



Sussex County Council Public/Media Packet

**MEETING:
December 7, 2021**

****DISCLAIMER****

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

COUNTY COUNCIL

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



Sussex County

DELAWARE
sussexcountyde.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

A G E N D A

DECEMBER 7, 2021

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes – November 30, 2021

Reading of Correspondence

Public Comments

J. Everett Moore, Jr., County Attorney

1. Presentation and Discussion Related to County Council Redistricting

Todd Lawson, County Administrator

1. Administrator's Report

Old Business

Conditional Use No. 2259 filed on behalf of The Evergreene Companies, LLC c/o Tim Naughton

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL ZONING DISTRICT FOR MULTI-FAMILY DWELLING UNITS (30 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 11.96 ACRES, MORE OR LESS” (Tax I.D. No. 134-13.00-72.02) (911 Address: None Available)



Change of Zone No. 1936 filed on behalf of OA-BP Marina Bay-Lakeside, LLC
“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT- RESIDENTIAL PLANNED COMMUNITY TO AMEND CONDITIONS OF APPROVAL OF CHANGE OF ZONE NO. 1883 (ORDINANCE NO. 2690) AND CHANGE OF ZONE NO. 1475 (ORDINANCE NO. 1573) RELATING TO THE MAXIMUM NUMBER AND TYPES OF HOUSING PERMITTED FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 778.39 ACRES, MORE OR LESS” (Tax I.D. Nos. 234-30.00-1.00 thru 430.00) (911 Address: None Available)

Grant Requests

1. Ocean Waves Quilt Guild for art/quilt show and community service outreach expenses
2. Police Unity Tour, Chapter X, for the cycling tour operation, logistics, provisions and accommodations

Introduction of Proposed Zoning Ordinances

Council Members’ Comments

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

Possible action on Executive Session items

1:30 p.m. Public Hearings

“AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 234-23.00-270.00”

Adjourn

-MEETING DETAILS-

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

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

Agenda items may be considered out of sequence.

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

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

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

To join the meeting via telephone, please dial:

Conference Number: 1-302-394-5036

Conference Code: 570176

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

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

#

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 30, 2021

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, November 30, 2021, at 12:30 p.m., in Council Chambers, with the following present:

Michael H. Vincent	President
John L. Rieley	Vice President
Douglas B. Hudson	Councilman
Mark G. Schaeffer	Councilman
Todd F. Lawson	County Administrator
J. Everett Moore, Jr.	County Attorney

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

Call to Order

Mr. Vincent called the meeting to order.

M 506 21 Approve Agenda

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

Motion Adopted: 4 Yeas, 1 Absent.

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

Minutes

The minutes of November 16, 2021 were approved by consent.

Corre- spondence

Mr. Moore reported that correspondence was received from the following in appreciation of Human Service Grants: The Arc of Delaware, Read Aloud Delaware, Milford Housing Development Corporation, and Delaware Foundation Reaching Citizens.

Public Comments

Public comments were heard and the following spoke:

William Kinnick, State Advocate for Manufactured Housing and President of the Delaware Manufactured Housing Association, reported on sewer problems in manufactured housing communities in the County. Mr. Kinnick provided a listing of manufactured housing communities in Delaware, noting that there is a total of 90 communities in Sussex County.

Adminis- trator's Report

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

1. Delaware State Police Activity Report

The Delaware State Police year-to-date activity report for October 2021 is attached listing the number of violent crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total

**Adminis-
trator's
Report
(continued)**

vehicle crashes investigated are listed. In total, there were 189 troopers assigned to Sussex County for the month of October.

2. Distinguished Budget Presentation Award

I am pleased to announce that the Government Finance Officers Association of the United States and Canada has awarded Sussex County its Distinguished Budget Presentation Award for the Fiscal Year 2022 Budget Report. This is the fourth year that the County has received this prestigious award acknowledging its budget report. In order to receive the award, the budget document must serve an entity as a policy document, financial plan, operations guide, and communication device.

Congratulations to Gina Jennings, Finance Director/Chief Operating Officer, and Kathy Roth, Deputy Finance Director, for their efforts in achieving this award.

3. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets the following projects have received Substantial Completion: The Estuary – Phase 3F (Construction Record) effective November 11th; and The Vineyards at Nassau Valley – Phase 4 (Plan Review) effective November 12th.

4. Caroling on The Circle

A reminder that the annual Caroling on The Circle program will take place on Monday, December 6th, at 6:30 p.m. in front of the Sussex County Courthouse. This is a free event sponsored by the Sussex County Council each year. Everyone is welcome and encouraged to attend, and to bring a food item for the less fortunate if they can afford to do so. The “Pack the Pod” campaign will remain in full swing until the end of December.

(Attachments to the Administrator's Report are not attached to the minutes.)

**Mulberry
Knoll
Sewer
Collection
System/
Project
S20-22**

Hans Medlarz, County Engineer, reported on the readvertisement of bids for the Mulberry Knoll Sewer Collection System, Project S20-22. Following a review of the bids received, along with KCI's evaluation of the apparent lowest three bids, the Engineering Department recommends awarding the project to the lowest responsive bidder, Carrow Construction in the amount of \$1,857,038.00. Total project financing was evaluated using the bids received for S20-22 in combination with the current S20-14 construction market and pricing requires additional funding to maintain overall project financing. Mr. Medlarz advised that the Engineering Department requests Council authorize development of a supplemental funding request and submission to DNREC for approval. Also presented was Amendment No. 4

- (continued) to the Owner-Engineer Agreement for Mulberry Knoll additional work.
- M 507 21**
Award
Contract
S20-22/
Mulberry
Knoll
Sewer
Collection
System
- A Motion was made by Mr. Hudson, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department, that Contract S20-22, Mulberry Knoll Sewer Collection System, be awarded to Carrow Construction for the Base Bid and Add Alternate Bid Item for a total of \$1,861,538.00, contingent upon DNREC concurrence and to authorize the Department's development of a supplemental funding request to the Delaware SRF.
- Motion Adopted: 4 Yeas, 1 Absent.**
- Vote by Roll Call: Mrs. Green, Absent; Mr. Schaeffer, Yea;**
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea
- M 508 21**
Approve
Amendment
No. 4/
Five-Year
Misc. Eng.
Services
Agreement
with
KCI Tech-
nologies
- A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, based upon the recommendation of the Sussex County Engineering Department, that Amendment No. 4 to the Five-Year Miscellaneous Engineering Services Agreement with KCI Technologies, Inc. be approved in the amount not to exceed \$50,000.00 for as-needed construction fee services related to the Mulberry Knoll Sewer Expansion Project, S20-14 and S20-22.
- Motion Adopted: 4 Yeas, 1 Absent.**
- Vote by Roll Call: Mrs. Green, Absent; Mr. Schaeffer, Yea;**
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea
- Bid Results/**
DE Coastal
Business
Park
Improve-
ments/
Project
A21-11
- Mark Parker, Assistant County Engineer, presented the bid results for the Delaware Coastal Business Park Improvements Project, Project A21-11. Mr. Parker reported that, following a review of the bids received, numerous discrepancies were found in multiple bids affecting potential award recommendation. As a result, the Engineering Department is recommending that all bids be rejected and the project rebid immediately with no change in scope.
- M 509 21**
Reject Bids/
Project
A21-11/
DE Coastal
Business
Park
Improve-
ments
Project
- A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, due to the discovery of numerous discrepancies in bids received on November 18, 2021, for the Delaware Coastal Business Park Improvements Project, that all bids be rejected and the project be immediately readvertised with no change in scope.
- Motion Adopted: 4 Yeas, 1 Absent.**
- Vote by Roll Call: Mrs. Green, Absent; Mr. Schaeffer, Yea;**
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

**EMS
Public
Safety
Building/
Project
C19-04**

Hans Medlarz, County Engineer, presented Change Orders for the EMS Public Safety Building Project, Project C19-04. Mr. Medlarz reported that, when the project was bid, the Fire Marshall's site permit was issued but the associated building was still under review. When it was finalized, two issues had to be addressed: rating of the plenum and a secondary emergency egress from the mezzanine on the second floor (Change Order No. 3). Mr. Medlarz reported that the Engineering Department is still working on a County initiated proposed change order for air filtration system safety upgrades to be paid for through the American Rescue Plan Act; the air filtration system upgrade was requested by EMS due to COVID concerns (Change Order No. 4).

**M 510 21
Approve
Change
Orders/
Contract
C19-04/
EMS
Public
Safety
Building
Project**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Change Order Nos. 3 and 4 for Contract C19-04, Sussex County Public Safety Building, be approved, increasing the Contract by \$13,554.94 and \$4,740.28, respectively.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Herring
Creek
Preserve
ORPT**

Hans Medlarz, County Engineer, presented for Council's consideration a grant application and grant agreement pertaining to the Herring Creek Preserve Outdoor Recreation, Parks and Trails (ORPT). In 2020, Sussex County acquired property on Route 24 in Angola and now wishes to investigate the potential use of the property. On behalf of Sussex County, the Center for the Inland Bays has submitted an application which needs a Resolution adopted by the County. Additionally, Council's approval for execution of the ORPT Agreement when received (in the future).

**M 511 21
Adopt
R 025 21**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to Adopt Resolution No. R 025 21 entitled "TO SUBMIT A REQUEST TO THE DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL'S (DNREC) OUTDOOR RECREATION, PARKS AND TRAILS (ORPT) PROGRAM FOR A MATCHING GRANT TO FINANCE AN OUTDOOR RECREATION FEASIBILITY AND PLANNING STUDY FOR THE HERRING CREEK PRESERVE".

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 512 21
Approve
DNREC
ORPT
Grant
Agreement**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council authorizes the execution of the DNREC ORPT Grant Agreement when received from DNREC in the amount of \$37,944.00 for a Master Plan Study at the Herring Creek Preserve.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Herring
Creek SSD/
Project
S20-07/
Change
Order**

Hans Medlarz, County Engineer, presented a Change Order for the Herring Creek Sanitary Sewer District, North Gravity Sewer and Force Main Project, Project S20-07. The Engineering Department and the County Engineer has made the suggestion to the Contractor for a no compensation contract suspension to get out of the winter months before starting the next gravity sewer section, i.e. any deep sewer work or dewatering. Mr. Medlarz stated that it is not a good idea to do an 18-foot sewer project on a DelDOT road in the winter.

**M 513 21
Approve
Change
Order/
Contract
S20-07**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, based on the recommendation of the Sussex County Engineering Department, that Change Order No. 5 for Contract S20-07, Herring Creek Sanitary Sewer District, North Gravity Sewer and Force Main, be approved for a non-compensatory contract time extension and suspension contingent upon USDA concurrence.

Motion Adopted: 4 Yeas, 1 Absent.

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

**SCRWF &
RBWTP
Capital
Improve-
ment
Program/
Project
C19-11/
Change
Order**

Hans Medlarz, County Engineer, presented a Change Order for the South Coastal Regional Wastewater Facility Treatment Process Upgrade No. 3 and Rehoboth Beach Wastewater Treatment Plant Capital Improvement Program, Phase 2, General Construction Project, Project C19-11. Change Order No. 14, in the amount of \$7,380.37, is for evaluation and upgrade design for the State Road pump station and modification of the air intake for B-10 building ventilation. Mr. Medlarz noted this Change Order is for Michael F. Ronca & Sons, Inc. and deals with exploratory for the main land pump station, which triggered changes to the headworks for the restoration. Mr. Medlarz noted that this is strictly a Rehoboth piece of the project.

**M 514 21
Approve
Change
Order/**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 14 for Contract C19-11, South Coastal Regional Wastewater Facility Treatment Process Upgrade No. 3 and Rehoboth Beach

M 514 21
Approve
Change
Order/
Contract
C19-11
(continued)

Wastewater Treatment Plant Capital Improvement Program, Phase 2, General Construction, increasing the Contract by \$7,380.37.

Motion Adopted: 4 Yeas, 1 Absent.

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

Introduction of Proposed Ordinances

Mr. Schaeffer introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A GR GENERAL RESIDENTIAL DISTRICT TO DESIGNATE LOT 39, BLOCK A, WITHIN THE EXISTING AVALON WOODS SUBDIVISION AS OPEN SPACE AND TO ALLOW FOR A SHED AMENITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.42 ACRES, MORE OR LESS” (Conditional Use No. 2277) filed on behalf of Avalon Woods Owners Association, Inc. (Tax I.D. No. 234-15.00-81.00) (911 Address: 27826 Avalon Drive, Georgetown).

