



Sussex County Council Public/Media Packet

**MEETING:
January 20, 2015**

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**Sussex County Council
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(302) 855-7743**

MICHAEL H. VINCENT, PRESIDENT
SAMUEL R. WILSON JR., VICE PRESIDENT
ROBERT B. ARLETT
GEORGE B. COLE
JOAN R. DEAVER



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Sussex County Council

AGENDA

JANUARY 20, 2015

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Public Comments

Barbara Vaughn, Greater Lewes Scenic and Historic ByWays

Todd Lawson, County Administrator

1. Administrator's Report

Hal Godwin, Deputy County Administrator

1. Legislative Update

Anthony Digiuseppe, Jr., Planning Technician

1. Bartolotti Expansion of the Long Neck Sanitary Sewer District

A. Request to Prepare and Post Notices

10:30 a.m. Public Hearing

“AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, ARTICLE I, “GENERAL PROVISIONS”, AND ARTICLE XVIII “FLOOD PRONE DISTRICTS”, AND ARTICLE XXV “SUPPLEMENTARY REGULATIONS”, SECTION 115-189, “COASTAL AND FLOOD-PRONE AREA PROTECTION”



Old Business

**Conditional Use No. 2001
Christina Abramowicz**

Grant Requests

- 1. Mt. Olivet United Methodist Church for Cub Scout Pack 182 for the annual banquet and project costs.**
- 2. Milton Little League for park improvement project.**
- 3. City of Seaford for a sign honoring veterans.**
- 4. Boys & Girls Clubs of Delaware for the Annual Fund for Kids.**

Introduction of Proposed Zoning Ordinances

Council Members' Comments

Executive Session – Personnel and Land Acquisition pursuant to 29 Del. C. §10004(b)

Possible Action on Executive Session Items

Adjourn

Sussex County Council meetings can be monitored on the internet at www.sussexcountype.gov.

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on January 13, 2015 at 4:20 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 listed may be considered out of sequence.

###

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 13, 2015

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 13, 2015, at 1:05 p.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
Samuel R. Wilson, Jr.	Vice President
Joan R. Deaver	Councilwoman
Robert B. Arlett	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

[Councilman George Cole was absent.]

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 018 15
Amend
and
Approve
Agenda**

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to amend the Agenda by deleting "Executive Session – Land Acquisition pursuant to 29 Del. C. §10004(b)" and "Possible Action on Executive Session Items"; and to approve the Agenda, as amended.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Arlett, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

Minutes

The minutes of January 6, 2015 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

**BOYS & GIRLS CLUBS OF DELAWARE, WILMINGTON,
DELAWARE.**

RE: Letter in appreciation of Human Service Grants.

**Public
Comments**

Under Public Comments, Paul Reiger commented on the Constables Office and animal/livestock complaints.

Under Public Comments, Dan Kramer commented on the Land Use Planner position.

**M 019 15
Approve
Consent
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to approve the following items listed under the Consent Agenda:

**Wastewater Agreement No. 918-10
Sussex County Project No. 81-04
Bay Forest Club – Phases 4.1 (Construction Record)
Millville Expansion of the Bethany Beach Sanitary Sewer District**

**Wastewater Agreement No. 918-11
Sussex County Project No. 81-04
Bay Forest Club – Phases 4.2 (Construction Record)
Millville Expansion of the Bethany Beach Sanitary Sewer District**

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Arlett, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**Committee
Appoint-
ments/
Airport
Advisory
Committee**

The Council considered appointments to both the Airport Advisory Committee and the Personnel Committee.

The Advisory Committee consists of seven appointments by the Sussex County Council; the members serve a term of one year. The Committee's current membership is as follows: one representative of the Fixed Base Operator (Garrett Dernoga), one non-commercial airport tenant (Larry Kelley), one commercial airport tenant (Jeff Reed), two airport-based aircraft owners (Rick Garner & Gus Croll), one Industrial Park tenant representative (Mark Ryan), and one representative at-large (Richard Wilson). Mr. Lawson reported that the members have agreed to serve another one year term.

**M 020 15
Approve
Appoint-
ments**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, that the Sussex County Council approves the Airport Advisory Committee appointments for a term of one year, as presented.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Arlett, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**Committee
Appoint-
ments/
Personnel
Committee**

The Personnel Committee is required by both State Code and County Code; the Committee consists of three members who serve a term of three years. Mr. Lawson reported that the following members have agreed to serve another term of three years: Dave Kenton, Michael Owens, and Clay Yocum.

**M 021 15
Approve
Appoint-
ments**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, that the Sussex County Council approves the Pension Committee appointments for a term of three years, as presented.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Arlett, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**Adminis-
trator's
Report**

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

1. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Hunters Walk - Phase 2 (Buildings C, D, E, G, and H) received Substantial Completion effective January 6, 2015.

2. County Administration Building Natural Gas Conversion Project

Please be advised, the County Administration building recently went through a natural gas conversion project whereby the main source of heat and hot water was converted from propane to natural gas. The project was a great success and I want to specifically thank Doug Stoakley and his staff in Buildings & Grounds for managing the installation. Based on our average annual consumption, the County should save approximately \$6,600 from the natural gas conversion.

3. Martin Luther King, Jr., Holiday

County offices will be closed on Monday, January 19th, for the Martin Luther King, Jr., holiday. Offices will reopen on Tuesday, January 20th, at 8:30 a.m., and the County Council will have its regularly scheduled meeting at 10:00 a.m.

[Attachments to the Administrator's Report are attachments to the minutes.]

**Downtown
Develop-
ment
Districts
Program**

Melody Booker-Wilkins, Sussex County Economic Development Director, and Dianne Laird, Delaware Downtown District Coordinator for the Delaware Economic Development Office, provided an overview of the new Delaware Downtown Development District (DDD) Program, which was established by the Legislature in 2014. Ms. Laird stated that the purpose of the Program is to spur development and redevelopment of downtown properties, both commercial and residential. Ms. Laird reported that, this week, the Governor announced that three municipalities have been selected, Seaford, Dover and Wilmington, for designation as Downtown Development Districts. These municipalities are the State's first three designated districts (one in each County). Ms.

**Downtown
Develop-
ment
Districts
Program
(continued)**

Laird stated that there is no time frame for the addition of new districts as it will be a periodic addition of communities. Ms. Laird discussed the grant program, State and municipal incentives, and general limitations.

Ms. Booker-Wilkins reported on Kent County’s matching grant incentive (\$200,000 allocation) that is to be utilized in a designated Downtown District in Kent County.

Ms. Laird and Ms. Booker-Wilkins responded to Council’s questions and comments.

Mr. Moore read the Rules of Procedure for Public Hearings.

**Public
Hearing/
CU 1992**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A VENDOR (LUNCH TRUCK) TO SELL FOODS AND BEVERAGES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 16,820.70 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1992) filed on behalf of W. Ralph Brumbley (Tax Map I.D. 235-7.00-44.00).

The Planning and Zoning Commission held a Public Hearing on this application on August 7, 2014 at which time action was deferred. On August 21, 2014, the Commission recommended that the application be approved with conditions.

On October 7, 2014 the Sussex County Council held a Public Hearing on this application and found that the Applicant was not in attendance; the application was denied due to the lack of a record.

On December 2, 2014, the Sussex County Council discussed this application for the purpose of further consideration and were advised that there were extenuating circumstances involving the application; that inaccurate information was provided to the Applicant causing him to miss the Public Hearing; that legal staff agreed that a Motion to rescind the vote was appropriate in this case; and that there was a vote to rescind the vote of denial of October 7, 2014.

(For additional information, see the minutes of the meeting of the Planning and Zoning Commission dated August 7 and 21, 2014 and the minutes of the Sussex County Council dated October 7 and December 2, 2014.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing.

The Council found that W. Ralph Brumbley was present on behalf of his application and he stated that he wants to open a lunch truck for the adjoining manufactured home park and others that want to stop by; that

**Public
Hearing/
CU 1992
(continued)**

there is an exit off of Route One to the property to Route One; that the site has a large parking area; that there is an exit off of Route One to the property; and that the use would be an asset to the neighborhood.

There were no public comments in support of or in opposition to the application.

The Public Hearing and public record were closed.

**M 022 15
Adopt
Ordinance
No. 2383
(CU 1992)**

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to Adopt Ordinance No. 2383 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A VENDOR (LUNCH TRUCK) TO SELL FOODS AND BEVERAGES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 16,820.70 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1992) filed on behalf of W. Ralph Brumbley, with the following conditions:

- A. The use shall be limited to a mobile or temporary food and beverage vendor. When not in continuous operation, it must be removed from the site and must not become permanently located on the site.
- B. The use shall comply with all setback and parking requirements.
- C. The applicant shall comply with all DelDOT requirements, including entrances from Route One.
- D. Any trash containers associated with the use shall be screened from view of neighboring properties and roadways.
- E. The hours of operation shall be from 6:00 a.m. until 9:00 p.m.
- F. The Final Site Plan for this use shall be subject to the review and approval of the Sussex County Planning and Zoning Commission. In addition to parking and other requirements of a Final Site Plan, it shall also show the location of the picnic tables or tents that were proposed by the Applicant.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Arlett, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CU 1994**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN

**Public
Hearing/
CU 1994
(continued)**

AUTOMOBILE REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.5 ACRES, MORE OR LESS” (Conditional Use No. 1994) filed on behalf of Robert Wilkerson (Tax Map I.D. 235-22.00-18.09).

The Planning and Zoning Commission held a Public Hearing on this application on August 21, 2014 at which time action was deferred. On September 11, 2014, the Commission recommended that the application be approved, with conditions.

On October 14, 2014, the Sussex County Council held a Public Hearing on this application and found that the Applicant was not in attendance; the application was denied due to the lack of a record.

On December 2, 2014, the Sussex County Council discussed this application for the purpose of further consideration and was advised that there were extenuating circumstances involving the application; that the original public hearing was scheduled for October 21, 2014 but was rescheduled for October 14, 2014; that the date of the public hearing before the Council was not updated (on the notice posted on the Applicant’s property) to show the rescheduled date; that legal staff agreed that a Motion to rescind the vote was appropriate in this case; and that there was a vote to rescind the vote of denial of October 14, 2014.

(For additional information, see the minutes of the meeting of the Planning and Zoning Commission dated August 21 and September 11, 2014 and the minutes of the Sussex County Council dated October 14 and December 2, 2014.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing.

Mr. Lank reported that the County has received 27 letters and emails in opposition to the application and a petition in opposition to the application containing 68 signatures, including pictures and exhibits.

The Council found that Robert Wilkerson was present on behalf of his application. Mr. Wilkerson explained that he proposes to repair cars for the general public; that he provides repair service at a lower cost to help people who are less fortunate; that he wants to provide this service to the community; that he has cleaned up the property and properly maintains it; that he works on a lot of older cars and sometimes has to order parts for the older cars, which results in the cars being on the property for a longer period of time; and that he tries to get them out as quickly as possible.

One person was in attendance at the Public Hearing in support of the application.

**Public
Hearing/
CU 1994
(continued)**

Maury Crawford, Jean Boudah, Nicki Trigg, Beverly Santi, Maureen Gasparik, and Roger Beaudin spoke in opposition to the application referencing environmental, traffic, and aesthetic concerns. They stated that the original building on the property was built under AR-1 zoning as a storage building (for agriculture); that it is being repurposed as a car repair service and there are not the proper accommodations to do that; that on January 6, 2015, there were 18 vehicles on the property which is not in agreement with the conditions read (at the Public Hearing before the Planning and Zoning Commission); that the Applicant has one car for sale on the property; that the building would need extensive remodeling for use as an auto repair shop; that the property looks like a junk yard and is an eyesore; that the character of the area is residential – many housing developments are located in the area; that there are no restroom facilities; that there is no electricity; that they do not support the need for an auto repair shop in the area; that the proposed use is not compatible with the area; that the Applicant will have to work on the cars outside; that there will be fluids leaking into the ground (gas, oil, antifreeze); that there are people on the site after-hours and there are night activities; that the shop has been open on Sundays; that the Applicant's original proposal was to repair autos for family and friends and the proposed use has now gone beyond that; that old cars need parts which result in cars sitting on the site for a long time; that the Applicant has been averaging 18 vehicles daily since mid-summer; that there were 28 vehicles on the site one day; that some of the vehicles appear to be junk cars; that if the Conditional Use is granted, it will set a precedent; and that other proposed uses in the area were turned down, i.e. cell tower and convenience store.

Mr. Moore questioned that, if the Conditional Use application is not approved, would the Applicant be able to work on the site. Mr. Lank responded, no, since the Applicant does not live on the site; however, the site can be used for his personal use and the accessory building is permitted since the site is on an acre or more.

The Public Hearing and public record were closed.

**M 023 15
Defer
Action on
CU 1994**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to defer action on Conditional Use No. 1994 filed on behalf of Robert Wilkerson to allow time for Councilman Cole to listen to the audio of the Public Hearing so that he can participate in the vote on the application.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Arlett, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**Grant
Requests**

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

M 024 15 **A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to give Countywide Youth Grant \$300.00 from the Countywide Youth Grant Account to the Delaware Association of Conservation Districts for the Delaware Envirothon program.**

Motion Adopted: 3 Yeas, 1 Nay, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Arlett, Nay; Mr. Wilson, Yea;
Mr. Vincent, Yea**

M 025 15 **A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to give Councilmanic Grant \$2,500.00 (\$1,250.00 each from Mr. Cole’s and Mr. Arlett’s Councilmanic Grant Accounts) to the Lower Sussex Little League for field improvements.**

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Arlett, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

Introduction of Proposed Ordinances **Mrs. Deaver introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HR-1 – RPC HIGH DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 19.52 ACRES, MORE OR LESS” (Change of Zone No. 1766) filed on behalf of Stonemark Ventures, LLC (Tax Map I.D. No. 334-5.00-222.01) (911 Address: None Available).**

Mrs. Deaver introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.867 ACRES, MORE OR LESS” (Change of Zone No. 1767) filed on behalf of Adel M. Baghoui. (Tax Map I.D. No. 334-10.00-31.05 and 31.06) (911 Address: 28990 Lewes–Georgetown Highway, Lewes).

The Proposed Ordinances will be advertised for Public Hearing.

Council Members’ Comments **Mrs. Deaver commented on the new agenda item entitled “Council Members’ Comments” and Mr. Arlett thanked those that were in attendance at the Public Hearings on this date.**

**M 026 15
Adjourn**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to adjourn at 2:43 p.m.

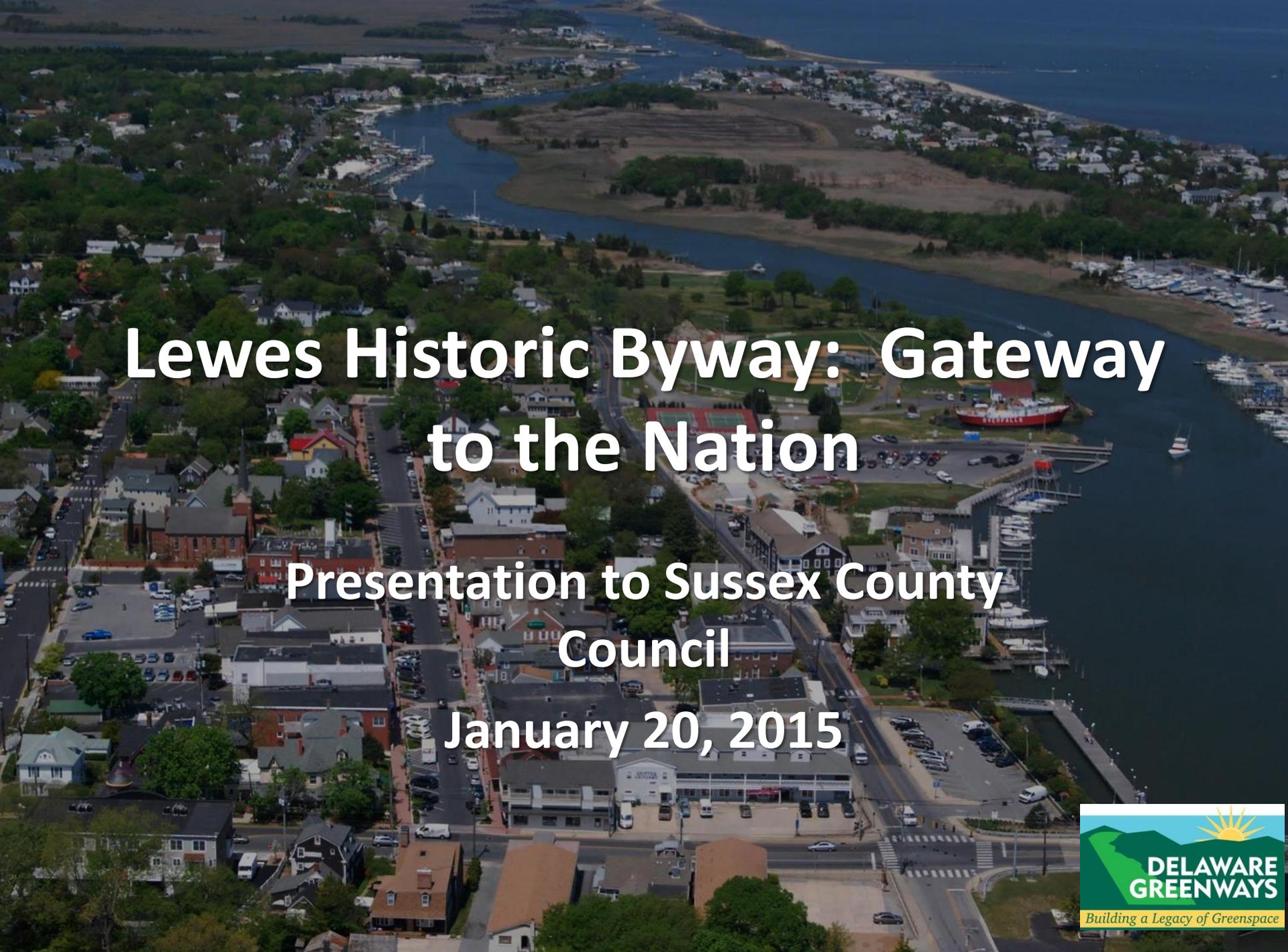
Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Arlett, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

Respectfully submitted,

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

DRAFT

An aerial photograph of Lewes, Delaware, showing a river winding through the town. The river is filled with boats and has a red boat named 'HYC FALLS' docked. The town is built on a peninsula, with houses and buildings visible. The water is blue, and the sky is clear.

Lewes Historic Byway: Gateway to the Nation

Presentation to Sussex County
Council

January 20, 2015



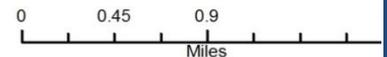
The Roads of the Lewes Historic Byway

Land and Sea Gateways



Legend

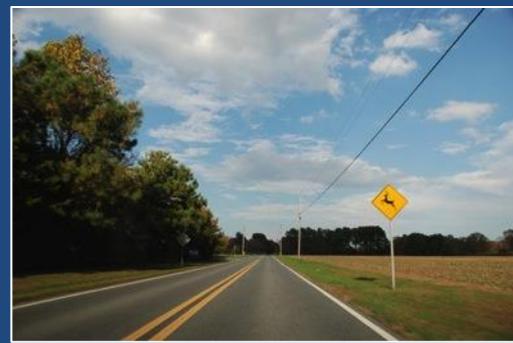
- Lewes Byway
- - - Junction & Breakwater Trail
- - - Cape Henlopen Trails
- - - Gordons Pond Trail
- - - American Discovery Trail
- - - Georgetown-Lewes Rails-With-Trails (proposed)
- City of Lewes
- Protected Lands



Created: Andrea Trabelsi, 10/23/2012
 Sources: Delaware Greenways, DNREC, DelDOT, National Geographic

Mission

To preserve and enhance the gateways to Lewes, its treasured landscapes, its rich heritage and its outstanding natural resources in a manner sensitive to the needs of the many individuals, communities and businesses that helped shape it.



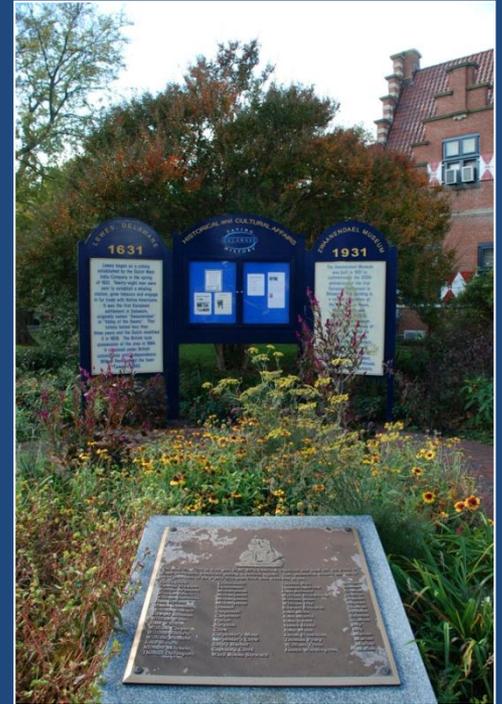
History



- Sponsored by the City of Lewes, through the Scenic and Historic Byways Committee with County participation
- First meeting on Byway June 2, 2008
- Byway nomination approved by DelDOT in 2009 per Senate Bill 320, DE Scenic and Historic Highways Program
- Byway officially extended to Route 1 November 13, 2014
- Corridor Management Plan (CMP) Funding \$117,000 Federal Byway Grant, \$50,000 from Legislators, \$9,000 in-kind services by volunteers.

What is a CMP and What does it Accomplish

A Corridor Management Plan spells out how the community intends to keep their byway scenic or historic.



Accomplishments

- Nomination Application Approved 2009
- CMP Phase 1: Public Outreach Report: Completed December 2012; over 27 citizen meetings held
- Transportation Management Study: Completed December 2013, data collection by 27 volunteers over three days
- CMP Plan Development: 14 committee and public meetings, numerous small group meetings. Completion set for April 2015.



Goals and Resultant Strategies

1. Preserve the Character of the Lewes Historic Byway
2. Address Byway safety, mobility and accessibility while maintaining its character defining features
3. Enhance the Visual Quality and Travel Experience of the Byway Corridor
4. Enhance Recreation Opportunities
5. Use the Lewes Scenic and Historic Byway to enhance the travel experience of visitors and residents by increasing awareness and appreciation of Lewes and its historical setting through storytelling.
6. Use the Lewes Historic Byway as a tool for spreading out visitation beyond the beach and the summer season and enhancing the quality of life for visitors

Kings Highway at Gills Neck Road

Proposed Master Plan

Goal 2 and Goal 3



Kings Highway at Gills Neck Road: Proposed Boulevard

Lardner-Klein

Access to the Great Marsh at Green Hill Light

Goal 4



Pilottown Road: Boardwalk Destination Concept Drawing

Lardner-Klein

Benefits to the County

Scenic and Historic Highway Designation provides official recognition of the special nature of the Byway meaning:

- Increased business tax revenue and jobs from tourist dollars
- Access to Federal and state funding for implementing the CMP
- Improved maintenance of the Byway Roadways
- Access to resources and expert assistance to manage the Byway
- Identification on state highway maps and directional signing to increase tourism
- Assistance from offices of state economic development and tourism

Management Entity

Protect, Preserve and Enhance the Byway by:

- Managing the day to day affairs of the Byway
- Implementing the Corridor Management Plan
- Raise funding to implement projects
- Maintain and generate support for the Byway
- Work with all levels of government to affect needed policy changes



Next Steps

- Complete the CMP and have it approved by DelDOT, erect Byway signs
- Form the Management Entity:
 - Recommend Joint City/County Partnership
- Implement Projects from the CMP. Underway:
 - Transportation Management Plan
 - Context Sensitive Master Plan for Kings Highway and Gills Neck Road
 - Develop business plan
 - Prioritize remaining projects depending upon available funding

An aerial photograph of a rural landscape. A paved road runs diagonally from the top left towards the bottom center. To the left of the road is a large, flat, light-brown field. To the right of the road is a residential area with several houses and a large, dense forest. In the background, there are more fields and a line of trees. The overall scene is a mix of agriculture, residential development, and natural greenery.

