



# **Sussex County Council Public/Media Packet**

**MEETING:  
April 12, 2016**

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SAMUEL R. WILSON JR., VICE PRESIDENT  
ROBERT B. ARLETT  
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JOAN R. DEEVER



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# Sussex County Council

## AGENDA

APRIL 12, 2016

10:00 A.M.

### Call to Order

### Approval of Agenda

### Approval of Minutes

### Reading of Correspondence

### Public Comments

### Todd Lawson, County Administrator

1. Wastewater Agreement No. 516-6  
Sussex County Project No. 81-04  
The Landings at Pepper Creek (a/k/a The Marina at Pepper's Creek)  
Dagsboro/Frankford Sanitary Sewer District
2. Administrator's Report

### Hans Medlarz, County Engineer

1. Henlopen Acres Pumping Stations Electrical Cable Replacement  
Sussex County Project No. 14-12  
A. Recommendation to Award Bid

### Old Business

Change of Zone No. 1770  
TD Rehoboth, LLC

Conditional Use No. 2039  
Performance Injection Equipment Co., LLC



**10:15 a.m. Public Hearing**

**Z&Z Real Properties, LLC – Annexation to the Long Neck Sanitary Sewer District**

**10:30 a.m. Public Hearings**

**Conditional Use No. 2040 filed on behalf of Sposato Imports**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EXPANSION OF CONDITIONAL USE NO. 1474 (LANDSCAPING BUSINESS) TO UTILIZE A WAREHOUSE FOR THE STORAGE OF WINE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 10.109 ACRES, MORE OR LESS” [located east of Hudson Road (Road 258) and 1,720 feet south of Eagles Crest Road (Route 264)] (Tax I.D. No. 235-22.00-21.01) (911 Address: 16181 Hudson Road, Milton)**

**Conditional Use No. 2041 filed on behalf of Scott Randall Witzke**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RETAIL AUTO SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 10.0 ACRES, MORE OR LESS” [located north of Delmar Road (Route 54) 0.5 mile west of Horsey Church Road (Road 510)] (Tax I.D. No. 532-19.00-7.00) (911 Address: 8137 Delmar Road, Delmar)**

**Grant Request**

- 1. Delaware Devil Dogs Detachment 780 for 4th Annual Golf Tournament Fundraiser**

**Introduction of Proposed Zoning Ordinances**

**Council Members’ Comments**

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

**Possible Action on Executive Session Items**

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

**Change of Zone No. 1790 filed on behalf of Carillon Square Apartments, LLC**

**“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.66 ACRES, MORE OR LESS” [located 520 feet west of John J. Williams Highway (Route 24) and 1,200 feet south of Indian Mission Road (Route 5)]. [Tax Map I.D. No. 234-23.00-269.13 (Part of) and 269.15 (Part of)] (911 Address: None Available).**

**Change of Zone No. 1791 filed on behalf of Carillon Square Apartments, LLC**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT TO A HR-1 HIGH DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 17.19 ACRES, MORE OR LESS” [located southwest of Indian Mission Road (Route 5) and 500 feet west of John J. Williams Highway (Route 24)] [Tax Map I.D. No. 234-23.00-260.00 & 269.18 (Part of)] (911 Address: None Available).**

**Adjourn**

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Sussex County Council meetings can be monitored on the internet at [www.sussexcountyde.gov](http://www.sussexcountyde.gov).

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In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on April 5, 2016 at 5:00 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 – APRIL 5, 2016**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, April 5, 2016, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

**Call to Order**

Mr. Vincent called the meeting to order.

**M 154 16  
Approve  
Agenda**

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

Motion Adopted: 5 Yeas.

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

**Minutes**

The minutes of March 15, 2016, were approved by consent.

**Corre-  
spondence**

Mr. Moore stated that correspondence was received from the Seaford Community Food Closet, Delaware Technical & Community College Educational Foundation, and Nanticoke Riverfest 2016, each thanking Council for grant funding.

**Public  
Comments**

**Public Comments**

John Welsh, Jr., commented on and submitted photos of what he referred to as a ‘dumping ground’ of debris left behind by the builder/developer and contractors on Pelican Point Place within the community of Heron Bay.

Jeanette Cosgrove commented on the proposed Winding Creek Village Water District. Ms. Cosgrove stated that affidavits have been received from 51 percent of the property owners expressing no interest in the Water District, with additional affidavits expected, and requested that Council consider the affidavits and vote to cancel the Winding Creek Village Water District referendum.

- Comments**      **Dan Kramer commented on the March 15, 2016, Council minutes.**
- The Freeman Stage at Bayside**      **Patti Grimes, Executive Director of the Joshua M. Freeman Foundation, presented an update on The Freeman Stage at Bayside and the progress they have made in bringing the arts to Sussex County. As part of the Joshua M. Freeman Foundation, they partner to present memorable performances and inspire arts education for all. Ms. Grimes reported on the 2015 season and the upcoming events planned for the 2016 season, which includes 13 national recording artists, as well as plans for future expansion with a new 4,000-seat venue. Ms. Grimes stated The Freeman Stage is a vessel for presenting a myriad of arts performances throughout the summer, and they could not promote the arts without their many volunteers and funding support. Ms. Grimes thanked the Council for its past partnership and continued financial support for transportation costs for children to attend events at The Freeman Stage.**
- Proclamation/Service Recognition Day**      **The Council presented a Proclamation entitled “PROCLAIMING APRIL 5, 2016 AS NATIONAL SERVICE RECOGNITION DAY IN SUSSEX COUNTY” to Sussex County AmeriCorps members and representatives of the Governor’s Council on Community & Volunteer Services.**
- Wastewater Agreement**      **Mr. Lawson presented a Wastewater Agreement for the Council’s consideration.**
- M 155 16 Execute Wastewater Agreement/ Americana Bayside**      **A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, based upon the recommendation of the Sussex County Engineering Department for Sussex County Project No. 81-04, Agreement No. 1015-2, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and CFM Bayside, LLC, for wastewater facilities to be constructed in Americana Bayside – Village C – Phase 1C, located in the Fenwick Island Sanitary Sewer District.**
- Motion Adopted:      5 Yeas.**
- Vote by Roll Call:      Mrs. Deaver, Yea; Mr. Cole, Yea;  
                                 Mr. Arlett, Yea; Mr. Wilson, Yea;  
                                 Mr. Vincent, Yea**
- Legislative Update**      **Mr. Lawson reported that County staff continues to monitor the activities of the Delaware General Assembly and is in dialogue with Sussex County legislators relative to specific legislation as needed.**
- Mr. Lawson discussed House Substitute No. 1 for House Bill No. 200 entitled “AN ACT TO AMEND TITLES 9, 21, AND 22 OF THE DELAWARE CODE RELATING TO ACCESSIBLE PARKING SPACES.” This legislation adds provisions to Title 21 defining accessible parking spaces, incorporating federal standards for accessible parking spaces found in the Americans with Disabilities Act and applicable regulations. The Act**

**Legislative  
Update  
(continued)**

**provides additional requirements that enhance these standards and better reflect the needs of persons with disabilities in Delaware. The Act also adds provisions in Titles 9 and 22 to require county and municipal governments to adopt regulations and ordinances incorporating these requirements for accessible parking spaces.**

**Mr. Lawson stated that this Act would add significant requirements to all three counties, as well as municipalities, relating to parking space regulations, design, and enforcement, and the understanding is that this legislation will affect both existing and new construction. Senator Gerald Hocker is the only Sussex County legislator that has signed on to sponsor this legislation to date.**

**Mr. Lawson will keep Council informed as to General Assembly activity relating to this Act, as well as any other legislation affecting Sussex County.**

**Adminis-  
trator's  
Report**

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

**1. Robert A. Stuart – Appointment to DEMSOC**

**Congratulations are in order to Robert A. Stuart, Director of the Sussex County Paramedics, for his recent appointment as Chair of the Delaware Emergency Medical Services Oversight Council (DEMSOC) by Governor Jack Markell. As you know, the DEMSOC is charged with overseeing all aspects of the Delaware EMS system as an advisory council. Director Stuart served previously as Vice Chair for the past five years under Lewis Schiliro, Secretary of Safety and Homeland Security.**

**2. Appointment Process for Planning and Zoning Commission Vacancy**

**On March 24, 2016, Mr. Rodney Smith announced his retirement from the Planning and Zoning Commission, effective immediately.**

**According to the Sussex County Council Rules of Procedure, the Council member in whose district the vacancy has occurred shall submit the name and resumé of a nominee to the County Administrator within two weeks of the vacancy.**

**Subsequently, the Administrator shall forward copies of the nominee's resumé to all Council members. The Administrator shall provide interview questions, with Council's input, to the nominee for written responses. Then the Administrator will schedule the matter on a Council agenda for public session, at which point the nominee shall be in attendance for a public interview.**

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

**Planning  
and Zoning  
Commission  
Nominee**

Mr. Cole announced that he is submitting the name of Douglas B. Hudson of Dagsboro to fill the vacancy on the Planning and Zoning Commission left by Mr. Rodney Smith's retirement. Mr. Lawson distributed copies of Mr. Hudson's resumé to members of Council. Mr. Cole stated that Mr. Hudson is a very well-rounded individual, and his professional experience and background as a retired state trooper, realtor, and home repair and construction consultant will be beneficial in serving as a member of the Planning and Zoning Commission.

Mrs. Deaver noted that as a realtor, Mr. Hudson may encounter conflicts with Planning and Zoning Commission issues. Mr. Moore was asked to address conflicts of interest from a legal standpoint and provide Council a summary of definitions for discussion at a later date.

Mr. Lawson will provide interview questions, with Council's input, to Mr. Hudson for written responses, and thereafter schedule the matter on a Council agenda for public session.

**Rules**

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

**Public  
Hearing/  
CZ 1795**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR THE PURPOSE OF CORRECTING THE NUMBER OF UNITS FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 385.00 ACRES, MORE OR LESS" (Change of Zone No. 1795) filed on behalf of Bay Forest Club, LLC c/o Natelli Communities, Inc. (Tax Map I.D. No. 134-8.00-15.02 and numerous other parcels) (911 Address: None Available).

The Planning and Zoning Commission held a Public Hearing on this application on February 25, 2016, at which time action was deferred. On March 10, 2016, the Commission recommended that the application be approved.

(See the minutes of the Planning and Zoning Commission dated February 25 and March 10, 2016.)

Lawrence Lank, Director of Planning and Zoning, reported on the Planning and Zoning Commission's public hearing and recommendation of approval.

Mr. Lank stated the intent of the application is to improve the design and layout of the project.

**Public  
Hearing/  
CZ 1795  
(continued)**

Tom Natelli of Natelli Communities was present on behalf of the application with Tim Willard, Esquire, of Fuqua, Yori and Willard, P.A., and Kenneth Usab and Steve Hutchins with Morris & Ritchie Associates, Inc. They stated the application is a request to increase the number of permitted units in the Bay Forest Residential Planned Community by the addition of 21 villa units; that the project was approved in 2004 for 808 units on 385 acres of land; that in 2008 the site plan for the project was amended to incorporate the boundaries of the Byewood Subdivision and that the access to the Byewood Subdivision was relocated internally into the project; that in 2014 a rezoning application was filed and approved incorporating the Jim's Hideaway Campground property and the Mitchell property into the project for an additional 84 units and a relocated entrance design creating a total of 892 units; that in redesigning the layout of the project there were several enclaves of small areas found that could be converted to additional lots; that this proposal is intended to correct and improve those areas with 21 additional units for a total of 913 units overall; that the County Engineering Department has confirmed that 913 units are within sewer capacity allocations; that originally buffers existed between the project and the Jim's Hideaway and Mitchell properties; that by incorporating those properties the buffers were removed; that the requested 21 additional units will be a part of the project and will have a minimal impact on the overall density of the RPC, increasing it from 892 to 913; that the 21 units will be a part of the existing RPC which is already in place and has approval for all of the infrastructure and site design requirements for a development including sewer, central water, wetlands delineation, DelDOT entrance and road improvements, and stormwater management; and that the residents of the community fully support the proposal.

Questions were raised by Council as to the need for 21 additional units in light of the current infrastructure issues in the area and the fact that the original project is not sold out.

There were no public comments.

The Public Hearing and public record were closed.

**M 156 16  
Defer  
Action/  
CZ 1795**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to defer action on Change of Zone No. 1795, filed on behalf of Bay Forest Club, LLC c/o Natelli Communities, Inc.

**Motion Adopted: 5 Yeas.**

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

**Sheriff's Department/ Constable Certification** Mr. Lawson presented a Proposed Resolution requesting that the Sheriff and Sheriff Deputies receive their Constable certification from the State Board of Examiners of Constables. Constable certification was discussed in June 2015 and Council approved a motion at that time to request that the Board provide Constable certification for the Sussex County Sheriff and Sheriff Deputies. However, State Code requires that said request be made "by resolution of the appropriate county council or Levy Court for such sheriff and deputy sheriff to be commissioned as a constable." Sheriff Lee was present to answer questions from Council.

**M 157 16 Adopt R 004 16/ Constable Certification** A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to adopt Resolution No. R 004 16 entitled "REQUEST FOR SUSSEX COUNTY SHERIFF AND SHERIFF DEPUTIES TO BE COMMISSIONED AS A CONSTABLE AND AUTHORIZING TODD F. LAWSON, COUNTY ADMINISTRATOR, TO SUBMIT REQUEST."

**Motion Adopted:** 5 Yeas.

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

**Update/ Wolfe Neck Regional Wastewater Treatment and Spray Irrigation Facility** Hans Medlarz, County Engineer, presented an update on the Wolfe Neck Regional Wastewater Treatment and Spray Irrigation Facility. Mr. Medlarz stated that as a result of the Delaware Department of Natural Resources & Environmental Control issuing a notice of violation on March 18, 2016, for an unauthorized flow concentration runoff of groundwater, rain water, and treated effluent which ran into the marsh on Field 2, the County was ordered to make certain improvements. Mr. Medlarz emphasized that at no time did the County have raw wastewater or raw sewage spill from the facility or have any breach or leaks. Mr. Medlarz reported that the spray rig on Field 2 has been modified as required by the State, and the County is in the process of expanding sediment and erosion control measures not only for Field 2 but for the entire facility, due to be completed by the end of the week. Additional testing has been performed by the County to ensure low nitrogen levels as well.

Mr. Medlarz explained that the weather conditions have been difficult over the winter, with rainfall approximately 20 percent above average for the period for the area, combined with a weekend rainfall event of 2.8 inches in 24 hours. Long-term efforts include a modification of the layout of the spray rigs, as well as modification of the buffers and the non-sprayed areas to roll them into a non-agricultural use.

Mr. Arlett stated that the suggestion was presented to him by a County employee that the dirt be tilled deeper so it would absorb quicker and better. Mr. Medlarz advised some ripping activities and contour farming techniques in the buffer zone have been taken up to do just that.

**Request to Petition Tidewater Utilities/ PS 210**

Hans Medlarz, County Engineer, presented for Council's approval a request to petition Tidewater Utilities, Inc., for inclusion in their water service territory. The request is for water service to be extended to Sussex County Pump Station 210 located NE/S Route 1 and Road 12 intersection, Lewes, Delaware. Council authorization of a petition is necessary for Tidewater Utilities, Inc., to apply for a Certificate of Public Convenience and Necessity (CPCN) in order to provide water service to the property.

**M 158 16 Authorize Request to Petition Tidewater Utilities/ PS 210**

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council authorizes the request to petition Tidewater Utilities, Inc., for inclusion in their water service territory, for water service to be extended to Sussex County Pump Station 210 located at NE/S Route 1 and Road 12 intersection, Lewes, Delaware.

**Motion Adopted: 5 Yeas.**

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

**Update/ Proposed Herring Creek Sanitary Sewer District and Winding Creek Village Water District**

John Ashman, Director of Utility Planning, provided an update on the Proposed Herring Creek Sanitary Sewer District and Winding Creek Village Water District.

On March 1, 2016, Mr. Ashman provided Council with a status update on the Public Hearing for the Herring Creek Sanitary Sewer District and the Winding Creek Village Water District which was held on February 13, 2016. Since the County has received significant requests for additional information and general comments, it was felt that it was in the best interest of the communities to postpone the referendum vote and host an additional public meeting. Letters were mailed out to property owners advising them of the County's decision to postpone the referendum.

Mr. Ashman stated that a second public meeting has been scheduled on May 7, 2016, at the Beacon Middle School on Route 24 (John J. Williams Highway) starting at 10:00 a.m. Letters notifying the property owners/residents will be mailed, the meeting will be advertised locally, and notifications posted online and in the community.

Mr. Ashman also reported that 171 affidavits have been received from the property owners/residents in Winding Creek Village requesting that the referendum for the proposed water district be canceled. The County Engineering Department is currently analyzing the affidavits to ensure their validity and the percentage of eligible voters they may represent prior to making a recommendation to Council.

**Update  
(continued)**

**Mr. Ashman presented the following schedule for moving forward with the proposed Herring Creek Sanitary Sewer District:**

- **Post Public Meeting – Week of April 18<sup>th</sup>**
- **Second Public Meeting – May 7, 2016**
- **Update to County Council – May 10, 2016**

**Bid  
Results/  
Sussex  
Shores  
Roadway  
Improvements**

**Joe Wright, Assistant County Engineer, presented the bid results for Sussex Shores Subdivision – Chapter 96 – Roadway Improvements (Sussex County Project 14-13B). Two bids were received; the apparent low bidder, George & Lynch, Inc., submitted a bid of \$376,405.50. Mr. Wright reported that the bid form submitted by George & Lynch, Inc., had an error in Item A-6 whereby there was a discrepancy between the multiplication of units of work and the unit price that lowered the price nearly \$12,000 more. Section 14.02 of the EJD CD documents incorporated in the bidding documents states that discrepancies are resolved in favor of the unit price. Therefore, the total of Item A-6 was adjusted and the total bid price was adjusted to \$364,644.30. Mr. Wright stated that George & Lynch, Inc., acknowledged the adjusted bid price, indicated they were still interested in the contract, and with the adjustment remained as the low bidder.**

**M 159 1 6  
Award  
Bid/  
Sussex  
Shores  
Roadway  
Improvements**

**A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that the total base bid for Sussex County Project 14-13B, Sussex Shores Subdivision – Chapter 96 – Roadway Improvements be awarded to George & Lynch, Inc., of Dover, Delaware, in the amount of \$364,644.30.**

**Motion Adopted: 4 Yeas; 1 Not Voting.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Not Voting;  
Mr. Arlett, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**Proposed  
Pinetown  
Street-  
lighting  
District**

**Patti Deptula, Director of Special Projects, reported on the status of the proposed Pinetown Streetlighting Project. On January 26, 2016, Council approved the circulation of petitions to the improvement owners in the community of Pinetown for the purpose of establishing a streetlighting district, as required by Chapter 95 of the Sussex County Streetlighting Code. The written request for petitions came from the Pinetown Civic Association and community members who were asking to form a streetlighting district in their subdivision, with eight (8) street lights to be installed. Ms. Deptula stated that petition forms were mailed on January 26, 2016, and as of February 11<sup>th</sup> five valid forms have been returned, enough to satisfy the Chapter 95 Code requirements. The proposed streetlighting district was discussed at the March 14<sup>th</sup> Pinetown Civic Association meeting, and no objections were heard. An annual billing rate of \$66.20 per residential or commercial improvement is estimated, based on 25 assessable improvements.**

**M 160 16  
Approve  
Estimated  
Billing  
Rate/  
Proposed  
Pinetown  
Street-  
lighting  
District**

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves an estimated annual billing rate of \$66.20 per residential or commercial improvement within the Pinetown Proposed Streetlighting District, if an election passes and the District is formed; the annual billing rate will be adjusted each year thereafter, based upon the actual number of assessable units and all streetlighting 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 161 16  
Adopt  
R 005 16/  
Proposed  
Pinetown  
Street-  
lighting  
District**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to adopt Resolution No. R 005 16 entitled "A RESOLUTION ESTABLISHING THE DATE, TIME, AND PLACE OF AN ELECTION TO BE HELD TO CONSIDER THE QUESTION OF ESTABLISHING THE PROPOSED PINETOWN STREETLIGHTING DISTRICT."

**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**

**Old  
Business/  
CU 2036**

Under Old Business, the Council considered Conditional Use No. 2036 filed on behalf of Jimi Kellogg.

The Planning and Zoning Commission held a Public Hearing on this application on December 10, 2015, at which time action was deferred. On January 14, 2016, the Commission recommended denial.

The County Council held a Public Hearing on this application on March 15, 2016, at which time action was deferred to allow time for the preparation of Findings of Fact and conditions of approval by Legal Counsel for Council's consideration.

