

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

AGENDA

January 23, 2024

10:00 AM

Call to Order

Approval of Agenda

Approval of Minutes - January 9, 2024

[Draft Minutes 010924](#)

Reading of Correspondence

Public Comments

Consent Agenda

1. **Use of Existing Wastewater Infrastructure Agreement – IUA-691
Highlands of Pepper Creek, Dagsboro/Frankford Area**
[Consent Agenda](#)

Todd Lawson, County Administrator

1. **Administrator's Report**

10:15 a.m. Public Hearing

1. **South Greenwood Expansion of the Sussex County Unified Sanitary Sewer District (Western Sussex Area)**
[Public Hearing South Greenwood](#)



John Ashman, Director of Utility Planning & Design Review

1. **Permission to Prepare and Post Notices for Leeward Chase Annexation into the Sussex County Unified Sanitary Sewer District (Airpark Area)**
[Permission to Prepare & Post Notices Leeward Chase](#)

Hans Medlarz, County Engineer

1. **Discussion and Possible Introduction of a Proposed Ordinance entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$2,797,264 OF GENERAL OBLIGATION BOND OF SUSSEX COUNTY IN CONNECTION WITH INCREASED COSTS ASSOCIATED WITH THE WESTERN SUSSEX REGIONAL SANITARY SEWER DISTRICT PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”**
[Proposed Ordinance Western Sussex](#)
2. **Constructed Wetlands, Project S22-05**
 - A. **RK&K - 5-year Wetland data collection implementation**
[RKK Wetland Data Collection](#)
3. **Herring Creek Project, Project S20-08**
 - A. **Teal Construction, Inc. – Change Order No. 3**
 - B. **WRA Amendment No. 7**
[Herring Creek CO No. 3 & Amendment No. 7](#)
4. **Winding Creek Village Water District**
 - A. **Agreement with Tidewater Utilities, Inc.**
[Winding Creek Agreement](#)

Old Business

1. [Conditional Use No. 2388 filed on behalf of Rifle Range Road Solar, LLC](#)
“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 93.66 ACRES, MORE OR LESS” (property lying on the south side of Rifle Range Road [S.C.R. 545], approximately 1.14 mile east of Sussex Highway [Rt. 13]) (911 Address: N/A) (Tax Map Parcel: 131-15.00-51.00 [p/o])
[CU 2388 filed on behalf of Rifle Range Solar, LLC](#)

Grant Requests

1. **Mispillion Performance Series for their 2024 concert series**
[Mispillion Performance Series](#)
2. **ReTemp Development Center for their Food Project for Seniors and Homeless**
[ReTemp Development Center](#)

Introduction of Proposed Zoning Ordinances

[Ord Intros CU2406 CZ2006](#)

Council Members' Comments

Executive Session - Land Acquisition, Pending & Potential Litigation, & Collective Bargaining pursuant to 29 Del.C.§10004(b)

Possible action on Executive Session Items

Todd Lawson, County Administrator

1. Discussion and possible action related to the Collective Bargaining Agreement with AFSCME AFL-CIO and its Affiliated Local Union 1926

1:30 p.m. Public Hearings

1. [Conditional Use No. 2394 filed on behalf of Wayne Development, LLC](#)

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL STORAGE FACILITY WITH RV AND BOAT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 14.34 ACRES, MORE OR LESS” (property lying on the southwest side of Gull Point Road [S.C.R. 313], approximately 591 ft. northeast of Downs Landing Road) (911 Address: N/A) (Tax Map Parcel: 234-34.00-4.01)

[Public Hearing CU2394](#)

2. [Conditional Use No. 2477 filed on behalf of State of Delaware](#)

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A POLICE STATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 44 ACRES, MORE OR LESS” (property lying on the east side of Patriots Way [S.C.R. 318], approximately 0.3 mile north of Avenue of Honor [S.C.R. 86]) (911 Address: N/A) (Tax Map Parcel: 133-7.00-8.00 ([p/o])

[Public Hearing CU2477 State of Delaware](#)

3. [Conditional Use No. 2491 filed on behalf of St. Michael the Archangel Church](#)

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR AN ON-PREMISES ELECTRONIC MESSAGE CENTER SIGN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 10.94 ACRES, MORE OR LESS” (property lying on the north side of Mount Joy Road [S.C.R. 297] and the west side of John J. Williams Highway [Rt. 24], at the intersection of Mount Joy Road [S.C.R. 297] and John J. Williams Highway [Rt. 24]) (911 Address: 30839 Mount Joy Road, Millsboro) (Tax Map Parcel: 234-29.00-263.06)

[Public Hearing CU 2491 filed on behalf of St Michael the Archangel Church](#)

4. [Change of Zone No. 1991 filed on behalf of Sycamore Chase Expansion](#)

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR-RPC MEDIUM-DENSITY RESIDENTIAL – RESIDENTIAL PLANNED COMMUNITY DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 73.95 ACRES, MORE OR LESS” (property lying on the north side of Daisey Road [S.C.R. 370], approximately 0.6 mile west of Bayard Road [S.C.R. 384]) (911 Address: 34665, 34723 & 34771 Daisey Road, Frankford) (Tax Map Parcel: 134-18.00-45.00, 51.00 and P/O 53.00, 54.00 & 54.01)

[Public Hearing CZ 1991 filed on behalf of Beazer Homes, LLC \(Sycamore Chase Expansion\)](#)

5. [Change of Zone No. 1997 filed on behalf of Waste Management of Delaware, Inc.](#)

“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 CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.219 ACRES, MORE OR LESS” property lying on the west side of Old Stage Road [S.C.R. 461], at the intersection of Old Stage Road [S.C.R. 461] and Trussum Pond Road [S.C.R. 462]) (911 Address: N/A) (Tax Map Parcel: 332-2.00-79.01)

[Public Hearing CZ 1997 filed on behalf of Waste Management of Delaware, Inc](#)

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on January 16, 2024 at 4:15 p.m. and at least seven (7) days in advance of the meeting.

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

Agenda items may be considered out of sequence.

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

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

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

To join the meeting via telephone, please dial:

Conference Number: 1-302-394-5036

Conference Code: 570176

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

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

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 9, 2024

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 9, 2024, at 1:00 p.m., in Council Chambers, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 015 24
Approve
Agenda**

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

Motion Adopted: 4 Yeas, 1 Absent

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

Minutes

The minutes from January 2, 2024, were approved by consensus.

**Corre-
spondence**

Mr. Moore read correspondence received from Del-Mar-Va Council of Boy Scouts of America thanking Council for their donation. In addition, Mr. Moore read a letter from the Town of Dewey Beach into the record expressing their appreciation for supporting the placement of a Sussex County paramedics station in the new Dewey Beach Town Hall complex.

**Public
Comments**

Public comments were heard:

Mr. John Collier commented about an expansion of the Planning and Zoning Commission specifically in the area represented by the 19968-zip code. He added that he advocates for the development of a mechanism to reduce the influx of development application in the Level 4 state investment strategies. A full copy of his remarks was provided for the record and distributed to the Council Members.

Recognition

Ms. Susan A. Wise was recognition for her retirement.

**Adminis-
trator's
Report**

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

1. Council Meeting/Holiday Schedule

County offices will be closed on Monday, January 15th for the Martin Luther King Jr. Holiday. Offices will reopen on Tuesday, January 16th, at 8:30 a.m. Council will not meet on January 16th. The next regularly scheduled Council meeting will be on Tuesday, January 23rd at 10:00 a.m.

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

**FY23 Year
End
Financial
Report**

Gina Jennings, Finance Director reviewed the Popular Annual Financial Report for fiscal year ended June 30, 2023.

Mrs. Jennings explained that each year an audit is completed, and the annual financial statements are posted on our website.

Mrs. Jennings reported that it is recommended that a document is put together that is more attractive for taxpayers to review and more user friendly. The report provides an introduction that explains where the full annual report can be found as well as the recent financial awards that have been received.

The report provides information about Sussex County Government as well as the government structure. The reports includes a lot of information and statistics. Mrs. Jennings shared information relating to the top employer-types with health care and social services being the top employer in Sussex County. There is a total of 85,044 total employees in Sussex County that includes 919 jobs provided at Delaware Coastal Airport and Business Park. The number of landings at Delaware Coastal Airport and permits issued is also included in the report.

Tax Facts and Statistics are also included showing who pays the most taxes in Sussex County and notes the assessed value of property. It was noted that these figures are based on 1974 assessed values. In addition, there are demographic statistics that show population, personal income, median age, and the unemployment rate.

The report then discusses and shows where the money comes from and where the money goes. A chart is included showing the trends of revenues to expenditures in the governmental funds during the last five fiscal years, excluding other financing sources/uses. Business-Type Funds are included in the report showing water and sewer data.

Included in the report is information about the County's investments as well as capital assets. Mrs. Jennings explained the bottom line showing the

revenues and expenses. It was noted that government has two sets of books, one that has the assets on the books and one that is just cash basis. The report details long-term debt and capital projects and the reassessment project.

Permission to Prepare & Post Notices/ John Ashman, Director of Utility Planning & Design Review presented a request to prepare and post notices for Beaver Dam Road Annexation into the Sussex County Unified Sanitary Sewer District (Millville Area).

Beaver Dam Road Annexation into SCUSSD Mr. Ashman reported that on January 11, 2011, he appeared before County Council to request permission to prepare and post notices for the Beaver Dam Road Expansion of the Millville Sanitary Sewer District. The area included the portion of Beaver Dam Road from Substation Road to Central Avenue, the section of Substation Road from Beaver Dam Road to Central Avenue and the Penn Del Acres Subdivision. On April 20, 2011, the Engineering Department held a Public Meeting at the Millville Town Hall to discuss the proposed service area, estimated costs, the sewer rate structure, construction impacts, the process for connecting to the sewer and a proposed schedule. On June 7, 2011, there was a Public Hearing in council chambers, based on testimony the Engineering Department completed a polling vote and re-appeared before council on July 19, 2011. The vote was deferred until July 26 that which time it was deferred indefinitely based on lack of response from the property owners. In 2015 the subject area again was evaluated, and it was discovered that DelDOT had just paved Beaver Dam Road and there was a 5-year moratorium on any project impacting the roadway. Recently there has been renewed interest in central sewer for the area so the department distributed a new polling letter based on potential change of ownership since the original meeting and hearings. The polling was for a reduced area consisting of (23) properties, of those we received (11) in favor and (3) opposed to the annexation.

M 016 24 Approve Permission to Prepare & Post Notices A Motion was made by Mr. Hudson, seconded by Mr. Rieley, be it moved by the Sussex County Council that the Sussex County Engineering Department, is authorized to prepare and post notices for the Beaver Dam Road Expansion of the Sussex County Unified Sanitary Sewer District Millville Area as presented.

Motion Adopted: 4 Yeas, 1 Absent

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

Old Business/ CZ1984 Under Old Business, Jamie Whitehouse, Director of Planning and Zoning presented a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED,

Old
Business/
CZ1984
(continued)

SUSSEX COUNTY, CONTAINING 9.20 ACRES, MORE OR LESS”
(properties lying on the north side of Lighthouse Road [Route 54], and the west side of Bennett Avenue, approximately 350 feet west of Madison Avenue) (911 Address: N/A) (Tax Map Parcels: 533-20.00-22.00 & 20.00 [p/o]) filed on behalf of Carl M. Freeman Companies.

The County Council held a Public Hearing on the application at the meeting of November 14, 2023. At the conclusion of the Public Hearing, action on the application was deferred for further consideration.

M 017 24
Adopt
Ordinance
No. 2971/
CZ1984

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt Ordinance No. 2971 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 9.20 ACRES, MORE OR LESS” for the reasons given by the Planning & Zoning Commission as follows:

1. This application seeks a change in zone from AR-1 to MR. The purpose of the MR zone is to provide housing in an area that is expected to become urban in character and where central water and sewer are available.
2. The stated purpose of the MR District is satisfied for this site. Both central water and central sewer will be available.
3. The proposed MR Zoning meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.
4. This location is appropriate for MR Zoning. The property is in the vicinity of a variety of residential uses including an existing 26-unit townhouse development. The site is also adjacent to land that is Zoned M (Marine) and B-1 (Neighborhood Business) which has developed with restaurants and other commercial businesses, and it is in close proximity to the Town of Fenwick Island. This rezoning is consistent with other zoning and land uses in the area.
5. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. MR Zoning is appropriate in this Area according to the Plan.
6. The Comprehensive Plan suggests that higher densities such as those permitted in the MR District can be appropriate where there is water and sewer available, there are appropriate roadways to handle the density, and there are nearby commercial or employment centers. All of those factors are satisfied with regard to this application.
7. Significant roadway improvements as recommended by DelDOT will be completed by the Applicant upon the development of this property. These improvements include the realignment of Bennett Avenue and the signalization of the Route 54/Bennett Avenue intersection. These improvements will result in improved and safer

traffic control at this intersection.

8. For all of these reasons, MR zoning is appropriate for this site.

**M 017 24
Adopt
Ordinance
No. 2971/
CZ1984
(continued)**

Motion Adopted: 4 Yeas, 1 Absent

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

Mr. Hudson commented that the immediate and surrounding areas are made up of both residential and commercial. Here, DelDOT called for much needed improvements and one of which is the realignment of Route 54 and Bennett Avenue and to signalize that intersection. This will greatly improve traffic flow, there was testimony that no wetlands would be filled or disturbed or encroached upon and this parcel is not within the 500-year flood plain. The density of this project is 2.5 acres in the MR district; 4 units to the acre is allowed. He added that he believes that this is an appropriate use for the property for these reasons and the reasons given by the Planning & Zoning Commission, he voted yes.

**Old
Business/
CU2368**

Under Old Business, Jamie Whitehouse, Director of Planning & Zoning presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (23 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 9.20 ACRES, MORE OR LESS” (properties lying on the north side of Lighthouse Road [Route 54], and the west side of Bennett Avenue, approximately 200 feet west of Deer Run Road [S.C.R. 388]) (911 Address: N/A) (Tax Map Parcels: 533-20.00-22.00 & 20.00 [p/o]) filed on behalf of Carl M. Freeman Companies.

The County Council held a Public Hearing on the application at the meeting of November 14, 2023. At the conclusion of the Public Hearing, action on the application was deferred for further consideration.

**M 018 24
Adopt
Ordinance
No. 2972/
CU2368**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt Ordinance No. 2972 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (23 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 9.20 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:

- 1. The purpose of the MR zone is to provide housing in an area that is expected to become urban in character and where central water and sewer are available. This conditional use application for multi-family units is in compliance with the purposes of the MR zone.**

**M 018 24
Adopt
Ordinance
No. 2972/
CU2368
(continued)**

2. This site is located along Route 54, directly in front of the 70-lot subdivision that is also being developed by this Applicant.
3. The property is in the immediate vicinity of other properties with a variety of residential and commercial uses including other MR-Zoned land as well M (Marine) and B-1 (Neighborhood Business) that have developed residentially and with restaurants and other commercial uses. Nearby residential uses include the Fenwick Landing Townhouse development which has a density of 17.4 units per acre. The project is also in close proximity to the City of Fenwick Island. This relatively small multi-family conditional use at approximately 4.3 units per acre is consistent with other zoning and multi-family developments in the area.
4. DelDOT has determined that a new TIS is not required for this site since it already reviewed and commented on the TOA for the adjacent 70 lots plus the more intensive hotel and restaurant use that was proposed for this site. Also, significant roadway improvements will be required by DelDOT including the realignment of Bennett Avenue and the signalization of the Route 54/Bennett Avenue intersection. This will result in a safer intersection for current and future residents of the area.
5. The proposed multi-family conditional use meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.
6. The proposed use is consistent with the County's Comprehensive Land Use Plan. It is in the Coastal Area according to the Plan, which is a Growth Area. The Plan states that medium and higher densities can be appropriate where, like here, there are features such as central water and sewer and nearby commercial uses and employment centers. The Plan also states that a range of housing types should be permitted in the Coastal Area, including single-family homes, townhouses, and multifamily units.
7. There is no evidence that this project will adversely affect the neighboring properties, area roadways, or community facilities.
8. This recommendation is subject to the following conditions:
 - a. There shall be no more than 23 Units within the development.
 - b. All entrances, intersections, roadways, and multimodal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determination.
 - c. All recreational amenities including the pool, deck, and bathhouse shall be completed within the development on or before the issuance of the 18th Certificate of Occupancy.
 - d. Central sewer shall be provided to the development by Sussex County. The developer shall comply with all requirements and specifications of the Sussex County Engineering Department.
 - e. The development shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
 - f. Stormwater management and erosion and sediment control shall be

**M 018 24
Adopt
Ordinance
No. 2972/
CU2368
(continued)**

- constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures. The Final Site Plan shall contain the approval of the Sussex Conservation District.
- g. Interior street design shall comply with or exceed Sussex County standards.**
 - h. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
 - i. 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, and on Saturdays between October 1 and April 30. No Sunday hours are permitted. A 24-inch by 36-inch “NOTICE” sign confirming these hours in English and Spanish shall be prominently displayed at the site entrance during construction.**
 - j. The Final Site Plan shall include a landscape plan for the development showing the proposed tree and shrub landscape design, including the buffer areas. The landscape plan shall identify all “Limits of Disturbance” within the site and these “Limits of Disturbance” shall be clearly marked on the site itself.**
 - k. The Applicant shall form a Homeowners Association that shall be responsible for the maintenance of all interior roadways and parking areas, buildings, buffers, stormwater management areas, recreational amenities, and open space.**
 - l. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.**
 - m. The Final Site Plan shall depict or note these conditions of approval and it shall be subject to the review and approval of the Sussex Planning & Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Absent

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

Mr. Hudson commented that it was determined by DelDOT that a TIS was not needed for this site, and they commented on the TOA for the adjacent property. The Army Corps of Engineers determined that there is a 72-foot average buffer with a minimum 50-foot buffer in certain areas of the tidal wetlands. The construction hours noted by the Planning and Zoning Commission shall be between 7:00 a.m. and 6:00 p.m. Monday through Friday with Saturday hours between October 1st and April 30th but no Sunday hours at any time.

**Introduction
of Proposed
Ordinances**

Mrs. Green introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND

Introduction of Proposed Ordinances (continued)

LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 0.69 ACRE, MORE OR LESS” filed on behalf of Jason Hignutt.

Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 2.045 ACRES, MORE OR LESS” filed on behalf of Mark Baull.

Council Members’ Comments

The Proposed Ordinances will be advertised for a Public Hearing.

There were no Council Member comments.

Rules

Mr. Moore read the rules and procedures for public hearings.

**Public Hearing/
CU2404**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 20.57 ACRES, MORE OR LESS” (property lying on the northwest side of Thorogoods Road [S.C.R. 333], approximately 0.5 mile southwest of Iron Branch Road [S.C.R. 331]) (911 Address: N/A) (Tax Map Parcel: 233-5.00-69.00) filed on behalf of Elk Development, LLC.

Jamie Whitehouse, Director of Planning & Zoning presented the application.

The Planning & Zoning Commission held a Public Hearing on the application on November 9, 2023. At the meeting of November 9, 2023, the Planning & Zoning Commission recommended approval of the application for the 10 reasons stated and subject to the 9 recommended conditions as outlined.

The Council found that Mr. James, Fuqua, Esq. with Fuqua, Willard & Schab, P.A. spoke on behalf of the Applicant, Elk Development, LLC; that also present were Mr. Seth Shafer, P.E. with Pivot Energy, and Mr. Ted Hastings, with Becker Morgan Group. Mr. Fuqua requested that a portion of this presentation be incorporated into the following three Applications, as they share the same Applicant.

Mr. Fuqua stated an exhibit booklet was submitted for all four applications; that Elk Development, LLC is a division of Pivot Energy, Inc.; that Pivot Energy is a national company involved in the development of clean energy projects, such as on site solar facilities and small utility solar projects, which include community solar facilities; that

Public
Hearing/
CU2404
(continued)

Pivot Energy has financed and developed over 1,200 solar projects throughout the United States; that the current applications propose solar facilities as authorized, and in compliance with, the Delaware Law, which encourages a more decentralized and cleaner approach to power generation through community solar facilities; that the law provides that by subscribing to a community solar project, residential, business and educational users, who are utility customers can participate in renewable and sustainable energy production, with possible future energy costs; that the solar facilities involved in all four of the subject applications, it is anticipated that that upon final approval and required permitting, the site development and solar facility construction would take approximately four to six months to complete; that once completed and operational, the four facilities would have the following in common; that the solar array and equipment area would be enclosed in a seven foot high security fence with a gate and an emergency key box to accommodate emergency access; that one unlit sign, not exceeding 32 sq. ft. is requested; that the sign will identify the operator and the operator's contact information; that the facilities will consist of solar panel modules mounted on single axis trackers that will allow them to follow the path to the sun throughout the day; that the solar racking system itself utilizes drive steel posts or pile foundations, which anchor the racking system to the ground, and that results in minimal ground disturbance or impervious surface cover; that the solar inverters and other equipment will be located on concrete pads; that the power generated by the solar panels will be transferred to DP&L (Delmarva Power & Light grid by interconnection with the existing DP&L power lines); that the overall system and its design comply with the National Electrical Code and will be reviewed and approved by Delmarva Power & Light; that the solar array area itself will be seeded with a pollinator seed mix, which is slow growing, environmentally friendly ground cover; that there are no odors, dust, smoke, or heat associated with the solar operation; that the only sound is a minimal sound, which is a low hum from the inverters; that there is minimal to no glare from the solar panels, which are designed to absorb sunlight, not to reflect it; that there will be landscaping surrounding the fenced area, which will further shield the panels from view; that after construction is completed, traffic to the site would be minimal, as it would only be periodic equipment inspections and maintenance, as well as seasonal property maintenance and grass cuts; that there are no onsite employees, as the equipment is monitored remotely; that each application does have its own DelDOT Service Level Evaluation Response letter, which indicates that the traffic impact for all the facilities would be diminutive; that there is no proposed or need for sewer, water or trash services for the facilities; that little impervious surface will be created by the facility; that any stormwater management for the sites will comply with the applicable State and County requirements; that the standard solar array lease is a 20-year term with two options to extend the lease for additional 10-year periods; that as part of the Final Site Plan approval, a Decommissioning Plan will be provided to ensure that upon expiration of the lease, or early termination

Public
Hearing/
CU2404
(continued)

of the Conditional Use, all equipment and materials will be removed from the site and properly disposed of; that the site will be returned to a physical condition similar to its present state; that the plan also provides for financial security and a form acceptable to the County; that this will guarantee that the cost of the restoration will be available; that the actual estimated amount in terms of that security will be provided as part of the Final Site Plan review and approval process; that after termination of the use and restoration of the site, the land will revert back to its current condition as agricultural land; that solar facilities are permitted as an approved Conditional Use in both the AR-1 (Agricultural Residential) and GR (General Residential) Zoning Districts; that the purpose of a Conditional Use is to provide for a use that is of a public or semi-public character that is essential and desirable for the general convenience, and welfare of the County; that the Commission and County Council had previously determined that solar facilities are in accordance with the County's Comprehensive plan by promoting Goal 7.3 of the Comprehensive Plan, which encourages the use of renewable energy options, such as community solar facilities, and the use is authorized by the recent amendments to the State Law, relating to the development of community solar facilities for renewable energy protection.

Mr. Fuqua stated that specifically, C/U 2404 Elk Development LLC, is referred to as the "Thorogoods A" site; that in addition to the information already provided, the parcel is located on the north side of Thorogoods Rd.; that the site contains 20.7 acres; that approximately 16 acres of the total 20.7 acres will be leased for the use of a community solar facility; that the land is owned by SB Cordrey Farms, LLC; that the site borders the existing manufactured home community of Holiday Acres to the east; that the site is adjacent to agricultural lands located to the north; that to the west is the location of the Conrail Railroad tracks, and the Delaware Power & Light Electrical Powerline easement; that on the other side of the railroad tracks are existing industrial uses, being the location of Dagsboro Materials, River Asphalt, and Thorogoods Concrete; that directly across from the industrial site, is the 30 acre Cordrey family farm parcel that was approved as a Conditional Use for a community solar facility by the Council at its meeting on December 12, 2023 as C/U 2380; that the site has been in agricultural use; that the site is zoned GR (General Residential); that the site is located within the Developing Area, being a Growth Area according to the Future Land Use Map of the Comprehensive Plan; that lands located to the west and the north of the site are zoned heavy industrial; that there was a revised Site Plan submitted with the last exhibit; that access from the site will be provided from Thorogoods Rd.; that the access would be a 16 ft. wide gravel drive to the turnaround area to be located adjacent to a 25'x 15' solar equipment pad; that the solar arrays would be a minimum of 100 ft. from Thorogoods Rd.; that the panels would be a minimum of 50 ft. from the property lines on the north and west; that the panels would be located approximately 100 ft. from the property lines on the east, adjacent to Holiday Acres; that the solar panels would be located a minimum of 200

**Public
Hearing/
CU2404
(continued)**

ft. from any dwelling located within the Holiday Acres community; that there would be a 25 ft. landscape buffer along Thorogoods Rd. and along the agricultural lands along the north; that the landscape buffer would be located along the road; that the eastern boundary is already wooded and would remain as an existing wooded buffer, therefore no landscaping is proposed along the railroad tracks or the adjacent industrial uses to the west; that all buffer areas are shown on the Site Plan, and it is anticipated that the facility would generate electrical power to serve the annual needs of approximately 700 residential households; that at its meeting on November 9, 2023, the Planning and Zoning Commission recommended approval of the application subject to conditions A-I and the applicant requests approval based on the findings made and the conditions recommended by the Commission.

Mr. Vincent questioned the location of the transformer, and how the value was determined for when it comes time to get the site back to its original condition.

Mr. Rieley questioned who holds the bonds and a discussion about bonds followed.

There were no public comments.

The Public Hearing and the public record were closed.

**M 019 24
Defer
Action/
CU2404**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 20.57 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission.

Motion Adopted: 4 Yeas, 1 Absent

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

**Public
Hearing/
CU2405**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 22.97 ACRES, MORE OR LESS” (property lying on the southeast side of Thorogoods Road [S.C.R. 333], approximately 0.5 mile southwest of Iron Branch Road [S.C.R. 331]) (911 Address: N/A) (Tax Map Parcel: 233-5.00-187.01) filed on behalf of Elk Development, LLC.

**Public
Hearing/
CU2405
(continued)**

Jamie Whitehouse, Director of Planning & Zoning presented the application.

The Planning & Zoning Commission held a Public Hearing on the application on November 9, 2023. At the meeting of November 9, 2023, the Planning & Zoning Commission recommended approval of the application for the 11 reasons stated and subject to the 9 recommended conditions as outlined.

The Council found that Mr. James, Fuqua, Esq. with Fuqua, Willard & Schab, P.A. spoke on behalf of the Applicant, Elk Development, LLC; that also present were Mr. Seth Shafer, P.E. with Pivot Energy, and Mr. Ted Hastings, with Becker Morgan Group.

Mr. Fuqua requested the information provided in the public hearing for C/U 2404 be incorporated into the record for C/U 2405 Elk Development, LLC.

Mr. Fuqua stated that specifically, C/U 2405 Elk Development LLC, is referred to as the “Thorogoods B” site; that the site is located on the south side of Thorogoods Rd.; that it is directly across the road from Thorogoods A Site, related to C/U 2404; that the subject site is comprised of approximately 22.9 acres; that approximately 11 acres of the total 22.9 acres would be leased; that the land is currently owned by SB Cordrey Farm, LLC; that on the east and south of the site there are existing woods; that there are some non-tidal wetlands located within the wooded area and part of the property located on the opposite side of the woodlands; that to the west the site is located adjacent to the Conrail Railroad tracks, and the Delaware Power & Light Electrical Powerline easement; that on the other side of the railroad tracks is the location of C/U 2380, which was the community solar application the Council approved in December 2023; that the land is currently in agricultural use; that the site is zoned GR (General Residential); that the site is located within the Coastal Area according to the Future Land Use Map of the Comprehensive Plan; that currently there is an old chicken house located on the property; that the chicken house is proposed to be removed; that the site’s access will be from Thorogoods Rd.; that the access would be provided by a 16 ft. wide gravel drive, with a turnaround located next to a 15’ x 25’ equipment pad; that the closest solar array from Thorogoods Rd. would be located 133 ft. from the road; that on the east and the south, the security fence would be located approximately 75 ft. from the existing wood line located on the site; that in the southwest corner of the site the closest solar array would be 62 ft. from the property line; that to the west, the closest array is located 75 ft. from the property line adjacent to the railroad; that there would be a 25 ft. wide landscape buffer, which would be set back approximately 100 ft. from Thorogoods Rd.; that no buffer is proposed along the other sides of the site, as there is existing woods proposed to remain, and along the areas adjacent to the

**Public
Hearing/
CU2405
(continued)**

railroad tracks and the Delaware Power & Light Electrical Powerline easement located to the west; that the buffers will be as reflected on the Site Plan; that no landscape buffers are proposed to the east and south due to the existing trees; that it is anticipated that the facility would generate electrical power to serve the annual needs of approximately 410 residential households and the Planning and Zoning Commission recommended approval at its meeting on November 9, 2023; that the applicant requests approval based on the findings and subject to the conditions given by the Commission.

There were no public comments.

The Public Hearing and public record were closed.

**M 020 24
Defer
Action/
CU2405**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 22.97 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission.

Motion Adopted: 4 Yeas, 1 Absent

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

**Public
Hearing/
CU2447**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 51.83 ACRES, MORE OR LESS” (properties lying on the east side of River Road [S.C.R. 490], at the intersection of Morgan Branch Road and River Road [S.C.R. 490]) (911 Addresses: N/A) (Tax Map Parcels: 132-1.00-5.00 [p/o] & 132-6.00-78.03) filed on behalf of Elk Development, LLC.

Jamie Whitehouse, Director of Planning & Zoning presented the application.

The Planning & Zoning Commission held a Public Hearing on the application on November 9, 2023. At the meeting of November 9, 2023, a motion was made and carried to defer action on the application for further consideration, leaving the record open to receive information from the Applicant, in the form of written comment, regarding the safety and operation of the pending solar array, which was to be submitted by

**Public
Hearing/
CU2447
(continued)**

the close of business on Friday, November 17, 2023.

At the Planning & Zoning Commission meeting of January 3, 2024, due to a Commissioner being absent, a motion was made and carried to defer action on the application until the next regularly scheduled meeting. Therefore, there is not a recommendation from the Planning & Zoning Commission.

The Council found that Mr. James, Fuqua, Esq. with Fuqua, Willard & Schab, P.A. spoke on behalf of the Applicant, Elk Development, LLC; that also present were Mr. Seth Shafer, P.E. with Pivot Energy, and Mr. Ted Hastings, with Becker Morgan Group.

Mr. Fuqua requested the information provided in the public hearing for C/U 2404 be incorporated into the record for C/U 2447 Elk Development, LLC.

Mr. Fuqua stated that specifically, C/U 2447 Elk Development LLC, is referred to as the “Morgan Branch” application; that the site is located south of Morgan Branch Dr., which is just off River Rd., west of Blades; that the site is comprised of approximately 51 acres; that approximately 40.7 acres are to be leased by the Applicant for a solar facility; that the land to the east and the south are mostly agricultural lands or are wooded; that to the west is the Hill N Dale subdivision; that the land to be leased is made up of agricultural land and woodlands; that the site is zoned AR-1 (Agricultural Residential); that the site is located within the Low Density area under the Future Land Use Map; that lands adjacent to the site are also located within the Low Density area; that access to the site will be from Morgan Branch Rd.; that the access would be a 16 ft. gravel drive, with a turnaround next to two 8’ x 20’ equipment pads; that to the north and the east, the closest solar array would be 70.4 ft. from the property line; that to the west, adjacent to the Hill N Dale community, the closest solar array would be approximately 228 and a half ft. from the closest dwelling in Hill N Dale; that there would be either a 25 ft. wide landscape buffer provided or an existing wooded buffer around the entire solar facility area; that to the north, there will be a new 25 ft. wide landscape buffer or it will consist of 25 ft. wide landscape of existing woodlands; that on the east, there will be a minimum 25 ft. wide landscape buffer in their area where there is currently existing field; that in this area, there is a small area of woods to be removed; that there will be a 50 ft. buffer of the existing trees to remain; that where there is currently open farm field, a 25 ft. landscape buffer will be placed in the areas where the woods exist, resulting in a total of a 50 ft. wide buffer comprised of both planted landscape and existing woodlands; that to the south, the 25 ft. landscape buffer would remain; that the proposed buffers are shown on the Site Plan; that the facility is anticipated to generate electrical power for the annual needs of approximately 140 residential customers; that at the Commission hearing, there were some questions raised by area residents regarding

**Public
Hearing/
CU2447
(continued)**

the safety of solar array facilities; that the Commission requested that the applicant submit written information about the operation and the safety of such facilities; that on November 15, the applicant provided copies of studies to the Planning and Zoning office; that the studies were prepared by the North Carolina State University and the State of Massachusetts; that both of those studies concluded that there were no health or safety impacts from community scale solar facilities and that the public health and safety benefits of installing these facilities are significant; that the County Council enacted an Ordinance regarding the appropriate setbacks for solar array facilities from property lines and nearby homes and all of those requirements are met in this application; that the Commission did create 15-day period in which public comment could be made on the reports that were submitted; that there were no written comments received; that the Commission has not yet made a recommendation.

Mr. Shafer stated that between the Planning Commission meeting and today, in earlier December he sent out roughly 130 mailers using the 200-foot buffer regulations and they hosted a community event at Grotto's Pizza in Seaford; that only 6 people showed up; that the president of the HOA who was present at the last meeting was present during that meeting; that many questions were answered.

Public comments were heard.

Mr. Jon Kissler spoke in opposition of the application; that his property is adjacent to the property in question; that he shares approximately 1,000 feet of property line with the plan; that there were some written comments submitted; that he submitted two comments; that he read the lengthy document that was supplied by the applicant; that he and his wife have some concerns; that the applicant submitted a study from MA that states that there is no data supporting the lower of property values surrounding solar farms, he suggests that it is due to the fact that these facilities are new; that he believes few are near residential properties; that he has seen only a few solar farms in the area; that typically, they are placed away from residential areas; that if you are in the market for a property, you would choose the one that is not next to a solar farm even if it is more expensive he believes; that his main concern is that the development will cause the cutting of over 15 acres of wooded area; that the applicants study strongly discourages this; that "the Department of Energy regulations strongly discourages designating locations that require significant tree cutting because of the important water management, cooling and climate benefits trees provide"; that the Department of Energy regulations encourages designating locations in industrial and commercial districts or on vacant disturbed land; that the cutting of wooded land disrupts wildlife, cooling effect of the wooded area and the watershed of the Nanticoke River area; that the applicants must provide funding to return the land back to its original condition at the end of the lease, he questioned how they would be able to replace

**Public
Hearing/
CU2447
(continued)**

decade old trees; that he understands the property owners who wants to get the most out of their property; that he would rather have a solar farm there than a residential development; that there should be an alternate to cutting down a large wooded area; that he supports the growth of renewable energy sources; that they should be in commercial areas and not placed in areas that have previously been developed; that they should not be placed where forests will be destroyed.

**M 021 24
Defer Action
CU 2447**

The Public Hearing and public record were closed.

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 51.83 ACRES, MORE OR LESS”.

Motion Adopted: 4 Yeas, 1 Absent

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

**Public
Hearing/
CU2456**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 67.72 ACRES, MORE OR LESS” (property lying on the north side of Oneals Road [S.C.R. 485], approximately 0.26 mile southwest of Seaford Road [Rt. 13A]) (911 Address: 28270 Oneals Road, Seaford) (Tax Map Parcel: 132-6.00-92.01) filed on behalf of Elk Development, LLC.

Jamie Whitehouse, Director of Planning & Zoning presented the application.

The Planning & Zoning Commission held a Public Hearing on the application on November 9, 2023. At the meeting of November 9, 2023, the Planning & Zoning Commission recommended approval of the application for the 9 reasons stated and subject to the 9 recommended conditions as outlined.

The Council found that Mr. James, Fuqua, Esq. with Fuqua, Willard & Schab, P.A. spoke on behalf of the Applicant, Elk Development, LLC; that also present were Mr. Seth Shafer, P.E. with Pivot Energy, and Mr. Ted Hastings, with Becker Morgan Group.

**Public
Hearing/
CU2456
(continued)**

Mr. Fuqua requested the information provided in the public hearing for C/U 2404 be incorporated into the record for C/U 2405 Elk Development, LLC.

Mr. Fuqua stated that specifically, C/U 2456 Elk Development LLC, is referred to as the “O’Neal’s Road” Application; that that site is comprised of 67 acres; that the site is located on the northside of O’Neals Rd.; that the site is located south of Blades, being in closer proximity to Laurel; that approximately 35 acres of the site would be leased for the solar facility; that the land is currently owned by Javed Farm, LLC; that the leased portion of the site borders the new existing chicken houses, located on the southeast portion of the site; that along the eastern boundary is the location of the Conrail Railroad tracks; that to the north of the site is some wooded land and agricultural land; that to the west of the site is the location of the Bioenergy Innovation Center, which recycles organic waste from the poultry industry into renewable energy and nutrient rich compost; that the land to be leased has been in agricultural use; that the site is zoned AR-1 (Agricultural Residential); that the area is located within the Low Density area according to the Future Land Use Map; that the lands to the north and west are also zoned AR-1; that the land to the north and the west are designated within the Industrial Area according to the Future Land Use Map of the Comprehensive Plan; that the site’s access will be from the existing site entrance off O’Neals Rd.; that the access will be a 16 ft. wide gravel drive, which would lead back into the middle of the solar array field, being adjacent to two 15’ x 20’ equipment pads; that the closest solar arrays are set back over 500 ft. from O’Neals Rd. and a minimum of 88 ft. from the closest property line; that there would be a 25 ft. landscape buffer along the southern, eastern and northern boundaries of the solar array area; that the buffer will extend around the northwest corner of the site; that the remaining portion of the western boundary is wooded and would remain as an existing wooded buffer; that the proposed buffers are shown on the Site Plan; that the facility is anticipated to generate electric power to serve the annual needs of approximately 886 residential households and at the meeting of the Planning & Zoning Commission on November 9, 2023, they recommended approval subject to conditions A-I; that the applicant requests approval based on those findings and conditions recommended by the Commission.

There were no public comments.

**M 022 24
Defer
Action/
CU2456**

The Public Hearing and public record were closed.

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 67.72 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning &

Zoning Commission.

Motion Adopted: 4 Yeas, 1 Absent

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

**M 023 24
Adjourn**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to adjourn at 2:32 p.m.

Motion Adopted: 4 Yeas, 1 Absent

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

Respectfully submitted,

**Tracy N. Torbert
Clerk of the Council**

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

Consent Agenda 01-23-2024

**Highlands of Pepper Creek IUA-691
Existing Wastewater Infrastructure Use Agreement
Double H Development Highlands, LLC to pay \$59,085.00 for 51.00
Additional EDUs.
Dagsboro/ Frankford Area**

EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT

HIGHLANDS OF PEPPER CREEK – IUA 691

THIS AGREEMENT (“Agreement”), made this 23RD day of JANUARY 2024, by and between:

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

DOUBLE H DEVELOPMENT HIGHLANDS, LLC a Delaware Limited Liability Company and developer of a project known as Highlands of Pepper Creek, hereinafter called the “Developer.”

WITNESSETH:

WHEREAS, Developer is developing several tracts of land identified as Tax Map parcels 233-11.00-264.00, 233-11.00-265.01 & 233-11.00-270.00 to be known as Highlands of Pepper Creek (“Project”) and;

WHEREAS, the Project is within the boundary of the Sussex County Unified Sanitary Sewer District (Dagsboro/Frankford Area) and;

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

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

- (1) Developer is proposing to utilize County’s existing collection and transmission capacity by connecting to existing regional infrastructure used by multiple pump stations.
- (2) In exchange for permission to connect up to **51.00** additional equivalent dwelling units to County’s existing system and to utilize the existing capacity in said system, Developer agrees to financial catch-up contribution in the amount of **\$59,085.00** for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution must be submitted prior to receiving substantial completion of the on-site collection system.**

- (5) If the Project (as currently submitted) is amended and County determines in its sole discretion that such amendments materially affect this Agreement, this Agreement may be declared by County to be null and void, and any unused payments made pursuant to this Agreement shall be returned to Developer, unless the parties otherwise agree. Nothing herein shall prevent the parties from the negotiation of a new agreement with respect to the amended Project, as the parties may deem appropriate.
- (6) The contribution is to be placed in County's sewer capital fund and expended towards overall debt reduction or at such time when any transmission infrastructure in County's Unified Sanitary Sewer District requires capital improvements (See Chapter 110-96 of the Sussex County Code).
- (7) Developer shall be responsible for payment of any and all undiscounted system connection charges in accordance with and pursuant to the requirements of the *Sussex County Code* for all lots, due at such time the Developer receives the sewer connection permit.
- (8) Developer shall comply in all aspects with the *Sussex County Code* and any other local, state, county, or federal laws, regulations, or policies that may be applicable and as such may be hereinafter amended.
- (9) Prior to the commencement of construction of any sanitary sewer facilities for the Project, Developer shall obtain a project construction permit from the County in accordance with and pursuant to the requirements of the *Sussex County Code*.
- (10) In order to allow the opportunity for a County representative to be present as the County so chooses, Developer shall send written notice to County of the date upon which connection to the County regional transmission system will be made. Developer shall follow County's written or verbal instructions in making said connection to the County sanitary sewer system.
- (11) Developer may assign this Agreement in whole or in part to any entity controlled directly or indirectly by Developer or to any third party who purchases, leases or otherwise controls any portion of Developer's property without the consent of County. Developer, and any subsequent assignees or successors shall provide County at least ten (10) days' written notice of any such assignment. Any other assignments, transfers, or conveyances with respect to this Agreement are prohibited without prior written consent of County.
- (12) To the extent permitted by law, Developer shall indemnify and hold harmless County, and its appointed and elected officials, employees, licensees, and agents for any claims, losses, liabilities, suits, or damages, including but not limited to reasonable attorneys' fees, professional engineering fees, and any other costs of litigation, arising out of Developer's negligence in connection with its performance

of this Agreement, including but not limited to damage to the County's infrastructure in making connection to County's regional transmission system. The obligations of this Paragraph shall survive the termination of this Agreement.

