

COUNTY COUNCIL
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JOHN L. RIELEY, VICE PRESIDENT
CYNTHIA C. GREEN
DOUGLAS B. HUDSON
MARK G. SCHAEFFER



Sussex County

DELAWARE
sussexcountyde.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

A G E N D A

January 30, 2024

12:30 P.M.

AMENDED on January 26, 2024 at 3:15 p.m.***

Call to Order

Approval of Agenda

*****Announcing the Withdrawal of An Appeal of the Sussex County Planning Commission's decision to approve Subdivision Application No. 2022-19 – Grayrock Preserve Subdivision**

[Greyrock Appeal](#)

Approval of Minutes - January 23, 2024

[Draft Minutes 012324](#)

Reading of Correspondence

Public Comments



Consent Agenda

1. **Use of Existing Wastewater Agreement – IUA-1212
Hunters Creek, Millville Area**
[Consent Agenda Hunters Creek](#)
2. **Use of Existing Wastewater Agreement – IUA-1154
Ironwood, Miller Creek Area**
[Consent Agenda Ironwood](#)
3. **Use of Existing Wastewater Agreement – IUA-1161 Revised
The Knoll, Holt’s Landing Area**
[Consent Agenda The Knoll Revised](#)
4. **Proclamation Request – Engineers Week**

Todd Lawson, County Administrator

1. **Announcement of the new County Engineer**
2. **Discussion related to the Voluntary School Assessment (VSA)**
3. **Review of the Sussex County Rental Program & the Chapel Branch Apartments**
[SCRCP & Chapel Branch Apartments](#)
4. **Administrator’s Report**

Jamie Whitehouse, Director of Planning & Zoning

1. **Presentation & Discussion related to Accessory Dwelling Units**

Grant Requests

1. **Milton Historical Society for their Shipbuilding Museum and Public Exhibit**
[Milton Historical Society](#)
2. **Pop Warner Little Scholars Inc. (Woodbridge) for their Woodbridge Youth football program**
[Pop Warner Little Scholars Inc.](#)

Introduction of Proposed Zoning Ordinances

[Ord Intro CU2445 CU2413](#)

Council Members' Comments

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

Possible Action on Executive Session Items

Recess

1:30 p.m. Public Hearing

1. **[Conditional Use No. 2401 filed on behalf of OA Sundance Club, LLC](#)**

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (180 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 48.36 ACRES, MORE OR LESS” (property lying on the northeast corner of Old Mill Road [Rt. 349], and the southwest corner of Railway Road [S.C.R. 350], at the intersection of Railway Road [S.C.R. 350] and Old Mill Road [Rt. 349]) (911 Address: N/A) (Tax Map Parcel: 134-12.00-74.01)

[Public Hearing CU2401](#)

Adjourn

*****Per 29 Del. C. §10004 (e) (5) and Attorney General Opinion No. 13-IB02, this agenda was amended to address a matter which arose after the initial posting of the agenda but before the start of the Council meeting and to provide notice of the Appellant's withdraw of the appeal of the Grayrock Preserve Subdivision.**

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on January 23, 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>.

**1203 North Orange Street
Wilmington, Delaware 19801**

January 26, 2024

William Sykes
21046 Wilson Road
Georgetown, Delaware
twobaysdogs@ayhoo.com

**Re: The Grayrock Preserve, Sussex County
Planning and Zoning Comm., App. No. 2022-19**

Dear Mr. Sykes:

I have been advised that you have indicated via email to Tracy Torbert, Clerk of Sussex County Council, you wish to withdraw your appeal of the Planning and Zoning Commission's decision in the above referenced matter. A copy of that correspondence has been forwarded to me.

I have now had the opportunity to review the matter and have so informed the parties of my intent in that regard. Having done so, it is my decision, as the hearing officer appointed by Sussex County Council, to accept your decision "dropping" and/or withdrawing your appeal by the Planning and Zoning Commission regarding Grayrock Preserve. The proceedings involving the property in question shall be returned to the Planning and Zoning Commission for such further proceedings as if the appeal had not been filed. The matter shall also be removed from the Sussex County Council agenda and calendar for January 30, 2024.

It is so ordered and/or decided effective as of the date of this correspondence.

Sincerely yours,

Charles H. Toliver, IV

Sent to addressee by U. S. Postal
Service (regular mail) and Email

Cc (via email):

Vince G. Robertson, Esquire

Scott G. Wilcox, Esquire

David C. Hutt, Esquire

Mr. Todd F. Lawson

Ms. Tracy Torbert

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 23, 2024

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 23, 2024, at 10:00 a.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
Mark G. Schaeffer	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

Call to Order

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

Mr. Vincent called the meeting to order.

**M 024 24
Approve
Agenda**

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

Motion Adopted: 5 Yeas

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

Minutes

The minutes from January 9, 2024, were approved by consensus.

**Corre-
spondence**

Mr. Moore read correspondence received from Good Samaritan Organization, Redemption City and Delaware Hospice thanking Council for their donation.

**Public
Comments**

Public comments were heard:

Mr. Paul Reiger spoke about a letter written about a Planning & Zoning Commission Member and other matters related to the PZ Commission.

Ms. Denise Garner spoke about starting an environmental commission.

Mr. Mike Helwich spoke about traffic issues and proposed housing occurring in the area on Dorman Road in Lewes.

M 025 24

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to approve

**Approve
Consent
Agenda**

the following item under the Consent Agenda:

**Use of Existing Wastewater Infrastructure Agreement – IUA- 691
Highlands of Pepper Creek, Dagsboro/Frankford Area**

Motion Adopted: 5 Yeas

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

**Adminis-
trator’s
Report**

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

1. Delaware State Police Activity Report

The Delaware State police year-to-date activity report for December 2023 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 190 troopers assigned to Sussex County for the month of December.

2. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Welches Pond (formerly Fieldstone – The Grove At Love Creek) Phase 2 (Construction Record); Showfield Sewer Extension Down Battlemixer Drive, both effective January 11th; Walden (formerly Burton’s Pond) Phase 5A (Construction Record); and Phase 6A (Construction Record), both effective January 16th.

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

**Permission
to Prepare
& Post
Notices/
Leeward
Chase
Annexation
into
SCUSSD**

John Ashman, Director of Utility Planning & Design Review presented a request to prepare and post notices for Leeward Chase Annexation into the Sussex County Unified Sanitary Sewer District (Airpark Area).

Mr. Ashman reported that the Engineering Department 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. The project is otherwise known as Moore’s Meadow Farm. The project is proposed at 106 units and will be responsible for System Connection Charges of \$7,700 per EDU based on current rates. The Engineering Department is requesting permission to prepare and post notices for a Public Hearing on the annexation of the area.

**M 026 24
Approve
Permission
to Prepare
& Post
Notices**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, be it moved by the Sussex County Council that the Sussex County Engineering Department, is authorized to prepare and post notices for the Leeward Chase Annexation of the Sussex County Unified Sanitary Sewer District to include parcels 135-15.00-98.00 & 98.01 as presented.

Motion Adopted: 5 Yeas

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

**Public
Hearing/
South
Greenwood
Expansion
of SCUSSD**

A Public Hearing was held for the South Greenwood Expansion of the Sussex County Unified Sanitary Sewer District (Western Sussex Area). Mr. Ashman reported that this was an 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 a facility south of Greenwood. The request stated the inability to replace or expand their existing on-site system based on the existing building layouts. The request also stated the inability to replace or expand the existing on-site facility would prevent their future planned expansion providing new employment opportunities. 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 improvements and will pay for the electricity and provide the back-up generator service for the station.

Mr. Ashman reviewed the estimated annual service charges.

The 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, there has been no correspondence received in favor or opposition. Mr. Ashman noted that residents are allowed to be included in this boundary with a request that can be received up to February 2, 2024, and then, the County Engineer will determine if they can be included.

There were no public comments.

The Public Hearing and public record were closed.

**Public
Comment**

Ms. Betty Jane Barney spoke about overburden issues near Dorman Road and Route 24.

**Proposed
Ordinance/
Western**

Hans Medlarz, County Engineer presented a Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$2,797,264 OF GENERAL OBLIGATION BOND OF SUSSEX COUNTY

Sussex Regional Sanitary Sewer **IN CONNECTION WITH INCREASED COSTS ASSOCIATED WITH THE WESTERN SUSSEX REGIONAL SANITARY SEWER DISTRICT PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.**

Introduction of Proposed Ordinance **Mrs. Green introduced 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”.**

The Proposed Ordinance will be advertised for a Public Hearing.

RK&K Wetland **Hans Medlarz, County Engineer presented a 5-year wetland data collection implementation from RK&K for Council’s consideration.**

M 027 24 Approve 5-year RKK Wetland Data Collection **A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, be it moved, based on the recommendation of the Sussex County Engineering Department, that Council approve the RK&K 5-year wetland data collection implementation proposal in the not to exceed amount of \$145,157.17.**

Motion Adopted: 5 Yeas

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

Herring Creek **Hans Medlarz, County Engineer presented change order no. 3 and amendment no. 7 for Herring Creek Project S20-08 for Council’s consideration.**

M 028 24 Approve CO No. 3 Herring Creek **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it moved based upon the recommendation of the Sussex County Engineering Department, that change order 3 for contract S20-08, Herring Creek sanitary sewer district: South Gravity sewer and force main, Phase III be approved, increasing the contract time by 210 calendar days, contingent upon USDA concurrence.**

Motion Adopted: 5 Yeas

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

M 029 24 Approve **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it moved based upon the recommendation of the Sussex County Engineering**

**Amendment No. 7/
Herring
Creek** Department, that amendment no. 7 to the EJCDC base engineering contract for the Herring Creek sanitary sewer district with Whitman, Requardt and Associates be approved in the amount not to exceed \$259,551.00, for additional construction administration and inspection services for contacts S20-07, S20-08 and S20-09, contingent upon USDA concurrence.