Questions and Discussion

Contact:
Gail Van Gilder, Chair Lewes
Scenic and Historic byway
Committee
gvangilder@comcast.net

Strategy or Action		Potential Partners	Implementation Technique	Phase
<p>Goal 1: Preserve the Character of the Lewes Historic Byway <i>Preserve and maintain the character-defining features of the Lewes Historic Byway including important views, open spaces, recreational opportunities, and historic and cultural features that contribute to its significance as a Delaware Scenic and Historic Byway</i></p>				
1.1	<p>Develop preservation priorities Rationale: The preservation needs for the byway exceed the annual capacity of the conservation and preservation organizations and agencies. By setting priorities for preservation action, the most critical needs can be addressed first while the less immediate needs can be incorporated into longer term policy and planning activities.</p>	<ul style="list-style-type: none"> FORTHCOMING 	Local plans and policies	TBD
1.2	<p>Link the byway’s preservation needs with the Delaware Bay Rationale: Areas with strong preservation interests among multiple organizations will increase leverage and competitiveness for scarce preservation resources. Of particular importance to the byway are the natural resource, water quality, and sea-level rise related conservation priorities associated with the Great Marsh and Canary Creek and with Cape Henlopen State Park.</p>	<ul style="list-style-type: none"> 	Local, state and federal plans and policies; collaborate with partners to identify and pursue funding for conservation measures	
1.3	<p>Link the byway’s preservation needs as a critical element in the long-held vision of a greenbelt around Lewes Rationale: Each of the byway routes travels through the remaining of undeveloped land in Lewes. Planning and visioning efforts in the past have all identified the goal of establishing a greenbelt around the City of Lewes to physically separate the historic town from its more modern commercial corridor along Route 1. By linking the byway’s interests in establishing gateways into Lewes with the goal of preserving a greenbelt around Lewes, more leverage and commitment can be established for preserving the open space priorities associated with both goals.</p>	<ul style="list-style-type: none"> 	Local plans and policies; collaborate with partners to identify and pursue funding for conservation measures	
1.4	<p>Link the byway’s conservation goals with land use, infrastructure and emergency services planning including sea level rise Rationale: The byway’s related open spaces play a crucial role in providing infrastructure services. Open space reduces infrastructure demand and contributes ecosystem services (flood mitigation, wildlife habitat, air quality, etc.) to the overall quality of life for Lewes.</p>	<ul style="list-style-type: none"> 	Local, state and federal plans and policies; purchase of open space from willing sellers	
1.5	<p>Relate the byway’s conservation priorities and gateway enhancement needs with the greenways and trails plan for Lewes Rationale: The Lewes Greenways and Trails Committee Master Plan identifies multiple greenways and trails that cross each of the routes that comprise the Lewes Historic Byway. The overlapping interests present an opportunity to leverage funding sources (such as DNREC’s Delaware Bayshore Initiative) and increase pedestrian and bicycle access for the byway.</p>	<ul style="list-style-type: none"> 	Local plans and policies; collaborate with partners to identify and pursue funding for conservation measures	

Strategy or Action		Potential Partners	Implementation Technique	Phase
1.6	<p>Work with property owners to preserve and maintain the character-defining features of historic buildings and neighborhoods</p> <p>Rationale: The historic homes and neighborhoods contribute to the high quality of life and to the enjoyment of traveling in and around Lewes and along the scenic and historic byways.</p>	▪	Policy (Comp Plan) Grants for preservation	
Goal 2: Address Byway safety, mobility and accessibility while maintaining its character defining features				
2.1	<p>Manage the traffic impacts of new development by developing context sensitive mitigation techniques that maintain the character and context of the Byway</p> <p>Rationale: Much of the remaining farm and forest along the Lewes Historic Byway are under significant pressure for future development. Yet, one of the main attractions of living along these routes is its unique character as an historic coastal community at the junction of the Delaware Bay and Atlantic Ocean. As new properties are developed, stronger efforts are needed to maintain the character-defining features that contribute to this unique scenic and historic character.</p>		Development review	
2.2	<p>Continue to develop a traffic management plan to manage event traffic, park traffic and visitor traffic that maintains mobility for all users of the Byway by improving public transit and jitney service, providing real time traveler information, and by managing parking demand at the State Park and at the beaches.</p> <p>Rationale: More than 1.5 million people visit Cape Henlopen State Park each year and other than using the Cape May - Lewes Ferry or a private boat - traveling on one of the byway routes is the only way to get there. The byway routes can serve an important role in helping to manage travel to ensure that more time is spent enjoying what Lewes has to offer than sitting in a car looking out the window at it.</p>	▪	Funding and/or agency support required for Transportation Planning	
2.3	<p>Continue to carefully develop the area's trails and greenways to ensure visitors and residents alike can visit the attractions along the Byway roadways on foot and on bicycles.</p> <p>Rationale: The byway routes, combined with Lewes' system of trails and greenways (both built and soon to be built) establish a distinct way to experience the scenic and historic qualities of the Lewes area if implemented in a context sensitive manner. Making the two systems work together enhances those opportunities by establishing new trail heads, new multi-modal travel itineraries, and new recreational opportunities for both residents and visitors.</p>	▪	Development Review Funding required for trail planning, design, and construction	
2.4	<p>Develop a Master Plan for the Byway Roadways to guide transportation improvements proposed by developers or the Department of Transportation. Rationale: The Department of Transportation in making decisions as to the design of improvements to the Byway Roadways would be well served to be guided by a master plan defining the principles of context sensitive design as related to the context of the land uses and character of the viewshed and the history of the Byway and its surroundings. More specific recommendations for this strategy can be found in Strategy 3.4.</p>	▪		

Strategy or Action	Potential Partners	Implementation Technique	Phase
Goal 3: Enhance the Visual Quality and Travel Experience of the Byway Corridor Use the byway as a tool to leverage the necessary funding for priority enhancements and to work with developers to guide change in a positive manner			
<p>3.1 Extend the byway corridor out to Route 1 Rationale: the overall travel experience along the each of the land-based approaches to Lewes should be considered as part of the corridor management plan. Including the extended sections of Kings Highway and Savannah Road will increase awareness and priorities for enhancing the appearance of these two important entrance corridors to Lewes and establishing a more welcoming gateway for the Lewes Historic Byway and for the City of Lewes.</p>		CMP recommendation	
<p>3.2 Help visitors find and follow the byway (corridor-wide) Rationale: gateways, route marking, wayfinding, site markers, and related web and print media will increase awareness of the byway as a destination and as an integral part of the community fabric for greater Lewes.</p> <p>3.2.1 Develop graphic identity and naming standards for community-based wayfinding system</p> <p>3.2.2 Adopt lighthouse imagery as primary graphic identity</p> <p>3.2.3 Adopt locations for byway and community gateways</p> <ol style="list-style-type: none"> a. Coastal Highway – Community Wayfinding Signs to New Road/UD/Boat Ramp b. New Road at Nassau (Byway Gateway) c. New Road at City Limits (Community Gateway) d. Coastal Highway at Savannah – Community Wayfinding Signs to Lewes Destinations (maximum of 3 on sign) e. Savannah Road at Five Points on land owned by Library (Byway Gateway) f. Savannah Road at City Limits (Community Gateway) g. Coastal Highway at Kings Highway – Community Wayfinding Signs to Kings Highway Destinations (maximum of 3 on sign) h. Kings Highway at Clay (Byway Gateway) i. Kings Highway as part of Lingo Townsend Development (Community Gateway) j. Kings Highway at City Limits (Community Gateway) k. Cape Henlopen Drive leaving ferry terminal (Community Gateway) <p>3.2.4 Implement gateway features with design elements that include the following common components (as illustrated in concept sketches)</p> <ul style="list-style-type: none"> • Logo featuring graphic abstraction of lighthouse (Breakwater Light) • Low wall anchored by lighthouse • Typography to be determined but consistent among signs • Landscape setting (including use of environmental graphics where appropriate) to link sign and lighthouse components to context (varies by gateway type and location) 		Funding required for visual and graphic identity plan for sign types and wayfinding Coordination with DelDOT for route markers, and community wayfinding on Coastal Highway	

Strategy or Action		Potential Partners	Implementation Technique	Phase
3.3	<p>Make the roadside appearance more attractive and welcoming throughout the corridor Rationale: Certain areas along the byway no longer retain their character-defining features and detract from the overall travel experience and livability of the adjoining neighborhoods. Investments in roadside enhancement also help to spur adjoining property owners to invest in their own properties and increase their attractiveness.</p> <p>3.3.1 Apply for water quality related funding to design and install aesthetically pleasing infiltration planting areas along Savannah Road at Five Points (based upon Sussex County report on "Protecting Water Quality" prepared by technical assistance team from EPA)</p> <p>3.3.2 Savannah Road in the Marine District and beyond Enhance the streetscape of Savannah Road between Front Street and the beach to increase pedestrian and bicycle safety and establish a friendlier street with a mix of residential and retail uses</p>		Development Review Enhancement Funding	

Strategy or Action	Potential Partners	Implementation Technique	Phase
<p>3.4 Guide future changes in land use and transportation to be more sensitive to the historic context of the byway (also see Goal 2, Address Byway Safety, Mobility and Accessibility) Rationale: By paying attention to the overall impressions of the entire corridor (both the roadway and adjoining land uses), value can be added to adjacent properties through high quality design. Good design equals good business—properties are more marketable and desirable, typically sell for higher values and retain those values over time. Values are captured by the community through increased tax revenues and by the private sector through higher sales prices and faster turnaround.</p> <p>3.4.1 Extend the patterns of lots and blocks outward using the size, scale and character of historic Lewes</p> <p>3.4.2 Incorporate open space and landscape into design of the transportation features</p> <p>3.4.3 Use context sensitive design to maintain the distinct character of the Lewes Historic Byway routes (as per DelDOT’s Context Sensitive Solutions for Delaware Byways)</p> <p>3.4.4 Develop a master plan for Kings Highway and Gills Neck Road linking together all future transportation and land use within the corridor utilizing a collaborative public process</p> <ul style="list-style-type: none"> - consider options for narrow or wide medians - consider incorporating stormwater runoff management into median - consider opportunities for linking together isolated parcels in a gridded circulation network - consider options for the Kings Highway/Gills Neck intersection that provides accommodates and is friendly to all planned pedestrian and bicycle pathways and movements, is attractive and serves as a welcoming community gateway to Lewes <p>3.4.5 Preserve the character defining features of Gills Neck Road while addressing bicycle and pedestrian safety in a context sensitive manner</p> <ul style="list-style-type: none"> - Complete the planned, off-road, multi-use pathway connecting downtown Lewes with the Junction and Breakwater Trail to reduce increasing conflicts between vehicles, bicycles and pedestrians using Gills Neck Road. - Connect adjoining neighborhoods to the Junction and Breakwater trail network with multi-use pathway along Gills Neck Road by reducing shoulder width to provide enough room for street tree planting outside of the drainage areas—thus helping retain the character of Gills Neck Road. <p>3.4.6 If shoulders are needed, use alternative pavement materials to reduce the perceived width of pavement expanse and calm traffic.</p>		<p>Funding required for master planning; Development review</p>	

Strategy or Action	Potential Partners	Implementation Technique	Phase
<p>Goal 4: Enhance Recreation Opportunities Use the byway to lengthen visitor stays by connecting the byway to the area’s system of greenways and trails and establishing the byway routes as corridors for human powered recreation including walking, bicycling and paddling.</p>			
<p>4.1</p>	<p>Use the Byway to Complete a Greenway and Trail System between the Great Marsh and Cape Henlopen State Park 4.1.1 Add a trail route to the planned network—from the Greenways and Trails plan along the east side of New Road crossing Canary Creek on a separated pedestrian bridge that could also serve for fishing access 4.1.2 Connect the new trail along Park Road (completed in 2014) to the Georgetown-Lewes Rail Trail while respecting private property rights and privacy. This would provide a distinct network of trails that links the Great Marsh to the existing and planned rail trails and to Cape Henlopen State Park. The more connected the trail system, the better chances of reducing vehicular use of the roads. 4.1.3 Develop greater connectivity for pedestrians and bicycles along Cape Henlopen Drive (bicycle lanes and off-road walking path), Savannah Road (bicycle lanes and sidewalks), Front Street (shared travel lanes and sidewalks) and Pilottown Road (shared travel lanes plus off-road walking path)</p>	<p>Funding required for trail planning, design and construction</p>	
<p>4.2</p>	<p>Increase the safety and convenience of walking and bicycling on Savannah Road from Coastal Highway to Downtown Lewes and Lewes Beach (also a transportation strategy) 4.2.1 Coordinate with the planned park and ride 4.2.2 Extend sidewalks the entire length of Savannah Road 4.2.3 Extend sidewalks from Old Orchard Road across the RR Tracks to the existing sidewalk 4.2.4 Lewes-Georgetown Rail with Trail Crossing Improvements DelDOT 4.2.5 Restripe Savannah Road for a bicycle lane on both sides and construct a sidewalk on the northbound side. 4.2.6 Provide a safe crossing of Gills Neck Road for the Junction and Breakwater Trail users</p>	<p>▪</p>	<p>Funding required for pedestrian and bicycle safety</p>
<p>4.3</p>	<p>Create a birdwatching destination at the end of Pilottown road by linking together the publicly accessible landscapes, water, and facilities of UD, DNREC, and City of Lewes lands 4.3.1 Develop a trail and boardwalk to the Delaware Breakwater Rear Range (Green Hill) Lighthouse site. The trail could combine birding and history and provide better access to the marsh</p>	<p>Funding required for providing access to birding areas</p>	

Strategy or Action	Potential Partners	Implementation Technique	Phase
Goal 5: Use the Lewes Scenic and Historic Byway to enhance the travel experience of visitors and residents by increasing awareness and appreciation of Lewes and its historical setting through storytelling.			
<p>5.1 Support a town-wide interpretive presentation connecting interpretive sites and stories. Rationale: Lewes has a great story to tell and many partners that are telling pieces of that story. The byway can present the town as a whole by providing orientation and by introducing the big picture and then directing visitors to the places where the story is being told</p> <p>5.1.1 Develop or confirm a town-wide graphic identity that can be used in a variety of interpretive media formats.</p> <p>5.1.2 Identify over-arching interpretive themes with brief theme statements that convey the significance of the town and its landscape and embrace all of its interpretive sites. Work with partners to incorporate or introduce the following topics building upon existing interpretation:</p> <ul style="list-style-type: none"> - First Town – contact, settlement and early history - The Ocean and the Bay – maritime story - Resilient Ecosystem – coastal marshes and related landscapes - Rediscovering Lewes – recent story and vision for the future - Coordinate with other interpretive sites and attractions within Lewes. Identify how each fit within the thematic framework. <p>5.1.3 Provide orientation and context for the Lewes interpretive presentation on the city and chamber websites, through the installation of kiosks at key locations, and through published materials.</p>		Funding required for historical interpretation, education and exhibit development	

Strategy or Action	Potential Partners	Implementation Technique	Phase
<p>5.2 Create a recreational interpretive resource, providing visitors with a meaningful and engaging activity while presenting the Lewes story. Rationale – the trail system provides a means to get around Lewes at a more leisurely pace and provides access to locations with rich interpretive opportunities. Recreational sites also provide a means of broadening the audience and increasing awareness of Lewes rich history.</p> <p>5.2.1 Identify and promote the byway as an introduction and gateway to the extensive walking and biking trail network.</p> <p>5.2.2 Introduce the over-arching interpretive themes through kiosks and waysides at locations (trailheads) where the trail network and byway intersect. Create a sequential experience that presents and discusses all of the themes and their contexts. Consider emphasizing specific themes along different portions of the byway:</p> <ul style="list-style-type: none"> – Savannah Road – First Town – Kings Highway and Gills Neck Road – Rediscovering Lewes – New Road – Resilient Ecosystem – Pilottown Road – The Canal and the Bay – Cape Henlopen Drive – Resilient Ecosystem/The Ocean and the Bay <p>5.2.3 Identify existing interpretive sites and attractions in Lewes and the surrounding landscape that provide interpretive experiences related to the town-wide themes. Show how the trail network links physically to the sites and encourage visitors to explore them.</p>		Funding required for historical interpretation, education and exhibit development	
<p>5.3 Engage residents with real places within the landscape to build support for local preservation and conservation initiatives. Rationale – Lewes is a year-round community that can be enjoyed 12 months a year. The byways present an opportunity to increase awareness of the community and its economic and social foundations.</p> <p>5.3.1 Identify locations along the byway where specific place-based stories can be told relating themes to landscape features and character.</p> <p>5.3.2 Focus on preservation and conservation stories and achievements.</p> <p>5.3.3 Use public art as an interpretive medium at appropriate locations.</p>		Funding required for historical interpretation, education and exhibit development	
<p>5.4 Enhance Lewes as an interpretive attraction and southern anchor to the Delaware Bayshore Initiative¹ Rationale – Lewes presents outstanding opportunities for nearby nature and birdwatching, recreational trails, boating, and other activities to be promoted as part of the Delaware Bayshore in a setting with a full range of visitor services presenting another opportunity to increase awareness to a broader audience</p> <p>5.4.1 With partners town-wide, create a coordinated interpretive experience that can be marketed and appreciated as a single attraction.</p>		Funding required for historical interpretation, education and exhibit development	

¹ A program of the Delaware Department of Natural Resources and Environmental Control (DNREC), the Delaware Bayshore Initiative is designed to collaboratively build on the region’s reputation as a unique and beautiful natural resource. It is designed to help improve the shoreline economy by Lardner/Klein Landscape Architects, PC

Strategy or Action	Potential Partners	Implementation Technique	Phase
Goal 6: Use the Lewes Historic Byway as a tool for spreading out visitation beyond the beach and the summer season and enhancing the quality of the visitor experience			
<p>6.1 Enhance partnerships with tourism organizations and the Chamber of Commerce to communicate a consistent message across broader audiences Rationale – the byway can help reinforce a consistent message that Lewes is not a beach town with a boardwalk but a historic town with a heritage.</p> <p>6.1.1 Be proactive in sending out collateral materials, web-based information and in developing mobile applications</p> <p>6.1.2 Link the Lewes Historic Byway with other touring routes to establish a greater regional presence</p> <p>6.1.3 Use gateway strategies to increase the presence of the Lewes Historic Byway from Route 1</p> <p>6.1.4 Connect with the Delaware Estuary Program managed by the Partnership for the Delaware Estuary²</p> <p>6.1.5 Update web-based guides to attractions on a regular basis and consider a common data base that can be used by commercial web sites to ensure the accuracy of information (e.g. DeIDOT is using a crowd sourced Tagwhat App for the Byways and is buying a channel for all of the state’s byways. The channel now has a comprehensive resource list that was prepared by the University of Delaware Center for Historic Architecture and Design.</p>	TBD	Cooperative marketing	

encouraging more Delawareans and visitors to enjoy it through activities such as recreational fishing, hunting, boating and ecotourism. For more information, visit <http://www.dnrec.delaware.gov/Pages/Delaware-Bayshore.aspx>

² The Partnership for the Delaware Estuary is a nonprofit organization established in 1996 to take a leadership role in protecting and enhancing the Delaware Estuary, where fresh water from the Delaware River mixes with salt water from the Atlantic Ocean. It is one of 28 Congressionally designated National Estuary Programs throughout the coastal United States working to improve the environmental health of the nation's estuaries. Its staff works with partners in three states to increase awareness, understanding, and scientific knowledge about the Delaware Estuary, the region's most important cultural, economic, and recreational resource.

Strategy or Action	Potential Partners	Implementation Technique	Phase
<p>6.2 Maintain Lewes as a destination to enhance the experience of heritage and nature-based travelers Rationale – Lewes is the southern anchor of the Delaware Bayshore and it provides a unique set of complementary visitor services and experiences consistent with both the Delaware and New Jersey Bayshore</p> <p>6.2.1 Target heritage and eco- travelers: 6.2.2 Increase the number of lodging rooms 6.2.3 Promote existing and/or develop new educational programs (Historic Society programs, birding, wetland ecology, etc.) 6.2.4 Use the byway and ferry to link together recreation, heritage, and natural area experiences on a regional basis and to promote those experiences as part of an overall itinerary that is part of the larger Delaware Bayshore experience 6.2.5 Coordinate with the State of New Jersey’s Bayshore heritage Byway which parallels the New Jersey side of the Delaware Bayshore and has a common terminus with the Lewes Byway at the Cape May Lewes Ferry. 6.2.6 Promote the extension of Delaware’s Bayshore Byway from its current terminus at the junction of State Routes 9 and 1 at the Dover Air base to the Lewes Historic Byway. This extension along with the connection to the Bayshore Heritage Byway in New Jersey will provide a continuous loop around the Delaware Bay.</p>		Cooperative marketing	
<p>6.3 Utilize the Byway to manage visitation Rationale – visitation to Cape Henlopen State Park is limited by its carrying capacity. There is a need to manage visitation to reduce potential impacts associated with overcrowding. Creating additional destinations and a connected network of trails will provide options for visitors when the beaches and parks are full, reduce traffic, and provide an opportunity to increase awareness of Lewes as a historic town</p> <p>6.3.1 Extend Greenways and Trails to Link to UD Campus and DNREC facility 6.3.2 Provide alternative destinations for bicycling, kayaking, walking, interpreted itineraries, etc., using the Great Marsh/Canary Creek, Canal, and Rail/Trail as destination activities) – supplement with equipment rental options and interpreted itineraries – Extend Maritime Heritage Trail to Green Hill Light – Develop interpretive and birding trail at Green Hill Light and Great Marsh 6.3.3 Intercept visitors in advance (using kiosk at Coastal Highway Park and Ride as a short term solution) and study the feasibility of a visitor information center with up to date travel and destination information)</p>		Funding required for facility development	

Strategy or Action	Potential Partners	Implementation Technique	Phase
Goal 7: Establish and maintain a supporting organization for the ongoing management of the Lewes Historic Byway			
7.1	Establishment Phase: Begin implementation of corridor management plan		
	7.1.1 Celebrate the completion of the CMP with the City, County, DeIDOT and project partners 7.1.2 Publish a print and/or web-based byway map and guide for use promoting the route as a heritage tourism initiative		Seek cooperative marketing funds from Visit Delaware and Sussex County Office of Tourism, Coastal Community Enhancement Initiative, etc.
7.2	Development and Sustaining Phase: Establish permanent management entity		
	7.2.1 Create a memorandum of understanding among key partners for roles and responsibilities leading to the establishment of bylaws and an operational plan for the organization (note that the organization can be an extension of the existing committee or the establishment of a new city-county appointed committee). 7.2.2 Identify the primary fundraising organization (preferably an existing organization such as a community foundation) and establish or confirm operating rules for receiving and distributing funds on behalf of Lewes Historic Byway through the fundraising organization 7.2.3 Confirm local, state and federal agency roles in support of the management organization 7.3.4 Prepare ongoing two-year action plans updated on an annual basis and a 5-year cycle for updating the priorities of the CMP	▪	Seek support from law or business schools, SCORE

List of Byway Management Activities

Financial:

- receipt of, and accounting for, donations and revenues from byway activities and other sources;
- keeping account of the expenditures it makes in advancing the byway purposes;
- preparing reports of its financial accounts and its activities
-

Management and Coordination

- defining, coordinating and overseeing the tasks of subcommittees;
- supervising the proper completion of byway improvements and activities;

Outreach

- contact, liaison and coordination with public agencies and private entities with an interest in the byway;
- public outreach for the purpose of disseminating information about the byway and its natural and cultural qualities and attractions;

Stewardship

- regular monitoring of the byway and potential impacts upon its intrinsic qualities; and

- implementation of the corridor management plan

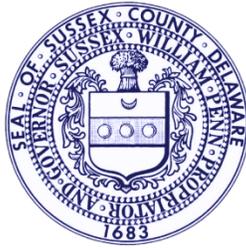
Subcommittees

Subcommittees provide individuals and local business enterprises with an opportunity to become involved in byway activities. Subcommittees should be established when needed to focus on specific and well defined objectives. Potential subcommittees could be formed to address the following issues:

- Signage
- Interpretation
- Conservation and Preservation
- Transportation
- Promotion

ENGINEERING DEPARTMENT

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



Sussex County

DELAWARE
sussexcountype.gov

MICHAEL A. IZZO, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Bartolotti Expansion to the Long Neck Sanitary Sewer District

- Requesting permission for the Sussex County Engineering Department to prepare and post notices for the expansion of the Long Neck Sanitary Sewer District to include (1) parcel.
- The parcel is located along Bay farm Rd and is contiguous to the existing district.
- The property is currently provided with a sewer lateral.
- The parcel is currently vacant and the existing owner would like to move his home to the parcel.
- The expansion will consist of less than 1 acre.
- The parcel will be responsible for system connection charges of **\$4,100** per EDU based on rates from July 1, 2014 through June 30, 2015.
- Public Hearing is scheduled for **10:30 am, March 10, 2015** at the regularly scheduled County Council Meeting.



December 22, 2014

ATTN: Anthony Digiuseppe Jr.
Sussex County Council
2 The Circle
Georgetown DE, 19947

Dear Sussex County Council,

This is my official request to Sussex County Council to consider extending the sanitary sewer district boundaries (Section 110-136, Sussex County Code) to allow annexation of my property into the county sewer system.

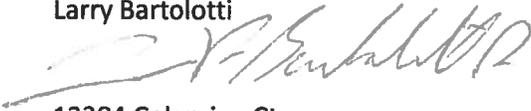
The property is located on Bay Farm Road in Long Neck.