- (13) All the terms, covenants, and conditions of this Agreement shall in all respects be governed and construed under and pursuant to the Laws of the State of Delaware without respect to its conflict of law provisions. This Agreement may only be amended, supplemented or modified by a subsequent written agreement executed by all the parties hereto.
- (14) This Agreement and exhibits constitute the final, entire and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties or agreements, whether written or oral, made in connection with the Agreement described herein.
- (15) It is mutually agreed between the parties that no review, approval, acceptance, and/or payment made under this Agreement shall be conclusive evidence of the performance of the Agreement, either wholly or in part, and that no review, approval, acceptance, and/or payment shall be construed as acceptance of defective work by County, nor in any way relieve Developer of its responsibility for the adequacy of its work.
- (16) The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Neither party shall be deemed to have waived any rights under this Agreement unless such waiver is expressly given in writing and signed by the waiving party. No delay or omission on the part of either party in exercising any right shall operate as a waiver of such right or any other right.
- (17) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.
- (18) If any provision of this Agreement shall be deemed invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not render invalid or unenforceable any of the other provisions of this Agreement which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Agreement are hereby deemed to be severable.
- (19) Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is **28107 Beaver Dam Road, Laurel Delaware 19956.**

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

FOR THE COUNTY:

{Seal}

By: _____
(President - Sussex County Council)

_____ (DATE)

ATTEST:

Tracy Torbert
Clerk of the County Council

FOR DOUBLE H DEVELOPMENT HIGHLANDS, LLC

By: Robert E. Horsey (Seal)
Robert E. Horsey Authorized Signatory

1/10/24 (DATE)

WITNESS:

[Signature]

ENGINEERING DEPARTMENT

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



Sussex County

DELAWARE
sussexcountyde.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Proposed South Greenwood Area of the Sussex County Unified Sanitary Sewer District

PUBLIC HEARING FACT SHEET

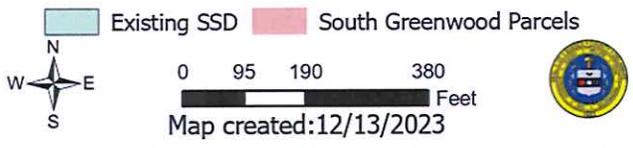
- Expansion of the Sussex County Unified Sanitary Sewer District by creation of a new Area for parcels 530-14.00-16.00 & 17.00
- The Engineering Department received a request from Delaware Electric Co-op for sewer service to facility south of Greenwood. The request stated the inability to replace or expand their existing on-site system based on the existing building layouts and impervious area.
- The request also stated this inability to replace or expand the existing on-site facility they would prevent their future planned expansion providing new employment opportunities.
- The existing parcels are not contiguous to the existing boundary therefore it needs to be established as a new area.
- They proposed to construct a low-pressure sewer system connecting multiple buildings to a common small grinder station that would connect to the County's existing infrastructure. Understanding they would be responsible for the improvements and will pay for the electricity and provide the back-up generator service for the station.
- The County does have a pressure line near the parcel coming from Greenwood to Seaford where the waste is treated and disposed per our agreement with the City of Seaford.
- County Council granted permission to prepare and post notices for a Public Hearing to establish a boundary on December 5, 2023.
- The Engineering Department added to the County website, posted the notices on January 8, 2024 and advertised the weeks of January 8th and January 15th.
- To date we have received no correspondence in favor of or opposition to this expansion.



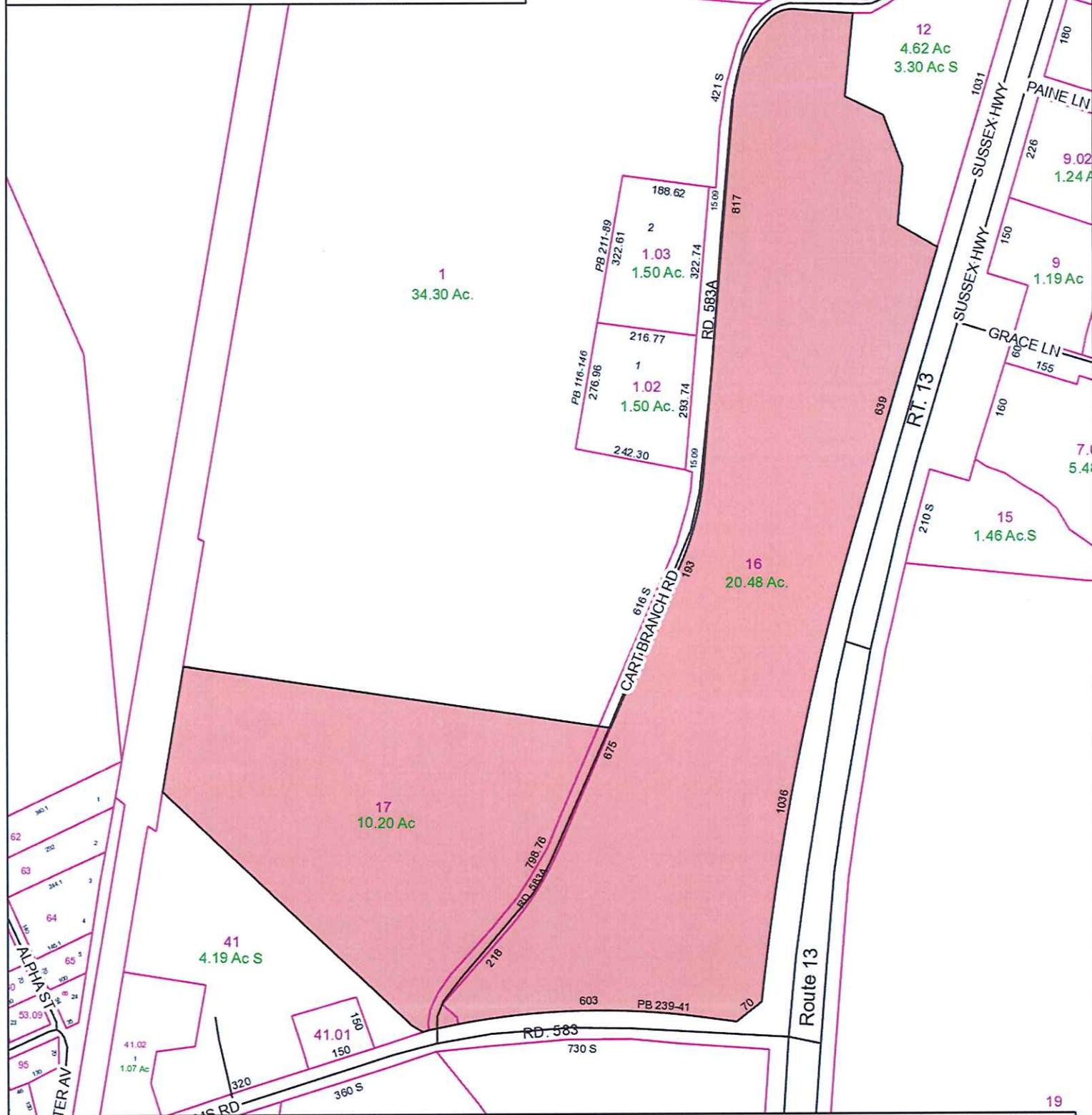
COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 589
GEORGETOWN, DELAWARE 19947

Permission to Prepare and Post Notices South Greenwood Area

Existing SSD South Greenwood Parcels



0 95 190 380 Feet
Map created: 12/13/2023



The proposed annexation is scheduled to be discussed January 23, 2024 at 10:15 AM at the regularly scheduled Sussex County Council meeting. For more information please visit: <https://www.sussexcountyde.gov/legal-notices/sewer-water> Or call Sussex County Utility Planning at 302-855-7370

7.00 Ac.

PUBLIC NOTICE

PROPOSED SOUTH GREENWOOD AREA OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT

NOTICE IS HEREBY GIVEN that the Sussex County Council will hold a public hearing on the question of organizing a sanitary sewer district for the South Greenwood Area to be part of the Sussex County Unified Sanitary Sewer District. The description of the proposed area, consisting of two properties owned by Delaware Electric Cooperative, Inc. which lie south of the Town of Greenwood in the Northwest Fork Hundred, Sussex County, Delaware is:

BEGINNING at a point, said point being the south easterly property corner of lands Now or Formerly (N/F) of Delaware Electric Cooperative Inc., said point also being on the westerly Right-of-Way (ROW) of Sussex Highway (Rt. 13) and the northerly ROW of Adams Road (SCR 583); thence proceeding by and with said Adams Road and Cooperative lands in a westerly direction a distance of 680'± to a point, said point being on the easterly ROW of Cart Branch Road (SCR 583A); thence crossing Cart Branch Road in a westerly direction a distance of 50' to a point, said point being on the westerly ROW of Cart Branch Road (SCR 583A), said point also being on the southeastern most property corner of other lands of Delaware Electric Cooperative; thence leaving said ROW of Cart Branch Road and continuing with said Cooperative lands in a westerly, northwesterly, northeasterly and southeasterly direction respectively a total distance of 1881'± to a point, said point being on the westerly ROW of Cart Branch Road; thence crossing Cart Branch Road in an easterly direction a distance of 50'± to a point, said point being on the easterly ROW of Cart Branch Road, said point also being on the westerly property line of the original Cooperative lands; thence proceeding by and with said Cooperative lands a northerly and easterly direction respectively a total distance of 1,746'± to a point, said point being the centerline of Cart Branch Creek; thence following Cart Branch Creek in a generally southerly direction a total distance of 576'± to a point, said point being on the westerly ROW of Sussex Highway; thence continuing with said ROW in a southwesterly direction a distance of 1,733'± to a point, said point being that of the **BEGINNING**.

The above description has been prepared using Sussex County Tax Map No. 530-14.00.

The proposed **South Greenwood Area** is within these approximate boundaries containing 30.68 acres more or less. A map outlining the proposed boundary is attached.

The public hearing is scheduled for **Tuesday, January 23, 2024 at 10:15 AM** at the **Sussex County Council Chambers, 2 The Circle, Georgetown, DE 19947**. All interested persons, officials, residents, voters, taxpayers, property owners, or corporations in any way affected by this boundary extension are welcome to attend. There will be an opportunity for questions and answers. The Sussex County Council following the hearing, at one of their regularly scheduled meetings, will make the final decision on the boundary.

For further information, please call or write the Sussex County Engineering Department, 2 The Circle, Post Office Box 589, Georgetown, DE 19947 – (302) 855-7370.

Hans Medlarz P.E.
County Engineer

SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT
PROPOSED SOUTH GREENWOOD
AFFIDAVIT FOR PUBLIC HEARING

STATE OF DELAWARE)

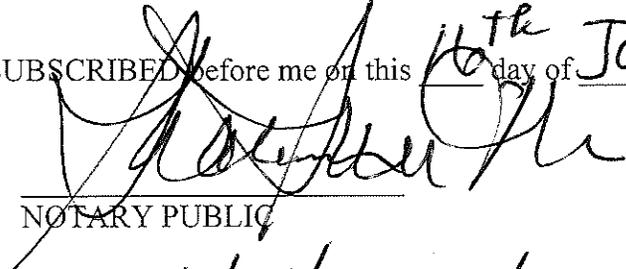
COUNTY OF SUSSEX)

BE IT REMEMBERED, That the subscriber, PHILLIP C. CALIO, personally appeared before me and known to me personally to be such, who being by me duly sworn to law did depose and say as follows:

- A. On January 8, 2024, he was a Utility Planner for the Sussex County Engineering Department, Sussex County, State of Delaware; and
- B. On January 8, 2024, he did post the attached "Public Notice," prepared by the Sussex County Engineering Department, at the following locations:
 - 1. On a post in the easterly ROW of Sussex Highway (Rt. 13) in front of a YIELD sign at the intersection with Cheer Lane,
 - 2. On a post in the easterly ROW of Sussex Highway (Rt. 13) in front of a YIELD sign at intersection with Council Road,
 - 3. On a post in the southerly ROW of Beach Highway (Rt. 16) in front of a YIELD sign at the intersection with Schulz Road.
 - 4. On a post in the northerly ROW of Beach Highway (Rt. 16) in front of a YIELD sign at the intersection with Sussex Highway (Rt. 13),
 - 5. On a post in the westerly ROW of Sussex Highway (Rt. 13), 1,700'± north of Adams Road,
 - 6. On a post in the northerly ROW of Adams Road in front of a 45MPH sign,


PHILLIP C. CALIO

SWORN TO AND SUBSCRIBED before me on this 10th day of Jan, A.D., 2024


NOTARY PUBLIC

My Commission Expires 6/14/2024



RESOLUTION NO. _____

A RESOLUTION ESTABLISHING THE PROPOSED BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) SOUTH GREENWOOD AREA.

WHEREAS, requests were received from a property owner requesting the Sussex County Council to submit the question of organizing a sanitary sewer district to a vote of electors residing or owning property in that area; the description is below, and a map of the proposed boundary is attached as **Exhibit "A"**; and

WHEREAS, a public hearing was held on **January 23, 2024**, on the question of organizing a sanitary sewer district dealing with the location of the boundaries of the proposed South Greenwood Area of the Sussex County Unified Sanitary Sewer District as shown in Exhibit "A"; and

NOW, THEREFORE, BE IT RESOLVED by the Sussex County Council that the establishment of a sanitary sewer district is deemed to be in the public interest and will be conducive to the preservation of the public health; and

BE IT FURTHER RESOLVED that the area shown as **Exhibit "A"** is hereby established as the "Proposed South Greenwood Area of the Sussex County Unified Sanitary Sewer District" and is more fully described as follows:

BEGINNING at a point, said point being the south easterly property corner of lands Now or Formerly (N/F) of Delaware Electric Cooperative Inc., said point also being on the westerly Right-of-Way (ROW) of Sussex Highway (Rt. 13) and the northerly ROW of Adams Road (SCR 583); thence proceeding by and with said Adams Road and Cooperative lands in a westerly direction a distance of 680'± to a point, said point being on the easterly ROW of Cart Branch Road (SCR 583A); thence crossing Cart Branch Road in a westerly direction a distance of 50' to a point, said point being on the westerly ROW of Cart Branch Road (SCR 583A), said point also being on the southeastern most property corner of other lands of Delaware Electric Cooperative; thence leaving said ROW of Cart Branch Road and continuing with said Cooperative lands in a westerly, northwesterly, northeasterly and southeasterly direction respectively a total distance of 1881'± to a point, said point being on the westerly ROW of Cart Branch Road; thence crossing Cart Branch Road in an easterly direction a distance of 50'± to a point, said point being on the easterly ROW of Cart Branch Road, said point also being on the westerly property line of the original Cooperative lands; thence proceeding by and with said Cooperative lands a northerly and easterly direction respectively a total distance of 1,746'± to a point, said point being the centerline of Cart Branch Creek; thence following Cart Branch Creek in a generally southerly direction a total distance of 576'± to a point, said point being on the westerly ROW of Sussex Highway; thence continuing with said ROW in a southwesterly direction a distance of 1,733'± to a point, said point being that of the **BEGINNING**.

NOTE: The above description has been prepared using Sussex County Tax Map No. **530-14.00**.

The proposed South Greenwood Area of the Sussex County Unified Sanitary Sewer District is within these approximate boundaries containing 30.68 acres more or less.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

ENGINEERING DEPARTMENT

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



Sussex County

DELAWARE
sussexcountyde.gov
HANS M. MEDLARZ, P.E.
COUNTY ENGINEER
JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Proposed Leeward Chase Expansion of the Sussex County Unified Sanitary Sewer District

PERMISSION TO POST FACT SHEET

- Expansion of the Sussex County Unified Sanitary Sewer District (Airpark Area).
- The Engineering Department has received a request from Solutions IPEM on behalf of their client Leeward Chase DE, LLC the owners/developers of a project known as Leeward Chase for parcels 135-15.00-98.00 & 98.01.
- Otherwise known as Moore's Meadow Farm.
- The project is proposed at 106.00 units and will be responsible for System Connection Charges of \$7,700.00 per EDU based on current rates.
- The Engineering Department would like to request permission to prepare and post notices for a Public Hearing on the annexation of the area.
- A tentative Public Hearing is currently scheduled for March 12, 2024 at the regular County Council meeting.



ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

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

hans.medlarz@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

RE: *Western Sussex Unified Sewer District
A. Introduction of Supplemental Borrowing Ordinance*

DATE: January 23, 2024

In February 2017, the municipal councils of Bridgeville and Greenwood requested investigation of an alternate County Sewer District based scenario. Upon review of the findings both municipal Councils requested formation of a County sewer district pursuant to Title 9 Del. Code § 6501, and on August 22, 2017, County Council adopted a resolution establishing the Western Sussex Area of the Unified Sanitary Sewer District.

The County requested funding consideration under the Clean Water State Revolving Fund and on August 14, 2018, the State issued a binding commitment offer in the overall amount of \$16,634,748 to be repaid within 30-years with 2.5% interest. On November 27, 2018, Council accepted the offer and approved the associated borrowing ordinance. After project completion, \$3,200,000 will be applied in principle forgiveness.

On May 15, 2020 the County filed a supplemental CWSRF funding request in the amount of \$850,000 to cover unanticipated change orders associated with the DelDOT restoration on RT-13. On October 27, 2023 the County filed the second supplemental funding request in the amount of \$1,947,264.00 associated with various bid overruns.

On December 15, 2023 DNREC notified the County that the aggregate Supplemental Loan had been authorized in the amount of \$2,797,264 for the existing term of the original loan. This loan will be used to finance the increased costs in the project which include various change orders and inflationary and supply chain issues associated with a four- year ten contract project occurring during a pandemic.



After project completion \$2,797,264 of principal forgiveness will be applied, collectively \$5,997,264 from the original terms. The remaining principal balance will be amortized over the remaining term of the original loan until September 1, 2050, such date being the final maturity date of the original loan. However, the loan terms require interest during construction and issuance of an ordinance in the full amount. Therefore, the Engineering and Finance Departments recommend introduction of the associated ordinance.

ORDINANCE NO. [_____]

AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$2,797,264 OF GENERAL OBLIGATION BOND OF SUSSEX COUNTY IN CONNECTION WITH INCREASED COSTS ASSOCIATED WITH THE WESTERN SUSSEX REGIONAL SANITARY SEWER DISTRICT PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH

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

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

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

WHEREAS, pursuant to Ordinance No. 2617 adopted on November 27, 2018, the County authorized the issuance of its General Obligation Bond in the maximum principal amount of up to \$16,634,748 for the Project;

WHEREAS, the County previously issued its General Obligation Bond (Western Sussex Regional Sanitary Sewer District Project) Series 2019-SRF in the maximum aggregate principal amount of up to \$16,634,748 (the “2019 Bond”) on February 22, 2019 to secure a loan from the Delaware Water Pollution Control Revolving Fund (acting by and through the Delaware Department of Natural Resources & Environmental Control) (“DNREC”) to fund the Project;

WHEREAS, the County requires additional funding due to increased costs of the Project, which include various change orders and inflationary and supply chain issues associated with a four-year ten contract project occurring during a pandemic as well as unanticipated road restoration requirements imposed by DelDOT, and desires to accept a supplemental loan in the amount of \$2,797,264 from DNREC to fund the increased construction and design costs of the Project; and

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

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

Section 1. Amount and Purpose of the Bond. Acting pursuant to Title 9, Delaware Code, Chapters 65 and 67, Sussex County shall issue its negotiable general obligations in the maximum aggregate principal amount not to exceed \$2,797,264 (the “Bond”) to finance or reimburse the County for a portion of the increased cost of the design, construction and equipping of the Project, with the expectation that up to \$2,797,264 of principal forgiveness will be applied to the Bond, resulting in a total forgiveness of \$5,997,264 with respect to the 2019 Bond and the Bond, to reduce the combined principal amount of the 2019 Bond and the Bond outstanding to \$13,434,748 upon Project completion.

The monies raised from the sale of the Bond (including the investment earnings thereon) after the payment of the costs of issuance, shall be held in one or more Project accounts and shall be expended only for the purposes authorized herein or as may otherwise be authorized by subsequent action by County Council. Authorized purposes include the cost of funding of the construction budget shortfall and additional design services associated with the unexpected design changes required by DelDOT in the permitting process.

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

Section 3. Terms of the Bond. The Bond shall be sold at such price and upon such other terms and conditions consistent with the provisions of this Ordinance and otherwise as the County Administrator shall determine to be in the best interests of the County. The Bond shall bear interest at such rate and shall mature in such amount and at such time, but not later than September 1, 2050, such date being the final maturity date of the original loan, and shall be subject to redemption, as the County Administrator shall determine.

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

Section 5. Details of the Bond. The County Administrator is authorized to determine the details of the Bond including the following: the date or dates of the Bond; provisions for either serial or term Bond; sinking fund or other reserve fund requirements; due dates of the interest thereon; the form of the Bond; the denomination and designation of the Bond; registration, conversion and transfer provisions; provisions for the receipt, deposit and investment of the proceeds of the Bond; provisions for the replacement of lost, stolen, mutilated or destroyed Bond;

and provisions for issuing uncertificated obligations and all procedures appropriate for the establishment of a system of issuing uncertificated debt. The Bond shall be executed by the manual or facsimile signature of the County Administrator, shall contain an impression of the County seal or a facsimile thereof and shall be attested by the manual signature of the County Clerk. The County Administrator shall determine the form of the Bond.

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

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

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

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

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

ADOPTED this ____ day of January, 2024.

SUSSEX COUNTY, DELAWARE

Attest:

Clerk
Sussex County Council

President
Sussex County Council

[SEAL]

APPROVED AS TO LEGALITY AND FORM:

County Attorney

SYNOPSIS: This Ordinance provides for the issuance of up to \$2,797,264 of Sussex County General Obligation Bond in order to finance or reimburse the County for a portion of the increased costs for the design, construction and equipping of the Western Sussex Regional Sanitary Sewer District Project, consisting of the transfer of sewer flows from Bridgeville and Greenwood to the existing City of Seaford sewer system and wastewater treatment facility, utilizing existing and proposed infrastructure to be owned and maintained by the County to serve the Western Sussex Sewer District (collectively, the “Project”), with the expectation that up to \$2,797,264 of principal forgiveness will be applied to the Bond, resulting in a total forgiveness of \$5,997,264 with respect to the 2019 Bond and the Bond, to reduce the combined principal amount of the 2019 Bond and the Bond outstanding to \$13,434,748 upon Project completion.

ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

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

hans.medlarz@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

RE: ***Professional Environmental Services***
A. RK&K – 5 Year Wetland Data Collection Implementation

DATE: January 23, 2024

The County's five (5) year capital plan, as approved in the FY 24 Capital Budget, contains several projects at the Inland Bays Regional Wastewater Facility including the Cannon Road – Inland Bays Road Drainage Improvements and Constructed Wetlands, Project S22-05. It will reduce storm runoff to Guinea Creek as well as flooding in the Cannon Road area and ponding within the spray fields. This project is also creating a significant water quality credit to be used as a stormwater management offset for the upcoming treatment plant expansion.

The initial design for the constructed wetlands portion of the project was first submitted to the Delaware Department of Natural Resources and Environmental Control (DNREC) in 2020. As a result of DNREC's comments additional data acquisition, soil testing, hydrogeologic evaluations and surface water assessments were conducted summarized in the October 2022 Hydrogeological Report. The wetland is an innovative land application enhanced polishing and disposal option for wastewater effluent **and** groundwater with elevated nutrient levels.

The wetland was designed in coordination with DNREC under a 5-year "operational-testing" program. Once wetland dosing commences spray irrigation on the North Burton Field will cease and the center pivot equipment will be removed. On November 17, 2022, invitations to bid for the Cannon Road/Inland Bays Road Drainage Improvements and Constructed Wetlands, Project S22-05 were publicly advertised and on December 21, 2022, six (6) bids were received.



Kinsley Construction, Inc. of Dagsboro, Delaware submitted the lowest, responsive base bid and on January 10, 2023, Council awarded the project to Kinsley Construction, Inc. in the amount of \$11,467,000.00.

Environmental Services staff made three improvement requests associated with the South Field irrigation area. The first one involved an expanded hydroseeded buffer area on the downstream southern end of the field; the second one involved an additional structure and piping next to Wetland 1 to drain an adjacent low area ponding along the wetland maintenance access area; the third one was associated with the stabilization of the irrigation rig ruts. On June 6, 2023 County Council approved Change Order No. 1 in the aggregate amount of \$34,953.00.

In October of 2023 the Engineering Department requested pricing for the following objectives:

- The South Hettie irrigation field had initially been left out of the grading and replanting scope for cost considerations. However, it was beneficial to complete all the grading, eliminate the remaining ponding which poses permit challenges plant the area in meadow mix.
- During the construction of the submerged gravel wetland stone chimneys were deleted but subsequently more aquatic plants in the wetland itself as well as the outfall swale were added.
- The DNREC required four (4) two-inch monitoring wells around the submerged gravel wetland were added.
- A supplemental feed line essential for the initial hydration stages and during subsequent mid-summer months for aquatic plants survival was added.
- The bid included a \$200,000 allowance for two (2) suction lift pump systems. In cooperation with Kinsley's subcontractor the Department was able to value engineer the approach by switching to a system of wells with submersible pumps more than offsetting the cost by a reduction of the allowance.

October 10, 2023 County Council approved Change Order No. 2 in the aggregate amount of \$847,134.56 and the associated 55 calendar days extension.

The Department had previously advised Council of one last grading modification to eliminate an off-field ponding between the lagoon perimeter road and the North Spray Field. In addition to this known item listed under item 1 below several other issues arose.

- Lagoon perimeter road and swale modifications (T&M) -- estimated at \$44,000.00.
- Stormwater wetland 1 pilot channel repairs- completed for \$10,526.71.
- North Spray Field electrical conduit test pitting- completed for \$7,776.50.
- East Hettie Spray Field electric conduit & effluent lines test pitting (T&M) – estimated at \$7,800.00.
- Assistance for consultants RK&K to expose restrictive layer for infiltration testing- completed for \$18,660.00.
- Goose damage repair to wetland replanting- three-way cost split between contractor, subcontractor, and County – lump sum \$65,000.00.

- Hydro-mulch hardening of wetland bypass swale and northern portion of Cannon Road swale – completed based on unit pricing \$104,885.20.
- Bypass swale repairs after damage by County’s inappropriate irrigation techniques, since then corrected (T&M) – estimated at \$52,000.00.
- Lower electric conduits and effluent main in North Spray Field in conflict with grading to be completed in January (T&M) – estimated at 58,000.00.

On December 5, 2023 County Council approved Change Order No. 3 in the aggregate not to exceed amount of \$375,000.00 constituting all known remedial actions items at the time. However, since then additional storm damage occurred which is being addressed, tracked and presented as Change Order No. 4 by the end of February.

Sussex County’s five (5) year capital projects plan, as approved in the FY 20 Capital Budget, contained projects requiring specialized environmental engineering services. Therefore, a Request for Proposals (RFP) was in May of 2018 and on August 14, 2018, Council approved the selection of RK&K to provide a range of environmental services. The base contract, in the approved amount of \$250,000 was set to cover the County’s water quality enhancement program as well as the design of “constructed wetlands” at the Inland Bays Regional Wastewater Facility.

Since then, Council approved Amendment Nos. 1-3 for the respective tasks (i) assistance to the Sussex County’s Working Group on buffers, (ii) for the initial FAA compliant contract documents for a remediation project in the Eli Walls Tax Ditch and (iii) associated with the Statewide Community Water Quality Improvement project within Delaware’s portion of the Chesapeake Bay watershed.

The constructed wetland work in the second half of July required RK&K’s on-site geotechnical services. However, Amendment No. 1 had insufficient funding to complete the construction phase scope of work. Therefore, County Council approved RK&K’s construction phase services agreement in the amount of \$96,738.42 and a transfer of the remaining amount from Amendment 1 for a total of \$113,273.67 on July 18, 2023.

The constructed wetland received flow by the end of November and the Department has been discussing the groundwater allocation approach with DNREC. We expect the project will require a supplemental groundwater source to provide between 150,000 and 550,000 gallons per day (gpd) throughout the initial 5-years of the demonstration project. A Groundwater Appropriation Permit will be required. Although the daily withdrawals exceed the threshold for permitting the actual consumptive use will be markedly lower due to the direct groundwater recharge from the SGW.

RK&K proposed to prepare the submittal of the permit application and supporting documents as required by 7 Del.C. §7303 for a not to exceed fee, in accordance with the approved hourly rates, of \$25,000.00 which was approved by Council on September 12, 2023.

DNREC requested to expand the 5-year “operational-testing” program to include PFAS sampling and analysis of water, soil, and plant material. We started the baseline sampling and analysis with in house staff members. However, the Engineering Department does not have the in-house expertise to provide the detailed analysis required for the task. Therefore, we

solicited RK&K’s proposal in the not to exceed amount of \$145,157.17 to cover these services for the five-year reporting duration.

In summary, the Engineering Department recommends acceptance of RK&K’s proposal in the not to exceed amount of \$145,157.17.

January 17, 2024

Hans Medlarz, P.E.
Sussex County Engineer
Engineering Administration
Sussex County Engineering Department
2 The Circle
P.O. Box 589
Georgetown, Delaware 19947

**Reference: Professional Environmental Services
for Inland Bays Wastewater Treatment Plant**

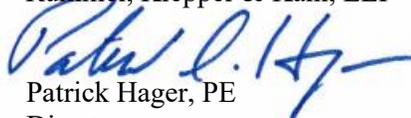
Dear Mr. Medlarz:

Rummel, Klepper, and Kahl, LLP (RK&K) appreciates the opportunity to continue our work with Sussex County under the Professional Environmental Services for Inland Bays Wastewater Treatment Plant, Sussex County project. Based on our discussions with you, RK&K's new services will include work under the following tasks:

- PFAS Sampling;
- Data Review and Evaluation;
- Biennial Reporting; and
- Project Management and Meetings.

Based on the attached Scope of Services and Fee Schedule, we propose to provide these services under a time and material not to exceed contract in the contract amount of \$145,157.17. Monthly invoices will be prepared based on percent complete and will include a project summary. If you have any questions, please contact Patrick Hager at (410) 493.9147 or John Mayhut at (757) 306.6897.

Sincerely,
Rummel, Klepper & Kahl, LLP


Patrick Hager, PE
Director

SCOPE OF WORK FOR PROFESSIONAL ENVIRONMENTAL SERVICES FOR THE INLAND BAYS WASTEWATER TREATMENT PLANT

Background

On behalf of and in coordination with Sussex County, RK&K prepared a monitoring and reporting plan for the Submerged Gravel Wetland (SGW) based on agency feedback as the project progressed from design to construction. The transition from construction to operational testing requires the implementation of the monitoring plan and the subsequent reporting. As a summary, various testing elements were conducted in accordance with the testing plans and a hydrogeologic report was prepared and submitted to Delaware Department of Natural Resources and Environmental Control (DNREC). Following the review period, the construction plans were finalized and the SGW was incorporated into a larger County stormwater management project. The project was bid and awarded on January 10, 2023. In October/November 2023 the submerged gravel wetland was planted, and irrigation commenced. The monitoring proposed in this proposal mirrors the PFAS monitoring and the reporting requirements.

The following Scope of Work addresses RK&K's responsibilities during operational testing of the SGW.

Scope of Work

The following list of activities comprises the Scope of Work (SOW) to be performed by RK&K for this project task, to include:

Task 1 – Data analysis and technical review

- RK&K will conduct up to eight (8) sampling events for, for PFAS, the first five (5) years of the operational testing of the SGW as described in the approved monitoring plan, submitted December 2023.
 - Phase 1 (background)
 - 2 soil, 2 groundwater, 1 plant tissue (one event)
 - Phase 2 (2 years)
 - 2 soil twice a year, 2 groundwater, 1 plant tissue (each year)
 - Phase 3 (3 years)
 - 2 soil, 2 groundwater, 1 plant tissue (each year)
 - Quality assurance/quality control samples will also be collected during each sampling event, which will include:
 - Equipment blanks for each substrate (soil, groundwater, plant)
 - One trip blank for each event
- RK&K will review County provided documents, such as:
 - Groundwater quality and level data.
 - Soil and plant tissue quality.
- By March 31st of years 1, 3 and 5 after each sampling event memorializing a summary of the field activities, comparison of the analytical results to the appropriate standards, conclusions, and recommendations for the next sampling event, as applicable.

This task represents the anticipated level of effort for the five (5) year duration of the sampling and analysis of the SGW. The review will be conducted to evaluate the data and determine if existing facilities and data sets are applicable.

Task 2 – Biennial Reports

By March 31st of years 2 and 4, operational status reports will be filed with DNREC for the preceding 2-years summarizing the operations of the SGW component of the facility. These reports will summarize and graphically present data for the following elements:

- Operational challenges and recommended enhancements
- Monthly effluent loading
- Monthly groundwater loading
- Groundwater levels
- Precipitation
- Water quality
 - Incoming Groundwater
 - Effluent
 - Monitor Wells
- PFAS levels in soil, groundwater, plant tissue

The biennial operational reports will provide an evaluation of the system for improvement and scalability. The report will provide summaries correlating the relationships between the effluent loading rates, precipitation, groundwater levels, and groundwater water quality within the Columbia Aquifer.

Task 3– Project Management and Regulatory Coordination

RK&K will participate in up to five (5) project meetings with regulatory agencies having jurisdiction (i.e., Sussex County, DNREC). It is anticipated that the meetings will cover the critical issues affecting the potential for onsite and offsite impacts, the monitoring plan, requested work plan modifications, and agency permitting requirements.

Deliverables

RK&K shall submit all deliverables in electronic portable document format (PDF) either by email or by electronic file transfer protocol (FTP). The following deliverables will be submitted to the client in fulfillment of the project SOW.

Task 1 – Annual Data Analysis and Technical Review (up to 3 letter reports for Years 1, 3 and 5)

RK&K will submit both draft and final versions of the following deliverable:

Letter Report, which shall include:

- Summary of field activities.
- Data assessment and comparison of results to appropriate standards.
- Presentation of data (tables, graphs, figures, etc.).
- Conclusions and recommendations.

Task 2 – Biennial Reports – Years 2 and 4

RK&K will submit both draft and final versions of the following deliverable:

Biennial Reports, which shall summarize and provide the presentation of data (tables, graphs, figures, etc.).

RK&K shall accept one (1) round of comments from Sussex County on the draft of each deliverable identified. RK&K shall review the County comments and, as appropriate, incorporate revisions in final versions of the deliverables.



Schedule

The proposed schedule for the submittal of deliverables is presented in the table below. This schedule may be impacted by weather or other regulatory requirements. If there is an anticipated schedule impact, RK&K will notify you immediately and provide details regarding the level of impact.

Deliverable	Due Date (calendar days from date of data received)
Task 1 – Annual Letter Reports	30 days (following receipt of analytical results)
Task 2 – Biennial Report – Year 2	On or Before March 31, 2025
Task 2 – Biennial Report – Year 4	On or Before March 31, 2027
Task 3 – Project Management and Meetings	As needed

The schedule provided above assumes that additional data collection and field work will not be required. If additional data is needed, then a new schedule will be prepared that provides an estimated time to complete the associated field work and evaluation.

Fee

RK&K proposes to provide the services presented in the SOW described above for a time and material with a not to exceed cost of \$145,157.17. The fee was prepared using the estimated hours to complete each task in accordance with the 2020 fee structure.

Task	Lump Sum Fee
Task 1 – Data Analysis and Technical Review	\$100,317.55
Task 2 – Biennial Reports	\$29,556.24
Task 3 – Project Management	\$15,283.28
Total Cost	\$145,157.17

Exclusions and Assumptions

The above SOW does not include new, site specific information gathering activities and related analysis, testing or evaluation beyond those expressly noted. While not comprehensive, the following list of activities are assumed and/or excluded from the proposed SOW:

- Laboratory costs provided are estimated and actual cost will be presented to the County.
- Laboratory costs are for standard turnaround.
- Actual mileage and expenses will be presented to the County, values shown are estimated based on the current estimated level of effort.
- The installation of any new borings or wells.
- Hydraulic pump testing and analysis of existing wells.
- Response to request for additional information.
- Regulatory Review Fees.
- In-person meetings are not included in this SOW. [Note: Coordination activities are limited to video conferencing, telephone, and email. Meetings may be attended in person, upon County’s request and at additional cost.].

PROJECT FEE ESTIMATE



Owner → Sussex County	Version # → 3
Billing Client →	Date → 2024-01-17
Project Name → Inland bays - Monitoring and Reporting	Estimator Initials → jam
Commission # → 18208	Reviewer Initials →

A. LABOR FEE ESTIMATE BY TASK AND EMPLOYEE

Employee Labor Category →	Director	Sr. Manager	Manager	Project Engineer/Geologist	Associate Engineer					Total (Hours by Task)	Fee (\$ by Task)
Billing Rate (\$ / hour) →	\$281.96	\$236.79	\$212.04	\$151.00	\$96.50	\$0.00	\$0.00	\$0.00	\$0.00		
Task Description											
Task 1 - Data Analysis and Technical Review (1)(2)										410	\$66,903.00
Task 1.1 - PFAS Sampling (8 events)		12	28	100	100					240	\$33,528.60
Task 1.2 - Review Analysis Results		30	40	60						130	\$24,645.30
Task 1.3 - Prepare Letter Report		10	30							40	\$8,729.10
Task 2 Biennial Reports										190	\$29,556.24
Task 2.1 - Year 2	2	10	16	24	30					82	\$12,843.46
Task 2.2 - Year 4	2	10	24	32	40					108	\$16,712.78
Task 3 Project Management and Regulatory Coordination										64	\$15,283.28
Project Management	16	24	24							64	\$15,283.28
										0	\$0.00
Total (Hours by Labor Category) →	20	96	162	216	170	0	0	0	0	664	← TOTAL HOURS
Labor (\$ by Labor Category) →	\$5,639.20	\$22,731.84	\$34,350.48	\$32,616.00	\$16,405.00	\$0.00	\$0.00	\$0.00	\$0.00	TOTAL LABOR →	\$111,742.52

Total Labor (From Table A):	\$111,742.52
Direct Expenses (From Table B):	\$33,414.55
PROJECT FEE:	\$145,157.07

Notes on Assumptions & Limitations on Labor Fee Estimate:

Note #	Note
1	Eight (8) events for PFAS sampling.
2	Based on annual data review of Years 1, 3 and 5

PROJECT FEE ESTIMATE



Owner → Sussex County
Billing Client →
Project Name → Inland bays - Monitoring and Reporting
Commission # → 18208

Version # → 3
Date → 2024-01-17
Estimator Initials → jam
Reviewer Initials → 0

B. DIRECT EXPENSES ESTIMATE BY TASK AND CATEGORY

Direct Expense Category →	Mileage (1)	Airfare	Rental Car	Overnight Lodging	Meals / Per Diem	In-House Reproduction	Outsourced Reproduction	Laboratory Expense	Miscellaneous Expenses	Expense (\$ by Task)
Category Type →	Travel					Production & Shipping				
Task Description										
Task 1 - Data Analysis and Technical Review (1)(2)										
Task 1.1 - PFAS Sampling (8 events)	\$2,572.80							\$30,201.75	\$640.00	\$33,414.55
Task 1.2 - Review Analysis Results										\$0.00
Task 1.3 - Prepare Letter Report										\$0.00
Task 2 Biennial Reports										
Task 2.1 - Year 2										\$0.00
Task 2.2 - Year 4										\$0.00
Task 3 Project Management and Regulatory Coordination										
Project Management										\$0.00
Expense (\$ by Category) →	\$2,572.80	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$30,201.75	\$640.00	\$0.00
TOTAL DIRECT EXPENSES →										\$33,414.55

Notes on Assumptions and / or Limitations for Direct Expenses:

Note #	Note
1	Based on 2024 Mileage rate and estimated mileage for 8 round trips between Baltimore and IBWRF

ENGINEERING DEPARTMENT

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



Sussex County

DELAWARE
sussexcountyde.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

Memorandum

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

FROM: Hans Medlarz, P.E. County Engineer

RE: ***Herring Creek Sanitary Sewer District, Project S20-08***
A. WRA Amendment 7
B. Teal Construction, Inc. – Change Order No. 3

DATE: January 23, 2024

On January 24, 2014, County Council awarded a five (5) year, cost plus fixed fee type, base contract regarding engineering services for the North Coastal Planning Area to Whitman, Requardt and Associates, LLP (WRA). On November 1, 2016, the first scope of work for the EJCDC Herring Creek Sanitary Sewer District Agreement was approved, in the amount of \$102,649.00, for aerial mapping and environmental assessment issues.

On August 2, 2016, County Council approved the addition of the Herring Creek area to the Unified Sewer District. On March 20, 2017, the Finance & Engineering Departments filed a funding application with USDA/Rural Development and by September of 2018 all the associated loans/grants were in place. Subsequently on October 2, 2018 Council approved WRA's Amendment No. 1 for the design of the Herring Creek Sanitary Sewer District Pump Stations, Force Main and Sewers was subsequently approved by Council.

Due to the size of the project USDA requested a phasing plan. Phase I encompasses the pump stations and pressure mains, Phase II provides the sewer collection system off Sloan Road, Phase III provides the collection system for all minor and major subdivisions off Banks Road and Phase IV includes the collection system in the Winding Creek Village subdivision.

The pump station contract was publicly advertised under Project S20-06 and on September 19, 2019, six (6) bids were received. On October 8, 2019 County Council awarded Project S20-06 to Chesapeake Turf, LLC and on November 19, 2019, Council approved WRA's Amendment No.2 to the EJCDC Base Agreement in a "not to exceed" amount of \$307,304.00 for construction administration and project inspection of Project S20-06.



Construction contracts associated with the other phases of the Herring Creek expansion were awarded by Council as follows:

- On August 11, 2020, JJID, Inc. was awarded the Phase II under Project S20-07
- On July 13, 2022, Teal Construction, Inc. was awarded Phase III under Project S20-08
- On March 29, 2022, George & Lynch, Inc. was awarded Phase IV under Proj. S20-09

On February 16, 2021, Council approved WRA's Amendment No. 3 in the not to exceed amount of \$448,676.00 for construction administration and inspection services associated with the gravity sewer construction Project S20-07 & 08.

Chesapeake Turf, LLC experienced significant delays beyond reasons justified by the pandemic and weather-related delays. This additional time triggered contract administration as well as inspection requirements and on August 31, 2021, Council approved Amendment No. 4 in the not to exceed amount of \$68,852.00 for additional construction administration and inspection services.

The construction administration and inspection for Project S20-09 awarded to George & Lynch, Inc. was never covered under a standalone professional services amendment. To date WRA provided the services under Amendment No. 3. After these funds were depleted last fall Council approved WRA's Amendment No. 5 on December 13, 2023 in the not to exceed amount of \$ 359,704.00.

JJID, Inc. experienced significant delays and on August 12, 2022, submitted two claims one related to restoration requirements imposed "above & beyond" permit by DelDOT, the other one related to previously unknown cable interferences. The claims had some merit but nowhere near the compensation levels requested. Therefore, the Department and JJID, Inc. agreed to pause operations to allow review of this issue by Council. In order to achieve a mutually agreeable solution, the Department suggested seeking a "no-fault" contract close out balancing change order where both parties withdraw any and all claims, the County grants acceptance of the infrastructure installed and pays out any retainage held under the contract.

JJID completed all punch list items and executed the quantity adjustment Change Order No. 6 in the credit amount of (\$1,334,027.06) for a net reduction of the Project S20-07 cost in the amount of \$1,054,877.00. Teal Construction assumed the remainder of the infrastructure under the S20-07 Project at their unit prices bid with a non-compensable contract extension of 210-calendar days. Both change orders were approved by Council on July 11, 2023.

In the later part of 2023 Teal Construction as well as all the other construction companies experienced significant labor shortages. As a result, the project could only be staffed with 1-2 crews at a time versus the three crews needed to complete all work on time. Consequently, Teal requested a 210 day no cost extension, 11 of them were weather related. Both WRA and the Engineering Department support the extension and are requesting Council's approval contingent upon USDA concurrence.

The additional time will deplete the available construction administration funds. Therefore, the Engineering Department requests Council's approval of WRA's Amendment No.7 in the not to exceed amount of \$259,551.00 for construction administration and inspection services associated with contract S20-08 contingent upon USDA concurrence.

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

AMENDMENT TO OWNER-ENGINEER AGREEMENT
Amendment No. 7

The Effective Date of this Amendment is: _____.

Background Data

Effective Date of Project Order:

Owner: Sussex County

Engineer: Whitman, Requardt & Associates

Project: Herring Creek Sanitary Sewer District

Nature of Amendment:

- Additional Services to be performed by Engineer
- Modifications to services of Engineer
- Modifications to responsibilities of Owner
- Modifications of payment to Engineer
- Modifications to time(s) for rendering services (Through September 2024)
- Modifications to other terms and conditions of the Agreement

Description of Modifications:

Additional Services See Attachment A – Scope of Services for details.

