



Sussex County Council Public/Media Packet

**MEETING:
December 15, 2015**

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

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



2 THE CIRCLE | PO BOX 589
GEORGETOWN, DE 19947
(302) 855-7743 T
(302) 855-7749 F
sussexcountyde.gov

Sussex County Council

AGENDA

DECEMBER 15, 2015

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. Proclamation – Cape Henlopen Field Hockey Team
2. Delaware Coastal Airport Sign Project Update
3. Administrator's Report

Gina Jennings, Finance Director

1. Clean Water and Flood Abatement Task Force Update

10:30 a.m. Public Hearings

Kings Highway De-Annexation from the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District

Pine Country Condo, Unit 1 Annexation – West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District

Brandy Nauman, Housing Coordinator & Fair Housing Compliance Officer

1. Fair Housing Update



10:45 a.m. Public Hearing

“AN ORDINANCE TO AMEND CHAPTERS 99 AND 115 OF THE CODE OF SUSSEX COUNTY TO ALLOW APPLICANTS TO SEEK AN EXTENSION OF TIME FOR APPROVALS FOR SUBDIVISION APPLICATIONS, CONDITIONAL USE APPLICATIONS, AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS UPON WRITTEN REQUEST”

Joe Wright, Assistant County Engineer

- 1. Pump Station #210 Force Main to Indian Bays Regional Wastewater Facility:
Indian Mission and Beaver Dam Roads (Contract 15-08A)**
 - A. Bid Award**

John Ashman, Director of Utility Planning

- 1. Saddle Ridge Oversizing Agreement**

Old Business

**Conditional Use No. 2025
Rudy South, c/o T & C Properties, LLC**

**Conditional Use No. 2026
Cristian Omar Hernandez Perez and Terri L. Martin**

**Change of Zone No. 1769
Ocean Atlantic Communities, LLC**

**Conditional Use No. 2012
Ocean Atlantic Communities, LLC**

**Change of Zone No. 1783
Cauthen Ventures DE, LLC**

**Conditional Use No. 2028
Cauthen Ventures DE, LLC**

Introduction of Proposed Zoning Ordinances

Council Members' Comments

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

Possible Action on Executive Session Items

1:30 P.M. Public Hearings

Conditional Use No. 2034 filed on behalf of Beachfire Brewery Co. LLC

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RESTAURANT AND BREWERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.99 ACRES, MORE OR LESS” (located on the north side of Beaver Dam Road (Road 285) south of Lewes Georgetown Highway (Route 9) (Tax I.D. No. 334-5.00-215.00, 215.01, 216.00, 217.01, 218.00 & 219.00) (911 Address: 32490 Lewes Georgetown Highway, Lewes)

Conditional Use No. 2035 filed on behalf of Synagro Central, LLC

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LAND APPLICATION OF BIO-SOLIDS AS AGRICULTURAL FERTILIZER FOLLOWING DNREC APPROVAL TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 203.0 ACRES, MORE OR LESS” (located on both sides of Zoar Road, northeast of the Railroad tracks, southwest of Patriot’s Way, and on both sides of Governor Stockley Road (Tax I.D. No. 133-3.00-4.00 and 133-7.00-1.00, 4.00, 11.00 and 12.10 (all of or parts of) (911 Address: None Available)

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 December 8, 2015 at 5:20 p.m., and at least seven (7) days in advance of the meeting.

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

Agenda items listed may be considered out of sequence.

###

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 8, 2015

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, December 8, 2015, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

Councilman Sam Wilson was absent.

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 602 15
Approve
Agenda**

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

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**

Minutes

The minutes of December 1, 2015 were approved by consent.

**Corre-
spondence**

Mr. Cole read the following correspondence:

**DELAWARE GUIDANCE SERVICES FOR CHILDREN & YOUTH,
WILMINGTON, DELAWARE.**

RE: Letter in appreciation of grant.

BRIDGEVILLE SENIOR CENTER, BRIDGEVILLE, DELAWARE.

RE: Letter in appreciation of grant.

INDIAN RIVER SENIOR CENTER, MILLSBORO, DELAWARE.

RE: Letter in appreciation of grant.

CADBURY SENIOR LIFESTYLES, LEWES, DELAWARE.

RE: Letter in appreciation of grant.

Corre-
spondence
(continued)

CLOTHING OUR KIDS, MILLSBORO, DELAWARE.

RE: Letter in appreciation of grant.

**CANCER SUPPORT COMMUNITY, REHOBOTH BEACH,
DELAWARE.**

RE: Letter in appreciation of grant.

**MENTAL HEALTH ASSOCIATION IN DELAWARE, WILMINGTON,
DELAWARE.**

RE: Letter in appreciation of grant.

DELAWARE HOUSING COALITION, DOVER, DELAWARE.

RE: Letter in appreciation of grant.

**BOYS & GIRLS CLUBS OF DELAWARE, WILMINGTON,
DELAWARE.**

RE: Letter in appreciation of grant.

**DELMARVA CLERGY UNITED IN SOCIAL ACTION FOUNDATION,
ELLENDALE, DELAWARE.**

RE: Letter in appreciation of grant.

Public
Comments

Public Comments

Keavney Watson commented on his inability to find a job in Sussex County over the last two years.

Paul Reiger commented on farm ponds and how they should be regulated by zoning codes.

Dan Kramer commented that there are no traffic problems in the County and he commented on DelDOT's practice of "taking land".

DelDOT
Presentation
and
Discussion

DelDOT Secretary Jennifer Cohan and DelDOT's Director of Planning Drew Boyce were in attendance and presented: (1) an overview of projects that DelDOT is working on in Kent and Sussex counties that directly impact traffic flow (regional corridors) and (2) a proposal for Transportation Improvement Districts (TIDs) in Sussex County.

County
Engineer

Mr. Lawson introduced Hans Medlarz, the County's new County Engineer.

Adminis-
trator's
Report

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

1. Caroling on The Circle

The Sussex County Council would like to thank the community for participating in the 32nd annual Caroling on The Circle last night. We had a very successful night with hundreds of carolers and thus far have collected over 20,000 canned goods and nonperishable food

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

items for our less fortunate neighbors.

We remind everyone that the County is continuing to collect items until the end of the year, and will continue to distribute these goods to our local food pantries. We want to thank all of our volunteers, local businesses, and schools for helping to collect the food over the last month and for making this year's Caroling on The Circle a success!

2. Mildred King Luncheon

A reminder that Sussex County offices will close for a two-hour period on Friday, December 11th, to allow employees to attend the annual Mildred King Luncheon. County offices will close from 11:00 a.m. to 1:00 p.m. on that date. Members of the public with business to conduct are asked to plan accordingly. County offices will reopen promptly at 1:00 p.m.

**Pension
Review
and Update**

Mrs. Jennings, and Michael Shone of Peirce Park Group, the County's Pension Investment Consultant, discussed the County's pension performance and the Pension Committee's recommendation on changing the investment policy statements to make them more consistent.

Summary of the Pension Investment Analysis

- **Market value was \$70,739,340 as of September 30, 2015**
- **Year-to-date loss of \$296,000**
- **Continued strong performance in the third quarter by ranking in the top 36 percent when compared to peer group**

Summary of the OPEB Investment Analysis

- **Market value was \$30,057,238 as of September 30, 2015**
- **Year-to-date loss of \$55,000**
- **Very strong performance in the third quarter by ranking in the top 19 percent when compared to peer group**
- **Outperformed the benchmark by almost 1 percent**

Mr. Shone stated that no changes are recommended for the Pension Fund or the OPEB Fund at this time.

Investment Policy Updates

The Pension Committee reviewed both the Pension and Pension Benefit (OPEB) Investment Policy Statements at the November meeting. The Committee, with the assistance of Peirce Park Group, made the recommendation to change the investment policy statements that accomplish the following goals:

Pension Review and Update (continued)

- **Make the Pension and OPEB Investment Policy Statements as similar as possible.**
- **Update the investment guidelines and restrictions**
- **Make the investment policy statements easier to read**
- **Remove any unnecessary or redundant language**

Mrs. Jennings and Mr. Shone provided a summary of the proposed changes to the investment policy statements.

In response to questions, Mrs. Jennings reported that the Pension Fund is approximately 87% funded and the OPEB Fund is approximately 72% funded.

M 603 15 Adopt Investment Policy Changes/ Pension and Pension Benefit Plans

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, that the Sussex County Council adopt the Investment Policy Changes to both the Pension and the Pension Benefit Plans, as recommended by the Pension Committee and Peirce Park Group.

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

Dog Control Update

Mrs. Jennings reported that the State of Delaware continues to plan on taking over dog control on January 1, 2016. Hetti Brown, Executive Director of the Office of Animal Welfare, gave an update on the transition and discussed a proposed Memorandum of Understanding that transfers the County's authority of dog control services to the Office of Animal Welfare. Ms. Brown explained that this agreement outlines the services that will be performed until Title 9, Chapter 9, concerning dogs, is permanently reassigned as a State responsibility in the Delaware Code. It was noted that the County will continue to pay \$56,885 a month for services.

M 604 15 Approve Entering Into MOU/ Dog Control and Dangerous Dog Services

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council enter into a Memorandum of Understanding with the State of Delaware, Division of Public Health, Delaware Department of Health & Social Services, to grant authority to the State to enforce Delaware dog control and dangerous dog statutes.

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

Draft Ordinance

Mrs. Jennings presented a Draft Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$3,887,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH

Draft Ordinance/ Millville SSD (continued)

THE EXPANSION OF THE MILLVILLE SANITARY SEWER DISTRICT AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH". This Ordinance provides for the issuance of up to \$3,887,000 of Sussex County General Obligation Bonds in order to finance or reimburse the County for a portion of the costs for the design, construction and equipping of the wastewater collection, conveyance and transmission facilities for the expansion of the Millville Sanitary Sewer District.

Introduction of Proposed Ordinance

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$3,887,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE EXPANSION OF THE MILLVILLE SANITARY SEWER DISTRICT AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH". The Proposed Ordinance will be advertised for Public Hearing.

CAMA System/ Bid Award

Chris Keeler, Director of Assessment, presented for Council's consideration a contract with Tyler Technologies to purchase a Computer Assisted Mass Appraisal (CAMA) System. Mr. Keeler reported that this automated system is for maintaining property data, valuing property, notifying owners, and ensuring tax equity through uniform valuations. He advised that the goal of this implementation is to eliminate inefficiencies associated with an antiquated system, improve taxpayer services by integrating with the current Munis and GIS systems, provide enhanced valuation services, improve internal controls, and provide increased accountability.

Mr. Keeler reviewed the implementation phases:

September 2016: Phase I – IAS World CAMA, includes IAS World Inquiry and Appeals Tracking and the IAS World Tax Extension

October 2016: Phase II – IAS World Field Mobile and IAS World Public Access

The cost of the contract, including installation, testing and training will not exceed \$963,040. Additionally, after the first 24 months, the next consecutive five years carry a fixed maintenance rate.

M 605 15 Approve Purchase of CAMA System

A Motion was made Mrs. Deaver, seconded by Mr. Arlett, that the Sussex County Council approves the purchase of a Computer Assisted Mass Appraisal (CAMA) System from Tyler Technologies at a price not to exceed \$963,040.00.

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

**Old
Business/
CU 2032**

The Council considered Conditional Use No. 2032 filed on behalf of Guillermo Vasquez, t/a F&N Vasquez Concrete, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on October 29, 2015 at which time action was deferred. On November 12, 2015, the Commission recommended that the application be denied.

(See the minutes of the meetings of the Planning and Zoning Commission dated October 29 and November 12, 2015.)

The Council held a Public Hearing on this application on December 1, 2015 at which time the Council deferred action for one week to allow time for Legal Counsel to research the Council's ability to approve a Conditional Use for a limited time (i.e. a period of 6 weeks).

Mr. Moore reported that he researched the possibility of Council approving a Conditional Use with a condition limiting the time period and found that County Code, Section 115-174, states that "approval of a Conditional Use under this article shall be valid for a period of three years after the date of approval". Mr. Moore advised that, from a policy standpoint, approving a Conditional Use for a limited time period would not be a good policy for the Council.

**M 606 15
Defer
Action
on
CU 2032**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action on Conditional Use No. 2032 until January 12, 2016.

Motion Denied: 3 Nays, 1 Yea, 1 Absent.

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

DENIED

**M 607 15
Approve
CU 2032**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONSTRUCTION COMPANY OFFICE, EQUIPMENT PARKING AND SHOP/YARD TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.125 ACRES, MORE OR LESS" (Conditional Use No. 2032) filed on behalf of Guillermo Vasquez, t/a F&N Vasquez Concrete, LLC.

Motion Denied: 4 Nays, 1 Absent.

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

DENIED

Grants

Mrs. Jennings presented grant requests for consideration.

**M 608 15
Council-
manic
Grant**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to give \$1,000.00 (\$500.00 each from Mr. Vincent's and Mr. Arlett's Councilmanic Grant Accounts) to the Good Samaritan Aid Organization for their Christmas Basket Program.

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 609 15
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$250.00 from Mr. Vincent's Councilmanic Grant Account to Nanticoke Health Services for their Annual Holiday Appeal.

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 610 15
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$100.00 (\$20.00 from each Councilmanic Grant Account) to Delaware Community Foundation for community leadership activities and philanthropic services.

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 611 15
Council-
manic
Grant**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$300.00 from Mrs. Deaver's Councilmanic Grant Account to Overfalls Maritime Museum Foundation for their Year-End Giving Campaign.

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 612 15
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$500.00 (\$250.00 each from Mrs. Deaver's and Mr. Cole's Councilmanic Grant Account) to Coastal Concerts for community concerts, programs and events.

Motion Adopted: 4 Yeas, 1 Absent.

**Council
Members'
Comments**

Council Members' Comments

Mrs. Deaver commented on the Trans-Pacific Partnership Agreement.

Mr. Cole commented on gigantic chicken farms, which the County's Agricultural District does not address.

**M 615 15
Go Into
Executive
Session**

At 12:19 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole, to recess the Regular Session and go into Executive Session.

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**

**Executive
Session**

At 12:22 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to personnel, pending/potential litigation and land acquisition. The Executive Session concluded at 1:41 p.m.

**M 616 15
Reconvene
Regular
Session**

At 1:44 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to come out of Executive Session and to reconvene the Regular Session.

Motion Adopted: 4 Yeas, 1 Absent.

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

**E/S
Action**

There was no action on Executive Session matters.

**M 617 15
Adjourn**

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to adjourn at 1:44 p.m.

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**

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



A PROCLAMATION TO HONOR THE CAPE HENLOPEN HIGH SCHOOL FIELD HOCKEY TEAM UPON WINNING THE 2015 DIAA CHAMPIONSHIP

WHEREAS, the Sussex County Council wishes to recognize the Cape Henlopen High School field hockey team for winning the Delaware Interscholastic Athletic Association title as State Champions for the 2015 season; and

WHEREAS, the Cape Henlopen High School field hockey team capped yet another impressive season in beating Delmar High School by a score of 3 to 1 during the state championship game on Saturday, November 21, 2015, ending with a 19-0 record; and

WHEREAS, the Cape Henlopen High School field hockey team's accomplishment is the fifth consecutive state title for the school's field hockey program, and the seventh field hockey state championship title for the school since 1979; and

WHEREAS, the Cape Henlopen High School field hockey team played as a formidable opponent in facing squads from across Sussex County and throughout the State of Delaware and mid-Atlantic during the 2015 season, displaying cooperation, consistency, and character above all else; and

WHEREAS, the Cape Henlopen High School field hockey team's accomplishment is a source of tremendous pride for the Cape Henlopen School District community and all of Sussex County;

NOW, THEREFORE, BE IT RESOLVED that the Sussex County Council commends the Cape Henlopen High School field hockey team upon winning the 2015 Delaware Interscholastic Athletic Association championship title, and proclaims Tuesday, December 15, 2015 as a day for all Sussex County residents to honor the team's remarkable achievement.



Joan R. Deaver, Councilwoman

GINA A. JENNINGS, MBA, MPA
FINANCE DIRECTOR
(302) 855-7741 T
(302) 855-7749 F
gjennings@sussexcountype.gov



Sussex County
DELAWARE
sussexcountype.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: **CLEAN WATER AND FLOOD ABATEMENT TASK FORCE**

DATE: December 11, 2015

On Tuesday, I will give you an update on the Clean Water and Flood Abatement Task Force. The Task Force met on November 19 and is scheduled to meet this Thursday, December 17, in Buena Vista.

The Task Force met and began discussing the draft House Bill known as the “Clean Water for Delaware Act.” A copy of the Act is attached, which states that most of Delaware’s waters do not meet water quality standards for their designated uses, such as drinking, swimming, and supporting fish and other aquatic life. Delaware’s list of impaired waters include 377 bodies of water that suffer from excess nutrients, low dissolved oxygen, toxins, and bacteria. Extensive analysis of chemical contaminants in fish has led to advisories that fish are unsafe to eat in more than 30 waterways statewide.”

The next meeting is to review the funding needs to meet the State’s demands for clean water. The Act states it is in the public’s interest to establish a Clean Water Trust Fund to coordinate the available resources for State drinking water, wastewater, stormwater, non-point source pollution reduction, toxics removal, and ecological restoration.

The calculation of the Clean Water Fee for Sussex County is \$0.2071 per \$100 of assessed value, from a minimum of \$45 per year to a maximum of \$85 per year. Our average single family home would be charged the \$45 minimum; in other words, 65 percent of our parcels will be charged the minimum. The fee will generate over \$8 million for the Clean Water Trust Fund.

Please let me know if you have any questions.

Attachment





SPONSOR: Rep. Mulrooney & Sen. Townsend

HOUSE OF REPRESENTATIVES
148th GENERAL ASSEMBLY

HOUSE BILL NO.

AN ACT TO AMEND TITLES 29, 7, AND 30 OF THE DELAWARE CODE RELATING TO THE CLEAN WATER ACT FOR DELAWARE ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

1 Section 1. Amend Title 29, Chapter 80 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 Subchapter III. Clean Water for Delaware Act

4 § 8070. Short title.

5 This Act shall be known and may be cited as the "Clean Water for Delaware Act."

6 § 8071. Legislative findings.

7 (a) The General Assembly finds that:

8 (1) The State of Delaware has a compelling interest in ensuring that all Delawareans have access to clean
9 water.

10 (2) As of the date of this Act:

11 a. Most of Delaware's waters do not meet water quality standards for their designated uses, such
12 as drinking, swimming, and supporting fish and other aquatic life.

13 b. Delaware's list of impaired waters includes 377 bodies of water that suffer from excess
14 nutrients, low dissolved oxygen, toxics, and bacteria.

15 c. Extensive analysis of chemical contaminants in fish has led to advisories that fish are unsafe
16 to eat in more than 30 waterways statewide.

17 (3) Although certain federal grants are available to local governments through the Safe Drinking Water
18 Act, the Clean Water Act and other programs, federal funding is insufficient to meet the State's demands, and
19 existing State resources are inadequate to meet current and future needs.

20 (4) It is fitting and proper for the State to encourage local governments to undertake clean water projects
21 by establishing state mechanisms to finance such projects at the lowest reasonable costs.

22 (5) It is fitting and proper for the State to more effectively leverage and maximize the impact of all
23 public, private, and philanthropic resources available for achieving clean water standards in all Delaware
24 waterways.

25 (b) The General Assembly therefore determines that it is in the public interest to establish the Clean Water for
26 Delaware Trust Fund to maximize and coordinate the management of resources available to the State for drinking water,
27 wastewater, stormwater, non-point source pollution reduction, toxics removal, ecological restoration, and other eligible
28 projects to be funded from the following sources:

29 (1) A Clean Water for Delaware Fee as established pursuant to § 8075 of this subchapter, which shall be
30 considered a component of the local property tax.

31 (2) Grants from the U.S. Environmental Protection Agency ("EPA") under the Clean Water Act and the
32 Safe Drinking Water Act, together with any matching state funds, or funds received from any other federal agency.

33 (3) Moneys received as repayments of principal and interest on loans, interest received on invested funds
34 and other funding made available to the Delaware Water Pollution Control Revolving Loan Fund established
35 pursuant to 29 Del. C. § 8003(12), or the Drinking Water Revolving Loan Fund established pursuant to 29 Del. C.
36 § 7903(15).

37 (4) Funds from the Hazardous Substance Cleanup Fund for remediation projects related to water quality
38 improvements pursuant to 7 Del C. §§ 9113 et seq. or the Land and Water Conservation Trust pursuant to 30 Del.
39 C. §§ 5423 et seq.

40 (5) Moneys received from other sources for the purposes directed by this subchapter.

41 § 8072. Definitions.

42 For purposes of this subchapter, the following terms shall have the following meanings:

43 (1) "Applicant" means a person who submits an application to the Department to receive funds from the Fee
44 Account.

45 (2) "Clean Water Act" means the federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., as the same may
46 be amended from time to time.

47 (3) "Clean Water Fee" means the Clean Water for Delaware Fee established pursuant to § 8075 of this subchapter.

48 (4) "Clean Water Fee Account" means the account established under § 8075 of this subchapter and into which the
49 Clean Water Fee shall be deposited.

50 (5) "Water Pollution Control Fund" means the Delaware Water Pollution Control Revolving Fund established
51 under § 8003 of this title.

52 (6) "Clean Water Revenue Bonds" or "Bonds" mean any revenue bonds, notes, or other obligations issued by the
53 Trust pursuant to § 8077 of this subchapter, repayment of which is secured and repaid as provided therein.

54 (7) "Conservation Project" means a waterway or land conservation, a habitat or stream restoration, or a
55 recreational infrastructure project as permitted by § 5423 of Title 30 or § 6102A of this title; provided however, that no
56 regional infrastructure project hereunder shall be deemed to be a conservation project unless it is related to the provision,
57 preservation, or maintenance of clean water or water quality.

58 (8) "Cost" means the cost of all labor, materials, machinery and equipment, lands, property, rights and easements,
59 financing charges, interest on bonds, plans and specifications, surveys or estimates of costs and revenues, engineering and
60 legal services, and all other expenses necessary or incident to all or part of a project.

61 (9) "DHSS" means the Department of Health and Social Services.

62 (10) "DNREC" or "Department" means the Department of Natural Resources and Environmental Control.

63 (11) "Drinking Water Fund" means the Delaware Safe Drinking Water Revolving Fund established pursuant to 29
64 Del. C. § 7903(14).

65 (12) "EPA Eligible Project" means any project permitted to be funded under the Safe Drinking Water Act and
66 Clean Water Act.

67 (13) "Funds" mean, collectively, the Clean Water Fee Account, the Drinking Water Fund, the Water Pollution
68 Control Fund, the Delaware Land and Water Conservation Trust Fund, and the Hazardous Substance Cleanup Fund.

69 (14) "Issuing officers" means the Governor, Secretary of State, State Treasurer, and Secretary of Finance.

70 (15) "Local government unit" means a State authority, county, city, town, or any other political subdivision of the
71 State authorized to undertake any of the following:

72 a. Operation and maintenance of wastewater treatment systems.

73 b. Operation and maintenance of a public water supply system.

74 c. Construction, rehabilitation, operation or maintenance of water supply facilities.

75 d. Other provision of water for human consumption.

76 (16) "Project" means the acquisition, construction, installation, modification, renovation, repair, extension,
77 renewal, replacement, or rehabilitation of land, interest in land, buildings, structures, facilities, other improvements or
78 administration of such activity and the acquisition, installation, modification, renovation, repair, extension, renewal,
79 replacement, rehabilitation or furnishing of fixtures, machinery, equipment, furniture, or other property of any nature
80 whatsoever used on, in, or in connection with an such land, interest in land, building, structure, facility, or other
81 improvement all for the purpose of or relating to the provision, preservation, or maintenance of clean water or water
82 quality. "Project" shall include any project described in § 8076(a) of this subchapter.

83 (17) "Public water utility" means any investor-owned water company or small water company.

84 (18) "Secretary" means the Secretary of the Department of Natural Resources and Environmental Control.

85 (19) "Safe Drinking Water Act" means the federal Safe Drinking Water Act, 42 U.S.C. 300f et seq., as the same
86 may be amended from time to time.

87 (20) "Small water company" means any company, purveyor, or entity, other than a governmental agency, that
88 provides water for human consumption and which regularly serves less than 1,000 customer connections. This term
89 includes nonprofit, non-community water systems owned or operated by a nonprofit group or organization.

90 (21) "Stormwater management system" means any equipment, plants, structures, machinery, apparatus
91 management practices, or land, or any combination thereof, acquired, used, constructed, implemented or operated to
92 prevent nonpoint source pollution, abate improper cross-connections and interconnections between stormwater and sewer
93 systems, minimize stormwater runoff, reduce soil erosion, or induce groundwater recharge, or any combination thereof.

94 (22) "Trust" means the Clean Water for Delaware Trust Fund authorized pursuant to this subchapter.

95 (23) "Trust Board" or "Board" means the board of directors of the Trust established pursuant to § 8073 of this
96 subchapter.

97 (24) "Wastewater" means residential, commercial, industrial, or agricultural liquid waste, sewage, seepage,
98 stormwater runoff, or any combination thereof, or other liquid residue discharged or collected into a sewer system or
99 stormwater management system, or any combination thereof.

100 (25) "Wastewater treatment system" means any equipment, plants, structures, machinery, apparatus, land, or any
101 combination thereof, acquired, used, constructed, or operated by or on behalf of a local government unit for the storage,
102 collection, reduction, recycling, reclamation, disposal, separation, or other treatment of wastewater or sewage sludge, or for
103 the collection or treatment, or both, of stormwater runoff and wastewater, or for the final disposal of residues resulting from
104 the treatment of wastewater, including pumping and ventilating stations, treatment plants and works, connections, outfall
105 sewers, interceptors, trunk lines, stormwater management systems, and other personal property and appurtenances
106 necessary for their use or operation. "Wastewater treatment system" shall include a stormwater management system or a
107 combined sewer system.

108 (26) "Wastewater treatment system project" means any work relating to the acquisition, construction,
109 improvement, repair or reconstruction of all or part of any structure, facility, or equipment or real or personal property
110 necessary for, or ancillary to, any wastewater treatment system; or any work relating to any of the stormwater management
111 or combined sewer overflow abatement projects identified in the stormwater management and combined sewer overflow
112 abatement project priority list or any work relating to any other project eligible for financing under applicable law.

113 (27) "Water supply facilities" means the real property and the plants, structures, interconnections between existing
114 water supply facilities, machinery and equipment and other property real, personal and mixed, acquired, constructed, or
115 operated or to be acquired, constructed, or operated, in whole or in part, by or on behalf of a public water utility or small
116 water company, or by on the behalf of the State or local government unit for the purpose of augmenting the natural water

117 resources of the State and making available an increased supply of water for all uses, or of conserving existing water
118 resources, and any and all appurtenances necessary, useful, or convenient for the collecting, impounding, storing,
119 improving, treating, filtering, conserving, or transmitting of water, and for the preservation and protection of these
120 resources and facilities, whether in public or private ownership, and providing for the conservation and development of
121 future water supply resources, and facilitating incidental recreational uses thereof.

122 (28) "Water supply project" means any work relating to the acquisition, construction, improvement, repair or
123 reconstruction of all or part of any structure, facility or equipment, or real or personal property necessary for or ancillary to
124 water supply, or any work relating to the purposes set forth in Section 8076 of this subchapter, or any work relating to any
125 other EPA Eligible Project for funding pursuant to the Safe Drinking Water Act.

126 § 8073. Establishment of Clean Water for Delaware Trust Fund and Board; members; compensation; designees;
127 dissolution.

128 (a) There shall be established within the Department of Natural Resources and Environmental Control of the State
129 a body corporate and politic, with corporate succession, to be known as the "Clean Water for Delaware Trust Fund." Said
130 Trust shall be constituted as an instrumentality of the State exercising public and essential governmental functions, no part
131 of whose revenues shall accrue to the benefit of any individual, and the exercise by the Trust of the powers conferred by the
132 provisions set forth herein, shall be deemed and held to be an essential governmental function of the State. The Trust shall
133 be a membership corporation with the Department as the sole member and shall have a certificate of incorporation and by-
134 laws consistent with the provisions of this subchapter. The Secretary of the Department is hereby authorized to file a
135 certificate of incorporation with the Secretary of State pursuant to Chapter 1, Title 8 of the Delaware Code. The certificate
136 of incorporation of the Trust shall provide for the approval of the Delaware General Assembly in order to amend the
137 certificate of incorporation or to effect a merger or dissolution of the Trust.

138 (b) The Trust shall be administered by a nine-member Board of Directors comprised of the following members:

139 (1) The Secretaries of the Departments of Finance, Natural Resources and Environmental Control, Health
140 and Social Services, and Agriculture, each of whom shall serve as ex officio members.

141 (2) One person appointed by the President Pro Tempore of the Senate who shall possess financial or
142 investment expertise.

143 (3) One person appointed by the Speaker of the House who shall possess financial or investment
144 expertise.

145 (4) One person appointed by the county executive or county administrator of each county in the State of
146 Delaware for a total of 3 county members.

147 (c) The member initially appointed by the President Pro Tempore of the Senate and the member initially appointed
148 to represent Kent County shall serve for a term of two years, so as to stagger the tenure of Board members. All other initial

149 members and all subsequently appointed members shall serve a term of four years. Each appointed member shall serve
150 until his successor has been appointed and qualified. A director is eligible for reappointment up to a maximum of three
151 terms. Any vacancy shall be filled in the same manner as the original appointment, but for the unexpired term only.

152 (d) The Secretary of the Department of Natural Resources and Environmental Control shall serve as the chair of
153 the Board and the members shall biannually elect a vice-chair from the Board membership.

154 (e) Five directors shall constitute a quorum at any meeting. Action may be taken and motions and resolutions
155 adopted by the Board by the affirmative majority vote of those directors present but in no event shall any action be taken or
156 motions or resolutions adopted without the affirmative vote of at least five members.

157 (f) Each ex officio member may appoint an officer of his or her department to represent him or her in actions
158 related to the Trust, and such appointee may lawfully act on behalf of the member for whom he or she is appointed. Notice
159 of the appointment shall be delivered in writing to the Board by the appointing member and shall continue in effect until
160 revoked or amended in writing by such member and delivered to the Board.

161 (g) No resolution or other action of the Board providing for the issuance of bonds, including refunding bonds, shall
162 be adopted or otherwise made effective by the Board without the prior approval in writing of the issuing officers and the
163 prior authorization of the General Assembly.

164 (h) Members of the Board, other than ex officio members, shall serve without compensation except that they shall
165 be reimbursed for reasonable and necessary expenses incidental to their duties as members of the Board.

166 § 8074. Powers of the Trust related to Clean Water for Delaware Projects.

167 (a) The Trust shall be responsible for oversight of the financial assets of the Funds to maximize, and coordinate the
168 management of, the resources available for projects.

169 (b) The Trust shall receive recommendations from the Water Infrastructure Advisory Council and issue loans and
170 grants in consideration of the common platform developed by the Council for soliciting, prioritizing, determining
171 creditworthiness, closing, and managing loans and grants in accordance with EPA policy.

172 (c) The Trust shall be permitted to transfer funds available for loans between the Drinking Water and the Clean
173 Water programs based on demand and contingent on the requirements of the EPA and others and providing that such
174 transfers are identified in the Intended Use Plan for each revolving loan fund.

175 (d) At such time as the Trust determines that demand for funding for projects exceeds all available resources, the
176 Trust is authorized to issue bonds, notes, and other obligations as set forth in § 8077 of this subchapter, including the prior
177 enactment of an Authorization Act authorizing the issuance of such Bonds.

178 (e) The Trust shall develop the framework required to maximize private and philanthropic resources pursuant to
179 the requirements set forth in this subchapter, determine program structure, obtain and maintain credit ratings, maintain and

180 manage cash and investment accounts including those necessary for debt service or private financing repayment, coordinate
181 bond and financing closings, disburse proceeds, and maintain compliance with regulatory requirements.

182 (f) The Trust shall provide an annual report to the General Assembly Joint Committee on Capital Improvement
183 and the Natural Resources Committee of both the House of Representatives and the Senate on accounting of revenues,
184 expenditures, and cash management, five year project priority lists, and progress toward achieving the State's water quality
185 goals. The annual report shall be delivered publicly to the aforementioned committees by the Secretary of the Department
186 and made available for public review.

187 § 8075. Establishment of Clean Water for Delaware Fee.

188 (a) The Clean Water for Delaware Fee is hereby established to provide sustainable financial resources for
189 undertaking activities designed to enhance the quality of the waters of the State. The Clean Water Fee shall be assessed,
190 collected and administered, and handled as set forth in this section. Once due, Clean Water Fees shall constitute a lien
191 against the tax parcel for which they are assessed until paid.

192 (b) Calculation of Clean Water Fee.

193 (1) For all single family residential tax parcels, including but not limited to single family homes,
194 duplexes, townhouses, condominium units, and other tax parcels which consist of one single family residential
195 unit, the Clean Water Fee shall be calculated as follows:

196 a. Sussex County properties: \$0.2071 per \$100 of assessed value (1974 assessments), from a
197 minimum of \$45 per year to a maximum of \$85 per year.

198 b. Kent County properties: \$0.1093 per \$100 of assessed value (1987 assessments), from a
199 minimum of \$45 per year to a maximum of \$85 per year.

200 c. New Castle County properties: \$0.1195 per \$100 of assessed value (1983 assessment), from a
201 minimum of \$45 per year to a maximum of \$85 per year.

202 (2) For all farm land tax parcels which are assessed for the payment of property taxes, the annual Clean
203 Water Fee shall be calculated as follows:

204 a. Sussex County properties: 50% of \$0.2071 per \$100 of assessed value, up to a maximum of
205 \$15,000 per owner of record.

206 b. Kent County properties: 50% of \$0.1093 per \$100 of assessed value, up to a maximum of
207 \$15,000 per owner of record.

208 c. New Castle County properties: 50% of \$0.1195 per \$100 of assessed value, up to a maximum
209 of \$15,000 per owner of record.

210 (3) For all tax parcels currently exempt from property taxes such as non-profits, government and
211 municipal buildings, the annual Clean Water Fee shall be calculated as follows:

212 a. Sussex County properties: 50% percent of \$0.2071 per \$100 of assessed value (1974
213 assessments), up to a maximum of \$12,500 per owner of record.

214 b. Kent County properties: 50% percent of \$0.1093 per \$100 of assessed value (1987
215 assessments) up to a maximum of \$12,500 per owner of record.

216 c. New Castle County properties: 50% percent of \$0.1195 per \$100 of assessed value (1983
217 assessment) up to a maximum of \$12,500 per owner of record.

218 (4) For all tax parcels not covered by paragraphs (1), (2), or (3) of this section, including all commercial
219 parcels, industrial parcels, and parcels consisting of multiple residential units, including apartment buildings and
220 complexes, the annual Clean Water Fee shall be calculated as follows:

221 a. Sussex County properties: \$0.2071 per \$100 of assessed value (1974 assessments), up to a
222 maximum of \$25,000 per owner of record.

223 b. Kent County properties: \$.1093 per \$100 of assessed value (1987 assessments up to a
224 maximum of \$25,000 per owner of record.

225 c. New Castle County properties: \$.1195 per \$100 of assessed value (1983 assessment), from a
226 minimum of \$45 per year to a maximum of \$25,000 per owner of record.

227 (5) Tax parcels which receive a discount or partial exemption shall receive a proportionally similar
228 discount or partial exemption from the Clean Water Fee.

229 (6) Activities such as irrigation or other water quantity projects shall be exempt from the Clean Water
230 Fee.

231 (7) The Clean Water Fee shall be reduced by 65% percent for tax parcels located within municipalities
232 and within those unincorporated portions of a county that have created a local stormwater utility which assesses at
233 least \$50.

234 (8) Beginning July 1, 2017, the Clean Water Fee payable by residential properties and units and the
235 maximum Clean Water Fee otherwise paid pursuant to this section, shall be increased on such date and every 10
236 years thereafter by the increase in the Consumer Price Index for All Urban Consumers (CPI-U) for Philadelphia-
237 Wilmington-Atlantic City as prepared by the Bureau of Labor Statistics, U.S. Department of Labor over the
238 preceding 10 calendar years. If the foregoing CPI-U becomes unavailable or is no longer calculated, then the
239 General Assembly shall determine the increase and new fee schedule.

240 (c) Collection of Clean Water Fee.

241 (1) The receiver of taxes and county treasurer shall collect the Clean Water Fee for each tax parcel in the
242 same manner and at the same time as taxes for other purposes, including the collection of school taxes as provided
243 by 14 Del. C. § 1917. Except as otherwise provided in this section there shall be no abatement or discount of the

244 Clean Water Fee unless the counties institute a rebate program to encourage best management practices for those
245 entities paying the Clean Water Fee.

246 (2) Penalties and late fees shall be assessed against late payments of Clean Water Fees in the same
247 manner as penalties and late fees are assessed against late payments of school taxes under § 1917 of Title 14.

248 (3) All fees so collected shall be paid to the Secretary and shall be deposited in the Clean Water Fee
249 Account.

250 (d) Clean Water Fee Account.

251 (1) At least 65% percent of revenues generated by the Clean Water Fee shall be allocated to the Trust and
252 shall be further allocated for projects in the county of origin as averaged over a 5 year period.

253 (2) At least 10% percent of revenues generated by the Clean Water Fee shall be allocated to each county
254 to administer the Clean Water Fee and meet their own water quality requirements.

255 (3) The Secretary will manage and administer the Clean Water Fee Account for the exclusive purpose of
256 funding specific, sustainable activities designed to enhance the State's water quality in coordination with the Trust
257 and the Water Infrastructure Advisory Council. The Clean Water Fee Account may be expended for the purposes
258 of this subchapter including but not limited to providing low-interest loans, grants, leveraged financing, and other
259 incentives to implement Projects, including those designated to reduce toxics, pollution, nutrient loads, and
260 bacteria impacts in the surface and ground waters of Delaware.

261 (4) The Clean Water Fee Account shall constitute a Special Fund of the State.

262 (5) An amount not exceeding 5% of the funds deposited in the Clean Water Fee Account may be used to
263 pay the costs of administering this Act.

264 § 8076. Clean water loans or grants issued by the Trust.

265 (a) The Trust may make and contract to make loans or grants to state agencies, local government units, non-profit
266 entities, private entities, or private persons that are legally authorized to borrow or receive funding to finance the costs of
267 any project. Project applications must include details on how infrastructure, preservation, and conservation practices will be
268 sustained and maintained and reduce the level of pollution going into Delaware's waterways. The projects eligible for loans
269 or grants shall include the following:

270 (1) Upgrades to wastewater treatment systems, including connecting properties with septic systems,
271 seepage pits, failing community systems to central sewer systems or repairing or replacing failing or at-risk
272 individual, community or homeowner association-owned systems.

