Sussex County Council
Public/Media Packet

MEETING:
MAY 21, 2013

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Sussex County Council
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SAMUEL R. WILSON JR., VICE PRESIDENT
GEORGE B. COLE
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Sussex County Council

A G E N D A

MAY 21, 2013

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Norma Prettyman, Friends of the Greenwood Library –
Presentation of Construction Contribution Check

Todd Lawson, County Administrator

1. **Administrator's Report**

2. **Fiscal Year 2014 Budget Presentation**

3. **Discussion and Possible Introduction of Proposed Ordinances:**

   "AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2014"

   "AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SEWER DISTRICTS"

Gina Jennings, Finance Director

1. **Financial Report for the Nine Months ending March 31, 2013**

EQUAL HOUSING OPPORTUNITY

Hal Godwin, Deputy County Administrator

1. **Legislative Update**

Bob Jones, Project Engineer

1. **Sussex County Airport Concrete Apron Repairs**

   A. **Bid Award**

Grant Requests

1. **Delaware Police Chiefs' Council for seminar costs.**

2. **The Mid-Atlantic Symphony Orchestra for operating costs.**

3. **Ocean View Historical Society for the Coastal Towns Museum Project.**

4. **Rehoboth Art League to sponsor the annual gala which benefits their education, outreach and tuition assistance programs.**

Introduction of Proposed Zoning Ordinances

Any Additional Business Brought Before Council

Executive Session – Job Applicants′ Qualifications, Personnel, Pending/Potential Litigation, and Land Acquisition pursuant to 29 Del. C. §10004(b)

Possible Action on Executive Session Items

1:30 p.m. Public Hearings

Conditional Use No. 1960 filed on behalf of Harry H. Isaacs, Jr./Farm Boys, LLC
"AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO MODIFY THE BOUNDARIES OF EXISTING CONDITIONAL USE NO. 1699 (ORDINANCE NO. 1936) FOR A GO-KART TRACK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.24 ACRES, MORE OR LESS" (Tax Map I.D. 2-35-6.00-10.00 & 10.05)

<u>Conditional Use No. 1961 filed on behalf of Rendell Whibley and Ann Marie Whibley</u>
"AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.997 ACRE, MORE OR LESS" (Tax Map I.D. 2-34-11.00-56.09)

<u>Conditional Use No. 1962 filed on behalf of Chesapeake Agrisoil, LLC</u>
"AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMPOSTING FACILITY AS AN EXTENSION TO CONDITIONAL USE NO. 1314 AND CONDITIONAL USE NO. 1691 (A MICRO-NUTRIENT PLANT WITH RELATED TRUCK ENTRANCE AND RAIL SPUR FOR THE PROCESSING AND HANDLING OF POULTRY LITTER) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 228.88 ACRES, MORE OR LESS" (Tax Map I.D. 1-32-6.00-88.01 AND 95.00 and Tax Map I.D. 1-32-11.00-41.00)

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

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In accordance with 29 <u>Del. C.</u> §10004(e)(2), this Agenda was posted on May 14, 2013 at 4:20 p.m., and at least seven (7) days in advance of the meeting.

This Agenda was prepared by the County Administrator and is subject to change to include the addition or deletion of items, including Executive Sessions, which arise at the time of the Meeting.

Agenda items listed may be considered out of sequence.

# # # #

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 30, 2013

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, April 30, 2013, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	**President**
Samuel R. Wilson, Jr.	**Vice President**
George B. Cole	**Councilman**
Joan R. Deaver	**Councilwoman**
Vance Phillips	**Councilman**
Todd F. Lawson	**County Administrator**
Susan M. Webb	**Finance Director**
Everett Moore	**County Attorney**

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

Call to Order

Mr. Vincent called the meeting to order.

M 211 13 Amend and Approve Agenda

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to amend the Agenda by deleting "Pending/Potential Litigation and Land Acquisition" under "Executive Session"; and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of April 23, 2013 were approved by consent.

Corre-spondence

Mr. Moore read the following correspondence:

CLOTHING OUR KIDS
RE: Letter in appreciation of the Council's grant.

BIG BROTHERS BIG SISTERS OF DELAWARE, INC.
RE: Letter in appreciation of the Council's grant.

Mrs. Deaver presented a copy of the Agenda for the Climate Change and Transition of Sustainability in Delaware workshop that she attended on April 18, 2013 and shared that it was a informative seminar.

Mr. Phillips received a letter from John Kane that includes a series of questions for the Council that he would like Mr. Lawson to address.

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Adminis-rator's Report

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

1. **Delaware State Police Activity Report – March 2013**

   Per the attached Delaware State Police activity report for March, there were 4,609 total traffic arrests and 1,499 total criminal arrests. Of that 1,499, 609 were felony and 890 were misdemeanor criminal arrests. Of the total hours on duty spent, 41 percent were spent on criminal investigations.

2. **Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County**

   Advisory Committee on Aging & Adults with Disabilities for Sussex County will hold a special planning meeting on Wednesday, May 1, 2013, at 9:30 a.m. at the CHEER Community Center, 20520 Sand Hill Road, in Georgetown. During the meeting the Committee will continue discussion of its upcoming conference.

3. **Delaware General Assembly Legislative Update**

   Please find the attached legislative update to which Mr. Godwin, Deputy County Administrator will provide additional details.

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

Legislative Update

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

House Bill No. 14 – "AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO PERSONAL INCOME TAX".

Mr. Godwin stated this Bill has been assigned to the House Appropriations Committee and no further action has been taken.

House Bill No. 27 – "AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO STATE TAXES".

Mr. Godwin stated that Representative Short would be making an official request today for this Bill to be added to the Agenda of the House of Representatives for their action.

House Bill No. 44 – "AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO PROPERTY."

Mr. Godwin shared that this Bill has passed the House and has been assigned to the Senate Community/County Affairs Committee which is

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Legislative Update (continued)

chaired by Senator Bethany Hall-Long and has not yet been scheduled for a hearing.

Mr. Phillips questioned if there was any particular reason this Bill was initiated and asked Mr. Godwin to research details of this Bill.

Un-numbered House Bill – This Act is the first leg of a constitutional amendment that will remove the offices of *Clerk of the Peace* from the State Constitution and remove the requirement to elect the Clerks of the Peace.

Mr. Godwin stated that the Bill has not gathered much support from the House of Representatives in the last several weeks and he has been unable to speak with Representative Hudson who initiated this Bill.

Mr. Phillips asked Mr. Godwin if he would cross reference this Bill with the Gay Marriage Bill and Civil Union Bill as he feels that one of these Bills give reference to the "Clerk of the Peace" that could have an effect on this office if passed.

House Bill No. 63 – "AN ACT PROPOSING AN AMENDMENT TO ARTICLE 1 OF THE CONSTITUTION RELATING TO AGRICULTURE."

Mr. Godwin shared that he had spoken with Representative Atkins; Representative Atkins had initiated this Bill because of numerous complaints he had heard in the community.

Representative Atkins stated that he would probably be striking this Bill from the record and may introduce other legislation in the future once he can more clearly define what issues need to be addressed.

Un-numbered Senate Bill – This Bill allows Delaware residents 65 years of age and older to quality for the "Senior School Property Tax Credit Program" upon entering into a payment plan for taxes due.

Mr. Godwin stated that the County is currently compliant with what this proposed Bill suggests and unless Council feels it is necessary, the Council does not need to take a position on this Bill.

Un-numbered Senate Bill – This Bill provides for a property tax exemption for the dwelling of military veterans who are disabled and for their spouses, if the veteran is deceased.

Mr. Godwin has been in contact with Senator Peterson and asked her if she intended for this Bill to also exclude or exempt "School Taxes" and she stated that the Bill was drafted by an attorney in the Senate and that she would discuss with him today to find out if he intended for it to include "school taxes", as her intent was to only exclude County property taxes.

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Legislative Update (continued)

<u>House Bill No. 74</u> – "AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO HEALTH INSURANCE".

Mr. Godwin explained that there is a Federal Health Care Bill which has initiated certain taxes to be concerned about that the Council has previously discussed.

At the state level, the State of Delaware is currently establishing Health Care Exchanges to provide coverage for all Delaware residents which will comply with the Federal regulations. This State law will not circumvent or lower the authority of the Federal law; however the State actions/endeavors at this point are to comply with the Federal law.

It appears to Mr. Godwin that House Bill No. 74 is separate from the Federal law and that this Bill would be a possible plan to cover everyone in Delaware if individuals choose to participate rather than the current system that the Lieutenant Governor is trying to assemble which is the Exchange Program for individuals without health insurance.

Mr. Godwin shared that he has not heard a lot of support for this Bill.

<u>Draft Report from Animal Welfare Task Force</u>

Senator Blevins is scheduled to release this report on this date. As required by State law, at that time she will be introducing legislation to codify the recommendations suggested in the report.

Mrs. Deaver asked Mr. Godwin if there was any information available about regulations at the state level that pertain to storm water drainage regulation change, sea level rise and the County's position on these matters.

Mr. Godwin responded to Mrs. Deaver's question, stating that there are minutes available, along with information detailing the regulations that are currently being discussed, with a deeper study and technical information that backs up the report that he would send to her for review.

Economic Development Grant Requests – Atlantis Industries Corporation & Grayling Industries

Mrs. Webb shared that the Sussex County Economic Development Committee met on March 15, 2013 to hear two applications for consideration of a Sussex County Economic Development Grant. Those applicants are Atlantis Industries Corporation and Grayling Industries (part of New ILC Dover, Inc.).

The Council heard presentations from both applicants and the Economic Development Committee made recommendations for Council to consider.

Mrs. Webb introduced Mr. Dave Bunting from Atlantis Industries Corporation, a high quality, full service custom injection molder and tool maker from Milton, Delaware.

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Economic Development Grant Requests (continued)

Atlantis Industries Corporation is ISO 9001 and ISO/TS 16949 certified as well as ITAR (International Traffic in Arms Regulations) registered which allows them to participate in several different industries to support their needs. They are experts in taking a concept or idea and turning it into a production proven injection molded part, using almost any engineering grade or common type of plastic; they are experts in supporting new product development as well as value added services for customers located throughout the United States; approximately 20% of their customers are located in Delaware.

Atlantis is owned by a private investment group and by senior management of the Murray Corporation in Hunt Valley, Maryland; they acquired Atlantis in August 2008; several of the markets served by Atlantis (military, industrial) are areas that Murray also serves, and the belief is that there will be synergies between Atlantis and Murray in these markets.

The Atlantis facility has a fully equipped metrology lab, on-site full service tool shop, secondary operations, sophisticated automation, portable class 100,000 clean room and climate controlled facilities. They serve multiple industries (consumer, industrial, automotive, military & healthcare-medical)

The future plans for Atlantis:

- **Sales growth of 100% by 2014**
  - **6 million by 2015**
  - **8 million by 2016**
- **Sales growth of another 100% by 2020**
- **Increase workforce by 20 full-time employees by 2016**
  - **10 skilled/professional**
  - **10 unskilled/professionals**
- **Capital Investments of over $2.34 million by 2016**
  - **$2.1 million in equipment and machinery**
  - **$245 thousand in existing building renovations**

Council had a few questions and Mr. Bunting responded that currently Atlantis has less than $100,000 of debt; the purpose of applying for the Sussex County Economic Development Grant is to help fund renovations to the existing buildings for continued growth at the Milton facility; there currently are no competitors in Delaware with only a few located in New Jersey, Maryland and Pennsylvania; the current lease agreement will expire in August 2013, Atlantis is currently in negotiations with the Landlord to renew the current lease and discuss the location of a new 10,000 sq. ft. warehouse building to be built on the 4 (four) acres adjacent to the current leased property.

Mrs. Webb shared the recommendation from the Economic Development Grant Committee to grant $800 per job for the applicants.

The $800 per job is an amount that was approved by County Council on

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Economic Development Grants (continued)

November 29, 2011, when the Economic Development Incentives Program was passed. The County Economic Development Fund was created in 2004 and has been very successful.

The grant documents will contain specific language as to how the grants are paid out in relation to jobs added. Sussex County will include clawback provision in the event stated job levels are not met and will regularly review (anticipate every six months) the corporations' employment records to verify the jobs tied to this grant.

Both applicants have partnered with the State of Delaware - State's Strategic Fund Capital Expenditures Grant, as well as a match grant applied to capital expenditures.

Mr. Moore shared that currently the County is drafting a document similar to a bank loan Commitment Letter for the grant that would define all the terms and contingences the Council recommends to have included.

M 212 13 Approve Economic Development Grant Atlantis Industries Corporation

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council grant Atlantis Industries Corporation $800 per job from the Economic Development Fund in the form of a grant not to exceed $44,800, contingent upon the County Attorney Everett Moore and County Administrator Todd Lawson having final grant document approval and all jobs applied for stay within Sussex County.

Motion Adopted: 5 Yeas.

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

Economic Development Grant Requests (continued)

Mrs. Webb introduced Mr. Brad Walters from Grayling Industries/ILC Dover.

Mr. Walters explained that Grayling Industries/ILC Dover is in the process of transferring a manufacturing operation from Mexico to Sussex County, Delaware. The entire manufacturing operation in Mexico, as well as the warehousing that occurs in Mexico, El Paso, Texas and Atlanta, Georgia will be moved to the Seaford location.

During this acquisition, Grayling Industries will transfer the production operation while continuing to maintain customer service and order fulfillment levels during the transition. Grayling has kept the core sales associates within the organization; transferring 2-3 employees from Mexico to the Seaford location: 5-6 employees will be transferred from their office in Frederica, Delaware and over 100 new jobs will be offered to residents of Sussex County.

Grayling Industries' customer base is in the chemical, food, dairy and

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Economic Development Grant Requests (continued)

cosmetics industries; they provide bulk liners (to transfer liquids/powders between manufacture operations); they are a world leader in Asbestos remediation, supplying shelters, glove bags and chemicals to allow the safe disposal of Asbestos.

Mr. Walters shared that each production line (cell) has approximately 10 (ten) employees to operate the machines. Grayling has 8-9 production lines that will be transferred from Mexico to the Seaford plant; they have established a Steering Team to oversee the roles and responsibilities of staff members during this relocation.

Mr. Walters stated that Grayling Industries will be spending approximately $6 million out of pocket plus additional fees to Mexico (severance pays, etc.) to transfer this operation to Delaware. In early May they will begin to move the equipment from Mexico to Seaford and by the end of June early July the first production line will be validated to begin production of salable product. The schedule is to move one production line every 7-8 weeks with the entire operation relocated to Seaford by May 2014.

There are a total of 9 (nine) production lines plus sub-assembly equipment that need to be moved to Seaford from Mexico;

- **More than 85 machines (large/heavy)**
  - **6 machines are 20-35 feet long**
  - **7 machines are 13 feet in diameter**
- **Support items to be moved**
  - **Pallet jacks & racks**
  - **Forklifts**
  - **Tables, carts, test equipment**
  - **Furniture**

Mr. Phillips asked about the debt of the company, Mr. Walters shared that Grayling Industries' debt is fairly low with ILC Dover's debt being over $100 million, continuing to be a solvent company located in Delaware for 65 years. The debt is less than their EBITDA (Earnings Before Interest, Taxes, Depreciation and Amortization) which is how they are rated by their ownership. The total sales between the two companies for 2012 was approximately $130 million (ILC Dover $105-$110 million and Grayling $25 million).

Mr. Walters estimated that they will be adding 15-20 new jobs every two months to the new location in Seaford, Delaware.

M 213 13 Approve Economic Development Grant

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council grant ILC Dover/ Grayling Industries $800 per job from the Economic Development fund in the form of a grant not to exceed $92,000, contingent upon the County Attorney Everett Moore and County Administrator Todd Lawson having final grant document approval.

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ILC Dover/ Grayling Industries M 213 13 (continued)

Motion Adopted: **5 Yeas.**

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

Greenwood Library Project Update

Michael Izzo, County Engineer, reported that the construction of the Greenwood Library would be delayed due to the delivery of the metal building which was scheduled to be delivered on April 30, 2013. The new delivery date for this building is scheduled for August 8, 2013 which represents a delay of over 100 days and pushes the date of completion from November 8, 2013 to February 21, 2014. There are penalties built into the contract that amount to $1,000 a day; those penalties cover the continued rental of the temporary library location in Greenwood, the rental of storage units, extra inspection costs and interest during construction.

The contractor intends to perform all the site work possible prior to the erection of the building and anticipates that the construction site will be shut down on or about May 15, 2013 and remobilized approximately one week prior to the scheduled building delivery in August.

West Complex Renovation Project – Change Order No. 1

Brad Hawkes, Director of Utility Engineering, presented Change Order No. 1 for the West Complex Renovation Project. Construction is in the final phase, carpet is being installed on the second floor on this date. During construction, they have encountered a few items that they would like to request approval to upgrade; lighting (this was originally proposed in the bid document as a bid alternate and was not awarded at the time due to excessive pricing) – this Change Order represents a better negotiated price on the lights that were originally intended to purchase; miscellaneous electrical items (receptacles, light fixture, emergency lighting).

M 214 13 Approve Change Order/West Complex Renovation Project

A Motion was made by Mr. Cole, seconded by Mr. Phillips, based on the recommendation of the Sussex County Engineering Department that Change Order No. 1 with John L. Briggs of Georgetown, Delaware for Sussex County Project No. 12-20, renovations to the Annex Building, be approved, which increases the contract amount by $7,730.00 for a new total of $82,960.00, and increases the contract time by 21 days.

Motion Adopted: **5 Yeas.**

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

Grant Requests

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

M 215 13 Grant

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give $1,000.00 ($200.00 from each Councilmanic Grant Account) to the Trap Pond Partners for "Healthy Kids Day" expenses.

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M 215 13 (continued)

Motion Adopted: **5 Yeas.**

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

M 216 13 Council-manic Grant

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give $264.95 ($200.00 from Mr. Wilson's Councilmanic Grant Account and $64.95 from Mr. Phillips' Councilmanic Grant Account) to the Sussex Tech High School for Fall Sports Poster.

Motion Adopted: **5 Yeas.**

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

M 217 13 Council-manic Grant

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give $750.00 ($500.00 from Mr. Wilson's and $250.00 from Mr. Phillips' Councilmanic Grant Accounts) to the Town of Georgetown for "Spring into Spring" Festival expenses.

Motion Adopted: **5 Yeas.**

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

M 218 13 Council-manic Grant

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give $1,000.00 from Mr. Wilson's Councilmanic Grant Account to the Georgetown Boys & Girls Club for fundraiser expenses.

Motion Adopted: **5 Yeas.**

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

M 219 13 Council-manic Grant

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give $200.00 ($100.00 each from Mr. Cole's and Mr. Phillips' Councilmanic Grant Accounts) to the American Legion Auxiliary Unit 28 to benefit veterans.

Motion Adopted: **5 Yeas.**

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

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M 220 13 Council-manic Grant

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give $1,000.00 ($400.00 from Mr. Vincent's Councilmanic Grant Account and $200.00 each from Mr. Cole's, Mr. Wilson's and Mr. Phillips' Councilmanic Grant Accounts) to Delaware Ducks Unlimited for Annual Greenwing Event expenses.

Motion Adopted: **5 Yeas.**

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

M 221 13 Council-manic Grant

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give $400.00 ($300.00 from Mr. Vincent's Councilmanic Grant Account and $100.00 from Mr. Phillips' Councilmanic Grant Account) to Gator's Softball Team for tournament expenses.

Motion Adopted: **5 Yeas.**

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

M 222 13 Council-manic Grant

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give $500.00 ($250.00 from Mr. Wilson's Councilmanic Grant Account and $250.00 from Mr. Phillips' Councilmanic Grant Account) to CHEER for "Wheels for Meals" Classic Car Show fundraiser expenses.

Motion Adopted: **5 Yeas.**

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

M 223 13 Council-manic Grant

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give $1,000.00 ($750.00 from Mr. Cole's Councilmanic Grant Account and $250.00 from Mr. Phillips' Councilmanic Grant Account) to Sussex Cyclist for Bike Safety Program.

Motion Adopted: **5 Yeas.**

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

John Kurpjuweit, President of Sussex Cyclist thanked the Council for their continued support and shared that they are expanding their Bike Safety Program by attending other events throughout the County continuing to educate citizens on bike safety.

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M 224 13 Council-manic Grant

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to amend M 215 13 for Trap Pond Partners to give $1,000.00 ($400.00 from Mr. Phillips' Councilmanic Grant Account and $200.00 each from Mr. Cole's, Mr. Vincent's and Mr. Wilson's Councilmanic Grant Accounts) for "Healthy Kids Day" expenses.

Motion Adopted: 5 Yeas.

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

Introduction of Proposed Zoning Ordinance

Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 9.4596 ACRES, MORE OR LESS" (Change of Zone No. 1730) filed on behalf of Two Farms, Inc. The Proposed Ordinance will be advertised for Public Hearing.

M 225 13 Go Into Executive Session

At 11:16 a.m., a Motion was made by Mr. Phillips, seconded by Mr. Wilson, to recess the Regular Session and go into Executive Session for the purpose of discussing issues relating to job applicants' qualifications and personnel.

Motion Adopted: 5 Yeas.

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

Executive Session

At 11:22 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing issues relating to job applicant's qualifications and personnel. The Executive Session was concluded at 11:34 a.m.

M 226 13 Reconvene Regular Session

At 11:36 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, to come out of Executive Session and reconvene the Regular Session.

Motion Adopted: 5 Yeas.

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

Mr. Moore announced that no action was required on Executive Session items.

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M 227 13
Recess

At 11:39 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, to recess to the County's West Complex for a luncheon meeting with the Sussex Conservation District.

Motion Adopted: **5 Yeas.**

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

Luncheon Meeting with Sussex Conservation District

At 12:20 p.m., the Council reconvened at the County's West Complex for a luncheon meeting with the Sussex Conservation District (SCD). A PowerPoint presentation was given on issues regarding the Sussex Conservation District and who they are: Agriculture Conservation, Equipment Program, Sediment & Stormwater; their partnership with Agriculture, Economic Development, Recreation & Tourism, Environmental Quality; Issues currently facing SCD and Sussex County, Tax Ditches, Drainage & Complaints; funding and how the funding is spent.

The following were present from Sussex County:

Michael H. Vincent	**President**
Samuel R. Wilson, Jr.	**Vice President**
George B. Cole	**Councilman**
Joan R. Deaver	**Councilwoman**
Vance Phillips	**Councilman**
Todd F. Lawson	**County Administrator**
Susan M. Webb	**Finance Director**
Hal Godwin	**Deputy County Administrator**
Chip Guy	**Communications Director**
Shane Abbott	**Assistant Director of P&Z**
Jeff Shockley	**Environmental Manager of P&Z**

M 228 13
Adjourn

At 1:10 p.m., a Motion was made by Mr. Cole, seconded by Mr. Phillips, to adjourn. Motion Adopted by Voice Vote.

Motion Adopted: **5 Yeas.**

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

Respectively submitted,

Kelly A. Collins
Administrative Secretary

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GINA A. JENNINGS, MBA, MPA
FINANCE DIRECTOR

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gjennings@sussexcountyde.gov

Sussex County
DELAWARE
sussexcountyde.gov

MEMORANDUM:

TO: The Honorable Michael H. Vincent
President, Sussex County Council

The Honorable Samuel R. Wilson, Jr.
Vice President, Sussex County Council

The Honorable George B. Cole
Sussex County Councilman

The Honorable Joan R. Deaver
Sussex County Councilwoman

The Honorable Vance Phillips
Sussex County Councilman

FROM: Gina A. Jennings
Finance Director

RE: ***FINANCIAL REPORT FOR THE NINE MONTHS ENDING MARCH 31, 2013***

DATE: May 16, 2013

Attached is the unaudited estimated Revenue and Expense Report for the General Fund for the nine months ending March 31, 2013, which I will be presenting to Council on Tuesday, May 21, 2013.

