & Two (2) 12v Step Lights	0	\$7,965.30	
4	230 Square Feet Additional Pavers	0	\$4,540.93	
	<b>Total Change Order #2</b>	<b>0</b>	<b>\$0.00</b>	

# John L. Briggs & Co.

106 E. Laurel Street  
P.O. Box 90  
Georgetown, DE 19947  
(P) 302-856-7033 (F) 302-856-7085

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October 26, 2018

Mr. Anthony DiGiuseppe Jr.  
Sussex County  
2 The Circle  
Georgetown, DE 19947

Re: South Coastal Library Reading Garden Alterations  
Contract Modifications

Dear Mr. DiGiuseppe, Jr.:

Please see the COR #1 for the Paver Edge Restraint Snapedge.

Jason Goodnight (President) was present and shared with the architect that the existing restraint edging isn't going to allow for a smooth walk way. It was suggested that a COR be sent in for the Paver Edge Restraint Snap edge.

The submittal that I sent in was for the COR if approved.

Thompson & Sons:	\$ 854.57
5% P&O:	<u>\$ 42.73</u>
TOTAL:	\$ 897.30

Please let us know if you need any more information.

Sincerely,

KEITH B. LONG  
John L. Briggs & Co.

1807SCRG CO #2

Thompson & Sons Contracting Inc.  
 5367 Big Stone Beach  
 Big Stone Beach RD Milford, DE 19963

**CHANGE ORDER DETAIL FORM**  
 (Provided by contractor, subcontractor or sub tier contractor)

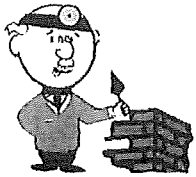
DATE SUBMITTED: 10/18/2018  
 CONTRACT: JLBriggs/ South Coastal Library Reading Garden Alt.  
 CONTRACTOR: Thompson & Sons Contracting Inc.  
 PROJECT NAME: South Coastal Library Reading Garden Alterations  
 CHANGE ORDER REQUEST #: 1 Paver Edge Restraint Snapedge

LABOR SECTION			
TRADESMAN(s):	LABOR HOURS	RATE (per schedule)	SUBTOTAL
Subtotal			

MATERIAL SECTION			
MATERIAL:	QUANTITY	UNIT COST	SUBTOTAL
Paver Edge Restarint Snapedge	1		794.95
Subtotal			794.95

EQUIPMENT SECTION			
EQUIPMENT:	QUANTITY	UNIT COST	SUBTOTAL
Subtotal			

SUBTOTAL	794.95
SUBCONTRACTOR/ SUB TIER*	
OH & PROFIT (7.5% on sub/sub tier only)	\$59.62
BOND COST	
OH & PROFIT (15% on own work)	
GRAND TOTAL	\$854.57



**The Brick Doctor, Inc.**  
130 Kruser Blvd.  
Dover, DE 19901

## Change / Added Work Order

Date	Change Order #
10/16/2018	312A

Owner, General Contractor / Address
Thompson & Sons Contracting, Inc. 5367 Big Stone Beach Rd Milford, De 19963

Project
South Coastal Library

Description	Qty	Cost	Total
Paver Edge Restraint Snapedge	1	0.00 794.95	0.00 794.95
		<b>Total</b>	\$794.95

Authorization Signature \_\_\_\_\_

Printed Name: \_\_\_\_\_

# John L. Briggs & Co.

106 E. Laurel Street  
P.O. Box 90  
Georgetown, DE 19947  
(P) 302-856-7033 (F) 302-856-7085

---

November 1, 2018

Mr. Anthony DiGiuseppe Jr.  
Sussex County  
2 The Circle  
Georgetown, DE 19947

Re: South Coastal Library Reading Garden Alterations  
Contract Modifications

Dear Mr. DiGiuseppe, Jr.:

Alternate Bollard Light Change Order & replace two 12v low voltage step lights with new

Apple Electric:	\$7,586.00
5% P&O:	<u>\$ 379.30</u>
TOTAL:	\$7,965.30

Please let us know if you need any more information.

Sincerely,

KEITH B. LONG  
John L. Briggs & Co.

1807SCRG CO #1REV



18854 John J. Williams Hwy.  
Rehoboth, DE 19971

Telephone 302-645-5105  
Fax 302-645-5590  
[theappleelectric@comcast.net](mailto:theappleelectric@comcast.net)  
EIN 51-0345009  
DE Bus Lisc 1991834103

DATE: 11-1-18  
John L Briggs & Co.  
P.O. Box 90  
Georgetown DE. 19947  
Keith Long  
856-7033  
[contact@jlbriggscs.com](mailto:contact@jlbriggscs.com)

**Change Order #1  
Second Revision  
South Coastal Library  
Project L19-3**

Alternate bollard lights ABB-B1

Spec bollard lights: Tahoe 510-2 @ 475.00 each x 17 units: (8,075.00)  
Alternate lights: Invue ABB-B1 @ 865.00 each x 17 units: \$14,705.00  
10% profit/overhead: 663.00  
Additional cost for 17 alternates: \$7,293.00

Replace two 12volt low voltage step with new 120 volt lights.

Material  
2-Progress P6832: 103/ea x 2 units: 206.00  
10% profit/overhead: 20.60  
Labor one hour: 60/hr: 60.00  
10% profit/overhead: 6.00  
Additional cost: 292.60

The above work will be completed for the sum of: **\$7,586.00**

\_\_\_\_\_  
Jimmy Valentine, estimator

# John L. Briggs & Co.

106 E. Laurel Street  
P.O. Box 90  
Georgetown, DE 19947  
(P) 302-856-7033 (F) 302-856-7085

---

November 7, 2018

Mr. Anthony DiGiuseppe Jr.  
Sussex County  
2 The Circle  
Georgetown, DE 19947

Re: South Coastal Library Reading Garden Alterations  
Contract Modifications

Dear Mr. DiGiuseppe, Jr.:

Cost for 230 square feet of pavers as per the marked up drawing C1.0

Thompson & Sons:	\$4,324.69
5% P&O:	<u>\$ 216.24</u>
TOTAL:	\$4,540.93

Please let us know if you need any more information.

Sincerely,

KEITH B. LONG  
John L. Briggs & Co.

1807SCRG CO #3REVISED

Thompson & Sons Contracting Inc.  
 5367 Big Stone Beach  
 Big Stone Beach RD Milford, DE 19963

**CHANGE ORDER DETAIL FORM**  
 (Provided by contractor, subcontractor or sub tier contractor)

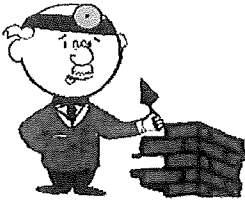
DATE SUBMITTED: 11/7/2018  
 CONTRACT: JLBriggs/ South Coastal Library Reading Garden Alt.  
 CONTRACTOR: Thompson & Sons Contracting Inc.  
 PROJECT NAME: South Coastal Library Reading Garden Alterations  
 CHANGE ORDER REQUEST: REVISED COR #2 Install CR 6 for Brick Paver (230 Sq Ft)

LABOR SECTION			
TRADESMAN(s):	LABOR HOURS	RATE (per schedule)	SUBTOTAL
Operator	4hrs	\$35.00	\$140.00
Labor	16hrs	\$35.00	\$560.00
Subtotal			\$700.00

MATERIAL SECTION			
MATERIAL:	QUANTITY	UNIT COST	SUBTOTAL
CR 6	8 tons	\$34.00	\$272.00
Fuel			\$50.00
Fabric S-200	221 sq ft	\$1.00	\$221.00
The Brick Doctor	230sq ft	10.59	\$2,436.50
Subtotal			\$2,979.50

EQUIPMENT SECTION			
EQUIPMENT:	QUANTITY	UNIT COST	SUBTOTAL
Bobcat	4hrs	\$60.00	\$240.00
Subtotal			\$240.00

SUBTOTAL	\$3,919.50
SUBCONTRACTOR/ SUB TIER*	
OH & PROFIT (7.5% on sub/sub tier only)	\$182.74
BOND COST	
OH & PROFIT (15% on own work)	\$222.45
GRAND TOTAL	\$4,324.69



**The Brick Doctor, Inc.**

**130 Kruser Boulevard**

**Dover, Delaware 19901**

**302-678-3380 Office**

**302-242-2861 Cell**

**[www.thebrickdoctor.com](http://www.thebrickdoctor.com)**

**[jason@thebrickdoctor.com](mailto:jason@thebrickdoctor.com)**

®



November 6, 2018

RE: South Coastal Library Project

RE: Unit pavers

**Unit Pavers (230 square feet) – Total Cost \$2,436.50 @ \$10.59** Our scope of work to include all materials, labor and equipment for installation of C#33 paver setting bed, installation of pavers in specified pattern, installation of vertical joint sand, adjustment of existing edge where necessary, numerous compactions passes and clean-up of all areas disturbed by The Brick Doctor, Inc.

Please call me if you have any questions at 302-242-2861. We look forward to providing you with our professional services.

Thanks

Jason A. Goodnight  
President

*Specializing in the custom design and installation of Driveways, Sidewalks, Patios, Pedestal Pavers and Segmental Retaining Walls. Restoration and repairs of brick and masonry...*



## 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) 855-7773



## Sussex County

DELAWARE

[sussexcountype.gov](http://sussexcountype.gov)

HANS M. MEDLARZ, P.E.  
COUNTY ENGINEER

JAMES A. HICKIN, A.A.E.  
AIRPORT MANAGER

### **MEMORANDUM**

**TO:** Sussex County Council

**THROUGH:** Todd Lawson  
County Administrator

**FROM:** Jim Hickin, A.A.E.  
Airport Manager

**DATE:** November 27, 2018

**RE:** **DELAWARE COAST LINE RAILROAD LEASE**

Delaware Coast Line Railroad's (DCLR) 30-year lease in the Airport's business park will expire in November 2019. DCLR has primarily used their leased lot as a base of operations for maintaining the State's Georgetown to Lewes and Ellendale to Milton short line rail systems and maintenance of locomotives and rail cars. Recently, the State awarded the maintenance of these lines to another firm, causing DCLR to explore other rail-related lines of business that could take advantage of their unique facility in the Business Park. As a result, DCLR has requested the County negotiate a new lease a year prior to their existing lease's expiration.

The Airport has negotiated a new lease with DCLR, with the following highlights:

- Initial six-year term beginning December 1, 2018
- Option to renew the Lease for three (3) additional five (5) year consecutive terms
- First year rent to remain as in existing lease
- Remaining five years of initial term will be \$7,400 (\$5,000 per acre)
- Rent for the five-year options will increase by CPI-U
- Premises to be used for railroad construction and repair related businesses only
- DCLR pay all utility costs and ad valorem taxes
- Insurance required: liability, workers comp, umbrella, and pollution liability (new)
- Subletting or assigning the lease requires written County approval

DCLR has also requested approval to sublease a portion of the property to Railroad Construction Company, Inc and Delmarva Central Railroad. Both companies' use of the property will be in accordance with the current and proposed leases.

Please feel free to call me at 855-7775 with any questions.

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



AIRPORT TERMINAL BUILDING  
21553 RUDDER LANE | PO BOX 589  
GEORGETOWN, DELAWARE 19947

## LEASE AGREEMENT

**THIS LEASE AGREEMENT**, dated this \_\_\_\_\_ day of \_\_\_\_\_ 2018, BY AND BETWEEN:

**SUSSEX COUNTY**, a political subdivision of the State of Delaware, P.O. Box 589, 2 The Circle, Georgetown, Delaware 19947, hereinafter referred to as "Lessor",

AND

**DELAWARE COAST LINE RAILROAD COMPANY, INC.** a corporation of the State of Delaware, of PO Box 176, Lincoln, Delaware 19960, hereinafter referred to as "Lessee".

### **RECITALS:**

WHEREAS, on or about November 1, 1989, Lessor entered into a thirty (30) year lease (Original Lease") with Delaware Coast Line Railroad, a Delaware corporation (DCLR) whereby DCLR leased certain land owned by Lessor;

WHEREAS, during the term of the Original Lease, DCLR constructed Improvements on the premises;

WHEREAS, the Original Lease will expire on November 30, 2019, at which time buildings and fixtures erected on the demised premises shall be the property of the Lessor;

WHEREAS, Lessor and Lessee wish to terminate the existing lease and enter into new lease to ensure the longevity of the Lessee's business;

WHEREAS, Lessor and Lessee hereby agree to enter into a lease pursuant to the terms and conditions outlined herein;

WHEREAS, Lessor and Lessee hereby acknowledge and agree that this lease is not to be considered as an extension of the Original Lease but, rather, an entirely new lease; and

WHEREAS, Lessor and Lessee agree Lessee shall retain ownership of the Improvements and that the ownership of the Improvements shall revert to Lessor at the termination of this lease.

### **WITNESSETH:**

IN CONSIDERATION of the mutual covenants hereinafter expressed, the parties hereto agree as follows:

1. **PREMISES:** Lessor does hereby lease to Lessee and Lessee does hereby rent from Lessor, the following described premises ("the Leased Premises"):

Portions of Lots No. 19 and 20 in the Delaware Coastal Business Park, 21673 Nanticoke Avenue, Georgetown, DE 19947, containing 1.48 acres more or less, and more particularly described in Appendix A annexed hereto and made a part hereof. The Leased Premises shall include improvements as hereinafter defined which are located on said property.

