# Sussex County falanning \& Zoning Commission 

AGENDA

March 28, 2019
6:00 P.M

## Call to Order

## Approval of Agenda

Approval of Minutes - February 28, 2019

## Old Business

2018-31 Stagg Run - J \& J Rocketship, LLC
A cluster subdivision to divide 26.00 acres $+/-$ into 26 single family lots to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County. The property is lying on the south side of Wilson Rd., approximately 450 ft . southwest of Savannah Rd. Tax Parcel: 135-10.00-5.00. Zoning District. AR-1 (Agricultural Residential District).

C/Z 1874 Leanna and Hung Nguyen
An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR1 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 1.2 acres, more or less. The property is lying on the northeast corner of Old Landing Rd. and Marina Dr. 911 Address: N/A Tax Parcel: 334-19.00-1.06.

C/U 2164 Leanna and Hung Nguyen
KS
An Ordinance to grant a Conditional Use of land in a MR Medium-density Residential District for multi-family to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.2 acres, more or less. The property is lying on the northeast corner of Old Landing Rd. and Marina Dr. 911 Address: N/A Tax Parcel: 334-19.00-1.06.

## C/U 2165 Vanderwende Acres, LLC

KH
An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for an event venue to be located on a certain parcel of land lying and being in Seaford Hundred, Sussex County, containing 8.99 acres, more or less. The property is lying on the southwest corner of Briarhook Rd. and Atlanta Rd. also being the northwest corner of Atlanta Rd. and Owls Nest Rd. 911 Address: 22304 Atlanta Rd., Seaford. Tax Parcel: 531-
6.00-72.00 (portion of).

C/U 2172 Iris Downing
KH
An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a transitional home to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 0.3028 acres, more or less. The property is lying on the south side of Wild Cherry St., approximately 141 ft . west of S. Old State Rd. 911 Address: 18366 Wild Cherry St., Ellendale. Tax Parcel: 230-26.20-18.00.

## Public Hearings

## 2019-6 Zinszer Property - Estuary Development, LLC HW

A cluster/ESDDOZ subdivision to divide 26.87 acres +/- into 34 single family lots to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County. The property is lying on at the end of Sea Spray Ln. in the Estuary Subdivision off of Camp Barnes Rd. Tax Parcel: 134-19.00-105.00 (portion of). Zoning District. AR-1 (Agricultural Residential District).

C/U 2163 William H. McQueen, Jr.
KH
An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for an event venue to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 1.6408 acres, more or less. The property is lying on the north side of Broadkill Rd. (Rt. 16), approximately 670 ft . west of Reynolds Rd. 911 Address: 26285 Broadkill Rd., Milton. Tax Parcel: 235-15.00-4.01.

C/U 2166 Deborah A. Townsend
BM
An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a professional office and business services and residence to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.58 acres, more or less. The property is lying on the north side of Burbage Rd., approximately 347 ft. west of Roxana Rd. 911 Address: 34745 Burbage Rd., Frankford. Tax Parcel: 134-11.00226.01.

C/Z 1868 Ronald Nanney

## KS

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR1 Agricultural Residential District to a C-2 Medium Commercial District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 0.5588 acre, more or less. The property is lying on the west side of Harbeson Rd., approximately 0.21 mile north of Lewes-Georgetown Hwy. (Rt. 9). 911 Address: 18490 Harbeson Rd., Milton. Tax Parcel: 235-30.00-10.02.

C/Z 1869 WMF Watercraft and Marine BM
An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a GR General Residential District to a C-3 Heavy Commercial District for a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.194 acres, more or less. The property is lying on the southwest side of Oak Orchard Rd., approximately 551 ft. north of River Rd. 911 Address: 32676 Oak Orchard Rd., Millsboro. Tax Parcel: 234-34.08-45.00.

# Ord 19-3 (Determination of Uses Ordinance) <br> AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES III AND XXVII, SECTIONS 115-15 AND 115-210 REGARDING A DETERMINATION BY THE SUSSEX COUNTY PLANNING \& ZONING COMMISSION AS TO PERMITTED USES. 

## Ord 19-4 (Assisted Living Ordinance)

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES IV, V, VI, VIII, IX, X, XI, XIA, AND XII, SECTIONS 115-22, 115-23, 11531, 115-32, 115-39, 115-40, 115-55, 115-56, 115-63, 115-64, 115-71, 115-72, 115-77, 115-80, 11583.2, 115-83.6, 115-87 AND 115-88 (Assisted Living Ordinance).

## Other Business

2018-12 Sandhill Road Subdivision ..... KS
Final Subdivision Plan
EJF Real Estate ..... BM
Final Site Plan
Americana Bayside - Village C, Phase 2 ..... BM
Revised Site Plan
Hickman Beach Plaza West ..... BMRevised Site Plan
Captain's Way RPC ..... KS
Revised Site Plan
Pugs Crossing ..... HW
Revised Preliminary Site Plan
Lot 7 Nassau Commons ..... KS
Revised Preliminary Site Plan
Windswept Meadows (FKA Fieldstone at Lewes) RPC ..... BM
Revised Preliminary Site Plan
S-19-04 Admirals Chase ..... KS
Preliminary Site Plan

Planning and Zoning Commission meetings can be monitored on the internet at www.sussexcountyde.gov.

In accordance with 29 Del. C. $\$ 10004(\mathrm{e})(2)$, this Agenda was posted on March 21, 2019, at $4: 45$ p.m., and at least seven (7) days in advance of the meeting.

This Agenda 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.

## \#\#\#\#

# Bussex County抿lanning \& Zoning Commission 

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: March 28, 2019.

| Application: | 2019-6 Zinszer Property |
| :--- | :--- |
| Applicant/Owner: | Estuary Development, LLC <br> 6726 Corran St. <br> McLean, VA 22102 |
| Site Location: | North end of Sea Spray Ln. w <br> Barnes Road |
| Zoning: | AR-1 (Agricultural Residenti |
| Current Use: | Agricultural/Dwelling |
| Proposed Use: | 34 Single-Family Lots |
| Comprehensive Land | Environmentally Sensitive De |
| Use Plan Reference: | Mr. Rieley |
| Councilmatic | Indian River School District |
| District: | Millville Fire District |
| School District: | Sussex County |
| Fire District: | Tidewater Utilities |
| Sewer: | 26.87 acres |
| Water: | $134-19.00-105.00$ |
| Site Area: | Tax Map ID: |

## Sussex County



| PIN: | 134-19.00-105.00 |
| :--- | :--- |
| Owner Name | ZINSZER DONNA M |


| Book | 4705 |
| :--- | :--- |
| Mailing Address | 35717 FARM HOUSE LN |
| City | FRANKFORD |
| State | DE |
| Description | N/RD 364 |
| Description 2 | S/CAMP BARNES |
| Description 3 |  |
| Land Code |  |

polygonLayer

## Override 1

polygonLayer

## Override 1

Tax Parcels- StreetsCounty Boundaries

1:4,514

| 0 | 0.05 | 0.1 | 0.2 m |
| :---: | :---: | :---: | :---: |
| 0 | 0.075 | 0.15 | 0.3 km |

## Sussex County


PIN: 134-19.00-105.00

| Book | 4705 |
| :--- | :--- |
| Mailing Address | 35717 FARM HOUSE LN |
| City | FRANKFORD |
| State | DE |
| Description | N/RD 364 |
| Description 2 | S/CAMP BARNES |
| Description 3 |  |
| Land Code |  |

polygonLayer
polygonLayer
$\square \begin{gathered}\text { Override } 1 \\ \text { Tax Parcels }\end{gathered}$

- Streets

Zoning
Agricultural Residential - AR-1 Agricultural Residential - AR-2
Medium Residential - MR

- Gignal Residential - GR

High Density Residential - HR-2
Neighborhood Business - B-1
General Commercial - C-1
Commercial Residential - CR-1
Marine - M
Limited Industrial - LI-
Limited Industrial - LI-2
Heavy Industrial - HI-1

| 0 | 0.1 | 0.2 | 0.4 mi |
| :---: | :---: | :---: | :---: |
| 0 | 175 | 0.35 |  |



# SUSSEX COUNTY ENGINEERING DEPARTMENT <br> UTILITY PLANNING DIVISION <br> C/U \& C/Z COMMENTS 

| TO: | Janelle Cornwell |
| :---: | :---: |
| REVIEWER: | Chris Calio |
| DATE: | 3/11/2019 |
| APPLICATION: | 2019-6 Zinszer Property |
| APPLICANT: | Estuary Development, LLC |
| FILE NO: | SPS-5.04 |
| TAX MAP \& |  |
| PARCEL(S): | 134-19.00-105.00 |
| LOCATION: | North end of Sea Spray Ln. within the Estuary Subdivision off of Camp Barnes Road. |
| NO. OF UNITS: | 34 single-family lots |
| GROSS |  |
| ACREAGE: | 26.87 |
| SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE: 4 |  |
| SEWER: |  |

(1). Is the project in a County operated and maintained sanitary sewer and/or water district? Yes $\square \quad$ No $\boxtimes$
a. If yes, see question (2).
b. If no, see question (7).
(2). Which County Tier Area is project in? Tier 2
(3). Is wastewater capacity available for the project? Yes, As Proposed If not, what capacity is available? N/A.
(4). Is a Construction Agreement required? Yes If yes, contact Utility Engineering at (302) 855-7717.
(5). Are there any System Connection Charge (SCC) credits for the project? No If yes, how many? N/A. Is it likely that additional SCCs will be required? Yes If yes, the current System Connection Charge Rate is Unified $\$ 6,360.00$ per EDU. Please contact Blair Lutz at 302-855-7719 for additional information on charges.
(6). Is the project capable of being annexed into a Sussex County sanitary sewer district? Yes
$\boxtimes$ Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.
(7). Is project adjacent to the Unified Sewer District? Yes
(8). Comments: N/A.
(9). Is a Sewer System Concept Evaluation required? Already Completed, See Attached
(10). Is a Use of Existing Infrastructure Agreement Required? Yes


Xc: Hans M. Medlarz, P.E. Jayne Dickerson Blair Lutz

## Regulations/Code Requirements

DNREC's Site Investigation and Restoration Section (SIRS) has reviewed the proposed project.

- If it is determined by the Department that there was a release of a hazardous substance on the property in question and the Department requires remediation pursuant to the Hazardous Substance Cleanup Act, the provisions of 7 Del.C. Chapter 91, Delaware Hazardous Substance Cleanup Act and the Delaware Regulations Governing Hazardous Substance Cleanup shall be followed."
- There are no SIRS sites found within a $1 / 2$-mile radius of the proposed project.


## Suggestions

- SIRS strongly recommends that the land owner performs appropriate environmental due diligence as necessary of the property.
- Additional remediation may be required if the project property or site is re-zoned by the county or state.
- Should a release or imminent threat of a release of hazardous substances be discovered during the course of development (e.g., contaminated water or soil), construction activities should be discontinued immediately and DNREC should be notified at the 24 -hour emergency number (800-662-8802). SIRS should also be contacted as soon as possible at 302-395-2600 for further instructions.

| From: | Dickerson, Troy [TDickerson@delaware.coop](mailto:TDickerson@delaware.coop) |
| :--- | :--- |
| Sent: | Thursday, October 18, 2018 10:13 AM |
| To: | Christin Headley |
| Subject: | RE: TAC Review for 2018-27 Zinszer Property |
| Categories: | TAC Comments |

Christin,

This property is located within DEC's service territory and we have facilities in the area to serve the proposed development.

Thanks!

Troy W. Dickerson, P.E.
Assistant V.P. of Engineering
Voice: (302) 349-3125
Cell: (302) 535-9048
Fax: (302) 349-5891
tdickerson@delaware.coop


DELAWARE ELECTRTC CO OP
Whe Krop the Lights On

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From: Christin Headley [christin.headley@sussexcountyde.gov](mailto:christin.headley@sussexcountyde.gov)
Sent: Wednesday, October 17, 2018 4:02 PM
To: Brad Hawkes [bhawkes@sussexcountyde.gov](mailto:bhawkes@sussexcountyde.gov); C. Daniel Parsons [dparsons@sussexcountyde.gov](mailto:dparsons@sussexcountyde.gov); Dean Holden Chesapeake Electric [dholden@chpk.com](mailto:dholden@chpk.com); Duane T. Fox [Duane.Fox@state.de.us](mailto:Duane.Fox@state.de.us); Eileen M. Butler [Eileen.Butler@state.de.us](mailto:Eileen.Butler@state.de.us); Jessica Watson - Sussex Conservation [Jessica.watson@state.de.us](mailto:Jessica.watson@state.de.us); John J. Ashman [jashman@sussexcountyde.gov](mailto:jashman@sussexcountyde.gov); John Hayes - Groundwater Discharge [john.hayes@state.de.us](mailto:john.hayes@state.de.us); John Kennel - DE Coastal Programs [john.kennel@state.de.us](mailto:john.kennel@state.de.us); John Martin - Watershed Stewardship [john.martin@state.de.us](mailto:john.martin@state.de.us); Kate Fleming - DNREC Fish \& Wildlife [kate.fleming@state.de.us](mailto:kate.fleming@state.de.us); Kelley Gabbard [kgabbard@chpk.com](mailto:kgabbard@chpk.com);
Lauren.Devore@state.de.us; Meghan Crystall - DNREC [Meghan.Crystall@state.de.us](mailto:Meghan.Crystall@state.de.us); Michael Tholstrup - Energy \& Climate [Michael.Tholstrup@state.de.us](mailto:Michael.Tholstrup@state.de.us); Mike Brady [MBRADY@sussexcountyde.gov](mailto:MBRADY@sussexcountyde.gov); Milton Melendez - Dept. of Ag [Milton.melendez@state.de.us](mailto:Milton.melendez@state.de.us); Rob Davis [rdavis@sussexcountyde.gov](mailto:rdavis@sussexcountyde.gov); Steven Sisson - DeIDOT [steven.sisson@state.de.us](mailto:steven.sisson@state.de.us); Subdivision mailbox email - DeIDOT [Subdivision@state.de.us](mailto:Subdivision@state.de.us); Susan Isaacs [sisaacs@sussexcountyde.gov](mailto:sisaacs@sussexcountyde.gov); Terri Dukes [tdukes@sussexcountyde.gov](mailto:tdukes@sussexcountyde.gov); Dickerson, Troy [TDickerson@delaware.coop](mailto:TDickerson@delaware.coop); Vince Robertson [vrobertson@pgslegal.com](mailto:vrobertson@pgslegal.com)
Subject: TAC Review for 2018-27 Zinszer Property
Good Afternoon,

Sussex County Planning Office has received one (1) application that requires TAC review. Attached is a memo regarding the application and a PDF of the plans submitted for 2018-27 Zinszer Property.

Please provide comments on or before Friday, December 1, 2018.
Please feel free to contact me with any questions.

Thanks,

## Christin Headley

Christin Headley, Planning Technician
Planning \& Zoning Department
2 The Circle
PO Box 417
Georgetown, DE 19947
302-855-7878
christin.headley@sussexcountyde.gov

## Christin Headley

| From: | Hayes, John G. (DNREC) [John.Hayes@state.de.us](mailto:John.Hayes@state.de.us) |
| :--- | :--- |
| Sent: | Thursday, October 18, 2018 10:08 AM |
| To: | Christin Headley |
| Cc: | Tholstrup, Michael S. (DNREC) |
| Subject: | RE: TAC Review for 2018-27 Zinszer Property |
|  |  |
| Categories: | TAC Comments |

Christin,

The Groundwater Discharges Section has no comment on the Zinszer Property (2018-27) since it is proposed to utilize public sewer. Thank you.

Jack

John G. "Jack" Hayes, Jr.
Environmental Program Manager
Delaware Department of Natural Resources and Environmental Control
Groundwater Discharges Section
89 Kings Highway
Dover, DE 19901
John.hayes@state.de.us
(302) 739-9327
(302) 739-7764 Fax

From: Christin Headley [mailto:christin.headley@sussexcountyde.gov]
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To: Brad Hawkes [bhawkes@sussexcountyde.gov](mailto:bhawkes@sussexcountyde.gov); C. Daniel Parsons [dparsons@sussexcountyde.gov](mailto:dparsons@sussexcountyde.gov); Dean Holden Chesapeake Electric [dholden@chpk.com](mailto:dholden@chpk.com); Fox, Duane T. (FireMarshal) [Duane.Fox@state.de.us](mailto:Duane.Fox@state.de.us); Butler, Eileen M. (DNREC) [Eileen.Butler@state.de.us](mailto:Eileen.Butler@state.de.us); Watson, Jessica (DNREC) [Jessica.Watson@state.de.us](mailto:Jessica.Watson@state.de.us); John J. Ashman [jashman@sussexcountyde.gov](mailto:jashman@sussexcountyde.gov); Hayes, John G. (DNREC) [John.Hayes@state.de.us](mailto:John.Hayes@state.de.us); Kennel, John M. (DNREC) [John.Kennel@state.de.us](mailto:John.Kennel@state.de.us); Martin, John (DNREC) [John.Martin@state.de.us](mailto:John.Martin@state.de.us); Fleming, Kate M. (DNREC) [Kate.Fleming@state.de.us](mailto:Kate.Fleming@state.de.us); Kelley Gabbard [kgabbard@chpk.com](mailto:kgabbard@chpk.com); DeVore, Lauren (DNREC) [Lauren.Devore@state.de.us](mailto:Lauren.Devore@state.de.us); Crystall, Meghan (DNREC) [Meghan.Crystall@state.de.us](mailto:Meghan.Crystall@state.de.us); Tholstrup, Michael S. (DNREC) [Michael.Tholstrup@state.de.us](mailto:Michael.Tholstrup@state.de.us); Mike Brady [MBRADY@sussexcountyde.gov](mailto:MBRADY@sussexcountyde.gov); Melendez, Milton (DDA) [milton.melendez@state.de.us](mailto:milton.melendez@state.de.us); Rob Davis [rdavis@sussexcountyde.gov](mailto:rdavis@sussexcountyde.gov); Sisson, Steven (DelDOT) [Steven.Sisson@state.de.us](mailto:Steven.Sisson@state.de.us); Subdivision (MailBox Resources) [Subdivision@state.de.us](mailto:Subdivision@state.de.us); Susan Isaacs [sisaacs@sussexcountyde.gov](mailto:sisaacs@sussexcountyde.gov); Terri Dukes [tdukes@sussexcountyde.gov](mailto:tdukes@sussexcountyde.gov); Troy Dickerson [TDickerson@decoop.com](mailto:TDickerson@decoop.com); Vince Robertson [vrobertson@pgslegal.com](mailto:vrobertson@pgslegal.com)
Subject: TAC Review for 2018-27 Zinszer Property

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Please provide comments on or before Friday, December 1, 2018.

Please feel free to contact me with any questions.

Thanks,

## Christin Headley

Christin Headley, Planning Technician
Planning \& Zoning Department
2 The Circle
PO Box 417
Georgetown, DE 19947
302-855-7878
christin.headley@sussexcountyde.gov

October 22, 2018

Ms. Christin Headley
Sussex County Planning \& Zoning Commission
PO Box 417
Georgetown, DE 19947
Re: Sussex County Technical Advisory Committee
Dear Ms. Headley:
The Division of Public Health Office of Engineering is in receipt of the following application:

## 1. Application: 2018-27 Zinszer Property

This application indicates central water will be supplied by Tidewater Utilities, Inc. This project requires an Approval to Construct and an Approval to Operate from the Office of Engineering when constructing a new water system or altering an existing water system. In order to obtain an Approval to Construct, plans and specifications must be prepared by a registered Delaware professional engineer. Plans for the system, including water mains or extensions thereto, storage facilities, treatment works, and all related appurtenances, must be approved by the Office of Engineering prior to construction. It is the owner's responsibility to ensure as-built drawings are maintained throughout all phases of construction.

Prior to receiving an Approval to Operate for these projects, the Office of Engineering requires one set of as-built drawings, including profile markups, for all plans approved for construction. Approvals to Operate will be issued after all applicable requirements are met.

Please do not hesitate to contact me at 302-741-8646 with questions or comments.


William J. Mifliken, Jr.
Engineer III
Office of Engineering

[^0]November 26, 2018

```
REF: T. A. C. COMMENTS
    ZINSZER PROPERTY
    MILLER CREEK SANITARY SEWER DISTRICT
    SUSSEX COUNTY ENGINEERING DEPARTMENT
    SUSSEX COUNTY TAX MAP NUMBER
    134-19.00 PARCEL 105.00
    PROJECT CLASS-1
    AGREEMENT NO. }111
```

The following comments are the result of the Sussex County Engineering Department's review of the preliminary site plan for the above referenced project:

## PUBLIC WORKS DIVISION COMMENTS

1. Proposed developments with private roads or projects required by the County to conform to or exceed the County street design requirements shall be regulated by and conform to Sussex County Code and the comments here listed.
2. Project Construction Drawings shall show, in detail, the proposed improvements. The work required includes preparation and delivery of an AutoCAD 2012 digitized plan showing existing and proposed lines, grades, topography and features in a given area, which was utilized in preparing plans for construction. The individual sheet types will be in a separate design to show plan views on sheets separate from profile views. In addition, each sheet of the plans shall be submitted in a PDF format.
3. All work shall be geo-referenced to the Delaware State Grid System NAD-83 (HARN) and provided in an AutoCAD 2012 format. North will always be shown in an up direction on all plans.
4. Topographic contours at one-foot intervals shall be shown and referenced to United States Geological Survey Mean Sea Level Datum NAVD 1988 Datum.
5. The plans shall be provided on 24 " $x 36$ " drawing sheets at a scale of 1 " $=50$ '.

The plans shall show and address the following items at minimum:
6. The project requires professional land surveying services to accurately delineate, and show the following items but is not limited to the following: all property and right-ofway lines, established at a minimum, two (2) horizontal and vertical control concrete project benchmarks, survey monuments, easements, existing and proposed topographic contours at 1 -foot vertical intervals and spot elevations as necessary to
establish grades, the locations of all existing structures, highway and roadway pavements, shoulders, curbs, driveways, sidewalks, lighting structures, traffic control signs, and all public and private utilities, including, but not limited to, electric power and telephone lines, poles and boxes, underground electric, telephone, and communication lines, potable water lines, fire hydrants and valve boxes, gas lines, wells, sanitary sewers including septic systems, rim and invert elevations of manholes and cleanouts, and the rims and invert elevations and type of storm water structures, drainage ditches, ponds, streams and waterways, flood zones and flood zone boundaries and elevations, and State and Federal wetlands, trees, cemeteries and historic features, and the finished floor elevations of buildings.
7. Plans shall show the seal and signature of a registered Delaware land surveyor or registered Delaware professional engineer.
8. The plan requires a Certification Signature and/or a Certification Block for the Delaware Professional Engineer or Delaware Land Surveyor.
9. The plan requires a Certification Signature and/or a Certification Block for the Owner or Representative of the Owner.
10. The plan requires a Certification Signature and/or a Certification Block for the Professional Wetlands Delineator.
11. The name, address, phone number and contact person's name of the Owner of Record, the Developer and the Engineer or Surveyor preparing the plan.
12. Indicate the location of all wetlands (both state and federal), in order to facilitate compliance with County, State and Federal requirements.
13. Define the courses and distances of the property perimeter and the approximate acreage contained therein. Establish and set in the field two (2) CONCRETE MONUMENT project bench marks, preferably at property perimeter corners, georeferenced to the Delaware State Plane Coordinate system NAD 83 and show the location including the North and East coordinates of the marks on the plans.
14. Indicate the development construction phases proposed showing the boundaries of each phase. Phasing boundaries shall include buildings, residential units, amenities, roads, storm water management facilities, wastewater systems and all other improvements and utilities required to service each phase.
15. Show the layout, width and names of all streets, alleys, crosswalks and easements proposed to be dedicated for private or public use. Street names shall not duplicate nor closely resemble existing street names in the same hundred or postal district, except for extensions of existing streets.
16. Provide the limits and elevations of the one-hundred (100) year flood. This may require the design engineer to complete an analysis and provide a report including the depiction of the subject watershed(s), calculations and other technical data necessary to determine the limits and elevations base flood.
17. For parking lots and drives, provide spot elevations at the edge of pavement, right-ofway or travel way centerline, at changes in grade, and high points and low points, to the nearest drainage facilities. Show the limits of the various surface materials and provide construction sections.
18. Provide and show the locations and details of all ADA compliant accessible walks and ramp features.
19. If the site has a cemetery located on it the Developer shall contact the Delaware State Historic Preservation Office and satisfy the requirements of that Office prior to beginning any construction activity. This area shall not be disturbed by this project. Adequate access to the site and buffers to protect the site, shall be provided.
20. Private rights-of-way adjacent to and abutting parcels not part of the project shall be located and designed to provide adequate buffer so that construction activities do not encroach onto adjacent properties.
21. Provide statements explaining how and when the developer proposes to provide and install the required water supply, sewers or other means of sewage disposal, street pavement, drainage structures and any other required improvements.
22. Provide statements concerning any proposed deed restrictions to be imposed by the owner.
23. Where special physical conditions exist, which may act as constraints on normal development or may preclude development, the developer may be required to submit special technical data, studies or investigations. This information must be prepared by individuals technically qualified to perform such work. Additional information may include but is not limited to the following: on-site sanitary sewage disposal feasibility, water supply surveys, such as test well drilling, storm water runoff computations and identification of areas subject to periodic flooding.
24. If special conditions are found to exist, the Engineering Department may elect to withhold approval of a construction plan until it is determined that it is technically feasible to overcome such conditions. The Engineering Department may then require the developer to incorporate specific improvement design criteria into the plat as a condition to its approval.
25. When special studies or investigations pertain to a regulatory program of another public agency, the developer shall submit the results of these studies or investigations to said public agencies for technical review and approval. Approvals and/or written comments from these agencies shall be supplied to Sussex County by the developer.

## UTILITY PLANNING DIVISION COMMENTS

REVIEWER: Rob Davis
APPLICATION: 2018-27 - Zinszer Property
APPLICANT: Estuary Development, LLC
FILE NO: MC-13.00
TAX MAP \&
PARCEL(S): 134-19.00 Parcel 105
LOCATION: On the northeast corner of The Estuary Subdivision, Phase1D
NO. OF UNITS: ..... 34
GROSS
ACREAGE: ..... 26.87
SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE: 4

## SEWER:

(1). Is the project in a County operated and maintained sanitary sewer and/or water district? Yes $\square \quad$ No $\boxtimes$
a. If yes, see question (2).
b. If no, see question (7).
(2). Which County Tier Area is project in? Tier 2
(3). Is wastewater capacity available for the project? Yes, As Proposed If not, what capacity is available?
(4). Is a Construction Agreement required? Yes If yes, contact Utility Engineering at (302) 855-7717.
(5). Are there any System Connection Charge (SCC) credits for the project? No If yes, how many? N/A. Is it likely that additional SCCs will be required? Yes If yes, the current System Connection Charge Rate is $\$ 6,360.00$ per EDU. Please contact Blair Lutz at 302-855-7719 for additional information on charges.
(6). Is the project capable of being annexed into a Sussex County sanitary sewer
district? Yes
$\boxtimes$ Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.
(7). Is project adjacent to the Unified Sewer District? Yes
(8). Comments: The Preliminary Subdivision Plan indicates the project will connect to a Sussex County operated sanitary sewer district. The project adjoins Sussex County's Unified Sanitary Sewer District and can be annexed into the sewer district using the County's administrative procedure. The proposed project is within system design assumptions for sewer service and sewer capacity is available for the proposed project. Connection to the sewer system is mandatory. Sewer service has not been provided to the parcel at this time. Potential sewer connection points may become available in the future through The Estuary subdivision. The developer will be required to construct regional infrastructure in order to connect to central sewer. The developer must also extend sewer service to all adjoining parcels that are not currently served with central sewer. Sussex County requires design and construction of the collection and transmission system to meet Sussex County sewer standards and specifications. One-time system connection charges will apply. Please contact Mrs. Blair Lutz at 302 855-7701 for additional information on charges.
(9). Is a Sewer System Concept Evaluation required? Yes, Contact Utility Planning at 302-855-1299 to apply
(10). Is a Use of Existing Infrastructure Agreement Required? Yes

If the above items, as applicable, are incorporated into the development plans, then preliminary approval is recommended. However, final plan approval should be withheld pending the approval of the construction plans by the Sussex County Engineering Department.

