



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

**MEETING:  
July 26, 2016**

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**Sussex County Council  
2 The Circle | PO Box 589  
Georgetown, DE 19947  
(302) 855-7743**

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



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sussexcountyde.gov

# Sussex County Council

## AGENDA

JULY 26, 2016

10:00 A.M.

### Call to Order

### Approval of Agenda

### Approval of Minutes

### Reading of Correspondence

### Public Comments

### Todd Lawson, County Administrator

#### 1. Administrator's Report

### Joe Thomas, Director of Emergency Operations

#### 1. Mobile Command Unit – Frontline Contract

### Brandy Nauman, Housing Coordinator & Fair Housing Compliance Officer

#### 1. Proposed Modifications to Sussex County Rental Program

### Jim Hickin, Director of Airport and Industrial Park Operations

#### 1. Deli Days, LLC – Lease Amendment and Equipment Bill of Sale

### Introduction of Proposed Zoning Ordinances

### Council Members' Comments



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

**Possible Action on Executive Session Items**

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

**Change of Zone No. 1801 filed on behalf of Long Neck Road, LLC**

**“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.689 ACRE, MORE OR LESS” (located north of Long Neck Road (Route 22), 1,850 feet east of Banks Road (Road 298) (Tax Map I.D. No. 234-23.00-307.02) (911 Address: 32549 Long Neck Road, Millsboro)**

**Conditional Use No. 2049 filed on behalf of Blue Claw, LLC**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BOAT STORAGE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.5052 ACRES, MORE OR LESS” (located southeast of Downs Landing Road (Road 313A) 235 feet southwest of River Road (Road 312) (Tax Map I.D. No. 234-34.00-298.01 & 292.00) (911 Address: 30842 Downs Landing Road, Millsboro)**

**Adjourn**

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

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In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on July 19, 2016 at 4:15 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.

###

# Mobile Command Unit

- Used during weather related incidents
- Utilized as a back-up 9-1-1 service to citizens
- Provides Continuity of Operation to critical County functions
- Utilized by the fire service during large incidents such as forest fires, mass causality incidents, and hazardous materials spills
- Utilized during large events such as Apple-Scrapple Festival, July 4<sup>th</sup> Fireworks, Punkin Chunkin, and Return Day



Current Mobile Command Unit is 15 years old with outdated technology

# Mobile Command Unit

- The purchase is being made through a state contract vendor.
- Government Support Services, Office of Management and Budget has entered into a cooperative agreement Houston-Galveston Area Council of Governments (HGACBUY)
- Frontline is the vendor awarded in the HGACBUY agreement.





# Mobile Command Unit

Mobile Command Unit	Equipment	Total Cost
\$1,369,800	\$250,600	\$1,620,400

	DEMA/FEMA Funding	Sussex County Funding	Total Funding
FY2013 leftover EMPG	\$51,000	\$51,000	\$102,000
FY2014 EMPG	\$316,950	\$316,950	\$633,900
FY2015 EMPG	\$316,950	\$316,950	\$633,900
FY2014 Homeland Security	\$175,600		\$175,600
FY2015 Homeland Security	\$75,000		\$75,000
<b>Total</b>	<b>\$935,500</b>	<b>\$684,900</b>	<b>\$1,620,400</b>

BRANDY BENNETT NAUMAN  
HOUSING COORDINATOR &  
FAIR HOUSING COMPLIANCE OFFICER  
(302) 855-7777 T  
(302) 854-5397 F  
bnauman@sussexcountype.gov



**Sussex County**  
DELAWARE  
sussexcountype.gov

## **MEMORANDUM**

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

FROM: Brandy Nauman, Fair Housing Compliance Officer

RE: **Sussex County Rental Program – Proposed Modifications**

DATE: July 21, 2016

Recognizing that our current Sussex County Rental Program (SCRCP) could be improved to encourage the development of more affordable rental housing, the Community Development & Housing Department held an initial meeting with stakeholders for some preliminary input on potential changes to the SCRCP. Below are some proposed modifications to the SCRCP that were discussed and that we would like to bring to your attention for discussion before we continue with the process:

1. Changing the current affordable unit set-aside requirements
2. Setting fixed rental rates based on bedroom size
3. Eliminating the 25-unit minimum project size
4. Developer/Property Manager to determine tenant eligibility
5. Floating unit concept to accommodate increases in tenant income

If you have any questions, please do not hesitate to ask. Thank you.

CC: Brad Whaley, Director of CD&H  
Stephanie Hansen, Esquire  
Robin Griffith, Clerk of Council



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

## ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
ENVIRONMENTAL SERVICES	(302) 855-7730
PUBLIC WORKS	(302) 855-7703
RECORDS MANAGEMENT	(302) 854-5033
UTILITY ENGINEERING	(302) 855-7717
UTILITY PERMITS	(302) 855-7719
UTILITY PLANNING	(302) 855-1299
FAX	(302) 855-7773



## Sussex County

DELAWARE

[sussexcountype.gov](http://sussexcountype.gov)

HANS M. MEDLARZ, P.E.  
COUNTY ENGINEER

JAMES A. HICKIN, A.A.E.  
AIRPORT MANAGER

### MEMORANDUM

**TO:** Sussex County Council

**THROUGH:** Todd Lawson  
County Administrator

**FROM:** Jim Hickin, A.A.E.  
Airport Manager

**DATE:** July 22, 2016

**RE:** RESTAURANT LEASE

I am on the July 26<sup>th</sup> agenda to ask Council's approval to execute a lease amendment with Deli Days, LLC, for the restaurant space at the airport. Deli Days has operated Arena's at the Airport since March 2013.

The lease amendment will do the following:

- Extend the initial term of the lease from March 31, 2018 to March 31, 2022.
- Changes the rent structure from a percent of sales (with cap) to a fixed rent
- Transfers ownership of the restaurant equipment and furniture to Deli Days
- County to loan Deli Days up to \$25,000 for new furniture and equipment
- Loan to be repaid over five years

Arena's has been a great success for the Airport. This lease amendment will maintain Arena's as a tenant for four additional years, as well as assist in a much needed upgrade to the facility.

Please feel free to call me at 855-7775 with any questions.

cc: Hans Medlarz, P.E., County Engineer



AIRPORT TERMINAL BUILDING  
21553 RUDDER LANE | PO BOX 589  
GEORGETOWN, DELAWARE 19947



## FIRST AMENDMENT TO LEASE AGREEMENT

**THIS FIRST AMENDMENT** to a Lease Agreement is made and executed on this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2016 by and between:

**SUSSEX COUNTY, DELAWARE**, a political subdivision of the State of Delaware, with an address of 2 The Circle, Georgetown, Delaware 19947, hereinafter referred to as “**Lessor**”

**AND**

**DELI DAYS, LLC**, a Delaware Limited Liability Company, t/a Arena's at the Airport, with an address of 149 Rehoboth Avenue, Rehoboth Beach, Delaware 19971, hereinafter referred to as “**Lessee**”

### **WITNESSETH**

**WHEREAS**, on February 23, 2013, Lessor and Lessee entered into a Lease Agreement (hereinafter “the Lease”) for space located at 21553 Rudder Lane, Georgetown, Delaware 19947 as further described as the shaded area on the site plan on Exhibit A of the Lease (hereinafter “the Leased Property”);

**WHEREAS**, Lessor and Lessee hereto desire to amend the terms of the Lease as set forth herein,

### **WITNESSETH:**

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessor and Lessee hereby agree to amend the Lease as follows:

1. Paragraph 1.1(e) of the Lease is hereby removed and replaced with the following language:

“**e. Lease Term.** Starts on the Lease Commencement Date (March 15, 2013) and ends on March 31, 2022.”