273 (2) Wastewater treatment system projects.

274 (2) Upgrades to drinking water treatment systems, including source water protection or other water
275 supply projects.

276 (3) Stormwater management and resiliency projects that both reduce flooding risks and improve water
277 quality.

278 (4) Projects that eliminate, reduce, or sequester toxics in waterways or adjacent soils as identified in the
279 Watershed Approach to Toxics Assessment and Restoration work plan.

280 (5) Agricultural natural resource conservation cost-share programs developed with the Department of
281 Agriculture and Conservation Districts, including but not limited to cover crops, forested and grass buffers,
282 manure relocation, tax ditch restoration, and other best management practices that are consistent with and
283 implement nutrient management plans.

284 (6) Conservation Projects, including but not limited to protection and ecological restoration of wetlands,
285 forests, stream restoration, and habitat conservation.

286 (7) EPA Eligible Projects.

287 (8) Hazardous waste cleanup projects related to the provision, preservation, or maintenance of clean
288 water or water quality.

289 (b) Preference shall be given to projects that do one of the following:

290 (1) Utilize and enhance natural infrastructure to provide ecological benefits that both improve water
291 quality and improve community resilience to extreme weather, sea-level rise, and other climate impacts.

292 (2) Benefit low-income and traditionally underserved communities through lower interest rates and
293 affordability grants.

294 (c) The loans or grants made pursuant to this section shall be made subject to such terms and conditions as the
295 Trust shall determine to be consistent with the purposes hereof. Each loan by the Trust and the terms and conditions thereof
296 shall be informed by the recommendation of the Water Infrastructure Advisory Council concerning funding and the 6-year
297 water supply and wastewater infrastructure plan pursuant to §8011(e) of Title 29.

298 (d) The Trust shall review information, statistical data, and reports of independent consultants or experts as it shall
299 deem necessary in order to evaluate the requested loan or grant. Each loan to a local government unit, public water utility,
300 or any other person shall be evidenced by notes, bonds, or other obligations issued to the Trust. In the case of each local
301 government unit, notes and bonds to be issued to the Trust by the local government unit shall be authorized and issued as
302 provided by law for the issuance of notes and bonds by the local government unit. Each loan to a local government unit,
303 public water utility, or any other person and the notes, bonds, or other obligations thereby issued shall bear interest at such
304 rate per annum as the Trust and the applicant may agree.

305 § 8077. Clean Water Revenue Bonds; refunding bonds; security for obligations.

306 (a) Except as otherwise expressly provided herein, the Trust may from time to time issue Clean Water Revenue
307 Bonds in any principal amounts, subject to this subchapter, as in the judgment of the Trust shall be necessary to provide

308 sufficient funds for any of its corporate purposes, including the funding of loans made for any project, the establishment or
309 increase of reserves or other funds to secure or to pay the Clean Water Revenue Bonds, as the case may be, or interest
310 thereon, and all other costs or expenses of the Trust incident to and necessary to carry out its corporate purposes and
311 powers. Such Clean Water Revenue Bonds may only be issued in the amounts as shall be approved by an Authorization Act
312 of the General Assembly.

313 (b) Clean Water Revenue Bonds of the Trust shall be negotiable instruments and securities under the Uniform
314 Commercial Code of the State.

315 (c) Clean Water Revenue Bonds of the Trust shall be authorized by a resolution of the Trust and may be issued in
316 one or more series and shall bear such date, mature at such time, bear interest at such rate, be in such denominations, be of a
317 single denomination payable in installments, be in such form, either registered or book-entry, carry such conversion or
318 registration privileges, have such rank or priority, be executed in such manner, be payable in any coin or currency of the
319 United States which at the time of payment is legal tender for the payment of public and private debts, at such place or
320 places within or without the State, and be subject to such terms of redemption by the Trust or the holders thereof, with or
321 without premium, as such resolution may provide. A resolution of the Trust authorizing the issuance of Clean Water
322 Revenue Bonds may provide that such Clean Water Revenue Bonds be secured by a trust indenture between the Trust and a
323 trustee, vesting in the trustee any property rights, powers and duties in trust as the Trust may determine.

324 (d) Prior to issuance of the Clear Water Revenue Bonds, the issuing officers shall approve the issuance of such
325 Clean Water Revenue Bonds by resolution adopted by the unanimous vote of the issuing officers. Each issuing officer may
326 designate a deputy to represent the issuing officer at meetings of the issuing officers with full powers to act and vote on the
327 issuing officer's behalf. Clean Water Revenue Bonds shall be issued for the purposes authorized by this subchapter. Clean
328 Water Revenue Bonds may be issued regardless of the treatment of interest thereon for federal income tax purposes.

329 (e) Following approval by the Board, the Clean Water Revenue Bonds shall be executed by the chair of the Trust
330 and shall not require additional consent of any department, division, board, bureau, or agency of the State and without any
331 other proceedings or the happening of any other conditions or things, other than those consents, proceedings, conditions, or
332 things which are specifically required by this section.

333 (f) Clean Water Revenue Bonds may be sold at any price and in any manner as the Trust may determine. Each
334 such Bond shall mature and be paid not later than 30 years from the effective date thereof. All Clean Water Revenue Bonds
335 may be sold at public or private negotiated sale for such price as the Trust shall determine. If sold at public sale, the
336 procedures applicable to the sale shall be set forth in the resolution.

337 (g) Clean Water Revenue Bonds issued hereunder shall not be general obligations of the State and shall not pledge
338 the full faith and credit of the State. Other than as provided in this subchapter, such Bonds shall not be considered as debt of
339 the State and shall not be treated as a tax supported obligation of the State as that term is defined in § 7422 of Title 29. All

340 Bonds, unless funded or refunded by Clean Water Revenue Bonds, shall be payable solely from revenues or funds pledged
341 or available for their payment as authorized herein. Each Clean Water Revenue Bond shall contain on its face the
342 statements to the effect that:

343 (1) The Trust is obligated to pay the principal thereof or the interest thereon only from its revenues,
344 receipts or funds pledged or available for their payment.

345 (2) Neither the State nor any political subdivision thereof is obligated to pay the principal of, or interest
346 on, such Clean Water Revenue Bonds.

347 (3) The faith and credit of the State, or any political subdivision thereof, is not pledged to the payment of
348 the principal of or the interest on the Clean Water Revenue Bonds.

349 (4) The Trust has no taxing power other than collecting revenues, including the Clean Water Fee,
350 delineated in this subchapter.

351 (h) All Clean Water Revenue Bonds issued pursuant to this section and the interest thereon shall be exempt from
352 income taxation by the State or any political subdivision thereof.

353 (i)(1) The aggregate principal amount of Clean Water Revenue Bonds shall not exceed the amount
354 approved from time to time by Acts of the General Assembly. Such limitation shall exclude all the Clean Water
355 Revenue Bonds, which shall be issued for refunding purposes whenever the refunding shall be determined to result
356 in a savings.

357 (2) The Trust may authorize the issuance of refunding bonds to refund, prior to their stated maturity, all
358 or any portion of the outstanding Clean Water Revenue Bonds, issued by the Trust and costs incidental thereto;
359 provided, however, that the present value of the aggregate principal and interest payments of the refunding bonds
360 must be less than the present value of the aggregate principal and interest payments on the Clean Water Revenue
361 Bonds to be refunded.

362 (3) Refunding bonds may be issued in a principal amount which exceeds the principal amount of the
363 respective Clean Water Revenue Bonds to be refunded, so long as the present value of the aggregate principal and
364 interest payments of the refunding bonds are less than the present value of the aggregate principal and interest
365 payments on such Clean Water Revenue Bonds to be refunded.

366 (j) Each issue of Clean Water Revenue Bonds shall be issued as special obligations thereof payable out of
367 particular revenues, receipts, or funds and may be secured by one or more of the following as set forth in the resolution:

368 (1) Pledge of revenues and other receipts to be derived from the payment of the interest on and principal
369 of notes, bonds, or other obligations issued by state agencies, local government units, or private companies and
370 held in the Water Pollution Control Fund or the Drinking Water Fund. Said notes, bonds, and obligations shall be
371 designated and described in the Trust's resolution authorizing the issuance of the Bonds, and may only be pledged

372 if such issuance complies with all EPA requirements applicable to the Water Pollution Control Fund and the
373 Drinking Water Fund. Subject to the foregoing, DNREC and DHSS are hereby authorized to assign and pledge
374 such notes, bonds or other obligations as security for any Clean Water Revenue Bonds.

375 (2) Pledge of payments made pursuant to loans to be made by the Trust from the proceeds of the Clean
376 Water Revenue Bonds or from amounts held in the Clean Water Fee Account, the Land and Water Conservation
377 Trust Fund, and the Hazardous Substance Cleanup Fund.

378 (3) Pledge of the Clean Water Fee and all amounts held in the Clean Water Fee Account, the Land and
379 Water Conservation Trust Fund, and the Hazardous Substance Cleanup Fund.

380 (4) Pledge of all moneys, funds, accounts, securities, and other funds held pursuant to a trust indenture
381 securing the Clean Water Revenue Bonds, including the proceeds of the Clean Water Revenue Bonds.

382 § 8078. Agreement not to abridge Trust powers; preventing diversion of funds through securitization; pledges of
383 future revenues.

384 (a) The State does pledge to and covenant and agree with the holders of any bonds of the Trust issued pursuant to
385 the authorization of this subchapter that the State will not limit or alter the rights or powers vested in the Trust to perform
386 and fulfill the terms of any agreement made with the holders of the bonds or to fix, establish, charge and collect any rents,
387 fees, rates, payments or other charges as may be convenient or necessary to produce sufficient revenues to meet all
388 expenses of the Trust and to fulfill the terms of any agreement made with the holders of Bonds, including the obligations to
389 pay the principal of and interest and premium on those Bonds, with interest on any unpaid installments of interest, and all
390 costs and expenses in connection with any action or proceedings by or on behalf of the holder and shall not limit or alter the
391 rights and powers of any local government unit to pay and perform its obligations owed to the Trust in connection with
392 loans received from the Trust, until the Bonds of the Trust, together with interest thereon, are fully met and discharged or
393 provided for.

394 (b) Any pledge of revenues, receipts, moneys, funds or other property or instruments made by the Trust shall be
395 valid and binding from the time when the pledge is made. The revenues, receipts, moneys, funds, loans, or other property so
396 pledged and thereafter received by the Trust or by the Water Pollution Control Fund, the Drinking Water Fund, the Clean
397 Water Fee Account, the Delaware Land and Water Conservation Trust Fund, or the Hazardous Substance Cleanup Fund
398 shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act and the lien of any
399 pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the
400 Trust, DNREC, DHSS, or any of the Funds, irrespective of whether the parties have notice thereof. Neither the resolution,
401 trust indenture, nor any other instrument by which a pledge under this section is created need be filed or recorded, except in
402 the records of the Trust.

403 (c) Any loan held in the Water Pollution Control Fund or Drinking Water Fund, and any loan made by the Trust
404 pursuant to the powers set forth in this subchapter shall be subject to the terms of this subchapter and, if applicable, shall be
405 identified as security for any series of Bonds in the resolution of the Trust adopted in connection with the issuance of such
406 Bonds.

407 (d) The State pledges to the owners of all Clean Water Revenue Bonds that it will not reduce the amount of the
408 Clean Water Fee imposed under Section § 8075 of this subchapter and will not expand any exemptions or discounts from
409 such fee so long as any bonds secured thereby are outstanding.

410 § 8079. Personal liability on Clean Water Revenue Bonds.

411 Neither the Secretaries of Finance, DNREC, DHSS, or the Department of Agriculture, their designees, any director
412 or officer of the Trust, nor any person executing Clean Water Revenue Bonds issued pursuant to this subchapter shall be
413 liable personally on such Bonds by reason of the issuance thereof.

414 § 8080. Exemption from taxation.

415 All bonds of the Trust issued pursuant hereto are declared to be issued by a body corporate and politic of the State
416 and for an essential public and governmental purpose and those bonds, and interest thereon and the income therefrom and
417 from the sale, exchange, or other transfer thereof shall at all times be exempt from taxation by the State or any political
418 subdivision thereof.

419 § 8081. Receipts pursuant to Act; application.

420 Sums of money received, whether as proceeds from the sale of particular Bonds or as particular revenues or
421 receipts of the Trust, are deemed to be funds of the Trust and are to be held and applied solely as provided in the resolution
422 or trust indenture under which a particular series of Bonds are authorized or secured. Any officer with whom, or any bank
423 or trust company with which, those sums of money are deposited as trustee thereof shall hold and apply the same for the
424 purposes thereof, subject to any provision as the aforementioned acts and the resolution or trust indenture authorizing or
425 securing such series of Bonds may provide.

426 § 8082. Liberal construction of subchapter.

427 This chapter, being necessary for the prosperity and welfare of the State and its citizens, shall be liberally
428 construed to effect the purposes hereof.

429 Section 2. Amend Section 8003, Title 29 of the Delaware Code by making deletions as shown by strike through
430 and insertions as shown by underline as follows:

431 § 8003. Powers, duties and functions of the Secretary.

432 (12) The Secretary is empowered to administer a state revolving loan program in accordance with the
433 requirements set forth in Title VI of the Federal Water Pollution Control Act.

434 d. Coordination with Clean Water for Delaware Trust

435 The administration by the Secretary of the Delaware Water Pollution Control Revolving Fund set forth in
436 this section shall be subject to the provisions of subchapter III of this title. In the event of any conflict or
437 inconsistency between the provisions of this section and said subchapter, the provisions of subchapter III of this
438 title shall govern

439 Section 3. Amend Section 7903(14) of the Delaware Code by making deletions as shown by strike through and
440 insertions as shown by underline as follows:

441 § 7903 Powers, duties and functions of the Secretary.

442 The Secretary may:

443 (14) The Secretary is empowered to administer a state revolving loan program in accordance with requirements
444 set forth in the Federal Safe Drinking Water Act [42 U.S.C. § 300f et seq.].

445 c. Administration of Fund subject to chapter 80, subchapter III of this Title. -- The administration of the Delaware
446 Safe Drinking Water Revolving Fund shall be subject to the provisions of Subchapter III, Chapter 80 of this title. In the
447 event of any conflict or inconsistency between the provisions of this section and said subchapter, the provisions of
448 Subchapter III, Chapter 80 of this title shall govern.

449 Section 4. Amend Section 9113, Title 7 of the Delaware Code by making deletions as shown by strike through
450 and insertions as shown by underline as follows:

451 § 9113. Hazardous Substance Cleanup Fund.

452 (f) The administration and application of the amount in this Hazardous Substance Cleanup Fund as provided in this
453 chapter shall be subject to the provisions of Subchapter III, Chapter 80 of Title 29. In the event of any conflict or
454 inconsistency between the provisions of this chapter and said subchapter, the provision of subchapter III, Chapter 80 of
455 Title 29 shall control.

456 Section 5. Amend Section 5423, Title 30 of the Delaware Code by making deletions as shown by strike through
457 and insertions as shown by underline as follows:

458 § 5423. Delaware Land and Water Conservation Trust Fund.

459 (h) The administration and application of the funds contained in the Land and Water Conservation Trust Fund
460 shall be subject to the provisions of Subchapter III, Chapter 80 of Title 29. In the event of any conflict or inconsistency
461 between the provisions of this chapter and said subchapter, the provisions of Subchapter III, Chapter 80 of Title 29 shall
462 control.

463 Section 6. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the
464 invalidity does not affect any other provisions or applications of the Act which can be given effect without the invalid
465 provision or application; and, to that end, the provisions of this act are declared to be severable.

SYNOPSIS

This legislation establishes a framework for oversight, implementation and a funding source to enhance

Delaware's efforts in cleaning up contaminated streams, rivers, bays and groundwater through construction of much needed wastewater, drinking water and stormwater infrastructure projects and increased use of agricultural best practices. Most of the state's waters do not meet water quality standards to support their designated uses such as for drinking, swimming or to support aquatic life.

The State currently faces a backlog of water infrastructure projects. Over the next five years, more than \$500 million in wastewater facility upgrades are needed statewide including wastewater and drinking water systems for underserved communities and numerous at-risk systems currently operated by homeowner's associations in Sussex County. In addition, more than \$150 million in stormwater upgrades are needed throughout the state, along with more than \$75 million for removing toxics from various waterways. Further, demand for agriculture cost share funds used to reduce pollution from nutrients far surpasses available resources.

Specifically, the legislation creates a Clean Water Fee that will be collected by the counties through property taxes. Residential property fees will be between \$45 and \$85 annually depending on assessed value while commercial and industrial properties will be capped at \$25,000 annually and based on assessed value. Only structural improvements on agricultural parcels shall be subject to the fee, and will be capped at \$15,000. Non-profits such as hospitals, universities, municipalities will pay a fee based on 50% of their assessed property value. Total receipts are estimated to be \$30 million annually. The Clean Water Fee will leverage more than \$120 million in total financing annually for clean water investments and support more than 1,000 jobs per year in science, engineering and construction. Funds will be placed in a Trust managed by a nine-member Board comprised of the Secretaries of the Department of Finance, Natural Resources and Environmental Control, Health and Social Services, and Agriculture and an appointee of the President Pro Tempore, Speaker of the House and a representative of each county. The Trust is authorized to issue Clean Water Revenue Bonds upon authorization by the General Assembly, and will administer the funds with the advice of the Water Infrastructure Advisory Council with the goal of assisting municipal and county governments in implementing more affordable water quality infrastructure projects through low- interest loans, grants and other leveraged funds. The Trust is required to develop a five-year project priority list and report annually to the General Assembly on its activities.

DRAFT

ENGINEERING DEPARTMENT

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



Sussex County

DELAWARE
sussexcountyde.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Kings Highway De-Annexation of WRSSD Public Hearing Fact Sheet

- De-annexation of the West Rehoboth Sanitary Sewer District to exclude tax parcels 335-8.00-38.00, 39.00, & 40.00.
- Permission to Prepare and Post was granted on 11/3/15.
- Letter and check received from the new owner of parcel 39.00 for de-annexation.
- Project is contiguous to the Town of Lewes, and Lewes Board of Public Works has expressed the willingness and ability to serve these parcels.
- The area consists of approximately 4.20 acres of land.
- Currently the parcels house a Church, a former home business, and Lane Builders.
- Multiple letters were sent to the owners of parcels 38.00 & 40.00 gauging their initial interest in the de-annexation. Also letters were sent letting them know the date of the public hearing.
- Any system connection charges or user fees will be paid to the Lewes Board of Public Works and the property owners were notified by mail and given the contact information for BPW should they have any questions.
- To date there has been (1) calls in support of the application from the owner of property 39.00, Mr. Hume the applicant. There has been no other correspondence either for or against this application.

File: OM 9.13-AM



RESOLUTION

A RESOLUTION TO AMEND THE BOUNDARY OF THE WEST REHOBOTH SANITARY SEWER DISTRICT (WRSSD) TO EXCLUDE THOSE CERTAIN LOTS, MORE SPECIFICALLY TAX ID 335-8.00-38.00, 335-8.00-39.00, & 335-8.00-40.00, PIECES OR PARCELS OF LAND, SITUATED ALONG THE EAST SIDE OF COUNTY ROAD 268 (KINGS HIGHWAY), AND BEING IN LEWES REHOBOTH HUNDRED, SUSSEX COUNTY, DELAWARE,

WHEREAS, Sussex County has established the West Rehoboth Sanitary Sewer District; and

WHEREAS, in the best interests of the present district, and to enhance the general health and welfare of that portion of Sussex County in the area of Kings Hwy; and

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

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

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

NOW, THEREFORE, BE IT RESOLVED the Sussex County Council hereby revises the boundary of the West Rehoboth Sanitary Sewer District to exclude the lands situated in the area of Kings Hwy, as follows:

BEGINNING at a point, situate on the easterly right of way (ROW) of Kings Hwy, said point being approximately 1690' northeast of the intersection of Gills Neck Rd & Kings Hwy and the southwesternmost corner of lands N/F of Three Builders LLC; thence following said lands of Three Builders the following directions and distances: southeasterly 295± feet, northeasterly 100± feet to a point, said point being the southeasternmost corner of lands N/F of Jeffrey & Kimberley Hamer; thence following said lands of Hamer in a northeasterly direction 100± feet to a point, said point being the southeasternmost corner of lands N/F of First Baptist Church of Lewes; thence following said lands of First Baptist Church of Lewes the following directions and distances: northeasterly 181± feet, northwesterly 103± feet, northwesterly 258± feet to a point, said point being the northeasternmost corner of said lands of First Baptist Church, and a point on the easterly ROW of Kings Hwy; thence crossing Kings Hwy in a northwesterly direction 65± feet to a point, said point being a point on the lands N/F of LBV Partners, and a point on the westerly ROW of Kings Hwy; thence following said ROW in a southwesterly direction 566± feet to a point, said point being a point on the lands N/F of Bebee Medical Center and a point on the westerly ROW of Kings Hwy; thence crossing said ROW in a southeasterly direction 65± feet to a point, said point being that of the BEGINNING.

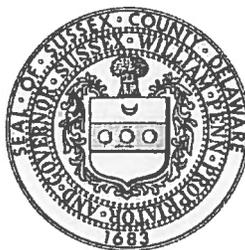
BE IT FURTHER RESOLVED that the Sussex County Council directs the County Engineer and the Attorney for the County Council, if applicable, to procure the necessary lands and right-of-way by purchase, agreement, or condemnation in accordance with the existing statutes;

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

PROPOSED

ENGINEERING DEPARTMENT

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



Sussex County

DELAWARE
sussexcountyde.gov

JOSEPH WRIGHT, P.E.
ASSISTANT COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

WEST REHOBOTH SANITARY SEWER DISTRICT DE-ANNEXATION AFFIDAVIT FOR PUBLIC HEARING

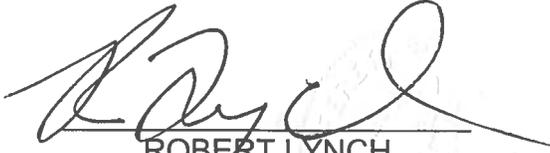
STATE OF DELAWARE)

COUNTY OF SUSSEX)

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

- A. On November 24, 2015 he was a GIS Asset Specialist for the Sussex County Engineering Department, Sussex County, State of Delaware; and
- B. On November 24, 2015 he did post the attached "Public Notice," prepared by the Sussex County Engineering Department, at the following locations:
 1. On the area of land being considered for the proposed de-annexation of the West Rehoboth Sanitary Sewer District being part of tax map reference 335-8.00 in four (4) locations as follows:
 - a. On a driven stake located on parcel 335-8.00-39.00. On the northeast side of the driveway located on the east side of Kings Hwy.;
 - b. On Lewes BPW Pole 76049 14580 located on the easterly side of Kings Hwy ;
 - c. On Lewes BPS Pole 75024 14592 located on the easterly side of Kings Hwy;
 - d. On a driven stake located on parcel 335-8.00-40.00. Located in front of Lewes BPW Pole 76104 14548;
 2. On a bulletin board located in the entryway of the Nassau Post Office. Located at 17601 Coastal Hwy, Lewes, DE.

3. On a bulletin board by the bathrooms in the Wawa Store located at 17663 Dartmouth Dr., Lewes, DE
4. On a driven stake near a stop sign located at the intersection of Jiffy Way and Coastal Hwy.
5. On DPL Pole 63037 06311 located on the north side of Coastal Hwy, approximately 220 feet northwest of the intersection of Coastal Hwy and Old Landing Rd.


ROBERT LYNCH

SWORN TO AND SUBSCRIBED before me on this 24 day of Nov A.D., 2015.



NOTARY PUBLIC

My Commission Expires _____



**PUBLIC NOTICE OF PROPOSED
DE-ANNEXATION OF THE WEST REHOBOTH SANITARY SEWER DISTRICT
PARCELS LOCATED ON EAST SIDE OF KINGS HWY
TAX ID 335-8.00-38.00, 335-8.00-39.00, & 335-8.00-40.00
FILE NUMBER: OM 9.13-AM**

NOTICE IS HEREBY GIVEN that the Sussex County Council voted on November 3, 2015, to consider changing the boundary of the West Rehoboth Sanitary Sewer District (WRSSD) to exclude parcels situated on the east side of County Road 268, Kings Highway, tax id 335-8.00-38.00, 39.00, & 40.00 . These parcels are located in the Lewes Rehoboth Hundred, Sussex County, Delaware and recorded in the Office of the Recorder of Deeds, in and for Sussex County, Delaware.

BEGINNING at a point, situate on the easterly right of way (ROW) of Kings Hwy, said point being approximately 1690' northeast of the intersection of Gills Neck Rd & Kings Hwy and the southwesternmost corner of lands N/F of Three Builders LLC; thence following said lands of Three Builders the following directions and distances: southeasterly 295± feet, northeasterly 100± feet to a point, said point being the southeasternmost corner of lands N/F of Jeffrey & Kimberley Hamer; thence following said lands of Hamer in a northeasterly direction 100± feet to a point, said point being the southeasternmost corner of lands N/F of First Baptist Church of Lewes; thence following said lands of First Baptist Church of Lewes the following directions and distances: northeasterly 181± feet, northwesterly 103± feet, northwesterly 258± feet to a point, said point being the northeasternmost corner of said lands of First Baptist Church, and a point on the easterly ROW of Kings Hwy; thence crossing Kings Hwy in a northwesterly direction 65± feet to a point, said point being a point on the lands N/F of LBV Partners, and a point on the westerly ROW of Kings Hwy; thence following said ROW in a southwesterly direction 566± feet to a point, said point being a point on the lands N/F of Bebee Medical Center and a point on the westerly ROW of Kings Hwy; thence crossing said ROW in a southeasterly direction 65± feet to a point, said point being that of the **BEGINNING**.

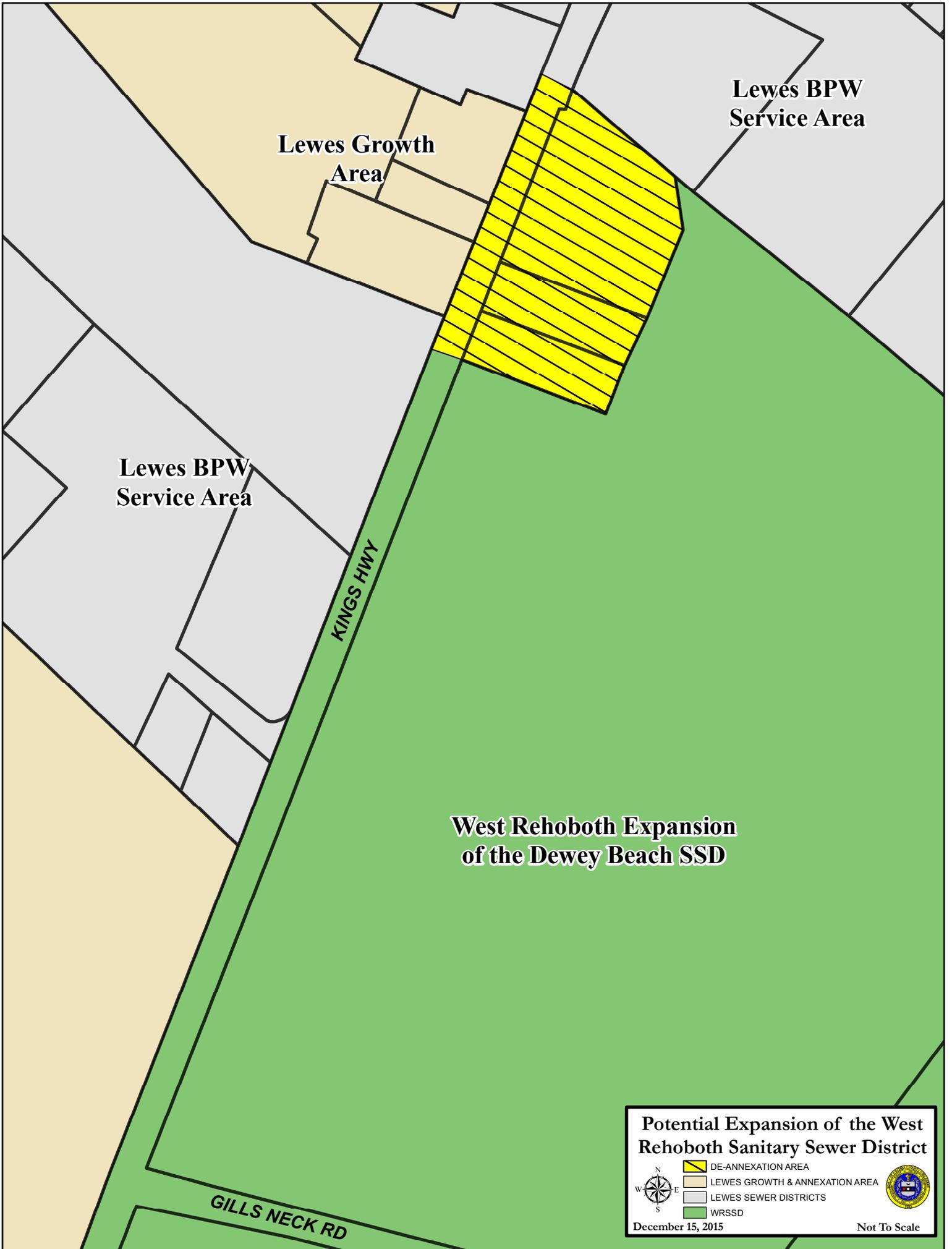
The proposed de-annexation of the WRSSD is within these boundaries and said to contain 4.20 acres, more or less. The boundary description has been prepared using Sussex County tax map number 335-8.00.

A map outlining and describing the de-annexation of the WRSSD is attached. The area involved is crosshatched.

The public hearing will be held on this issue at 10:30am, December 15, 2015 in the Sussex County Council Chambers. All interested persons, officials, residents, voters, taxpayers, property owners, or corporations in any way affected by this boundary extension are welcome to attend. There will be an opportunity for questions and answers. The Sussex County Council following the hearing, at one of their regularly scheduled meetings, will make the final decision on the boundary extension.

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

Joseph Wright, P.E.
Assistant County Engineer



Lewes BPW Service Area

Lewes Growth Area

Lewes BPW Service Area

KINGS HWY

West Rehoboth Expansion of the Dewey Beach SSD

GILLS NECK RD

Potential Expansion of the West Rehoboth Sanitary Sewer District

-  DE-ANNEXATION AREA
-  LEWES GROWTH & ANNEXATION AREA
-  LEWES SEWER DISTRICTS
-  WRSSD

December 15, 2015  Not To Scale

PUBLIC HEARING

Pine Country Condominium, Unit 1 Area Annexation **West Rehoboth Expansion** **of the** **Dewey Beach Sanitary Sewer District**

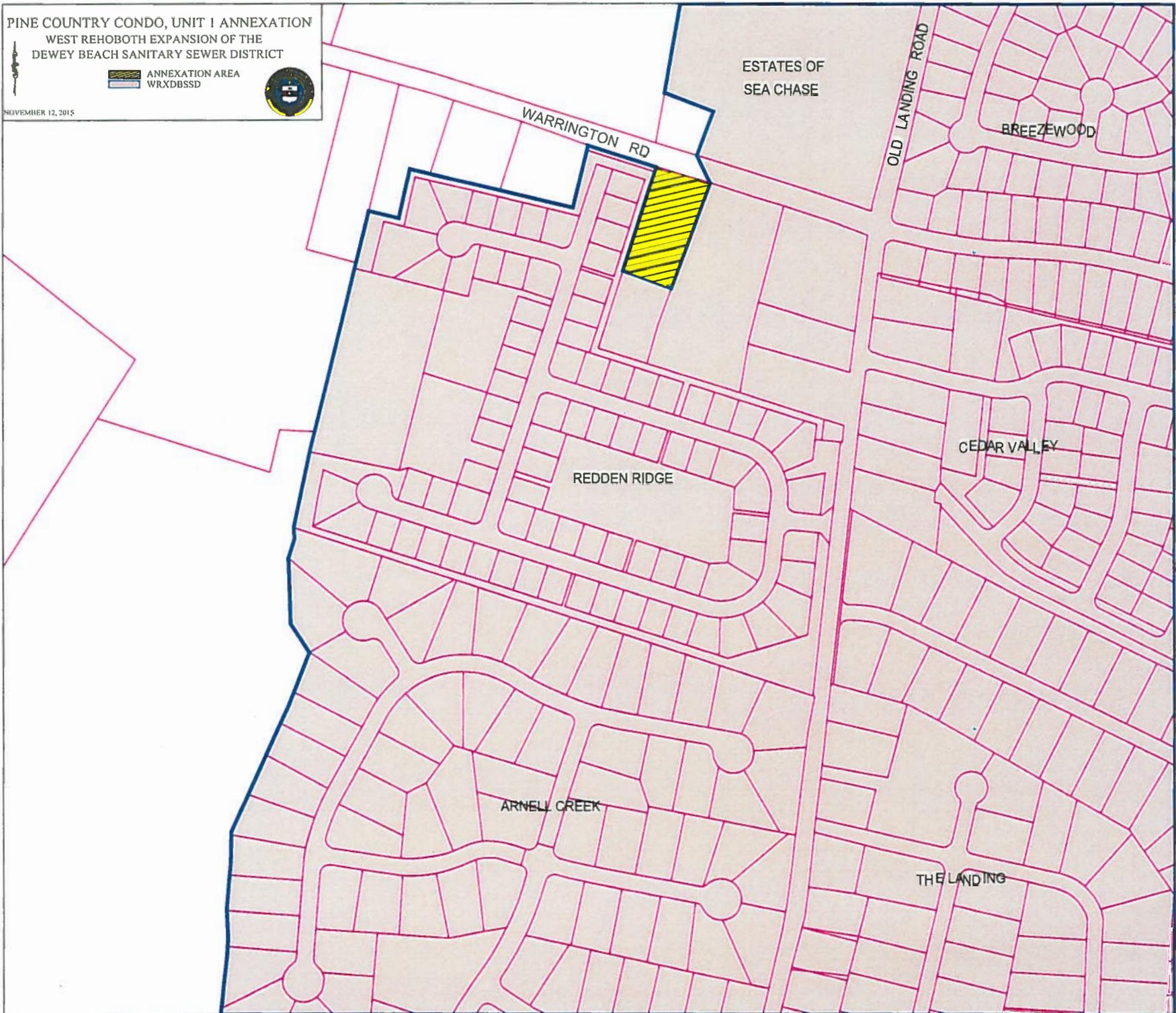
- The public hearing is to consider annexing an area of land into the West Rehoboth Expansion area. The proposed annexation area is part of parcel 119, on tax map 334-12.00.
- The property owner has provided a written request to be annexed into the sewer district. The request included the appropriate application fee.
- The proposed annexation area is south of Warrington Road, and west of Old Landing Road and consists of 1.1 acres more or less. The area includes Unit 1, of the Pine Country Condominium.
- The balance of the parcel with three units was previously annexed.
- The parcel has been served with sewer and a connection point has been provided for Unit 1.
- The area is in Mr. Cole's Councilmatic District.
- A public hearing notice is included in this packet and the area proposed to be added is shown crosshatched and shaded yellow on the map. The packet also includes a proposed resolution for review and adoption.

PINE COUNTRY CONDO, UNIT 1 ANNEXATION
WEST REHOBOTH EXPANSION OF THE
DEWEY BEACH SANITARY SEWER DISTRICT

ANNEXATION AREA
WRXDBSSD



NOVEMBER 12, 2015



6-17-15

RESOLUTION

A RESOLUTION TO EXTEND THE BOUNDARY OF THE WEST REHOBOTH EXPANSION OF THE DEWEY BEACH SANITARY SEWER DISTRICT (WRSSD) TO INCLUDE THE NORTHERLY PART OF A PARCEL OF LAND LOCATED ALONG COUNTY ROAD (CR) 275 (WARRINGTON ROAD) WEST OF THE INTERSECTION OF CR 274 (OLD LANDING ROAD) AND COUNTY ROAD CR 275 (WARRINGTON ROAD) AND SOUTHWEST OF THE CITY OF REHOBOTH BEACH, BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, DELAWARE.

WHEREAS, Sussex County has established the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District (WRSSD); and

WHEREAS, in the best interests of the present district and to enhance the general health and welfare of that portion of Sussex County west and south of the WRSSD, which is contiguous to the WRSSD, the inclusion of this area will be beneficial; and

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

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

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

NOW, THEREFORE,

BE IT RESOLVED the Sussex County Council hereby revises the boundary of the WRSSD to include an area of land along CR 275, as follows:

BEGINNING at a point situate on the southern right of way (ROW) of County Road 275 (Warrington Road), said point being approximately 650 feet west of the intersection of Warrington Road and Old Landing Road and the northwesternmost corner of lands now or formally (N/F) of Pine Country Condominium and a point along the WRSSD boundary line; thence following said WRSSD boundary the following directions and distances; southwesterly 300± feet, southeasterly 157± feet, northeasterly 300± feet to a point on the southern ROW of County Road 275 (Warrington Road) said point also being the northeasternmost property corner of parcel 119: thence proceeding in a northwesterly direction with said ROW and boundary line of parcel 119 165± feet to a point, said point being that of the **BEGINNING**.

BE IT FURTHER RESOLVED that the Sussex County Council directs the County Engineer and the Attorney for the County Council to procure the necessary lands and right-of-way by purchase, agreement, or condemnation in accordance with the existing statutes; and

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

WEST REHOBOTH EXPANSION OF THE
DEWEY BEACH SANITARY SEWER DISTRICT
PINE COUNTRY CONDO, UNIT 1 ANNEXATION
AFFIDAVIT FOR PUBLIC HEARING

STATE OF DELAWARE)(

COUNTY OF SUSSEX)(

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

- A. On December 2, 2015 he was a Utility Planner for the Sussex County Engineering Department, Sussex County, State of Delaware, and
- B. On December 2, 2015 he did post the attached "Public Notice," prepared by the Sussex County Engineering Department, at the following locations:
 - 1. On community bulletin board, U.S. Post Office, Five Points Plaza, 17601 Coastal Highway, Unit 11, Nassau, Delaware.
 - 2. On Conectiv pole 59519/07336, intersection of Savannah Road and Ritter Lane/Dove Drive, Lewes, Delaware.
 - 3. On Conectiv pole 58287/07197, intersection of County Road 265 and Edgewater Drive, Lewes, Delaware.
 - 4. On area of land being considered for the proposed extension of the West Rehoboth Expansion Area in four locations as follows:
 - a. On a stake at a point along the area's frontage on Warrington Road near the southeastern property corner of parcel 334-12.00-119;
 - b. On a fence located along the easterly property line of parcel 334-12.00-119 near the northeastern corner of the fence;
 - c. On a utility pole on parcel 334-12.00-119 near the intersection of Pine Lane with Warrington Road;

- d. On a stake east of Pine Lane on parcel 334-12.00-119 near the area's northwestern corner,
- 5. Given to town official for display in a community bulletin case next to front entry door, Dewey Beach Town Hall, 105 Rodney Avenue, Dewey Beach, Delaware.
- 6. On inside bulletin board, Wawa Food Market, 35436 Wolfe Neck Road, Rehoboth Beach, Delaware.
- 7. On inside bulletin board, Wawa Food Market, 17663 Dartmouth Drive, Lewes, Delaware.