GAJ/nc

Attachment

Sussex County Council
Unaudited Revenue and Expense Report
As of March 31, 2013

	YTD Actual	Budgeted Amounts Annual	Budgeted Amounts YTD	% Over (Under) Budget YTD
REVENUES				
TAXES				
Property tax *	$ 9,422,572.99	$ 12,570,717.00	$ 9,428,037.75	-0.06%
Capitation tax	5,434.58	-	-	100.00%
TOTAL TAXES	9,428,007.57	12,570,717.00	9,428,037.75	0.00%
REALTY TRANSFER TAX	12,658,066.33	13,200,000.00	9,900,000.00	27.86%
SERVICES - BUILDING AND CONSTRUCTION				
Fire service fee (pass through)	730,072.44	850,000.00	637,500.00	14.52%
Building permit and zoning fee	1,015,492.60	1,200,000.00	900,000.00	12.83%
Building inspections	659,491.44	800,000.00	600,000.00	9.92%
Private road - review/inspection	427,887.96	180,000.00	135,000.00	216.95%
Water and sewer - review/inspection	3,300.00	15,000.00	11,250.00	-70.67%
Mobile home placement tax (pass through)	58,316.19	73,700.00	55,275.00	5.50%
TOTAL SERVICES - BUILDING AND CONSTRUCTION	2,894,560.63	3,118,700.00	2,339,025.00	23.75%
SERVICES - GOVERNMENTAL FEES				
General government fee (911 system fee)	419,727.42	559,630.00	419,722.50	0.00%
Dog licensing	57,161.80	90,000.00	67,500.00	-15.32%
Other department fees	17,889.27	18,000.00	13,500.00	32.51%
TOTAL SERVICES - GOVERNMENTAL FEES	494,778.49	667,630.00	500,722.50	-1.19%
INTERGOVERNMENTAL				
Federal operating grants	108,127.87	266,740.00	200,055.00	-45.95%
Federal capital grants	85,467.20	-	-	100.00%
State operating grants	3,115,124.48	4,118,190.00	3,088,642.50	0.86%
State capital grants	91,045.92	-	-	100.00%
Community development	824,899.34	1,526,800.00	1,145,100.00	-27.96%
Other grants	11,848.61	15,600.00	11,700.00	1.27%
TOTAL INTERGOVERNMENTAL	4,236,513.42	5,927,330.00	4,445,497.50	-4.70%
CONSTITUTIONAL OFFICES				
Clerk of the peace	89,407.50	130,000.00	97,500.00	-8.30%
Recorder of deeds *	3,131,176.07	3,048,000.00	2,286,000.00	36.97%
Register of wills	799,392.74	965,000.00	723,750.00	10.45%
Sheriff *	1,884,577.99	4,000,000.00	3,000,000.00	-37.18%
TOTAL CONSTITUTIONAL OFFICES	5,904,554.30	8,143,000.00	6,107,250.00	-3.32%
RENT				
Airport fuel sales	15,970.50	17,000.00	12,750.00	25.26%
Industrial airpark rent	520,644.99	542,600.00	406,950.00	27.94%
Land rent	5,156.68	3,710.00	2,782.50	85.33%
Emergency operations center (SUSCOM)	17,500.00	17,500.00	13,125.00	33.33%
Miscellaneous rentals	13,902.51	15,900.00	11,925.00	16.58%
TOTAL RENT	573,174.68	596,710.00	447,532.50	28.07%
MISCELLANEOUS				
Investment earnings	59,475.69	307,986.00	230,989.50	-74.25%
Fines	17,919.67	26,000.00	19,500.00	-8.10%
Prothonotary	3,656.34	2,000.00	1,500.00	143.76%
Project income - community development	116,906.00	-	-	100.00%
Other charges	150,476.08	86,920.00	65,190.00	130.83%
Appropriated project reserves	-	1,412,066.00	1,059,049.50	0.00%
TOTAL MISCELLANEOUS	348,433.78	1,834,972.00	1,376,229.00	-74.68%
Transfers in from sewer and water	53,921.82	333,000.00	249,750.00	-78.41%
TOTAL REVENUES	$ 36,592,011.02	$ 46,392,059.00	$ 34,794,044.25	5.17%

* Accruals

Note: This report has been prepared using the best available data. It is however, preliminary in nature and subject to change pending formal audit.

Sussex County Council
Unaudited Revenue and Expense Report
As of March 31, 2013

	YTD Actual	Budgeted Amounts Annual	Budgeted Amounts YTD	% Over (Under) Budget YTD
EXPENDITURES				
General Government				
County council	$ 355,000.49	$ 470,130.10	$ 352,597.58	0.68%
County administration	354,210.73	477,252.89	357,939.67	-1.04%
Legal	266,198.36	329,000.00	246,750.00	7.88%
Finance	618,675.23	773,547.00	580,160.25	6.64%
Assessment	1,001,068.37	1,316,792.00	987,594.00	1.36%
Building code	390,022.84	530,539.00	397,904.25	-1.98%
Mapping	515,091.10	702,325.00	526,743.75	-2.21%
Accounting	433,657.89	563,290.00	422,467.50	2.65%
Treasury	559,843.94	669,863.00	502,397.25	11.43%
Human resources	320,186.61	524,738.35	393,553.76	-18.64%
General employment and retirement	175,125.91	230,927.65	173,195.74	1.11%
Boards and Commissions	21,691.53		-	0.00%
Building and grounds	930,471.18	1,165,905.00	874,428.75	6.41%
Security	358,027.54	506,220.00	379,665.00	-5.70%
Data processing	274,793.85	315,618.00	236,713.50	16.09%
Data processing - information systems	655,059.20	1,099,214.00	824,410.50	-20.54%
Constable	201,700.51	271,432.00	203,574.00	-0.92%
Constable - dog control	602,050.74	728,944.00	546,708.00	10.12%
Grant-in-aid programs *	6,199,364.20	7,487,923.00	5,615,942.25	10.39%
Planning and zoning	942,612.18	1,283,991.00	962,993.25	-2.12%
Paramedic	9,143,140.65	12,356,323.00	9,267,242.25	-1.34%
Emergency operations center administration	343,976.95	481,017.20	360,762.90	-4.65%
Emergency operations center dispatchers	1,496,070.30	1,953,737.00	1,465,302.75	2.10%
Communications	305,844.08	419,672.40	314,754.30	-2.83%
Local emergency plan program	57,525.47	71,559.59	53,669.69	7.18%
Economic development	70,190.83	98,372.00	73,779.00	-4.86%
Industrial air park	446,882.90	776,238.00	582,178.50	-23.24%
Community development	1,235,782.51	1,711,011.00	1,283,258.25	-3.70%
Engineering - administration	708,372.34	1,011,435.00	758,576.25	-6.62%
Engineering - public works	397,937.75	544,969.00	408,726.75	-2.64%
Engineering - solid waste	111,922.45	170,000.00	127,500.00	-12.22%
Records management	70,689.22	95,121.00	71,340.75	-0.91%
Library	2,708,012.53	3,828,283.82	2,871,212.87	-5.68%
Clerk of the peace	134,063.59	175,891.00	131,918.25	1.63%
Recorder of deeds	760,239.67	1,105,940.00	829,455.00	-8.34%
Register of wills	333,861.34	496,817.00	372,612.75	-10.40%
Sheriff	524,654.69	912,520.00	684,390.00	-23.34%
Interfund transfers	709,299.57	735,500.00	551,625.00	28.58%
TOTAL EXPENDITURES	34,733,319.24	46,392,059.00	34,794,044.25	-0.17%
EXCESS (DEFICIT) OF REVENUES OVER EXPENDITURES	1,858,691.78	-	-	

* Accruals

Note: This report has been prepared using the best available data. It is however, preliminary in nature and subject to change pending formal audit.

Sussex County Council
Unaudited Revenue and Expense Report
As of March 31, 2013

	YTD Actual	Budgeted Amounts Annual	Budgeted Amounts YTD	% Over (Under) Budget YTD
CAPITAL IMPROVEMENT REVENUES				
Federal airport grant	1,252,374.64	4,143,510.00	3,107,632.50	-59.70%
State airport grant	4,319.67	115,098.00	86,323.50	-95.00%
State library grant	191,353.35	1,500,000.00	1,125,000.00	-82.99%
State paramedic grant	-	147,000.00	110,250.00	-100.00%
State capital grant	-	650,000.00	487,500.00	-100.00%
Reimbursements and refunds	2,250.00	-	-	100.00%
Investment earnings	11,552.39	25,000.00	18,750.00	-38.39%
Appropriated reserves	-	6,666,877.00	5,000,157.75	-100.00%
TOTAL CAPITAL IMPROVEMENT REVENUES	1,461,850.05	13,247,485.00	9,935,613.75	-85.29%
CAPITAL IMPROVEMENT EXPENDITURES				
General government	716,839.87	2,495,000.00	1,871,250.00	-61.69%
Paramedics	221,586.49	490,000.00	367,500.00	-39.70%
Emergency preparedness	133,434.96	1,542,000.00	1,156,500.00	-88.46%
Library	458,884.04	3,169,585.00	2,377,188.75	-80.70%
Airpark	2,143,337.11	5,550,900.00	4,163,175.00	-48.52%
TOTAL CAPITAL IMPROVEMENT EXPENDITURES	3,674,082.47	13,247,485.00	9,935,613.75	-63.02%
EXCESS (DEFICIT) OF REVENUES OVER EXPENDITURES	(2,212,232.42)	-	-	

Note: This report has been prepared using the best available data. It is however, preliminary in nature and subject to change pending formal audit.

Sussex County Council

Delaware General Assembly Legislative Report

Prepared by:
Hal Godwin, Deputy County Administrator
May 21, 2013

Bill No.	Description and Purpose	Action
	2013 BILLS	
HB 14	This bill provides that any income and/or capital gain received from easements preserving agricultural land shall not be taxed for purposes of Delaware personal income taxes.	Assigned to the House Appropriations Committee 1/24/13, no further action.
HB 27	This bill allows school taxes and property taxes to be collected by tax intercept. The current law specifically prohibits school taxes from being collected by tax intercept. Currently millions of dollars of property taxes are owed to school districts and local governments and such taxes are difficult to collect. Tax intercept programs have been successful in collecting child support and other obligations owed the State and will help collections for education and other taxes.	We supported this legislation last year and it nearly passed. We requested it again this year and it has been introduced and released from Committee as of 3/13/13. ON HOUSE READY LIST Support for this Bill seems weak.
HB 44	This bill permits a real property owner or tenant to display an American flag on a pole attached to the exterior of the property's structure or on a flagpole located within the property's boundaries, provided the flagpole does not exceed 25 feet in height and conforms to all setback requirements. Any and all community restrictions to the contrary will not be enforceable.	Passed the House 4/18 with Amendment #2 Amendment is attached. Assigned to Senate Community/County Affairs Committee 4/24/13 – A Committee meeting is scheduled for 5/1/13 but this bill is not on their Agenda. Cause for Bill = Selbyville resident complaint

House Bill No Number	This Act is the first leg of a constitutional amendment that will remove the offices of ***Clerks of the Peace*** from the State Constitution and remove the requirement to elect the Clerks of the Peace	Bill not introduced yet, item for our discussion I cannot identify any support for this bill. Primary sponsor Representative Hudson stated that this legislation has no connection with the Gay Marriage or Civil Union Bill. Rep. Hudson believes some County Row Offices should be appointed positions.
HB No. 63	This bill is the first leg of a constitutional amendment that forever guarantees the right of farmers to engage in modern farming and ranching practices.	ON HOUSE READY LIST I contacted primary sponsor Representative Atkins to determine his reason for introducing this legislation, he replied that it was complaint driven. When questioned further – Rep. Atkins intends to strike the bill from the record.
Senate Bill No Number	This Bill allows Delaware residents 65 years of age and older to qualify for the "Senior School Property Tax Credit Program" upon entering into a payment plan for the taxes due.	We are currently compliant with this proposed Bill.
Senate Bill No Number	This Bill provides for property tax exemption for the dwelling of military veterans who are disabled and for their spouses, if the veteran is deceased.	Not introduced, we have been asked for our comments. Our plan currently reduces property taxes for people with disabilities; however this bill would completely eliminate property taxes for disabled veterans.
	REPORT CONTINUED ON PAGE 3	

HB No. 74	This Delaware Health Security Act will provide a cost effective single payer health care system for the State of Delaware. The Act will provide comprehensive health care coverage to all Delawareans without any extra health insurance or out-of-pocket-expense. The system will save money currently wasted on administrative/overhead costs and will provide a stable funding structure. This Act creates the Delaware Health Security Authority. The authority will be governed by a 15-member Delaware Health Security Board comprised as follows: the Secretary of Health and Social Services, two members from both the State House of Representatives and State Senate Committees concerned with health care issues, five members from state health professional organizations, and five members from eligible consumer organizations in our state. Funding for the new health care system will be as follows: 1. All state and federal funds available for health and health care costs in Delaware. 2. Employer and employee graduated payroll tax from 4 percent for employers with less than ten employees to 9 percent for employers with 50 or more employees. 3. A Health Security tax of 2.5 percent on net taxable income (after deductions) for all heads of households and persons subject to Delaware's income tax; and 4. An additional Health Security income surtax on net taxable income of 2.5 percent for persons filing a Delaware income tax return in excess of $250,000. Married couples filing a joint Delaware income tax return shall pay an additional income	This bill has been assigned to the House Health & Human Development Committee This bill has not yet been scheduled for a Committee hearing. I will be certain to alert you of this date and time. **Committee Members:** Chairman: Michael a. Barbieri (302) 368-7257 Michael.barbieri@state.de.us Vice-Chairman: Rebecca Walker (302) 293-2356 Rebecca.walker@state.de.us **Members:** Donald A. Blakey (302) 697-6723 Donald.Blakey@state.de.us Ruth Briggs-King (302) 856-2772 ruth.briggsking@state.de.us Timothy D. Dukes (302) 280-6344 Timothy.Dukes@state.de.us Earl G. Jaques, Jr. (302) 834-9231 earl.jaques@state.de.us S. Quinton Johnson (302) 378-2681 Quinton.johnson@state.de.us John A. Kowalko, Jr. (302) 737-2396 john.kowalko@state.de.us Joseph E. Miro (302) 454-1840 Joseph.miro@state.de.us Edward S. Osienski (302) 292-8903 Edward.osienski@state.de.us

	surtax of 2.5 percent on net taxable income in excess of $500,000.	Charles Potter, Jr. (302) 762-8322 Charles.Potter@state.de.us Darryl M. Scott (302) 735-1781 Darryl.Scott@state.de.us Kimberly Williams (302) 577-8476 kimberly.williams@state.de.us * Federal Health Care Legislation requires all citizens be covered – the new tax will fund * Delaware is currently establishing exchanges to provide coverage for all residents to comply with Federal requirements * HB74 is introduced to cover all Delawareans – doesn't appear to be part of the State or Federal exchange plan
Draft Report from Animal Welfare Task Force	Please see attached Draft Report that will become final after comments are received by 4/22/13. Final report will be available 4/30/13 and delivered to the General Assembly	My comments are attached at the end of the Draft Report. I am certain that legislation will be forthcoming from the final report. We should be receiving the hard copy of the final report this week.
HB No. 95	This Act provide the Department of Natural Resources and Environmental Control with the authority to impose environmental liens on real property in an effort to recover taxpayers' money expended by the State in order to investigate and clean up contaminated properties in circumstances where the property owners who caused the contamination have failed to do so. This Bill originates from a recommendation made by the **2003 Metachem Task Force**, chaired by the Honorable William T. Quillen. As the Task Force Report noted, currently at least thirty-four states (including all of our neighboring states)	This Bill was introduced April 25th and it appears to be moving quickly. It was cleared by the Natural Resources Committee, May 1st and it is on the House Agenda, Tuesday, May 7th

	and the federal government have statutory authority to impose environmental liens. Besides bring Delaware law in line with the vast majority of our sister states and the United States, this Act provides an important means of protecting the public treasury while holding responsible property owners accountable for the environmental harm they cause.	
HB 135	This Act seeks to create jobs and new sources of revenue for the State of Delaware by, among other means, authorizing the addition of two new video lottery agents, one in Sussex County and one in New Castle County, through an application process conducted by a Lottery Economic Development Committee. This Act creates a nine member, politically-balanced Committee with financial, accounting, or banking experience to select the sites and licensees. This Act also increases the number of required racing days to reflect the current amount of racing, and prevents the addition of video lottery agents from triggering a reduction in the minimum number of days that existing harness tracks must offer harness racing. Finally, this Act also expresses the intent of the General Assembly that the new video lottery casinos will be subject to a one-time license fee and ongoing license fees, as well as such fees as are necessary to create a level playing field for competition with video lottery agents who operate horse racing or harness racing, and directs the Department of Finance to prepare legislation implementing that intent.	Introduced 5/9/13 - This Bill intends to add a casino in Sussex County.
HB 137	This Bill expands and promotes unity in the options for survivor pension payout choices for retired participants in the State pension programs, the State Employees' Pension Plan, the County and Municipal Employees' Pension Plan, the County and Municipal Police/Firefighter Pension Plan, the State Judiciary Pension Plan, and the State Police Pension Plan. There is no reduction for the 50% survivor benefit, a 2% reduction for a 66.67% survivor benefit, 3% reduction for a 75% survivor benefit, and 6% reduction for a 100% survivor benefit.	Introduced 5/14/13 - This Bill may cause changes in our pension calculations.

SPONSOR: Rep. D.E. Williams & Sen. Henry

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 135

AN ACT TO AMEND TITLES 3 AND 29 OF THE DELAWARE CODE RELATING TO THE LICENSING OF VIDEO LOTTERY CASINOS AND HARNESS RACING DAYS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 4801, Title 29 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strikethrough as follows:

§ 4801. Statement of purpose.

(a) It is the purpose of this subchapter to establish a state-operated lottery under the supervision of a Director who shall be appointed by the Secretary of Finance with the written approval of the Governor and hold broad authority to administer the system in a manner which will produce the greatest income for the State.

(b) In authorizing a video lottery, it is the further purpose of the General Assembly to:

(1) Provide nonstate supported assistance in the form of increased economic activity and vitality for Delaware's harness and thoroughbred horse racing industries, which activity and vitality will enable the industry to improve its facilities and breeding stock, and cause increased employment; and

(2) ~~Restrict the location of such lottery to locations where wagering is already permitted and/or such immediately adjacent property or properties that are owned by, or immediately adjacent properties that may be acquired by, the video lottery licensee as defined in § 4805(b)(13) of this title, and where controls exist.~~

(2) Restrict the location of such lottery to locations where wagering is or may be permitted as authorized in this Chapter.

(c) In authorizing the use of the Internet for certain lottery games, it is the further purpose of the General Assembly to:

(1) Expand access to certain lottery games by offering them on the Internet in a well-regulated and secure system designed to create a positive customer experience that limits access to minors, those with gambling problems, and others who should not be gaming;

(2) Improve the competitiveness of Delaware's video lottery licensees by encouraging reinvestment in their facilities and promoting the utilization of lottery games on the Internet at websites branded and promoted by the video lottery licensees and Delaware Lottery Office;

(3) Provide further support to Delaware's harness and thoroughbred horse racing industries by expanding the gaming offerings benefitting video lottery licensees and the horsemen or horsewomen who race there; and

(4) Enhance the offerings of the Delaware lottery by allowing it to develop keno and the sports lottery in a manner that promotes additional convenience and choices for Delawareans.

Section 2. Amend § 4803, Title 29 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strikethrough as follows:

§ 4803. Definitions [Effective until June 30, 2013]

(a) "Charitable gaming organization" shall mean an organization, in existence as of January 1, 2013, that is a fraternal or veterans organization with national affiliation or an organization, in existence as of January 1, 2013, whose membership consists primarily of veterans honorably discharged or active duty service members.

(b) "Charitable video lottery machine" shall mean a video lottery machine that has been authorized by the Director to be placed at a location operated by a charitable gaming organization.

(c) "Credit slip" shall mean the receipt generated by a video lottery terminal when a player is playing that particular video lottery terminal, or the ticket resulting from a sports lottery game.

(d) "Director," as used in this subchapter, shall mean the Director of the State Lottery Office.

(e) "Employee organization" shall mean any organization that admits or seeks to admit to membership employees of a Delaware video lottery agent and that has as a purpose the representation of such employees in collective bargaining, grievance representation, labor disputes, salaries, wages, rates of pay, hours of employment, or conditions of work.

(f) "Gaming area" shall mean a location in a video lottery facility where gaming activity is conducted at video lottery machines or table games.

(g) "Gaming employee" shall mean a person employed in the operation of a video lottery facility and determined by the Director to have employment duties and responsibilities involving the security, maintenance, servicing, repair, or operation of video lottery machines and table game equipment, or is employed in a position that allows direct access to the internal workings of video lottery machines or table game equipment. Such employees shall include, without limitation: dealers; floorpersons; video lottery machine personnel; video lottery machine technicians; count room and cage personnel; security and surveillance employees; employees responsible for handling assets and proceeds associated with the operation

of gaming activity; and employees with responsibility for policies concerning complimentaries or allowed to grant variances to policies concerning complimentaries.

(h) "Gaming excursion" shall mean an arrangement the purpose of which is to induce any person, selected or approved for participation therein on the basis of said person's ability to satisfy a financial qualification obligation related to said person's ability or willingness to gamble or on any other basis related to said person's propensity to gamble, to come to a video lottery facility for the purpose of gaming and pursuant to which, and as consideration for which, any or all of the cost of transportation, food, lodging, and entertainment for said person is directly or indirectly paid by a video lottery agent or employee thereof.

(i) "Gaming room service employee" shall mean a person employed to perform services or duties in a video lottery facility, who has access to the gaming area or restricted gaming area, but who is not included within the definition of "key employee" or "gaming employee".

(j) "Gross table game revenue" shall mean the total of all table game win or loss and poker revenue, including checks received whether collected or not, received by a video lottery agent from table game operations; provided that if the value of gross table game revenue at any video lottery facility in a given fiscal year is less than zero, any liabilities to winners in such year shall be the responsibility of the video lottery agent. Gross table game revenue shall include entry fees charged in a tournament in excess of cash prizes awarded. For purposes of this section, any check which is invalid and unenforceable shall be treated as cash and included within gross table game revenue.

(k) "Internet lottery" shall mean all lottery games in which the player's interaction with the game operated by the Office occurs over the Internet (which, for purposes of this chapter, shall include any public or private computer or terminal network, whether linked electronically, wirelessly, through optical networking technology or other means), including Internet ticket games, the Internet video lottery and Internet table games.

(l) "Internet table games" shall mean a lottery game in which the player's interaction with the game operated by the Office occurs over the Internet through a website or network of a video lottery agent, rather than at a table game in a video lottery facility, and in which the game is an Internet variation or compilation of a table game or table games, provided that the game is expressly authorized by rule of the Director.

(m) "Internet ticket games" shall mean a lottery game in which the player's interaction with the game operated by the Office occurs over the Internet through a website or network of the Office, and in which the winner is decided by chance through mechanical or electronic means, and which shall include keno but which shall not include the video lottery, table games, and other forms of the Internet lottery.

(n) "Internet video lottery" shall mean a lottery game in which the player's interaction with the game operated by the Office occurs over the Internet through a website or network of a video lottery agent, rather than at a video lottery machine in a video lottery facility, and in which the game is an Internet variation of a video lottery game, and which shall not include keno, table games, and other forms of the Internet lottery.

(o) "Investor," as used in this subchapter, shall mean any person who owns, directly or indirectly, all or a portion of an applicant, except insofar as the applicant is publicly traded on a national securities exchange, in which case a person is an "investor" only if he, she or it holds or has the right to acquire 5% or more of the applicant's equity securities. For purposes of this subchapter, an “investor” shall not include any person on entity who has any ownership interest, directly or indirectly, in any casino within 100 miles of Dover, Delaware.

(p) "Key employee" shall mean a person employed in the operation of a video lottery facility and determined by the Director to be acting in a supervisory capacity or empowered to make discretionary decisions with respect to video lottery machine or table game operations, including, without limitation, the chief executive, financial and operation managers, video lottery department managers, cashier and cage supervisors, credit executives, pit bosses or managers, gaming employee shift managers or any other employee so designated by the Director for reasons consistent with the public policies of this subchapter, and shall include any officer or any employee of an employee organization who has direct involvement with or who exercises authority, discretion or influence in the representation of employees of a Delaware video lottery agent in collective bargaining, grievance representation, labor disputes, salaries, wages, rates of pay, hours of employment or conditions of work.

(~~p~~q) "Lottery" or "state lottery" or "system" shall mean the public gaming systems or games established and operated pursuant to this subchapter and including all types of lotteries.

(~~q~~r) "Net moneys" shall mean all moneys received from the sale of lottery tickets after first deducting sales agent commissions and payment of prizes under $600.

(~~r~~s) "Office" shall mean the State Lottery Office established by this subchapter.

(~~s~~t) "Poker revenue" shall mean the total value of rake charged to players at all poker tables. The poker revenue is determined by adding the value of cash, coupons, the amount recorded on the closer, the totals of amounts recorded on the credits and markers removed from a drop box, and subtracting the amount on the opener and the total of amounts recorded on fills removed from a drop box.

(~~t~~u) "Qualified child support obligation" shall mean any child support lien in excess of $150 as provided by § 2215 of Title 13.

(~~u~~v) "Qualified video lottery prize" shall mean any video lottery prize paid by cash or check for which a W-2G is issued equal to or in excess of $1,200 (but less any amounts withheld for income taxes).

(~~v~~w) "Restricted gaming area" shall mean the cashier's cage, the count room, the cage booths and runway areas, the interior of table game pits, the surveillance room and catwalk areas, the video lottery machine repair room and any other area designated by the Director as a restricted gaming area.

(~~w~~x) "Sports lottery" shall mean a lottery in which the winners are determined based on the outcome of any professional or collegiate sporting event, including racing, held within or without the State, but excluding collegiate sporting events that involve a Delaware college or university and amateur or professional sporting events that involve a Delaware team.

(~~x~~y) "Sports lottery machine" shall mean any machine in which bills, coins or tokens are deposited in order to play a sports lottery game. A machine shall be considered a sports lottery machine notwithstanding the use of an electronic credit system making the deposit of bills, coins or tokens unnecessary.

(~~y~~z) "Sports lottery operations employee" shall mean an individual employee, person or agent of an applicant or licensee who is responsible for the security of sports lottery operations or proceeds.

(~~z~~aa) "State Lottery Fund" shall mean those moneys derived from the sale of state lottery tickets and deposited in the state account of that name and those funds appropriated for the start-up costs of the system.

(~~aa~~bb) "Table game" shall mean any game played in a video lottery facility with cards, dice or any mechanical, electromechanical or electronic device or machine (excluding keno, video lottery machines, and the Internet lottery) for money, credit or any representative of value, including, but not limited to, baccarat, blackjack, twenty-one, poker, craps, roulette, bingo, wheel of fortune or any variation of these games, whether or not similar in design or operation, provided that the game is expressly authorized by rule of the Director.

(~~bb~~cc) "Table game equipment" shall mean gaming tables, cards, dice, chips, tiles, shufflers, drop boxes or any other mechanical, electronic or other device, mechanism or equipment or related supplies used or consumed in the operation of any table games.

(~~cc~~dd) "Table game win or loss" shall mean the value of gaming chips and cash won from patrons at gaming tables less the value of gaming chips and cash won by patrons at gaming tables other than poker tables. The table game win or loss is determined by adding the value of cash, total value of coupons, the amount recorded on the closer, the totals of amounts recorded on the credits and the issuance copies of markers removed from a drop box, subtracting the amount

recorded on the opener and the total of amounts recorded on fills removed from a drop box. Match play coupons shall not be included, subject to limitations imposed by the Director.