Mr. Schaeffer introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REALTY OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.57 ACRES, MORE OR LESS” (Conditional Use No. 2313) filed on behalf of John Ford (Tax I.D. No. 335-12.06-49.00) (911 Address: 1528 Savannah Road, Lewes).

Mr. Schaeffer introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 3.16 ACRES, MORE OR LESS” (Change of Zone No. 1939) filed on behalf of Gerald R. and Valerie V. Campbell, Trustees (Tax I.D. No. 530-17.00-2.01) (911 Address: 9155 & 9167 Campbell Lane, Bridgeville).

Mr. Schaeffer introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A PORTION OF CERTAIN PARCELS OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 4.17 ACRES, MORE OR LESS” (Change of Zone No. 1951) filed on behalf of Shiloh Investments, LLC (Tax I.D. No. 235-30.00-50.01) (911 Address: None Available).

- (continued) The Proposed Ordinances will be advertised for Public Hearing.**
- M 515 21**
Go Into
Executive
Session
- At 1:05 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley, to recess the Regular Session and go into Executive Session to discuss matters relating to pending/potential litigation, land acquisition and personnel.**
- Motion Adopted: 4 Yeas, 1 Absent.**
- Vote by Roll Call: Mrs. Green, Absent; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**
- Executive**
Session
- At 1:08 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to pending/potential litigation, land acquisition and personnel. The Executive Session concluded at 1:35 p.m.**
- M 516 21**
Reconvene
Regular
Session
- At 1:39 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to come out of Executive Session and reconvene the Regular Session.**
- Motion Adopted: 4 Yeas, 1 Absent.**
- Vote by Roll Call: Mrs. Green, Absent; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**
- M 517 21**
Authorize
Land
Acquisition
Parcel
2021-V
- A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to authorize the County Administrator to negotiate, enter into a contract and close on Parcel 2021-V.**
- Motion Adopted: 4 Yeas, 1 Absent.**
- Vote by Roll Call: Mrs. Green, Absent; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**
- Rules**
- Mr. Moore read the rules of procedure for Public Hearings.**
- Public**
Hearing/
CU 2273
- A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE USE OF COMMERCIAL DELIVERIES OF PARTS TO BE SOLD OFFSITE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.99 ACRES, MORE OR LESS” (Conditional Use No. 2273) filed on behalf of Michael Parsons (Tax I.D. No. 234-5.00-49.00) (911 Address: 30274 Pecan Drive, Lewes).**

**Public
Hearing/
CU 2273
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on November 4, 2021 at which time action was deferred. On November 18, 2021, the Commission recommended approval with conditions.

(See the minutes of the Planning and Zoning Commission dated November 4 and 18, 2021.)

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

The Council found that Michael Parsons was present on behalf of his application. He stated that he would like to receive deliveries at the site for racing go-carts; that Fed Ex trucks would come to the site approximately three times per week; that the parts would be stored on the site until Fridays and then would be taken to and sold at the track; that there would be no sales on the property; and that he has no employees.

There were no public comments.

The Public Hearing and public record were closed.

**M 518 21
Adopt
Ordinance
No. 2815/
CU 2273**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to Adopt Ordinance No. 2815 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE USE OF COMMERCIAL DELIVERIES OF PARTS TO BE SOLD OFFSITE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.99 ACRES, MORE OR LESS" (Conditional Use No. 2273) filed on behalf of Michael Parsons, with the following conditions:

- A. The use shall be limited to the receipt of deliveries to and from the Applicant's residence and the storage of a trailer associated with the use upon the property.
- B. The primary use of this property shall remain residential at all times that this Conditional Use is in effect. It shall also maintain a residential appearance at all times.
- C. No retail sales shall occur directly from the property and no customers shall come to the property. This condition does not prevent indirect retail sales conducted via the telephone and/or the internet.
- D. No manufacturing shall occur on the property.
- E. No outside storage of any deliveries, parts, equipment, or inventory associated with the use shall be permitted.
- F. One unlighted sign shall be permitted. It shall not be larger than 32 square feet per side.
- G. The Applicant shall comply with any requirements imposed by DelDOT regarding this use.

**M 518 21
Adopt
Ordinance
No. 2815/
CU 2273
(continued)**

- H. The failure to comply with any of these conditions of approval may result in the termination of this Conditional Use.**
I. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Public
Hearing/
CU 2314**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FIRE DEPARTMENT SUBSTATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.54 ACRES, MORE OR LESS” (Conditional Use No. 2314) filed on behalf of Millsboro Fire Company (Tax I.D. No. 133-20.00-17.16) (911 Address: 30134 Millsboro Highway, Millsboro).

The Planning and Zoning Commission held a Public Hearing on this application on November 4, 2021 at which time the Commission recommended approval with conditions.

(See the minutes of the Planning and Zoning Commission dated November 4, 2021.)

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

Mr. Whitehouse reported that 82 letters of support have been received.

The Council found that Rachel Bleshman, Attorney, was present on behalf of the application with Ron O’Neal, Dennis Swain and Bob Ricker, all members of the Millsboro Fire Company. Ms. Bleshman stated that the Town of Millsboro is growing; that fire and ambulance calls have increased; that one-half of the fire company members live on the west side of Route 113; that the standard response time is 8 minutes; that traffic creates road blocks on Route 113 on weekends and in the summer; that a substation on the west side of Route 113 is needed; that lighting would be screened; that no sirens are proposed; that no structural changes are necessary; that 80+ letters of support have been received; that the site is located in a Developing Area; that Light Industrial zoning and a Conditional Use are nearby; and that this site is an appropriate location for a fire department substation.

Mr. O’Neal stated that, at this time, they are still considering what type of apparatus that will be located at the proposed substation; that apparatus will include one ambulance; and that the need for additional equipment will

**Public
Hearing
(continued)**

be considered.

There were no public comments.

The Public Hearing and public record were closed.

**M 519 21
Adopt
Ordinance
No. 2816/
CU 2314**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Ordinance No. 2816 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FIRE DEPARTMENT SUBSTATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.54 ACRES, MORE OR LESS” (Conditional Use No. 2314) filed on behalf of Millsboro Fire Company, with the following conditions:

- A. Any security lighting shall be screened away from neighboring properties and County roads.**
- B. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Absent.

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

**Public
Hearing/
CZ 1936**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY TO AMEND CONDITIONS OF APPROVAL OF CHANGE OF ZONE NO. 1883 (ORDINANCE NO. 2690) AND CHANGE OF ZONE NO. 1475 (ORDINANCE NO. 1573) RELATING TO THE MAXIMUM NUMBER AND TYPES OF HOUSING PERMITTED FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 778.39 ACRES, MORE OR LESS” (Change of Zone No. 1936) filed on behalf of OA-BP Marina Bay-Lakeside, LLC (Tax I.D. Nos. 234-30.00-1.00 thru 430.00) (911 Address: None Available).

The Planning and Zoning Commission held a Public Hearing on this application on November 4, 2021 at which time action was deferred. On November 18, 2021, the Commission recommended approval.

(See the minutes of the Planning and Zoning commission dated November 4 and 18, 2021.)

**Public
Hearing/
CZ 1936
(continued)**

Jamie Whitehouse, Planning and Zoning Director presented the application.

Mr. Whitehouse reported that five letters of opposition have been received (some duplicates).

The Council found that Zac Crouch with Davis, Bowen & Friedel was present on behalf of the Applicant. Mr. Crouch stated that the application is for the purpose of changing the type of some units; that this was previously done in July 2019 at which time the total number of units was reduced from 1404 to 1394 and some of the multi-family and single family units were changed, and no additional units were proposed; that this application is to maintain the 1394 units that was approved in July 2019 but increase the single family units from 388 to 471 and to decrease multi-family units from 378 to 295; that the total number will stay the same; and that these changes are being requested for marketing purposes. Greg Tobias of Ocean Atlantic was present representing the Developer.

There were no public comments in support of the application.

Public comments were heard in opposition to the application.

Stephen Dulin spoke in opposition to the application. He stated that there is a discrepancy in the Applicant's stated number of units and he noted corrections to the record regarding the changes in number/type of units. He stated that the proposal will eliminate diversity (affordable/moderate housing) and that the new plan will result in more asphalt and more chemical run-off into the Creek and the Bay. Mr. Dulin submitted a letter which has been made a part of the record.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 520 21
Defer
Action/
CZ 1936**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to defer action for one week on Change of Zone No. 1936 filed on behalf of OA-BP Marina Bay-Lakeside, LLC.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 521 21
Adjourn**

At 2:26 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, to adjourn.

Motion Adopted: 4 Yeas, 1 Absent.

**M 521 21
(continued)**

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

Respectfully submitted,

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

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



Memorandum

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

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

CC: Everett Moore, County Attorney

Date: December 2, 2021

RE: County Council Report for CU 2259 filed on behalf of The Evergreene Companies, LLC
c/o Tim Naughton

The Planning and Zoning Department received an application (CU 2259 filed on behalf of The Evergreene Companies, LLC c/o Tim Naughton) for a Conditional Use for parcel 134-13.00-72.02 for multi-family dwelling units (30 units). The property is lying on the north side of Fred Hudson Road (S.C.R. 360), approximately 0.25 mile east of Cedar Neck Road (S.C.R. 357). The property is within the Medium Density Residential (MR) Zoning District. The parcel size is 11.96 acres +/-.

The Planning and Zoning Commission held a public hearing on June 24, 2021. At the meeting of July 8, 2021 the Commission discussed the application and deferred for further consideration. At the meeting of July 22, 2021, the Commission recommended approval of the application for the 8 reasons and subject to the 19 recommended conditions outlined within the motion (included below).

The County Council held a Public Hearing for the application at its meeting of August 10, 2021. At the conclusion of the Public Hearing, Council deferred action on the application for further consideration.

Below are the approved minutes from the Planning & Zoning Commission meetings of June 24, 2021, July 8, 2021 and July 22, 2021.

Approved Minutes of the June 24, 2021 Planning & Zoning Commission Meeting

Ms. Wingate recused herself from the next case and left Council Chambers.

C/U 2259 Evergreene Companies, LLC

An Ordinance to grant a Conditional Use of land in an MR Medium-Density Residential



Zoning District for multi-family dwelling units (30 units) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 11.96 acres, more or less. The property is lying on the north side of Fred Hudson Road (S.C.R. 360), approximately 0.25 mile east of Cedar Neck Road (S.C.R. 357). 911 Address: N/A Tax Parcel: 134-13.00-72.02

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the Applicant's exhibit booklet, a copy of the Applicant's Conceptual Site Plan, a copy of PLUS comments, a copy of the Applicant's response to the PLUS comments, a copy of the Applicant's Source Water Protection letter, a copy of the staff analysis, a copy of TAC comments including comments from DelDOT and The US Department of Agriculture, a letter from The Sussex County Engineering Department Utility Planning Division and a letter from The Division of Public Health Engineering Office, a copy of the DelDOT Service Level Evaluation, 33 letters in opposition to the application and zero mail returns.

