



Sussex County Council Public/Media Packet

**MEETING:
June 2, 2015**

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**Sussex County Council
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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

A G E N D A

JUNE 2, 2015

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. Proclamation – Home Ownership Month
2. Wastewater Agreement – Forest Landing, Phase 3B
3. Sheriff's Department - Constables Renewal
4. Administrator's Report

Vince Robertson, Assistant County Attorney

1. Woods at Walls Creek – Bond Payment and Release

Brad Whaley, Director of Community Development & Housing

1. "Mayor's Challenge to End Veterans Homelessness" Program

10:30 a.m. Public Hearing

Route 54 Expansion of the Fenwick Island Sanitary Sewer District



Michael Izzo, County Engineer

1. Inland Bays Regional Wastewater Facility

A. Design Contract – Class “A” Sludge Dryer

John Ashman, Director of Utility Planning

**1. Deerbrook Off-Site Infrastructure Agreement
Long Neck Sanitary Sewer District**

Old Business

**Conditional Use No. 2013
TBHM, LLC**

Grant Requests

- 1. Indian River High School for Business Professionals of America team/students**
- 2. Georgetown-Ellendale VFW Post 2931 for Veteran’s House Build Project**
- 3. The Auxiliary of Milford Memorial Hospital for proposed new health campus**
- 4. Milford New Century Club for civic projects**
- 5. Greenwood Volunteer Fire Company for truck housing ceremony**
- 6. Delaware Hospice for annual 5K fundraising event**
- 7. Friends of the Georgetown Public Library for annual 5K fundraising event**
- 8. Lewes Historical Society for operating expenses**
- 9. Coastal Concerts for program costs**
- 10. The Home of the Brave Foundation homeless women veterans assistance**
- 11. Milford Museum for fundraising campaign**

Introduction of Proposed Zoning Ordinances

Council Members’ Comments

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

Possible Action on Executive Session Items

1:30 p.m. Public Hearing

Change of Zone No. 1770 filed on behalf of TD Rehoboth, LLC

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 114.4821 ACRES, MORE OR LESS” (land lying on the northeast side of Route One (Coastal Highway) across from Route 88 (Cave Neck Road) (Tax Map I.D. No. 235-23.00-1.00) (911 Address: None Available)

Adjourn

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

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on May 26, 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, MAY 5, 2015

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, May 5, 2015, at 10:00 a.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
George B. Cole	Councilman
Joan R. Deaver	Councilwoman
Robert B. Arlett	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 165 15
Amend
and
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to amend the Agenda by striking "Approval of Minutes" and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

**Public
Comments**

Public Comments

Barb Gerk, President of the Sea Pines Village Homeowners Association, commented on the recent decision by Judge Brady on the special use exception for a 100 foot cell tower application by AT&T. Ms. Gerk submitted her comments, in writing, for the record.

Dan Kramer commented on the County's contract with a Kent County organization for dog control services and he questioned why they are harassing horse owners.

**Legislation/
HB 87**

State Representative Tim Dukes and Hal Godwin, Deputy County Administrator, presented information on House Bill 87 entitled "AN ACT TO AMEND TITLES 22 AND 9 OF THE DELAWARE CODE RELATING TO RIGHT-TO-WORK ZONES". This Act would allow each municipality and each county to create right-to-work zones. Representative Dukes asked for the Council's position on this proposed

**Legislation/
HB 87
(continued)** **legislation. Representative Dukes is one of the sponsors of the Bill. It was noted that this is empowering legislation for the creation of right-to-work zones.**

The Council discussed the proposed legislation with Representative Dukes.

Mr. Arlett, Mr. Cole and Mr. Wilson stated their support of this effort in the General Assembly and they expressed interest in Sussex County becoming a Right-to-Work County.

Mr. Godwin stated that there will most likely be a hearing on this legislation in the near future and he asked for Council's direction on whether to support this bill or not.

**Present-
tation/
Memorial
Poppy** **Liz Shepperd was in attendance on behalf of the American Legion Auxiliary Post #28 to present poppies to the Council. Ms. Law stated that the poppy program helps veterans and their families. Ms. Law introduced Miss Poppy, Paris Parks.**

**CIB/
James
Farm** **Chris Bason, Executive Director of the Center for the Inland Bays, presented an update on the James Farm Ecological Preserve, including activities offered and future expansion plans.**

**Tribute/
F. Shade** **The County Council presented a Tribute in recognition of Frank Shade who is retiring from the County after 25 years of service.**

**Farmland
Preservation
Advisory
Board
Appoint-
ments** **Mr. Lawson presented proposed appointments to the Farmland Preservation Advisory Board for the Council's consideration. He reported that the State of Delaware Department of Agriculture has asked each County to reappoint their Farmland Preservation Advisory Board. This Board is tasked with: (1) reviewing any State legislation that may affect the State Farmland Preservation Program and (2) reviewing any district expansions that may take place in the respective counties. Mr. Lawson reported that the proposed appointments are a result of hearing from Council members and the farm community. The Board consists of four active farmers or people in the agriculture business community and one member of the County Council who will serve as Chair of the Board. The County Council member would serve until replaced and the other four members would serve four year terms. Mr. Lawson presented the following recommended appointments:**

**Sam Wilson, Sussex County Council
Donald Collins, Millsboro
Christopher Magee, Selbyville/Williamsville
Mark Wells, Milford/Slaughter Neck
Randall "R.C." Willin, Seaford/Laurel**

**M 166 15
Appoint
Members/
Farmland
Preservation
Advisory
Board**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, that the Sussex County Council approves the appointments of the members to the Farmland Preservation Advisory Board, as presented, for a term of four years, effective immediately.

Motion Adopted: 5 Yeas.

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

**Adminis-
trator's
Report**

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

1. 9-1-1 Awareness Day – May 14th

On Thursday, May 14th, the Sussex County Emergency Operations Center will host its 16th annual 9-1-1 Awareness Day at the public safety complex located at 21911 Rudder Lane, next to the Sussex County airport. The event will run from 9:00 a.m. to 2:00 p.m., and all activities are free and open to the public.

In addition to tours of the 9-1-1 Center, there will be displays and activities featuring the Delaware State Police K-9 Team, Blades Fire Company Safety House, Delaware State Fire Marshal's Office, Delaware State Fire School, Delaware Emergency Management Agency, Delaware Department of Natural Resources and Environmental Control, and the Sussex County Sheriff's office. There will also be police cars, fire trucks, ambulances, paramedic units, and County and State mobile command centers on display.

The event is sponsored by Sussex County and the Delaware State Police, which jointly operate the 9-1-1 Center.

2. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Coastal Club – Phase 1B received Substantial Completion effective April 24, 2015.

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

**Legislative
Update**

Hal Godwin, Deputy County Administrator, presented a legislative update.

House Bill 9 – “AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE SANITARY PROTECTION OF ALL DRINKING WATER SUPPLIES WHICH ARE FURNISHED TO AND USED BY THE PUBLIC”

**Legislative
Update
(continued)**

Synopsis: The bill eliminates an existing conflict between the Delaware Code statute regulating licensed water system operators and the regulations governing licensed water system operators. This bill corrects the conflict by allowing the creation of an Advisory Council to assist the Secretary in implementing the regulations. In addition, this bill allows for the waiver in the water system operator law and will provide clearer guidance to owners of public water systems.

This bill was signed into law on April 23, 2015.

Senate Bill 25 – “AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO REGULATIONS AND PROHIBITIONS CONCERNING THE GRAY FOX”

Synopsis: This bill authorizes the Department of Natural Resources and Environmental Control to allow the harvesting of gray foxes and permitting of same.

This bill was passed in the House and is stalled in the Senate.

House Bill 33 – “AN ACT TO AMEND TITLE 17 OF THE DELAWARE CODE RELATING TO OUTDOOR ADVERTISING”

Synopsis: This bill clarifies the types of signs that are permitted to be erected in the State’s right-of-way by an outside entity, with department approval. The legislation provides consistency with federal regulations for outdoor advertising.

This bill passed the House and has been released from Senate Committee.

Senate Bill 29 – “AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO DANGEROUS DOGS”

Synopsis: This bill restores language to the Delaware Code that was inadvertently repealed in 2010 when SB 240 and HB 419 were enacted concurrently. This bill adds cats to the list of domestic animals that are protected under the dangerous dog law. Cats are domestic animals and dogs that viciously attack a cat on the property of its owner or under the immediate control of its owner should be evaluated according to dangerous dog provisions.

This bill has passed the Senate and has been released from Committee in the House.

House Bill 68 – “AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO ABANDONED PERSONAL PROPERTY”

**Legislative
Update
(continued)**

Synopsis: As the law stands now, following a writ of possession, a Landlord must store a manufactured home of the tenant that was left unclaimed for 30 days. Following that 30-day period, the home is deemed abandoned by operation of law, and the Landlord may dispose of the home as the Landlord wishes. However, in order to acquire title to the home, the Landlord must wait one year under Chapter 40. This bill will permit the Landlord to acquire title following the 30 day waiting period.

This bill is out of Committee in the House.

House Bill 85 – “AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO STATE TAXES”

Synopsis: This bill allows school taxes and property taxes to be collected by tax intercept.

This bill was reintroduced (new draft) on April 1, 2015. Previously, similar legislation passed the House on three separate occasions; however, the Senate has never addressed the legislation. The bill has died in the past three General Assemblies.

Senate Bill 5 – “AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO THE DELAWARE UNIFORM COMMON INTEREST OWNERSHIP ACT”.

Synopsis: This Act affirmatively authorizes preexisting common interest communities and approved common interest communities to comply with any or all of the provisions of the Delaware Uniform Common Interest Ownership Act that they are not already required to comply with.

Mr. Godwin stated that the provisions of this legislation are enabling.

This Bill is out of Committee in the Senate.

House Bill 74 – “AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE RELATING TO PUBLIC UTILITIES”

Synopsis: This bill requires a utility provider to alert the homeowner’s association for any condominium or cooperative at least 72 hours before shutting off the service, in addition to notifying the occupants of the dwelling unit.

This bill has been introduced and assigned to Committee.

Senate Bill 54 – “AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO RIGHT-TO-WORK ZONES AND THE GROSS RECEIPTS TAX”

**Legislative
Update
(continued)**

Synopsis: This Act allows the Director of the Delaware Economic Development Office to create right-to-work zones as part of its inducements to bring new businesses to Delaware and requires these zones to be offered for manufacturing businesses hiring at least 20 employees. It also exempts those manufacturing businesses from their gross receipts taxes for their first 5 years.

Mr. Godwin stated that this is a statewide bill.

This bill has been introduced and assigned to Committee.

House Bill 79 – “AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO STRIPED BASS”

Synopsis: This bill provides that a striped bass must be tagged by a commercial fisherman before it is landed or put on shore.

This bill was introduced and assigned to Committee.

House Bill 86 – “AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO PUBLIC EMPLOYMENT”

Synopsis: This bill allows counties and municipalities to elect not to be subject to the State’s Public Employment Relations Act.

This bill was introduced and assigned to Committee.

House Bill 87 - “AN ACT TO AMEND TITLES 22 AND 9 OF THE DELAWARE CODE RELATING TO RIGHT-TO-WORK ZONES”

Synopsis: This act would allow each municipality and each county to create right-to-work zones.

In regards to House Bill No. 87 discussed earlier in the meeting, Mr. Godwin asked for Council’s direction/position.

**M 167 15
Support
HB 87**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to support House Bill No. 87 entitled “AN ACT TO AMEND TITLES 22 AND 9 OF THE DELAWARE CODE RELATING TO RIGHT-TO-WORK ZONES”.

Motion Adopted: 4 Yeas, 1 Nay.

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

**M 168 15
Oppose
HB 54**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to oppose Senate Bill 54 entitled “AN ACT TO AMEND TITLE 29 OF THE

M 168 15 **DELAWARE CODE RELATING TO RIGHT-TO-WORK ZONES**
(continued) **AND THE GROSS RECEIPTS TAX”.**

Motion Adopted: **4 Yeas, 1 Nay.**

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

Legislative **House Bill 86 – “AN ACT TO AMEND TITLE 19 OF THE DELAWARE**
Update **CODE RELATING TO PUBLIC EMPLOYMENT”**
(continued)

Synopsis: This bill allows counties and municipalities to elect not to be subject to the State’s Public Employment Relations Act.

Mr. Godwin asked for Council’s direction on this legislation and stated that if no direction is given, he will stay quiet during the hearing.

Mr. Cole stated that he would like for the County’s Human Resources Department to provide information on this legislation.

Senate Bill 26 – “AN ACT TO AMEND TITLE 29, CHAPTER 101,
SUBCHAPTER 11 OF THE DELAWARE CODE RELATING TO
AGENCY REGULATIONS AND PUBLIC HEARINGS”

Synopsis: This bill provides for recording and maintain a record of all deliberations made by public bodies during public hearings, including any discussion made “off the record”.

This bill was passed by the Senate and assigned to House Committee.

Senate Bill 66 – “AN ACT TO AMEND THE DELAWARE CODE
RELATING TO NEIGHBORHOOD CONSERVATION AND LAND
BANKS”

Synopsis: This Act will allow any Delaware jurisdiction with a long-term residential vacancy rate above 3%, including a county, to form a land bank, where such jurisdiction determines that a land bank would help it address the problem of vacant and abandoned real property within its jurisdiction. A land bank is a non-profit organization created by a political subdivision of the State, or through an intergovernmental agreement between two or more political subdivisions of the State, and would serve as the repository for vacant, abandoned and tax-delinquent properties that, left unaddressed, can contribute to crime, depress the local real estate market, and deplete the tax base of Delaware’s communities. A land bank would have the authority to obtain such properties at sheriff’s sales instituted by the jurisdiction that established the land bank, where such properties have been abandoned by their owners because of unpaid property taxes or substantial liens arising from property code violations. The land bank would have the ability to do

**Legislative
Update
(continued)**

one or more of the following: (1) purchase liens from the local jurisdiction; (2) acquire properties at a sheriff's sale on credit from the local jurisdiction; (3) assert a trump bid at a sheriff's sale that would allow the land bank to acquire abandoned properties for the price of the outstanding liens. The land bank would retain the acquired properties until such time as a suitable and vetted buyer could be found who would be able to return the property to productive use. Funding for land banks created under this Act would come from governmental and private grants, private investments and property sale proceeds. Additionally, any land bank created under this Act could, at the election of the local jurisdiction, be funded through the allocation to the land bank of 50% of the real property taxes on the property for a 5 year period once the property returns to productive use or such other funding sources established by the local jurisdiction. Through this Act, jurisdictions throughout Delaware would have the ability to alleviate the blight caused by vacant, abandoned and tax delinquent properties in the area, and revitalize communities by turning vacant spaces into vibrant places.

Mr. Godwin advised that this legislation would give the Council the authority to set up a land bank to deal with abandoned/vacant properties. Mr. Godwin noted that this legislation is enabling legislation.

Mr. Godwin reported that the sponsors of this bill do not include Sussex County legislators.

This bill is out of Committee in the Senate.

**Code
Enforce-
ment
Options/
Littering
and
Dumping**

Mr. Lawson reported that Mike Costello, Chief Constable, would be giving a presentation on code enforcement options as it relates to trash. He noted that this is a continuation of a discussion that took place at the March 10th Council meeting and during the Budget Workshop held on April 23rd.

Mr. Costello reported on options regarding roadside dumping and littering problems in and around the County. He explained that, a part of that, is the detection and apprehension of the people who are dumping and the clean-up itself.

Mr. Costello stated that he has listened to public input, looked at what other jurisdictions are doing in neighboring communities and states, and looked at the County's current approach and how effective that has been.

Mr. Costello reviewed the State Statutes that cover dumping and littering: Title 7, Title 16, and Title 21 of the Delaware Code all have statutes that can be enforced by any police officer anywhere in the State. Title 7, however, has stronger littering and waste disposal statutes and the heaviest fines associated with the violation. DNREC's Environmental Crime Unit works under the authority of DNREC's Secretary and is charged with the investigation and enforcement of the Code. In regard to the jurisdiction of the clean-up, DelDOT is primarily responsible for keeping our roadways

Code
Enforce-
ment
Options/
Littering
and
Dumping
(continued)

clear of litter; this extends to the State right-of-ways which for the most part includes the ditches and grassy portions next to the road. DelDOT has a three-prong approach to keeping litter off of the roadways: road crews, inmates from the correctional facilities, and the Adopt-A-Highway Program (285 groups in Sussex County).

Mr. Costello commented on the costs of a program, should the County decide to start one, i.e. cameras, camera batteries, staff and staff time.

Mr. Costello reviewed four options for the Council to consider:

Complaint – County staff can submit complaints by forwarding the location of sites to DNREC’s Environmental Crime Unit and to DelDOT’s road response line. This option would require no further personnel or equipment from the County. This option could be implemented right away.

Contribute – The County could encourage the action of citizens who witness instances of littering or dumping. The County could initiate and fund a reward or tip program. The cost would be approximately \$4,500 annually. This option would require no further personnel or equipment from the County. Implementation time would be 30 days.

Contract – The County could contract with another agency who is equipped to handle the law enforcement component of the statutory laws. The County could offer a grant to obtain the concentrated efforts of DNREC’s Environmental Crime Unit. This way, the County could get dedicated officers on an overtime basis; a DNREC officer would be available to handle the County’s trash related issues. This option would require no additional personnel or equipment from the County. This option would take approximately 60 days. He noted however, that it would require negotiations with DNREC and that DNREC may not agree to it. The cost would be approximately \$32,000. The County could offer it as a grant for six months and see how it works.

Commit – The County could institute an ordinance to address the problem. County staff would need to be assigned to enforce the ordinance. The County would investigate violations and prosecute offenders. Implementation would take approximately 90 days. It is estimated that 5 additional personnel would be needed; vehicles and tools would also be needed. A base cost of \$414,000 annually is estimated; this cost covers only staff, vehicles and tools. This does not include gas, GPS for the vehicles, computers, trash pick-up, etc. This would be for staff to canvas the County to identify people who are dumping trash but it would not include picking up the trash and disposing of it.

Mr. Costello’s recommendation is Option 1 – to complain. He noted that the County could pursue this option and determine the outcome of the County making a complaint versus an anonymous citizen.

Code Enforcement Options/ Littering and Dumping (continued)	<p>Mr. Arlett offered several suggestions: ask County employees to be a part of the process. When employees are out riding around (in County vehicles) and see a site, they can file a complaint.</p> <p>Mr. Arlett suggested doing a combination of the options, i.e. Options 1 and 2. Mr. Arlett also suggested a Sussex County clean-up day.</p> <p>Mr. Wilson stated that the County should still consider fining those that are littering.</p>
M 169 15 Proceed with Options 1 and 2 (Code Enforcement)	<p>A Motion was made by Mr. Cole, seconded by Mr. Wilson, to proceed with Options 1 and 2.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea</p>
Code Enforcement Options/ Littering and Dumping (continued)	<p>Mr. Arlett asked that a Sussex County Council Clean-up Day be included in the Motion at a cost not to exceed \$10,000. Council members agreed to ask Mr. Costello to determine the cost of a Sussex County Clean-up Day and to report back to Council.</p> <p>Mr. Vincent passed along a suggestion he heard from a constituent. The suggestion was that when a person is fined for a trash violation, the fine should also include community service hours of picking up roadside trash. It was noted that this would require a change in State law.</p>
Old Business/ Proposed Ordinance/ Failure to Appear	<p>Under Old Business, the Council considered the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXVIII, §§ 216D. AND F. OF THE CODE OF SUSSEX COUNTY TO GRANT THE COUNTY COUNCIL AND PLANNING AND ZONING COMMISSION DISCRETION TO RECONSIDER ZONING APPLICATIONS WHERE APPLICANT HAS FAILED TO APPEAR OR FAILED TO TIMELY WITHDRAW FOR REASONS BEYOND HIS CONTROL”.</p> <p>The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on January 22, 2015 at which time the Commission recommended approval with the recommendation that it be revised to state that Sussex County Council shall not act upon any matter in which an applicant failed to appear before the Planning and Zoning Commission.</p> <p>The County Council held a Public Hearing on the Proposed Ordinance on February 3, 2015 at which time action was deferred to allow time for Legal Counsel to review the Proposed Ordinance and report back on amendments to the Proposed Ordinance or Rules of Procedure to address Council’s concerns.</p>

**Old
Business/
Proposed
Ordinance/
Failure
to Appear
(continued)**

The Council discussed the procedure that would be followed under the Proposed Ordinance, if adopted. Also discussed was the need for evidence to be submitted to support a *Petition for Reconsideration*.

Mr. Moore reported that a list of procedures has been drafted which Legal Counsel suggests be added to the Rules of Procedure. Instead of putting all of the specifics in the ordinance, an amendment to the Rules is proposed. (Rule (10.11) has been drafted which, if approved, would be included in the Council's Rules of Procedure) Mr. Moore noted that the proposed amendment to the Rules of Procedure will have to be placed on a future agenda for consideration. Lawrence Lank, Director of Planning and Zoning, noted that, if the Council approves an amendment to the Rules of Procedure, the Planning and Zoning Commission and the Board of Adjustment will also have to amend their Rules of Procedure.

Mr. Moore explained that the draft ordinance was amended to include the following recommendation of the Planning and Zoning Commission: "that the County Council shall not act upon any matter in which the applicant failed to appear before the Planning and Zoning Commission". Mr. Moore reviewed the amended version of the draft ordinance.

**M 170 15
Adopt
Ordinance
No. 2396/
Failure
to Appear
Ordinance**

A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to Adopt Ordinance No. 2396 entitled "AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXVIII, §§ 216D. AND F. OF THE CODE OF SUSSEX COUNTY TO GRANT THE COUNTY COUNCIL AND PLANNING AND ZONING COMMISSION DISCRETION TO RECONSIDER ZONING APPLICATIONS WHERE APPLICANT HAS FAILED TO APPEAR OR FAILED TO TIMELY WITHDRAW FOR REASONS BEYOND HIS CONTROL", as amended (with the Planning and Zoning recommendation).

Motion Adopted: 5 Yeas.

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

**Old
Business/
C/Z
No. 1759/
DNREC
Report on
Stormwater
Regulations**

Mr. Lawson reported that the County Council held a Public Hearing on February 3, 2015 on Change of Zone No. 1759 filed on behalf of Osprey Point D, LLC. On that date, action was deferred and the record was kept open for the Planning and Zoning Commission to receive reports that it was waiting on (for the Sussex Conservation District reference to grandfathering of the project for DelDOT's comments on the Traffic Operational Analysis, for the Applicant's response to DelDOT's comments) and to have a representative from DNREC's Division of Soil and Water Conservation address the Council to discuss the soil conservation regulations pertaining to this specific site. Also on that date, the Council instructed that the record remain open for 20 additional days for written comments from the public and the applicants on the reports and DNREC's presentation.

**Old
Business/
C/Z
No. 1759/
DNREC
Report on
Stormwater
Regulations
(continued)**

Jamie Rutherford, Program Manager with DNREC's Sediment and Stormwater Program, introduced Randy Greer and Elaine Webb. Ms. Rutherford provided to Council a copy of the Delaware Erosion and Sediment Control Handbook and a copy of the Post Construction Stormwater BMP Standards and Specifications Handbook.

Elaine Webb, Engineer, reviewed the chronology of the revisions to the Delaware Sediment and Stormwater Regulations.

Randy Greer, Engineer, reviewed a comparison between the Department's revised Sediment and Stormwater Regulations which became effective January 1, 2014 and the old regulations.

Mr. Greer advised that the Osprey Point Project was grandfathered by DNREC under the old regulations. He noted that the grandfathering provision was applied to projects submitted prior to January 1, 2014.

In response to questions, Mr. Greer stated that the Sussex Conservation District will review Osprey Point's plans for compliance with the old regulations.

Mr. Greer explained the grandfathering provision in the new regulations that stated if the project was already in the review queue or had applied prior to January 1, 2014, then they could continue under the old regulations or have their plans grandfathered under the old regulations. Osprey Point met that condition; therefore, they are grandfathered.

Mr. Greer also explained that there are multiple applications that are grandfathered and that the grandfathering provision does have an expiration date; the grandfathered projects were given an 18 month window to get approval. He noted that some projects cannot meet the 18 month deadline, DNREC does have the ability to grant an administrative extension; however, any extensions will be limited.

**Grant
Requests**

Andrea Wall, Manager of Accounting, presented grant requests for the Council's consideration.

**M 171 15
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give \$750.00 (\$500.00 from Mr. Wilson's Councilmanic Grant Account and \$250.00 from Mr. Arlett's Councilmanic Grant Account) to The Jefferson School for the 5K Run/Walk Fundraiser.

Motion Adopted: 5 Yeas.

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

- Action Tabled** **Action on the grant request from Delmarva Clergy United in Social Action Foundation was tabled for one week.**
- M 172 15 Councilmanic Grant** **A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to give \$600.00 (\$200.00 from Mr. Wilson's Councilmanic Grant Account and \$100.00 each from Mr. Arlett's, Mr. Cole's, Mrs. Deaver's, and Mr. Vincent's Councilmanic Grant Accounts) to the American Cancer society for the Relay for Life of East Sussex/Coastal.**
- Motion Adopted:** **5 Yeas.**
- Vote by Roll Call:** **Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea**
- M 173 15 Councilmanic Grant** **A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$1,000.00 from Mrs. Deaver's Councilmanic Grant Account to the Benevolent & Protective Order of Elks of the USA for the Cape Henlopen Elks Lodge for sewer connection costs.**
- Motion Adopted:** **5 Yeas.**
- Vote by Roll Call:** **Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea**
- M 174 15 Councilmanic Grant** **A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$600.00 (\$300.00 each from Mr. Wilson's and Mrs. Deaver's Councilmanic Grant Accounts) to VFW Post 2931 (Georgetown-Ellendale) for the 5th Annual Car, Truck and Motorcycle Show.**
- Motion Adopted:** **5 Yeas.**
- Vote by Roll Call:** **Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea**
- M 175 15 Councilmanic Grant** **A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to the Delaware Devil Dogs Detachment 780 for the 2nd Annual Golf Tournament Fundraiser.**
- Motion Adopted:** **5 Yeas.**
- Vote by Roll Call:** **Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea**

M 176 15 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$500.00 from Mr. Vincent's Councilmanic Grant Account to the Friends of the Bridgeville Library for the 6th Annual Jumping June Jamboree Fundraiser.**

Motion Adopted: 5 Yeas.

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

M 177 15 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$300.00 from Mr. Cole's Councilmanic Grant Account to the Ocean View Historical Society for transportation expenses for the Lord Baltimore Elementary School tour.**

Motion Adopted: 5 Yeas.

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

M 178 15 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$300.00 (\$100.00 each from Mr. Arlett's, Mr. Cole's, and Mr. Wilson's Councilmanic Grant Accounts) to the American Legion Post 28 Auxiliary for the Poppy Fund.**

Motion Adopted: 5 Yeas.

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

M 179 15 Councilmanic Grant **A Motion was made by Mr. Arlett, seconded by Mr. Cole, to give \$750.00 from Mr. Arlett's Councilmanic Grant Account to the Selbyville Volunteer Fire Company for LED light replacement.**

Motion Adopted: 5 Yeas.