Tax Map: 234-23.00-116.09

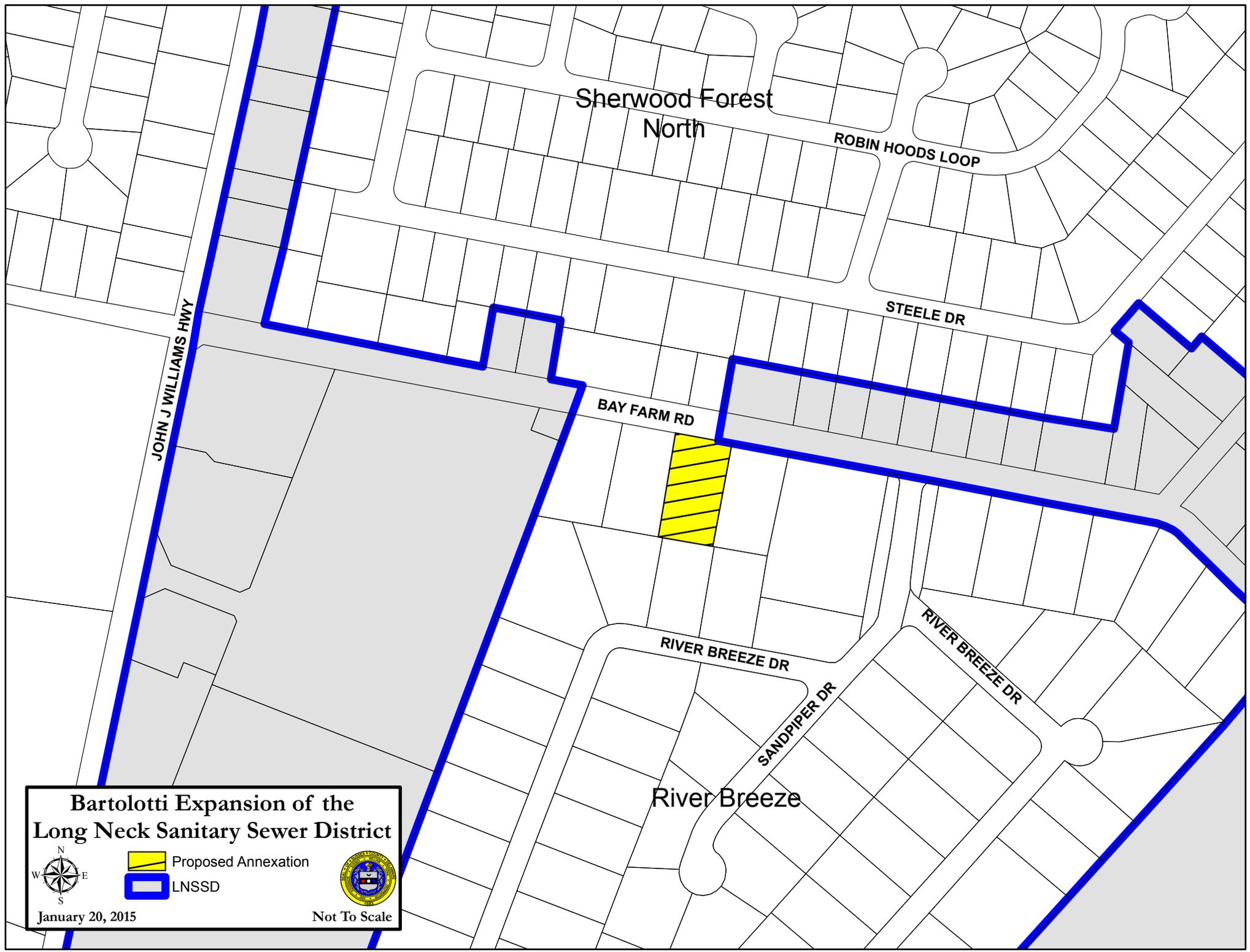
Attached: Check for Application

Thank you,

Larry Bartolotti



12304 Coleraine Ct.
Reston, VA 20191
(703) 585-5041



Bartolotti Expansion of the Long Neck Sanitary Sewer District

  Proposed Annexation
 LNSSD

 **Not To Scale**

January 20, 2015

GRIFFIN & ROBERTSON, P.A.
ATTORNEYS AT LAW

19264 MILLER ROAD, UNIT A

JAMES D. GRIFFIN
VINCENT G. ROBERTSON

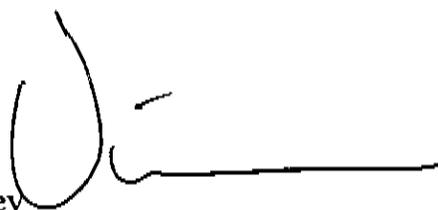
REHOBOTH BEACH, DELAWARE 19971

(302) 226-8702

FAX: (302) 226-8704
ROBERTSON@GRLAWFIRM.COM

TO: Mr. Mike Vincent
Mr. Sam Wilson
Mr. George Cole
Mrs. Joan Deaver
Mr. Rob Arlett
Mr. Todd Lawson

FROM: Vince Robertson, Esq.
Assistant County Attorney



RE: Flood Prone District Ordinance Amendment

DATE: January 16, 2015

This ordinance amendment will be considered by County Council during the Tuesday, January 20, 2015 meeting. It received a unanimous recommendation for approval from the Planning and Zoning Commission with three recommendations based on minor typographical corrections. A copy of the proposed ordinance amendment and P&Z's Motion are attached.

Recall that this ordinance amendment was required by FEMA and DNREC to maintain Sussex County's eligibility for participation in FEMA's flood insurance program. If Sussex County is out of compliance, individual Sussex County property owners could lose their FEMA flood insurance. To maintain compliance, the ordinance amendment has to be in place by mid-March. That is the same time that FEMA intends to update its Flood Insurance Rate Maps (FIRMs) establishing the various flood zones.

With regard to the ordinance itself, please consider the following.

First, this requirement affects every jurisdiction in the State. Sussex County and its municipalities all must satisfy the mid-March deadline, and all are adopting basically the same ordinance text as we have proposed. FEMA has dictated what is required through mandated “model ordinance” forms.

Second, it is the result of extensive work from a team of staff including Todd Lawson, Jeff Shockley (who administers the County’s flood requirements), Lawrence Lank, Shane Abbott, Andy Wright, Chris Keeler and myself. This group has worked closely with Rebecca Quinn, a consultant retained by DNREC to assist all of the jurisdictions for compliance with the FEMA ordinance requirements. We have prepared, and she has reviewed, multiple drafts of the ordinance. Her review is very important, because the ordinance amendment must ultimately be approved by DNREC/FEMA prior to mid-March. Her involvement and review up-front is vital to avoid any unexpected issues later in the process. Ms. Quinn has approved the draft that is before you.

Third, there are currently flood provisions in our Code which are very similar to what is in this ordinance. There are not a lot of substantive changes to the requirements. Instead, there is some clarity and detail that has been added, which will aid Sussex County’s administration of flood regulations. Jeff Shockley administers the flood requirements for Sussex County from P&Z, and this update will improve his ability to implement the ordinance. Jeff has been very involved in the process as stated above.

Fourth, one of the issues with our current Code is the fact that our flood provisions are spread over 3 different areas of Chapter 115- the definitions section at the beginning, an Article in the middle, and then in the supplemental area at the end. This ordinance amendment, in addition to doing what FEMA requires, puts it all in one place for easier use. That is part of the reason for the length of it- we have to include all of the deleted/moved language as well as the new language (recall that State Code requires deleted language to be in [brackets] and new language to be underlined).

One area that we had discretion over was whether to include freeboard. “Freeboard” is the area above the required “Base Flood Elevation” or BFE. BFE is the elevation that FEMA says is the point at which the lowest floor of a structure in a flood zone can be built. Regarding freeboard, if FEMA has a required BFE, a jurisdiction could still require the bottom of the lowest floor to be even higher

than that- this additional area is the freeboard. We have looked at other jurisdictions in Sussex County and there is no uniformity over freeboard. Some have none, others require an additional foot or two of freeboard. Still others are waiting to follow Sussex County's lead. This ordinance incorporates Council's direction not to require freeboard, but allow the overall height of a building (up to 2 additional feet) to be increased if a property owner added voluntary freeboard. So, if someone has their lowest floor at 1 foot above BFE, they would be able to increase their overall height by 1 foot. Without this adjustment, since height is otherwise measured from BFE, someone would be penalized for adding freeboard on their own- their building envelope would be compressed because the height would still be measured from BFE and not the freeboard that they chose to incorporate into a structure.

It is staff's recommendation that based upon: (1) the work and review that has gone into this ordinance by staff; (2) the review and initial approval by the consultant; (3) P&Z's recommendation; and (4) FEMA and DNREC's requirements, that County Council adopt the ordinance as presented subject to the 3 corrective recommendations from Planning & Zoning.

CC: Mrs. Robin Griffith
Mr. Jeff Shockley
Mr. J. Everett Moore, Esq.
Mr. Lawrence Lank
Mr. Shane Abbott
Mr. Andy Wright
Mr. Chris Keeler

Mr. Chairman,

I move that we recommend approval of the Ordinance to Amend Chapter 115 of the Code of Sussex County, Article I “General Conditions”, and Article XVII “Flood Prone Districts” and Article XXV “Supplemental Regulations, Section 115-189 “Coastal and Flood Prone Area Protection”, with the following minor changes as suggested by Staff:

1. Section 115-141.4D(5) should be revised to reflect in the first line “Subsection D(4) above”.
2. Section 115-141.5E(1)(b) should be underlined.
3. Section 115-141.5E(1)(b)[ii][a] should refer to section 115-141.3D1(i)[iv]

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, ARTICLE I, "GENERAL PROVISIONS", AND ARTICLE XVIII "FLOOD PRONE DISTRICTS", AND ARTICLE XXV "SUPPLEMENTARY REGULATIONS", SECTION 115-189, "COASTAL AND FLOOD-PRONE AREA PROTECTION".

WHEREAS, Sussex County has the authority to adopt ordinances designed to promote the public health, safety and general welfare of its citizens; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of Sussex County and such areas may be subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare, and

WHEREAS, Sussex County was accepted for participation in the National Flood Insurance Program on October 6, 1976, and Sussex County Council desires to continue to meet the requirements of Title 44, Code of Federal Regulations, Section 59 and 60, necessary for such participation; and

WHEREAS, as part of this amendment process, Sussex County Council desires to incorporate all of the primary flood provisions of the Zoning Code into Article XVIII rather than several scattered sections of the Zoning Code as currently exists.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1: The Code of Sussex County, Chapter 115, Article I, Section 115-4 "Definitions" is hereby amended by deleting the following language in brackets and adding the following underlined language:

c. Definitions for flood prone districts shall be as follows:

[AREA OF SHALLOW FLOODING - A designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one-percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

BASE FLOOD - The flood having a one-percent chance of being equaled or exceeded in any given year.

BASEMENT - Any area of a building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL – A wall that is not part of the structural support of the building and is intended, through its design and construction, to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

COASTAL FLOODPLAIN – An area of land adjoining a stream, river, estuary, ocean or other watercourse which has been or may hereafter be covered by floodwaters of the one-hundred-year flood or subject to shoreline erosion caused by a one-hundred-year flood.

COASTAL HIGH-HAZARD AREA – An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

CONSTRUCTION – Any new construction, reconstruction, modification, extension or expansion of buildings or structures; placement of fill; dumping; storage of materials; land excavation; land clearing; or any combination thereof. Included shall be the affixing of any prefabricated structure to a permanent site or foundation.

FILL – Any nonstructural composition which is used to artificially alter the contours of the original land surface.

FIRM – Flood Insurance Rate Map.

FLOOD INSURANCE RATE MAP (FIRM) – An official map of Sussex County on which the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to Sussex County.

FLOODPROOFING – Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, all other facility and utility systems, structures and their contents.

FLOODWAY – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

HISTORIC STRUCTURE – Any structure that is:

- (1) Listed individually in the National Registry of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

- (3) Individually listed on a State Inventory of Historic Places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior; or
 - (b) Directly by the Secretary of the Interior in states without approved programs.

LOWEST FLOOR – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's "lowest floor," provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements.

ONE-HUNDRED-YEAR FLOOD – The highest level of flooding that, on the average, is likely to occur once every 100 years (i.e., that has a one-percent chance of occurring each year). It does not imply, however, that no greater flood is likely to occur or that such a flood will not happen more often than once every 100 years.

- (1) In the approximate areas of the Coastal Floodplain, the Director shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source until such other data has been provided by the Administrator in order to determine the required elevation for conformance to § 115-189.
- (2) All new subdivision proposals and other proposed developments which exceed either 50 lots or five acres in size shall include base flood elevation data. If base flood elevation data is not shown on the FIRM, the proposal must include a calculation of base flood elevation which meets FEMA's study guidelines as determined by professional engineers or other of demonstrated qualifications.

RECREATIONAL VEHICLE – A vehicle which is built on a single chassis; 400 square feet or less when measured at the largest horizontal projections; designed to be self-propelled or permanently towable by a light-duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

STRUCTURE – (for floodplain management purposes) – A walled and roofed building, including a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT – Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the

structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project or improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions;
or
- (2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.]

See Article XVIII, Section 115-141.2 for definitions for flood prone districts.

Section 2: The Code of Sussex County, Chapter 115, Article XVIII "Flood Prone Districts" is hereby amended by deleting the following language in brackets and adding the following underlined language:

§ 115-141. Purpose.

The purpose of these districts is to provide land development and construction controls for those areas of land adjoining a stream, river, estuary, ocean or other watercourse which have been or may hereafter be covered by floodwaters of the one-hundred-year flood or subject to shoreline erosion caused by a one-hundred-year flood.

§ 115-142. Reference to additional regulations.

Regulations for this Article can be found in other Articles of this chapter, especially the following:

- Article I, § 115-4, Definitions and word usage
- Article II, Establishment of Districts, Maps
- Article III, Provisions Applicable to All Districts
- Article XXV, Supplementary Regulations
- Article XXVI, Nonconforming Uses
- Article XXVIII, Administration and Enforcement

§ 115-143. (Reserved)]

§ 115-141.1 GENERAL PROVISIONS

A. Findings

The Federal Emergency Management Agency (FEMA) has identified special flood hazard areas within the boundaries of Sussex County. Special flood hazard areas are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and

general welfare. Development that is inadequately elevated, improperly floodproofed, or otherwise unprotected from flood damage also contributes to the flood loss.

Sussex County, by ordinance, agreed to meet the requirements of the National Flood Insurance Program and was accepted for participation in the program on October 6, 1976. Subsequent to that date or the initial effective date of the Sussex County Flood Insurance Rate Map, all development and new construction as defined herein, are to be compliant with the requirements of the Sussex County floodplain management regulations in effect at the time of permit issuance, and all development, new construction and substantial improvements subsequent to the effective date of this Ordinance shall be compliant with this Ordinance.

B. Statement of Purpose

It is the purpose of these regulations to promote the public health, safety and general welfare, and to:

- (1) Protect human life, health and welfare;
- (2) Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future;
- (3) Minimize flooding of water supply and sanitary sewage disposal systems;
- (4) Maintain natural drainage;
- (5) Reduce financial burdens imposed on the community, its governmental units and its residents, by discouraging unwise design and construction of development in areas subject to flooding;
- (6) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (7) Minimize prolonged business interruptions;
- (8) Minimize damage to public facilities and other utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
- (9) Reinforce that those who build in and occupy special flood hazard areas should assume responsibility for their actions;
- (10) Minimize the impact of development on adjacent properties within and near flood prone areas;
- (11) Provide that the flood storage and conveyance functions of the floodplain are maintained;
- (12) Minimize the impact of development on the natural and beneficial functions of the floodplain;
- (13) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- (14) Meet community participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22, as may be amended.

C. Areas to Which These Regulations Apply

These regulations shall apply to all special flood hazard areas within the jurisdiction of Sussex County, as identified in Section 115-141.1.D, below.

D. Basis for Establishing Special Flood Hazard Areas

For the purposes of these regulations, the following are adopted by reference as a part of these regulations and serve as the basis for establishing special flood hazard areas:

- (1) The FEMA Flood Insurance Study for Sussex County, Delaware and Incorporated Areas dated March 16, 2015 and all subsequent amendments and/or the most recent revision thereof.
- (2) The FEMA Flood Insurance Rate Map for Sussex County, Delaware and Incorporated Areas dated March 16, 2015, and all subsequent amendments and/or the most recent revision thereof.
- (3) Other hydrologic and hydraulic engineering studies and/or maps prepared pursuant to these regulations or for other purposes, and which establish base flood elevations, delineate 100-year floodplains, floodways or other areas of special flood hazard.
- (4) Sussex County may identify and regulate new local flood hazard or ponding areas. These areas should be delineated and adopted on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as flood of record, historic high water marks or approximate study methodologies.
- (5) Where field surveyed topography indicates that ground elevations are below the closest applicable base flood elevation, even in such areas not delineated as a special flood hazard area on a flood hazard map, the area shall be considered as a special flood hazard area.

Maps and studies that establish special flood hazard areas are on file at Office of Planning and Zoning in the Sussex County Administration Building.

E. Abrogation and Greater Restrictions

These regulations are not intended to repeal or abrogate any existing ordinances including subdivision regulations or zoning ordinances. In the event of a conflict between these regulations and any other zoning or subdivision ordinance or building code, the more restrictive shall govern. These regulations shall not impair any deed restriction, covenant or easement, but the land subject to such interests shall also be governed by these regulations.

F. Interpretation

In the interpretation and application of these regulations, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body;
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes;

and

- (4) Where a provision of these regulations may be in conflict with a state or Federal law, such state or Federal law shall take precedence, where more restrictive.

G. Warning and Disclaimer of Liability

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside of the special flood hazard areas or uses that are permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the Sussex County, any elected or appointed official, director or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.

H. Severability

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared unconstitutional or invalid.

§ 115-141.2 DEFINITIONS

Unless specifically defined below for purposes of this Article, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give those code provisions the most reasonable application.

Accessory Structure: A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

Area of Shallow Flooding: A designated Zone AO on a community's Flood Insurance Rate Map with a one percent annual chance or greater of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year; the base flood also is referred to as the 100-year flood (or the 1%-annual-chance flood).

Base Flood Discharge: The volume of water resulting from a Base Flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).

Base Flood Elevation: The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. In areas of shallow flooding, the base flood elevation is the natural grade elevation plus the depth number specified in feet on the Flood Insurance Rate Map, or at least 2 feet if the depth number is not specified.

Basement: Any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway Wall: A wall that is designed and certified by a design professional registered in the State of Delaware that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Coastal High Hazard Area: An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms. Coastal high hazard areas also are referred to as “Zone V” or “V Zones” and are designated on FIRMs as flood insurance risk Zone VE.

Development: Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, placement of manufactured homes, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Dry Floodproofing: Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Elevation Certificate: The *National Flood Insurance Program, Elevation Certificate (FEMA Form 086-0-33 or as may be amended)*, used to document building elevations and other information about buildings. When required to be certified, the form shall be completed by a professional land surveyor licensed in the State of Delaware.

Enclosure Below the Lowest Floor: An unfinished or flood resistant enclosure usable solely for parking of vehicles, building access, or storage, in an area other than a basement.

Federal Emergency Management Agency (FEMA): The federal agency with the overall responsibility for administering the National Flood Insurance Program.

FEMA Technical Bulletin (or TB): A series of guidance documents published by FEMA to provide guidance concerning building performance standards of the National Flood Insurance Program. Specific Technical Bulletins are identified throughout this Article; the most recent revision to any Technical Bulletin shall be used wherever identified in this Article.

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters, and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Damage-Resistant Materials: Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. See FEMA Technical Bulletin #2 – *Flood Damage-Resistant Materials Requirements* and FEMA Technical Bulletin #8 – *Corrosion Protection for Metal Connectors in Coastal Areas*.

Flood Insurance Rate Map (FIRM): An official map on which the Federal Emergency Management Agency has delineated special flood hazard areas to indicate the magnitude and nature of flood hazards, and to designate applicable flood zones.

Zone A: Special flood hazard areas inundated by the 1% annual chance flood; base flood elevations are not determined.

Zone AE: Special flood hazard areas subject to inundation by the 1% annual chance flood; base flood elevations are determined; floodways may or may not be determined.

Zone AO: Areas of shallow flooding, with or without a designated average flood depth.

Zone X (shaded): Areas subject to inundation by the 500-year flood (0.2% annual chance); areas subject to the 1% annual chance flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected by levees from the base flood.

Zone X (unshaded): Areas determined to be outside the 1% annual chance flood and outside the 500-year floodplain.

Zone VE: Special flood hazard areas subject to inundation by the 1% annual chance flood and subject to high velocity wave action (also referred to as coastal high hazard areas).

Limit of Moderate Wave Action (LiMWA): The inland limit of the area affected by waves greater than 1.5 feet during the base flood. Base flood conditions between the Zone VE and the LiMWA will be similar to, but less severe than, those in the Zone VE.

Flood Insurance Study: The official report in which the Federal Emergency Management Agency has provided flood profiles, floodway information, and the water surface elevations.

Floodplain: Any land area susceptible to being inundated by water from any source (see "Flood" or "Flooding").

Floodproofing Certificate: The *National Flood Insurance Program, Floodproofing Certificate for Non-Residential Structures* (FEMA Form 86-0-34 as may be amended), used by professional engineers and architects registered or licensed in the State of Delaware to certify dry floodproofing designs.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to pass the base flood discharge such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height.

Freeboard: A factor of safety usually expressed in feet above a flood elevation for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.

Functionally Dependent Use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water; the term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure: Any structure that is:

- (1) Individually listed in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; or
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.

Hydrologic and Hydraulic Engineering Analysis: An analysis performed by a professional engineer, licensed in the State of Delaware, in accordance with standard engineering practices as accepted by FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

Letter of Map Change: A Letter of Map Change is an official FEMA determination, by letter, to amend or revise an effective Flood Insurance Rate Map, Flood Boundary and Floodway Map, and Flood Insurance Study. Letters of Map Change include:

Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was inadvertently included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.

Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a Letter of Map Revision Based on Fill (LOMR-F), is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood; in order to qualify for this determination, the fill must have been permitted and placed in accordance with these regulations.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project complies with the minimum National Flood Insurance Program requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies; upon submission to and approval of certified as-built documentation, a Letter of Map Revision may be issued.

Lowest Floor: The lowest floor of the lowest enclosed area (including basement) of a structure. This definition excludes an "enclosure below the lowest floor" which is an unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other

than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations for enclosures below the lowest floor.

Manufactured Home: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

New Construction: Buildings and structures for which the "start of construction" commenced on or after October 6, 1976, including any subsequent improvements to such structures.

Person: An individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

Recreational Vehicle: A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light duty truck, and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special Flood Hazard Area: The land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency in Flood Insurance Studies and on Flood Insurance Rate Maps as Zones A, AE, AO, and Zone VE. The term includes areas shown on other flood hazard maps that are specifically listed or otherwise described in this Article.

Start of Construction: The date of issuance of permits for new construction and substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure (or Building): For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified prior to the application for a development permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

Violation: The failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the Elevation Certificate, other certifications, or other evidence of compliance required in these regulations is presumed to be in violation until such time that documentation is provided.

§ 115.141.3 ADMINISTRATION

A. Designation of the Floodplain Administrator

The Sussex County Environmental Manager, or such other person as designated by the Sussex County Administrator is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator is authorized to: (A) Fulfill the duties and responsibilities set forth in these regulations, (B) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, or (C) Upon authorization by Sussex County Council, enter into a written agreement or written contract with another jurisdiction or agency, or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22, as may be amended.

B. Duties and Responsibilities of the Floodplain Administrator

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- (1) Review applications for permits to determine whether proposed activities will be located in special flood hazard areas.
- (2) Interpret floodplain boundaries and provide flood elevation and flood hazard information.
- (3) Advise applicants for new construction or substantial improvement of structures that are located on any coastal barrier within the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that federal flood insurance is not available on such structures; areas subject to this limitation are shown on Flood Insurance Rate Maps as identified undeveloped coastal barriers or Otherwise Protected Areas.
- (4) Review applications to determine whether proposed activities will be reasonably safe from flooding.

- (5) Review applications to determine whether all necessary permits have been obtained from those Federal, state or local agencies from which prior or concurrent approval is required.
- (6) Verify that applicants proposing to alter or relocate a watercourse have notified adjacent communities and the Delaware Department of Natural Resources and Environmental Control (Division of Watershed Stewardship), and have submitted copies of such notifications to the Federal Emergency Management Agency.
- (7) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met, or disapprove the same in the event of noncompliance.
- (8) Inspect buildings and lands to determine compliance with these regulations or to determine if noncompliance has occurred or violations have been committed.
- (9) Review submitted Elevation Certificates for completeness.
- (10) Submit to FEMA data and information necessary to maintain flood hazard maps, including hydrologic and hydraulic engineering analyses prepared by or for Sussex County, corrections to labeling or planimetric details, etc.
- (11) Maintain and permanently keep all records for public inspection that are necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing permits, elevation certificates, other required certifications, variances, and records of enforcement actions taken for violations of these regulations.
- (12) Enforce the provisions of these regulations.
- (13) Assist with and coordinate flood hazard map maintenance activities.
- (14) Conduct determinations as to whether existing buildings and structures damaged by any cause and located in special flood hazard areas, have been substantially damaged.
- (15) Make reasonable efforts to notify owners of substantially damaged buildings and structures of the need to obtain a permit prior to repair, rehabilitation, or reconstruction, and to prohibit the non-compliant repair of substantially-damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a structure to prevent additional damage.
- (16) Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assisting owners with National Flood Insurance Program claims for Increased Cost of Compliance payments.

- (17) Notify the Federal Emergency Management Agency when the boundaries of Sussex County have been modified.