Modifications to other terms and conditions of the Agreement:

Add the following after 8.05 D – Federal Requirements

8.05 E - CONSULTING ENGINEER RESPONSIBILITIES REGARDING AMERICAN IRON & STEEL:

In order to comply with American Iron & Steel (AIS) requirements, the Consulting Engineer must ensure the following actions are taken:

- (1) Include costs of compliance with AIS in engineering fees (if appropriate) and in engineer's opinions of probable cost and associated revisions.

- (2) Agreements for engineering services: Include AIS language (see Section 16).
- (3) Plans, specifications, bidding documents and bid addenda: Include required AIS language (see Section 16 of Bulletin 1780-35). For any AIS products specified by brand names, obtain a manufacturer's certification letter (see Exhibit D of Bulletin 1780-35) from the manufacturer to verify the products comply with AIS.
- (4) Certify that plans, specifications, and bidding documents comply with AIS and commit that bid addenda, executed contracts and change orders will comply with AIS and submit a letter to the Agency prior to authorization to advertise for bids (see Exhibit B of Bulletin 1780-35).
- (5) Award: Provide copies of manufacturers' certification letters to the general contractor on any specified brand name AIS products in the plans, specifications and bidding documents including any bid addenda. RUS Bulletin 1780-35 Page 14.
- (6) Shop drawing submittal: Review shop drawings and change orders to ensure compliance with AIS. For shops drawings under consideration for any brand name, equal and/or substitute, and any iron and steel products subject to AIS, obtain a manufacturers' certification letter (see Exhibit D of Bulletin 1780-35) from the general contractor to verify the products comply with AIS.
- (7) Keep all certification letters (including those from the engineer, contractor and any manufacturer providing AIS products) in the engineer's project file.
- (8) Change Order: For any change order under consideration for any AIS products, obtain a manufacturer's certification letter (see Exhibit D of Bulletin 1780-35) from parties submitting the change proposal to ensure compliance with AIS.
- (9) Acknowledge responsibility for compliance with AIS requirements by signing change orders (i.e. C-941 of EJCDC) and partial payment estimates (i.e. C-620 of EJCDC).
- (10) Substantial completion of project: Obtain the contractors' certification letter (see Exhibit C of Bulletin 1780-35) and copies of manufacturers' certification letters for all AIS products used in the project. Provide copies of engineer's, contractors', and manufacturers' certification letters to the owner and copy of contractor's certification letter to the Agency. Provide a list of manufacturers to the RD State Engineer for AIS products used in the project (including manufacturer name and location, product(s)).

Project Order Summary:

Original Project Order amount:	\$ <u>102,649.00</u>
Net change for prior amendments:	\$ <u>1,928,070.00</u>
This amendment amount:	\$ <u>259,551.00</u>
Adjusted Project Order amount:	\$ <u>2,187,621.00</u>

Change in time for services (days or date, as applicable): September 2024

The foregoing Project Order Summary is for reference only and does not alter the terms of the Agreement or the Project Order, including those set forth in Exhibit C.

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

OWNER:

Sussex County Council

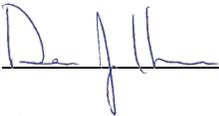
By: _____
Print
name: _____

Title: President, Sussex County Council

Date Signed: _____

ENGINEER:

Whitman, Requardt and Associates, LLP

By: 
Print
name: Dennis J. Hasson, PE, BCEE

Title: Partner

Date Signed: January 17, 2024

(SEAL)

PREVIOUSLY APPROVED FORM

ATTEST:

Ms. Tracey Torbert
Clerk of the County



SCOPE OF SERVICES

HERRING CREEK SANITARY SEWER DISTRICT (HCSSD) CONTRACTS S20-07, S20-08, and S20-09

CONSTRUCTION ADMINISTRATION AND PROJECT INSPECTION

This attachment outlines the required Scope of Services for **HCSSD Contracts S20-07, and S20-08 and S20-09 Construction Administration and Project Inspection**. This work effort will generally include services during the Construction Phases of the Project for Contract Administration, Submittal Reviews, Observation of the Work, and Project Inspection. The Derivation of Man-hours and Estimated Fee for these tasks are provided in the summary spreadsheets included with this document. This proposal assumes the three (3) contracts will require inspection. It is assumed that WRA will provide one full time inspector from February 2024 through September 2024, with inspection supplemented by the County as needed.

PART A - CONSTRUCTION ADMINISTRATION

- 1. General Construction Administration.** WRA will consult with Sussex County and act as the County's representative during the duration of all construction projects. This effort involves the day to day coordination of in-house and field personnel during the construction phase. This proposal assumes approximately 4 hours/week for general construction administration by the Construction Manager.
- 2. Monthly Progress Meetings.** WRA will prepare meeting agendas, conduct monthly progress meetings and issue meeting minutes. It is assumed that there will be one progress meeting day per month for each contract during the durations noted above, which will be attended by the construction manager and resident project representative. It is assumed that 6 of the 8 meetings will be on-site, with 2 conference calls.
- 3. Specialized Site Visits by Specialized Inspectors.** WRA will make visits to the site by specialized inspectors (geotechnical) when requested by Sussex County. WRA will produce a project completion list for use by the County. It is assumed that the Contractor will be responsible for all soils testing.
- 4. Requests for Information (Clarifications).** When requested by Sussex County, respond to Requests for Information (RFIs) relating to the contract documents. This proposal assumes a total of three (3) RFIs total will be required.
- 5. Change Orders and Work Change Directives.** Upon the request of Sussex County, WRA will review the Contractor's change order requests. WRA will document its findings in a memorandum to Sussex County. It is assumed that no more than six (6) change order requests in total (including the final balancing change order submitted by the Contractor for each contract) will be required per contract.

6. ***Shop Drawings and Samples.*** It is assumed all shop drawing review will be performed by the County. WRA will be responsible for review of all American Iron and Steel documentation for the project.
7. ***Operation and Maintenance Manuals.*** It is assumed that no O&M manuals will be required.
8. ***Applications for Payment.*** Based on WRA's observations and on a review of the Contractor's Monthly Applications for Payment and accompanying supporting documentation, determine the amounts that WRA recommends the Contractor be paid by Sussex County. Such observations and review, mean that, to the best of WRA's knowledge, information and belief, the Contractor's work has progressed to the point indicated, the quality of such work is generally in accordance with the Contract Documents, subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, and the conditions precedent to the Contractor being entitled to such payment appear to have been fulfilled insofar as it is WRA's responsibility to observe the Contractor's Work. In the case of unit price work, WRA's recommendations of payment will include final determinations of quantities and classifications of Contractor's Work (subject to any subsequent adjustments allowed by the Contract Documents).
9. ***Substantial Completion.*** At the request of the County, WRA will assist the County in conducting an inspection for each contract to determine if the Work is Substantially Complete.
10. ***Contractor's Completion Documents.*** At the completion of the Construction Phase, WRA will coordinate with the Contractors to obtain as-built information and will provide the County with final electronic CADD files from the original contracts, as well as the Contractors electronic as-builts. The County will generate final as-builts from the information provided.

PART B - PROJECT INSPECTION

WRA shall furnish one Resident Project Inspector who will observe the work done by the Contractor and promptly inform the County of deviations from the Contract Documents. The Resident Project Inspector will serve as WRA's representative in the field, providing information on the daily progress of the job to WRA technical personnel. It is assumed that the Resident Project Inspector will provide inspection for 45 hours per week from February 2024 through September 2024, with inspection supplemented by the County as needed.

PROJECT NAME: Herring Creek Construction Administration and Inspection																		REVISION	Attachment A			
MANHOUR ESTIMATE AND PROPOSAL																		DATE	1/16/2024			
CLIENT: Sussex County Engineering Department																		BY	DJH/WFH			
TASK	PROJECT DESCRIPTION: Construction Administration and Resident Project Representation	Project Manager	Civil Engineer	Civil Designer / CADD	Geotech Engineer	Struct. Engineer	Struct. Designer / CADD	Mech. Assoc. / Proj. Engr.	Mech. Engineer	Mech. Designer / CADD	Elect. Engineer	Electrical CAD	SCADA Engineer	Resident Inspector	Project Inspector	Construction Manager	WRA TOTALS	WRA EXPENSES	Subcontractor hours	Subcontractor Payroll	Subcontractor Expenses	
Phase A -	Construction Administration																	T, R, E	(See Legend)	T, R, E	(See Legend)	
	Use Labor Cost Rates for year: 2024	\$86	\$59	\$43	\$61	\$65	\$43	\$75	\$60	\$50	\$61	\$44	\$72	\$52	\$32	\$61						
A1	General construction administration	140															140	T	\$		-	\$
A2	Monthly progress meetings	80															80	T, E	\$950		-	\$
A3	Specialized site visits by specialized inspectors	8			16												24	T	\$			
A4	Request for information (clarifications)	12			3												15	-	\$		-	\$
A5	Change orders and work change directives	28															28	-	\$		-	\$
A6	Shop drawings and samples																0	-	\$		-	\$
A7	Operation and Maintenance Manuals (NA)																0	-	\$		-	\$
A8	Application for Payment	16															16				-	\$
A9	Substantial Completion	16															16	-			-	\$
A10	Contractors Completion Documents	2		16													18				-	\$
PHASE A SUBTOTALS =		302	0	16	19	0	0	0	0	0	0	0	0	0	0	32	369	\$950	Subcontractor Total	\$0		
PHASE A SUB-TOTAL DOLLARS =		\$59,216	\$0	\$1,569	\$2,634	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$4,451	\$67,869		Profit on Sub	0.0%		
				Civil	\$1,569	Geotech	Structural	\$0	0	Mech.	\$0	0	Electrical	\$0	0	\$0	32			WRA Total	\$68,819	
																				PHASE A TOTAL	\$68,819	

Phase B -	Resident Project Representation	Use Labor Cost Rates for year: 2024															T, R, E	(See Legend)	T, R, E	(See Legend)		
		\$86	\$59	\$43	\$61	\$65	\$43	\$75	\$60	\$50	\$61	\$44	\$72	\$52	\$32	\$61						
B1	Resident Project Representation													1575			1575	T	\$4,000		-	\$
																	0				-	\$
																	0				-	\$
																	0	-	\$		-	\$
																	0	-	\$		-	\$
																	0	-	\$		-	\$
PHASE B SUBTOTALS =		0	0	0	0	0	0	0	0	0	0	0	0	1575	0	0	1575	\$4,000	Subcontractor Total	\$0		
PHASE B SUB-TOTAL DOLLARS =		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$186,732	\$0	\$0	\$186,732		Profit on Sub	0.0%		
				Civil	\$0	Geotech	Structural	\$0	0	Mech.	\$0	0	Electrical	\$0	1,575	\$186,732	0			WRA Total	\$190,732	
																				PHASE B TOTAL	\$190,732	

TOTAL \$259,551

	Project Manager	Civil Engineer	Civil Designer / CADD	Geotech Engineer	Struct. Engineer	Struct. Designer / CADD	Mech. Assoc. / Proj. Engr.	Mech. Engineer	Mech. Designer / CADD	Elect. Eng.	Electrical CADD	SCADA Engineer	Resident Inspector	Project Inspector	Construction Manager
Bare Labor Cost rates for year 2024	\$86.00	\$59.00	\$43.00	\$60.80	\$65.00	\$42.80	\$74.50	\$59.85	\$50.00	\$60.75	\$44.35	\$71.75	\$52.00	\$32.00	\$61.00
Contract Rates - LOADED LABOR AT A FACTOR OF: 2.28	\$196.08	\$134.52	\$98.04	\$138.62	\$148.20	\$97.58	\$169.86	\$136.46	\$114.00	\$138.51	\$101.12	\$163.59	\$118.56	\$72.96	\$139.08
Bare Labor Cost rates for year 2024															
Contract Rates - LOADED LABOR AT A FACTOR OF: 2.28	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Bare Labor Cost rates for year 2024															
Contract Rates - LOADED LABOR AT A FACTOR OF: 2.28	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

WRA EXPENSES

T = Travel @ 48 mile
R = Reproduction
E = Equipment Rental
S = Subcontractor
L = Laboratory Cost

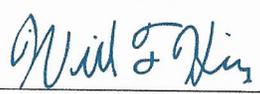
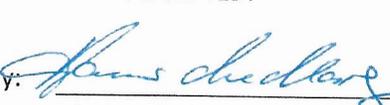


Date of Issuance: 1/5/2024	Effective Date: 1/5/2024
Owner: Sussex County	Owner's Contract No.: S20-08
Contractor: Teal Construction Inc.	Contractor's Project No.: T-21018
Engineer: Whitman, Requardt & Associates	Engineer's Project No.: 14256.036
Project: Herring Creek Sanitary Sewer District: South Gravity Sewer and Force Main	Contract Name:

The Contract is modified as follows upon execution of this Change Order:

Addition of 210 Calendar Days

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES <i>[note changes in Milestones if applicable]</i>
Original Contract Price: \$ 4,242,738.00	Original Contract Times: Substantial Completion: <u>3/21/2023</u> Ready for Final Payment: _____ 365 calendar days
Increase from previously approved Change Orders No. <u>1</u> to No. <u>2</u> : \$1,054,877.00	Increase from previously approved Change Orders No. <u>1</u> to No. <u>2</u> : Substantial Completion: <u>1/25/2024</u> Ready for Final Payment: _____ 675 calendar days
Contract Price prior to this Change Order: \$ 5,297,615.00	Contract Times prior to this Change Order: Substantial Completion: <u>1/25/2024</u> Ready for Final Payment: _____ 675 calendar days
Increase of this Change Order: \$ 0.00	[Increase] [Decrease] of this Change Order: 210 days Substantial Completion: <u>8/22/2024</u> Ready for Final Payment: _____ 885 calendar days
Contract Price incorporating this Change Order: \$ 5,297,615.00	Contract Times with all approved Change Orders: Substantial Completion: <u>8/22/2024</u> Ready for Final Payment: _____ 885 calendar days

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By: <u></u> Engineer (if required)	By: <u></u> Owner (Authorized Signature)	By: <u></u> Contractor (Authorized Signature)
Title: <u>Vice President</u>	Title: <u>County Engineer</u>	Title: <u>PRESIDENT</u>
Date: <u>1/5/2024</u>	Date: <u>1/8/2024</u>	Date: <u>1/9/2024</u>

Approved by Funding Agency (if applicable)

By: _____ Date: _____
Title: _____

January 3, 2024

Whitman, Requardt & Associates, LLP
Attn: Will F. Hinz, P.E.
9030 Stony Point Parkway
Richmond, VA 23235

RE: Request for Contract Duration Time Extension for Herring Creek Sanitary Sewer District:
South Gravity Sewer and Force Main Contract No. S20-08

Dear Mr. Hinz,

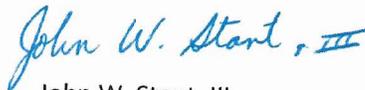
Teal Construction, Inc. would like to request a non-compensable contract duration time extension of 210 calendar days for the Herring Creek Sanitary Sewer District: South and North Gravity Sewer and Force Main Project.

Our original plan, when we bid on this project, was to have two crews working simultaneously to meet the project deadline. However, due to current work force conditions, we have been unable to properly maintain current crews and have also been unable to hire additional crews.

In addition, we have lost about 11 working days from April 2023 until December 2023 due to inclement weather. Attached you will find a breakdown of those days.

Thank you for consideration of our request and if you have any questions, please do not hesitate to contact us at our office at 302-678-9500.

Sincerely,



John W. Stant, III



Record of Climatological Observations
 These data are quality controlled and may not be identical to the original observations.
 Generated on 01/03/2024

1 day

Current Location: Elev: 32 ft. Lat: 38.5819° N Lon: 75.3159° W
 Station: MILLSBORO 1.3 W, DE US US1DESS0041

Observation Time Temperature: Unknown Observation Time Precipitation: Unknown

Year	Month	Day	Temperature (F)			Precipitation					Evaporation		"Soil Temperature (F)"							
			"24 Hrs. Ending at Observation Time"		At Obs.	24 Hour Amounts Ending at Observation Time				At Obs. Time	24 Hour Wind Movement (mi)	Amount of Evap. (in)	4 in. Depth			8 in. Depth				
			Max.	Min.		Rain, Melted Snow, Etc. (in)	Flag	Snow, Ice Pellets, Hail (in)	Flag				Snow, Ice Pellets, Hail, Ice on Ground (in)	Ground Cover (see *)	Max.	Min.	Ground Cover (see *)	Max.	Min.	
2023	04	01				0.03														
2023	04	02				0.37														
2023	04	03				0.00		0.0												
2023	04	04				0.00		0.0												
2023	04	05				0.00		0.0												
2023	04	06				0.00		0.0												
2023	04	07				0.52														
2023	04	08				T														
2023	04	09				0.00		0.0												
2023	04	10				0.00		0.0												
2023	04	11				0.00		0.0												
2023	04	12				0.00		0.0												
2023	04	13				0.00		0.0												
2023	04	14				0.00		0.0												
2023	04	15				0.00		0.0												
2023	04	16				0.02														
2023	04	17				0.01														
2023	04	18				0.00		0.0												
2023	04	19				0.00		0.0												
2023	04	20				0.00		0.0												
2023	04	21				0.00		0.0												
2023	04	22				0.00		0.0												
2023	04	23				0.93														
2023	04	24																		
2023	04	25				0.00		0.0												
2023	04	26																		
2023	04	27				0.02														
2023	04	28				0.00		0.0												
2023	04	29	RAINED OUT ON Friday				2.22													
2023	04	30				0.02														
Summary			0	0		4.14														

Empty, or blank, cells indicate that a data observation was not reported.

*Ground Cover: 1=Grass; 2=Fallow; 3=Bare Ground; 4=Brome grass; 5=Sod; 6=Straw mulch; 7=Grass muck; 8=Bare muck; 0=Unknown

"s" This data value failed one of NCEI's quality control tests. "At Obs." = Temperature at time of observation

"T" values in the Precipitation or Snow category above indicate a "trace" value was recorded.

"A" values in the Precipitation Flag or the Snow Flag column indicate a multiday total, accumulated since last measurement, is being used.

Data value inconsistency may be present due to rounding calculations during the conversion process from SI metric units to standard imperial units.

Record of Climatological Observations

These data are quality controlled and may not be identical to the original observations.

2 days

Current Location: Elev: 32 ft. Lat: 38.5819° N Lon: 75.3159° W
 Station: MILLSBORO 1.3 W, DE US US1DESS0041

Generated on 01/03/2024

Observation Time Temperature: Unknown Observation Time Precipitation: Unknown

Year	Month	Day	Temperature (F)			Precipitation					Evaporation		"Soil Temperature (F)"						
			"24 Hrs. Ending at Observation Time"		At Obs.	24 Hour Amounts Ending at Observation Time			At Obs. Time	24 Hour Wind Movement (mi)	Amount of Evap. (in)	4 in. Depth			8 in. Depth				
			Max.	Min.		Rain, Melted Snow, Etc. (in)	Flag	Snow, Ice Pellets, Hail (in)				Flag	Snow, Ice Pellets, Hail, Ice on Ground (in)	Ground Cover (see *)	Max.	Min.	Ground Cover (see *)	Max.	Min.
2023	05	01	RAINED OUT			2.03													
2023	05	02				0.00		0.0											
2023	05	03	RAINED OUT			T													
2023	05	04				0.08													
2023	05	05				0.00		0.0											
2023	05	06				0.01													
2023	05	07																	
2023	05	08																	
2023	05	09																	
2023	05	10				0.20													
2023	05	11				0.00		0.0											
2023	05	12				0.00		0.0											
2023	05	13																	
2023	05	14				1.45													
2023	05	15				0.00		0.0											
2023	05	16				0.00		0.0											
2023	05	17				T													
2023	05	18				0.00		0.0											
2023	05	19				0.00		0.0											
2023	05	20				0.23													
2023	05	21				1.42													
2023	05	22				0.00		0.0											
2023	05	23				0.01													
2023	05	24				0.00		0.0											
2023	05	25				0.00		0.0											
2023	05	26				0.00		0.0											
2023	05	27				0.00		0.0											
2023	05	28																	
2023	05	29				0.31													
2023	05	30				0.65													
2023	05	31				0.00		0.0											
Summary			0	0		6.39													

Empty, or blank, cells indicate that a data observation was not reported.

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"s" This data value failed one of NCEI's quality control tests. "At Obs." = Temperature at time of observation

"T" values in the Precipitation or Snow category above indicate a "trace" value was recorded.

"A" values in the Precipitation Flag or the Snow Flag column indicate a multiday total, accumulated since last measurement, is being used.

Data value inconsistency may be present due to rounding calculations during the conversion process from SI metric units to standard imperial units.

Current Location: Elev: 32 ft. Lat: 38.5819° N Lon: 75.3159° W
 Station: MILLSBORO 1.3 W, DE US US1DESS0041

Record of Climatological Observations

These data are quality controlled and may not be identical to the original observations.

Generated on 01/03/2024

1 day

National Centers for Environmental Information
 151 Patton Avenue
 Asheville, North Carolina 28801

Observation Time Temperature: Unknown Observation Time Precipitation: Unknown

Year	Month	Day	Temperature (F)			Precipitation					Evaporation		"Soil Temperature (F)"							
			"24 Hrs. Ending at Observation Time"		At Obs.	24 Hour Amounts Ending at Observation Time				At Obs. Time	Snow, Ice Pellets, Hail, Ice on Ground (in)	24 Hour Wind Movement (mi)	Amount of Evap. (in)	4 in. Depth			8 in. Depth			
			Max.	Min.		Rain, Melted Snow, Etc. (in)	Flag	Snow, Ice Pellets, Hail (in)	Flag					Ground Cover (see *)	Max.	Min.	Ground Cover (see *)	Max.	Min.	
2023	06	01																		
2023	06	02				0.00		0.0												
2023	06	03				0.00		0.0												
2023	06	04				0.00		0.0												
2023	06	05				0.00		0.0												
2023	06	06				0.00		0.0												
2023	06	07																		
2023	06	08				0.00		0.0												
2023	06	09				1.34														
2023	06	10				0.00		0.0												
2023	06	11				0.00		0.0												
2023	06	12	RAINED OUT				T													
2023	06	13				0.31														
2023	06	14				0.00		0.0												
2023	06	15																		
2023	06	16				0.15														
2023	06	17																		
2023	06	18																		
2023	06	19																		
2023	06	20																		
2023	06	21																		
2023	06	22																		
2023	06	23																		
2023	06	24																		
2023	06	25																		
2023	06	26																		
2023	06	27																		
2023	06	28																		
2023	06	29																		
2023	06	30																		
Summary			0	0		1.80		0.0												

Empty, or blank, cells indicate that a data observation was not reported.

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"s" This data value failed one of NCEI's quality control tests. "At Obs." = Temperature at time of observation

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"A" values in the Precipitation Flag or the Snow Flag column indicate a multiday total, accumulated since last measurement, is being used.

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Current Location: Elev: 32 ft. Lat: 38.5819° N Lon: 75.3159° W
 Station: **MILLSBORO 1.3 W, DE US US1DESS0041**

Record of Climatological Observations

These data are quality controlled and may not be identical to the original observations.

Generated on 01/03/2024

1 day

Observation Time Temperature: Unknown Observation Time Precipitation: Unknown

Year	Month	Day	Temperature (F)			Precipitation					Evaporation		"Soil Temperature (F)"						
			"24 Hrs. Ending at Observation Time"		At Obs.	24 Hour Amounts Ending at Observation Time				At Obs. Time	24 Hour Wind Movement (mi)	Amount of Evap. (in)	4 in. Depth			8 in. Depth			
			Max.	Min.		Rain, Melted Snow, Etc. (in)	Flag	Snow, Ice Pellets, Hail (in)	Flag				Snow, Ice Pellets, Hail, Ice on Ground (in)	Ground Cover (see *)	Max.	Min.	Ground Cover (see *)	Max.	Min.
2023	07	01																	
2023	07	02				1.85													
2023	07	03				0.00		0.0											
2023	07	04																	
2023	07	05				0.00		0.0											
2023	07	06				0.00		0.0											
2023	07	07				0.00		0.0											
2023	07	08				0.10													
2023	07	09				T													
2023	07	10				0.48													
2023	07	11				0.01													
2023	07	12				0.00		0.0											
2023	07	13				0.00		0.0											
2023	07	14				0.00		0.0											
2023	07	15				0.00		0.0											
2023	07	16				0.04													
2023	07	17				0.96													
2023	07	18				0.18													
2023	07	19				0.00		0.0											
2023	07	20				1.27													
2023	07	21				0.02													
2023	07	22				0.87													
2023	07	23				0.01													
2023	07	24				0.00		0.0											
2023	07	25				0.03													
2023	07	26				0.00		0.0											
2023	07	27																	
2023	07	28				0.00		0.0											
2023	07	29				0.16													
2023	07	30				0.73													
2023	07	31				0.03													
Summary			0	0		6.74													

Empty, or blank, cells indicate that a data observation was not reported.

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Record of Climatological Observations

3 days

Current Location: Elev: 32 ft. Lat: 38.5819° N Lon: 75.3159° W
 Station: MILLSBORO 1.3 W, DE US US1DESS0041

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Generated on 01/03/2024

Observation Time Temperature: Unknown Observation Time Precipitation: Unknown

Year	Month	Day	Temperature (F)			Precipitation				Evaporation		"Soil Temperature (F)"							
			"24 Hrs. Ending at Observation Time"		At Obs.	24 Hour Amounts Ending at Observation Time			At Obs. Time	24 Hour Wind Movement (mi)	Amount of Evap. (in)	4 in. Depth			8 in. Depth				
			Max.	Min.		Rain, Melted Snow, Etc. (in)	Flag	Snow, Ice Pellets, Hail (in)				Flag	Snow, Ice Pellets, Hail, Ice on Ground (in)	Ground Cover (see *)	Max.	Min.	Ground Cover (see *)	Max.	Min.
2023	09	01																	
2023	09	02				0.00		0.0											
2023	09	03				0.00		0.0											
2023	09	04																	
2023	09	05				0.00		0.0											
2023	09	06																	
2023	09	07				0.00		0.0											
2023	09	08																	
2023	09	09				0.07													
2023	09	10				0.93													
2023	09	11				0.44													
2023	09	12				0.50													
2023	09	13				1.19													
2023	09	14																	
2023	09	15				0.00		0.0											
2023	09	16				0.00		0.0											
2023	09	17				0.00		0.0											
2023	09	18				1.61													
2023	09	19				0.45													
2023	09	20																	
2023	09	21				0.00		0.0											
2023	09	22				0.00		0.0											
2023	09	23				1.67													
2023	09	24				1.37													
2023	09	25				0.02													
2023	09	26				0.24													
2023	09	27				0.05													
2023	09	28				0.00		0.0											
2023	09	29				0.16													
2023	09	30				0.05													
Summary			0	0		8.75		0.0											

Empty, or blank, cells indicate that a data observation was not reported.

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"s" This data value failed one of NCEI's quality control tests. "At Obs." = Temperature at time of observation

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"A" values in the Precipitation Flag or the Snow Flag column indicate a multiday total, accumulated since last measurement, is being used.

Data value inconsistency may be present due to rounding calculations during the conversion process from SI metric units to standard imperial units.

Record of Climatological Observations

1 day

Current Location: Elev: 32 ft. Lat: 38.5819° N Lon: 75.3159° W
 Station: **MILLSBORO 1.3 W, DE US US1DESS0041**

These data are quality controlled and may not be identical to the original observations.

Generated on 01/03/2024

Observation Time Temperature: Unknown Observation Time Precipitation: Unknown

Year	Month	Day	Temperature (F)			Precipitation				Evaporation		"Soil Temperature (F)"							
			"24 Hrs. Ending at Observation Time"		At Obs.	24 Hour Amounts Ending at Observation Time			At Obs. Time	24 Hour Wind Movement (mi)	Amount of Evap. (in)	4 in. Depth			8 in. Depth				
			Max.	Min.		Rain, Melted Snow, Etc. (in)	Flag	Snow, Ice Pellets, Hail (in)				Flag	Snow, Ice Pellets, Hail, Ice on Ground (in)	Ground Cover (see *)	Max.	Min.	Ground Cover (see *)	Max.	Min.
2023	11	01																	
2023	11	02																	
2023	11	03																	
2023	11	04																	
2023	11	05																	
2023	11	06																	
2023	11	07																	
2023	11	08																	
2023	11	09																	
2023	11	10																	
2023	11	11																	
2023	11	12																	
2023	11	13																	
2023	11	14																	
2023	11	15																	
2023	11	16																	
2023	11	17																	
2023	11	18																	
2023	11	19																	
2023	11	20																	
2023	11	21	RAINED OUT																
2023	11	22																	
2023	11	23																	
2023	11	24																	
2023	11	25																	
2023	11	26																	
2023	11	27																	
2023	11	28																	
2023	11	29																	
2023	11	30																	
Summary			0	0		2.03													

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"s" This data value failed one of NCEI's quality control tests. "At Obs." = Temperature at time of observation

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"A" values in the Precipitation Flag or the Snow Flag column indicate a multiday total, accumulated since last measurement, is being used.

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Record of Climatological Observations

2 days

Current Location: Elev: 32 ft. Lat: 38.5819° N Lon: 75.3159° W
 Station: MILLSBORO 1.3 W, DE US US1DESS0041

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 Generated on 01/03/2024

Observation Time Temperature: Unknown Observation Time Precipitation: Unknown

Year	Month	Day	Temperature (F)			Precipitation					Evaporation		"Soil Temperature (F)"						
			"24 Hrs. Ending at Observation Time"		At Obs.	24 Hour Amounts Ending at Observation Time				At Obs. Time	24 Hour Wind Movement (mi)	Amount of Evap. (in)	4 in. Depth			8 in. Depth			
			Max.	Min.		Rain, Melted Snow, Etc. (in)	Flag	Snow, Ice Pellets, Hail (in)	Flag				Snow, Ice Pellets, Hail, Ice on Ground (in)	Ground Cover (see *)	Max.	Min.	Ground Cover (see *)	Max.	Min.
2023	12	01				0.00		0.0											
2023	12	02				0.29													
2023	12	03				0.61													
2023	12	04																	
2023	12	05																	
2023	12	06				0.00		0.0											
2023	12	07				0.02													
2023	12	08																	
2023	12	09																	
2023	12	10				T													
2023	12	11				RAINED OUT	1.80												
2023	12	12				0.02													
2023	12	13																	
2023	12	14				0.00		0.0											
2023	12	15				0.00		0.0											
2023	12	16				0.00		0.0											
2023	12	17				0.03													
2023	12	18				RAINED OUT	4.95												
2023	12	19				0.18													
2023	12	20				0.00		0.0											
2023	12	21				0.00		0.0											
2023	12	22				0.00		0.0											
2023	12	23																	
2023	12	24																	
2023	12	25																	
2023	12	26																	
2023	12	27				T													
2023	12	28				0.85													
2023	12	29				T													
2023	12	30				0.12													
2023	12	31				0.00		0.0											
Summary			0	0		8.87		0.0											

Empty, or blank, cells indicate that a data observation was not reported.

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Data value inconsistency may be present due to rounding calculations during the conversion process from SI metric units to standard imperial units.

ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

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

hans.medlarz@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

DATE: January 23, 2024

RE: **WINDING CREEK VILLAGE WATER DISTRICT
AGREEMENT WITH TIDEWATER UTILITIES, INC**

In 2015, the Engineering Department received petitions in favor of submitting the question of organizing a water district to referendum; a public hearing followed on February 13, 2016. Prior to the proposed referendum date, 190 certified affidavits from residents of the Winding Creek Village (WCV) community, representing over 50% of all parcels, were received in opposition to a community wide water district. In response, County Council moved to discontinue steps towards creation of a community wide water district.

Residents affected by ongoing water quality issue formed a committee known as the Independent Owner Water Committee (IOWC). The IOWC sent out a survey to the community and based on the results, targeted a specific area to solicit new petitions. The IOWC submitted 142 notarized petitions in favor of submitting the question of organizing an “optimized” water district to referendum. On September 14, 2017, the voters of the Winding Creek Village Water District Area approved the creation of a water district and on October 3, 2017, County Council officially created the WCV Water District by Resolution No. R 028 17.

In March of 2017, the Finance & Engineering Departments filed an overall funding application for the Herring Creek sewer project, inclusive of the WCV subdivision, for approximately \$20,500,000 with USDA/Rural Development, Rural Utility Service which became fully funded and accepted by County Council. County Council moved forward with the sewer project and with associated approval of WRA Associates, Inc.’s (WRA) professional services amendments for design and permitting the Herring Creek Sewer District Area expansion.

In January of 2018, the Engineering Department submitted a notice of intent to the State for supplemental funding for the proposed WCV Water District project; it was included in the 2018



Intended Use Plan. On June 13, 2018, the Finance and Engineering Departments filed a funding application with the Delaware Drinking Water SRF for \$2,000,000 for the WCV Water District Project. The Project proposed connection to an existing Tidewater Utilities Inc. public water system with master meter for potable water purchase, and construction of a water distribution system to serve the Winding Creek Village Water District. The Water Infrastructure Advisory Council approved the request and extended a financial offer to the County.

On April 2, 2019, with Finance and Engineering Department recommendation, Council approved the Drinking Water SRF funding offer. On April 30, 2019, following a public hearing, Council adopted Ordinance No. 2650 authorizing the issuance of up to \$2,000,000 of general obligation bonds of Sussex County in connection with design, construction and equipping the Winding Creek Village Water District, with expectation that up to \$1,000,000 of principal forgiveness will be applied to reduce the principal amount upon completion.

Concurrent to sewer project design, WRA used base survey and background utility information to develop a preliminary water system layout. On January 24, 2023, County Council approved Amendment No. 6 to the Herring Creek Sewer District expansion, authorizing WRA to complete final design of the Winding Creek Village Water District. Included in this professional services amendment were construction administration and inspection services for the proposed WCV Water District project.

The WCV Water District project nears completion of design and permitting, with advertisement for construction bids expected later this year. The Engineering Department has communicated with Tidewater Utilities, Inc. (TUI) since initial planning of the funding application as the most cost-effective approach to secure potable water via bulk purchase. Based on recent experience with the Sussex County Ellendale Water District, the Engineering Department approached TUI to discuss contract operator services for the Winding Creek Village Water District. Being concurrent to TUI's water system, an efficiency exists with TUI providing both potable source water as well as specific licensed operator services to support operation and maintenance of the WCV Water District.

The Engineering Department has developed the attached Winding Creek Village Water District Agreement with Tidewater Utilities, Inc., defining potable water costs and contract operator services. This arrangement is in the best interest of the Division of Environmental Services as well as the end users. Therefore, the Department request Council's concurrence to execute the Agreement with Tidewater Utilities, Inc.

WINDING CREEK VILLAGE WATER (WCV) DISTRICT AGREEMENT

This WCV District Agreement (“Agreement”) made and entered into this _____ day of _____, 2024 (the “Effective Date”), by and between Tidewater Utilities, Inc., 1100 South Little Creek Road, Dover, Delaware 19901, a Delaware corporation (“Tidewater”), and SUSSEX COUNTY, a political subdivision of the State of Delaware, 2 The Circle, Georgetown, Delaware 19947 (“County”), (collectively, the “Parties”).

WITNESSETH:

WHEREAS, Tidewater is the owner of a water supply and distribution system, and
WHEREAS, County desires to purchase potable water service from Tidewater to supply users within the WCV District, and related services as set forth herein, and

WHEREAS, the Parties hereto have agreed upon the terms and conditions pursuant to which Tidewater shall supply water to County as set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter expressed, the Parties hereto agree as follows:

- (1) **WATER PURCHASE.** Tidewater agrees to furnish and sell to County and County agrees to purchase and take from Tidewater under and pursuant to the terms of this Agreement a supply of water through a metered service connection established by mutual consent, in order for Tidewater to supply water to County for the WCV District. The Parties shall mutually agree on the location of the metered service connection on Parcel 234-24.00-312.
- (2) **SERVICE AREA.** For the purposes of this Agreement, it is mutually agreed by the Parties hereto that the area to be supplied water pursuant to the terms hereof is all properties in the WCV District. The boundaries of the WCV District shall be as depicted on the map attached hereto and incorporated herein as Exhibit A, the boundaries of which County may hereinafter revise as provided by Delaware Code, Title 9, Chapter 65 upon concurrence by Tidewater.

- (3) **TERM.** It is mutually agreed by the Parties hereto that the term of this Agreement shall be enforced for a period of ten (10) years, commencing upon the Effective Date of this Agreement and terminating ten (10) years thereafter. If, at the expiration of the initial term or any subsequent renewal term County is not in default upon any of the terms or conditions of this Agreement, then the Agreement shall automatically renew for an additional ten (10) year term.
- (4) **RATES.** County agrees to pay to Tidewater for water service pursuant to Tidewater's Public Service Commission ("PSC") approved Tariff Schedule of Rates for General Water Service Charges ("Rates"), which said Rates may be revised from time to time as granted by the PSC. Current Rates in effect:
- (i) A Facilities Charge of \$2,190.36 per quarter, based on an 8-inch meter.
 - (ii) All other general service rate, which is \$7.4493 per thousand gallons for Water Consumption Charges, and;
 - (iii) A Public Fire Hydrant Charge of \$13.38 per quarter per installed hydrant.
- (5) **BILLING.** It is mutually agreed by the Parties hereto that Tidewater shall submit a bill to the County for water service on a quarterly basis and County agrees to pay Tidewater within twenty-five (25) days from the billing date.
- (6) **TIDEWATER TERMS OF SERVICE.** During the term of this Agreement, Tidewater's provision of water service shall be in accordance with the rates, rules, regulations and rulings of the PSC and Tidewater's PSC-approved tariff, all as revised and amended from time to time.
- (7) **COUNTY OBLIGATIONS.** County agrees at its expense and cost and without expense or liability to Tidewater to perform the following in the WCV District:
- a. Respond to and perform all Miss Utility locate requests;
 - b. Provide all water connections and disconnections to customer locations;
 - c. Respond to all after hour emergency responses;
 - d. Administer all customer billing, collections and inquiries;
 - e. Compensate Tidewater, or its affiliates on a time and material basis, for all hydrant replacements, valve replacements, and for all main or service line repairs for which Tidewater responds to;
- (8) **TIDEWATER OBLIGATIONS.** Tidewater agrees, at its expense and cost and without expense or liability to County to perform the following in the WCV District:
- a. Inspect, test and exercise all hydrants and valves at least annually;
 - b. Flush all water mains annually, providing standard community notification;
 - c. Maintain all valves and hydrants including repairs but not replacement;
 - d. Upon notification from the County to Tidewater, Tidewater will provide emergency response during Tidewater regular business hours;

- e. Annually prepare Consumer Confidence Report (“CCR”) based on drinking water results from Water Watch and deliver the CCR to the County for distribution;
- f. Conduct quarterly bulk meter reading and provide data with County bill.

(9) **JOINT OBLIGATIONS.** The Parties jointly agree that:

- a. County shall install all water mains, bulk meter, hydrants and valves as well as all other infrastructure to complete servicing of customers in the WCV District, in accordance with established Tidewater construction standards with Tidewater providing engineering and technical assistance as necessary for such installation.

(10) **INSURANCE.** Commercial General Liability Insurance. Tidewater shall secure and maintain, at its own expense, commercial general liability insurance which insures against bodily injury, property damage, and personal injury claims arising from Tidewater’s water supply and distribution system or operations incidental thereto, with a combined single limit of \$1,000,000 per occurrence and a general aggregate limit of \$2,000,000 and a completed operations aggregate limit of \$2,000,000. Such insurance shall include County as an additional insured as respects to claims arising from Tidewater property or operations.

- (i) County shall secure and maintain, at its own expense, commercial general liability insurance which insures against bodily injury, property damage, and personal injury claims arising from the County's water distribution system or operations incidental thereto, with a combined single limit of \$1,000,000 per occurrence and a general aggregate limit of \$2,000,000. Such insurance shall include Tidewater as an additional insured as respect to claims arising from County property or operations.
- (ii) **Property Insurance**
 - a. Tidewater shall secure and maintain, at its own expense, all risk (special form) property insurance, which insures against direct physical loss of or damage to Tidewater’s real and personal property and any resulting loss or extra expense therefrom, with limits sufficient to insure Tidewater’s interest therein.
 - b. County shall secure and maintain, at its own expense, all risk (special form) property insurance which insures against direct physical loss of or damage to County's real and personal property and any resulting loss or extra expense therefrom, with limits sufficient to insure County's interest therein.
- (iii) Parties waive any right of recovery from the other for any loss of or damage to the property of the other, to the extent of insurance recovery from the property insurance required above. Any deductible amount(s) shall be the sole responsibility of the party whose insurance policy requires such deductible.
- (iv) **Workers Compensation and Employers Liability Insurance.**
 - a. Parties shall each secure and maintain at their own expense,

workers compensation and employer's liability insurance, and each party shall be responsible for all such claims of its own employees.

- (11) **BULK METER TESTING.** Tidewater shall test the WCV District's bulk meter in accordance with PSC standards. All testing, maintenance and replacement costs associated with the bulk meter are the responsibility of Tidewater.
- (12) **COUNTY OBLIGATION REGARDING ACCESSORY EQUIPMENT.** County agrees, at its own cost and expense and without any expense or liability to Tidewater, to provide and keep in repair all service connections and appurtenances. County agrees that all service connections and appurtenances shall conform with Tidewater's materials standards. If Tidewater determines that service connections and appurtenances may be in need of repair or replacement, Tidewater shall provide that information to County within a reasonable time.
- (13) **ENFORCEMENT.** It is mutually agreed by the Parties hereto that either party hereto may proceed against the other party hereto either in law or in equity, by suit, mandamus or other proceedings, to enforce or compel performance of any and all covenants contained herein against the other party hereto.
- (14) **USE OF WATER.** County agrees not to sell, lease nor give any interest in or right or privilege to utilize any water furnished by Tidewater pursuant to the terms hereof to any other municipality or to any other consumer of water whose premises are located outside the boundaries of the WCV District as defined herein. County agrees to notify Tidewater of any WCV District expansions that will add consumers to the system within thirty (30) days. County further agrees not to permit any connection to be made to the water supply main or mains except to supply customers within the boundaries of the WCV District as defined herein without first obtaining the written consent of Tidewater.
- (15) **QUALITY.** Tidewater agrees that all water delivered to County shall be of the same quality, purity, and potability as is furnished by Tidewater to its water customers pursuant to all local, state and federal regulations.
- (16) **DISCONTINUATION OF SERVICE BY COUNTY.** Tidewater agrees that County may discontinue water service from Tidewater after providing ten (10) days' advance notice of discontinuation by certified mail with return receipt requested upon the happening of any one or more of the following events, it being understood that any such service discontinuance shall continue only until the violation for which notice is given is corrected:
 - (i) The water supplied to the County does not conform to SDWA; or
 - (ii) The water supplied at the metering location or locations is corrosive with

pH of less than 6.5 as determined by a competent engineering and testing firm; or

- (17) **DISCONTINUATION OF SERVICE BY TIDEWATER.** County agrees that Tidewater may discontinue water service to County upon the happening of any one or more of the following events, it being understood that any such service discontinuance shall continue only until the violation for which notice is given is corrected:
- (i) The failure of County to pay all or any part of the amounts due for water service as set forth in Paragraph 5 of this Agreement within twenty-five (25) days after the billing for such water service and following ten (10) days written notice in advance by certified mail with return receipt requested; or
 - (ii) The resale of water in violation of Paragraph 15 hereof and following ten (10) days notice in advance by certified mail with return receipt requested; or
 - (iii) A break or leak in the distribution or transmission water systems of Tidewater or a break or leak in the distribution system of the County until such condition is repaired or isolated; or
 - (iv) The existence of an emergency as determined by Tidewater that necessitates the discontinuance of the water supply to County; or
 - (v) A violation of any term or condition of this Agreement by County or any user within the WCV District as defined herein and following ten (10) days' notice in advance by certified mail with return receipt requested.
- (18) **WAIVER OF DAMAGES.** Tidewater shall only be liable for damages in connection with its provision of water service to the WCV District in accordance with the rulings of the PSC and the terms of Tidewater's PSC-approved tariff as amended from time to time.
- (19) **INDEMNIFICATION.** To the extent permitted by law, the Parties shall indemnify, defend and hold the other harmless from and against any and all claims for bodily injury and property damage occurring as a result of its respective water supply and distribution systems or operations incidental thereto unless such claims arise from the negligence of the other party. Such indemnification shall not affect the statutory immunity afforded to either party, and to the extent any claim may be precluded by such immunity, this Paragraph shall not be applied to alter, qualify, or inhibit the Parties' immunity.
- (20) **NON-ASSIGNMENT.** Parties agree not to assign or in any other manner transfer this Agreement or any interest thereunder without the previous written agreement of the other party being obtained. Provided, however, Tidewater may delegate to its subsidiaries, the duties and obligations set out herein, except those which may only be performed by a public utility, for so long as the subsidiary is a wholly owned subsidiary of Tidewater. Further, Tidewater may

designate, by writing only, its subsidiary as the payee of any sum owed Tidewater under this Agreement.