(~~dd~~ee) "Video lottery" shall mean any lottery conducted in a video lottery facility with a video lottery machine or a network of linked video lottery machines with an aggregate progression prize or prizes (excluding keno, table games, and the Internet lottery).

(~~ee~~ff) "Video lottery facility" shall mean a building containing a gaming area.

(~~ff~~gg) "Video lottery machine" shall mean any machine in which bills, coins or tokens are deposited in order to play in a game of chance in which the results, including options available to the player, are randomly determined by the machine. A machine may use spinning reels or video displays or both, and may or may not dispense coins or tokens directly to winning players. A machine shall be considered a video lottery machine notwithstanding the use of an electronic credit system making the deposit of bills, coins or tokens unnecessary.

§ 4803. Definitions [Effective June 30, 2013].

(a) "Credit slip" shall mean the receipt generated by a video lottery terminal when a player is playing that particular video lottery terminal, or the ticket resulting from a sports lottery game.

(b) "Director," as used in this subchapter, shall mean the Director of the State Lottery Office.

(c) "Employee organization" shall mean any organization that admits or seeks to admit to membership employees of a Delaware video lottery agent and that has as a purpose the representation of such employees in collective bargaining, grievance representation, labor disputes, salaries, wages, rates of pay, hours of employment, or conditions of work.

(d) "Gaming area" shall mean a location in a video lottery facility where gaming activity is conducted at video lottery machines or table games.

(e) "Gaming employee" shall mean a person employed in the operation of a video lottery facility and determined by the Director to have employment duties and responsibilities involving the security, maintenance, servicing, repair, or operation of video lottery machines and table game equipment, or is employed in a position that allows direct access to the internal workings of video lottery machines or table game equipment. Such employees shall include, without limitation: dealers; floorpersons; video lottery machine personnel; video lottery machine technicians; count room and cage personnel; security and surveillance employees; employees responsible for handling assets and proceeds associated with the operation of gaming activity; and employees with responsibility for policies concerning complimentaries or allowed to grant variances to policies concerning complimentaries.

(f) "Gaming excursion" shall mean an arrangement the purpose of which is to induce any person, selected or approved for participation therein on the basis of said person's ability to satisfy a financial qualification obligation related to

said person's ability or willingness to gamble or on any other basis related to said person's propensity to gamble, to come to a video lottery facility for the purpose of gaming and pursuant to which, and as consideration for which, any or all of the cost of transportation, food, lodging, and entertainment for said person is directly or indirectly paid by a video lottery agent or employee thereof.

(g) "Gaming room service employee" shall mean a person employed to perform services or duties in a video lottery facility, who has access to the gaming area or restricted gaming area, but who is not included within the definition of "key employee" or "gaming employee".

(h) "Gross table game revenue" shall mean the total of all table game win or loss and poker revenue, including checks received whether collected or not, received by a video lottery agent from table game operations; provided that if the value of gross table game revenue at any video lottery facility in a given fiscal year is less than zero, any liabilities to winners in such year shall be the responsibility of the video lottery agent. Gross table game revenue shall include entry fees charged in a tournament in excess of cash prizes awarded. For purposes of this section, any check which is invalid and unenforceable shall be treated as cash and included within gross table game revenue.

(i) "Investor," as used in this subchapter, shall mean any person who owns, directly or indirectly, all or a portion of an applicant, except insofar as the applicant is publicly traded on a national securities exchange, in which case a person is an "investor" only if he, she or it holds or has the right to acquire 5% or more of the applicant's equity securities. For purposes of this subchapter, an “investor” shall not include any person on entity who has any ownership interest, directly or indirectly, in any casino within 100 miles of Dover, Delaware.

(~~i~~j) "Internet lottery" shall mean all lottery games in which the player's interaction with the game operated by the Office occurs over the Internet (which, for purposes of this chapter, shall include any public or private computer or terminal network, whether linked electronically, wirelessly, through optical networking technology or other means), including Internet ticket games, the Internet video lottery and Internet table games.

(~~j~~k) "Internet table games" shall mean a lottery game in which the player's interaction with the game operated by the Office occurs over the Internet through a website or network of a video lottery agent, rather than at a table game in a video lottery facility, and in which the game is an Internet variation or compilation of a table game or table games, provided that the game is expressly authorized by rule of the Director.

(~~k~~l) "Internet ticket games" shall mean a lottery game in which the player's interaction with the game operated by the Office occurs over the Internet through a website or network of the Office, and in which the winner is decided by chance through mechanical or electronic means, and which shall include keno but which shall not include the video lottery, table games, and other forms of the Internet lottery.

(~~l~~m) "Internet video lottery" shall mean a lottery game in which the player's interaction with the game operated by the Office occurs over the Internet through a website or network of a video lottery agent, rather than at a video lottery machine in a video lottery facility, and in which the game is an Internet variation of a video lottery game, and which shall not include keno, table games, and other forms of the Internet lottery.

(~~m~~n) "Key employee" shall mean a person employed in the operation of a video lottery facility and determined by the Director to be acting in a supervisory capacity or empowered to make discretionary decisions with respect to video lottery machine or table game operations, including, without limitation, the chief executive, financial and operation managers, video lottery department managers, cashier and cage supervisors, credit executives, pit bosses or managers, gaming employee shift managers or any other employee so designated by the Director for reasons consistent with the public policies of this subchapter, and shall include any officer or any employee of an employee organization who has direct involvement with or who exercises authority, discretion or influence in the representation of employees of a Delaware video lottery agent in collective bargaining, grievance representation, labor disputes, salaries, wages, rates of pay, hours of employment or conditions of work.

(~~n~~o) "Lottery" or "state lottery" or "system" shall mean the public gaming systems or games established and operated pursuant to this subchapter and including all types of lotteries.

(~~o~~p) "Net moneys" shall mean all moneys received from the sale of lottery tickets after first deducting sales agent commissions and payment of prizes under $600.

(~~p~~q) "Office" shall mean the State Lottery Office established by this subchapter.

(~~q~~r) "Poker revenue" shall mean the total value of rake charged to players at all poker tables. The poker revenue is determined by adding the value of cash, coupons, the amount recorded on the closer, the totals of amounts recorded on the credits and markers removed from a drop box, and subtracting the amount on the opener and the total of amounts recorded on fills removed from a drop box.

(~~r~~s) "Qualified child support obligation" shall mean any child support lien in excess of $150 as provided by § 2215 of Title 13.

(~~s~~t) "Qualified video lottery prize" shall mean any video lottery prize paid by cash or check for which a W-2G is issued equal to or in excess of $1,200 (but less any amounts withheld for income taxes).

(~~t~~u) "Restricted gaming area" shall mean the cashier's cage, the count room, the cage booths and runway areas, the interior of table game pits, the surveillance room and catwalk areas, the video lottery machine repair room and any other area designated by the Director as a restricted gaming area.

(~~u~~v) "Sports lottery" shall mean a lottery in which the winners are determined based on the outcome of any professional or collegiate sporting event, including racing, held within or without the State, but excluding collegiate sporting events that involve a Delaware college or university and amateur or professional sporting events that involve a Delaware team.

(~~v~~w) "Sports lottery machine" shall mean any machine in which bills, coins or tokens are deposited in order to play a sports lottery game. A machine shall be considered a sports lottery machine notwithstanding the use of an electronic credit system making the deposit of bills, coins or tokens unnecessary.

(~~w~~x) "Sports lottery operations employee" shall mean an individual employee, person or agent of an applicant or licensee who is responsible for the security of sports lottery operations or proceeds.

(~~x~~y) "State Lottery Fund" shall mean those moneys derived from the sale of state lottery tickets and deposited in the state account of that name and those funds appropriated for the start-up costs of the system.

(~~y~~z) "Table game" shall mean any game played in a video lottery facility with cards, dice or any mechanical, electromechanical or electronic device or machine (excluding keno, video lottery machines, and the Internet lottery) for money, credit or any representative of value, including, but not limited to, baccarat, blackjack, twenty-one, poker, craps, roulette, bingo, wheel of fortune or any variation of these games, whether or not similar in design or operation, provided that the game is expressly authorized by rule of the Director.

(~~z~~aa) "Table game equipment" shall mean gaming tables, cards, dice, chips, tiles, shufflers, drop boxes or any other mechanical, electronic or other device, mechanism or equipment or related supplies used or consumed in the operation of any table games.

(~~aa~~bb) "Table game win or loss" shall mean the value of gaming chips and cash won from patrons at gaming tables less the value of gaming chips and cash won by patrons at gaming tables other than poker tables. The table game win or loss is determined by adding the value of cash, total value of coupons, the amount recorded on the closer, the totals of amounts recorded on the credits and the issuance copies of markers removed from a drop box, subtracting the amount recorded on the opener and the total of amounts recorded on fills removed from a drop box. Match play coupons shall not be included, subject to limitations imposed by the Director.

(~~bb~~cc) "Video lottery" shall mean any lottery conducted in a video lottery facility with a video lottery machine or a network of linked video lottery machines with an aggregate progression prize or prizes (excluding keno, table games, and the Internet lottery).

(~~cc~~dd) "Video lottery facility" shall mean a building containing a gaming area.

(~~dd~~ee) "Video lottery machine" shall mean any machine in which bills, coins or tokens are deposited in order to play in a game of chance in which the results, including options available to the player, are randomly determined by the machine. A machine may use spinning reels or video displays or both, and may or may not dispense coins or tokens directly to winning players. A machine shall be considered a video lottery machine notwithstanding the use of an electronic credit system making the deposit of bills, coins or tokens unnecessary.

Section 3. Amend § 4805(b)(13), Title 29 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strikethrough as follows:

§ 4805. Director -- Powers and duties [Effective until June 30, 2013]

(a) The Director shall have the power and the duty to operate and administer the state lottery and to promulgate such rules and regulations governing the establishment and operation of the lottery as the Director deems necessary and desirable in order that the lottery be initiated at the earliest feasible time and in order that the system shall produce the maximum amount of net revenues consonant with the dignity of the State and the general welfare of the people. The rules shall provide for all matters necessary or desirable for the efficient and economical operation and administration of the system and for the convenience of the purchasers of lottery tickets and the holders of winning tickets, and the players of all state lottery games including, but not limited to, the following:

(1) Type and number of games to be conducted;

(2) Price or prices of tickets for any game;

(3) Numbers and sizes of the prizes on the winning tickets;

(4) Manner of selecting the winning tickets;

(5) Manner of payment of prizes to the holders of winning tickets;

(6) Frequency of the drawings or selections of winning tickets;

(7) Number and types of locations at which tickets may be sold and the sports lottery and keno may be conducted;

(8) Method to be used in selling tickets;

(9) Licensing of agents to sell tickets or host keno; provided, that, no person under the age of 18 shall be licensed as an agent;

(10) Manner and amount of compensation, if any, to be paid to licensed agents, other than video lottery agents, necessary to provide for the adequate availability of games to prospective buyers and for the convenience of the public;

(11) Apportionment of the total revenues accruing from the sale of tickets among:

a. Payment of prizes to the holders of winning tickets;

b. Payment of costs incurred in the operation and administration of the state lottery system, including the expenses of the office and the costs resulting from any contract or contracts entered into for promotional, advertising or operational services or for the purchase or lease of gaming equipment and materials;

c. Repayment of the moneys appropriated to the State Lottery Fund pursuant to § 3 of 59 Del. Laws, c. 348; and

d. Payment of earnings to the General Fund of the State;

Provided, that no less than 30 percent of the total revenues accruing from the sale of tickets or shares shall be dedicated to subparagraph d. of this paragraph;

(12) Such other matters necessary or desirable for the efficient and economical operation and administration of the game and for the convenience of the purchasers of tickets and the holders of winning tickets and the players of the video lottery, the sports lottery, Internet lottery, keno, and table games;

(13) Value of bills, coins or tokens needed to play the video lottery machines, sports lottery machines and table games;

(14) Licensing of agents for video lotteries;

(15) Payout from video lottery machines, provided that such payouts shall not be less than 87% on an average annual basis, and further provided that video lottery agents may return a payout greater than 87% but not greater than 95% upon 10 days written notice to the Director, and further provided that video lottery agents may, with the approval of the Lottery Director, return a greater payout percentage than 95%;

(16) A licensure requirement and enforcement procedure for officers, directors, key employees, gaming employees, gaming room service employees, sports lottery operations employees, and persons who own directly or indirectly 10% or more of such agent, in accordance with § 4828 of this title;

(17) A licensure requirement and enforcement procedure for service companies in accordance with § 4829 of this title;

(18) Standards for advertising, marketing and promotional materials used by video lottery agents;

(19) Regulations and procedures for the accounting and reporting of the payments required under §§ 4815 and 4819 of this title;

(20) The registration, kind, type, number and location of video lottery machines, sports lottery machines and table games on the licensee's premises, subject to the Director's obligations set forth in § 4820(b) of this title;

(21) The on-site security arrangements for video lottery agents and sports lottery agents;

(22) Requiring the reporting of information about video lottery agents, sports lottery agents, their employees, vendors and finances necessary or desirable to ensure the security of the lottery system. None of the information disclosed pursuant to this subsection shall be subject to disclosure under the Freedom of Information Act, §§ 10001-10005 of this title;

(23) The reporting and auditing of financial information of licensees including, but not limited to, the reporting of profits or losses incurred by licensees and the reporting by licensees of such employment and payroll information as is necessary for the Director to determine compliance with § 10148(1) of Title 3 or § 100048 of Title 3 as the case may be. None of the information disclosed pursuant to this subsection shall be subject to disclosure under the Freedom of Information Act, §§ 10001-10005 of this title;

(24)a. A registration requirement and enforcement procedure for any employee organization representing or seeking to represent employees who are employed by a Delaware video lottery agent. Any employee organization may at any time file with the office an application for registration as an employee organization. However, an employee organization shall be required to file such registration application within 10 business days after it secures a signed authorization card from any employee who is employed by a Delaware video lottery agent.

Any registration statement filed by an employee organization after the signature of an authorization card but prior to the employee organization's petition for election shall not be subject to disclosure by the Lottery Office to any video lottery agent;

b. Every key employee of an employee organization shall be required to register with the office at the same time as the application for registration is filed under subparagraph a. of this paragraph or within 30 days after the date on which such individual is elected, appointed or hired, whichever is later;

c. The application for registration by an employee organization or key employee of such employee organization may be denied or registration revoked under the following circumstances:

1. If such employee organization or key employee of such employee organization is in violation of standards established under the Labor-Management Reporting and Disclosure Procedure Prohibition Against Certain Persons Holding Office, 29 U.S.C 504(a);

2. The applicant's competence, honesty or integrity pose a threat to the public interest of the State or to the reputation of or effective regulation and control of the lottery based on the applicant's associations or by virtue of the fact that the applicant has been convicted of a felony crime of moral turpitude or has been arrested for an act constituting racketeering under § 1502(9)a., b.2. or b.4. through 10. of Title 11 within 10 years prior to applying for registration hereunder or at any time thereafter. Any employee or employee organization denied registration based on an

arrest for an act constituting racketeering under § 1502(9)a., b.2. or b.4. through 10. of Title 11 may apply for reconsideration of registration if subsequently acquitted or a nolle prosequi is entered or the charge is otherwise dismissed. In such instances, the Lottery Office shall reconsider the applicant's registration based on the criteria previously set forth in this subsection;

3. The organization or individual has knowingly made or caused to be made any written statement to any representative of the office or the Delaware State Police or any oral response to an official inquiry by the office, its employees or agents which was at the time and in light of circumstances under which it was made false or misleading;

4. The organization or key employee thereof holds or obtains a direct financial interest in any video lottery agent, provided the employee organization is provided a 30-day period to divest of any such direct financial interest.

The Delaware State Police shall conduct the background checks required by this paragraph. The failure of any key employee to satisfy the requirements of paragraph (a)(24)c.1. through 4. of this section may constitute grounds for suspension of the registration of the employee organization if the organization does not remove the key employee from the key employee's duties as defined in § 4803(o) of this title. The employee organization will be given a reasonable opportunity to remove or replace any key employee found to be in violation of paragraph (a)(24)c.1. through 4. of this section;

d. All registration statements filed under this paragraph shall be valid for a 1-year period and a renewed registration form or an updated supplemental registration form must be filed annually. The entity or individual filing such form is under a continuing duty to promptly notify the Director of any changes in disclosed information;

e. The Secretary of Finance shall, within a reasonable time, if requested by the Director, appoint a hearing officer to determine whether the application for registration shall be denied or the registration suspended or revoked. The hearing officer shall be required to hold a hearing in conformance with the requirements of § 10131 of this title. In any hearing, the Delaware Uniform Rules of Evidence shall be in effect. The denial of an application of registration or the suspension or revocation of a registration shall be bound by the provisions of §§ 10133 and 10134 of this title. The hearing officer's decision to deny an application of registration or to suspend or revoke a registration shall be appealable to the Superior Court under the Delaware Administrative Procedures Act (Chapter 101 of this title). All applications for registration shall be deemed approved unless the Director notifies the applicant within 60 days of his or her decision not to approve and to appoint a hearing officer under this paragraph, or unless extenuating circumstances require a longer period, in which case the Director shall act with all deliberate speed to complete the process. Any employee organization may

continue to provide services to employees of a Delaware video lottery agent during the review of the application process and the appeal process, except where the employee organization is found in violation of paragraph (a)(24)c.4. of this section or there has been a previous violation of paragraph (a)(24)c.1. through 3. of this section by the employee organization within the previous 10 years;

f. Information requested in the application of registration provided for under this paragraph shall be adopted as part of the office's official rules and regulations upon notice and opportunity for a hearing under the Delaware Administrative Procedures Act [Chapter 101 of this title];

(25) The Director shall adopt procedures under the Delaware Administrative Procedures Act [Chapter 101 of this title] for employment investigations of the honesty, integrity, reputation and associations of office employees in order to determine that the employee's employment does not pose a threat to the public interest of the State or the integrity of the office. The procedures and any rules and regulations shall require any person seeking employment for compensation with the office for a position which has direct access to lottery ticket sales agents, video lottery agents, sports lottery agents, or vendors to submit his or her fingerprints and other relevant information in order to obtain the individual's entire federal and state criminal history record. The Delaware State Police shall conduct the investigations required under such rules and regulations. The rules and regulations shall require new employees to submit fingerprints for purposes of the state and federal criminal history checks;

(26) Type and number of sports lottery games to be conducted, the location and licensure of facilities where the sports lottery be conducted pursuant to § 4825 of this title, the price or prices for any sports lottery games, the rules for any sports lottery games, and the payout and manner of compensation to be paid to winners of sports lottery games;

(27) Type and number of table games to be conducted, the price or prices for any table games, the rules for any table games, the payout and manner of compensation to be paid to winners of table games, and the minimum and maximum wagers for any table games;

(28) The licensure and location of facilities where keno games may be conducted, the price or prices for any keno games, the rules for any keno games, and the payout and manner of compensation to be paid to winners of keno games;

(29) The regulations and procedures for the display and presentation of messages concerning responsible gaming and the regulations, procedures and training for identification of and assistance to compulsive gamblers;

(30) The provision of complimentary services, gifts, transportation, cash, food, nonalcoholic beverages, entertainment or any other thing of value by a lottery agent to a guest;

(31) The procedures for the review and evaluation of licensing applications, including the forms of applications, procedures for fingerprinting and other means of identification, procedures for hearings, and grounds and procedures for the approval, denial, revocation or suspension of a license;

(32) Procedures relating to internal management controls of video lottery agents, including accounting controls and employee and supervisory organizational charts and responsibilities;

(33) Standards for the manufacture, sale, distribution, maintenance, repair, and servicing of video lottery machines and table game equipment; and

(34) Standards for the conduct of the Internet lottery in accordance with this chapter.

(b) The Director shall also have the power and it shall be the Director's duty to:

(1) Appoint such deputy directors as may be required to carry out the functions and duties of the office. Each deputy director shall have had 3 years management experience in areas pertinent to the prospective responsibilities and an additional 3 years of experience in the same field.

(2) Within the limit of the funds made available in § 3 of 59 Del. Laws, c. 348, and proceeding from the sale of lottery tickets and generated by the operations of video lottery agents, appoint such professional, technical, and clerical assistants and employees as may be necessary to perform the duties imposed upon the office by this subchapter.

(3) In accordance with this subchapter, license as agents to sell lottery tickets persons who will best serve, by location or accessibility, the public convenience and promote the sale of lottery tickets. The Director may require a bond from every agent so licensed in such amount as the Director deems necessary. Every licensed agent shall prominently display the agent's license or a copy thereof.

(4) Enter into contracts for the operation of any game or part thereof and into contracts for the promotion of the game or games. This authorization is to be construed to include, but not be limited to, contracting with any racing or other sporting association to conduct sporting events within any racetrack or sports field in the State, the outcome of which shall determine the winners of a state game or, as an alternative, to affiliate the determination of the winners of a game with any racing or sporting event held within or without the State, and, including agreements with other state, provincial or international lotteries for participation in lottery games. All contracts for other than professional services in an amount greater than $2,000 shall be awarded to the lowest responsible bidder in the manner prescribed by state bidding laws. No contract awarded or entered into by the Director may be assigned by the holder thereof except by specific approval of the Director.

(5) Make arrangements for any person or organization, including banks, to perform such functions, activities or services in connection with the operation of the system as the Director may deem advisable.

(6) Suspend or revoke any license issued pursuant to this subchapter or the rules and regulations promulgated hereunder.

(7) Certify and report monthly to the State Treasurer the total lottery revenues, prize disbursements and other expenses for the preceding month, and to make an annual report to the Governor and the General Assembly, which report shall include a full and complete statement of revenues, prize disbursements and other expenses and recommendations for such changes in this subchapter as the Director deems necessary or desirable.

(8) Report immediately to the Governor and members of the General Assembly any matters which shall require immediate changes in the laws of the State in order to prevent abuses and evasions of this subchapter or the rules and regulations promulgated hereunder or to rectify undesirable conditions in connection with the administration or operation of the gaming system. Such a report shall be disclosed to the public immediately upon issuance.

(9) Carry on a continuous study and investigation of the system:

a. For the purpose of ascertaining any defects in this subchapter or in the rules and regulations issued hereunder by reason whereof any abuses in the administration and operation of the lottery or any evasion of this subchapter or the rules and regulations may arise or be practiced;

b. For the purpose of formulating recommendations for changes in this subchapter and the rules and regulations promulgated hereunder to prevent such abuses and evasions;

c. To guard against the use of this subchapter to benefit organized gambling and crime or criminals in any manner whatsoever; and

d. To insure that this law and the rules and regulations shall be in such form and be so administered as to serve the true purpose of this subchapter.

(10) Make a continuous study and investigation of:

a. The operation and administration of similar laws which may be in effect in other states and countries;

b. Any literature on the subject which from time to time may be published or available;

c. Any federal laws which may affect the operation of the lottery; and

d. The reaction of Delaware citizens to existing and potential features of the games with a view to recommending or effecting changes that will tend to serve the purposes of this subchapter.

(11) Make available to the State Auditor or the State Auditor's representative such information as may be required to perform an annual audit as prescribed in Chapter 29 of this title.

(12) Establish state-operated sales offices, without limit as to number or location, as the Director shall deem suitable and economical in order to make lottery tickets more available to the public, which offices shall be operated solely from funds generated by the lotteries permitted by this subchapter.

(13) License as video lottery agents each person, corporation or association which is either selected as a video lottery casino pursuant to section 4819(a)(2) of this Title, or which, in 1993, held either a horse racing meet pursuant to Title 3 or Title 28 or a harness horse racing meet pursuant to Title 3, provided that such person, corporation or association satisfies such fitness and background standards as the Director may promulgate pursuant to subsection (a)(16) of this section.License as video lottery agents each person, corporation or association which, in 1993, held either a horse racing meet pursuant to Title 3 or Title 28 or a harness horse racing meet pursuant to Title 3 and who satisfies such fitness and background standards as the Director may promulgate pursuant to subsection (a)(16) of this section. In the event that there shall have been or shall be a change of ownership or such person, corporation or association after the close of the 1993 racing meet then the issuance by the Director of a license to serve as a video lottery agent shall be conditioned upon the Director's determination that such person, corporation or association shall have met the requirements of § 4806(a)(1)-(4) and (b) of this title and satisfies such fitness and background standards as the Director may promulgate pursuant to subsection (a)(16) of this section. Change of ownership occurring after the Director has issued a license shall automatically terminate the license 90 days thereafter unless the Director has determined after application to issue a license to the new owner(s) because the new owner(s) have met the requirements of § 4806(a)(1)-(4) and (b) of this title and satisfied such fitness and background standards as the Director may promulgate pursuant to subsection (a)(16) of this section. Any license granted pursuant to this subsection is a privilege personal to the video lottery agent and is not a legal right. A license granted or renewed pursuant to this subsection may not be transferred or assigned to another person, nor may a license be pledged as collateral. For purposes of this subsection, "a change of ownership" shall have occurred if more than 20 percent of the legal or beneficial interests in such person, corporation or association shall be transferred, whether by direct or indirect means.

(14) Whenever the Director deems necessary, examine all accounts, bank accounts, financial statements and records of the licensee in a licensee's possession or under its control in which it has an interest and the licensee must authorize all 3rd parties, including parents, subsidiaries or related entities, in possession or control of the accounts or records of the licensee to allow examination of any of those accounts or records by the Director. None of the information disclosed pursuant to this subsection shall be subject to disclosure under the Freedom of Information Act, §§ 10001-10005 of this title.

(15) Subpoena witnesses and compel the production of books, papers and documents of a licensee in connection with any hearings of the Director and may administer oaths or affirmations to the witnesses whenever, in the judgment of the Director, it may be necessary for the effectual discharge of duties.