2. Paragraph 1.1(f) of the Lease is hereby removed and replaced with the following language:

“f. **Options to Extend.** Option to extend the Lease for the one (1) successive 5 year term, at the discretion of the Landlord as provided herein.”

3. Paragraph 1.1(g) of the Lease is hereby removed and replaced with the following language:

“g. **Rent.**

1. From March 15, 2013 until March 31, 2016, to be calculated at 3% of gross sales, capped at \$500,000 of annual sales. Maximum annual rent \$15,000.

2. From April 1, 2016, until March 31, 2018, annual rent shall be \$15,000.00.

3. From April 1, 2018, until March 31, 2022, annual rent shall be \$17,000.00.

4. The annual rent during the renewal term, if exercised, shall be \$17,000.00 plus yearly adjustments for cost of living based on the Consumer Price Index as set forth herein.”

4. Paragraph 2.1 of the Lease is hereby removed and replaced with the following language:

“**§2.1 Premises and Equipment:**

- a. **Premises.** Landlord, as the land owner, leases the Premises to Tenant and Tenant rents them from Landlord. As long as Tenant performs its obligations under this Lease, Tenant may peaceably and quietly hold and enjoy the Premises for the Lease Term without interruption by Landlord. The square footage of the Premises as shown on the shaded area of the Site Plan attached hereto as Exhibit “A” shall be deemed to be the square footage of the Premises for all purposes of this Lease.

**b. Equipment.**

1. **Existing Equipment.** Landlord is the owner of the equipment listed in Exhibit "H" of this Lease and, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord does grant, sell, transfer and deliver to Tenant all of Landlord's interest in the equipment listed in Exhibit "H" of this Lease.

2. **New Equipment.** On or before March 1, 2017, Tenant shall order new restaurant furniture and equipment ("the New Equipment") to be used solely on the Leased Premises during the Lease Term. Landlord agrees to pay for the cost of the purchase of the New Equipment up to a maximum amount of Twenty Five Thousand Dollars (\$25,000.00). Invoices for the New Equipment shall be directed to Landlord and Landlord shall retain ownership of the New Equipment. It is expressly understood and agreed that Landlord shall not be responsible for the payment of the New Equipment in excess of a total of Twenty Five Thousand Dollars (\$25,000.00). Upon purchase and acquisition of the New Equipment, Landlord leases the New Equipment to Tenant for use at the Leased Premises. Tenant shall repay to Landlord the cost of the New Equipment in five (5) equal annual installments with the first payment being due on September 1, 2017, and subsequent installments being due on September 1<sup>st</sup> of each successive year. The balance shall be paid in full no later than September 1, 2021, at which time Landlord shall transfer to Tenant all of Landlord's interest in the New Equipment provided that Tenant is compliant with all of the terms of this Lease. All payments due under this section shall be deemed Additional Rent."

5. Paragraph 2.3 of the Lease is hereby removed and replaced with the following language:

**“§2.3 Option Term:** If provided in §1.1(f), and subject to the conditions of this §2.3, Tenant may request an extension of the Lease Term the number of times as provided in §1.1(f), each time for the number of years as provided in §1.1(f). Tenant may not request an Option to Extend if Tenant is in default under this Lease at the time of such request. In addition, Tenant’s request for an Option to Extend is void if, Tenant is in default under this Lease at any time during the 12 months before the extension term is to commence. To request an Option to Extend, Tenant shall send an irrevocable, unconditional request to Landlord at least 180 days before the then current term expires. The Landlord shall have 90 days to grant or reject such Option to Extend. Each extension begins on the expiration of the prior term. An Option to Extend may not be exercised more than 2 years before its extension would commence.”

6. Paragraph 4.1 of the Lease is hereby removed and replaced with the following language:

**“§4.1 Rent:**

a. From March 15, 2013, until March 31, 2016, rent is payable monthly, calculated as a percentage of gross sales. Tenant shall total sales monthly and multiply by 3% to calculate rent due. Tenant shall forward payment of all rents due no later than the 15<sup>th</sup> day of the following month for every month. Rent will not be charged on sales in excess of \$500,000 per year. This calculation caps maximum rent paid by tenant to landlord at \$15,000 annually. Annual rent calculations start April 1 of each year and end on March 31 of the following year. This term is used to calculate Maximum Annual Rent.

b. From April 1, 2016, until March 31, 2018, the annual rental rate shall be Fifteen Thousand Dollars (\$15,000.00), which shall be payable in six (6) equal installments of Two Thousand Five Hundred Dollars (\$2,500.00) in

advance on the first day of each month commencing on April 1<sup>st</sup> of each lease year and the last payment being due on September 1<sup>st</sup> of each lease year.

c. From April 1, 2018, until March 31, 2022, the annual rental rate shall be Seventeen Thousand Dollars (\$17,000.00), which shall be payable in six (6) equal installments of Two Thousand Eight Hundred Thirty Three and 33/100 Dollars (\$2,833.33) in advance on the first day of each month commencing on April 1<sup>st</sup> of each lease year and the last payment being due on September 1<sup>st</sup> of each lease year.

d. If the Option to Extend as set forth in §2.3 is exercised and the Lease Term is extended, the annual rent during the renewal term shall be Seventeen Thousand Dollars (\$17,000.00) as adjusted pursuant to this paragraph. The annual rent under this §4.1(d) of this Lease Agreement shall be adjusted yearly during the renewal term to reflect any change in the cost of living. The adjustment, if any, will be calculated on the basis of the percentage increase equal to the most recent Consumer Price Index for All Items, All Urban Consumers, U.S. City Average (CPI-U Table A, unadjusted as published monthly by the United States Department of Labor, Bureau of Labor Statistics). If publication of the above index shall be discontinued, then another index generally recognized as authoritative, shall be substituted as selected by Landlord. The rent for the first year of the renewal term shall be adjusted by the percentage increase from April 1, 2013, until March 31, 2022. The rent for each subsequent year of the renewal term will be adjusted by the percentage increase from the last preceding year, if any. Within thirty (30) days after Landlord gives Tenant notice of the adjusted rent, Tenant will pay the adjusted rent retroactive to the first month of the then current lease year. The adjusted rent will be the yearly rent for the balance of the then current lease year. Landlord will give Tenant written notice indicating how the adjusted rent amount



was computed. Rent for each lease year of the renewal term shall be payable in six (6) equal installments in advance on the first day of each month commencing on April 1<sup>st</sup> of each lease year and the last payment being due on September 1<sup>st</sup> of each lease year.”

7. Paragraph 9.5 of the Lease is hereby removed and replaced with the following language:

**“§9.5 Lien on Tenant’s Assets:** To secure the performance of Tenant’s obligations under this Lease, Tenant grants to Landlord a security interest in all of Tenant’s equipment, furniture, furnishings, appliances, goods, trade fixtures, inventory, chattels and personal property at the Premises, including after-acquired property, replacements and proceeds. Tenant shall sign any documents to evidence or perfect Landlord’s security interest such as financing statements or additional security agreements, and shall pay all costs and fees to file such documents. Landlord has all rights and remedies of a secured party under the Uniform Commercial Code of the State of Delaware. Landlord’s security interest is subordinate to the lien or security interest of any vendor or lessor of goods or fixtures on the Premises and of any lender taking or succeeding to a purchase money security interest on such goods or fixtures. At Tenant’s request and expense, if no default exists under this Lease, Landlord shall sign an instrument, in form and content satisfactory to Landlord, effecting or confirming such subordination. The security interest and lien in this § 9.5 are in addition to any landlord’s lien provided by the law of Delaware. Notwithstanding any provision contained in this Article 9, the County owns all New Equipment as set forth in § 2.1.”

