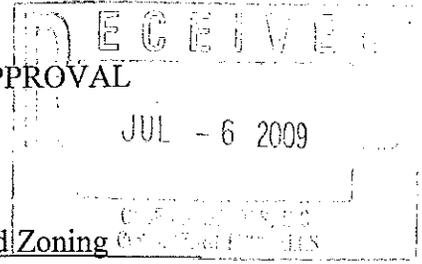


EVIDENCE OF LOCAL ZONING AND PLANNING APPROVAL



I, Lawrence B. Lank, for Sussex County Planning and Zoning

(Name of County, City of Town)

do hereby affirm that the project proposed by Tidewater Enviromental Services, Inc.
(Name of Applicant)

located at (see attached sheets), in
(Address)

the AR-1 Agricultural Residential District zoning district is in

full compliance with the zoning code as it applies to this project. (See attached findings of fact @ Conditional Use No. 1792 (Ordinance No. 2019))

The above named applicant's project is in compliance with the adopted comprehensive development plan for the geographic area within which the project will be located.

Lawrence B. Lank

(Signature)

Director of Planning and Zoning

(Title)

7.1.09

(Date)

This part is essential for a complete Coastal Zone Act Permit Application. No application will be considered administratively complete without it. While the applicant is strongly advised to use this form, the local zoning jurisdiction may utilize a different form or document to demonstrate "evidence of local zoning approval," provided such documents are signed and dated by the proper official.

319-139

EVIDENCE OF LOCAL ZONING AND PLANNING APPROVAL
FOR
COASTAL ZONE APPLICATION
(Continued)

Property Location:

Parcel 2-34-11.00-48.00

Located approximately 1775 feet from the intersection of Jolyns Way (Cty. Rd. 289) and John J. Williams Highway (SR 24). Bounded on the west side by Robbinsville Road (Cty Rd. 277). On the east side by John J. Williams Highway (SR 24). On the south side by a drainage ditch.

Parcel 2-34-11.00-50.00

Located approximately 1775 feet from the intersection of Jolyns Way (Cty. Rd. 289) and John J. Williams Highway (SR 24). Bounded on the west side by John J. Williams Highway (SR 24). On the east side partially by. On the north side partially by Jolyns Way (Cty. Rd. 289) .

Parcel 2-34-7.00-127.00

Located on the northwest corner of the intersection of Jolyns Way (Cty. Rd. 289) and Arrowhead Road (Cty. Rd. 279).

Parcel 2-34-7.00-130.00

Located on the east side of the intersection of Jolyns Way (Cty. Rd. 289) and Arrowhead Road (Cty. Rd. 279). Bounded on the north side by the Love Creek Woods Subdivision. On the west side by Love Creek. On the east side by Arrowhead Road (Cty. Rd. 279).

EVIDENCE OF LOCAL ZONING AND PLANNING APPROVAL
FOR
COASTAL ZONE APPLICATION
(Continued)

| <u>District</u> | <u>Map</u> | <u>Parcel</u> | <u>Hundred</u> | <u>Square Area</u> |
|-----------------|------------|---------------|----------------|--------------------|
| 2-34 | 11.00 | 48.00 | Indian River | 48.53 Ac +/- |
| 2-34 | 11.00 | 50.00 | Indian River | 147.74 Ac +/- |
| 2-34 | 7.00 | 127.00 | Indian River | 29.17 Ac +/- |
| 2-34 | 7.00 | 130.00 | Indian River | 94.77 Ac +/- |

ORDINANCE NO. 2019

With Conditions

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REGIONAL WASTEWATER COLLECTION, TREATMENT AND DISPOSAL FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 320.21 ACRES, MORE OR LESS

WHEREAS, on the 16th day of April 2008, a conditional use application, denominated Conditional Use No. 1792 was filed on behalf of Tidewater Environmental Services, Inc; and

WHEREAS, on the 26th day of June 2008 a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 28th day of August 2008, said Planning and Zoning Commission recommended that Conditional Use No. 1792 be approved with conditions; and

WHEREAS, on the 22nd day of July 2008 and the 9th day of December 2008, public hearings were held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1792 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on both sides of Route 24 (John J. Williams Highway), southeast of Road 277 (Robinsonville Road), both sides of Road 289 (Jolyns Way) and both sides of Road 279 (Camp Arrowhead Road) and being more particularly described in the legal description provided by Charles D. Murphy Associates, Inc. and being four (4) parcels containing a total of 320.21 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.

