



Sussex County Council Public/Media Packet

**MEETING:
September 20, 2016**

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**Sussex County Council
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MICHAEL H. VINCENT, PRESIDENT
SAMUEL R. WILSON JR., VICE PRESIDENT
ROBERT B. ARLETT
GEORGE B. COLE
JOAN R. DEAVER



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Sussex County Council

A G E N D A

SEPTEMBER 20, 2016

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. Proclamation – Constitution Week
2. Wastewater Agreement No. 1030
Sussex County Project No. 81-04
Johnsons Glade
Ocean View Expansion of the Bethany Sanitary Sewer District
3. Delaware Department of Transportation 2018-2023 Capital Transportation Program Request
4. Administrator's Report

Gina Jennings, Finance Director

1. Quarterly Pension Update and Recommendation

Ron Verosko, Safety Manager

1. Fleet Procurement Update



Hans Medlarz, County Engineer

- 1. Concord Road Expansion of the Blades Sanitary Sewer District**
 - A. Amendment No. 2 – Additional Services**
- 2. Pump Station 23 Modifications, Project #14-22**
 - A. Substantial Completion and Balancing Change Order**
- 3. South Coastal Regional Wastewater Facility**
 - A. Reaffirmation of Engineer of Record**
 - B. Approval of Preparation of Preliminary Engineering Report**
- 4. Agreement for Wastewater Services – Lewes Board of Public Works (BPW)**
- 5. Sussex County Administrative Office Building Stair Repairs, Project #16-33**
 - A. Recommendation to Award**

John Ashman, Director of Utility Planning

- 1. Request to Prepare and Post Notices for the Martin Expansion of the Sussex County Unified Sanitary Sewer District (Millville Area)**

Lawrence Lank, Director of Planning and Zoning

- 1. Request to Withdraw Change of Zone No. 1800 filed on behalf of Sussex Real Estate Partners, LLC**

Old Business

Conditional Use No. 2049
Blue Claw, LLC

Change of Zone No. 1796
Lockwood Design and Construction, Inc.

Conditional Use No. 2046
Lockwood Design and Construction, Inc.

Grant Requests

1. Millsboro Historical Society for upkeep of The Godwin School
2. Delaware Nanticoke Rotary Foundation for tennis courts enhancement

Introduction of Proposed Zoning Ordinances

Council Members' Comments

Executive Session – Job Applicants' Qualifications, Personnel, and Land Acquisition pursuant to 29 Del. C. §10004(b)

Possible Action on Executive Session Items

1:30 p.m. Public Hearings

Conditional Use No. 2053 filed on behalf of Red Dog Plumbing and Heating c/o Ken Wood
“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN HVAC BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.10 ACRES, MORE OR LESS” (located at the northwest of Roxana Road (Route 17) across from Smith Avenue and 400 feet northeast of Smithfield Acres Road (Road 52B) (Tax I.D. No. 533-10.00-14.00) (911 Address: 37058 Roxana Road, Selbyville)

Conditional Use No. 2054 filed on behalf of Utilisite, Inc.
“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE, EQUIPMENT STORAGE, AND PARKING FOR A CONSTRUCTION COMPANY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.0 ACRES, MORE OR LESS” (located at the east of Robinsonville Road (Road 277) 800 feet north of Harts Road (Road 277A) (Tax I.D. No. 234-6.00-99.01) (911 Address: 20721 Robinsonville Road, Lewes)

Sign Ordinance

“AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115 (“ZONING”), ARTICLE XXI (“SIGNS”)

Adjourn

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

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on September 13, 2016 at 4:30 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 23, 2016

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 23, 2016, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 417 16
Amend
and
Approve
Agenda**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to amend the Agenda by deleting "Wastewater Agreement No. 1030", "Impacted Communities Study Presentation", and "Introduction of Proposed Zoning Ordinances", and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of August 9, 2016 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

**DELAWARE TECHNICAL & COMMUNITY COLLEGE,
GEORGETOWN, DELAWARE.**

**RE: Letters in appreciation of grants to the Educational Foundation and to
Summer Camps.**

Mr. Vincent announced that the Council and Mr. Lawson received correspondence from Paul Reiger regarding his comments and questions on fences and other issues. Mr. Vincent stated that the County will respond to Mr. Reiger's correspondence in writing.

**Public
Comments**

Public Comments

Dan Kramer commented that County Council members “already stayed too long”.

**Adminis-
trator’s
Report**

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

1. Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County Subcommittee Meeting

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County Conference Planning Subcommittee will meet on Tuesday, August 30th, at 1:30 p.m. at the Sussex County Administrative Offices West Complex, 22215 North DuPont Boulevard, in Georgetown. During the meeting, the Committee will continue to discuss planning for their annual conference scheduled for October 19, 2016.

2. Delaware Solid Waste Authority Reports

There were 31,932 pounds of recycled material received at the Recycle Delaware pods at the West Complex in Georgetown during the months of April, May, and June 2016. Attached are reports received for each month.

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

**Employee
Recognition
Awards**

Mrs. Jennings reported that, in 2015, the County started the “Give Them a Pickle” program that recognizes employees for exceptional service; in this program, employees can be recognized by coworkers, residents, and customers.

Mrs. Jennings reported that 30 employees received pickle awards for the Second Quarter of 2016. She announced that Shawn Lewis in the Maintenance Department received the Second Quarter Excellence in Customer Service Award and that two employees received Honorable Mention: Martha Miller in the Assessment Department and Chaz Tennerman in the Paramedic Department. The Council presented the Second Quarter 2016 Excellence in Customer Service Award to Shawn Lewis and recognized the other Pickle Award winners.

**Delaware
Transit
Reim-
bursable
Program
Request**

Mrs. Jennings reported that DART, a division of DelDOT, has allocated \$796,862.00 for funding of transportation expenses for various senior centers in Sussex County. This amount has remained at the same level for a number of years. The County’s responsibility is to approve a recommended funding amount for Fiscal Year 2017 as per State law; this is an allocation of State grant funds to various senior agencies for transportation purposes. The recommended funding for each agency is the same as in previous years:

Delaware	Nanticoke Senior Center	\$ 44,959.30
Transit	Indian River Senior Center	2,100.00
Reim-	Laurel Senior Center	99,082.94
bursable	Lewes Senior Center	27,120.41
Program	Cape Henlopen Senior Center	43,065.65
Request	CHEER, Inc.	<u>580,533.70</u>
(continued)	TOTAL	\$796,862.00

M 418 16 **A Motion was made by Mrs. Deaver, seconded Mr. Arlett, that the Sussex**
Approve **County Council approves the allocation of State funds to various senior**
Allocation **agencies within Sussex County, as presented.**
of Funds/

Delaware **Motion Adopted: 5 Yeas.**
Transit

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

EMS 100/ **Bobby Schoonover, EMS Technical Services Division Manager, presented**
Medic 104 **the bid results for the construction of the EMS 100 / Medic 104 facility. He**
Facility **noted that this 5,200 square foot facility will replace the facility that the**
Bid Award **Department is currently renting. He noted that this facility would house**
 both the medics and the Eastern District Supervisor; the facility will also be
 the main training station.

Mrs. Jennings reported that the project was bid with and without
prevailing wage rates; that if the County receives its 30 percent State
reimbursement funding, the County must pay prevailing wage rates; and
that prevailing wage rates increased the lowest contract cost by 21 percent.
Mrs. Jennings also reported that the low bidder was Delmarva Veteran
Builders; that, at no wage rate, the cost of the project was \$1,037,278.00;
that when the prevailing wage is added in the amount of \$217,266.00, the
total cost of the project is \$1,254,544.00; the County gets a 30% refund
from the State and therefore, it is better for the County to use the prevailing
wage to get the 30% so that the total County cost would be \$878,181.00.

Mr. Schoonover noted that also present was Carlton Savage with Pennoni
Associates and Robert Stuart, Director of EMS.

M 419 16 **A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, based on the**
Award **recommendation of the Sussex County Emergency Medical Services**
Bid/ **Department and the understanding that the State of Delaware will**
EMS 100/ **reimburse 30 percent of capital expenditures as stated in Title 16 Chapter**
Medic 104 **98 Section 14 of the State Code, that Sussex County Project 06-08, Sussex**
Facility **County Emergency Medical Services Rehoboth Station, Medic 104 / EMS**
 100, be awarded to Delmarva Veteran Builders, LLC of Salisbury,
 Maryland at the bid amount of \$1,254,544.00.

Motion Adopted: 5 Yeas.

**M 419 16
(continued)**

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

**EMS 100/
Medic 104
Facility/
Pennoni
Contract
No. 2**

Mr. Schoonover further reported that when the County purchased land on Plantation Road in 2015 for the Medic 104 / EMS 100 facility, it was not known that the utilities were located on the opposite side of the road. For this reason, additional funding in the amount of \$14,000.00 is required to add to the previously approved engineering contract for the project; and the additional work will be the design and buildout of the septic system to connect across the street at Sandy Brae versus having a septic system on the site (due to the possibility of future construction needs).

**M 420 16
Approve
Change
Order/
EMS 100/
Medic 104
Facility/
Pennoni
Contract
No. 2**

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, based on the recommendation of the Sussex County Emergency Medical Services Department, that the Sussex County Council accepts a Change Order to the Contract with Pennoni Associates, Inc. of Milton, Delaware, for Sussex County Project 06-08, Sussex County Emergency Medical Services Rehoboth Station, in the amount of \$14,000.00 for Forcemain Design Services, permitting, coordination, and specification preparation.

Motion Adopted: 5 Yeas.

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

**Woods
at Walls
Creek
Subdivision
Road Work
Award**

Joe Wright, Assistant County Engineer, presented the bid results for the Woods at Walls Creek Subdivision - Road Work, Project 17-03. The scope of work for this project consists of completing unfinished roadwork within the subdivision, using funds from a bond to be redeemed for the amount of the low bid. Mr. Wright reported that the lowest responsive bidder is Jerry's Inc. of Milford, Delaware, with a total bid of \$132,670.60. The Engineer's estimate for the project was \$172,835.00.

**M 421 16
Award
Bid for
Road Work/
Woods at
Walls
Creek
Subdivision**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Contract 17-03, Woods at Walls Creek Subdivision – Road Work, be awarded to Jerry's Inc. of Milford, Delaware, at the bid amount of \$132,670.60, contingent upon receipt of funds from the bonding company.

Motion Adopted: 5 Yeas.

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

**Sea Chase/
Bid Award**

Joe Wright, Assistant County Engineer, presented the bid results for The Estates of Sea Chase Subdivision, Project 16-32: there were a total of two

The Estates of Sea Chase/ Road Work/ Bid Results bids received and the lowest responsive bidder is Jerry's, Inc. of Milford, Delaware, with a total bid of \$86,056.60. The Engineer's estimate for the project was \$128,850.00. The Estates of Sea Chase is an existing 45 single family home lot subdivision; road and drainage work was left incomplete by the Developer. Mr. Wright reported that the Engineering Department and the County Attorney, through discussions and negotiations with the surety and their attorney as well as the HOA, agreed upon a value of \$55,000.00 to complete the work, with Council's approval on September 15, 2015. Mr. Wright further reported that, with community support, it was determined that the best use of funds was to repair and repave all the roads within the development. The shortage of funds to complete the full scope of work is to be provided by the homeowners under the terms and conditions of Chapter 96 of the County Code.

M 422 16 Award Bid/ The Estates of Sea Chase/ Road Work A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that Contract 16-32, the Estates of Sea Chase Subdivision, be awarded to Jerry's Inc. of Milford, Delaware, at the bid amount of \$86,056.60.

Motion Adopted: 5 Yeas.

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

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

M 423 16 Councilmanic Grant A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$1,500.00 (\$1,000.00 from Mr. Cole's Councilmanic Grant Account, \$300.00 from Mrs. Deaver's Councilmanic Grant Account, \$100.00 each from Mr. Mr. Vincent's and Mr. Wilson's Councilmanic Grant Accounts) to Rehoboth Concert Band for operating 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 424 16 Councilmanic Grant A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to the March of Dimes for The Farmer and The Chef fundraising event.

Motion Adopted: 5 Yeas.

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

M 425 16 Councilmanic Grant A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$1,300.00 (\$500.00 from Mrs. Deaver's Councilmanic Grant Account and \$200.00 each from Mr. Arlett's, Mr. Cole's, Mr. Vincent's and Mr. Wilson's Councilmanic Grant Accounts to Autism Delaware for the Blue Jean Ball 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 426 16 Councilmanic Grant A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to the Marine Corps League – Delaware Devil Dogs Detachment 780 for event expenses.

Motion Adopted: 5 Yeas.

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

Council Members' Comments

Council Members' Comments

Mrs. Deaver commented on the number of people on Facebook complaining about traffic problems on Route 1.

Mr. Cole responded that the Land Use Plan Update process will provide opportunities for the public to speak about these types of issues/concerns.

Mr. Arlett stated that Delaware General Assembly members and State agencies should hear about these concerns in addition to Council members.

M 427 16 Go Into Executive Session At 10:38 a.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole, to recess the Regular Session and to go into Executive Session for the purpose of discussing matters relating to Job Applicants' Qualifications, Personnel, and Land Acquisition.

Motion Adopted: 5 Yeas.

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

Executive Session

At 10:45 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to Job Applicants' Qualifications, Personnel, and Land Acquisition. The Executive Session concluded at 12:10 p.m.

M 428 16
Reconvene
Regular
Session

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

Motion Adopted: 3 Yeas, 2 Absent.

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

E/S Action

There was no action on Executive Session matters.

M 429 16
Recess

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to recess until 1:30 p.m.

Motion Adopted: 3 Yeas, 2 Absent.

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

M 430 16
Reconvene

At 1:33 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to reconvene.

Motion Adopted: 5 Yeas.

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

Legal
Counsel

Vincent Robertson, Assistant County Attorney, served as Legal Counsel for the afternoon session of the County Council meeting and the Public Hearing.

Also in attendance, were Lawrence Lank, Director of Planning and Zoning, and Janelle Cornwell, Planning and Zoning Manager.

Public
Hearing/
CZ 1802

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 11.66 ACRES, MORE OR LESS” (Change of Zone No. 1802) filed on behalf of J.G. Townsend Jr. & Co. (Tax Map I.D. No. 335-12.00-Part of Parcel 3.00) (911 Address: None Available).

Mr. Robertson clarified that the application is for a rezoning from AR-1 to B-1 and he explained that any site plan for this project would be a separate matter that requires separate consideration by the County at a later time.

**Public
Hearing/
CZ 1802
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on July 14, 2016 at which time action was deferred; on July 28, 2016, the Commission recommended that the application be approved based upon the information contained in the record and for the following reasons:

- 1) This application is for a change in zone from AR-1 (Agricultural Residential) to B-1 (Neighborhood Business). According to the Zoning Code, the B-1 (Neighborhood Business) zone is appropriate “to provide retail shopping and personal service uses” and “to serve the needs of a relatively small area, primarily nearby rural, low density or medium density residential neighborhoods”.**
- 2) The purpose of the B-1 Neighborhood Business District is satisfied by this application. Right now, there are approximately 1,500 residential units located or approved along Gills Neck Road. All of these units have developed with low and medium density designs. And, residents in all of these units currently must travel to Route One or cross Kings Highway and Clay Road to the Village of Five Points for their retail shopping needs and personal service uses, such as a grocery store. Neighborhood Business uses here will be convenient to those existing and future residents and will eliminate the traffic and congestion caused by having to travel to Route One or Savannah Road. B-1 (Neighborhood Business) zoning is appropriate for this site.**
- 3) The B-1 (Neighborhood Business) zoning district is the most limited commercial or business zoning category in Sussex County. Here, B-1 (Neighborhood Business) zoning will limit the size and type of uses that occur on this site, ensuring that any future development of it will be on a scale that is compatible with the surrounding area.**
- 4) There was a great deal of concern about the location of the City of Lewes’ wells across Kings Highway from this site, and whether the existence of these wells should prevent the rezoning of this property. The protection of these wells is important to everyone, and it is governed by the Sussex County Source Water Protection Ordinance that was adopted in 2008. Those protections apply at the Site Plan stage, and any development of this site must comply with the requirements of the Source Water Protection Ordinance, whether the site is zoned AR-1 (Agricultural Residential) or B-1 (Neighborhood Business). But, the existence of these wells is not a reason to deny this particular application.**
- 5) The Sussex County Comprehensive Plan supports this rezoning. The property is located in the Environmentally Sensitive Developing Area according to the Plan. In this Area, our Plan says that “retail and office uses are appropriate”, and that “careful mixtures of homes with light commercial and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home”. This rezoning falls squarely within this guidance established by our Comprehensive Plan.**

**Public
Hearing/
CZ 1802
(continued)**

- 6) The Comprehensive Plan also directs that appropriate growth such as this B-1 (Neighborhood Business) rezoning should be directed towards a Growth Area, which includes the Environmentally Sensitive Developing Area where this property is located, based on several guidelines, including:
- a. The proximity to an incorporated municipality;
 - b. The existence of public sewer and water;
 - c. The location on or near a major road;
 - d. The character and intensity of surrounding development; and
 - e. How the area ranks according to the “Delaware Strategies for State Policies and Spending”.

Here, our Plan’s guidelines are all satisfied, since the project is close to the City of Lewes; there is public sewer and water available; the property is located along an “Arterial” roadway according to the Mobility Element of the Plan; the surrounding residential development supports the need for neighborhood business uses; the rezoning is consistent with other business and commercial trends in the area; and the location is in Level 1 according to the State Strategies. Our Comprehensive Plan supports this rezoning.

- 7) DelDOT has approved the Traffic Impact Study (TIS) for this project, and both DelDOT and the Applicant have entered into an agreement for extensive roadway improvements in this area that support the rezoning. Both the TIS and the Agreement are based on development of a much larger project than what can be built on this 11 acres of B-1 (Neighborhood Business) zoning. These roadway improvements, at the Developer’s expense, will be a benefit to all travelers in the area. One example is the improvements of the Cape Henlopen High School/Gill’s Neck Road/Kings Highway intersection, which is currently underway.
- 8) The rezoning to B-1 (Neighborhood Business) is consistent with neighboring and adjacent uses. Besides the need for reasonable neighborhood businesses to serve the existing residential uses, B-1 (Neighborhood Business) zoning and the limited uses it allows are consistent with the small-scale commercial zoning across the road from the site, a small shopping center just down the road, the high school, and other businesses, retail establishments, restaurants, and offices that are nearby.
- 9) B-1 (Neighborhood Business) zoning is appropriate for this site. But, if approved by the County Council, that is not the end of the County’s involvement if it is developed. The Planning and Zoning Commission and its staff must still review any site plan for development of the project, including whether it complies with the County’s Source Water Protection Ordinance, how it relates to the Lewes Scenic Byways Program recently endorsed by County Council, especially at this location as a gateway to Lewes, and how it is interconnected with adjacent developments and roadways.

**Public
Hearing/
CZ 1802
(continued)**

10) For all of these reasons, it is recommended that this rezoning from AR-1 (Agricultural Residential) to B-1 (Neighborhood Business) should be approved.

(See the minutes of the Planning and Zoning Commission dated July 14 and 28, 2016.)

Mr. Lank read a summary of the Planning and Zoning Commission's Public Hearing and recommendation.

Mr. Lank distributed copies of an Exhibit Book and Addendum Booklet which were provided by the Applicant, J. G. Townsend, Jr. & Co.

Mr. Lank reported that, prior to the Planning and Zoning Commission's Public Hearing, the following was received: 8 letters of support, 18 letters in opposition with 119 signatures in opposition, and 1 letter in support of the City of Lewes' alternative (a Conditional Use application).

Mr. Lank reported that, to date, 4 additional letters of support have been received and 8 additional letters of opposition have been received. Mr. Lank noted that there is some duplication of the correspondence.

Mr. Lank read in its entirety a letter received on this date, August 23rd, from Virgil Holmes, Director, DNREC's Division of Water, stating that the Department stands "ready to work with the Council, the Planning and Zoning Commission, City of Lewes, and the project developers to assure that, should the rezoning be approved, the project proceeds in an environmentally safe and sustainable manner".

Mr. Lank noted that the Council previously received the staff analysis of the application.

Mr. Lank advised that comments have been received from the Sussex Conservation District and the County Engineering Department, Utility Planning Division; and, that DelDOT's comments are a part of the Applicant's Exhibit Book.

In response to questions raised by Mr. Cole regarding what is permitted in a B-1 District, Mr. Lank responded that the limit on B-1 business activities is 75,000 square feet per parcel of retail business / office space (the size of the proposed improvements).

The Council found that Nick Hammonds was present on behalf of J. G. Townsend, Jr. & Co. to present the application with Gene Bayard, Esquire, of Morris James Wilson Halbrook and Bayard, LLP, and Ring Lardner, Professional Engineer of Davis, Bowen and Friedel, Inc.

Public
Hearing/
CZ 1802
(continued)

Mr. Hammonds presented a development history of the Gills Neck Road area including development projects, previous applications that were withdrawn, and pedestrian and road improvements.

Mr. Bayard, Mr. Hammonds, and Mr. Lardner presented an overview of the application stating that they have applied for a rezoning to B-1 Neighborhood Business for a 75,000 square foot retail center/neighborhood shopping center on 11.66 acres; they are intending to create a neighborhood shopping center with a special grocery store containing 20,000 to 30,000 square feet, and hopefully a bank, pharmacy, and other stores and shops to provide needs and services; they are not intending a gas station or dry cleaner; the architecture will be similar to downtown Lewes; by comparison, the center will be similar in size to the Food Lion shopping center in front of the Village at Five Points; B-1 Neighborhood Business zoning limits the size of the project by regulation; they have provided a sketch plan of the center and acknowledge that it is only a conceptual plan; they had submitted an application to the State for a Preliminary Land Use Service (PLUS) review prior to their application in 2015 and were not required to resubmit for this application since the site and size of the project has been reduced in size; their responses to the PLUS comments include the 2015 concept responses and the revised 2016 concept responses; they referenced DelDOT's definitions of a Traffic Impact Study (TIS) and a Traffic Operational Analysis (TOA); they made reference to a 2006 TIS DelDOT correspondence, a 2009 TIS DelDOT correspondence, and a 2016 TOA DelDOT correspondence, and added that DelDOT will make the final decision on what traffic and road improvements will be required; there would be no negative impacts on wetlands; there are no historical or cultural sites within the area of the application; this application is a part of a progression of development activities of the Gills Neck Road area; they referenced the Hydrological Reports from the Board of Public Works for the City of Lewes and compared them to the Hydrological Reports prepared for this application and noted that they disagree; the Cape Henlopen High School site contains 18 acres of impervious surfaces that is closer to the Lewes wellhead site than this application site; when the original village center application was filed, the Board of Public Works did not ask for a hydrological study; the Applicant intends to comply with all County regulations in Ordinance 89 and the Source Water Protection Ordinance; the developers have downsized the project from 500,000 square feet to 75,000 square feet along with reductions in the number of residential units in the area which means that the required DelDOT improvements exceed the necessary improvements; the developers have agreed to participate in those improvements required by DelDOT; changes of use on existing B-1 Neighborhood Business and C-1 General Commercial sites only require a site plan approval, not a public hearing; the site is in an Investment Level 1 Area according to the Strategies for State Policies and Spending; they agree with the staff analysis of Ms. Cornwell, Planning and Zoning Manager, which references that the rezoning is consistent with the land use in the Comprehensive Plan, the surrounding area and uses; the proposed application is 85% smaller than the original application; the

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County would have two reviews of the site plan, if the application is approved; other developments are near wells and ordinances and regulations are in place and projects are complying; another wellhead study will be conducted by DNREC as part of the site plan review process; and the proposed project will ensure the free flow of traffic, and will ensure that the City of Lewes wells will be protected, making it a first class center.

Mr. Lardner reviewed the Exhibit Book and Supplemental Booklet, which includes a sketch plan.

In response to questions, Mr. Robertson explained the Sourcewater Protection Ordinance regulations and the site plan approval process.

In response to questions raised by Council members, Mr. Hammonds and Mr. Lardner stated that there is no Master Plan and that the uses will be dictated by the market and the Comprehensive Plan; that there are no pending leases; and that the Old Barn on the property is not part of the application.

Mr. Bayard continued the Applicant's presentation with the following comments: this project proposal is another step in the progression of seven development projects over the past 30 years on lands of J. G. Townsend on Gills Neck Road; the combination of the projects that exist or are under construction on Kings Highway aggregate 2,000 residential units within one mile of the project site; the proposed project is located on a major arterial road, as defined by Sussex County Ordinance No. 99-5; it is in a Level 1 Area on the State Strategies Map; it is supported by PLUS and will provide site and building construction jobs and subsequent job opportunities for the area; DelDOT has the last word over traffic and road improvement matters; and the 2006 Traffic Impact Study remains in force and the Agreement between DelDOT and the Developer remains, and road improvements paid for by the Developer continue with more to come.

Mr. Bayard referenced the County's Sourcewater Protection Ordinance, the purpose of which is to ensure that land use activities are conducted in such a way as to minimize the impact on and reduce the risk of contamination of excellent groundwater recharge areas and wellhead protection areas which are the source of public drinking water throughout the County and it states that any wellhead protection area, stormwater design and oversight is governed by the Soil Conservation District; that compliance with the Stormwater Protection Ordinance is not optional; that when the original Village Center project was proposed at 520,000 square feet, the City of Lewes did not commission a hydrological study; instead the Board of Public Works commented that that the agricultural well on the Townsend property would be abandoned; that there was not a hydrologic study commissioned by the City when the Cape Henlopen school was rebuilt and doubled in size – that property has 160,000 square feet of building and 18 acres of impervious surface with no stormwater protection between it and the Lewes water well, 100 feet away; that no hydrologic study was

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commissioned when the second Village application was presented; that only after the 75,000 square foot application was proposed has the City commissioned a report; that the City's hydrologist and J.G. Townsend's hydrologist agree that, presently, the biggest single threat of contamination to the City's wells is Kings Highway, which has no stormwater management in place; that he questions why, when DelDOT added shoulders to Kings Highway two years ago, the City did not ask DelDOT to do some basic stormwater management; that they question why now does the City believe their wells are threatened; and that a Flint, Michigan cannot happen in the City of Lewes.

Mr. Bayard referenced the comments of the Lewes Scenic Byways Program and stated that J. G. Townsend supports the program. Mr. Bayard stated that the Applicant has invested over \$200,000 in rehabilitation of the Old Barn because it is iconic and it should remain a part of the Kings Highway landscape.

Mr. Bayard stated reasons why the Applicant will not place a gas station or dry cleaner on the site; he presented a report from the Delaware State Police providing incident reports and investigations, and an analysis of crimes reported at two shopping centers; and he referenced the Planning and Zoning Commission's reasons for approval.

Mr. Bayard concluded by stating that an approval of the Change of Zone is only the first step in the process; that the Applicant will have to hire architects and engineers to design the project, after which a preliminary site plan would be submitted to the Planning and Zoning Commission; after that, permits from all agencies will be required including DelDOT and the Soil Conservation Service; and that DelDOT will require a Traffic Operational Analysis in order to design entrance improvements and intersection improvements and the Soil Conservation Service will require detailed hydrologic information and engineering to ensure that the project complies with the County's Sourcewater Protection Ordinance. Additionally, the Project will require preliminary site plan approval and final site plan approval by the Planning and Zoning Commission.

Mr. Bayard referenced County staff's comments and referenced Commissioner Burton's Motion and reasons to approve the application.

The matter of the classification of Kings Highway as a major arterial road was discussed.

The Council found that Ted Becker, Mayor of the City of Lewes, and Darrin Gordon, General Manager of the Lewes Board of Public Works, were present and submitted a Resolution dated July 11, 2016 of the Mayor and Council of the City of Lewes; a copy of the draft of the City of Lewes Area Traffic Study, dated June 2, 2016, as prepared by Environmental Resources Management; a copy of a July 12, 2016 letter from Advanced Land and Water, Inc. to the Lewes Board of Public Works; and a Final

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Report entitled *Integrated Land Use and Transportation – Observations for Coastal Sussex County, Delaware* prepared for The Greater Lewes Foundation and University of Delaware Sea Grant College Program.

Mayor Becker and Mr. Gordon commented on the proposed project's potential impact on the City even its reduced size, including the impact on traffic, quality of life, and water in a prime recharge area. They stated that the reduction in size is a step in the right direction; that the increase in traffic will be significant; that this project along with developments that have already been approved, will likely produce an 18% to 39% increase in traffic; that there are major concerns about roads and intersections in the vicinity of Kings Highway and Gills Neck Road exceeding capacity; that with the project's projected increase to 3,985 average daily trips and 4,782 peak season daily trips, the concept of failure seems guaranteed; that the Applicant's Traffic Impact Study was based on 2006 data and it has not been updated other than what was referred to by the Applicant; that the City contracted with Environmental Resources Management to provide a current assessment of the traffic (distributed as a hand-out); that the development will impact access to the City of Lewes and the Cape May Lewes Ferry and the Cape Henlopen State Park – that access remains critical and the Integrated Land Use and Transportation Report was referred to and recommendations in the report highlighted; that approving this up-zoning request will set a precedent; that emergency response times and evacuation times will be negatively impacted; that access is also critical to support tourism/ecotourism; that Kings Highway and Gills Neck Road are both part of the Scenic and Historic Corridor Management Plan and he referenced the design principles contained therein; that excessive development will impact said Plan; that the City's wellheads are located within the County; that they ask Council to protect the water; that Public Works must provide safe drinking water into the future; that the DNREC mapped wellhead protection area includes the entire site (11 acres); that hydrological reports have been prepared for both the Applicant and the City; that Best Management Practices must be utilized and monitored to protect the area; that the City would prefer to consider an application for a Conditional Use so that conditions can be imposed on the project; that monitoring quality and quantity is a necessity; that they would support the relocation of the site back away from Kings Highway, away from the wells, so that a safe zone could be created next to the wellhead site; that they are not anti-development if the project is done right; that the City opposes the rezoning, but would support a Conditional Use application; that the construction of the new high school happened prior to or at the same time as Section 89 of the Code relating to stormwater was adopted in 2008 (Ordinance No. 1979); that if the Applicant receives approval and then sells the property, the new owner may be an incompatible tenant (they can put something else on the property); that they want the Developer to provide an escrow to maintain the property including the protection of water; and that there is concern about the future of the approximate 35 acres across the road owned by the Townsend's.

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Mr. Vincent referenced the Council's process and stated that the only information the Council uses to make decisions on zoning matters is the public record of the Planning and Zoning Commission's Public Hearing and the County Council's Public Hearing.

The Council found that John Sergovic, Esquire of Sergovic Carmean Weidman McCartney & Owens, P.A. was present on behalf of the Lewes Partnership for Managing Growth, LLC (a citizens group) (LPMG) with John Mateyko, President of the Lewes Partnership for Managing Growth; Joe Kelly, Attorney; Michael Lenhart, Professional Engineering Consultant with Lenhart Traffic Consulting, Inc.; and Dennis Crawford, chief spokesperson for various communities on Gills Neck Road.

Mr. Sergovic stated that the purpose of the Partnership (LPMG) is to promote orderly growth; that the Applicant's long range plan was never disclosed in the marketing of the residential developments along Gills Neck Road; that if the Village Center is moved away from the Lewes wellhead protection area, the plan to have a commercial center to serve the residents of the Gills Neck Road could be better accommodated; that as recommended by DNREC in the PLUS Report, relocation would also make it practical and feasible to convey all the parking lot water out of the five year wellhead protection zone; that the developer has ignored LPMG's proposal and that of the City of Lewes and the Lewes Board of Public Works for a scaled back scope of the complex, submitting a conditional use application, moving the project away from Kings Highway to protect the Lewes wellhead protection area, and avoid placing a commercial use as an attractive nuisance to the Cape Henlopen students and adding to traffic congestion; that at the Planning and Zoning public hearing, LPMG offered support of a smaller Conditional Use to serve the residents along the Gills Neck corridor of no more than 20,000 square feet; that to serve 75,000 square feet of commercial use, the developer has to bring people into the area from outside of the Gills Neck corridor; that the only way the uses of a gas station or dry cleaner or big box retailer can be prohibited is for the County Council to not grant the B-1 zoning; that the proposed project will create detrimental impacts to the health, safety, convenience, order, prosperity, and welfare of the current and future residents; that placing the main entrance on Kings Highway and Clay Road with a signalized intersection opens the door to more rezonings and would set a precedent for in-fill rezoning; that the LPMG asks the Council to fully consider this application under the directions given for the proposed land use in B-1 Zoning under the 2008 Comprehensive Land Use Plan, and referenced the ESDA in which the project site is located; that they dispute the meaning of an arterial road and encourage Council to read the County Code's definition; that Kings Highway is not an arterial road, Savannah Road is an arterial road; that no site plan has been provided; that no drainage design has been provided; that the Applicant has not offered a deed covenant/restriction; that it is not known if the Applicant will sell the land after it is rezoned and a gas station or dry cleaning establishment could happen; that the Council should not move forward to approve this

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application until the Council has a firm commitment from the Developer on the other lands in the area owned by the Applicant; that the Planning and Zoning Commission has recommended approval without the safeguards afforded by proposals of his client and the City of Lewes; that there would be benefits to moving the Village Center closer to the heart of the residential enclave developed by the Townsend Corporation's developer and its related affiliates; that if the Village Center is moved closer to the heart of the enclave, the proposal to make the project accessible to pedestrians and cyclists would be better met; that the proposed project is not walkable from area developments, i.e. Wolfe Runne, Breakwater, Showfield, Wolfe Pointe, Bay Breeze, etc. Mr. Sergovic referenced the denial of CZ 1690 and asked the Council to look at the record of this denial.

Mr. Lenhart stated that he represented LPMG during the Applicant's 2009 application; that the County Code pertaining the ESDA requires that the Applicant submit an environmental assessment, public facility evaluation report, and an analysis of the increase in traffic and the effect on the surrounding roadway system; that there is potential for piecemeal rezoning and future infill development; that the impact cannot be adequately assessed; that the Traffic Impact Study was conducted over ten years ago and it has old and outdated data and is unreliable; that the Code requires a study of the roadway network and a study of the intersections with the existing zoning; that the existing zoning for this 11 acres would allow for 23 residential units; that the proposed zoning would allow for 75,000 square feet of commercial retail; that the Council needs to evaluate the net difference and the impact of the rezoning – this was not done in 2009 and has not yet been done; that the 2006 traffic study only looked at the ultimate proposed build-out; that the 2006 study was prepared for a different project and showed significant failures at most of the study intersections even with improvements; that there has been no study or analysis with this application; that there would be substantial increases in traffic; and that the Traffic Operations Analysis will not address traffic concerns. Mr. Lenhart referenced his handout, a letter dated August 23, 2016, with attachments, which was made a part of the record. Mr. Lenhart noted that he had several exhibits on a thumbdrive that he wished to present (due to the fact that the thumbdrive was not submitted in advance of the meeting, staff was unable to load the information). In response to questions, Mr. Lenhart clarified that he did not do a traffic study, he did traffic counts.

Mr. Kelly commented on the legal impact of having no current Traffic Impact Study and the threat the rezoning represents to Lewes' water wells. He commented on the impervious surface, stormwater management areas, the decline in Level of Service, the delay of emergency services, the impact on local businesses, and the need for binding covenants to provide protection to groundwater wells. Mr. Kelly referenced several court cases and a 1988 Memorandum of Understanding between the County and DelDOT. Mr. Kelly's letter dated August 23, 2016 was made a part of the record.

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Mr. Mateyko submitted thirty-six documents into the record which included planning reports and studies, information on seminars held in Lewes, and materials disseminated in Lewes. Also, he introduced into the record a book entitled Principles of Urban Retail Planning and Development by Robert Gibbs. In his presentation, Mr. Mateyko addressed the presumption that there is a benefit to the proposed project "to see if it holds up with the facts". He discussed a retail market analysis; organizations called the International Council of Shopping Centers and the Urban Land Institute which have extensive materials available online; smart growth and shopping centers; sustainable development and retail; the environment; small scale shopping; retail planning; and development. He stated that the developer is going about the project contrary to all the data in the trade guidelines; the grocery store in Lewes (Lloyds) is only 3700 square feet and satisfies all of Lewes; that to be economically sustainable, a neighborhood center needs 6,000 to 8,000 households within its primary trade area; that the developer has stated that they are working with DelDOT to bring traffic down Clay Road off of Old Orchard Road from New Road; that they are anticipating taking traffic from outside the area because the Applicant knows that they need 6,000 to 8,000 households; that the area is only going to have 2,000 households at buildout and there is only another 1,600 households in Lewes itself; that there is no justification for 75,000 square feet or a B-1 zoning; that the Applicant has not submitted their overall plan; that perhaps a conditional use should be considered but only after a new TIS and a new delineation of the wellhead; and that there is no industry guideline justification for this size of development.

Todd Sammons, Subdivision Engineer, DelDOT, addressed why DelDOT did not require a new Traffic Impact Study stating that based on the analysis that was done, which was for 2014, it is not that far out (2016); that DelDOT went back and looked at everything and determined that the analysis was adequate to determine what the impacts of the development would be, especially since the project has been reduced so much; that in the expert opinion of Bill Brockenbrough, DelDOT County Coordinator, Development Coordination, the 2008 analysis is adequate; that Mr. Brockenbrough has stated that "DelDOT finds because the reductions in size and the traffic generation of the proposed development, that the 2006 TIS and the 2009 McCormick Taylor final TIS review letter are sufficient to identify a maximum set of off-site improvements needed to accommodate the currently proposed development. DelDOT does not require a new TIS for the currently proposed development."; that DelDOT did require a supplemental analysis and the TOA was required, which looked at three intersections and the two entrances for the development as well as evaluating Kings Highway, Gills Neck Road and the Cape Henlopen High School entrance.

Gail Van Gilder, representing the Lewes Scenic and Byway Committee, stated that she was not in support or opposition; that Lewes is one of the top three travel destinations in the State making it a significant economic engine for the County; that Kings Highway is under enormous pressure from

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extremely rapid growth and is experiencing failing Levels of Service at intersections; that the proposed project could adversely affect its desirability as a major visitor destination; and that the proposed project will degrade Lewes by way character and mobility. Ms. VanGilder submitted the Committee's comments in writing which included five recommendations for the Council to consider. The letter was made a part of the record.

PUBLIC COMMENTS IN SUPPORT:

Bob Wardwell spoke in support of the application. He stated that he thinks the proposed project will help people age in place and that regulations support this application. Mr. Wardwell submitted his written comments into the record.

Robert Horsey commented on the quality of the Applicant's projects stating that the Applicant goes above and beyond on all of their projects and that they protect the character of the neighborhood and the City of Lewes; that their projects protect property values; that the Applicant has spent millions of dollars on road improvements and regional sewer; that they will mitigate any traffic impact; that the Applicant has made Sussex County a better place; and that the proposed project will have a positive economic impact, especially job creation.

John Schneider spoke in support of the application. He stated that the proposed project is a much reduced rezoning proposal and is now appropriate; that it would be a valuable amenity to the area; that it will reduce the amount of times residents have to leave Gills Neck Road; that it would provide additional improvements along Gills Neck Road; that the proposed location is a logical location for this type of project as it provides good access and visibility; that there are 2,000 homes in the area and the homeowners need access to the types of businesses proposed; that the Applicant will provide private funds for road improvements which benefits many people; that the Applicant has made an investment in the Old Barn renovation and has a track record of developing high-end projects; and the proposed project will be a benefit to residents and visitors. Mr. Schneider stated that he would submit his comments, in writing.

Mr. Robertson stated that he was handed a letter from Dr. William Miller and Marjorie Miller in support of the application. The letter was made a part of the record.

Councilman Wilson left the meeting.

PUBLIC COMMENTS IN OPPOSITION

Dennis Crawford, chief spokesperson for various communities on Gills Neck Road stated that he represents a consortium of eight (8) neighborhoods (Wolfe Pointe, Wolfe Runne, Hawkseye, Breakwater,

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Senators, Cadbury, Bay Crossing, and Henlopen Gardens) which contain approximately 1,400 homes in the area; that the majority of the residents in these neighborhoods have voiced their opposition against this rezoning; that a letter to this effect was placed in the Planning and Zoning file; that regarding the Applicant's walkable environment concept, most of these communities will not walk to the proposed shopping center; that the curb smoothing project that took place on Gills Neck Road resulted in high speed traffic; that there has been no disclosure of a master plan that includes any commercial or retail development; that the residents that he represents do not want or need shopping or other commercial businesses in this area; that adequate shopping already exists; that new establishments have already added traffic in the area; that the use of privately owned streets to minimize traffic does not promote the safety, welfare and prosperity of residents; that there was no disclosure that there would be a through street linking Senators with Governors and the proposed rezoning area; that the proposal will create unsafe conditions for senior residents and school children; that the balance of the Applicant's property that is not part of this rezoning application is approximately 55 acres; that the rezoning request is not in character with the area; that a 2006 traffic study is not a valid basis for a land use decision in 2016; that increased traffic will impede emergency vehicle access; that a business zone is at odds with the designated school zone along Kings Highway; that the rezoning request does not demonstrate a public need; that the application site is within the Lewes Wellhead Protection Area; that B-1 zoning increases the risk of contamination; that this is an unconfined aquifer that serves the Lewes Board of Public Works, Rehoboth and Tidewater customers; that his research has indicated that a 75,000 square foot retail center needs 6,000 residents in the area to support it; and that the rezoning will not promote the health, safety and welfare of residents in the area nor the Cape Henlopen students.

Mr. Crawford's presentation highlighted the objectives of the residents: they want EPA's recommendation for minimal development in the well head protection area accepted as a requirement; they want this application denied because it does not benefit the Greater Lewes communities; they want the residents of the affected neighborhoods to voice their desire for additional commercial or business zoning through a survey or referendum; they do not want to see Kings Highway become a short version of Route One; and they want a panel of concerned parties created to perform area wide planning for the Kings Highway corridor.

Mr. Crawford submitted his written comments, including his powerpoint presentation, into the record.

Vince Kane, Joe Wolzansky, Laura Thompson, Jay Tomlinson, Peter Strub, Jane Lord, Fran Mahan, Sumner Crosby, Paul Collins, Bill Barry, Maryanne Ennis, David Ennis, and Karen Walsh spoke in opposition to the application. They referenced DelDOT's comments on road improvements, i.e. traffic lights, stating that it does not pertain or relate to the proposed shopping center on Gills Neck Road; stated that they are concerned about

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the community's only source of potable water; that the proposed project doesn't make any sense; that residents of communities in the area in walking distance of the proposed shopping center would rather drive to Savannah Road or into Lewes; that other shopping areas are available and a new one is not needed on Gills Neck Road; that they support small businesses in Lewes, i.e. Lloyds; that most people drive to go shopping or shop online; that they question if there are enough people to sustain the proposed shopping center especially in the winter months; and that they sees more and more development and they want the character of Lewes preserved; that approval of this application would be precedent-setting for commercial development; that this rezoning is not compatible with the character of the area; that the area is a professional service area and most have converted existing housing and are mostly AR-1 conditional uses; that most are small, single buildings for established local service businesses; that there is no plan for the refurbished Old Barn; that an apartment complex and an entrance into the complex is in the application but was not mentioned; that no consideration was given for the scenic byway setback; that there was no consideration given to the wellhead; that the proposed project will impact drinking water; that the proposed project will not promote the health, safety, and welfare of the residents in the area; that the project will negatively impact property values; that a 2006 traffic study is not a valid basis for a land use decision; that it makes no sense to draw more vehicles to the area; that emergency vehicle access is a huge concern for Cadbury and the Gills Neck area; that the proposed project is in the area of a designated school zone; that there is concern for young drivers and pedestrians; that there is not a public need; that the Cape Gazette did a survey and the majority of the survey results were in opposition to the application; that plenty of shopping resources already exist; that the proposal presents great risks to drinking water; that it is an unconfined aquifer; that the area is a recharge area and an area highly susceptible to contamination; that in 2003, DNREC recommended that this site remain agricultural; that it is an incompatible land use in a wellhead protection area; that DNREC has stated that the area is an excellent recharge area and impervious surface should not exceed 20%; that there is not enough information on the application for a decision to be made; that an up-to-date report would show that the wetlands delineation model would be different; that Sussex County is losing its reputation as slower lower Delaware; that Lewes is losing its small town charm; that the competition of another shopping center would hurt small businesses; that traffic concerns include school bus traffic and the safety of children; that the public hearing sign was not visible and should be larger; that there are plenty of areas that can be developed that are not over the wellheads; that it is requested that action on this application be delayed until after the adoption of the Comprehensive Land Use Plan Update; that they ask the Council to keep the file open to allow for a vote by the residents; that they would like to establish a stakeholder team; and that they would like an informal referendum/survey/poll held for the citizens of Lewes and citizens of the Gills Neck Road community.

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Mr. Strub reported that a letter of opposition was submitted by the Board of Directors of the Bay Crossing Homeowners Association; also, the Bay Crossing residents submitted a petition in opposition to the application containing over 100 signatures. (It was noted that, if Council has not received these documents, they will be resubmitted.)

Mr. Ennis referenced a Public Advisory Committee that advised on the State Route One Land Use and Transportation Study and stated that there should be no new centers inside of Route One outside of Lewes. Mr. Ennis handed out a copy of the report.

Mr. Ennis distributed a copy of a speech given by Retired Chancellor Bill Chandler at the University of Delaware in 2008 on creating a livable Delaware.

In response to comments regarding a request for a referendum/poll, Mr. Robertson commented that the opportunity for the public to voice their support/opposition is during the public hearing process before the Planning and Zoning Commission and the Sussex County Council.

The Public Hearing was closed.

Council discussed leaving the record open for questions and public comments.

**M 431 16
Leave
Record
Open/
CZ 1802**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to leave the record open (on Change of Zone No. 1802) for written comments for one week with the possibility of further extensions of the record remaining open.

Motion Adopted: 3 Yeas, 1 Nay, 1 Absent.

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

**M 432 16
Defer
Action on
CZ 1802**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action on Change of Zone No. 1802 filed on behalf of J. G. Townsend, Jr. & Co.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 433 16
Adjourn**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to adjourn at 8:17 p.m.

Motion Adopted: 4 Yeas, 1 Absent.

**M 433 16
(continued)**

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

Respectfully submitted,

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

{An audio recording of this meeting is available on the County's website.}

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 30, 2016

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 30, 2016, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

Councilwoman Joan Deaver was absent.

Call to Order

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

Mr. Vincent called the meeting to order.

M 434 16 Amend and Approve Agenda

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to amend the Agenda by deleting "Approval of Minutes" and "Introduction of Proposed Zoning Ordinances" and to approve the Agenda, as amended.

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

Corre- spondence

Mr. Moore noted that the only correspondence received relates to Change of Zone No. 1802 and that the correspondence received will be made a part of the record for that zoning application.

Public Comments

Public Comments

Melissa Golden referenced the Hazard Mitigation Plan and expressed appreciation for the public meeting on hazard mitigation scheduled on Thursday, September 1st, at Mallard Lakes. Ms. Golden commented that there are still Delaware residents that are suffering from Hurricane Sandy.

Paul Reiger commented on the District 2 appointment to the Planning and Zoning Commission.

Dan Kramer commented on Change of Zone No. 1802 (filed on behalf of J. G. Townsend, Jr. & Co.) and referenced the fact that the public record was

**Public
Comments
(continued)**

left open for written comments (until the close of business on August 30th) and that he believes the letters should be read into the record and not just made a part of the record.

**M 435 16
Approve
Consent
Agenda**

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

Wastewater Agreement No. 1048
Sussex County Project No. 81-04
Park Shore (Henlopen Station)
West Rehoboth Expansion of the Sanitary Sewer District

Wastewater Agreement No. 626-3
Sussex County Project No. 81-04
Swann Cove – Phase 8
Fenwick Island Sanitary Sewer District

Motion Adopted: 4 Yeas, 1 Absent.

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

**DelDOT/
TID
Concept**

DelDOT Secretary Jennifer Cohan was present with Bill Brockenbrough, Josh Thomas, and Drew Boyce of DelDOT to present an update on the proposed Transportation Improvement District (TID) for Sussex County. Mr. Thomas referenced DelDOT's partnership with the County on this effort and stated that, over the last few months, DelDOT has been working with the County on furthering the concept of the TID. Mr. Brockenbrough presented the proposed Henlopen TID including the boundary, the 12-month timeline from 2016 through 2017 to include the following:

September – December 2016

- Council to initiate a Comprehensive Plan amendment stating that the County wants to create a TID
- DelDOT studies existing conditions, including traffic counts
- County staff and Planning and Zoning Commission will produce future land use projections and develop service standards

January – February 2017

- Council adopts Comprehensive Plan amendment
- Planning and Zoning Commission could hold hearings on land use projections and service standards
- Council and DelDOT enter into TID Agreement
- County staff, Planning and Zoning Commission and DelDOT begin work on a Land Use and Transportation Plan (LUTP)

**DelDOT/
TID**

**Concept
(continued)**

March – July 2017

- DelDOT develops future traffic projections and conducts analysis
- DelDOT presents conceptual transportation improvements
- Planning and Zoning reviews improvements
- DelDOT publishes draft Land Use and Transportation Plan (LUTP)

June – September 2017

- DelDOT produces implementation plan for LUTP with projects and cost estimates
- DelDOT proposes fee structure to fund implementation plan
- Planning and Zoning Commission holds hearing on LUTP and fee structure
- Council and DelDOT amend TID Agreement to include the implementation plan and the fee structure

Mr. Thomas stated that the purpose of the presentation on this date is for approval of the TID concept and the name, boundary and tentative timeline.

A discussion was held on the TID concept.

**M 436 16
Move
Forward
with
TID
Concept**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to move forward with the TID concept, as presented.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Adminis-
trator's
Report**

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

1. All Hazard Multi-Jurisdictional Mitigation Plan

The Sussex County Emergency Operations Center (EOC) is inviting residents and property owners to attend an upcoming public meeting to offer ideas and comments on a federally required update to the County's All Hazard Multi-Jurisdictional Mitigation Plan. The meeting will be held from 1:30 to 3:30 p.m. on Thursday, September 1st, at the Sussex County EOC, 21911 Rudder Lane, next to the Delaware Coastal Airport.

The hazard mitigation plan serves as a comprehensive, long-term planning tool used to identify various strategies local emergency planners would use in the event of a disaster. The overall goal of the

**Adminis-
trator's
Report
(continued)**

effort is to reduce or eliminate the loss of human life and damage to property as a result of hazards, both natural and man-made.

Local jurisdictions must update their plans every five years. As part of that process, the public has the opportunity to review the plan, offer input, and help shape the update. County emergency planners intend to present updated mitigation actions for the plan revision later this fall.

For more information, to view the current plan and future updates, as well as submit comments, visit <http://www.sussexcountysde.gov/all-hazard-mitigation-plan>. For questions, please contact Joe Thomas, EOC Director, at 855-7801.

2. Council Meeting/Holiday Schedule

A reminder that Council will not meet on September 6th or September 13th. The next regularly scheduled Council meeting will be held on September 20th at 10:00 a.m.

County offices will be closed Monday, September 5th, for the Labor Day holiday.

**IRB/
Cadbury
at Lewes
Project**

Mrs. Jennings reported that on Wednesday, August 24, 2016, the Industrial Revenue Bond (IRB) Committee held a public hearing on the Cadbury at Lewes, Inc. application requesting the issuance of up to \$21,000,000 of economic refunding revenue bonds. Mrs. Jennings presented for Council's consideration a Project Resolution authorizing the issuance of the bonds; the IRB Committee recommended the approval of the Resolution at the August 24th meeting. The bonds will be payable solely from the revenues received by the applicant and neither the full faith and credit nor the taxing power of the County will be pledged to pay this debt. As required by the IRS, Cadbury at Lewes goes through the County's process in order for the bonds to be issued as tax-exempt. Cadbury at Lewes has agreed to pay all costs of the County, including fees of its bond counsel in connection with the issuance of the bonds. They will also pay the one-half of a percent of the bonds to the County generating up to \$105,000 in revenue to the County. Emilie Ninan, Esquire, a partner at Ballard Spahr LLP, was in attendance and provided a brief background of the process of the County acting as a conduit on a bond financing.

**M 437 16
Adopt
R 015 16**

A Motion was made Mr. Cole, seconded by Mr. Arlett, to Adopt Resolution No. R 015 16 entitled "A PROJECT RESOLUTION AUTHORIZING ISSUANCE OF UP TO \$21,000,000 FIXED RATE REFUNDING REVENUE BONDS (CADBURY AT LEWES PROJECT) SERIES 2016.

Motion Adopted: 4 Yeas, 1 Absent.

**M 437 16
(continued)**

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

**IBRWF/
Phase 2
Treatment
Capacity
Expansion
and
Regional
Biosolids
& Septage
Upgrades**

Hans Medlarz, County Engineer, referenced Council's approval on January 24, 2014, of the five (5) year, cost plus fixed fee type, base contract regarding engineering services for the North Coastal Planning Area to Whitman, Requardt and Associates, LLP (WRA). Since then, the Council utilized the contract by approving six (6) amendments totaling \$3,109,354.00 in value. Also on January 24, 2014, the Council authorized contract negotiations with WRA for design of a 2.0 million gallons per day treatment capacity expansion as well as regional biosolids and septage upgrades.