ROB DAVIS

SWORN TO AND SUBSCRIBED before me on this 4th day of December A.D., 2015.


NOTARY PUBLIC

My Commission Expires _____
JAYNE E. DICKERSON
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires on May 7, 2017

**NOTICE
PROPOSED ANNEXATION
TO THE WEST REHOBOTH EXPANSION OF THE
DEWEY BEACH SANITARY SEWER DISTRICT TO INCLUDE THE NORTHERLY PART
OF PARCEL 119 LOCATED ALONG COUNTY ROAD 275 (WARRINGTON ROAD)**

NOTICE IS HEREBY GIVEN that the Sussex County Council voted on November 17, 2015, to consider extending the boundary of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District (WRSSD) to include the northerly part of a parcel of land located along **County Road 275 (Warrington Road)**, southwest of the City of Rehoboth Beach, and west of the intersection of Warrington Road with Old Landing Road, being in Lewes & Rehoboth Hundred, Sussex County, Delaware, being tax map 334-12.00 part of parcel 119.00. The southerly part of the parcel was annexed into the sewer district on September 23, 2015. File number OM 9.13-AL.

This action is in conformity with 9 Del.C. §6502.

A description of the area, which is contiguous to and to be added to the WRSSD is described as follows:

BEGINNING at a point situate on the southern right of way (ROW) of County Road 275 (Warrington Road), said point being approximately 650 feet west of the intersection of Warrington Road and Old Landing Road and the northwesternmost corner of lands now or formally (N/F) of Pine Country Condominium and a point along the WRSSD boundary line; thence following said WRSSD boundary the following directions and distances; southwesterly 300± feet, southeasterly 157± feet, northeasterly 300± feet to a point on the southern ROW of County Road 275 (Warrington Road) said point also being the northeasternmost property corner of parcel 119: thence proceeding in a northwesterly direction with said ROW and boundary line of parcel 119 165± feet to a point, said point being that of the **BEGINNING**.

The proposed expansion of the WRSSD is within these boundaries and said to contain 1.1 acres, more or less. The boundary description has been prepared using Sussex County Tax Map Number 334-12.00.

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

The public hearing will be held on this issue at **10:30 a. m. on December 15, 2015** in the Sussex County Council Chambers, County Administrative Offices, 2 The Circle, Georgetown, Delaware. All interested persons, officials, residents, voters, taxpayers, property owners, or corporations in any way affected by this boundary extension are welcome to attend. There will be an opportunity for questions and answers. The Sussex County Council following the hearing, at one of their regularly scheduled meetings, will make the final decision on the boundary extension.

For further information, please call or write the Sussex County Engineering Department, 2 The Circle, Post Office Box 589, Georgetown, DE 19947 – (302) 855-7718.

Joseph Wright, P. E.
Assistant County Engineer

File: OM-9.13-AL

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



Sussex County
DELAWARE
sussexcountyde.gov

MEMORANDUM

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

FROM: Brandy Nauman, Fair Housing Compliance Officer

RE: **Fair Housing Update**

DATE: December 11, 2015

During Tuesday's Council meeting, I will provide you with a brief update on actions taken in compliance with the U.S. Department of Justice and U.S. Department of Housing & Urban Development fair housing settlement agreements over the last six months in order to comply with Section IV(18) of the Consent Decree. Below you will find an outline of the items I will be discussing. Please note that no action is required of Council; this is simply an update.

U.S. Department of Justice Consent Decree

- Section III(13)(a-d) – Affordable and Fair Housing Marketing Plan
 - 2nd Annual Sussex County Homebuyer Fair – September 26, 2015
- Sections IV(15) and (16) – Housing Discrimination Complaints
 - None
- Section VI(18) – Submission of Sixth Semi-Annual Compliance Report
 - In process
- Section VI(21 – 23) and VII(26) – Fair Housing Training
 - July 23, 2015
 - Additional 2 new employees trained since live training
- Section VII(27)(a) through (f) – Affordable Housing Webpage



U.S. Department of Housing & Urban Development Voluntary Compliance Agreement

- Section III(7)(a)(i-iii) – Sussex County Analysis of Impediments Evaluation and Proposed Priority Fair Housing Plan
 - HUD Meeting on July 16, 2015
 - Revised Priority Plan Submission
 - LEP Plan Submission
- Section III(7)(c) – Strong Communities Initiative
 - Study Status & Estimated Release Date
- Section V – Submission of Sixth Semi-Annual Compliance Report

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

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

PUBLIC HEARING
December 15, 2015

This is to certify that on December 10, 2015 the Sussex County Planning and Zoning Commission conducted a public hearing on the below listed Ordinance. At the conclusion of the public hearing, the Commission moved and passed that the Ordinance be forwarded to the Sussex County Council with the recommendations as stated.

Respectfully submitted:

COUNTY PLANNING AND ZONING
COMMISSION OF SUSSEX COUNTY

Lawrence B. Lank
Director of Planning and Zoning

The attached comments relating to the 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 CHAPTER 99 AND 115 OF THE CODE OF SUSSEX COUNTY TO ALLOW APPLICANTS TO SEEK AN EXTENSION OF TIME FOR APPROVALS FOR SUBDIVISION APPLICATIONS, CONDITIONAL USE APPLICATIONS, AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS UPON WRITTEN REQUEST.

Mr. Robertson summarized the intent of the proposed Ordinance; and advised the Commission that the staff has already received a number of time extension request; that the staff will be preparing a listing of the request; that if the Ordinance is adopted the staff will be preparing a process for presentation to the County Council so that the Council give consideration to the requests; that the previous blanket time extensions were actions taken by the County Council; that prior to the Council's action on the previous extensions, the Commission had to determine that a project could be extended; that the Ordinance provides legitimate reasons that the Council should considered if a time extension is granted; and that the intent of the Ordinance, as written, if to limit the time extensions to a six (6) month period.

The Commission discussed the Ordinance proposal.

The Commission found that Jimmy Lee was present on behalf of Richard Carlisle for the Deer Creek Subdivision, Subdivision No. 2005-62, and stated that originally it took 3 to 4 years to receive final approval; that a bank was going to fund the project; that the economy failed; that

they need an extension to proceed forward; that another bank is willing to provide the funding; that the project is intended to be an affordable housing project; and that there are too many regulations making it difficult to develop a project.

At the conclusion of the public hearings, the Commission discussed the proposed Ordinance.

Mr. Smith stated that he would move that the Commission approve the Ordinance to amend Chapters 99 and 115 of the Code of Sussex County to allow applicants to seek an extension of time for approvals for subdivision applications, conditional use applications, and residential planned community districts upon written request.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to forward a recommendation to the Sussex County Council that the Ordinance be approved as circulated. Motion carried 5 – 0.

Introduced 11/10/15

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTERS 99 AND 115 OF THE CODE OF SUSSEX COUNTY TO ALLOW APPLICANTS TO SEEK AN EXTENSION OF TIME FOR APPROVALS FOR SUBDIVISION APPLICATIONS, CONDITIONAL USE APPLICATIONS, AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS UPON WRITTEN REQUEST.

WHEREAS, the Sussex County Council has the power to develop, adopt, amend, and revise its Subdivision and Zoning Ordinances as it shall deem necessary in order to preserve and protect the public health, safety, morals, beauty and good appearance of Sussex County and to provide for the orderly growth thereof; and

WHEREAS, the Sussex County Council has adopted Subdivision and Zoning Ordinances and a Comprehensive Land Use Plan in order to provide for the regulation and orderly approval of residential, commercial, and industrial uses with Sussex County; and

WHEREAS, on August 9, 2011, the Sussex County Council adopted Ordinance No. 2208, which extended all subdivision, Residential Planned Community and conditional use approvals as set forth therein; and

WHEREAS, on January 15, 2013, the Sussex County Council adopted Ordinance No. 2288, which again extended all subdivision, Residential Planned Community and conditional use approvals as set forth therein; and

WHEREAS, the Sussex County Council continues to be concerned that the approvals and/or permits that have been granted by it and the County Planning and Zoning Commission may lapse due to delays prompted by circumstances outside of the applicant's or County's reasonable control; and

WHEREAS, the process of obtaining approvals and/or permits can be difficult, time consuming, and expensive for both the applicants and the County Government; and

WHEREAS, approvals and/or permits could be difficult to extend, renew, or re-obtain once lapsed or expired; and

WHEREAS, the Sussex County Council deems it appropriate to allow applicants to seek up to a six-month extension of subdivision, Residential Planned Community, and conditional uses approvals in certain circumstances as set forth below; and

WHEREAS, after consideration of the relevant factors in accordance with the procedures of this Ordinance, the Director of the Sussex County Planning and Zoning Department

shall send a written recommendation to Sussex County Council regarding whether to grant an extension to the applicant up to six months, and Sussex County Council shall then render the final decision whether to grant an extension to the applicant; and

WHEREAS, Sussex County Council therefore wishes to adopt the following County Code amendments.

NOW, THEREFORE, THE SUSSEX COUNTY COUNCIL HEREBY ORDAINS:

Section 1: The Code of Sussex County, Chapter 99, Article II, Section 99-9B is hereby amended by the addition of the underlined language as follows:

“B. Tentative approval of a subdivision plat shall be valid for 36 months. Unless a final plan, in accordance with the approved preliminary plat, including any required changes or modifications, and in accordance with all other applicable provisions, shall be filed with the Commission's staff within 36 months from the date of action of the preliminary plat, the Commission's action thereon shall be deemed canceled. An extension of this time period may be sought in accordance with § 99-40F.”

Section 2: The Code of Sussex County, Chapter 99, Article VIII, Section 99-40A is hereby amended by addition of the underlined language and deletion of the strike-through language, as follows:

“A. Unless an extension is granted in accordance with § 99-40F below, any ~~Any~~ major subdivision approval granted by the Commission subsequent to the effective date of this section shall be rendered null and void if substantial construction is not commenced thereon within five years of the date of recordation of the final plat pursuant to § 99-11.

Section 3: The Code of Sussex County, Chapter 99, Article VIII, Section 99-40 is hereby amended by the addition of the following underlined language as subsection (F):

“F. The applicant of any preliminary subdivision plat under § 99-9B, and any recorded subdivision plat valid under § 99-11 and § 99-40; any Residential Planned Community District valid under Article XVI of Chapter 115 of the Sussex County Code; or any conditional use action approved and valid pursuant to the provision of Article XVI, Article XXIV, and Article XXVIII of Chapter 115 of the Sussex County Code and relating to new residential, commercial, or industrial developments may seek up to a six-month extension of said approval pursuant to this § 99-40F.”

- (1) Prior to the expiration of its current approval, any applicant holding a currently valid approval as set forth in this § 99-40F may request an extension up to six months for the validity of said approval. The six-month period shall commence upon the date of expiration of the current approval. Such a request must be in writing and delivered to the Director on or before the expiration date of its current approval. At a minimum, the written request must include the following information:
- (a) A schedule or plan for the project describing the steps that have been completed through the date of the extension request and describing the remaining steps to be completed. For any steps that remain outstanding, the applicant is to provide the anticipated time frame for completing those remaining steps.
 - (b) A detailed explanation of the reasons in support of the applicant's request for the time extension. Applicant is to include an explanation of whether such reasons were within the applicant's reasonable control. Examples of reasons beyond the applicant's reasonable control, include but are not limited to, undue delays in receiving regulatory approvals, litigation affecting the progression of the project, third party economic restrictions of an extraordinary or unreasonable nature, or delays caused by significant medical or health issues impacting applicant's key stakeholders.
 - (c) For subdivisions with recorded final plats that are valid in accordance with § 99-11 and § 99-40, a specific schedule and plan demonstrating that the improvements on the subdivision plat will be "substantially constructed" within six months of the expiration of the current approval.
 - (d) For conditional uses, a specific schedule and plan demonstrating that the construction or use will be "substantially underway" within six months of the expiration of the current approval.
- (2) The Director, after consultation with and input from other County departments or public agencies as the Director sees fit, shall consider any written request and the accompanying documentation submitted pursuant to this § 99-40F. Time extensions shall be recommended to Sussex County Council by the Director only upon a finding that all of the following criteria have been met: (i) that the approval constitutes one of the approvals defined in the first paragraph of this § 99-40F; (ii) that the request for said extension was timely filed; (iii) that all of the information required herein has been supplied; (iv) that there is good cause for the granting of the requested extension; (v) that necessity for

the extension is due primarily to reasons beyond the reasonable control of the applicant, such as undue delays in receiving regulatory approvals, litigation affecting the progression of the project, third party economic restrictions of an extraordinary or unreasonable nature, or delays caused by significant medical or health issues impacting applicant's key stakeholders; (vi) with respect to subdivisions with recorded final plats that are valid in accordance with § 99-11 and § 99-40, that there is a reasonable plan and schedule demonstrating that the improvements set forth on the subdivision plat in conformance with Chapter 99, Article VI of the Sussex County Code will reach "substantial construction" within six months; and (vi) with respect to a conditional use under Chapter 115, Article XXIV of the Sussex County Code, that there is a reasonable plan and schedule demonstrating that the construction or use shall be "substantially underway" within six months.

- (3) After consideration of the relevant factors in accordance with this § 99-40F, the Director shall make a written recommendation whether to grant an extension to the applicant. This recommendation will be provided to Sussex County Council, who shall render the final decision whether to grant an extension to the applicant for up to six months from the expiration date of the current approval.

Section 4: The Code of Sussex County, Chapter 115, Article XXIV, Section 115-174 shall be amended by the addition of the following underlined language:

"Approval of a conditional use under this article shall be valid for a period of three years after the date of approval and thereafter shall become null and void unless construction or use is substantially underway during said three-year period. Any conditional use shall expire upon abandonment or expiration of the use. Construction shall be deemed to be "substantially underway" if the right-of-way has been cleared, the roadways, internal streets and/or parking areas have been rough-graded, the drainage system and/or stormwater management facilities have been rough-graded and erosion and sediment control measures are in place and being actively maintained. In a case where no new construction is required to implement the approved use, the use shall be deemed "substantially underway" if the activity permitted by the approved conditional use is actively underway. "Abandonment" shall mean that the subject parcel remains idle or unused, or that no construction activity is actively underway, for a continuous period of two years, whether or not equipment or fixtures are removed. An extension of this time period may be sought in accordance with § 99-40F."

Section 5: The Code of Sussex County, Chapter 115, Article XXVIII, Section 115-218F shall be amended by the addition of the following underlined language:

“F. A preliminary site plan for an RPC shall be valid for the period of time set forth in § 99-9B of Chapter 99, Subdivision of Land. A final site plan for an RPC shall be valid for the period of time set forth in § 99-40A of Chapter 99, Subdivision of Land. An extension of these time periods may be sought in accordance with § 99-40F.”

Section 6: This Ordinance shall become effective upon its adoption by a majority of all members elected to the County Council of Sussex County.

DRAFT



December 9, 2015

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

Re: PS#210 Force Main to IBRWF: Indian Mission and Beaver Dam Roads: Sussex County Contract 15-08A

Dear Mr. Wright:

We have reviewed the bid documents received by the Sussex County Council on December 3, 2015 for the above referenced project. Allan Myers MD, Inc. of Fallston, MD is the apparent low bidder at \$3,977,377.00 for the project's base bid. Enclosed is a tabulation of bids, as well as a summary of the bid review performed.

WR&A had requested clarification on December 4th, 2015 from Allan Myers regarding the information provided in their bid for several bid items (Directional Drill Bid Item A-4 and 24-inch FM Bid Items A-2 and B-1). Based on the December 7, 2015 response received from Allan Myers on these items and on our review of the bid submission, in our professional opinion, the Allan Myers MD, Inc. bid represents the lowest responsive responsible bid under the terms of the invitation to bid.

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

Very truly yours,

Whitman, Requardt & Associates, LLP

Will F. Hinz, P.E.
Vice President

Enclosures

cc: Hans Medlarz
Brad Hawkes
Dennis Hasson
File 14256-002

**PS#210 Force Main
Contract No. 15-08A
Bid Results**

BID SCHEDULE	Engineer's Estimate	Allan Myers Fallston, MD	A-Del Newark, DE	George & Lynch Dover, DE
PART A SUBTOTAL	\$4,442,400.00	\$2,668,527.00	\$3,725,820.00	\$4,596,391.00
PART B SUBTOTAL	\$1,113,500.00	\$930,000.00	\$1,000,050.00	\$1,066,927.00
PART C SUBTOTAL	\$227,850.00	\$227,850.00	\$227,850.00	\$227,850.00
PART D SUBTOTAL	\$226,000.00	\$151,000.00	\$169,400.00	\$289,505.00
Total Base Bid	\$6,009,750.00	\$3,977,377.00	\$5,123,120.00	\$6,180,673.00
PART E SUBTOTAL	\$269,700.00	\$220,400.00	\$257,500.00	\$258,932.00
Project Base Bid Total	\$6,279,450.00	\$4,197,777.00	\$5,380,620.00	\$6,439,605.00

Contract 15-08A
Bid Tabulation Results

				Engineer's Estimate		Allan Myers Fallston, MD		A-Del Newark, DE		George & Lynch Dover, DE	
	Description	Unit	Quantity	Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total
Part A	PS#210 Force Main, Contract 15-08A										
A-1	Mobilization	LS	1	\$300,000	\$300,000	\$210,000.00	\$210,000	\$262,500.00	\$262,500	\$300,000.00	\$300,000
A-2	Furnish and Install FM	24"	21,400	\$160	\$3,424,000	\$88.00	\$1,883,200	\$125.00	\$2,675,000	\$173.03	\$3,702,842
A-3		6"	40	\$60	\$2,400	\$92.00	\$3,680	\$48.00	\$1,920	\$61.00	\$2,440
A-4	Directional Drill - Chapels Branch	LS	1	\$200,000	\$200,000	\$110,947.00	\$110,947	\$261,050.00	\$261,050	\$156,450.00	\$156,450
A-5	Furnish and Install Combination Air and Vacuum Valve and Manhole	EA	8	\$13,000	\$104,000	\$15,000.00	\$120,000	\$13,500.00	\$108,000	\$12,061.00	\$96,488
A-6	Furnish and Install Hotmix Type C Overlay	SY	17,000	\$15	\$255,000	\$12.20	\$207,400	\$13.60	\$231,200	\$10.34	\$175,780
A-7	Furnish and Install Isolation Valves	24"	2	\$30,000	\$60,000	\$25,000.00	\$50,000	\$27,600.00	\$55,200	\$27,970.00	\$55,940
A-8		6"	1	\$2,000	\$2,000	\$3,500.00	\$3,500	\$1,750.00	\$1,750	\$2,331.00	\$2,331
A-9	Furnish and Install Casing Pipe	36"	190	\$500	\$95,000	\$420.00	\$79,800	\$680.00	\$129,200	\$548.00	\$104,120
PART A SUBTOTAL				\$4,442,400.00		\$2,668,527.00		\$3,725,820.00		\$4,596,391.00	
Part B	PS#210 Force Main, Contract 15-08A										
B-1	Furnish and Install FM	24"	9,250	\$110	\$1,017,500	\$88.00	\$814,000	\$95.00	\$878,750	\$105.00	\$971,250
B-2	Furnish and Install Combination Air and Vacuum Valve and Manhole	EA	3	\$12,000	\$36,000	\$14,000.00	\$42,000	\$13,500.00	\$40,500	\$12,061.00	\$36,183
B-3	Furnish and Install Isolation Valves	24"	2	\$30,000	\$60,000	\$37,000.00	\$74,000	\$40,400.00	\$80,800	\$29,747.00	\$59,494
PART B SUBTOTAL				\$1,113,500.00		\$930,000.00		\$1,000,050.00		\$1,066,927.00	
Part C	Stipulated Contingent Bid Items										
C-1	Contingent Unclassified Excavation	CY	1,000	\$11.00	\$11,000	\$11.00	\$11,000.00	\$11.00	\$11,000.00	\$11.00	\$11,000.00
C-2	Contingent Borrow Material, Borrow Tpe "C" (Backfill)	CY	8,000	\$16.00	\$128,000	\$16.00	\$128,000.00	\$16.00	\$128,000.00	\$16.00	\$128,000.00
C-3	Contingent Aggregate Material, Graded Aggregate Type "B" (Crusher Run)	Ton	100	\$26.00	\$2,600	\$26.00	\$2,600.00	\$26.00	\$2,600.00	\$26.00	\$2,600.00
C-4	Contingent Porous Fill Material, Coarse Aggregate No. 57 Stone	Ton	1,000	\$29.00	\$29,000	\$29.00	\$29,000.00	\$29.00	\$29,000.00	\$29.00	\$29,000.00
C-5	Contractor Down Time (Force Main Crew)	Per Hour	25	\$400.00	\$10,000	\$400.00	\$10,000.00	\$400.00	\$10,000.00	\$400.00	\$10,000.00
C-6	Furnish and Place 4,000 psi Concrete	CY	25	\$150.00	\$3,750	\$150.00	\$3,750.00	\$150.00	\$3,750.00	\$150.00	\$3,750.00
C-7	Replacement of Existing Storm Drain Pipes	LF	200	\$30.00	\$6,000	\$30.00	\$6,000.00	\$30.00	\$6,000.00	\$30.00	\$6,000.00
C-8	Contingent Hotmix	TONS	500	\$75.00	\$37,500	\$75.00	\$37,500.00	\$75.00	\$37,500.00	\$75.00	\$37,500.00
PART C SUBTOTAL				\$227,850.00		\$227,850.00		\$227,850.00		\$227,850.00	
Part D	Unstipulated Contingent Bid Items										
D-1	Contingent Relocation of force main from grass shoulder into center of paved shoulder	LF	4,000	\$50.00	\$200,000	\$28.00	\$112,000	\$35.00	\$140,000	65.28	\$261,120
D-2	Contingent Test Pits	EA	50	\$300.00	\$15,000	\$150.00	\$7,500	\$250.00	\$12,500	265.42	\$13,271
D-3	Replacement of Existing Storm Drain Pipes (Greater than 18" in diameter)	LF	40	\$100.00	\$4,000	\$350.00	\$14,000	\$100.00	\$4,000	101.00	\$4,040
D-4	Furnish and Install Silt Fence	LF	1,000	\$3.00	\$3,000	\$3.50	\$3,500	\$3.25	\$3,250	2.02	\$2,020
D-5	Furnish and Install Stabilization Matting	SY	1,000	\$2.00	\$2,000	\$4.00	\$4,000	\$2.65	\$2,650	3.05	\$3,050
D-6	Furnish and Install Stabilized Construction Entrance	EA	2	\$1,000.00	\$2,000	\$5,000.00	\$10,000	\$3,500.00	\$7,000	3,002.00	\$6,004
PART D SUBTOTAL				\$226,000.00		\$151,000.00		\$169,400.00		\$289,505.00	
TOTAL Base BID				\$6,009,750.00		\$3,977,377.00		\$5,123,120.00		\$6,180,673.00	
Part E	Alternate Bid Stevenson Road										
E-1	Furnish and Install FM	24"	1,300	160.00	\$208,000	120.00	\$156,000	135.00	\$175,500	150.09	\$195,117
E-2	Furnish and Install Combination Air and Vacuum Valve and Manhole	EA	1	1,200.00	\$1,200	9,500.00	\$9,500	13,500.00	\$13,500	12,061.00	\$12,061
E-3	Furnish and Install Hotmix Type C Overlay	SY	1,700	15.00	\$25,500	15.00	\$25,500	16.00	\$27,200	7.22	\$12,274
E-4	Furnish and Install Casing Pipe	36"	70	500.00	\$35,000	420.00	\$29,400	590.00	\$41,300	564.00	\$39,480
PART E SUBTOTAL				\$269,700.00		\$220,400.00		\$257,500.00		\$258,932.00	
TOTAL Alternate BID				\$6,279,450.00		\$4,197,777.00		\$5,380,620.00		\$6,439,605.00	
% of bid for mobilization						5.3%		5.1%		4.9%	

ENGINEERING DEPARTMENT

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



Sussex County

DELAWARE
sussexcountyde.gov

JOSEPH WRIGHT, P.E.
ASSISTANT COUNTY ENGINEER

PS #210 Contract A Rebid BID OPENING, 11:30 a.m, THURSDAY, DECEMBER 3, 2015

Bidder	Base Bid	Base + Alternate Bid
Allan Myers *	\$3,997,377	\$4,197,777
A-Del	\$5,123,120	\$5,380,620
George & Lynch	\$6,180,673	\$6,439,605
Engineer's Estimate	\$6,009,750	\$6,284,250

*Apparent Low Bidder

Engineer's Estimate: \$6,284,250.00



Saddle Ridge Oversizing Infrastructure Agreement

THIS AGREEMENT (“Agreement”), made this _____ day of _____ 2015, by and between:

SUSSEX COUNTY, a political subdivision of the State of Delaware, hereinafter called the “County,” and;

SEASIDE COMMUNITIES, RDC, L.L.C., a Delaware limited liability company, of 18585 Coastal Highway, Unit 10, PMB 121 Rehoboth Beach, Delaware 19971, hereinafter called the “Developer” and;

WITNESSETH:

WHEREAS, the Developer is developing a tract of land identified as Tax Map parcel 3-34-18.00-40.00 consisting of approximately 37.51 acres known as Saddle Ridge, Change of Zone Ordinance #2366 as an MR-RPC, consisting of 81 lots and as adopted by County Council on September 30, 2014 (“Saddle Ridge Subdivision”);

WHEREAS, the Saddle Ridge Subdivision does lie within the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District;

WHEREAS, the County has determined by study known as Goslee Creek Planning Study, that a sub-regional pump station is needed to serve the Saddle Ridge Subdivision and that the sub-regional pumpstation and its subsequent forcemain need to be over-sized to serve the needs of the surrounding properties; and

WHEREAS, the sub-regional pumpstation and its subsequent forcemain, hereinafter referred to as “Subregional Infrastructure and Forcemain” shall be further defined as the construction of Goslee Creek Pump Station #B including wet well, pumps, generator, all components for the completion and operation of the pump station, lands and easements required for its construction and operation as well as all land, easements, forcemain pipe and installation of all the components necessary to connect the pump station to the Goslee Creek infrastructure.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, which is hereby acknowledged by both parties as sufficient consideration, the parties hereby agree as follows:

- (1) At its sole cost and expense the Developer agrees to design, bid and construct the Subregional Infrastructure and Forcemain per Option 1 of Memorandum Goslee Creek – Priority Projects work order 14256-000, which is attached as Attachment “A”.
- (2) The County agrees to reimburse the Developer for the difference in the final, actual construction costs between the size of Subregional Infrastructure and Forcemain as outlined

in the Memorandum and the infrastructure required to solely serve the Saddle Ridge Subdivision (according to County Standards and minimums) (a) to the point of connection on the proposed Love Creek Elementary School property as indicated on the approved sewer concept plan or (b) to the ultimate point of connection at the County's portion of the work (gravity tie-in at the intersection of Cedar Grove Road and Mulberry Knoll Road) as shown on the approved concept plan, should such additional infrastructure become necessary. Prior to initiating construction the Developer or its Contractor shall submit a unit price cost proposal for the two options outlined above as subsections (a) and (b), which is to be reviewed and approved by Sussex County. The amount eligible to be reimbursed shall be based on the total actual construction costs of the oversized infrastructure less the costs of the infrastructure and facilities sized solely to serve the Saddle Ridge Subdivision. The total actual costs of the oversized infrastructure shall be certified in writing by the Developer's Professional Engineer and shall be subject to review and approval by the County Engineer. Such costs shall be reimbursed by the County in accordance with Paragraph 3 below and shall be known as the "Oversizing costs".

- (3) The Developer shall first be reimbursed for its Oversizing Costs by the County through credits for the transmission connection charge set forth in Section 110-91 of Sussex County Code. Once the credits applicable to the transmission connection charge have been fully exhausted, the County will credit the Developer's on-site inspection fees. If the County owes Oversizing Costs to the Developers after exhaustion of these credits the County Engineer and the Developer shall negotiate the time and method of reimbursement to the developer in accordance with the requirements of Section 110-83 of the Sussex County Code. To the extent that the reimbursement is less than the amount of the transmission connection charge due from the Developer, the difference shall be paid by the Developer to the County in compliance with the requirements of Section 110-91 of the Sussex County Code.
- (4) Prior to the commencement of construction of this Project, the Developer, at its sole expense, is required to obtain all easements, fee simple title and other property rights necessary to complete the Project and provide evidence thereof to the County. Further, the Developer is responsible to obtain such easements and title in a manner that will allow the County to take over the perpetual maintenance responsibilities. Such easements and title shall be in the format that the County approves.
- (5) Prior to the commencement of any construction for the Project, the Developer shall obtain a project construction permit from the County in accordance with and pursuant to the requirements of Section 110-84 of the Sussex County Code.
- (6) Upon completion of the Project, the Developer shall provide notice of completion in writing to the County, who shall inspect the work promptly. Any defects or issues shall be identified in writing to the Developer, who shall have thirty (30) days to complete said items, unless the County grants an extension. When all items have been addressed to the County's satisfaction and other requirements under this Agreement have been met, the County shall issue final written acceptance.

- (7) In order to receive final acceptance, the Developer shall convey all of its rights, title and interest in and to the Project and the underlying property via marketable fee simple title or easement free and clear of any liens, claims, charges, and encumbrances attaching thereto, Said transfer of rights, title, and interest shall be accomplished by such documentation as the County Attorney shall deem necessary and appropriate.
- (8) The Developer shall warrant the quality and workmanship of the Subregional Infrastructure and Forcemain for a period of one year beginning upon date on which the County issues final acceptance of the Project. Any defects or flaws identified by the County in writing and sent to the Developer shall be promptly corrected by the Developer, and in no event after thirty (30) days of mailing said notice unless the County grants an extension in writing.
- (9) The Developer may assign this Agreement in whole or in part to any entity controlled directly or indirectly by the Developer or to any third party who purchases, leases or otherwise controls any portion of the Saddle Ridge Subdivision without the consent of the County. Developer shall provide County at least ten days' written notice of any such assignment. Any other assignments, transfers, or conveyances with respect to this Agreement are prohibited without prior written consent of the County.
- (10) All the terms, covenants, and conditions of this Agreement shall in all respects be governed and construed under and pursuant to the Laws of the State of Delaware without respect to its conflict of law provisions. This Agreement may only be amended, supplemented or modified by a subsequent written agreement executed by all of the parties hereto.
- (11) This Agreement and exhibits constitute the final, entire and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties or agreements, whether written or oral, made in connection with the Agreement described herein.
- (12) It is mutually agreed between the parties that no review, approval, acceptance, and/or payment made under this Agreement shall be conclusive evidence of the performance of the Agreement, either wholly or in part, and that no review, approval, acceptance, and/or payment shall be construed as acceptance of defective work by the County, nor in any way relieve the Developer of its responsibility for the adequacy of its work.
- (13) The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Neither party shall be deemed to have waived any rights under this Agreement unless such waiver is expressly given in writing and signed by the waiving party. No delay or omission on the part of either party in exercising any right shall operate as a waiver of such right or any other right.
- (14) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.

IN WITNESS WHEREOF, the respective parties hereto have affixed their hands and seals the day and year aforesaid.

FOR THE COUNTY:

{Seal}

By: _____
(President - Sussex County Council)

(DATE)

ATTEST:

Robin A. Griffith
Clerk of the County Council

APPROVAL TO FORM:

Assistant County Attorney

SEASIDE COMMUNITIES, RDC, L.L.C.,
a Delaware Limited Liability Company

By: _____ (Seal)
Managing Member

(DATE)

WITNESS: _____



MEMORANDUM

Date: April 6, 2015

To: Michael Izzo
From: Francis Bonkowski
Subject: Goslee Creek – Priority Projects

Work Order Number: 14256-000

Contract Number:

Project: Goslee Creek Planning Study for the
Inland Bays Planning Area

CC: Joe Wright, SCED
John Ashman, SCED
Will Hinz, WRA
File: 14256-000

In July of 2014, Whitman, Requardt and Associates, LLP (WRA) completed the *Goslee Creek Planning Study for the Inland Bays Planning Area*. The Study analyzed growth allocations for the Goslee Creek Planning Area and identified proposed infrastructure improvements required. During the study, the County noted several priority projects that are expected to be developed in the near future. The County has requested that WRA perform further review of the Delaware State Police (DSP) Troop 7, Elementary School, and Saddle Ridge priority projects to provide connection options allowing for flexible construction timelines. These three projects are located within the same sub-sewershed with a proposed pump station within Saddle Ridge to collect gravity sewer flows. Due to the timing of the projects, the DSP and school may require connections prior to the completion of Saddle Ridge.

Four options were developed to allow the DSP and school to connect to the proposed regional infrastructure independent of a pump station at Saddle Ridge. The first option includes a sub-regional pump station on the elementary school property to split the sewershed. The second option involves the construction of a larger pump station on the school property with adequate capacity to handle flows from the original PS#B service area. The third and fourth options include small interim pump stations with plans to connect via gravity to Saddle Ridge once the pump station is online. Each option is detailed below. It is assumed that the minimum wetwell diameter and pump horsepower (Hp) are 5 ft. and 3 Hp, respectively.

Option 1:

In order to make the DSP and elementary school completely independent of Saddle Ridge, the original PS#B sewershed could be split to allow two sub-regional pump stations. The proposed pump station, PS#B1, is located on the school property and will serve the school and DSP as well as parcels along John J. Williams Hwy. (SR 24) north to Mulberry Knoll Rd. and 750 ft. south. PS#B1 would serve 266 EDUs at buildout with a flow rate of 145 gpm. PS#B would be reduced to 564 EDUs at buildout with a flow rate of 308 gpm. The force main from PS#B will only be 6-inch until it manifolds with the 4-inch force main from PS#B1. The manifold force main will increase to 8-inches and then continue up to Mulberry Knoll Rd. to manifold with PS#G's 4-inch force main before continuing to the proposed regional gravity sewer in Cedar Grove Rd. A depiction of Option 1 is included on **Figure 1**. The pump station in Saddle Ridge will require a 6 ft. diameter wetwell and estimated 15 Hp pumps. The additional pump station at the elementary school will require a 5 ft. diameter wetwell and estimated 5 Hp pumps. A summary of the estimated pump station design is included below in **Table 1**. An updated EDU allocation table for Option 1 is attached for reference.

Table 1 – Option 1 Pump Station Summary

Pump Station	EDUs	Peak Flow (gpm)	Horsepower (Hp)	Wetwell Diam. (ft.)
B	564	308	15	6
B1	266	145	5	5
G	364	199	5	5

The advantages of Option 1 are that PS#B1 can be constructed independently of all other infrastructure, with cost being minimized to the elementary school and DSP.

The disadvantages of Option 1 include:

- Two pump stations need to be operated and maintained on a permanent basis.
- Construction may be required within the elementary school property for the 6-inch force main from PS#B at a later date or incorporated into the initial utilities installed on the school property. This will require coordination between the two projects.
- Initial velocities from only PS#B1 in the 8-inch force main will be less than 1 ft/s.
- A permanent manifold is required for PS#B1, potentially increasing complexity of pump operations for future PS#B and PS#G

Option 2:

Option 2 is the same as Option 1 except that PS#B force main discharges into the PS#B1 sewer as indicated in Figure 2. In Option 2, PS#B1 would become the larger station (10 Hp Pumps and 8-foot diameter wetwell) with associated 8-inch force main. PS#B would be reduced in size to 10 Hp Pumps and 6-foot in diameter wetwell with 6-inch force main. A pump station summary for Option 2 is provided in Table 2 below:

Table 2 – Option 2 Pump Station Summary

Pump Station	EDUs	Peak Flow (gpm)	Horsepower (Hp)	Wetwell Diam. (ft.)
B	564	308	10	6
B1	830	441	10	8
G	364	199	5	5

The advantages of Option 2 are as follows:

- PS#B1 can be constructed independently of all other infrastructure
- Force main scour velocity can be obtained as soon as PSB#1 is constructed.
- Construction of a future force main by Saddle Ridge will not be required on the elementary school's property, assuming the 8-inch gravity extension from PS#B1 to SR 24 is initially made. This would eliminate any coordination efforts between the two projects and minimize the total linear footage of utilities to be installed and maintained.
- Competing head pump stations between PS#B1 and PS#B are eliminated along with associated operation and design complexities.

The disadvantages of Option 2 include:

- Two pump stations need to be operated and maintained on a permanent basis.
- Combined capital costs may be slightly higher due to the larger combined sizes of PS#B and PS#B1 wetwells. However, this cost would likely be offset by reduced force main construction costs.

Option 3:

In lieu of creating a new sub-sewershed, a temporary pump station could be installed to serve the DSP and elementary school properties. Option 3, as indicated in Figure 3, proposes an interim pump station, PS#B1, be installed and operated on the elementary school property until the Saddle Ridge pump station is constructed. The pump station will only be serving Troop 7 and the elementary school, approximately 45 EDUs or a peak flow of 25 gpm. These flows would collect in a temporary pump station with a 5 ft. diameter wetwell and 3 Hp pumps before being pumped directly to the regional sewer in Cedar Grove Rd. After the PS#B system is constructed with the associated gravity extension to PS#B1's collection system, PS#B1 will be abandoned. Thus, the buildout design for PS#B will not be impacted since both priority projects will connect via gravity in the future. The sewershed for PS#B includes 830 EDUs at buildout with a peak flow of 441 gpm. The required wetwell size is 8 ft. with 15 Hp pumps. A summary of the estimated pump station design is included below in Table 3. In order to minimize redundant infrastructure, an 8-inch force main is recommended for PS#B1 to meet the buildout peak flow requirements.



Table 3 – Option 3 Pump Station Summary

Pump Station	EDUs	Peak Flow (gpm)	Horsepower (Hp)	Wetwell Diam. (ft.)
B	830	441	15	8
B1	45	25	3	5
G	364	199	5	5

The advantages of Option 3 are:

- PS#B1 can be constructed independently of all other infrastructure, with cost being minimized to the school and DSP. Initial capital costs are anticipated to be similar to Option 1, unless it is determined that a permanent emergency generator is not required for the interim station.
- Long term operation and maintenance costs would be reduced since a permanent station is not required.
- Competing head pump stations are minimized along with associated potential operation and design complexities.