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

M 180 15 Councilmanic Grant **A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to give \$750.00 from Mr. Vincent's Councilmanic Grant Account to the Greater Seaford Chamber of Commerce for the Woodland Ferry Festival.**

Motion Adopted: 5 Yeas.

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

M 181 15
Council-
manic
Grant

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$500.00 from Mrs. Deaver's Councilmanic Grant Account to the Shields Elementary School (Cape Henlopen School District) for the Odyssey of the Mind Team.

Motion Adopted: 5 Yeas.

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

Introduction of Proposed Ordinances

Mrs. Deaver introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 22,500 SQUARE FEET, MORE OR LESS” (Conditional Use No. 2017) filed on behalf of Eli and Victoria Zacharia (Tax Map I.D. 334-18.00-7.00) (911 Address – 20336 John J. Williams Highway, Lewes).

Mr. Vincent introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SPORTING GOODS BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 11,473 SQUARE FEET, MORE OR LESS” (Conditional Use No. 2018) filed on behalf of David Clark Lankford (Tax Map I.D. 331-6.00-89.00) (911 Address – 9636 Tharp Road, Seaford).

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONSTRUCTION COMPANY OFFICE; STORAGE OF MATERIALS; RETAIL SALES; AND EQUIPMENT STORAGE AND RENTAL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 34,495.70 SQUARE FEET, MORE OR LESS” (Conditional Use No. 2019) filed on behalf of JB Builders, LLC (Tax Map I.D. 234-28.00-153.00) (911 Address – 27324 John J. Williams Highway, Millsboro).

The Proposed Ordinances will be advertised for Public Hearing.

**Council
Members'
Comments**

Council Members' Comments

Mrs. Deaver commented on the Milford School District's referendum and expressed concern that it would not pass.

Mr. Arlett commented on libraries that he has visited and on his attendance at Delaware Tech's Starry Starry Night Event.

**M 182 15
Go Into
Executive
Session**

At 12:41 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to recess the Regular Session and to go into Executive Session for the purpose of discussing matters relating to personnel and land acquisition.

Motion Adopted: 5 Yeas.

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

**Executive
Session**

At 12:43 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to personnel and land acquisition. The Executive Session concluded at 12:55 p.m.

**M 183 15
Reconvene
Regular
Session**

At 12:56 p.m., a Motion was made by Mr. Cole, seconded by Mr. Arlett, to come out of Executive Session and to reconvene the Regular Session.

Motion Adopted: 5 Yeas.

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

There was no action on Executive Session matters.

**M 184 15
Recess**

At 12:56 p.m., a Motion was made by Mr. Cole, seconded by Mr. Arlett, to recess until 1:30 p.m.

Motion Adopted: 3 Yeas, 2 Absent.

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

**M 185 15
Reconvene**

At 1:37 p.m. a Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to reconvene.

Motion Adopted: 3 Yeas, 2 Absent.

M 185 15
(continued)

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

Rules **Mr. Moore reviewed the Rules of Procedure for Public Hearings.**

Mr. Cole and Mr. Wilson joined the meeting.

Public
Hearing/
C/Z 1767

A Public Hearing was held on 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. Baghouli (Tax Map I.D. No. 334-10.00-31.05 and 31.06) (911 Address: 28990 Lewes–Georgetown Highway, Lewes).

The Planning and Zoning Commission held a Public Hearing on this application on March 26, 2015 at which time the Commission deferred action. On April 9, 2015, the Commission deferred action again. On April 23, 2015, the Commission recommended that the application be denied, for the following reasons:

- 1. Commissioner Johnson does not believe this site is appropriate for B-1 zoning and the permitted uses that are allowed in that zoning district, which includes banks, laundries, gas stations, restaurants, retail shopping centers, and other uses.**
- 2. The rezoning is incompatible with the surrounding zoning, which is all AR-1, subject in some cases to limited conditional uses. While there is some commercial or business zoning in the area, it is all on the north side of Route 9. There is no commercial or business zoning on the south side of Route 9 in the vicinity of this parcel. As a result, rezoning the property to B-1 would be inconsistent with the surrounding properties on the south side of Route 9.**
- 3. Mr. Johnson does not believe the Applicant made an adequate record to support the change in zone. The Applicant stated that he desires the B-1 zoning because he currently lives on the property and would like to operate his business there. He has requested the additional property next to his house to be rezoned B-1 without any real justification for the request. Because the location of the property does not support a B-1 use and the Applicant has not created an adequate record to justify the rezoning, it should be denied.**
- 4. This property is part of a prior application that was also denied by the Planning and Zoning Commission and County Council in CU #1790. Many of the reasons for that denial still apply today.**

**Public
Hearing/
C/Z 1767
(continued)**

- 5. The traffic that could be generated at this location after a rezoning to B-1 is not compatible with the existing roadways and traffic conditions on Route 9.**
- 6. The application does not promote the health, safety and general welfare of the neighborhood or community.**

(See the minutes of the Planning and Zoning Commission dated March 26, April 9, and April 23, 2015.)

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

The Council found that David Hackett, Attorney, was present with the Applicant, Adel M. Baghouli. He stated that the applicant is a local businessman that does custom painting and wall design, including window treatments and closet organizations; that the property is located on the south side of the Lewes-Georgetown Highway (Route 9) approximately 1,000 feet from Road 282 (Arabian Acres Road); that the property consists of two lots with a total frontage of 300 feet on Route 9 and a depth of approximately 430 feet; that the applicant's residence is located on the easterly property; that a pole barn garage is located behind the residence; that the westerly lot is unimproved; that the applicant proposes to erect a 5,000 square foot building with three (3) retail store units on the westerly lot; that one or more of the units will be utilized by the applicant and the other(s) will be leased; that he plans a showroom and offices; that these are permitted uses in B-1 zoning; that there are several B-1 Neighborhood Business properties, C-1 General Commercial properties, and some Conditional Use properties in the immediate area; that Route 9 is an arterial roadway; that the trend of development on Route 9 between Georgetown and Lewes has been a mix of business and commercial uses; that the trend has caused the subject site to be more appropriate for business uses and less appropriate for residential uses; that Route 9 is an appropriate location for B-1 zoning; that B-1 zoning is appropriate for this location because numerous properties in the immediate vicinity of the site are used for commercial and business purposes; that the change in zoning will not adversely affect neighboring or adjacent properties or nearby communities; that permitted uses in the B-1 District are compatible with uses in the C-1 District and are also compatible with business uses in the vicinity of the site; that there are no similarities between this application and the application for a Conditional Use that was denied in 2007; that DelDOT did not require a Traffic Impact Study; that the change of zone is consistent with the County's Comprehensive Land Use Plan; and that the site plan will be subject to the review and approval of Planning and Zoning. Mr. Hackett reviewed the uses and zonings of other properties in the vicinity of this site. Mr. Hackett referenced several approvals for B-1 zoning in the area and he commented on the reasons for approval for those applications.

**Public
Hearing/
C/Z 1767
(continued)**

Mr. Hackett submitted proposed Findings of Fact.

Mr. Lank referenced a letter from DelDOT, dated July 17, 2014, in which DelDOT recommends that the rezoning be considered without a Traffic Impact Study and that the need for a Traffic Impact Study be evaluated when a subdivision or land development plan is proposed. DelDOT also stated that the Level of Service E of Route 9 will not change as a result of this application.

Mr. Arlett questioned how many B-1 zonings exist in the general area of the application site.

There were no public comments and the Public Hearing was closed.

**M 186 15
Defer
Action on
CZ 1767**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action for two weeks on Change of Zone No. 1767 filed on behalf of Adel M. Baghouli and to leave the record open for the sole purpose of staff reporting on what B-1 zonings and C-1 zonings exist in the area and also, what Conditional Uses exist in the area; and to allow time for review of the Proposed Findings of Fact submitted by the Applicant's Attorney.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CZ 1769
and
CU 2012**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 36.98 ACRES, MORE OR LESS" (Change of Zone No. 1769) (Tax Map I.D. No. 335-11.00-55.00, 56.00, 59.00, and 59.01) (911 Address: None Available) and on the Proposed Ordinance entitled "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" (Conditional Use No. 2012) (Tax Map I.D. No. 335-11.00-55.00, 56.00, 59.00, 59.01, and 60.00) (911 Address: None Available) filed on behalf of Ocean Atlantic Communities, LLC.

The Planning and Zoning Commission held a Public Hearing on these applications on March 26, 2015 at which time action was deferred. On April 9, 2015, the Commission recommended that Change of Zone No. 1769 be approved and that Conditional Use No. 2012 be approved with the

**Public
Hearing/
CZ 1769
and
CU 2012
(continued)**

following conditions:

- A. There shall be no more than 147 units being a mixture of 43 single family units, 46 duplex units, and 58 townhouse units.**
- B. The applicant shall form a homeowners or condominium association responsible for the perpetual maintenance of streets, roads, any buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas.**
- C. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.**
- D. All entrance and roadway improvements shall comply with DelDOT requirements.**
- E. As offered by the applicant, a five (5) foot easement adjacent to the railroad right-of-way shall be dedicated for use as part of the proposed Georgetown-Lewes Trail and a parking area as shown on the Preliminary Site Plan shall be provided for access to the Trail for the general public.**
- F. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.**
- G. A 20 foot wide perimeter buffer shall be provided as shown on the Preliminary Site Plan. There shall also be a 20 foot wide buffer along the common boundary with the Villages of Five Point development. The landscaping plan, which may include existing vegetation, shall be included as part of the Final Site Plan.**
- H. The development will be served as part of a Sussex County Sewer District and central water will be provided by a public utility company.**
- I. The clubhouse, pool and playground amenities shall be constructed prior to the issuance of the 73rd residential building permit for the project.**
- J. Federal Wetlands shall be maintained as non-disturbance areas, except where authorized by Federal and State Permits. The wetland areas shall be clearly marked on the site with permanent markers to prevent disturbance.**
- K. As proposed by the applicant, there shall be a 20 foot buffer from all Federal Wetlands and a 50 foot buffer from all tidal wetlands.**
- L. Any site remediation work required by DNREC as a result of the site study performed by Environmental Alliance, Inc. shall be completed in accordance with all DNREC instructions.**
- M. As indicated by the applicant, the development shall be operated as an “age restricted, over 55” community as that term is generally interpreted and governed by Federal Law.**
- N. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur from Monday through Friday between the hours of 8:00 a.m. and 6:00 p.m., and Saturdays between the hours of 9:00 a.m. and noon. The applicant shall make every effort to establish a temporary construction entrance via Atlantic Concrete and not Tulip Drive.**

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(continued)**

- O. As requested by the Villages of Five Points, there shall not be interconnecting trails between the Villages of Five Points and the rail trail. Instead, the area where the interconnecting trail was to be located shall now be a 20 foot wide vegetated buffer, like others along the perimeter of the project.**
- P. As stated by the applicant, trees shall be preserved to the maximum extent possible. The Final Site Plan shall show all areas where existing trees will not be disturbed.**
- Q. This preliminary approval is contingent upon the applicant submitting a Revised Preliminary Site Plan either depicting or noting the conditions of approval on it. The Staff shall approve the Revised Preliminary Site Plan upon confirmation that the Conditions of Approval have been depicted or noted on it.**
- R. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- S. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

(See the minutes of the meeting of the Planning and Zoning Commission dated March 26 and April 9, 2015.)

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

Mr. Lank stated that the Applicants would present Change of Zone No. 1769 and Conditional Use No. 2012 as one presentation with the understanding that each application would be acted on separately.

Mr. Lank noted that there is a difference in the acreage on the two applications; one is because there is a lot within Dutch Acres that is a portion of the application that is already zoned MR.

Mr. Lank reported that, on this date, the law firm of Fuqua, Yori and Willard, P.A. submitted a letter from DNREC, dated April 28, 2015.

Copies of an Exhibit Book and Exhibit Packet were submitted by the Applicant.

The Council found that Preston Schell and Ben Gordy were present on behalf of Ocean Atlantic Communities, LLC with James Fuqua, Esquire of Fuqua, Yori and Willard, P.A. and Zac Crouch and D.J. Hughes of Davis, Bowen & Friedel, Inc.

Mr. Fuqua stated that these applications involve a 36.98 acre parcel of land located off of Route One north of Five Points, approximately behind St. Jude The Apostle Catholic Church; that access to the site is from Tulip Drive off of Route One; that Tulip Drive is a State maintained public road; that Tulip Drive will be extended from where it turns into Dutch Acres; that

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and
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(continued)**

30 feet of the right-of-way of Tulip Drive is a part of the Applicant's property; that the new extended roadway will provide access to the application site and will be the only access to the development other than the Atlantic Concrete entrance, which will be used for emergency purposes only; that it is proposed that the Atlantic Concrete entrance would be the construction entrance to the site; that to the south of the site is Dutch Acres, a 40 lot subdivision; that to the east is the Villages of Five Points, a 586 unit Residential Planned Community with a central commercial area; that to the northeast is Atlantic Concrete, an industrial use; that to the north is the railroad; that to the west is the Reserves of Nassau I development and the Taramino development; that in 2005, the same parcel was approved for a 152 multi-family unit project for Robino-Sanibel Village, LLC; that the Planning and Zoning Commission originally denied the requested application and the County Council approved the application with conditions; that there are two differences in this application and the original application: 1) the original application had a shared entrance with Atlantic Concrete from Route 1 to Old Orchard Road and a private traffic signal was to be required with the access road; that in this application, Tulip Drive is a State maintained street that provides access to the site and 2) this application is intended to be an age restricted community with master bedrooms on the first floor; that an age restricted community creates a lower traffic volume/impact; that a Traffic Impact Study (TIS) was prepared by Davis, Bowen & Friedel, Inc. and has been reviewed and approved by DelDOT; that based on the TIS, DelDOT will require improvements to the Route One intersection by extending the Route One turning lanes and the erection of a stop sign to control the Tulip Drive intersection; that as part of the TIS, DelDOT required a Traffic Signal Justification Study for the Route One intersection; that a Traffic Signal Justification Study was performed and that McCormick/Taylor, Consultants to DelDOT, have agreed that a full service traffic signal is not warranted at this location at this time; that the applicants will be dedicating a 5 foot wide easement along the entire length of the railroad right-of-way for a future rail to trail expansion; that central water will be provided by Tidewater Utilities; that central sewer will be provided by the County; that electrical services will be provided by Delmarva Power; that studies indicate that there are no known endangered species or historic or cultural resources on the site; that there are 4.51 acres of Federal non-tidal wetlands on the site; that stormwater management and erosion and sediment control will be provided subject to the current regulations of the Sussex Conservation District; that the previous use of a portion of the site was a borrow pit which was backfilled at a later date with fill including stumps, logs, construction debris, etc.; that a detailed site evaluation was performed by Environmental Alliance Inc. to determine the nature and extent of the current condition of the site and what remedial measures are needed to be done to bring the property into compliance with DNREC's standards (copy submitted into the record); that the site was entered into the State's Brownfield Program in 2014; that the Program, which is administered by DNREC, encourages potential purchasers of land to enter into the Program and perform site evaluations and propose a remedial clean-up plan prior to

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(continued)**

taking ownership; that the site evaluation has been performed and reviewed by DNREC; that in a letter dated April 28, 2015 from the Project Manager of DNREC's Site Investigation and Restoration Section, notice of approval was given for the site specific assessment and brownfield investigation report; that DNREC will now issue proposed and final plans of remedial action which will be implemented and paid for by the developer/applicant and it will be done as part of the site plan construction (under the authority and supervision of DNREC); that, as a result, this long abandoned pit will be cleaned up and put into an appropriate use; that they are requesting consideration for an age-restricted community of 147 condominium type units comprised of 43 single family units, 46 duplex units, and 58 townhouse/condominium units; that recreational amenities will include a clubhouse, a swimming pool, trails and a playground; that the site is located in an Investment Level 1 Area according to State Strategies, where the State considers the area already developed or urban in nature; that development of the site is supported by the State; that the site is located in an Environmentally Sensitive Developing Area (a growth area) according to the Sussex County Comprehensive Land Use Plan; that the type of development intended is an appropriate use in this area; that the rezoning and conditional use are appropriate since the site is located in a growth area, since the site is surrounded by developments, and since the use conforms to the Sussex County Comprehensive Land Use Plan Future Land Use Map; that the MR zoning requested is consistent with the zonings in the area; that the conditional use for a mixed residential use is consistent and similar to the adjoining uses in the area; that these applications are infill zoning; that based on comments received during the Public Hearing before the Planning and Zoning Commission, the site plan has been revised to address some of the concerns;

Mr. Crouch reported that the site plan has been revised based on the Public Hearing before the Planning and Zoning Commission and based on a meeting with the residents of Dutch Acres. Mr. Crouch reviewed the revised site plan and stated that they propose 147 mixed residential uses (43 single family homes, 46 duplexes, and 58 townhouses); that as you enter the property from Tulip Drive, there is a road connection that will extend Tulip Drive into the interior of the subdivision; that the homes on the south side of the branch will all be single family homes; that the duplexes and townhouses along with some single family homes will be on the north side of the branch; that the sidewalk will be extended from Tulip Drive to the interior intersection across the branch; that the purpose of not providing sidewalks throughout the development is that they are making the roads wider; that all of the streets within this subdivision will be 30 feet wide and that way, they can designate a pedestrian path on the road; that a wetlands delineation was done; that at the entrance of the development, there are two wetlands crossings; that there is minimal impact; that a 20 foot buffer will be provided from all Federal 404 wetlands – that this is voluntary; that there is a 50 foot setback from perennial streams; that there will be four bio-retention areas for stormwater management so there will be no wet ponds located throughout the north portion of the site; that on the south

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(continued)**

portion of the site, there will be bio-swales and small bio-retention areas to take care of stormwater management on that side; that there will be an emergency access (only) near the Atlantic Concrete Plant; that, per the revised site plan, the 20 foot buffer will be extended between the road and the Villages of Five Points and the pedestrian access has been removed from the Villages of Five Points to the public parking area; that a 20 foot buffer is proposed around the perimeter; that there are three lots where there will not be the 20 foot buffer but it will be between 10 and 12 feet; that there will be a centrally located pool, tot lot and clubhouse; that parking spaces will be throughout; that they propose to remove or turn the two parking areas on the south side of the branch; that they will attempt to realign the road to save some of the large trees in the back of the residences; that the project complies with the source water protection for Chapter 89; that they are below the requirement of 35% impervious area so no mitigation is required; and that there is an existing brownfield that is going to be cleaned up as part of this project.

Mr. Schell commented on the fact that sidewalks will not be provided throughout the development and he explained the pedestrian use of the roadway. He stated that a portion of the roadway could be designated for pedestrian use.

Mr. Hughes stated that, regarding the Traffic Impact Study, they met with DelDOT in 2014 and the TIS was scoped per DelDOT's regulations; that the final TIS was submitted in November 2014 and DelDOT responded and determined that a signal is not warranted at this time; that there are some improvements that will be required at Route 1 and Tulip Drive; that the right turn lane on Route One will be extended to the south to be a total of 460 feet; that in the median, the left turn lane is to be extended to a total of 230 feet of full width storage and 100 feet taper but it will not go back to Nassau Road; that a five foot additional right-of-way for the trail and parking area for the trail is proposed; that as an age restricted community, less than 700 trips per day will be generated; that the age restricted aspect of the community cuts down on traffic and limits impact on the schools; and that they are proposing less units than the previously approved application for this site.

Mr. Fuqua stated that they have revised the site plan to address issues raised by representatives of the Villages of Five Points and Dutch Acres and concern expressed by Commissioner Johnson (about sidewalks); that other objections were raised by other area residents regarding the use of Tulip Drive; that Tulip Drive is a State-maintained public road; that the Applicant will own 30 feet of Tulip Drive when they purchase this property; that the Taramino project contains 68 multi-family townhouse condominiums and has a density of 6.6 units per acre and uses one entrance off of Tulip Drive that provides access to Route One; that they want to deny this application for the exact same rights that they are enjoying; that they respect the rights of St. Jude The Apostle Church; that the church has decided to organize opposition to the application; that the church

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(continued)

coordinated the signing of the petition of opposition signed by over 900 people; that the petition states that “because presently traffic on Route One has a traffic overload”; that almost everyone that signed the petition do not live near Tulip Drive; that their use of Tulip Drive is minimal; that a land use decision is not a popularity contest; that the law requires that local governments deal with specific land use decisions in a rational, non-arbitrary manner guided by the legislative standards of general application; that the site is surrounded by land zoned MR or C-1; that the application site is a text-book infill parcel; their requested density of approximately 3.9 is consistent with the surrounding densities; that the Villages of Five Points has a density of 3.2, the Taramino townhouse project has a density of 6.6, Dutch Acres has a density of 3.2, the Reserves of Nassau has a density of 10.2; that their requested density is less than 4 which is totally consistent with the densities in the area; that 2 units per acre (AR-1 zoning) would be out of character with the nature of the area; that the site is in a growth zone under the Comprehensive Plan where the County Council indicated development is supposed to go, at higher densities; that it is in a Level 1 Area where the State wants the higher density development; that they are providing a 50 foot buffer from the stream (the “gut”) and buffers from the other developments (a 20 foot wooded buffer that will be planted and maintained); that the Applicant has a history of high quality and environmentally safe development; and that the site is less than desirable and will be improved environmentally and put into a useful functioning property.

Mr. Fuqua referenced the Gibbons v. Sussex County Council Court of Chancery Decision in 2005.

Mr. Fuqua referenced the conditions recommended by the Planning and Zoning Commission and stated that they agree with the proposed conditions with the exception of Condition No. N which states that “Construction, site work, grading and deliveries of construction materials, landscaping materials and fill on, off, or to the property shall only occur from Monday through Friday between the hours of 8:00 a.m. and 6:00 p.m. and Saturdays between the hours of 9:00 a.m. and Noon. The Applicant shall make every effort to establish a temporary construction entrance via Atlantic Concrete and not Tulip Drive.”

Mr. Fuqua commented on Mr. Schell’s meeting with the residents of Dutch Acres and he suggested that Condition M be amended as follows, as offered and agreed to by the Developer:

- 1) Construction, site work, grading and deliveries of construction materials, landscaping materials and fill, on, off, and to the property shall only occur from Monday through Friday between the hours of 7:30 a.m. and 5:00 p.m. and on Saturday between the hours of 8:30 a.m. and 5:00 p.m. There shall be no construction, site work, grading or deliveries on Sunday.
- 2) No vibratory rollers or tampers shall be used during road

**Public
Hearing/
CZ 1769
and
CU 2012
(continued)**

- construction on the west side of the wetlands adjacent to Dutch Acres.
- 3) No overflow parking shall be located on the west side of the wetlands adjacent to Dutch Acres that would face the rear of homes located on Tulip Drive.
 - 4) A twenty (20) foot forested buffer will be planted and maintained along the rear of the lots in Dutch Acres bordering the site except for Lots 1, 2 and 3, which shall receive similar plantings and the maximum buffer permissible considering the location of the project entrance road. The buffer shall be planted within six (6) months of the commencement of site construction and shall be planted with Leland spruce or similar trees five (5) feet or higher and appropriate fill-in shrubbery in order to create a natural screen along the rear of the Dutch Acres lots.
 - 5) The Developer shall support and assist the owners of lots in Dutch Acres in requesting DelDOT's approval of two way stop signs at the intersection of Tulip Drive and Slipper Shell Way (the Site's entrance road). It is understood that this item is subject to DelDOT's approval. The Developer agrees and commits to pay the cost of the stop signs upon the approval of DelDOT, provided said approval is granted within three years from the date of Final Site Plan approval for the development.
 - 6) The Developer shall support and assist the owners of lots in Dutch Acres in requesting DelDOT's approval of a cul de sac at the southern end of the residential section of Tulip Drive, if desired by the majority of lot owners in Dutch Acres. It is understood that this item is subject to DelDOT's approval. The Developer agrees and commits to pay the cost of construction of cul de sac upon approval of DelDOT, provided said approval is granted within three years from the date of Final Site Plan approval for the development.
 - 7) The Developer shall support and assist the owners of lots in Dutch Acres in requesting DelDOT's approval of a fully operational traffic signal at the northern intersection of Tulip Drive and Route 1. The Developer agrees and commits the sum of up to \$200,000 for the specific purpose of the installation of a fully operational traffic signal at this intersection, for a period of three years from the date of Final Site Plan approval for the development. It is understood that this item is subject to DelDOT's approval.
 - 8) A construction entrance will be provided through the property of Atlantic Concrete and all construction traffic shall utilize that entrance only.
 - 9) All homes located on the west side of Black Hog Gut will be single family only.

Mr. Fuqua noted that the Applicant has voluntarily agreed to this amended Condition M and is requesting that the County Council incorporate the new Condition M into the Council's conditions.

Public comments were heard.

**Public
Hearing/
CZ 1769
and
CU 2012
(continued)**

There were no public comments in support of the application.

Mike Pfarr, Business Manager for St. Jude The Apostle Church, stated that the Church is not against the development; that the Church is opposed to Route 1 turning into Tulip Drive as being the access to the development; that when church lets in and out, the access to and from the church is very dangerous; that it's not about the development, it is about the safety of the community and the parishioners ; that people do cut through the area; that the church does not have funding for signs, speed bumps, etc.; that using this as an access to a public trail will create an increase in traffic; that all they are asking for is another access; and that the petition referred to the dangerous traffic conditions.

Kenneth Ciarlone of Taramino stated that they are not opposed to the development, they are opposed to the access onto Tulip Drive and building on the Gut; that he has called DNREC, Division of Water, that has jurisdiction over the tidal gut; that it is classified as a tidal gut; that the Developer is proposing a bridge across the tidal gut, across the stream and the wetlands; that an application for a bridge has not been filed, nor has application been made to fill in the wetlands on the tidal gut; that they are concerned about flooding; that the State of Delaware is not aware of the project; that there is arsenic and oil sand; that the oily sand in the brownfield may have permeated into the groundwater; that they want the development to find another access; that traffic and safety are a concern; that there will be accidents and fatalities at the Route One access; that Route One is the most heavily travelled road; that they will not be able to get in and out of Taramino; that they question if the 13 houses on this side of the gut are needed; and that Council must do what is morally and ethically right for the citizens.

Helen Truitt, member of the Inland Bays, stated that there is a great deal of phosphorus; that this is a tidal wetland and this water should not be filled in; that trees surrounding the water should not be bulldozed; that the property around the water should remain as it is – wetlands; and that the wetlands should not be disturbed.

Tina Melchiorre of Tulip Drive stated that they have met with Preston Schell and they have gotten a lot of answers and they are okay with the development. She stated that no one is addressing the south side of Tulip Drive that so many people use (especially the church); however, with the cul-de-sac on the south side and the light working (in front of the church), she thinks she will all be okay with the development.

Kirsten Sultan of Tulip Drive stated that they met with Mr. Schell and they are not against his development She also stated that Tulip Drive is not the place to put it. Ms. Sultan offered another solution/option to the use of Tulip Drive.

**Public
Hearing/
CZ 1769
and
CU 2012
(continued)**

Mike Baines of Taramino commented on the brownfield situation and questioned if the developer has to notify potential buyers and that in regard to the bridge, it would be a different grade, which would be a problem in winter with snow on the ground.