- (21) **WAIVER OF BREACH.** It is mutually agreed by the Parties hereto that if either party hereto waives the breach of any covenant or condition contained in this Agreement, such waiver shall not be construed as a waiver of any subsequent breach of the same or a different covenant or condition set forth herein.
- (22) **BINDING EFFECT.** It is mutually agreed by the Parties hereto that the terms of this Agreement shall be binding not only upon the Parties hereto, but also upon their respective successors and permitted assigns.
- (23) **TIME OF ESSENCE.** Time is of the essence for purposes of performing this Agreement. Any reference to "day" shall mean a calendar day, unless specifically noted otherwise herein.
- (24) **GOVERNING LAW.** The Parties agree that the Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without respect to its conflict of laws provisions.
- (25) **MERGER.** It is agreed that this Agreement and its exhibits comprises the full understanding and agreement between the Parties regarding this subject, and any representation, warranty, right or obligation, whether oral or in writing, shall not be effective unless such is expressly incorporated in this Agreement. This Agreement may not be modified, amended, or replaced without the signed, written consent of both Parties.
- (26) **HEADINGS.** Headings contained herein are for reference only and not deemed substantive in nature.
- (27) **WATER QUALITY TESTING.** All bacteria and other routine compliance sampling, including lead and copper sampling, will be conducted and/or coordinated by the Delaware Office of Drinking Water or Sussex County at the expense of Sussex County.
- (28) **CONSUMER CONFIDENCE REPORTS.** "CCRs" detailing water quality are required for all community water systems on an annual basis. Annually, Tidewater shall provide to the County the CCR for the WCV District. The County shall be responsible for distribution of the CCR to the WCV District customers.
- (29) **EMERGENCY RESPONSE.** Periodically situations occur that require an immediate response. Examples would include fire hydrant repair, water main break

or emergency replacement of water meters. Tidewater has employees on duty 24 hours per day/7 days per week. If an emergency occurs at a WCV District owned facility, upon contact Tidewater, via its customer service line at 877-720-9272, will dispatch field personnel to handle the emergency condition. Emergency response labor service rate are listed below; such rates are subject to an annual increase of 3.0%, with such increase occurring each January 1.

2024 Hourly Rates

	Regular Business Hours	Overtime Hours
General Personnel	\$ 73.00	\$ 98.00
Staff Electrician	\$ 83.00	\$112.00
Engineer Technician	\$ 81.00	\$109.00
Staff Engineer	\$ 83.00	\$112.00
Senior Engineer	\$102.00	\$138.00
Professional Engineer	\$120.00	\$162.00
Water Quality Manager	\$ 73.00	\$ 98.00
Water Quality Sampler	\$ 51.00	\$ 68.00
Equipment/Backhoe	\$ 57.00	

Materials and Outside Services: Cost plus 15%

Regular Business Hours: 8:00 a.m. to 5:00 p.m. / 7:00 a.m. to 3:30 p.m. for Distribution General Personnel

Overtime (OT) Hours: after 5:00 p.m. and before 8:00 am on Weekdays and all Weekend hours / after 3:30 pm and before 7:00 am on Weekdays and all Weekend hours for Distribution General Personnel

Holiday Hours: Based on the specific holiday according to Tidewater’s Holiday Rate Schedule.

[end of text – signature page follows]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their proper officers and their respective corporate seals to be hereunto affixed, the day and year first above written.

SUSSEX COUNTY

TIDEWATER UTILITIES, INC.

BY: _____

BY: Bruce E. Patrick

Michael H. Vincent - Council President

Bruce Patrick, President

Attest: _____

Attest: Kirsten E. Higgins

Clerk of Council

Date: _____

Date: January 18, 2024

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
pandz@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

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: January 19, 2024

RE: County Council Report for C/U 2388 filed on behalf of Rifle Range Solar, LLC

The Planning and Zoning Department received an application (C/U 2388 filed on behalf of Rifle Range Solar, LLC) for a solar farm to be located at Tax Parcel 131-15.00-51.00. The property is located on the south side of Rifle Range Road (SCR 545), approximately 1.14 mile east of Sussex Highway (Rt.13). The parcel size is 93.66 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on October 26, 2023. At the meeting of October 26, 2023, the Planning & Zoning Commission recommended approval of the application for the 10 reasons and subject to the 10 recommended conditions as outlined within the motion (copied below).

The County Council held a Public Hearing on the application at the meeting on December 12, 2023. At the conclusion of the Public Hearing action on the application was deferred for further consideration. Below is a link to the minutes of the County Council meeting of December 12, 2023.

[Link to the Minutes of the County Council meeting on December 12, 2023](#)

Below are the minutes from the Planning & Zoning Commission meeting of October 26, 2023.

Minutes of the October 26, 2023, Planning & Zoning Commission Meeting

In relation to the following six Conditional Use applications regarding solar array uses, Chairman Wheatley stated, *“Sussex County is fully aware of the benefits and operation of these community solar facilities at this point having seen and acted on so many of them. For that reason, the Commission will take that into account and presenters do not need to establish that. Instead, please focus on your specific property, the surrounding area, and how*



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

your proposed solar facility may impact the surrounding area. The Commission will also take into account all of the written information that is already in the record on each of these applications.”

C/U 2388 Rifle Range Road Solar, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 93.66 ACRES, MORE OR LESS. The property is lying on the south side of Rifle Range Road (S.C.R. 545), approximately 1.14 mile east of Sussex Highway (Rt. 13). 911 Address: N/A. Tax Map Parcel: 131-15.00-51.00 (p/o).

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant’s Site Plan, the Applicant’s Survey, a letter received from the DelDOT Service Level Evaluation Response, a letter from the Sussex County Engineering Department Utility Planning Division, and the Staff Analysis. Mr. Whitehouse stated that five public comment letters had been received on behalf of the Application.

The Commission found that Mr. Shawn Tucker, Esq. with Barnes & Thornburg, LLP spoke on behalf of the Applicant; that also present were Mr. Steve Gorski, Civil Engineer with Verdantas, LLC, and Mr. Tim Horner, Landscape Architect with Verdantas, LLC. Mr. Tucker stated that the total size of the parcel is approximately 93.66 acres; that the Conditional Use area is proposed to be 36.65 acres of the total acreage; that the advertisement did include the whole parcel acreage, however only a portion of the site is proposed for the use; that there will be no water supply or sewer supply needed for the proposed use, and neither supply is currently available to the site; that the site is located within an Investment Level 4 area; that there will be a fence, as required, around the entire facility, being at least seven feet in height; that there will be a Knox box for the lock on the gate; that all adjacent properties were notified by certified mail; that he and the Applicant have met with adjacent neighbors twice in the past month regarding the project; that there were modifications made to the plan as a result of those meetings, which address the concerns expressed by the adjacent neighbors, and the property is zoned AR-1 (Agricultural Residential). Mr. Tucker requested Mr. Steven Gorski, Civil Engineer with Verdantas, LLC to provide further information regarding the project.

Mr. Steve Gorski, P.E. with Verdantas, LLC spoke on behalf of the Application. Mr. Gorski stated he had prepared the landscape renderings for the project; that along the northside of the property, along Rifle Range Rd., the solar array setbacks vary from 70 ft. to 75 ft. in the northeast corner; that the setback is 20 ft. on the northwest corner; that from the east the minimum setback is 75 ft. and from the south the setback is roughly 350 ft.; that the distance from the road varies from 775 ft. to about 920 ft.; that the project does exceed the 100 ft. requirement from the street; that the project exceeds to the 50 ft. requirement from parcel boundaries; that there will be a seven foot fence surrounding the property; that there is a sign proposed to be located at the entrance of the solar project, containing all contact information as required; that the proposed sign will meet the maximum criteria set forth in Ordinance No. 2920, being no more than 32 sq. ft.; that there are wetlands located on the site; that the small pocket of wetlands, being a small swale, will not be disturbed, as the project is located 200 ft. away from the wetland area; that DelDOT’s approval comments have been received; that the State Fire Marshal’s office reviewed the original plan, which reflected the solar array to be located on the west side of the site, closer to the road; that the State Fire Marshal’s Office had not yet reviewed the revised Site Plan currently being present to the Planning Commission; that all the elements of the

previous approval as still in place, being a 14-ft. gravel road with a turn-around area and a knock box on the gate; that they had pulled the solar arrays back from the road, to address some of the concerns from adjacent neighbors; that with the redesigned plan, the plan still met the criteria required by the State Fire Marshal's Office; that the solar array is located a minimum of 200 ft. from any dwelling not located on the property; that a Decommissioning Plan will be provided prior to applying for building permits, and they are willing to provide the Decommissioning Plan earlier should the Commission desire it.

Mr. Tim Horner, Landscape Architect with Verdantas, LLC spoke on behalf of the Application. Mr. Horner stated he had prepared the landscape plan for the project; that the plan provides a 25 ft. wide landscape buffer along the north and east sides of the property, located adjacent to the road right of way, as well as residential dwellings located to the north; that additionally, they added a 25 ft. landscape buffer to the east side adjacent to a residential dwelling; that they did not provide the buffer to the south and west; that the south side has a wooded area and wetlands, which will be protected and will remain; that to the west, there is an agricultural field with no residential dwellings; that due to this, they chose to leave the area as is, with native evergreen shrubs supplemented with deciduous understory trees; that they have 363 Evergreen trees; that these will be supplemented with 36 deciduous flowering trees to provide color; that they use native White Pines, American Hollies, Eastern Red Cedars, Eastern Redbuds, and Serviceberry to provide a variety of native trees and shrubs; that the proposed landscape does meet the intent and requirements of the Code; that they are in current discussions with the Cash Family, being adjacent neighbors to the site, regarding the landscaping, and they propose if adjacent neighbors would desire other types of plantings to be supplemented, they are willing to do that.

Mr. Tucker stated that the Applicant has no intention of increasing the number of solar panels from what is currently on the Site Plan; that this has been a previous concern of an adjacent neighbor; that the solar arrays will not be placed any closer to Rifle Range Rd. than what is shown on the plan; that the project was originally located closer to the road but was pulled back to address the community's concern, and the only caveat to this would be in the circumstance, they are required to by the Commission, County Council or some other agency.

Mr. Butler questioned the distance provided between the driveway and the solar panels.

Mr. Gorski stated they have proposed a 14 ft. wide gravel driveway.

Mr. Butler questioned if there was any possibility to extend the driveway to make a loop or turn-around on the property.

Mr. Gorski stated, and pointed out for the Commission, the proposed turn-around area provided, as it was required by the State Fire Marshal Office.

The Commission found that three people spoke in support, and no one spoke in opposition to the Application.

Mr. Edward Adams spoke in support of the Application. Mr. Adams stated that he and his mother are the current landowners of the property; that his mother is currently in her 80s; that it is his job to monetize the property the best he can for her, and that the proposed use will allow her to keep as much farmland as she can.

Mr. David Gibbons spoke in support of the Application. Mr. Gibbons stated that he was in support of the project as it will help the green energy survive.

Mr. Randall Cash spoke in support but presented with questions about the Application. Mr. Cash stated he and his wife reside approximately 250 ft. from the solar arrays; that upon first hearing about the proposed use, he was concerned; that he and his wife's greatest concerns were their future quality of life, and their health; that the Applicant has been very attentive to their expressed concerns; that the Applicant has assured them that there will be no lights in the evenings that may interrupt their sleep; that there would be no motors near the their house to create noise; that the Applicant has ensured them that they will make the buffer as full as possible to screen any negative visual impact; that in regards to their health concerns, they have found solace in the County Code Ordinance 2920, which ensures that the regulations will promote and protect the health and safety of the residents of Sussex County; that they were assured at a community meeting that there was no cadmium panels; that the Applicant provided them with handouts ensure them they do not need to worry about toxicity or electromagnetic forcefields; that with the Applicant's word and information, as well as the County Code requirements he has no objection to the Application; that he does keep bees on his property; that this was discussed with the Applicant, and he was told the groundcover for the solar arrays will be native pollinating plants which will provide a food source for his bees.

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

At the conclusion of the public hearing, the Commission discussed the Application.

Mr. Robertson advised the Commission he had prepared a motion, which he read into the record per Mr. Butler's request.

Mr. Butler moved that the Commission recommend approval of C/U 2388 Rifle Range Road Solar, LLC for a solar farm in the AR-1 District, based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience of and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar array will be located on approximately 36.65 acres of a larger 93-acre parcel.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan, which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array would benefit residential, business, and municipal subscribers with lower power costs.
4. The proposed solar array is set back approximately 775 feet from Rifle Range Road, and the land is designated as being within the "Low-Density Area" according to Sussex County's Future Land Use Map. This is an appropriate location for this solar array.
5. This Application generally complies with Ordinance No. 2920 regarding solar arrays. Therefore, specific conditions regarding its operation and screening are not necessary.
6. The solar array is located in an area that primarily consists of agricultural land. With the conditions imposed by the operation of Ordinance No. 2920 including separation distances and buffering, the proposed use will not have any adverse impact on the surrounding property.

7. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
8. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
9. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
10. Several people spoke in support of the Application and there was no opposition to this Application.
11. This recommendation is subject to the conditions set forth in Ordinance No. 2920 and the following additional conditions:
 - A. The use shall be for ground-mounted solar arrays. No other types of electric generation shall be permitted at the site. The arrays shall be set back at least 775 feet from Rifle Range Road.
 - B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array, as well as the remaining acreage that is not part of the Conditional Use.
 - C. All required fencing shall include interwoven screening. The fence location and type of screening shall be shown on the Final Site Plan.
 - D. Any lighting at the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - E. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of an emergency.
 - F. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.
 - G. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - H. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
 - I. The Final Site Plan shall contain a Landscape Plan for all of the buffer areas as stated during the public hearings.
 - J. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Butler, seconded by Mr. Collins and carried unanimously to recommend approval of C/U 2388 Rifle Range Road Solar, LLC for the reasons and the conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Mears – yea, Mr. Collins – yea, Mr. Butler – yea, Chairman Wheatley – yea.

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
HOLLY J. WINGATE, VICE-CHAIRMAN
J. BRUCE MEARS
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Sussex County

DELAWARE
SUSSEXCOUNTYDE.GOV
302-855-7878 T
302-854-5079 F
JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: October 26th, 2023

Application: CU 2388 2388 Rifle Range Road Solar, LLC

Applicant: 2388 Rifle Range Road Solar, LLC
47 Bow Street
Portsmouth, NH 03801

Owner: Joan R Cottee Adams, Edward Russell Adams,
Cottee Adams-Russell Family Trust
2111 Othoson Avenue
Wilmington, DE 19808

Site Location: Lying on the south side of Rifle Range Road (S.C.R. 545) approximately
(1.14) miles east of Sussex Highway (Route 13).

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

Proposed Use: Solar Farm consisting of photovoltaic electric generation facility on a
(42.74) acre +/- portion of the parcel.

Comprehensive Land
Use Plan Reference: Low Density Area

Councilmanic
District: Ms. Green

School District: Woodbridge School District

Fire District: Bridgeville Fire Department

Sewer: N/A

Water: N/A

Site Area: 93.66 acres +/- (p/o 42.74 acres +/-)

Tax Map ID: 131-15.00-51.00



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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Mr. Michael Lowrey, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: September 25th, 2023
RE: Staff Analysis for C/U 2388 Rifle Range Road Solar, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2388 Rifle Range Road Solar, LLC to be reviewed during the October 26th, 2023 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.

Please note that the following staff analysis is for informational purposes only and does not prejudice any decision that the Sussex County Planning & Zoning Commission or Sussex County Council may wish to make as part of any Application submitted to the Department.

Tax Parcel ID(s): 131-15.00-51.00

Proposal: The request is for a Conditional Use for Tax Parcel 131-15.00-51.00 to allow for a solar array facility. The site is lying on the south side of Rifle Range Road (S.C.R. 545) approximately (1.14) miles east of Sussex Highway (Route 13). The improvements are proposed on a (42.74) acre portion of the parcel which is comprised of a total of 93.66 acres +/-

Zoning: The property is zoned Agricultural Residential (AR-1) District. The parcels immediately adjacent to the north, south, east, and west of the subject property are all zoned Agricultural Residential (AR-1) District.

Future Land Use Map Designation w/in Comprehensive Plan: Low Density Area

Applicability to Comprehensive Plan: The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property is designated as a Rural Area and has a land use categorization of “Low Density Area.” All properties surrounding the subject site contain the Future Land Use Map designation of “Low Density Area.” As outlined in the 2018 Sussex County Comprehensive Plan, Low Density Areas are areas that the County envisions as “a predominantly rural landscape where farming co-exists with appropriate residential uses and permanently preserved property” (Sussex County Comprehensive Plan, 4-18). The Plan also notes that commercial uses “should be limited in their location, size and hours of operation” and “more intense commercial uses should be avoided” and commercial uses “may be appropriate depending on surrounding uses” (Sussex County Comprehensive Plan, 4-19).



Further Site Considerations:

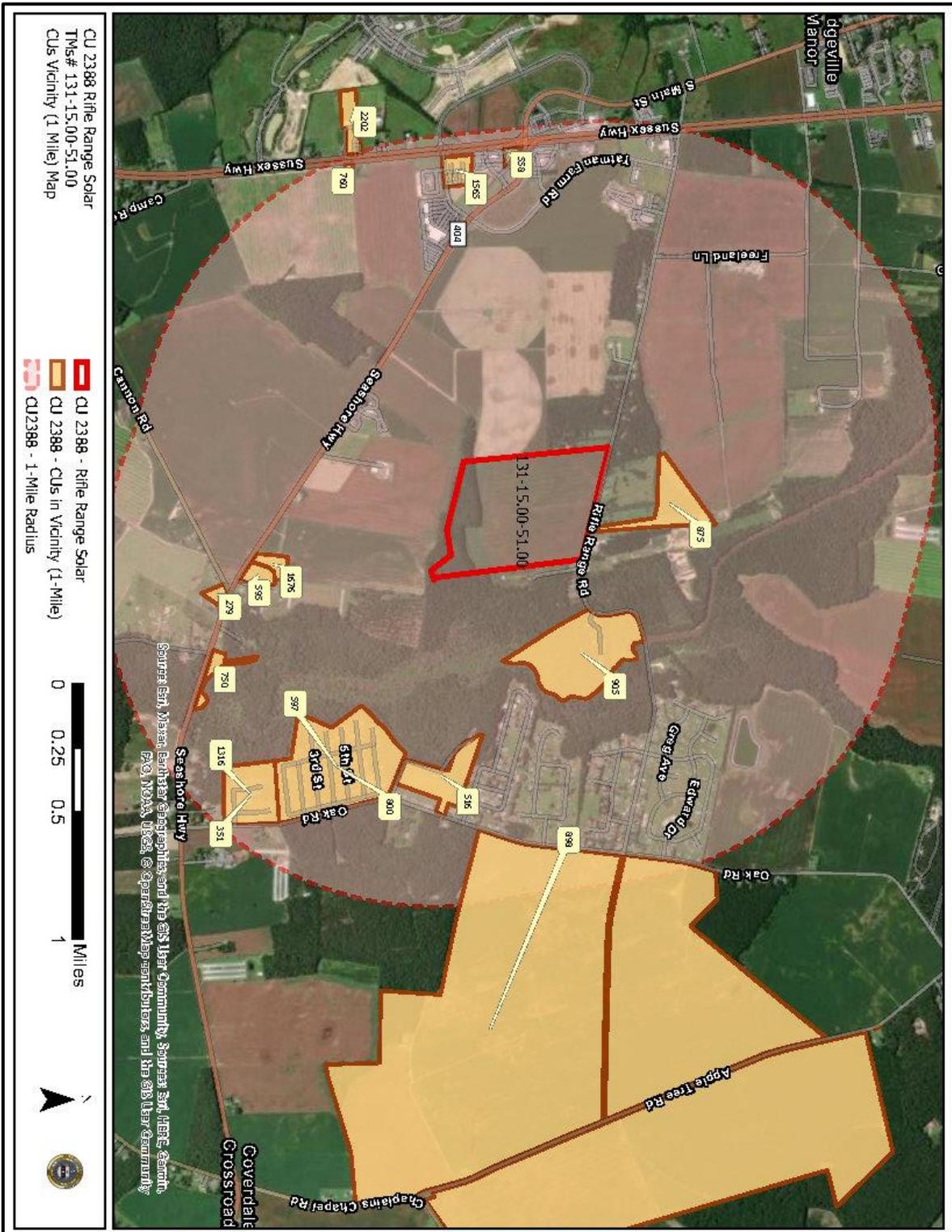
- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The site is within the vicinity of active agricultural lands. Several Agricultural Preservation District Easements are present in the vicinity across Rifle Range Road extending to the north.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** N/A
- **Forested Areas:** The portion of parcel proposed to be improved includes existing forest at the rear and southern portions of the Parcel. The Plan shows no tree removal in this area with the forested portions of the Parcel to remain forested.
- **Wetlands Buffers/Waterways:** N/A
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is located within Flood Zone AE across a small portion of at the southern boundary of the Parcel. The Parcel is within areas of “Good” and “Fair” Groundwater Recharge Potential. The site is not located in a Wellhead Protection Area.

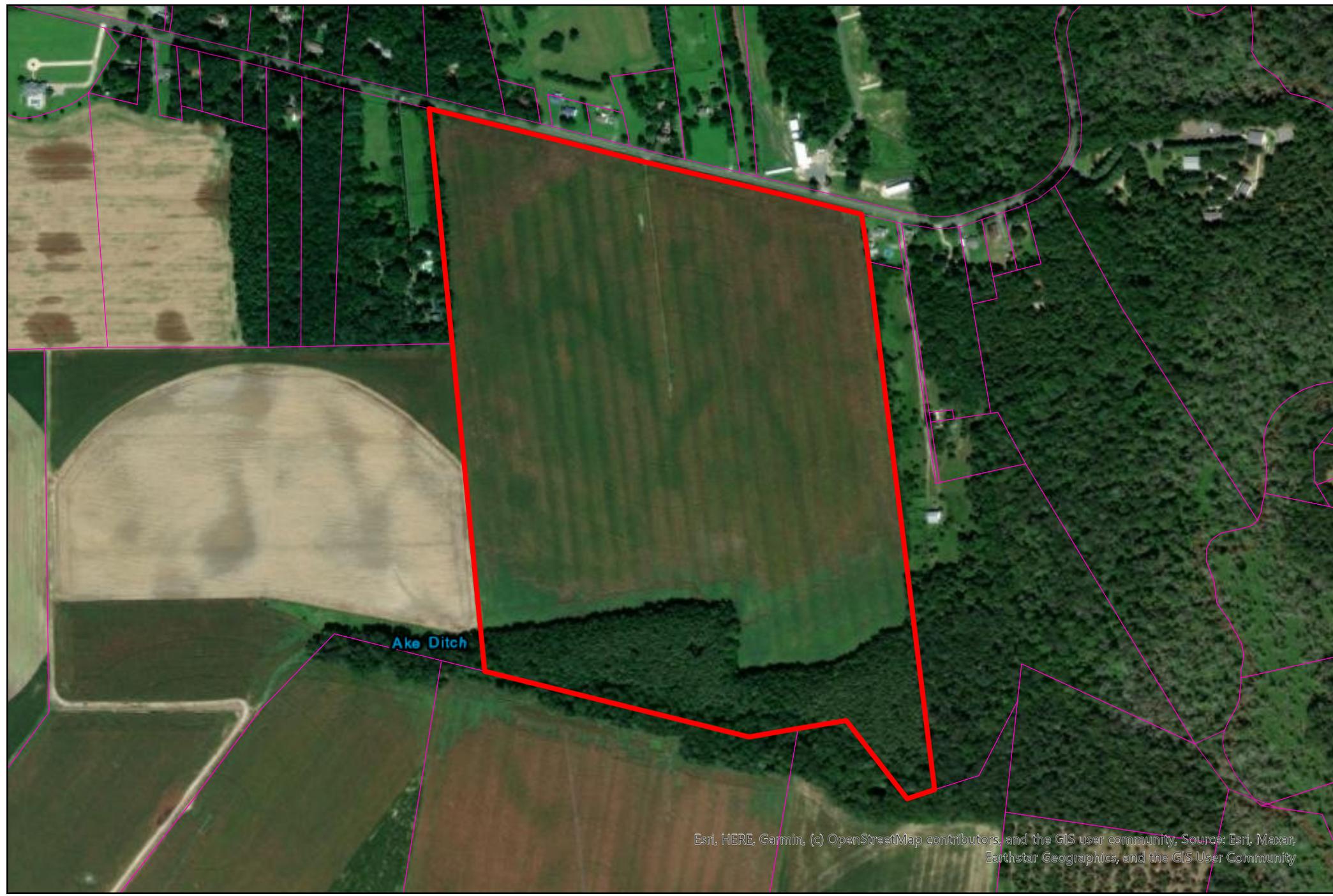
Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for a solar facility, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning, and surrounding uses.

Existing Conditional Uses within the Vicinity of the Subject Site: A Data Table and Supplemental Map have been supplied which provide further background regarding the approval status of Applications in the area, including the location of all other Conditional Use Applications that are less than 1 mile distance from the subject site.

Conditional Use Applications						
(Within a 1-mile radius of the subject site)						
Application Number CU #	Application Name	Zoning District	Proposed Use	CC Decision	CC Decision Date	Ordinance Number
122	Calloway, Farnell & Moore Inc	AR-1	Sales Office	Approved	4/24/1973	N/A
279	Donna's Candle Shop	AR-1	Candle Shop	Approved	7/1/1975	N/A
351	Earth Movers Inc	GR	Borrow Pitt	Approved	6/1/1976	N/A
516	Darl Chaffinch	AR-1	Borrow Pit	Approved	1/30/1979	N/A
558	James & Gretta Faye Willey	AR-1	Antique & New Furnishing Sales	Approved	12/18/1979	N/A
595	Carla Tucker	AR-1	Produce Stand & Bar-Be-Que Pit	Approved	9/16/1980	N/A
597	Junior E. Armiger	GR	Manufactured Home Park	Approved	N/A	N/A
750	Richard Huey	AR-1	Tv Repair Shop & Sales	Approved	9/13/1983	470
760	John C. Street	AR-1	Retail Produce Stand	Approved	11/8/1983	591
800	Junior E. Armiger	GR	Extension To CU 597	Approved	7/31/1984	1357

			Mobile Home Park			
875	Wheatley Farms, Inc.	AR-1	Borrow Pit	Approved	11/24/1987	470
898	Dover Radio Page, Inc.	AR-1	400 Ft Radio Tower	Approved	2/14/1989	560
905	Cedars Academy	AR-1	Private Boarding School	Approved	6/13/1989	591
1316	Walker's Mill LLC	GR	Mobile Home Park	Approved	1/11/2000	1357
1565	State of Delaware/Facilities Management	C-1	Helipad	Approved	5/18/2004	1693
1676	Peter J. Goebel	AR-1	Craft Sales	Approved	1/9/2007	1884
2202	John Passwaters	AR-1	Landscaping Business	Approved	2/4/2020	2705

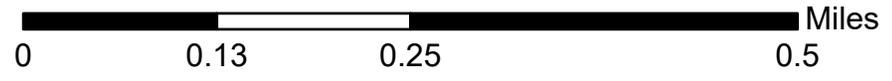


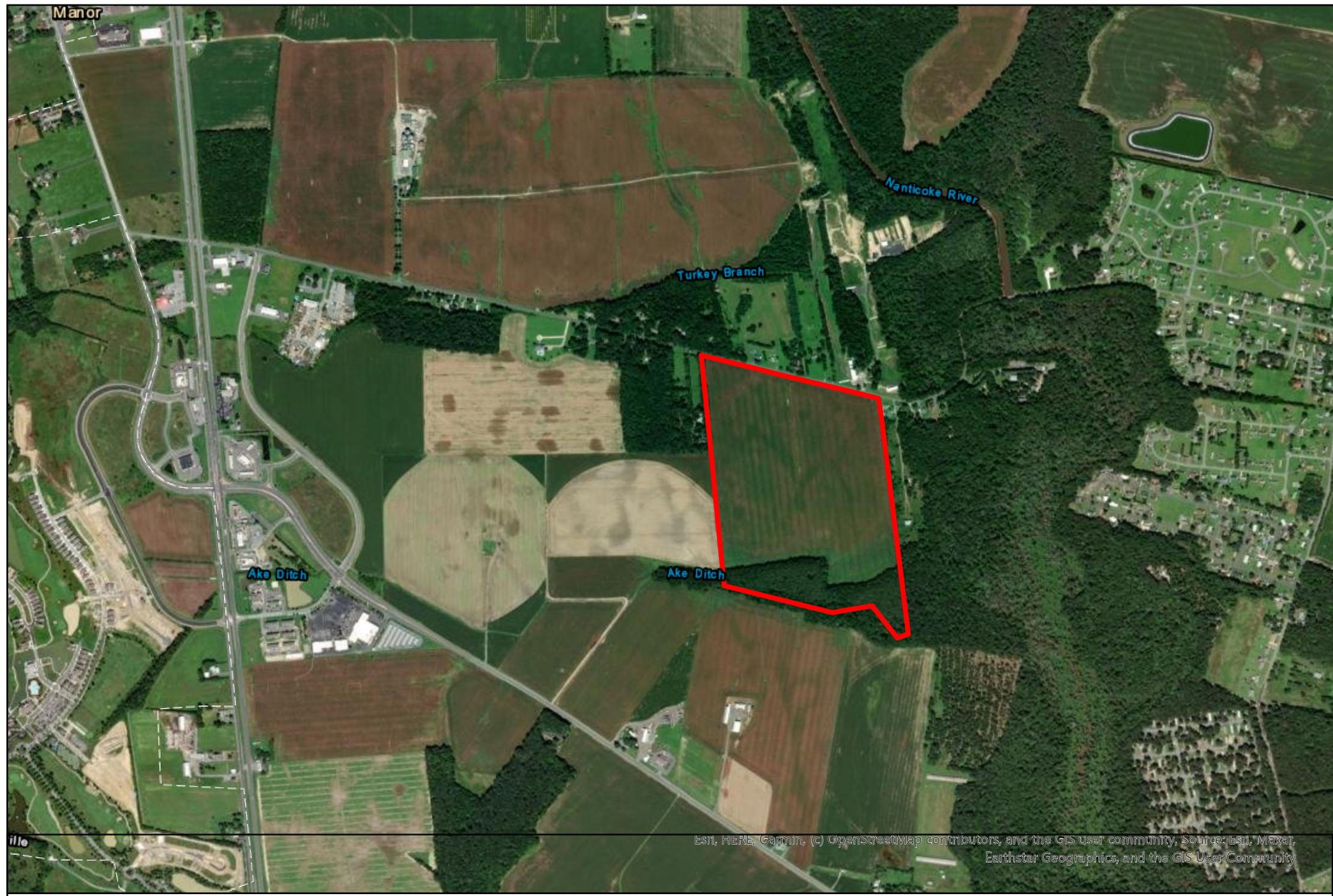


Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community, Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

CU 2388 Rifle Range Road Solar, LLC
TM# 131-15.00-51.00
Aerial Map

 CU 2388 - TM# 131-15.00-51.00

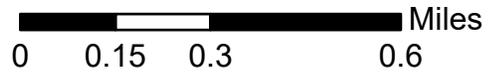


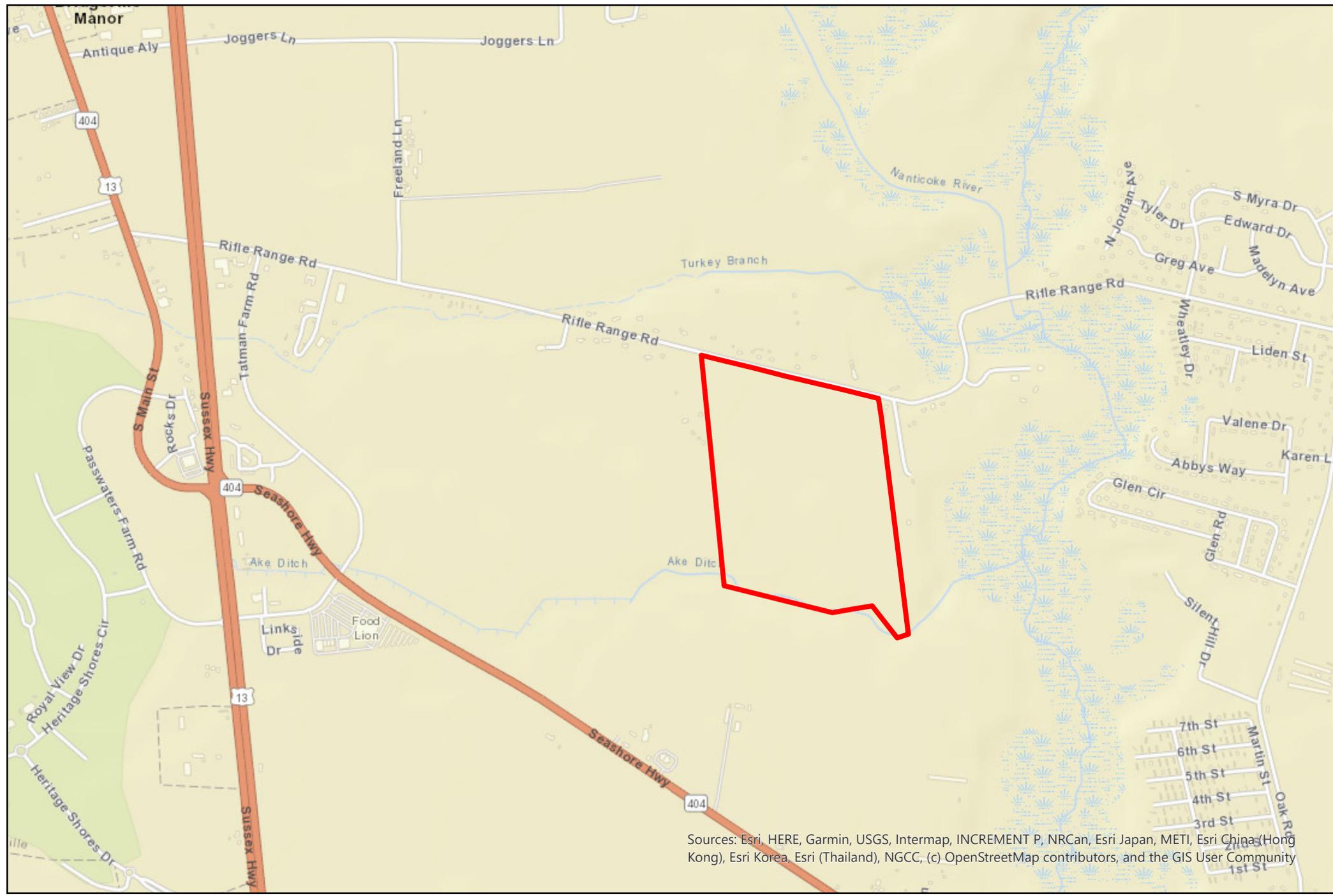


Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community, Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

CU 2388 Rifle Range Road Solar, LLC
TM# 131-15.00-51.00
Aerial Map

 CU 2388 - TM# 131-15.00-51.00



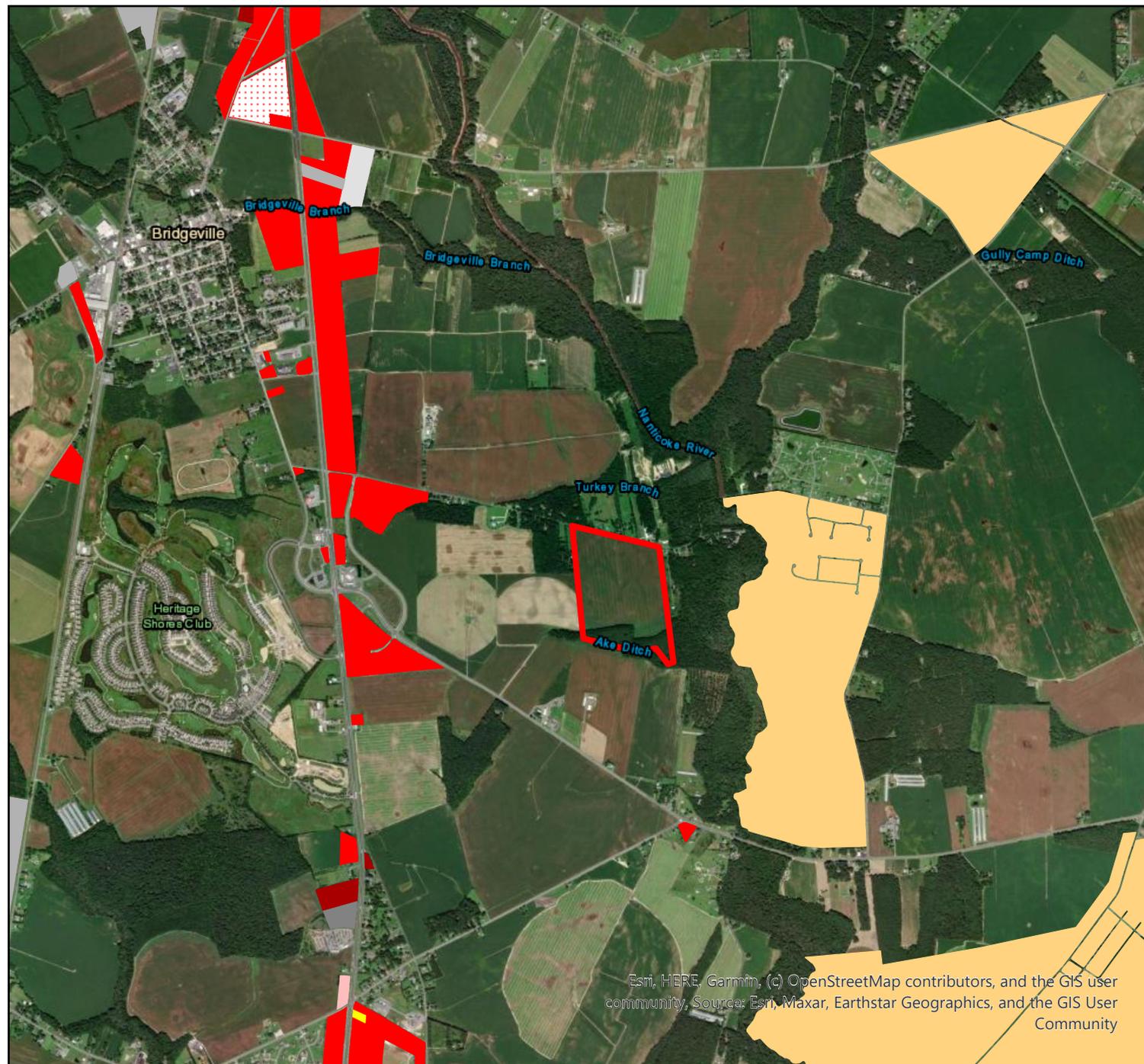


Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community

CU 2388 Rifle Range Road Solar, LLC
TM# 131-15.00-51.00
Street Map

 CU 2388 - TM# 131-15.00-51.00





Zoning

- Agricultural Residential - AR-1
- Agricultural Residential - AR-2
- Medium Residential - MR
- General Residential - GR
- High Density Residential - HR-1
- High Density Residential - HR-2
- Vacation, Retire, Resident - VRP
- Neighborhood Business - B-1
- Neighborhood Business - B-2
- Business Research - B-3
- General Commercial - C-1
- General Commercial - C-2
- General Commercial - C-3
- General Commercial - C-4
- General Commercial - C-5
- Commercial Residential - CR-1
- Institutional - I-1
- Marine - M
- Limited Industrial - LI-1
- Light Industrial - LI-2
- Heavy Industrial - HI-1

CU 2388 Rifle Range Road Solar, LLC
 TM# 131-15.00-51.00
 Zoning Map

CU 2388 - TM# 131-15.00-51.00



Reintroduced: 6/27/23

Council District 2: Mrs. Green
Tax I.D. No.: 131-15.00-51.00
911 Addresses: N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM ON A 42.74 ACRE, PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 93.66 ACRES, MORE OR LESS

WHEREAS, on the 1st of July 2022, a conditional use application, denominated Conditional Use No. 2388 was filed on behalf of Rifle Range Road Solar, LLC; and

WHEREAS, on the ____ day of _____ 2023, 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. 2388 be _____; and

WHEREAS, on the ____ day of _____ 2023, 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. 2388 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 Northwest Fork Hundred, Sussex County, Delaware, and lying on the south side of Rifle Range Road (S.C.R. 545), approximately 1.14 mile east of Sussex Highway (Rt. 13), and being more particularly described in the attached legal description prepared by Transition Engineering Surveying, said portion of the parcel containing 42.74 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.

SCHAEFFER
UES. 1/13.

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Sunday, January 7, 2024 7:37 PM
To: Casey Hall
Subject: Sussex County DE - Council Grant Form: Form has been submitted

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Council Grant Form

Legal Name of Agency/Organization	Mispillion Performance Series ✓
Project Name	Concert Series - Presenting the Washington Saxophone Quartet
Federal Tax ID	84-4618816 ✓
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	Our mission is to keep world-class classical music alive by making it accessible to all in our communities of southern Delaware by keeping our concerts free and unticketed.
Address	16925 Ketch Court
City	Lewes
State	DE
Zip Code	19958

Contact Person	Jody Stein
Contact Title	Director
Contact Phone Number	703-598-1860
Contact Email Address	jodye.stein@gmail.com
Total Funding Request	2,000
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?	2000
Are you seeking other sources of funding other than Sussex County Council?	No
If YES, approximately what percentage of the project's funding does the Council grant represent?	N/A
Program Category (choose all that apply)	Cultural Educational
Primary Beneficiary Category	Low to Moderate Income

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

400

Scope

April 20, 2024, 3:00 p.m. at Epworth United Methodist Church, Rehoboth Beach Presenting the Washington Saxophone Quartet (WSQ), the most widely heard saxophone quartet in the United States. Recorded arrangements by the WSQ have aired regularly on NPR's broadcasts of "All Things Considered." The sound of these instruments evoke the refined sounds of a string quartet, the rich harmonies of an organ prelude, and the excitement of a jazz sax section. The ensemble taps into a rich repertoire, from early music to newly commissioned works, and draws on a wealth of experience to reach listeners of every age and background. wsaxq.com

Religious Components

Self-Employed

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

1,675.00

Description

Custodial & security services for free usage of church

Amount

175.00

Description

Honorarium Fee for Quartet

Amount

3,500.00

TOTAL EXPENDITURES

3,675.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -2,000.00

Name of Organization Mispillion Performance Series

**Applicant/Authorized
Official** Jody Stein

Date 01/07/2024

**Affidavit
Acknowledgement** Yes



SUSSEX COUNTY GOVERNMENT

GRANT APPLICATION

VINCENT
YES. 1/11.

SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: ReTemp Development Center ✓

PROJECT NAME: Food Project for Seniors & Homeless Laurel Sussex County

FEDERAL TAX ID: 31-1763077 ✓ NON-PROFIT: YES NO

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

YES, NO *IF YES, FILL OUT SECTION 3B.

ReTemp Development Center, Inc. (RTDC) has adopted as its purpose, to inspire and implement social action. The organization's quest is to champion community economic development strategies—coordinating individuals and organizations in the community to work together to change the lives of residents, regardless of status, one person at a time. RTDC provides services and programs to create and perpetuate healthy families and communities. These services include: food programs, educational training including computer hardware and software classes, youth enrichment, drug intervention, job skills training and prisoner re-entry programs.

ADDRESS: 31824 Gordy Road

Laurel Delaware 19956
(CITY) (STATE) (ZIP)

CONTACT PERSON: Leon J. Wilson

TITLE: President

PHONE: (410)365-8639 EMAIL: overseerL@aol.com

TOTAL FUNDING REQUEST: \$1,500.00

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

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

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

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

If YES, approximately what percentage of the project's funding does the Council grant represent? 0%

SECTION 2: PROGRAM DESCRIPTION

PROGRAM CATEGORY (choose all that apply)

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

BENEFICIARY CATEGORY

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

BENEFICIARY NUMBER

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

SECTION 3: PROGRAM SCOPE

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

ReTemp Development Center is requesting financial support for our food program in our Laurel Delaware community. I am a board member of the Laurel Senior Center and in our last meeting we found that many seniors in Laurel and surrounding areas do not receive Social Security because they worked as farm workers and do not qualify for Social Security. Many of the seniors only receive SSI. Many must select between heat, medicine, or food. ReTemp provides breakfast for the seniors who attend the senior center in Laurel, Delaware also. ReTemp Development Center supports 27 (families) monthly with food.

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

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

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

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

REVENUE	
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	
TOTAL REVENUES	\$500.00
EXPENDITURES	
Please enter the total projected budget for the project (not entire organization expense if not applicable to request). Example of expenditure items: PERSONNEL-one lump sum that would include benefits, OPERATING COSTS-supplies, equipment, rent/lease, insurance, printing telephone, CONSTRUCTION/ACQUISITION-acquisition, development, rehab hard cost, physical inspections, architectural engineering, permits and fees, insurance, appraisal. (Put amounts in as a negative)	
The Total Annual projected Budget for this Project (Food Program) is projected to be \$7,500.00. This also includes part of the cost or electricity & transportation to reach those who are unable to come to the center. We have 100% Volunteers (No-Paid Staff) to run this project.	\$7,500.00
TOTAL EXPENDITURES	\$7,500.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	\$7,500.00

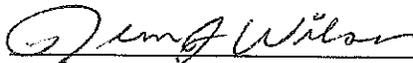
SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the ReTemp Development Center _____ agrees that:
(Name of Organization)

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

SECTION 5: STATEMENT OF ASSURANCES (continued)

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


Applicant/Authorized Official Signature

11/8/24
Date


Witness Signature

11/8/2024
Date

Completed application can be submitted by:

Email: gjennings@sussexcountyde.gov

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

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

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

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

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

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

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

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

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

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

Leon J. Wilson
Applicant/Authorized Official Signature

Shirley Wilson
Witness Signature

President

Title

1/8/24

Date

To Be Introduced: 1/23/24

Council District 2: Mrs. Green
Tax I.D. No. 235-14.00-43.01
911 Address 14400 Collins Street, Milton

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR VEHICLE STORAGE, MAINTENANCE, AND REPAIRS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.43 ACRES MORE OR LESS

WHEREAS, on the 3rd day of November 2022, a conditional use application, denominated Conditional Use No. 2406 was filed on behalf of Monish Malhotra; and

WHEREAS, on the ____ day of _____ 2024, 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. 2406 be _____; and

WHEREAS, on the ____ day of _____ 2024, 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 VI, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2406 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcels of land lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying on the west side of Collins Street within the Collins Russell Subdivision, accessed from the north side of Milton Ellendale Highway (Rt. 16), approximately 0.5 mile west of Mulberry Street, and being more particularly described in the attached legal description prepared by Ward & Taylor, LLC said parcels containing 0.43 ac., 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 Reintroduced: 1/23/24

Council District 4: Mr. Hudson
Tax I.D. No.: 234-29.00-263.12 (p/o)
911 Address: 31507 Oak Orchard Road, Millsboro

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND B-1 NEIGHBORHOOD BUSINESS ZONING DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.7 ACRES, MORE OR LESS

WHEREAS, on the 30th day of January 2023, a zoning application, denominated Change of Zone No. 2006 was filed on behalf of Mahmut Yilmaz; and

WHEREAS, on the ____ day of _____ 2024, 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. 2006 be _____; and

WHEREAS, on the ____ day of _____ 2024, 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 C-2 Medium Commercial District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the northeast side of John J. Williams Highway (Rt. 24) and the north side of Oak Orchard Road (Rt. 5) at the intersection of John J. Williams Highway (Rt. 24) and Oak Orchard Road (Rt. 5) and being more particularly described in the attached legal description prepared by The Pelsa Company, said parcel containing 2.00 ac., more or less.

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

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
pandz@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

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: January 19, 2024

RE: County Council Report for C/U 2394 filed on behalf of Wayne Development, LLC

The Planning and Zoning Department received an application (C/U 2394 filed on behalf of Wayne Development, LLC) for a Commercial Storage Facility with RV and Boat Storage to be located at Tax Parcel 234-34.00-4.01. The property is located on the southwest side of Gull Point Road (SCR 313), approximately 591 ft. northeast of Downs Landing Road. The parcel size is 14.34 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on November 30, 2023. At the meeting of December 14, 2023, the Planning & Zoning Commission recommended approval of the application for the 6 reasons and subject to the 12 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting of November 30, 2023, and December 14, 2023.

Minutes of the November 30, 2023, Planning & Zoning Commission Meeting

C/U 2394 Wayne Development, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL STORAGE FACILITY WITH RV AND BOAT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 14.34 ACRES, MORE OR LESS. The property is lying on the southwest side of Gull Point Road (S.C.R. 313), approximately 591 ft. northeast of Downs Landing Road. 911 Address: N/A. Tax Map Parcel: 234-34.00-4.01.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's



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

Conceptual Site Plan, the Applicant's Exhibit Booklet, the DelDOT Service Level Evaluation Response, and a letter from the Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse stated that zero comments were received for the Application.

The Commission found that Ms. Mackenzie Peet, Esq. with Saul Ewing, LLP spoke on behalf of the Applicant; that also present were Mr. Brad Absher and Mr. Matt Williams, both members of Wayne Development, LLC. Ms. Peet stated the property is located on the southwest side of Gull Point Rd., and northeast of Downs Landing Rd., being just outside of the Town of Millsboro; that the Applicant is requesting a Conditional Use for the operation of a self-storage facility to include, as shown on the Site Plan, one 2, sq. ft. of self-storage and a 900 sq. ft. office area, together with outdoor RV, boat, vehicle, and trailer storage; that the site is approximately 14 acres and zoned AR-1 (Agricultural Residential); that the site is located within the Coastal Area, a designated growth area; that the site is predominantly located within Investment Level 3, with a small portion of the site being located within Investment Level 2; that on November 16, 2023, the Applicant submitted the Exhibit Booklet, together with the final version of the Conditional Use Plan; that submitted booklet included the required Environmental Assessment and Public Facility Evaluation, along with Exhibits A through Exhibit G; that Exhibit A contains a copy of the deed, which reflects Wayne Development as the property owner; that Exhibit B shows the site's location, being adjacent to residential uses; that the site is also near Rt. 24; that there are some commercial uses in the area as well; that Exhibit C is a copy of the Conditional Use Plan; that the plan reflects the site will be accessed from Gull Point Rd.; that the self-storage units and the office will be located towards the front of the property; that the balance of the site would be for the outdoor storage component; that the use will be screened, buffered and secured, which will be further explained in the proposed Conditions of Approval; that Exhibit D includes several aerial maps; that Exhibit E contains the DelDOT Service Level Evaluation Response; that DelDOT determined the traffic impact to be negligible; that no Traffic Impact Study (TIS) is warranted; that DelDOT has approved the entrance location and proposed configuration as shown on the plan; that Exhibit E contains a letter from the U.S. Fish & Wildlife Service, which confirms that there are no federally listed, threatened species or critical habitats on the site; that there are no wetlands located on the site; that Exhibit G contains finalized correspondence from Tidewater Utilities concerning the placement of a well, which is permitted; that §115-171 states the purpose of a Conditional Use is to provide for certain uses which cannot be well adjusted to their environment in particular locations with full protection offered to surrounding properties by rigid application of the District regulation; that these uses are generally of public or semi-public character and are essential and desirable for the general convenience and welfare; that because of the nature of the use, the importance of the relationship to the Comprehensive Plan and possible impact not only on neighboring properties, but on a large section of the County require the exercise and planning judgement on location and site plan; that the proposed use is of semi-public character as there is significant demand for storage in the area; that many residential communities now offer smaller lot sizes that do not support storage or have extremely limited storage capacity; that many communities prohibit storage of RVs, boats, trailers and certain vehicles on residential lots; that as such, the project will provide an economic benefit to the community by providing residents with a convenient solution for storing those larger vehicles, while meeting the demand for on lot storage and eliminating the need to park these larger vehicles on streets and limited parking spaces or where they are prohibited in residential communities; that the site will be served by private water and sewer; that Tidewater confirmed the closest connection point to an existing water main is approximately 600 ft. from the site at the intersection of Gull Point Rd. and Rosedale Rd.; that as such, and considering low water demands, with only one bathroom and one employee on site, it is proposed that a well will be installed for water; that septic is also proposed; that the Site Evaluation has been submitted to DNREC and is

under review; that the site is a good candidate for infiltration; that there is an infiltration shown on the plan for stormwater management; that DelDOT has confirmed the traffic impact to be negligible; that the last page of the Exhibit Booklet includes a copy of the Applicant's proposed conditions, which limit the use to self-storage and the storage of RVs, boats, vehicles and trailers; that they prohibit the presence of junk, inoperable RVs, boats vehicles or trailers to be kept on the site; that they limit sales or maintenance, except for limited mobile maintenance and repair services that can be reasonably performed on the site and that do not require extensive equipment or facilities only available at a designated repair facility; that they prohibit hazardous materials or fuel to be stored on the site; that fuel may be stored in the tanks of vehicles; that the site will allow for 24 hr. access with a gated and locked entrance together with a perimeter fence for security, with the installation of security that meets industry standards; that the conditions require shielded and downward screened security lighting; that the conditions require a 20 ft. wide landscape buffer between the outside of the fence and the adjacent properties; that this will allow for dumpsters to be screened, and the condition propose a sign that is in compliance with the Code.

The Commission found that there was no one who wished to speak in support of or in opposition to Application C/U 2394 Wayne Development, LLC.

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

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to C/U 2394 Wayne Development, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4 - 0.

Minutes of the December 14, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since November 30, 2023.

Mr. Mears moved that the Commission recommend approval of C/U 2394 Wayne Development, LLC for a commercial storage facility with outside RV and boat storage within the AR-1 District based upon the record made during the public hearing and for the following reasons:

1. The Applicant seeks approval for a storage facility consisting of one self-storage and office building and outdoor RV and boat storage on approximately 14.34 acres.
2. There is a need for the use proposed by the Applicant in this area of Sussex County. There are many nearby residential developments that prohibit the storage or parking of boats and RVs within them. This is an appropriate, convenient location that addresses the need for off-site storage of their boats and RVs.
3. The Applicant has stated that access will be limited. As a result, the use will not have a substantial impact on area roadways.
4. The project, with the conditions and stipulations imposed upon it, will not have an adverse impact on the neighboring properties or community.
5. The use has a public or semi-public character and is desirable for the general convenience and welfare of residents in this area of Sussex County.
6. No parties appeared in opposition to this Application.

7. This recommendation for approval is subject to the following conditions:
 - A. The use shall be limited to self-storage and the storage of boats, boat trailers, and RVs. No other storage of vehicles or equipment shall occur on the site.
 - B. The facility shall only be accessible on a 24-hour basis. The site shall be fenced and gated with electronic access.
 - C. The perimeter of the site shall be fenced with a six-foot-high fence with interwoven screening that screens the property from neighboring and adjacent properties and roadways.
 - D. There shall be a 20-foot-wide landscaping buffer between the outside of the fence and the adjacent residential properties to screen the use from those adjacent homes. The Final Site Plan for this use shall show the location of this buffer and it shall include a landscaping plan for it.
 - E. No sales or maintenance of boats or RVs shall occur on the site.
 - F. All security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - G. The use shall be subject to all DelDOT requirements regarding the entrance and roadway improvements necessary to provide access to the site.
 - H. No hazardous materials or fuel shall be stored on the property other than what may be in the tanks of boats and RVs located on the site.
 - I. One lighted sign shall be permitted on the site. It shall not exceed 32 square feet in size.
 - J. No junked or unregistered boats, boat trailers, or RVs shall be stored on the site.
 - K. The parking and storage areas shall be covered with a stabilized surface. The location and type of this material shall be shown on the Final Site Plan.
 - L. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Ms. Wingate stated she was absent during the November 30, 2023, public hearing, however, she listened and reviewed the public hearing online and was prepared to vote on the Application.

Motion by Mr. Mears, seconded by Ms. Wingate to recommend approval of C/U 2394 Wayne Development, LLC for the reasons and conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Mears – yea, Ms. Wingate – yea, Mr. Collins – yes, Chairman Wheatley – yea

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
BRIAN BUTLER
GREGORY SCOTT COLLINS
J. BRUCE MEARS
HOLLY WINGATE



Sussex County

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JAMIE WHITEHOUSE
DIRECTOR

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: November 30th, 2023

Application: CU 2394 Wayne Development, LLC

Applicant: Wayne Development, LLC
35380 Atlantic Avenue
Millville, DE 19967

Owner: Wayne Development, LLC
35380 Atlantic Avenue
Millville, DE 19967

Site Location: Lying on the southwest side of Gull Point Road (S.C.R. 313), approximately 600 feet north of the intersection Downs Landing Road.

Current Zoning: Agricultural Residential (AR-1) District

Proposed Zoning: Agricultural Residential (AR-1) District

Proposed Use: RV/ Boat Storage & Self Storage

Future Land Use
Map Designation: Coastal Area

Councilmanic
District: Mr. Hudson

School District: Indian River School District

Fire District: Indian River Fire Department

Sewer: On-site Septic

Water: Tidewater Utilities

Site Area: 14.34 acres +/-

Tax Map IDs: 234-34.00-4.01



JAMIE WHITEHOUSE, AICP MRTPI
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jamie.whitehouse@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Mrs. Christin Scott, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: November 22, 2023
RE: Staff Analysis for C/U 2394 Wayne Development, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2394 Wayne Development, LLC to be reviewed during the November 30th, 2023 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.

Please note that the following staff analysis is for informational purposes only and does not prejudice any decision that the Sussex County Planning & Zoning Commission or Sussex County Council may wish to make as part of any Application submitted to the Department.

Tax Parcel ID: 234-34.00-4.01

Proposal: The request is for a Conditional Use for Tax Parcel 234-34.00-4.01 to allow for RV, Boat, and Self-Storage Facility on a parcel lying on the southwest side of Gull Point Road (S.C.R. 313), approximately 591 feet northeast of Downs Landing Road. The parcel is comprised of 14.34 acres +/-.

Zoning: The property is zoned Agricultural Residential (AR)-1 District. The adjacent parcels to the north, south, and west of the subject property are zoned Agricultural Residential (AR-1) District with the Parcels to the east, across Gull Point Road (S.C.R. 313) also within the Agricultural Residential (AR-1) District. Properties further south are zoned High Density Residential (HR-1) District. Further east properties are zoned Agricultural Residential (AR-2) District and southwest of the subject site, properties are zoned Medium Density Residential (MR) District.

Future Land Use Map Designation w/in Comprehensive Plan: Coastal Area

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



As outlined in the 2018 Sussex County Comprehensive Plan, the Coastal Area are “areas that can accommodate development provided special environmental concerns are addressed” (2018 Sussex County Comprehensive Plan, 4-15). The Plan also states that a range of housing types “should be permitted” to include “townhouses and multifamily units” (2018 Sussex County Comprehensive Plan 4-15). The Plan further states that “medium density could be supported in areas where there is central water and sewer, near sufficient commercial uses and employment centers, where it is in keeping with the character of the area, where it is along a main road or at/near a major intersection, where there is adequate Level of Service or where other considerations exist that are relevant to the requested project and density” (2018 Sussex County Comprehensive Plan, 4-16).

Further Site Considerations:

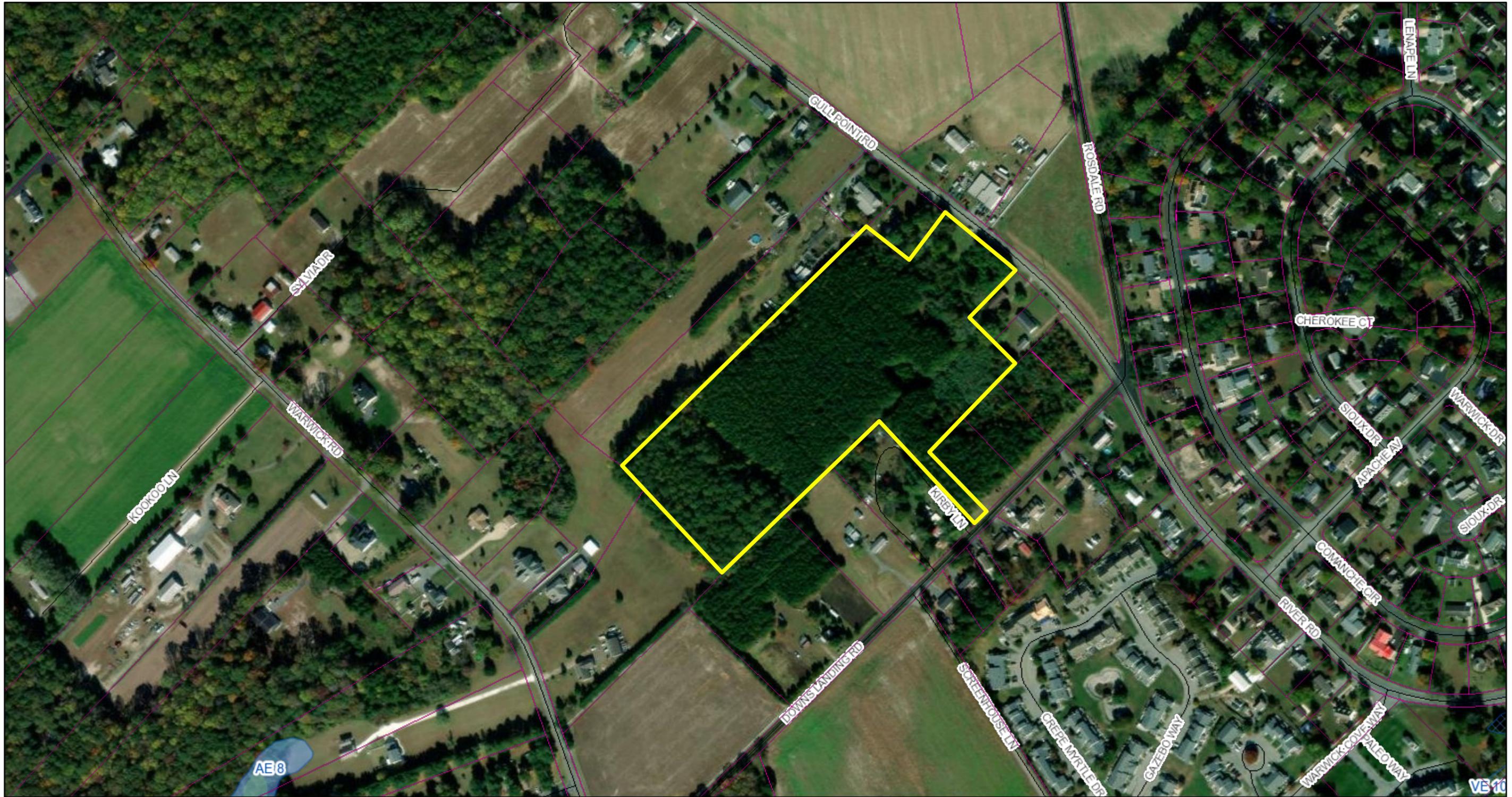
- **Density: N/A**
- **Open Space Provisions: N/A**
- **Agricultural Areas:** The site is within the vicinity of active agricultural lands.
- **Interconnectivity: N/A**
- **Transportation Improvement District (TID):** The parcels are not within the Henlopen Transportation Improvement District.
- **Forested Areas:** The subject parcel is currently comprised of majority forested area.
- **Wetlands Buffers/Waterways: N/A**
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is located within Flood Zones X with areas of “Fair” and “Poor” Groundwater Recharge Potential on the site.

Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for a RV, Boat, and Self-Storage Facility, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

Existing Conditional Uses within the Vicinity of the Subject Site: A Data Table has been supplied which provides further background regarding the approval status of Applications in the area, including the location of all other Conditional Use Applications that are less than 1 mile distance from the subject site and submitted within the past ten (10) years.

Conditional Use Applications						
(Within a 1-mile radius of the subject site)						
Application Number	Application Name	Zoning District	Proposed Use	CC Decision	CC Decision Date	Ordinance Number
2268	Staci C. and Winfield S. Walls Jr.	AR-1	Boat Shrink Wrapping Business	Approved	11/9/2021	2810
2125	RS Cordrey Farms, LLC	AR-1	Landscaping Business, sales and storage, extension of CU 1242	Approved	5/22/2018	2578
2115	Nanticoke Indian Association, Inc.	AR-1	amend condition of approval	Approved	3/13/2018	2554
2068	Charles J. Short	AR-1	Auto Repair Shop	Approved	4/25/2017	2493
2049	Blue Claw, LLC	AR-1	Boat Storage Facility	Denied	9/20/2016	
2019	JB Builders, LLC	AR-1	Construction company office storage of materials retail sales and equipment storage and rental	Approved	8/4/2015	2409

Sussex County



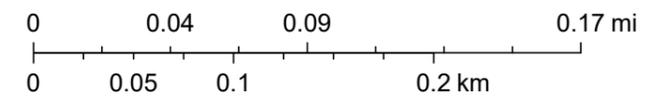
October 31, 2023

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- Green: Band_2
- Blue: Band_3
- polygonLayer
- Override 1
- Override 2
- Tax Parcels
- Streets
- County Boundaries

- FEMA Flood Maps
- AE
- VE
- 2007 Head of Tide Wetlands (not regulatory)
- World Imagery

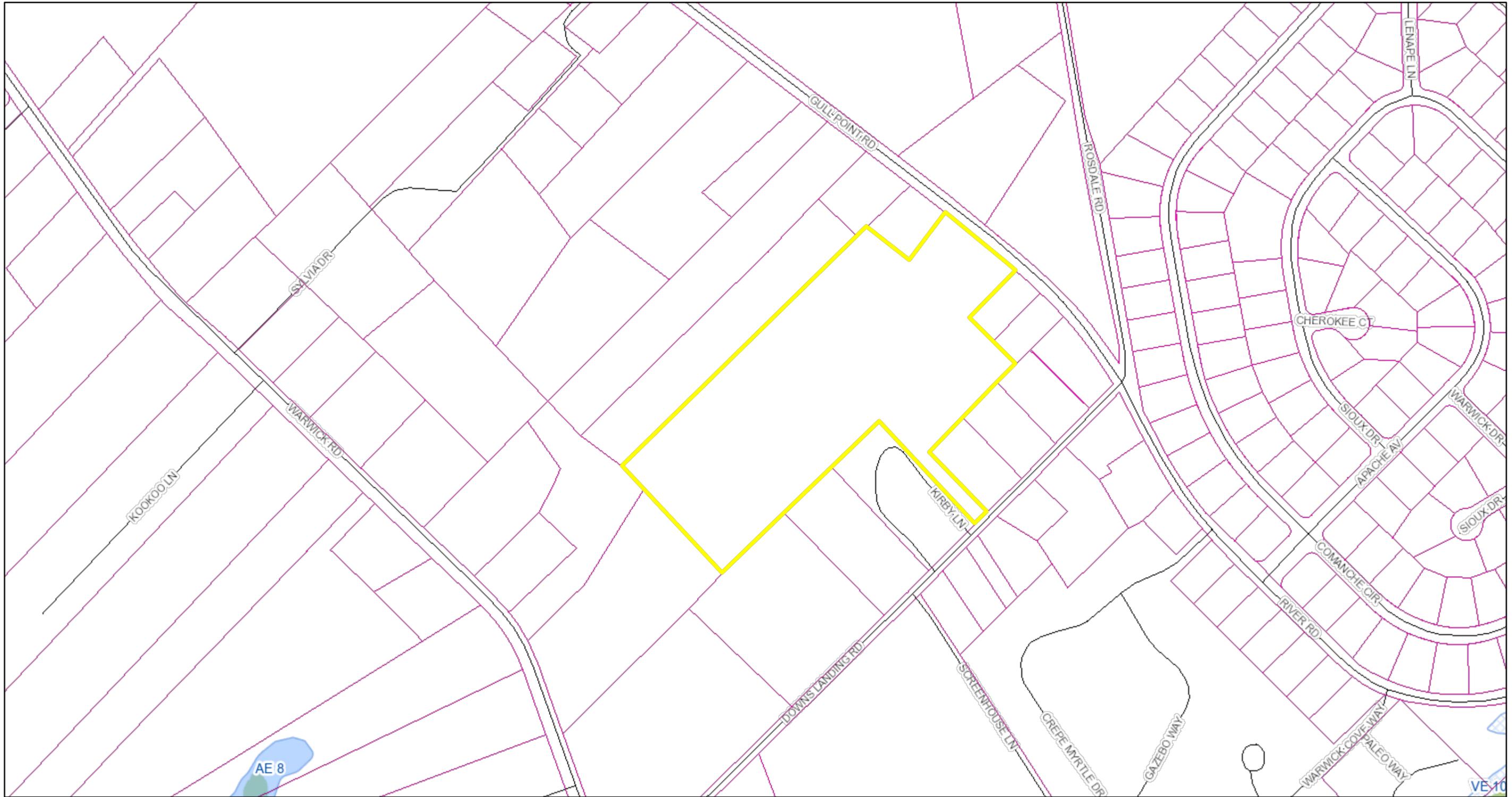
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- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations
- 1.2m Resolution Metadata

1:4,514



Wetland mapping is supported with funding provided by the Environmental Protection Agency, FEMA, DNREC, Division of Watershed Stewardship, Drainage Program, john.inkster@state.de.us, Sussex County, Sussex County Government, Delaware Department of Natural Resources and

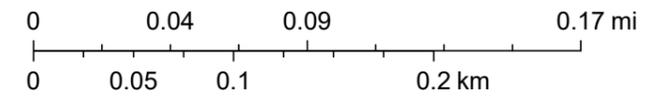
Sussex County



October 31, 2023

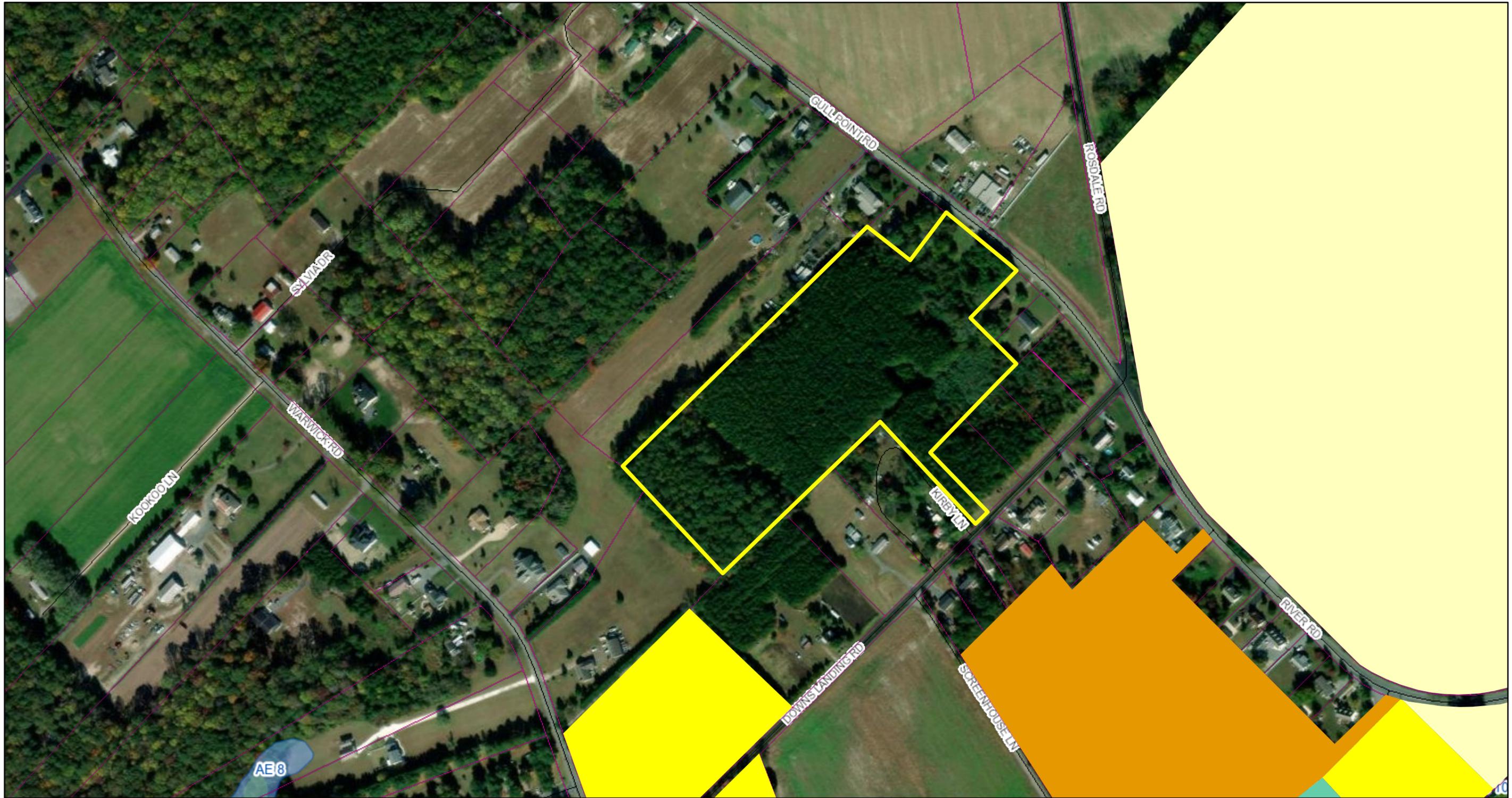
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|---|---|--|
| <p> County Boundaries
 Override 1
 Override 2
 Tax Parcels
 Streets </p> | <p> FEMA Flood Maps
 AE
 VE
 2007 Head of Tide Wetlands (not regulatory) </p> | <p> layer44
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 Blue: Band_3 </p> |
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Wetland mapping is supported with funding provided by the Environmental Protection Agency, FEMA, DNREC, Division of Watershed Stewardship, Drainage Program, john.inkster@state.de.us, Sussex County, Sussex County Government, Delaware Department of Natural Resources and

Sussex County



October 31, 2023

layer46

- Red: Band_1
- Green: Band_2
- Blue: Band_3

polygonLayer

- Override 1
- Override 2

Zoning

- Agricultural Residential - AR-2
- Medium Residential - MR
- High Density Residential - HR-2
- Marine - M
- Tax Parcels

Streets

County Boundaries

FEMA Flood Maps

- AE
- VE
- 2007 Head of Tide Wetlands (not regulatory)

World Imagery

Low Resolution 15m Imagery

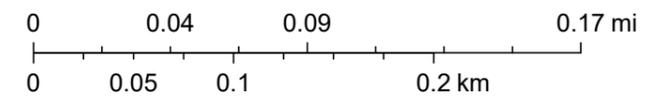
High Resolution 60cm Imagery

High Resolution 30cm Imagery

Citations

1.2m Resolution Metadata

1:4,514



Wetland mapping is supported with funding provided by the Environmental Protection Agency., FEMA, DNREC, Division of Watershed Stewardship, Drainage Program, john.inkster@state.de.us, Sussex County, Sussex County Government, Delaware Department of Natural Resources and

Reintroduced: 03/21/23

Council District 4: Mr. Hudson
Tax I.D. No.: 234-34.00-4.01
911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL STORAGE FACILITY WITH RV AND BOAT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 14.34 ACRES, MORE OR LESS

WHEREAS, on the 25th day of August 2022, a conditional use application, denominated Conditional Use No. 2394 was filed on behalf of Wayne Development, LLC; and

WHEREAS, on the ____ day of _____ 2023, 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. 2394 be _____; and

WHEREAS, on the ____ day of _____ 2023, 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. 2394 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 southwest side of Gull Point Road (S.C.R. 313) approximately 591 ft. northeast of Downs Landing Road and being more particularly described in the attached legal description prepared by Parsons & Robinson, P.A., said parcel containing 14.34 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: January 19, 2024

RE: County Council Report for C/U 2477 filed on behalf of the State of Delaware

The Planning and Zoning Department received an application (C/U 2477 filed on behalf of the State of Delaware) for a police station to be located at Tax Parcel 133-7.00-8.00. The property is located on the east side of Patriots Way (SCR 318), approximately 0.3 mile north of Avenue of Honor (SCR 86). The parcel size is 44 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on November 30, 2023. At the meeting of November 30, 2023, the Planning & Zoning Commission recommended approval of the application for the 8 reasons as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting of November 30, 2023.

Minutes of the November 30, 2023, Planning & Zoning Commission Meeting

C/U 2477 State of Delaware

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A POLICE STATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 44 ACRES, MORE OR LESS. The property is lying on the east side of Patriots Way (S.C.R. 318), approximately 0.3 mile north of Avenue of Honor (S.C.R. 86). 911 Address: N/A. Tax Map Parcel: 133-7.00-8.00 (p/o).

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Preliminary Site Plan, the Applicant's Exhibit Booklet, the DelDOT Service Level Evaluation Response, a letter received from the Sussex County Engineering Department Utility Planning Division, and the PLUS comments for the Application. Mr. Whitehouse stated zero comments had



been received for the Application.

The Commission found that Mr. Jonathan Richard, with Becker Morgan Group, Inc. spoke on behalf of the Applicant, The State of Delaware Office of Management and Budget, and the Delaware State Police; that also present was Mr. Brian Fitzpatrick with the Delaware State Police. Mr. Richard stated the site is located on the Stockley campus, located along Avenue of Honor and Patriots Way; that Sussex Central High School and the Howard T. Ennis School are located to the north of the site; that the Stockley campus is located just north of the Conditional Use area; that the Delaware Veterans Cemetery is located just south of the site; that the existing Delaware State Police Troop 4 is located on Rt. 113, on the south end of Georgetown; that currently, they are located in the old Nanticoke building, and are looking for additional room for expansion; that the site chosen is the subject site, which is owned by the State of Delaware; there are other facilities in the surrounding area that are also owned by the State of Delaware; that the leased site area is comprised of 44 acres of the total 830 acreage own by the State of Delaware; that the site is zoned AR-1 (Agricultural Residential); that currently the site is unimproved land, used for agricultural purposes; that they are proposing the site to be used for the State Police barracks; that they actual barracks will be comprised of 46,000 sq. ft., which will house an auditorium for public speaking and training sessions; that in addition to this house , as the State Police call, the SBI (State Bureau of Investigation); that this will be an area where fingerprinting is performed; that to the left of the main building will be a maintenance building for the servicing of vehicles; that this will avoid the State Police needing to take their vehicles to local shops; that there are two additional dwellings, represented in yellow, which are the canine buildings; that these buildings are located near the rear of the site, being adjacent to the pond; that they also propose to have a pavilion and/or outdoor classroom area, which they have identified as the skid pad area; that this area is intended to be a driver training type area for the State Police; that this area will help facilitate cone-avoidance training; that there will also be a gravel impound area located to the rear of the site; that this area will be fenced in and screened from the back of the pond; that public parking will be located toward the front of the site; that to the rear of the site there will be a fenced in, secured area for the State Police; that this area will have an opaque barrier, which is secured with gates, providing limited access; that stormwater management will be provided; that currently they anticipate the management system to be infiltration, and will not have any water located at the bottom of it, unless it is raining; that all stormwater management will comply with the Sussex Conservation District standards; that there will be attractive landscaping provided along the parcel, with certain screening and buffering for the impound yard; that along the rear of the site, is the location of Waples Way, which is a private roadway that the State of Delaware maintains by through the Stockley campus; that Patriots Way is located along the rear, which is a DelDOT public access way; that they are proposing two entrances; that the entrance located to the left will be used as the primary entrance, to be used by the public and the State Police; that the entrance located to the right will be limited access and gated entrance, which is to be controlled from the inside building and monitored by the State Police; that the Conditional Use will be a very public use; that the Delaware State Police Troop 4 is a new police barrack, that will promote the health, safety and welfare of Sussex County, as well as its residents and visitors; that the site is an appropriate for the proposed use, given the other State facilities located in the adjacent area; that the centralized location provides many access ways in Sussex County; that this allows for the relocation of the troop's existing Troop 4 to a larger tract of land that is less than five miles from their currently facility location; that this will allow for the construction of a larger, more modern building and facilities for the troop, as well as provide potential future expansion on the site as well; that the proposed facility is a public safety use under the Sussex County Zoning Code, and meets the purpose of a public or semi-public character that is essential and desirable for the general convenience of and welfare of Sussex County; that the proposed use will not have any adverse impact

on neighboring and adjacent properties, and they will provide attractive landscaping, fencing and restrictive areas for the police barracks.

Mr. Butler questioned if Troop 2 would have access to land on the site.

Mr. Fitzpatrick stated the large area referred to as the “Skid Pad” would allow for Troop 2 to land there; that the pad is large enough that all four birds would be able to land side by side; that the overhang provides them with a classroom setting for students that are waiting to go out onto the skid pad.

Mr. Robertson suggested the State may want to consider rezoning the area in the future.

The Commission found that there was no one present who wished to speak in favor of or in opposition to C/U 2477.

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

At the conclusion of the public hearing, the Commission discussed the Application.

Mr. Collins moved that the Commission recommend approval of C/U 2477 State of Delaware for a State police barrack based upon the record made during the public hearing and for the following reasons:

1. The State is looking to utilize this location to replace the existing Troop 7 barrack that is outdated and undersized. This is an appropriate nearby location to utilize for a new Troop 7.
2. The location is among existing institutional, and government uses, including public schools, a state hospital, and a veteran’s cemetery. There is also land that is zoned I-1 Institutional nearby. This is an appropriate location for a State Police Barracks with its ancillary uses.
3. This location will include a centralized location for the State Bureau of Investigation and the activities that occur as part of that Bureau. It is also large enough to accommodate space for State Police K9s, maintenance facilities, and vehicle training areas. It is also large enough to accommodate the State Police aviation units as needed.
4. This location as a State Police Barracks with these ancillary uses is centrally and conveniently located within Sussex County.
5. This Conditional Use promotes and serves the health, safety, and welfare of Sussex County residents, visitors, and businesses.
6. This Conditional Use will not have any adverse impact on neighboring properties, the community, or area roadways.
7. No parties appeared in opposition to this application.
8. There are no conditions associated with this recommendation, other than the standard condition that the Final Site Plan shall be subject to the review and approval of the Planning & Zoning Commission.

Motion by Mr. Collins, seconded by Mr. Butler and carried unanimously to recommend approval of C/U 2477 State of Delaware for the reasons and the conditions stated in the motion. Motion carried 4 - 0.

Vote by roll call: Mr. Mears – yea, Mr. Collins – yea, Mr. Butler – yea, Chairman Wheatley – yea

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
BRIAN BUTLER
GREGORY SCOTT COLLINS
J. BRUCE MEARS
HOLLY WINGATE



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JAMIE WHITEHOUSE
DIRECTOR

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: November 30th, 2023

Application: CU 2477 State of Delaware – Delaware State Police Troop 4

Applicant: State of Delaware – Office Management & Budget
c/o Alisha McCollough
540 South Dupont Highway, Suite 1
Dover, DE 19901

Owner: State of Delaware – Office Management & Budget
c/o Alisha McCollough
540 South Dupont Highway, Suite 1
Dover, DE 19901

Site Location: Lying on the east side of Patriots Way (S.C.R. 318) at the intersection of Avenue of Honor (S.C.R. 86) and Patriots Way (S.C.R. 318)

Current Zoning: Agricultural Residential (AR-1) District

Proposed Zoning: Agricultural Residential (AR-1) District

Proposed Use: Police Station

Future Land Use
Map Designation: Low Density Area

Councilmanic
District: Mr. Rieley

School District: Indian River School District

Fire District: Millsboro Fire Department

Sewer: Town of Millsboro

Water: Artesian Water Company

Site Area: 106.56 acres +/-

Tax Map IDs: 133-7.00-8.00



JAMIE WHITEHOUSE, AICP MRTPI
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Sussex County

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Memorandum

To: Sussex County Planning Commission Members
From: Mr. Michael Lowrey, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: November 21st, 2023
RE: Staff Analysis for C/U 2477 State of Delaware Office of Management & Budget

This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2477 State of Delaware Office of Management & Budget (DE State Police Troop 4) to be reviewed during the November 30th, 2023 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.

Please note that the following staff analysis is for informational purposes only and does not prejudice any decision that the Sussex County Planning & Zoning Commission or Sussex County Council may wish to make as part of any Application submitted to the Department.

Tax Parcel ID: 133-7.00-8.00

Proposal: The request is for a Conditional Use for Tax Parcel 233-5.00-69.00 to allow for a Delaware State Police Station (2 structures comprised of a total of 65,000 square feet) and ancillary improvements on a parcel lying on the east side of Patriots Way (S.C.R. 318) and the south side of Avenue of Honor (S.C.R. 86) approximately (0.5) miles east of Dupont Boulevard (Route 113). The parcel is comprised of 839.05 acres +/-.

Zoning: The properties are zoned Agricultural Residential (AR-1) District. The adjacent parcels surrounding the subject property are zoned Agricultural Residential (AR-1) District with the municipal boundary of the Town of Millsboro approximately (0.5) miles to the south.

Future Land Use Map Designation w/in Comprehensive Plan: Low Density Area

Applicability to Comprehensive Plan: The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property is designated as a Rural Area and has a land use designation of “Low Density Area.” The properties to the north and east of the subject Parcel are categorized as “Low Density Area”, the parcels to the east “Low Density Area”, “Commercial Area”, and “Developing Area”, and the parcels to the south are categorized “Low Density Area”. This mix of classifications reflects the site’s proximity to the Town of Millboro.