C. Permits Required

It shall be unlawful for any person or entity to begin construction or other development which is wholly within, partially within, or in contact with any identified special flood hazard area, as established pursuant to this Article, including but not limited to: subdivision of land, filling, grading, or other site improvements and utility installations; construction, alteration, remodeling, improvement, replacement, reconstruction, repair, relocation, or expansion of any building or structure; placement or replacement of a manufactured home; recreational vehicles; installation or replacement of storage tanks; or alteration of any watercourse, until a permit is obtained from Sussex County. No such permit shall be issued until the requirements of these regulations have been met.

D. Application Required

Application for a permit shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual start of construction. The application shall be on a form furnished for that purpose.

(1) Application Contents.

At a minimum, applications shall include:

- (a) Site plans drawn to scale showing the nature, location, dimensions, existing and proposed topography of the area in question, the limits of any portion of the site that was previously filled, and the location of existing and proposed structures, excavation, filling, storage of materials, drainage facilities, and other proposed activities.
- (b) Elevation of the existing natural ground where structures are proposed, referenced to the datum on the Flood Insurance Rate Map, and an Elevation Certificate that shows the ground elevation and proposed building elevations (identified in Section C of the Elevation Certificate as "Construction Drawings").
- (c) Delineation of special flood hazard areas, floodway boundaries, flood zones, and base flood elevations. Where surveyed natural ground elevations are lower than the base flood elevations, base flood elevations shall be used to delineate the boundary of special flood hazard areas. If proposed, changes in the delineation of special flood hazard areas shall be submitted to and approved by FEMA in accordance with Section 115-141.3.D.(2). Where special flood hazard areas are not delineated or base flood elevations are not shown on the flood hazard maps, the Floodplain Administrator has the authority to require the applicant to use information provided by the Floodplain Administrator, information that is available from other sources, or to determine such information using accepted engineering practices.
- (d) For subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, and where base flood elevations are not

shown on Flood Insurance Rate Maps, hydrologic and hydraulic engineering analyses and studies as required by Section 115-141.4.B.(4). Studies, analyses, computation, etc., shall be submitted in sufficient detail to allow thorough technical review by the Office of Planning and Zoning and/or the Sussex County Engineering Department.

- (e) When other acceptable information is not available, the Floodplain Administrator may permit the use of any of the methods described in FEMA publication *Managing Floodplain Development in Approximate A Areas* (as that publication may be subsequently amended) or may permit the elevation to be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site. The Floodplain Administrator may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers registered in the State of Delaware, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computation, etc., shall be submitted in sufficient detail to allow thorough technical review by the Office of Planning and Zoning and/or the Sussex County Engineering Department.
- (f) Elevation of the lowest floor, including basement, or elevation of the bottom of the lowest horizontal structural member, as applicable to the flood zone, of all proposed structures, referenced to the datum on the Flood Insurance Rate Maps.
- (g) Such other material and information as may be requested by the Floodplain Administrator necessary to determine conformance with these regulations.
- (h) For work on an existing structure, including any improvement, addition, repairs, alterations, rehabilitation, or reconstruction, sufficient information to determine if the work constitutes substantial improvement, including:
 - i. Documentation of the market value of the structure before the improvement is started or before the damage occurred.
 - ii. Documentation of the actual cash value of all proposed improvement work, or the actual cash value of all work necessary to repair and restore damage to the before damaged condition, regardless of the amount of work that will be performed.
- (i) Certifications and/or technical analyses prepared or conducted by an appropriate design professional licensed in the State of Delaware, as appropriate to the type of development activity proposed and required by these regulations:
 - [i] Floodproofing Certificate for dry floodproofed non-residential structures, as required in Section 115-141.5.C.
 - [ii] Certification that flood openings that do not meet the minimum requirements of Section 115-141.5.B.2.(c)[ii] are designed to automatically equalize hydrostatic flood forces.
 - [iii] Certification that the structural design, specifications and plans, and the methods of construction to be used, are in accordance with accepted standards of practice and meet the requirements of Section 115-141-6.C.(5).

[iv] Technical analyses to document that the flood carrying capacity of any watercourse alteration or relocation will not be diminished and documentation of maintenance assurances as required in Section 115-141-5.E.(3).

[v] Hydrologic and hydraulic engineering analyses demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but has not delineated a floodway, as required by Section 115-141-5.E.(2).

[vi] Hydrologic and hydraulic engineering analyses of any development proposed to be located in an identified floodway, as required by Section 115-141-5.E.(1).

[vii] Hydrologic and hydraulic engineering analyses to develop base flood elevations for subdivisions and large-lot developments, as required by Section 115-141-4.B.(4) or otherwise required by the Floodplain Administrator.

(2) Right to Submit New Technical Data

The applicant has the right to seek a Letter of Map Change and to submit new technical data to FEMA regarding base maps, topography, special flood hazard area boundaries, floodway boundaries, and base flood elevations. Such submissions shall be prepared in a format acceptable by FEMA and the Floodplain Administrator shall be notified of such submittal.

(3) Requirement to Submit New Technical Data

The Floodplain Administrator shall notify FEMA of physical changes affecting flood hazard areas and flooding conditions by submitting technical or scientific data as soon as practicable, but not later than six (6) months after the date such information becomes available. The Floodplain Administrator has the authority to require applicants to submit technical data to FEMA for Letters of Map Change.

E. Review, Approval or Disapproval

(1) Review

The Floodplain Administrator shall:

- (a) Review applications for development in special flood hazard areas to determine the completeness of information submitted. The applicant shall be notified of incompleteness or additional information required to support the application.
- (b) Review applications for compliance with these regulations after all information required in Section 115-141.3.D or identified and required by the Floodplain Administrator has been received.
- (c) Review all permit applications to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits, including but not limited to:

- [i]. Permits issued by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Delaware Environmental Protection Agency under Section 401 of the Clean Water Act.
- [ii]. Permits required by the State of Delaware.

(2) Approval or Disapproval

The Floodplain Administrator shall approve applications that comply with the applicable requirements of these regulations. The Floodplain Administrator shall disapprove applications for proposed development that do not comply with the applicable provisions of these regulations and shall notify the applicant of such disapproval, in writing, stating the reasons for disapproval.

(3) Expiration of Permit

A permit is valid provided the actual start of construction occurs within 180 days of the date of permit issuance. If the actual start of construction is not within 180 days of the date of permit issuance, requests for extensions shall be submitted in writing. Upon reviewing the request and the permit for continued compliance with these regulations, the Floodplain Administrator may grant, in writing, one or more extensions of time, for periods not more than 180 days each.

F. Inspections

The Floodplain Administrator shall make periodic inspections of development permitted in special flood hazard areas, at appropriate times throughout the period of construction in order to monitor compliance. Such inspections may include:

- (1) Stake-out inspection, to determine location on the site relative to the special flood hazard area and floodway.
- (2) Foundation inspection, upon placement of the lowest floor and prior to further vertical construction, to collect information or certification of the elevation of the lowest floor.
- (3) Enclosure inspection, including crawlspaces, to determine compliance with applicable provisions.
- (4) Utility inspection, upon installation of specified equipment and appliances, to determine appropriate location with respect to the base flood elevation.
- (5) Storage of materials.

G. Submissions Required Prior to Issuance of a Certificate of Occupancy

The following certifications are required to be submitted by the permittee for development that is permitted in special flood hazard areas prior to the issuance of a Certificate of Occupancy:

- (1) For new or substantially improved residential structures or nonresidential structures that have been elevated, an Elevation Certificate that shows the ground elevation and finished elevations (identified in Section C of the Elevation Certificate as "Finished Construction").

- (2) For nonresidential structures that have been dry floodproofed, a Floodproofing Certificate based on "Finished Construction" (identified in Section II of the Elevation Certificate form).
- (3) For all development activities subject to the requirements of Section 115-3.D.(2), a Letter of Map Revision shall be provided.

H. Flood Insurance Rate Map Use and Interpretation

The Floodplain Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of special flood hazard maps and data:

- (1) In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified special flood hazard areas, any other flood hazard data available from a federal, state, or other source shall be reviewed and reasonably used.
- (2) Special flood hazard area delineations, base flood elevations, and floodway boundaries on FEMA maps and in FEMA studies shall take precedence over delineations, base flood elevations, and floodway boundaries by any other source that reflect a reduced special flood hazard area, reduced floodway width and/or lower base flood elevations, unless, with the approval of the Floodplain Administrator, such data is submitted to, and approved by FEMA.
- (3) Other sources of data shall be reasonably used, with the approval of the Floodplain Administrator, if they show increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies, and if such data is submitted to, and approved by, FEMA.
- (4) Where field surveyed topography indicates that ground elevations are below the base flood elevation, even in areas not delineated as a special flood hazard on a flood hazard map, the area shall be considered as special flood hazard area.

§ 115-141.4 REQUIREMENTS IN ALL SPECIAL FLOOD HAZARD AREAS

A. Application of Requirements

The general requirements of this section apply to all development proposed within special flood hazard areas identified in Section 115-141.1.D.

B. Subdivisions and Developments

- (1) All subdivision and development proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.
- (2) All subdivision and development proposals shall have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) All subdivision and developments proposals shall have adequate drainage provided

to reduce exposure to flood damage.

- (4) All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in FEMA-delineated special flood hazard areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway delineations. The analyses shall be prepared by a professional engineer registered in the State of Delaware in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Studies, analyses, computation, etc., shall be submitted in sufficient detail to allow thorough technical review by the Office of Planning and Zoning and/or the Sussex County Engineering Department. In subdivisions in which the proposed lots are located outside of the floodplain, completion of the analysis may be waived provided that the subject area is designated and restricted to open space or a conservation area.

C. Protection of Water Supply and Sanitary Sewage Systems

- (1) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into systems and discharges from systems into floodwaters.
- (3) On-site waste disposal systems shall be located to avoid impairment to or contamination from them during conditions of flooding.

D. Buildings and Structures

All new construction of buildings and structures, including placement of manufactured homes and substantial improvements to existing buildings and structures, that are to be located, in whole or in part, in special flood hazard areas shall meet the following requirements:

- (1) Be designed (or modified) and constructed to safely resist flood loads. The construction shall provide a complete load path capable of transferring all loads from their point of origin through the load-resisting elements to the foundation. Buildings and structures shall be designed, connected and anchored to resist flotation, collapse or permanent lateral movement due to structural loads and stresses from flooding equal to the base flood elevation, including hydrodynamic and hydrostatic loads and the effects of buoyancy.
- (2) Be constructed by methods and practices that minimize flood damage.
- (3) Use flood damage-resistant materials below the elevation of the lowest floor. See FEMA Technical Bulletin #2 – Flood Damage-Resistant Materials Requirements and FEMA Technical Bulletin #8 – Corrosion Protection for Metal Connectors in Coastal Areas, as both may be amended from time to time.
- (4) Have electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment located at or above the elevation of the lowest floor. Electrical wiring systems are permitted to be located below the elevation of the lowest floor

provided they conform to the provisions of the electrical part of this code for wet locations. If replaced as part of a substantial improvement, electrical systems, equipment and components, and heating, ventilation, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment shall meet the requirements of this section. See FEMA Technical Bulletin #4 – Elevator Installation, as may be amended.

- (5) As an alternative to subsection.D.(4) above,, electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment are permitted to be located below the elevation of the lowest floor provided that they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of the base flood.
- (6) In special flood hazard areas other than coastal high hazard areas (Zones A, AE, and AO), meet the specific requirements of Section 115-141.5.
- (7) In all coastal high hazard areas (Zone VE), meet the specific requirements of Section 115-141.6.
- (8) In a special flood hazard area with more than one designation (Zones A, AE, and AO, floodway, Zones VE), meet the requirements of the most restrictive designation.

E. Fill

- (1) Disposal of fill, including but not limited to rubble, construction debris, woody debris, and trash, shall not be permitted in special flood hazard areas.
- (2) Where permitted by Section 115-141.5 (Zones A, AE, and AO), fill placed for the purpose of raising the ground level and to support a building or structure shall meet the following requirements:
 - (a) Extend laterally from the building footprint to provide for adequate access, as a function of use; the Floodplain Administrator may seek advice from the State Fire Marshal's Office and/or the local fire services agency.
 - (b) Placed and compacted to provide for stability under conditions of rising and falling floodwaters and resistance to erosion, scour, and settling.
 - (c) Consist of soil or rock materials only.
 - (d) Sloped no steeper than one (1) vertical on two (2) horizontal, unless approved by the Floodplain Administrator.
 - (e) Designed with provisions for adequate drainage and no adverse effect on adjacent properties.
- (3) Fill placed for a purpose other than to support a building or structure shall meet the requirements of Sections 115-141.4.E.(2)(b) through (e).

F. Historic Structures

Repair, alteration, or rehabilitation of historic structures shall be subject to the requirements of these regulations unless a determination is made that compliance with these regulations will preclude the structure's continued designation as a historic structure and a variance is granted in accordance with Section 115-141.7 and such variance is the minimum necessary to preserve the historic character and design of the structure.

G. Recreational Vehicles

- (1) Recreational vehicles in special flood hazard areas shall be fully licensed and ready for highway use, and shall be placed on a site for less than 180 consecutive days.
- (2) Recreational vehicles that are not fully licensed and ready for highway use, or that are to be placed on a site for more than 180 consecutive days, shall meet the requirements of Section 115-141.5.B.(3) for manufactured homes or Section 115-141.6.C.(4), as applicable.

H. Gas or Liquid Storage Tanks

- (1) Underground tanks in special flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
- (2) Above-ground tanks in special flood hazard areas shall be elevated and anchored to or above the base flood elevation or shall be anchored at-grade and designed and constructed to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
- (3) In special flood hazard areas, tank inlets, fill openings, outlets and vents shall be:
 - (a) At or above the base flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the base flood.
 - (b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.

§ 115-141.5 REQUIREMENTS IN SPECIAL FLOOD HAZARD AREAS OTHER THAN COASTAL HIGH HAZARD AREAS

A. General Requirements

In addition to the general requirements of Section 115-141.4, the requirements of this section apply to all development proposed in special flood hazard areas other than coastal high hazard areas. These areas include Zones A, AE, and AO.

B. Residential Structures and Residential Portions of Mixed Use Structures

(1) Elevation Requirements

- (a) The lowest floor (including basement) shall be elevated to or above the base flood elevation.
- (b) In areas of shallow flooding (Zone AO), the lowest floor (including basement) shall be elevated at least as high above the highest adjacent grade as the depth number specified in feet on the Flood Insurance Rate Map, or at least 2 feet if a depth number is not specified; adequate drainage paths shall be provided to guide floodwaters around and away from the structure.
- (c) Enclosures below the lowest floor shall meet the requirements of Section 115-141.5.B.(2).

(2) Enclosures Below the Lowest Floor

- (a) Enclosures below the lowest floor shall be used solely for parking of vehicles, building access, crawlspaces, or limited storage.
- (b) Enclosures below the lowest floor shall be constructed using flood damage-resistant materials. See FEMA Technical Bulletin #2 – Flood Damage-Resistant Materials Requirements, as may be amended.
- (c) Enclosures below the lowest floor (including crawlspaces) shall be provided with flood openings which shall meet the following criteria (see FEMA Technical Bulletin #1 – Openings in Foundation Walls and Walls of Enclosures as may be amended):
 - [i] There shall be a minimum of two openings on different sides of each enclosed area; if a building has more than one enclosed area below the design flood elevation, each area shall have openings on exterior walls.
 - [ii] The total net area of all openings shall be at least 1 square inch for each square foot of enclosed area, or the openings shall be designed and certified by a engineer registered in the State of Delaware or architect licensed in the State of Delaware to provide for equalization of hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwaters.
 - [iii] The bottom of each opening shall be 1 foot or less above the adjacent ground level.
 - [iv] Any louvers, screens or other opening covers shall allow the automatic flow of floodwaters into and out of the enclosed area.
 - [v] Where installed in doors and windows, openings that meet requirements of Section 115-141.5 B.(2).(c).[i] through [iv] above are acceptable; however, doors and windows without installed openings do not meet the requirements of this section.
- (d) Crawlspaces shall have the finished interior ground level equal to or higher than the outside finished ground level on at least one entire side of the foundation wall.

(3) Manufactured Homes

New or replacement manufactured homes, including substantial improvement of existing manufactured homes, shall:

- (a) Be elevated on a permanent, reinforced foundation that raises the lowest floor to or above the base flood elevation and is otherwise in accordance with Section 115-141.5.B.(1).
- (b) Be installed in accordance with the anchor and tie-down requirements of the building code or the manufacturer's written installation instructions and specifications.
- (c) Have enclosures below the elevated manufactured home, if any, meet the requirements of Section 115-141.5.B.(2).

For the purpose of this requirement, the lowest floor of a manufactured home is the finished floor of the lowest floor.

C. Nonresidential Structures and Nonresidential Portions of Mixed Use Structures

(1) Elevation Requirements

- (a) The lowest floor (including basement) shall be elevated to or above the base flood elevation or the structure shall be dry floodproofed in accordance with Section 115-141.5.C.(2).
- (b) In areas of shallow flooding (Zone AO), if not dry floodproofed, the lowest floor (including basement) shall be elevated at least as high above the highest adjacent grade as the depth number specified in feet on the Flood Insurance Rate Map or at least 2 feet if a depth number is not specified; adequate drainage paths shall be provided to guide floodwaters around and away from the structure.
- (c) Enclosures below the lowest floor, if not dry floodproofed, shall meet the requirements of Section 115-141.5.B.(2).

(2) Dry Floodproofing Requirements

Dry floodproofed structures, together with attendant utility and sanitary facilities, shall:

- (a) Be designed to be dry floodproofed such that the structure is watertight with walls and floors substantially impermeable to the passage of water to the level of the base flood elevation. In areas of shallow flooding (Zone AO), the structure shall be dry floodproofed at least as high above the highest adjacent grade as the depth number specified in feet on the Flood Insurance Rate Map or at least 2 feet if a depth number is not specified.
- (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (c) Be certified by a professional engineer registered in the State of Delaware or a professional architect licensed in the State of Delaware with a Floodproofing Certificate, that the design and methods of construction meet the requirements of this section. Refer to FEMA Technical Bulletin #3 – *Non-Residential Floodproofing – Requirements and Certification*, as may be amended, for guidance.

D. Accessory Structures

Accessory structures shall meet the requirements of these regulations. Accessory structures that have a footprint of no more than 200 square feet may be allowed without requiring elevation or floodproofing provided such structures meet all of the following requirements:

- (1) Useable only for parking or limited storage;
- (2) Constructed with flood damage-resistant materials below the base flood elevation;
- (3) Constructed and placed to offer the minimum resistance to the flow of flood waters;
- (4) Firmly anchored to prevent flotation, collapse, and lateral movement;
- (5) Electrical service and mechanical equipment elevated to or above the level of the base flood elevation and
- (6) Equipped with flood openings that meet the requirements of Section 115.141.5.B.(2).(c).
- (7) For guidance, see FEMA Technical Bulletin #7 – *Wet Floodproofing Requirements*, as may be amended.

E. Protection of Flood-Carrying Capacity

(1) Development in Floodways

(a) Within any floodway area designated on the Flood Insurance Rate Map, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic engineering analysis that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Such technical data shall be submitted to the Floodplain Administrator and to FEMA. The analyses shall be prepared by a professional engineer registered in the State of Delaware in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

(b) The proposed development activity may be permitted upon submission, by the applicant, of the following:

- [i] Analyses demonstrating that the activity will not result in any increase in the base flood elevation; or
- [ii] Analyses demonstrating that the activity will result in an increase in the base flood elevation, provided a Conditional Letter of Map Revision has been issued by FEMA and the applicant completes all of the following:
 - [a] A submission of technical data required in Section 115-141.3 D.1.(i).[iv]
 - [b] An evaluation alternative which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;

- [c] A certification that no structures are located in areas which would be impacted by the increased base flood elevation;
- [iii] Documentation that individual legal notices have been delivered to all impacted property owners to explain the impact of the proposed action on their properties;
- [iv] Concurrence of the County Administrator and the Director of the Office of Planning and Zoning of Sussex County and the Chief Executive Officer of any other community impacted by the proposed actions; and
- [v] Documentation that the applicant has notified the Delaware Department of Natural Resources and Environmental Control (Division of Watershed Stewardship).

(2) Development in Areas with Base Flood Elevations but No Floodways

For development activities in a special flood hazard area with base flood elevations but no designated floodways, the applicant shall develop hydrologic and hydraulic engineering analyses and technical data reflecting the proposed activity and shall submit such analyses and data to the Floodplain Administrator and to FEMA. The analyses shall be prepared by a professional engineer registered in the State of Delaware in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

The proposed development activity may be permitted if the analyses demonstrate that the cumulative effect of the proposed development activity, when combined with all other existing and potential special flood hazard area encroachments will not increase the base flood elevation more than 1.0 (one) foot at any point.

(3) Deliberate Alterations of a Watercourse

For the purpose of these regulations, a watercourse is deliberately altered when a person causes a change to occur within its banks. Deliberate changes to a watercourse include, but are not limited to: widening, deepening or relocating of the channel; installation of culverts; construction of bridges, and excavation or filling of the channel or watercourse banks.

For any proposed deliberate alteration of a watercourse, the applicant shall develop hydrologic and hydraulic engineering analyses and technical data reflecting such changes and submit such technical data to the Floodplain Administrator and to FEMA. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

The proposed alteration of a watercourse may be permitted upon submission, by the applicant, of the following:

- (a) Documentation of compliance with Section 115-141.5.E.(1) if the alteration is in a floodway or Section 115-141.5.E.(2) if the alteration is in a watercourse with base flood elevations but no floodway.

- (b) A description of the extent to which the watercourse will be altered or relocated as a result of the proposed development.
- (c) A certification by a professional engineer registered in the State of Delaware that the bankful flood-carrying capacity of the watercourse will not be diminished.
- (d) Evidence that adjacent communities, the U.S. Army Corps of Engineers, and the Delaware Department of Natural Resources and Environmental Control (Division of Watershed Stewardship) have been notified of the proposal and evidence that such notifications have been submitted to the Federal Emergency Management Agency.
- (e) Evidence that the applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of the watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with Sussex County specifying the maintenance responsibilities; if an agreement is required, the permit shall be conditioned to require that the agreement be recorded on the deed of the property which shall be binding on future owners.

§ 115-141.6 REQUIREMENTS IN COASTAL HIGH HAZARD AREAS

A. General Requirements

In addition to the general requirements of Section 115-141.4, the requirements of this section apply to all development proposed in coastal high hazard areas, also referred to collectively as “Zone V.”

B. Location and Site Preparation

- (1) The placement of structural fill for the purpose of elevating buildings is prohibited.
- (2) All new construction shall be located landward of the reach of mean high tide.
- (3) Generally, any reduction in the dimensions of dunes increases the potential for flood damage. Site preparations shall not alter sand dunes unless an engineering analysis demonstrates that the potential for flood damage is not increased.

C. Residential and Nonresidential Structures

(1) Foundations

- (a) Buildings and structures shall be supported on pilings or columns and shall be adequately anchored to such pilings or columns. Piling shall have adequate soil penetrations to resist the combined wave and wind loads (lateral and uplift). Water loading values used shall be those associated with the base flood. Wind loading values shall be those required by applicable building standards. Pile embedment shall include consideration of decreased resistance capacity caused by scour of soil strata surrounding the piling.

- (b) Slabs, pools, pool decks and walkways shall be located and constructed to be structurally independent of buildings and structures and their foundations to prevent transfer of flood loads to the buildings and structures during conditions of flooding, scour or erosion from wave-velocity flow conditions, and shall be designed to minimize debris impacts to adjacent properties and public infrastructure.

(2) Elevation Requirements

- (a) The bottom of the lowest horizontal structural member supporting the lowest floor (excluding the pilings, pile caps, columns, grade beams, and bracing), shall be located at or above the base flood elevation.
- (b) Basement floors that are below grade on all sides are prohibited.
- (c) The space below the lowest floor shall either be free of obstruction or, if enclosed by walls, shall meet the requirements of Section 115-141.6.C.(3). See FEMA Technical Bulletin #5 – *Free of Obstruction Requirements*, as may be amended.

(3) Enclosures Below the Lowest Floor

- (a) Enclosures below the lowest floor shall be used solely for parking of vehicles, building access or storage.
- (b) Walls and partitions are permitted below the elevated floor, provided that such walls and partitions are designed to break away under flood loads and are not part of the structural support of the building or structure. See FEMA Technical Bulletin #9 – *Design and Construction Guidance for Breakaway Walls*, as may be amended.
- (c) Electrical, mechanical, and plumbing system components shall not be mounted on or penetrate through walls that are designed to break away under flood loads.
- (d) Walls intended to break away under flood loads shall be constructed with insect screening or open lattice, or shall be designed to break away or collapse without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Such walls, framing and connections shall have a design safe loading resistance of not less than 10 pounds per square foot and no more than 20 pounds per square foot; or
- (e) Where wind loading values of the local building requirements exceed 20 pounds per square foot, the applicant shall submit a certification prepared and sealed by a professional engineer registered in the State of Delaware or professional architect licensed in the State of Delaware that:
- [i] The walls and partitions below the lowest floor have been designed to collapse from a water load less than that which would occur during the base flood.
- [ii] The elevated portion of the building and supporting foundation system have been designed to withstand the effects of wind and flood loads acting simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with the base flood; wind loading values used shall be those required by the local building requirements.