The Commission found that Mr. James Fuqua, Esq. was present on behalf of the Application, that also present were Mr. Tim Norton on behalf of the Applicant, Mr. Cliff Mumford of Davis, Bowen & Friedel, Inc. and Ed Launay with Environmental Resources, Inc; that this is an application for a Conditional Use for 30- multi-family units which would all be single-family detached condominium units; that the proposed site contains 11.96 acres; that it is located on the north side of Fred Hudson Road; that the land is zoned Medium Residential; that in 2004 the County Council approved a Conditional Use for 48 multi-family townhouse units on the same piece of property that was filed by Inland Bays, LLC; that application had a density of 4 units per acre; that the approved site plan had a recreational area with a swimming pool, bathrooms and a tennis court located on uplands in the northeast corner of the site, and was surrounded by wetlands; that the original development, C/U 1519, did not proceed and the preliminary approval expired in 2017; that in 2010 another Conditional Use application, C/U 1850, was filed for the same plan, which was approved by County Council on September 14, 2010; that the only difference in the second approval was a condition that was recommended by the Planning & Zoning Commission; that the recreational area in the north east corner be relocated within the interior of the development and the northeast corner be left undisturbed; that in 2010 the County entered into a recession and the County Government granted some blanket extensions on all approvals; that in December 2014 the Planning Commission approved a revised preliminary site plan for the 48-unit development incorporating the changes resulting from the conditions of approval for the second approval, but expired due to not being substantially underway within the allotted time period; that the current application differs from the previous approved plans in two aspects; that rather than 48 units the current application proposes 30 units, which is a reduction in density from 4 units per acre to 2.5 units per acre; that rather than townhouses the new units will be single-family attached condominium units; that according to the PLUS comments the land is located in Investment Levels 2, 3 and 4 in the Strategies for State Policies and Spending document; that since the proposed site plan stays completely out of the Level 4 area, the State Planning Office stated in the PLUS letter that they had no objection to the proposed development; that under the 2019 Comprehensive Plan the site is located in the Coastal area; that a range of housing should be located in the Coastal area; that a density of 4 to 12-units per acre can be appropriate in certain locations; that the parcel is already zoned Medium Residential allowing up to 4 units per acre; that the purpose of the proposed application is consistent with the purpose of the Medium Residential classification; that the area of the proposed site is already urban in character; that there are a number of single-family, multi-family and commercial uses in the general area; that the site fronts onto Fred Hudson Road; that the Salt Pond Development is located to the south across Fred Hudson Road; that to the west and north of the development is the Bethany Lakes Development; that to the east of the development are the wetlands which are owned by the State of Delaware; that the most recent zoning application was a Conditional Use, C/U 2130, which was approved on October 30, 2018 for 2.38-acre

parcel at the northeast corner of Cedar Neck Road and Fred Hudson Road; that the Conditional Use was approved by the County Council for 16-multi-family units, which was a density of 6.7 units per acre; that the current site contains a large area of non-tidal wetlands, with some uplands on the eastern side; that the western side of the site is uplands which is the area to be developed; that the wetland area will be undisturbed and physically will remain in their existing condition; that the development is in a County operated sewer district and waste water capacity is available; that the system design assumption for the parcel is 4-units per acre; that Sussex Shores Water Company will provide central water for domestic use and fire protection; that the site is in the area of the Millville Volunteer Fire Company and the Indian River School District; that storm water management facilities will be designed and constructed in accordance with DNREC's regulations and approved by the Sussex Conservation District; that the wetlands were delineated by Environmental Resources, Inc; that the delineation determined that the site contained 6 acres of non-tidal wetlands; that in response to the Service Level Evaluation request DelDOT determined that a Traffic Impact Study was not warranted and did not require a TIS; that DelDOT states that the development's traffic impact would be negligible, as stated in the letter from October 8, 2020; that DelDOT will hold the Applicant responsible for dedicating additional right-of-way along the site frontage to provide 40-foot right-of-way from center line of Fred Hudson Road and a 15-foot easement along the right-of-way on the site's side of the road; that the entrance will be designed in accordance with DelDOT's requirements; that improvements at the entrance will include a right turn with a deceleration lane, left turn lane, and construction of a shared use path along the site frontage; that there is one cul-de-sac street coming in from Fred Hudson Road; that a 16-single-family condominium unit will be located to the west side of that road and 14 units on the east side of the street; that since all units are part of a condominium all land will be a common element of the condominium with all lawn and landscaping maintenance the responsibility of the Condo Association; that there is a proposed condition stating homeowners will be prohibited from applying fertilizer to lawns and landscaping; that fertilizer application will be the responsibility of the Condo Association using best management practices by a qualified professional; that there will be a recreational area to the east side of the road, between units 5 and 6; that proposed is a swimming pool with deck, bathrooms, storage area and central mailbox facility; that each unit will have the capacity for four parking spaces which would consist of two spaces in the garage and two spaces in the driveway; that there will be an additional seven parking spaces in front of the recreational area; that sidewalks are proposed along the east side of the street, which is the side the recreational area is located; that storm water ponds will be located as shown on the site plan; that there will be a minimum of a 10-foot building setback from the non-tidal wetland line; that the average setback is significantly greater than this and all wetlands will remain undisturbed; that there is one building that will maintain at least a 10-foot setback and all others buildings are at a larger setback; that there is no specific setback stated from non-tidal wetlands; that the western boundary and half of the northern boundary of the site that borders the Bethany Lakes development will have a 20-foot landscape buffer as designed in the zoning code; that the buffer will run the entire length of the western side and on the northern side will run until the wetlands begin; that there is an existing line of poplar trees located along the western boundary and will be retained and incorporated as part of the landscape buffer; that a split-rail or similar type of fence will be installed around the western and western half of the northern boundary line of the site; that the poplar trees and fencing were two items of conditions of approval in the 2010 Conditional Use; that there were a number of opposition comments; that a statement of opposition was made stating there was 9.2 acres of the site is woodlands or wetlands and should not be utilized when determining density; that tidal wetlands cannot be used to determine density but all wetlands located on the property are considered non-tidal wetlands which have always been permitted to use for density calculations; that 2 acres of the existing 9.2 acres of woodlands will be removed, leaving 7.38 acres undisturbed as part of the wetland areas; that there

were some questions raised about runoff and flooding in the area; that the development of the storm water management system will be designed and constructed in accordance with DNREC regulations which will be reviewed and approved by the Conservation District; that under the regulations of DNREC storm water runoff on the site cannot run off or flood adjacent properties; that runoff must be captured and contained on site in accordance to the regulations; that there was a statement made that DelDOT did not require a TIS but did recommend one; that the DelDOT comments in the PLUS letter of December 18, 2020 state that, based on DelDOT's Development Coordination Manual, a TIS is not warranted; that DelDOT County Coordinator, Mr. Brockenbrough's letter of October 8, 2020 states that, because vehicle trips do not meet TIS warrants, DelDOT considers the development's impact to be negligible in the context of DelDOT's agreement with the County regarding land development coordination and DelDOT recommends the Applicant not be required to perform a TIS on the application; that the proposed Conditional Use fully complies with land use regulations and is character with the nature of the area and the proposed 30 single-family detached condominium units are a significant reduction in the 48-unit density previously approved on two previous applications.

Ms. Stevenson questioned if there would be any restrictive covenants placed to prohibit weekly rentals and that she would prefer the design at 15 duplexes rather than 30 single-family units.

Mr. Fuqua stated a restrictive covenant would not be needed as that will be included in the condominium document; that the issue is not considered a land-use issue and he cannot answer the question and that from a marketing point of view most people do not want someone living right next to them.

The Commission found that Mr. Peter Hartogensis spoke in opposition to the Application; that he is the president of Bethany Lakes Home Owners Association; that he is concerned about traffic with only one outlet onto Fred Hudson Road; that Fred Hudson Road is already narrow and congested which increases in the summertime; that the lower part of Fred Hudson Road is subject to frequent flooding; that adding traffic will make the issues worse; that although the developer estimates 34 vehicle trips per day which is below the minimum 500 trips per day to require a TIS, but he feels that in the summer there will be more than 343 trips per day; that if the Application were to be approved he requests that the Commission make a requirement for a Traffic Impact Study; that the proposed Application is incompatible with Bethany Lakes subdivision; that the County Council already approved 16 town homes on the corner of Bethany Lakes; that if the Application is approved Bethany Lakes will be sandwiched in between homes that are much smaller and much more numerous than the land they occupy; that the Bethany Lakes subdivision feels that the land should be given to the park system and add to the existing park and if not that 3 or 4 substantial homes should be built that would be similar in character to Bethany Lakes; that previously there were issues with Evergreene Companies development on the corner of Bethany Lakes; that Commission had required a buffer of trees between the area conjoining the developments however the trees were cut down; that letters were written pointing this out to the Commission.

The Commission found that Mr. Thomas Haug spoke in opposition of the Application; that he has concerns about the water runoff; that tidal wetlands and non-tidal wetlands are both still considered wetlands; that Department of Natural Resources stated that 80-90% of the land in question is a very poorly drained wetland associated soils making residents and adjoining properties susceptible to flooding problems; that DNREC previously stated that the position location on such soil is in an apparent violation with County Building Code; that cutting 2-acres of trees will not help the situation

of flooding; that he questions is it okay to take the wetlands as a diversion for the ponds, adding more water into the wetlands; that the 16 homes located 20-feet away from the Bethany Lakes swales, will not drain into the road but rather drain into the swales; that he requests the developer consider piping to divert the runoff water elsewhere and he does not have faith that the developer will abide by keeping the proposed buffer as they tore down the forested buffer in the past.

The Commission found that Mr. Steve Guthrie spoke in opposition of the Application; that he is concerned that the stormwater management plan has not been developed yet and feels it should be presented in the public hearing; that he is concerned about traffic; that Fred Hudson Road is very heavily used and is subject to frequent back-ups; that he requests the Commission to ignore the DelDOT assumption that a TIS is not needed; that an addition of 30 extra houses added to the recently approved 16 houses to the already overcrowded road system is a concern; that he is not opposed to the development of the property and he feels the number of houses should be reduced.

The Commission found that Mr. Ken Whitmore spoke in opposition to the Application; that he opposes development that would limit the value of what is cherished in the area.

Chairman Wheatley asked Mr. Robertson what ability the Commission has regarding the preserving of trees.

Mr. Robertson stated that with the situation as described in the past it has been a lesson learned; that the Commission is no longer taking people's word; that the Commission now makes conditions; that the Commission has improved and clarified the language of what is required for the buffers and what must be shown on the site plan and what will be preserved; that there is a provision in the zoning code for fines, but fines do not bring trees back; that building permits can be held to prohibit further site work particularly if it is a condition that has been breached; that if a condition is breached the Commission can revoke the Conditional Use and the Applicant would have to begin the process over again; that on the front end it has been designed with more specificity in condition to make it less likely to happen.

The Commission found that Ms. Susan Fisher spoke by teleconference in opposition to the Application; that she read on page 48 of the online packet that 2.69 acres will be cleared, which is more than the 2.1 acres Mr. Fuqua had stated and requested clarification; that she is concerned about the cutting down of trees and the preservation of the remaining trees during construction, flooding, and water runoff and that the two properties do not have a transition of density and concern of structural damage to her home from the pounding during the construction.

Mr. Mears stated that piling drivers are now hydraulic; that he has driven pilings within 14 feet of the neighbors with no damage and he does not foresee that being an issue.

Ms. Stevenson stated a concern regarding a bus stop or a place for kids to stand and that she does not want the kids standing in the rain.

The Commission found that Mr. Cliff Mumford with Davis, Bowne & Friedel, Inc stated after speaking with The Indian River School District it was recommended to use the right turn lane for a bus stop and the shared-use path as a waiting area for the children.

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

In relation to Application C/U 2259 – Evergreene Companies, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Stevenson. Motion carried 5-0.

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

Mr. Whitehouse clarified that there have been no Notice of Violations issued for Conditional Use No. 2130, which is the Coastal Corner parcel located at the intersection of Fred Hudson Road and Cedar Neck Road.

Motion by Mr. Mears, seconded by Ms. Stevenson and carried to defer for further consideration for C/U 2259 Evergreene Companies, LLC. Motion carried 4 – 0. Ms. Wingate abstained.

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

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

Ms. Stevenson moved that the Commission recommend approval of C/U # 2259 for Evergreene Companies, LLC for multi-family dwelling units (30 Units) in a Medium Residential District based upon the record made during the public hearing and for the following reasons:

1. This application seeks the approval of 30 multi-family units in the MR Medium Density Residential Zoning District. These homes will have the appearance of single-family dwellings.
2. The MR Zoning of this property permits a density of up to 4 units per acre. This application seeks a density of 2.5 units per acre, which is well below the density that is possible on this property.
3. This site was previously approved as a conditional use for 48 multi-family units. That conditional use was never built. This project is a significant reduction in density from what was previously approved.
4. The site is in the Coastal Area according to the Sussex County Comprehensive Plan. This type of development is appropriate in this Area according to the Plan.
5. The proposed development will not have an adverse impact on the neighboring properties or community. It is similar in nature and design to other developments that exist in this neighborhood along Fred Hudson and Cedar Neck Roads. It is also very close to the commercial area at the intersection of these two roads. This is an appropriate location for this type of development.
6. The project will not have an adverse impact upon traffic or roadways. DelDOT has stated that the traffic impact of this development will be “negligible”, and the developer will be required to make road improvements required by DelDOT and contribute to other area road improvements to be built by DelDOT.
7. The development will be served by central sewer as part of the County-operated sewer system.
8. The development will be served by central water.
9. This recommendation is subject to the following conditions:
 - A. The maximum number of residential units within this entire development shall be 30.
 - B. The Applicant shall form a condominium association to be responsible for the perpetual maintenance of the development’s roadways, buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas.
 - C. All entrance, intersection, roadway and multi-modal improvements shall be completed by the developer in accordance with all DelDOT requirements.