8. **Interpretation of Amendment.** All other terms and conditions of the Lease dated the 23<sup>RD</sup> day of February, 2013 shall remain intact and in full force and effect. Wherever there exists a conflict between this First Amendment and the

Lease, the provisions of this First Amendment shall control. Unless otherwise indicated, capitalized terms shall be defined in the manner set forth in the Lease.

9. **Counterparts**. This First Amendment may be signed in one or more counterparts (including by facsimile, PDF or other electronic means), each of which shall be deemed an original and all of which, taken together, shall constitute one (1) instrument.

**IN WITNESS WHEREOF**, the parties hereto have hereunto set their hands and seals, this \_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_\_.

**Attest:**

**LESSOR: SUSSEX COUNTY COUNCIL**

\_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** Clerk of County Council

\_\_\_\_\_  
\_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**J. Everett Moore, Jr., County Attorney**

**Attest:**

**LESSEE: DELI DAYS, LLC**

\_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

**BILL OF SALE**

**SUSSEX COUNTY, DELAWARE**, a political subdivision of the State of Delaware, (hereinafter referred to as "Seller"), in consideration of the sum of One Dollar (\$1.00), and other good and valuable consideration, receipt of which is hereby acknowledged, does grant, sell, transfer and deliver to **DELI DAYS, LLC**, a Delaware Limited Liability Company, (hereinafter referred to as "Buyer") the following:

Certain furniture and equipment listed on Exhibit H attached hereto  
(hereinafter collectively referred to as "the Goods").

Seller is the lawful owner of the Goods. Pursuant to this Bill of Sale, Buyer shall have all rights and title to the Goods.

IN WITNESS WHEREOF, Seller has executed this Bill of Sale on this \_\_\_\_\_ day  
of \_\_\_\_\_, 2016.

**Attest:**

**SELLER: SUSSEX COUNTY COUNCIL**

\_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** Clerk of County Council

\_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

(SEAL)

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**J. Everett Moore, Jr., County Attorney**

## EXHIBIT H

SUSSEX COUNTY COUNCIL  
AIRPORT TERMINAL BUILDING  
RESTAURANT EQUIPMENT

QUANTITY	ITEM	ASSET TAG#	ASSET#
1	American Range 60" wide	3472	
1	Rankin Charbroiler Grill 72"	5942	
1	Captive Air Hood System 10' PC	3475	
1	Keating Floor Fryer 18TS	3462	
1	Keating Floor Fryer 20TS	3463	
1	Imperial Griddle 36"	3468	
1	Imperial Griddle 48"	3467	
1	Cleveland Steamer	5944	
1	Hot Food Table w/overshelves	5943	
1	Victory 6' Cooler/Food Table	3478	
1	Iceomatic Ice Machine	3473	
1	Wire Shelving for Cooler	CBT	
1	US Foods Dishwasher		
1	Pre-Rinse Sink (Metal Master)	3470	
1	ADV. Tabco 3-Bowl Sink	3469	
1	True Dessert Cooler	3476	
1	6-foot Draft Beer Serving Cooler w/three taps - stainless steel		40301
1	4-bin stainless steel sink - bar		40302
1	4 ft. sliding top bottled Beer Cooler stainless - bar		40303
1	Small bar sink for washing hands - bar		40304
1	Stainless ice container - bar		40305
2	Sanyo TN sets with Direct TV receiver boxes & wall mounts - bar		40306 & 40307
2	Child's Booster Seats		40308 & 40309
2	High Chairs		40310 & 40311
6	36" Round Top Barstool Height Tables		40312
28	Slat Back Upholstered Bar Stools		40313
3	Stereo Speakers - wall-mounted		40314
6	Blue Seat/Black Steel Open Back Chairs (Restaurant seating)		(See furniture)
3	Beige Chairs Full Upholstery (Restaurant seating)		(See furniture)
13	Square Wood Top Restaurant Tables		40315
2	6' Folding Tables		40316
5	6' Wood Top Restaurant Tables		40317
6	Ladder-back Chairs upholstered seat (Restaurant seating)		40318
40	Closed Back Chairs (Restaurant seating)		40319
8	Complete 6' Upholstered Restaurant Booths w/Tables		40320

**PUBLIC HEARINGS**  
**July 26, 2016**

**This is to certify that the Sussex County Planning and Zoning Commission conducted public hearings on the below listed applications for Change in Zone and Conditional Use. At the conclusion of the public hearings, the Commission moved and passed that the applications be forwarded to the Sussex County Council with the recommendations as stated.**

**COUNTY PLANNING AND ZONING  
COMMISSION OF SUSSEX COUNTY**

**Lawrence B. Lank**  
**Director of Planning and Zoning**

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

**C/Z #1801 – Long Neck Road, LLC**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a CR-1 (Commercial Residential District) for a certain parcel of land lying and being in Indian River Hundred, Sussex County containing 0.689 acre, more or less. The property is located north of Long Neck Road (Route 22), 1,850 feet east of Banks Road (Road 298). (911 Address: 32549 Long Neck Road, Millsboro) Tax Map I.D. 234-23.00-307.02.**

Mr. Lank advised the Commission that the applicant provided surveys of the property with his application, filed on March 31, 2016, and provided an Exhibit Booklet on June 15, 2016. The Exhibit Booklet contains a copy of the application form, a copy of the deed to the property, a boundary survey, site photographs, a DelDOT concept plan, a DelDOT letter and Support Facilities Report, and suggested proposed Findings of Fact.

The Commission found that the Sussex Conservation District provided comments in the form of a memorandum, dated June 21, 2016, referencing that development of the site will require the developer to follow recommended erosion and sediment control practices during construction and to maintain vegetation after construction; that no storm flood hazard areas are affected; and that no tax ditches are affected.

The Commission found that the Sussex County Engineering Department Utility Planning Division provided comments in the form of a memorandum, received June 20, 2016, referencing that the site is located in the Long Neck Sanitary Sewer District; that the parcel has been



provided with a 6-inch sanitary sewer lateral and the existing home was connected to sewer on November 6, 2002; that a lateral upgrade could be required, depending on the proposed use; that conformity to the North Coastal Area Planning Study will be required; that the commercial use of the parcel is not expected to have an adverse impact on the sewer system; and that a concept plan is required.

The Commission found that Chris Little of Long Neck Road, LLC was present with Dennis Schrader, Esquire of Morris James Wilson Halbrook & Bayard, LLP, and that the stated in their presentation and in response to questions raised by the Commission that the Exhibit Booklet provided contains a copy of the application form, the deed to the property, the survey of the property, road side Google photographs, a site plan, DelDOT comments in the form of a letter and Support Facilities Report, and suggested proposed Findings of Fact; that the majority of the parcels in the immediate area are used for business or commercial purposes; that the site is located in the Environmentally Sensitive Developing District Overlay Zone; that there are no wetlands on the property; that the lot is improved with a modular home and accessory buildings; that the site is in close proximity to stores, shops, restaurants, boat storage facilities, a dog kennel service and other business/commercial uses; that the area is heavy commercial in activities; that the applicant may establish an office on the property as depicted on the proposed site plan; that security lighting may be installed; that central sewer is available; that the rezoning is an infill parcel surrounded by other business and commercial zonings; that they have offered proposed Findings of Fact for consideration; and that the use should not impact traffic.