2. **TERM:** The term of this Lease Agreement shall be six (6) years, commencing at 12:00 a.m. on the 1st day of December, 2018 and ending at 11:59 p.m. on the 30<sup>th</sup> day of November, 2024. Lessee shall have the option to renew the Lease for three (3) additional five (5) year consecutive terms. Each option term shall be considered independently from the other option terms for purposes of notice to renew. To exercise the option, Lessee must give written notice to Lessor at least one hundred eighty (180) days prior to the termination date of the original lease term and of any option period of Lessee's intent to exercise the option. At the end of the lease term and the three (3) options, if exercised, the parties agree that this Lease Agreement shall terminate and that a new lease shall be negotiated should Lessee continue to desire to occupy the Leased Premises. Lessee shall not have the right to exercise any option to renew the Lease if Lessee is otherwise in default of this Lease.

3. **RENT:**
  - a. Beginning the 1st day of December, 2018, Lessee covenants and agrees to pay Lessor annual rent in the amount of Eight Hundred Dollars (\$800.00) per year.
  - b. Beginning the 1<sup>st</sup> day of December, 2019, Lessee covenants and agrees to pay Lessor annual rent in the amounts of Seven Thousand Four Hundred Dollars (\$7,400.00) per year with rent being due in advance in quarterly installments of One Thousand Eight Hundred Fifty Dollars (\$1,850.00)

which shall be paid on or before 1st day of each quarter of the Lease Term (Jan1, Apr 1, Jul 1, Oct 1).

- c. The annual rent under this Paragraph 3 of this Lease Agreement shall be adjusted at the end of the initial term of this lease and at the end of each five-year option period to reflect any change in the cost of living. The adjustment, if any, will be calculated on the basis of the percentage increase equal to the most recent Consumer Price Index for All Items, All Urban Consumers, U.S. City Average (CPI-U Table A, unadjusted as published monthly by the United States Department of Labor, Bureau of Labor Statistics) compared to the same index sixty (60) months earlier. If publication of the above index shall be discontinued, then another index generally recognized as authoritative, shall be substituted as selected by Lessor. The rent for each subsequent five (5) year period will be adjusted by the percentage increase from the last preceding five (5) year period, if any, not to exceed three percent (3%) in any one Lease Year.
  - d. Within thirty (30) days after Lessor gives Lessee notice of the adjusted rent, Lessee will pay the adjusted rent retroactive to the first month of the then current five (5) year lease period. The adjusted rent will be the yearly rent for the balance of the then current five (5) year lease period. Lessor will give Lessee written notice indicating how the adjusted rent amount was computed.
4. **PAYMENT PROVISIONS:** Payments made after the fifteenth (15) day of the month in which due shall be subject to a late fee of five percent (5%) of the total amount outstanding. All payments should be made to Sussex County Council, Sussex County Accounting Office, P.O. Box 589, Georgetown, Delaware 19947, or such other place or places as may from time to time be designated in writing by Lessor.
5. **REPAIR AND CARE:** Lessee has examined the Leased Premises and has entered into this lease without any representation on the part of Lessor as to the conditions thereof. Lessee shall take good care of the Leased Premises and any improvements located thereon at Lessee's own cost and expense, and shall maintain the Leased Premises and any improvements located thereon in good

condition and state of repair and at the end of the term hereof or any extension thereof, shall deliver the Leased Premises and any improvements located thereon in good order and condition, wear and tear from a reasonable use thereof, and damage by the elements not resulting from the neglect or fault of Lessee, excepted. Lessee shall neither encumber nor obstruct the sidewalks, driveways, yards or entrances, but shall keep and maintain the same in a clean condition, free from debris, trash, refuse, snow and ice. Lessee shall be responsible for all grass cutting and snow removal. Grass shall be mowed regularly so as to prevent grass from growing beyond six (6) inches in height. Snow removal from access road to Lessee's building shall be the sole responsibility of Lessee.

6. **UTILITIES.** Lessee shall pay for all utilities of whatsoever kind which are furnished to the Leased Premises. Lessor shall provide to the Leased Premises a connection to the central sewer system, electricity, and water utilities, but Lessee shall be responsible for all other utility connections. Lessor shall be responsible for the maintenance of the water meter servicing the Leased Premises. Lessee shall be solely responsible for water charges, and Lessor shall have no obligation for the same. In the event, Lessor charges Lessee for water provided to the Leased Premises, Lessee shall pay the same rate for water as paid by other tenants in the Delaware Coastal Business Park.

7. **USE OF PREMISES:**

- a. Lessee shall have the right to utilize the Leased Premises and any improvements to be located thereon for activities such as one or more of the following: Railroad construction and repair related business.
- b. The use of the Leased Premises shall at all times comply with all laws, ordinances, orders, regulations and requirements of any governmental authority having jurisdiction.
- c. It is specifically agreed that this Lease Agreement is non-exclusive. Lessor reserves the right to lease other real property at the Delaware Coastal Business Park for identical or similar uses.

8. **NO LIENS OR ENCUMBRANCES:**

- a. The Leased Premises are leased by the Lessor free and clear of all liens, encumbrances and easements and title shall be good and marketable and such as will be insured by a reputable company at regular market rates. Should title not be as described, Lessee shall have the option to declare this Lease null and void, and be repaid it out of pocket expenses, including title company charges, and there shall thereafter be no further liability or obligation on the part of Lessor and Lessee.
- b. Any liens placed on property owned by Lessee which are located on the Leased Premises must first be approved by Lessor.
- c. Lessee has no authority whatsoever to encumber the Leased Premises or any improvements located thereon as of the date of this Lease Agreement.

9. **AIRPORT PROTECTION:**

- a. It shall be a condition of this lease, that Lessor reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the real property hereinafter described, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for use of said airspace for landing on, taking off from or operating on the airport.
- b. Lessee expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the hereinafter described real property to such a height so as to comply with Title 14, Code of Federal Regulations, Part 77.
- c. Lessee expressly agrees for itself, its successors and assigns, to prevent any use of the hereinafter described real property which would interfere with or adversely affect the operation or maintenance of the airport, or otherwise constitute an airport hazard.

10. **TAXES:** Lessee shall pay all ad valorem taxes or any other taxes, including taxes levied by Sussex County, on the improvements erected on the Leased Premises and all equipment installed therein.

11. **RIGHT TO CONTEST**: Lessee shall have the right in good faith to contest by legal proceedings or otherwise the assessment upon the Leased Premises by any governmental authority levying or attempting to levy taxes thereon. Lessor shall cooperate with Lessee, but at no expense to Lessor, in any such protest as Lessee shall make. In the event Lessee shall determine to contest such taxes, Lessee shall, within the time herein set forth for the payment of such taxes, post with the proper governmental authorities such sum of money or take such other action satisfactory to Lessor, as will protect the property from nonpayment during such contest. Further, Lessee shall obtain the participation of the Lessor in any tax appeal, if required.
12. **STATUTORY LIEN**: Lessor hereby claims any and all statutory or other liens which it may have upon the equipment, furniture, fixtures, real and personal property of any Lessee or Sub-Lessee placed upon the improvements, and Lessee agrees that Lessor has such a lien to the extent provided by statute or otherwise. Lessor agrees to subordinate its lien right to the lien of any mortgage, deed of trust, or security instrument given by Lessee for the construction of the improvements and purchase of the equipment, furniture, fixtures and personal property placed upon the Leased Premises. Lessee shall furnish the Lessor copies of all such security instruments.
13. **INSURANCE**:
- a. **Property and Business Income Insurance** - Lessee shall secure and maintain, at its own expense, all risk (special form) property insurance that insures against direct physical loss of or damage to the Improvements and Lessee's personal property including fixtures and equipment located on the Leased Premises, on a replacement cost valuation basis, with limits not less than 100% of the insurable replacement cost of all such property. Lessee shall also secure, at its own expense, all risk (special form) business income and extra expense insurance in amounts satisfactory to protect its interests as a result of direct physical loss of or damage to the Improvements and other covered property, fixtures and equipment located on the Leased Premises. Lessor shall be an insured on Lessee's property and business

income insurance as its interests may appear, in amounts sufficient to protect Lessor's interests.

- b. **Waiver of Subrogation** - To the fullest extent permitted by law, Lessee waives any right of recovery from Lessor, and its appointed and elected officials, employees, agents, and volunteers, for any loss, damage or injury to the Improvements and Lessee's personal property including fixtures and equipment located on the Leased Premises (or resulting loss of income or extra expense), by reason of any peril required to be insured against under this Lease Agreement. To the fullest extent permitted by law, Lessee's property insurer shall not hold any right of subrogation against Lessor, and its appointed and elected officials, employees, agents, and volunteers. Lessee shall advise its insurer(s) of the foregoing and such waiver shall be permitted under any property and/or business income and extra expense insurance policies maintained by Lessee. Any deductible amount(s) selected by Lessee shall be the sole responsibility of Lessee.
- c. **Commercial General Liability Insurance** - Lessee shall secure and maintain, at its own expense, commercial general liability insurance that insures against bodily injury, property damage, personal and advertising injury claims arising from Lessee's occupancy of the Leased Premises or operations incidental thereto, with the combined single limit of \$1,000,000.00 per occurrence and a general aggregate limit of \$2,000,000.00. This insurance shall name Lessor and its appointed and elected officials, employees, agents and volunteers as insureds on a primary and non-contributory basis, with respect to liability arising out of or in connection with Lessee's occupancy of the Leased Premises or operations incidental thereto under this Lease Agreement. This insurance shall apply to the operation or movement of locomotives and rolling stock on, to and from the Leased Premises. A copy of the additional insured endorsement(s) that evidence the required additional insured status must accompany any certificate of insurance provided to Lessor. To the fullest extent permitted by law, Lessee's commercial general liability insurer shall

not hold any right of subrogation against Lessor, and its appointed and elected officials, employees, agents, and volunteers. Lessee shall advise its insurer(s) of the foregoing and such waiver shall be permitted under any commercial general liability insurance policies maintained by Lessee.

- d. **Workers' Compensation & Employers' Liability** - Lessee shall secure and maintain, at its own expense, workers' compensation insurance and employers' liability insurance. The workers' compensation insurance must satisfy Lessee's workers' compensation obligation to its employees in Delaware under State or Federal law. Employers' liability insurance must be secured with minimum limits of \$100,000.00 for bodily injury by accident, \$100,000.00 each employee for bodily injury by disease, and a \$500,000.00 policy limit for bodily injury disease.

To the fullest extent permitted by law, Lessee's workers' compensation and employers' liability insurer shall not hold any right of subrogation against Lessor, and its appointed and elected officials, employees, agents, and volunteers. Lessee shall advise its insurer(s) of the foregoing and such waiver shall be permitted under any workers' compensation and employers' liability insurance policies maintained by Lessee.

- e. **Umbrella Excess Liability or Excess Liability Insurance** – Lessee shall secure and maintain, at its own expense, umbrella excess liability or excess liability insurance with minimum limits of \$4,000,000 combined single limit - each occurrence and \$4,000,000 combined single limit – aggregates. This insurance shall include the insurance specified in Paragraphs 13.c. and 13.d.(Employers' Liability Insurance only) as underlying insurance. This insurance shall follow form with the coverage provisions, including who is an insured, required for underlying insurance.
- f. **Pollution Liability Insurance** – Lessee shall secure and maintain, at its own expense, pollution liability insurance that insures claims for pollution and remediation legal liability arising out of or in connection with the Lessee's occupancy of the Leased Premises. The minimum limits of liability

for this insurance are \$1,000,000 each pollution condition and \$1,000,000 annual aggregate. This insurance shall name Lessor, and its appointed and elected officials, employees, agents, and volunteers as additional insureds on a primary and non-contributory basis. The endorsement(s) evidencing the required additional insured status must be submitted in conjunction with certificates of insurance furnished to Lessor. Tenant must continue to maintain such insurance, covering incidents occurring or claims made, for a period of three (3) years after termination of this Agreement.

- g. **Evidence of Insurance / Insurers** - Lessee shall furnish certificates of insurance, acceptable to Lessor, to the Director, Airport and Industrial Park Operations, Sussex County, Delaware evidencing all policies required above at execution of this Agreement and prior to each renewal thereafter. Such insurance shall be written with insurers allowed to do business in Delaware, with a Best's Financial Strength Rating of "A-" or better, and a Financial Size Category of "Class VII" or better in the latest evaluation of the A.M. Best Company, unless otherwise approved by the Lessor. All insurance policies required hereunder shall be endorsed to provide that the policy is not subject to cancellation or non-renewal in coverage until sixty (60) days prior written notice has been given to Lessor. Therefore, a copy of the endorsements to the required policies that confirm additional insured status and the insurer is obligated to send notice to Lessor as required herein, must accompany all certificates of insurance. Liability policies required herein (other than pollution liability) may not be written on a "claims made" basis without the prior written approval of Lessor. If Lessee shall fail, refuse or neglect to secure and maintain any insurance required of Lessee or to furnish satisfactory evidence of insurance, premiums paid by Lessor shall be recoverable by Lessor from Lessee, together with interest thereon, as additional rent promptly upon being billed therefore.
- h. All policy limits as stated herein shall be adjusted every five (5) years in accordance with increases in the consumer price index to levels satisfactory to Lessor.

14. **RIGHTS AND OBLIGATIONS OF LESSEE:**

- a. Lessee shall have the right to ingress and egress to the Leased Premises.
- b. Lessee may install signage on the Leased Premises, but signage is subject to Lessor's prior written approval.
- c. Lessee shall comply with all federal, state, and county laws, rules, regulations pertaining to the Leased Premises including but not limited to rules and regulations of Delaware Coastal Airport which may be altered from time-to-time.