(4) Manufactured Homes

New or replacement manufactured homes, including substantial improvement of existing manufactured homes, shall:

- (a) Meet the foundation requirements of Section 115-141.6.C.(1).
- (b) Meet the elevation requirements of Section 115-141.6.C.(2).
- (c) Meet the enclosure requirements of Section 115-141.6.C.(3).
- (d) Be installed in accordance with the anchor and tie-down requirements of the building code or the manufacturer's written installation instructions and specifications.

(5) Certification of Design

The applicant shall include in the application a certification prepared by a professional engineer registered in the State of Delaware or a professional architect licensed in the State of Delaware that the design and methods of construction to be used meet the applicable criteria of these regulations.

§ 115-141.7 VARIANCES

A. Variances

The Sussex County Board of Adjustment shall have the power to authorize, in specific cases, such variances from the requirements of these regulations, not inconsistent with Federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship or exceptional practical difficulty.

(1). Application for a Variance

- (a) Any owner, or agent thereof, of property for which a variance is sought shall submit an application for a variance to the Floodplain Administrator.
- (b) At a minimum, such application shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request. Each variance application shall specifically address each of the considerations in Section 115-141.7.A.(2) and the limitations and conditions of Section 115-141.7.A.(3).

2 Considerations for Variances

In considering variance applications, the Board of Adjustment shall consider and make findings of fact on all evaluations, all relevant factors, requirements specified in other sections of these regulations, and the following factors:

- (a) The danger that materials may be swept onto other lands to the injury of others.

- (b) The danger to life and property due to flooding or erosion damage.
- (c) The susceptibility of the proposed development and its contents (if applicable) to flood damage and the effect of such damage on the individual owner.
- (d) The importance of the services provided by the proposed development to the community.
- (e) The availability of alternative locations for the proposed use which are not subject to, or are subject to less, flooding or erosion damage.
- (f) The necessity to the facility of a waterfront location, where applicable, or if the facility is a functionally dependent use.
- (g) The compatibility of the proposed use with existing and anticipated development.
- (h) The relationship of the proposed use to the comprehensive plan for that area.
- (i) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
- (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(3). Limitations for Variances

- (a) An affirmative decision on a variance request shall only be issued upon:
 - [i] A showing of good and sufficient cause. A “good and sufficient” cause is one that deals solely with the physical characteristics of the property and cannot be based on the character of the planned construction or substantial improvement, the personal characteristics of the owner or inhabitants, or local provisions that regulate standards other than health and public safety standards.
 - [ii] A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property.
 - [iii] Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
 - [iv] A determination that the granting of a variance for development within any designated floodway, or special flood hazard area with base flood elevations but no floodway, will not result in increased flood heights beyond that which is allowed in these regulations.
 - [v] A determination that the granting of a variance will not result in additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.
 - [vi] A determination that the structure or other development is protected by methods to minimize flood damages.

- [vii] A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (b) Upon consideration of the individual circumstances, the limitations and conditions, and the purposes of these regulations, the Board of Adjustment may attach such conditions to variances as it deems necessary to further the purposes of these regulations.
- (c) The Board of Adjustment shall notify, in writing, any applicant to whom a variance is granted for a building or structure with a lowest floor elevation below the base flood elevation that the variance is to the floodplain management requirements of these regulations only, and that the cost of federal flood insurance will be commensurate with the increased risk.

§ 115-141.8 ENFORCEMENT

A. Compliance Required

- (1) No structure or land development shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations.
- (2) Failure to obtain a permit shall be a violation of these regulations and shall be punishable in accordance with Section 115-141.8.C.
- (3) Permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the specific activities set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction of such specific activities that is contrary to that authorized shall be deemed a violation of these regulations.

B. Notice of Violation

Violations of this Chapter shall be subject to the procedures set forth in Article XXVIII "Administration and Enforcement" unless an expedited process is required and is justified by risk to life and safety.

C. Violations and Penalties

Violations of this Chapter shall be subject to the procedures set forth in Article XXVIII "Administration and Enforcement" unless an expedited process is required and is justified by risk to life and safety.

§ 115-141.9 LIABILITY

The granting of a permit or approval of a site plan in an identified flood-prone area shall not constitute a representation, guarantee or warranty of any kind by Sussex County or by any of its elected or appointed officials, directors, or employees thereof of the practicability or safety of the

proposed use, and shall create no liability upon Sussex County, or its elected or appointed officials, directors or employees.

§ 115-141.10 HEIGHT REGULATIONS IN SPECIAL FLOOD HAZARD AREAS

For all structures in Special Flood Hazard Areas, height regulations for the districts shown in Articles IV through XX shall apply, with the height measured from the base flood elevation. Provided, however, that in Special Flood Hazard Areas the permitted height may be increased by one foot for every one foot of freeboard, not to exceed two feet above the permitted height measured from base flood elevation. All other areas not in Special Flood Hazard Areas shall be measured from grade.

§ 115-141.11 EFFECTIVE DATE

This ordinance shall take effect on _____.

Section 3: The Code of Sussex County, Chapter 115, Article XXV, Section 115-189 “Coastal and Flood-Prone Area Protection” is hereby amended by deleting the following language in brackets and adding the following underlined language:

§ 115-189 Coastal [and Flood-prone] area protection.

A. The purpose of this section is to assist in the preservation and restoration of the primary coastal dune, thereby contributing to the safety and welfare of the occupants of lands adjacent to and landward thereof to provide for construction control and land development measures for all new construction and substantial improvement occurring within the flood-prone districts, to limit the visual obstruction of beach and berm by structure erected thereon and to limit the encroachment of shadow on the beach by structures located adjacent thereto.

B. At locations where the primary dune exists as a continuous and clearly defined natural coastal formation, the center of the same shall, for purposes of this section, be the “dune line.” Where the primary dune as a natural coastal formation has ceased to exist or only broken remnants remain, then the dune line shall be as established by the Department of Natural Resources and Environmental Control Beach Preservation Section or its successor.

C. No primary dune material may be removed or displaced, except that the driving of piling shall not be considered displacement of dune material. No material from the berm or beach may be moved or displaced prior to the completion of all buildings and structures on a given lot.

[D. The lowest floor for a building extending seaward from the dune line shall comply with the requirements of the flood zone.

E. Buildings located in area subject to this chapter lying eastward of the inland waterways from Roosevelt Inlet to the Maryland State line and westward of the dune line shall comply with the following requirements:

- (1) The lowest floor shall be at or above the minimum elevation required for the site by the flood zone.
- (2) Height regulation for the district as shown in Article IV through XX shall apply, with height measurement being measured from the required elevation by the flood zone, where applicable. All other areas shall be measured from grade.]

[F.]D. Townhouses and multifamily dwellings subject to the site plan review requirement of Article XXVIII located in the area lying eastward of the inland waterway from Roosevelt Inlet to the Maryland State line shall comply with the following additional requirements:

- (1) All buildings, parking areas and unloading areas shall be a minimum of 30 feet landward from the dune line. The additional yard requirement for buildings of more than three stories shall be added thereto.

[G. No land in a Coastal High-Hazard Area may be developed unless the new construction or substantial improvement:

- (1) Is located landward of the reach of mean high tide.
- (2) Does not result in the alteration of sand dunes which would increase potential flood damage.
- (3) Does not use fill for structural support and does not use slab or other at-grade foundations.
- (4) Shall be elevated on pilings and columns so that:
 - (a) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the one-hundred-year-flood level:
 - (b) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components (water loading values used shall be those associated with the one-hundred-year flood; wind loading values shall be those required by state or local building standards); and
 - (c) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting these provisions.

- (5) Has no basement and shall have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice or insect screening intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. A breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certified that the proposed design meets the following conditions:
 - (a) Breakaway wall collapse shall result from a water load less than that which would occur during the one-hundred-year flood.
 - (6) Shall use any enclosed space below the lowest floor solely for the parking of vehicles, building access or storage.
- H. The following construction controls shall be in effect throughout the flood-prone districts wherever more stringent controls do not prevail:
- (1) Floor elevation.
 - (a) The lowest floor, including basement, of new construction or substantial improvements of residential structures shall be elevated to the level or above the level of the one-hundred-year flood.
 - (b) The lowest floor, including basement, of new construction or substantial improvement of nonresidential structures shall be:
 - [1] Elevated to the level or above the level of the one-hundred-year flood; or
 - [2] Together with attendant utility and sanitary facilities, designed so that below the one-hundred-year flood level the structure is watertight and has structural components capable of withstanding hydrostatic and hydrodynamic loads and effect of buoyancy.
 - (2) Placement of structures. Any new structure erected within the flood-prone districts shall be aligned to offer minimal resistance or obstruction to the flow of the one-hundred-year floodwaters.
 - (3) Anchoring.
 - (a) All new structures shall be firmly anchored to prevent lateral movement, flotation or collapse.

- (b) All air ducts, large pipes and storage tanks located at or below the first-floor level shall be firmly anchored to prevent lateral movement, flotation or collapse.
- (4) For all new construction and substantial improvements, those fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
- (a) A minimum of two openings having a total net area of no less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (b) The bottom of all openings shall be no higher than one foot above grade.
 - (c) Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (5) Interior floors, walls and ceilings.
- (a) Wood flooring used at or below the first-floor level shall be installed to accommodate a lateral expansion of the flooring perpendicular to the flooring grain without incurring structural damage to the building.
 - (b) All finished flooring used at or below the first-floor level shall be made of materials which are stable and resistant to water damage.
 - (c) All carpeting or carpet cushions employed as a finished flooring surface at or below the first-floor level shall be made of materials which are resistant to water damage.
 - (d) Plywood used at or below the first-floor level shall be of an exterior or marine grade and of a water-resistant or waterproof variety.
 - (e) Basement ceilings in nonresidential structures shall have sufficient wet strength and be so installed as to survive inundation.
- (6) Electrical systems.
- (a) All electric water heaters, electric furnaces and other permanent electrical installations shall be permitted only at or above the level of the one-hundred-year flood.

- (b) All electrical distribution panels and breaker boxes shall be elevated to or above the level of the one-hundred-year flood (base flood elevation).
- (c) Separate electrical circuits shall serve lower levels and shall be dropped from above.
- (7) Plumbing, Water heaters, furnaces and other permanent mechanical installations shall be permitted only at or above the level of the one-hundred-year flood.
- (8) Storage. No materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to human, animal or plant life shall be stored below the level of the one-hundred-year flood.

I. Manufactured homes.

- (1) Manufactured homes to be placed or substantially improved within any floodplain area on sites outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision or in an existing manufactured home park or subdivision in which a manufactured home has incurred substantial damage, as defined herein, as the result of a flood shall:
 - (a) Be elevated on a permanent foundation so that the lowest floor of the manufactured home is elevated to or above the base flood elevation; and
 - (b) Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (2) Manufactured homes to be placed or substantially improved within any floodplain area in an existing manufactured home park or subdivision and not subject to the provisions of Subsection I (1) above shall be elevated so that:
 - (a) The lowest floor of the manufactured home is at or above the base flood elevation; and
 - (b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (3) Anchoring.
 - (a) All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include but are not limited to the over-the-top and frame ties to ground anchors, such as the following:

- [1] Over-the-top ties shall be provided at each of the four corners of the manufactured home, with two additional ties per side for manufactured homes less than 50 feet long.
- [2] Frame ties shall be provided at each corner of the home, with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side.
- [3] All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.

(b) Any additions to a manufactured home shall be similarly anchored.

(c) This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

J. **Recreational vehicle placement.** Recreational vehicles to be placed within any floodplain area shall either be on the site for fewer than 180 consecutive days and be fully licensed and ready for height use or meet the provisions of Article XXIV, § 115-172H of this Code. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect utilities and security devices and has no permanently attached additions.

K. **Floodway requirements.**

- (1) Within the floodway portion of the flood-prone district, no construction or development shall be permitted which would result in any increases in flood levels within the community during the one-hundred-year flood.
- (2) No manufactured homes shall be placed in the floodway, except into existing manufactured home parks.
- (3) Encroachments, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway shall be prohibited, unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (4) Notwithstanding any other provisions of the floodplain management criteria for flood-prone areas by the Federal Emergency Management Agency, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for conditional Federal Insurance Rate Map and floodway revision, fulfills the requirements for such revisions and receives the approval of the Federal Insurance Administrator.

L. Area of shallow flooding regulations.

- (1) Require within any AO zone on the community's Federal Insurance Rate Maps that all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Federal Insurance Rate Map (at least two feet if no depth number is specified).
- (2) Require within an AO zone on the community's Federal Insurance Rate Map that all new construction and substantial improvements of nonresidential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Federal Insurance Rate Map (at least two feet if no depth number is specified) or, together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified by the Federal Insurance Administrator.]

SYNOPSIS

This ordinance replaces the existing requirements for flood-prone districts contained in the Sussex County Zoning Code with current provisions as required by the Federal Emergency Management Agency for continued participation in the National Flood Insurance Program. This amendment gives greater guidance, and more detail, to those parties utilizing these requirements, including the Sussex County Floodplain Administrator, developers, builders and property owners. In addition, these provisions were previously scattered throughout the Code in Sections 115-4, 115-189 and Article XVIII. Through this amendment, they are more conveniently located entirely within Article XVIII "Flood Prone Districts". In addition, the ordinance permits additional height up to 2 feet for every foot of freeboard incorporated into a structure.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. ____ ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE ____ DAY OF _____, 2015

ROBIN A. GRIFFITH
CLERK OF THE COUNCIL

PUBLIC HEARING
January 20, 2015

This is to certify that on January 8m 2015 the Sussex County Planning and Zoning Commission conducted a public hearing on the below listed Ordinance Amendment. At the conclusion of the public hearing, the Commission moved and passed that the Ordinance Amendment be forwarded to the Sussex County Council with the recommendations as stated.

Respectfully submitted:

COUNTY PLANNING AND ZONING
COMMISSION OF SUSSEX COUNTY

Lawrence B. Lank
Director of Planning and Zoning

The attached comments relating to the public hearing are findings of the Planning and Zoning Commission based upon a summary of comments read into the record, and comments stated by interested parties during the public hearing.

AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, ARTICLE I, "GENERAL PROVISIONS", AND ARTICLE XVII "FLOOD PRONE DISTRICTS", AND ARTICLE XXV "SUPPLEMENTARY REGULATIONS", SECTION 115-189, "COASTAL AND FLOOD-PRONE AREA PROTECTION".

Mr. Lank introduced the Ordinance, and advised the Commission that no letters or emails have been received to date on this Ordinance Amendment.

Mr. Robertson gave a brief summary of the Ordinance Amendment and stated that it has taken approximately one (1) year for the staff to review and prepare the Ordinance Amendment; that FEMA and DNREC have suggested that we adopt a suggested Model Ordinance; that some of the municipalities in the County have already adopted the Model Ordinance; that some of the municipalities are considering adopting the Model Ordinance; that the Staff Committee included Vincent Robertson, Todd Lawson, Lawrence Lank, Shane Abbott, Jeff Shockley, Andy Wright, and Chris Keeler; that a DNREC consultant assisted the Staff Committee when questions arose; that the flood regulations currently run throughout the Code; that this proposed Ordinance Amendment consolidates all flood related regulations into Article XVIII of the Zoning Code; that there are not many changes in the Code, mostly formatting; that the Staff Committee reviewed freeboard; that some municipalities allow additional footage above the Base Flood Elevation, varying from 12 inches, 18 inches, 2 feet and 3 feet; that the Sussex County Council did not want to mandate a freeboard, but was willing to allow a maximum of 2 feet adjustment above Base Flood Elevation and then 2 feet of height adjustment; that the freeboard would be

voluntary, not mandated; that raising the elevation of the construction with a freeboard allows for flexibility for the property owners and should decrease insurances rates for the individuals with a freeboard; and that the DNREC consultant suggested three (3) minor corrections (typos), and read the suggested corrections.

Mr. Wheatley stated that he was kind of leaning towards a mandatory freeboard.

The Commission found that there were no parties present in support of or in opposition to this Ordinance Amendment.

The Commission found that three parties, not in opposition, but questioning the freeboard issue, and stating that the regulations will protect property owners.

Mr. Robertson, in response, stated that freeboard is not mandatory; that FEMA does not mandate freeboard; that there is no uniform guidelines; and that there are no penalties for no building with a freeboard.

Mr. Wheatley asked Mr. Robertson to read a suggested motion.

Mr. Robertson read that the motion should read “I move that the Commission recommend approval of the Ordinance to Amend Chapter 115 of the Code of Sussex County, Article I “General Conditions”, and Article XVII “Flood Prone Districts” and Article XXV “Supplementary Regulations, Section 115-189 “Coastal and Flood Prone Area Protection”, with the following minor changes as suggested by Staff:

1. Section 115-141.4D(5) should be revised to reflect in the first line “Subsection D(4) above”.
2. Section 115-141.5E(1)(b) should be underlined.
3. Section 115-141.5E(1)9b)[ii][a] should refer to Section 115-141.3D1(i)[iv]

Mr. Smith stated that he would move that the Commission recommend approval of the Ordinance Amendment with the three (3) minor changes suggested by Mr. Robertson.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to forward this Ordinance Amendment to the Sussex County Council with the recommendation that the Ordinance Amendment be approved with the three minor changes. Motion carried 4 – 0.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, ARTICLE I, "GENERAL PROVISIONS", AND ARTICLE XVIII "FLOOD PRONE DISTRICTS", AND ARTICLE XXV "SUPPLEMENTARY REGULATIONS", SECTION 115-189, "COASTAL AND FLOOD-PRONE AREA PROTECTION".

WHEREAS, Sussex County has the authority to adopt ordinances designed to promote the public health, safety and general welfare of its citizens; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of Sussex County and such areas may be subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare, and

WHEREAS, Sussex County was accepted for participation in the National Flood Insurance Program on October 6, 1976, and Sussex County Council desires to continue to meet the requirements of Title 44, Code of Federal Regulations, Section 59 and 60, necessary for such participation; and

WHEREAS, as part of this amendment process, Sussex County Council desires to incorporate all of the primary flood provisions of the Zoning Code into Article XVIII rather than several scattered sections of the Zoning Code as currently exists.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1: The Code of Sussex County, Chapter 115, Article I, Section 115-4 "Definitions" is hereby amended by deleting the following language in brackets and adding the following underlined language:

c. Definitions for flood prone districts shall be as follows:

[AREA OF SHALLOW FLOODING - A designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one-percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

BASE FLOOD - The flood having a one-percent chance of being equaled or exceeded in any given year.

BASEMENT - Any area of a building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL – A wall that is not part of the structural support of the building and is intended, through its design and construction, to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

COASTAL FLOODPLAIN – An area of land adjoining a stream, river, estuary, ocean or other watercourse which has been or may hereafter be covered by floodwaters of the one-hundred-year flood or subject to shoreline erosion caused by a one-hundred-year flood.

COASTAL HIGH-HAZARD AREA – An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

CONSTRUCTION – Any new construction, reconstruction, modification, extension or expansion of buildings or structures; placement of fill; dumping; storage of materials; land excavation; land clearing; or any combination thereof. Included shall be the affixing of any prefabricated structure to a permanent site or foundation.

FILL – Any nonstructural composition which is used to artificially alter the contours of the original land surface.

FIRM – Flood Insurance Rate Map.

FLOOD INSURANCE RATE MAP (FIRM) – An official map of Sussex County on which the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to Sussex County.

FLOODPROOFING – Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, all other facility and utility systems, structures and their contents.

FLOODWAY – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

HISTORIC STRUCTURE – Any structure that is:

- (1) Listed individually in the National Registry of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

- (3) Individually listed on a State Inventory of Historic Places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior; or
 - (b) Directly by the Secretary of the Interior in states without approved programs.

LOWEST FLOOR – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s “lowest floor,” provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements.

ONE-HUNDRED-YEAR FLOOD – The highest level of flooding that, on the average, is likely to occur once every 100 years (i.e., that has a one-percent chance of occurring each year). It does not imply, however, that no greater flood is likely to occur or that such a flood will not happen more often than once every 100 years.

- (1) In the approximate areas of the Coastal Floodplain, the Director shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source until such other data has been provided by the Administrator in order to determine the required elevation for conformance to § 115-189.
- (2) All new subdivision proposals and other proposed developments which exceed either 50 lots or five acres in size shall include base flood elevation data. If base flood elevation data is not shown on the FIRM, the proposal must include a calculation of base flood elevation which meets FEMA’s study guidelines as determined by professional engineers or other of demonstrated qualifications.

RECREATIONAL VEHICLE – A vehicle which is built on a single chassis; 400 square feet or less when measured at the largest horizontal projections; designed to be self-propelled or permanently towable by a light-duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

STRUCTURE – (for floodplain management purposes) – A walled and roofed building, including a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT – Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the

structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project or improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.]

See Article XVIII, Section 115-141.2 for definitions for flood prone districts.

Section 2: The Code of Sussex County, Chapter 115, Article XVIII "Flood Prone Districts" is hereby amended by deleting the following language in brackets and adding the following underlined language:

[§ 115-141. Purpose.

The purpose of these districts is to provide land development and construction controls for those areas of land adjoining a stream, river, estuary, ocean or other watercourse which have been or may hereafter be covered by floodwaters of the one-hundred-year flood or subject to shoreline erosion caused by a one-hundred-year flood.

§ 115-142. Reference to additional regulations.

Regulations for this Article can be found in other Articles of this chapter, especially the following:

- Article I, § 115-4, Definitions and word usage
- Article II, Establishment of Districts, Maps
- Article III, Provisions Applicable to All Districts
- Article XXV, Supplementary Regulations
- Article XXVI, Nonconforming Uses
- Article XXVIII, Administration and Enforcement

§ 115-143. (Reserved)]

§ 115-141.1 GENERAL PROVISIONS

A. Findings

The Federal Emergency Management Agency (FEMA) has identified special flood hazard areas within the boundaries of Sussex County. Special flood hazard areas are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and

general welfare. Development that is inadequately elevated, improperly floodproofed, or otherwise unprotected from flood damage also contributes to the flood loss.

Sussex County, by ordinance, agreed to meet the requirements of the National Flood Insurance Program and was accepted for participation in the program on October 6, 1976. Subsequent to that date or the initial effective date of the Sussex County Flood Insurance Rate Map, all development and new construction as defined herein, are to be compliant with the requirements of the Sussex County floodplain management regulations in effect at the time of permit issuance, and all development, new construction and substantial improvements subsequent to the effective date of this Ordinance shall be compliant with this Ordinance.

B. Statement of Purpose

It is the purpose of these regulations to promote the public health, safety and general welfare, and to:

- (1) Protect human life, health and welfare;
- (2) Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future;
- (3) Minimize flooding of water supply and sanitary sewage disposal systems;
- (4) Maintain natural drainage;
- (5) Reduce financial burdens imposed on the community, its governmental units and its residents, by discouraging unwise design and construction of development in areas subject to flooding;
- (6) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (7) Minimize prolonged business interruptions;
- (8) Minimize damage to public facilities and other utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
- (9) Reinforce that those who build in and occupy special flood hazard areas should assume responsibility for their actions;
- (10) Minimize the impact of development on adjacent properties within and near flood prone areas;
- (11) Provide that the flood storage and conveyance functions of the floodplain are maintained;
- (12) Minimize the impact of development on the natural and beneficial functions of the floodplain;
- (13) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- (14) Meet community participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22, as may be amended.

C. Areas to Which These Regulations Apply

These regulations shall apply to all special flood hazard areas within the jurisdiction of Sussex County, as identified in Section 115-141.1.D, below.

D. Basis for Establishing Special Flood Hazard Areas

For the purposes of these regulations, the following are adopted by reference as a part of these regulations and serve as the basis for establishing special flood hazard areas:

- (1) The FEMA Flood Insurance Study for Sussex County, Delaware and Incorporated Areas dated March 16, 2015 and all subsequent amendments and/or the most recent revision thereof.
- (2) The FEMA Flood Insurance Rate Map for Sussex County, Delaware and Incorporated Areas dated March 16, 2015, and all subsequent amendments and/or the most recent revision thereof.
- (3) Other hydrologic and hydraulic engineering studies and/or maps prepared pursuant to these regulations or for other purposes, and which establish base flood elevations, delineate 100-year floodplains, floodways or other areas of special flood hazard.
- (4) Sussex County may identify and regulate new local flood hazard or ponding areas. These areas should be delineated and adopted on a “Local Flood Hazard Map” using best available topographic data and locally derived information such as flood of record, historic high water marks or approximate study methodologies.
- (5) Where field surveyed topography indicates that ground elevations are below the closest applicable base flood elevation, even in such areas not delineated as a special flood hazard area on a flood hazard map, the area shall be considered as a special flood hazard area.

Maps and studies that establish special flood hazard areas are on file at Office of Planning and Zoning in the Sussex County Administration Building.

E. Abrogation and Greater Restrictions

These regulations are not intended to repeal or abrogate any existing ordinances including subdivision regulations or zoning ordinances. In the event of a conflict between these regulations and any other zoning or subdivision ordinance or building code, the more restrictive shall govern. These regulations shall not impair any deed restriction, covenant or easement, but the land subject to such interests shall also be governed by these regulations.