Mr. Moore read proposed Findings of Fact and conditions of approval, as follows:

- A. This is the application of Jimi Kellogg for the Conditional Use of land in a GR (General Residential District) for parking of employee vehicles and vans for a cleaning service business to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 22,323 square feet, more or less. The property is located

Old  
Business/  
CU 2036  
(continued)

- northeast of Field Lane, a subdivision street, 200 feet southeast of Munchy Branch Road (Road 270-A) (911 Address: 36181 Field Lane, Rehoboth Beach) Tax Map I.D. 334-13.00-873.00.
- B. Council found that DelDOT commented that a Traffic Impact Study was not required, and the current Level of Service “B” of Munchy Branch Road will not change as a result of this application.
  - C. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the West Rehoboth Expansion Area; that wastewater capacity is available if the proposed use does not exceed approximately 1.0 Equivalent Dwelling Unit (EDU) of sewer assessment; that the parcel was provided with a 6-inch sanitary sewer lateral located along the parcel’s frontage on Field Lane and the existing home is connected to the sewer system; that conformity to the West Rehoboth Expansion Area Planning Study will be required; and that a concept plan is not required.
  - D. Council found that the Sussex Conservation District commented that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; that no off-site drainage improvement will be required; and that it is not likely that any on-site drainage improvements will be required.
  - E. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Applicant, Jimi Kellogg, and Jennifer Kellogg were present and stated that they own a cleaning business; that they cannot afford to lease a store front for their small business; that they have twelve (12) full-time employees, but that the work occurs off-site; that they have extended their driveway; that they have three (3) work vans and two (2) family vehicles; that they live on the premises; that across the road from their property, within 200 feet, is a store front with three (3) business uses; that their normal workdays are Monday through Friday, with an occasional Saturday and Sunday during the summer months; that currently there are no regular deliveries, but they do receive deliveries from FedEx and UPS; and that the Applicant is not aware of any deed restrictions against commercial activities.
  - F. Council found that the proposed use is limited in scope and will have little or no impact on traffic, area roadways, neighboring properties or the community.
  - G. Council found that the proposed use promotes the health, safety, welfare and general convenience of Sussex County and its residents.
  - H. Council found that the proposed use is akin to a home occupation because the Applicant resides on the property and will continue to reside there throughout the use.
  - I. Council also found that, other than the Applicant and his wife, there were no parties present in support of or in opposition to the application at the Council hearing.
  - J. Based on the record created before the Sussex County Council, the Conditional Use is approved subject to the following conditions which

**Old  
Business/  
CU 2036  
(continued)**

**will serve to minimize any potential impacts on the surrounding area and adjoining properties:**

- 1. Parking shall be limited solely within the boundaries of the Applicant's driveway and parking pad in compliance with the Sussex County Zoning Code parking requirements and any property restrictions for the site.**
- 2. At all times, the property shall maintain the appearance of a single family residence and not of a business/commercial venture in a residential neighborhood.**
- 3. No lighted signs shall be permitted on the property.**
- 4. No dumpsters shall be permitted on the property.**
- 5. Any security lighting shall be limited to security lighting that is customary in residential areas and shall be downward screened so that it does not shine on neighboring properties or roadways.**
- 6. The Applicant shall comply with all DelDOT requirements regarding entrances to the property.**
- 7. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**Concerns were expressed that the business has outgrown the location and is no longer compatible with the residential neighborhood.**

**Mr. Arlett voiced concern with Condition No. 3 in that unlit signs would be permitted on the property.**

**M 162 16  
Amend  
Condition  
No. 3**

**A Motion was made by Mr. Arlett, seconded by Mr. Cole, to amend Condition No. 3 to read as follows: "No signs shall be permitted on the property."**

**Motion Adopted: 5 Yeas.**

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

**M 163 16  
Adopt  
Proposed  
Ordinance/  
CU 2036  
(Defeated)**

**A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR PARKING OF EMPLOYEE VEHICLES AND VANS FOR A CLEANING SERVICE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 22,323 SQUARE FEET, MORE OR LESS" (Conditional Use No. 2036) filed on behalf of Jimi Kellogg, with findings and conditions, as amended, as follows:**

- A. This is the application of Jimi Kellogg for the Conditional Use of land in a GR (General Residential District) for parking of employee vehicles and vans for a cleaning service business to be located on a certain parcel of**

**M 163 16**  
**(continued)**

- land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 22,323 square feet, more or less. The property is located northeast of Field Lane, a subdivision street, 200 feet southeast of Munchy Branch Road (Road 270-A) (911 Address: 36181 Field Lane, Rehoboth Beach) Tax Map I.D. 334-13.00-873.00.
- B. Council found that DelDOT commented that a Traffic Impact Study was not required, and that the current Level of Service “B” of Munchy Branch Road will not change as a result of this application.**
  - C. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the West Rehoboth Expansion Area; that wastewater capacity is available if the proposed use does not exceed approximately 1.0 Equivalent Dwelling Unit (EDU) of sewer assessment; that the parcel was provided with a 6-inch sanitary sewer lateral located along the parcel’s frontage on Field Lane and the existing home is connected to the sewer system; that conformity to the West Rehoboth Expansion Area Planning Study will be required; and that a concept plan is not required.**
  - D. Council found that the Sussex Conservation District commented that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; that no off-site drainage improvements will be required; and that it is not likely that any on-site drainage improvements will be required.**
  - E. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Applicant, Jimi Kellogg, and Jennifer Kellogg were present and stated that they own a cleaning business; that they cannot afford to lease a store front for their small business; that they have twelve (12) full-time employees, but that the work occurs off-site; that they have extended their driveway; that they have three (3) work vans and two (2) family vehicles; that they live on the premises; that across the road from their property, within 200 feet, is a store front with three (3) business uses; that their normal workdays are Monday through Friday, with an occasional Saturday and Sunday during the summer months; that currently there are no regular deliveries, but they do receive deliveries from FedEx and UPS; and that the Applicant is not aware of any deed restrictions against commercial activities.**
  - F. Council found that the proposed use is limited in scope and will have little or no impact on traffic, area roadways, neighboring properties or the community.**
  - G. Council found that the proposed use promotes the health, safety, welfare and general convenience of Sussex County and its residents.**
  - H. Council found that the proposed use is akin to a home occupation because the Applicant resides on the property and will continue to reside there throughout the use.**
  - I. Council also found that, other than the Applicant and his wife, there were no parties present in support of or in opposition to the application at the Council hearing.**

**M 163 16  
(continued)**

- J. Based on the record created before the Sussex County Council, the Conditional Use is approved subject to the following conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties:**
- 1. Parking shall be limited solely within the boundaries of the Applicant's driveway and parking pad in compliance with the Sussex County Zoning Code parking requirements and any property restrictions for the site.**
  - 2. At all times, the property shall maintain the appearance of a single family residence and not of a business/commercial venture in a residential neighborhood.**
  - 3. No signs shall be permitted on the property.**
  - 4. No dumpsters shall be permitted on the property.**
  - 5. Any security lighting shall be limited to security lighting that is customary in residential areas and shall be downward screened so that it does not shine on neighboring properties or roadways.**
  - 6. The Applicant shall comply with all DelDOT requirements regarding entrances to the property.**
  - 7. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**Motion Defeated: 3 Nays; 2 Yeas.**

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

**Old  
Business/  
CU 2037**

**The Council considered Conditional Use No. 2037 filed on behalf of Gilbert J. Bernoski, Jr.**

**The Planning and Zoning Commission held a Public Hearing on this application on December 10, 2015, at which time action was deferred. On January 14, 2016, the Commission recommended denial.**

**The County Council held a Public Hearing on this application on March 15, 2016, at which time action was deferred and the record left open until April 5, 2016, to allow staff to check the property and to take pictures (public comment closed).**

**Mr. Lank reported that staff inspected the site on March 16, 2016, took several pictures, spoke to the gentleman operating the auto repair shop, and made the following observations: there were seven (7) unlicensed vehicles on the site, including two (2) that are for sale and three (3) vehicles belonging to the property owner, not the business; there was one RV that does not appear to be occupied as a residence; there were no junk tires laying around the site and no oil or other fluids visible on the outside of the site; and there was no trash visible on the site.**

**CU 2037  
(continued)**      **Mr. Cole expressed concern regarding the number of unlicensed vehicles on the site.**

**M 164 16  
Adopt  
Proposed  
Ordinance/  
CU 2037  
(Defeated)**      **A Motion was made by Mr. Cole, seconded by Mr. Wilson, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.101 ACRES, MORE OR LESS” (Conditional Use No. 2037) filed on behalf of Gilbert J. Bernoski, Jr.**

**Motion Defeated:      4 Nays; 1 Yea.**

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

**Grants**      **Mrs. Jennings presented grant requests for the Council’s consideration.**

**M 165 16  
Council-  
manic  
Grant**      **A Motion was made by Mr. Arlett, seconded by Mr. Cole, to give \$2,000.00 (\$1,500.00 from Mr. Arlett’s Councilmanic Grant Account and \$500.00 from Mr. Cole’s Councilmanic Grant Account) to Indian River School District for the student mentoring program at John M. Clayton Elementary School.**

**Motion Adopted:      5 Yeas.**

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

**M 166 16  
Council-  
manic  
Grant**      **A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to give \$2,000.00 (from Mrs. Deaver’s Councilmanic Grant Account) to Lewes Senior Citizens Center, Inc., for building addition 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 167 16  
Council-  
manic  
Grant**      **A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to give \$500.00 (\$250.00 from Mr. Vincent’s Councilmanic Grant Account and \$250.00 from Mr. Arlett’s Councilmanic Grant Account) to Paul Laurence Dunbar Elementary School for the Dunbar Dash 5K/Wellness Walk.**

**Motion Adopted:      5 Yeas.**

**M 167 16**  
**(continued)**      **Vote by Roll Call:**      **Mrs. Deaver, Yea; Mr. Cole, Yea;**  
**Mr. Arlett, Yea; Mr. Wilson, Yea;**  
**Mr. Vincent, Yea**

**Introduction of Proposed Zoning Ordinances**      **Mr. Wilson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR EQUIPMENT STORAGE AND REPAIR FOR A CONTRACTING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.972 ACRES, MORE OR LESS” (Conditional Use No. 2047) filed on behalf of Delmarva Petroleum Service (Tax Map I.D. No. 230-13.00-148.00) (911 Address: 9483 Clendaniel Pond Road, Lincoln).**

**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 WAREHOUSE AND OFFICE TO RECEIVE AND STORE HVAC EQUIPMENT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.457 ACRES, MORE OR LESS” (Conditional Use No. 2048) filed on behalf of Delaware Shore Equity, LLC (Tax Map I.D. No. 234-11.00-502.00) (911 Address: None Available).**

**The Proposed Ordinances will be advertised for Public Hearing.**

**Council Members' Comments**

**Council Members' Comments**

**Mrs. Deaver commented on the tremendous improvements that have taken place within the County to make information available to the public.**

**Mr. Cole commented on receiving correspondence from the Delaware SeaSide Railroad Club located in Dagsboro, which included a Certificate of Appreciation for Council’s support and a flyer announcing their summer hours during which they are open to the public on Wednesdays from 5:00 to 8:00 p.m. and Saturdays 10:00 a.m. to 3:00 p.m., with free admission.**

**M 168 16**  
**Go Into Executive Session**

**At 12:35 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole, to go into Executive Session to discuss matters relating to job applicants’ qualifications, 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 12:40 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 job applicants' qualifications, personnel, and land acquisition. The Executive Session concluded at 1:47 p.m.

**M 169 16 Reconvene Regular Session** At 1:52 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to come out of Executive Session and to reconvene the Regular Session.

**Motion Adopted:** 3 Yeas; 2 Absent.

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

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

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

**Public Hearing/ CU 2039** A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MANUFACTURING AND INSTALLATION OF PERFORMANCE AUTOMOTIVE PARTS AND ACCESSORIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 34,740 SQUARE FEET, MORE OR LESS" (Conditional Use No. 2039) filed on behalf of Performance Injection Equipment Co., LLC (Tax Map I.D. No. 133-6.00-110.00) (911 Address: 24994 Betts Lane, Georgetown).

The Planning and Zoning Commission held a Public Hearing on this application on December 10, 2015, at which time action was deferred. On January 14, 2016, the Commission recommended that the application be approved with the following conditions:

- A. No outside repair work shall be performed on the site.
- B. Any fluids removed from vehicles shall be placed in approved containers and removed by licensed handlers of those materials.
- C. All used or junked parts, equipment, etc. shall be stored from view from neighboring properties and roadways and shall be appropriately discarded or recycled.
- D. The chassis dynamometer shall be operated with the doors to its building closed. It shall also only be operated between 10:00 a.m. and 5:00 p.m., Monday through Friday.
- E. The property shall have security lighting that is downward screened so that it does not project onto neighboring properties or roadways.
- F. One lighted sign, not to exceed 32 square feet per side, shall be permitted.

**Public  
Hearing/  
CU 2039  
(continued)**

- G. The applicant shall comply with all DelDOT requirements concerning access and roadway improvements.**
- H. All dumpsters or trash disposal containers shall be screened from view from neighboring and adjacent properties and roadways.**
- I. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated December 10, 2015, and January 14, 2016.)

Lawrence Lank, Director of Planning and Zoning, reported on the Planning and Zoning Commission's public hearing and recommendation of approval.

Mr. Lank distributed Exhibit Booklets which were previously provided by the applicant, as well as copies of the survey showing the existing improvements on the property.

Chris Hitchens of Performance Injection Equipment Co., Inc. was present with Aaron Baker, Attorney with Baird Mandalas Brockstedt, LLC, and Mr. Baker stated that the property contains a 3,000 square foot metal building; that the previous business, a heating and air conditioning business, moved out in 2013; that they manufacture, research, test, and install performance automobile parts and accessories; that the use is not a general repair shop; that they sell performance parts through their website; that the applicant has applied for the Conditional Use to bring the business into compliance with the Zoning Code and to continue its business which has been operating since 2013; that there are many established business and commercial uses in the area, referencing Kruger Trailers, Georgetown Speedway, Ad-Art, a hair salon, Infinity Choppers, Classic Auto Tire and Wheel, Pep-Up, Stockley Materials, BFW Restoration, Iron Source, and M.L. Joseph Construction; and that the use is not inconsistent with the Comprehensive Land Use Plan.

Mr. Baker acknowledged that there is an accounting issue relating to the payment of 2015 property taxes, which the applicant intends to resolve immediately upon conclusion of the public hearing.

There were no public comments.

The Public Hearing and public record were closed, with the exception of accepting evidence that the financial obligation owed the County has been resolved.

**M 170 16  
Defer  
Action/  
CU 2039**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to defer action on Conditional Use No. 2039, filed on behalf of Performance Injection Equipment Co., LLC.

Motion Adopted: 5 Yeas.

**M 170 16  
(continued)**

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

**Public  
Hearing/  
CZ 1789  
and  
CU 2038**

**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 CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 10.17 ACRES, MORE OR LESS” (Change of Zone No. 1789) filed on behalf of Good Earth Market, LLC (Tax Map I.D. No. 134-11.00-181.00, 181.01, 181.02, and 181.03) and the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 4.75 ACRES, MORE OR LESS” (Conditional Use No. 2038) filed on behalf of Good Earth Market, LLC (Tax Map I.D. No. 134-11.00-181.03) (911 Address: 31806 Good Earth Lane, Ocean View).**

**Mr. Lank noted that the application for Conditional Use No. 2038 is for a portion of the property, as the remaining portion is already zoned commercial or has a conditional use in place.**

**The Planning and Zoning Commission held a Public Hearing on these applications on December 10, 2015, at which time action the Commission recommended that Change of Zone No. 1789 be approved, and that Conditional Use No. 2038 be approved with the following conditions:**

- A. There shall be no more than three (3) units on the site.**
- B. The units shall be served by County sewer.**
- C. These units are being approved as part of an overall redevelopment of this site as a wedding venue and tourist venue, and are considered part of the overall use. Should that use as a wedding venue and tourist venue terminate or expire, this conditional use shall also automatically expire.**
- D. Stormwater management and erosion and sedimentation control shall be constructed using best management practices in accordance with all State and County requirements.**
- E. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**(See the minutes of the Planning and Zoning Commission dated December 10, 2015.)**

**Lawrence Lank, Director of Planning and Zoning, reported on the Planning and Zoning Commission’s public hearing and recommendation of approval.**

**Public  
Hearing/  
CZ 1789  
and  
CU 2038  
(continued)**

**Mr. Lank distributed copies of Exhibit Books which were previously submitted by the Applicant.**

**David and Susan Ryan were present on behalf of the applications with Mark Davidson, Principal Land Planner of Pennoni Associates, LLC. Mr. Davidson referred to the Exhibit Book and stated in his presentation that the property is owned by the applicants and/or family members; that the property is 10.71 acres and is currently zoned Agricultural-Residential and does have a conditional use; that the site is located in an Environmentally Sensitive Developing District Overlay Zone; that the expansion of the existing facilities includes growth of the theme of the property with the Good Earth Market, the chicken coops, gardens for vegetables and flowers, and a brewpub and restaurant including on-premise sales of alcoholic beverages, not off-premise sales; that the applicants live on the premises; that there is a one-room tourist house that is rented out; that an 84 Lumber store and yard are in close proximity to the east; that the site is adjacent to a Conditional Use for a future Beebe Medical facility; that the site is located in an Investment Level 2 and 3 according to the Strategies for State Policies and Spending; that the conditional use portion of the applications is to allow three 600 square foot cottage/cabin type buildings on the premises for rentals; that they intend to maintain the open appearance of the site; that the stormwater management pond already exists and is intended as an attraction; that outdoor wedding venues are intended, with no permanent structures; that the new sewer lines and improvements to Route 26 will be a benefit to the existing and proposed uses on the site; that no traffic impact was required by DelDOT; that currently there are three wells on the site; that in the future, Tidewater Utilities will be providing central drinking water and water for fire protection; that the Good Earth Market has been operational for 11 years and is supported as an agri-tourism use; that they currently employ 12 employees and look to double that figure in the future as part of their proposal; and that CR-1 Commercial Residential zoning was chosen since the CR-1 zoning has more flexibility for the uses on the site.**

**There were no public comments.**

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

**M 171 16  
Adopt  
Ordinance  
No. 2439/  
CZ 1789**

**A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2439 entitled "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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 10.17 ACRES, MORE OR LESS" (Change of Zone No. 1789) filed on behalf of Good Earth Market, LLC.**

**Motion Adopted: 5 Yeas.**



## ENGINEERING DEPARTMENT

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



# Sussex County

DELAWARE  
sussexcountyde.gov

MICHAEL A. IZZO, P.E.  
COUNTY ENGINEER

BRAD HAWKES  
DIRECTOR OF UTILITY ENGINEERING

**April 12, 2016**

## **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.516-6 THAT THE SUSSEX COUNTY COUNCIL EXECUTE A CONSTRUCTION ADMINISTRATION AND CONSTRUCTION INSPECTION AGREEMENT BETWEEN SUSSEX COUNTY COUNCIL AND "HKS 4 LLC" FOR WASTEWATER FACILITIES TO BE CONSTRUCTED IN "THE LANDINGS AT PEPPER CREEK (A/K/A THE MARINA AT PEPPER'S CREEK) – PHASE 3-4", LOCATED IN DAGSBORO/FRANKFORD SANITARY SEWER DISTRICT.

ORDINANCE NO. 38  
AGREEMENT NO. 516-6

TODD LAWSON  
COUNTY ADMINISTRATOR

## ENGINEERING DEPARTMENT

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



# Sussex County

DELAWARE  
sussexcountyde.gov

HANS M. MEDLARZ, P.E.  
COUNTY ENGINEER

BRAD HAWKES  
DIRECTOR OF UTILITY ENGINEERING

March 30, 2016

### FACT SHEET

SUSSEX COUNTY PROJECT 81-04  
THE LANDINGS AT PEPPER CREEK (A/K/A THE MARINA AT PEPPER'S CREEK) -  
PHASE 3-4  
AGREEMENT NO. 516 - 6

#### DEVELOPER:

Mr. Bobby Horsey  
HKS 4 LLC  
28107 Beaver Dam Branch Road  
Laurel, DE 19956

#### LOCATION:

South side County Road 336 (Piney Neck Road),  
East of County Road 335A (Adams Road)...Marina  
at Piney Neck Road. (Tidewater Utilities)

#### SANITARY SEWER DISTRICT:

Dagsboro/Frankford Sanitary Sewer District

#### TYPE AND SIZE DEVELOPMENT:

Single Family Subdivision 25 lots in this phase

#### SYSTEM CONNECTION CHARGES:

\$170,000.00

#### SANITARY SEWER APPROVAL:

Sussex County Engineering Department Plan Approval  
03/10/14

Department Of Natural Resources Plan Approval  
3/31/14

#### SANITARY SEWER CONSTRUCTION DATA:

Construction Days – 30  
Construction Admin And Construction Inspection Cost – \$7,448.93  
Proposed Construction Cost – \$49,659.50



2 THE CIRCLE  
P.O. BOX 589  
GEORGETOWN, DE 19947

*Sussex County*  
*Engineering Department*

HANS M. MEDLARZ, P.E., County Engineer  
JOSEPH WRIGHT, P.E., Asst. County Engineer



Administration	302-855-7718
Environmental Services	302-855-7730
Public Works	302-855-7703
Utility Engineering	302-855-7717
Utility Permits	302-855-7719
Utility Planning	302-855-1299

FAX: 302-855-7799

HENLOPEN PUMPING STATIONS  
ELECTRICAL CABLE REPLACEMENT  
SUSSEX COUNTY PROJECT 14-12

The main power supply feeder cable for the four (4) wastewater pumping stations in Henlopen Acres, owned and operated by Sussex County, is compromised. A number of splices in the cable are exposed to the high ground water table. This project will eliminate underground splicing and significantly reduce the potential for emergency shutdowns due to electrical ground faults.

The Engineering Department initiated the rebid of the project after taking a number of steps to enlarge the bidding pool. Subsequently a number of electrical contractors were plan holders and attended the pre-bid meeting. In the end only one bid was received on April 4<sup>th</sup>. It is less than the engineer's estimate. The Engineering Department recommends Council approve the motion to award the bid.

*Sussex County*  
*Engineering Department*

HANS M. MEDLARZ, P.E.  
County Engineer

JOSEPH WRIGHT, P.E.  
Assistant County Engineer



2 THE CIRCLE  
P.O. BOX 589  
GEORGETOWN, DE 19947

Administration	302-855-7718
Airport & Industrial Park	302-855-7774
Environmental Services	302-855-7730
Public Works	302-855-7703
Utility Engineering	302-855-7717
Utility Permits	302-855-7719
Utility Planning	302-855-1299
FAX:	302-855-7799

**HENLOPEN ACRES PUMPING STATIONS  
ELECTRICAL CABLE REPLACEMENT**

**SUSSEX COUNTY PROJECT 14-12**

Bids Received Monday, April 4, 2016

<b>BIDDER</b>	<b>BID AMOUNT</b>
<b>*Mid-Shore Electrical Services, Inc. Millsboro, Delaware</b>	<b>\$ 202,092.50</b>

\*Apparent Low Bidder

Engineer's Estimate

\$ 250,142.11



April 6, 2016

Sussex County Engineering Department  
2 The circle  
Georgetown, DE 19947

Re: Bid Evaluation/Recommendation for Award  
Henlopen Acres Pumping Stations Electrical Cable Replacement  
Sussex County Project No. 14-12  
GHD Project No. 8616774

Dear Ms. Cooper:

One bid was received and opened for the above referenced project on April 4, 2016. The bidder is Mid-shore Electrical Services, Inc., and the total bid identified on the Bid Form is \$202,112.00. The bid of \$202,112.00 is 19% below the Engineer's estimate of \$250,142.11. A comparison of bid line items has been tabulated in Table 1 below.

Note there is a discrepancy of \$18.50 between the total price of Item A-2 and the product of the unit price and estimated quantity of Item A-2. Additionally the total price of Items A-6 and A-7 were rounded up to the next dollar. As the unit prices are to govern in case of discrepancy as indicated in the Instructions to Bidders, the actual Total bid is \$202,092.50.

Mid Shore Electrical Service's bid proposal is deemed to be responsible and responsive to the requirements of the bid documents. In reviewing the bid package, we were able to verify that the bidder has complied with the following bid proposal requirements:

- Acknowledged Addendum Number 1 in their bid package.
- Submitted a List of Subcontractors whose portion of work is less than the required maximum of 30% of the bid.
- Submitted the completed Non-collusion Statement.
- Submitted Bid Bond for 10% of the Total Bid with copy of Power of Attorney.

**Recommendation**

Based on our bid evaluation, GHD sees no reason not to recommend the award of the project in the amount of \$202,092.50 to Mid-Shore Electrical Services Inc.

Note the Bidder included a signed Agreement dated April 4, 2016 with his bid package. The County should send to the bidder an Agreement form to be signed and dated on or after the date on which he receives the Notice of Award as detailed in the Instructions to Bidders.

If you have any questions regarding this bid evaluation and recommendation of award, please feel free to call 240-206-6810.

Sincerely,

GHD INC.