- D. The project shall be served by Sussex County sewer. The developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.
- E. The project shall be served by central water to provide drinking water and fire protection.
- F. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.
- G. The Final Site Plan shall contain the approval of the Sussex County Conversation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- H. All streetlights shall be shielded and downward screened so that they do not shine on neighboring properties or roadways.
- I. The interior street design shall meet or exceed Sussex County's Street design requirements. There shall be sidewalks on at least one side of all streets.
- J. If requested by the local school district, a school bus stop shall be provided. The location of the bus stop shall be shown on the Final Site Plan.
- K. Recreational amenities shall be completed no later than the issuance of the 15th Residential Building Permit. These amenities shall include a pool, pool deck and bathrooms.
- L. Construction, site work and deliveries shall only occur on the site between the hours of 7:00 a.m. through 6:00 p.m., Monday through Friday. No Saturday or Sunday hours are permitted. A 24 inch by 36 inch "NOTICE" sign confirming these hours shall be prominently displayed at all entrances to the site during construction.
- M. All of the buildings shall be set back at least 20 feet from all non-tidal wetlands.
- N. There shall be a vegetated or forested buffer that is at least 20 feet wide installed along the western perimeter of this development. This shall utilize the existing Poplar trees within the buffer area with vegetation added as a screen in accordance with the requirements of Sections 115-218D and 99-5 of the County Code. Where the trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the "Limit of Disturbance" to prevent disturbance of the buffer area. In addition, a split rail or similar type of fence shall be installed along the boundary line of the property next to this buffer.
- O. The Final Site Plan shall include a Landscape Plan confirming all landscaping to be provided, the preservation of all buffer areas and the forested areas that will be preserved. This Landscape Plan shall further identify all "Limits of Disturbance" within the site.
- P. The Final Site Plan shall include a Grading Plan for the site. No building permits shall be issued until a lot grading plan has been supplied to and approved by Sussex County. No certificate of occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.
- Q. As proffered by the Applicant, the Final Site Plan and the recorded condominium covenants shall prohibit the application of fertilizers or similar soil additives on the property by the individual unit owners. All such applications shall be managed by the Condominium Association and a contractor of its designation using best managed

practices to seek to minimize the risk of runoff into the stormwater management system, wetlands, and waterways.

- R. The failure to abide by these conditions shall result in the termination of this Conditional Use.
- S. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried to recommend approval of C/U 2259 for Evergreene Companies, LLC for the reasons and conditions stated in the motion. Motion carried 3 – 0 with Ms. Wingate abstaining.

PLANNING & ZONING COMMISSION

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



Sussex County

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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: June 24th, 2021

Application: CU 2259 The Evergreene Companies, LLC

Applicant: The Evergreene Companies, LLC
701 Bethany Loop, Suite 2
Bethany Beach, DE 19930

Owner: The Evergreene Companies, LLC
701 Bethany Loop, Suite 2
Bethany Beach, DE 19930

Site Location: 31452 LB Lane, Bethany Beach

Current Zoning: Medium Density Residential (MR) Zoning District

Proposed Use: 30 Single-Family Condominiums

Comprehensive Land
Use Plan Reference: Coastal Area

Councilmanic
District: Mr. Hudson

School District: Indian River School District

Fire District: Milville Fire Department

Sewer: Sussex County

Water: Sussex Shores

Site Area: 11.96 acres +/-

Tax Map ID.: 134-13.00-72.02





Memorandum

To: Sussex County Planning Commission Members
From: Nicholas Torrance, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: June 17th, 2021
RE: Staff Analysis for CU 2259 Evergreene Companies, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application 2259 Evergreene Companies, LLC to be reviewed during the June 24th, 2021 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcels 134-13.00-72.02 to allow for a Conditional Use of land in an Agricultural Residential (AR-1) Zoning District for 30 single-family condominiums. The parcel is located on the north side of Fred Hudson Road in Ocean View, Delaware. The area of the site is approximately 11.96 acres +/-.

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

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

The property is within a Medium Density Residential (MR) Zoning District. All surrounding parcels are also zoned MR.

Since 1971, there have been 21 Conditional Use applications within a one-mile radius of the application site. Of the 21 Conditional Use applications within a one-mile radius, 17 have been approved, 1 has been denied, and 2 were withdrawn and 1 is currently pending.

Since 1971, there have 2 Conditional Use applications located on this same parcel. Conditional Use No. 1519 for 48 multi-family units was approved by County Council at their meeting of January 27th, 2004 and adopted through Ordinance No. 1161. Conditional Use No. 1850 for 48 multi-family units was approved by County Council at their meeting of September 14th, 2010 and adopted through Ordinance No. 2143.



Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow for 30 single-family condominiums, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.



Sussex County



PIN:	134-13.00-72.02		
Owner Name	CFRE	HOLDINGS	I LLC
Book	4994		
Mailing Address	6 TRELIS PATH		
City	DOYLESTOWN		
State	PA		
Description	N/RT 360		
Description 2	1250' E/RT 357		
Description 3	N/A		
Land Code			

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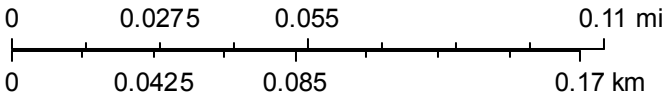
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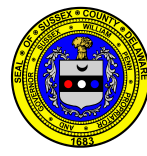
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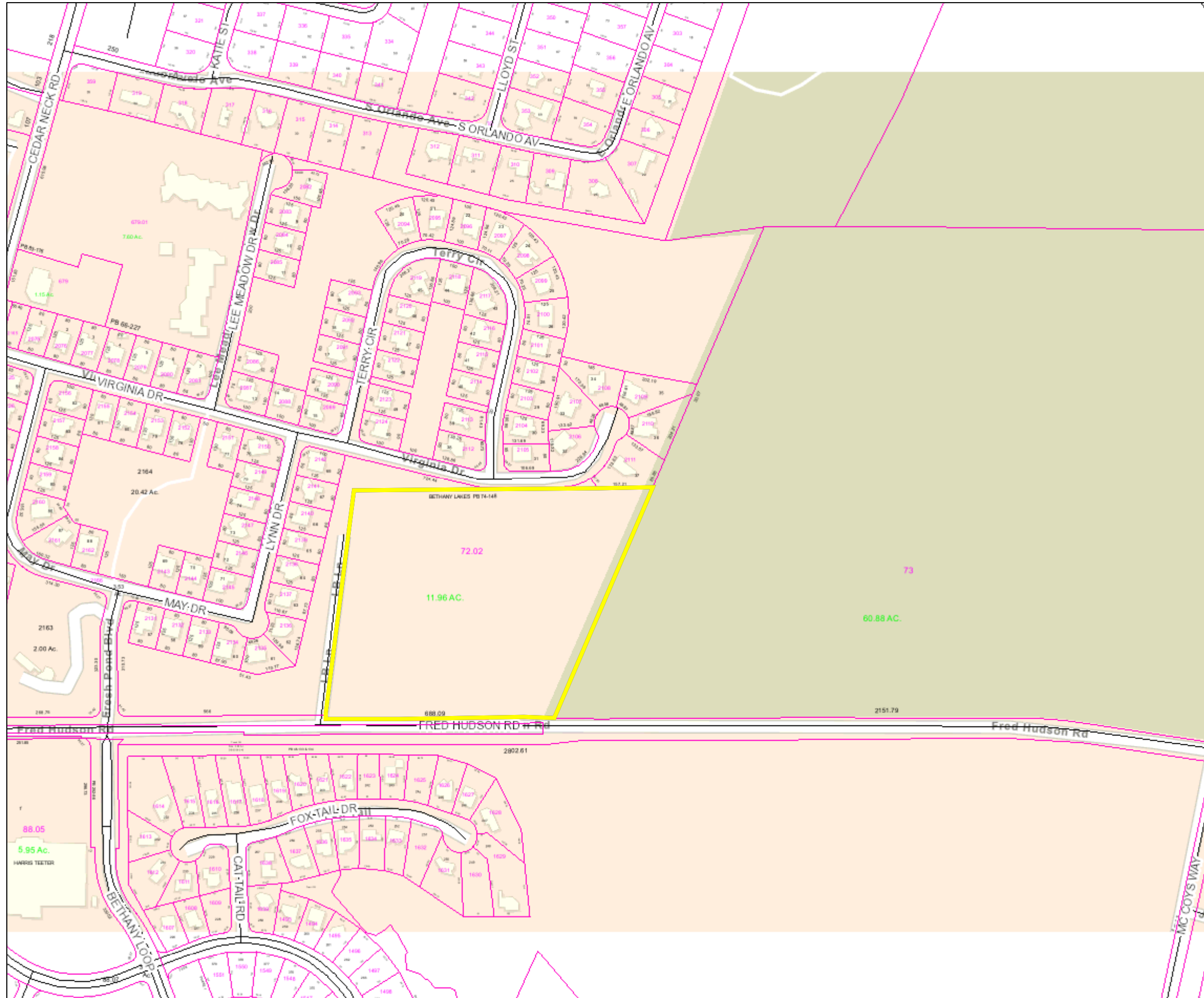
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Extent of Right-of-Way
- Municipal Boundaries

1:2,257





Sussex County



PIN:	134-13.00-72.02		
Owner Name	CFRE	HOLDINGS	I LLC
Book	4994		
Mailing Address	6 TRELIS PATH		
City	DOYLESTOWN		
State	PA		
Description	N/RT 360		
Description 2	1250' E/RT 357		
Description 3	N/A		
Land Code			

polygonLayer

Override 1

polygonLayer

Override 1

Tax Parcels

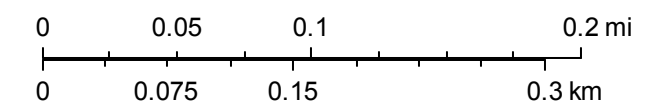
Streets

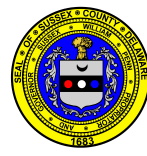
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Extent of Right-of-Way

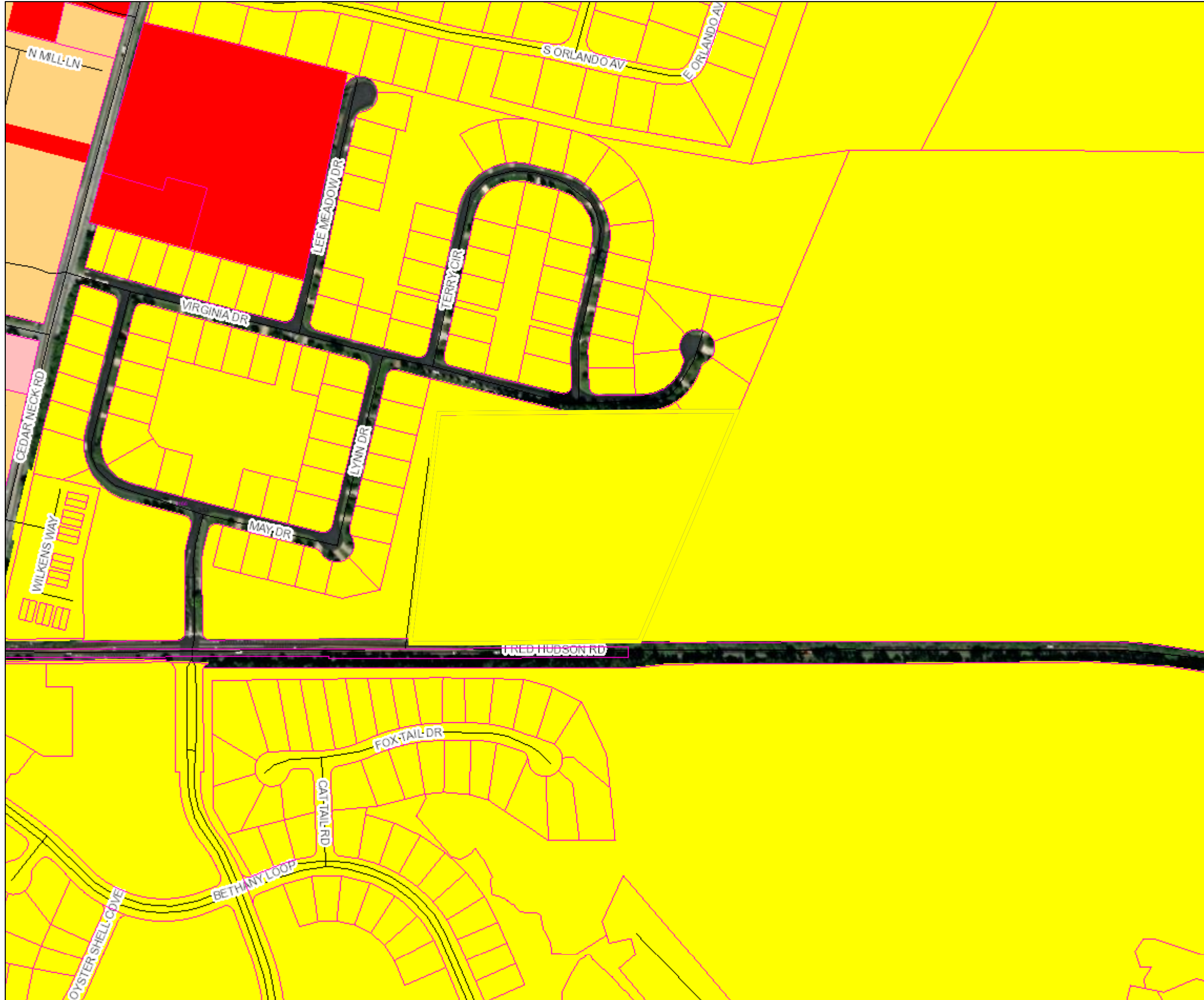
Municipal Boundaries

1:4,514





Sussex County




PIN:	134-13.00-72.02		
Owner Name	CFRE	HOLDINGS	I LLC
Book	4994		
Mailing Address	6 TRELLIS PATH		
City	DOYLESTOWN		
State	PA		
Description	N/RT 360		
Description 2	1250' E/RT 357		
Description 3	N/A		
Land Code			