## Comment Sheet

DATE OF REVIEW: October 22, 2018


REVIEWING AGENCY: Delaware State Fire Marshal's Office, Sussex Office<br>INDIVIDUAL REVIEWERS: Duane T. Fox, CFPS, CFPE, CFI, Asst. Chief Technical Services Dennett E. Pridgeon, CFPS, CFPE, CFI, Sr. Fire Protection Specialist Jefferson L. Cerri, CFI, Sr. Fire Protection Specialist Joseph Moran, CFI, Sr. Fire Protection Specialist Desiree B. McCall, CFI, Fire Protection Specialist

AGENCY PHONE NUMBERS: 302-856-5298, Fax: 302-856-5800
RE: ZINSZER PROPERTY (2018-27)

The reasons and conditions applied to this project and their sources are itemized below:

At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):
a. Fire Protection Water Requirements:
> Where a water distribution system is proposed for single-family dwellings it shall be capable of delivering at least 500 gpm for 1-hour duration, at 20-psi residual pressure. Fire hydrants with 1000 feet spacing on centers are required. (One \& Two- Family Dwelling)
$>$ Where a water distribution system is proposed for the site, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.

## b. Fire Protection Features:

c. Accessibility
> All premises, which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from Seaspray Ln must be constructed so fire department apparatus may negotiate it.
$>$ Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft . of the front door.
$>$ Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-desac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
$>$ The use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.
$>$ The local Fire Chief, prior to any submission to our Agency, shall approve in writing the use of gates that limit fire department access into and out of the development or property.
d. Gas Piping and System Information:
$>$ Provide type of fuel proposed, and show locations of bulk containers on plan.
e. Required Notes:
$>$ Provide a note on the final plans submitted for review to read " All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations"
> Proposed Use
> Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
$>$ National Fire Protection Association (NFPA) Construction Type
$>$ Maximum Height of Buildings (including number of stories)
$>$ Note indicating if building is to be sprinklered
$>$ Name of Water Provider
> Letter from Water Provider approving the system layout
$>$ Provide Road Names, even for County Roads
Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: www.statefiremarshal.delaware.gov, technical services link, plan review, applications or brochures.

State of Delaware
Department of Agriculture
2320 South DuPont Highway
Dover, Delaware 19901
dDA.DELAWARE.GOV

TELEPHONE (302) 698-4500 TOLL FREE (800) 282-8685 FAX (302) 697-6287

November 27, 2018

Christin Headley<br>Planning and Zoning Manager<br>Planning and Zoning Commission<br>2 The Circle PO Box 417<br>Georgetown, Delaware 19947

Subject: 2018-27-Zinszer Property

Dear Mr. Headley,
Thank you for submitting the site plan for Zinszer Property subdivision submitted by GMB Architects and Engineering.. The Sussex County Planning and Zoning Forested Buffer Ordinance Number 1984 Section 99-5 requires a forested buffer, Zinszer Property has no forested buffer indicated. More clarity is needed to see if the property is held to the forested buffer.

Sussex County Planning and Zoning Forested Buffer Ordinance Number 1984 Section 99-5 also requires a planting list which is to follow $70 \%$ deciduous and $30 \%$ evergreens to be planted in the buffer strip which was not provided in the plans. A comprehensive display of plantings in the buffers should be included with species being used for review. We recommend a planting list to be provided for review as well as planting specifications.

If you have any more questions please feel free to contact me 302.659 .6704 or email me at Michael.Martini@state.de.us

Sincerely,
Michael Martion
Michael Martini
Urban Forestry Program
Delaware Forest Service

GEORGE, MILES \& BUHR, LLC

-     -         -             - 

ARCHITECTS
ENGINEERS

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

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        SALISBURY BALTIMORE SEAFORD
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www.gmbnet.com

JAMES H. WILEY, JR., PE PETER A. BOZICK, JR., PE JUDY A. SCHWARTZ, PE CHARLES M. O'DONNELL, III, PE W. BRICE FOXWELL, PE A. REGGIE MARINER, JR., PE JAMES C. HOAGESON, PE STEPHEN L. MARSH. PE DAVID A. VANDERBEEK, PE ROLAND E. HOLLAND, PE JASON M. LYTLE, PE CHRIS B. DERBYSHIRE, PE W. MARK GARDOCKY, PE MORGAN H. HELFRICH, AlA KATHERINE J. MCALLISTER, PE

JOHN E, BURNSWORTH, PE MICHAEL G. KOBIN, PE VINCENT A. LUCIANI, PE ANDREW J. LYONS, JR., PE W. NICHOLAS LLOYD AUTUMN J. WILLS

March 13, 2019
Sussex County
Department of Planning and Zoning
2 The Circle
Georgetown, DE 19947
Attn: Mr. Jamie Whitehouse
Planning \& Zoning Manager
Re: Response to Technical Advisory Committee (TAC)
Review Comments
Zinszer Property
Subdivision \#2019.06
GB \# 1800235

Dear Mr. Whitehouse:

Please accept this letter as the formal response to the Technical Advisory Committee (TAC) Review Comments, included in the Staff Review Letter, dated February 6, 2019, for the above referenced project. The original TAC review comments are included below with our responses highlighted in red and italicized.

Please feel free to contact our office with any questions or comments.
Sincerely,


Stephen L. Marsh, P. E. Sr. Vice President

SLM/cl
cc: Estuary Development, LLC Attn: Mr. John Galiani


## Waste and Hazardous Substances / SIRS - Review Date- 11/13/2018

## Regulations/Code Requirements

DNREC's Site Investigation and Restoration Section (SIRS) has reviewed the proposed project.

- If it is determined by the Department that there was a release of a hazardous substance on the property in question and the Department requires remediation pursuant to the Hazardous Substance Cleanup Act, the provisions of 7 Del. C. Chapter 91, Delaware Hazardous Substance Cleanup Act and the Delaware Regulations Governing Hazardous Substance Cleanup shall be followed."
- There are no SIRS sites found within a $1 / 2$-mile radius of the proposed project.


## Suggestions

- SIRS strongly recommend that the land owner performs appropriate environmental due diligence as necessary of the property.
- Additional remediation may be required if the project property or site is re-zoned by the county or state.
- Should a release or imminent threat of a release of hazardous substances be discovered during the course of development (e.g., contaminated water or soil), construction activities should be discontinued immediately and DNREC should be notified at the 24 -hour emergency number (800-662-8802). SIRS should also be contacted as soon as possible at 302-395-2600 for further instructions. Comments noted.

Comments noted. If any hazardous materials are discovered during site work, the appropriate agencies will be notified immediately.

## Delaware Health \& Social Services - Division of Public Health - Review Date 10/22/2018

This application indicates central water will be supplied by Artesian Water Company, Inc. This project requires an Approval to Construct and an Approval to Operate from the Office of Engineering when constructing a new water system or altering an existing water system. In order to obtain an Approval to Construct, plans and specifications must be prepared by a registered Delaware professional engineer. Plans for the system, including water mains or extensions thereto, storage facilities, treatment works, and all related appurtenances, must be approved by the Office of Engineering prior to construction.

It is the owner's responsibility to ensure as-built drawings are maintained throughout all phases of construction.

Prior to receiving an Approval to Operate for these projects, the Office of Engineering requires one set of as-built drawings, including profile markups, for all plans approved for construction. Approvals to Operate will be issued after all applicable requirements are met.

Comment noted. The property to be developed is in the Artesian CPCN. However, Artesian water main has not been installed to the area. The proposed development has access only through the right-of-way at the existing Estuary subdivision, which is served by Tidewater Utilities. We are currently working with both Artesian and Tidewater to have the site transferred to Tidewater service area. We have confirmed with Tidewater that capacity is available.

## Sussex County Engineering Department - Division of Public Works - Review Date 11/26/2018

1. Proposed developments with private roads or projects required by the County to conform to or exceed the County street design requirements shall be regulated by and conform to Sussex County Code and the comments here listed.
2. Project Construction Drawings shall show, in detail, the proposed improvements. The work required includes preparation and delivery of an AutoCAD 2012 digitized plan showing existing and proposed lines, grades, topography and features in a given area, which was utilized in preparing plans for construction. The individual sheet types will be in a separate design to show plan views on sheets separate from profile views. In addition, each sheet of the plans shall be submitted in a PDF format.
3. All work shall be geo-referenced to the Delaware State Grid System NAD-83 (HARN) and provided in an AutoCAD 2012 format. North will always be shown in an up direction on all plans.
4. Topographic contours at one-foot intervals shall be shown and referenced to United States Geological Survey Mean Sea Level Datum NAVD 1988 Datum.
5. The plans shall be provided on 24 " $\times 36$ " drawing sheets at a scale of $1 "=50$ '.

The plans shall show and address the following items at minimum:
6. The project requires professional land surveying services to accurately delineate, and show the following items but is not limited to the following: all property and right-of-way lines, established at a minimum, two (2) horizontal and vertical control concrete project benchmarks, survey monuments, easements, existing and proposed topographic contours at 1-foot vertical intervals and spot elevations as necessary to establish grades, the locations of all existing structures, highway and roadway pavements, shoulders, curbs, driveways, sidewalks, lighting structures, traffic control signs, and all public and private utilities, including, but not limited to, electric power and telephone lines, poles and boxes, underground electric, telephone, and communication lines, potable water lines, fire hydrants and valve boxes, gas lines, wells, sanitary sewers including septic systems, rim and invert elevations of manholes and cleanouts, and the rims and invert elevations and type of storm water structures, drainage ditches, ponds, streams and waterways, flood zones and flood zone boundaries and elevations, and State
and Federal wetlands, trees, cemeteries and historic features, and the finished floor elevations of buildings.
7. Plans shall show the seal and signature of a registered Delaware land surveyor or registered Delaware professional engineer.
8. The plan requires a Certification Signature and/or a Certification Block for the Delaware Professional Engineer or Delaware Land Surveyor.
9. The plan requires a Certification Signature and/or a Certification Block for the Owner or Representative of the Owner.
10. The plan requires a Certification Signature and/or a Certification Block for the Professional Wetlands Delineator.
11. The name, address, phone number and contact person's name of the Owner of Record, the Developer and the Engineer or Surveyor preparing the plan.
12. Indicate the location of all wetlands (both state and federal), in order to facilitate compliance with County, State and Federal requirements.
13. Define the courses and distances of the property perimeter and the approximate acreage contained therein. Establish and set in the field two (2) CONCRETE MONUMENT project bench marks, preferably at property perimeter corners, georeferenced to the Delaware State Plane Coordinate system NAD 83 and show the location including the North and East coordinates of the marks on the plans.
14. Indicate the development construction phases proposed showing the boundaries of each phase. Phasing boundaries shall include buildings, residential units, amenities, roads, storm water management facilities, wastewater systems and all other improvements and utilities required to service each phase.
15. Show the layout, width and names of all streets, alleys, crosswalks and easements proposed to be dedicated for private or public use. Street names shall not duplicate or closely resemble existing street names in the same hundred or postal district, except for extensions of existing streets.
16. Provide the limits and elevations of the one-hundred (100) year flood. This may require the design engineer to complete an analysis and provide a report including the depiction of the subject watershed(s), calculations and other technical data necessary to determine the limits and elevations base flood.
17. For parking lots and drives, provide spot elevations at the edge of pavement, right-of- way or travel way centerline, at changes in grade, and high points and low points, to the nearest drainage facilities. Show the limits of the various surface materials and provide construction sections.
18. Provide and show the locations and details of all ADA compliant accessible walks and ramp features.

Zinszer Property
TAC Review Responses
19. If the site has a cemetery located on it the Developer shall contact the Delaware State Historic Preservation Office and satisfy the requirements of that Office prior to beginning any construction activity. This area shall not be disturbed by this project. Adequate access to the site and buffers to protect the site, shall be provided.
20. Private rights-of-way adjacent to and abutting parcels not part of the project shall be located and designed to provide adequate buffer so that construction activities do not encroach onto adjacent properties.
21. Provide statements explaining how and when the developer proposes to provide and install the required water supply, sewers or other means of sewage disposal, street pavement, drainage structures and any other required improvements.
22. Provide statements concerning any proposed deed restrictions to be imposed by the owner.
23. Where special physical conditions exist, which may act as constraints on normal development or may preclude development, the developer may be required to submit special technical data, studies or investigations. This information must be prepared by individuals technically qualified to perform such work. Additional information may include but is not limited to the following: on-site sanitary sewage disposal feasibility, water supply surveys, such as test well drilling, storm water runoff computations and identification of areas subject to periodic flooding.
24. If special conditions are found to exist, the Engineering Department may elect to withhold approval of a construction plan until it is determined that it is technically feasible to overcome such conditions. The Engineering Department may then require the developer to incorporate specific improvement design criteria into the plat as a condition to its approval.
25. When special studies or investigations pertain to a regulatory program of another public agency, the developer shall submit the results of these studies or investigations to said public agencies for technical review and approval. Approvals and/or written comments from these agencies shall be supplied to Sussex County by the developer.

We will work closely with the Sussex County Engineering throughout the Design process and accommodate any comments received during their review.

## Utility Planning Division Comments - Review Date 11/25/2018

REVIEWER: Rob Davis
APPLICATION:2018-27- Zinszer Property
APPLICANT: Estuary Development, LLC
FILE NO:MC-13.00
TAX MAP \& PARCEL(S) 134-19.00 Parcel 105

GEORGE, MILES \& BUHR, LLC

LOCATION: On the northeast corner of The Estuary Subdivision, Phase1D NO. OF UNITS:34

GROSS ACREAGE:26.87
SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE:4 SEWER:

1. Is the project in a County operated and maintained sanitary sewer and/or water district?

Yes $\square$ No区
A. If yes, see question (2).
B. If no, see question (7).
2. Which County Tier Area is project in? Tier 2
3. Is wastewater capacity available for the project? Yes, As Proposed If not, what capacity is available?
4. Is a Construction Agreement required? Yes, If yes, contact Utility Engineering at (302) 855-7717.
5. Are there any System Connection Charge (SCC) credits for the project? No If yes, how many? N/A. Is it likely that additional SCCs will be required? Yes

If yes, the current System Connection Charge Rate is $\$ 6,360.00$ per EDU. Please contact Blair Lutz at 302-855-7719 for additional information on charges.
6. Is the project capable of being annexed into a Sussex County sanitary sewer? Yes
®Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.
7. Is project adjacent to the Unified Sewer District? Yes
8. Comments: The Preliminary Subdivision Plan indicates the project will connect to a Sussex County operated sanitary sewer district. The project adjoins Sussex County's Unified Sanitary Sewer District and can be annexed into the sewer district using the County's administrative procedure. The proposed project is within system design assumptions for sewer service and sewer capacity is available for the proposed project. Connection to the sewer system is mandatory. Sewer service has not been provided to the parcel at this time. Potential sewer connection points may become available in the future through The Estuary subdivision. The developer will be required to construct regional infrastructure in order to connect to central sewer. The developer must also extend sewer service to all adjoining parcels that are not currently served with central sewer. Sussex County requires design and construction of the collection

GEORGE, MILES \& BUHR, LLC

Zinszer Property<br>TAC Review Responses<br>March 13, 2019<br>Page 7 of 9

and transmission system to meet Sussex County sewer standards and specifications. One-time system connection charges will apply. Please contact Mrs. Blair Lutz at 302 855-7701 for additional information on charges.
9. Is a Sewer System Concept Evaluation required? Yes, Contact Utility Planning at 302-855-1299 to apply
10. Is a Use of Existing Infrastructure Agreement Required? Yes

If the above items, as applicable, are incorporated into the development plans, then preliminary approval is recommended. However, final plan approval should be withheld pending the approval of the construction plans by the Sussex County Engineering Department.

We will work closely with the Utility Planning Division throughout the design process and accommodate any comments received during their review. The project will be served by the extension of the sewer from the existing Estuary development, through the existing right-of-way. We have submitted a Sewer System Concept Evaluation request to the Sussex County Engineering Department and have begun the annexation process into the Miller Creek Sanitary Sewer District.

Department of Agriculture - Reviewed - 11/27/2018
The Sussex County Planning and Zoning Forested Buffer Ordinance Number 1984 Section 99-5 requires a forested buffer, Zinszer Property has no forested buffer indicated. More clarity is needed to see if the property is held to the forested buffer.
Sussex County Planning and Zoning Forested Buffer Ordinance Number 1984 Section 99-5 also requires a planting list which is to follow $70 \%$ deciduous and $30 \%$ evergreens to be planted in the buffer strip which was not provided in the plans. A comprehensive display of plantings in the buffers should be included with species being used for review. We recommend a planting list to be provided for review as well as planting specifications.

Much of the site is currently wooded. As such, certain areas will remain wooded and these existing wooded areas will serve as the required forested buffer. A Landscape Plan with planting plan for buffers will be submitted with the Final Subdivision Plan for review and approval by Sussex County.

## Office of State Fire Marshal - Reviewed - 10/22/2018

At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

## a. Fire Protection Water Requirements:

$>$ Where a water distribution system is proposed for single-family dwellings it shall be capable of delivering at least 500 gpm for 1 -hour duration, at 20-psi residual pressure. Fire hydrants with 1000 feet spacing on centers are required. (One \& Two-Family Dwelling)

GEORGE, MILES \& BUHR, LLC
$>$ Where a water distribution system is proposed for the site, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.

## b. Fire Protection Features:

## c. Accessibility:

A All premises, which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from Seaspray Ln must be constructed so fire department apparatus may negotiate it.
$>$ Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft . of the front door.
$\Rightarrow$ Any dead-end road more than 300 feet in length shall be provided with a turnaround or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
$>$ The use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.
> The local Fire Chief, prior to any submission to our Agency, shall approve in writing the use of gates that limit fire department access into and out of the development or property.

## d. Gas Piping and System Information:

P Provide type if fuel proposed and show locations of bulk containers on plan.

## e. Required Notes:

> Provide a note on the final plans submitted for review to read "All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations"
$\Rightarrow$ Proposed Use
> Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
> National Fire Protection Association (NFPA) Construction Type
$>$ Maximum Height of Buildings (including number of stories)
$>$ Note indicating if building is to be sprinklered
> Name of Water Provider
$>$ Letter from Water Provider approving the system layout
$>$ Provide Road Names, even for County Roads

GEORGE, MILES \& BUHR, LLC

All State Fire Marshal requirements will be met as part of our Final Site Plan submittal sets. Plans will be submitted to the Office of the State Fire Marshal for review and approval.

## DNREC Groundwater Discharges Section - Reviewed - 10/18/2018

The Groundwater Discharges Section has no comment on the Zinszer Property (201827) since it is proposed to utilize public sewer.

## Delaware Electric Cooperative-Reviewed - 10/18/2018

This property is located within DEC's service territory and we have facilities in the area to serve the proposed development.

Exhibit A

Tax Map \& Parcel Nos.:
BK= 4619 FG:
1
1-34 19.00 103.00, 104.00, 116.00, 389.00 through 413.00 (inclusive),
511.00 through 665.00 (inclusive), and
667.00 through 768.00 (inclusive)

Prepared by \& Return to:
Steen, Waehler \& Schrider-Fox, LLC
92 Atlantic Avenue, Unit B
P.O. Box 1398

Ocean View, DE 19970
MRSF/btr

## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

## FOR

## THE ESTUARY

This Declaration of Covenants, Conditions and Restrictions (the "Declaration") is made and executed this 18th of October, 2016, by Estuary Development, LLC, a limited liability company organized and existing under the laws of the State of Delaware, of 26 N. Pennsylvania Avenue, P.O. Box 730, Bethany Beach, DE 19930 (hereinafter referred to as the "Developer").

WHEREAS, the Developer is the fee simple owner of certain real property located in Baltimore Hundred, Sussex County, Delaware as set forth in Exhibit. "A" attached hereto and made a part hereof (hereinafter referred to as the "Property"), and desires to develop therein a residential planned community that shall initially consist of two hundred seventy-nine (279) single family Lots and Common Areas for the benefit of the residential planned community as a whole, as more particularly set forth and described herein; and

WHEREAS, the Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of said Common Areas and facilities and to this end desires to subject the Property to the covenants, restrictions, easements, charges and liens, as hereinafter set forth, for the benefit of the Property and each Owner thereof; and

WHEREAS, the Developer deems it desirable for the efficient preservation of values and amenities in said community to create an entity to which will be delegated and assigned the powers of maintaining and administering the Common Areas, community facilities and recreational amenities, and administering and enforcing the covenants and restrictions and levying, collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, the Developer reserves the right, as hereinafter provided, to annex additional property, not part of Exhibit " $A$ ", but which is identified on the Record Plot and is neighboring or contiguous to sueh property (hereinafter referred to as the "Annexed Property") and subject such . P

Annexed Property to this Declaration upon the recordation of one (1) or more Declarations of Annexation; and

WHEREAS, the Developer will cause a non-profit, non-stock corporation, to be known as The Estuary Property Owners Association, Inc., to be incorporated under the laws of the State of Delaware for the purpose of exercising the functions aforesaid.

NOW THEREFORE, the Developer hereby declares that the following covenants, restrictions, easements, charges and liens shall run with, burden and bind the Property, and the Developer hereby declares the Property, as described in Exhibit "A", which is attached hereto and incorporated herein by reference, is and shall be held, transferred, sold, conveyed, occupied and used subject to the restrictions hereinafter set forth and during the period of time hereinafter set forth; and subject to all easements, rights of way and restrictions previously placed upon the Property as recorded in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, by the Developer, or its predecessors in title.

## ARTICLE I DEEINITIONS

The following words, when used in this Declaration (unless the context shall prohibit), shall have the following neeanings:
A. "Annexed Property" shall mean some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 115.00, consisting of approximately 104.13 +/acres, and identified as Tract Five on the Boundary Survey Plan for Revised and Reassembled Parcel Plan for The Estuary (hereinafter "Boundary Survey Plan") recorded in Plot Book 181, at Page 18, et seq., at the Office of the Recorder of Deeds, in and for Sussex County, Delaware; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 21.00 8.00, consisting of approximately $49.49+/$ acres, and identified as Tract Six on the Boundary Survey Plan; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 21.00 11.00, consisting of approximately $73.85+/$ - acres, and identified as part of Tract Eight on the Boundary Survey Plan; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 21.00 12.01, consisting of approximately 23.90 +/acres, and identified as Tract 2, Parcel B, as part of Tract Eight on the Boundary Survey Plan; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 21.00 12.02, consisting of approximately $1.57+/$ - acres, and identified as part of Millers Neck Road, as part of Tract Eight on the Boundary Survey Plan; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 105.00, consisting of approximately $36.24+/$ - acres, and located adjacent to Tracts Three and Four on the Boundary Survey Plan; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 105.02, consisting of approximately $1.08+/$ - acres, and located adjacent to Tract Four on the Boundary Survey Plan; sone or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 105.01, consisting of approximately $4.26+/$-acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00105 .04 , consisting of approximately $1.00+/$-acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 156.00, consisting of
approximately $53.22+/$ acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 118.00, consisting of approximately $5.50+/$ acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 119.00, consisting of approximately $2,20+/$ acres; some or all of that property presently identified as Susscx County Tax Map and Parcel No, 1-34 19.00334 .00 , consisting of approximately $12.40+/-$ acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 120.00, consisting of approximately $10.86+/$ - acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 34.00, consisting of approximately $10.00+/$ - acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 31.00, consisting of approximately $101.01+/$ acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 22.00 , consisting of approximately $25.63+/$ - acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. I-34 19.00 I 10.03, consisting of approximately 11.07 $+/$ acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 111.00, consisting of approximately $14.77+/$ acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 112.00, consisting of approximately $11.96+/$ - acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 12.04, consisting of approximately $7.61+/$ - acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 113.00, consisting of approximately $10.25+/$ acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00107 .00 , consisting of approximately $35.00+/$. acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 108.00, consisting of approximately $16.16+/=$ acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 21.00 3.00, consisting of approximately $39.00+/$ acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 21.00 4.00, consisting of approximately $35.48+/$ acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 21.00 6.00, consisting of approximately $192.00+/$ acres; and some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 21.007 .00 , consisting of approximately $8.24+/$ acres; as such may be further identified on the Record Plot and located contiguous to the property described in Exhibit "A" and which the Developer may acquire or, pursuant to agreement with the owner of such property, may acquire the right to annex into The Estuary and subject to this Declaration, in accordance with this Declaration, by the recordation of one (1) or more Declarations of Annexation.
B. "Association" shall mean and refer to The Estuary Property Owners Association, Inc., a Delaware non-profit, non-stock corporation, its successors and assigns.
C. "Board" shall mean and refer to the Board of Directors established pursuant to the Bylaws of the Association (referred to as the "Executive Board" in DUCIOA).
D. "Common Areas" shall mean and refer to those areas of land designated as such on the Record Plot, which is incorporated herein by reference. The Common Areas may include, but may not be limited to: (1) all private streets and entrances, whether within or adjacent to the Property; (2) all areas for stormwater management, erosion and sediment control; (3) water supply facilities; (4) sanitary sewer facilities; (5) school bus shelters; (6) central mail facility;
and (7) all community recreation facilities, which may include, but may not be limited to, a swimming pool, kiddie pool, clubhouse, bar, tennis courts, beach/volleyball area, manmade pond with pier, fire-pit, dog park, and biking/walking paths, whether within or outside the Property. All Common Areas are intended to be devoted to the common use and enjoyment of the members of the Association, as hcrein defined, and are not dedicated for use by the general public. All Common Areas shall be subject to the restrictions created herein and shall be subject to all restrictions, easements and rights-of-way previously granted by the Developer or its predecessors in title.
E. "Declaration of Annexation" shall mean all Declarations recorded by the Developer in which property not described in Exhibit "A" is made subject to this Declaration.
F. "Developer" shall mean and refer to Estuary Development, LLC, its successors and assigns.
G. "Developer Control Period" shall mean the period during which the Developer has control over the Association and during which the Developer, or persons designated by the Developer, may appoint and remove the officers and members of the Board of Directors (referred to as the "Executive Board" in DUCIOA). Said Developer Control Period shall commence upon the recordation of this Deelaration and shall continue until the earlier of (i) sixty (60) days after the conveyance of seventy-five percent ( $75 \%$ ) of Lots shown on the Record Plot, as such may be amended from time to time and/or as such may be expanded to include the subdivision plan for Annexed Property, to a party other than a Participating Builder, or (ii) December 31, 2036.
H. "Deycloper Rights Period" shall mean the period during which the Special Declarant Rights and any other rights and responsibilities that are reserved exclusively to the Developer pursuant to this Declaration or other governing document for the Association may be exercised. Said Developer Rights Period shall commence upon the recordation of this Declaration and shall continue until the earlier of the conveyance of all Lots shown on the Record Plot or until December 31, 2036.
I. "DUCIOA" shall mean and refer to the Delaware Uniform Common Interest Ownership Act, 25 Del. C. § 81-101 et seq., as amended from time to time.
J. "Lot" shall mean and refer to any unimproved or improved plot of land intended and subdivided for a detached single unit residence, shown upon the Record Plot as a numbered parcel, but shall not include the "Common Areas" as hereinabove defined.
K. "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article 11, Section 1 of this Declaration.
L. "Mortgage" shall mean and refer to any mortgage, deed of trust, or similar instrument granted as security for the performance of any obligation.
M. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, holding a fee simple title to any Lot, but shall not mean or refer to any mortgagee or subsequent holder of a mortgage, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
N. "Participating Builder" shall mean and refer to a person or entity that acquires from the Developer any part of the property subjected to this Declaration for the purpose of building a residential structure for sale or lease to another in the ordinary course of business of such person or entity.
O. "Record Plot" shall mean the plot of record for The Estuary in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, recorded in Plot Book 222, at Page 1, et seq., as amended by the recordings in Plot Book 222, at Page 86, et seq.; Plot Book 233, Page 43, et seq., and Plot Book 226, at Page 82, and any additional atnendments thereto and/or expansions thereof to include the subdivision plans for Annexed Property approved by Sussex County'and endorsed as an amendment and/or subdivision plan for Annexed Property by the Developer.
P. "Special Declarant Rights" shall mean those rights reserved by the Developer and assigned to each Participating Builder as provided in Article VI, Section 21 of this Declaration.

## ARTICLE II <br> MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot, which is subject to assessment or shall be eligible for a later assessment, shall be a Member of the Association, provided, however, that any such person or entity who holds such interest merely as security for performance of an obligation shall not be a Member, unless and until such pcrson or entity has succeeded to such Owner's interest by enforcement of such security interest. Membership shall be appurtenant to and may not be separated from the ownership of any Lot, which is subject to assessment. The Developer and each Participating Builder shall be considered an Owner of each Lot held by it.

Section 2. The Association shall have one class of voting membership. A Member shall be entitled to one (1) vote for each Lot. When more than one (1) person holds an interest in any Lot, all such persons shall be Members. The vote of such Lot shall be exercised as the Owners themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Section 3. The Developer shall organize and establish the Association by the filing of a Certificate of Incorporation for the Association no later than the date the first Lot in The Estuary is conveyed, all in accordance with § 81-301 of DUCIOA.