Sol Peltz of Villages of Five Points stated that safety is the paramount issue; that this site is a difficult site; that he questions why in 2005 the developer did not consider entry on Tulip Drive; that it was approved based on a traffic light going through a commercial industrial zone; that he questions why the permitting process comes after the preliminary plan approval by the Council; that there is a difference of opinion as to whether the gut is tidal or non-tidal; and that it may be useful to bring in DNREC before a decision is made because it may impact the developer's idea for development.

Estelle Ciarlone of Taramino commented on the brownfield and her discussion with a DNREC representative about the brownfield. She commented on the monitoring of the brownfield and revealing brownfields in real estate contracts. Ms. Ciarlone also commented on the traffic.

John Gilbert of the Villages of Five Points discussed two concerns: (1) that the his community wants a 20 foot forested buffer between The Reserves at Nassau and the Villages of Five Points and that this has been provided in the changes and (2) that they want the 10 foot path from the Rails to Trails parking lot which appeared to connect to their walking path around Five Points to be eliminated and that this has been eliminated in the proposed changes.

Joseph Rossi of Environmental Alliance, Inc. (proponent for the application) stated that they conducted the brownfield investigation and he clarified information regarding the oily sands, monitoring, plan of remediation, DNREC requirements, groundwater, arsenic, and environmental covenants.

Mr. Moore asked for any public comments on Mr. Rossi's statements and there were none.

The Public Hearing was closed.

**Leave
Record
Open/
Additional
Information**

Mrs. Deaver, Mr. Cole, and Mr. Arlett requested additional information from DNREC (remediation plan for the brownfield, impacts of a brownfield) and from DelDOT (rationale for access at Tulip Drive and DelDOT's recommendation for an access point to the development). Mr. Vincent stated that the comment period would remain open for the purpose of having these specific points answered by staff, DNREC, and DelDOT.

**M 187 15
Defer Action
on CZ 1769**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action on Change of Zone No. 1769 filed on behalf of Ocean Atlantic Communities, LLC.

**M 187 15
(continued)**

Motion Adopted: 5 Yeas.

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

**M 188 15
Defer
Action on
CU 2012**

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to defer action on Conditional Use No. 2012 filed on behalf of Ocean Atlantic Communities, LLC.

Motion Adopted: 5 Yeas.

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

**Record
Open/
Comment
Period**

Mr. Moore stated that the public will be given the opportunity to comment on the additional information requested and submitted; the public will be given a 15 day period of time to submit written comments after the information is reported to the Council.

**M 189 15
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to adjourn at 5:02 p.m.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

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

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 12, 2015

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, May 12, 2015, at 10:00 a.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
George B. Cole	Councilman
Joan R. Deaver	Councilwoman
Robert B. Arlett	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 190 15
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to approve the Agenda, as posted.

Motion Adopted: 4 Yeas, 1 Absent.

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

Minutes

The minutes of the April 21, 2015 Council meeting were approved by consent. The minutes of the April 23, 2015 Budget Workshop were approved by consent.

**Public
Comments**

Public Comments

Paul Reiger commented on (1) permitted uses in the AR District for properties of 5 acres or more; (2) special uses in the AR District; (3) the definition for a farm; and (4) dog kennel permits.

**Wastewater
Agreement**

Mr. Lawson presented a wastewater agreement for Council's consideration.

**M 191 15
Execute
Wastewater
Agreement**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, that based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 733-7, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Dove

M 191 15
Execute
Wastewater
Agreement
(continued)

Barrington Development, LLC, for wastewater facilities to be constructed in Bishop's Landing, Phase 2, located in the Millville Expansion of the Bethany Beach Sanitary Sewer District.

Motion Adopted: 4 Yeas, 1 Absent.

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

Failure to
Appear
Ordinance/
Rules of
Procedure

Mr. Lawson reported that, during the discussion on the Failure to Appear Ordinance which was adopted on May 5, 2015, an amendment to Council's Rules of Procedure was discussed. Legal staff has recommended that the Council amend the Rules of Procedure to reflect the change in Code. Mr. Lawson presented a draft new Rule 10.11 for the Council's consideration. The new Rule lays out the procedure for an applicant to seek reconsideration if they fail to appear at a hearing for reasons beyond their control.

The draft new rule is as follows:

10.11 Under very limited circumstances, if an applicant fails to appear at a scheduled zoning hearing, the applicant may request reconsideration and a new hearing in accordance with Sussex County Code § 115-216D. If a petitioner, applicant or appellant fails to appear, or appear by agent, at the scheduled zoning hearing requesting an amendment, supplement or change, and the failure to appear is for reasons beyond his control, within fifteen (15) days of the scheduled hearing before the Planning and Zoning Commission or the County Council, applicant may submit a Petition for Reconsideration to the appropriate body. Petitions submitted after the deadline shall not be considered.

The Petition for Reconsideration shall contain detailed facts sufficient to demonstrate that applicant's failure to appear was beyond his control. Reasons may include, but are not limited to, the following:

- a. Emergency medical situations for applicant or applicant's immediate family**
- b. Death of a family member;**
- c. Automobile accident;**
- d. Failure to receive proper notice of the hearing; and**
- e. Such other reason as may demonstrate extenuating circumstances or an event or condition that prohibited applicant's appearance at the public hearing.**

Applicant shall include with his Petition any supporting documentation available such as a physician's note, hospital admission form, police report,

**Failure to
Appear
Ordinance/
Rules of
Procedure
(continued)**

and the like. Only those facts contained in the Petition and supporting documentation submitted with the Petition shall be considered by the Planning and Zoning Commission or County Council, whichever is applicable.

Upon receipt of the Petition, the Planning and Zoning Commission or County Council, whichever is applicable, shall place the Petition on the agenda of its next available regular meeting for discussion and possible action.

If the Petition for Reconsideration is approved, a new public hearing date will be advertised in accordance with the Sussex County Zoning Ordinance. Pursuant to Sussex County Code § 115-216F., if the Petition for Reconsideration is denied, applicant may not re-submit the application, or one substantially similar to it, sooner than one (1) year after the previous failure to appear.

**M 192 15
Amend
Rules of
Procedure**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, that the Sussex County Council amends the Rules of Procedure to include Rule 10.11, as read, and adopts the updated Rules of Procedure, as presented.

Motion Adopted: 4 Yeas, 1 Absent.

Vote by Roll Call: Mrs. Deaver, Absent; Mr. Cole, Yea;
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. Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County will meet May 18th at 10:00 a.m. at the Milton CHEER Center, 24855 Broadkill Road, in Milton. Anthony DelFranco, Director of Marketing for CHEER, will be speaking on "*CHEER Centers in Sussex County*" and Ann Gorrin, Delaware Office of Volunteerism, will be speaking on the "*Delaware Volunteer 50+*" program. A copy of the agenda is attached.

2. Sussex County Emergency Operations Center Call Statistics – April 2015

Attached please find the call statistics for the Fire and Ambulance Callboard for April 2015. There were 14,419 total calls handled for the month of April. Of those 9-1-1 calls in April, 78 percent were made from wireless phones.

3. Project Receiving Substantial Completion

**Administrator's
Report
(continued)**

Per the attached Engineering Department Fact Sheet, Warrington Creek – Phase 5 (a/k/a Sawgrass South) received Substantial Completion effective May 7, 2015.

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

**Legislative
Update**

Hal Godwin, Deputy County Administrator, presented the following legislative update:

Senate Bill 66 – “AN ACT TO AMEND THE DELAWARE CODE RELATING TO NEIGHBORHOOD CONSERVATION AND LAND BANKS”

Synopsis: This Act will allow any Delaware jurisdiction with a long-term residential vacancy rate above 3%, including a county, to form a land bank, where such jurisdiction determines that a land bank would help it address the problem of vacant and abandoned real property within its jurisdiction. A land bank is a non-profit organization created by a political subdivision of the State, or through an intergovernmental agreement between two or more political subdivisions of the State, and would serve as the repository for vacant, abandoned and tax-delinquent properties that, left unaddressed, can contribute to crime, depress the local real estate market, and deplete the tax base of Delaware's communities. A land bank would have the authority to obtain such properties at sheriff's sales instituted by the jurisdiction that established the land bank, where such properties have been abandoned by their owners because of unpaid property taxes or substantial liens arising from property code violations. The land bank would have the ability to do one or more of the following: (1) purchase liens from the local jurisdiction; (2) acquire properties at a sheriff's sale on credit from the local jurisdiction; (3) assert a trump bid at a sheriff's sale that would allow the land bank to acquire abandoned properties for the price of the outstanding liens. The land bank would retain the acquired properties until such time as a suitable and vetted buyer could be found who would be able to return the property to productive use. Funding for land banks created under this Act would come from governmental and private grants, private investments and property sale proceeds. Additionally, any land bank created under this Act could, at the election of the local jurisdiction, be funded through the allocation to the land bank of 50% of the real property taxes on the property for a 5 year period once the property returns to productive use or such other funding sources established by the local jurisdiction. Through this Act, jurisdictions throughout Delaware would have the ability to alleviate the blight caused by vacant, abandoned and tax delinquent properties in the area, and revitalize communities by turning vacant spaces into vibrant places.

Mr. Godwin advised that this legislation would give the Council the authority to set up a land bank to deal with abandoned/vacant properties.

**Legislative
Update
(continued)**

Mr. Godwin noted that this legislation is empowering legislation.

Mr. Godwin reported that the sponsors of this bill do not include Sussex County legislators.

Mr. Godwin also reported that there have been two lengthy amendments offered for this bill. Mr. Godwin suggested that Legal Counsel review this legislation prior to Council making a decision on whether or not to support it.

House Bill 140 – “AN ACT TO AMEND TITLES 21 AND 30 OF THE DELAWARE CODE RELATING TO TAXES AND FEES SUPPORTING THE TRANSPORTATION TRUST FUND”

Synopsis: This bill increases several revenue sources for the Transportation Trust Fund. The motor vehicle document fee is increased from 3.75% to 4.25%. The fee for late renewal of a driver’s license is increased from \$1.15 to \$10, and the fee for late renewal of vehicle registration is increased from \$10 to \$20. The fees for reinstatement of a suspended or revoked driver’s license are increased from \$25 to \$40 and \$143.75 to \$200, respectively. The fees for issuance of duplicate documents is raised, with the fee for duplicate driver’s license increased from \$10 to \$20, for duplicate titles from \$25 to \$50, for duplicate vehicle validation stickers from \$1 to \$5, and for duplicate registration cards from \$2 to \$10. The fee for a vehicle temporary tag is increased from \$10 to \$20. The fee for sale of driver’s licenses records is increased from \$15 to \$25. The fee to transfer a specific tag number from vehicle to vehicle is increased from \$10 to \$20. The fee to issue a title for a vehicle is increased from \$25 to \$35. The fee for issuance of a lien on an existing title is increased from \$10 to \$20. The effective date for these increases is generally October 1, 2015 to allow time for computer reprogramming and effective implementation.

**Public
Hearing/
Kilby
Expansion
of the
Long Neck
SSD**

A Public Hearing was held on the Kilby Expansion of the Long Neck Sanitary Sewer District.

Anthony Digiuseppe, Jr., Planning Technician, presented a request for the Engineering Department to prepare and post notices for the expansion of the Long Neck Sanitary Sewer District to include a parcel of land located along Bay Farm Road which is contiguous to the district (Tax ID # 234-23.00-116.06). The request came to the Engineering Department by letter dated March 17, 2015; the letter was from a co-owner of the property. The parcel is currently provided with a sewer lateral as part of the construction for The Peninsula Project. The parcel currently has a failing septic system and the owner would like to connect into public sewer as soon as possible. The expansion will consist of approximately .59 acres. The owner of 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
(continued)**

Mr. DiGuiseppe reported that no public comments have been received in support of or in opposition to the proposed expansion.

There were no public comments and the Public Hearing was closed.

**M 193 15
Adopt
Resolution
R 005 15**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to Adopt Resolution No. R 005 15 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE LONG NECK SANITARY SEWER DISTRICT (LNSSD) TO INCLUDE LANDS OF RITA M. AND RITA JAMIESON KILBY, TAX ID 234-23.00-116.06 BEING SITUATE IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE”.

Motion Adopted: 4 Yeas, 1 Absent.

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

Mrs. Deaver joined the meeting.

**Fiscal
Year
2016
Budget**

Mr. Lawson, along with Gina Jennings, Finance Director, and Kathy Roth, Deputy Finance Director, presented the proposed \$128.6 million budget for Fiscal Year 2016.

Mr. Lawson stated that, thanks to the Council’s leadership and the budget team’s conservative approach, the County will continue without raising taxes for another year.

He stated that the Fiscal 2016 forecast is consistent with Fiscal 2015 to which the County is seeing a small level of positive growth in most sectors. Revenues from the housing sector are protected to only increase by 2 percent over last year. The County’s largest revenue source, Realty Transfer Tax, is expected to climb to over \$20 million for the second year in a row. The County continues to take a very conservative approach and developed a budget that remains below predicted taxable assessments, because expenses must remain at a sustainable level. As a result, budgeted revenues are forecasted to increase a modest 3 percent. While the Realty Transfer Tax (RTT) trajectory is expected to continue its climb for a third year in a row, RTT is only budgeted at \$16.7 million, or 76 percent of projection.

Mr. Lawson reported that the Budget Committee has made assumptions as the budget was prepared. The Committee assumes that the County will continue to receive 1.5 percent of Realty Transfer Tax on eligible properties in unincorporated areas. The Committee also assumes the County will continue to receive the 30 percent grant from the State of Delaware to fund the paramedic program. Mr. Lawson noted that, if the State were to change these revenue sources or to pass any legislation that would further cut revenues or raise expenses, the County would have to reevaluate the

**Fiscal
Year
2016
Budget
(continued)**

entire budget.

Mr. Lawson stated that the budget represents a collaborative effort among the budget team and department heads.

Mr. Lawson presented 2016 Budget highlights:

- No change in County property tax rate or general fund fees – taxable assessments increased 3.3 percent
- General Fund is up \$1,505,000, or 2.9 percent
 - Health insurance increase of \$583,000, or 7.7 percent
 - Grant funding (Delaware State Police and Local Libraries) - \$450,000
 - Western Sussex Power Unit - \$140,000
 - Information Technology equipment purchases - \$200,000
- Continue to fund critical public safety grants
- Total library funding - \$4.9 million
- Governmental capital plan without general fund debt - \$8.6 million
 - 39.8% for airport projects
 - Funding through Realty Transfer Tax
- Small sewer service charge increases
- Growth in EDU's – 2.4% increase in FY 2015 and 1.7% increase in FY 2016
- Specific Projects of Interest:
 - CAMA Assessment Software
 - Facility Maintenance Building
 - Planning & Zoning Consultant

Mr. Lawson presented a breakdown of the \$128.6 million budget:

Expenditures	Fiscal 2016	Percentage Change Compared to Fiscal 2015
General Fund	\$53,449,189	2.9%
Capital Projects Governmental Fund	\$ 8,600,705	21.2%
Enterprise Funds (Sewer and Water)	\$37,044,046	7.6%
Capital Projects Enterprise Fund	\$18,300,000	27.7%
Fiduciary Funds (net)	\$11,223,579	17.9%

**Fiscal
Year
2016
Budget
(continued)**

The total budget in the amount of \$128,617,519 reflects a 9.6% change compared to Fiscal 2015.

Mr. Lawson highlighted personnel and workforce goals and objectives:

- **Health insurance contributions:**
 - **Health care costs continue to increase**
 - **\$583,000 (projected) increase over last year; 7.7% increase**
 - **\$8.1 million total cost for 500 employees (\$16,000 per employee)**
 - **No change to an employee's contribution**
- **Pension**
 - **\$5.4 million contribution**
 - **3 percent contribution for new hires (started in 2014)**
- **No COLA – inflation index is -0.1%**
- **Merit/bonus/adjustment increases**
- **11 paid holidays with 2 floating holidays**
- **Since 2009, the County has reduced its workforce by 10 percent, or 53 positions**
- **5 new full-time employees are proposed**
- **Overall, the budget is increasing by 2 employees (net)**

Gina Jennings, Finance Director, presented General Fund highlights:

- **No fee or tax increases**
- **Total operating budget increased 2.9%**
- **Overall budgeted revenues have increased \$1.5 million**
- **No appropriated reserves used to cover operating expenses**
- **Taxable assessments increased 3.3% resulting in \$454,000**
- **Building related revenues are relatively flat**

Mrs. Jennings presented General Fund revenues: Realty Transfer Tax – \$16.7 million or 31%; Property Taxes – \$15.5 million or 29%; Charges for Services (building permits, inspection fees, deeds wills, etc.) – 20%; Intergovernmental (federal and state grants) – \$6.4 million or 12%; Other Financing Sources – 6%; Miscellaneous – 2%.

Mrs. Jennings reviewed General Fund expenditures: Paramedic Program - \$13.6 million or 25%; General Government – \$11.9 million or 22%; Grant-in-Aid - 18%; Other Financing Uses - 7%; Libraries - 5%; Emergency Preparedness - \$3 million or 6%. Mrs. Jennings explained that Other Financing Uses includes a \$3 million transfer to the capital projects fund.

Mrs. Jennings reported that 31% of the County's expenses are related to public safety. The County also has additional expenditures for public safety; the County partners with the fire companies and ambulance services.

Mrs. Jennings reviewed how one County tax dollar is spent: Public safety (\$.54); Libraries (\$0.15); General Government (\$0.09); Special Services

**Fiscal
Year
2016
Budget
(continued)**

(\$0.08); Housing Rehabilitation and Community Support (\$.04); and Code Enforcement, P&Z, Permitting, Addressing (\$.10).

Mrs. Jennings discussed the County-owned programs for public safety and she noted that the use of public safety services has increased. The number of EMS incidents dispatched in 2005 was 11,600; in 2014, that number increased to 15,200, a 31% increase. In regard to 911 calls, in 2005 there were 85,000; in 2014, the calls increased to 110,000 calls, a 29% percent increase. Mrs. Jennings stated that, in order for the County to keep up with demand, both of these budgets have increased from the 2015 budget to the 2016 budget.

Mrs. Jennings reviewed the County-partnered programs for public safety. For the last 15 years, the County has contributed \$46.6 million to the fire and ambulance services. An additional \$25,000 will be budgeted for each department in the 2016 Budget for personal protective equipment. The County also provides funding for the Delaware State Police for an extra 44 troopers; this cost for 2016 will be \$2,081,000, a \$90,000 increase over 2015. The County also provides Local Law Enforcement Grants in the amount of \$25,000 for each municipality. In regard to fire and BLS funding, in 2010, this funding started at \$2.9 million; in 2015, the County is expecting to spend \$4.2 million.

Mrs. Jennings presented Community Development funding for Fiscal 2016: Federal grants - \$1,700,000; County Council Grant Assistance - \$110,000; and General Fund for Administration - \$300,000. Mrs. Jennings noted that the Community Development Department serves approximately 130 – 150 Sussex County households in a year. The Department provides assistance for emergency housing rehabilitation and assists with the homeless initiative in Sussex County.

Mrs. Jennings reviewed the County's grant program totaling \$9.5 million: public safety grants at \$6,065,715 or 64%; grants for libraries at \$2,347,000 or 25%; Community Assistance grants at \$798,520 or 8%; agriculture and drainage at \$224,244 or 2%; and town grants at \$51,715 or 1%.

Mrs. Jennings reported that, included in the budget is \$105,000 for tax ditch subsidy and \$50,195 for drainage projects. Mrs. Jennings presented additional requests from the Sussex Conservation District for the Council's consideration during this budget process: (1) increase funding by \$35,000 for drainage issues throughout the County and (2) support of \$65,000 to hire an additional storm water inspector for Sussex County (they currently have two on staff). A list of recent drainage projects was presented.

Mrs. Jennings reported on governmental capital projects totaling \$8,600,705: Airport and Industrial Park – 40%; General Government – 31%; Emergency Operations – 12%; Paramedics – 11%; Engineering – 6%.

**Fiscal
Year
2016
Budget
(continued)**

Kathy Roth reviewed the highlights for Enterprise (Sewer and Water) Funds:

- **Service Charges and System Connection Charges – continue to work toward a uniform sewer rate**
- **Growth in EDU's – 2.4% increase in FY2015 and 1.7 increase in FY2016**
- **1,542 new EDU's in 2015**
- **7.6% increase in the operating budget**
 - **4 wastewater treatment plants**
 - **810 miles of sewer pipe and more than 400 pump stations**
 - **5 million billable front feet**
 - **Performed 27,643 Miss Utility locates**
- **27.7% increase in capital expenditures**
- **Assessment charges - continue 100 foot cap**

Mrs. Roth reviewed the recommendation for connection fees, which are one-time fees for new users. These funds are used to improve the sewer systems (capital costs). She noted that this is the County's second year in the process of unifying the rates.

Mrs. Roth reviewed sewer expense highlights:

- **Operations and Maintenance - increased 11.3% or \$1,188,000**
 - **Four new positions**
 - **Increase in utility costs**
 - **Increase in repair and maintenance costs**
- **Capital Expense – increased 41.0% or \$1,500,000**
 - **Pumping system improvements - \$1,400,000**
 - **Machinery & Equipment - \$400,000**

Mrs. Roth also reviewed proposed annual charges for each sewer district, which includes the assessment charge; the average change was an increase of \$8.00. The average service charge/uniform rate is \$286.00. These fees pay for the debt service for a sewer district.

Regarding the Water Fund (Dewey water), Mrs. Roth reported that expenses are relatively flat with a 1.1% increase. No change in rate is proposed.

Mrs. Roth reported on the Enterprise Capital Projects which total \$18.3 million. These projects are extended over multiple years and are not funded by operating funds.

Mrs. Roth noted that the Budget Committee is recommending \$145,347,705 in 5-Year Capital Improvements Funding - \$20.5 Million in Non-Water & Sewer Capital Projects and almost \$125 Million in Water & Sewer Capital Projects.

**Fiscal
Year
2016
Budget
(continued)**

Mrs. Roth reported that the budget and the accompanying budget presentation will be available on the County's website. Public Hearings on the budget will be held on June 16, 2015. The public can comment in person on that date, or submit comments through the County's website at budget@sussexcountye.gov.

Council members discussed the proposed budget, including the following topics: funding for open space, funding for homeless program, conservation district funding, unit pricing for front footage charges; and fleet management.

Mr. Cole and Mrs. Deaver indicated their supported of the Sussex Conservation District's request for additional funding.

**Introduction
of Proposed
Budget
Ordinances**

Mr. Arlett introduced the Proposed Ordinance entitled "AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2016".

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SEWER DISTRICTS".

The Proposed Ordinances will be advertised for Public Hearing.

**Human
Service
Grants
Proposed**

Mrs. Jennings reviewed the County's Human Service Grant Program which provides grants to countywide non-profit agencies for the purpose of enhancing health and human services, and which contribute to a safe, healthy and self-sufficient community; funds provide grants that assist organizations with resources in support of programs or capital purchases.

Mrs. Jennings noted that this is the second round of Human Service Grants in FY2015 and she explained the criteria for funding: non-profit status, a financial need, a County-wide program serving at least 3 of the 5 Council districts, and meeting the purpose of a Human Service Grant. Mrs. Jennings explained the formula that she used for determining the recommendations for this round of grants.

Mrs. Jennings presented the following recommended grants:

The Ministry of Caring, Inc.	\$3,000.00
Pathways to Success, Inc.	\$1,000.00
The ARK Educational Consulting	\$2,000.00
Hearts Unlimited, Inc.	\$ 250.00
People's Place II, Inc.	\$1,500.00
Best Buddies International, Inc.	\$1,500.00
Laurel Community Foundation, Inc.	\$ 500.00

Human Service Grants Proposed (continued)	West Side New Beginnings, Inc.	\$1,000.00
	Thresholds of Delaware	\$ 500.00
	Easter Seals Delaware & Maryland Eastern Shore	\$1,000.00
	U-Count, Inc.	\$1,000.00
	The Delaware Adolescent Program, Inc.	\$1,500.00
	Shechinah Empowerment Center, Inc.	\$ 500.00
	Primeros Pasos, Inc.	\$1,500.00
	Delaware Housing Coalition	\$1,500.00
	Booker Street Church of God	\$2,000.00
	Reading Assist Institute	\$2,500.00
	Kent-Sussex Industries, Inc.	\$4,000.00
	Catholic Charities, Inc.	\$2,000.00
	DFRC, Inc.	\$3,000.00
	The Arc of Delaware, Inc.	\$1,000.00
	YMCA of Delaware – Sussex Family Branch	\$2,500.00
	Delaware Hospice	\$2,500.00
	Food Bank of Delaware	\$3,000.00
	Delaware Center for Homeless Veterans, Inc.	\$4,000.00
	Delaware Nature Society/Abbott's Mill Nature Center	\$1,500.00
	Sussex Community Crisis Housing Services, Inc.	\$2,000.00
	Cancer Support Community Delaware	\$1,000.00
	Love INC of Mid Delmarva, Inc.	\$5,000.00
	Big Brothers Big Sisters of Delaware, Inc.	\$2,000.00
	Meals on Wheels of Lewes & Rehoboth, Inc.	\$5,000.00
	New Hope Recreation and Development Center	\$ 800.00
	Boys & Girls Clubs of Delaware	\$4,000.00
	Southern Delaware Therapeutic and Recreational Horseback Riding	\$2,500.00
	Church of God and Saints of Christ	\$3,000.00
	Everlasting Hope Ministries	\$4,000.00
	Delaware Guidance Services for Children & Youth, Inc.	\$4,000.00
	Sussex RSVP Advisory Council	\$1,000.00
	The Jefferson Awards for Public Service	\$2,300.00
	New Coverdale Outreach Mission	\$3,500.00
	Clothing Our Kids	\$2,000.00
	Milford Senior Center, Inc.	\$5,000.00
	Indian River Senior Center, Inc.	\$5,000.00
	Cape Henlopen Senior Center	\$5,000.00
	The Way Home, Inc.	\$4,000.00
	La Red Health Center, Inc.	\$5,000.00
	Ronald McDonald House of Delaware	\$5,000.00
	Harry K Foundation	\$3,000.00
	Sussex Senior Transportation Cooperative	\$5,000.00
	Joseph Patrick Fabber Memorial Foundation	\$4,000.00
	La Esperanza Inc.	\$4,000.00
	Milton Historical Society	\$3,500.00
	Delaware Lions Foundation, Inc.	\$3,000.00
	Laurel Senior Center, Inc.	\$5,000.00
	Delaware Police Chiefs' Council, Inc.	\$2,050.00

Human Service Grants Proposed (continued)	<u>Delaware Crime Stopper</u>	<u>\$1,500.00</u>
	<u>Total</u>	<u>\$148,400.00</u>

Mrs. Jennings noted that \$150,000 was allocated for this program.

M 194 15 Approve Award of Human Service Grants A Motion was made by Mrs. Deaver, seconded by Mr. Cole, that the Sussex County Council approves the recommendation of the Finance Director to award \$148,400.00 (Human Service Grants) to the recommended organizations.

Motion Adopted: 5 Yeas.

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

Financial Report Mrs. Jennings presented the Financial Report for the Quarter Ending March 31, 2015.

Grant Request/ M 195 15 Councilmanic Grant Mrs. Jennings presented a grant request for Council's consideration.

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$1,250.00 (\$1,000.00 from Mr. Wilson's Councilmanic Grant Account and \$250.00 from Mrs. Deaver's Councilmanic Grant Account) to Delmarva Clergy United in Social Action Foundation for The Griffin's Place.