Mr. Medlarz presented a request for the approval of Contract Amendment No. 7 to the original North Coastal base contract with WRA in the amount of \$1,290,820.00 for the required Scope of Services for design engineering for the Inland Bays Regional Wastewater Facility - Phase 2 Treatment Capacity Expansion and Regional Biosolids & Septage Upgrades.

**M 438 16
Approve
Contract
Amend-
ment 7/
WR&A
Base
Engineering
Contract/
Phase 2
IBRWF**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, that Amendment No. 7 to the Base Engineering Contract for the North Coastal Planning Area with Whitman Requardt & Associates be approved in an amount not to exceed \$1,290,820.00 covering treatment and expansion as well as biosolids and septage upgrades.

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

**Bulk
Wastewater
Services
Agreement**

Hans Medlarz, County Engineer, presented a Bulk Wastewater Services Agreement between Sussex County and Artesian Wastewater Management, Inc. Mr. Medlarz reported that the proposed agreement is a result of the Engineering Department's proposal to avoid installing additional infrastructure in the ground and trying to utilize existing infrastructure when the County can access it (transmission and treatment only). Mr. Medlarz noted that the Proposed Agreement allows the County to access existing capacity where Artesian has resources for transmission and vice versa; both parties would be responsible for their own infrastructure and connection costs.

**M 439 16
Approve
Bulk Waste-
water
Services
Agreement**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, that the Sussex County Council approves the Bulk Wastewater Services Agreement between Sussex County Council and Artesian Wastewater Management, Inc. for utilization of each parties' existing wastewater transmission and treatment facilities.

**M 439 16
(continued)**

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**

**Love Creek
Woods/
Expanded
Sewer
Participa-
tion
Agreement**

Hans Medlarz, County Engineer, presented a Sewer Participation Agreement between NSBM, LLC and Sussex County and the Love Creek Woods Homeowners Association. Mr. Medlarz explained that this pertains to the Angola North Expansion and deals with a District which was created by Resolution in October 2014; funding is in place and 90 percent of the design has been completed. The one property in question is the Boat Hole property located next to Love Creek; this property is the key easement acquisition because it contains the pump station for the larger area. Mr. Medlarz reported that, previously, an outside third party agreement had been reached between the Love Creek Woods Homeowners Association and the Developer of the Boat Hole; the agreement deals with the hook-up connection after the sewer installation and it defines a contribution from the Developer; this was done independent of the County. Mr. Medlarz also reported that there has been an impasse between the County and the Developer for the easement and the Developer has proposed that the County assume the responsibilities of this Agreement (Sewer Participation Agreement) with the contribution previously promised to the HOA to be paid to the County and the County would supervise and conduct the implementation. Mr. Medlarz further noted that, in addition to the County, the Board of Directors of the HOA and the Developer must also agree to the Proposed Agreement. Mr. Medlarz advised that the alternative is that the County will engage in a legal process to acquire the necessary right of ways for the utility easement. Mr. Medlarz recommended approval of the Sewer Participation Agreement.

**M 440 16
Approve
Approach
of Sewer
Partici-
pation
Agreement/
Love
Creek
Woods**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, that the Sussex County Council approves the approach outlining the Sewer Participation Agreement between Sussex County, NSBM, LLC and Love Creek Woods Homeowners Association in principle, with a final Agreement to be presented to Sussex County Council at a later date for consideration.

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**

**South
Coastal
Library/
Reading
Garden
Project**

Hans Medlarz, County Engineer, presented the bid results for the South Coastal Library, Reading Garden Alterations Project, Project 16-31. Only two bids were received, one from Common Sense Solutions in the amount of \$172,819.76 and one from Kent Construction in the amount of \$299,500.00, both of which were significantly above the architectural consultant's

Library Reading Garden Project (continued)	estimate of \$81,150.00. The Engineering Department recommends that Council reject the bids with the intention to rebid the project. Mr. Medlarz noted that, prior to re-advertising, the project scope will be reviewed with South Coastal Library staff to determine what elements and materials must remain.
M 441 16 Reject Bids/ South Coastal Library Reading Garden Project	<p>A Motion was made by Mr. Wilson, seconded by Mr. Arlett, based upon the recommendation of the Engineering Department, that all bids for Contract 16-31, South Coastal Library Reading Garden Alterations, be rejected and that the Contract be rebid identifying the cost centers.</p> <p>Motion Adopted: 4 Yeas, 1 Absent.</p> <p>Vote by Roll Call: Mrs. Deaver, Absent; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea</p>
Request to Post Notices/ High Tide Church Expansion	<p>John Ashman, Director of Utility Planning, presented a request to prepare and post notices for the High Tide Church Expansion of the Sussex County Unified Sanitary Sewer District. This expansion, consisting of 122.65± acres, was requested by High Tide Church, a project currently known as PGS Properties and Allen Harim. The church and PGS properties will be responsible for gravity sewer to a connection point on the west side of Route 113. This provides a connection point for the American Legion Post #24 which has been on a holding tank since approximately 2008; Allen Harim will be connecting to the gravity system installed by High Tide and PGS. There are several other parcels included in this expansion to fill in the donut hole and to maintain a contiguous path; some will be receiving a connection point from the High Tide/PGS infrastructure. The parcels will be responsible for System Connection Charges of \$5,775.00 based on current rates. Pending approval, a Public Hearing will be held on September 27, 2016 at 10:15 a.m.</p>
M 442 16 Authorize Posting of Notices/ High Tide Church Expansion	<p>A Motion was made by Mr. Cole, seconded by Mr. Wilson, that the Engineering Department is authorized to prepare and post notices for the High Tide Church Expansion of the Sussex County Unified Sanitary Sewer District (Dagsboro/Frankford Area) to include parcels along Nine Foot Road, as presented on August 30, 2016.</p> <p>Motion Adopted: 3 Yeas, 2 Absent.</p> <p>Vote by Roll Call: Mrs. Deaver, Absent; Mr. Cole, Yea; Mr. Arlett, Absent; Mr. Wilson, Yea; Mr. Vincent, Yea</p> <p>(Mr. Arlett left the room during the discussion and vote on this matter.)</p>
Old Business/	<p>Under Old Business, the Council discussed Change of Zone No. 1802 filed on behalf of J. G. Townsend, Jr. & Co. Vince Robertson, Assistant County</p>

**Old
Business/
CZ 1802
(continued)**

Attorney, reported that a Public Hearing was held on August 23, 2016 at which time the record was left open for public comments (in writing) until close of business on August 30, 2016.

Mr. Robertson reported that quite a bit of information has been received including correspondence, petitions, and various publications and he noted that these will all be shared with the Council members and made a part of the record, along with anything else that comes in prior to the close of business on this date.

**M 443 16
Close
Public
Comment/
CZ 1802**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, that the time period for the receipt of written public comments on Change of Zone No. 1802 will close as of 4:30 p.m. on this date, August 30, 2016.

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**

**M 444 16
Leave
Record
Open for
Certain
Informa-
tion/
CZ 1802**

A Motion was made by Mr. Wilson, seconded by Mr. Arlett, that Councilmembers may ask questions of staff or agencies until the close of business on September 30th (all questions should be funneled through Lawrence Lank, Director of Planning and Zoning, so that there is a record); once answers have been received and reported at a County Council meeting, the record will remain open for the public to comment (in writing) on the information requested (only).

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**

It was noted that the time period that the public will be given to submit public comments on the information requested will be set at a future Council meeting.

**Grant
Requests**

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

**M 445 16
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$2,000.00 (\$400.00 from each Councilmanic Grant Account) to the Delaware Lions Foundation for humanitarian service projects (for Sussex County projects).

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**

M 446 16 Councilmanic Grant **A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to give \$900.00 from Mr. Wilson's Councilmanic Grant Account to the Coverdale Crossroads Community Council for utilities.**

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**

M 447 16 Go Into Executive Session **At 11:30 a.m., a Motion was made by Mr. Cole, seconded by Mr. Wilson, to go into Executive Session to discuss matters relating to personnel and land acquisition.**

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**

Executive Session **At 11:36 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to personnel and land acquisition. The Executive Session concluded at 12:45 p.m.**

M 448 16 Reconvene Regular Session **At 12:48 p.m., a Motion was made by Mr. Cole, seconded by Mr. Arlett, to come out of Executive Session and to reconvene the Regular Session.**

Motion Adopted: 3 Yeas, 2 Absent.

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

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

M 449 16 Recess **At 12:48 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to recess until 1:30 p.m.**

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**

M 450 16 Reconvene **A Motion was made by Mr. Arlett, seconded by Mr. Cole, to reconvene at 1:35 p.m.**

Motion Adopted: 4 Yeas, 1 Absent.

**M 450 16
(continued)**

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

**Public
Hearing/
CZ 1803**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT - RESIDENTIAL PLANNED COMMUNITY (AS AN ADDITION TO CHANGE OF ZONE NO. 1393 FOR AMERICANA BAYSIDE) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 12.313 ACRES, MORE OR LESS” (Change No. 1803) filed on behalf of CMF Bayside, LLC (Tax Map I.D. No. 533-19.00-50.00 (Part of) and 51.00) (911 Address: None Available).

The Planning and Zoning Commission held a Public Hearing on this application on July 28, 2016 at which time action was deferred. On August 11, 2016, the Commission recommended that the application be approved, with conditions.

(See the minutes of the Planning and Zoning Commission dated July 28 and August 11, 2016.)

Janelle Cornwell, Planning and Zoning Manager, read a summary of the Commission’s Public Hearing and recommendation of approval.

Ms. Cornwell reported that the Exhibit Booklet and Staff Analysis were previously distributed to Council.

The Council found that James A. Fuqua, Jr., Esquire of Fuqua, Yori and Willard, P.A., was present on behalf of the Applicant along with representatives of CMF Bayside, LLC; Steve Marsch of George Miles and Buhr, and Doug Melson, the property owner. Mr. Fuqua noted that the Exhibit Book that was submitted is a joint Exhibit Book – for both applications (CZ 1803 and CZ 1804).

Mr. Fuqua advised that the two Public Hearings on this date are two separate applications but are independent of one another. However, both applications involve the same parcel of land. For this reason, Mr. Fuqua stated that he would be including all information in one presentation.

Mr. Fuqua stated that the application is for a MR zoning designation for a 12.2 acre parcel of land fronting on Route 54; that it would be an extension of the existing Americana Bayside RPC; that the parcel of land is contiguous to the existing Americana Bayside RPC on both the southwest and northeast sides; that Carl M. Freeman Associates has been developing residential and commercial real estate in Sussex County since the late 1960s and were the developers of Sea Colony East, Sea Colony West, The

**Public
Hearing/
PZ 1803
(continued)**

Preserve, Bear Trap Dunes, and Americana Bayside, and several other projects; that the company has a history of responsible quality development and contribution and involvement in the community; that the Americana Bayside MR project was originally approved in 2001 on 887 acres for a maximum of 1,700 residential units and 170,000 square foot of retail/office space – it also contains a golf course, the Freeman stage, and many other recreational and open space amenities; that they are proposing to incorporate approximately 12.25 acres of additional land into the RPC; that it is proposed to be developed as a maximum of 48 residential units and up to 18,000 square feet of office/retail space; that Doug Melson is the owner of the property; that the entire property contains approximately 15 acres and he intends to develop a portion (3 acres) of the site for his use and to sell the remainder of the site (12.18 acres); that the CMF application includes the 12.18 acres being purchased and an adjoining 6,660 square foot strip that is already owned by CMF; that Artesian Water will be providing central water for drinking and fire protection; that the County will be providing central sewer (Fenwick Island Sanitary Sewer District); that the sewer concept plan is approvable upon receipt of the rezoning; that the site is located in the Indian River School District and in the Roxana Volunteer Fire Department service area; that as part of the original Americana Bayside approval, CMF was responsible for extensive roadway and intersection improvements on Route 54 and Route 20 and they have all been constructed at the expense of the Developer in the approximate amount of \$4.5 million; that a shared entrance is proposed to serve both the CMF Bayside and Doug Melson properties with access to Route 54; that the units will also have access to Sand Cove Road; that DelDOT did not require a Traffic Impact Study and has written a Letter of No Objection to the entrance plans; that there are no State or Federal wetlands on the site, except for .121 acres of non-tidal federal wetlands which are part of the Tax Ditch; that there will be a 30 foot access easement for maintenance of the tax ditch along the eastern side of the ditch, which will also serve as a buffer between the tax ditch, the wetlands and the proposed development; that stormwater management facilities will meet regulatory requirements; that they are proposing to construct a two-story building containing a maximum of 18,000 square feet of usable area; that they propose to relocate CMF's management offices and the office of the Freeman Foundation, and also have some possible leasable space; that the 18,000 square foot office space shall be a part of the original calculation in the originally approved 170,000 square foot of retail/office space; that this portion of the site will be developed with a maximum of 48 residential units; that those owners will be members of a HOA and all owners will be entitled to the extensive Americana Bayside recreational amenities; that this application shall be a part of the original calculation in the originally approved 1,700 units; that the application meets the purpose of the Comprehensive Plan and is located in the Environmentally Sensitive Developing Area; that the additional units are a natural extension to the Americana Bayside project; and that they are proposing duplex units; that the project will be subject to a site plan approval; and that the County's staff analysis states that the application is consistent with the Comprehensive Plan.

**Public
Hearing/
CZ 1803
(continued)**

Mr. Fuqua stated that Condition No. 24 in the original approval (Ordinance No. 1433 – Change of Zone No. 1393) provided that the original RPC retail office area would not have direct access to Route 54 because it was internalized in the development and it being served by the main road coming into American Bayside; that the Applicant is requesting that this condition will not apply to this parcel since this parcel fronts on Route 54 and DelDOT has already approved the entrance from Route 54; and that there was a similar project/entrance approval for Change of Zone No. 1731 (CVS/McDonalds).

Mr. Marsch reviewed the boundary of the RPC, the amenities, and the proposal to extend the walkway to the amenities and he stated that Sand Cove Road was rebuilt and relocated as part of the Americana Bayside project, and is a public road.

Mr. Fuqua submitted proposed Findings of Fact and Conditions of Approval for consideration.

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

**Public
Hearing/
CZ 1804**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.05 ACRES, MORE OR LESS” (Change of Zone No. 1804) filed on behalf of Doug Melson (Tax Map I.D. No. 533-19.00-50.00 (Part of) (911 Address: None Available).

The Planning and Zoning Commission held a Public Hearing on this application on July 28, 2016 at which time action was deferred. On August 11, 2016, the Commission recommended that the application be approved.

(See the minutes of the Planning and Zoning Commission dated July 28 and August 11, 2016.)

Janelle Cornwell, Planning and Zoning Manager, read a summary of the Commission’s Public Hearing and recommendation of approval.

Ms. Cornwell reported that the Exhibit Booklet and Staff Analysis were previously distributed to Council.

James A. Fuqua, Jr., Esquire of Fuqua, Yori and Willard, P.A., was present on behalf of the application with Doug Melson, Applicant. He referenced the joint Exhibit Book (submitted for Change of Zone No. 1803 and Change of Zone No. 1804) and he asked that the information submitted into the record for Change of Zone No. 1803 be entered into the record for this application. Mr. Fuqua stated that Mr. Melson purchased the 15 acre

**Public
Hearing/
CZ 1804
(continued)**

parcel with the intent of establishing a new location for a funeral chapel; that he has an agreement to sell 12 acres of the site to CMF Bayside and to retain 3 acres with approximately 550 feet of frontage on Route 54; that they are requesting rezoning of the 3 acre parcel to B-1 Neighborhood Business District, which permits the use; that the Melson Funeral Services business has been in existence since 1934 and is a needed service due to the demographics of the area; that Delaware has grown faster than most states; that one in four residents in Sussex County are over the age of 65 years; that the application meets the purpose of the B-1 Neighborhood Business District; and that the project will be developed along with the development of the CMF Bayside, LLC portion of the property, will share an entrance to Route 54, and will share stormwater management facilities.

The Commission found that Mr. Fuqua submitted suggested proposed Findings of Fact for consideration.

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

**M 451 16
Amend
P&Z Com-
mission's
Reasons for
Recommen-
dation of
Approval
(CZ 1803)**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to amend the Planning and Zoning Commission's reasons (#2) for their recommendation of approval of Change of Zone No. 1803, as follows: "The 48 residential units will be included in and will not exceed the number of units permitted in the existing Americana Bayside MR-RPC approvals."

Motion Adopted: 3 Yeas, 1 Abstention, 1 Absent.

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

**M 452 16
Adopt
Ordinance
No. 2460/
CZ 1803**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt Ordinance No. 2460 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 (AS AN ADDITION TO CHANGE OF ZONE NO. 1393 FOR AMERICANA BAYSIDE) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 12.313 ACRES, MORE OR LESS" (Change No. 1803) filed on behalf of CMF Bayside, LLC, for the following reasons given by the Planning and Zoning Commission, as amended, and with Conditions 7a through 7p:

- 1) The site is adjacent to portions of the existing Americana Bayside MR-RPC development. It will be an extension of the existing development.
- 2) The 48 residential units will be included in and will not exceed the number of units permitted in the existing Americana Bayside MR-RPC approvals.

**M 452 16
Adopt
Ordinance
No. 2460/
CZ 1803
(continued)**

- 3) The proposed development will have sewer service provided by Sussex County and water provided by Tidewater Utilities.
- 4) The proposed rezoning to a MR-RPC is in compliance with the goals and objectives of the Sussex County Comprehensive Land Use Plan. The Plan also recognizes that a range of housing types are appropriate in the Environmentally Sensitive Developing Area where this project is located, including multi-family and townhouse units. The proposed retail and office use is also appropriate in this area according to the Comprehensive Plan.
- 5) The proposed development will not adversely impact neighboring properties, traffic or the environment.
- 6) The development will be an extension of the existing Bayside development, and residents will be members of the Americana Bayside Homeowners Association entitling them to use the development's existing recreational amenities and requiring them to pay the required dues and assessments within the development.
- 7) This recommendation is subject to the following conditions:
 - a. The maximum number of residential dwelling units shall be 48 on this land incorporated into the existing MR-RPC.
 - b. The retail/office portion of the lands incorporated into the existing MR-RPC shall not exceed 18,000 square feet of retail/office space.
 - c. The 48 units and 18,000 square feet of office space approved as part of this extension of the MR-RPC shall be part of the uses approved in Conditions #1 and #3 of Change of Zone No. 1393 and shall not be in addition to these conditions previously imposed on the Americana Bayside MR-RPC project.
 - d. Conditions #24 of Change of Zone No. 1393 (requiring access to Route 54) shall not be applicable to the retail/office space as part of this application.
 - e. The development shall be served as part of the Sussex County Sanitary Sewer District.
 - f. The developer shall comply with all requirements and specifications of the County Engineering Department.
 - g. The RPC shall be served by central water.
 - h. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated in a manner consistent with Best Management Practices.
 - i. The Final Site Plan for each phase of the development shall contain the approval of the Sussex Conservation District.
 - j. The project shall be incorporated as part of the existing Americana Bayside MR-RPC (Change of Zone No. 1393) and shall be subject to, and benefited by, the conditions imposed upon that development, except as modified herein.
 - k. All entrance, roadway, intersection and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT's determinations.
 - l. The interior street design and parking areas shall meet or exceed Sussex County street design specifications and requirements.

**M 452 16
Adopt
Ordinance
No. 2460/
CZ 1803
(continued)**

- m. The residential units in this development shall be part of the Americana Bayside Homeowners Association responsible for the maintenance of streets, roadways, buffers, stormwater management areas and community areas.
- n. Road naming and addressing shall be subject to the review and approval of Sussex County Mapping and Addressing Department.
- o. The Final Site Plan shall include a landscape plan for all the buffer areas, showing all the landscaping and vegetation to be included in those areas.
- p. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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**

**M 453 16
Adopt
Ordinance
No. 2461/
CZ 1804**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt Ordinance No. 2461 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.05 ACRES, MORE OR LESS" (Change of Zone No. 1804) filed on behalf of Doug Melson for the reasons given by the Planning and Zoning Commission, as follows:

- 1) The site is appropriate for the change in zone to B-1 (Neighborhood Business), given its location on Route 54, which is a major roadway in Sussex County.
- 2) The permitted B-1 uses are appropriate and will benefit the nearby residents of the neighborhood. The Applicant's business is Melson Funeral Services, and he has stated on the record that he intends to operate a new funeral chapel on the property to provide services to the residents and growing residential communities located in the Route 54 area.
- 3) The change in zone will not adversely affect neighboring and adjacent properties or the community.
- 4) The project will be served by central water and will be served by County sewer.
- 5) The site is located in the Environmentally Sensitive Developing Area according to the Sussex County Comprehensive Plan. B-1 (Neighborhood Business) zoning is an appropriate zoning classification in this area according to our Plan.
- 6) The Final Site Plan for any proposed use of the property will be subject to the review and approval of the Commission.

Motion Adopted: 4 Yeas, 1 Absent.

**M 453 16
(continued)**

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

**M 454 16
Adjourn**

**A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to adjourn at
2:45 p.m.**

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**

Respectfully submitted,

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

{An audio recording of this meeting is available on the County's website.}



A PROCLAMATION TO DECLARE SEPTEMBER 17-23 AS CONSTITUTION WEEK

WHEREAS, the Sussex County Council wishes to recognize organizations for their contributions to the betterment of our community; and

WHEREAS, the Major Nathaniel Mitchell Chapter of the Daughters of the American Revolution of Georgetown and other DAR chapters across the United States serve as volunteer, patriotic organizations that promote education and historic preservation; and

WHEREAS, in support of its mission, the Daughters of the American Revolution will lead the country's celebration of Constitution Week from September 17 through September 23, 2016; and

WHEREAS, the United States of America functions as a republic under the Constitution, the oldest written national constitution still in active use, which outlines the self-government of a people; and

WHEREAS, this landmark idea that ordinary citizens had the inalienable right as individuals to be free, living their lives under their own governance, was the impetus of the American Revolution; and

WHEREAS, the tradition of celebrating the Constitution began 60 years ago by the Daughters of the American Revolution, when, in 1956, President Dwight D. Eisenhower officially declared September 17 through September 23 as Constitution Week; and

WHEREAS, the intent of the celebration is to emphasize citizens' responsibilities for defending, protecting and preserving the Constitution for posterity; to inform the people that the Constitution is the basis for America's great heritage and the foundation for our way of life; and to encourage the study of the historical events which led to the framing of the Constitution in 1787;

NOW, THEREFORE, BE IT RESOLVED that the Sussex County Council hereby declares September 17 through September 23 as Constitution Week in Sussex County; and

BE IT FURTHER RESOLVED that all citizens are encouraged to reflect on the duty committed to each of us by our forefathers – to preserve, protect and defend the Constitution, and the freedoms it guarantees, for generations to come.



Michael Vincent, Council President

Dated: September 20, 2016

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
sussexcountype.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

BRAD HAWKES
DIRECTOR OF UTILITY ENGINEERING

August 23, 2016

FACT SHEET

SUSSEX COUNTY PROJECT 81-04
JOHNSONS GLADE
AGREEMENT NO. 1030

DEVELOPER:

Josh Mastrangelo
The Evergreene Companies, LLC
701 Bethany Loop, Suite 2
Bethany Beach, DE 19930

LOCATION:

SW/RT26, N/RT84 (Central Ave.), NW/Woodland
Ave. Town of Ocean View

SANITARY SEWER DISTRICT:

Ocean View Expansion of the Bethany Beach Sanitary Sewer District

TYPE AND SIZE DEVELOPMENT:

13 Unit, Single Family Subdivision

SYSTEM CONNECTION CHARGES:

\$80,850.00

SANITARY SEWER APPROVAL:

Sussex County Engineering Department Plan Approval
7/24/2015

Department Of Natural Resources Plan Approval
8/25/16

SANITARY SEWER CONSTRUCTION DATA:

Construction Days – 13
Construction Admin And Construction Inspection Cost – \$11,159.75
Proposed Construction Cost – \$74,398.30



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



Sussex County 2018-2023 Capital Transportation Program Request

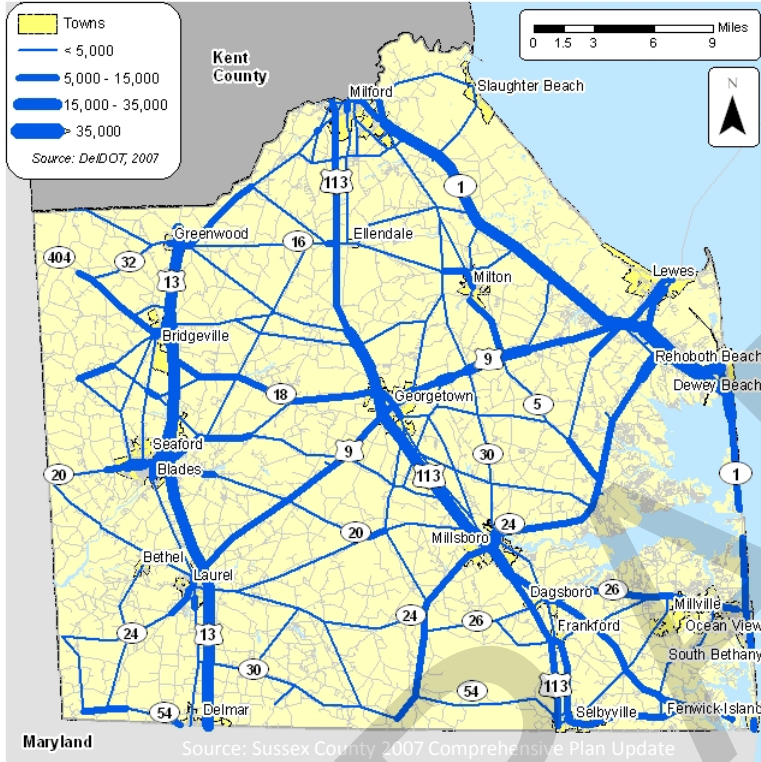


September 28, 2016

Sussex County

2018-2023 Capital Transportation Program Request

Average Annual Daily Traffic - 2005

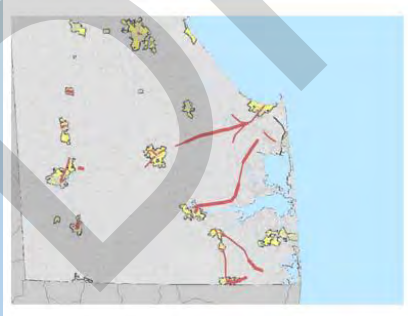


Sussex County is Delaware's largest county, with 938 square miles of land within its borders. Within that broad expanse is more than 37 percent of the State's 6,281 miles of public roadway.

In Sussex County, the most heavily traveled roadways are US 13 and SR 1 (each carrying more than 30,000 vehicles daily), followed by US 113 with more than 24,000 vehicles daily. At the same time, the major east-west routes also are heavily traveled, though these are less capable of extensive traffic. Congestion due to the movement of summer visitors often compounds traffic problems.

As noted in the charts below, congestion is expected to worsen by 2030, even assuming currently planned projects are completed.

2000 and 2030 Year-Round Congestion (Volume to Capacity Ratio > 85%)



2000 and 2030 Summer Congestion (Volume to Capacity Ratio > 85%)



Source: Sussex County 2007 Comprehensive Plan Update

Sussex County Priorities

2018-2023 Capital Transportation Program Request



The following items are Sussex County's transportation priorities for the 2018-2023 Capital Transportation Program, based on past requests and public input. Each priority is explained in further detail in subsequent sections of this request:

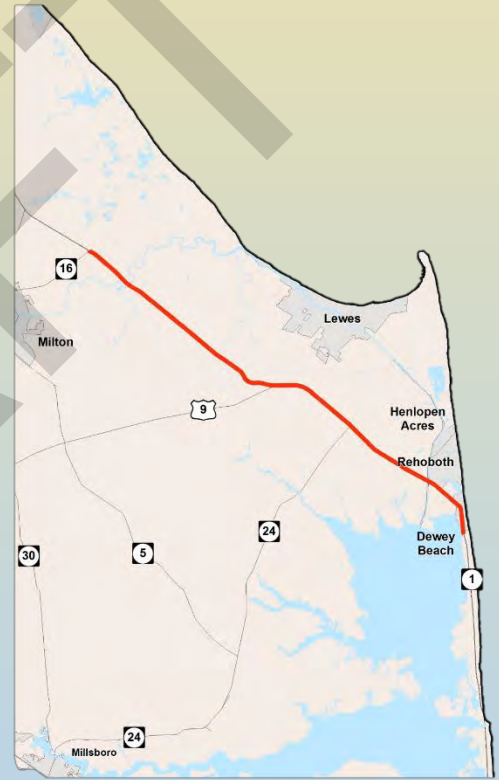
- SR 1 Improvements
- Delaware Coastal Airport
- Park Avenue/US 9 Truck Route
- East-West Improvements
 - ❖ SR 24
 - ❖ SR 26
 - ❖ Routes 404/9
- Bicycling/Walking Trails
- North-South Highway Improvements
- Scenic Byways
- Local Roads
- Intersections, Signage & Signalization
- Alternative Transportation

Del. Route 1 Improvements

2018-2023 Capital Transportation Program Request

Pedestrian and bicyclist safety along the SR 1 corridor in Sussex County's beach communities has gained increasing attention in recent years with numerous accidents, some fatal, occurring along the highway, particularly between the Five Points intersection and Dewey Beach.

Sussex County recognizes finding solutions to the challenges present along SR 1 is not easy. A recently completed \$11.5 million effort to install sidewalks and add or improve existing crosswalks within the corridor stands to enhance pedestrian safety. In fact, these improvements may have been a factor in a lack of fatal pedestrian/bicycling incidents in the corridor during the 2016 summer season. However, pedestrian concerns must be balanced with the needs of the 80,000 daily beach-bound vehicles that depend on a steady traffic flow to reach their destinations. The County continues to call on DelDOT to consider reduced speed limits and simplified, visible signage in the corridor to aid drivers and pedestrians. Additionally, a low-level median barrier also might be appropriate to discourage pedestrian traffic outside of crosswalks.



What is critical is that there be community consensus in whatever decisions are made, to ensure SR1 serves its primary purpose as the gateway to Delaware's beaches, while maintaining safety for those who walk, bike and ride the corridor each day.

Editorial »
Route 1 fatality demand
DelDOT: Crosswalks
Police investigate fatal crash near

Hot topics: Route 1 lights, crosswalks
DelDOT: Funds li...
Dewey Sussex roads

Dewey Beach, had request- swers, especially when it comes to safety issues along Route 1.

Courtesy: Cape Gazette (Summer 2013)

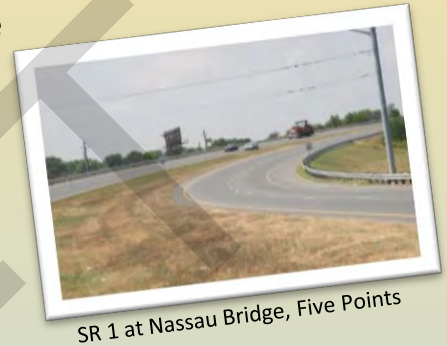
Del. Route 1 Improvements

2018-2023 Capital Transportation Program Request

Sussex County supports a multi-faceted approach to enhancing SR 1 to improve pedestrian safety and ensure traffic flow.

➤ **Five Points Intersection/US 9 Realignment**

Improvements are needed at the Five Points intersection to reduce accidents at this gateway to the resort area, which is often congested and confusing to motorists. Realignment of the US 9 connection at Five Points, as well as reduced speeds on SR 1 south of the Nassau bridge, could ease congestion and improve safety. Meantime, intersection improvements at Wescoats and Savannah roads and a planned New Road connector could alleviate traffic approaching the Five Points area.



SR 1 at Nassau Bridge, Five Points

➤ **Intersection at SR 16 near Milton**

An overpass with exits at this intersection, similar to the design built at SR 1/SR 30 near Milford, would improve safety by eliminating cross-traffic and the need for a traffic signal.



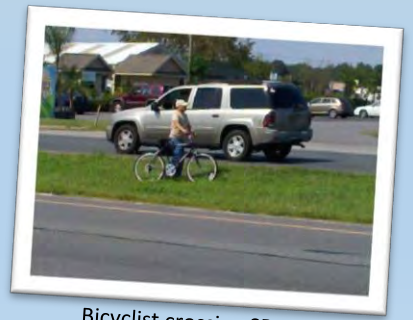
Intersection of SR 16 and SR 1 near Milton

➤ **Pedestrian Crosswalks**

Pedestrian/bicycle crosswalks at key locations – namely existing intersections – along with reduced speed limits would improve safety, especially for those walking near the retail outlets. Sussex County applauds the State for its recent work to install new crosswalks, particularly the HAWK system, and encourages the State to continue evaluating the corridor for other suitable improvement locations.

➤ **Pedestrian/Bicycling Paths**

Continued expansion of the popular Rails with Trails concept along railway corridors, particularly between Georgetown and Lewes, could improve alternative movement to and along the SR 1 corridor. Additionally, dedicated pathways, improved lighting, more visible signage and crossings, and education outreach efforts to visitors could enhance bicycling safety in busy corridors where competing travel modes (vehicular, bicycling, and pedestrian) exist.



Bicyclist crossing SR 1

➤ **Commercial Properties Interconnectivity**

Connecting entrances/exits between adjoining commercial properties should be a priority, where possible, along the SR 1 corridor. This would allow those visiting stores the ability to move among the properties without having to re-enter and exit the highway. Such connectivity also should be used in commercial areas along the US 13 and US 113 corridors.

Delaware Coastal Airport

2018-2023 Capital Transportation Program Request



Delaware Coastal Airport near Georgetown is a critical part of Southern Delaware's transportation system, and the facility – with a new name, marketing campaign and growing commercial activity – continues to provide lift to the local economy.

The airport records nearly 40,000 landings and takeoffs each year, and is home to a vibrant economic and educational base, including ALOFT AeroArchitects with its auxiliary fuel tank installation business and the DelTech aircraft maintenance training program. Currently, there are 16 employers and nearly 1,100 jobs at the adjacent Sussex County Industrial Park, with an annual payroll of more than \$36 million.

Planned improvements, notably the extension of the main runway from 5,500 feet to 6,000 feet, will help retain well-paying jobs and attract new opportunities to Delaware Coastal Airport and the greater community. An earlier 500-foot runway extension project began in August 2012 and was completed in late 2013.

Sussex County government plans various improvements totaling nearly \$11 million from FY17 to FY21 at the airport and industrial park complex. Meantime, the local share of costs (County and State) for the additional 500-foot runway extension will be approximately \$12 million. This includes \$6 million for the actual runway extension, and an additional \$6 million for the necessary realignment of Park Avenue (see Page 7). The Delaware General Assembly in June 2015 allocated \$5 million in the Bond Bill for improvements, laying additional groundwork for this important project to get in the air. Already, DelDOT has begun to move forward on conceptual planning and public outreach, hosting a workshop on the realignment project in August 2016.

The County urges the Council on Transportation, the Department, and the State to continue their work with the County and Delaware's Congressional delegation to secure the necessary federal and state funding for the full 1,000-foot runway extension, which is critical to ensuring aviation safety and continued economic opportunities in Sussex County.

Park Avenue/US 9 Truck Route

2018-2023 Capital Transportation Program Request



Park Avenue, which remains among the County's highest priorities, is an essential route in the Georgetown area, providing access to the Sussex County Industrial Park, as well as a bypass for trucks and local traffic moving through the central portion of the county. However, this two-lane road – also known as Truck Route 9, the designated road for tractor trailers moving through the Georgetown area – is in need of critical upgrades, from turn lanes and shoulders to intersection improvements and a partial realignment.

As part of the planned main runway extension project at Delaware Coastal Airport, a portion of Park Avenue would need to be relocated to accommodate the extension. During an August 2016 public workshop, DelDOT presented a number of options to accommodate the project, including shifting the road's current southern terminus at South Bedford Street to locations farther south, at the intersection with Arrow Safety Road and another at the intersection with Zoar Road. In either case, the realignment would accommodate the extension of the main runway at Delaware Coastal Airport to 6,000 feet.

Equally as important, the realignment and need for other upgrades provide an opportunity for the State to enhance this route, which could serve as the base of a future Georgetown bypass to accommodate through-traffic to and from the beaches, as well as along the US 113 corridor.

While the Delaware General Assembly has earmarked \$5 million in funding for the airport and Park Avenue project, spread over a five-year period, this essential project has progressed slowly. County government requests the Council on Transportation give thoughtful consideration to giving this project higher priority in the state's construction schedule and allocate additional long-term funding for Park Avenue's realignment and other improvements. Doing this would enable the runway project to move forward sooner and guarantee a safer route for the traveling public.

East–West Corridors

2018-2023 Capital Transportation Program Request

The Capital Transportation Program budget in FY17 includes approximately \$24.5 million in State and federal funding for a number of improvements to portions of the county's network of east-west arteries. Projects targeted for funding include preliminary engineering work on SR 24, continued intersection improvements along the US 9 corridor, and completion of construction on the mainline SR 26 improvement project.

Sussex County appreciates the State's ongoing attention to these very critical links to the transportation system by budgeting for these current and future long-term projects.

However, substantially more funding will be needed in the years ahead, particularly for rights of way acquisitions, so improvements on other major east-west arteries can occur across the entire network. These improvements would include:

- Widening corridors with additional lanes and shoulders to accommodate increased traffic volume, improving traffic flow and safety;
- Resurfacing of shoulders to highway standards;
- Intersection upgrades such as the addition of left-turn lanes, increased illumination, and directional signage;
- Better coordination of traffic signals at identified choke points.

If current travel patterns continue as predicted, increased and frequent congestion will further interfere with local residents' mobility in many areas. Anticipating and funding necessary improvements such as these across the county's entire network of east-west arteries will better meet the travel needs of local residents and visitors for decades to come.

East–West Corridors

2018-2023 Capital Transportation Program Request

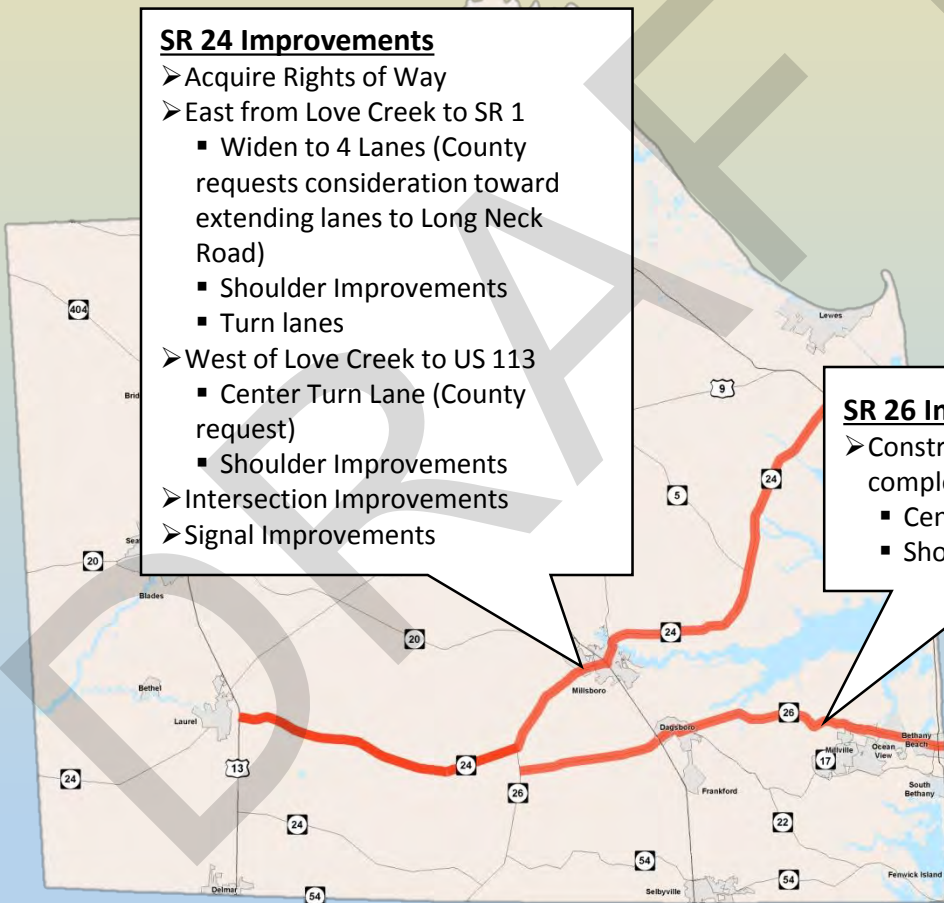
State Routes 24 and 26 are two of Sussex County's primary east-west corridors, allowing entry and egress from coastal communities. These routes are critical to allowing local motorists and destination drivers access to homes and commercial centers in the resort area. The routes in their current configuration, both two-lane roads, are currently insufficient to safely and efficiently move traffic into and out of the area, particularly during peak summer months and evacuations.

SR 24 Improvements

- Acquire Rights of Way
- East from Love Creek to SR 1
 - Widen to 4 Lanes (County requests consideration toward extending lanes to Long Neck Road)
 - Shoulder Improvements
 - Turn lanes
- West of Love Creek to US 113
 - Center Turn Lane (County request)
 - Shoulder Improvements
- Intersection Improvements
- Signal Improvements

SR 26 Improvements

- Construction nearing completion
 - Center Turn Lane
 - Shoulders



East–West Corridors

2018-2023 Capital Transportation Program Request

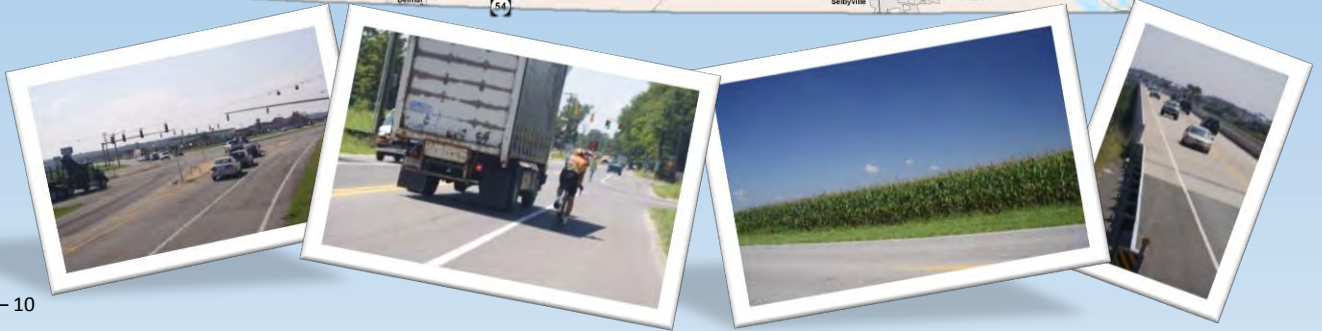
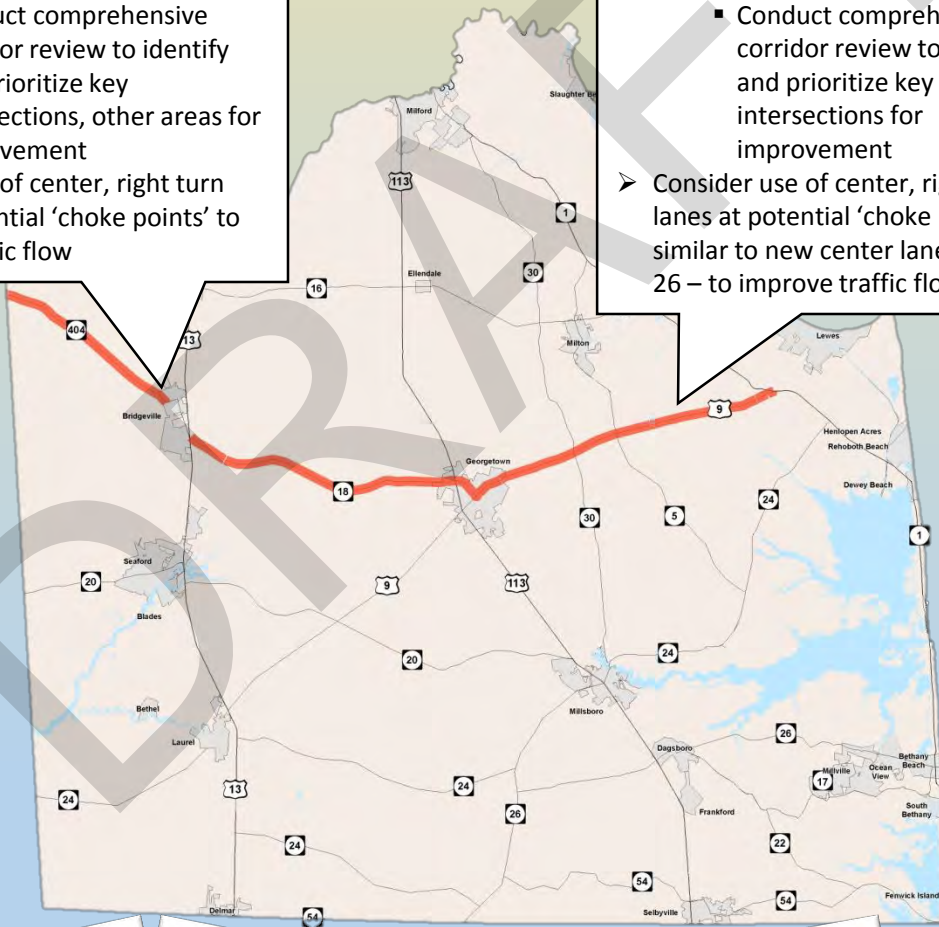
The SR 404/18 corridor, which connects with US 9 at Georgetown, is the principal means of east-west movement in Sussex County. This route, which connects to Route 404 in Maryland, is the gateway for beach-bound traffic during summer months, but a primary artery for local commuting traffic year-round. High traffic volume often limits this two-lane road's capacity; Maryland is widening its portion of the route to accommodate east-west traffic to and from Delaware. Sussex County respectfully requests the State consider a comprehensive transportation study to determine future improvements in this vital corridor.

SR 404/SR 18 Improvements

- Increase Capacity for SR 404/SR 18 from Maryland east to Georgetown
 - Conduct comprehensive corridor review to identify and prioritize key intersections, other areas for improvement
- Consider use of center, right turn lanes at potential 'choke points' to improve traffic flow

US 9/SR 404/SR 18 Improvements

- Increase Capacity for US 9/SR 404/SR 18 from Georgetown east to SR 1
 - Conduct comprehensive corridor review to identify and prioritize key intersections for improvement
- Consider use of center, right turn lanes at potential 'choke points' – similar to new center lane along SR 26 – to improve traffic flow



Bicycling/Walking Trails

2018-2023 Capital Transportation Program Request

Sussex County supports the continued attention placed on efforts to bring new trails and pathways to Southern Delaware. Just this summer, new phases of the Junction & Breakwater Trail near Lewes and the Assawoman Canal Trail in Ocean View opened, giving cyclists and pedestrians safe, scenic ways to enjoy Sussex County.

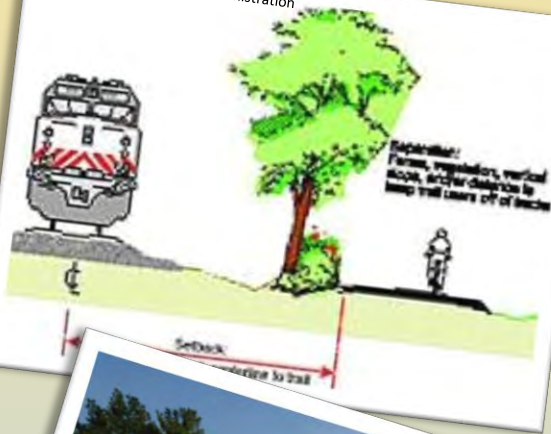
In the 2017 State budget, the Delaware General Assembly set aside \$800,000 in funding, along with another \$3.2 million expected in federal dollars, to continue the trails initiative that will link communities, parks, and other points of interest in the First State.

One potential project that could benefit from this funding is the long proposed Georgetown-to-Lewes Rail Trail, which would stretch 17 miles alongside the Delaware Coastline Railroad line from the county seat to the beaches. This proposed multi-use path would provide an alternate means for residents and visitors alike to navigate Sussex County, to access other trails, such as the Junction & Breakwater Trail between Lewes and Rehoboth Beach, and would promote a healthier lifestyle for users young and old. It could also retain the current rail line, providing a critical link for businesses to move products and keep the local economy strong.

Sussex County requests that the Council on Transportation and the Department evaluate proposals such as the Georgetown-to-Lewes Rail Trail when deciding how to allocate Delaware's annual share of federal matching funds, such as the Congestion Mitigation and Air Quality (CMAQ) and Surface Transportation Program (STP) grants.

Those dollars, in conjunction with the \$35 million that has been already allocated by the State in the past five years, could make alternative, multi-use paths a reality for bicyclists and pedestrians who want to connect with their communities and the natural beauty that makes Sussex County so special.

Source: Federal Highway Administration



Credit: Southern Delaware Tourism



Credit: Office of the Governor

North-South Hwy Improvements

2018-2023 Capital Transportation Program Request

Improvements to Sussex County's major north-south corridors, specifically US 113, remain a significant transportation need to address local traffic requirements, seasonal demands and interstate travel. Public sentiment to preserve the highway with minimal impacts on properties remains high, and the State should weigh those concerns as it resumes corridor plans, particularly as it pertains to a possible Millsboro bypass and grade-separated US 113 and SR 18/404 interchange in Georgetown.



US 113 is fed by SR 1 from the north, SR 404 from the west and the Maryland portion of US 113 from the south. Many travelers to the coastal areas of Sussex County already utilize US 113 to bypass the often congested SR 1 corridor. This is especially evident along the corridor at points including Georgetown and Millsboro during summer weekends, as traffic can back up for miles at times.

Users have distinct, and in some cases, conflicting operational requirements. Local users prefer access to properties with relatively simple and safe traffic patterns. Trucks, vacationers, and long-distance commuters, on the other hand, desire high-speed traffic patterns with minimal interruptions. Intersection upgrades, additional travel lanes, and other modifications could satisfy travelers' needs, and ease demand on other north-south arteries, such as US 13 and SR 1.

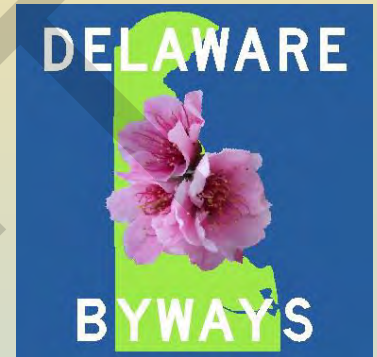
Because of the project's potential costs and effects, the County believes improvements should be phased in, based on public consensus, and given high priority to move the project from concept to reality.

Scenic Byways

2018-2023 Capital Transportation Program Request

A journey through Sussex County quickly yields what continues to make Southern Delaware an attractive place to live, work and recreate: natural landscapes, charming neighborhoods, timeless history. Designated byways are the latest tool in exposing the traveling public to all that a community has to offer.

Sussex County supports ongoing efforts to designate and maintain scenic byways that pass through our diverse communities and educate travelers about the area's rich history, all while promoting mobility and commerce. Most notable among these efforts in recent years are the Nanticoke Heritage Byway in Western Sussex and the Lewes Scenic and Historic Byway on the eastern side of the county, both of which are part of the Delaware Byways and National Scenic Byways programs.



Both programs have been formalized through the completion of corridor management plans (CMP), which establish criteria and action items for the enhancement of intrinsic resources and preservation of the byway routes.

In the case of the Lewes Scenic and Historic Byway, the byway's committee has enumerated a number of actions and improvements that are considered critical to ensuring infrastructure meets travel demand and safety concerns. This is of particular interest along Kings Highway, a highly-traveled gateway for traffic utilizing the Cape May-Lewes Ferry and accessing local state parks. Sussex County respectfully requests the Council on Transportation consider funding for:

- Implementation of the Kings Highway/Gills Neck Road master plan, which calls for:
 - A roundabout at the intersection of Kings Highway and Dartmouth Road;
 - Creation of an appropriate boulevard, with adequate capacity, from Dartmouth Road to Gills Neck Road;
 - Gills Neck Road traffic calming measures;
 - Installation of a connecting path and barrier at the Junction & Breakwater trailhead ending at Freeman Highway/Gills Neck Road intersect;
- Master plan for New Road, as well as an overarching transportation management plan for the byway corridor

Local Roads

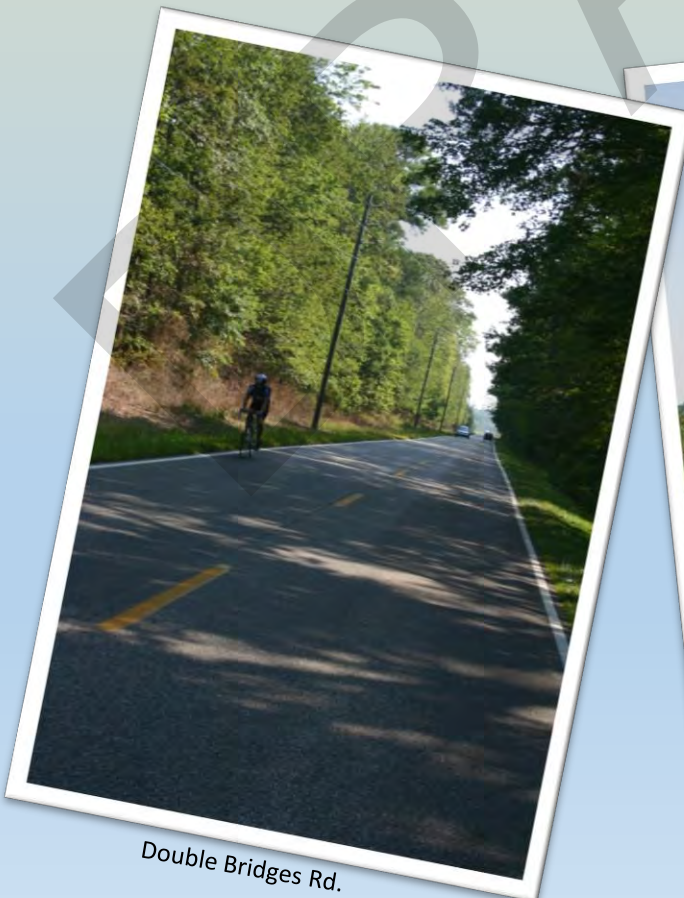
2018-2023 Capital Transportation Program Request

Routes such as SR 1, US 113 and US 13 serve as the major arteries of Sussex County's transportation network. Local roads, however, are the vessels that move traffic throughout all parts of the body.