Motion Adopted: 5 Yeas

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

**Winding
Creek/
Tidewater** Hans Medlarz, County Engineer presented an agreement with Tidewater Utilities, Inc. for Winding Creek Village Water District for Council's consideration.

**M 030 24
Approve
Agreement/
Tidewater
Utilities/
Winding
Creek** A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, be it moved based upon the recommendation of the Sussex County Engineering Department, that Council approve the Winding Creek Village water district agreement with the Tidewater Utilities, Inc. as presented.

Motion Adopted: 5 Yeas

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

**Old
Business/
CU2388** Under Old Business, Jamie Whitehouse, Director of Planning and Zoning presented a Proposed Ordinance entitled "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]) filed on behalf of Rifle Range Road Solar, LLC.

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.

**M 031 24
Adopt
Ordinance
No. 2973/
CU2388** A Motion was made by Mrs. Green, seconded by Mr. Hudson to Adopt Ordinance No. 2973 entitled "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

**M 031 24
Adopt
Ordinance
No. 2973/
CU2388
(continued)**

OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:

- 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**

**M 031 24
Adopt
Ordinance
No. 2973/
CU2388
(continued)**

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 Adopted: 5 Yeas

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

**Grant
Requests**

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

**M 032 24
Mispillion
Performa-
nce Series**

A Motion was made by Mr. Schaeffer, seconded by Mrs. Green to give \$1,000 (\$500 from Mrs. Green's Councilmanic Grant Account and \$500 from Mr. Schaeffer's Councilmanic Grant Account) to Mispillion Performance Series for their 2024 concert series.

Motion Adopted: 5 Yeas

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

**M 033 24
ReTemp
Developm-
ent Center**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to give \$750 (\$750 from Mr. Vincent's Councilmanic Grant Account) to ReTemp Development Center for their food project for seniors and homeless.

Motion Adopted: 5 Yeas

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

Introduction of Proposed Ordinances Mrs. Green introduced a Proposed Ordinance entitled “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” filed on behalf of Monish Malhotra.

Mr. Hudson introduced a Proposed Ordinance entitled “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” filed on behalf of Mahmut Yilmaz.

The Proposed Ordinances will be advertised for a Public Hearing.

Council Members’ Comments Mrs. Green commented that all of us are aware of statements made by one of the Planning & Zoning Commissioners from her district. She added that she takes her job very serious and votes on the matters before her based on the best interest of her constituents. It is important that politics do not taint the business of our County government, zoning decisions or appointments of Board Members. Constituents in her district feel disenfranchised by the appointment of this Member from the beginning. She stated that she will continue to keep her focus on her job and hopes the Commissioner does the same. She added that we need to move forward but we can not overlook how unprofessional and inappropriate this was, but we do need to move forward.

Public Comment Mr. Jonathan Hamburg spoke about traffic issues and development in the area of Dorman Road and Route 24.

M 034 24 Go Into Executive Session At 10:46 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to recess the Regular Session, and go into Executive Session for the purpose of discussing matters related to pending & potential litigation, collective bargaining & land acquisition.

Motion Adopted: 5 Yeas

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

Executive Session At 10:52 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters related to pending & potential litigation, collective bargaining & land acquisition. The Executive Session concluded at 11:28 a.m.

M 035 24 **At 11:33 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley**
Reconvene **to come out of Executive Session back into Regular Session.**

Motion Adopted: 5 Yeas

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

Mr. Lawson noted that there was an agenda item listed for possible action related to the Collective Bargaining Agreement with AFSCME AFL-CIO and its affiliated local union 1926.

Mr. Lawson reported that the Council did meet related to the Environmental Services union agreement and the terms of the collective bargaining agreement. These terms were ratified by the union on January 16, 2024.

M 036 24 **A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, that be it**
Approve **moved that Sussex County Council approves the ratified 2022-2028**
Collective **collective bargaining agreement between Sussex County and the Delaware**
Bargaining **Public Employees Counsel AFSCME AFL-CIO and its Affiliated Local**
Agreement **Union 1926.**

Motion Adopted: 5 Yeas

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

M 037 24 **A Motion was made by Mr. Hudson, seconded by Mr. Rieley to recess**
Recess **until 1:30 p.m. Public Hearings.**

Motion Adopted: 5 Yeas

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

M 038 24 **At 1:30 p.m., a Motion was made by Mr. Hudson, seconded by Mr.**
Reconvene **Schaeffer to reconvene.**

Motion Adopted: 5 Yeas

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

Rules

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

**Public
Hearing/
CU2394**

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 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) filed on behalf of Wayne Development, LLC.

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

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 stated and subject to the 12 recommended conditions as outlined.

The Council found that Ms. Mackenzie Peet, Esq. with Saul Ewing, LLP spoke on behalf of the Applicant; that also present were Mr. Matt Williams, member of Wayne Development, LLC and Mr. Bob Palmer, P.E. with Beacon Engineering. Ms. Peet presented two amendments to the conditions that were recommended by the Commission; that 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 2,500 sq. ft. of self-storage and a 900 sq. ft. office area, together with outdoor RV, boat, vehicle, and trailer storage with be at the rear of the site; 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 the Planning & Zoning memorandum mentioned that a previous applications near the site such as a boat shrink business, landscaping business with sales & storage, auto repair shops and a construction company which include office, storage and retail components; that included in the memo from Planning & Zoning includes one application for boat storage that had previously been denied years ago by the site; that the denial in part had to do with lack of consideration for nearby neighbors with no screening or security, etc.; that the record reflects that Wayne Development does have proper screening, buffering and measures in place; that the Commission recommended approval of the Conditional Use; that there are two conditions, A and E that they are seeking

**Public
Hearing/
CU2394
(continued)**

amendments; that an amendment is being requested to include vehicular storage; that for Condition E, it is being requested to add limited onsite maintenance to allow for a safe transfer of inoperable boats, trailers, vehicles, etc.

There were no public comments.

The Public Hearing and the public record were closed.

**M 039 24
Amend
Condition A/
CU2394**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to amend Condition A to add the word vehicles in the first sentence to read “The use shall be limited to self-storage and the storage of RVs, boats, vehicles and trailers”.

Motion Adopted: 5 Yeas

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

**M 040 24
Amend
Condition E/
CU2394**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to amend Condition E to read as follows “No sales or maintenance of RVs, boats, vehicles, or trailers shall occur on the site, except for limited mobile maintenance and repair services that can be reasonably performed onsite. These services may include minor maintenance tasks such as battery replacement, tire changes, and minor trailer repairs, such as to tongues or hitches. Such maintenance services shall not require extensive equipment or facilities available only at a designated repair facility.

Motion Adopted: 5 Yeas

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

**M 041 24
Adopt
Ordinance
No. 2974/
CU2394**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Ordinance No. 2974 entitled “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” for the reasons and conditions given by the Planning & Zoning Commission as follows and amended for Conditions A & E:

- 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**

**M 041 24
Adopt
Ordinance
No. 2974/
CU2394
(continued)**

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 RVs, boats, vehicles, and trailers. 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 RVs, boats, vehicles, or trailers shall occur on the site, except for limited mobile maintenance and repair services that can be reasonably performed onsite. These services may include minor maintenance tasks such as battery replacement, tire changes, and minor trailer repairs, such as to tongues or hitches. Such maintenance services shall not require extensive equipment or facilities available only at a designated repair facility.
 - 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

**M 041 24
Adopt
Ordinance
No. 2974/
CU2394
(continued)**

stabilized surface. The location and type of this material shall be shown on the Final Site Plan.

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

Motion Adopted: 5 Yeas

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

**Public
Hearing/
CU2477**

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 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]) filed on behalf of State of Delaware.

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

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 stated.

The Council 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 Major Ballinger with the Delaware State Police. Mr. Richard stated this Conditional Use is for a brand-new police barracks, Troop 4; that the site is located on the Stockley campus, located along Avenue of Honor and Patriots Way; that the leased site area is comprised of 44 acres of the total 830 acreage own by the State of Delaware; that the 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 there will be investigation and evidence rooms; that it a much longer facility than what is currently in Kent County for Troop 3; that to the left of the main building will be a maintenance building for the servicing of vehicles; that there will be a gravel impound lot which is towards the rear of the property; that there will be fencing and security; that there will be a secured fence along the entire perimeter of the back portion of the building including the maintenance building and gravel lot; 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

**Public
Hearing/
CU2477
(continued)**

intended to be a driver training type area for the State Police; that this area will help facilitate cone-avoidance training; that there will be K-9 training as well; that public parking will be located toward the front of the site; that it is going to be landscaped to the requirement of the County Code; that stormwater management will be provided; that currently they anticipate the management system to be infiltration; that all stormwater management will comply with the Sussex Conservation District standards.

There were no public comments.

The Public Hearing and public record were closed.

**M 042 24
Adopt
Ordinance
No. 2975/
CU2477**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 2975 entitled "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" for the reasons given by the Planning & Zoning Commission as follows:

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 Adopted: 5 Yeas

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

**Public
Hearing/
CU2491**

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 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) filed on behalf of St. Michael the Archangel Church.

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

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.

The Council 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 old sign was 100 inches wide and 76 inches tall; that the new sign will be double sided, full color, electronic message center being 96 inches wide and 96 inches tall; that the new sign will be in the same location as the old sign; 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 features on the sign are adjustable by the users and will remain in compliance with the ordinance.

There were no public comments.

The Public Hearing and public record were closed.

**M 043 24
Adopt
Ordinance
No. 2976/
CU2491**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to Adopt Ordinance No. 2976 entitled “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” for the reasons given by the Planning and Zoning Commission as follows:

- 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 Mounty 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 Adopted: 5 Yeas

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

**Public
Hearing/
CZ1991**

A Public Hearing was held on a Proposed Ordinance entitled “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) filed on behalf of Sycamore Chase Expansion.

