

## COUNTY COUNCIL

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



# Sussex County

DELAWARE  
sussexcountyde.gov  
(302) 855-7743

## SUSSEX COUNTY COUNCIL

### AGENDA

August 27, 2024

**12:30 P.M.**

#### Call to Order

#### Approval of Agenda

#### Approval of Minutes - August 13, 2024

[Draft Minutes 081324](#)

#### Reading of Correspondence

#### Public Comments

#### Consent Agenda

1. **Use of Existing Wastewater Infrastructure Agreement, IUA 1266  
Channel Pointe Villas, Fenwick Inland Area**  
[Consent Agenda Channel Pointe Villas](#)
2. **Use of Existing Wastewater Infrastructure Agreement, IUA S-18-94  
Tranquility at Breakwater, LBPW to West Rehoboth Area**
3. **Use of Existing Wastewater Infrastructure Agreement, IUA S-18-96  
Orchard Plaza, LBPW to West Rehoboth Area**
4. **Use of Existing Wastewater Infrastructure Agreement, IUA 1257  
Justice Property, Millville Area**

[Consent Agenda Justice Property](#)



## Todd Lawson, County Administrator

### 1. Administrator's Report

## Old Business

1. ["AN ORDINANCE TO AMEND CHAPTER 99, ARTICLES I, III, IV, V AND VI SECTIONS 99-5, 99-6, 99-23, 99-26, 99-27, 99-30, 99-31 AND 99-32 AND BY ADDING A NEW SECTION 99-21A , AND CHAPTER 115, ARTICLES IV, V, VI, VII, VIII AND XXVIII SECTIONS 115-20, 115-25, 115-29, 115-37, 115-45, 115-53 AND 115-218 REGARDING PERIMETER BUFFERS AROUND RESIDENTIAL DEVELOPMENT"](#)

[Old Business Perimeter Buffer](#)

## Grant Requests

1. **Town of Greenwood for their 2024 Greenwood Day event**  
[Town of Greenwood](#)
2. **Unique Minds Changing Lives Inc. for their Community Support Center**  
[Unique Minds Changing Lives](#)
3. **Boys Scouts of America Delmarva Council for their Sussex County 2024 Distinguished Citizen Award Event**  
[Boys Scouts of America Delmarva Council](#)
4. **Ocean Waves Quilt Guild for their Quilts of Valor program**  
[Ocean Waves Quilt Guild](#)

## Introduction of Proposed Zoning Ordinances

[Ord Intros CU2547 CZ2020 CZ2018 CU2523 CU2526](#)

## Council Members' Comments

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

## Possible action on Executive Session Items

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

1. [Conditional Use No. 2522 Delaware Electric Cooperative](#)

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE EXPANSION OF UTILITY OPERATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 9.85 ACRES, MORE OR LESS” (property lying on the west side of Cart Branch Road [S.C.R. 583A], northwest of the intersection of Cart Branch Road [S.C.R. 583A] and Adams Road [S.C.R. 583]) (911 Address: 14326 Cart Branch Road, Greenwood) (Tax Map Parcel: 530-14.00-17.00)

[Public Hearing CU2522](#)

2. [Conditional Use No. 2440 filed on behalf of Double H Development, LLC](#)

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM-DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (108 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 37.52 ACRES, MORE OR LESS” (property lying on the southeast side of Lighthouse Road [Rt. 54] approximately 0.50 mile northeast of Williamsville Road [S.C.R. 395]) (911 Address: 35090 Lighthouse Road, Selbyville) (Tax Map Parcel: 533-19.00-47.00)**

[Public Hearing CU2440](#)

3. [Conditional Use No. 2518 filed on behalf of V&M, LLC](#)

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CONDITION A OF ORDINANCE NO. 2853 TO ALLOW FOR A CONVENIENCE STORE WITH FUELING STATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.98 ACRES, MORE OR LESS” (property lying on the southeast side of John J. Williams Highway [Rt.24], on the southwest side of Mulberry Knoll Road [S.C.R. 284], and the southeast corner of the intersection of John J. Williams Highway [Rt. 24] and Mulberry Knoll Road [S.C.R. 284]) (911 Address: N/A, Rehoboth Beach) (Tax Map Parcel: 334-12.00-108.00)**

[Public Hearing CU2518](#)

4. [Change of Zone No. 2008 filed on behalf of DTN Properties, LLC](#)

**“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.50 ACRE, MORE OR LESS” (property lying on the east side of Muddy Neck Road [S.C.R. 361], at the intersection of Muddy Neck Road [S.C.R. 361] and Butler Boulevard, approximately 200 feet north of Parker House Road [S.C.R. 362]) (911 Address: 37985 Muddy Neck Road, Ocean View) (Tax Map Parcel: 134-17.00-6.00)**

[Public Hearing CZ2008](#)

5. [Change of Zone No. 2009 filed on behalf of Double H Development, LLC](#)

**“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 37.52 ACRES, MORE OR LESS” (property lying on the southeast side of Lighthouse Road [Rt. 54] approximately 0.50-mile northeast of Williamsville Road [S.C.R. 395]) (911 Address: 35090 Lighthouse Road, Selbyville) (Tax Map Parcel: 533-19.00-47.00)**

[Public Hearing CZ2009](#)

**Adjourn**

**-MEETING DETAILS-**

**In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on August 20, 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://sussexcountye.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://sussexcountye.gov/agendas-minutes/county-council>.**

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 13, 2024**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 13, 2024, at 12:30 p.m., in Council Chambers, with the following present:

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

|  |  |
|--|--|
| <b>Call to Order</b>                   | <b>The Invocation and Pledge of Allegiance were led by Mr. Vincent.</b><br><b>Mr. Vincent called the meeting to order.</b>   |
| <b>M 406 24 Approve Agenda</b>         | <b>A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to approve the agenda as presented.</b><br><b>Motion Adopted: 5 Yeas</b><br><b>Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea</b>   |
| <b>Minutes</b>                         | <b>The minutes of July 30, 2024, were approved by consent.</b>   |
| <b>Correspondence</b>                  | <b>Mr. Moore reported that correspondence was received from Delaware Community Foundation thanking Council for their donation. Mr. Rieley noted that the public hearing and public record for the Wind Farm has been closed.</b>   |
| <b>Public Comments</b>                 | <b>There were no public comments.</b>  |
| <b>M 407 24 Approve Consent Agenda</b> | <b>A Motion was made by Mr. Hudson, seconded by Mr. Rieley to approve the following item under the Consent Agenda:</b><br><b>Use of Existing Wastewater Infrastructure Agreement – IUA 522 Plantation Medical and Professional Building (Building #4), West Rehoboth Area</b><br><b>Motion Adopted: 5 Yeas</b><br><b>Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea;</b> |

**Mr. Vincent, Yea**

**Retirement** Bobby Schoonover was recognized for his upcoming retirement.

**Adminis-  
trator's  
Report** Mr. Lawson read the following information for his Administrator's Report:

1. **Certificate of Achievement for Excellence in Financial Reporting**

I am pleased to announce that the Government Finance Officers Association of the United States and Canada has awarded Sussex County its Certificate of Achievement for Excellence in Financial Reporting for the 2023 Comprehensive Annual Financial Report. This is the 22<sup>nd</sup> consecutive year that the County has received this prestigious award acknowledging the financial report. The award is among the highest forms of recognition for governmental accounting and financial reporting.

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

2. **Delaware Aglands Round 28 Participation**

Sussex County is proud to announce its participation in the latest round of the Delaware Aglands farm preservation program, which, since its inception in the mid-1990s has protected more than a fifth of Sussex County farmland for future generations. In the 28<sup>th</sup> round announced today by the Delaware Department of Agriculture in the attached press release, the County contributed more than \$500,000, along with State funding, to help protect some 1,300 acres of land. Sussex County has been a long-standing partner in this endeavor, and will continue to look for ways to preserve our agricultural heritage.

3. **Projects Receiving Substantial Completion**

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Heritage Shores – Phase 4F (P) (Construction Record) and Heritage Shores – Phase 4F (S) (Construction Record) effective July 30<sup>th</sup> and Scenic Harbor (FKA Estates at Mulberry Knoll & Scenic Manor) Phase 2 (Construction Record) effective August 1<sup>st</sup>.

4. **FY 2025 Human Service Grant Program**

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

**Applications for the Fiscal Year 2025 Human Service Grant Program are now being accepted. The Human Service Grant Program provides grants to county-wide nonprofit agencies for the purpose of enhancing health and human services which contribute to a safe, healthy, and self-sufficient community. Funds provide grants that assist organizations with resources in support of programs or capital purchases.**

**To be eligible for a grant, organizations must fill out an application which is available on the County’s website at [www.sussexcountyde.gov](http://www.sussexcountyde.gov).**

**The deadline for filing grant requests is Monday, September 30<sup>th</sup>.**

**5. Council Meeting Schedule**

**A reminder that Council will not meet on Tuesday, August 20<sup>th</sup>. The next regularly scheduled Council meeting will be held on Tuesday, August 27<sup>th</sup> at 10:00 a.m.**

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

**DE Transit  
Reimburse-  
ment  
Program  
Request**

**Gina Jennings, Finance Director presented a request for the Delaware Transit Reimbursement program for Council’s consideration. Mrs. Jennings reported that as in the past, DART, a division of DelDOT, has allocated funding for transportation expenses for various senior centers in Sussex County. The County’s responsibility is to approve a recommended funding amount for Fiscal Year 2024 as per State law. This process is an allocation of State grant funds to various senior agencies for transportation purposes. The amount the State has allocated is \$846,868. This amount is up \$50,000 due to a change in epilogue language in the State’s budget. Typically, the \$50,000 goes straight to CHEER but this year the amount was included in the County's amount to allocate. Mrs. Jennings is recommending that the funds still go back to CHEER and the other funding stay consistent as in the past.**

**M 408 24  
Approve DE  
Transit  
Reimburse-  
ment  
Program**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson that be it moved that the Sussex County Council recommends the following allocation of State funding to: Nanticoke Senior Center \$44,962, Indian River Senior Center \$2,100, Laurel Senior Center \$99,083, Lewes Senior Center \$27,123 and Cape Henlopen Senior Center \$43,066 and CHEER, Inc. \$630,534.**

**Motion Adopted: 5 Yeas**

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

**Wolfe Neck  
CO No. 1** Mike Harmer, County Engineer presented change order no. 1 for Wolfe Neck Region WWF electrical construction project for Council's consideration.

**M 409 24  
Approve  
Wolfe Neck  
CO No. 1** 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 no. 1 for contract S24-09, Wolfe Neck Regional WWF electrical service and switchgear replacement – electrical construction, be approved, increasing the contract by \$87,423.45.

**Motion Adopted: 5 Yeas**

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

**JP Court  
Proposal  
Request** Mike Harmer, County Engineer presented a request for authorization to solicit proposals for the J.P. Court Annex/Building project for Council's consideration.

**M 410 24  
Approve JP  
Court  
Proposal  
Authoriza-  
tion** A Motion was made by Mrs. Green, seconded by Mr. Hudson, be it moved, based upon the recommendation of the Sussex County Engineering Department, that Council authorize the Engineering Department to request a proposal from Tevebaugh Associates, Inc. under an existing state contract, to provide architectural/design services for the JP Court Annex Building.

**Motion Adopted: 5 Yeas**

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

**Ocean  
Outfall  
Repairs** Mark Parker, Assistant County Engineer presented a project completion and balancing change order for Ocean Outfall repairs for Council's consideration.

**M 411 24  
Approve  
Ocean  
Outfall  
Repairs** A Motion was made by Mr. Hudson, seconded by Mr. Rieley, be it moved, based upon the recommendation of the Sussex County Engineering Department, that balancing change order no. 1 be approved for contract G23-18, 2023 Ocean Outfall repairs, reflecting \$70,406.97 worth of contingency repairs added to the base bid for a final project cost of \$224,906.97.

**Motion Adopted: 5 Yeas**

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

**DE Coastal Business Park CO 5** Mark Parker, Assistant County Engineer presented a project closeout and change order no. 5 for Delaware Coastal Business Park Improvements for Council's consideration.

**M 412 24 Approve DE Coastal Business Park CO 5 & Closeout** 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 project closeout and final balancing change order no. 5 be approved for contact A21-11, Delaware Coastal Business Park Improvements, decreasing the contract amount by \$264,590.09 to a final project cost of \$4,090,431.91.

**Motion Adopted: 5 Yeas**

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

**Paramedic Station 103 CO No. 2** Mark Parker, Assistant County Engineer presented change order no. 2 for Paramedic Station 103 for Council's consideration. Mr. Parker reviewed the nine items that were included in the change order.

**M 413 24 Approve CO No. 2 Paramedic Station 103** A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, be it moved, based upon the recommendation of the Sussex County Engineering Department, that change order no. 2 be approved for contract C21-18, Paramedic Station 103 increasing the contract amount by \$8,313.20 to \$1,819,067.20.

**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 CO No. 4** Hans Medlarz, Project Manager presented change order no. 4 for Herring Creek Sanitary Sewer District: South Gravity sewer and force main for Council's consideration.

**M 414 24 Approve CO No. 4 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 no. 4 for contract S20-08, Herring Creek sanitary sewer district: South Gravity sewer and force main, phase III be approved, increasing the contract time by 112-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**

**Winding Creek Village Findings**      **Hans Medlarz, Project Manager presented findings and recommendations for Winding Creek Village – Water District for Council’s consideration.**

**Findings**      **Mr. Vincent gave the gavel to Mr. Rieley.**

**M 415 24**      **A Motion was made by Mr. Hudson, seconded by Mr. Vincent, to accept the**  
**Accept Staff**      **recommendation of staff to not move forward with a referendum.**  
**Recommen-**

**dation**      **Motion Adopted:      5 Yeas**

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

**The gavel was given back to Mr. Vincent.**

**Old**      **Under Old Business, Jamie Whitehouse, Planning & Zoning Director**  
**Business/**      **presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A**  
**CU2431**      **CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL**  
**RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE TO BE**  
**LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN**  
**LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING**  
**0.26 ACRE, MORE OR LESS” (property lying on the east side of Savannah**  
**Road [Rt. 9] at the intersection of Savannah Road [Rt. 9] and Quaker Road,**  
**approximately 0.33-mile northeast of Westcoats Road [Rt. 12]) (911 Address:**  
**1510 Savannah Road, Lewes) (Tax Map Parcel: 335-12.06-10.00) filed on**  
**behalf of Play It Safe, LLC.**

**The County Council held a Public Hearing on the application at its meeting**  
**of July 16, 2024. At the conclusion of the Public Hearing action on the**  
**application was deferred for further consideration.**

**M 416 24**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend**  
**Amend**      **Condition F to read “The Applicant shall install physical barriers,**  
**Condition F/**      **landscaping and “no parking” signs along both Savannah Road and Quaker**  
**CU2431**      **Road, as may be permitted by DelDOT. Specifically on Quaker Road, there**  
**shall be bollards or other DelDOT approved traffic control devices from the**  
**back corner of the lot along Quaker Road to the DelDOT approved entrance.**  
**All parking shall occur on site and in accordance with the requirements of**  
**the County Zoning Code for this use. The parking spaces located at the rear**  
**of the site shall only be utilized by employees for their use of the site. All**  
**parking shall be clearly shown on the Final Site Plan and on the site itself”.**

**Motion Adopted:      5 Yeas**

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

**Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 417 24  
Adopt  
Ordinance  
No. 3034/  
CU2431**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt Ordinance No. 3034 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.26 ACRE, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended by this Council:**

- 1. This application seeks to allow the conversion of an existing day care facility into a professional office.**
- 2. The use of this property as an office is in character with the development trend of medical and professional office space along Savannah Road. For example, there are approximately 14 other conditional uses within a one-mile radius of this site. Many of these are office uses very similar to what is sought here.**
- 3. The use as a professional office is supported by the Sussex County Comprehensive Plan.**
- 4. The use, with the conditions and limitations placed upon it, will not adversely affect neighboring properties or roadways. In fact, it is likely to have less of an impact on neighboring properties and roadways than the prior more intensive use as a day care facility.**
- 5. DelDOT will review the proposed entrance locations and may require design changes for the entrances as well as roadway improvements.**
- 6. There is sufficient space on the property for parking to serve the office building.**
- 7. The Applicant has stated the intention to maintain the residential appearance of the building that currently exists on the site.**
- 8. This recommendation is subject to the following conditions:**
  - a. The building shall be used for office use only. No retail sales or other commercial uses shall occur on the site.**
  - b. The building shall be permitted to have one lighted sign. The sign shall not exceed 32 square feet in size on each side.**
  - c. All security lighting shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.**
  - d. The business hours shall be limited to 7:00 a.m. until 8:00 p.m., Monday through Friday, and 8:00 a.m. until 4:00 p.m. on Saturdays. Additional hours for emergency services are permitted, but only on a limited “as-needed” emergency basis.**
  - e. All entrances and roadway improvements shall be modified or installed as required by DelDOT. All required DelDOT improvements or modifications shall be shown or documented on the Final Site Plan.**
  - f. The Applicant shall install physical barriers, landscaping and “no parking” signs along both Savannah Road and Quaker Road, as**

**M 417 24  
Adopt  
Ordinance  
No. 3034/  
CU2431  
(continued)**

may be permitted by DelDOT. Specifically on Quaker Road, there shall be bollards or other DelDOT approved traffic control devices from the back corner of the lot along Quaker Road to the DelDOT approved entrance. All parking shall occur on site and in accordance with the requirements of the County Zoning Code for this use. The parking spaces located at the rear of the site shall only be utilized by employees for their use of the site. All parking shall be clearly shown on the Final Site Plan and on the site itself”.

- g. The existing fence located on the property that separates this site from the adjacent property to the rear along Quaker Road shall remain in its current configuration and location, including restoration or repair as needed by the owner of this site.**
- h. All trash receptacles shall be of a residential type and design. No commercial dumpsters shall be utilized on this site.**
- i. The existing outbuilding on the rear of the site shall only be used for storage.**
- j. As stated by the Applicant during the public hearing, the residential appearance of the structure shall be maintained.**
- k. Failure to abide by any of these conditions of approval may result in the revocation of this Conditional Use.**
- l. 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 418 24  
Ron G.  
Williams  
Foundation,  
Inc.**

**A Motion was made by Mr. Schaeffer, seconded by Mrs. Green to give \$1,000 (\$500 from Mr. Schaeffer’s Councilmanic Grant Account, \$500 from Mrs. Green’s Councilmanic Grant Account) to Ron G. Williams, Jr. Foundation, Inc. for their Delaware Law Enforcement Thank You Ride 2024.**

**Motion Adopted: 5 Yeas**

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

**M 419 24  
Trinty  
Foundation**

**A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to give \$750 (\$750 from Mr. Vincent’s Councilmanic Grant Account) to Trinty Foundation for their 2024 Golf Tournament.**

**Motion Adopted: 5 Yeas**

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

**M 420 24** A Motion was made by Mrs. Green, seconded by Mr. Hudson to give \$1,200  
**New** (\$1,200 from Mrs. Green's Councilmanic Grant Account) to New Coverdale  
**Coverdale** Outreach Mission, Inc. for back-to-school supplies.  
**Outreach**

**Mission, Inc.** **Motion Adopted:** 5 Yeas

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

**M 421 24** A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to give \$1,000  
**Sussex** (\$500 from Mr. Rieley's Councilmanic Grant Account and \$500 from Mr.  
**County** Schaeffer's Councilmanic Grant Account) to Sussex County Land  
**Land** Foundation Inc. for Sponsorship of Dogfish Dash.  
**Foundation,**

**Inc.** **Motion Adopted:** 5 Yeas

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

**M 422 24** A Motion was made by Mr. Hudson, seconded by Mr. Rieley to give \$4,000  
**Delaware** (\$2,500 from Mr. Hudson's Councilmanic Grant Account, \$500 Mr.  
**Botanic** Vincent's Councilmanic Grant Account and \$1,000 from Mr. Rieley's  
**Gardens Inc.** Councilmanic Grant Account) to Delaware Botanic Gardens Inc. for their  
2024 DBG dinner party sponsorship.

**Motion Adopted:** 5 Yeas

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

**M 423 24** A Motion was made by Mrs. Green, seconded by Mr. Hudson to give \$1,500  
**Bridgeville** (\$1,500 from Mrs. Green's Councilmanic Grant Account) to Bridgeville  
**Apple-** Apple-Scrapple Festival, Inc. for their 32<sup>nd</sup> Annual Apple-Scrapple festival.  
**Scrapple**

**Festival, Inc.** **Motion Adopted:** 5 Yeas

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

**M 424 24**      **A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$1,000**  
**Western**      **(\$1,000 from Mr. Vincent's Councilmanic Grant Account) to the Western**  
**Sussex**      **Sussex Chamber of Commerce, Inc. for their Broad Creek bike and brew**  
**Chamber of**      **event.**  
**Commerce,**  
**Inc.**

**Motion Adopted:      5 Yeas**

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

**M 425 24**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$1,500**  
**American**      **(\$300 each Council Members Councilmanic Grant Account) to the American**  
**Cancer**      **Cancer Society, Inc. for their Sussex County Relay for Life event.**  
**Society, Inc.**

**Motion Adopted:      5 Yeas**

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

**M 426 24**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$1,000**  
**Rehoboth**      **(\$1,000 from Mr. Schaeffer's Councilmanic Grant Account) to the Rehoboth**  
**Concert**      **Concert Band, Inc. for their concert honoring veterans.**  
**Band, Inc.**

**Motion Adopted:      5 Yeas**

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

**M 427 24**      **A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$500**  
**CHEER Inc.**      **(\$500 from Mr. Rieley's Councilmanic Grant Account) to CHEER Inc.**  
**(George-**      **(Georgetown) for their 14<sup>th</sup> annual classic car, truck and bike show.**  
**town)**

**Motion Adopted:      5 Yeas**

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

**M 428 24**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$1,000**  
**Delaware**      **(\$500 from Mr. Schaeffer's Councilmanic Grant Account and \$500 from Mr.**  
**State College**      **Hudson's Councilmanic Grant Account) to Delaware State College Alumni**  
**Alumni**      **Association for their band to the beach event.**  
**Association**

**Motion Adopted:      5 Yeas**

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

**Proposed Ordinance Introduction** Mr. Schaeffer introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITION "H" AND THE AMENDMENT/DELETION OF CONDITION "R" CONTAINED WITHIN CONDITIONAL USE NO. 2359 (ORDINANCE NO. 2964) REGARDING THE REQUIREMENTS FOR LANDSCAPING, AND FOR THE INSTALLATION OF GATES ON STOCKLEY BLVD BETWEEN THE GOVERNORS COMMUNITY AND THE PROPOSED COTTAGES, TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS” filed on behalf of J.G. Townsend Jr. & Co.

The Proposed Ordinance will be advertised for a public hearing.

**CC Comments** There were no Council Member comments.

**M 429 24 Go Into Executive Session** At 1:23 p.m., A Motion was made by Mr. Hudson, seconded by Mr. Rieley to recess the Regular Session and go into Executive Session to discuss matter relating to pending & potential litigation and land acquisition.

**Motion Adopted:** 5 Yeas

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

**Executive Session** At 1:25 p.m. an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters related to pending & potential litigation and land acquisition. The Executive Session concluded at 1:41 p.m.

**M 430 24 Reconvene** At 1:44 p.m., a Motion was made by Mr. Hudson, seconded by Mrs. Green to come out of Executive Session back into Regular Session.

**Motion Adopted:** 3 Yeas, 2 Absent

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

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

**Public Hearing/** A Public Hearing was held for the South Blades Area creation of the Sussex County Sanitary Sewer District. Mr. Ashman reported that County Council

**Creation of South Blades Area** granted permission to prepare and post notices for a public hearing on June 11, 2024, which includes parcels 132-6.00-95.00 & 88.01 and parcels 132-11.00-41.00 & 41.02. The Engineering Department received a request from Bioenergy Devco for sewer service for the proposed Delmarva Bioenergy Center – Seaford (BDC) facility south of Blades. The facility is not contiguous to the existing boundary therefore it needs to be established as a new area. The request comes for a flow allocation of 100,000 GPD fully equalized with BDC obtaining a pretreatment agreement with the City of Seaford. BDC will be responsible for all system connection charges at the completion of the referendum process, if in the affirmative. BDC will be responsible for design & construction of a pumpstation and force main to connect to the County’s existing infrastructure and for a catch-up contribution as outlined in the Use of Existing Infrastructure Agreement. The Engineering Department posted notices on July 23<sup>rd</sup>, placed on the County website and advertised the proposed expansion the weeks of July 31<sup>st</sup> and August 7<sup>th</sup>. To date, there has been no correspondence received in support or opposition to this expansion.

There were no public comments.

The Public Hearing and public record were closed.

**M 431 24 Adopt Resolution No. R 016 24 Creation of South Blades Area** A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Resolution No. R 016 24 entitled “A RESOLUTION ESTABLISHING THE PROPOSED BOUNDARAY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) SOUTH BLADES AREA”.

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/ Zion Church Road Storage into SCUSSD** A Public Hearing was held for the Zion Church Road Storage Annexation of the Sussex County Unified Sanitary Sewer District (Johnson Corner Area). Mr. Ashman reported that County Council granted permission to prepare and post notices for a public hearing on June 11<sup>th</sup>. The Engineering Department received a request form Davis, Bowen & Friedel, Inc. on behalf of their clients Zion Church Ventures, LLC for the western area and AWH Properties, LLC for the eastern area, for the projects known as Roxana Storage (East & West). The request includes parcels 533-11.00-23.00, 23.02, 23.03 & 23.04. The projects are proposed as storage facility & warehouses. The projects will be responsible for System Connection Charges at the time of connection. The Engineering Department posted notices on July 23<sup>rd</sup>, placed on the County website and advertised the proposed expansion the weeks of July 31<sup>st</sup> and August 7<sup>th</sup>. To date, there has been no correspondence received in support or in opposition of the expansion.

There were no public comments.

**The Public Hearing and public record were closed.**

**M 432 24**      **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt**  
**Adopt**            **Resolution No. R 017 24 entitled “A RESOLUTION TO EXTEND THE**  
**Resolution**      **BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER**  
**No. R 017 24**   **DISTRICT (SCUSSD) JOHNSON’S CORNER AREA, TO INCLUDE THE**  
**Zion Church**    **ROXANA STORAGE AREA AND LOCATED IN THE BALTIMORE**  
**Road**            **HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE**  
**Storage**        **OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX**  
                     **COUNTY, DELAWARE”.**

**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**            **A Public Hearing was held on a Proposed Ordinance entitled “AN**  
**Hearing/**        **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-**  
**CU2428**        **1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND THE**  
                     **CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 1713**  
                     **(ORDINANCE NO. 1961) TO ALLOW FOR AN ADDITIONAL BUILDING**  
                     **TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND**  
                     **BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING**  
                     **1.28 ACRES, MORE OR LESS” (property lying on the north side of Roxana**  
                     **Road [Rt. 17] approximately 177 feet southwest of Pyle Center Road [Rt. 20]**  
                     **(911 Address: 35160 Roxana Road, Frankford) (Tax Map Parcel: 533-6.00-**  
                     **30.00) filed on behalf of TN Hitch, LLC.**

**The Planning & Zoning Commission held a Public Hearing on the application on July 10, 2024. At the meeting of July 10, 2024, the Planning & Zoning Commission recommended approval of the application for the 7 reasons stated and subject to the 2 recommended revised conditions as outlined.**

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

**The Council found that Mr. Ray Blakeney with Plitko Engineering, spoke on behalf of the Applicant, TN Hitch, LLC. Mr. Blakeney stated that Mr. Hitch purchased the property in January 2017; that at the time of the purchase, all the existing buildings were present on site; that Mr. Hitch cleaned up the property; that Mr. Hitch was unaware of the Condition of Approval which prevented additional buildings on the site; that the existing buildings are used by the owner for storage and one building is rented out; that the proposed building would be used by the owner for storage for his expanding business; that the typical traffic on the site is 3 trucks once a day; that there will not be**

a dramatic change in traffic if the new building is built; that the Applicant is working with Sussex Conservation District regarding stormwater management and drainage; that there may be minor changes based on comments from the Planning and Zoning Department in addition to Sussex Conservation District which include the removal of some hardscape, a driveway to serve the proposed pole building, landscape plan, etc.

There were no public comments.

The Public Hearing and public record were closed.

**M 433 24  
Adopt  
Ordinance  
No. 3035/  
CU2428**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt Ordinance No. 3035 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND THE CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 1713 (ORDINANCE NO. 1961) TO ALLOW FOR AN ADDITIONAL BUILDING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.28 ACRES, MORE OR LESS" for the reasons and modification of condition 8 A & B given by the Planning & Zoning Commission as follows:

1. A four-building conditional use was approved several years ago. That was in addition to the two legally nonconforming grandfathered buildings that already existed on the site.
2. The site had a history of commercial uses, as referenced in the approval of Conditional Use #1713.
3. Although Conditional Use # 1713 limited the site to 4 additional buildings, there was no opposition to that conditional use and no clear basis for the limitation, other than the fact that only 4 buildings were sought as part of that initial approval.
4. There are a variety of commercial and business uses in this area, and this additional building will be consistent with the surrounding and nearby uses.
5. In the years that Conditional Use #1713 has been in existence, there is no record of any adverse impact of the use on the neighboring properties and roadways. There is nothing in the record to indicate that this expansion will create any adverse issues.
6. This is a reasonable expansion of the existing conditional use that is consistent with the development trends in this area.
7. No parties appeared in opposition to this application.
8. This Conditional Use is subject to the following conditions:
  - a. Condition #1 of Conditional Use #1713 and Ordinance # 1961 shall be amended to allow one additional building as shown on the site plan presented during the public hearing along with one additional dumpster for that building.
  - b. 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/  
CU2429**

**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 LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 0.69 ACRE, MORE OR LESS” (property lying on the west side of Camp Road [S.C.R. 532], approximately 0.19 mile north of Eskridge Road [S.C.R. 531]) (911 Address: 20914 Camp Road, Bridgeville) (Tax Map Parcel: 331-2.00-17.02) filed on behalf of Jason Hignutt.**

**The Planning & Zoning Commission held a Public Hearing on the application on July 10, 2024. At the meeting of July 24, 2024, the Planning & Zoning Commission recommended approval of the application for the 6 reasons stated and subject to the 11 recommended conditions as outlined.**

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

**The Council found that Mrs. Keri Hignutt and Mr. Jason Hignutt spoke on behalf of the Application. Mrs. Hignutt stated that the application is for a landscaping company; that they are looking for approval to continue to run their business at this location; that they currently have one employee; that they designated three parking spaces for potential growth in the future; that the conditions from the Planning & Zoning Commission were reviewed; that the applicant agreed with the conditions.**

**There were no public comments.**

**The Public Hearing and public record were closed.**

**M 434 24  
Adopt  
Ordinance  
No. 3036/  
CU2429**

**A Motion was made by Mrs. Green, seconded by Mr. Hudson to Adopt Ordinance No. 3036 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 0.69 ACRE, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:**

- 1. The property is located on a small parcel of land, but the Applicant proposes a small landscaping business that will fit the location. As the business hopefully grows, another larger location may become**

**M 434 24  
Adopt  
Ordinance  
No. 3036/  
CU2429  
(continued)**

- necessary in the future.
2. The site is located within the Developing Area according to the Sussex County Comprehensive Plan. This low impact type of use is appropriate within this Area.
  3. The property is zoned AR-1 Agricultural Residential. The use of the property as a landscaping business is consistent with the underlying agricultural zoning of the property.
  4. The use will not adversely affect area roadways or neighboring properties.
  5. A landscaping company provides a service to a wide variety of Sussex County residents and businesses, and it has a public or semi-public character that will benefit the residents and businesses of Sussex County.
  6. There was no opposition to this application.
  7. This recommendation is subject to the following conditions:
    - a. This use shall be limited to a landscaping business that performs off-site landscaping work.
    - b. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.
    - c. As stated by the Applicant, there shall not be any retail sales occurring from the site, and no materials such as dirt, topsoil, mulch, stone or compost shall be stored on the site.
    - d. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
    - e. The hours of operation shall be limited to 7:00 a.m. through 7:00 p.m., Monday through Saturday. There shall not be any Sunday hours. The Applicant shall be able to operate beyond these hours on an as-needed basis for limited situations such as snow removal, storm damage cleanup, and similar events.
    - f. The applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.
    - g. Since this property also includes the Applicant's residence, the Final Site Plan shall show the area where this landscaping business will be located on the property.
    - h. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. No more than 6 vehicles associated with the use shall be parked on the site. There shall not be any parking or storage within the property's setbacks.
    - i. Because this Application was filed as a result of a Constable's Violation, the Final Site Plan must be submitted within 6 months of

**M 434 24  
Adopt  
Ordinance  
No. 3036/  
CU2429  
(continued)**

**approval of this Ordinance by County Council. Otherwise, the violation process shall continue with respect to the Applicant and this property.**

- j. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
- k. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**Motion Adopted: 5 Yeas.**

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

**Public  
Hearing/  
CU2432**

**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 BEAUTY SALON TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.56 ACRE, MORE OR LESS” (property lying on the east side of Old Landing Road [S.C.R. 274], approximately 0.28 mile south of Warrington Road [S.C.R. 275]) (911 Address: 19747 Old Landing Road, Rehoboth Beach) (Tax Map Parcel: 334-12.00-181.03) filed on behalf of Simon Fares & Lorne Crawford.**

**The Planning & Zoning Commission held a Public Hearing on the application on July 10, 2024. At the meeting of July 24, 2024, the Planning & Zoning Commission recommended approval of the application for the 5 reasons stated and subject to the 11 recommended conditions as outlined.**

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

**The Council found that Mr. Blake Carey, Esq. with The Smith Firm spoke on behalf of the Applicants, Simon Fares and Lorne Crawford who were also present. Mr. Carey stated that the property is located on the easterly side of Old Landing Road and the address is 19747 Old Landing Road, Rehoboth Beach; that the Applicants acquired this property around June 2020; that they have since spent time between this property and their other home in Pennsylvania; that they have removed a dilapidated sailboat and extensively renovated the exterior and interior of the buildings on the property; that Simon Fares has 33 years of experience in the hair industry around the globe and has been licensed in Pennsylvania for over 11 years; that it is the Applicant’s goal to reside in Rehoboth Beach full-time and to continue to provide his services in Delaware; that the Applicants are respectfully requesting a Conditional Use to allow for a salon at the property in an area which was formerly a garage and is existing on the property; that water for the property is provided by Tidewater and the property is on Sussex County**

**Public  
Hearing/  
CU2432  
(continued)**

sewer; that the hours of operation would be 9:00 a.m. – 6:00 p.m. Monday through Saturday with no Sunday hours; that services would be limited to hair services only with limited sales of hair products to patrons in the salon; that the business will be by appointment only with no walk-in appointments; that there would be no outdoor storage relating to the salon and no manufacturing of any kind; that there will be a maximum of five employees including Mr. Fares; that the request is for three styling stations or chairs and one hair washing station; that the employee parking will be on the north side of the property and client parking will be on the south side of the property; that there would be no exterior improvements to the property if this Conditional Use is granted with the exception of parking lot stripes and some arrows for directional use; there would be no changes to the rear of the property which backs up to the Landing Association; that setbacks are met and exist within the property; that this use would be minimal compared to other Conditional Uses which surround the property; that if approved the Applicant would require additional approval from the State Department of Health to operate; that the proposed Conditional Use is similar in character to other Conditional Uses on Old Landing Road and within a mile radius which include several medical offices and other businesses including a salon, real estate business, investment office and offices for a cleaning business, self-storage, etc. which are within the AR-1 zoning district and have Conditional Uses; that the proposed use will not have an adverse effect on the surrounding areas or impact property values in the surrounding area; that DelDOT has determined that a Traffic Impact Study (TIS) is not required; that the property will retain its residential look and feel as it looks today; that the property is located in the Coastal Area pursuant to the Sussex County's Comprehensive Plan which is a growth area; that the Plan notes that mixed use development should be allowed and in doing so a careful mixture of homes with light commercial, office and institutional uses can be appropriate to provide for convenience services to allow people to work close to home; that the Applicant's proposal is not an intense use such as auto repair, gasoline sales or even as intense as some of the medical offices; that the proposed use is not large in scale and uses an existing structures on the property and therefore is permissible according to the Comprehensive Plan; that according to the Planning and Zoning Department's Staff Analysis which states based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for a salon at the site, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses; that the proposed use will benefit the health, safety and welfare of future residents of Sussex County; that the proposed use of the existing building on the property as a salon benefits the needs of the residents in the immediate area and provide convenient services to neighboring properties on Old Landing Road, so that residents don't have to travel out to Route 1 and Route 24; that the use will increase competition in the salon business sector which is beneficial to residents and to the economy; that it is difficult to find commercial properties in the area, which is often very expensive and limiting this type of business to only commercially zoned areas stifles small businesses to operate in Sussex

**Public  
Hearing/  
CU2432  
(continued)**

**County; that the use will not impact neighboring properties or roadways; that the Applicants have spent significant time and resources improving the property and this benefits surrounding property owners; that the Application is consistent with the proposed requirements for a Conditional Use; that it was requested to amend Condition B to allow three stylist stations and one hair washing station; that it is the intent to utilize the existing driveways that are on the property for parking; that part of which may be in setbacks, but the structure is not in setback areas.**

**Public comments were heard.**

**Mr. Ryan Lehmann spoke in opposition of the application; that this is a residential area; that there is not a single business on Old Landing Road; that he does not believe there should be a business in this area.**

**The Public Hearing and public record were closed.**

**M 435 24  
Amend  
Condition B/  
CU2432**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend Condition B to read “There shall be not more than three stylist stations with one accompanying washing and drying station. The Final Site Plan shall depict the area of the existing structure set aside for the business use and this floorplan shall show the locations of the two sets of stations”.**

**Motion Adopted: 5 Yeas.**

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

**M 436 24  
Amend  
Condition I/  
CU2432**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend Condition I to read “The Final Site Plan shall clearly show all areas for employee and customer vehicle parking, and these areas shall be clearly marked on the site itself.**

**Motion Adopted: 5 Yeas.**

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

**M 437 24  
Adopt  
Ordinance  
No. 3037/  
CU2432**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt Ordinance No. 3037 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BEAUTY SALON TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.56 ACRE, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended Conditions B & I by this**

**M 437 24  
Adopt  
Ordinance  
No. 3037/  
CU2432  
(continued)**

**Council:**

- 1. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. This use is appropriate within this Area.**
- 2. The property is zoned AR-1 Agricultural Residential. The use of the property as a home-based salon business is consistent with the mix of other businesses in the area, of note are a Bed and Breakfast, a Boutique Hotel, two Landscaping businesses, and a storage facility within close proximity to the site.**
- 3. The use will not adversely affect area roadways or neighboring properties with the conditions imposed with this CU.**
- 4. A Beauty Salon provides a service to a wide variety of Sussex County residents and businesses, and it has a public or semi-public character that will benefit the residents and businesses of Sussex County. In particular, it would be convenient to area residents who prefer to not travel Rt. 1 to reach a local salon.**
- 5. There was a mix of support and opposition to the proposal, with supporters noting the benefits to locals who may prefer to avoid the highway, general support of small businesses, specific support for the owner's based on prior experiences with their business in Pennsylvania. Several neighboring property owners noted concerns about reduction of enjoyment of their properties due to customer or employee headlights shining into their properties and concerns about the traffic conditions on Old Landing Road and safety issues that might be worsened by adding this home-based business to the area. These concerns can be mitigated with appropriate conditions.**
- 6. This recommendation is subject to the following conditions:**
  - a. This use shall be limited to a Beauty salon business.**
  - b. There shall be not more than three stylist stations with one accompanying washing and drying station. The Final Site Plan shall depict the area of the existing structure set aside for the business use and this floorplan shall show the locations of the two sets of stations.**
  - c. As stated by the Applicant, there shall only be retail sales occurring from the site that coincide with scheduled appointments of clients, not general retailing.**
  - d. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
  - e. The hours of operation shall be limited to 8:00 a.m. through 6:00 p.m., Monday through Friday, and from 8:00 a.m. until 6:00 p.m. on Saturdays. There shall not be any Sunday hours.**

**M 437 24  
Adopt  
Ordinance  
No. 3037/  
CU2432  
(continued)**

- f. There shall be a vegetative screen and/or Privacy Fence erected by the applicant on the back and South side of the property to reduce impact of customer and employee headlights on neighboring residents. The location and type of vegetation and fencing shall be shown on the Final Site Plan.**
- g. Any lighting on the site shall be screened so that it does not shine on neighboring properties or roadways.**
- h. The applicant shall comply with all DeIDOT requirements, including any entrance or roadway improvements.**
- i. The Final Site Plan shall clearly show all areas for employee and customer vehicle parking, and these areas shall be clearly marked on the site itself.**
- j. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
- k. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**Motion Adopted: 5 Yeas.**

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

**M 438 24  
Adjourn**

**A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to adjourn at 2:27 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.}*

## ENGINEERING DEPARTMENT

JOHN J. ASHMAN  
DIRECTOR OF UTILITY PLANNING & DESIGN REVIEW

(302) 855-7370 T  
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# Sussex County

DELAWARE  
sussexcountyde.gov

MIKE HARMER, P.E.  
SUSSEX COUNTY ENGINEER

### Memorandum

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

FROM: John J. Ashman  
Director of Utility Planning & Design Review

RE: *Existing Wastewater Infrastructure Use Agreement  
Channel Pointe Villas IUA 1266  
File: OM 9.01*

DATE: August 27, 2024

The Existing Wastewater Infrastructure Use Agreement is an arrangement that collects financial contributions based on development built out flows for available capacity in the existing wastewater transmission infrastructure previously funded by the County while at the same time eliminating the granting of "oversizing" credits.