## ARTICLE III <br> PROPERTY SUBJECT TO DECLARATION

Section 1. Property. The real property subject to this Declaration is all that property located in Baltimore Hundred, Sussex County, Delaware, as shown on the Record Plot and as described in Exhibit "A" attached hereto and incorporated herein by reference. This Declaration and the lands suhject to this Declaration shall also be subject to any restrictions, easements or rights of way previously granted by the Developer, or its predecessors in titie, as recorded in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware.

## Section 2. Annexed Property.

(a) During the Developer Control Period, the Developer shall have the unilateral right, but not the obligation, to expand The Estuary by adding all or any part of the Annexed Property through the preparation and recordation of one (1) or more Declarations of Annexation with the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware.
(b) The right of the Developer to add all or any portion of the Annexed Property to The Estuary shall not be construed as imposing on the Developer any obligation to add all or any portion of the Annexed Property to the Development, to construct any improvements thereon, or to restrict or limit its use in any manner.
(c) Annexed Property added to The Estuary, together with all improvements thereon, shall be deemed submitted to the terms of this Declaration. For all purposes of the Association, including, but not limited to, voting, the number of Lots in the Association may be increased to include up to a maximum of four hundred seventy-one (471) additional Lots to be located on that portion of the Annexed Property added to the Development.
(d) Improvements to portions of the Annexed Property added to The Estuary shall be subject to the standards and restrictions set forth herein.

## ARTICLE IV

PROPERTY RIGHTS IN THE GENERAL COMMON AREAS
Section 1. Title to Common Arcas. The Developer shall convey legal title in the Common Areas to the Association, but it may retain legal title to the Common Areas until such time as the Developer has completed improvements thereon, and until such a time as, in the opinion of the Developer, the Association shall be able to maintain the same. However, notwithstanding any other provision herein, the Developer hereby covenants for itself, its successors and assigns, that it shall convey all its rights, title and interest in the Common Areas to the Association, free and clear of all liens, but subject to all restrictions, easements and other encumbrances of record as of the date of such conveyance.

Section 2. Extent of Member's Easements. The rights and easements of enjoyment created hereby in the Common Areas shall be subject to the following:
(a) The rights of the Association, in accordance with its Certificate of Incorporation and Bylaws, to borrow money for the purpose of improving the Common Areas and in aid thereof to mortgage the Common Areas, except the roads as shown on the Record Plot. The rights of a mortgagee in any affected Common Area shall be subordinate to the rights of the Owners hereunder, provided, however, that no such borrowing or mortgaging shall be made unless approved by the vote of eighty percent ( $80 \%$ ) of the votes in the Association, including eighty percent ( $80 \%$ ) of the votes allocated to Lots not owned by the Developer.
(b) The right of the Association to take such steps as are reasonably necessary to protect any mortgaged Common Areas against foreclosure.
(c) The right of the Association as provided in its Certificate of Incorporation and Bylaws, to suspend the enjoyment rights and privileges of any Member in any easement or in any Common Areas, for a period during which any assessment against such Member remains unpaid, and for any period not to exceed thirty (30) days for any infraction of the Association's published rules and regulations.
(d) The right of the Association to dedicate or transfer all or any part of its interest in the Common Areas (subject to easements crcated hereunder, or previously created of record) to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer or determination as to purpose or as to the conditions thereof, shall be effective unless approved by the vote of eighty percent ( $80 \%$ ) of the votes in the Association, including eighty percent ( $80 \%$ ) of the votes allocated to Lots not owned by the Developer, has been recorded.
(e) The right of the Developer prior to the conveyance of the Common Areas to the Association, and of the Association, to grant and reserve easements and rights-ofway through, under, over and across the Common Areas, for the installation, maintenance and inspection of lines and appurtenances for public water, sewer, drainage, propane, electricity, telephone, cable television and other utilities.
(f) The right of the Association to adopt rules and regulations in accordance with § 81-320 of DUClOA governing the use by the Owners of the Common Areas or Lots, which rules and regulations shall not apply to any Participating Builder. Such rules and regulations may include the regulation of rentals in The Estuary and govern specific leasing standards, including, but not limited to, permitted signage or advertising, minimum lease terms and maximum number of occupants permitted to occupy a main dwelling, the display of American flags (consistent with federal law and §81-320 of DUCIOA) and/or the display and placement of political signs (consistent with § 81-320 of DUCIOA). Any rules and regulations adopted by the Association shall be a governing document of the Association.
(g) The right of the Association, by and through its Board of Directors, to levy a reasonable monetary fine for a violation of this Declaration or other governing document of the Association, in an amount to be determined by the Board after written noticc and an opportunity to be heard before the Board has been given to the violating Owner in
question, all in accordance with § 81-302 of DUCIOA. Any monetary fine imposed by the Board shall be collectible in the same manner as assessments hereunder.
(h) The right of the Developer to convey the Common Areas to the Association, which shall be evidenced by the recording of a quitclaim deed at the Office of the Recorder of Deeds, in and for Sussex County, Delaware, together with such other transfer or assignment of Developer's rights document that Developer, in its sole discretion, may deem to be necessary or appropriate.

Section 3. Delegation of Use. Any Owner may delegate his rights of enjoyment to the Common Areas and facilities to the members of his family, tenants, guests, or contract purchasers (and members of the family of any tenant or contract purchaser) who reside on the Lot or to such other persons as may be permitted by the Association.

Section 4. Obligations of the Association. The Association shall:
(a) Take title to, own, manage, maintain and operate the Common Areas and facilities, improvements and landscaping thereon, including but not limited to, the roads, recreational areas, and areas for stormwater management, erosion and sedimentation control, for the use and benefit of all members of the Association.
(b) Enforce the covenants, restrictions, and easements under this

Declaration.
(c) Operate and maintain the Common Area irrigation system, as more particularly described and set forth in Article VI, Section 17 of this Declaration.
(d) Maintain the yard areas of each Lot, as more particularly described and set forth in Article VI, Section 17 of this Declaration.

## ARTICLE V <br> COVENANT FOR MAINTENANCE AND TO ACCEPT AND DISCHARGE ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation of Assessments. The Developer, for itself and its successors and assigns, and for each Lot within the Property, hereby covenants, and each Owner of any Lot, by acceptance of a deed or other transfer document therefore, whether or not it shall be expressly established in such Deed or other transfer document, hereby covenants and agrees to pay the Association: (1) annual assessments or charges; (2) special assessments for capital improvements, operating expenses or reserves, and/or a repair and replacement reserve; (3) monetary fines, if imposed, pursuant to the provisions of Article IV, Section 2 (g); and (4) an initial assessment as required by Section 5 of this Article V, such assessments to be fixed, established and collected as hereinafter provided. The annual assessment, special assessment, monetary fine and initial assessment, together with interest at the legal rate, costs and reasonable attorney's fees, shall be a charge on the Lot, and shall be a continuing lien upon the Lot against which each such assessment or charge is made.

Each such assessment or charge, together with interest at the legal rate, costs, and reasonable attorney's fees incurred for the collection thereof, shall also be the personal obligation of the person who was the Owner of the Lot at the time when the assessment was due. A personal obligation for delinquent assessments or charges shall not pass to the Owner's successor in title (other than as a lien on the land), unless expressly assumed by the successor in title.

Section 2. Purpose of Assessments. Assessments levied by the Association shall be for the purpose of promoting the recreation, health, safety and welfare of the residents in the Property; for the improvement and maintenance of the Common Areas of the Property; and for services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas, including, but not limited to, repair and replacement of the roads and street lamps; the payment of taxes and insurance thereon; repair, replacement and additions thereto; for the cost of labor, equipment, materials, management and supervision thereof; for operating reserve funds and reserve funds for repair and replacement of the Common Areas and the facilities thereon; and/or for a purpose of discharging a duty or obligation of the Association.

Section 3. Basis and Maximum Annual Assessment. Each respective Lot shall thereafter be subject to an annual assessment to be paid to the Association. The amount of such annual assessment, which may be different for improved Lots versus unimproved Lots versus model home Lots (as described below), shall be established by the Association each year. The annual assessment for improved Lots shall be charged or assessed in equal proportions against each improved Lot within the Property. Except as provided in Section 11 below in this Article, the annual assessment for unimproved Lots shall be cbarged or assessed in equal proportions against each unimproved Lot within the Property and the annual assessment for model home Lots shall be charged or assessed in equal proportions against each model home Lot within the Property. A Lot shall have unimproved status until such time as a main dwelling has been constructed on the Lot and a Certificate of Occupancy issued by Sussex County therefor. A Lot shall have improved status at such time as a main dwelling has been constructed on the Lot; a Certificate of Occupancy has been issued by Sussex County therefor; and the main dwelling is occupied or intended to be occupied as a residence and is not used as a model home by a Participating Builder or the Developer as part of their sales efforts in the project. A Lot shall have model home status at such time as a main dwelling has been constructed on the Lot; a Certificate of Occupancy has been issued by Sussex County therefor; and for so long as the main dwelling is used as a model home by a Participating Builder of the Developer as part of their sales efforts in the project. The fiscal year of the Association shall correspond with the calendar year, beginning on January $1^{\text {st }}$ and ending the following December $31^{\text {st }}$. The first assessment year shall be as determined by the Developer, provided that notwithstanding the foregoing, the first assessment year shall be no later than the calendar year in which the first conveyance of any Lot from the Participating Builder or Developer to a third party purchaser for value (which purchaser shall not be a Participating Builder, as defined in Article I of this Declaration) has occurred; and, notwithstanding anything hcrein to the contrary, the amount of the first and subsequent annual assessment shall be fixed by the Board of Directors in its sole discretion until the Developer Control Period ends. Thereafter, the annual assessment shall be determined in accordance with Section 4 of this Article V. Each annual assessment shall be due and payable on or before thirty (30) days after it has been fixed and levied. It shall be the duty of the Association to notify all Owners, whose addrcsses are listed with the said Association,
within thirty (30) days after said annual assessment has been fixed or levied, giving the amount of the annual assessment for said year, when due, and the amount due from each Lot owned by each such Owner. Failure of the Association to levy the assessment for any one (1) year shall not affect the right of the Association to do so for any subsequent year.

Section 4. Establishment of Annual Assessment Rate. The Board of Directors of the Association shall, after consideration of current maintenancc costs and future needs of the Association, set the annual assessment in an amount deemed appropriate and may provide for the payment thereof in monthly or quarterly installments; provided however, that if any periodic payment obligation is not paid on its due date, the full annual amount of the assessment shall be due. The annual assessment amount shall be approved in accordance with §§ 81-315 and 81-324 of DUCIOA.

Section 5. Initial Assessment. Each Owner (excluding Participating Builders), upon closing upon the title to a Lot, shall pay to the Association an initial assessment. The initial assessment is collectible at closing, in the amount of Five Hundred Dollars ( $\$ 500.00$ ) per Lot. The initial assessments shall be used by the Association as working capital to insure availability of cash for expected and unexpected expenditures, to build up a reserve for capital expenses and improvements, or to acquire equipment or service deemed necessary by the Association. Initial assessments shall be paid in addition to regular assessments and shall be collectible in the same manner if unpaid. This applies to the initial sale of any Lot from either the Developer or a Participating Builder to an Owner, as well as the subsequent resale of any Lot.

Section 6. Special Assessment for Capital Improvements and Operating
Reserve. In addition to the annual assessment authorized by Article V, Section 3 of this Declaration and except as provided in Section 11 below, the Association may levy in any assessment year a special assessment (whicb must be fixed at one uniform rate for each Lot) applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including the necessary fixtures and personal property related thereto, repair and replacement of the roads and street lighting, and for operating the Common Areas, for which a reserve fund does not exist or is not adequate. A special assessment shall be approved in accordance with § 81-324 of DUCIOA.

Scction 7. Monetary Fines. The Board of Directors has the power and duty to impose monetary fines for violations of this Declaration and/or any other governing document for the Association. Such assessment shall be imposed in the manner set forth in Article IV, Section 2(g) of this Declaration.

Section 8. Date of Commencement; Due Date. The liability of any Owner for annual assessment as to any Lot shall commence on the conveyance of such Lot to such Owner, prorated for the remaining portion of said year, except as provided in Section 11 below. The due date of the annual assessment is set forth in Article V, Section 3 of this Declaration. The due date of any special assessment under Article V, Section 6 of this Declaration shall be fixed in any resolution authorizing such assessment. The due date of any monetary fine shall be established by the Board or its designated committee.

Section 9. Effect of Nonpayment of Assessments; the Personal Obligation of the Owner; the Lien; Remedies of the Association. If any assessment or other charge (such as a monetary fine) is not paid on the date when stated to be due in the notice of the assessment or charge, then the assessment shall be deemed delinquent. If the delinquent payment is a periodic payment (i.e. monthly, quarterly, etc.), the entire assessment or charge shall be deemed delinquent, and shall, together with such late fees, interest thereon and the cost of collection thereof, including reasonable attorney's fees, as hereinafter provided, continue as a lien on the Lot and any structure built thereon which shall bind such Lot in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns. In addition to such lien rights, the obligation of the assessment or charge shall be a personal obligation of the then Owner to pay such assessment or charge; however, the personal obligation shall not pass to his successors in title (other than as a lien on the land) unless expressly assumed by the successor in title. If the assessment or charge is not paid within thirty (30) days of the due date, the assessment or charge shall bear interest from the date of delinquency at the legal interest rate authorized by 6 Del. C. § 2301, as amended, and the Association may bring legal action against the Owner personally obligated to pay the same and/or may enforce or foreclose the lien against the Lot. In the event a judgment is obtained, such judgment shall include interest on the assessment or charge from its due date and reasonable attorney's fees, together with the costs of collection. No Owner of a Lot may waive or otherwise escape liability for an assessment of his or its Lot. The Association reserves the right to suspend the enjoyment rights and privileges of any Member in any easement or Common Area for the period during which any assessment or charge against such Member remains unpaid.

Section 10. Subordination of the Lien to the First Mortgage. A lien for assessments or other charges provided for herein (hereinafter "assessment lien") shall be subordinate to the lien of any first mortgage on the Lot, except as otherwise provided by $\S 81-$ 316 of DUCIOA. Sale or transfer of any Lot shall not affect the assessment lien. However, sale or transfer of any Lot by foreclosure of any first mortgage or any proceedings in lieu thereof shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer, except as otherwise provided by § 81-316 of DUCIOA. No sale or transfer shall relieve such Lot from liability for any assessments or other charges thereafter becoming due or from the lien thereof.

Section 11. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein:
(a) All Lots, whether improved or unimproved, owned by Participating Builders;
(b) All properties dedicated to and accepted by a governmental body, agency or authority, and devoted to public use; and
(c) All Common Areas.

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## ARTICLE VI

RESTRICTIVE AND PROTECTIVE COVENANTS

## Section 1. Utility Easements.

(a) The Developer, its successors and assigns, and the Association hereby reserve the right to grant easements over, under, on and through the Common Areas, all roads, and the designated areas of the Lots as shown on the Record Plot for the installation, construction, reconstruction, relocation, removal, maintenance, repair, operation, inspection of sewer, water drainage, electric, gas, propane, television, telephone, and cable telephone and television facilities and wires, lines, conduits and other necessary and proper attachments in connection therewith, for the benefit of the Property, the Developer, any federal, state or local authority, commission or agency having jurisdiction thereover, or any corporation, either public, quasi public or private, supplying or serving the Property.
(b) The Developer reserves unto itself, its successors and assigns, a drainage and/or sidewalk and/or utility easement from the right-of-way in the front yard and/or rear yard of all Lots and centered on all side and rear Lot lines as provided in and shown on the Record Plot. Developer further reserves a drainage and/or utility easement along the interior side of all perimeter boundary lines as provided in and shown on the Record Plot.

Section 2. Prior Restrictions. The Property is subject to all those prior easements, rights of way and restrictions placed upon the Property by the Developer's predecessors in title as such may be recorded among the land records in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware.

Section 3. Residential Use. All Lots in the Property shall be used for residential purposes exclusively except to the extent provided with respect to the Special Declarant Rights. No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain upon any such Lot other than one (1) detached single family dwelling with attached garage building (hereinafter sometimes referred to as the main dwelling) and structures allowed pursuant to the Special Declarant Rights. The use of a main dwelling shall not include any activity normally conducted as a business except pursuant to the Special Declarant Rights. All improvements shall be in conformity with The Estuary Architectural Guidelines attached hereto as Exhibit " $B$ " and incorporated herein by reference, except that Participating Builders and the Developer shall be exempt from the TEARC application, review, and approval process. Participating Builders and the Developer shall, however, be required to satisfy all Design Guidelines set forth and contained in The Estuary Architectural Guidelines attached hereto as Exhibit " B ", except as otherwise noted therein. Notwithstanding the other provisions of this Section 3, certain areas as shown on the Record Plot may be conveyed to the Association for the recreational general Common Area, and such may be improved by a swimming pool, kiddie pool, clubhouse, bar, tennis courts, beach/volleyball area, manmade pond with pier, fire-pit, biking/walking paths, and/or other structures related to the use and enjoyment of such recreational facilities.

Section 4. Restrictions as to Trailers and Modulars. No trailer, mobile home, double wide or similar type structure which moves to a building site on wheels attached to its own undercarriage or by trailer, tent, shack, garage, barn or other type of outbuilding, shall at any time be used as a residence, temporarily or permanently. No trailer, mobile home, double wide, tent, shack, garage, or barn shall be utilized as a main or single dwelling unit on any Lot in the Property. A modular home, manufactured home, sectional home or pre-fabricated home may be permitted, but only as/if approved by The Estuary Architectural Review Committee (hereinafter "TEARC").

Section 5. Restrictions Against Business Use and Use Before Completion. Except as permitted pursuant to the Special Declarant Rights, no numbered Lot within the Property shall be used at any time to conduct business, nor shall a Lot be used for any purpose whatsoever except for the purpose of private dwelling or residence; provided, however, that nothing contained herein shall be construed so as to prohibit no impact home offices, so long as no stock in trade is kept or commodities sold; there are no employees, patrons, customers or clients visiting the Lot; and there are no signs and/or other advertising of any kind. No building shall be used as a residence until the exterior is fully completed, according to the plans and specifications approved therefor, as such approval is hereinafter provided. No one shall reside on any Lot, casually, temporarily or permanently, except in a dwelling house completed according to the plans and specifications approwed as hereinafter provided and for which a use and occupancy permit has been issued by Sussex County.

Section 6. Rental Restrictions. The rental of property in The Estuary shall be permitted, but shall be restricted to single family rentals only and shall be for a term of at least two (2) consecutive weeks per rental. All lease agreements must be in writing and must be for the entire dwelling and the entire Lot. The Association must be furnished with a copy of any and all lcase agreements.

## Section 7. Architectural Review Committee, Approval of Building Plans.

(a) In order to insure the development and maintenance of The Estuary as a residential development of high standards, there shall be a three (3) member The Estuary Architectural Review Committee (TEARC). The initial members shall be appointed by the Developer and shall serve until such time as they may resign (in which case their successors may be appointed by Developer if such resignation occurs during the Developer Control Period) or their successors, all of whom shall be Members of the Association, are designated by the Board. The TEARC is vested with the power to control all buildings, structures, improvements and landscaping to be constructed or placed upon any Lot within The Estuary, except buildings, structures, improvements and/or landscaping constructed or placed upon a Lot by the Developer or a Participating Builder during the Developer Rights Period. The TEARC may retain an architect to assist the TEARC in its responsibilities. The TEARC may charge a reasonable review fee, which may include, but not be limited to architectural review fees incurred by the TEARC, in connection with any application submitted for review pursuant to this Section 7.
(b) No building, structure, fence, wall or other erection shall be commenced, erected, maintained or used, nor shall any addition to or change or alterations therein, or in the use thereof, be made upon any of the Lots which are the subject matter of this Declaration by an Owner, other than the Developer or a Participating Builder, no matter for what purpose or use, until complete and comprehensive plans and specifications showing the nature, kind, shape, height, materials, floor plans, exterior architectural scheme, location and frontage on the Lot, approximate cost of such building, structure or other erection, the grading and landscaping of the Lot to be built upon or improved, the location of the driveway and the type of driveway material, which shall be hot-mix asphalt, and such other required information shall be submitted to and approved in writing by the TEARC or its successors. The plans shall be submitted to the TEARC for approval. If the TEARC fails to approve or deny any application within thirty (30) days following receipt of the complcte application, including but not limited to the payment of any required review fees, the party making the submission for approval shall deliver written notice to the TEARC of its failure to act and, if approval is not granted or denied by the TEARC within fifteen (15) days thereafter, the plans and spccifications shall be deemed to be denied. A copy of all such plans and specifications shall be lodged permanently with the said TEARC, or its successors; provided, however, that nothing herein shall require the aforesaid approval as to interior decorations, alterations or changes.
(c) The TEARC or its successors shall have the right to refuse to approve any such plans or specifications, grading or landscaping plans or changes, which are not suitable or desirable in the sole discretion of the TEARC, or its successors, for aesthetic or other reasons; and in passing on such plans, the TEARC shall take into consideration the suitability of the proposed building or other improvements or erections and/or the materials of which the building or other improvements or erections are to be built, and the site upon which it is proposed to be built, the harmony thereof with the surrounding Lots and/or Common Areas, and the effect of such improvements, additions, alterations or changes used, as planned, on the adjacent or neighboring property, and any and all factors which in its opinion, would affect the desirability or suitability of such proposed improvements, erections, alterations or changes.
(d) In addition to the powers stated above, the TEARC shall administer and enforce The Estuary Architectural Guidelines, which is a document containing information regarding the review procedures and design requirements for all Lots in The Estuary. A copy of The Estuary Architectural Guidelines is attached hereto as Exhibit " B " and incorporated herein by reference. Each Lot purchaser, except any Participating Builder, shall receive a copy of The, Estuary Architectural Guidelines at the time of purchase and agrees to be bound by said standards and any changes thereto. The Developer may amend or modify The Estuary Architectural Guidelines in its sole discretion, at any time during the Developer Rights Period. After the Developer Rights Period, The Estuary Architectural Guidelines may be amended or modified by a vote of two-thirds (2/3) of the members of the Association. Any amendments or modifications of The Estuary Architectural Guidelines shall be sent to each Lot Owner within thirty (30) days of approval. Any change affecting The Estuary Architectural Guidelines during or after the Developer Rights Period shall require the written approval of any Participating Builder during the time the Participating Builder has any Lots under contract, owns any Lots and/or is still constructing dwellings on any Lot.

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(e) The Board may authorize variances from compliance with any of the provisions of The Estuary Architectural Guidelines when circumstances such as topography, natural obstructions, hardship or environmental considerations require, in accordance with any duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (i) be effective unless in writing, (ii) be contrary to the restrictions set forth in the body of this Dcclaration, or (c) prevent the Board from denying a variance in other circumstances. For purposes of this subparagraph (e), the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.
(f) The TEARC, the Association, and the Developer shall have the right to enforce the provisions of this section and the requirements of The Estuary Architectural Guidelines against any person or persons violating or attempting to violate said requirements by appropriate legal action.

Section 8. Resubdivision. No Lot shall be resubdivided, sold or otherwise alienated in a lessor or smaller parcel, except that the Developer reserves, during the Developer Rights Period, the right to make any lot line adjustments deemed necessary by the Developer, provided any sueh adjustments do not result in an increase in the number of Lots, and the right to resubdivide any Lots not previously conveyed to a Participating Builder.

Section 9. Sanitation. A public water system shall be available to and shall serve each Lot. A "pump and haul" sewer system will provide sewer service for the first forty-nine (49) improved Lots in the community or such greater number of improved Lots in the community as may be approved by the Delaware Department of Natural Resources and Environmental Control and/or Sussex County from time to time. Thereafter, public sewer shall be available to all Lots in the community and those Lots initially served by the "pump and haul" sewer system shall disconnect from said system and shall connect to the public sewer system. The Developer shall be responsible for the installation and maintenance of the "pump and haul" sewer system until such time as the public sewer system is available and shall charge the Association a fee, in such amount as the Developer may deem appropriate in its sole discretion, for the maintenance services provided while the "pump and haul" sewer system is in use. The Association shall pass said fees along to the Lots benefitting from the "pump and haul" sewer system in equal proportions as part of the annual assessment to be paid by the Owners of said benefitted Lots. All fees imposed by the Developer against the Association and by the Association against the Lot Owners in accordance with this paragraph shall be colleetible in the same manner as assessments. No individual wastewater disposal systems or wells shall be allowed. All user fees for the public sewer and public water system serving each Lot shall be the sole and exclusive expenses of the Owner of each Lot.

Section 10. Community Propane Gas System. A community propane gas system will'provide propane gas to all Lots in the community. All dwellings on all Lots shall connect to such community propane gas system with all impact and connection fecs to be paid by the Owner of such Lot at the time of connection or hookup. All dwellings shall have eentral propane gas heat. Those dwellings that are initially constructed with propane gas hot water shall not change to electric hot water without the consent of the Developer. All user or service
fees shall be the sole and exclusive expense of the Owner of each Lot. Each Lot Owner shall execute the necessary propane gas service agreement with the service provider and shall be billed directly by said provider. The community propane gas system may be, but is not required to be, converted to a natural gas system in the futurc, as determined by the initial provider of the propane gas service, the Developer or the Association, as applicable. Should such a conversion occur, all dvellings shall connect to the natural gas system, with all impact, connection and/or user fees to be paid by the Owner of each Lot. Each Owner will also be required, at such Owner's cost, to replace (or convert) the heating system and other appliances using propane gas with systems or appliances designed for use with natural gas. Following such conversion, the terms and conditions for the provision of natural gas shall be the then currently effective natural gas tariff rates and regulations on file with the Delaware Public Services Commission.

There shall not be placed or stored on any Lot propane gas tanks or cylinders having a capacity in excess of twenty (20) pounds of propane gas. The foregoing restriction is intended to protect the right of the provider of the propane gas service to be the exclusive provider of propane gas to Lots in the community for heating, indoor hot water and all other indoor appliances, such as fireplaces, dryers and cooktops, while at the same time allowing the Owners to use portable propane gas vessels for outdoor grills or other movable outdoor ' appliances. The foregoing restriction shall terminate at such time as the community propane gas system is converted to natural gas.

The provisions of this Section 10 shall not be amended without the consent of the Developer.

Section 11. Signs and Advertising Regulated. No signs, notice or advertising matter of any nature and description shall be erected, used or permitted upon any of the Lots, cxcept after securing the written permission of the Developer and/or the Association or its successors or assigns, except pursuant to the Special Declarant Rights.

Section 12. Garbage Receptacles. Each Lot shall provide a screened area not generally visible from any interior road for the storage of garbage receptacles. On garbage collection day, said receptacles may be placed by the side of the road, but they must be returned to their regular screened storage location no later than nightfall on said garbage collection day. All Owners are hereby placed on notice that a waste collection company may be retained by the Association to serve the entire community, the cost of which shall be passed on to the Owners as part of their annual assessment. In such an event the waste collection company will likely provide one or more garbage receptacles to each Owner. Any modifications to the screened storage location that may be required in order to accommodate the garbage receptacles provided by the waste collection company chosen by the Association shall be the responsibility of each individual Owner. This Section 12 shall not be applicable to any Participating Builder during the constructing of dwellings.

Section 13. Storage Receptacles. No fuel tanks or similar storage receptacles may be exposed to view; but some may be installed within the main dwelling or buried underground or properly screened from view, in accordance with The Estuary Architectural Guidelines.

Section 14. Construction and Demolition. Once construction or demolition of any building has been commenced on any Lot, such construction or demolition shall proceed without delay until the same is completed, including the driveway, except where such completion is impossible or results in great hardship to the Owner or Participating Builder due to strikes, fires, national emergencies or national calamities. Cessation of work upon the construction or demolition of any building once started and before completion thereof for a continuous period of sixty ( 60 ) days by any Owner or Participating Builder shall be prima facie evidence of an attempt to abandon the same in its partially completed or demolished state and shall be deemed to be a public nuisance. There is no time limit for which construction must commence upon the purchase of any Lot.

Section 15. Fences. No fence whatsoever shall be erected or allowed to remain on any Lot, except as provided in The Estuary Architectural Guidelines.