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

**Public
Hearing/
CZ1991
(continued)**

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 stated and subject to the 18 recommended conditions as outlined.

The Council 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 the property is located adjacent to the existing Sycamore Chase, along Daisy Rd.; 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, 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; that nearby Seaway Community; that across from that is Milos Haven, which was approved in 2019; that across from Friendship Creek is the pending community of Lilyvale, which is proposing 174 townhomes on 51 acres; 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 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

**Public
Hearing/
CZ1991
(continued)**

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 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 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 existing 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 there are disclosures included in the current Sycamore Chase community that specifically identified these properties as a possible expansion for the community; that if approved, it would be part of the Sycamore Chase HOA and have access to their amenities; hat 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 (approximately 48%) of open space would be provided; that DelDOT stated the project would have a minor impact on traffic, and therefore no Traffic

**Public
Hearing/
CZ1991
(continued)**

Impact Study (TIS) is required; that the project does qualify 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 DNREC 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 parking will be provided as required by Sussex County Code for all units; 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 designed to County standards; 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 draft findings were provided which the Planning Commission used in conjunction with their recommendation; that draft findings of fact were also provided.

The Council found that Mr. Gavin Robinson, Vice President of Operations for Beazer Homes, LLC, spoke on behalf of the Application. Mr. Robinson stated that since December 2021, Beazer Homes has been successful in bringing home quality and energy efficient homes to the market in a sought after location; that Sycamore Chase is quickly approaching the end; that they look forward to the opportunity to bring a continuous of that successful project; that he thanked the Adkins family, who was also in attendance, for allowing them the opportunity to bring the project before the Council.

Public comments were heard.

**Public
Hearing/
CZ1991
(continued)**

Mr. Charles Parsons spoke in opposition of the application; that he owns the land directly west of Sycamore Chase expansion; that he does not want to be infringed upon because of what they are doing at the property; that he questioned the compliance of the 50 foot lands in agricultural use; that he is currently using his land in a form of agricultural use; that instead of a 20 foot buffer which is shown on the proposed plan, he questioned why it is not 50 feet.

Mr. Whitehouse explained that the Code calls for a buffer, if adjoining lands are in agricultural use in terms of 50 feet, there is a requirement that the new lots have the agricultural protection notice. He added that anyone living within 50 feet of agricultural lands are put on notice that they are living next to agricultural lands. He added that the buffer is different, it does not increase the buffer to 50 automatically; the two mechanisms operate parallel. Mr. Whitehouse noted that it can be added by a way of a condition if desired to note the lands are in agricultural use. Mr. Whitehouse stated that the buffer requirement is up to Council's control should Council desire to require a different buffer by way of conditions. It was pointed out that the Planning & Zoning Commission recommended a 30-foot buffer.

Mr. Parsons commented that the tax ditch requires an 80-foot right-of-way top of a bank, and it appears that some of the property lines are do not meet that requirement. Mr. Whitehouse commented that the applicant's plan proposes 40 feet, so the applicant is proposing a modification on the tax ditch easement as part of the subdivision. Mr. Parsons commented that he contacted DNREC; that there was a court order change no. 1 to make it 80 feet in 1953; that he knows that some subdivisions have encroached on that even putting building within the right-of-way. He requested that his property that is adjacent to the land is not infringed upon.

Ms. Sherry Parsons-Merritt spoke in opposition of the application; that she grew up adjacent to the property; that the farm has been in the family for 124 years and 6 generations; that she questioned the access point to Sycamore Chase; that there is a farm easement where the access would be coming into and that would cut off their land that is beside the proposed development; that it is an agricultural right-of-way that has been there forever; that it would land lock their property if this would occur; that she has no issues with the development; that she plans to move back to the area; that the access road would land lock their property giving them no access; that it was discussed that an easement is being requesting from her family for DelDOT needs by the developer; that she requested that their only access not be taken away; that they want to keep the property in their family.

The Public Hearing and public record were closed.

**M 044 24
Defer**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE

**Action/
CZ1991**

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” for the reasons and conditions given by the Planning & Zoning Commission.

Motion Adopted: 5 Yeas

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

**Public
Hearing/
CZ1997**

A Public Hearing was held on a Proposed Ordinance entitled “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) filed on behalf of Waste Management of Delaware, Inc.

Jamie Whitehouse, Planning & Zoning Director presented the application.

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.

The Council found that Mr. Jim 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. Pete Grim, District Manager 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 nearby 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; 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

**Public
Hearing/
CZ1997
(continued)**

repair of the companies 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 Trussum Pond self-storage facility; 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 in October 2022; 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 plan 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

**Public
Hearing/
CZ1997
(continued)**

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 Council 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 at the meeting of December 14, the Planning & Zoning Commission recommended approval of the requested zoning based on the Commission’s findings; that he requested the Council’s approval.

There were no public comments.

The Public Hearing and the public record were closed.

**M 045 24
Defer
Action/
CZ1997**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled “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” for the reasons given by the Planning & Zoning Commission.

Motion Adopted: 5 Yeas

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

**M 046 24
Adjourn**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to adjourn at 2:44 p.m.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
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.}

EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT

Hunter’s Creek (Salt Air) – IUA 1212

THIS AGREEMENT (“Agreement”), made this 16th day of January 2024, by and between:

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

SALT AIR PROPERTIES, LLC, a Delaware Limited Liability Company and developer of a project known as Salt Air, hereinafter called the “Developer.”

WITNESSETH:

WHEREAS, Developer is developing several tracts of land identified as Tax Map parcels 134-11.00-102.00 & 134-11.00-103.00 to be known as Hunter’s Creek (Salt Air) (“Project”) and;

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

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

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

- (1) Developer is proposing to utilize County’s existing collection and transmission capacity by connecting to existing regional infrastructure used by multiple pump stations.
- (2) In exchange for permission to connect up to **96.00** 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 **\$119,591.00** 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 **2500 Wrangle Hill Road, Suite 101, Bear DE 19701.**

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 SALT AIR PROPERTIES, LLC

By:  _____ (Seal)
Robert Sipple - Authorized Signatory

1/16/24 (DATE)

WITNESS:  _____
Lorretta Catron

EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT

Ironwood (Seaway at Sycamore Chase) – IUA-1154

THIS AGREEMENT (“Agreement”), made this 16 day of JANUARY 2024, by and between:

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

EVG-HVB, LLC, a Delaware Limited Liability Company and developer of a project known as Ironwood (Seaway at Sycamore Chase), hereinafter called the “Developer.”

WITNESSETH:

WHEREAS, Developer is developing a tract of land identified as Tax Map parcel 134-19.00-23.00 to be known as **Ironwood** (“Project”) and;

WHEREAS, the Project is within the boundary of the Sussex County Unified Sanitary Sewer District (Miller Creek Area) and;

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

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

- (1) Developer is proposing to utilize County’s existing collection and transmission capacity by connecting to existing regional infrastructure used by multiple pump stations.
- (2) In exchange for permission to connect up to **35.00** 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 **\$27,694.00** for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution must be submitted prior to beneficial acceptance of the on-site 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 **33176 Coastal Hwy, Unit 3, Bethany Beach, Delaware 19971.**

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

FOR THE COUNTY:

{Seal}

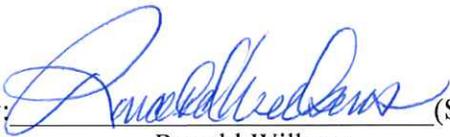
By: _____
(President - Sussex County Council)

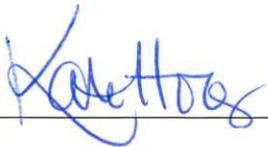
(DATE)

ATTEST:

Tracy Torbert
Clerk of the County Council

FOR EVG-HVB, LLC

By:  (Seal)
Ronald Wilkens
1/16/2024 (DATE)

WITNESS: 

EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT

The Knoll – IUA 1161 REVISED

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

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

FOXLANE HOMES AT THE KNOLL, LLC a Limited Liability Company and developer of a project known as **The Knoll**, hereinafter called the “Developer.”

WITNESSETH:

WHEREAS, Developer is developing a tract of land identified as Tax Map parcel 134-7.00-163.00 to be known as **The Knoll** (“Project”) and;

WHEREAS, the Project is within the boundary of the Sussex County Unified Sanitary Sewer District (Holt’s Landing 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 **33.00** 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 **\$31,521.00** 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 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 **32191 Nassau Road #2, Lewes Delaware 19958.**

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

FOR THE COUNTY:

{Seal}

By: _____
(President - Sussex County Council)

_____ (DATE)

ATTEST:

Tracy Torbert
Clerk of the County Council

FOR FOXLANE HOMES AT THE KNOIL, LLC

By:  _____ (Seal)
David L. Hart - Authorized Signatory

1/16/24 (DATE)

WITNESS:  _____



TODD F. LAWSON
COUNTY ADMINISTRATOR
(302) 855-7742 T
(302) 855-7749 F
tlawson@sussexcountycle.gov



Sussex County
DELAWARE
sussexcountycle.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: Todd F. Lawson 
County Administrator

RE: **SUSSEX COUNTY RENTAL PROGRAM & CHAPEL BRANCH APARTMENTS**

DATE: January 26, 2024

During Tuesday's meeting, Council is scheduled to discuss the Sussex County Rental Program (SCRP) and the Chapel Branch Apartments. As you know, both of these topics have been the subject of numerous inquiries to the County and recent comments offered during previous Council meetings. This memo, along with the conversation on Tuesday, will hopefully correct the record on these matters.

Sussex County Rental Program

The first SCRП was enacted in 2008 with incentives for developers to build moderately priced rental units. Over the next 14 years, only one developer utilized the program and developers reported that the program was not economically viable and expediting the approval process was not an incentive to produce these units. During this time, the need for workforce housing continued to grow and became a centerpiece of the County's updated Comprehensive Land Use Plan in 2018.