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 C/Z #1801 for Long Neck Road, LLC for a rezoning from AR-1 Agricultural Residential to CR-1 Commercial Residential based on the record made during the public hearing and for the following reasons:

- 1) The property is located in a Developing Area according to the Sussex County Land Use Plan. This area is appropriate for commercial zoning under the Plan.
- 2) The properties in the immediate vicinity include other commercial and business uses, including restaurants, dog kennels, and storage units.
- 3) This rezoning is consistent with these existing uses. This location, along Long Neck Road, is appropriate for commercial development and commercial zoning.
- 4) The rezoning will not have an adverse impact on neighboring properties or roadways.
- 5) The property will be served by central sewer provided by Sussex County. Sewer is a part of the Long Neck Sanitary Sewer District.
- 6) No parties appeared in opposition to the application.

Motion by Mr. Johnson, seconded by Mr. Hudson, 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.

C/U #2049 – Blue Claw, LLC

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a boat storage facility located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.5052 acres, more or less. The property is located southeast of Downs Landing Road (Road 313A) 235 feet southwest of River Road (Road 312). (911 Address: 30842 Downs Landing Road, Millsboro). Tax Map I.D. 234-34.00-298.01 and 292.00.

Mr. Lank advised the Commission that the application was filed on March 14, 2016 with a survey/site plan of the area. The survey depicts the existing improvements on the property, but does not show any specific detail in the proposed layout of the parking areas for boat storage.

The Commission found that DelDOT provided comments on July 30, 2015 in the form of a Support Facilities Report referencing that a traffic impact study is not recommended and that the current Level of Service “A” of Downs Landing Road will not change as a result of this application.

The Commission found that the Sussex County Engineering Department Utility Planning Division provided comments on May 25, 2016 in the form of a memorandum referencing that the project is not located in a County operated or maintained sanitary sewer and/or water district; that there is no sewer service to this parcel at this time; that the County does not have a schedule to extend sewer service at this time; that conformity to the North Coastal Area Planning Study and amendments will be required; that the parcels being considered are located within a planning area for future sewer service; that when the County does provide sewer service, connection to the system is mandatory; and that a concept plan is not required at this time.

Mr. Lank advised that Commission that the Department has received 17 letters or emails in support of the application and 16 letters or emails in opposition to the application.

The Commission found that John Vancleve, the property owner, was present and stated in his presentation and in response to questions raised by the Commission that he is proposing a boat storage facility; that he owns the dwelling on the front lot and it is a rental; that access to the boat storage facility goes through the front lot; that there is no electric to the proposed storage facility; that it appears that prior to his purchase of the lot, the neighbors used the lot for disposal of broken down trailers, lawn mowers, ATVs, boats, vehicles and scrap/debris; that neighbors had used the lot for riding dirt ATVs and had built jumps; that during his cleanup of the lot he found remains of an underground irrigation system, fencing, and dozens of tomato cages; that currently the dwelling is rented and the garage is used to store his personal tools and gardening equipment, and his antique vehicle; that the small barn on the lot has been re-sided, re-roofed and secured; that the lot has been cleared, cleaned up, and is mowed regularly; that currently he stores his boat, his vehicle haul trailer for his antique vehicle, his small utility trailer; and some boats and boat trailers that belong to neighbors in Gull Point; that it should be noted that Gull Point is a marina condominium community that does not allow for the storage of trailers and/or boats; that his request is intended to allow for a parking lot for himself, his family, and friends in Gull Point; that there is no water, electricity, or sewer on the lot, therefore maintenance will not be performed on the boats; that the lot will only be used for the storage of boats, not campers or

motor homes; that overnight occupancy of the boats will not be allowed; that no shrink wrapping will be performed on the site; that during the boating season most of the boats will be in their marinas and only boat trailers will be stored on the lot; that once the boating season ends the boats will be covered by their owners and then stored; that access is proposed to be limited to the existing driveway from dawn to dusk daily; that a six (6) foot high chain link fencing with barbed wire across the lot and locked gate will secure the lot to prevent invasion to and from adjoining properties by anyone not permitted to use the lot; that night vision, motion sensors, recording cameras on the garage roof will overlook the lot; that the full time renters of the dwelling will help with security; that trespassers will not be tolerated and will be prosecuted; that his neighbors have been very supportive of his efforts to clean up the site and have commented positively on the changes and improvements; that he is willing to work with the HOA of Gull Point to make any reasonable changes suggested; that the closest boat storage and repair facility is on Route 24; and that it has been suggested that he relocated the driveway to the storage lot on the opposite side of the dwelling, rather than between the dwelling and the garage.

Mr. Lank advised Mr. Vancleve that he will be required to obtain DeIDOT's approval if the use is approved and that if the entrance is proposed to be relocated to the opposition side of the dwelling it may require closure of the existing entrance and construction of a new entrance that will serve the storage yard and the dwelling.

The Commission found that Mr. Vancleve submitted four (4) additional letters in support of the application and an aerial photograph with a sketch of the property, and an aerial photograph of the area.

The Commission found that Larry Ross and Robert Interline were present in support of the application and expressed concerns about the negative letter from the HOA of Gull Point, and adding that this site is a convenient location for residents of the area that own boats to store their boats.

The Commission found that Alfred Haynes, Gerald Shock, and Teresa Townsend were present in opposition to the application and expressed concerns about the history of the lot; that boats were stored on the lot, but not as an official boat storage facility; that traffic congestion on such a narrow road is a concern; that a boat storage facility is not an appropriate use in a residential area; that children live in the area causing a safety concern; that some of the residents in Gull Point are hoping that the use will be approved so that they can park their boats on the lot since they cannot park them in Gull Point; that trespass is a concern; that vandalism is a concern; that boat storage areas have a history of vandalism and thefts since batteries, electronics, and small equipment seem to disappear; that the applicant does not intend to live on the premise or have someone live or be on the premise for security purposes; that some of the area residents have a fear of a precedent being established if this project is approved causing additional applications along this road; that another storage site exists within one mile of the property; that there are three storage areas within 1.2 miles of the property; that environmental concerns could exist relating to leaking oils, fluids, etc.; that the application does not appear to be consistent with the Comprehensive Plan; and that too many Conditional Uses are being granted.

The Commission found that Mr. Haynes submitted a letter in opposition from Lorraine Johnson, and some pictures of the area and site.

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

On May 26, 2016 there was a motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

On June 23, 2016 the Commission discussed this application under Old Business.