The disadvantages of Option 3 include:

- Construction may be required within the elementary school property for the 8-inch sewer extension to PS#B1, assumed to be constructed at a later date.
- Velocity from initial flows from PS#B1 in the 8-inch force main will be very low (less than 0.2 ft/s) until PS#B is constructed.

Option 4:

The final option is similar to the Option 3 where a temporary pump station, PS#B1, will be sited on the elementary school property. Instead of pumping through an 8-in force main to the regional sewer, a temporary connection to PS#193's force main will be utilized. PS#193 is located along Mulberry Knoll Rd. and currently serves Beacon Middle School. The pump station conveys flow through a 4-in force main extending north along Mulberry Knoll Rd. and continuing along SR 24 to reach the existing gravity sewer within the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District (WREDBSSD). Option 4 with the associated force main for PS#193 and the proposed manifold is depicted on **Figure 4**. The pump sizing for PS#B and PS#B1 do not change from Option 3 above and a summary is included in **Table 4** below. Although the proposed flow from PS#B1 is only 25 gpm, the impact to PS#193 under a competing head scenario must be considered. The pump station is designed to convey 87 gpm at 39 ft. of head, but the competing head will reduce the operating point to 66 gpm at 43 ft. of head. Depending on the peak flows from Beacon Middle School a pump upgrade may be required unless measures were included to prevent simultaneous operation of PS#B1. An updated EDU allocation table for Option 3 and 4 is attached for reference.

Table 3 – Option 3 Pump Station Summary

Pump Station	EDUs	Peak Flow (gpm)	Horsepower (Hp)	Wetwell Diam. (ft.)
B	830	441	15	8
B1	45	25	3	5
G	364	199	5	5

The advantages of Option 4 are similar to Option 3 with the additional advantage that installation of the 8-inch force main to the regional system could be delayed until Saddle Ridge is developed.

The disadvantages of Option 4 include:

- Upgrade to PS#193 may be required along with the construction of the interim 2-inch force main, with the connection point/cost into the PS#193 force main not currently known.



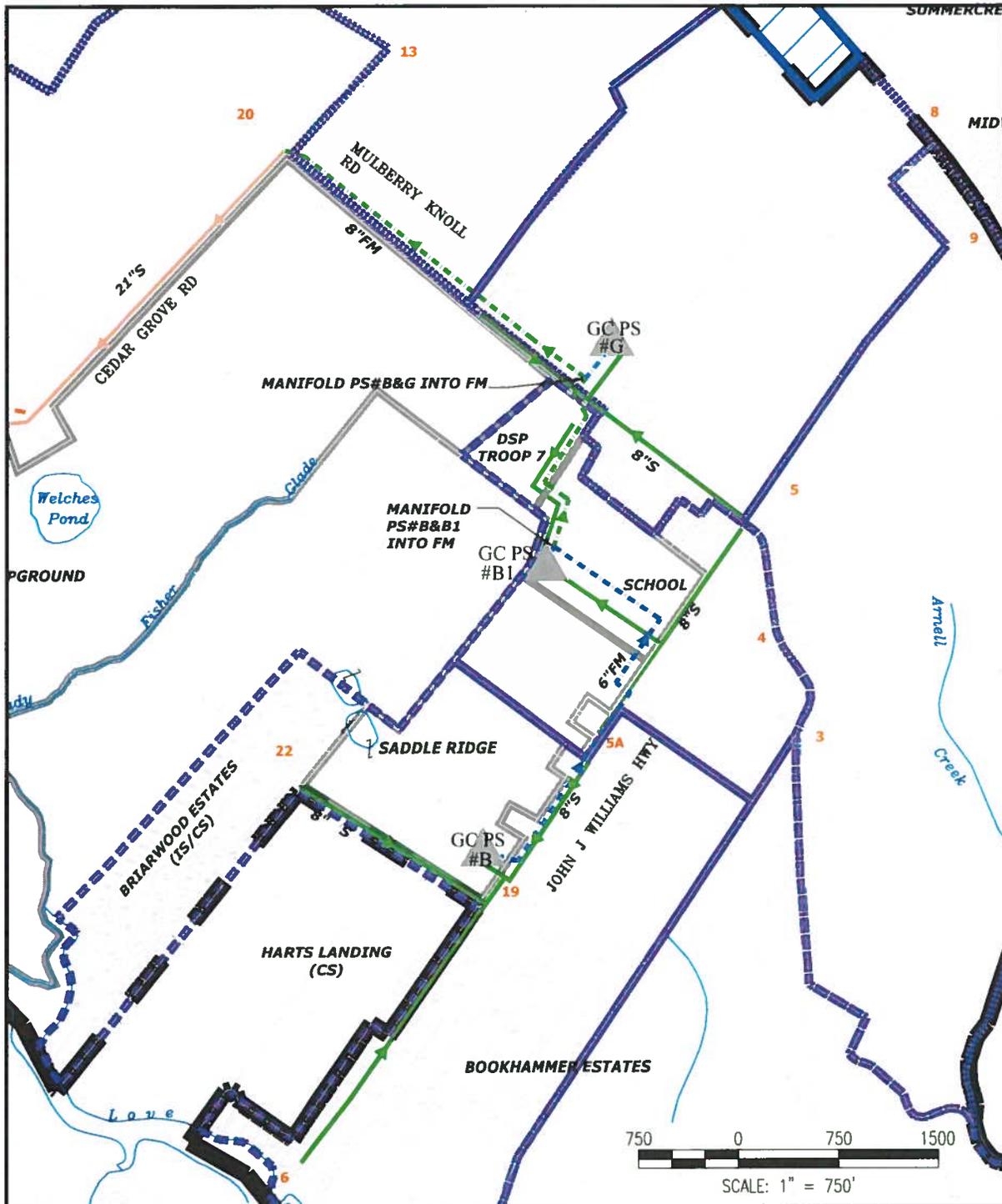
- It has always been assumed that the force main infrastructure from PS#B would go through the DSP and elementary school properties, with the undesirable alternative of additional construction adjacent to John L. Williams Highway. Assuming impacts to John L. Williams are to be minimized, significant coordination would be required between Saddle Ridge and the other projects for the construction of the future 8-inch force main.

Please contact us if you have questions or comments regarding the above information.



Francis Bonkowski, P.E.



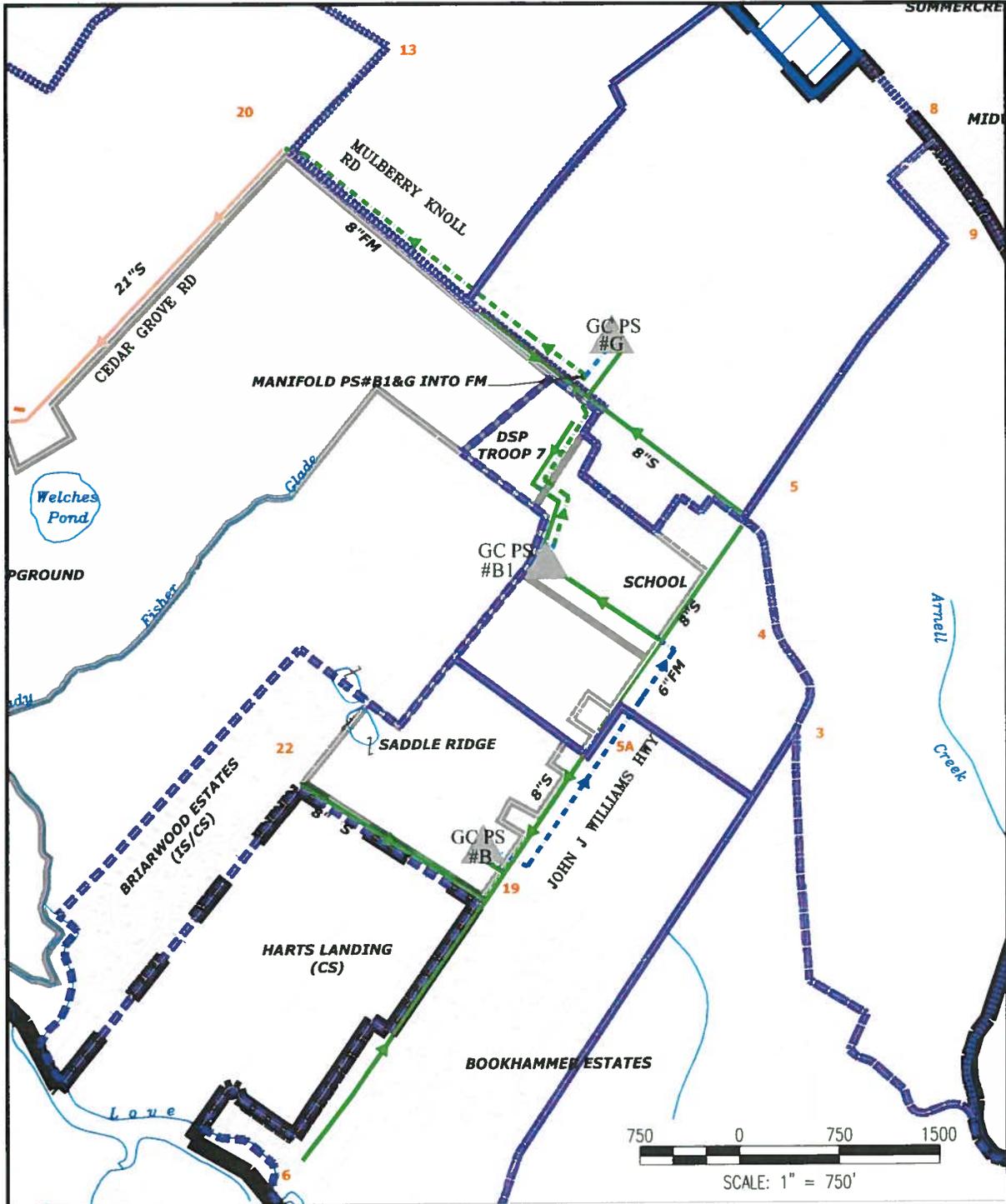


LEGEND

- 8" SEWER PIPE
- 10" SEWER PIPE
- 12" SEWER PIPE
- 15" SEWER PIPE
- 18" SEWER PIPE
- 20" SEWER PIPE
- 21" SEWER PIPE
- 24" SEWER PIPE
- 27" SEWER PIPE
- 30" SEWER PIPE
- - - 2" SEWER FORCE MAIN
- - - 2.5" SEWER FORCE MAIN
- - - 4" SEWER FORCE MAIN
- - - 6" SEWER FORCE MAIN
- - - 8" SEWER FORCE MAIN
- - - 10" SEWER FORCE MAIN
- - - 12" SEWER FORCE MAIN
- - - 14" SEWER FORCE MAIN
- - - 16" SEWER FORCE MAIN
- - - 18" SEWER FORCE MAIN
- - - 20" SEWER FORCE MAIN
- - - 24" SEWER FORCE MAIN
- - - 30" SEWER FORCE MAIN
- Goslee Creek Study Area
- Inland Bays Planning Area with 600' ES&DA Buffer
- ▲ Pump Station
- 3 Node
- ▭ Proposed Annexations into WREIDHSS
- Priority Projects
- ▭ Pump Station Service Area Boundaries

PUMP STATION	EDUs	PEAK FLOW (gpm)	Hp	WETWELL DIAMETER (ft)
B	564	308	15	6
B1	266	145	5	5
G	364	199	5	5

<p style="font-size: 8px; margin: 0;">Whitman, Requardt & Associates, LLP 801 South Carolina Street, Baltimore, Maryland 21221</p>	<p>CLIENT</p> <p>SUSSEX COUNTY</p> <p>ENGINEERING DEPT.</p> <p>GEORGETOWN, DE</p>	<p>PROJECT NAME</p> <p>GOSLEE CREEK PLANNING AREA</p> <p>PRIORITY PROJECT REVIEW</p> <p>OPTION 1</p>	<p>DRAWING TITLE</p> <p>SUBREGIONAL PUMP STATION</p> <p>TO GOSLEE CREEK</p>
DES: LES	DRAWN: LES	CHECK: FJB	SCALE: 1" = 750'
DATE: APRIL 2015		SHEET 01 OF 01	

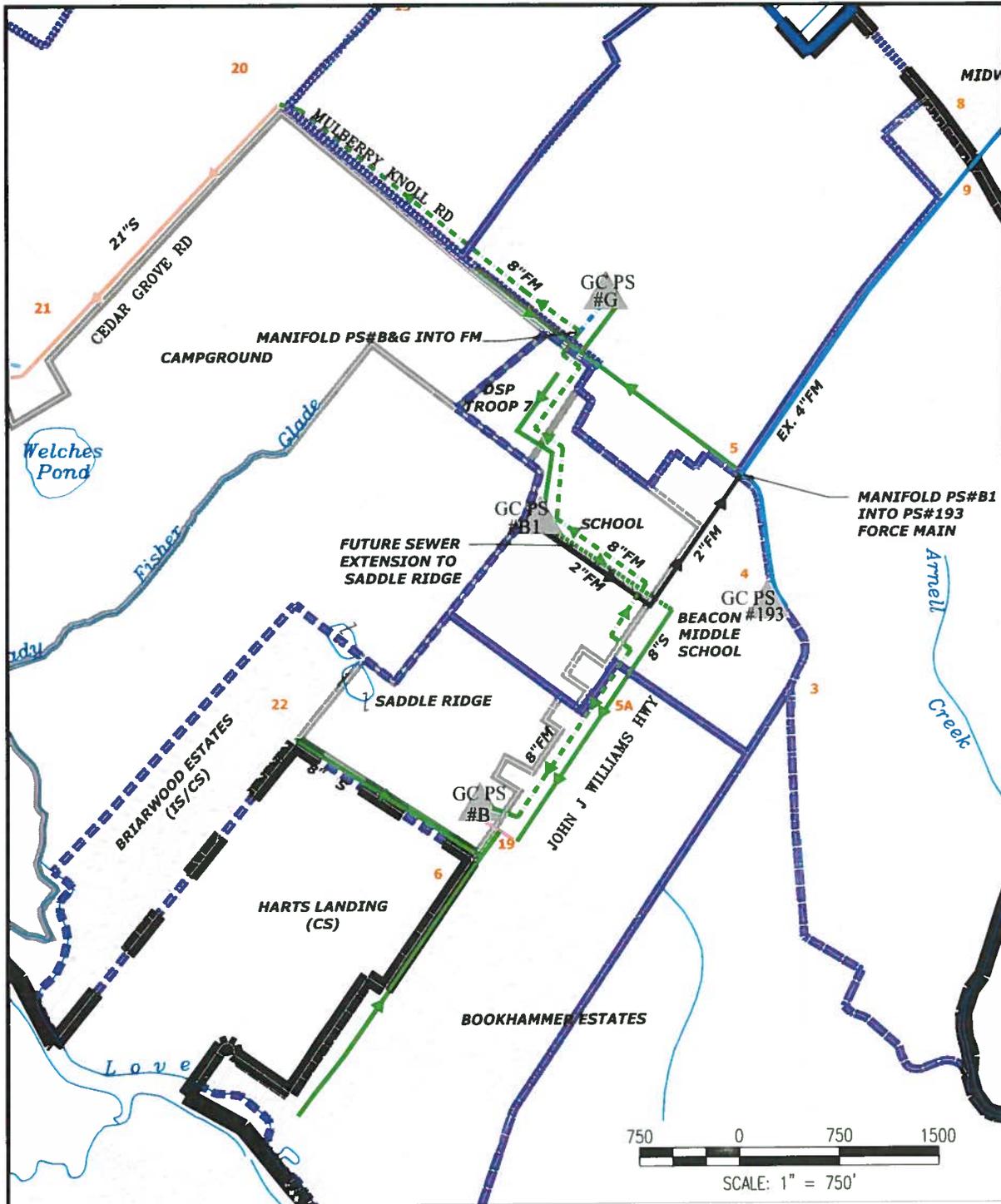


LEGEND

8" SEWER PIPE	2" SEWER FORCE MAIN	<ul style="list-style-type: none"> ■ Goslee Creek Study Area ■ Inland Hays Planning Area with 600' ES/DA Buffer ▲ Pump Station 3 Node ▭ Proposed Annotations into WRE/DHSD — Priority Projects ▭ Pump Station Service Area Boundary
10" SEWER PIPE	2.5" SEWER FORCE MAIN	
12" SEWER PIPE	4" SEWER FORCE MAIN	
15" SEWER PIPE	6" SEWER FORCE MAIN	
18" SEWER PIPE	8" SEWER FORCE MAIN	
20" SEWER PIPE	10" SEWER FORCE MAIN	
21" SEWER PIPE	12" SEWER FORCE MAIN	
24" SEWER PIPE	14" SEWER FORCE MAIN	
27" SEWER PIPE	16" SEWER FORCE MAIN	
30" SEWER PIPE	18" SEWER FORCE MAIN	
	20" SEWER FORCE MAIN	
	24" SEWER FORCE MAIN	
	30" SEWER FORCE MAIN	

PUMP STATION	EDUs	PEAK FLOW (gpm)	Hp	WETWELL DIAMETER (ft)
B	564	308	10	6
B1	830	441	10	8
G	364	199	5	5

<small>Whitman, Reigardt & Associates, LLP 601 South Carolina Street, Baltimore, Maryland 21231</small>	CLIENT SUSSEX COUNTY ENGINEERING DEPT. GEORGETOWN, DE	PROJECT NAME GOSLEE CREEK PLANNING AREA PRIORITY PROJECT REVIEW OPTION 2	DRAWING TITLE SUBREGIONAL PUMP STATION TO GOSLEE CREEK		
			DRAWING NO. FIGURE 2		
DES: LES	DRAWN: LES	CHECK: FJB	SCALE: 1" = 750'	DATE: APRIL 2015	SHEET 01 OF 01



LEGEND

- | | | |
|----------------|-----------------------|---|
| 8" SEWER PIPE | 2" SEWER FORCE MAIN | <ul style="list-style-type: none"> ■ Goslee Creek Study Area ■ Inland Bay's Planning Area with GWP/ESDA Butler ▲ Pump Station 3 Node ▭ Proposed Annexations into WREDHSSD — Priority Projects ▭ Pump Station Service Area Boundary |
| 10" SEWER PIPE | 2.5" SEWER FORCE MAIN | |
| 12" SEWER PIPE | 4" SEWER FORCE MAIN | |
| 15" SEWER PIPE | 6" SEWER FORCE MAIN | |
| 18" SEWER PIPE | 8" SEWER FORCE MAIN | |
| 20" SEWER PIPE | 10" SEWER FORCE MAIN | |
| 21" SEWER PIPE | 12" SEWER FORCE MAIN | |
| 24" SEWER PIPE | 14" SEWER FORCE MAIN | |
| 27" SEWER PIPE | 16" SEWER FORCE MAIN | |
| 30" SEWER PIPE | 18" SEWER FORCE MAIN | |
| | 20" SEWER FORCE MAIN | |
| | 24" SEWER FORCE MAIN | |
| | 30" SEWER FORCE MAIN | |

PUMP STATION	EDUs	PEAK FLOW (gpm)	Hp	WETWELL DIAMETER (ft)
B	830	441	15	8
B1	45	25	3	5
G	364	199	5	5

<p style="font-size: 8px; margin: 0;">Whitman, Reardon & Associates, LLP 601 South Carolina Street, Baltimore, Maryland 21231</p>	<p>CLIENT</p> <p>SUSSEX COUNTY</p> <p>ENGINEERING DEPT.</p> <p>GEORGETOWN, DE</p>	<p>PROJECT NAME</p> <p>GOSLEE CREEK PLANNING AREA</p> <p>PRIORITY PROJECT REVIEW</p> <p>OPTION 4</p>	<p>DRAWING TITLE</p> <p>TEMPORARY PUMP STATION</p> <p>TO PS#193 FORCE MAIN</p>
			<p>DRAWING NO.</p> <p>FIGURE 4</p>
DES: LES	DRAWN: LES	CHECK: FJB	SCALE: 1" = 750'
DATE: APRIL 2015		SHEET 01 OF 01	

Goslee Creek Study Area
Priority Project Review - Option 1
EDU Allocations Table

From Node	To Node	Tax Map District	Map	Name of Subdivision/Parcel	Acreage (Ac)	Assigned Density	Existing EDUs	Buildout EDUs	Buildout Design EDUs	Platted parcels	Zoning Code	Comments or misc. parcel numbers (8)
6	19	334	18	32	33.49		164	164.00	164.00			LOVE CREEK
6	19	334	18	29	2.93	4	8	11.72	8.44			LAZY PINE RETREAT
6	19	334	18	30	4.24	4	1	16.96	12.21			
6	19	334	18	31	3.84	4	0	15.36	11.06			
6	19	334	18	42.01	1.68	4	0	6.72	4.84			
6	19	334	18	24			1	0.00	0.00			
6	19	334	18	25			1	1.00	1.00	1		
6	19	334	18	26			1	1.00	1.00	1		
6	19	334	18	27			1	1.00	1.00	1		
6	19	334	18	28			4	4.00	4.00	4		
6	19	334	18	LOVE CREEK PINES LANE			3	8.00	8.00	8		parcels 15 - 20, 18.01
6	19	334	18	JOHN J WILLIAMS HIGHWAY			20	18.00	18.00	21		parcels 39.03,39.02,38.03,38.04,38.05,3,4,6-12,38.01,37.02,37.03,33-36 (38.04 CO)
6	19	334	18	37			0	1.00	1.00	1		
6	19	334	18	37.01			1	1.00	1.00	1		1.65 AC
6	19	334	18	37.03	3.3	6.67	1	22.01	22.01			B-1 per L. Lank
6	19	334	18	38.01	2.51	6.67	1	16.74	16.74			B-1 per L. Lank
6	19	334	18	37.02		6.67		6.67	6.67			B-1 per L. Lank
6	19	334	18	WILLIAMS WAY			3	20.00	20.00	20		parcels 564 - 582
6	19	334	18	GREENER TRAIL LANE			3	3.00	3.00	3		parcels 38.02, 39, 39.01
6	19	334	18	583			0	0.00	0.00	0		ROADS - ALL - 2.61 AC
				Summary 6-19			213	318.18	303.97	61		
22	19	334	18	DEERFIELD & TANGLEWOOD			40	46.00	46.00	46		Outside of Deerfield & Tanglewood - parcels 202 - 208, 210 - 248
22	19	334	18	209			0	0.00	0.00	0		Stormwater Management Area < 1 AC
22	19	334	18	WOODS ROAD			22	25.00	25.00	25		Inside of Deerfield & Tanglewood - parcels 249 - 273
22	19	334	18	274			1	1.00	1.00	1		Amenities & Utilities Area - Amenities could mean an EDU - 1.82 AC

From Node	To Node	Tax Map District	Map	Name of Subdivision/Parcel	Acreage (Ac)	Assigned Density	Existing EDUs	Buildout EDUs	Buildout Design EDUs	Platted parcels	Zoning Code	Comments or misc. parcel numbers (8)
22	19	334	18	21			0	0.00	0.00	0		ROAD - TANGLEWOOD DRIVE - 9.25 AC
22	19	334	18	40	39.81	4	1	159.24	114.65	115		Saddle Ridge
				Summary 22-19			64	231.24	186.65	187		
5A	19	334	12	481			1	1.00	1.00	1		
5A	19	334	18	40.01	36.3		0	226.00	162.72			10.1 Ac. along SR 24 as commercial, 26.2 Ac. as residential
5A	19	334	18	40.02		6.67	1	6.67	6.67	1		B-1 per L.Lank
				Summary 5A-19			2	233.67	170.39	2		
19	GC PS#B			Summary 6-19			213	318.18	303.97	61		
19	GC PS#B			Summary 22-19			64	231.24	186.65	187		
19	GC PS#B			Summary 5A-19			2	233.67	170.39	2		
				Wetlands	-33.6	4		-134.40	-96.77			
				Summary 19-GC PS#B			279	648.69	564.24	250		
				Pump Station - GC PS#B			279	648.69	564.24	250		
5	GC PS#B1	334	12	RETZ LANE			12	15.00	15.00	15		parcels 25 - 38
5	GC PS#B1	334	12	RTE 284 & JOHN HWY			8	8.00	8.00	8		parcels 108 - 112, 109.01, 111.01, 112.01
5	GC PS#B1	334	12	16.06	9.3	4	15	37.20	26.78	32		Troop 7 (Priority Project) Previously part of Parcel 16
5	GC PS#B1	334	12	45.01	25.4	4	30	101.60	73.15	71		New Elementary School (Priority Project) Previously part of Parcel 16
5	GC PS#B1	334	12	107	25.79	4	38.17	103.16	74.28			CAPE HENLOPEN MIDDLE SCHOOL (previously pumped to WREDBSSD)
				Summary 5-GC PS#B1			103.17	264.96	197.21	126		
5A	GC PS#B1	334	12	23			1	1.00	1.00	1		
5A	GC PS#B1	334	12	24			1	1.00	1.00	1		
5A	GC PS#B1	334	12	689	4.17		0	25.00	18.00			1.04 Ac. along SR 24 as commercial, 4.17 Ac. as residential
5A	GC PS#B1	334	12	16.04	22	4	0	88.00	63.36			Previously part of Parcel 16 along SR 24
				Wetlands	-5.07	4		-20.28	-14.60			
				Summary 5A-GC PS#B1			2	94.72	68.76	2		
				Pump Station - GC PS#B1			105.17	359.68	265.97	128		

Goslee Creek Study Area
Priority Project Review - Option 3 & 4
EDU Allocations Table

From Node	To Node	Tax Map District	Map	Name of Subdivision/Parcel	Acreege (Ac)	Assigned Density	Existing EDUs	Buildout EDUs	Buildout Design EDUs	Platted parcels	Zoning Code	Comments or misc. parcel numbers (8)
6	19	334	18	32	33.49		164	164.00	164.00			LOVE CREEK
6	19	334	18	29	2.93	4	8	11.72	8.44			LAZY PINE RETREAT
6	19	334	18	30	4.24	4	1	15.95	12.21			
6	19	334	18	31	3.84	4	0	15.35	11.06			
6	19	334	18	42.01	1.68	4	0	6.72	4.84			
6	19	334	18	24			1	0.00	0.00			
6	19	334	18	25			1	1.00	1.00	1		
6	19	334	18	26			1	1.00	1.00	1		
6	19	334	18	27			1	1.00	1.00	1		
6	19	334	18	28			4	4.00	4.00	4		
6	19	334	18	LOVE CREEK PINES LANE			3	8.00	8.00	8		parcels 15 - 20, 18.01
6	19	334	18	JOHN J WILLIAMS HIGHWAY			20	18.00	18.00	21		parcels 39.03,39.02,38.03,38.04,38.05,3,4,6-12,38.01,37.02,37.03,33-36 (38.04.CO)
6	19	334	18	37			0	1.00	1.00	1		
6	19	334	18	37.01			1	1.00	1.00	1		1.65 AC
6	19	334	18	37.03	3.3	6.67	1	22.01	22.01			B-1 per L. Lank
6	19	334	18	38.01	2.51	6.67	1	16.74	16.74			B-1 per L. Lank
6	19	334	18	37.02		6.67		6.67	6.67			B-1 per L. Lank
6	19	334	18	WILLIAMS WAY			3	20.00	20.00	20		parcels 564 - 582
6	19	334	18	GREENER TRAIL LANE			3	3.00	3.00	3		parcels 38.02, 39, 39.01
6	19	334	18	583			0	0.00	0.00	0		ROADS - ALL - 2.61 AC
				Summary 6-19			213	318.18	303.97	61		
22	19	334	18	DEERFIELD & TANGLEWOOD			40	46.00	46.00	46		Outside of Deerfield & Tanglewood - parcels 202 - 208, 210 - 248
22	19	334	18	209			0	0.00	0.00	0		Stormwater Management Area < 1 AC
22	19	334	18	WOODS ROAD			22	25.00	25.00	25		Inside of Deerfield & Tanglewood - parcels 249 - 273
22	19	334	18	274			1	1.00	1.00	1		Amenities & Utilities Area - Amenities could mean an EDU - 1.82 AC

From Node	To Node	Tax Map District	Map	Name of Subdivision/Parcel	Acreage (Ac)	Assigned Density	Existing EDUs	Buildout EDUs	Buildout Design EDUs	Platted parcels	Zoning Code	Comments or misc. parcel numbers (#)
22	19	334	18	21			0	0.00	0.00	0		ROAD - TANGLEWOOD DRIVE - 9.25 AC
22	19	334	18	40	39.81	4	1	159.24	114.65	115		Saddle Ridge
				Summary 22-19			64	231.24	186.65	187		
5	19	334	12	481			1	1.00	1.00	1		
5	19	334	18	40.01	36.3		0	226.00	162.72			10.1 Ac. along SR 24 as commercial, 26.2 Ac. as residential
5	19	334	18	40.02		6.67	1	6.67	6.67	1		B-1 per L.Lank
5	19	334	12	RETZ LANE			12	15.00	15.00	15		parcels 25 - 38
5	19	334	12	RTE 284 & JOHN HWY			8	8.00	8.00	8		parcels 108 - 112, 109.01, 111.01, 112.01
5	19	334	12	107	25.79	4	38.17	103.16	74.28			CAPE HENLOPEN MIDDLE SCHOOL (previously pumped to WREDBSSD)
5	19	334	12	23			1	1.00	1.00	1		
5	19	334	12	24			1	1.00	1.00	1		
5	19	334	12	689	4.17		0	25.00	18.00			1.04 Ac. along SR 24 as commercial, 4.17 Ac. as residential
5	19	334	12	16.04	22	4	0	88.00	63.36			Previously part of Parcel 16 along SR 24
5	19	334	12	PS#B1			45	137.84	99.2448			Interim PS#B1
				Wetlands	-4.83	4		-19.32	-13.91			
				Summary 5-19			107.17	593.35	436.36	27		
19	GC PS#B			Summary 6-19			213	318.18	303.97	61		
19	GC PS#B			Summary 22-19			64	231.24	186.65	187		
19	GC PS#B			Summary 5-19			107.17	593.35	436.36	27		
				Wetlands	-33.6	4		-134.40	-96.77			
				Summary 19-GC PS#B			384.17	1008.37	830.21	275		
				Pump Station - GC PS#B			384.17	1008.37	830.21	275		
5	GC PS#B1	334	12	16.06	9.3	4	15	37.20	26.78	32		Troop 7 (Priority Project) Previously part of Parcel 16
5	GC PS#B1	334	12	45.01	25.4	4	30	101.60	73.15	71		New Elementary School (Priority Project) Previously part of Parcel 16
				Wetlands	-0.24	4		-0.96	-0.69			
				Summary 5A-GC PS#B1			45	137.84	99.24	103		
				Pump Station - GC PS#B1			45	137.84	99.24	103		

OLD BUSINESS
December 15, 2015

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 #2025 – Rudy South c/o T & C Properties, LLC

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for boat sales, service and storage to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 27.84 acres, more or less.

The property is located northeast of Robinsonville Road (Road 277) approximately 1,200 feet northwest of Webb's Landing Road (Road 277B) (911 Address: None Available) Tax Map I.D. 234-6.00-96.00.

The Commission found that the Applicant provided a survey/site plan with the application when it was filed on June 8, 2015, and that an Exhibit Booklet was submitted on August 17, 2015.

The Commission found that DelDOT provided comments on April 17, 2015 and May 6, 2015 in the form of letters and a Support Facilities Report referencing that originally the Department had referenced that an Area-Wide Study Fee could be paid to DelDOT in lieu of performing a Traffic Impact Study; that the developer has provided more information to DelDOT concerning the use; that it has been estimated that the use would generate fewer than 50 vehicle trips during any weekly peak hour and 500 vehicle trips per day, and would not require a Traffic Impact Study; and that the Level of Service "A" of Robinsonville Road will not change as a result of this application.

The Commission found that the Sussex Conservation District provided comments on August 24, 2015 in the form of a memorandum referencing that there are five (5) soil types on this property; that the applicants will be required to follow recommended erosion and sediment control

practices during any construction and to maintain vegetation; that no storm flood hazard areas are affected; that off-site drainage improvements may be necessary; that on-site drainage improvements are likely; and that no tax ditches are affected.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum on August 24, 2015 referencing that the property is located in the Angola Neck Planning Area; that sewer service has not been extended to the parcel; that the property is not capable of being annexed into a County operated Sanitary Sewer District at this time; that when sewer service is provided to the area, connection is mandatory; and that a concept plan is not required.

Mr. Lank advised the Commission that an email was received from Steve Britz on August 27, 2015 opposing this application and expressing concerns about the large scale commercial project being completely out of character with the surrounding agricultural/residential area and will serve to open the area for further future commercial development; that he lives in Webbs Landing, and that Love Creek Landing, a proposed 213 residential dwelling project is immediately adjacent to the property, and the Novosel development, a 160 lot residential dwelling project which is immediately opposite the property will be impacted by this project; that the applicant proposes to install overhead lighting for the purpose of after-dark sales and security; that even though the planned lighting is supposed to be directed downwards, it is likely to have a major negative visual impact on surrounding homes, in particular lots in Webbs Landing; that the applicant is proposing a 20 foot wide vegetated buffer with a 3' berm surrounding the property, which is inadequate to screen surrounding homes from the visual impact of a boatyard, if constructed; that since the applicant is proposing to set aside over 7 acres to preserve the agricultural character of the property, he contends that there is sufficient land to increase the width of the buffer zones; that the land will present problems for commercial development since the bowl-shaped center is approximately 5 feet or more below the periphery; that even though the applicant proposes the use of pervious paving surfaces it is probable that large amounts of fill dirt will be required to raise the center and reduce ponding; that this in turn is likely to affect drainage to the aquifer and may impact a drainage swale on adjacent land that directs stormwater runoff from land across Robinsonville Road towards Stilman Glade, a tributary of Love Creek; and that the swimming pond designation in the south corner of the property appears to be a poorly disguised retention pond and is likely to attract nuisance waterfowl.

The Commission found that Tom Rudloff was present on behalf of Rudy South, c/o T & C Properties, LLC, with James A. Fuqua, Jr., Esquire of Fuqua, Yori & Willard, P.A. and Robert Palmer, Professional Engineer of Beacon Engineering, LLC and that they stated in their presentations and in response to questions raised by the Commission that the 27.84 acre parcel is zoned AR-1 Agricultural Residential and that they are applying for boat sales, service and storage; that the majority of the parcel is cleared lands with a small area of woodlands; that the site is surrounded by woodlands and agricultural lands; that in 2009 the Commission approved a 213 lot subdivision to the north; that the purpose of this application is to relocate and expand an existing boat sales, service and storage facility located south of Route 24 at Love Creek; that the applicant has been in the boat business since 1995; that the existing business is on leased lands; that the existing business has outgrown the location; that access to the existing location is very

difficult for vehicles pulling trailered boats due to its location on Route 24; that the existing site is zoned M (Marine) which permits marine industrial uses and multi-family uses; that this site is approximately 1.0 mile from the existing site; that the State Strategies map places this site in a Level 2 and Level 3, where growth is anticipated; that the County Comprehensive Plan map places this site in the Environmentally Sensitive Developing District which is a growth area that can accommodate residential growth and retail; that the use is an appropriate use as a Conditional Use; that DelDOT has reported that they will require a dedication of right-of-way 30 feet from the centerline of Robinsonville Road, a 15 foot wide easement for a multi-modal path along Robinsonville Road, and an entrance design that complies with DelDOT requirements; that they originally intended more uses for the property when they were working through the PLUS process and DelDOT; that those uses included retail and self-storage facilities; that DelDOT responses indicate that this use will have minimal traffic impacts; that an AR-1 Agricultural Residential subdivision would generate more traffic; that they are proposing to erect an on-premises sign near the entrance; that the entrance road will be paved and will include a sidewalk and parking area; that they are currently proposing four main buildings: one for boat display/showroom/office; one for parts and supplies; one for warehousing; and one for storage; that there will not be any parts stored outside, only boat trailers and boats; that an old family cemetery exist in the wooded area and the boundaries will be established, the site will be fenced, and the cemetery will be maintained; that a single family home is proposed for an employee/security; that seven (7) area uses are planned: 1) outdoor boat sales area; 2) boat sales and service; 3) security/dwelling; 4) service boat storage area; 5) an on-premises sign area; 6) customer access boat storage monthly rental area; and 7) agricultural area; that a 20-foot wide bermed vegetated buffer is proposed on the southerly and easterly property lines to establish a method of screening; that the northerly property line is adjacent to an existing wooded parcel that is intended to remain wooded as a buffer for the adjacent subdivision proposal; that typical business hours will be from 8:00 a.m. to 8:00 p.m. during the peak boating season; that the customer access boat storage area will be accessible from 6:00 a.m. to 9:00 p.m.; that on site water and septic are proposed until central water and sewer are available; that 10 jobs will be established at the beginning; that they intend to serve full-time and seasonal residents and visitors of the area; that no other large scale commercial projects exist in the area of Robinsonville Road; that the Sussex County Council designated this area as a growth area when the Comprehensive Plan was adopted; that the area is currently rural in nature, but subdivisions have been approved, sewer is proposed, and this use will provide a service to the residents and visitors of the area; that Robinsonville Road is a rural road; that the use will not significantly impact the area roadways or the Level of Service "A" of Robinsonville Road; that approximately 50 boats will be displayed normally; that they anticipate that 250 boats will be stored; that any development of the agricultural area of the site would have to come back as a application for another conditional use; that the buildings to be used for service and repair will be similar to the DelDOT salt buildings; that the buildings will be enclosed, not open ended; that the design of the service and repair building are very eco-friendly and allow for minimal lighting since sunlight filters through the covering on the buildings; that the site will be a support facility for those residents in the area that own boats or need boat service; and in summary: the traffic impact will be minimal; the State and County have designated the area as a growth area; and the County will be providing sewer service to the area for the anticipated growth in the future.

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

The Commission found that Bill Crist and Greg Brennan were present and spoke in support of the application and the character of the applicant and stated that the applicant was encouraged to bring his boat business to Sussex County; that the applicant pays attention to details; that most people come to Sussex County to be on or near the water, showing a need for boat service, storage and sales.

The Commission found that Warren Sandberg, a resident of Webb's Landing subdivision, was present in opposition and expressed concerns that residents anticipated that the area would grow in housing, not commercial properties; that there are no commercial activities along Robinsonville Road; questioning the height of the buildings and if boats would be stored in racks; that the use is totally out of character with the area; and that the use is not appropriate for the area.