If any person refuses to obey any subpoena or to testify or to produce any books, papers or documents, then the Director may apply to the Superior Court of the county in which the Director may be sitting and, thereupon, the Court shall issue its subpoena requiring the person to appear and testify or to produce the books, papers and documents before the Director. Whoever fails to obey or refuses to obey a subpoena of the Superior Court shall be guilty of contempt of court and shall be punished accordingly. False swearing on the part of any witness shall be deemed perjury and shall be punished as such.

(16) Bar, pursuant to §§ 4834 and 4835 of this title, any person from entering the premises of a lottery agent or from participating in any capacity in the play of any table game, sports lottery game, video lottery game, or Internet lottery game, and, as applicable, procure such assistance from lottery agents as is appropriate to enforce any such bar.

(17) Impose reasonable fees, as set by the Director and payable to the Office, upon applicants for licenses pursuant to §§ 4828 and 4829 of this title for the conduct of the review and investigation of the applicant, such fees to approximate and reasonably reflect all costs necessary to defray the expenses of the lottery and Division of Gaming Enforcement.

(18) Require video lottery agents to submit regular internal control submissions, which shall contain a narrative description of the internal control system to be utilized by the video lottery facility, including, but not limited to:

a. Accounting controls, including the standardization of forms and definition of terms to be utilized in the gaming;

b. Procedures, forms and, where appropriate, formulas covering the calculation of hold percentages; revenue drop; expense and overhead schedules; complimentary services;

c. Job descriptions and the system of personnel and chain-of-command, establishing a diversity of responsibility among employees engaged in gaming operations and identifying primary and secondary supervisory oversight responsibilities; and personnel practices;

d. Procedures within the cashier's cage for the receipt, storage and disbursal of chips, cash, and other cash equivalents used in wagering; the cashing of checks; the redemption of chips and other cash equivalents used in gaming;

e. Procedures for the collection and security of moneys at the gaming tables;

f. Procedures for the transfer and recordation of chips between the gaming tables and the cashier's cage and the transfer and recordation of moneys within the facility;

g. Procedures for the transfer of moneys from the gaming tables to the counting process and the transfer of moneys within the facility for the counting process;

h. Procedures and security for the counting and recordation of table game revenue;

i. Procedures and security standards for the handling and storage of gaming apparatus, including cards, dice, machines, wheels and all other gaming equipment;

j. Procedures and rules governing the conduct of particular games and the responsibility of casino personnel in respect thereto;

k. Procedures for the security, storage and recording of cash, chips, and cash equivalents utilized in gaming operations.

(19) Make Internet lottery games available at such websites and in such a manner as determined by the Office in accordance with this chapter, and utilizing technology to ensure that players are legally eligible to engage in such gaming.

(c) The licenses granted pursuant to paragraph (b)(13) of this section or § 4825 of this title may be revoked or suspended for cause upon 30 days' written notice to the licensee or due to a change in ownership as set forth in those provisions, but shall otherwise not be subject to expiration or termination. "Cause" shall by way of example and not by limitation include falsifying any application for license or report required by the rules and regulations, the failure to report any information required by the rules and regulations, the material violation of any rules and regulations promulgated by the Director or any conduct by the licensee which undermines the public confidence in the video lottery system or serves the interest of organized gambling or crime and criminals in any manner. A license may be revoked for an unintentional violation of any federal, state or local law, rule or regulation provided that the violation is not cured within a reasonable time as determined by the Director; or a longer period where the video lottery agent has made diligent efforts to cure. The Secretary of Finance shall within a reasonable time, if requested, appoint a hearing officer to hold a hearing to determine whether the license should be revoked or suspended. The hearing officer's decision revoking or suspending the license shall be appealable to the Superior Court under the provisions of the Administrative Procedures Act [Chapter 101 of this title]. Any decision of the Director relating to the business plan or the number of video lottery machines to be awarded to licensees under § 4820(b) of this title shall be appealable under the Administrative Procedures Act in the manner of a case decision. Notwithstanding the foregoing, nothing in this subsection shall otherwise prohibit the termination or revocation of a license in accordance with the rules and regulations adopted hereunder.

§ 4805. Director -- Powers and duties [Effective June 30, 2013].

(a) The Director shall have the power and the duty to operate and administer the state lottery and to promulgate such rules and regulations governing the establishment and operation of the lottery as the Director deems necessary and

desirable in order that the lottery be initiated at the earliest feasible time and in order that the system shall produce the maximum amount of net revenues consonant with the dignity of the State and the general welfare of the people. The rules shall provide for all matters necessary or desirable for the efficient and economical operation and administration of the system and for the convenience of the purchasers of lottery tickets and the holders of winning tickets, and the players of all state lottery games including, but not limited to, the following:

(1) Type and number of games to be conducted;

(2) Price or prices of tickets for any game;

(3) Numbers and sizes of the prizes on the winning tickets;

(4) Manner of selecting the winning tickets;

(5) Manner of payment of prizes to the holders of winning tickets;

(6) Frequency of the drawings or selections of winning tickets;

(7) Number and types of locations at which tickets may be sold and the sports lottery and keno may be conducted;

(8) Method to be used in selling tickets;

(9) Licensing of agents to sell tickets or host keno; provided, that, no person under the age of 18 shall be licensed as an agent;

(10) Manner and amount of compensation, if any, to be paid to licensed agents, other than video lottery agents, necessary to provide for the adequate availability of games to prospective buyers and for the convenience of the public;

(11) Apportionment of the total revenues accruing from the sale of tickets among:

a. Payment of prizes to the holders of winning tickets;

b. Payment of costs incurred in the operation and administration of the state lottery system, including the expenses of the office and the costs resulting from any contract or contracts entered into for promotional, advertising or operational services or for the purchase or lease of gaming equipment and materials;

c. Repayment of the moneys appropriated to the State Lottery Fund pursuant to § 3 of 59 Del. Laws, c. 348; and

d. Payment of earnings to the General Fund of the State;

Provided, that no less than 30 percent of the total revenues accruing from the sale of tickets or shares shall be dedicated to subparagraph d. of this paragraph;

(12) Such other matters necessary or desirable for the efficient and economical operation and administration of the game and for the convenience of the purchasers of tickets and the holders of winning tickets and the players of the video lottery, the sports lottery, Internet lottery, keno, and table games;

(13) Value of bills, coins or tokens needed to play the video lottery machines, sports lottery machines and table games;

(14) Licensing of agents for video lotteries;

(15) Payout from video lottery machines, provided that such payouts shall not be less than 87% on an average annual basis, and further provided that video lottery agents may return a payout greater than 87% but not greater than 95% upon 10 days written notice to the Director, and further provided that video lottery agents may, with the approval of the Lottery Director, return a greater payout percentage than 95%;

(16) A licensure requirement and enforcement procedure for officers, directors, key employees, gaming employees, gaming room service employees, sports lottery operations employees, and persons who own directly or indirectly 10% or more of such agent, in accordance with § 4828 of this title;

(17) A licensure requirement and enforcement procedure for service companies in accordance with § 4829 of this title;

(18) Standards for advertising, marketing and promotional materials used by video lottery agents;

(19) Regulations and procedures for the accounting and reporting of the payments required under §§ 4815 and 4819 of this title;

(20) The registration, kind, type, number and location of video lottery machines, sports lottery machines and table games on the licensee's premises, subject to the Director's obligations set forth in § 4820(b) of this title;

(21) The on-site security arrangements for video lottery agents and sports lottery agents;

(22) Requiring the reporting of information about video lottery agents, sports lottery agents, their employees, vendors and finances necessary or desirable to ensure the security of the lottery system. None of the information disclosed pursuant to this subsection shall be subject to disclosure under the Freedom of Information Act, §§ 10001-10005 of this title;

(23) The reporting and auditing of financial information of licensees including, but not limited to, the reporting of profits or losses incurred by licensees and the reporting by licensees of such employment and payroll information as is necessary for the Director to determine compliance with § 10148(1) of Title 3 or § 100048 of Title 3 as the case may be. None of the information disclosed pursuant to this subsection shall be subject to disclosure under the Freedom of Information Act, §§ 10001-10005 of this title;

(24)a. A registration requirement and enforcement procedure for any employee organization representing or seeking to represent employees who are employed by a Delaware video lottery agent. Any employee organization may at any time file with the office an application for registration as an employee organization. However, an employee organization shall be required to file such registration application within 10 business days after it secures a signed authorization card from any employee who is employed by a Delaware video lottery agent.

Any registration statement filed by an employee organization after the signature of an authorization card but prior to the employee organization's petition for election shall not be subject to disclosure by the Lottery Office to any video lottery agent;

b. Every key employee of an employee organization shall be required to register with the office at the same time as the application for registration is filed under subparagraph a. of this paragraph or within 30 days after the date on which such individual is elected, appointed or hired, whichever is later;

c. The application for registration by an employee organization or key employee of such employee organization may be denied or registration revoked under the following circumstances:

1. If such employee organization or key employee of such employee organization is in violation of standards established under the Labor-Management Reporting and Disclosure Procedure Prohibition Against Certain Persons Holding Office, 29 U.S.C 504(a);

2. The applicant's competence, honesty or integrity pose a threat to the public interest of the State or to the reputation of or effective regulation and control of the lottery based on the applicant's associations or by virtue of the fact that the applicant has been convicted of a felony crime of moral turpitude or has been arrested for an act constituting racketeering under § 1502(9)a., b.2. or b.4. through 10. of Title 11 within 10 years prior to applying for registration hereunder or at any time thereafter. Any employee or employee organization denied registration based on an arrest for an act constituting racketeering under § 1502(9)a., b.2. or b.4. through 10. of Title 11 may apply for reconsideration of registration if subsequently acquitted or a nolle prosequi is entered or the charge is otherwise dismissed. In such instances, the Lottery Office shall reconsider the applicant's registration based on the criteria previously set forth in this subsection;

3. The organization or individual has knowingly made or caused to be made any written statement to any representative of the office or the Delaware State Police or any oral response to an official inquiry by the office, its employees or agents which was at the time and in light of circumstances under which it was made false or misleading;

4. The organization or key employee thereof holds or obtains a direct financial interest in any video lottery agent, provided the employee organization is provided a 30-day period to divest of any such direct financial interest.

The Delaware State Police shall conduct the background checks required by this paragraph. The failure of any key employee to satisfy the requirements of paragraph (a)(24)c.1. through 4. of this section may constitute grounds for suspension of the registration of the employee organization if the organization does not remove the key employee from the key employee's duties as defined in § 4803(m) of this title. The employee organization will be given a reasonable opportunity to remove or replace any key employee found to be in violation of paragraph (a)(24)c.1. through 4. of this section;

d. All registration statements filed under this paragraph shall be valid for a 1-year period and a renewed registration form or an updated supplemental registration form must be filed annually. The entity or individual filing such form is under a continuing duty to promptly notify the Director of any changes in disclosed information;

e. The Secretary of Finance shall, within a reasonable time, if requested by the Director, appoint a hearing officer to determine whether the application for registration shall be denied or the registration suspended or revoked. The hearing officer shall be required to hold a hearing in conformance with the requirements of § 10131 of this title. In any hearing, the Delaware Uniform Rules of Evidence shall be in effect. The denial of an application of registration or the suspension or revocation of a registration shall be bound by the provisions of §§ 10133 and 10134 of this title. The hearing officer's decision to deny an application of registration or to suspend or revoke a registration shall be appealable to the Superior Court under the Delaware Administrative Procedures Act (Chapter 101 of this title). All applications for registration shall be deemed approved unless the Director notifies the applicant within 60 days of his or her decision not to approve and to appoint a hearing officer under this paragraph, or unless extenuating circumstances require a longer period, in which case the Director shall act with all deliberate speed to complete the process. Any employee organization may continue to provide services to employees of a Delaware video lottery agent during the review of the application process and the appeal process, except where the employee organization is found in violation of paragraph (a)(24)c.4. of this section or there has been a previous violation of paragraph (a)(24)c.1. through 3. of this section by the employee organization within the previous 10 years;

f. Information requested in the application of registration provided for under this paragraph shall be adopted as part of the office's official rules and regulations upon notice and opportunity for a hearing under the Delaware Administrative Procedures Act [Chapter 101 of this title];

(25) The Director shall adopt procedures under the Delaware Administrative Procedures Act [Chapter 101 of this title] for employment investigations of the honesty, integrity, reputation and associations of office employees in order to determine that the employee's employment does not pose a threat to the public interest of the State or the integrity of the office. The procedures and any rules and regulations shall require any person seeking employment for compensation with the office for a position which has direct access to lottery ticket sales agents, video lottery agents, sports lottery agents, or vendors to submit his or her fingerprints and other relevant information in order to obtain the individual's entire federal and state criminal history record. The Delaware State Police shall conduct the investigations required under such rules and regulations. The rules and regulations shall require new employees to submit fingerprints for purposes of the state and federal criminal history checks;

(26) Type and number of sports lottery games to be conducted, the location and licensure of facilities where the sports lottery be conducted pursuant to § 4825 of this title, the price or prices for any sports lottery games, the rules for any sports lottery games, and the payout and manner of compensation to be paid to winners of sports lottery games;

(27) Type and number of table games to be conducted, the price or prices for any table games, the rules for any table games, the payout and manner of compensation to be paid to winners of table games, and the minimum and maximum wagers for any table games;

(28) The licensure and location of facilities where keno games may be conducted, the price or prices for any keno games, the rules for any keno games, and the payout and manner of compensation to be paid to winners of keno games;

(29) The regulations and procedures for the display and presentation of messages concerning responsible gaming and the regulations, procedures and training for identification of and assistance to compulsive gamblers;

(30) The provision of complimentary services, gifts, transportation, cash, food, nonalcoholic beverages, entertainment or any other thing of value by a lottery agent to a guest;

(31) The procedures for the review and evaluation of licensing applications, including the forms of applications, procedures for fingerprinting and other means of identification, procedures for hearings, and grounds and procedures for the approval, denial, revocation or suspension of a license;

(32) Procedures relating to internal management controls of video lottery agents, including accounting controls and employee and supervisory organizational charts and responsibilities;

(33) Standards for the manufacture, sale, distribution, maintenance, repair, and servicing of video lottery machines and table game equipment; and

(34) Standards for the conduct of the Internet lottery in accordance with this chapter.

(b) The Director shall also have the power and it shall be the Director's duty to:

(1) Appoint such deputy directors as may be required to carry out the functions and duties of the office. Each deputy director shall have had 3 years management experience in areas pertinent to the prospective responsibilities and an additional 3 years of experience in the same field.

(2) Within the limit of the funds made available in § 3 of 59 Del. Laws, c. 348, and proceeding from the sale of lottery tickets and generated by the operations of video lottery agents, appoint such professional, technical, and clerical assistants and employees as may be necessary to perform the duties imposed upon the office by this subchapter.

(3) In accordance with this subchapter, license as agents to sell lottery tickets persons who will best serve, by location or accessibility, the public convenience and promote the sale of lottery tickets. The Director may require a bond from every agent so licensed in such amount as the Director deems necessary. Every licensed agent shall prominently display the agent's license or a copy thereof.

(4) Enter into contracts for the operation of any game or part thereof and into contracts for the promotion of the game or games. This authorization is to be construed to include, but not be limited to, contracting with any racing or other sporting association to conduct sporting events within any racetrack or sports field in the State, the outcome of which shall determine the winners of a state game or, as an alternative, to affiliate the determination of the winners of a game with any racing or sporting event held within or without the State, and, including agreements with other state, provincial or international lotteries for participation in lottery games. All contracts for other than professional services in an amount greater than $2,000 shall be awarded to the lowest responsible bidder in the manner prescribed by state bidding laws. No contract awarded or entered into by the Director may be assigned by the holder thereof except by specific approval of the Director.

(5) Make arrangements for any person or organization, including banks, to perform such functions, activities or services in connection with the operation of the system as the Director may deem advisable.

(6) Suspend or revoke any license issued pursuant to this subchapter or the rules and regulations promulgated hereunder.

(7) Certify and report monthly to the State Treasurer the total lottery revenues, prize disbursements and other expenses for the preceding month, and to make an annual report to the Governor and the General Assembly, which report shall include a full and complete statement of revenues, prize disbursements and other expenses and recommendations for such changes in this subchapter as the Director deems necessary or desirable.

(8) Report immediately to the Governor and members of the General Assembly any matters which shall require immediate changes in the laws of the State in order to prevent abuses and evasions of this subchapter or the rules and

regulations promulgated hereunder or to rectify undesirable conditions in connection with the administration or operation of the gaming system. Such a report shall be disclosed to the public immediately upon issuance.

(9) Carry on a continuous study and investigation of the system:

a. For the purpose of ascertaining any defects in this subchapter or in the rules and regulations issued hereunder by reason whereof any abuses in the administration and operation of the lottery or any evasion of this subchapter or the rules and regulations may arise or be practiced;

b. For the purpose of formulating recommendations for changes in this subchapter and the rules and regulations promulgated hereunder to prevent such abuses and evasions;

c. To guard against the use of this subchapter to benefit organized gambling and crime or criminals in any manner whatsoever; and

d. To insure that this law and the rules and regulations shall be in such form and be so administered as to serve the true purpose of this subchapter.

(10) Make a continuous study and investigation of:

a. The operation and administration of similar laws which may be in effect in other states and countries;

b. Any literature on the subject which from time to time may be published or available;

c. Any federal laws which may affect the operation of the lottery; and

d. The reaction of Delaware citizens to existing and potential features of the games with a view to recommending or effecting changes that will tend to serve the purposes of this subchapter.

(11) Make available to the State Auditor or the State Auditor's representative such information as may be required to perform an annual audit as prescribed in Chapter 29 of this title.

(12) Establish state-operated sales offices, without limit as to number or location, as the Director shall deem suitable and economical in order to make lottery tickets more available to the public, which offices shall be operated solely from funds generated by the lotteries permitted by this subchapter.

(13) License as video lottery agents each person, corporation or association which is either selected as a video lottery casino pursuant to section 4819(a)(2) of this Title, or which, in 1993, held either a horse racing meet pursuant to Title 3 or Title 28 or a harness horse racing meet pursuant to Title 3, provided that such person, corporation or association satisfies such fitness and background standards as the Director may promulgate pursuant to subsection (a)(16) of this section.License as video lottery agents each person, corporation or association which, in 1993, held either a horse racing meet pursuant to Title 3 or Title 28 or a harness horse racing meet pursuant to Title 3 and who satisfies such fitness and background standards as the Director may promulgate pursuant to subsection (a)(16) of this section. In the event that there

shall have been or shall be a change of ownership or such person, corporation or association after the close of the 1993 racing meet then the issuance by the Director of a license to serve as a video lottery agent shall be conditioned upon the Director's determination that such person, corporation or association shall have met the requirements of § 4806(a)(1)-(4) and (b) of this title and satisfies such fitness and background standards as the Director may promulgate pursuant to subsection (a)(16) of this section. Change of ownership occurring after the Director has issued a license shall automatically terminate the license 90 days thereafter unless the Director has determined after application to issue a license to the new owner(s) because the new owner(s) have met the requirements of § 4806(a)(1)-(4) and (b) of this title and satisfied such fitness and background standards as the Director may promulgate pursuant to subsection (a)(16) of this section. Any license granted pursuant to this subsection is a privilege personal to the video lottery agent and is not a legal right. A license granted or renewed pursuant to this subsection may not be transferred or assigned to another person, nor may a license be pledged as collateral. For purposes of this subsection, "a change of ownership" shall have occurred if more than 20 percent of the legal or beneficial interests in such person, corporation or association shall be transferred, whether by direct or indirect means.

(14) Whenever the Director deems necessary, examine all accounts, bank accounts, financial statements and records of the licensee in a licensee's possession or under its control in which it has an interest and the licensee must authorize all 3rd parties, including parents, subsidiaries or related entities, in possession or control of the accounts or records of the licensee to allow examination of any of those accounts or records by the Director. None of the information disclosed pursuant to this subsection shall be subject to disclosure under the Freedom of Information Act, §§ 10001-10005 of this title.

(15) Subpoena witnesses and compel the production of books, papers and documents of a licensee in connection with any hearings of the Director and may administer oaths or affirmations to the witnesses whenever, in the judgment of the Director, it may be necessary for the effectual discharge of duties.

If any person refuses to obey any subpoena or to testify or to produce any books, papers or documents, then the Director may apply to the Superior Court of the county in which the Director may be sitting and, thereupon, the Court shall issue its subpoena requiring the person to appear and testify or to produce the books, papers and documents before the Director. Whoever fails to obey or refuses to obey a subpoena of the Superior Court shall be guilty of contempt of court and shall be punished accordingly. False swearing on the part of any witness shall be deemed perjury and shall be punished as such.

(16) Bar, pursuant to §§ 4834 and 4835 of this title, any person from entering the premises of a lottery agent or from participating in any capacity in the play of any table game, sports lottery game, video lottery game, or Internet lottery game, and, as applicable, procure such assistance from lottery agents as is appropriate to enforce any such bar.

(17) Impose reasonable fees, as set by the Director and payable to the Office, upon applicants for licenses pursuant to §§ 4828 and 4829 of this title for the conduct of the review and investigation of the applicant, such fees to approximate and reasonably reflect all costs necessary to defray the expenses of the lottery and Division of Gaming Enforcement.

(18) Require video lottery agents to submit regular internal control submissions, which shall contain a narrative description of the internal control system to be utilized by the video lottery facility, including, but not limited to:

a. Accounting controls, including the standardization of forms and definition of terms to be utilized in the gaming;

b. Procedures, forms and, where appropriate, formulas covering the calculation of hold percentages; revenue drop; expense and overhead schedules; complimentary services;

c. Job descriptions and the system of personnel and chain-of-command, establishing a diversity of responsibility among employees engaged in gaming operations and identifying primary and secondary supervisory oversight responsibilities; and personnel practices;

d. Procedures within the cashier's cage for the receipt, storage and disbursal of chips, cash, and other cash equivalents used in wagering; the cashing of checks; the redemption of chips and other cash equivalents used in gaming;

e. Procedures for the collection and security of moneys at the gaming tables;

f. Procedures for the transfer and recordation of chips between the gaming tables and the cashier's cage and the transfer and recordation of moneys within the facility;

g. Procedures for the transfer of moneys from the gaming tables to the counting process and the transfer of moneys within the facility for the counting process;

h. Procedures and security for the counting and recordation of table game revenue;

i. Procedures and security standards for the handling and storage of gaming apparatus, including cards, dice, machines, wheels and all other gaming equipment;

j. Procedures and rules governing the conduct of particular games and the responsibility of casino personnel in respect thereto;

k. Procedures for the security, storage and recording of cash, chips, and cash equivalents utilized in gaming operations.

(19) Make Internet lottery games available at such websites and in such a manner as determined by the Office in accordance with this chapter, and utilizing technology to ensure that players are legally eligible to engage in such gaming.

(c) The licenses granted pursuant to paragraph (b)(13) of this section or § 4825 of this title may be revoked or suspended for cause upon 30 days' written notice to the licensee or due to a change in ownership as set forth in those provisions, but shall otherwise not be subject to expiration or termination. "Cause" shall by way of example and not by limitation include falsifying any application for license or report required by the rules and regulations, the failure to report any information required by the rules and regulations, the material violation of any rules and regulations promulgated by the Director or any conduct by the licensee which undermines the public confidence in the video lottery system or serves the interest of organized gambling or crime and criminals in any manner. A license may be revoked for an unintentional violation of any federal, state or local law, rule or regulation provided that the violation is not cured within a reasonable time as determined by the Director; or a longer period where the video lottery agent has made diligent efforts to cure. The Secretary of Finance shall within a reasonable time, if requested, appoint a hearing officer to hold a hearing to determine whether the license should be revoked or suspended. The hearing officer's decision revoking or suspending the license shall be appealable to the Superior Court under the provisions of the Administrative Procedures Act [Chapter 101 of this title]. Any decision of the Director relating to the business plan or the number of video lottery machines to be awarded to licensees under § 4820(b) of this title shall be appealable under the Administrative Procedures Act in the manner of a case decision. Notwithstanding the foregoing, nothing in this subsection shall otherwise prohibit the termination or revocation of a license in accordance with the rules and regulations adopted hereunder.

Section 4. Amend § 4819, Title 29 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strikethrough as follows:

§ 4819. Restrictions on location and use of video lottery and sports lottery machines; fees.

(1) (a) Video lottery machines and table game equipment shall only be located within the confines of an existing racetrack property in this State on which was conducted in 1993 either a horse racing meet pursuant to Title 3 or Title 28 or a harness horse racing meet pursuant to Title 3 and/or such immediately adjacent property or properties that are owned by, or immediately adjacent properties that may be acquired by, the video lottery licensee authorized to conduct such horse racing or harness racing.; ~~and provided further, that video lottery machines, sports lottery machines and table game equipment shall not be located in a hotel, motel or other overnight sleeping facility.~~

(b) In respect of any pari-mutuel harness racing or pari-mutuel horse racing property the racing operations on which are lawful under any county or municipal zoning ordinance were lawful under any county or municipal zoning ordinance as of January 1, 1993, the use of video lottery machines pursuant to the provisions of this act on such property and/or on any

immediately adjacent property or properties that are owned by, or immediately adjacent properties that may be acquired by, the video lottery licensee authorized to conduct such horse racing or harness racing shall not be deemed to change the character of such lawful land use and such use of video lottery machines shall not be prohibited by any such county or municipal zoning ordinance, including amendments thereto.

(c) Video lottery machines and sports lottery machines shall be connected to the lottery's central computer system, except when used for promotional tournaments in which players are not required to pay any fee to participate, and shall not be available for play on Christmas, or after 4:00 a.m. on Easter. Subject to the foregoing, the specific hours of operation for each video lottery agent are subject to the recommendation of the Lottery Director and the approval of the Secretary of Finance.