15. **RIGHTS AND OBLIGATIONS OF LESSOR:**

- a. Lessor or its authorized representative may enter the Leased Premises at any time without the consent of Lessee in case of emergency, and Lessor or its authorized representative may enter the Leased Premises upon the giving of reasonable notice to Lessee for inspections or to make repairs, additions or alterations as may be necessary for the safety, improvement or preservation of the Leased Premises. Reasonable notice shall mean no less than 48 hours prior to the entry, unless Lessor is entering to make repairs specifically requested by Lessee. Lessee shall not unreasonably withhold consent to Lessor or its authorized representative to enter into the Leased Premises to inspect it or make necessary or agreed upon repairs or improvements.
- b. Lessor shall provide access to the Leased Premises and shall keep all roads thereto clear of snow and other debris.

16. **SUBLETTING AND ASSIGNING:** Lessee shall not have the right to assign this Lease Agreement or sublet the Leased Premises unless the written consent of the Lessor is acquired. Unless otherwise agreed, such assignment or subletting shall in no way relieve Lessee of any responsibility for the payment of rent or for the performance of any of the other covenants or conditions hereof. The prospective

assignee or Sub-Lessee shall be subject to inquiries concerning the nature of business and employment goals. Such assignee or Sub-Lessee shall in writing assume all of the obligations to be performed by Lessee hereunder. Lessee agrees to pay for any attorney's fees incurred by Lessor resulting from any sublease or assignment. Lessor reserves the right to require the renegotiation of the terms of the Lease in return for consenting to a sublease or assignment.

17. **NOTICE**: All notices required to be given under this Lease Agreement either by Lessor to Lessee or by Lessee to Lessor shall be in writing. The same shall be deemed given in the case of Lessor when it shall have deposited such notice by certified mail in the post office addressed to Lessee at Lessee's last known address or to such other address as Lessee shall from time to time furnish Lessor. Personal service of any such notice shall be deemed as a substitute for the mail notice.
18. **CONDEMNATION**: If at any time during the term hereof the whole of the demised premises shall be taken for any public or quasi-public use under any statute or by right of eminent domain, then and in such event, when possession shall have been taken of the Leased Premises by the condemning authority, the Lease Agreement hereby granted and all rights of Lessee hereunder shall immediately cease and terminate and the rent shall be apportioned and paid to the time of such termination. If pursuant to the provisions of this article, this Lease Agreement shall have been terminated and if prior to such termination, Lessee shall have made any improvements upon the Leased Premises, Lessor shall be entitled to all of the condemnation proceeds which may be granted with respect to the land herein described as such land is distinguished from the improvements; and Lessee shall be entitled to the proceeds of any condemnation awarded on account of the value of any improvements made by Lessee.
19. **PARTIAL CONDEMNATION**: If after commencement of this Lease Agreement only a part of the demised premises shall be taken or condemned, Lessor shall be entitled to any award made with respect to the land herein described as same is distinguished from any improvements made by Lessee; and Lessee shall be entitled to any award made for any improvements condemned. In the event such

condemnation shall leave a portion of the demised premises which in Lessee's sole judgment is usable by Lessee, the Lease Agreement shall remain in full force and effect, but the rents herein reserved to Lessor shall be adjusted so that Lessee shall be entitled to a reduction in rent in the proportion that the value of land taken bears to the value of the entire Leased Premises. If a portion of the Leased Premises is taken or condemned prior to commencement of construction hereunder, the proceeds shall belong solely to Lessor and the rental hereunder shall not be abated. Provided however, that Lessee shall have the right to terminate this Lease Agreement if in its sole judgment the premises have been rendered unsuitable for its purpose.

20. **DEFAULT:**

a. **Events of Default Defined.** The following shall be "events of default" under this Lease Agreement and the terms "event of default" or "default" shall mean, whenever they are used in this Lease Agreement any one or more of the following events:

- i. Failure by Lessee to pay the rents required to be paid at the times specified herein and continuing for a period of thirty (30) days after notice by mail is given to Lessee that the rental payment referred to in such notice has not been received;
- ii. Failure by Lessee to observe and perform any covenant, condition or agreement of this Lease Agreement on its part to be observed or performed, other than as referred to in subsection (1) of this Section, for a period of sixty (60) days after written notice, specifying such failure and requesting that it be remedied, given to Lessee by Lessor, unless the Lessor shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if it is possible to correct such failure and corrective action is instituted

by Lessee within the applicable period and diligently pursued until the default is corrected; or

- iii. The dissolution or liquidation of Lessee or the filing by Lessee of a voluntary petition in bankruptcy, or failure by Lessee promptly to lift or bond (if legally permissible) any execution, garnishment or attachment of such consequences as will impair its ability to carry on its operation, or the commission by Lessee of any act of bankruptcy, or adjudication of Lessee as bankrupt or assignment by Lessee for the benefit of its creditors, or the entry by Lessee into an agreement of composition with its creditors, or the approval by a Court of competent jurisdiction of a petition applicable to Lessee in any proceedings for its reorganization instituted under the provisions of the Federal Bankruptcy Statutes, as amended, or under any similar act which may hereafter be enacted. The term "dissolution or liquidation of the Lessee", as used in this subsection, shall not be construed to include the cessation of the corporate existence of Lessee resulting from a merger or consolidation of Lessee into or with another corporation or of a dissolution or liquidation of Lessee following a transfer of all or substantially all its assets as an entirety; or

- iv. Failure by Lessee to abide by any laws, statutes, rules, or regulations relating to the Leased Premises or Delaware Coastal Airport and continuing for a period of thirty (30) days after notice by mail is given to Lessee that the violation referred to in such notice has not been corrected.

- b. Remedies of Default. Whenever any event of default referred to in subsection (a)(i)-(a)(iv) above shall have happened and be subsisting, Lessor may take any one or more of the following remedial steps:

- i. Apply any money or property of Lessee's in Lessor's possession to discharge in whole or in part any obligation or covenant to be observed or performed by Lessee hereunder.
    - ii. Perform any obligation or covenant to be performed by Lessee hereunder and charge Lessee therefore.
    - iii. Terminate the Lease Agreement.
    - iv. Enter the Leased Premises and take possession of the same and hold Lessee liable for the rent thereafter accruing and due until such time as Lessor can obtain another suitable Lessee of the Leased Premises under the same terms hereof.
  - c. No remedy herein conferred upon or reserved to Lessor or Lessee shall exclude any other remedy herein or by law provided, but each shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.
21. **NON WAIVER OF SUBSEQUENT BREACH:** Lessee agrees that any waiver by Lessor of the performance of any one of the conditions of this Lease Agreement shall not be deemed to constitute a waiver of the right of Lessor to proceed against Lessee upon any subsequent breach of the same or other conditions of this Lease Agreement.
22. **SEVERABILITY:** If any provisions of this Lease Agreement shall be held invalid or unenforceable by any Court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof.
23. **SHORT FORM LEASE:** Upon the request of either of them, the parties shall execute and exchange copies of a short form lease outlining the pertinent terms herein contained, which short form lease may be recorded in lieu of recording this

instrument, but the terms of this instrument shall control in all aspects in regard to matters omitted from such short form lease or in respect to conflicts therewith.

24. **COMPLIANCE WITH LAWS:** Lessee shall promptly comply with all laws, ordinances, rules, regulations, requirements and directives of the Federal, State and County Government and Public Authorities and of all their departments, bureaus and subdivisions, applicable to and affecting the said premises, their use and occupancy, for the correction, prevention and abatement of nuisances, violations or other grievances in, upon or connected with the said premises, during the term hereof; and shall promptly comply will all orders, regulations and directives of the State Fire Marshal or similar authority and of any insurance companies which have issued or are about to issue policies of insurance covering the said premises and its contents, for the prevention of fire or other casualty, damage or injury, at the Lessee's own cost and expense.
25. **PROPERTY RIGHTS RESERVED:** This Lease and all provisions hereof are subject and subordinate to the terms and conditions of the instruments and documents under which Lessor received airport improvement funding from the United States of America and shall be given only such effect as will not conflict or be inconsistent with the terms and conditions contained in the Lease of said lands from Lessor, and any existing or subsequent amendments thereto, and are subject to any ordinances, rules or regulations which have been, or may hereafter be adopted by Lessor pertaining to Delaware Coastal Airport.
26. **LESSOR NOT LIABLE FOR DEBTS, ACTS OR OMISSIONS OF LESSEE:** Lessee shall not be the agent or partner of Lessor; and Lessee shall have no authority to make any contract or do any act so as to bind Lessor or as to render Lessor or Lessor's interest in the Leased Premises liable therefore. Lessee will save Lessor and the Leased Premises harmless from any penalty, damages, neglect, or negligence of Lessee, property damage, illegal act or otherwise. The improvements to be placed on said Leased Premises shall be constructed at the sole expense of Lessee, and Lessor and its appointed and elected officials, employees, agents, and volunteers shall not be liable in any way for any amount

of money arising out of said construction. Before starting construction, Lessee shall have recorded on the public records of Sussex County, Delaware, such legal notice as may be necessary wherein the public is advised that Lessor and its appointed and elected officials, employees, agents, and volunteers are not in any way liable for any claims or obligations for labor and materials on said job, and that the laborers, material men and subcontractors shall look solely to Lessee for payment and shall not be entitled to place a lien against Lessor's interests in the Leased Premises. If any mechanic's or materialmen's lien is filed or any claim made on account of labor or other material furnished, alleged to have been furnished or to be furnished to Lessee at the Leased Premises or against Lessor as the owner thereof, Lessee shall within ninety (90) days after written notice from Lessor thereof, either pay or bond the same or procure the discharge thereof in such manner as may be provided by law. Lessee will indemnify Lessor and its appointed and elected officials, employees, agents, and volunteers for its costs, legal fees and expenses in defending any action, suit or proceedings which may be brought thereon or for the enforcement of such lien, or liens and Lessee shall pay any damages and any judgment entered thereon and save harmless and indemnify Lessor and its appointed and elected officials, employees, agents, and volunteers from any claims of damages resulting there from. Failure to do so shall entitle Lessor to resort to remedies as are provided herein in the case of any default of this Lease Agreement, in addition to such as are permitted by law.

27. **SUCCESSORS AND ASSIGNS:** All of the terms, covenants, conditions and agreements herein contained shall in every case be binding upon the successors and assigns of the parties hereto.
28. **NON-PERFORMANCE BY LESSOR:** This Lease Agreement and the obligation of Lessee to pay the rent hereunder and to comply with the covenants and conditions hereof, shall not be affected, curtailed, impaired or excused because of Lessor's inability to supply any service or material called for herein, by reason of any rule, order, regulation or preemption by any governmental entity, authority, department, agency or subdivision or for any delay which may arise by reason of

negotiations for the adjustment of any fire or other casualty loss or because of strikes or other labor trouble or for any cause beyond the control of Lessor.

29. **DAMAGE AND CASUALTY:** If more than fifty percent (50%) of Lessee improvements located on the Leased Premises are damaged by fire or other casualty, Lessee may terminate this Lease Agreement, provided Lessee first removes all structures on the land at its expense and restores the surface of the land to its condition at the date of the initial term of this Lease Agreement. The rent is to be paid to the date of termination. Lessor shall be insured on Lessee's property and business income insurance in an amount sufficient to protect its interest therein.
30. **QUIET ENJOYMENT:** Lessor covenants and represents that Lessor is the owner of the premises herein leased and has the right and authority to enter into, execute and deliver this Lease Agreement; and does further covenant that the Lessee, on paying the rent and performing the conditions and covenants herein contained, shall and may peaceably and quietly have, hold and enjoy the Leased Premises for the term aforementioned.
31. **ENTIRE CONTRACT:** This Lease Agreement contains the entire contract between the parties. No representative, agent or employee of Lessor has been authorized to make any representation or promises with reference to the within letting or to vary, alter or modify the terms hereof. No additions, changes or modifications, renewals or extensions hereof, shall be binding unless reduced to writing and signed by Lessor and Lessee.
32. **IMPROVEMENTS:** Lessee shall be responsible for all maintenance and repair to any improvements located on the Leased Premises. Such improvements shall be at Lessee's sole cost and expense, including all necessary fees and permits. Construction of any and all improvements on the Leased Premises shall be subject to approval by the County Engineer and shall be in compliance with all governmental requirements. The construction and use of the Leased Premises and improvements to be constructed thereon shall at all times comply with all laws,

orders, ordinances, regulations, and requirements of any governmental authority having jurisdiction. At the termination of this lease, the improvements erected on the Leased Premises and any fixtures which are a part thereof, shall remain a part to the Leased Premises and shall be the property of the Lessor. Any trade fixtures which were installed on the Leased Premises by Lessee and which are removable without substantial damage to the improvements shall remain the property of the Lessee, provided that Lessee shall promptly repair any damage to the improvements on the Leased Premises caused by their removal and that Lessee is not in default of any covenant or agreement contained in this Lease Agreement; otherwise such trade fixtures shall not be removed and Lessor shall have a lien thereon to secure itself on account of its claims.

33. **NON-DISCRIMINATION:**

- a. Lessee for its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the grounds of race, color, creed, sexual orientation, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination, (3) that Lessee shall use the Leased Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
- b. That in the event of breach of any of the above nondiscrimination covenants, Lessor shall have the right to terminate the Lease and to re-enter and as if said lease had never been made or issued. The provision shall not be effective until the procedures of Title 49, Code of Federal

Regulations, Part 21 are followed and completed, including exercise or expiration of appeal rights.