The Sussex County Council submits the following list of local roads as those that should be targeted for upgrade and expansion. These roads are currently or soon will serve a growing population, which will result in added traffic. Many of these roads, either by State designation or through motorists' preference, are used as alternate routes for major thoroughfares.

Upgrades of these roadways includes paving of the surface, widening shoulders and/or installing turn lanes, as indicated. Upgrades also should include marking bicycle and pedestrian lanes, and illuminating key intersections.

The County recognizes it may be impractical to abandon the use of 'tar and chip' treatments on some roads. The County, however, encourages DelDOT to continue pursuit of its 10-year goal to pave all 'tar and chip' roads with an annual average daily traffic (ADT) count greater than 500 vehicles.



Double Bridges Rd.



'Tar & Chip' roadway west of Georgetown

Local Roads

2018-2023 Capital Transportation Program Request

Bethany Beach

- RD 360 – Fred Hudson Road
(Flooding)
- RD 363 – Double Bridges Road
(Shoulders/Bike path)

Blades

- RD 490 – River Road
(Shoulders)

Bridgeville

- RD 40 – Redden Road
(Shoulders)
- RD 525 – Coverdale Road
(Shoulders)

Dagsboro/Frankford

- RD 336 – Piney Neck Road
(Pave; Shoulders)
- RD 402A – Fox Run Road
(Pave)
- US 113 – DuPont Blvd. at Crickett Street
(Median crossover for EMS)

Dewey Beach

- DE 1 – Coastal Highway
(Median sidewalk/bicycle pathway)

Fenwick Island

- DE 54 – Lighthouse Road
(Grade-separated
bike/pedestrian path at viaduct)

Georgetown/Harberson

- RD 48 – Zoar Road/Hollyville Road
(Shoulders; Intersections at
Avalon and Hurdle Ditch roads)
- RD 62 – East Trap Pond Road
(Shoulders)
- RD 318 – Park Avenue (Truck Route 9)
(Shoulders; Left-turn lane from
US 9)
- RD 527 – Wilson Hill Road
(Pave)



Georgetown/Harberson (cont.)

- US 9/SR 5 – Lewes-Georgetown Highway
(Intersection signal timing)
- US 113 – DuPont Blvd. at E. Trap Pond Rd.
(Median crossover for EMS)

Greenwood

- DE 36 – Scotts Store Road
(Shoulders)
- RD 594 – Webb Farm Road
(Flooding at sharp turn)

Laurel

- RD 446 – Beaver Dam Branch Road
(Pave & Widen)
- RD 468 – Discount Land Road
(Sidewalks)
- RD 492 – Portsville Road/Sixth Street
(Pave)

Lewes

- RD 88 – Cave Neck Road
(Lengthen left-turn lane from
SR 1)
- RD 266 – New Road
(Shoulders; Bike path; Elevate
bridge)
- RD 267 – Gills Neck Road
(Turn lanes; Shoulders; Signage)

Local Roads

2018-2023 Capital Transportation Program Request

Lewes (cont.)

- RD 268 – Kings Highway
(Dualize from Dartmouth Drive to Freeman Highway; sidewalk connectivity from Cape Henlopen HS to Lewes city limits)
- RD 268A – Dartmouth Drive
(Service exit)
- RD 270 – Wolfe Neck/Munchy Branch roads
(Bike/pedestrian path)
- RD 277 – Robinsonville/Plantations roads
(Signalization)
- RD 285 – Beaver Dam Road
(Pave; Shoulders; Turn lanes; Signal timing at Belltown Road)

Millsboro

- RD 328A – Godwin School Road
(Pave)

Millville/Ocean View

- RD 84 – Central Avenue
(Shoulders)
- RD 349 – Old Mill Road
(Shoulders)
- RD 350 – Railway Road
(Widen shoulders)

Milton

- RD 88 – Cave Neck Road
(Widen shoulders)

Rehoboth Beach

- RD 15A – Rehoboth Avenue Ext.
(Shoulders/sidewalks/bike path)
- RD 15A – Rehoboth Avenue Ext.
(Drawbridge plates for bicycles)
- RD 15A – Rehoboth Avenue Ext. at Church Street
(Intersection signal timing)
- RD 274 – Old Landing/Warrington roads
(Intersection improvements; Signalization)

Seaford

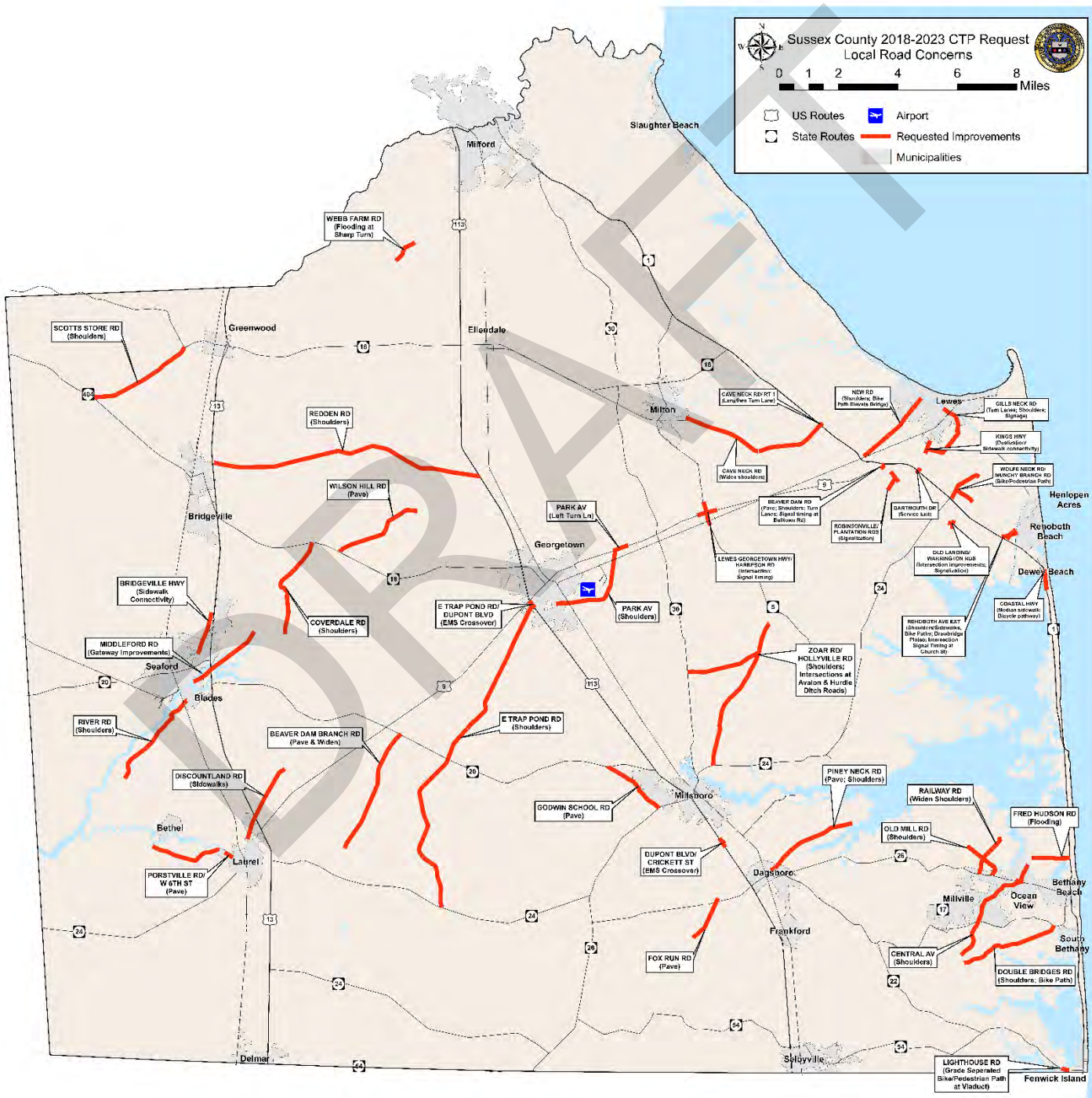
- RD 535 – Middleford Road
(Gateway improvements)
- US 13A – Bridgeville Highway
(Sidewalk connectivity)



Local Roads

2018-2023 Capital Transportation Program Request

Items highlighted in **RED** correspond with road improvement requests listed on Pages 15 and 16 of the Sussex County 2018-2023 Capital Transportation Program request.



Intersections, Signage & Signalization

2018-2023 Capital Transportation Program Request

Like a chain, a transportation network is only as strong as the intersections, signage and traffic signals that connect together the system of roads and highways. Routes that easily clog because of limited capacity, poorly timed signals and inadequate signage can impede the flow of traffic.



The County encourages the State to continue evaluating intersections along major routes, such as the US 9 corridor between Georgetown and Lewes, to determine the best means for improving traffic flow. The County supports the State's recent and continued efforts to improve US 9 intersections at Gravel Hill, Harbeson, Hudson and Sweetbriar roads. The County requests similar study and improvements be made at the intersection of US 9 and Sand Hill Road in Georgetown, where increased traffic demands, particularly to and from neighboring facilities, often leads to backups and delays along that portion of the corridor. Improvements at these and other intersections includes the installation of dedicated turn lanes and better coordination of traffic signals.

The County also encourages the State to improve signage along and near roads, such as SR 30 and SR 5 from Milford to Long Neck, that could serve as local bypass routes, thereby alleviating congestion on major highway corridors, including SR 1 and US 113.

An additional suggestion to improving safety and mobility is to implement appropriately designed and timed left-turn signal phasing at signalized intersections to promote safe and efficient left-turn movements and to ease congestion on major routes, such as SR 1, US 9, US 13 and US 113.



Transportation Alternatives

2018-2023 Capital Transportation Program Request

Delaware is at a crossroads: how does the state continue to drive commerce without stalling its transportation system? With visits and new residents on the rise, particularly in coastal communities, now is the time to expand transportation alternatives – particularly mass transit – to meet growing public demand, conserve resources and lessen the burden on highways. Stronger consideration toward various options could reduce traffic congestion on Sussex County's network of roads.

➤ **Bus Service**

▪ *Fixed Route Service*

Extending DART First State service to other areas, such as Selbyville, Millsboro, Long Neck and other job centers; expanding year-round service to multiple Sussex County points from Dover/Wilmington

▪ *Private Partnerships*

Encourage private mass transit providers to offer bus routes between urban centers and Sussex beaches

▪ *Signage and Stops*

Current bus stops should be evaluated to ensure pick-up and drop-off locations are optimal and not placed at out-of-the-way sites; larger signs at those locations could better draw public attention and boost ridership

▪ *Coordinated ParaTransit Services*

Helps the growing senior and disabled population with more efficient service

➤ **Passenger Rail Service**

The County supports the effort by Delaware and Maryland to study passenger rail service on the Delmarva Peninsula. Additionally, Sussex County encourages DART to explore direct bus routes between Lewes/Rehoboth and the Wilmington train station on weekends to encourage rail use

➤ **Expanded Park & Ride System**

Offer public additional park & ride locations to encourage carpooling, improve use of mass transit

➤ **Bicycle and Pedestrian**

Complement the popular Junction and Breakwater Trail with other rail trails (e.g. Georgetown to Lewes, as well as Ellendale to Milton); such interconnectivity of trails could allow cyclists to commute safely between coastal and inland portions of the county



Closing Remarks

2018-2023 Capital Transportation Program Request

Sussex County Council thanks the Department of Transportation and the Council on Transportation for considering its request for the 2018-2023 Capital Transportation Program.

As limited transportation funding is appropriated for various projects throughout the State of Delaware, particularly in difficult economic times, the County Council trusts that DelDOT and the Council on Transportation recognize how vital the County's recommendations are to accommodating an increasing population, expansive geography and rebounding local economy.

Sussex County encompasses the largest geographic area in Delaware, occupying more than 46 percent of the area in the state. Additionally, nearly 37 percent of all State-maintained roads are in Sussex.

The Delaware Population Consortium estimates Sussex County's population will grow approximately 30 percent between 2010 and 2025. An influx of new residents, uptick in housing construction, and a thriving tourism economy are positive signs for Sussex County's economy, but with that comes additional demands on our transportation system.

Residents of Sussex County continue to express concerns regarding the maintenance and improvements needed to the local road system. As the county grows, these concerns will only increase. Waiting to plan and make needed roadway improvements after the fact will only make these improvements more expensive and difficult to implement.

Sussex County requests the State of Delaware weigh these factors as it allocates transportation funds. The State should also consider the economic impact as it relates to the County's request.

Closing Remarks

2018-2023 Capital Transportation Program Request

As noted in previous years, County Council encourages the State to consider adequate funding for needed improvements to the County's transportation system. Sussex County urges DelDOT to take the necessary steps now to make essential projects, particularly intersection and travel lane improvements to the network of east-west arteries, among its highest priorities.

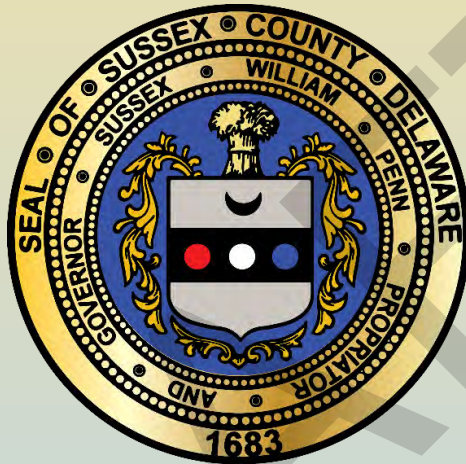
Pedestrian safety is of critical concern, especially with the volume of traffic along major corridors in the resort communities. Sussex County respectfully asks the State to evaluate pedestrian right-of-way laws, particularly in high-traffic corridors where speeds exceed 25 mph, to limit collisions and improve safety.

In addition to improving mobility and safety, enhancing economic development opportunities in Sussex County should be a factor in determining transportation priorities and funding.

Rerouting Park Avenue and extending the main runway at Delaware Coastal Airport will help to preserve existing jobs at the County's Industrial Park, and spawn new employment opportunities in the future. Meantime, providing a walking/bicycling trail between Georgetown and Lewes would increase tourism opportunities, especially in central Sussex County.

Overall improvements to the County's transportation system will ensure Sussex County and the State of Delaware can continue to serve our population, as well as attract and safely accommodate the millions of visitors who come to our state each year.

Again, Sussex County Council thanks the Department of Transportation and the Council on Transportation for allowing the County the opportunity to submit its yearly requests for the Capital Transportation Program. We expect this report will assist the Department in prioritizing which projects earn priority funding from DelDOT's limited resources.



Sussex County Council

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FINANCE DIRECTOR

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gjennings@sussexcountyde.gov



Sussex County
DELAWARE
sussexcountyde.gov

Memorandum

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

FROM: Gina A. Jennings
Finance Director

RE: **SUSSEX COUNTY PENSION UPDATE**

DATE: September 16, 2016

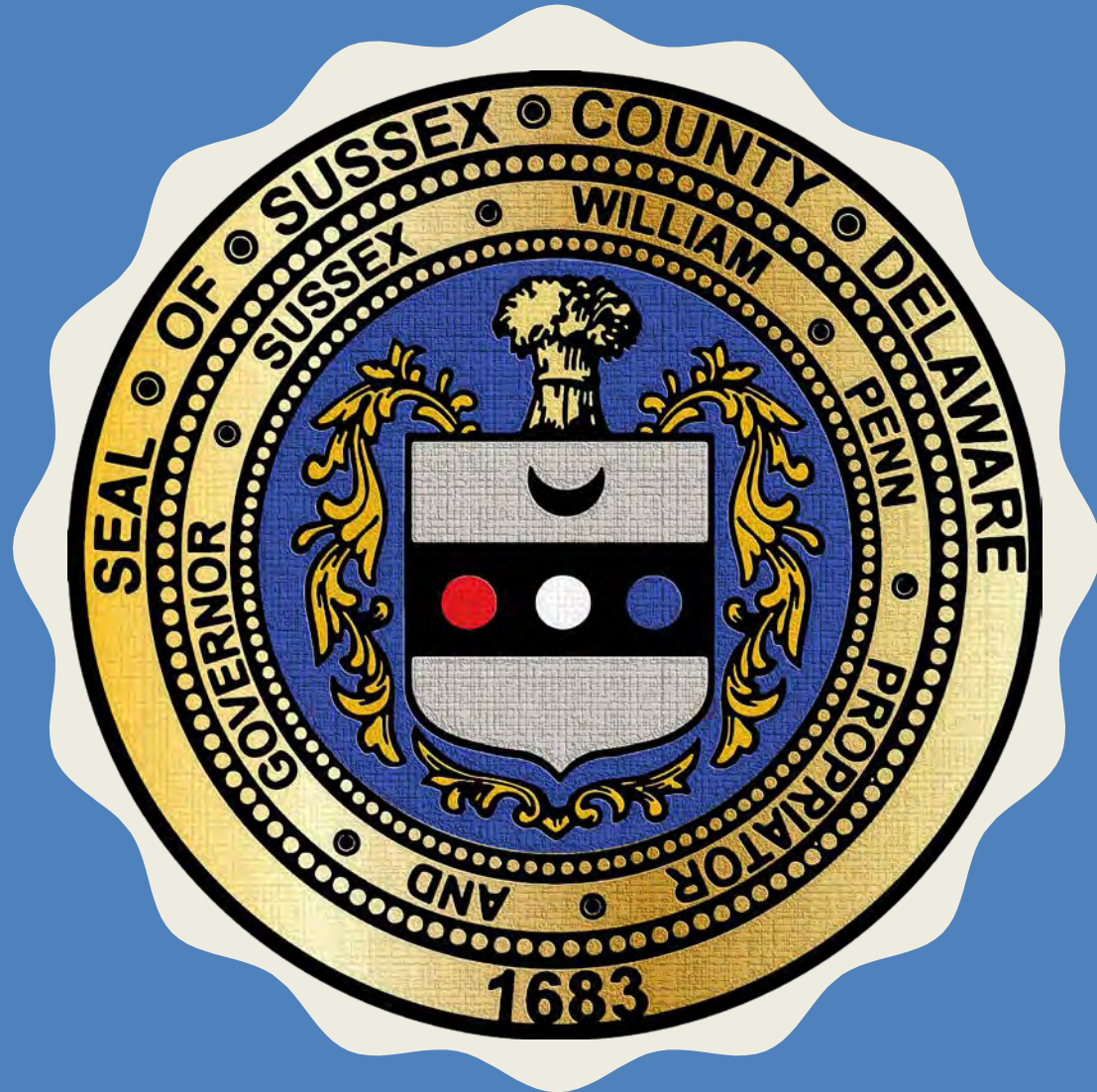
On Tuesday, I will be discussing the County's pension performance and proposed pension plan changes. Attached for your review are the draft minutes of the August 18, 2016 Pension Committee meeting, the Investment Performance Report as of June 30, 2016, and Tuesday's presentation.

Please contact me if you have any questions or concerns.

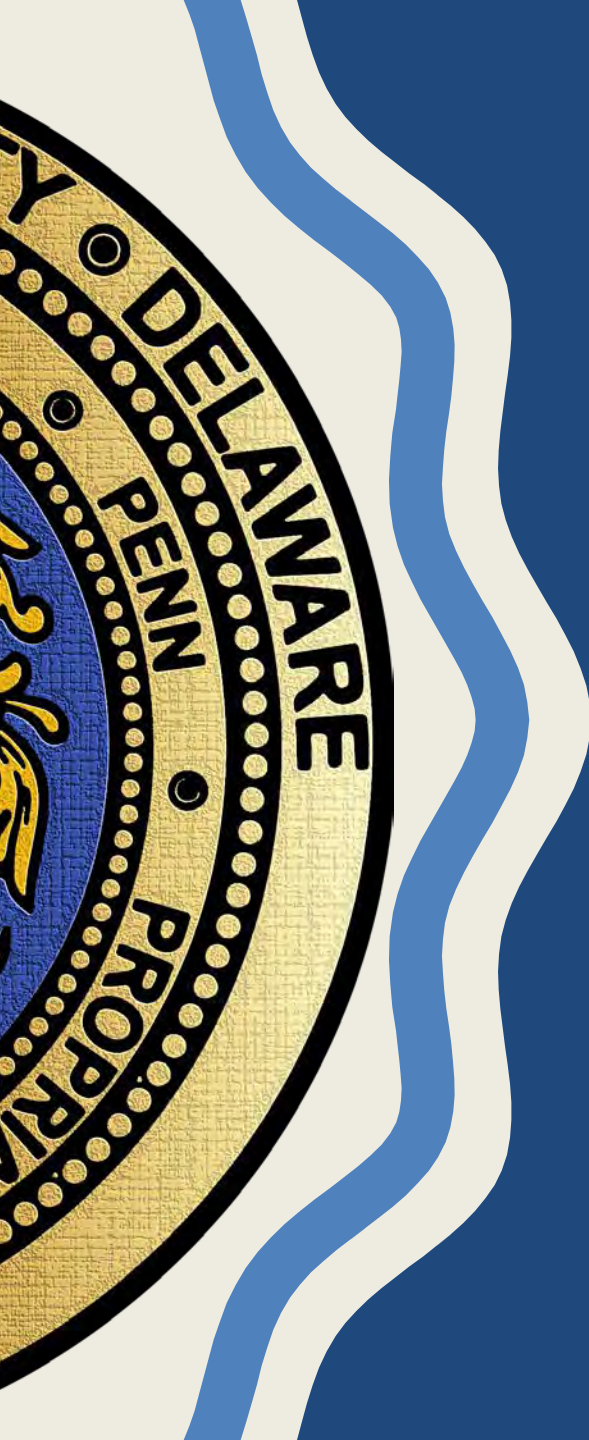
Attachments

pc: Mr. Todd F. Lawson





SUSSEX COUNTY PENSION UPDATE



PERFORMANCE SUMMARY

Pension Fund		
Market Value	2 nd Quarter Gain	2 nd Quarter Return
\$73,994,465	\$1,365,399	1.8%

Performance Ranking			
Q2	1 Year	3 Years	5 Years
47%	71%	29%	27%

OPEB (Benefits) Fund		
Market Value	2 nd Quarter Gain	2 nd Quarter Return
\$31,937,953	\$487,611	1.5%

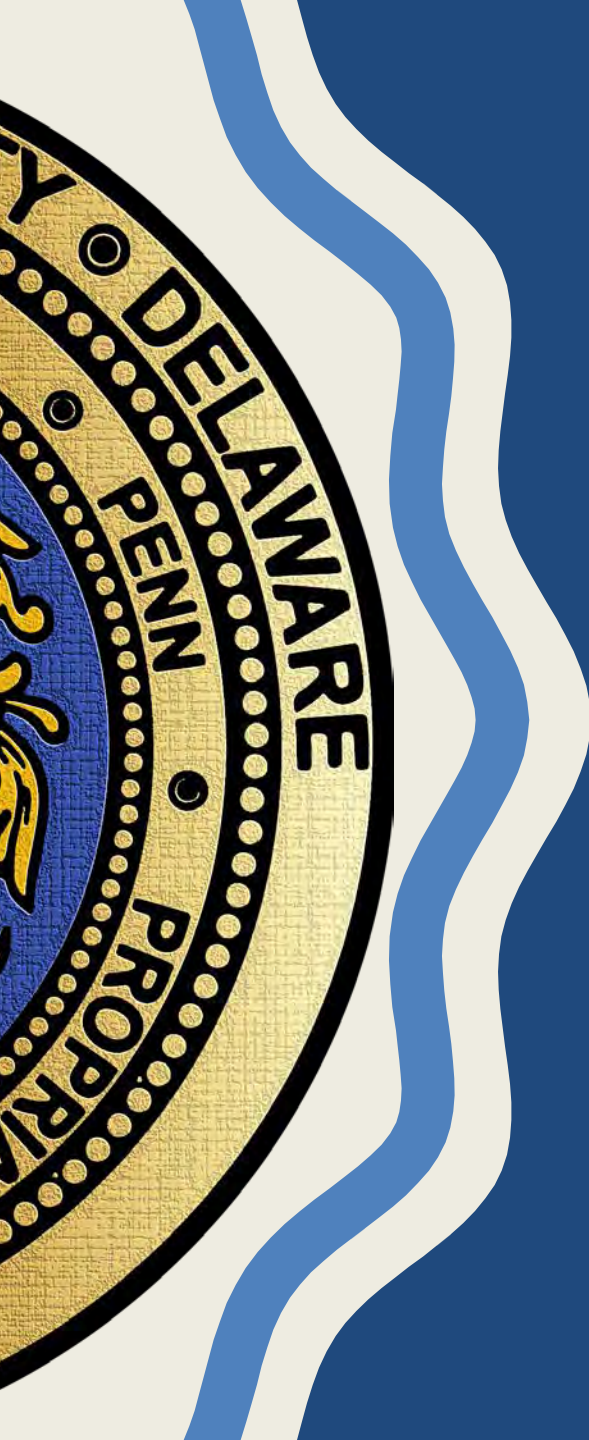
Performance Ranking			
Q2	1 Year	2 Years	3 Years
28%	16%	15%	36%



GOALS TO INCREASE RETURN

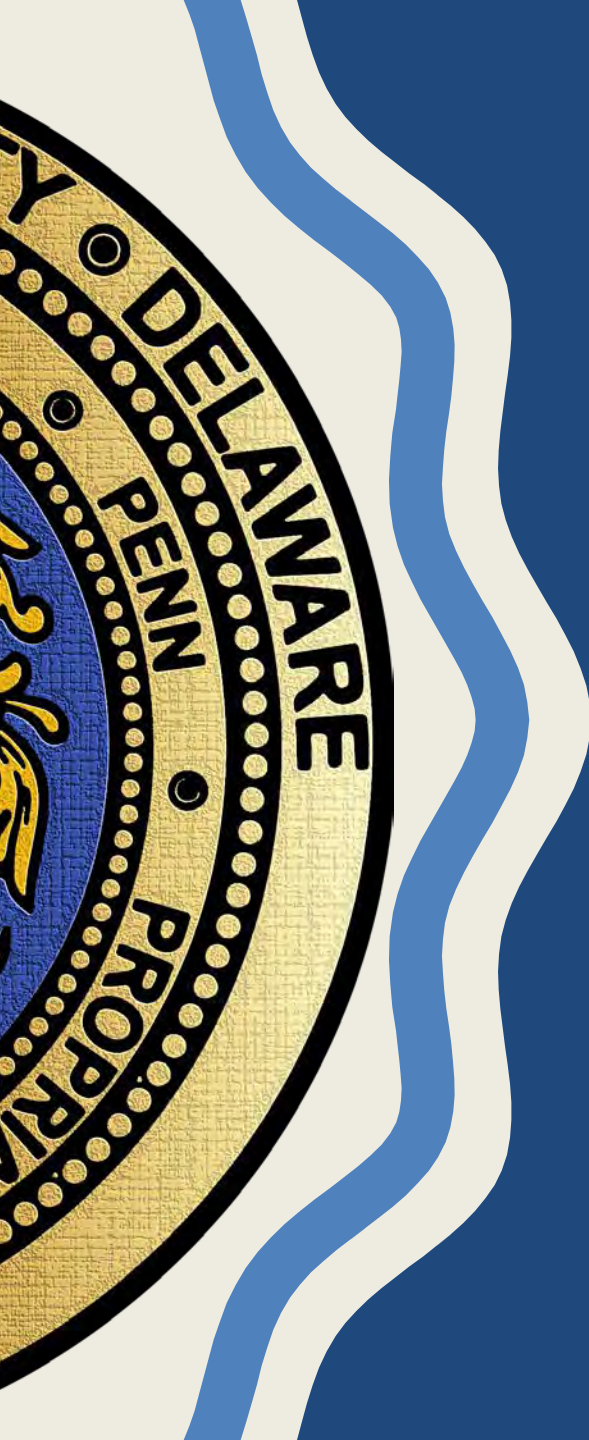
- Increase the equity allocation to 65% versus 60%. The County made this change last year with the OPEB fund.
- Due to recent underperformance and higher administrative fee, move 10% of our fund from State of Delaware to an existing better performing investments, which has resulted in better returns against their benchmark and have lower fees.

	Current	Proposed
Estimated Annual Fee	\$381,000	\$326,000
Amount in State Fund	\$45,500,000	\$37,000,000
Percent in Delaware State Pool	60%	50%
Equity Target	24%	36%
Fixed Income Target	16%	14%



INVESTMENT POLICY STATEMENT MOTION

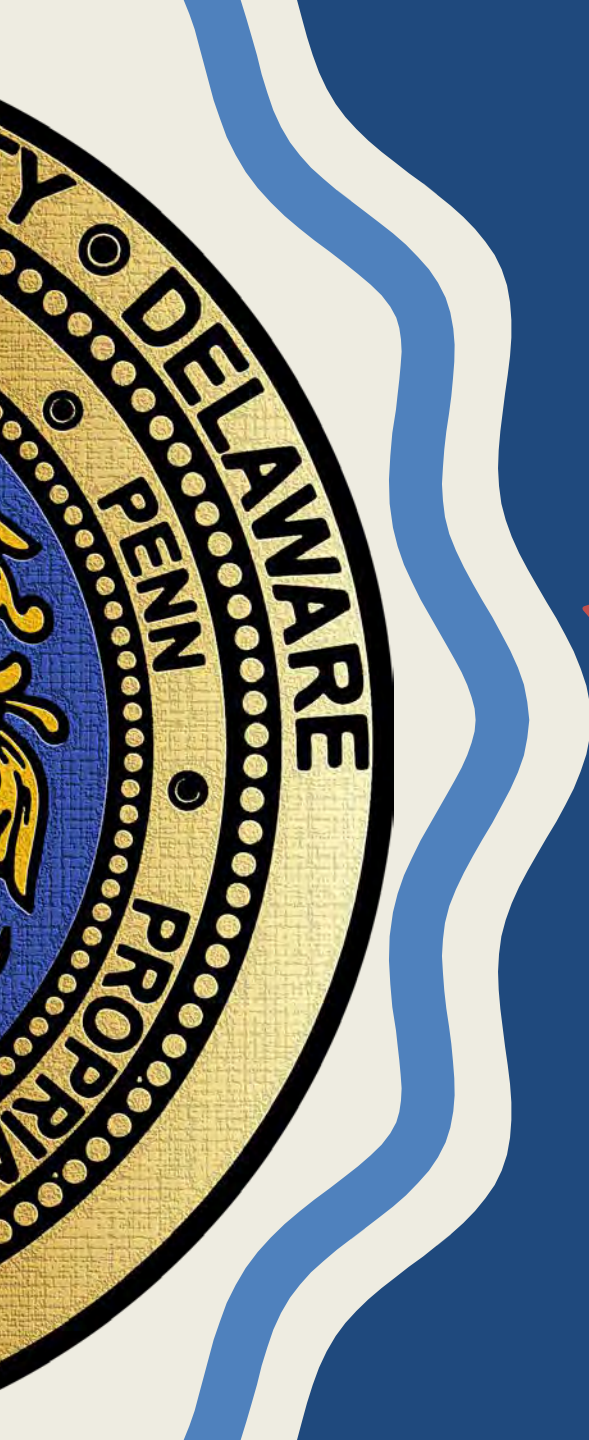
Be it moved that the Sussex County Council, based on the recommendation of the Pension Committee, amend the Investment Policy Statement to decrease the Delaware State Pool Target to 50%, increase the Equities Target to 36%, and decrease the Fixed Income Target to 14%, with the County's overall intent to maintain the target allocation of 65 percent equities and 35% percent fixed income.



MOVE FUNDS MOTION

Be it moved that the Sussex County Council, based on the recommendation of the Pension Committee:

Fund	Change in Fund	Final Allocation
State of Delaware Pool	(10.0) percent	50.0 percent
Wilmington Trust Fixed Income	(2.0) percent	12.0 percent
S&P 500 Index Fund	6.5 percent	6.5 percent
Vanguard Extended Market Index	1.5 percent	5.0 percent
Vanguard Mid Cap Value	2.0 percent	5.0 percent
Vanguard Total International Stock Market	2.0 percent	2.0 percent
DuPont Capital Investment	-	17.5 percent
Cash	-	2.0 percent
Total	-	100 percent



LOWERING THE ASSUMED RATE OF RETURN

Recommended by the Pension Committee, Cheiron, and Peirce Park Group to lower the assumed rate of return to 7.25% versus the current 7.5%.

Why?

- Historic and projected trends show 7.5% may be unrealistic

Historic		
3YR	5YR	Since Inception
7.0%	7.0%	9.4%

Projection		
Investment (County's)	10 Years	40 Years
U.S. Equities (51%)	6.50%	8.30%
Non U.S. Equities (14%)	9.75%	9.40%
Fixed Income (35%)	2.50%	3.60%

Government	Assumed Rate
Average	7.62%
State of Delaware	7.20%
City of Dover	7.00%
City of Wilmington	7.50%
New Castle County	7.42%
Kent County	8.00%

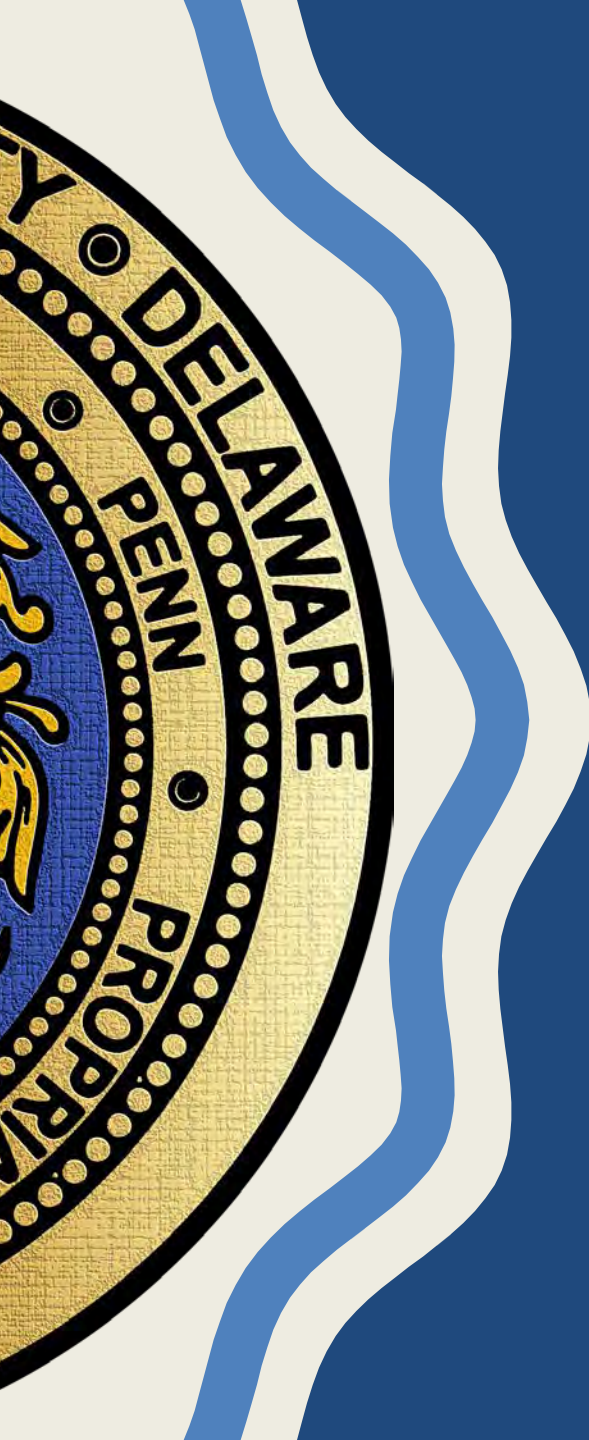
- Increases required contribution to help sustain funded ratio

EFFECTS OF THE CHANGE

Table 1			
Cost of Assumption Change - Discount Rate			
	Base line 7.50%	Discount Rate 7.25%	Discount Rate 7.00%
Expected Actuarial Liability at July 1, 2016	\$ 48,539,000	\$ 48,539,000	\$ 48,539,000
Change in Actuarial Liability (Due to Assumption Change)	0	1,825,000	3,770,000
New Actuarial Liability at July 1, 2016	\$ 48,539,000	\$ 50,364,000	\$ 52,309,000
Market Value of Assets	32,926,000	32,926,000	32,926,000
Unfunded Actuarial Liability	\$ 15,613,000	\$ 17,438,000	\$ 19,383,000
Funded Ratio (%)	67.8%	65.4%	62.9%
Increase in Unfunded Actuarial Liability		\$ 1,825,000	\$ 3,770,000
Employer Contribution Estimate for FY 2017			
Employer Normal Cost	\$ 1,048,000	\$ 1,108,000	\$ 1,172,000
Amortization Payment	1,027,000	1,115,000	1,204,000
Total Contribution	\$ 2,075,000	\$ 2,223,000	\$ 2,376,000
Estimated Increase in Contribution		\$ 148,000	\$ 301,000

EFFECTS OF THE CHANGE

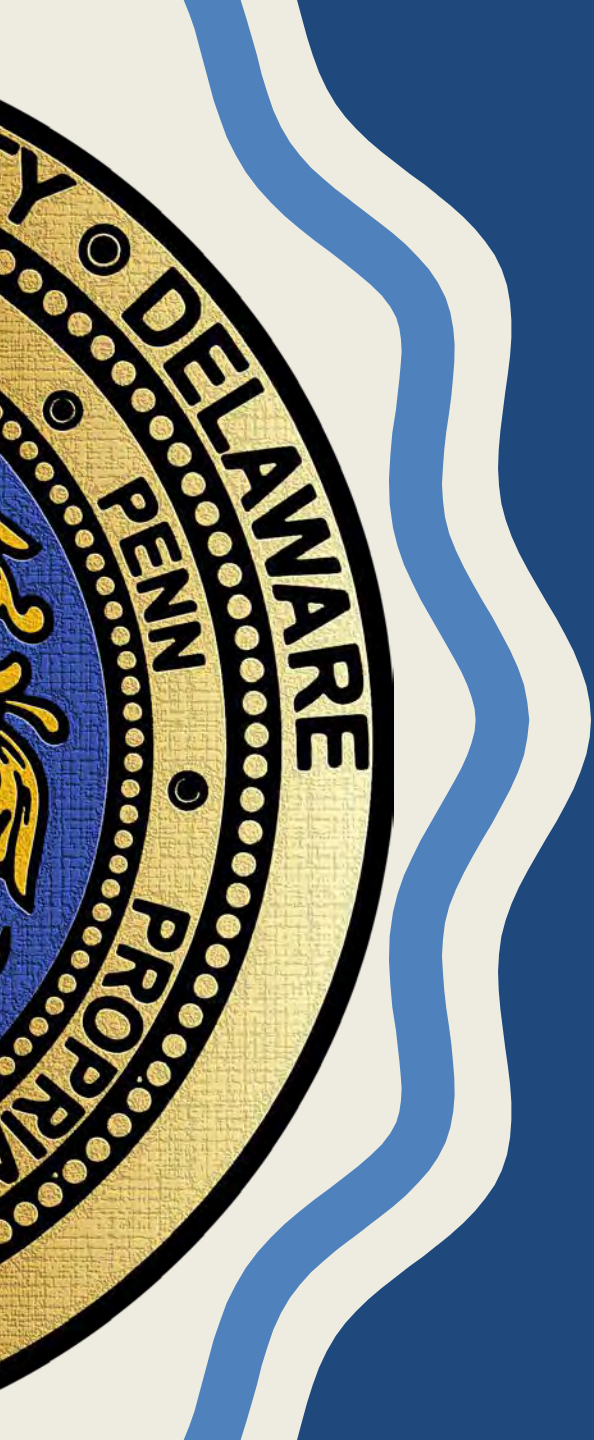
Cost of Assumption Change - Discount Rate			
	Baseline 7.50%	Discount Rate 7.25%	Discount Rate 7.00%
Expected Actuarial Liability at July 1, 2016	\$ 93,917,000	\$ 93,917,000	\$ 93,917,000
Change in Actuarial Liability (Due to Assumption Change)	0	3,080,000	6,319,000
New Actuarial Liability at July 1, 2016	\$ 93,917,000	\$ 96,997,000	\$ 100,236,000
Unfunded Actuarial Liability	\$ 14,607,000	\$ 17,687,000	\$ 20,926,000
Funded Ratio (%)	84.4%	81.8%	79.1%
Employer Contribution Estimate for FY 2017			
Employer Normal Cost	\$ 1,780,000	\$ 1,903,000	\$ 2,037,000
Amortization Payment	1,364,000	1,626,000	1,892,000
Administrative Expenses	85,000	85,000	85,000
Total Contribution	\$ 3,229,000	\$ 3,614,000	\$ 4,014,000
Estimated Increase in Contribution		\$ 385,000	\$ 785,000



BUDGET EFFECT

	FY 2017 Budgeted Contribution	Proposed Contribution at 7.25% Return	Estimated Increase to FY 2018 Budget
Pension Fund	\$3,562,520	\$3,614,000	\$51,480
OPEB Fund	\$2,183,480	\$2,223,000	\$39,520
Total	\$5,746,000	\$5,837,000	\$91,000

- If the County sees more than a 7.25% return, the funded percentage increases and there will be less of a required contribution in the future.
- Rate can always be increased if our projections are low.
- Will look at this assumption again along with the other assumptions at least every 5 years.



ASSUMED RATE OF RETURN MOTION

Be it moved that the Sussex County Council, based on the recommendation of the Pension Committee, Cheiron and Peirce Park Group, lower the assumed rate of return for both the Pension and OPEB Funds to 7.25 percent.

The seal of the City of Delaware is partially visible on the left side of the slide. It features a circular design with a gold border containing the words "CITY OF DELAWARE" and "1793". Inside the border, there is a blue field with a yellow sun and a yellow anchor. The words "PENN" and "PROPR" are also visible within the seal's design.

PROPOSED PENSION CALCULATION CHANGES

Change the annual salary calculation from 40 hours to 42 hours for
12-hour employees

- 12-hour employees work 48 hours one week and 36 hours the next
- Hourly rate stays the same
 - \$19/hr. used to equate to \$39,520
 - \$19/hr. would now equate to \$41,496
- This does not affect annual pay in the budget; it effects
 - Pension calculation
 - Maxing out in pay range

Add 5 years of service for the calculation of pension

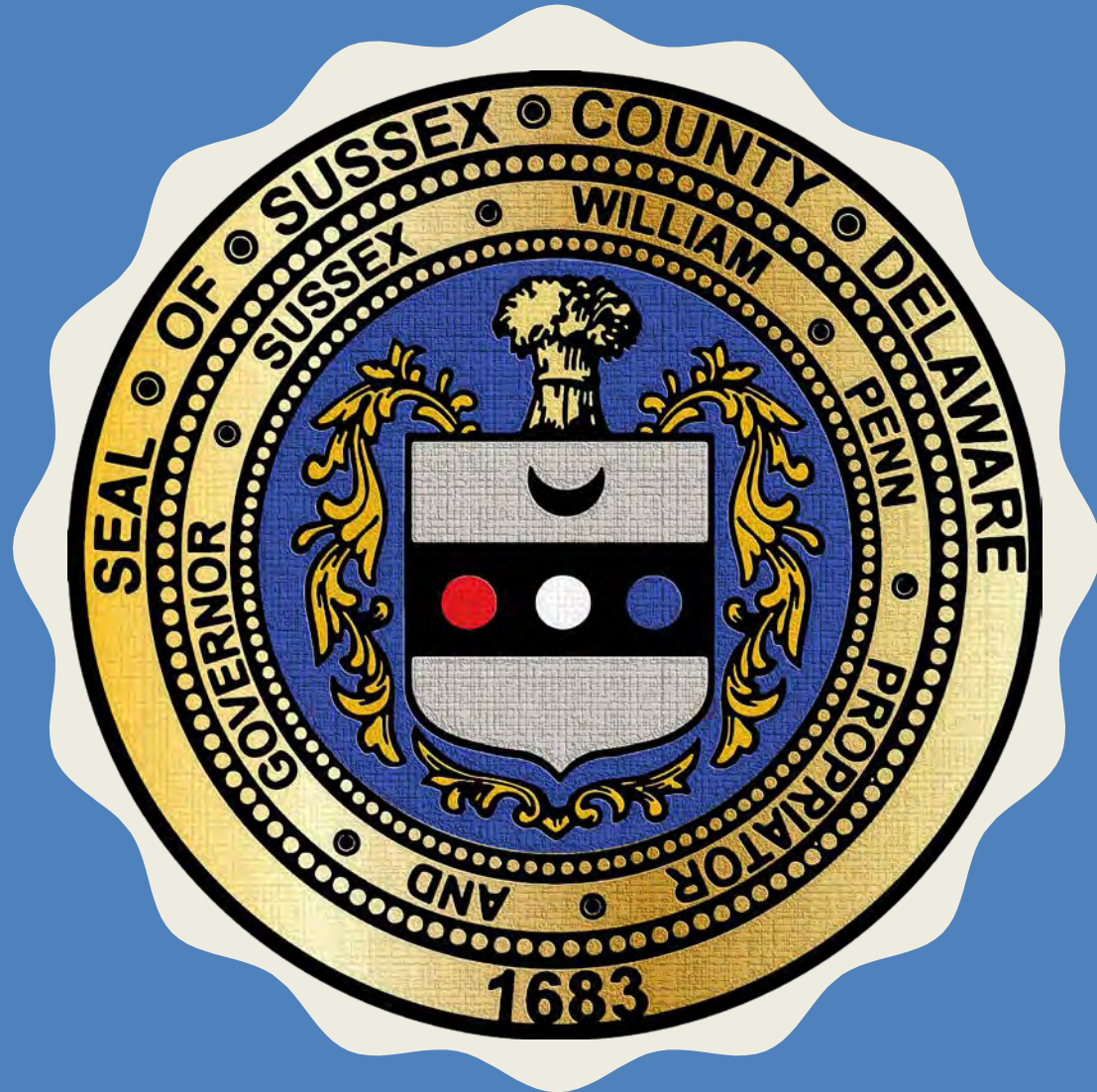
- 12-hour employees' cap from 25 to 30
- All other employees' cap increases from 30 to 35

The seal of the County of Delaware is partially visible on the left side of the slide. It features a circular design with a gold border containing the text "COUNTY OF DELAWARE" and "PENN". Inside the border is a blue field with a gold sunburst and a ship. The seal is partially obscured by a blue wavy line.

PROPOSED PENSION CALCULATION CHANGES

Steps:

1. Draft Ordinance has been prepared and shared with the Pension Committee
2. Public Hearing process with the Personnel Board will be held on October 13 at 10:00 a.m.
3. Personnel Board makes recommendation to County Administrator
4. Draft Ordinance will go to County Council for their consideration before the proposed effective date of January 1, 2017



SUSSEX COUNTY PENSION UPDATE

ORDINANCE NO. ____

AN ORDINANCE TO AMEND CHAPTER 26 OF THE CODE OF SUSSEX COUNTY
REVISING COMPUTATION OF PENSION BENEFITS FOR SUSSEX COUNTY
EMPLOYEES.

WHEREAS, Chapter 26 of the Code of Sussex County is known as the "Sussex County Employee Pension Plan Act" which governs pensions for Sussex County employees; and

WHEREAS, Sussex County desires to revise § 26-7 with respect to the computation of pension benefits for covered employment of Sussex County employees as set forth herein.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Code of Sussex County, Chapter 26, §26-7, is hereby restated in its entirety and is hereby amended by deleting the language in brackets and inserting the underlined language as follows:

“§ 26-7 Computation of benefits.

- A. The benefits shall be computed as follows: The wages or salary of the highest paid three years of Sussex County [service]covered employment shall be averaged by dividing the total by 36 months. This product shall be divided by a constant of 60. The product of these functions shall be multiplied by the number of years of covered employment[years' service and] plus [fractions of years' service]full months of covered employment divided by 12. The result shall be the monthly pension payment. The number of years of covered employment[years' service] factored into the above calculations for those employees hired after July 1, 2000 and who retired before January 1, 2017, will be a maximum of 25 or 30 [years]in determining benefits provided pursuant to § 26-6B(3) and (4) above. For those covered employees who retire after December 31, 2016, the number of years of covered employment factored into the calculations of benefits, will be a maximum of 30 or 35 in determining benefits provided pursuant to § 26-6B(3) and (4) above. For purposes of computing benefits under this § 26-7A for those covered employees who retire after December 31, 2016, wages or salary for each year of Sussex County covered employment shall be computed by multiplying the employee's highest hourly rate for the year by the number of regularly scheduled workweek hours and then multiplying the product thereof by 52 weeks. For a covered employee who is classified as a paramedic or emergency communications specialist and who works scheduled twelve-hour shifts, including management personnel who are required to maintain certifications necessary to relieve as a paramedic or emergency communications specialist who retires after December 31, 2016, wages or salary for each year of Sussex County covered employment shall be computed by multiplying the employee's highest hourly rate for the year by 42 hours and then multiplying the product thereof by 52 weeks.
- B. Notwithstanding the foregoing, the benefits shall be computed as follows for a covered employee, hired after July 1, 2001 and who retire before January 1, 2017, who is

classified as a paramedic or emergency communications specialist and who works scheduled twelve-hour shifts, including management personnel who are required to maintain certifications necessary to relieve as a paramedic or emergency communications specialist: The wages or salary of the highest paid three years of Sussex County [service]covered employment shall be averaged by dividing the total by 36 months. This product shall be divided by a constant of 50. The product of these functions shall be multiplied by the number of years of [service]covered employment, which number shall not exceed 25. The result shall be the monthly pension payment. For such covered employee described in this § 26-7B hired after July 1, 2001 and who retires after December 31, 2016, for purposes of computing benefits under this § 26-7B, the number of years of covered employment shall not exceed 30, and wages or salary for each year of Sussex County covered employment shall be computed by multiplying the employee's highest hourly rate for the year by 42 hours and then multiplying the product thereof by 52 weeks."

Section 2. Effective Date. This Ordinance shall become effective on January 1, 2017.

Synopsis

This Ordinance amends Chapter 26, §26-7A. and B. of the Code of Sussex County to revise the computation of pension benefits for covered employment of Sussex County employees. The purpose of the Ordinance is to (i) clarify the manner in which an employee's annual wages or salary is computed for purposes of determining an employee's pension amount, (ii) provide for the computation of annual wages or salary for 12 hour employees based on a 42 hour work week, and (iii) increase to 30 the maximum years of covered employment that can be used to compute an employee's pension benefit. The provisions of the Ordinance are effective for those employees who retire after December 31, 2016.

Deleted text is in brackets. Additional text is underlined.

MARKET ENVIRONMENT

2nd Quarter 2016



PEIRCE PARK GROUP
INVESTMENT MANAGEMENT CONSULTANTS

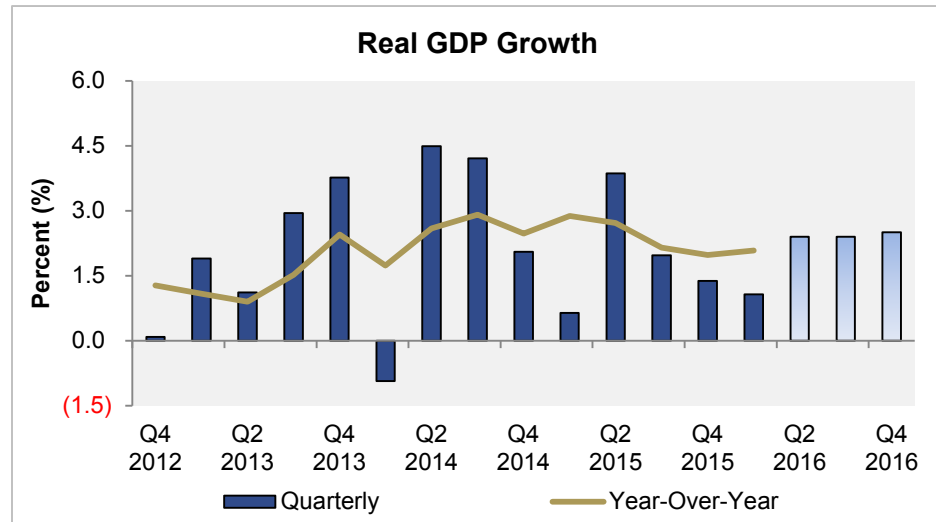
DOMESTIC ECONOMY

After experiencing a slowdown over the past few quarters, economists forecast that economic activity bounced back in the second quarter, expecting real GDP growth of 2.4%. This would mark the strongest growth since Q2 2015 (3.9%).