David Murray  
Engineer



## MOTION

BE IT MOVED, BASED UPON THE RECOMMENDATION OF THE SUSSEX COUNTY ENGINEERING DEPARTMENT, THAT **SUSSEX COUNTY PROJECT 14-12 – HENLOPEN ACRES PUMPING STATIONS ELECTRICAL CABLE REPLACEMENT**, BE AWARDED TO MID-SHORE ELECTRICAL SERVICES, INC., OF MILLSBORO, DELAWARE, AT THE BASE BID AMOUNT OF **\$202,092.50**.

Hans M. Medlarz, P.E.  
Sussex County Engineer  
April 12, 2016

OLD BUSINESS  
April 12, 2016

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; and 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 with 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 with 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 four (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.

On April 23, 2015 there was a motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

On June 11, 2015 the Planning and Zoning Commission discussed this application under Old Business.

Mr. Wheatley described the purpose of the Planning and Zoning Commission in considering applications, and specifically noted that the Commission only makes a recommendation on Change of Zone applications and Conditional Use applications to the Sussex County Council, who will make the final decision.

The Commission discussed this application which has been deferred since April 23, 2015 for further consideration.

Mr. Burton stated that he has given this application a lot of thought; that the applicant's presentation and the oppositions presentation were very professionally presented; and that he is prepared to make a motion on the application, but would first like to hear any comments from the Commissioners.

Mr. Johnson stated that Mr. Burton and the Commission are faced with a very difficult decision; that he has concerns about the size of the project and the location; that he questions if the location is appropriate for such a use; that he is concerned about some of the other permitted uses that could be placed in a CR-1 zoning classification; that he realizes that the Commission is only making a recommendation; that he is concerned about what might happen to the local roads in the area; and that the only positive in the application is that it will take time to develop the site.

Mr. Ross stated that the site is in a Growth Area, which are established to accommodate growth; that the commercial use will enhance public transportation; that traffic on Route One is going to increase with or without the project; that the original 1970 approval of the Zoning Map and Zoning Ordinance zoned significant amounts of farmland fronting on Routes 13, 113, and 14,

now Route One, commercial to provide ample inventory of land available for this use; that that was a long time ago and this is a good time to add additional commercially zoned lands; that the original County Comprehensive Plan was prepared by the State Planning Office and set us on the path that we are on today; that we may like or dislike the results but guiding commercial development to arterial roads was established; that having this additional commercial land available will hopefully take some pressure off requests for smaller parcel re-zonings; that the concerns about the Great Marsh and neighboring properties can be addressed during the site plan review process; that maybe the site will eventually have 850,000 square feet of retail space, but his instincts tell him that significant buffering for the Great Marsh and adjoining properties must be considered; that it is implausible to him that business owners locating in this project would not want to offer shuttle services between nearby communities and coordinate with DART to make the commercial center a greater success; that he thinks that anyone that chooses to locate in the Route One corridor should expect high volumes of traffic and increasing traffic and diversity of commercial uses; that the County is a desirable place to live and that desirable places to live experience growth; and that his opinion on this project is not only in conformance with the letter of our County rules, it is in keeping with the long ago established strategy for orderly growth of the County.

Mr. Smith stated that he agrees that there is a need to care for the Great Marsh and that buffers will be needed; that this application opens up a new area to the north for commercial development; and that the application was well represented.

Mr. Burton stated that he would move that the Commission recommend denial of C/Z #1770 for TD Rehoboth, LLC based upon the record made during the public hearing and for the following reasons:

- 1) I do not believe that it is appropriate to rezone this 114 acres of AR-1 Agricultural Residential land to CR-1 Commercial Residential land.
- 2) The rezoning of this large tract of land is inconsistent with the surrounding zoning and uses of property in the area. While there is some C-1 General Commercial zoned land nearby, it is nowhere near the size of this proposed parcel. The only other commercial-zoned properties in the area typically range in size from only one (1) acre to 12 acres.
- 3) The parcels to the north and east have a land use designation of a Low Density Area under the Sussex County Comprehensive Plan, and at least one parcel is in Agricultural Preservation. Rezoning of this 114 acre tract would not provide an appropriate transition between commercial, agricultural and residential uses that exist in this area.
- 4) While the Sussex County Comprehensive Plan identifies this location as being in a Developing Area, that does not require the property to be rezoned to CR-1 Commercial Residential. Instead, under the Plan, AR-1 Agricultural Residential, B-1 Neighborhood Business, a variety of residential zoning districts, and CR-1 are all appropriate if the circumstances and the location support the change in zone. Here, I believe that the existing AR-1 Agricultural Residential zoning is the most appropriate zoning classification for this property at this time given the location of the property and its surroundings. This is completely supported by the County's Comprehensive Plan.
- 5) There was substantial testimony and other evidence presented during the public hearing in opposition to this application, stating concerns about new traffic generated in this area from such a large tract of commercially zoned land, that so much commercial acreage is

not compatible with the nearby Great Marsh, a significant environmental feature of eastern Sussex County; and that the proposed commercial zoned land is not compatible with the uses and zoning districts on neighboring and adjacent land; and other reasons from the opposition. I found these reasons to be compelling.

- 6) There is nothing in eastern Sussex County that would compare to the size and scale of this 114 acre rezoning. The original Zoning Map for Sussex County only contemplated commercial zoning to a depth of 600 feet along Route One, in an area that was thought to be destined for commercial growth. This application proposes a new area of CR-1 land 2,800 feet in depth from Route One, and it is not part of an existing commercial corridor. The size and scale exceeds anything else that exists along Route One since zoning was established, and it is inappropriate for this location.
- 7) The applicant referenced the Commission's 2009 recommendation of denial in C/Z #1690 for LT Associates, a CR-1 rezoning outside of Lewes. In that decision, the Commission noted that Route One could be a more appropriate location for commercial zoning. The LT Associates application was only for 45.77 acres and approximately 320,000 square feet of commercial space. That decision also referenced the existing commercial projects along Route One at 140,000, 210,000, and 240,000 square feet. Here, the applicants are seeking to rezone 114 acres for approximately 840,000 square feet of commercial space, or about two and a half times the acreage and commercial space of the LT Associates application. Comparing the other projects identified in the LT Associates recommendation, this rezoning could result in about four (4) times the commercial space of other large commercial developments on Route One. The LT Associates decision should not be interpreted to mean that a project this large and unprecedented size is appropriate for this location along Route One.
- 8) While there was a great deal of discussion about a planned overpass to serve the Route One and Cave Neck Road intersection, including proposed contribution by the developer, that information should not weigh into any decision whether or not to approve this application. Such an overpass would be subject to DelDOT's design, review and approval, and the funding and construction of it would only come if and when a Final Site Plan for a project on this site is approved and construction starts. There is no guarantee when either would occur, so the proposed overpass should not be given much weight in considering whether to grant or deny this rezoning application.
- 9) This application does not satisfy the purpose of the County Zoning Ordinance, since it does not promote the orderly growth of Sussex County. If approved, it would allow an unprecedented rezoning of 114 acres, with 2,800 feet in depth from Route One, in an area where no similar commercial uses or zoning of similar size and scale exist. This large of a commercially zoned tract of land is not an orderly or logical transition from neighboring and adjacent uses, especially in this Environmentally Sensitive Area in close proximity to the Great Marsh.
- 10) The project is not located next to an existing major road where a general mixture of similar commercial and service activities currently exist as contemplated by the "Purpose" clause of the CR-1 Commercial Residential Zoning District. According to the applicant's own information, the nearby uses only include "auto repair, a self-storage facility, a farm market, a real estate office, a day care facility, a guidance service facility, an antique store, a tire and bike business, a piano and keyboard store, a medical equipment store, and a mortgage company office". All of these are small businesses on

relatively small tracts of land. Not one of them compares to the 114 acre rezoning to CR-1 and the size and scale of what could be built there. And they do not take into account the predominantly agricultural uses in the immediate vicinity including an Agricultural Preservation District.

- 11) For the reasons I have outlined in this Motion, I also do not believe that this rezoning application promotes the considerations established by Section 6904 of Title 9 of the Delaware Code. It does not promote the health, safety, morale, convenience, order, prosperity or welfare of the present and future residents of Sussex County.
- 12) As such a large commercial tract, it would not lessen the congestion of streets or roads; instead it would increase traffic in an area where traffic is already heavy, particularly in the summertime.
- 13) Although the applicant has proposed a very large unified shopping center, the Commission should not focus on just that purpose. Instead, since this is a rezoning, the Commission and County Council must look at what could be possible under a CR-1 rezoning of the 114 acres. These could include any mixture of many of the following permitted uses: indoor amusement places; boat and trailer sales facilities; car washes; hotels; lumber yards; manufactured home sales lots; tire sales shops; metal shops; garages; restaurants; and all sorts of retail uses. While the proposal presented during the public hearing may be considered acceptable to some people, it has no real bearing on this application. I am concerned that once rezoned, the development possibilities that would exist under CR-1 for this large of a tract of land would be inconsistent with the surrounding properties, including agricultural and residential uses. It could be a large stand-alone tract of a variety of unrelated, but permitted, commercial uses built at various times that do not offer a reasonable, orderly or logical transition from the neighboring properties or the Low Density Area to the North of this property.
- 14) For all of these reasons, I do not believe that rezoning this 114 acre tract of land, which is unprecedented in size and scale for a single commercial rezoning in Sussex County, is appropriate. As a result, I move that we recommend denial of this application.

Motion by Mr. Burton, seconded by Mr. Johnson, to forward this application to the Sussex County Council with the recommendation that the application be denied for the reasons stated. Motion defeated 2 votes by 3 votes.

The vote by roll call: Mr. Burton – yea; Mr. Johnson – yea; Mr. Ross – nay; Mr. Smith – nay; and Mr. Wheatley – nay.

Mr. Ross stated that he would move that the Commission recommend approval of Change of Zone No. 1770 for TD Rehoboth, LLC from AR-1 Agricultural Residential to CR-1 Commercial Residential based upon the record made during the public hearing and for the following reasons:

- 1) The property is located in the Environmentally Sensitive Developing Area (the “ESDA”) according to the Sussex County Comprehensive Plan. The ESDA is a Developing Area, or Growth Area, under the Plan where commercial zoning such as this can be located. According to the Comprehensive Plan, retail and office uses can be appropriate for this area, but larger shopping centers should be confined to selected locations with access to arterial roads and central sewer and water facilities. This property is located along Route

One, which is a major arterial road, and it will be served by central water and sewer. So, it is right where the Comprehensive Plan and the ESDA direct it to be.

- 2) The parcel is located adjacent to Route One, a major arterial roadway. This arterial road along with Route 13 and Route 113 have been targeted for major commercial uses since the original County Land Use Plan was adopted in 1970. Since then the County adopted a requirement in its Zoning Ordinance that commercial uses greater than 75,000 square feet must locate on arterial roadways such as these. This historical fact is exemplified by the plethora of commercial zonings small and large along these arterial roadways, especially the Route One corridor from Rehoboth Beach north.
- 3) This property is also in a Developing Area and Growth Zone according to the current Land Use Plan. As a result, these are areas where the County and its residents should anticipate the possibility of growth and development such as this application.
- 4) Just because this property is in a Developing Area and Growth Area under the Land Use Plan does not automatically mean that a rezoning such as this must be approved. It must be appropriate for the area, and when the Land Use Plan and the Code both state that that can be an appropriate location for such zoning, this includes the area beyond the immediate boundaries of the project. This property, along one of the largest arterial roads in the County, and located at the north end of the County's main commercial corridor, is an appropriate location for this rezoning and it will provide regional commercial opportunities for residents, visitors and business.
- 5) The applicant has prepared a Traffic Impact Study. DelDOT's Corridor Capacity Preservation Program Manager had no objection to the proposed development as long as the applicant enters into agreements with DelDOT prior to entrance plan approval for the construction of intersection and roadway improvements. This will occur prior to any development of the property.
- 6) The applicant has also been in discussions with DelDOT about necessary roadway and entrance improvements that will be required when development occurs on this property. This includes an overpass at the Cave Neck Road and Route One intersection. This work will be a traffic improvement at this intersection that will be a benefit to Sussex County residents and visitors.
- 7) Once rezoned to CR-1, the development of this parcel will have a positive economic impact upon Sussex County. Employment opportunities will be created during construction and then during the commercial uses that can operate on the site.
- 8) This is an appropriate location for a large scale commercially zoned property. It is centrally located in eastern Sussex County, and with the opportunities provided by such a large tract, can serve regional retail needs of citizens over a large area. Sussex County has grown significantly since any large commercial areas have been created, and it is appropriate to establish a new regional commercial area to serve the past, present and future growth of the County. This is just like what the County did in the early 1970s when it created large areas of commercial zoning in areas that were still farmland at the time.
- 9) By rezoning such a large tract of land, it provides one location for many different types of commercial uses, which discourages the scattered development of additional new commercially zone properties up and down Route One, Route 9, or other roadways in eastern Sussex County. It also provides opportunities for enhancement of public transportation efforts.

- 10) The proposed CR-1 zoning meets the purposes and requirements of the Sussex County Zoning Code, the Comprehensive Plan and Title 9 of Delaware Code, since it promotes the health, safety, morale, convenience, order, prosperity and welfare of the present and future residents of Sussex County. It will provide benefits that include retail and service businesses at an appropriate location consistent with the direction of the Comprehensive Plan. Significant employment opportunities in both the construction and operation of the businesses, substantial economic benefit as a result of tax revenue, salaries to employees and the secondary impact on the Sussex County economy, water and sewer utility service provided by regulated public utility companies, substantial contributions toward the Cave Neck Road and Route One intersection, protection of the tax base through real estate and transfer tax revenue and job creation and protection of non-urban areas by permitting this rezoning in a designated “Growth Area” under the County’s Comprehensive Plan.
- 11) Any future use of the property shall be further regulated by the County and all appropriate State Agencies, including DelDOT, DNREC, the Sussex Conservation District, and others through the Final Site Plan review process.
- 12) Through the site plan review process, the County will continue to have an opportunity to scrutinize and regulate any development plan for this property, including appropriate buffers from the Great Marsh, the size of any commercial use, the appropriate transition and buffers from neighboring and adjacent properties and other factors. Any developer of this property, in the design of the site plan, must be prepared to take these considerations into account, since they will be heavily scrutinized by Sussex County and the Planning and Zoning Commission during the site plan review process.

Mr. Smith asked Mr. Ross to again read Reason #5 and Reason #12 into the record.

Mr. Ross again read Reason #5 and Reason #12.

Motion by Mr. Ross, seconded by Mr. Smith, and carried three (3) votes to two (2) to forward this application to the Sussex County Council with a recommendation that the application be approved for the reasons stated. Motion carried 3 – 2.

The vote by roll call: Mr. Burton – nay; Mr. Johnson – nay; Mr. Ross – yea; Mr. Smith – yea; and Mr. Wheatley – yea.

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For the benefit of the County Council, the following summary of additional information was provided.

The Sussex County Council public hearing on this application was held on June 2, 2015. After the public hearing, a motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action on the application and to leave the record open for a period of 30 days for written comments or questions from Council and/or responses from agencies; thereafter, once comments received have been introduced to the Council and into the public record, the record will remain open for a period of 15 days for anyone to respond to the comments submitted. The motion carried 5 – 0.

The County Council was advised by a memorandum from Lawrence Lank, Director of Planning and Zoning, to Todd Lawson, County Administrator, dated August 14, 2015, that comments had been received from DelDOT, dated July 2, 2015; the Department of Agriculture, dated June 17, 2015; Vincent Robertson, Esquire, dated July 17, 2015; and Janelle Cornwell, AICP, dated August 11, 2015; and that those comments were provided to County Council on August 18, 2015 for the purpose of opening the record for anyone to respond to those comments submitted.

The County Council was advised by a memorandum from Lawrence Lank, Director of Planning and Zoning, to Todd Lawson, County Administrator, dated September 8, 2015, that the County Council could place the application on a future agenda to report receipt of public comments on those four comments previously referenced; that once the receipt of the information is reported to the County Council the record can then be closed; and that the County Council could then place this application on a future agenda to render a decision.

On September 15, 2015 Mr. Lank provided said report to the County Council and advised the County Council that during the referenced 15 day period, and prior to the September 2, 2015 deadline, approximately 165 letters/emails were received; copies of the correspondence were provided to the County Council; Mr. Lank noted that, due to the volume of correspondence received, the County Council will have to decide which comments address specifically those comments addressed by DelDOT, the Department of Agriculture, Vincent Robertson, Esquire, and Janelle Cornwell, AICP. Vincent Robertson was also in attendance, and stated that it is important for County Council members to remember that they can only consider and rely upon the comments that relate back to the four referenced comments received.

On September 15, 2015 there was a motion by Mr. Cole, seconded by Mrs. Deaver, and carried unanimously to close the public record on this application. The motion carried 5 – 0.

OLD BUSINESS  
April 12, 2016

This is to certify that on December 10, 2015 the Sussex County Planning and Zoning Commission conducted public hearings on the below listed applications for Conditional Use. At the conclusion of the public hearings, the Commission moved and passed that the applications 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 hearings 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 hearings.

**C/U #2039 – PERFORMANCE INJECTION EQUIPMENT CO., LLC**

**An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for manufacturing and installation of performance automotive parts and accessories to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 34,740 square feet, more or less.** The property is located northeast corner of DuPont Boulevard (U.S. Route 113) and Betts Lane. (911 Address: 24994 Betts Lane, Georgetown) Tax Map I.D. 133-6.00-110.00.

The Commission found that the applicant provided a survey/site plan depicting the location of the improvements on the property with the application filed on September 22, 2015, and an Exhibit Booklet on December 1, 2015. The Exhibit Booklet contains a copy of the application form; a copy of the deed to the property; a listing of property owners within 200 feet of the address site; a copy of the survey of the property; a cover letter from Aaron C. Baker, Esquire of Baird Mandalas Brockstedt, LLC; a series of photographs of the property; a series of photographs of the nearby commercial activities; a location map of the site; and a copy of the applicant's website advertisement.

The Commission found that DelDOT provided comments on July 30, 2015 in the form of a Support Facilities Report referencing that a Traffic Impact Study was not recommended and that the current Level of Service "C" of DuPont Boulevard (U.S. Route 113) will not change as a result of this application.

The Commission found that the Sussex Conservation District provided comments on December 9, 2015 in the form of a memorandum referencing that the site contains one soil type; that the applicant will be required to follow recommended erosion and sediment control practices during

construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; and that no off-site or on-site drainage improvements will be required.

The Commission found that the Sussex County Engineering Department Utility Planning Division provided comments on December 9, 2015 in the form of a memorandum referencing that the site is located in the North Coastal Planning Area; that the project is not capable of being annexed into a County operated Sanitary Sewer District at this time; that conformity to the North Coastal Planning Study will be required; that the proposed site is not in an area where the County has a schedule to provide sewer service at this time; and that a concept plan is not required.

Mr. Lank advised the Commission that this site was previously approved for an office and warehouse for a heating and air conditioning business (C/U #1493) for Ron and Doneita Witke, and was utilized for that purpose until several years ago. C/U #1493 was originally approved by the Sussex County Council on May 13, 2003 with five conditions of approval.

Mr. Lank added that the property owner was advised that the on-going business activities that are currently in operation are a violation of the Zoning Ordinance and that a new Conditional Use application was required.

The Commission found that Chris Hitchens of Performance Injection Equipment Co., Inc. was present with Aaron Baker, Esquire of Baird Mandalas Brockstedt, LLC, and that they stated in their presentation and in response to questions raised by the Commission that the building contains approximately 3,000 square feet; that trees buffer the lot along the rear; that a solid fence has been erected along the northerly property line; that the previous business, a heating and air conditioning business moved out in 2013; that they manufacture, research, and test performance automotive equipment; that the use is not a general repair shop; that they sell performance parts through their website; that they tune vehicles on a dyno in the shop; that the shop is ventilated and the doors are now kept closed during testing; that he currently has one employee and anticipates no more than three including himself; that he has 10 or fewer customers visit the site during any given week; that he has applied for the Conditional Use to bring the business into compliance; that there are many established business and commercial uses in the area and referenced Kruger Trailers, Pep-Up, Georgetown Speedway, Infinity Choppers, a hair salon, AD-Art; Classic Autos, Stockley Materials, M.L. Joseph Construction, Iron Works, and others; that some of those businesses are zoned commercial, some are conditional uses, and some may have pre-existed zoning; that the use is not inconsistent with the Comprehensive Land Use Plan; that the Exhibit Booklet presented contains photographs of other businesses in the area, and suggested Findings of Fact and Conditions of Approval for consideration; that no outside repair work is performed; that the applicant sent letters to his neighbors explaining the dyno process and the activities being conducted on the site; that any fluids removed from vehicles are placed in an approved container and removed by a licensed handler; and that metal parts are recycled.

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

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

On December 10, 2015 there was a motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

On January 14, 2016 the Commission discussed this application under Old Business.