The Engineering Department requests approval of an agreement for the existing wastewater infrastructure use with **CMF Channel Pointe Villas, LLC** for **Channel Pointe Villas** project in the **Fenwick Island Area**. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County.

Under the proposed arrangement, **Channel Pointe Villas** project will connect to the existing County owned wastewater infrastructure. In return for utilization of said **CMF Channel Pointe Villas, LLC** will contribute **\$40,519.00** for the financial catch-up contribution of the existing infrastructure to serve **28.00** Equivalent Dwelling Units. Payments of the contribution will be required prior to beneficial acceptance of the on-site collection system.



**EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT**

**Channel Pointe Villas – IUA 1266**

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;

**CMF CHANNEL POINTE VILLAS, LLC** a Limited Liability Company and developer of a project known as **Channel Pointe**, hereinafter called the “Developer.”

**WITNESSETH:**

**WHEREAS**, Developer is developing a tract of land identified as Tax Map parcel 533-20.00-22.00 to be known as **Channel Pointe Villas** (“Project”) and;

**WHEREAS**, the Project is within the boundary of the Sussex County Unified Sanitary Sewer District (Fenwick Island 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 **28.00** 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 **\$40,519.00** 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 **21 Village Green Drive, Suite 200, Ocean View, Delaware 19970.**

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 CMF CHANNEL POINTE VILLAS, LLC**

 (Seal)  
Josh Mastrangelo - Authorized Signatory

8.14.2024 (DATE)

WITNESS: 

## ENGINEERING DEPARTMENT

JOHN J. ASHMAN  
DIRECTOR OF UTILITY PLANNING & DESIGN REVIEW

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jashman@sussexcountype.gov



# Sussex County

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MIKE HARMER, P.E.  
SUSSEX COUNTY ENGINEER

### Memorandum

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

FROM: John J. Ashman  
Director of Utility Planning & Design Review

RE: *Existing Wastewater Infrastructure Use Agreement*  
*Justice Property IUA 1257*  
*File: OM 9.01*

DATE: August 27, 2024

The Existing Wastewater Infrastructure Use Agreement is an arrangement that collects financial contributions based on development built out flows for available capacity in the existing wastewater transmission infrastructure previously funded by the County while at the same time eliminating the granting of "oversizing" credits.

The Engineering Department requests approval of an agreement for the existing wastewater infrastructure use with **Old Mill Ventures, LLC** for **Justice Property** project in the **Millville Area**. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County.

Under the proposed arrangement, **Justice Property** project will connect to the existing County owned wastewater infrastructure. In return for utilization of said **Old Mill Ventures, LLC** will contribute **\$37,619.00** for the financial catch-up contribution of the existing infrastructure to serve **128.00** Equivalent Dwelling Units. Payments of the contribution will be required prior to beneficial acceptance of the on-site collection system.



**EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT**

**Justice Property – IUA1257**

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;

OLD MILL ROAD VENTURES, LLC a limited liability corporation and developers of a project known as **Justice Property**, hereinafter called the “Developer.”

**WITNESSETH:**

WHEREAS, Developer is developing a tract of land identified as Tax Map parcel 134-12.00-72.01 to be known as **Justice Property** (“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 **128.00** additional equivalent dwelling units to County’s existing sanitary sewer system and to utilize the existing transmission capacity in said system, Developer agrees to financial catch-up contribution in the net amount of **\$37,619.00** 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 will be required prior to beneficial acceptance of the on-site sewer collection system.**
- (5) All the conditions of this agreement must be disclosed to any and all third-party purchasers of the project and/or part of the project prior to the time of settlement.

- (6) 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.
- (7) 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).
- (8) 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.
- (9) 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.
- (10) 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*.
- (11) 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.
- (12) 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.
- (13) 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.

- (14) 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.
- (15) 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.
- (16) 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.
- (17) 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.
- (18) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.
- (19) If any provision of this Agreement shall be deemed invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not render invalid or unenforceable any of the other provisions of this Agreement which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Agreement are hereby deemed to be severable.

Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is 18949 Coastal Highway, Rehoboth 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 N. Torbert  
Clerk of the County Council

**FOR OLD MILL ROAD VENTURES, LLC**

By:  \_\_\_\_\_ (Seal)  
Ben Gordy - Authorized Signatory  
8/14/24 (DATE)

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



## 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: August 21, 2024

RE: County Council Report for Ordinance 24-03 relating to Residential Development Perimeter Buffers

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On March 19, 2024, the County Council introduced an Ordinance to amend the Code of Sussex County regarding the perimeter buffers of residential development.

The Planning & Zoning Commission held a Public Hearing on the Ordinance on May 8, 2024. At the meeting of June 5, 2024, the Planning & Zoning Commission recommended approval of the Ordinance for the 8 reasons stated and subject to the recommended revisions to the Ordinance as outlined within the motion (copied below).

The County Council held a Public Hearing on the Ordinance at its meeting on June 11, 2024. At the conclusion of the Public Hearing, the Council closed the Public Record and deferred action on the Ordinance for further consideration. Below is a link to the minutes of the June 11, 2024, County Council meeting.

[Link to the Minutes of the June 11, 2024 County Council Meeting](#)

The County Council discussed the Ordinance at its meeting on June 25, 2024. Below is a link to the minutes of the June 25, 2024 County Council meeting.

[Link to the Minutes of the June 25, 2024 County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meetings of May 8, 2024, and June 5, 2024.



Minutes of the May 8, 2024, Planning & Zoning Commission Meeting

**Ord. 24-03**

**AN ORDINANCE TO AMEND CHAPTER 99, ARTICLES I, III, IV, V AND VI SECTIONS 99-5, 99-6, 99-23, 99-26, 99-27, 99-30, 99-31 AND 99-32 AND BY ADDING A NEW SECTION 99-21a, AND CHAPTER 115, ARTICLES IV, V, VI, VII, VIII AND XXVIII SECTIONS 115-20, 115-25, 115-29, 15-37. 115-45 115-53 AND 115-218 REGARDING PERIMETER BUFFERS AROUND RESIDENTIAL DEVELOPMENT.**

Mr. Robertson provided a short presentation for the proposed Ordinance for perimeter buffers around residential development; that this Ordinance goes back to the Comprehensive Plan that we have in place and the joint workshop with the County Council and Planning & Zoning; that Council ranked issues of priority and this based on ranking was the #1 issue that they wanted to tackle first; that; County Council hears about buffers from developers, from people living within developments, from people living next to developments that are being constructed, people driving down the road and across all walks of life; that the insufficiency of the buffers currently in our code is one topic of discussion that arise; that things such as how big are they, what's required in them, tree removal in the buffers or unnecessary tree removal; that if a there is a forested piece of property or a piece of property that has forests along the edge of it, why are we taking full growth forest out and then planting brand new trees that are this tall, or we had trees that were fairly significant in there, why would we remove them; that the timing of the buffer installation, when it happens in conjunction with the development site work, and how it's being coordinated and when it's being completed in conjunction with the development site work and building construction; that we have inconsistent requirements with our code; that the original perimeter buffer standards go back 20 years and state in Chapter 99 that a 20 foot buffer is required with planning requirements and the two year bonding requirements; that then we have separate buffer requirements in Chapter 115 for cluster subdivisions that is 30 feet with a different set of planning requirements; that the goals of this is to clean up all the inconsistencies and make one set of standards; that the original ordinance that was introduced by County Council, established or replaced definitions within the code; that an established definition of clearing or cleared so that if there's existing trees within a subdivision on the perimeter, there would be an assessment of that to have a baseline; that as part of an approval, there's a landscape plan, that defines what we want in that landscape; that if you have existing woods, there's a perimeter buffer protection area of an additional 20 feet to preserve that 30 foot of existing woodlands; that the established definition of woodlands are trees and shrubs that are local and native species; that the Department of Agriculture, Forestry Service, states that there's no list of local and native species; that because of no list for local and native species being found they chose 70% deciduous, 30% Evergreen, 15 trees per 100 feet of buffer, all trees and shrubs must be 6 feet in height at the time of planting and obtain a minimum height of 10 feet; that they have to grow beyond 10 feet and the buffer can include both existing woodlands and planted trees; that to be native a defined list can change over time and there's various guidance documents that we can refer to maintain the list, but ours is not as extensive as others; that if a resource buffer is involved, because of wetlands or an environmental issue along the perimeter, the resource buffer is always going to take precedent; that we're not going to require somebody to go plant trees in a wetlands area or a buffer area that's governed by the perimeter buffer; that there are two categories in the ordinance, one is where there's existing woodlands and one is where there's no

woodlands; that in the existing and the idea is to preserve those woods and then when there's none, the idea is that, you have to plant the new ones to comply; that where there's existing woodlands there has to be a forest assessment with the woodlands shown on the site plans, they need to remain natural state with limited activity; that the perimeter buffer will be protected by that buffer protection area; that the buffer and protection area will be fenced off with silt fencing and marked during construction; that selective clearing, removal of invasive species and dead trees in the woodlands is permitted; that walking trails and between lots are permitted access points to maintain the buffers; that any removal of damage of trees within the woodlands is subject to mitigation requirements; that the woodlands ground is going to be cleared, graded or grubbed, not to disturb the roots in those areas; that in the ordinance you see the perimeter buffer where trees are, then the perimeter buffer protection area, which is the 20 feet and the silt fencing; that the signage is at 100 foot intervals so you can see one from every lot; that the Council wanted to be sure that there was prevention of cases avoiding tree preservation by requiring a period of time (5 years) prior to the application that the woodlands are cleared; that if that was cleared, then it has to be replanted with 15 trees every fifty linear feet to double up the tree density; that if you have existing woodlands that provide a natural screen through large growth and underbrush and you clear that out, 15 trees every 100 feet is going to take a long time to regenerate that screening, that's why there's the recommendation to double that to try to get it back to close to what it was at 15 trees every fifty linear feet; that in addition to the 30 foot buffer, there is new woodlands at least two times the size of the cleared area of tree density of 50 trees per acre; that you have to reforest someplace else, equivalent to what you cleared, offsite or not, and if it is offsite it must be protected by a Conservation Easement.

Mr. Butler asked about the 50-foot trees to an acre ratio and how that will affect the growth of not only the trees but also the undergrowth and the natural floor.

Mr. Robertson stated that the decision about having a 30 foot buffer with the 20 after speaking to the foresters there's an issue of windshear, sunburn and in addition to the damage that occurs during site work, and you keep 20 feet of trees and they're used to being part of a larger forest, and they've grown that way it is harder for them to survive; that another concern is the timing of buffers, especially within subdivisions, where they cannot be planted prior to site work as its not feasible with the way land development works; that the perimeter buffer per phase must be planted prior to the first residential building permit for the respective phase; that you're going to get your site work in or started, have access to the buffer areas before you pull residential building permits; that all of the houses going up are subject to the buffer and the adjacent properties are screened by the buffer that's in before the building is; that you can't move on to the next phase until you've got the prior phase completely planted, where the woodlands exist, the buffer and protection area shall be protected and marked, the developers are responsible for removal of all stakes and guide wires when done; that there has to be a performance bond or other guarantee to cover the perimeter buffer in an amount of 125% or \$50,000, whichever is greater of the cost of the installation and the value of the replacement; that plans guarantee the perimeter buffer, existing or planned, will be for a period of two years; that the perimeter buffer be planted and inspected before moving to the next phase; that this extends the assurance that the trees are alive and you plant the perimeter buffer before the first building permit in that phase; that the developers are responsible for the survival and maintenance of the buffer as recorded in restrictive covenants and a tree mitigation will be required; that when there's damage to existing trees or shrubs or they're removed without authorization, they have to be replaced; that the penalties apply

to a violation by any person, landowner, HOA or developer of a fine of \$10,000 per quarter acre Pro rate of disturbance to the perimeter buffer indoor protection area that may be imposed; that is in the resource buffer now, so for consistency, if you damage the resource buffer, we looked at how that was handled and followed suit; that extending the time period from planning to walk away from a year to within the two years; that outside the two years, the HOA's could be inheriting a problem and may not find out that there was an issue against the developer until it's too late; that there has to be some flexibility on intent and education on the signage that people don't realize that something is on a site plan and it's a non-disturbance area and not their backyard; that the buffers, planted or trees will be governed by code and require it to be governed by the homeowners associations restrictive covenant; that outside the perimeter buffer protection area where there is a no cut warning the intention is that the perimeter buffer protection area also be protected; that in that primitive buffer protection area there is likelihood that native species will naturally grow there;

Mr. Mears questioned if the trees could be removed from the 20-foot buffer that protects the 30-foot perimeter buffer or if it would technically be a 50-foot buffer and if a developer could cut trees and remove them from the 20-foot buffer area.

Mr. Whitehouse responded that the no-cut warning signage is outside the perimeter buffer protection area so there would be no tree removal unless there is an invasive species attack; that the language within the Ordinance states that invasive growth can be removed; that any removal in the buffer protection area be cut to the stump and left, or cut and grinded; that if you pull out the stump with its lateral root system, it's going to rip out the roots all around it and defeat the purpose of the perimeter buffer.

A short recess was taken between 5:10 PM and 5:15 PM

Mr. Rich Borrasso, with SARG, spoke on behalf of Sussex Preservation Coalition, a group who focuses on advocating for more livable communities for residents of Sussex County; that SPC formed a team to inform and engage the public in the development, design, review process and the pathway to more livable communities; that team members have professional experience, municipal planning, landscape architecture, county and state careers and natural resources, including forestry; that the county reviewed the potential updates of the county code in reference to development design and outdated and inconsistent land use codes open to interpretation with deficient county enforcement; that Commission and Council were asked independently to review a summary of ideas table to identify their priorities; that the public was not informed of the process, possibly too many approaching it on a one off basis; that each category is interdependent upon one another; that the category of site work determines where the building site is, what remains, is a minimum percentage of both passive and active open space, tree preservation is contained in the open space, including perimeter buffers; that perimeter buffers is a subset of tree preservation and subdivision standards, including superior design, defined the regulations and potential disincentives and incentives; that adopting the concept of requiring a conservation plan that accompanies the site plan and addresses the categories in more holistic fashion; that every bordering jurisdiction references a conservation plan that accompanies a site plan that deals with open space, tree preservation and natural resources.

Mr. Steve Sinclair, an SPC design development community committee member, spoke on behalf of himself in regards to Ordinance; that Line 29 need new verbiage that the existing perimeter buffer standards and existing code talks about just planted trees, but now you can preserve existing woodland with a myriad of values and benefits beyond screening; that this is an opportunity to articulate in the ordinance about flood mitigation, soil erosion, improving air and water quality, wildlife habitat and recreational areas; that it's time to require a conservation plan in the resource buffer ordinance so when the developer is doing his development design and his site plan, it comes with a conservation plan, requiring a force assessment; that counting trees is not enough, there's more values than just trees themselves; that there's habitat, soil erosion, other things in woodlands that need to be recognized, evaluated and strategies put in place to maintain those overtime; that Line 157 needs to expand the forest assessment to not just look at the trees, but all the natural resources within that area; that when thinking about a parcel and where should open space be, knowing what is there is the only way to do that; that Line 218, the state forester for Delaware Forest Service, spoke at the Sussex Preservation Coalition with what would be an adequate buffer width of 100 feet; that in my experience a minimum buffer width in order for the trees to maintain over time for wind throw and sun skulls to provide some of these natural resource benefits beyond just screening need to be at least the width of the average height of the trees; that we recognize that's going to have an impact on the development so the width of the trees we're recommending is 50 feet as a minimum requirement to maintain some of those values, wild life habitats, soil erosion and flood mitigation; that expanding from 30 to 50 feet is the right idea; that Line 239 expand the perimeter buffer protection area to be applied to resource buffers also; that I request that you keep the record open so that I can submit a list of recommended tree species put out by the Delaware Forest Service; that we're recommending a mix of tree species, 60% deciduous and 40% Evergreen, an Evergreen tree retain their branches lower, are more dense allowing more screening and the canopy size of a conifer tree is less than a deciduous tree when you're requiring 15 trees for 100 feet, you're going to have canopy overlap; that Line 373 relating to mitigation, a developer removes woodland in return have to expand the size of the perimeter buffer; that we suggest in the additional acres there needs to be a higher density of number of trees per acre equal to the existing basal area that's present of the trees.

Ms. Jill Hicks spoke on behalf of Sussex Preservation Coalition, in regards to the Ordinance; that Lines 362-363 add that at no time shall the ground within the woodlands area of the perimeter buffer and the perimeter buffer protection area be clear, graded, regraded or grubbed; that clearing woodlands destroys natural habitats that are necessary for everyone's health, safety and welfare; that clearing large wooded lots which are habitats to native insects. amphibians, fish and animals will destroy the balance of nature that sustains us; that the extension of the perimeter buffers and protection area there is a better chance of providing the wildlife corridors needed for everyone and everything to thrive; that buffers along our roadways would provide positive impacts and vinyl stockade fences and berms do not provide screening, nor do they add value to the county's quality of life or create livable communities; that a stockade fence will never block light but trees will; that I am advocating we not allow forests to be cut down and then replaced with stockade fences, but rather install within the property line or on the line, but not to the exclusion of the required forested perimeter buffer and the perimeter buffer protection area; that the draft ordinance states that the perimeter buffer is to go around the entire property to which the county should adhere to, including along adjacent roadways; that Line 475 stating that clearing of trees in an area should not be permitted in a phase until the developer has received permits for that particular phase; that a current resident

should not have to live with a clear cut area and construction debris, and the lack of a buffer year after year before the clearing of that entire forest.

Ms. Katie Gillis, the executive officer of the Home Builders Association of Delaware, spoke on behalf of 375 members that are builders, remodelers and developers statewide; that we support efforts to protect existing trees, buffers are important and so is the preservation of existing buffers; that the request that was made previously for a working group to look at this issue and others from a holistic perspective, involving stakeholders with disparate and diverse backgrounds, viewpoints and perspectives; that this was supported by our association and by the American Council of Engineering Companies, Associated Builders and Contractors of Delaware Committee of 100, Delaware State Chamber of Commerce, Kent Sussex Leadership Alliance, Property Business Alliance, Sea Deck and the Rehoboth Beach and Dewey Beach Chamber of Commerce; that a solution developed by a working group would be more likely to garner widespread support and receive less opposition and would better reflect the competing interests of the stakeholders in this process; that there are no carve outs for tree removal in existing buffers when required by state or county regulations or when required for utilities; that there are scenarios where county and state regulations and typography would necessitate grading and buffer areas and associated removal of trees; that developers should not be penalized for removing trees and buffers when the law requires them to do so or for the purpose of utilities or future connectivity as written; that if a developer is required to remove trees in a buffer to comply with stormwater regulations or to deliver utilities to a site, they would need to comply with the mitigation requirements of the bill as well as fines.

Chairman Wheatley stated that we get asked to have working groups participate, that's why we have the public hearings, it's the opportunity to do it and there is one more hearing at County Council as well and the record will be held open for anybody to participate by sending written comments; that to have working groups on ordinances every time we do an ordinance that's of consequence, but we've had workshops on this, multiple discussions at County Council, public comment where we've drafted the ordinance and we have this hearing with the record being opened along with County Council; that the request is heard, but suggest that anybody that has an interest in it participate in the public hearing process and not anticipate that they'll be a workshop.

Ms. Susan Hagen spoke on behalf of herself in regards to the Ordinance that you add a no later than date to perimeter buffers, regardless of the phasing and the second is to modify the proposal to start the clock on perimeter buffers, not when the first building permit is issued, but instead the earliest of when the road construction begins or the first building permit is issued; that the timeline for the buffer affects resale values of neighboring properties; that developers go out of business and with the proposed regulation, they would not have to replace that buffer if they never completed the work; that the timing of the buffers needs to say something to the effect of the perimeter buffer landscape plan must include a no later than date for the entire perimeter buffer, regardless of phasing; that this date should not be longer than 24 months from the issuance of the first building permit in any phase or something to your liking, but there has to be a no later that and no portion of a perimeter buffer should be able to be designated on the development plan to be in a different phase than the homes in the phase adjacent to it.

Mr. David Hutt, Esq., from Morris James, LLP, spoke on behalf of the Ordinance that there should be a forest assessment report that's required as part of the perimeter buffer; that Lines, 228 through

235 in the definition of a perimeter buffer landscape plan it says that there's a plan prepared by a developer, but I suggest it be a plan submitted by a developer; that because the definition says it has to be prepared by, enlists the qualifications of the person who actually needs to be, the preparer and certifier of the results of that plan; that the definition of woodlands, distinguish the local versus native verbiage; that Lines 348 through 352 relates to the insertion of the definition of forest assessment report consistent with the balance of that section that talks about invasive species; that the tree may not be local or native, and it may also not be invasive; that Lines 376 through 378 relates to when a property has been cleared within five years or a portion of a property has been cleared within five years of the development project and I added there was to clarify that it could be a separate off property site; that I suggest that in addition to a developer having to create a new woodlands, an alternative is they could purchase an existing woodlands in that same geological code that's there at two times, the replacement acreage and place that conservation easement on it so that it doesn't require that a person plant a new forest, but the county still gets the benefit of a preservation area, an existing force of forest that already exists; that Lines 507 to 512 I am proposing to delete the reference to the date that maintenance responsibilities are transferred to a homeowners association and fix it on 9931, which is a time period that the county is familiar with and has access to when something achieved substantial completion; that there's a defined process for that versus the homeowners association; that the transfer to a homeowners association is going to be the responsibility of them on day one; that you report a restrictive covenant that says the homeowners association is responsible for those things; that at the beginning, the homeowners association is, dominated by the developer, which is meaningful because it's always the homeowners association responsibility to maintain any amenity, whether it's a pool, clubhouse, a perimeter buffer or stormwater; that when that responsibility is transferred and the homeowners association is formed the land is subjected to those restrictive covenants.

Chairman Wheatley responded to the public comments in regards to the idea that urgent matters take over important matters in terms of how Planning & Zoning field emails and phone calls and we're going to be taking some steps to try to correct that; that this also speaks to the importance of the advocacy groups and how they have an impact on County Council; that the record will be held open for 10 days to receive any written comments.

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

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

In relation to Ord. 24-03 (Regarding Perimeter Buffers Around Residential Developments). Motion by Mr. Butler to defer action for further consideration and leave the record open for 10 days for receipt of additional comments and/or documents, seconded by Mr. Collins and carried unanimously. Motion carried 5-0.

#### Minutes of the June 5, 2024, Planning & Zoning Commission Meeting

The Commission discussed this Ordinance which has been deferred since May 22, 2024, when the Public Record was closed. The initial Public Hearing was held on May 8, 2024, with the Public Record being left open for 10 days following the meeting for receipt of additional written comments.

Mr. Mears moved that the Commission recommend approval of Ordinance Number 24-03 regarding Perimeter Buffers Around Residential Developments with some suggested revisions based upon the record made during the public hearing, including the written comments that were received while the record remained open and for the following reasons:

1. The County Subdivision and Zoning Codes currently provide for perimeter buffers around residential developments. However, the requirements are not entirely consistent. This Ordinance consolidates the perimeter buffer requirements into one uniform set of standards all within Chapter 99 of the County Code.
2. As Sussex County has developed, it has become evident that more clarity is required within the perimeter buffer standards. This ordinance addresses that need.
3. This Ordinance provides definite timeframes for the installation, completion and maintenance of perimeter buffers. This is a significant improvement over the current Code's requirements.
4. The County has seen existing woodland and vegetation along the perimeter of a proposed subdivision clear cut and ultimately replaced with new plantings. The loss of the existing vegetation eliminated the natural screening that it provided. This Ordinance promotes the retention of existing woodlands within a buffer area.
5. It has been shown that existing woodlands within a 30 foot buffer, even when preserved, can be seriously damaged if site work and grading occurs right to the edge of the buffer area and harms the root structures of the trees located there. This Ordinance provides an additional twenty-foot wide Perimeter Buffer Protection Area that will promote and protect any existing woodlands within a Perimeter Buffer.
6. This Ordinance provides clear remedies and penalties if and when an enforcement action becomes necessary following the damage or destruction of a buffer or the failure to maintain it.
7. This Ordinance is in accordance with the current Sussex County Comprehensive Plan and the Goals, Objectives and Strategies contained within it.
8. Several people and organizations provided testimony and written comments about this proposed Ordinance. A majority of those comments were favorable, but with suggested improvements to the proposed language.
9. This recommendation is subject to the following suggested revisions to the Ordinance:
  - A. **Line 158:** Add "forest inventory" before "tree survey" so that it now states "a forest inventory/tree survey".
  - B. **Line 159:** Add "either groups of trees or" before "individual trees". Groupings of trees may be determined to have a high habitat value in addition to individual trees.
  - C. **Line 160:** Add a new definition of "Forest Assessment Report": "A report detailing the findings of a Forest Assessment prepared and certified by a licensed landscape architect, certified arborist, certified nursery professional, or licensed forester or a forester designated by the Society of American Foresters as a "certified forester"."
  - D. **Line 223:** Add a new sentence that better defines the purpose of the Perimeter Buffer within its definition: "The Perimeter Buffer shall function to filter views from and into a subdivision in such a manner that improves the screening than if no landscaping was provided."

- E. **Line 229:** Change the word “prepared” to “submitted” so that the definition of Perimeter Buffer Landscape Plan now states, “A plan submitted by a developer depicting compliance with the Perimeter Buffer and Perimeter Buffer Protection Area....”.
- F. **Line 311:** Regarding the anticipated height of trees planted within the Perimeter Buffer, change the reference to “obtain a minimum height of ten feet” to “shall be a species that typically achieves a height of at least ten feet...”.
- G. **Lines 332 and 335:** Change the reference from “Forest Assessment” to “Forest Assessment Report”.
- H. **Lines 332 through 335:** Delete the phrase “prepared and certified by a licensed landscape architect, certified arborist, certified nursery professional, or licensed forester or forester designated by the Society of American Foresters as a “certified forester”. This phrase becomes unnecessary since it will now be included within the new definition of “Forest Assessment Report”.
- I. **Line 362 through 363:** Insert “and Perimeter Buffer Protection Area” after “Perimeter Buffer” in the existing sentence and add a new sentence at the end of the section: “Permitted stump removal shall only occur by stump grinding that does not disturb the surrounding area or vegetation.”
- J. **Line 386:** Replace the reference to the “Planning and Zoning Commission” as the entity reviewing the replacement plantings after a timber harvest to “the Director”.
- K. **Line 422:** Replace the reference to “Woodlands” with “Perimeter Buffer and Perimeter Buffer Protection Area”.
- L. **Line 451:** Delete the phrase “for any trees, shrubs or existing woodlands” and add language confirming the duration of the developer’s guaranty so that the note required to guaranty the full cost of replacement now states, “(f) a note confirming that a developer guarantees the full cost of replacement of the Perimeter Buffer for two years after the determination of substantial completion in accordance with Section 99-31.”
- M. **Lines 510-512:** Revise the language about bonding timeframes so that it now states, “The bonds for the Perimeter Buffer shall thereafter remain in place until two years after the determination of substantial completion in accordance with Section 99-31.”
- N. **Line 541:** Insert “Perimeter Buffer” after the word “Woodlands”.
- O. **Line 547:** Delete the phrase “in the form of newly created Woodlands”. The specific requirements of the remedy following damage or removal of trees is defined in the subsections that follow, so this phrase is not necessary.
- P. County Council should also consider a revision to require that a development must install the perimeter buffer at or within a certain time after a notice to proceed when the new development is next to an existing, approved, or under-construction development or homes. This way, if the development is next to existing homes (for instance) there is more certainty about the timing of the installation of the buffer.

Motion by Mr. Mears, seconded by Mr. Collins and carried unanimously to recommend approval of Ordinance Number 24-03 regarding Perimeter Buffers Around Residential Developments for the reasons and conditions stated in the motion. Motion carried 5-0.

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

1 **AN ORDINANCE TO AMEND CHAPTER 99, ARTICLES I, III, IV, V AND**  
2 **VI SECTIONS 99-5, 99-6, 99-23, 99-26, 99-27, 99-30, 99-31 AND 99-32 AND**  
3 **BY ADDING A NEW SECTION 99-21A , AND CHAPTER 115, ARTICLES**  
4 **IV, V, VI, VII, VIII AND XXVIII SECTIONS 115-20, 115-25, 115-29, 115-37,**  
5 **115-45, 115-53 AND 115-218 REGARDING PERIMETER BUFFERS**  
6 **AROUND RESIDENTIAL DEVELOPMENT.**

7

8 WHEREAS, Pursuant to the provisions of Title 9, Chapters 68 and 69 of the  
9 Delaware Code, the Sussex County Government has the power and authority to  
10 regulate the use of land and to adopt a Comprehensive Land Use Plan; and

11 WHEREAS, Pursuant to Chapters 99 and 115 of the Code of Sussex County, the  
12 Sussex County Government has undertaken to regulate the use of land; and

13 WHEREAS, the existing Section 99-5 of the Code of Sussex County currently  
14 establishes certain perimeter buffer requirements within the definition of “Forested  
15 and or Landscaped Buffer Strip” and

16 WHEREAS, the perimeter buffer requirements contained in Chapter 99 are in need  
17 of improvement regarding their interpretation, application and protection of existing  
18 trees and forests within the buffer areas; and

19 WHEREAS, the 2019 Sussex County Comprehensive Plan contemplates the review  
20 and improvement of the protection of perimeter buffers and forested areas in Sussex  
21 County; and

22 WHEREAS, Goal 5.1 of the Conservation Element of the 2019 Sussex County  
23 Comprehensive Plan states that Sussex County should “Encourage development  
24 practices and regulations that support natural resource protection”, and this  
25 Ordinance carries out that Goal; and

26 WHEREAS, it has been determined that this Ordinance promotes and protects the  
27 health, safety, convenience, orderly growth and welfare of the inhabitants of Sussex  
28 County.

29

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

31

32 **Section 1. The Code of Sussex County, Chapter 99, Article I, §99-5**  
33 **“Definitions,” is hereby amended by deleting the language in brackets and**  
34 **strikethrough and inserting the italicized and underlined language**  
35 **alphabetically:**

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**§99-5 Definitions.**

CLEARING or CLEARED

Any type of clearing or cutting of woodland areas that is regulated under the Sediment and Stormwater Management rules of the Delaware Department of Natural Resources and Environmental Control.

...

~~[FORESTED AND/OR LANDSCAPED BUFFER STRIP~~

~~A strip of land, not less than 20 feet in width, exclusive of any residential lots, stormwater management areas or facilities, open space (except that the land area within the buffer strip may be included in the overall calculation of open space), recreational amenities, wastewater treatment and/or disposal facilities, water treatment facilities, streets, buildings or other surface improvements and located along the entire outer perimeter of any portion of a major subdivision of lands into four or more lots adjacent to land of other ownership. A landscape plan for the buffer shall be designed and certified to by a licensed landscape architect, licensed forester or forester designated by the Society of American Foresters as a "certified forester." The landscape plan shall be reviewed and commented on by the State Forester and shall be subject to the final review and approval of the Commission. The following conditions shall apply to the forested buffer:~~

~~A. All trees that are to be planted shall include a mix of 70% deciduous shade trees and 30% evergreen trees, a majority of which shall be suitable trees of common local species, which may include existing as well as planted trees. Every one hundred-foot length of buffer shall include a minimum total of 15 trees.~~

~~B. All deciduous trees that are planted to establish the buffer plantings shall have a minimum caliper of 1.5 inches and a minimum height of six feet above ground when planted in order to insure that the trees will be capable of obtaining a minimum height of 10 feet above ground within five years of being planted.~~

~~C. All evergreen trees that are planted to establish the buffer plantings shall have a minimum height of five feet above ground when planted in order to insure that they~~

72 are reasonably capable of attaining a minimum height of 10 feet above ground within  
73 five years of being planted.