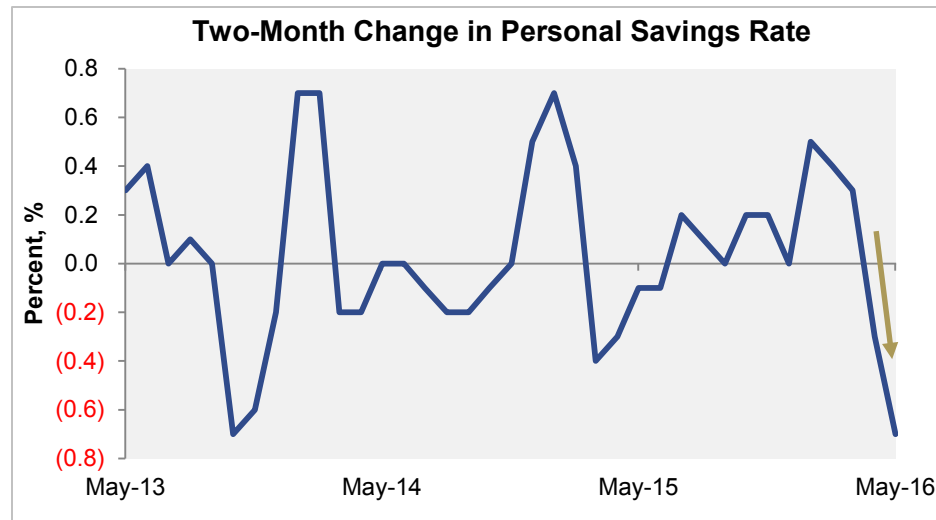
Stronger-than-expected consumer spending was one of the primary drivers of accelerating economic growth. Spending rose 0.4% in May after jumping 1.1% in April—the biggest gain since August 2009—leaving it on pace to grow more than twice as fast compared to Q1.

While spending picked up notably, consumers financed much of this growth by dipping into their personal savings as income growth lagged spending. In fact, the two-month change (from March to May) in the personal savings rate, at -0.7 percentage points, was the sharpest such drop in about three years.

With the savings rate ending May at its lowest level in 2016 (5.3%), consumers are unlikely to maintain their current spending over the coming quarters, absent a sharp acceleration in income growth.



Source: U.S. Bureau of Economic Analysis and The Wall Street Journal. Light bars reflect analyst estimates.



Source: U.S. Bureau of Economic Analysis.

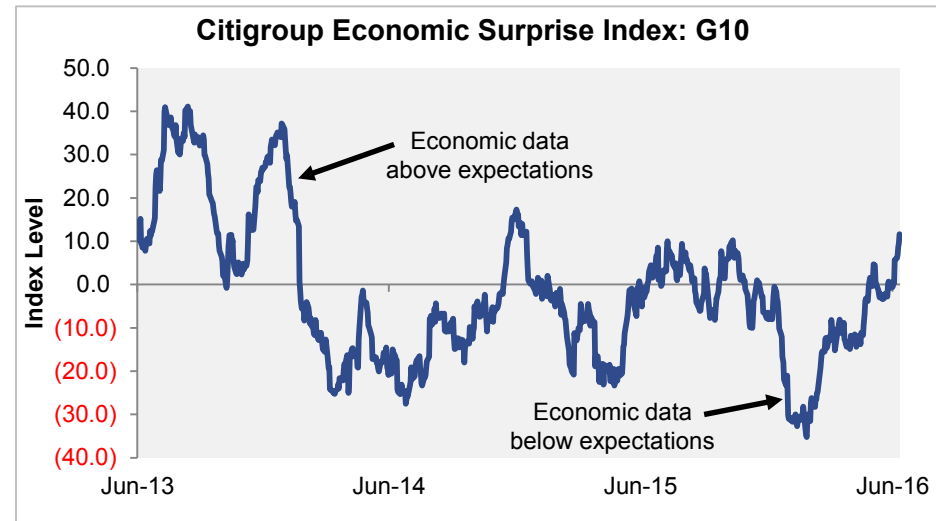


GLOBAL ECONOMY

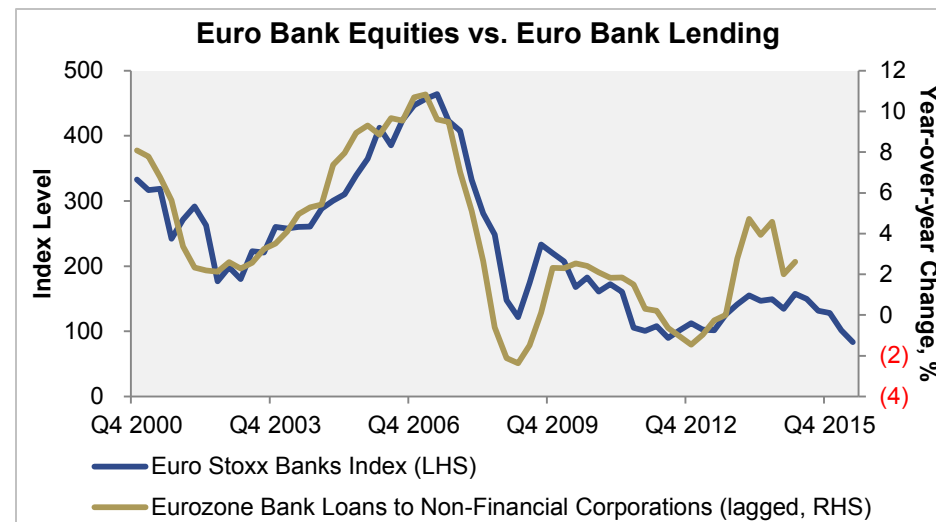
The global economy continues to send mixed signals. On the one hand, economic data within G10 Countries are exceeding expectations (as measured by the Citigroup Economic Surprise Index). On the other hand, the *rate* of growth remains subdued. The JP Morgan Global Purchasing Managers Index, for example, ended Q2 at 51 (where 50 separates growth vs. contraction), which is near the lowest level in at least three years.

Towards the end of Q2, the global economic outlook became increasingly uncertain in the wake of the U.K. vote to leave the European Union (i.e., “Brexit”). The decision sparked a selloff in bank stocks across the continent as investors weigh the risks that other European Union (EU) members may hold similar referendums. Any further EU withdrawals could negatively impact the banking system given its interconnectedness across EU members.

As bank stocks have been a good predictor of subsequent credit growth over the past 15 years, recent returns point to a slowdown in the pace of lending. This would certainly signal a headwind for economic growth in the region.



Source: Thomson Reuters Datastream.



Source: Deutsche Bank and Thomson Reuters Datastream.



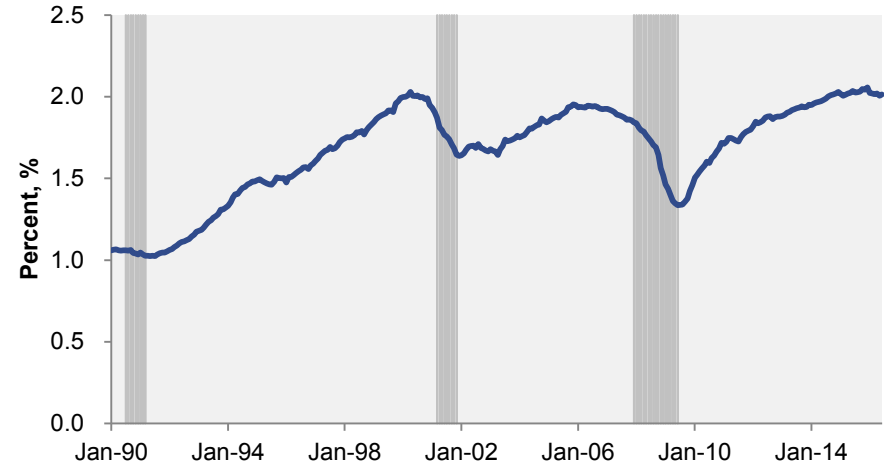
LABOR MARKETS & MONETARY POLICY

After a disappointing May employment report, which saw just 11,000 jobs created, the labor market appeared to regain its footing in June. According to the Bureau of Labor Statistics, 287,000 new jobs were created in the month, marking the highest level of job growth since October 2015.

There are, however, signs beneath the surface that all may not be well. Temporary employment, for instance, has stagnated this year. This is significant as temporary help tends to be a leading labor market indicator and has, in fact, peaked well in advance of the past two recessions. Such employees tend to be the first that are let go when firms sense that the economy is on shaky ground.

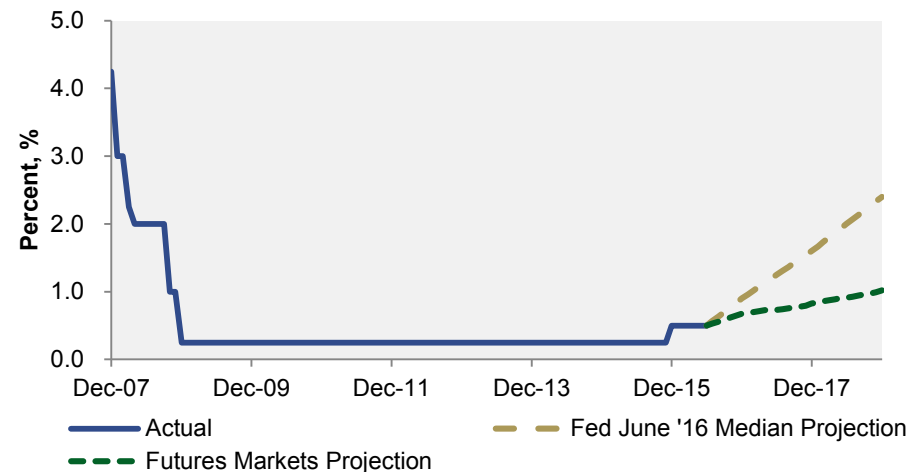
Against this backdrop, coupled with the global economic developments emanating from the U.K., the Federal Reserve (Fed) decided not to raise short-term interest rates in June. While it remains to be seen whether the Fed will hike rates later in 2016, the futures markets are pricing in no increases for the remainder of the year and just two increases by the end of 2018.

Temporary Workers as a % of Nonfarm Workers



Source: Thomson Reuters Datastream. Shaded areas indicate recessions

Federal Funds Rate



Source: Board of Governors of the Federal Reserve System.

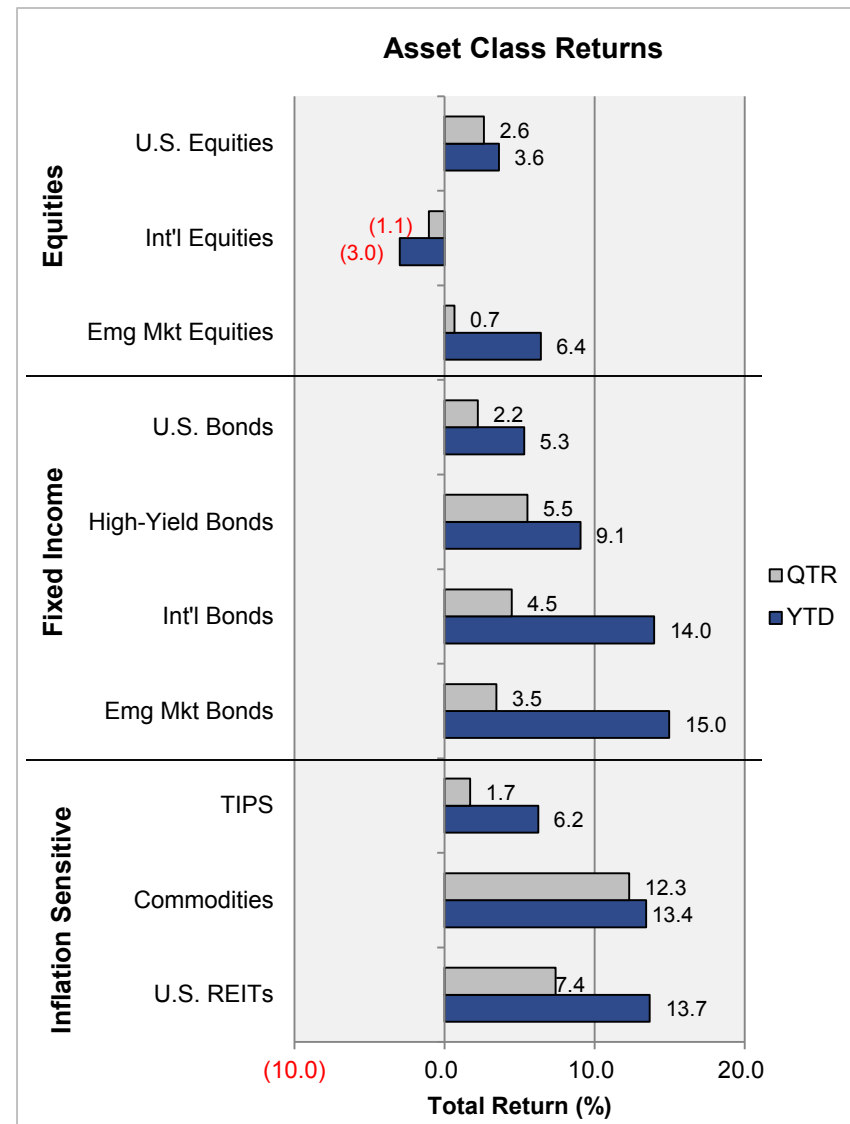


GLOBAL ASSET CLASS PERFORMANCE

Equity market performance during the quarter was positive for domestic and emerging market indices, while non-U.S. developed markets posted a small loss. Quarterly returns, however, masked the volatility witnessed following the surprise outcome of the U.K.'s referendum vote on EU membership. The late-June "Brexit" decision resulted in a sharp decline in global equities, with Japanese and Continental European markets hit the hardest. Similar to the other recent market hiccups (August 2015 and January 2016), however, market sentiment rapidly shifted, erasing most losses quickly.

Fixed income performed well, particularly amid the late-quarter decline in equity markets. The asset class also benefited from lowered expectations for future Fed rate hikes. For the quarter, riskier bonds (e.g., high yield) were the best performers, outperforming investment-grade issues.

Inflation-sensitive assets ended the quarter solidly in positive territory. Commodities continued their rally from the latter half of Q1, finishing up double digits on the heels of strong energy gains. REITs also enjoyed a strong run in 2016, posting a gain of 7.4% thanks in large part to the falling interest-rate environment.



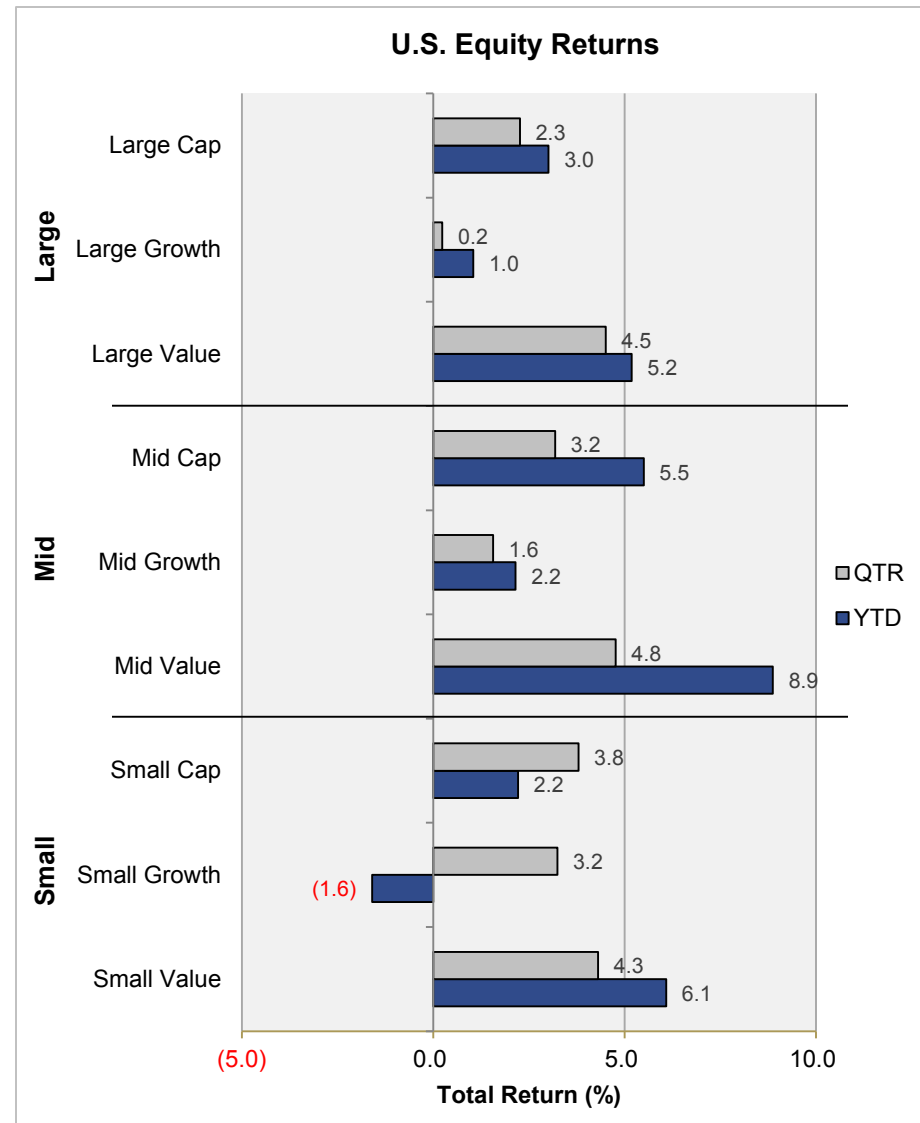
Source: Markov Processes International.



U.S. EQUITIES

While the Brexit vote outcome impacted U.S. equities, the damage was relatively limited compared to most international markets. The U.S. market continues to be a preferred destination among investors due in part to its stronger, albeit low, economic and earnings growth. Improving economic data during Q2, including improved consumer sentiment, helped U.S. equities to outperform foreign markets.

Investors preference for yield-oriented stocks, which tends to favor value, was once again evident last quarter. Value outperformed growth across the board, although the divergence narrowed as one moved down the capitalization spectrum. Small-cap stocks managed to top the mid- and large-cap segments. On the year, mid-cap value has been the clear leader, up nearly 9%.



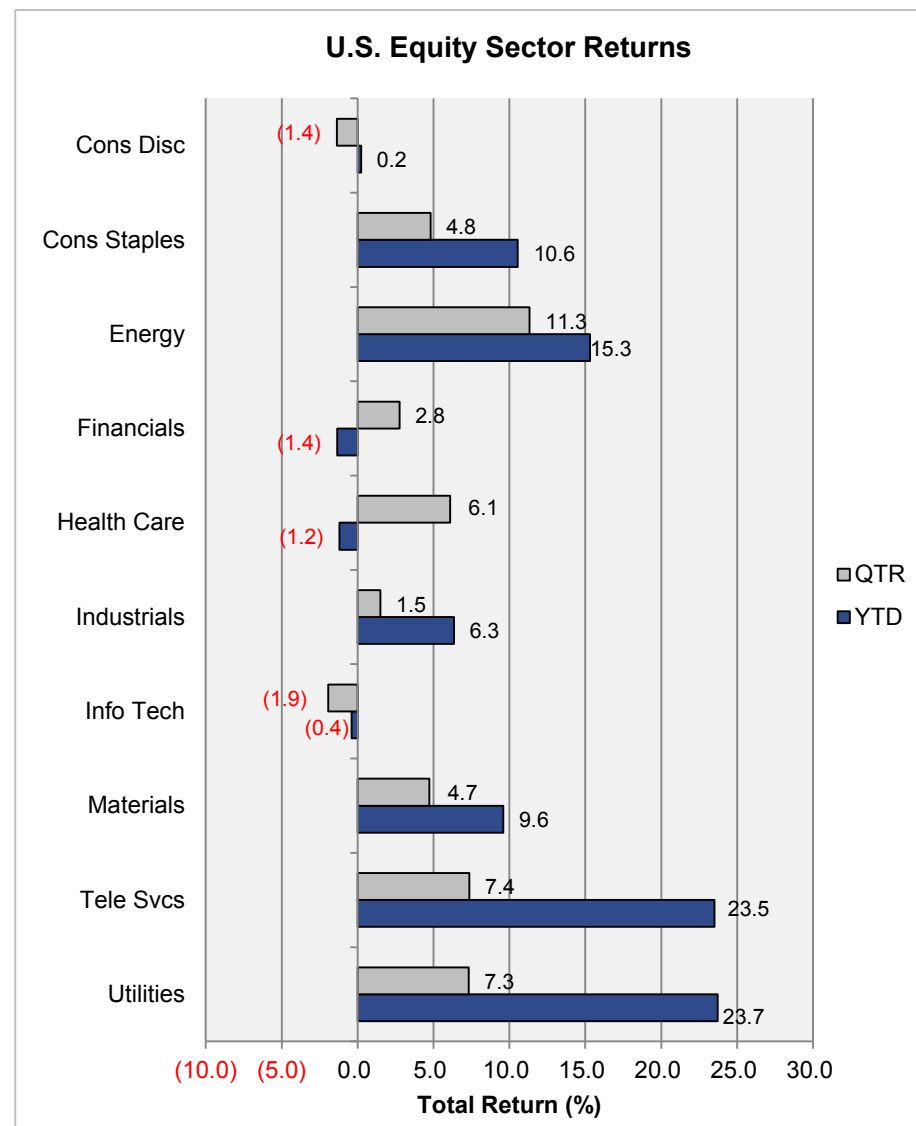
Source: Russell.



U.S. EQUITY SECTORS

The sector story over the quarter was mostly driven by investors' seemingly un-ending search for yield. While the energy sector was the best-performing sector given notably higher oil prices, dividend-oriented areas such as telecommunications and utilities also performed well to continue their strong showing from Q1. Investors also sought-out the other traditionally defensive sectors—healthcare and consumer staples—as market-wide uncertainty remained elevated.

Cyclical areas such as consumer discretionary and information technology stocks were among the laggards. For information technology, downwardly revised earnings expectations and the potential for further dollar strength negatively impacted stock prices. Additionally, though financials managed a small positive return, performance for the sector was constrained by factors such as a flatter yield curve and the implications for the global banking sector following the Brexit vote.



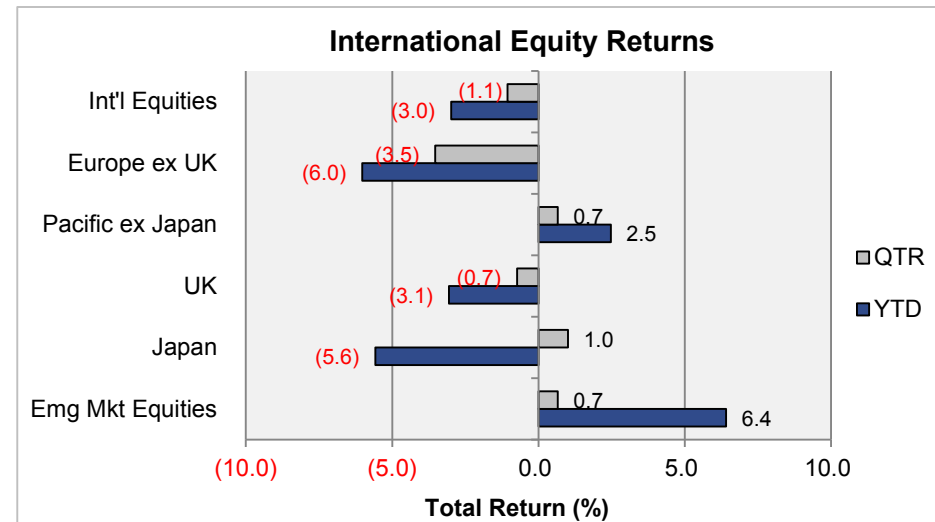
Source: MSCI Inc. MSCI data provided "as is" without any express or implied warranties.



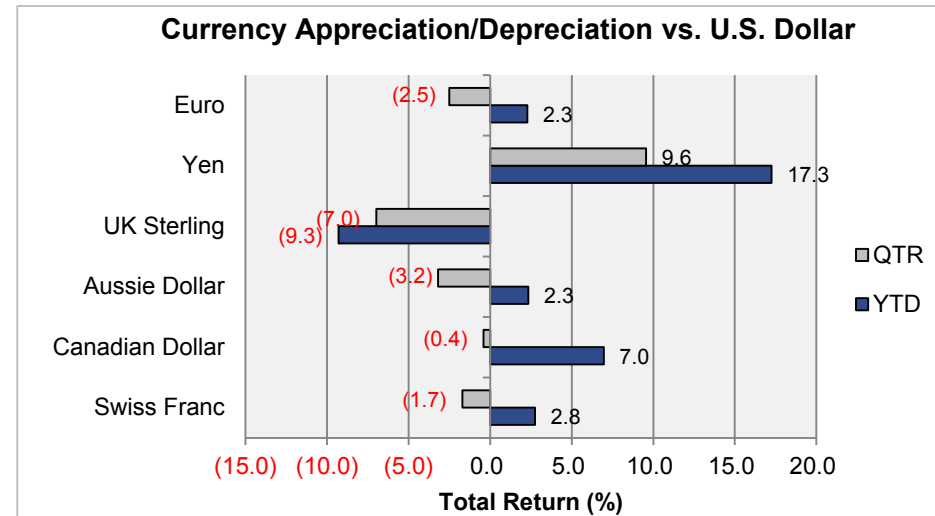
INTERNATIONAL EQUITIES

In the weeks leading up to the Brexit vote, markets appeared to price in a “stay” decision despite divergences among various polls. This likely made the eventual reaction in global capital and currency markets much more pronounced. In local currency terms, Japanese equities bore the brunt of the fallout while the U.K. market, heavily weighted towards global firms with foreign revenues, managed positive returns due to a notably weaker sterling. U.K. stocks also found support amid a Bank of England promise to provide monetary stimulus as needed. For Eurozone equities, gains from better economic data made in April and May evaporated following the UK referendum vote.

Currency movements were striking in the wake of the vote, with the sterling falling precipitously against the dollar and other major currencies. The yen, viewed as a safe haven currency, realized a marked appreciation post-Brexit, helping unhedged U.S. dollar-based investors net positive returns in Japanese stocks.



Source: MSCI Net total return indices reinvest dividends after deducting withholding taxes, using (for international indices) a tax rate applicable to non-resident institutional investors who do not benefit from double taxation treaties.



Source: Markov Processes International

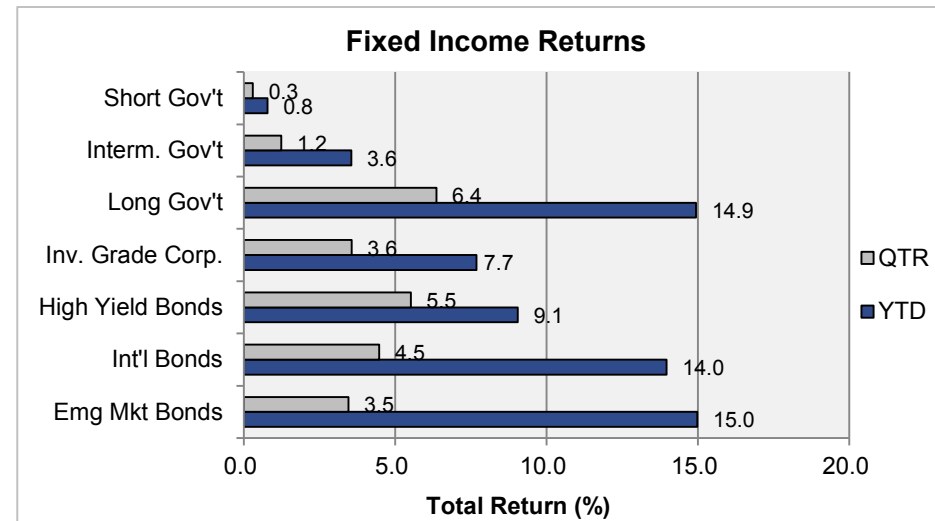
Note: Negative returns reflect depreciation against the U.S. dollar and vice versa.



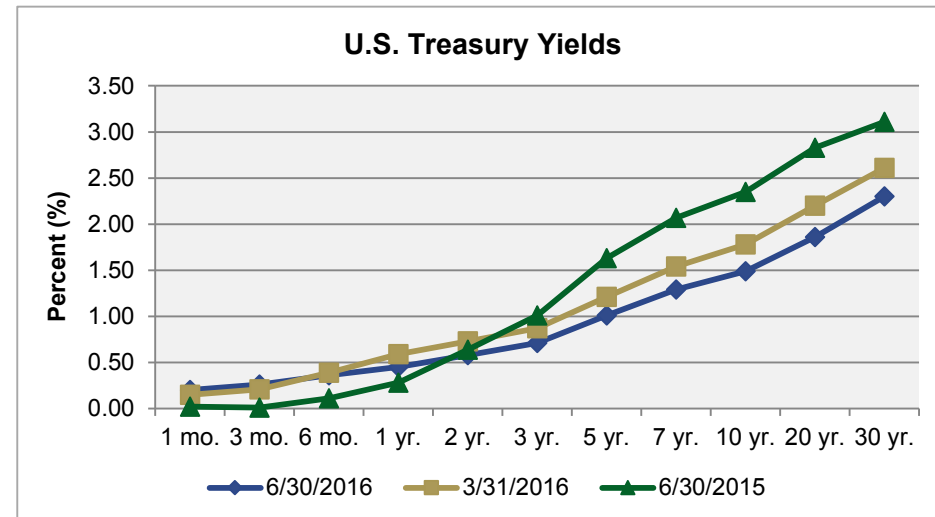
FIXED INCOME

Global fixed income sectors managed to build on gains from the beginning of the year. A flattening yield curve was common among many sovereign issuers, especially during the period of heightened risk aversion immediately following the Brexit results. At the end of the quarter, the U.S. yield curve (as measured by the difference between the 10-year note and the 2-year note) was at its narrowest level since 2007. Further, the market-implied estimate of the next Fed rate hike was pushed back to early 2017. In fact, at one point, the odds of there being a rate *hike* were less than the odds of there being a rate *decrease* for the next three policy meetings.

High yield bonds in the U.S. performed well, topping investment grade corporates which also had a strong showing. Spreads in the junk market tightened by about 62 basis points (bps), due largely to energy-related issues, which performed well amid the recovery in oil prices.



Source: Morningstar



Source: U.S. Department of the Treasury

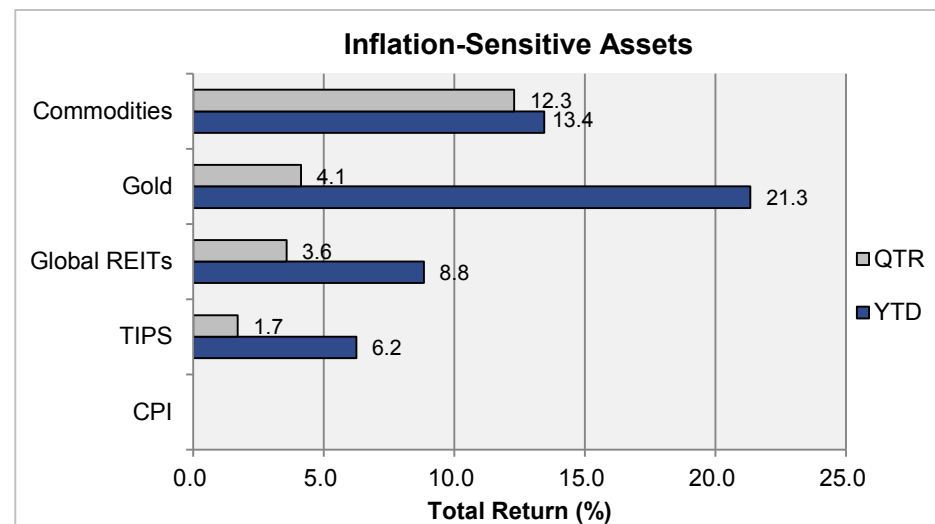


INFLATION-SENSITIVE ASSETS

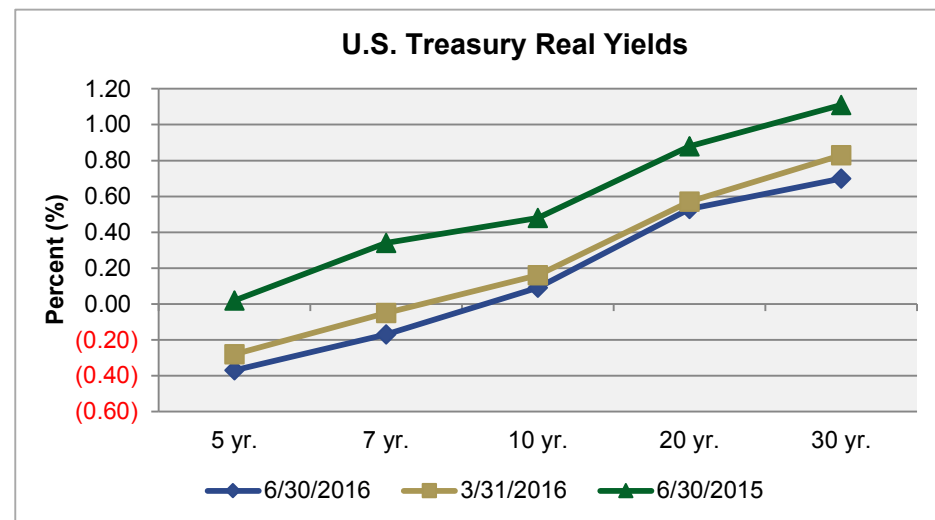
Commodities finished as one of the top performing asset classes for the quarter. Crude oil and natural gas drove most of the gains, advancing 19% and 31%, respectively. Precious metals such as gold and silver also generated solid returns. In fact, both are among the best-performing assets in 2016.

As interest rates declined across most developed markets, investors in global REITs enjoyed another solid quarter of performance. In the U.S., listed real estate securities also benefitted from strength in housing and commercial property sectors as measured by higher home prices and increased construction activity.

With the Fed holding interest rates steady at the June meeting, noting lowered inflation expectations, the TIPS curve shifted downward slightly. Five-year breakeven inflation ended June at 1.29%, down 20 basis points from Q1 and close to the level that began the year.



Source: Morningstar



Source: U.S. Department of the Treasury



U.S. SIZE, STYLE, AND SECTOR PERFORMANCE

DOMESTIC EQUITY	QTR	YTD	1 Year	3 Year	5 Year	10 Year
S&P 500 Index	2.5	3.8	4.0	11.7	12.1	7.4
Russell 3000 Index	2.6	3.6	2.1	11.1	11.6	7.4
Russell 3000 Growth Index	0.8	1.1	1.9	12.6	12.0	8.6
Russell 3000 Value Index	4.6	6.3	2.4	9.6	11.1	6.0
Russell TOP 200 Index	2.3	3.0	4.0	11.8	12.3	7.3
Russell TOP 200 Growth Index	0.2	1.0	5.2	14.2	13.4	9.1
Russell TOP 200 Value Index	4.5	5.2	2.7	9.4	11.2	5.5
Russell 1000 Index	2.5	3.7	2.9	11.5	11.9	7.5
Russell 1000 Growth Index	0.6	1.4	3.0	13.1	12.3	8.8
Russell 1000 Value Index	4.6	6.3	2.9	9.9	11.4	6.1
Russell Mid-Cap Index	3.2	5.5	0.6	10.8	10.9	8.1
Russell Mid-Cap Growth Index	1.6	2.2	(2.1)	10.5	10.0	8.1
Russell Mid-Cap Value Index	4.8	8.9	3.2	11.0	11.7	7.8
Russell 2000 Index	3.8	2.2	(6.7)	7.1	8.4	6.2
Russell 2000 Growth Index	3.2	(1.6)	(10.8)	7.7	8.5	7.1
Russell 2000 Value Index	4.3	6.1	(2.6)	6.4	8.1	5.2
DOMESTIC EQUITY BY SECTOR (MSCI)						
Consumer Discretionary	(1.4)	0.2	0.2	11.9	15.0	10.2
Consumer Staples	4.8	10.6	17.5	14.3	15.0	11.7
Energy	11.3	15.3	(7.5)	(2.9)	(0.6)	3.5
Financials	2.8	(1.4)	(2.3)	8.1	10.5	0.3
Health Care	6.1	(1.2)	(5.0)	16.4	17.1	11.5
Industrials	1.5	6.3	4.6	11.4	11.1	7.4
Information Technology	(1.9)	(0.4)	2.9	14.8	12.6	9.9
Materials	4.7	9.6	(1.6)	8.3	5.9	7.1
Telecommunication Services	7.4	23.5	23.4	10.7	11.7	8.1
Utilities	7.3	23.7	31.8	15.7	13.9	9.4



REGIONAL PERFORMANCE ACROSS MARKETS

INTERNATIONAL/GLOBAL EQUITY	QTR	YTD	1 Year	3 Year	5 Year	10 Year
MSCI EAFE (Net)	(1.5)	(4.4)	(10.2)	2.1	1.7	1.6
MSCI EAFE Growth (Net)	(0.1)	(2.2)	(4.8)	4.2	3.2	2.9
MSCI EAFE Value (Net)	(2.8)	(6.6)	(15.4)	(0.1)	0.1	0.2
MSCI EAFE Small Cap (Net)	(2.6)	(3.2)	(3.7)	7.3	4.8	3.6
MSCI AC World Index (Net)	1.0	1.2	(3.7)	6.0	5.4	4.3
MSCI AC World Index Growth (Net)	0.7	0.4	(2.7)	7.9	6.5	5.5
MSCI AC World Index Value (Net)	1.2	2.0	(4.8)	4.2	4.2	3.1
MSCI Europe ex UK (Net)	(3.5)	(6.0)	(10.8)	2.6	0.7	1.6
MSCI United Kingdom (Net)	(0.7)	(3.1)	(12.1)	0.7	1.7	1.4
MSCI Pacific ex Japan (Net)	0.7	2.5	(6.8)	1.1	0.9	5.4
MSCI Japan (Net)	1.0	(5.6)	(8.9)	2.7	4.2	0.1
MSCI Emerging Markets (Net)	0.7	6.4	(12.1)	(1.6)	(3.8)	3.5
FIXED INCOME						
Merrill Lynch 3-month T-Bill	0.1	0.1	0.2	0.1	0.1	1.0
Barclays Intermediate Government/Credit	1.6	4.1	4.3	3.0	2.9	4.5
Barclays Aggregate Bond	2.2	5.3	6.0	4.1	3.8	5.1
Barclays Short Government	0.3	0.8	0.7	0.5	0.4	1.9
Barclays Intermediate Government	1.2	3.6	3.9	2.4	2.3	4.1
Barclays Long Government	6.4	14.9	19.0	10.4	10.2	8.7
Barclays Investment Grade Corporates	3.6	7.7	7.9	5.4	5.4	6.2
Barclays High Yield Corporate Bond	5.5	9.1	1.6	4.2	5.8	7.6
JPMorgan Global ex US Bond	4.5	14.0	14.8	2.8	0.5	4.3
JPMorgan Emerging Market Bond	3.5	15.0	1.3	(3.6)	(2.7)	5.1
INFLATION SENSITIVE						
Consumer Price Index	1.2	1.0	1.0	1.1	1.3	1.7
BC TIPS	1.7	6.2	4.4	2.3	2.6	4.7
Commodities	12.3	13.4	(13.7)	(10.7)	(10.9)	(5.6)
Gold	4.1	21.3	9.5	1.4	(3.5)	6.8
REITs	7.4	13.7	23.6	13.3	12.5	7.5
FTSE EPRA/NAREIT Global REITs	3.6	8.8	10.5	7.9	7.7	-

Source: Russell, S&P, MSCI, Merrill Lynch, Barclays Capital, FTSE.

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PENSION FUND COMMITTEE

Minutes of Meeting

August 18, 2016

The Sussex County Pension Fund Committee met on August 18, 2016, at 10:00 a.m. in the County Council Chambers, Georgetown, Delaware. Those in attendance included members: Gina Jennings, Todd Lawson, Karen Brewington, Kathy Roth, Hugh Leahy, and Kathleen Ryan. Also in attendance were Michael Shone of Peirce Park Group, the County's Pension Investment Consultant; Janet Cranna, Margaret Tempkin, and Brett Warren, of Cheiron, the County's Actuary; as well as David Craik, Pension Administrator for the State's Pension Plan. Committee member David Baker was unable to attend.

On August 10, 2016, the Agenda for today's meeting was posted in the County's locked bulletin board located in the lobby of the County Administrative Offices, as well as posted on the County's website. Committee members were presented with a booklet containing information for today's meeting.

Ms. Jennings called the meeting to order.

1. Approval of Minutes

The minutes of the May 23, 2016 meeting were approved by consent.

2. State of Delaware Pension Presentation

Mr. David Craik, Pension Administrator for the State's Pension Plan was in attendance to discuss the State's portfolio. Mr. Craik distributed an Executive Summary, Returns versus Peers – Rolling 5 and 10 Year Periods, as well as an Asset Allocation. He noted that assets in the Delaware Public Employees' Retirement System (DPERS) were \$8,842 million as of June 30, 2016, and had finished the second quarter with a 2.0 percent return. For the previous year, their return was -1.3 percent versus a benchmark of 1.2 percent. For the month of July only, the State's plan had earned a 1.9 percent return. Over the past year, underperformance was primarily due to energy-related investments, as well as master limited partnership (MLP) exposure; MLPs have rebounded (14.7 percent for the 2016 calendar year). The State also had three value managers that underperformed.

In comparison to other pension plans, 82 percent had outperformed the State on a rolling 5-year period, but the State ranked in the top 10 percent for a 10-year period.

The State's asset allocation as of June 30, 2016 included: Alternative Investments: 22.2 percent; Cash and Equivalents: 3.0 percent; Domestic Equities: 33.6 percent;

International Fixed Income: 1.8 percent; Domestic Fixed Income: 29.2 percent; and International Equities: 10.2 percent. Included in alternative investments, the State has approximately a 2 percent exposure to hedge funds. Within the last year or two, the State reduced their assumed rate of return to 7.20 percent.

A short question and answer period followed. The Committee thanked Mr. Craik for his time and presentation.

3. **Effects of Lowering Investment Rate of Return**

Cheiron, the County's actuary, distributed a report entitled, "Proposed Assumption Change (Discount Rate)" for both the County's Pension and OPEB Plans. The County's current assumed investment rate of return is 7.50 percent. It was noted that a lower rate would result in higher contributions. Factors considered in selecting any rate of return include: context (industry trends and historical experience), expectations for the future, and the Committee's tolerance for risk. It was reported that since 2009, many other pension plans have reduced their investment return assumption; the average assumption is 7.62 percent, with a significant increase in the number of plans assuming 7.5 percent or lower. The following are the discount rates for other retirement systems in Delaware: Delaware State Employees: 7.20 percent; Delaware Municipal Employees: 7.20 percent; Delaware Municipal Police & Fire: 7.20 percent; City of Dover, Delaware: 7.00 percent; and the City of Wilmington: 7.50 percent.

The Committee was presented information showing the effects of decreasing the discount rate used in the pension valuation from 7.50 percent to 7.25 percent, as well as to 7.00 percent. Using 7.25 percent, an estimated Pension Plan contribution increase of \$385,000 (\$3,614,000 annually) would be expected; and a contribution increase of \$785,000 (\$4,014,000 annually) would be required using 7 percent. Currently, the County's pension contribution is \$3,229,000 annually.

For the OPEB Plan, an estimated increase in contribution of \$148,000 (\$2,223,000 annually) would be needed at 7.25 percent, and an increase of \$301,000 (\$2,376,000) for a 7.00 percent assumed rate of return. Currently, the County's OPEB contribution is \$2,075,000 annually.

With a 65 percent equity target, Mr. Shone recommended no higher than a 7.25 assumed investment rate of return. The Committee agreed that it would be prudent to lower the rate of return in smaller increments and concurred with 7.25 percent.

A Motion was made by Ms. Ryan, seconded by Mr. Leahy, for the Committee to make recommendation to the County Council to lower the investment rate of return for both the Pension and OPEB Plans to 7.25 percent.

Motion Adopted: 6 Yeas.

Vote by Roll Call: Ms. Brewington, Yea; Ms. Roth, Yea; Mr. Leahy, Yea;
Ms. Ryan, Yea; Mr. Lawson, Yea; Ms. Jennings, Yea

Ms. Jennings and the Committee thanked Ms. Cranna, Ms. Tempkin, and Mr. Warren for their presentation.

4. **Investment Analysis for the Quarter Ended June 30, 2016**

Mr. Shone distributed copies of a booklet entitled, “Sussex County Investment Performance Report, June 30, 2016”. The Investment Performance Report includes information regarding the market environment for the second quarter of 2016, as well as quarterly and annual performances of the Pension and OPEB Plans. Although the report should be referenced for a more detailed analysis, discussion highlights include:

Mr. Shone referred members to Market Environment – 2nd Quarter of 2016 (Tab 1).

The second quarter saw a Gross Domestic Product (GDP) growth of only 1.2 percent, with the economic activity remaining soft; overseas, a number of countries have gone to negative interest rates. The personal savings rate ended May at its lowest level in 2016, at 5.3 percent. The global economic outlook became increasingly uncertain with the United Kingdom voting to leave the European Union (i.e., ‘Brexit’); at that time, all the worldwide stock markets realized a decline. The equity market was mostly positive during the second quarter: U.S. equities: 2.6 percent for the quarter and 3.6 percent year-to-date, emerging market equities: 0.7 percent for the quarter and 6.4 percent for the year-to-date, although international equities realized negative returns of 1.1 for the quarter and 3.0 percent for year-to-date. Fixed income performed well: U. S. Bonds: 2.2 percent for the quarter (5.3 percent year-to-date); high yield bonds: 5.5 percent for the quarter (9.1 percent year-to-date), international bonds: 4.5 percent for the quarter (14.0 percent year-to-date), and Emerging Market Bonds: 3.5 percent for the quarter (15.0 percent year-to-date). Inflation sensitive assets, such as U.S. REITS, which finished the second quarter very positively – up 7.4 percent for the quarter and 13.7 percent for year-to-date – underperformed last year.

Value stocks were the big winners for the year: large value: 4.5 percent for the quarter (5.2 percent year-to-date), mid value: 4.8 percent for the quarter (8.9 percent year-to-date), and Small Value: 4.3 percent for the quarter (6.1 percent year-to-date).

Mr. Shone directed members to the Pension Fund Performance Report (Tab II).

As of June 30, 2016, the ending market value of the Pension Plan was \$73.0 million (at the end of July 31, the value was \$75.6 million, or a \$2.5 million gain in July alone; and realized a second quarter investment gain of \$1.3 million, as well as a 1-year (July 1, 2015 thru June 30, 2016) loss of \$266,000. The Pension Plan lagged its policy index in the second quarter due to the performance of DuPont Capital and the State of Delaware. The State’s plan has struggled over the past year; long-term their numbers have performed well, but have been low in their peer group over the last year, as well as having higher fees (68 basis points). Looking ahead: the review of the asset allocation (Investment Policy Statement and rebalancing) and the funding policy.

Mr. Shone noted that up until last quarter – when returns were reported for the County’s investment managers and total fund – gross rates of returns were used (before investment management fees). For the current quarter, both gross and net are given; going forward, only net results will be reported.

Since the beginning of 2012, the Pension Plan has ranked in the top 40 percent, and in the top 39 percent for a 3-year period.

DuPont Capital, for the quarter, was up 1.1 percent vs. a 2.5 percent benchmark; State of Delaware 1.9 percent vs. a 1.9 percent benchmark -- year-to-date: 2.4 vs. 3.6 percent, and one-year: -1.9 percent vs. 1.2 percent. It was noted that the asset allocation for DuPont Capital was all large core. Over time (5, 10, 20, and 30 years), Mr. Shone noted that mid cap and value have been the winners.

The ending market value of \$73,994,465 included: DuPont Capital Investment: \$14,402,323, Operating Account: \$149,231, State of Delaware Investment Pool: \$45,448,666, Vanguard Extended Market Index: \$2,881,724, Vanguard Mid Cap Value: \$2,576,969, Wilmington Trust Bonds: \$8,535,552, and Wilmington Trust Short Term: \$0. Over the last 3 years, the pension fund saw an investment gain of \$13,610,685 million, or a 7.0 percent return.

As of June 30, 2016, Sussex County's Pension Asset Allocation included: State of Delaware Investment Pool: 61.4 percent; Cash: 0.2 percent; Domestic Fixed Income: 11.5 percent; and Domestic Equity: 26.8 percent.

Over the last 5 years, the Pension Fund realized a 7.0 percent return (gross) and ranked in the top 27th percentile nationwide (out of 250 public funds); 7.0 percent return for 3 years (top 22nd percent); and 1 year: - 0.2 percent (71st percent). For the quarter, the fund realized a return of 1.9 percent (47th percent), which was below the policy index of 2.0 percent. Since its inception, the pension plan has realized a return of 9.4 percent, which is slightly below the 9.7 percent policy index.

The portfolio returns (net) for the quarter: DuPont Capital Investment: 1.1 percent return versus benchmark of 2.5; Vanguard Extended Market Index (added October 2014): 3.4 percent (vs. 3.4 percent); Vanguard Mid Cap Value (added December 2014): 2.8 percent (vs. 2.8 percent); Wilmington Trust Bonds: 1.4 percent (vs. 1.6 percent); and State of Delaware Investment Pool: 1.9 percent versus a 1.9 percent benchmark.

Mr. Shone referred members to the OPEB Fund Performance Report (Tab III).

As of June 30, 2016, the ending market value of the OPEB Plan was \$31.9 million and realized a second quarter gain of \$487,000; and a 1-year gain of \$576,000. The OPEB Plan lagged behind its policy index in the second quarter primarily due to underperformance by Thornburg Global Opportunities. Even with their underperformance, the plan outperformed its policy index over the last year due to strong returns by MFS Low Vol Global Equities. Looking ahead: In place of the continued monitoring of Thornburg, Peirce Park is recommending the removal of Thornburg from the County's portfolio.

A Motion was made by Ms. Ryan, seconded by Mr. Leahy, to approve and make recommendation to the Sussex County Council to terminate Thornburg Global Opportunities and reallocate funds equally between the Vanguard International Index Fund and the Vanguard Institutional Index Fund.

Motion Adopted: 6 Yeas.

Vote by Roll Call: Ms. Brewington, Yea; Ms. Roth, Yea; Mr. Leahy, Yea;
Ms. Ryan, Yea; Mr. Lawson, Yea; Ms. Jennings, Yea

As of March 31, 2016, Sussex County's OPEB Asset Allocation included: Domestic Equity: 44.5 percent; Global Equity: 12.4 percent; International Equity: 6.5 percent; Domestic Fixed Income: 35.5 percent; and Cash: 1 percent.

For the year, the OPEB Plan realized 1.8 percent returns (35th percentile) versus a 1.3 percent benchmark.

5. **Review Revised Investment Policy Statement**

Committee members were provided copies of two addendums to the Investment Policy Statement entitled, "The Sussex County, Delaware Employee Pension Plan Investment Policy Statement, Dated June 24, 2014, (Amended December 8, 2015); one reflects an equity target within the Delaware State Pool of 50 percent and the other 60 percent (no change).

Mr. Shone discussed both options, as well as the State's higher investment management fees of .68 percent, versus a national average of .45 percent for a plan of the County's size.

A Motion was made by Mr. Leahy, seconded by Ms. Ryan, to approve and make recommendation to the Sussex County, to adopt the addendum reducing the equity target within the Delaware State Pool from 65 percent to 50 percent, by increasing the equity target from 24 percent to 36 percent, and decrease the fixed income target from 16 percent to 14 percent, and it is the County's overall intent to maintain the targeted allocation of 65 percent equities and 35 percent fixed income.

Motion Adopted: 6 Yeas.

Vote by Roll Call: Ms. Brewington, Yea; Ms. Roth, Yea; Mr. Leahy, Yea;
Ms. Ryan, Yea; Mr. Lawson, Yea; Ms. Jennings, Yea

6. **Possible Reallocation**

Committee members were presented with copies of "Sussex County – Portfolio Options, August 2016" prepared by Peirce Park. With the Committee's recommendation to decrease the State's equity target to 50 percent, Mr. Shone discussed implementation options.

A Motion was made by Mr. Leahy, seconded by Ms. Roth, to approve and make recommendation to the Sussex County Council to adopt the following equity target implementation: S&P 500 Index Fund: increase 6.5 percent (24.0 percent), Vanguard Extended Market Index: increase 1.5 percent (5.0 percent), Vanguard Mid Cap Value Index: increase 2.0 percent (5 percent), Wilmington Trust FI: decrease 2 percent (12 percent), cash: remain at 2.0 percent, Delaware State Pool: decrease 10 percent (50 percent), and add Vanguard Total Int'l Stock Market Index of 2 percent.

Motion Adopted: 6 Yeas.

Vote by Roll Call: Ms. Brewington, Yea; Ms. Roth, Yea; Mr. Leahy, Yea;
Ms. Ryan, Yea; Mr. Lawson, Yea; Ms. Jennings, Yea

7. **Review Proposed Funding Policy**

Committee members were presented with copies of funding policies for both the Pension and OPEB Plans. Ms. Jennings noted that simply stated, these policies put the County's practices into writing, with the ultimate goal of adoption by the Committee and County Council. Mr. Shone also noted that the funding policy includes assumption guidelines, including the actuarially determined contribution (ADC).