Motion Adopted: 5 Yeas.

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

Introduction of Proposed Ordinance 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 AND A GR GENERAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 12,394 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1775) filed on behalf of Charles R. Auman, Jr. (Tax Map I.D. No. 330-5.00-7.04 and 8.00) (911 Address: None Found) The Proposed Ordinance will be advertised for Public Hearing.

Council Members' Comments **Council Members' Comments**

Mr. Cole referenced the 5 acre issue mentioned in public comments on this date and he stated that the Council should look at this issue during the next update of the Land Use Plan. Mr. Cole stated that another issue to be

Council Members' Comments (continued) **considered during the next update of the Land Use Plan is subgroups within the commercial districts.**

Mrs. Deaver commented on drainage problems.

Mr. Arlett read a thank you card from the Delmar Public Library thanking Council members for attending the 75th anniversary celebration of the library.

Mr. Arlett commented on Sussex County Emergency Operation Center's 16th Annual 9-1-1 Awareness Day.

M 196 15 **At 11:43 a.m., a Motion was made by Mrs. Deaver, seconded by Mr. Go Into Executive Session Wilson, to go into Executive Session to discuss matters relating to personnel, pending/potential litigation and land acquisition.**

Motion Adopted: 5 Yeas.

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

Executive Session **At 11:45 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to personnel, pending/potential litigation and land acquisition. The Executive Session concluded at 12:42 p.m.**

M 197 15 **At 12:44 p.m., a Motion was made by Mr. Wilson, seconded by Mrs. Reconvene Regular Session Deaver, to come out of Executive Session and to reconvene the Regular Session.**

Motion Adopted: 5 Yeas.

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

Action **There was no action on Executive Session items.**

M 198 15 **A Motion was made by Mr. Wilson, seconded by Mr. Cole, to adjourn at Adjourn 12:44 p.m.**

Respectfully submitted,

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



PROCLAMATION

PROCLAIMING THE MONTH OF JUNE AS “HOME OWNERSHIP MONTH” IN SUSSEX COUNTY

WHEREAS, owning a home is an important part of the American Dream; and

WHEREAS, the Sussex County Council realizes that home ownership benefits individuals and families, strengthens our communities, and is integral to our economy; and

WHEREAS, the Sussex County Council realizes that home is where we make memories, build our futures, and feel comfortable and safe; and

WHEREAS, the Sussex County Council, in partnership with the Delaware State Housing Authority, USDA Rural Development, non-profit housing agencies, and the Sussex County Association of Realtors, will continue to provide assistance for home ownership for Sussex County citizens;

NOW, THEREFORE, BE IT RESOLVED that the Sussex County Council does hereby proclaim the month of June 2015 as “Home Ownership Month” for the American Dream in Sussex County; and

BE IT FURTHER RESOLVED that the Sussex County Council urges all citizens to wholeheartedly recognize this effort throughout the year.



Michael H. Vincent, President

Dated: June 2, 2015

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

May 18, 2015



Sussex County

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MICHAEL A. IZZO, P.E.
COUNTY ENGINEER

BRAD HAWKES
DIRECTOR OF UTILITY ENGINEERING

FACT SHEET

SUSSEX COUNTY PROJECT 81-04
FOREST LANDING - PHASE 3B
AGREEMENT NO. 343 - 9

DEVELOPER:

Mr Richard Boyle
Forest Landing Communities
506 Main Street
Gaithersburg, MD 20878

LOCATION:

Intersection Of County Road 368 And County
Road 84.

SANITARY SEWER DISTRICT:

Miller Creek Sanitary Sewer District

TYPE AND SIZE DEVELOPMENT:

30 single family lots

SYSTEM CONNECTION CHARGES:

\$165,000.00

SANITARY SEWER APPROVAL:

Sussex County Engineering Department Plan Approval
02/05/15

Department Of Natural Resources Plan Approval
04/02/15

SANITARY SEWER CONSTRUCTION DATA:

Construction Days – 37
Construction Admin And Construction Inspection Cost – \$18,380.70
Proposed Construction Cost – \$122,538.00

ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
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MICHAEL A. IZZO, P.E.
COUNTY ENGINEER

BRAD HAWKES
DIRECTOR OF UTILITY ENGINEERING

June 2, 2015

PROPOSED MOTION

BE IT MOVED THAT BASED UPON THE RECOMMENDATION OF THE SUSSEX COUNTY ENGINEERING DEPARTMENT, FOR SUSSEX COUNTY PROJECT NO. 81-04, AGREEMENT NO. 343-9 THAT THE SUSSEX COUNTY COUNCIL EXECUTE A CONSTRUCTION ADMINISTRATION AND CONSTRUCTION INSPECTION AGREEMENT BETWEEN SUSSEX COUNTY COUNCIL AND "FOREST LANDING COMMUNITIES" FOR WASTEWATER FACILITIES TO BE CONSTRUCTED IN "FOREST LANDING – PHASE 3B", LOCATED IN THE MILLER CREEK SANITARY SEWER DISTRICT.

ORDINANCE NO. 38
AGREEMENT NO. 343-9

TODD LAWSON
COUNTY ADMINISTRATOR

TODD F. LAWSON
COUNTY ADMINISTRATOR


(302) 855-7742 T
(302) 855-7749 F
tlawson@sussexcountype.gov



Sussex County
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Memorandum

TO: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable Samuel R. Wilson, Jr., Vice President
The Honorable Robert B. Arlett
The Honorable George B. Cole
The Honorable Joan R. Deaver

FROM: Todd F. Lawson
County Administrator 

RE: **SHERIFF'S CONSTABLE RENEWAL**

DATE: May 29, 2015

During Tuesday's meeting, we are scheduled to approve the Constable Certification of Sheriff Robert Lee and each of the Sheriff Deputies in the office. I wanted to provide you some background regarding this action.

In Delaware, the Department of Safety and Homeland Security through the State Police oversees professional licensing and regulates all Certified Constables. All Constable Commissions are reviewed and approved by the Board of Examiners of Constables, per State Code.

On May 21, 2015, I was contacted by Ms. Peggy Anderson, the Licensing Specialist for the Delaware State Police. Ms. Anderson informed me that at the May 1st meeting of the Board of Examiners it was determined that the Board needed an updated request letter from Sussex County Council for their files. The letter would state that the County Council requests the constable certification of Sheriff Robert Lee and each Sheriff Deputy in his office.

As you may know, upon his election as Sheriff, Mr. Lee went through the process of receiving a new Constable Commission for himself and each of his Deputies. As a result, they have had their Certification since the beginning of 2015. At the time, the Board did not think it was necessary to have an updated letter from the Council. Now their position has changed.

Thus, during Tuesday's meeting, we will simply approve a motion to request constable certification of Sheriff Lee and his Deputies.

Please let me know if you have any questions.

cc: Sheriff Robert Lee



GRIFFIN & ROBERTSON, P.A.
ATTORNEYS AT LAW

JAMES D. GRIFFIN
VINCENT G. ROBERTSON

19264 MILLER ROAD, UNIT A
REHOBOTH BEACH, DELAWARE 19971

(302) 226-8702

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

MEMO

TO: Sussex County Council

FROM: Vincent G. Robertson, Esquire VGR/A

RE: The Woods at Walls Creek Stormwater Bond

DATE: May 27, 2015

As you may recall, Sussex County Council authorized the Bonds to be called for The Woods at Walls Creek development. There were two Bonds, one for stormwater work and one for road work. Since both items were not completed by the original developer, the Bonds were called to complete the work. We have been in regular discussions with the Bonding Company, and with regard to the stormwater bond, they have agreed to release the full Bond amount to Sussex County to complete the stormwater management work that remains incomplete at the project. The amount of the bond and the payment to Sussex County will be \$216,735.00. As part of the process for obtaining this payment, Sussex County must also execute a Release of Bond, to be transmitted to Westchester Fire Insurance Company (the Bonding Company) upon receipt of payment. For the Bond check to be issued, this Release must be signed and held by us pending receipt of payment at which time it will be delivered to the Bonding Company.

Because Sussex County Council initially authorized this Bond to be called, it is the opinion of legal staff that the Release should also be authorized by Sussex County Council. I will be present during County Council on Tuesday, June 2, 2015 to request your authorization to execute the Release and transmit it to the Bonding Company upon receipt of the full amount of the Bond.

Once payment is received, Sussex County will seek bids to complete the stormwater management work within the development and pay the costs of that work from the bonded funds.

For your information, but not for action on June 2, the Bonding Company has agreed to pay to complete the roadwork in the development, as well. However, because the County Engineering Department's estimated cost for this work is less than the full Bond amount, the Bonding Company

intends to pay for that work as it is completed. We are currently in the process of drafting an agreement to confirm that arrangement.

Thank you in advance for your attention to this matter. A copy of the Release and the Proposed Motion are attached hereto.

VGR:ssj

cc: Mr. Todd Lawson
Ms. Robin Griffith
Mr. Mike Izzo, P.E.
Mr. J. Everett Moore, Esquire
Mr. Mike Brady
Ms. Michelle Warren

RELEASE OF BOND

Upon its receipt of the sum of Two Hundred Sixteen Thousand Seven Hundred Thirty-Five Dollars (\$216,735.00), Sussex County, Delaware (the "County") does hereby fully and completely release Westchester Fire Insurance Company ("Westchester"), its Bond No. K07046480 (the "Bond"), and all of Westchester's past or present employees, officers, agents and attorneys from all liability, claims or potential claims, past, present or future, based upon or related in any manner to the Bond.

The County covenants that upon its receipt of the foregoing amount, it will promptly return the original Bond to Westchester to the attention of John J. Mangan at Westchester's address of 436 Walnut Street WA10A, Philadelphia, PA 19106.

The signatories hereto and the County warrant and represent that they have full power and authority to execute this Release.

SUSSEX COUNTY, DELAWARE

By: _____

Name: _____

Title: President, Sussex County Council

ATTEST:

_____(SEAL)

Robin Griffith, Clerk
County Council

APPROVED AS TO FORM:

Vincent G. Robertson, Esquire
Assistant Sussex County Attorney

I MOVE THAT WE AUTHORIZE THE PRESIDENT OF SUSSEX COUNTY COUNCIL TO EXECUTE A RELEASE OF WESTCHESTER FIRE INSURANCE COMPANY AND ITS BOND NO. K07046480 FOR THE STORMWATER MANAGEMENT WORK IN A DEVELOPMENT KNOWN AS THE WOODS AT WALLS CREEK. THE RELEASE SHALL BE HELD BY THE ASSISTANT COUNTY ATTORNEY PENDING RELEASE OF THE BOND PAYMENT, AT WHICH TIME IT SHALL BE TRANSMITTED TO WESTCHESTER FIRE INSURANCE COMPANY ALONG WITH THE ORIGINAL BOND.

BRAD D. WHALEY
DIRECTOR OF COMMUNITY
DEVELOPMENT & HOUSING
(302) 855-7777 T
(302) 854-5397 F
bwhaley@sussexcountyde.gov



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MEMORANDUM

TO: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable Samuel R. Wilson, Vice President
The Honorable George B. Cole
The Honorable Joan R. Deaver
The Honorable Robert B. Arlett
Todd Lawson, County Administrator

FROM: Brad Whaley, Director

RE: **Mayors Challenge to End Veteran Homelessness**

DATE: May 27, 2015

During Tuesday's Council meeting, I will provide you with an explanation of the Mayors Challenge to End Veterans Homelessness, a growing national initiative. Governor Markell has recently signed on to the initiative on behalf of the State of Delaware, as well as leaders from several local jurisdictions throughout the state, including Seaford and Georgetown.

A statement from HUD summarizes the initiative, "Through the Mayors Challenge, mayors and other state and local leaders across the country will marshal Federal, local, and nonprofit efforts to end Veteran homelessness in their communities. Ending Veteran homelessness means reaching the point where there are no Veterans sleeping on our streets and every Veteran has access to permanent housing. Should Veterans become homeless or be at-risk of becoming homeless, communities will have the capacity to quickly connect them to the help they need to achieve housing stability. When those things are accomplished, our nation will achieve its goal."

By signing on to the Mayors Challenge, Sussex County will work with an already-established State-wide working group to facilitate Veteran homeless efforts in Sussex County. Our mission will be to help coordinate Federal, state, local, non-profit, and faith-based organizations that work with Veterans to assist with directing resources where needed.

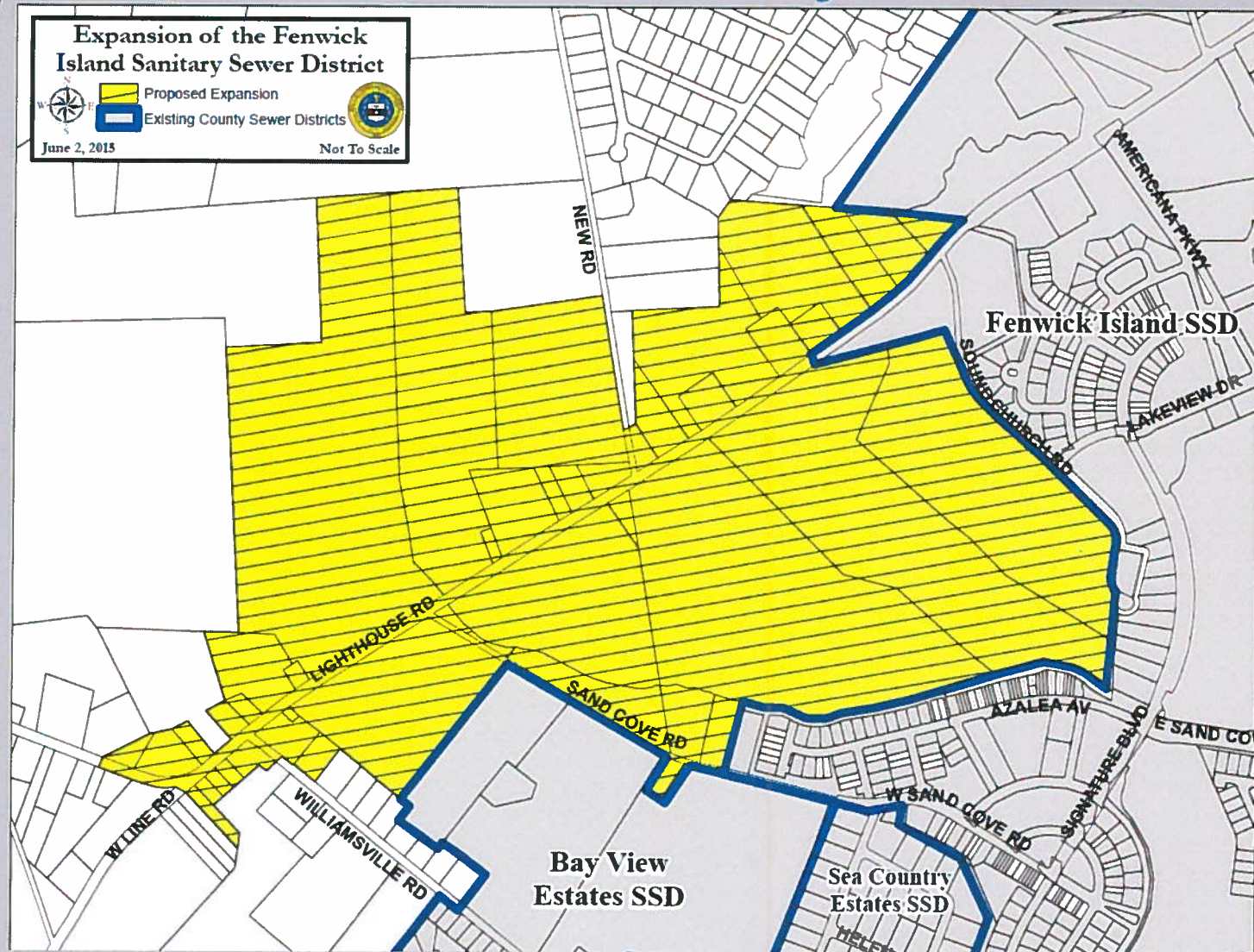
Thank you.



COUNTY ADMINISTRATIVE OFFICES WEST COMPLEX
22215 DUPONT BOULEVARD | PO BOX 589
GEORGETOWN, DELAWARE 19947



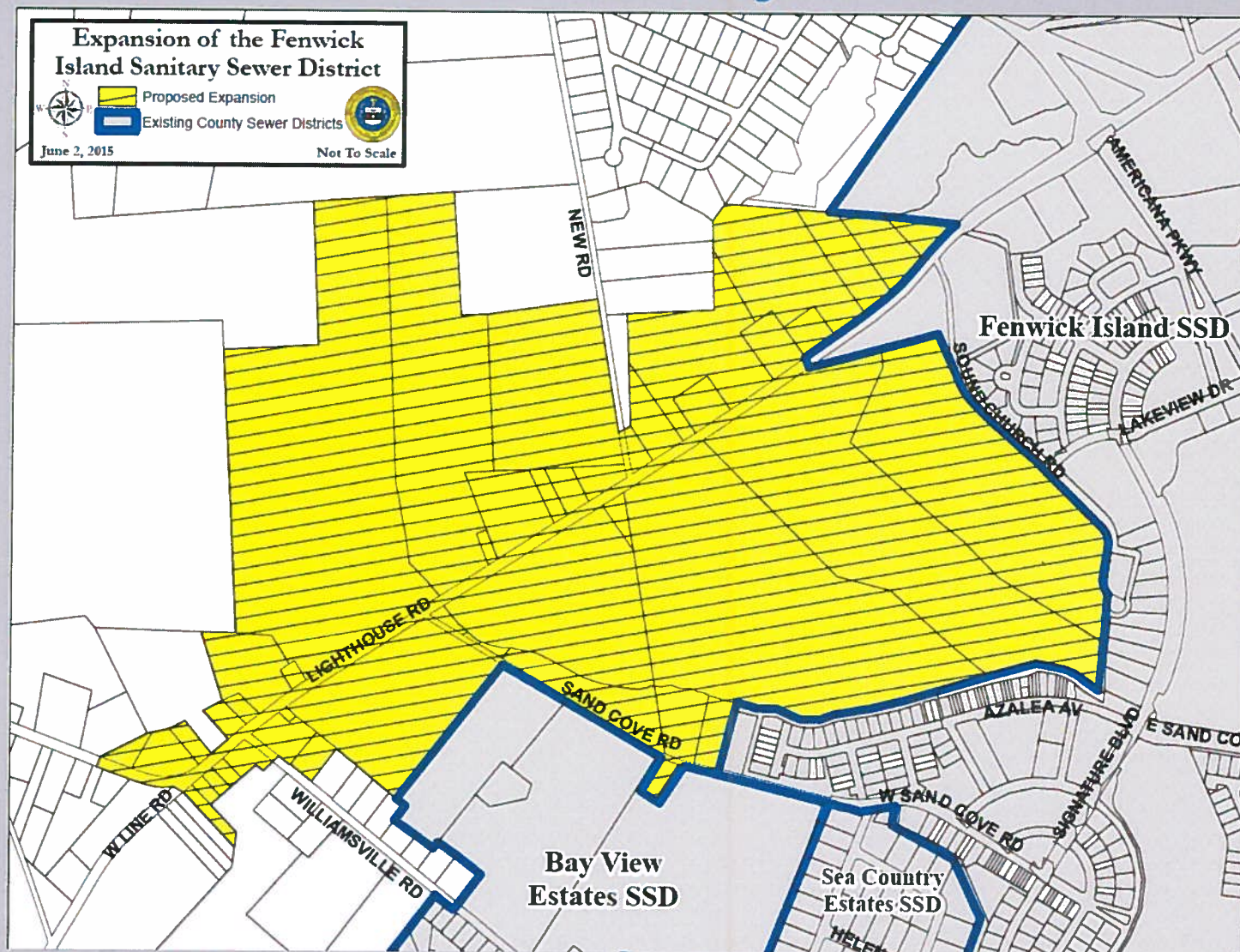
Route 54 Expansion of the Fenwick Island Sanitary Sewer District



**Public Hearing June 2, 2015 @ 10:15 a.m.
Sussex County Council Chambers**



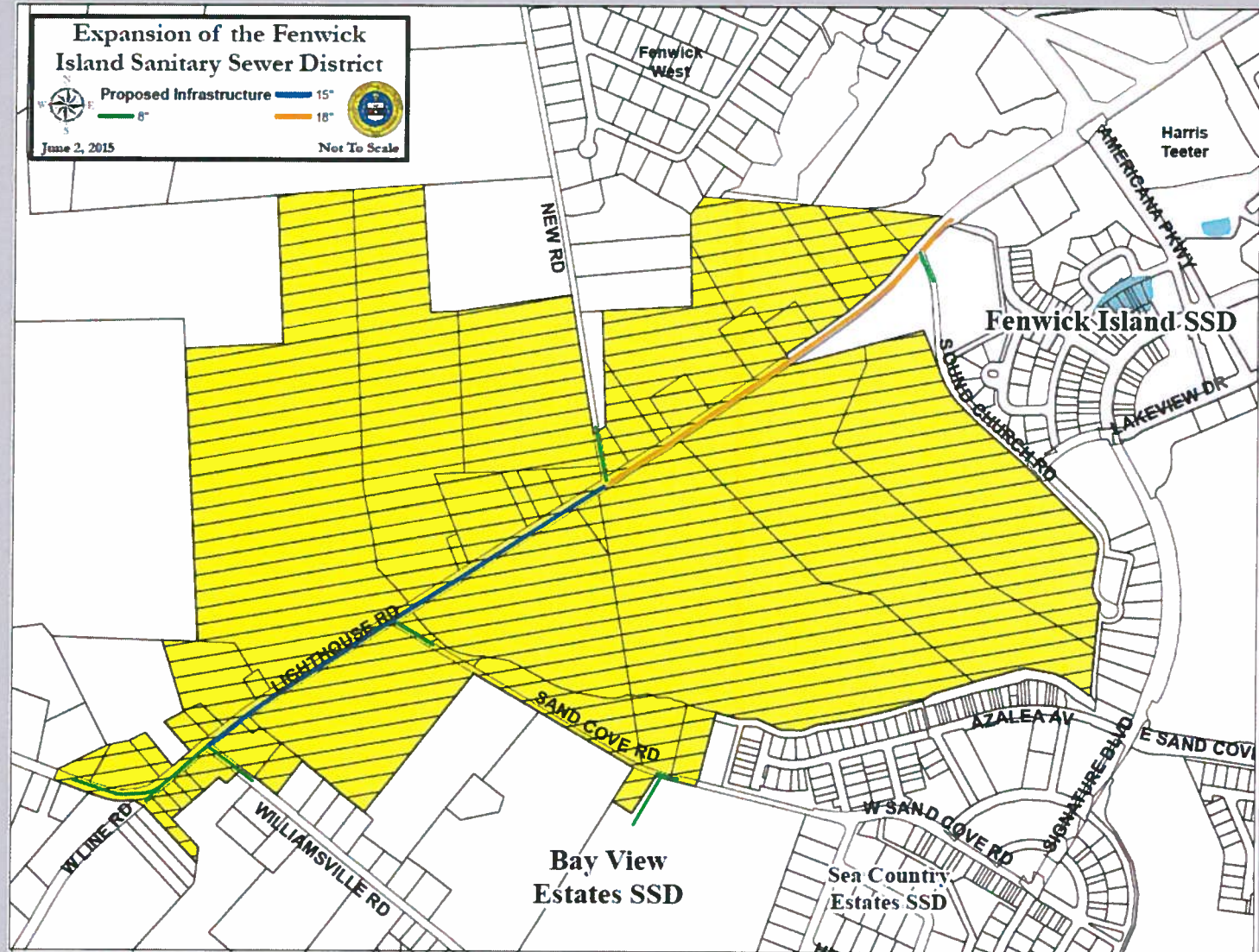
Route 54 Expansion of the Fenwick Island Sanitary Sewer District



Boundary



Route 54 Expansion of the Fenwick Island Sanitary Sewer District



Proposed Infrastructure



Route 54 Expansion of the Fenwick Island Sanitary Sewer District

GENERAL USER RATE INFORMATION

1. **Assessment charge billing begins when the system becomes operational.**
2. **Service charge billing begins when a home or business is connected or at hook-up deadline.**
3. **A vacant lot will pay the assessment charge, but not the service charge.**
4. **A single-family residence is one equivalent dwelling unit (EDU). A commercial business will be rated as multiple EDUs.**
5. **Assessable front footage (FF) is calculated based on the street frontage of the property.**
6. **The minimum assessment is 40 FF per County Ordinance. Currently there is a 100 foot maximum cap on the FF assessment, which must be enacted on a year to year basis by County Council action.**
7. **Corner lots are assessed on the shortest side.**
8. **All users must connect their home or business within one year of the system becoming operational.**
9. **Financial assistance is available to qualified homeowners, through various grant and loan programs.**



Route 54 Expansion of the Fenwick Island Sanitary Sewer District

Estimated User Charges

Current Annual service charge
Front Foot Assessment

\$294.00 /EDU
\$7.06 / FF

Estimated Annual Costs

- Home with 50 FF **\$647.00**
- Home with 75 FF **\$823.50**
- Home with 100 FF **\$1,000.01**

One-Time Costs

- Permit Fee **\$100**
- System Connection Charge **\$0.00 or \$5,500***
- Plumbing Cost **\$1000 to \$1,500**

* System Connection Charges (SCC) for existing homes are included in project financing. New homes permitted after February 10, 2015 will pay \$5,500.00 or the SCC fee in place at the time of connection.



Route 54 Expansion of the Fenwick Island Sanitary Sewer District

Cost Comparison

	Concord Road Blades	Millville Route 26 Expansion	Angola North	<i>Route 54 Expansion</i>
System Connection Charge	\$3,322.00	\$3,818.00	\$4,100.00	<i>\$0* or \$5,500.00</i>
Front Foot Assessment	\$4.24 / FF	\$5.18 / FF	\$9.00 / FF	<i>\$7.06/ FF</i>
Annual Service Charge	\$289.82	\$278.00	\$278.00	<i>\$294.00</i>

** System Connection Charge (SCC) in financing for existing homes only.*



Route 54 Expansion of the Fenwick Island Sanitary Sewer District



BEERS ATLAS





Route 54 Expansion of the Fenwick Island Sanitary Sewer District

Proposed Project Schedule

Time Frame	Action
June 2, 2015	Public Hearing/Sussex County Council Vote to Adopt Final Boundary
July 2015	Facilities Plan / Environmental Assessment
July 2015	Design Phase Begins
January 2016	Advertise/Bidding Phase
April 2016	Construction Starts
January 2017	System Operational



Sussex County Engineering Department

P.O. Box 589
Georgetown, DE 19947
www.sussexcountype.gov

Project Questions:

Fenwick Island Planning Technician – Buddy Lynch
blynch@sussexcountype.gov or 302-855-7839
Utility Planning Division – 302-855-1299
Division Director - John Ashman – jashman@sussexcountype.gov

Assessment Questions:

Fenwick Island Permit Technician – Noell Warren – nwarren@sussexcountype.gov
or 302-854-5087
Utility Permits Division – 302-855-7719
Division Director – Jayne Dickerson – jdickerson@sussexcountype.gov

Billing Questions:

Billing Division – 302-855-7871
Manager of Billing - Patty Faucett – pfaucett@sussexcountype.gov
Manager of Collections – Katrina Mears – kmears@sussexcountype.gov

Grant Assistance Questions:

Taren Hall – 302-855-7871
thall@sussexcountype.gov



NORTH COASTAL PLANNING AREA

SUSSEX COUNTY, DELAWARE

CONTRACT AMENDMENT NO. 5

This contract amendment, **Contract Amendment No. 5** dated **April 23, 2015** amends our original contract dated January 14, 2014 between Sussex County, a political subdivision of the State of Delaware, as First Party, hereinafter referred to as the COUNTY and Whitman, Requardt and Associates, LLP, a State of Maryland Limited Liability Partnership, as the Second Party, hereinafter referred to as the CONSULTANT, whose address is 801 South Caroline Street, Baltimore, Maryland 21231. Except as specifically amended herein, the provisions of the existing engineering services agreement dated January 14, 2014 remain in effect and fully valid. By execution of this amendment, the following sections delete the existing Section 4.4 and replace with below Section 4.4

ARTICLE FOUR

FEE STRUCTURE

- 4.4 In accordance with the method of fee determination described in Articles 4.3.1, 4.3.2, 4.3.3, and 4.3.4 of this Agreement, the total compensation and reimbursement obligated and to be paid the CONSULTANT by the COUNTY for the CONSULTANT's Scope of Services for **Inland Bays Regional Wastewater Facility (IBRWF) Sludge Dryer Facility Design Engineering** as set forth in **Attachment A**, which is attached hereto and incorporated by reference, shall not exceed **Three Hundred and Ninety One Thousand, Eight Hundred and Eighty Dollars (\$391,880.00)**. In the event of any discrepancy or inconsistency between the amounts set forth in this Article 4.4 and any appendices, exhibits, attachments or other sections of this Agreement, the amounts set forth in this Article 4.4 shall govern.