34. **COSTS AND EXPENSES OF LESSOR**: Lessee shall pay upon demand all of Lessor's costs, charges, attorney's fees and expenses, incurred in enforcing Lessee's obligations hereunder or incurred by Lessor in any litigation in which Lessor, without Lessor's fault, becomes involved or concerned by reason of the existence of the Lease Agreement or the relationship hereunder of Lessor and Lessee.
35. **MISCELLANEOUS**: In all references herein to any parties, persons, entities or corporations the use of any particular gender or the plural or singular number is intended to include the appropriate gender or number as the text of the within instrument may require. All the terms, covenants and conditions herein contained shall be for and shall inure to the benefit of and shall bind the respective parties hereto and their heirs, executors, administrators, personal or legal representatives, successors and assigns.
36. **INDEMNIFICATION**: To the extent permitted by law, Lessee shall indemnify, defend and hold Lessor and its appointed and elected officials, employees, agents, and volunteers harmless from any and all claims arising from Lessee's use of the Leased Premises, the conduct of its business, or from any activity, work or things which may be permitted or suffered by Lessee in or about the Leased Premises, and shall further indemnify, defend and hold Lessor and its appointed and elected officials, employees, agents, and volunteers harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Lessee's part to be performed under the provisions of this Lease Agreement or arising from any negligence of Lessee or any of its agents, contractors, employees or invitees and from any and all costs, attorney's fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon. Lessee hereby assumes all risk of damage to property or injury to persons in or about the Leased Premises from any cause, and Lessee hereby waives all claims in respect thereof against Lessor and its appointed and elected

officials, employees, agents, and volunteers, except as prohibited by law. Lessee hereby agrees that, except as prohibited by law, Lessor and its appointed and elected officials, employees, agents, and volunteers shall not be liable for injury to Lessee's business or any loss of income there from or for damage to the equipment, wares, merchandise, or other property of Lessee, Lessee's employees, invitees, customers, or any other person in or about the Leased Premises; nor shall Lessor and its appointed and elected officials, employees, agents, and volunteers be liable for injury to the person of Lessee, Lessee's employees, agents or contractors and invitees, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water, rain or other elements, or from the breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, or from any other cause, whether the said damage or injury results from conditions arising upon the Leased Premises.

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**IN WITNESS WHEREOF**, the parties hereto have hereunto set their hands and seals, or caused these presents to be signed by their proper corporate officers and their proper corporate seals to be affixed, the day and year first above written. The written resolution of any applicable Board of Directors being attended hereto as evidence of the authority of the undersigned corporate officers to execute the Lease Agreement.

**SUSSEX COUNTY  
LESSOR**

DATED: \_\_\_\_\_

By: \_\_\_\_\_  
Michael Vincent  
President of the Sussex County Council

Attest: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_  
County Attorney

**DELAWARE COAST LINE RAILROAD  
COMPANY, INC.  
LESSEE**

DATED: 11/20/18

By:  \_\_\_\_\_  
President

Attest: Susan G. [unclear]

STATE OF DELAWARE :  
 : ss.  
COUNTY OF SUSSEX :

BE IT REMEMBERED, That on this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 2018, personally appeared before me, the Subscriber, a Notary Public for the State and County aforesaid, Michael Vincent, President of Sussex County Council, a political subdivision of the State of Delaware, party to this Indenture, known to me personally to be such, and acknowledged this indenture to be his act and deed and the act and deed of the said political subdivision; that the signature of the President is in his own proper handwriting; that the seal affixed is the common and corporate seal of the said political subdivision, duly affixed by its authority; and that the act of signing, sealing, acknowledging and delivering the said indenture was first duly authorized by resolution of the members of Sussex County Council.

GIVEN under my hand and Seal of Office, the day and year aforesaid.

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NOTARY PUBLIC

STATE OF DELAWARE :  
: ss.  
COUNTY OF SUSSEX :

BE IT REMEMBERED, That on this 20<sup>th</sup> day of November, A. D. 2018,  
personally appeared before me, the Subscriber, a Notary Public for the State and County  
aforesaid, Dan Herholdt, President, of Delaware Coast Line  
Railroad, Inc., a Delaware Corporation, known to me personally to be such, and he does  
depose and say that the facts set forth in the foregoing Lease Agreement are true and  
correct to the best of his knowledge, information and belief.

GIVEN under my hand and Seal of Office, the day and year aforesaid.

  
\_\_\_\_\_  
NOTARY PUBLIC

**SUSAN A. WISE**  
NOTARY PUBLIC  
STATE OF DELAWARE  
MY COMMISSION EXPIRES ON JUNE 14, 2020

**EXHIBIT "A"**  
**DESCRIPTION OF LEASED PREMISES**

All that certain lot, piece and parcel of land, lying and being situated in Georgetown Hundred, Sussex County, and State of Delaware, being designated as a portion of Lot Numbers 19 and 20, Delaware Coastal Business Park, more particularly described as per survey dated November 2, 2018, and prepared by Adams-Kemp Associates, Inc., Professional Land Surveyors, as follows to wit:

Beginning for the same at an iron bar/cap set at the southwest corner of the herein described Parcel A Revised of the Delaware Coastal Business Park. Point of beginning also being the northwest corner of Parcel B of the Delaware Coastal Business Park and being located in the easterly line of Nanticoke Ave. Thence leaving said point of beginning and running and binding with said easterly line of Nanticoke Ave.

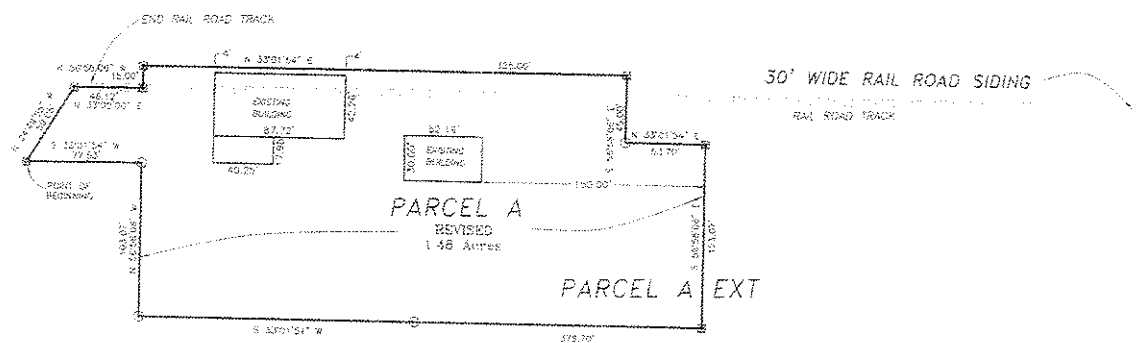
- 1) N 24°49'54" W a distance of 59.05'; to an iron bar/cap set. Thence running with the centerline of a railroad tract extended,
- 2) N 33°02'00" E a distance of 46.12'; to an iron bar/cap set. Thence leaving said railroad track,
- 3) N 56°58'06" W a distance of 15.00'; to the northerly line of a 30 foot wide railroad siding. Thence with same,
- 4) N 33°01'54" E a distance of 325.00'; to an iron bar/cap set. Thence crossing said Railroad siding,
- 5) S 56°58'06" E a distance of 45.00'; to an iron pipe found. Thence turning and running for the new revised division lines of Parcel A extended,
- 6) N 33°01'54" E a distance of 53.70'; to an iron bar/cap set, thence
- 7) S 56°58'06" E a distance of 123.07'; to the southerly line of Parcel A Revised. Thence with same and Parcel B for the following three courses and distances,
- 8) S 33°01'54" W a distance of 378.70'; to an iron pipe found, thence
- 9) N 56°58'06" W a distance of 103.07'; to an iron pipe found, thence
- 10) S 33°01'54" W a distance of 77.53'; to the point of beginning.

Containing 1.48 acres, more or less.



NANTICKE AVENUE  
 200.42  
 200.54

LOT 17 & 18

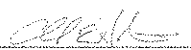


BALTIMORE AVE.

PARCEL B

223.60  
 5 6744537 E



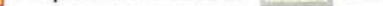
LEGEND:	 CHARLES E. ADAMS, JR., P.L.S. 506	Prepared By ADAMS-KEMP ASSOCIATES, INC. PROFESSIONAL LAND SURVEYORS AND PLANNERS 317 SOUTH RACE STREET GEORGETOWN, DELAWARE 19847 PHONE (302) 856-6993	<b>LEASE AREA SURVEY</b> PORTION LOT 18 & 20 BEING PARCEL A AND PORTION OF PARCEL A EXT <b>Delaware Coastal Airport</b> <b>Delaware Coastal Business Park</b> GEORGETOWN HUNDRED, SUSSEX COUNTY, DELAWARE SCALE 1" = 50' DATE: NOV. 2, 2011
○ FOUND IRON PIPE ■ SET IRON BAY/CAP			

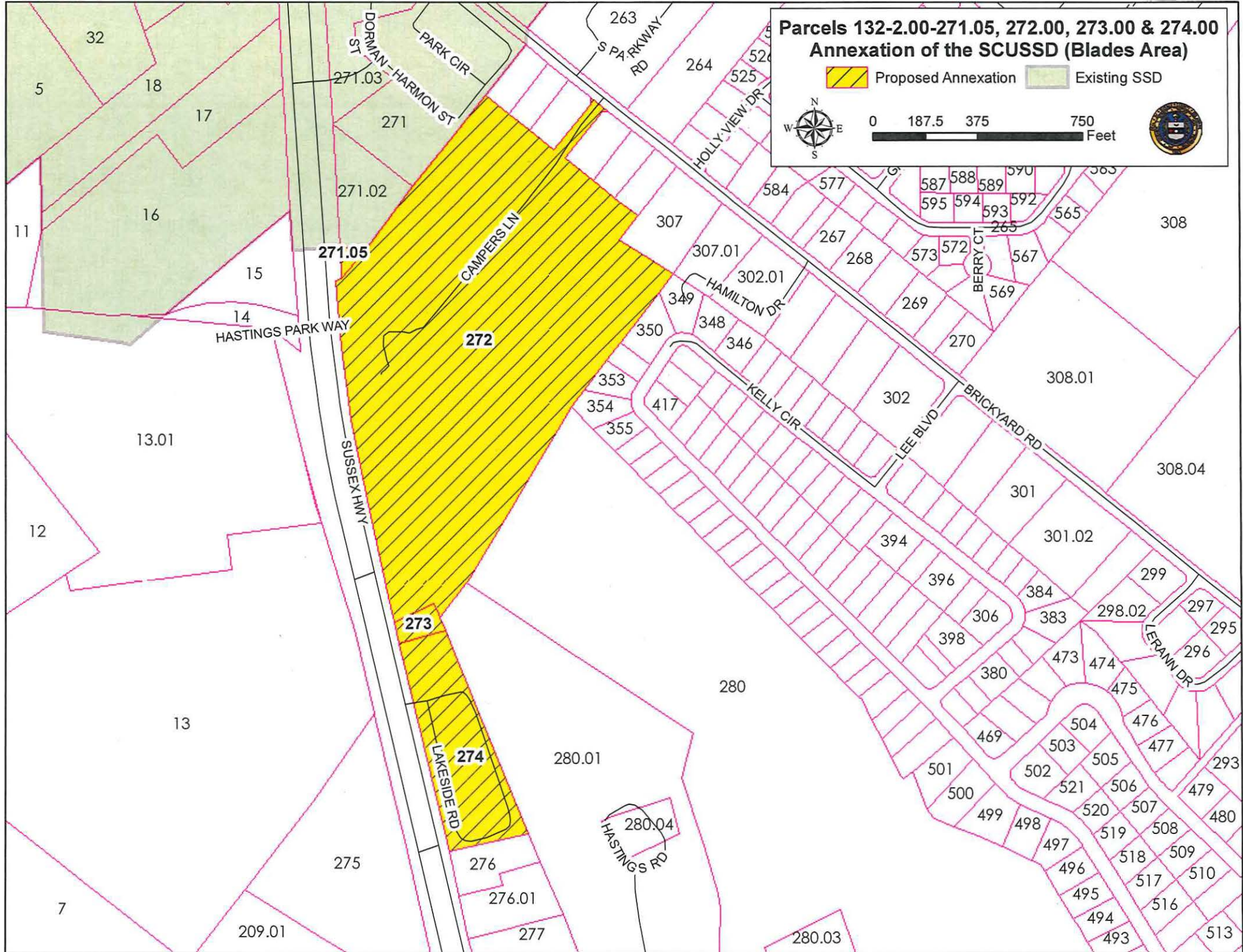
PLAN NO. 131016-C

## **Lakeside Expansion Facts**

- Permission to prepare and post notices for the Expansion of the Sussex County Unified Sanitary Sewer District (Blades Area).
- Requested by Lakeside Mobile Home Community for parcel 132-2.00-274.00.
- This is an existing community requesting annexation into the sewer district to be included in the County's upcoming Route 13 work.
- Two other parcels are required to make the project contiguous.
- The expansion will consist of 31.27 acres more or less.
- The property owner(s) will be responsible for System Connection Charges of \$6,360.00 per EDU based on current rates.
- A tentative Public Hearing is currently scheduled for January 15, 2019 at the regular County Council meeting.