Section 16. Nuisance. It shall be the responsibility of each Owner to prevent the development of any unclean, unsightly, or unkempt conditions of buildings or grounds upon a Lot (except in the course of construction thereon) which shall tend to substantially decrease the beauty of the Property as a whole, or the beauty of the specific area. No noxious or offensive activity shall be permitted upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance of the Property. Yard sales are prohibited on an individual Lot basis, but may be permitted by the Association if the yard sale is a community-wide event and approved by the Association in advance. There shall not be maintained upon any Lot any plant, animal, device or thing of any sort, the normal activities of which is in any way noxious, dangerous, unsightly, unpleasant or of such a nature as may diminish or destroy the enjoyment of the Property. Specifically included under this section is the prohibition against any livestock being kept on any Lot. The keeping of any non-domestic animals shall be deemed a nuisance per se under this section; but the keeping of domestic cats and dogs, or other traditional household pets, unless the activity of such pets is in any way noxious, dangerous, unsightly or unpleasant, shall not be prohibited under this section. No disabled vehicle will be allowed to remain in view as a nuisance, nor shall any unlicensed vehicle be allowed to remain, more than a reasonable period of time not to exceed fifteen (15) days.

## Section 17. Landscaping.

(a) No landscaping, shrubs or trees to be placed on any Lot in conjunction with the erection of any main dwelling shall be planted, except by a Participating Builder, until complete and comprehensive landscaping plans shall be submitted to and approved in writing by the TEARC. The land area not occupied by structures, hard surfacing, vehicular driveways or pedestrian paths shall be kept planted with grass, trees or shrubs or other ground covering or landscaping in conformance with the requirements set by The Estuary Architectural Guidelines. Although Participating Builders shall not be required to submit a landscaping plan to and receive the approval of the TEARC, Participating Builders shall be required to submit to the Developer a representative landscaping plan applicable to multiple Lots and receive the approval of the Developer as to such representative plan, prior to the placement of any landscaping, shrubs or trees on any Lot.
(b) The Association shall be responsible for the operation and maintenance of the Common Area irrigation system which shall serve a portion of the Common Areas. The cost of operating and maintaining the Common Area irrigation system shall be a common expense and shall be passed along to the individual Owners by and through the annual assessment or any special assessment that may need to be imposed from time to time. In the event an individual Owner is determined by the Association to be the cause of any damage to the irrigation system, then the repair cost to remedy said damage shall be passed along to the individual Owner determined to be responsible. Any and all such repair expenses incurred by the Association shall be collectible in the same manner as assessments hereunder.
(c) The Association shall be responsible for the maintenance of the yard areas on each Lot, which may include, but not be limited to: grass/turf cutting (as frequently as the Association deems appropriate and necessary); weeding of flower/planting beds (as frequently as the Association deems appropriate and necessary); mulching of flower/planting beds (as frequently as the Association deems appropriate and necessary); applying grass/turf chemicals'(as frequently as the Association deems appropriate and necessary). Notwithstanding the foregoing, the Association shall not be responsible for maintaining any yard area located on a Lot which is enclosed by a fence.

Section 18. Weeds. No noxious weeds or accumulated trash of any kind shall be permitted to grow or be maintained upon any Lot by the Owner or occupier thereof, except construction materials and debris of a Participating Builder. The Association or its successors and assigns may first notify the Owner or occupier to cut and/or remove any such offending growth or trash within thirty (30) days from the giving of such notice. Any such notice must be in writing. If the Owner or occupier shall fail or neglect to comply with any such notice, then and.in such an event, the Association or its successors shall be empowered to enter upon any such Lot, together with such assistance and equipment as may be required, and thereupon to 'cut and/or remove the same, all without being deemed a trespass and all at the expense of the Owner of the Lot. This covenant shall not be construed as an obligation on the part of the Association or its successors to provide garbage or trash removal services.

Section 19. Square Footage. The square footage of all improvements on any Lot not constructed by the Developer or a Participating Builder shall be in accordance with The Estuary Architectural Guidelines, but in no case shall the under roof heated interior space, exclusive of porches and decks, garage or similar non-year-round heated space, be less than one thousand six hundred $(1,600)$ square feet.

Section 20. Driveways and Parking Spaces. Each Lot shall provide for outside parking for two (2) automobiles on site and off all roadways, and a driveway which shall be made of "hot-mix" asphalt. Parking on community roadways (except cul-de-sacs) shall be permitted on a temporary basis only, for a period not to exceed forty-eight (48) hours. Long term and/or regular parking on community roadways is strictly prohibited. Parking on cul-desacs at any time for any amount of time is strictly prohibited. Vehicles parked in violation of this Section 20 or any other provision of this Declaration or other governing document of the Association may be towed by the Association at the vehicle owner's expenses. Any and all

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towing expenses incurred by the Association shall be collectible in the same manner as assessments hereunder.

## Section 21. Special Declarant Rights.

(a) The Developer reserves the following rights, which rights Developer hereby assigns to each Participating Builder (individually and collectively, the "Special Declarant Rights"):
(1) The right to complete or make improvements indicated on the Declaration Plan; and
(2) The right to maintain sales offices, construction management offices, storage sheds, and model homes (which shall not exceed 6 model homes per Participating Builder) on Lots or on the Common Areas, in such number and at such locations as may be approved by the Developer from time to time; and
(3) The right to maintain signs on the Property to advertise the sales of homes, provided all signage complies with applicable zoning regulations and is approved by the Developer; and
(4) The right to conduct sales business and construction
activities on the Property; and
(5) The right to use and permit others to use, easements through the Common Areas as may reasonably be necessary for the purpose of discharging the Developer's and Participating Builders' obligations under DUCIOA and this Declaration.

Section 22. Limitations on Special Declarant Rights. Any Special Declarant Rights may be exercised by the Developer at any time during the Dcveloper Rights Period or by any Participating Builder, as assignee of the Developer, as set forth in a recorded assignment instrument or termination of assignment instrument signed by the Developer.

Section 23. Setbacks and Height. Except as otherwise provided for herein, the building setback requirements, height limitations, and permitted accessory uses shall be as provided by the Zoning Ordinances of Sussex County, as such may be amended from time to time. Should a variance from the building setback requirements imposed by the Zoning Ordinances of Sussex County be obtained for any Lot, the building setback requirements imposed by this Declaration shall be deemed satisfied.

Section 24. Off-Road Vehicles Prohibited. There shall be no use of any off-road or ATV-type vehicles on the Property, except where it is necessary for the Developer, Participating Builder or the Association to use such vehicles for maintenance purposes. Offroad or ATV-type vehicles shall be defined as motor driven off-road vehicles capable of crosscountry travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland or other natural terrain. Such vehicles include, but are not limited to, a multi-
wheel drive or low pressure tire vehicle, an amphibious machine, a ground effect air-cushion vehicle or other means of transportation deriving motor power from a source other than muscle or:wind. The Association reserves the rights to promulgate rules and regulations regarding the use of other motorized vehicles on the Property.

Section 25. Certain Parking Prohibited. No recreational vehicles, campers or other habitable motor vehicles of any kind, whether self-propelled or not, box trucks, boats or other watercraft, may be kept, stored or parked on any Lot or Common Area in The Estuary. Notwithstanding the foregoing general prohibition, a recreational vehicle, camper or other habitable motor vehicle of any kind, whether self-propelled or not, box truck, boat or other watercraft, may be parked in the driveway of a main dwelling for up to a total of seven (7) days, whether or not said days are consecutive, during any twelve (12) month period.

## ARTICLE VII <br> GENERAL PROVISIONS

Section 1. Duration and Amendment. The easements, covenants, conditions, restrictions, and reservations of this Declaration run with and bind the Property and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, as the case may be, in perpetuity. Subject, however, to the provision that the Association or its successors, by and with the vote or written consent of seventy percent ( $70 \%$ ) of the votes of the membership, shall have the power to waive, abandon, terminate, modify, alter, change, amend, eliminate or add to these easements, covenants, conditions, restrictions, and reservations and this Declaration at any time hereafter; provided, however, no amendment may affect any of the Participating Builder's rights and/or obligations hereunder without the prior written approval of Participating Builder while such Participating Builder has any Lots under contract or owns any Lot for the purpose of constructing a main dwelling thereon. Any such waiver, abandonment, terminated, modification, alteration, change, amendment, elimination or addition shall take effect when a copy thereof, executed and acknowledged by the Association or its successors in accord with the usual form of execution and acknowledgment of deeds, together with the written consents of the requisite number of Members or together with a certificate by the Association verified under oath by the President-thereof, or in the casc of his/her absence or inability, by any Vice President thereof, setting forth the time, manner and result of the taking of the vote of the Members, has been filed for record in the Office of the Recorder of Deeds; in and for Sussex County, at Georgetown, Delaware, and the same shall thereafter remain in effect in perpetuity unless otherwise provided. No action to challenge the validity of an amendment adopted by the Association may be brought more than 1 year after the amendment is recorded (see § 81-217 (b) of DUClOA).

Section 2. Remedies. The Developer, the Association, or any Owner, shall have the-right to enforce this Declaration and any easement, covenant, condition, restriction, and/or reservation contained herein by any proceeding at law or in equity, against any person or persons violating or attempting to violate any provision of this Declaration or any easement, covenant, condition, restriction, and/or reservation contained herein, to restrain violation, to requirc specific performance, and/or to recover damages, and to proceed against any Lot to
enforce any lien created by this Declaration. The expense and cost in enforcement by the Association shall be chargeable to the Owner of the Lot, including the costs of reasonable attorney's fees. In the event any legal action is taken by the Association, such fees, approved by a court of competent jurisdiction, shall constitute a lien on the Lot, collectible in the same manner as assessments hereunder.

Section 3. Assignability. The Dcveloper, its successors and assigns, shall at all times have the right to fully transfer and assign any or all of its rights and powers under this Declaration, subject to the Developer's obligations hereunder.

Section 4. Nonwaiver. Failure of the Developer or any Owner, or their respective legal representatives, heirs, successors and assigns, to enforce any easement, covenant, condition, restriction, and/or reservation contained in this Declaration shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such violation or breach occurring prior or subsequent thereto.

Section 5. Construction and Interpretation. The Association, to the extent provided herein, may adopt and promulgate reasonable rules and regulations regarding the administration, interpretation and the enforcement of the provisions of this Declaration, The Estuary Architectural Guidelines and/or any other governing document for the Association, all of which are incorporated herein by reference. In so adopting and promulgating such rules and regulations and in making any finding, determination, ruling or order, or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, the Association shall take into consideration the best interest of the Owners to the end that the Property shall be preserved and maintained as a viable community.

Section 6. Scverability. All the covenants, conditions, restrictions, and reservations contained in this Declaration are hereby declared to be severable, and a finding by any court of competent jurisdiction that any of them or any clause or phrase thereof is void, unlawful or unenforceable, shall not affect the validity or enforceability of any other covenants, conditions, restrictions, reservations or clause or phase thereof.

Section 7. Non-liability. Nothing contained in this Declaration shall be construed in any manner as to impose upon the Association, the Developer, a Participating Builder, or their successors or assigns, any liability whatsoever for property damage and/or personal injury occurring to any person or persons whomsoever resulting from the use of any Common Areas, including, not limited to roads, recreational facilities and/or adjacent waters, and/or from the use of any Lot or parcel included in Exhibit "A" attached hereto and/or the Record Plot. Any and all persons using any such Common Areas, Lot, other parcel of land, or any of them, shall do so at their own risk and without any liability whatsoever on the part of the Association, the Developer, any Participating Builder, or their respective successors or assigns, as the case may be.

Section 8. Agricultural Uses Notice. The Property is located in the vicinity of land used primarily for agricultural purposes on which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses

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and activities may now or in the future involve noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations. The use and enjoyment of the Property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities.

Section 9. Wctlands Notice. This site contains regulated wetlands. Activities within these wetlands may require a permit from the U.S. Army Corps of Engineers and/or the State of Delaware.

Section 10. Hunting Activities Nearby Notice. The Property is located in the vicinity of and nearby land that may be used for hunting activities. The use and enjoyment of the Property is expressly conditioned on acceptance of any risk, annoyance or inconvenience which may result from such hunting activities.

Section 11. Tree Preservation. Mature stands of native trees and native plants exist throughout the Property. These trees and plants are considered key landscape features and Owners are encouraged to preserve, maintain, and protect them. The Developer, the Participating Builders and the Association shall make every attempt to preserve the existing trees on the Property and to not encroach on the open spaces maintained on the Property. The TEARC shall have the authority to create and enforce specific guidelines regarding the preservation of trees on the Property.

Section 12. Amendments to Declaration by Developer. During the Developer Rights Period, this Declaration may be amended in the sole discretion of the Developer by the recordation of an Amendment to the Declaration with the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware; provided, however, the prior written consent of any Participating Builder shall be required for any such amendment. Such written consent from a Participating Builder shall not be unreasonably withheld and shall only be required while the Participating Builder has any Lots under contract or owns any Lot for the purpose of constructing a main dwelling thereon.

IN WITNESS WHEREOF, the Developer has executed this Declaration of Covenants, Conditions and Restrictions, the day and year first above written.

WITNESS:
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DEVELOPER:
ESTUARY DEVELOPMENT, LLC, a Delaware limited liability company

By:
 (SEAL)

STATE OF Virginia
COUNTY OF Fairfrix
*

* to wit:
* 

I HEREBY CERTIFY that on the $18^{\text {th }}$ day of October, 2016, before the subscriber, a Notary Public in and for the above jurisdiction, personally appeared Ross A. Byington, known to me (or satisfactorily proven) to be an Authorized Member of Estuary Development, LLC, a Delaware limited liability company, and that such person, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.


My Commission Expires: 7-31-17 [NOTARIAL SEAL]

IN WITNESS WHEREOF, the Mortgagec for the Developer and Owner of Lots 23 through 26, inclusive, has hereby consented to the foregoing Declaration of Covenants, Conditions and Restrictions of this $\mathbf{2 8 4}$ day of $\qquad$ , 2016.
(CORP. SEAL)


State of Maryland
*

* to wit:


## COUNTY OF Howird

I HEREBY CERTIFY that on the 2844 day of October ,2016, before the subscriber, a Notary Public in and for the above jurisdiction, personally appeared
 of Beazer Homes, LLLC, a Delaware limited liability company, and that such person, bcing ${ }^{\text {thand }}$ authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.


Exhibit B

## WRITTEN CONSENT

In satisfaction of the consent requirement imposed by $\S 99-13$.A. of the Sussex County Code, if necessary, the undersigned, Estuary Development, LLC, hereby certifies that it is the owner of not less than $51 \%$ of the recorded lots in The Estuary residential subdivision and that it hereby consents to the inclusion and annexation of the real property presently owned by Donna M. and Jason W. Zinszer, identified as Tax Map \& Parcel No. 1-34 19.00 105.00, into The Estuary residential subdivision as additional lots, as such additional lots are more particularly set forth and described in the "Zinszer Property Preliminary Subdivision Plan, Sussex County Subdivision \#2018-27, Sussex County, Delaware" submitted to Sussex County for approval.

ESTUARY DEVELOPMENT, LDC,<br>a Delaware limited liability company




I HEREBY CERTIFY that on the

$4+\frac{1 c}{a b}$day of March, 2019, before the subscriber, a Notary Public in and for the above jurisdiction, personally appeared Ross Byington , known to me (or satisfactorily proven) to be an Authorized Member of Estuary Development, LLC, a Delaware limited liability company, and that such person, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.


Notary Public
[NOTARIAL SEAL]

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& \text { Estuary } \\
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# FUQUA, WILLARD, STEVENS 8، SCHAB, P.A. 

| Paynter house 26 The Circle or P.O. Blx 250 Georgetown, delaware 19947 | James A. Fuqua, Jr. William Schab | Hart House $\square$ <br> 9 Chestnut Street <br> Georgetown, Delaware 19947 |
| :---: | :---: | :---: |
| PHONE 302-856-7777 | Timothy G. Willard | PHONE 302-856-9024 |
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| REHOBOTH BEACH, DE 19971 |  | Lewes, Delaware 19958 |
| Phone 302-227-7727 |  | Phone 302-645-6626 |
| FAX 302-227-2226 |  | FAX 302-645-6620 |
|  | March 11, 2018 | realestate@fwsslaw.com |

Vince Robertson, Esquire
Parkowski, Guerke \& Swayze, P.A.
Attorney for Sussex Planning and Zoning Commission
19354C Miller Road
Rehoboth Beach, DE 19971

## Re: Zinszer Property / Subdivision \# 2018-27

Dear Mr. Robertson:

The above-referenced subdivision application is an extension of The Estuary an approved Subdivision. These additional lots shall be annexed into The Estuary by Declaration if approved by the County and subject to the recorded Declaration of Restrictions for the development, Book 4619 Page 1. (Exhibit A)

This application has been approved by at least $51 \%$ of the recorded current lot owners in the Estuary. (Exhibit B).

The Planning Commission hearing is scheduled March $28^{\text {th }}, 2019$. Let me know if you have any questions.

FUQUA, WILLARD, STEVEN \& SCHAB, PA


[^1]
# SUSSEX COUNTY ENGINEERING DEPARTMENT <br> UTILITY PLANNING DIVISION <br> SEWER SERVICE CONCEPT EVALUATION (SSCE) 

Date 3/5/2019
Tax Map \& Parcel(s): 134-19.00-105.00
Sewer Tier: Tier 2 Sussex County Planning Area
Proposed EDUs: 35
Pump Station(s) Impacted:
MC-341
List of parcels to be served, created from the base parcel:
134-19.00-105.01, 105.02 \& 105.04 as well as lot 2 (indentified on the Preliminary Subdivision Plan).

List of additional parcels to be served (Parcels required for continuity must be served with infrastructure:N/A Connection Point(s): Current connection point is MH-B9 in Weathervane Way. Once future phases of the Estuary subdivision are complete the connection point could change.

Use of Existing Infrastructure Agreement required? Yes $\boxtimes$ or No
Maximum number of EDU's that can currently connect to existing infrastructure* As proposed?
Annexation Required? Yes $\mathbb{\otimes}$ or No $\square$
Easements Required? Yes $\mathbb{\text { or No }}$,
Fee for annexation (based on acreage):\$1,500 (10.00-150.00 Acres)
Current Zoning: AR-1 Zoning Proposed: AR-1
Acreage: $\mathbf{2 6 . 9 1 + / - ~}$
Additional Information: The proposed project parcel is not currently within the sewer district boundary. I have attached the "Policy for Extending District Boundaries".

* No capacity is guaranteed until System Connection Fees are paid

All gravity sewers with three (3) or more minor branches designed at minimum slope and maximum depth.

Once Construction Drawings are completed with all of the above information satisfied please submit to: Jordan Dickerson
Sussex County Engineering Department
22215 Dupont Blvd.
P.O. Box 589

Georgetown DE 19947

## Policy for Extending District Boundaries

1. Property owner (developer) and/or his representative shall make a request to the Utility Planning Division for a Sewer System Concept Evaluation.
2. Property owner (developer) and/or his representative shall meet with the applicable planning and zoning agency to determine if zoning is appropriate for the development being planned.
3. With appropriate zoning, property owner (developer) and/or his representative shall send a letter (with appropriate application fee as listed below) requesting the Sussex County Council to consider extending the water and/or sanitary sewer district boundaries. (Sussex County Code)

| Application Fees |  |
| :--- | :--- |
| Less than 2 acres | $\$ 500.00$ |
| $2.1-9.99$ acres | $\$ 750.00$ |
| $10-150 \times 00$ acres | $\$ 1,500.00$ |
| Greater than 150.00 acres | $\$ 2,500.00$ |

4. The Sussex County Engineering Department shall present; for Sussex County Council's consideration, posting of notices for the proposed extension of the district boundaries.
5. The Sussex County Council approves posting notices for the proposed extension of the boundarles. (If approval to post the notices is not given, the appropriate fee is refunded.)
6. Within ninety days of the posting of the notices, the Sussex County Council approves/disapproves extending the boundaries.
7. The Sussex County Council approves/disapproves of the extension of the water and/or sanitary sewer pipelines under the appropriate Sussex County Ordinance.

## Regulations/Code Requirements

DNREC's Site Investigation and Restoration Section (SIRS) has reviewed the proposed project.

- If it is determined by the Department that there was a release of a hazardous substance on the property in question and the Department requires remediation pursuant to the Hazardous Substance Cleanup Act, the provisions of 7 Del.C. Chapter 91, Delaware Hazardous Substance Cleanup Act and the Delaware Regulations Governing Hazardous Substance Cleanup shall be followed."
- There are no SIRS sites found within a $1 / 2$-mile radius of the proposed project.


## Suggestions

- SIRS strongly recommends that the land owner performs appropriate environmental due diligence as necessary of the property.
- Additional remediation may be required if the project property or site is re-zoned by the county or state.
- Should a release or imminent threat of a release of hazardous substances be discovered during the course of development (e.g., contaminated water or soil), construction activities should be discontinued immediately and DNREC should be notified at the 24 -hour emergency number (800-662-8802). SIRS should also be contacted as soon as possible at 302-395-2600 for further instructions.

State of Delaware
Department of Agriculture
2320 South DuPont Highway
Dover, Delaware 19901
dDA.DELAWARE.GOV

TELEPHONE (302) 698-4500 TOLL FREE (800) 282-8685 FAX (302) 697-6287

November 27, 2018

Christin Headley<br>Planning and Zoning Manager<br>Planning and Zoning Commission<br>2 The Circle PO Box 417<br>Georgetown, Delaware 19947

Subject: 2018-27-Zinszer Property

Dear Mr. Headley,
Thank you for submitting the site plan for Zinszer Property subdivision submitted by GMB Architects and Engineering.. The Sussex County Planning and Zoning Forested Buffer Ordinance Number 1984 Section 99-5 requires a forested buffer, Zinszer Property has no forested buffer indicated. More clarity is needed to see if the property is held to the forested buffer.

Sussex County Planning and Zoning Forested Buffer Ordinance Number 1984 Section 99-5 also requires a planting list which is to follow $70 \%$ deciduous and $30 \%$ evergreens to be planted in the buffer strip which was not provided in the plans. A comprehensive display of plantings in the buffers should be included with species being used for review. We recommend a planting list to be provided for review as well as planting specifications.

If you have any more questions please feel free to contact me 302.659 .6704 or email me at Michael.Martini@state.de.us

Sincerely,
Michael Martion
Michael Martini
Urban Forestry Program
Delaware Forest Service

## Comment Sheet

DATE OF REVIEW: October 22, 2018


REVIEWING AGENCY: Delaware State Fire Marshal's Office, Sussex Office<br>INDIVIDUAL REVIEWERS: Duane T. Fox, CFPS, CFPE, CFI, Asst. Chief Technical Services Dennett E. Pridgeon, CFPS, CFPE, CFI, Sr. Fire Protection Specialist Jefferson L. Cerri, CFI, Sr. Fire Protection Specialist Joseph Moran, CFI, Sr. Fire Protection Specialist Desiree B. McCall, CFI, Fire Protection Specialist

AGENCY PHONE NUMBERS: 302-856-5298, Fax: 302-856-5800
RE: ZINSZER PROPERTY (2018-27)

The reasons and conditions applied to this project and their sources are itemized below:

At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):
a. Fire Protection Water Requirements:
> Where a water distribution system is proposed for single-family dwellings it shall be capable of delivering at least 500 gpm for 1-hour duration, at 20-psi residual pressure. Fire hydrants with 1000 feet spacing on centers are required. (One \& Two- Family Dwelling)
$>$ Where a water distribution system is proposed for the site, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.

## b. Fire Protection Features:

c. Accessibility
> All premises, which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from Seaspray Ln must be constructed so fire department apparatus may negotiate it.
$>$ Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft . of the front door.
$>$ Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-desac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
$>$ The use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.
$>$ The local Fire Chief, prior to any submission to our Agency, shall approve in writing the use of gates that limit fire department access into and out of the development or property.
d. Gas Piping and System Information:
$>$ Provide type of fuel proposed, and show locations of bulk containers on plan.
e. Required Notes:
$>$ Provide a note on the final plans submitted for review to read " All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations"
> Proposed Use
> Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
$>$ National Fire Protection Association (NFPA) Construction Type
$>$ Maximum Height of Buildings (including number of stories)
$>$ Note indicating if building is to be sprinklered
$>$ Name of Water Provider
> Letter from Water Provider approving the system layout
$>$ Provide Road Names, even for County Roads
Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: www.statefiremarshal.delaware.gov, technical services link, plan review, applications or brochures.