74  
75 ~~D. The landscape plan may include suitable existing deciduous and evergreen trees~~  
76 ~~of common local species, provided they will achieve the overall goal of the plan as~~  
77 ~~described in Subsection E hereof and provided that said existing trees survive the~~  
78 ~~site work construction activity and any changes in the water table and exposure~~  
79 ~~which may result from the construction activity occurring prior to the date the buffer~~  
80 ~~plantings are required to be installed as provided in Subsection F hereof.~~

81  
82  
83 ~~E. The goal of the landscape plan for the forested buffer area shall be to include trees~~  
84 ~~of the type indicated herein that will be planted in a staggered natural manner, as~~  
85 ~~opposed to being planted in row fashion, which will filter views from and into the~~  
86 ~~subdivision in such a manner that the areas on the agricultural side of the buffer area~~  
87 ~~appear more green and less visible and the structures or uses on the subdivision side~~  
88 ~~appear less obvious and less dense than if no landscaping had been required. The~~  
89 ~~procedures and details for planting new trees shall be specified by the landscape~~  
90 ~~architect on the plan submitted to and approved by the Commission and shall include~~  
91 ~~the requirement that the buffer area shall have a final grade that contains a minimum~~  
92 ~~of four inches of topsoil and a suitable grass mix planted as sacrificial cover between~~  
93 ~~the buffer trees for soil stabilization until the newly planted trees become larger. The~~  
94 ~~plan may substitute woodchips for planted grass between the buffer trees in respect~~  
95 ~~to both newly planted and existing trees, as determined by the landscape architect.~~

96  
97 ~~F. The forested and/or landscape buffer shall be installed within 18 months from the~~  
98 ~~date site work is authorized to commence, as documented by a notice to proceed~~  
99 ~~letter from the Commission. For subdivisions that are approved to be constructed in~~  
100 ~~phases, the buffer for each phase must be completed before County approvals or~~  
101 ~~permits will be granted to construct the next phase.~~

102  
103 ~~G. The land developer shall be held responsible for the health and survival of the~~  
104 ~~trees, including regular necessary watering for a minimum of two years or until such~~  
105 ~~later date as the maintenance responsibilities are transferred to a homeowners'~~  
106 ~~association; provided, however, that the developer shall replace any trees that die~~  
107 ~~during the minimum two year developer maintenance prior to transferring~~  
108 ~~maintenance responsibilities to a homeowners' association.~~

109  
110 ~~H. The perpetual maintenance of the buffer plantings by a homeowners' association~~  
111 ~~shall be assured through the restrictive covenants and/or homeowners' association~~

112 documents. The perpetual maintenance plan shall include the requirement that any  
113 trees that die must be replanted with trees of the same type and species and in  
114 accordance with the original landscape plan approved by the County. The perpetual  
115 maintenance plan shall also include a requirement that the forested buffer area be  
116 planted and maintained according to best management practices in the forestry  
117 industry. The responsibility for the perpetual maintenance of the buffer strip and its  
118 plantings shall be assured through restrictive covenants which are obligatory upon  
119 the purchasers through assessments by the homeowners' association. The applicant  
120 and/or land developer must provide the Commission with satisfactory proof that the  
121 covenants include a perpetual maintenance plan which shall be binding upon the  
122 applicant and/or developer during the minimum two year period described in  
123 Subsection G above and thereafter by the homeowners' association. The  
124 Commission and its attorney shall review and approve the perpetual maintenance  
125 plan prior to the restrictive covenants being recorded and prior to granting final site  
126 plan approval.

127  
128 I. The twenty foot forested and/or landscape buffer strip is not required to be  
129 installed in those portions of the subdivision perimeter which represent the width of  
130 a right-of-way connector road or street that DelDOT or the Commission required the  
131 applicant to install pursuant to § 99-17D and the width of a stormwater outfall shown  
132 on the final site plan to drain surface or stormwater outside the perimeter of the  
133 subdivision.

134  
135 J. The landscape plan shall avoid placing planted trees or allowing existing trees to  
136 remain in the areas adjacent to entrances into and exits from the development in such  
137 a manner as to restrict the view of motorists entering or exiting from the development  
138 or restricting site lines for motorists in such a manner as to create a potential safety  
139 hazard.

140  
141 K. Notwithstanding any other provisions of this chapter, the Planning and Zoning  
142 Commission shall be authorized, as part of the site plan review process, to grant final  
143 approval of a plan for the roadway frontage of a major subdivision which may  
144 include landscape and design features, such as fences, walls, berms, landscape  
145 plantings of shrubs, ornamental grasses and/or trees, multimodal paths required by  
146 DelDOT, open areas, or a combination of such features which is designed and  
147 certified to by a licensed landscape architect, licensed forester or forester designated  
148 by the Society of American Foresters as a "certified forester" and reviewed and  
149 commented upon by the State Forester, for the purpose of making the subdivision  
150 more attractive, more in keeping with the surrounding area and less visible from the  
151 roadway, provided said plan will not cause the landscape features contained in the

152 ~~plan to be placed in an area adjacent to the entrance in such a manner as to restrict~~  
153 ~~the view of motorists entering or exiting from the subdivision or restricting the sight~~  
154 ~~lines of motorists in such a manner as to create a potential safety or traffic hazard.]~~  
155

156 . . .

157 FOREST ASSESSMENT

158 A method or process, to include a tree survey, for determining the area or areas  
159 within a parcel that contain high habitat value and individual trees to be preserved.

160

161 . . .

162

163 OPEN SPACE

164

165 Those land areas within all major residential subdivisions, residential planned  
166 communities or developments which have a purpose to provide active and/or passive  
167 recreational opportunities, maintain land in a predominantly undeveloped or natural  
168 state, including lands used for agricultural purposes, promote conservation, protect  
169 wildlife or serve as a buffer between residential and nonresidential areas and/or  
170 commercial and noncommercial areas.

171

172 A. The following uses are permitted and the land area devoted to said uses  
173 will be included in the calculation of open space:

174

175 (1) Recreational facilities, including swimming pools, game courts,  
176 play areas, walking paths, bike paths and multimodal paths that are not  
177 located on state road rights-of-way, provided that impervious cover  
178 does not exceed 15% of calculated open space area.

179

180 (2) Ponds which have a demonstrated recreational value.

181

182 (3) ~~[Buffers]~~ Perimeter buffers, perimeter buffer protection areas,  
183 resource buffers and forested areas.

184

185 (4) Areas protected by perpetual conservation easements.

186

187 (5) Areas providing scenic vistas, areas providing wildlife corridors.

- 188
- 189 (6) Sidewalks not located within street rights-of-way.
- 190 (7) Areas designated as "safe zones" under the Source Water Protection
- 191 Ordinance contained in Chapter 89.
- 192
- 193 (8) Spray irrigation areas, not including areas occupied by rapid
- 194 infiltration basins.
- 195
- 196 (9) Tidal and nontidal wetlands.
- 197
- 198 (10) Stormwater management facility areas.
- 199

200 B. The following uses are not permitted and the land area devoted to said uses  
201 will not be included in the calculation of open space:

- 202
- 203 (1) Land area included within designated lot lines.
- 204
- 205 (2) Building footprints.
- 206
- 207 (3) Predominantly impervious surfaces, such as street rights-of-way,
- 208 sidewalks within street rights-of-way, parking and/or loading areas.
- 209
- 210 (4) Utility facilities, including but not limited to, any building, plant,
- 211 equipment for treatment or pumping, lagoons and rapid infiltration
- 212 basins, for sewer, water, gas, and/or electric utilities.
- 213

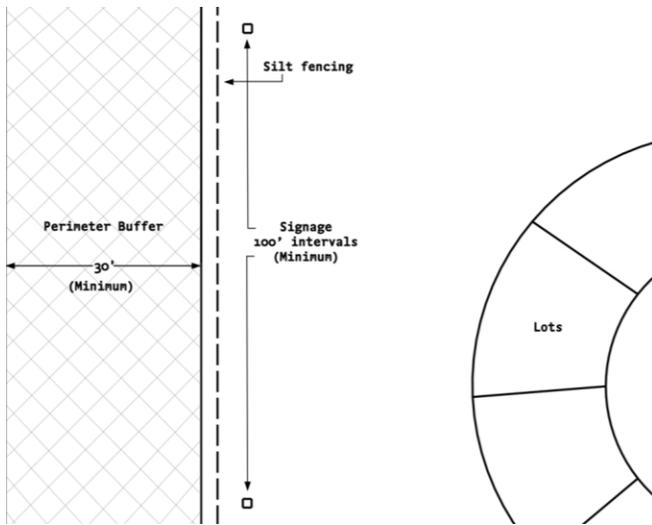
214 C. Any reference in this chapter to "open space" shall be subject to and  
215 governed by this definition.

216

217

218 **PERIMETER BUFFER**

219 *A managed area of planted or existing trees and shrubs and associated landscaping,*  
220 *not less than 30 feet in width measured from the property boundary located along*  
221 *the entire outer perimeter of any portion of a major subdivision. No lots or*  
222 *stormwater management facilities (excepting outfalls) shall exist within the*  
223 *Perimeter Buffer. See illustration below.*



224  
225

226 . . .

227

228 PERIMETER BUFFER LANDSCAPE PLAN

229 A plan prepared by a developer depicting compliance with the Perimeter Buffer and  
 230 Perimeter Buffer Protection Area, including, but not limited to, planting schedules,  
 231 types of vegetation (existing and to be planted); fencing, signage and other marking.  
 232 The Perimeter Buffer Landscape Plan shall be prepared and certified by a licensed  
 233 landscape architect, certified arborist, certified nursery professional, or licensed  
 234 forester or forester designated by the Society of American Foresters as a “certified  
 235 forester.”

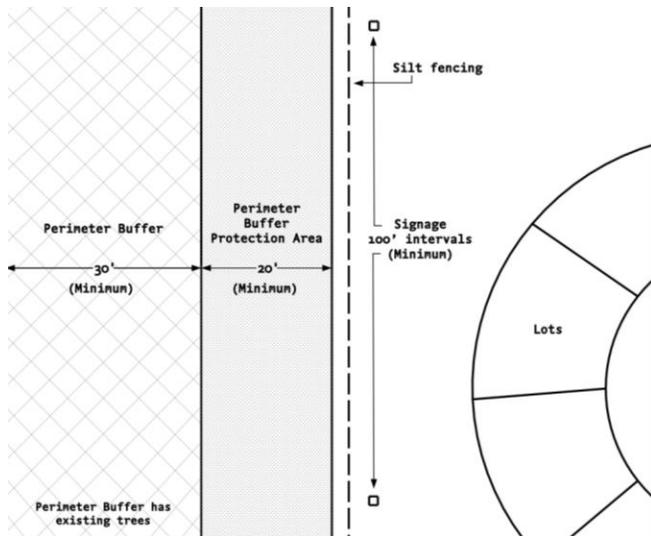
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237 . . .

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239 PERIMETER BUFFER PROTECTION AREA

240 An area adjacent to a Perimeter Buffer that contains Woodlands that is not less than  
 241 20 feet in width measured from the edge of the Perimeter Buffer to be retained and  
 242 protected to ensure that existing Woodlands in a Perimeter Buffer are not disturbed.  
 243 No lots or stormwater management facilities (excepting outfalls) shall be permitted  
 244 in the Perimeter Buffer Protection Area. See illustration below.



245

246 . . .

247

248 WOODLANDS

249 An area of contiguous wooded vegetation of at least 10,000 square feet in an area  
 250 where trees exist at a density of at least one tree with diameter at breast height of  
 251 six inches or greater per 400 square feet of land and where the tree branches form  
 252 a contiguous canopy. Active tree nurseries and orchards shall not be considered  
 253 Woodlands.

254

255 . . .

256 **Section 2. The Code of Sussex County, Chapter 99, Article I, §99-6 “General**  
 257 **Requirements and Restrictions” is hereby amended by deleting the language**  
 258 **in brackets and strikethrough and inserting the italicized and underlined**  
 259 **language as follows:**

260

261 **§99-6 General Requirements and Restrictions.**

262

263 . . .

264

265

266 J. [~~A forested and/or landscape buffer~~] Perimeter buffers and perimeter buffer  
 267 protection areas, as [defined in § 99-5, Subsections A through J] required by §99-  
 268 21A, must be depicted on the preliminary and final plot plans for each major

269 subdivision of lands and must be established in accordance with all the requirements  
270 of ~~[the definition of "forested and/or landscaped buffer strip,"~~  
271 ~~Subsections A through J in § 99-5]~~ §99-21A.

272  
273 **Section 3. The Code of Sussex County, Chapter 99, Article III, §99-16**  
274 **“Suitability of land; preservation of natural features” is hereby amended by**  
275 **deleting the language in brackets and strikethrough and inserting the italicized**  
276 **and underlined language as follows:**

277  
278 **§ 99-16 Suitability of land; preservation of natural features.**

279  
280 D. It is the intent of the County to stress the preservation of all agricultural lands  
281 which are feasible and worthwhile of such preservation in order to conserve such  
282 natural amenities. Where residential subdivisions are established adjacent to lands  
283 used for agricultural purposes, the subdivider shall ensure that there shall be no  
284 negative effect on the agricultural uses. ~~[The twenty foot wide forested and/or~~  
285 ~~landscaped buffer strip required by § 99-5]~~ A perimeter buffer and a perimeter buffer  
286 protection area (if applicable) shall be provided along the outer perimeter of any  
287 boundary of a residential major subdivision ~~[or development of four or more lots~~  
288 ~~that is adjacent to agricultural farmland. "Agricultural purposes" shall be defined as~~  
289 ~~those uses identified in Chapter 115, Zoning, Article IV, § 115-20,~~  
290 ~~Subsection B(1), (2), (3), (4) and (5)].~~

291  
292 **Section 4. The Code of Sussex County, Chapter 99, Article III, is hereby**  
293 **amended by inserting a new §99-21.A “Perimeter Buffers,” by inserting the**  
294 **italicized and underlined language alphabetically:**

295  
296 **§99-21.A Perimeter Buffers.**

297 **A. Perimeter Buffer General Standards**

298 1. There shall be a Perimeter Buffer established along the boundary of every  
299 major subdivision or residential planned community. A Perimeter Buffer shall not  
300 be required along internal boundaries within a subdivision or residential planned  
301 community, such as internal phasing lines.

302 2. The Perimeter Buffer shall be planted with a variety of trees and shrubs so as  
303 to create a visual landscaped screening. All trees and shrubs shall be local and

304 native species. All planting activities shall adhere to ANSI A300, Planting  
305 Standards.

306  
307 3. The Perimeter Buffer shall include a mix of 70% deciduous shade trees and  
308 30% evergreen trees. The Perimeter Buffer shall include at least fifteen trees within  
309 every one-hundred linear feet of the Buffer. All deciduous and evergreen trees that  
310 are planted shall have a minimum height of six feet above ground when planted,  
311 obtain a minimum height of ten feet, and arranged in a staggered natural manner to  
312 effectively achieve a visual landscaped screening which will filter views from and  
313 into the subdivision. The Perimeter Buffer may include existing Woodlands and  
314 planted trees to achieve these planting standards.

315  
316 4. In the event that a Resource Buffer (Section 115-193) is required in the  
317 location of a Perimeter Buffer or Perimeter Buffer Protection Area, the Resource  
318 Buffer standards shall take precedence over, and shall not be in addition to, the  
319 Perimeter Buffer and/or Perimeter Buffer Protection Area requirements for that  
320 same location.

321  
322 5. The Perimeter Buffer shall be marked with permanent, in-ground signage  
323 located at 100-foot intervals along the edge of the Perimeter Buffer to confirm the  
324 existence and non-disturbance of the Perimeter Buffer. This signage shall be at least  
325 five inches by seven inches in size and shall identify the existence of the Buffer, the  
326 fact that it is a non-disturbance Area and a reference to penalties and/or remediation  
327 required if unauthorized disturbance occurs.

328 B. Perimeter Buffer Standards – Woodlands Requirements

329 Where a Perimeter Buffer contains existing Woodlands at the time of application,  
330 the following requirements shall apply:

331 1. Any major subdivision or residential planned community where Woodlands  
332 exist at the time of application shall require a Forest Assessment prepared and  
333 certified by a licensed landscape architect, certified arborist, certified nursery  
334 professional, or licensed forester or forester designated by the Society of American  
335 Foresters as a “certified forester.” The Forest Assessment must be submitted as  
336 part of the application.

337 2. The Woodlands retained within the Perimeter Buffer shall be depicted  
338 generally on the Preliminary Site Plan and with detail on the Perimeter Buffer  
339 Landscape Plan.

340 3. Unless otherwise provided for herein, the Woodlands within the Perimeter  
341 Buffer shall remain in its natural state.

342 4. The Area of the Perimeter Buffer containing Woodlands shall be bordered by  
343 a Perimeter Buffer Protection Area.

344 5. There shall be protective tree fencing, staking, or continuous ribbon installed  
345 along the entire edge of the Perimeter Buffer Protection Area adjacent to the interior  
346 of the development to protect the integrity of existing trees within the Perimeter  
347 Buffer.

348 6. Selective clearing of the Woodlands retained for the use of the Perimeter  
349 Buffer may be permitted but at no time shall trees of six-inch diameter at breast  
350 height be damaged, removed, or otherwise adversely affected. Dead, dying or  
351 unstable live trees that present an imminent danger to persons or property may be  
352 removed. Removal of any invasive species from the Woodlands is permitted.

353 7. Walking trails within the Woodlands for the purpose of providing access to  
354 the Perimeter Buffer may be permitted and shall be depicted on the Perimeter Buffer  
355 Landscape Plan.

356 8. Access points to the Woodlands for the purpose of Perimeter Buffer  
357 maintenance may be permitted and shall be depicted on the Perimeter Buffer  
358 Landscape Plan.

359 9. Any removal or damage of trees within the Woodlands, the Perimeter Buffer  
360 or the Perimeter Buffer Protection Area shall be subject to the mitigation  
361 requirements as well as the violations and penalties located in this Chapter.

362 10. At no time shall the ground within Woodlands area of a Perimeter Buffer be  
363 cleared, graded, regraded, or grubbed.

364 11. If Woodlands on the land where the Perimeter Buffer is to be located have  
365 been cleared for a timber harvest within five years prior to the date of application,  
366 the following additional planting requirements shall apply:

367 (a) The cleared area along the Perimeter Buffer shall be measured and known as  
368 the "Cleared Area".

369  
370 (b) The Perimeter Buffer shall be planted back with at least fifteen trees every  
371 fifty linear feet of the Buffer.

372  
373 (c) In addition to the Perimeter Buffer, a new Woodlands shall be planted that is  
374 2.0 times the size of the Cleared Area and a rate of at least 50 trees per acre.

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(d) The new Woodlands may border the area of the Perimeter Buffer or be in a separate area, but at no times shall the Perimeter Buffer be less than 30' in width measured from the property boundary.

(e) The planted Perimeter Buffer and new Woodlands shall meet the tree and shrub requirements of this Chapter.

(f) If the applicant chooses to provide replacement plantings on any property other than the one on which the timber harvest occurred or protect an off-site Woodlands area, the mitigation plan must be reviewed and approved by the Planning and Zoning Commission, and:

(1) The replacement plantings or off-site Woodlands area must be located within the same twelve-digit hydrologic unit code as defined by the United States Geological Survey as the proposed development.

(2) The replacement plantings or Woodlands area located off-site must be protected under a perpetual conservation easement for the benefit of a conservation organization approved by Sussex County.

(3) At no time shall the area of the replacement plantings be less than 2.0 times the area of Woodlands to be the Perimeter Buffer that was cleared and a rate of at least 50 trees per acre and shall meet the tree and shrub requirements of this Chapter.

C. Perimeter Buffer Standards – Non-Woodlands Requirements

Where a Perimeter Buffer does not contain existing Woodlands at the time of application, the following requirements shall apply:

1. Any major subdivision or residential planned community where Woodlands do not exist within the Perimeter Buffer shall comply with the planting requirements of the Perimeter Buffer Standards and Perimeter Buffer Landscape Plan.

2. There shall be protective fencing, staking, or continuous ribbon installed along the entire edge of the Perimeter Buffer adjacent to the interior of the development to protect the integrity of the Perimeter Buffer.

3. There shall be a final grade that contains a minimum of four inches of topsoil

414 and a suitable grass mix planted as sacrificial cover between the buffer trees for soil  
415 stabilization until the newly planted trees become larger. Woodchips may substitute  
416 for planted grass between the buffer trees around both newly planted and existing  
417 trees.

418  
419 4. Walking trails within Perimeter Buffer may be permitted and shall be depicted  
420 on the Perimeter Buffer Landscape Plan.

421  
422 5. Access points to the Woodlands for the purpose of Perimeter Buffer  
423 maintenance shall be depicted on the Perimeter Buffer Landscape Plan.

424  
425 6. The Perimeter Buffer shall have a two-year guarantee secured by bonding  
426 from the date that substantial completion is issued for the phase where the Perimeter  
427 Buffer is located.

428

429 D. Perimeter Buffer Landscape Plan

430 1. The Perimeter Buffer shall be depicted generally on the Preliminary Site Plan  
431 and in detail on a Perimeter Buffer Landscape Plan that is included within a Final  
432 Site Plan.

433

434 2. The Perimeter Buffer Landscape Plan shall provide sufficient information and  
435 detail to clearly demonstrate that all applicable requirements and standards for  
436 Perimeter Buffers and Perimeter Buffer Protection Areas are satisfied. The  
437 Perimeter Buffer Landscape Plan shall contain, at a minimum, the following:

438 (a) Approximate location and description of the protective tree fencing, staking,  
439 or continuous ribbon.

440 (b) The location, spacing, height, and species of existing and new trees and  
441 shrubs proposed to meet tree planting requirements.

442 (c) The design and location of the required Perimeter Buffer signage.

443 (d) Measures to be taken to avoid sedimentation intrusions and erosion in the  
444 Perimeter Buffer.

445 (e) A summary table of the number of new trees to be planted and minimum  
446 number of existing trees to be retained (if any) to meet the tree specification and  
447 density requirements with calculations confirming that these requirements have  
448 been achieved. The summary table may include example groupings of trees to be  
449 planted instead of each new tree labeled on the Perimeter Buffer Landscape Plan.

450 (f) A note confirming that the developer guarantees the full cost of replacement  
451 for any trees, shrubs or existing Woodlands.

452 (g)A planting schedule for the Perimeter Buffer. The planting schedule shall  
453 demonstrate the installation of the Perimeter Buffer prior to the issuance of the first  
454 residential building permits in the phase where it is located. The Perimeter Buffer  
455 shall be planted and inspected prior to the issuance of the first residential building  
456 permit within the phase where the Buffer is located. Each phase of the development  
457 must include the Perimeter Buffer and Perimeter Buffer Protection Area (as  
458 applicable) that is adjacent to that Phase.

459 (h)Notwithstanding any other provisions of this chapter, the Planning and  
460 Zoning Commission shall be authorized, as part of the site plan review process, to  
461 grant final approval of a Plan for the roadway frontage of a major subdivision which  
462 may include landscape and design features, such as fences, walls, berms, landscape  
463 plantings of shrubs, ornamental grasses and/or trees, multimodal paths required by  
464 DelDOT, or a combination of such features which is designed and certified to by a  
465 licensed Landscape architect, licensed Forester or Forester designated by the  
466 Society of American Foresters as a "Certified Forester", for the purpose of making  
467 the subdivision more attractive, more in keeping with the surrounding area and less  
468 visible from the roadway, provided said plan will not cause the landscape features  
469 contained in the plan to be placed in an area adjacent to the entrance in such a  
470 manner as to restrict the view of motorists entering or exiting from the subdivision  
471 or restricting the sight lines of motorists in such a manner as to create a potential  
472 safety or traffic hazard.

473 E. Timing; Bonds and Guarantees.

474  
475 1. The Perimeter Buffer Landscape Plan shall include the planting schedule for  
476 the entire Perimeter Buffer. The planting schedule shall demonstrate the installation  
477 of the Perimeter Buffer prior to the issuance of any residential building permits  
478 within the phase. The Perimeter Buffer shall be planted and inspected prior to the  
479 issuance of the first residential building permit within the phase where the Perimeter  
480 Buffer is located. Each phase of the development must include the Perimeter Buffer  
481 and Perimeter Buffer Protection Area (as applicable) that is adjacent to that phase.  
482 The Perimeter Buffer for each phase must be planted and inspected before County  
483 approvals or permits will be granted to construct the next phase.

484  
485 2. Where Woodlands exist in the Perimeter Buffer, the Perimeter Buffer and  
486 Perimeter Buffer Protection Area shall be protected and marked as provided herein  
487 for the entire development (subject to inspection and approval by Sussex County)

488 prior to the issuance of any notice to proceed for site work. For subdivisions that  
489 are to be constructed in phases, the Protection and marking of existing Woodlands  
490 shall be maintained and inspected prior to the issuance of any notice to proceed for  
491 site work or construction within a subsequent phase.

492 3. The developer shall be responsible for the removal from the site of all stakes,  
493 guy wires, protective tree fencing, staking, or continuous ribbon upon the conclusion  
494 of the two-year guaranty period.

495 4. The developer shall post a performance bond or other guaranty for the  
496 Perimeter Buffer in an amount sufficient to install the Perimeter Buffer and the  
497 Perimeter Buffer Protection Area (as applicable) in a form acceptable to the County  
498 Attorney. The amount of such bond shall be 125% of the cost of the installation the  
499 Perimeter Buffer (including all plantings) and the Perimeter Buffer Protection Area  
500 (as applicable) or \$50,000, whichever is greater. The Perimeter Buffer shown on the  
501 Perimeter Buffer Landscape Plan may be bonded as a separate phase or phases of  
502 the subdivision, provided that all Perimeter Buffers containing Woodlands must be  
503 bonded before a Notice to Proceed is issued for any phase of the development.

504  
505 5. Bonds posted to ensure the completion and non-disturbance of the Perimeter  
506 Buffers shall be posted with the Director of Planning and Zoning.

507 6. The trees and shrubs located within the Perimeter Buffer shall be in good  
508 health prior to the issuance of substantial completion in accordance with Section  
509 99-31 of the Code. The Bonds for the Perimeter Buffer shall thereafter remain in  
510 place until the latter of two years after the determination of substantial completion  
511 in accordance with Section 99-31 or two years after such date as the maintenance  
512 responsibilities are transferred to a homeowners' association.

513  
514 7. A party may not alter the Perimeter Buffer Area of the development (or any  
515 phase thereof) unless an amended Perimeter Buffer Landscaping Plan is approved  
516 by Sussex County and a new bond or other guaranty is provided for the alteration.

517  
518 F. Perimeter Buffer Maintenance

519  
520 1. The developer shall be responsible for the health and survival of the Perimeter  
521 Buffer, including regular necessary watering until the determination of substantial  
522 completion in accordance with Section 99-31. This shall include the obligation to  
523 replace any trees and shrubs within the Perimeter Buffer that do not survive during  
524 this time period.

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2. The Perimeter Buffer shall be maintained in perpetuity. The perpetual maintenance of the Perimeter Buffer by a homeowners' association shall be confirmed in the recorded declaration or restrictive covenants for the development with the requirement that any trees or shrubs that do not survive must be replanted with trees or shrubs of the same type and species in accordance with the original Landscape Plan approved by Sussex County. The Perimeter Buffer shall be maintained (and any replacement trees or shrubs planted) according to best management practices in the Forestry industry (ANSI A300). The applicant and/or developer must provide the Commission with satisfactory proof that the declaration or restrictive covenants include a perpetual maintenance plan which shall be binding upon the applicant and/or developer and thereafter by the homeowners' association. The Commission and its attorney shall review and approve the perpetual maintenance plan prior to the restrictive covenants being recorded and prior to granting final site plan approval.

G. Perimeter Buffer Tree Mitigation

1. In the event that trees, shrubs, Woodlands, or the Perimeter Buffer Protection Area are removed or damaged without authorization, tree mitigation shall be required. In addition, violations and penalties may be assessed.

2. If trees within a Perimeter Buffer (whether Woodlands or planted) have been damaged or removed (unless such damage or removal is the result of Act of God or natural causes and are therefore subject to the Perimeter Buffer Maintenance Requirements), tree mitigation must occur in the form of newly created Woodlands as follows:

(a) A mitigation plan shall be prepared by a licensed Landscape architect, certified arborist, certified nursery professional, or licensed Forester or Forester designated by the Society of American Foresters as a "Certified Forester."

(b) New Woodlands shall be created for the area of Woodlands in the Perimeter Buffer that was illegally accessed or damaged with at least three replacement trees planted for every tree removed or damaged.

(c) The replacement plantings shall meet the tree and shrub requirements of this Section.

561 (d) The developer, property owner and/or party who violates this section shall be  
562 responsible for the health and survival of the replacement in accordance with  
563 this Section.

564  
565 (e) All tree mitigation plantings must be on the same lot, parcel, or tract on which  
566 the illegal activity occurred, except as noted herein.

567 H. Violations and Penalties

568  
569 The developer, owner of the land and any person or corporation who shall violate  
570 any provisions of this Section shall be subject to the following penalties in addition  
571 to other requirements set forth in this Section. Separate violations or a series of  
572 violations may be combined to determine the total area where the violation  
573 occurred:

- 574  
575 1. A fine of \$10,000 per quarter acre, pro rata, of disturbance within the  
576 Perimeter Buffer and Perimeter Buffer Protection Area, as applicable, shall  
577 be imposed; and  
578  
579 2. A tree mitigation plan in accordance with the requirements of this Section  
580 shall be approved by the Planning and Zoning Commission.

581  
582 Where the developer is the party who has violated the provisions of this Section, no  
583 building or zoning permits shall be issued nor shall any inspections occur within the  
584 phase where the violation occurred (including, but not limited to building code and  
585 utility inspections) until the tree mitigation plan is complete and approved by the  
586 Commission.

587  
588 **Section 5. The Code of Sussex County, Chapter 99, Article IV, §99-23**  
589 **“Information To Be Shown” is hereby amended by deleting the language in**  
590 **brackets and strikethrough and inserting the italicized and underlined**  
591 **language as follows:**

592  
593 **§99-23 Information To Be Shown.**

594 The preliminary plat shall be drawn in a clear and legible manner and shall show the  
595 following information:

596 . . .

597 P. The designation of parcels to be set aside for [~~forested buffer strips~~] perimeter  
598 buffers and perimeter buffer protection areas, where required and proposed access  
599 points to the perimeter buffers and perimeter buffer protection areas for  
600 maintenance purposes.

601 . . .

602

603 **Section 6. The Code of Sussex County, Chapter 99, Article V, §99-26**  
604 **“Information To Be Shown” is hereby amended by deleting the language in**  
605 **brackets and strikethrough and inserting the italicized and underlined**  
606 **language as follows:**

607

608 **§99-26 Information To Be Shown.**

609 A. The final plat shall be legibly and accurately drawn and shall show the following  
610 information:

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612 . . .

613

614 (16) The locations, bearings and dimensions and area of any land set aside  
615 for [~~forested buffer strips~~] perimeter buffers and perimeter buffer protection areas,  
616 if required and proposed access points to the perimeter buffers and perimeter buffer  
617 protection areas for maintenance purposes.

618

619 . . . .

620

621 **Section 7. The Code of Sussex County, Chapter 99, Article V, §99-27**  
622 **“Supporting Statements” is hereby amended by deleting the language in**  
623 **brackets and strikethrough and inserting the italicized and underlined**  
624 **language as follows:**

625

626 **§99-27 Supporting Statements.**

627

628 The following supporting statements are required:

629

630 A. A summary of deed restrictions applicable within the subdivision, including  
631 agreements for the operation and maintenance by the property owners or agency in  
632 the subdivision of street and road improvements, surface drainage facilities, erosion

633 and sedimentation control facilities, water supply facilities, sanitary sewer facilities,  
634 [~~forested buffer strips~~] perimeter buffers and perimeter buffer protection areas,  
635 resource buffers, all areas approved as open space as defined in § 99-5 and other  
636 improvements deemed necessary by the Commission.

637  
638 B. Evidence that all conditions related to the preliminary plat approval have been  
639 satisfied.

640

641 **Section 8. The Code of Sussex County, Chapter 99, Article VI, §99-30 “Plans”**  
642 **is hereby amended by deleting the language in brackets and strikethrough and**  
643 **inserting the italicized and underlined language as follows:**

644

645 **§ 99-30 Plans.**

646

647 Plans, profiles and specifications for the required improvements shall be prepared  
648 by the subdivider and submitted for approval by the appropriate public authorities  
649 prior to construction. No construction shall commence prior to the issuance of a  
650 notice to proceed by the County Engineer or his or her designee for the required  
651 improvements. All plans, profiles and specifications approved by the County  
652 Engineer or his or her designee with the issuance of a notice to proceed shall remain  
653 valid or, if substantial construction is not actively and continuously underway, they  
654 shall expire upon the expiration of the final site plan. Prior to the issuance of a notice  
655 to proceed, the County Engineer may require the owner and/or his designee to  
656 execute an agreement addressing the required improvements. The plans and profiles  
657 submitted for all new construction shall include the following:

658

659 . . .

660

661 E. Plans and specifications for any [~~forested buffer strips~~] perimeter buffers and  
662 perimeter buffer protection areas, if required.

663

664 . . . .

665

666 **Section 9. The Code of Sussex County, Chapter 99, Article VI, §99-31**  
667 **“Inspections; Closeout Procedures, Fees” is hereby amended by inserting the**  
668 **italicized and underlined language as follows:**

669

670 **§ 99-31 Inspections; Closeout Procedures, Fees.**

671

672 . . .

673

674 E. Project closeout procedures.

675

676 . . .

677

678 (10) If perimeter buffers and perimeter buffer protection areas are required, the  
679 Director shall confirm that the requirements of §99-21A have been satisfied.

680

681 . . .

682 **Section 10. The Code of Sussex County, Chapter 99, Article VI, §99-32 “Bonds**  
683 **and Guaranties” is hereby amended by deleting the language in brackets and**  
684 **strikethrough and inserting the italicized and underlined language as follows:**

685

686 **§99-32 Bonds and Guaranties.**

687 . . .

688

689 C. [~~Bonds posted to insure the completion of requirements for open space and~~  
690 ~~forested buffers~~] Bonds posted for perimeter buffers and perimeter buffer protection  
691 areas as required by §99-21A.E. and other improvements deemed necessary by the  
692 Commission shall be posted with the Director of Planning and Zoning. All other  
693 bonds and guaranties shall be posted with the County Engineer.

694

695 . . .

696

697 **Section 11. The Code of Sussex County, Chapter 115, Article IV, §115-20**  
698 **“Permitted Uses” is hereby amended by deleting the language in brackets and**  
699 **strikethrough and inserting the italicized and underlined language as follows:**

700

701 **§115-20 Permitted Uses.**

702

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

704 . . .

705

706 (17) A Sussex County Rental Program, or SCRP, townhouse or multifamily  
707 development governed by, and subject to, Chapter 72, where at least 25% of  
708 all dwelling units are SCRP Units pursuant to Chapter 72. The SCRP  
709 development must satisfy the following criteria:

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...

(e) There shall be a one-hundred-foot-wide setback around the entire site, which shall incorporate [~~the forested and/or landscaped buffer strip identified in § 99-5~~] the perimeter buffers and perimeter buffer protection areas (if Perimeter Buffer Protection Areas are required) set forth in §99-21A. This setback may include walking and biking trails.

**Section 12. The Code of Sussex County, Chapter 115, Article IV, §115-25 “Height Area and Bulk Requirements” is hereby amended by deleting the language in brackets and strikethrough and inserting the italicized and underlined language as follows:**

**§115-25 Height Area and Bulk Requirements.**

...

- E. Design requirements for cluster development.
  - (1) All development shall be in accordance with the latest amendment to the community design standards.
  - (2) Housing types in the low-density area, as shown on the Sussex County Comprehensive Plan, are limited to single-family detached dwellings and manufactured homes where permitted by ordinance.
  - (3) [~~A forested buffer area with a minimum width of 30 feet shall be provided for lots abutting an agricultural area~~]. The perimeter buffer and perimeter buffer protection area as required by §99-21A.
  - ~~[(4) Dwellings located within 50 feet of an existing residential development shall provide adequate transition in density or shall provide a thirty-foot buffer meeting the standards below and maintained by a designated entity.~~

747 (a) ~~—A planting strip at least 30 feet wide near the property line which~~  
748 ~~shall include two canopy trees, four understory trees and 10 shrubs per~~  
749 ~~100 linear feet of buffer; or~~

750  
751 (b) ~~—A landscaped rolling berm at least four feet in height; or~~

752  
753 (c) ~~—A solid fence or wall a minimum of six feet in height designed~~  
754 ~~with durable materials, texture and colors compatible with adjacent~~  
755 ~~residential development.]~~

756  
757 [~~(5)~~](4) No lots shall have direct access to any state-maintained roads.

758  
759 [~~(6)~~](5) All lots shall be configured to be contained completely outside  
760 of all wetlands.

761  
762 [~~(7)~~](6) Any development using the option in Subsection B(2) shall have  
763 central water and wastewater systems operated and maintained by companies  
764 authorized by the State of Delaware to perform such services. Wastewater  
765 collection and treatment systems must be designed in accordance with the  
766 requirements of Sussex County ordinances and conform to the requirements  
767 for a central sewer system as defined in § 115-194A of the Sussex County  
768 Zoning Ordinance.

769  
770 . . . .

771  
772 **Section 13. The Code of Sussex County, Chapter 115, Article V, §115-29**  
773 **“Permitted Uses” is hereby amended by deleting the language in brackets and**  
774 **strikethrough and inserting the italicized and underlined language as follows:**

775  
776 **§115-29 Permitted Uses.**

777  
778 A. A building or land shall be used only for the following purposes:

779 . . .

780  
781 M. A Sussex County Rental Program, or SCRP, townhouse or multifamily  
782 development governed by, and subject to, Chapter 72, where at least 25% of all  
783 dwelling units are SCRP Units pursuant to Chapter 72. The SCRP development must  
784 satisfy the following criteria:

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786 . . .

787  
788 (5) There shall be a one-hundred-foot-wide setback around the entire site,  
789 which shall incorporate [~~the forested and/or landscaped buffer strip identified~~  
790 ~~in § 99-5~~] *the perimeter buffers and perimeter buffer protection areas set forth*  
791 *in §99-21A*. This setback may include walking and biking trails.

792  
793 . . .