Mr. Johnson stated that he would move that the Commission recommend approval of Conditional Use No. 2039 for Performance Injection Equipment Co., LLC for manufacturing and installation of performance automotive parts and accessories based upon the record made at the public hearing and for the following reasons:

- 1) The property has historically been used for commercial purposes since at least 2002. The previous business, a heating and air conditioning business moved out in 2013. This proposed use will be consistent with the prior uses of the property, and will use the same building that currently exists on the property.
- 2) The use is to manufacture, research and test performance automotive equipment and it will not be a general repair shop. The sales of performance parts are primarily through the businesses website.
- 3) The site is located in an area where there are many established businesses and commercial uses, including Kruger Trailers, Pep-Up, the Georgetown Speedway, Infinity Shoppers, a hair salon, Ad-Art, Classic Autos, Stockley Materials, M.L. Joseph Construction, Ironworks and others. The proposed use is consistent with these other existing businesses.
- 4) The proposed use will not adversely affect traffic or area roadways. It will also not adversely affect neighboring or adjacent properties.
- 5) The applicant sent letters to neighbors explaining the uses and activities being conducted on the site. No parties objected to the use and no parties appeared in opposition to the application during the public hearing.
- 6) This recommendation is subject to the following conditions:
  - a. No outside repair work shall be performed on the site.
  - b. Any fluids removed from vehicles shall be placed in approved containers and removed by licensed handlers of those materials.
  - c. All used or junked parts, equipment, etc. shall be stored from view from neighboring properties and roadways and shall be appropriately discarded or recycled.
  - d. The chassis dynamometer shall be operated with the doors to its building closed. It shall also only be operated between 10:00 a.m. and 5:00 p.m. Monday through Friday.
  - e. The property shall have security lighting that is downward screened so that it does not project onto neighboring properties or roadways.
  - f. One lighted sign, not to exceed 32 square feet per side shall be permitted.
  - g. The applicant shall comply with all DelDOT requirements concerning access and roadway improvements.
  - h. All dumpsters or trash disposal containers shall be screened from view from neighboring and adjacent properties and roadways.
  - i. 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 unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 4 – 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.**

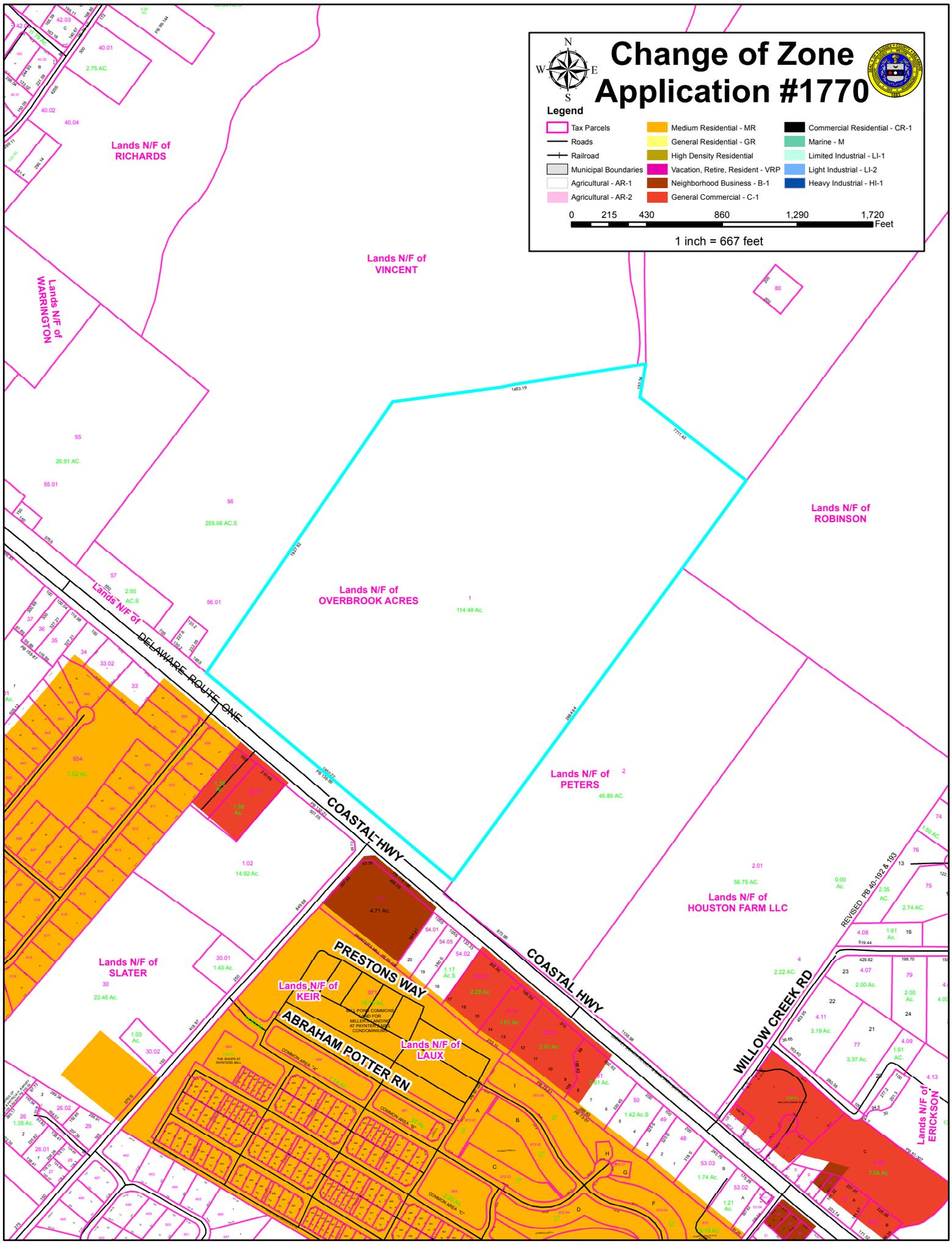
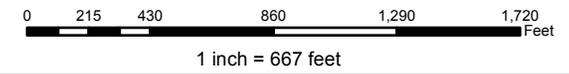


# Change of Zone Application #1770



### Legend

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



# Change of Zone Application #1770

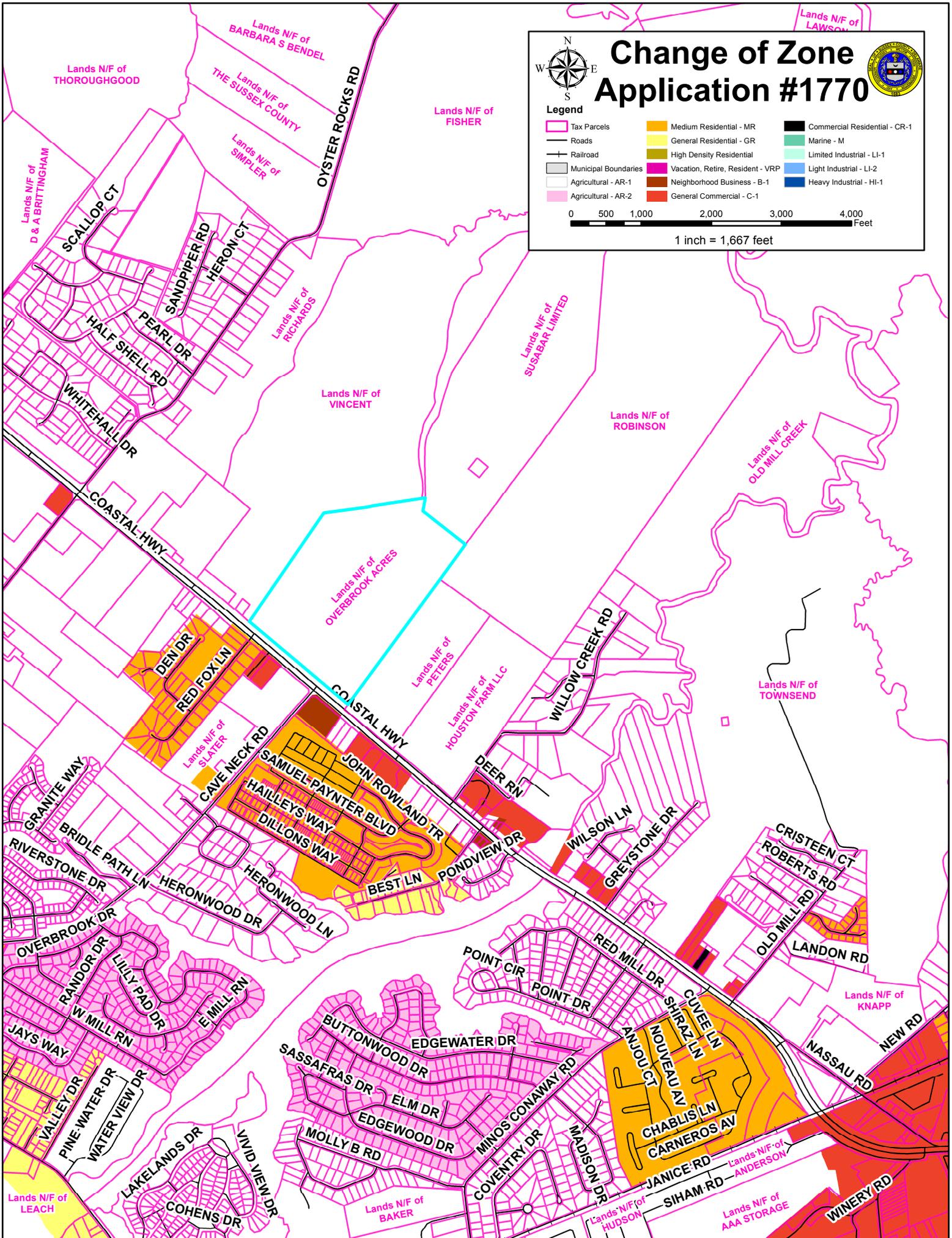


## Legend

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

0 500 1,000 2,000 3,000 4,000 Feet

1 inch = 1,667 feet



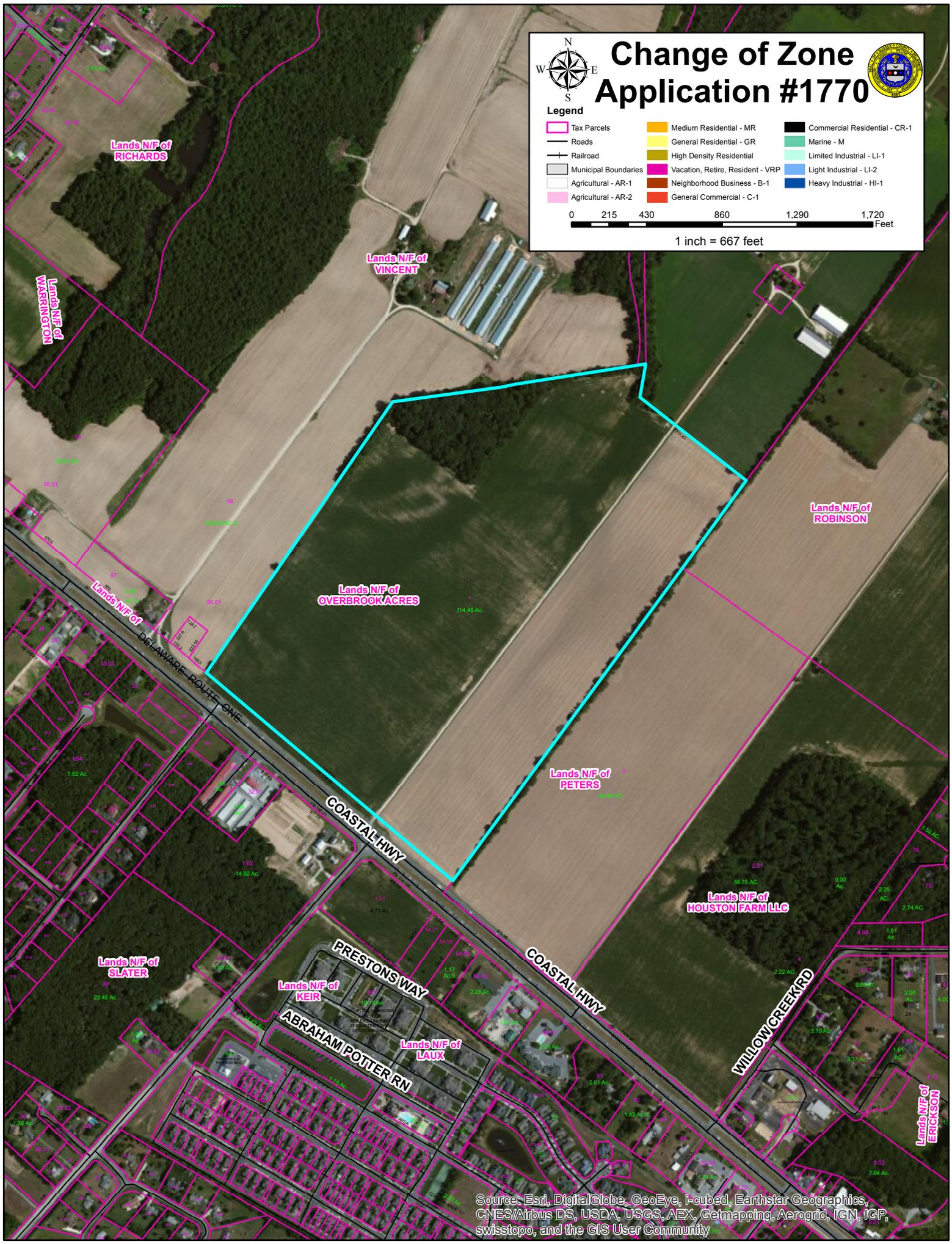
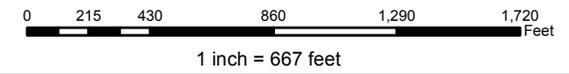


# Change of Zone Application #1770



### Legend

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



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

**Introduced 11/03/15**

**Council District No. 2 - Wilson  
Tax I.D. No. 133-6.00-110.0  
911 Address: 24994 Betts Lane, Georgetown**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MANUFACTURING AND INSTALLATION OF PERFORMANCE AUTOMOTIVE PARTS AND ACCESSORIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 34,740 SQUARE FEET, MORE OR LESS**

**WHEREAS, on the 22nd day of September 2015, a conditional use application, denominated Conditional Use No. 2039 was filed on behalf of Performance Injection Equipment Co., 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. 2039 be \_\_\_\_\_; and**

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

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

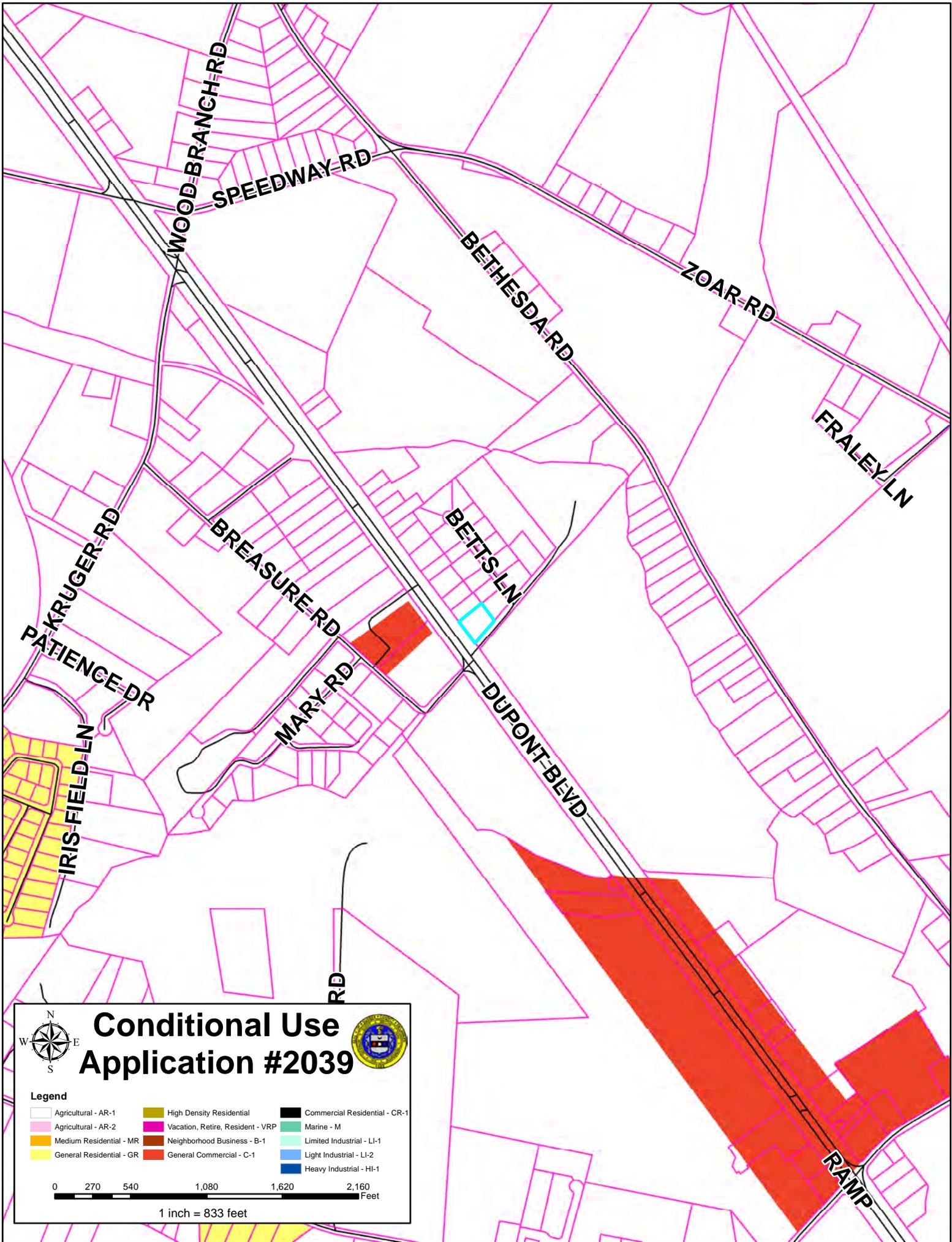
**Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2039 as it applies to the property hereinafter described.**

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

**ALL that certain tract, piece or parcel of land, lying and being situate in Dagsboro Hundred, Sussex County, Delaware, and lying at the northeast corner of DuPont Boulevard (U.S. Route 113) and Betts Lane and being more particularly described in Deed Book 4119, Page 217, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 34,740 square feet, 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.**



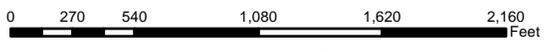


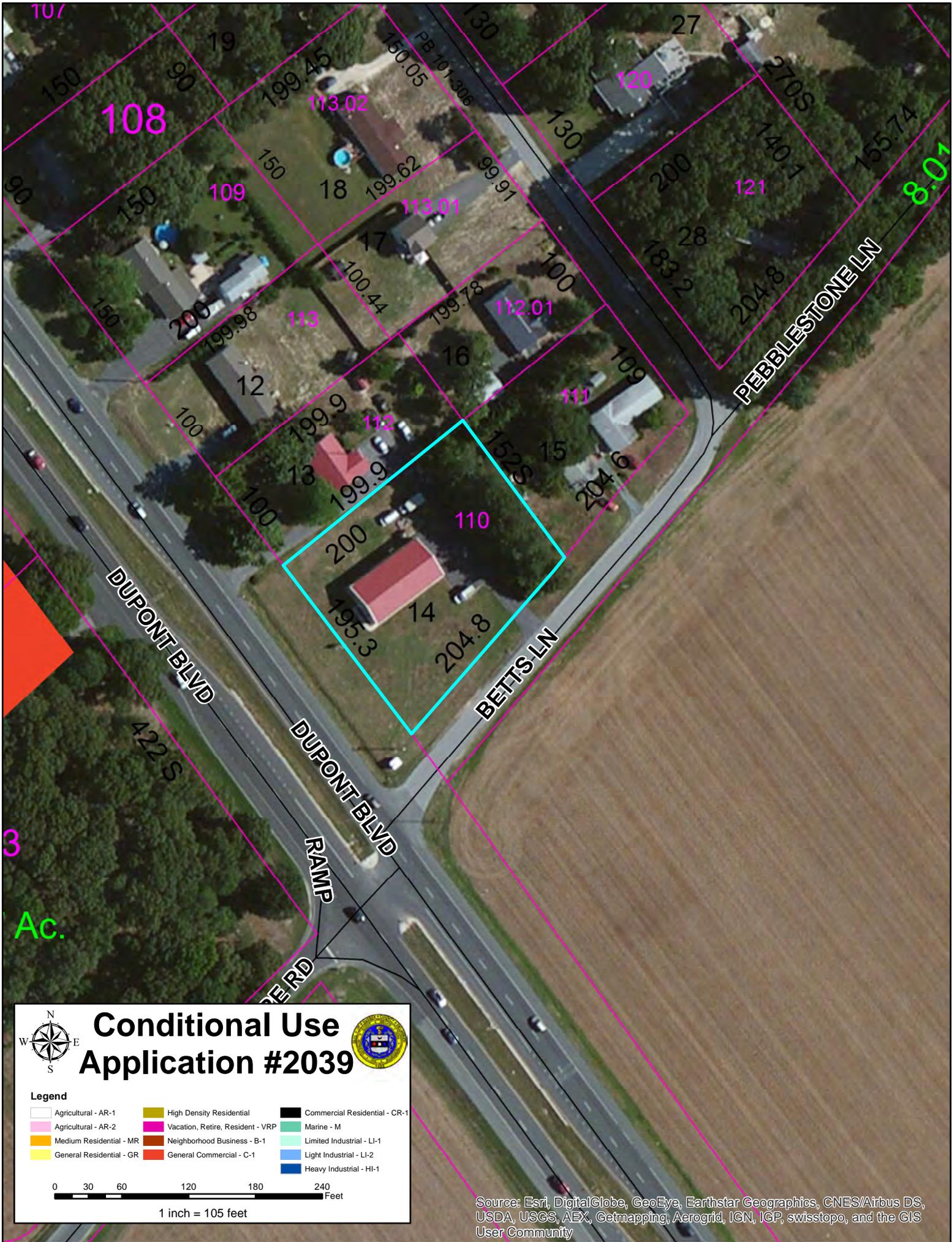
# Conditional Use Application #2039



**Legend**

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





## ENGINEERING DEPARTMENT

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



# Sussex County

DELAWARE  
sussexcountyde.gov

HANS M. MEDLARZ, P.E.  
COUNTY ENGINEER

JOHN J. ASHMAN  
DIRECTOR OF UTILITY PLANNING

April 6, 2016

## FACT SHEET

### LONG NECK SANITARY SEWER DISTRICT Z&Z REAL PROPERTIES LLC ANNEXATION

#### DEVELOPER:

Z&Z Real Properties, LLC  
Neng Zhang  
24794 Shoreline Drive  
Millsboro, DE 19966

#### LOCATION:

26152 School Lane  
Millsboro, DE 19966

#### SANITARY SEWER DISTRICT:

Long Neck Sanitary Sewer District

#### TYPE AND SIZE OF DEVELOPMENT:

One (1) Single family lot (Existing home totally renovated)

#### SYSTEM CONNECTION CHARGES:

\$4,510.00

#### PROJECT DESCRIPTION:

This project proposes connection of an existing totally renovated house to the existing 8" sewer located in School lane.

The developer will be responsible for payment of all applicable fees to include system connection charge, annual service and front footage assessments per EDU based on Rates established for July 1, 2015 through June 30, 2016. In addition they will be responsible for making the connection to the existing 8" main and extension of the lateral to the building. The proposed connection will be inspected by Sussex County Staff.

Adjacent property owner was also contacted to gauge their interest in being annexed to the district with no response received as of the date of this meeting.



## RESOLUTION

A RESOLUTION TO EXTEND THE BOUNDARY OF THE LONG NECK SANITARY SEWER DISTRICT (LNSSD) TO INCLUDE CERTAIN LOTS, PIECES OR PARCELS OF LAND, SITUATED WEST OF SCHOOL LANE IN SHERWOOD FOREST NORTH SUBDIVISION, SUSSEX COUNTY, DELAWARE.