This Ordinance was adopted subject to the following conditions:

1. All improvements for collection, treatment and disposal of sanitary waste shall be constructed and maintained in accordance with the requirements of the Sussex County Engineering Department, if any, or the Delaware Department of Natural Resources and Environmental Control, and any other governmental agency with jurisdiction over the use of the site, or any modification thereto.
2. The Applicant shall submit to the Sussex County Engineering Department, a regional plan that shows all the areas and/or subdivisions to be served by the wastewater treatment and disposal facility. Said plan shall include technical support that demonstrates that capacity exists at the treatment and disposal facility to serve the areas and/or subdivisions.
3. The facility shall not receive sanitary waste for treatment and disposal from any property or parcel that is located within a Sussex County sewer planning area or sewer district; excepting there from those properties or parcels which are currently being served by other Tidewater Environmental Services, Inc. treatment and disposal facilities or approved for service as evidenced by a CPCN being issued by the Public Service Commission on or before the adoption of this conditional use ordinance.
4. The Final Site Plan shall be subject to review and approval by the Sussex County Planning and Zoning Commission.
5. Irrigation Lagoon "A", the lagoon pumping station, the headwork's building, the control building, the biological treatment tanks, and the emergency generator shall be relocated to the east of Rapid Infiltration Basins Area A on Sussex County Tax Map Parcel No. 2-34-11.00-50.00. The vacated area on Tax Map Parcel No. 2-34-11.00-48.00 may be used as a spray area.
6. The buildings shall appear to be agricultural buildings. With the exception of emergency generators, holding and treatment tanks that may be located on the site, all other equipment needed in the operation of the facility shall be located indoors. The generators shall be housed in enclosures to reduce noise.

7. Any security lighting shall be screened so that it does not shine onto neighboring properties or public roads.
8. A minimum 50 foot un-forested buffer will be maintained around all spray irrigation areas.
9. A minimum 50 foot forested buffer will be maintained around the Midway Baptist Church.
10. This regional facility shall make its services available for any failing septic system in its proposed service areas.
11. Any lagoons, rapid infiltration basins, spray irrigation systems or similar structures shall be located at least 50 feet from any dwelling.
12. One lighted sign shall be permitted on the site containing the treatment buildings, not to exceed 32 square feet in size. Unlighted signs, not to exceed 32 square feet in size shall be permitted on other parcels that are part of this application.
13. Perimeter fencing around the control building, headwork's building, lagoon pumping station, treatment and holding tanks, irrigation lagoons "A" and "B", and rapid infiltration bed areas "A" and "B", will be visibly screened from neighboring properties and roads through the use of native species trees.
14. The Final Site Plan shall include a landscaping plan to include all proposed buffers.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2019 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 9TH DAY OF DECEMBER 2008.


ROBIN A. GRIFFITH
CLERK OF THE COUNCIL

The Council found that the Conditional Use was appropriate legislative action based on the following findings of fact:

1. This is a Conditional Use application in an AR-1 Agricultural Residential District for a regional wastewater collection, treatment and disposal facility to be located on 320.21 acres of land lying and being in Indian River Hundred on the south side of State Route 24, southeast of County Road 277 and abutting County Roads 279 and 298 in Indian River Hundred, Sussex County, Delaware.

2. The subject properties are owned by Wandendale Farms, Inc. and are leased to the Applicant under a long term lease dated September 14, 2007.
3. Tidewater Environmental Services, Inc. has agreed with Wandendale Farms, Inc. to lease, occupy and use parcels of land located in Indian River Hundred identified on the Tax Maps of the Sussex County Department of Finance as T.M. No. 2-34-11.00-48.00 (48.53 a. +/-); T.M. No. 2-34-11.00-50 (147.74 a. +/-); T.M. No. 2-34-7-127 (29.17 a. +/-); and T.M. No. 2-34-7.00-130 (94.77 a. +/-).
4. The sites are presently used for agricultural purposes or are wooded.
5. The Conditional Use is for this facility to be available regionally to serve projects and customers within its certificated areas as may be required by the Public Service Commission or who otherwise become interested in connection.
6. Tidewater Environmental Services, Inc. has applied for and/or acquired Certificates of Public Convenience and Necessity to serve several certificated parcels in the region and has or will have its tariffs approved by the Public Service Commission.
7. Concerns raised by adjoining property owners, including the fire company and residential developments, as to the location of the lagoon and treatment facilities, such as traffic, noise, odor, etc. have been addressed by relocating these facilities to the east of Route 24.
8. This application is appropriate at the subject sites because it is in an area of development where regionalized wastewater treatment is not otherwise available to all properties or projects.
9. The granting of this application will provide a regionalized wastewater collection, treatment and disposal facility that will safely serve the communities and will not harm the environment.
10. The Conditional Use requested will promote the health and safety of the inhabitants of Sussex County and nearby properties' projects that have been or will be approved for development.
11. The application conforms to the Comprehensive Land Use Plan in that:

- The regional wastewater facility will reduce the level of nutrients entering the inland bays;
- The regional wastewater facility will recharge the aquifer;
- The regional wastewater facility will cause no harm to area wells;
- The regional wastewater facility will reduce aquifer withdrawal;
- The regional wastewater facility will be available to replace failing septic systems in its service areas;
- The regional wastewater facility will preserve agricultural uses in the area;
- The regional wastewater facility will preserve open space and forest land.

12. Subject to the fourteen (14) conditions, this regional facility will not conflict with any proposed Sussex County service or planning area.

13. Based on the record and recommendation of the Commission and the findings of Council, the Conditional Use was approved subject to the fourteen (14) conditions, which will serve to minimize any potential impacts on the surrounding area.