



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

**MEETING:  
August 18, 2015**

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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. DEAVER



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# Sussex County Council

## AGENDA

AUGUST 18, 2015

10:00 A.M.

### Call to Order

### Approval of Agenda

### Approval of Minutes

### Reading of Correspondence

### Public Comments

### Todd Lawson, County Administrator

1. Discussion of possible grandfathering of employees as it pertains to the new pay scale
2. Administrator's Report

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

**“AN ORDINANCE TO ESTABLISH A MORATORIUM UPON THE ACCEPTANCE OF SPECIAL USE EXCEPTION APPLICATIONS FOR OFF-PREMISES SIGNS”**

### Lawrence Lank, Director of Planning and Zoning

1. Report on receipt of information regarding Change of Zone No. 1770, application of TD Rehoboth, LLC

### Old Business

Change of Zone No. 1764  
Coastal Club, LLC



**Juel Gibbons, Project Engineer**

1. PS 23 Modifications, Project 14-22
  - A. Bid Award
2. PS 207 and Force Main, Project 12-23
  - A. Balancing Change Order and Substantial Completion

**Joe Wright, Assistant County Engineer**

1. Route 26 Phase 3 Sewer Expansion
  - A. Construction Administration & Inspection
2. Inland Bays Regional Wastewater Facility Phase 2B Expansion
  - A. Construction Administration & Inspection

**Michael Izzo, County Engineer**

1. PS 210 Improvements, Project 15-07
  - A. Bid Award

**Grant Requests**

1. Seaford Historical Society for the Nanticoke Heritage Byway Project
2. Rehoboth Summer Children's Theatre for program expenses

**Introduction of Proposed Zoning Ordinances**

**Council Members' Comments**

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

**Possible Action on Executive Session Items**

**Adjourn**

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In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on August 11, 2015 at 4:35 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, AUGUST 11, 2015**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 11, 2015, at 1:00 p.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

**Todd Lawson, County Administrator, was not in attendance.**

**Call to  
Order**

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

**Mr. Vincent called the meeting to order.**

**M 318 15  
Approve  
Agenda**

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

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

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

**Minutes**

**The minutes of August 4, 2015 were approved by consent.**

**Corre-  
spondence**

**Mr. Moore read the following correspondence:**

**SUSSEX COMMUNITY CRISIS HOUSING SERVICE, GEORGETOWN,  
DELAWARE.**

**RE: Letter in appreciation of grant.**

**Public  
Comments**

**Public Comments**

**Paul Reiger commented on fence regulations and he referenced a discussion at a meeting of the Board of Adjustment (August 3) at which time a fence variance was considered.**

**Dan Kramer commented on the County's employees.**

**Mrs. Deaver joined the meeting.**

**Sussex Senior Transportation Cooperative/ iTN Southern Delaware**

Nancy Feichtl presented information on iTN *Southern Delaware*, a Senior Transportation Cooperative, which has come to fruition. ITN *Southern Delaware*, an affiliate of a national organization, is launching its program in August in the coastal area. The program will be launched in two stages; first, in the coastal area, and in other Sussex County areas in Spring 2016. Mrs. Feichtl thanked the Council for its previous donations and endorsement, and asked for help in getting the word out on this new program.

**M 319 15 Approve Consent Agenda**

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

**Wastewater Agreement No. 259-1  
Sussex County Project No. 81-04  
The Reserves – Phase Two  
Ocean View Expansion of the Bethany Beach Sanitary Sewer District**

**Wastewater Agreement No. 387-1  
Sussex County Project No. 81-04  
Oak Creek – Phase 4 (A/K/A Sawgrass North)  
West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District**

**Motion Adopted: 5 Yeas.**

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

**Wastewater Planning Matching Grant/ Dewey Beach**

John Ashman, Director of Utility Planning, presented information on a request for approval for a regional planning study grant for the Dewey Beach Sanitary Sewer District. Mr. Ashman explained that a Resolution is required for the Engineering Department to apply for a wastewater planning matching grant from the Wastewater Infrastructure Advisory Council. He noted that, due to redevelopment and projected growth in the Dewey Beach area, the Engineering Department has found it is necessary to have an updated infrastructure map and sewer model for the district. Mr. Ashman reported that the Engineering Department selected Pennoni Associates from the previously approved Miscellaneous Consultants and they have supplied a cost proposal of \$49,985.00. The grant funding is based on a 50 percent match up to \$50,000 per project and this project is eligible for a full 50 percent match; the Engineering Department is requesting a \$24,933.00 matching grant from the Water Infrastructure Advisory Council.

Mr. Ashman requested approval to enter into a contract with Pennoni Associates, Inc. to compile and complete the Dewey Beach Planning Study for a sum of \$49,985.00.

**M 320 15**  
**Adopt**  
**Resolution**  
**R 011 15/**  
**Regional**  
**Wastewater**  
**Planning**  
**Grant**  
**and**  
**Contract/**  
**Dewey**  
**Beach**

**A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to Adopt Resolution No. R 011 15 entitled “RESOLUTION TO SUBMIT A REQUEST FOR A REGIONAL WASTEWATER PLANNING GRANT TO THE WATER INFRASTRUCTURE ADVISORY COUNCIL FOR MATCHING FUNDS TO FINANCE A PLANNING STUDY FOR THE DEWEY BEACH SANITARY SEWER DISTRICT AND APPROVE A CONTRACT WITH PENNONI ASSOCIATES INC. FOR THE COMPLETION OF THE STUDY”.**

**Motion Adopted: 5 Yeas.**

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

**Wastewater**  
**Planning**  
**Matching**  
**Grant/**  
**Roxana**

**John Ashman, Director of Utility Planning, presented information on a request for approval for a regional planning study grant for the Roxana area. Mr. Ashman explained that a Resolution is required for the Engineering Department to apply for a wastewater planning matching grant from the Wastewater Infrastructure Advisory Council. He noted that, during the establishment of the Johnson’s Corner Sanitary Sewer District, there were parcels outside of the proposed boundaries requesting sewer service; the study will confirm the size of the drainage basin and the number of existing homes that can be served based on the capacity at the South Coastal Treatment Facility. The grant funding is based on a 50 percent match up to \$50,000; the estimated cost is expected to exceed \$50,000, so the maximum grant will be requested.**

**M 321 15**  
**Adopt**  
**Resolution**  
**R 012 15/**  
**Regional**  
**Wastewater**  
**Planning**  
**Grant**  
**and**  
**Contract/**  
**Roxana**

**A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to Adopt Resolution No. R 012 15 entitled “RESOLUTION TO SUBMIT A REQUEST FOR A REGIONAL WASTEWATER PLANNING GRANT TO THE WATER INFRASTRUCTURE ADVISORY COUNCIL FOR MATCHING FUNDS TO FINANCE A PLANNING STUDY FOR THE ROXANA AREA”.**

**Motion Adopted: 5 Yeas.**

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

**Report/**  
**Receipt of**  
**Information/**  
**CU 2014**

**Lawrence Lank, Director of Planning and Zoning, reported on information received regarding Conditional Use No. 2014, filed on behalf of Jay Beach. Mr. Lank stated that, on May 19, 2015, the Council held a public hearing on this application. At the public hearing, Council requested additional information from DNREC, Sussex Conservation District, and any other appropriate agencies concerning the soils brought to the property.**

**Report/  
Receipt of  
Information/  
CU 2014  
(continued)**

**On that date, action was deferred for the purpose of receiving reports.**

**Mr. Lank reported that a response was received from DNREC Site Investigation and Restoration Section, and from Jessica Watson, Program Manager for the Sussex Conservation District. It was noted that the public will be given the opportunity to comment on the information submitted; the public will be given a 15 day period of time, until August 26, to submit written comments pertaining to the information submitted to Council on this date.**

**Old  
Business/  
CZ 1768**

**Under Old Business, the Council discussed Change of Zone No. 1768 filed on behalf of Convergence Communities. The Planning and Zoning Commission held a Public Hearing on this application on April 9, 2015 at which time action was deferred. On July 30, 2015, the Commission recommended that the application be approved, with the following conditions:**

- A. The maximum number of residential units shall not exceed 164 units, which shall consist of 120 single family units and 44 townhouse units.**
- B. Site plan review shall be required for each phase of development.**
- C. All entrance, intersection, interconnection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's requirements, or in accordance with any further modification required by DelDOT.**
- D. The development shall be served as part of a Sussex County Sanitary Sewer District in accordance with the Sussex County Engineering Department specifications and regulations.**
- E. The MR-RPC shall be served by a public central water system providing adequate drinking water and fire protection as so required by applicable regulations.**
- F. Stormwater management and erosion and sediment control facilities shall be constructed in accordance with applicable State and County requirements. These facilities shall be operated in a manner that is consistent with the Best Management Practices (BMPs). The Final Site Plan shall contain the approval of the Sussex Conservation District.**
- G. The interior street design shall be in accordance with or exceed Sussex County street design requirements and/or specifications. As so proffered by the applicant, street design shall include sidewalks on both sides of all streets.**
- H. The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.**
- I. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. and 6:00 p.m.**
- J. The applicant shall cause to be formed a homeowner's or condominium association to be responsible for the maintenance of the streets, roads, buffers, open spaces, stormwater management facilities**

**Old  
Business/  
CZ 1768  
(continued)**

- and other common areas.**
- K. Federal and State wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State Permits. The wetland areas shall be clearly marked on the site with permanent markings.**
  - L. There shall be a 50 foot buffer from all tidal wetlands.**
  - M. As proffered by the applicant, owners and residents of the proposed development shall be entitled to use all of the recreational amenities of the adjacent Ocean View Beach Club development under the same rights, responsibilities and fees applicable to owners and residents of the Ocean View Beach Club.**
  - N. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**M 322 15  
Amend  
Recom-  
mended  
Conditions**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend the conditions recommended for Change of Zone No. 1768 to include Condition O, as follows:**

**The Applicant shall notify potential purchasers and actual purchasers through sales literature and deeds that the property is in the County's jurisdiction; this requirement shall automatically terminate in the event this parcel is annexed.**

**Motion Adopted: 5 Yeas.**

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

**M 323 15  
Adopt  
Ordinance  
No. 2411/  
CZ 1768**

**A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt Ordinance No. 2411 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT - RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 49.66 ACRES, MORE OR LESS" (Change of Zone No. 1768) filed on behalf of Convergence Communities, with the following conditions:**

- A. The maximum number of residential units shall not exceed 164 units, which shall consist of 120 single family units and 44 townhouse units.**
- B. Site plan review shall be required for each phase of development.**
- C. All entrance, intersection, interconnection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's requirements, or in accordance with any further modification required by DelDOT.**
- D. The development shall be served as part of a Sussex County Sanitary Sewer District in accordance with the Sussex County Engineering**

**M 323 15  
Adopt  
Ordinance  
No. 2411/  
CZ 1768  
(continued)**

- Department specifications and regulations.**
- E. The MR-RPC shall be served by a public central water system providing adequate drinking water and fire protection as so required by applicable regulations.**
  - F. Stormwater management and erosion and sediment control facilities shall be constructed in accordance with applicable State and County requirements. These facilities shall be operated in a manner that is consistent with the Best Management Practices (BMPs). The Final Site Plan shall contain the approval of the Sussex Conservation District.**
  - G. The interior street design shall be in accordance with or exceed Sussex County street design requirements and/or specifications. As so proffered by the applicant, street design shall include sidewalks on both sides of all streets.**
  - H. The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.**
  - I. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. and 6:00 p.m.**
  - J. The applicant shall cause to be formed a homeowner's or condominium association to be responsible for the maintenance of the streets, roads, buffers, open spaces, stormwater management facilities and other common areas.**
  - K. Federal and State wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State Permits. The wetland areas shall be clearly marked on the site with permanent markings.**
  - L. There shall be a 50 foot buffer from all tidal wetlands.**
  - M. As proffered by the applicant, owners and residents of the proposed development shall be entitled to use all of the recreational amenities of the adjacent Ocean View Beach Club development under the same rights, responsibilities and fees applicable to owners and residents of the Ocean View Beach Club.**
  - N. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**
  - O. The Applicant shall notify potential purchasers and actual purchasers through sales literature and deeds that the property is in the County's jurisdiction; this requirement shall automatically terminate in the event this parcel is annexed.**

**Motion Adopted: 5 Yeas.**

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

**Rules**

**Mr. Moore read the rules of procedure for public hearings.**

**Public  
Hearing/  
CZ 1778**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.74 ACRE, MORE OR LESS” (Change of Zone No. 1778) filed on behalf of John Floyd Lingo. (Tax Map I.D. No. 235-30.00-68.00) (911 Address: None Available).**

**The Planning and Zoning Commission held a Public Hearing on this application on July 9, 2015 at which time the Commission recommended that the application be approved.**

**(See the minutes of the Planning and Zoning Commission dated July 9, 2015.)**

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

**The Council found that Richard Abbott, Esq. was present with Mark Davidson, Pennoni Associates, Inc., and John Lingo on behalf of the application and provided information about the application for rezoning. Mr. Abbott explained that this request is for the expansion of an existing commercially zoned property which will allow the relocation of structures from the adjacent commercially zoned property onto part of this property. Mr. Abbott also explained DelDOT’s proposed plan for intersection improvements at Route 9 and Route 5 and its impact on this property, including the proposed relocation of the existing barbershop building. Mr. Davidson explained DelDOT’s proposed entrances to the property.**

**There were no public comments.**

**The Public Hearing was closed.**

**M 324 15  
Adopt  
Ordinance  
No. 2412/  
CZ 1778**

**A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to Adopt Ordinance No. 2412 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.74 ACRE, MORE OR LESS” (Change of Zone No. 1778) filed on behalf of John Floyd Lingo.**

**Motion Adopted: 5 Yeas.**

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

**Public  
Hearing/  
CZ 1779**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.033 ACRES, MORE OR LESS” (Change of Zone No. 1779) filed on behalf of Thomas K. Munce and Judy L. Munce. (Tax Map I.D. No. 230-26.00-35.01) (911 Address: 12327 N. DuPont Blvd. Ellendale).**

**The Planning and Zoning Commission held a Public Hearing on this application on July 9, 2015 at which time action was deferred. On July 30, 2015, the Commission recommended that the application be denied.**

**(See the minutes of the Planning and Zoning Commission dated July 9 and 30, 2015.)**

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

**Mr. Lank noted that this site was previously approved for a Conditional Use (Conditional Use No. 1979 – Ordinance No. 2341) on March 25, 2014 for a retail package store and tavern, and that the use has been established on the site.**

**Mr. Lank explained that the Applicants have other options in lieu of a Change of Zone: they can submit to the Planning and Zoning Commission a request for an amendment to the condition relating to food service (Ordinance No. 2341 – Conditional Use No. 1979) or the Commission could refer the request back to a Public Hearing.**

**The Council found that Judy Munce was present on behalf of the application and provided information about the application for rezoning. Mrs. Munce commented that they have leased the building for the tavern and package store and that they would like to provide on-premise food service. Mrs. Munce stated her wish to be able to open a restaurant on the site.**

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

**M 325 15  
Adopt  
Proposed  
Ordinance/  
CZ 1779**

**DENIED**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.033 ACRES, MORE OR LESS” (Change of Zone No. 1779) filed on behalf of Thomas K. Munce and Judy L. Munce.**

**M 325 15  
(continued)**

**Motion Denied: 4 Nays, 1 Yea.**

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

**Grant  
Requests**

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

**M 326 15  
Council-  
manic  
Grant**

**A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to give \$1,000.00 from Mrs. Deaver's Councilmanic Grant Account to the Milton Garden Club for the downtown clock project.**

**Motion Adopted: 5 Yeas.**

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

**Defer  
Grant  
Request**

**Mr. Cole asked to defer the grant request from Rehoboth Beach Film Society.**

**M 327 15  
Council-  
manic  
Grant**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$1,000.00 (\$500.00 each from Mr. Cole's and Mrs. Deaver's Councilmanic Grant Accounts) to the Rehoboth Art League for program expenses.**

**Motion Adopted: 5 Yeas.**

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

**M 328 15  
Council-  
manic  
Grant**

**A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$300.00 (\$100.00 each from Mr. Cole's, Mr. Arlett's, and Mrs. Deaver's Councilmanic Grant Accounts) to the Indian River Volunteer Fire Company for the Ladies Auxiliary Annual Basket Bingo fundraiser.**

**Motion Adopted: 5 Yeas.**

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

**M 329 15  
Council-  
manic  
Grant**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to La Esperanza for sponsorship of the annual *Festival Hispano*.**

**Motion Adopted: 5 Yeas.**



PUBLIC HEARING

August 18, 2015

This is to certify that on August 13, 2015 the Sussex County Planning and Zoning Commission conducted a public hearing on the below listed Ordinance. At the conclusion of the public hearing, the Commission moved and passed that the Ordinance 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 Ordinance are findings of the Planning and Zoning Commission based upon the public hearing.

**AN ORDINANCE TO ESTABLISH A MORATORIUM UPON THE ACCEPTANCE OF SPECIAL USE EXCEPTION APPLICATIONS FOR OFF-PREMISES SIGNS**

Mr. Robertson summarized the proposed Ordinance which would establish a six-month moratorium upon the acceptance of applications for a Special Use Exception for off-premises signs. This moratorium may be extended, modified, or terminated at any time by a majority vote by the Sussex County Council.

The Commission discussed the Ordinance proposal.

Mr. Ross asked that the Board of Adjustment letter to the Sussex County Council be attached to the Minutes of this meeting to be a part of the record for reference purposes.

Mr. Robertson stated that the entire sign ordinance section of the code may need to be reviewed and addressed.