 Proposed Annexation
  Existing SSD

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

**AN ORDINANCE ADOPTING THE 2018 COMPREHENSIVE PLAN FOR SUSSEX COUNTY AND REPEALING ORDINANCE NO. 1980, THE 2007 UPDATE OF THE COMPREHENSIVE PLAN, ADOPTED JUNE 24, 2008**

**WHEREAS, the County Council of Sussex County has the power and jurisdiction to regulate zoning and the uses of land in those portions of Sussex County which are not included within the corporate limits of any city or town; and**

**WHEREAS, the purpose of planning and zoning is to promote the health, safety, prosperity, and general welfare, as well as the further purpose of securing coordinated plans for land use, transportation, public facilities and utilities, and public works and expenditures in those portions of Sussex County subject to the power and jurisdiction of the County Council of Sussex County; and**

**WHEREAS, the County Council is required by The Quality of Life Act, as it appears in Subchapter II, Chapter 69 of Title 9 of the Delaware Code, as amended, to update its Comprehensive Plan for zoning, subdivision, and other land use decisions adopted June 24, 2008; and**

**WHEREAS, the County Planning and Zoning Commission and the County Council have held extensive public workshops and hearings, and have prepared a Comprehensive Plan for submission to the Cabinet Committee on State Planning Issues; and**

**WHEREAS, the County Government of Sussex County is of the opinion that it promotes the health, safety, morale, convenience, order, prosperity, and welfare of the present and future inhabitants of Sussex County by adopting a final Comprehensive Plan;**

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

**Section 1. The 2018 Sussex County Comprehensive Plan is adopted as the Comprehensive Plan in Sussex County.**

**Section 2. The 2007 Update of the Comprehensive Plan adopted June 24, 2008 is hereby repealed.**

**Section 3. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications.**

**Section 4. This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.**



# SUSSEX COUNTY GOVERNMENT

## GRANT APPLICATION

### SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: BEACON MIDDLE SCHOOL CHOIR

PROJECT NAME: ADJUDICATION

FEDERAL TAX ID: 51-6000279 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: CHORAL ENSEMBLE  
TO ENCOURAGE STUDENTS TO GROW MUSICALLY WITHIN A

ADDRESS: 19483 JOHN J WILLIAMS HWY

LEWES DE 19958  
(CITY) (STATE) (ZIP)

CONTACT PERSON: JULEEANN SCHLITTER

TITLE: TEACHER

PHONE: 302.645.6288 EMAIL: JULEEANN.SCHLITTER@CAPE.K12.DE

TOTAL FUNDING REQUEST: \$4,000.00

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? 50%

## SECTION 2: PROGRAM DESCRIPTION

### PROGRAM CATEGORY (choose all that apply)

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

### BENEFICIARY CATEGORY

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> Disability & Special Needs | <input type="checkbox"/> Victims of Domestic Violence        | <input type="checkbox"/> Homeless         |
| <input type="checkbox"/> Elderly Persons            | <input 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:

**150 STUDENT**

## 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.

Every year the choir program at Beacon Middle School strives to educate and train students to be well rounded singers and musicians. Each Spring 1-2 choirs travel to a festival to be assessed and judged for their singing and performing abilities. This experience acts as a culmination of the students efforts and studies throughout the year. However, this trip has become quite expensive due to traveling costs. Acquiring coach buses are far beyond our budgetary means. School buses are not ideal for travel due to the length of travel time and the safety of our students. In addition it is hard to acquire school buses at this time of the year. The funds I am seeking from the Sussex County Council are to provide two coach buses for my 7th and 8th grade choirs to attend a wonderful festival experience.

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

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

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

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

## SECTION 4: BUDGET

<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>	
<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>	
Coach buses	-4,000.00
<b>TOTAL EXPENDITURES</b>	\$ 0.00
<b>TOTAL DEFICIT FOR PROJECT OR ORGANIZATION</b>	\$ 0.00

## SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the Beacon Middle School Choir 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.**

Juleeann Schlitter

Applicant/Authorized Official

Dave Frederick

Witness

10/29/18

Date

10/29/18

Date

Completed application can be submitted by:

Email: gjennings@sussexcountype.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.

\_\_\_\_\_  
Juleeann Schlitter  
Applicant/Authorized Official  
  
\_\_\_\_\_  
Dave Frederick  
Witness

Teacher  
\_\_\_\_\_  
Title  
10/29/18  
\_\_\_\_\_  
Date

Burton  
11-13-18



# SUSSEX COUNTY GOVERNMENT

## GRANT APPLICATION

### SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: Beacon Middle School Band

PROJECT NAME: Dorney Park Festival and Trip

FEDERAL TAX ID: School district NON-PROFIT: ☒ YES ☐ NO

DOES YOUR ORGANIZATION OR ITS PARENT ORGANIZATION HAVE A RELIGIOUS AFFILIATION?

☐ YES ☒ NO \*IF YES, FILL OUT SECTION 3B.

ORGANIZATION'S MISSION: The Beacon Middle School Band's mission is that every student learns to play an instrument, is challenged with a varied repertoire of music and is given ample performance opportunities.

ADDRESS: 19486 John J. Williams Hwy

<u>Lewes</u>	<u>DE</u>	<u>19966</u>
(CITY)	(STATE)	(ZIP)

CONTACT PERSON: Robert J. Barbarita

TITLE: Band Director

PHONE: 645-6288 x6030 EMAIL: robert.barbarita@cape.k12.de.us

**TOTAL FUNDING REQUEST:** \$4000

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? \_\_\_\_\_

## SECTION 2: PROGRAM DESCRIPTION

### PROGRAM CATEGORY (choose all that apply)

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

### BENEFICIARY CATEGORY

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> Disability & Special Needs | <input type="checkbox"/> Victims of Domestic Violence        | <input type="checkbox"/> Homeless         |
| <input type="checkbox"/> Elderly Persons            | <input 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:

150

## 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.

The Beacon Middle School Band program consists of 150 6th, 7th and 8th grade musicians. Our main goal is music education for all students and offering students meaningful performances. In June of 2019, we will be taking the band program to Dorney park where students will receive a professional assessment by university clinicians. The clinicians will be able to reinforce concepts taught to students by Mr. Barbarita or bring up new philosophies and ideas for the bands to consider for future performances.

The total cost of coach buses for the band program will run \$4000 to take the band to Dorney Park and Muhlenberge College to receive an adjudication of thier performances.

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

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

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

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

## SECTION 4: BUDGET

<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>	\$0.00
<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>	
Jor-lin Coach Buses	\$4000
<b>TOTAL EXPENDITURES</b>	\$-4000      0
<b>TOTAL DEFICIT FOR PROJECT OR ORGANIZATION</b>	\$-4000      0

## SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the Beacon Band Program 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.**

Rob Barbarita

Applicant/Authorized Official

10/29/18

Date

Zach Coffman

Witness

10/29/18

Date

Completed application can be submitted by:

Email: [gjennings@sussexcountyde.gov](mailto:gjennings@sussexcountyde.gov)

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

802

**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.

  
\_\_\_\_\_  
Rob Barbarita  
Applicant/Authorized Official

\_\_\_\_\_  
10/29/18  
Title

  
\_\_\_\_\_  
Zach Coffman  
Witness

\_\_\_\_\_  
10/29/18  
Date

Burton  
11-13-18



# SUSSEX COUNTY GOVERNMENT

## GRANT APPLICATION

### SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: Good Samaritan Aid Organization Inc.

PROJECT NAME: Annual Christmas Outreach for Needy Families

FEDERAL TAX ID: 51-0303717 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: Good Samaritan Aid Organization (Good Sam) is committed to providing financial assistance and clothing/food resources to those families in the Laurel DE and Delmar DE communities who are less advantaged.

ADDRESS: 115 W Market Street

P. O. Box 643

Laurel DE 19956

(CITY) (STATE) (ZIP)

CONTACT PERSON: Melinda Tingle

TITLE: President

PHONE: 302/875-0355 EMAIL: mtingle57@comcast.net

### TOTAL FUNDING REQUEST: \$1,000

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? \$1,000

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? 20%

## SECTION 2: PROGRAM DESCRIPTION

### PROGRAM CATEGORY (choose all that apply)

☐ Fair Housing

☐ Infrastructure<sup>1</sup>

☒ Health and Human Services

☐ Other \_\_\_\_\_

☐ Cultural

☐ Educational

### BENEFICIARY CATEGORY

☐ Disability & Special Needs

☐ Elderly Persons

☐ Minority

☐ Victims of Domestic Violence

☒ Low to Moderate Income<sup>2</sup>

☐ Other \_\_\_\_\_

☐ Homeless

☒ Youth

### BENEFICIARY NUMBER

Approximately the total number of Sussex County Beneficiaries served annually by this program:

250 families \_\_\_\_\_

## 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.

The goal of the annual Christmas outreach supported by Good Samaritan (Good Sam) is to ensure that no family in the Laurel, DE school district goes without Christmas gifts for their children. Additionally, those same families receive food boxes (sized appropriately for the family) as part of the Christmas outreach. The outreach is supported by donations from the community and service organizations in addition to any grant received from entities like Sussex County Council. This particular outreach has served thousands of children and families over the last 25+ years in the Laurel DE community. The clients we serve are referred by the school nurses, churches and service organizations in the Laurel community. We service every referral unless there is a duplication from another agency performing a similar outreach. The Laurel DE school district is one of the poorest districts in the state as evidenced by the high percentage of children that qualify for free lunch in school. The Laurel community has a high percentage of rental residences, either in subsidized housing or apartments, so the percentage of low income households is relatively high. The Christmas outreach services in excess of 150 families or a total of approximately 760 individuals which includes 300+ children. Donated funds will be utilized to purchase toys/gifts for children and/or non-perishable food items to include in the food baskets distributed at Christmas.

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

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

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

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

## SECTION 4: BUDGET

<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>	7,500.00
<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>	
Purchase of Food Lion Gift cards	-\$ 10,000.00
Purchase of Christmas gifts for children of needy families	-\$ 2,500.00
<b>TOTAL EXPENDITURES</b>	-\$ 12,500.00
<b>TOTAL DEFICIT FOR PROJECT OR ORGANIZATION</b>	-\$ 5,000.00

## SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the Good Samaritan Aid Organization, 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.**

Melinda R. Single

Applicant/Authorized Official

11/5/2018

Date

Amanda H. Howe-Whaley

Witness

11/5/2018

Date

Completed application can be submitted by:

Email: gjennings@sussexcountydela.gov

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

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**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.

Melinda R. Single  
Applicant/Authorized Official

Amanda H. Love-Walkey  
Witness

President

Title

11/05/2018

Date

Vincent  
11-13-18



# SUSSEX COUNTY GOVERNMENT

## GRANT APPLICATION

### SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: Western Sussex Chamber of Commerce

PROJECT NAME: Seaford Christmas Parade

FEDERAL TAX ID: 51-0109649 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: to establish and promote itself as the primary advocate, voice and resource for business organizations in our area.

ADDRESS: P.O. Box 26/26673 Sussex Hwy

Seaford DE 19973  
(CITY) (STATE) (ZIP)

CONTACT PERSON: Lynn Harman  
TITLE: Executive Director

PHONE: 302-629-9690 EMAIL: lynn@westernsussexcc.com

TOTAL FUNDING REQUEST: \$500<sup>00</sup>

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 N/A

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? 20%

## SECTION 2: PROGRAM DESCRIPTION

### PROGRAM CATEGORY (choose all that apply)

- ☐ Fair Housing  
☐ Infrastructure<sup>1</sup>

- ☐ Health and Human Services  
☐ Other \_\_\_\_\_

- ☒ Cultural  
☐ Educational

### BENEFICIARY CATEGORY

- ☐ Disability & Special Needs  
☐ Elderly Persons  
☐ Minority

- ☐ Victims of Domestic Violence  
☐ Low to Moderate Income<sup>2</sup>  
☒ Other Community at large

- ☐ Homeless  
☐ Youth

### BENEFICIARY NUMBER

Approximately the total number of Sussex County Beneficiaries served annually by this program:

2500

## 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.

The Downtown Seaford Association partners with the Western Sussex Chamber of Commerce to put on the annual Seaford Christmas parade. This year's theme is "Holly, Jolly Christmas". The parade invites folks from all of Sussex County to participate and more. In order to have the bands, we give each band a donation for their school band program. We also rent a trailer to host our judges and announcers, including a PA system. In addition, we also try to promote the event through local advertising where it is affordable. Over 2500 people attend each year and shines the limelight on Western Sussex County.

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)	3000 <sup>00</sup>
<b>TOTAL REVENUES</b>	
<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>	
Trailer & PA equipment	500 <sup>00</sup>
Promotion	500 <sup>00</sup>
Band performance fee	2000 <sup>00</sup>
<b>TOTAL EXPENDITURES</b>	3000 . \$ 0.00
<b>TOTAL DEFICIT FOR PROJECT OR ORGANIZATION</b>	\$ 0.00

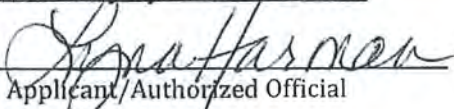
#### SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the Western Sussex Chamber of Commerce agrees that:  
(Name of Organization)

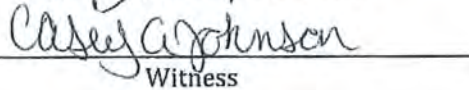
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### SECTION 5: STATEMENT OF ASSURANCES (continued)

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Applicant/Authorized Official

11/12/18  
Date

  
Witness

11/12/18  
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**

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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

Witness

Title

11/12/18  
Date

Rev. 08/2018

**To Be Introduced 11/27/18**

**Council District No. 3 – Burton**

**Tax I.D. No. 135-11.00-31.00**

**911 Address: 20288 Broadogs Place, Georgetown**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND C-1 GENERAL COMMERCIAL DISTRICT FOR A PAVING CONSTRUCTION BUSINESS WITH AN OFFICE AND EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 39.630 ACRES, MORE OR LESS**

**WHEREAS, on the 14th day of November 2018, a conditional use application, denominated Conditional Use No. 2162, was filed on behalf of Yellow Metal, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2162 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2019, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.**

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

**Section 1. That Chapter 115, Articles IV and XI, Subsections 115-22 and 115-79, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2162 as it applies to the property hereinafter described.**

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

**ALL that certain tract, piece or parcel of land lying and being situate in Georgetown Hundred, Sussex County, Delaware, and lying on the north side of Lewes-Georgetown Highway (Route 9), approximately 0.64 mile west of Gravel Hill Road, and being more particularly described in the attached legal description, said parcel containing 39.630 acres, more or less.**

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

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



**Sussex County**  
DELAWARE  
sussexcountype.gov

## Memorandum

To: Sussex County Council Members

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: November 20, 2018

RE: County Council Report for CZ 1860 Nassau DE Acquisitions Co., LLC, CU 2147 Nassau DE Acquisitions Co., LLC and CZ 1861 Nassau DE Acquisitions Co., LLC

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The Planning and Zoning Department received applications (CZ 1860 Nassau DE Acquisitions Co., LLC, CU 2147 Nassau DE Acquisitions Co., LLC and CZ 1861 Nassau DE Acquisitions Co., LLC) to allow for a Change of Zone from AR-1 (Agricultural Residential District) to MR (Medium-Density Residential District), a Conditional Use to allow for multi-family and for a Change of Zone from AR-1 (Agricultural Residential District) to C-2 (Medium Commercial District) to be located on Coastal Hwy. (Rt. 1) and Old Mill Rd. The Planning and Zoning Commission held a public hearing on October 25, 2018. The following are the draft minutes for the Conditional Use from the Planning and Zoning Commission meetings.