(d)(1) For the privilege of hosting the operation of table games, the State shall collect from the video lottery agents for the benefit of the General Fund, for each fiscal year after June 30, 2011, license fees totaling $13,250,000, to be paid no later than June 1 of the preceding fiscal year, and to be allocated among the video lottery agents offering table games as follows: Each video lottery agent's license fee shall be the portion of $13,250,000 that is equal to the percentage of gross table game revenue generated at that video lottery facility in the preceding fiscal year out of the total gross table game revenue generated at all video lottery facilities in the preceding fiscal year.

(2) Each video lottery agent shall be permitted for purposes of this subsection to reduce the license fee it would otherwise owe for that year pursuant to paragraph (d)(1) of this section by the amount of qualified investments, up to a cap of $10,250,000 for all video lottery agents, made in the 12-month period ending on June 30 by the video lottery agent in the competitiveness of its facilities and business. The video lottery agents shall provide the Director annually an accounting of the qualified investments made pursuant to this paragraph. A qualified investment pursuant to this paragraph shall determined by the Director to benefit the competitiveness or services of such video lottery agent and may include:

a. Amounts paid out for new or enhanced buildings or permanent improvements or betterments to video lottery facilities or immediately adjacent property or properties that are owned by video lottery licensees that would not be deductible for purposes of § 263(a)(1) of the Internal Revenue Code (26 U.S.C. § 263(a)(1)), or amounts paid out to service debt incurred in the construction of buildings or permanent improvements or betterments; or

b. Expenditures for marketing of lottery games and promotion items provided to patrons, all as determined by the Office to be in excess of the comparable amount of such expenditures made by the video lottery agent during the 12-month period ending June 30, 2012, measured as a percentage of the proceeds from the operation of the video lottery and table games.

(2) (a) Notwithstanding the provisions of § 4819(1), video lottery machines, sports lottery machines and table game equipment may be located within the confines of two (2) video lottery casinos, one (1) of which shall be located within New Castle County and one (1) of which shall be located within Sussex County, the precise location of such video lottery casinos is to be determined through a competitive process by the Lottery Economic Development Committee in accordance with this section.

(b) A Lottery Economic Development Committee (the "Committee") is hereby established for the sole purpose of selecting the locations and awarding the licenses for the operation of video lottery casinos. The Committee shall be comprised of nine members. The minimum qualifications for appointment to the Committee shall be 10 years' experience in business, government, or education in the areas of finance, accounting, or banking. Three members, no more than two of whom may be from the same political party, shall be appointed by the Governor. Three members, no more than two of whom may be from the same political party, shall be appointed by the President Pro Tempore of the Senate. Three members, no more than two of whom may be from the same political party, shall be appointed by the Speaker of the House of Representatives. The members of the Committee shall be appointed within 30 days of the enactment of this paragraph. The Chairperson shall be selected by the Governor from among the Committee's members.

(c) The Committee shall select, in separate processes, one location in New Castle County and one location in Sussex County for a video lottery casino from applications for licensure subject to, and in accordance with, the provisions of this section. The Committee shall make its form of application available no later than 30 days after enactment of this Act, and applications must be submitted to the Committee at the location and date specified by the Chairperson, but no sooner than 90 days and no later than 120 after applications are made available. All applications shall be considered by the Committee and the video lottery casino site shall be preliminarily designated by majority vote of the Committee from among applications meeting the minimum qualifications within 60 days after the deadline for receipt of applications. If no applicant receives a majority vote of the Committee, then the Committee shall re-vote until such time as an application receives a majority vote. The Committee shall determine its procedures.

(d) An application shall be in the form and manner required by the Committee, but shall include, without limitation, the following:

i. General business information

a. Name and form of business of the applicant;

b. Name, address, and photograph of the following:

1. Owners;

2. Directors (if a corporation, LLC, or other entity with directors or managing members); and

3. Key employees; and

c. Current Delaware business license

ii. Financial information:

a. Such personal and financial history information for owner and investors, to be determined by the Committee, as is necessary for the Committee to review the financial fitness of each applicant and for the Division of Gaming Enforcement to review the background of each applicant to at least the standards of a key employee;

b. A business plan for the project, in sufficient detail, including the timing of all estimates, which would allow such calculations as net present value of the income stream, and for further evaluation based on the criteria of subsection (f) hereof, and which shall include, without limitation, the following:

1. Lottery Revenue – amount played / amount won / net proceeds, including the projection of the impact of the proposed new facility on existing video lottery casinos;

2. Number of employees and gross wages of employees for those directly employed in the lottery revenue business;

3. Number of employees and gross wages of employees for those employed in non-lottery revenue business;

4. Gross amount to be paid by the applicant to contractors and others to design, construct, furnish, and otherwise prepare for operation, the Casino and related structures and businesses; and.

5. Such other information as the Committee deems necessary for evaluation to meet the criteria, as further remunerated below, for the issuance of a video lottery casino license. The Division of Gaming Enforcement shall conduct a background review of each applicant and each of the applicant's identified owners, investors, and proposed actual or potential managerial employees to the standard of a key employee, and the results of that review shall be made available to the Committee but shall otherwise remain confidential pursuant to section 4830 of this Title.

(e) The Committee shall also develop and implement minimum qualifications for applicants, which qualifications shall include but not be limited to the ownership of, a leasehold for, or right to acquire such interests in, the proposed property location, financing commitments for the development of the proposed property location, and a lack of insuperable barriers to eventual approval of the development plan by government

authorities. The Committee shall not further consider those applicants that it determines by majority vote fail to meet the minimum qualifications.

(f) Applicants meeting the minimum qualifications of the Committee shall be evaluated for the potential award of a license by the Committee, in separate proceedings for New Castle County and Sussex County. In considering the application, the Committee shall, at all times, take into account the reasonableness of all estimates and of the financial viability of the applicant to meet their business plan objectives. The Committee may, at its discretion, require additional data from an applicant to validate underlying economic assumptions, and may, at its discretion, recalculate an applicant's projections using equal underlying assumptions as determined by the Committee. The comparison of the applicant's business plans and the economic benefit to the State shall be based on generally accepted financial analysis methodologies, such as net present value. The selection of the licensee shall be based on the following criteria:

1. The State share of video lottery net proceeds, net of projected decreases in the State share from current video lottery casinos generated by the new video lottery casino;

2. The estimated personal income tax revenue to the State from wages earned by temporary, permanent, full-time, and part-time employees of the video lottery casino and its related businesses;

3. The financial and economic cost to the State for infrastructure and other expenditures to facilitate the design, construction, and operation of the video lottery casino and related businesses;

4. The financial and economic impact on the communities surrounding the proposed project; and

5. The percentage of project expenditures and ongoing expenditures including salaries and wages going to Delaware businesses and residents.

(g) The applicant receiving a majority vote shall be awarded a temporary license as a video lottery casino, and that temporary license shall authorize and entitle the recipient to take possession of fifty percent (50%) of the table game equipment, sports lottery machines, and video lottery machines as if a video lottery agent under section 4833 of this Title, to make internal control submissions required by the Office, and to exercise such other rights and obligations of a video lottery agent only as expressly permitted by the Office, but which shall not authorize or entitle the temporary licensee to exercise the complete rights and obligations of a video lottery agent until a permanent license is awarded. Operation of the video lottery casino under the temporary license must begin within 12 months from the issuance of the temporary license. The Committee may, at its discretion, upon the request of the applicant, extend this period by up to 3 months with a corresponding decrease in the number of table game equipment, sports lottery machines, and video lottery machines authorized under the temporary license of 5 percent (5%) per month of extension. The term of this temporary license shall not exceed 36 months. The applicant shall apply to the Delaware Lottery Office for a

permanent license no later than 60 days prior to the expiration of the temporary license. The Delaware Lottery Office shall request of the Committee a determination of whether to award the permanent license to operate as a video lottery casino, such decision to be based on the applicant's substantial compliance with the terms of the application and the completion of the permanent video lottery casino facility. Should the Committee revoke its prior selection based on non-compliance with the applicant's business plan, the Committee shall initiate a new selection process in accordance with the terms of this section, such process to begin with applications to be filed no sooner than 60 days and no later than 90 days after a decision not to grant a permanent license.

(h) The decision(s) of the Committee shall be final and unappealable.

Section 5. Amend § 4820, Title 29 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strikethrough as follows:

§ 4820. Rights and obligations of Director and video lottery agent relating to video lottery machines, sports lottery machines and table game equipment.

(a) All video lottery machines, sports lottery machines and table game equipment shall be at all times subject to state control and the use of any such video lottery machines, sports lottery machines and table game equipment shall occur only with the approval of the Office. All video lottery machines and sports lottery machines shall be owned or leased by the State and shall be obtained from manufacturers licensed under § 4805(a)(17) of this title. All video lottery machines and sports lottery machines shall be leased or purchased under the procedures set forth in Chapter 69 of this title. All table game equipment shall be leased, purchased or used by a video lottery agent only upon the approval of the Office and from manufacturers licensed under § 4805(a)(17) of this title. Any video lottery agent must file with the Director a copy of any current or proposed agreement or disclose any other relationship between the agent, its parents, subsidiaries, related entities, directors, officers or key employees for the sale, lease, maintenance, repair or other assignment to the agent's facility of video lottery machines, sports lottery machines and table game equipment, or any other relationship with any vendor, manufacturer or other party which stands to benefit financially from the possession or use of video lottery machines, sports lottery machines or table game equipment by such agent. Failure to file such information shall constitute grounds for the revocation or suspension of a license. The lottery may own or lease video lottery machines pursuant to this subsection that require the payment of an additional license or proprietary fees and the number of such license or proprietary fee machines at any licensed video lottery agent may not exceed more than 5% of the total number of video lottery machines at the licensed racetrack property or video lottery casino unless the Director finds that an additional number of such machines are necessary to increase revenues, will not produce reductions in the overall net proceeds from the lottery, will protect the public welfare, and will ensure the security of the video lottery.

(b)(1) Upon submission by a video lottery agent of a proposed plan for the lease or purchase of video lottery machines in accordance with procedures to be established by the Director, the Lottery Director shall lease or purchase the number, type and kind of video lottery machines necessary for the efficient and economical operation of the lottery, or the convenience of the players and in accordance with the plan of the licensee, provided that no more than 2,500 video lottery machines shall be located within the confines of a racetrack property or video lottery casino unless the Director recommends up to an additional 1,500 for each racetrack property or video lottery casino, and further provided that the Director may recommend the amendment of such plan where the Director finds that such amendments are necessary to increase revenues, provided such amendments do not produce reductions in the overall net proceeds from the video lottery, protect the public welfare or ensure the security of the video lottery, provided that the maximum number of video lottery machines under this subsection shall not include video lottery machines at each racetrack or video lottery casino used exclusively for promotional tournaments in which players are not required to pay any fee to participate. Such recommendations by the Lottery Director are subject to the approval of the Secretary of Finance. No more than 30 promotional tournament machines are permissible at each racetrack or video lottery casino. The Director's lease or purchase of video lottery machines under this subsection shall be pursuant to the procedures used for procurement under §§ 6981 and 6982 of this title.

(2) No refund of license fees shall be payable for any unexpired term of a license.

(c) Upon submission by a video lottery agent of a proposed plan for the lease or purchase of sports lottery machines in accordance with procedures to be established by the Director, the Lottery Director shall lease or purchase the number, type and kind of sports lottery machines necessary for the efficient and economical operation of the lottery, or the convenience of the players, and in accordance with the plan of the licensee, provided that the Director may recommend the amendment of such plan where the Director finds that such amendments are necessary to increase revenues, protect the public welfare or ensure the security of the video lottery. The Director's lease or purchase of sports lottery machines under this subsection shall be pursuant to the procedures used for procurement under Chapter 69 of this title.

(d) Each video lottery agent shall be responsible for the security and safekeeping of the video lottery machines, sports lottery machines and table game equipment of which it has physical custody.

(e) The Director shall contract with an independent laboratory, which shall be licensed as a service company, to test video lottery machines, sports lottery machines and table game equipment and related equipment on a periodic basis to ensure that the machines and equipment comply with the requirements of this chapter and any other applicable standards and regulations. The manufacturer, vendor or lessor of such machines and equipment shall pay all costs associated with such testing.

(f) Each video lottery agent shall hold the Director and this State harmless from and defend and pay for the defense of any and all claims which may be asserted against the Director, the State or the employees thereof, arising from the participation in the games at a video lottery facility; specifically excluding, however, any claims arising from the negligence or wilful misconduct of the Director, the State or the employees thereof.

(g) Each video lottery agent shall provide access to all records of the licensee and the physical premises of the business or businesses where the agent's lottery activities occur for the purpose of monitoring or inspecting the agent's activities and the lottery games, machines and associated equipment. None of the information disclosed pursuant to this subsection shall be subject to disclosure under the Freedom of Information Act, §§ 10001-10005 of this title.

(h) Prior to commencing the operations of any table game in a gaming area, a video lottery agent shall submit to the Office for its approval a detailed floor plan depicting the location of the gaming area in which table game equipment will be located, the proposed arrangement of the table game equipment, and sufficient area to be used by the Office and Division of Gaming Enforcement for their operations at the video lottery facility. Within 30 days, the Office shall approve such plans that satisfy the rules and regulations promulgated by the Office and shall deny such other plans. Amendments to an approved floor plan shall be submitted to the Office for its approval, and the Office shall, within 15 days, approve such amendments that satisfy the rules and regulations promulgated by the Office and shall deny such other plans.

Section 6. Amend § 4822, Title 29 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strikethrough as follows:

§ 4822. Annual crime report.

The State Lottery Office, with the assistance of the Attorney General's Office and the State Bureau of Identification, shall annually provide to the General Assembly a report detailing the crimes that occur within the communities surrounding each racetrack property <u>or video lottery casino</u>, including an analysis of crimes relating to table gaming, whether in or outside the property of a video lottery facility.

Section 7. Amend § 10048, Title 3 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strikethrough as follows:

§ 10048. Restrictions on licensee acting as video lottery agent.

During any calendar year in which a licensee under this chapter has also been licensed by the Director of the State Lottery Office to maintain video lottery machines within the confines of a racetrack licensed under this chapter, the following rules shall apply:

(1) a. As to each racetrack so licensed by the Director of the State Lottery Office, the licensee shall, at a minimum, subject to the availability of racing stock, force majeure, casualty, and other circumstances beyond the reasonable control of the licensee, conduct live harness horse races on:

1. At least 120~~80~~ days if the licensee conducted more than 40 days of live harness horse races during 1992, or

2. At least 100~~60~~ days if the licensee conducted 40 or fewer days of live harness horse races during 1992.

3. A licensee that was not in existence, or did not conduct live harness racing, during 1992 shall, at a minimum, conduct live harness horse races on at least: (i) 35 days for the first 3 years it is licensed by the Director of the State Lottery Office to maintain video lottery machines within the confines of a racetrack licensed under this chapter; and (ii) for each year thereafter, for the average number of days that live harness racing was conducted by all licensees licensed by the Director of the State Lottery Office to maintain video lottery machines within the confines of a racetrack licensed under this chapter during the preceding year; provided, however, that licensees who conducted live harness horse races during 1992 shall be entitled, upon written notice to the Delaware Harness Racing Commission, to reduce the number of minimum days of live harness racing required under subsections (1)a.1. and (1)a.2. hereof by the number of concurrent racing dates said licensee has with such newly-built racetrack.

b. The obligation set forth in subsection~~paragraph~~ a. of this ~~sub~~section to increase the number of days upon which live harness horse races must be conducted shall be contingent upon:

1. The licensee receiving the necessary approvals from the Commission and any approvals required from the contracted horsemen's association to conduct year-round inbound and outbound simulcasting, and

2. The licensees continuing to be licensed under Chapter 48 of Title 29 as a video lottery agent.~~, and~~

~~3. No authorization of any increase in the number of video lottery agents.~~

c. Each licensee shall also employ during the live racing operations a minimum of 50 additional employees than the average daily number employed during the most recent racing meet held prior to July 16, 1994. The licensee's continued failure to substantially comply with this requirement after notice from the Director shall be grounds for revocation or suspension of the video lottery agent's license.

(2) An amount calculated pursuant to § 4815(b)(3) of Title 29 shall be added to the purses for the races to be held at the licensee's racetrack. The allocation of said sums among the races to be held at the licensee's racetrack shall be in accordance with contracts currently in force with the Horsemen's Association recognized for purposes related to the allocation of purses, if applicable; provided, that all such sums shall have been allocated no later than the end of the calendar year immediately following the calendar year of receipt of said sums by the licensee.

Section 8. It is the intent of the General Assembly that the video lottery casinos authorized pursuant to this Act shall be subject to a substantially similar license fee currently paid by existing video lottery agents under sections 4815 and 4819 of Title 29, subject to enactment of legislation authorizing the imposition of said fees and contributions. It is also the intent of the General Assembly that any video lottery casino that does not operate a horse or harness racing track, and therefore incurs none of the attendant costs, shall be subject to such additional fees that would create a level playing field for competition with video lottery agents who do have such costs, subject to enactment of legislation authorizing the imposition of such fees. It is the intent of the General Assembly that the Video Lottery Casinos shall, upon the passage of appropriate legislation, be subjected to one-time license fees for the temporary and permanent license. The Secretary of Finance is directed to submit to the General Assembly, within 120 days from enactment of this section, a proposal for the amendment of this chapter to subject the video lottery casinos to such license fees and contributions.

Section 9. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of the Act which can be given effect without the invalid provision or application; and, to that end, the provisions of this Act are declared to be severable.

SYNOPSIS

This Act seeks to create jobs and new sources of revenue for the State of Delaware by, among other means, authorizing the addition of two new video lottery agents, one in Sussex County and one in New Castle County, through an application process conducted by a Lottery Economic Development Committee. This Act creates a nine member, politically-balanced Committee with financial, accounting, or banking experience to select the sites and licensees. This Act also increases the number of required racing days to reflect the current amount of racing, and prevents the addition of video lottery agents from triggering a reduction in the minimum number of days that existing harness tracks must offer harness racing. Finally, this Act also expresses the intent of the General Assembly that the new video lottery casinos will be subject to a one-time license fee and ongoing license fees, as well as such fees as are necessary to create a level playing field for competition with video lottery agents who operate horse racing or harness racing, and directs the Department of Finance to prepare legislation implementing that intent.

Battle lines drawn as lawmakers consider casino bill

By Jen Rini
Delaware State News

DOVER — Contractors and local casinos are ready for heated debate as legislation that adds two casinos in the state will be considered by the 147th General Assembly.

Rep. Dennis E. Williams, D-Talleyville, introduced legislation (House Bill 135) May 9 that would add one casino in New Castle County and another in Sussex County. The upstate representative tried to pass nearly identical legislation in the 146th General Assembly, but the bill failed to be released from committee.

Though it has been two years, Ed Sutor, president and chief executive officer of Dover Downs Hotel and Casino, said Delaware's three casinos, Dover Downs, Harrington Raceway and Casino and Delaware Park, are still under severe financial pressure brought on by out-of-state competition. For instance, he said Maryland Live Casino in Hanover, Md., just added 120 table games — three times as much as Dover Downs.

"The situation in Delaware has not improved to the point that the state can go in that direction," he said, noting that on top of slow economic recovery, Dover Downs has faced an over 20 percent decline in slot revenues — the largest in the organization's 15-year history.

"Quite frankly I couldn't think of a worse time to add additional casinos," he said.

For Gene Lankford, developer with Ocean Atlantic Associates in Rehoboth Beach, the casino expansion will positively expand business.

"We are getting a bigger, better market," Mr. Lankford said. "Dover Downs and Harrington (Raceway and Casino) have been relying on drawing people from out of state, which is expensive and hard to do."

In 2010, Mr. Lankford was involved with the development of Del Pointe, a resort and casino destination that would have been placed in Millsboro had casino legislation in the 146th General Assembly passed.

He said the resort would include a hotel, indoor sports arena and potentially a one-mile horse racing track. In addition to the boardwalk, beaches, restaurants and clothing outlets in Sussex County, the resort would add one more amenity to attract visitors to the state, he said. The group still has the zoning permits to build the resort.

"If the legislature would just cooperate, we could do our project and we would prevent the state to raise taxes on the residents," he said.

New casinos would not only add more full-time jobs in the construction and hospitality industry, but stimulate the economy with workers in turn spending more on clothing and in restaurants. Mr. Lankford said up to 6,000 jobs could be created and more casinos could potentially lead the state to pursue lower casino tax rates.

Mr. Sutor said any jobs that could come from additional facilities would more than likely cause the state's three casinos to cut back on workers. And while he would love to see lower tax rates, Mr. Sutor said not at the expense of more casinos in the state.

"We don't have enough people in this small state of ours to sustain he current number of casinos with the current tax rates," he said.

Under the current casino formula, the state receives 43.5 percent of the revenue, 11 percent goes to the horsemen share and 7 percent goes to vendors.

With over five weeks left in the legislative session, Mr. Sutor said the casinos would like the legislators to consider passing a bill that would lower the rates. Dover Downs in particular is facing significant capital improvements to its hotel, he said.

Though there has not been legislation officially introduced, Mr. Sutor said he has been encouraged by the lawmakers' responses.

"We love to be back in the position where we continue to make investments," he said. "Hopefully that means in some point in time when a bill is presented that they understand we need this in order to continue what we need to do"

House Bill 135, is slotted to be heard in the House Gaming and Parimutuels Committee today at 3:30 p.m in the Joint Finance Hearing Room at Legislative Hall. Meetings are open to the public.

Staff writer Jen Rini can be reached at 741-8250 or jrini@newszap.com. Follow DSNJen_Rini on Twitter.

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GAMBLING EXPANSION BILL

Casino drive put in idle

Talleyville lawmaker persists with effort

By Doug Denison
The News Journal

DOVER — The sponsor of legislation to establish two new casinos in Delaware said details regarding location and taxation of the new venues could be ironed out should the bill move forward after a House committee tabled it Wednesday.

Rep. Dennis E. Williams, said the measure should have enough support to be released from the House Gaming and Parimutuels Committee when the General Assembly returns after two weeks of budget hearings, which are set to begin Tuesday.

The bill would allow for the building of one casino in New Castle County and a second in Sussex County, with the locations to be selected by a board of political appointees. That board also would review proposals from would-be casino developers and award licenses to those whose plans would create the most jobs and produce the most revenue for the state.

This is the latest version of a casino expansion bill that has failed to gain legislative support in recent years.

Williams, D-Talleyville, introduced a nearly identical proposal during the last legislative session, but the bill stalled in committee. He said the Markell administration supported his latest attempt.

However, the governor's office indicated a less definitive position.

"The governor always looks forward

See CASINO, Page B2

Casino: Proposal has plenty of details to work through

Continued from Page B1

to discussing proposals with the sponsors and supporters to understand how proposals might add to the state's revenue and economy," said Cathy Rossi, spokeswoman for Gov. Jack Markell.

At the hearing, Rep. Michael Ramone, R-Middle Run Valley, said he wanted the proposal to be more specific about the possible locations for the new casinos and take into account the proximity to Delaware's three existing gambling operations.

Ramone also asked for more details about a plan to reduce the state's casino gambling tax as the new venues begin producing revenue.

The current version does not mention anything about tax rates, but Williams made reference to a "follow-up" bill that could address the state's share of gambling revenues.

"I'm going to talk to people like Rep. Ramone about the tax plan. We could phase it in, maybe 1 percent or half a percent a year," he said. "We can save [existing casinos] a lot, but still bring in a lot of revenue."

Executives at the current casinos voiced opposition to the bill, as they have in the past.

Dover Downs Hotel and Casino CEO Ed Sutor said the company lost money in the two most recent fiscal quarters, has laid off staff and cut benefits — all in reaction to new competition cropping up in neighboring states.

Ed Sutor

"I can't think of a worse time to consider bringing additional competition to this state," he said.

Earlier this month, the American Gaming Association reported that non-tribal casinos took in $37.3 billion last year, an increase of 4.8 percent over 2011 and the second-highest total ever.

However, it found revenue declined 4.7 percent to $526 million in Delaware, as new venues in Maryland siphoned gamblers away from the state and New Jersey, which had the largest drop.

Labor leader Harry Gravell, president of the Delaware Building and Construction Trades Council, offered support for the bill and the jobs it would bring to his industry.

The House gaming committee also heard testimony from representatives of two would-be casino developers critical of how the existing operations had failed to adapt to regional competition.

"How long do we have to wait for them to realize 'Oh my god, competition is going to come from Pennsylvania and Maryland,'" said Darrell Baker, a Wilmington attorney and lobbyist for State Line Casino LLC, a group with plans for a new Delaware casino.

"They didn't prepare. They didn't invest in their facilities," he added.

Contact Doug Denison at 678-4271, on Twitter @DoverDelDenison or at ddenison@delawareonline.com.

SPONSOR: Rep. Baumbach & Sen. Bushweller
Rep. Paradee

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 137

AN ACT TO AMEND TITLES 11 AND 29 OF THE DELAWARE CODE RELATING TO THE STATE EMPLOYEES' PENSION PLAN, THE COUNTY AND MUNICIPAL EMPLOYEES' PENSION PLAN, THE COUNTY AND MUNICIPAL POLICE/FIREFIGHTER PENSION PLAN, THE STATE JUDICIARY PENSION PLAN, THE STATE POLICE PENSION PLAN, AND PENSIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §5527(g), Title 29 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(g)(1) Notwithstanding provisions of this chapter to the contrary, an employer may elect to have his or her service or disability pension computed under this chapter reduced by 2% thereby providing a survivor's pension equal to 2/3 of such reduced amount to the employee's eligible survivor or survivors at the time of the employee's death. This election must be made in a form approved by the Board, filed prior to the issuance of the employee's first benefit check and shall be irrevocable.