The Commission found that no parties appeared in support of or in opposition to the proposed Ordinance to establish a moratorium on off-premises signs.

Motion by Mr. Ross, seconded by Mr. Burton, and carried unanimously to defer action for further consideration by the full Commission. Motion carried 3 – 0. Mr. Johnson and Mr. Smith were both absent during the public hearing.

**Introduced 07/28/15**

ORDINANCE NO. \_\_\_

AN ORDINANCE TO ESTABLISH A MORATORIUM UPON THE ACCEPTANCE OF SPECIAL USE EXCEPTION APPLICATIONS FOR OFF-PREMISES SIGNS

WHEREAS, Sussex County Code (“County Code”) currently allows off-premises signs to be approved for a special use exception by the Sussex County Board of Adjustment in certain zoning districts; and

WHEREAS, an off-premises sign is defined in the County Code, Chapter 115 as a “sign directing attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where the sign is maintained;” and

WHEREAS, Sussex County Council views the placement of off-premises signs as an important public safety issue in Sussex County and believes that the recent proliferation of off-premises signs has a detrimental effect on the safety and welfare of the citizens of Sussex County; and

WHEREAS, Sussex County Council believes that the current County Code provisions do not sufficiently address the safety issues and its other concerns with off-premises signs and that the continued approval of off-premises signs under the current County Code provisions will exacerbate the issues associated with these signs; and

WHEREAS, Sussex County is in the process of engaging a consultant to study land use planning issues, including off-premises signs; and

WHEREAS, in order to avoid exacerbating the issues with the off-premises signs and to allow Sussex County a reasonable time period for the review and study of off-premises signs, the preparation of proposed legislation to address resultant issues, and

the consideration of said legislation, Sussex County Council desires to establish a moratorium upon the acceptance of any special use exception application for an off-premises sign for a period of six (6) months from the date of adoption of this Ordinance, unless otherwise extended, modified or terminated by a majority vote of County Council.

NOW THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That a moratorium upon the acceptance of any special use exception application for off-premises signs be hereby imposed for a period of six (6) months after the date of adoption of this Ordinance, unless extended, modified, or terminated in accordance with this Ordinance. During the period of said moratorium, the office of the Sussex County Planning and Zoning Director is hereby directed to decline to accept all special use exception applications for an off-premises sign. The meaning of “off-premises sign” shall be as defined in Sussex County Code, Section 115-157(B).

Section 2. This Ordinance may be extended, modified, or terminated at any time by a majority vote of all members of the County Council of Sussex County.

Section 3. This Ordinance shall become effective upon its adoption.

#### Synopsis

This Ordinance establishes a six-month moratorium upon the acceptance of applications for a special use exception for off-premises signs. This moratorium may be extended, modified, or terminated at any time by a majority vote by the Sussex County Council.

LAWRENCE LANK  
DIRECTOR OF PLANNING & ZONING  
(302) 855-7878 T  
(302) 854-5079 F  
llank@sussexcountyde.gov



**Sussex County**

DELAWARE  
sussexcountyde.gov

MEMORANDUM

TO: Todd Lawson  
County Administrator

FROM: Lawrence Lank  
Director of Planning and Zoning

RE: C/Z #1770  
Application of TD Rehoboth, LLC

DATE: August 14, 2015

Be reminded that on June 2, 2015 the Sussex County Council held a public hearing on the above referenced application for TD Rehoboth, LLC.

After the public hearing, a motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action on Change of Zone No. 1770, filed on behalf of TD Rehoboth, LLC, and to leave the record open for a period of 30 days for written comments or questions from Council and/or responses from agencies; thereafter, once comments received have been introduced to the Council and into the public record, the record will remain open for a period of 15 days for anyone to respond to the comments submitted. The motion carried 5 – 0.

Be advised that the record shows that the Planning and Zoning Commission held a public hearing on this application on April 23, 2015 and on June 11, 2015 did forward a recommendation to the Sussex County Council that the application be approved with reasons. The motion for approval carried 3 – 2.

Also be advised that we have received comments from DelDOT through T. William Brockenbrough, Jr., County Coordinator, dated July 2, 2015.

We also received comments from the Department of Agriculture through Secretary Edwin Kee, dated June 17, 2015.

Comments were also received from Vincent Robertson, Esquire and Assistant County Attorney, dated July 17, 2015, in response to questions from Council.

We are also providing comments from Janelle Cornwell, AICP, Planning and Zoning Manager for this Department, dated August 11, 2015, in response to questions raised by Council relating to FAA regulations.



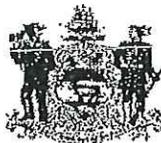
TD Rehoboth, LLC  
August 14, 2015  
Page 2

Attached please find copies of the referenced documents from DelDOT, the Department of Agriculture, Mr. Robertson, and Ms. Cornwell as referenced above.

I am sending this memorandum and attachments so that the Sussex County Council can place this application on a future agenda for the reporting of the status of information requested in the deferral action. Once the receipt of the information is reported to the Sussex County Council the clock will start for the 15 day written comment period for public comments on the information received only.

Should you have any questions, please do not hesitate to contact me.

Cc: Everett Moore, County Attorney  
Robin Griffith, Clerk of the Council  
Vincent Robertson, Assistant County Attorney  
Janelle Cornwell, AICP, Planning and Zoning Manager



STATE OF DELAWARE  
DEPARTMENT OF TRANSPORTATION  
800 BAY ROAD  
P.O. BOX 778  
DOVER, DELAWARE 19903

JENNIFER COHAN  
SECRETARY

July 2, 2015

Mr. Todd F. Lawson  
Sussex County Administrator  
2 The Circle  
P.O. Box 589  
Georgetown, DE 19947

Dear Mr. Lawson:

This letter is to address a report prepared by Traffic Solutions Inc. (TSI) to analyze the Overbrook Town Center Traffic Impact Study prepared by The Traffic Group (TTG). As you may recall, at the conclusion of their June 2 hearing on the rezoning application for the Overbrook Town Center (Tax Parcel No. 235-23.00-1.00) the County Council left the record open for a period of 30 days to receive our written comments in this regard. We ask that you share this letter with the Council.

Very briefly, TSI's written report provides more detail to the testimony given at the Council hearing. While we would urge the Council to consider their report and this response to it, in our opinion neither document adds new arguments to those previously presented.

The TSI report, on pages 1 and 2, makes several suggestions regarding how the traffic volumes in the TTG report should have been adjusted differently. As technical observations regarding how we at DelDOT could improve our practices, these suggestions are worth discussing further. However, TTG adjusted their traffic volumes at our direction and in accordance with DelDOT regulations and practice. It may be appropriate for DelDOT to make changes in these regards but not in the middle of considering a particular land development application.

The TSI report points out, on pages 3 and 4, that to use their word, nine intersections (seven on Delaware Route 1 and two on US Route 9) would "fail" in the future conditions with or without the subject development and that TTG's recommended solution is to place signals at all of them. The nine intersections do not have signals and the "failures" refer to the difficulty that drivers on the side roads would have making turns, especially left turns, out onto the main road. Consistent with our letter of September 9, 2014, letter regarding the TTG report, we agree with TSI that TTG's recommendations in this regard are not acceptable.



Rather than install signals those intersections, we will monitor their operation and, as necessary, make safety improvements including turn prohibitions such as the Michigan Left design that TSI mentions. Absent a demonstrated safety problem we would be reluctant to prohibit turning movements because during non-peak times drivers can make those movements more easily and we would like to preserve their ability to do so.

TSI states on page 3 that "for such a large development as Overbrook Town Center, the traffic study should likely have included more intersection in their study" and suggests two intersections they believe would have been helpful to evaluate. At our direction, TTG evaluated the intersections that they were required to evaluate based on our regulations at that time. Since then we have revised our regulations such that we could require evaluation of more residential subdivision entrances. The revisions would not have enabled us to include the intersection of Delaware Route 1 and US Route 9 unless it was required by the County.

With regard to the matter of a temporary traffic signal at the Overbrook Town Center entrance, we understand the concerns expressed by TSI on pages 3, 6 and 7 of their report and we share them to some extent. They are correct that installing a signal would likely increase the number of crashes. However, we give more weight than they appear to give to the fact that installing a signal would reduce the number of angle crashes. Rear end crashes, the most common type at intersections with signals cause property damage but the injuries involved are comparatively less severe. By comparison, angle crashes, which occur when someone misjudges a gap at an intersection with a Stop sign or runs a red light, often result in serious injuries or death. Installing a signal would likely increase the number of accidents but could save lives.

Having said that, the subject of a temporary signal arose in the context of interchange construction and that is the only context in which we would consider permitting one. If the developer, having received all approvals and having done all that is required of them with regard to the interchange construction, is about to be delayed in opening their shopping center due to a failure by the State to complete the interchange construction, we have said that we would allow installation of a signal that would operate until we could complete enough of the interchange to serve the movements served by the signal.

Pages 5 and 6 of the TSI report address the County's Comprehensive Plan. For the most part we will leave it to the County to evaluate their comments in that regard. However, the SR 1 Land Use and Transportation Study, referenced on page 12-27 of the Plan and Page 6 of the TSI report addressed the area from Nassau south, excluding the immediate area of the subject development. More relevant to this location is DelDOT's Corridor Capacity Preservation Program (CCPP), although we acknowledge that the CCPP is not mentioned by name in the Plan.

Regarding "Possible Interim Solutions Without the Shopping Center," addressed on pages 8 and 9 of the TSI report, absent the proposed shopping center, the intersection of Delaware Route 1 and Cave Neck Road is the busiest of the seven Stop-controlled intersections

along Route 1. Except for traffic volume it is not greatly different from the others and we have treated this subject generally above. There are two things we would point out in this section. First, TSI is in error on page 9 with regard to the legal speed limit on this section of Route 1. It is 55 miles per hour. Second, a local albeit Kent County example of the "Michigan Left" is observable on Route 1 at eastbound NE Tenth Street in Milford.

Pages 9 through 12 of the TSI report addresses specific aspects of the interchange proposed by the developer for the intersection of Delaware Route 1 and Cave Neck Road. An essential point that TSI seems to miss is that the drawing presented by the developer is only a concept sketch. To our knowledge, no one working for the developer has done any work on developing a buildable design based on that concept or, beyond that, has analyzed the capacity of that design. DelDOT has done enough analysis based on the concept sketch that we believe the developer could develop a buildable design with adequate capacity but that has yet to be done.

Therefore we will not address most of TSI's specific comments on the proposed roundabout intersections. They assume a level of detail we do not have yet. With that said, we do have comments on several statements in the TSI report:

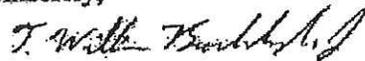
- 1) TSI emphatically states that "The proposed design...does not provide a way for traffic to go north on SR-1 except for traveling through the development." We see a loop ramp between the overpass and Roundabout #2 that would provide for exactly that movement, so there appears to be some misunderstanding.
- 2) TSI states that the overpass would need to be at least three lanes wide, two eastbound and one westbound. We agree. More specifically, we believe a four-lane overpass would be needed, providing two lanes each way as TSI suggests. Given the loop ramp mentioned above, we cannot yet rule out a third eastbound lane; as we have said, a design still needs to be done.
- 3) TSI provides several reasons why conditions would be less than ideal for the use of roundabouts. We agree that conditions would be less than ideal but we believe a workable design could be developed.
- 4) TSI expresses concerns about the change in elevation associated with the interchange, which would mean that either "a very significant amount of fill dirt would be needed" or the proposed roundabouts and the roads leading in and out of them would have unacceptably steep slopes. We agree that the proposed interchange would require significant amounts of fill that are, perhaps, not readily apparent from the concept sketch.

On pages 12 through 15 of their report, TSI provides the actual or estimated costs of four other grade separation projects in the Route 1 corridor: Thompsonville, SR 30, SR 16 and Little Heaven and makes several assertions on that basis. In response we offer the following comments:

- 1) Based on the range of right-of-way costs for the four projects, which range from \$4.4 million to \$19.8 million, TSI states that the cost of right-of-way could exceed the \$8 million offered by the developer. First, because of its design, the Little Heaven interchange is not really comparable. A range of \$4.4 million to \$9.1 million is more reasonable. Second, the developer controls land on three corners of the existing intersection and we would expect the developer to donate that land as necessary in addition to the \$8 million they have offered.
- 2) The temporary signal and the associated intersection construction would have to be in addition to the \$8 million. We agree that it would be a significant expense.
- 3) We agree that absent increased revenues we would need to reprioritize other projects to fund the completion of the interchange once the developer's \$8 million is spent. DeIDOT has planned to build an interchange, of some configuration, on Route 1 at Cave Neck Road for many years. With the additional revenue provided in this year's Bond Bill, it may be that no currently scheduled projects would be delayed. That has yet to be determined.
- 4) As stated above, our willingness to approve a temporary signal to serve the shopping center is based on a specific situation, which may not occur. We would not install a "temporary" signal without a real expectation that we would be removing it based on the completion of an active construction project.

Please contact me at (302) 760-2109 if you have questions regarding this correspondence.

Sincerely,



T. William Brockenbrough, Jr., P.E.  
County Coordinator

TWB:km

cc: Mr. Lawrence B. Lank, Director, Planning & Zoning Commission  
Mr. Neil C. Parrott, P.E., PTOE, Traffic Solutions Inc.  
Mr. Joe. Caloggero, P.E., PTOE, The Traffic Group, Inc.  
Mr. Drew A. Boycs, P.E., Director of Planning  
Mr. J. Marc Coté, P.E., Assistant Director, Development Coordination  
Mr. Todd J. Sammons, P.E., Subdivision Engineer  
Mr. Steven M. Sisson, P.E., Sussex County Review Coordinator  
Mr. John T. Fiori, Sussex County Subdivision Manager  
Mr. Troy E. Brestel, Project Engineer  
Mr. Claudy Joinville, Project Engineer

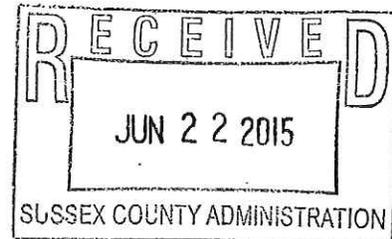


STATE OF DELAWARE  
DEPARTMENT OF AGRICULTURE  
2320 SOUTH DUPONT HIGHWAY  
DOVER DELAWARE 19901  
dda.delaware.gov

ED KEE  
SECRETARY  
E. AUSTIN SHORT  
DEPUTY SECRETARY

June 17, 2015

Honorable Michael H. Vincent, President  
Sussex County Council  
2 The Circle  
P.O. Box 589  
Georgetown, Delaware 19942



Reference: Proposed Overbrook Town Center (parcel # 235-23.00-1.00)

Dear President Vincent:

We are writing to you regarding the proposed Overbrook Town Center. As you may know, this parcel is bordered on three sides by working farms (with Route 1 on the fourth side), including one farm (tax parcel # 235-22-56.00) owned by John Vincent that is permanently preserved through an Agricultural Lands Preservation easement purchased by our Department. If Sussex County Council approves the Overbrook Town Center, it will have significant impacts on Mr. Vincent's farm as well as farms in the surrounding area.

This proposed development was reviewed through the state's PLUS process (PLUS Project 2012-11-01) in 2012, at which time the Department of Agriculture commented and referenced the Agricultural Use Protections afforded to Mr. Vincent under Title 3, Del. C., Chapter 9, § 910. Mr. Vincent's family has farmed this land since 1848, and in 1998 he and his family committed to permanently preserve the farm by selling its development rights to the Delaware Agricultural Lands Preservation Program. It is Mr. Vincent's desire to continue to operate the farm as his family has done for over 150 years, without harassment or complaint.

The potential impact to Mr. Vincent's farm and other farms in the area include:

1. Odor complaints arising from poultry operations, including manure storage, handling and spreading as fertilizer on farm fields;
2. Complaints of water mist, which can include dissolved fertilizer when fertilizer is applied, resulting from drift from center pivot irrigation systems on windy days;

3. Noise complaints concerning farm machinery and low flying aircraft applying chemicals (or seed) to fields;
4. Dust complaints from field tillage and crop harvesting;
5. Increased water runoff on surrounding and downstream farms and properties, particularly during significant storm events, from the impervious surface (buildings, parking lots, sidewalks, etc.) proposed from this 114-acre site;
6. Challenges presented by increase in traffic, including the ability to move farm equipment along and across Route 1, which could result in some farmers no longer able/willing to farm properties east of Route 1.

The site plan submitted with the developer's 2012 PLUS application showed the County's required 50-foot forested buffer between Overbrook Town Center and the adjacent farms. If the project is approved, a properly planted and maintained forested buffer will help to mitigate some of these concerns. However, the Council should also consider that if this project is approved, it will likely result in certain operations no longer occurring on adjacent and nearby farms – such as aerial chemical and seed applications – due to the proximity of the town center. Furthermore, reducing the ability for surrounding farms to utilize the full suite of agricultural operations along with the increased challenges from the additional traffic and development pressure, increases the likelihood that these farms will convert to commercial or residential use. That is, once one project is approved and built, it is much more likely that adjacent and nearby farms will also convert to non-agricultural use – similar to what has occurred further south along Route 1 between Nassau and Rehoboth.

The Department of Agriculture understands that commercial development is an important component of a healthy economy and that this proposal could bring additional revenues to the County and State. However, we also encourage the Council to consider the impacts of this proposal to the adjacent and nearby farming operations as it considers this proposal. Agriculture generates \$8 billion statewide, including \$3.8 billion and over 15,000 jobs in Sussex County, and it is important that we maintain this industry as well.