The Commission found that Mr. Rudloff responded to questions raised by the Commission that there will not be any boat storage racks; that the buildings will not exceed a height of 20 feet; that trees will be planted in the buffer areas; and that fencing will be on the internal side the bermed landscaped buffers.

The Commission found that William Payne, a resident of Webb's Landing, spoke in opposition and expressed concerns that the use is out of character with the area; that the applicant reports a history of expanding his businesses; that DelDOT requested a connector to the property to the rear of the site; that it is rumored that the existing site on Route 24 will be converted for a motel/hotel; that there are no commercial activities in the area of Robinsonville Road; and that a precedent may be set if this use is approved.

The Commission found that Bill Baydallia, a resident of The Retreat at Love Creek, spoke in opposition and expressed concerns that residential development is growing in this area; that Love Creek Landing originally included a multi-family section and the Commission rejected that application referencing that the multi-family section was out of character with the single family residential trend of development in the area; and that a large scale boat sales business will impact the residential character of the area.

The Commission found that Steve Britz, a resident of Webb's Landing, confirmed his email comments previously summarized by Mr. Lank and acknowledged that the area is a growth area, but intended for residential uses; questioned the overhead lighting and schedule of lighting; added that the berms should be widened with more vegetation; and expressed concerns about runoff.

The Commission found that Roland Hill, an adjacent farm owner, was present, agreed with the other speakers in opposition, and added that there are six (6) developments along Robinsonville Road, with others that have been approved, but not yet developed; and expressed a concern that a precedent will be set for future commercial application if this use is approved.

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

On August 27, 2015 there was a motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

On September 24, 2015 the Commission discussed this application under Old Business.

Mr. Johnson stated that he would move that the Commission recommend denial of Conditional Use No. 2025 for Rudy South c/o T & C Properties, LLC for boat sales, service and storage based upon the record made during the public hearing and for the following reasons:

- 1) The proposed use is for a 2.89 acre boat sales and service area with three permanent building and five pad-sites for temporary buildings, a 7.34 acre service boat storage area, a 2.99 acre customer access boat storage area and a 2.63 acre boat sales area.
- 2) The proposed use, while a Conditional Use, is a commercial use on this property.
- 3) There are no other commercial uses in this area of Robinsonville Road.
- 4) The proposed use is out of character with this area of Robinsonville Road. There was testimony during the public hearing from those in opposition to the project that all of the nearby properties are currently used for agricultural purposes or have existing or approved residential uses upon them.
- 5) Approving a Conditional Use for a commercial enterprise such as this would create an unwanted precedent for establishing other business or commercial uses in this area where none currently exist.
- 6) The Commission previously rejected a multi-family section of the Love Creek Landing Development based upon the reason that multi-family uses were out of character with a single family residential trend of development in the area. The proposed commercial use as a boat storage and retail facility would be even more out of character with the single family residential trend of development in the area.
- 7) Although boat storage and repair facilities have been approved in various locations throughout the County, they are typically in areas where other business or commercial uses already exist or where the development trend is not predominantly single family residential like the proposed location for this application.
- 8) For all of the reasons, it is my recommendation that this Conditional Use application be denied for this location.

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

C/U #2026 – Cristian Omar Hernandez Perez and Terri L. Martin
An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a home based business (auto repair, detailing, and auto resales) to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 1.982 acres, more or less. The property is located south of Lewes-Georgetown Highway (Route 9) 0.8 mile east of Harbeson Road (Route 5) at Harbeson (911 Address: 26740 Lewes-Georgetown Highway, Harbeson) Tax Map I.D. 235-30.00-60.00.

The Commission found that the applicants provided a survey/site plan with their application which was filed on April 27, 2015.

The Commission found that DelDOT provided comments in the form of a Support Facilities Report on April 17, 2015 referencing that a traffic impact study was not recommended; and that the current Level of Service “E” of Route 9 will not change as a result of this application.

The Commission found that the Sussex Conservation District provided comments in the form of a memorandum on August 24, 2015 referencing that there is one soil type on this property; that the applicants will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard areas are affected; that it is not likely that off-site drainage improvements will be necessary; that it is possible that on-site drainage improvements will be required; and that no tax ditches are affected.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum on August 24, 2015 referencing that the property is located in the North Coastal Planning Area; that the project is not capable of being annexed into a County operated Sanitary Sewer District at this time; that conformity to the North Coastal Planning Study will be required; that the proposed use is not in an area where the County has a schedule to provide sewer service at this time; and that a concept plan is not required.

The Commission found that the Department had received eight (8) form letters containing 38 signatures in opposition to this application expressing concerns that the applicants are currently operating the business illegally; that opposition is based on personal observations of the current activities; that the property has been occupied as a residential house; that automotive activities fall outside the intent of a home occupation; that the majority of the work is being performed outside of the home in plain view; that the applicant works on vehicles throughout the property, in the driveway and around the home; that several vehicles, sometimes numbering as many as 15, are parked throughout the property while waiting for repair or to be sold; that the business is out of character and incompatible with the surrounding community; that when the Trails of Beaver Creek was being developed and the homes were sold, those residents knew the neighboring property across Route 9 was a simple residential house; that if this Conditional Use is granted it would alter the neighborhood; that the property is not suited for automobile sales and repairs nor are there any other uses as intensive as a used car lot in the proximity of this parcel; that the property is not the appropriate size and not in the appropriate location to repair vehicles, store vehicles, and have customers gain access to the property; that currently, most visitors park their vehicles on the shoulder of Route 9; that the use would be better suited in a location where proper zoning already exists; that there is currently an automobile repair shop for

sale less than ½ mile west on Route 9 that already has the appropriate zoning and is completely appropriate for this type of commercial activity; and that allowing a Conditional Use where a residential house has occupied for decades is inappropriate.

The Commission found that Terri Martin and Cristian Omar Hernandez Perez were present and stated in their presentation and in response to questions raised by the Commission that Ms. Martin owns the property and that Mr. Perez is the tenant; that there is a need for Spanish speaking operators of an auto-repair business; that there may be 4 or 5 vehicles for sale on the property; that the vehicles stopping along Route 9 are looking at the vehicles for sale; that repair work is being performed on the asphalt driveway; that they have a dumpster on site; that they intend to utilize the single car garage for repair work in the future; that business hours are from 7:00 a.m. to 5:00 p.m. Monday through Friday, with no weekend hours; that two or three family members work on the vehicles; that five family members live in the dwelling; that the site is in close proximity to a bird farm retail business, Old Wood woodworking business, the Donut Connection, an equipment rental business, and a business/industrial park; that Ms. Martin originally rented the dwelling with the intent of residential housing; and that Ms. Martin advised the Commission that the tenants are excellent tenants.

The Commission found that no parties appeared in support of or in opposition to this application.

On August 27, 2015 there was a motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

On September 24, 2015 the Commission discussed this application under Old Business.

Mr. Johnson stated the he would like to give the application further consideration; that he encourages small business owners; that the area on Route 9 is semi-commercial; that the location for this application is a concern; that the property is a residential lot with the structures located at the front of the lot; that there are currently five (5) vehicles on the property in different stages of repair; that the vehicles are located all over the property; that there is one (1) vehicle for sale and a couple of vehicles near the hedgerow appear inoperable; that the applicant works on the vehicles out in the open; that this creates safety and environmental concerns; that there may not be adequate parking; and that there may be issues with DelDOT in reference to the ingress and egress to the property.

Mr. Burton stated that he shares the same concerns; that the Conditional Use approval will provide guidelines for the applicant; and that the Commission could stipulate what is expected of the applicant.

Mr. Smith stated that he agrees and feels the work being done in the open and not in a building is an issue.

Mr. Ross stated that there is a demand in the area for this business; that there are similar businesses in the area; that the applicant may not be aware of the County's expectations due to the cultural divide and language barrier; that he sees this application as an opportunity to fulfill a

need for the Hispanic population in the area; and that with proper guidance he feels this situation could be resolved.

Mr. Wheatley stated that he feels the Commission should require that all work be done inside a building; and that if approved can the Commission stipulate that all work must be done inside a building.

Mr. Robertson stated that the Commission has the ability to stipulate the applicant must conduct the business in a building.

Mr. Johnson stated that the stipulating the business be conducted in a building is a good idea; that the applicant and the employees will need protection from inclement weather; and that with the work being done outside there is a safety and environmental concern.

Mr. Wheatley also stated that he was concerned on how the business will affect the traffic in the area.

On September 24, 2015 there was a motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

On October 15, 2015 the Commission again discussed this application under Old Business.

Mr. Johnson stated that he would move that the Commission recommend denial of Conditional Use No. 2026 for Cristian Omar Hernandez Perez and Terri L. Martin for a conditional use of land for a home based business for auto repair, detailing and auto resales based upon the record made during the public hearing, and for the following reasons:

- 1) The property is currently zoned for residential use and has a home situated upon it. There are no buildings on the site where automotive work can safely and adequately occur and there are no facilities for handling automotive fluids, disposal of parts or storage of equipment or tools.
- 2) The applicants have been operating an automobile business on the property for some time. The use is spread all over the site, including the side, back and front yards and driveway. Repair work is currently performed on the home's driveway and elsewhere on the property on grass and gravel. As a result, the property and the use that is occurring on it, were found to be in violation of the Zoning Code.
- 3) In addition to the repairs that occur all over the property, it is not suited for automobile sales. An automobile sales lot is not consistent with the adjacent properties in this area of Route 9. There is no room for multiple cars to be displayed for sale on this property.
- 4) There is not sufficient room on the property for the buildings that would be required for a use like this, the residence, the tenant's own cars, cars being worked on, customers cars, cars for sale and safe entrance and exit to and from Route 9.
- 5) There is not sufficient access for customer parking, and there was testimony that most visitors or customers park their vehicles on the shoulder of Route 9.
- 6) There are other locations nearby or in other areas of Sussex County that have the appropriate commercial zoning where the proposed use could be more appropriately located.

- 7) While there are other businesses nearby that perform auto repairs and some limited car sales, these businesses have buildings and equipment to perform repairs indoors. They are licensed and have been in business for many years and have facilities for handling automotive fluids and vapors, and provide for the proper disposal of these fluids and car parts.
- 8) The record contains 38 signatures in opposition to the application. No parties appeared in support of the application.
- 9) While this use may serve a need for residents of Sussex County, this is not the appropriate location for the current and proposed use.
- 10) For all of these reasons, it is recommended that this Conditional Use application be denied.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to forward this application to the Sussex County Council with the recommendation that this application be denied for the reasons stated. Motion carried 3 -1 with Mr. Ross opposing the motion.

In reference to C/Z #1769 and C/U #2012 – Ocean Atlantic Communities, LLC

There was a consensus of the Commission to allow the Applicants to present CZ #1769 and CU #2012 as one presentation with the understanding that each application would be acted on separately.

Change of Zone No. 1769 – Ocean Atlantic Communities, LLC

Application of **OCEAN ATLANTIC COMMUNITIES, LLC** 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 36.98 acres, more or less, land lying north of Route One (Coastal Highway), north of Tulip Drive within Dutch Acres Subdivision, and southeast of Railroad near Nassau; (911 Address: None Available) (Tax Map I.D. 335-11.00-55.00, 56.00, 59.00, and 59.01).

Conditional Use No. 2012 – Ocean Atlantic Communities, LLC

Application of **OCEAN ATLANTIC COMMUNITIES, LLC** to consider the Conditional Use of land in a MR (Medium Density Residential District) for a mixed residential use with multi-family dwellings to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 37.26 acres, more or less, land lying north of Route One (Coastal Highway), north of Tulip Drive within Dutch Acres Subdivision and southeast of Railroad near Nassau (911 Address: None Available) (Tax Map I.D. 335-11.00-55.00, 56.00, 59.00 and 59.01).

The Commission found that the applications were filed on November 25, 2014 and included surveys and site plans.

The Commission found that the applicants submitted an Exhibit Booklet on March 16, 2015 for consideration, and that the Exhibit Booklet contains a presentation outline; a data column; a history of the project; a copy of Ordinance No. 1790 for Conditional Use No. 1526, the application of Robino-Sanibel Village, LLC for multi-family use of the property approved September 13, 2005; a copy of the previously approved plan for the multi-family use that never developed; a copy of the proposed rezoning plan; a copy of the proposed conditional use plan; a copy of the revised proposed conditional use plan based on Technical Advisory Committee comments; a series of map, plans, aerials, and renderings; a copy of the 1868 Beers Atlas map of the area; a copy of the response to the PLUS comments; an Environmental Assessment and Public Facilities Evaluation Report; a letter on Source Water Protection; a response to the Technical Advisory Committee comments; a U.S. Army Corps. of Engineers Jurisdictional Determination letter; a site specific assessment and brownfield investigation report from Environmental Alliance, Inc.; a letter from DelDOT in reference to the Traffic Impact Study for the project; and a Willing and Able to Serve letter from Tidewater Utilities, Inc.

The Commission found that on March 12, 2015 the applicants provided additional Exhibits, including a Google Earth photo of the site; copies of portions of the Sussex County Comprehensive Land Use Plan relating to the Environmentally Sensitive Developing Area and Future Land Use Map; copies of portions of the Sussex County Comprehensive Zoning Map; copies of the Minutes of the Planning and Zoning Commission meeting of March 2, 2004 and

April 29, 2004 relating to the Robino-Sanibel Village, LLC application for Conditional Use No. 1526; and a copy of Ordinance No. 1790, dated September 13, 2005 referencing the approval of Conditional Use No. 1526 by Sussex County Council.

The Commission found that on March 20, 2015 the Sussex Conservation District provided comments in the form of a memorandum referencing that the site contains five (5) soil types; that the applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas are affected; that it is not likely that this project will necessitate any off-site drainage improvements; that on-site drainage improvements will be required; and that no tax ditches are affected.

The Commission found that on March 23, 2015 the County Engineering Department Utility Planning Division provided comments in the form of a memorandum referencing that the project is located in the West Rehoboth Expansion Area; that wastewater capacity is available for the project; that Ordinance 38 construction is required; that the current System Connection Charge Rate is \$5,500.00 per EDU (Equivalent Dwelling Unit); that the appropriate connection point is not known at this time; that conformity to the North Coastal Planning Study will be required; that the project proposes a mixed residential development of single family detached dwellings and duplexes, for a total of 147 residential units on 36.98 acres; that the project is located within the boundary of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District and connection to the sewer system is mandatory; that a potential connection point for the project exists near the northerly end of Tulip Drive; that the potential point drains to nearby Pump Station 240, which in turn discharges through a 4-inch force main to Manhole 19263 near the intersection of Tulip Drive and the northerly side of Route One; that Pump Station 240 currently lacks capacity to serve the proposed project; that the developer shall be required to either upgrade the existing pump station or pump around the station to an acceptable connection point; that all work shall be performed at the developer's expense; that based on limited information available at this time, capacity appears adequate in the downstream transmission system; that the County shall require the developer to undertake or fund a capacity evaluation and planning study to determine sewer connection options and upgrade requirements; that the County requires design and construction of the collection and transmission system to meet County sewer standards and specifications; that a new concept plan must be submitted to the County Engineering Department for review and approval prior to the design of the sewer system; and that a check list for preparing concept plans is available.

Mr. Lank advised the Commission that the Department has received copies of emails from Jeff Greene and Barbara Vaughan referencing a Traffic Management Study for the area; an email from Bob Maloney referencing the Georgetown Lewes Rail Trail and that the developer could complete the bordering trail and extend under Route One at the Nassau Bridge, and that this would be an awesome improvement to Route One pedestrian and cycling safety; and an email from Robert Rice in opposition due to the difficulty of getting onto Route One in the summer months to go southbound because of traffic, and adding that all year long the Saint Jude's Church must have the State Police direct church traffic onto Route One, and suggesting denial due to the limited access from Tulip Drive. Mr. Lank provided the Commission with copies of the emails referenced.

Mr. Lank also provided the Commission with a letter received by email from Sol Peltz on behalf of residents from the Village of Five Points requesting that the Commission considered some suggested conditions of approval relating to buffering and access. Mr. Lank provided the Commission with a copy of the referenced letter.

The Commission found that Preston Schell and Ben Gordy were present on behalf of Ocean Atlantic Communities, LLC with James Fuqua, Esquire of Fuqua, Yori and Willard, P.A. and Zac Crouch, Professional Engineer, and D. J. Hughes, Professional Engineer, from Davis, Bowen & Friedel, Inc. and that they stated in their presentations and in response to questions raised by the Commission that they realize that there are some concerns from neighbors and the St. Judes Church; that access to the site is from Tulip Drive, a State maintained street within Dutch Acres; that to the south of the site is Dutch Acres, a 40 lot subdivision; that to the east is the Village of Five Points, a 586 unit Residential Planned Community; that to the northeast is Atlantic Concrete, an industrial use; that to the north is the railroad; and to the west is Nassau, the Reserves of Nassau I development, and Taramino, a multi-family project; that in 2005 the site was approved for a 152 multi-family unit project for Robino-Sanibel Village, LLC; that the Commission had originally denied the requested application, and that the County Council approved the application with conditions; that there are two differences in this application and the original application: 1) the original application had a shared entrance with Atlantic Concrete from Old Orchard Road; that a private traffic signal was to be required with the access road; that Tulip Drive is a State maintained street, that provides access to this site; and 2) this application is intended to be an age restricted community with master bedrooms on the first floor; that an age restricted community creates a lower traffic volume; that a Traffic Impact Study was prepared by Davis, Bowen & Friedel, Inc. and has been reviewed by DeDOT; that the Route One and Tulip Drive crossover with have extended turning lanes; that a Traffic Signal Justification Study was performed and that McCormick/Taylor, Consultants to DeDOT have agreed that a full service traffic signal is not warranted at this location; that the applicants will be dedicating a 5.0 foot wide strip along the railroad for a future rail to trail expansion; that central water will be provided by Tidewater Utilities; that central sewer will be provided by the County; that electrical services will be provided by Delmarva Power; that studies indicate that there are no endangered species or cultural resources on the site; that there are 4.51 acres of Federal wetlands on the site; that stormwater management and erosion and sediment control will be provided subject to the current regulations of the Sussex Conservation District; that the previous use of the site was a borrow pit with some fill including debris, stumps, etc.; that the site is being enrolled into the State Brownfield program for future mitigation; that they are requesting consideration for 147 condominium type units, including 43 single family dwelling units, 46 duplex units, and 58 townhouse style units; that recreational amenities will include a clubhouse, a swimming pool, trails and a playground; that the site is located in an Investment Level 1 according to the State Strategies, where the State considers the area already developed or urban in nature; that development of the site is supported by the State; that the site is located in an Environmentally Sensitive Developing Area (a growth area) according to the Sussex County Comprehensive Land Use Plan; that the type of development intended is an appropriate use in this area; that the rezoning and conditional use is appropriate since the site is located in a growth area, since the site is surrounded by developments, and since the use conforms to the Sussex County Comprehensive Land Use Plan Future Land Use Map; that the location is already urban in character; that the MR zoning requested is consistent with the zonings in the area; that the

conditional use for a mixed residential use is consistent and similar to the adjoining uses in the area; that the site is surrounded by MR Medium Density Residential and C-1 General Commercial properties; that two wetlands crossings will be necessary; that they will be providing a minimum of 20-feet for buffering along all Federal wetlands; that the proposed parking lot serving the Rail to Trail will be open to the public; that the site is located in an excellent recharge area; that 29% of the site will be impervious; that bio-retention facilities are proposed; that there will be 26 acres of open space; that tree clearing will be held to a minimum; that most of the trees should be preserved; that a 2014 Environmental Report includes references to 120 test borings of the soils on the site; that the State DNREC has made two recommendations for the mitigation of the site; that the State DNREC has advised that there are no hazardous or health issues or concerns; and that the original approved conditional use was never built and the approval for that use has expired.

The Commission found that Mr. Fuqua submitted and summarized suggested proposed Findings of Fact for Change of Zone No. 1769 for consideration, which include:

- 1) The site is located in Investment Level 1 according to the Strategies for State Policies and Spending which is an area where future redevelopment or infill projects are expected and encouraged by State policy.
- 2) The site of the proposed rezoning is located in the Environmentally Sensitive Developing Area, according to the Sussex County Comprehensive Plan, which is one of the designated growth areas of The Plan.
- 3) The site is surrounded by properties located in the mixed residential area or highway commercial area, which is also designated growth areas of The Plan.
- 4) The proposed rezoning is consistent with the stated purpose of the MR Zoning District, which is to provide for medium-density residential development in areas which are generally urban in character.
- 5) The site is surrounded by land zoned MR-Medium Density, C-1 Commercial and a non-conforming commercial/industrial use.
- 6) The site of the proposed rezoning is located in the West Rehoboth Expansion area of the Dewey Beach Sanitary Sewer District and complies with the system design assumption of a maximum of 4 units per acre. The Engineering Department indicates that there is adequate capacity for the proposed development.
- 7) The site will be served with water for domestic use and fire protection by Tidewater Utilities, Inc.
- 8) The proposed rezoning and use is consistent with neighboring and adjacent property uses and densities, which include single family and multi-family communities and will not have an adverse impact on those communities.
- 9) DelDOT has reviewed and approved the Traffic Impact Study performed for the site and any development will comply with the entrance and road improvements required by DelDOT.
- 10) The proposed MR Zoning designation meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County at an appropriate location established by the Comprehensive Plan.

The Commission found that Mr. Fuqua submitted and summarized suggested proposed Findings of Fact and Conditions of Approval for Conditional Use No. 2012 for consideration, which include:

- 1) These Findings incorporate the Findings for Change of Zone No. 1769, which are applicable to this proposed Conditional Use.
- 2) A Conditional Use for 152 multi-family units was previously approved by the County Council for this site. This Conditional Use proposal with the relocated entrance and the age restriction creates a safer development with less impact for the benefit of current residents and future residents of the development.
- 3) The Conditional Use will permit the development of the property in a way that is consistent with the area and consistent with the prior approval for multi-family dwellings on the parcel.
- 4) The Conditional Use promotes the orderly growth of the County at an appropriate location and provides residential housing which is essential and desirable for the general convenience and welfare.
- 5) These Findings are subject to the following conditions:
 - A. There shall be no more than 147 units being a mixture of 43 single family units, 46 duplex units, and 58 townhouse 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.
 - D. All entrance and roadway improvements shall comply with DelDOT requirements and, as offered by the Applicant, a five foot easement adjacent to the Railroad right-of-way shall be dedicated for use as part of the proposed Georgetown-Lewes Trail and a parking area shall be provided on site for access to the Trail for the general public.
 - 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. Buffers and landscape screens will be provided as indicated on the Preliminary Plan.
 - H. The development will be served as part of a Sussex County Sewer District and central water will be provided by a public utility company.
 - I. The clubhouse, pool and playground amenities shall be constructed no later than the issuance of the 80th residential building permit for the project.
 - J. Federal wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State Permits.
 - K. Any site remediation work required by DNREC as a result of the site study performed by Environmental Alliance, Inc. shall be completed in accordance with DNREC instructions.
 - L. As indicated by the Applicant, the development shall be operated as an “age restricted, over 55 community” as that term is generally interpreted.

- M. Construction, site work, grading and deliveries of construction materials, landscaping materials 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.
- N. 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. The Staff shall approve the revised Plan upon confirmation that the Conditions of Approval have been depicted or noted on it.
- O. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

The Commission found that the Applicants representatives responded to questions raised by the Commission by stating that disclosure documents shall include a reference that a Rail to Trail project may be created along the existing railroad; that disclosure documents will also include a reference that the Atlantic Concrete project and a concrete reclamation site exist to the east of the site; that they will add a 20 foot wide buffer along the perimeter line next to the Village of Five Points; that a 5-foot wide dedication of right-of-way will be added along the railroad for the proposed Rail to Trail; that according to DelDOT, the turn lanes at the crossover will be extended on Route One; that 147 age-restricted units will generate 660 vehicle trips per day which equates to approximately ½ the number of trips for a standard development; that they have not asked Atlantic Concrete for approval of an access for construction only; that there will be minimal fill added, mostly earth moving around the site; that the bridge design has not yet been determined; that the design of the bridges will cause the least impact on the wetlands; that the fill in the borrow pit area is mostly stumps and construction debris; that the project will probably be developed in two phases; that they are providing a playground since residents in age restricted communities like to have playgrounds for their children and/or grandchildren; that the State DNREC considers part of the site a Brownfield site and will be overseeing the removal of all debris and contaminants from the site; that the covenants for the age restricted community will be based on Federal restrictions; that they may incorporate a dog park; that the proposed parking area for public access to the Rail to Trail will contain 25 parking spaces; that they did not consider applying for a Conditional Use for the multi-family use in the current AR-1 District because they wanted to design the project with different housing types; that the rezoning and the project are an infill to the similar zonings and uses in close proximity; that the dedication of land for the Rail to Trail replaces the need for sidewalks; that the driveways/streets are proposed to be curb and gutter with wider paving to allow for walking along the curb; and that the pathway next to Atlantic Concrete will be removed and possibly replaced with a berm and landscaping.

The Commission found that there were no parties present speaking in support of the application.

The Commission found that Andy Martin, Kenneth Ciarlone, Greg Arena, Helen Truitt, Bob Rice, Sandy Spence, Sol Peltz, Mike Farr, Julien Karpoff, Bill Gregg, Kelly Racz, Jim McQuire, Becky Healey, Herb Von Goerres, Kevin Gray, Kirsten Sultan, and John Gilbert were present in opposition or expressing concerns about the project and stated that the intersection crossover is dangerous now due to access to and from Dutch Acres, Taramino, the Saint Judes Church, and other traffic traveling along Route One; that there have been multiple accidents at this crossover; that this proposal will multiply the dangers; that the proposed driveways/street design creates bridges across wetlands which include a tidal gut that drains into the Delaware Bay; questioning

the requirements for an age-restricted community; questioning the setbacks from wetlands to dwelling units; questioning discharges into the Federal jurisdictional waters; that a petition is being submitted containing approximately 900 signatures in opposition; that there is a 12 foot drop down to the Black Hog Gut; questioning environmental protection; referencing that several new projects in the area are already creating more traffic; questioning why the developer has not provided 100-foot wide buffers from all wetlands as suggested by the State DNREC; stating that any wetlands impacted should be replaced elsewhere; expressing concerns that the wetlands will be disturbed and trees will be lost; that natural areas are important and should be preserved; that when the Saint Junes Church expanded the traffic signal was installed and curbs were installed; that it may be difficult for trucks and tractor trailers to enter onto Tulip Drive; that remediation of the site is needed; questioning if the Traffic Impact Study included the access and parking for the Rail to Trail; questioning ground water recharge; questioning if anyone considered access to the site from New Road across the railroad; that the residents of the area and the Church are very concerned about safety at the crossover and on Tulip Drive; that the traffic light was installed due to a traffic fatality; that the State Police control the traffic at the intersection of Route One and Tulip Drive during church activities; that the residents of Tulip Drive are concerned about drivers short cutting through Dutch Acres; that children play along Tulip Drive; that the church is concerned about drivers short cutting across the church driveways and parking lots; that the church has a school for children and bus services daily on church property; that people park on church property without permission, and that the church does not want to be liable for others that may be trespassing on church property; that the walkway next to the Atlantic Concrete property line should be removed so that it does not appear that people have access to cross the Village of Five Points project; questioning if there will be dewatering for construction that may impact on-site well water of the residents in Dutch Acres; questioning if the developers should put up bonds to protect the residents in Dutch Acres if their wells are impacted by the dewatering; questioning if the bridges will have sidewalks; expressing concerns about children safety; expressing concerns about the close proximity between Tulip Drive and the Nassau Road intersection; questioning if DelDOT considered the church traffic when reviewing the Traffic Impact Study; questioning if anyone considered the impact on the wildlife in the area of the site and on the site; that Tulip Drive was built to serve the Dutch Acres subdivision, not additional traffic from other projects and the church; that some of the opposition supports an access from the Atlantic Concrete side of the project, rather than the Tulip Drive access proposed; and questioning if the site is suitable for the construction of residential units.

Mr. Robertson announced that Mrs. Truitt had submitted letters and a petition in opposition to this application and that the letters and petition will be a part of the record for these applications.

The Commission found that the Applicants representatives responded to some of the concerns and questions raised by the opposition by stating that there will be less run-off than the run-off that already exists on the site; that run-off will be infiltrated back into the groundwater; that permits are required from the U.S. Army Corps. of Engineers for the bridges; that the U.S. Corps. of Engineers has already made a preliminary jurisdictional determination for the project; that there are topographic issues with this site; that the dwellings will be located where drop offs are at a minimum; that 50-foot buffers will be provided from all tidal wetland boundaries; that a voluntary 20-foot buffer will be provided from all Federal wetlands; that DelDOT sidewalks will be curbed; that turning lanes will be lengthened per the specification described by DelDOT; that

the dedication of 5-feet to the Rail to Trail allows for a 10-foot trail with 5-foot of grass shoulders on both sides; that the dedication of 5-feet was requested by DelDOT; that a crossing over the railroad was not requested; that the railroad only allows so many crossovers per mile; that no access has been requested to cross the railroad; that the traffic counts for the Traffic Impact Study were counted in August 2013, and that Davis, Bowen & Friedel, Inc. performed additional counts in August 2014; that the walkway along the Atlantic Concrete property line will be removed so that it does not appear to provide a connection to the Village of Five Points project; that dewatering would be for groundwater, not the aquifer; that the borrow pit has existed since the 1950s; that the 100-foot buffer requested by the State is only a suggestion, not a requirement; that there are two components to remediation: one to remove and relocate some soils and to recap an area of soils; that the remediation will be supervised by DNREC; that there is no alternative access intended except for emergency use and construction; that they cannot discharge water onto lands of others per State laws; and that they intend to fill in the understory of the trees to help screen the project.

At the conclusion of the public hearings on March 26, 2015 the Commission discussed these applications.

In reference to Change of Zone No. 1769:

On March 26, 2015 there was a motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to defer action on Change of Zone No. 1769 for further consideration. Motion carried 5 – 0.

In reference to Conditional Use No. 2012:

On March 26, 2015 there was a motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to defer action on Conditional Use No. 2012 for further consideration. Motion carried 5 – 0.

On April 9, 2015 the Commission discussed these applications under Old Business.

The Commission discussed C/Z #1769 and C/U #2012, the applications of Ocean Atlantic Communities, LLC, which have been deferred since March 26, 2015.

Mr. Burton stated that he was prepared to make a motion, but asked the Commission for any comments.

Mr. Johnson stated that he feels that the applications are appropriate since the intent of the developer is to clean up an existing Brownfield site; that it makes sense to utilize an existing street access, rather than an access through a concrete plant site; that he would support the intended trail expansion; that he is concerned about pedestrian traffic in any community; that there is a need for some means for safe pedestrian movement; and that since guttering is proposed it seems appropriate to incorporate sidewalks for safety.

Mr. Ross stated that area densities could be considered, referencing Dutch Acres, recorded in 1957, the C-1 commercial zoning established in 1971, and the Village of Five Points Residential Planned Community; that the project seems to be an infill due to the underlying MR zoning

proposed; that he questions if Tulip Drive can carry the intended traffic; and that he is concerned about the density and may oppose the motion, if approval is recommended.

Mr. Smith stated that the use will cleanup a Brownfield site; that he is also concerned about safety; and noted that the presentation was very informative.

In reference to Change of Zone #1769:

Change of Zone #1769 - Ocean Atlantic Communities, LLC

Mr. Burton stated that he would move that the Commission recommend approval of Change of Zone #1769 for a change in zone from AR-1 Agricultural Residential to MR Medium Density Residential based upon the record made during the public hearing and for the following reasons:

- 1) The site is located in the Environmentally Sensitive Developing Area according to the Sussex County Comprehensive Plan. MR Medium Density Residential zoning is appropriate for this Area under the Plan.
- 2) MR Medium Density Residential zoning is consistent with neighboring zonings. The site is surrounded by lands zoned MR Medium Density Residential and C-1 General Commercial, a railroad, and a non-conforming commercial/industrial use. The MR Medium Density Residential zoning for this parcel is basically infill to match the surrounding zoning districts.
- 3) The site will be served by central water and Sussex County sewer.
- 4) MR Medium Density Residential zoning is consistent with the surrounding uses, which include both single-family and multi-family residences. As a result, rezoning this property to MR Medium Density Residential will not adversely affect the neighboring properties or uses.
- 5) The proposed rezoning to MR Medium Density Residential is consistent with the purpose of the MR Medium Density Residential District, which is to provide for medium density residential areas which are generally urban in character or likely to become urban in character, and where central sewer and water are available.

Motion by Mr. Burton, seconded by Mr. Smith, and carried with 3 votes to 2, to forward Change in Zone #1769 to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 3 – 2. The vote by roll call: Mr. Burton - yea; Mr. Johnson - nay; Mr. Ross - nay; Mr. Smith - yea; and Mr. Wheatley - yea.

In reference to Conditional Use #2012:

Conditional Use #2012 – Ocean Atlantic Communities, LLC

Mr. Burton stated that he would move that the Commission recommend approval of Conditional Use #2012 for Ocean Atlantic Communities, LLC for a Conditional Use to allow multi-family dwellings in a MR Medium Density Residential District based upon the record made during the public hearing and for the following reasons:

- 1) This site was previously approved for 152 multi-family units by Ordinance No. 1790. That approval included the entrance to the site via a shared entrance with Atlantic Concrete.

- 2) This application is for 147 units, consisting of a mixture of single family, duplex, and multi-family units. The entrance has been relocated to Tulip Drive, a State maintained right-of-way. These are improvements over Ordinance No. 1790.
- 3) The mixture of single family, duplex and multi-family units is consistent with the surrounding properties, which also include townhouses, multi-family homes and single family homes.
- 4) The use will be served by central water and Sussex County sewer.
- 5) The redevelopment of this site will enable it to be cleaned up through its enrollment in the Brownfields program, which will take it from an unused and overgrown dump site to one that is cleaned and put to a beneficial use for current and future residents of the County.
- 6) As part of the development process, the applicant will be required to comply with all DelDOT requirements concerning traffic and roadway improvements.
- 7) The site is located in the Environmentally Sensitive Developing Area and it is in close proximity to Route One. This mixed residential project is appropriate for this location.
- 8) With the proposed design there will be 26 acres of open space and most of the trees will be preserved on the site.
- 9) This recommendation is subject to the following conditions:
 - A. There shall be no more than 147 units being a mixture of 43 single family units, 46 duplex units, and 58 townhouse 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.
 - D. All entrance and roadway improvements shall comply with DelDOT requirements.
 - E. As offered by the applicant, a five (5) foot easement adjacent to the railroad right-of-way shall be dedicated for use as part of the proposed Georgetown-Lewes Trail and a parking area as shown on the Preliminary Site Plan shall be provided for access to the Trail for the general public.
 - F. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.
 - G. A 20 foot wide perimeter buffer shall be provided as shown on the Preliminary Site Plan. There shall also be a 20 foot wide buffer along the common boundary with the Villages of Five Point development. The landscaping plan, which may include existing vegetation, shall be included as part of the Final Site Plan.
 - H. The development will be served as part of a Sussex County Sewer District and central water will be provided by a public utility company.
 - I. The clubhouse, pool and playground amenities shall be constructed prior to the issuance of the 73rd residential building permit for the project.
 - J. Federal Wetlands shall be maintained as non-disturbance areas, except where authorized by Federal and State Permits. The wetland areas shall be clearly marked on the site with permanent markers to prevent disturbance.
 - K. As proposed by the applicant, there shall be a 20 foot buffer from all Federal Wetlands and a 50 foot buffer from all tidal wetlands.

- L. Any site remediation work required by DNREC as a result of the site study performed by Environmental Alliance, Inc. shall be completed in accordance with all DNREC instructions.
- M. As indicated by the applicant, the development shall be operated as an “age restricted, over 55” community as that term is generally interpreted and governed by Federal Law.
- N. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur from Monday through Friday between the hours of 8:00 a.m. and 6:00 p.m., and Saturdays between the hours of 9:00 a.m. and noon. The applicant shall make every effort to establish a temporary construction entrance via Atlantic Concrete and not Tulip Drive.
- O. As requested by the Villages of Five Points, there shall not be interconnecting trails between the Villages of Five Points and the rail trail. Instead, the area where the interconnecting trail was to be located shall now be a 20 foot wide vegetated buffer, like others along the perimeter of the project.
- P. As stated by the applicant, trees shall be preserved to the maximum extent possible. The Final Site Plan shall show all areas where existing trees will not be disturbed.
- Q. This preliminary approval is contingent upon the applicant submitting a Revised Preliminary Site Plan either depicting or noting the conditions of approval on it. The Staff shall approve the Revised Preliminary Site Plan upon confirmation that the Conditions of Approval have been depicted or noted on it.
- R. 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.
- S. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Mr. Smith questioned the age restriction reference and its relationship with traffic.

Mr. Robertson advised the Commission that the traffic counts presented were calculations relating to an age restricted community.

Mr. Robertson also advised the Commission that if the developer would decide to remove the age restriction provision it would require another public hearing process to change the use.

Motion by Mr. Burton, seconded by Mr. Smith, and carried with 3 votes to 2, to forward Conditional Use #2012 to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 3 – 2. The vote by roll call: Mr. Burton - yea; Mr. Johnson - nay; Mr. Ross - nay; Mr. Smith - yea; and Mr. Wheatley - yea.

In reference to C/Z #1783 and C/U #2028 – Cauthen Ventures DE, LLC

After asking James A. Fuqua, Jr., Esquire, present on behalf of the applicants, it was decided that the public hearings for C/Z #1783 and C/U #2028 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.

C/Z #1783 – Cauthen Ventures DE, LLC

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 Baltimore Hundred, Sussex County, containing 14.79 acres, more or less. The property is located north of Lighthouse Road (Route 54) east of Laws Point Road, and northwest of Bayville Shores Drive (911 Address: None Available) Tax Map I.D. 533-12.00-100.00.

C/U #2028 – Cauthen Ventures DE, LLC

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 Baltimore Hundred, Sussex County, containing 14.79 acres, more or less. The property is located north of Lighthouse Road (Route 54), east of Laws Point Road, and northwest of Bayville Shores Drive (911 Address: None Available) Tax Map I.D. 533-12.00-100.00.