polygonLayer

Override 1

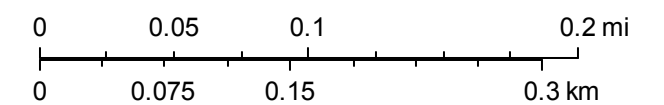
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Override 1

 Tax Parcels

 Streets

1:4,514



Introduced 03/23/21

**Council District: Hudson
Tax I.D. No. 134-13.00-72.02
911 Address: None Available**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL ZONING DISTRICT FOR MULTI-FAMILY DWELLING UNITS (30 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 11.96 ACRES, MORE OR LESS

WHEREAS, on the 5th day of January 2021, a conditional use application, denominated Conditional Use No. 2259 was filed on behalf of The Evergreene Companies, LLC c/o Tim Naughton; and

WHEREAS, on the ____ day of _____ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2259 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article V, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2259 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on north side of Fred Hudson Road (S.C.R. 360), approximately 0.25 mile east of Cedar Neck Road (S.C.R. 357), and being more particularly described in the attached deed prepared by Downey Brand LLP, said parcel containing 11.96 acres, more or less.

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



Memorandum

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

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

CC: Everett Moore, County Attorney

Date: December 2, 2021

RE: County Council Report for CZ 1936 filed on behalf of OA-BP Marina Bay-Lakeside, LLC

The Planning and Zoning Department received an application (CZ 1936 filed on behalf of OA-BP Marina Bay-Lakeside, LLC) to amend the Comprehensive Zoning Map of Sussex County from a MR-RPC Medium Density Residential District – Residential Planned Community to a MR-RPC Medium Density Residential District – Residential Planned Community to amend conditions of approval of Change of Zoning No. 1883 (Ordinance 2690) and Change of Zone No. 1475 (Ordinance No. 1573) relating to the maximum number and types of housing permitted. The property is lying on the south end of Bay Farm Road (SCR 299) and the south side of Trinity Road (SCR 299A). The Change of Zone is for 778.39 acres, more or less.

The Planning and Zoning Commission held a public hearing on November 4, 2021. At the meeting of November 18, 2021, the Commission recommended approval of the application for the 7 reasons as outlined within the motion (included below).

The County Council held a Public Hearing for the application at its meeting of November 30, 2021. At the conclusion of the Public Hearing Council deferred action on the application for further consideration.

Below are the draft minutes from the Planning & Zoning Commission meeting of November 4, 2021 and the draft minutes of the Planning & Zoning Commission meeting of November 18, 2021.

Draft Minutes of the November 4, 2021 Planning & Zoning Commission Meeting

C/Z 1936 OA-BP Marina Bay-Lakeside, LLC

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT –



RESIDENTIAL PLANNED COMMUNITY TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT RESIDENTIAL PLANNED COMMUNITY TO AMEND CONDITIONS OF APPROVAL OF CHANGE OF ZONE NO. 1883 (ORDINANCE NO. 2690) AND CHANGE OF ZONE NO. 1475 (ORDINANCE NO. 1573) RELATING TO THE MAXIMUM NUMBER AND TYPES OF HOUSING PERMITTED FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 778.39 ACRES, MORE OR LESS. The property is lying on the south end of Bay Farm Road (S.C.R. 299) and the south side of Trinity Road (S.C.R. 299A). 911 Address: N/A. Tax Parcels: 234-30.00-1.00 thru 430.00.

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the staff analysis, a copy of the Applicant's revised Master Plan showing the breakdown in units, a copy of the Planning and Zoning Commission meeting minutes from June 27, 2019, a copy of Ordinance 2690, a copy of a letter from the Sussex County Engineering Department Utility Planning Division, and a copy of a letter from the Applicant. Mr. Whitehouse noted that Staff has received two letters in opposition to the Application.

The Commission found that Mr. Zach Crouch was present on behalf of the Applicant. Mr. Crouch stated that in 2019 the Applicant requested a reduction in the number of single-family units and increase the number of multi-family units but keeping the total number at 1394; that change was recommended for approval by the Commission and approved by Council; and that the current request is to decrease the number of multi-family units from 378 to 295 and to increase the single-family detached condominiums from 388 to 471 which will keep the total amount at 1394 based on the previous approval.

Ms. Stevenson asked about the square footage of proposed condos?

Mr. Greg Tobias stated that the condos will be 36 ft. in width and range from 1,400 sf. to 3,500 sf.

Mr. Hopkins asked about the number of parking spaces per unit.

Mr. Crouch stated that the Applicant will come before the Commission with a site plan, should this Change of Zone Application be approved.

The Commission found that there was no one who wished to speak in support of and three people who spoke in opposition to the Application.

The Commission found that Mr. Stephen Dulin spoke in opposition to the Application.

Mr. Dulin stated that the original Windswept totaled 11 units; that when it was approved it was for a total build-out of 1404 homes which was one of the reasons to buy in this development; that money was put into an escrow fund to ensure that the build-out would take place at The Peninsula; that a clubhouse was included; that a nature center was promised; that there is a discrepancy in the Applicant's numbers; and that he opposes the Application based on the fact that the Application is incorrect.

The Commission found that Ms. Mary Lucente spoke in opposition to the Application.

Ms. Lucente asked if an impact study has been completed since the 20 ft. wide roads will not change within the development.

Chairman Wheatley explained that the number of units is not changing just the ratio of multi-family to single-family will change if this is approved.

Ms. Lucente stated that larger homes will accommodate larger vacationing families which in turn will have more cars and impact traffic and parking within The Peninsula; and that there is no overflow parking.

The Commission found that Mr. Mike Edison spoke in opposition to the Application.

Mr. Edison stated that his concerns are not about the building but what the building of these units is doing to the watershed; that there are drainage and flooding issues; and he asks how these issues are going to be addressed and if can it be done before the building starts.

Mr. Robertson stated that this is a Residential Planned Community and any changes to the Site Plan will have to get approval from the Sussex Conservation District for the alterations to the Stormwater Management System.

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

In relation to Application C/Z 1936 - OA-BP Marina Bay-Lakeside, LLC. Motion by Mr. Mears, to defer action for further consideration, seconded by Ms. Stevenson and carried unanimously. Motion carried 4-0.

Draft Minutes of the November 18, 2021 Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since November 4, 2021.

Mr. Mears moved that the Commission recommend approval of Change in Zone # 1936 for OA-BP Marina Bay Lakeside, LLC for an amendment to CZ # 1883 and CZ # 1475, being ordinances 2690 and 1573 respectively, based upon the record made during the public hearing and for the following reasons:

1. This application merely seeks to amend the breakdown of home types within the existing Peninsula MR-RPC development. It does not affect the total number of units permitted within the MR-RPC.
2. Currently, Ordinance # 2690 permits the following:
 - 358 Single – Family Lots
 - 388 Single – Family Detached Condominium Units
 - 270 Single – Family Attached Townhouses
 - 378 Multi – Family Condominium Units
3. This proposed revision seeks to amend the breakdown of unit types, while keeping the maximum number of units at 1,394, as follows:
 - 358 Single – Family Lots

471 Single – Family Detached Condominium Units

270 Single – Family Attached Townhouses

295 Multi – Family Condominium Units

4. The revision does not affect the density of the MR-RPC, and it will not create any additional traffic or impacts upon roadways.
5. As an MR-RPC, this revision will trigger amendments to the approved site plans for the development. As part of that process, various agencies will still review and approve the changed site plans. This will include the Sussex Conservation District's review of how the changes may affect the stormwater management system's design, construction, and operation within the development.
6. This recommendation is subject to all of the conditions of approval of ordinances 2690 and 1573 that are not affected by this revision to the number of housing types permitted within the MR-RPC.
7. For all of these reasons, it is my recommendation that this Application should be approved, but with the condition that a revised Master Plan shall be submitted to the Planning & Zoning Commission within 6 months of approval of this Ordinance by County Council showing the distribution of the approved housing mix across the entire MR-RPC in Table Form.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval for C/Z 1936 OA-BP Marina Bay Lakeside, LLC for the reasons stated in the motion. Motion carried 5-0.

PLANNING & ZONING COMMISSION

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



Sussex County

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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: November 4th, 2021

Application: CZ 1936 OA-BP Marina Bay-Lakeside, LLC

Applicant: OA-BP Marina Bay-Lakeside, LLC
20184 Phillips Street
Rehoboth Beach, DE 19971

Owner: OA-BP Marina Bay-Lakeside, LLC
20184 Phillips Street
Rehoboth Beach, DE 19971

Site Location: The property is lying on the south end of Bay Farm Road (S.C.R. 299) and the south side of Trinity Road (S.C.R. 299A).

Current Zoning: Medium Density Residential - Residential Planned Community (MR-RPC)

Proposed Zoning: Medium Density Residential – Residential Planned Community (MR-RPC)

Proposed Use: Increase the number of Single-Family Detached Condominiums permitted under Condition “1” of Ordinance No. 2690 from 388 to 471 (83 units) and decrease the number of Multi-Family Units from 378 to 295 (83 units).

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Indian River Fire District

Sewer: Sussex County Sewer District

Water: Tidewater Utilities

Site Area: 778.39 +/- acres

Tax Map ID.: 234-30.00-1.00 thru 430.00



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



Sussex County

DELAWARE
sussexcountye.gov

Memorandum

To: Sussex County Planning Commission Members
From: Lauren DeVore, Planner III
CC: Vince Robertson, Assistant County Attorney and applicant
Date: October 29th, 2021
RE: Staff Analysis for CZ 1936 OA-BP Marina Bay – Lakeside, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1936 OA-BP Marina Bay – Lakeside, LLC to be reviewed during the November 4, 2021, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcels 234-30.00-1.00 thru 430.00 to allow for a change of zone from a Medium Density Residential, Residential Planned Community (MR-RPC) to a Medium Density Residential, Residential Planned Community (MR-RPC). The parcels are located on the south end of Bay Farm Road (S.C.R. 299) and the south side of Trinity Road (S.C.R. 299A). The parcels to be rezoned contains 778.39 acres +/-.

Specifically, the proposal is to amend Condition #1 of Ordinance No. 2690 by increasing the number of Single-Family Detached Condominiums permitted from 388 to 471 (83 units) and decrease the number of Multi-Family Units from 378 to 295 (83 units).

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject properties have a land use designation of "Coastal Area." The properties to the north, south, east and west also have the land use designation of Coastal Area with four (4) parcels to the west and one parcel to the north having a Future Land Use designation of Commercial Area.