794  
795 **Section 14. The Code of Sussex County, Chapter 115, Article VI, §115-37**  
796 **“Permitted Uses” is hereby amended by deleting the language in brackets and**  
797 **strikethrough and inserting the italicized and underlined language as follows:**

798  
799 **§115-37 Permitted Uses.**

800  
801 Permitted uses area as follows:

802 . . .

803  
804 C. A Sussex County Rental Program, or SCRP, townhouse or multifamily  
805 development governed by, and subject to, Chapter 72, where at least 25% of all  
806 dwelling units are SCRP Units pursuant to Chapter 72. The SCRP development must  
807 satisfy the following criteria:

808  
809 . . .

810  
811 (5) There shall be a one-hundred-foot-wide setback around the entire site,  
812 which shall incorporate [~~the forested and/or landscaped buffer strip identified~~  
813 ~~in § 99-5~~] *the perimeter buffers and perimeter buffer protection areas set forth*  
814 *in §99-21A*. This setback may include walking and biking trails.

815  
816 . . . .

817  
818 **Section 15. The Code of Sussex County, Chapter 115, Article VII, §115-45**  
819 **“Permitted Uses” is hereby amended by deleting the language in brackets and**  
820 **strikethrough and inserting the italicized and underlined language as follows:**

821  
822 **§115-45 Permitted Uses.**

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Permitted uses area as follows:

...

F. A Sussex County Rental Program, or SCRP, townhouse or multifamily development governed by, and subject to, Chapter 72, where at least 25% of all dwelling units are SCRP Units pursuant to Chapter 72. The SCRP development must satisfy the following criteria:

...

(5) There shall be a one-hundred-foot-wide setback around the entire site, which shall incorporate [~~the forested and/or landscaped buffer strip identified in § 99-5~~] *the perimeter buffers and perimeter buffer protection areas set forth in §99-21A.* This setback may include walking and biking trails.

...

**Section 16. The Code of Sussex County, Chapter 115, Article VIII, §115-53 “Permitted Uses” is hereby amended by deleting the language in brackets and strikethrough and inserting the italicized and underlined language as follows:**

**§115-53 Permitted Uses.**

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

...

K. A Sussex County Rental Program, or SCRP, townhouse or multifamily development governed by, and subject to, Chapter 72, where at least 25% of all dwelling units are SCRP Units pursuant to Chapter 72. The SCRP development must satisfy the following criteria:

...

(5) There shall be a one-hundred-foot-wide setback around the entire site, which shall incorporate [~~the forested and/or landscaped buffer strip identified~~

859 ~~in § 99-5]~~ *the perimeter buffers and perimeter buffer protection areas set forth*  
860 *in §99-21A.* This setback may include walking and biking trails.

861  
862 . . .

863  
864 **Section 17. The Code of Sussex County, Chapter 115, Article XXVIII, §115-**  
865 **218 “Procedure for RPC District, C-4 Planned Commercial District and**  
866 **Conditional Use Site Plan Approval” is hereby amended by deleting the**  
867 **language in brackets and strikethrough and inserting the italicized and**  
868 **underlined language as follows:**

869  
870  
871 **§ 115-218 Procedure for RPC District, C-4 Planned Commercial District**  
872 **and conditional use site plan approval.**

873  
874 Where the provisions of this chapter require the submittal of site plans for RPC  
875 Districts, C-4 Planned Commercial Districts and conditional uses, the following  
876 schedule of procedure shall apply:

877  
878  
879 E. When approving a conditional use for attached or detached single-family or  
880 multifamily dwellings or a change of zone for a residential planned community of  
881 attached or detached single-family or multifamily dwellings, in any zoning district  
882 in which they are permitted with Council approval, Council shall have the right to  
883 impose a condition requiring the applicant to install [~~a forested and/or landscaped~~  
884 ~~buffer as defined in §§ 99-5 and 99-6D]~~ *the perimeter buffers and perimeter buffer*  
885 *protection areas set forth in §99-21A* of the Subdivision Ordinance.

886  
887  
888 **Section 18. Effective Date.**

889  
890 This Ordinance shall take effect upon six (6) months from the date of adoption by  
891 Sussex County Council. Provided however, that it shall not apply to any completed  
892 applications on file with the Sussex County Office of Planning & Zoning

Green  
Yes. 8/13



# SUSSEX COUNTY GOVERNMENT

## GRANT APPLICATION

### SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: TOWN OF GREENWOOD  
PROJECT NAME: GREENWOOD DAY 2024  
FEDERAL TAX ID: 51-0107189 NON-PROFIT:  YES  NO

DOES YOUR ORGANIZATION OR ITS PARENT ORGANIZATION HAVE A RELIGIOUS AFFILIATION?  
 YES  NO \*IF YES, FILL OUT SECTION 3B.

ORGANIZATION'S MISSION: MUNICIPALITY HOLDING GREENWOOD DAY SEPT. 21ST WHICH IS A TOWN WIDE EVENT TO CELEBRATE THE TOWN, ITS CITIZENS AND BUSINESSES

ADDRESS: 100 W MARKET ST  
PO BOX 216  
GREENWOOD DE 19950  
(CITY) (STATE) (ZIP)

CONTACT PERSON: JANET TODD  
TITLE: TOWN MANAGER  
PHONE: 3023494534 EMAIL: jtodd@townofgreenwood.us

**TOTAL FUNDING REQUEST:** 1000.00

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

If YES, how much was received in the last 12 months? 6000.00

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

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

If YES, approximately what percentage of the project's funding does the Council grant represent? 20

## SECTION 2: PROGRAM DESCRIPTION

### PROGRAM CATEGORY (choose all that apply)

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

### BENEFICIARY CATEGORY

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

### BENEFICIARY NUMBER

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

## SECTION 3: PROGRAM SCOPE

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

The Town is holding a town wide event for vendors, live bands, food trucks etc. and all local businesses are participating. This event is to celebrate the town and bring the community together. All town events are funded through donations. Thank you

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

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

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

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

### SECTION 4: BUDGET

|  |          |         |
|--|----------|---------|
| <b>REVENUE</b>   |          |         |
| Please enter the current support your organization receives for this project<br>(not entire organization revenue if not applicable to request)   |          |         |
| <b>TOTAL REVENUES</b>  | 1200     |         |
| <b>EXPENDITURES</b>  | -3500.00 |         |
| Please enter the total projected budget for the project (not entire organization expense if not applicable to request). Example of expenditure items: PERSONNEL-one lump sum that would include benefits, OPERATING COSTS-supplies, equipment, rent/lease, insurance, printing telephone, CONSTRUCTION/ACQUISITION-acquisition, development, rehab hard cost, physical inspections, architectural engineering, permits and fees, insurance, appraisal. <b>(Put amounts in as a negative)</b> |          |         |
|  |          |         |
|  |          |         |
|  |          |         |
|  |          |         |
|  |          |         |
|  |          |         |
|  |          |         |
|  |          |         |
| <b>TOTAL EXPENDITURES</b>  | \$ 3500  | \$ 0.00 |
| <b>TOTAL DEFICIT FOR PROJECT OR ORGANIZATION</b>   | -2300    | \$ 0.00 |

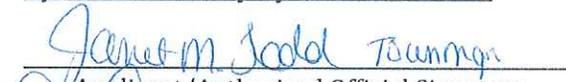
### SECTION 5: STATEMENT OF ASSURANCES

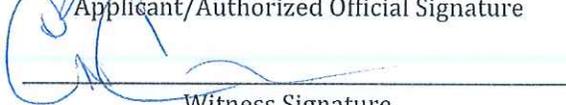
If this grant application is awarded funding, the Town of Greenwood agrees that:  
(Name of Organization)

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

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

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

  
\_\_\_\_\_  
Applicant/Authorized Official Signature

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

8/9/24  
\_\_\_\_\_  
Date

8/9/24  
\_\_\_\_\_  
Date

Completed application can be submitted by:

Email: gjennings@sussexcountyde.gov

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

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

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

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

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

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

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

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

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

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

Janet M Jedd  
Applicant/Authorized Official Signature

[Signature]  
Witness Signature

Town Manager  
Title

8/9/2024  
Date



} Breaking the Barriers of Low Self-Esteem  
} Anger Management Classes

**Address** 17584 Stingey Lane

**City** Lewes

**State** DE

**Zip Code** 19958

**Contact Person** Helena Gibbs

**Contact Title** President

**Contact Phone Number** 302-943-1945

**Contact Email Address** [uniquemind1954@gmail.com](mailto:uniquemind1954@gmail.com)

**Total Funding Request** 5000.00

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

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

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

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

25

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

Health and Human Services

**Primary Beneficiary Category**

Low to Moderate Income

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

200

**Scope**

Unique Minds Changing Lives Inc. is a non-profit organization designed to change the lives of low-income families and individuals located in Sussex County DE, that have fallen into hardship, by providing different types of services to help restore, educate and stabilize them.

Our goal is to break through the barriers that causes families and individuals to become un-stabilized in society. In doing so, we will increase knowledge through educational trainings, work experience opportunities, provide disaster relief, mentoring programs for youth, offer financial literacy and budgeting classes. Also, we will partner with different agencies to offer support groups to help deal with surviving trauma, breaking free from the stages of abuse, alcohol and drug addiction recovery programs.

Unique Minds Changing Lives Inc. is proud to say we have made great progress since we have opened. Currently, we are seeking assistance to help towards purchasing program supplies and literature needed to successfully educate and

support individuals served.

We have witnessed your generosity to worthwhile projects located in Sussex County and we are reaching out to you for a monetary donation, in support of our programs that will help restore, educate and stabilize the community. Support from your organization will be greatly appreciated and we are thanking you in advance for considering Unique Minds Changing Lives Inc., and all that we do for the community.

**Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)** 67,100.00

**Description** Operating Costs

**Amount** 72,100.00

**TOTAL EXPENDITURES** 72,100.00

**TOTAL DEFICIT FOR PROJECT OR ORGANIZATION** -5,000.00

**Name of Organization** Unique Minds Changing Lives Inc.

**Applicant/Authorized Official** Helena Gibbs

**Date** 07/16/2024

**Affidavit Acknowledgement** Yes

If you feel this is not a valid submission please log into D3Forms to update this submissions status.  
Please feel free to email [clientservices@d3corp.com](mailto:clientservices@d3corp.com) with any questions.

# Unique Minds Changing Lives Inc.

EIN: 88-2520844 | Lewes, Delaware, United States

## Other Names

UNIQUE MINDS CHANGING LIVES INC

## Form 990-N (e-Postcard)

Organizations who have filed a 990-N (e-Postcard) annual electronic notice. Most small organizations that receive less than \$50,000 fall into this category.

### Tax Year 2023 Form 990-N (e-Postcard)

|  |  |  |
|--|--|--|
| <b>Tax Period:</b><br>2023 (01/01/2023-12/31/2023)                               | <b>Mailing Address:</b><br>17584 Stingey Lane<br>Lewes, DE 19958<br>United States                                      | <b>Gross receipts not greater than:</b><br>\$50,000      |
| <b>EIN:</b><br>88-2520844  | <b>Principal Officer's Name and Address:</b><br>Helena Gibbs<br>17584 Stingey Lane<br>Lewes, DE 19958<br>United States | <b>Organization has terminated:</b><br>No                |
| <b>Organization Name (Doing Business as):</b><br>UNIQUE MINDS CHANGING LIVES INC |  | <b>Website URL:</b><br>Unique Minds Changing Lives, Inc. |

### Tax Year 2022 Form 990-N (e-Postcard)

**From:** notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE <notifications@d3forms.com>  
**Sent:** Wednesday, August 14, 2024 8:35 AM  
**To:** Casey Hall  
**Subject:** Form submission from: Council Grant Form

**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.

| <b>Council Grant Form</b>   |  |
|---|--|
| <b>Legal Name of Agency/Organization</b>  | Boys Scouts of America Delmarva Council  |
| <b>Project Name</b>   | Sussex County 2024 Distinguished Citizen Award Event   |
| <b>Federal Tax ID</b>   | 51-0065733   |
| <b>Non-Profit</b>   | Yes  |
| <b>Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)</b> | No   |
| <b>Organization's Mission</b>   | It is the mission of the Del-Mar-Va Council to prepare young people to make ethical and moral choices over their lifetimes by instilling in them the values of the Scout Oath and Law. |
| <b>Address</b>  | 1910 Baden Powell Way  |
| <b>City</b>   | Dover  |
| <b>State</b>  | Delaware   |
| <b>Zip Code</b>   | 19904  |

|   |  |
|---|--|
| <b>Contact Person</b>   | Andrea Brock   |
| <b>Contact Title</b>  | Development Director                                 |
| <b>Contact Phone Number</b>   | 302-531-6175   |
| <b>Contact Email Address</b>  | <a href="mailto:abrock@dmvc.org">abrock@dmvc.org</a> |
| <b>Total Funding Request</b>  | \$5,000  |
| <b>Has your organization received other grant funds from Sussex County Government in the last year?</b> | Yes  |
| <b>If YES, how much was received in the last 12 months?</b>   | 5000.00  |
| <b>Are you seeking other sources of funding other than Sussex County Council?</b>                       | Yes  |
| <b>If YES, approximately what percentage of the project's funding does the Council grant represent?</b> | 10.8   |
| <b>Program Category (choose all that apply)</b>   | Other  |
| <b>Program Category Other</b>   | Youth Development                                    |

|   |   |
|---|---|
| <b>Primary Beneficiary Category</b>   | Youth   |
| <b>Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program</b> | 400   |
| <b>Scope</b>  | <p>Each year the Del-Mar-Va Council honors a Sussex County Distinguished Citizen with the Distinguished Citizen Award. Proceeds raised from this event go to Scouts in Sussex County to assist with camp scholarships and financial assistance for membership and programming fees.</p> <p>It's the goal of the Del-Mar-Va Council provide the Scouting program to anyone regardless of financial challenge. The Del-Mar-Va Council recognizes those challenges and has made the decision to not only offer financial assistance to our outreach units, but to open those opportunities to all of the families in traditional Scouting Units we serve. With increased funding, we have the potential to provide additional individual assistance to many more youth in both Outreach sites and Traditional Scouting Units. Assistance can be given for summer camp opportunities ("Camperships"), registration fees, and supplies such as uniform, guidebooks, etc.</p> <p>Providing registration assistance to our members is the first step in helping young people to become well rounded individuals. Participants will be connected to a positive adult role model that provides mentoring support, show positive social and emotional development, learn healthy habits by participating in outdoor adventures, and learn new skills through the BSA's advancement program as well as providing leadership tools that will be applicable throughout their lives.</p> <p>The experience of camping is an invaluable portion of the</p> |

Scouting Programming. Camp provides. Camp builds self-confidence and self-esteem by providing great opportunities for Scouts to succeed, grow, and advance in rank. A week of camp offers physical challenges, teamwork and social development, and the experience of safe fun while making lifelong friends.

Currently, the Council provides financial assistance to nearly 600 youth across the peninsula, with approximately 30 of the 400 Scouts in Sussex County receiving such assistance. Uniforms and guidebooks average \$85, annual registration and other fees total approximately \$165 (there are differences among Cubs Scouts, Boy Scouts, and other Scout programs) and overnight summer camp registration averages \$580/week. For many families, participation in Scouting is possible only with the financial assistance we provide. Ensuring that all interested youth can participate enhances the scouting experience for all Sussex County Scouts.

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

25,000.00

**Description**

Scouting Professional Staff

**Amount**

41,000.00

**Description**

Financial Assistance to Individuals

**Amount**

5,100.00

**Amount**

0.00

**TOTAL EXPENDITURES**

46,100.00

|  |   |
|--|---|
| <b>TOTAL DEFICIT FOR PROJECT OR ORGANIZATION</b> | -21,100.00                              |
| <b>Name of Organization</b>                      | Boys Scouts of America Delmarva Council |
| <b>Applicant/Authorized Official</b>             | Andrea Brock                            |
| <b>Date</b>                                      | 08/14/2024                              |
| <b>Affidavit Acknowledgement</b>                 | Yes                                     |

If you feel this is not a valid submission please log into D3Forms to update this submissions status.  
Please feel free to email [clientservices@d3corp.com](mailto:clientservices@d3corp.com) with any questions.

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

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

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

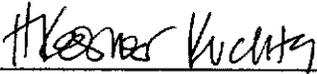
For non-religious organizations, all accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.

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

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

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

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

  
Applicant/Authorized Official Signature

7/30/24  
Title

  
Witness Signature

8/8/24  
Date

INTERNAL REVENUE SERVICE  
P. O. BOX 2508  
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: FEB 23 2017

OCEAN WAVES QUILT GUILD  
PO BOX 63  
LEWES, DE 19958-0063

Employer Identification Number:  
52-2079625  
DLN:  
26053744002686  
Contact Person:  
SHAWN E LAWSON ID# 31661  
Contact Telephone Number:  
(877) 829-5500  
Accounting Period Ending:  
August 31  
Public Charity Status:  
509(a)(2)  
Form 990/990-EZ/990-N Required:  
Yes  
Effective Date of Exemption:  
December 7, 2016  
Contribution Deductibility:  
Yes  
Addendum Applies:  
No

Dear Applicant:

We're pleased to tell you we determined you're exempt from federal income tax under Internal Revenue Code (IRC) Section 501(c)(3). Donors can deduct contributions they make to you under IRC Section 170. You're also qualified to receive tax deductible bequests, devises, transfers or gifts under Section 2055, 2106, or 2522. This letter could help resolve questions on your exempt status. Please keep it for your records.

Organizations exempt under IRC Section 501(c)(3) are further classified as either public charities or private foundations. We determined you're a public charity under the IRC Section listed at the top of this letter.

If we indicated at the top of this letter that you're required to file Form 990/990-EZ/990-N, our records show you're required to file an annual information return (Form 990 or Form 990-EZ) or electronic notice (Form 990-N, the e-Postcard). If you don't file a required return or notice for three consecutive years, your exempt status will be automatically revoked.

If we indicated at the top of this letter that an addendum applies, the enclosed addendum is an integral part of this letter.

For important information about your responsibilities as a tax-exempt organization, go to [www.irs.gov/charities](http://www.irs.gov/charities). Enter "4221-PC" in the search bar to view Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, which describes your recordkeeping, reporting, and disclosure requirements.

Sincerely,

  
Jeffrey I. Cooper  
Director, Exempt Organizations  
Rulings and Agreements



# SUSSEX COUNTY GOVERNMENT

## GRANT APPLICATION

### SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: Ocean Waves Quilt Guild

PROJECT NAME: Quilts of Valor

FEDERAL TAX ID: EIN # SA-2079625 NON-PROFIT:  YES  NO

DOES YOUR ORGANIZATION OR ITS PARENT ORGANIZATION HAVE A RELIGIOUS AFFILIATION?  
 YES  NO \*IF YES, FILL OUT SECTION 3B.

ORGANIZATION'S MISSION: To provide services to the communities & persons in Sussex County Delaware

ADDRESS: PO Box 63

Lewes DE 19958  
(CITY) (STATE) (ZIP)

CONTACT PERSON: Heidi Kestner Kuchta

TITLE: President

PHONE: 301-651.3886 EMAIL: heidimail@comcast.net

**TOTAL FUNDING REQUEST:** ~~\$2000.00~~ \$ 5458.00

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

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

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

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

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

## SECTION 2: PROGRAM DESCRIPTION

### PROGRAM CATEGORY (choose all that apply)

- Fair Housing  
 Infrastructure<sup>1</sup>  
 Health and Human Services  
 Other Community Service  
 Cultural  
 Educational

### BENEFICIARY CATEGORY

- Disability & Special Needs  
 Elderly Persons  
 Minority  
 Victims of Domestic Violence  
 Low to Moderate Income<sup>2</sup>  
 Other Veterans and Homeless  
 Homeless  
 Youth

### BENEFICIARY NUMBER

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

500

## SECTION 3: PROGRAM SCOPE

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

2023-2024 COMMUNITY SERVICE GROUPS  
OCEAN WAVES QUILT GUILD

*see attached*

#### ANGEL GOWNS

Sews infant burial gowns from bridal gowns to be distributed to Christiana Cares and A. I. DuPont Children's Hospital. Patterns are available. The families of the infants are most appreciative.

#### COMFORT QUILTS ~

Meets weekly at Heritage Shores Community Center in Bridgeville. Its commitment is to provide quilts to babies, children, hospice patients, and veterans. Charities supported include: Olivia's House - York, Pennsylvania, Delaware Hospice - Milford, Katy Bug pediatric hospice, Dover Air Force Base, Veterans Home- Milford. Other contributions have been made to the Salvation Army, Cross Roads Church & Ft. Dix.

#### Duffle Bags and More-

Makes duffle bags and dob kits for children in the foster care system to have containers to take care of their belongings. Also makes duffle bags for the homeless in Sussex County.

#### GLADE QUILTERS ~

Meets weekly at the Glade Community Center to design, assemble and sew quilts for babies, children and adults. Glade Quilters support the following charities: Bay Health Hospitals Milford and Dover, Sussex County Women's Shelter, Little Sisters of the Poor, Th

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

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

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

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

*See attached*

### SECTION 4: BUDGET

| <b>REVENUE</b>   |                        |
|--|------------------------|
| Please enter the current support your organization receives for this project<br>(not entire organization revenue if not applicable to request)   |                        |
| <b>TOTAL REVENUES</b>  | 14325.00               |
| <b>EXPENDITURES</b>  |                        |
| Please enter the total projected budget for the project (not entire organization expense if not applicable to request). Example of expenditure items: PERSONNEL-one lump sum that would include benefits, OPERATING COSTS-supplies, equipment, rent/lease, insurance, printing telephone, CONSTRUCTION/ACQUISITION-acquisition, development, rehab hard cost, physical inspections, architectural engineering, permits and fees, insurance, appraisal. <b>(Put amounts in as a negative)</b> |                        |
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|  |                        |
|  |                        |
| <b>TOTAL EXPENDITURES</b>  | 19783.00    \$ 0.00    |
| <b>TOTAL DEFICIT FOR PROJECT OR ORGANIZATION</b>   | \$ -5458.00    \$ 0.00 |

### SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the **Ocean Waves Quilt Guild** agrees that:  
(Name of Organization)

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

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

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

Helen V. Vint  
Applicant/Authorized Official Signature

7/30/24  
Date

Mary Ann Serul  
Witness Signature

8/8/24  
Date

Completed application can be submitted by:

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

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

## 2023-2024 COMMUNITY SERVICE GROUPS OCEAN WAVES QUILT GUILD

### ANGEL GOWNS

Sews infant burial gowns from bridal gowns to be distributed to **Christiana Cares** and **A. I. DuPont Children's Hospital**. Patterns are available. The families of the infants are most appreciative.

### COMFORT QUILTS ~

Meets weekly at Heritage Shores Community Center in Bridgeville. Its commitment is to provide quilts to babies, children, hospice patients, and veterans. Charities supported include: **Olivia's House** - York, Pennsylvania, **Delaware Hospice** - Milford, **Katy Bug** pediatric hospice, **Dover Air Force Base**, **Veterans Home**- Milford. Other contributions have been made to the **Salvation Army**, **Cross Roads Church & Ft. Dix**.

### Duffle Bags and More-

Makes duffle bags and dob kits for children in the foster care system to have containers to take care of their belongings. Also makes duffle bags for the homeless in Sussex County.

### GLADE QUILTERS ~

Meets weekly at the Glade Community Center to design, assemble and sew quilts for babies, children and adults. Glade Quilters support the following charities: **Bay Health Hospitals** Milford and Dover, **Sussex County Women's Shelter**, **Little Sisters of the Poor**, **The Baby Pantry** (Resource Center), **Kody's Kids Reading Group**, **Cape Henlopen High School homeless students**, and the **YMCA** (for the homeless of Rehoboth.) The Glade Quilters also provides quilts to organizations holding fundraisers during the year, such as **Ducks Unlimited** and **Stockings for Soldiers**.

### HEART PILLOWS ~)

Heart pillows are given to patients undergoing treatment for breast cancer. Kits are available, and ready to be sewn. The pillows are donated to the following organizations: **Cancer Support Community of Delaware**, **Beebe Healthcare** (Tunnel Cancer Center, Beebe Rehab, Dr. Spellman's office), **Nanticoke Memorial Hospital** (Allen Cancer Center), and **Delaware Breast Cancer Coalition**.

### PATRIOTIC QUILTS~

Patriotic Quilts are made organizes to be donated to the **Quilts of Valor Foundation** ([qovf.org](http://qovf.org)) " The mission of the Quilts of Valor Foundation is to cover service members and veterans touched by war with comforting and healing QOV." The procedure for making these quilts is specific. Kits are given out with cut fabric and directions for sewing blocks at home.

### PILLOW CASES of LOVE

Attractive pillowcases are sewn and given as comfort to adults and children in need. Pillowcase kits are available for quilters to sew at home. Last year pillowcases were donated to: **BayHealth Medical Centers**, **People's Place**, **Fresenius Medical Dialysis Centers in Rehoboth and Millsboro**, and the **Ukrainian refugees**.

### TEDDY BEARS ~

At the **Dover Air Force Base Transfer Ceremony**, teddy bears made of patriotic fabric are given to children of fallen service personnel. Teddy bears made from juvenile fabric comfort children at **hospital emergency rooms and other crisis situations**. Bears are offered to **first responders at all local police and fire departments**. In addition, patriotic bears are given to children attending **Operation SEAs the Day** in Bethany Beach.

### TINY TOTS ~

Tiny Tots makes quilts, hats, blanket and sweater sets, teddy bears, nursing covers, and exercise mats for the **Rosa Health Center in Georgetown, DE**. Tiny Tots also donates items to **St. Vincent de Paul**. The group meets monthly at **St. Ann's Church** in Bethany Beach.

### QUILTS OF LOVE ~

This group's primary mission is to make baby quilts for newborns at **BayHealth Hospital and A. I. DuPont Children's Clinic in Milford**. Larger quilts are made and given to **Habitat for Humanity**. Baby quilt kits are assembled and ready to be sewn. During the year, 4 quilting bees are held in the Rehoboth Beach area. Check newsletters for upcoming bees. Kits can also be sewn at home.

To Be Introduced: 8/27/24

Council District 5: Mr. Rieley  
Tax I.D. No.: 233-13.00-1.04  
911 Address: 32605 Millsboro Highway, Millsboro

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITION "C" CONTAINED WITHIN CONDITIONAL USE NO. 2414 (ORDINANCE NO. 3031) REGARDING THE ALLOWANCE OF MAINTENANCE/REPAIR ON COMPANY EQUIPMENT/VEHICLES AND THE INCLUSION OF FUEL TANKS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 4.72 ACRES, MORE OR LESS**

WHEREAS, on the 12<sup>th</sup> day of August 2024, a Conditional Use application, denominated Conditional Use No. 2547 was filed on behalf of Justice Boyz Properties 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. 2547 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, Subsections 115-22 Code of Sussex County, be amended by adding the designation of Conditional Use No. 2547 as it applies to the property hereinafter described.

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

ALL that certain tract, piece, or parcel of land, lying and being situate in Dagsboro Hundred, Sussex County, Delaware, and lying on the east side of Millsboro Highway (Rt. 30) approximately 0.89 mile south of Laurel Road (Rt. 24) and being more particularly described in the attached legal description prepared by Tomasetti Law, LLC said parcel containing 4.72 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: 8/27/24

Council District 1: Mr. Vincent  
Tax I.D. No.: 332-1.00-67.03  
911 Address: N/A

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

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.86 ACRES, MORE OR LESS**

WHEREAS, on the 28<sup>th</sup> day of August 2023, a zoning application, denominated Change of Zone No. 2020 was filed on behalf of Samuel J. Petersheim and Glenda G. Petersheim; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2024, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 2020 be \_\_\_\_\_; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2024, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,

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

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

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

ALL that certain tract, piece or parcel of land, lying and being situate in Little Creek Hundred, Sussex County, Delaware, and lying on the west side of Sussex Highway (Rt. 13), and on the east side of Gordy Road (S.C.R. 70) approximately 150 feet north of the intersection of Sussex Highway (Rt. 13) and Gordy Road (S.C.R. 70) and being more particularly described in the attached legal description prepared by Haller & Hudson, said parcels containing 4.86 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: 8/27/24

Council District 2: Mrs. Green  
Tax I.D. No.: 130-3.00-170.04  
911 Address: N/A

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

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR MEDIUM RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.53 ACRES, MORE OR LESS**

WHEREAS, on the 13<sup>th</sup> day of July 2023, a zoning application, denominated Change of Zone No. 2018 was filed on behalf of James Yerkie, II; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 2018 be \_\_\_\_\_; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,

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

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

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

ALL that certain tract, piece, or parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, Delaware, and lying on the east side of Old Shawnee Road (S.C.R. 619) approximately 0.35 mile northeast of Shawnee Road (Rt. 36) and being more particularly described in the attached legal description prepared by Walter G. Feindt, P.A., said parcel containing 1.53 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: 8/27/24

Council District 4: Mr. Hudson  
Tax I.D. No.: 134-11.00-219.03  
911 Address: 32379 Powell Farm Road, Frankford

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A NAIL SALON BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.55 ACRE, MORE OR LESS**

WHEREAS, on the 1st day of April 2024, a Conditional Use application, denominated Conditional Use No. 2523 was filed on behalf of Tayra Trinidad; 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. 2523 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, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2523 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the east side of Powell Farm Road (S.C.R. 365), approximately 384 feet north of Burbage Road (S.C.R. 353), and being more particularly described in the attached legal description prepared by Stephen P. Ellis Law Firm, LLC said parcel containing 0.55 acre, more or less.

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

To Be Introduced: 8/27/24

Council District 4: Mr. Hudson  
Tax I.D. No.: 533-11.00-103.00 & 533-11.00-104.00  
911 Address: 37051 Johnson Road, Selbyville

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RESTAURANT AND FARMERS MARKET TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 71.3 ACRES, MORE OR LESS**

WHEREAS, on the 17th day of April 2024, a Conditional Use application, denominated Conditional Use No. 2526 was filed on behalf of H & M Johnson Farms, 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. 2526 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, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2526 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 the south side of Zion Church Road (Route 20), approximately 0.50 mile west of the intersection of Zion Church Road (Route 20) and New Road (Route 391) and being more particularly described in the attached legal description prepared by David W. Baker Esq. said parcels containing a total of 71.3 acres, more or less.**

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

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



**Sussex County**

DELAWARE  
sussexcountyde.gov

## Memorandum

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

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

CC: Everett Moore, County Attorney

Date: August 22, 2024

RE: County Council Report for C/U 2522 filed on behalf of Delaware Electric Cooperative

---

The Planning and Zoning Department received an application (C/U 2522 filed on behalf of Delaware Electric Cooperative) for an expansion of utility operations, to be located at Tax Parcel 530-14.00-17.00. The property is located at 14326 Cart Branch Road, Greenwood. The parcel size is 9.85 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on August 7, 2024. At the meeting of August 21, 2024, the Planning & Zoning Commission recommended approval of the application for the 8 reasons stated and subject to the 3 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of August 7, 2024, and August 21, 2024.

Minutes of the August 7, 2024, Planning & Zoning Commission Meeting

### C/U 2522 Delaware Electric Cooperative

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE EXPANSION OF UTILITY OPERATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 9.85 ACRES, MORE OR LESS.** The property is lying on the west side of Cart Branch Road (S.C.R. 583A), northwest of the intersection of Cart Branch Road (S.C.R. 583A) and Adams Road (S.C.R. 583). 911 Address: 14326 Cart Branch Road, Greenwood. Tax Map Parcel: 530-14.00-17.00.

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



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

Conceptual Site Plan, a copy of the deed; a copy of the Applicant's exhibits, and a copy of DelDOT's Service Level Evaluation Response. There were no comments submitted.

Mr. Seth Thompson recused himself and left the Council Chambers.

The Commission found that Ms. Dana Dunphy from Century Engineering was present on behalf of the Applicant Delaware Electric Cooperative (DEC); that the application is to allow DEC to expand their headquarters site located on Cart Branch Road; that the subject parcel is located on the west side of Cart Branch Road; that DEC's customer base and infrastructure responsibilities continue to grow; that the Greenwood facility has become space constrained and the expansion will alleviate the current safety issues; that DEC owns the subject property which is 9.8 acres; that the project is currently out to bid and DEC plans to start construction upon receipt of all permits and approvals; that there was a consideration to relocate Cart Branch Road, however, Cart Branch Road will remain in its current location; that the 9.8 acre site allows for controlled growth and is more cost-effective than relocating; that the approval of the Conditional Use will permit DEC to continue to offer electrical services to Sussex County and the surrounding areas; that the proposed construction would have a 14,560 square foot vehicle enclosure building, a 9,760 square foot maintenance building, a pole bunk storage area, a gravel and asphalt yard, that there would be installation of utilities – water, sanitary sewer, electricity, communication, and gas, and a construction of a stormwater facility; that there would not be any impact on the surrounding properties as a fence with slats is proposed around the entire facility; that it is imperative that DEC maintain the current level of service as well as being prepared for the increase of facilities and homes that will access the DEC services; and that the current zoning for the property is listed as AR-1 but on the Future Land Use Map it is listed as being in the industrial area.

There were no questions from the Commission members.

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

Upon there being no further questions Acting Chair Wingate closed the public hearing.

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

In relation to C/U 2522 Delaware Electric Cooperative. Motion by Mr. Butler to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4-0.

Mr. Thompson returned to the Council Chambers.

#### Minutes of the August 21, 2024, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since August 7, 2024.

Mr. Butler requested that Mr. Roberston read the motion on his behalf.

Mr. Butler moved that the Commission recommend approval of C/U 2522 DELAWARE ELECTRIC COOPERATIVE for the expansion of its utility operations based on the record made during the public hearing and for the following reasons:

1. This conditional use is for the expansion of the Delaware Electric Cooperative’s facility near Greenwood. This is the location of the Cooperative’s headquarters facility, which includes office space, warehouse and storage space, equipment storage, and vehicular parking.
2. Over the years the Cooperative’s service needs and network have expanded as Sussex County has also expanded. As a result, the Cooperative has determined that its headquarters operations must also expand to keep pace with this growth. This conditional use is a reasonable expansion of the existing use at this location.
3. This conditional use for the expansion of the Cooperative’s headquarters is necessary to maintain and improve its electrical operations and service for current and future residents of Sussex County.
4. This location is designated as being within the “Industrial Area” designation on the County Comprehensive Plans Future Land Use Map. The expansion of the Cooperative’s headquarters facility is appropriate in this Area according to the Plan.
5. The Conditional Use to expand the Cooperative’s headquarters facility is of a public nature, and it promotes the health, safety and welfare of the residents of Sussex County.
6. The expansion of the Cooperative’s existing headquarters facility will not adversely affect neighboring properties or roadways.
7. No parties appeared in opposition to this application.
8. This Conditional Use is subject to the following conditions:
  - A. The perimeter of the site shall be fenced with privacy slats. The location and type of fencing shall be shown on the Final Site Plan.
  - B. Any security lighting shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
  - C. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Butler, seconded by Mr. Collins and carried unanimously to recommend approval of C/U 2522 Delaware Electric Cooperative for the reasons and the conditions stated in the motion. Motion carried 5 -0.

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

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

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JAMIE WHITEHOUSE, MRTPI, AICP  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: August 7<sup>th</sup>, 2024

Application: C/U 2522 Delaware Electric Cooperative

Applicant: Delaware Electric Cooperative (c/o Herbert Dennis)

Owner: Delaware Electric Cooperative (c/o Herbert Dennis)

Site Location: The property is lying on the west side of Cart Branch Road (S.C.R. 583A), northwest of the intersection of Cart Branch Road (S.C.R. 583A) and Adams Road (S.C.R. 583). 911 Address: 14326 Cart Branch Road, Greenwood.

Current Zoning: AR-1 (Agricultural Residential)

Proposed Use: For the expansion of utility operations

Comprehensive Land Use Plan Reference: Industrial

Councilmanic District: District 2 – Ms. Cynthia Green

School District: Woodbridge School District

Fire District: (78) Greenwood Fire Company

Sewer: N/A

Water: Private On-Site Septic

Site Area: 9.85 acres +/-

Tax Map ID.: 530-14.00-17.00



## PLANNING & ZONING COMMISSION

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



## Sussex County

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

# Memorandum

To: Sussex County Planning Commission Members  
From: Mrs. Christin Scott, Planner II  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: July 31<sup>st</sup>, 2024  
RE: Staff Analysis for CU 2522 Delaware Electric Cooperative

---

This memo is to provide background and analysis for the Planning & Zoning Commission to consider as a part of Application (CU 2522) Delaware Electric Cooperative to be reviewed during the August 7<sup>th</sup>, 2024, Planning & Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

**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:** 530-14.00-17.00

**Proposal:** The request is for a Conditional Use for Tax Parcel 530-14.00-17.00 to allow for the expansion of utility operations at the Delaware Electric Cooperative Headquarter on a Parcel lying on the northwest corner of Adams Road (S.C.R. 583) and Cart Branch Road (S.C.R. 583A). The parcel is comprised of 9.85 acres +/-.

**Zoning:** The Parcel is split zoned Agricultural-Residential (AR-1) District and General Commercial (C-1) District with the adjacent parcels to the north, south, and west in the Agricultural-Residential (AR-1) Zoning District. Parcels adjacent to the east are zoned General Commercial (C-1) District.