A question and answer period followed regarding the ADC, which included input from Cheiron. It was the consensus of the Committee for Cheiron to review the documents and make recommendation as to their desired language to be used in regards to the ADC. It was requested that this item be brought back at the November meeting for the Committee's consideration.

8. **Review Proposed Ordinance Changes to Pension Calculation**

Committee members were provided with copies of a handout, "Draft Ordinance Revising Computation of Pension Benefits for Sussex County Employees". The revisions reflect the needed modifications of the County's ordinance to revise 12-hour employees' pension calculation based on 42 hours versus 40 hours, and increasing eligible service by 5 years for all employees. With Council's agreement with these recommendations, Ms. Jennings noted that the next step would be for the recommendations to go to the County's Personnel Board for a public hearing; the intent is to have the public hearing on October 13, 2016. The last step would be the adoption of the revisions by County Council.

9. **Additional Business**

No Additional Business.

6. **Adjourn**

At 11:22 a.m., a Motion was made by Ms. Roth, seconded by Mr. Leahy, to adjourn.

Motion Adopted: 6 Yeas.

Vote by Roll Call: Ms. Brewington, Yea; Ms. Roth, Yea; Mr. Leahy, Yea;
Ms. Ryan, Yea; Mr. Lawson, Yea; Ms. Jennings, Yea

The next meeting of the Pension Fund Committee is scheduled for November 17, 2016, at 10:00 a.m. in the Sussex County Council Chambers.

Respectfully submitted,

Nancy J. Cordrey
Administrative Secretary

Sussex County Fleet Status Update

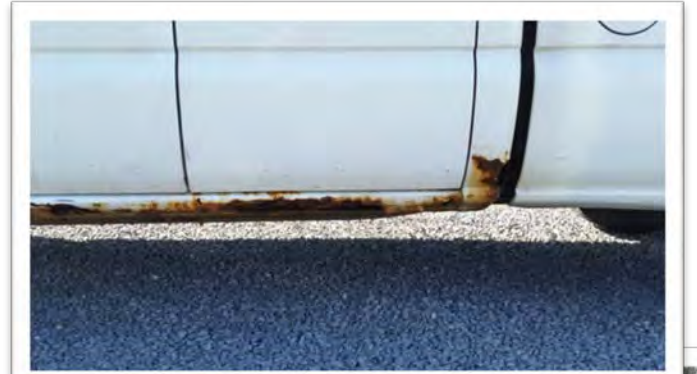
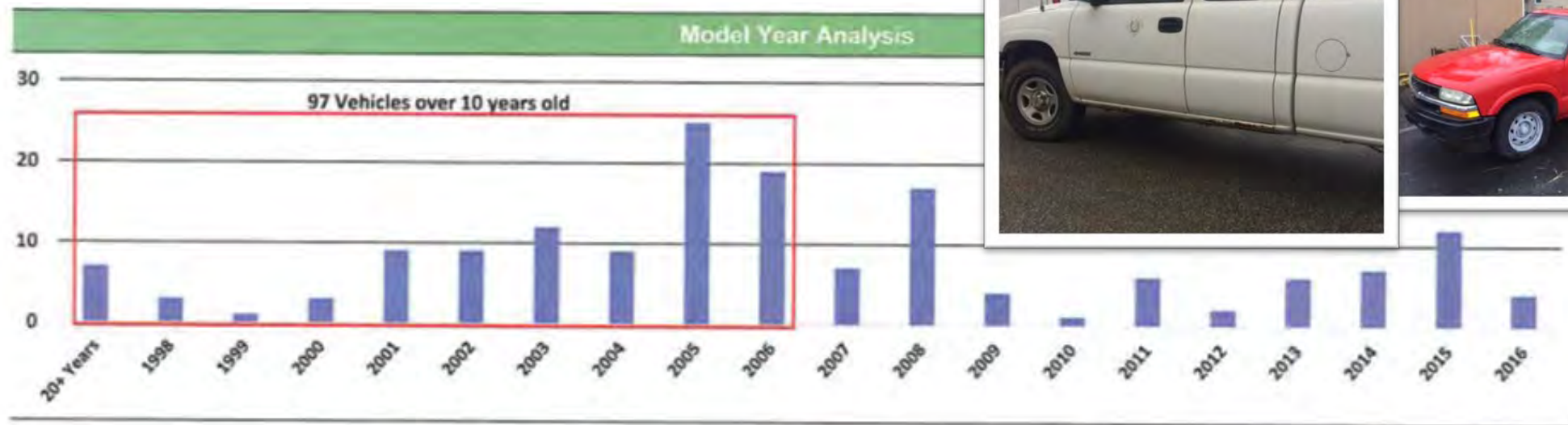
September 20, 2016

Ron Verosko

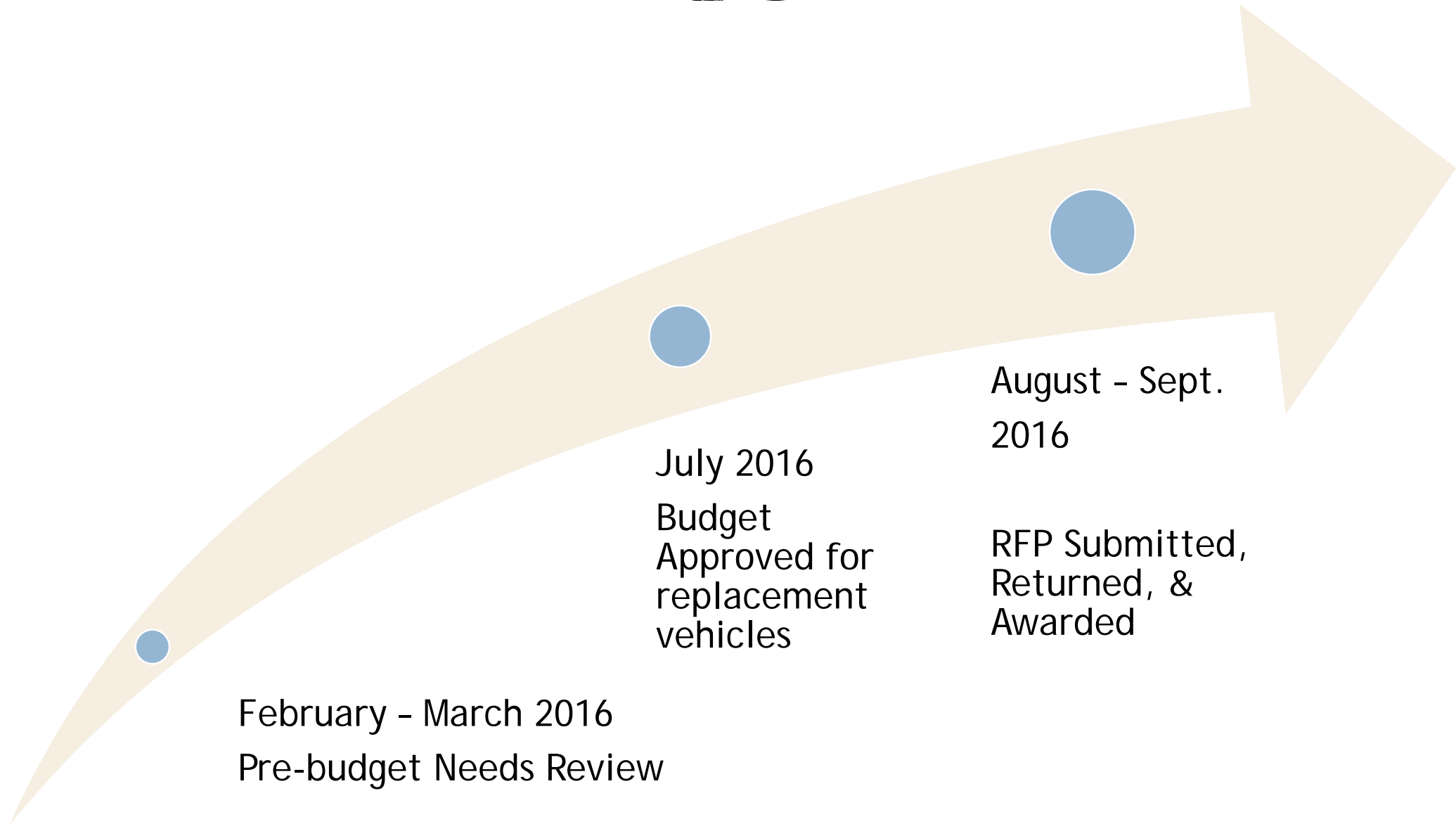


History - Conditions and Economics

- 230 vehicles in the fleet
- 52% of vehicles are over 10 years old
- Many older vehicles with rotted rocker panels, frame components and brackets



Fleet Vehicle Upgrade Timeline



RFP Results

- 5 Dealerships submitted bid packages covering 21 different base vehicles selections.
 - Winner Ford Inc.
 - IG Burton and Company Inc.
 - Hertrich Fleet Services Inc.
 - Mall Chevrolet
 - Bayshore Ford Truck Sales



Vehicle Selection Considerations

- Ergonomics, Driving Conditions, and Work Space
 - Weapons belt and width of driver compartment
 - Work space for drawing's, communications equipment
 - Ground clearance and road conditions. FWD/4WD
 - Comfort - average county EE gets in and out of there vehicle 7.8 times during shift.
 - Safety - visibility and comfort, blu-tooth, and speed control
- Undercoating for new Environmental Services Vehicles



Lowest Bid Overview

- **Winner Ford**
 - Ford 150/1500 CC, 5.5, V6
 - Ford 250 DC, 8, V8
 - Ford 250 DC, 8, SB, V8
 - Ford 250 CC, 8, SB, V8
- **Chevy Mall**
 - 2500 DC, 6.5, V8
 - 2500 DC, 6.5, SB, V8
- **Bayshore Ford**
 - Ford Transit Connect Small Van
- **Hertrich Fleet Svc.**
 - Ford Fusion
 - Chevy Equinox (FWD & AWD)
 - Ford Explorer
 - Ford Transit Medium Roof ¾ Ton Van
 - Ford F250 DC, 6.75, V8
 - Ford F250 DC, SB, 6.75, V8
 - Ford F250 CC 8, V8
 - Ford F250 6.75, CC, V8
 - Ford F250 CC, 6.75, SB, V8
 - Ford F350 Dual Wheel CC & DC, 8, V8



Next Steps

- Finalize priorities of purchases with County Administrator and Finance Director
- Meet with area managers and finalizing vehicle purchases this month.



ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
ENVIRONMENTAL SERVICES	(302) 855-7730
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HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOSEPH WRIGHT, P.E.
ASSISTANT COUNTY ENGINEER

Memorandum

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

FROM: Hans Medlarz, P.E.
County Engineer

RE: ***CONCORD ROAD EXPANSION
BLADES SANITARY SEWER DISTRICT
PROFESSIONAL SERVICES DBF AMENDMENT No.2***

DATE: September 20, 2016

On June 3, 2014 County Council awarded five (5) year on-call contracts for miscellaneous consultant services to George Miles and Buhr (GMB), Davis, Bowen and Friedel (DBF), Hazen and Sawyer, RK&K, EA Engineering, Science and Technology, Inc. (EA), KCI, and Pennoni, Inc. Since then Council utilized the services of DBF for the Concord Road Expansion project by approving Amendment No.1 to the base contract in the amount of \$64,984.62 on March 10, 2015.

The Department is now presenting a request for the approval of the attached Contract Amendment No.2 in the amount of \$5,700.00 to cover the pump station redesigns associated with the comments received from the Sussex Conservation District, DelDOT and the adjacent property owner who granted an access easement.

The Concord Road project is funded through USDA-RD and this Amendment is an eligible project expense. In connection with the Concord Road Project Council approved on July 19, 2016 the RT-13 Commercial Expansion. In accordance with the County's Procurement Policy the Engineering Department authorized the associated design to proceed under a stand-alone arrangement with DBF valued at \$20,000.00.

The RT-13 Commercial Expansion is expected to be funded through previously collected Sewer Connection Charges. Both designs are expected to conclude at the same time allowing simultaneous bids to be considered by Council.





**DAVIS
BOWEN &
FRIEDEL, INC.**

ARCHITECTS ENGINEERS SURVEYORS

August 26, 2016

Sussex County Engineering
Sussex County Administrative Office
2 The Circle
P.O. Box 589
Georgetown, Delaware 19947

*Michael R. Wigley, AIA, LEED AP
Randy B. Duplechain, P.E.
Charles R. Woodward, Jr., LS
W. Zachary Crouch, P.E.
Michael E. Wheedleton, AIA
Jason P. Loar, P.E.
Ring W. Lordner, P.E.
Gerald G. Friedel, P.E.*

Attn: Mr. Hans Medlarz
County Engineer

RE: Blades Sanitary Sewer District Expansion
Route 13 Commercial Expansion Outside of USDA-RD Funding
Additional Services Proposal
Sussex County, Delaware
DBF # P1897B16.020

Dear Mr. Medlarz:

As requested, Davis, Bowen & Friedel, Inc., is pleased to present this proposal for additional professional engineering services associated with the Blades Sanitary Sewer District Expansion Project. This proposal is for additional design and permitting services related to the extension of gravity sanitary sewer expansion south on Route 13. We understand that this project is to be a separate stand-alone project outside of the United States Department of Agriculture – Rural Development (USDA-RD) funded Blades Sanitary Sewer Expansion project. A description of our proposed scope of service for each portion of the work is as follows.

A. SURVEY SERVICES

We will complete additional topographical survey services along the previously approved alignment for the gravity sanitary sewer expansion. We will locate all existing surface features within the proposed alignment, as are visible from the surface, including streets, curbing, sidewalk, swales, drainage structures, utilities, manholes, cleanouts, valves, meter pits, buildings, fences, landscaping, mailboxes, signs, property corners and other natural and man-made features pertinent to the design of the project. We will determine the rim and invert elevations of all accessible catch basins, storm drain manholes, and sanitary sewer manholes, and the inverts of sewer and storm drain pipes connected thereto, along the proposed alignment. It should be noted that this work will require entry onto private property, thus we request the County's assistance in providing notification to these property owners prior to us commencing with survey work. We will give the County sufficient notice prior to initiating survey services.

We will attempt to arrange with Miss Utility to locate and mark all underground utilities along the proposed alignment. Our topographic survey will include location of all Miss Utility markings and flagging.

Excluded from this service is the determination of the depth of gas mains, sewer laterals, water mains, water services, and the location and depth of underground tanks which require

test pitting.

Estimated Fee: \$4,500.00

B. SEPTIC TANK IDENTIFICATION

Location and depth of existing septic tanks and building connections will need to be identified. The County will locate the existing septic tanks and building connections then provide to us to include on the project plans. We will work with the County to ensure the proposed gravity sewer is deep enough to serve the intended properties. This may include additional survey and/or field work as necessary or in conjunction with the County.

Estimated Fee: \$4,500.00

C. CONSTRUCTION DOCUMENT PREPARATION

Utilizing the completed survey and septic tank locations as stated above, we will prepare project construction documents for project permitting and bidding. Construction documents will be submitted to the County for review at 90% prior to permit submissions and again at 100% after any necessary modifications required due to regulatory agency review. The documents will include:

- Title Sheet
- Proposed Gravity Sewer Plan and Profile Sheets
- Gravity Sewer, Utility, and Road Detail Sheets
- Sediment & Erosion Control Plans and Details

Contract specifications will not be prepared as it is the intent to utilize the specifications for the proposed pump station project.

Lump Sum Fee: \$6,000.00

D. PERMITTING

After the County's approval of the 90% plans, we will submit plans to DelDOT, SCD, and Delaware Department of Natural Resources and Environmental Control (DNREC) for review, comments, and approval. We will address any comments generated by these regulatory agencies and resubmit for final permit approval.

Estimated Fee: \$5,000.00

E. EXCLUDED SERVICES

Excluded from our above scope of services is work associated with the following services. If required, this work can be performed on a unit price basis or under a separate contract to Sussex County

- Archaeological Surveys and Permitting
- Phase 1 or 2 Environmental Assessments or Permitting
- Easement Acquisition Services and Coordination and Preparation of Easement Plats
- Construction Administration and Inspection Services

- As-Built Surveys or Plan Preparation
- Application, Agency, and/or Permit Fees
- Geotechnical Services
- Financial Administration Services

F. PAYMENT TERMS AND CONDITIONS

We propose to complete the proposed scope of services as described above for the fees identified above. Billing of lump sum fees will be based upon percentage of work completed during the previous month. Hourly estimated fees, additional services, and direct or reimbursable expenses will be provided on an hourly and unit price basis and invoiced for work completed during the previous month in accordance with the enclosed Schedule of Rates No. 44. We will not exceed the estimated fee without first notifying you and receiving written authorization to continue. Please refer to the attached schedule of rates for other terms and conditions.

Should you find this proposal acceptable please indicate by signing and dating below. Please retain one copy for your records and return one copy to this office. Receipt of a signed proposal constitutes our notice to proceed, unless otherwise specified. This proposal shall be valid for ninety (90) days.

Should you have any questions, comments, concerns, or would like to discuss this further please give me a call at your convenience. We look forward to completing another successful project with Sussex County and appreciate the opportunity to be of continued service.

Sincerely,
DAVIS, BOWEN & FRIEDEL, INC.

Jason P. Loar, P.E.
Principal

JPL
M:\PROPOSAL\MUNICIPAL PROPOSALS SUSSEX COUNTY\PI897B16.020 JPL-REVISED.DOCX

Enclosures

Accepted By:

SUSSEX COUNTY

Date:

8/30/16

ENGINEERING DEPARTMENT

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JOSEPH WRIGHT, P.E.
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Memorandum

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

FROM: Hans Medlarz, P.E.
County Engineer

RE: ***PUMP STATION NO. 23 MODIFICATIONS
SUBSTANTIAL COMPLETION & BALANCING CHANGE ORDER
PROJECT NO. 14-22***

DATE: September 20, 2016

On August 18, 2015, County Council awarded the Pump Station No. 23 Modifications, County Project No. 14-22 to Hopkins Construction, Inc. The construction work detailed in the contract consisted of modifying an existing wet pit / dry pit type pump station to a conventional submersible pump station. George, Miles & Buhr, the consultant of record declared the project substantially complete as of March 7, 2016 and the County took beneficial occupancy of the improvements immediately thereafter.

By now all as-built documentation is in hand and we are requesting Council's consideration of the attached balancing change order. This change order adjusts unit price quantities and provides credits for installation of substitute equipment as well as the omission of a static vent pipe. The overall adjustments decrease the contract amount by \$12,291.25, resulting in a final construction cost of \$471,528.75.



Date of Issuance: July 27, 2016
 Owner: Sussex County Council
 Contractor: Hopkins Construction, Inc.
 Engineer: George, Miles & Buhr, LLC
 Project: PS#23 Modifications

Effective Date: July 27, 2016
 Owner's Contract No.: 14-22
 Contractor's Project No.: 15-101.22
 Engineer's Project No.: 140202.A
 Contract Name: PS 23 Modifications

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

Final adjustments and balancing of unit bid items;

Credit for installation of substitute equipment labeled as PCO#1;

Credit for a static vent pipe omitted by the Contractor labeled as PCO#2;

Time extension without increase to General Conditions.

Attachments: 1. Final Adjustment/Balancing Change Order = (\$10,051.00) 2. PCO #1= \$1,234.00 & #2=\$1,006.25

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES <i>[note changes in Milestones if applicable]</i>
Original Contract Price: \$ <u>483,820.00</u>	Original Contract Times: Substantial Completion: <u>90 Days / January 30, 2016</u> Ready for Final Payment: _____ days or dates
[Increase] [Decrease] from previously approved Change Orders No. ___ to No. ___: \$ <u>N/A</u>	[Increase] [Decrease] from previously approved Change Orders No. ___ to No. ___: Substantial Completion: <u>N/A</u> Ready for Final Payment: _____ days
Contract Price prior to this Change Order: \$ <u>483,820.00</u>	Contract Times prior to this Change Order: Substantial Completion: <u>90 Days / January 30, 2016</u> Ready for Final Payment: _____ days or dates
[Increase] [Decrease] of this Change Order: \$ <u>12,291.25</u>	[Increase] [Decrease] of this Change Order: Substantial Completion: <u>37 Calendar Days*</u> Ready for Final Payment: _____ *Extension w/o increase in General Conditions days or dates
Contract Price incorporating this Change Order: \$ <u>471,528.75</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>127 Days / March 7, 2016</u> Ready for Final Payment: _____ days or dates

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By: _____ Engineer (if required)	By:  Owner (Authorized Signature)	By: _____ Contractor (Authorized Signature)
Title: _____	Title: <u>COUNTY ENGINEER</u>	Title: _____
Date: _____	Date: <u>9/2/2016</u>	Date: _____

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The Honorable Joan R. Deaver
The Honorable Robert B. Arlett

FROM: Hans Medlarz, P.E.
County Engineer

RE: ***SOUTH COASTAL REGIONAL WASTEWATER FACILITY (SCRWF)***
Reaffirmation of Engineer of Record &
Approval of Preparation of Preliminary Engineering Report by GHD, Inc.

DATE: September 20, 2016

In June of 2001, Sussex County issued a request for proposals for engineering services associated with the SCRWF. Sterns & Wheler, LLC responded to the County's request and was awarded the base contract on December 7, 2001. Since then Sussex County awarded ten (10) amendments for additional services under the base contract, the last one was executed in April 2008.

Under the original agreement Sterns & Wheler, LLC completed the last Preliminary Engineering Report for SCRWF Expansion No. 2 in March 2003, as well as the following successful major design projects:

- Biosolids Handling Facilities in 2003 (Contract 02-12),
- Treatment Upgrade No. 2 in 2004 (Contract 02-12B),
- Personal Facilities in 2006 (Contract 05-07).

Construction of the last contract concluded in July 2008. As the prime consultant, Sterns & Wheler, LLC provided all design, construction management, and inspection services for all contracts. They did not have any significant sub-consultants with the exception of survey and geotechnical services. Sterns & Wheler, LLC has all design documents for SCRWF and the project manager, Mr. Thor Young P.E. has held this role throughout the contract. GHD Inc. purchased Stearns & Wheler LLC in February 13, 2009, and assumed all obligations and duties.

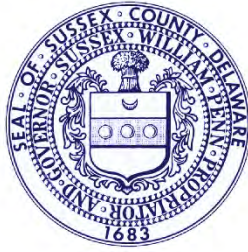


SCRWF has a design capacity of 7.00MGD. Based on current growth rates in the South Coastal Planning Area, Sussex County is now considering treatment upgrade no.3 to meet the demand of the 20-year planning period by expanding the design capacity to 10.00MGD. The preliminary engineering report for treatment upgrade no. 3 will serve as the basis for the preparation of detailed plans and specifications suitable for construction of the upgraded facilities.

The Engineering Department is requesting the reaffirmation of GHD, Inc. as the “Engineer of Record” since they assumed all responsibilities for Stearns & Wheler, LLC. In addition, we request authorization to negotiate Amendment no. 11 to the base contract for the preparation of Preliminary Engineering Report for the SCRWF Upgrade no. 3.

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Memorandum

TO: Sussex County Council
The Honorable Michael H. Vincent, President
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The Honorable Joan R. Deaver
The Honorable Robert B. Arlett

FROM: Hans Medlarz, P.E.
County Engineer

RE: *Agreement for Wastewater Services– Lewes Board of Public Works (BPW)*

DATE: September 20, 2016

On July 19, 2016 the Engineering Department gave a presentation on Sussex County's proactive wastewater infrastructure planning in the North Coastal Planning Area. The presentation addressed expansion of utility coordination between wastewater service providers to avoid duplication of capital expenditures. The Council authorized agreement negotiations with other wastewater service providers for the utilization of seasonally available, existing wastewater treatment capacity.

The Department is now presenting a request for the approval of an arrangement with the Lewes Board of Public Works for wastewater treatment and disposal. The agreement allows for the ability to transmit a year round base flow rate of up to 75,000 gallons per day into the BPW's system with a seasonal ramp up of up to 300,000 gallons per day during the fall/winter season. This arrangement takes advantage of the seasonal drop off in flow at the BPW facility allowing the County's Wolfe Neck Facility to better deal with weather related issues. The initial term of the Agreement is for ten (10) years; however, it will be extended for an additional ten (10) year term as long as the County is not in default on any of the terms or conditions. The County can also request and the BPW may grant a thirty-three (33) percent increase in base and seasonal flow after the first five (5) years. This arrangement does not require modification of the either party's underlying DNREC wastewater disposal permits.



The Agreement has been developed in conjunction with the Assistant County Attorney and she has signed off on its final form. It has been reviewed and approved in principle by the Lewes Board of Public Works. In addition, Mr. Gordon, the General Manager has been authorized to develop a user rate. The rate is determined based on the incremental cost increases to treat the additional flow times the out-of-service-territory multiplier. The resulting rate of \$2.40 per 1,000 gallons is very competitive with other regional rates charged for similar services.

In summary, the Agreement allows wastewater to be transmitted and treated by the most cost effective option. The arrangement can be applied system wide and currently two (2) interconnection points are under consideration. The BPW has requested the County utilize George, Miles & Buhr, Inc., PBW's Engineer of Record for the design of the improvements on a reimbursement basis at the rates in effect under the BPW's current contract. The Engineering Department is proposing to implement the improvements utilizing the General Labor & Equipment Contract previously awarded by Council. We would present a change order request for said improvements to Council for approval prior to commencement of construction.

AGREEMENT FOR WASTEWATER SERVICES

Between

LEWES BOARD OF PUBLIC WORKS

and

SUSSEX COUNTY COUNCIL

for and on behalf of

WEST REHOBOTH SANITARY SEWER DISTRICT

In Connection with

the Transmission and Treatment of Sewage Discharge from

the West Rehoboth Sanitary Sewer District

The Agreement for Services is made and entered into this __ day of _____, 2016 (“Effective Date”), by and between Lewes Board of Public Works, the governing body of Lewes Area Utility (hereinafter referred to as “Owner”), and Sussex County Council (hereinafter referred to as “Contract User”), in connection with the West Rehoboth Sanitary Sewer District.

WITNESSETH:

For and in consideration of the mutual promises and covenants herein contained, the parties hereto do hereby agree as follows:

ARTICLE I - TERM OF AGREEMENT

The term of this Agreement shall be ten (10) years, commencing upon the Effective Date of this Agreement and terminating ten (10) years thereafter. If, at the expiration of the term of this Agreement, Contract User shall not be in default upon any of the terms or conditions of this

Agreement, then Contract User shall have an option to renew this Agreement for an additional term of ten (10) years.

The Contract User must notify the Owner in writing, via first class U.S. mail, no later than ninety (90) days prior to this Agreement's expiration, in order to indicate the Contract User's intentions to either renew or terminate this Agreement. If the Contract User does not indicate their intentions in writing to the Owner, as described above, then this Agreement will be automatically renewed on a year to year basis.

ARTICLE II - DEFINITION OF TERMS

The following terms, as used herein, shall have the following meanings:

A. "Collection System" shall mean local gravity pipelines and pump station(s) with pressurized pipelines used to convey Contract User's sewer discharge to the Owner's designated connection point.

B. "Biological Treatment" shall mean the handling of constituent's sewage by means of biological processes performed within the Owner's Wastewater Treatment Facility.

C. "Sewage" shall mean water-carried waste from residences, businesses and institutions.

D. "Transmission System" shall mean collector gravity pipelines and pump station(s) with pressurized pipelines used to convey sewage to the Owner's Wastewater Treatment Facility.

E. "Base Flow Volume" shall mean a permitted discharge throughout the entire year.

F. "Connection Point" shall mean the mutually agreed upon point of transfer shifting conveyance responsibilities from Contract User to Owner.

ARTICLE III - SERVICES TO BE RENDERED

The services to be rendered to Contract User by Owner shall be sufficient to carry out and perform the functions contemplated by terms of this Agreement, including but not limited to the following:

A. Transmission of Sewage

Owner agrees to transmit Contract User's sewage through Owner's Transmission System to the Owner's Wastewater Treatment Facility downstream of the designated Connection Point in the Owner's Transmission System. This obligation extends only to construction and operation of Owner's Transmission System and does not include the Contract User's Collection System upstream of the Connection Point.

B. Treatment of Sewage

Owner agrees to treat Contract User's sewage to a degree sufficient to enable the final effluent to comply with the Owner's Wastewater Treatment Facility National Pollutant Discharge Elimination System (NPDES) Permit.

ARTICLE IV - CHARACTERISTICS AND QUANTITY OF CONTRACT USER'S SEWAGE

Owner's obligation to transmit and treat Contract User's sewage, as required hereunder, is and shall be subject to the following conditions:

A. Quality of Sewage

Contract User's sewage will not be acceptable if (1) upon the addition of said sewage to the sewage flow entering the Owner's Wastewater Treatment Facility, the resulting combined sewage flow is not amenable to Biological Treatment or (2) the County's contribution directly and solely results in a violation of standards set in the Owner's Wastewater Treatment Facility's (NPDES) Permit.

B. Quantity of Flow

Contract User's flow contributions shall be limited to a Base Flow Volume of 75,000 gallons per day and a seasonal (December 1st through March 31st) volume of 300,000 gallons per day for the initial five (5) year period of the Agreement. Contract User may request a thirty-three percent (33%) volume increase of both the Base Flow and seasonal flow volumes after the initial period and Owner may grant such request if Owner's Transmission System and Wastewater Treatment Facility will operate at less than seventy-five percent (75%) capacity, respectively at the time of request.

ARTICLE V - PAYMENT FOR SERVICES

A. Manner of Payment

Contract User shall pay for any and all transmission and/or treatment services rendered by Owner hereunder within thirty (30) days after Contract User's receipt of the invoice from Owner. Upon Contract User's failure to pay any invoice so generated, the outstanding balance due upon such invoice shall accrue a financing charge in the amount of one percent (1.0%) per month.

B. Rate

Contract User agrees to pay Owner for all of Contract User's sewage transmitted and treated by Owner at an initial **rate \$2.40 per 1,000 gallons** of metered discharge. The rate shall be adjusted annually on January 1st based on the Philadelphia Region Consumer Price Index as published by the US Census Bureau.

ARTICLE VI - MEASUREMENT OF CONTRACT USER'S SEWAGE FLOW

Any and all measurements of Contract User's sewage flow, as required by Article V above, shall be performed under a monitoring program conducted and paid for by the Contract User and supervised by Owner. The results of all flow measurements shall be evaluated monthly, and shall serve as the basis for Owner's charges to Contract User.

The metering device utilized to measure Contract User's sewage flow shall be calibrated annually by an independent testing agency. The results of calibrations shall be made available to the Owner. If the calibration reveals a discrepancy greater than 10% the monthly sewer billing to the Contract User shall be adjusted (up or down) for a three (3) month period immediately preceding the calibration. No action shall be taken for metering devices within 10% accuracy.

Billing or credit adjustments shall be made on the next billing period immediately following the discovery of the metering discrepancy.

ARTICLE VII – CAPITAL IMPROVEMENTS

Contract User shall be responsible for all capital expenses associated with the construction of the Contract User's transmission facilities, including all costs incurred in connecting to the Owner's collection system and for all costs of operation and maintenance associated with said improvements. No sewer infrastructure of any type shall be connected to the Connection Point unless Owner reviews and approves the design and inspects and approves the construction of any such proposed connection.

Owner and Contract User shall be jointly responsible on a flow proportional basis for all future capital expenses associated with the Owner's transmission system downstream of the system Connection Point if said improvements are directly attributable to the addition of Contract User's flow.

ARTICLE VIII – WASTEWATER IMPACT FEES

Contract User shall pay the "Treatment and Transmission" portion of the Owner's impact fees valued at **\$1,500.00** per Equivalent Dwelling Unit (EDU) for the initial Base Flow Volume per EDU equal to 300 gallons per day. Payment of the initial impact fee in the total amount of \$375,000.00 shall be made on or before ninety (90) days after the Effective Date of this Agreement.

Subsequent impact fee payments shall be made in full within thirty (30) days of Owner's approval of increases in Base Flow requested by Contract User. In addition, calculations of future impact fees shall be made at the "Treatment and Transmission" portion of the Owner's impact fee rate in effect at the time.

ARTICLE IX – TERMINATION OF SERVICES

Except as otherwise provided herein, either party may terminate this Agreement upon twenty-four (24) months' written notice to the other party; provided that, notwithstanding any such notice of termination, Contract User agrees to pay Owner for any and all transmissions and/or treatment services rendered by Owner hereunder; and further provided that, notwithstanding any such notice of termination, Contract User shall reimburse Owner for Contract User's pro rata share of capital debt charges incurred by Owner (less depreciation) for any capital project which, during the term of this Agreement, was undertaken by Owner for the specific benefit of Contract User. Notwithstanding the notification period, the parties agree in the case of Owner's facilities experiencing operating limitations, likely to result in violations of applicable permits, the acceptance, treatment and disposal of wastewater by the Owner may be limited or discontinued for such period of time as agreed to by the parties.

ARTICLE X - ARBITRATION

Any controversy or claim arising out of or related to this Agreement, or any breach thereof, shall be settled by binding arbitration in accordance with the Rules of the American Arbitration Association and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. If any such controversy or claim, each party shall bear its own costs and neither party shall be responsible for payment of the other's legal, technical, or other costs of arbitration or litigation.

ARTICLE XI – GOVERNMENTAL AUTHORITY

This Agreement shall be subject to all governmental and regulatory approvals required to enable either party to enter into and perform pursuant to this Agreement including but not limited to any approvals required from the Delaware Department of Natural Resources and Control. In addition, the parties agree to comply with all applicable laws, regulations and policies of the federal, state, county and local authorities in the performance of this Agreement.

ARTICLE XII – SEVERABILITY

If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

ARTICLE XIII - MISCELLANEOUS

A. This Agreement supersedes any and all previous agreements and understandings, written or oral, between the parties hereto concerning the subject matter hereof.

B. This Agreement constitutes the entire understanding of the parties with regard to the subject matter hereof, and the parties acknowledge and agree that there is no other agreement or understanding, written or oral, between the parties hereto concerning the subject matter hereof.

C. No change, modification, revision, or amendment to this Agreement shall be made or enforceable unless such change, modification, revision, or amendment is reduced to a writing duly executed by both parties hereto.

D. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, heirs, and assigns. No third party beneficiaries to this Agreement are intended.

E. Any notice required to be delivered to or by either party under this Agreement shall be sent via first class US mail. For purposes of this provision, Owner's address shall be 107 Franklin Street, Lewes BPW Administration Building, Lewes, Delaware 19958, and Contract User's address shall be 2 The Circle, P.O. Box 589, Georgetown, Delaware 19947.

IN WITNESS WHEREOF, intending to be legally bound hereby, the parties to this Agreement have hereunto set their respective hands and seals the day and year first above written.

LEWES BOARD OF PUBLIC WORKS

ATTEST:

Print Name:

BY: _____(Seal)
C. Wendell Alfred
President, Lewes BPW

Date

SUSSEX COUNTY

ATTEST:

Print Name:

BY: _____(Seal)
Michael H. Vincent
President, Sussex County Council

Approved to Form:

Assistant County Attorney

ENGINEERING DEPARTMENT

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COUNTY ENGINEER

JOSEPH WRIGHT, P.E.
ASSISTANT COUNTY ENGINEER

Memorandum

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

FROM: Hans Medlarz, P.E.
County Engineer

RE: ***SUSSEX COUNTY ADMINISTRATION OFFICE BUILDING
STAIR REPAIRS
PROJECT NO. 16-33***

DATE: September 20, 2016

A contract for repairs to two (2) sets of steps on Bedford Street and five of the eleven chimneys on the Administration Building was advertised and bids were taken on July 28, 2016. Only one bid in the amount of \$293,000 was received. The bid was considerably above the estimated amount and it was rejected at the Council meeting on August 9, 2016.

In order to address the stairs/access before the upcoming winter, the contract was re-advertised for only the stairs with bids taken on September 12, 2016. This time two (2) bids were received with the low bid in the amount of \$59,901.00. The estimate for this work was approximately \$40,000 and the cost for only the stair repairs from the original/rejected bid was \$70,000.

We recommend award to BRS Consulting in the total base bid amount of \$59,901.00.



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
sussexcountype.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOSEPH WRIGHT, P.E.
ASSISTANT COUNTY ENGINEER

ADMINISTRATIVE BUILDING STAIR REPAIRS

BID OPENING, 10:30 a.m., MONDAY, September 12, 2016

BIDDER	BASE BID
BRS Consulting, Inc. *	\$59,901.00
Kent Construction Co., Inc.	\$161,600.00

***Apparent Low Bidder**

Engineer's Estimate - \$40,000.00

Previous low bid for stairs \$70,000.00

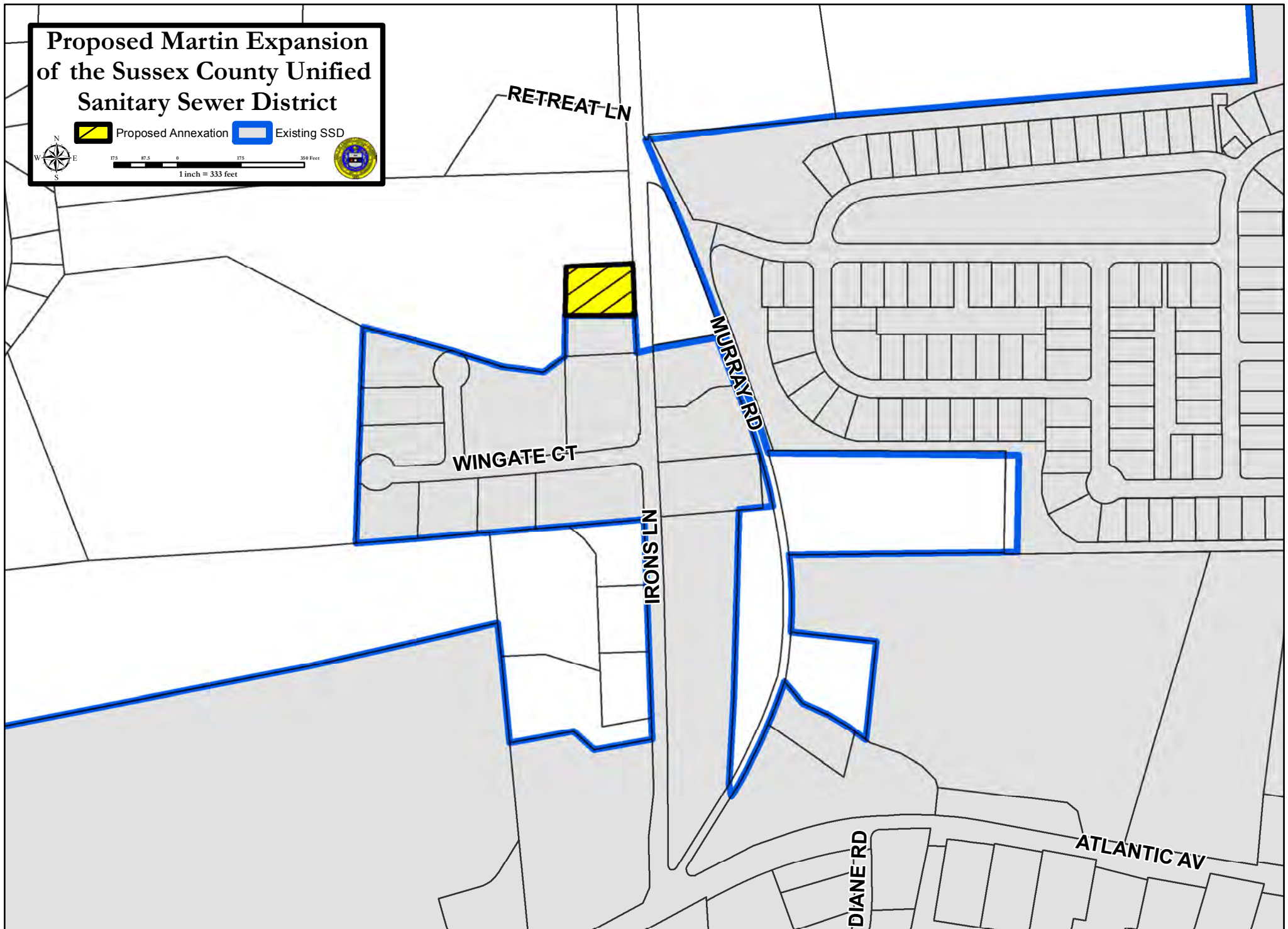
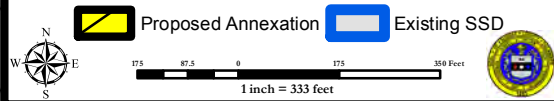


COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 589
GEORGETOWN, DELAWARE 19947

Martin Expansion Fact Sheet

- Expansion of the Sussex County Unified Sanitary Sewer District.
- The expansion was requested by the property owner of 134-11.00-164.01 Paul J. and Winifred P. Martin in the Millville Area.
- In 2013 (March) Sussex County Engineering department expanded the Millville Sanitary Sewer District as part of the Route 26, Phase III expansion.
- Notices were posted and Public Hearing held on the expansion. This resident was unaware of our project and did not request inclusion at that time.
- They have sent a letter and the appropriate funds to expand the district boundary to include their parcel. If included now we can install a lateral to the parcel when we complete the spur-line project that will complete the Phase III expansion work.
- The expansion will consist of .60± acres.
- The parcel will be responsible for System Connection Charges of \$5775 based on current rates.
- There will be a Public Hearing October 11, 2016 at the regular County Council meeting.

Proposed Martin Expansion of the Sussex County Unified Sanitary Sewer District



A public hearing to discuss the proposed boundary is scheduled October 11, 2016 at 10:15 AM, in Sussex County Council Chambersl. 2 The Circle, Georgetown, DE 19947.
For more information please visit: <https://www.sussexcountyde.gov/legal-notice/sewer-water>. Or call Sussex County Utility Planning at 302-855-1299

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
sussexcountype.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

PROPOSED MOTION

BE IT MOVED BY THE SUSSEX COUNTY COUNCIL THAT THE SUSSEX COUNTY ENGINEERING DEPARTMENT IS AUTHORIZED TO PREPARE AND POST NOTICES FOR THE MARTIN EXPANSION OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (MILLVILLE AREA) TO INCLUDE PARCEL 134-11.00-164.01 AS PRESENTED ON SEPTEMBER 20, 2016.

JOHN J. ASHMAN

FILE: NM 9.21

SEPTEMBER 20, 2016



COPY

FUQUA, YORI AND WILLARD, P.A.

ATTORNEYS AT LAW

JAMES A. FUQUA, JR.
JAMES A. YORI*
TIMOTHY G. WILLARD
TASHA MARIE STEVENS
MELISSA S. LOFLAND

26 THE CIRCLE
P.O. BOX 250
GEORGETOWN, DELAWARE 19947
PHONE 302-856-7777
FAX 302-856-2128
www.fywlaw.com

20245 BAY VISTA ROAD, UNIT 203
REHOBOTH BEACH, DE 19971
PHONE 302-227-7727
FAX 302-227-2226

*EMERITUS MEMBER
(LIMITED TO REPRESENTING CHARITABLE AND NON-
PROFIT ORGANIZATIONS WITHOUT COMPENSATION,
EXCEPT WHERE COMPENSATION IS COURT ORDERED)

September 2, 2016

Lawrence Lank
Director
Sussex County
Planning and Zoning Dept.
2 The Circle
Georgetown, DE 19947

RECEIVED

SEP 02 2016

PLANNING & ZONING
COMM. OF SUSSEX COUNTY

Re: Sussex Real Estate Partners LLC
CZ#1800 (MR/RPC)

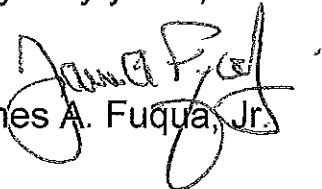
Dear Mr. Lank:

Please allow this letter to serve as a request of Sussex Real Estate Partners, LLC to withdraw its Application, CZ#1800.

Based on the comments received at the public hearings and the reasons stated by the Planning and Zoning Commission in its recommendation, the Applicant has decided to withdraw its Application for the MR/RPC rezoning and refile for a cluster subdivision utilizing the currently existing AR-1 permitted density.

Please place the request on the County Council Agenda at the next available date.

Very truly yours,


James A. Fuqua, Jr.

JAF/lgm
cc: Todd Lawson, County Administrator

OLD BUSINESS
September 20, 2016

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

Respectfully submitted:

COUNTY PLANNING AND ZONING
COMMISSION OF SUSSEX COUNTY

Lawrence B. Lank
Director of Planning and Zoning

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

C/U #2049 – Blue Claw, LLC

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

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

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

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

area for future sewer service; that when the County does provide sewer service, connection to the system is mandatory; and that a concept plan is not required at this time.

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

The Commission found that John Vancleve, the property owner, was present and stated in his presentation and in response to questions raised by the Commission that he is proposing a boat storage facility; that he owns the dwelling on the front lot and it is a rental; that access to the boat storage facility goes through the front lot; that there is no electric to the proposed storage facility; that it appears that prior to his purchase of the lot, the neighbors used the lot for disposal of broken down trailers, lawn mowers, ATVs, boats, vehicles and scrap/debris; that neighbors had used the lot for riding dirt ATVs and had built jumps; that during his cleanup of the lot he found remains of an underground irrigation system, fencing, and dozens of tomato cages; that currently the dwelling is rented and the garage is used to store his personal tools and gardening equipment, and his antique vehicle; that the small barn on the lot has been re-sided, re-roofed and secured; that the lot has been cleared, cleaned up, and is mowed regularly; that currently he stores his boat, his vehicle haul trailer for his antique vehicle, his small utility trailer; and some boats and boat trailers that belong to neighbors in Gull Point; that it should be noted that Gull Point is a marina condominium community that does not allow for the storage of trailers and/or boats; that his request is intended to allow for a parking lot for himself, his family, and friends in Gull Point; that there is no water, electricity, or sewer on the lot, therefore maintenance will not be performed on the boats; that the lot will only be used for the storage of boats, not campers or motor homes; that overnight occupancy of the boats will not be allowed; that no shrink wrapping will be performed on the site; that during the boating season most of the boats will be in their marinas and only boat trailers will be stored on the lot; that once the boating season ends the boats will be covered by their owners and then stored; that access is proposed to be limited to the existing driveway from dawn to dusk daily; that a six (6) foot high chain link fencing with barbed wire across the lot and locked gate will secure the lot to prevent invasion to and from adjoining properties by anyone not permitted to use the lot; that night vision, motion sensors, recording cameras on the garage roof will overlook the lot; that the full time renters of the dwelling will help with security; that trespassers will not be tolerated and will be prosecuted; that his neighbors have been very supportive of his efforts to clean up the site and have commented positively on the changes and improvements; that he is willing to work with the HOA of Gull Point to make any reasonable changes suggested; that the closest boat storage and repair facility is on Route 24; and that it has been suggested that he relocated the driveway to the storage lot on the opposite side of the dwelling, rather than between the dwelling and the garage.

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

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

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

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

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

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

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

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

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

- 1) The area is residential in character, which is not consistent with the use as a boat storage facility. While the location is near the water and marinas, there are other locations within the general vicinity that could be more appropriate and which will not have such an impact on the existing homes that surround this property.
- 2) The applicant acknowledges that the boat storage area needs to be secured, and has proposed a 6 foot high chain link fence topped with barbed wire. This industrial type of fencing is also inconsistent with the surrounding single family neighborhood and is inappropriate for this location.
- 3) The Gull Point Homeowners Association, which governs the development next door to the proposed storage site, has opposed the application.

- 4) There are no other approved business or commercial uses in the immediate vicinity of the proposed use.
- 5) There is not adequate access to the proposed facility from the adjacent and narrow State right-of-way. In this case, the applicant has stated that the boat storage area would be accessed through the front of the property, where a rental dwelling owned by the applicant is also located. This is not an appropriate entrance for regular vehicle and boat traffic, especially when the storage area can be accessed from dawn to dusk by anyone with a boat there.
- 6) Unlike some other small business and storage sites that have been permitted in the past, this property will not be occupied by the applicant. So, there would only be limited control over how it is used, how it is accessed, or how it is maintained. These circumstances also make it inconsistent with its location surrounded by residential homes and the Gull Point development.

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

C/Z #1796 Lockwood Design and Construction Inc.

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 35.45 acres, more or less. The property is located on the northeast side of Warrington Rd. (Rd. 275), 0.25 mile southeast of John J. Williams Hwy. (Rt. 24). (911 Address: None Available) Tax Map I.D. 334-12.00-127.02, 127.04, 127.05

C/U #2046 Lockwood Design and Construction Inc.

An Ordinance to grant a Conditional Use of land in a MR (Medium Density Residential District) for multi-family dwelling structures located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 35.45 acres, more or less. The property is located on the northeast side of Warrington Rd. (Rd. 275) 0.25 mile Southeast of John J. Williams Hwy. (Rt. 24). (911 Address: None Available). Tax Map I.D. 334-12.00-127.02, 127.04, 127.05

After receiving a request from Gene Byard, Esquire, on behalf of the applicants, it was decided that the public hearings for C/Z #1796 and C/U #2046 would be combined and heard as one public hearing to establish the record and that individual decisions would be rendered on each application after the public hearing.

Ms. Cornwell stated that staff received comments from the Sussex County Engineering Department and the property is not currently located in a sewer district; however, it could be annexed into a sewer district.

Ms. Cornwell read four (4) letters of opposition to the Applications into the record and stated that the Office of Planning and Zoning received an exhibit booklet from the Applicant for review.

The Commission found that Mr. and Mrs. Robert Hood, Pete Malmberg, Don Lockwood, and John Barwick, of Lockwood Design were present with Gene Byard, Esquire of Morris, James, Wilson, Halbrook, & Bayard, P.A. and they stated in their presentation and in response to questions raised by the Commission that this Application is a do over from CZ 1780 to allow for a HR-1 RPC, with density of five (5) units per acre; that he asks the record of that hearing be made as part of the record tonight; that the only change is the zoning classification; that CZ 1780 was recommended to be denied for excess density if the zoning was approved and the RPC classification lapsed; that when the RPC overlay lapses in HR-1 zoning the density restriction in the RPC lapses and the zoning classification of HR-1 increases the density; that in the motion to recommend denial the Commission stated that the MR zoning classification with a Conditional Use is a more appropriate application; that there are multiple commercially zoned properties in the area; that there are properties zoned MR, CR-1, HR-2, and two (2) conditional uses with significant density; that Sterling Crossing and Sea Chase both have approximately six (6) units to the acre; that to the north of the property is the Beebe Medical Center; that in the last 15 years at least 12 Change of Zone applications or Conditional Use applications have been approved in that area; that the property is entirely wooded at this time; that the proposed use will be marketed to empty-nesters and 55 and over families; that water will be provided by Tidewater Utilities and sewer will be provided by Sussex County; that any upgrades are at the developers expense; that the project has been reviewed by PLUS, TAC review, stormwater design review by Soil Conservation, Envirotech has studied the woods; that there are no wetlands or endangered species on the site; that the Applicant met the Sussex County Planning Manager's suggestions have incorporated additional sidewalks for future connection to the Beebe Medical property; that opposition was concerned about trees and traffic; that the Applicant could remove all trees and cultivate the property or have a poultry farm on the property; that the neighboring properties were also built on what was farm land; that it seems ironic that the residents of the neighboring developments feel an entitlement to preservation of the Applicant's property; that the Applicant plans to preserve as many trees as possible; that the project did not require a traffic impact study; that the Applicant will participate in the cost of intersection improvements; that DelDOT has a timeline for improvements to the intersection of Old Landing Road and Warrington Road; that the response still does not define whether a traffic light will be required; that the response does define that road improvements will begin in fiscal year 2017; that the road improvements will coincide with final site plan approval of this project and Osprey Landing if approved; that the project is consistent with the Zoning Ordinance, Comprehensive Land Use Plan, and Future Land Use Map; that the density housing mix is consistent with the Zoning Code and the neighboring developments; that residents from this project will have walking access to the neighboring CR-1 zoned property; that there will be 14 acres of impervious area; that there will be 21.2 acres of open space; that storm water management, ponds, and swales will cover approximately 60% of the property; that with the Conditional Use the Commission is able to

define the density of this project; that this project follows the residential character and development of this area; that this parcel is the last large undeveloped parcel in the area; that this property is in a Level 1 and Level 2 State growth area; and that it should be treated accordingly.

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

The Commission found that Steve Dolmack, a home owner in Sea Chase, was present and stated that he reviewed the plans; that he was surprised to find there were no changes made to the plans; that the developer has not taken into any consideration the concerns in reference to the trees and traffic from the previous application; that the existing 70 foot tall trees will be compromised within a 20 foot buffer; that once the root system is compromised the trees will have to be removed; that the existing developments were created over 20 years ago; that a lot has changed in the area over the last 20 years; that treating this application the same as 20 years ago is not realistic; that traffic is a huge concern and has greatly increased over the years; that DNREC is concerned that the applicant is not preserving enough trees; and that the additional units proposed will put added stress on the roads.