Fast forward to 2019 when the County hired LSA, a firm which specializes in housing consultation, to produce a housing needs and market analysis focused on Sussex County. The analysis provided several recommendations to the County, including updating the SCRП. With the analysis and subsequent recommendation, along with the growing call for more workforce housing, the Council requested the SCRП to be updated in 2022.



The SCRP update in 2022 came in the form of Ordinance Number 2889. The Ordinance was introduced by County Council on March 29, 2022; a public hearing was held by the Planning & Zoning Commission on April 28, 2022 and the Ordinance was amended and approved by the Commission on June 9, 2022. Subsequently, the County Council held its public hearing on October 18, 2022 and voted to approve the Ordinance on the same date.

The SCRP update does allow the development of multifamily units or townhouses “by right” so long as the development meets several requirements outlined in the Ordinance. Among those requirements, the site must be located within a Town Center, Developing Area, Commercial Area or the Coastal Area as described within the County’s publicly adopted Comprehensive Land Use Plan. Twenty-five percent (25%) of the dwelling units must be offered at a reduced rent based on the household income. Families with incomes between 30% - 80% of the area medium income (AMI) as defined by the U.S. Department of Housing and Urban Development would be able to apply for these units. The rent is set at 25% of household income for a family earning 50% AMI. Generally speaking, these rent ranges are designed to support working families. The site must be located on specific roads classified by the Delaware Department of Transportation (DelDOT) and work to have DART First State transit access. The site must be served by central water and sewer systems. The site requires a 100-foot setback around the perimeter if the dwelling exceeds 42 feet in height and a 50-foot setback if the dwelling is less than 42 feet in height. Additionally, the site requires that 50% of the gross area remain as open space.

As a result of these requirements, similar to any other “by right” property use, a developer seeking to participate in the SCRP must still submit their application and receive approval in a public meeting from the Planning & Zoning Commission upon review of the site plan. No public hearings are required, nor held.

In addition to meeting the County criteria for approval, the developer must meet all other agency approvals, including DelDOT, Sussex Conservation District, and the Delaware State Fire Marshal.

To date, the County has had four developers begin the SCRP process, including the development known as Chapel Branch Apartments.

Chapel Branch Apartments

Following the process outlined above, the Chapel Branch Apartments application was submitted for the site located at the corners of John J. Williams Highway (DE Route. 24) and Dorman Road, east of Burton Pond, near Angola. The Planning & Zoning Commission reviewed the site plan and granted preliminary approval of the application on May 25, 2023. The developer’s building renderings are attached.

According to the site plan provided by the applicant, Chapel Branch Apartments will be developed in two phases. Phase 1 features two apartment buildings and a

clubhouse, while Phase 2 features two apartment buildings. Phase 1 construction is tentatively scheduled to begin in the spring of 2024.

The development is approved for a total of 84 units with 28 designated as SCRP and 56 as non-SCRP. The apartment buildings are designed to be 38 feet, 6 inches in height and will have 50-foot setbacks to the rear, side, and front of the property. A bus stop is called for on the corner of Dorman Road.

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

See Attachments.





ARCHITECTURAL CONCEPTS PC



ARCHITECTURAL CONCEPTS PC





ARCHITECTURAL CONCEPTS PC

GREEN
YES. 1/17

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Tuesday, January 16, 2024 12:15 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 Milton Historical Society ✓

Project Name History of Shipbuilding Museum and Public Exhibit

Federal Tax ID 23-7158119 ✓

Non-Profit Yes

Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.) No

Organization's Mission The Milton Historical Society is a nonprofit cultural and educational organization dedicated to increasing public understanding and appreciation of the history of Milton and the Broadkill Hundred. The Society collects, preserves, and interprets stories, artifacts and documents related to Milton and the Broadkill Hundred for study and education. We welcome the participation of people of all ages in sharing informative and engaging experiences that will encourage them to discover and appreciate their heritage.

Address P.O. Box 112

City	Milton
State	DELAWARE
Zip Code	19968
Contact Person	DeeDee Wood
Contact Title	Executive Director
Contact Phone Number	3026841010
Contact Email Address	visit@historicismilton.org
Total Funding Request	3867.11
Has your organization received other grant funds from Sussex County Government in the last year?	No
If YES, how much was received in the last 12 months?	N/A
Are you seeking other sources of funding other than Sussex County Council?	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** Other

**Beneficiary Category
Other** Educational

**Approximately the
total number of
Sussex County
Beneficiaries served,
or expected to be
served, annually by
this program** 10000

Scope The Milton Historical Society presents an exhibit, as our main focus, once a year in our small historical society museum in the heart of the historic district in Milton, Delaware.

Our intention with our historic and localized history exhibits is to convey history, provide educational opportunities for learning, offered to local school systems, nursing care facilities, groups, clubs, relevant organizations and public forums, which include the generalized public.

The "History of Shipbuilding in Milton" exhibit delves into the history of the people of this region in Sussex county, generally located on the Broadkill River of the area in the early 1800s, who built ships to make a living in the area, using local forests and products, employing local tradesmen, and creating vessels that would sustain the local economy. The exhibit focuses on the craft of shipbuilding, socioeconomic studies, the lives of the men and women and this industry in the area, and the deforestation and environmental impact shipbuilding had on ecosystems of the area.

Diversity will also be included within this show, talking about the lives of not only men and ship captains of the region, but of women sailors, homemakers who supported the trade, Black pilot captains, freemen who worked in the shipyards and more.

We are requesting assistance for our exhibit to help aid in the costs of printing interactive material for the educational purposes of our museum, creation of the story boards for the show, marketing materials that are tangible in nature, and will help market the show to visitors in Sussex county. It will also aid in the generalized costs of installing such a show, such as painting our display area, creating a wooden diorama of the ships and their pathways in the 1800s, which consists of models and river examples, and other costs such as hardware, encasement displays of artifacts, and general curation.

Our museum is part of a small historical society in Sussex County, and aid such as this from our county entity helps us interpret, convey, educate and share our rich history in this area with tourism and tourist visitors, school programming, the general population in the area and other such groups. Our marketing campaign will reach out to not only the groups listed here, but generally speaking, since the exhibit is free, it will be available to low-income households and any individual who can't attend such exhibit from a cost-prohibitive platform.

The exhibit not only brings tourism to Sussex County and surrounding areas of Milton, but also offers the opportunity to showcase local industry, the relevance of the industry and the impact it has on current Milton activities and growth, and more. Showcased within this exhibit will be a representation of dwellings built by shipbuilders in their "off time," that still exist in Milton, the growth of the actual town around these shipyards and rivers, and the stories and documentation of businesses that influenced this region, due to the shipbuilding era.

Lastly, our show represents and investigates impacts of historic industries on the current environment, such as

deforestation, the loss of oak trees and cypress trees in the area, and the lessons that can be learned from sustainable, responsible use of environmental products and the lasting impact those actions produced in the area. We will be working with several local environmental institutions to gather correct data for this educational opportunity for this part of the exhibit.

Religious Components

N/A

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

0.00

Description

Printing of interpretive materials for exhibit, Coast to Coast printing

Amount

2,008.35

Description

Printing of marketing materials for exhibit, Coast to Coast printing

Amount

1,002.54

Description

Construction and preparation for this exhibit, (painting, construction, etc.)

Amount

856.22

TOTAL EXPENDITURES

3,867.11

TOTAL DEFICIT FOR PROJECT OR ORGANIZATION

-3,867.11

Name of Organization Milton Historical Society

**Applicant/Authorized
Official** DeeDee Wood

Date 01/16/2024

**Affidavit
Acknowledgement** Yes

Green
YES. 1/17.

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Tuesday, January 16, 2024 9:33 AM
To: Casey Hall
Subject: Sussex County DE - Council Grant Form: Form has been submitted

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Council Grant Form

Legal Name of Agency/Organization	Woodbridge Youth Football Pop Warner Little Scholars Inc. ✓
Project Name	Youth Football - Woodbridge
Federal Tax ID	51-0348574 ✓
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	The mission of Woodbridge Youth Football Organization is to provide the fundamentals of football and cheer for the youth in our community. To encourage and develop our youth to strive for personal, educational, and athletic excellence and become well-disciplined student-athletes both on the field and in the community
Address	PO Box 871
City	Bridgeville
State	DE

Zip Code	19933
Contact Person	Pearl Zencak
Contact Title	Treasurer
Contact Phone Number	3022331209
Contact Email Address	woodbridgeayf@gmail.com
Total Funding Request	4000
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?	5000
Are you seeking other sources of funding other than Sussex County Council?	Yes
If YES, approximately what percentage of the project's funding does the Council grant represent?	15
Program Category (choose all that apply)	Educational Other

Program Category Sports
Other

Primary Beneficiary Category Youth

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program 150

Scope We are in need of having our helmets reconditioned to ~~4~~ make sure they are safe for our players. We are also in need of obtaining new helmets and shoulder pads for the season.

Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request) 0.00

Description reconditioning helmets

Amount 5,000.00

Description buying new helmets

Amount 25,000.00

Description buying new shoulder pads

Amount 4,000.00

TOTAL EXPENDITURES 34,000.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -34,000.00

Name of Organization Woodbridge Youth Football

**Applicant/Authorized
Official** Pearl Zecak

Date 01/16/2024

**Affidavit
Acknowledgement** Yes

To Be Introduced: 1/30/24

Council District 1: Mr. Vincent
Tax I.D. No.: 432-11.00-40.03
911 Address: 33124 Old Hickory Road, Laurel

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR TRUCK PARKING, STORAGE, & MAINTENANCE AND AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.06 ACRES, MORE OR LESS

WHEREAS, on the 14th day of April 2023, a Conditional Use Application, denominated Conditional Use No. 2445 was filed on behalf of Deihm's Trucking Inc.; 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. 2445 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. 2445 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 Little Creek Hundred, Sussex County, Delaware, and lying on the west side of Old Hickory Road (S.C.R. 497) at the intersection of Old Hickory Road (S.C.R. 497) and White Pines Lane approximately 250 ft. northeast of Sharptown Road (Rt. 24) and being more particularly described in the attached legal description prepared by Haller & Hudson, said parcel containing 5.06 acres, more or less.