Mr. Ross stated that he would move that the Commission recommend a denial of Conditional Use No. 2049 for Blue Claw, LLC for a boat storage facility based on the record made during the public hearing and for the following reasons:

- 1) The area is residential in character, which is not consistent with the use as a boat storage facility. While the location is near the water and marinas, there are other locations within the general vicinity that could be more appropriate and which will not have such an impact on the existing homes that surround this property.
- 2) The applicant acknowledges that the boat storage area needs to be secured, and has proposed a 6 foot high chain link fence topped with barbed wire. This industrial type of fencing is also inconsistent with the surrounding single family neighborhood and is inappropriate for this location.
- 3) The Gull Point Homeowners Association, which governs the development next door to the proposed storage site, has opposed the application.
- 4) There are no other approved business or commercial uses in the immediate vicinity of the proposed use.
- 5) There is not adequate access to the proposed facility from the adjacent and narrow State right-of-way. In this case, the applicant has stated that the boat storage area would be accessed through the front of the property, where a rental dwelling owned by the applicant is also located. This is not an appropriate entrance for regular vehicle and boat traffic, especially when the storage area can be accessed from dawn to dusk by anyone with a boat there.
- 6) Unlike some other small business and storage sites that have been permitted in the past, this property will not be occupied by the applicant. So, there would only be limited control over how it is used, how it is accessed, or how it is maintained. These circumstances also make it inconsistent with its location surrounded by residential homes and the Gull Point development.

Motion by Mr. Ross, seconded by Mr. Burton, and carried unanimously to forward C/U #2049 for Blue Claw, LLC to the Sussex County Council with the recommendation that the application be denied for the reasons stated. Motion carried 5 – 0.

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**Sussex County**  
DELAWARE  
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## Memorandum

To: Sussex County Planning Commission Members  
From: Janelle Cornwell, AICP, Planning & Zoning Manager  
CC: Lawrence Lank, Planning Director, Vince Robertson, Assistant County Attorney  
Date: June 15, 2016  
RE: Staff Analysis for CZ 1801 Long Neck Road, LLC

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This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1801 Long Neck Road, LLC to be reviewed during the June 23, 2016 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for parcel 234-23.00-307.02. The property is 0.689 ac. +/- . The applicant is seeking to change the zone of the property from AR-1 (Agricultural Residential District) to CR-1 (Commercial Residential District).

The 2008 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map indicates that the properties have the land use designation Environmentally Sensitive Developing Areas.

The surrounding land uses to the north, south, east and west are Environmentally Sensitive Developing Areas. The land use to the south across Long Neck Rd. is Highway Commercial Areas. The Environmentally Sensitive Developing Areas land use designation recognizes that "retail and office uses are appropriate but larger shopping centers and office parks should be confined to selected locations with access to arterial roads. Careful mixtures of homes with light commercial and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home. Major new industrial uses are not proposed in these areas."

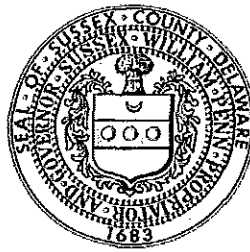
The adjacent properties to the east, west and south are primarily zoned C-1 (General Commercial District) with a parcel zoned B-1 (Neighborhood Business District) and a few parcels zoned AR-1 (Agricultural Residential District) along Long Neck Rd. The properties to the north are zoned AR-1 (Agricultural Residential District). There are no known Conditional Uses in the area.

Staff has no objection to the Change of Zone from AR-1 (Agricultural Residential District) to CR-1 (Commercial Residential District) as the change in zone would be considered consistent with the land use in the Comprehensive Plan and the surrounding zoning and uses.





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DELAWARE  
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## Memorandum

To: Sussex County Planning Commission Members  
From: Janelle Cornwell, AICP, Planning & Zoning Manager  
CC: Lawrence Lank, Planning Director, Vince Robertson, Assistant County Attorney  
Date: May 18, 2016  
RE: Staff Analysis for CU 2049 Blue Claw, LLC

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This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2049 Blue Claw, LLC to be reviewed during the May 26, 2016 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for parcels 234-34.00-298.01 and 292.00 to allow for a boat storage facility. The properties are 1.5052 ac. +/- . The boat storage facility would utilize the existing driveway and parcel 234-34.00-298.01. The property is zoned AR-1 (Agricultural Residential District).

The 2008 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map indicates that the properties have the land use designation of Environmentally Sensitive Developing Areas.

The surrounding land uses to the north, south, east and west are Environmentally Sensitive Developing Areas. The Environmentally Sensitive Developing Areas land use designation recognizes that "careful mixtures of homes with light commercial and institutional uses can be appropriate to provide for convenient serves and to allow people to work close to home."

The property is zoned AR-1 (Agricultural Residential District). The adjacent zoning to the north and west are zoned AR-1 (Agricultural Residential District). The properties to the east are zoned AR-1 and AR-2 (Agricultural Residential District). The properties to the south are zoned HR-2 (High Density Residential District). The surrounding uses are single family and multifamily residences and agricultural. There are no known Conditional Uses in the area.

Staff has some concerns with the Conditional Use to allow for a boat storage facility. The proposed Conditional Use could be considered inconsistent with the land use in the Comprehensive Plan as the use may not be considered a light commercial use and it would not be consistent with the residential uses in the immediate vicinity.



**Introduced 05/03/16**

**Council District No. 4 - Cole  
Tax Map I.D. No. 234-23.00-307.02  
911 Address: 32549 Long Neck Road, Millsboro**

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

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.689 ACRE, MORE OR LESS**

**WHEREAS, on the 31st day of March 2016, a zoning application, denominated Change of Zone No. 1801 was filed on behalf of Long Neck Road, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_ 2016, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1801 be \_\_\_\_; and**