F. Interpretation

In the interpretation and application of these regulations, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body;
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes;

and

- (4) Where a provision of these regulations may be in conflict with a state or Federal law, such state or Federal law shall take precedence, where more restrictive.

G. Warning and Disclaimer of Liability

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside of the special flood hazard areas or uses that are permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the Sussex County, any elected or appointed official, director or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.

H. Severability

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared unconstitutional or invalid.

§ 115-141.2 DEFINITIONS

Unless specifically defined below for purposes of this Article, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give those code provisions the most reasonable application.

Accessory Structure: A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

Area of Shallow Flooding: A designated Zone AO on a community's Flood Insurance Rate Map with a one percent annual chance or greater of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year; the base flood also is referred to as the 100-year flood (or the 1%-annual-chance flood).

Base Flood Discharge: The volume of water resulting from a Base Flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).

Base Flood Elevation: The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. In areas of shallow flooding, the base flood elevation is the natural grade elevation plus the depth number specified in feet on the Flood Insurance Rate Map, or at least 2 feet if the depth number is not specified.

Basement: Any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway Wall: A wall that is designed and certified by a design professional registered in the State of Delaware that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Coastal High Hazard Area: An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms. Coastal high hazard areas also are referred to as “Zone V” or “V Zones” and are designated on FIRMs as flood insurance risk Zone VE.

Development: Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, placement of manufactured homes, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Dry Floodproofing: Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Elevation Certificate: The *National Flood Insurance Program, Elevation Certificate* (FEMA Form 086-0-33 or as may be amended), used to document building elevations and other information about buildings. When required to be certified, the form shall be completed by a professional land surveyor licensed in the State of Delaware.

Enclosure Below the Lowest Floor: An unfinished or flood resistant enclosure usable solely for parking of vehicles, building access, or storage, in an area other than a basement.

Federal Emergency Management Agency (FEMA): The federal agency with the overall responsibility for administering the National Flood Insurance Program.

FEMA Technical Bulletin (or TB): A series of guidance documents published by FEMA to provide guidance concerning building performance standards of the National Flood Insurance Program. Specific Technical Bulletins are identified throughout this Article; the most recent revision to any Technical Bulletin shall be used wherever identified in this Article.

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters, and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Damage-Resistant Materials: Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. See FEMA Technical Bulletin #2 – *Flood Damage-Resistant Materials Requirements* and FEMA Technical Bulletin #8 – *Corrosion Protection for Metal Connectors in Coastal Areas*.

Flood Insurance Rate Map (FIRM): An official map on which the Federal Emergency Management Agency has delineated special flood hazard areas to indicate the magnitude and nature of flood hazards, and to designate applicable flood zones.

Zone A: Special flood hazard areas inundated by the 1% annual chance flood; base flood elevations are not determined.

Zone AE: Special flood hazard areas subject to inundation by the 1% annual chance flood; base flood elevations are determined; floodways may or may not be determined.

Zone AO: Areas of shallow flooding, with or without a designated average flood depth.

Zone X (shaded): Areas subject to inundation by the 500-year flood (0.2% annual chance); areas subject to the 1% annual chance flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected by levees from the base flood.

Zone X (unshaded): Areas determined to be outside the 1% annual chance flood and outside the 500-year floodplain.

Zone VE: Special flood hazard areas subject to inundation by the 1% annual chance flood and subject to high velocity wave action (also referred to as coastal high hazard areas).

Limit of Moderate Wave Action (LiMWA): The inland limit of the area affected by waves greater than 1.5 feet during the base flood. Base flood conditions between the Zone VE and the LiMWA will be similar to, but less severe than, those in the Zone VE.

Flood Insurance Study: The official report in which the Federal Emergency Management Agency has provided flood profiles, floodway information, and the water surface elevations.

Floodplain: Any land area susceptible to being inundated by water from any source (see “Flood” or “Flooding”).

Floodproofing Certificate: The *National Flood Insurance Program, Floodproofing Certificate for Non-Residential Structures* (FEMA Form 86-0-34 as may be amended), used by professional engineers and architects registered or licensed in the State of Delaware to certify dry floodproofing designs.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to pass the base flood discharge such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height.

Freeboard: A factor of safety usually expressed in feet above a flood elevation for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.

Functionally Dependent Use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water; the term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure: Any structure that is:

- (1) Individually listed in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; or
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.

Hydrologic and Hydraulic Engineering Analysis: An analysis performed by a professional engineer, licensed in the State of Delaware, in accordance with standard engineering practices as accepted by FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

Letter of Map Change: A Letter of Map Change is an official FEMA determination, by letter, to amend or revise an effective Flood Insurance Rate Map, Flood Boundary and Floodway Map, and Flood Insurance Study. Letters of Map Change include:

Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was inadvertently included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.

Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a Letter of Map Revision Based on Fill (LOMR-F), is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood; in order to qualify for this determination, the fill must have been permitted and placed in accordance with these regulations.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project complies with the minimum National Flood Insurance Program requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies; upon submission to and approval of certified as-built documentation, a Letter of Map Revision may be issued.

Lowest Floor: The lowest floor of the lowest enclosed area (including basement) of a structure. This definition excludes an “enclosure below the lowest floor” which is an unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other

than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations for enclosures below the lowest floor.

Manufactured Home: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

New Construction: Buildings and structures for which the "start of construction" commenced on or after October 6, 1976, including any subsequent improvements to such structures.

Person: An individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

Recreational Vehicle: A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light duty truck, and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special Flood Hazard Area: The land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency in Flood Insurance Studies and on Flood Insurance Rate Maps as Zones A, AE, AO, and Zone VE. The term includes areas shown on other flood hazard maps that are specifically listed or otherwise described in this Article.

Start of Construction: The date of issuance of permits for new construction and substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure (or Building): For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified prior to the application for a development permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

Violation: The failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the Elevation Certificate, other certifications, or other evidence of compliance required in these regulations is presumed to be in violation until such time that documentation is provided.

§ 115.141.3 ADMINISTRATION

A. Designation of the Floodplain Administrator

The Sussex County Environmental Manager, or such other person as designated by the Sussex County Administrator is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator is authorized to: (A) Fulfill the duties and responsibilities set forth in these regulations, (B) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, or (C) Upon authorization by Sussex County Council, enter into a written agreement or written contract with another jurisdiction or agency, or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22, as may be amended.

B. Duties and Responsibilities of the Floodplain Administrator

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- (1) Review applications for permits to determine whether proposed activities will be located in special flood hazard areas.
- (2) Interpret floodplain boundaries and provide flood elevation and flood hazard information.
- (3) Advise applicants for new construction or substantial improvement of structures that are located on any coastal barrier within the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that federal flood insurance is not available on such structures; areas subject to this limitation are shown on Flood Insurance Rate Maps as identified undeveloped coastal barriers or Otherwise Protected Areas.
- (4) Review applications to determine whether proposed activities will be reasonably safe from flooding.

- (5) Review applications to determine whether all necessary permits have been obtained from those Federal, state or local agencies from which prior or concurrent approval is required.
- (6) Verify that applicants proposing to alter or relocate a watercourse have notified adjacent communities and the Delaware Department of Natural Resources and Environmental Control (Division of Watershed Stewardship), and have submitted copies of such notifications to the Federal Emergency Management Agency.
- (7) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met, or disapprove the same in the event of noncompliance.
- (8) Inspect buildings and lands to determine compliance with these regulations or to determine if noncompliance has occurred or violations have been committed.
- (9) Review submitted Elevation Certificates for completeness.
- (10) Submit to FEMA data and information necessary to maintain flood hazard maps, including hydrologic and hydraulic engineering analyses prepared by or for Sussex County, corrections to labeling or planimetric details, etc.
- (11) Maintain and permanently keep all records for public inspection that are necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing permits, elevation certificates, other required certifications, variances, and records of enforcement actions taken for violations of these regulations.
- (12) Enforce the provisions of these regulations.
- (13) Assist with and coordinate flood hazard map maintenance activities.
- (14) Conduct determinations as to whether existing buildings and structures damaged by any cause and located in special flood hazard areas, have been substantially damaged.
- (15) Make reasonable efforts to notify owners of substantially damaged buildings and structures of the need to obtain a permit prior to repair, rehabilitation, or reconstruction, and to prohibit the non-compliant repair of substantially-damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a structure to prevent additional damage.
- (16) Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assisting owners with National Flood Insurance Program claims for Increased Cost of Compliance payments.

- (17) Notify the Federal Emergency Management Agency when the boundaries of Sussex County have been modified.

C. Permits Required

It shall be unlawful for any person or entity to begin construction or other development which is wholly within, partially within, or in contact with any identified special flood hazard area, as established pursuant to this Article, including but not limited to: subdivision of land, filling, grading, or other site improvements and utility installations; construction, alteration, remodeling, improvement, replacement, reconstruction, repair, relocation, or expansion of any building or structure; placement or replacement of a manufactured home; recreational vehicles; installation or replacement of storage tanks; or alteration of any watercourse, until a permit is obtained from Sussex County. No such permit shall be issued until the requirements of these regulations have been met.

D. Application Required

Application for a permit shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual start of construction. The application shall be on a form furnished for that purpose.

(1) Application Contents.

At a minimum, applications shall include:

- (a) Site plans drawn to scale showing the nature, location, dimensions, existing and proposed topography of the area in question, the limits of any portion of the site that was previously filled, and the location of existing and proposed structures, excavation, filling, storage of materials, drainage facilities, and other proposed activities.
- (b) Elevation of the existing natural ground where structures are proposed, referenced to the datum on the Flood Insurance Rate Map, and an Elevation Certificate that shows the ground elevation and proposed building elevations (identified in Section C of the Elevation Certificate as “Construction Drawings”).
- (c) Delineation of special flood hazard areas, floodway boundaries, flood zones, and base flood elevations. Where surveyed natural ground elevations are lower than the base flood elevations, base flood elevations shall be used to delineate the boundary of special flood hazard areas. If proposed, changes in the delineation of special flood hazard areas shall be submitted to and approved by FEMA in accordance with Section 115-141.3.D.(2). Where special flood hazard areas are not delineated or base flood elevations are not shown on the flood hazard maps, the Floodplain Administrator has the authority to require the applicant to use information provided by the Floodplain Administrator, information that is available from other sources, or to determine such information using accepted engineering practices.
- (d) For subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, and where base flood elevations are not

shown on Flood Insurance Rate Maps, hydrologic and hydraulic engineering analyses and studies as required by Section 115-141.4.B.(4). Studies, analyses, computation, etc., shall be submitted in sufficient detail to allow thorough technical review by the Office of Planning and Zoning and/or the Sussex County Engineering Department.

- (e) When other acceptable information is not available, the Floodplain Administrator may permit the use of any of the methods described in FEMA publication *Managing Floodplain Development in Approximate A Areas* (as that publication may be subsequently amended) or may permit the elevation to be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site. The Floodplain Administrator may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers registered in the State of Delaware, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computation, etc., shall be submitted in sufficient detail to allow thorough technical review by the Office of Planning and Zoning and/or the Sussex County Engineering Department.
- (f) Elevation of the lowest floor, including basement, or elevation of the bottom of the lowest horizontal structural member, as applicable to the flood zone, of all proposed structures, referenced to the datum on the Flood Insurance Rate Maps.
- (g) Such other material and information as may be requested by the Floodplain Administrator necessary to determine conformance with these regulations.
- (h) For work on an existing structure, including any improvement, addition, repairs, alterations, rehabilitation, or reconstruction, sufficient information to determine if the work constitutes substantial improvement, including:
 - i. Documentation of the market value of the structure before the improvement is started or before the damage occurred.
 - ii. Documentation of the actual cash value of all proposed improvement work, or the actual cash value of all work necessary to repair and restore damage to the before damaged condition, regardless of the amount of work that will be performed.
- (i) Certifications and/or technical analyses prepared or conducted by an appropriate design professional licensed in the State of Delaware, as appropriate to the type of development activity proposed and required by these regulations:
 - [i] Floodproofing Certificate for dry floodproofed non-residential structures, as required in Section 115-141.5.C.
 - [ii] Certification that flood openings that do not meet the minimum requirements of Section 115-141.5.B.2.(c)[ii] are designed to automatically equalize hydrostatic flood forces.
 - [iii] Certification that the structural design, specifications and plans, and the methods of construction to be used, are in accordance with accepted standards of practice and meet the requirements of Section 115-141-6.C.(5).

[iv] Technical analyses to document that the flood carrying capacity of any watercourse alteration or relocation will not be diminished and documentation of maintenance assurances as required in Section 115-141-5.E.(3).

[v] Hydrologic and hydraulic engineering analyses demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but has not delineated a floodway, as required by Section 115-141-5.E.(2).

[vi] Hydrologic and hydraulic engineering analyses of any development proposed to be located in an identified floodway, as required by Section 115-141-5.E.(1).

[vii] Hydrologic and hydraulic engineering analyses to develop base flood elevations for subdivisions and large-lot developments, as required by Section 115-141-4.B.(4) or otherwise required by the Floodplain Administrator.

(2) Right to Submit New Technical Data

The applicant has the right to seek a Letter of Map Change and to submit new technical data to FEMA regarding base maps, topography, special flood hazard area boundaries, floodway boundaries, and base flood elevations. Such submissions shall be prepared in a format acceptable by FEMA and the Floodplain Administrator shall be notified of such submittal.

(3) Requirement to Submit New Technical Data

The Floodplain Administrator shall notify FEMA of physical changes affecting flood hazard areas and flooding conditions by submitting technical or scientific data as soon as practicable, but not later than six (6) months after the date such information becomes available. The Floodplain Administrator has the authority to require applicants to submit technical data to FEMA for Letters of Map Change.

E. Review, Approval or Disapproval

(1) Review

The Floodplain Administrator shall:

- (a) Review applications for development in special flood hazard areas to determine the completeness of information submitted. The applicant shall be notified of incompleteness or additional information required to support the application.
- (b) Review applications for compliance with these regulations after all information required in Section 115-141.3.D or identified and required by the Floodplain Administrator has been received.
- (c) Review all permit applications to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits, including but not limited to:

[i]. Permits issued by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Delaware Environmental Protection Agency under Section 401 of the Clean Water Act.

[ii]. Permits required by the State of Delaware.

(2) Approval or Disapproval

The Floodplain Administrator shall approve applications that comply with the applicable requirements of these regulations. The Floodplain Administrator shall disapprove applications for proposed development that do not comply with the applicable provisions of these regulations and shall notify the applicant of such disapproval, in writing, stating the reasons for disapproval.

(3) Expiration of Permit

A permit is valid provided the actual start of construction occurs within 180 days of the date of permit issuance. If the actual start of construction is not within 180 days of the date of permit issuance, requests for extensions shall be submitted in writing. Upon reviewing the request and the permit for continued compliance with these regulations, the Floodplain Administrator may grant, in writing, one or more extensions of time, for periods not more than 180 days each.

F. Inspections

The Floodplain Administrator shall make periodic inspections of development permitted in special flood hazard areas, at appropriate times throughout the period of construction in order to monitor compliance. Such inspections may include:

- (1) Stake-out inspection, to determine location on the site relative to the special flood hazard area and floodway.
- (2) Foundation inspection, upon placement of the lowest floor and prior to further vertical construction, to collect information or certification of the elevation of the lowest floor.
- (3) Enclosure inspection, including crawlspaces, to determine compliance with applicable provisions.
- (4) Utility inspection, upon installation of specified equipment and appliances, to determine appropriate location with respect to the base flood elevation.
- (5) Storage of materials.

G. Submissions Required Prior to Issuance of a Certificate of Occupancy

The following certifications are required to be submitted by the permittee for development that is permitted in special flood hazard areas prior to the issuance of a Certificate of Occupancy:

- (1) For new or substantially improved residential structures or nonresidential structures that have been elevated, an Elevation Certificate that shows the ground elevation and finished elevations (identified in Section C of the Elevation Certificate as "Finished Construction").

- (2) For nonresidential structures that have been dry floodproofed, a Floodproofing Certificate based on “Finished Construction” (identified in Section II of the Elevation Certificate form).
- (3) For all development activities subject to the requirements of Section 115-3.D.(2), a Letter of Map Revision shall be provided.

H. Flood Insurance Rate Map Use and Interpretation

The Floodplain Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of special flood hazard maps and data:

- (1) In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified special flood hazard areas, any other flood hazard data available from a federal, state, or other source shall be reviewed and reasonably used.
- (2) Special flood hazard area delineations, base flood elevations, and floodway boundaries on FEMA maps and in FEMA studies shall take precedence over delineations, base flood elevations, and floodway boundaries by any other source that reflect a reduced special flood hazard area, reduced floodway width and/or lower base flood elevations, unless, with the approval of the Floodplain Administrator, such data is submitted to, and approved by FEMA.
- (3) Other sources of data shall be reasonably used, with the approval of the Floodplain Administrator, if they show increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies, and if such data is submitted to, and approved by, FEMA.
- (4) Where field surveyed topography indicates that ground elevations are below the base flood elevation, even in areas not delineated as a special flood hazard on a flood hazard map, the area shall be considered as special flood hazard area.

§ 115-141.4 REQUIREMENTS IN ALL SPECIAL FLOOD HAZARD AREAS

A. Application of Requirements

The general requirements of this section apply to all development proposed within special flood hazard areas identified in Section 115-141.1.D.

B. Subdivisions and Developments

- (1) All subdivision and development proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.
- (2) All subdivision and development proposals shall have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) All subdivision and developments proposals shall have adequate drainage provided

to reduce exposure to flood damage.

- (4) All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in FEMA-delineated special flood hazard areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway delineations. The analyses shall be prepared by a professional engineer registered in the State of Delaware in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Studies, analyses, computation, etc., shall be submitted in sufficient detail to allow thorough technical review by the Office of Planning and Zoning and/or the Sussex County Engineering Department. In subdivisions in which the proposed lots are located outside of the floodplain, completion of the analysis may be waived provided that the subject area is designated and restricted to open space or a conservation area.

C. Protection of Water Supply and Sanitary Sewage Systems

- (1) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into systems and discharges from systems into floodwaters.
- (3) On-site waste disposal systems shall be located to avoid impairment to or contamination from them during conditions of flooding.

D. Buildings and Structures

All new construction of buildings and structures, including placement of manufactured homes and substantial improvements to existing buildings and structures, that are to be located, in whole or in part, in special flood hazard areas shall meet the following requirements:

- (1) Be designed (or modified) and constructed to safely resist flood loads. The construction shall provide a complete load path capable of transferring all loads from their point of origin through the load-resisting elements to the foundation. Buildings and structures shall be designed, connected and anchored to resist flotation, collapse or permanent lateral movement due to structural loads and stresses from flooding equal to the base flood elevation, including hydrodynamic and hydrostatic loads and the effects of buoyancy.
- (2) Be constructed by methods and practices that minimize flood damage.
- (3) Use flood damage-resistant materials below the elevation of the lowest floor. See FEMA Technical Bulletin #2 – *Flood Damage-Resistant Materials Requirements* and FEMA Technical Bulletin #8 – *Corrosion Protection for Metal Connectors in Coastal Areas*, as both may be amended from time to time.
- (4) Have electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment located at or above the elevation of the lowest floor. Electrical wiring systems are permitted to be located below the elevation of the lowest floor

provided they conform to the provisions of the electrical part of this code for wet locations. If replaced as part of a substantial improvement, electrical systems, equipment and components, and heating, ventilation, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment shall meet the requirements of this section. See FEMA Technical Bulletin #4 – Elevator Installation, as may be amended.

- (5) As an alternative to subsection.D.(4) above., electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment are permitted to be located below the elevation of the lowest floor provided that they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of the base flood.
- (6) In special flood hazard areas other than coastal high hazard areas (Zones A, AE, and AO), meet the specific requirements of Section 115-141.5.
- (7) In all coastal high hazard areas (Zone VE), meet the specific requirements of Section 115-141.6.
- (8) In a special flood hazard area with more than one designation (Zones A, AE, and AO, floodway, Zones VE), meet the requirements of the most restrictive designation.

E. Fill

- (1) Disposal of fill, including but not limited to rubble, construction debris, woody debris, and trash, shall not be permitted in special flood hazard areas.
- (2) Where permitted by Section 115-141.5 (Zones A, AE, and AO), fill placed for the purpose of raising the ground level and to support a building or structure shall meet the following requirements:
 - (a) Extend laterally from the building footprint to provide for adequate access, as a function of use; the Floodplain Administrator may seek advice from the State Fire Marshal's Office and/or the local fire services agency.
 - (b) Placed and compacted to provide for stability under conditions of rising and falling floodwaters and resistance to erosion, scour, and settling.
 - (c) Consist of soil or rock materials only.
 - (d) Sloped no steeper than one (1) vertical on two (2) horizontal, unless approved by the Floodplain Administrator.
 - (e) Designed with provisions for adequate drainage and no adverse effect on adjacent properties.
- (3) Fill placed for a purpose other than to support a building or structure shall meet the requirements of Sections 115-141.4.E.(2)(b) through (e).

F. Historic Structures

Repair, alteration, or rehabilitation of historic structures shall be subject to the requirements of these regulations unless a determination is made that compliance with these regulations will preclude the structure's continued designation as a historic structure and a variance is granted in accordance with Section 115-141.7 and such variance is the minimum necessary to preserve the historic character and design of the structure.

G. Recreational Vehicles

- (1) Recreational vehicles in special flood hazard areas shall be fully licensed and ready for highway use, and shall be placed on a site for less than 180 consecutive days.
- (2) Recreational vehicles that are not fully licensed and ready for highway use, or that are to be placed on a site for more than 180 consecutive days, shall meet the requirements of Section 115-141.5.B.(3) for manufactured homes or Section 115-141.6.C.(4), as applicable.

H. Gas or Liquid Storage Tanks

- (1) Underground tanks in special flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
- (2) Above-ground tanks in special flood hazard areas shall be elevated and anchored to or above the base flood elevation or shall be anchored at-grade and designed and constructed to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
- (3) In special flood hazard areas, tank inlets, fill openings, outlets and vents shall be:
 - (a) At or above the base flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the base flood.
 - (b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.

§ 115-141.5 REQUIREMENTS IN SPECIAL FLOOD HAZARD AREAS OTHER THAN COASTAL HIGH HAZARD AREAS

A. General Requirements

In addition to the general requirements of Section 115-141.4, the requirements of this section apply to all development proposed in special flood hazard areas other than coastal high hazard areas. These areas include Zones A, AE, and AO.

B. Residential Structures and Residential Portions of Mixed Use Structures

(1) Elevation Requirements

- (a) The lowest floor (including basement) shall be elevated to or above the base flood elevation.
- (b) In areas of shallow flooding (Zone AO), the lowest floor (including basement) shall be elevated at least as high above the highest adjacent grade as the depth number specified in feet on the Flood Insurance Rate Map, or at least 2 feet if a depth number is not specified; adequate drainage paths shall be provided to guide floodwaters around and away from the structure.
- (c) Enclosures below the lowest floor shall meet the requirements of Section 115-141.5.B.(2).

(2) Enclosures Below the Lowest Floor

- (a) Enclosures below the lowest floor shall be used solely for parking of vehicles, building access, crawlspaces, or limited storage.
- (b) Enclosures below the lowest floor shall be constructed using flood damage-resistant materials. See FEMA Technical Bulletin #2 – *Flood Damage-Resistant Materials Requirements*, as may be amended.
- (c) Enclosures below the lowest floor (including crawlspaces) shall be provided with flood openings which shall meet the following criteria (see FEMA Technical Bulletin #1 – *Openings in Foundation Walls and Walls of Enclosures* as may be amended):
 - [i] There shall be a minimum of two openings on different sides of each enclosed area; if a building has more than one enclosed area below the design flood elevation, each area shall have openings on exterior walls.
 - [ii] The total net area of all openings shall be at least 1 square inch for each square foot of enclosed area, or the openings shall be designed and certified by a engineer registered in the State of Delaware or architect licensed in the State of Delaware to provide for equalization of hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwaters.
 - [iii] The bottom of each opening shall be 1 foot or less above the adjacent ground level.
 - [iv] Any louvers, screens or other opening covers shall allow the automatic flow of floodwaters into and out of the enclosed area.
 - [v] Where installed in doors and windows, openings that meet requirements of Section 115-141.5 B.(2).(c).[i] through [iv] above are acceptable; however, doors and windows without installed openings do not meet the requirements of this section.
- (d) Crawlspaces shall have the finished interior ground level equal to or higher than the outside finished ground level on at least one entire side of the foundation wall.

(3) Manufactured Homes

New or replacement manufactured homes, including substantial improvement of existing manufactured homes, shall:

- (a) Be elevated on a permanent, reinforced foundation that raises the lowest floor to or above the base flood elevation and is otherwise in accordance with Section 115-141.5.B.(1).
- (b) Be installed in accordance with the anchor and tie-down requirements of the building code or the manufacturer's written installation instructions and specifications.
- (c) Have enclosures below the elevated manufactured home, if any, meet the requirements of Section 115-141.5.B.(2).