November 26, 2018

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REF: T. A. C. COMMENTS
    ZINSZER PROPERTY
    MILLER CREEK SANITARY SEWER DISTRICT
    SUSSEX COUNTY ENGINEERING DEPARTMENT
    SUSSEX COUNTY TAX MAP NUMBER
    134-19.00 PARCEL 105.00
    PROJECT CLASS-1
    AGREEMENT NO. }111
```

The following comments are the result of the Sussex County Engineering Department's review of the preliminary site plan for the above referenced project:

## PUBLIC WORKS DIVISION COMMENTS

1. Proposed developments with private roads or projects required by the County to conform to or exceed the County street design requirements shall be regulated by and conform to Sussex County Code and the comments here listed.
2. Project Construction Drawings shall show, in detail, the proposed improvements. The work required includes preparation and delivery of an AutoCAD 2012 digitized plan showing existing and proposed lines, grades, topography and features in a given area, which was utilized in preparing plans for construction. The individual sheet types will be in a separate design to show plan views on sheets separate from profile views. In addition, each sheet of the plans shall be submitted in a PDF format.
3. All work shall be geo-referenced to the Delaware State Grid System NAD-83 (HARN) and provided in an AutoCAD 2012 format. North will always be shown in an up direction on all plans.
4. Topographic contours at one-foot intervals shall be shown and referenced to United States Geological Survey Mean Sea Level Datum NAVD 1988 Datum.
5. The plans shall be provided on 24 " $x 36$ " drawing sheets at a scale of 1 " $=50$ '.

The plans shall show and address the following items at minimum:
6. The project requires professional land surveying services to accurately delineate, and show the following items but is not limited to the following: all property and right-ofway lines, established at a minimum, two (2) horizontal and vertical control concrete project benchmarks, survey monuments, easements, existing and proposed topographic contours at 1 -foot vertical intervals and spot elevations as necessary to
establish grades, the locations of all existing structures, highway and roadway pavements, shoulders, curbs, driveways, sidewalks, lighting structures, traffic control signs, and all public and private utilities, including, but not limited to, electric power and telephone lines, poles and boxes, underground electric, telephone, and communication lines, potable water lines, fire hydrants and valve boxes, gas lines, wells, sanitary sewers including septic systems, rim and invert elevations of manholes and cleanouts, and the rims and invert elevations and type of storm water structures, drainage ditches, ponds, streams and waterways, flood zones and flood zone boundaries and elevations, and State and Federal wetlands, trees, cemeteries and historic features, and the finished floor elevations of buildings.
7. Plans shall show the seal and signature of a registered Delaware land surveyor or registered Delaware professional engineer.
8. The plan requires a Certification Signature and/or a Certification Block for the Delaware Professional Engineer or Delaware Land Surveyor.
9. The plan requires a Certification Signature and/or a Certification Block for the Owner or Representative of the Owner.
10. The plan requires a Certification Signature and/or a Certification Block for the Professional Wetlands Delineator.
11. The name, address, phone number and contact person's name of the Owner of Record, the Developer and the Engineer or Surveyor preparing the plan.
12. Indicate the location of all wetlands (both state and federal), in order to facilitate compliance with County, State and Federal requirements.
13. Define the courses and distances of the property perimeter and the approximate acreage contained therein. Establish and set in the field two (2) CONCRETE MONUMENT project bench marks, preferably at property perimeter corners, georeferenced to the Delaware State Plane Coordinate system NAD 83 and show the location including the North and East coordinates of the marks on the plans.
14. Indicate the development construction phases proposed showing the boundaries of each phase. Phasing boundaries shall include buildings, residential units, amenities, roads, storm water management facilities, wastewater systems and all other improvements and utilities required to service each phase.
15. Show the layout, width and names of all streets, alleys, crosswalks and easements proposed to be dedicated for private or public use. Street names shall not duplicate nor closely resemble existing street names in the same hundred or postal district, except for extensions of existing streets.
16. Provide the limits and elevations of the one-hundred (100) year flood. This may require the design engineer to complete an analysis and provide a report including the depiction of the subject watershed(s), calculations and other technical data necessary to determine the limits and elevations base flood.
17. For parking lots and drives, provide spot elevations at the edge of pavement, right-ofway or travel way centerline, at changes in grade, and high points and low points, to the nearest drainage facilities. Show the limits of the various surface materials and provide construction sections.
18. Provide and show the locations and details of all ADA compliant accessible walks and ramp features.
19. If the site has a cemetery located on it the Developer shall contact the Delaware State Historic Preservation Office and satisfy the requirements of that Office prior to beginning any construction activity. This area shall not be disturbed by this project. Adequate access to the site and buffers to protect the site, shall be provided.
20. Private rights-of-way adjacent to and abutting parcels not part of the project shall be located and designed to provide adequate buffer so that construction activities do not encroach onto adjacent properties.
21. Provide statements explaining how and when the developer proposes to provide and install the required water supply, sewers or other means of sewage disposal, street pavement, drainage structures and any other required improvements.
22. Provide statements concerning any proposed deed restrictions to be imposed by the owner.
23. Where special physical conditions exist, which may act as constraints on normal development or may preclude development, the developer may be required to submit special technical data, studies or investigations. This information must be prepared by individuals technically qualified to perform such work. Additional information may include but is not limited to the following: on-site sanitary sewage disposal feasibility, water supply surveys, such as test well drilling, storm water runoff computations and identification of areas subject to periodic flooding.
24. If special conditions are found to exist, the Engineering Department may elect to withhold approval of a construction plan until it is determined that it is technically feasible to overcome such conditions. The Engineering Department may then require the developer to incorporate specific improvement design criteria into the plat as a condition to its approval.
25. When special studies or investigations pertain to a regulatory program of another public agency, the developer shall submit the results of these studies or investigations to said public agencies for technical review and approval. Approvals and/or written comments from these agencies shall be supplied to Sussex County by the developer.

## UTILITY PLANNING DIVISION COMMENTS

REVIEWER: Rob Davis
APPLICATION: 2018-27 - Zinszer Property
APPLICANT: Estuary Development, LLC
FILE NO: MC-13.00
TAX MAP \&
PARCEL(S): 134-19.00 Parcel 105
LOCATION: On the northeast corner of The Estuary Subdivision, Phase1D
NO. OF UNITS: ..... 34
GROSS
ACREAGE: ..... 26.87
SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE: 4

## SEWER:

(1). Is the project in a County operated and maintained sanitary sewer and/or water district? Yes $\square \quad$ No $\boxtimes$
a. If yes, see question (2).
b. If no, see question (7).
(2). Which County Tier Area is project in? Tier 2
(3). Is wastewater capacity available for the project? Yes, As Proposed If not, what capacity is available?
(4). Is a Construction Agreement required? Yes If yes, contact Utility Engineering at (302) 855-7717.
(5). Are there any System Connection Charge (SCC) credits for the project? No If yes, how many? N/A. Is it likely that additional SCCs will be required? Yes If yes, the current System Connection Charge Rate is $\$ 6,360.00$ per EDU. Please contact Blair Lutz at 302-855-7719 for additional information on charges.
(6). Is the project capable of being annexed into a Sussex County sanitary sewer
district? Yes
$\boxtimes$ Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.
(7). Is project adjacent to the Unified Sewer District? Yes
(8). Comments: The Preliminary Subdivision Plan indicates the project will connect to a Sussex County operated sanitary sewer district. The project adjoins Sussex County's Unified Sanitary Sewer District and can be annexed into the sewer district using the County's administrative procedure. The proposed project is within system design assumptions for sewer service and sewer capacity is available for the proposed project. Connection to the sewer system is mandatory. Sewer service has not been provided to the parcel at this time. Potential sewer connection points may become available in the future through The Estuary subdivision. The developer will be required to construct regional infrastructure in order to connect to central sewer. The developer must also extend sewer service to all adjoining parcels that are not currently served with central sewer. Sussex County requires design and construction of the collection and transmission system to meet Sussex County sewer standards and specifications. One-time system connection charges will apply. Please contact Mrs. Blair Lutz at 302 855-7701 for additional information on charges.
(9). Is a Sewer System Concept Evaluation required? Yes, Contact Utility Planning at 302-855-1299 to apply
(10). Is a Use of Existing Infrastructure Agreement Required? Yes

If the above items, as applicable, are incorporated into the development plans, then preliminary approval is recommended. However, final plan approval should be withheld pending the approval of the construction plans by the Sussex County Engineering Department.

October 22, 2018

Ms. Christin Headley
Sussex County Planning \& Zoning Commission
PO Box 417
Georgetown, DE 19947
Re: Sussex County Technical Advisory Committee
Dear Ms. Headley:
The Division of Public Health Office of Engineering is in receipt of the following application:

## 1. Application: 2018-27 Zinszer Property

This application indicates central water will be supplied by Tidewater Utilities, Inc. This project requires an Approval to Construct and an Approval to Operate from the Office of Engineering when constructing a new water system or altering an existing water system. In order to obtain an Approval to Construct, plans and specifications must be prepared by a registered Delaware professional engineer. Plans for the system, including water mains or extensions thereto, storage facilities, treatment works, and all related appurtenances, must be approved by the Office of Engineering prior to construction. It is the owner's responsibility to ensure as-built drawings are maintained throughout all phases of construction.

Prior to receiving an Approval to Operate for these projects, the Office of Engineering requires one set of as-built drawings, including profile markups, for all plans approved for construction. Approvals to Operate will be issued after all applicable requirements are met.

Please do not hesitate to contact me at 302-741-8646 with questions or comments.


William J. Mifliken, Jr.
Engineer III
Office of Engineering

[^2]GEORGE, MILES \& BUHR, LLC

-     -         -             - 

ARCHITECTS
ENGINEERS

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

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        SALISBURY BALTIMORE SEAFORD
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www.gmbnet.com

JAMES H. WILEY, JR., PE PETER A. BOZICK, JR., PE JUDY A. SCHWARTZ, PE CHARLES M. O'DONNELL, III, PE W. BRICE FOXWELL, PE A. REGGIE MARINER, JR., PE JAMES C. HOAGESON, PE STEPHEN L. MARSH. PE DAVID A. VANDERBEEK, PE ROLAND E. HOLLAND, PE JASON M. LYTLE, PE CHRIS B. DERBYSHIRE, PE W. MARK GARDOCKY, PE MORGAN H. HELFRICH, AlA KATHERINE J. MCALLISTER, PE

JOHN E, BURNSWORTH, PE MICHAEL G. KOBIN, PE VINCENT A. LUCIANI, PE ANDREW J. LYONS, JR., PE W. NICHOLAS LLOYD AUTUMN J. WILLS

March 13, 2019
Sussex County
Department of Planning and Zoning
2 The Circle
Georgetown, DE 19947
Attn: Mr. Jamie Whitehouse
Planning \& Zoning Manager
Re: Response to Technical Advisory Committee (TAC)
Review Comments
Zinszer Property
Subdivision \#2019.06
GB \# 1800235

Dear Mr. Whitehouse:

Please accept this letter as the formal response to the Technical Advisory Committee (TAC) Review Comments, included in the Staff Review Letter, dated February 6, 2019, for the above referenced project. The original TAC review comments are included below with our responses highlighted in red and italicized.

Please feel free to contact our office with any questions or comments.
Sincerely,


Stephen L. Marsh, P. E. Sr. Vice President

SLM/cl
cc: Estuary Development, LLC Attn: Mr. John Galiani


## Waste and Hazardous Substances / SIRS - Review Date- 11/13/2018

## Regulations/Code Requirements

DNREC's Site Investigation and Restoration Section (SIRS) has reviewed the proposed project.

- If it is determined by the Department that there was a release of a hazardous substance on the property in question and the Department requires remediation pursuant to the Hazardous Substance Cleanup Act, the provisions of 7 Del. C. Chapter 91, Delaware Hazardous Substance Cleanup Act and the Delaware Regulations Governing Hazardous Substance Cleanup shall be followed."
- There are no SIRS sites found within a $1 / 2$-mile radius of the proposed project.


## Suggestions

- SIRS strongly recommend that the land owner performs appropriate environmental due diligence as necessary of the property.
- Additional remediation may be required if the project property or site is re-zoned by the county or state.
- Should a release or imminent threat of a release of hazardous substances be discovered during the course of development (e.g., contaminated water or soil), construction activities should be discontinued immediately and DNREC should be notified at the 24 -hour emergency number (800-662-8802). SIRS should also be contacted as soon as possible at 302-395-2600 for further instructions. Comments noted.

Comments noted. If any hazardous materials are discovered during site work, the appropriate agencies will be notified immediately.

## Delaware Health \& Social Services - Division of Public Health - Review Date 10/22/2018

This application indicates central water will be supplied by Artesian Water Company, Inc. This project requires an Approval to Construct and an Approval to Operate from the Office of Engineering when constructing a new water system or altering an existing water system. In order to obtain an Approval to Construct, plans and specifications must be prepared by a registered Delaware professional engineer. Plans for the system, including water mains or extensions thereto, storage facilities, treatment works, and all related appurtenances, must be approved by the Office of Engineering prior to construction.

It is the owner's responsibility to ensure as-built drawings are maintained throughout all phases of construction.

Prior to receiving an Approval to Operate for these projects, the Office of Engineering requires one set of as-built drawings, including profile markups, for all plans approved for construction. Approvals to Operate will be issued after all applicable requirements are met.

Comment noted. The property to be developed is in the Artesian CPCN. However, Artesian water main has not been installed to the area. The proposed development has access only through the right-of-way at the existing Estuary subdivision, which is served by Tidewater Utilities. We are currently working with both Artesian and Tidewater to have the site transferred to Tidewater service area. We have confirmed with Tidewater that capacity is available.

## Sussex County Engineering Department - Division of Public Works - Review Date 11/26/2018

1. Proposed developments with private roads or projects required by the County to conform to or exceed the County street design requirements shall be regulated by and conform to Sussex County Code and the comments here listed.
2. Project Construction Drawings shall show, in detail, the proposed improvements. The work required includes preparation and delivery of an AutoCAD 2012 digitized plan showing existing and proposed lines, grades, topography and features in a given area, which was utilized in preparing plans for construction. The individual sheet types will be in a separate design to show plan views on sheets separate from profile views. In addition, each sheet of the plans shall be submitted in a PDF format.
3. All work shall be geo-referenced to the Delaware State Grid System NAD-83 (HARN) and provided in an AutoCAD 2012 format. North will always be shown in an up direction on all plans.
4. Topographic contours at one-foot intervals shall be shown and referenced to United States Geological Survey Mean Sea Level Datum NAVD 1988 Datum.
5. The plans shall be provided on 24 " $\times 36$ " drawing sheets at a scale of $1 "=50$ '.

The plans shall show and address the following items at minimum:
6. The project requires professional land surveying services to accurately delineate, and show the following items but is not limited to the following: all property and right-of-way lines, established at a minimum, two (2) horizontal and vertical control concrete project benchmarks, survey monuments, easements, existing and proposed topographic contours at 1-foot vertical intervals and spot elevations as necessary to establish grades, the locations of all existing structures, highway and roadway pavements, shoulders, curbs, driveways, sidewalks, lighting structures, traffic control signs, and all public and private utilities, including, but not limited to, electric power and telephone lines, poles and boxes, underground electric, telephone, and communication lines, potable water lines, fire hydrants and valve boxes, gas lines, wells, sanitary sewers including septic systems, rim and invert elevations of manholes and cleanouts, and the rims and invert elevations and type of storm water structures, drainage ditches, ponds, streams and waterways, flood zones and flood zone boundaries and elevations, and State
and Federal wetlands, trees, cemeteries and historic features, and the finished floor elevations of buildings.
7. Plans shall show the seal and signature of a registered Delaware land surveyor or registered Delaware professional engineer.
8. The plan requires a Certification Signature and/or a Certification Block for the Delaware Professional Engineer or Delaware Land Surveyor.
9. The plan requires a Certification Signature and/or a Certification Block for the Owner or Representative of the Owner.
10. The plan requires a Certification Signature and/or a Certification Block for the Professional Wetlands Delineator.
11. The name, address, phone number and contact person's name of the Owner of Record, the Developer and the Engineer or Surveyor preparing the plan.
12. Indicate the location of all wetlands (both state and federal), in order to facilitate compliance with County, State and Federal requirements.
13. Define the courses and distances of the property perimeter and the approximate acreage contained therein. Establish and set in the field two (2) CONCRETE MONUMENT project bench marks, preferably at property perimeter corners, georeferenced to the Delaware State Plane Coordinate system NAD 83 and show the location including the North and East coordinates of the marks on the plans.
14. Indicate the development construction phases proposed showing the boundaries of each phase. Phasing boundaries shall include buildings, residential units, amenities, roads, storm water management facilities, wastewater systems and all other improvements and utilities required to service each phase.
15. Show the layout, width and names of all streets, alleys, crosswalks and easements proposed to be dedicated for private or public use. Street names shall not duplicate or closely resemble existing street names in the same hundred or postal district, except for extensions of existing streets.
16. Provide the limits and elevations of the one-hundred (100) year flood. This may require the design engineer to complete an analysis and provide a report including the depiction of the subject watershed(s), calculations and other technical data necessary to determine the limits and elevations base flood.
17. For parking lots and drives, provide spot elevations at the edge of pavement, right-of- way or travel way centerline, at changes in grade, and high points and low points, to the nearest drainage facilities. Show the limits of the various surface materials and provide construction sections.
18. Provide and show the locations and details of all ADA compliant accessible walks and ramp features.

Zinszer Property
TAC Review Responses
19. If the site has a cemetery located on it the Developer shall contact the Delaware State Historic Preservation Office and satisfy the requirements of that Office prior to beginning any construction activity. This area shall not be disturbed by this project. Adequate access to the site and buffers to protect the site, shall be provided.
20. Private rights-of-way adjacent to and abutting parcels not part of the project shall be located and designed to provide adequate buffer so that construction activities do not encroach onto adjacent properties.
21. Provide statements explaining how and when the developer proposes to provide and install the required water supply, sewers or other means of sewage disposal, street pavement, drainage structures and any other required improvements.
22. Provide statements concerning any proposed deed restrictions to be imposed by the owner.
23. Where special physical conditions exist, which may act as constraints on normal development or may preclude development, the developer may be required to submit special technical data, studies or investigations. This information must be prepared by individuals technically qualified to perform such work. Additional information may include but is not limited to the following: on-site sanitary sewage disposal feasibility, water supply surveys, such as test well drilling, storm water runoff computations and identification of areas subject to periodic flooding.
24. If special conditions are found to exist, the Engineering Department may elect to withhold approval of a construction plan until it is determined that it is technically feasible to overcome such conditions. The Engineering Department may then require the developer to incorporate specific improvement design criteria into the plat as a condition to its approval.
25. When special studies or investigations pertain to a regulatory program of another public agency, the developer shall submit the results of these studies or investigations to said public agencies for technical review and approval. Approvals and/or written comments from these agencies shall be supplied to Sussex County by the developer.

We will work closely with the Sussex County Engineering throughout the Design process and accommodate any comments received during their review.

## Utility Planning Division Comments - Review Date 11/25/2018

REVIEWER: Rob Davis
APPLICATION:2018-27- Zinszer Property
APPLICANT: Estuary Development, LLC
FILE NO:MC-13.00
TAX MAP \& PARCEL(S) 134-19.00 Parcel 105

GEORGE, MILES \& BUHR, LLC

LOCATION: On the northeast corner of The Estuary Subdivision, Phase1D NO. OF UNITS:34

GROSS ACREAGE:26.87
SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE:4 SEWER:

1. Is the project in a County operated and maintained sanitary sewer and/or water district?

Yes $\square$ No区
A. If yes, see question (2).
B. If no, see question (7).
2. Which County Tier Area is project in? Tier 2
3. Is wastewater capacity available for the project? Yes, As Proposed If not, what capacity is available?
4. Is a Construction Agreement required? Yes, If yes, contact Utility Engineering at (302) 855-7717.
5. Are there any System Connection Charge (SCC) credits for the project? No If yes, how many? N/A. Is it likely that additional SCCs will be required? Yes

If yes, the current System Connection Charge Rate is $\$ 6,360.00$ per EDU. Please contact Blair Lutz at 302-855-7719 for additional information on charges.
6. Is the project capable of being annexed into a Sussex County sanitary sewer? Yes
®Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.
7. Is project adjacent to the Unified Sewer District? Yes
8. Comments: The Preliminary Subdivision Plan indicates the project will connect to a Sussex County operated sanitary sewer district. The project adjoins Sussex County's Unified Sanitary Sewer District and can be annexed into the sewer district using the County's administrative procedure. The proposed project is within system design assumptions for sewer service and sewer capacity is available for the proposed project. Connection to the sewer system is mandatory. Sewer service has not been provided to the parcel at this time. Potential sewer connection points may become available in the future through The Estuary subdivision. The developer will be required to construct regional infrastructure in order to connect to central sewer. The developer must also extend sewer service to all adjoining parcels that are not currently served with central sewer. Sussex County requires design and construction of the collection

GEORGE, MILES \& BUHR, LLC

Zinszer Property<br>TAC Review Responses<br>March 13, 2019<br>Page 7 of 9

and transmission system to meet Sussex County sewer standards and specifications. One-time system connection charges will apply. Please contact Mrs. Blair Lutz at 302 855-7701 for additional information on charges.
9. Is a Sewer System Concept Evaluation required? Yes, Contact Utility Planning at 302-855-1299 to apply
10. Is a Use of Existing Infrastructure Agreement Required? Yes

If the above items, as applicable, are incorporated into the development plans, then preliminary approval is recommended. However, final plan approval should be withheld pending the approval of the construction plans by the Sussex County Engineering Department.

We will work closely with the Utility Planning Division throughout the design process and accommodate any comments received during their review. The project will be served by the extension of the sewer from the existing Estuary development, through the existing right-of-way. We have submitted a Sewer System Concept Evaluation request to the Sussex County Engineering Department and have begun the annexation process into the Miller Creek Sanitary Sewer District.

Department of Agriculture - Reviewed - 11/27/2018
The Sussex County Planning and Zoning Forested Buffer Ordinance Number 1984 Section 99-5 requires a forested buffer, Zinszer Property has no forested buffer indicated. More clarity is needed to see if the property is held to the forested buffer.
Sussex County Planning and Zoning Forested Buffer Ordinance Number 1984 Section 99-5 also requires a planting list which is to follow $70 \%$ deciduous and $30 \%$ evergreens to be planted in the buffer strip which was not provided in the plans. A comprehensive display of plantings in the buffers should be included with species being used for review. We recommend a planting list to be provided for review as well as planting specifications.

Much of the site is currently wooded. As such, certain areas will remain wooded and these existing wooded areas will serve as the required forested buffer. A Landscape Plan with planting plan for buffers will be submitted with the Final Subdivision Plan for review and approval by Sussex County.

## Office of State Fire Marshal - Reviewed - 10/22/2018

At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

## a. Fire Protection Water Requirements:

$>$ Where a water distribution system is proposed for single-family dwellings it shall be capable of delivering at least 500 gpm for 1 -hour duration, at 20-psi residual pressure. Fire hydrants with 1000 feet spacing on centers are required. (One \& Two-Family Dwelling)

GEORGE, MILES \& BUHR, LLC
$>$ Where a water distribution system is proposed for the site, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.

## b. Fire Protection Features:

## c. Accessibility:

A All premises, which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from Seaspray Ln must be constructed so fire department apparatus may negotiate it.
$>$ Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft . of the front door.
$\Rightarrow$ Any dead-end road more than 300 feet in length shall be provided with a turnaround or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
$>$ The use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.
> The local Fire Chief, prior to any submission to our Agency, shall approve in writing the use of gates that limit fire department access into and out of the development or property.

## d. Gas Piping and System Information:

P Provide type if fuel proposed and show locations of bulk containers on plan.

## e. Required Notes:

> Provide a note on the final plans submitted for review to read "All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations"
$\Rightarrow$ Proposed Use
> Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
> National Fire Protection Association (NFPA) Construction Type
$>$ Maximum Height of Buildings (including number of stories)
$>$ Note indicating if building is to be sprinklered
> Name of Water Provider
$>$ Letter from Water Provider approving the system layout
$>$ Provide Road Names, even for County Roads

GEORGE, MILES \& BUHR, LLC

All State Fire Marshal requirements will be met as part of our Final Site Plan submittal sets. Plans will be submitted to the Office of the State Fire Marshal for review and approval.

## DNREC Groundwater Discharges Section - Reviewed - 10/18/2018

The Groundwater Discharges Section has no comment on the Zinszer Property (201827) since it is proposed to utilize public sewer.

## Delaware Electric Cooperative-Reviewed - 10/18/2018

This property is located within DEC's service territory and we have facilities in the area to serve the proposed development.

# Zinszer Property <br> Parcel 534-19.00-105.00 Subdivision \# 2019-6 

## Public Hearing Information Packet

March 28, 2019


GMB Project No. 180235


GEORGE, MILES \& BUHR, LLC

ARCHITECTS/ENGINEERS

# ZINSZER PROPERTY 

TAX MAP 134-19.00 PARCEL 105.00
Subdivision \#2019-6

INFORMATION FOR PUBLIC RECORD
March 2018

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- Sussex County Comprehensive Plan - Woodlands \& Natural Areas


## EXECUTIVE SUMMARY

## Zinszer Property <br> Subdivision \#2019-6

## Executive Summary

The developer, DE Land Investment Z LLC, is applying to subdivide the property adjacent to the north of the Estuary Phase 1D with single family home lots. The property is a part of Tax Map Pared \#134-19.00-105.00 (platted as Parcel 105.05), with a total area of 26.87 acres. Development activities are contained to 12.5 acres. Approximately 16.4 acres, or $61 \%$ of the parcel, will remain open space.

The parcel is zoned AR (Agricultural Residential) and is in the ESDDOZ (Environmentally Sensitive Developing District Overlay Zone). The developer proposes a cluster development with 34 units on 26.87 acres, for a proposed density of 1.27 units per acre. The overall density of the Estuary remains less than 1.47 lots per acre.

Road connection will be made through Phase 1D of the existing Estuary subdivision. The Estuary subdivision plat has previously been revised and re-recorded to accommodate the connection. The proposed development will become part of the Estuary HOA with the same restrictive covenants, dues and assessments. The home types will be consistent with the Estuary; so, the proposed extension will blend seamlessly with the existing development.

Central sewer will be provided by Sussex County, through the existing ROW connection, Central water will be provided by Tidewater Utilities. Stormwater Management will meet the requirements of the Sussex Conservation District. A 50' buffer is provided along Brasure's Branch tax ditch. The project team is investigating the construction of an enhanced flood plain and wetland shelf on the north side of Brasure's Branch which will provide water quality, flood control, and habitat benefits. A minimum 30' buffer is provided around the project and a voluntary minimum 15 ' buffer is provided off nontidal wetlands.

The main amenities at the Estuary are the pool/clubhouse complex, dog park and nature trail system. The original clubhouse approval called for construction of a 9,200 SF clubhouse, a 1,000 SF pool side pavilion, main pool, kiddie pool and pool deck. These will all be available to the proposed 34 units. In addition, since that time, the developer has added an expanded dog park in Estuary Phase 2, and added two pickle ball courts, a golf putting green, two bocce courts, out filled the gym with enough equipment for the extra homeowners. An additional $\$ 100,000$ of Clubhouse improvements are planned for this Spring including mostly in furniture and cabanas upgrades. The existing amenities are more than adequate for the additional 34 homes.








## PLANNING \& ZONING

ARCHITECTS ENGINEERS

206 WEST MAIN STREET
SALISBURY, MD 21801
PH: 410.742.3115
$\mathrm{PH}: 800.789 .4462$
FAX: 410.548 .5790

SALISBURY BALTIMORE SEAFORD
www.gmbnet.com

## TRANSMITTAL

DATE
TO

N

January 18, 2019
Sussex County
Planning \& Zoning Dept.
2 The Circle
Georgetown, DE 19947
Ms. Lauren DeVore
Planner III

GIB NO: 180235
RE: $\quad$ Zinszer Property
2018-27
PS

Hand
Delivered

COPIES: DESCRIPTION:

2 Revised Preliminary Subdivision Plan (24X36)

1 Preliminary Subdivision Application

1 GMB Check - \$500.00 - Subdivision Plan Application
Fee

REMARKS: Per our recent conversations, we hereby submit a new application, fee and plans for your review. Please note, our response to the Staff Review Letter, dated 12/5/2018 was submitted to your office on 12/15/2018, and comments are addressed on the enclosed plans. Please contact me with any questions or comments.
COPIES TO:


Stephen L. Marsh, P.E.
Sr. Vice President

File \#: $\qquad$

# Sussex County Major Subdivision Application Sussex County, Delaware <br> Sussex County Planning \& Zoning Department 2 The Circle (P.O. Box 417) Georgetown, DE 19947 302-855-7878 ph. 302-854-5079 fax 



## Check List for Sussex County Major Subdivision Applications

The following shall be submitted with the application
$\underline{X}$
Completed Application
$\underline{X}$
Provide fifteen (15) copies of the Site Plan or Survey of the property and a PDF (via e-mail)

- Plan shall show the existing conditions, setbacks, roads, floodplain, wetlands, topography, proposed lots, landscape plan, etc. Per Subdivision Code 99-22, 99-23 \& 99-24
- Provide compliance with Section 99-9.
- Deed or Legal description, copy of proposed deed restrictions, soil feasibility study

X Provide Fee $\$ 500.00$
_ Optional - Additional information for the Commission to consider (ex. photos, exhibit books, etc.) If provided submit seven (7) copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting. *Exhibit Books will be sent prior to the meeting.
X Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.

- PLUS Response Letter (if required)

51\% of property owners consent if applicable

The undersigned hereby certifies that the forms, exhibits, and statements contained in any papers or plans submitted as a part of this application are true and correct.

I also certify that I or an agent on by behalf shall attend all public hearing before the Planning and Zoning Commission and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future needs, the health, safety, morals, convenience, order, prosperity, and general welfare of the inhabitants of Sussex County, Delaware.

## Signature of Applicont/Agent/Attorney



Date:


## Signature of Owner



For office use only:
Date Submitted: $\qquad$ Fee: $\$ 500.00$ Check \#:
Staff accepting application: $\qquad$ Application \& Case \#:
Location of property: $\qquad$
$\qquad$

Date of PC Hearing: $\qquad$ Recommendation of PC Commission: $\qquad$

March 13, 2019

Sussex County<br>Department of Planning and Zoning<br>2 The Circle<br>Georgetown, DE 19947<br>Attn: Ms. Lauren DeVore<br>Planner III<br>RE: Zinszer Property Subdivision \# 2019-6 GMB \# 180235