The Commission found that the applications were filed on June 24, 2015 and included a survey and site plan; that copies of the applicant's response to the PLUS comments were submitted; that a statement of compliance of the Environmentally Sensitive Development District Overlay Zone was submitted; and that the applicant provided an Exhibit Booklet on August 27, 2015 for consideration. The Exhibit Booklet contains a description of the project team; an Executive Summary; a Project Overview with a boundary survey, topographic and non-tidal wetlands survey; an overview of the current site conditions; references to DelDOT improvements; references to the PLUS comments; references to compliance with the MR Medium Density Residential Zoning District; references to compliance with Chapter 99-9C of the Subdivision Code; references to compliance with the Comprehensive Land Use Plan 2008 Update; a map of the general area; a copy of the Environmental Assessment and Public Facilities Evaluation Report; a copy of an email between a representative of the applicants and DelDOT; a copy of the PLUS comments with red-lined responses from the applicant; a copy of a portion of the Strategies for State Policies and Spending map of the area showing that the site is located in a Level 3 area; a series of maps and aerials, and resumes.

The Commission found that on September 9, 2015 DelDOT provided additional comments referencing that initially it was determined that no Traffic Impact Study was warranted; that upon further review the site still exceeds the 50 vehicle trip ends per hour; that DelDOT will accept an Area Wide Study Fee of \$10.00 per daily trip in lieu of a Traffic Impact Study; that payment would be due when the site plan is submitted for no objection review; that the Department will be requiring a right turn lane with bike lane, and that the existing pedestrian facilities are restored with ADA compliance ramps and crosswalks for the new entrance; that the existing center turn lane will suffice for traffic making lefts into the development; that a 15-foot wide permanent

easement will need to be established across the property frontage; that the location of the easement shall be outside the limits of the ultimate right-of-way for this road; that the easement can be used as a part of the open space calculation for the site; that the Department would have no objection with the application moving forward through the zoning process, but will require the project to obtain a Letter of No Objection and entrance approval prior to final approval with Sussex County.

The Commission found that the County Engineering Department Utility Planning Division provided comments on September 9, 2015 in the form of a memorandum referencing that the site is located in the Fenwick Island Sanitary Sewer District; that wastewater capacity is available for the project; that Ordinance 38 construction will be required; that the current System Connection Charge Rate is \$5,775.00 per EDU; that a potential gravity connection point is available in Lighthouse Road; that conformity to the South Coastal Area Planning Study, 2005 Update, will be required; that connection to the sewer system is mandatory; that sewer capacity has been allocated on the basis of 4.0 EDU per acre; that the proposed project is within planning study and system design assumptions for sewer service and that there will be adequate capacity for the proposed project; that the County requires design and construction of the collection and transmission system to meet County Engineering Department standards and procedures; that the County Engineer must approve the connection point; that all cost associated with extending sewer service will be the sole responsibility of the developer; and that a concept plan is required.

Mr. Lank advised the Commission that three (3) letters in opposition to the applications have been received and express concerns about the number of homes; a preference for single family homes; loss of a beautiful wooded parcel; the impact of development on birds and other wildlife; the loss of trees; the impact on property values if the project would permit rentals; noise; concerns about drainage; increased traffic; the overdevelopment of the area; the lack of adequate traffic lanes and turning lanes; the impact of additional traffic on emergency vehicles causing delays in emergency services; and that allowing increased density in an already overcrowded area is not in the best interest of the property owners, the community, or the coastal environment.

The Commission found that Dan McGreevy was present on behalf of Cauthen Ventures DE, LLC with James A. Fuqua, Jr. Esquire with Fuqua, Yori & Willard, PA, and Jason Palkewicz, Professional Engineer, and Frank Kea, Landscape Architect with Solutions IPeM, and that they stated in their presentations and in response to questions raised by the Commission that they are applying for rezoning from AR-1 Agricultural Residential to MR Medium Density Residential and then Conditional Use for 61 Multi-family units on the 14.79 acre parcel; that the area is predominantly zoned MR Medium Density Residential and has been developed with densities similar to the MR Medium Density Residential district; that no State tidal wetlands exists on the property; that some Federal non-tidal wetlands exists on the property; that there will be no encroachments into or disturbance of any wetlands; that the properties across Lighthouse Road are zoned AR-1 and AR-2 Agricultural Residential and include the Teaberry Woods Subdivision; that the properties west and north of the site are zoned AR-1 Agricultural Residential with a manufactured home park (Shady Park) which is partially pre-existing to zoning regulations and expanded by Conditional Use; that further north from the site is properties zoned GR General Residential (Swann Keys Subdivision); that northeast of the site includes properties zoned HR High Density Residential (Bayville Shores Condominiums); that

the properties to the east of the site are HR High Density Residential (Bayville Shores South and Bayview Landing); that DelDOT did not require a Traffic Impact Study; that the applicant will contribute to the DelDOT Area Wide Study Fund; that the applicant will comply with all DelDOT required improvements; that the property is located in the Fenwick Island Sanitary Sewer District; that adequate wastewater capacity is available; that the applicant will comply with the required stormwater management requirement of the new Stormwater Regulations of the Sussex Conservation District; that the site is located in the Indian River School District; that the site is located in the Roxana Volunteer Fire Company service area; that central water for drinking and fire protection will be provided by Artesian Water Company; that 60% of the site will remain as open space, and includes the wetlands and stormwater management areas; that the site is currently taking drainage from portions of the Bayville Shores South site; that the outfall is not anticipated to change; that they cannot discharge anymore runoff than that which already exist; that a condominium project is proposed and that a home owners association will be established; that the proposed project is in accordance with the County Comprehensive Land Use Plan and is located in the Environmentally Sensitive Developing District Overlay Zone and in an area designated for mixed residential use, both of which are growth areas; that the use and the density are appropriate; that they do not intend to access Bayville Shores Drive; that access is intended to be from Lighthouse Road; that the project will be served by an interior driveway system with street lighting; that the driveway will be curbed and guttered and will have an additional 5 feet added to the required width to provide for a bike and pedestrian path; that perimeter buffering will be at least 20 feet in width; that the trees within the wetlands areas will be left undisturbed; that the wetlands boundaries will be permanently marked with signage; that they are proposing an outside living environment for gatherings with a fireplace, picnic tables, etc. for the residents; that the property line crosses part of Laws Point Road which is an easement; that a street lighting plan will be submitted after working with the electric company; that access to Laws Point Road or Bayville Shores Drive was not chosen or required by DelDOT; that they do not want to create a cut-through for by-passing the traffic light at Laws Point Road; that the outdoor living environment eliminates the need for a clubhouse/pool which was financially impact the residents of the project once completed; that the project conforms to the densities of the area projects; that they plan on retaining as much woodland as possible to develop the project; and that the units will appear to be townhouse, but will be sold as condominium units; that no parking will be permitted on the street driveway.

The Commission found that Mr. Fuqua submitted two photographs of a similar outdoor living environment depicting a fireplace, picnic tables and a privacy wall; and suggested proposed Findings of Fact and Conditions of Approval for consideration.

The Commission found that Janet Dubbert, President of the Bayville Shores Homeowners Association, and Mike Milam, of Bayville Shores South, were present and spoke in opposition to the applications referencing that Bayville Shores Drive serves three communities: Bayville Shores, Bayview Landing, and Bayville Shores South; that the three project have densities of 3.5 units per acre or less; that the current owners of the site have two access easements to access the site from Bayville Shores Drive; that they are concerned about additional traffic, increased brown water, surface water ponding, stormwater management, drainage, and runoff; that they support the developers commitment to not access Bayville Shores Drive, but are still concerned about the traffic pattern, increased traffic near the traffic light at Laws Point Road, the lack of

amenities, and the number of units proposed; and that a 20-foot wide wooded buffer is not adequate, and should be at least 50-feet wide.

The Commission found, by a showing of hands, that 17 people were present in opposition.

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

In reference to C/Z #1783:

There was a motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action on Change of Zone No. 1783 for further consideration. Motion carried 4 – 0.

In reference to C/U #2028:

There was a motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action on Conditional Use No. 2028 for further consideration. Motion carried 4 – 0.

On October 15, 2015 the Commission discussed C/Z #1783 and C/U #2028 under Old Business.

In reference to C/Z #1783:

Mr. Ross stated that he would move that the Commission recommend approval of Change of Zone No. 1783 for Cauthen Ventures DE, LLC for a Change of Zone from AR-1 Agricultural Residential to MR Medium Density Residential based upon the information contained in the record and for the following reasons:

- 1) The proposed rezoning to Medium Density Residential meets the purpose of the Zoning Ordinance and that it promotes the orderly growth of the County and the proposed project is in a Developing Area according to the Sussex County Comprehensive Land Use Plan.
- 2) Sewer service will be provided as part of the County operated sanitary sewer district, and adequate wastewater capacity is available for the project.
- 3) The site will be served with central water.
- 4) This is basically an infill rezoning. MR Medium Density Residential zoning is consistent with the neighboring and adjacent zoning, which includes lands that are zoned MR Medium Density Residential, GR General Residential, HR High Density Residential, and a non-conforming/conditional use manufactured home development.
- 5) MR Medium Density Residential zoning is appropriate for this site and is consistent with the purposes of the MR Medium Density Residential District according to the Sussex County Zoning Code. The purpose of the MR Medium Density Residential zoning is to provide for Medium Density Residential development in areas which are generally urban in character. The surrounding development includes a manufactured home park, single family development and multi-family/townhouse communities. The MR Medium Density Residential zoning is consistent with this character and the purpose of the MR Medium Density Residential Zoning District.
- 6) The proposed rezoning to MR Medium Density Residential will not adversely affect the neighboring properties, uses or roadways.

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

In reference to C/U #2028:

Mr. Ross stated that he would move that the Commission recommend approval of Conditional Use No. 2028 for Cauthen Ventures DE, LLC for a Conditional Use of to allow multi-family dwellings based upon the information contained in the record and for the following reasons:

- 1) The proposed Conditional Use meets the purpose of the Sussex County Zoning Code in that it promotes the orderly growth of the County because the proposed project is in a Developing Area according to the Sussex County Comprehensive Land Use Plan.
- 2) The development of this site with 61 townhouse units is consistent with the densities of surrounding developments.
- 3) Sewer service will be provided by Sussex County as part of the County operated sanitary sewer district.
- 4) The residential development will be served by central water.
- 5) The Conditional Use will permit the development of the property in a way that is consistent with the mixed residential uses that exist in the area, including townhouses on the parcel adjacent to the site.
- 6) The location for this conditional use with townhouses is appropriate along this section of Route 54.
- 7) The proposed development will not adversely affect neighboring properties or roadways.
- 8) This recommendation is subject to the following conditions:
 - A. There shall be no more than 61 townhouse units constructed on the site.
 - B. All entrances, intersections, inter-connection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's requirements.
 - C. The development shall be served as part of a Sussex County Sanitary Sewer District in accordance with Sussex County Engineering Department specifications and regulations.
 - D. The Conditional Use shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
 - E. Stormwater management and erosion and sediment control facilities shall be constructed in accordance with applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices. The Final Site Plan shall contain the approval of the Sussex Conservation District.
 - F. As proffered by the applicant, a five foot pedestrian/bike path, properly marked, will be constructed in the internal drive right-of-way which will connect to the existing sidewalk on Route 54.
 - G. The applicant shall submit, as part of the Site Plan review, a landscape plan showing the proposed tree and shrub landscape design.
 - H. 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.

- I. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- J. A 20-foot wide perimeter buffer shall be provided as shown on the Preliminary Site Plan. The buffer, which may include existing vegetation, shall be included as part of the Final Site Plan.
- K. As proffered by the applicant, as many existing trees shall be retained as possible throughout the site. The undisturbed areas and trees that will not be removed shall be shown on the Landscape Plan that is included as part of the Final Site Plan.
- L. Federal and State wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State permits. The wetland areas shall be clearly marked on the site with permanent markings to prevent disturbance.
- M. Construction, site work, grading, and deliveries of construction materials, landscaping materials, and fill on, off or to the property shall only occur Monday through Friday between the hours of 8:00 a.m. and 6:00 p.m. and on Saturday between the hours of 9:00 a.m. and Noon.
- N. 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. The staff shall approve the revised Plan upon confirmation that conditions of approval have been depicted or noted on it.
- O. 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. Smith, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 4 – 0.

Introduced 7/21/15

Council District No. 3 – Deaver

Tax I.D. No. 234-6.00-96.00

911 Address: None Available

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR BOAT SALES, SERVICE AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 27.84 ACRES, MORE OR LESS

WHEREAS, on the 8th day of June 2015, a conditional use application, denominated Conditional Use No. 2025 was filed on behalf of Rudy South c/o T & C Properties, LLC; and

WHEREAS, on the ____ day of _____ 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2025 be _____; and

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

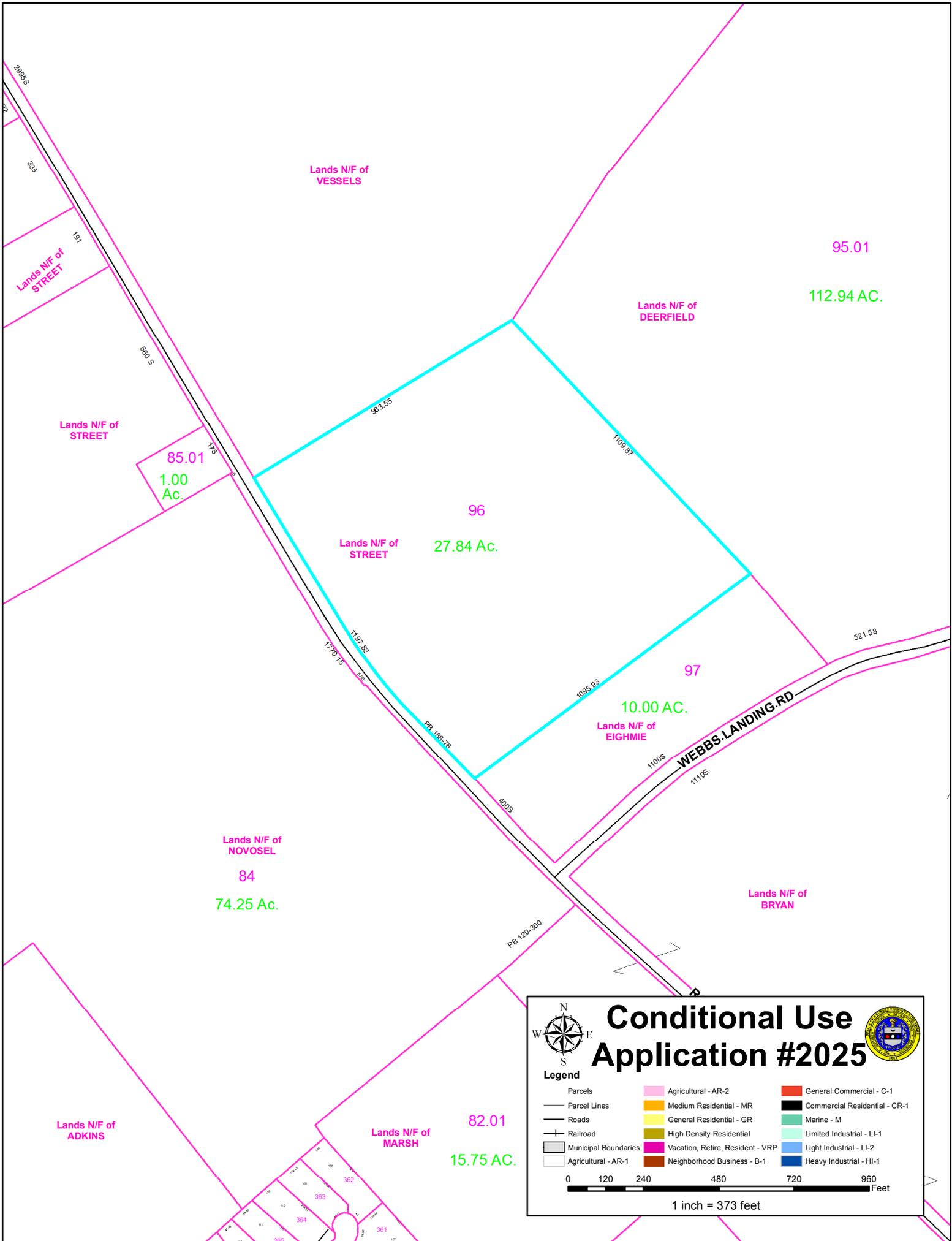
NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2025 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 northeast of Robinsonville Road (Road 277) approximately 1200 feet northwest of Webb's Landing Road (Road 277B) and being more particularly described in the attached legal description prepared by Pennoni Associates, Inc., said parcel containing 27.84 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.

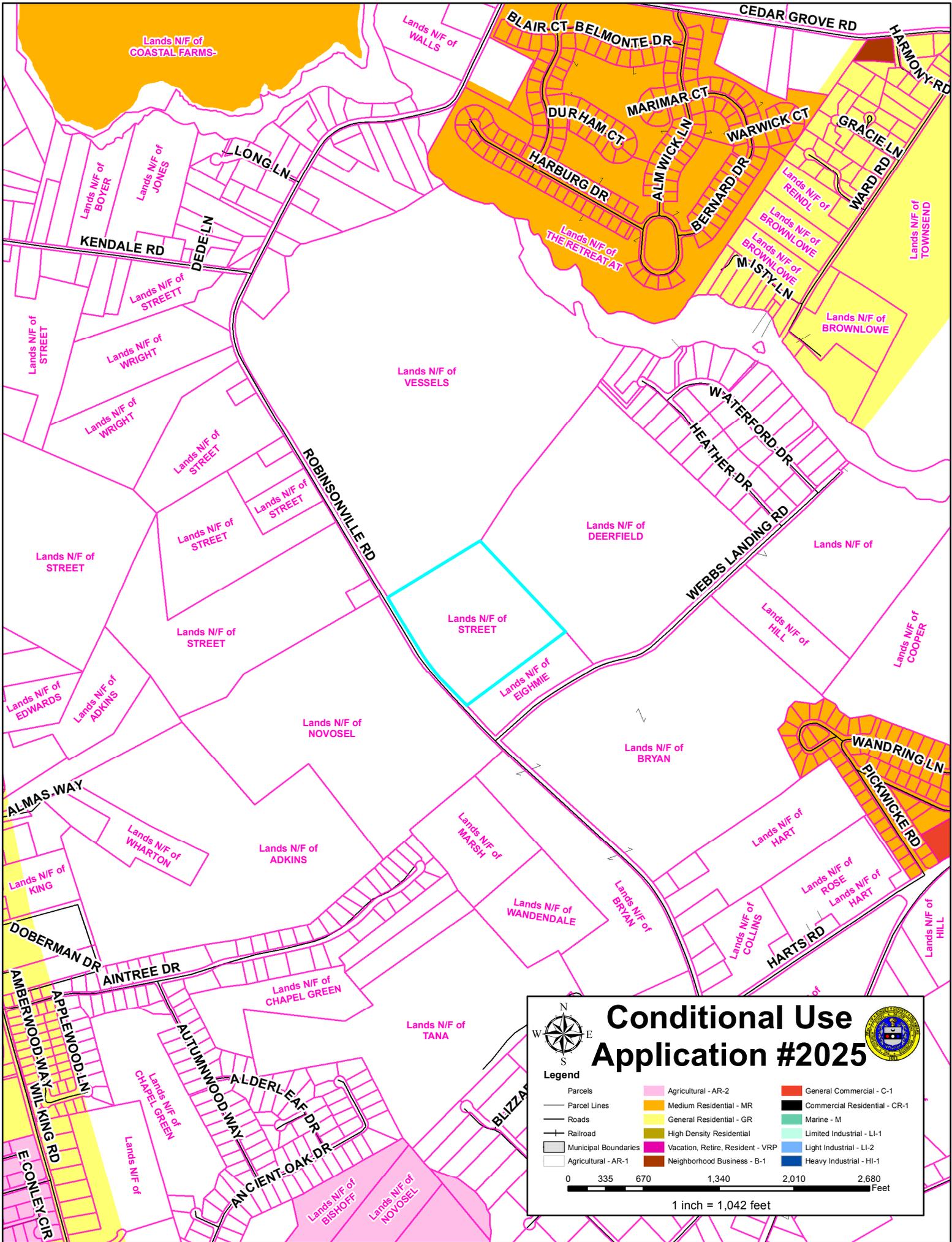


Conditional Use Application #2025

Legend

<ul style="list-style-type: none"> Parcels Parcel Lines Roads Railroad Municipal Boundaries Agricultural - AR-1 	<ul style="list-style-type: none"> Agricultural - AR-2 Medium Residential - MR General Residential - GR High Density Residential Vacation, Retire, Resident - VRP Neighborhood Business - B-1 	<ul style="list-style-type: none"> General Commercial - C-1 Commercial Residential - CR-1 Marine - M Limited Industrial - LI-1 Light Industrial - LI-2 Heavy Industrial - HI-1
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1 inch = 373 feet



Conditional Use Application #2025

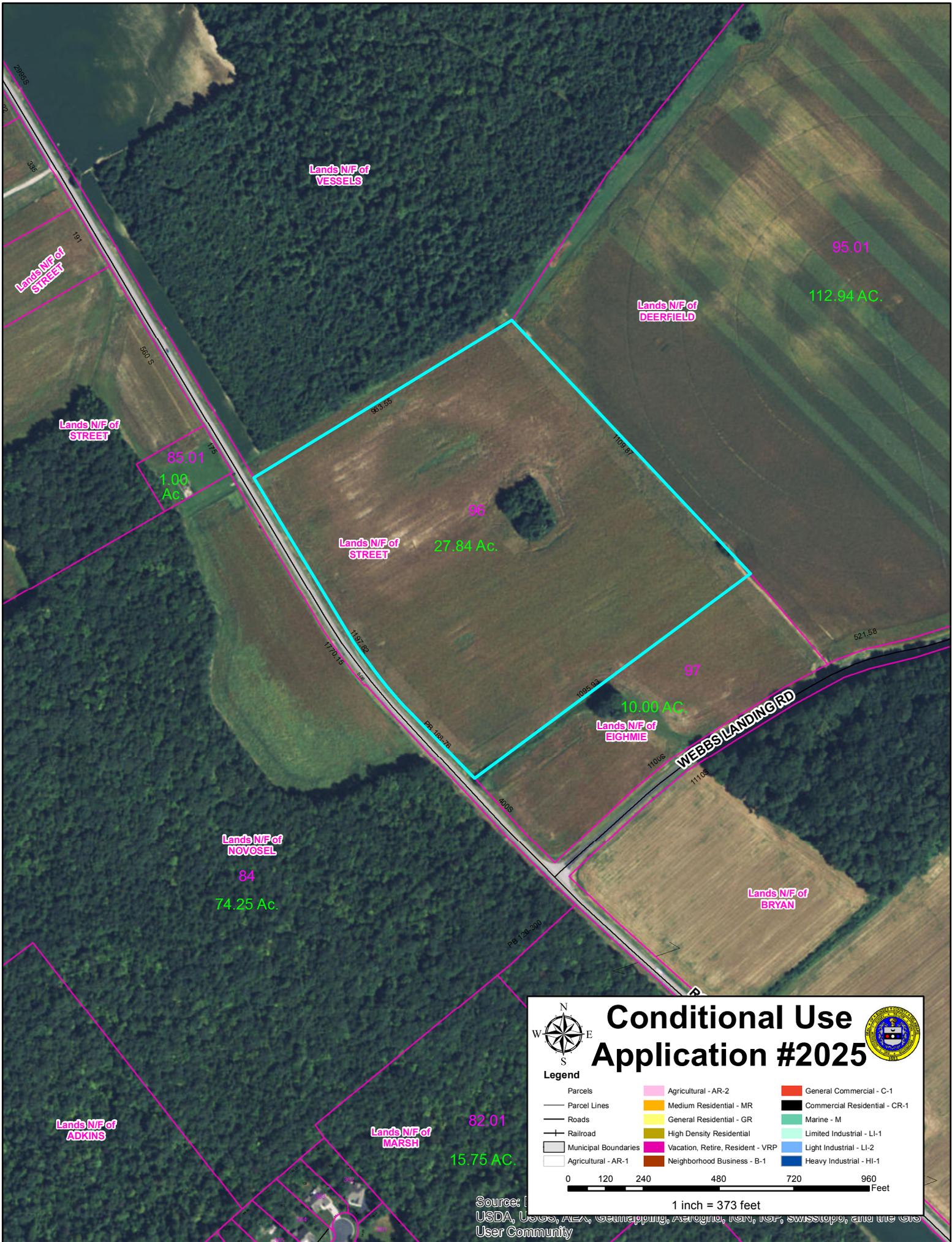


Legend

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

0 335 670 1,340 2,010 2,680 Feet

1 inch = 1,042 feet



Lands N/F of
VESSELS

Lands N/F of
STREET

Lands N/F of
STREET

85.01

1.08
Ac.

Lands N/F of
STREET

96

27.84 AC.

Lands N/F of
DEERFIELD

95.01

112.94 AC.

97

10.00 AC.

Lands N/F of
EIGHMIE

Lands N/F of
NOVOSSEL

84

74.25 AC.

Lands N/F of
BRYAN

Lands N/F of
ADKINS

Lands N/F of
MARSH

82.01

15.75 AC.



Conditional Use Application #2025



Legend

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

0 120 240 480 720 960 Feet

1 inch = 373 feet

Source: USDA, USGS, AEA, Geotapping, Aerio, IGN, ICF, Swisstopo, and the City User Community

Introduced 7/21/15

Council District No. 3 – Deaver

Tax I.D. No. 235-30.00-60.00

911 Address: 26740 Lewes-Georgetown Highway, Harbeson

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A HOME BASED BUSINESS (AUTO REPAIR, DETAILING, AND AUTO RESALES) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.982 ACRES, MORE OR LESS

WHEREAS, on the 9th day of June 2015, a conditional use application, denominated Conditional Use No. 2026 was filed on behalf of Cristian Omar Hernandez Perez and Terri L. Martin; and

WHEREAS, on the ____ day of _____ 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2026 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2026 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 south of Lewes-Georgetown Highway (Route 9) 0.8 mile east of Harbeson Road (Route 5) at Harbeson and being more particularly described as follows:

BEGINNING at an iron pipe on the southerly right-of-way of Lewes-Georgetown Highway (Route 9), a corner for these subject lands and other lands of Terri L. Martin; thence North 84°28'28" East 264.88 feet along the southerly right-of-way of Lewes-Georgetown Highway to an iron pipe; thence by and along other lands of Terri L. Martin the following three (3) courses:

South 05°00'00" East 350.70 feet to a point; and

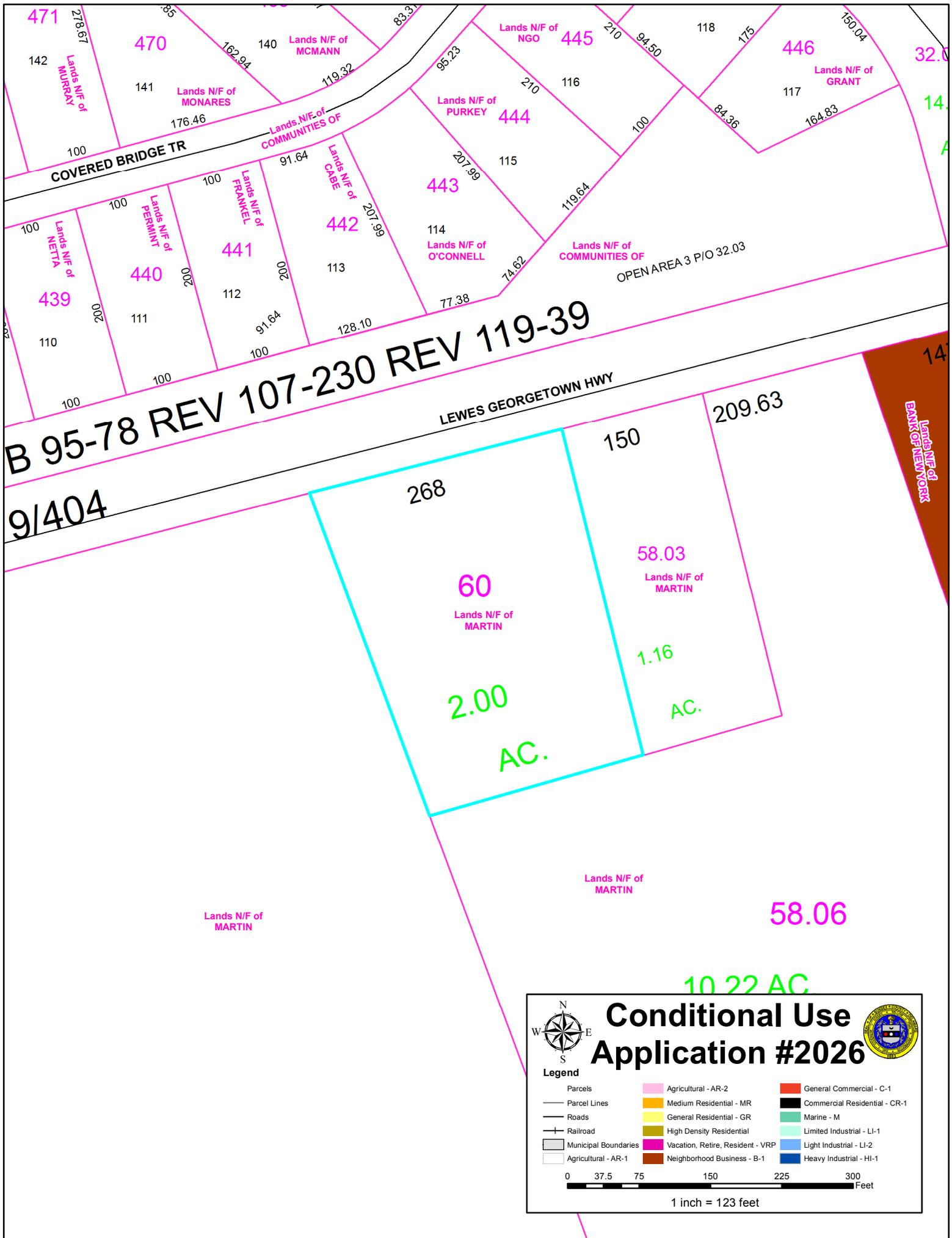
South 84°43'59" West 228.38 feet to an iron pipe; and

North 10°58'00" West 351.24 feet;

to the point and place of beginning, said parcel containing 1.982 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



B 95-78 REV 107-230 REV 119-39
 9/404

Conditional Use Application #2026

Legend

<ul style="list-style-type: none"> Parcels Parcel Lines Roads Railroad Municipal Boundaries Agricultural - AR-1 	<ul style="list-style-type: none"> Agricultural - AR-2 Medium Residential - MR General Residential - GR High Density Residential Vacation, Retire, Resident - VRP Neighborhood Business - B-1 	<ul style="list-style-type: none"> General Commercial - C-1 Commercial Residential - CR-1 Marine - M Limited Industrial - LI-1 Light Industrial - LI-2 Heavy Industrial - HI-1
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1 inch = 123 feet

10.22 AC



Conditional Use Application #2026

Legend

<ul style="list-style-type: none"> 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 	<ul style="list-style-type: none"> Parcels Parcel Lines Roads Railroad Municipal Boundaries Agricultural - AR-1 	<ul style="list-style-type: none"> 0 37.5 75 150 225 300 Feet
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1 inch = 123 feet

Source: USDA, USGS, Aerial, Geomapping, Aerial, IGN, IGN, Swisstopo, and the US User Community

Introduced 1/20/15

Council District No. 3 - Deaver

Tax Map I.D. No. 335-11.00-55.00, 56.00, 59.00, and 59.01

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 36.98 ACRES, MORE OR LESS

WHEREAS, on the 25th day of November 2014, a zoning application, denominated Change of Zone No. 1769 was filed on behalf of Ocean Atlantic Communities, LLC; and

WHEREAS, on the ____ day of _____ 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1769 be _____; and

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

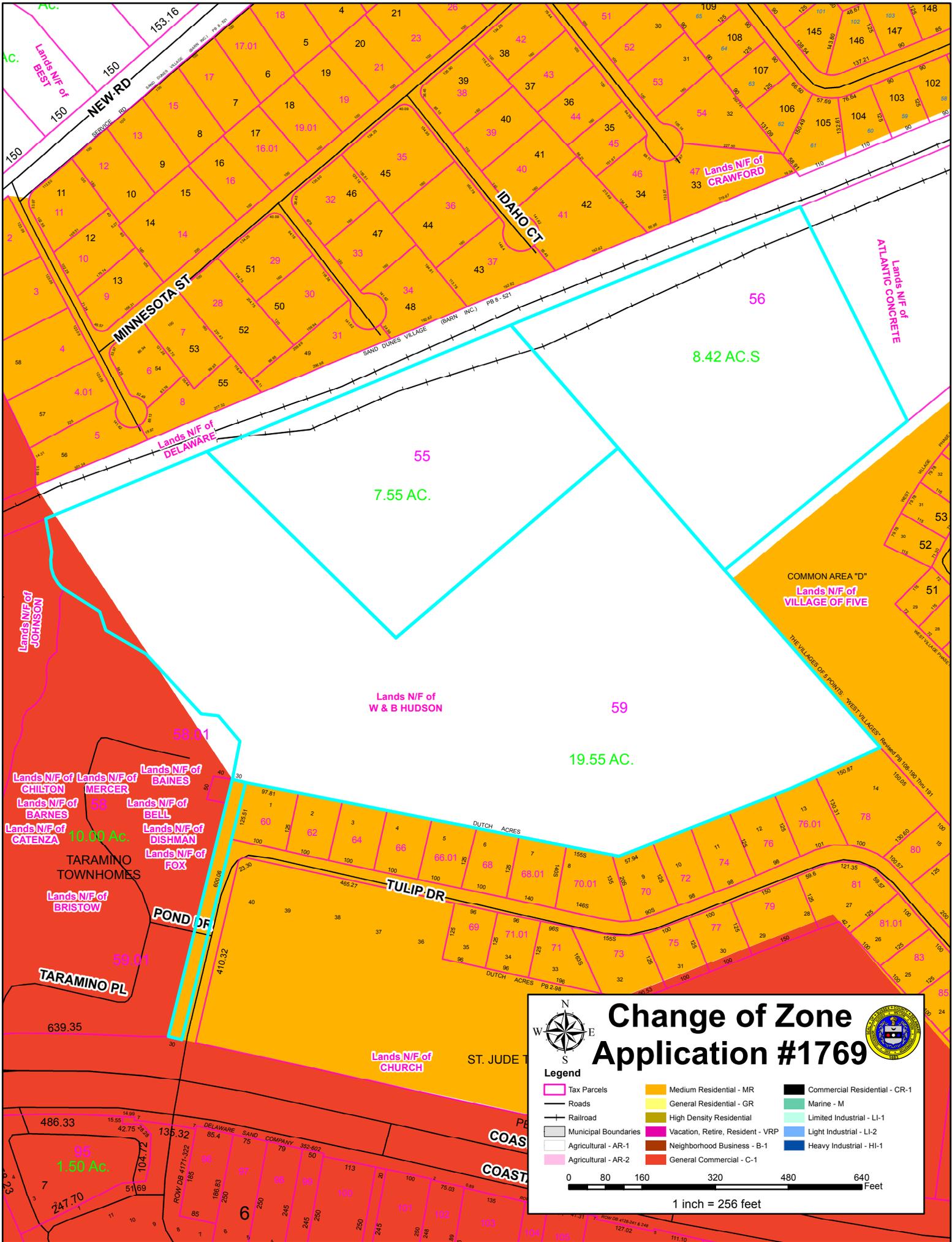
NOW, THEREFORE, THE COUNTY OF SUSSEX COUNTY ORDAINS:

Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District] and adding in lieu thereof the designation 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 situated in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying north of Route One (Coastal Highway), north of Tulip Drive within Dutch Acres Subdivision, and southeast of Railroad near Nassau and being more particularly described per the attached legal description provided by Davis, Bowen & Friedel, Inc., and containing 36.98 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.