For the purpose of this requirement, the lowest floor of a manufactured home is the finished floor of the lowest floor.

C. Nonresidential Structures and Nonresidential Portions of Mixed Use Structures

(1) Elevation Requirements

- (a) The lowest floor (including basement) shall be elevated to or above the base flood elevation or the structure shall be dry floodproofed in accordance with Section 115-141.5.C.(2).
- (b) In areas of shallow flooding (Zone AO), if not dry floodproofed, the lowest floor (including basement) shall be elevated at least as high above the highest adjacent grade as the depth number specified in feet on the Flood Insurance Rate Map or at least 2 feet if a depth number is not specified; adequate drainage paths shall be provided to guide floodwaters around and away from the structure.
- (c) Enclosures below the lowest floor, if not dry floodproofed, shall meet the requirements of Section 115-141.5.B.(2).

(2) Dry Floodproofing Requirements

Dry floodproofed structures, together with attendant utility and sanitary facilities, shall:

- (a) Be designed to be dry floodproofed such that the structure is watertight with walls and floors substantially impermeable to the passage of water to the level of the base flood elevation. In areas of shallow flooding (Zone AO), the structure shall be dry floodproofed at least as high above the highest adjacent grade as the depth number specified in feet on the Flood Insurance Rate Map or at least 2 feet if a depth number is not specified.
- (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (c) Be certified by a professional engineer registered in the State of Delaware or a professional architect licensed in the State of Delaware with a Floodproofing Certificate, that the design and methods of construction meet the requirements of this section. Refer to FEMA Technical Bulletin #3 – *Non-Residential Floodproofing – Requirements and Certification*, as may be amended, for guidance.

D. Accessory Structures

Accessory structures shall meet the requirements of these regulations. Accessory structures that have a footprint of no more than 200 square feet may be allowed without requiring elevation or floodproofing provided such structures meet all of the following requirements:

- (1) Useable only for parking or limited storage;
- (2) Constructed with flood damage-resistant materials below the base flood elevation;
- (3) Constructed and placed to offer the minimum resistance to the flow of flood waters;
- (4) Firmly anchored to prevent flotation, collapse, and lateral movement;
- (5) Electrical service and mechanical equipment elevated to or above the level of the base flood elevation and
- (6) Equipped with flood openings that meet the requirements of Section 115.141.5.B.(2).(c).
- (7) For guidance, see FEMA Technical Bulletin #7 – *Wet Floodproofing Requirements*, as may be amended.

E. Protection of Flood-Carrying Capacity

(1) Development in Floodways

(a) Within any floodway area designated on the Flood Insurance Rate Map, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic engineering analysis that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Such technical data shall be submitted to the Floodplain Administrator and to FEMA. The analyses shall be prepared by a professional engineer registered in the State of Delaware in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

(b) The proposed development activity may be permitted upon submission, by the applicant, of the following:

- [i] Analyses demonstrating that the activity will not result in any increase in the base flood elevation; or
- [ii] Analyses demonstrating that the activity will result in an increase in the base flood elevation, provided a Conditional Letter of Map Revision has been issued by FEMA and the applicant completes all of the following:
 - [a] A submission of technical data required in Section 115-141.3 D.1.(i).[iv]
 - [b] An evaluation alternative which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;

- [c] A certification that no structures are located in areas which would be impacted by the increased base flood elevation;
- [iii] Documentation that individual legal notices have been delivered to all impacted property owners to explain the impact of the proposed action on their properties;
- [iv] Concurrence of the County Administrator and the Director of the Office of Planning and Zoning of Sussex County and the Chief Executive Officer of any other community impacted by the proposed actions; and
- [v] Documentation that the applicant has notified the Delaware Department of Natural Resources and Environmental Control (Division of Watershed Stewardship).

(2) Development in Areas with Base Flood Elevations but No Floodways

For development activities in a special flood hazard area with base flood elevations but no designated floodways, the applicant shall develop hydrologic and hydraulic engineering analyses and technical data reflecting the proposed activity and shall submit such analyses and data to the Floodplain Administrator and to FEMA. The analyses shall be prepared by a professional engineer registered in the State of Delaware in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

The proposed development activity may be permitted if the analyses demonstrate that the cumulative effect of the proposed development activity, when combined with all other existing and potential special flood hazard area encroachments will not increase the base flood elevation more than 1.0 (one) foot at any point.

(3) Deliberate Alterations of a Watercourse

For the purpose of these regulations, a watercourse is deliberately altered when a person causes a change to occur within its banks. Deliberate changes to a watercourse include, but are not limited to: widening, deepening or relocating of the channel; installation of culverts; construction of bridges, and excavation or filling of the channel or watercourse banks.

For any proposed deliberate alteration of a watercourse, the applicant shall develop hydrologic and hydraulic engineering analyses and technical data reflecting such changes and submit such technical data to the Floodplain Administrator and to FEMA. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

The proposed alteration of a watercourse may be permitted upon submission, by the applicant, of the following:

- (a) Documentation of compliance with Section 115-141.5.E.(1) if the alteration is in a floodway or Section 115-141.5.E.(2) if the alteration is in a watercourse with base flood elevations but no floodway.

- (b) A description of the extent to which the watercourse will be altered or relocated as a result of the proposed development.
- (c) A certification by a professional engineer registered in the State of Delaware that the bankful flood-carrying capacity of the watercourse will not be diminished.
- (d) Evidence that adjacent communities, the U.S. Army Corps of Engineers, and the Delaware Department of Natural Resources and Environmental Control (Division of Watershed Stewardship) have been notified of the proposal and evidence that such notifications have been submitted to the Federal Emergency Management Agency.
- (e) Evidence that the applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of the watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with Sussex County specifying the maintenance responsibilities; if an agreement is required, the permit shall be conditioned to require that the agreement be recorded on the deed of the property which shall be binding on future owners.

§ 115-141.6 REQUIREMENTS IN COASTAL HIGH HAZARD AREAS

A. General Requirements

In addition to the general requirements of Section 115-141.4, the requirements of this section apply to all development proposed in coastal high hazard areas, also referred to collectively as “Zone V.”

B. Location and Site Preparation

- (1) The placement of structural fill for the purpose of elevating buildings is prohibited.
- (2) All new construction shall be located landward of the reach of mean high tide.
- (3) Generally, any reduction in the dimensions of dunes increases the potential for flood damage. Site preparations shall not alter sand dunes unless an engineering analysis demonstrates that the potential for flood damage is not increased.

C. Residential and Nonresidential Structures

(1) Foundations

- (a) Buildings and structures shall be supported on pilings or columns and shall be adequately anchored to such pilings or columns. Piling shall have adequate soil penetrations to resist the combined wave and wind loads (lateral and uplift). Water loading values used shall be those associated with the base flood. Wind loading values shall be those required by applicable building standards. Pile embedment shall include consideration of decreased resistance capacity caused by scour of soil strata surrounding the piling.

- (b) Slabs, pools, pool decks and walkways shall be located and constructed to be structurally independent of buildings and structures and their foundations to prevent transfer of flood loads to the buildings and structures during conditions of flooding, scour or erosion from wave-velocity flow conditions, and shall be designed to minimize debris impacts to adjacent properties and public infrastructure.

(2) Elevation Requirements

- (a) The bottom of the lowest horizontal structural member supporting the lowest floor (excluding the pilings, pile caps, columns, grade beams, and bracing), shall be located at or above the base flood elevation.
- (b) Basement floors that are below grade on all sides are prohibited.
- (c) The space below the lowest floor shall either be free of obstruction or, if enclosed by walls, shall meet the requirements of Section 115-141.6.C.(3). See FEMA Technical Bulletin #5 – *Free of Obstruction Requirements*, as may be amended.

(3) Enclosures Below the Lowest Floor

- (a) Enclosures below the lowest floor shall be used solely for parking of vehicles, building access or storage.
- (b) Walls and partitions are permitted below the elevated floor, provided that such walls and partitions are designed to break away under flood loads and are not part of the structural support of the building or structure. See FEMA Technical Bulletin #9 – *Design and Construction Guidance for Breakaway Walls*, as may be amended.
- (c) Electrical, mechanical, and plumbing system components shall not be mounted on or penetrate through walls that are designed to break away under flood loads.
- (d) Walls intended to break away under flood loads shall be constructed with insect screening or open lattice, or shall be designed to break away or collapse without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Such walls, framing and connections shall have a design safe loading resistance of not less than 10 pounds per square foot and no more than 20 pounds per square foot; or
- (e) Where wind loading values of the local building requirements exceed 20 pounds per square foot, the applicant shall submit a certification prepared and sealed by a professional engineer registered in the State of Delaware or professional architect licensed in the State of Delaware that:
 - [i] The walls and partitions below the lowest floor have been designed to collapse from a water load less than that which would occur during the base flood.
 - [ii] The elevated portion of the building and supporting foundation system have been designed to withstand the effects of wind and flood loads acting simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with the base flood; wind loading values used shall be those required by the local building requirements.

(4) Manufactured Homes

New or replacement manufactured homes, including substantial improvement of existing manufactured homes, shall:

- (a) Meet the foundation requirements of Section 115-141.6.C.(1).
- (b) Meet the elevation requirements of Section 115-141.6.C.(2).
- (c) Meet the enclosure requirements of Section 115-141.6.C.(3).
- (d) Be installed in accordance with the anchor and tie-down requirements of the building code or the manufacturer's written installation instructions and specifications.

(5) Certification of Design

The applicant shall include in the application a certification prepared by a professional engineer registered in the State of Delaware or a professional architect licensed in the State of Delaware that the design and methods of construction to be used meet the applicable criteria of these regulations.

§ 115-141.7 VARIANCES

A. Variances

The Sussex County Board of Adjustment shall have the power to authorize, in specific cases, such variances from the requirements of these regulations, not inconsistent with Federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship or exceptional practical difficulty.

(1). Application for a Variance

- (a) Any owner, or agent thereof, of property for which a variance is sought shall submit an application for a variance to the Floodplain Administrator.
- (b) At a minimum, such application shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request. Each variance application shall specifically address each of the considerations in Section 115-141.7.A.(2) and the limitations and conditions of Section 115-141.7.A.(3).

2 Considerations for Variances

In considering variance applications, the Board of Adjustment shall consider and make findings of fact on all evaluations, all relevant factors, requirements specified in other sections of these regulations, and the following factors:

- (a) The danger that materials may be swept onto other lands to the injury of others.

- (b) The danger to life and property due to flooding or erosion damage.
- (c) The susceptibility of the proposed development and its contents (if applicable) to flood damage and the effect of such damage on the individual owner.
- (d) The importance of the services provided by the proposed development to the community.
- (e) The availability of alternative locations for the proposed use which are not subject to, or are subject to less, flooding or erosion damage.
- (f) The necessity to the facility of a waterfront location, where applicable, or if the facility is a functionally dependent use.
- (g) The compatibility of the proposed use with existing and anticipated development.
- (h) The relationship of the proposed use to the comprehensive plan for that area.
- (i) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
- (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(3). Limitations for Variances

- (a) An affirmative decision on a variance request shall only be issued upon:
 - [i] A showing of good and sufficient cause. A “good and sufficient” cause is one that deals solely with the physical characteristics of the property and cannot be based on the character of the planned construction or substantial improvement, the personal characteristics of the owner or inhabitants, or local provisions that regulate standards other than health and public safety standards.
 - [ii] A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property.
 - [iii] Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
 - [iv] A determination that the granting of a variance for development within any designated floodway, or special flood hazard area with base flood elevations but no floodway, will not result in increased flood heights beyond that which is allowed in these regulations.
 - [v] A determination that the granting of a variance will not result in additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.
 - [vi] A determination that the structure or other development is protected by methods to minimize flood damages.

[vii] A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- (b) Upon consideration of the individual circumstances, the limitations and conditions, and the purposes of these regulations, the Board of Adjustment may attach such conditions to variances as it deems necessary to further the purposes of these regulations.
- (c) The Board of Adjustment shall notify, in writing, any applicant to whom a variance is granted for a building or structure with a lowest floor elevation below the base flood elevation that the variance is to the floodplain management requirements of these regulations only, and that the cost of federal flood insurance will be commensurate with the increased risk.

§ 115-141.8 ENFORCEMENT

A. Compliance Required

- (1) No structure or land development shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations.
- (2) Failure to obtain a permit shall be a violation of these regulations and shall be punishable in accordance with Section 115-141.8.C.
- (3) Permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the specific activities set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction of such specific activities that is contrary to that authorized shall be deemed a violation of these regulations.

B. Notice of Violation

Violations of this Chapter shall be subject to the procedures set forth in Article XXVIII “Administration and Enforcement” unless an expedited process is required and is justified by risk to life and safety.

C. Violations and Penalties

Violations of this Chapter shall be subject to the procedures set forth in Article XXVIII “Administration and Enforcement” unless an expedited process is required and is justified by risk to life and safety.

§ 115-141.9 LIABILITY

The granting of a permit or approval of a site plan in an identified flood-prone area shall not constitute a representation, guarantee or warranty of any kind by Sussex County or by any of its elected or appointed officials, directors, or employees thereof of the practicability or safety of the

proposed use, and shall create no liability upon Sussex County, or its elected or appointed officials, directors or employees.

§ 115-141.10 HEIGHT REGULATIONS IN SPECIAL FLOOD HAZARD AREAS

For all structures in Special Flood Hazard Areas, height regulations for the districts shown in Articles IV through XX shall apply, with the height measured from the base flood elevation. Provided, however, that in Special Flood Hazard Areas the permitted height may be increased by one foot for every one foot of freeboard, not to exceed two feet above the permitted height measured from base flood elevation. All other areas not in Special Flood Hazard Areas shall be measured from grade.

§ 115-141.11 EFFECTIVE DATE

This ordinance shall take effect on _____.

Section 3: The Code of Sussex County, Chapter 115, Article XXV, Section 115-189 “Coastal and Flood-Prone Area Protection” is hereby amended by deleting the following language in brackets and adding the following underlined language:

§ 115-189 Coastal [and Flood-prone] area protection.

A. The purpose of this section is to assist in the preservation and restoration of the primary coastal dune, thereby contributing to the safety and welfare of the occupants of lands adjacent to and landward thereof to provide for construction control and land development measures for all new construction and substantial improvement occurring within the flood-prone districts, to limit the visual obstruction of beach and berm by structure erected thereon and to limit the encroachment of shadow on the beach by structures located adjacent thereto.

B. At locations where the primary dune exists as a continuous and clearly defined natural coastal formation, the center of the same shall, for purposes of this section, be the “dune line.” Where the primary dune as a natural coastal formation has ceased to exist or only broken remnants remain, then the dune line shall be as established by the Department of Natural Resources and Environmental Control Beach Preservation Section or its successor.

C. No primary dune material may be removed or displaced, except that the driving of piling shall not be considered displacement of dune material. No material from the berm or beach may be moved or displaced prior to the completion of all buildings and structures on a given lot.

[D. The lowest floor for a building extending seaward from the dune line shall comply with the requirements of the flood zone.

E. Buildings located in area subject to this chapter lying eastward of the inland waterways from Roosevelt Inlet to the Maryland State line and westward of the dune line shall comply with the following requirements:

- (1) The lowest floor shall be at or above the minimum elevation required for the site by the flood zone.
- (2) Height regulation for the district as shown in Article IV through XX shall apply, with height measurement being measured from the required elevation by the flood zone, where applicable. All other areas shall be measured from grade.]

[F.]D. Townhouses and multifamily dwellings subject to the site plan review requirement of Article XXVIII located in the area lying eastward of the inland waterway from Roosevelt Inlet to the Maryland State line shall comply with the following additional requirements:

- (1) All buildings, parking areas and unloading areas shall be a minimum of 30 feet landward from the dune line. The additional yard requirement for buildings of more than three stories shall be added thereto.

[G. No land in a Coastal High-Hazard Area may be developed unless the new construction or substantial improvement:

- (1) Is located landward of the reach of mean high tide.
- (2) Does not result in the alteration of sand dunes which would increase potential flood damage.
- (3) Does not use fill for structural support and does not use slab or other at-grade foundations.
- (4) Shall be elevated on pilings and columns so that:
 - (a) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the one-hundred-year-flood level:
 - (b) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components (water loading values used shall be those associated with the one-hundred-year flood; wind loading values shall be those required by state or local building standards); and
 - (c) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting these provisions.

- (5) Has no basement and shall have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice or insect screening intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. A breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certified that the proposed design meets the following conditions:
- (a) Breakaway wall collapse shall result from a water load less than that which would occur during the one-hundred-year flood.
- (6) Shall use any enclosed space below the lowest floor solely for the parking of vehicles, building access or storage.
- H. The following construction controls shall be in effect throughout the flood-prone districts wherever more stringent controls do not prevail:
- (1) Floor elevation.
 - (a) The lowest floor, including basement, of new construction or substantial improvements of residential structures shall be elevated to the level or above the level of the one-hundred-year flood.
 - (b) The lowest floor, including basement, of new construction or substantial improvement of nonresidential structures shall be:
 - [1] Elevated to the level or above the level of the one-hundred-year flood; or
 - [2] Together with attendant utility and sanitary facilities, designed so that below the one-hundred-year flood level the structure is watertight and has structural components capable of withstanding hydrostatic and hydrodynamic loads and effect of buoyancy.
 - (2) Placement of structures. Any new structure erected within the flood-prone districts shall be aligned to offer minimal resistance or obstruction to the flow of the one-hundred-year floodwaters.
 - (3) Anchoring.
 - (a) All new structures shall be firmly anchored to prevent lateral movement, flotation or collapse.

- (b) All air ducts, large pipes and storage tanks located at or below the first-floor level shall be firmly anchored to prevent lateral movement, flotation or collapse.
- (4) For all new construction and substantial improvements, those fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - (a) A minimum of two openings having a total net area of no less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (b) The bottom of all openings shall be no higher than one foot above grade.
 - (c) Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (5) Interior floors, walls and ceilings.
 - (a) Wood flooring used at or below the first-floor level shall be installed to accommodate a lateral expansion of the flooring perpendicular to the flooring grain without incurring structural damage to the building.
 - (b) All finished flooring used at or below the first-floor level shall be made of materials which are stable and resistant to water damage.
 - (c) All carpeting or carpet cushions employed as a finished flooring surface at or below the first-floor level shall be made of materials which are resistant to water damage.
 - (d) Plywood used at or below the first-floor level shall be of an exterior or marine grade and of a water-resistant or waterproof variety.
 - (e) Basement ceilings in nonresidential structures shall have sufficient wet strength and be so installed as to survive inundation.
- (6) Electrical systems.
 - (a) All electric water heaters, electric furnaces and other permanent electrical installations shall be permitted only at or above the level of the one-hundred-year flood.

- (b) All electrical distribution panels and breaker boxes shall be elevated to or above the level of the one-hundred-year flood (base flood elevation).
- (c) Separate electrical circuits shall serve lower levels and shall be dropped from above.
- (7) Plumbing, Water heaters, furnaces and other permanent mechanical installations shall be permitted only at or above the level of the one-hundred-year flood.
- (8) Storage. No materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to human, animal or plant life shall be stored below the level of the one-hundred-year flood.

I. Manufactured homes.

- (1) Manufactured homes to be placed or substantially improved within any floodplain area on sites outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision or in an existing manufactured home park or subdivision in which a manufactured home has incurred substantial damage, as defined herein, as the result of a flood shall:
 - (a) Be elevated on a permanent foundation so that the lowest floor of the manufactured home is elevated to or above the base flood elevation; and
 - (b) Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (2) Manufactured homes to be placed or substantially improved within any floodplain area in an existing manufactured home park or subdivision and not subject to the provisions of Subsection I (1) above shall be elevated so that:
 - (a) The lowest floor of the manufactured home is at or above the base flood elevation; and
 - (b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (3) Anchoring.
 - (a) All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include but are not limited to the over-the-top and frame ties to ground anchors, such as the following:

[1] Over-the-top ties shall be provided at each of the four corners of the manufactured home, with two additional ties per side for manufactured homes less than 50 feet long.

[2] Frame ties shall be provided at each corner of the home, with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side.

[3] All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.

(b) Any additions to a manufactured home shall be similarly anchored.

(c) This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

J. Recreational vehicle placement. Recreational vehicles to be placed within any floodplain area shall either be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use or meet the provisions of Article XXIV, § 115-172H of this Code. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect utilities and security devices and has no permanently attached additions.

K. Floodway requirements.

(1) Within the floodway portion of the flood-prone district, no construction or development shall be permitted which would result in any increases in flood levels within the community during the one-hundred-year flood.

(2) No manufactured homes shall be placed in the floodway, except into existing manufactured home parks.

(3) Encroachments, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway shall be prohibited, unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(4) Notwithstanding any other provisions of the floodplain management criteria for flood-prone areas by the Federal Emergency Management Agency, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for conditional Federal Insurance Rate Map and floodway revision, fulfills the requirements for such revisions and receives the approval of the Federal Insurance Administrator.

L. Area of shallow flooding regulations.

- (1) Require within any AO zone on the community's Federal Insurance Rate Maps that all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Federal Insurance Rate Map (at least two feet if no depth number is specified).
- (2) Require within an AO zone on the community's Federal Insurance Rate Map that all new construction and substantial improvements of nonresidential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Federal Insurance Rate Map (at least two feet if no depth number is specified) or, together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified by the Federal Insurance Administrator.]

SYNOPSIS

This ordinance replaces the existing requirements for flood-prone districts contained in the Sussex County Zoning Code with current provisions as required by the Federal Emergency Management Agency for continued participation in the National Flood Insurance Program. This amendment gives greater guidance, and more detail, to those parties utilizing these requirements, including the Sussex County Floodplain Administrator, developers, builders and property owners. In addition, these provisions were previously scattered throughout the Code in Sections 115-4, 115-189 and Article XVIII. Through this amendment, they are more conveniently located entirely within Article XVIII "Flood Prone Districts". In addition, the ordinance permits additional height up to 2 feet for every foot of freeboard incorporated into a structure.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. ____ ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE ____ DAY OF _____, 2015

ROBIN A. GRIFFITH
CLERK OF THE COUNCIL

OLD BUSINESS

January 20, 2015

This is to certify that on November 13, 2014 the Sussex County Planning and Zoning Commission conducted a public hearing on the below listed Conditional Use application. At the conclusion of the public hearing, the Commission moved and passed that the application be forwarded to the Sussex County Council with the recommendations as stated.

Respectfully submitted:

COUNTY PLANNING AND ZONING
COMMISSION OF SUSSEX COUNTY

Lawrence B. Lank

Director of Planning and Zoning

The attached comments relating to the public hearing are findings of the Planning and Zoning Commission based upon a summary of comments read into the record, and comments stated by interested parties during the public hearing.

Conditional Use #2001 – Christina Abramowicz

Application of **CHRISTINA ABRAMOWICZ** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a veterinary practice to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 32,671 square feet, more or less, land lying southeast of Old Mill Road (Road 265-A), 1,900 feet northeast of Route One (Coastal Highway) (911 Address: 16403 Old Mill Road, Lewes, DE) (Tax Map I.D. #3-34-1.00-23.00).

The Commission found that the applicant provided a survey/site plan with her application.

The Commission found that The Commission found that DelDOT provided comments in the form of a Support Facilities Report on May 15, 2014 which reference that a Traffic Impact Study is not recommended; and that the Level of Service “A” of Old Mill Road will not change as a result of this application.

The Commission found that the Sussex Conservation District provided comments in the form of a memorandum on November 5, 2014 referencing that there is one soil type on the property; that the applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that there are no storm hazard areas affected;

that it is not likely that off-site drainage improvements are necessary; that it is possible that any on-site drainage improvements will be necessary; and that there are no tax ditches affected.

The Commission found that the County Engineering Department Utility Planning Division provided comments on November 10, 2014 referencing that the site is located in the North Planning Area for the West Rehoboth Expansion; that central sewer service is not available at this time; that an on-site septic is proposed; that conformity to the North Coastal Area Planning Study will be required; that the parcel is located within a sewer planning area of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that the County does not have a schedule to provide central sewer service to the parcel at this time; that when the County provides sewer service, it is required that the on-site system be abandoned and a connection made to the central sewer system; and that a concept plan is not required.

Mr. Lank advised the Commission that the Department has received 10 letters/emails in support and 36 letters/emails in opposition to this application; that there is some duplication since some writers have sent letters, emails and fax copies. Mr. Lank advised the Commission that he would make copies of the letters/emails available for the Commission to review.