WHEREAS, Sussex County has established the Long Neck Sanitary Sewer District (LNSSD); and

WHEREAS, in the best interests of the present district and to enhance the general health and welfare of that portion of Sussex County, the inclusion of this property will be beneficial; and

WHEREAS, in accordance with 9 Del.C., Section 6502 (a), the Sussex County Council may, upon request of the County Engineer, revise the boundary of an established sewer district when 50 or more houses have been connected by posting a public notice in four public places in the district describing the new or revised boundary; and

WHEREAS, the Sussex County Council has caused to be posted a public notice in at least four public places in the district, as verified by the affidavit of Aref Etemadi, a copy of which affidavit and public notice is attached hereto and made a part hereof; and

WHEREAS, in accordance with 9 Del.C., Section 6502 (b), the Sussex County Council shall, within thirty days after posting the public notices pass a formal resolution establishing the new boundary of the district;

NOW, THEREFORE,

BE IT RESOLVED the Sussex County Council hereby revises the boundary of the LNSSD to include certain lots, pieces or parcels of land, situated west of School Lane, and the lands of parcel better described, as follows:

BEGINNING at a point, situate on the westerly right of way (ROW) of School Lane, said point being approximately 1,134 feet north of the intersection of Bay Farm Road and School Lane and on a point along the existing boundary of the LNSSD and the southwestern most corner of lands now or formerly of (N/F) Z&Z Real Property LLC ;thence following said LNSSD boundary the following directions and distances; northeasterly 170± feet, northwesterly 170± feet to a point, said point being a point located on the southerly boundary of lands N/F of Indian River School District; thence continuing in a southwesterly direction 115± feet to a point, said point being the northwesterly corner of said lands of Z&Z Real Property; thence continuing in a southeasterly direction 150± feet to a point, said point being that of the **BEGINNING**.

BE IT FURTHER RESOLVED that the County Engineer is hereby directed to prepare maps, plans, specifications, and estimates, let contracts for and supervise the construction and maintenance of, or enlarging and remodeling of, any and all structures required to provide for the safe disposal of sewage in the sanitary sewer district, as amended.

Z&Z REAL PROPERTIES LLC ANNEXATION TO THE  
LONG NECK SANITARY SEWER DISTRICT  
AFFIDAVIT FOR PUBLIC HEARING

STATE OF DELAWARE )( :  
COUNTY OF SUSSEX )(

BE IT REMEMBERED, That the subscriber, AREF ETEMADI personally appeared before me and known to me personally to be such, who being by me duly sworn to law did depose and say as follows:

- A. On March 22, 2016 he was a Planning Technician for the Sussex County Engineering Department, Sussex County, State of Delaware; and
- B. On March 22, 2016 he did post the attached "Public Notice," prepared by the Sussex County Engineering Department, at the following locations:
  1. On the area of land being considered for the proposed annexation of the Long Neck Sanitary Sewer District being part of tax map reference 234-23.00 Parcel 234.00 in four (4) locations as follows:
    - a. On a driven stake located on School Lane approximately 2000' south of Long Neck road;
    - b. On a driven stake located on School Lane approximately 1100' north of Bay Farm road;
    - c. On a Delmarva Electric Cooperative (DEC) pole number 103177 on School lane by Long Neck Plaza;
    - d. On a DEC pole number 130426 on School lane across from entrance to Long Neck Plaza;
  2. On a tree at route 5 at entrance to Rite Aid shopping center.
  3. On a DEC pole Number 26289 on route 5 and rear entrance to Food Lion Shopping Center.
  4. On a Verizon (VZ) pole Number 24 on route 5 across from RC Carpet store.
  5. On a street sign at intersection of Bay Farm and Legion roads.

*Aref Etemadi*  
AREF ETEMADI

SWORN TO AND SUBSCRIBED before me on this 23rd day of March A.D., 2016.

*Thomas W. Feret Sr.*  
NOTARY PUBLIC

My Commission Expires \_\_\_\_\_.



**PUBLIC NOTICE**  
**EXPANSION OF THE LONG NECK SANITARY SEWER DISTRICT (LNSSD)**  
**TAX MAP AND PARCEL NUMBER 234-23.00-234.00**  
**LANDS OF Z&Z REAL PROPERTIES, LLC**  
**FILE NUMBER: LNSSD 7.25**

**NOTICE IS HEREBY GIVEN** that the Sussex County Council voted on March 15, 2016, to consider expanding the boundary of the Long Neck Sanitary Sewer District to include tax map and parcel 234-23.00-234.00, land now or formerly (N/F) of Z&Z Real Property LLC, situated on the west side of School lane. The parcel is located in the Sherwood Forest North Subdivision, Indian River Sussex County, Delaware and recorded in the Office of the Recorder of Deeds, in and for Sussex County, Delaware.

BEGINNING at a point, situate on the westerly right of way (ROW) of School Lane, said point being approximately 1,134 feet north of the intersection of Bay Farm Road and School Lane and on a point along the existing boundary of the LNSSD and the southwestern most corner of lands now or formerly of (N/F) Z&Z Real Property LLC ;thence following said LNSSD boundary the following directions and distances; northeasterly 170± feet, northwesterly 170± feet to a point, said point being a point located on the southerly boundary of lands N/F of Indian River School District; thence continuing in a southwesterly direction 115± feet to a point, said point being the northwesterly corner of said lands of Z&Z Real Property; thence continuing in a southeasterly direction 150± feet to a point, said point being that of the **BEGINNING**.

The proposed expansion of the LNSSD is within these boundaries and said to contain 0.35 acres, more or less. The boundary description has been prepared using Sussex County tax map number 234-23.00.

A map outlining and describing the extension to the LNSSD is attached. The area involved is crosshatched.

**The public hearing will be held on this issue at 10:15 am on April 12, 2016 in the Sussex County Council Chambers.** All interested persons, officials, residents, voters, taxpayers, property owners, or corporations in any way affected by this boundary extension are welcome to attend. There will be an opportunity for questions and answers. The Sussex County Council following the hearing, at one of their regularly scheduled meetings, will make the final decision on the boundary extension.

For further information, please call or write the Sussex County Engineering Department, 2 The Circle, Post Office Box 589, Georgetown, DE 19947 – (302) 855-1299.

Hans Medlarz P.E.  
County Engineer

# Proposed Z&Z Annexation of the Long Neck Sanitary Sewer District

April 12, 2016



Proposed Exp. Existing SSD



1 inch = 50 feet



Bayshore

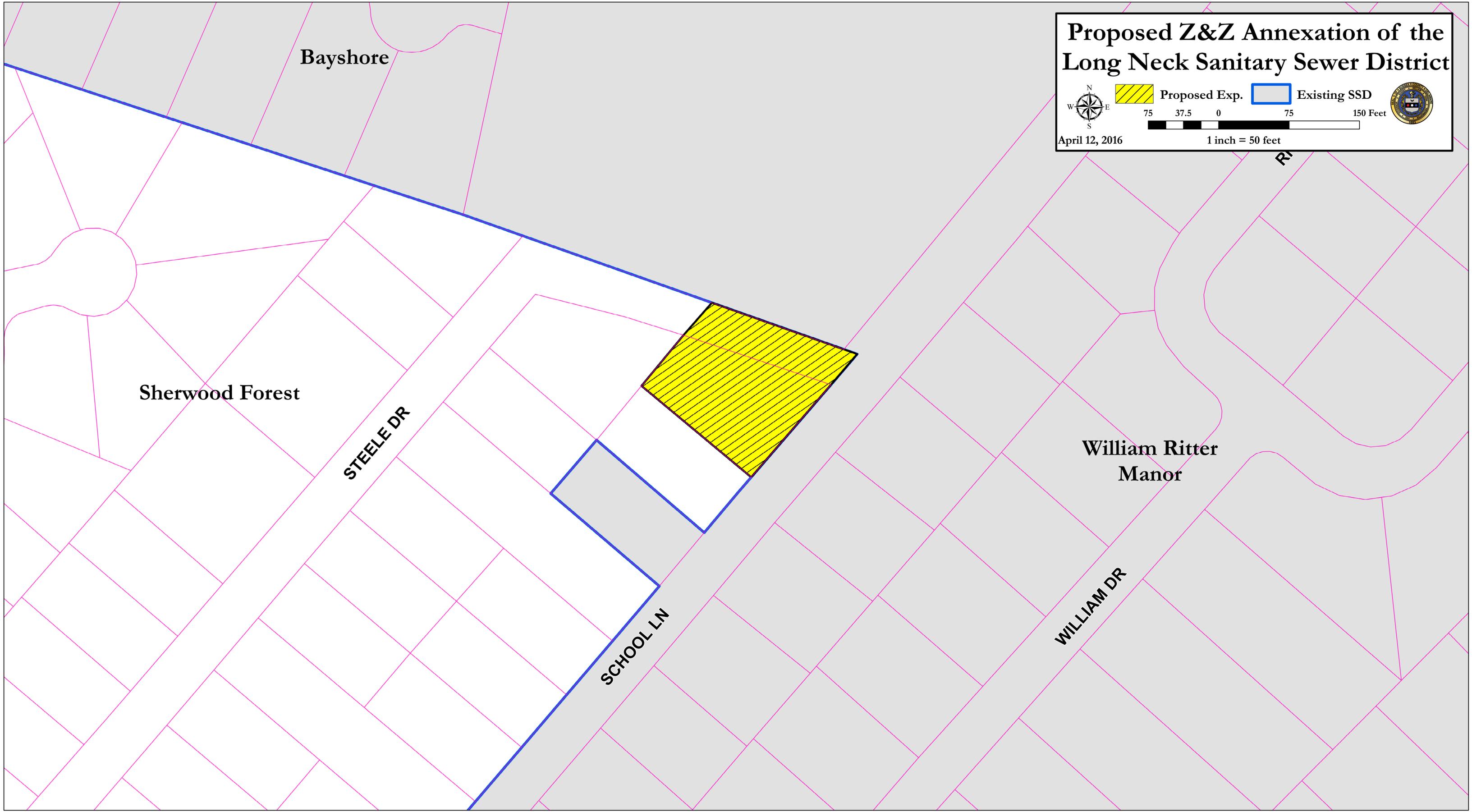
Sherwood Forest

William Ritter  
Manor

STEELE DR

SCHOOL LN

WILLIAM DR



PUBLIC HEARINGS  
April 12, 2016

This is to certify that on January 28, 2016 the Sussex County Planning and Zoning Commission conducted public hearings on the below listed applications for Conditional Use. At the conclusion of the public hearings, the Commission moved and passed that the applications 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 hearings 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 hearings.

PUBLIC HEARINGS

**C/U #2040 – Sposato Imports**

**An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for an expansion of Conditional Use No. 1474 (landscaping business) to utilize a warehouse for the storage of wine to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 10.109 acres, more or less.** The property is located east of Hudson Road (Road 258) and 1,720 feet south of Eagles Crest Road (Road 264) (911 Address: 16181 Hudson Road, Milton) Tax Map I.D. 235-22.00-21.01.

The Commission found that the applicant submitted a copy of the survey of the property relating to the original application for the landscaping business, sketches of the site location, the location of the warehouse as it relates to the other buildings on the site, and the building.

Mr. Lank advised the Commission that Conditional Use No. 1474 was approved by County Council on January 14, 2003 with seven (7) conditions of approval.

The Commission found that DelDOT provided comments in the form of a Support Facilities Report on February 23, 2015 referencing that a traffic impact study is not recommended, and that the current Level of Service of Hudson Road will not change as a result of this application.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum on January 27, 2016 referencing that the property is located in the North Coastal Planning Area; that an on-site septic system is required;

that conformity to the North Coastal Planning Area 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 David and Karen Sposato were present and stated in their presentation that they are proposing to import bottled and labeled Argentina wines that will be stored in a warehouse on their property; that the warehouse will be temperature controlled; that the wines will be shipped directly from the site to their distributor; that they anticipate one stake body truck, similar to a UPS or Fed-Ex vehicle, per week in and out; that there will not be any retail sales; that no signage is necessary; that they have not met with the neighbors; and that delivery and pick-up hours would be from 7:00 a.m. to 3:30 p.m.

The Commission found that there were no parties present in support of or in opposition to the application.

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

Mr. Burton stated that he would move that the Commission recommend approval of Conditional Use No. 2040 for Sposato Imports for the expansion of an existing Conditional Use for a landscaping business to allow the storage of wine based upon the record made during the public hearing and for the following reasons:

- 1) The use is currently operated as a landscaping business.
- 2) The proposed use will be located in an existing building on the premises.
- 3) The use will generate very little additional traffic beyond what currently exists with the landscaping business.
- 4) The expansion will not adversely affect neighboring properties or roadways.
- 5) The applicant has stated that they are asking for the ability to store wine only. They have stated that there will not be any retail sales from the site.
- 6) No parties appeared in opposition to the application.
- 7) This recommendation is subject to the following conditions:
  - a. No retail sales shall occur from the site.
  - b. No additional signage shall be permitted.

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 5 – 0.

**C/U #2041 – Scott Randall Witzke**

**An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a retail auto sales to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 10.0 acres, more or less.** The property is located north of Delmar Road (Route 54) 0.5 mile west of Horsey Church Road (Road 510) (911 Address: 8137 Delmar Road, Delmar) Tax Map I.D. 532-19.00-7.00.

The Commission found that the applicant provided a copy of surveys of the property and a cover letter explaining the application when the application was filed.

The Commission found that DelDOT provided comments in the form of a Support Facilities Report on October 28, 2015 referencing that a Traffic Impact Study was not recommended, and that the current Level of Service of Delmar Road (Route 54) will not change as a result of this application.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum on January 27, 2016 referencing that the property is located in the Western Sussex Planning Area #4; that on-site septic is required; that conformity to the Western Sussex 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 Scott Witzke was present and stated in his presentation that the 10 acre parcel is a part of a larger 43 acre farm; that there are no immediate neighbors to the site proposed for vehicle display; that he will only occasionally display vehicles for sale; that most of the vehicles are sold over the internet; that he will comply with the display codes; that he will not display more than five (5) vehicles at any one time; that there will be no more than ten (10) vehicles stored on the site for sale; that the vehicles will only be displayed during daylight hours; that he will be selling both automobiles and trucks; that no auto repair work will be performed on the vehicles; that he will not be selling automotive parts; and that signage will not exceed 32 square feet per side.

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

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

On January 28, 2016 there was a motion by Mr. Ross, seconded by Mr. Smith, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

On February 11, 2016 the Commission discussed this application under Old Business.

Mr. Ross stated that he would move that the Commission recommend approval of Conditional Use No. 2041 for Scott Randall Witzke for a conditional use to allow retail auto sales based upon the record made during the public hearing and for the following reasons:

- 1) The use is primarily for automobile auctions via the internet. Although there may be some vehicles displayed on the site, most of the sales will be off-site via the internet.
- 2) The 10 acre parcel that is the subject of this application is part of a larger 43 acre farm and there are no immediate neighbors to the proposed area for vehicle display. And, the applicant will only occasionally display vehicles for sale on the site.
- 3) The project, with the conditions and stipulations placed upon it will not have an adverse impact on neighboring properties or the community.
- 4) But for an occasional display of vehicles for sale, the use would not be evident to anyone on the roadway or adjacent properties. Since the actual sales typically occurs via the internet, it is nearly a home occupation.

- 5) No parties appeared in opposition to the application.
- 6) This recommendation for approval is subject to the following conditions:
  - a. No more than five (5) vehicles shall be displayed for sale on the site at any one time, and as stated by the applicant the vehicles shall be displayed only daylight hours.
  - b. The vehicles shall be displayed no closer than fifty (50) feet from the front property line. The display area location shall be shown on the Final Site Plan.
  - c. There shall be no more than 15 vehicles stored on the site for sale at any one time.
  - d. No auto repair work shall be performed on the vehicles at the site.
  - e. As stated by the applicant, no automotive parts shall be sold from the site.
  - f. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
  - g. No junked, unregistered or permanently inoperable vehicles or trailers shall be stored on the site. In addition, no automotive parts shall be stored outside on the site.
  - h. Any dumpsters shall be screened from view of neighbors and roadways. The dumpster location shall be shown on the Final Site Plan.
  - i. Any security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.
  - j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Ross, seconded by Mr. Smith, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 5 – 0.

**Introduced 1/05/16**

**Council District No. 3 - Deaver  
Tax Map I.D. No. 235-22.00-21.01  
911 Address: 16181 Hudson Road, Milton**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EXPANSION OF CONDITIONAL USE NO. 1474 (LANDSCAPING BUSINESS) TO UTILIZE A WAREHOUSE FOR THE STORAGE OF WINE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 10.109 ACRES, MORE OR LESS**

**WHEREAS, on the 5th day of October 2015, a conditional use application, denominated Conditional Use No. 2040 was filed on behalf of Sposato Imports; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2016, 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. 2040 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2016, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.**

**NOW, THEREFORE,**

**THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2040 as it applies to the property hereinafter described.**

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

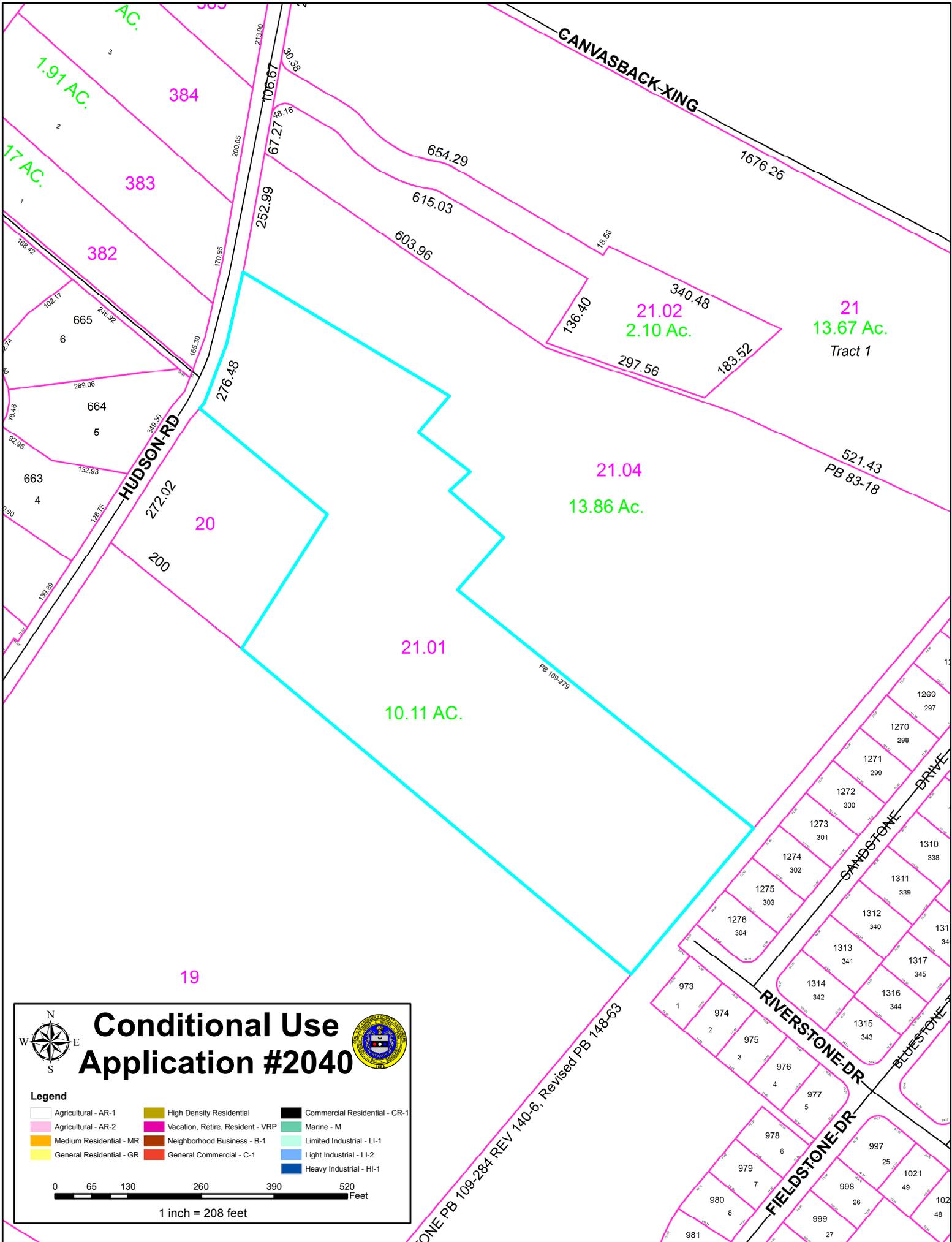
**ALL that certain tract, piece or parcel of land, lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying east of Hudson Road (Road 258) and 1,720 feet south of Eagles Crest Road (Road 264) and being more particularly described as follows:**

**BEGINNING at a point on the easterly right of way of Road 258, a corner for these subject lands and lands of Charles H. Ewing, Jr.; thence northerly along the easterly right of way of Road 258, 276.62 feet to a point, a corner with lands of John Frederick Sposato and Patricia A. Sposato; thence following said Sposato lands the following five (5) courses: south 52 degrees 51 minutes 41 seconds east 417.10 feet to a point, south 42 degrees 39 minutes**

53 seconds west 135.44 feet to a point, south 44 degrees 04 minutes 00 seconds east 229.81 feet to a point, south 45 degrees 56 minutes 00 seconds west 115.00 feet to a point, and south 44 degrees 04 minutes 00 seconds east 677.82 feet to a point; thence south 45 degrees 54 minutes 04 seconds west 339.88 feet along The Island Farm, Inc., to a point; thence north 44 degrees 07 minutes 42 seconds west 887.73 feet along The Edge Group, Inc., to a point; thence north 39 degrees 15 minutes 44 seconds east 271.05 feet along the aforementioned Ewing lands to a point; thence north 43 degrees 48 minutes 46 seconds west 309.65 feet along the aforementioned Ewing lands to the point and place of beginning, said parcel containing 10.109 acres, more or less, as surveyed by Adams-Kemp Associates, Inc.