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

To Be Introduced: 1/30/24

Council District 1: Mr. Vincent
Tax I.D. No. 532-20.00-107.01
911 Address 38397 Old Stage Road, Delmar

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OUTDOOR VENUE FOR SEASONAL VENDORS AND SERVICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.84 ACRES MORE OR LESS

WHEREAS, on the 1st day of December 2022, a conditional use application, denominated Conditional Use No. 2413 was filed on behalf of Blue Hen Rental Company, LLC; 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. 2413 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. 2413 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 north side of Line Road (Rt. 54) and the east side of Old Stage Road (S.C.R. 68) at the intersection of Line Road (Rt. 54) and Old Stage Road (S.C.R. 68) and being more particularly described in the attached legal description prepared by The Smith Firm, LLC. said parcels containing 2.84 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 25, 2024

RE: County Council Report for C/U 2401 filed on behalf of OA Sundance Club, LLC

The Planning and Zoning Department received an application (C/U 2401 filed on behalf of OA Sundance Club, LLC) for multi-family (180 units), to be located at Tax Parcel 134-12.00-74.01. The property is located on the northeast corner of Old Mill Road (Rt. 349), and the southwest corner of Railway Road (S.C.R. 350), at the intersection of Railway Road (S.C.R. 350) and Old Mill Road (Rt. 349). The parcel size is 48.36 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on December 14, 2023. At the meeting of January 3, 2024, the Planning & Zoning Commission recommended approval of the application for the 9 reasons stated and subject to the 17 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting of December 14, 2023, and January 3, 2024.

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

C/U 2401 OA Sundance Club, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (180 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 48.36 ACRES, MORE OR LESS. The property is lying on the northeast corner of Old Mill Road (Rt. 349), and the southwest corner of Railway Road (S.C.R. 350), at the intersection of Railway Road (S.C.R. 350) and Old Mill Road (Rt. 349). 911 Address: N/A. Tax Map Parcel: 134-12.00-74.01.



Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Applicant's colored rendering, the Applicant's Exhibit Booklet, a letter from the Sussex County Engineering Department Utility Planning Division, the DelDOT Service Level Evaluation Response, a copy of the PLUS comments, the Applicant's Environmental Assessment, and a copy of the previous approval for C/U 2206, including the Meeting Minutes of the Planning & Zoning Commission's meeting of March 25, 2021. Mr. Whitehouse stated that five written comments had been received for the Application and they had been included within the Commission's Paperless Packet.

The Commission found that Mr. James Fuqua, Esq. with Fuqua, Willard & Schab, P.A. spoke on behalf of the Applicant, OA Sundance Club, LLC; that also present were Mr. Preston Schell and Mr. Ben Gordy of Ocean Atlantic Companies, Mr. Mark Davidson, Principal Land Planner and Mr. Alan Decktor, Senior Engineer, both with Pennoni Associates, Inc. Mr. Fuqua stated that an Exhibit Booklet was submitted for the review of the Commission; that the Application proposes 180 multi-family residential units; that the units will be single-family detached condominium units, to be located within an over 55 age-restricted community; that the Application is unique; that the site was already approved as a Conditional Use, and received Final Site Plan approval for a 200 unit multi-family development, as 17 multi-family apartment-type buildings; that the current Application proposes three modifications to the original Conditional Use and Site Plan; that rather than the large multi-family unit buildings, the Applicant is proposing single-family detached condominium units; that both types of units are defined as multi-family dwellings under the Sussex County Zoning Ordinance; that there was a 2.25 acre parcel that was located on the other side of Railway Rd., which has been removed from the current Application request; that the already approved 200 unit Conditional Use is now being proposed to reduce the density to 180 units; that the property is located at the northwest corner of the intersection of Railway Rd. and Old Mill Rd.; that the parcel contains 48.36 acres, which mostly consists of farmland; that there is approximately 3.6 acres of forest; that within the forested area is 1.3 acres of non-tidal wetlands, being located to the northwest corner of the site; that the site had frontage along both Railway Rd. and Old Mill Rd.; that the site is located adjacent to a wooded parcel to the rear of the site; that the remainder of the area surrounding the site is predominantly for single-family residential uses; that in 2010, the property was approved a Conditional Use for 200 multi-family residential units; that approval was subsequently voided for the failure to be substantially under construction within the timeframe allotted; that in March 2021, the Commission held a public hearing on a Conditional Use application, C/U 2206, filed by Lender and Company for a 200 unit, multi-family development, which was similar to the Conditional Use that had been approved in 2010; that neither Ocean Atlantic nor Mr. Schell were involved in the previous Application, nor was Mr. Fuqua; that from his research, it seemed the previous application was controversial; that the previous public hearing lasted over five hours; that there was an opposition petition signed by 1,000 residents in the area; there was 262 letters of opposition submitted for the previous Application; that there was an organization, Evans Farm Watch, comprised of representatives from over a dozen area communities who spearheaded the opposition; that the previous application was granted a recommendation of approval by the Commission, and County Council granted approval by a three to two vote; that the previously approved application proposed 200 units, in 17 multi-family buildings with 17 garage buildings located on the perimeter of the site; that the current Application request is to modify the previously approved development by replacing the large multi-family buildings with single-family

detached condominium units, and reducing the units from 200 to 180; that this change was proposed for several reasons; that first, Ocean Atlantic Companies is an established and experienced local developer; that they build single-family and multi-family residential developments, rental communities and commercial projects; that based on the companies' experience and knowledge in Sussex County, it was determined that the site was not an appropriate location for the development of a large multi-family rental-type project; that the need for rental housing, particularly workforce housing is well established; that such housing does need to be located in an appropriate place; that the current location was deemed not to be appropriate for several reasons; that the site is not located in close proximity to shopping areas or employment centers; that the site is not served by public transportation; that the area roads, particularly Railway Rd., between Old Mill Rd. and Rt. 26, is a narrow, two-laned road; that there are no sidewalks or shoulders; that due to this, it would create unsafe conditions for pedestrians walking or cycling along the road; that additionally, as it was noted by the opposition for the prior Conditional Use, the large multi-family building project does not fit in with the existing character of the area; that the surrounding area is predominantly of single-family residential character; that the previous Conditional Use Site Plan reflected 17 large buildings, with 17 garage buildings located along the outside perimeter of the large buildings; that one resident in opposition referred to the previous Site Plan layout as a circled wagon train design; that everything was centered with an almost military style and feel with compounded units located on the outside surrounding of the site; that the aesthetic appeal was lacking, and was not in character with the existing nature of the area; that the Site Plan for the current Application replaces the 17 big, box-styled, multi-family buildings and garages with 180 single-family attached condominiums; that there are a variety of unit types and styles that can be chosen, with options that the purchaser can choose from; that there will be a variety of different styles and appearances within the development; that the current Site Plan has the appearance of a mini-subdivision comprised of single-family condominium units, rather than the single-family homes located on individual lots; that the modified Site Plan retains the multi-family use, but with a building design that is in better harmony with the area and creates a more appropriate transition from the surrounding area to the use of the site; that everyone can recognize there is a need for rental housing in eastern Sussex County, however, there is also a need for appropriate housing, such as an over 55 community for both new and current older residents; that the existing 2019 Sussex County Comprehensive Plan note that the median age of a Delaware resident is 39 years; that the median age in New Castle County and Kent County it is 37 years; that the median resident age in Sussex County is 47 years; that the median age of residents in eastern, coastal area of Sussex County is much higher; that the census population data from the beach towns and areas such as Longneck and Ocean View, report an average median age of approximately 64 years; that this equals to half of the population in those areas being older than 64 years of age; that now, over 55 communities are designed with the needs of the older residents in mind; that the homes tend to be smaller, with master bedrooms located on the first floor; that accessibility and safety are key design components; that options are available to provide a number of things that would be desirable by older residents, which include handicap accessible bathrooms, and other floor modifications to make the homes more navigable and safer for older residents, many purchasers, including current older residents seeking to remain living in the area where they have been living, but wanting to downsize from their existing larger homes and yards; that downsizing will provide less utility and other expenses, as all buildings and lawn maintenance will be taken care of by the Owner's Association; that the Applicant has concluded the subject site is much more appropriate for the proposed type of use, and is more compatible with the local uses in the area;