As outlined in the 2018 Sussex County Comprehensive Plan, “The primary uses envisioned in Low Density Areas are agricultural activities and homes” (2018 Sussex County Comprehensive Plan, 4-19). The Plan further stipulates that, “Business development should be largely confined to



businesses addressing the needs of these two uses” (2018 Sussex County Comprehensive Plan, 4-19). The adjacent Developing Areas are “newer, emerging growth areas that demonstrate the characteristics of developmental pressures”, noting that “portions of the Developing Areas with good road access and few nearby homes should allow for business and industrial parks” (Sussex County Comprehensive Plan, 4-14).

Further Site Considerations:

- **Density: N/A**
- **Open Space Provisions: N/A**
- **Agricultural Areas:** The site is within the vicinity of active agricultural lands.
- **Interconnectivity:** Interconnectivity with private streets within the parcel is shown on the Concept Plan. Active interconnectivity amongst adjoining parcel will not be sought after as the subject parcel does not adjoin any Commercial properties. The applicant’s PLUS Application indicated that “adjacent connection not desired for security reasons.”
- **Transportation Improvement District (TID):** The parcels are not within the Henlopen Transportation Improvement District.
- **Forested Areas:** The Applicant’s Conditional Use Site Plan does not propose significant removal of any of the existing forest on the parcel.
- **Wetlands Buffers/Waterways:** The Parcel’s northern boundary is abutting the Stockley Branch and the western boundary parallels the Cow Bridge Branch, with the southern boundary of the site adjacent to the northeastern branch of Millsboro Pond. The wetlands associated with these water resources are outside of the scope of the Plan as the proposed improvements are located on the western portion of the Parcel.
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is located within Flood Zones X with areas of “Fair” and “Good” Groundwater Recharge Potential on the site. The Parcel hosts three wellhead protection areas and a portion of a fourth. Any proposed improvements will be required to meet the requirements of (§89-6) *Wellhead Protection Areas*.

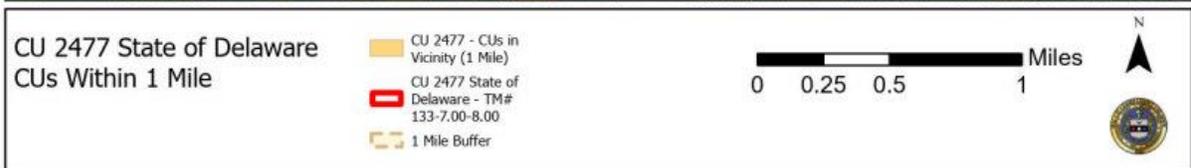
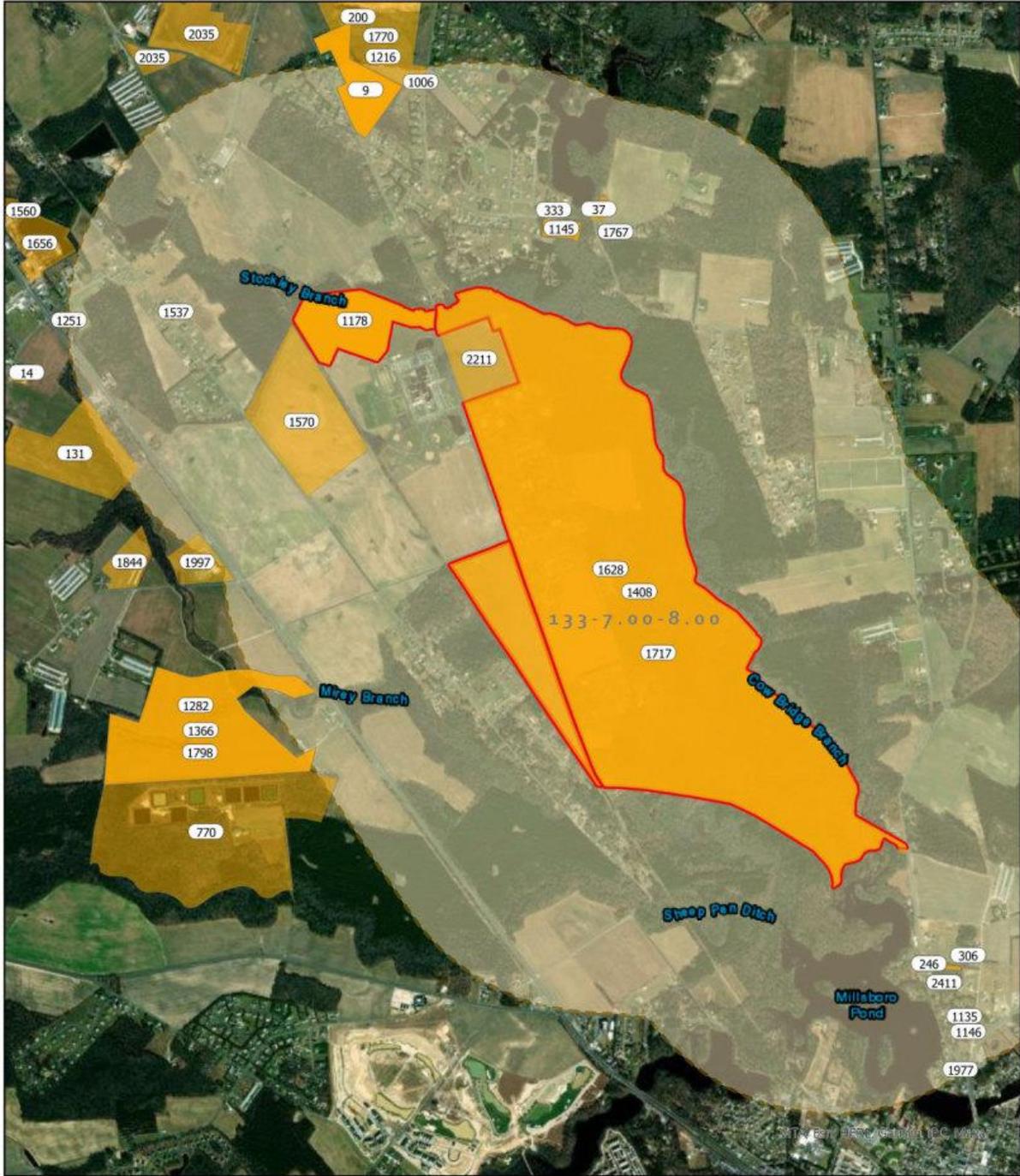
Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for a police station, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

Existing Conditional Uses within the Vicinity of the Subject Site:

Three Conditional Uses have been approved on the Parcel as follows:

- 1) State Government Building (C/U 1628 (2005))
- 2) Public School (C/U 1408 (2001))
- 3) State Health Care Facility (C/U 1717 (2006))

A Data Table and Supplemental Map have been supplied which provide further background regarding the approval status of Applications in the area, including the location of all other Conditional Use Applications that are less than 1 mile distance from the subject site.

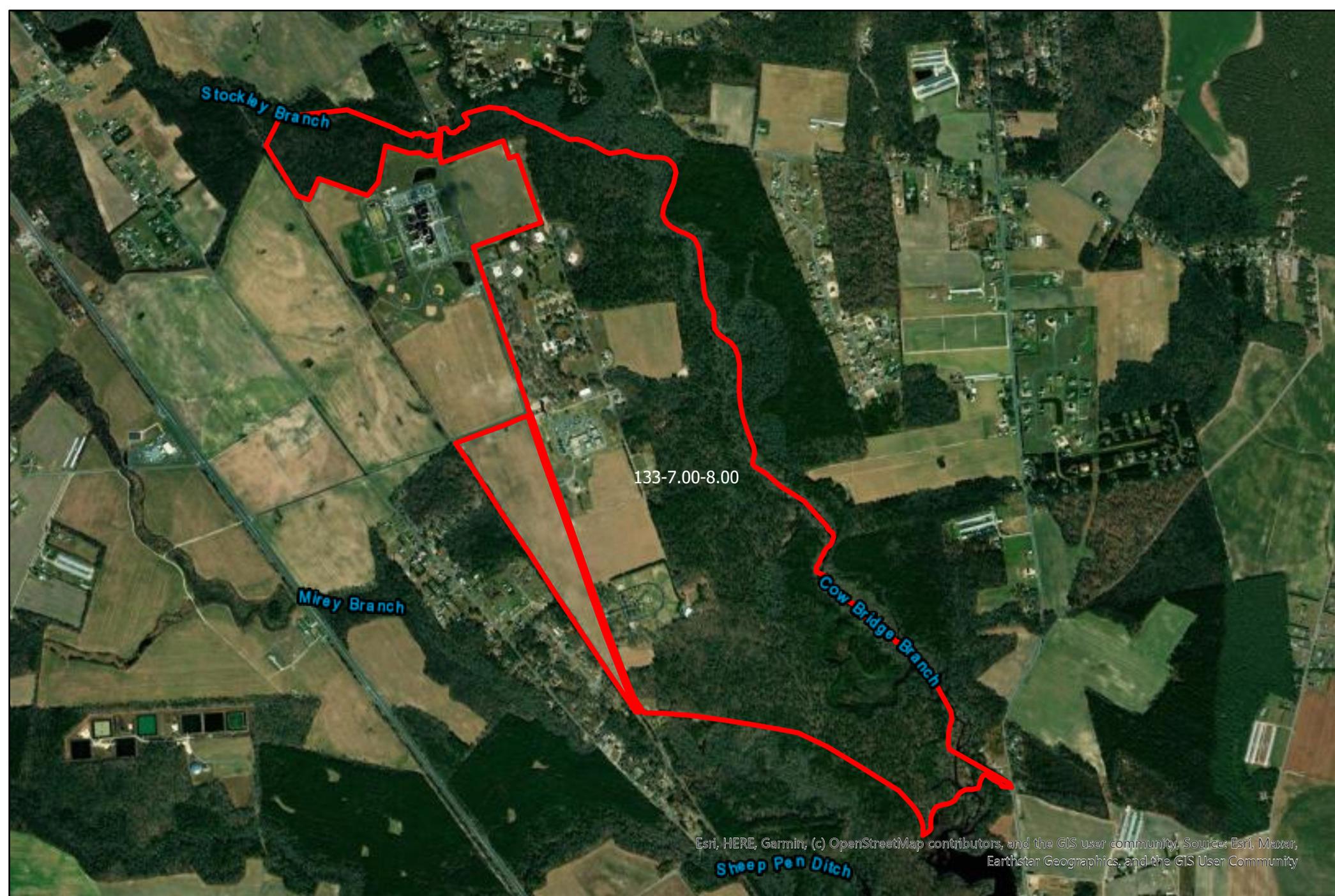


Conditional Use Applications						
(Within a 1-mile radius of the subject site)						
Conditional Use #	Application Name	Zoning District	Proposed Use	CC Decision	CC Decision Date	Ordinance Number
9	R Dale Short	AR-1	Manufactured Home Park/Fish Hook	Approved	4/27/1971	N/A
13	Dallas Wilkerson	AR-1	Beauty Salon	Approved	7/13/1971	N/A
14	William Adams	AR-1	Poultry House on Less Than 5 Acres	Approved	7/13/1971	N/A
37	Merrill G Calloway	AR-1	Manufactured Home Park	Approved	1/4/1972	N/A
131	Shoremont Inc	AR-1	Manufactured Home Park	Denied	6/26/1973	N/A
200	R Dale Short	AR-1	Extend Manufactured Home Park	Approved	4/9/1974	N/A
246	Agnes M Goff	AR-1	Flower Shop	Approved	12/3/1974	N/A
306	Agnes M Goff	AR-1	Addition To Manufactured Home for Home Florist Shop	Approved	12/9/1975	N/A
333	Preston L. McIlvaine Inc.	AR-1	Office Warehouse & Retail Sales	Approved	4/13/1976	N/A
770	Estate of G.T. White	AR-1	Borrow Pit	Approved	1/10/1984	N/A
1006	Briggs Enterprises, Inc.	AR-1	14 Lot Expansion of Existing MHP	Approved	8/17/1992	852

1135	Sandra Gordon	AR-1	Mini Storage	Withdrawn	10/31/2005	N/A
1145	Preson Louis McIlvaine	AR-1	Professional Services & Repairs	Approved	2/13/1996	1078
1146	Sandra Gordon	AR-1	Mini-Storage	Withdrawn	2/27/1996	N/A
1178	Delaware Commission of Veterans Affairs	AR-1	Cemetery	Approved	5/13/1997	1134
1216	Briggs Family Enterprises	AR-1	25 Lot Expansion To MHP	Approved	12/30/1997	1200
1251	Dale J. & Mary Gray T/A Gray's Paving, Inc.	AR-1	Paving Business w/ Equipment Storage	Approved	7/14/1998	1249
1282	Woodlawn Memorial Park	AR-1	Cemetery	Approved	6/8/1999	1313
1366	Melvin L. Joseph Construction Co.	AR-1	Borrow Pit	Approved	7/24/2001	1480
1408	Indian River School District (Stockley Site)	AR-1	Public School	Approved	7/24/2001	1481
1537	Jeff Springfield Computer Service	AR-1	Computer Repair & Training Facility	Approved	8/10/2004	1712
1560	NMB, LLC	AR-1	Fuel Storage & Loading	Approved	3/30/2004	1674
1570	Mountaire (Colony Tract)	AR-1	Biosolids From Wastewater Treatment	Withdrawn	N/A	N/A

1626	Julie Bernick & Deborah Safee	AR-1	Dog Grooming	Approved	11/15/2005	1807
1628	State of Delaware	AR-1	Government Building	Approved	6/14/2005	1782
1656	M. L. Joseph Construction	AR-1	Grinding Vegetated Material	Approved	6/13/2006	1851
1717	State of Delaware Division of Facilities	AR-1	State Health Care Facility	Approved	12/5/2006	1880
1767	Advanced Fiberglass Tech.	AR-1	Boat Repair	Approved	2/10/2009	2030
1770	Stockley Materials, LLC	AR-1	Borrow Pit Expansion	Approved	4/21/2009	2045
1798	First State Crematory Center, Inc.	AR-1	Crematory	Approved	8/12/2008	1993
1844	Brad & Caroline Hawkes	AR-1	Storage Facility	Approved	8/10/2010	2141
1977	Matthew T. Favinger	AR-1	Doctors Office	Approved	1/7/2014	2333
1997	Skip Jack, Inc.	AR-1	Commercial Propane/Storage & CNG/Propane Dispensing Office/Warehouse	Approved	10/14/2014	2370
2035	Synagro Central, LLC	AR-1	Land Application Bio-Solids As	Approved	12/15/2015	2433

			Agricultural Fertilizer			
2035	Synagro Central, LLC	AR-1	Land Application Bio-Solids As Agricultural Fertilizer	Approved	12/15/2015	2433
2211	Indian River School District	AR-1	Special Needs School	Approved	3/17/2020	2711
2303	Antonia Lopez	AR-1	Food Vendor	Denied	8/23/2022	N/A
2411	Joshua Zuppo	AR-1	Tree Business	N/A	N/A	N/A

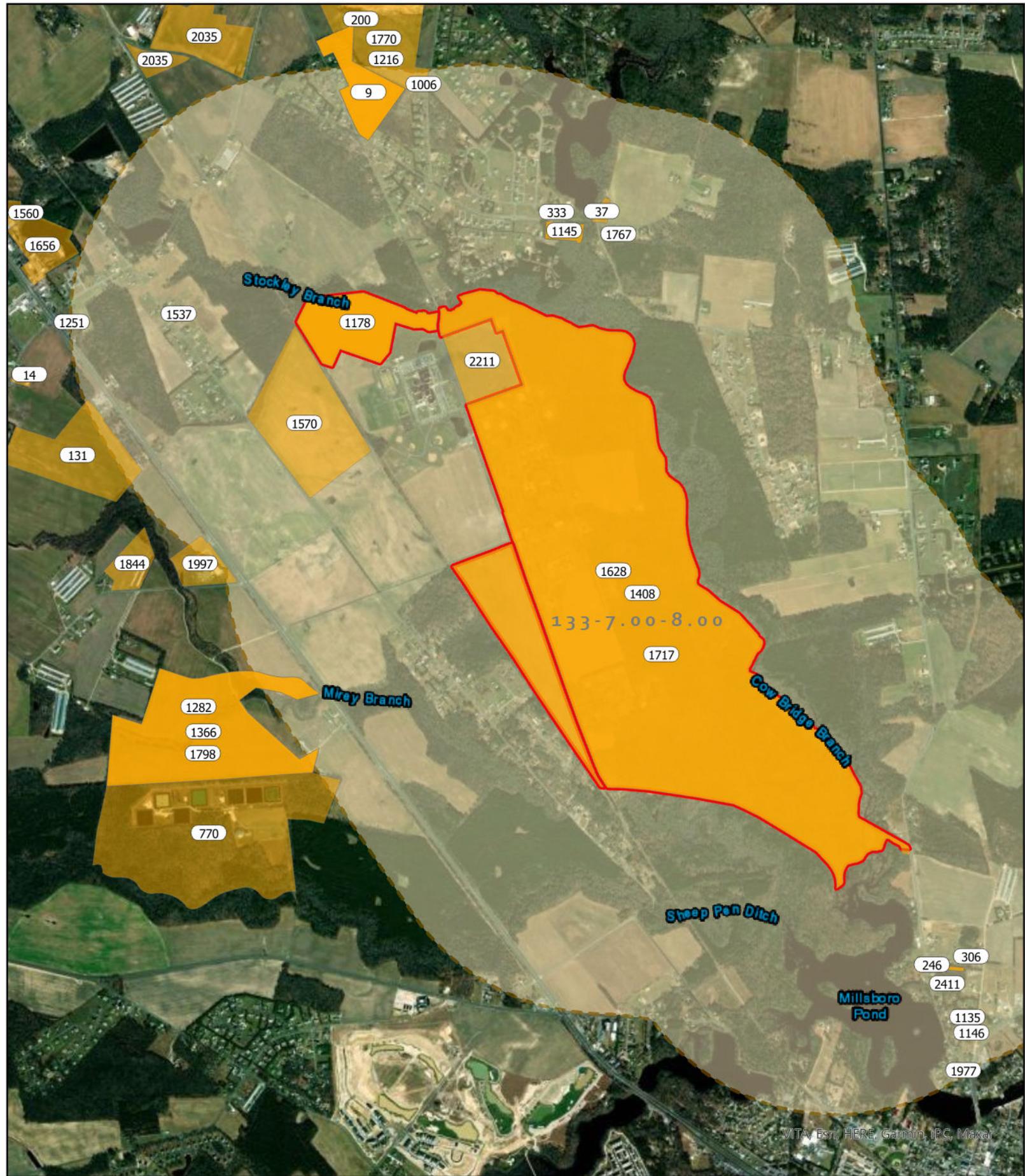


Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community. Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

CU 2477 State of DE - DSP Troop 4
Aerial Map

 CU 2477 TM# 133-7.00-8.00

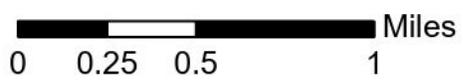


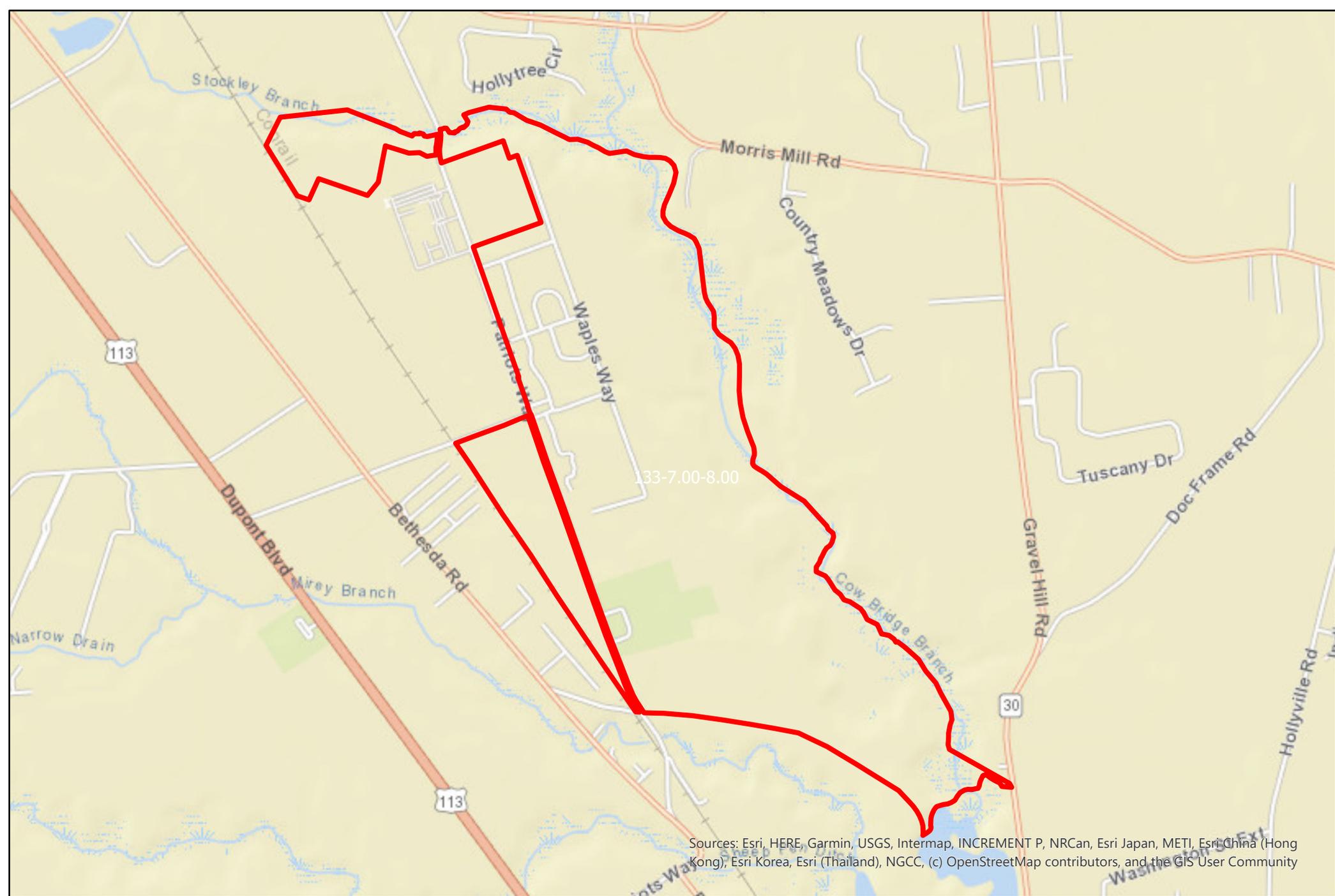


WTA, Esri, HERE, Garmin, IBC, Maxar

**CU 2477 State of Delaware
CUs Within 1 Mile**

- CU 2477 - CUs in Vicinity (1 Mile)
- CU 2477 State of Delaware - TM# 133-7.00-8.00
- 1 Mile Buffer





CU 2477 State of DE - DSP Troop 4
Street Map

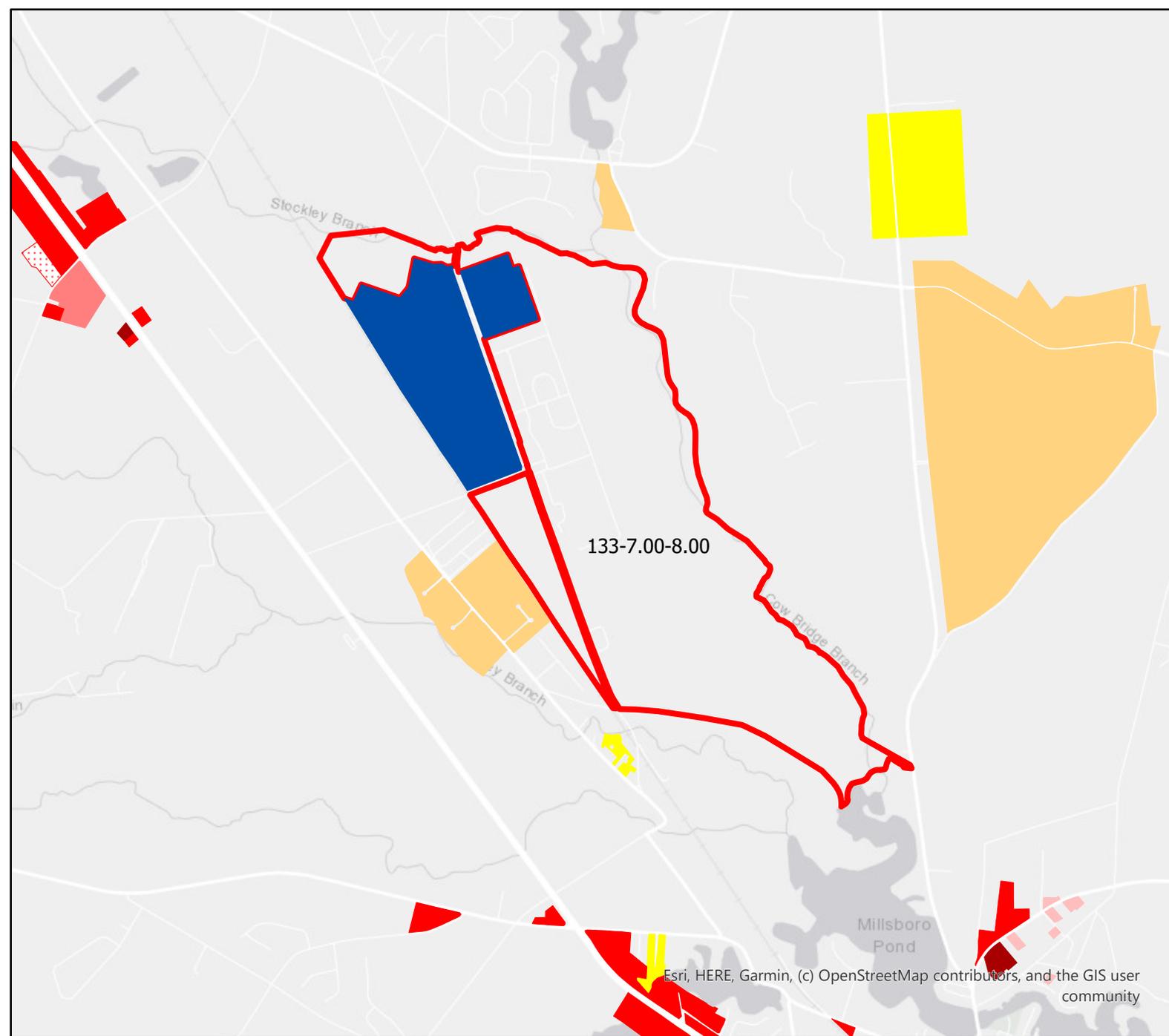
 CU 2477 TM# 133-7.00-8.00



Zoning

Zoning

- Agricultural Residential - AR-1
- Agricultural Residential - AR-2
- Medium Residential - MR
- General Residential - GR
- High Density Residential - HR-1
- High Density Residential - HR-2
- Vacation, Retire, Resident - VRP
- Neighborhood Business - B-1
- Neighborhood Business - B-2
- Business Research - B-3
- General Commercial - C-1
- General Commercial - C-2
- General Commercial - C-3
- General Commercial - C-4
- General Commercial - C-5
- Commercial Residential - CR-1
- Institutional - I-1
- Marine - M
- Limited Industrial - LI-1
- Light Industrial - LI-2
- Heavy Industrial - HI-1



CU 2477 State of DE - DSP Troop 4
Zoning Map

CU 2477 TM# 133-7.00-8.00



Introduced: 11/7/23

Council District 5: Mr. Rieley
Tax I.D. No.: 133-7.00-8.00 (p/o)
911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A POLICE STATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 44 ACRES, MORE OR LESS

WHEREAS, on the 27th day of June 2023, a Conditional Use application, denominated Conditional Use No. 2477 was filed on behalf of the State of Delaware; and

WHEREAS, on the ____ day of _____ 2023, 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. 2477 be _____; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2477 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situate in Dagsboro Hundred, Sussex County, Delaware, and lying on the east side of Patriots Way (S.C.R. 318), approximately 0.3 mile north of Avenue of Honor (S.C.R. 86), and being more particularly described in the attached legal description prepared by Delaware Department of Transportation, said parcel containing 44 acres, more or less.

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

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
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pandz@sussexcountyde.gov



Sussex County

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Memorandum

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

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

CC: Everett Moore, County Attorney

Date: January 19, 2024

RE: County Council Report for C/U 2491 filed on behalf of St. Michael the Archangel Church

The Planning and Zoning Department received an application (C/U 2491 filed on behalf of St. Michael the Archangel Church) for an on-premises electronic message center sign to be located at Tax Parcel 234-29.00-263.06. The property is located at 30839 Mount Joy Road, Millsboro. The parcel size is 10.94 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on November 30, 2023. At the meeting of November 30, 2023, the Planning & Zoning Commission recommended approval of the application for the 7 reasons as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting of November 30, 2023.

Minutes of the November 30, 2023, Planning & Zoning Commission Meeting

C/U 2491 St. Michael the Archangel Church

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR AN ON-PREMISES ELECTRONIC MESSAGE CENTER SIGN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 10.94 ACRES, MORE OR LESS. The property is lying on the north side of Mount Joy Road (S.C.R. 297) and the west side of John J. Williams Highway (Rt. 24), at the intersection of Mount Joy Road (S.C.R. 297) and John J. Williams Highway (Rt. 24). 911 Address: 30839 Mount Joy Road, Millsboro. Tax Map Parcel: 234-29.00-263.06.

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicant's site plan and exhibit (which is on the screen), a copy of the Staff Analysis, the DelDOT Service Level



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

Evaluation Response, and a letter from the Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse stated that there were zero comments.

The Commission found that Ms. Patricia Clark, Business & Finance Manager for St. Michael the Archangel Church was present on behalf of the Application. Ms. Clark stated that the request is for an electronic message center on Agricultural Residential church property located at the intersection of Mount Joy Road and John J. Williams Highway; that as a faith community, there are several events held at the Church such as daily and weekly worship, weddings, funerals, fundraisers, and special events; that this sign will allow the Church to remotely notify the congregation of upcoming events; that this electronic message center will replace the sign that was originally on the property; that the sign was removed when DelDOT made some safety improvements at the intersection; that the light has a light sensor meter which will allow Church members to regulate the light; that the sign will comply with Sussex County Ordinance; that the sign company is Stewart Company in Florida; that the features on the sign are adjustable by the users and will remain in compliance with the ordinance.

There were no questions from Commission members.

The Commission found that there was no one present who wished to speak in favor of or in opposition to C/U 2491.

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

At the conclusion of the public hearing, the Commission discussed the Application.

Mr. Mears moved that the Commission recommend approval of C/U 2491 St. Michael the Archangel Church for an on-premises Electronic Message Center based upon the record made during the public hearing and for the following reasons:

1. This is an application for a Conditional Use to install an on-premises Electronic Message Display sign. This type of application is permitted under Section 115-161.1A (3) of the Zoning Code.
2. The Electronic Message Center, or EMC will be located on the Church property and will be utilized for advertising church activities and events.
3. The sign will replace a prior static display sign that was on the Church property but was removed as part of DelDOT's work at the intersection of Route 24 and Mount Joy Road.
4. The sign will be required to comply with the requirements of the Zoning Code including brightness and motion.
5. The proposed sign will not have any adverse impact on neighboring properties, area traffic, or roadways.
6. No parties appeared in opposition to this Application.
7. A Final Site Plan showing the location of the sign on the site shall be submitted to the Sussex County Planning and Zoning Commission for approval.

Motion by Mr. Mears, seconded by Mr. Collins and carried unanimously to recommend approval of C/U 2491 St. Michael the Archangel Church for the reasons and the conditions stated in the motion. Motion carried 4 - 0.

Vote by roll call: Mr. Mears – yea, Mr. Collins – yea, Mr. Butler – yea, Chairman Wheatley – yea

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
BRIAN BUTLER
GREGORY SCOTT COLLINS
J. BRUCE MEARS
HOLLY WINGATE



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JAMIE WHITEHOUSE
DIRECTOR

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: November 30th, 2023

Application: C/U 2491 St. Michael the Archangel Church

Applicant: St. Michael the Archangel/Mary Mother of Peace RC Church
202 Edward Street
Georgetown, DE 19966

Owner: St. Michael the Archangel/Mary Mother of Peace RC Church
202 Edward Street
Georgetown, DE 19966

Site Location: The property is lying on the north side of Mount Joy Road (S.C.R. 297) and the west side of John J. Williams Highway (Rt. 24) at the intersection of Mount Joy Road (S.C.R. 297) and John J. Williams Highway (Rt. 24).

Current Zoning: Agricultural Residential (AR-1) District

Proposed Use: An on-premises Electronic Message Center sign.

Future Land Use
Map Designation: Commercial Area

Councilmanic
District: Mr. Rieley

School District: Indian River School District

Fire District: Indian River Fire District

Sewer: N/A

Water: N/A

Site Area: 10.94 acres +/-

Tax Map IDs: 234-29.00-263.06



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Sussex County

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Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Ms. Lauren DeVore, AICP Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: November 22nd, 2023
RE: Staff Analysis for C/U 2491 St. Michael the Archangel Church

The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application C/U 2491 St. Michael the Archangel Church to be reviewed during the November 30th, 2023, Planning and Zoning Commission Meeting. This analysis should be included in the record of this Application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 234-29.00-263.06 to allow for an Electronic Message Center Sign to be placed/constructed within an Agricultural Residential (AR-1) District as required under §115-161.1(A)(3) of the Sussex County Code. The property is lying on the north side of Mount Joy Road (S.C.R. 297) and the west side of John J. Williams Highway (Route 24) at the intersection of Mount Joy Road (S.C.R. 297) and John J. Williams Highway (Route 24). The property contains 10.94 acres more or less and is located at 30839 Mount Joy Road in Millsboro, Delaware.

Further Site Considerations

Staff note that the property is partially located within a Wellhead Protection Area, but that the only addition to the site will be the Electronic Message Center Sign which will is not anticipated to generate any further impervious surface area on the property.

There are some lotic wetlands on the property as confirmed by the County's Online Mapping System. However, these areas appear to be coincident with the existing drainage improvements to include a large stormwater management pond on the subject site. The property is located within Flood Zone "X" – Areas determined to be outside the 1% annual chance flood and outside the 500-year floodplain. The Delaware Department of Natural Resources and Environmental Control's (DNREC's) Flood Planning Tool indicates that the property is located within the Indian River Bay Watershed and the Indian River Bay-Indian River Inlet Subwatershed. The DNREC Flood Map also states that the property's Ground Elevation Height at the Parcel is approximately 15-21-ft.

Staff note that the County's Online Mapping System indicates that the property is not located within any established Transportation Improvement Districts (TIDs). The Service Level Evaluation Response Letter as issued by the Delaware Department of Transportation (DelDOT) states that the anticipated traffic impact for this proposal is considered diminutive in the context of the MOU of the County regarding land development coordination.



Comprehensive Plan Analysis

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

As outlined in the 2018 Sussex County Comprehensive Plan, “Commercial areas include concentrations of retail and service uses that are mainly located along arterials, and highways” (2018 Sussex County Comprehensive Plan, 4-17). Furthermore, the Plan also notes that “Institutional uses may be appropriate depending on surrounding uses” (2018 Sussex County Comprehensive Plan 4-17).

The subject property is bordered on the northwest side by lands that have a Future Land Use Map Designation of “Coastal Area.” The “Coastal Areas” are “areas that can accommodate development provided special environmental concerns are addressed” and which can consist of “single-family homes, townhouses, and multi-family units, retail or office uses” (2018 Sussex County Comprehensive Plan 4-15).

Zoning Information

The subject property is zoned Agricultural Residential (AR-1) District. All adjacent properties to the east are also zoned Agricultural Residential (AR-1) District. The property to the north of the site is zoned General Commercial (C-1) District.

The property is bordered on the southwest side by Mount Joy Road (S.C.R. 297) and on the southeast side by John J. Williams Highway (Route 24).

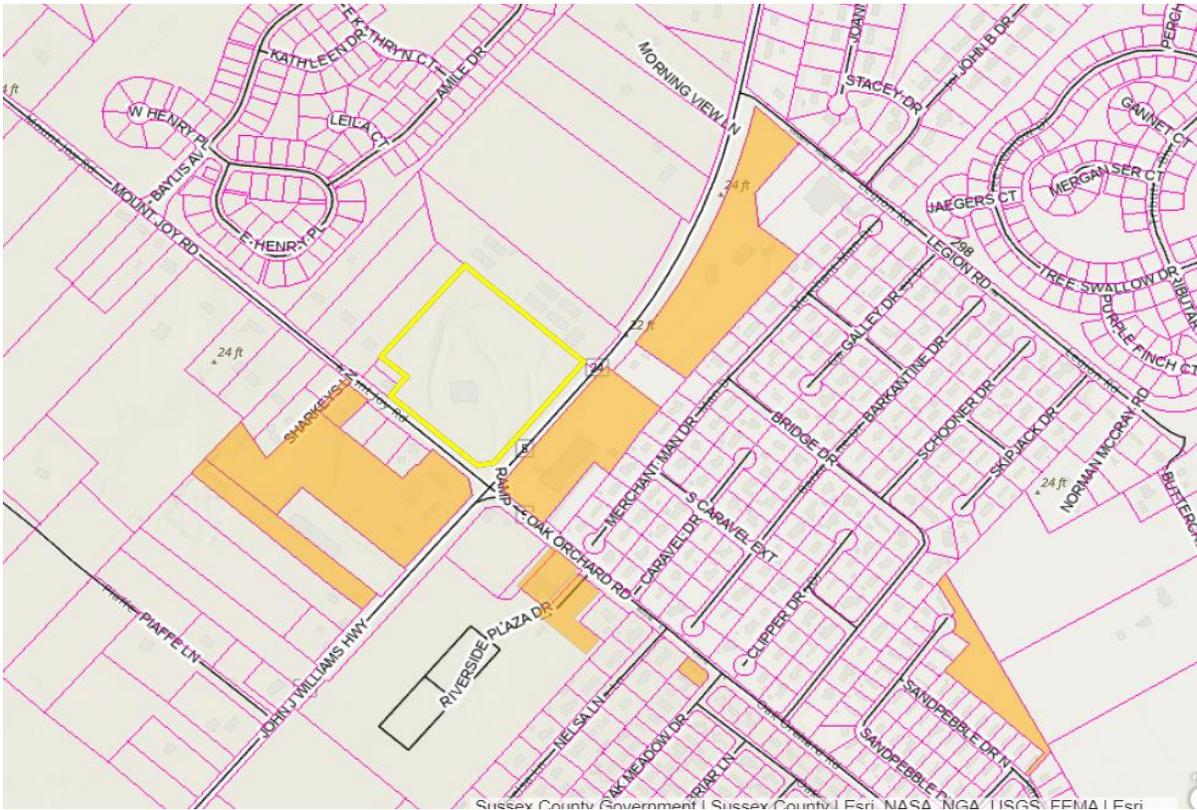
Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories” in the 2018 Sussex County Comprehensive Plan notes that the Agricultural Residential District is an applicable Zoning District within the “Commercial Area” Future Land Use Map Designation.

Existing Conditional Uses within the Vicinity of the Subject Property

Although there have been multiple Applications in this area, since 2013, there have been two (2) Conditional Use Applications within a 0.40-mile radius of the Application Site. Both of these Applications were recommended approval by the Planning and Zoning Commission as well as approved by the Sussex County Council.

A Supplemental Map has been provided on Page 3 showing the location of all Conditional Uses within the vicinity of the Application area.

Further information regarding these Applications may be found in the Supplemental Table also provided on Page 3.

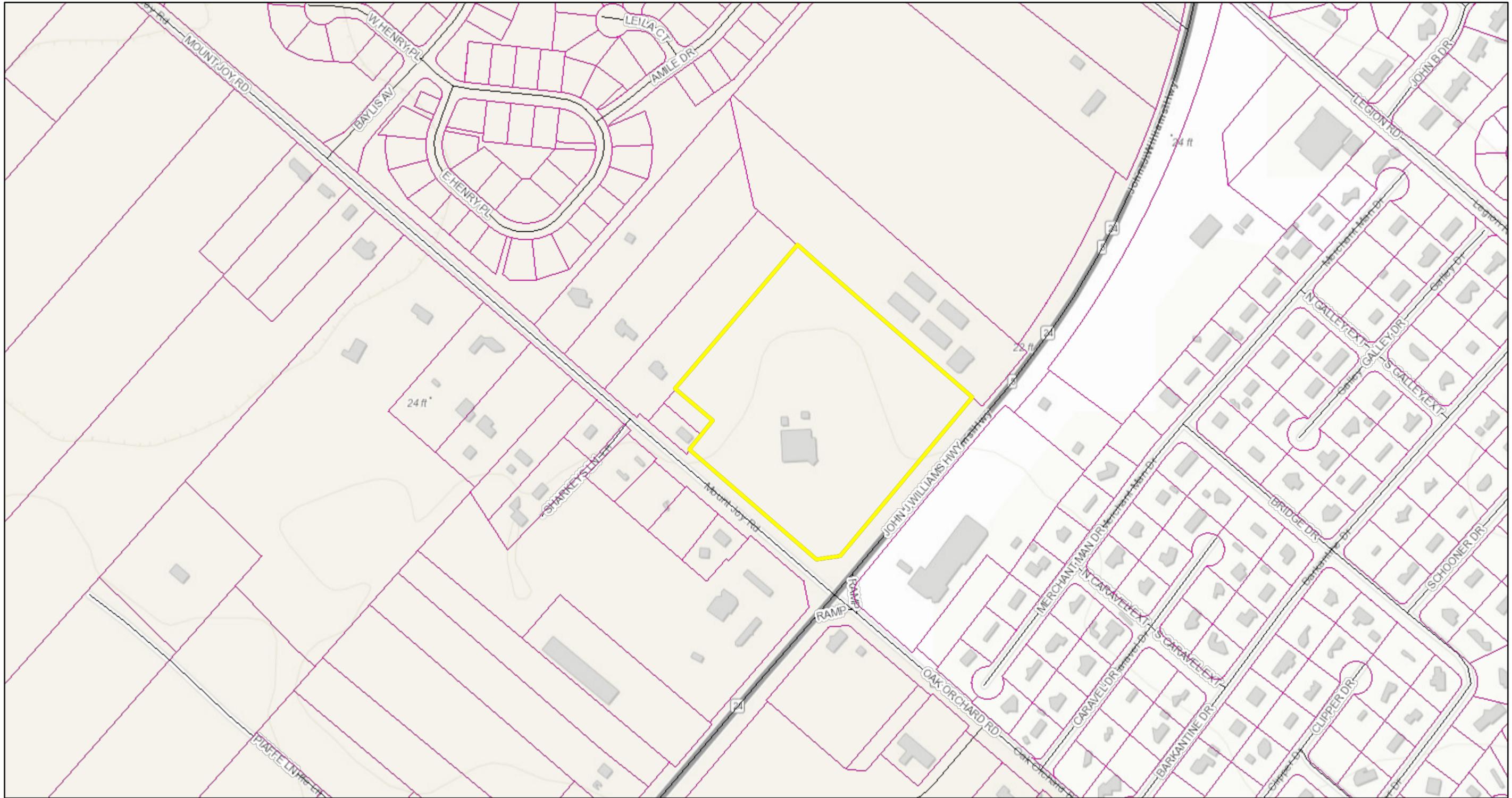


Conditional Use Applications Since 2013 (w/in a 0.40-mile radius of the subject site)*

Application Number	Applicant Name	Zoning	Proposed Use	P&Z Date	P&Z Recommendation	CC Date	CC Decision	Ordinance No.
C/U 2045	Robert & Deborah Reed (Remax)	B-1	142 Townhouses (Riverview Plaza)	3/109/2016	Recommended Approval	5/3/2016	Approved	2447
C/U 2148	Sussex Farms, LLC c/o Samuel Connors	AR-1	Ministorage with caretaker residence	10/26/2018	Recommended Approval	11/13/2018	Approved	2615

Based on the analysis provided, the Conditional Use to allow for an Electronic Message Center in this location could be considered as being consistent with the surrounding land use, zoning, and uses, subject to considerations of scale and impact.