The Commission found that C.J. Bailey, a resident and property owner, was present with interest and stated that his primary concern with the plan is the entrance; that his property is directly across from the proposed entrance; that he would like to see some turn lanes proposed to better accommodate the traffic; that turn lanes would help with the flow of traffic; and that without these improvements traffic will be in his front yard.

The Commission found that Harvey Grider, a resident and property owner, was present with interest and stated that he represents the homeowners in Sterling Crossing; that he is the advocate for the Homeowner's Association; that rezoning is not a right for property owners; that rezoning should not come at the expense of others; that they are opposed to growth without proper infrastructure; that the area is so congested the nearby emergency station less than ½ mile from his property could not get there for over 25 minutes due to traffic; that during the summer this time would have been doubled; that without improvement to the existing roads this development will greatly increase traffic issues; and that there have been no changes made to the original plan.

The Commission found that Robert Caden, President of the Homeowner's Association for Sea Chase; that they are disappointed the original plan has not been changed; that the same issues exist with this plan; that there are multiple accidents in the area; that the infrastructure will not accommodate another development; and that the removal of trees is an issue.

The Commission found that Paul Berger, lives in Sea Chase, and stated that Sea Chase was the first or second development prior to the moratorium; that the recent development in the area has been haphazard; that the concept of gearing the development towards empty nesters and 55 years and older is deceiving; that in the summer months the grown children and their children visit their parents; that this influx creates more issues during the summer season; that DelDOT improvements will not be enough to accommodate all cars using the roads in the area; that the developer and bankers only take into consideration what they know; that multiple builders and bankers are used and that is how you end up with too much development; and that in this case the developer is essentially too late and should not be able to develop the property as others had,

due to the issues that already exist and the issues this development would increase; that the 20 foot buffer proposed will not accommodate the existing trees; that the trees will fall; that traffic lights are needed to allow for turns; and that the 3 story units are out of character with the neighborhood.

The Commission found that Robert Bauer, President of Board for Sea Chase Condominium Association, and stated that he agrees with the traffic issues; that other neighborhoods in the area have roads that will lead to Warrington Road; that this creates more congestion points on this road; that they previously requested another entrance be proposed for this development to access Route 24; that 3 story buildings are not in character of the area; that this type of building would be an eyesore to neighboring communities; and that a larger buffer is needed.

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

On March 24, 2016 there was a motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for C/Z #1796 for further consideration. Motion carried 5 – 0.

On March 24, 2016 there was a motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for C/U #2046 for further consideration. Motion carried 5 – 0.

On April 14, 2016 the Commission discussed both applications (Change of Zone No. 1796 and Conditional Use No. 2046 under Old Business.

In Reference to C/Z #1796

Motion by Mr. Ross stated that he would move that the Commission recommend approval of Change of Zone No. 1796 for Lockwood Design and Construction, Inc. from an AR-1 (Agricultural Residential District) to an MR (Medium-Density Residential District) based upon the record made at the public hearing and for the following reasons:

1. The property is located in an area where there are existing zonings from AR-1 to MR, some limited HR and commercial. There are also some Conditional Uses in the vicinity with densities that are compatible with MR Zoning.
2. MR Zoning is an appropriate zoning for this location under the Sussex County Comprehensive Plan.
3. The MR Zoning, which is consistent with surrounding uses and zonings, will not adversely affect the neighboring properties or community.
4. The MR Zoning will be supported by central sewer supplied by Sussex County.
5. The site is served by a central water system.
6. The rezoning to MR zoning is supported by the purpose clause of the MR District as set forth in the Sussex County Zoning Code.
7. For all of these reasons, it is my motion to approve the request to rezone this property to MR (Medium-Density Residential District).

Motion by Mr. Ross, seconded by Mr. Johnson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 4 – 0.

In reference to C/U #2046

Mr. Ross stated that he would move that the Commission recommend approval of Conditional Use No. 2046 for Lockwood Design and Construction, Inc. for multi-family dwelling structures based on the record made at the public hearing and for the following reasons:

1. The Sussex County Comprehensive Plan supports the development since the land is located in a Developing Area according to the Plan.
2. The development will be consistent with surrounding developments that include other multi-family uses.
3. The development will not adversely affect neighboring properties, roadways or communities.
4. The development will be required to comply with all DelDOT requirements, including entrance improvements and improvements to the Warrington Road and Old Landing Road intersection.
5. The multi-family development will be served by central sewer provided by Sussex County.
6. The multi-family development will be served by central water.
7. The proposed development at a density of approximately 5.7 units per acres is consistent with surrounding densities and is appropriate for this location.
8. The proposed site plan will conserve about 21.2 acres of open space, with the preservation of woodlands. All of this will be confirmed through the conditions of approval and the site plan process.
9. This recommendation is subject to the following:
 - A. There shall be no more than 202 units within the development. As proffered by the applicant, this shall include a minimum of at least 60 single family units.
 - B. The Applicant shall form a homeowners' or condominium association responsible for the perpetual maintenance of streets, roads, any buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas.
 - C. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices to provide for positive groundwater recharge.
 - D. All entrances and roadway improvements shall comply with all of DelDOT's requirements, and an area for a school bus stop shall be established. The location of the school bus stop shall be coordinated with the local school district.
 - E. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.
 - F. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.

- G. A 20 foot forested Agricultural Buffer shall be shown along the perimeter of the entire development. The Final Site Plan shall also contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer area.
- H. The project shall be served by Sussex County sewer.
- I. As proffered by the applicant, the developer shall construct the pool and community building no later than the issuance of the 75th residential building permit for the project.
- J. As proffered by the applicant, the interior street design shall comply with or exceed Sussex County minimum standards and shall include sidewalks on at least one side of all streets in the development.
- K. Construction, site work, grading and deliveries of construction material, landscaping material and fill on, off or to the property shall occur from Monday through Saturday between the hours of 8:00 a.m. and 6:00 p.m. and use Route 24 to get access to the site.
- L. The application shall consult and coordinate with the local school district's transportation manager to establish appropriate school bus stop locations.
- M. This Preliminary Approval is contingent upon the applicant submitting a revised Preliminary Site Plan either depicting or noting the conditions of this approval on it. Staff shall approve the revised Plan upon confirmation that the conditions of approval have been depicted or noted on it.
- N. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Ross, seconded by Mr. Johnson and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 4 – 0.

Introduced 05/03/16

**Council District No. 4 – Cole
Tax I.D. No. 234-34.00-298.01 & 292.00
911 Address: 30842 Downs Landing Road, Millsboro**

ORDINANCE NO. ____

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

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

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

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

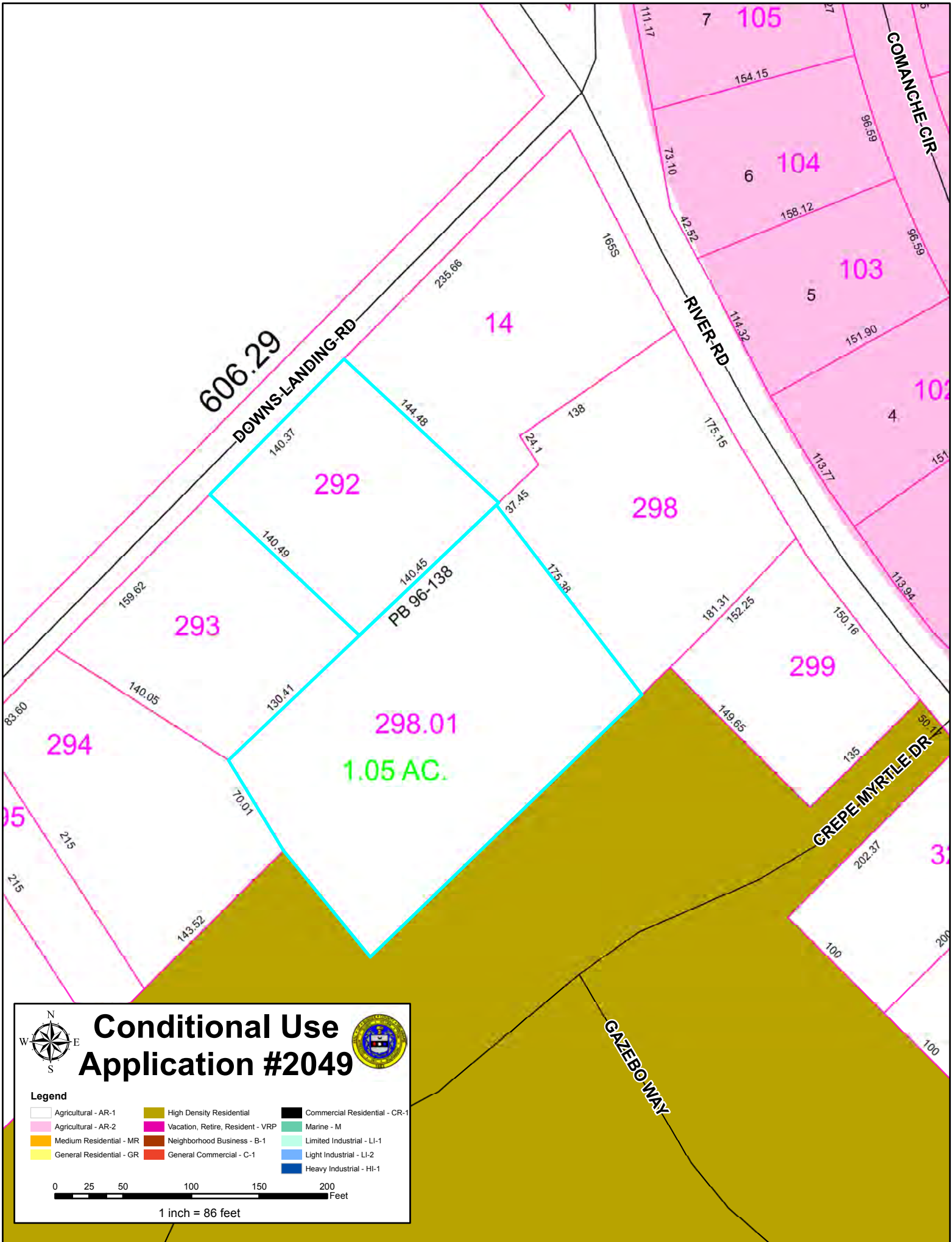
NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

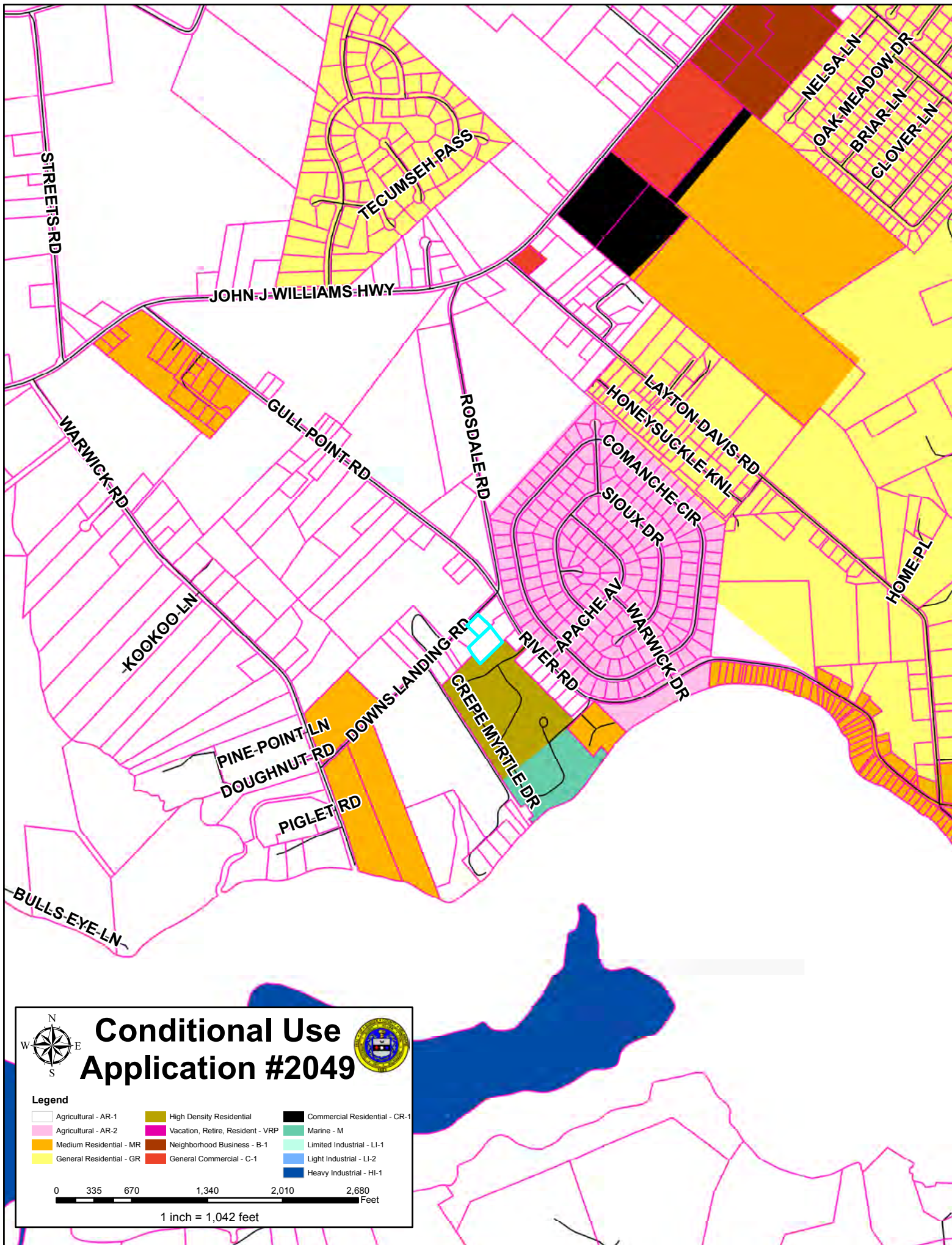
Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2049 as it applies to the property hereinafter described.



Section 2. The subject property is described as follows:

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

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







Conditional Use Application #2049

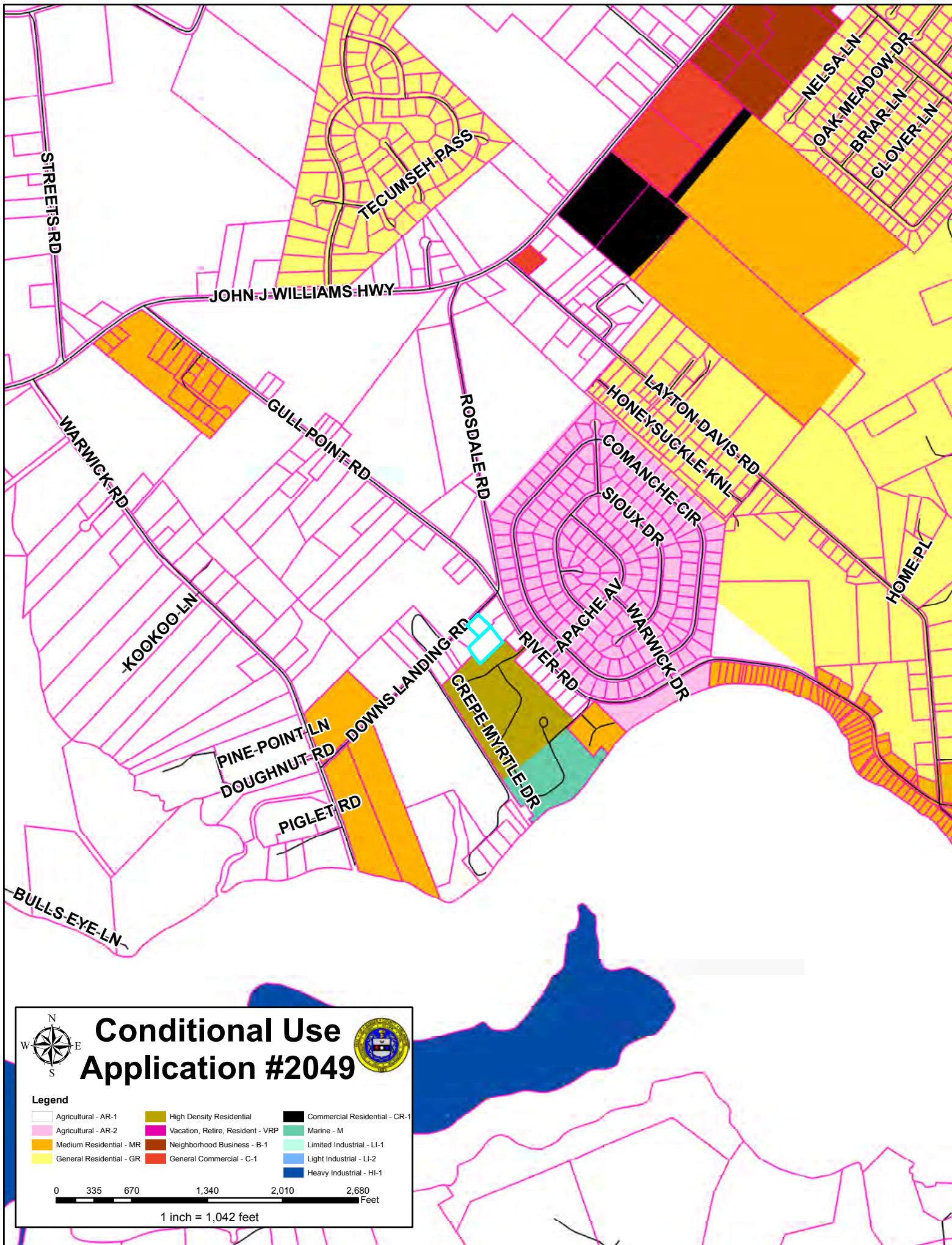
Legend

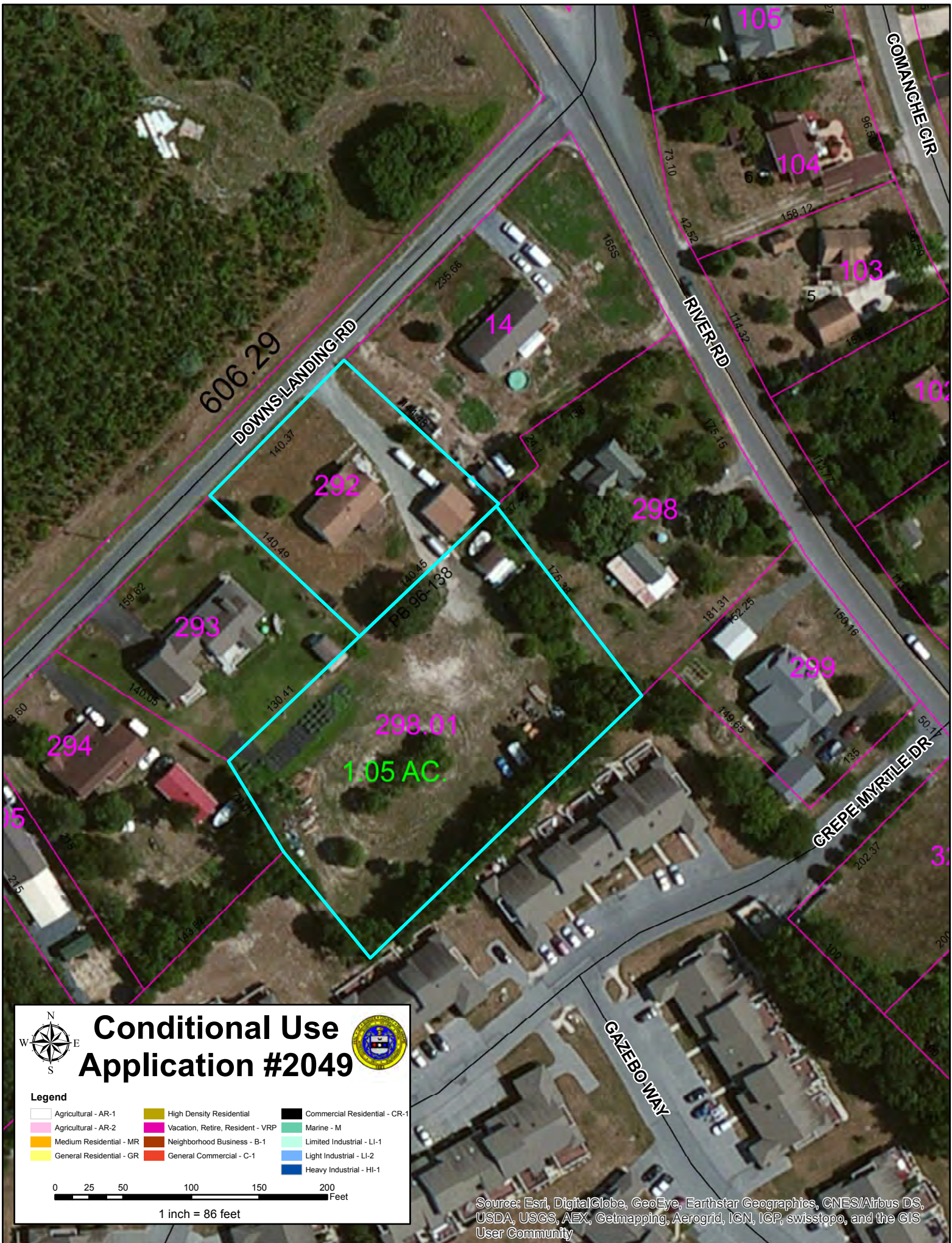
Agricultural - AR-1	High Density Residential	Commercial Residential - CR-1
Agricultural - AR-2	Vacation, Retire, Resident - VRP	Marine - M
Medium Residential - MR	Neighborhood Business - B-1	Limited Industrial - LI-1
General Residential - GR	General Commercial - C-1	Light Industrial - LI-2
		Heavy Industrial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

03356701,3402,0102,680

1 inch = 1,042 feet

Feet





Introduced 02/09/16

Council District No. 4 - Cole

Tax Map I.D. No. 334-12.00-127.02, 127.04, 127.05

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 35.45 ACRES, MORE OR LESS

WHEREAS, on the 15th day of January 2016, a zoning application, denominated Change of Zone No. 1796 was filed on behalf of Lockwood Design and Construction, Inc.; and

WHEREAS, on the ____ day of _____ 2016, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1796 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX COUNTY ORDAINS:

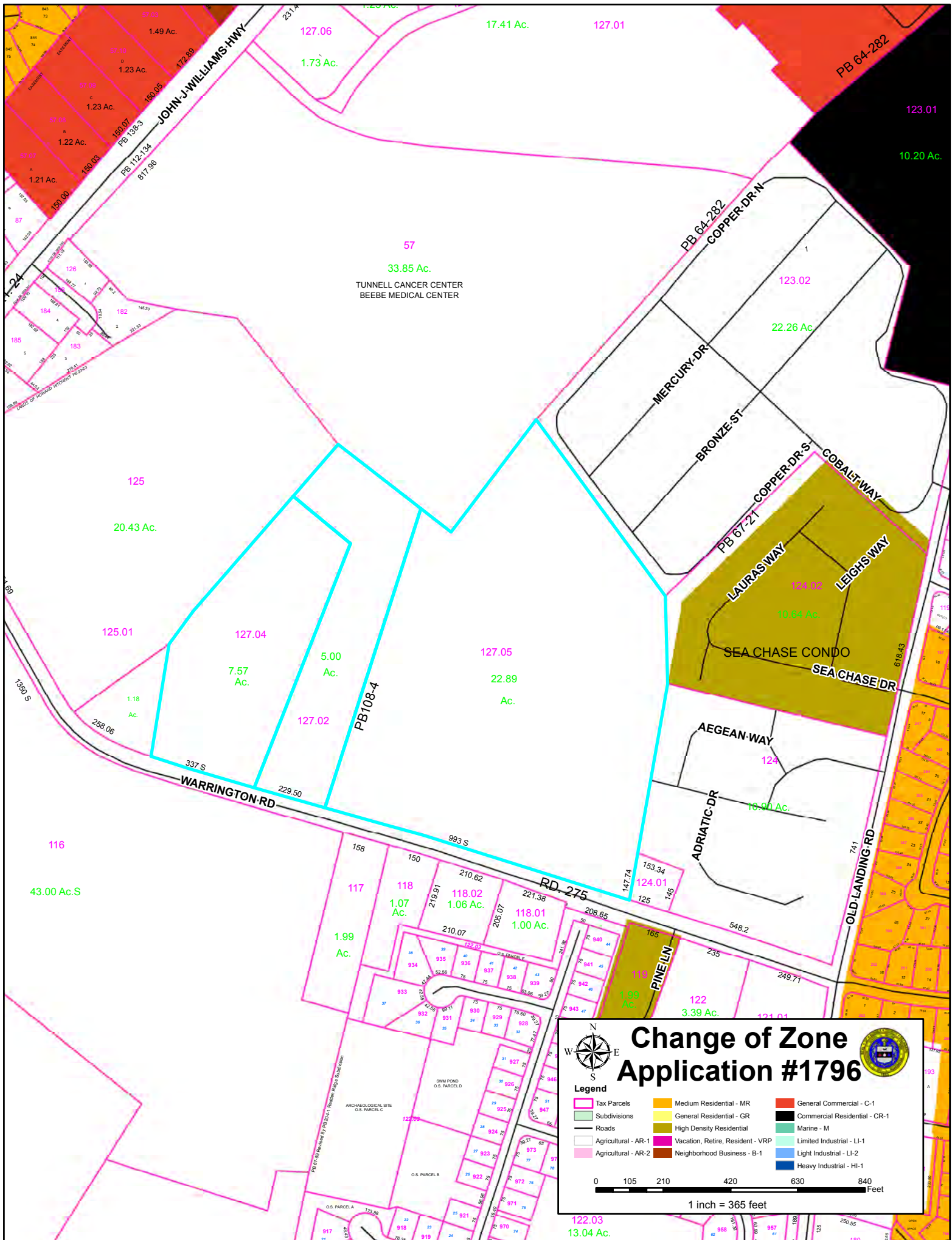
Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District] and adding in lieu thereof the designation of MR Medium Density Residential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

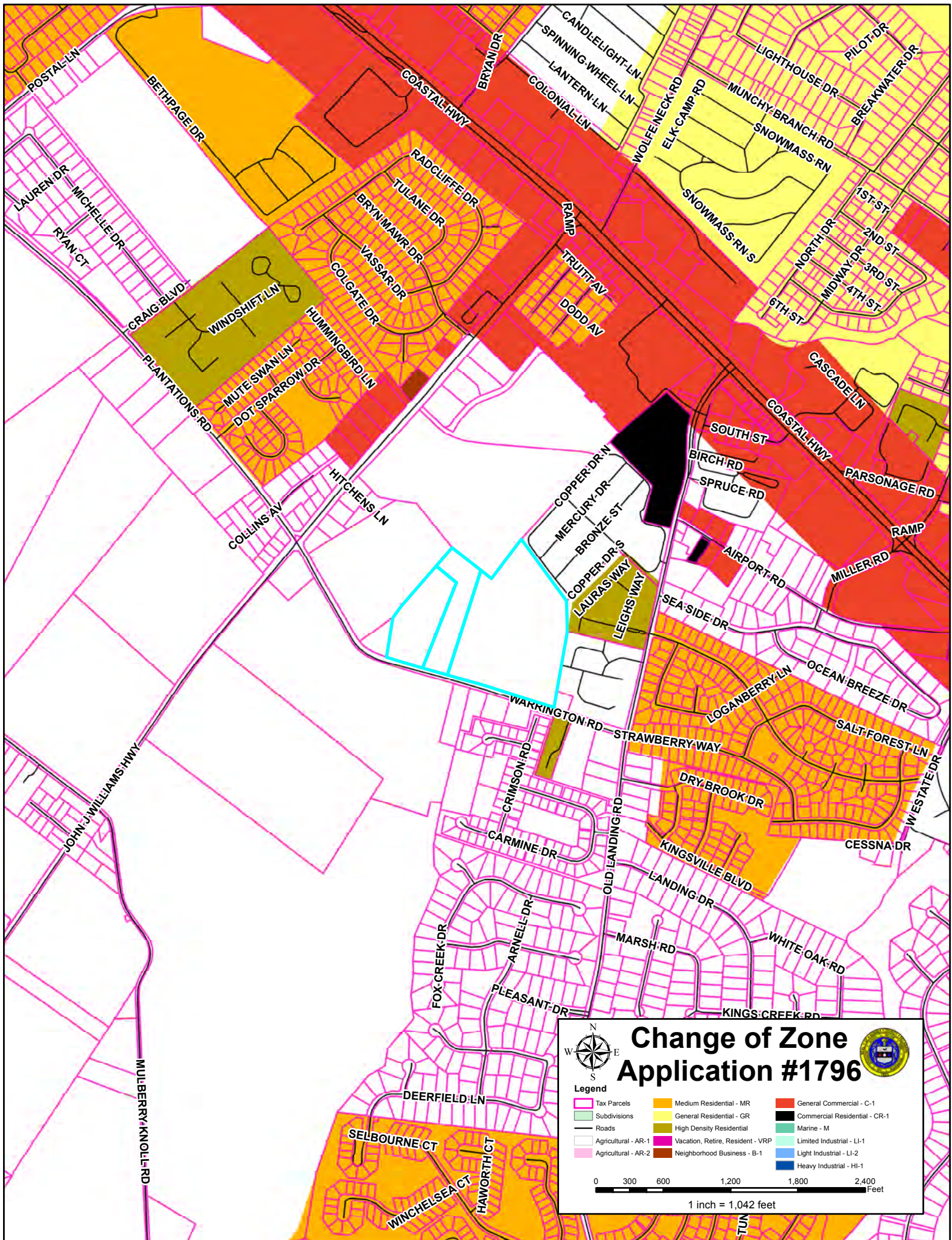
Section 2. The subject property is described as follows:

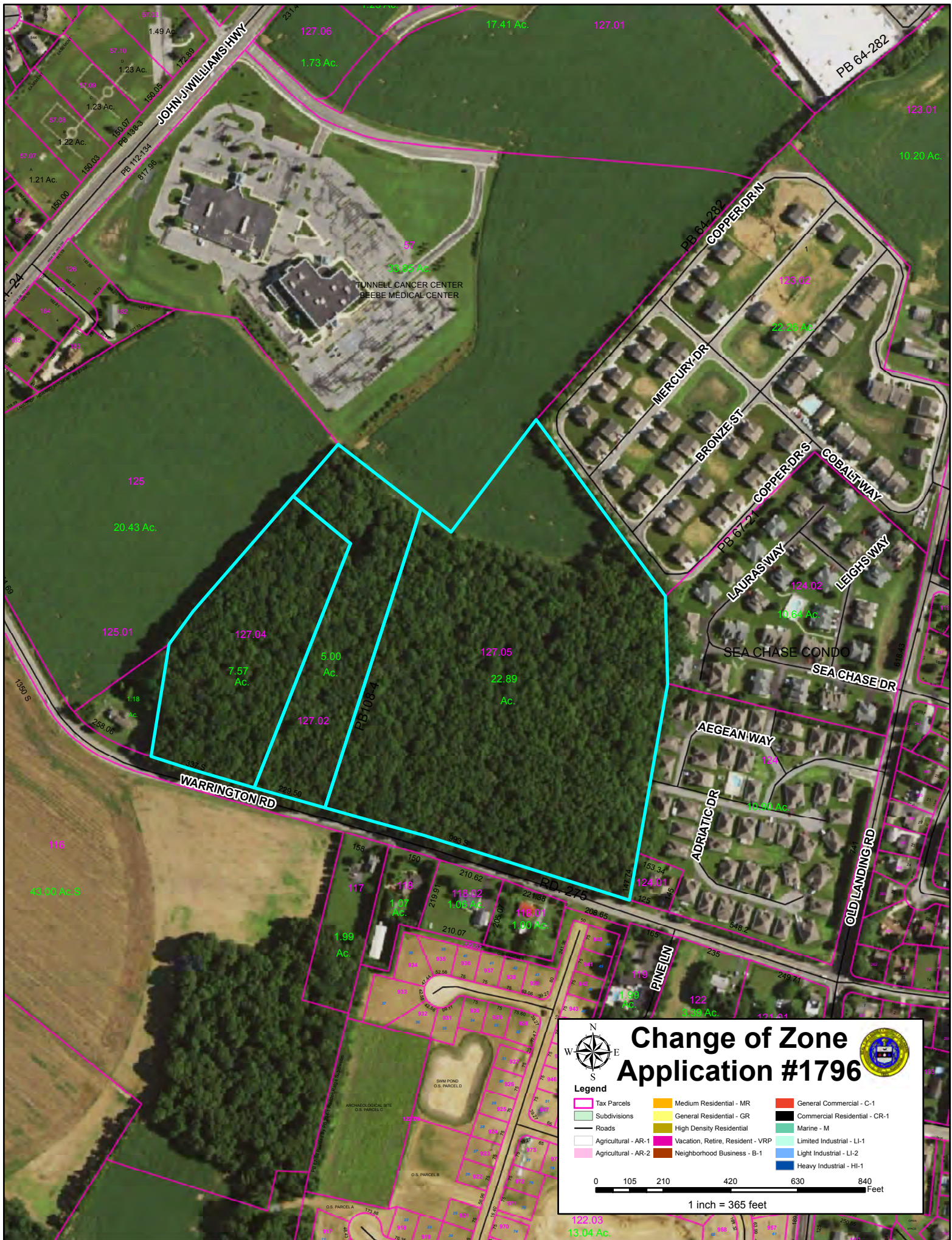
All that certain tract, piece or parcel of land lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the northeast side of Warrington Road (Road 275), 0.25 mile southeast of John J. Williams Highway (Route 24), and being more particularly described as follows:



BEGINNING at a point on the northerly side of Warrington Road (Road 275), said point being 0.25 mile southeast of John J. Williams Highway (Route 24) and east of lands of the City of Rehoboth; thence north 09°33'10" east 404.05 feet along lands of the City of Rehoboth to a concrete monument; thence north 42°06'04" east 774.63 feet along lands of Beebe Medical Center, Inc., to a concrete monument; thence continuing along lands of Beebe Medical Center, Inc., south 53°09'06" east 305.54 feet to an iron pipe and north 40°57'30" east 439.29 feet to an iron pipe; thence south 37°40'32" east 682.80 feet along lands, now or formerly, of Old Landing Road, Inc., to a concrete monument; thence south 08°27'51" west 960.53 feet along lands, now or formerly, of Robino Sea Chase, LLC, and Colleen A. Lowe to an iron pipe on the northerly side of Warrington Road; thence northwesterly by and along the northerly side of Warrington Road 1,491.05 feet to the point and place of beginning, said parcels containing 35.45 acres, more or less.

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









Change of Zone Application #1796

Legend

- Tax Parcels
- Subdivisions
- Roads
- Agricultural - AR-1
- Agricultural - AR-2

- Medium Residential - MR
- General Residential - GR
- High Density Residential
- Vacation, Retire, Resident - VRP
- Neighborhood Business - B-1

- General Commercial - C-1
- Commercial Residential - CR-1
- Marine - M
- Limited Industrial - LI-1
- Light Industrial - LI-2
- Heavy Industrial - HI-1

0105210420630840

Feet

1 inch = 365 feet

Introduced 02/09/16

Council District No. 4 – Cole

Tax I.D. No. 334-12.00-127.02, 127.04, 127.05

911 Address: None Available

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 35.45 ACRES, MORE OR LESS

WHEREAS, on the 15th day of January 2016, a conditional use application, denominated Conditional Use No. 2046 was filed on behalf of Lockwood Design and Construction, Inc.; and

WHEREAS, on the ____ day of _____ 2016, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2046 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article V, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2046 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

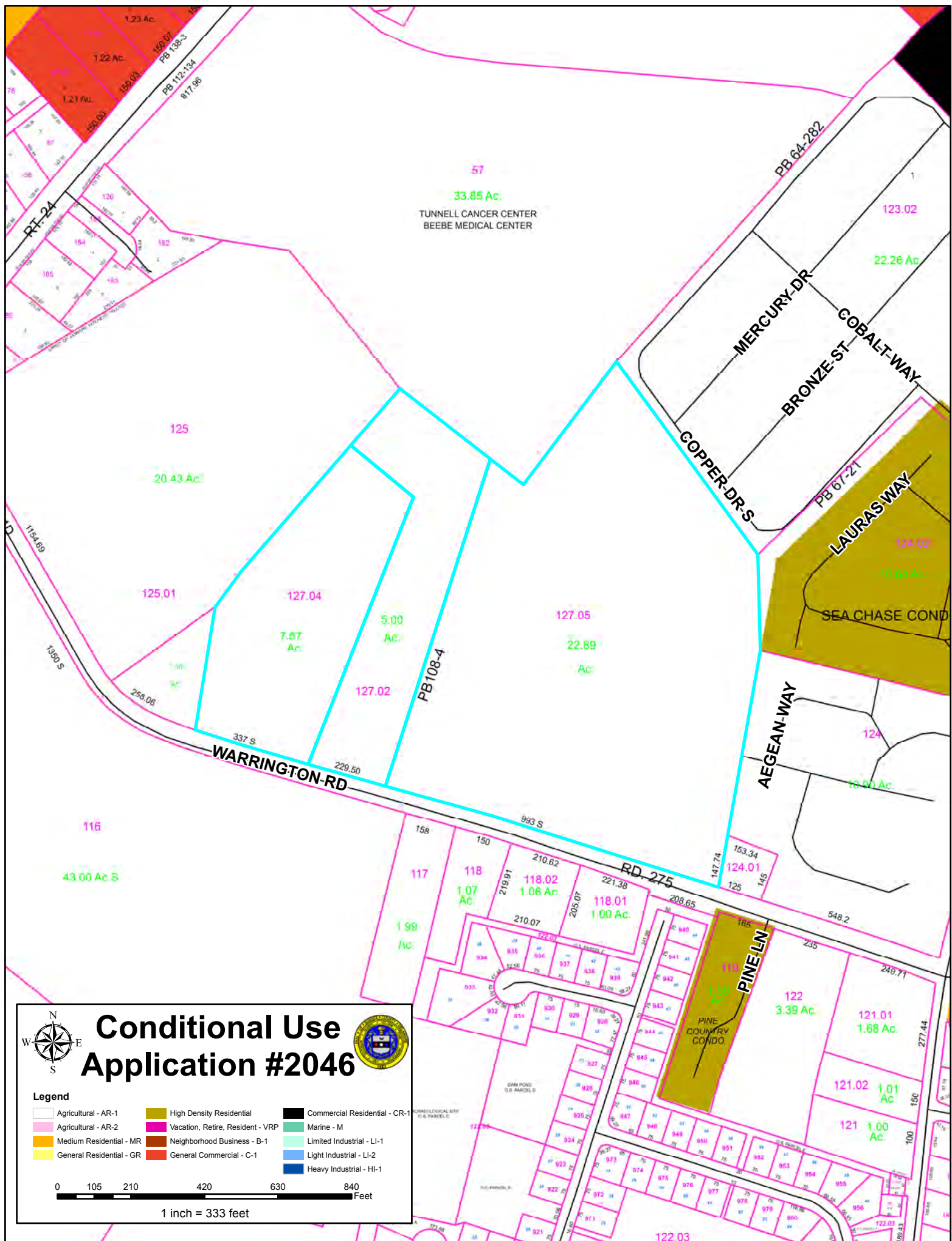
ALL that certain tract, piece or parcel of land, lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the northeast side of Warrington Road (Road 275) 0.25 mile southeast of John J. Williams Highway (Route 24) and being more particularly described as follows:

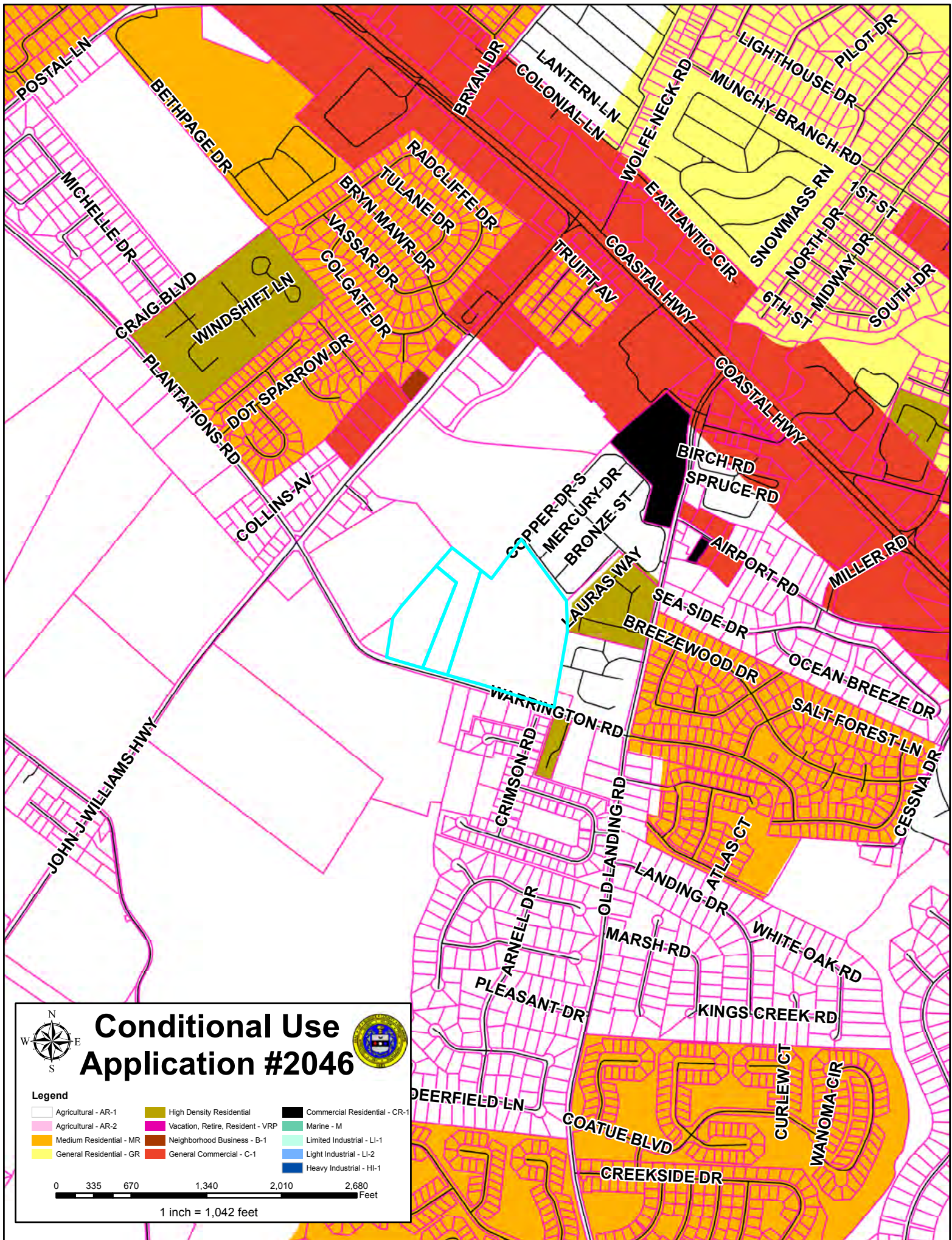
BEGINNING at a point on the northerly side of Warrington Road (Road 275), said point being 0.25 mile southeast of John J. Williams Highway (Route 24) and east of lands of the City of Rehoboth; thence north 09°33'10" east 404.05 feet along lands of the City of Rehoboth to a concrete monument; thence north 42°06'04" east 774.63 feet along lands of Beebe Medical Center, Inc., to a concrete monument; thence continuing along lands of Beebe

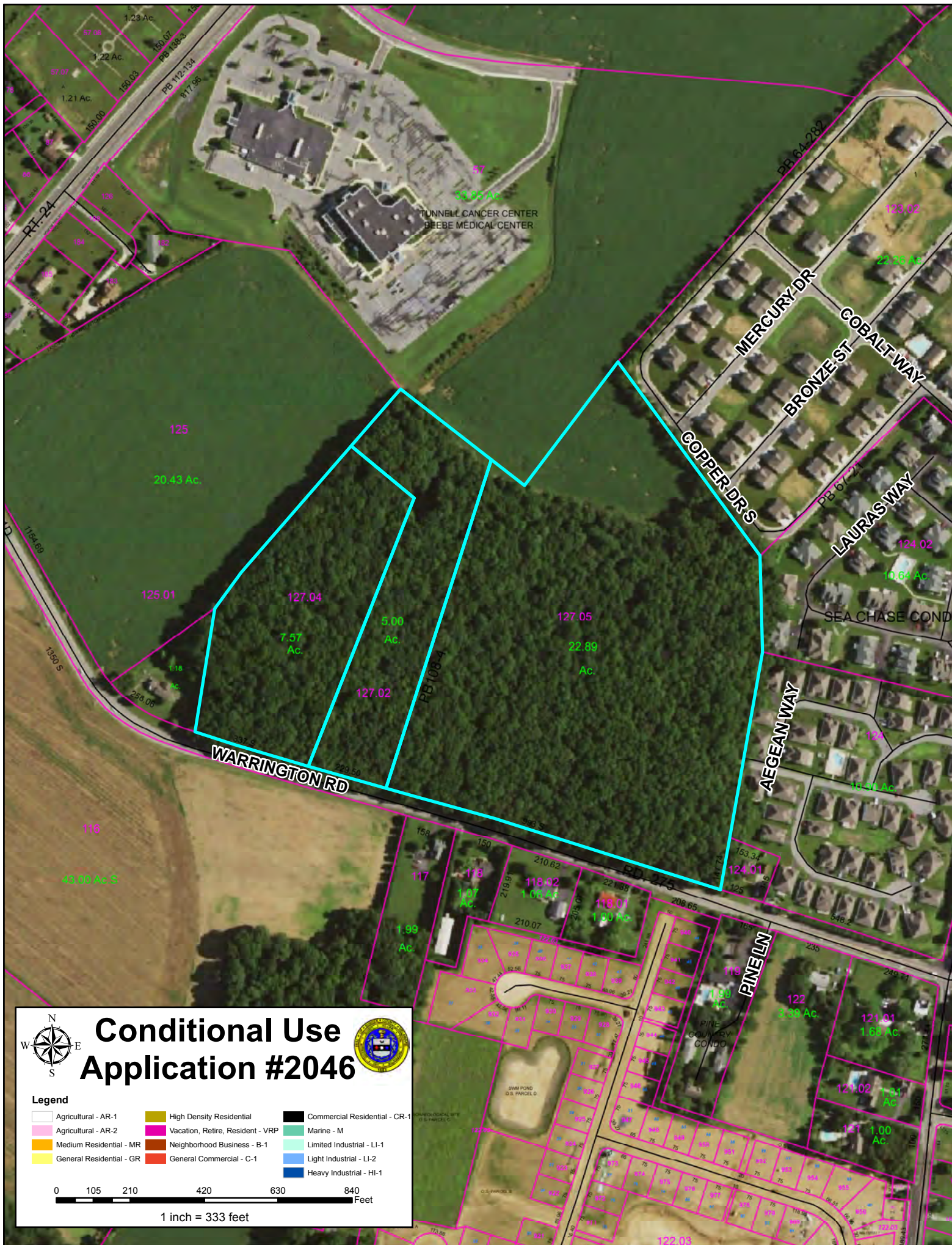
Medical Center, Inc., south 53°09'06" east 305.54 feet to an iron pipe and north 40°57'30" east 439.29 feet to an iron pipe; thence south 37°40'32" east 682.80 feet along lands, now or formerly, of Old Landing Road, Inc., to a concrete monument; thence south 08°27'51" west 960.53 feet along lands, now or formerly, of Robino Sea Chase, LLC, and Colleen A. Lowe to an iron pipe on the northerly side of Warrington Road; thence northwesterly by and along the northerly side of Warrington Road 1,491.05 feet to the point and place of beginning, said parcels containing 35.45 acres, more or less.



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

Proposed









Conditional Use Application #2046

Legend

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

0 105 210 420 630 840 Feet

1 inch = 333 feet



SUSSEX COUNTY GOVERNMENT

GRANT APPLICATION

SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: Millsboro Historical Society

PROJECT NAME: Godwin School - Historical Landmark

FEDERAL TAX ID: 51-0313038 NON-PROFIT: ☒ YES ☐ NO

DOES YOUR ORGANIZATION OR ITS PARENT ORGANIZATION HAVE A RELIGIOUS AFFILIATION?

☐ YES ☒ NO *IF YES, FILL OUT SECTION 3B.

ORGANIZATION'S MISSION: To continue needed upkeep of Godwin's School on a yearly basis

ADDRESS: 28499 Conway Rd

Beargetown DE 19947
(CITY) (STATE) (ZIP)

CONTACT PERSON: Margaret Mitchell

TITLE: President

PHONE: 302-934-6820 EMAIL: 54maggie@schsi.com

TOTAL FUNDING REQUEST: _____

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

☒ YES ☐ NO \$5000.00 2015

If YES, how much was received in the last 12 months? None

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

☐ YES ☒ NO

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

SECTION 2: PROGRAM DESCRIPTION

PROGRAM CATEGORY (choose all that apply)

- | | | |
|--|--|---|
| <input type="checkbox"/> Fair Housing | <input type="checkbox"/> Health and Human Services | <input checked="" type="checkbox"/> Cultural |
| <input type="checkbox"/> Infrastructure ¹ | <input type="checkbox"/> Other _____ | <input checked="" type="checkbox"/> Educational |

BENEFICIARY CATEGORY

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

BENEFICIARY NUMBER

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

Sussex County / other Counties

SECTION 3: PROGRAM SCOPE

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

The Godwin School located on Route 20 is requesting a state grant to help with the yearly expenses of the school.

Our school is a historic landmark and is a source of pride for the Millsboro and Georgetown communities as well as tourist that visit Delaware. We also enjoy and encourage schools to share the knowledge of one-room schools of yesteryears.

This grant money will be used for necessary maintenance such as painting, shingle and shutter replacement, as well as power washing. In addition, this money will contribute to Open House projects and other needed expenses deemed important to the Godwin Committee.

We appreciate your consideration of our request and if accepted can be forwarded to:

Margaret Mitchell, President
28499 Conaway Road
Georgetown, DE 19947

This grant money will then be turned over to William Pusey, a certified public accountant, and the treasurer of the Godwin School finances.

- B. IF RELIGIOUS AFFILIATION WAS CONFIRMED ABOVE IN SECTION 1, PLEASE FILL OUT THE FOLLOWING SECTION. IF RELIGIOUS AFFILIATION WAS NOT CHECKED IN SECTION 1, THIS SECTION MAY BE LEFT BLANK.

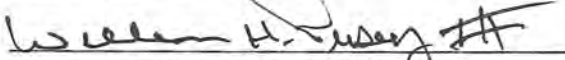
A faith-based nonprofit organization is eligible to receive and apply for a grant on the same basis as other nonprofit organizations, with respect to programs which are eligible. In the selection of grantees, the County will not discriminate for or against an organization on the basis of the organization's religious characterization or affiliation. However, certain requests to utilize funding for programs with religious purposes may not be eligible due to constitutional principles of the United States and/or the State of Delaware.

Briefly describe the components of the program that involve religious purposes and the components that involve secular purposes, or non-religious purposes. If both non-religious and religious purposes are involved in the program, this narrative must include the specific actions that will be implemented in order to ensure that the funding is solely used for non-religious purposes and will not be used to advance or inhibit religious or faith-based activities.

If your organization has a religious affiliation, please submit proof with this application that there is separate accounting for non-religious activities. After the awarded funds have been made, receipts of the non-religious purchases shall be submitted in accordance with Section 5 below before funds will be disbursed

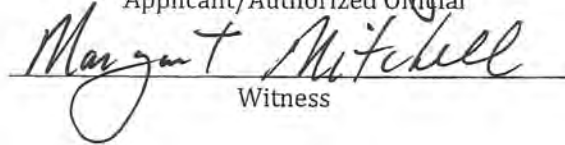
SECTION 5: STATEMENT OF ASSURANCES (continued)

- 4) All information and statements in this application are accurate and complete to the best of my information and belief.
- 5) All funding will benefit only Sussex County residents.
- 6) All documents submitted by the applicant are defined as public documents and available for review under the Freedom of Information Act of the State of Delaware.
- 7) All funding will be used exclusively for secular purposes, i.e., non-religious purposes and shall not be used to advance or inhibit religious purposes.
- 8) **In the event that the awarded funding is used in violation of the requirements of this grant, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.**



Applicant/Authorized Official

Date 8/25/16



Witness

Date 8/25/16

SECTION 4: BUDGET

REVENUE	
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	
TOTAL REVENUES	5000.00
EXPENDITURES	
Please enter the total projected budget for the project (not entire organization expense if not applicable to request). Example of expenditure items: PERSONNEL-one lump sum that would include benefits, OPERATING COSTS-supplies, equipment, rent/lease, insurance, printing telephone, CONSTRUCTION/ACQUISITION-acquisition, development, rehab hard cost, physical inspections, architectural engineering, permits and fees, insurance, appraisal. (Put amounts in as a negative)	
fees and license	- 500.00
Painting	- 1950.00
electric	- 530.00
yard maintenance	- 600.00
pest control	- 866.00
office expenses	- 54.00
general maintenance	- 1000.00
TOTAL EXPENDITURES	5000.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	- 0.00

SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the Melbourn Historical Society agrees that:
(Name of Organization)

- 1) For non-religious organizations, all expenditures must have adequate documentation and must be expended within one (1) year of receipt of award funds. The funding awarded to the organization must be used in substantial conformity with the anticipated expenditures set forth in the submitted application. All accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.
- 2) For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before the funding is released.
- 3) No person, on the basis of race, color, or national origin, should be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination under the program or activity funded in whole or in part by these Grant funds.