that the proposed development will contain 180 single-family detached condominium units, resulting in a density of 3.7 units per acre; that the proposed density is significantly less than the density that would have been permitted by the existing GR (General Residential) Zoning; that the parcel is zoned GR (General Residential); that the current Application proposes 20 units less than what was already approved for the site; that the site is located within the Coastal Area, which is a Growth Area, where a range of housing types, including multi-family uses, are appropriate; that the site is in State Investment Level 2 and 3; that central water will be provided by Tidewater Utilities; that central sewer will be provided by Sussex County; that the Applicant will be responsible for the entrance and road improvements, as required by DelDOT, along the road frontage on both Railway Rd. and Old Mill Rd.; that the road improvements will include a shared use path along both of those roads; that there will be a vegetated or forested buffer of at least 20 ft. in width installed along the perimeter of the development that is adjacent to lands of other ownership; that the buffer will be increased to a minimum of 25 ft. along the western boundary line of the site, to the rear of Unit 13 through Unit 31; that there will be an enhanced buffer to the northeastern corner of the property; that there would be a landscape buffer to the rear of the homes bordering Railway Rd. and Old Mill Rd.; that there are 1.6 acres of non-tidal Federally regulated wetlands located in the northwest corner of the site; that area will remain undisturbed, and in its natural wooded state; that there will be a 50 ft. buffer established from any home and the wetland line; that the site is located with Flood Zone X, being outside of the floodplain, according to the FEMA Insurance Map; that there are 3.6 acres of woodlands that are located to the northwest corner; that along the northern boundary line, approximately .39 acres of woodlands will be removed; that approximately 89% of the existing woodlands will remain as they are; that stormwater management facilities will be designed and constructed in full compliance with DNREC's regulations; that there will be a recreational area located near the entrance of the site that will consist of a clubhouse, a pool and a deck, two pickleball courts, a community garden, and a dog park; that it is proposed that the recreational amenity would be completed prior to the issuance of the 90th Certificate of Occupancy, equating to 50%; that sidewalks will be located on one side of all internal streets with shielded street lighting; that each residential unit will have a two car garage and space for two cars to be located in the driveway; that in addition, there will be 47 parking spaces located at the recreational area; that the spaces will be comprised of 44 regular spaces and three ADA compliant spaces; that there was an emergency access placed in the northeast corner of the site, which he believed was to have lighting along the shared use paths; that DelDOT requested the emergency access be removed, as they did not want the emergency access or the lighted pathway; that due to this both the emergency access and lighting were removed; that the modified Site Plan does present an appropriate transition design that is more harmonious in appearance with the many single-family developments in the area; that he believed the proposed design is much more acceptable and preferred by many of the residents of the area; that there was a letter submitted by the Evans Farm Watch, which was the same organizational group on record for the previous application; that the group did indicate that they found the modified plan to be more acceptable; that in 2021, the Commission stated a number of reasons for recommending approval of the previous application; that those reasons were adopted by the County Council, and the application was approved; that he felt those previous reasons equally applied to the current Application; that the property is zoned GR (General Residential), which provides for medium density residential use with a permitted density of four units per acre; that the property is in the vicinity of a mixture of residential and commercial zoned properties, including GR properties, as well as MR (Medium-Density Residential) and C-1 (General Commercial) zoned properties; that a

multi-family residential project is consistent with those zoning classification options; that the proposed Conditional Use is appropriate for the site because central sewer and water is available; that the proposed use is consistent with the County's Comprehensive Plan because the site is located within the Coastal Area, which is a Growth Area, and is located in an area where medium and higher density is appropriate, and a range of housing types should be permitted in the Coastal Area, including multi-family units; that DelDOT reviewed the proposed use and determined under its vehicle trip standards, that the traffic impact would be minor; that the developer will be responsible for road improvements required by DelDOT; that the current Application proposed fewer units than the previous application, and the current Application is for an age restricted community; that the Commission previously stated under the Sussex County Zoning Ordinance, there is no distinction between a condominium multi-family unit and an apartment multi-family unit; that a condominium is not a building, it is a form of ownership; that it is a way to own something; that it is not a construction type; that the definition of a multi-family unit is various things under the Sussex County Zoning Ordinance, including an apartment, a townhouse, and a duplex; that a condominium is not a particular style of building; that a condominium is a legal form of ownership where one does not have a fee ownership; that one would have interest with the others; that traditionally, it has been interpreted under the Sussex County Code that the condominium is multi-family and is treated the same as far as zoning is concerned; that the subject Application proposes single-family, individual home development; that Marlin Chase, located along Cedar Neck Rd., is more or less identical to the proposed use, except the proposed homes are slightly wider in size; that the proposed homes are 40 ft. wide; that the homes within Marlin Chase are 36 ft. wide; that he attempted to follow the conditions previously adopted for C/U 2206, as closely as possible; that five of the original conditions have been amended due to the change in use; that he did add one proposed condition, regarding the age restriction to an over 55 community, and that four conditions were deleted as they were no longer applicable.

Ms. Wingate questioned if there was a written response from DelDOT stating their opposition to the proposed emergency access and questioned if the previous emergency access was paved. Ms. Wingate stated the emergency access the Commission desires is only a cleared pathway for the sole purpose of emergencies.

Chairman Wheatley stated the Commission was not looking for another highway entrance; that the Commission only desired an open area that would support the weight of an emergency vehicle to access the site in the case of an emergency, and the Commission has established some standard language with DelDOT to accommodate what the Commission has been trying to accomplish all along.

Mr. Schell stated he was under the impression that representatives from DelDOT were to be present to speak on their opposition to the emergency access, however, he believed no one was present; that he would retrieve a written response from Mr. Sammons with DelDOT in relation to the emergency access opposition by DelDOT for the record; that DelDOT originally did not want to approve the previous 200 unit Site Plan due to the proposed emergency access; that they informed DelDOT that they intended to change the plan; that they requested DelDOT remove the requirement of not having emergency access, as part of the 200 unit apartment plan, to allow them to obtain Final Site Plan

approval, as a result of that they removed the proposed emergency access; that the stubbed street is still provided and their previous conversations were with Mr. Todd Sammons and Ms. Pam Steinberg.

Mr. Fuqua pointed out the location of the provided stubbed street and stated he believed the stubbed street would be sufficient for the purposes of the Commission.

Mr. Mears stated that the Applicant's product will be significant, and the modified proposal will be more pleasing to the community.

Ms. Wingate stated that she agreed with Mr. Mears' comments and felt the modified plan would be a more aesthetically pleasing design versus the previously approved plan and architecture.

Mr. Collins stated he agreed with Mr. Mears and Ms. Wingate's comments; that he is disappointed to see what was originally proposed not constructed, as it was probably more aligned with workforce housing, he is sure the Applicant will be bringing the Commission workforce housing soon.

Mr. Fuqua stated the Applicant has provided workforce housing in the past and will be providing it in the future.

Mr. Whitehouse questioned the buffer located on the northern side of the site and the reflected rectangles being shown for the buildings; that he questioned if the rectangles represented the footprint of the buildings and if the buildings would be constructed against the proposed buffers, resulting in no rear yards.

Mr. Schell stated no; that the rectangles represent the building and the rear yard which fit within the 40 ft. by 90 ft. area; that people will often request the house to go back 60 ft. to 65 ft., but people will often order courtyards that they offer, or they order a bump out in the master bed; that if one were to take up all the options that they possibly could, including the outdoor component, it could approach 90 ft.; that this is not typically the case and what is shown is the total 40 ft. by 90 ft. area, which is to include the house and the yard.

Mr. Collins questioned if the yards would be maintained by the association.

Mr. Schell stated yes; that this is an example of why the ownership is helpful; that particularly with the older demographic, they will not own their own lot; that the community will maintain the lot; that with the proposed Application, the lot is owned by the eight residents as a collective group, and the HOA will have a Maintenance Agreement to maintain the lot.

Mr. Robertson stated it was his understanding that one reason for over 55 communities in Sussex County is not only because the market supports it, but also because of the impact on the traffic counts, and what would be required by DelDOT for road improvements, and he questioned by more communities are not constructed as over 55 restricted communities.

Mr. Schell stated typically it is due to the fact that 15% to 20% of the market is reduced by making a project Active Adult; that no one markets the fair housing; that every time they have ever provided a 55 and over community, they have never had a single buyer attempt to purchase there, who did not qualify; that in theory, legally one could be a 27 year old married to a 25 year old with four kids and they legally could not prevent them from doing so, until 20% of the total number of homes are sold to people that do not qualify as Active Adult; that the reason they proposed Active Adult for the subject Application was for the traffic count; that 180 single-family homes, without an Active Adult designation had a traffic county that was slightly higher than the approved plan; that when they made the plan for Active Adult, the traffic count was less; that they did not feel like re-submitting everything with DelDOT; that DelDOT stated as long as the new plan proposed a lower traffic count, they would allow them to utilize the approved off-site improvements and approved entrance from the previous 200 unit apartment plan; that there is debate between whether or not the market for people seeking an Active Adult project is higher than the number of under 55 families that may be lost, and when there is a reason, such as traffic county or voluntary school impact fees, to make a community Active Adult, you will see more of them because it does not hurt the market as much; that in eastern Sussex County, most of the buyers are going to be 55+ anyway.

Mr. Fuqua stated the over-55 Community is defined by Federal law.

The Commission found that two people were present in support of the Application, and no one was present in opposition to the Application.

Mr. Martin Lampner, Co-Chair of Evans Farm Watch spoke in support of the Application. Mr. Lampner stated they do not believe there is not a need for workforce housing; that they know they are the people who suffer; that the previous plan did not integrate with the surrounding area; that they are happy to see the modified plan; that they did have concerns regarding traffic; that Mr. Schell reach out to discuss the plan with them; that their organization has had input and ongoing discussions regarding the proposed plan; that the change in the buffer was a request by them; that they fully support the elimination of the emergency access as a paved road; that the owners that they represent from Banks Acres all oppose because the access could potentially end up as a road into their neighborhood; that an access as an unpaved surface would address the concerns of the residents from Banks Acres; that the Evans Farm Watch is very happy with what is currently being proposed; that they support the generation of less traffic; that currently the Evans Farm Watch represents 14 communities along Whites Neck Rd.; that the biggest problems they face now are under certain conditions; that they do not oppose workforce housing, however, three-story buildings with single detached garages cannot be dropped next to existing communities; that he is the President of Whites Creek Manor; that they polled their owners; that in other associations it was board action; that every single owner favored the modified plan because of the decreased traffic count and therefore, their organization strongly supports the current plan.

Mr. Tom Goglia, Co-Chair of Evans Farm Watch spoke in support of the Application. Mr. Goglia stated he and his neighbors endorse and support the current plan and he agreed with the statements previously provided by Mr. Lampner.

Mr. Joe Conaway spoke with neutral comments regarding workforce housing, none of which were directly related to the subject Application; that Mr. Schell volunteered to head the efforts of the Sussex Economic Development Action Committee, in which he would be appointed on the day after the subject public hearing; that they are going after the economic development and Mr. Schell will become their Chairman as they move forward in an effort to help the situation.