Thank you for your understanding and consideration. If you have any questions, please feel free to contact us at (302) 698-4500.

Sincerely,



Edwin Kee  
Secretary



E. Austin Short  
Deputy Secretary

cc: Todd Lawson, Sussex County Administrator  
John Vincent

**GRIFFIN & ROBERTSON, P.A.**  
ATTORNEYS AT LAW

JAMES D. GRIFFIN  
VINCENT G. ROBERTSON

19264 MILLER ROAD, UNIT A  
REHOBOTH BEACH, DELAWARE 19971

(302) 226-8702

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

July 17, 2015

Sussex County Council  
2 The Circle  
P.O. Box 589  
Georgetown, DE 19947

RE: C/Z #1770  
TD Rehoboth

Dear Council:

The question was raised during these proceedings about a potential discrepancy concerning the subject property between Zoning Maps and the Sussex County Comprehensive Plan. Evidently, some Maps in Sussex County's possession do not match the area approved for inclusion within the Environmentally Sensitive Developing Area as part of the current Comprehensive Plan. Please allow this letter to address this question.

The property that is the subject of this re-zoning is included within the Environmentally Sensitive Developing Area.

This question relates back to the adoption of the current Sussex County Comprehensive Plan Update in 2008. On April 3, 2008, the Sussex County Planning and Zoning Commission held a Public Hearing on the Plan. During that Hearing, action on the Plan was deferred. On April 30, 2008, the Plan was again considered. At that time, Mr. Lank advised the Commission that there were twenty-one (21) requests made for inclusion of multiple properties into various Developing Areas within the new Plan Update. He advised the Commission that several of those requests were already incorporated into the Future Land Use Plan Map. The balance of the areas for inclusion were then considered by the Commission, including the area that is the subject of this re-zoning application. A Motion was considered and adopted by a vote of 5-0 to include the subject parcel along with other areas into the Environmentally Sensitive Developing Area. Thereafter, on June 18, 2008, the Commission approved the Plan, including the updated Maps, with recommendations.

On June 24, 2008, the Sussex County Council was advised of the Planning and Zoning Commission's action on the matter and adopted the Amendments to the Comprehensive Land Use

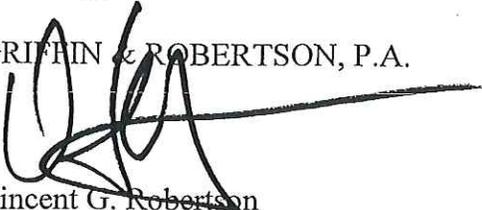
Plan, as proposed, with a vote of 3 yeas and 2 abstentions. The County Council then adopted Ordinance No. 1980 entitled "An Ordinance Adopting the 2007 Update of the Comprehensive Plan for Sussex County and Repealing Ordinance No. 1574, the Comprehensive Plan Update, adopted December 10, 2002", with amendments and with a vote of 3 yeas and 2 neas.

It is my opinion that all actions taken by the Planning and Zoning Commission and the Sussex County Council occurred during Public sessions (public hearings and public meetings) and I am satisfied that the record is clear that the County Council legally adopted the Comprehensive Land Use Plan Update with the Future Land Use Plan Map containing the TD Rehoboth site as part of the Environmentally Sensitive Developing Area.

Should you have any further questions or need additional information, please do not hesitate to contact me.

Sincerely,

GRIFIN & ROBERTSON, P.A.



Vincent G. Robertson

VGR:ssj

cc: Sussex County Planning and Zoning Commission  
Todd Lawson, County Administrator  
J. Everett Moore, Esquire, County Attorney  
Lawrence Lank, Director  
Janelle Cornwell, Manager

JANELLE M. CORNWELL, AICP  
PLANNING & ZONING MANAGER  
(302) 855-7878 T  
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janelle.cornwell@sussexcountyde.gov



**Sussex County**

DELAWARE  
sussexcountyde.gov

## Memorandum

DRAFT

To: Sussex County Council Members

From: Janelle Cornwell, AICP, Planning & Zoning Manager

CC: Todd Lawson, County Administrator, Lawrence Lank, Planning Director

Date: August 11, 2015

RE: Information regarding FAA questions for TD Rehoboth (CZ 1770)

Mr. Vincent inquired about the Federal Aviation Administration (FAA) rules regarding agricultural spraying from an airplane near people. The FAA allows aircraft to go below 500' above the surface and closer than 500' to people and structures when spraying for agricultural purposes if the spraying and aircraft does not create a hazard. The FAA rules state that no person may conduct an agricultural aircraft operation over a congested area unless operated at altitudes required for property accomplishment of the agricultural operation and approval from the governing body, notice to the public and an operation plan submitted and approved by the FAA Flight Standards District Office. The FAA rules do not define congested area and do not indicate what the safe distance is for operation within a congested area.

The FAA Regulations state the following:

**§137.35 Limitations on private agricultural aircraft operator.**

No person may conduct an agricultural aircraft operation under the authority of a private agricultural aircraft operator certificate—

- (a) For compensation or hire;
- (b) Over a congested area; or
- (c) Over any property unless he is the owner or lessee of the property, or has ownership or other property interest in the crop located on that property.

**§137.37 Manner of dispensing.**

No persons may dispense, or cause to be dispensed, from an aircraft, any material or substance in a manner that creates a hazard to persons or property on the surface.

**§137.49 Operations over other than congested areas.**

Notwithstanding part 91 of this chapter, during the actual dispensing operation, including approaches, departures, and turnarounds reasonably necessary for the operation, an aircraft may be operated over other than congested areas below 500 feet above the surface and closer than 500 feet to persons, vessels, vehicles, and structures, if the operations are conducted without creating a hazard to persons or property on the surface.

[Amdt. 137-3, 33 FR 9601, July 2, 1968]

**§137.51 Operation over congested areas: General.**

- (a) Notwithstanding part 91 of this chapter, an aircraft may be operated over a congested area at altitudes required for the proper accomplishment of the agricultural aircraft operation if the operation is conducted—



- (1) With the maximum safety to persons and property on the surface, consistent with the operation; and
- (2) In accordance with the requirements of paragraph (b) of this section.

(b) No person may operate an aircraft over a congested area except in accordance with the requirements of this paragraph.

- (1) Prior written approval must be obtained from the appropriate official or governing body of the political subdivision over which the operations are conducted.
- (2) Notice of the intended operation must be given to the public by some effective means, such as daily newspapers, radio, television, or door-to-door notice.
- (3) A plan for each complete operation must be submitted to, and approved by appropriate personnel of the FAA Flight Standards District Office having jurisdiction over the area where the operation is to be conducted. The plan must include consideration of obstructions to flight; the emergency landing capabilities of the aircraft to be used; and any necessary coordination with air traffic control.

[Doc. No. 1464, 30 FR 8106, June 24, 1965, as amended by Doc. No. 8084, 32 FR 5769, Apr. 11, 1967; Amdt. 137-13, 54 FR 39294, Sept. 25, 1989]

OLD BUSINESS

August 18, 2015

This is to certify that on April 9, 2015 the Sussex County Planning and Zoning Commission conducted a public hearing on the below listed application for Change in Zoning. At the conclusion of the public hearing, the Commission moved and passed that the application be forwarded to the Sussex County Council with the recommendations as stated.

Respectfully submitted:

COUNTY PLANNING AND ZONING  
COMMISSION OF SUSSEX COUNTY

Lawrence B. Lank  
Director of Planning and Zoning

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

**Change of Zone #1764 – Coastal Club, LLC**

Application of **COASTAL CLUB, LLC** an Ordinance to Modify Condition Number 1, 4, 13, and 17 imposed on Ordinance No. 1770 for Change of Zone No. 1554, the application of Marine Farm, LLC for the Coastal Club, a MR-RPC (Medium Density Residential District – Residential Planned Community), and to amend the Comprehensive Zoning Map of Sussex County from a MR-RPC (Medium Density Residential District – Residential Planned Community) to a MR (Medium Density Residential District) for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, for a 13.425 acres, more or less, portion of the property (911 Address: None Available) (Tax Map I.D. 334-11.00-5.00, 395.00, and 396.00).

The Commission found that the Applicants submitted an Exhibit Packet on October 1, 2014, which included a request to revise the Conditions of Approval for C/Z #1554, specifically Conditions of Approval number 1, 4, 13, and 17, and requesting that a 13.425 acre portion of the original MR-RPC be removed from the RPC; that surveys and land descriptions were attached; that the parcel was formerly intended to be used for the Community Wastewater Treatment Facility for the Coastal Club community; that the Coastal Club community is now intended to be served as a part of a Sussex County Sewer District; that the Packet includes the original Conditions of Approval with revised wording for Conditions of Approval 1, 4, 13, and 17; and that copies of the original Conditions of Approval from the Minutes of the Sussex County Council, dated April 19, 2005 were attached.

The Commission found that the Applicants submitted a packet of Exhibits recently, which include a copy of the Coastal Club Master Plan; the original Conditions of Approval from C/Z #1554; suggested revised Conditions of Approval; a copy of a letter from the Director of Planning and Zoning, dated October 5, 2005; and copies of the Minutes of the Planning and Zoning Commission for June 14, 2007.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum, dated April 1, 2015, referencing that the project is capable of being annexed into a County operated and maintained sanitary sewer district, the Goslee Creek Planning Area; that wastewater capacity is available; that Ordinance 38 construction will be required; that the current System Connection Charge Rate is \$5,500.00 per Equivalent Dwelling Unit (EDU); that the location and size of laterals and connection points are to be installed in accordance with the Goslee Creek Planning Study; that conformity to the North Coastal Area Planning Study will be required; that the County Engineering Department requires modification to the proposed Conditions; that the County requires design and construction of the collection and transmission system to meet County Engineering Department requirements in accordance with the Goslee Creek Planning Study; that the County Engineer must approve the connection points; and that a sewer concept plan must be submitted and approved by the Engineering Department; and that the Engineering Department provided suggested amendments to Condition of Approval Number 17, as it relates to Sewer, Reece's Lane, and Others.

The Commission found that the Sussex Conservation District provided comments in the form of a memorandum, dated March 6, 2015 that relate to the overall project, not the Conditions of Approval Numbers 1, 4, 13, and 17 and that those comments are a part of the record.

The Commission found that Preston Schell, one of the developers, was present with James Fuqua, Esquire with Fuqua, Yori and Willard, P.A., Zac Crouch, Professional Engineer with Davis, Bowen and Friedel, Inc., and Bruce Wright with the First State Community Action Agency and that they stated in their presentations and in response to questions raised by the Commission that they are applying to rezone a 13.4 acre portion of the property from MR/RPC to MR by abandoning the RPC overlay, and to amend or modify four of the Conditions of Approval relating to C/Z #1554; that the MR/RPC zoning was approved by the Sussex County Council in April 2005 with 18 Conditions of Approval; that the original project went into default; that the applicants have purchased the property from the lender and have started developing Phase One of the project; that the request for rezoning is for a 13.4 acre portion of the property that fronts Beaver Dam Road and is separated by a branch and wetlands from the larger portion of the site, and was originally intended for a wastewater treatment facility for the project; that the 13.4 acre portion of the property is across from Hopkins Farm Road; that the project will now be served by Sussex County sanitary sewer; that the sanitary sewer system is now under construction, therefore there is no need for a private sewerage treatment facility; that this rezoning will not impact the original RPC; that there will be little to no impact on the density for the project; that the MR zoning will remain with the 13.4 acre portion of the property; that in reference to the proposed amendments to the original Conditions of Approval; Condition #1 is proposed to be corrected to designate the correct number of units from 432 to 412 single family

lots, since 20 lots were eliminated with a roadway connection to Jim Town Road; Condition #4 is proposed to be corrected to change the reference from central sewer to Sussex County Sewer District; Condition #13 is proposed to be amended to read “The 42 acre area previously designated as an Eagle Wildlife Habitat Conservation Area shall now be designated as community open space and may be utilized for passive or active community recreation uses or natural open space. No construction of residential units shall be permitted in this area”. The change is requested since the Bald Eagle vacated the nest, therefore the management plan is no longer required; Condition #17 was voluntarily proffered by the original developers and then required by Sussex County Council to benefit the residents of Jim Town Road as it relates to central sewer, central water, street lighting, and sidewalks; that there are some housekeeping items included in these proposed revisions and should be considered reasonable requests; that in reference to Condition #17A which relates to the previously referenced Sussex County Sewer District should also include a reference that no one is required to hook up to the sewer system; that the developers are requesting that Conditions 17C which references street lighting and 17D which references sidewalks be deleted; that in 2007 a request was applied for to amend the Conditions of Approval on behalf of the residents of Jim Town Road as the Conditions of Approval related to these same items; that the Planning and Zoning Commission recommended that the request be denied, and not long after the developers withdrew their requests; that the Conditions of Approval reference “if desired by the residents of Jim Town” which was not clear; that the current developers of the project desired to get the opinion of the residents of Jim Town and asked for assistance from the County and the First State Community Action Agency; that in 2014 the First State Community Action Agency assisted the developers by holding a public meeting to ballot the residents to determine if street lighting and sidewalks were supported by the residents; that it was determined that 44 residents could vote; that 29 of the residents were property owners; that letters were sent to the 29 property owners; that it was reported that in reference to street lighting there were ten (10) votes in support and four (4) votes in opposition; that in reference to sidewalks there were eleven (11) votes in support and three (3) votes in opposition; that since only 14 residents voted it was not clear what the majority of the residents want; that it was never the intent of the original developer or the current developers to get out of building sidewalks or street lighting; that they are seeking guidance from the County; that ballots were issued to the property owners; that letters were sent out requesting a response on the ballots; that staff of First State Community Action Agency talked to residents in the area in July 2014 and asked the residents to communicate; that there appeared to be some strong support and some strong negativity; that all responses received were property owners; that some want sidewalks and some don't; that if individually voting any one resident can refuse to grant an easement for a sidewalk on their property; that they prepared a preliminary plan and found that the pavement is higher at the crown of the road than the properties; that the ditches may have to be moved; that either a drainage easement or the sidewalks shall be on private properties; that exhibits that were displayed at the public meeting showed the topographic issues that need to be addressed if sidewalks are placed; that the ordinance references that sidewalks shall be located on one side of Jim Town Road, not both sides, therefore, which side will the sidewalks be built upon; that the developers are happy to install both sidewalks and street lighting, and are only

asking for directions; and that the southwesterly side of Jim Town Road seems to be the least impacting on the residents.

The Commission found that Roslyn Allen Echols was present with interest in properties along Jim Town Road and stated that she has no objection to the modification to Condition #1; that the property owners should have the right to decide if they want to be impacted by sewer, water, sidewalks and street lighting; that she has no objection to the modification to Condition #14; that sewer and water should be available if the owners chose to connect; that the majority of the residents do not want an 8-inch sewer line along Jim Town Road; that the Jim Town Road community has existed for 100 years or more; that the residents are concerned about the connection and collection fees by the County, and fear that they might lose their properties due to the impact by fees; that if the sewer and water lines are installed and the residents septic or well fails, the State DNREC will require connection to the sewer and water system; that the majority of the residents have security lighting and do not need street lighting; that sidewalks on one side of the Road is not helpful and only serves a few; that the majority of the residents do not want sidewalks; and that some of the homes are too close to Jim Town Road and will be impacted by sidewalks or easements.

The Commission found that Michael Miller, a resident and property owner, was present with interest and stated that he represents some of the residents of Jim Town Road and that the majority of the residents want street lighting and sidewalks; that he has no objection to the rezoning portion of this request; that he has no objection to the Bald Eagle portion of the project being open space; that he supports sidewalks and street lighting; that sidewalks should be on both sides of Jim Town Road; that he described his power point display which contained photographs of the Lewes Crossing subdivision and other projects; that the photographs depict 30' wide street paving, curbing/guttering, grass and sidewalks; that ditching may have to be piped and covered; that some projects have bike/pedestrian paths along Beaver Dam Road; that the residents do not want easements for sidewalks on individual properties; that he feels that the ballots cast indicate that a majority of the residents want sidewalks and street lighting; that if a 50-foot right-of-way exist for Jim Town Road, there is space for 22-foot of pavement, curbing and guttering with sidewalks; that adequate street lighting can be installed on the existing electrical poles along Jim Town Road; that for safety reasons the sidewalks and street lighting should be installed; that sidewalks on the easterly side would be preferred since most of the homes are on the easterly side of Jim Town Road; and that sidewalks would really be preferred on both sides to protect all of the residents.

The Commission found that Gerald Allen, a property owner, was present and stated that he does not permanently live along Jim Town Road; that the ballots were not clear or explained; that the counts were questionable, and that some of the residents did not vote since the ballots were not clear; that he is not sure what happened to the Bald Eagle nest; that street lights could be placed on the existing poles; that street lighting is a good idea, if at no cost to the residents; that he has no objection to street lighting; that he has no objection to sidewalks if in the street right-of-way; and that he opposed sidewalks on individual lots.

The Commission found that Monroe Brittingham, a property owner and resident, was present and stated that he was originally opposed to the project and all of the conditions imposed on the area of Jim Town Road; and that he now supports the need for sewer, water, street lighting, and sidewalks.

The Commission found that Gaye Allen Moore, a property owner, agreed with Ms. Echols, and stated that another Condition has not been resolved, referencing Reece's Lane, which has not been conveyed to the adjoining property owners; that she is concerned that the State DNREC will require connection to the sewer and water if systems fail; that she opposes street lighting, since they are not needed; that she opposes sidewalks; that drivers need to realize that they are in a residential area and obey the speed limits.