887

SUSSEX COUNTY COUNCIL NON-PROFIT GRANT PROGRAM
GUIDELINES FOR SUBMITTAL AND AFFIDAVIT OF UNDERSTANDING

The Sussex County Council makes available a limited amount of funding to non-profit organizations that serve the citizens of Sussex County. Each application for funding shall be evaluated by Sussex County administrative staff and shall be subject to final approval from Sussex County Council.

In the attached application, each organization must outline its intended uses for the awarded funding and provide a detailed breakdown of the expenses and costs for such uses. Any funding awarded to the organization must be used in substantial conformity with anticipated expenditures of the submitted application.

All expenditures must have adequate documentation and must be expended within one (1) year of award of funds.

For non-religious organizations, all accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.

For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before funding is released. Grant is relinquished if supporting documentation is not provided within one year of County Council award.

Certain programs are not eligible for funding pursuant to United States Constitution and State of Delaware Constitution. Those constitutional principles prohibit the use of funding to advance or inhibit religious activities. By signing below, the organization acknowledges that the funding shall be used exclusively for secular purposes, i.e., non-religious purposes and shall not be used to advance or inhibit religious activities.

In the event that such funding is used in violation of the requirements and assurances contained in this grant application, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.

I acknowledge and represent on behalf of the applicant organization that I have read and understand the above statements.

Margaret Mitchell
Applicant/Authorized Official

Wm H. May Jr.
Witness

President-Millersboro Historical Society
Title

8/20/16
Date



SUSSEX COUNTY GOVERNMENT

GRANT APPLICATION

SECTION 1: APPLICANT INFORMATION

ORGANIZATION NAME: DELAWARE NANTICOKE ROTARY FOUNDATION, INC.

PROJECT NAME: TENNIS COURT ENHANCEMENT

FEDERAL TAX ID: 41-1595999 NON-PROFIT: ☒ YES ☐ NO

DOES YOUR ORGANIZATION OR ITS PARENT ORGANIZATION HAVE A RELIGIOUS AFFILIATION?

☐ YES ☒ NO *IF YES, FILL OUT SECTION 3B.

ORGANIZATION'S MISSION: THE DELAWARE NANTICOKE ROTARY FOUNDATION, INC. WILL CONTINUOUSLY STRIVE TO BE AWARE OF THE NEEDS OF OUR NEIGHBORS, OUR YOUTH, AND OUR COMMUNITY. WE WILL, TO THE BEST OF OUR ABILITY AND TO THE EXTENT OUR RESOURCES ALLOW, STRIVE TO HELP THOSE IN NEED AND RAISE THEIR HOPES FOR THE FUTURE. WE WILL STRIVE TO EXEMPLIFY THE HIGH IDEALS AND STANDARDS OF ROTARY INTERNATIONAL.

ADDRESS: PO BOX 1257

SEAFORD DE 19973
(CITY) (STATE) (ZIP)

CONTACT PERSON: CHIP LANK
TITLE: TREASURER

PHONE: 302-629-9543 EMAIL: CHIP@DELAWARECPAS.ORG

TOTAL FUNDING REQUEST: \$2,000

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

☐ YES ☒ NO

If YES, how much was received in the last 12 months? _____

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

☒ YES ☐ NO

If YES, approximately what percentage of the project's funding does the Council grant represent? 3%

SECTION 2: PROGRAM DESCRIPTION

PROGRAM CATEGORY (choose all that apply)

- ☐ Fair Housing
☐ Infrastructure¹

- ☐ Health and Human Services
☒ Other RECREATION

- ☐ Cultural
☐ Educational

BENEFICIARY CATEGORY

- ☐ Disability & Special Needs
☒ Elderly Persons
☒ Minority

- ☐ Victims of Domestic Violence
☐ Low to Moderate Income²
☐ Other

- ☐ Homeless
☒ Youth

BENEFICIARY NUMBER

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

750

SECTION 3: PROGRAM SCOPE

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

REFURBISH TENNIS COURTS AT SEAFORD HIGH SCHOOL INCLUDING LIGHTING, HITTING WALL, NEW EQUIPMENT SHED & SIGNAGE TO BENEFIT THE SEAFORD HIGH SCHOOL TENNIS TEAM AND THE GENERAL PUBLIC. TWO OF THE 10 COURTS ARE LINED FOR PICKLEBALL.

- B. IF RELIGIOUS AFFILIATION WAS CONFIRMED ABOVE IN SECTION 1, PLEASE FILL OUT THE FOLLOWING SECTION. IF RELIGIOUS AFFILIATION WAS NOT CHECKED IN SECTION 1, THIS SECTION MAY BE LEFT BLANK.

A faith-based nonprofit organization is eligible to receive and apply for a grant on the same basis as other nonprofit organizations, with respect to programs which are eligible. In the selection of grantees, the County will not discriminate for or against an organization on the basis of the organization's religious characterization or affiliation. However, certain requests to utilize funding for programs with religious purposes may not be eligible due to constitutional principles of the United States and/or the State of Delaware.

Briefly describe the components of the program that involve religious purposes and the components that involve secular purposes, or non-religious purposes. If both non-religious and religious purposes are involved in the program, this narrative must include the specific actions that will be implemented in order to ensure that the funding is solely used for non-religious purposes and will not be used to advance or inhibit religious or faith-based activities.

If your organization has a religious affiliation, please submit proof with this application that there is separate accounting for non-religious activities. After the awarded funds have been made, receipts of the non-religious purchases shall be submitted in accordance with Section 5 below before funds will be disbursed

SECTION 4: BUDGET

REVENUE	
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	
TOTAL REVENUES	53,600.00
EXPENDITURES	
Please enter the total projected budget for the project (not entire organization expense if not applicable to request). Example of expenditure items: PERSONNEL-one lump sum that would include benefits, OPERATING COSTS-supplies, equipment, rent/lease, insurance, printing telephone, CONSTRUCTION/ACQUISITION-acquisition, development, rehab hard cost, physical inspections, architectural engineering, permits and fees, insurance, appraisal. (Put amounts in as a negative)	
COURT REPAIRS	-\$ 48,000.00
HITTING WALL REPAIRS	-\$ 3,000.00
LIGHTING IMPROVEMENT	-\$ 7,000.00
NEW SHED FOR EQUIPMENT	-\$ 2,600.00
SIGNAGE	-\$ 1,000.00
CONTINGENCY	-\$ 1,400.00
TOTAL EXPENDITURES	\$ 43,000.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	\$ 9,400.00

SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the DELAWARE NANTICOKE ROTARY FOUNDATION, INC. agrees that:
(Name of Organization)

- 1) For non-religious organizations, all expenditures must have adequate documentation and must be expended within one (1) year of receipt of award funds. The funding awarded to the organization must be used in substantial conformity with the anticipated expenditures set forth in the submitted application. All accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.
- 2) For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before the funding is released.
- 3) No person, on the basis of race, color, or national origin, should be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination under the program or activity funded in whole or in part by these Grant funds.

SECTION 5: STATEMENT OF ASSURANCES (continued)

- 4) All information and statements in this application are accurate and complete to the best of my information and belief.
- 5) All funding will benefit only Sussex County residents.
- 6) All documents submitted by the applicant are defined as public documents and available for review under the Freedom of Information Act of the State of Delaware.
- 7) All funding will be used exclusively for secular purposes, i.e., non-religious purposes and shall not be used to advance or inhibit religious purposes.
- 8) **In the event that the awarded funding is used in violation of the requirements of this grant, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.**



Applicant/Authorized Official

9/9/2016

Date



Witness

9/9/2016

Date

SUSSEX COUNTY COUNCIL NON-PROFIT GRANT PROGRAM
GUIDELINES FOR SUBMITTAL AND AFFIDAVIT OF UNDERSTANDING

The Sussex County Council makes available a limited amount of funding to non-profit organizations that serve the citizens of Sussex County. Each application for funding shall be evaluated by Sussex County administrative staff and shall be subject to final approval from Sussex County Council.

In the attached application, each organization must outline its intended uses for the awarded funding and provide a detailed breakdown of the expenses and costs for such uses. Any funding awarded to the organization must be used in substantial conformity with anticipated expenditures of the submitted application.

All expenditures must have adequate documentation and must be expended within one (1) year of award of funds.

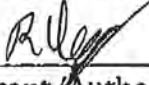
For non-religious organizations, all accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.

For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before funding is released. Grant is relinquished if supporting documentation is not provided within one year of County Council award.

Certain programs are not eligible for funding pursuant to United States Constitution and State of Delaware Constitution. Those constitutional principles prohibit the use of funding to advance or inhibit religious activities. By signing below, the organization acknowledges that the funding shall be used exclusively for secular purposes, i.e., non-religious purposes and shall not be used to advance or inhibit religious activities.

In the event that such funding is used in violation of the requirements and assurances contained in this grant application, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.

I acknowledge and represent on behalf of the applicant organization that I have read and understand the above statements.



Applicant/Authorized Official



Witness

TREASURER

Title

9/9/16

Date

To Be Introduced 09/20/16

Council District No. 5 - Arlett

Tax Map I.D. No. 533-19.00-753.00

911 Address: 38016 Fenwick Shoals Blvd., Selbyville, DE

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A B-1 NEIGHBORHOOD BUSINESS DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.22 ACRES, MORE OR LESS

WHEREAS, on the 10th day of August 2016, a zoning application, denominated Change of Zone No. 1810 was filed on behalf of Keith Properties, Inc.; and

WHEREAS, on the ____ day of _____ 2016, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1810 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX 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 [B-1 Neighborhood Business 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 Baltimore Hundred, Sussex County, Delaware, and lying at the southwest corner of Lighthouse Road (Route 54) and Fenwick Shoals Boulevard and being more particularly described in Plot Book 200, Page 36, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 1.22 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 09/20/16

Council District No. 5 – Arlett

Tax I.D. No. 533-17.00-160.00

911 Address: 37268 Hudson Road, Selbyville, DE 19975

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A HEAVY EQUIPMENT STORAGE, TRUCKING AND CONSTRUCTION BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.983 ACRES, MORE OR LESS

WHEREAS, on the 20th day of May 2016, a conditional use application, denominated Conditional Use No. 2060 was filed on behalf of Shelby Trucking and Construction Company, Inc.; and

WHEREAS, on the ____ day of _____ 2016, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the ____ of _____ 2016, said Planning and Zoning Commission recommended that Conditional Use No. 2060 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2060 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 Baltimore Hundred, Sussex County, Delaware, and lying northwest of Hudson Road (Road 387) 2,100 feet south of Lynch Road (Road 387A) and being more particularly described as follows:

BEGINNING at a concrete monument on the northwesterly right-of-way of Hudson Road (Road 387) a corner for these lands and lands, now or formerly, of Stephen L. and Shelia D. Long; thence South 25°20'27" West 371.17 feet along the northwesterly right-of-way of Hudson Road to a point; thence North 56°28'01" West 941.46 feet along lands of Robert T. Gray, Jr. and Lisa L. Gray to a point in the centerline of a ditch; thence easterly 357.58 feet along the centerline of said ditch to a point at the centerline of a crossing ditch; thence southeasterly 794.90 feet along the centerline of the ditch and previously referenced lands of Stephen L. and Shelia D. Long to the point and place of beginning, and containing 6.983 acres, more or less, per survey, provided by True North Land Surveying.

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 09/20/16

Council District No. 3 – Deaver

Tax I.D. No. 235-25.00-27.03

911 Address: 17292 Shingle Point Road, Milton, DE

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.0 ACRES, MORE OR LESS

WHEREAS, on the 29th day of July 2016, a conditional use application, denominated Conditional Use No. 2061 was filed on behalf of Kenneth A. Hughes; and

WHEREAS, on the ____ day of _____ 2016, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the ____ of _____ 2016, said Planning and Zoning Commission recommended that Conditional Use No. 2061 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2061 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying northwest of Shingle Point Road (Road 249) 2,400 feet north of Gravel Hill Road (Route 30) and being more particularly described as Lot Number 1 in Plot Book 86, Page 268, as recorded in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 3.0 acres, more or less.

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

PUBLIC HEARING
September 20, 2016

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

Respectfully submitted:

COUNTY PLANNING AND ZONING
COMMISSION OF SUSSEX COUNTY

Lawrence B. Lank
Director of Planning and Zoning

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

PUBLIC HEARINGS

C/U #2053 – Red Dog Plumbing and Heating, c/o Ken Wood
An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for an HVAC business located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.10 acres, more or less. The property is located at the northwest of Roxana Road (Route 17) across from Smith Avenue and 400 feet northeast of Smithfield Acres Road (Road 52B). 911 Address: 37058 Roxana Road, Selbyville. Tax Map I.D. 533-10.00-14.00.

Mr. Lank advised the Commission that this application was filed on May 10, 2016 with surveys.

The Commission found that DelDOT provided a Support Facilities Report on March 31, 2016 which references that a traffic impact study is not recommended, and that the Level of Service “C” of Roxana Road will not change as a result of this application.

The Commission found that the Sussex Conservation District provided comments on August 10, 2016 which reference that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after construction; that no storm flood hazard areas are affected; that off-site drainage improvements should not be necessary; that it may not be necessary for on-site drainage improvements; and that no tax ditches are affected.

The Commission found that the Sussex County Engineering Department Utility Planning Division provided comments on August 5, 2016 which reference that the site is not located in a proposed or current County operated and maintained sanitary sewer district; that the site is located in a Town of Selbyville Growth or Annexation Area; that an on-site septic system is proposed; that the project is not capable of being annexed into a County operated sanitary sewer district; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer service; and that a concept plan is not required.

The Commission found that Ms. Cornwell provided a staff analysis of the application and advises that based on the land use, surrounding zoning and uses the Conditional Use application requested could be considered consistent with the land use, surrounding zoning and uses.

The Commission found that a letter in opposition to this application has been received from The Town of Selbyville, as dated August 9, 2016, reminding the County that a Memorandum of Understanding between the County and the Town does exist and that the Memorandum provides that the parties agree to cooperate in the land planning process and to communicate with one another about the implementation of their respective land plans, particularly concerning the Intergovernmental Coordination Zone; that this application is within the Intergovernmental Coordination Zone, as it is located within one mile of the Town's incorporated boundary and is also located in the Town's planning area and area of potential expansion, both of which are areas of concern for the Town; that this application site is within a potential annexation area, and is located in an area generally identified for mixed residential/agricultural use upon inclusion within the Town's boundaries; that the property to the north has been annexed into the Town, resulting in the triangular shaped property now being bordered on two of its sides by property located within the incorporated boundary of the Town; that the bordering properties are both zoned R-4 Residential, which is a residential zoning designation that allows for low-density residential development of detached single-family dwellings; that the operation of a HVAC business is not a listed permitted use, possible conditional use or possible special use exception in a R-4 zone; that the R-4 zone is also the only zoning district in the Town that is eligible to seek a Residential Planned Community (RPC) overlay designation under the Town's current zoning regulations; that an HVAC business is not listed as a possible permitted use in the RPC overlay zone in the Town; that in view of the possible annexation of the property into the Town in accordance with the Town's Comprehensive Plan and the existence of residential zoned property, already located in the Town's boundary, on two of the property's three sides, the Town's position is that the approval of the pending Conditional Use request will interfere with and place the land planning efforts of the Town in jeopardy; and that therefore The Town of Selbyville strongly opposes this request and respectfully requests that the Commission recommend denial of the application.

The Commission found that Ken Wood was present on behalf of Red Dog Plumbing and Heating and stated in his presentation that he is the owner and operator of the business; that he lives on the premises; that he purchased the property and home to live in and opened the HVAC business; that he has made many improvements to the property; that he stores materials and equipment in the garage; that he did receive a notice from the Planning and Zoning Department and immediately applied for this application; that a dumpster is maintained beside the garage and is

somewhat hidden; that there is nothing standing around the dumpster; that he does have multiple signs on the premises; that he does not do any sheet metal work on the premises; that he has six employees, counting himself; and he has five business vehicles; that he has no intent to expand the business any further at this site; and that he realizes that he cannot be forced to be annexed into the Town.

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

The Commission discussed the letter received from the Town of Selbyville.

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

On August 11, 2016 there was a motion by Mr. Hudson, seconded by Mr. Ross, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

On August 25, 2016 the Commission discussed this application under Old Business.

Mr. Hudson stated that he would move that the Commission recommend approval of Conditional Use No. 2053 for Red Dog Plumbing and Heating, c/o Ken Wood for a HVAC business based upon the record made during the public hearing and for the following reasons:

- 1) The site is located along Roxana Road, along with the applicant's residence. This use, with no retail sales or other significant activity on the site, is appropriate for this location.
- 2) No work is to be done at the site, and all employees start the workday from their own homes. As a result, the use will not have a negative impact on the neighboring properties or roadways.
- 3) This site allows the reasonable expansion of the applicant's home based business in an appropriate location that will serve the residents of Sussex County.
- 4) Small businesses such as these are appropriate in the Town Center Area according to the Sussex County Land Use Plan.
- 5) This recommendation is subject to the following conditions:
 - A. The use shall be limited to an HVAC business located on the same parcel as the applicant's home.
 - B. There shall be no retail sales from the property.
 - C. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
 - D. All dumpsters on the site are to be screened from the view of neighboring properties and roadways.
 - E. There shall not be any outside storage of any HVAC equipment or materials associated with the use.
 - F. The applicant shall comply with all DelDOT requirements for entrance and roadway improvements.
 - G. Signage shall not exceed 32 square feet on each side and shall not be lighted.
 - H. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Hudson, seconded by Mr. Ross, and carried unanimously to forward Conditional Use No. 2053 for Red Dog Plumbing and Heating, c/o Ken Wood to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 5 – 0.

C/U #2054 – UtiliSite, Inc.

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for an office, equipment storage, and parking for a construction company located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 2.0 acres, more or less. The property is located at the east of Robinsonville Road (Road 277), 800 feet north of Harts Road (Road 277A). 911 Address: 20721 Robinsonville Road, Lewes. Tax Map I.D. 234-6.00-9.01.

Mr. Lank advised the Commission that this application was filed on May 23, 2016 with surveys.

The Commission found that DelDOT provided a Support Facilities Report on December 22, 2015 which references that a traffic impact study is not recommended, and that the Level of Service of Robinsonville Road will not change as a result of this application.

The Commission found that the Sussex Conservation District provided comments on August 10, 2016 which reference that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after construction; that no storm flood hazard areas are affected; that off-site drainage improvements should not be necessary; that it may not be necessary for on-site drainage improvements; and that no tax ditches are affected.

The Commission found that the Sussex County Engineering Department Utility Planning Division provided comments on August 4, 2016 which reference that the site is located in the Angola Planning Area; that an on-site septic system is proposed; that conformity to the North Coastal Planning Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer service; and that a concept plan is not required.

The Commission found that Ms. Cornwell provided a staff analysis of the application and advises that based on the land use, surrounding zoning and uses the Conditional Use application requested could be considered consistent with the land use, surrounding zoning and uses.

The Commission found that the applicants provided several pictures of the property and letters voicing no objection to the proposal from Charlotte Hart, John Beaver, and John Murray.

The Commission found that Sharon Hart was present on behalf of UtiliSite, Inc. and stated in her presentation and in response to questions raised by the Commission that she resides on the property; that they started a small construction company in 2004, improved the site by creating a tree line around most of the perimeter in 2006, and built an open pole building/garage in 2007 to store equipment and materials; that family members own the adjacent properties; that they have 10 employees; that they have two utility trucks and two dump trucks; that four of the employees come to the site, park, and then leave in the trucks to take equipment to the job sites; that the

other employees go directly to the job sites; that most of their work is site work and utility work off site; that deliveries of materials and parts, etc. are taken to the job sites; that there are minimal deliveries to this location; that they do store some materials on the site, mostly materials that are left over from past projects; that they do intend to extend the tree line screening; and that there are several other businesses in the general area, and referenced lawn care, auto repair, and a beauty salon.

The Commission found that Charlotte Hart, the neighboring property owner, and John Murray, a neighbor, were both present in support of the application and stated that the applicants are good neighbors, maintain their property, and that the property does not appear to be a business.

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

On August 11, 2016 there was a motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

On August 25, 2016 the Commission discussed this application under Old Business.

Mr. Johnson stated that he would move that the Commission recommend approval of Conditional Use No. 2054 for UtiliSite, Inc. for an office, equipment storage and parking for a construction company based upon the record made during the public hearing and for the following reasons:

- 1) This is an existing business that has evolved on property where the owner lives. It has grown from what was close to a home occupation to the point where it now requires a Conditional Use approval.
- 2) The use is situated on a 2.0 acre parcel of land. It is situated among other larger parcels of land owned by other members of the applicant's family. The use is compatible with the surroundings and will not have a negative impact on the neighboring properties or roadways.
- 3) No significant work other than administration is done at the site, and most of the employees start the workday from their own homes. The existing building will only be used to store equipment and vehicles.
- 4) The site is located on Robinsonville Road, but it is very close to Route 24. This is an appropriate location for this low-impact small business.
- 5) No parties appeared in opposition to the application.
- 6) Small businesses such as these are appropriate in the Environmentally Sensitive Developing Area according to the Sussex County Land Use Plan.
- 7) This recommendation is subject to the following conditions:
 - A. The use shall be limited to an office, equipment storage and parking for a construction company.
 - B. There shall be no retail sales from the property.
 - C. As stated by the applicant, the existing tree line shall be extended to screen the service and equipment yard area from view of neighboring properties and roadways.
 - D. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.

- E. Any dumpsters on the site are to be screened from the view of neighboring properties or roadways.
- F. The applicant shall comply with all DelDOT requirements for entrance and roadway improvements.
- G. Signage shall not exceed 32 square feet on each side and may be lighted.
- H. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Burton, and carried unanimously to forward Conditional Use No. 2054 for UtiliSite, Inc. for an office, equipment storage and parking for a construction company to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 5 – 0.

JANELLE M. CORNWELL, AICP
PLANNING & ZONING MANAGER
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Sussex County
DELAWARE
sussexcountype.gov

Memorandum

To: Sussex County Planning Commission Members
From: Janelle Cornwell, AICP, Planning & Zoning Manager
CC: Lawrence Lank, Planning Director, Vince Robertson, Assistant County Attorney
Date: August 4, 2016
RE: Staff Analysis for CU 2053 Red Dog Plumbing & Heating C/O Ken Wood

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2053 Red Dog Plumbing & Heating C/O Ken Wood to be reviewed during the August 11, 2016 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for parcel 533-10.00-14.00 to allow for the use of a HVAC business. The property is 1.1 ac. +/- . The property is zoned AR-1 (Agricultural Residential District).

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

The surrounding land uses to the north, south, east and west are Town Center. The Town Center land use designation recognizes that the commercial uses should serve the daily needs of residents, workers, and visitors. Retail and office uses compatible with adjacent areas are appropriate. It also recognizes that appropriate mixtures of residential, institution and light commercial uses should be allowed.

The property is zoned AR-1 (Agricultural Residential District). The properties to the north, south, east and west are zoned AR-1 (Agricultural Residential District). The property is adjacent to the town of Selbyville. The uses in the area are primarily single family residences and agriculture. There are no known Conditional Uses in the area.

Based on the analysis of the land use, surrounding zoning and uses the Conditional Use request to allow for the use of a HVAC business could be considered consistent with the land use, surrounding zoning and uses.



Introduced 05/24/16

Council District No. 5 – Arlett

Tax I.D. No. 533-10.00-14.00

911 Address: 37058 Roxana Road, Selbyville

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN HVAC BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.10 ACRES, MORE OR LESS

WHEREAS, on the 10th day of May 2016, a conditional use application, denominated Conditional Use No. 2053 was filed on behalf of Red Dog Plumbing and Heating c/o Ken Wood; and

WHEREAS, on the ____ day of _____ 2016, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2053 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2053 as it applies to the property hereinafter described.

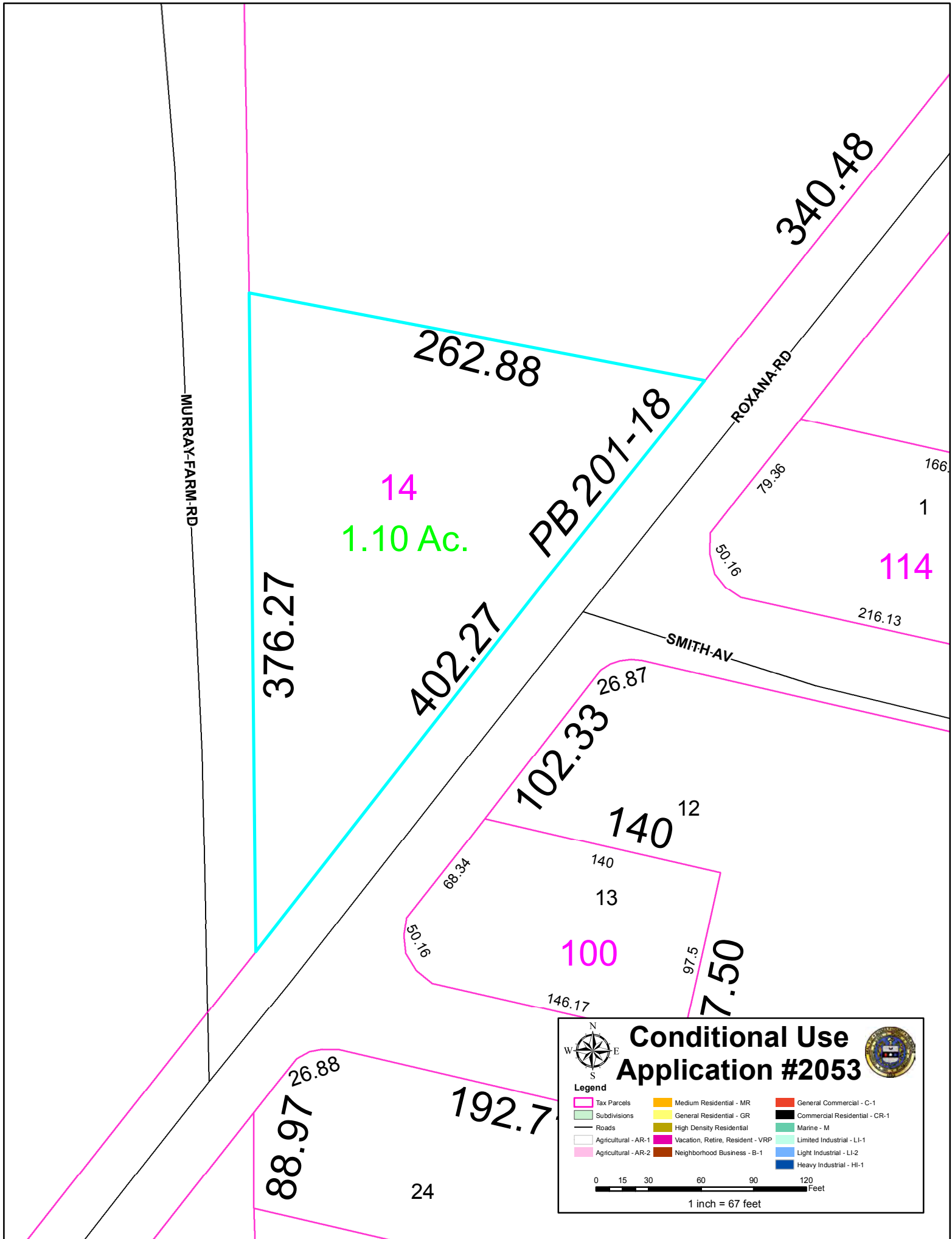
Section 2. The subject property is described as follows:

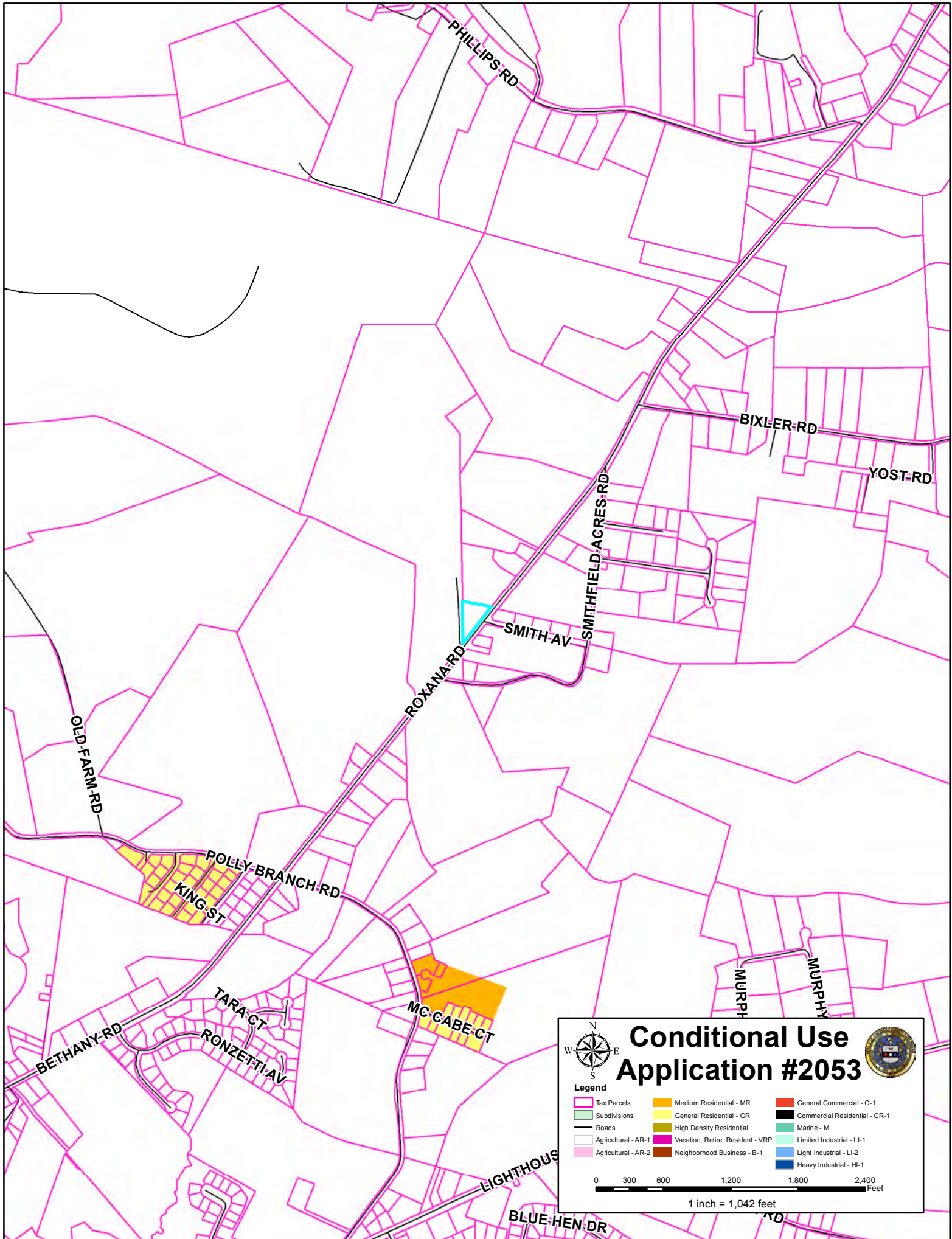
ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying northwest of Roxana Road (Route 17) across from Smith Avenue and 400 feet northeast of Smithfield Acres Road (Road 52B), said parcel containing 1.10 acres, more or less, and being more particularly described as:

BEGINNING at a point in the center of a ditch on the northwesterly right-of-way of Roxana Road (Route 17), at a corner for these subject lands and lands of Clifton C. Murray, Trustee; thence South 48°40'58" West 402.27 feet along the northwesterly right-of-way of Roxana Road to a point in the center of a ditch; thence North 09°23'27" East 376.27 feet with the centerline of said ditch to a point; thence South 66°18'31" East 262.88 feet with the centerline of said ditch to the point and place of beginning and containing 1.10 acres, more or less.


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

Proposed










Conditional Use Application #2053



Legend

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

0 15 30 60 90 120 Feet

1 inch = 67 feet

Source: Esri, Intel, USDA, USGS, AEA, GeoMapping, AeroGRID, IGN, IGP, Swisstopo, and the GIS User Community

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Sussex County
DELAWARE
sussexcountype.gov

Memorandum

To: Sussex County Planning Commission Members
From: Janelle Cornwell, AICP, Planning & Zoning Manager
CC: Lawrence Lank, Planning Director, Vince Robertson, Assistant County Attorney
Date: August 4, 2016
RE: Staff Analysis for CU 2054 Utilisite, Inc.

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2054 Utilisite, Inc. to be reviewed during the August 11, 2016 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for parcel 234-6.00-99.01 to allow for the use of an office, equipment storage and parking for a construction company. The property is 2.0 ac. +/- . The property is zoned AR-1 (Agricultural Residential District).

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

The surrounding land uses to the north, south, and east are Environmentally Sensitive Developing Areas. The land use to the west across Robinsonville Rd. is Low Density. The Environmentally Sensitive Developing Areas land use designation recognizes that a range of uses should be permitted. Retail and office uses are appropriate but larger shopping centers and office parks should be confined to selected locations with access to arterial roads. It also recognizes that a careful mixture of homes with light commercial and institutional uses can be appropriate to provide for convenient serves and to allow people to work close to home.

The property is zoned AR-1 (Agricultural Residential District). The properties to the north, south, east and west are zoned AR-1 (Agricultural Residential District). The uses in the area are primarily single family residences and agriculture. There are two Conditional Uses in the area. (CU 987 – model home sales and CU 1743 – vehicle service, towing, restoration and sales)

Based on the analysis of the land use, surrounding zoning and uses the Conditional Use request to allow for the use as an office, equipment storage and parking for a construction company could be considered consistent with the land use, surrounding zoning and uses.



Introduced 06/21/16

Council District No. 3 – Deaver

Tax I.D. No. 234-6.00-99.01

911 Address: 20721 Robinsonville Road, Lewes

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE, EQUIPMENT STORAGE, AND PARKING FOR A CONSTRUCTION COMPANY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.0 ACRES, MORE OR LESS

WHEREAS, on the 23rd day of May 2016, a conditional use application, denominated Conditional Use No. 2054 was filed on behalf of UtiliSite, Inc.; and

WHEREAS, on the ____ day of _____ 2016, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2054 be _____; and

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

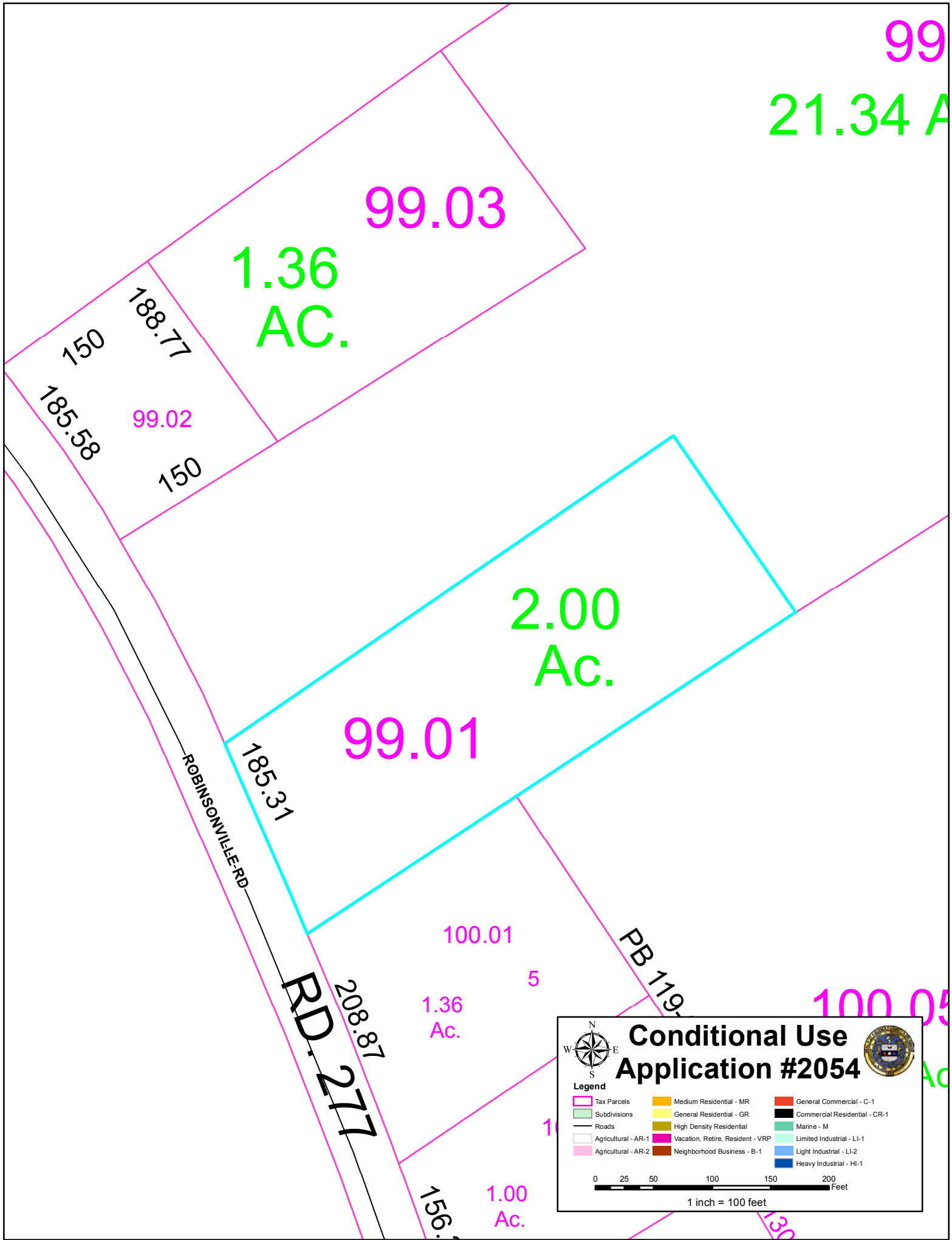
NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:


Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2054 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying east of Robinsonville Road (Road 277), 800 feet north of Harts Road (Road 277A), and being more particularly described in Deed Book 1551, Page 72, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 2.0 acres, more or less.


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





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Conditional Use Application #2054



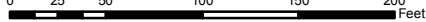
Legend

- Tax Parcels
- Subdivisions
- Roads
- Agricultural - AR-1
- Agricultural - AR-2

- Medium Residential - MR
- General Residential - GR
- High Density Residential
- Vacation, Retire, Resident - VRP
- Neighborhood Business - B-1

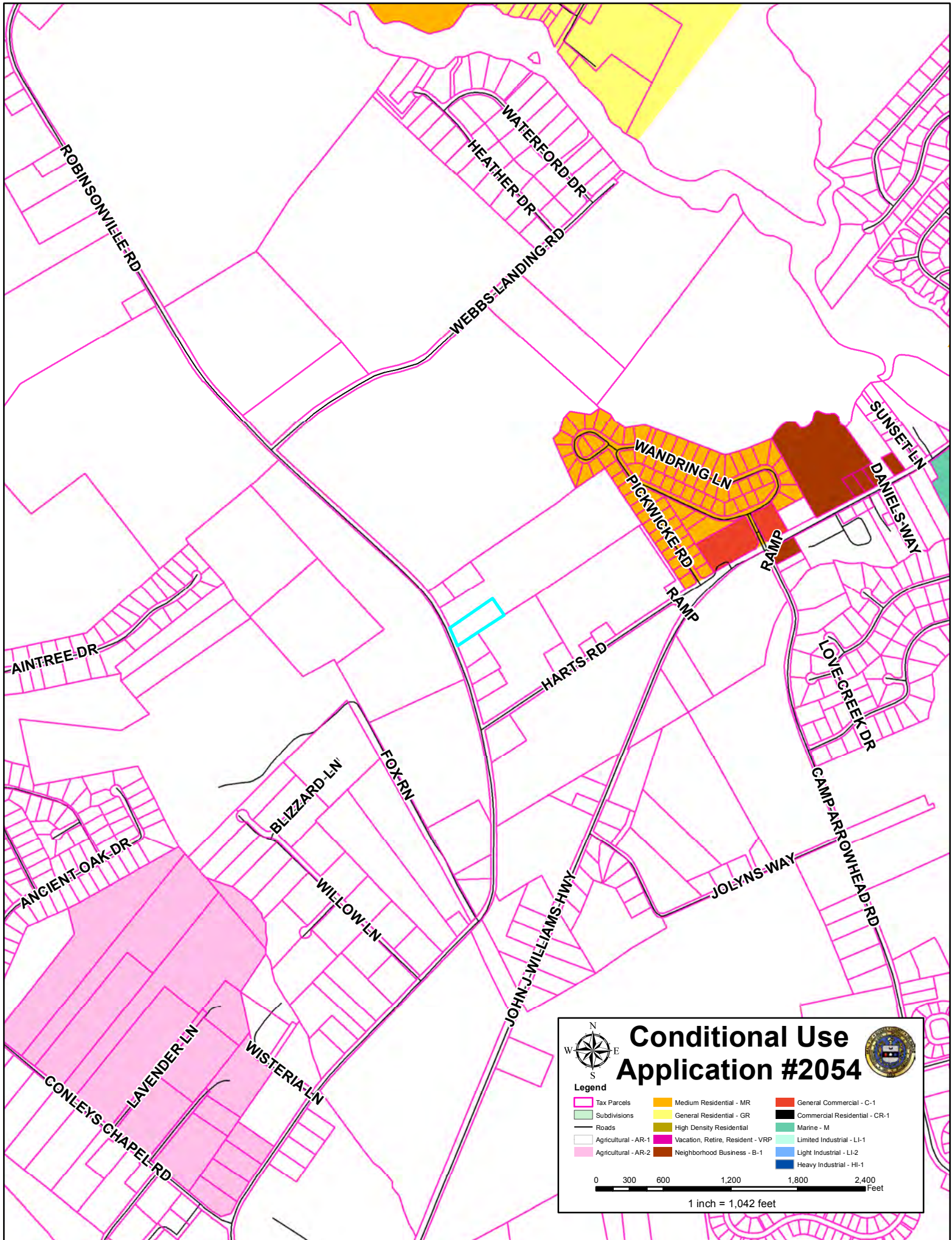
- General Commercial - C-1
- Commercial Residential - CR-1
- Marine - M
- Limited Industrial - LI-1
- Light Industrial - LI-2
- Heavy Industrial - HI-1

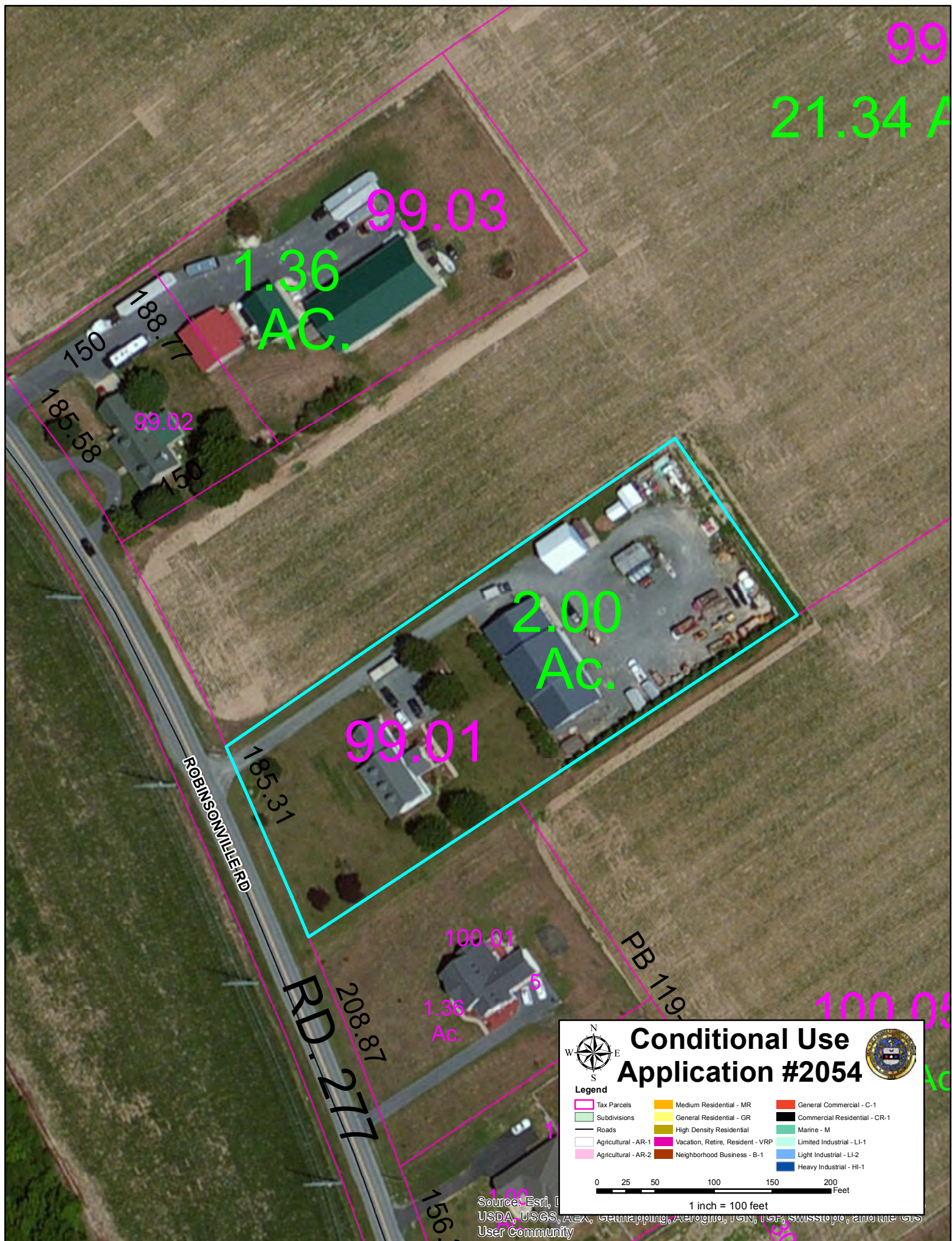
0 25 50 100 150 200



Feet

1 inch = 100 feet





PUBLIC HEARING
September 20, 2016

This is to certify that the Sussex County Planning and Zoning Commission conducted a public hearing on the below listed Ordinance Amendment. At the conclusion of the public hearing, the Commission moved and passed that the Ordinance Amendment 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.

PUBLIC HEARING

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115
("ZONING"), ARTICLE XXI ("SIGNS").

Mr. Lank advised the Commission that 20 emails had been received in opposition to the Ordinance and that the emails appeared to be mostly from Realtors and Real Estate Agents relating to real estate and development signs.

Mr. Robertson reminded the Commission that previously the Planning and Zoning Commission held a public hearing on the Introduced Ordinance; an Alternate Ordinance was suggested by a sign company and developer group represented by David Hutt, Esquire; the Planning and Zoning Commission created a Planning and Zoning Commission Version of the Ordinance for recommendation to the County Council; the County Council held a public hearing on the Introduced Ordinance and gave consideration to the Alternate Ordinance and the Planning and Zoning Commission Version of the Ordinance; that the County Council discussed the Ordinances on several occasion and it was decided that the Revised Ordinance should be considered after public hearings by the Planning and Zoning Commission and the County Council.

James Sharp, Esquire and Assistant County Attorney, provided a PowerPoint display of a Historical Chart of Changes to the Ordinance; referenced that the Introduced Ordinance Amendments were considered back in April 2016; that an Alternate Ordinance was introduced by the Sign Companies and Developers through David Hutt, Esquire; that the Planning and

Zoning Commission review the original Ordinance Amendments and the Alternate Ordinance and established some changes and came up with a Planning and Zoning Commission Version of the Ordinance; that after the County Council held a public hearing and reviewed the ordinances it was determined by that there was a need to go back to public hearings and consider a final version of the Ordinance Amendments; and then provided an overview of the proposed changes in the sign provisions within the proposed Ordinance Amendments. In summation, the items discussed were: 1) a Purpose statement was included to provide clarity as to the reason we have a sign ordinance which resulted in a re-numbering of 115-157 to 115-157.1; 2) changed definition to state that the on-premises sign is deemed abandoned when the sign no longer advertises an ongoing business and the sign permit has been expired for 6 months which resulted in a slight change to 115-158(j); 3) revised definition of abandoned off-premises signs to state that off-premises signs which are not used as an off-premises sign for 6 months are deemed abandoned which results in a slight change in 115-158(k); 4) inserted a definition of Ground Level as set forth in the Alternate Ordinance in 115-157.1; 5) restored the definition of Multi-faced Signs in the definitions 115-157.1; 6) revised the definition of public lands to strike reference to lands in an Agricultural Preservation District as referenced in 115-157.1; 7) revised the definition of sign area for clarity in 115-157.1; 8) retained the definition of a sign face in 115-157.1; 9) retained the definition of Electronic Message Center (EMC) as set forth in the introduced Ordinance; removed the Electronic Message Display (EMD) definition and all references to EMD; and removed the definitions of “Dissolve”, “Fade”, “Frame”, “Frame Effect”, “Scroll”, “Transition”, and “Travel” and inserted them alphabetically in 115-157.1; 10) removed the phrase “by permit” from the definition of “non-conforming Sign” and “non-conforming off-premises sign” in 115-157.1; 11) added the phrase “ongoing” to business which requires that the business be an ongoing business in the definition of On-Premises Electronic Message Center in 115-157.1; 12) added the phrase “ongoing” to business which requires that the business be an ongoing business in the definition of an On-Premises Sign in 115-157.1; 13) prohibited V-signs where the sign faces are more than 60 degrees at their point of juncture for both on-premises and off-premises signs in 115-158; 14) removed the prohibition in the Introduced Ordinance on signs which have more than 2 faces resulting in removal of 115-158 (n); 15) amended several sections of the Ordinance to read “per side” rather than “per side or facing” relating to both on-premises and off-premises signs to provide clarity in the Ordinance; 16) amended several sections of the Ordinance by inserting “of sign area” where appropriate to better establish the area of the sign subject to sign limitations for on-premises and off-premises signs; 17) restored the language that allows for one sign per street or road frontage for on-premises ground signs; 18) restored the language that allows for one sign per street or road frontage for on-premises Electronic Message Centers in 115-161.1(A)(1)(2); 19) keep Introduced Ordinance as written so that all references to Electronic Message Centers are in 115-161.1; 20) restored and revised the wall sign section to allow for more than one wall sign provided that the total amount of wall signs does not exceed 150 square feet or 15% of the total square footage of the wall area on which the signs are located, whichever is greater; language regarding shopping centers; and dealing with on-premises wall signs only in 115-159.4(A)(5) and 115-194.5(A)(5); 21) distinguishes between 2 lane roads and 4 land roads for off-premises signs which creates new sections to separate the requirements for these roads in 115-159.5 (B); 22) established that there is no distinction between billboards

which are greater than 200 square feet and billboards which are less than 200 square feet in 115-159.5(B); 23) removed language about parallel sign faces no more than 3 feet apart in 115-159.5(B)(2); 24) verified the front yard setback as 40 feet, the side yard setback as 50 feet, and the rear yard setback being the same as a rear yard setback for a building for an off-premises sign in 115-159.5(B); 25) established that the separation distance should be 150 feet from a billboard to the property line of any property which houses churches, dwellings or public lands, and that it will be measured on a radius from the edge of a sign in 115-159.5(B); 26) off-premises signs must be at least 600 feet apart on all roads and will be measured on a radius on 4 lane roads and lineally on 2 lane roads in 115-159.5(B); 27) retains the separation distance of 50 feet between off-premises signs and on-premises signs with a slight revision to preclude erection of on-premises signs within 50 feet of an off-premises sign in 115-159.5(B); 28) establish a height maximum of 25 feet on 2 lane roads and 35 feet on 4 lane roads, which will be measured from ground level in 115-159.5(B); 29) establish a sign limitation of 300 square feet on 2 lane roads and 600 square feet on 4 lane roads in 115-159.5(B); 30) retains the letter of no objection requirement from DelDOT for all off-premises signs in 115-159.5(B); 31) retains the prohibition on stacked or side-by-side signs on a single off-premises sign structure in 115-159.5(B); 32) re-established that variances for new off-premises signs erected or approved to be erected after August 1, 2016 are prohibited, and that variances for separation distance and setback requirements are permissible for replacement signs in 115-159.5(D)(E); 33) noted that political signs would be address at a later date; 34) noted that 115-160(K) limits signs to 25 feet above ground level except for billboards and only applies to on-premises signs; 35) noted that 115-160(N) is a newly created section that allows the Director to remove an abandoned sign face and fine the owner, and noting that the sign structure could remain; 36) noting that 115-161(B)(4) amends the Introduced Ordinance to provide that light shall be focused only on a sign for both on-premises and off-premises signs; 37) noting that 115-161(B)(5) amends the Introduced Ordinance and applies to both luminance (nits) and illuminance (foot candles) requirements to all signs, suggest adoption of the foot candle measurement standards or to use 750 nits and 0.3 foot candles as the measurements for both on-premises and off-premises signs; 38) removed the Special Use Exception requirement for an on-premises Electronic Message Center; 39) prohibits on-premises Electronic Message Centers in residential districts unless part of a Conditional Use; 40) references that the size of on-premises Electronic Message Centers shall have to be further discussed; 41) 115-161.1(A)(4) references that Electronic Message Centers shall have a separation distance of 50 feet from an off-premises sign where an on-premises sign is less than 101 square feet; that a separation distance of 50 feet plus 1 foot per square foot for an on-premises Electronic Message Center that exceeds 100 square feet; that the distance will be measured on a radius; and that no variances are permitted; 42) 115-161.1(A)(5) references that on-premises Electronic Message Centers will be allowed effects of dissolving, fading, flipping, or window shade movements, and that scrolling, live action video, streaming video, flashing messages, and all other animation is prohibited; 43) 115-161.1(B) allows for off-premises Electronic Message Centers in certain zoning districts, and that Special Use Exceptions and compliance with off-premises sign regulations are required; 44) the separation distance requirements between off-premises Electronic Message Center signs needs to be addressed and referenced a separation distance of 2,500 feet on 4 lane roads and 1,200 feet on 2 lane roads to be

measured lineally; 45) 115-161.1(A)(5) prohibits animation and the effects of dissolving, fading, flipping, window shade movements, scrolling, live action video, streaming video, and flashing on off-premises Electronic Message Centers; 46) 115-161.1(C)(1)(c) creates a default provision to require shutdown only if more than 50% of the sign face malfunctions on an Electronic Message Center; 47) 115-161.1(C)(1)(e) amends the Introduced Ordinance to read “shall” rather than “must” and applies to both on-premises and off-premises signs; 48) 115-161.1(C)(1)(f) requires owners who seek a building permit or a Special Use Exception for an Electronic Message Center to provide documentation as to ambient light controls and it applies to both on-premises and off-premises signs; 49) 115-161.1(C)(1)(h) amends the Introduced Ordinance to eliminate prohibition on change in messages on an Electronic Message Center after sunset and applies to both on-premises and off-premises signs; 50) 115-161.2(a) prohibits periodic maintenance and repair of abandoned signs; 51) 115-161.2(A), (C). and (D) which relate to non-conforming signs allows for periodic maintenance and repair; allows for replacement of non-conforming off-premises signs if a variance is obtained; prohibits conversion of non-conforming off-premises signs to Electronic Message Centers; that the Board of Adjustment must consider the overall non-conforming reduction; and no variances from height and size requirements shall be permitted; 52) 115-161.3 provides for a substitution clause and provides that an owner of a sign may convert commercial copy to non-commercial copy; and 53) 115-161.4 provides for a severability clause and provides that the entire Sign Ordinance is not invalid if one section is declared to be invalid.