The Commission found that Dr. Christina Abramowicz was present on behalf of her application for a veterinary practice; that she provides veterinary alternative care for dogs, cats, horses and some exotic animals; that her practice will serve a need for the community; that she treats the animals by appointment; that some visits last from one hour (1) to three (3) hours; that her practice is hands on, with no surgery, x-rays or medications; that her practice is considered holistic since she performs acupuncture, posture rehabilitation, some chiropractic, and uses Chinese and herbal medicines, medical massage and food therapy; that her current practice is considered mobile with services for acute illnesses, allergies, arthritis or hip dysplasia, behavior issues, cancer, chronic conditions, metabolic syndromes, musculoskeletal problems, and neurological issues; that pet owners have advised her that cost is a concern when she has to travel to the site of the pet owner; that she is proposing to serve a need for eastern Sussex County; that the closest veterinarian that performs acupuncture is in Seaford or Salisbury; that she has a website that provides details on her practice; that she would like approval for a small practice at her home; that her normal appointments take approximately 60 minutes; that there is adequate parking; that no additional buildings are proposed; that she does not perform any surgeries; that she has support from some of her neighbors and area community members; that she would not object to a restriction limiting the use to her practice only so that the conditional use could not transfer to another user; that currently she is exclusively mobile; that her primary intent is to remain mobile, but is requesting permission to allow pets to be brought to her home for treatment; that her typical hours are from 10:00 a.m. to 6:00 p.m. for mobile services six (6) days per week; that she would like to maintain the same hours from her home on certain days; that the pets that she would treat at home would be dogs, cats, and exotic pets; that she will not treat wild animals or large animals at the home; that he normally treats horses on Saturdays off-site and by appointment only; that all of her sessions are by appointment only; that she sees one client per hour; that she has no employees; that she does have a high school intern that studies under her; that emergencies are referred to other veterinary clinics; that she currently has 200

clients; that she would like to be able to erect a small marker type sign to label her location; that her back yard is partially fenced; that she has no plans for any kennels or any overnight housing of animals; that the living room would be converted to a waiting room and that she would have an examination room and a treatment room; that bio-hazardous waste will be placed in trash containers and properly disposed of as needed; that she does not treat aggressive dogs; that she does deal with some dogs with anxiety and abnormal behaviors; and that she will have some retail sales of vitamins, herbs.

The Commission found that Dan Lynch of Delaware Equine was present in support of the application and stated that Dr. Abramowicz assisted him in caring for his horses; that he trains horses and that she has helped his rehabilitate several horses; that there is a need for this type of treatment in Sussex County; that he would have to travel to get holistic treatment for the horses; that there is a void in this area for this type of treatment; and that the use is an asset to the equine community.

The Commission found that Denise Dumont was present in support of the application and stated that the applicant has treated her dog; that she supports holistic veterinary treatment of animals; and that a need exists in the area for this type of service.

The Commission found that Vince Brady, Kathanna Billups, George Dellinger, Jim Wright, and Anita Hart were present in opposition expressing concerns that they oppose a veterinary practice in this residential neighborhood; that they are concerned about changes in the description of the proposed practice; that if the use is approved, there should be conditions of approval limiting hours and retail sales; that there is no upside for the business in this community; that approval would create a mixed use community with business, commercial and residential uses; that the use may impact and lower property values; that the majority of the residents along Old Mill Road are opposed to this application, and opposed to any type of commercial use in the area; that there are multiple veterinary practices in the general area; that no kennels or overnight housing of animals should be permitted; that the business could be expanded if approved; that the residents have no objection to the applicants mobile off-site activities; that the use is not appropriate in a residential area; that the application to DelDOT referenced a veterinary animal hospital; that the application for conditional use references a veterinary practice; that the Sussex Conservation District references that on site drainage improvements may possibly necessary; that the applicants website references care for all types of animals, including dogs, cats, horses, exotics, and livestock; that the facility is proposed in the middle of a residential area and questioning what is a healthy separation between a clinic and living quarters; expressing concerns about the disposal of needles and swabs, used testing supplies, infected dressings, biological samples of infected animals; cadavers; questioning what the risks of contamination; that the majority of the residents of four (4) residential subdivisions along Old Mill Road are opposed to this application; that the use is not consistent with the Zoning Code, the Comprehensive Plan, or the community; that the use should not be considered a home occupation; that some types of diseases in animals may cause health hazards for the residents of the area; that animals may get loose causing concerns for the residents safety; that there is a concern that there is a lack of enforcement of conditions of approval, if granted, and referencing an example that landscaping for the boat yard

to the north not having any landscaping; that Old Mill Road is a cul-de-sac road and that the residents of the communities oppose any business activity along Old Mill Road; and that the area residents requests that the application be denied.

By a show of hands, the Commission found that there were four (4) parties present in support and 17 parties present in opposition.

The Commission found that Dr. Abramowicz responded to questions raised by the Commission that she has attempted to locate office space in the area and that due to the size of her business she could not afford such rentals; that she did oppose the proposed self-storage facility on the north side of Old Mill Road due to traffic; and that the self-storage facility would create more traffic than her proposal; and that she is only maintaining her property, not clearing it.

On November 13, 2014 the Commission deferred action for further consideration. Motion carried 5 – 0.

On December 11, 2014 the Commission discussed this application under Old Business.

Mr. Burton stated that he would move that the Commission recommend denial of Conditional Use #2001 for Christina Abramowicz for a veterinary practice based upon the record made during the public hearing and for the following reasons:

1. The site is located within an entirely residential location. The proposed use is inconsistent with the residential surroundings.
2. He does not want to start a trend of small businesses locating in this otherwise residential neighborhood. There are other locations for small businesses with the possibility of expansion on properties that are more appropriate for business uses or are already zoned for business use.
3. Many parties from the neighborhood appeared in opposition to the Conditional Use expressing concerns about the traffic generated by it, the incompatibility with the neighborhood, concerns about the number of animals that could be seen at the facility being incompatible with the residential area; concerns about the property losing its appearance as a residential structure within the otherwise residential neighborhood; and other issues. During the public hearing, 17 people were present in opposition to the application from the neighborhood. While there were people on the record in favor of the application, none of them were from the residential neighborhood surrounding the site.
4. While this could be a home occupation that does not require a conditional use, the information in the record does not clearly support that possibility. For example, the Applicant stated that she has an intern working with her which is not permitted as a home occupation. Also, based upon the Applicant's plans for the property, it was unclear whether she intended to reside there full time. The information that was provided about the Applicant's business plan was also unclear, with the possibility of business growth and expansion exceeding what is permitted as a home occupation.

5. To summarize, he is concerned that the approval of a Conditional Use for a veterinary practice at this site, even with conditions, would create problems in this residential neighborhood. Even if the Commission imposed restrictive conditions on the use, it would lead to future problems as a veterinary practice becomes more popular and expands. It is more appropriate for this use to be started in an appropriate location from the beginning, where it can reasonably expand under appropriate zoning and a location that is suitable to future expansion.

Mr. Johnson stated that this application differs from some applications; there is a volunteer student intern, who is not paid; the lot is not in a subdivision; the lot fronts a public street; the use should qualify as a home occupation since the applicant is residing there and there are no employees; the use should be a low impact since there are no housed animals, and since it is a residential use.

Mr. Robertson advised the Commission that the definition of a home occupation references that the use shall be operated solely by a member or members of a family residing on the premise.

Mr. Smith agreed with Mr. Burtons comments.

Mr. Ross agreed that the Code must be complied with.

Mr. Wheatley agreed with Mr. Johnson's reference that the use could be considered as a home occupation, and also agreed with Mr. Burton that the Commission has had a long standing policy that conditional uses are not typically approved in subdivisions.

Motion by Mr. Burton, seconded by Mr. Smith, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be denied for the reasons stated. Motion carried 3 – 2, with Mr. Johnson and Mr. Wheatley opposing the motion.

Introduced 09/09/14

**Council District – Deaver - District No. 3
Tax I.D. No. 334-1.00-23.00
911 Address: 16403 Old Mill Road, Lewes**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A VETERINARY PRACTICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 32,671 SQUARE FEET, MORE OR LESS

WHEREAS, on the 19th day of August 2014, a conditional use application, denominated Conditional Use No. 2001 was filed on behalf of Christina Abramowicz; and

WHEREAS, on the ____ day of _____ 2014, 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. 2001 be _____; and

WHEREAS, on the ____ day of _____ 2014, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2001 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 and Rehoboth Hundred, Sussex County, Delaware, and lying southeast of Old Mill Road (Road 265-A), 1,900 feet northeast of Route One (Coastal Highway) and being more particularly described in Deed Book 4274, Page 333, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 32,671 square feet.

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



Conditional Use Application #2001

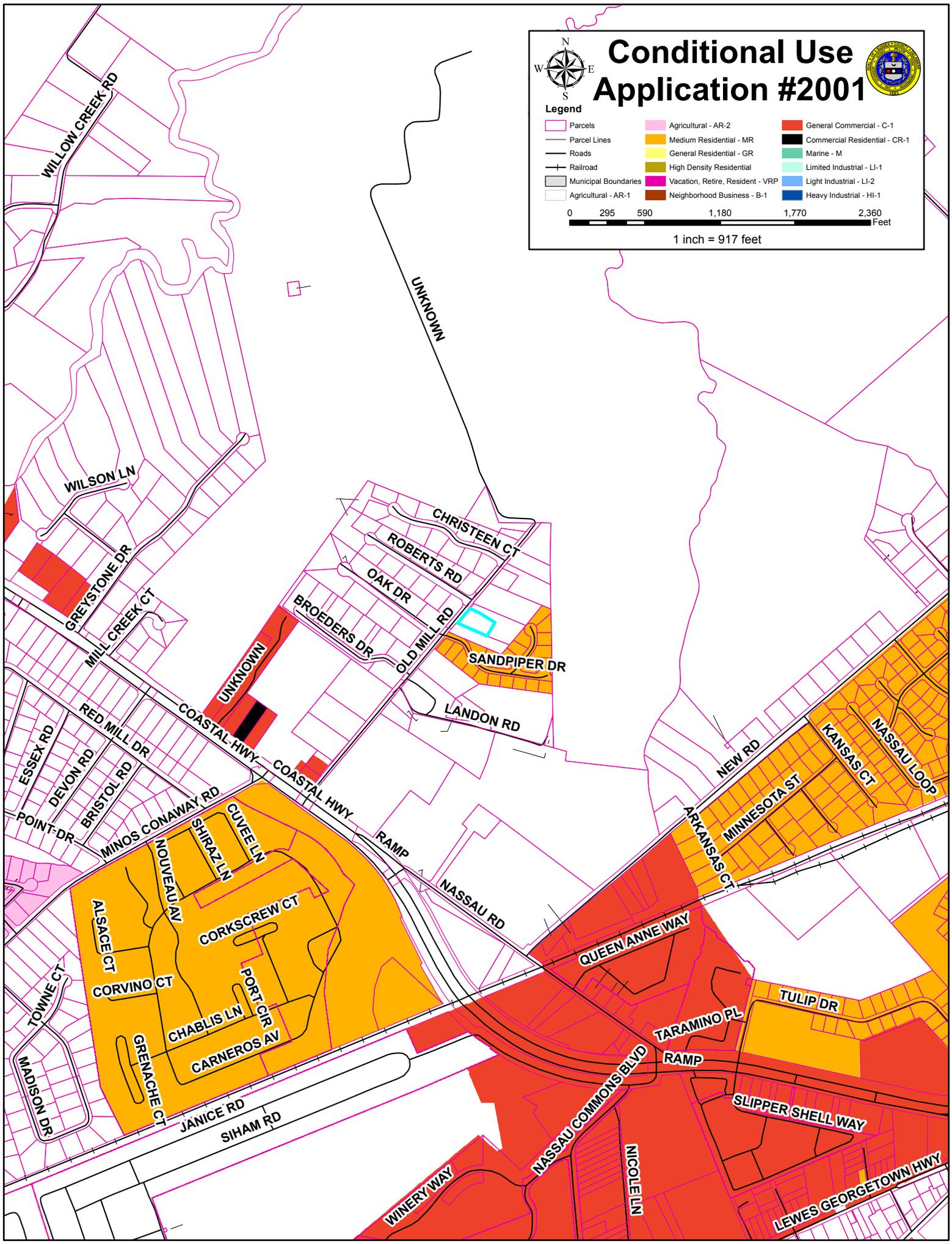


Legend

- Parcels
- Parcel Lines
- Roads
- Railroad
- Municipal Boundaries
- Agricultural - AR-1
- Agricultural - AR-2
- Medium Residential - MR
- General Residential - GR
- High Density Residential
- Vacation, Retire, Resident - VRP
- Neighborhood Business - B-1
- General Commercial - C-1
- Commercial Residential - CR-1
- Marine - M
- Limited Industrial - LI-1
- Light Industrial - LI-2
- Heavy Industrial - HI-1

0 295 590 1,180 1,770 2,360 Feet

1 inch = 917 feet



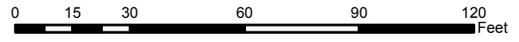


Conditional Use Application #2001

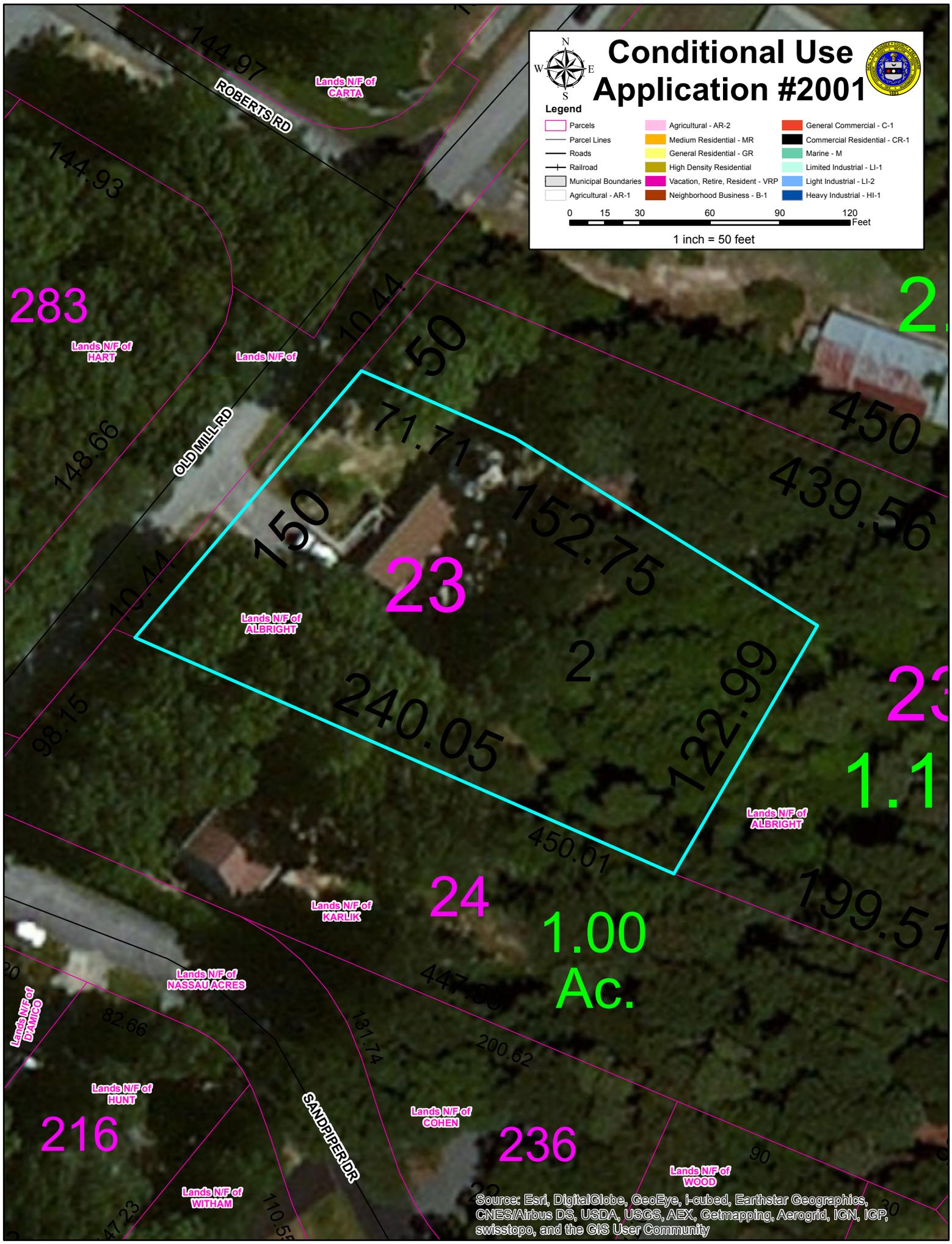


Legend

- Parcels
- Parcel Lines
- Roads
- Railroad
- Municipal Boundaries
- Agricultural - AR-2
- Medium Residential - MR
- General Residential - GR
- High Density Residential
- Vacation, Retire, Resident - VRP
- Neighborhood Business - B-1
- General Commercial - C-1
- Commercial Residential - CR-1
- Marine - M
- Limited Industrial - LI-1
- Light Industrial - LI-2
- Heavy Industrial - HI-1



1 inch = 50 feet



Source: Esri, DigitalGlobe, GeoEye, I-cubed, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

Sussex County Council,

I am requesting \$1000 on behalf of the parents of Cub Scout Pack 182 in Seaford.

Pack 182 has been involved in various community service projects for the Seaford community. Everything from feeding the hungry, painting fire hydrants and picking up trash from Seaford's nature trails. The young men in our pack are committed to making their community a better place. Last year our pack had the highest number of community service hours in the district. We are committed to doing even more this year.

Unfortunately, our pack is having some financial difficulties. The scouts are responsible for paying their monthly dues and camp and project fees, which they do fundraising to assist with as well as parental support. The dues go toward their awards and belt loops they earn as well. Pack 182 is in need of these funds as our pack is made up primarily of single parent and low income families. Families are finding it difficult to pay the fees involved. We also absorbed pack 90 children from Laurel when it dissolved. We have tried to carry this financial burden ourselves but are unable to continue to do so. We are in need of \$500 to assist in paying for dues and project fees for the children unable to pay.

Also, our yearly Blue and Gold Banquet is coming up in February. This banquet honors the dedicated boys and parents for all of their hard work throughout the year. The families bring a covered dish and the pack supplies the fried chicken and awards and decorations. We are in need of \$500 for the banquet.

The pack is in the process of having other fundraisers to assist the pack as a whole, as scouts are expected to pay their own way.

I thank you for your support of this wonderful group of young men.

Our tax ID is ~~58~~⁵¹-0102389 and the check can be payable to Pack 182.

Address: 4957 Neals School Rd. Seaford, De. 19973

Sincerely,

April Callaway

Parent of Pack 182



Milton Little League
P.O. Box 175
Milton, DE 19968

January 10, 2015

Councilwoman Joan Deaver
Sussex County Council
Georgetown, De 19947

Attached please find the Milton Little League "Special Notice of Milton Little League Park Improvement Project."

The Milton Little League concession stand is in need of new roofing, siding and windows. We have secured all labor needed to complete this project. All labor is being donated. We now need the funds to purchase the necessary materials.

We are requesting your consideration in making a donations of \$2500 to this important project. Milton Little League is a 501c3 Non-Profit organization (51-0293060) and the concession stand sales are our main source of income. This income helps keep the registration fees low and allows the league to maintain and improve the playing fields.

Thank you for reviewing our project and considering a grant in our favor.

Sincerely,

Kristin Joseph *Kathy Newcomb*

Kathy Newcomb – Treasurer / Milton Little League Board Member

Kristin Joseph – Concession Stand Chairperson / Milton Little League Board Member

2014 – 2015 Board Members:

Billy Coulbourne, Stephanie Coulbourne, Trey Isaacs, Zac Crouch, Kathy Newcomb, Kristin Joseph, Karen Webb, Rusty Rauch, Ukie Johnson, Steve Marsh, Darrell Clifton, Amanda Frampton and Guy Wiggins

City of Seaford



Rich in History, Focused on the Future

January 7, 2015

Mr. Michael Vincent, President
Sussex County Council
Administrative Office Building
2 The Circle, P.O. Box 589
Georgetown, DE 19947

**Re: Request for Funds
Memory & Survivors Walk Signage
Honoring Veterans
Kiwanis Park – Seaford**

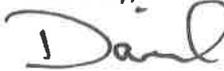
Dear Mike,

I am reaching out to you requesting your financial support for the sign honoring our veterans. As you are aware the first sign was unveiled on Veterans Day and the City of Seaford would very much like to be able to unveil the second and final sign on Memorial Day. Enclosed is a picture of the plaque to be installed.

The City has not yet been able to raise the necessary funds for the second sign. The funding being requested is \$1,700. If you are able to do this please confirm so the sign may be ordered and the installation can be timed for the unveiling at our Memorial Day Veterans Service.

Thank you so much for giving this request consideration.

Cc: Dolores J. Slatcher, CM
Charles D. Anderson, ACM

Sincerely,

David Genshaw
Mayor



December 8th, 2014

BOARD CHAIR
Donald Tricarico
Nanticoke Hospital

BOARD MEMBERS
Jane Drace
LUTCF

Jason Feller
Heritage Shores

Wendy Feller
*Delaware Technical
Community College*

Toni Hall
Community Member

Barbara Hendricks
Nanticoke Hospital

John Hollis
*Nemours Health &
Prevention Services*

Joan Neal
Regional Builders

Alan Quillen
Hooper, Inc.

Rosemarie Rose
Community Member

Denny Russell
Tri-Gas and Oil

Stephan Schwartz
Retired

J. Clarke Tobin
Insurance Market

Michael Vincent
Sussex County Council

Sussex County Council
2 The Circle, PO Box 589
Georgetown, DE 19947-0569

To Whom It May Concern:

On behalf of the Board of Directors and the staff of the Boys & Girls Clubs of Delaware, thank you for being a loyal and engaged supporter of our mission. With your help our Boys & Girls Club staff provides youth with activities and programs designed to ensure they are on track to graduate from high school, prepared to succeed in college or a career, demonstrating good character and living a healthy lifestyle. Your continued patronage of the Club helps ensure the Great Futures our kids deserve.

Growing up in today's world is not easy. For many kids across Delaware, it is even tougher than you might think. The *Annual Fund for Kids* is an unprecedented initiative across our state that addresses four critical areas our youth need most:

Feeding Hungry Kids • Educational Success • Families in Need • Saving our Teens

When school is out, our Clubs are in! Our programs allow young people to continue to learn while having fun, build character through leadership activities, stay healthy through sports and recreational activities and most importantly build relationships with adult role models that truly care.

We want all young people to join our Clubs; you can help create this opportunity by making a meaningful financial contribution to the *Annual Fund for Kids*. Your investment will be used to help our kids develop confidence, hope, and most importantly, a Great Future!

We are committed to leading the way in Delaware. Your financial commitment helps us continue to welcome and inspire more children who need help each day!

Thank you for consideration of this request.

With Gratitude,

Christopher Couch
Executive Director

Donald Tricarico
Board Chair

GREAT FUTURES START HERE.

To Be Introduced 1/20/15

Council District 2 – Wilson
Tax I.D. No. 231-5.00-7.06
911 Address: 12769 Seashore Highway, Georgetown

ORDINANCE NO. _____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTOMOTIVE SALES LOT EXPANSION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS

WHEREAS, on the 21st day of November 2014, a conditional use application, denominated Conditional Use No. 2011, was filed on behalf of Douglas Hitchens, T/A Hitchens Auto Sales, LLC; and

WHEREAS, on the ____ day of _____, 2015, 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. 2011 be _____; and

WHEREAS, on the ____ day of _____, 2015, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County;

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2011 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 Nanticoke Hundred, Sussex County, Delaware, and lying northeast of Route 18 (a.k.a. Route 404 and Seashore Highway), 950 feet northwest of Road 527 (Wilson Hill Road), and being more particularly described in Deed Book 2485, Page 250, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 1.0 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 1/20/15

Council District No. 3 – Deaver

Tax Map I.D. No. 335-11.00-55.00, 56.00, 59.00, 59.01, and 60.00

911 Address: None Available

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MIXED RESIDENTIAL USE WITH MULTI-FAMILY DWELLINGS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 37.26 ACRES, MORE OR LESS

WHEREAS, on the 25th day of November 2014, a conditional use application, denominated Conditional Use No. 2012 was filed on behalf of Ocean Atlantic Communities, LLC; and

WHEREAS, on the ____ day of _____ 2015, 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. 2012 be _____;

WHEREAS, on the ____ day of _____ 2015, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said Conditional Use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the Conditional Use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article V, Section 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2012 as it applies to the property hereinafter described.

Section 2. The subject property is described as:

All that certain tract, piece or parcel of land, lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying north of Route One (Coastal Highway), north of Tulip Drive within Dutch Acres Subdivision and southeast of Railroad near Nassau and being more particularly described per the attached legal description provided by Davis, Bowen & Friedel, Inc., said parcel containing 37.26 acres, more or less.

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

To Be Introduced 1/20/15

Council District No. 3 - Deaver

Tax Map I.D. No. 335-11.00-55.00, 56.00, 59.00, and 59.01

911 Address: None Available

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 36.98 ACRES, MORE OR LESS

WHEREAS, on the 25th day of November 2014, a zoning application, denominated Change of Zone No. 1769 was filed on behalf of Ocean Atlantic Communities, LLC; and

WHEREAS, on the ____ day of _____ 2015, 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. 1769 be _____; and

WHEREAS, on the ____ day of _____ 2015, 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 COUNTY 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 Density Residential District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

All that certain tract, piece or parcel of land lying and being situated in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying north of Route One (Coastal Highway), north of Tulip Drive within Dutch Acres Subdivision, and southeast of Railroad near Nassau and being more particularly described per the attached legal description provided by Davis, Bowen & Friedel, Inc., and containing 36.98 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.