(2) Notwithstanding provisions of this section to the contrary, an employee may elect to have his or her service or disability pension, computed under this section, reduced by 3% thereby providing a survivor's pension equal to 75% of such reduced amount to the employee's eligible survivor or survivors at the time of the employee's death. This election must be made in a form approved by the Board, filed prior to the issuance of his or her first benefit check and shall be irrevocable.

(3)~~(2)~~ Notwithstanding the provisions of this section to the contrary, an individual receiving a service or disability pension which was effective prior to July 1, 1989, or an individual with a vested right to a service pension may elect to have his or her service or disability pension reduced by 3%, thereby providing a survivor's pension equal to 75% of such reduced amount to his or her eligible survivor or survivors at the time of his or her death. This election must be made in a form approved by the Board, filed prior to December 15, 1989, to be effective January 1, 1990, for individuals receiving a service or disability pension on July 1, 1989, or, in the case of an individual with a vested right to a service pension, filed prior to the issuance of his or her first pension check.

(4) Notwithstanding provisions of this chapter to the contrary, an employee may elect to have his or her service or disability pension computed under this chapter reduced by 6% thereby providing a survivor's pension equal to 100% of such reduced amount to the employee's eligible survivor or survivors at the time of the employee's death. This election must be made in a form approved by the Board, filed prior to the issuance of the employee's first benefit check and shall be irrevocable.

Section 2. Amend §5528(b)(1), Title 29 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(b)(1) Upon the death of an individual receiving a service or disability pension at the time of his or her death, a monthly survivor's pension shall be payable to his or her eligible survivor or survivors equal to the greater of (i) 50% of such service or disability pension, ~~or~~ (ii) if such pension was computed under the provisions of §5627(g)(1) of this title, 2/3 of such service or disability pension; (iii) if such pension was computed under the provisions of § 5527(g)(3) of this title, 75% of such service or disability pension; or (iv) if such pension was computed under the provisions of §5627(g)(4) of this title, 100% of such service or disability pension.

Section 3. Amend §5613(3), Title 29 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(3)a. Notwithstanding provisions of this section to the contrary, a member may elect to have his or her service or disability pension, computed under this section, reduced by 2%, thereby providing a survivor's pension equal to two-thirds of such reduced amount to their eligible survivor or survivors at the time of the member's death. This election must be made in a form approved by the Board, filed prior to the issuance of the member's first benefit check, and shall be irrevocable.

b. Notwithstanding the provisions of this section to the contrary, an individual receiving a service or disability pension which was effective prior to July 1, 2001, or an individual with a vested right to a service pension, may elect to have his or her service or disability pension reduced by 2%, thereby providing a survivor's pension equal to two-thirds of such reduced amount to his or her eligible survivor or survivors at the time of his or her death. This election must be made in a form approved by the Board, filed prior to December 15, 2001, to be effective January 1, 2002, for the individual receiving a service or disability pension on July 1, 2001, or, in the case of an individual with a vested right to a service pension, filed prior to the issuance of the individual's first pension check.

c. Notwithstanding provisions of this section to the contrary, a member may elect to have his or her service or disability pension, computed under this section, reduced by 3%, thereby providing a survivor's pension equal to 75% of such reduced amount to the member's eligible survivor or survivors at the time of the member's death. This election must be made in a form approved by the Board, filed prior to the issuance of the member's first benefit check, and shall be irrevocable.

Section 4. Amend §5577, Title 29 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 5577. Amount of monthly service or disability pension.

(a) The amount of the monthly service or disability pension payable to a retired member shall be 1/60 of the retired member's final average compensation multiplied by the number of years, taken to the nearest twelfth of a year, in the retired member's period of credited service.

(b) Notwithstanding provisions of this chapter to the contrary, a member may elect to have his or her service or disability pension computed under this chapter reduced by 2% thereby providing a survivor's pension equal to 2/3 of such reduced amount to the employee's eligible survivor or survivors at the time of the employee's death. This election must be made in a form approved by the Board, filed prior to the issuance of the employee's first benefit check and shall be irrevocable.

(c) Notwithstanding provisions of this chapter to the contrary, a member may elect to have his or her service or disability pension computed under this chapter reduced by 3% thereby providing a survivor's pension equal to 75% of such reduced amount to the employee's eligible survivor or survivors at the time of the employee's death. This election must be made in a form approved by the Board, filed prior to the issuance of the employee's first benefit check and shall be irrevocable.

(d) Notwithstanding provisions of this chapter to the contrary, a member may elect to have his or her service or disability pension computed under this chapter reduced by 6% thereby providing a survivor's pension equal to 100% of such reduced amount to the employee's eligible survivor or survivors at the time of the employee's death. This election must be made in a form approved by the Board, filed prior to the issuance of the employee's first benefit check and shall be irrevocable.

Section 5. Amend § 8821A, Title 11 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 8821A. Amount of ordinary service or disability pensions.

(a) Notwithstanding provisions of this chapter to the contrary, an employee may elect to have his or her service or disability pension computed under this chapter reduced by 2% thereby providing a survivor's pension equal to 2/3 of such reduced amount to the employee's eligible survivor or survivors at the time of the employee's death. This election must be made in a form approved by the Board, filed prior to the issuance of the employee's first benefit check and shall be irrevocable.

(b) Notwithstanding provisions of this chapter to the contrary, an employee may elect to have his or her service or disability pension computed under this chapter reduced by 3% thereby providing a survivor's pension equal to 75% of such reduced amount to the employee's eligible survivor or survivors at the time of the employee's death. This election must be made in a form approved by the Board, filed prior to the issuance of the employee's first benefit check and shall be irrevocable.

(c) Notwithstanding provisions of this chapter to the contrary, a member may elect to have his or her service or disability pension computed under this chapter reduced by 6% thereby providing a survivor's pension equal to 100% of such reduced amount to the employee's eligible survivor or survivors at the time of the employee's death. This election must be made in a form approved by the Board, filed prior to the issuance of the employee's first benefit check and shall be irrevocable.

Section 6. Amend § 8822, Title 11 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 8822. Ordinary survivor's pension.

(a) Upon the death of a member in service, a monthly survivor's pension shall be payable to his or her eligible survivor or survivors equal to 3/4 of the service pension the employee would have been eligible to receive had he or she elected the option provided under § 8821A(b) of this title.

(b) Upon the death of an employee in service, whose death occurred in the line of duty, a monthly survivor's pension shall be payable to the primary survivor equal to 3/4 of the member's compensation.

(c) Upon the death of an individual receiving a service or disability pension at the time of his or her death, a monthly survivor's pension shall be payable to the primary survivor and surviving dependents equal to the greater of (i) 50% of such service or disability pension, ~~or~~ (ii) if such pension was computed under the provisions of § 8821A(a) of this title, 2/3 of such service or disability pension; (iii) if such pension was computed under the provisions of § 8821A(b) of this title, 75% of such

service or disability pension; or (iv) if such pension was computed under the provisions of § 8821A(c) of this title, 100% of such service or disability pension. If the primary survivor is the surviving spouse, such person must have been married to the deceased member:

(1) Prior to retirement; or

(2) For at least 1 year before the date of death, unless the death was the result of an accident.

(d) A survivor's pension shall begin with the month following the month in which the member or retired member dies. If payable to a surviving spouse who dies or marries, it shall become payable in the following month to the next primary survivor as defined in § 8801 of this title or cease with that month in the absence of the eligible dependents. If payable to a child who dies or fails to meet the conditions of eligibility in § 8801(4) of this title, it shall become payable in the following month to a dependent parent or cease with that month in the absence of eligible parents. If payable to a parent, it shall cease with the month in which the parent dies.

Section 7. Amend § 8368, Title 11 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 8368. Amount of ordinary service pension.

(a) The amount of the monthly ordinary service pension payable to a retired member shall be the sum of 2.5% of final average compensation multiplied by years of service up to 20 years inclusive, plus 3.5% of final average compensation multiplied by years of service above 20 years.

(b) Notwithstanding provisions of this chapter to the contrary, a member may elect to have his or her service or disability pension computed under this chapter reduced by 2% thereby providing a survivor's pension equal to 2/3 of such reduced amount to the employee's eligible survivor or survivors at the time of the employee's death. This election must be made in a form approved by the Board, filed prior to the issuance of the employee's first benefit check and shall be irrevocable.

(c) Notwithstanding provisions of this chapter to the contrary, a member may elect to have his or her service or disability pension computed under this chapter reduced by 3% thereby providing a survivor's pension equal to 75% of such reduced amount to the employee's eligible survivor or survivors at the time of the employee's death. This election must be made in a form approved by the Board, filed prior to the issuance of the employee's first benefit check and shall be irrevocable.

(d) Notwithstanding provisions of this chapter to the contrary, a member may elect to have his or her service or disability pension computed under this chapter reduced by 6% thereby providing a survivor's pension equal to 100% of such reduced amount to the employee's eligible survivor or survivors at the time of the employee's death. This election must be made in a form approved by the Board, filed prior to the issuance of the employee's first benefit check and shall be irrevocable.

Section 8. Amend § 8372, Title 11 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 8372. Ordinary survivor's pension.

(a) Upon the death of a member in service, a monthly survivor's pension shall be payable to the primary survivor equal to one half of the member's compensation.

(b) Upon the death of a member in service, whose death occurred in the line of duty, a monthly survivor's pension shall

be payable to the primary survivor equal to three-quarters of the member's compensation.

(c) Upon the death of a retired member, a monthly survivor's pension shall be payable to the primary survivor and surviving dependents equal to the greater of (i) one half of such service or disability pension, (ii) if such pension was computed under the provisions of § 8821A(a) of this title, 2/3 of such service or disability pension; (iii) if such pension was computed under the provisions of § 8821A(b) of this title, 75% of such service or disability pension; or (iv) if such pension was computed under the provisions of § 8821A(c) of this title, 100% of such service or disability pension. If the primary survivor is the surviving spouse, such person must have been married to the deceased member:

(1) Prior to retirement; or

(2) For at least 1 year before the date of death, unless the death was the result of an accident.

(d) A survivor's pension shall begin with the month following the month in which the member or retired member dies. If payable to a surviving spouse who dies, it shall become payable in the following month to the next primary survivor as defined in § 8351(13) of this title or cease with that month in the absence of eligible dependents. If payable to a child who dies or fails to meet the conditions of eligibility in § 8351(4) of this title it shall become payable in the following month to a dependent parent or cease with that month in the absence of eligible parents. If payable to a parent, it shall cease with the month in which the parent dies.

SYNOPSIS

This bill expands and promotes unity in the options for survivor pension payout choices for retired participants in the State pension programs, the State Employees' Pension Plan, the County and Municipal Employees' Pension Plan, the County and Municipal Police/Firefighter Pension Plan, the State Judiciary Pension Plan, and the State Police Pension Plan. There is no reduction for the 50% survivor benefit, a 2% reduction for a 66.67% survivor benefit, 3% reduction for a 75% survivor benefit, and 6% reduction for a 100% survivor benefit.

Sussex County
Engineering Department

MICHAEL A. IZZO, P.E.
County Engineer

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

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

CONCRETE APRON REPAIRS, PHASE 1

SUSSEX COUNTY PROJECT 12-28

BID OPENING, 2:00 p.m., FRIDAY, MAY 3, 2013

BIDDER	BID AMOUNT
* Mitten Construction Company Dover, DE	$ 69,750.00
JJID, INC. Bear, DE	$ 106,150.00
Mumford & Miller Concrete, INC. Middletown, DE	$ 143,560.00

***Apparent Low Bidder**

ENGINEER'S ESTIMATE $159,680.00

DELAWARE POLICE CHIEFS' COUNCIL, INC.

400 SOUTH QUEEN STREET, DOVER, DELAWARE 19904

Telephone: (302) 739-5411 Fax: (302) 736-7146

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Coordinator

Donna M. Mills
Executive Assistant

John F. Brady, Esq.
Legal Advisor

May 1, 2013

Mr. Michael Vincent, President
Sussex County Council
2 The Circle
PO Box 589
Georgetown, DE 19946

Dear Mr. Vincent:

The Delaware Police Chiefs' Council, Inc. will be conducting its annual Staff Development Seminar from May 13 – 16, 2013 at the Atlantic Sands Hotel, Rehoboth Beach.

As in the past years, the seminar will be highly productive, providing up to date training on key issues. This annual training program is the primary means of providing administrative training to the State's 42 police chiefs, 19 of which are from Sussex County agencies.

This year's training will be conducted by the FBI who will be presenting their three (3) day "Executive Leadership Institute" training program which has received rave reviews from law enforcement across the country.

For the past several years, the Sussex County Council has provided financial assistance in the amount of $500.00 to the program, which has been a great help, allowing us to provide meaningful training at no cost to the Delaware chiefs. We respectfully request your financial assistance once again in the same amount to help defray the administrative costs of the program.

Your continued assistance for the seminar would be greatly appreciated.

Sincerely,

Chief Jeffrey Horvath
Chairman

Martin W.Johnson, III
Coordinator

JH/rmr

cc: Todd Lawson
County Administrator

The Mid-Atlantic Symphony Orchestra

P.O. Box 3687 / Ocean City, MD 21843-3687
Phone: 410-289-3440, Toll Free: 888-846-8600
www.midatlanticsymphony.org

"Enriching Life Throughout the Mid-Atlantic Region Through the Power of Classical Music"

Councilmember George Cole
900 N. Pennsylvania Avenue
Bethany Beach, DE 19930

May 6, 2013

Dear Councilmember Cole:

The Mid-Atlantic Symphony Orchestra Society, Inc. (MSO) is a regional company of professional musicians of the highest caliber dedicated to keeping the orchestral art form alive and active in the Mid-Atlantic region. We perform a repertoire of classical and modern compositions in venues across the area and we have become an integral part of the cultural life on the Eastern Shore. Currently the MSO is the only professional orchestra presenting a full subscription season each year, and we view our concerts as an opportunity to serve the people of the Maryland and Delaware regions.

The MSO season includes four concerts, with each concert performed in Easton and Ocean Pines, MD, and Ocean View, DE. We serve a diverse group of people from youth through senior citizens, and this year we have welcomed more than 5,000 attendees to our concerts. MSO audiences greatly appreciate having a quality orchestra available locally, at a reasonable cost, and do not have to travel to a major city to hear quality classical music. The Orchestra has just recently concluded the 2012-13 concert season with two terrific final performances, which featured marimba soloist Warren Wolf in March and violin soloists Nicholas Currie and Katarzyna Bryla in April.

The MSO is funded through grants from local Arts councils, ads in our program book, local corporations, and of course the purchase of tickets and seasonal subscriptions. To keep costs affordable, the MSO has set a ticket price of $35 per concert, a very reasonable cost for area residents to enjoy an outstanding performance. However, it is always a challenge to raise enough money to support these concerts, as travel and performance costs for the musicians and staff grows each year. Accordingly, the MSO would like to request a **$1,000** grant from your discretionary council funds to help us meet our budget this fiscal year, which ends on June 30th. As residents and volunteers who reside in this community, we want to have the highest caliber arts available to all those who reside here, and ask that you would consider once again supporting our mission.

Thank you so much for considering the Mid-Atlantic Symphony Orchestra for your sponsorship. I look forward to hearing from you. If you have any questions, please do not hesitate to call me at (302) 539-0793 or email me at maryloutietz@yahoo.com. Thank you again.

Sincerely,

Mary Lou Tietz

Mary Lou Tietz
MSO Fundraising Consultant

Don Harrington

Don Harrington
MSO President

Enclosures: 501(c)(3) Letter
MSO Board of Directors

Ocean View Historical Society
P.O. Box 576
Ocean View, DE 19970
www.ovhistoricalsociety.org

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Before

May 6, 2013

Councilmember George Cole
900 N. Pennsylvania Avenue
Bethany Beach, DE 19930

Dear Councilmember Cole:

The Ocean View Historical Society (OVHS) has recently undertaken a capital campaign to raise funds for the Coastal Towns Museum Project. This project will be completed in two phases: first, an historical 19th Century home will be restored to its original state, circa 1860, along with restorations of the original Ocean View Town Post Office and a period chicken coop; and second, a new Coastal Towns Museum will be built on the property adjacent to the renovated home.

The historical home, located at 39 Central Avenue on the John West Park property, was recently leased from the Town of Ocean View by the OVHS. Upon completion, the home will be used to store and display numerous artifacts that have been donated to the OVHS over the years, and will be open for public viewing. These artifacts will demonstrate the recognition of our region as the birthplace of the boiler chicken industry, our rich seafaring history, and our experiences in coastal defense during World War II, among other topics.

In addition, the first Post Office in Ocean View has been donated and is being renovated as part of the display, along with the first chicken coop, representing the area's prominence in the boiler chicken industry.

The second phase of the project will be the construction of a new Coastal Towns Museum on the adjacent property. This museum will benefit residents year-round and will attract thousands of visitors that come to this area to visit the beach throughout the summer months. This new facility will display artifacts that are reflective of all the surrounding towns, including Bethany Beach, Millville, Clarksville, Selbyville, and Dagsboro. Educational programs and attractions will make the museum a popular destination for all visitors.

Through the Coastal Towns Museum project, the OVHS strives to achieve the following:

- To develop and operate a center/museum for a variety of community educational activities and displays of artifacts;
- To collect, preserve and interpret a collection of local history, artifacts and records;
- To promote community events of historical significance with the public;
- To encourage the preservation and restoration of the assets of local communities;
- To provide a setting that will permit interactive activities within the house, Post Office, and new museum; and,
- To use technology in an effective and fun way to teach students, of all ages, about what it was like to live 150 years ago.

The OVHS has successfully obtained the Tunnell-West home, which dates back to the 1860's, from the town of Ocean View. Just recently, The Tunnell-West House was approved by the United States Department of the Interior to be placed on the Registry of Historic Places in the United

States. The first Post Office in the area has been donated and moved to the John West Park property where the project is located. We have also completed preliminary architectural drawings for the new museum. Funds of over $140,000 have been raised to bring the project to its current stage of development.

Just recently the OVHS held a celebration event to display the work that has been completed so far on the project. Dignitaries attending the event included State Representative Ron Gray, State Senator Gerald Hocker, Roger Morino from Mountaire, Ocean View Mayor Gordon Wood, and the President of Preservation Delaware, among others.

As we near the end of Phase I of this project, the OVHS is completing the final renovation work on the Tunnell-West historical home, the first Ocean View Post Office, and the period poultry house. Our goal is to all three buildings completed by the fall of 2013 so that we can open them up to the public and begin to invite local school groups in for educational field trips.

The OVHS needs to raise an additional $20,000 to complete this first phase of the project. Accordingly, we would like to request a grant in the amount of **$2,000** from the Sussex County Council to help us reach our goal of being able to open up these historical displays to the public and to school children from the area for field trips this fall. The OVHS greatly appreciate the Council's past contributions, and we look forward to again partnering with the Council in preserving the rich history of our coastal towns.

I will call you soon in reference to this request, to follow up on any questions you may have. You can contact me at any time at (302) 539-0793 or by email at maryloutietz@yahoo.com. The OVHS is excited about how close we are to completing this project; soon we will be able to open these historic buildings to the public so they can learn of the rich history of this area as well. Your gift will help us make that happen

Sincerely,

Mary Lou Tietz

Mary Lou Tietz
Development Consultant
Coastal Towns Museum Project

Rehoboth Art League

Islander group shown with one of their islands native goats

THE BEAUX ARTS BALL IS BACK !!!

In 1939 a tradition was born: An annual costume gala to benefit The Rehoboth Art League drew crowds to the beach from DC to Philadelphia. The Beaux Arts Ball tradition continued for 50 years. To celebrate our 75th Anniversary, The Rehoboth Art League is reviving the fun and festivities on September 21, 2013.

The costume ball includes fine dining and dancing in a unique, gorgeous new setting – Belle Mead Farm – to raise funds to support the League's educational and outreach activities. Signature cocktails, live music and special surprises enhance this anticipated event!

Net proceeds benefit the RAL's education outreach and tuition assistance program. The Art League provides scholarships and free art lessons to children throughout Sussex County. Many of these children are considered "at risk" with limited financial resources. Art makes a difference to these children, building their self esteem and helping them learn new ways to communicate and express themselves. Over 650 children in 2012 benefitted from this program.

We invite you to support our mission to teach, inspire and preserve the arts by helping to underwrite this worthy event.

Underwriter $15,000
- Full page cover ad in Beaux Arts Ball program
- Recognized as a Schroeder Partner for the 75th Anniversary in all print/electronic communication
- One table seating up to 10 guests for the Ball

Sponsor $10,000
- Full page ad in Beaux Arts Ball program
- One table seating up to 10 guests for the Ball

Patron .....$ 5,000
- Full page ad in Beaux Arts Ball program
- 4 tickets to the Beaux Arts Ball

Partner .....$ 2,500
- Half page ad in Beaux Arts Ball program
- Name recognition in Beaux Arts Ball program
- 2 tickets to the Beaux Arts Ball

Supporter .....$ 1,000
- Name recognition in Beaux Arts Ball program
- 2 tickets to the Beaux Arts Ball

Master of Ceremonies Frederick Carspecken and Co-Chairs Cannon Spotswood and Skipper Townsend

To Be Introduced 5/21/13

District 2

ORDINANCE NO. ___

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR USED CAR SALES BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 37,500 SQUARE FEET, MORE OR LESS (Tax Map I.D. 1-35-14.00 - 65.00)

WHEREAS, on the 22nd day of April 2013, a conditional use application, denominated Conditional Use No. 1964 was filed on behalf of Salman P. Choudhary, t/a Master Tires; and

WHEREAS, on the _____ day of _____ 2013, 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. 1964 be _____; and

WHEREAS, on the ____ day of _____ 2013, 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. 1964 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 Georgetown Hundred, Sussex County, Delaware, and lying east of U.S. Route 113, 300 feet north of North Bedford Street Extended and being more particularly described in Deed Book 2130, Page 294, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 37,500 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.

Proposed

Introduced 5/21/13

District 5

ORDINANCE NO. ___

AN ORDINANCE TO MODIFY CONDITION NO. 24 IMPOSED ON ORDINANCE NO. 2110 FOR CHANGE OF ZONE NO. 1694, THE APPLICATION OF CMF BAYSIDE, LLC, FOR "AMERICANA BAYSIDE", A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY, TO ALLOW REVISED COMMERCIAL ENTRANCE LOCATION (LEFT-TURN) AS MAY BE APPROVED BY DELDOT (Tax Map I.D. 5-33-19.00-16.00)

WHEREAS, on the 22nd day of April 2013, a zoning application, denominated Change of Zone No. 1731 was filed on behalf of CMF Bayside, LLC.; and

WHEREAS, on the ____ day of _____ 2013, 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. 1731 be _____; and

WHEREAS, on the ____ day of _____ 2013, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,

NOW, THEREFORE,

THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Condition No. 24 be modified to read "All commercial activities shall be limited to the south side of Route 54, with no direct access to Route 54, except for a single right-in/right-out/left-in commercial entrance to Parcel 16.00 as may be approved by DelDOT. Entrances to other commercial areas shall be a minimum of 300 feet from Route 54.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying at the southwest corner of Route 54 and Americana Parkway across from Zion Church Road.

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

Proposed

PUBLIC HEARINGS
May 21, 2103

This is to certify that on April 25, 2013 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 these 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 on a summary of comments read into the record, and comments stated by interested parties during the public hearings.

Conditional Use #1960 – application of **HARRY H. ISAACS, JR./FARM BOYS LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District to modify the boundaries of existing Conditional Use No. 1699 (Ordinance No. 1936) for a go-kart track, to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 3.24 acres, more or less, lying north of Reynolds Pond Road (Road 231) and 520 feet west of Route 30 (Tax Map I.D. 2-35-6.00-10.00 and 10.05).

Mr. Lank advised the Commission that comments were not requested from DelDOT since the only intent of this application is to correct the boundaries of the Conditional Use due to an error found in the surveys.

The Commission found that on April 15, 2013 the Sussex Conservation District provided comments in the form of a memorandum which references that the parcel contains six (6) soil types; that the Applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard area or tax ditches are affected; that no off-site drainage improvements will be necessary; and that on-site drainage improvements may be necessary.

The Commission found that on April 22, 2013 the Sussex County Engineering Department Utility Planning Division provided comments in the form of a memorandum which references that the site is not in a proposed or current County operated or maintained sanitary sewer and/or water district; 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; that conformity to the

North Coastal Planning Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer service; and that a concept plan is not required.

Mr. Lank advised the Commission that the original go-kart track (Conditional Use No. 1699) was reviewed by the Commission on September 13, 2007 and approval was recommended with conditions; that the County Council reviewed and approved the application on October 2, 2007 with conditions; and that the conditions included: 1) The use shall be limited to go-kart racing only; 2) The hours of operation shall be one day per weekend, in other words, only on Friday, Saturday or Sunday. On the night of operation, the hours of operation shall be between 12:00 Noon and 12:00 Midnight; 3) All lighting shall be directed so that it does not shine onto neighboring properties or State Route 30; and 4) The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Mr. Lank advised the Commission that the site plan depicts revisions to the boundaries of the Conditional Use to separate some of the buildings on the farm that were partially within the easterly boundary and to correct the location of the go-kart track which causes a shift in the boundary on the westerly side.

The Commission found that Harry H. Isaacs, Jr. was present and stated in his presentation and in response to questions raised by the Commission that they received approval in 2007; that they recently discovered that the track was not contained within the original conditional use boundaries; that nothing has changed on the site; that their only intent is to correctly locate the go-kart track within the corrected boundaries; that there should be no adverse impact on neighboring properties; and that family members maintain the acreage all around and near the site.

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.