Attachment "A"

Consultant's Scope of Services, **Inland Bays Regional Wastewater Facility (IBRWF) Sludge Dryer Facility Design Engineering** with Man-hour spreadsheets.



SCOPE OF SERVICES

INLAND BAYS RWF – SLUDGE DRYER FACILITY DESIGN ENGINEERING

This attachment outlines the required Scope of Services for design engineering for the **Inland Bays RWF – Sludge Dryer Facility**. This work effort includes the development of bid documents (plans and specifications) and bid phase assistance for the new sludge dryer facility at the Inland Bays RWF.

PART A: PROJECT DEVELOPMENT REPORT

The purpose of this section is to produce a Project Development Report (PDR) for the sludge dryer facility in accordance with DNREC's Guidance and Regulations Governing the Land Treatment of Wastes. The PDR is necessary in order to obtain a construction permit for the sludge dryer facility and is a required submittal as part of a future permit application for a Marketing and Distribution Permit for Exceptional Quality Sludge. As the intent of the sludge dryer is to produce an Exceptional Quality product, the PDR will not cover Land Application sites including the Inland Bays RWF site, which is already permitted for biosolids application. All required sampling and analysis to demonstrate sludge quality will be provided by Sussex County. Sussex County shall advise on the proposed quality control and monitoring program, the record keeping and reporting system, sludge sampling program, and the proposed product label. Sussex County will be responsible for DNREC permit applications and fees. Engineering plans and specifications for sludge dryer facility will not be provided in the PDR itself but will be provided to DNREC separately once developed under Part B.

1. Develop draft PDR in consultation with Sussex County. PDR shall include the following:
 - a. Site specific topographic map with a minimum scale of 1 inch = 200 feet and a contour interval of not more than 5 feet, showing the areal extent of the site, the property boundaries, the exact acreage of the facility, location of all buffer zones, and surrounding land uses within 2500 feet including residences, streams, roads and wells. Include 100 year floodplain if applicable, tax maps and property identification numbers.
 - b. Site specific geologic and hydrogeologic information as required by the Department to ensure that the treatment facility does not constitute a threat to ground or surface waters of the State.
 - c. Detailed discussion of the methods to be used for the protection of the ground water, such as leachate control or natural attenuation.
 - d. Proposed program for monitoring the chemical quality of the ground water and surface waters on the site, including the depth and location of monitoring wells if applicable.
 - e. Basis of design for sludge quantities and treatment process sizing
 - f. Detailed description of sludge treatment process, on-site storage facilities, and equipment
 - g. Proposed plan of sludge treatment facility operations and maintenance
 - h. Plans for storage and ultimate utilization of the treated sludge.

- i. Plan to monitor efficiency of treatment device or process.
 - j. Contingency or emergency plans.
 - k. Procedures to be employed to control odors, nuisances, and public access.
 - l. Description of proposed quality control and monitoring program
 - m. Description of proposed record keeping and reporting system
 - n. Chemical analysis of the sludge (provided by Sussex County)
 - o. Copy of proposed product label
 - p. Information confirming the Department of Agriculture Regulations governing the sale of commercial fertilizers and soil conditions have been met
2. Review draft PDR with Sussex County.
3. Revise PDR to incorporate Sussex County comments and submit to DNREC
4. Meet with DNREC to review PDR and address any comments
5. Finalize PDR to incorporate comments.
6. Present project summary at a public information meeting arranged by DNREC for the purpose of PDR review.

PART B: SLUDGE DRYER FACILITY DESIGN

The purpose of this section is to prepare bid documents (plans and specifications), obtain construction permits, and provide bid phase assistance for the new sludge dryer facility at the Inland Bays RWF. The sludge dryer facility will be attached to the sludge dewatering building currently under construction at the IBRWF and will be of similar construction materials and style. The building expansion will include a new electric room. The sludge dryer will be a continuous-feed indirect-heated natural gas-fueled paddle dryer. Sussex County will be responsible for conveyance of natural gas to the site.

1. Design Criteria Development: Develop design criteria for sludge drying facility including sludge dryer equipment sizing and selection. Provide comparison of sludge dryer operational schedule for different size units under multiple operating conditions (current, design, and future expansion design) and define cost impacts. Submit five (5) copies to County for review. Conduct a review meeting with the County to finalize design criteria.
2. Preliminary Design (30% complete). Based on finalized equipment sizing, develop preliminary layout drawings for sludge dryer facility and ancillary unit processes. It is anticipated that a new set of utility water pumps (duty/standby) will be provided at the new Chlorine Contact Tank to serve the dewatering and drying facility. It is anticipated that expansion of the existing recycle pump station will not be required. Submit five (5) copies to County for review. Conduct review meeting with County and incorporate comments received.

3. Design Development (60% complete). Prepare 60% complete plans and specifications for sludge dryer facility design. Submit five (5) copies to County for review. Conduct review meeting with County and incorporate comments received.
4. Detailed Design (90% complete). Prepare 90% complete plans and specifications for sludge dryer facility design. Submit five (5) copies to County for review. Conduct review meeting with County and incorporate comments received.
5. Bid Documents (100% complete). Finalize 100% complete bid documents (plans and specifications) for sludge dryer facility to incorporate all comments received from County and permitting agencies.
6. Permitting. Prepare and submit permit applications and supporting drawings and calculations for the following permits (County to pay any permit fees):
 - a. Sediment and erosion control permit
 - b. DNREC Notice of Intent
7. Bid Phase Assistance. Work items include:
 - a. Reproduce contract documents for bidding (10 copies)
 - b. Attend pre-bid meeting
 - c. Prepare Addendum for distribution by County
 - d. Review bids and make recommendation for award

IN WITNESS WHEREOF, the parties hereunto have caused this Amendment No. 5 to this Agreement to be executed on the day and year first written hereof by their duly authorized officers.

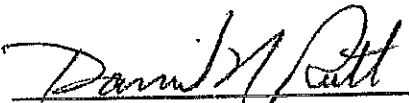
SEAL

FOR THE COUNTY:
SUSSEX COUNTY

President, Sussex County Council

APPROVED AS TO FORM:

Date



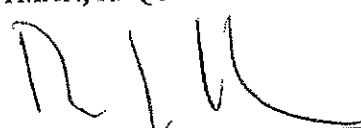
Assistant Sussex County Attorney
DAVID N. RUTT

ATTEST:

Clerk of the Sussex County Council

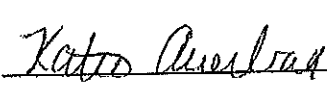
FOR THE CONSULTANT:

WHITMAN, REQUARDT and ASSOCIATES, LLP



Dennis J. Hasson, P.E., Partner

WITNESS:



Deerbrook Off-Site Infrastructure Agreement

THIS AGREEMENT ("Agreement"), made this _____ day of _____ 2015, by and between:

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

ALPACO V, L.L.C., a Delaware limited liability company, of P.O. Box 748, Georgetown DE 19947, hereinafter called the "Developer" and;

WITNESSETH:

WHEREAS, the Developer is developing a tract of land identified as Tax Map parcel 2-34-23.00-112.00, 134.00 & 135.00 consisting of approximately 57.0 acres known as Deerbrook, Subdivision 2008-16, consisting of approximately 128 lots and as illustrated upon a Preliminary Site Plan approved by the Sussex County Planning and Zoning Commission on June 16, 2010 ("Deerbrook Subdivision");

WHEREAS, the Deerbrook Subdivision does not lie within the North Coastal Planning Area ("NCPA") but the County Engineer has agreed to permit a request for a district expansion;

WHEREAS, the County has determined by study known as North Coastal Planning Area Study (NCPA), that a sub-regional pump station is needed to serve the Deerbrook Subdivision and could benefit the surrounding area; and

WHEREAS, the Developer has agreed to fund the cost of the design, construction and inspection of specified offsite improvements at its cost and to design, construct, and inspect these improvements under its responsibility once annexation of the parcel(s) to the Long Neck Sanitary Sewer District ("LNSSD") is complete.

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

- (1) The Developer shall provide a letter of credit or deposit the sum of \$678,385.00 into an escrow account established with the County, as a security to guarantee performance of the Off-site Infrastructure Improvements, defined below, in accordance with this Agreement. Upon written request of the County Engineer, the specified amount shall be adjusted based upon an executed construction agreement between Developer and its contractor. In addition, the Developer shall submit a timeline for service to the off-site parcels to the County, which, once approved by the County, shall be binding upon the parties and incorporated in this Agreement by reference. Upon the Developer's request, the County may permit amendments to the timeline in its sole discretion.

- (2) After a timeline for service to the off-site parcels is submitted in writing to the County and a letter of credit ("LOC") or escrow account acceptable to the County is in place, Sussex County Engineering Department shall request County Council's reconsideration of the annexation of the Deerbrook Subdivision. If County Council votes against the annexation of the Deerbrook Subdivision into the LNSSD, this Agreement shall become null and void, and of no force or effect, and all funds deposited into the escrow account, or the LOC, shall be returned to the Developer. The Developer shall be solely responsible for any costs or expenditures related to this Agreement that the Developer incurred prior to the voidance of this Agreement, including, but not limited to, the costs of acquiring an escrow or letter of credit and any preliminary design costs.
- (3) Upon the approval of County Council for the annexation of Deerbrook Subdivision into LNSSD and the granting of a final site plan approval for Deerbrook Subdivision by the Sussex County Planning and Zoning Commission and its recording in accordance with Sussex County Code, the Developer shall be obligated to fund and to undertake the design, construction and inspection of specific pump station, off-site force main and gravity collection line improvements as outlined on the approved Concept Plan (Approved 4/20/2011) and in accordance with all applicable local, state, and federal laws and regulations,. This shall include all gravity sewer from the intersection of Route 24 and Autumn Road to the new pump station, the pump station and the force main from the pump station to the connection point on the east side of Route 24. An exhibit showing the scope of work is attached hereto as Exhibit A and incorporated herein by reference ("Off-site Infrastructure Improvements").
- (4) The Developer shall retain an engineer under contract, who shall design the Off-site Infrastructure Improvements in accordance with the design requirements of the Sussex County Engineering Department. The engineer's design shall also address requirements of other involved regulatory agencies for the construction of the Off-Site Infrastructure Improvements which may include but not be limited to the Delaware Department of Transportation, DNREC and the Sussex Conservation District.
- (5) The County Engineer shall review and approve the design documents prepared by the Engineer in accordance with Paragraph Nos. 1 and 2 above in as timely a fashion as possible.
- (6) Upon receipt of all applicable regulatory agency approvals of the design of the Off-site Infrastructure Work and no later than eighteen (18) months after the recordation of the final approved site plan for Deerbrook Subdivision, the Developer shall commence the construction of the Off-Site Infrastructure Improvements.
- (7) The engineering construction cost estimate, attached hereto as Exhibit "B" and made a part hereof, sets the total construction cost for the Off-site Infrastructure

Improvements at \$678,375.00. The Off-site Infrastructure Improvements shall be substantially complete within twelve (12) months of the commencement of construction, or prior to the transfer of any parcels to a third party.

- (8) If County Council shall approve the annexation of Deerbrook into the LNSSD, then Developer shall, within a timely manner convey title to the lands and easements required to construct the Off-site Infrastructure Improvements, free and clear of liens or encumbrances. After the Developer conveys title to the underlying land and easements to the County, the Developer shall provide both indemnification and insurance coverage to the County as set forth in this Paragraph. To the fullest extent permitted by law, the Developer shall defend, indemnify and hold the County harmless for any claims, liens, encumbrances, damages, injuries (including death), losses or other costs resulting from or related to the Developer's access to and use of said lands and easements for the Off-site Infrastructure Improvements, and this obligation shall survive the termination of this Agreement. The Developer shall release the County from any claims, losses, or damages, whether known or unknown, in relation to any claims arising from the condition of said lands and easements. In addition, the Developer shall procure and maintain insurance coverage with respect to the Off-site Infrastructure Improvements in accordance with the County's instructions.
- (9) In the event the Developer does not complete the Off-site Infrastructure Improvements in the timeframes designated by this Agreement, the County is authorized to collect all or part of the funds from the LOC or escrow as needed to complete the construction of the Off-site Infrastructure Improvements and to fund including but not limited to design, inspection, administrative and other related costs.
- (10) Upon completion of the Off-site Infrastructure Improvements, the Developer shall provide notice of completion in writing to the County, who shall inspect the work promptly. Any defects or issues shall be identified in writing to the Developer, who shall have thirty (30) days to complete said items, unless the County grants an extension. When all items have been addressed to the County's satisfaction, the County shall issue final written acceptance.
- (11) The Developer shall warrant the quality and workmanship of the Off-site Infrastructure Improvements for a period of one year beginning upon date on which the County issues final acceptance of the Off-site Infrastructure Improvements project. Any defects or flaws identified by the County in writing and sent to the Developer shall be promptly corrected by the Developer, and in no event after thirty (30) days of mailing said notice unless the County grants an extension in writing.
- (12) If the Developer undertakes the construction of the Off-site Infrastructure Improvements, the Developer may then submit for over-sizing credits for the difference in the cost to serve their development (using County Standards and minimums) versus the cost to construct the regional infrastructure. Credits will be

towards the transmission portion of the System Connection Charge fees for the project.

- (13) The Developer may assign this Agreement and associated escrow funds in whole or in part to any entity controlled directly or indirectly by the Developer or to any third party who purchases, leases or otherwise controls any portion of the Deerbrook project without the consent of the County. Developer shall provide County at least ten days' written notice of any such assignment. Any other assignments, transfers, or conveyances with respect to this Agreement are prohibited without prior written consent of the County.
- (14) All the terms, covenants, and conditions of this Agreement shall in all respects be governed and construed under and pursuant to the Laws of the State of Delaware without respect to its choice of law provisions. This Agreement may only be amended, supplemented or modified by a subsequent written agreement executed by all of the parties hereto.
- (15) Time is of the essence for purposes of this Agreement.
- (16) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.

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

FOR THE COUNTY:

{Seal}

By: _____
(President - Sussex County Council)

_____ (DATE)

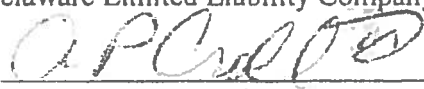
ATTEST:

Robin A. Griffith
Clerk of the County Council

APPROVAL TO FORM:


Assistant County Attorney

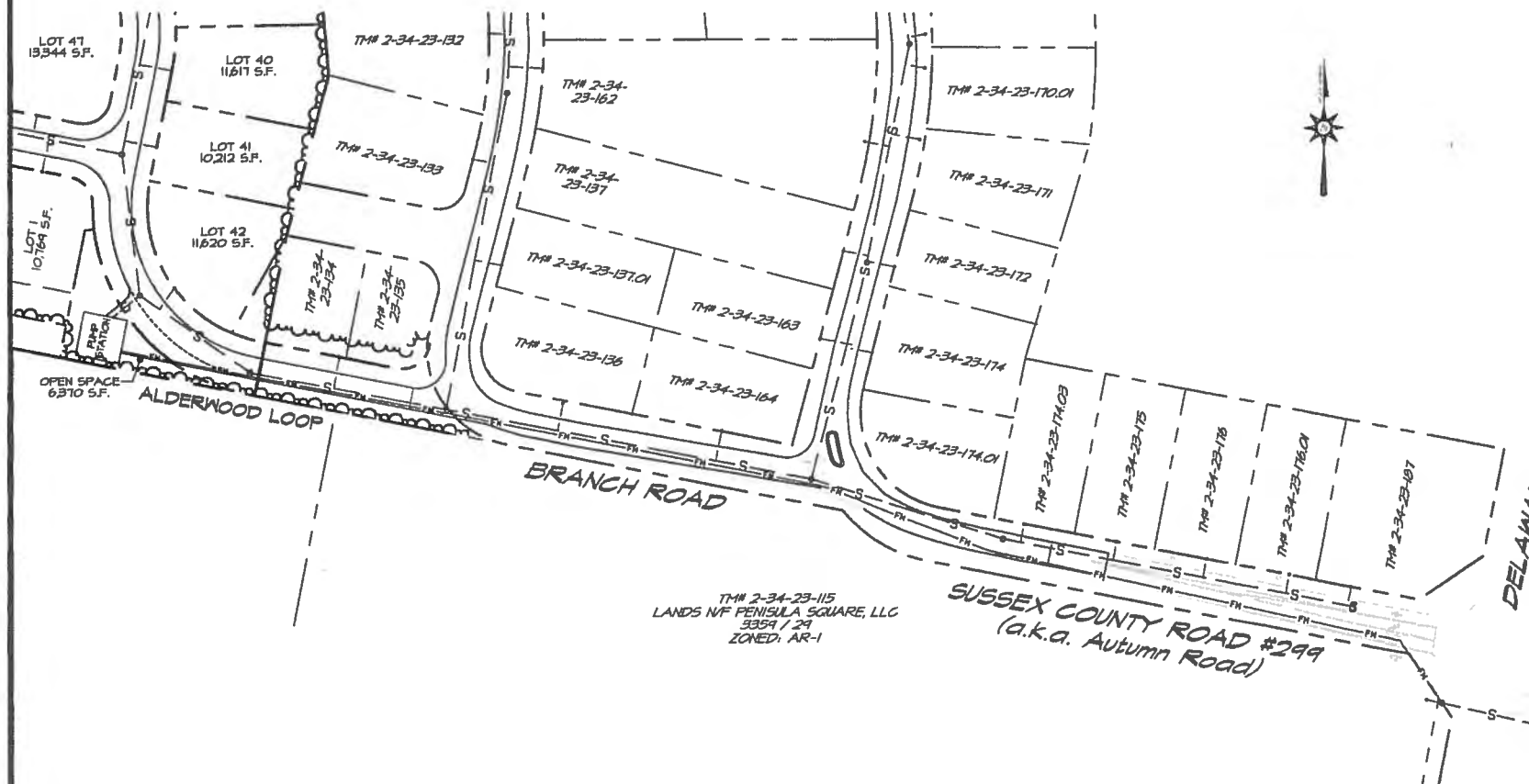
ALPACO V, L.L.C.,
a Delaware Limited Liability Company

By:  (Seal)
Managing Member

5/19/2015 (DATE)

WITNESS:





APPLICANT:
ALPACO V, L.L.C.
P.O. BOX 748
GEORGETOWN, DE 19947
Phone: 302.856.6177
Fax: 302.856.3482

TEL INFORMATION:
2-34-23, PARCELS
112, 134 & 135

EXHIBIT A
DEERBROOK
INDIAN RIVER HUNDRED -- SUSSEX COUNTY -- DELAWARE

JOB No: 09-1009EG

PLAN DATE:
May 8, 2015

SHEET 1 of 1

Exhibit "B"



DEERBROOK SEWER ANNEXATION

This scope covers the pumpstation and pipe runs
on Branch Road and Autumn Road to Rt24

BRANCH ROAD SEWER COST ESTIMATE

NO.	ITEM	SIZE OR DEPTH	UNIT	QUANTITY	UNIT PRICE	TOTAL PRICE
A-1	MOBILIZATION		LS	1		\$15,000.00
A-2	PRECAST MANHOLES	4' Diameter	VF	48	\$335.00	\$16,080.00
A-3	MANHOLE FRAME & COVERS		EA	4	\$500.00	\$2,000.00
A-4	PVC Y BRANCHES	8 x 6	EA	7	\$150.00	\$1,050.00
A-5	PVC LATERAL (ALL DEPTHS) 19 DEEP, 14 SHALLOW	6"	LF	250	\$30.00	\$7,500.00
A-6	HOUSE LATERAL C-0	6"	EA	7	\$250.00	\$1,750.00
A-7	GRAVITY SEWER WITH DELDOT TRENCH RESTORATION	8"	LF	1100	\$90.00	\$99,000.00
A-8	HOT MIX OVERLAY	2"	SY	3100	\$14.00	\$43,400.00
A-9	PUMPSTATION COMPLETE WITH SITEWORK	6' dia	LS	1	\$235,000.00	\$235,000.00
A-10	FORCEMAIN INSTALLATION. INCLUDES DIFFUSER MANHOLE AND GRAVITY BORE ACROSS ROUTE 24	4"	lf	1300	\$40.00	\$52,000.00
TOTAL PART A:						\$472,780.00

PART B

NO.	ITEM	UNIT	QUANTITY	UNIT PRICE	TOTAL PRICE
B-1	CONTINGENT UNCLASSIFIED EXCAVATION	CY	100	\$11.00	\$1,100.00

B-2	CONTINGENT BORROW MATERIAL, BORROW TYPE "C" BACKFILL	CY	500	\$16.00	\$8,000.00
B-3	CONTINGENT AGGREGATE MATERIAL, GRADED AGGREGATE TYPE "B" (CRUSHER RUN)	TON	20	\$21.00	\$420.00
B-4	CONTINGENT POROUS FILL MATERIAL, COARSE AGGREGATE NO. 57 STONE	TON	100	\$23.00	\$2,300.00
B-5	CONTRACTOR DOWN TIME (MAIN LINE CREW)	PER HOUR	10	\$400.00	\$4,000.00
B-6	CONTRACTOR DOWN TIME (LATERAL CREW)	PER HOUR	25	\$250.00	\$6,250.00
B-7	FURNISH AND PLACE 4,000 psi CONCRETE	CY	10	\$150.00	\$1,500.00
B-8	REPLACEMENT OF EXISTING STORM DRAIN PIPES 18 INCHES IN DIAMETER AND LESS	LF	200	\$30.00	\$6,000.00
B-9	ASPHALT ADJUSTMENT (C-2)	SY	75	\$50.00	\$3,750.00
B-10	ASPHALT ADJUSTMENT (C-3)	SY	100	\$13.00	\$1,300.00
TOTAL PART B:					\$34,620.00

TOTAL PROJECT BID:

PART A + B

\$507,400.00



AUTUMN ROAD
PART A

NO.	ITEM	SIZE OR DEPTH	UNIT	QUANTITY	UNIT PRICE	TOTAL PRICE
A-1	MOBILIZATION		LS	1		\$10,000.00
A-2	PRECAST MANHOLES	4'	VF	20	\$335.00	\$6,700.00
A-3	MANHOLE FRAME & COVERS		EA	2	\$500.00	\$1,000.00
A-4	PVC Y BRANCHES					
A-5	PVC LATERAL (ALL DEPTHS)	6"	LF	200	\$100.00	\$20,000.00
A-6	HOUSE LATERAL C-0	6"	EA	5	\$250.00	\$1,250.00
A-7	GRAVITY SEWER WITH DELDOT TRENCH RESTORATION	8"	LF	525	\$125.00	\$65,625.00
A-8	HOT MIX OVERLAY	2"	SY	2300	\$14.00	\$32,200.00
TOTAL PART A:						\$136,775.00

PART B

NO.	ITEM	UNIT	QUANTITY	UNIT PRICE	TOTAL PRICE
B-1	CONTINGENT UNCLASSIFIED EXCAVATION	CY	100	\$11.00	\$1,100.00
B-2	CONTINGENT BORROW MATERIAL, BORROW TYPE "C" BACKFILL	CY	500	\$16.00	\$8,000.00
B-3	CONTINGENT AGGREGATE MATERIAL, GRADED	TON	20	\$21.00	\$420.00

TOTAL PROJECT BID:	\$170,975.00
PART A + B	

Total of Exhibit "B"

\$678,375.00



4/23/15

Deerbrook Subdivision

Preliminary Work Schedule

<u>Item</u>	<u>Duration</u>
<u>Final Recordation of Sub Division</u>	<u>1 Day</u>
<u>Administrative Items</u>	<u>60 Days</u>
To include: Final Pricing, Bonds, Submittals	
<u>Permitting, Preconstruction Meetings</u>	
<u>Mobilization</u>	<u>35 Days</u>
<u>Layout, Well pointing, MOT set up, Material delivery</u>	
<u>Wet Well Installation</u>	<u>227 Days</u>
Set Well	7 Days
Order Components	100 Days
Install Components	100 Days
Testing/Start Up	10 Days
<u>Install Main</u>	<u>90 Days</u>
<u>Install Laterals</u>	<u>28 Days</u>
<u>Forcemain</u>	<u>35 Days</u>
<u>Watermain</u>	<u>35 Days</u>
<u>Paving and Restoration</u>	<u>28 Days</u>
<u>Walk through and Closeout</u>	<u>28 Days</u>
<u>Final Acceptance</u>	<u>Day 351</u>

OLD BUSINESS

June 2, 2015

This is to certify that the Sussex County Planning and Zoning Commission conducted a public hearing on the below listed application for Conditional Use. 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 #2013 – TBHM, LLC

Application of **TBHM, LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a meadery microbrewery for the manufacturing of honey wine and tasting to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 2.99 acres, more or less, land lying north of Route 9 (Lewes Georgetown Highway) 600 feet east of Coolspring Road and South of the Railroad (911 Address: None Available) (Tax Map I.D. #334-4.00-34.00 (Part of) and 235-31.00-15.00).

The Commission found that the Applicant provided surveys of the property with their application submitted on December 2, 2014, and that they submitted an Exhibit Booklet for consideration on February 27, 2015.

The Commission found that DelDOT provided comments in the form of a Support Facilities Report on October 7, 2014 referencing that a Traffic Impact Study was not recommended, and that the current Level of Service of Route 9 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 March 9, 2015 referencing that the site contains four (4) soil types; that the Applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas are affected; that the necessity for off-site drainage improvements is not likely; that on-site drainage improvements will be required; and that no tax ditches are affected.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum on March 10, 2015 referencing that the property is in the North Coastal Planning Area; that an on-site septic system is proposed; that conformity to the North Coastal Planning Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer service; and that a concept plan is not required.