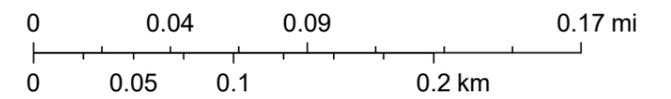
Sussex County



November 1, 2023

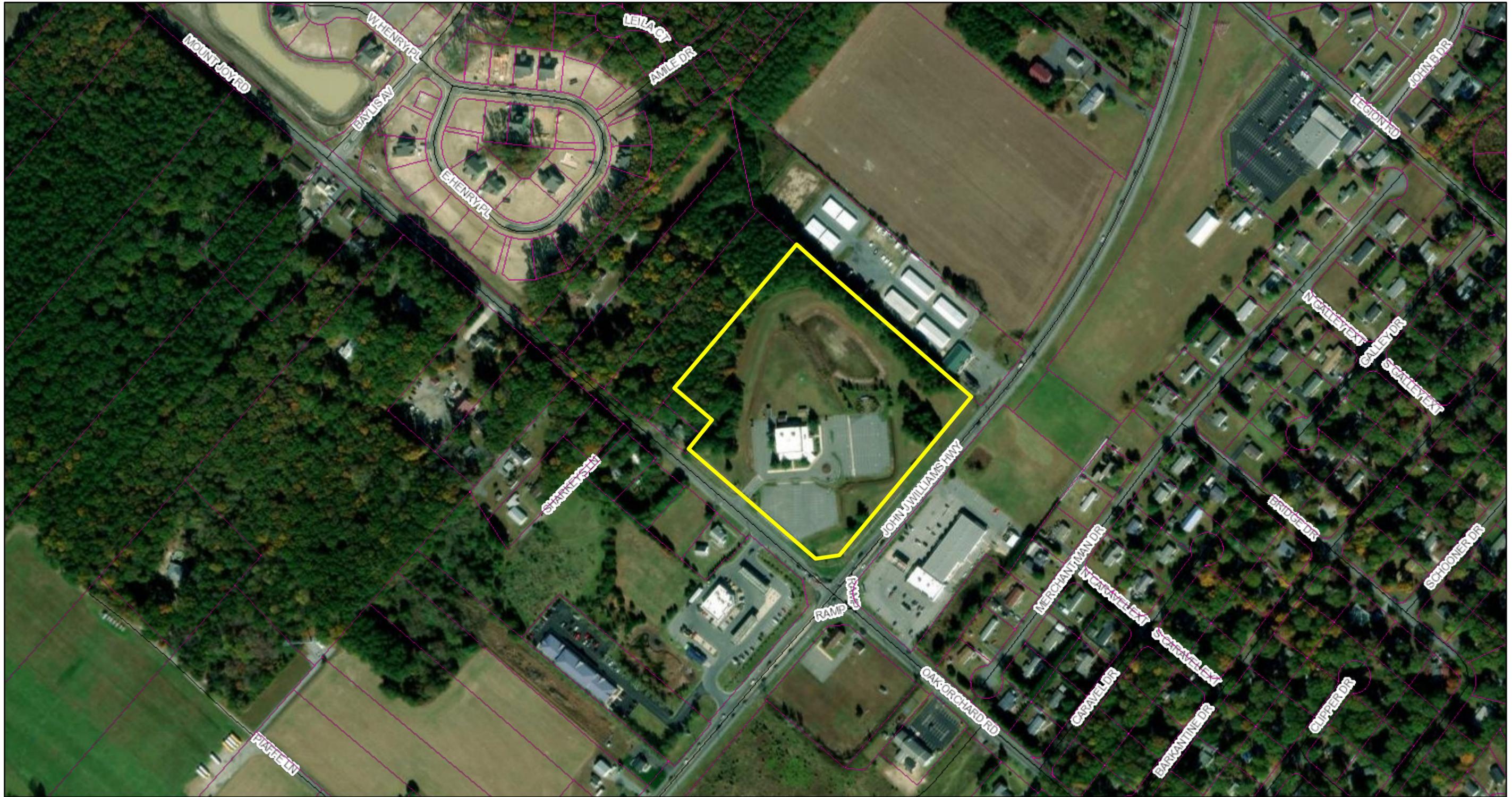
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| <p> Tax Parcels County Boundaries Green: Band_2 </p> <p> Override 1 Streets Blue: Band_3 </p> <p> Override 2 Red: Band_1 </p> | <p> layer1 </p> |
|--|--|

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County of Sussex, DE, Delaware FirstMap, VITA, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA, Sussex County Government

Sussex County



November 1, 2023

polygonLayer

 Override 1

 Override 2

 Tax Parcels

 Streets

 County Boundaries

World Imagery

Low Resolution 15m Imagery

High Resolution 60cm Imagery

High Resolution 30cm Imagery

Citations

1.2m Resolution Metadata

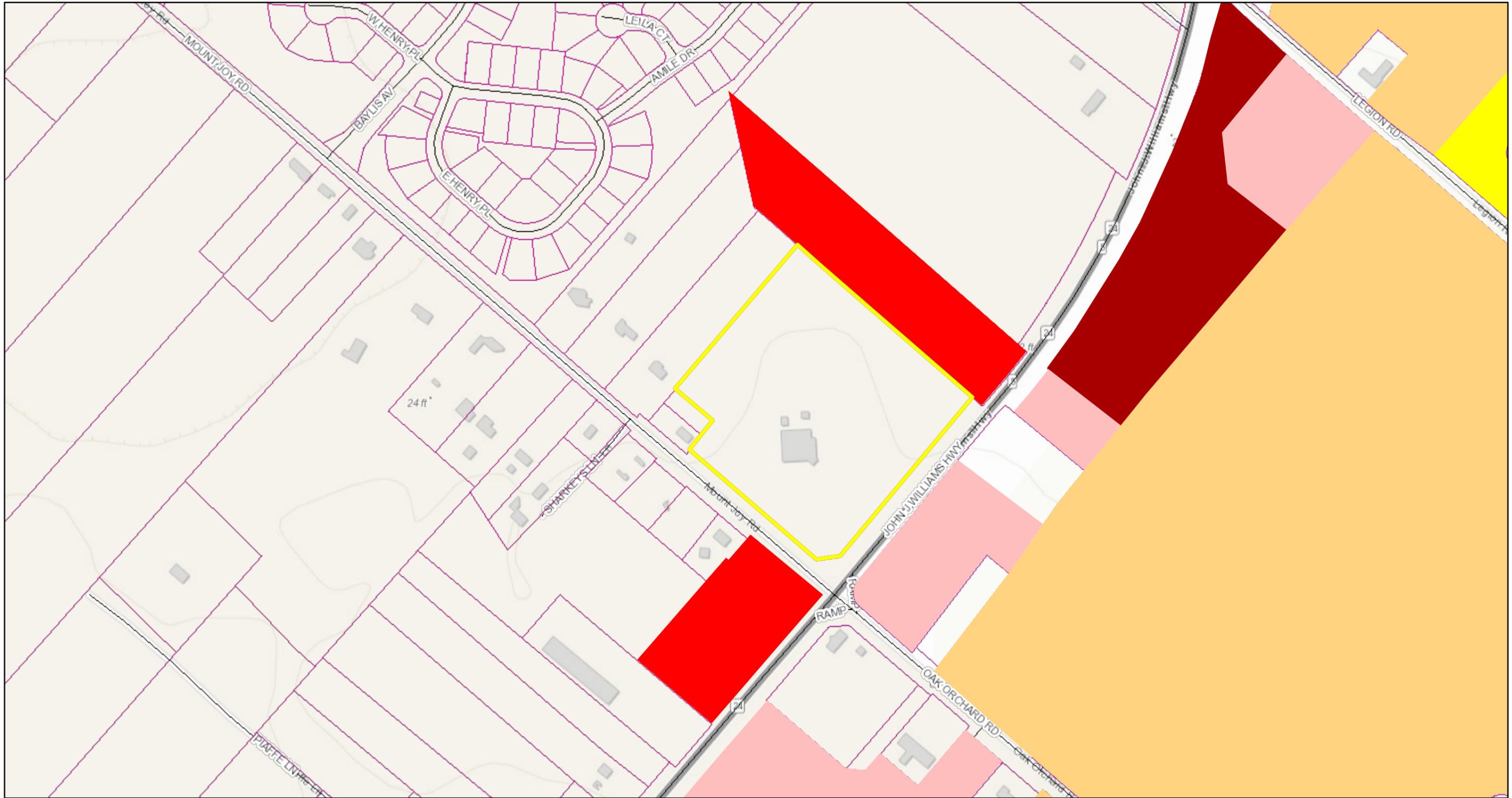
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0 0.04 0.09 0.17 mi

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Sussex County Government, Maxar

Sussex County



November 1, 2023

polygonLayer

Override 1

Override 2

Zoning

Medium Residential - MR

General Residential - GR

Neighborhood Business - B-1

General Commercial - C-1

Commercial Residential - CR-1

Tax Parcels

Streets

County Boundaries

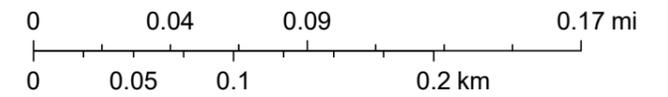
layer1

Red: Band_1

Green: Band_2

Blue: Band_3

1:4,514



County of Sussex, DE, Delaware FirstMap, VITA, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA, Sussex County Government

Introduced: 11/7/23

Council District 5: Mr. Rieley
Tax I.D. No.: 234-29.00-263.06
911 Address: 30839 Mount Joy Road, Millsboro

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR AN ON-PREMISES ELECTRONIC MESSAGE CENTER SIGN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 10.94 ACRES, MORE OR LESS

WHEREAS, on the 1st day of November 2023, a conditional use application, denominated Conditional Use No. 2491 was filed on behalf of St. Michael the Archangel Church; and

WHEREAS, on the ____ day of _____ 2023, 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. 2491 be _____; and

WHEREAS, on the ____ day of _____ 2024, 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. 2491 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 north side of Mount Joy Road (S.C.R. 297) and the west side of John J. Williams Highway (Rt. 24) at the intersection of Mount Joy Road (S.C.R. 297) and John J. Williams Highway (Rt. 24) and being more particularly described in the attached deed prepared by Fuqua & Graves Attorneys, said parcel containing 10.94 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: January 19, 2024

RE: County Council Report for C/Z 1991 filed on behalf of Beazer Homes, LLC (Sycamore Chase Expansion)

The Planning and Zoning Department received an application (C/Z 1991 filed on behalf of Beazer Homes, LLC – Sycamore Chase Expansion) for a change of zone from an AR-1 Agricultural Residential District to an MR Medium Density Residential Zoning District – Residential Planned Community District (MR-RPC) for Tax Parcels 134-18.00-45.00 , 51.00, 53.00, 54.00 and 54.01. The property is located at 34665, 34723 and 34771 Daisey Road, Frankford. The parcel size is 73.95 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on November 30, 2023. At the meeting of December 14, 2023, the Planning & Zoning Commission recommended approval of the application for the 10 reasons and subject to the 18 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting of November 30, 2023, and December 14, 2023.

Minutes of the November 30, 2023, Planning & Zoning Commission Meeting

C/Z 1991 Sycamore Chase Expansion

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR-RPC MEDIUM-DENSITY RESIDENTIAL – RESIDENTIAL PLANNED COMMUNITY DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 73.95 ACRES, MORE OR LESS. The



property is lying on the north side of Daisey Road (S.C.R. 370), approximately 0.6 mile west of Bayard Road (S.C.R. 384). 911 Address: 34665, 34723 & 34771 Daisey Road, Frankford. Tax Map Parcel: 134-18.00-45.00, 51.00 and P/O 53.00, 54.00 & 54.01.

Mr. Whitehouse advised the Commission that submitted into the record were the Staff Analysis, the Applicant's Subdivision Plan, a copy of the PLUS comments and the Applicant's response to the PLUS comments, a copy of the Environmental Assessment and the Public Facilities Evaluation Report, the DelDOT Service Level Evaluation Response, the comments from the Sussex County Engineering Department Utility Planning Division, the Technical Advisory Committee (TAC) comments received from the State Department of Watershed Stewardship, a letter received from Artesian Resources, the Applicant's Exhibit Booklet, and the Applicant's Geotechnical Investigation. Mr. Whitehouse stated that zero comments were received for the Application.

The Commission found that Mr. William Scott, with Scott and Shuman, P.A. spoke on behalf of the Applicant, Beazer Homes, LLC; that also present were Mr. Gavin Robinson with Beazer Homes, LLC, and Mr. Jason Palkewicz, PE with Solutions IPEM. Mr. Scott stated an Exhibit Booklet was submitted with a summary of the proposed project, as well as the other documents mentioned by Mr. Whitehouse; that additionally, there are various aerial maps, statements regarding compliance with the County Code and the Comprehensive Plan; that there are comments regarding the MR Zoning and the RPC overlay; that the request is to rezone the properties from AR-1 (Agricultural Residential) to MR (Medium Density Residential) with an RPC (Residential Planned Community) overlay; that they are proposing 176 lots, consisting of a mixture of single-family and townhouse lots, with active and passive open space; that the parcel is comprised of 74.14 acres; that the property is located adjacent to the existing Sycamore Chase, along Daisy Rd.; that the site is located south of the Town of Ocean View; that the site is zoned AR-1 (Agricultural Residential) and is located with the Coastal Area according to the Comprehensive Plan; that the current condition of the site is predominantly cleared farmland with a small amount of woodlands; that there is approximately four acres of Federal non-tidal wetlands that are concentrated in the upper left portion of the site; that the property is located south of the Town of Ocean View; that the site is also in the nearby area of Fairway Village, which is a large townhouse development, Bear Trap Dunes, Village of Bear Trap Dunes which has 704 units mixed of townhouses, single-family homes and stacked condominiums; that the site is also located near Forest Landing which in an MR-RPC with townhouses and duplexes, Friendship Creek, which was approved in 2018 as a GR (General Residential) Conditional Use with 133 multifamily homes on about 47 acres of land; that nearby Seaway Community was rezoned from AR-1 to MR in February 2023 as a Conditional Use for 57 multifamily units; that across from that is Milos Haven, which was approved in 2019 for 179 units on 71 acres, also as a mixture of single-family dwellings and townhouses; that across from Friendship Creek is the pending community of Lilyvale, which is proposing 174 townhomes on 51 acres; that the site is adjacent to the existing Sycamore Chase development, which consists of 104 units that were approved on 55 acres; that the proposed project area is located in an area where there has been significant historical and ongoing residential development similar to the character that they propose for the particular project; that the Application did participate in the PLUS process last year; that the PLUS letter and responses from the developer are included in the Exhibit Booklet; that the property is located within Investment Level 3 according to the State Spending Map; that Investment Level 3 areas are designated Growth Areas under the Comprehensive Plan; that the site is located within the Coastal Area, which also is designated a Growth Area and encourages the use of the RPC overlay designation, which allows for a mixture of housing types, as they are proposing; that the purpose of the Comprehensive Plan within the Coastal Area is to encourage the most concentrated forms of new development to be located within Growth Areas;

that this includes higher density, residential development; that there are compliance statements included in the Exhibit Booklet, which address each of the components of the Comprehensive Plan; that the Application requests to rezone the site to MR; that the purpose of the MR Zoning District is for medium density residential development to be located in areas which are expected to become generally urban in character, and where sanitary sewers and public water supplies may, or may not, be available at the time of construction; that together with churches, recreational facilities, and accessory uses that may be necessary or normally compatible with residential buildings; that the district seeks to protect existing development of this character and contains vacant land considered appropriate for such development; that the MR Districts permits for a base density of 4.35 units per acre; that there is discussion in the Comprehensive Plan and in the County Code where higher densities could be permitted, where there are central water and sewer available, as there is at the proposed site; that the proposed density for the project is 2.63 units to the acre, which is significantly less than the base density in MR; that MR Zoning would permit as high as 289 units per acre for the site; that the Application request 176 homes; that 96 of which would be townhomes; that 80 of the proposed homes would be single-family detached homes; that the zoning map, located under Exhibit 15, reflects the site being surrounded by other MR and GR (General Residential) properties, along with some C-1 (General Commercial) properties located nearby as well; that the C-1 (General Commercial) District is a closed district, however, would still provide for up to 12 units per acre; that the surrounding areas have been historically and currently developed with residential development similar to what they are proposing; that there is a statement in the Exhibit Book regarding the compliance with the requirements of the MR Zoning District, and the §99-9C Subdivision requirements; that the Application proposes an RPC (Residential Planned Community) overlay; that the purpose of an RPC is to encourage large scale developments as a means of creating a superior living environment through unified developments and to provide for the application of design and ingenuity, while protecting existing and future developments; that by achieving the goals of the Comprehensive Plan, the proposed design uses superior standards in that great care has been taken to identify the portions of the property that are appropriate to be preserved, keeping development away from those areas and directing development towards the other portions of the property; that it is noted that there is 17.6 acres of woodlands on the site; that the plan proposed that 8.7 acres, roughly being half, of the existing woodlands would be preserved; that there is 4.1 acres of Federal non-tidal wetlands located on the property; that the wetlands would largely remain undisturbed and would only be disturbed if utility or road crossings were required; that they would obtain any required permits and comply with all regulations from the U.S. Army Corp of Engineers; that an RPC is encouraged by the Comprehensive Plan to be located within Growth Areas to provide a mixture of housing types as is being proposed; that the proposed development is designed to be compatible with the existing Sycamore Chase community; that there are two interconnections planned, being located at the north and south of the site; that these interconnections will be with the existing Sycamore Chase community; that the Application was submitted prior to the adoption of the Resource Buffer Ordinance, however, they are proposing a 30 ft. setback buffer from the wetlands; that they propose a 20 ft. landscape buffer, except where the property is located adjacent to the existing community, or where there are larger buffers or wetlands or tax ditches; that there is a 50 ft. buffer proposed from the adjacent existing farmland; that there is 36 acres (48%) of open space; that DelDOT stated the project would have a minor impact on traffic, and therefore no Traffic Impact Study (TIS) is required; that the project thus qualifies for the Area Wide Study Fee rather than the TIS; that they have had meetings with DelDOT, where improvements have been contemplated; that the discussed improvements include moving the frontage of Daisy Rd. along the project's frontage to 11 ft. travel lanes, and five foot shoulders and to improve Daisy Rd. to 11 ft. travel lanes to the extent feasible from Daisy Rd. to Bayard Rd.; that central water and sewer would be provided by Artesian; that Artesian Resources provided an Ability

to Serve letter, which was included in the Exhibit Booklet; that stormwater management will be designed in compliance with DENREC and Sussex Conservation District requirements in order to meet or exceed the current regulations; that additionally submitted in the Exhibit Book is a study by Hardin-Knight Associates, Inc., who performed a Subsurface Geotechnical Soils Investigation; that this investigation determined that the proposed project is suitable for the development, including the infrastructure, home construction and stormwater management; that the entrance, which would require approval by DelDOT, is anticipated to be located along Daisy Rd., with two interconnections proposed to the existing Sycamore Chase community; that the lots as shown on the plan are a mixture of single-family lots and townhouse lots, which are encouraged by the Comprehensive Plan; that the proposed density is 2.63 units to the acre; that parking will be provided as required by Sussex County Code for all unites; that proposed amenities, at minimum, would be an outdoor pool, clubhouse and walking trail; that the proposed community would become part of the existing Sycamore Chase, so that all owners on either side of the community would have access to each other's amenities; that the streets will be private, and will be maintained by the Homeowners Association; that sidewalks are proposed on one side of the street, which remains compatible with the existing Sycamore Chase community; that the sidewalks would interconnect with the existing Sycamore Chase community; that street lights, if any, would be downward facing and compatible with the street lighting found within the existing Sycamore Chase community; that landscaping will be provided and will be attractive and compatible with the landscaping found in the existing community; that the proposed project is to become part of the existing Sycamore Chase community, therefore the existing Homeowners Association would take care of the streets, stormwater management, open areas and assessment collection; that the existing Sycamore Chase documents contained a disclosure to all current residents, regarding the possibility of expansion to the proposed property; that the developer has been providing bi-weekly to monthly updates to the HOA regarding the state of development and construction within the existing Sycamore Chase, as well as the proposed expansion; that he requested to provide proposed Findings of Fact and Conditions of Approval, and requested the Commission recommend approval of the Application.

The Commission found that Mr. Gavin Robinson, Vice President of Operations for Beazer Homes, LLC, spoke on behalf of the Application. Mr. Robinson first thanked the Adkins family, who was also in attendance, for allowing them the opportunity to bring the project before the Commission; that Beazer Homes goal is to provide a durable and growing value to their customers; that their goal is to be good stewards of the land and environment; that in 2023, they were named Energy Star Trade Partner of the Year; that they are also named Indoor Air Plus Leader of the Year, which was the first time the award had been provided to a corporate builder; that they are on the pathway to be zero energy ready; that the anticipate being able to build zero energy ready homes by 2025; that they have already began this effort in Sycamore Chase; that they hope to continue their success in the Sycamore Chase Expansion by delivering quality homes, energy efficient homes, and he thanked the Commission for their time.

Mr. Scott concluded that they believed they had demonstrated that the proposed project meets the requirements of the County Code; that the project is consistent with the trend of residential development in the area and the goals of the Comprehensive Plan, by the projects consistency with he Delaware State Spending Strategies Map; that the proposed density is equal to or less than surrounding communities of similar nature; that they believe the proposed project will promote the health, welfare, convenience and prosperity of the County, and help support its economic development, and requested the Commission to consider recommending the Change of Zone Application and MR-RPC overlay for approval.

Mr. Collins questioned if any part of the project is being proposed for workforce housing.

Mr. Scott stated the project is not part of any County program, however, they hope that the townhome units theoretically being priced lower than single-family homes, may provide a more affordable option.

Mr. Robertson advised the Commission that the proposed project is not an expansion of the existing Sycamore Chase subdivision, and that the Application is to be considered as a separate subdivision.

Mr. Scott stated that the project is a subdivision, and they refer to it as an expansion, as it will be an expansion of the community, and is not an expansion of an existing RPC.

The Commission found that there was no one who wished to speak in support, and three people who wished to speak in opposition to C/Z 191 Sycamore Chase Expansion.

Mr. Charles Parsons spoke in opposition to the Application with concerns regarding State Investment Levels and areas where the State does not support development, the protection and natural and cultural resources and open space, and the promotion of agricultural activities, the negative impact on his view and stated his disappointment with the number of approved developments within Sussex County.

Ms. Sherry Parsons spoke in opposition to the Application with concerns regarding the location of an existing agricultural easement, and the possibility that the easement will cut off their access completely.

Ms. Elaine Parsons spoke in opposition to the Application with concerns regarding the number of approved subdivisions, the impact on the wildlife and wildlife habitats, the nature of the area changing from rural to urban, the proposed density, road improvements, and the negative impacts on schools. Upon there being no further questions, Chairman Wheatley closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to C/Z 1991 Sycamore Chase Expansion. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4 - 0.

Minutes of the December 14, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Application that had been deferred since November 30, 2023.

Mr. Robertson read Mr. Mears' prepared motion per Mr. Mears' request.

Mr. Mears moved that the Commission recommend approval of C/Z 1991 Sycamore Chase Expansion for a change in zoning from AR-1 to an MR-RPC based upon the record and for the following reasons:

1. The property is currently zoned AR-1, and it is adjacent to the existing AR-1 subdivision known as Sycamore Chase. The developer is seeking to expand that subdivision but with a variety of housing types including single-family homes and townhomes. The MR-RPC application supports this variety of housing types.

2. The MR-RPC will be integrated into the existing Sycamore Chase development and there will be two interconnecting roadways between the MR-RPC and the existing subdivision.
3. The proposed development will have no more than 176 dwellings consisting of 176 single-family lots and townhomes on 74.12 acres. The net density is 2.37 units per acre which is close to the allowable density in AR-1 and significantly less than the maximum density permitted under the MR zoning.
4. The MR-RPC is consistent with the development trend of the area that includes MR, GR, and C-1 zoning and both single-family homes and townhomes. It is also similar to the densities of nearby communities.
5. Central water and sewer will be provided to the MR-RPC by a publicly regulated utility.
6. The MR-RPC is located near Route 26 and the commercial corridor there. This is an appropriate location for this MR-RPC and the expansion of Sycamore Chase and the variety of housing types that are proposed.
7. With the conditions and stipulations placed upon it, the RPC designation is appropriate since it allows the creation of a superior environment through design ingenuity while protecting existing and future uses. This project will also maintain approximately 36 acres of open space. This represents 48% of the entire site.
8. According to the County's current Comprehensive Plan, the project is in the Coastal Area. Development such as this MR-RPC is appropriate in this area according to the Plan which permits residential development with a mix of housing types.
9. The Applicant has favorably addressed the items set forth in Section 99-9C of the Subdivision Code.
10. This recommendation is subject to the following conditions:
 - A. There shall be no more than 176 dwelling units consisting of single-family homes and townhomes.
 - B. A homeowners' or condominium association shall be formed to provide for the perpetual maintenance, repair, and replacement of buffers, stormwater management facilities, streets, amenities, and other common areas. Alternatively, this project shall be annexed into the existing Sycamore Chase community and homeowners' association to provide for this maintenance and repair.
 - C. All entrances, intersections, roadways, and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT's requirements.
 - D. The RPC shall be served by central water and sewer provided by a publicly regulated utility.
 - E. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices.
 - F. Interior street design shall meet or exceed Sussex County's Street design requirements. There shall also be sidewalks on at least one side of the streets within the RPC. The streets and sidewalks shall be interconnected with the streets in Sycamore Chase to provide for vehicular and pedestrian movement between them.
 - G. The development shall be served by its own on-site amenities including a clubhouse and swimming pool. All amenities shall be completed in compliance with Sections 99-21 and 115-194.5 of the Sussex County Code.
 - H. A 30-foot wide vegetated or forested buffer shall be established along the entire perimeter of the site except for the common boundary with the existing Sycamore

Chase subdivision or where wetlands or the tax ditch exist. This buffer shall increase to 50 feet in areas where the development borders any land in agricultural use. This buffer shall utilize existing forest or similar vegetation if it exists in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located at least 10 feet from 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. Signage identifying this perimeter buffer as a “non-disturbance area” shall be installed along the buffer at 300-foot intervals.

- I. If requested by the local school district, a school bus stop shall be provided. The location of the bus stop area shall be shown on the Final Site Plan.
- J. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- K. 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. The landscape plan shall also identify all “Limits of Disturbance” within the site.
- L. Construction, site work, grading, and deliveries of construction materials shall only occur from Monday through Friday between 8:00 am and 5:00 pm and on Saturdays between 8:00 am and 2:00 pm. A 24-inch by 36-inch “NOTICE” sign in English and Spanish confirming these hours shall be prominently displayed at all entrances to the site during construction.
- M. During site work and initial home construction, all dumpsters, roll-off containers, or similar containers for trash and construction debris shall be covered to eliminate trash and construction materials from blowing across this property or onto neighboring and adjacent properties.
- N. The Applicant shall obtain all the necessary amendments to the tax ditches and their rights of way necessary for this project prior to Final Site Plan approval.
- O. The Final Site Plan and the recorded governing documents for this development shall include the Agricultural Use Preservation Notice.
- P. The Final Site Plan shall include a Grading Plan for the site. No building permit shall be issued for individual lots until an individual lot grading plan has been supplied to and approved by Sussex County. No certificate of occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.
- Q. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Office of Planning and Zoning.
- R. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 1991 Sycamore Chase Expansion for the reasons and the conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Mears – yea, Ms. Wingate – yea, Mr. Collins – yea, Chairman Wheatley – yea

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
BRIAN BUTLER
GREGORY SCOTT COLLINS
J. BRUCE MEARS
HOLLY WINGATE



Sussex County

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JAMIE WHITEHOUSE
DIRECTOR

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: November 30th, 2023

Application: C/Z 1991 Beazer Homes, LLC

Applicant: Beazer Homes, LLC (Attn: Mr. Brian Knauff)
6085 Marshalee Drive
Elkridge, MD 21075

Owner: Norris J. Adkins Sr. & Kittie F. Adkins
34771 Daisey Road
Frankford, DE 19945

Robert E. Bunting & Tammy N. Bunting
34723 Daisey Road
Frankford, DE 19945

Norris J. Adkins, Jr. & Laura L. Adkins
34665 Daisey Road
Frankford, DE 19945

Site Location: The properties are lying on the north side of Daisey Road (S.C.R. 370), approximately 0.17 mile west of Bayard Road (S.C.R. 384) in Frankford, Delaware.

Current Zoning: Agricultural Residential (AR-1) District

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

Proposed Use: Zoning Change to allow for the development of a Residential Planned Community.

Future Land Use Map Designation: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District



Fire District: Roxana Fire Company/District
Sewer: Artesian
Water: Artesian
Site Area: 73.95 acres +/-
Tax Map IDs: 134-18.00-45.00, 51.00 & part of 53.00, 54.00 & 54.01

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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Ms. Lauren DeVore, AICP Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: November 21st, 2023
RE: Staff Analysis for C/Z 1991 Beazer Homes, LLC (Sycamore Chase Expansion)

The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application C/Z 1991 Beazer Homes, LLC (Sycamore Chase Expansion) to be reviewed during the November 30th, 2023, Planning and Zoning 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.

This proposal is to include an additional Phase to the existing and previously approved subdivision for the Sycamore Chase (2018-24) (F.K.A. Good Will Farm & Willow Run) Subdivision, which is a cluster subdivision originally containing one-hundred and four (104) single-family lots, private roads, open space and amenities to include a swimming pool and clubhouse facility. The Planning and Zoning Commission approved the Preliminary Subdivision Plan on February 14, 2019, subject to eighteen (18) conditions. The Planning and Zoning Commission approved the Final Subdivision Plan on March 11, 2021.

Specifically, this proposal is for a Change of Zone from an Agricultural Residential (AR-1) District to a Medium Density Residential, Residential Planned Community District (MR-RPC) for the establishment of a Residential Planned Community (RPC) to consist of 86 single-family lots and 90 townhouse units for a total of 176 units with an RPC overlay. The properties are located on the north side of Daisey Road (S.C.R. 370), approximately 0.6 mile west of Bayard Road (S.C.R. 384) in Frankford, Delaware.

As the proposal is for a Residential Planned Community that consists of 50 or more dwelling units and is located within the Coastal Area, the submittal of an Environmental Assessment and Public Facilities Evaluation Report are required (§115-194.3(B)(1) (a-b)&(2)).

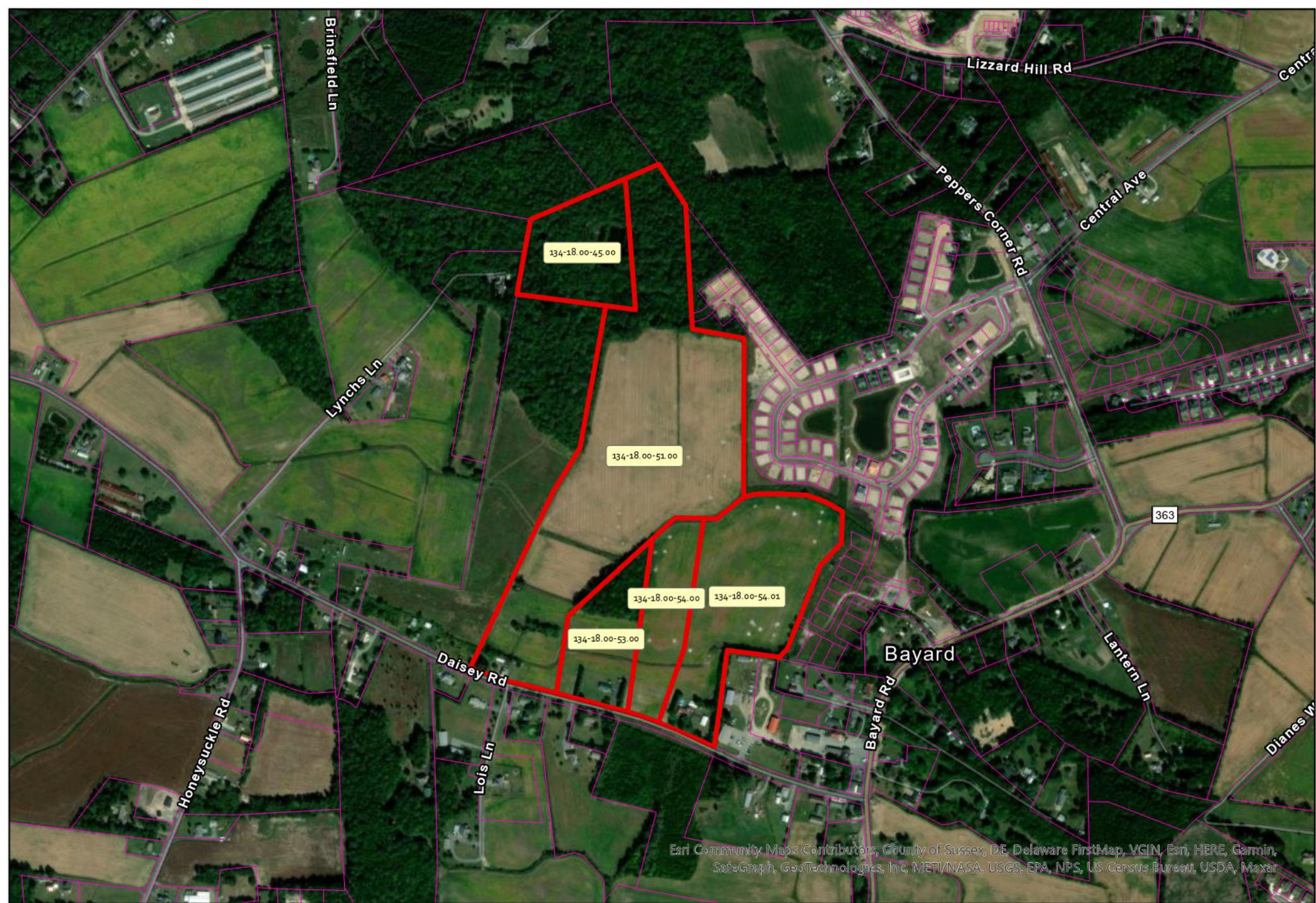
Staff note that the subject Application was received after the adoption of Ordinance No. 2764 “Ordinance Regarding the Coastal Area” which was adopted on February 2, 2021. However, it should be noted that the Application is not for a cluster subdivision within the Agricultural Residential (AR-1) District (as the proposal is to amend the subject properties from AR-1 to the Medium Density Residential, Residential Planned Community District (MR-RPC)) and as the proposal is exclusively for the establishment of a Residential Planned Community (RPC). Therefore, the Superior Design Criteria as outlined in §115-25(F)(1-4) are not a requirement of this proposal.

However, while the Superior Design Criteria for cluster subdivisions within the AR-1 District do not apply to this project, it is important to note that the purpose of the Residential Planned Community District as outlined in the Code is “to encourage large-scale developments as a means



of creating a superior living environment through unified developments, and to provide for the application of design ingenuity while protecting existing and future developments and achieving the goals of the Comprehensive Plan” (§115-118). Therefore, the provision of elements which contribute to a subdivision design that is superior in nature and demonstrates design ingenuity are strongly encouraged.

Additionally, it should be further noted that as this proposal was received by the Department of Planning and Zoning on 9/16/22, after the adoption date (5/17/22) but in advance of the effective date of Ordinance No. 2852 the “Drainage and Resource Buffer Ordinance,” the provisions of this Ordinance shall not apply to this RPC as the receipt of the subject Application pre-dated the effective date of this Ordinance. The effective date of the Ordinance is 11/17/2022, 6 months from the date of adoption by the Sussex County Council (5/17/2022).



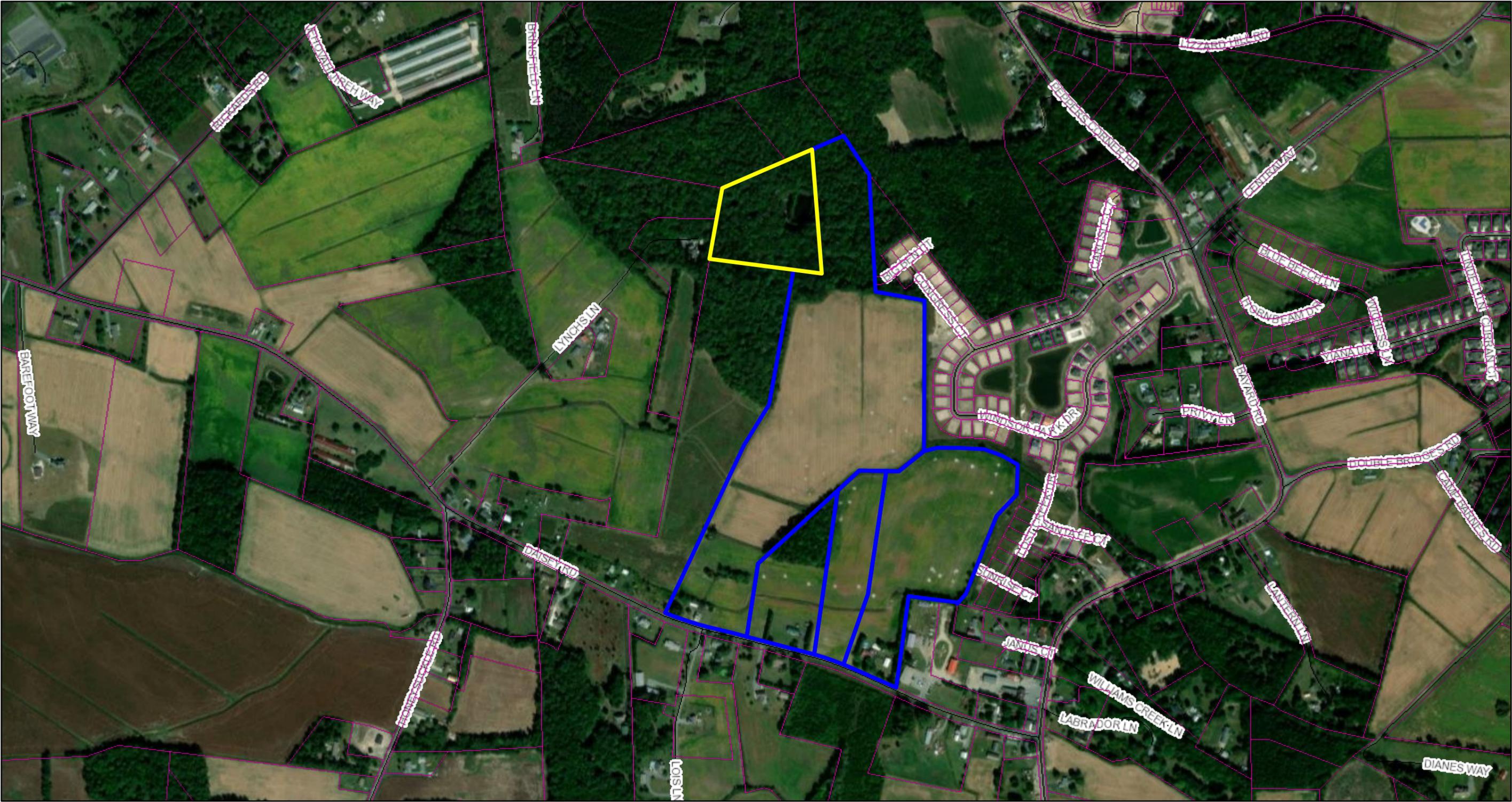
Esri Community Maps Contributors, County of Sussex, DE, Delaware FirstMap, VGIN, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, Maxar

C/Z 1991
Sycamore Chase Expansion
Aerial Map

 C/Z 1991 - Sycamore Chase Expansion



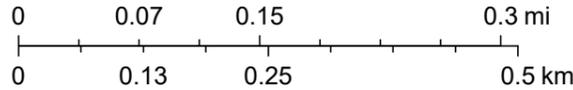
Sussex County



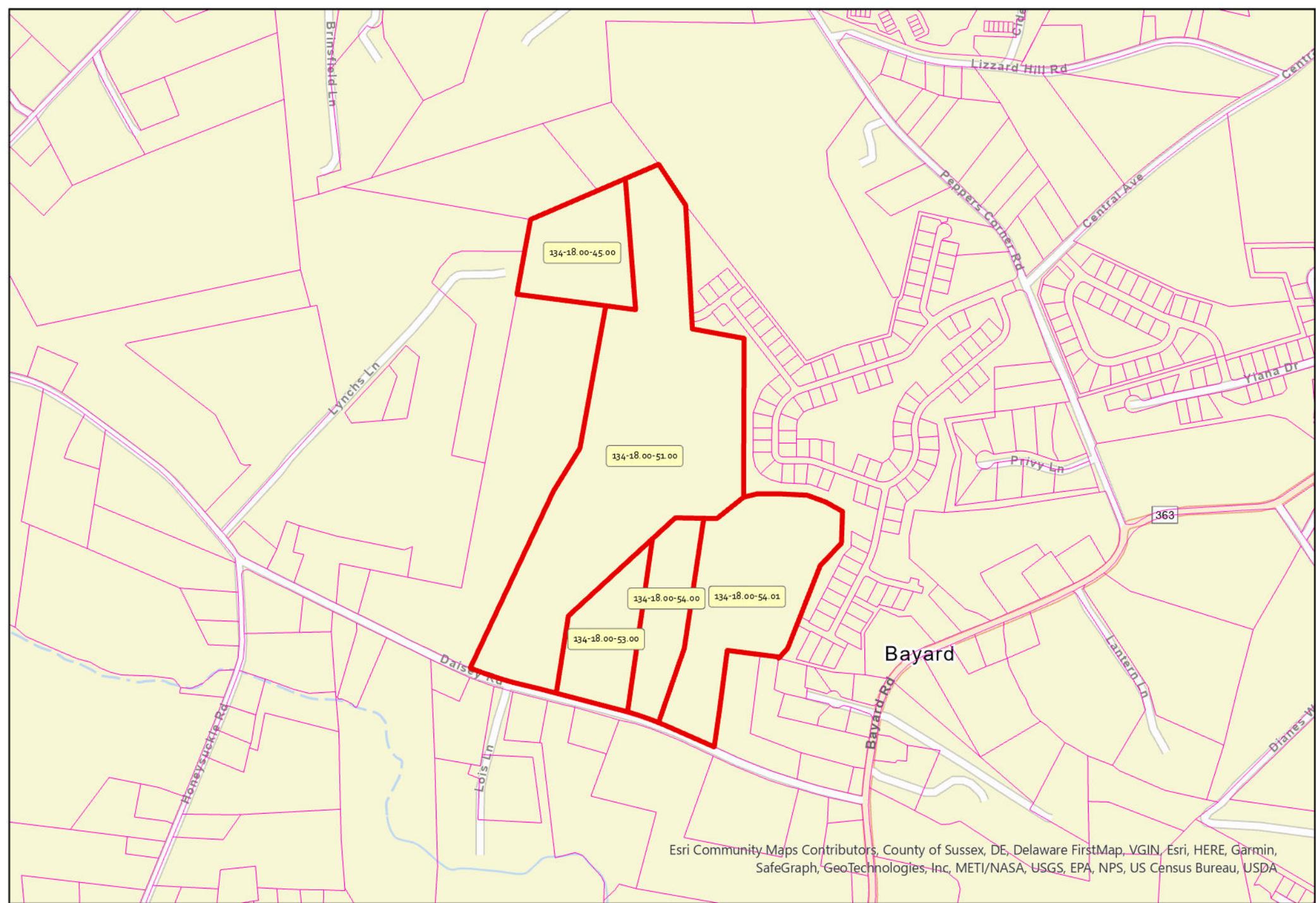
October 31, 2023

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

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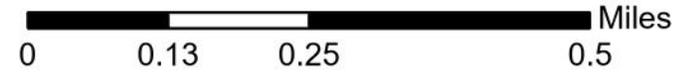
Sussex County Government, Maxar