The Commission found that Mr. Crouch responded that sidewalks within the existing right-of-way will require improvements, referencing that the road and properties have to be designed to drain; that an easement will still be needed, whether for drainage or sidewalks; that DelDOT will require vertical curbing, not rolled curbing; that based on State specifications and guidelines the streets would have 11-foot lanes, 2-foot of curbing, 3-foot of grass, 5-foot of sidewalk, a 2-foot grass strip for safety, and a graded slope of 4:1 which is a total redesign of the Jim Town Road; that 4:1 backslopes would be required; that if they can't get the easements, the improvements cannot be completed; that separation is required from sidewalk to curbing; that inlets or catch basins would have to be installed on private properties; that they cannot conform to DelDOT regulations within a 50-foot right-of-way; that if this was a new project, it can be designed up front; that easements will need to be granted; that the improvements to the right-of-way depend on the elevation of the properties; that the pavement section is higher than the properties; that if a property owner does not agree to granting an easement the sidewalks will be segmented; that DelDOT may not even approve the intended changes; and that they will have to abide by DelDOT regulations and referenced clear zones, ADA compliance, and other issues.

The Commission found that Michael Miller responded that a variance from DelDOT may be needed, and that it can be engineered to work; that the road can be shifted and/or graded down so that the road is not higher than the properties; and that DelDOT has granted variances in the past.

The Commission found that Ms. Echols responded that some of the homes are already too close to Jim Town Road.

The Commission found that Gerald Allen responded that it can be done, but it will cost; that the Coastal Club needed the Jim Town residents when the project was approved; that the developers must not need the residents now and that this may be the reason why the amendments are being proposed; that Jim Town Road needs to be fixed; that neighbors want the improvements; and the improvements will improve Jim Town

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

On April 9, 2015 there was a motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

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

Mr. Robertson advised the Commission that this application is a request to modify conditions 1, 4, 13, and 17 of Ordinance No. 1770, which include eliminating a portion of the RPC where wastewater water disposal was to be located; that the project will now be served by Sussex County sewer; that there are issues relating to sidewalks being installed within the Jimtown community; whether streetlights should be installed in the Jimtown community; other issues such as the bald eagle nesting area being an undisturbed wildlife area since the eagle no longer nests in the area; that this is unusual in how the Commission typically handles applications; that typically there is one recommendation to the County Council; that this application presents so many different and unrelated issues and that the best way to handle this application is to do a separate motion and vote for each topic so that the County Council has a more clear understanding what the Planning and Zoning Commission's recommendations are as well as the community members and the developer.

Mr. Johnson stated that he would move that the Commission recommend a modification of Conditions #4 and #17A of Ordinance #1770 regarding sewer provided to the Coastal Club project and Jimtown Road based upon the record made during the public hearing and for the following reasons:

1. The original Application contemplated sewer service via an on-site wastewater treatment and disposal system operated by a private utility.
2. Since the time of approval, the sewer provider has changed so that the Coastal Club development will now be served as part of a Sussex County Sanitary Sewer District. As a result, condition Number 4 of Ordinance #1770 should be modified to state "The development shall be served by central sewer as part of a Sussex County Sewer District."
3. The developer has also proposed revised language for Condition #17A regarding the means of providing wastewater treatment and disposal to properties along Jimtown Road now that County sewer service is available. The revisions proposed by the developer have been modified by the Sussex County Engineering Department for conformity with its sewer requirements.
4. There must be a timeframe under which the developer is required to connect Jimtown properties to the Sussex County sewer system pursuant to the original Condition #17A without cost to those property owners choosing to connect. This must be clarified in the modified condition #17A.
5. No property owner within Jimtown between Beaver Dam Road and the existing bridge at Goslee Creek should be required by Sussex County or the developer to connect to the County sewer system, but sewer is available for connection if they choose or if necessary.
6. It is Mr. Johnson's recommendation that Condition #17A be modified to state as follows, based upon the developer's request and the County Engineering Department's recommendations:

A. Sewer

*At its sole cost and expense, Developer will provide the properties of Jimtown with lateral and gravity connections to a Sussex County Sewer District, whereby capacity is allocated in accordance with the Goslee Creek Planning Study. The Jimtown service area is described as those properties with frontage on Jimtown Road that are located between the existing bridge at Goslee Creek and the intersection of Beaver Dam Road*

*At its sole cost and expense, the Developer will complete construction of a sanitary sewer transmission system of sufficient size to convey the Jimtown sewerage through the Coastal Club sanitary sewer system to the Sussex County sewer system within three (3) years of the commencement of construction on the Coastal Club site. Based upon the established date of construction commencement (May 23, 2014), the Developer must complete the Jimtown transmission system by May 22, 2017.*

*At its sole cost and expense, Developer will engineer and construct a sanitary sewer collection system within Jimtown Road from the bridge to the intersection of Jimtown and Beaver Dam Roads, and connect it to the Coastal Club transmission system. The home, lot or parcel owners will not be responsible for any System Connection Charges (SCC's) if connected to the Central Sewer within three (3) years from the date of substantial completion of the Sewer System. The Developer shall be responsible for paying the SCC for any existing home connecting during the three (3) year period. No home, lot or parcel owners of Jimtown shall be required by Sussex County to hook up to the central sewer unless they choose to do so.*

*Each resident of Jimtown that chooses to hook up to the Coastal Club sanitary sewer system, with such hookup being solely at the discretion of each individual property owner, will pay the use rates set by Sussex County.*

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

Mr. Johnson stated, that concerning CZ #1764, he would move that the Commission recommend an amendment to Conditions #17C of Ordinance #1770 for the Coastal Club Development regarding the streetlights within the Jimtown Community based upon the record made during the public hearing and for the following reasons:

1. Condition number 17C of the original approval required streetlights, but only “if desired by the residents of Jimtown”.
2. The applicant, with the assistance of First State Community Action Agency, has sought input from as many people as possible through various forms of outreach, including mailings, meetings, visits, ballots and phone calls. There is no clear consensus that streetlights are not wanted, and many people from Jimtown in attendance at the public hearing stated that they desire to have streetlights installed along Jimtown Road.

3. There is also a significant amount of development occurring along Beaver Dam Road and Robinsonville Road. Many of these developments were not yet approved or in existence in 2005 when the Coastal Club project was first approved. Jimtown Road connects between these two roads, and will continue to see increased traffic as these developments progress. For this reason, requiring the developer to install streetlights along Jimtown Road as proffered by the original developer promotes the health, safety and welfare of the Jimtown Community and traffic safety along Jimtown Road.
4. There was also testimony from the Jimtown Community during the public hearing that streetlights are not necessary every 100 feet as required by Ordinance Number 1770. Instead, as one member of the public stated, it is appropriate for them to be installed on the existing poles along the street.
5. Finally, the original approval required the streetlights to be installed within 1 year of the start of construction of the Coastal Club project, which occurred on May 23, 2014. Since the 1 year deadline will be impossible to make, Mr. Johnson recommends that it be amended to state 2 years from the start of construction, giving the developer and the residents until May 22, 2016 for the streetlights to be installed.
6. For these reasons, it is Mr. Johnson's recommendation that Condition 17C of Ordinance Number 1770 be modified to state:

*Within two (2) years of the commencement of construction (May 23, 2014), Coastal Club, LLC at its sole cost and expense will provide for the installation of all streetlights required by DelDOT together with streetlights on each telephone pole along Jimtown Road between the existing bridge at Goslee Creek and the intersection with Beaver Dam Road. Additionally, all street light rental or service charges (for these streetlights only) will be borne by Coastal Club, LLC, its successors or assigns.*

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

Mr. Johnson stated that concerning CZ #1764 he would move that the Commission recommend an amendment to Condition 17D of Ordinance #1770 for the Coastal Club Development regarding sidewalks within the Jimtown Community based upon the record made during the public hearing and for the following reasons:

1. Conditions number 17D of the original approval required sidewalks but only “if desired by the residents of Jimtown”. It also stated that they should be installed either within the right of way of Jimtown Road or outside of the right of way on Jimtown lots. This requirement was proffered by the original developer of the Coastal Club project.
2. The Applicant, with the assistance of First State Community Action Agency, has sought input about sidewalks from as many people as possible through various forms of outreach, including mailings, meetings, visits, ballots and phone calls. There is no clear

consensus that sidewalks are not wanted, and many people from Jimtown in attendance at the public hearing stated that they desire to have sidewalks installed along Jimtown Road.

3. The applicant has stated its willingness to install sidewalks.
4. It is not reasonable to require easements from property owners for the installation of sidewalks on their properties, especially if there is not 100% agreement about them. Also, many of the homes along Jimtown Road are very close to the right of way and there is very little room in some cases to put in a sidewalk outside of the right of way.
5. There is a significant amount of development occurring along Beaver Dam Road and Robinsonville Road. Many of these developments were not yet approved or in existence in 2005 when the Coastal Club project was first approved. Jimtown Road connects between these two roads, and will continue to see increased traffic as these developments progress. For this reason, requiring the developer to install sidewalks along Jimtown Road promotes the health, safety and welfare of the Jimtown Community.
6. There was also testimony during the public hearing that most of the homes are on the northeast side of Jimtown Road, so if sidewalks are going to be installed on just one side of the road as required by the original condition 17D, it should be on the northeast side of Jimtown Road.
7. The developer must consult with DeIDOT, the Sussex Conservation District and any other agencies that can be of assistance to design and construct the sidewalks within the road right of way on the northeast side of Jimtown Road between the bridge over Goslee Creek and the intersection with Beaver Dam Road.
8. Because construction work will need to occur on Jimtown Road to install the sewer and roadway improvements required by Conditions 17A and 17E, the sidewalks should be installed at the same time as this work is underway. Condition 17A requires the sewer to be installed in Jimtown Road within three years of May 23, 2014, so the same timeframe should apply to the sidewalk installation.
9. For these reasons and the record made during the public hearing, Condition #17D of Ordinance #1770 should be modified to state as follows:

*Within three (3) years of the commencement of construction (May 23, 2014), Coastal Club, LLC at its sole cost and expense shall provide a sidewalk within the Jimtown Road right of way on the northeast side of Jimtown Road from the existing bridge over Goslee Creek to the intersection of Jimtown Road and Beaver Dam Road in accordance with the approval of DeIDOT and the Sussex Conservation District.*

Mr. Ross raised a question of what would happen if the sidewalks are not constructed within the specified timeframe.

Mr. Robertson advised the Commission that the County could withhold the issuance of building permits or could seek Court remedies.

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

Mr. Johnson stated that he would move that the Commission recommend approval of the portion of CZ #1764 for the Coastal Club, LLC to amend and correct Condition Number 1 of Ordinance #1770 regarding the number of units within the development based upon the record made during the public hearing and for the following reasons:

1. Condition #1 concerns the number of units within the development. The original Condition #1 stated that “the maximum number of dwelling units shall not exceed 630 of which at least 432 shall be located on single family lots. The 20 lots with roadway connection to Jimtown Road shall also be eliminated.”
2. Although the 20 Jimtown Road single family lots were eliminated, the total number of single family lots in the entire development was not reduced by 20 lots. As a result, the first sentence of Condition #1 should have referenced 412 single family lots instead of 432 so that Condition #1 states as follows; “The maximum number of dwelling units shall not exceed 630 of which at least 412 shall be located on single family lots. The 20 lots with roadway connection to Jimtown Road shall be eliminated. The roadway connection to Jimtown Road shall be eliminated.”
3. In summary, Mr. Johnson’s motion is to approve this corrective measure to Condition #1.

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

Mr. Johnson stated that he would move that the Commission recommend denial of part of CZ #1764 relating to the removal of the Residential Planned Community overlay from 13.4 acres of land that was originally part of the Coastal Club RPC based upon the record made during the public hearing and for the following reasons:

1. The area of the request to delete the RPC Overlay was originally part of the Coastal Club RPC, and the acreage was used to calculate the overall density of the project.
2. There has been no justification for the removal of the RPC designation, other than the fact that the land is no longer needed for the on-site wastewater treatment facility that was originally proposed for the project. The project is now going to be part of the Sussex County Sanitary Sewer District.
3. The original RPC approval limited density to 1.74 units per acre on all of this land rezoned to MR from AR-1 as part of the application.

4. As stated in the original Findings of Fact for Ordinance Number 1770, it was noted that the RPC kept the density to an appropriate level less than what was permitted under the surrounding AR-1 Zoning. By removing the RPC Overlay, the density could rise to up to 4 units per acre under the MR Zoning. Mr. Johnson does not believe this possible density would have been approved at the time the Coastal Club application was originally presented and the necessary change in zone to MR was permitted primarily as a result of the RPC Overlay limiting the density of the project.
5. MR zoning without an RPC Overlay allowing up to 4 units per acre is not appropriate in this location.
6. For all these reasons, it is Mr. Johnson's motion that the property should remain subject to the MR/RPC as originally contemplated for the Coastal Club residential project.

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

Mr. Johnson stated that this is his final motion concerning the Coastal Club and CZ #1764, that he is recommending several additional changes that are needed to clarify Ordinance No. 1779 based on the requests of the applicant and reasons presented during the public hearing, and that his recommendations are as follows:

1. Throughout all of Ordinance #1770, there is reference to the developer being "Marine Farm, LLC." Since that LLC is no longer involved in the project, all references to it should be updated to refer to Coastal Club, LLC.
2. The applicant has stated that Condition #13, regarding the "Eagle Wildlife Habitat Conservation Area" is no longer necessary, as there is not an eagle nest on the property. It is appropriate to modify this condition under the circumstances, but it should still remain as open space. Mr. Johnson recommends that it be modified to state:

*The former 42-acre "Wildlife Habitat Area" shall remain an open, natural area in perpetuity, with uses limited to trails and other passive recreational uses. There shall not be any residences, structures, pool, clubhouses, or similar amenities constructed within this area.*

3. Finally, as part of the adoption of these recommendations by County Council, Mr. Johnson recommends that Council include a restatement of all of the Conditions of Ordinance #1770, as modified by CZ #1764 in their entirety, so that there is one document containing all of the current conditions of approval.

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

Council District 3 - Deaver  
Tax I.D. No. 334-11.00-5.00, 395.00 and 396.00  
911 Address: None Available

ORDINANCE NO. \_\_\_\_

(Change of Zone No. 1764)

AN ORDINANCE TO MODIFY CONDITION NUMBERS 1, 4, 13, AND 17 IMPOSED ON ORDINANCE NO. 1770 FOR CHANGE OF ZONE NO. 1554, THE APPLICATION OF MARINE FARM, LLC FOR THE COASTAL CLUB, A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY, AND TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, FOR A 13.425 ACRES, MORE OR LESS, PORTION OF THE PROPERTY

WHEREAS, on the 10th day of December 2003, a zoning application, denominated Change of Zone No. 1554 was filed on behalf of Marine Farm, LLC; and

WHEREAS, on the 23rd day of September 2004, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 3<sup>rd</sup> day of February 2005, said Planning and Zoning Commission recommended that Change of Zone No. 1554 be approved with conditions; and

WHEREAS, on the 12th day of October 2004, 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 Finding of Fact, 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, and

WHEREAS, on the 14th day of June 2007, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County, to delete and/or modify the conditions imposed on Ordinance No. 1770 for Change of Zone No. 1554, and on the 18<sup>th</sup> day of July 2007, said Planning and Zoning Commission recommended that the requested proposal to delete and/or modify the conditions be denied; and

WHEREAS, on the 17th day of July 2007, a public hearing was held, after notice, before the County Council of Sussex County, and the County Council of Sussex County deferred action; and

WHEREAS, on the 11th day of March 2008, the County Council of Sussex County considered a request from Marine Farm, LLC to withdraw their request for the deletion and/or modification of the conditions imposed in Ordinance No. 1770 and the County Council of Sussex County approved the request to withdraw; and

WHEREAS, on the 21<sup>st</sup> day of October 2014, a zoning application denominated as Change of Zone No. 1764, was filed on behalf of Coastal Club, LLC, successor in interest of Marine Farm, LLC, to modify condition numbers 1, 4, 13 and 17 imposed on Ordinance No. 1770 for Change of Zone No. 1554 and to amend the Comprehensive Zoning Map of Sussex County from a MR-RPC Medium Density Residential District – Residential Planned Community to a MR Medium Density Residential District for 13.425 acres, more or less; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2015, a public hearing was held after, after notice, before the Planning and Zoning Commission of Sussex County, and said Planning and Zoning Commission recommended that Change of Zone No. 1764 be \_\_\_\_\_; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2015, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the Findings of Fact, 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:

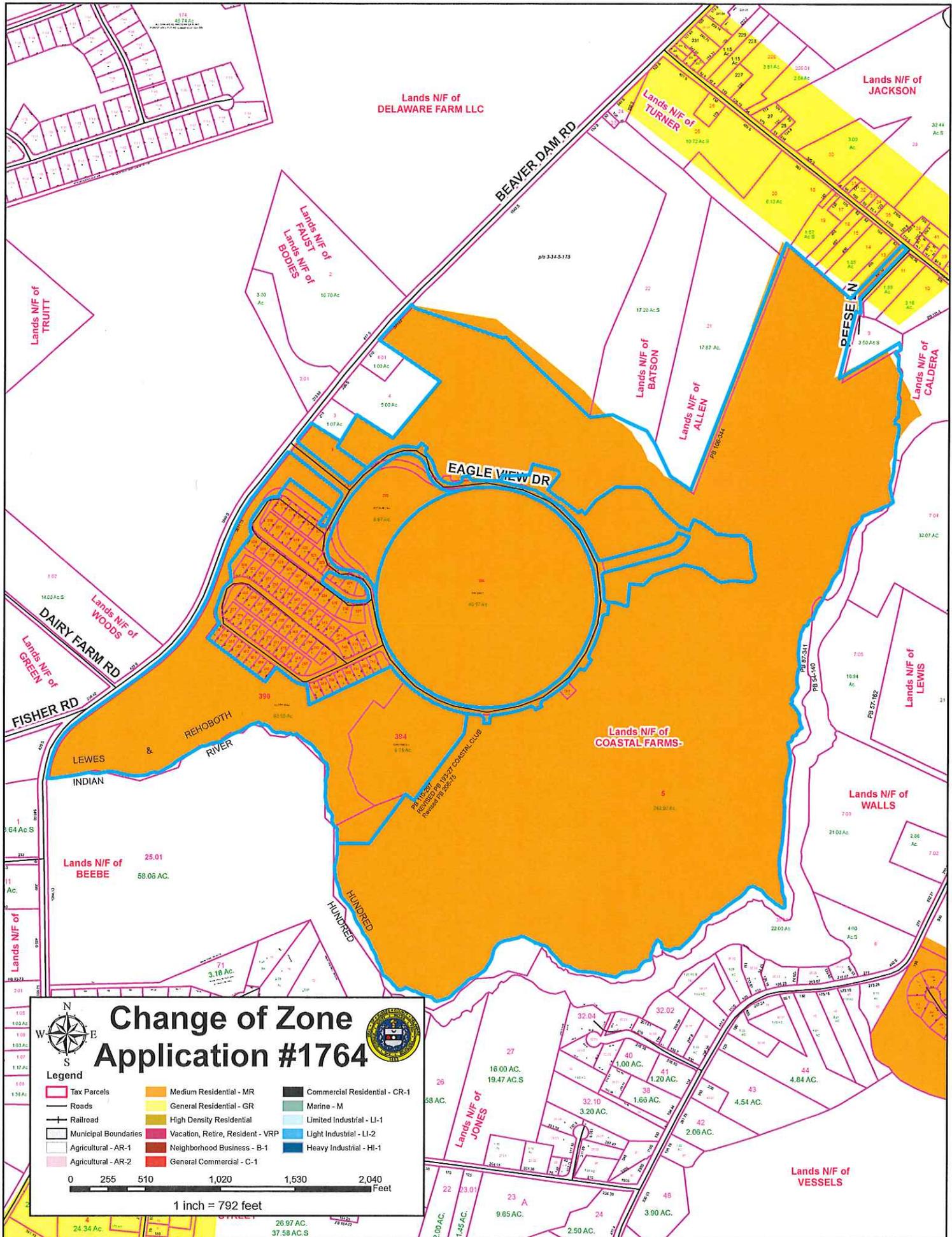
Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [MR-RPC Medium Density Residential District – Residential Planned Community] and adding in lieu thereof the designation of MR Medium Density Residential District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

BEGINNING at a point on the southeasterly right-of-way of Beaver Dam Road (Road 285) a corner for these subject lands and lands of Coastal Farms – Lender, LLC; thence southeasterly the following four (4) courses along lands of Coastal Farms – Lender, LLC: South 47°57'18" East 25.85 feet to a point; South 09°25'18" East 46.68 feet to a point; South 32°58'59" East 194.24 feet to a point; and South 28°47'15" East 437.52 feet to a point; thence southwesterly along Bundick's Branch the following eight (8) courses: South 52°56'09" West 86.36 feet to a point; South 86°37'32" West 97.46 feet to a point; South 52°05'41" West 159.54 feet to a point; South 20°17'50" West 53.36 feet to a point; South 71°11'15" West 278.63 feet to a point; North 76°38'34" West 310.04 feet to a point; South 77°32'12" West 230.58 feet to a point; and South 87°25'26" West 104.26 feet to a point on the southeasterly right-of-way of Beaver Dam Road (Road 285); thence northeasterly along the southeasterly right-of-way of Beaver Dam Road (Road 285) 2,316.32 feet to the point and place of beginning and containing 13.425 acres, more or less.

Section 3. This Ordinance shall include modifications to condition numbers 1, 4, 13 and 17 imposed on Ordinance No. 1770 for Change of Zone No. 1554, the application of Marine Farm, LLC.

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

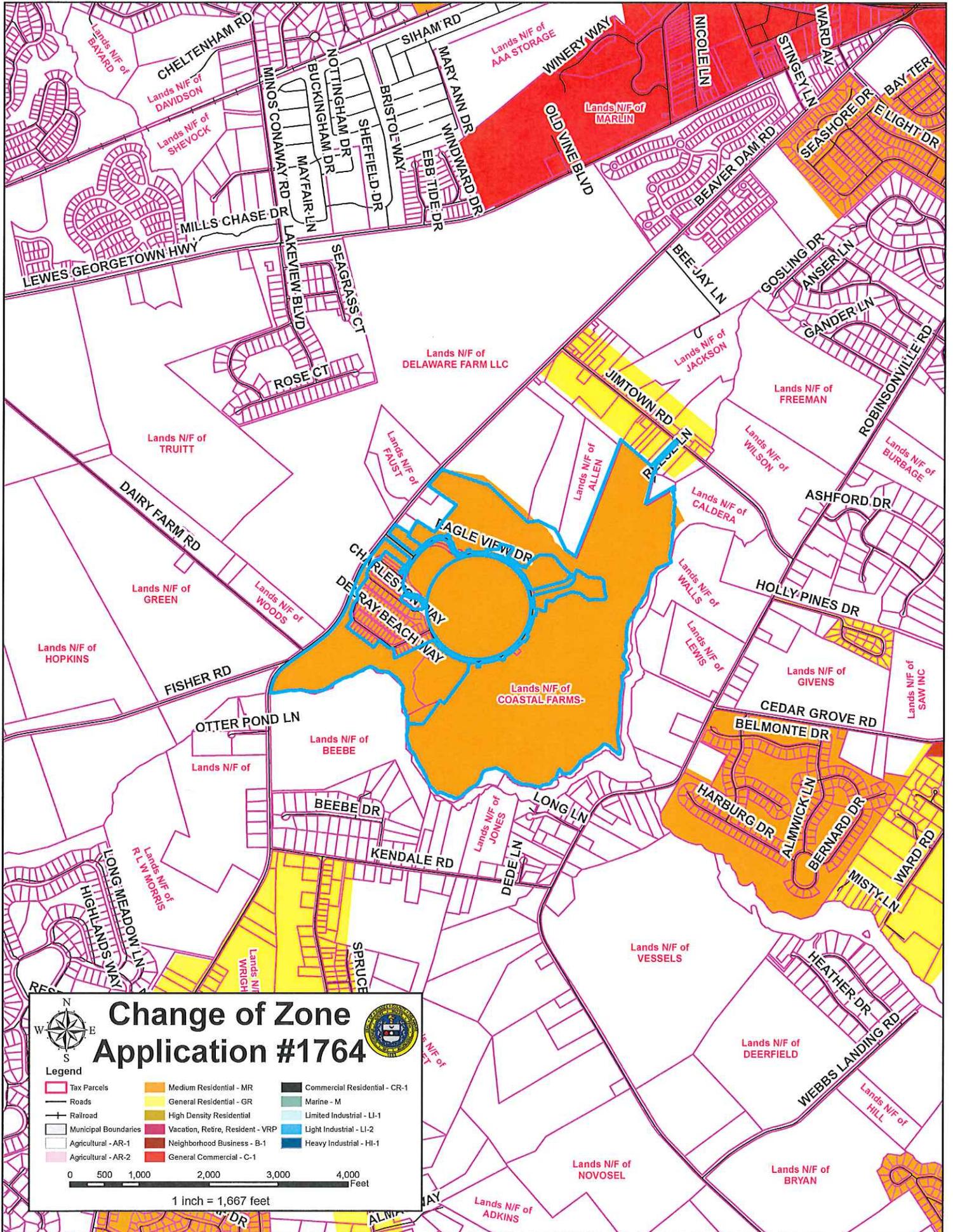


# Change of Zone Application #1764



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

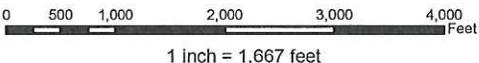
0 255 510 1,020 1,530 2,040 Feet  
 1 inch = 792 feet

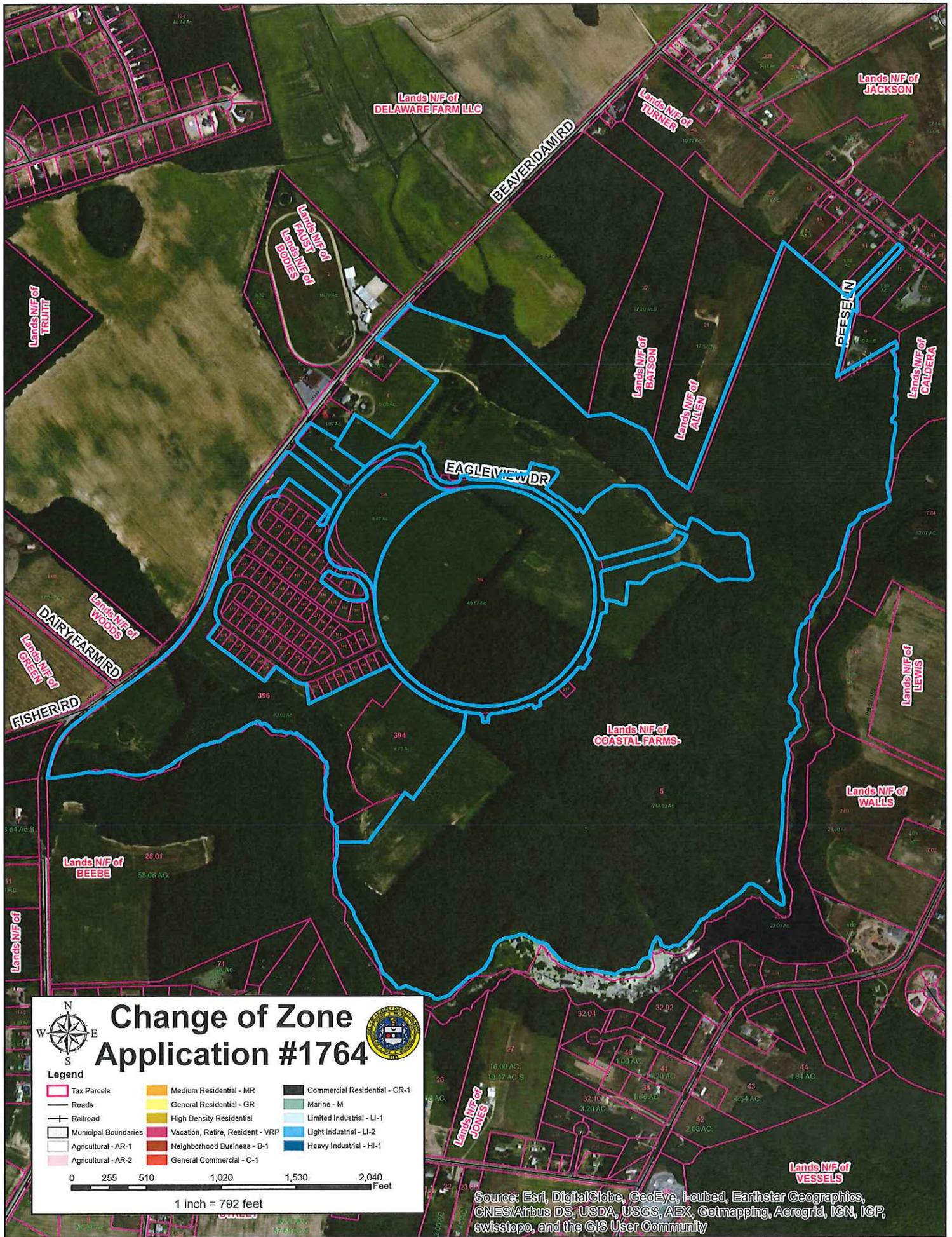


# Change of Zone Application #1764



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

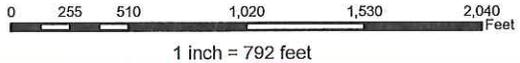




# Change of Zone Application #1764



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



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

## ENGINEERING DEPARTMENT

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



# Sussex County

DELAWARE  
sussexcountyde.gov

MICHAEL A. IZZO, P.E.  
COUNTY ENGINEER

### Contract 14-22 Pump Station 23 Modifications Bid Award

- Request that Council approve a contract for construction work by Hopkins Construction, Inc. of Bridgeville, DE for PS 23 Modifications, Contract 14-22.
- The work detailed in the contract consists of modifying an existing wet pit/dry pit pump station to a conventional submersible pump station.
- The work includes-
  - bypass pumping
  - demolition
  - concrete testing and rehabilitation
  - converting the wet pit into a submersible pump wet well
  - converting the dry pit into a valve vault
- The bid amount for the work by Hopkins Construction, Inc. is \$483,820.00.



COUNTY ADMINISTRATIVE OFFICES  
2 THE CIRCLE | PO BOX 589  
GEORGETOWN, DELAWARE 19947

**Pump Station 23 Modifications**  
**Contract No. 14-22**  
**Bid Results**

**BID OPENING – July 30, 2015**

	<b>BIDDER</b>	<b>Base Bid</b>
1.	<b>Hopkins Construction, Inc.</b> <b>Bridgeville, DE</b>	<b>\$483,820.00</b>
2.	Whitemarsh Environmental Systems, Inc. Dover, DE	514,796.00
3.	Kuhn Construction Co. Hockessin, DE	542,005.00
4.	Delmarva Veteran Builders Salisbury, MD	561,910.61
5.	Bearing Construction, Inc. Sudlersville, MD	665,065.00
6.	Mid-Atlantic Dismantlement Corp. Dover, DE	667,120.00
7.	JJID Inc. Bear, DE	811,120.00
	<b>Engineer's Estimate</b>	<b>\$641,780.00</b>



GEORGE, MILES & BUHR, LLC

■ ■ ■ ■

ARCHITECTS  
ENGINEERS

206 WEST MAIN STREET  
SALISBURY, MD 21801  
PH: 410.742.3115  
PH: 800.789.4462  
FAX: 410.548.5790

SALISBURY  
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SEAFORD

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■ ■ ■ ■

August 6, 2015

Sussex County Engineering Department  
2 The Circle  
P.O. Box 589  
Georgetown, DE 19947

Attn: Juel Gibbons

Re: Recommendation of Award  
Pump Station No. 23 Modifications  
Contract No. 14-22  
GMB File No. 140202

Dear Ms. Gibbons:

Bids for the Pump Station No. 23 Modifications were opened at Sussex County Council Chambers at 2:00 p.m. on July 30, 2014. A total of seven (7) bids were submitted by contractors from Delaware and Maryland. Bids ranged from 0.483 million to 0.811 million dollars. The Engineer's estimate for the project was \$641,780; therefore, the lowest bid received was approximately 25% less than the estimated cost. The average bid cost is approximately 6% less than the Engineer's estimated cost. A tabulation of all bids is enclosed with this letter of recommendation for award.

The lowest Bid of \$483,820.00 was submitted by Hopkins Construction, Inc. of Bridgeville, DE. The second lowest Bid was submitted by White Marsh Environmental Systems, Inc. of Dover, DE (\$514,796.00) and third lowest Bid was submitted by Kuhn Construction Co. of Hockessin, DE (\$542,005.00).

GMB has reviewed the three (3) lowest bids, and we offer the following comments:

- White Marsh and Kuhn have acknowledged receipt of all addenda (two were issued); however, Hopkins only acknowledged receipt of addendum no. 1.
- All three (3) bidders have provided the required bid bond.
- White Marsh's bid has math errors for bid item nos. A3 and A9 which carry through to the Total Base Bid. The error affects their bid price by <\$1 and doesn't change their bid place standing.
- The difference between the first and second low bids is approximately \$31,000; or approximately 6% of the bid cost.
- The first low bid is approximately \$158,000, or 25% less than the engineer's construction cost estimate.
- Hopkins Construction intends to self-perform most all work as indicated by their responses on Bid Schedule C.
- All three (3) bidders have listed equipment to be provided in Bid Schedule B that is preferred by the County.

JAMES H. WILLEY, JR., PE  
PETER A. BOZICK, JR., PE  
JUDY A. SCHWARTZ, PE  
CHARLES M. O'DONNELL, III, PE  
W. BRICE FOXWELL, PE  
A. REGGIE MARINER, JR., PE  
JAMES C. HOAGESON, PE  
STEPHEN L. MARSH, PE  
MICHAEL D. MCARTHUR, AIA  
DAVID A. VANDERBEEK, PE  
ROLAND E. HOLLAND, PE  
JASON M. LYTLE, PE

JOHN E. BURNSWORTH, PE  
MICHAEL G. KOBIN, PE  
CHRIS B. DERBYSHIRE, PE  
W. MARK GARDOCKY, PE  
MORGAN H. HELFRICH, AIA  
VINCENT A. LUCIANI, PE  
JERRY KOTRA  
ANDREW J. LYONS, JR., PE  
KATHERINE J. MCALLISTER, PE

It is imperative that the project be completed within the compressed construction schedule stipulated within the Contract Documents. If the County were unable to complete the project prior to the coldest part of the winter season, it could lead to a project that was not ready for operation until the after spring season and therefore subject the beach community to a longer period of construction activity inconvenience. Accordingly, the selected Bidder must be successful in managing project schedules, as well as managing the work of their subcontractors, to ensure that the project is completed on time.