The Commission found that John Talkington and Robert Walker were present on behalf of their application with Wayne Hawkins, builder, and stated in their presentation and in response to questions raised by the Commission that the landowner and the proposed builder were also present; that the Exhibit Booklet describes their intent to establish a meadery; that mead is a honey wine, similar to cider; that the process is similar to a winery; that the honey is mixed with water into a fermentation vessel or mixing tank; that the amount of honey and water varies depending on the batch size and recipe; that some of the meads will have fruit and spices added for flavoring; that once the honey and water are mixed the specific gravity, PH and temperature will be taken; that yeast, yeast nutrients, and oxygen will be added to the mixture to start the fermentation process which takes approximately 3 to 4 weeks; that after that process has ended, the mead will be left to clear and age; that the aging process takes 3 to 6 months; that some of the mead will be aged in oak barrels like wine; that the mead is then filtered before packaging into bottles or kegs; that the process uses less water than the processing of beer; that they hope to have approximately 800 cases processed in the first year; that they hope to be the first meadery in Delaware; that the closest meadery is in Baltimore; that they referenced Delaware Title for a microbrewery to show their intent to sell mead manufactured at this location in labeled barrels, bottles or other closed containers to importers licensed for delivery by them to persons inside and outside of Delaware, and to sell mead at this location for consumption on or off the premises; that the mead sold for off-premises consumption shall be limited to a maximum of 5 cases per day to each retail customer; that a tasting area will be provided on the premise; that they plan on selling mead by the glass, growler, keg, pint, or case; that the tasting room would be in the mead hall; that mead is similar to a hard cider; that they are hoping to hire 5 to 10 employees; that business hours would be longer during summer months; that manufacturing, including bottling, hours are planned to be Monday through Saturday from 8:00 am to 10:00 pm; that retail hours are planned to be Monday through Saturday from 12:00 Noon to 10:00 pm, and Sundays from 12:00 Noon to 5:00 pm; that they will observe all major State holidays; that all bottling will be done by hand, not machinery; that if the business grows, as anticipated, they may be moving to a larger site at another location; that they plan on selling related merchandise such as t-shirts, sweatshirts, posters, mugs, glasses, signs and other knickknacks; that tours/tastings may operate one time per hour from 1:00 pm to 6:00 pm; that they anticipate approximately 15 visitors weekdays to 40 visitors on weekends; that septic and water will be on-site; that processing waste will be properly disposed of; that they may have private parties on premises, which will be limited to 25 to 30 people; that they do not anticipate any impact on the community due to the size of the facility; that it is reported that they will create less wastewater than a family of two; that deliveries will be from UPS types of trucks, not 18 wheelers; that they would like to be able to erect signage consistent with a commercial or business use; that they hope to be able to reconstruct buildings on the existing foundations; that two building exists, one of which was a

Southern States building, and the other was a storage building; that they are proposing to provide customer parking on the easterly side of Coolspring Branch, with a pedestrian bridge for access to the site across Coolspring Branch; that a new building could be built on the easterly side of Coolspring Branch; that a church exists across Route 9 from the site; that the State ABC laws have changes and do not require a specific distance from churches; that there are no wetlands issues; and that their concern in remodeling or rebuilding the buildings are the setbacks.

The Commission found that Catherine Bronson was present in support and stated that the proposed use will increase revenue from tourism; that the use will be a benefit to the culinary and winery touring industry; that Delaware has a fast growing winery type tourist industry with four (4) wineries; that Maryland has 13 wineries; that there are approximately 150 meadery sites nationwide; that the site is in the tourism area of Sussex County; and that the use should be good for the economy.

In response to a question raised by the Commission, Mr. Walker stated that they will be leasing the property.

The Commission found that Shaune Thompson, one of the landowners, confirmed that the owners approve of the use; that it is the applicant's intent to try to use the existing structures; and that she is present to show the owners support.

At the conclusion of the public hearings, the Commission discussed this application. Some concerns were expressed about the reconstruction of the existing buildings due to their condition, and that the applicant should consider construction of a new building on the easterly side of Coolspring Branch.

On March 12, 2015 there was a motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action and to leave the record open for ten (10) days for receipt of a revised preliminary site plan from the applicants, and then ten (10) days for public review. Motion carried 4 – 0.

On April 9, 2015 the Commission again discussed this application.

Mr. Johnson stated that the revised site plan indicating the intent to use the easterly portion of the site for the use will be beneficial to visitors and guest and makes more sense than trying to rebuild the original buildings on the westerly portion of the site.

Mr. Ross suggested that the Commission announce that the revised site plans have been received to allow for public review and comments.

There was a consensus of the Commission to leave the record open for 10 days to allow any interested parties to review the revised site plan and provide written comments on the application.

On April 23, 2015 the Commission again discussed this application under Old Business.

Mr. Abbott advised the Commission that at the April 9, 2015 there was a consensus of the Commission to leave the record open for public comment on the revised site plan that was

submitted by the Applicant and that the staff has not received any written comments to date and that the record may be closed.

Mr. Johnson stated that he would move that the Commission recommend approval of CU #2013 for TBHM, LLC for a meadery microbrewery for the manufacturing of honey wine and tasting based upon the record made during the public hearing and for the following reasons:

1. This site is appropriate for a small and limited business use. It is an irregular shaped parcel bordered by Route 9, a railroad and a B-1 property. As a result, it is not reasonable to be used as a residential property. However, it is appropriate for a conditional use, with conditions and limitations that can be included with a conditional use approval.
2. The use will be consistent with neighboring and adjacent properties and uses, including a B-1 property to the east. There are also other small conditional use businesses in the vicinity of this property.
3. The use is of an agricultural nature, producing wine from locally produced honey, fruit and spices. As a result, it supports local agriculture.
4. The use will promote the growing culinary and winery tourist industry in Sussex County.
5. This use will be regulated by the Delaware Alcoholic Beverage Control Commission and Title 4 of the Delaware Code regarding production requirements, sales, hours of operation and all other aspects of the mead production and sales.
6. This recommendation is subject to the following conditions:
 - A. Because this property is divided by Cool Spring Branch, a wetlands delineation must be obtained, with all State and Federal wetlands shown on the Final Site Plan. No wetlands may be disturbed without an appropriate permit.
 - B. The use shall be subject to all regulations of the Delaware Alcoholic Beverage Control Commission and Federal Brewery or Winery requirements.
 - C. The use shall be subject to all DelDOT requirements for entrance and roadway improvements.
 - D. There may be one lighted sign permitted on the property, not to exceed 32 square feet per side.
 - E. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried 3 votes to 1, with Mr. Smith opposed and Mr. Wheatley not voting, to forward this application to the Sussex County Council with the recommendation that it be approved, for the reasons, and with the conditions stated. Motion carried 3 – 1. Mr. Wheatley did not participate since he was not at the public hearing.

Introduced 01/27/15

Council District No. 3 - Deaver

Tax Map I.D. 334-4.00 34.00 (Part of) and 235-31.00-15.00

911 Address – None Available

ORDINANCE NO. _____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MEADERY MICROBREWERY FOR THE MANUFACTURING OF HONEY WINE AND TASTING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED AND BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.99 ACRES, MORE OR LESS

WHEREAS, on the 2nd day of December 2014, a conditional use application, denominated Conditional Use No. 2013 was filed on behalf of TBHM, 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. 2013 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 IV, Section 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2013 as it applies to the property hereinafter described.

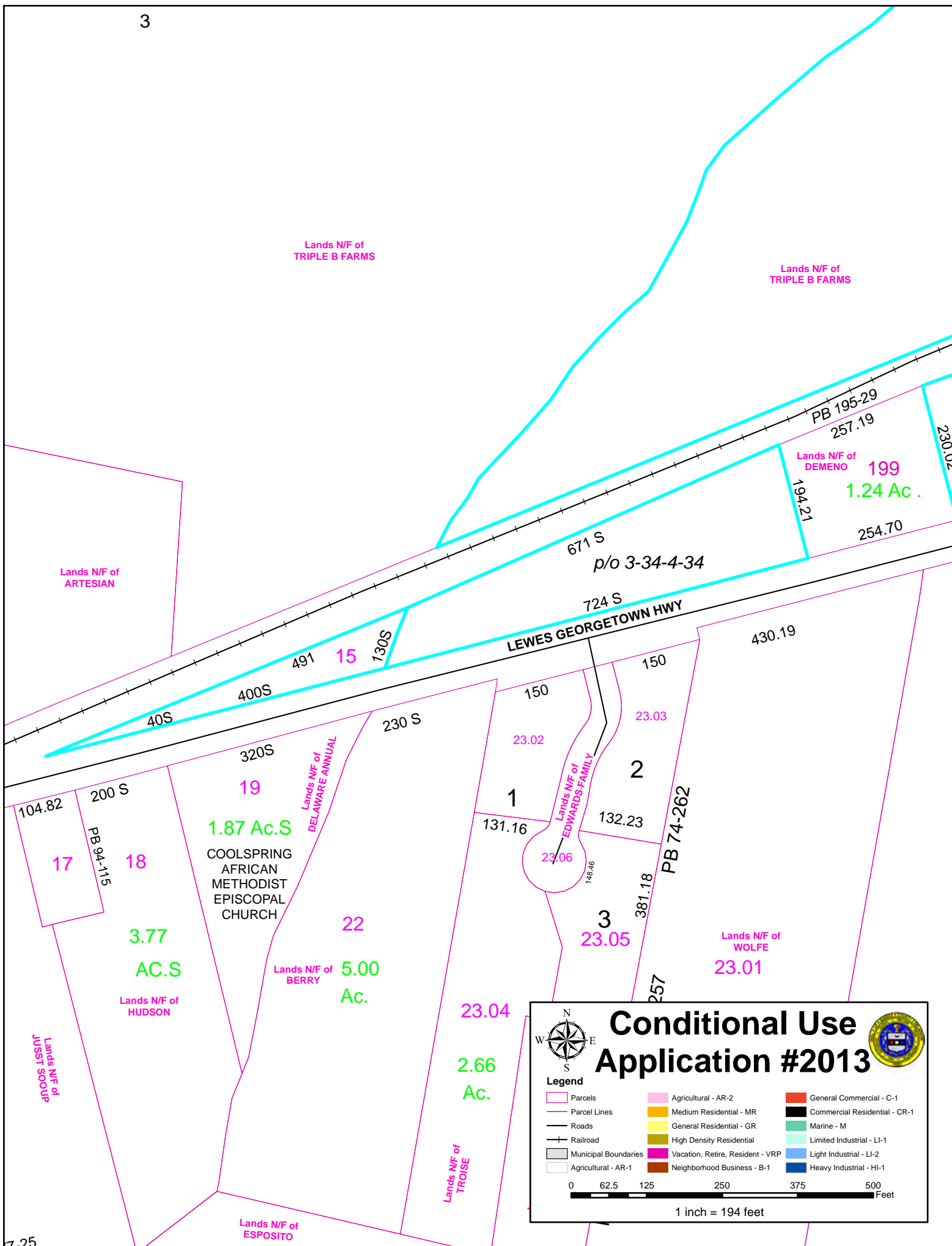
Section 2. The subject property is described as:

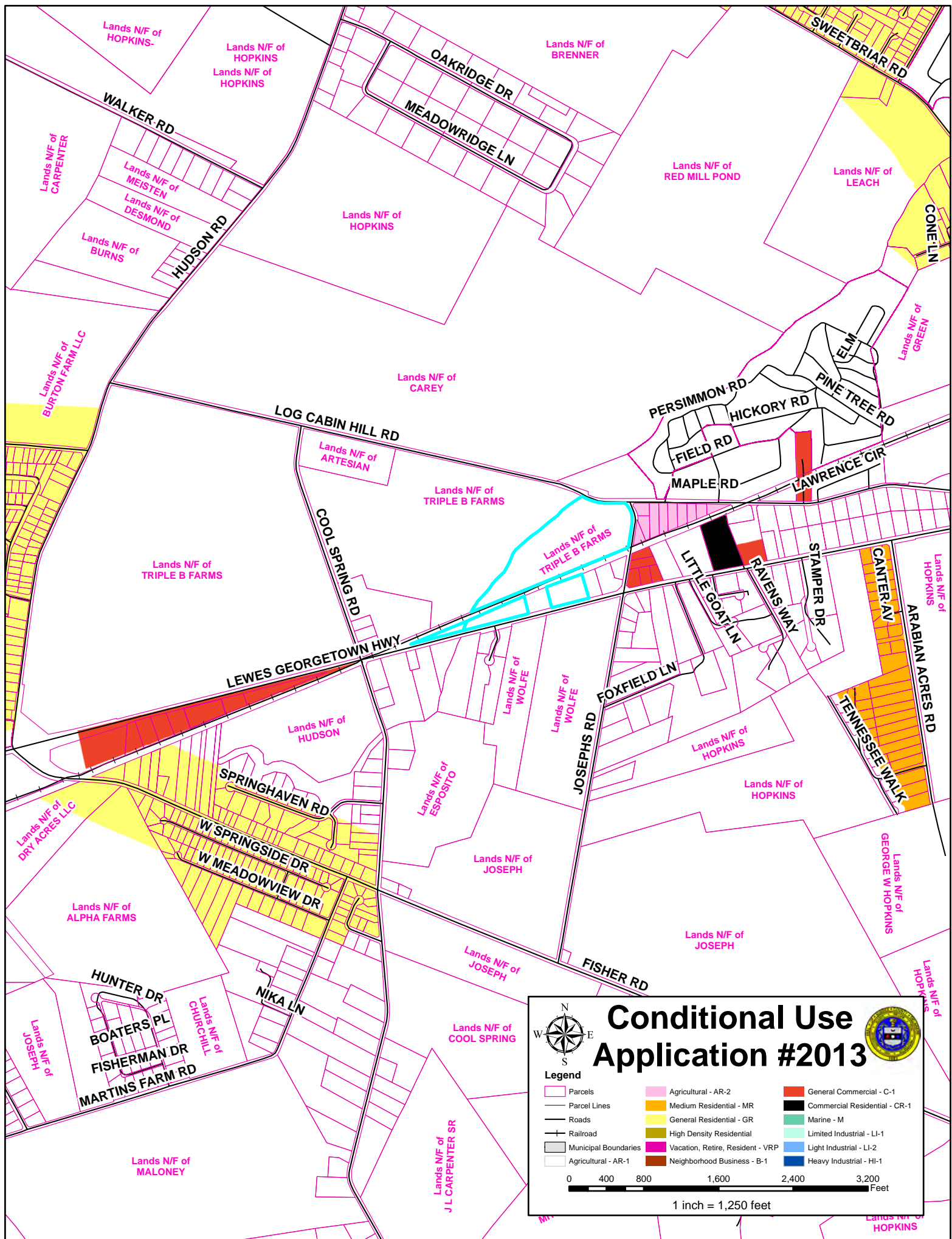
All that certain tract, piece or parcel of land, lying and being in Lewes and Rehoboth Hundred and Broadkill Hundred, Sussex County, Delaware, and lying north of Route 9 (Lewes Georgetown Highway) 600 feet east of Coolspring Road and south of Railroad and being more particularly described as follows:

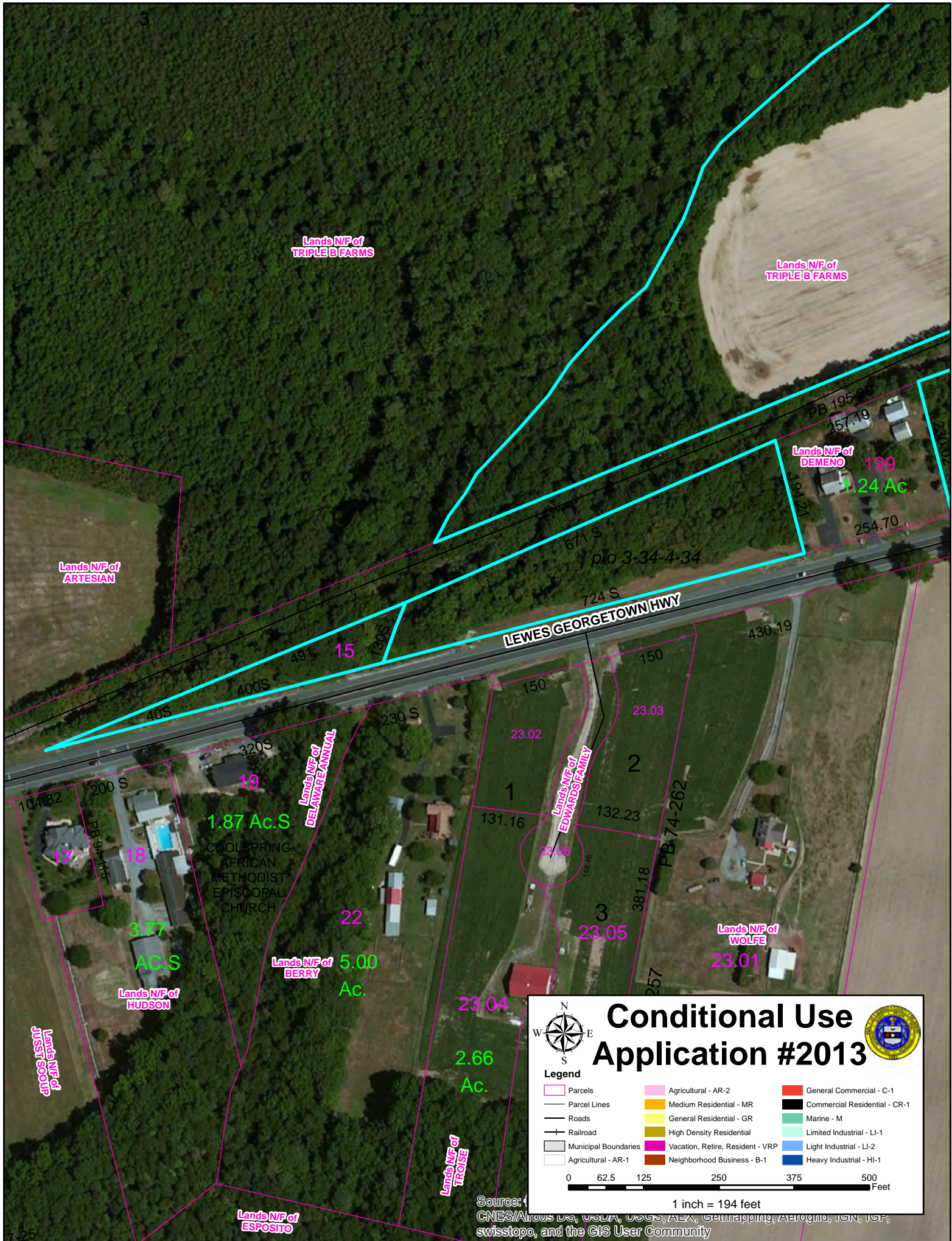
Beginning at an iron pipe on the northerly right-of-way of Route 9 (Lewes Georgetown Highway), a corner for these subject lands and lands, now or formerly, of Harlan Gilbert York, Jr.; thence South 83° 11' 54" West 1,115.88 feet along the northerly right-of-way of Route 9 to a point; thence North 14°53'00" 38.70 feet along lands, reportedly, now or formerly, of Penn Central Railroad to a point; thence North 75°17'00" East 1,132.12 feet along said railroad to an iron pipe; thence South 06°47'51" East 194.21 feet along lands, now or formerly, of Harlan Gilbert York, Jr. to the point and place of beginning, and containing 2.99 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.

PROPOSED







INDIAN RIVER HIGH SCHOOL
Indian River School District
29772 Armory Road, Dagsboro, DE 19939
Phone: (302) 732-1500 Fax: (302) 732-1514

E. Bennett Murray, IV, Principal
Mark D. Sewell, Assistant Principal
Corey A. Heacock, Ed.D., Assistant Principal

Sonya Purcell, Guidance Chairperson
Todd Fuhrmann, Athletic Director

April 22, 2015

Dear Councilman Arlett:

This year, the Indian River High School (IRHS) Chapter of Business Professionals of America (BPA) was pleased to send 23 students to the State Leadership Conference held at Dover Downs on March 10, 2015. These students tested their knowledge in Business Administration, Digital Communication and Design, Finance, Management Information, and Management, Marketing and Communications against 1100+ students statewide in a variety of competitive events.

Ten of our students brought trophies home to IRHS in eight separate team and individual events. As champions, they also qualified to represent the State of Delaware at the National Leadership Conference in Anaheim, CA from May 6th – May 10th, 2015.

BPA is a national organization for middle school, high school and college students who are learning about business. The organization's activities and programs complement classroom instruction by giving students practical experience through application of the skills learned at school. BPA also acts as a cohesive agent in the nationwide networking of education and business with the overarching goal of contributing to preparing a world-class workforce through the advancement of leadership, citizenship, academics and technological skills.

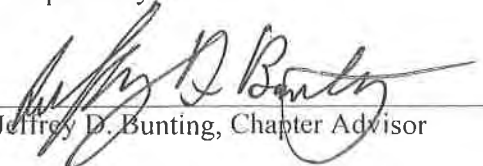
The IRHS Chapter of BPA is a self-funded organization. Students fund raise year-round to pay for the activities and competitions that assist them in developing career skills that are immediately valuable to an employer. Chapter funds are raised BY students and used FOR students under the supervision of the chapter advisors.

As such, the IRHS chapter of BPA relies a great deal on the support of our local community in order to provide our students with these opportunities without placing an undue financial burden on the students' respective families. Our estimated cost for airfare, room, and ground transportation for the Anaheim trip alone is projected to be \$7800.00+.

Any support that you can offer to help defray these costs is greatly appreciated. The attached donor form provides specifics if you find you are able to offer assistance.

Regardless of your ability to support our efforts, we ask that you take a moment to review and share the attachment which details the specific accomplishments of our students. Thank you.

Respectfully,


Jeffrey D. Bunting, Chapter Advisor


Stephanie Wilkinson, Chapter Advisor

Att: Donor Form
IRHS Student Rankings



April 1, 2015

Council President Sam Wilson
2 The Circle
Georgetown, DE 1994

RE: Request for funds Sussex County Delaware Veteran's House Build

Dear Sussex County Council:

On behalf of the Sussex County, Delaware, Habitat for Humanity 2015 Veteran Build Project, I would like thank you for your kind consideration of our project. In 2014, statistics from Department of Veterans Affairs revealed the number of young Iraq-Afghan vets who were homeless had tripled since 2012, with an estimated 50,000 homeless young vets nationwide. We are doing our part to help with the real problem of homelessness among our country's veteran community.

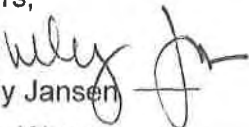
Our project, originally sponsored by Georgetown-Ellendale VFW Post 2931, now has the support and backing of all the Sussex County VFW Posts as well as the State VFW. We are joining forces across our county and our state to make this the first of many Vet Build projects here locally. Along the way, hopefully we will inspire other VFW Posts across the nation to help this vulnerable section of the veteran community through the established Habitat for Humanity program.

A substantial aspect of our VFWs' mission is providing support to local veterans and their families. We are hoping our outreach will create an entire pool of local veteran applicants who can be helped by the Habitat for Humanity's mission: 'building hope, building homes, building communities'.

We are working with a veteran family on the current Sussex County Habitat for Humanity (SCHFH) home build. Our vet family consists of Oscar, a 100% disabled, combat wounded, Iraq-Afghan veteran; his wife Delphina, who has given up her career as a medical office records manager to become Oscar's full-time caregiver; their three wonderful sons; and Oscar's service dog. We intend to not only work with our current vet family to build a home, but to continue working together with local vets in need of housing.

We will be raising money from local business and individuals over the next few months. In total, we will need to raise \$80,000 in order to complete this first Vet Home Build. We feel our project is one all of Sussex County could get behind and would be a good use of county funds. We are hoping you could make a substantial donation of \$40,000 for this project for a local hero.

Yours,


Kelly Jansen

Tom Weaver, QuarterMaster Georgetown-Ellendale VFW Post 2931

cc: Community Engagement Director SCHFH 302-855-9262



Bayhealth

The Auxiliary of Milford Memorial Hospital

P.O. Box 199, Milford, DE 19963-0199

May 2015

Councilman Sam Wilson
2 The Circle
P.O.Box 297
Georgetown, Delaware 19947

Dear Councilman Wilson,

The Auxiliary of the Milford Memorial Hospital is committed to raising \$750,000 for the building of the proposed new health campus near Milford. We made the first payment of \$150,000 in June of 2012; and to date, we have given \$450,000 to The Foundation of Bayhealth for this project.

In order to be able to provide all that we do for the hospital and in addition, fund the pledge, we have maintained a gift shop in the hospital, held an annual community fair (57 years), sponsored a variety of events including a Black and White Ball, and an ongoing Barbecue and Auction. This year for the first time, there will be An Evening With Elvis event on May 22nd at The Rookery North.

This enormous undertaking on the part of the Auxiliary has been hampered by the loss of some of our traditional sources of income during this current year. We are asking for your help in meeting our commitment, and trust that you will recognize our efforts as well as the critical importance of our stated goal. May we count on your support of \$1000 to the Auxiliary? Our **Federal Non-Profit tax ID # is 51-0076973.**

Gratefully,



Toni Bergfelder, President of MMH Auxiliary

Councilman Sam Wilson
2 The Circle

P.O. Box 297
Georgetown, De 19947

Dear Sussex County Council,

The Milford New Century Club, operating now as the Milford Women's Club, is committed to raising funds to help Milford citizens especially in the area of education. We have given scholarships to Milford seniors and a news publication for third graders to all third grade classes among many other projects. Lately, we have been struggling to upgrade our historic building that has been The Milford New Century Club building for over a hundred years. We have received a grant from the Hurricane Sandy Relief fund to help with this.

We are asking for your help of possibly \$1000 to refocus our efforts to civic projects once again as we rededicate our building on June 12. We would love for you to attend that evening from 4-6 p.m. at our renovated building at 18 Church St. in Milford. I will send you an invitation.

Our Federal Non-profit Tax ID is 34-2061572.

Thank you for considering us.

Sincerely,



Dawn Kenton
200 Lakeview Ave, Milford, DE 19963
Milford New Century Club

MEMBER
DELAWARE VOLUNTEER FIREMEN'S ASSOCIATION
SUSSEX COUNTY VOLUNTEER FIREMEN'S ASSOCIATION
DEL-MAR-VA VOLUNTEER FIREMEN'S ASSOCIATION

MEETS
SECOND MONDAY
EVERY MONTH

Greenwood Volunteer Fire Company No. 1, Incorporated

**P.O. Box 1
12611 Sussex Highway
Greenwood, Delaware 19950
302-349 -4529
Fax 302-349-9810**

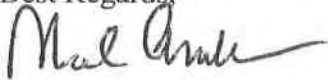
05/11/15

Dear Councilman Wilson,

As you aware, we are having our Truck Housing Ceremony at the Greenwood Firehouse on June 20th. This event will be open to the public, and we have a great day planned for our community. I am asking if you would consider making a financial donation towards this event.

As always, we appreciate your continued support of the Delaware Fire Service.