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

The properties are zoned Medium Density Residential, Residential Planned Community (MR-RPC). The adjacent parcels to the north of the subject properties are zoned General Residential (GR) Zoning District and consist of the Pot Nets Lakeside and Oak Forest Manufactured Home Parks. The properties to the southwest of the subject properties are zoned General Residential (GR) Zoning District and are comprised of the Captain's Way Residential Planned Community

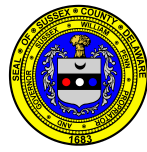


(RPC) and Oak Landing Subdivision. The properties to the northeast, which border the Indian River Bay are zoned Agricultural Residential (AR-1) Zoning District and are included as part of the Pot Nets Bayside and White House Beach Manufactured Home Parks.

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

Since 2011, there have been three (3) Change of Zone applications within a 2-mile radius of the application site. The first application is for Change of Zone No. 1801 for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Commercial Residential (CR-1) Zoning District. The application was approved by the Sussex County Council on July 26, 2016 and the change was adopted through Ordinance No. 2459. The second application is for Change of Zone No. 1880 for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Medium Commercial (C-2) Zoning District. The application was approved by the Sussex County Council on July 16, 2019 and adopted through Ordinance No. 2669. The last application is for Change of Zone No. 1791 for a change of zone from an Agricultural Residential (AR-1) Zoning District to a General Commercial (C-1) Zoning District. The application was approved by the Sussex County Council on April 12, 2016 and adopted through Ordinance No. 2444.

Based on the analysis of the land use, surrounding zoning and uses, a Change of Zone from a Medium Density Residential, Residential Planned Community (MR-RPC) Zoning District to a Medium Density Residential, Residential Planned Community (MR-RPC) for the sole purpose of increasing the number of Single-Family Detached Condominiums permitted under Condition #1 of Ordinance No. 2690 could be considered as being consistent with the land use, area zoning and surrounding uses.



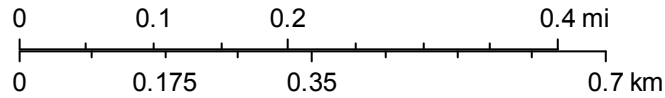
Sussex County



PIN:	234-30.00-1.08
Owner Name	OA-BP MARINA BAY-LAKESIDE LLC
Book	4320
Mailing Address	18949 COASTAL HWY
City	REHOBOTH BEACH
State	DE
Description	THE PENINSULA
Description 2	GOLF COURSE
Description 3	PARCELS 1 THRU 6
Land Code	

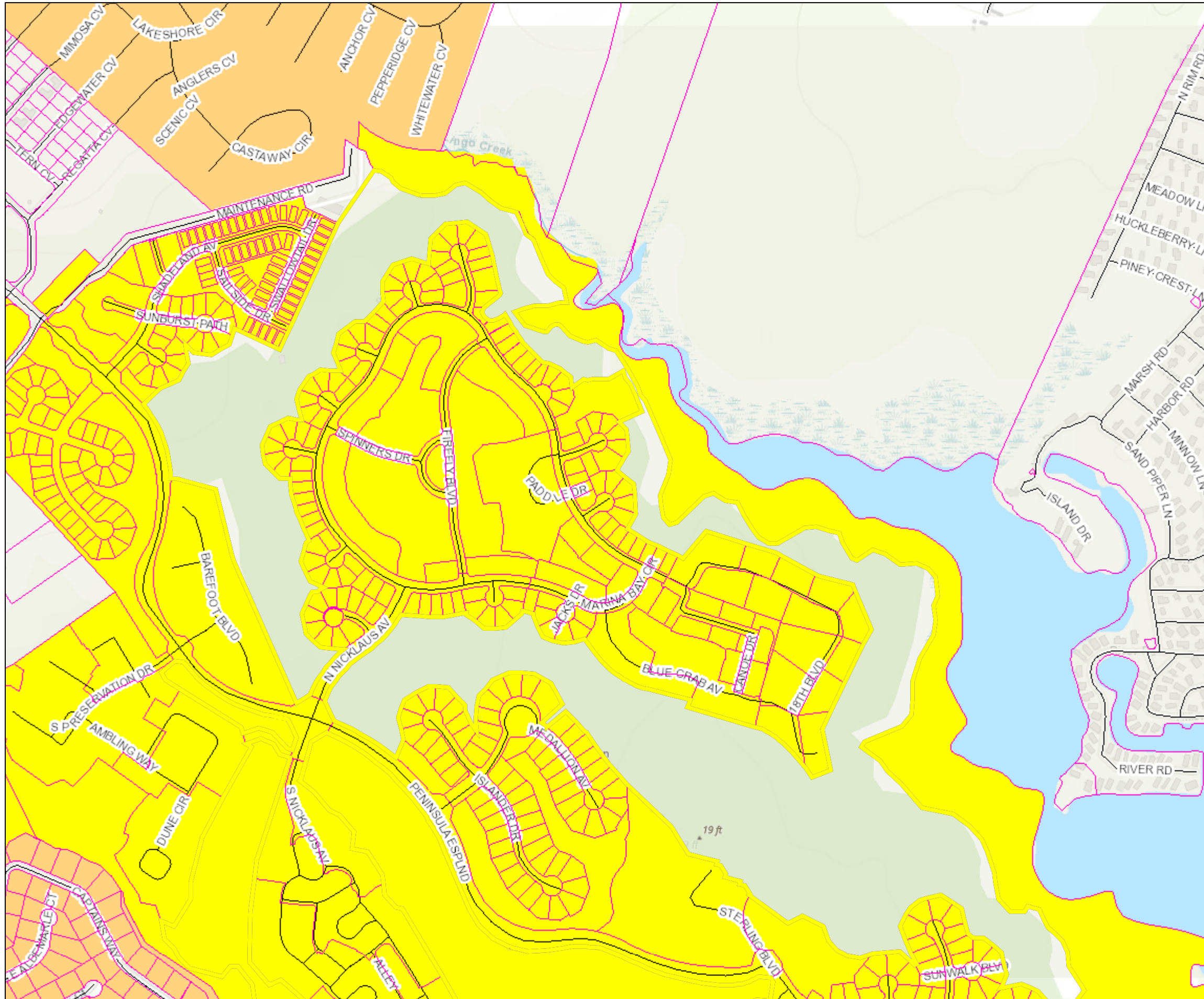
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Override 1
- polygonLayer**
Override 1
- Tax Parcels
 - Streets
 - County Boundaries

1:9,028





Sussex County



PIN:	234-30.00-1.08
Owner Name	OA-BP MARINA BAY-LAKESIDE LLC
Book	4320
Mailing Address	18949 COASTAL HWY
City	REHOBOTH BEACH
State	DE
Description	THE PENINSULA
Description 2	GOLF COURSE
Description 3	PARCELS 1 THRU 6
Land Code	

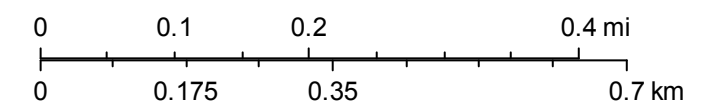
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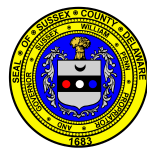
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..... Tax Parcels

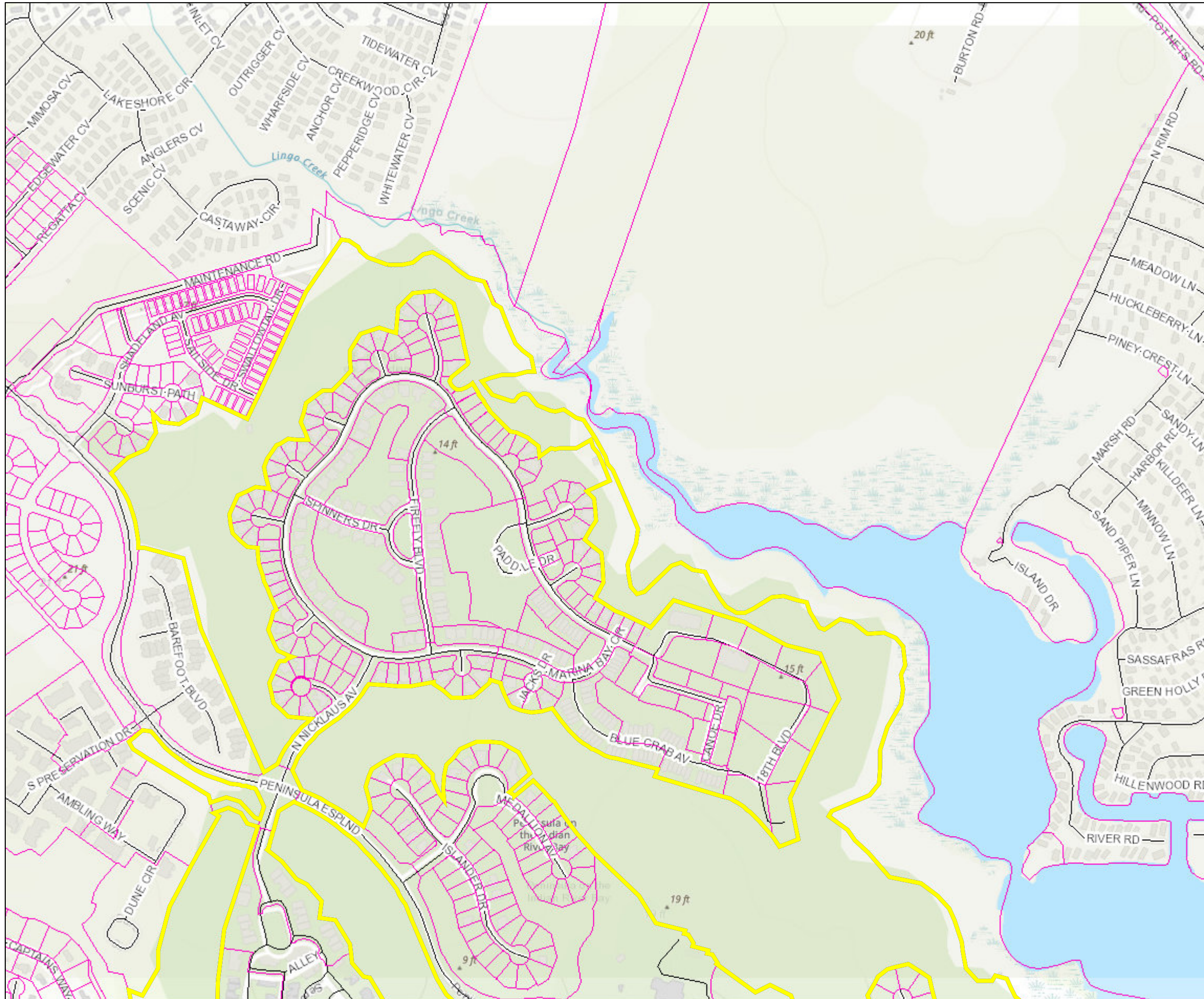
— Streets

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Sussex County



PIN:	234-30.00-1.08
Owner Name	OA-BP MARINA BAY-LAKESIDE LLC
Book	4320
Mailing Address	18949 COASTAL HWY
City	REHOBOTH BEACH
State	DE
Description	THE PENINSULA
Description 2	GOLF COURSE
Description 3	PARCELS 1 THRU 6
Land Code	

polygonLayer
Override 1

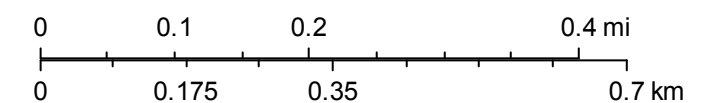
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Override 1

--- Tax Parcels

— Streets

--- County Boundaries

1:9,028



Introduced 09/14/21

Council District: Mr. Hudson

Tax I.D. Nos. 234-30.00-1.00 thru 430.00

911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT- RESIDENTIAL PLANNED COMMUNITY TO AMEND CONDITIONS OF APPROVAL OF CHANGE OF ZONE NO. 1883 (ORDINANCE NO. 2690) AND CHANGE OF ZONE NO. 1475 (ORDINANCE NO. 1573) RELATING TO THE MAXIMUM NUMBER AND TYPES OF HOUSING PERMITTED FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 778.39 ACRES, MORE OR LESS

WHEREAS, on the 30th day of August 2021, a zoning application, denominated Change of Zone No. 1936 was filed on behalf of OA-BP Marina Bay-Lakeside, LLC; and

WHEREAS, on the ____ day of _____ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1936 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the south end of Bay Farm Road (S.C.R. 299) and the south side of Trinity Road (S.C.R. 299A), and being more particularly described in the attached legal description prepared by McCrone, Inc., said parcel containing 778.39 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.