Of the three (3) lowest bidders, GMB has the following remarks. Kuhn Construction, Co. has successfully performed very similar pump station modification work for Sussex County in the cost range of this particular project, namely pump station 24 and more recently pump station 22. Both of these projects entailed a 75-day construction period and were completed on time and on budget. White Marsh Environmental has a well-documented and successful history of operating and maintaining lift stations such as the subject project; however, it has only recently begun performing construction of such stations and therefore has limited construction experience and has not previously worked with the County or GMB on a construction project. Hopkins Construction, Inc. has successfully performed pump station construction work in Sussex County, Delaware and both GMB and the County have worked with them.

Focus was made with regard to Hopkins' Construction recent work performance since they were the apparent low bidder. GMB's previous project experience with Hopkins Construction is that; they did satisfactory work; superintendents assigned to the job were experienced and worked well with clients; they satisfactorily managed subcontractors; and jobs were completed in a satisfactory timeframe barring any circumstances outside of the Contractor's control. GMB has also confirmed with Hopkins that despite having not acknowledged addendum no. 2 on the bid form; the bid price submitted by Hopkins does reflect addendum no. 2. It should be noted that addendum no. 2 only offered clarification of the Contract Documents and did not alter them in any way.

In comparing Hopkin's bid to the second and third lowest, a significant portion of the price difference is accounted for in two (2) of the bid items; that being Traffic Control (A2) and Temporary Bypass Pumping (A3). Both of these items are work that Hopkins has indicated on Bid Schedule C that it intends to self-perform, at an apparent cost savings. GMB has confirmed with Hopkins that the traffic control it intends to implement is consistent with the maintenance of traffic (MOT) plan shown within the Contract Documents and that if flaggers are used for any operations (such as pavement striping), they will be DelDOT certified. Regarding bypass pumping work, Hopkins lists this as a service on its company website and owns said equipment; thereby allowing it to provide the service to the project at minimal cost. GMB has reviewed a listing of comparable bypass pumping projects submitted for review by Hopkins at GMB's request and found their previous experience to be satisfactory.

For the reasons listed above, Hopkins Construction, Inc. was found to be the lowest, responsive, responsible bidder. Accordingly, GMB recommends that Sussex County award construction of the Pump Station No. 23 Modifications to Hopkins Construction, Inc. of Bridgeville, Delaware at the Bid price of Four Hundred Eighty-Three Thousand, Eight Hundred Twenty Dollars and Zero Cents (\$483,820.00).

If you need additional information, or if you would like to discuss any of these matters further, please feel free to contact our office at (410) 742-3115.

Sincerely,



Chris B. Derbyshire, P.E.  
Associate

CBD/cs

Enclosure:  
Certified Bid Tabulation

cc: Sussex County Engineering Department  
Attn: Michael A. Izzo, P.E. (w/encl.)



### Tabulation of Bids

PROJECT NAME: Pump Station No. 23 Modifications  
 CONTRACT NO.: 14-22  
 GMB JOB NO.: 140202  
 BIDS OPENED: 7/30/15, 2:00PM

Item No.	Bid Item Description	Size	Units	Est. Qty.	Hopkins Construction, Inc.		White Marsh Environmental		Kuhn Construction Co.		Delmarva Veteran Builders, LLC		Bearing Construction, Inc.		Mid-Atlantic Dismantlement Corp.		JJD, Inc.		
					Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	
<b>PART A - PUMP STATION NO. 23 MODIFICATIONS</b>																			
A1	Mobilization	--	LS	1	\$ 23,000.00	\$ 23,000.00	\$ 20,294.00	\$ 20,294.00	\$ 20,000.00	\$ 20,000.00	\$ 35,000.00	\$ 35,000.00	\$ 25,000.00	\$ 25,000.00	\$ 24,400.00	\$ 24,400.00	\$ 40,000.00	\$ 40,000.00	
A2	Traffic Control	--	LS	1	\$ 20,000.00	\$ 20,000.00	\$ 27,950.00	\$ 27,950.00	\$ 26,000.00	\$ 26,000.00	\$ 35,000.00	\$ 35,000.00	\$ 50,000.00	\$ 50,000.00	\$ 38,900.00	\$ 38,900.00	\$ 50,000.00	\$ 50,000.00	
A3	Temp. Bypass Pumping	--	Week	12	\$ 750.00	\$ 9,000.00	\$ 2,841.66	\$ 34,099.92	\$ 3,000.00	\$ 36,000.00	\$ 1,500.00	\$ 18,000.00	\$ 3,000.00	\$ 36,000.00	\$ 1,800.00	\$ 21,600.00	\$ 3,000.00	\$ 36,000.00	
A4	Pump Station No. 23	--	LS	1	\$ 374,000.00	\$ 374,000.00	\$ 377,000.00	\$ 377,000.00	\$ 388,000.00	\$ 388,000.00	\$ 423,990.61	\$ 423,990.61	\$ 495,795.00	\$ 495,795.00	\$ 532,200.00	\$ 532,200.00	\$ 630,000.00	\$ 630,000.00	
A5	Wet Well Concrete Wall Demo and Repair	--	SF	600	\$ 40.00	\$ 24,000.00	\$ 43.40	\$ 26,040.00	\$ 61.25	\$ 36,750.00	\$ 38.00	\$ 22,800.00	\$ 42.00	\$ 25,200.00	\$ 31.00	\$ 18,600.00	\$ 25.00	\$ 15,000.00	
A6	Wet Well Concrete Wall & Base Slab Leveling Mortar	--	SF	600	\$ 20.00	\$ 12,000.00	\$ 19.67	\$ 11,802.00	\$ 19.60	\$ 11,760.00	\$ 18.00	\$ 10,800.00	\$ 19.00	\$ 11,400.00	\$ 27.00	\$ 16,200.00	\$ 20.00	\$ 12,000.00	
A7	Miscellaneous Existing Reinforcing Prep and Anti-Corrosion Coating	--	LF	50	\$ 20.00	\$ 1,000.00	\$ 16.80	\$ 840.00	\$ 48.50	\$ 2,425.00	\$ 15.00	\$ 750.00	\$ 16.00	\$ 800.00	\$ 18.00	\$ 900.00	\$ 30.00	\$ 1,500.00	
A8	Chemical Injection Repair of Leaking Crack	--	LF	150	\$ 48.00	\$ 7,200.00	\$ 51.00	\$ 7,650.00	\$ 51.00	\$ 7,650.00	\$ 45.00	\$ 6,750.00	\$ 59.00	\$ 8,850.00	\$ 26.00	\$ 3,900.00	\$ 60.00	\$ 9,000.00	
A9	Concrete Curb	--	LF	160	\$ 60.00	\$ 9,600.00	\$ 31.88	\$ 5,100.80	\$ 58.75	\$ 9,400.00	\$ 30.00	\$ 4,800.00	\$ 50.00	\$ 8,000.00	\$ 40.00	\$ 6,400.00	\$ 85.00	\$ 13,600.00	
A10	Landscaping Allowance	--	LS			\$ 1,500.00		\$ 1,500.00		\$ 1,500.00		\$ 1,500.00		\$ 1,500.00		\$ 1,500.00		\$ 1,500.00	
<b>SUBTOTAL PART A -A1 THRU A10</b>						\$ 481,300.00		\$ 512,276.72		\$ 539,485.00		\$ 559,390.61		\$ 662,545.00		\$ 664,600.00		\$ 808,600.00	
<b>PART B - CONTINGENT BID ITEMS</b>																			
B1	Furnish and Place 4,000 psi Concrete	--	CY	10	\$ 150.00	\$ 1,500.00	\$ 150.00	\$ 1,500.00	\$ 150.00	\$ 1,500.00	\$ 150.00	\$ 1,500.00	\$ 150.00	\$ 1,500.00	\$ 150.00	\$ 1,500.00	\$ 150.00	\$ 1,500.00	
B2	Excavation Below Subgrade	--	CY	10	\$ 11.00	\$ 110.00	\$ 11.00	\$ 110.00	\$ 11.00	\$ 110.00	\$ 11.00	\$ 110.00	\$ 11.00	\$ 110.00	\$ 11.00	\$ 110.00	\$ 11.00	\$ 110.00	
B3	Furnish and Place Gravel Bedding	--	CY	10	\$ 25.00	\$ 250.00	\$ 25.00	\$ 250.00	\$ 25.00	\$ 250.00	\$ 25.00	\$ 250.00	\$ 25.00	\$ 250.00	\$ 25.00	\$ 250.00	\$ 25.00	\$ 250.00	
B4	Furnish and Place Special Backfill (Type "C")	--	CY	10	\$ 16.00	\$ 160.00	\$ 16.00	\$ 160.00	\$ 16.00	\$ 160.00	\$ 16.00	\$ 160.00	\$ 16.00	\$ 160.00	\$ 16.00	\$ 160.00	\$ 16.00	\$ 160.00	
B5	Miscellaneous Excavation and Backfill	--	CY	10	\$ 50.00	\$ 500.00	\$ 50.00	\$ 500.00	\$ 50.00	\$ 500.00	\$ 50.00	\$ 500.00	\$ 50.00	\$ 500.00	\$ 50.00	\$ 500.00	\$ 50.00	\$ 500.00	
<b>SUBTOTAL PART B - B1 THRU B5</b>						\$ 2,520.00		\$ 2,520.00		\$ 2,520.00		\$ 2,520.00		\$ 2,520.00		\$ 2,520.00		\$ 2,520.00	
<b>TOTAL BASE BID (PART A PLUS PART B)</b>						\$ 483,820.00		\$ 514,796.72		\$ 542,005.00		\$ 561,910.61		\$ 665,065.00		\$ 667,120.00		\$ 811,120.00	

Engineer's Estimate: \$ 641,780.00

CERTIFIED BY:

Chris Derbyshire, P.E.

## 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
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FAX	(302) 855-7799



# Sussex County

DELAWARE  
sussexcountyde.gov

MICHAELA. IZZO, P.E.  
COUNTY ENGINEER

### Contract 12-23 Pump Station 207 and Force Main Substantial Completion and Balancing Change Order

- The work completed under this contract saw the installation of approximately 100 LF of gravity sewer, 9,000 LF of force main, construction of a new pump station building and fencing, addition of odor control, and upgraded electrical and communications systems.
- On June 3, 2015 the new pump station was placed into operation. Thus, the Engineering Department requests Council approval of June 3 as the date of substantial completion.
- The Engineering Department also requests that Council approve the balancing change order that results in a credit to the contract in the amount of \$137,683.21.
- The original contract amount was \$4,123,810.90. Change Order #1 also resulted in a credit to the contract of \$4,062.10. The final contract amount is, therefore, \$3,982,065.59.



COUNTY ADMINISTRATIVE OFFICES  
2 THE CIRCLE | PO BOX 589  
GEORGETOWN, DELAWARE 19947



GEORGE, MILES & BUHR, LLC

■ ■ ■ ■

ARCHITECTS  
ENGINEERS

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■ ■ ■ ■

JAMES H. WILLEY, JR., PE  
PETER A. BOZICK, JR., PE  
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W. MARK GARDOCKY, PE  
MORGAN H. HELFRICH, AIA  
VINCENT A. LUCIANI, PE  
JERRY KOTRA  
ANDREW J. LYONS, JR., PE  
KATHERINE J. MCALLISTER, PE

July 14, 2015

Sussex County Engineering Department  
P.O. Box 589  
Georgetown, DE 19947

Attn: Juel Gibbons

Re: Pump Station No.207 and Force Main  
Contract No. 12-23  
Substantial Completion  
GMB File No. 120223.A

Dear Mrs. Gibbons:

This letter is issued as the Certificate of Substantial Completion for the Pump Station No.207 and Force Main project.

A pre-final inspection was held on June 19, 2015 to determine the status of completion and to develop a punch list, a copy of which has been provided to all parties. Failure to include an item on the list does not alter the responsibility of the CONTRACTOR to complete all Work in accordance with the Contract Documents. The items in the tentative list shall be completed or corrected by the CONTRACTOR within 60 days of the of the Substantial Completion date.

Based on the review of the items noted for completion, and that the pump station was placed into operation on June 3, 2015, it is GMB's recommendation that the work on the Pump Station 207 and Force Main project be declared substantially complete in accordance with the Contract Documents as of **June 3, 2015** and the 60 day Conditional Acceptance period begins. Please note that the commencement of the applicable warranties required by the Contract Documents begins on the date of the completion of the Conditional Acceptance period (**August 2, 2015**).

If there are any questions, or if you require any additional information, please feel free to call.

Sincerely,

James C. Hoageson, P.E.

JCH/  
Enclosure

cc: SCED  
Attn: Joe Wright (w/encl.)  
Kuhn Construction Company  
Attn: Bill Kuhn (w/encl.)

Project: **Pump Station 207 and Force Main**  
 Contract No.: **12-23**  
 GMB Project No.: **120223.A**  
 Re: **Substantial Completion and Prefinal Inspection Punch List**

MINIMUM REQUIREMENTS FOR PROJECT SUBSTANTIAL COMPLETION (SC)			
SC-1	O & M's	<i>Pumps, Generator, Flow Meter, Odor Control, Electrical, SCADA, etc.</i>	✓
SC-2	Equipment Test	<i>Pumps, Generator, Odor Control, Flow Meter, SCADA, etc.</i>	✓
SC-3	Pipe Tests	<i>Force Mains, Gravity Sewer</i>	✓
SC-4	Leakage Test	<i>Manholes, Wet Well</i>	✓
SC-5	Drawings	<i>Red-Line KCC as-builts</i>	✓
SC-6	Letter	<i>Written KCC request for substantial completion</i>	✓

PRE-FINAL PUNCH LIST dated 6/19/15 (rev.7/14/15)				
No.	Location/Area	Item	Status	Date
FC-1	HVAC	<i>HVAC - secure exterior fan unit to concrete</i>		
FC-2	HVAC	<i>HVAC - plumb air intake piping and secure properly to the ceiling.</i>		
FC-3	HMI	<i>Replace nameplate for float CTO, HMI</i>	Completed	7/1/2015
FC-4	Electric Panel	<i>Provide typed name cards for electric panels</i>	Completed	7/1/2015
FC-5	HMI	<i>Install duct covers</i>		
FC-6	HMI	<i>Secure fuse holder</i>		
FC-7	HMI	<i>Install duct fan switch</i>		
FC-8	HMI	<i>Wire floater selector switch</i>		
FC-9	HMI	<i>Wire Redline flow meter display</i>		
FC-10	HMI	<i>Pump disables for hand</i>		
FC-11	PS Bldg. Exterior	<i>Label Pump 1 and Pump 2 disconnects</i>	Completed	6/2/2015
FC-12	PS Bldg. Exterior	<i>Provide S.S. top covers for cages at disconnects</i>	Completed	6/2/2015
FC-13	PS Bldg. Exterior	<i>Caulk openings (3) left from bolt removal</i>	Completed	6/2/2015
FC-14	Fence	<i>Repair vinyl scratches</i>		
FC-15	Fence	<i>Relocate west end of fence</i>		
FC-16	Fence	<i>SE corner fence post at gate to be shorten as necessary</i>		

**PRE-FINAL PUNCH LIST dated 6/19/15 (cont.)**

FC-17	Fence	<i>Install slide gate</i>		
FC-18	Fence	<i>Field coat nuts and bolts with liquid PVC</i>		
FC-19	Spare Parts	<i>Valve wrenches x 2</i>		
FC-20	Spare Parts	<i>Hinge manhole wrenches x 3</i>		
FC-21	Hatches	<i>install pad locks x 5</i>		
FC-22	Wescoats	<i>Gravity Sewer Repairs</i>		
FC-23	Wescoats	<i>Pavement Repairs</i>		
FC-24	Route 1	<i>Pavement Repairs</i>		
FC-25	General	<i>Maintain new grass to 85% turf coverage</i>		
FC-26	AR5	<i>Drill 4 (1") dia vent holes in 36" cover, or replace cover with specified 30" cover</i>		

- (1) Failure to include an item on the list does not alter the responsibility of the CONTRACTOR to complete all Work in accordance with the Contract Documents.

Date of Issuance: July 27, 2015	Effective Date: July 27, 2015
Owner: Sussex County	Owner's Contract No.: 12-23
Contractor: Kuhn Construction Company	Contractor's Project No.: K14030
Engineer: George, Miles & Buhr, LLC	Engineer's Project No.: 120223.A
Project: Pump Station No. 207 and Force Main	Contract Name: Pump Station No. 207 and Force Main

The Contract is modified as follows upon execution of this Change Order:

Description: Final Adjustment and Balancing of Unit Price Items and Change Orders.

Attachments: *[List documents supporting change]*

- Final Adjustment and Balancing of Unit Price Items and Change Order spreadsheet dated 7/27/15.