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

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

In relation to C/U 2401 OA Sundance Club, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

Minutes of the January 3, 2024, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since December 14, 2023.

Mr. Mears moved that the Commission recommend approval of C/U 2401 OA Sundance Club, LLC for Multi-Family Dwelling structures in a GR General Residential Zoning District based upon the record made at the public hearing and for the following reasons:

1. This property has been the subject of several prior applications. Conditional Use No. 1848 was recommended for approval by this Commission and then approved by County Council for 200 multifamily condominium units. Then, Conditional Use No. 2206 was subsequently approved for a similar project with 200 apartment multifamily units. Neither development was built.
2. This application is for 180 condominium units, twenty less than what was previously approved. Instead of large buildings with multiple units, this project will consist of condominium units that have the appearance of individual homes. These individual structures will be consistent with the single-family homes that exist on many neighboring properties.
3. The property is currently zoned GR General Residential. According to the Sussex County Zoning Code, the purpose of the GR District is to provide for medium density residential uses. The permitted density within the GR District is 4 units per acre. This application complies with the purpose and density of the GR Zoning District.
4. The property is in the vicinity of a mixture of commercially and residentially zoned properties, including other GR properties, MR properties and C-1 properties. This use is consistent with all of the nearby uses and zoning districts.
5. The proposed Conditional Use is appropriate for this site because residential development of this type is appropriate where central sewer and water are available. Sewer will be provided by Sussex County and water will be provided by Tidewater Utilities.
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.
7. The project will be served or benefitted by amenities which include a clubhouse, pool,

- playground, sport courts, and walking paths.
8. DelDOT has reviewed the proposed project and has determined that the development traffic impact will be minor.
 9. With the conditions placed upon this recommendation, there will be no adverse impact upon traffic or the neighboring area.
 10. This recommendation is subject to the following conditions:
 - A. There shall be no more than 180 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. There shall be on-site active and passive amenities including a clubhouse, swimming pool, pickleball courts, gardens and a dog park. These amenities shall be completed and open to use as required by the Zoning Code.
 - 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 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. No wetlands shall be disturbed except as authorized by State and Federal permits.
 - H. All internal roadways shall be private and maintained by the developer or its assigns. All roads shall comply with Fire Marshal and Delaware Fire Prevention requirements.
 - I. The applicant shall consult with the local school district's transportation manager to determine if a school bus stop is appropriate. The location of such a bus stop shall be shown on the Final Site Plan.
 - J. Construction, site work, excavation, grading and deliveries to or from the property shall only occur between the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday, and 8:00 a.m. through 2:00 p.m. on Saturdays. During sitework and initial construction, all dumpsters and roll-off containers shall be covered to prevent construction materials and debris from blowing across the site or onto neighboring properties.
 - K. The developer shall preserve as many existing trees as possible on the site. Clearing, disturbance or altering of existing vegetation shall be limited to what is necessary for construction and for the removal of dead and dying trees which pose a threat to public safety or harm to adjacent properties. These areas of non-disturbance shall be clearly shown on the Final Site Plan.
 - L. There shall be a forested and/or vegetated buffer strip that is at least 20 feet wide adjacent to land of other ownership. This buffer shall increase to a width of 25 feet along the western boundary line between units 13 and 31 and along the northeastern boundary line between units 54 and 62. This buffer shall utilize existing forest or similar vegetation where it exists in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior limit of the buffer area (the edge of the buffer nearest the interior

- development) and the Final Site Plan shall identify the “Limit of Disturbance” to prevent disturbance of the buffer area.
- M. The Applicant or its assigns shall be responsible for the maintenance of all interior roadways and parking areas, buildings, buffers, stormwater management areas, recreational amenities and open space.
 - N. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
 - O. As represented by the Applicant, the development shall be an “age-restricted, over-55” community as that term is generally interpreted under Federal Law and Fair Housing.
 - P. The Final Site Plan shall include an unobstructed area set aside for vehicular access to the subdivision in emergency situations from Railway Road. This area does not need to be improved with paving or stones. Instead, it must be an area outside of any structures and free from obstructions so that the development is not isolated in the event that the main entrance is impassible.
 - Q. The Final Site Plan shall be subject to the review and approval of the Sussex Planning & Zoning Commission.

Motion by Mr. Mears, seconded by Mr. Butler and carried unanimously to recommend approval of C/U 2401 OA Sundance Club, 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
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: December 14th, 2023

Application: CU 2401 OA Sundance Club, LLC

Applicant: OA Sundance Club, LLC
18949 Coastal Highway
Rehoboth Beach, DE 19971

Owner: OA Sundance Club, LLC
18949 Coastal Highway
Rehoboth Beach, DE 19971

Site Location: Lying on the northeast corner of Old Mill Road (S.C.R. 349) and the southwest corner of Railway Road (S.C.R. 350) at the intersection of Railway Road (S.C.R. 350) and Old Mill Road (S.C.R. 349).
31434 Railway Road, Ocean View.

Current Zoning: General Residential (GR) District

Proposed Zoning: General Residential (GR) District

Proposed Use: Multi-Family (180 Units)

Future Land Use
Map Designation: Coastal Area

Councilmanic
District: Mr. Hudson

School District: Indian River School District

Fire District: Millville Fire Department

Sewer: Sussex County

Water: Tidewater Utilities

Site Area: 48.36 acres +/-

Tax Map ID: 134-12.00-74.01



JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR
(302) 855-7878 T
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Memorandum

To: Sussex County Planning Commission Members
From: Ms. Christin Scott, Planner II
CC: Vince Robertson, Assistant County Attorney and Applicant
Date: December 12, 2023
RE: Staff Analysis for CU 2401 OA Sundance Club, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2401 OA Sundance Club, LLC to be reviewed during the December 14, 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: 134-12.00-74.01

Proposal: The request is for a Conditional Use for Tax Parcel 134-12.00-74.01 to allow for 180 multi-family units. The parcel is located on the northeast corner of Old Mill Road (S.C.R. 349) and the southwest corner of Railway Road (S.C.R. 350) at the intersection of Railway Road (S.C.R. 350) and Old Mill Road (S.C.R. 349). The parcel contains 48.36 acres +/-.

Zoning: The subject property is zoned General Residential (GR). The properties to the south as well as the properties to the east are zoned General Residential. The property to the north is zone Agricultural Residential (AR-1) and the properties to the west and northwest of the subject site are zoned Medium Density Residential (MR). It should also be noted there is a property across Old Mill Road (S.C.R. 349) that is zoned General Commercial (C-1).

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 has a land use designation of "Coastal Area." All adjacent properties also have the land use designation of Coastal Area (2018 Sussex County Comprehensive Plan, 4-15).

The Coastal Area land use designation recognizes that a range of housing types should be permitted in Coastal Area, including single-family homes, townhouses, and multifamily units. Retail and office uses are appropriate but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should also be allowed. It also recognizes a careful mixture of homes with light commercial, office and institutional uses can be appropriate to provide convenient services and to allow people to work close to home (2018 Sussex County Comprehensive Plan, 4-16).



Existing Conditional Uses within the Vicinity of the Subject Site: A Data Table has 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 CU Number	Application Name	Zoning District	Proposed Use	CC Decision	CC Decision Date	Ordinance Number
138	Louis Travalini	B-2	Addition To Existing Service Station	Withdrawn	N/A	N/A
1104	Eileen P. McCaffery	AR-1	Manufactured Concrete Septic Tanks & Associated Uses	Approved	3/28/1995	1017
1148	Great Scott Broadcasting	AR-1	Erect Storage Bldgs for Non-Conforming Salvage Yard	Approved	3/12/1996	1081
1502	Windmill Venture LLC	MR	Manufacture Precast Steps, Lawn Ornaments & Utility Barns	Approved	12/16/2003	1647
1732	Mabethson, LLC	AR-1	Automotive Repair Shop	Withdrawn	N/A	N/A
1849	Linder & Company	GR	Hardware Business	Approved	2/1/2011	2176
1897	Russell V. Banks	AR-1	Candy & Gift Shop	Approved	6/12/2012	2259
1913	Jeremy W. Smith	AR-1	Propane Storage Tanks	Approved	2/7/2012	2236
1983	Gerald W. & Emily W. Hocker	C-1	Fuel Oil Tanks	Approved	5/20/2014	2349

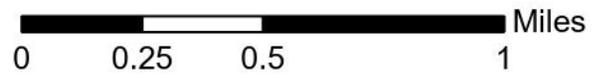
2111	Michael Moutzalias	AR-1	Model Home/Office	Denied	3/20/2018	<Null>
2206	Linder & Company, Inc. (Evans Farm)	GR	Used Car Sales	Approved	6/15/2021	<Null>
2323	Lesle Brossus	GR	Short-term rental yurt & treehouse	Approved	11/15/2022	2928

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



CU 2401 OA Sundance Club, LLC
 Conditional Use Vicinity Map
 TM#s 134-12.00-74.01

- CU 2401 - CUS Vicinity (1 Mile)
- CU 2401



Esri, HERE, Garmin, IFC, Maxar

Sussex County



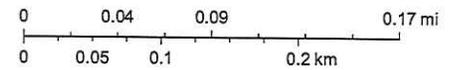
November 15, 2023

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| | Green: Band_2 | | Override 2 |
| | Blue: Band_3 | | Tax Parcels |
| | | | Streets |

- | |
|----------------------------|
| County Boundaries |
| Wellhead Protection Areas |
| World Imagery |
| Low Resolution 15m Imagery |