Best Regards,



Mark Anderson
Deputy Chief



DELAWARE HOSPICE

Since 1982

Newark Office

16 Polly Drummond Center, 2nd Flr.

Polly Drummond Shopping Center

Newark, DE 19711

302-478-5707

FAX 302-479-2586

Dover Office

911 S. DuPont Hwy.

Dover, DE 19901

302-678-4444

FAX 302-678-4451

Milford Office

Delaware Hospice Center

100 Patriots Way

Milford, DE 19963

302-856-7717

FAX 302-422-7315

Pennsylvania Office

1786 Wilmington/

West Chester Pike, #100B

Glen Mills, PA 19342

484-259-0017

FAX 302-479-2586

April 15, 2015

Dear Friend of Delaware Hospice:

On Wednesday, July 8, 2015 Delaware Hospice will hold our seventh annual **Delaware Hospice 5K Run and Family Fun Walk**. I hope you will join us at the Delaware Hospice Center in Milford for this fun event! Registration begins at 5:30 p.m., and race time is at 6:30 p.m. Afterwards, join us for a post-race barbeque, awards and door prizes!

Share in the excitement of being part of a united effort to support Delaware Hospice, the only non-profit hospice in the state. Pull together a team, run or walk in memory of a loved one, gather pledges, or donations in their honor. Funds raised from this event allow us to continue offering our unique programs like New Hope, our children's bereavement program and provide expert care to patients and their families regardless of their ability to pay.

Please join us by sponsoring, running or walking in this exciting event. Everyone who pre-registers will receive a t-shirt. I have enclosed an entry form that can be faxed or mailed back, or you may go to www.delawarehospice.org to sign up online.

Thank you for your support! I look forward to hearing from you soon. If you have any questions, please don't hesitate to contact me at 302-746-4666, or pdolby@delawarehospice.org.

Sincerely,

Peggy Dolby

Assistant Director of Development

Enclosures

800-838-9800

www.delawarehospice.org



The Joint Commission

Friends of the Georgetown Public Library
123 West Pine Street
Georgetown, DE 19947

April 30, 2015

Joan Deaver
19208 Plantation Rd.
Rehoboth Beach, DE 19971

Dear Joan,

The Friends of the Georgetown Public Library thank you for your past support for our annual 5K fundraising event.

This year the 5k race will be Friday, June 19, 2015 at 7:00 PM. It will begin and end at the Library! We are hoping to have over 100 participants.

Your sponsorship, with a sign on the Circle, will help to make our 12th annual 5K race/walk a big success.

The money raised will be given to the Georgetown Public Library to provide programs, buy books, other essentials and an endowment fund.

We have enclosed a sponsor's form. Please complete the form and return the form and your check by May 15, 2015 to:

Friends of the Georgetown Public Library
123 West Pine Street
Georgetown, DE 19947

Thank you again for your financial support and for your community mindedness.

Sincerely,
Friends of the Georgetown Public Library



OFFICERS

Ann Hilaman,
President

Donald Matzkin,
Vice President

H. Edward Maull, Jr.,
Corp. Secretary

Jack Leshner,
Treasurer

Suzanne Jones,
Recording Secretary

TRUSTEES

Thomas E. Brown, Ph.D.

Bernard J. Clark, M.D.

Richard Claypoole

Stan Divorski

Robert Hyberg

H. Edward Maull, Jr.

Elizabeth Owen

Wesley Perkins

Bonnie Taylor

Barbara Warnell

EXECUTIVE DIRECTOR

Michael DiPaolo

May 6, 2015

The Hon. Joan Deaver
19208 Plantation Road
Rehoboth Beach, DE 19971

Dear The Hon. Joan Deaver,

History happens every day. The Lewes Historical Society's job is to preserve the stories of the people, places and events that make Lewes special and then help others draw the connections that help them illuminate a question, resolve an inquiry, or help uncover the memory of a long-departed ancestor. This past year has seen dramatic growth in educational programming, highly visible improvements to our main campus and the Lewes Life-Saving Station as well as the addition of important Lewes artifacts and archives to our collections. We need your support to keep our critical work moving forward.

The Society is dedicated to the idea that history - and organizations like ours - ought to serve as resources and venues to inform decisions that will impact today and make a difference for the future. Without your support, we will miss extraordinary opportunities to teach and inspire future generations about the stories, people and places that have shaped their world.

I ask that you join me in sending in a tax-deductible contribution today. Every dollar you contribute helps to keep Lewes' history alive. As the Society continues to engage our community through its heritage, your support is more critical than ever. Thank you!

Sincerely,

Ann D. Hilaman
President, Board of Trustees



May 15, 2015

Ms. Joan Deaver
19208 Plantations Road
Rehoboth Beach, DE 19971

Dear Ms. Deaver,

Thanks to the generosity of our donors, Coastal Concerts took great strides during the 2014-2015 season toward fulfilling our mission to promote classical music appreciation in central Delmarva.

In addition to presenting five concerts featuring critically acclaimed musicians, we hosted more than 50 young people and accompanying adults to those performances through our Free Youth Admission; sponsored two free "Musical Perspectives" programs; awarded three scholarships to talented high school students; and arranged four educational outreach events – three for students in the Cape Henlopen and Indian River school districts, and one at a community center in Georgetown.

The upcoming season promises to be even more exciting, as we launch two new initiatives intended to make great music accessible and enjoyable for more of our neighbors throughout Sussex County.

On May 2, we presented the first Rising Artist and Venue Expansion (RAVE) concert in Georgetown. This series of free concerts will allow us to showcase up-and-coming musicians in performances targeted to underserved communities. In response to audience requests, we'll also offer a sixth concert – with reduced admission – to close out the season in April 2016. The inaugural "wild card" concert will feature the SYBARITE5, a young, classically trained ensemble recognized for creative and eclectic programs encompassing classical and popular music. It promises to be a memorable musical event.

Our five-concert subscription series offers the quality, and variety, that audiences have come to expect of Coastal Concerts, with performances by the Danish String Quartet, pianist Michael Brown, The Lincoln trio, the VIDA Guitar Quartet and Red Priest, a quartet celebrated for its interpretations of Baroque masterpieces. Both Michael Brown and the SYBARITE5 will present pre-concert lectures, and the Danes will be our special guests at an evening reception for donors on November 13. You'll find more information on our exciting 2015-2016 season, and our community and educational outreach programs, on our website, coastalconcerts.org

Even as we're making changes to better serve audiences, our need for your support remains a constant. Ticket revenues cover only a third of our costs; every dollar you contribute helps us to present superlative talent and to sustain programs that afford members of our community the opportunity to experience and appreciate fine music. I hope we can count on your support. I look forward to personally thanking you at our donor reception for making Coastal Concerts a cultural icon in Sussex County.

*We are grateful for the
County Council's past support
of Coastal Concerts and hope we
can count on you again as we
offer our services to the community.*

Sincerely,

Peter A. Harrigan
President



The Home of the Brave Foundation, Inc.
6632 Sharps Road
Milford, DE 19963
(302) 424-1681
www.homeofthebravefdn.org

Jessica Finan, Executive Director
TAX ID: 51-0338521

April 29, 2015

Councilman Sam Wilson
Sussex County Council
2 The Circle
PO Box 107
Georgetown, DE 19947

Dear Councilman Wilson,

I am writing to introduce The Home of the Brave Foundation (HOB) and its newest program to serve female veterans located in Milford, Delaware to you and the Sussex County Council.

The Home of the Brave (HOB) is a nonprofit (501c3) organization, founded in 1992 that has successfully operated a transitional living facility for homeless veterans in Milford, DE for over 21 years. The mission of the Home of the Brave is to reduce homelessness among our veterans. In addition to providing transitional housing, food and security, we assist with linking veterans to benefits, employment, counseling services, access to healthcare, transportation and locating affordable housing. It is our goal to help our veterans successfully transition into permanent housing and personal independence.

In March 2014, HOB opened a new facility designed specifically for female homeless veterans and their families. This is a first in Delaware and the need is great. While this home is physically located in Milford, HOB takes in homeless veterans across all of Delaware.

Female service members are the fastest growing population of recruits in the military. There are over 357,000 currently serving in all the branches of the armed forces, making up an impressive 16% of those on active duty. Forty percent of all women currently serving have children. Married women with children in active service are twice more likely to divorce as their male counterparts, making them single parents.

Female vets make up five percent of the nation's 76,000 homeless veterans. Conservative estimates from the VA indicate that 20% of female veterans have been diagnosed with Military Sexual Trauma. As a result, women vets have a high rate of mental illness, alcoholism, depression, and physical illness. Additionally, the VA and other programs designed to serve veterans are designed to services men, resulting in a serious gap of relevant services to this population.

Delaware has an estimated 500 homeless veterans translating into an average of 25 homeless female veterans. Adding Maryland and Virginia homeless women veterans increases the need for a dedicated women veterans' facility on the peninsula.

Until HOB opened this program, there were no specific programs in Delaware, or the entire Delmarva Peninsula, providing targeted assistance regarding housing and counseling for homeless women veterans and their children.

Previously, women veterans would have to access VA services through the Perry Point and Wilmington Medical Centers, Community Based Outpatient Clinics (CBOC), Vet Centers and the network of service officers. These organizations attempt to provide the services needed through a patchwork of existing local sources, but it was simply not enough to support these women and their children.

Homeless female veterans are housed in community-based programs that are not veteran specific and are not familiar with the needs of veterans. Often when there is no space available in homeless facilities, they are housed for short periods in low-income

motels. Their veteran specific needs frequently go unaddressed due to lack of knowledge of general purpose homeless providers. If the veteran has dependent children, this adds to the complexity of accessing services as a family since the Department of Veterans Affairs treats only veterans.

The Home of the Brave Foundation understands the specific challenges facing veterans and helps them transition to permanent homes. Realizing the need in the community, and building on the success of their male veterans program, the Board of HOB has created a program and established a facility especially for female veterans called the "Women Warriors Reintegration Program."

This facility, also located in rural Milford Delaware, is an eight bed home that serves individuals women veterans as and those with children. In addition to providing shelter for the women and their children (if needed), HOB will also provide services that will allow the women to make the transition to a permanent home. These services include:

- Medical and mental health services as a VA outpatient
- Recovery setting
- Case management
- Job development
- Educational opportunities
- Personal Budget development
- Assistance with VA benefits
- Transportation for health care and employment interviews
- Linkages to community resources & involvement
- Discharge planning

Additionally, the veterans' children will be supported by services too. These services include:

- Child care
- Health care with emphasis on age appropriate wellness visits and immunizations
- Linkages to local schools and community programs
- Transportation for education and health care

Currently, HOB has received enough funding from foundations, corporations and private donors to operate the Women Warrior Program for the first year and a half. The budget to run the facility, including program staffing and general operating support for all programs is a reasonable \$150,000 yearly. We are seeking additional funding to be able to continue the program's operations beyond its first year and a half. To date, this program has served over 29 female veterans and their children.

We would like to request funding from the Sussex County Council in the amount of \$1,000 to assist with purchase of food items for the women veterans and their children. If you have any questions, or require further information, please do not hesitate to contact me at 302-424-1681 or jfinan@homeofthebravefdn.org.

Thank you in advance for your time and consideration.

Sincerely,



Jessica Finan
Executive Director
The Home of the Brave Foundation



MILFORD MUSEUM

City of Milford Commission of Museums and Landmarks
121 South Walnut Street, Milford, Delaware 19963

(302) 424-1080 ▪ www.milfordDEmuseum.org ▪ Info@milfordDEmuseum.org

Charles Hammond
Chairman

David Kenton
Vice-Chair

Don Abrutyn
Treasurer

Claudia Leister
Executive Director

Commissioners
William Brereton
Russell French
Harry Humes
Al Lauckner
Joan Lofland
Yvonne Lynch
Marvin Schelhouse
Robert Voshell
Mike Wheedleton

April 30, 2015

Honorable Samuel R. Wilson, Jr.
Sussex County Councilman
Administrative Office Bldg.
P.O. Box 589
Georgetown, DE 19947

Dear Sam,

The Commissioners of the Milford Museum would like to request that the Sussex County Council consider making a donation of \$1,000 towards our 2015 Fund Raising Campaign. The monies raised from this Campaign will go towards the salary of our Executive Director, and will enable us to keep her employed for the next three years.

We are pleased to announce increased visitation to the Museum from the general public, and for special events and changing exhibits. It is only through the efforts of our Executive Director that we are able to continue this progress. We are happy to share Milford's history with our visitors and raise the visibility of the Museum in our community. Again, we want to thank you for your continued support of the Milford Museum.

Very Sincerely,

Charles Hammond

Charles Hammond
President - Board of Commissioners

To Be Introduced 6/02/15

Council District No. 3 - Deaver
Tax Map I.D. No. 235-30.00-56.00
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 B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.53 ACRES, MORE OR LESS

WHEREAS, on the 10th day of April 2015, a zoning application, denominated Change of Zone No. 1777 was filed on behalf of Michael Makowski; 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. 1777 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 of B-1 Neighborhood Business District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying south of Route 9 (Seashore Highway) 0.3 mile west of Road 262 (Fisher Road) and being more particularly described as follows:

BEGINNING at a concrete monument on the southerly right-of-way of Route 9 (Seashore Highway), a corner for these lands and lands, now or formerly, of Phillip Cross and Prentice Watkins; thence south 13°23'34" east 724.29 feet along said Cross and Watkins lands to a concrete monument on line with D. M. & V. Railroad; thence south 87°48'12" west 151.68 feet along D. M. & V. Railroad to a concrete monument on line with lands, now or formerly, of Cheryl A. and Donald E. Cox; thence north 13°22'58" west 744.82 feet with said Cox lands to a concrete monument on the southerly right-of-way of Route 9; thence north 75°35'02" east 149.78 feet along the southerly right-of-way of Route 9 to the point and place of beginning. Said parcel containing 2.53 acres, more or less.

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

TO BE INTRODUCED

Introduced 06/02/15

**Council District No. 2 – Wilson
Tax Map I.D. No. 330-11.17-18.00 and 330-15.05-6.00
911 Address: None Available**

ORDINANCE NO. _____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MINI-STORAGE UNITS, AND BOAT AND RV STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 8.93 ACRES, MORE OR LESS

WHEREAS, on the 24th day of March 2015, a conditional use application, denominated Conditional Use No. 2020 was filed on behalf of Charles Auman; 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. 2020 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 IV, Section 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2020 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

All that certain tract, piece or parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, Delaware, and lying west of Marshall Street Extended (Road 225) and south of Swain's Private Road 570 feet west of Marshall Street Extended and being more particularly described as:

BEGINNING at a point on the westerly right-of-way of Marshall Street Extended (Road 225), a corner for these subject lands and lands, now or formerly, of Charles E. Harding; thence south 75°04'25" west 161.56 feet and south 83°31'26" west 556.27 feet along said Harding lands to a point; thence north 00°50'46" east 736.76 feet and north

03°32'28" west 216.71 feet along lands, now or formerly, of Sussex Materials, LLC to a point; thence north 84°42'03" east 106.31 feet along Swain's Private Road to a point; thence south 03°26'36" east 366.74, feet north 86°33'24" east 237.85 feet, and north 03°26'36" west 141.06 feet along lands, now or formerly, of Mark J. Donovan to a point; thence north 88°18'45" east 161.20 feet along lands, now or formerly, of Thomas A. and B. Lyn Jester to a point; thence south 02°03'11" east 70.00 feet along lands, now or formerly, of Brett C. Warren to a point; thence south 03°02'50" east 278.95 feet along lands, now or formerly, of Margaret W. Swain to a point; thence south 03°12'56" east 140.69 feet along lands, now or formerly, of Bryan O. Attix to a point; thence south 03°01'08" east 69.88 feet and north 78°01'35" east 161.39 feet along lands, now or formerly, of Jay Donovan to a point on the westerly right-of-way of Marshall Street Extended; and thence south 11°43'24" east 127.26 feet along the westerly right-of-way of Marshall Street Extended to the point and place of beginning, and containing 8.93 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.

PUBLIC HEARING

June 2, 2015

This is to certify that on April 23, 2015 the Sussex County Planning and Zoning Commission conducted a public hearing on the below listed application for Change in Zoning. 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.

Change of Zone #1770 TD Rehoboth, LLC

Application of **TD REHOBOTH, LLC** to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a CR-1 Commercial Residential District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 114.4821 acres, more or less, land lying on the northeast side of Route One (Coastal Highway) across from Route 88 (Cave Neck Road) (911 Address: None Available) (Tax Map I.D. #235-23.00-1.00).

Mr. Abbott advised the Commission that this application was filed on December 22, 2014; that the Applicants submitted an Exhibit Booklet on April 10, 2015 which contains Applicant Information, Overbrook Town Center Concept Plan, a wetlands letter from Environmental Resources, Inc., an Economic Impact Summary, a DelDOT letter dated August 21, 2001 regarding CZ #1461 Paynter's Purchase, Minutes of Sussex County Planning and Zoning Commission hearing on CZ #1461 Ocean Atlantic Association V, LLC (Paynter's Purchase), March 21, 2002, Investment Area Maps for Strategies for State Policies and Spending, Sussex County Comprehensive Plan Pages 2-2, 3-7, 3-8, 3-9, 3-15, 3-16 and Future Land Use Map, Sussex County Zoning Ordinance Section 115-83.1 and 115-83.3, Sussex County Subdivision Ordinance Section 99-5, Planning and Zoning Commission's Recommendation on CZ #1690 L.T. Associates, October 14, 2009, a Market Need Analysis Summary, and Artesian Resources ability to provide wastewater service dated March 24, 2015; that on April 13, 2015 the Applicants submitted a Soil Reconnaissance Report for Stormwater Management, a Stormwater

Report and Stormwater Assessment Study and an Environmental Assessment and Public Facility Evaluation Report.

Mr. Abbott provided the Commission copies of letters received from DelDOT on September 9, 2014 in reference to the Traffic Impact Study and on August 8, 2014 in reference to a Traffic Signal Justification and advised the Commission that the letters have been in the file and are a part of the record for this application.

Mr. Abbott provided the Commission a copy of the PLUS comments and the applicant's response to the comments and advised the Commission that they are a part of the record for this application.

Mr. Abbott advised the Commission that Delaware Electric Co-Op provided a willing and able to serve letter dated March 24, 2015.

Mr. Abbott advised the Commission that the office has received 6 letters in support, 454 letters in opposition with some of those letters being duplicates in opposition, a petition with 21 signatures opposed and a petition with 167 signatures opposed to the application.

The Commission found that the Sussex Conservation District provided comments in the form of a memorandum on April 15, 2015 referencing that the site contains for (4) soil types; that the Applicants will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation after completion of any construction that no storm flood hazard area is affected; that it would be highly likely that the project will necessitate off-site drainage improvements and on-site drainage improvements; and that no tax ditch is affected.

James Fuqua, Attorney, Lou Di Bitonto, Developer, Steve Gorski, P.E. with Duffield Associates, and Wes Guekert, Traffic Engineer were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that they have submitted an Exhibit Booklet; that this is an application to rezone a 114.48 acre parcel from AR-1 to CR-1; that the intended use of the property is for an 850,000 square foot shopping center; that the project would be known as the Overbrook Town Center; that this would be a shopping center with individual access to each store and not a mall or outlet stores; that the developer is proposing national anchor stores and pad sites for restaurants; that the design of the project is in concept form only; that this is an application to address whether the site should be rezoned and is not to discuss a specific site plan at this time; that if the property is rezoned, site plan approval will be required which will address uses, setbacks, parking and buffers; that 6 pad sites from 1 to 3 acres are proposed; that if approved, the project would be built in three phases; that the application is not a popularity contest; that the Commission needs to determine whether the site is appropriate for CR-1 zoning; that the developers have to follow the Comprehensive Land Use Plan and Zoning Ordinance; that the site is located on the northeast side of Route One across from Cave Neck Road approximately 1.5 mile north of the Nassau Bridge; that the applicants have a contract to purchase the site from the Chappel family who has owned the property since the 1950's; that the site has been used for agriculture in the past; that there is approximately 1,800 feet of road frontage on a major arterial roadway; that the site borders agricultural lands;

that the area is a mixture of farmland, residential and commercial uses; that there are other C-1 zoned lands in the immediate vicinity; that there is a commercial shopping center to the south of the site; that the site contains approximately 6 acres of woodlands to the rear; that a wetland delineation has been performed and there are no wetlands on the site per a letter which is Exhibit C in the Exhibit Booklet; that there are no known historic sites, rare or endanger species or plants on the site; that Delaware Electric Cooperative provided a letter indicating that they are willing and able to provide electricity to the site; that Artesian Resources will provide central sewer to the site; that the site is located with the Delaware State Police Troop 7 jurisdiction area; that on site security will also be provided; that the site is located with the Lewes Fire Department fire protection area; that the developers will be required to follow DelDOT's Corridor Capacity Preservation Program; that improvements will be required; that an interchange is anticipated; that DelDOT called for an interchange in a letter from 2001 when the Paynter's Purchase project was going through the rezoning process; that the developers are willing to pay \$8,000,000.00 for the proposed interchange; that DelDOT has no objections to the interchange; that the interchange will be constructed whether the project is approved or not; that the rezoning has to comply with the State Strategies for Spending, the Comprehensive Land Use Plan, the Zoning Ordinance and the Subdivision Ordinance; that the State Strategies for Spending was developed in 1999 and has been updated periodically; that according to the State's Level Investment Map, the site is located in a Level 3 as depicted in Exhibit G of the Exhibit Booklet; that the State supports growth in Levels 1, 2 and 3; that the applicants went through the PLUS process and the State acknowledged that the site is in a Level 3 and supports this application; that areas to the south of this site are in Investment Level 1; that according to the 2008 Comprehensive Land Use Plan Update, the site is located in an Environmentally Sensitive Developing Area which permits growth; that the land use plan encourages economic growth; that the zoning regulations are intended to carry out the future land use plan; that the land use plan designates which areas are to be considered growth areas; that this application encourages tourism and commercial and industrial job providers to locate and invest in the County' that planning areas provide the logic and rationale for the County's zoning, which is one of the primary purposes of a comprehensive plan; that this plan seeks to direct the County's most concentrated forms of new development to Growth areas, including most higher density residential development and most business development; that this site is located in the northern most portion of the Environmentally Sensitive Developing Area; that the parcel to the north of this site is not in a growth area; that the Environmentally Sensitive Developing Area are areas that can accommodate development provided special environmental concerns are addressed; that retail and office uses are appropriate but larger shopping centers and office parks should be confined the selected locations with access to arterial roads; that Route One is a major arterial roadway as defined in the Subdivision Ordinance; that the project will be served by central sewer and water; that this application complies with the Comprehensive Land Use Plan; that the project will be constructed following the 2014 stormwater management regulations; that the application conforms to the Conservation Element of the Comprehensive Plan; that buffers will be provided; that there are not any wetlands on the site; that the application conforms to the Water and Sewer Element of the Comprehensive Plan; that this application will conform to economic growth and provide tourism; that there are no sales tax in Delaware; that if approved, the project will create \$100,000,000.00

in taxes, jobs, etc.; that approximately 400 construction jobs would be created; that there would be 1,500 jobs when the project becomes operational; that jobs would be held by the unemployed, retirees, new workers and second jobs; that the State Economic Development Office supports the application; that the project has gone through intergovernmental coordination; that the project will not have any negative impacts on the towns of Lewes and Milton; that with respect to the Mobility Element of the Comprehensive Plan, the site is located in a Corridor Preservation Program; that the site can be accessed by public transportation; that a variety of travel means will be provided; that the purpose of the CR-1 zoning district is to provide sufficient space in appropriate locations for a wide variety of commercial service activities serving a wide area and located along certain existing major thoroughfares where a general mixture of commercial and service activity now exists; that large scale uses are permitted in the CR-1 zoning district; that these uses exceed 75,000 square feet; that these uses must be located next to a major arterial roadways; that Route One is a major arterial road; that road improvements will be required; that the project will be served by central sewer and water; that Route One is a major arterial roadway from the Kent County line to Maryland; that the Commission recommended denial of Change of Zone #1690 from AR-1 to CR-1; that that application did not serve a large area; that Route One is more appropriate for large scale uses than Route 9; that this site will serve a wide range of people; that a traffic impact study was performed and reviewed and approved by DelDOT; that the site is currently served by a driveway; that the site slopes to the east; that a Stormwater Assessment Study was performed and submitted into the record; that the site is not impacted by wetlands, tax ditches or the 100 year flood; that there is a subaqueous ditch to the east of this site; that the site is in an excellent groundwater recharge area; that stormwater will utilize bio-retention areas; that several wet ponds will be sized accordingly; that the project will be constructed under the 2014 stormwater regulations and the developers will not be seeking any variances; that the site is located in a Source Water Protection Area; that there will not be any negative impacts to the Great Marsh; that a traffic impact study was performed in May of 2014; that the scope of work was established in 2013; that access to the site will be limited by the Corridor Capacity Preservation Program; that a grade separation interchange will be required to be constructed; that the applicants will contribute to the interchange; that a temporary traffic signal will be permitted until the grade change is completed; that the applicants will follow all of DelDOT's rules and regulations; that certain impacts will be required to be mitigated; that this application complies with the State's Policy for Spending, the Comprehensive Plan and Map, the Zoning Code and the Subdivision Code; that the applicants have addressed the Commission and Council's concerns regarding CZ #1690; that this site is suitable for CR-1 zoning and submitted proposed findings of fact which state:

1. This is an application to amend the Sussex County Zoning Map from AR-1 to CR-1 for a 114.48 acre parcel of land located on the Northeast side of Delaware Route 1 across Route 1 from the intersection of Route 1 and Cave Neck Road (SR-88).
2. Under the Sussex County Comprehensive Land Use Plan, the parcel is located in the Environmentally Sensitive Developing Area (ESDA). The ESDA is one of the designated "growth areas" created by the plan (Comp. Plan p. 3-8). The plan recognizes under the permitted uses section, that retail and office uses are appropriate in the ESDA but larger

shopping centers should be confined to selected locations with access to arterial roads, and central water and sewer facilities are strongly encouraged (Comp Plan p. 3-16). The Applicant's parcel is located in the ESDA growth area, adjacent to Route 1, a major arterial road and will be served by central water and sewer facilities. Based on substantial evidence in the record the Applicant's proposal is in conformity with the Comprehensive Plan.