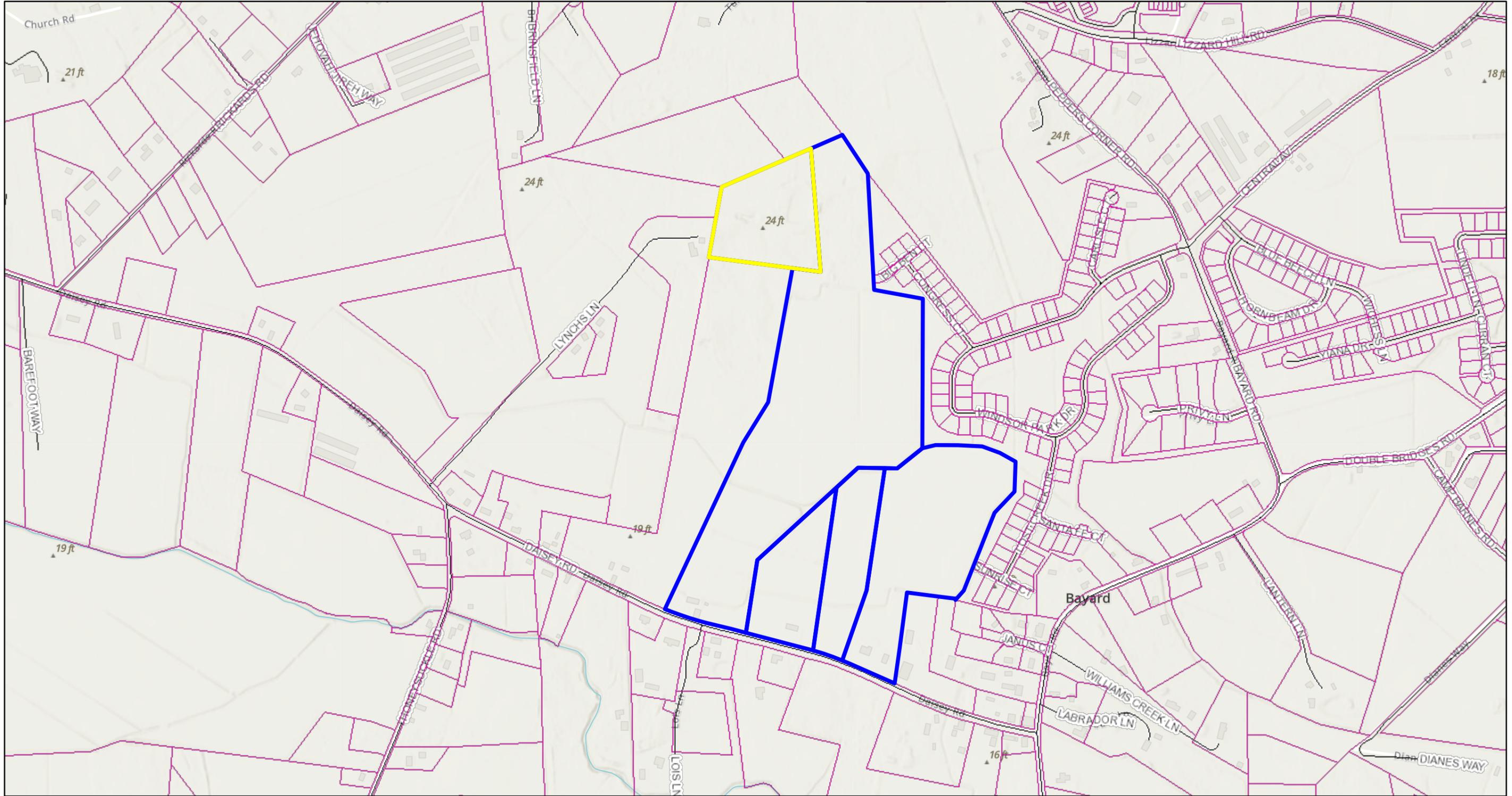
Esri Community Maps Contributors, County of Sussex, DE, Delaware FirstMap, VGIN, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA

C/Z 1991
Sycamore Chase Expansion
Street Map

 C/Z 1991 - Sycamore
Chase Expansion



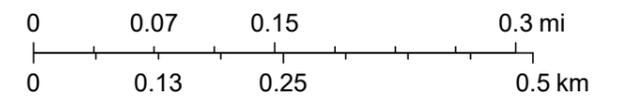
Sussex County



October 31, 2023

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

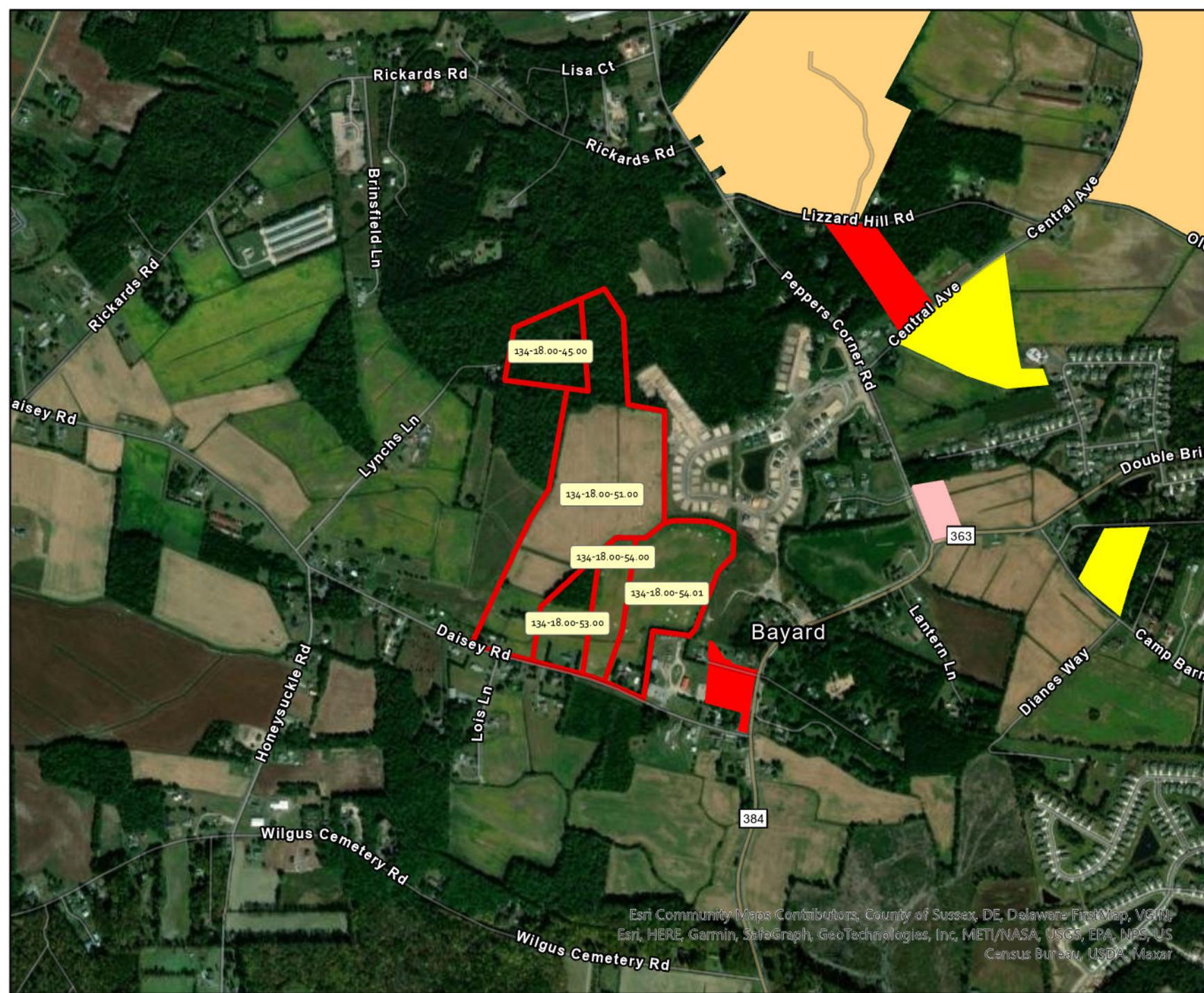
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Esri, NASA, NGA, USGS, FEMA, Sussex County Government, Esri Community Maps Contributors, County of Sussex, DE, Delaware FirstMap, VGIN, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA

Zoning

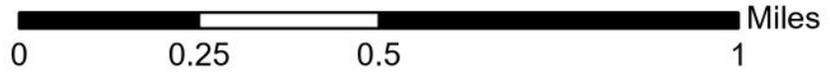
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-  Agricultural Residential - AR-2
-  Medium Residential - MR
-  General Residential - GR
-  High Density Residential - HR-1
-  High Density Residential - HR-2
-  Vacation, Retire, Resident - VRP
-  Neighborhood Business - B-1
-  Neighborhood Business - B-2
-  Business Research - B-3
-  General Commercial - C-1
-  General Commercial - C-2
-  General Commercial - C-3
-  General Commercial - C-4
-  General Commercial - C-5
-  Commercial Residential - CR-1
-  Institutional - I-1
-  Marine - M
-  Limited Industrial - LI-1
-  Light Industrial - LI-2
-  Heavy Industrial - HI-1



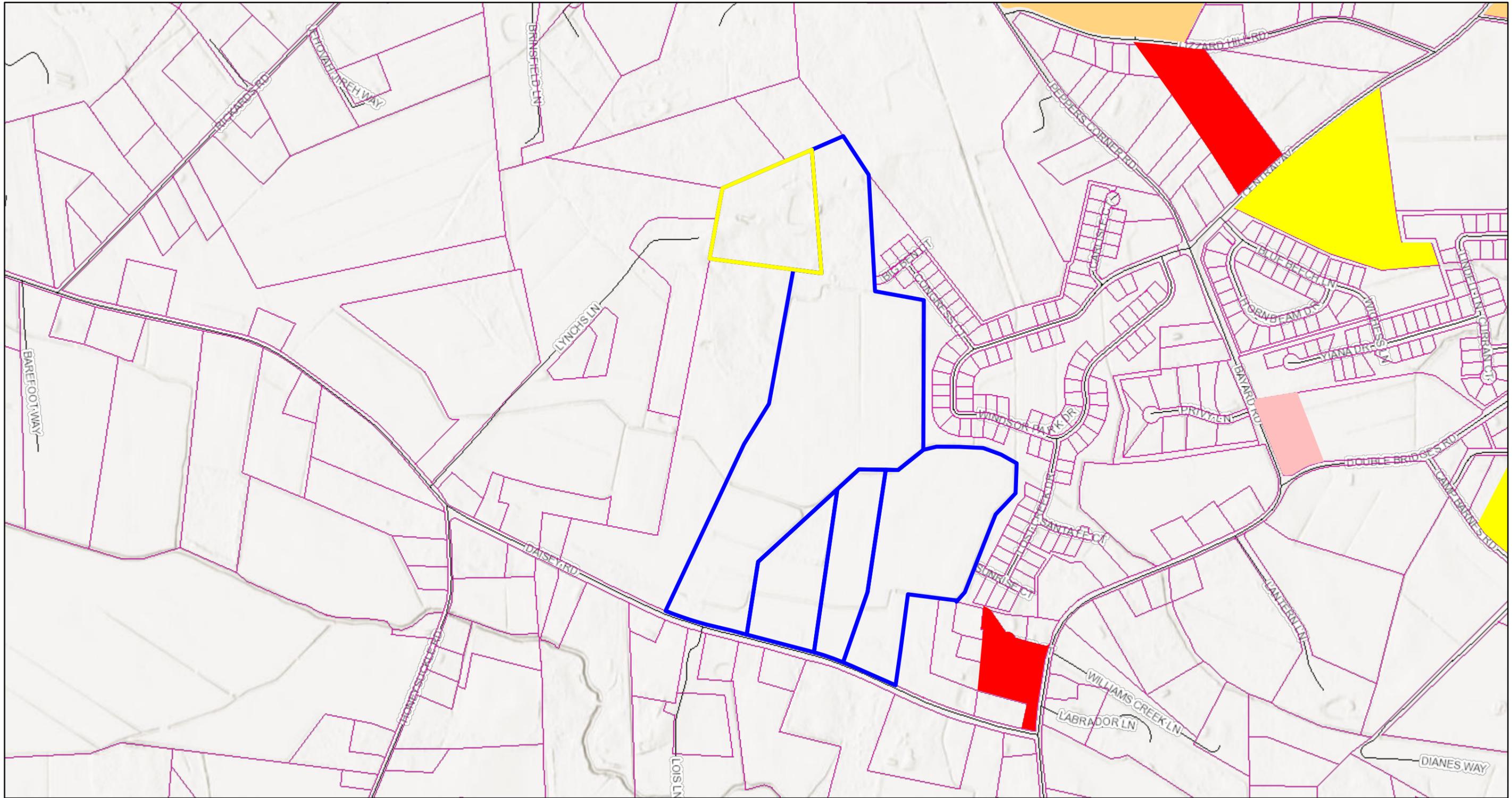
Esri Community Maps Contributors, County of Sussex, DE, Delaware FirstMap, VGIN, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, Maxar

C/Z 1991
Sycamore Chase Expansion
Zoning Map

 C/Z 1991 - Sycamore Chase Expansion



Sussex County



October 31, 2023

polygonLayer

Override 1

Override 2

Zoning

Medium Residential - MR

General Residential - GR

Neighborhood Business - B-2

General Commercial - C-1

Tax Parcels

Streets

County Boundaries

layer47

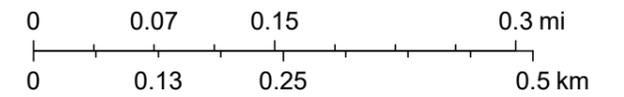
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Green: Band_2

Blue: Band_3

World Hillshade

1:9,028



Esri, NASA, NGA, USGS, FEMA, Sussex County Government

Introduced: 11/7/23

Council District 4: Mr. Hudson

Tax I.D. Nos.: 134-18.00-45.00, 51.00 and P/O 53.00, 54.00 & 54.01

911 Address: 34665, 34723 & 34771 Daisey Road, Frankford

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL – RESIDENTIAL PLANNED COMMUNITY DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 73.95 ACRES, MORE OR LESS

WHEREAS, on the 16th day of September 2022, a zoning application, denominated Change of Zone No. 1991 was filed on behalf of Beazer Homes, LLC; and

WHEREAS, on the ____ day of _____ 2023, 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. 1991 be _____; and

WHEREAS, on the ____ day of _____ 2023, 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-RPC Medium Density Residential – Residential Planned Community District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcels of land lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on north side of Daisey Road (S.C.R. 370), approximately 0.6 mile west of Bayard Road (S.C.R. 384) and being more particularly described in the attached legal description prepared by Solutions IPPEM, said parcels containing 73.95 ac., 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: January 19, 2024

RE: County Council Report for C/Z 1997 filed on behalf of Waste Management of Delaware, Inc.

The Planning and Zoning Department received an application (C/Z 1997 filed on behalf of Waste Management of Delaware, Inc.) for a change of zone from an AR-1 Agricultural Residential District to a C-3 Heavy Commercial District. The property is located at on the west side of Old Stage Road (SCR 461), at the intersection of Old Stage Road and Trussum Pond Road (SCR 462). The parcel size is 5.219 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on November 30, 2023. At the meeting of December 14, 2023, the Planning & Zoning Commission recommended approval of the application for the 8 reasons as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting of November 30, 2023, and December 14, 2023.

Minutes of the November 30, 2023, Planning & Zoning Commission Meeting

C/Z 1997 Waste Management of Delaware, Inc.

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 CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.219 ACRES, MORE OR LESS. The property is lying on the west side of Old Stage Road (S.C.R. 461), at the intersection of Old Stage Road (S.C.R. 461) and Trussum Pond Road (S.C.R. 462). 911 Address: N/A. Tax Map Parcel: 332-2.00-79.01.



Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Site Plan and survey, the Staff Analysis, the Applicant's Exhibit Booklet, the DelDOT Service Level Evaluation Response, and a copy of the PLUS comments. Mr. Whitehouse stated that zero comments were received for the Application.

The Commission found that Mr. James A. Fuqua, Jr., Esq. with Fuqua, Willard & Schab, P.A. spoke on behalf of the Applicant, Waste Management of Delaware, Inc.; that also present was Mr. Max Dickman, Director of Real Estate for Waste Management. Mr. Fuqua stated there was an Exhibit packet submitted containing information for the Application; that the Application requests a rezoning of a 5.2-acre parcel that is located at the northwest corner of the intersection of Trussum Pond Rd. and Old Stage Rd.; that the Applicant is requesting a rezoning from AR-1 (Agricultural Residential) to C-3 (Heavy Commercial); that the parcel has road frontage on both roads; that the site is located a short distance east of Rt. 13, in the near by area of Johnny Janosik Furniture store; that the parcel is owned by Waste Management; that the site is adjacent to a 12 acre parcel that is also owned by Waste Management, which is located to the left of the chicken house; that the adjacent 12 acre parcel, Parcel 79.00, is zoned C-1 (General Commercial); that the property was purchased by Waste Management in 2018; that after Waste Management purchased Parcel 79.00, the existing commercial buildings on the site were converted into a waste management facility; that it is used for the maintenance and repair of the companies approximate 60 trucks as well as parking and storage of trucks, containers, and employee parking; that in addition, there are two, large self-storage buildings located there; that they are owned by Waste Management and is operated as trusts upon the self-storage; that a few years ago, the company was contacted by the property owner of Parcel 79.01, asking if they were interested in purchasing the property, and Waste Management subsequently purchased the property in October 2021; that company proceeded to remove the dwelling and the chicken houses; that a security fence was erected around the perimeter of the site; that there were no specific plans for the use of the site at that time other than for vehicle and container storage, as well as additional parking; that gradually, over time, the container began to be stored on Parcel 79.01, which created a natural expansion; that the problem was, the use for storage is not a permitted use as Parcel 79.01 is zoned AR-1 (Agricultural Residential); that they became aware of this when they received a Notice of Violation, which was issued on August 2022; that subsequently, the Applicant contacted him; that after reviewing the information he suggested the Applicant request a Change of Zone to C-3 (Heavy Commercial); that the Change of Zone request was filed 13 months ago; that the site is located in the nearby area of several commercial services and storage business uses that currently exist along Trussum Pond Rd, which includes the existing Waste Management facility; that most of the land located on the south side of Trussum Pond Rd. is zoned C-1 (General Commercial); that on the north side all the land, except for the subject parcel, is zoned C-1 (General Commercial) as well; that going through the intersection with Old Stage Rd. the area is zoned commercial; that due to the surrounding area, they believe the request to rezone the parcel to C-3 (Heavy Commercial) is an appropriate and reasonable extension of the existing commercial corridor running from Rt. 13 to Old Stage Rd.; that under the County's Comprehensive Plan, Parcel 79.01 is designated as being within the Developing Area according to the Future Land Use Map; that the Developing Area is one of the growth areas identified in the Comprehensive Plan; that the guidelines for the Developing Area state that commercial uses should be permitted at appropriate locations in the developing area; that the large parcel directly across Trussum Pond Rd. from the site is not zoned commercial; that the parcel is zoned AR-1; that on the Future Land Use Map, that same parcel is designated as being within the Industrial Area; that they believe, according to the plan the site would be an appropriate place for industrial or warehouse type uses; that C-3 zoning is also recognized as an appropriate zoning designation in the developing area on that chart in the land use pan that gives the different zoning designations for that area, located on

Page 424; that the Application was reviewed as part of the PLUS process; that the PLUS comments note that Parcel 79.01 is located within the State Investment Level 3, being a level where growth is anticipated; that the parcel is adjacent to commercially zoned land; that the request will be an expansion of an existing business already established in Sussex County; that the County's comments are included within the PLUS response, and confirm that the expansion of the existing Waste Management parking and storage onto Parcel 79.01 is a permitted use by right within the C-3 Zoning District; that the rezoning will permit the expansion of the Waste Management business, providing a service that benefits the general convenience and welfare of the County's residents; that the Applicant would have requested C-1 (General Commercial) zoning to remain consistent with the rest of the area; that as the Commission knows, the C-1 (General Commercial) Zoning District closed many years ago, and can no longer be used for rezoning; that the closest request to C-1 zoning is the now C-3 (Heavy Commercial) Zoning; that they believe the rezoning is appropriate based on the existing uses in the area, and the existing commercial zones in the corridor along Trussum Pond Rd; that the conformity of the C-3 (Heavy Commercial) zoning with the Comprehensive Plan and the Future Land Use Map; and the practical result that the zoning change would allow an existing business to expand; that he did request to submit proposed Findings of Fact and Conditions of Approval; that Waste Management apologizes for placing the cart before the horse and for the reasons stated, request the Commission recommend approval of their rezoning Application.

The Commission found that Mr. Max Dickman spoke on behalf of the Application. Mr. Dickman stated that he would like to echo what Mr. Fuqua had stated; that he apologized for the violations that occurred on the site when it was purchased in 2021; that they knew they would eventually would have to go for a Conditional Use or a Change of Zone in order to achieve some of the things they wanted to do; that he believes the people who operate the site did not realize the difference between placing a few dumpsters would initiate a use they were not permitted to do, whereas if they eventually wanted to add more storage units or formally repave, those were things they believed would trigger the violations and that was their mistake; that it was simply that they did not understand the process; that they felt a Conditional Use would limit them with what they would like to do, which would still put them in the wrong zoning; that because of this, they felt a rezoning would be more appropriate to allow for the right zoning classification for what they are trying to achieve, and he does understand even with rezoning, development will require a permit, and they intend to obtain that.

The Commission found that there was no one who wished to speak in support of or in opposition to Application C/Z 1997 Waste Management of Delaware, Inc.

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

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to C/Z 1997 Waste Management of Delaware, Inc. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4 - 0.

Minutes of the December 14, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since November 30, 2023.

Mr. Mears moved that the Commission recommend approval of C/Z 1997 Waste Management of Delaware, Inc. for a change in zone from AR-1 to C-3 “Heavy Commercial” based upon the record made during the public hearing and for the following reasons:

1. C-3 (Heavy Commercial) Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices, and vehicle service stations.
2. This property is located along Trussum Pond Road a short distance from Route 13, one of the most heavily traveled roads in Sussex County. This is an appropriate location for C-3 Zoning.
3. The parcel is in an area where there are many business and commercial zonings and uses. All of the land on the north side of Trussum Pond Road from Route 13 to Old Stage Road except for this property is Zoned C-1. All the land on the south side of Trussum Pond Road is also Zoned C-1. This property should be rezoned to C-3 for consistency with the surrounding area.
4. The property is intended as an expansion of the Applicant’s uses that currently exist on its adjacent C-1 property just to the west of this site.
5. This property is located in the Developing Area according to the current Sussex County Land Use Plan. This proposed commercial zoning is appropriate in this Area according to the Plan.
6. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.
7. No parties appeared in opposition to this rezoning application.
8. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 1997 Waste Management of Delaware, Inc. for the reasons and the conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Mears – yea, Ms. Wingate – yea, Mr. Collins – yea, Chairman Wheatley – yea

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
BRIAN BUTLER
GREGORY SCOTT COLLINS
J. BRUCE MEARS
HOLLY WINGATE



Sussex County

DELAWARE
sussexcountyde.gov
(302) 855-7878 T
(302) 854-5079 F

JAMIE WHITEHOUSE
DIRECTOR

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: November 30th, 2023

Application: C/Z 1997 Waste Management of Delaware, Inc.

Applicant: Waste Management of Delaware, Inc.
11323 Trussum Pond Road
Laurel, DE 19956

Owner: Waste Management of Delaware, Inc.
11323 Trussum Pond Road
Laurel, DE 19956

Site Location: The property is lying on the west side of Old Stage Road (S.C.R. 461) at the intersection of Old Stage Road (S.C.R. 461) and Trussum Pond Road (S.C.R. 462) in Laurel, Delaware.

Current Zoning: Agricultural Residential (AR-1) District

Proposed Zoning: Heavy Commercial (C-3) District

Future Land Use Map Designation: Developing Area

Councilmanic District: Mr. Vincent

School District: Laurel School District

Fire District: Laurel Fire Company/District

Sewer: N/A

Water: N/A

Site Area: 5.219 acres +/-

Tax Map ID: 332-2.00-79.01



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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Ms. Lauren DeVore, AICP Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: November 22nd, 2023
RE: Staff Analysis for C/Z 1997 Waste Management of Delaware, Inc.

This memo is to provide background and analysis for the Planning Commission to consider as a part of the Application for Change of Zone No. 1997 Waste Management of Delaware, Inc. to be reviewed during the November 30th, 2023, Planning Commission Meeting. This analysis should be included in the record of this Application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcel ID: 332-2.00-79.01 from an Agricultural Residential (AR-1) District to a Heavy Commercial (C-3) District for proposed storage and employee parking for an adjacent waste management facility. The property is lying on the west side of Old Stage Road (S.C.R. 461) at the intersection of Old Stage Road (S.C.R. 461) and Trussum Pond Road (S.C.R. 462). The property consists of 5.219 acres more or less and is located at 32120 Old Stage Road in Laurel, Delaware.

Further Site Considerations

Staff note that the property is not located within any established Transportation Improvement Districts (TIDs). The Delaware Department of Transportation (DelDOT) noted as part of the Service Level Evaluation Request that was issued that the anticipated traffic impact of this Change of Zone is considered to be diminutive in the context of their agreement with the County regarding land development coordination.

Additionally, staff note per the County's Online Mapping system that the property contains no Tax Ditches or related Tax Ditch Rights-Of-Way.

The County's Online Mapping System indicates that there are no wetlands currently present on the property. There is a very small segment of an existing Wellhead Protection Area which slightly encroaches into the northeastern portion of the property.

The property is located within Flood Zone "X"- Areas determined to be outside of the 1% annual chance flood and outside of the 500-year floodplain. The Delaware Department of Natural Resources and Environmental Control's (DNREC's) Flood Planning Tool indicates that the property is located within the Broad Creek Watershed and Little Creek-Broad Creek Subwatershed. The Flood Planning Tool also indicates that the approximate Ground Elevation Height at the Parcel is 25 to 30-ft.



Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcel has a designation of “Developing Area.” The properties immediately to the north and west and also to the east on the opposite side of Old Stage Road (S.C.R. 461) also have a Future Land Use Map designation of “Developing Area.”

As outlined in Sussex County’s 2018 Comprehensive Plan “Developing Areas are newer, emerging growth areas that demonstrate the characteristics of developmental pressures” and “most of the proposed Developing Areas are adjacent to municipalities, within or adjacent to potential future annexation areas of a municipality, or adjacent to Town Centers” (2018 Sussex County Comprehensive Plan, 4-14). The Plan further notes that a “range of housing types are appropriate including single-family homes, townhouses and multifamily units” and that “in selected areas and at appropriate intersections, commercial uses should be allowed” (2018 Sussex County Comprehensive Plan, 4-14).

Zoning Information

The subject property is currently zoned Agricultural Residential (AR-1) District. The property to the north of the site is also zoned Agricultural Residential (AR-1) District along with a few properties on the east side of Old Stage Road (S.C.R. 461). The property to the west of the subject property is zoned General Commercial (C-1) District. Several properties on the opposite side of Old Stage Road (S.C.R. 461) are zoned General Residential (GR) District.

Within the context of this Application, Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories” in the 2018 Sussex County Comprehensive Plan notes that the Heavy Commercial (C-3) District is an applicable Zoning District within the “Developing Area” Future Land Use Map Designation.

Changes of Zone Applications within the Vicinity of the Subject Site

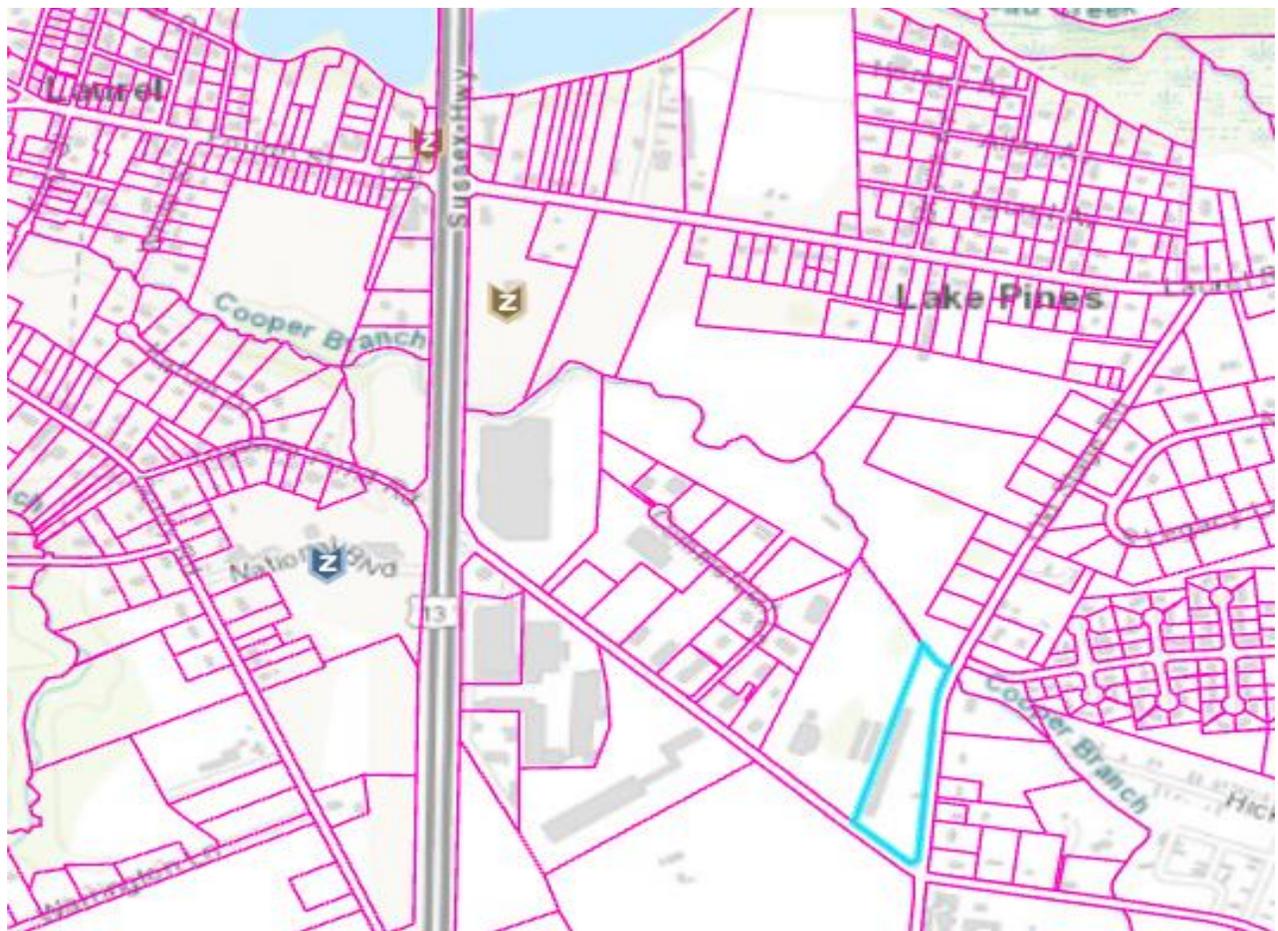
Staff confirms that there have been three (3) Change of Zone Application within a 1-mile radius of the Application Site. All three (3) of Applications were recommended approval by the Planning and Zoning Commission and were approved by the Sussex County Council.

Please find further information regarding these Application in the Table provided on Page 3 of this document as has a Supplemental Map showing the locations of the abovementioned Applications.

Based on the analysis of the land use, surrounding zoning and uses, a Change of Zone from Agricultural Residential (AR-1) District to Heavy Commercial (C-3) District for proposed storage and employee parking for an adjacent waste management facility, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

Change of Zone Applications (w/in a 1.0-mile radius of the subject site)*

Application Number	Applicant Name	Zoning	Proposed Zoning	P&Z Date	P&Z Recommendation	CC Date	CC Decision	Ordinance No.
C/Z 1730	Two Farms, Inc.	AR-1	CR-1	6/13/2013	Recommended Approval	6/25/2023	Approved	2312
C/Z 1739	Vance Phillips	AR-1	CR-1	1/15/2014	Recommended Approval	2/4/2014	Approved	2337
C/Z 1889	Air Fish Automotive	AR-1	C-3	8/22/2019	Recommended Approval	9/17/2019	Approved	2680



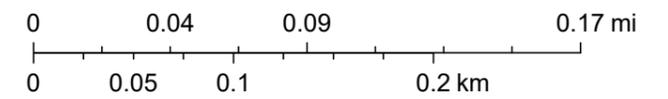
Sussex County



October 31, 2023

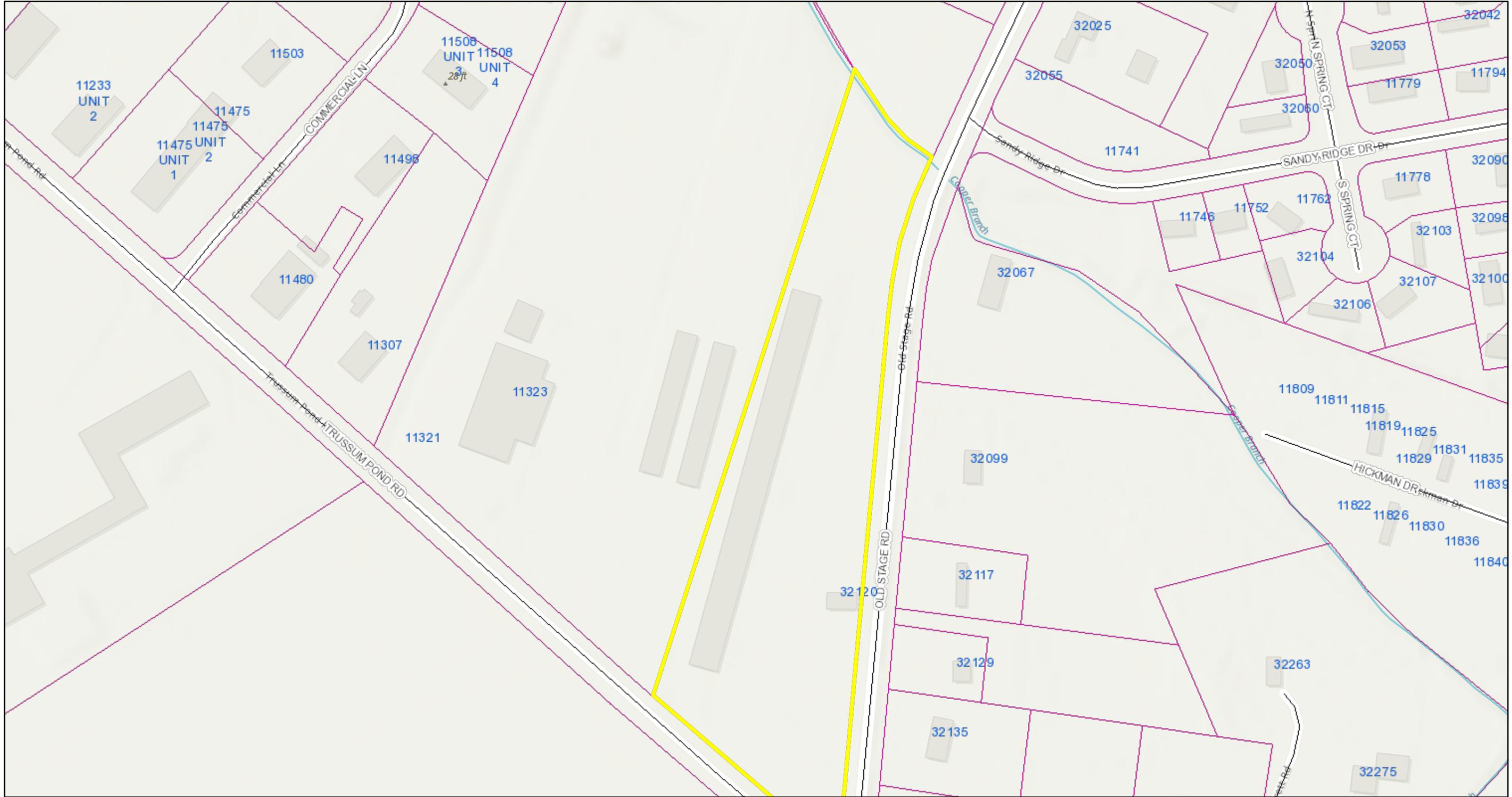
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- Override 1
- Tax Parcels
- Streets
- County Boundaries

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Delaware Department of Education, Wetland mapping is supported with funding provided by the Environmental Protection Agency., Delaware Geological Survey, U.S. Geological Survey, Delaware Public Service Commission, FEMA, DNREC, Division of Watershed Stewardship, Drainage Program, john.inkster@state.de.us, Sussex

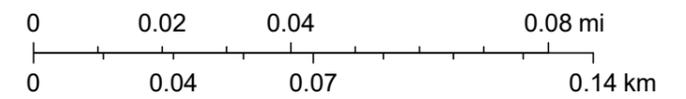
Sussex County



October 31, 2023

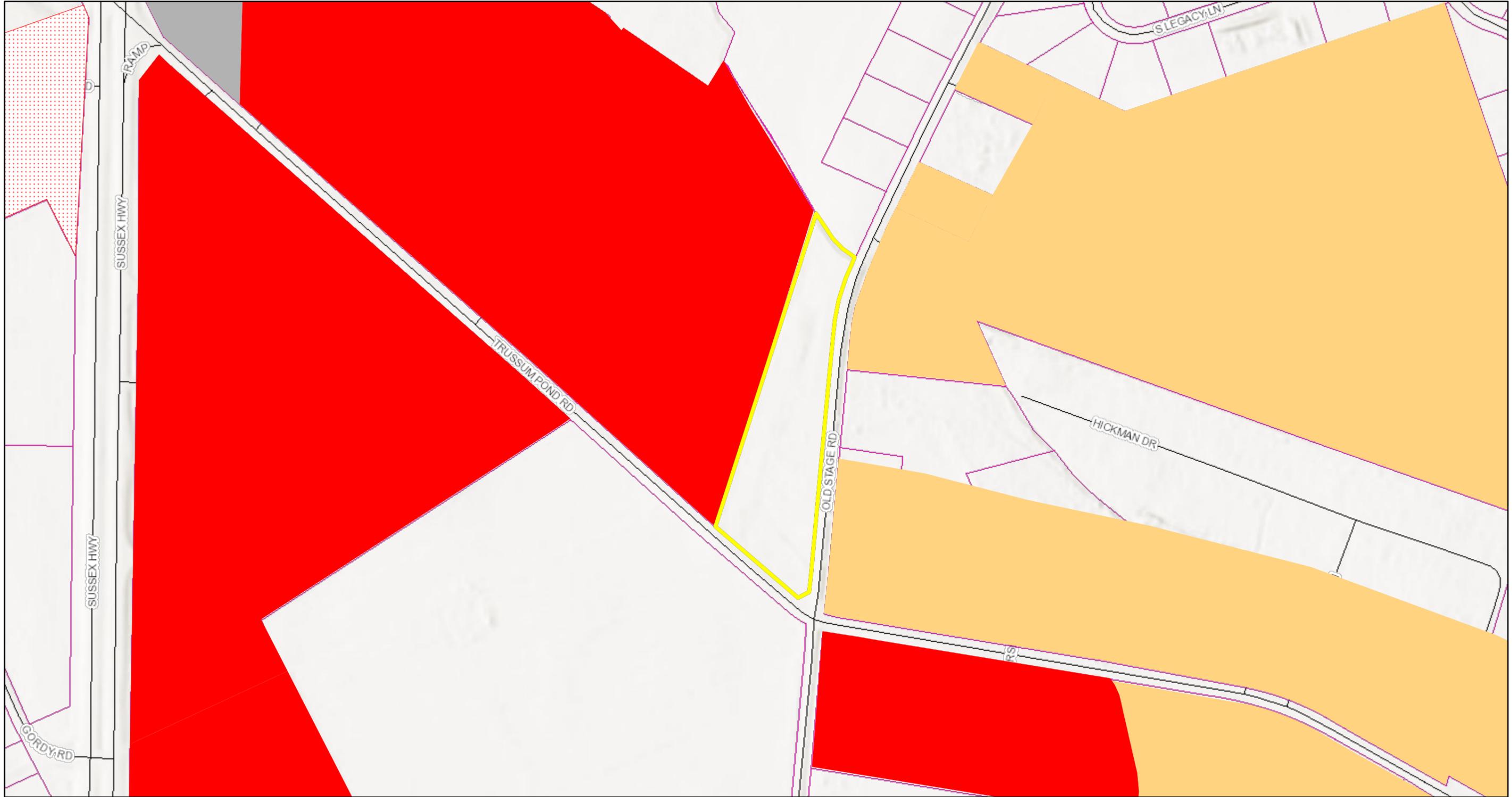
- Override 1
- Tax Parcels
- Streets
- Override 1
- 911 Address
- County Boundaries

1:2,257



Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Sussex County Government, Esri Community Maps Contributors, County of Sussex, DE, Delaware FirstMap, VGIN, © OpenStreetMap, Microsoft,

Sussex County



October 31, 2023

polygonLayer

Override 1

Override 2

Zoning

General Residential - GR

General Commercial - C-1

General Commercial - C-3

Light Industrial - LI-2

Tax Parcels

Streets

County Boundaries

layer44

Red: Band_1

Green: Band_2

Blue: Band_3

World Hillshade

1:4,514

0 0.04 0.09 0.17 mi

0 0.05 0.1 0.2 km

Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Sussex County Government

Introduced: 3/28/23

Council District 1: Mr. Vincent
Tax I.D. No.: 332-2.00-79.01
911 Address: 32120 Old Stage Road, Laurel

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 CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.219 ACRES, MORE OR LESS

WHEREAS, on the 31st day of October, 2022, a zoning application, denominated Change of Zone No. 1997 was filed on behalf of Waste Management of Delaware Inc.; and

WHEREAS, on the ____ day of _____ 2023, 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. 1997 be _____; and

WHEREAS, on the ____ day of _____ 2023, 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 and 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 parcels of land lying and being situate in Little Creek Hundred, Sussex County, Delaware, and lying on the west side of Old Stage Road (S.C.R. 461) at the intersection of Old Stage Road (S.C.R. 461) and Trussum Pond Road (S.C.R. 462) and being more particularly described in the attached legal description prepared by Karins and Associates, Professional Land Surveyors said parcels containing 5.219 ac., 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.