At the request of the applicant the Commission agreed to consolidate the next three items C/Z #1860, C/U #2147 and C/Z #1861 into one public hearing. Chairman Wheatley explained that, although the three applications will be heard together that there would ultimately be three votes, one for each application, when any action is taken by the Commission.

Ms. Cornwell advised the Commission that submitted into the record were an exhibit booklet, site plan, staff analysis comments from the Sussex Conservation District, Sussex County Engineering Department Utility Planning Division and results from a DelDOT Service Level Elevation. A total of 53 letters were received in opposition to the application and were entered into the record.

The Commission found that Mr. John Tracey, Attorney with Young, Conaway, Stargatt and Taylor, Mr. Alan Hill and Mr. Tom Schreier with Hillcrest, and Mr. Joe Cala, representative of Nassau DE Acquisition Co., LLC were present on behalf of the applications.

Mr. Drew Boyce, Director of Planning with Delaware Transportation ("DelDOT") was also present to answer any questions the Commission may have on transportation matters. Chairman Wheatley expressed the Commission's appreciation for DelDOT's participation in the public hearing for these applications.

Mr. Tracey stated the parcel is located in the State Strategy Level 3 and Level 4 area; that the Land Use Classification per the Comprehensive Plan is in the Environmentally Sensitive Developing Area;



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

that they are proposing to create two lots; that one lot would be zoned C-2 in the front of the parcel and other parcel would be zoned MR; that proposed C-2 parcel would contain 4,700 square feet of offices; that in the rear of the property is a proposed 150 unit apartment development with five buildings along with garages and storage for the tenants; that they are proposing recreational amenities which include a clubhouse, pool with a pool house and multi-purpose courts; that the type of housing proposed as market-rate apartments; that there is an increase need for rental housing in Sussex County; that the most recent state needs assessment noted that as a result of the most recent recession there is need for rental housing and there is a shortage of rental projects; that there is an increase demand for rentals; that over 7,000 units are needed; that the Comprehensive Plan recognizes the need for housing close to commercial uses and town centers; that this approach provides diversity of housing for all; that there continues to be an increase in the demand for rental opportunities; that the developer has only moderately priced housing project (Cottagedale) and has other projects in the area; that they have encountered difficulty in finding land to use this type development; that access to water and sewer are required along with proximity to arterial or collector roads, town centers or developing areas; that this is a combination of two tax parcels; that Old Mill Road is a State maintained road; that the front 2.5 acres is proposed to be zoned C-2; that the building would be a single story and approximately 4,700 square feet in size; that the commercial area would be separate from the residential area to limit access; that the site will be a right turn in and a right turn out from Route 1; that there would be no left turn exiting the site; that there rear 12 1/2 acres of the site is proposed to be zoned MR; that the buildings would be three stories in height; that the building height limit would be 42-feet; that there are to be two access points, one is from Route 1 and the other one is from Old Mill Road; that parking would meet the requirements in the Zoning Code; that the apartments would be serviced with sprinklers; that there is C-1 zoning in the area; that the nearest point of the building to the rear three buildings and the homes that are adjacent to the site are 200 to 240-feet apart; that there is a road between the buildings and there is a landscaped parcel; that there would be approximately 40-feet of open space and they would meet or exceed the forested landscape buffer requirements within the County Code; that the garages would also be located between the buildings; that traffic has been reviewed by DelDOT as part of the PLUS review process; that a Traffic Improvement Study is required or a fee in lieu, and that these requirements would not exempt them from participating in any road improvements required by DelDOT; that there is a proposed DelDOT project in the area that would impact this project; that with the new DelDOT project, they could end up with a full entrance to the site; that the project is expected to be complete by 2022; that the upgrades to Old Mill Road would meet DelDOT standards; that public water would be provided by Tidewater Utility; that the site is in the potential sewer area provided by Sussex County; that they would comply with stormwater management; that the site is in an Environmentally Sensitive Developing Area; that there is a desire to bring different and more affordable housing into the County; that the housing required indicated a need for increased density to find the necessary infrastructure; that this development is in an area where it needs to be and that it is not located in the middle of a community; that the site is up front and adjacent to commercial uses; that the developer would provide the necessary infrastructure; that all the road work would be completed first and prior to occupancy of the buildings being built; that stated they would try to keep the existing trees and have a forested landscape buffer; that Mr. Boyce stated the concept plan is for DelDOT to utilize some of the property that they own on the west side of Route 1 and to shift Route 1 over to the west and utilize the existing north bound lanes as a two way service road; that there will be a new road under the current rail bridge; that ultimately there would not have access to Route 1 and the only access would be the two way service road; that the construction would start in 2022 and would be done by 2025; that the service road would go to the south of Red Mill Pond; that Mr. Tracey stated there would be storage unit and garages at the rear of the property for tenants use only; that the traffic is existing the entrance from the site, they would have to go north on Route 1; that if the traffic would like to go south, they would

have to go out to Old Mill Road or go north and make a U-turn; that eventually there will be no direct access to Route 1; that they look to be completed in the 2022 timeframe; that the daily trips for the development falls under 2,000 average daily trips; that approximately 1,600 trips would be associated with the office use and apartment use and this would be less than 200 trips during peak hours; that the road improvements are unrelated; that they would have to contribute a portion and share construction to the DelDOT project; that they would construct some type of median to ensure a right way in and a right way out; that there would be a physical barrier to restrict the crossover to Minos Conaway Road; that there would be no lighting in the rear of the property; that they would upgrade Old Mill Road to 11-foot travel lanes and 5-foot shoulders and to upgrade the intersection; that would probably be a full-time sales center and a maintenance person or they may have on-site manager or access to one; that there would be very little school impact from the new apartments and it falls well below the single-family homes generated; that the national data shows very little impact between 19% to 21% of the school impact; that the community is proposed to be gated; and that they are still working on the PLUS response letter.

The Commission found that Mr. Todd Fisher and Mr. Mike Long spoke in favor to the application; that Mr. Fisher stated he owns the adjacent property; that there is a lot of other commercial use in the area; that there is a total of 13 parcels in the area that are zoned commercial; that with DelDOT improvements will help with the traffic; that Mr. Long stated he has no issues with the proposed project; that his land borders three sides of the site; that most of the trees are on their land; and that the proposed land to be developed is mostly farm land at present.

The Commission found that Mr. Mark Wright, Mr. Bill Landen, Mr. Jim Wright, Mr. Bill Ayrey, Mr. Erwin Villiger, Ms. Lisa Bartels, Mr. Vince Brady, Mr. Geri Cohen, Mr. George Dellinger, Keith Betts, Ms. Suzanne Hain, Mr. Ryan Hewitt, and Ms. Erin Stasi spoke in opposition to the application; Mr. Wright stated he could not get an attorney; that there is a lot of growth in the area; that the property should stay AR-1; that his family originally owned the land; that there are five AR-1 subdivisions in the area which include Nassau Acres, Hidden Oaks, Nassau Woods, The Oaks and Wrights Grant; that 68 families live in the area; that there is a lot of wildlife in the area; that this is out of character with the area and is not appropriate to the area; that he has concerns with traffic; that under-utilized rental compacity already existed and these are located close to the Rehoboth area; that Mr. Landen stated his family developed the area; that he has concerns with the trees being preserved or removed; that he has concerns with safety and traffic; that the Planning Zoning Commission denied 3.65 acre zoning on Old Mill Road in 2014 for storage units; that he has concerns with storm water management; that he has concerns with the buffer and views; that back part of the property is in investment Level 4; that Mr. Wright stated the back of the garage/storage units would only be 100-feet to his house; that he has concerns with the loss of trees; that they do not need these apartments in this location; that Mr. Ayrey stated that the development would be out of character for this area; that he has concerns with traffic and safety; that Mr. Villiger stated he has concerns with the traffic; that this is out of character with the Comprehensive Plan; that this property is located in a low-density area and the coastal area; that the property is located in a State Spending Strategies Level 3 area; that this property is not similar with density to other properties in the surrounding area; that high density housing is appropriate if it is mixed-use development; that the rezoning to Medium Density Residential is not out of character with this area; that Conditional Use seeking high density should not be approved; that Ms. Bartels stated she has environmental concerns; that the children would be impacted by construction; that she questioned whether this project would have impact to wells; that there is no public transportation in the area; that this site is not walkable or accessible bicycles; that she has concerns with traffic; that she has concerns with the large parking lot and the run-off; that she has concerns with stormwater management and the loss of trees; that she has concerns with flooding; that

she has concerns with potential contaminant from construction; that she has concerns with the dumpsters and trash; that she has concerns with air quality during construction; that she has concerns about potential noise pollution; that she has concerns with the lighting; that she has concerns with the wildlife; that Mr. Brady stated he has concerns with traffic; that there is a corridor capacity preservation program; Mr. Cohen stated he has concerns with traffic; that this is an excellent recharge area; that this is in an Environmentally Sensitive Developing Area and a primary service area; that Mr. Dellinger stated this is out of character for the area; that he has concerns with traffic; that this would not create a pristine environment; that Mr. Betts stated the area is in an investment Level 4 and that this project does not fit the criteria in the Level 4 area; that this is not appropriate; that Ms. Hain stated if this is approved, she would not be able to volunteer; that Mr. Hewitt stated he has concerns for the safety of the children; that he has concerns with safety in the neighborhood; that there is no need for apartments; that Mr. Boyce stated this is part of the corridor capacity program; that currently would want to restrict access to Route 1 and have it provided by Minor Road; that access would be allowed on Service Road; that Ms. Stasi stated she has a question about subdividing the property and the conditional use process.

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

In reference to Change of Zone #1860 there was a motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to defer action leaving the record open for the Developer response to the PLUS comments and leaving the record for 15 days thereafter to give public time to review and comment in writing. Motion carried 5-0.

In reference to Conditional Use #2147 there was motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to defer action leaving the record open for the Developer response to the PLUS comments and leaving the record for 15 days thereafter to give public time to review and comment in writing. Motion carried. 5-0.

In reference to Change of Zone #1861 there was a motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to defer action leaving the record open for the Developer response to the PLUS comments and leaving the record for 15 days thereafter to give public time to review and comment in writing. 5-0.

At their meeting on October 25, 2018, the Planning Commission discussed the application which has been deferred since October 11, 2018.

CZ 1860 - Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to close the record and defer action for further consideration. Motion carried 4-0. Mr. Hudson was absent

At their meeting on October 25, 2018, the Planning Commission discussed the application which has been deferred since October 11, 2018.

CU 2147 - Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to close the record and defer action for further consideration. Motion carried 4-0. Mr. Hudson was absent

At their meeting on October 25, 2018, the Planning Commission discussed the application which has been deferred since October 11, 2018.

CZ 1861 - Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to close the record and defer action for further consideration. Motion carried 4-0. Mr. Hudson was absent

## PLANNING & ZONING

JANELLE M. CORNWELL, AICP  
DIRECTOR

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



# Sussex County

DELAWARE  
sussexcountype.gov

## Memorandum

To: Sussex County Planning Commission Members  
From: Janelle Cornwell, AICP, Planning & Zoning Director  
CC: Vince Robertson, Assistant County Attorney and applicant  
Date: October 18, 2018  
RE: Staff Analysis for CU 2147 Nassau DE Acquisitions Co., 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 2147 Nassau DE Acquisitions Co., LLC to be reviewed during the October 25, 2018 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 a portion of parcel 334-1.00-15.00 and all of parcel 334-1.00-15.03 to allow for multi-family to be located on Coastal Hwy. (Rt. 1) and Old Mill Rd. The size of the property is 12.5 ac. +/-.

The 2008 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 indicates that the properties have the land use designation Environmentally Sensitive Developing Area.

The surrounding land use to the north, south, east and west is Environmentally Sensitive Developing Area. The Environmentally Sensitive Developing Areas land use designation recognizes that a range of housing types should be permitted including single-family, townhouses and multi-family and that variety of office and retail uses would be appropriate in many areas and that business and industrial parks with good road access would be appropriate. It also recognizes that mixture of homes with light commercial and institutional uses could be appropriate to provide for convenient services and let people work close to home.

The property is zoned AR-1 (Agricultural Residential District). The proposed zoning (CZ 1860) is MR (Medium-Density Residential District). The properties to the north and south are zoned C-1 (General Commercial District) and AR-1 (Agricultural Residential District). The properties to the east are zoned AR-1 (Agricultural Residential District) and MR (Medium-Density Residential District). The properties to the west are AR-1 (Agricultural Residential District) and MR-RPC (Medium-Density Residential District - Residential Planned Community). There are no known Conditional Use in the area.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow from multi-family could be considered consistent with the land use, area zoning and uses; however, the density could be considered inconsistent with the density of the surrounding uses.



## PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN  
KIM HOEY STEVENSON, VICE-CHAIRMAN  
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## Sussex County

DELAWARE  
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JANELLE CORNWELL, AICP  
DIRECTOR

### PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date October 25, 2018

Application: CU 2147 Nassau DE Acquisitions Co., LLC

Applicant/ Owner: Nassau DE Acquisitions Co., LLC  
1201 North Orange Street, Suite 300  
Wilmington, DE 19801

Site Location: East side of Coastal Highway (Rt.1) approximately 150 feet north of  
Old Mill Road, and on the north side of Old Mill Road approximately  
708 feet east of Coastal Highway.

Current Zoning: AR-1 (Agricultural Residential District)

Proposed Zoning: C2/MR (Medium Commercial and Medium Residential Districts)

Proposed Use: Multi-Family

Comprehensive Land  
Use Plan Reference: Environmentally Sensitive Developing Area

Councilmatic  
District: Mr. Burton

School District: Cape Henlopen School District

Fire District: Lewes Fire District

Sewer: Sussex County

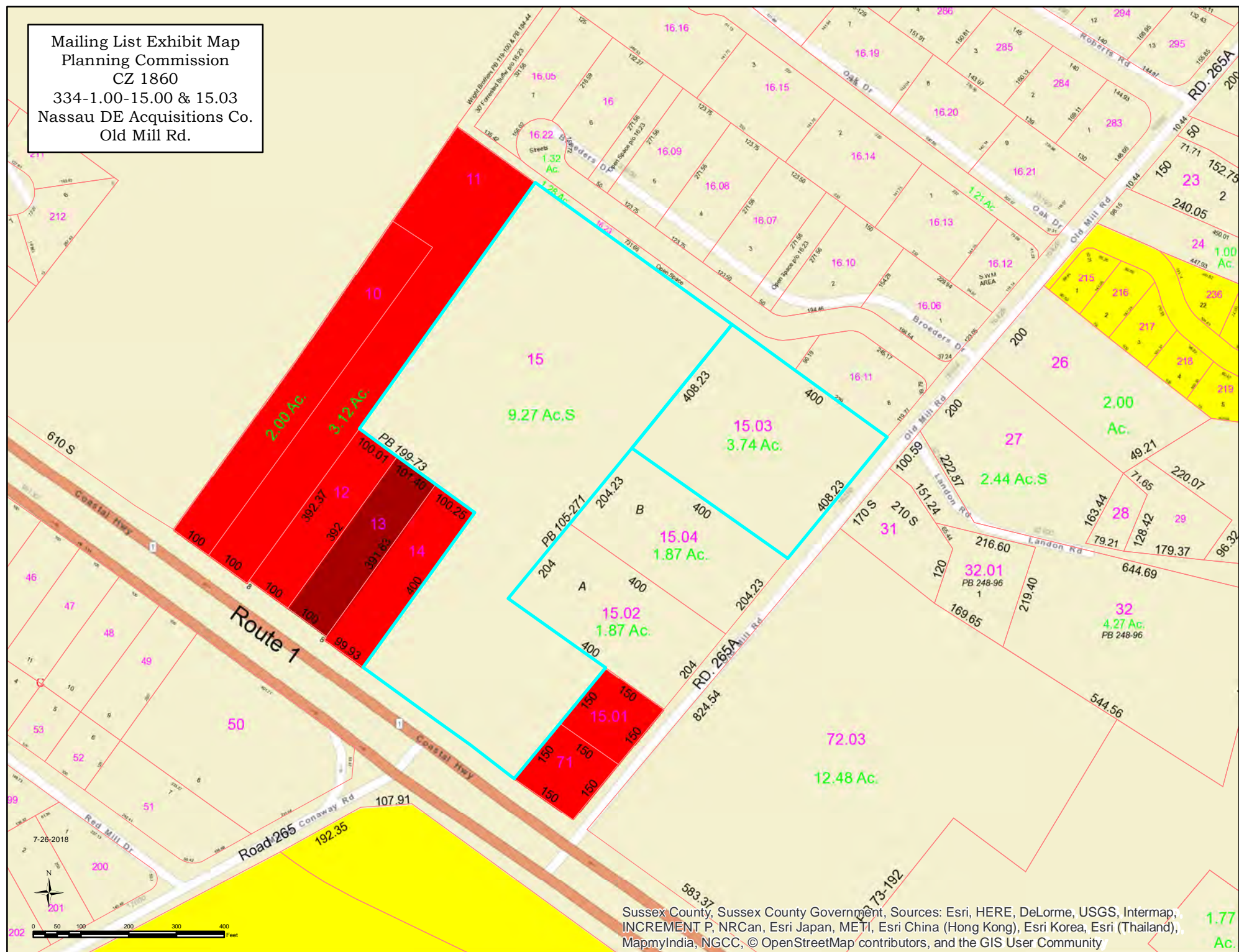
Water: Tidewater

Site Area: 12.5 ac. +/-

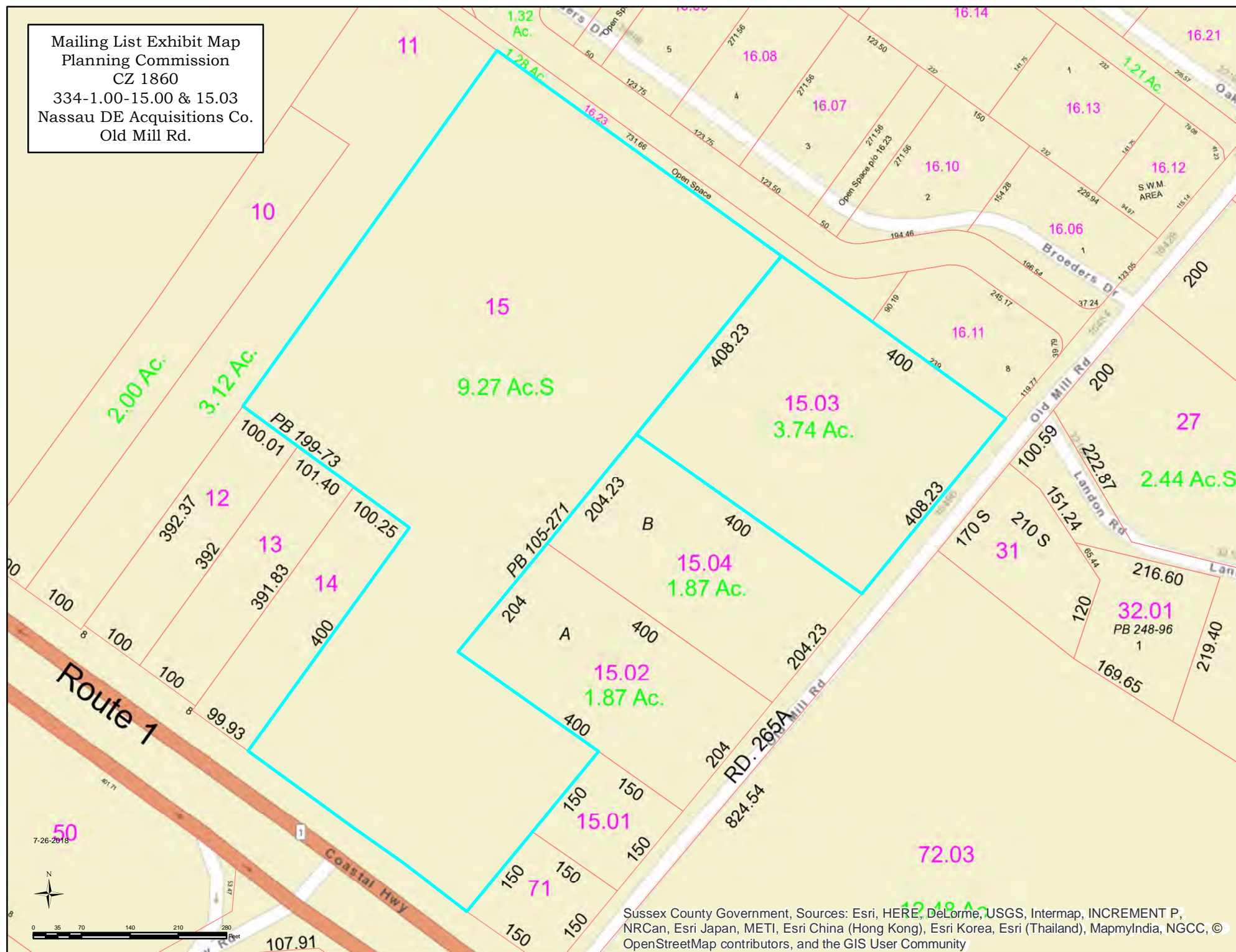
Tax Map ID.: 334-1.00-15.00 & 15.03



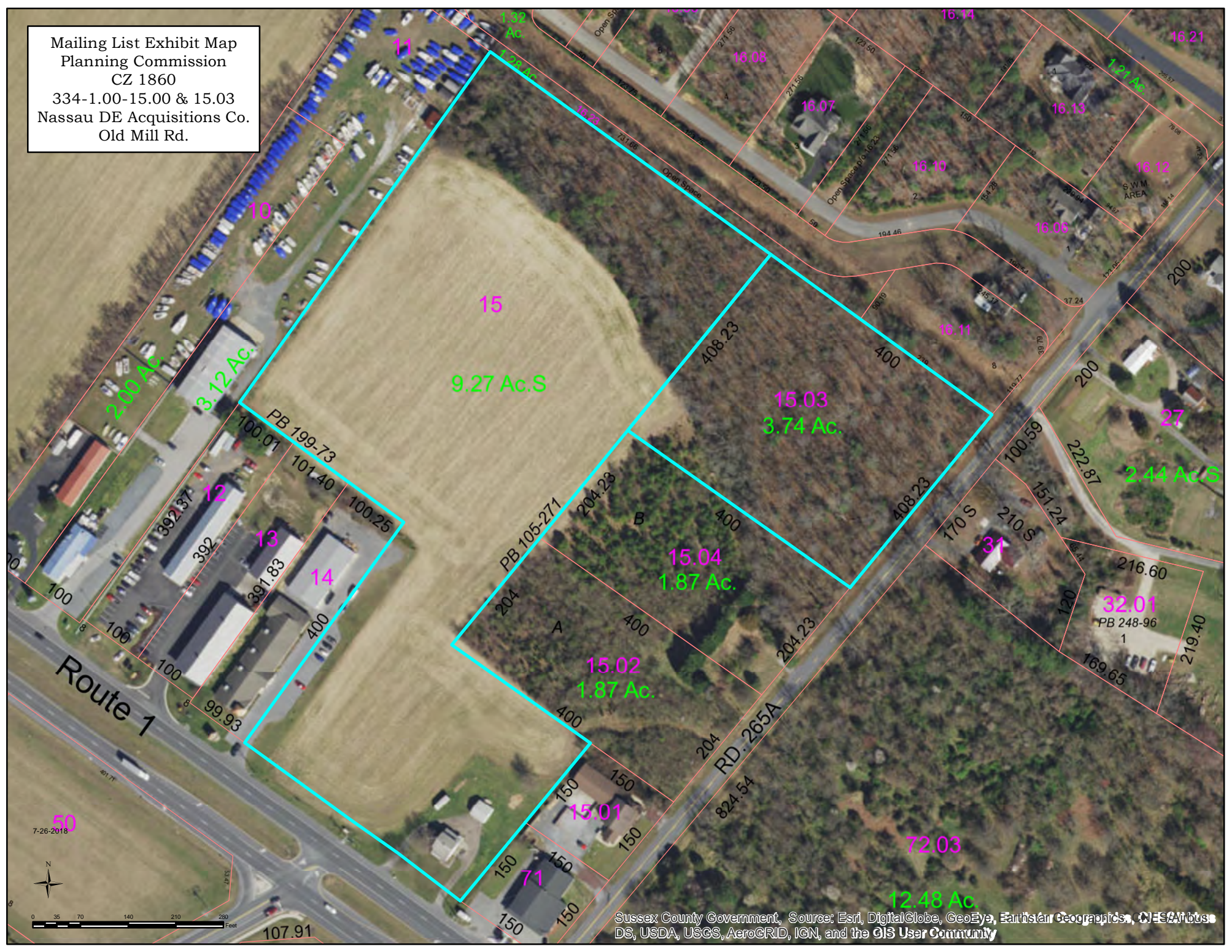
Mailing List Exhibit Map  
Planning Commission  
CZ 1860  
334-1.00-15.00 & 15.03  
Nassau DE Acquisitions Co.  
Old Mill Rd.



Mailing List Exhibit Map  
Planning Commission  
CZ 1860  
334-1.00-15.00 & 15.03  
Nassau DE Acquisitions Co.  
Old Mill Rd.



Mailing List Exhibit Map  
Planning Commission  
CZ 1860  
334-1.00-15.00 & 15.03  
Nassau DE Acquisitions Co.  
Old Mill Rd.