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

PROPOSED

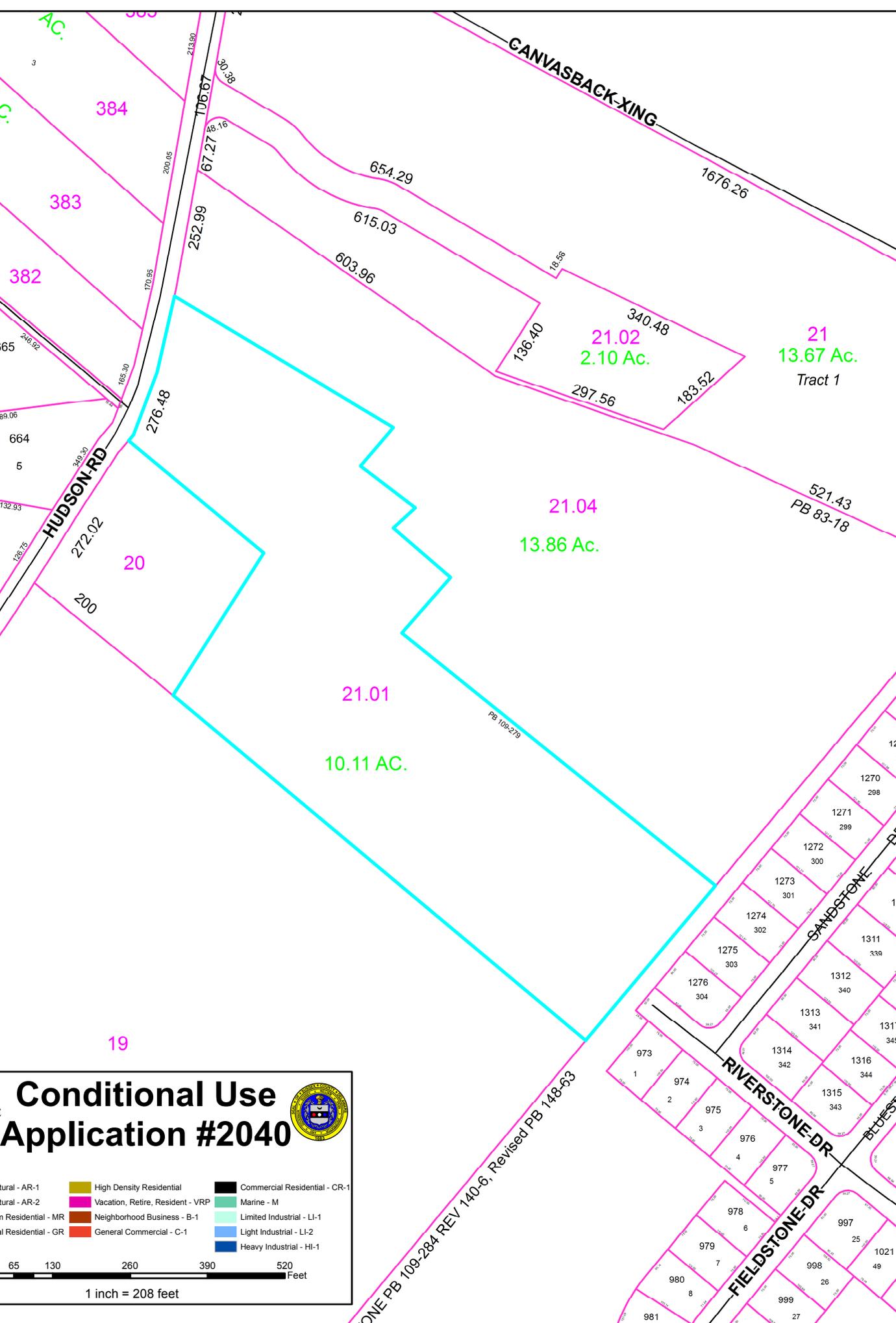


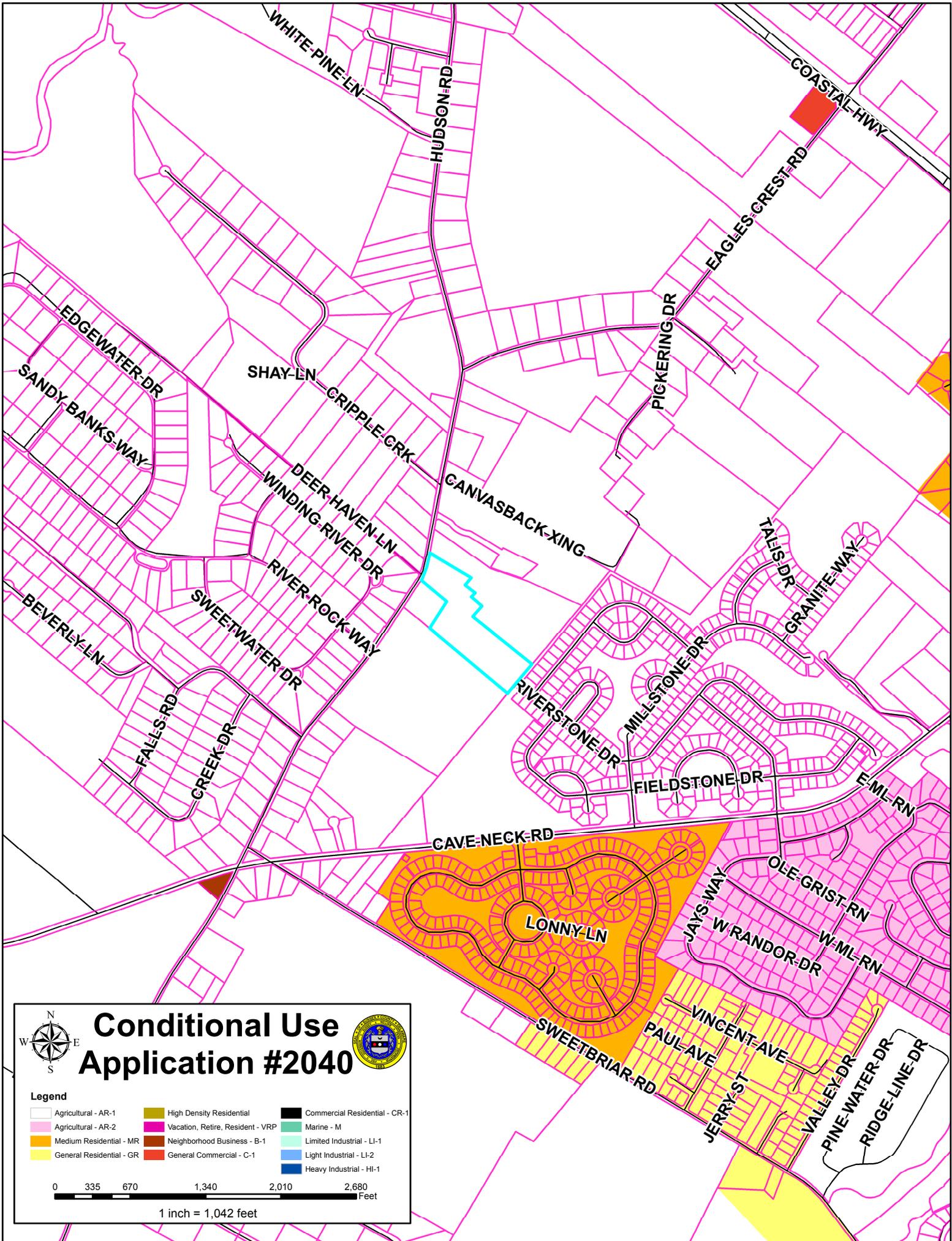
# Conditional Use Application #2040



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

0 65 130 260 390 520 Feet  
1 inch = 208 feet





WHITE PINE LN

HUDSON RD

COASTAL HWY

EDGEWATER DR

SANDY BANKS WAY

SHAY LN

CRIPPLE CRK

PICKERING DR

EAGLES CREST RD

DEER HAVEN LN

WINDING RIVER DR

CANVASBACK XING

TALIS DR

GRANITE WAY

BEVERLY LN

SWEETWATER DR

RIVER ROCK WAY

RIVERSTONE DR

MILLSTONE DR

FALLS RD

CREEK DR

FIELDSTONE DR

E ML RN

CAVE NECK RD

LONNY LN

JAYS WAY

OLE GRIST RN

W RANDOR DR

W ML RN

SWEETBRIAR RD

PAUL AVE

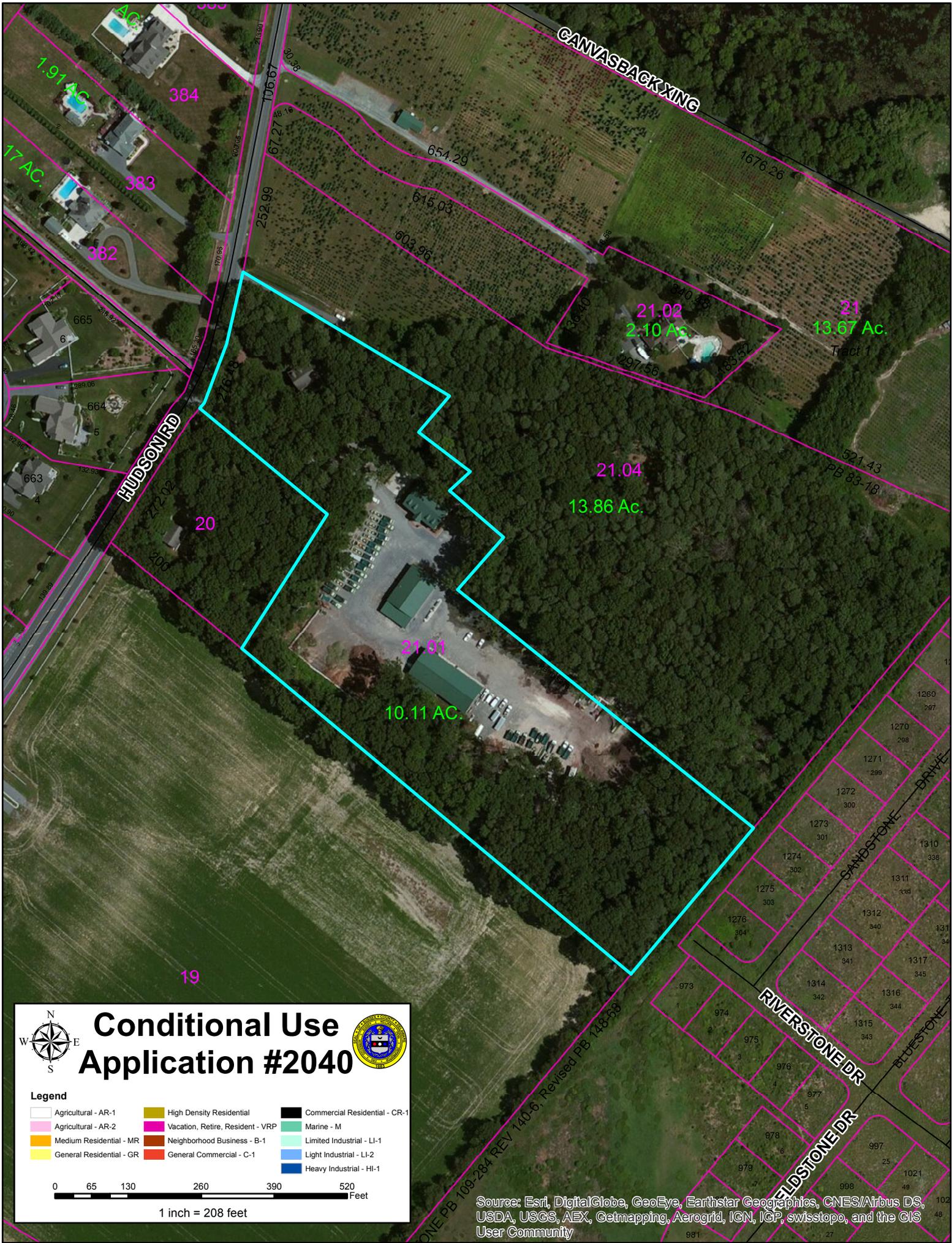
VINCENT AVE

JERRY ST

VALLEY DR

PINE WATER DR

RIDGE LINE DR



**Introduced 1/05/16**

**Council District No. 5 - Arlett  
Tax Map I.D. No. 532-19.00-7.00  
911 Address: 8137 Delmar Road, Delmar**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RETAIL AUTO SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 10.0 ACRES, MORE OR LESS**

**WHEREAS, on the 6th day of November 2015, a conditional use application, denominated Conditional Use No. 2041 was filed on behalf of Scott Randall Witzke; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2016, 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. 2041 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2016, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.**

**NOW, THEREFORE,**

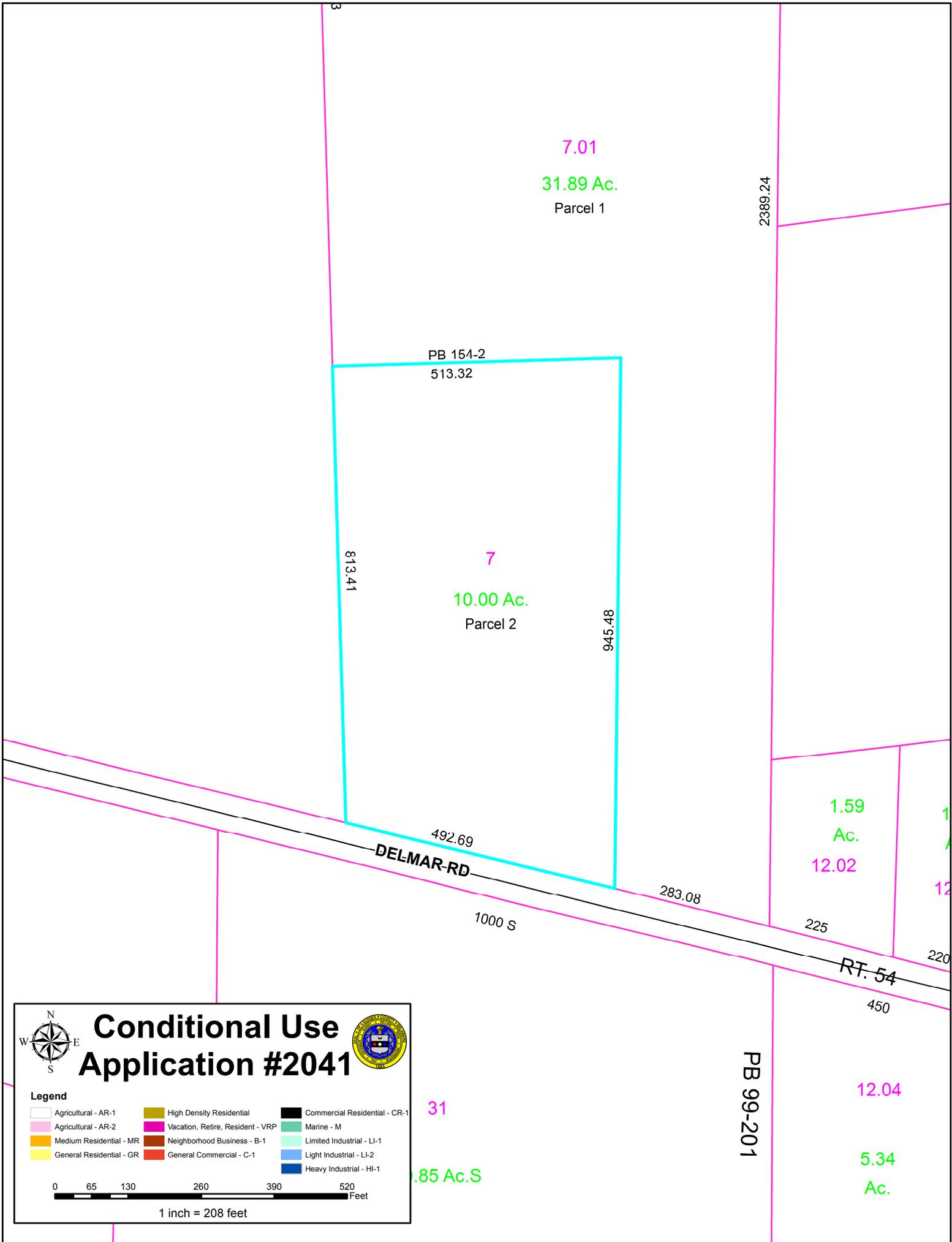
**THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2041 as it applies to the property hereinafter described.**

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

**ALL that certain tract, piece or parcel of land, lying and being situate in Little Creek Hundred, Sussex County, Delaware, and lying north of Delmar Road (Route 54) 0.5 mile west of Horsey Church Road (Road 510) and being more particularly described in Deed Book 4243, Page 219, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 10.0 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.**



# Conditional Use Application #2041

**Legend**

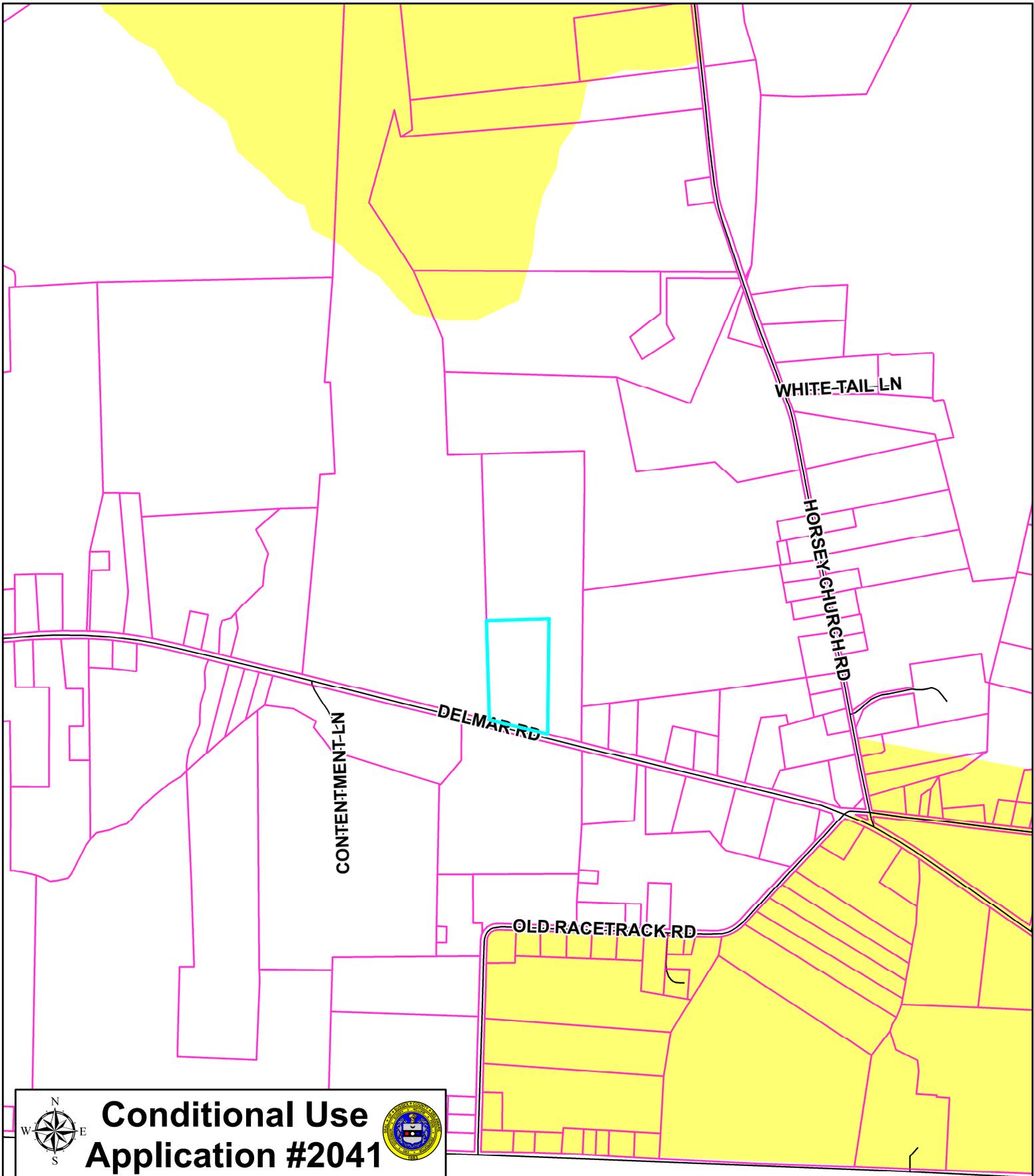
Agricultural - AR-1	High Density Residential	Commercial Residential - CR-1
Agricultural - AR-2	Vacation, Retire, Resident - VRP	Marine - M
Medium Residential - MR	Neighborhood Business - B-1	Limited Industrial - LI-1
General Residential - GR	General Commercial - C-1	Light Industrial - LI-2
		Heavy Industrial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

0    65    130    260    390    520  
 Feet

1 inch = 208 feet

31  
 8.85 Ac.S

1.59  
 Ac.  
 12.02  
 12.04  
 5.34  
 Ac.



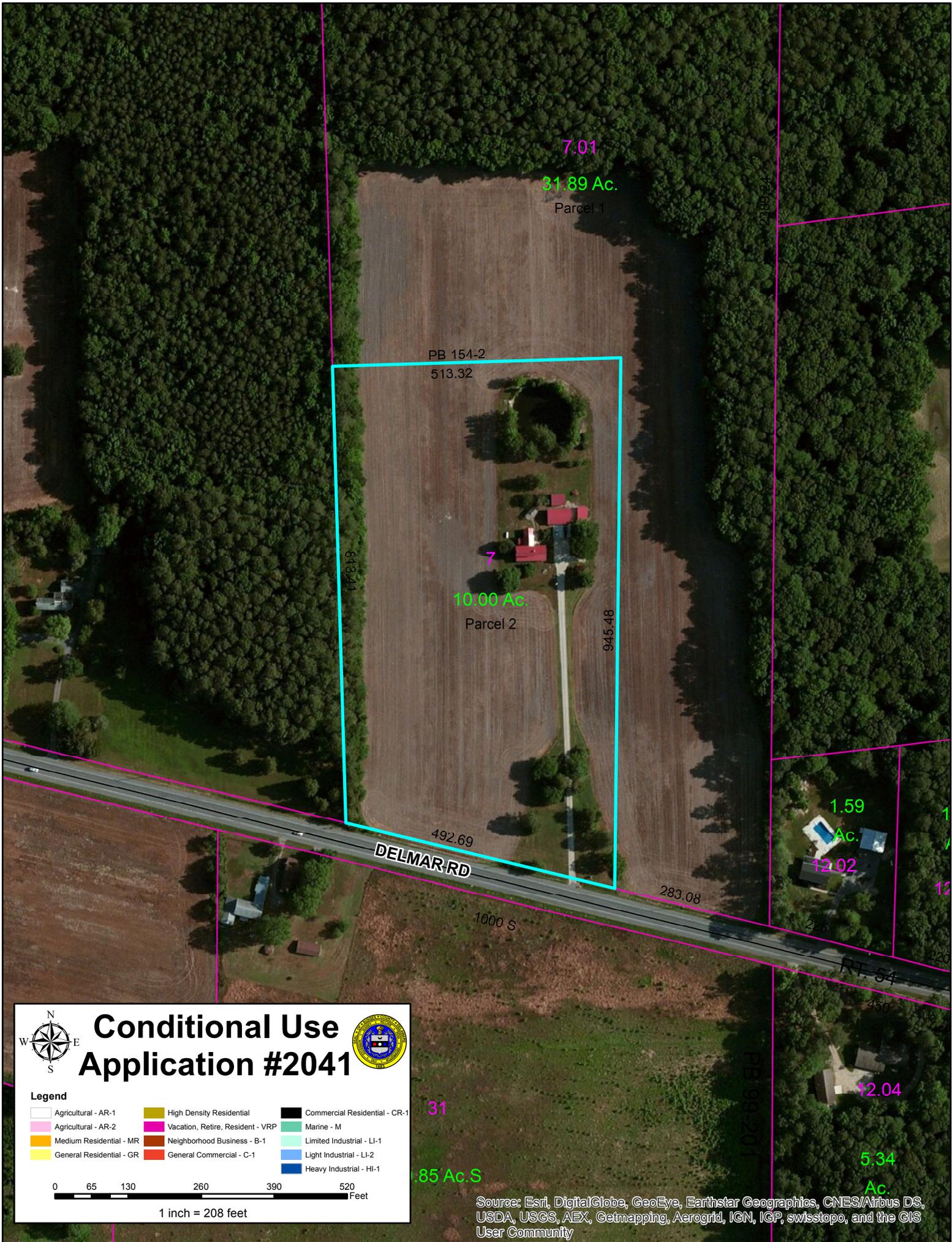
# Conditional Use Application #2041



**Legend**

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





7.01  
31.89 Ac.  
Parcel 1

PB 154-2  
513.32

7  
10.00 Ac.  
Parcel 2

492.69  
DELMAR RD

1.59  
Ac.  
12.02

RT-54

12.04

31  
85 Ac.S

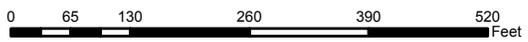
5.34  
Ac.