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

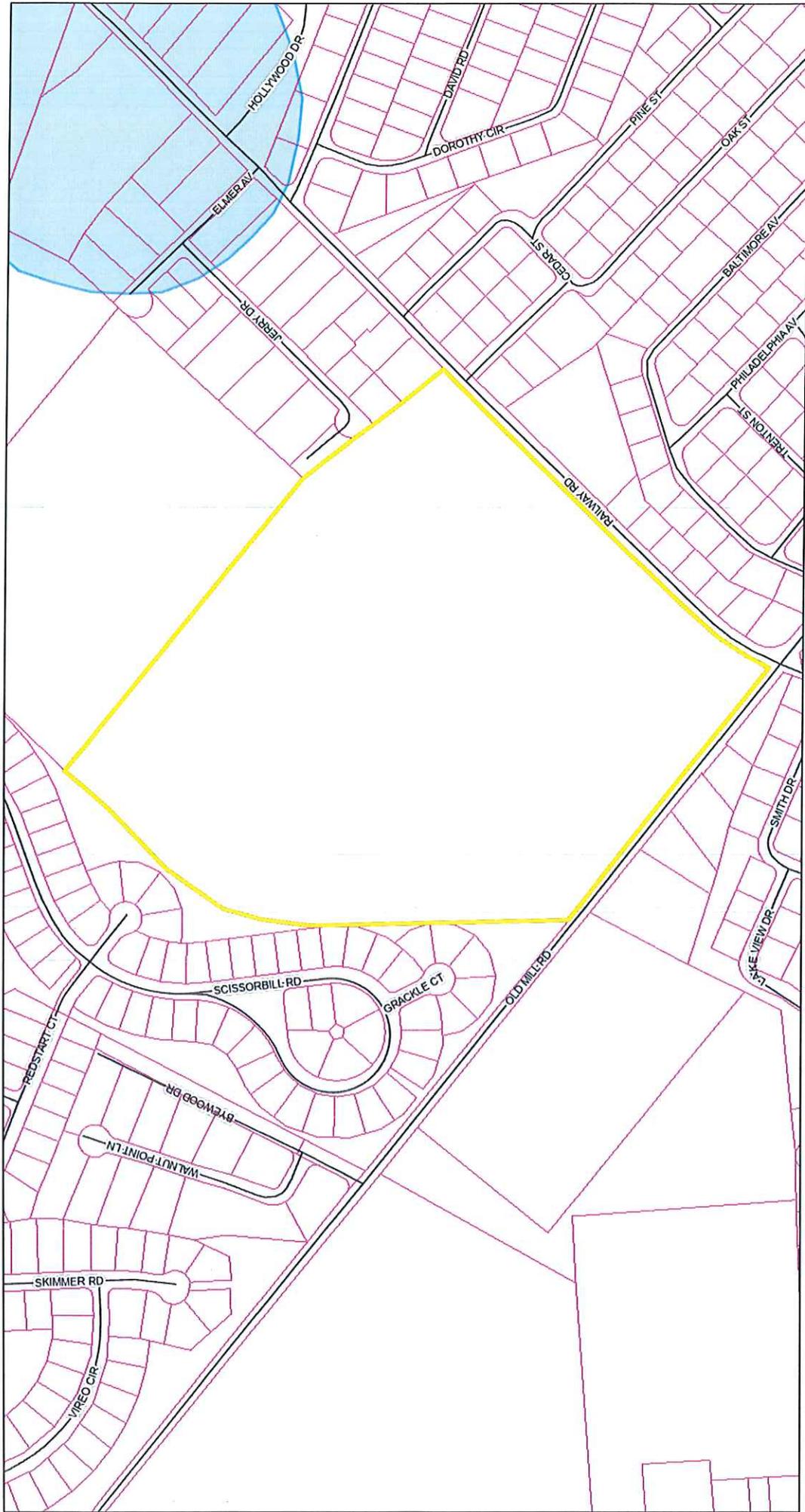
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DNREC, Division of Watershed Stewardship, Drainage Program,
 john.inkster@state.de.us, Sussex County, Sussex County
 Government, Delaware Department of Agriculture

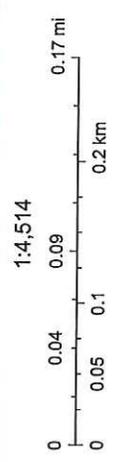
Delaware Department of Natural Resources and Environmental

Sussex County



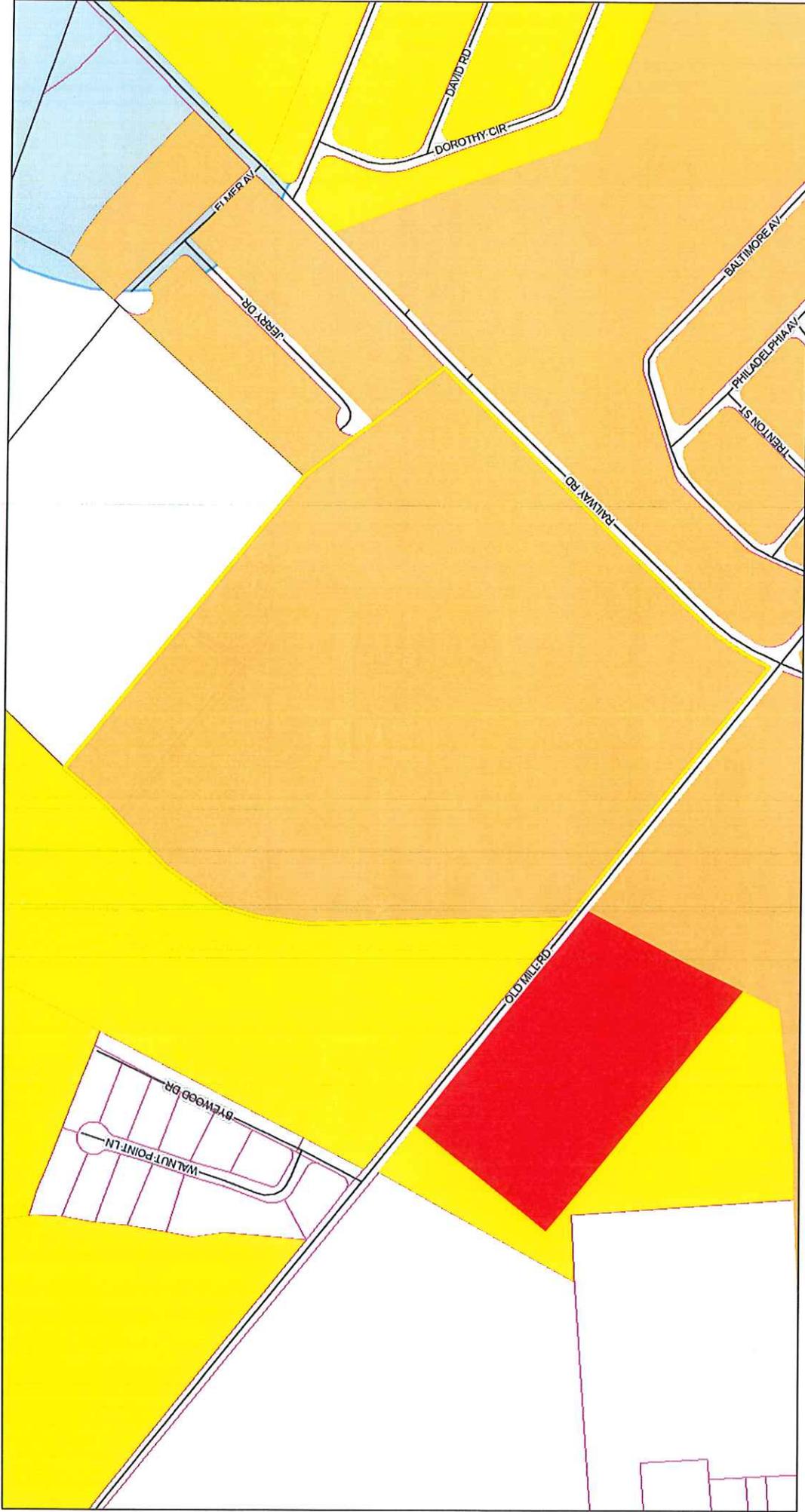
November 15, 2023

- | | | |
|-------------|---------------------------|---------------|
| layer51 | Streets | Red: Band_1 |
| Override 1 | County Boundaries | Green: Band_2 |
| Override 2 | Wellhead Protection Areas | Blue: Band_3 |
| Tax Parcels | | |



DNREC, Division of Watershed Stewardship, Drainage Program,
 john.inkster@state.de.us, Sussex County, Sussex County
 Government, Delaware Department of Agriculture
 Delaware Department of Natural Resources and Environmental

Sussex County

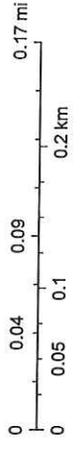


November 15, 2023

layer51

- Override 1
- Override 2
- Agricultural Residential - AR-1
- Medium Residential - MR
- General Residential - GR
- General Commercial - C-1
- Tax Parcels
- Streets
- County Boundaries
- Wellhead Protection Areas
- Red: Band_1
- Green: Band_2
- Blue: Band_3

1:4,514



DNREC, Division of Watershed Stewardship, Drainage Program,
 john.inhiser@state.de.us, Sussex County, Sussex County
 Government, Delaware Department of Agriculture
 Delaware Department of Natural Resources and Environmental

Introduced: 12/5/23

Council District 4: Mr. Hudson
Tax I.D. No. 134-12.00-74.01
911 Address 31434 Railway Rd., Ocean View

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (180 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 48.36 ACRES, MORE OR LESS

WHEREAS, on the 20th day of October 2022, a conditional use application, denominated Conditional Use No. 2401 was filed on behalf of OA Sundance Club, 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. 2401 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. 2401 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on northeast corner of Old Mill Road (S.C.R. 349) and the southwest corner Railway Road (S.C.R. 350) at the intersection of Railway Road (S.C.R. 350) and Old Mill Road (S.C.R. 349) and being more particularly described in the attached legal descriptions prepared by Pennoni Associates Inc., said parcel containing 48.36 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.