Council Grant Form

Legal Name of Agency/Organization	Ocean Waves Quilt Guild Inc ✓
Project Name	Fabric of Life Art/Quilt Show & Sussex County community service outreach
Federal Tax ID	52-2079625 ✓
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	Established 1997 exclusively for charitable and educational purposes.
Address	P.O. Box 63
Address 2	
City	Lewes
State	Delaware
Zip Code	19958-0063
Contact Person	Lana Powell
Contact Title	Funding / Sponsor Chair

**Contact Phone
Number** 3029472619

**Contact Email
Address** owqgservice@gmail.com

**Total Funding
Request** 3,000.00

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

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

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

**If YES, approximately
what percentage of
the project's funding
does the Council
grant represent?** 52

**Program Category
(choose all that
apply)** Cultural, Educational, Health and Human Services

**Program Category
Other**

Primary Beneficiary Category

Other

Beneficiary Category Other

ALL of the ABOVE categories

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

2000

Scope

For the past 24 years our 250-300 Sussex county quilt members have provided care & comfort to over 35 local organizations, shelters, hospitals & homeless. We have delivered thousands of quilts, baby quilts for the neonatal hospital units, breast cancer pillows for recover, pillowcases to hospitals, infusion centers & dialysis centers, 3000+ teddy bears to the families of the fallen at Dover Airforce Base. Wedding dresses are cut up for burial gowns for infants who do not survive for Bay Health Hosp., Nanticoke & Christiana Hosp. Placemats for outgoing meals delivered. Quilts for Domestic violence shelters & our Veterans. Scraps are bagged & made into Dog beds for the SPCA-Sussex. This past year has hit our group hard. We are completely volunteered & due to COVID have been unable to hold our main fundraising efforts until April 2023 when are quilt show will bring 2,000 visitors to the Sussex Academy School. Our fundraising efforts are delayed due to Covid, Income seriously depleting. We need help with supplies, fabric, notions to continue our work.

Religious Components

n/a

Please enter the current support your

16,652.00

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

Description	Material fabric, threads, notions, batting
--------------------	--

Amount	5,500.00
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Description	Programs
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Amount	9,620.00
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Description	admin
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Amount	588.00
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Description	ins.
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Amount	500.00
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Description	zoom
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Amount	719.00
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Description	mag sales
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Amount	720.00
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Description	rent
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Amount	2,450.00
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Description	
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Amount	
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TOTAL EXPENDITURES	20,097.00
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TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-3,445.00
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Name of Organization	Ocean Waves Quilt Guild Inc
-----------------------------	-----------------------------

Applicant/Authorized Official	Lana Powell
--	-------------

Date	11/22/2021
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Affidavit Acknowledgement	Yes
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[Mark as Spam in D3 Forms.](#) Please do not mark as spam in your email client, as it will result in you no longer receiving D3 Forms notifications. Feel free to email info@d3forms.com with any questions.

Council Grant Form

**Legal Name of
Agency/Organization**

Police Unity Tour *Chapter X* ✓

Project Name

Police Unity Tour, Chapter 10 / (JuneRose Futchner)

Federal Tax ID

80-0940011 ✓

Non-Profit

Yes

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

No

**Organization's
Mission**

An international bicycle tour comprised of approximately 3000 cyclists, support personnel and families of law enforcement. Raise awareness and support for the mission of remembrance for law enforcement fallen in the United States and here in Delaware: National Law Enforcement Memorial Fund & Museum, Officer Down Program and associated support and advocacy for law enforcement

Address

11 Iowa

Address 2

City

Lewes

State

DE

Zip Code

19958

Contact Person

JuneRose Futchner

Contact Title Survivor/cyclist of Police Unity Tour, aka "Rider"

Contact Phone Number 3026458829

Contact Email Address jfletcher@dtcc.edu

Total Funding Request 1000

Has your organization received other grant funds from Sussex County Government in the last year? Yes

If YES, how much was received in the last 12 months? 500

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

If YES, approximately what percentage of the project's funding does the Council grant represent? 15

Program Category (choose all that apply) Cultural, Educational

Program Category Other

Primary Beneficiary Category	Other
Beneficiary Category Other	National Law Enforcement Memorial Fund and Police Unity Tour memorial cycling
Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	2000
Scope	<p>This generous grant will enable me to complete my fundraising and permit me to ride as a registered member cyclist/survivor of the Police Unity Tour while representing the Lewes PD and our fallen grand-father, Charles Wilson Futcher, Sr. who died in the line of duty in 1939. The money supports the cycling tour operation, logistics, provisions and accommodations. We ride approximately 300 miles protected by police motorcades from New Jersey to Washington, DC. The entire delegation (made of separate chapters and regions of North America/Mid-Atlantic states) comprises nearly 3000 cyclists in law enforcement and family of fallen from around the world. The highlight is the arrival in Lewes/Sussex County, in May 2022 from Cape May, New Jersey. More than half of the proceeds are dedicated to the National Law Enforcement Officer's Memorial Fund & Museum.</p> <p>This program, while raising awareness for fallen men and women in law enforcement, provides me the opportunity to preserve community legacy, recognize our fallen grand-father Charles and all of law enforcement right here in my hometown and community in the State of Delaware. Additionally, my role and commitment to the Police Unity Tour is a show of gratitude towards law enforcement for their support and generosity in our family's journey of</p>

memorial dedications in Delaware and Washington, DC.

The costs of equipment, bicycle accessories, maintenance, gear and personal logistics are substantial and require year long planning, training and transportation. I need all the support that may be offered.

I am an active member of the Delaware Chapter, Concerns of Police Survivors. The legacy of historical fallen across many generations and decades is likewise significant and is a personal mission for which I am devoted.

As a survivor, descendant as a grand-daughter I am eligible as a cyclist and a civilian representative of the Lewes PD and the City of Lewes.

Recently in fall of 2021, I had the privilege to spend time in Washington, DC with officers of the Delaware River & Bay Authority at the national wall and vigil. Despite the pandemic circumstances 700 fallen officer's were added to the national monument and named in the roll call in a solemn and unifying tribute.

Our family will be always be remembered for their loss more than 80 years ago. Our grand-father Charles will always be remembered for his sacrifice and will never be forgotten:

Town Officer Charles Futch, Sr, Lewes Police Department,
End-of-Watch 13 August, 1939

**Religious
Components**

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

5,000.00

Description	Membership fundraising requirement
--------------------	------------------------------------

Amount	3,500.00
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Description	
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Amount	200.00
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Description	
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Amount	
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Description	
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Amount	
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Description	
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Amount	
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Description	
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Amount	
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Description	
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Amount	
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Description	
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Amount	
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TOTAL EXPENDITURES	3,700.00
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TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	1,300.00
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Name of Organization Police Unity Tour, Chapter 10

**Applicant/Authorized
Official** JuneRose Futcher

Date 11/23/2021

Affidavit Yes

Acknowledgement

[Mark as Spam in D3 Forms](#). Please do not mark as spam in your email client, as it will result in you no longer receiving D3 Forms notifications. Feel free to email info@d3forms.com with any questions.

To Be Introduced 12/07/21

**Council District 4 – Hudson
Tax I.D. No: p/o 234- 29.00-49.02
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-3 HEAVY COMMERCIAL DISTRICT FOR A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.27 ACRES, MORE OR LESS

WHEREAS, on the 22nd day of September 2021, a zoning application, denominated Change of Zone No. 1954 was filed on behalf of American Storage of Delaware, LLC; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1954 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of AR-1 Agricultural Residential District and adding in lieu thereof the designation of C-3 Heavy 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 Indian River Hundred, Sussex County, Delaware, and lying on the west side of John J. Williams Highway (Route 24), approximately 0.25 mile south of the intersection of Autumn Road (S.C.R. 299) and Bay Farm Road (Route 299), being Parcel #1 shown on the site plan entitled, “American Storage of Delaware” prepared by Scaled Engineering and being more particularly described in the attached legal description prepared by Scaled Engineering, said parcel containing 8.27 acres, more or less.

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

To Be Introduced 12/07/21

Council District 4 – Hudson

Tax I.D. Nos: (portion of) 234- 29.00-49.02, 49.03 & 50.00

911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A PORTION OF CERTAIN PARCELS OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 17.63 ACRES, MORE OR LESS

WHEREAS, on the 22nd day of September 2021, a zoning application, denominated Change of Zone No. 1955 was filed on behalf of American Storage of Delaware, LLC; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1955 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of AR-1 Agricultural Residential District and adding in lieu thereof the designation 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 Indian River Hundred, Sussex County, Delaware, and lying on the west side of John J. Williams Highway (Route 24), approximately 0.25 mile south of the intersection of Autumn Road (S.C.R. 299) and Bay Farm Road (Route 299), being Parcel #2 shown on the site plan entitled, “American Storage of Delaware” prepared by Scaled Engineering and being more particularly described in the attached legal description prepared by Scaled Engineering, said parcel containing 17.63 acres, more or less.

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

To Be Introduced 12/07/21

Council District 4 – Hudson

Tax I.D. Nos.: (portion of) 234-29.00-49.02, 49.03 & 50.00

911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTIFAMILY UNITS (140 UNITS) TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 17.63 ACRES, MORE OR LESS

WHEREAS, on the 22nd day of September 2021, a conditional use application, denominated Conditional Use No. 2315 was filed on behalf of American Storage of Delaware, LLC; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2315 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2315 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the west side of John J. Williams Highway (Route 24), approximately 0.25 mile south of the intersection of Autumn Road (S.C.R. 299) and Bay Farm Road (Route 299), being Parcel #2 shown on the site plan entitled, “American Storage of Delaware” prepared by Scaled Engineering and being more particularly described in the attached legal description prepared by Scaled Engineering, said parcel containing 17.63 acres, more or less.

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

To Be Introduced 12/07/21

**Council District 5 – Rieley
Tax I.D. No. 134-15.00-124.00
911 Address: 34215 Peppers Corner Road, Frankford**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 (AGRICULTURAL RESIDENTIAL DISTRICT) FOR A ZOOLOGICAL PARK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 7.24 ACRES, MORE OR LESS

WHEREAS, on the 5th day of August 2021, a conditional use application, denominated Conditional Use No. 2305 was filed on behalf of Barnhill Preserve of Delaware, LLC and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2305 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2305 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the northeast side of Peppers Corner Road (S.C.R. 365) approximately 0.61 mile southeast of Roxana Road (Route 17) and being more particularly described in the attached legal description prepared by Scott and Shuman, P.A., said parcel containing 7.24 acres, more or less.

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



Memorandum

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

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

CC: Everett Moore, County Attorney

Date: December 3, 2021

RE: County Council Report for Ordinance to Amend the Future Land Use Map of the
Comprehensive Plan in Relation to Tax Parcel No. 234-23.00-270.00

This is an Ordinance to amend the Future Land Use Map element of the Comprehensive Plan in relation to Tax parcel No. 234-23.00-270.00. The parcel is located on the north side of Long Neck Road, approximately 1000 feet east of Rt. 24.

On March 9, 2020, the Sussex County Planning & Zoning Department received an application for a Change of Zone for multiple parcels, including parcel 270.00 from B-1, C-1 and CR-1 Zoning Districts to HR High Density Residential Zoning District - Residential Planned Community Overlay (HR-RPC).

As the parcel was designated as being within the Commercial Area as set forth in the Future Land Use Map identified as Figure 4.5-1 in the Plan, and the Commercial Area does not permit such Zoning, the Applicant has submitted a request to amend the Future Land Use Map to revise the designation of the parcel from the Commercial Area to the Coastal Area. The Coastal Area would potentially allow for HR Zoning, if approved.

The Ordinance was subject to PLUS review before the State of Delaware at its June, 2021 meeting. The Ordinance was introduced to County Council on August 31, 2021. A Public Hearing was held on the Ordinance before the Planning & Zoning Commission at its meeting of November 4, 2021. At the conclusion of the Public Hearing, the Commission recommended that the Ordinance be adopted.

Below are the draft minutes from the Planning & Zoning Commission meeting of November 4, 2021.



Draft Minutes of the November 4, 2021 Planning & Zoning Commission Meeting

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 234-23.00-270.00

Mr. Whitehouse advised the Commission that they may remember this parcel from Change of Zone 1922 which was heard by the Commission earlier this year and was recommended for adoption by County Council; that this is a straight-forward Ordinance to amend the designation of the parcel from the Commercial Area to the Coastal Area; that the reason for this is that there is a Change of Zone Application pending for a High-Density Residential – Residential Planned Community (HR-RPC); and that submitted into the record is a copy of the PLUS comments; a copy of the minutes from both the Planning and Zoning Commission meeting and the County Council meeting referred to. Mr. Whitehouse noted that the Office of Planning and Zoning received no comments in support of or in opposition to the proposed Ordinance.