Dear Ms. DeVore:
Please accept this letter as the formal response to your Staff Review Letter, dated February 6, 2019. We have provided point by point responses to the comments as highlighted below. We look forward to further comments your staff may have and plan to submit the informational binders prior to the Public Hearing.

## Preliminary Subdivision Plan

Comment 1: Please add the updated subdivision reference to the top of all future copies of the Subdivision Plan (2019-6).
Response 1: The updated Subdivision Reference Number has been added to the plans.

Comment 2: Please add the seal and signature of a "registered Delaware land surveyor or registered Delaware professional engineer" (§9922(A)).
Response 2: The Delaware Engineer's seal for Steve Marsh, P.E. has been added to the appropriate sheets.

Comment 3: The north arrow should always be at the top of the plat (§9923(D)). Please ensure that all north arrows are on the top of the plat.
Response 3: The sheets have been arranged so the north arrow points vertically on the page, as requested.

Comment 4: The plans indicate that interior side lot lines are reserved for the centerline of a 10 ' wide drainage and/or utility easement as well as a $10^{\prime}$ wide easement for front and rear property lines. A $5^{\prime}$ wide access easement is also reserved along front property lines. Please add text indicating the proposed location of these easements on the plan (§99-23(H)).
Response 4: The 5' wide access easement along the front property line is not needed. We have shown a typical lot configuration with the necessary easements indicated.

Planning \& Zoning

| Comment 5: | Please add full dimensioning for all proposed lots to ensure that they meet minimum lot requirements as well as lot area (§99-23(K)). |
| :---: | :---: |
| Response 5: | We have included preliminary plat sheets that reflect lot areas and lot dimensions for each proposed lot. |
| Comment 6: | Please add to the Site Data Column the Groundwater Recharge Potential of the parcel. Accordingly, to FirstMap, most of the parcel is located in a "fair" recharge area with the northeastern portion of the parcel lying in a "good" recharge area. The plan must comply with the requirements of County Code Chapter 89 "Source Water Protection." |
| Response 6: | All runoff will be managed per the requirements of the Sussex Conservation District. Infiltration practices will be explored and integrated when appropriate, however, the ground elevation is relatively low. |
| Comment 7: | Please provide a statement that clearly outlines, in tentative form, the proposed deed restrictions to be imposed (§99-24(B)). |
| Response 7: | Proposed Covenants and Deed Restrictions have been provided by the attorney representing the developer and will be included in the project binder. |
| Comment 8: | Prior to approval of the Final Subdivision Site Plan, approval letters or "letters of no objection" from the following agencies shall be submitted to the Sussex County Planning and Zoning Department: |
|  | a. Delaware Department of Transportation <br> b. Sussex Conservation District |
|  | c. Office of the State Fire Marshal |
|  | d. Sussex County Department of Engineering |
|  | e. Sussex County Mapping and Addressing |
| Response 8: | All approvals will be obtained prior to Final Subdivision Site Plan Submittal. |

If you have any questions or comments, please feel free to contact me by telephone at (410) 742-3115 or by e-mail at smarsh@gmbnet.com.

Sincerelv.


Stephen L. Marsh, P.E., LEED AP, CPSWQ Senior Vice President

## Enclosures

- Seven (7) Copies of the Preliminary Subdivision Plan (11x17)
- One (1) Copy of the Preliminary Subdivision Plan (24x36)
- One (1) Copy of the Preliminary Subdivision Plan (CD)
cc: Estuary Development, LLC
Attn: Mr. John Galiani (w/o encl.)

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

SALISBURY BALTIMORE
SEAFORD
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JAMES H. WILLEY, JR., PE PETER A. BOZICK, JR., PE JUDY A. SCHWARTZ, PE CHARLES M. O'DONNELL, III, PE W. BRICE FOXWELL, PE A. REGGIE MARINER, JR., PE JAMES C. HOAGESON, PE STEPHEN L. MARSH, PE DAVID A. VANDERBEEK, PE ROLAND E. HOLLAND, PE JASON M. LYTLE, PE CHRIS B. DERBYSHIRE, PE W. MARK GARDOCKY, PE MORGAN H. HELFRICH, AIA KATHERINE J. MCALLISTER, PE

JOHN E. BURNSWORTH, PE MICHAEL G. KOBIN, PE VINCENT A. LUCIANI, PE ANDREW J. LYONS, JR., PE W. NICHOLAS LLOYD AUTUMN J. WILLIS

March 13, 2019
Sussex County
Department of Planning and Zoning
2 The Circle
Georgetown, DE 19947
Attn: Mr. Jamie Whitehouse
Planning \& Zoning Manager
Re: Response to Technical Advisory Committee (TAC)
Review Comments
Zinszer Property
Subdivision \#2019.06
GMB \# 1800235

Dear Mr. Whitehouse:
Please accept this letter as the formal response to the Technical Advisory Committee (TAC) Review Comments, included in the Staff Review Letter, dated February 6, 2019, for the above referenced project. The original TAC review comments are included below with our responses highlighted in red and italicized.

Please feel free to contact our office with any questions or comments.
Sincerely,


Stephen L. Marsh, P. E.
Sr. Vice President
SLM/cl
cc: Estuary Development, LLC
Attn: Mr. John Galiani

GEORGE, MILES \& BUHR, LLC

## Waste and Hazardous Substances / SIRS - Review Date- 11/13/2018

## Regulations/Code Requirements

DNREC's Site Investigation and Restoration Section (SIRS) has reviewed the proposed project.

- If it is determined by the Department that there was a release of a hazardous substance on the property in question and the Department requires remediation pursuant to the Hazardous Substance Cleanup Act, the provisions of 7 Del. C. Chapter 91, Delaware Hazardous Substance Cleanup Act and the Delaware Regulations Governing Hazardous Substance Cleanup shall be followed."
- There are no SIRS sites found within a $1 / 2$-mile radius of the proposed project.


## Suggestions

- SIRS strongly recommend that the land owner performs appropriate environmental due diligence as necessary of the property.
- Additional remediation may be required if the project property or site is re-zoned by the county or state.
- Should a release or imminent threat of a release of hazardous substances be discovered during the course of development (e.g., contaminated water or soil), construction activities should be discontinued immediately and DNREC should be notified at the 24-hour emergency number (800-662-8802). SIRS should also be contacted as soon as possible at 302-395-2600 for further instructions. Comments noted.

Comments noted. If any hazardous materials are discovered during site work, the appropriate agencies will be notified immediately.

Delaware Health \& Social Services - Division of Public Health - Review Date 10/22/2018

This application indicates central water will be supplied by Artesian Water Company, Inc. This project requires an Approval to Construct and an Approval to Operate from the Office of Engineering when constructing a new water system or altering an existing water system. In order to obtain an Approval to Construct, plans and specifications must be prepared by a registered Delaware professional engineer. Plans for the system, including water mains or extensions thereto, storage facilities, treatment works, and all related appurtenances, must be approved by the Office of Engineering prior to construction.

It is the owner's responsibility to ensure as-built drawings are maintained throughout all phases of construction.

GEORGE, MILES \& BUHR, LLC

Prior to receiving an Approval to Operate for these projects, the Office of Engineering requires one set of as-built drawings, including profile markups, for all plans approved for construction. Approvals to Operate will be issued after all applicable requirements are met.

Comment noted. The property to be developed is in the Artesian CPCN. However, Artesian water main has not been installed to the area. The proposed development has access only through the right-of-way at the existing Estuary subdivision, which is served by Tidewater Utilities. We are currently working with both Artesian and Tidewater to have the site transferred to Tidewater service area. We have confirmed with Tidewater that capacity is available.

## Sussex County Engineering Department - Division of Public Works - Review Date 11/26/2018

1. Proposed developments with private roads or projects required by the County to conform to or exceed the County street design requirements shall be regulated by and conform to Sussex County Code and the comments here listed.
2. Project Construction Drawings shall show, in detail, the proposed improvements. The work required includes preparation and delivery of an AutoCAD 2012 digitized plan showing existing and proposed lines, grades, topography and features in a given area, which was utilized in preparing plans for construction. The individual sheet types will be in a separate design to show plan views on sheets separate from profile views. In addition, each sheet of the plans shall be submitted in a PDF format.
3. All work shall be geo-referenced to the Delaware State Grid System NAD-83 (HARN) and provided in an AutoCAD 2012 format. North will always be shown in an up direction on all plans.
4. Topographic contours at one-foot intervals shall be shown and referenced to United States Geological Survey Mean Sea Level Datum NAVD 1988 Datum.
5. The plans shall be provided on $24^{\prime \prime} \times 36$ " drawing sheets at a scale of $1 "=50^{\prime}$.

The plans shall show and address the following items at minimum:
6. The project requires professional land surveying services to accurately delineate, and show the following items but is not limited to the following: all property and right-of-way lines, established at a minimum, two (2) horizontal and vertical control concrete project benchmarks, survey monuments, easements, existing and proposed topographic contours at 1-foot vertical intervals and spot elevations as necessary to establish grades, the locations of all existing structures, highway and roadway pavements, shoulders, curbs, driveways, sidewalks, lighting structures, traffic control signs, and all public and private utilities, including, but not limited to, electric power and telephone lines, poles and boxes, underground electric, telephone, and communication lines, potable water lines, fire hydrants and valve boxes, gas lines, wells, sanitary sewers including septic systems, rim and invert elevations of manholes and cleanouts, and the rims and invert elevations and type of storm water structures, drainage ditches, ponds, streams and waterways, flood zones and flood zone boundaries and elevations, and State
and Federal wetlands, trees, cemeteries and historic features, and the finished floor elevations of buildings.
7. Plans shall show the seal and signature of a registered Delaware land surveyor or registered Delaware professional engineer.
8. The plan requires a Certification Signature and/or a Certification Block for the Delaware Professional Engineer or Delaware Land Surveyor.
9. The plan requires a Certification Signature and/or a Certification Block for the Owner or Representative of the Owner.
10. The plan requires a Certification Signature and/or a Certification Block for the Professional Wetlands Delineator.
11. The name, address, phone number and contact person's name of the Owner of Record, the Developer and the Engineer or Surveyor preparing the plan.
12. Indicate the location of all wetlands (both state and federal), in order to facilitate compliance with County, State and Federal requirements.
13. Define the courses and distances of the property perimeter and the approximate acreage contained therein. Establish and set in the field two (2) CONCRETE MONUMENT project bench marks, preferably at property perimeter corners, georeferenced to the Delaware State Plane Coordinate system NAD 83 and show the location including the North and East coordinates of the marks on the plans.
14. Indicate the development construction phases proposed showing the boundaries of each phase. Phasing boundaries shall include buildings, residential units, amenities, roads, storm water management facilities, wastewater systems and all other improvements and utilities required to service each phase.
15. Show the layout, width and names of all streets, alleys, crosswalks and easements proposed to be dedicated for private or public use. Street names shall not duplicate or closely resemble existing street names in the same hundred or postal district, except for extensions of existing streets.
16. Provide the limits and elevations of the one-hundred (100) year flood. This may require the design engineer to complete an analysis and provide a report including the depiction of the subject watershed(s), calculations and other technical data necessary to determine the limits and elevations base flood.
17. For parking lots and drives, provide spot elevations at the edge of pavement, right-of- way or travel way centerline, at changes in grade, and high points and low points, to the nearest drainage facilities. Show the limits of the various surface materials and provide construction sections.
18. Provide and show the locations and details of all ADA compliant accessible walks and ramp features.
19. If the site has a cemetery located on it the Developer shall contact the Delaware State Historic Preservation Office and satisfy the requirements of that Office prior to beginning any construction activity. This area shall not be disturbed by this project. Adequate access to the site and buffers to protect the site, shall be provided.
20. Private rights-of-way adjacent to and abutting parcels not part of the project shall be located and designed to provide adequate buffer so that construction activities do not encroach onto adjacent properties.
21. Provide statements explaining how and when the developer proposes to provide and install the required water supply, sewers or other means of sewage disposal, street pavement, drainage structures and any other required improvements.
22. Provide statements concerning any proposed deed restrictions to be imposed by the owner.
23. Where special physical conditions exist, which may act as constraints on normal development or may preclude development, the developer may be required to submit special technical data, studies or investigations. This information must be prepared by individuals technically qualified to perform such work. Additional information may include but is not limited to the following: on-site sanitary sewage disposal feasibility, water supply surveys, such as test well drilling, storm water runoff computations and identification of areas subject to periodic flooding.
24. If special conditions are found to exist, the Engineering Department may elect to withhold approval of a construction plan until it is determined that it is technically feasible to overcome such conditions. The Engineering Department may then require the developer to incorporate specific improvement design criteria into the plat as a condition to its approval.
25. When special studies or investigations pertain to a regulatory program of another public agency, the developer shall submit the results of these studies or investigations to said public agencies for technical review and approval. Approvals and/or written comments from these agencies shall be supplied to Sussex County by the developer.

We will work closely with the Sussex County Engineering throughout the Design process and accommodate any comments received during their review.

## Utility Planning Division Comments - Review Date 11/25/2018

REVIEWER: Rob Davis
APPLICATION:2018-27- Zinszer Property
APPLICANT: Estuary Development, LLC
FILE NO:MC-13.00
TAX MAP \& PARCEL(S) 134-19.00 Parcel 105

GEORGE, MILES \& BUHR, LLC

LOCATION: On the northeast corner of The Estuary Subdivision, Phase1D NO. OF UNITS:34

GROSS ACREAGE:26.87

## SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE:4

 SEWER:1. Is the project in a County operated and maintained sanitary sewer and/or water district?

Yes $\square$ No区
A. If yes, see question (2).
B. If no, see question (7).
2. Which County Tier Area is project in? Tier 2
3. Is wastewater capacity available for the project? Yes, As Proposed If not, what capacity is available?
4. Is a Construction Agreement required? Yes, If yes, contact Utility Engineering at (302) 855-7717.
5. Are there any System Connection Charge (SCC) credits for the project? No If yes, how many? N/A. Is it likely that additional SCCs will be required? Yes

If yes, the current System Connection Charge Rate is $\$ 6,360.00$ per EDU. Please contact Blair Lutz at 302-855-7719 for additional information on charges.
6. Is the project capable of being annexed into a Sussex County sanitary sewer? Yes

凹Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.
7. Is project adjacent to the Unified Sewer District? Yes
8. Comments: The Preliminary Subdivision Plan indicates the project will connect to a Sussex County operated sanitary sewer district. The project adjoins Sussex County's Unified Sanitary Sewer District and can be annexed into the sewer district using the County's administrative procedure. The proposed project is within system design assumptions for sewer service and sewer capacity is available for the proposed project. Connection to the sewer system is mandatory. Sewer service has not been provided to the parcel at this time. Potential sewer connection points may become available in the future through The Estuary subdivision. The developer will be required to construct regional infrastructure in order to connect to central sewer. The developer must also extend sewer service to all adjoining parcels that are not currently served with central sewer. Sussex County requires design and construction of the collection
and transmission system to meet Sussex County sewer standards and specifications. One-time system connection charges will apply. Please contact Mrs. Blair Lutz at 302 855-7701 for additional information on charges.
9. Is a Sewer System Concept Evaluation required? Yes, Contact Utility Planning at 302-855-1299 to apply
10. Is a Use of Existing Infrastructure Agreement Required? Yes

If the above items, as applicable, are incorporated into the development plans, then preliminary approval is recommended. However, final plan approval should be withheld pending the approval of the construction plans by the Sussex County Engineering Department.

We will work closely with the Utility Planning Division throughout the design process and accommodate any comments received during their review. The project will be served by the extension of the sewer from the existing Estuary development, through the existing right-of-way. We have submitted a Sewer System Concept Evaluation request to the Sussex County Engineering Department and have begun the annexation process into the Miller Creek Sanitary Sewer District.

## Department of Agriculture - Reviewed - 11/27/2018

The Sussex County Planning and Zoning Forested Buffer Ordinance Number 1984 Section 99-5 requires a forested buffer, Zinszer Property has no forested buffer indicated. More clarity is needed to see if the property is held to the forested buffer.
Sussex County Planning and Zoning Forested Buffer Ordinance Number 1984 Section 99-5 also requires a planting list which is to follow $70 \%$ deciduous and $30 \%$ evergreens to be planted in the buffer strip which was not provided in the plans. A comprehensive display of plantings in the buffers should be included with species being used for review. We recommend a planting list to be provided for review as well as planting specifications.

Much of the site is currently wooded. As such, certain areas will remain wooded and these existing wooded areas will serve as the required forested buffer. A Landscape Plan with planting plan for buffers will be submitted with the Final Subdivision Plan for review and approval by Sussex County.

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At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

## a. Fire Protection Water Requirements:

> Where a water distribution system is proposed for single-family dwellings it shall be capable of delivering at least 500 gpm for 1 -hour duration, at 20 -psi residual pressure. Fire hydrants with 1000 feet spacing on centers are required. (One \& Two-Family Dwelling)
> Where a water distribution system is proposed for the site, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.

## b. Fire Protection Features:

## c. Accessibility:

> All premises, which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from Seaspray Ln must be constructed so fire department apparatus may negotiate it.
> Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft . of the front door.
> Any dead-end road more than 300 feet in length shall be provided with a turnaround or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
> The use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.
> The local Fire Chief, prior to any submission to our Agency, shall approve in writing the use of gates that limit fire department access into and out of the development or property.

## d. Gas Piping and System Information:

> Provide type if fuel proposed and show locations of bulk containers on plan.

## e. Required Notes:

> Provide a note on the final plans submitted for review to read "All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations"
> Proposed Use
> Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
> National Fire Protection Association (NFPA) Construction Type
$>$ Maximum Height of Buildings (including number of stories)
$>$ Note indicating if building is to be sprinklered
$>$ Name of Water Provider
Letter from Water Provider approving the system layout
> Provide Road Names, even for County Roads

All State Fire Marshal requirements will be met as part of our Final Site Plan submittal sets. Plans will be submitted to the Office of the State Fire Marshal for review and approval.

## DNREC Groundwater Discharges Section - Reviewed - 10/18/2018

The Groundwater Discharges Section has no comment on the Zinszer Property (201827) since it is proposed to utilize public sewer.

Delaware Electric Cooperative - Reviewed - 10/18/2018
This property is located within DEC's service territory and we have facilities in the area to serve the proposed development.

## Zinszer Property

Subdivision \# 2019-6

## Chapter 99 - Subdivision of Land Report

With regard to Section 99-9 of the Sussex County Code, we offer the following comments:

## 1) Integration of the proposed subdivision into existing terrain and surrounding landscape.

The proposed subdivision will be an extension of the existing Estuary subdivision and is surrounded by single family lots, large wooded parcels, the remainder of the original Zinszer homestead, and lands owned by the State of Delaware associated with Camp Barnes and the Assawoman Wildlife Refuge. The bulk of the development is in the existing open area, which sits on a relatively flat open field, above the 100-year floodplain in elevation. There will be some clearing of existing wooded areas, but a minimum 30 ' buffer, serves to retain existing wooded areas along the site boundary with adjacent properties. A 50' buffer along the Brasure's Branch tax ditch will provide a green corridor between the existing Estuary development and the proposed lots, and will connect areas of undisturbed woodlands. The project team is exploring the possibility of an enhanced floodplain and wetland shelf along the northern bank of the tax ditch, with a combination of wetland and upland plantings. A voluntary fifteen (15) foot buffer is proposed along non-tidal wetlands.
2) Minimal use of wetlands and floodplains.

No wetlands are impacted on site. There will be a tax ditch crossing as part of this development that will require approval from the U.S. Army Corps of Engineers (Corps), Delaware Department of Natural Resources (DNREC) Subaqueous Lands Program, and DNREC State Drainage Program. A 50' buffer is provided around Brasure's Branch tax ditch. There is minimal fill being placed in the floodplain. The project team is exploring the possibility of an enhanced floodplain along the northern bank of the tax ditch, which will increase storage in the floodplain. A voluntary fifteen (15) foot buffer is proposed along non-tidal wetlands.
3) Preservation of natural and historical features.

A wooded buffer is retained on site. The site has 18.95 acres of existing wooded area and 12.61 acres of wooded area will remain.
4) Preservation of open space and scenic views.

Approximately $61 \%$ of the 26.87 acres will remain as open space. A green corridor is provided through the center of the project, and a wooded buffer is provided around the project where it abuts adjacent parcels to soften the view of the corridor. A significant portion of the adjacent parcels are owned by the State of Delaware, and will remain undeveloped.
5) Minimization of tree, vegetation and soil removal and grade changes.

Of the 18.95 acres of existing woods on site, approximately 12.61 acres are being retained. The site balances, so minimal soil will be removed off site. There is a gentle grade running from the northwestern portion of the site down to the tax ditch top-of-bank elevation. This grade relationship will remain post-development. The site is relatively high in relation to the existing Base Flood Elevation and perennial stream on site. There are some relatively steep existing grade changes along the southerly side of the site, where the existing grade drops to the stream. The proposed conditions will remain consistent with the existing conditions. This is the only place on site with steep grade changes.
6) Screening of objectionable features from neighboring properties and roadways. A minimum $30^{\prime}$ buffer is provided around the property and the existing woods line, as well as the buffer around the perennial stream, provides a much greater buffer for neighboring properties and provides a softening of the view shed from the original Zinszer homestead. A buffer is also provided from the existing sections of the Estuary community. The adjoining parcel to the northeast is permanently preserved land owned by the State of Delaware. As such, no views from that property will be altered by the proposed development. The proposed home types will be consistent with the existing homes at the Estuary. No homes have yet been sold in the existing Estuary subdivision at the location of the proposed development.
7) Provision for water supply.

The property to be developed is in the Artesian CPCN. However, Artesian water main has not been installed to the area. The proposed development has access only through the right-of-way at the existing Estuary subdivision, which is served by Tidewater Utilities. We are currently working with both Artesian and Tidewater to have the site transferred to Tidewater service area. We have confirmed with Tidewater that capacity is available.
8) Provision for sewage disposal.

The project will be served by the extension of the sewer from the existing Estuary development, through the existing right-of-way. We have received a Sewer System Concept Evaluation from the Sussex County Engineering Department and have begun the annexation process into the Miller Creek Sanitary Sewer District.
9) Prevention of pollution of surface and groundwater.

Stormwater management will meet the requirements of the Sussex Conservation District (SCD), and the goals of the Inland Bay Pollution Control Strategies.
10) Minimization of erosion and sedimentation, minimization of changes in groundwater levels, minimization of increased rates of runoff, minimization of potential for flooding and design of drainage so that groundwater recharge is maximized.
Stormwater management will meet SCD requirements. Ponds will be unlined to allow for infiltration while the ditch system is being enhanced, ditch inverts will remain the same, so impact on groundwater elevation should be minimal. County Staff encouraged infiltration where appropriate, so infiltration opportunities will be explored. The project team is exploring the possibility of an enhanced floodplain and wetland shelf along the northern
bank of the tax ditch, with a combination of wetland and upland plantings. This will increase capacity in the ditch for storage of runoff, and will provide both water quality and habitat benefits. A HEC-RAS analysis is required for the 100-year event for the Sussex Conservation District review. Approval will require that the proposed development does not increase flow rate or water level for the 100-year event at the downstream analysis point.
11) Provision for safe vehicular and pedestrian movement within the site and to adjacent ways.
The street layout is a continuation of the approved Estuary Phase 1D street layout. As such, the streets and sidewalks will tie into the previously approved vehicular and pedestrian network. By code, the 25-year water surface elevation in the tax ditch must be evaluated to ensure the tax ditch crossing is set at appropriate elevations. A HEC-RAS analysis is required for the 100-year event for the Sussex Conservation District approval. The crossing at the tax ditch will be above the water surface elevation for the 100-year event.
12) Effect on area property values.

This project is located in a developing area with a mix of home types, predominately lowdensity single-family homes. We believe the project will have a positive impact on area properties based on the proposed product type, the subdivision layout. The project will be consistent with, and blend seamlessly into, the surrounding development as another phase of the Estuary subdivision.
13) Preservation and conservation of farmland.

There is no preservation of farmland, however this area is zoned Agricultural Residential (AR) and the proposed development is consistent with the Comprehensive Plan. There is no current agriculture use on site.
14) Effect on schools, public buildings and community facilities.

Because many of the home buyers in the community are retirees and active adults, we don't anticipate a negative impact on area schools. This phase is an extension of the approved Estuary community.
15) Effect on area roadways and public transportation.

It is not anticipated that public transportation will be impacted by the construction of this phase. Local traffic will increase by an average of 340 daily trips ( 34 homes $\times 10$ average daily trips). The original TIS was approved for 1,060 single family units, with an updated analysis for 653 units. The total for the "as-approved" Estuary subdivision ( 631 units) with the proposed Zinszer addition ( 34 units) is 665 units.
16) Compatibility with other area land uses.

The project site is zoned AR, is within the Environmentally Sensitive Developing District and the proposed development is consistent with the Comprehensive Plan. We would categorize this area as developing with moderate to high priced homes. The proposed development will be consistent with that characterization.

## 17) Effect on area waterways.

Water quality leaving the site will meet or exceed the levels required by Sussex Conservation District and the Inland Bays Pollution Control Strategy. The project team is exploring the possibility of an enhanced floodplain and wetland shelf along the northern bank of the tax ditch, with a combination of wetland and upland plantings. This will increase capacity in the ditch for storage of runoff, and will provide both water quality and habitat benefits. A HEC-RAS analysis is required for the 100-year event for the Sussex Conservation District review. Approval will require that the proposed development does not increase flow rate or water level for the 100-year event at the downstream analysis point.

# FUQUA, WILLARD, STEVENS 8، SCHAB, P.A. 

| Paynter house 26 The Circle or P.O. Blx 250 Georgetown, delaware 19947 | James A. Fuqua, Jr. William Schab | Hart House $\square$ <br> 9 Chestnut Street <br> Georgetown, Delaware 19947 |
| :---: | :---: | :---: |
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|  | March 11, 2018 | realestate@fwsslaw.com |

Vince Robertson, Esquire
Parkowski, Guerke \& Swayze, P.A.
Attorney for Sussex Planning and Zoning Commission
19354C Miller Road
Rehoboth Beach, DE 19971

## Re: Zinszer Property / Subdivision \# 2018-27

Dear Mr. Robertson:

The above-referenced subdivision application is an extension of The Estuary an approved Subdivision. These additional lots shall be annexed into The Estuary by Declaration if approved by the County and subject to the recorded Declaration of Restrictions for the development, Book 4619 Page 1. (Exhibit A)

This application has been approved by at least $51 \%$ of the recorded current lot owners in the Estuary. (Exhibit B).

The Planning Commission hearing is scheduled March $28^{\text {th }}, 2019$. Let me know if you have any questions.

FUQUA, WILLARD, STEVEN \& SCHAB, PA


[^3]Exhibit A

Tax Map \& Parcel Nos.:
BK= 4619 FG:
1
1-34 19.00 103.00, 104.00, 116.00, 389.00 through 413.00 (inclusive),
511.00 through 665.00 (inclusive), and
667.00 through 768.00 (inclusive)

Prepared by \& Return to:
Steen, Waehler \& Schrider-Fox, LLC
92 Atlantic Avenue, Unit B
P.O. Box 1398

Ocean View, DE 19970
MRSF/btr

## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

## FOR

## THE ESTUARY

This Declaration of Covenants, Conditions and Restrictions (the "Declaration") is made and executed this 18th of October, 2016, by Estuary Development, LLC, a limited liability company organized and existing under the laws of the State of Delaware, of 26 N. Pennsylvania Avenue, P.O. Box 730, Bethany Beach, DE 19930 (hereinafter referred to as the "Developer").

WHEREAS, the Developer is the fee simple owner of certain real property located in Baltimore Hundred, Sussex County, Delaware as set forth in Exhibit. "A" attached hereto and made a part hereof (hereinafter referred to as the "Property"), and desires to develop therein a residential planned community that shall initially consist of two hundred seventy-nine (279) single family Lots and Common Areas for the benefit of the residential planned community as a whole, as more particularly set forth and described herein; and

WHEREAS, the Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of said Common Areas and facilities and to this end desires to subject the Property to the covenants, restrictions, easements, charges and liens, as hereinafter set forth, for the benefit of the Property and each Owner thereof; and

WHEREAS, the Developer deems it desirable for the efficient preservation of values and amenities in said community to create an entity to which will be delegated and assigned the powers of maintaining and administering the Common Areas, community facilities and recreational amenities, and administering and enforcing the covenants and restrictions and levying, collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, the Developer reserves the right, as hereinafter provided, to annex additional property, not part of Exhibit " $A$ ", but which is identified on the Record Plot and is neighboring or contiguous to sueh property (hereinafter referred to as the "Annexed Property") and subject such . P

Annexed Property to this Declaration upon the recordation of one (1) or more Declarations of Annexation; and

WHEREAS, the Developer will cause a non-profit, non-stock corporation, to be known as The Estuary Property Owners Association, Inc., to be incorporated under the laws of the State of Delaware for the purpose of exercising the functions aforesaid.

NOW THEREFORE, the Developer hereby declares that the following covenants, restrictions, easements, charges and liens shall run with, burden and bind the Property, and the Developer hereby declares the Property, as described in Exhibit "A", which is attached hereto and incorporated herein by reference, is and shall be held, transferred, sold, conveyed, occupied and used subject to the restrictions hereinafter set forth and during the period of time hereinafter set forth; and subject to all easements, rights of way and restrictions previously placed upon the Property as recorded in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, by the Developer, or its predecessors in title.

## ARTICLE I DEEINITIONS

The following words, when used in this Declaration (unless the context shall prohibit), shall have the following neeanings:
A. "Annexed Property" shall mean some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 115.00, consisting of approximately 104.13 +/acres, and identified as Tract Five on the Boundary Survey Plan for Revised and Reassembled Parcel Plan for The Estuary (hereinafter "Boundary Survey Plan") recorded in Plot Book 181, at Page 18, et seq., at the Office of the Recorder of Deeds, in and for Sussex County, Delaware; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 21.00 8.00, consisting of approximately $49.49+/$ acres, and identified as Tract Six on the Boundary Survey Plan; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 21.00 11.00, consisting of approximately $73.85+/$ - acres, and identified as part of Tract Eight on the Boundary Survey Plan; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 21.00 12.01, consisting of approximately 23.90 +/acres, and identified as Tract 2, Parcel B, as part of Tract Eight on the Boundary Survey Plan; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 21.00 12.02, consisting of approximately $1.57+/$ - acres, and identified as part of Millers Neck Road, as part of Tract Eight on the Boundary Survey Plan; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 105.00, consisting of approximately $36.24+/$ - acres, and located adjacent to Tracts Three and Four on the Boundary Survey Plan; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 105.02, consisting of approximately $1.08+/$ - acres, and located adjacent to Tract Four on the Boundary Survey Plan; sone or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 105.01, consisting of approximately $4.26+/$-acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00105 .04 , consisting of approximately $1.00+/$-acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 156.00, consisting of
approximately $53.22+/$ acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 118.00, consisting of approximately $5.50+/$ acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 119.00, consisting of approximately $2,20+/$ acres; some or all of that property presently identified as Susscx County Tax Map and Parcel No, 1-34 19.00334 .00 , consisting of approximately $12.40+/-$ acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 120.00, consisting of approximately $10.86+/$ - acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 34.00, consisting of approximately $10.00+/$ - acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 31.00, consisting of approximately $101.01+/$ acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 22.00 , consisting of approximately $25.63+/$ - acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. I-34 19.00 I 10.03, consisting of approximately 11.07 $+/$ acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 111.00, consisting of approximately $14.77+/$ acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 112.00, consisting of approximately $11.96+/$ - acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 12.04, consisting of approximately $7.61+/$ - acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 113.00, consisting of approximately $10.25+/$ acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00107 .00 , consisting of approximately $35.00+/$. acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 19.00 108.00, consisting of approximately $16.16+/=$ acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 21.00 3.00, consisting of approximately $39.00+/$ acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 21.00 4.00, consisting of approximately $35.48+/$ acres; some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 21.00 6.00, consisting of approximately $192.00+/$ acres; and some or all of that property presently identified as Sussex County Tax Map and Parcel No. 1-34 21.007 .00 , consisting of approximately $8.24+/$ acres; as such may be further identified on the Record Plot and located contiguous to the property described in Exhibit "A" and which the Developer may acquire or, pursuant to agreement with the owner of such property, may acquire the right to annex into The Estuary and subject to this Declaration, in accordance with this Declaration, by the recordation of one (1) or more Declarations of Annexation.
B. "Association" shall mean and refer to The Estuary Property Owners Association, Inc., a Delaware non-profit, non-stock corporation, its successors and assigns.
C. "Board" shall mean and refer to the Board of Directors established pursuant to the Bylaws of the Association (referred to as the "Executive Board" in DUCIOA).
D. "Common Areas" shall mean and refer to those areas of land designated as such on the Record Plot, which is incorporated herein by reference. The Common Areas may include, but may not be limited to: (1) all private streets and entrances, whether within or adjacent to the Property; (2) all areas for stormwater management, erosion and sediment control; (3) water supply facilities; (4) sanitary sewer facilities; (5) school bus shelters; (6) central mail facility;
and (7) all community recreation facilities, which may include, but may not be limited to, a swimming pool, kiddie pool, clubhouse, bar, tennis courts, beach/volleyball area, manmade pond with pier, fire-pit, dog park, and biking/walking paths, whether within or outside the Property. All Common Areas are intended to be devoted to the common use and enjoyment of the members of the Association, as hcrein defined, and are not dedicated for use by the general public. All Common Areas shall be subject to the restrictions created herein and shall be subject to all restrictions, easements and rights-of-way previously granted by the Developer or its predecessors in title.
E. "Declaration of Annexation" shall mean all Declarations recorded by the Developer in which property not described in Exhibit "A" is made subject to this Declaration.
F. "Developer" shall mean and refer to Estuary Development, LLC, its successors and assigns.
G. "Developer Control Period" shall mean the period during which the Developer has control over the Association and during which the Developer, or persons designated by the Developer, may appoint and remove the officers and members of the Board of Directors (referred to as the "Executive Board" in DUCIOA). Said Developer Control Period shall commence upon the recordation of this Deelaration and shall continue until the earlier of (i) sixty (60) days after the conveyance of seventy-five percent ( $75 \%$ ) of Lots shown on the Record Plot, as such may be amended from time to time and/or as such may be expanded to include the subdivision plan for Annexed Property, to a party other than a Participating Builder, or (ii) December 31, 2036.
H. "Deycloper Rights Period" shall mean the period during which the Special Declarant Rights and any other rights and responsibilities that are reserved exclusively to the Developer pursuant to this Declaration or other governing document for the Association may be exercised. Said Developer Rights Period shall commence upon the recordation of this Declaration and shall continue until the earlier of the conveyance of all Lots shown on the Record Plot or until December 31, 2036.
I. "DUCIOA" shall mean and refer to the Delaware Uniform Common Interest Ownership Act, 25 Del. C. § 81-101 et seq., as amended from time to time.
J. "Lot" shall mean and refer to any unimproved or improved plot of land intended and subdivided for a detached single unit residence, shown upon the Record Plot as a numbered parcel, but shall not include the "Common Areas" as hereinabove defined.
K. "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article 11, Section 1 of this Declaration.
L. "Mortgage" shall mean and refer to any mortgage, deed of trust, or similar instrument granted as security for the performance of any obligation.
M. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, holding a fee simple title to any Lot, but shall not mean or refer to any mortgagee or subsequent holder of a mortgage, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
N. "Participating Builder" shall mean and refer to a person or entity that acquires from the Developer any part of the property subjected to this Declaration for the purpose of building a residential structure for sale or lease to another in the ordinary course of business of such person or entity.
O. "Record Plot" shall mean the plot of record for The Estuary in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, recorded in Plot Book 222, at Page 1, et seq., as amended by the recordings in Plot Book 222, at Page 86, et seq.; Plot Book 233, Page 43, et seq., and Plot Book 226, at Page 82, and any additional atnendments thereto and/or expansions thereof to include the subdivision plans for Annexed Property approved by Sussex County'and endorsed as an amendment and/or subdivision plan for Annexed Property by the Developer.
P. "Special Declarant Rights" shall mean those rights reserved by the Developer and assigned to each Participating Builder as provided in Article VI, Section 21 of this Declaration.

## ARTICLE II <br> MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot, which is subject to assessment or shall be eligible for a later assessment, shall be a Member of the Association, provided, however, that any such person or entity who holds such interest merely as security for performance of an obligation shall not be a Member, unless and until such pcrson or entity has succeeded to such Owner's interest by enforcement of such security interest. Membership shall be appurtenant to and may not be separated from the ownership of any Lot, which is subject to assessment. The Developer and each Participating Builder shall be considered an Owner of each Lot held by it.

Section 2. The Association shall have one class of voting membership. A Member shall be entitled to one (1) vote for each Lot. When more than one (1) person holds an interest in any Lot, all such persons shall be Members. The vote of such Lot shall be exercised as the Owners themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Section 3. The Developer shall organize and establish the Association by the filing of a Certificate of Incorporation for the Association no later than the date the first Lot in The Estuary is conveyed, all in accordance with § 81-301 of DUCIOA.

## ARTICLE III <br> PROPERTY SUBJECT TO DECLARATION

Section 1. Property. The real property subject to this Declaration is all that property located in Baltimore Hundred, Sussex County, Delaware, as shown on the Record Plot and as described in Exhibit "A" attached hereto and incorporated herein by reference. This Declaration and the lands suhject to this Declaration shall also be subject to any restrictions, easements or rights of way previously granted by the Developer, or its predecessors in titie, as recorded in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware.

## Section 2. Annexed Property.

(a) During the Developer Control Period, the Developer shall have the unilateral right, but not the obligation, to expand The Estuary by adding all or any part of the Annexed Property through the preparation and recordation of one (1) or more Declarations of Annexation with the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware.
(b) The right of the Developer to add all or any portion of the Annexed Property to The Estuary shall not be construed as imposing on the Developer any obligation to add all or any portion of the Annexed Property to the Development, to construct any improvements thereon, or to restrict or limit its use in any manner.
(c) Annexed Property added to The Estuary, together with all improvements thereon, shall be deemed submitted to the terms of this Declaration. For all purposes of the Association, including, but not limited to, voting, the number of Lots in the Association may be increased to include up to a maximum of four hundred seventy-one (471) additional Lots to be located on that portion of the Annexed Property added to the Development.
(d) Improvements to portions of the Annexed Property added to The Estuary shall be subject to the standards and restrictions set forth herein.

## ARTICLE IV

PROPERTY RIGHTS IN THE GENERAL COMMON AREAS
Section 1. Title to Common Arcas. The Developer shall convey legal title in the Common Areas to the Association, but it may retain legal title to the Common Areas until such time as the Developer has completed improvements thereon, and until such a time as, in the opinion of the Developer, the Association shall be able to maintain the same. However, notwithstanding any other provision herein, the Developer hereby covenants for itself, its successors and assigns, that it shall convey all its rights, title and interest in the Common Areas to the Association, free and clear of all liens, but subject to all restrictions, easements and other encumbrances of record as of the date of such conveyance.

Section 2. Extent of Member's Easements. The rights and easements of enjoyment created hereby in the Common Areas shall be subject to the following:
(a) The rights of the Association, in accordance with its Certificate of Incorporation and Bylaws, to borrow money for the purpose of improving the Common Areas and in aid thereof to mortgage the Common Areas, except the roads as shown on the Record Plot. The rights of a mortgagee in any affected Common Area shall be subordinate to the rights of the Owners hereunder, provided, however, that no such borrowing or mortgaging shall be made unless approved by the vote of eighty percent ( $80 \%$ ) of the votes in the Association, including eighty percent ( $80 \%$ ) of the votes allocated to Lots not owned by the Developer.
(b) The right of the Association to take such steps as are reasonably necessary to protect any mortgaged Common Areas against foreclosure.
(c) The right of the Association as provided in its Certificate of Incorporation and Bylaws, to suspend the enjoyment rights and privileges of any Member in any easement or in any Common Areas, for a period during which any assessment against such Member remains unpaid, and for any period not to exceed thirty (30) days for any infraction of the Association's published rules and regulations.
(d) The right of the Association to dedicate or transfer all or any part of its interest in the Common Areas (subject to easements crcated hereunder, or previously created of record) to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer or determination as to purpose or as to the conditions thereof, shall be effective unless approved by the vote of eighty percent ( $80 \%$ ) of the votes in the Association, including eighty percent ( $80 \%$ ) of the votes allocated to Lots not owned by the Developer, has been recorded.
(e) The right of the Developer prior to the conveyance of the Common Areas to the Association, and of the Association, to grant and reserve easements and rights-ofway through, under, over and across the Common Areas, for the installation, maintenance and inspection of lines and appurtenances for public water, sewer, drainage, propane, electricity, telephone, cable television and other utilities.
(f) The right of the Association to adopt rules and regulations in accordance with § 81-320 of DUClOA governing the use by the Owners of the Common Areas or Lots, which rules and regulations shall not apply to any Participating Builder. Such rules and regulations may include the regulation of rentals in The Estuary and govern specific leasing standards, including, but not limited to, permitted signage or advertising, minimum lease terms and maximum number of occupants permitted to occupy a main dwelling, the display of American flags (consistent with federal law and §81-320 of DUCIOA) and/or the display and placement of political signs (consistent with § 81-320 of DUCIOA). Any rules and regulations adopted by the Association shall be a governing document of the Association.
(g) The right of the Association, by and through its Board of Directors, to levy a reasonable monetary fine for a violation of this Declaration or other governing document of the Association, in an amount to be determined by the Board after written noticc and an opportunity to be heard before the Board has been given to the violating Owner in
question, all in accordance with § 81-302 of DUCIOA. Any monetary fine imposed by the Board shall be collectible in the same manner as assessments hereunder.
(h) The right of the Developer to convey the Common Areas to the Association, which shall be evidenced by the recording of a quitclaim deed at the Office of the Recorder of Deeds, in and for Sussex County, Delaware, together with such other transfer or assignment of Developer's rights document that Developer, in its sole discretion, may deem to be necessary or appropriate.

Section 3. Delegation of Use. Any Owner may delegate his rights of enjoyment to the Common Areas and facilities to the members of his family, tenants, guests, or contract purchasers (and members of the family of any tenant or contract purchaser) who reside on the Lot or to such other persons as may be permitted by the Association.

Section 4. Obligations of the Association. The Association shall:
(a) Take title to, own, manage, maintain and operate the Common Areas and facilities, improvements and landscaping thereon, including but not limited to, the roads, recreational areas, and areas for stormwater management, erosion and sedimentation control, for the use and benefit of all members of the Association.
(b) Enforce the covenants, restrictions, and easements under this

Declaration.
(c) Operate and maintain the Common Area irrigation system, as more particularly described and set forth in Article VI, Section 17 of this Declaration.
(d) Maintain the yard areas of each Lot, as more particularly described and set forth in Article VI, Section 17 of this Declaration.

## ARTICLE V <br> COVENANT FOR MAINTENANCE AND TO ACCEPT AND DISCHARGE ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation of Assessments. The Developer, for itself and its successors and assigns, and for each Lot within the Property, hereby covenants, and each Owner of any Lot, by acceptance of a deed or other transfer document therefore, whether or not it shall be expressly established in such Deed or other transfer document, hereby covenants and agrees to pay the Association: (1) annual assessments or charges; (2) special assessments for capital improvements, operating expenses or reserves, and/or a repair and replacement reserve; (3) monetary fines, if imposed, pursuant to the provisions of Article IV, Section 2 (g); and (4) an initial assessment as required by Section 5 of this Article V, such assessments to be fixed, established and collected as hereinafter provided. The annual assessment, special assessment, monetary fine and initial assessment, together with interest at the legal rate, costs and reasonable attorney's fees, shall be a charge on the Lot, and shall be a continuing lien upon the Lot against which each such assessment or charge is made.

Each such assessment or charge, together with interest at the legal rate, costs, and reasonable attorney's fees incurred for the collection thereof, shall also be the personal obligation of the person who was the Owner of the Lot at the time when the assessment was due. A personal obligation for delinquent assessments or charges shall not pass to the Owner's successor in title (other than as a lien on the land), unless expressly assumed by the successor in title.

Section 2. Purpose of Assessments. Assessments levied by the Association shall be for the purpose of promoting the recreation, health, safety and welfare of the residents in the Property; for the improvement and maintenance of the Common Areas of the Property; and for services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas, including, but not limited to, repair and replacement of the roads and street lamps; the payment of taxes and insurance thereon; repair, replacement and additions thereto; for the cost of labor, equipment, materials, management and supervision thereof; for operating reserve funds and reserve funds for repair and replacement of the Common Areas and the facilities thereon; and/or for a purpose of discharging a duty or obligation of the Association.

Section 3. Basis and Maximum Annual Assessment. Each respective Lot shall thereafter be subject to an annual assessment to be paid to the Association. The amount of such annual assessment, which may be different for improved Lots versus unimproved Lots versus model home Lots (as described below), shall be established by the Association each year. The annual assessment for improved Lots shall be charged or assessed in equal proportions against each improved Lot within the Property. Except as provided in Section 11 below in this Article, the annual assessment for unimproved Lots shall be cbarged or assessed in equal proportions against each unimproved Lot within the Property and the annual assessment for model home Lots shall be charged or assessed in equal proportions against each model home Lot within the Property. A Lot shall have unimproved status until such time as a main dwelling has been constructed on the Lot and a Certificate of Occupancy issued by Sussex County therefor. A Lot shall have improved status at such time as a main dwelling has been constructed on the Lot; a Certificate of Occupancy has been issued by Sussex County therefor; and the main dwelling is occupied or intended to be occupied as a residence and is not used as a model home by a Participating Builder or the Developer as part of their sales efforts in the project. A Lot shall have model home status at such time as a main dwelling has been constructed on the Lot; a Certificate of Occupancy has been issued by Sussex County therefor; and for so long as the main dwelling is used as a model home by a Participating Builder of the Developer as part of their sales efforts in the project. The fiscal year of the Association shall correspond with the calendar year, beginning on January $1^{\text {st }}$ and ending the following December $31^{\text {st }}$. The first assessment year shall be as determined by the Developer, provided that notwithstanding the foregoing, the first assessment year shall be no later than the calendar year in which the first conveyance of any Lot from the Participating Builder or Developer to a third party purchaser for value (which purchaser shall not be a Participating Builder, as defined in Article I of this Declaration) has occurred; and, notwithstanding anything hcrein to the contrary, the amount of the first and subsequent annual assessment shall be fixed by the Board of Directors in its sole discretion until the Developer Control Period ends. Thereafter, the annual assessment shall be determined in accordance with Section 4 of this Article V. Each annual assessment shall be due and payable on or before thirty (30) days after it has been fixed and levied. It shall be the duty of the Association to notify all Owners, whose addrcsses are listed with the said Association,
within thirty (30) days after said annual assessment has been fixed or levied, giving the amount of the annual assessment for said year, when due, and the amount due from each Lot owned by each such Owner. Failure of the Association to levy the assessment for any one (1) year shall not affect the right of the Association to do so for any subsequent year.

Section 4. Establishment of Annual Assessment Rate. The Board of Directors of the Association shall, after consideration of current maintenancc costs and future needs of the Association, set the annual assessment in an amount deemed appropriate and may provide for the payment thereof in monthly or quarterly installments; provided however, that if any periodic payment obligation is not paid on its due date, the full annual amount of the assessment shall be due. The annual assessment amount shall be approved in accordance with §§ 81-315 and 81-324 of DUCIOA.

Section 5. Initial Assessment. Each Owner (excluding Participating Builders), upon closing upon the title to a Lot, shall pay to the Association an initial assessment. The initial assessment is collectible at closing, in the amount of Five Hundred Dollars ( $\$ 500.00$ ) per Lot. The initial assessments shall be used by the Association as working capital to insure availability of cash for expected and unexpected expenditures, to build up a reserve for capital expenses and improvements, or to acquire equipment or service deemed necessary by the Association. Initial assessments shall be paid in addition to regular assessments and shall be collectible in the same manner if unpaid. This applies to the initial sale of any Lot from either the Developer or a Participating Builder to an Owner, as well as the subsequent resale of any Lot.

Section 6. Special Assessment for Capital Improvements and Operating
Reserve. In addition to the annual assessment authorized by Article V, Section 3 of this Declaration and except as provided in Section 11 below, the Association may levy in any assessment year a special assessment (whicb must be fixed at one uniform rate for each Lot) applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including the necessary fixtures and personal property related thereto, repair and replacement of the roads and street lighting, and for operating the Common Areas, for which a reserve fund does not exist or is not adequate. A special assessment shall be approved in accordance with § 81-324 of DUCIOA.

Scction 7. Monetary Fines. The Board of Directors has the power and duty to impose monetary fines for violations of this Declaration and/or any other governing document for the Association. Such assessment shall be imposed in the manner set forth in Article IV, Section 2(g) of this Declaration.

Section 8. Date of Commencement; Due Date. The liability of any Owner for annual assessment as to any Lot shall commence on the conveyance of such Lot to such Owner, prorated for the remaining portion of said year, except as provided in Section 11 below. The due date of the annual assessment is set forth in Article V, Section 3 of this Declaration. The due date of any special assessment under Article V, Section 6 of this Declaration shall be fixed in any resolution authorizing such assessment. The due date of any monetary fine shall be established by the Board or its designated committee.

Section 9. Effect of Nonpayment of Assessments; the Personal Obligation of the Owner; the Lien; Remedies of the Association. If any assessment or other charge (such as a monetary fine) is not paid on the date when stated to be due in the notice of the assessment or charge, then the assessment shall be deemed delinquent. If the delinquent payment is a periodic payment (i.e. monthly, quarterly, etc.), the entire assessment or charge shall be deemed delinquent, and shall, together with such late fees, interest thereon and the cost of collection thereof, including reasonable attorney's fees, as hereinafter provided, continue as a lien on the Lot and any structure built thereon which shall bind such Lot in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns. In addition to such lien rights, the obligation of the assessment or charge shall be a personal obligation of the then Owner to pay such assessment or charge; however, the personal obligation shall not pass to his successors in title (other than as a lien on the land) unless expressly assumed by the successor in title. If the assessment or charge is not paid within thirty (30) days of the due date, the assessment or charge shall bear interest from the date of delinquency at the legal interest rate authorized by 6 Del. C. § 2301, as amended, and the Association may bring legal action against the Owner personally obligated to pay the same and/or may enforce or foreclose the lien against the Lot. In the event a judgment is obtained, such judgment shall include interest on the assessment or charge from its due date and reasonable attorney's fees, together with the costs of collection. No Owner of a Lot may waive or otherwise escape liability for an assessment of his or its Lot. The Association reserves the right to suspend the enjoyment rights and privileges of any Member in any easement or Common Area for the period during which any assessment or charge against such Member remains unpaid.

Section 10. Subordination of the Lien to the First Mortgage. A lien for assessments or other charges provided for herein (hereinafter "assessment lien") shall be subordinate to the lien of any first mortgage on the Lot, except as otherwise provided by $\S 81-$ 316 of DUCIOA. Sale or transfer of any Lot shall not affect the assessment lien. However, sale or transfer of any Lot by foreclosure of any first mortgage or any proceedings in lieu thereof shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer, except as otherwise provided by § 81-316 of DUCIOA. No sale or transfer shall relieve such Lot from liability for any assessments or other charges thereafter becoming due or from the lien thereof.

Section 11. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein:
(a) All Lots, whether improved or unimproved, owned by Participating Builders;
(b) All properties dedicated to and accepted by a governmental body, agency or authority, and devoted to public use; and
(c) All Common Areas.

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## ARTICLE VI

RESTRICTIVE AND PROTECTIVE COVENANTS

## Section 1. Utility Easements.

(a) The Developer, its successors and assigns, and the Association hereby reserve the right to grant easements over, under, on and through the Common Areas, all roads, and the designated areas of the Lots as shown on the Record Plot for the installation, construction, reconstruction, relocation, removal, maintenance, repair, operation, inspection of sewer, water drainage, electric, gas, propane, television, telephone, and cable telephone and television facilities and wires, lines, conduits and other necessary and proper attachments in connection therewith, for the benefit of the Property, the Developer, any federal, state or local authority, commission or agency having jurisdiction thereover, or any corporation, either public, quasi public or private, supplying or serving the Property.
(b) The Developer reserves unto itself, its successors and assigns, a drainage and/or sidewalk and/or utility easement from the right-of-way in the front yard and/or rear yard of all Lots and centered on all side and rear Lot lines as provided in and shown on the Record Plot. Developer further reserves a drainage and/or utility easement along the interior side of all perimeter boundary lines as provided in and shown on the Record Plot.

Section 2. Prior Restrictions. The Property is subject to all those prior easements, rights of way and restrictions placed upon the Property by the Developer's predecessors in title as such may be recorded among the land records in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware.

Section 3. Residential Use. All Lots in the Property shall be used for residential purposes exclusively except to the extent provided with respect to the Special Declarant Rights. No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain upon any such Lot other than one (1) detached single family dwelling with attached garage building (hereinafter sometimes referred to as the main dwelling) and structures allowed pursuant to the Special Declarant Rights. The use of a main dwelling shall not include any activity normally conducted as a business except pursuant to the Special Declarant Rights. All improvements shall be in conformity with The Estuary Architectural Guidelines attached hereto as Exhibit " $B$ " and incorporated herein by reference, except that Participating Builders and the Developer shall be exempt from the TEARC application, review, and approval process. Participating Builders and the Developer shall, however, be required to satisfy all Design Guidelines set forth and contained in The Estuary Architectural Guidelines attached hereto as Exhibit " B ", except as otherwise noted therein. Notwithstanding the other provisions of this Section 3, certain areas as shown on the Record Plot may be conveyed to the Association for the recreational general Common Area, and such may be improved by a swimming pool, kiddie pool, clubhouse, bar, tennis courts, beach/volleyball area, manmade pond with pier, fire-pit, biking/walking paths, and/or other structures related to the use and enjoyment of such recreational facilities.

Section 4. Restrictions as to Trailers and Modulars. No trailer, mobile home, double wide or similar type structure which moves to a building site on wheels attached to its own undercarriage or by trailer, tent, shack, garage, barn or other type of outbuilding, shall at any time be used as a residence, temporarily or permanently. No trailer, mobile home, double wide, tent, shack, garage, or barn shall be utilized as a main or single dwelling unit on any Lot in the Property. A modular home, manufactured home, sectional home or pre-fabricated home may be permitted, but only as/if approved by The Estuary Architectural Review Committee (hereinafter "TEARC").

Section 5. Restrictions Against Business Use and Use Before Completion. Except as permitted pursuant to the Special Declarant Rights, no numbered Lot within the Property shall be used at any time to conduct business, nor shall a Lot be used for any purpose whatsoever except for the purpose of private dwelling or residence; provided, however, that nothing contained herein shall be construed so as to prohibit no impact home offices, so long as no stock in trade is kept or commodities sold; there are no employees, patrons, customers or clients visiting the Lot; and there are no signs and/or other advertising of any kind. No building shall be used as a residence until the exterior is fully completed, according to the plans and specifications approved therefor, as such approval is hereinafter provided. No one shall reside on any Lot, casually, temporarily or permanently, except in a dwelling house completed according to the plans and specifications approwed as hereinafter provided and for which a use and occupancy permit has been issued by Sussex County.

Section 6. Rental Restrictions. The rental of property in The Estuary shall be permitted, but shall be restricted to single family rentals only and shall be for a term of at least two (2) consecutive weeks per rental. All lease agreements must be in writing and must be for the entire dwelling and the entire Lot. The Association must be furnished with a copy of any and all lcase agreements.

## Section 7. Architectural Review Committee, Approval of Building Plans.

(a) In order to insure the development and maintenance of The Estuary as a residential development of high standards, there shall be a three (3) member The Estuary Architectural Review Committee (TEARC). The initial members shall be appointed by the Developer and shall serve until such time as they may resign (in which case their successors may be appointed by Developer if such resignation occurs during the Developer Control Period) or their successors, all of whom shall be Members of the Association, are designated by the Board. The TEARC is vested with the power to control all buildings, structures, improvements and landscaping to be constructed or placed upon any Lot within The Estuary, except buildings, structures, improvements and/or landscaping constructed or placed upon a Lot by the Developer or a Participating Builder during the Developer Rights Period. The TEARC may retain an architect to assist the TEARC in its responsibilities. The TEARC may charge a reasonable review fee, which may include, but not be limited to architectural review fees incurred by the TEARC, in connection with any application submitted for review pursuant to this Section 7.
(b) No building, structure, fence, wall or other erection shall be commenced, erected, maintained or used, nor shall any addition to or change or alterations therein, or in the use thereof, be made upon any of the Lots which are the subject matter of this Declaration by an Owner, other than the Developer or a Participating Builder, no matter for what purpose or use, until complete and comprehensive plans and specifications showing the nature, kind, shape, height, materials, floor plans, exterior architectural scheme, location and frontage on the Lot, approximate cost of such building, structure or other erection, the grading and landscaping of the Lot to be built upon or improved, the location of the driveway and the type of driveway material, which shall be hot-mix asphalt, and such other required information shall be submitted to and approved in writing by the TEARC or its successors. The plans shall be submitted to the TEARC for approval. If the TEARC fails to approve or deny any application within thirty (30) days following receipt of the complcte application, including but not limited to the payment of any required review fees, the party making the submission for approval shall deliver written notice to the TEARC of its failure to act and, if approval is not granted or denied by the TEARC within fifteen (15) days thereafter, the plans and spccifications shall be deemed to be denied. A copy of all such plans and specifications shall be lodged permanently with the said TEARC, or its successors; provided, however, that nothing herein shall require the aforesaid approval as to interior decorations, alterations or changes.