**Future Land Use Map Designation w/in Comprehensive Plan:** Industrial/Commercial

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

As outlined within the 2018 Sussex County Comprehensive Plan, Industrial Areas are lands devoted to concentrations of larger industrial uses including heavier industry, light industry, warehousing, and flex space (Sussex County Comprehensive Plan, 4-17). Industrial Areas are areas that can accommodate development in the form of "conventional industrial parks or planned business



parks” that can incorporate a combination of light industry and other business uses with a unified design. Large, more stand-alone industrial uses should also be directed to these areas (Sussex County Comprehensive Plan, 4-17)

**Further Site Considerations:**

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The site is located within the vicinity of parcels which appear to be actively farmed.
- **Interconnectivity:** Staff encourage interconnectivity between proposed developments in order to prevent only one-way-in, one-way-out access in the event that an emergency should occur on the property in the future.
- **Transportation Improvement District (TID):** N/A
- **Forested Areas:** N/A
- **Wetlands Buffers/Waterways:** N/A
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is located within Flood Zones “X” and “A”, with the “A” area concentrated in the southwest portion of the site where the Grubby Neck Prong is located. There is also a Tax Ditch Right-of-Way of 49-ft from the centerline of the ditch located along the southwest side. The Parcel is within areas of “Fair”, “Good”, and “Excellent” Groundwater Recharge Potential.

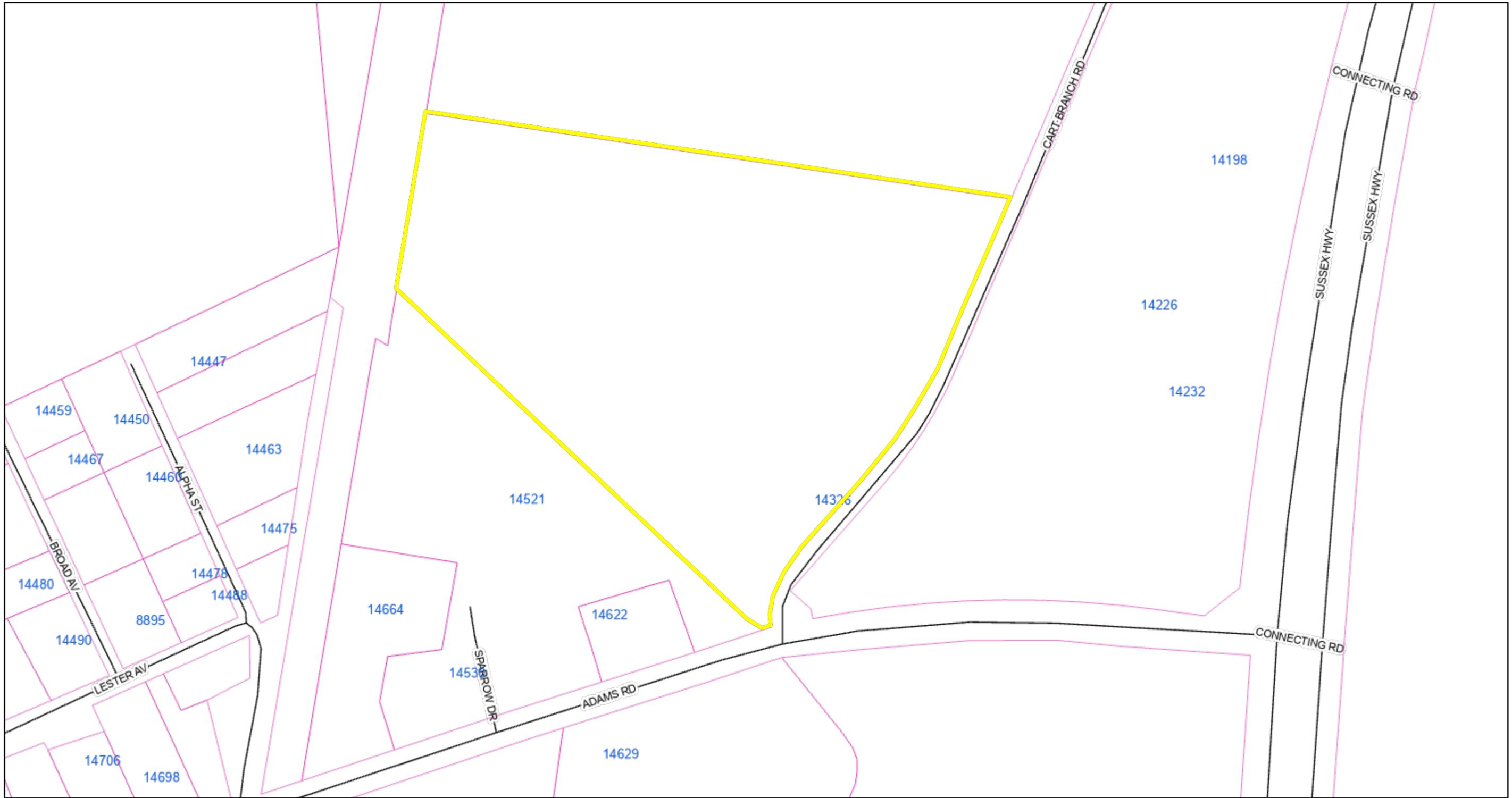
Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for an expansion of utility operations at the Delaware Electric Cooperative Headquarter at the site, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

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

| Conditional Use Applications<br>(Within a 1-mile radius of the subject site) |                  |              |              |             |                  |            |
|--|------------------|--------------|--------------|-------------|------------------|------------|
| CU Number  | Application Name | Zoning Dist. | Proposed Use | CC Decision | CC Decision Date | Ord Number |
|  |                  |              |              |             |                  |            |

|      |                                       |      |   |            |          |      |
|------|---------------------------------------|------|---|------------|----------|------|
| 2251 | Heimlich Solar Partners, LLC          | GR   | 35.4 Acre Solar Field   | 4/13/2021  | Approved | 2767 |
| 2052 | Delaware Electric Cooperative         | C-1  | Public utility  | 7/19/2016  | Approved | 2458 |
| 1728 | M T C Properties, LLC                 | AR-1 | Steel Truss Manufacturing   | 4/8/2008   | Approved | 1965 |
| 1455 | National Concrete Products LLC        | AR-1 | amend CU 241  | 7/16/2002  | Approved | 1552 |
| 1374 | Lucy Millaway                         | AR-1 | ice cream & sandwich shop   | 1/2/2001   | Denied   |      |
| 1344 | Brent M. Adams Jr.                    | AR-1 | florist shop  | 8/8/2000   | Approved | 1388 |
| 1171 | Hab Nab Transportation, Inc.          | AR-1 | trucking operation  | 12/18/1996 | Denied   |      |
| 1169 | Meekins Antenna Rentals               | AR-1 | cell tower & building   | 12/17/1996 | Denied   |      |
| 1115 | Thomas & Debbie Paine                 | AR-1 | restore classic auto cars/storage/sales   | 6/6/1995   | Approved | 1030 |
| 1059 | Gerlende Voegele                      | AR-1 | yard sale   | 12/13/1993 | Approved | 943  |
| 1002 | Gerlinde Voegele                      | AR-1 | Outdoor Yard Sales  | 9/15/1992  | Approved | 855  |
| 566  | Mr. & Mrs. James E. Tennefoss         | AR-1 | Retail Gift Shop  |            | Approved |      |
| 388  | Earl Lightcap, Jr.                    | AR-1 | auto repair shop  |            | Approved |      |
| 241  | John Mervine & Peggy and Mary Mervine | AR-1 | assemble sectional homes, display of models for sale, erect structures incidental to the permitted uses | 10/9/1974  | Approved |      |
| 145  | James Dennis                          | C-1  | barber shop   |            | Approved |      |
| 115  | Gerald Campbell                       | AR-1 | cabinet shop  |            | Approved |      |
| 57   | John Mervine                          | AR-1 | Industrial Use  | 8/1/1972   | Approved |      |
| 2251 | Heimlich Solar Partners, LLC          | GR   | 35.4 Acre Solar Field   | 4/13/2021  | Approved | 2767 |
| 2052 | Delaware Electric Cooperative         | C-1  | Public utility  | 7/19/2016  | Approved | 2458 |

# Sussex County



July 3, 2024

polygonLayer

Override 1

Override 2

Tax Parcels

911 Address

Streets

County Boundaries

Fire Districts

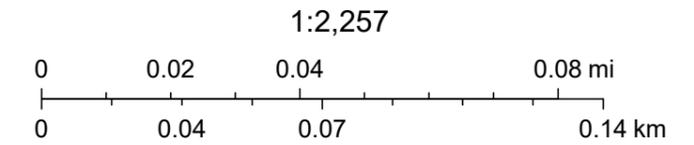
DOE School Districts

layer45

Red: Band\_1

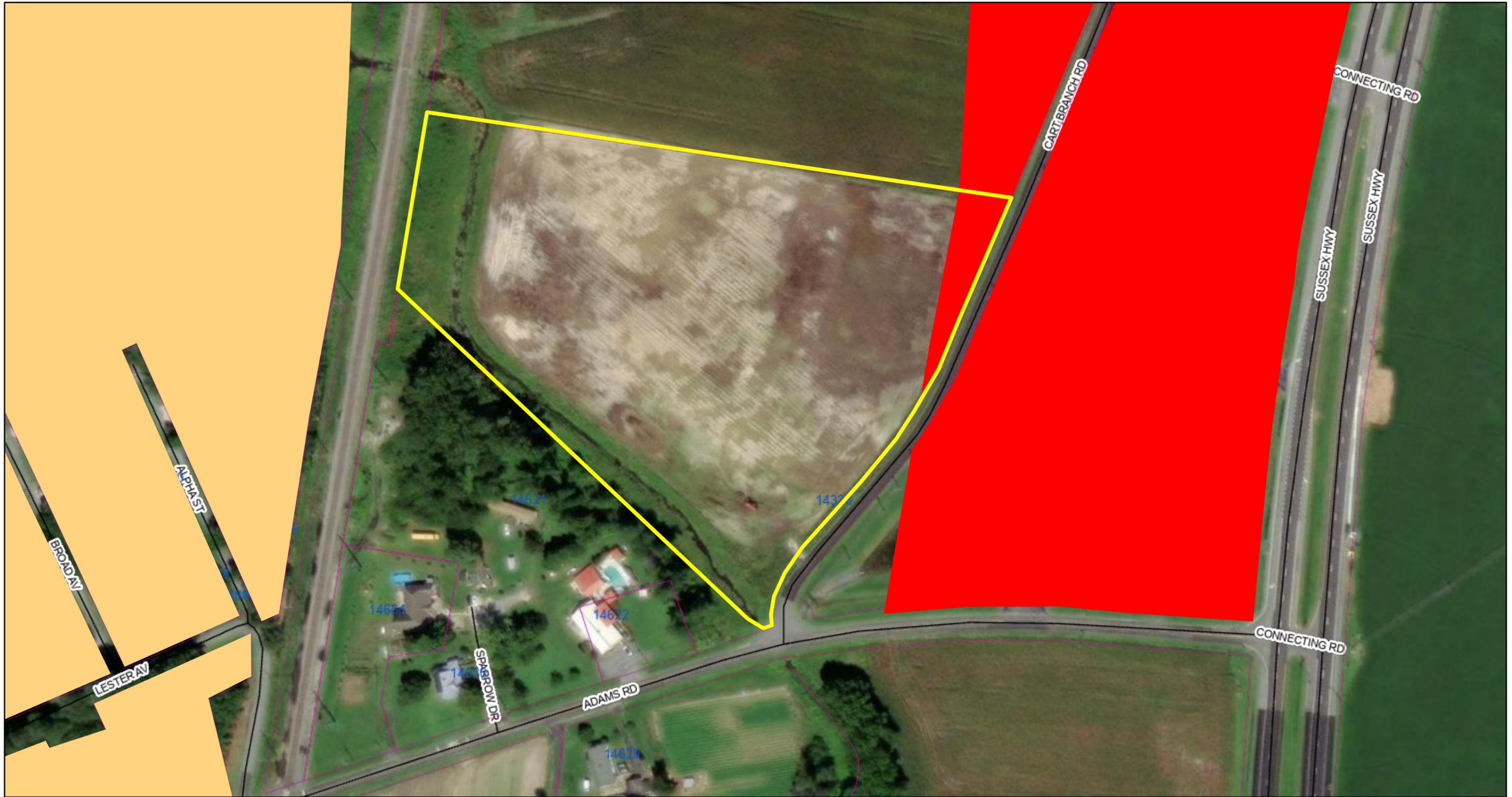
Green: Band\_2

Blue: Band\_3



Delaware Department of Education, Sussex County, Sussex County Government, Sussex County Mapping and Addressing

# Sussex County



July 3, 2024

polygonLayer

Override 1

Override 2

Zoning

General Residential - GR

C1: General Commercial

Tax Parcels

911 Address

Streets

County Boundaries

Fire Districts

DOE School Districts

World Imagery

Low Resolution 15m Imagery

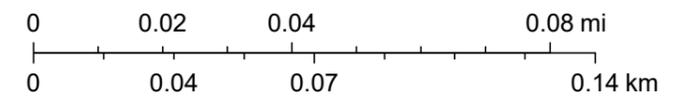
High Resolution 60cm Imagery

High Resolution 30cm Imagery

Citations

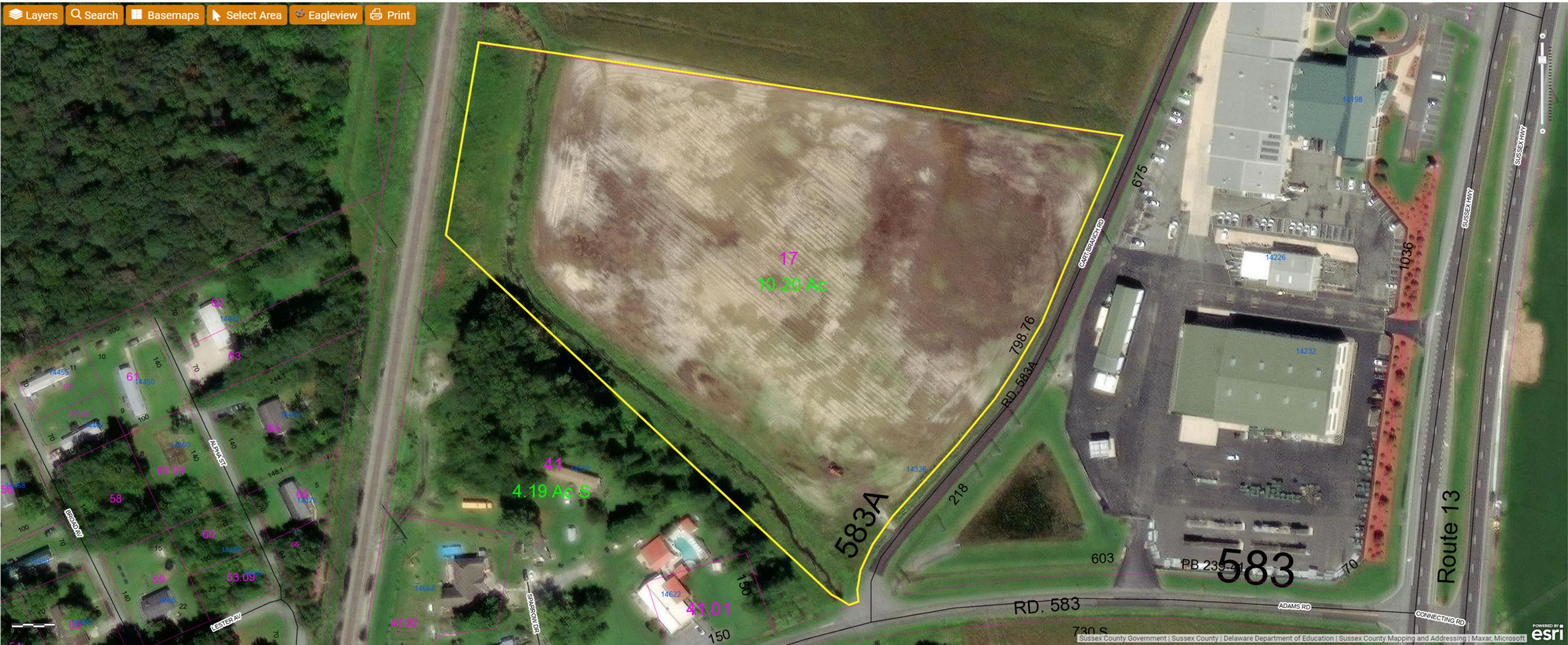
60cm Resolution Metadata

1:2,257



Delaware Department of Education, Maxar, Microsoft, Sussex County, Sussex County Government, Sussex County Mapping and Addressing

Layers Search Basemaps Select Area Eagleview Print



Eagleview Search Results

Selected Features: Parcels (1)

1) 530-14.00-17.00 Zoom

|                   |                                   |
|-------------------|-----------------------------------|
| BOOK              | 3333                              |
| PAGE              | 276                               |
| FULLNAME          | DELAWARE ELECTRIC COOPERATIVE INC |
| Second_Owner_Name |                                   |
| MAILINGADDRESS    | PO BOX 600                        |
| CITY              | GREENWOOD                         |
| STATE             | DE                                |
| a_account         | 36-01-017                         |
| DESCRIPTION       | S OF GREENWOOD E/                 |
| DESCRIPTION2      | DEL R R @W/RT 583A                |
| DESCRIPTION3      | INT N/RT 583                      |
| LUC               | 999                               |
| SCHOOL            |                                   |
| MUNI              | 00                                |
| CAP               | 0                                 |
| APRBLDG           | 9500                              |
| APRLAND           | 3600                              |
| PINWASSEMENTUNIT  | 530-14.00-17.00                   |
| PIN               | 530-14.00-17.00                   |
| ZIPCODE           | 19950                             |
| FRONTFOOT         | 0                                 |
| DEPTH             | 0                                 |
| IRREGULAR         |                                   |
| SCALED            |                                   |
| FLOOD             |                                   |
| FIRE              | 78                                |
| COUNCILMAN        |                                   |

Selected Features (1)

Clear Selected



**Introduced: 7/16/24**

**Council District 2: Mrs. Green  
Tax I.D. No.: 530-14.00-17.00  
911 Address: 14326 Cart Branch Road, Greenwood**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE EXPANSION OF UTILITY OPERATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 9.85 ACRES, MORE OR LESS**

**WHEREAS, on the 22nd day of March 2024, a Conditional Use application, denominated Conditional Use No. 2522 was filed on behalf of Delaware Electric Cooperative; 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. 2522 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, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2522 as it applies to the property hereinafter described.**

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

**ALL that certain tract, piece, or parcel of land, lying and being situate in Northwest Fork Hundred, Sussex County, Delaware, and lying on the west side of Cart Branch Road (S.C.R. 583A), northwest of the intersection of Cart Branch Road (S.C.R. 583A) and Adams Road (S.C.R. 583), and being more particularly described in the attached legal description prepared by Hudson, Jones, Jaywork & Fisher, LLC said parcels containing 30.31 acres, more or less.**

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

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



**Sussex County**

DELAWARE  
sussexcountyde.gov

## Memorandum

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

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

CC: Everett Moore, County Attorney

Date: August 23, 2024

RE: County Council Report for C/U 2440 filed on behalf of Double H Development, LLC

---

The Planning and Zoning Department received an application (C/U 2440 filed on behalf of Double H Development, LLC) for multi-family dwellings (108 units) in an MR Medium Density Residential Zoning District, to be located at Tax Parcel 533-19.00-47.00. The property is located at 35090 Lighthouse Road, Selbyville. The parcel size is 37.52 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on July 24, 2024. At the meeting of August 21, 2024, the Planning & Zoning Commission recommended approval of the application for the 11 reasons stated and subject to the 18 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of July 24, 2024, and August 21, 2024.

### Minutes of the July 24, 2024, Planning & Zoning Commission Meeting

Chairman Wheatley informed the public that the applicant for C/U 2440 and C/Z 2009 are the same and therefore they will present one case for both applications.

### **C/U 2440 Double H Development, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM-DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (108 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 37.52 ACRES, MORE OR LESS.** The property is lying on the southeast side of Lighthouse Road (Rt. 54) approximately 0.50-mile northeast of Williamsville Road (S.C.R. 395). 911 Address: 35090 Lighthouse Road, Selbyville.



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

Tax Map Parcel: 533-19.00-47.00.

Mr. Whitehouse advised the Commission that submitted into record were a copy of the applicant's conceptual rezoning plan, a copy of the applicants exhibit booklet, a copy of the applicant's environmental assessments and public facilities evaluation report, a copy of the proposed restrictive covenants for the property, a copy of the memo relating to drainage assessments, a copy of the staff analysis, a copy of the plus comments, a copy of the applicant's response to the plus comments from the State Planning Office, a copy of the DelDOT SLER, we have comments from the Technical Advisory Committee, including comments from the division of Watershed Stewardship, a copy of a letter from the US Department of Agriculture, a copy of the letter received from the Sussex County Engineering Department, a copy of a letter received from the Delaware Forest Service, comments from Delaware Electric Co-op and Delmarva Power and there are 7 comments.

Mr. David Hutt. Esq., spoke on behalf of the applicant in relation to the property totals 37.5 acres and as was indicated, are two applications, a change of zone application seeking to change the designation of that property on the county zoning map from agricultural residential district to the medium density residential district and the second application is a multifamily conditional use application and that seeks to have 108 single family homes in a multifamily use, which is a condominium style single family home project; that the 2020 state strategies maps that are promulgated by the Office of State Planning Coordination has the property centered on the image and is primarily within a Level 3 area; that the Office of State Planning Coordination says that development and growth may be appropriate in the near term in a Level 3 area; that the resources on the site and in the surrounding area should be carefully considered and accommodated; that there are public water and public sewer available and this area has developed and it is continuing to develop; that this is an appropriate area under the state strategies, but the Planning Commission often looks to 2045 future land use map that's contained within the 2018 update to the Sussex County Comprehensive Plan; that the comprehensive plan states that coastal areas are areas that can accommodate development provided special environmental concerns are addressed, a range of housing types should be permitted in coastal areas, including single family homes, this application certainly would meet that stated permitted purpose; that there is a wide range of various zoning classifications that exist along this area of Route 54; that in addition to all those various zoning classifications, the Counties Staff Memo identified 29 conditional uses within a one mile radius of this site.

Mr. Cliff Mumford an engineer with Davis, Bowen & Friedel spoke on behalf of the applicant that the property has frontage along Lighthouse Road to the north, Route 54, the majority of the Eastern property line is defined by the. Drum Creek Prong 4 tap Stitch, after the ditch turns, the property line continues to the center of the Drum Creek tax ditch; that this ditch defines the southern property boundary along with Americana Bayside; that the western boundary follows the edge of the woods line and runs adjacent with Americana Bayside Melson and there is a right away with Lighthouse Road that completes the loop around the property boundary; that there are approximately 8.259 acres of existing woods with the hatched area inside the woods that are the wetlands that were delineated by Tom Noble; that those wetlands are not classified as resources as defined by Sussex County Code because they are not contiguous to tidal waters or wetlands, and they do not include a surface water connection to adjacent wetlands; that there's some AG ditches that run across the property to the main Prong 4 tax ditch, but there's no pipe connection or ditch connection; that there's a farm route that runs along here that separates the wetlands from the tax ditch; that the property is impacted by two generic tax ditches, Perch Creek Maine and Perch Creek Prong 4, Perch Creek Main runs with

Americana Bayside includes at 80 foot right from the top of bank of the ditch, Perch Creek Main will not be impacted by this development; that Perch Creek Prong 4 runs from Lighthouse Rd. down the eastern boundary line with the Toll Brothers property, roughly 12,150 feet and then turns and cuts through the property; that as part of the development we plan to realign Prong 4 to run parallel with that boundary line with the Toll Brothers until it connects with Perch Creek Main, near the southeastern property corner; that the center line of the ditch will be offset from our property line to not impact the neighboring property and would be wholly contained on our site along with the tax ditch right of way; that a court order change will be required to be filed with DNREC to relocate the tax ditch; that the proposed neighborhood will have an entrance on Lighthouse Rd. (Route 54), which is classified as a major collector by DelDOT; that Lighthouse Rd. includes 12 foot travel lanes and eight foot shoulders, which meets DelDOT standards for a major collector; that the entrance has been sighted to align with New Road which intersects Lighthouse Road from the North; that left and right turn lanes will be provided into the site along with a left turn lane onto New Road based on DelDOT's requirements; that regarding our due diligence with DelDOT, we have submitted an SLER to which they responded that the development site traffic would have a minor impact on area roadways and the project is eligible to pay an area wide study fee in lieu of performing a TIS; that at the entrance, a 10 foot wide shared use path will be along the property frontage; that the closest house will be 70 feet from the right of way of Route 54, and all but two houses at the entrance are greater than 100 feet from any adjacent property lines; that the internal streets will include concrete, curb and gutter and a closed drainage system, 5 foot wide sidewalk on both sides of the streets; that the road and drainage will be designed to meet the requirements of the Sussex County Engineering Department and will be subject to their review and approval; that a Community Center with a square footage of at least 2000 square feet and a pool with a minimum water surface area of 1000 square feet, 2 pickleball courts will be constructed; that the tax ditch's proposed alignment will relocate the Perch Creek Prong 4 tax ditch and it will connect to Perch Creek Main; that the tax ditch right of ways will be maintained by a CNREC tax ditch section in a meadow like manner; that no structures are proposed within the tax ditch right of ways other than the stormwater outfall pipes, which will be subject to review and approval by DNREC; that the western boundary the project proposes a 30 foot landscape and wooded buffer in areas where one does not already exist; that the. Western boundary line is existing woods which will remain and supplement that existing woods line with a 30 foot landscape buffer to the right away or the permanent easement; that 5.449 acres will be preserved, which represents roughly 65% of the existing woods; that the wooded wetlands will not be impacted and a 30 foot voluntary buffer will be provided around them; that open space provided throughout the site includes amenity areas, existing woods, voluntary landscape and wetlands buffers, tax ditch right of ways and stormwater areas that total roughly 18 acres or 49% of the site; that stormwater management will be provided to meet the requirements of Sussex Conservation District; that the project is in tier one of the Sussex County Unified Sanitary Sewer District and they issued a sewer service concept evaluation to demonstrate capacity and provide a connection point near our entrance for sanitary sewer; that's there's an existing gravity sanitary sewer manhole in this location at our entrance that will connect to water service which will be provided by Artesian water company and electricity will be provided by Delaware Electric Cooperative.

Mr. David Hutt stated that the change of zone application to the MR medium density residential district is the nature and character of this area and multifamily dwellings are a conditional use within the MR district; that the purpose of a conditional use as it's set forth in the code is to provide items that are of public or semipublic character that are essential and desirable for the general convenience and welfare of the county and then being able to place certain limitations and conditions on those; that the density that's proposed is slightly lower than those neighboring, with 108 units, is 2.89 units

per acre; that Americana, Bayside, the density is 3.35 units to the acre and that excludes the apartments and the Americana Melson portion of it, the density of that is 3.67 units to the acre, and Bay Knolls community has a density of 3.87 units to the acre; that there are significant tax ditch right of ways that exist and what is proposed is for them to be a Meadow like that will show on a site plan; that Meadow like conditions have a number of benefits from it being attractive to birds and pollinators, it looks better than a manicured lawn or mowed area; that if done correctly, it can have less maintenance involved on an ongoing basis; that tax ditch right of ways have a limit on the amount of maintenance that is supposed to be going on or within them on a regular basis; that there would be a condominium association for the operation and maintenance of the Community properties and amenities; that what's proposed is that the tax ditch right of ways be maintained in a Meadow like manner consistent with DNREC's requirements for tax ditches and on the eastern, western and southern boundary it would be your typical 30 foot wide perimeter, wooded or landscape buffer.

Ms. Wingate asked if the tax ditches were going to be filled in after the relocation of them and ultimately, it's all going to be tied in that the water will still be flowing without any stoppage?

Mr. Hutt stated that the tax ditch will be moved, filled in and reconnected to the main tax ditch along the southern boundary of the parcel.

Mr. Ken Shoyer, spoke on behalf of himself, in opposition to the application that with 108 homes and 2 two cars per house that's 216 houses dumping out on 54 and if anybody has been there on a weekend during the summer, you can't get out; that the development will kill off the wildlife currently living on that land.

Mr. Hutt stated that if approved the next step is to seek that change through a court order that allows the tax ditch to be moved and that hearing is hybrid being more administrative than an open hearing for the public to attend.

Mr. Mumford stated that to move the tax ditch DNREC has special cross sections that they require for the tax ditch and we will match the tax ditch section that's out there now and meet their requirements with certain side slopes and a bottom width that they have figured out; that it needs to be rerouted along that Eastern property line and have 30 foot on either side from top of bank for maintenance and access, and then it will connect into the southern Main Perch Creek tax ditch and DNREC will review the whole set of plans and will be constructed in a way that all of the stormwater runoff from the property remains there or is conducted into a ditch somewhere not causing flooding onto the neighbors.

Mr. James Snyder, spoke on behalf of himself in opposition to the application that the developer will cause him to lose land in the front of his property to allow for the proper entrance requirements; that his home and directly across from the proposed entrance and he wants to ensure that the developer takes from their own land to accommodate the widening of Route 54 where needed.

Chairman Wheatley stated that there should never be a plan that shows them encroaching on your property without your permission, they have to buy it from you, typically the developer would purchase an easement or a strip from you.

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

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

In relation to C/U 2440 Double H Development, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5 - 0.

Minutes of the August 21, 2024, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since July 24, 2024.

Mr. Butler requested that Mr. Robertson read the motion on his behalf.

Mr. Mears moved that the Commission recommend approval of C/U 2440 DOUBLE H DEVELOPMENT, LLC, for 108 single-family dwellings as a multi-family use based upon the record made during the public hearing and for the following reasons:

1. The purpose of the MR zone is to provide housing in an area which is expected to become urban in character and where central water and sewer is available. This conditional use application for multi-family units appearing as single-family structures is in compliance with the purposes of the MR zone.
2. Both central water and central sewer will be available to this site.
3. The property is in the vicinity of other properties with a variety of business, commercial and residential uses. The site is also adjacent to two sections of the Americana Bayside development, being the Melson Property at 3.67 units per acre and Phase 4 and 6B at 3.35 units per acre. Across the road from Americana Bayside is Bay Knolls with a density of 3.87 units per acre. This conditional use at approximately 2.89 units per acre is consistent with other zoning, uses and multi-family developments in the area.
4. The eastern boundary of the Property is adjacent to an Agricultural Easement area that is identified as the “Country Rooster Expansion of the Williamsville District.” No lots are located closer than 100-feet to the Agricultural Easement Area.
5. The Property contains approximately 2.477 acres of non-jurisdictional, non-tidal wetlands all of which shall be protected with a thirty-foot (30’) buffer as shown on the Preliminary Site Plan. The Army Corps of Engineers issued a Non-Permit Required Letter and an Approved Jurisdictional Determination for the Property on October 12, 2023.
6. Environmental Resource Insights and Davis Bowen & Friedel, Inc. completed a review of the Property pursuant to Section 115-193 of the County Zoning Code and determined that the Property does not contain “Resources” as defined by the County Code that require a Resource Buffer Management Plan. In addition, an Environmental Assessment has been provided as part of the application materials.
7. DelDOT has reviewed the proposed project and has determined that the development’s traffic impact will be Minor. When DelDOT determines that traffic impact will be minor, a project is eligible to pay an Area Wide Study Fee instead of obtaining a Traffic Impact Study. Paying this fee does not eliminate the developer’s obligation to construct or pay for offsite road improvements that are required by DelDOT.
8. As shown on the Preliminary Site Plan, approximately 18 acres, or 49% of the site, will remain as open space. Within that open space, approximately 5 acres or 65% of the existing woodlands will also be preserved.

9. The proposed multi-family conditional use meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.
10. The proposed use is consistent with the County's Comprehensive Land Use Plan. It is in the Coastal Area according to the Plan, which is a Growth Area. The Plan states that medium and higher densities can be appropriate where, like here, there are features such as central water and sewer and nearby commercial uses and employment centers. The Plan also states that a range of housing types should be permitted in the Coastal Area, including single family homes, townhouses and multifamily units.
11. There is no evidence that this project will adversely affect the neighboring properties, area roadways or community facilities.
12. This recommendation is subject to the following conditions:
  - A. There shall be no more than 108 Units within the development.
  - B. There is an existing Tax Ditch with a right of way that crosses through the eastern portion of this site. This approval is conditioned upon the successful relocation of that Tax Ditch and its right of way to a location along the boundary of the site as proposed on the Preliminary Site Plan and keeping the relocated Tax Ditch and its right of way entirely within this site and not upon lands of other ownership.
  - C. All entrances, intersections, roadways and multimodal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determination.
  - D. The active recreational amenities for the project shall include a community center/clubhouse with a minimum square footage of 2,000 square feet and a pool with a minimum water surface area of 1,000 square feet. Both of these amenities shall be completed in compliance with Section 115-194.5 of the Zoning Code.
  - E. 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.
  - F. The development shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
  - G. 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.
  - H. Interior street design shall comply with or exceed Sussex County standards. In addition, there shall be sidewalks on both sides of all streets with interconnection between the sidewalks and DelDOT-mandated multi-modal paths.
  - I. Road naming and addressing shall be subject to the review and approval of the Sussex County Geographical Information Office.
  - J. 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.
  - K. A forested and/or vegetated buffer strip that is at least thirty feet wide shall be maintained or installed along the western boundary of the property except where it would interfere with the right-of-way for the Perch Creek Main tax ditch. This buffer shall utilize existing forest or similar vegetation where it exists. 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. The tax ditch rights-of-way shown on the Preliminary Site

- Plan shall be maintained in a meadow-like manner consistent with DNREC’s requirements for tax ditches. Along the western boundary and when adjacent to trees, silt fencing shall be located at least 10 feet from the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify this “Limit of Disturbance” to prevent disturbance of the buffer area. Signage identifying this perimeter buffer as a “non-disturbance area” shall be installed along the buffer at 300-foot intervals.
- L. Approximately 49% of the site shall remain as open space, which shall include the preservation of approximately 65% of the existing woods on the site.
  - M. Construction, site work, and deliveries shall only occur on the site between the hours of 7:00a.m. through 6:00p.m., Monday through Friday and between 8:00 am and 2:00 pm on Saturday. No Sunday hours are permitted. A 24-inch by 36-inch “NOTICE” sign confirming these hours in English and Spanish shall be prominently displayed at the site entrance during construction.
  - N. The Final Site Plan shall include a landscape plan for the development showing the proposed tree and shrub landscape design, including the buffer areas and the woodlands that must be preserved.
  - O. The Applicant shall form a Condominium Association that shall be responsible for the maintenance of all interior roadways and parking areas, buildings, buffers, stormwater management areas, recreational amenities and open space.
  - P. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
  - Q. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
  - R. The Final Site Plan shall depict or note these conditions of approval and it shall be subject to the review and approval of the Sussex Planning & Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2440 Double H. Development, LLC., for the reasons and the conditions stated in the motion. Motion carried 5 -0.

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

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

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302-854-5079 F  
JAMIE WHITEHOUSE, MRTPI, AICP  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: July 24, 2024

Application: CU 2440 Double H Development, LLC

Applicant: Double H Development, LLC  
Attn: Robert Horsey  
28107 Beaver Dam Road  
Laurel, DE 19956

Owner: Lawrence & Deborah Long Trustees & Marilyn Elton  
36079 Bayard Road  
Frankford, DE 19945

Site Location: Located on the southeast side of Lighthouse Road (Rt. 54)  
approximately 0.50 mile northeast of Williamsville Road (S.C.R. 395)

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

Proposed Zoning: Medium-Density (MR)

Proposed Use: Multifamily Dwellings (108 Units)

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Roxana Fire Co.

Sewer: Sussex County

Water: Artesian

Site Area: 37.523-acres +/-

Tax Map ID.: 533-19.00-47.00



## PLANNING & ZONING COMMISSION

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



# Sussex County

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

## Memorandum

To: Sussex County Planning Commission Members  
From: Mr. Michael Lowrey, Planner III  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: July 12<sup>th</sup>, 2024  
RE: Staff Analysis for CU 2440 Double H Development, LLC

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This memo is to provide background and analysis for the Planning & Zoning Commission to consider as a part of Application (CU 2440) Double H Development, LLC to be reviewed during the July 24<sup>th</sup>, 2024 Planning & Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

**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:** 533-19.00-47.00

**Proposal:** The request is for a Conditional Use for Tax Parcel 334-12.00-181.03 to allow for multi-family dwellings (108 Units) on a Parcel lying on the southeast side of Lighthouse Road (Rt. 54) approximately 0.50 mile northeast of Williamsville Road (S.C.R. 395). The parcel is comprised 37.523) acres +/-.

**Zoning:** The Parcel is zoned Agricultural-Residential (AR-1) District with the adjacent parcels to the north and east in the Agricultural-Residential (AR-1) Zoning District. Parcels adjacent to the south and west are zoned Medium-Density Residential (MR) Zoning District and Agricultural-Residential (AR-1) Zoning District.