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES <i>[note changes in Milestones if applicable]</i>
Original Contract Price: \$ <u>4,123,810.90</u>	Original Contract Times: Substantial Completion: <u>270</u> days Ready for Final Payment: <u>60</u> days days or dates
[Increase] [Decrease] from previously approved Change Orders No. <u>1</u> to No. <u>1</u> : \$ <u>4,062.10</u>	[Increase] [Decrease] from previously approved Change Orders No. <u>-</u> to No. <u>-</u> : Substantial Completion: <u>N/A</u> Ready for Final Payment: <u>N/A</u> days
Contract Price prior to this Change Order: \$ <u>4,119,748.80</u>	Contract Times prior to this Change Order: Substantial Completion: <u>270</u> days Ready for Final Payment: <u>60</u> days days or dates
[Increase] [Decrease] of this Change Order: \$ <u>137,683.21</u>	[Increase] [Decrease] of this Change Order: Substantial Completion: <u>0</u> Ready for Final Payment: <u>0</u> days or dates
Contract Price incorporating this Change Order: \$ <u>3,982,065.59</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>270</u> days Ready for Final Payment: <u>60</u> days days or dates

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By: <u>James C. Ibsen</u>	By: _____	By: <u>William J. Johnson III</u>
Engineer (if required)	Owner (Authorized)	Contractor (Authorized Signature)
Title: <u>Project Manager</u>	Title _____	Title <u>PRESIDENT</u>
Date: <u>7/20/15</u>	Date _____	Date <u>7/27/15</u>

Approved by Funding Agency (if applicable)

By: \_\_\_\_\_ Date: \_\_\_\_\_

**PUMP STATION NO. 207  
SUSSEX COUNTY, DELAWARE  
GMB FILE NO. 120223**

FINAL ADJUSTMENT AND BALANCING OF UNIT PRICE ITEMS AND CHANGE ORDERS								
Item No.	Description	Size	Units	Bid Quantity	Unit Price	Actual Quantity	ADD	DEDUCT
<b>SCHEDULE A - UNIT PRICES BID</b>								
A1	Mobilization		LS	1	\$ 200,000.00	1	\$ -	\$ -
A2	New Pump Station #207 Construction & Existing Pump Station Demolition		LS	1	\$ 1,317,000.00	1	\$ -	\$ -
A3	Furnish and Install PVC Force Main (outside pavement)	18"	LF	3897	\$ 85.00	3882	\$ -	\$ (1,275.00)
A3a	Testing PVC Force Main (outside pavement)	18"	LF	3897	\$ 5.00	3882	\$ -	\$ (75.00)
A3b	Restoration PVC Force Main (outside pavement)	18"	LF	3897	\$ 10.00	3882	\$ -	\$ (150.00)
A4	Furnish and Install PVC Force Main (outside pavement)	24"	LF	188	\$ 159.80	188	\$ -	\$ -
A4a	Testing PVC Force Main (outside pavement)	24"	LF	188	\$ 9.40	188	\$ -	\$ -
A4b	Restoration PVC Force Main (outside pavement)	24"	LF	188	\$ 18.80	188	\$ -	\$ -
A5	Furnish and Install PVC Force Main (inside pavement)	18"	LF	215	\$ 204.00	241	\$ 5,304.00	\$ -
A5a	Testing PVC Force Main (inside pavement)	18"	LF	215	\$ 12.00	241	\$ 312.00	\$ -
A5b	Restoration PVC Force Main (inside pavement)	18"	LF	215	\$ 24.00	241	\$ 624.00	\$ -
A6	Furnish and Install PVC Force Main inside pavement)	24"	LF	1624	\$ 157.25	1608	\$ -	\$ (2,516.00)
A6a	Testing PVC Force Main (inside pavement)	24"	LF	1624	\$ 9.25	1608	\$ -	\$ (148.00)
A6b	Restoration PVC Force Main (inside pavement)	24"	LF	1624	\$ 18.50	1608	\$ -	\$ (296.00)
A7	Furnish and Install PVC (inside roadway)	24" w/3" Base Course	LF	1000	\$ 259.25	1032	\$ 8,296.00	\$ -
A7a	Testing PVC (inside roadway)	24" w/3" Base Course	LF	1000	\$ 15.25	1032	\$ 488.00	\$ -
A7b	Restoration PVC (inside roadway)	24" w/3" Base Course	LF	1000	\$ 30.50	1032	\$ 976.00	\$ -
A8	Furnish and Install HDPE Force Main Via Directional Drill without Casing Home Depot Entrance	24"	LF	1	\$ 145,000.00	1	\$ -	\$ -
A9	Plantation Road	24"	LF	1	\$ 174,000.00	1	\$ -	\$ -

**FINAL ADJUSTMENT AND BALANCING OF UNIT PRICE ITEMS AND CHANGE ORDERS**

Item No.	Description	Size	Units	Bid Quantity	Unit Price	Actual Quantity	ADD	DEDUCT
A10	Rt. 1	24"	LF	1	\$ 368,000.00	1	\$ -	\$ -
A11	Furnish and Install Combination Air Vacuum Valve and Manhole	18"	LS	3	\$ 10,350.00	2	\$ -	\$ (10,350.00)
		24"	LS	2	\$ 17,202.00	2	\$ -	\$ -
A12	Furnish and Install Tee, Valves and Cap at Beaverdam		LS	1	\$ 37,560.00	1	\$ -	\$ -
A13	Furnish and Install termination at PS 210		LS	1	\$ 68,800.00	1	\$ -	\$ -
A14	Mill 2"		LS	6724	\$ 4.90	6723.3	\$ -	\$ (3.43)
A15	Furnish and Install Type C Hot Mix Overlay 2"		LS	6724	\$ 14.80	6723.3	\$ -	\$ (10.36)
A16	Landscaping Allowance	--	LS	1	\$ 15,000.00	0	\$ -	\$ (15,000.00)
<b>SCHEDULE B</b>								
B1	Contingent Unclassified Excavation	--	CY	500	\$ 11.00	6.48	\$ -	\$ (5,428.72)
B2	Contingent Borrow Material, Borrow Type "C" (Backfill)	--	CY	1000	\$ 16.00	383.65	\$ -	\$ (9,861.60)
B3	Contingent Aggregate Material, Graded Aggregate Type "B" (Crusher Run)	--	Ton	200	\$ 25.00	0.00	\$ -	\$ (5,000.00)
B4	Contingent Porous Fill Material, Coarse Aggregate No. 57 Stone	--	Ton	1200	\$ 30.00	0.00	\$ -	\$ (36,000.00)
B5	Contractor Down Time (Main Line Crew)	--	Hour	30	\$ 450.00	0.00	\$ -	\$ (13,500.00)
B6	Furnish and Place 4,000 psi Concrete	--	CY	100	\$ 150.00	11.44	\$ -	\$ (13,284.00)
B7	Replacement of Existing Storm Drain Pipes	--	LF	200	\$ 30.00	0.00	\$ -	\$ (6,000.00)
B8	Asphalt Adjustment	--	LS	1	\$ 10,000.00	0.00	\$ -	\$ (10,000.00)
<b>SCHEDULE C</b>								
C1	Secure Modified Proctor Tests on Trench Backfill	--	EA	10	\$ 150.00	1	\$ -	\$ (1,350.00)
C2	Secure Field Density Tests on trench Backfill	--	EA	120	\$ 75.00	19	\$ -	\$ (7,575.00)
C3	Mill 2"	--	SY	1000	\$ 5.00	410.1	\$ -	\$ (2,949.50)
C4	Furnish and Install Type C Hot Mix Overlay 2"	--	SY	1000	\$ 15.00	410.1	\$ -	\$ (8,848.50)

**Subtotal ADD / (DEDUCT) - Sch A thru C** \$ 16,000.00 \$ (149,621.11)

**Change Order No.1 -**

C01	F&I 18" Flow Meter & Vault		LS	1	\$ 64,088.00	1	\$ 64,088.00	\$ -
C01	F&I 24" PVC in Road (A7)		LF	1150	\$ 305.00	0	\$ -	\$ (350,750.00)
C01	Mill 2" (A14)		SY	1533	\$ 4.90	0	\$ -	\$ (7,511.70)
C01	F&I Type C Hotmix Overlay 2" (A15)		SY	1533	\$ 14.80	0	\$ -	\$ (22,688.40)
C01	F&I 24" FM O.P. Shady Lane (A17)		LF	1150	\$ 272.00	1150	\$ 312,800.00	\$ -
C01	Store Material Moved From A07		LF	1145	\$ 60.25	0	\$ -	\$ (68,986.25)
C01	Stored Material Installed from A07		LF	1145	\$ 60.25	0	\$ 68,986.25	\$ -

**Subtotal ADD / (DEDUCT)** \$ 445,874.25 \$ (449,936.35)

**FINAL ADJUSTMENT AND BALANCING OF UNIT PRICE ITEMS AND CHANGE ORDERS**

Item No.	Description	Size	Units	Bid Quantity	Unit Price	Actual Quantity	ADD	DEDUCT
<b>TOTAL ADD / (DEDUCT)</b>							\$ 461,874.25	\$ (599,557.46)
	<b>Change Order No.2 - BALANCING CHANGE ORDER</b>				<b>Net Change</b>	<b>ADD/(DEDUCT)</b>	\$ (137,683.21)	
	Original Contract Amount						\$ 4,123,810.90	
	Change Order No.1						\$ (4,062.10)	
	Contract Total Including Previous Change Orders (Total of 1 Change Orders)						\$ 4,119,748.80	
<b>REVISED FINAL CONTRACT TOTAL (with Balancing Change Order)</b>							\$ <b>3,982,065.59</b>	
	Previous Certificates for Payment (No.1-8)						\$ 3,743,147.46	
	<b>Subtotal Amount Due</b>						\$ <b>238,918.13</b>	
	<b>Total Due</b>						\$ <b>238,918.13</b>	



EXHIBIT A-1

SCOPE OF SERVICES

SR26 PHASE 3 SEWER EXPANSION

CONSTRUCTION ADMINISTRATION

AND

RESIDENT PROJECT REPRESENTATION CONTRACT COMPLETION

This attachment outlines the required Scope of Services for the **SR 26 Phase 3 Sewer Expansion Construction Administration and Resident Project Representation Contract Completion**. This work effort will include services as required to complete Construction as well as Post-Construction Phases of the Project for Contract Administration, Submittal Reviews, Observation of the Work, and Resident Project Representation on an as needed basis. The Derivation of Man-hours and Estimated Fee for these tasks are provided in the summary spreadsheets included with this document. All costs not to exceed **Seventy Five Thousand Eight Hundred and Seventy Nine (\$75,879.00)** as outlined in the summary, utilizing compensation package AS-1 in accordance with the EJCDC E-500 Agreement. This proposal assumes the contract inspection will be performed on an as needed basis from April 2015 through September 2015, with two weeks allowed for close-out.

**PART A - CONSTRUCTION ADMINISTRATION**

- 1. General Construction Administration.** WR&A will consult with Sussex County and act as the County's representative during the duration of the construction project. This effort involves the day to day coordination of in-house and field personnel during the construction phase.
- 2. Monthly Progress Meetings.** WR&A will attend monthly progress meetings administered by DelDOT. It is assumed that there will be six progress meetings for the works duration. These meetings will be run by DelDOT's Construction Administrator. Attendance by the design engineer is assumed to not be required at the progress meetings.
- 3. Change Orders and Work Change Directives.** Upon the request of Sussex County, WR&A will review Contractor change order requests. WR&A will document its findings to Sussex County regarding the applicability of the claim, the proposed method of resolution of addressing the issue, and the proposed cost. It is assumed that no more than one (1) change order requests in total will be submitted by the Contractor.
- 4. Contractor's Completion Documents.** At the completion of the Construction Phase, WR&A will transfer all recorded changes from the Contractor's Record Drawings and produce a set of reproducible record drawings in an AutoCAD Version 2012 format and provide two hard copies of all record drawings.
- 5. Substantial Completion and Final Notice of Acceptability of the Work.** At the request of the County, WR&A will assist the County in conducting a walk through inspection to

determine if the Work is Substantially Complete and to assist with the development of a punchlist for work items. WR&A will also assist the County in conducting a final inspection to determine if the completed Work of the Contractor is acceptable for release of final payment to the Contractor including preparation and documentation.

6. ***Post-Construction Phase.*** Provide warranty period engineering services to the County to assist with resolution of issues at the plant during the 1-yr warranty period following Substantial Completion. These services will be performed when requested by the County and may include assistance with resolving contractor and equipment warranty issues, providing operations assistance and training, providing plant data review and analysis, and making additional site visits. Within one month before the end of the Warranty Period, assist the County in conducting a final walk-through inspection to ascertain whether any portion of the Work is subject to correction. WR&A will document this work in a letter to the County and Contractor.

## **PART B - RESIDENT PROJECT REPRESENTATION**

WR&A shall furnish one Resident Project Representative (RPR) for the projects duration. The RPR will observe the work done by the Contractor and promptly inform the County of deviations from the Contract Documents. The RPR will serve as the County's representative in the field, providing information on the daily progress of the job to technical personnel. It is assumed that the RPR will work 85 working days for portions of the contracts duration, with two weeks (10 working days) for project closeout.



**NORTH COASTAL PLANNING AREA**

**SUSSEX COUNTY, DELAWARE**

**CONTRACT AMENDMENT NO. 1-A**

This contract amendment, **Contract Amendment No. 1-A** dated **August 12, 2015** amends our original contract dated January 14, 2014 between Sussex County, a political subdivision of the State of Delaware, as First Party, hereinafter referred to as the COUNTY and Whitman, Requardt and Associates, LLP, a State of Maryland Limited Liability Partnership, as the Second Party, hereinafter referred to as the CONSULTANT, whose address is 801 South Caroline Street, Baltimore, Maryland 21231. Except as specifically amended herein, the provisions of the existing engineering services agreement dated January 14, 2014 remain in effect and fully valid. By execution of this amendment, the following sections delete the existing Section 4.4 and replace with below Section 4.4

**ARTICLE FOUR**

**FEE STRUCTURE**

4.4 In accordance with the method of fee determination described in Articles 4.3.1, 4.3.2, 4.3.3, and 4.3.4 of this Agreement, the total compensation and reimbursement obligated and to be paid the CONSULTANT by the COUNTY for the CONSULTANT's Scope of Services for **Inland Bays Regional Wastewater Facility (IBRWF) Phase 2B Expansion Construction Administration and Resident Project Representation Completion Services** as set forth in **Attachment A-1**, which is attached hereto and incorporated by reference, shall not exceed **Sixty Eight Thousand and Forty Dollars (\$68,040.00)**. In the event of any discrepancy or inconsistency between the amounts set forth in this Article 4.4 and any appendices, exhibits, attachments or other sections of this Agreement, the amounts set forth in this Article 4.4 shall govern.

**Attachment "A-1"**

Consultant's Scope of Services, **Inland Bays Regional Wastewater Facility (IBRWF) Phase 2B Expansion Construction Administration and Resident Project Representation Completion Services** with Man-hour spreadsheets.

IN WITNESS WHEREOF, the parties hereunto have caused this Amendment No. 1-A to this Agreement to be executed on the day and year first written hereof by their duly authorized officers.

SEAL

FOR THE COUNTY:  
SUSSEX COUNTY

\_\_\_\_\_  
President, Sussex County Council

APPROVED AS TO FORM:

\_\_\_\_\_  
Date

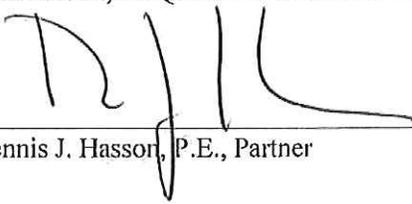
\_\_\_\_\_  
Assistant Sussex County Attorney

ATTEST:

\_\_\_\_\_  
Clerk of the Sussex County Council

FOR THE CONSULTANT:

WHITMAN, REQUARDT and ASSOCIATES, LLP

  
\_\_\_\_\_  
Dennis J. Hasson, P.E., Partner

WITNESS:





## ATTACHMENT A-1

### SCOPE OF SERVICES

#### INLAND BAYS REGIONAL WASTEWATER FACILITY PHASE 2B EXPANSION

#### CONSTRUCTION ADMINISTRATION AND RESIDENT PROJECT REPRESENTATION COMPLETION SERVICES

This attachment outlines the required Scope of Services for the **Inland Bays Regional Wastewater Facility Phase 2B Expansion Construction Administration and Project Inspection Completion Services**. This work effort will generally include services during the Construction as required to provide Construction Administration and Inspection Services during the period beyond the original contract completion date of April 20, 2015. The Derivation of Man-hours and Estimated Fee for these tasks are provided in the summary spreadsheets included with this document. This proposal assumes the contract will be administered and inspected from April 21, 2015 through October 1, 2015.

#### PART A - CONSTRUCTION ADMINISTRATION

- 1. General Construction Administration.** WR&A will consult with Sussex County and act as the County's representative during the duration of the construction project. This effort involves the day to day coordination of in-house and field personnel during the construction phase.
- 2. Monthly Progress Meetings.** WR&A will prepare meeting agendas, conduct monthly progress meetings and issue meeting minutes.
- 3. Applications for Payment.** Based on WR&A's observations and on a review of the Contractor's Monthly Applications for Payment and accompanying supporting documentation, determine the amounts that WR&A recommends the Contractor be paid by Sussex County. Such observations and review, mean that, to the best of WR&A's knowledge, information and belief, the Contractor's work has progressed to the point indicated, the quality of such work is generally in accordance with the Contract Documents, subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled insofar as it is WR&A's responsibility to observe the Contractor's Work. In the case of unit price work, WR&A's recommendations of payment will include final determinations of quantities and classifications of Contractor's Work (subject to any subsequent adjustments allowed by the Contract Documents).

## **PART B - RESIDENT PROJECT REPRESENTATION**

WR&A shall furnish one Resident Project Representative (RPR) for the projects duration. The RPR will observe the work done by the Contractor and promptly inform the County of deviations from the Contract Documents. The RPR will serve as the County's representative in the field, providing information on the daily progress of the job to technical personnel. It is assumed that the RPR will be assigned on an as-needed basis and will work an average of 20 hours per week for the approximate 24 week duration.