3. The purpose of the CR-1 Zoning District (Zoning Ord. Sec. 115-83.1) is to provide sufficient space in appropriate locations for a wide variety of commercial and miscellaneous service activities serving a wide area and located particularly along certain existing major thoroughfares where a general mixture of commercial and service activity now exists, but which uses are not characterized by extensive warehousing, frequent heavy trucking activity, open storage of materials or the nuisance factors of dust, odor and noise associated with manufacturing. Based on substantial evidence in the record the Applicant's proposal is in conformity with the purpose to the CR-1 Zoning District.
4. The CR-1 Zoning District provides that "large scale" commercial uses generally serving a regional area are limited as to their location (Zoning Ord. 115-83.3). Such uses must be adjacent to a major arterial roadway, as defined in Sec 99-5 of the Subdivision Ordinance and be located where adequate infrastructure is existing or planned. Based on substantial evidence in the record the Applicant's proposal is in conformity with the requirements of the Large Scale Use Section.
5. The Sussex County Subdivision Ordinance defines "major arterial roadways" (Sec.99-S, Subdivision Ordinance). In Eastern Sussex County, the only identified major arterial roadways are A) Delaware Route 1 from the Kent County Line to the Maryland Line, B) US Route 9 from its intersection with US Route 13 to Delaware Route 1 and C) US Route 9 from Delaware Route 1 to the Lewes Town limits. Based on substantial evidence in the record the Applicant's parcel is located adjacent to and with access to Delaware Route 1 and is in accordance with the requirement of the Large Scale Use Section as to location to a major arterial road.
6. The proposed location is appropriate for CR-1 Zoning and large scale use as compared to other locations on major arterial roads in Eastern Sussex County. Route 9 west of Route 1 is a two lane road which would be inadequate for traffic, Route 9 east of Route 1 to the Lewes Town limit has been found inappropriate for the proposed use in a prior rezoning request due to the nature of the area and the location in that area of the Cape Henlopen High School, Route 1 south of the Five Point intersection is highly developed or environmentally restricted providing no adequate location for the proposed use, and Route 1 north of the proposed site is designated by the Comprehensive Plan Future Land Use Map as being either a rural area or protected lands where the proposed use would not be permitted. As a result the area adjacent to Route 1, from the Five Points intersection to just north of the proposed site, being in a designated growth area under the Comprehensive Plan, is the only location in Eastern Sussex County where the proposed use would be appropriate and the Applicant's parcel is located within that area.

7. The parcel will be served by central water for domestic use and fire protection by Tidewater Utilities, Inc.
8. The parcel will be served by central sewer facilities.
9. The parcel is located adjacent to an existing major road (Route 1) where a general mixture of commercial and service activities currently exists including auto repair, a self-storage facility, a farm market, a real estate office, a daycare facility, a guidance service facility, an antique store, a tire and bike business, a piano and keyboard store, a medical equipment store, a mortgage company office and a medical clinic. In addition, a significant number of properties in the area are zoned Commercial (C-1) or Business (B-1) along both sides of Route 1.
10. The parcel is appropriate for CR-1 Zoning since it is located in an Investment Level 3 area as designated by the State of Delaware, Strategies for State Policies and Spending, where growth is anticipated by local, county and state plans in the longer term future. Additionally, the entire west side of Route 1 and a significant portion of the east side of Route 1 from Five Points to the Route 1 – Cave Neck Road Intersection is designated as Investment Level 1.
11. DelDOT reviewed the Traffic Impact Study prepared by The Traffic Group, Inc. and DelDOT's Corridor Capacity Preservation Program Manager had no objection to the proposed development provided the Applicant enter into agreements with DelDOT prior to entrance plan approval for the construction of intersection and roadway improvements as set forth in DelDOT's letter dated September 9, 2014 to the Traffic Group, Inc.
12. The proposed CR-1 Zoning will permit a use which will have a beneficial economic impact on Sussex County through the creation of significant employment opportunities both during construction of the facility and operation of the shopping center, as well as secondary economic impact.
13. The parcel is predominately cleared and was historically in agriculture use. The site contains no State or Federal wetlands and will be required to comply with the current DNREC Stormwater Management Regulations which became effective on January 1, 2014 resulting in no adverse environmental impact. The proposed CR-1 and proposed use does not adversely impact any historical sites or threatened or endangered species.
14. The proposed CR-1 Zoning classification is in accordance with the purposes and requirements of the Sussex County Zoning Ordinance, the Sussex County Comprehensive Land Use Plan and 9 Del.Code Sec.6904 in that it promotes the health, safety, morale, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County by providing among other benefits, retail and service business at an appropriate location consistent with the direction of the Sussex County Comprehensive Plan and State Strategies Policy, a significant employment opportunities in both the construction and operation of the business, substantial economic benefit as a result of County Government revenue, salaries to employees and the secondary impact on

the Sussex County economy, utilization of water and sewer service from regulated public utility companies, contribution of Eight Million dollars to the redesign of the Route 1/Cave Neck Road intersection which was planned by DelDOT to preserve corridor capacity, promoting the use of public transit to access the site, environmentally appropriate site design to address storm water management and ground water recharge, protection of the tax base through real estate and transfer tax revenue and job creation, reduction in government expenditure through the contribution of Eight Million dollars toward road improvements, creation of business that provides shopping opportunities that may not currently exist, protection of non-urban areas by location in a designated “Growth Area” under the Comprehensive Plan and establishing a large scale shopping center is an appropriate location accessible to local residents, county residents, summer residents and visitors and travelers passing through the area.

15. Any future use of the property shall be subject to site plan review by the Sussex County Planning and Zoning Commission and compliance with all applicable State and County laws, regulations and requirements.

The Commission found that William Brockenbrough of DelDOT was present and advised the Commission that he does not have any prepared comments; that DelDOT is working with the applicants on the required improvements; that there is not a definite timeline for the grade separation; that the developers have agreed to pay an \$8,000,000.00 fee towards the cost of the grade separation; and that DelDOT would prefer to see the applicants start to build the grade separation and that DelDOT would finish the improvements.

The Commission found that no parties appeared in support of this application.

The Commission found that Rich Holtkamp, Ross Kruglak, Gary Norris; AICP, Mike Irise, Bob Billmyre, Kenny Hopkins, Mabel Granke, Michael Tyler, Richard Moore, John Gallis, John Vincent, Karen Rudo, James Welu, Leslie Vincent, Richard Pallack, Kay Rudo, Mark Rudo, John Mateyko, Joseph Incalcaterra, and Jeff Stone were present in opposition to this application and stated in their presentations that they have a short power point presentation and submitted the power point presentation in the form of a booklet into the record; that the project will cause negative impacts if it is built as planned; that the project will have negative effects on surrounding property values; that the proposed plan is only in concept and that they could build whatever is permitted in the CR-1 zoning; that an overpass is needed due to all of the traffic fatalities at the Route 1 and Cave Neck Road intersection; that an overpass is better than a traffic signal; that the proximity of Route One will not reduce traffic congestion; that the opposition has formed a coalition that represents over 30 communities; that the coalition was formed in January 2015; that they have developed a website that is constantly updated regularly; that they have concerns about what could be built if the rezoning is approved; that a majority of the residents in the area are new to the Cape area; that the purpose of the coalition is to inform, educate, enroll and engage the public in this matter; that an 850,000 square foot regional shopping center does not fit with the present character of the area; that there is not a need for more retail to serve the commercial needs of Eastern Sussex County residents; questioned if the proposed shopping center is consistent with or in conflict with the Comprehensive Plan; questioned how public

safety will be impacted, i.e., traffic congestion, accidents, crime, emergency response times; questioned how the fresh water aquifers, recharge, storm water runoff, wetlands and the coastal ecosystem will be impacted; questioned what is the future tax burden on Sussex County property owners; that the area contains Paynter's Mill, Red Fox Run developments, the Great Marsh; that the project is being billed as a Town Center but the closest town is five miles away; questioned if the developer has provided the County with an analysis, i.e., total population by number of businesses, questioned if the developer has provided an analysis of retailer goods and services currently available in the marketplace; that without proper analysis, the County runs the risk of repeating what has happened throughout the state with examples like the Vineyards on Route 9 and The Blue Hen Mall in Dover or the River Front in Wilmington; that 15% of current malls will fail or be converted to non-retail space within the next 10 years; that two years ago, this estimate was 10%; that Goldman Sachs predicts a decline for Target and Walmart and reports that Super Stores are struggling; that the Commission has to act on what has been presented; that the project has to be a benefit to the community; that the Commission has to consider the rights and needs of the developers, property owners and the public; that the residents are not being asked what is needed or wanted; that the coalition polled area residents and only 2 said the project is good for the County; that the residents in the area are not against development but want balanced development; that the project at 850,000 square feet with over 5,000 parking spaces is greater than all of the outlet stores combined; that only 22 stores are proposed; that Whole Foods requires 200,000 people within a 20 minute drive and prefers a stand-alone facility; that the total population of Sussex County is 210,000, about 210 people per square mile; that Wegmans has no plans for opening any stores in Delaware; that Kohl's requires 87,000 square feet on 7 acres and wants to be located in a major market area; that they prefer to own the real estate, not lease; that they also require 200,000 residents in the area as well as proximity to national and regional retailers; that Target's requirements are a median age of 40, income of \$64,000, 43% of families with children at home, and 57% of residents with college degrees; that they are naming national retailers as examples; that the most recent Sussex County census report shows that the County does not meet these requirements; that according to Forbes, Target has smaller stores as priority; that they are selecting 20,000 square foot stores and opening them in urban areas; that big box stores are losing market share to Dollar Stores and they are closing more stores than they are opening; that there is a large amount of new Dollar General stores in the area; that JC Penny and Sears stores are closing; that there are currently 31 shopping centers in the County each having one or more vacancies; that the Five Point project built as a "town center" has an 18% vacancy rate; that the Rehoboth Mall has 84% vacancy' that Paynter's Mill directly across Route 1 has 50% vacancy; that 2 of those retail spaces have never been occupied since the development was constructed in 2004; that there are 159 properties currently available for lease; that the developers claim 1,500 new jobs generating \$53 million of annual compensation; that this equates to \$17.40 per hour or \$35,000 per year; that actual retail wage in the County is approximately \$8.00 per hour generating \$7,000.00 of annual compensation; that most of the current jobs are seasonal and part time; that the likely annual compensation will be \$10 million not the developer's projected \$53 million; that Delaware is last out of the 50 states in wage growth; that CR-1 uses permit manufacturing facilities, industrial warehousing self-storage facilities and car dealership; that the project does not meet the demographics for large box

retailers; that the application is not in the best interest of the County; that the area proposed to be rezoned is not an appropriate area for regional shopping; that the proposal is not consistent with the Sussex County Comprehensive Plan and the Future Land Use Map and the State Strategies for Spending; that the plan does not have capacity and services sufficient to accommodate this use without compromising the health, safety and welfare of the residents; that the proposed rezoning is a detriment to the environment; that a rezoning request is not a right; that the County needs to guard against spot zoning; that farmland, residences and small shops make up the immediate area; that the site is located in an Investment Level 3 area; that the proposed use would require extensive warehousing, frequent heavy trucking activities; that the project has more than 25 loading spaces proposed; that the project is designed as a 1950's shopping center; that the site is located within a Highway Corridor Overlay Zone and the Environmentally Sensitive Developing Area; that the Highway Corridor Overlay Zone is to preserve and enhance the aesthetic and visual character of land uses contiguous to certain roadways and to provide for orderly development in the County; that the Overlay zone also encourages a positive visual experience of development of lands along the corridors and to provide safe access and turning movements for vehicular and pedestrian traffic, especially during an emergency evacuation; that the rezoning does not conserve the County's agricultural economy and the value of farmland; that it does not protect critical natural resources; that it does not encourage tourism and other responsible job providers; that it does not ensure new developments incorporate usable open space and best design practices; that on Saturdays, 35,764 vehicles will enter and exit the regional shopping center; that there is already enough traffic on Route 1 during the summer months; that this will lead to more congestion; that a study indicated that there were 94 accidents at the Route 1 and Cave Neck intersection within the last year; that the proposed project will more than double that amount; that the development will negatively impact response time for fire, police and EMS services; that in comparison to the Dover Mall, there were 673 calls for service over the past year ranging from assaults and robbery to shoplifting, with the addition of the Overbrook Town Center, that adds another burden to the State Police and their availability; that the tax payers will have to pay for more police protection; that there is a need for properly designed ramps for the overpass; that the traffic impact study looked at 14 different intersections and found that 9 of them are operating inadequately; that the traffic impact study was conducted in 2013; that there are long traffic delays on Saturdays; that the locals avoid Route 1 on Saturdays; that the Overbrook Town Center would add 2,000 to 3,000 more vehicles per hour; that the proposed overpass has small radius turns; that overpasses are expensive; questioned who will pay for the maintenance of the overpass; that improvements will be required for Route 9 also; that they have concerns about DelDOT regulations; that the project proposes a site design that is 78% of impervious surface; that the site plan indicates that storm water management ponds and a significant amount of impervious cover will fall within the area of excellent groundwater recharge; that maintenance of water levels through clean recharge in this unconfined aquifer is critical to the coastal communities due to long term risks of saltwater intrusion in the event that head levels decline in the freshwater aquifer; that State regulated wetlands are adjacent to this property based on a review of the State wetland maps; that run-off to the Great Marsh has the potential to disrupt the balance of fresh and brackish waters that supports the plants and wildlife in this area; that it is the health of the environment that

contributes to the stability of the marsh that reduces erosion and protects the shoreline; that if the project is approved, this would be the largest and costliest project in the history of the County; that approval will require public service increases; that the project will be a burden and on the area residents and taxpayers; that public funding will be required; that there is a large number of letters that have been received in opposition to this application to date; that the area is a farming community; that the County should preserve farmland; that there will be a loss of wildlife habitat; that there will be negative impacts to the towns of Milton, Lewes and Rehoboth Beach; that there is enough commercial areas from the intersection of Five Points to Dewey Beach; that there will be negative impacts to the Great Marsh; that the County should consider the cumulative economic impact on the County; that if the project is approved, it will only create minimum wage jobs; that the developers should build this back in Maryland; that approval of this application will change the character of the County; that there are already commercial area in the vicinity and questioned the need of this project; that the application does not promote the safety, health and welfare of the County; that no one uses shopping malls anymore; that this site is located within the Coastal Zone; that sea level rise are major concerns; that the project will impact the City of Lewes since there are only three ways into Lewes; that there is already grid lock on Route 1 during summer months; that Route 1 is an evacuation route; that the best interests of the community needs to be considered; that there will be year round congestion if the project is approved; questioned what the true cost of the interchange will be; that the project will have negative effects on resident's quality of life; that Route 1 already contains over 7 miles of commercial uses; questioned the amount of storm water run-off; that there will be a loss of riparian buffers; that a water analysis has not been performed; that it is hard for farm vehicles to traverse Route 1 already, and that this approval will only increase the problem that farmers have; that the County needs to follow the Comprehensive Plan and Zoning Ordinance; that the County Land Use Plan is ready for the required update; that this area needs more protection; that the traffic impact study area should be expanded; that traffic will increase in the Town of Milton; that people are trying to get out of retail jobs now; that sewer lines will need to be run and constructed which will impact existing residences; that the project could lead to a sales tax; that there are still other open, undeveloped areas in Sussex County; expressed safety concerns for bicyclists in the area; that the project does not support orderly growth of the County; that the City of Lewes cannot handle any more capacity; that there is no guarantee that the project will be built if the rezoning is approved; that the rezoning does not meet the goals of the Comprehensive Land Use Plan and questioned what is the County's vision for this area.

The Commission found that Mr. Brockenbrough advised the Commission that the roads will be required to be built to DelDOT specifications; that Cave Neck Road will be extended into the shopping center site; that the grade change design is under discussion; that the developers have submitted 3 different options to DelDOT; that the final design is far from being decided; that DelDOT has a concept that will work; that DelDOT needs to answer when funding can be matched; that DelDOT cannot deny reasonable access to the site; and that the developers are limited to an amount to spend until a decision is made.

The Commission found by a show of hands that no one was present in support of this application and that there were 58 people present in opposition.

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

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

Introduced 1/27/15

**Council District No. 3 - Deaver
Tax Map I.D. No. 235-23.00-1.00
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 CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 114.4821 ACRES, MORE OR LESS

WHEREAS, on the 22nd day of December 2014, a zoning application, denominated Change of Zone No. 1770 was filed on behalf of TD Rehoboth, 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. 1770 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 CR-1 Commercial Residential District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

All that certain tract, piece or parcel of land lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying on the northeast side of Route One (Coastal Highway) across from Route 88 (Cave Neck Road) and being more particularly described per the attached legal description provided by Frederick Ward Associates, said parcel containing 114.4821 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.



Change of Zone Application #1770

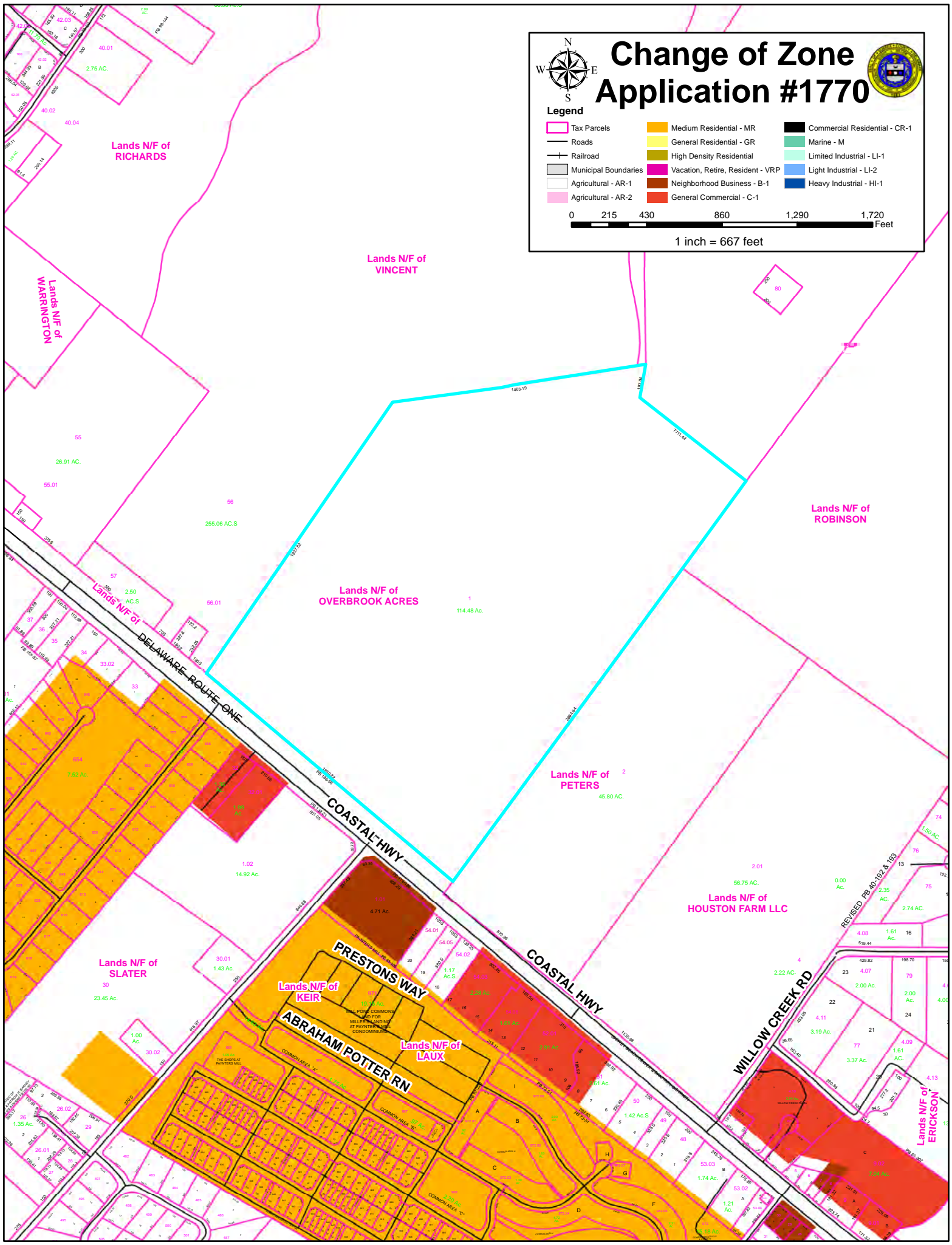


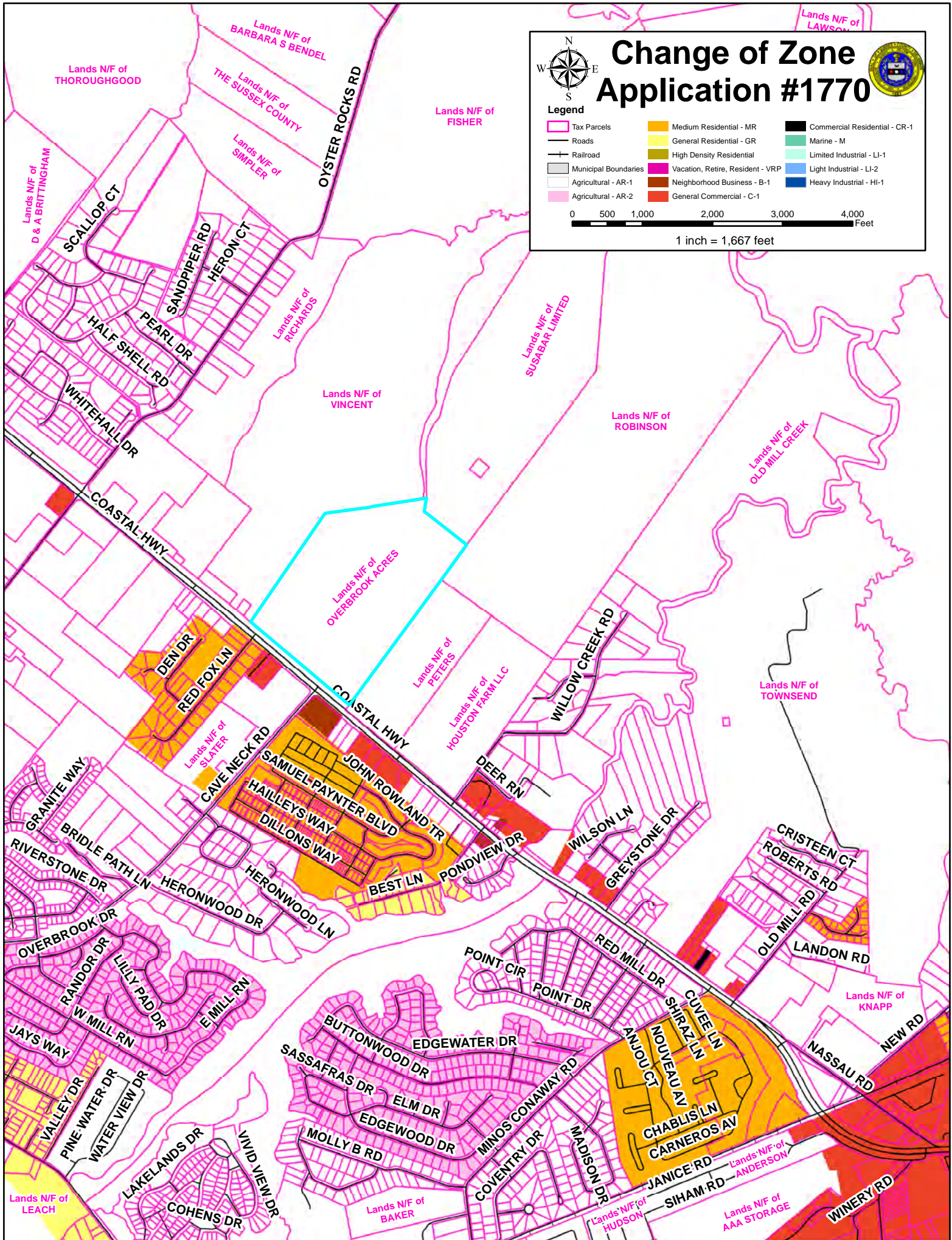
Legend

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

0 215 430 860 1,290 1,720 Feet

1 inch = 667 feet







Change of Zone Application #1770

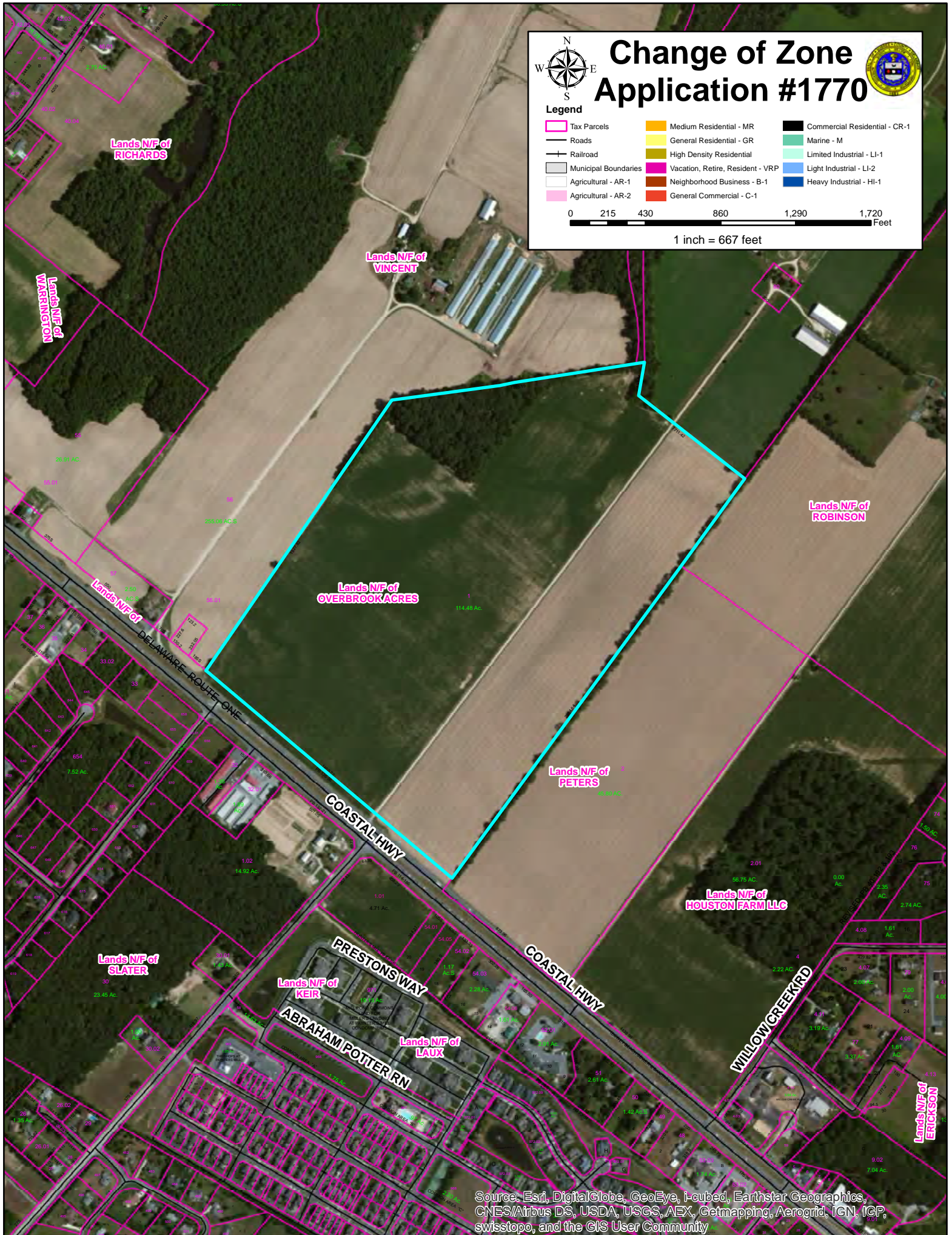


Legend

- | | | |
|----------------------|----------------------------------|-------------------------------|
| Tax Parcels | Medium Residential - MR | Commercial Residential - CR-1 |
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| Agricultural - AR-1 | Neighborhood Business - B-1 | Heavy Industrial - HI-1 |
| Agricultural - AR-2 | General Commercial - C-1 | |

0 215 430 860 1,290 1,720 Feet

1 inch = 667 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