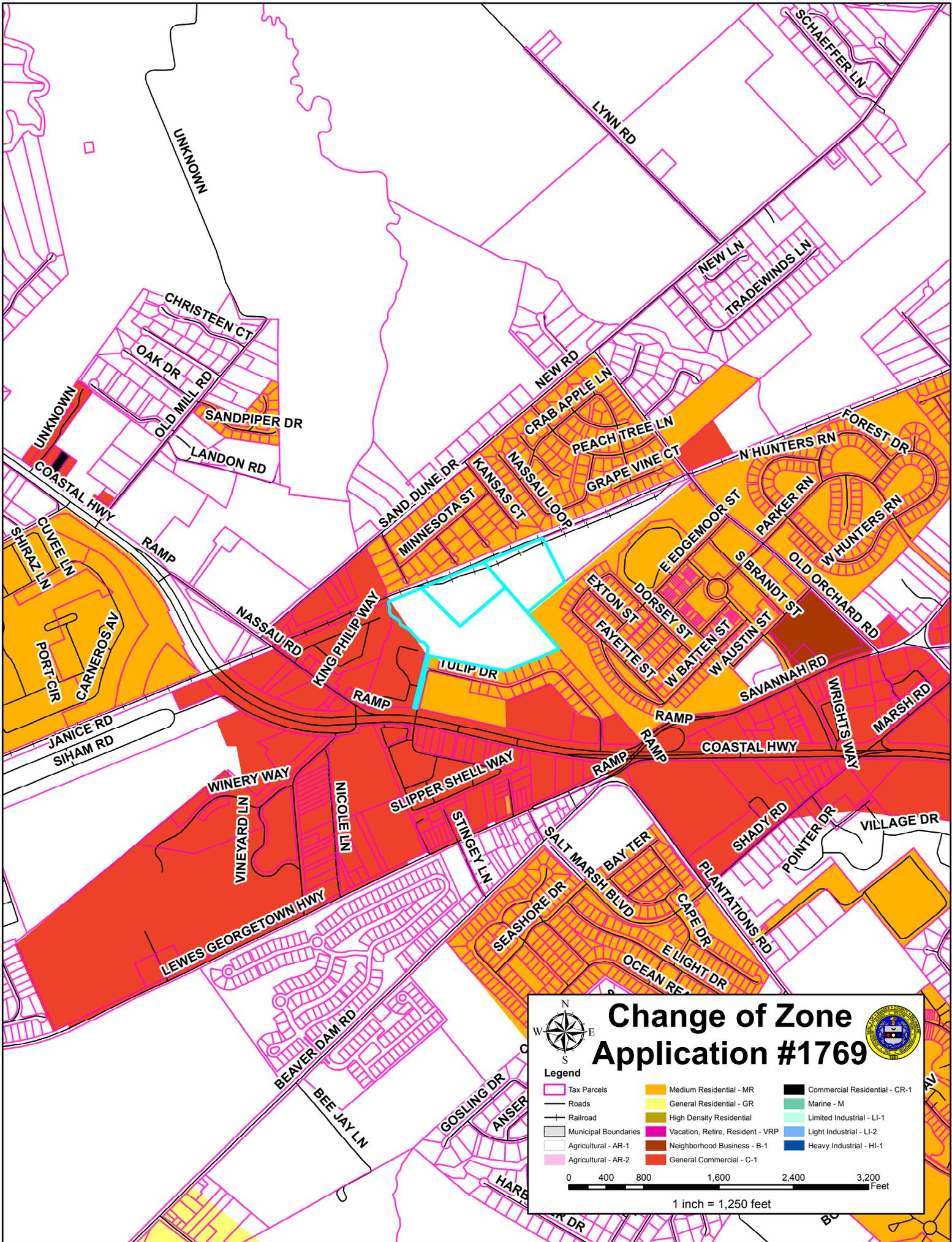
Change of Zone Application #1769

Legend

<ul style="list-style-type: none"> Tax Parcels Roads Railroad Municipal Boundaries Agricultural - AR-1 Agricultural - AR-2 	<ul style="list-style-type: none"> Medium Residential - MR General Residential - GR High Density Residential Vacation, Retire, Resident - VRP Neighborhood Business - B-1 General Commercial - C-1 	<ul style="list-style-type: none"> Commercial Residential - CR-1 Marine - M Limited Industrial - LI-1 Light Industrial - LI-2 Heavy Industrial - HI-1
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0 80 160 320 480 640 Feet

1 inch = 256 feet



Change of Zone Application #1769

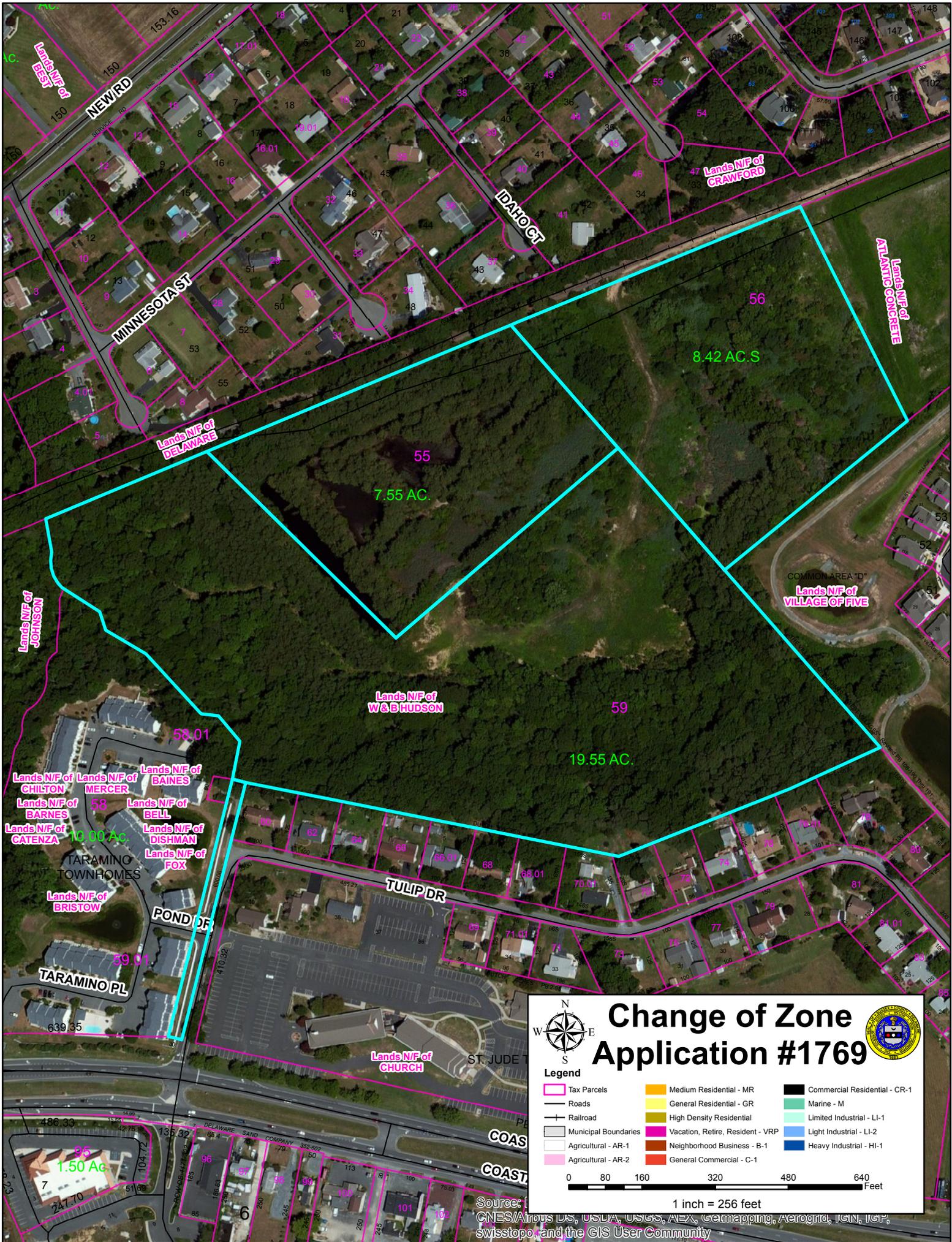


Legend

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

0 400 800 1,600 2,400 3,200 Feet

1 inch = 1,250 feet



Change of Zone Application #1769



W N E
S



Legend

<ul style="list-style-type: none"> Tax Parcels Roads Railroad Municipal Boundaries Agricultural - AR-1 Agricultural - AR-2 	<ul style="list-style-type: none"> Medium Residential - MR General Residential - GR High Density Residential Vacation, Retire, Resident - VRP Neighborhood Business - B-1 General Commercial - C-1 	<ul style="list-style-type: none"> Commercial Residential - CR-1 Marine - M Limited Industrial - LI-1 Light Industrial - LI-2 Heavy Industrial - HI-1
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0 80 160 320 480 640 Feet

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

Introduced 1/20/15

Council District No. 3 – Deaver

Tax Map I.D. No. 335-11.00-55.00, 56.00, 59.00, 59.01, and 60.00

911 Address: None Available

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MIXED RESIDENTIAL USE WITH MULTI-FAMILY DWELLINGS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 37.26 ACRES, MORE OR LESS

WHEREAS, on the 25th day of November 2014, a conditional use application, denominated Conditional Use No. 2012 was filed on behalf of Ocean Atlantic Communities, LLC; and

WHEREAS, on the ____ day of _____ 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2012 be _____;

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

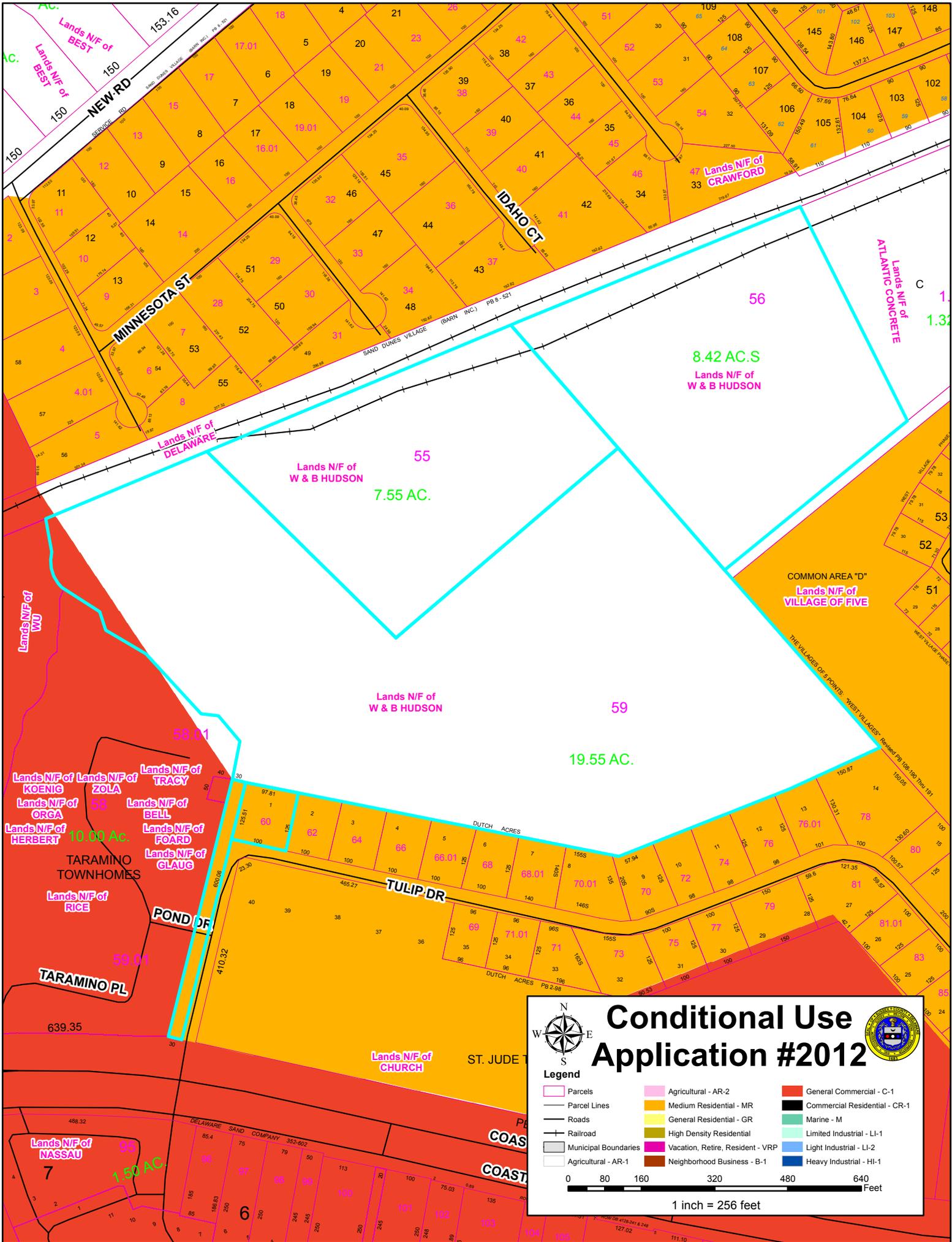
NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article V, Section 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2012 as it applies to the property hereinafter described.

Section 2. The subject property is described as:

All that certain tract, piece or parcel of land, lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying north of Route One (Coastal Highway), north of Tulip Drive within Dutch Acres Subdivision and southeast of Railroad near Nassau and being more particularly described per the attached legal description provided by Davis, Bowen & Friedel, Inc., said parcel containing 37.26 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 #2012



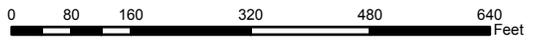
Legend

- Parcels
- Parcel Lines
- Roads
- Railroad
- Municipal Boundaries
- Agricultural - AR-1

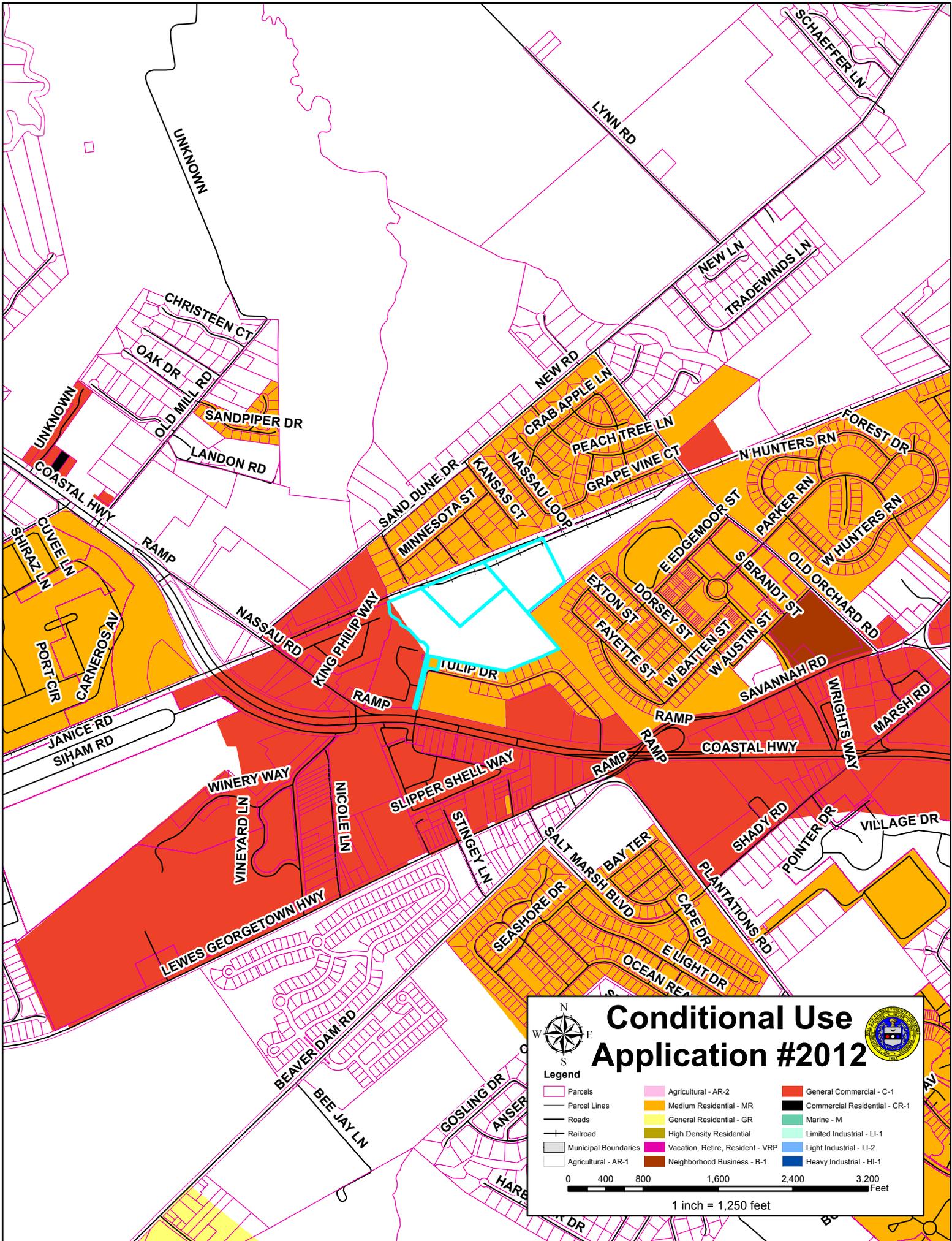
- Agricultural - AR-2
- Medium Residential - MR
- General Residential - GR
- High Density Residential
- Vacation, Retire, Resident - VRP
- Neighborhood Business - B-1

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





1 inch = 256 feet



Conditional Use Application #2012



W
N
E
S



Legend

<ul style="list-style-type: none"> Parcels Parcel Lines Roads Railroad Municipal Boundaries Agricultural - AR-1 	<ul style="list-style-type: none"> Agricultural - AR-2 Medium Residential - MR General Residential - GR High Density Residential Vacation, Retire, Resident - VRP Neighborhood Business - B-1 	<ul style="list-style-type: none"> General Commercial - C-1 Commercial Residential - CR-1 Marine - M Limited Industrial - LI-1 Light Industrial - LI-2 Heavy Industrial - HI-1
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0 400 800 1,600 2,400 3,200 Feet

1 inch = 1,250 feet



Conditional Use Application #2012



Legend

- Parcels
- Parcel Lines
- Roads
- Railroad
- Municipal Boundaries
- Agricultural - AR-1

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



0 80 160 320 480 640 Feet

1 inch = 256 feet

Source: CNES/Airbus DS, USDA, USGS, AEA, Geomapping, Aerogram, IGN, ICF, swisstopo, and the GIS User Community

Introduced 07/28/15

**Council District No. 5 - Arlett
Tax Map I.D. No. 533-12.00-100.00
911 Address: None Available**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.79 ACRES, MORE OR LESS

WHEREAS, on the 24th day of June 2015, a zoning application, denominated Change of Zone No. 1783 was filed on behalf of Cauthen Ventures DE, LLC; and

WHEREAS, on the ____ day of _____ 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1783 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX COUNTY ORDAINS:

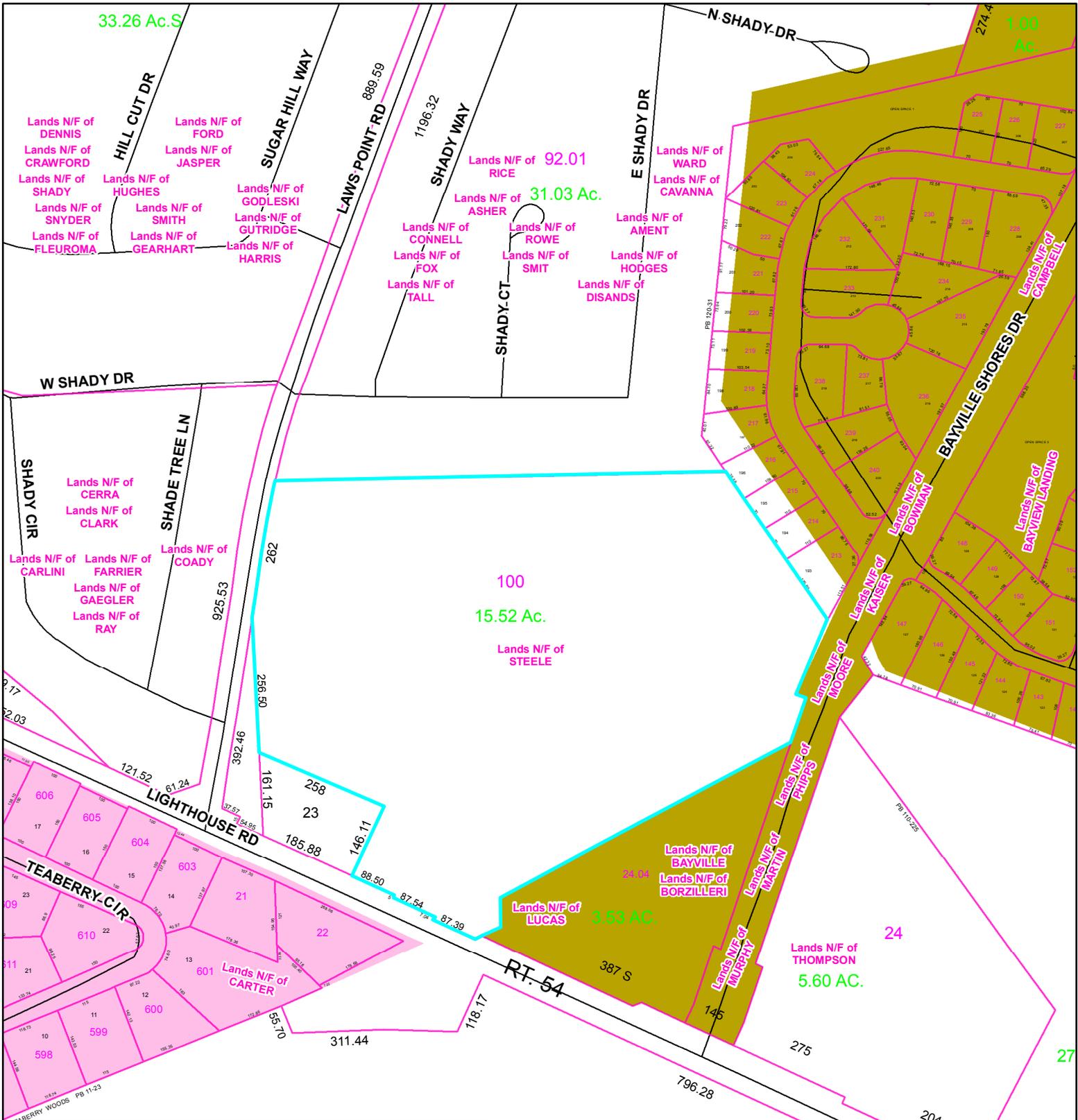
Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District] and adding in lieu thereof the designation of MR Medium Density Residential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

Section 2. The subject property is described as follows:

All that certain tract, piece or parcel of land lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying north of Lighthouse Road (Route 54) east of Laws Point Road, and northwest of Bayville Shores Drive and being more particularly described as follows:

BEGINNING at a point on the northeasterly right-of-way of Lighthouse Road (Route 54), a corner for these subject lands and lands, now or formerly, of Raymond McCabe, Jr. et.ux.; thence North 24°51'54" East 146.05 feet along said McCabe lands to a concrete monument; thence North 66°44'54" West 257.53 feet along said McCabe lands to a concrete monument; thence North 03°06'46" West 499.40 feet along Shady Park Trailer Park Development to an iron pipe; thence South 89°34'54" East 975.41 feet along Shady Park Trailer Park Development to a concrete monument; thence South 30°33'24" East 277.53 feet along Bayview Landing Subdivision to a point; thence southwesterly 967.74 feet along the meandering property line with Bayville Shores – South Condominiums (12 bearing breaks) to a point on the northeasterly right-of-way of Lighthouse Road; and thence North 64°36'38" West 185.70 feet along the northeasterly right-of-way of Lighthouse Road to the point and place of beginning, said parcel containing 14.79 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.





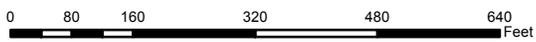
W E
S N

Change of Zone Application #1783



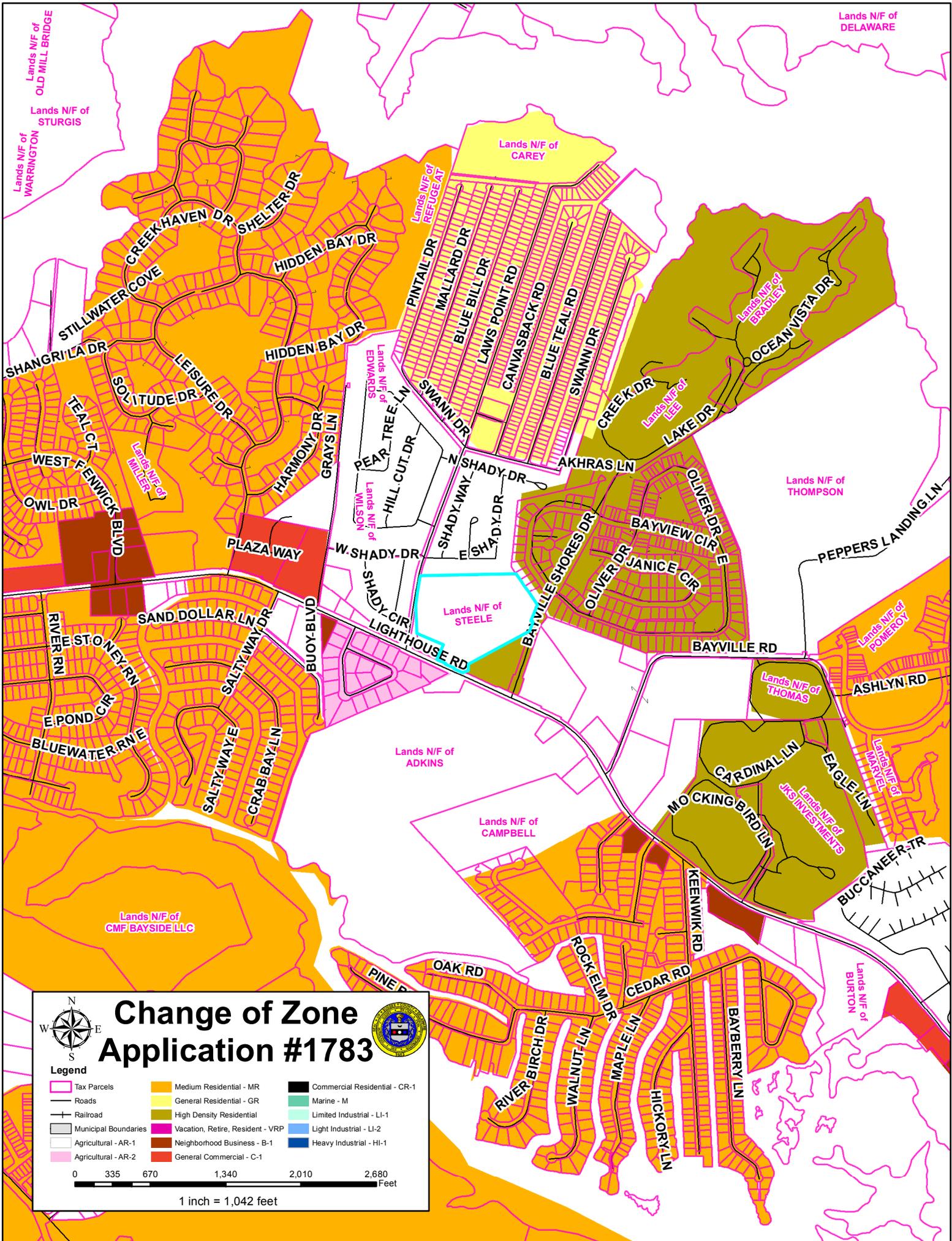
Legend

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



0 80 160 320 480 640
Feet

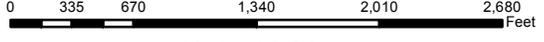
1 inch = 250 feet



Change of Zone Application #1783



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



Introduced 7/28/15

**Council District No. 5 – Arlett
Tax I.D. No. 533-12.00-100.00
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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.79 ACRES, MORE OR LESS

WHEREAS, on the 25th day of June 2015, a conditional use application, denominated Conditional Use No. 2028 was filed on behalf of Cauthen Ventures DE, LLC; and

WHEREAS, on the ____ day of _____ 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2028 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article V, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2028 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

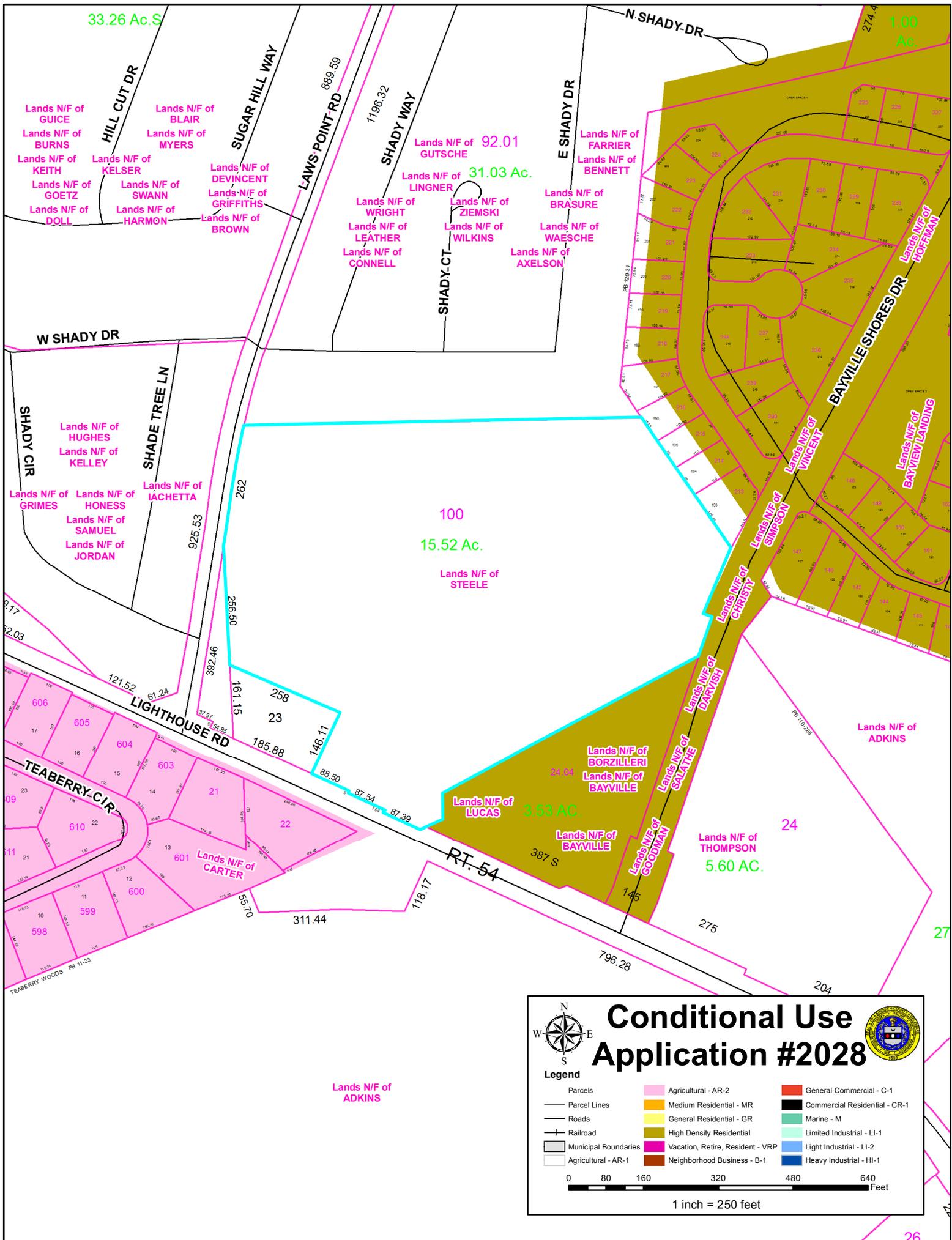
ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying north of Lighthouse Road (Route 54), east of Laws Point Road, and northwest of Bayville Shores Drive and being more particularly described as follows:

BEGINNING at a point on the northeasterly right-of-way of Lighthouse Road (Route 54), a corner for these subject lands and lands, now or formerly, of Raymond McCabe, Jr. et.ux.; thence North 24°51'54" East 146.05 feet along said McCabe lands to a concrete monument; thence North 66°44'54" West 257.53 feet along said McCabe lands to a concrete monument; thence North 03°06'46" West 499.40 feet along Shady Park Trailer Park Development to an iron pipe; thence South 89°34'54" East 975.41 feet along Shady Park Trailer Park Development to a concrete monument; thence South 30°33'24" East 277.53 feet

along Bayview Landing Subdivision to a point; thence southwesterly 967.74 feet along the meandering property line with Bayville Shores – South Condominiums (12 bearing breaks) to a point on the northeasterly right-of-way of Lighthouse Road; and thence North 64°36'38" West 185.70 feet along the northeasterly right-of-way of Lighthouse Road to the point and place of beginning, said parcel containing 14.79 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



33.26 Ac. S

1.00 Ac.

Lands N/F of GUTSCHE 92.01

Lands N/F of LINGNER 31.03 Ac.

100
15.52 Ac.

Lands N/F of STEELE

Lands N/F of LUCAS 3.53 AC.

Lands N/F of THOMPSON 5.60 AC.

Conditional Use Application #2028

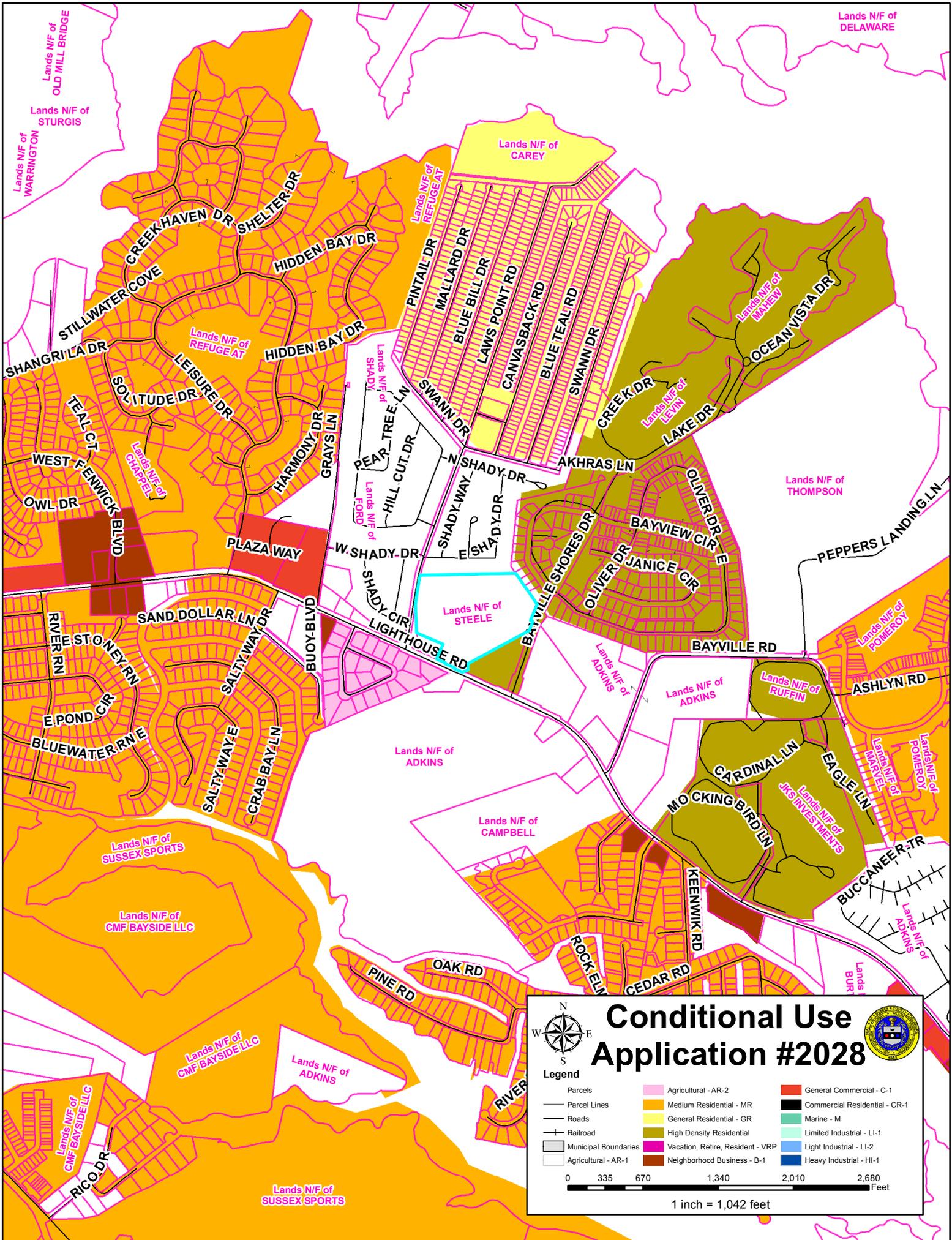
Legend

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

0 80 160 320 480 640 Feet

1 inch = 250 feet

Lands N/F of ADKINS



Lands N/F of DELAWARE

Lands N/F of CAREY

Lands N/F of REFUGAT

Lands N/F of MAYHEW

Lands N/F of LEVIN

Lands N/F of THOMPSON

Lands N/F of STEELE

Lands N/F of ADKINS

Lands N/F of RUFFIN

Lands N/F of ADKINS

Lands N/F of CAMPBELL

Lands N/F of JKS INVESTMENTS

Lands N/F of SUSSEX SPORTS

Lands N/F of CMF BAYSIDE LLC

Lands N/F of CMF BAYSIDE LLC

Lands N/F of ADKINS

Lands N/F of SUSSEX SPORTS



Conditional Use Application #2028



Legend

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



1 inch = 1,042 feet



Conditional Use Application #2028



Legend

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



1 inch = 250 feet

Source: USDA, USGS, AEA, Geomapping, Aerotrig, IGN, ICG, Swisstopo, and the US User Community

PUBLIC HEARINGS
December 15, 2015

This is to certify that on November 12, 2015 the Sussex County Planning and Zoning Commission conducted public hearings on the below listed applications for Conditional Use.. At the conclusion of the public hearings, the Commission moved and passed that the applications be forwarded to the Sussex County Council with the recommendations as stated.

Respectfully submitted:
COUNTY PLANNING AND ZONING
COMMISSION OF SUSSEX COUNTY

Lawrence B. Lank
Director of Planning and Zoning

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

PUBLIC HEARINGS

C/U #2034 – Beachfire Brewery Co., LLC

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a restaurant and brewery to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County containing 1.99 acres, more or less.

The property is located on the north side of Beaver Dam Road (Road 285) south of Lewes Georgetown Highway (Route 9). (911 Address: 32490 Lewes Georgetown Highway, Lewes) Tax Map I.D. 334-5.00-215.00, 215.01, 216.00, 217.01, 218.00, & 219.00.

The Commission found that the applicants provided a survey/site plan for the intended restaurant and brewery with their application, filed on July 24, 2015; and that they provided an Exhibit Booklet on November 2, 2015. The Exhibit Booklet contains an Executive Summary; Site Data; suggested Proposed Findings of Fact and Conditions of Approval; a copy of the application; a cover letter; topographic and boundary survey and Conditional Use Plan; copies of the Agreements of Sale; a copy of the DeIDOT Service Level Evaluation Request, Support Facilities Report, and Left Turn Lane Not Warranted Documentation; a County Engineering Utility Planning Allocation email; a series of maps and plans; a response to the requirements of Subdivision Ordinance Section 99-9C; a response to the Environmentally Sensitive Development Overlay Section of the Zoning Ordinance; photographs; a certification that there are no wetlands on the site; and a soil survey report.

The Commission found that DelDOT correspondence, dated June 30, 2015 and August 10, 2015 in reference to this site location were referenced in the Exhibit Booklet.

The Commission found that the Sussex Conservation District provided comments, dated November 10, 2015, referencing that there is one soil type on these parcels; that the applicants will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; that it is not likely that off-site drainage improvements will be necessary; and that on-site drainage improvements will be necessary.

Mr. Lank advised that Commission that four (4) letters/emails have been received in support of the application. The letters/emails were received from Leon Farlow, Teresa Heberling, Casandra Cannon, and Anthony Crivella.

The Commission found that Harold Dukes, Esquire of Tunnell & Raysor, P.A., present on behalf of the Beachfire Brewery Co., LLC with Harry Metcalfe and other members of the Company, and David Kuklish, Professional Engineer with Bohler Engineering, stating in their presentation and in response to questions raised by the Commission that this application is for a family restaurant and brew pub; that regular church services have not been held in the church building since 2007; that the church property has been for sale; that the church building is in need of repairs; that the residents of the area are supportive of a restaurant; that they would like to present this application with three presentations: church members, the developers, and the design engineers.

The Commission found that Reverend Pastor Marjorie Burns of Faith United Methodist Church stated that the church had lost attendance; that in 2008 several churches in the area merged; that one church property was sold; that one is still for sale; that the congregation and trustees want to preserve the building due to its historic significance; and that the proposed restaurant will create jobs and renovation of the church property.