# Conditional Use Application #2041



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



1 inch = 208 feet

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



# SUSSEX COUNTY GOVERNMENT

## GRANT APPLICATION

### SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME:	MCL DELAWARE DEVIL DOGS DETACHMENT #780		
PROJECT NAME:	4 <sup>TH</sup> ANNUAL GOLF TOURNAMENT		
FEDERAL TAX ID:	46-4606352	NON-PROFIT:	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
ADDRESS:	P.O. BOX 1476		
	SEAFORD, DE	19973	
	<small>(CITY)</small>	<small>(STATE)</small>	<small>(ZIP)</small>
PHONE:	EMAIL:		
CONTACT PERSON:	CHARLES LANDON		
TITLE:	PAST COMMANDANT		
ADDRESS:	7 PECAN CT.		
	LEWES DE	19958	
	<small>(CITY)</small>	<small>(STATE)</small>	<small>(ZIP)</small>
PHONE:	(302) 542-1082	EMAIL:	CHAS2508@gmail.com

**TOTAL FUNDING REQUEST:** \$600.00 *BUSINESS SPONSOR*

Has your organization received other grant funds from Sussex County Government in the last year?

YES  NO

*NOVEMBER 2015 MARINE CORPS BIRTHDAY BALL*

If YES, how much was received in the last 12 months? \$500.00

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

YES  NO

If YES, approximately what percentage of the project's funding does the Council grant represent? 100%

## SECTION 2: PROGRAM DESCRIPTION

### PROGRAM CATEGORY (choose all that apply)

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

### BENEFICIARY CATEGORY

- |  |  |   |
|--|--|---|
| <input checked="" type="checkbox"/> Disability & Special Needs | <input type="checkbox"/> Victims of Domestic Violence                  | <input type="checkbox"/> Homeless         |
| <input type="checkbox"/> Elderly Persons                       | <input type="checkbox"/> Low to Moderate Income <sup>2</sup>           | <input checked="" type="checkbox"/> Youth |
|  | <input checked="" type="checkbox"/> Other <u>SEE ATTACHED BROCHURE</u> |   |

### BENEFICIARY NUMBER

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

3,500

## SECTION 3: PROGRAM SCOPE

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

The Annual DE Devil Dogs Detachment #780 Golf Tournament (4<sup>th</sup>) as Heritage Shows in Bridgeville supports, among other organizations, (1) Maine Cops Toys & Tots program, (2) Eagle Scout Court of Honor Ceremonies across Sussex County, (3) Veterans Affairs, i.e., The Home of the Brave in Milford, and (4) The young Marine Unit ~~and~~ in Seaford and The Jr. ROTC Marine Unit at Woodbridge High School in Bridgeville. All proceeds from the golf Tournament are used to assist the people of Western Sussex County.

### SECTION 4: BUDGET

<b>REVENUE</b>	
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	2015 \$ 8,100.00
<b>TOTAL REVENUES</b>	
<b>EXPENDITURES</b>	
Please enter the total projected budget for the project (not entire organization expense if not applicable to request). Example of expenditure items: PERSONNEL-one lump sum that would include benefits, OPERATING COSTS-supplies, equipment, rent/lease, insurance, printing, telephone, CONSTRUCTION/ACQUISITION-acquisition, development, rehab hard cost, physical inspections, architectural engineering, permits and fees, insurance, appraisal. <b>(Put amounts in as a negative)</b>	
<b>TOTAL EXPENDITURES</b>	\$ 0.00
<b>TOTAL DEFICIT FOR PROJECT OR ORGANIZATION</b>	\$ 0.00

### SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the DE DEER DOGS DETACHMENT # 780 agrees that:  
 (Name of Organization)

- 1) All expenditures must have adequate documentation.
- 2) All accounting records and supporting documentation shall be available for inspection by Sussex County Government by request.
- 3) No person, on the basis of race, color, or national origin, should be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination under the program or activity funded in whole or in part by these Human Service Grant funds.
- 4) All statements made in this funding request are accurate.
- 5) All funding will benefit only Sussex County residents.
- 6) All documents submitted by the applicant are defined as public documents and available for review under the Freedom of Information Act of the State of Delaware.

C. H. Zander

Applicant/Authorized Official

3/29/16

DATE

## The Day's Lineup:

8:00-8:45 AM—  
Registration, Continental Breakfast

9:00 AM—  
Shotgun start

2:00 PM (Tentative) —  
Luncheon to follow catered by Heritage Shores  
Awards and Door Prizes  
Awards based on team gross scores

Format: Shotgun Start  
Scramble (Captain's choice)



## Registration Deadline:

22 April 2016

\$360.00 per foursome (\$90.00 each)  
Men, Women and Mixed Teams Welcome

*Any golfer 65+ has option to use **red** tees.*

### Contests:

Hole in One, Longest Drive,  
Closest to the Pin, & Putting

### BUSINESS SPONSOR

**\$600**—Includes: Foursome, golf cart, continental breakfast, lunch, two (2) hole sponsor signs + two (2) 241st Marine Corps Birthday Ball tickets for November 12, 2016 @ Heritage Shores.

### CONTINENTAL BREAKFAST OR LUNCH SPONSOR

**\$200**—Sponsorship of the Continental breakfast or lunch + two (2) hole sponsor signs.

### HOLE SPONSOR

**\$100**—Your company name/text message printed on a hole sponsor sign.

## Sponsorship Registration

Sponsorship Type:

Donation Amount:

Company Name/Text Message:

Sponsor's Name:

Address:

Phone:

Email:

Contact Name:

### For Info and/or Questions:

Mike Fleetwood—302.228.4856

Jack Flood—301.461.7785

Chuck Landon—302.542.1082

Frank Tulley—302.536.7200

**PLAYERS REGISTRATION FORM**

\$360.00 Per Foursome

**CAPTAIN:**

**Name:**

**Address:**

**Email:**

**Phone:**

\*\*\*\*\*

**Name:**

**Address:**

**Email:**

**Phone:**

\*\*\*\*\*

**Name:**

**Address:**

**Email:**

**Phone:**

\*\*\*\*\*

**Name:**

**Address:**

**Email:**

**Phone:**

Make checks payable to:  
**DE Devil Dogs**  
and mail registrations/donations to:  
**DE Devil Dogs · PO Box 1476**  
**Seaford, DE 19973**

**The DE Devil Dogs Detachment of the Marine Corps League supports the following and your contribution makes it possible:**



Marine Toys for Tots Foundation

Marine Corps League Detachments in nearly every community in the country take part annually in the United States Marine Corps Reserve Toys-For-Tots campaign to raise funds and collect and distribute toys to needy children. In communities where there is an existing Marine Corps Reserve Unit, the League works hand in hand supporting their campaign. In other communities, the Marine Corps League takes the lead, ensuring a successful campaign.



**EAGLE SCOUT COURT OF HONOR**

The Marine Corps League presents the "Good Citizenship Award" to those scouts that obtain the highest rank in the Boy Scouts of America, that being EAGLE SCOUT. All Delaware MCL Detachments participate in the Eagle Scout Court of Honor ceremony to recognize those scouts who have fulfilled the requirements to be awarded the highest rank in scouting. Participating in the ceremony allows the DE Devil Dogs Detachment the opportunity to make the Eagle Scout aware that he is held in the "highest regard" by the Marine Corps League and the United States Marine Corps.



**VETERANS AFFAIRS VOLUNTARY SERVICE PROGRAM (VAVS)**

Marine Corps League members contribute thousands of man-hours each year supplementing staffs at VA hospitals and facilities in providing morale, comfort and assistance to institutionalized veterans.



**YOUNG MARINES OF THE MARINE CORPS LEAGUE**

A youth program emphasizing honesty, courage, respect, industry, loyalty, dependability, and a sense of devotion to God, country, community and family.

*Thank You!!*

**~ 4TH ANNUAL ~  
GOLF TOURNAMENT**



**Serving Western Sussex Co.  
Delaware**



**Friday • 29 April 2016**  
**Heritage Shores Club**  
**One Heritage Shores Circle**  
**Bridgetville, Delaware 19933**

**TEL: 302.337.9926**

PUBLIC HEARINGS  
April 12, 2016

This is to certify that on January 14, 2016 the Sussex County Planning and Zoning Commission conducted public hearings on the below listed applications for Change of Zone. At the conclusion of the public hearings, the Commission moved and passed that the applications 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 hearings 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 hearings.

PUBLIC HEARINGS

There was a consensus of the Commission to hold a combined public hearing on C/Z #1790 and C/Z #1791, the applications of Carillon Square Apartments, LLC and that each application would be voted on separately.

**C/Z #1790 – Carillon Square Apartments, LLC**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a C-1 (General Commercial District) to an AR-1 (Agricultural Residential District) for a certain parcel of land lying and being in Indian River Hundred, Sussex County containing 8.66 acres, more or less.** The property is located 520 feet west of John J. Williams Highway (Route 24) and 1,200 feet south of Indian Mission Road (Route 5) (911 Address: None Available) Tax Map I.D. 234-23.00-269.13 (Part of) and 269.15 (Part of).

**C/Z #1791 – Carillon Square Apartments, LLC**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) and a C-1 (General Commercial District) to a HR-1 (High Density Residential District) for a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 17.19 acres, more or less.** The property is located southwest of Indian Mission Road (Route 5) and 500 feet west of John J. Williams Highway (Route 24) (911 Address: None Available) Tax Map I.D. 234-23.00-260.00 & 269.18 (Part of).

The Commission found that the Applicants submitted their applications on October 2, 2015, and an Exhibit Booklet on January 4, 2016, which contains a presentation outline; a data column;

references to existing conditions; a boundary survey; a copy of the rezoning applications; a copy of deeds; a legal description; preliminary site plans; a rezoning plan; multiple exhibits, maps and aerials; a PLUS response; an Environmental Assessment and Public Facilities Evaluation Report; and responses to the Subdivision Ordinance Section 99-9C.

Mr. Lank advised the Commission that one letter of support was received from Mike Schwartz, an adjacent land owner, referencing that he believes that these parcels are appropriate for the intended use based on their proximity to the surrounding area and the existing infrastructure to support this use; that as an owner of the adjacent WAWA parcel, which is a part of a planned shopping center; and that he feels that this proposed project would nicely compliment the entire site and become an attractive asset to the overall surrounding community of Long Neck.

Mr. Lank advised the Commission that a previous applicant had submitted a Traffic Impact Study to DeIDOT in 2006 for a larger project; that in 2013 a DeIDOT consultant reviewed the study and that DeIDOT sent comments; that the commercial portion of the mixed use development considered in that Traffic Impact Study is largely built; that the site entrances along Route 24 and Route 5 have been constructed as outlined in the Traffic Impact review letter; that the entrance along Route 5 will serve as the main entrance to the project, with secondary access to Route 24; that the proposed development will generate fewer trips than the original project, therefore a new Traffic Impact Study was not required; that the developer has made an equitable contribution toward a DeIDOT project at the intersection of Route 24 and Route 5; that this project is a part of DeIDOT's Highway Safety Improvement Program which in part recommended adding a second through lane in each direction along Route 24; and that the developer dedicated an additional 25-foot right-of-way along their site frontage on Route 24.

Mr. Lank advised the Commission that a copy of the Preliminary Land Use Service (PLUS) comments are in the file and that the developers response to the PLUS comments are in the Exhibit Booklet provided by the applicant.

Mr. Lank advised the Commission that in reference to C/Z #1790 the County Engineering Department Utility Planning Division provided comments on January 13, 2016 in the form of a memorandum referencing that the property is located in the Long Neck Planning Area; that Ordinance 38 construction is required; that the current System Connection Charge Rate is \$4,510.00 per EDU; that Parcel 269.13 has been provided with a connection point on the parcel's frontage along Route 24; that the project is capable of being annexed into a Sanitary Sewer District following completion of the County's administrative procedure for annexation; that conformity to the North Coastal Area Planning Study will be required; that the parcel areas are in the Long Neck Planning Area and connection is mandatory; that sewer service is not available at this time; that the Engineering Department has no objection to the proposed zoning; that the County requires design and construction of the collection and transmission system to meet Engineering Department requirements and procedures; that the County Engineer must approve the connection point; that a sewer concept plan must be submitted for review and approval prior to sewer connection; and that a concept plan is required.

Mr. Lank advised the Commission that in reference to C/Z #1791 the County Engineering Department Utility Planning Division provided similar comments to the comments provided for

C/Z #1790 and added that in order to receive sewer service, construction of a pump station and force main is required; that the County does not have a schedule to provide sewer service to the parcels; that the sewer system design has provided sewer capacity on the basis of 4.0 EDU per acre for agricultural/residential zoned lands and 12.0 EDU per acre for commercially zoned lands; that the total sewer design capacity based on the current zoning equates to 110 EDU; that the rezoning creates the potential for up to 12 units per acre which exceeds the Engineering Departments capacity assumptions; that prior to being approved for a project that exceeds 110 EDU, a capacity evaluation shall be performed at the developer's expense to determine whether collection or transmission system improvements are required; that any and all system improvements shall be performed at the developer's expense; and that if the application for C/Z #1790 is approved and intervening parcel lines are deleted to create a single parcel, a total of up to 214 EDU would be available for development of the single parcel.

The Commission found that Eugene Bayard, Esquire of Morris James Wilson Halbrook & Bayard, LLP, was present on behalf of the application with Zac Crouch, Professional Engineer with Davis Bowen & Friedel, Inc., Ben Gordy with Carillon Square Apartments, LLC, and Jax Corrado, Director of Leasing and Property Manager for Beach Plum Dunes Apartments, and that they stated in their presentations and in response to questions raised by the Commission that they are requesting approval to rezone portions of the property by downzoning 8.66 acres from C-1 General Commercial to AR-1 Agricultural Residential to provided wooded open space and to rezone 17.19 acres from AR-1 Agricultural Residential and C-1 General Commercial to allow for the construction of 204 apartment units; that they would be highlighting their proposal on a power point display that are excerpts from the Exhibit Booklet; that east of the sites are C-1 General Commercial properties improved by a WAWA convenience store and a Rite-Aide Pharmacy; that Timber Acres, a manufactured home community exist to the south; that a shopping center exist to the north across Route 5; that GR General Residential lands exist to the west; that the properties have had previous rezoning applications referencing C/Z #1491, C/Z #1708, and C/Z #1728; that the site is fairly wooded; that no wetlands will be impacted; that there are no historical or cultural sites on the properties; that no stormwater management issues are anticipated; that a former site plan had intended a condominium project on the site; that a new Traffic Impact Study was not required by DelDOT; that Route 24 and Route 5 DelDOT improvements have been completed; that central water for fire protection and drinking water will be provided; that the proposed density equates to 11.8 units per acre overall; that the 8.66 acres portion of the property proposed for downzoning to AR-1 will remain as open space and a walking trail will be provided to serve the community; that the existing driveway from Route 5 will be the primary access to the project; that some of the improvements intended include a clubhouse, a 4-seasons pool, gardens, a dog park, game courts, and sidewalks throughout the project; that seven (7) apartment buildings are proposed; that the project is proposed to be similar to the Beach Plum Dunes Apartments near Kings Highway just off of Route One; that the Beach Plum Dunes Apartments are being developed with similar designed buildings with 144 – three story apartments with elevators, a clubhouse, swimming pools, and game courts; that the Beach Plum Dunes Apartment started construction in 2013 and is 93% occupied; that all of the buildings have been completed; that the residents are either young professionals or retirees; that the intended plan is less impacting than previous plans for the properties and is intending to be sensitive to the woodlands and wetlands; that the assemblage of the properties is consistent with the Comprehensive Land Use Plan, the developing character of the Long Neck area, and is

supported by State Housing; that the HR-1 High Density Residential zoning permits multi-family housing for sale or rent, motel and hotels; that C-1 General Commercial zoning permits the same uses; that the properties will be combined into one larger parcel; that the rezoning does not increase the density over the existing conditions/zoning of the properties; and that the wellhead protection area will be protected.

The Commission found that Vesper Rolle, a resident of Beach Plum Dunes Apartments, spoke in support of the application and the quality of the improvements built at the Beach Plum Dunes Apartments and anticipating that the developers would be building the same quality in the construction of this project, making it a high quality project.

The Commission found that there were no parties present in opposition to this application.

At the conclusion of the public hearings, the Commission discussed the application.

**In reference to C/Z #1790:**

On January 14, 2016 there was a motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

On February 11, 2016 the Commission discussed this application under Old Business.

Mr. Smith stated that he would move that the Commission recommend approval of C/Z #1790 for Carillon Square Apartments, LLC for a change in zone from C-1 General Commercial to AR-1 Agricultural Residential based upon the record made during the public hearing and for the following reasons:

- 1) This application was heard in conjunction with C/Z #1791 for an assemblage of properties consisting of 27.02 acres located on the north side of Route 24 and just west of the Route 24/Route 5 intersection. Currently, approximately 14 acres of the property is zoned C-1 General Commercial and CR-1 Commercial Residential and approximately 13 acres is zoned AR-1 Agricultural Residential.
- 2) The two (2) applications together seek to rezone 17.2 acres to HR-1 High Density Residential, leaving the balance as AR-1 Agricultural Residential so that an age restricted development can occur on the property.
- 3) This application will be a down zoning from C-1 General Commercial, with more intensive uses, to AR-1 Agricultural Residential, which permits less intensive and lower intensity uses.
- 4) Both this rezoning and C/Z #1791 will establish zoning lines that are uniform and that clearly follow development and property line boundaries.
- 5) By rezoning the property that is the subject of this application to AR-1 Agricultural Residential, the developer has stated that it will insure that this area will remain as open space and not be developed.
- 6) The rezoning to AR-1 Agricultural Residential will not have an adverse impact on neighboring roadways or communities. In fact, the down zoning to AR-1 Agricultural Residential for use as open space will have a positive impact on neighboring properties and the area in general.

- 7) The down zoning to AR-1 Agricultural Residential is consistent with surrounding zoning, which includes a variety of different zoning classifications, including C-1 General Commercial and CR-1 Commercial Residential and existing AR-1 Agricultural Residential zones.
- 8) No parties appeared in opposition to the rezoning.
- 9) For these reasons, it is my motion that it is appropriate to rezone the subject property from C-1 General Commercial to AR-1 Agricultural Residential.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried with four (4) votes to forward this application to the Sussex County Council with the recommendation that this application be approved for the reasons stated. Motion carried 4 – 0, with Mr. Ross not participating since he did not participate in the public hearing.

**In reference to C/Z #1791:**

On January 14, 2016 there was a motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

On February 11, 2016 the Commission discussed this application under Old Business.

Mr. Smith stated that he would move that the Commission recommend approval of C/Z #1791 for Carillon Square Apartments, LLC for a change in zone from AR-1 Agricultural Residential and C-1 General Commercial to HR-1 High Density Residential based upon the record made during the public hearing and for the following reasons:

- 1) This application was heard in conjunction with C/Z #1790 for an assemblage of properties consisting of 27.02 acres located on the north side of Route 24 and just west of the Route 24/Route 5 intersection. Currently, approximately 14 acres of the property is zoned C-1 General Commercial and CR-1 Commercial Residential and approximately 13 acres is zoned AR-1 Agricultural Residential.
- 2) The two (2) applications together seek to rezone 17.2 acres to HR-1 High Density Residential, leaving the balance as AR-1 Agricultural Residential so that an age restricted development can occur on the property.
- 3) Both this rezoning and C/Z #1790 will establish zoning lines that are uniform and that clearly follow development and property line boundaries.
- 4) This site is part of an assemblage of properties that were previously zoned commercial as part of a larger development. Part of that development, on property adjacent to this application site, included development as a Rite-Aid Drug Store and a WAWA Convenience Market.
- 5) Under the Sussex County Comprehensive Plan, the property adjoins a highway commercial area and substantial commercial development has occurred on the Route 5/Route 24 corridor over the past decade.
- 6) HR-1 High Density Residential zoning is consistent with the surrounding zonings and uses. There is existing C-1 General Commercial zoning which permits residential development at a maximum density of 12 units/acre which is the same as HR-1 High Density Residential. Other uses and densities include CR-1 Commercial Residential and

GR zoning, the WAWA and Rite Aid, a manufactured home community and a shopping center.

- 7) The rezoning will not materially increase the permissible density that existed prior to this application and the C/Z #1790 application.
- 8) The rezoning to HR-1 High Density Residential will not have an adverse impact on neighboring roadways or communities.
- 9) No parties appeared in opposition to this application.
- 10) For all these reasons, it is my motion that it is appropriate to rezone the subject property to HR-1 High Density Residential.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried with four (4) votes to forward this application to the Sussex County Council with the recommendation that this application be approved for the reasons stated. Motion carried 4 – 0, with Mr. Ross not participating since he did not participate in the public hearing.