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

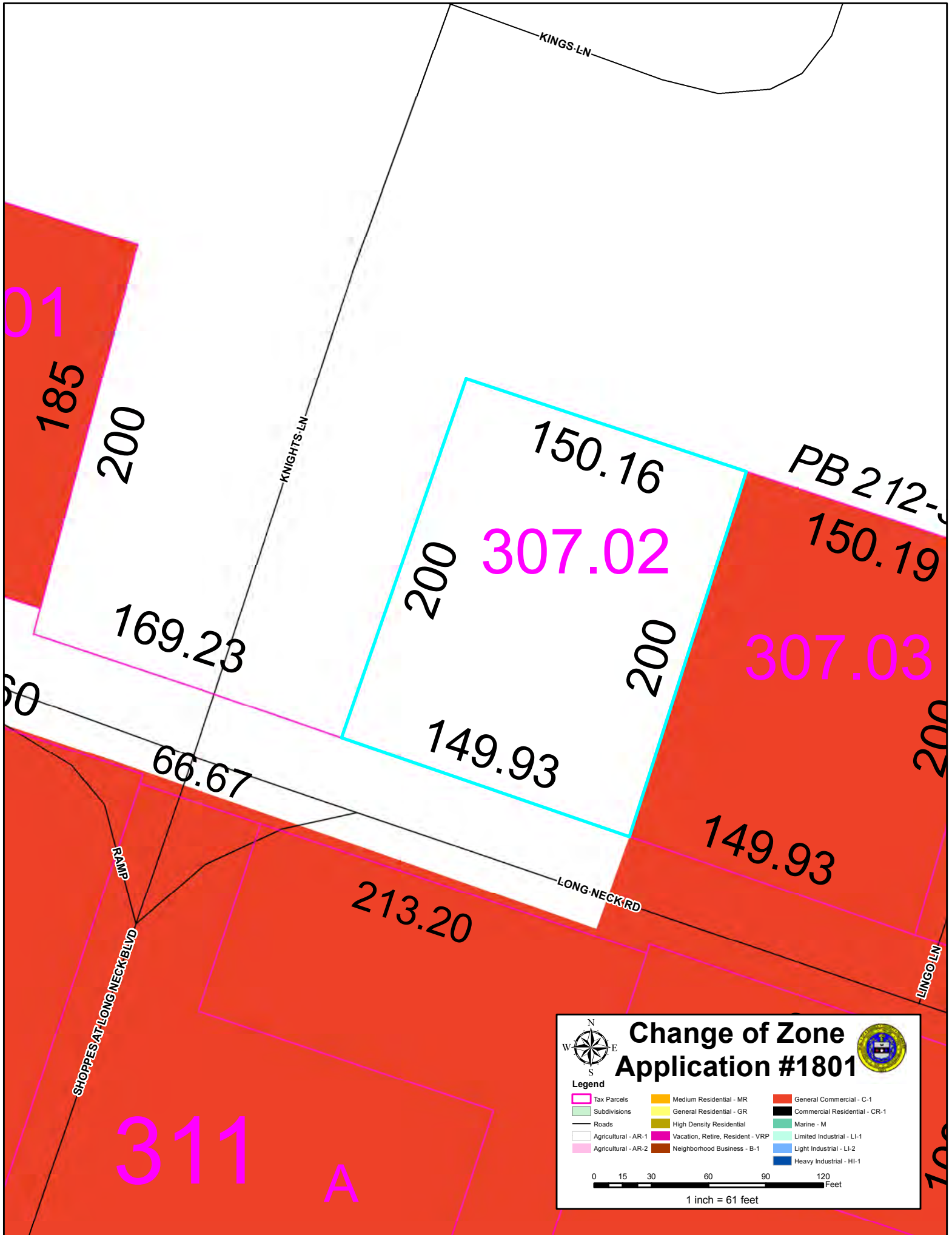
**NOW, THEREFORE, THE COUNTY OF SUSSEX COUNTY ORDAINS:**

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

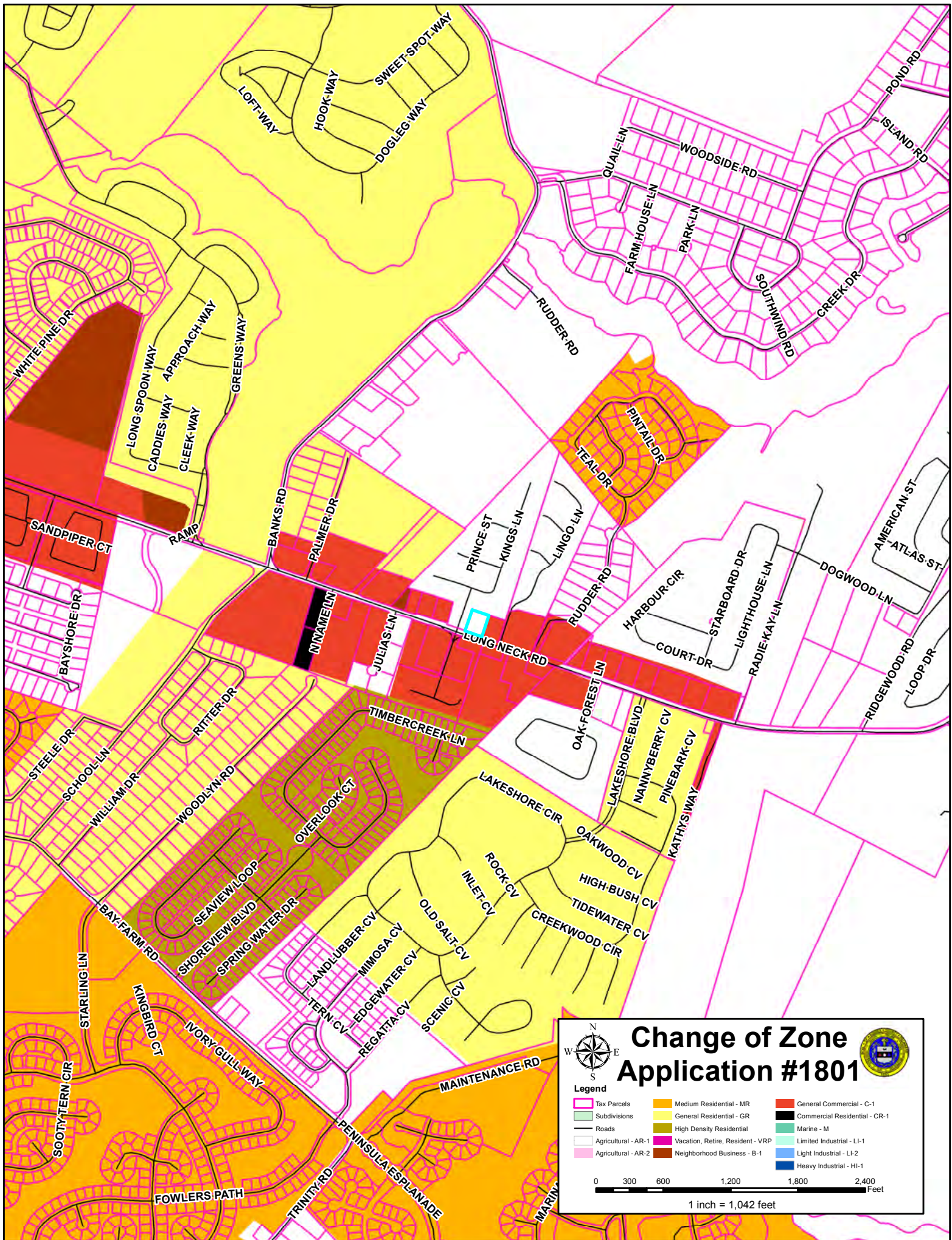
**Section 2. The subject property is described as follows:**

**All that certain tract, piece or parcel of land lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying north of Long Neck Road (Route 22), 1,850 feet east of Banks Road (Road 298) and being more particularly described in Deed Book 4445, Page 185, in the Office of the Recorder of Deeds in and for Sussex County, said property containing 0.689 acre, more or less.**