**Introduced 07/17/18**

**Council District No. 3 – Burton**

**Tax I.D. No. 334-1.00-15.00 (portion of) and 334-1.00-15.03**

**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 12.50 ACRES, MORE OR LESS**

**WHEREAS, on the 20th day of June 2018, a zoning application, denominated Change of Zone No. 1860, was filed on behalf of Nassau DE Acquisition Co., LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2018, 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. 1860 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2018, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County.**

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

**Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District] and adding in lieu thereof the designation of 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 east side of Coastal Highway (Route 1) approximately 150 feet north of Old Mill Road, and on the north side of Old Mill Road approximately 708 feet east of Coastal Highway (Route 1), and being more particularly described in the attached legal description prepared by Hillcrest Associates, said parcel containing 12.50 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.**

PROPOSED

**Introduced 07/17/18**

**Council District No. 3 – Burton**

**Tax I.D. No. 334-1.00-15.00 (portion of) and 334-1.00-15.03**

**911 Address: N/A**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 12.50 ACRES, MORE OR LESS**

**WHEREAS, on the 18th day of May 2018, a conditional use application, denominated Conditional Use No. 2147, was filed on behalf of Nassau DE Acquisition Co., LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2018, 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. 2147 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2018, 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 V, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2147 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 east side of Coastal Highway (Route 1) approximately 150 feet north of Old Mill Road, and on the north side of Old Mill Road approximately 708 feet east of Coastal Highway (Route 1), and being more particularly described in the attached legal description prepared by Hillcrest Associates, said parcel containing 12.50 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.**

**Introduced 07/17/18**

**Council District No. 3 – Burton  
Tax I.D. No. 334-1.00-15.00 (portion of)  
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 C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.662 ACRES, MORE OR LESS**

**WHEREAS, on the 20th day of June 2018, a zoning application, denominated Change of Zone No. 1861, was filed on behalf of Nassau DE Acquisition Co., LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2018, 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. 1861 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2018, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County.**

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

**Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District] and adding in lieu thereof the designation of C-2 Medium Commercial District as it applies to the property hereinafter described.**

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

**ALL that certain tract, piece or parcel of land lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the east side of Coastal Highway (Route 1), approximately 150 feet north of Old Mill Road, and being more particularly described in the attached legal description prepared by Hillcrest Associates, said parcel containing 2.662 acres, more or less.**

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

JANELLE M. CORNWELL, AICP  
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**Sussex County**  
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## Memorandum

To: Sussex County Council Members

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: November 20, 2018

RE: County Council Report for CZ 1859 Boardwalk Development, LLC c/o Joseph Reed  
(Henlopen Meadows aka Fieldstone)

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The Planning and Zoning Department received applications (CZ 1859 Boardwalk Development, LLC c/o Joseph Reed (Henlopen Meadows aka Fieldstone)) to allow for a Change of Zone from AR-1 (Agricultural Residential District) and GR (General Residential District) to GR-RPC (General Residential District, Residential Planned Community) to be located on Angola Rd. The Planning and Zoning Commission held a public hearing on October 25, 2018. The following are the draft minutes for the Conditional Use from the Planning and Zoning Commission meetings.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis exhibit booklet, comments from the Sussex Conservation District, Delaware Department of Transportation ("DelDOT") and Sussex County Engineering Department Utility Planning Division. One letter in support of the application and was read into the record. 20 letters in opposition to the application were read into the record.

The Commission found that Mr. David Hutt, Attorney with Morris, James, Wilson, Halbrook, and Bayard, LLP, Joe Reed, Principal of Boardwalk Development, LLC and Ken Christenbury, with Axiom Engineering were present on behalf of the application; that Mr. Hutt stated this is a workforce housing opportunity; that the density is similar to the surrounding area and accorded with the Comprehensive Plan; that the Land Use Classification per the Comprehensive Plan is in the Environmentally Sensitive Developing District Overlay Area ("ESDDOZ"); that the site would meet the Chapter 99 design criteria; that the two separate parcels would be combined; that the application is proposed to change the zoning of the land from AR-1 and GR to an General Residential Planned Community containing 201 single family dwellings; that the site is located at the intersection of Angola Road and Angola Beach Road; that the Land Use Classification per the Comprehensive Plan is in the Environmentally Sensitive Developing District Overlay Area and a mixed residential area which are both a growth area as defined by the Comprehensive Plan; that there are a number of communities in the area; that the parcel has gone from Agricultural use to residential use; that the parcel is adjoining the GR district to the east and west; that there is also MR zoning in the area; that there are a number of developments in the area; that a number of the development lot sizes are 7,500 square feet and that there are smaller lots in the Manufactured Home Parks; that there are differences in lot sizes for those lots subdivided with a sewer and those without a sewer; that the proposed lot size for the development



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is 7,500 square feet; that there are a different range of densities in the area; that in a Manufactured Home Park next to the site is four dwellings units per acre, and adjoining 3.25 dwelling units per acre and on the other side of the site is a Manufactured Home Park with 3.52 units per; that the proposed density is 3.35 units per acre; that Mr. Christenbury stated the proposed project is a 60 acre parcel and proposing 201 lots with a density of 3.35 dwelling units per acre; that this proposed project is similar to other developments; that an amenity area would be provided and include a 1,500 square foot pool with a pool house; that they would have unpaved and paved walking trails; that the site would have sidewalks on one side of the road; that most of the developments are without sidewalks and three communities in area have sidewalks; that the exhibit booklet outlined that the site is in an Environmental Sensitive Developing District Overlay Area, that the documents within the exhibit booklet evidence Chapter 99 compliance and included the TAC comments; that improvements would be made to Angola Road including an east bound right turn lane, widening to provide 11-foot lanes and five foot shoulders; that these improvements would have to coordinate with the Hailey's Glen subdivision; that there would be improvements to Angola Beach Road which include widening the lanes to 11-feet and providing five foot shoulders; that the developer would contribute to a DelDOT project on Route 24; that the sewer would be provided by Sussex County; that central water would be provided by Tidewater Utility Company; that the property does drain to the south; that a drainage improvement project was done several years ago; that would build the stormwater management facility to address the drainage concerns in the area; that they cannot increase stormwater management from this property; that there are no floodplains and no wetlands; that the property currently has 1.63 acres of woods and when the property is developed would have 4.75 acres of woodlands; that Mr. Reed stated under the entrance to Bay Point are four, 24 inch pipes to help with stormwater management; that there are no violations on the subdivision regarding drainage; that there are manufactured homes communities in the area; that Angola by the Bay was developed with small lots and prior to sewer; that they discovered there is a need for workforce housing; that residents find it difficult to find homes that they can afford, especially for nurses, teachers, etc.; that in the area is a diverse mix of density and price range of housing; that the site is in the development districts; that it is in the area of opportunity zone; that it is near schools; that there is need for more density; that the price range would be \$244,900 to \$279,999; that there would be multiple house plans; that they would sell the lots at 60% of the going rate to hit the price point; that would have the same covenants as other developments; that they would have smaller amenities to keep HOA fees down; that the lot sizes would be 7,500 square feet; that one letter of support was from Bay Point HOA; that these plans are working in other markets; that they would provide an annual report on compliance with the workforce housing; that this would not impact property values; that this is not of out character with the sale prices; that the smaller lots do not have equal negative impact on property value; that the streets would be curb and guttered; that Mr. Hutt stated the project is formerly known as Henlopen Meadows and now known as Fieldstone; that this has been a long standing problem with natural drainage in the area and there would be stormwater management on this site and it would be managed; that there was concerns about traffic and per DelDOT improvements would be made to intersections; that this is a growth area and anticipate new homes; that this is the healthiest type of an area and offers a wide range of housing opportunities; that this fills in per the Comprehensive Plan for a need for affordable housing; that this is not a high density neighborhood; that a high density neighborhood is 12 units to an acre; that there is no legal way to ensure workforce target; that this is a unique opportunity and they do not need to seek high density to try to get 12 units to the acre for workforce housing; and that there would be an annual housing audit with the results provided to the County.

The Commission found that no one spoke in favor to the application.

The Commission found that Mr. Mike Varonka, Mr. Edward Chamberlain, Jim Rodgers, Mr. Fred Ferry, Mr. Rich Raynic, Mr. Steve Schiffman, Ms. Kelly Krueger, Mr. Jerry Laforgia, Mr. Al Lara, Mr. Mark Warner, and Ms. Geri Hall spoke in opposition to the application; that Mr. Varonka stated it is good to hear the floor plan of the house will help with workforce housing; that climate change effects the drainage concerns in the area; that there are only two roads out of the area; that he has concerns with flooding; that he has concerns with evacuation; that he has concerns with traffic; that Mr. Chamberlain stated there is rapid development in the area; that he has concerns with traffic; that this project would have a negative impact on the school district; that there is lack of public transportation in the area; that there is no commercial in the area; that there is no penalty to achieve the stated goal; that how would they keep workforce homes and not retirees; that he stated in the record is a petition from Herring Creek; that Mr. Rodgers stated this development is in the center of a real estate development; that he has concerns with traffic; that Mr. Ferry stated the lots look too small; that the pool is too small; that they would just do the minimum road improvements; that there would be no tax benefit to schools; that this would not be affordable with the current interest rates; that Mr. Raynic stated he liked the design; that the area has reached the saturation point in the terms of development; that he has concerns with traffic; that he has concerns with the EMS service and that may not arrive in a reasonable amount of time due to traffic; that Mr. Schiffman asked when is enough, enough; that Ms. Krueger stated she has drainage issues; that Mr. Laforgia stated he has concerns with high density community; that he has concerns with storm events; that Mr. Lara stated he has concerns with traffic and the over development; that would they build this somewhere else; that Mr. Warner stated he had questions about forest land, buffers and forested buffers; that he thought that Bay Point was a poor plan and design; that Mr. Christenbury stated the existing site has 1.63 acres of forest and the 4.75 acres of forested buffer is required by County Code; that Ms. Hall stated that this is out of character for the area.

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

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

At their meeting on October 25, 2018, the Planning Commission discussed the application which has been deferred since October 11, 2018.

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

## PLANNING & ZONING

JANELLE M. CORNWELL, AICP  
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# Sussex County

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## Memorandum

To: Sussex County Planning Commission Members

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Vince Robertson, Assistant County Attorney and applicant

Date: October 18, 2018

RE: Staff Analysis for CZ 1859 Boardwalk Development, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1859 Boardwalk Development, LLC to be reviewed during the October 25, 2018 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for parcels 234-12.00-3.00 & 6.00 to allow for a change in zone from AR-1 (Agricultural Residential District) and GR (General Residential District) to GR-RPC (General Residential District – Residential Planned Community) to be located on Angola Rd. The size of the property is 60 ac. +/-.

The 2008 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 indicates that the properties have the land use designation Environmentally Sensitive Developing Area and Mixed Residential Areas.

The surrounding land use to the north, east and west is Environmentally Sensitive Developing Area. The land uses to the south are Environmentally Sensitive Developing Area and Mixed Residential Areas. The Environmentally Sensitive Developing Areas land use designation recognizes that a range of housing types should be permitted including single-family, townhouses and multi-family and that variety of office and retail uses would be appropriate in many areas and that business and industrial parks with good road access would be appropriate. It also recognizes that mixture of homes with light commercial and institutional uses could be appropriate to provide for convenient services and let people work close to home.

The property is zoned AR-1 (Agricultural Residential District) and GR (General Residential District). The properties to the north, and east are zoned AR-1 (Agricultural Residential District) and GR (General Residential District). The properties to the west are zoned GR-RPC (General Residential District – Residential Planned Community) and AR-1 (Agricultural Residential District). The properties to the south are zoned AR-1 (Agricultural Residential District). There are no known Conditional Use in the area.

Based on the analysis of the land use, surrounding zoning and uses, the Change of Zone to allow from AR-1 (Agricultural Residential District) and GR (General Residential District) to GR-RPC (General Residential District – Residential Planned Community) would be considered consistent with the land use, area zoning and uses.



## PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN  
KIM HOEY STEVENSON, VICE-CHAIRMAN  
DOUGLAS B. HUDSON  
R. KELLER HOPKINS  
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## Sussex County

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JANELLE CORNWELL, AICP  
DIRECTOR

### PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date October 25, 2018

Application: CZ 1859 Boardwalk Development, LLC

Applicant: Boardwalk Development, LLC  
c/o Joseph Reed  
317 Rehoboth Avenue  
Rehoboth Beach, DE 19971

Owner: Dawn Dorman, Kelly Dorman & Marlene Harmon  
22542 John J. Williams Highway  
Lewes, DE 19958

Site Location: Southeast corner of Angola Road and Angola Beach Road.

Current Zoning: GR (General Residential District) and AR-1 (Agricultural Residential District)

Proposed Zoning: GR– RPC (General Residential District – Residential Planned Community)

Comprehensive Land Use Plan Reference: Mixed Residential and Environmentally Sensitive Developing Areas

Councilmatic District: Mr. Cole

School District: Cape Henlopen School District

Fire District: Rehoboth Beach Fire District

Sewer: Sussex County

Water: Tidewater

Site Area: 60 ac. +/-

Tax Map ID.: 234-12.00-3.00 & 6.00



Mailing List Exhibit Map  
 Planning Commission  
 CZ 1859  
 234-12.00-3.00 & 6.00  
 Boardwalk Development Henlopen Meadows  
 Angola Rd.



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



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

**Introduced 06/05/18**

**Council District No. 4 – Cole  
Tax I.D. No. 234-12.00-3.00 and 6.00  
911 Address: N/A**

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

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND GR GENERAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 60 ACRES, MORE OR LESS**

**WHEREAS, on the 15th day of May 2018, a zoning application, denominated Change of Zone No. 1859, was filed on behalf of Boardwalk Development, LLC, c/o Joseph Reed (Henlopen Meadows); and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2018, 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. 1859 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2018, 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 GR General Residential District] and adding in lieu thereof the designation of GR-RPC General Residential District – Residential Planned Community as it applies to the property hereinafter described.**

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

**ALL that certain tract, piece or parcel of land lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying at the southeast corner of Angola Road and Angola Beach Road, and being more particularly described in the**

attached deed prepared by David W. Baker, Esq., P.A., said parcel containing 60 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.

PROPOSED