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

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

As outlined in the 2018 Sussex County Comprehensive Plan, Coastal Areas are growth areas that the County encourages only the appropriate forms of concentrated new development, especially when environmental features are in play. The Coastal Area designation is intended to recognize



the characteristics of both anticipated growth and ecologically important and sensitive characteristics. The Plan notes, “A range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units” (2018 Sussex Comprehensive Plan 4-15). In terms of density in the Coastal Area, the Plan provides the following guidelines (2018 Sussex Comprehensive Plan 4-15):

- Medium and higher density (4-12 units per acre) can be appropriate in certain locations
  - Central water and sewer
  - Near sufficient commercial uses and employment centers
  - Keeping with the character of the area
  - Along a main road or at/or near a major intersection
  - Where there is adequate Level of Service
  - Considerations exist that are relevant to the requested project & density

#### **Further Site Considerations:**

- **Density: (2.8) DU/AC** complies with the Code requirements for this form of residential improvement in the proposed Medium-Density (MR) Zoning District which permits density up to four (4) dwelling units per acre when serviced by central sewer.
- **Open Space Provisions: (18.574 AC +/-) (≈50% of the site)**
- **Agricultural Areas:** The site is located within the vicinity of parcels which appear to be actively farmed. Please include on any plans submitted the Agricultural Use Protection notice located in (§99-6(G)(1)) of the County Code. This language shall also be included within any subsequent deed restrictions, leases, or agreements of sale for the property. Please note, in any new subdivision within 50 feet of the boundary of land used primarily for agricultural purposes, no residential improvement may be constructed within 50 feet of the boundary with the agricultural land (§99-6(G)(2)). The adjacent Parcel to the east is within an Agricultural Preservation District (Country Rooster Expansion).
- **Interconnectivity:** Staff encourage interconnectivity between proposed developments in order to prevent only one-way-in, one-way-out access in the event that an emergency should occur on the property in the future. We recommend the applicant consider incorporating connections to future developments on adjacent parcels fronting on Lighthouse Road in the design.
- **Transportation Improvement District (TID): N/A**
- **Forested Areas:** The Site Plan provided as part of the Application indicates that the wooded area on the site associated with the nontidal wetlands will be largely preserved. Staff appreciate efforts to conserve as many mature trees as possible on the project site.

- **Wetlands Buffers/Waterways:** The Plan indicates the Parcel contains nontidal wetlands ((2.477) Acres +/-) and is proposing buffers around the resources as required under Code.
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is located within Flood Zones “X” and “AE”, with the “AE” area concentrated in the southeast portion of the site where the Drum Creek and Perch Creek (Prong 4) converge. The Parcel is within areas of “Fair” & “Good” Groundwater Recharge Potential.

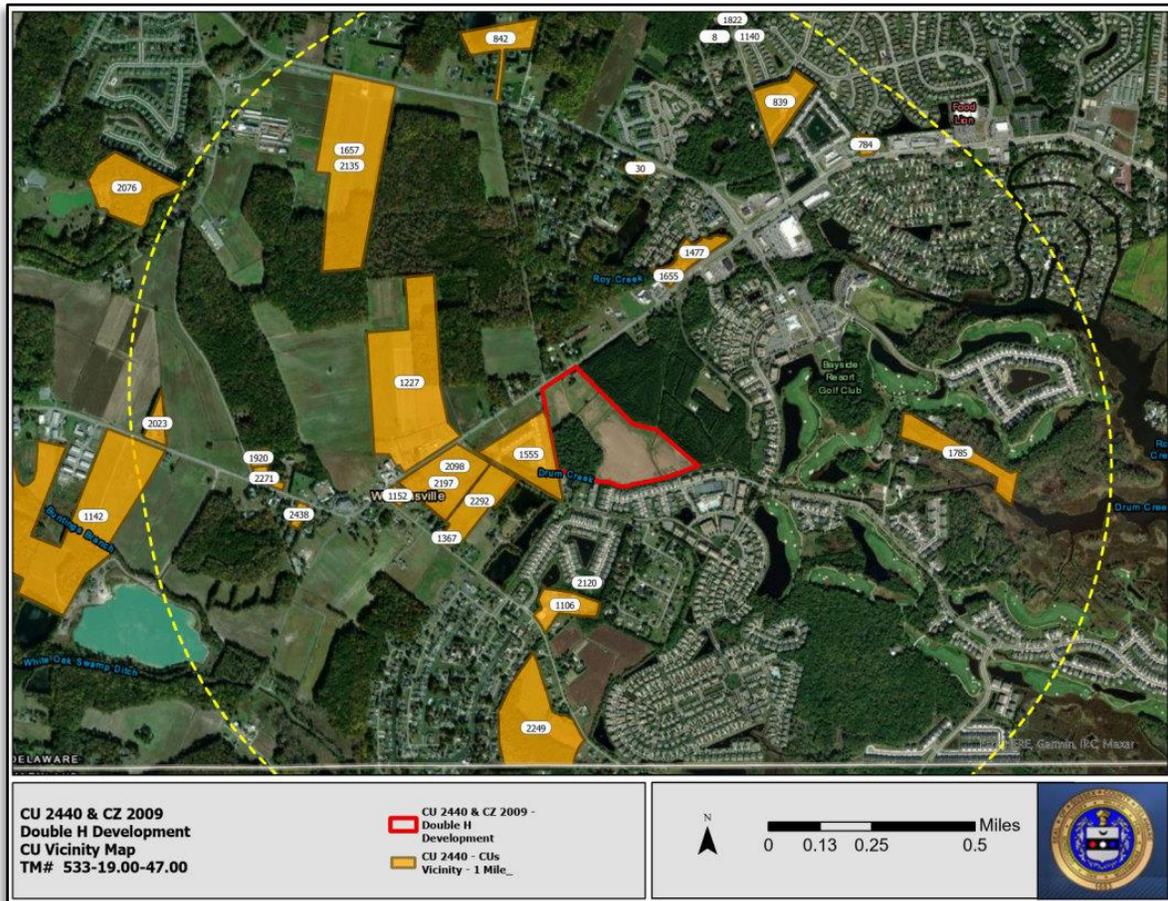
Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for a salon at the site, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

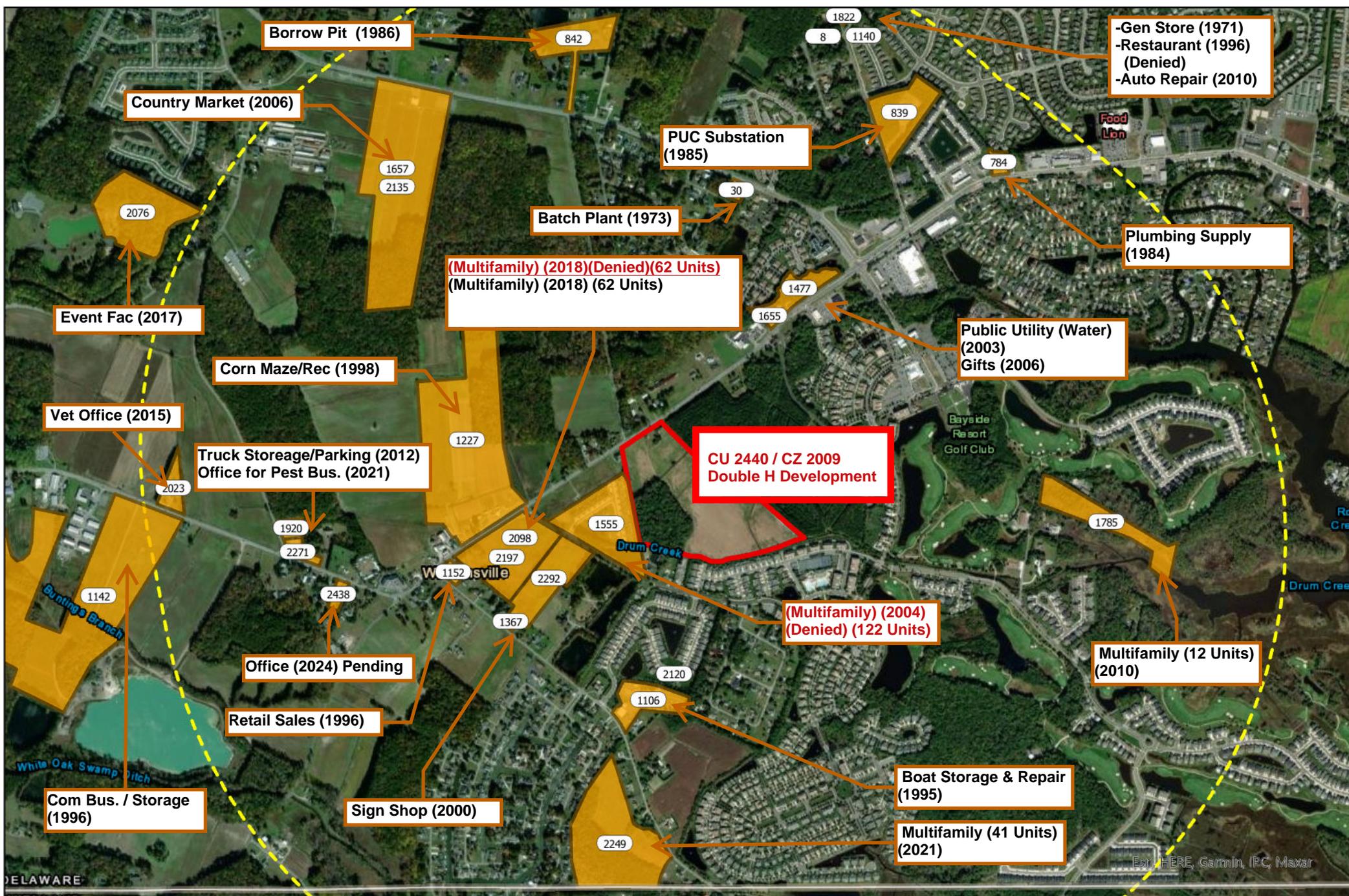
**Existing Conditional Uses within the Vicinity of the Subject Site:** A Data Table and Supplemental Map have been supplied which provide further background regarding the approval status of Applications in the area, including the location of all other Conditional Use Applications that are less than 1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

| <b>Conditional Use Applications</b>                 |                               |                     |                                    |                    |                         |                   |
|---|-------------------------------|---------------------|------------------------------------|--------------------|-------------------------|-------------------|
| <b>(Within a 1-mile radius of the subject site)</b> |                               |                     |                                    |                    |                         |                   |
| <b>CU Number</b>                                    | <b>Application Name</b>       | <b>Zoning Dist.</b> | <b>Proposed Use</b>                | <b>CC Decision</b> | <b>CC Decision Date</b> | <b>Ord Number</b> |
| <b>8</b>  | Richard Hickman               | AR-1                | General Store                      | <b>Approved</b>    | 5/18/1971               | <b>N/A</b>        |
| <b>30</b>   | Delmarva Land Co              | AR-1                | Batch Plant                        | <b>Approved</b>    | <b>N/A</b>              | <b>N/A</b>        |
| <b>784</b>  | Abel Rodriguez                | AR-1                | Plumbing Supply Warehouse          | <b>Approved</b>    | 3/13/1984               | <b>N/A</b>        |
| <b>839</b>  | Delaware Electric Cooperative | AR-1                | Public Utility Electric Substation | <b>Approved</b>    | 11/12/1985              | 320               |
| <b>842</b>  | Cygnnet Construction          | AR-1                | Borrow Pit                         | <b>Approved</b>    | 2/8/1986                | 341               |
| <b>977</b>  | Hickman's Seafood             | AR-1                | Propane Gas Sales                  | <b>Withdrawn</b>   | <b>N/A</b>              | <b>N/A</b>        |
| <b>1106</b>   | Eric H. Ritter                | AR-1                | Outside Boat Storage/Sales/Repairs | <b>Approved</b>    | 5/23/1995               | 1028              |

|             |   |      |  |                 |            |            |
|-------------|---|------|--|-----------------|------------|------------|
| <b>1140</b> | William & Lenore Hickman                  | AR-1 | Restaurant   | <b>Denied</b>   | 3/19/1996  | <b>N/A</b> |
| <b>1142</b> | Richard E. Tucker                         | AR-1 | Commercial/Business/Storage-Rental Warehouse               | <b>Approved</b> | 1/30/1996  | 1074       |
| <b>1152</b> | Connie Kay Cooper                         | AR-1 | Retail Sales & Consignment Shop                            | <b>Approved</b> | 4/30/1996  | 1088       |
| <b>1227</b> | Daniel W. Magee T/A Magee Farms           | AR-1 | Corn Maze Recreation Activity                              | <b>Approved</b> | 4/7/1998   | 1225       |
| <b>1367</b> | Jeffrey M. Irving                         | AR-1 | Sign Shop  | <b>Approved</b> | 11/28/2000 | 1417       |
| <b>1477</b> | Carl M. Freeman Communities               | MR   | Public Utility Water                                       | <b>Approved</b> | 3/25/2003  | 1590       |
| <b>1555</b> | Paul Robino (Robino-Sanibel Village, LLC) | AR-1 | Multi-Family   | <b>Denied</b>   | 12/14/2004 | <b>N/A</b> |
| <b>1655</b> | Edward J. Chiasson                        | AR-1 | Gifts  | <b>Approved</b> | 1/10/2006  | 1818       |
| <b>1657</b> | Johnson's Country Market                  | AR-1 | Country Market   | <b>Approved</b> | 6/13/2006  | 1852       |
| <b>1785</b> | David J. & Erin E. Dekowsky               | AR-1 | Multi-Family   | <b>Approved</b> | 5/4/2010   | 2115       |
| <b>1822</b> | Michael P. Mulligan                       | AR-1 | Auto Repair  | <b>Approved</b> | 4/27/2010  | 2114       |
| <b>1920</b> | Collins 54, LLC                           | AR-1 | Storage Garage For Trucks And Equipment And A Parking Area | <b>Approved</b> | 2/7/2012   | 2240       |
| <b>2023</b> | Frank Miranda                             | AR-1 | Veterinarian Office  | <b>Approved</b> | 9/15/2015  | 2416       |
| <b>2076</b> | Joseph Mark Zdurienick                    | AR-1 | Event Facility/Center                                      | <b>Approved</b> | 6/13/2017  | 2504       |
| <b>2098</b> | Fenwick Commons. LLC                      | MR   | Multi-Family (62 Duplex Units)                             | <b>Denied</b>   | 1/23/2018  | <b>N/A</b> |

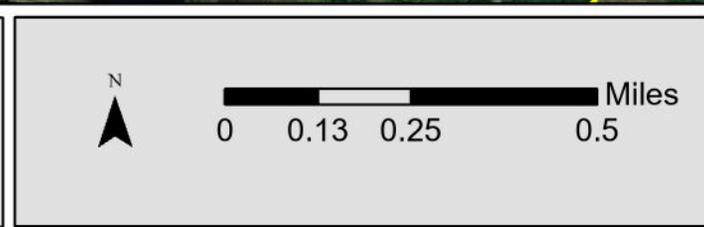
|             |                                    |      |  |                 |            |            |
|-------------|------------------------------------|------|--|-----------------|------------|------------|
| <b>2120</b> | PJM Properties, LLC                | AR-1 | Amend Conditions Of Approval Of CU 1106                                | <b>Approved</b> | 5/15/2018  | 2575       |
| <b>2135</b> | Void - Henry Clay Johnson V        | AR-1 | Amendment To CU 1657 To Allow Retail and Cooking Facilities            | <b>N/A</b>      | <b>N/A</b> | <b>N/A</b> |
| <b>2197</b> | Fenwick Commons, LLC               | MR   | Multi-Family (62 Duplex Units)   | <b>Approved</b> | 12/17/2019 | 2701       |
| <b>2249</b> | Mayapple Farm, LLC                 | AR-1 | Multi Family (41 Units)  | <b>Approved</b> | 10/26/2021 | 2806       |
| <b>2271</b> | Chris Brasure                      | AR-1 | Office For Pest Control Business - Amendment To Ordinance 2240 CU 1920 | <b>Approved</b> | 11/16/2021 | 2814       |
| <b>2292</b> | Gulfstream Development, LLC        | AR-1 | 32 Multi-Family Units (Duplexes)                                       | <b>Approved</b> | 9/21/2021  | 2804       |
| <b>2438</b> | Robert Frey (Sandy Hill Acre, LLC) | AR-1 | Professional Office  | <b>Pending</b>  | <b>N/A</b> | <b>N/A</b> |





**CU 2440 & CZ 2009 Double H Development**  
**CU Vicinity Map**  
 TM# 533-19.00-47.00

CU 2440 & CZ 2009 - Double H Development  
 CU 2440 - CUs Vicinity - 1 Mile\_





Delaware FirstMap, Esri, HERE, Garmin, INCREMENT P, NGA, USGS

**CU 2440 & CZ 2009  
Double H Development  
Street Map  
TM# 533-19.00-47.00**

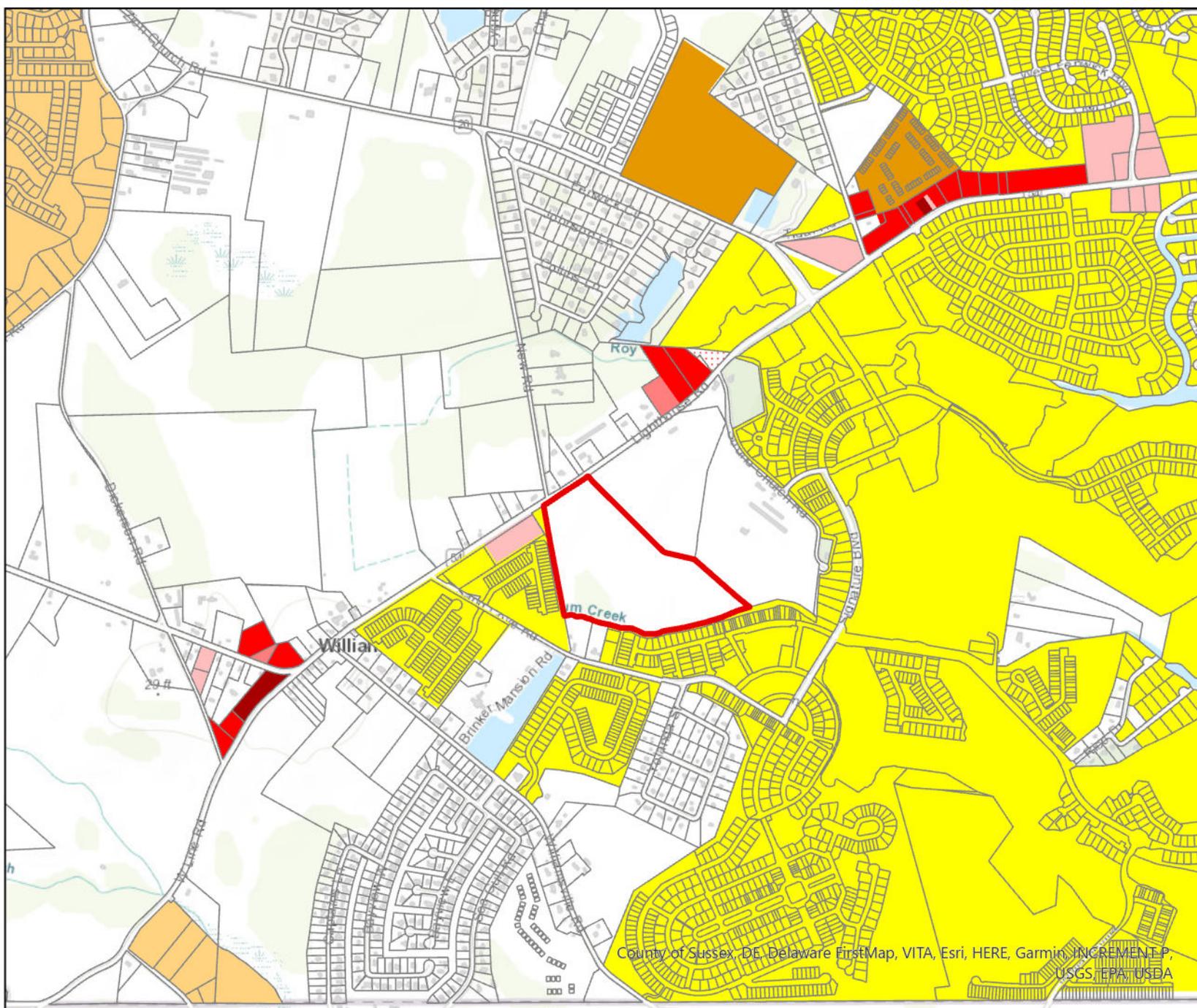
 **CU 2440 & CZ 2009 -  
Double H  
Development**

 Feet

0 250 500 1,000

 N

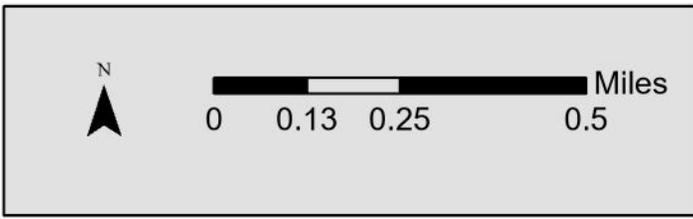




- ### Zoning
- Agricultural Residential - AR-1
  - Agricultural Residential - AR-2
  - Medium Residential - MR
  - General Residential - GR
  - High Density Residential - HR-1
  - High Density Residential - HR-2
  - Vacation, Retire, Resident - VRP
  - Commercial Residential - CR-1
  - Institutional - I-1
  - Marine - M
  - Limited Industrial - LI-1
  - Light Industrial - LI-2
  - Heavy Industrial - HI-1
  - C1: General Commercial
  - C2: Medium Commercial
  - C3: Heavy Commercial
  - C4: Planned Commercial
  - C5: Service/Limited Manufacturing
  - B-1: Neighborhood Business
  - B-2: Business Community District
  - B-3: Business Research

**CU 2440 & CZ 2009  
Double H Development  
Zoning Map  
TM# 533-19.00-47.00**

**CU 2440 & CZ 2009 -  
Double H  
Development**



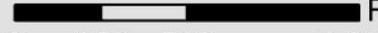
County of Sussex, DE, Delaware FirstMap, VITA, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA



**CU 2440 & CZ 2009  
Double H Development  
Aerial Map  
TM# 533-19.00-47.00**

 **CU 2440 & CZ 2009 -  
Double H  
Development**

**N**

 **Feet**  
0 250 500 1,000



Introduced: 5/21/24

Council District 4: Mr. Hudson  
Tax I.D. No.: 533-19.00-47.00  
911 Address: 35090 Lighthouse Road, Selbyville

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM-DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (108 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 37.52 ACRES, MORE OR LESS**

WHEREAS, on the 6<sup>th</sup> day of April 2023, a Conditional Use Application, denominated Conditional Use No. 2440 was filed on behalf of Double H. Development, 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. 2440 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 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2440 as it applies to the property hereinafter described.

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

**ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the southeast side of Lighthouse Road (Rt. 54) approximately 0.50 mile northeast of Williamsville Road (S.C.R. 395) and being more particularly described in the attached legal description prepared by David W. Baker, Esq., P.A., said parcel containing 37.52 acres, more or less.**

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

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



**Sussex County**

DELAWARE  
sussexcountyde.gov

## Memorandum

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

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

CC: Everett Moore, County Attorney

Date: August 23, 2024

RE: County Council Report for C/U 2518 filed on behalf of V&M, LLC

---

The Planning and Zoning Department received an application (C/U 2518 filed on behalf of V&M, LLC) for an amendment of condition "A" of Ordinance No. 2853 to allow for a convenience store with fueling stations in an AR-1 Agricultural Residential Zoning District, to be located at Tax Parcel 334-12.00-108.00. The property is located on the southeast side of John J. Williams Highway (Rt.24), on the southwest side of Mulberry Knoll Road (S.C.R. 284), and the southeast corner of the intersection of John J. Williams Highway (Rt. 24) and Mulberry Knoll Road (S.C.R. 284). The parcel size is 2.98 ac. +/-

The Planning & Zoning Commission held a Public Hearing on the application on July 24, 2024. At the meeting of July 24, 2024, the Planning & Zoning Commission recommended approval of the application for the 6 reasons stated and subject to the recommended revised condition as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting of July 24, 2024.

Minutes of the July 24, 2024, Planning & Zoning Commission Meeting

### C/U 2518 V&M, LLC

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CONDITION A OF ORDINANCE NO. 2853 TO ALLOW FOR A CONVENIENCE STORE WITH FUELING STATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.98 ACRES, MORE OR LESS.** The property is lying on the southeast side of John J. Williams



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

Highway (Rt.24), on the southwest side of Mulberry Knoll Road (S.C.R. 284), and the southeast corner of the intersection of John J. Williams Highway (Rt. 24) and Mulberry Knoll Road (S.C.R. 284). 911 Address: N/A, Rehoboth Beach. Tax Map Parcel: 334-12.00-108.00.

Mr. Whitehouse advised the Commission that submitted into record were a copy of the applicant's conceptual site plan, a copy of Ordinance #2853 which is C/U 2318, a copy of the staff analysis, a copy of the DelDOT SLER and 1 written letter.

Mr. Zach Crouch, of Davis, Bowen & Friedel, spoke on behalf of the applicant that the application is a revision to condition a of Ordinance 2853, which was approved on May 17th of 2022; that the Planning Commission meeting was held on April 14th of 2022, and they recommended approval with 10 conditions on April 28th of 2022; that they went before County Council on May 17th of 2022, and the same conditions were approved; that we submitted a plan to Planning Commission and received preliminary approval on May 11th, 2023 and then we received final approval for the site plan on June of 22nd, 2023; that on that site plan, there's a convenience store of 5000 square feet and an office building of 12,000 square feet; that we're requesting an amendment to Condition. A, to increase the convenience store from 5000sq feet to 5915sq feet, and to remove the 12,000 square foot office building; that the entrance has been constructed by DelDOT as part of Route 24 improvements and the stormwater management has been built; that we have SCD approval, DelDOT approval and tidewater approval.

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

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

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

Mr. Collins moved the Commission recommend approval of C/U 2518 V&M, LLC to amend Condition A of Ordinance No. 2853 regarding a convenience store with fueling stations based upon the record made during the public hearing and for the following:

1. This application seeks an amendment to Condition A of Ordinance No. 2853, which permitted a convenience store with fueling stations and a separate office building. Condition A limited the size of the convenience store to 5,000 square feet and the office building to 12,000 square feet.
2. The existing Conditional Use has received preliminary and final site plan approval.
3. The applicant seeks to delete the office building from the conditional use, but increase the size of the convenience store to 5,915 square feet, or 915 feet more than what is currently permitted under Condition A.
4. Because this is an overall reduction in the intensity of the uses on this property, it is an appropriate amendment to Ordinance No. 2853 and it will lessen any impact of the use on area roadways and nearby properties and uses.
5. For all of these reasons, Condition A of Ordinance No. 2853 should be amended to state, "A. The use shall be for a convenience store that does not exceed 6,000 square feet in size with fueling stations."
6. The Final Site Plan shall be amended to reflect this amendment.

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

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

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JAMIE WHITEHOUSE, MRTPI, AICP  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**

Planning Commission Public Hearing Date: July 24, 2024

Application: CU 2518 V&M, LLC

Owners: V&M, LLC  
P.O. Box 501  
Rehoboth Beach, DE 19971

Applicant: V&M, LLC  
P.O. Box 501  
Rehoboth Beach, DE 19971

Site Location: 19429, 19425, 19405, & 19387 John J. Williams Hwy. & 19676, 19662,  
19646, & 19634 Mulberry Knoll Rd., Lewes  
Southerly corner of John J. Williams Highway and Mulberry Knoll Road

Zoning: AR-1 (Agricultural Residential District)

Current Use: Residential

Proposed Use: Commercial Convenience Store/ Fueling Station  
(Amend "Condition A" of previously approved (C/U 2318))

Comprehensive Land Use Plan Reference: Commercial Area

Councilmatic District: Mr. Schaeffer

School District: Cape Henlopen School District

Fire District: Rehoboth Beach Fire District

Sewer: Sussex County

Water: Tidewater

Site Area: 2.98 ac. +/- (Entire Site)

Tax Map ID.: 334-12.00-108.00



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



**Sussex County**

DELAWARE  
sussexcountyde.gov

## Memorandum

To: Sussex County Planning Commission Members  
From: Mr. Michael Lowrey, Planner III  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: July 11<sup>th</sup>, 2024  
RE: Staff Analysis for C/U 2518 V&M LLC

---

This memo is to provide background and analysis for the Planning & Zoning Commission to consider as a part of application C/U 2518 V&M LLC to be reviewed during the July 24<sup>th</sup>, 2024 Planning & Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 334-12.00-108.00 to allow for the construction of two (2) structures including a 5,915 square foot commercial convenience store use to include a fueling station with a 6,055 square foot canopy on the site. The Application was originally submitted as (CU 2318) which included the commercial convenience store, fueling station, as well as an additional structure for a separate office use. This Application (CU 2318) was approved by County Council on May, 17 2022 by Ordinance No. 2853. This subsequent Application seeks approval of the revised Conditional Use which includes the commercial store and fueling station exclusively. The property is located at the southeast corner of the intersection of John J. Williams Highway (Route 24) and Mulberry Knoll Road (S.C.R. 284). The parcel is comprised of a total of 2.98 acres +/-.

### Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcels have a designation of "Commercial Area." The parcels to the northwest, south, and west also have a Future Land Use Map designation of "Commercial Area." The adjacent parcels to the east of the subject properties across Mulberry Knoll Road have the Future Land Use Map designation of "Coastal Area."

As outlined within the 2018 Sussex County Comprehensive Plan, Commercial Areas are growth areas that include concentrations of retail and service uses and are primarily located "arterials, and highways." (Sussex County Comprehensive Plan, 4-17) The Plan specifically notes that these areas include commercial corridors geared towards vehicular traffic and recommends they be located along "main roads or near major intersections." While the Plan's Commercial Area category dominates this portion the John J. Williams Highway (Route 24) corridor, much of the surrounding area is designated as "Coastal Area." Coastal Areas are areas that can accommodate development provided special environmental concerns are addressed, noting that commercial and office uses



“can be appropriate to provide for convenient services.” (Sussex County Comprehensive Plan, 4-15)

Zoning Information

The subject properties are zoned Agricultural Residential (AR-1) with all the immediately surrounding properties zoned (AR-1) as well. The closest commercial use zoning districts lie approximately 1.25 miles north on John J. Williams Highway (Route 24) at the intersection with the Coastal Highway (Route 1) corridor.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow for the construction of commercial and office uses in this location, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

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

| <b>Conditional Use Applications</b>                 |                           |                        |  |                    |                         |                         |
|---|---------------------------|------------------------|--|--------------------|-------------------------|-------------------------|
| <b>(Within a 1-mile radius of the subject site)</b> |                           |                        |  |                    |                         |                         |
| <b>Application Number</b>                           | <b>Application Name</b>   | <b>Zoning District</b> | <b>Proposed Use</b>                    | <b>CC Decision</b> | <b>CC Decision Date</b> | <b>Ordinance Number</b> |
| 317   | Clifford A Copp           | AR-1                   | Retail Seafood Store                   | Approved           | 1/27/1976               | N/A                     |
| 392   | Gwen Dickerson            | AR-1                   | Beauty Salon                           | Approved           | 12/28/1976              | N/A                     |
| 534   | Clifford A Copp Sr        | AR-1                   | Seafood Sales (Except Fish)            | Approved           | 7/3/1979                | N/A                     |
| 644   | Eugene Bookhammer         | AR-1                   | Small Engine Sales and Repair Shop     | Approved           | 9/15/1981               | N/A                     |
| 791   | William K. McMahon        | AR-1                   | Business Office In Accessory Building  | Approved           | 11/20/1984              | N/A                     |
| 831   | Tidewater Utilities, Inc. | MR                     | Public Utility for Public Water System | Denied             | 9/10/1985               | N/A                     |

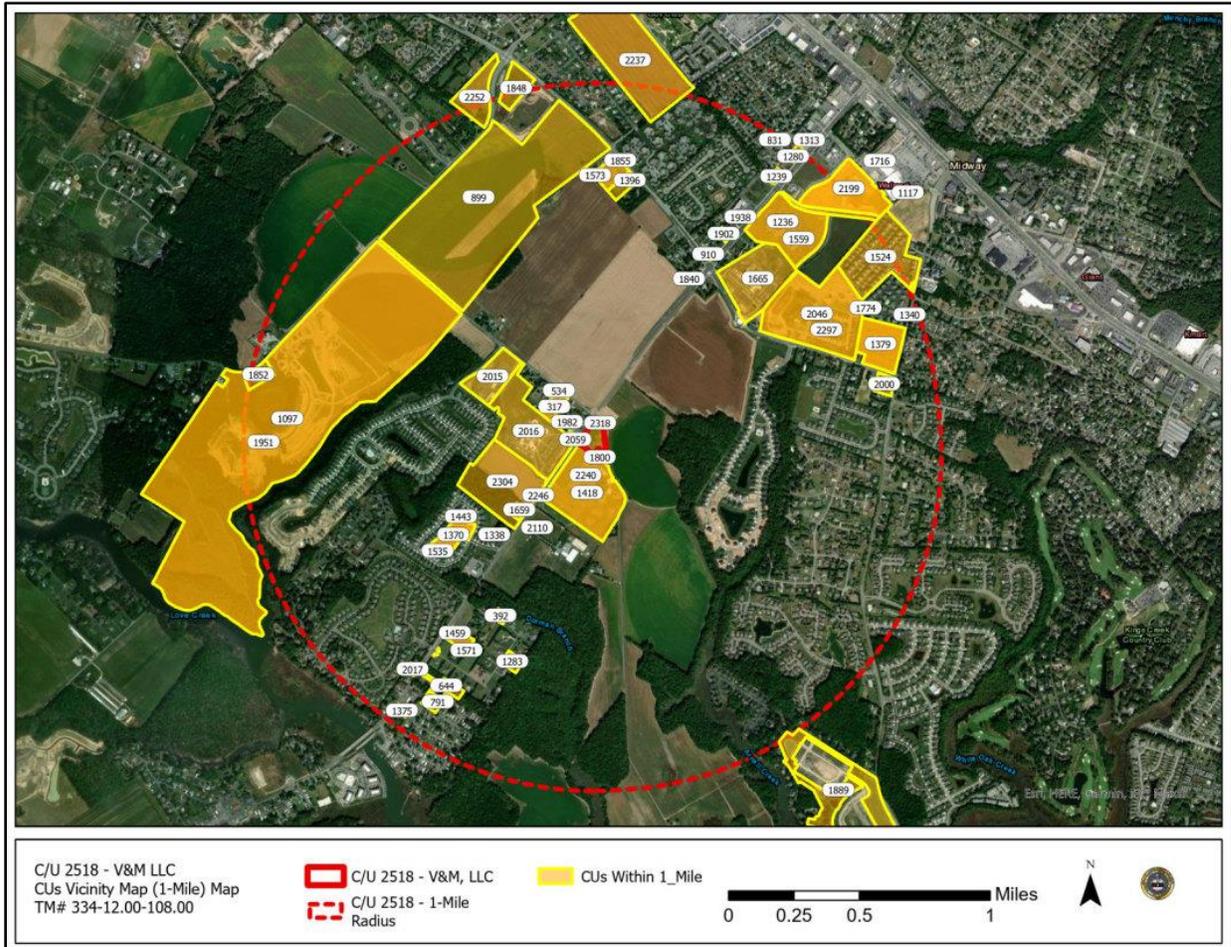
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|------|------------------------------|------|---|-----------|------------|------|
| 899  | Lewes Fire Department, Inc.  | AR-1 | Substation For Fire Department                  | Withdrawn | 2/23/1989  | N/A  |
| 910  | Theodore D. Shaffer          | AR-1 | Hair Salon                                      | Denied    | 10/3/1989  | N/A  |
| 1097 | Charles P. Moore             | AR-1 | Auto Repair & Towing Service                    | Approved  | 1/10/1995  | 1007 |
| 1117 | Angola Community Partnership | AR-1 | Model Homes/Sales/Display                       | Approved  | 6/13/1995  | 1035 |
| 1236 | Beebe Medical Facility       | AR-1 | Outpatient Medical Facility                     | Approved  | 4/21/1998  | 1227 |
| 1239 | Maplewood Dental Associates  | B-1  | 2 Apartments Above Existing Dental Office       | Approved  | 5/5/1998   | 1231 |
| 1280 | Apple Electric Inc.          | AR-1 | Contractors Office                              | Approved  | 5/11/1999  | 1307 |
| 1283 | Deborah S. Appleby           | AR-1 | Art/Craft Studio & Gallery                      | Approved  | 6/8/1999   | 1314 |
| 1313 | Apple Electric Inc.          | AR-1 | Electric Contractor Office & Amend Stipulations | Approved  | 12/21/1999 | 1356 |
| 1338 | Jay Beach                    | AR-1 | Retail Sales                                    | Withdrawn | 7/25/2000  | N/A  |
| 1340 | Robino Sea Chase LLC         | AR-1 | Multi-Family                                    | Withdrawn | 8/1/2000   | N/A  |
| 1370 | Jay Beach                    | AR-1 | Sale Of Sheds/Etc. & Seasonal Sales             | Approved  | 1/9/2001   | 1427 |