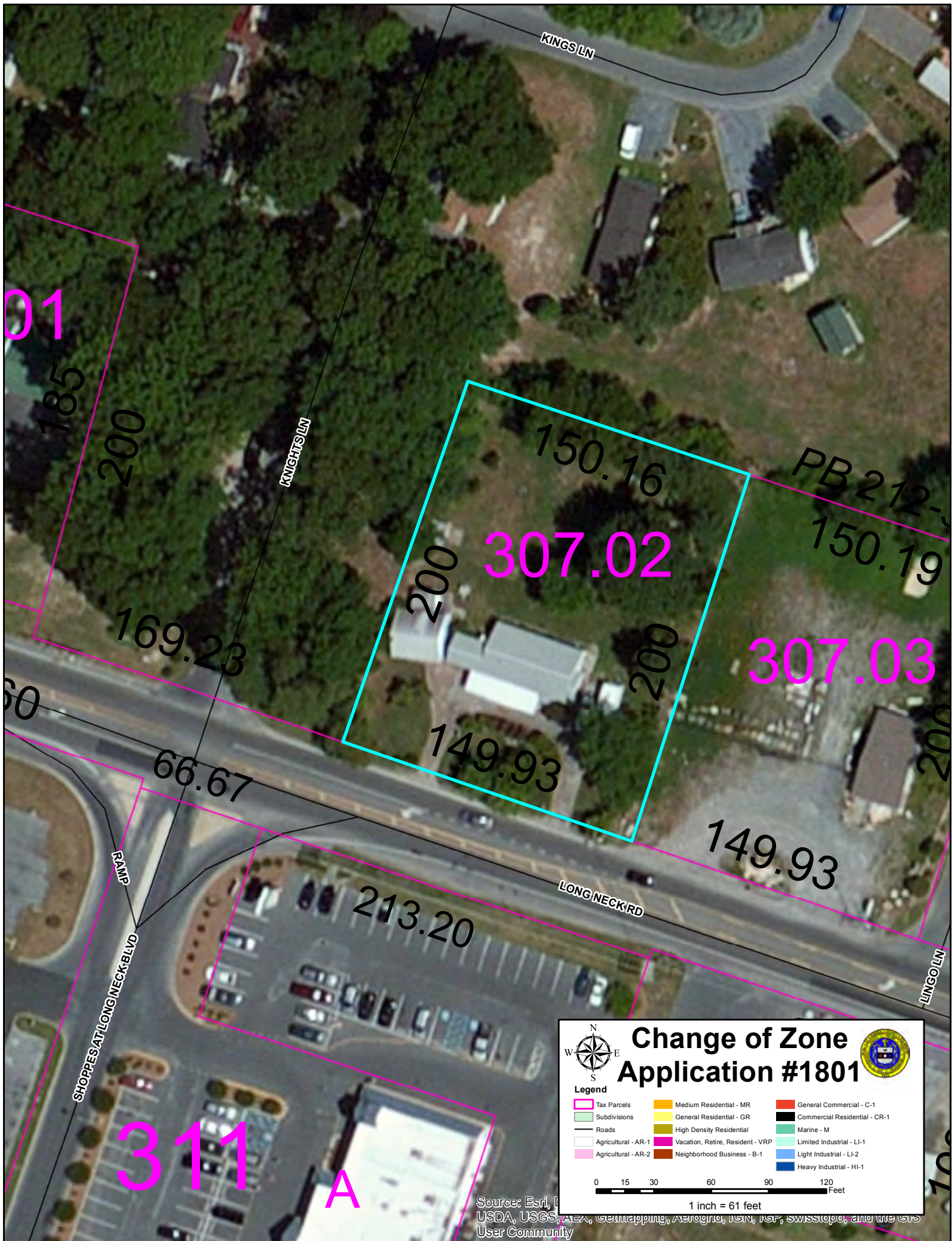
**This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.**















## Change of Zone Application #1801



**Legend**

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

0 15 30 60 90 120 Feet

1 inch = 61 feet

Source: Esri, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, Swisstopo, and the GIS User Community

**Introduced 05/03/16**

**Council District No. 4 – Cole**

**Tax I.D. No. 234-34.00-298.01 & 292.00**

**911 Address: 30842 Downs Landing Road, Millsboro**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BOAT STORAGE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.5052 ACRES, MORE OR LESS**

**WHEREAS, on the 14th day of March 2016, a conditional use application, denominated Conditional Use No. 2049 was filed on behalf of Blue Claw, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2016, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2049 be \_\_\_\_\_; and**

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

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

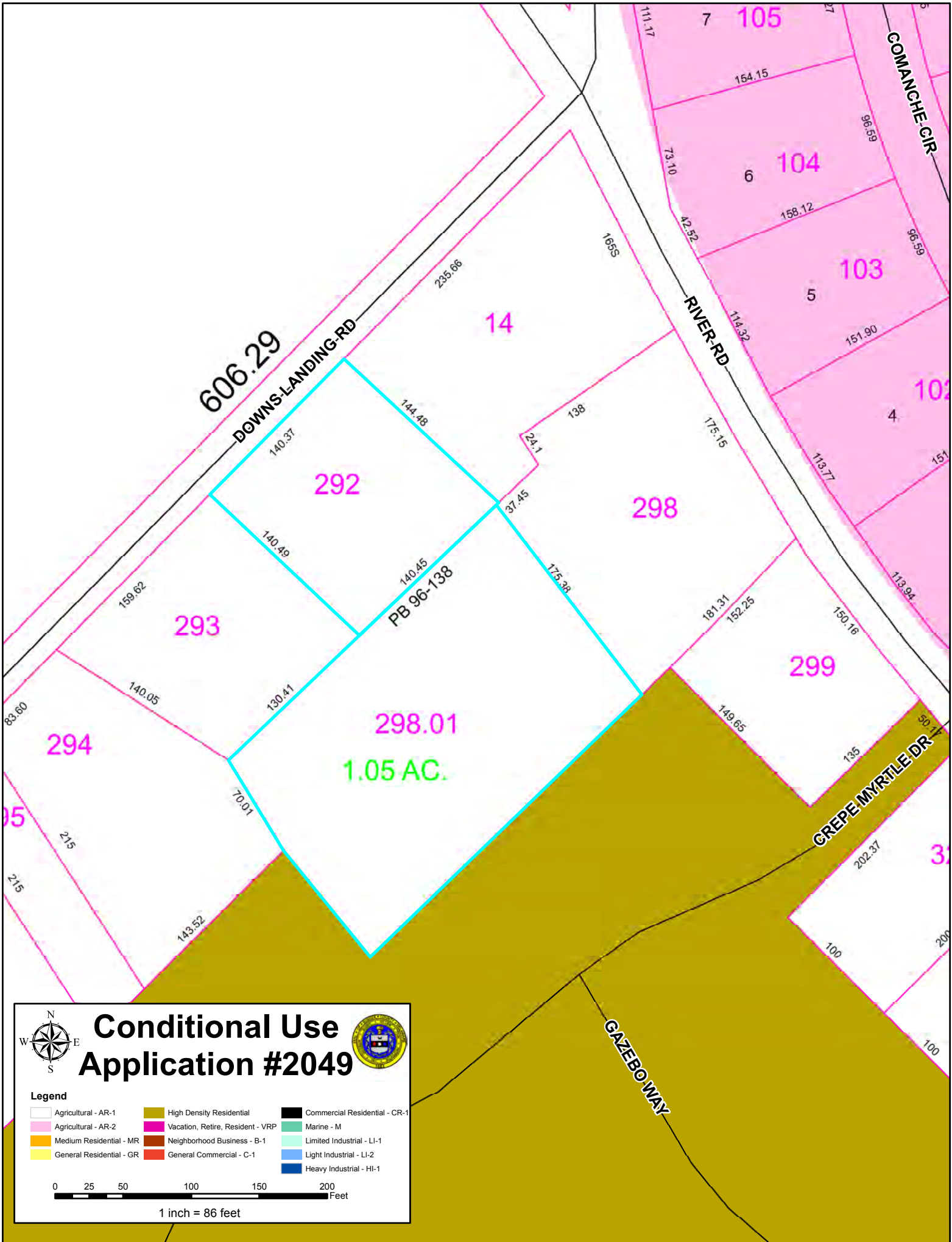
**Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2049 as it applies to the property hereinafter described.**