The Commission found that Reverend Pastor Burns submitted two letters in support from Bruce W. Martin, Realtor, and Blanche Spencer, an area resident.

The Commission found that Bruce Duffy and Jeron Duffy, both Trustees for the Church, spoke in support of the application and referenced the need for the upkeep of the church building; the cost in improving the structure; the decline in the congregation numbers; that they are combining three churches into one church; and that they are proposing to sell this church to allow for improving another church building for the betterment of the congregation.

The Commission found that Harry Metcalfe spoke on behalf of the members of Beachfire Brewery Co., LLC stating that they started meeting several years ago hoping to establish a family restaurant in the Lewes area; that they would like to open a restaurant and to manufacture their own beer to be served at the restaurant; that they have met with the Lewes Historic Society for information on the history of the church and the Belltown area; that minimal information is available; that they are not proposing a nightclub or brew joint; that they would like to create a family restaurant with family friendly prices, family entertainment, trivia games, and a free

library book program; that the church building is intended for seating; that all kitchen and brewing facilities will be within new additions, not within the existing church building; and that 55 to 60 employees are anticipated.

The Commission found that David Kuklish, Professional Engineer, presented a Power Point Display and spoke on the site plan by stating that this proposal is not a rezoning, it is a Conditional Use application; that they realize that conditions can be placed on the application; that the proposed site contains six parcels, to be combined, and contains 1.64 acres; that two of the existing entrances are proposed to be removed; that a 8,500 square foot restaurant and brewery are proposed; that they are proposing two entrances on Church Street, one entrance on Beaver Dam Road, and one entrance on Lewes Georgetown Highway; that DelDOT has voiced no objection to the entrance locations; that 89 parking spaces are required and 95 spaces are proposed; that water will be provided by a well or by Tidewater Utilities; that sewer will be provided by Sussex County; that the County Engineering Department has advised them that the site will accommodate 7.9 Equivalent Dwelling Units (EDUs); that they are not proposing to exceed the EDU allocation; that there is no current stormwater management system on the site; that they are proposing to establish an underground infiltration system for stormwater and will comply with the State DNREC and the Sussex Conservation District requirements; and that no wetlands exists on the site.

The Commission found that Betty Justin, Profession Engineer/Traffic Engineer, stated that a traffic evaluation was performed; that a left turn lane was not warranted; that the capacity analysis indicates that there will be an acceptable Level of Service on Beaver Dam Road and the Lewes Georgetown Highway; and that landscaping and traffic safety improvements will be made as prescribed by DelDOT.

The Commission found that the representatives of the application responded to questions raised by the Commission that the church building will be used for the seating area of the restaurant; that no food production, brewing or bar area will be within the church building; that the applicants have no objection to that being a condition of approval; that they hope to maintain the appearance of the church building; that the cornerstones and stain glass windows may be returned to the church congregation; that solid waste (spent grains) from the brewing operation will be recycled through local farmers; that the use will not add a great deal of traffic; that the applicants have offered to pay a fee into the DelDOT Area Wide Study in lieu of doing a Traffic Impact Study; that a Traffic Impact Study may be performed by DelDOT at some future date; that sidewalks and crosswalks are proposed between parking lots; that security lighting will be downward screened; that they anticipate a seating capacity of 80 to 85 seats, which is less than the capacity of the church as it currently exist; that they are not proposing to have a tasting facility with the brewery; that there is adequate space between any well location and the stormwater management facilities; that during the restaurant season they proposed to be open seven days per week from late afternoon to 11:00 p.m. and Sundays will lesser hours; that the bar area will serve liquor and wine, but primarily craft beers; that they feel that this site is a logical site to serve the growing residential activities taking place in the Beaver Dam Road area; that no parking will be permitted within State road right-of-ways; and that a structural engineer has inspected the site.

Mr. Robertson advised the Commission that Federal and State regulations have jurisdiction over bar and brewing activities.

The Commission found that Mark Mumford, Pam Glick, Henry Farlow, Shad Sagaford, and Brett Hines were present in support of the application and referenced that they support a family friendly restaurant atmosphere; that they do not want to see the church torn down; that they anticipate a quality family restaurant; that the restaurant should create economic opportunities; and that local farmers can benefit by the processed grains for animal feed.

The Commission found that Mr. Farlow read a letter from his wife, Chrystlyn Farlow, in support of this application and referencing a history of her family involvement with the church, her support of the application, and her hopes that the restaurant/brewery will bring much needed jobs to the community and influence future businesses to invest in the revitalization of the Belltown community.

The Commission found that Reverend Bravon Duffy, Victoria Gibbs, Robert Steinbeck, Lea Dove, Bernie Melbern, Brian Nixon, Tom Hefferman, Bob Turner, and Michael Miller were present in opposition to this application and expressed concerns about the proposed brewery use, not the restaurant; that some of the residents of the area have fought to preserve the integrity of Belltown; that they do not have a concern about the church property being sold, only the intended use; that traffic issues already exist and will be increased; that they are concerned about the conduct of the people that cater to the restaurant/brewery; that a brewery may be an insult to the residential character of the area; that if the use is approved there should be special conditions of approval relating to the use, especially the brewery; that the church is currently used weekly; that a lot of the residents that live in Belltown are elderly; that the residents are concerned about traffic and noise; that properties are being offered for sale or sold in the Belltown area, some with commercial intent; that residents are concerned about the narrowness of Church Street and the difficulties of turning into or out of Church Street and Salt Marsh Boulevard, across from Church Street; that the residents of Henlopen Landing across Beaver Dam Road may support a restaurant, but not a brew pub; that a bar should not be permitted in the church building; that traffic concerns also exist due to the close proximity to the intersection of Plantation Road, Beaver Dam Road, and the Lewes Georgetown Highway connector; that vehicles stopped at Salt Marsh Boulevard cannot see traffic coming from the connector due to stacked vehicles waiting to turn left into the connector; that Church Street needs to be widened; that traffic backups and traffic accidents are already a concern; that the intended use will worsen traffic conditions; that the restaurant is a good idea, but the wrong location; questioning what is the best use of the properties; that development of the number of unimproved residential building lots in the area will only worsen the current traffic conditions along Beaver Dam Road; that a restaurant that recently closed in the Vineyards development closed within 1.5 years of opening; that Belltown is primarily a residential development; that the church has been utilized for regular church activities, weddings, and funeral services regularly; that there are other locations in the area that are property zoned for a restaurant; that the community will lose the historical significance of the church; and that it was suggested that the County purchase the property and create a park for the community.

The Commission found that Mr. Metcalfe responded to some of the concerns by advising the Commission that traffic noises already exist at this location; that they are planning on foam insulating the church building; and that there will not be any live music outside on the proposed patio.

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

On November 12, 2015 there was a motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

On December 10, 2015 the Commission discussed this application under Old Business.

Mr. Johnson stated that he had prepared a motion, but first asked the Commission if they had any comments.

Mr. Burton stated that the use should be successful, but he had some concerns about the location, nearby intersections, and additional traffic.

Mr. Smith stated that in the past he had experienced similar action by another church, and that he is also concerned about nearby intersections.

Mr. Ross stated that the Commission has to look at this application as a land use decision.

Mr. Johnson stated that his motion is a land use decision; that he hopes that the applicants preserve the church building as stated in their testimony; and that he realizes that traffic will be generated by the business.

Mr. Johnson stated that he moves that the Commission recommend approval of Conditional Use No. 2034 for Beachfire Brewery Co., LLC for a restaurant and brewery based upon the record made at the public hearing and for the following reasons:

- 1) The use is located in the area of the Five Points intersection, where other commercial and business uses currently exist. This location is consistent with the adjacent zoning and uses.
- 2) The property is currently used for a church and residential uses. Given the configuration of this property which is basically at the intersection of Beaverdam Road and Route 9, continued residential use is no longer viable for this site. Likewise, the church, while historic, is too old and too small for long term continued use for that purpose.
- 3) The applicants have proposed a use that preserves much of the church, which is an important aspect of the history of Belltown. This application is unique in its efforts to preserve the church, since any other redevelopment of the property would certainly involve the demolition of the structure.
- 4) The redevelopment of this property into a restaurant and brewery would not adversely affect neighboring properties or the community. As stated by the owners of the church property, the church structure is slowly deteriorating and there are no funds available for repairs. The project will redevelop the entire property in a way that takes a deteriorating

structure and converts it to one that is modern and an amenity to not just Belltown but to all of eastern Sussex County as a family type restaurant.

- 5) It also cannot be said that the project is incompatible with the surrounding neighborhood, when it is within sight of a large home improvement center, another large hardware store, a bank, a home improvement contractor and other business uses.
- 6) The use will be served by Sussex County sewer.
- 7) This recommendation is subject to the following conditions:
 - a. As stated by the applicant, there shall be no brewery operations within the former church structure, not shall there be any patron or service bar serving alcoholic beverages located within the church structure. The kitchen facilities will also be situated in an addition to the structure.
 - b. As stated by the applicant, the existing church structure shall be preserved to the fullest extent possible. The final site plan shall contain details as to the preservation of this structure and its integration into the new restaurant and brewery structure being built on this site.
 - c. The use shall comply with all Sussex County Engineering Department requirements concerning the connection of the brewery operation to the Sussex County Sewer System.
 - d. All roadway and intersection improvements shall be subject to the requirements of DelDOT.
 - e. Stormwater management and erosion and sedimentation control shall be designed and operated using best management practices to promote groundwater recharge,
 - f. The Sussex Conservation District shall review and approve the final site plan.
 - g. The Final Site Plan shall be subject to the review and approval of the Sussex county Planning and Zoning Commission.

Motion by Mr, Johnson, seconded by Mr. Ross, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 4 – 1, with Mr. Burton opposing the motion.

C/U #2035 – Synagro Central, LLC

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for land application of bio-solids as agricultural fertilizer following DNREC approval to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 203.00 acres, more or less. The properties are located on both sides of Zoar Road, northeast of the Railroad tracks, southwest of Patriot's Way, and on both sides of Governor Stockley Road (911 Address: None Available) Tax Map I.D. 133-3.00-4.00 and 133-7.00-1.00, 4.00, 11.00 and 12.10 (all of or parts of).

The Commission found that DelDOT provided comments in the form of a Support Facilities Report, dated July 30, 2015, referencing that a traffic impact study was not recommended, and that the current Levels of Service of Stockley Road, Governor Stockley Road, and Zoar Road will not change as a result of this application.

The Commission found that the Sussex Conservation District provided comments in the form of a memorandum, dated November 10, 2015, referencing that there are seven soil types on the referenced parcels; that the applicants will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; that the project will not necessitate any off-site drainage improvements; and that it is not likely that the project will necessitate any on-site drainage improvements.

The Commission found that John Ueupis was present on behalf of Synagro Central, LLC with James Baxter, Jr. and James Baxter IV, and that they stated in their presentations and in response to questions raised by the Commission that the liquefied bio-solids will be used as farm fertilizer on lands owned by Baxter Farms; that the parcels are adjacent to other lands farmed by Baxter Farms and allows for nutrient management of those farms; that Baxter Farms has been applying bio-solids on the adjacent farms for 20 years; that the bio-solids are subject to DNREC approval and are regulated by both DNREC and the EPA; that a decade of assessments exists in the evaluation of the use of bio-solids; that bio-solids have been used from the Town of Georgetown Wastewater Treatment Plant; that the bio-solids are hauled in by tractor trailer in liquid form and trenched, injected, and covered in one process; that the sites are the same as those previously used for the Town of Georgetown Wastewater Treatment Plant; that there are no restrictions other than the setbacks required by DNREC; that they grow vegetable crops, including sweet corn and beans; that within three years of injecting the bio-solids commercial buyers will accept vegetable crops; that they anticipate no negative impact on neighboring wells; that they have no concerns about run-off impacting the adjacent vegetable fields; that the soils are being reviewed for submittal to DNREC: that eight or nine monitoring wells have been installed; and that injections are staggered and no applications are performed annually on the same tract.

The Commission found that Brian Churchill of the State DNREC was present in support of this application and stated that there are a network of monitor wells; that they do not anticipate any problems on these sites; that Synagro has a successful record; that the bio-solids are tested; that there is minimal odor; that public information meetings are to be scheduled; and that the neighbors will be notified when the public information meetings will be scheduled.

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

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

On November 12, 2015 there was a motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

On December 10, 2015 the Commission discussed this application under Old Business.

Mr. Johnson stated that this application is similar to previous applications on adjoining properties owned and farmed by Baxter Farms.

Mr. Johnson stated that he would move that the Commission recommend approval of Conditional Use No. 2035 for Synagro Central, LLC for a conditional use for the land application of bio-solids as agricultural fertilizer based upon the record made during the public hearing, and for the following reasons:

- 1) The proposed use of the subject property is generally of a public or semi-public character and is essential and desirable for the general convenience and welfare of neighboring communities and the County.
- 2) The use will be reviewed, approved, regulated and monitored by the Delaware Department of Natural Resources and Environmental Control.
- 3) The use will create a disposal area for treated bio-solids that will have the sufficient capacity to serve a substantial volume of users in this area of Sussex County.
- 4) The use, with the stipulations and conditions placed upon it, will not have any adverse impact upon the County or its residents.
- 5) This is an expansion of the existing application of bio-solids on adjacent and nearby properties owned by Baxter Farms. The addition of the subject property will allow even better nutrient management on these properties.
- 6) The bio-solid disposal process will be designed to minimize impacts on neighboring and adjacent properties as well as the environment. This includes the rotation of the application of bio-solids on this and other properties with adjacent buffering.
- 7) The use of this property for the application of bio-solids promotes the continued agricultural use of the property. That underlying use for agricultural purposes will not be changed as a result of this conditional use.
- 8) This recommendation is subject to the following conditions:
 - a. The use shall be reviewed and approved by DNREC and shall be designed and constructed in accordance with all applicable Federal, State and County requirements, including those mandated by DNREC and other agencies having jurisdiction over it.
 - b. There shall not be any stockpiling of sludge materials on the site that are not actively being applied to the site as agricultural fertilizer.
 - c. This conditional use shall be valid concurrent with DNREC's permit for the use. If the DNREC permits shall be terminated or expire, this conditional use shall also expire.
 - d. Bio-solid application shall be limited to the hours of 7:00 a.m. to 6:00 p.m. Monday through Saturday.

- e. There shall be buffers of at least 25 feet from all property lines, 100 feet from all off-site dwellings, 100 feet from potable wells, 25 feet from non-potable wells, 15 feet from public roads, 25 feet from streams or other bodies of water, and 25 feet from all drainage ditches. These requirements shall be subject to any increased buffers or separation distances as mandated by State or Federal requirements.
- f. As stated by the applicant, Tax Map I.D. 133-7.00 Parcel 1.00 is removed from this application and no application of bio-solids as agricultural fertilizer will be applied to this parcel. The applicant stated that vegetables are grown on this parcel and therefore bio-solid application is not appropriate.
- g. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

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

Introduced 9/22/15

Council District No. 3 – Deaver

Tax I.D. No. 334-5.00-215.00, 215.01, 216.00, 217.01, 218.00 & 219.00

911 Address: 32490 Lewes Georgetown Highway, Lewes

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RESTAURANT AND BREWERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.99 ACRES, MORE OR LESS

WHEREAS, on the 24th day of July 2015, a conditional use application, denominated Conditional Use No. 2034 was filed on behalf of Beachfire Brewery Co., LLC; and

WHEREAS, on the ____ day of _____ 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2034 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article V, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2034 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 north of Beaver Dam Road (Road 285) South of Lewes Georgetown Highway (Route 9) and on both sides of Church Street and being more particularly described as follows:

Tract #1

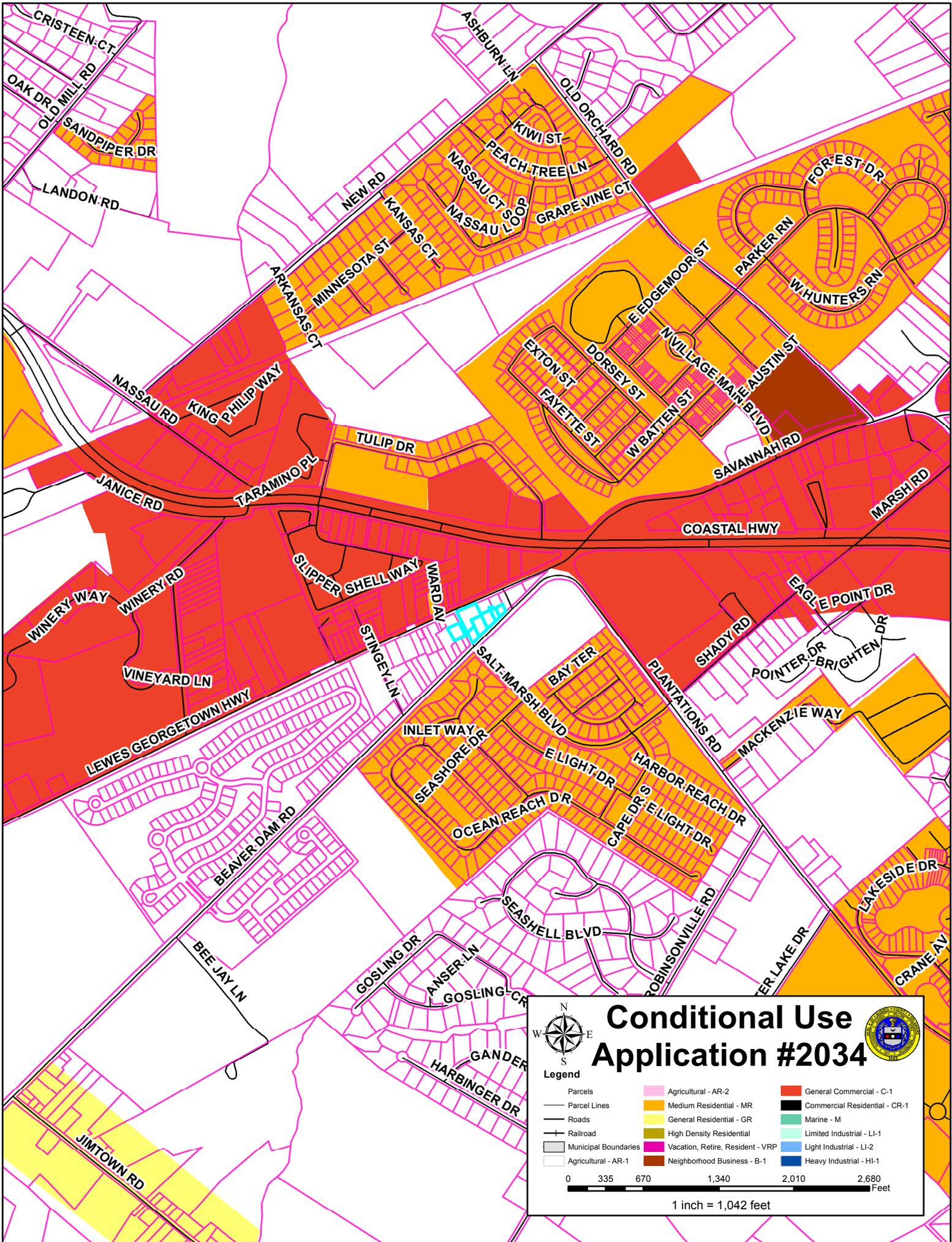
BEGINNING at a point on the southerly right-of-way of Lewes Georgetown Highway (Route 9) and the easterly right-of-way of Church Street; thence North 70°45'38" East 163.84 feet along the southerly right-of-way of Lewes Georgetown Highway to an iron rod; thence southerly and easterly the following eight (8) courses along lands of the State of Delaware: South 22°42'39" East 96.63 feet to a point; North 65°33'42" East 101.51 feet to a point; North 27°00'16" West 21.55 feet to a point; North 66°26'23" East 30.05 feet to a point; South 26°40'30" East 21.20 feet to a point; North 65°42'03" East 20.10 feet to a point; North 65°42'03" East 69.36 feet to a point; and South 27°58'51" East 59.69 feet to a point on the northerly right-of-way of Beaver Dam Road (Road 285); thence westerly along the northerly right-of-way of Beaver Dam Road South 45°39'03" West 323.89 feet to a point near the centerline of Church Street; thence northerly with a tie-line near the centerline of Church Street the following two (2) courses: North 27°32'48" West 99.83 feet, and North 27°25'58" West 190.18 feet along said tie-line to a point; thence North 17°03'48" East 30.59 feet to the point and place of beginning.

Tract #2

From a point at the northwest corner of Beaver Dam Road (Road 285) and Church Street, North 25°11'43" West 69.22 feet to the beginning point, an iron pipe; thence South 62°22'16" West 117.99 feet along lands now or formerly of Ethel Frame Heirs, and George W. Tunnell Heirs to an iron rod; thence North 23°48'31" West 160.76 feet along lands, now or formerly, of John H. and Ruth E. Maker to an iron rod; thence North 65°25'46" East 114.00 feet along lands, now or formerly, of Mark L. Mumford to an iron rod on the westerly right-of-way of Church Street; and thence South 25°11'43" East 154.46 feet along the westerly right-of-way of Church Street to the point and place of beginning.

Said Tracts 1 and 2 containing 1.99 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.



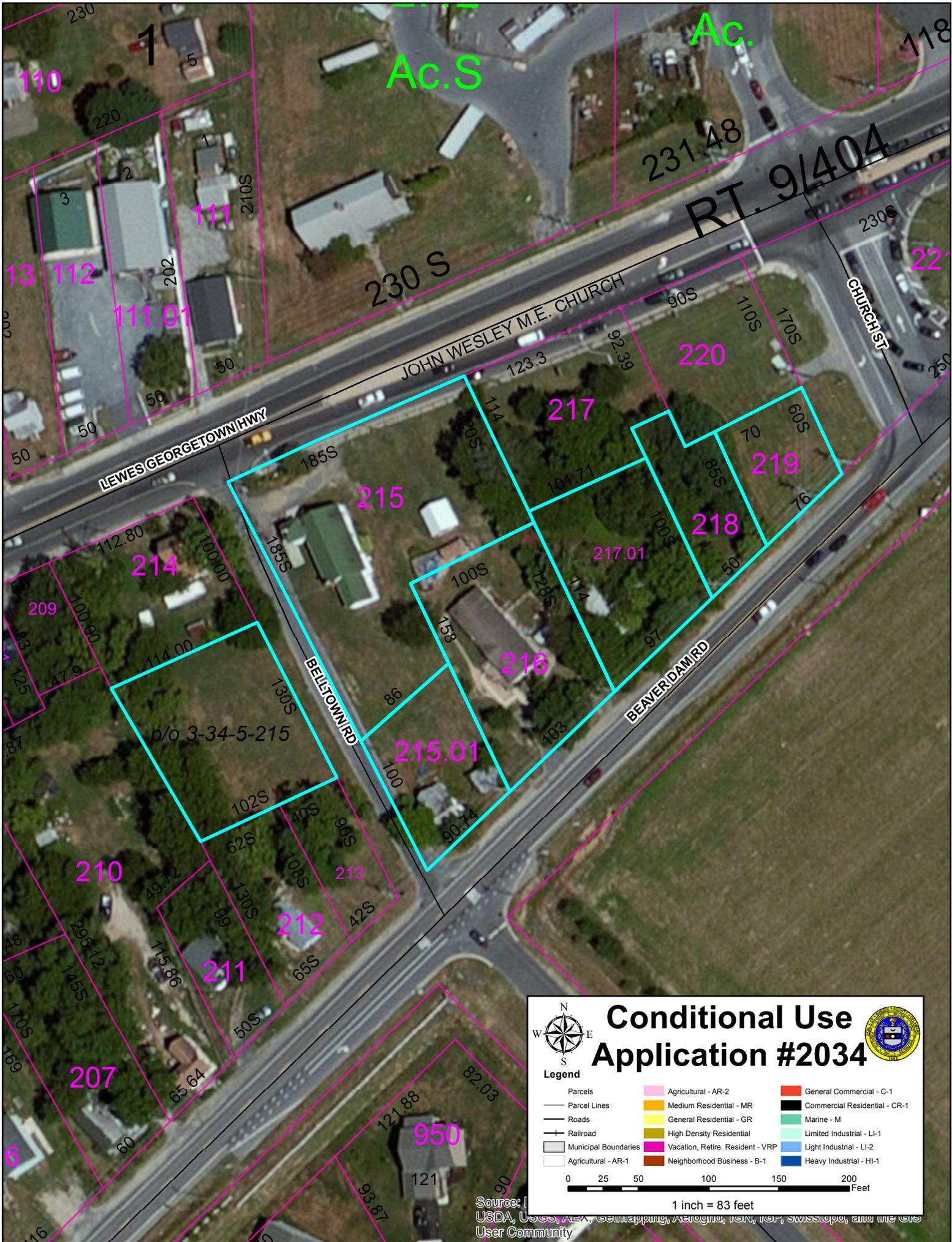
Conditional Use Application #2034

Legend

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

0 335 670 1,340 2,010 2,680
Feet

1 inch = 1,042 feet



Introduced 10/13/15

Council District No. 2 - Wilson

Tax I.D. No. 133-3.00-4.00 and 133-7.00-1.00, 4.00, 11.00 and 12.10 (all of or parts of)

911 Address: None Available

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LAND APPLICATION OF BIOSOLIDS AS AGRICULTURAL FERTILIZER FOLLOWING DNREC APPROVAL TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 203.0 ACRES, MORE OR LESS

WHEREAS, on the 28th day of July 2015, a conditional use application, denominated Conditional Use No. 2035 was filed on behalf of Synagro Central, LLC; and

WHEREAS, on the ____ day of _____ 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2035 be _____; and

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

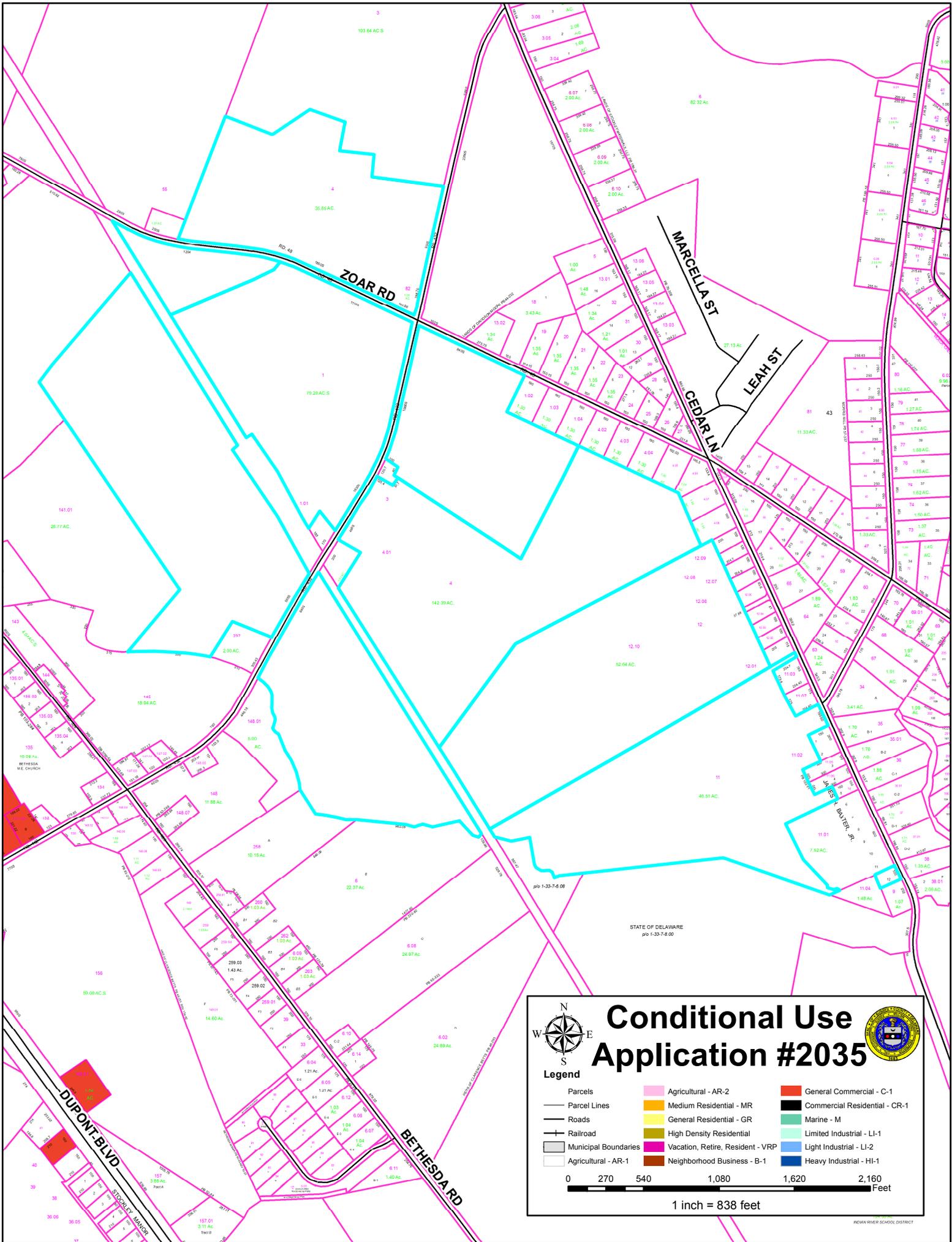
NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2035 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Dagsboro Hundred, Sussex County, Delaware, and lying north and south of Zoar Road, northeast of Railroad, southwest of Patriot's Way, and east and west of Governor Stockley Road and being more particularly described as all or parts of Tax Map I.D. Nos. 133-3.00-4.00, and 133-7.00-1.00, 4.00, 11.00 and 12.10, said parcels containing 203.00 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 #2035

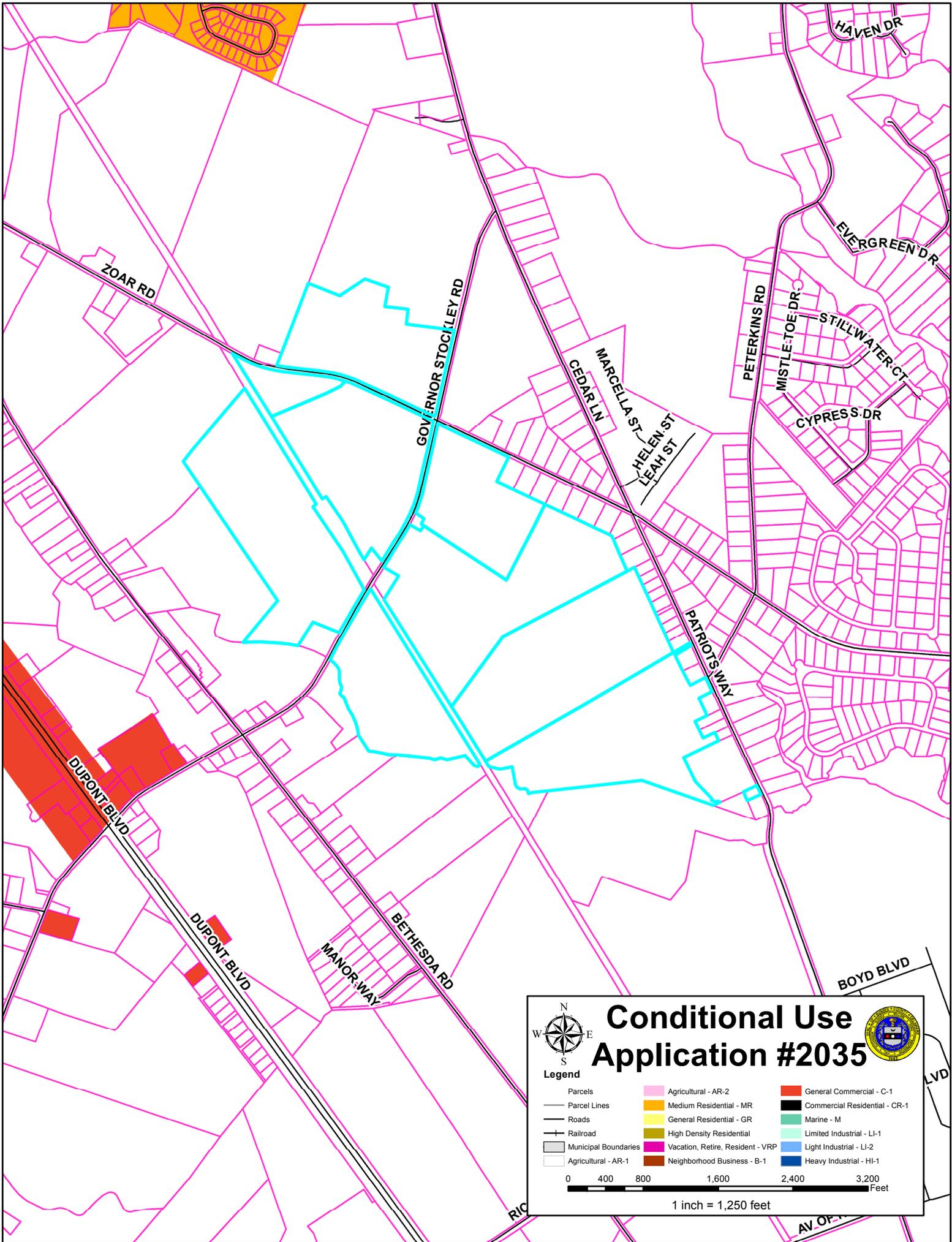


Legend

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

0 270 540 1,080 1,620 2,160 Feet

1 inch = 838 feet



Conditional Use Application #2035



Legend

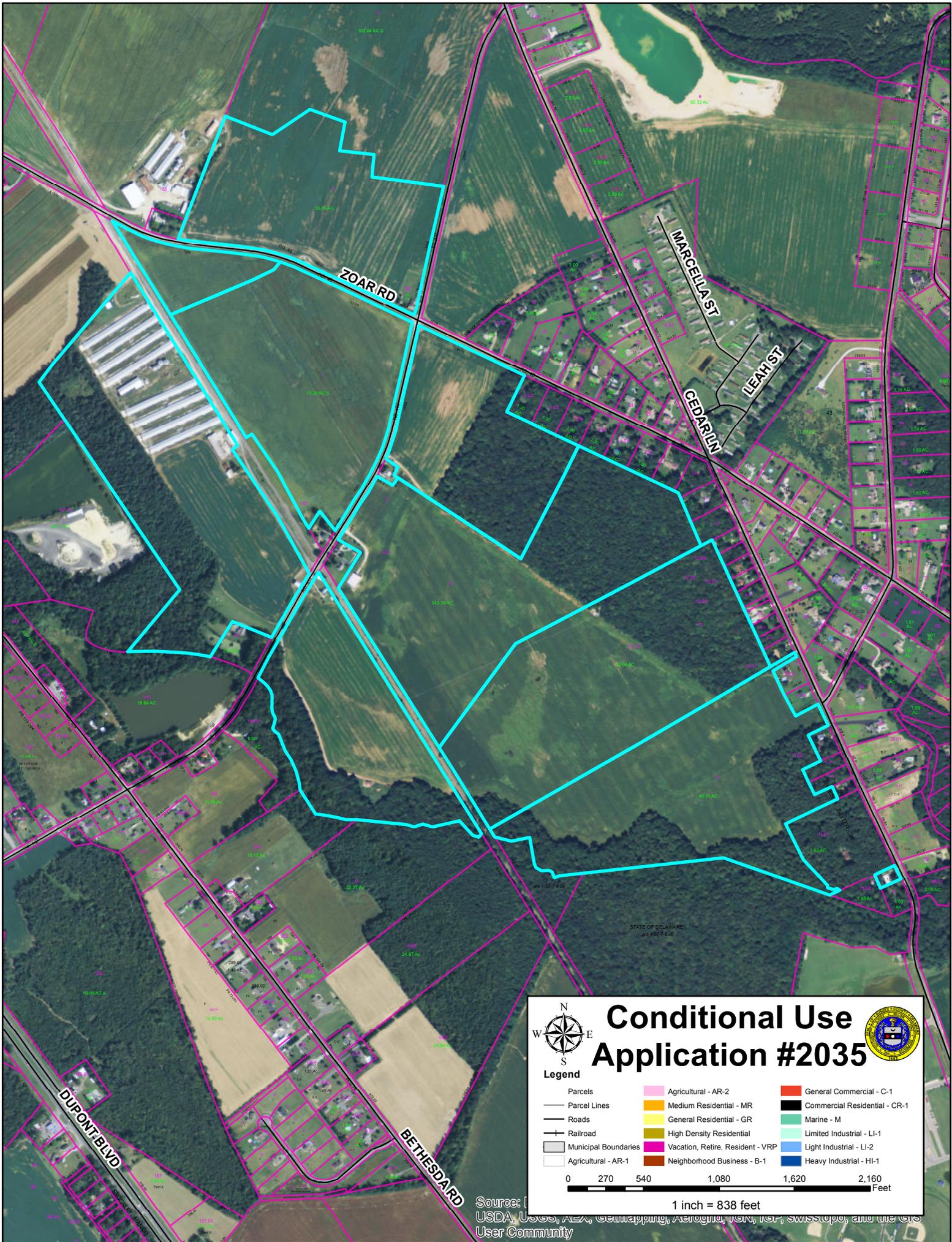


<ul style="list-style-type: none"> Parcel Lines Roads Railroad Municipal Boundaries Agricultural - AR-1 	<ul style="list-style-type: none"> Agricultural - AR-2 Medium Residential - MR General Residential - GR High Density Residential Vacation, Retire, Resident - VRP Neighborhood Business - B-1 	<ul style="list-style-type: none"> General Commercial - C-1 Commercial Residential - CR-1 Marine - M Limited Industrial - LI-1 Light Industrial - LI-2 Heavy Industrial - HI-1
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0 400 800 1,600 2,400 3,200 Feet

1 inch = 1,250 feet



Conditional Use Application #2035

Legend

<ul style="list-style-type: none"> Parcels Parcel Lines Roads Railroad Municipal Boundaries Agricultural - AR-1 	<ul style="list-style-type: none"> Agricultural - AR-2 Medium Residential - MR General Residential - GR High Density Residential Vacation, Retire, Resident - VRP Neighborhood Business - B-1 	<ul style="list-style-type: none"> General Commercial - C-1 Commercial Residential - CR-1 Marine - M Limited Industrial - LI-1 Light Industrial - LI-2 Heavy Industrial - HI-1
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0 270 540 1,080 1,620 2,160 Feet

Source: USDA, USGS, AEA, Geomapping, Aerotrig, IGN, ICR, Swisstopo, and the User Community

1 inch = 838 feet