# Pump Station 210 Improvements

Contract No. 15-07

Bid Results

BID OPENING – July 29, 2015

	<b>BIDDER</b>	<b>Base Bid</b>	<b>Alternate Bid Items</b>
1.	<b>Kuhn Construction Company Hockessin, DE</b>	<b>\$5,003,700.00</b>	<b>\$173,490.00</b>
2.	Bearing Construction Co. Sudlersville, MD	\$5,272,000.00	\$191,750.00
	<b>ENGINEER'S ESTIMATE</b>	<b>\$4,837,300.00</b>	<b>\$145,000.00</b>



August 11, 2015

Mr. Michael Izzo  
Sussex County Engineering Department  
#2 The Circle  
P.O. Box 589  
Georgetown, DE 19947

Re: PS#210 Improvements: Sussex County Contract 15-07

Dear Mr. Izzo:

We have reviewed the bid documents received by the Sussex County Council on July 29, 2015 for the above referenced project. Kuhn Construction Co. of Hockessin, DE is the apparent low bidder at \$5,003,700.00 for the project's base bid. Enclosed is a tabulation of bids, as well as a summary of the bid review performed.

Based on our review of the bid submission, in our professional opinion, the Kuhn Construction Co. bid represents the lowest responsive responsible bid under the terms of the invitation to bid.

Please do not hesitate to contact us if you should have questions.

Very truly yours,

Whitman, Requardt & Associates, LLP

Will F. Hinz, P.E.  
Vice President

Enclosures

cc: Joe Wright  
Dennis Hasson  
File 14256-002

**Pump Station 210 Improvements**

**Contract No. 15-07 Bid Review**

Contractor	Addenda Acknowledged	Delaware License Listed	Bid Form Math Errors	List of Sub-Contractors	List of Major Products or Equipment	DBE's Utilized	Non-Collusion Statement	Certifications	Bid Bond (10%)
Bearing Construction Inc.	YES	YES	NO	YES	YES	NA	YES	YES	YES
Kuhn Construction	YES	YES	NO	YES	YES	NA	YES	YES	YES

Notes:

7515 Rivershore Dr.  
Seaford, DE 19973  
May 31, 2015

Mr. Vincent, President  
Sussex County Council  
Georgetown, DE

Dear Mr. Vincent

The Seaford Historical Society is continuing to work with the Nanticoke Heritage Byway project that will shortly be in operation.

The Byway will cover the many tourist locations in Western Sussex from between Bridgeville and Seaford, through Seaford to the Woodland Ferry, across the ferry to Bethel and Laurel and Trap Pond and then up to Concord. The Nanticoke Heritage Byway project will be represented this year at the Woodland Ferry Festival in September and needs some initial funding to accomplish this basic operation and would like to request \$1000 to help fund this initial promotion.

This beautiful location is a perfect spot in Western Sussex County to show the public how Delaware has grown over time and made a wonderful, natural place to visit. This Nanticoke Heritage Byway project will add to our ability to sell our area as a tourist location worth visiting. This project will help visitors to the area, as well as local residents, locate the many historical and recreational locations in Western Sussex County.

Thank you very much for your continued interest in the work of the Seaford Historical Society and the Nanticoke Heritage Byway. The Byway funds are managed by the Seaford Historical Society and any gift needs to be written to the Seaford Historical Society with the understanding that this money is intended to fall into the account of the Byway.

Sincerely,

*Lewis J Blackwell Jr*

Jim Blackwell, Grants Administrator  
Seaford Historical Society



# REHOBOTH SUMMER CHILDREN'S THEATRE

PO BOX 871, REHOBOTH BEACH, DE 19971

302-227-6766

duetpros@aol.com

www.rehobothchildrenstheatre.org

August 4, 2015

The Honorable George B. Cole  
Sussex County Council  
PO Box 589  
Georgetown, DE 19947

Dear Mr. Cole:

Several times over the past few years, the Sussex County Council has assisted the Rehoboth Summer Children's Theatre with a \$500 grant. Please consider helping us again in 2015 as we stage our 34<sup>th</sup> season of family programs.

Our activities include mainstage performances at the Epworth Methodist Church in Rehoboth Beach. We conduct creative camps for children in theatre and film. Our outreach tour, performing in libraries throughout Kent and Sussex Counties brings live, professional theater into every community in Lower Delaware.

For the fourth consecutive year we are partnering with the First State Community Action Agency for a one week theatre camp for the children in Georgetown.

Our mission is to provide programs of entertainment, enrichment and education to audiences of all ages. We rely upon assistance from the community to make this all happen. We encourage you to support RSCT again this year.

Thanks for your consideration.

Yours truly,

Steve Seyfried  
Co-founder, Managing Director, RSCT

*Board of Directors*

*Nancy Massaro*

*Gary Grunder*

*Katie Daniello*

*Sharon Crampton*

*Kim DeBonte*

*Rachel Wood*

**To Be Introduced 8/18/15**

**Council District No. 4 - Cole  
Tax I.D. No. 334-19.00-3.00  
911 Address: None Available**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR SINGLE-FAMILY / CONDOMINIUM UNITS (AGE RESTRICTED) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 23.5079 ACRES, MORE OR LESS**

**WHEREAS, on the 1st day of July 2015, a conditional use application, denominated Conditional Use No. 2029 was filed on behalf of Truitt Homestead, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2029 be \_\_\_\_\_; and**

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

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

**Section 1. That Chapter 115, Article V, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2029 as it applies to the property hereinafter described.**

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

**ALL that certain tract, piece or parcel of land, lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying west of Shuttle Road (Road 273D) 250 feet northwest of Country Club Road and being more particularly described per the attached legal description prepared by Davis Bowen & Friedel, Inc., said parcel containing 23.5079 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.**

**LEGAL DESCRIPTION**

**James Truitt Farm, LLC**

**3-34-19.00-3.00**

**BEING all that piece or parcel of land, hereinafter described, situate, lying and being in Lewes and Rehoboth Hundred, Sussex County, Delaware, as shown on a plot entitled "Boundary Survey Plan of the lands of James Truitt Farm, LLC, prepared by Davis, Bowen & Friedel, Inc., dated December 2014; said piece or parcel of land being more particularly described as follows:**

**BEGINNING at an iron rod with cap set at a point formed by the intersection of the westerly right-of-way line of County Road 273 (Shuttle Road), 80 feet wide, with the northwesterly line of the subdivision known as Stable Farm, as recorded in the Office of the Recorder of Deeds in and for Sussex County and the State of Delaware in Plot Book 74, Page 312; said beginning point also bears 340 feet, more or less, northwesterly from the centerline of Winner Circle; said beginning point being coordinated on the Delaware State Grid System as N:259,222.387 feet, E:744,191.990 feet; thence,**

- 1) Leaving said right-of-way line of Shuttle Road and running by and with said Stable Farm subdivision, South 42 degrees 49 minutes 02 seconds West 951.10 feet, passing over iron pipes found at 196.95 feet, 292.02 feet, 367.04 feet, 442.07 feet, 522.01 feet and 602.02 feet; to a point on the northeasterly line of the subdivision known as Kinsale Glen as recorded in the aforesaid Office of the Recorder of Deeds in Plot Book 73, Page 70, said point bears North 60 degrees 42 minutes 16 seconds West 0.43 feet from an iron pipe found, thence,**
- 2) Leaving said Stable Farm subdivision and running by and with said Kinsale Glen subdivision, North 60 degrees 42 minutes 16 seconds West 938.25 feet, passing over iron pipes found at 348.66 feet, 496.70 feet, 607.10 feet, 794.10 feet and an iron rod with cap found at 861.37 feet; to a point on the southeasterly line of the subdivision known as Kings Creek Country Club, Parcel B, as recorded in the aforesaid Office of the Recorder of Deeds in Plot Book 42, Page 42, said point also being within Wolf Pit Branch, thence,**

- 3) Leaving said Kinsale Glen subdivision and running by and with said Kings Creek Country Club subdivision and generally with the many meanderings of Wolf Pit Branch, the following seven courses and distances, North 57 degrees 18 minutes 03 seconds East 324.89 feet to a point, thence running,
- 4) North 48 degrees 28 minutes 03 seconds East 267.00 feet to a point, thence running,
- 5) North 41 degrees 49 minutes 33 seconds East 260.40 feet to a point, thence running,
- 6) North 24 degrees 35 minutes 33 seconds East 246.33 feet to a point, thence running,
- 7) North 48 degrees 28 minutes 33 seconds East 184.50 feet to a point, thence running,
- 8) North 35 degrees 33 minutes 03 seconds East 152.50 feet to a point, thence running,
- 9) North 63 degrees 30 minutes 33 seconds East 68.45 feet to a point on the westerly line of the subdivision known as The Village @ King's Creek Condominium, as recorded in the aforesaid Office of the Recorder of Deeds in Plot Book 91, Page 315, thence,
- 10) Leaving said Kings Creek Country Club subdivision and Wolf Pit Branch and running by and with said The Village @ Kings Creek Condominium subdivision, South 28 degrees 22 seconds East 828.55 feet to an iron rod with cap set at a point on the aforesaid westerly right-of-way line of Shuttle Road, said point bears North 30 degrees 27 minutes 40 seconds West 12.44 feet from an iron pipe found, thence,
- 11) Leaving said The Village @ King's Creek Condominium subdivision and running by and with said westerly right-of-way line of Shuttle Road, the following two courses and distances, by and with the arc of a curve deflecting to the left having a radius of 888.83 feet and an arc length of 43.87 feet, the chord of which bears South 19 degrees 48 minutes 11 seconds East 43.86 feet to an iron rod with cap set at a point, thence running,
- 12) South 21 degrees 13 minutes 01 seconds East 43.19 feet to the point and place of Beginning:

CONTAINING 23.5079 acres of land, more or less.

**To Be Introduced 8/18/15**

**Council District No. 1 – Vincent  
Tax I.D. No. 331-3.00-164.00  
911 Address: None Available**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR PROPANE AND OIL STORAGE TANKS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 8.82 ACRES, MORE OR LESS**

**WHEREAS, on the 14th day of July 2015, a conditional use application, denominated Conditional Use No. 2030 was filed on behalf of Dean Sherman / Sherman Heating Oil; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2030 be \_\_\_\_\_; and**

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

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

**Section 1. That Chapter 115, Article XI, Subsection 115-79, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2030 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 Seaford Hundred, Sussex County, Delaware, and lying west of Sussex Highway (U.S. Route 13) and east of Seaford Road (U.S. Route 13A) and being 213 feet south of Swain Road (Road 554A) and being more particularly described as follows:**

**BEGINNING at a concrete marker on the westerly right-of-way of Sussex Highway (U.S. Route 13) a corner for these subject lands and lands, now or formerly, of Sunrise Motel, LLC; thence North 68°26'39" West 267.25 feet along lands, now or formerly, of Sunrise Motel, LLC, and North 68°40'15" West 275.11 feet along lands, now or formerly, of Robert R. King to a concrete marker on the easterly right-of-way of Seaford Road (U.S. Route 13A); thence**

North 21°05'00" East 749.76 feet along the easterly right-of-way of Seaford Road to an iron rebar; thence easterly by and along lands, now or formerly, of Edward W. Wagner the following three courses: South 68°35'50" East 237.82 feet to an iron rebar, South 14°10'50" West 44.98 feet to a concrete marker, and South 75°53'41" East 209.14 feet to the westerly right-of-way of Sussex Highway; thence South 13°57'45" 738.20 feet along the westerly right-of-way of Sussex Highway to the point and place of beginning, said parcel containing 8.823 acres, more or less.

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

TO BE INTRODUCED

**To Be Introduced 8/18/15**

**Council District No. 1 – Vincent  
Tax I.D. No. 531-11.00-40.00  
911 Address: None Available**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR USED CAR SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 1.3 ACRES, MORE OR LESS**

**WHEREAS, on the 20th day of July 2015, a conditional use application, denominated Conditional Use No. 2031 was filed on behalf of East Coast Auto, Inc.; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2031 be \_\_\_\_\_; and**

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

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

**Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2031 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 Seaford Hundred, Sussex County, Delaware, and lying south of Stein Highway (Route 20) 0.29 mile east of Woodland Ferry Road (Route 78) and being more particularly described as follows:**

**BEGINNING at a railroad spike on the southerly right-of-way of Stein Highway (Route 20), a corner for these subject lands and lands, now or formerly, of Jimmy Lee McWilliams and Barbara Ann McWilliams; thence North 81°21'00" East 204.91 feet along the southerly right-of-way of Stein Highway to a point; thence South 05°02'09" East 559.47 feet along lands, now or formerly, of Gary A. Lowe to a point; and thence North 25°33'00" West 583.56 feet**

along lands of the aforesaid McWilliams to the point and place of beginning, said parcel containing 1.313 acres, more or less.

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

TO BE INTRODUCED

**To Be Introduced 08/18/15**

**Council District No. 4 - Cole  
Tax Map I.D. No. 334-19.00-3.00  
911 Address: None Available**

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

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 23.5079 ACRES, MORE OR LESS**

**WHEREAS, on the 1st day of July 2015, a zoning application, denominated Change of Zone No. 1785 was filed on behalf of Truitt Homestead, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1785 be \_\_\_\_\_; and**

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

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

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

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

**All that certain tract, piece or parcel of land lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying west of Shuttle Road (Road 273D) 250 feet northwest of Country Club Road and being more particularly described per the attached legal description prepared by Davis, Bowen & Friedel, Inc., said parcel containing 23.5079 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.**

**LEGAL DESCRIPTION**

**James Truitt Farm, LLC**

**3-34-19.00-3.00**

**BEING all that piece or parcel of land, hereinafter described, situate, lying and being in Lewes and Rehoboth Hundred, Sussex County, Delaware, as shown on a plot entitled “Boundary Survey Plan of the lands of James Truitt Farm, LLC, prepared by Davis, Bowen & Friedel, Inc., dated December 2014; said piece or parcel of land being more particularly described as follows:**

**BEGINNING at an iron rod with cap set at a point formed by the intersection of the westerly right-of-way line of County Road 273 (Shuttle Road), 80 feet wide, with the northwesterly line of the subdivision known as Stable Farm, as recorded in the Office of the Recorder of Deeds in and for Sussex County and the State of Delaware in Plot Book 74, Page 312; said beginning point also bears 340 feet, more or less, northwesterly from the centerline of Winner Circle; said beginning point being coordinated on the Delaware State Grid System as N:259,222.387 feet, E:744,191.990 feet; thence,**

- 1) Leaving said right-of-way line of Shuttle Road and running by and with said Stable Farm subdivision, South 42 degrees 49 minutes 02 seconds West 951.10 feet, passing over iron pipes found at 196.95 feet, 292.02 feet, 367.04 feet, 442.07 feet, 522.01 feet and 602.02 feet; to a point on the northeasterly line of the subdivision known as Kinsale Glen as recorded in the aforesaid Office of the Recorder of Deeds in Plot Book 73, Page 70, said point bears North 60 degrees 42 minutes 16 seconds West 0.43 feet from an iron pipe found, thence,**
- 2) Leaving said Stable Farm subdivision and running by and with said Kinsale Glen subdivision, North 60 degrees 42 minutes 16 seconds West 938.25 feet, passing over iron pipes found at 348.66 feet, 496.70 feet, 607.10 feet, 794.10 feet and an iron rod with cap found at 861.37 feet; to a point on the southeasterly line of the subdivision known as Kings Creek Country Club, Parcel B, as recorded in the aforesaid Office of the Recorder of Deeds in Plot Book 42, Page 42, said point also being within Wolf Pit Branch, thence,**
- 3) Leaving said Kinsale Glen subdivision and running by and with said Kings Creek Country Club subdivision and generally with the many meanderings of Wolf Pit**

Branch, the following seven courses and distances, North 57 degrees 18 minutes 03 seconds East 324.89 feet to a point, thence running,

4) North 48 degrees 28 minutes 03 seconds East 267.00 feet to a point, thence running,

5) North 41 degrees 49 minutes 33 seconds East 260.40 feet to a point, thence running,

6) North 24 degrees 35 minutes 33 seconds East 246.33 feet to a point, thence running,

7) North 48 degrees 28 minutes 33 seconds East 184.50 feet to a point, thence running,

8) North 35 degrees 33 minutes 03 seconds East 152.50 feet to a point, thence running,

9) North 63 degrees 30 minutes 33 seconds East 68.45 feet to a point on the westerly line of the subdivision known as The Village @ King's Creek Condominium, as recorded in the aforesaid Office of the Recorder of Deeds in Plot Book 91, Page 315, thence,

10) Leaving said Kings Creek Country Club subdivision and Wolf Pit Branch and running by and with said The Village @ Kings Creek Condominium subdivision, South 28 degrees 22 seconds East 828.55 feet to an iron rod with cap set at a point on the aforesaid westerly right-of-way line of Shuttle Road, said point bears North 30 degrees 27 minutes 40 seconds West 12.44 feet from an iron pipe found, thence,

11) Leaving said The Village @ King's Creek Condominium subdivision and running by and with said westerly right-of-way line of Shuttle Road, the following two courses and distances, by and with the arc of a curve deflecting to the left having a radius of 888.83 feet and an arc length of 43.87 feet, the chord of which bears South 19 degrees 48 minutes 11 seconds East 43.86 feet to an iron rod with cap set at a point, thence running,

12) South 21 degrees 13 minutes 01 seconds East 43.19 feet to the point and place of Beginning:

CONTAINING 23.5079 acres of land, more or less.

**To Be Introduced 08/18/15**

**Council District No. 3 - Deaver  
Tax Map I.D. No. 230-26.00-40.00  
911 Address: None Available**

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

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS**

**WHEREAS, on the 7th day of July 2015, a zoning application, denominated Change of Zone No. 1786 was filed on behalf of Wilson Baker, Inc.; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1786 be \_\_\_\_\_; and**

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

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

**Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District] and adding in lieu thereof the designation of 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 Cedar Creek Hundred, Sussex County, Delaware, and lying east of DuPont Boulevard (U.S. Route 113) 200 feet north of Beach Highway (Route 16) and being more particularly described in Deed Book 4389, Page 192, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 1.0 acre, more or less.**

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