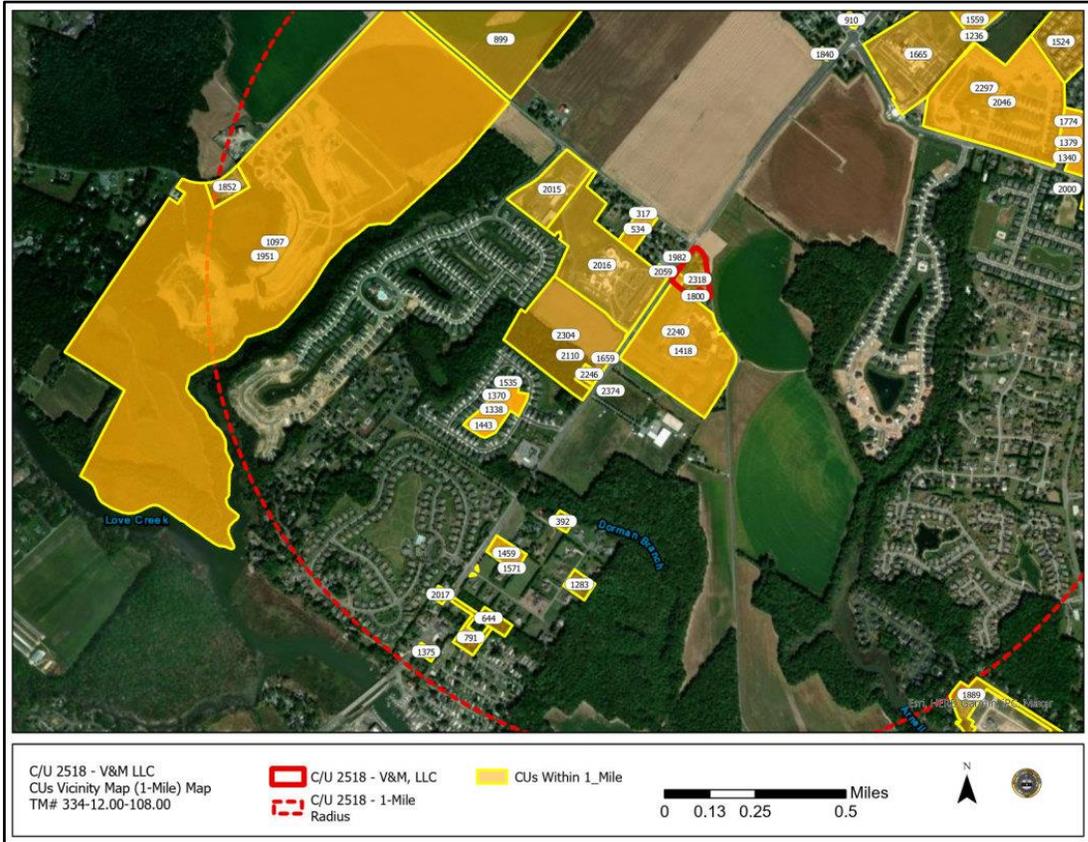
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|------|--|--------|--|-----------|-----------|------|
|      |  |        |  |           |           |      |
| 1375 | Herring<br>Chiropractic                | AR-1   | Chiropractic Office                                      | Approved  | 1/2/2001  | 1425 |
| 1379 | Robino<br>Seachase,<br>LLC             | AR-1   | Multi-Family   | Approved  | 5/8/2001  | 1455 |
| 1396 | Jerome E.<br>Groll MD                  | AR-1   | Medical Office Building                                  | Withdrawn | N/A       | N/A  |
| 1418 | Cape<br>Henlopen<br>School<br>District | AR-1   | Public School  | Approved  | 11/6/2001 | 1504 |
| 1443 | The Barn<br>Yard                       | AR-1   | Amended CU 1370 Sales<br>Of Playsets & Yard<br>Furniture | Approved  | 3/12/2002 | 1526 |
| 1459 | Center for<br>Neurology<br>L.L.C.      | <Null> | Medical Offices  | Withdrawn | 8/27/2002 | N/A  |
| 1524 | Rehoboth<br>Beach<br>Associates<br>LLC | AR-1   | Multi-Family   | Approved  | 6/8/2004  | 1695 |
| 1535 | The Barn<br>Yard                       | AR-1   | Sale Of<br>Mulch/Stone/Landscape<br>Goods                | Approved  | 5/18/2004 | 1691 |
| 1559 | Beebe<br>Medical<br>Center             | AR-1   | Expansion Outpatient<br>Medical Center                   | Approved  | 3/30/2004 | 1673 |
| 1571 | Mid-Atlantic<br>Property<br>Ventures   | AR-1   | Medical Office   | Approved  | 6/8/2004  | 1697 |

|      |  |      |   |           |            |      |
|------|--|------|---|-----------|------------|------|
| 1573 | Robert Burton, Double R Holdings               | AR-1 | Medical Offices   | Approved  | 11/30/2004 | 1732 |
| 1659 | Robin R. May                                   | AR-1 | Window Treatment  | Approved  | 7/18/2006  | 1860 |
| 1665 | L. T. Assoc. LLC                               | AR-1 | Medical Offices   | Approved  | 9/19/2006  | 1873 |
| 1716 | Andrew Lubin                                   | AR-1 | Office Park With Medical, Professional & Retail Buildings | Approved  | 1/16/2007  | 1887 |
| 1774 | Robino Seachase, LLC                           | AR-1 | Poolhouse   | Approved  | 6/17/2008  | 1975 |
| 1800 | Cheryl Normandeau                              | AR-1 | Office/Retail   | Approved  | 2/9/2010   | 2102 |
| 1840 | Juliane Olber & William N. Hein                | AR-1 | Printing  | Approved  | 9/28/2010  | 2147 |
| 1848 | Todd Bariglio                                  | B-1  | Business/Office Complex                                   | Approved  | 3/16/2010  | 2108 |
| 1852 | Charles P. Moore                               | AR-1 | Auto Repair/Towing/Sales                                  | Approved  | 9/21/2010  | 2145 |
| 1855 | Double R. Holdings, LLC                        | AR-1 | Offices   | Approved  | 12/7/2010  | 2165 |
| 1889 | Robert A. Marshall                             | MR   | Landscaping   | Approved  | 5/17/2011  | 2193 |
| 1902 | Dorothy Garvey                                 | AR-1 | Medical Office  | Withdrawn | 6/5/2012   | N/A  |
| 1938 | Karen L. Barwick                               | AR-1 | Therapist Office and Residence                            | Approved  | 1/22/2013  | 2289 |
| 1951 | Jack Lingo Asset Management                    | AR-1 | RV Resort and Campground                                  | Denied    | 12/9/2014  | N/A  |
| 1982 | Gary Ennis-Southern Delaware Classic Cars, LLC | AR-1 | Office For A Cleaning Service Business                    | Approved  | 5/20/2014  | 2348 |

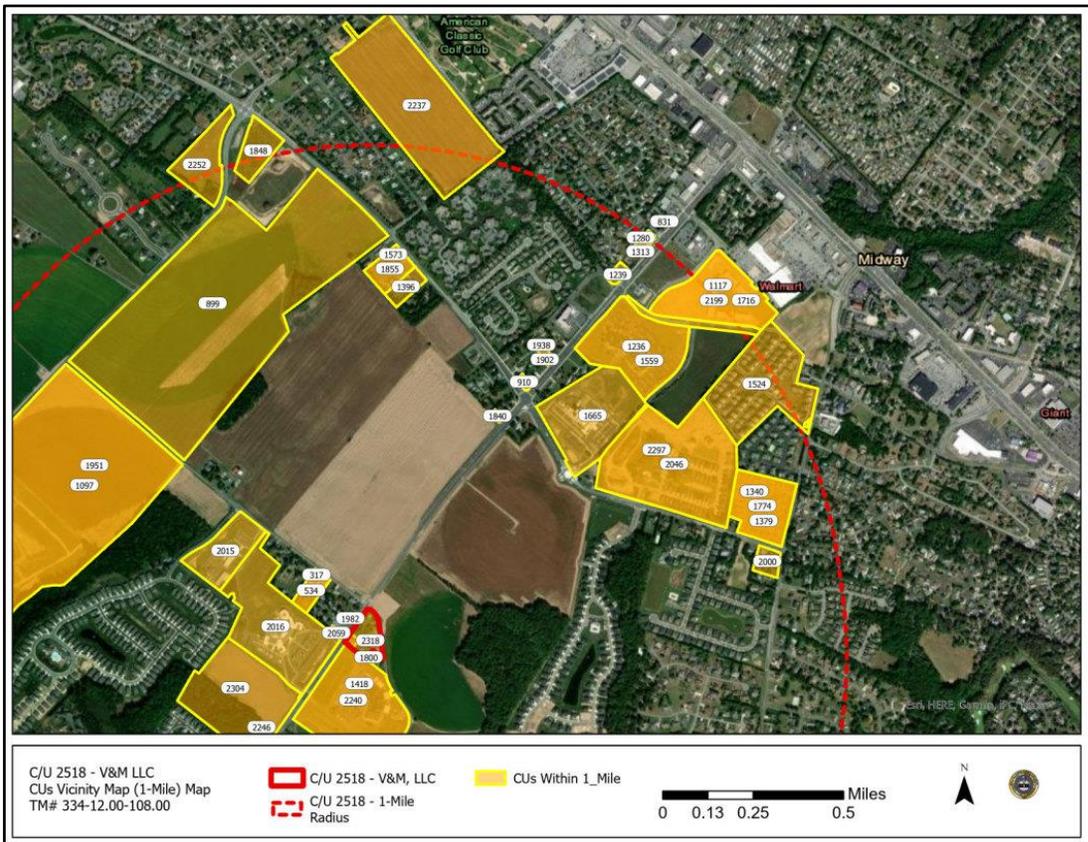
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|------|--|------|--|----------|------------|------|
| 2000 | Jovid Venture, LLC                         | AR-1 | Wedding Ceremonies and Receptions      | Denied   | 12/16/2014 | N/A  |
| 2015 | Delaware Division of Facilities Management | AR-1 | Public Service Facility (State Police) | Approved | 6/16/2015  | 2401 |
| 2016 | Cape Henlopen School District              | AR-1 | Elementary School                      | Approved | 6/16/2015  | 2402 |
| 2017 | Eli and Victoria Zacharia                  | MR   | Multi-Family Dwelling Structures       | Approved | 2/9/2016   | 2436 |
| 2046 | Lockwood Design & Construction (Arbor-Lyn) | MR   | 202 Multifamily Development            | Approved | 12/13/2016 | 2479 |
| 2059 | Julie Norwood                              | AR-1 | Beauty Salon                           | Approved | 10/25/2016 | 2478 |
| 2110 | Gaw Venture Group                          | AR-1 | Home Construction and Sales Business   | Approved | 2/6/2018   | 2548 |
| 2199 | OA-Rehoboth, LLC (Herola Property)         | CR-1 | Multi-Family (224 Units)               | Approved | 1/28/2020  | 2702 |
| 2237 | Sam Warrington II                          | AR-1 | Outside Boat & RV Storage              | Approved | 12/1/2020  | 2756 |
| 2240 | Tidewater Utilities, Inc                   | AR-1 | Elevated Storage Tank                  | Approved | 11/10/2020 | 2751 |
| 2246 | Bee Wise, LLC                              | AR-1 | Real Estate Business                   | Approved | 6/8/2021   | 2775 |
| 2252 | Delaware Electric Co-Op                    | MR   | Substation                             | Approved | 7/13/2021  | 2788 |
| 2297 | Schell Brothers LLC                        | MR   | Amendment To Conditions of Approval    | Approved | 2/22/2022  | 2831 |
| 2304 | J.G. Townsend Jr. & Co.                    | AR-1 | Multi-Family (84 Units)                | Denied   | 5/16/2023  | N/A  |

|      |                             |      |                                     |          |           |      |
|------|-----------------------------|------|-------------------------------------|----------|-----------|------|
| 2318 | V&M, LLC                    | AR-1 | Convenience Store & Office Building | Approved | 5/17/2022 | 2853 |
| 2374 | Jose Netto & Karyne DeSilva | AR-1 | Esthetician Business                | Approved | 3/21/2023 | 2913 |





CUs  
(1 Mile)  
West



CUs  
(1 Mile)  
East

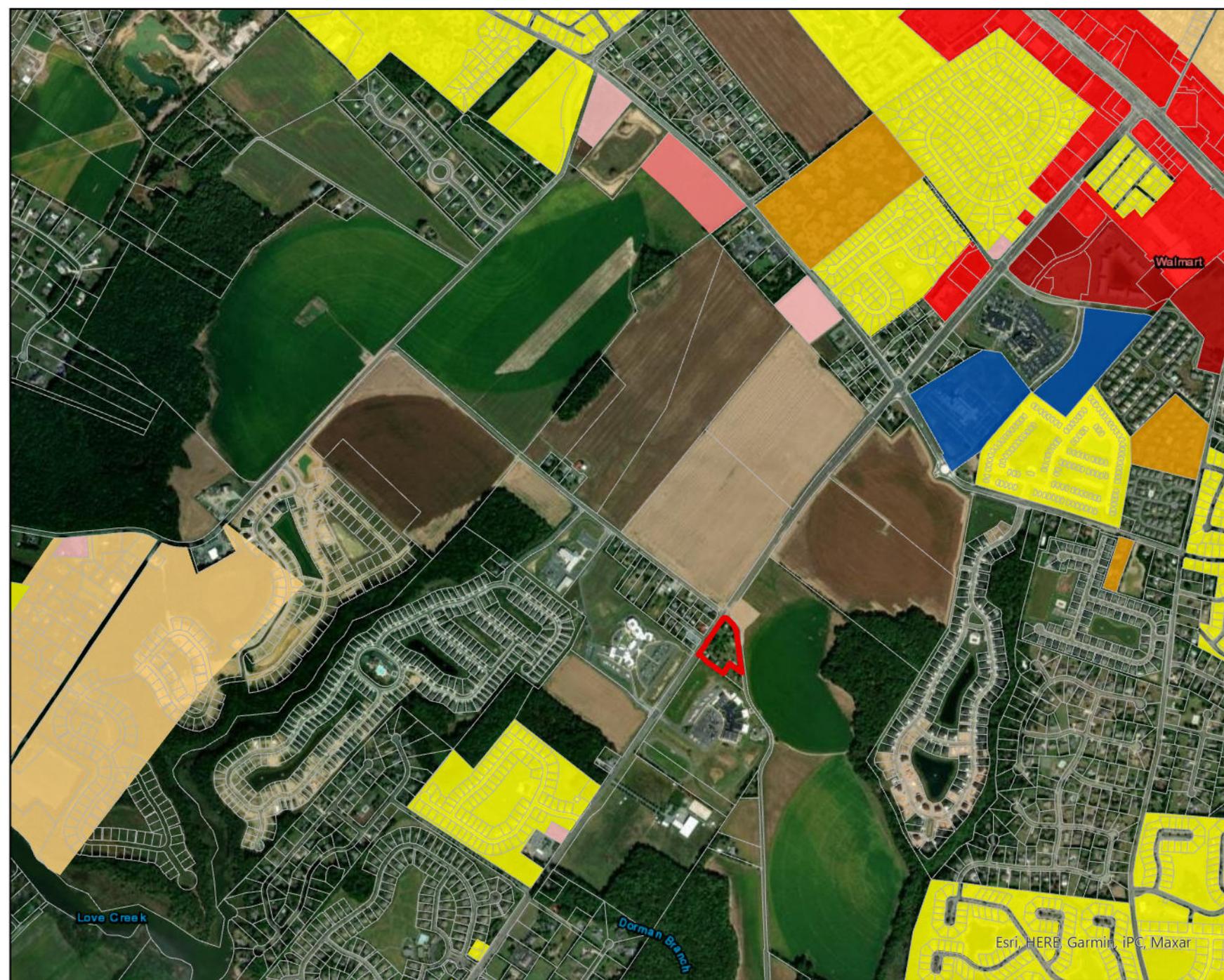


Delaware FirstMap, Esri, HERE, Garmin, INCREMENT P, NGA, USGS

C/U 2518 - V&M LLC  
Streets Map  
TM# 334-12.00-108.00

 C/U 2518 - V&M, LLC





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

C/U 2518 - V&M LLC  
 Zoning Map  
 TM# 334-12.00-108.00

C/U 2518 - V&M, LLC



Esri, HERE, Garmin, iPC, Maxar



States of Delaware, Maxar, Microsoft, Esri, HERE, Garmin, IPC

C/U 2518 - V&M LLC  
Aerial Map  
TM# 334-12.00-108.00

 C/U 2518 - V&M, LLC

0 125 250 500 Feet



Introduced: 6/4/24

Council District 4: Mr. Schaeffer  
Tax I.D. No.: 334-12.00-108.00  
911 Address: N/A

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CONDITION A OF ORDINANCE NO. 2853 TO ALLOW FOR A CONVENIENCE STORE WITH FUELING STATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.98 ACRES, MORE OR LESS**

WHEREAS, on the 14<sup>th</sup> day of February 2024, a Conditional Use application, denominated Conditional Use No. 2518 was filed on behalf of V&M, 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. 2518 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, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2518 as it applies to the property hereinafter described.

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

**ALL that certain tract, piece, or parcel of land, lying and being situate in Lewes & Rehoboth Hundred, Sussex County, Delaware, and lying on the southeast side of John J. Williams Highway (Rt.24), on the southwest side of Mulberry Knoll Road (S.C.R. 284), and the southeast corner of the intersection of John J. Williams Highway (Rt. 24) and Mulberry Knoll Road (S.C.R. 284), and being more particularly described in the attached legal description prepared by Baird Mandalas Brockstedt, LLC, said parcel containing 2.98 acres, more or less.**

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

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



**Sussex County**

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## Memorandum

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

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

CC: Everett Moore, County Attorney

Date: August 23, 2024

RE: County Council Report for C/Z 2008 filed on behalf of DTN Properties, LLC

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The Planning and Zoning Department received an application (C/Z 2008 filed on behalf of DTN Properties, LLC) for a Change of Zone for Tax Parcel 134-17.00-6.00 from an AR-1 Agricultural Residential District, to a B-2 Business Community District. The property is located at 37985 Muddy Neck Road, Ocean View. The parcel size is 0.5 acre +/-

The Planning & Zoning Commission held a Public Hearing on the application on July 24, 2024. At the meeting of August 21, 2024, the Planning & Zoning Commission recommended approval of the application for the 8 reasons as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of July 24, 2024, and August 21, 2024.

Minutes of the July 24, 2024, Planning & Zoning Commission Meeting

### C/Z 2008 DTN Properties, LLC

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.50 ACRE, MORE OR LESS.** The property is lying on the east side of Muddy Neck Road (S.C.R. 361), at the intersection of Muddy Neck Road (S.C.R. 361) and Butler Boulevard, approximately 200 feet north of Parker House Road (S.C.R. 362). 911 Address: 37985 Muddy Neck Road, Ocean View. Tax Map Parcel: 134-17.00-6.00.



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

Mr. Whitehouse advised the Commission that submitted into record were a copy of the applicant's survey and conceptual site plan, a copy of the applicants exhibit booklet, a copy of the staff analysis, a copy of the DelDOT SLER and 2 written comments.

Ms. Mackenzie Peet, of Saul Ewing, spoke on behalf of the applicant that there is 541 letters of support to be submitted into the record; that this a request to rezone 1/2 acre property designated as tax parcel 134-17.00-6.00 from AR-1 to B-2; that the property is located on the east side of Muddy Neck Rd. at the intersection of Muddy Neck Rd. and Butler Blvd. just outside the town of Ocean View less than a mile from the intersection of Atlantic Ave., Route 26 and West Ave. where there is a royal farms CVS, other retail commercial office, restaurant related use; that DTN purchased the property in 2019, as evidenced by the deed included in the exhibit page and has operated as a produce market specifically since 1968; that the family has continued to operate the market at the site since their purchase in 2019, and they have a couple of satellite vendor stands, one location on Route 26 and one at Middlesex Beach; that the business currently operates seasonally from approximately end of May, early June until mid-September with approximately 15 employees, hours are seven to seven Monday through Sunday and the market has been classified by Planning and Zoning historically as a non-conforming use or grandfathered in; that the Planning and Zoning office was only concerned that produce was just sold when they grandfathered the lot in, which is limiting; that to expand its offerings and bring the current use into compliance with the zoning district that's more applicable to the use that's actually occurring, DTN seeks to rezone the property from AR-1 to B-2; that the proposed expansion includes the addition of meats, cheeses, seafood, baked goods, etc., as well as ice, none of which are permitted to be sold currently; that this would be more of a vendor stand and/or convenience store type use, both of which are permitted in B-2; that the property is zoned AR-1 and other properties in the same vicinity as well; that 40 are zoned MRPC, GR, HR and B-1; that the property is located near residential communities such as Summerfield, Savannahs Landing, Hunters Run and Bridle Ridge Estates; that the purpose of the B-2 district is to provide primarily for office, retail shopping, personal service uses to be developed either as a unit or on an individual parcel to serve the needs of a relatively small area, primarily near rural low density or medium density residential neighborhoods to enhance the general character of the district and its compatibility with its residential surroundings; that the rezoning would enhance the general character of the area and allow for the expansion of the markets offerings, especially because the surrounding residential communities would benefit from the convenience of having a local market that offers more than just produce and the rezoning would allow for an expansion of the existing use that aligns with and complements the existing residential uses as well as nearby commercial and retail use; that the proposed use is consistent with the comprehensive plan and future land use MAP designation of coastal area as a designated growth area; that the adjoining parcels to the South and East are also located within the coastal area, with the remaining adjacent parcels on the North side of the parcel within the municipal boundary of the town of Ocean View; that the availability of sewer connectivity aligns with the planned suggestion for development in areas where central water and sewer are available; that the property is located within investment Level 2 near properties designated the same, as well as Level 1; that areas subject to the rezoning of the property, the applicant would undertake a thorough site plan review and approval process and assure that necessary measures are taken to address any potential impacts to nearby neighbors; that proposed is a permanent building and parking area with connection to public water and sewer, as all structures on site are temporary currently; that the development and vitality that the proposed rezoning will

contribute to the community will enhance the character of the area and serve Sussex County residents and visitors who would benefit from the convenience of locally sourced products and beyond.

Ms. Wingate asked about the parking and does the applicant plan to expand the amount of parking as there is very little there currently.

Mr. Collins asked about the concerns from neighbors about the cleanliness of the site and the use of privacy fencing or vegetative buffers.

Ms. Peet explained that parking would be part of the final site plan and would meet all requirements that are needed and improve the property, get rid of the temporary structures, clean up the site; that they've already cleaned up the produce market and to put a permanent structure up and have everything inside with sufficient parking.

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

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

In relation to C/Z 2008 DTN Properties, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 5 - 0.

#### Minutes of the August 21, 2024, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since July 24, 2024.

Mr. Mears moved that the Commission recommend approval of C/Z 2008 DTN PROPERTIES, LLC a change in zone from AR-1 “Agricultural Residential” to B-2 “Business Community” based upon the record made during the public hearing and for the following reasons:

1. This property has been in use as a produce market since 1968. It is grandfathered for that use but is limited to produce and farm products. The Applicant has sought a B-2 Zoning to allow the sale of additional items such as meats, cheeses, seafood and other products.
2. B-2 Business Community Zoning is designed to allow office, retail shopping and personal service uses that serve a relatively small area, including low density and medium density neighborhoods.
3. The site is in the Coastal Area according to the current Sussex County Comprehensive Plan. B-2 zoning, and the uses permitted in that District are appropriate in the Coastal Area according to the Plan.
4. This location is centrally located in an area that contains a lot of existing and new low- and medium-density residential development. It will provide a convenient location for B-2 uses on a property that has been used as a market for decades.
5. The rezoning will not adversely affect area roadways or traffic.
6. The rezoning will also not adversely affect nearby properties or property values.
7. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.
8. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 2008 DTN Properties, LLC., for the reasons and the conditions stated in the motion. Motion carried 5 -0.

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

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

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JAMIE WHITEHOUSE, MRTPI, AICP  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: July 24, 2024

Application: C/Z 2008 DTN Properties, LLC

Applicant: DTN Properties, LLC (c/o Michael Moutzalias)  
34924 Retreat Road  
Dagsboro, Delaware 19939

Owner: DTN Properties, LLC (c/o Michael Moutzalias)  
35502 Parker Road  
Frankford, Delaware 19945

Site Location: Located and lying on the east side of Muddy Neck Road (S.C.R. 361), at the intersection of Muddy Neck Road (S.C.R. 361) and Butler Boulevard, approximately 200 feet north of Parker House Road (S.C.R. 362).

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

Proposed Zoning: Business Community (B-2) Zoning District

Proposed Use: To allow for a year-round food truck.

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Millville Fire Co.

Sewer: Sussex County

Water: Public

Site Area: 0.5 acres +/-

Tax Map ID.: 134-17.00-6.00



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**Sussex County**

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## Memorandum

To: Sussex County Planning Commission Members  
From: Mrs. Christin Scott, Planner II  
CC: Vince Robertson, Assistant County Attorney, and applicant  
Date: July 16, 2024  
RE: Staff Analysis for C/Z 2008 DTN Properties, LLC

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The purpose of this memo is to provide background and analysis for the Planning & Zoning Commission to consider as a part of Application C/Z 2008 – DTN Properties, LLC to be reviewed at the July 24<sup>th</sup>, 2024, Planning & Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

**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:** 134-17.00-6.00

**Proposal:** The request is for a Change of Zone for Tax Parcel 134-17.00-6.00 to allow for a change of zone from an Agricultural Residential (AR-1) District to a Business Commercial (B-2) District to accommodate a Food Truck/Mobile Fruit Stand. The property lying on the east side of Muddy Neck Road (S.C.R. 361), at the intersection of Muddy Neck Road (S.C.R. 361) and Butler Boulevard, approximately 200 feet north of Parker House Road (S.C.R. 362) in Ocean View. The Parcel contains 0.50 acres +/-.

**Comprehensive Plan Analysis:** The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcel has a Growth Area designation of “Coastal Area.” The adjoining parcels to south and east are also within the “Coastal Area” with the remaining adjacent parcels on the north side of the parcel are within the municipal boundary of the Town of Ocean View. Parcels across from the site on the west side Muddy Neck Road have the classifications of “Coastal Area.”

As outlined in the 2018 Sussex County Comprehensive Plan, the “Coastal Area” are areas that “contain ecologically important and sensitive characteristics” and are “areas that can accommodate development provided special environmental concerns are addressed” (2018 Sussex County Comprehensive Plan, 4-15). The Plan further notes that, “a range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units” (2018 Sussex County Comprehensive Plan, 4-15). Furthermore, the Plan notes, “Medium and



higher density could be supported in areas where there is central water and sewer” of which this property has sewer connectivity available (2018 Sussex County Comprehensive Plan, 4-16).

**Zoning Information:** The parcel is zoned Agricultural Residential (AR-1) District. Adjacent parcels to the east and south are zoned Agricultural Residential (AR-1) District or within the Town of Ocean View. Parcels to the north are also within the jurisdiction of the Town of Ocean View with the parcels across Muddy Neck Road to the west zoned General Residential (GR) District, High-Density Residential (HR-1) District, and Neighborhood Business (B-1) District.

The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories,” the proposed Business Commercial (B-2) District is currently listed as an Applicable Zoning Districts within the “Coastal Area” Future Land Use Map category.

**Site Considerations:**

- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** N/A
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** N/A
- **Forested Areas:** N/A
- **Wetlands Buffers/Waterways:** N/A
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** Parcel is located within the “X” Flood Zone. The parcel is located within an area of “good” Groundwater Recharge Potential.

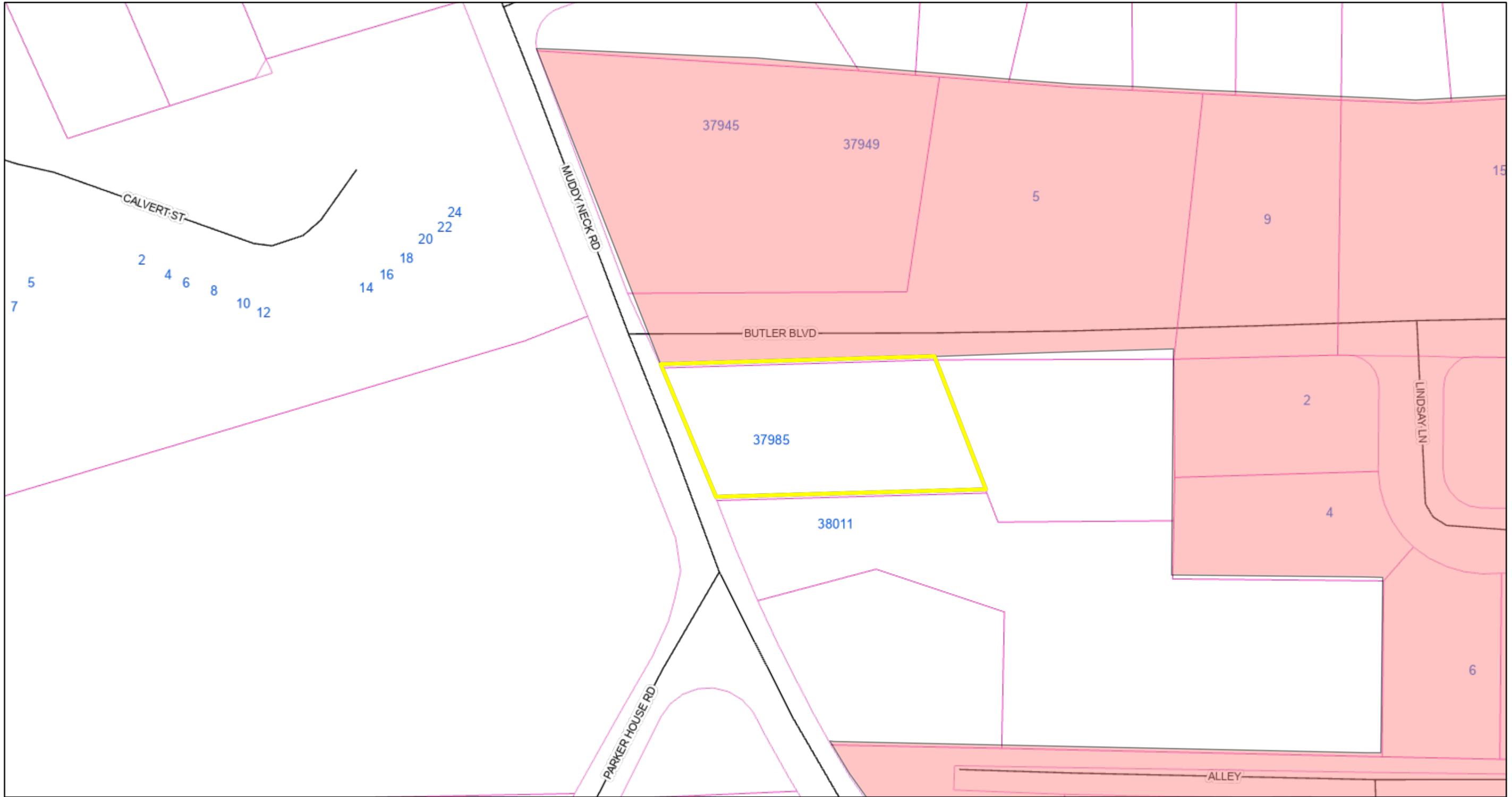
Based on the analysis of the land use, surrounding zoning and uses, a Change of Zone from an Agricultural Residential (AR-1) District to a Business Commercial (B-2) District could be considered as being consistent with the land use, based on size and scale, with area zoning and surrounding uses.

**Existing Change of Zones within the Vicinity of the Subject Property:**

Since 2011, there have been three (4) Change of Zone Applications within a 1-mile radius of the Application site.

| <b>Change of Zone Applications</b>                    |                               |                        |                        |                    |                         |                         |
|---|-------------------------------|------------------------|------------------------|--------------------|-------------------------|-------------------------|
| <b>(Within a 1.0-mile radius of the subject site)</b> |                               |                        |                        |                    |                         |                         |
| <b>Application Number</b>                             | <b>Application Name</b>       | <b>Zoning District</b> | <b>Proposed Zoning</b> | <b>CC Decision</b> | <b>CC Decision Date</b> | <b>Ordinance Number</b> |
| <b>1741</b>   | Bay Forest Club, LLC          | AR-1                   | MR-RPC                 | Approved           | 2/18/2014               | <b>2338</b>             |
| <b>1768</b>   | Convergence Communities       | AR-1                   | MR-RPC                 | Approved           | 8/11/2015               | <b>2411</b>             |
| <b>1931</b>   | Lands of Lighthipe, LLC       | AR-1                   | MR-RPC                 | Approved           | 10/26/2021              | <b>2807</b>             |
| <b>1987</b>   | Longview Jefferson Creek, LLC | MR-RPC                 | MR-RPC                 | Approved           | 8/29/2023               | <b>2952</b>             |

# Sussex County

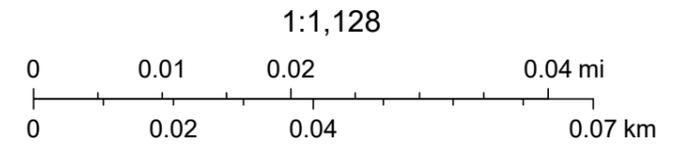


June 25, 2024

- polygonLayer
- Override 1
- Override 2
- Municipal Boundaries

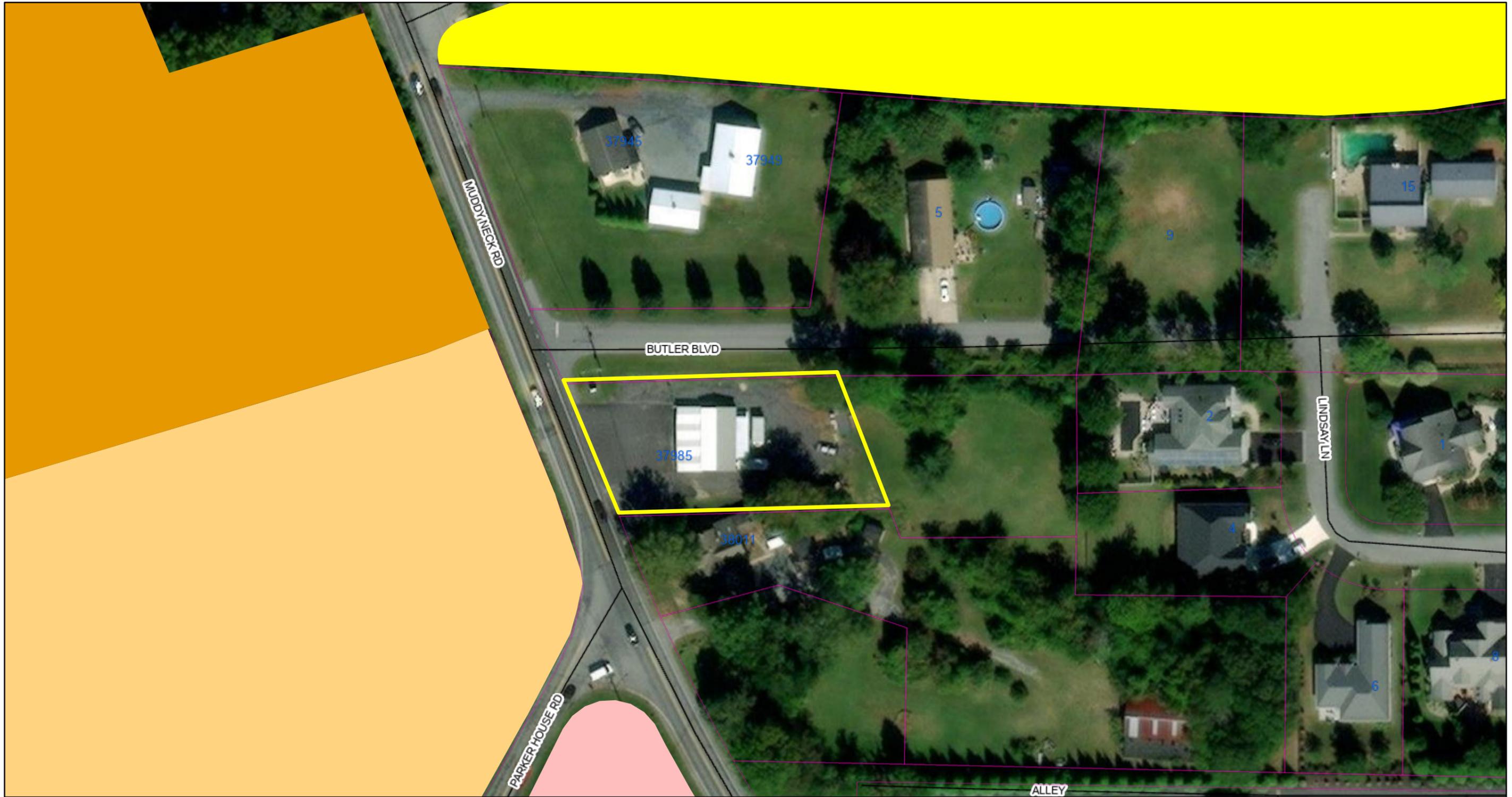
- Tax Parcels
- 911 Address
- Streets

- County Boundaries
- layer43
- Red: Band\_1
- Green: Band\_2
- Blue: Band\_3



Sussex County, Sussex County Government, Sussex County Mapping and Addressing

# Sussex County



June 25, 2024

polygonLayer

 Override 1

 Override 2

Zoning

 Medium Residential - MR

 General Residential - GR

 High Density Residential - HR-1

 B-1: Neighborhood Business

 Tax Parcels

911 Address

 Streets

 County Boundaries

World Imagery

Low Resolution 15m Imagery

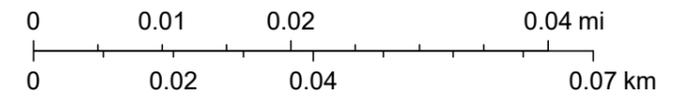
High Resolution 60cm Imagery

High Resolution 30cm Imagery

Citations

30cm Resolution Metadata

1:1,128



Maxar, Microsoft, Sussex County Government, Sussex County Mapping and Addressing

Layers Search Basemaps Select Area Eagleview Print



Eagleview Search Results

Selected Features: Parcels (1)

1) 134-17.00-6.00 Zoom

|                   |                    |
|-------------------|--------------------|
| BOOK              | 5117               |
| PAGE              | 288                |
| FULLNAME          | DTN PROPERTIES LLC |
| Second_Owner_Name |                    |
| MAILINGADDRESS    | 35502 PARKER RD    |
| CITY              | FRANKFORD          |
| STATE             | DE                 |
| a_account         | 02-11-006          |
| DESCRIPTION       | E/RD 361           |
| DESCRIPTION2      | TRACT 1            |
| DESCRIPTION3      |                    |
| LUC               | 999                |
| SCHOOL            |                    |
| MUNI              | 00                 |
| CAP               | 0                  |
| APRBLDG           | 1200               |
| APRLAND           | 6000               |
| PINWASSEMENTUNIT  | 134-17.00-6.00     |
| PIN               | 134-17.00-6.00     |

Navigation icons: Home, Previous, Next, Previous, Next

Selected Features (1)

Clear Selected

Introduced: 3/5/24

Council District 4: Mr. Hudson  
Tax I.D. No.: 134-17.00-6.00  
911 Address: 37985 Muddy Neck Road, Ocean View

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.50 ACRE, MORE OR LESS**

WHEREAS, on the 29<sup>th</sup> day of March 2023, a zoning application, denominated Change of Zone No. 2008 was filed on behalf of DTN Properties, 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 Change of Zone No. 2008 be \_\_\_\_\_; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2024, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,

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

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

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

ALL that certain tract, piece or parcel of land lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the east side of Muddy Neck Road (S.C.R. 361), at the intersection of Muddy Neck Road (S.C.R. 361) and Butler Boulevard, approximately 200 feet north of Parker House Road (S.C.R. 362), and being more particularly described in the attached legal description prepared by Parsons & Robinson, P.A., said parcel containing 0.50 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: August 23, 2024

RE: County Council Report for C/Z 2009 filed on behalf of Double H Development, LLC

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The Planning and Zoning Department received an application (C/Z 2009 filed on behalf of Double H Development, LLC) for a Change of Zone for Tax Parcel 533-19.00-47.00 from an AR-1 Agricultural Residential District, to an MR Medium Density Residential Zoning District. The property is located at 35090 Lighthouse Road, Selbyville. The parcel size is 37.52 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on July 24, 2024. At the meeting of August 21, 2024, the Planning & Zoning Commission recommended approval of the application for the 7 reasons as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of July 24, 2024, and August 21, 2024.