Mr. Burton stated that he would move that the Commission recommend approval of C/U #1960 for Harry H. Isaacs, Jr. and Farm Boys, LLC to modify the boundaries of the existing Conditional Use No. 1699 (Ordinance No. 1936) for a go-kart track based upon the record made at the public hearing and for the following reasons:

1) This is simply a correction of the boundaries, and does not modify the use that was previously approved by Sussex County.
2) The use remains in the same location as it always was; this just relocates the boundaries to correctly reflect where the use actually is.
3) This modification will not adversely affect neighboring properties, roadways or the community.
4) The conditions imposed by Conditional Use No. 1699 and Ordinance No. 1936 shall remain in effect.

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 stated. Motion carried 5 – 0.

Conditional Use #1961 – application of **KENDELL WHIBLEY AND ANN MARIE WHIBLEY** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for landscaping business, to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 0.997 acres, more or less, lying southwesterly side of Angola Road (Road 277) approximately 300 feet southeast of John J. Williams Highway (Route 24)(Tax Map I.D. 2-34-11.00-56.09).

The Commission found that on April 10, 2013 the Applicant submitted Exhibit Booklets for consideration, and that the Booklets contains a list of the project team; qualifications of Pennoni Associates, Inc., and Mark Davidson and Douglas Barry of Pennoni Associates, Inc.; an aerial map of area commercial uses, zoning and developments; a copy of the application form; a copy of the deed and survey for the property; a site plan; references from the Comprehensive Plan Update and Future Land Use Map; a copy of the Support Facilities Report from DelDOT; a series of maps and aerials; and some suggested Findings of Facts and Conditions of Approval for consideration.

The Commission found that on April 16, 2013 the Sussex Conservation District provided comments in the form of a memorandum which references that there are two (2) soil types on this property; that the Applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; and that it is not likely that any on-site or off-site drainage improvements will be required.

The Commission found that on April 22, 2013 the County Engineering Department Utility Planning Division provided comments in the form of a memorandum which references that the site is located in the Angola Neck Planning Area; that System Connection Charge Rates are unknown at this time; that sewer service has not been extended to the parcel; that an on-site septic system will be utilized; that when the County provides sewer service, a connection to the system will be mandatory; that the County does not have a firm schedule to provide sewer service at this time; and that a concept plan is not required.

The Commission found that Kendell Whibley was present with Doug Barry, Professional Engineer with Pennoni Associates, Inc., and that they stated in their presentation and in response to questions raised by the Commission that Mr. Whibley is requesting approval to operate a landscaping business on this site; that a 40’ by 50’ pole building is proposed; that the pole building, driveway and parking for employees will be installed first; that the dwelling on the site plan is proposed; that the dwelling may be occupied by the applicant, an employee, or may be a rental; that no retail sales are proposed; that the application has three (3) trucks and three (3) trailers that will be stored outside; that no equipment or materials are proposed to be stored outside; that it is the applicant’s intent to store all equipment and materials in the pole building; that there are other conditional use sites in the area; that the site is located in an Investment Level

3 according to the State Strategies; that the site is located in a Developing Area according to the Comprehensive Plan Update; that a soils evaluation has been completed; that a wetlands delineation has been performed; that they are planning on installing a rain garden for stormwater management; that DelDOT did not require a Traffic Impact Study; that the proposed improvements are not located within a flood plain; that no development will take place in any environmental areas; that there will not be any water or septic on the site until the dwelling is constructed; that a porta-toilet will be available on the site; that business hours are proposed to be from 7:00 a.m. to 6:00 p.m. weekdays, and 7:00 a.m. to 12:00 Noon on Saturday; that they realize that they will be required to obtain agency approvals; that eight (8) employees are anticipated; that they have not considered any security measures to date; and that the site will not be gated and/or fenced.

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.

Mr. Johnson stated that he would move that the Commission recommend approval of Conditional Use No. 1961 for Kendell Whibley and Ann Marie Whibley for a landscaping business based upon the record made during the public hearing and for the following reasons:

1) The site is zoned AR-1 and the proposed use for a landscaping business is consistent with the agricultural zoning.
2) The proposed use is consistent with the current Comprehensive Plan for Sussex County.
3) There will be no retail sales from the site, so there will be little, if any, impact on traffic or area roadways.
4) The use is consistent with other agricultural uses in the area and small-scale business uses that exist nearby. It will not adversely affect neighboring properties.
5) No parties appeared in opposition to the proposed use.
6) This recommendation is subject to the following conditions:
    A. The use shall be limited to a landscaping business without any retail sales occurring on the site.
    B. No exterior storage shall be permitted on the site. All storage shall be inside of the pole building proposed by the Applicant or a similar structure.
    C. There shall not be any disturbance of the wetlands located on the site.
    D. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
    E. One sign, lighted or unlighted, shall be permitted. It shall be no larger than 32 square feet per side.
    F. The hours of operation, as proposed by the Applicant, shall be from 7:00 a.m. to 6:00 p.m. Monday through Friday, and 7:00 a.m. to Noon on Saturdays.
    G. All equipment repairs shall occur indoors.
    H. 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 it be approved for the reasons and with the conditions stated. Motion carried 5 – 0.

Conditional Use #1962 – application of **CHESAPEAKE AGRISOIL, LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a composting facility as an extension to Conditional Use No. 1314 and Conditional Use No. 1691 (A micro-nutrient plant with related truck entrance and rail spur for processing and handling of poultry litter), to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 228.88 acres, more or less, lying west of Route 13A north of Road 485 (Tax Map I.D. 1-32-6.00-88.01 and 95.00 and Tax Map I.D. 1-32-11.00-41.00).

Mr. Ross stated that he would not be participating in this public hearing.

The Commission found that on April 10, 2013 the Applicant submitted Exhibit Booklets for consideration, and that the Booklets contains a copy of the application form; a letter from Perdue Agribusiness, LLC in support; references to compliance with the Comprehensive Plan Update; an aerial photograph of the site and area; a February 21, 2013 letter from DelDOT in reference to the entrance location; a project description for the proposed poultry waste compost facility; a series of site plans; documentation on the Gore Cover System; a copy of the response to the PLUS comments from Axiom Engineering, LLC, dated April12, 2013; a copy of the PLUS comments, dated December 20, 2012; a copy of Ordinance No. 1354 for Conditional Use No. 1314 for Perdue-AgriRecycle, LLC for the original Micro-Nutrient Plant with related truck entrance and rail spur; a copy of Ordinance No. 1865 for Conditional Use No. 1691 to amend the conditions of approval for Conditional Use No. 1314; and suggested proposed Findings of Facts.

The Commission found that on April 16, 2013 the Sussex Conservation District provided comments in the form of a memorandum which references that there are 17 soil types on this property; that the Applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; that it is not likely that any off-site drainage improvements will be required; and that it is possible that on-site drainage improvements will be required.

The Commission found that on April 22, 2013 the County Engineering Department Utility Planning Division provided comments in the form of a memorandum which references that that site is located in the Western Sussex Planning Area #3 and Blades Planning Area #2; that an on-site septic system will be utilized; that the parcel 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.

The Commission found that Shannon Carmean-Burton, Attorney, and John Sergovic, Attorney, of Sergovic, Carmean and Weidman, P.A., Ken Christenbury, Professional Engineer with Axiom Engineering, LLC, Whitney Hall, Professional Engineer, Wayne Hudson of Perdue Agri-Recycle, LLC, and Charlie Gifford of Chesapeake AgriSoil, LLC were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that this proposed use will occupy approximately 20 acres of the 228.88 acre site;

that the 20 acre portion is contained within Tax Map I.D. 1-32-11.00 Parcel 41,00; that the site is immediately adjacent to the plant; that the existing wooded buffers will remain; that the site is being cleared to eliminate young seedlings and tree growth; that no clearing will occur beyond the railroad spur; that the original conditions for the micro-nutrient plant, as amended in 2006, will remain with the exception of the use of this facility; that DelDOT voiced no objections; that DNREC approvals are required and will be obtained; that they will be handling 110,000 tons of material; that this use is an alternative to land application; that the EPA supports the use of animal waste composting; that lab testing of stock prior to process and the final product will be performed; that the use is a natural process; that the only additive is air; that the process starts in an enclosed building where the mixing process starts; that the material is then hauled outdoors onto the site and then covered with Gore material; that the material remains covered for approximately four (4) weeks (1st Phase); then the covers are removed for two (2) weeks (2nd Phase) which establishes the compost product; then air is blown into the system for six (6) to eight (8) weeks improving the soil compost to a high quality (3rd Phase); that the 1st Phase will have 15 cover systems, the 2nd Phase will have 8 cover systems, and the 3rd Phase will have 19 cover systems; that the final product is then removed, placed in trucks, and hauled away; that the Gore System covers odors and does not allow rain water to get into the system; that the water runoff on-site is recycled; that aeration trenches are proposed under each cover system; that the technology is well proven; that there are many projects throughout the United States and Worldwide that use this technology; that the final product is very light in weight and will improve soil quality; that Perdue Agri-Recycle, LLC supports the proposed facility since processed water from the Plant would be utilized in this process rather than having to haul the processed water off-site for land application; that according to DelDOT there will not be any traffic impact; that there is a substantial distance from the site of the proposed facility to the nearest dwelling on other property; that they have met with the Sussex Conservation District and have been advised that permits and approvals will be required; that Best Management Practices will be utilized; that the proposed project is very environmentally responsible; that water will be re-cycled on-site; that the micro-nutrient plant does not process dead-birds; that the finished product will be hauled away by truck to farm fields, landscapers, and possibly some large providers of bagged mulch/compost products; that the operation will be carried on during one daytime shift from 7:00 a.m. to 5:00 p.m. weekdays only; that water can be provided to control any dust; that the intended 20 acre area for the facility includes the stormwater management pond; that they may utilize dead-birds in a catastrophic emergency situation; that they anticipate 11 full-time employees, and assume approximately eight (8) secondary related service jobs; that they will most likely be using independent haulers; that the purpose of the AR-1 includes references to provide for a full range of agricultural activities and to protect agricultural lands, and should also protect established agricultural operations and activities; that the permitted conditional uses in the AR-1 District include agricultural related activities; that the use is of a public or semi-public character in that it provides an innovative but environmentally sound method of disposing of poultry waste in a commercially reasonable manner and will decrease the amount of pollution and odor from poultry waste previously applied directly to the soils as a fertilizer; that the proposed use will provide community wide benefits and the ability to recycle a by-product of the poultry industry utilizing the latest Gore technology; that due to the need for enhancing the ability of the poultry industry to protect the local environment, the proposed conditional use is an appropriate zoning method for permitting the use; thus, the proposed

conditional use complies with the Zoning Code; that the Applicant submits that this project is consistent with the provisions of the Comprehensive Plan which identifies the property in a Low Density Area; that the Plan provides that all land designated in the Low Density Area are currently zoned AR-1; that Plan provides that the primary uses envisioned in Low Density Areas are agricultural activities and single family detached homes; that industrial uses that support or depend on agriculture should be permitted; that the Gore system proposed to be utilized uses positive aeration and a specially designed cover to create an enclosed system that optimizes the recycling process, controls odors and micro-organisms, separates leachate from storm water and creates a consistent product unaffected by outside environmental conditions; that the use is designed to benefit the family farm and agricultural industry, especially poultry growers, in the County; that the application meets the purpose and goal of the Plan and is for the purpose of promoting the health, safety, moral, convenience, order and prosperity and welfare of the present and future inhabitants of the County; and that Tab 15 of the Exhibit Booklet contains suggested reasons and suggested conditions of approval for consideration.

The Commission found that Doug Parham, a resident of Millsboro, was present on behalf of the Inland Bays Foundation as a Board Member and Chair of the Public Information Committee, and stated that the Foundation strongly supports the approval of this application for implementation of their State-of-the-Art composting facility; that the Board has reviewed their design documents and fully support this project; that the Foundation's philosophy is to find initiatives that will reduce the amount of nutrient pollution entering the Inland Bays by supporting existing low cost (to the taxpayers) and low risk processes that produce new revenues and new green jobs for Sussex taxpayers; that this initiative will do both; that the State passed a law a few years ago prohibiting anyone from placing yard waste in public landfills; that the State has significant excess amounts of chicken litter that needs to be disposed of; that this composting initiative is an excellent solution for disposal of yard waste, the reduction of litter applied to our fields, new revenue for farmers, new green jobs and a reduction of nutrient pollution entering the Bays; that it is a low risk and no cost to the taxpayers; that we have a big job ahead of us to return the waters to the pristine condition they were in when he grew up here and we need to find ways to grow the economy and find new jobs for our children and grandchildren; that the composting initiative is an elegant start; and that the Foundation strongly urges approval of this application.

The Commission found that Mr. Parham read a letter from Ed Kee, Secretary of the State of Delaware Department of Agriculture in support of this application, which in summary references that agriculture is the backbone of the Delaware economy and that the State is constantly looking for ways to improve the competitive advantage of the farmers in both national and international markets; that the State is committed to cleaning up Delaware's waterways, most of which are impaired to some degree with unhealthy levels of nitrogen, phosphorus, bacteria, and other pollutants; that the Department is working closely with DNREC to help local governments, industry, farmers and residential communities do their part to ensure that all waterways are safe, swimmable, fishable, and even drinkable; that one promising opportunity to both increase the competitiveness of our agriculture industry and simultaneously reduce the quantity of nutrients entering the waterways is to more effectively handle poultry waste, which often has high nutrient content, and converting it into compost products that can be beneficially-used in an environmentally responsible manner; that this project proposed by Chesapeake Agrisoil has this

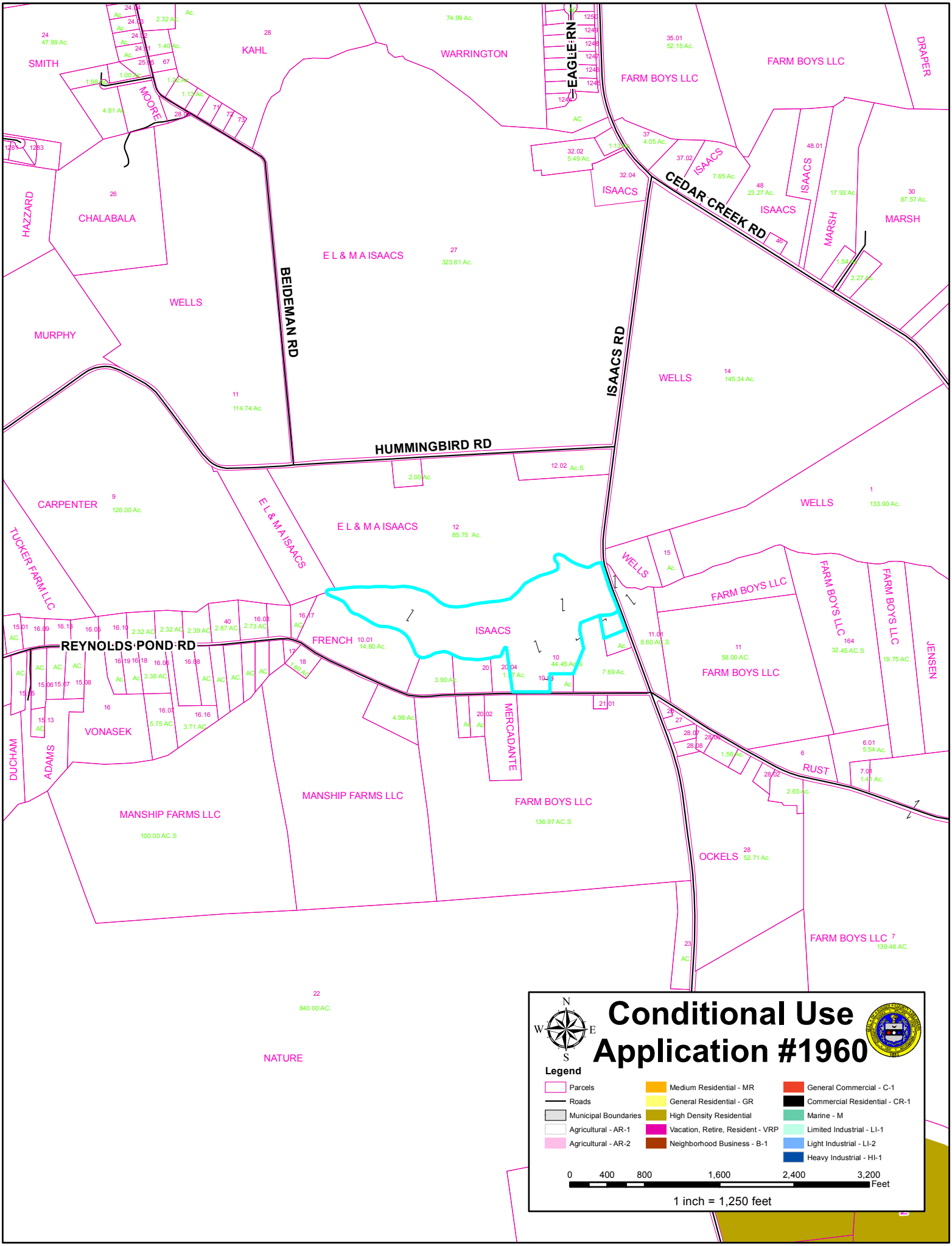
potential; that the project proposed will require multiple State permits from DNREC, including a Beneficial Use Determination, prior to operations, and this letter in no way pre-judges those applications; however, the project holds promise and we look forward to working with the company to ensure that the project meets regulatory standards and contributes to our water quality goals; that the Department is supportive of this application; that the Department also encourages the company to avoid impacts on the wetlands and the forested parts of the site and to enhance these natural resources on the parcel that have the potential to further improve water quality and provide wildlife habitat.

The Commission found that James Hodges, Bonnie Willey, William Mitan, and Larry Brice were present in opposition to this application and expressed concerns about the size of the project and the closeness to the dwellings in the area along O'Neal Road; water quality concerns; odor concerns; that the facility will be outdoors and not indoors like the micro-nutrient plant; concerns about diseases and bacteria; increases in truck traffic; that no lots have been sold in the area since 1999; that people with allergies are impacts by the odors and air pollution; concerns about ground water contamination; concerns about the lack of buffering, since the current buildings and lighting are visible from off-site; noise concerns, especially loading, unloading, shipping and receiving; questioning where the litter comes from, local or out of State; and water runoff.

The Commission found that Mr. Hudson and Mr. Hall responding to the Commission that no arsenic is used or found in their products, to date; that the process water is currently being applied to farm fields; that all materials are tested by DNREC; that the use of the Gore System will help eliminate most odors; that trucks are covered when entering the site; that they anticipate 10 or 12 trucks per day hauling litter; that DNREC has regulations that relate to odors; that DNREC would permit the use on the site without the asphalt pads; that they feel that the use of the asphalt pads will provide more protection; that they have no objection to planting a buffer around the site; that a berm has already been established with trees planted; that DNREC has not violated the micro-nutrient plant for odors; that DNREC does annual visits to inspect the site; that they encourage the neighbors to contact them with any concerns, questions, or for tour of the plant and processes; that the neighbors can contact Steven Lester, Plant Manager at (302) 628-2390 with any questions; and that the litter materials come from the Delmarva Peninsula.