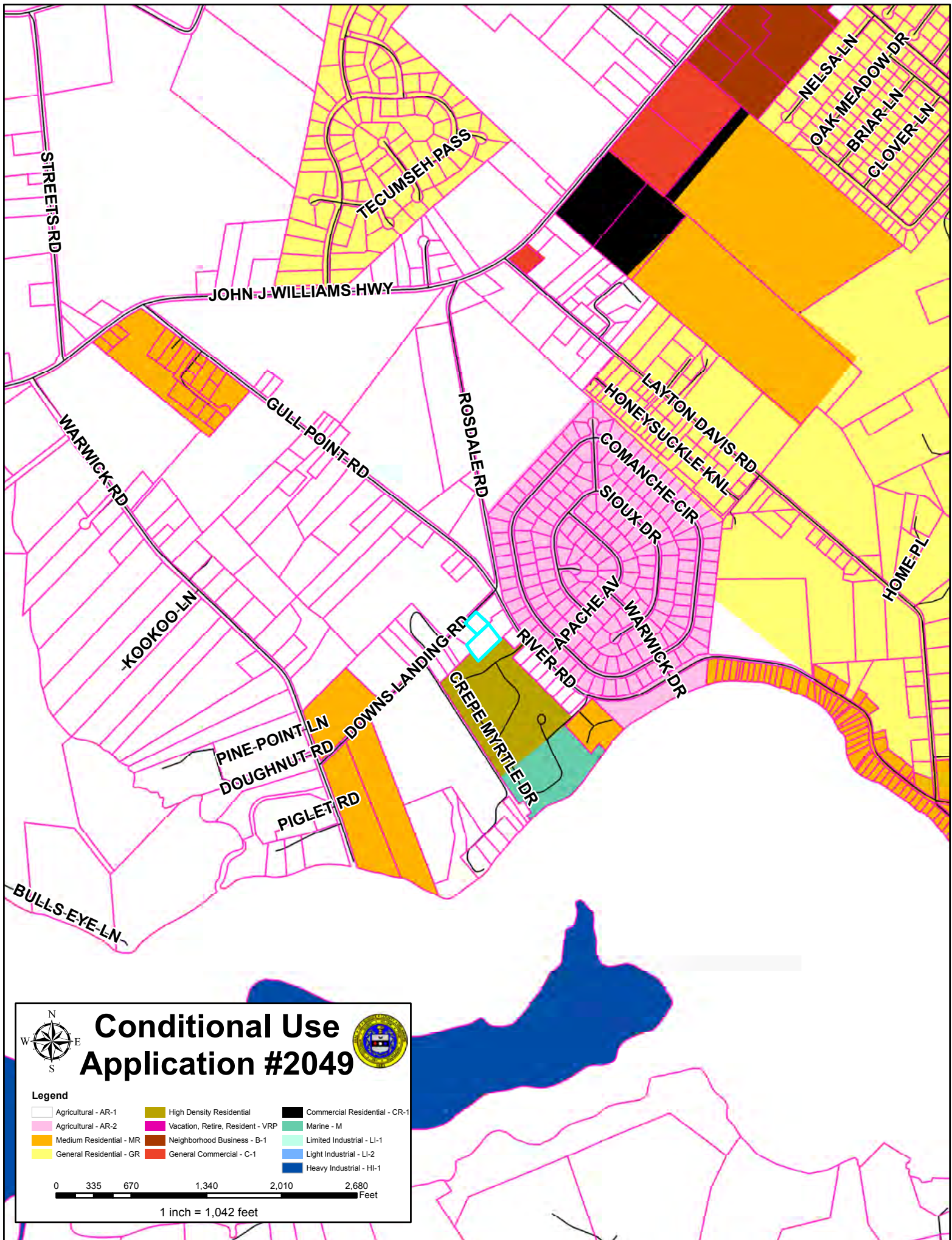
**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece or parcel of land, lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying southeast of Downs Landing Road (Road 313A) 235 feet southwest of River Road (Road 312) and being more particularly described in Deed Book 4516 Page 243 in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 1.5052 acres, more or less.**

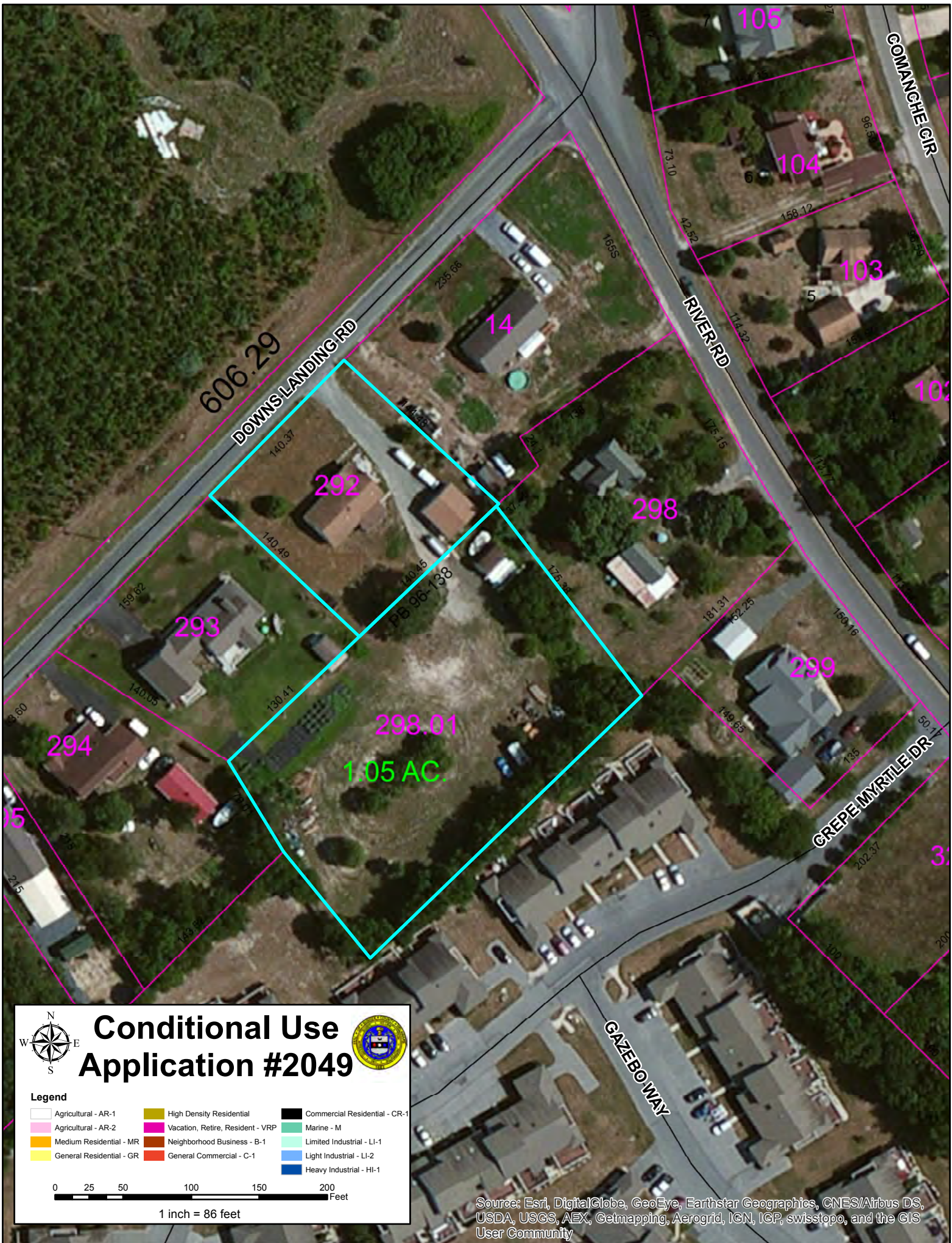
**This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.**




























## Conditional Use Application #2049



**Legend**

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

0 25 50 100 150 200 Feet

1 inch = 86 feet

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