The Commission found that Mr. James Fuqua, Esq. was present on behalf of the property owner; that the request is to amend the Future Land Use Map of the Comprehensive Plan; that Condition P of the approval for CZ 1922 was to make this amendment to the Map; that the Office of State Planning states that this property is in a High Use Area; that going from Commercial to Coastal is a down-zoning; that it is in Investment Level II and III which is where development is directed; and that the State has no objection to the amendment.

The Commission found that there was no one present in the room or by teleconference that was in support or in opposition to this Ordinance.

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

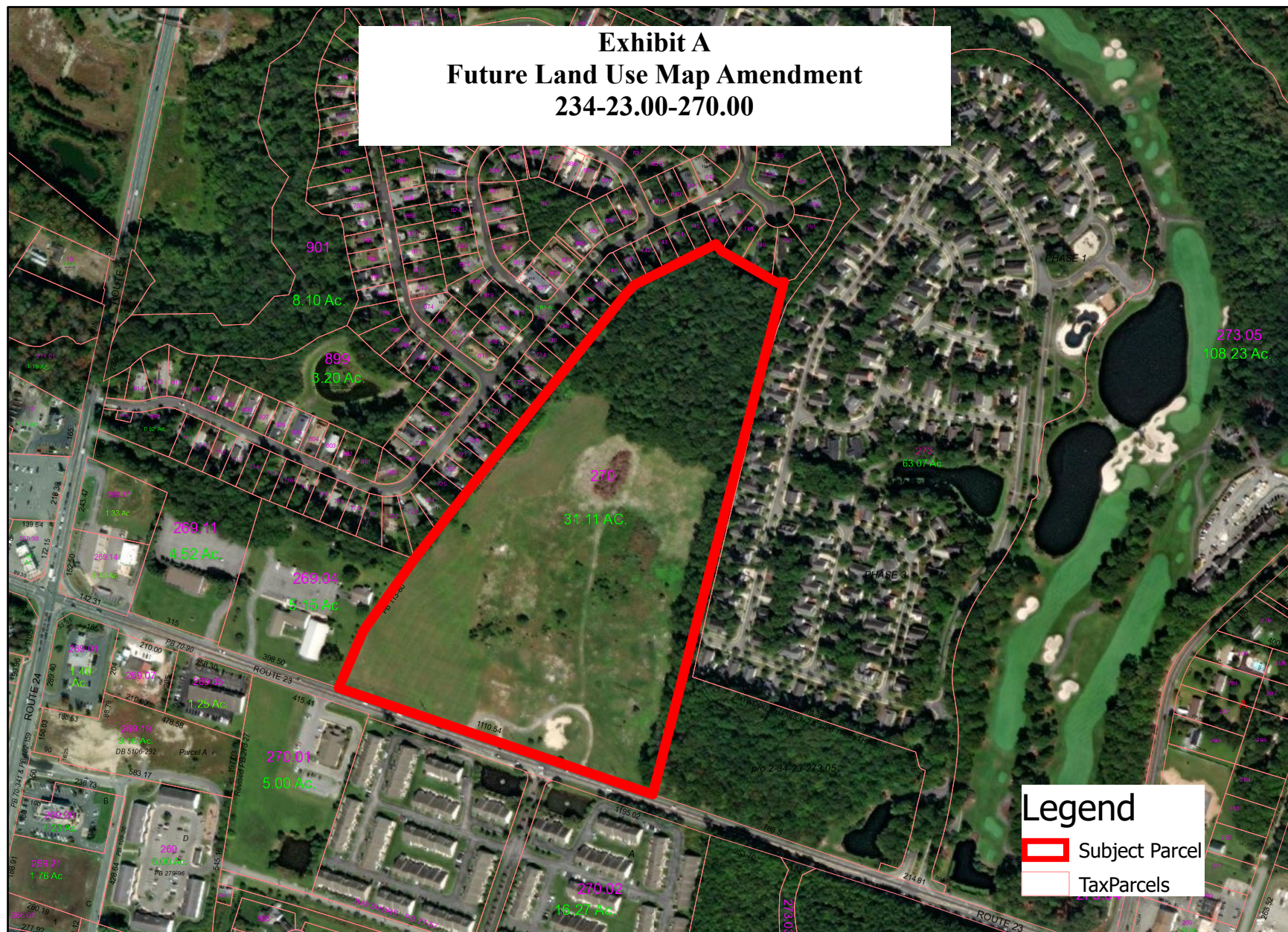
In relation to the Ordinance to amend the Future Land Use Map of the Comprehensive Plan in relation to Tax Parcel No. 234-23.00-270.00. Motion by Ms. Stevenson approve the Ordinance as it is consistent with the other land use classifications around this property and that it is a less intensive land use classification going from Commercial Area to Coastal Area, seconded by Mr. Mears and carried unanimously. Motion carried 4-0.



Sussex County



Exhibit A
Future Land Use Map Amendment
234-23.00-270.00



A horizontal number line representing distance in feet. The line starts at 0 and ends at 2,000. Major tick marks are labeled at 0, 250, 500, 1,000, 1,500, and 2,000. The line is divided into four equal segments by these tick marks.



**STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION**

July 22, 2021

Jamie Whitehouse, AICP
Director, Department of Planning & Zoning
Sussex County
2 The Circle
P.O. Box 417
Georgetown, DE 19947

RE: PLUS review 2021-06-10; Sussex County Comprehensive Plan Amendment

Dear Mr. Whitehouse:

Thank you for meeting with State agency planners on June 23, 2021 to discuss the proposed Comprehensive Plan Amendment for Sussex County. This proposed amendment would change the Future Land Use Map for 4 parcels from the Commercial Area to the Coastal Area.

Please note that additional changes to the plan could result in additional comments from the State. Additionally, the comments below reflect only issues that are the responsibility of the agencies that were represented at the meeting.

Office of State Planning Coordination – Contact Dorothy Morris 739-3090

These parcels were reviewed through PLUS as 2019-05-09, Baywood Gardens, which was reviewed for a 514 unit apartment complex. This PLUS application included parcel 234-23.00-270.00, 273.01, 273.02, 273.03, 273.05. At this time all parcels, with the exception of 234-23.00-270.00 is already in the Coastal Area according to the Sussex County Comprehensive plan.

Parcel 234-23.00-270.00 is surrounded by Coastal area and is currently slated for a higher use, commercial. It is also within levels 2 and 3 according to the Strategies for State Policies and Spending. The state has no objections to the amending the comprehensive plan to include 234-23.00-270.00 in the Coastal Area.

Please note that not objecting to the amendment does not constitute support from state agencies for future development. If it meets the PLUS criteria, any future development not already reviewed through PLUS would need to be reviewed for state agency comment.

Department of Transportation – Contact Bill Brockenbrough 760-2109

- PLUS 2021-06-10 – This amendment would facilitate two developments known collectively as parts of Baywood Gardens. In November 2019 and December 2020, DelDOT provided comments on Traffic Impact Studies for those developments. Copies of those comments are available at https://deldot.gov/Business/subdivisions/index.shtml?dc=Traffic_Studies.

Department of Natural Resources and Environmental Control – Beth Krumrine 735-3480

- DNREC reviewers are not in support of this change as the intensity of use allowed in the Coastal Area is inconsistent with the resource constraints on site. In areas zoned as Coastal Areas, the density could be up to 12 units per acre. In addition, heavy commercial uses are allowed in this area.
- A Wellhead Protection Area lies within Parcel 234-23.00-270.00. Wellhead Protection Areas are the surface and subsurface areas surrounding a water well, or a public water supply wellfield. Contaminants leaching into the soil have the potential to reach the water supplies in these areas.
- Groundwater Recharge Areas are located on parcels 234-23.00-273.01, 234-23.00-273.02 and 234-23.00-273.03. These areas have soils that are conducive to water infiltrating downward from surface water into groundwater. Preservation of these areas is important for replenishing groundwater supplies and ensuring drinking water for future generations.
- Development of this site is anticipated to displace local wildlife. Wildlife displaced by encroaching development may become a nuisance for homeowners.

State Historic Preservation Office – Contact Carlton Hall 736-7400

- If there is federal involvement, in the form of licenses, permits, or funds, the federal agency, often through its client, is responsible for complying with Section 106 of the National Historic Preservation Act (36 CFR 800) and must consider their project's effects on any known or potential cultural or historic resources. For further information on the Section 106 process please review the Advisory Council on Historic Preservation's website at: www.achp.gov

Parcel#: 234-23.00-270.00:

- Prehistoric archaeological potential is low to moderate. The area is almost completely well-drained soils, but it is just outside of favorable distance to a water source (Guinea Creek). Southern half of parcel has been disturbed, but the norther half has seen limited change. Moderate potential up north, but still not completely favorable.
- Historic archaeological potential is low. The location of the John J. Williams Dwelling at the southern border would have made it high in that area, but there appears to be a large amount of ground disturbance and earthmoving between 2002-2007, and the house has since been demolished according to Oct 2019 Google Street view. No other structures appear to be on the parcel. Any historic remains found in the middle of the parcel where ag fields were would likely be field scatter.

Parcel# 234-23.00-273.01:

- Prehistoric potential is low. Despite well-drained soils, there is no water source within favorable distance to the parcel. Some ground disturbance from deforestation and reforestation as well.
- Historic archaeological potential is low. No structures that are shown on historic maps, aerials, or topographic maps. Seems to have been either partial ag field or forested continuously.

Parcel# 234-23.00-273.02:

- Prehistoric potential is low. Despite well-drained soils, there is no water source within favorable distance to the parcel. Some ground disturbance from deforestation and reforestation as well.
- Historic archaeological potential is low. No structures that are shown on historic maps, aerials, or topographic maps. Seems to have been either partial ag field or forested continuously

Parcel# 234-23.00-273.03:

- Prehistoric potential is low. Despite well-drained soils, there is no water source within favorable distance to the parcel. Some ground disturbance from deforestation and reforestation as well.
- Historic archaeological potential is low. No structures that are shown on historic maps, aerials, or topographic maps. Seems to have been either partial ag field or forested continuously.

Once a decision has been reached on this proposed comprehensive plan amendment, please notify the Office of State Planning Coordination for our records. If approved this notification should include a copy of the plan amendment as approved, the adopting resolution or ordinance, a revised version of any maps that were updated as well as any text that was approved in amending the comprehensive plan. If the amendment is not approved by the county, please include a copy of the minutes verifying this amendment was denied.

Thank you for the opportunity to review this Comprehensive Plan amendment. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Edgell', written in a cursive style.

David L. Edgell, AICP
Director, Office of State Planning Coordination

Introduced 08/31/21

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 234-23.00-270.00

WHEREAS, on March 9th, 2020, the Sussex County Planning and Zoning Office received an application for Change of Zone No. 1922; and

WHEREAS, the Sussex County Council will consider Change of Zone No. 1922 from a B-1 Neighborhood Business District, C-1 General Commercial District and CR-1 Commercial Residential District to a HR-RPC High Density Residential District Residential Planned Community for certain parcels of land lying and being in Indian River Hundred, Sussex County, containing 31.11 acres, more or less (The entirety of Tax Parcel No. 234-23.00-270.00) (the “Property”); and

WHEREAS, the Property is designated as being within the Commercial Area as set forth in the Future Land Use Map identified as Figure 4.5-1 in the Plan, and the Commercial Area does not permit such HI-1 Zoning; and

WHEREAS, Sussex County Council desires to adopt this Ordinance amending the Future Land Use Map of the Plan with minor amendments; and

WHEREAS, in accordance with the required process for public hearings on ordinances such as this one, both Sussex County Council and the Sussex County Planning & Zoning Commission will hold public hearings on this Ordinance, but limited in scope to this specific proposed amendment to the Future Land Use Map contained in the Plan;

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Future Land Use Map identified as Figure 4.5-1 of the Sussex County Comprehensive Plan is hereby amended to change the Area designation of Sussex County Parcel No. 234-23.00-270.00 from the Commercial Area to the Coastal Area. The Sussex County Parcel No. 234-23.00-270.00 so changed is identified in Exhibit A, attached hereto and incorporated herein.

Section 2. This Ordinance shall also take effect following its adoption by majority vote of all members of the County Council of Sussex County, Delaware, and upon certification by the State of Delaware.