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

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 4 – 0, with Mr. Ross abstaining since he did not participate in the public hearing.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Parcels
Roads
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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
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1 inch = 1,250 feet
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ISAACS RD
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REYNOLDS POND RD
SMITH
KAHL
WARRINGTON
FARM BOYS LLC
DRAPER
MOORE
HAZZARD
CHALABALA
E L & M A ISAACS
WELLS
MURPHY
ISAACS
MARSH
CARPENTER
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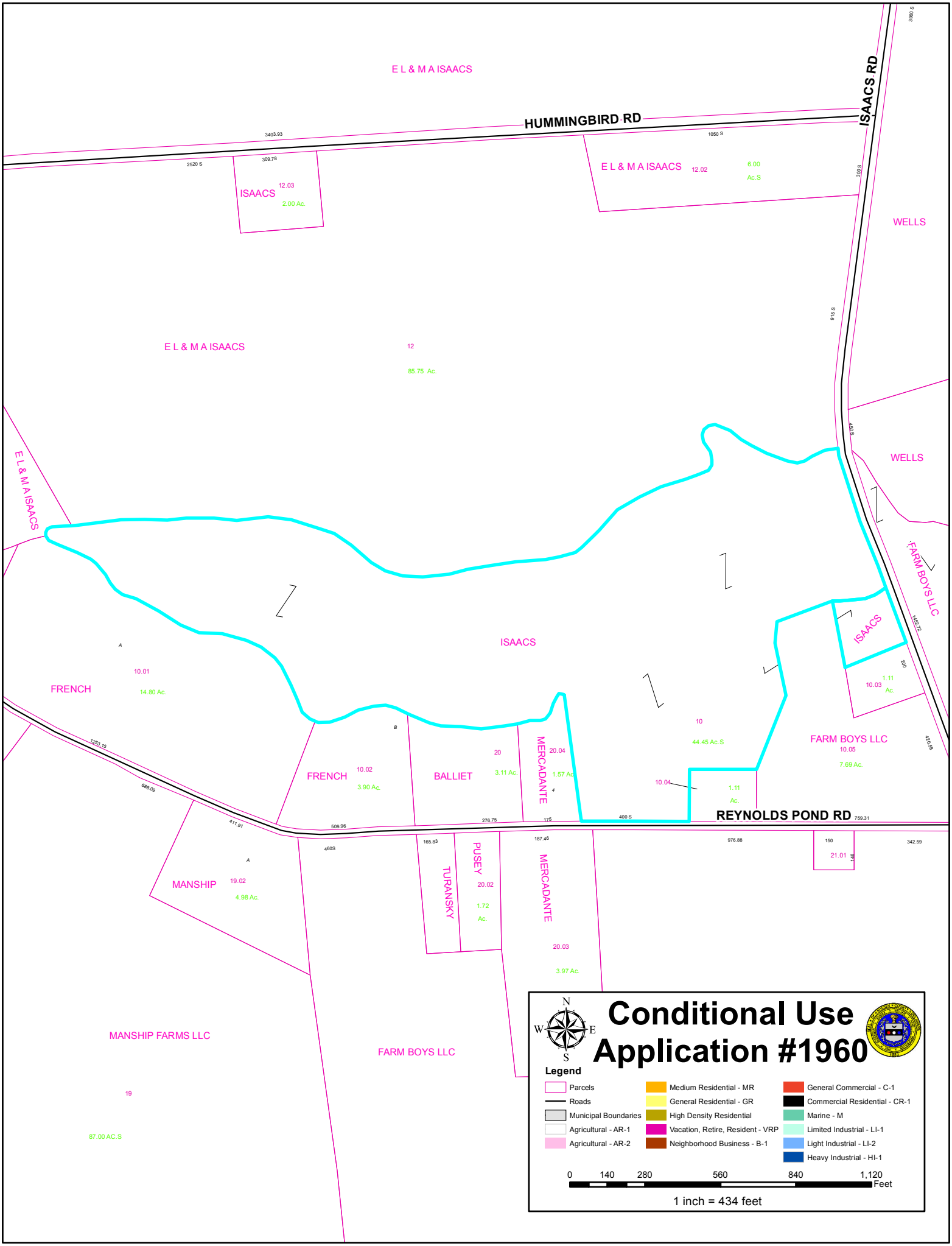
NATURE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Conditional Use
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Legend
Parcels
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Agricultural - AR-1
Agricultural - AR-2
Medium Residential - MR
General Residential - GR
High Density Residential
Vacation, Retire, Resident - VRP
Neighborhood Business - B-1
General Commercial - C-1
Commercial Residential - CR-1
Marine - M
Limited Industrial - LI-1
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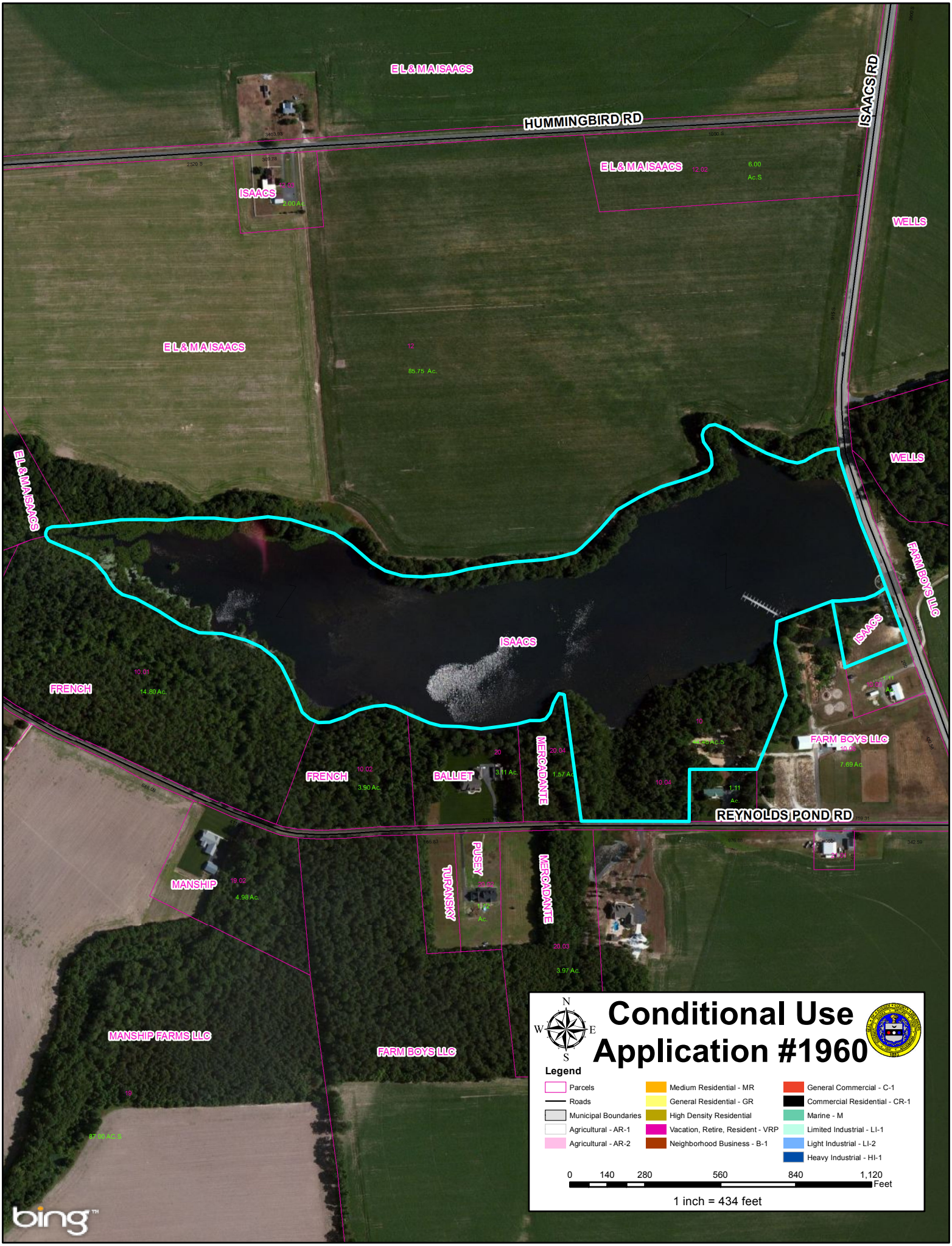
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Conditional Use Application #1960
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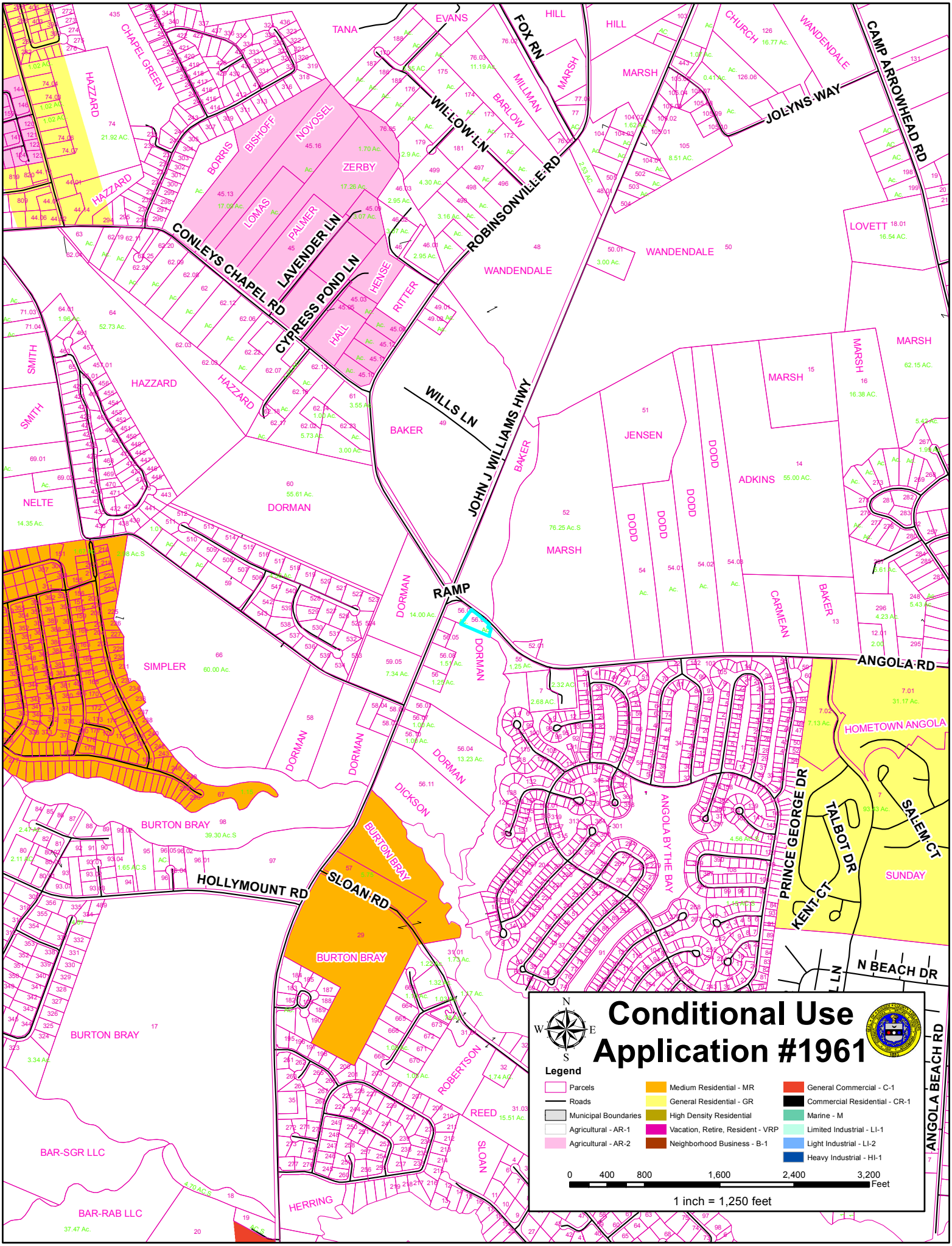
1 inch = 434 feet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Commercial Residential - CR-1
Marine - M
Limited Industrial - LI-1
Light Industrial - LI-2
Heavy Industrial - HI-1
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1 inch = 1,250 feet
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WILLS LN
JOHN J WILLIAMS HWY
RAMP
ANGOLA RD
HOLLYMOUNT RD
SLOAN RD
PRINCE GEORGE DR
TALBOT DR
SALEM CT
KENT CT
N BEACH DR
ANGOLA BEACH RD
HOMETOWN ANGOLA
SUNDAY
ANGOLA BY THE BAY
BURTON BRAY
SIMPLER
DORMAN
NELTE
SMITH
HAZZARD
CHAPEL GREEN
BORRIS
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PALMER
HENSE
RITTER
HALL
WANDENDALE
LOVETT
BAKER
JENSEN
DODD
ADKINS
MARSH
CARMEAN
DICKSON
ROBERTSON
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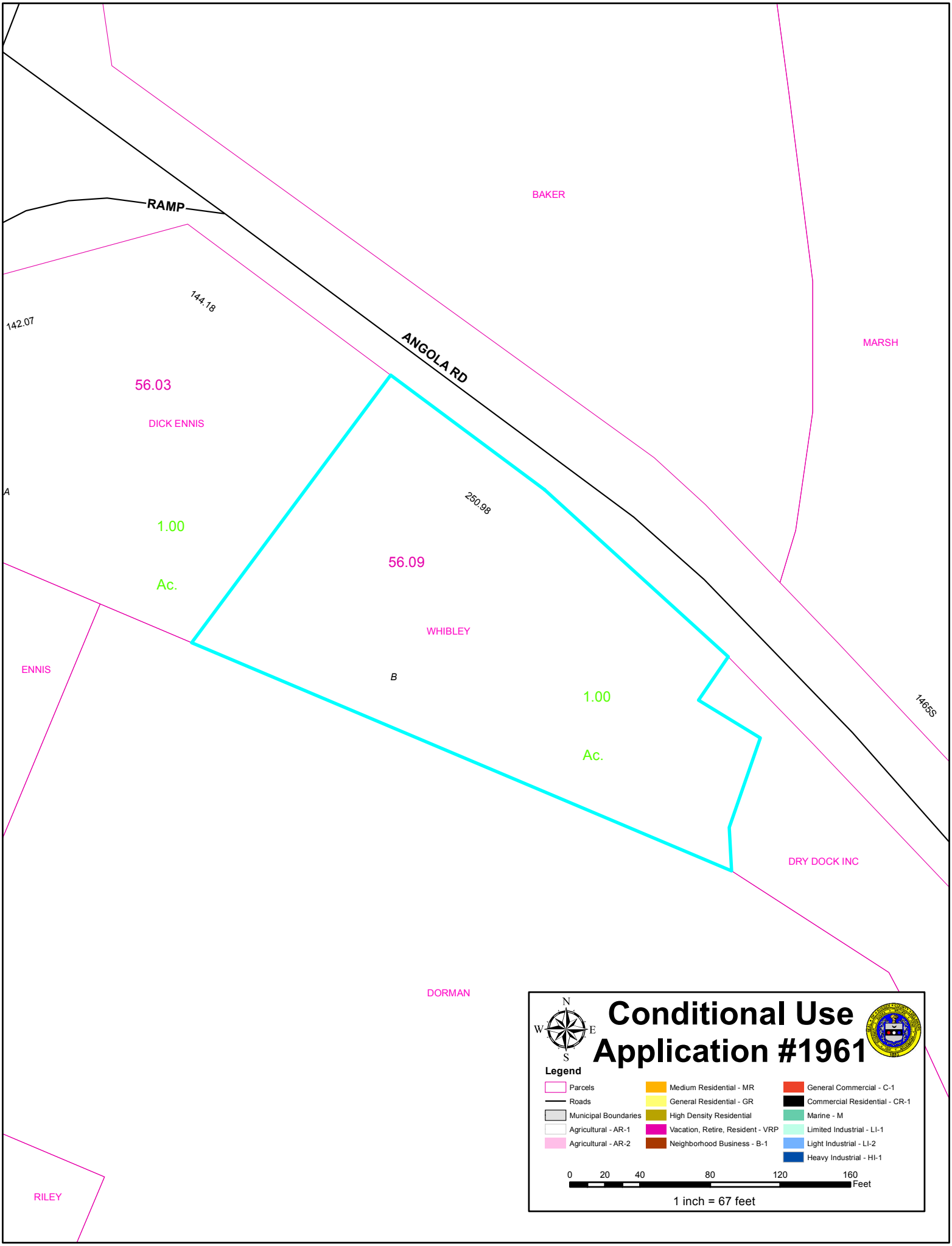
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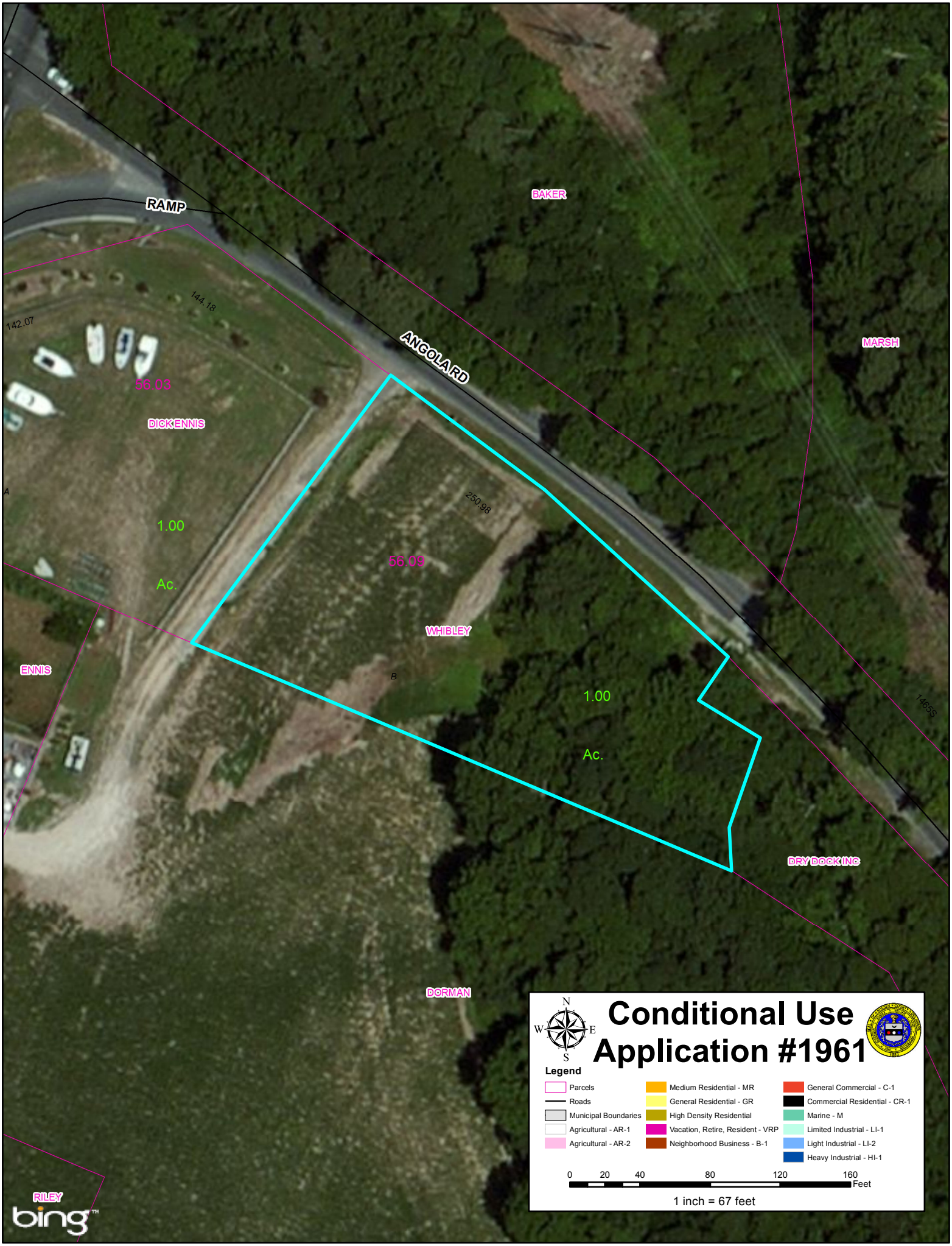
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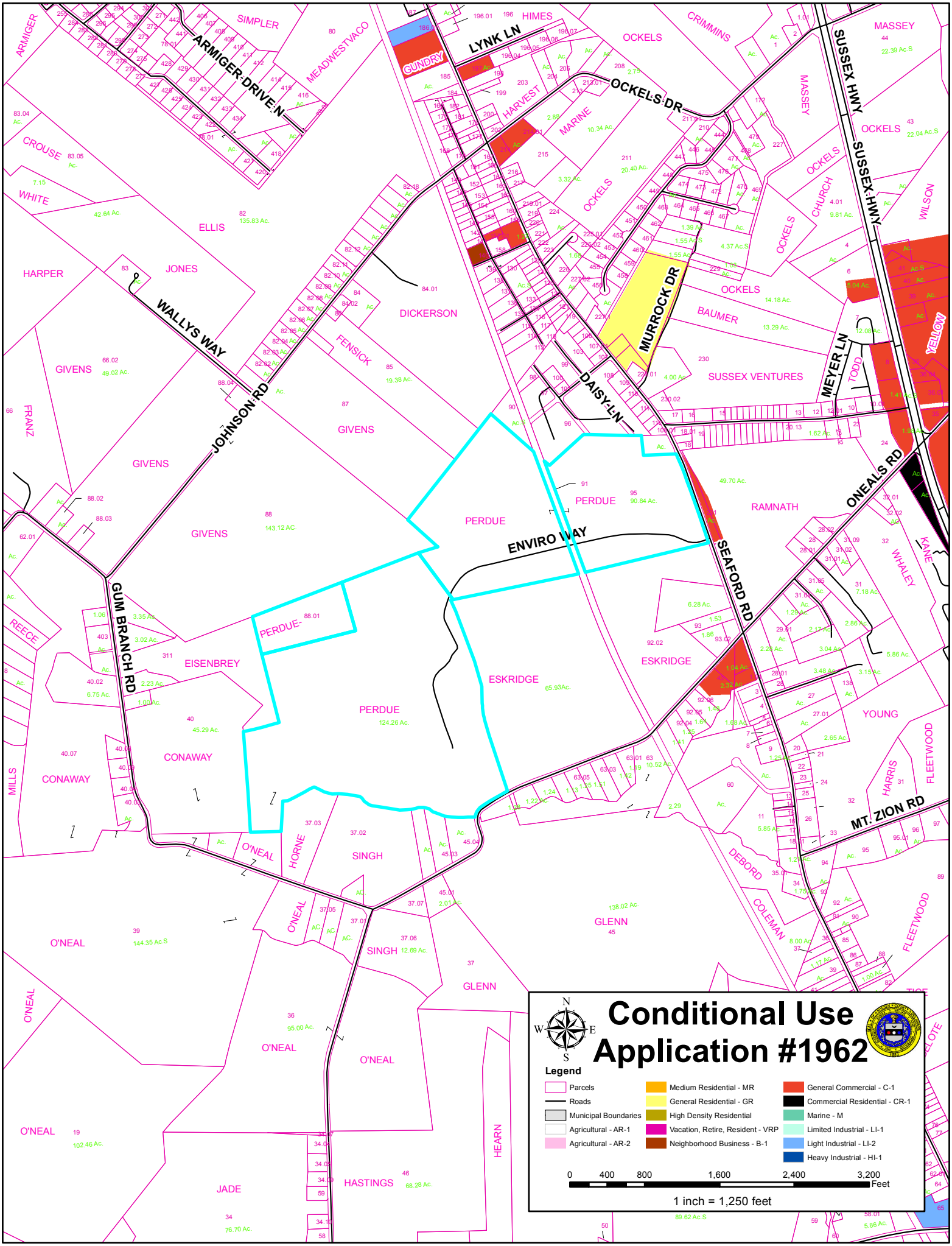
Feet
1 inch = 67 feet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1 inch = 1,250 feet
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MASSEY
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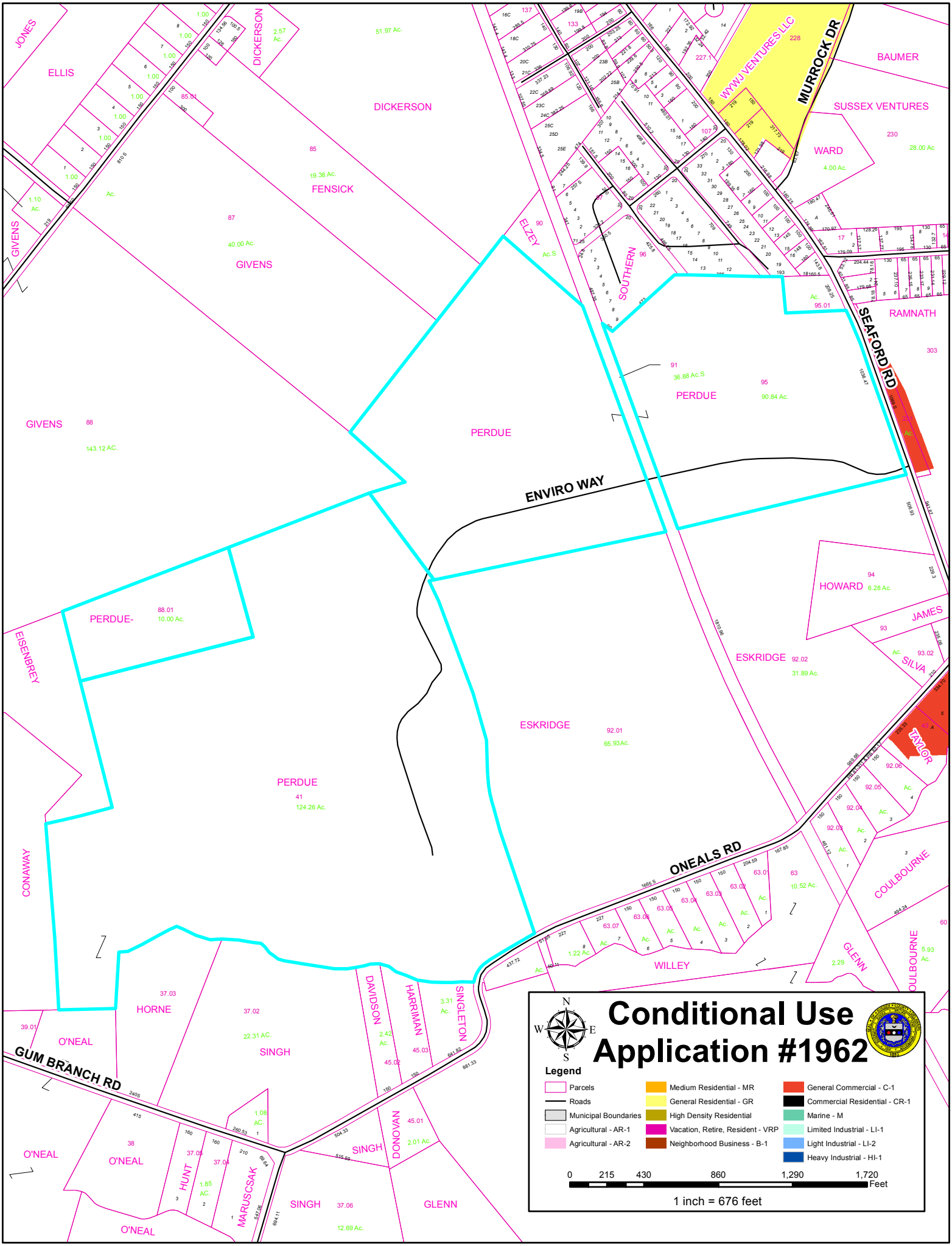
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General Commercial - C-1
Commercial Residential - CR-1
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Light Industrial - LI-2
Heavy Industrial - HI-1
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1 inch = 676 feet
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ENVIRO WAY
ONEALS RD
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ELZEY
SOUTHERN
BAUMER
SUSSEX VENTURES
WARD
RAMNATH
PERDUE
PERDUE-
EISENBREY
CONAWAY
HOWARD
JAMES
SILVA
ESKRIDGE
TAYLOR
COULBOURNE
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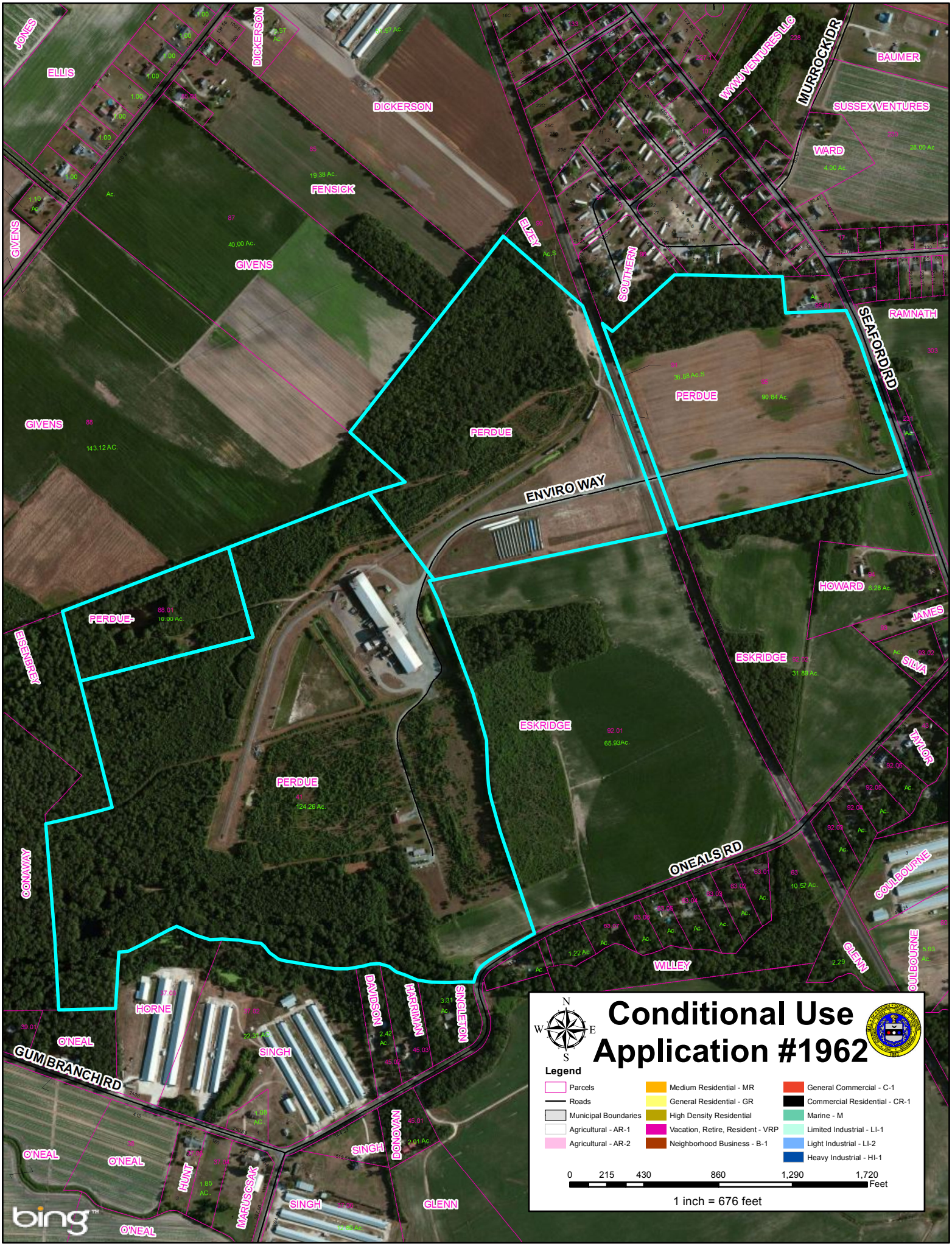
MARUSCSAK


Conditional Use Application #1962
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WWU VENTURES LLC
MURROCK DR
BAUMER
SUSSEX VENTURES
WARD
RAMNATH
SEAFORD RD
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ENVIRO WAY
HOWARD
JAMES
SILVA
ESKRIDGE
ESKRIDGE
TAYLOR
PERDUE
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CONAWAY
ONEALS RD
COULBOURNE
COULBOURNE
GLENN
WILLEY
HORNE
O'NEAL
GUM BRANCH RD
SINGH
DAVIDSON
HARRIMAN
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MARUSCSAK
SINGH
DONOVAN
SINGH
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