**Introduced 12/08/15**

**Council District No. 4 - Cole  
Tax Map I.D. No. 234-23.00-269.13 (Part of) and 269.15 (Part of)  
911 Address: None Available**

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

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.66 ACRES, MORE OR LESS**

**WHEREAS, on the 2nd day of October 2015, a zoning application, denominated Change of Zone No. 1790 was filed on behalf of Carillon Square Apartments, 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. 1790 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 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 [C-1 General Commercial District] and adding in lieu thereof the designation of AR-1 Agricultural Residential District as it applies to the property hereinafter described.**

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

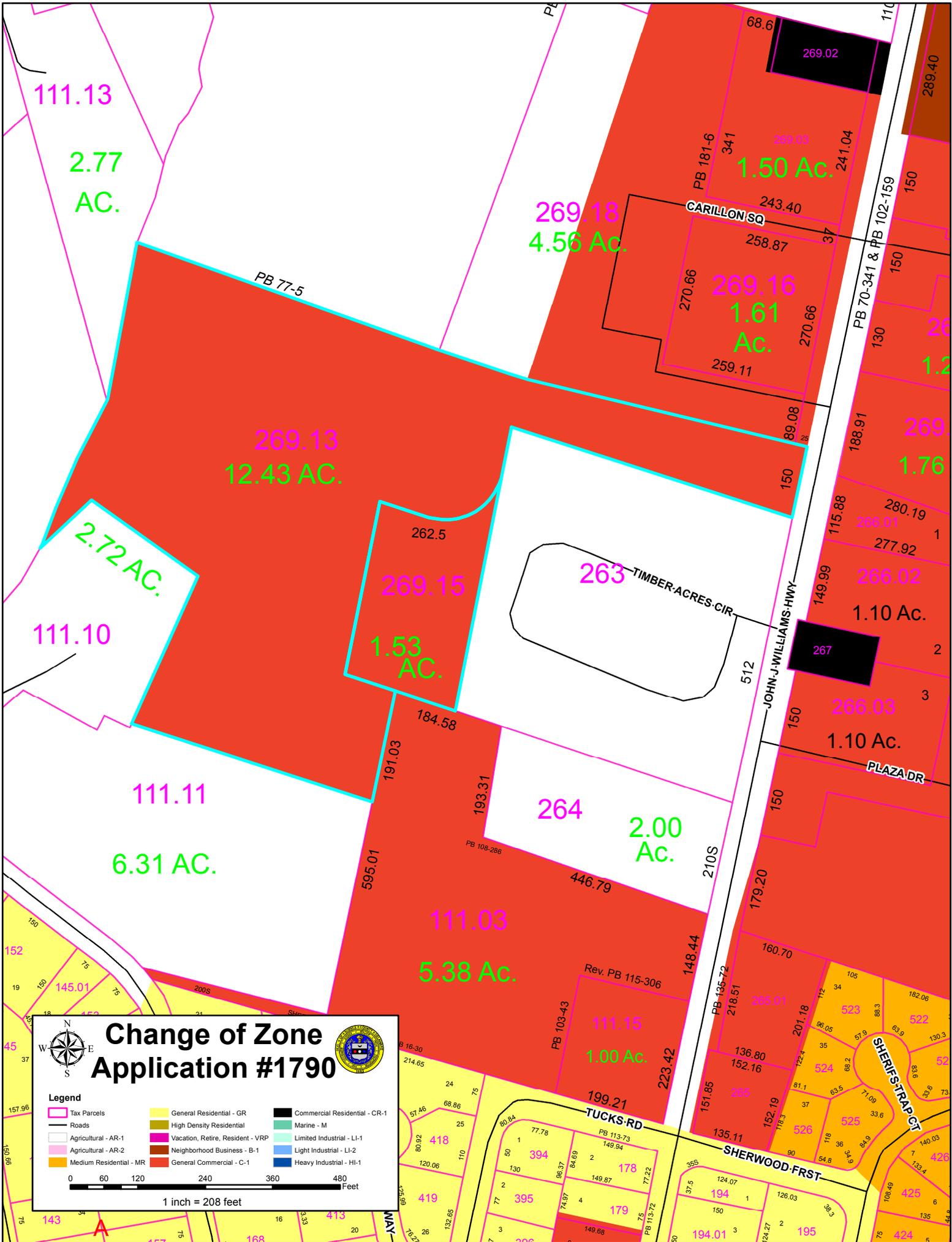
**All that certain tract, piece or parcel of land lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying 520 feet west of John J. Williams Highway (Route 24) and 1,200 feet south of Indian Mission Road (Route 5) and being more particularly described as follows:**

**BEGINNING from a point on the westerly right-of-way of John J. Williams Highway (Route 24) at the southeast corner of the Timer Acres Trailer Park; thence northwesterly approximately 530 feet along the southerly property line for the Timber Acres Trailer Park to a concrete marker, the beginning point; thence South 10°38'44"**

West 109.95 feet to a point; thence North 71°07'00" West 498.16 feet to a point; thence North 20°38'46" East 287.06 feet to a point; thence North 58°12'01" West 229.20 feet to a point in a ditch; thence by and along the meandering centerline of said ditch 283.70 feet to a point; thence South 71°50'08" East 749.98 feet to a point and thence South 11°56'19" West 406.62 feet to the point and place of beginning, and containing 8.66 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



# Change of Zone Application #1790

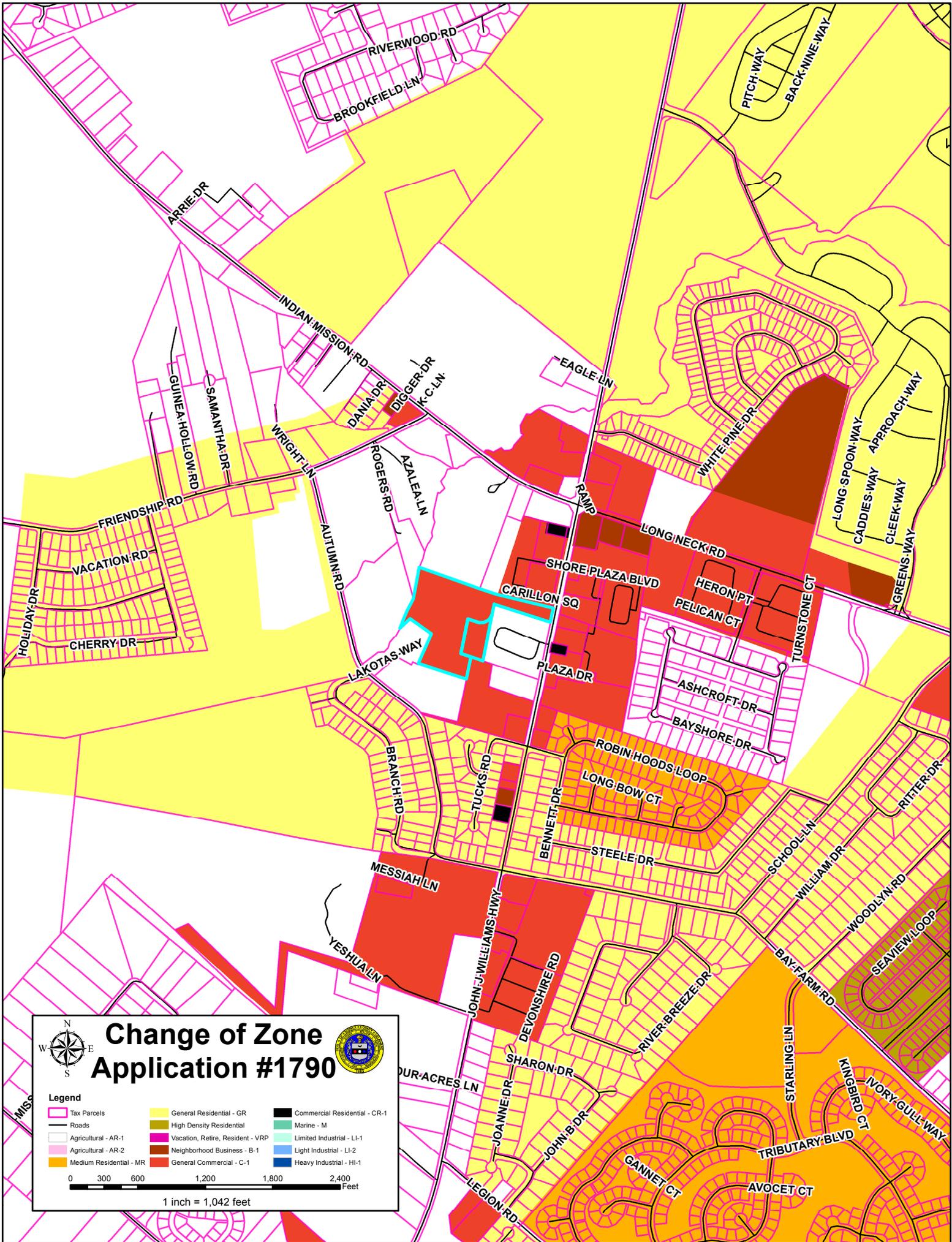


### Legend

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

0 60 120 240 360 480 Feet

1 inch = 208 feet



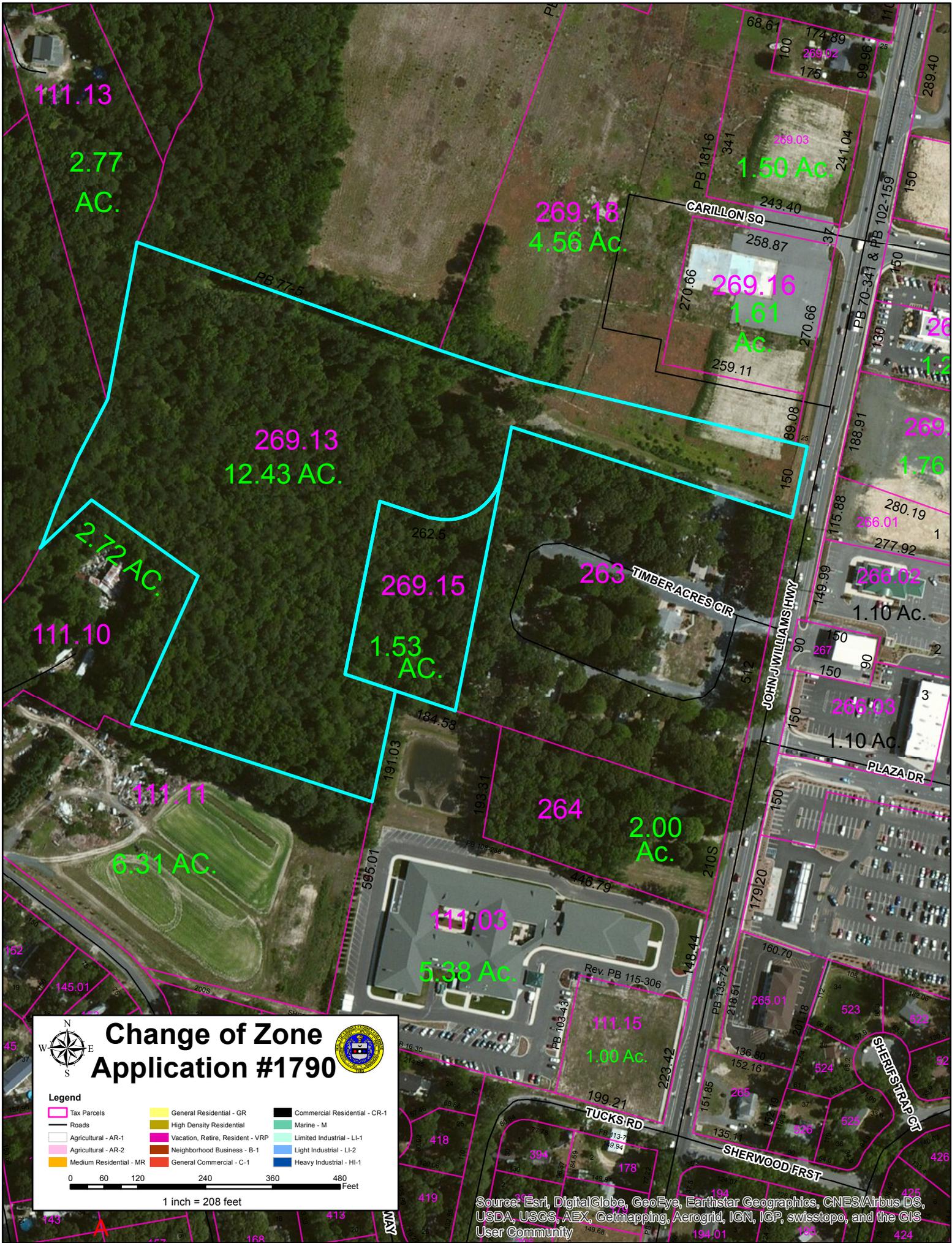
# Change of Zone Application #1790



**Legend**

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





## Change of Zone Application #1790

Legend		
<span style="border: 1px solid pink; display: inline-block; width: 10px; height: 10px;"></span> Tax Parcels	<span style="background-color: yellow; display: inline-block; width: 10px; height: 10px;"></span> General Residential - GR	<span style="background-color: black; display: inline-block; width: 10px; height: 10px;"></span> Commercial Residential - CR-1
<span style="border-bottom: 1px solid black; display: inline-block; width: 10px;"></span> Roads	<span style="background-color: orange; display: inline-block; width: 10px; height: 10px;"></span> High Density Residential	<span style="background-color: lightblue; display: inline-block; width: 10px; height: 10px;"></span> Marine - M
<span style="background-color: lightgreen; display: inline-block; width: 10px; height: 10px;"></span> Agricultural - AR-1	<span style="background-color: magenta; display: inline-block; width: 10px; height: 10px;"></span> Vacation, Retire, Resident - VRP	<span style="background-color: cyan; display: inline-block; width: 10px; height: 10px;"></span> Limited Industrial - LI-1
<span style="background-color: lightblue; display: inline-block; width: 10px; height: 10px;"></span> Agricultural - AR-2	<span style="background-color: lightblue; display: inline-block; width: 10px; height: 10px;"></span> Neighborhood Business - B-1	<span style="background-color: lightblue; display: inline-block; width: 10px; height: 10px;"></span> Light Industrial - LI-2
<span style="background-color: orange; display: inline-block; width: 10px; height: 10px;"></span> Medium Residential - MR	<span style="background-color: orange; display: inline-block; width: 10px; height: 10px;"></span> General Commercial - C-1	<span style="background-color: blue; display: inline-block; width: 10px; height: 10px;"></span> Heavy Industrial - HI-1

0 60 120 240 360 480 Feet

1 inch = 208 feet

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

**Introduced 12/08/15**

**Council District No. 4 - Cole  
Tax Map I.D. No. 234-23.00-260.00 & 269.18 (Part of)  
911 Address: None Available**

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

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT TO A HR-1 HIGH DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 17.19 ACRES, MORE OR LESS**

**WHEREAS, on the 2nd day of October 2015, a zoning application, denominated Change of Zone No. 1791 was filed on behalf of Carillon Square Apartments, 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. 1791 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 ORDAINS:**

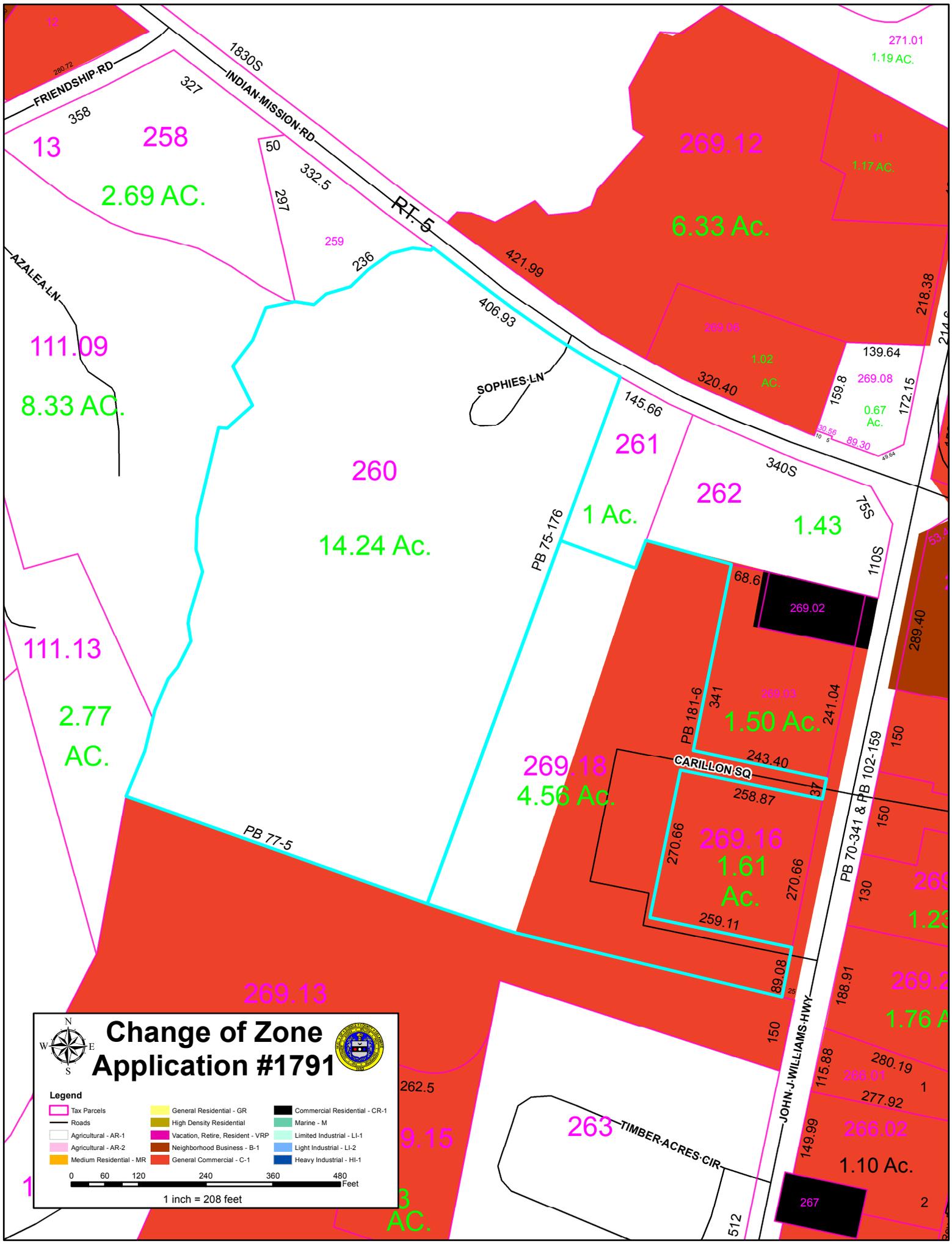
**Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District and C-1 General Commercial District] and adding in lieu thereof the designation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

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

**All that certain tract, piece or parcel of land lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying southwest of Indian Mission Road (Route 5) and 500 feet west of John J. Williams Highway (Route 24) and being more particularly described as follows:**

**BEGINNING at a point, at the centerline of a ditch on the southwesterly right-of-way of Indian Mission Road (Route 5) a corner for these subject lands and lands of the Mid-Sussex Rescue Squad, Inc.; thence South 52°16'42" East 113.54 feet along the southwesterly right-of-way of Indian Mission Road to a point; thence southeasterly 155.94 feet along the southerly right-of-way of Indian Mission Road to a point; thence across lands of Lighthouse Carillon, LLC the following five (5) courses: South 32°08'56" West 120.02 feet to a point; thence southerly along the curvature of a 225.00 foot radius 358.64 feet to a point; thence South 13°28'08" West 186.08 feet to a point; thence South 12°09'45" West 436.49 feet to a point; thence South 15°46'52" East 132.93 feet to a point, the northwest corner of Timber Acres Trailer Park; thence South 11°56'19" West 111.94 feet along the westerly line of the Timber Acres Trailer Park to a point; thence North 71°50'08" West 749.98 feet across lands of Lighthouse Carillon, LLC to a point in center of a ditch; thence northeasterly along the meandering centerline of the ditch 1516.81 feet to the point and place of beginning, and containing 17.19 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 #1791



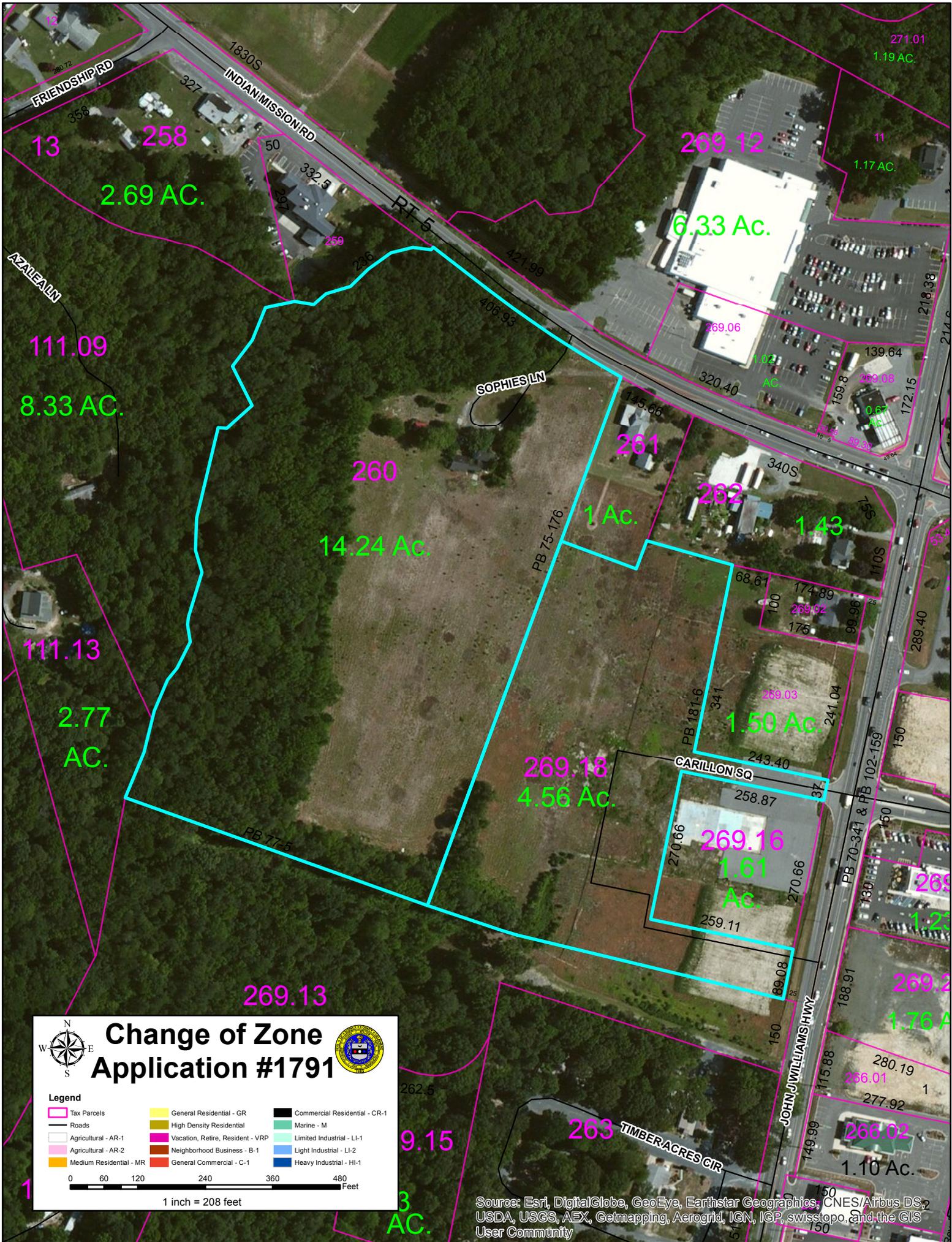
**Legend**

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

0 60 120 240 360 480 Feet

1 inch = 208 feet

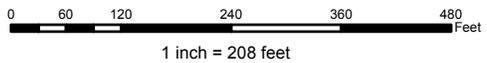




# Change of Zone Application #1791



- Legend**
- Tax Parcels
  - General Residential - GR
  - Commercial Residential - CR-1
  - Roads
  - High Density Residential
  - Marine - M
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  - Vacation, Retire, Resident - VRP
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  - Neighborhood Business - B-1
  - Light Industrial - LI-2
  - Medium Residential - MR
  - General Commercial - C-1
  - Heavy Industrial - HI-1



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