There was a consensus of the Commission that they would like to hear the public testimony prior to raising any questions on the Revised Ordinance.

The Commission found that David Hutt, Esquire of Morris James Wilson Halbbrook & Bayard, LLP, was present on behalf of a sign company and developer group, submitted a revised version of the Ordinance and referred to it as the Red-Lined Version; stating that there are primarily six (6) issues of concern in the Revised Ordinance referencing animated signs for on-premises signs; that Federal regulations do not allow animation on off-premises signs; that the 2nd Ordinance introduced has a prohibition on animated signs; that the dancing inflatable signs are illegal based on the definition; that a person moving a sign back and forth could be considered an illegal sign based on the definition; that he has never heard of a surveyor say that they could not determine the separation from a proposed sign location to an existing church, school, dwelling or public lands; that an on-premises sign could be considered a ground sign or a wall sign; that the prohibition of variances should be eliminated; that the State Code provides that a process is necessary for variance provisions; that examples of recent and current sign issues relating to setbacks and locations of signs are the Shrine sign on Route One, the Lefty’s Bowling Lane sign on Route One, and the Eagle’s Nest Church and Campground sign on Route One; that DelDOT sign regulations only reference setbacks, height, and separation; that DelDOT grants few to no variances on their regulations; that a lot of the sign issues addressed will bring the Ordinance in line with the activities taking place on 4 lane roads; that a variance process is needed; that on-premises signs need to be addressed; that non-conforming signs need to be addressed; and that real estate signs need to be addressed.

The Commission found that Mr. Hutt's Red-Lined Version included red-lined changes including: 1) that the definition for on-premises sign be expanded by adding "or on a property adjacent to the property on which the sign is located when the adjacent property has an easement for access and/or signage on or along the property on which the sign is to be located"; that 115-158 be amended by deletion of the prohibition "animated signs"; that 115-159 G be amended by changing the maximum area of a temporary real estate sign from "10 square feet" to "32 square feet", and that the last sentence be removed which states "Each sign shall contain no more than two sides or facings, back to back"; that 115-159.5 B (1) be rewritten to read "All off-premises signs shall have a minimum front yard setback of 25 feet, a minimum side yard setback of 50 feet, and a minimum rear yard setback equal to the required rear yard setback for a principal building within the pertinent zoning district. An off-premises sign shall not be erected within 300 feet of a dwelling, church, school, or public lands as measured on a radius from the edges of the off-premises sign"; that 115-159.5 B (6) should be eliminated in its entirety; that 115-160 B (3) should be rewritten to read "Temporary non-illuminated signs, not exceeding 32 square feet of sign area per side, advertising real estate for sale or lease or announcing contemplated improvements of real estate and located on the premises with one such sign for each street frontage"; that 115-160 B (4) should be rewritten to read "Temporary non-illuminated signs not exceeding 32 square feet of sign area per side erected in connection with new construction work and displayed on the premises during such time as the actual construction work is in progress, with on such sign for each street frontage"; that 115-161 B (5) should be rewritten to read "No illuminated sign, including Electronic Message Centers, must comply with one of the following maximum luminance levels: (a) No illuminated sign, including Electronic Message Centers, shall have a maximum luminance greater than seven hundred fifty (750) cd/m² or Nits at least one-half hour before Apparent Sunset, as determined by the National Oceanic and Atmospheric Administration (NOAA), United States Department of Commerce, for the specific geographic location and date. All illuminated signs must comply with this maximum luminance level throughout the night, if the sign is energized, until apparent Sunrise, as determined by the NOAA, at which time the sign may resume luminance levels appropriate for daylight conditions, when required or appropriate"; that 115-161 B (6) should be rewritten to read "No illuminated signs, including Electronic Message Centers, shall have a maximum illuminance level greater than 0.3 foot candles above ambient light, as measured using a foot candle meter, or similar technology, at a pre-set distance. Pre-set distances to measure the foot candle impact vary with expected viewing distances of each sign size. Measurement distance shall be based upon the sign area using the following formula:"; that 115-161.1 A (4) should be eliminated in its entirety; that 115-161.1 A (5) should become (4) and then rewritten to read "An On-Premises Electronic Message Center may use the following display features and functions of Electronic Message Centers: images and frame effects that appear or disappear from the display through dissolve, fade, flip, or window shade movements. Continuous scrolling left or right, live action or streaming videos, and flashing messages shall not be permitted"; that 115-161.1 C (1) (a) should be rewritten to read "On an off-premises Electronic Message Center, each message remains fixed for a minimum of at least 10 seconds"; that 115-161.1 C (1) (b) should be rewritten to read "On an off-premises Electronic Message Center, when the message is changed, the change must be accomplished in 1 second or less, with all moving parts or illumination changing simultaneously

and in unison”; that 115-161.1 C (2) should be eliminated; that 115-161.2 Non-Conforming Off-Premises Signs A through D should be rewritten to read “A. A non-conforming off-premises sign may remain and be periodically maintained as a permitted non-conforming structure unless abandoned. B. Conversion of non-conforming off-premises signs to off-premises electronic message centers is prohibited, unless the applicant is replacing two or more non-conforming off-premises signs with a single electronic message center. C. If a sign is damaged by any natural causes, such as fire, wind or flood, it may be repaired or reconstructed and used as before the time of the damage, provided that such repairs or reconstruction are substantially completed within 12 months of the date of such damage. D. Provided that the owner obtains all necessary variances from the Board of Adjustment pursuant to 115-211, an owner of a non-conforming off-premises sign may replace a non-conforming off-premises sign with a new off-premises sign which does not comply with separation distance or setback requirements. As part of a variance request for a non-conforming off-premises sign under this section, the replacement off-premises sign must comply with the height and size requirements set forth in 115-159.5. The Board of Adjustment shall ensure non-conformities in the height and size are brought into compliance with the installation of the replacement sign”.

The Commission found that Bob McVey, President of the Sussex County Association of Realtors, was present, read and submitted a letter from Merritt Burke IV, CEO of the Sussex County Association of Realtors (SCAOR) referencing that the Association supports a modern sign ordinance and the majority of the proposed provisions; but that there remains language that the Association does not support, referencing the elimination of movement and animation of Electronic Message Centers; that not-for-profit organizations similar to SCAOR could find this amendment restrictive and costly to implement, specifically after the organization was approved to purchase, install and operate the sign for informative and revenue purposes; that residential and non-residential areas are defined separately in the Ordinance; that a majority of contacts/leads regarding commercial real estate are generated from stand-alone signage along on-premises commercially zoned properties; that reducing the minimum square footage for non-residential area signs could affect the financial welfare of the citizens of Sussex County, will impact the commercial real estate industry and may discourage the positive economic development of the County; that SCAOR supports commercial signage not less than 64 square feet double sided or arranged in a “V” shape, unless otherwise regulated by municipal or State codes; and that SCAOR requests that all for-profit, not-for-profit, private and public organizations and agencies are required to conform to the proposed Ordinance once amended.

The Commission found that Bill Lucks, President Elect of the Peninsula Commercial Alliance, a part of the SCAOR, expressing concerns about the proposed Ordinance and stating that their signage is of a temporary nature running the term of the listing that they may have on a particular piece of property; that the Ordinance does not distinguish between residential and commercial real estate, which have very different signage needs; that the Ordinance calls for a 10 square foot sign as a maximum size; that this does not work in practice; that they use two sided 4 x 4 (16 square feet) and 4 x 8 signs (32 square feet); that the larger signs are used in a high traffic speed area; that it could be interpreted in the Ordinance that a permit could be required for a temporary sign that is not lighted, does not rotate or flash, and has a static message; that he annually spends

anywhere from \$5,000 to \$15,000 on signage to market his listings; that the sale of commercial real estate generates substantial transfer taxes for the County; that he ask that the Ordinance be changed to address the needs of the commercial real estate practitioner; that they do not see the current signage practices as offensive, nor are they out of line with the norms used across the Country; and that the signs are temporary in nature, and even with the technology of today, commercial properties tend to sell from the signage posted on the property.

The Commission found that Ben Phillips of Phillips Signs was present with concerns and referenced that his business is primarily on-premises signs; that he was on the Sign Ordinance Working Committee; that he did not think that there were that many problem issues; that the sign industry is one of the most regulated industries; that over regulation impact their businesses; that enforcement is the issue; that he questions what is the big deal about animation; that he understood that the County Council supported animation 3-2 in July, why the change; that animation is not a safety issue and that it appears that someone on County Council just does not like animation on signs; that sign company representatives can show staff which signs are legal or illegal; that on-premises signs should have precedent since they support small business; that separation of on-premises to off-premises should be struck from the Ordinance; that farm markets and similar uses are the biggest offenders based on the number of signs that they display.

The Commission found that Jason Dean of J.D. Sign Company was present with concerns and agreed with Mr. Hutt's and Mr. Phillips' comments, and stated that fees have been increased in the past; that he supports the need for a sign enforcement official; that enforcement is needed; that we all agree on the lighting standards; that brightness is the issue on Electronic Message Centers; that an Electronic Message Center that is too bright is distracting; that he supports continuous scrolling; that he supports either illumination regulations, nits or foot candles; that if the brightness issues is resolved, lighting will not be an issue; that Electronic Message Center should be permitted as wall signs; and that the sign industry does not want signage to be distracting.

The Commission found that Lynn Rogers of Rogers Sign Company was present with concerns and stated that the issued came from the number of application being processed by the Board of Adjustment; that the Ordinance should be enforced; that it seems like the County Council could not grasp the difference between on-premises signs and off-premises signs; that nationwide most billboards are static; that he agrees with the previous speakers; and that he currently has two full-time staff that specialize in sign applications, sign permits, Special Use Exceptions and Variances requests throughout the peninsula.

The Commission found that Charles Towers of Towers Signs was present with concerns and stated that he also agrees with the previous speakers; and noted that sign companies have charts referencing the size of a sign and sign lettering sizes relating to speed limits.

The Commission found that Paul Reiger was present with concerns and referenced sign square footages, the number of signs permitted on a farm and farm operations; and questioning the definition of a farm and the acreage of a farm.

Mr. Sharp advised the Commission that the County Council is scheduled for the public hearing on September 20, 2016 and that the Commission has a regular meeting scheduled for September 22, 2016 and that it is possible that the Commission can make a recommendation prior to the moratorium being lifted.

At the conclusion of the public hearing, the Commission discussed the Ordinance Amendments.

Motion by Mr. Burton, seconded by Mr. Hudson, and carried unanimously to defer action, noting that this Ordinance Amendment needs to be on the next regular agenda, September 22, 2016.
Motion carried 3 – 0.

ORDINANCE NO. __

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115 ("ZONING"), ARTICLE XXI ("SIGNS").

WHEREAS, Sussex County Code ("County Code") currently addresses the types, uses, and placement of signs in its zoning districts; and

WHEREAS, Sussex County Council views the placement of signs as an important public safety issue in Sussex County that impacts the welfare of the citizens of Sussex County; and

WHEREAS, Sussex County Council believes that the current County Code provisions do not sufficiently address its other concerns with the types, usage, and placement of signs in Sussex County; and

WHEREAS, on September 15, 2015, Sussex County Council enacted a moratorium by Ordinance No. 2414 entitled "An Ordinance to Establish a Moratorium Upon the Acceptance of Special Use Exception Applications for Off-Premises Signs" in response to such concerns, which was extended by vote; and

WHEREAS, Sussex County engaged a land use planning consultant and formed a working group ("Working Group") to study signs in the context of Sussex County's land use planning initiatives and goals; and

WHEREAS, the Working Group has presented its findings to Sussex County Council; and

WHEREAS, Sussex County Council wishes to end the moratorium on the acceptance of special use exception applications for off-premises signs concurrent with the enactment of this legislation, as its concerns have been addressed through this legislation; and

WHEREAS, Sussex County Council believes that these amendments will promote the public health, safety and welfare of its citizens.

NOW THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. Sussex County Code, Chapter 115, Section 115-157 shall be amended by the addition of the underlined language and deletion of the bracketed language, as follows:

§ 115-157. Purpose.

Signs, including outdoor advertising structures, are herein regulated with the intent of regulating excess signage, encouraging the positive economic development of the County, preserving and improving tourism views, promoting the safety of the traveling public, protecting property values in both residential and non-residential areas, preventing overcrowding of the land and excess clutter, and protecting the aesthetics of the County.

§ 115-157.1. Definitions.

A. General.

ABANDONED ON-PREMISES SIGN

A sign that no longer identifies or advertises an ongoing business, product, location, service, idea, or activity conducted on the premises on which the sign is located and the sign permit for said sign has expired for at least 6 months.

ABANDONED OFF-PREMISES SIGN

A sign that, for 6 months or more, no longer:

- a. Directs attention to a business, commodity, service or entertainment conducted, sold, or offered elsewhere than upon the premises where the sign is maintained; and
- b. No longer markets, advertises, or promotes the sign for sale or rent.

ANIMATED SIGN

[A mechanical sign or electronically illuminated or nonilluminated sign which displays letters, words, characters, or symbols which are not stationary.]

A sign employing actual motion, the illusion of motion, or light or color changes achieved through mechanical, electrical, or electronic means. Animated signs, which are differentiated from changeable signs as defined and regulated by this article, include the following types:

- (1) Environmentally Activated – Animated signs or devices motivated by wind, thermal changes, or other natural environmental input. Includes spinners, pinwheels, pennant strings, or other devices or displays that respond to naturally occurring external motivation.

(2) Mechanically Activated – Animated signs characterized by repetitive motion or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

(3) Electrically Activated – Animated signs producing the illusion of movement by means of electronic, electrical, or electromechanical input or illumination capable of simulating movement throughout employment of the characteristics of one or both the classifications noted below:

(a) Flashing: Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of non-illumination. For purposes of this ordinance, flashing will not be defined as occurring if the cyclical period between on-off phases of illumination exceeds ten (10) seconds.

(b) Patterned Illusionary Movement: Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

CANDELA

The basic unit of measurement of light in SI (metric) units.

CANDELA PER SQUARE METER (cd/m²)

The SI (metric) unit used to describe the luminance of a light source or of an illuminated surface that reflects light. Also referred to as Nits.

DISSOLVE

A mode of message transition on an electronic message center accomplished by varying the light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second message.

FADE

A mode of message transition on an electronic message center accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the

subsequent message gradually increases intensity to the point of legibility.

FOOT CANDLE

An English unit of measurement of the amount of light falling upon a surface (illuminance). One foot candle is equal to one lumen per square foot. Can be measured by means of an illuminance meter.

FRAME

A complete stationary display screen on an electronic message center.

FRAME EFFECT

A visual effect on an electronic message center applied to a single frame to attract the attention of views.

GROUND LEVEL

The average grade of the property or the elevation at the centerline of the adjacent street or road, whichever is higher.

ILLUMINANCE

The amount of light falling upon a real or imaginary surface, commonly called "light level" or "illumination". Measured in foot candles (lumens/square foot) in the English system, and lux (lumens/square meter) in the SI (metric) system.

INDIRECTLY ILLUMINATED SIGN

...

LUMINANCE

The light that is emitted by or reflected from a surface. Measured in units of luminous intensity (candelas) per unit area (square meters in SI measurement units or square feet in English measurement units.) Expressed in SI units as cd/m^2 , and in English units as foot lamberts. Sometimes also expressed as "nits", a colloquial reference to SI units. Can be measured by means of a luminance meter.

LUX

The SI (metric) unit for illuminance. One lux equals 0.093 foot candles.

MULTIFACED SIGN

...

176
177 **NIT**

178 A photometric unit of measurement referring to luminance. One nit is
179 equal to one cd/m².
180

181 **PUBLIC LAND**

182 Land owned by the United States of America, the State of Delaware, or
183 a municipality or political subdivision thereof which is used as park,
184 recreation area, historical site, wildlife refuge, public forest land,
185 preservation land, or greenway. Public lands shall not include areas
186 which are public streets, roads, utilities, or right-of-ways dedicated for
187 transportation or other means of ingress and egress.

188
189 **SCROLL**

190 A mode of message transition on an electronic message center where
191 the message appears to move vertically across the display surface.
192

193 **SETBACK**

194 ...
195

196 **SI (International System of Units)**

197 The modern metric system of measurement; abbreviated SI for the
198 French term “Le Systeme International d’Unites.”
199

200 **SIGN**

201 ...
202

203 **SIGN AREA**

204 The total area of a sign shall include all sides or area of display of a
205 single or multifaced sign, together with all moldings, battens, cappings,
206 nailing strips and latticing which are attached and are part of the sign
207 proper [and/] or incidental to its decoration. Structural elements, such
208 as aprons or skirting, which serve to shade, deflect or block light
209 generated by a sign and which do not display advertising on their
210 surfaces shall not be included in the total area of a sign. For the purpose
211 of this article, signs which are composed of letters, words, numbers,
212 pictures, logos, symbols, or representations only and which follow no
213 square or rectangular pattern shall be considered to include in sign area
214 a square or rectangle as drawn at the outer limits of the letters, words,
215 numbers, pictures, logos, symbols, or representations.
216

217 **SIGN COPY**

218 The physical sign message including any words, letters, numbers,
219 pictures, logos, and symbols.
220

221 **SIGN FACE**

222 The surface upon, against or through which the sign copy is displayed
223 or illustrated, not including structural supports, architectural features
224 of a building or sign structure, or decorative trim, or any areas that are
225 separated from the background surface upon which the sign copy is
226 displayed by a distinct delineation, such as a reveal or border.

227
228 **SIGN STRUCTURE**

229 Any structure designed for the support of a sign.

230
231
232 **STREET LINE**

233 ...

234 **TRANSITION**

235 A visual effect used on an electronic message center to change from
236 one message to another.

237
238 **TRAVEL**

239 A mode of message transition on an electronic message center where
240 the message appears to move horizontally across the display surface.

241
242 **B. Type.**

243
244 **BULLETIN BOARD**

245 A manually activated changeable sign of permanent character, but with
246 movable letters, words or numerals, indicating the names of persons
247 associated with or events conducted upon or products or services
248 offered upon the premises upon which such a sign is maintained.

249
250 **CHANGEABLE SIGN**

251 A sign with the capability of content change by means of manual or
252 remote input including the following types:

253
254 (1) Manually activated – a changeable sign whose message copy
255 or content can be changed manually on a display surface.

256
257 (2) Electically activated – a changeable sign whose message copy
258 or content can be changed by means of remote electrically
259 energized on-off switching combinations of alphabetic or
260 pictographic components arranged on a display surface.
261 Illumination may be integral to the components, such as
262 characterized by lamps or other light-emitting devices; or it may
263 be from an external light source designed to reflect off the
264 changeable component display.

265
266 **DIRECTIONAL SIGN**

267 ...

268
269 **ELECTRONIC MESSAGE CENTER**

270 An electrically activated changeable sign whose variable message or
271 graphic presentation capability can be electronically programmed by
272 computer or an electronic device onsite or from a remote location.

273
274 **[ELECTRONIC MESSAGE DISPLAY]**

275 [A sign capable of displaying words, symbols, figures, or images that
276 can be electronically or mechanically changed by remote or automatic
277 means. Changes relating to electronic message display include:

278
279 **(1) DISSOLVE**

280 A mode of message transition on an electronic message display
281 accomplished by varying the light intensity or pattern, where the first
282 message gradually appears to dissipate and lose legibility
283 simultaneously with the gradual appearance and legibility of the second
284 message.

285
286 **(2) FADE**

287 A mode of message transition on an electronic message display
288 accomplished by varying the light intensity, where the first message
289 gradually reduces intensity to the point of not being legible and the
290 subsequent message gradually increases intensity to the point of
291 legibility.

292
293 **(3) FRAME**

294 A complete stationary display screen on an electronic message display.

295
296 **(4) FRAME EFFECT**

297 A visual effect on an electronic message display applied to a single
298 frame to attract the attention of viewers.

299
300 **(5) SCROLL**

301 A mode of message transition on an electronic message display where
302 the message appears to move vertically across the display surface.

303
304 **(6) TRANSITION**

305 A visual effect used on an electronic message display to change from
306 one message to another.

307
308 **(7) TRAVEL**

A mode of message transition on an electronic message display where the message appears to move horizontally across the display surface.]

INSTRUCTIONAL SIGN

...

NON-CONFORMING SIGN

A sign that was legally installed in conformance with all sign laws, ordinances, and regulations in effect at the time of its installation, but which no longer complies with laws, ordinances, and regulations having jurisdiction relative to the sign.

NON-CONFORMING OFF-PREMISES SIGN

A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the premises where the sign is maintained and which was legally installed in conformance with all sign laws, ordinances, and regulations in effect at the time of its installation, but which no longer complies with laws, ordinances, and regulations having jurisdiction relative to the sign.

OFF-PREMISES ELECTRONIC MESSAGE CENTER

An electrically activated changeable sign whose variable message or graphic presentation capability can be electronically programmed by computer or electronic device onsite or from a remote location which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the premises where the sign is maintained.

OFF-PREMISES SIGN

...

ON-PREMISES ELECTRONIC MESSAGE CENTER

An electrically activated changeable sign whose variable message or graphic presentation capability can be electronically programmed by computer or electronic device onsite or from a remote location which directs attention to an ongoing business, commodity, service, or entertainment conducted, sold, or offered upon the same premises as those upon which the sign is maintained.

ON-PREMISES SIGN

A sign directing attention to an ongoing business, commodity, service or entertainment conducted, sold or offered upon the same premises as those upon which the sign is maintained.

354
355 **PORTABLE SIGN**

356 ...

357
358 **TEMPORARY SIGN**

359 ...

360 **V SIGN**

361 A sign containing two faces positioned at an interior angle subtending
362 less than one hundred seventy-nine degrees (179°) at the point of
363 junction of the individual faces.

364 **C. Location.**

365
366 ...

367
368 **Section 2. Sussex County Code, Chapter 115, Section 115-158 shall be**
369 **amended by the addition of the underlined language, as follows:**
370

371 **§ 115-158. Signs prohibited in all districts.**

372 **Signs prohibited in all districts shall be as follows:**

373 **A. ...**

374
375
376 ...

377
378 **I. Animated signs.**

379
380 **J. Abandoned on-premises signs.**

381
382 **K. Abandoned off-premises signs.**

383
384 **L. Mirrors. No mirror device shall be used as part of a sign.**

385
386 **M. V signs where the two faces are positioned at an interior angle**
387 **subtending more than sixty degrees (60°).**
388

389
390 **Section 3. Sussex County Code, Chapter 115, Section 115-159 shall be**
391 **amended by the addition of the underlined language and deletion of the bracketed**
392 **language, as follows:**
393

394 **§ 115-159. Signs permitted in all districts.**

Signs permitted in all districts shall be as follows:

A. ...

...

F. No more than two subdivision-identifying signs, not exceeding 75 square feet [in] of sign area per [face] side, maintained on private property. The minimum setback from the front lot line shall be a minimum of five feet for signs 32 square feet or less and a minimum of 25 feet for signs from 32 square feet to 75 square feet.

G. A temporary real estate sign indicating sale, rental or lease of the premises on which it is located, with a maximum area of 10 square feet of sign area per side [or facing], nonilluminated, and one sign for each street frontage on which the premises abuts. Each sign shall contain no more than two sides or facings, back to back.

H. ...

Section 4. Sussex County Code, Chapter 115, Section 115-159.1 shall be amended by the addition of the underlined language and deletion of the bracketed language, as follows:

§ 115-159.1. Signs permitted in AR-1 and AR-2 Agricultural Residential Districts and GR General Residential Districts.

A. Signs permitted shall be as follows:

(1) ...

(2) One indirectly illuminated on-premises sign, not to exceed 32 square feet [on any side or facing] of sign area per side for each building devoted to the following uses: church, school, hospital, nursing home, country club, golf course or similar use. Such signs shall be solely for the purpose of displaying the name of the institution or association and its activities or services. In addition, a bulletin board may be permitted, provided that the total of 32 square feet [on any side or facing] of sign area per side is not exceeded by both the bulletin board and the on-premises sign. ...

(3) One nonilluminated on-premises sign not to exceed six square feet [on any side or facing] of sign area per side, identifying a

permitted home occupation on the premises or a permitted use on a farm of five acres or more. ...

- (4) Nonilluminated on-premises signs not to exceed three signs, of which each sign shall not exceed 32 square feet [on any side or facing] of sign area per side, identifying any truck garden, orchard, nursery, commercial greenhouse, produce sale or public stable permitted on the same premises. ...

B. ...

Section 5. Sussex County Code, Chapter 115, Section 115-159.2 shall be amended by the addition of the underlined language and deletion of the bracketed language, as follows:

§ 115-159.2. Signs permitted in MR Medium Density Residential and UR Urban Residential Districts.

A. Signs permitted shall be as follows:

(1) ...

- (2) One indirectly illuminated on-premises sign, not to exceed 32 square feet [on any side or facing] of sign area per side for each building devoted to the following uses: church, school, hospital, nursing home, country club, golf course or similar use. Such sign shall be solely for the purpose of displaying the name of the institution or association and its activities or services. In addition, a bulletin board may be permitted, provided that the total of 32 square feet [on any side or facing] of sign area per side is not exceeded by both the bulletin board and the on-premises sign. ...

- (3) One nonilluminated on-premises sign, not to exceed six square feet [on any side or facing] of sign area per side, identifying a permitted home occupation on the premises or a permitted use on a farm of five acres or more. ...

B. ...

Section 6. Sussex County Code, Chapter 115, Section 115-159.3 shall be amended by the addition of the underlined language and deletion of the bracketed language, as follows:

§ 115-159.3. Signs permitted in HR-1 and HR-2 High-Density Residential Districts.

A. Signs permitted shall be as follows:

(1) ...

(2) One illuminated on-premises sign, not to exceed 10 square feet [on any side or facing] of sign area per side, identifying the name and/or address of management of a multifamily dwelling or group of multifamily dwellings. ...

(3) One nonilluminated on-premises sign, not to exceed 32 square feet [on any side or facing] of sign area per side, identifying any motel, hotel, multifamily dwelling structure or townhouse project of eight or more units. ...

B. ...

Section 7. Sussex County Code, Chapter 115, Section 115-159.4 shall be amended by the addition of the underlined language and deletion of the bracketed language, as follows:

§ 115-159.4. Signs permitted in B-1 Neighborhood Business Districts, M Marine Districts and UB Urban Business Districts.

A. Signs permitted shall be as follows:

(1) ...

(2) One indirectly illuminated on-premises sign, not to exceed 32 square feet [on any side or facing] of sign area per side for each building devoted to the following uses: church, school, hospital, nursing home, country club, golf course or similar use. Such sign shall be solely for the purpose of displaying the name of the institution or association and its activities or services. In addition, a bulletin board may be permitted, provided that the total 32 square feet [on any side or facing] of sign area per side is not exceeded by both the bulletin board and the on-premises sign. ...

(3) One nonilluminated on-premises sign, not to exceed six square feet [on any side or facing] of sign area per side, identifying a permitted home occupation on the premises or a permitted use on a farm of five acres or more. ...

525
526 (4) One on-premises ground sign per street or road frontage per
527 parcel, not to exceed 200 square feet [on any side or facing] of
528 sign area per side. [Electric message displays shall be
529 permitted. Such displays shall be limited to frames with
530 displays, messages, animated graphics or images and frame
531 effects that appear or disappear from the display through
532 dissolve, fade, flip or window shade moves. Scrolling left or
533 right and/or flashing messages shall not be permitted. Each
534 message on the sign must be displayed for a minimum of eight
535 seconds based on a real second measurement of 1000-1, 1000-
536 2, 1000-3, 1000-4, etc., count. When a message is changed, it
537 shall be accomplished in one second or less with all moving
538 parts or illumination changing simultaneously and in unison.
539 Variable message signs shall contain a default design that will
540 freeze the sign in one position if a malfunction occurs or in the
541 alternative shut down.]

542
543
544 (5) [In addition, each store, shop, office or similar unit shall be
545 permitted an on-premises illuminated awning, marquee,
546 projecting, wall sign or electric message display not exceeding
547 a combination of signs or one sign not exceeding 150 square
548 feet. The sign shall not exceed 15% of total square footage of
549 wall area where a wall exceeds 1,000 square feet.]

550
551 On-premises wall, illuminated awning, marquee, and projecting
552 signs not to exceed a total sign area of 150 square feet or 15%
553 of the total square footage of the wall area on which the signs
554 are located, whichever is greater. In the case of a shopping
555 center, a group of stores or other business uses, or a multi-
556 tenant building on a lot held in single or separate ownership,
557 on-premises wall, illuminated awning, marquee, and projecting
558 signs not to exceed a total sign area of 150 square feet or 15%
559 of the total square footage of the wall area on which the signs
560 are located, whichever is greater, shall be permitted with
561 respect to each building, separate store, separate storefront, or
562 separate use.

563
564 (6) ...

565
566 B. ...
567

Section 8. Sussex County Code, Chapter 115, Section 115-159.5 shall be amended by the addition of the underlined language and deletion of the bracketed language, as follows:

§ 115-159.5. Signs permitted in C-1 General Commercial, CR-1 Commercial Residential, LI-1 Limited Industrial, LI-2 Light Industrial and HI-1 Heavy Industrial Districts.

A. Signs permitted shall be as follows:

(1) ...

(2) One indirectly illuminated on-premises sign, not to exceed 32 square feet [on any side or facing] of sign area per side for each building devoted to the following uses: church, school, hospital, nursing home, country club, golf course or similar use. Such sign shall be solely for the purpose of displaying the name of the institution or association and its activities or services. In addition, a bulletin board may be permitted, provided that the total 32 square feet [on any side or facing] of sign area per side is not exceeded by both the bulletin board and the on-premises sign. ...

(3) One nonilluminated on-premises sign, not to exceed six square feet [on any side or facing] of sign area per side, identifying a permitted home occupation on the premises or a permitted use on a farm of five acres or more. A sign shall contain no more than two sides or facings, back to back, and shall conform to the setbacks referenced in Subsection A(2) above.

(4) One on-premises ground sign per street or road frontage per parcel, not to exceed 200 square feet [on any side or facing] of sign area per side. [Electric message displays shall be permitted. Such displays shall be limited to frames with displays, messages, animated graphics or images and frame effects that appear or disappear from the display through dissolve, fade, flip or window shade moves. Scrolling left or right and/or flashing messages shall not be permitted. Each message on the sign must be displayed for a minimum of eight seconds based on a real second measurement of 1000-1, 1000-2, 1000-3, 1000-4, etc., count. When a message is changed, it shall be accomplished in one second or less with all moving parts or illumination changing simultaneously and in unison. Variable message signs shall contain a default design that will

freeze the sign in one position if a malfunction occurs or in the alternative shut down.]

- (5) [In addition, each store, shop, office or similar unit shall be permitted an on-premises illuminated awning, marquee, projecting, wall sign or electric message display not exceeding a combination of signs or one sign not exceeding 150 square feet. The sign shall not exceed 15% of total square footage of wall area where a wall exceeds 1,000 square feet.]

On-premises wall, illuminated awning, marquee, and projecting signs not to exceed a total sign area of 150 square feet or 15% of the total square footage of the wall area on which the signs are located, whichever is greater. In the case of a shopping center, a group of stores or other business uses, or a multi-tenant building on a lot held in single or separate ownership, on-premises wall, illuminated awning, marquee, and projecting signs not to exceed a total sign area of 150 square feet or 15% of the total square footage of the wall area on which the signs are located, whichever is greater, shall be permitted with respect to each building, separate store, separate storefront, or separate use.

- (6) ...

B. Off-premises signs, after obtaining a special use exception, pursuant to § 115-80C, [not exceeding 600 square feet total], and provided that:

- (1) [All off-premises signs not exceeding 200 square feet shall have a minimum front yard setback of 25 feet and a minimum side yard setback of 20 feet and shall not be erected within 300 feet of a dwelling, church, school or public lands or within 300 feet of another sign regulated by this subsection.]

All off-premises signs shall have a minimum front yard setback of 40 feet, a minimum side yard setback of 50 feet, and a minimum rear yard setback equal to the required rear yard setback for a principal building within the pertinent zoning district. An off-premises sign shall not be erected within 150 feet of property which is used as a dwelling, church, school, or public lands as measured on a radius from the edge of the off-premises sign. An off-premises sign shall not be erected within 50 feet of an on-premises sign and an on-premises sign shall not be erected within 50 feet of an off-premises sign.

- (2) [All off-premises signs exceeding 200 square feet shall have a minimum front yard setback of 25 feet and a minimum side yard setback of 50 feet and shall not be erected within 300 feet of a dwelling, church, school or public lands or within 300 feet of another sign regulated by this subsection.]

A single off-premises sign structure shall support no more than one sign per side and no more than two signs in total. Signs which are stacked or side-by-side on an off-premises sign structure are prohibited.

- (3) [A single off-premises sign structure shall support no more than one sign. No off-premises sign structure shall display more than one three-hundred-square-foot maximum sign on a side or facing. The total square footage of the sign shall not exceed 600 square feet.]

For all off-premises signs which are located on properties adjacent to roads which have less than 4 travel lanes (excluding turn lanes), the following regulations shall apply:

- (a) An off-premises sign shall not be erected within 600 feet of another off-premises sign as measured on a radius from the edges of the off-premises signs.

- (b) No off-premises sign shall exceed 25 feet in height from ground level.

- (c) An off-premises sign shall not exceed 300 feet of sign area per side and shall not exceed more than 600 square feet of sign area per off-premises sign structure.

- (4) [See the general regulations for all districts for signs exceeding 32 square feet.]

For all off-premises signs which are located on properties adjacent to roads which have 4 or more travel lanes (excluding turn lanes), the following regulations shall apply:

- (a) An off-premises sign shall not be erected within 600 feet of another off-premises sign. This separation distance shall be measured from the edges of the off-premises sign and shall apply only to signs which are located on the same side of the road.

(b) No off-premises sign shall exceed 35 feet in height from ground level.

(c) An off-premises sign shall not exceed 600 feet of sign area per side and shall not exceed more than 1,200 square feet of sign area per off-premises sign structure.

(5) An applicant for a special use exception for an off-premise sign must, at the time the application is filed with the Office of Planning & Zoning, submit documentation from the Delaware Department of Transportation which confirms that the Delaware Department of Transportation does not object to the proposed off-premise sign.

(6) Except as otherwise permitted in §115-161.2, no variances shall be issued from any of the regulations in this article for off-premise signs which have been erected or approved to be erected after August 1, 2016.

C. [No off-premises sign structure or any part of the sign face shall exceed 35 feet in height from ground level.]

See the general regulations for all districts for signs exceeding 32 square feet.

D. ...

Section 9. Sussex County Code, Chapter 115, Section 115-160 shall be amended by the addition of the underlined language and deletion of the bracketed language, as follows:

§ 115-160. General regulations for all districts.

A. No sign, unless herein excepted, shall be erected, constructed, structurally altered or relocated, except as provided in this article and in these regulations, until a permit has been issued by the Director.

(1) ...

(2) ...

(3) [Each sign requiring a permit shall be clearly marked with the permit number and name of the person or firm placing the sign on the premises]. Fees.

(a) Fees for sign permits shall be in accordance with the adopted schedule, a copy of which is maintained in the office of the Director.

(b) A construction permit shall be charged at a rate of \$0.65 per square foot, with a minimum charge of \$32 per sign for signs larger than 32 square feet.

(c) Annual fees shall be charged at a rate of \$0.32 per square foot, with a minimum charge of \$32 per sign for signs larger than 32 square feet. A one-time fee of \$10.00 will be charged for signs 32 square feet or smaller.

[(4) Fees.

(a) Fees for sign permits shall be in accordance with the adopted schedule, a copy of which is maintained in the office of the Director.

(b) A construction permit shall be charged at a rate of \$0.50 per square foot, with a minimum charge of \$25 per sign for signs larger than 32 square feet.

(c) Annual fees shall be charged at a rate of \$0.25 per square foot, with a minimum charge of \$25 per sign for signs larger than 32 square feet. A one-time fee of \$7.50 will be charged for signs 32 square feet or smaller.]

B. The following signs may be erected or constructed without a permit but in accordance with structural and safety requirements:

(1) ...

(2) ...

(3) Temporary nonilluminated signs, not exceeding 10 square feet of sign area per side [or facing], advertising real estate for sale or lease or announcing contemplated improvements of real estate and located on the premises, with no more than two sides

or facings, back to back, with one such sign for each street frontage.

(4) Temporary nonilluminated signs not exceeding 10 square feet of sign area per side [or facing] erected in connection with new construction work and displayed on the premises during such time as the actual construction work is in progress, with one such sign for each street frontage with no more than two [sides or facings] sign faces, back to back.

(5) ...

(6) ...

(7) Temporary nonilluminated portable signs, not exceeding six square feet of sign area per side [or facing] and not exceeding two [sides or facings] sign faces, back to back, in a commercial or industrial district, with one sign for each 50 feet of street frontage.

(8) ...

(9) ...

(10) ...

(11) Signs in connection with any candidate for elected office, special election or referendum issue may be erected and maintained, provided that the size of any such sign is not in excess of 32 square feet of sign area per side [or facing] sign face and shall contain no more than two [sides or facings] sign faces, back to back. Any such sign shall not be erected more than 90 days prior to any contested election or referendum and removed within 30 days after the election or referendum date.

C. ...

...

I. The Director shall remove or cause to be removed[, at the owner's expense,] any sign erected or maintained in conflict with these regulations at the expense of the owner of the sign, the owner of the real property from which the illegal sign has been removed, and the owner of the entity whose business or development is being promoted or advertised by the illegally placed sign. Removal of a sign by the

Director or his designee shall not affect any fines instituted under this article or any legal proceeding instituted against the violator prior to removal of such sign., as follows:] [(1) The] Sussex County will be free to dispose of all removed illegal signs and shall not be held liable for doing so. Sussex County will collect a [removal] disposal fee of [\$25] \$100 per sign [from the owner of an illegal sign, or from the owner of the real property from which an illegal sign has been removed, if the owner gave permission for the placement of the illegal sign, and from the owner of the entity whose business or development is being promoted or advertised by the illegally placed sign].

J. ...

K. Except as provided in §115-159.5, n[N]o sign [structure or any part of the sign face] shall exceed 25 feet in height above [grade] ground level.

L. ...

M. Any person or corporation who shall violate any of the provisions of this article or fail to comply therewith, or with any of the requirements thereof, or who shall build or alter any sign in violation of any detailed statement or plan submitted and approved hereunder, shall be guilty of a misdemeanor or of a civil offense, and shall be liable to a fine of not less than \$100 nor more than \$1,000 or be imprisoned not more than 10 days, or both, and each and every day such violation shall continue shall be deemed a separate offense. The Director or its designee, any other Code Enforcement Official or attorney hired or retained by Sussex County shall bring charges of any violation pursuant to this provision in a court of competent jurisdiction of the State of Delaware in and for Sussex County, which court shall have original jurisdiction for such matters. The minimum fine of \$100 is mandatory and is not subject to suspension or reduction. Each day on which the violation continues shall be considered a separate offense.

N. After due notice has been given, the Director may cause to be removed, at the expense of the owner of the sign, the owner of the real property from which the illegal sign was removed, and the business or development being promoted or advertised by the sign, the sign face of any abandoned on-premises sign. Removal of a sign face by the Director or his designee shall not affect any fines instituted under this article or any legal proceeding instituted against the violator prior to removal of such sign face. Sussex County will be free to dispose

875 of all removed illegal sign faces and shall not be held liable for doing
876 so. Sussex County will collect a disposal fee of \$100 per sign face.
877
878

879 Section 10. Sussex County Code, Chapter 115, Section 115-161 shall be
880 amended by the addition of the underlined language and deletion of the bracketed
881 language, as follows:
882

883 § 115-161. Construction and lighting.

884 A. ...
885

886 B. Lighting of signs.
887

888 (1) ...
889

890 (2) ...
891

892 (3) ...
893

894 (4) Signs that have external illumination, whether the lighting is
895 mounted above or below the sign face or panel, shall have
896 lighting fixtures or luminaires that are shielded to focus light
897 only on the sign.

898 (5) All illuminated signs, including Electronic Message Centers,
899 must comply with the maximum luminance level of seven
900 hundred fifty (750) cd/m² or Nits at least one-half hour before
901 Apparent Sunset, as determined by the National Oceanic and
902 Atmospheric Administration (NOAA), United States Department
903 of Commerce, for the specific geographic location and date. All
904 illuminated signs must comply with this maximum luminance
905 level throughout the night, if the sign is energized, until
906 Apparent Sunrise, as determined by the NOAA, at which time
907 the sign may resume luminance levels appropriate for daylight
908 conditions, when required or appropriate.

909
910 (6) All illuminated signs, including Electronic Message Centers,
911 must comply with the maximum illuminance level of 0.3 foot
912 candles above ambient light, as measured using a foot candle
913 meter, or similar technology, at a pre-set distance. Pre-set
914 distances to measure the foot candle impact vary with expected

viewing distances of each sign size. Measurement distance shall be based upon the sign area using the following formula:

<u>Sign Area (in square feet)</u>	<u>Measurement Distance (in feet)</u>
<u>10</u>	<u>32</u>
<u>50</u>	<u>71</u>
<u>100</u>	<u>100</u>
<u>200</u>	<u>141</u>
<u>300</u>	<u>173</u>

For signs with a sign area in square feet other than those measurements specifically listed in the table above, the measurement distance shall be calculated with the following formula: Measurement Distance = $\sqrt{\text{Sign Area in Square Feet} \times 100}$.

Section 11. In Sussex County Code, Chapter 115, a new Section 115-161.1 shall be added by the insertion of the underlined language, as follows:

§ 115-161.1 Electronic Message Centers.

A. On-Premises Electronic Message Centers:

(1) In the B-1 (Neighborhood Business), M (Marine), and UB (Urban Business) districts, an On-Premises Electronic Message Center is permitted provided that only one On-Premises Electronic Message Center is permitted per street or road frontage per parcel and that the sign area shall not exceed 200 square feet per side. The electronic message center permitted under this section shall not be in addition to the on-premises ground sign permitted under § 115-159.4(A)(4).

(2) In the C-1 (General Commercial), CR-1 (Commercial Residential, LI-1 (Limited Industrial), LI-2 (Light Industrial), and HI-1 (Heavy Industrial) districts, an On-Premises Electronic Message Center

is permitted provided that only one On-Premises Electronic Message Center is permitted per street or road frontage per parcel and that the sign face shall not exceed 200 square feet of sign area per side. The electronic message center permitted under this section shall not be in addition to the on-premises ground sign permitted under § 115-159.4(A)(4).

(3) On-Premises Electronic Message Centers shall be prohibited in the AR-1 and AR-2 (Agricultural Residential), GR (General Residential), MR (Medium Density Residential), UR (Urban Residential), HR-1 and HR-2 (High Density Residential) Zoning Districts unless specifically permitted as part of a conditional use.

(4) An On-Premises Electronic Message Center which has a sign area of less than or equal to 100 square feet shall not be erected within 50 feet of an off-premises sign. If the sign area of an On-Premises Electronic Message Center is greater than 100 square feet, the separation distance requirement from the On-Premises Electronic Message Center and the off-premises sign shall be equal to 50 feet plus 1 foot of separation distance for each 1 square foot of sign area of the On-Premises Electronic Message Center in excess of 100 square feet. The separation distance shall be measured on a radius from the edge of the On-Premises Electronic Message Center. No variances from this regulation are permitted.

(5) An On-Premises Electronic Message Center may use the following display features and functions of Electronic Message Centers: images and frame effects that appear or disappear from the display through dissolve, fade, flip, or window shade movements. Scrolling left or right, live action video, streaming video, flashing messages, and all other animated signs shall not be permitted.

B. Off-Premises Electronic Message Centers:

(1) In the C-1 (General Commercial), CR-1 (Commercial Residential), LI-1 (Limited Industrial), LI-2 (Light Industrial), and HI-1 (Heavy Industrial) districts, an off-premises sign may be an electronic message center provided that the owner obtains a

special use exception pursuant to §115-80C and complies with the regulations for off-premises signs pursuant to §115-159.5.

(2) Off-Premises Electronic Message Centers shall be prohibited in the AR-1 and AR-2 (Agricultural Residential), GR (General Residential), MR (Medium Density Residential), UR (Urban Residential), HR-1 and HR-2 (High Density Residential) Zoning Districts.

(3) For all Off-Premises Electronic Message Centers which are located on properties adjacent to roads which have less than 4 travel lanes (excluding turn lanes), an Off-Premises Electronic Message Center shall not be erected within 1,200 feet of another Off-Premises Electronic Message Center. This separation distance shall be measured from the edge of the Off-Premises Electronic Message Center and shall apply only to signs which are located on the same side of the road.

(4) For all Off-Premises Electronic Message Centers which are located on properties adjacent to roads which have 4 or more travel lanes (excluding turn lanes), an Off-Premises Electronic Message Center shall not be erected within 2,500 feet of another Off-Premises Electronic Message Center. This separation distance shall be measured from the edge of the Off-Premises Electronic Message Center and shall apply only to signs which are located on the same side of the road.

(5) Off-Premises Electronic Message Centers shall be prohibited from using display features and functions of the signs, including, but not limited to, the following: animation, flashing, streaming or real time video, fading, dissolving, continuous scrolling and / or traveling, spinning, rotating, and similar moving effects, and all dynamic frame effects or patterns of illusionary movement or simulating movement. For Off-Premises Electronic Message Centers, the transition time between messages or message frames is limited to 1 second.

C. Electronic Message Centers: The following regulations shall apply to all electronic message centers.

(1) An Electronic Message Center may be changed at intervals by electronic or mechanical process or remote control provided that:

- 1018 (a) Each message remains fixed for a minimum of at least 10
1019 seconds.
- 1020 (b) When the message is changed, the change must be
1021 accomplished in 1 second or less, with all moving parts
1022 or illumination changing simultaneously and in unison.
- 1023 (c) An Electronic Message Center shall contain a default
1024 design that will freeze the sign in one position, shut
1025 down, or show a full black image on the display if a
1026 malfunction occurs that affects at least fifty percent of the
1027 sign face.
- 1028 (d) Except as otherwise provided in this Article, an
1029 Electronic Message Center may not contain or display
1030 any lights, effects, or messages that flash, move, appear
1031 to be animated or to move, scroll, or change in intensity
1032 during the fixed display period.
- 1033 (e) An Electronic Message Center shall appropriately adjust
1034 display brightness as ambient light levels change and
1035 shall have automatic dimming controls, either by
1036 photocell, hardwire, or software settings, in order to bring
1037 the lighting level at night into compliance with sign
1038 illumination standards set forth in this Article.
- 1039 (f) An owner who seeks a building permit or a special use
1040 exception for an electronic message center shall provide
1041 documentation at the time of application which
1042 demonstrates that the sign shall appropriately adjust
1043 display brightness as ambient light levels change and
1044 shall have automatic dimming controls, either by
1045 photocell, hardwire, or software settings, designed to
1046 bring the lighting level at night into compliance with sign
1047 illumination standards set forth in this article.
- 1048 (g) A sign that attempts or appears to attempt to direct the
1049 movement of traffic or which contains wording, color,
1050 shapes, or likeness of official traffic control devices is
1051 prohibited.
- 1052 (h) No Electronic Message Center shall emit any audio or
1053 verbal announcement or noises of any kind.
- 1054 (2) No variances shall be permitted from the regulations for any
1055 electronic message center.
- 1056

Section 12. In Sussex County Code, Chapter 115, a new Section 115-161.2 shall be added by the insertion of the underlined language, as follows:

§ 115-161.2 Non-Conforming Off-Premises Signs.

A. A non-conforming off-premises sign may remain and be periodically maintained as a permitted non-conforming structure unless abandoned or totally destroyed as specified in §115-161.2(C). However, in no case may such signs be expanded. A non-conforming sign may be re-constructed or re-erected provided that it meets the standards set forth in §115-161.2(D).

B. Conversion of non-conforming off-premises signs to off-premises electronic message centers is prohibited.

C. Any off-premises sign which is destroyed by the forces of nature to any of the following extents for any reason whatsoever shall be considered totally destroyed, shall lose its right to the benefit of any nonconformity provisions, and may not be re-erected except as provided for in §115-161.2(D). For the purposes hereof, "destruction" shall mean the rendering of the off-premises sign element as unusable and the "facing" shall include the copy area and trim.

(1) Destruction of fifty percent or more of the supporting piles or structure located above ground;

(2) Destruction of seventy-five percent or more of the facing;

(3) Destruction of twenty-five percent or more of the supporting piles or structure located above ground and fifty percent or more of the facing.

D. Provided that the owner obtains all necessary variances from the Board of Adjustment pursuant to §115-211, an owner of a non-conforming off-premises sign may replace a non-conforming off-premises sign with a new off-premises sign which does not comply with separation distance or setback requirements. As part of a variance request for a non-conforming off-premises sign under this section, the Board of Adjustment shall consider whether the overall non-conformity is substantially reduced by the installation of the replacement sign. Any replacement off-premises sign must comply with the height and size requirements set forth in §115-159.5. No variances from the height and size requirements shall be permitted.

1094 Section 13. In Sussex County Code, Chapter 115, a new Section 115-161.3
1095 shall be added by the insertion of the underlined language, as follows:
1096

1097 **§ 115-161.3 Substitution.**

1098 The owner of any sign that is otherwise allowed under this Article may
1099 substitute non-commercial copy in lieu of any other commercial or non-
1100 commercial copy. This substitution of copy may be made without any
1101 additional approval or permitting. The purpose of this section is to prevent
1102 any inadvertent favoring of commercial message over any other non-
1103 commercial messages. This provision prevails over any more specific
1104 provision to the contrary. This provision does not create the right to
1105 increase the total amount of signage on a parcel or allow the substitution of
1106 an off-premises commercial message in place of an on-premises commercial
1107 message.

1108
1109 Section 14. In Sussex County Code, Chapter 115, a new Section 115-161.4
1110 shall be added by the insertion of the underlined language, as follows:
1111

1112 **§ 115-161.4 Severability.**

1113 If any portion of this Ordinance, Article, section, or subdivision thereof shall
1114 be declared unconstitutional or in violation of the general laws of this state,
1115 such declaration shall not affect the remainder of this Ordinance and Article
1116 which shall remain in full force and effect.

1117
1118 Section 15. Upon the adoption of this Ordinance in accordance with Section
1119 16 hereof, the moratorium imposed by Ordinance No. 2414 entitled “An Ordinance
1120 to Establish a Moratorium Upon the Acceptance of Special Use Exception
1121 Applications for Off-Premises Signs,” any extensions thereof, shall be immediately
1122 terminated.
1123

1124 Section 16. This Ordinance shall become effective upon its adoption by a
1125 majority of the elected members of Sussex County Council.
1126
1127
1128

1129 **Synopsis**

1130 This Ordinance revises the provisions of Chapter 115, Article XXI of the
1131 Sussex County Code related to the type, usage, and placement of signs in Sussex

1132 **County. In addition, this Ordinance terminates the moratorium on the acceptance**
1133 **of any special use exception applications for off-premises signs.**