Minutes of the July 24, 2024, Planning & Zoning Commission Meeting

### **C/Z 2009 Double H Development, LLC**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 37.52 ACRES, MORE OR LESS.** The property is lying on the southeast side of Lighthouse Road (Rt. 54) approximately 0.50-mile northeast of Williamsville Road (S.C.R. 395). 911 Address: 35090 Lighthouse Road, Selbyville. Tax Map Parcel: 533-19.00-47.00.

Mr. Whitehouse advised the Commission that submitted into record were a copy of the applicant's conceptual rezoning plan, a copy of the applicant's exhibit booklet, a copy of the applicant's



environmental assessments and public facilities evaluation report, a copy of the proposed restrictive covenants for the property, a copy of the memo relating to drainage assessments, a copy of the staff analysis, a copy of the plus comments, a copy of the applicant's response to the plus comments from the State Planning Office, a copy of the DelDOT SLER, we have comments from the Technical Advisory Committee, including comments from the division of Watershed Stewardship, a copy of a letter from the US Department of Agriculture, a copy of the letter received from the Sussex County Engineering Department, a copy of a letter received from the Delaware Forest Service, comments from Delaware Electric Co-op and Delmarva Power and there are 7 comments.

Mr. David Hutt, Esq., spoke on behalf of the applicant in relation to the property totals 37.5 acres and as was indicated, are two applications, a change of zone application seeking to change the designation of that property on the county zoning map from agricultural residential district to the medium density residential district and the second application is a multifamily conditional use application and that seeks to have 108 single family homes in a multifamily use, which is a condominium style single family home project; that the 2020 state strategies maps that are promulgated by the Office of State Planning Coordination has the property centered on the image and is primarily within a Level 3 area; that the Office of State Planning Coordination says that development and growth may be appropriate in the near term in a Level 3 area; that the resources on the site and in the surrounding area should be carefully considered and accommodated; that there are public water and public sewer available and this area has developed and it is continuing to develop; that this is an appropriate area under the state strategies, but the Planning Commission often looks to 2045 future land use map that's contained within the 2018 update to the Sussex County Comprehensive Plan; that the comprehensive plan states that coastal areas are areas that can accommodate development provided special environmental concerns are addressed, a range of housing types should be permitted in coastal areas, including single family homes, this application certainly would meet that stated permitted purpose; that there is a wide range of various zoning classifications that exist along this area of Route 54; that in addition to all those various zoning classifications, the Counties Staff Memo identified 29 conditional uses within a one mile radius of this site.

Mr. Cliff Mumford an engineer with Davis, Bowen & Friedel spoke on behalf of the applicant that the property has frontage along Lighthouse Road to the north, Route 54, the majority of the Eastern property line is defined by the. Drum Creek Prong 4 tap Stitch, after the ditch turns, the property line continues to the center of the Drum Creek tax ditch; that this ditch defines the southern property boundary along with Americana Bayside; that the western boundary follows the edge of the woods line and runs adjacent with Americana Bayside Melson and there is a right away with Lighthouse Road that completes the loop around the property boundary; that there are approximately 8.259 acres of existing woods with the hatched area inside the woods that are the wetlands that were delineated by Tom Noble; that those wetlands are not classified as resources as defined by Sussex County Code because they are not contiguous to tidal waters or wetlands, and they do not include a surface water connection to adjacent wetlands; that there's some AG ditches that run across the property to the main Prong 4 tax ditch, but there's no pipe connection or ditch connection; that there's a farm route that runs along here that separates the wetlands from the tax ditch; that the property is impacted by two generic tax ditches, Perch Creek Maine and Perch Creek Prong 4, Perch Creek Main runs with Americana Bayside includes at 80 foot right from the top of bank of the ditch, Perch Creek Main will not be impacted by this development; that Perch Creek Prong 4 runs from Lighthouse Rd. down the eastern boundary line with the Toll Brothers property, roughly 12,150 feet and then turns and cuts through the property; that as part of the development we plan to realign Prong 4 to run parallel with

that boundary line with the Toll Brothers until it connects with Perch Creek Main, near the southeastern property corner; that the center line of the ditch will be offset from our property line to not impact the neighboring property and would be wholly contained on our site along with the tax ditch right of way; that a court order change will be required to be filed with DNREC to relocate the tax ditch; that the proposed neighborhood will have an entrance on Lighthouse Rd. (Route 54), which is classified as a major collector by DelDOT; that Lighthouse Rd. includes 12 foot travel lanes and eight foot shoulders, which meets DelDOT standards for a major collector; that the entrance has been sighted to align with New Road which intersects Lighthouse Road from the North; that left and right turn lanes will be provided into the site along with a left turn lane onto New Road based on DelDOT's requirements; that regarding our due diligence with DelDOT, we have submitted an SLER to which they responded that the development site traffic would have a minor impact on area roadways and the project is eligible to pay an area wide study fee in lieu of performing a TIS; that at the entrance, a 10 foot wide shared use path will be along the property frontage; that the closest house will be 70 feet from the right of way of Route 54, and all but two houses at the entrance are greater than 100 feet from any adjacent property lines; that the internal streets will include concrete, curb and gutter and a closed drainage system, 5 foot wide sidewalk on both sides of the streets; that the road and drainage will be designed to meet the requirements of the Sussex County Engineering Department and will be subject to their review and approval; that a Community Center with a square footage of at least 2000 square feet and a pool with a minimum water surface area of 1000 square feet, 2 pickleball courts will be constructed; that the tax ditch's proposed alignment will relocate the Perch Creek Prong 4 tax ditch and it will connect to Perch Creek Main; that the tax ditch right of ways will be maintained by a DNREC tax ditch section in a meadow like manner; that no structures are proposed within the tax ditch right of ways other than the stormwater outfall pipes, which will be subject to review and approval by DNREC; that the western boundary the project proposes a 30 foot landscape and wooded buffer in areas where one does not already exist; that the. Western boundary line is existing woods which will remain and supplement that existing woods line with a 30 foot landscape buffer to the right away or the permanent easement; that 5.449 acres will be preserved, which represents roughly 65% of the existing woods; that the wooded wetlands will not be impacted and a 30 foot voluntary buffer will be provided around them; that open space provided throughout the site includes amenity areas, existing woods, voluntary landscape and wetlands buffers, tax ditch right of ways and stormwater areas that total roughly 18 acres or 49% of the site; that stormwater management will be provided to meet the requirements of Sussex Conservation District; that the project is in tier one of the Sussex County Unified Sanitary Sewer District and they issued a sewer service concept evaluation to demonstrate capacity and provide a connection point near our entrance for sanitary sewer; that's there's an existing gravity sanitary sewer manhole in this location at our entrance that will connect to water service which will be provided by Artesian water company and electricity will be provided by Delaware Electric Cooperative.

Mr. David Hutt stated that the change of zone application to the MR medium density residential district is the nature and character of this area and multifamily dwellings are a conditional use within the MR district; that the purpose of a conditional use as it's set forth in the code is to provide items that are of public or semipublic character that are essential and desirable for the general convenience and welfare of the county and then being able to place certain limitations and conditions on those; that the density that's proposed is slightly lower than those neighboring, with 108 units, is 2.89 units per acre; that Americana, Bayside, the density is 3.35 units to the acre and that excludes the apartments and the Americana Melson portion of it, the density of that is 3.67 units to the acre, and Bay Knolls community has a density of 3.87 units to the acre; that there are significant tax ditch right of ways that exist and what is proposed is for them to be a Meadow like that will show on a site plan; that Meadow

like conditions have a number of benefits from it being attractive to birds and pollinators, it looks better than a manicured lawn or mowed area; that if done correctly, it can have less maintenance involved on an ongoing basis; that tax ditch right of ways have a limit on the amount of maintenance that is supposed to be going on or within them on a regular basis; that there would be a condominium association for the operation and maintenance of the Community properties and amenities; that what's proposed is that the tax ditch right of ways be maintained in a Meadow like manner consistent with DNREC's requirements for tax ditches and on the eastern, western and southern boundary it would be your typical 30 foot wide perimeter, wooded or landscape buffer.

Ms. Wingate asked if the tax ditches were going to be filled in after the relocation of them and ultimately, it's all going to be tied in that the water will still be flowing without any stoppage?

Mr. Hutt stated that the tax ditch will be moved, filled in and reconnected to the main tax ditch along the southern boundary of the parcel.

Mr. Ken Shoyer, spoke on behalf of himself, in opposition to the application that with 108 homes and 2 two cars per house that's 216 houses dumping out on 54 and if anybody has been there on a weekend during the summer, you can't get out; that the development will kill off the wildlife currently living on that land.

Mr. Hutt stated that if approved the next step is to seek that change through a court order that allows the tax ditch to be moved and that hearing is hybrid being more administrative than an open hearing for the public to attend.

Mr. Mumford stated that to move the tax ditch DNREC has special cross sections that they require for the tax ditch and we will match the tax ditch section that's out there now and meet their requirements with certain side slopes and a bottom width that they have figured out; that it needs to be rerouted along that Eastern property line and have 30 foot on either side from top of bank for maintenance and access, and then it will connect into the southern Main Perch Creek tax ditch and DNREC will review the whole set of plans and will be constructed in a way that all of the stormwater runoff from the property remains there or is conducted into a ditch somewhere not causing flooding onto the neighbors.

Mr. James Snyder, spoke on behalf of himself in opposition to the application that the developer will cause him to lose land in the front of his property to allow for the proper entrance requirements; that his home and directly across from the proposed entrance and he wants to ensure that the developer takes from their own land to accommodate the widening of Route 54 where needed.

Chairman Wheatley stated that there should never be a plan that shows them encroaching on your property without your permission, they have to buy it from you, typically the developer would purchase an easement or a strip from you.

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

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

In relation to C/Z 2009 Double H Development, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5 - 0.

Minutes of the August 21, 2024, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since July 24, 2024.

Mr. Mears requested that Mr. Robertson read the motion on his behalf.

Mr. Mears moved that the Commission recommend approval of C/Z 2009 DOUBLE H DEVELOPMENT, LLC, for a change in zone from AR-1 to MR based upon the record made during the public hearing and for the following reasons:

1. This application seeks a change in zone from AR-1 to MR. The purpose of the MR zone is to provide housing in an area which is expected to become urban in character and where central water and sewer is available. The stated purpose of the MR District is satisfied for this site. Both central water and central sewer will be available, and the site is in the vicinity of other properties with the MR zoning designation and higher density residential developments.
2. The proposed MR Zoning meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.
3. The property in the vicinity of a commercially zoned parcel and there are MR- zoned properties in the immediate area. This rezoning is consistent with other zoning and land uses in the area.
4. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. The Coastal Area is a “Growth Area” according to the Plan. MR Zoning is appropriate in this Area according to the Plan.
5. The Comprehensive Plan suggests that higher densities such as those permitted in the MR District can be appropriate where there is water and sewer available, there are appropriate roadways to handle the density, and there are nearby commercial or employment centers. All of those factors are satisfied with regard to this application.
6. The future residential development of this property will require the review and approval of the site plan by Sussex County, the Sussex Conservation District for stormwater management and design. DelDOT for roadway improvements, DNREC for environmental concerns and other State and local agencies with jurisdiction over the project.
7. For all of these reasons, MR zoning is appropriate for this site.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 2009 Double H. Development, LLC., for the reasons and the conditions stated in the motion. Motion carried 5 -0.

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

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

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

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: July 24, 2024

Application: CZ 2009 Double H Development, LLC

Applicant: Double H Development, LLC  
Attn: Robert Horsey  
28107 Beaver Dam Road  
Laurel, DE 19956

Owner: Lawrence & Deborah Long Trustees & Marilyn Elton  
36079 Bayard Road  
Frankford, DE 19945

Site Location: Located on the southeast side of Lighthouse Road (Rt. 54)  
approximately 0.50 mile northeast of Williamsville Road (S.C.R. 395)

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

Proposed Zoning: Medium-Density (MR)

Proposed Use: Multifamily Dwellings (108 Units)

Comprehensive Land  
Use Plan Reference: Coastal Area

Councilmanic  
District: Mr. Hudson

School District: Indian River School District

Fire District: Roxana Fire Co.

Sewer: Sussex County

Water: Artesian

Site Area: 37.523-acres +/-

Tax Map ID.: 533-19.00-47.00



## PLANNING & ZONING COMMISSION

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



## Sussex County

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JAMIE WHITEHOUSE, AICP MRTPI  
PLANNING & ZONING DIRECTOR

# Memorandum

To: Sussex County Planning Commission Members  
From: Mr. Michael Lowrey, Planner III  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: July 12<sup>th</sup>, 2024  
RE: Staff Analysis for CZ 2009 Double H Development, LLC

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This memo is to provide background and analysis for the Planning & Zoning Commission to consider as a part of Application (CZ 2009) Double H Development, LLC to be reviewed during the July 24<sup>th</sup>, 2024 Planning & Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

**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:** 533-19.00-47.00

**Proposal:** The request is for a Change of Zone for Tax Parcel 334-12.00-181.03 to allow for the density to accommodate (108 Units) of multi-family dwellings (108 Units) on a Parcel lying on the southeast side of Lighthouse Road (Rt. 54) approximately 0.50-mile northeast of Williamsville Road (S.C.R. 395). The parcel is comprised 37.523) acres +/-.

**Zoning:** The Parcel is zoned Agricultural-Residential (AR-1) District with the adjacent parcels to the north and east in the Agricultural-Residential (AR-1) Zoning District. Parcels adjacent to the south and west are zoned Medium-Density Residential (MR) Zoning District and Agricultural-Residential (AR-1) Zoning District.

**Future Land Use Map Designation w/in Comprehensive Plan:** The Parcel is “Coastal Area” per the Future Land Use Map element of the 2018 Comprehensive Plan with all the surrounding Parcels within the “Coastal Area” category as well.

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

As outlined in the 2018 Sussex County Comprehensive Plan, Coastal Areas are growth areas that



the County encourages only the appropriate forms of concentrated new development, especially when environmental features are in play. The Coastal Area designation is intended to recognize the characteristics of both anticipated growth and ecologically important and sensitive characteristics. The Plan notes, “A range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units” (2018 Sussex Comprehensive Plan 4-15). In terms of density in the Coastal Area, the Plan provides the following guidelines (2018 Sussex Comprehensive Plan 4-15):

- Medium and higher density (4-12 units per acre) can be appropriate in certain locations
  - Central water and sewer
  - Near sufficient commercial uses and employment centers
  - Keeping with the character of the area
  - Along a main road or at/or near a major intersection
  - Where there is adequate Level of Service
  - Considerations exist that are relevant to the requested project & density

**Further Site Considerations:**

- **Density: (2.8) DU/AC** complies with the Code requirements for this form of residential improvement in the proposed Medium-Density (MR) Zoning District which permits density up to four (4) dwelling units per acre when serviced by central sewer.
- **Open Space Provisions: (18.574 AC +/-) (≈50% of the site)**
- **Agricultural Areas:** The site is located within the vicinity of parcels which appear to be actively farmed. Please include on any plans submitted the Agricultural Use Protection notice located in (§99-6(G)(1)) of the County Code. This language shall also be included within any subsequent deed restrictions, leases, or agreements of sale for the property. Please note, in any new subdivision within 50 feet of the boundary of land used primarily for agricultural purposes, no residential improvement may be constructed within 50 feet of the boundary with the agricultural land (§99-6(G)(2)). The adjacent Parcel to the east is within an Agricultural Preservation District (Country Rooster Expansion).
- **Interconnectivity:** Staff encourage interconnectivity between proposed developments in order to prevent only one-way-in, one-way-out access in the event that an emergency should occur on the property in the future. We recommend the applicant consider incorporating connections to future developments on adjacent parcels fronting on Lighthouse Road in the design.
- **Transportation Improvement District (TID): N/A**

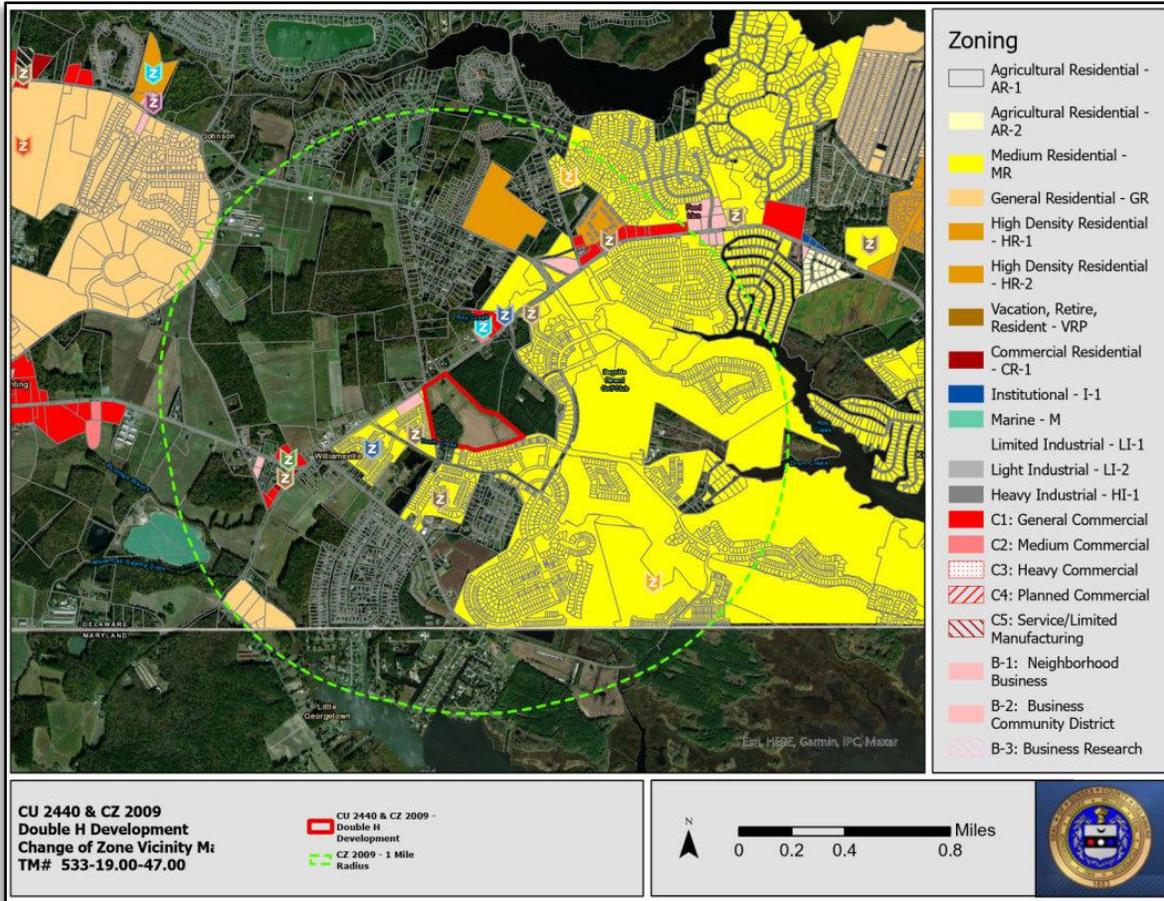
- **Forested Areas:** The Site Plan provided as part of the Application indicates that the wooded area on the site associated with the nontidal wetlands will be largely preserved. Staff appreciate efforts to conserve as many mature trees as possible on the project site.
- **Wetlands Buffers/Waterways:** The Plan indicates the Parcel contains nontidal wetlands ((2.477) Acres +/-) and is proposing buffers around the resources as required under Code.
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is located within Flood Zones “X” and “AE”, with the “AE” area concentrated in the southeast portion of the site where the Drum Creek and Perch Creek (Prong 4) converge. The Parcel is within areas of “Fair” & “Good” Groundwater Recharge Potential.

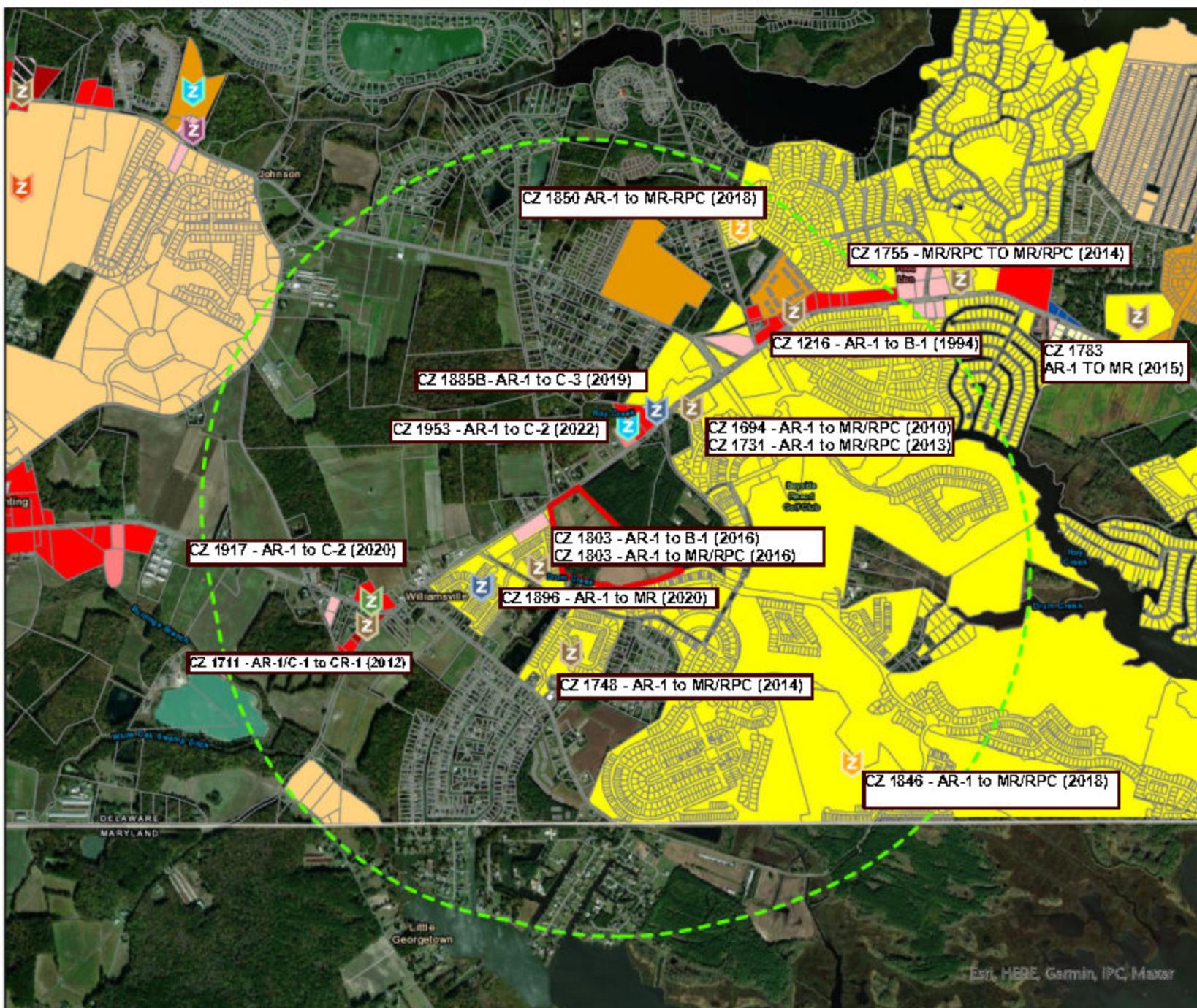
Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for a salon at the site, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

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

| <b>Change of Zone</b>                               |  |                     |                        |                    |                         |                   |
|---|--|---------------------|------------------------|--------------------|-------------------------|-------------------|
| <b>(Within a 1-mile radius of the subject site)</b> |  |                     |                        |                    |                         |                   |
| <b>CZ Number</b>                                    | <b>Application Name</b>                | <b>Zoning Dist.</b> | <b>Proposed Zoning</b> | <b>CC Decision</b> | <b>CC Decision Date</b> | <b>Ord Number</b> |
| <b>1216</b>   | Clarence George Murray                 | AR-1                | B-1                    | 1/4/1994           | Approved                | <b>946</b>        |
| <b>1226</b>   | J. Scott & Mary M. McCurdy             | AR-1                | C-1                    | Approved           | 5/17/94                 | <b>968</b>        |
| <b>1471</b>   | Gladys A. Swann / Trout, Segall, Doyle | AR-1                | B-1&MR/RPC             | Approved           | 7/23/02                 | <b>1555</b>       |
| <b>1694</b>   | C M F Bayside L.L.C.                   | AR-1                | MR/RPC                 | Approved           | 4/13/10                 | <b>2110</b>       |
| <b>1711</b>   | James Moses                            | AR-1 & C-1          | CR-1                   | Approved           | 2/14/2012               | <b>2241</b>       |
| <b>1731</b>   | C M F Bayside L.L.C.                   | AR-1                | MR/RPC                 | Approved           | 7/16/2013               | <b>2314</b>       |

|                    |                                    |        |        |          |            |             |
|--------------------|------------------------------------|--------|--------|----------|------------|-------------|
| <b>1748</b>        | C M F Bayside L.L.C.               | AR-1   | MR/RPC | Approved | 7/15/14    | <b>2355</b> |
| <b>1755</b>        | Bunting-Gray, LLC                  | MR-RPC | MR-RPC | Approved | 10/7/14    | <b>2369</b> |
| <b>1783</b>        | Cauthen Ventures DE, LLC           | AR-1   | MR     | Approved | 12/15/2015 | <b>2431</b> |
| <b>1803</b>        | C M F Bayside L.L.C.               | AR-1   | MR     | Approved | 8/30/2016  | <b>2460</b> |
| <b>1804</b>        | Doug Melson                        | AR-1   | B-1    | Approved | 8/30/16    | <b>2461</b> |
| <b>1805</b>        | CMF Bayside, LLC                   | AR-1   | MR-RPC | Approved | 8/30/16    | <b>2460</b> |
| <b>1846</b>        | CMF Bayside, LLC - Douglas Wiedman | AR-1   | MR-RPC | Approved | 6/5/2018   | <b>2579</b> |
| <b>1850</b>        | Swann Cove West, LLC               | AR-1   | MR-RPC | Approved | 6/26/2018  | <b>2583</b> |
| <b><u>1885</u></b> | 36191 DWB, LLC                     | AR-1   | C-3    | Approved | 8/20/2019  | <b>2678</b> |
| <b>1896</b>        | Fenwick Commons, LLC               | AR-1   | MR     | Approved | 1/14/2020  | <b>2700</b> |
| <b>1917</b>        | Iacchetta Development Corporation  | AR-1   | C-2    | Approved | 7/23/2020  | <b>2731</b> |
| <b>1953</b>        | Brasure Holdings, LLC              | AR-1   | C-2    | Approved | 4/26/2022  | <b>2848</b> |





- ### Zoning
- Agricultural Residential - AR-1
  - Agricultural Residential - AR-2
  - Medium Residential - MR
  - General Residential - GR
  - High Density Residential - HR-1
  - High Density Residential - HR-2
  - Vacation, Retire, Resident - VRP
  - Commercial Residential - CR-1
  - Institutional - I-1
  - Marine - M
  - Limited Industrial - LI-1
  - Light Industrial - LI-2
  - Heavy Industrial - HI-1
  - C1: General Commercial
  - C2: Medium Commercial
  - C3: Heavy Commercial
  - C4: Planned Commercial
  - C5: Service/Limited Manufacturing
  - B-1: Neighborhood Business
  - B-2: Business Community District
  - B-3: Business Research

CZ 1850 - AR-1 to MR-RPC (2018)

CZ 1755 - MR/RPC TO MR/RPC (2014)

CZ 1885B - AR-1 to C-3 (2019)

CZ 1216 - AR-1 to B-1 (1994)

CZ 1783 - AR-1 TO MR (2015)

CZ 1953 - AR-1 to C-2 (2022)

CZ 1694 - AR-1 to MR/RPC (2010)  
CZ 1731 - AR-1 to MR/RPC (2013)

CZ 1917 - AR-1 to C-2 (2020)

CZ 1803 - AR-1 to B-1 (2016)  
CZ 1803 - AR-1 to MR/RPC (2016)

CZ 1896 - AR-1 to MR (2020)

CZ 1711 - AR-1/C-1 to CR-1 (2012)

CZ 1748 - AR-1 to MR/RPC (2014)

CZ 1846 - AR-1 to MR/RPC (2018)

**CU 2440 & CZ 2009**  
**Double H Development**  
**Change of Zone Vicinity M:**  
**TM# 533-19.00-47.00**

- CU 2440 & CZ 2009 - Double H Development
- CZ 2009 - 1 Mile Radius





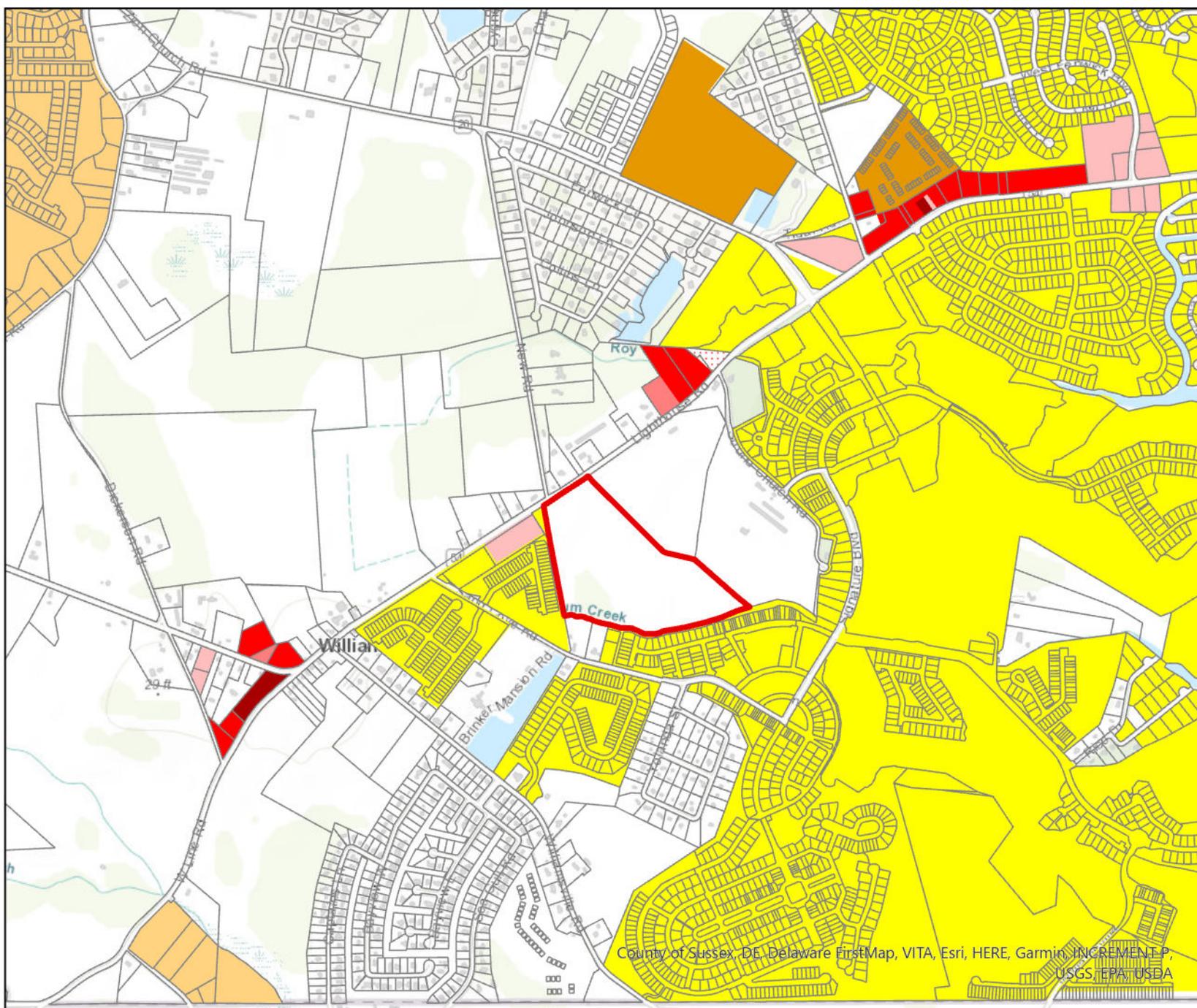
Delaware FirstMap, Esri, HERE, Garmin, INCREMENT P, NGA, USGS

**CU 2440 & CZ 2009  
Double H Development  
Street Map  
TM# 533-19.00-47.00**

 **CU 2440 & CZ 2009 -  
Double H  
Development**

0 250 500 1,000 Feet

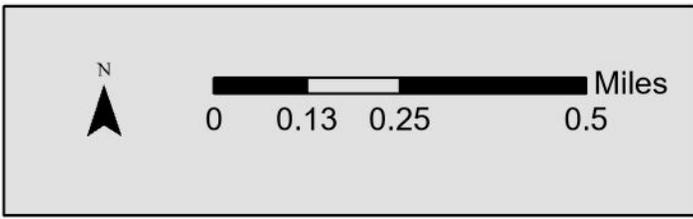




- ### Zoning
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**CU 2440 & CZ 2009  
Double H Development  
Zoning Map  
TM# 533-19.00-47.00**

**CU 2440 & CZ 2009 -  
Double H  
Development**



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



Bayside  
Resort  
Golf Club

Drum Creek

Maxar, Microsoft, Esri, HERE, Garmin, IPC

**CU 2440 & CZ 2009**  
**Double H Development**  
**Aerial Map**  
**TM# 533-19.00-47.00**



CU 2440 & CZ 2009 -  
Double H  
Development



0 250 500 1,000 Feet



Introduced: 5/21/24

Council District 4: Mr. Hudson  
Tax I.D. No.: 533-19.00-47.00  
911 Address: 35090 Lighthouse Road, Selbyville

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

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 37.52 ACRES, MORE OR LESS**

WHEREAS, on the 6<sup>th</sup> day of April 2023, a zoning application, denominated Change of Zone No. 2009 was filed on behalf of Double H. Development, 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 Change of Zone No. 2009 be \_\_\_\_\_; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2024, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,

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

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

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

ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the southeast side of Lighthouse Road (Rt. 54) approximately 0.50 mile northeast of Williamsville Road (S.C.R. 395) and being more particularly described in the attached legal description prepared by David W. Baker, Esq., P.A., said parcel containing 37.52 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.