(c) The TEARC or its successors shall have the right to refuse to approve any such plans or specifications, grading or landscaping plans or changes, which are not suitable or desirable in the sole discretion of the TEARC, or its successors, for aesthetic or other reasons; and in passing on such plans, the TEARC shall take into consideration the suitability of the proposed building or other improvements or erections and/or the materials of which the building or other improvements or erections are to be built, and the site upon which it is proposed to be built, the harmony thereof with the surrounding Lots and/or Common Areas, and the effect of such improvements, additions, alterations or changes used, as planned, on the adjacent or neighboring property, and any and all factors which in its opinion, would affect the desirability or suitability of such proposed improvements, erections, alterations or changes.
(d) In addition to the powers stated above, the TEARC shall administer and enforce The Estuary Architectural Guidelines, which is a document containing information regarding the review procedures and design requirements for all Lots in The Estuary. A copy of The Estuary Architectural Guidelines is attached hereto as Exhibit " B " and incorporated herein by reference. Each Lot purchaser, except any Participating Builder, shall receive a copy of The, Estuary Architectural Guidelines at the time of purchase and agrees to be bound by said standards and any changes thereto. The Developer may amend or modify The Estuary Architectural Guidelines in its sole discretion, at any time during the Developer Rights Period. After the Developer Rights Period, The Estuary Architectural Guidelines may be amended or modified by a vote of two-thirds (2/3) of the members of the Association. Any amendments or modifications of The Estuary Architectural Guidelines shall be sent to each Lot Owner within thirty (30) days of approval. Any change affecting The Estuary Architectural Guidelines during or after the Developer Rights Period shall require the written approval of any Participating Builder during the time the Participating Builder has any Lots under contract, owns any Lots and/or is still constructing dwellings on any Lot.

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(e) The Board may authorize variances from compliance with any of the provisions of The Estuary Architectural Guidelines when circumstances such as topography, natural obstructions, hardship or environmental considerations require, in accordance with any duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (i) be effective unless in writing, (ii) be contrary to the restrictions set forth in the body of this Dcclaration, or (c) prevent the Board from denying a variance in other circumstances. For purposes of this subparagraph (e), the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.
(f) The TEARC, the Association, and the Developer shall have the right to enforce the provisions of this section and the requirements of The Estuary Architectural Guidelines against any person or persons violating or attempting to violate said requirements by appropriate legal action.

Section 8. Resubdivision. No Lot shall be resubdivided, sold or otherwise alienated in a lessor or smaller parcel, except that the Developer reserves, during the Developer Rights Period, the right to make any lot line adjustments deemed necessary by the Developer, provided any sueh adjustments do not result in an increase in the number of Lots, and the right to resubdivide any Lots not previously conveyed to a Participating Builder.

Section 9. Sanitation. A public water system shall be available to and shall serve each Lot. A "pump and haul" sewer system will provide sewer service for the first forty-nine (49) improved Lots in the community or such greater number of improved Lots in the community as may be approved by the Delaware Department of Natural Resources and Environmental Control and/or Sussex County from time to time. Thereafter, public sewer shall be available to all Lots in the community and those Lots initially served by the "pump and haul" sewer system shall disconnect from said system and shall connect to the public sewer system. The Developer shall be responsible for the installation and maintenance of the "pump and haul" sewer system until such time as the public sewer system is available and shall charge the Association a fee, in such amount as the Developer may deem appropriate in its sole discretion, for the maintenance services provided while the "pump and haul" sewer system is in use. The Association shall pass said fees along to the Lots benefitting from the "pump and haul" sewer system in equal proportions as part of the annual assessment to be paid by the Owners of said benefitted Lots. All fees imposed by the Developer against the Association and by the Association against the Lot Owners in accordance with this paragraph shall be colleetible in the same manner as assessments. No individual wastewater disposal systems or wells shall be allowed. All user fees for the public sewer and public water system serving each Lot shall be the sole and exclusive expenses of the Owner of each Lot.

Section 10. Community Propane Gas System. A community propane gas system will'provide propane gas to all Lots in the community. All dwellings on all Lots shall connect to such community propane gas system with all impact and connection fecs to be paid by the Owner of such Lot at the time of connection or hookup. All dwellings shall have eentral propane gas heat. Those dwellings that are initially constructed with propane gas hot water shall not change to electric hot water without the consent of the Developer. All user or service
fees shall be the sole and exclusive expense of the Owner of each Lot. Each Lot Owner shall execute the necessary propane gas service agreement with the service provider and shall be billed directly by said provider. The community propane gas system may be, but is not required to be, converted to a natural gas system in the futurc, as determined by the initial provider of the propane gas service, the Developer or the Association, as applicable. Should such a conversion occur, all dvellings shall connect to the natural gas system, with all impact, connection and/or user fees to be paid by the Owner of each Lot. Each Owner will also be required, at such Owner's cost, to replace (or convert) the heating system and other appliances using propane gas with systems or appliances designed for use with natural gas. Following such conversion, the terms and conditions for the provision of natural gas shall be the then currently effective natural gas tariff rates and regulations on file with the Delaware Public Services Commission.

There shall not be placed or stored on any Lot propane gas tanks or cylinders having a capacity in excess of twenty (20) pounds of propane gas. The foregoing restriction is intended to protect the right of the provider of the propane gas service to be the exclusive provider of propane gas to Lots in the community for heating, indoor hot water and all other indoor appliances, such as fireplaces, dryers and cooktops, while at the same time allowing the Owners to use portable propane gas vessels for outdoor grills or other movable outdoor ' appliances. The foregoing restriction shall terminate at such time as the community propane gas system is converted to natural gas.

The provisions of this Section 10 shall not be amended without the consent of the Developer.

Section 11. Signs and Advertising Regulated. No signs, notice or advertising matter of any nature and description shall be erected, used or permitted upon any of the Lots, cxcept after securing the written permission of the Developer and/or the Association or its successors or assigns, except pursuant to the Special Declarant Rights.

Section 12. Garbage Receptacles. Each Lot shall provide a screened area not generally visible from any interior road for the storage of garbage receptacles. On garbage collection day, said receptacles may be placed by the side of the road, but they must be returned to their regular screened storage location no later than nightfall on said garbage collection day. All Owners are hereby placed on notice that a waste collection company may be retained by the Association to serve the entire community, the cost of which shall be passed on to the Owners as part of their annual assessment. In such an event the waste collection company will likely provide one or more garbage receptacles to each Owner. Any modifications to the screened storage location that may be required in order to accommodate the garbage receptacles provided by the waste collection company chosen by the Association shall be the responsibility of each individual Owner. This Section 12 shall not be applicable to any Participating Builder during the constructing of dwellings.

Section 13. Storage Receptacles. No fuel tanks or similar storage receptacles may be exposed to view; but some may be installed within the main dwelling or buried underground or properly screened from view, in accordance with The Estuary Architectural Guidelines.

Section 14. Construction and Demolition. Once construction or demolition of any building has been commenced on any Lot, such construction or demolition shall proceed without delay until the same is completed, including the driveway, except where such completion is impossible or results in great hardship to the Owner or Participating Builder due to strikes, fires, national emergencies or national calamities. Cessation of work upon the construction or demolition of any building once started and before completion thereof for a continuous period of sixty ( 60 ) days by any Owner or Participating Builder shall be prima facie evidence of an attempt to abandon the same in its partially completed or demolished state and shall be deemed to be a public nuisance. There is no time limit for which construction must commence upon the purchase of any Lot.

Section 15. Fences. No fence whatsoever shall be erected or allowed to remain on any Lot, except as provided in The Estuary Architectural Guidelines.

Section 16. Nuisance. It shall be the responsibility of each Owner to prevent the development of any unclean, unsightly, or unkempt conditions of buildings or grounds upon a Lot (except in the course of construction thereon) which shall tend to substantially decrease the beauty of the Property as a whole, or the beauty of the specific area. No noxious or offensive activity shall be permitted upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance of the Property. Yard sales are prohibited on an individual Lot basis, but may be permitted by the Association if the yard sale is a community-wide event and approved by the Association in advance. There shall not be maintained upon any Lot any plant, animal, device or thing of any sort, the normal activities of which is in any way noxious, dangerous, unsightly, unpleasant or of such a nature as may diminish or destroy the enjoyment of the Property. Specifically included under this section is the prohibition against any livestock being kept on any Lot. The keeping of any non-domestic animals shall be deemed a nuisance per se under this section; but the keeping of domestic cats and dogs, or other traditional household pets, unless the activity of such pets is in any way noxious, dangerous, unsightly or unpleasant, shall not be prohibited under this section. No disabled vehicle will be allowed to remain in view as a nuisance, nor shall any unlicensed vehicle be allowed to remain, more than a reasonable period of time not to exceed fifteen (15) days.

## Section 17. Landscaping.

(a) No landscaping, shrubs or trees to be placed on any Lot in conjunction with the erection of any main dwelling shall be planted, except by a Participating Builder, until complete and comprehensive landscaping plans shall be submitted to and approved in writing by the TEARC. The land area not occupied by structures, hard surfacing, vehicular driveways or pedestrian paths shall be kept planted with grass, trees or shrubs or other ground covering or landscaping in conformance with the requirements set by The Estuary Architectural Guidelines. Although Participating Builders shall not be required to submit a landscaping plan to and receive the approval of the TEARC, Participating Builders shall be required to submit to the Developer a representative landscaping plan applicable to multiple Lots and receive the approval of the Developer as to such representative plan, prior to the placement of any landscaping, shrubs or trees on any Lot.
(b) The Association shall be responsible for the operation and maintenance of the Common Area irrigation system which shall serve a portion of the Common Areas. The cost of operating and maintaining the Common Area irrigation system shall be a common expense and shall be passed along to the individual Owners by and through the annual assessment or any special assessment that may need to be imposed from time to time. In the event an individual Owner is determined by the Association to be the cause of any damage to the irrigation system, then the repair cost to remedy said damage shall be passed along to the individual Owner determined to be responsible. Any and all such repair expenses incurred by the Association shall be collectible in the same manner as assessments hereunder.
(c) The Association shall be responsible for the maintenance of the yard areas on each Lot, which may include, but not be limited to: grass/turf cutting (as frequently as the Association deems appropriate and necessary); weeding of flower/planting beds (as frequently as the Association deems appropriate and necessary); mulching of flower/planting beds (as frequently as the Association deems appropriate and necessary); applying grass/turf chemicals'(as frequently as the Association deems appropriate and necessary). Notwithstanding the foregoing, the Association shall not be responsible for maintaining any yard area located on a Lot which is enclosed by a fence.

Section 18. Weeds. No noxious weeds or accumulated trash of any kind shall be permitted to grow or be maintained upon any Lot by the Owner or occupier thereof, except construction materials and debris of a Participating Builder. The Association or its successors and assigns may first notify the Owner or occupier to cut and/or remove any such offending growth or trash within thirty (30) days from the giving of such notice. Any such notice must be in writing. If the Owner or occupier shall fail or neglect to comply with any such notice, then and.in such an event, the Association or its successors shall be empowered to enter upon any such Lot, together with such assistance and equipment as may be required, and thereupon to 'cut and/or remove the same, all without being deemed a trespass and all at the expense of the Owner of the Lot. This covenant shall not be construed as an obligation on the part of the Association or its successors to provide garbage or trash removal services.

Section 19. Square Footage. The square footage of all improvements on any Lot not constructed by the Developer or a Participating Builder shall be in accordance with The Estuary Architectural Guidelines, but in no case shall the under roof heated interior space, exclusive of porches and decks, garage or similar non-year-round heated space, be less than one thousand six hundred $(1,600)$ square feet.

Section 20. Driveways and Parking Spaces. Each Lot shall provide for outside parking for two (2) automobiles on site and off all roadways, and a driveway which shall be made of "hot-mix" asphalt. Parking on community roadways (except cul-de-sacs) shall be permitted on a temporary basis only, for a period not to exceed forty-eight (48) hours. Long term and/or regular parking on community roadways is strictly prohibited. Parking on cul-desacs at any time for any amount of time is strictly prohibited. Vehicles parked in violation of this Section 20 or any other provision of this Declaration or other governing document of the Association may be towed by the Association at the vehicle owner's expenses. Any and all

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towing expenses incurred by the Association shall be collectible in the same manner as assessments hereunder.

## Section 21. Special Declarant Rights.

(a) The Developer reserves the following rights, which rights Developer hereby assigns to each Participating Builder (individually and collectively, the "Special Declarant Rights"):
(1) The right to complete or make improvements indicated on the Declaration Plan; and
(2) The right to maintain sales offices, construction management offices, storage sheds, and model homes (which shall not exceed 6 model homes per Participating Builder) on Lots or on the Common Areas, in such number and at such locations as may be approved by the Developer from time to time; and
(3) The right to maintain signs on the Property to advertise the sales of homes, provided all signage complies with applicable zoning regulations and is approved by the Developer; and
(4) The right to conduct sales business and construction
activities on the Property; and
(5) The right to use and permit others to use, easements through the Common Areas as may reasonably be necessary for the purpose of discharging the Developer's and Participating Builders' obligations under DUCIOA and this Declaration.

Section 22. Limitations on Special Declarant Rights. Any Special Declarant Rights may be exercised by the Developer at any time during the Dcveloper Rights Period or by any Participating Builder, as assignee of the Developer, as set forth in a recorded assignment instrument or termination of assignment instrument signed by the Developer.

Section 23. Setbacks and Height. Except as otherwise provided for herein, the building setback requirements, height limitations, and permitted accessory uses shall be as provided by the Zoning Ordinances of Sussex County, as such may be amended from time to time. Should a variance from the building setback requirements imposed by the Zoning Ordinances of Sussex County be obtained for any Lot, the building setback requirements imposed by this Declaration shall be deemed satisfied.

Section 24. Off-Road Vehicles Prohibited. There shall be no use of any off-road or ATV-type vehicles on the Property, except where it is necessary for the Developer, Participating Builder or the Association to use such vehicles for maintenance purposes. Offroad or ATV-type vehicles shall be defined as motor driven off-road vehicles capable of crosscountry travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland or other natural terrain. Such vehicles include, but are not limited to, a multi-
wheel drive or low pressure tire vehicle, an amphibious machine, a ground effect air-cushion vehicle or other means of transportation deriving motor power from a source other than muscle or:wind. The Association reserves the rights to promulgate rules and regulations regarding the use of other motorized vehicles on the Property.

Section 25. Certain Parking Prohibited. No recreational vehicles, campers or other habitable motor vehicles of any kind, whether self-propelled or not, box trucks, boats or other watercraft, may be kept, stored or parked on any Lot or Common Area in The Estuary. Notwithstanding the foregoing general prohibition, a recreational vehicle, camper or other habitable motor vehicle of any kind, whether self-propelled or not, box truck, boat or other watercraft, may be parked in the driveway of a main dwelling for up to a total of seven (7) days, whether or not said days are consecutive, during any twelve (12) month period.

## ARTICLE VII <br> GENERAL PROVISIONS

Section 1. Duration and Amendment. The easements, covenants, conditions, restrictions, and reservations of this Declaration run with and bind the Property and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, as the case may be, in perpetuity. Subject, however, to the provision that the Association or its successors, by and with the vote or written consent of seventy percent ( $70 \%$ ) of the votes of the membership, shall have the power to waive, abandon, terminate, modify, alter, change, amend, eliminate or add to these easements, covenants, conditions, restrictions, and reservations and this Declaration at any time hereafter; provided, however, no amendment may affect any of the Participating Builder's rights and/or obligations hereunder without the prior written approval of Participating Builder while such Participating Builder has any Lots under contract or owns any Lot for the purpose of constructing a main dwelling thereon. Any such waiver, abandonment, terminated, modification, alteration, change, amendment, elimination or addition shall take effect when a copy thereof, executed and acknowledged by the Association or its successors in accord with the usual form of execution and acknowledgment of deeds, together with the written consents of the requisite number of Members or together with a certificate by the Association verified under oath by the President-thereof, or in the casc of his/her absence or inability, by any Vice President thereof, setting forth the time, manner and result of the taking of the vote of the Members, has been filed for record in the Office of the Recorder of Deeds; in and for Sussex County, at Georgetown, Delaware, and the same shall thereafter remain in effect in perpetuity unless otherwise provided. No action to challenge the validity of an amendment adopted by the Association may be brought more than 1 year after the amendment is recorded (see § 81-217 (b) of DUClOA).

Section 2. Remedies. The Developer, the Association, or any Owner, shall have the-right to enforce this Declaration and any easement, covenant, condition, restriction, and/or reservation contained herein by any proceeding at law or in equity, against any person or persons violating or attempting to violate any provision of this Declaration or any easement, covenant, condition, restriction, and/or reservation contained herein, to restrain violation, to requirc specific performance, and/or to recover damages, and to proceed against any Lot to
enforce any lien created by this Declaration. The expense and cost in enforcement by the Association shall be chargeable to the Owner of the Lot, including the costs of reasonable attorney's fees. In the event any legal action is taken by the Association, such fees, approved by a court of competent jurisdiction, shall constitute a lien on the Lot, collectible in the same manner as assessments hereunder.

Section 3. Assignability. The Dcveloper, its successors and assigns, shall at all times have the right to fully transfer and assign any or all of its rights and powers under this Declaration, subject to the Developer's obligations hereunder.

Section 4. Nonwaiver. Failure of the Developer or any Owner, or their respective legal representatives, heirs, successors and assigns, to enforce any easement, covenant, condition, restriction, and/or reservation contained in this Declaration shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such violation or breach occurring prior or subsequent thereto.

Section 5. Construction and Interpretation. The Association, to the extent provided herein, may adopt and promulgate reasonable rules and regulations regarding the administration, interpretation and the enforcement of the provisions of this Declaration, The Estuary Architectural Guidelines and/or any other governing document for the Association, all of which are incorporated herein by reference. In so adopting and promulgating such rules and regulations and in making any finding, determination, ruling or order, or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, the Association shall take into consideration the best interest of the Owners to the end that the Property shall be preserved and maintained as a viable community.

Section 6. Scverability. All the covenants, conditions, restrictions, and reservations contained in this Declaration are hereby declared to be severable, and a finding by any court of competent jurisdiction that any of them or any clause or phrase thereof is void, unlawful or unenforceable, shall not affect the validity or enforceability of any other covenants, conditions, restrictions, reservations or clause or phase thereof.

Section 7. Non-liability. Nothing contained in this Declaration shall be construed in any manner as to impose upon the Association, the Developer, a Participating Builder, or their successors or assigns, any liability whatsoever for property damage and/or personal injury occurring to any person or persons whomsoever resulting from the use of any Common Areas, including, not limited to roads, recreational facilities and/or adjacent waters, and/or from the use of any Lot or parcel included in Exhibit "A" attached hereto and/or the Record Plot. Any and all persons using any such Common Areas, Lot, other parcel of land, or any of them, shall do so at their own risk and without any liability whatsoever on the part of the Association, the Developer, any Participating Builder, or their respective successors or assigns, as the case may be.

Section 8. Agricultural Uses Notice. The Property is located in the vicinity of land used primarily for agricultural purposes on which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses

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and activities may now or in the future involve noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations. The use and enjoyment of the Property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities.

Section 9. Wctlands Notice. This site contains regulated wetlands. Activities within these wetlands may require a permit from the U.S. Army Corps of Engineers and/or the State of Delaware.

Section 10. Hunting Activities Nearby Notice. The Property is located in the vicinity of and nearby land that may be used for hunting activities. The use and enjoyment of the Property is expressly conditioned on acceptance of any risk, annoyance or inconvenience which may result from such hunting activities.

Section 11. Tree Preservation. Mature stands of native trees and native plants exist throughout the Property. These trees and plants are considered key landscape features and Owners are encouraged to preserve, maintain, and protect them. The Developer, the Participating Builders and the Association shall make every attempt to preserve the existing trees on the Property and to not encroach on the open spaces maintained on the Property. The TEARC shall have the authority to create and enforce specific guidelines regarding the preservation of trees on the Property.

Section 12. Amendments to Declaration by Developer. During the Developer Rights Period, this Declaration may be amended in the sole discretion of the Developer by the recordation of an Amendment to the Declaration with the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware; provided, however, the prior written consent of any Participating Builder shall be required for any such amendment. Such written consent from a Participating Builder shall not be unreasonably withheld and shall only be required while the Participating Builder has any Lots under contract or owns any Lot for the purpose of constructing a main dwelling thereon.

IN WITNESS WHEREOF, the Developer has executed this Declaration of Covenants, Conditions and Restrictions, the day and year first above written.

WITNESS:
Warden-2 Epr

DEVELOPER:
ESTUARY DEVELOPMENT, LLC, a Delaware limited liability company

By:
 (SEAL)

STATE OF Virginia
COUNTY OF Fairfrix
*

* to wit:
* 

I HEREBY CERTIFY that on the $18^{\text {th }}$ day of October, 2016, before the subscriber, a Notary Public in and for the above jurisdiction, personally appeared Ross A. Byington, known to me (or satisfactorily proven) to be an Authorized Member of Estuary Development, LLC, a Delaware limited liability company, and that such person, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.


My Commission Expires: 7-31-17 [NOTARIAL SEAL]

IN WITNESS WHEREOF, the Mortgagec for the Developer and Owner of Lots 23 through 26, inclusive, has hereby consented to the foregoing Declaration of Covenants, Conditions and Restrictions of this $\mathbf{2 8 4}$ day of $\qquad$ , 2016.
(CORP. SEAL)


State of Maryland
*

* to wit:


## COUNTY OF Howird

I HEREBY CERTIFY that on the 2844 day of October ,2016, before the subscriber, a Notary Public in and for the above jurisdiction, personally appeared
 of Beazer Homes, LLLC, a Delaware limited liability company, and that such person, bcing ${ }^{\text {thand }}$ authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.


Exhibit B

## WRITTEN CONSENT

In satisfaction of the consent requirement imposed by $\S 99-13$.A. of the Sussex County Code, if necessary, the undersigned, Estuary Development, LLC, hereby certifies that it is the owner of not less than $51 \%$ of the recorded lots in The Estuary residential subdivision and that it hereby consents to the inclusion and annexation of the real property presently owned by Donna M. and Jason W. Zinszer, identified as Tax Map \& Parcel No. 1-34 19.00 105.00, into The Estuary residential subdivision as additional lots, as such additional lots are more particularly set forth and described in the "Zinszer Property Preliminary Subdivision Plan, Sussex County Subdivision \#2018-27, Sussex County, Delaware" submitted to Sussex County for approval.

ESTUARY DEVELOPMENT, LDC,<br>a Delaware limited liability company




I HEREBY CERTIFY that on the

$4+\frac{1 c}{a b}$day of March, 2019, before the subscriber, a Notary Public in and for the above jurisdiction, personally appeared Ross Byington , known to me (or satisfactorily proven) to be an Authorized Member of Estuary Development, LLC, a Delaware limited liability company, and that such person, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.


Notary Public
[NOTARIAL SEAL]

$$
\begin{aligned}
& \text { Estuary } \\
& \text { zinzser }
\end{aligned}
$$

# SITE SPECIFIC MAPS, PLANS \& DOCUMENTATION 





## ADJOINING PROPERTY OWNERS

134-19.00-103.00<br>ESTUARY DEVELOPMENT LLC<br>MERIS PROPERTIES<br>BETHANY BEACH, DE<br>134-19.00-34.00<br>HUDSON MICHELLE L<br>37602 MAHOGANY ST<br>OCEAN VIEW, DE 19970<br>134-19.00-31.00<br>KEEN KAY H<br>5608 ESSEX ST<br>CHURCHTON, MD<br>134-19.00-35.00<br>CAMP BARNES INC<br>DELAWARE STATE POLICE HDQ<br>DOVER, DE 19901

134-19.00-157.00
DELAWARE STATE OF
DIV OF PKS \& REC DIV FISH
89 KINGS HWY
DOVER, DE 19901
134-19.00-105.01
RICKARDS CHARLOTTE M
36681 CAMP BARNES RD
FRANKFORD, DE 19945
134-19.00-105.04
ZINSZER WALTER J \& CHRISTINE E 2103 BRIARCLIFF AVE LINWOOD, PA

134-19.00-105.02
36595 CAMP BARNES LLC
6726 CURRAN STREET
MCLEAN, VA


P/O Tax Parcel No. 1-34 19.00105 .00
Prepared By and Return To:
Gordon, Fournaris \& Mammarella, P.A.
1925 Lovering Avenue
Wilmington, DE 19806
File No. 17-248 (TM/jb)

Document \# 2019000006172 BK: 5019 PG: 170
On 2/25/2019 at 11:04:07 AM
RECORDER OF DEEDS Scott Dailey
Sussex County. DE
Consideration: \$500.000.00 County/Town: $\$ 7.500 .00$
State: $\$ 7.500 .00 \mathrm{Total}: \$ 15,000.00$ Doc Surcharge Paid

THIS DEED is made this $12^{\text {th }}$ day of February, 2019,
BETWEEN, Jason W. Zinszer and Donna M. Zinszer, parties of the first part,
AND
DE Land Investment Z LLC, a Delaware limited liability company, party of the second part.

WITNESSETH, That the said parties of the first part for and in consideration of the sum of FIVE HUNDRED THOUSAND and 00/100 DOLLARS ( $\$ 500,000.00$ ) lawful money of the United States of America, the receipt of which is hereby acknowledged, hereby grant and convey unto the said party of the second part, its successors and assigns, in fee,

ALL that certain lot, piece or parcel of land, situate in Baltimore Hundred, Sussex County, Delaware, lying north of, but not adjacent to, Camp Barnes Road (SCR 364) and adjoining the northern boundary line of The Estuary subdivision, a plan for which is recorded among the land records of Sussex County, Delaware in Plot Book 261, Page 74, being Parcel "A" as shown on the Minor Subdivision Plan for the Lands of Jason W. \& Donna M. Zinszer \& The Estuary Subdivision prepared by Steven M. Adkins Land Surveying, LLC dated December 18, 2018 and recorded among the land record of Sussex County, Delaware, in Plot Book 278, Page 58 , and is more particularly described as follows, to wit:

BEGINNING at a point in the center of Brasure's Branch, being a newly created boundary corner between these lands and the lands of Jason W. \& Donna M. Zinszer, said point of beginning being $1,090.2^{\prime}+/$ - in a northeasterly direction from a found iron pipe located on the northern side of Camp Barnes Road ( $50^{\prime}$ wide), being the southwestern boundary corner of the lands of 36595 Camp Barnes, LLC; Thence leaving said point of beginning and running by and with northern boundary line associated with The Estuary subdivision (PB 261/74) and the center of Brasure's Branch generally along the following (6) courses and distances, 1) N $50^{\circ} 38^{\prime} 55^{\prime \prime} \mathrm{W}$, a distance of $719.53^{\prime}$ to a point; Thence, 2) N $44^{\circ} 30^{\prime} 07^{\prime \prime} \mathrm{W}$, a distance of $38.98^{\prime}$ to a point; Thence, 3) N $26^{\circ} 26^{\prime} 09^{\prime \prime} \mathrm{W}$, a distance of $31.03^{\prime}$ to a point; Thence, 4) N $13^{\circ} 34^{\prime} 23^{\prime \prime} \mathrm{W}$, a distance of $30.79^{\prime}$ to a point; Thence, 5) N $10^{\circ} 07^{\prime} 12^{\prime \prime} \mathrm{W}$, a distance of $35.23^{\prime}$ to a point; Thence, 6) $\mathrm{N} 02^{\circ} 26^{\prime} 38^{\prime \prime \prime} \mathrm{W}$, a distance of $74.71^{\prime}$ to a point of intersection between the center of Brasure's Branch and the center of a prong of Brasure's Branch; Thence turning and running by and with
the prong of the Brasure's Branch generally along the following (4) courses and distances, 7) N $66^{\circ} 38^{\prime} 05^{\prime \prime} \mathrm{W}$, a distance of $152.98^{\prime}$ to a point; Thence, 8) $\mathrm{N} 29^{\circ} 25^{\prime} 10^{\prime \prime} \mathrm{W}$, a distance of $65.26^{\circ}$ to a point; Thence, 9) N $54^{\circ} 13^{\prime} 58^{\prime \prime} \mathrm{W}$, a distance of $187.63^{\prime}$ to a point; Thence, 10) N $66^{\circ} 23^{\prime} 31^{\prime \prime}$ W, a distance of 239.97 ' to a point in the center of the prong; Thence turning and continuing with The Estuary subdivision, 11) N $71^{\circ} 30^{\prime} 50^{\prime \prime} \mathrm{E}$, a distance of $503.52^{\prime}$ to a found field stone; Thence, 12) N $37^{\circ} 24^{\prime} 16^{\prime \prime} \mathrm{W}$, a distance of $593.88^{\prime}$ to a found iron pipe, being a common boundary comer between these lands and the lands of Kay H. Keen, said point lying on the northern boundary line of The Estuary subdivision; Thence turning and running with the Keen lands, 13) N $52^{\circ} 02^{\prime} 54^{\prime \prime} \mathrm{E}$, a distance of $493.86^{\prime}$ to a found iron pipe, being a common boundary corner between these lands and the lands of Michelle L. Hudson, said point lying on the eastern boundary line of the Keen lands; Thence turning and running with the Hudson lands, 14) S $39^{\circ} 31^{\prime} 46^{\prime \prime} \mathrm{E}$, a distance of $838.50^{\prime}$ to a found iron pipe at the base of a large oak tree, being a common boundary corner between these lands and the Hudson lands, being a point on the western boundary line associated with the lands of Camp Barnes, Inc.; Thence turning and running with the Camp Barnes, Inc. lands along the following (2) courses and distances, 15) S $49^{\circ} 14^{\prime} 31^{\prime \prime} \mathrm{W}$, a distance of $472.35^{\prime}$ to a found iron axle; Thence, 16) $\mathrm{S} 46^{\circ} 43^{\prime} 15^{\prime \prime} \mathrm{E}$, a distance of $1,025.52$ ' to a found concrete monument, being a common boundary corner between these lands, the Camp Barnes, Inc. lands and the lands of the State of Delaware; Thence continuing with the State of Delaware lands along the following (2) courses and distances, 17) S $45^{\circ} 54^{\prime} 51^{\prime \prime}$ E, a distance of $584.38^{\prime}$ to a found iron pipe; Thence, 18) S $31^{\circ} 10^{\prime} 36^{\prime \prime} \mathrm{W}$, a distance of $324.67^{\prime}$ to a point in the center of the aforementioned Brasure's Branch, being a common boundary corner between these lands, the State of Delaware lands, and the lands of Charlotte Rickards; Thence turning and running with the Rickards lands by and with the center of Brasure's Branch generally along the following course and distance, 19) N $49^{\circ} 29^{\prime} 19^{\prime \prime} \mathrm{W}$, a distance of $241.26^{\prime}$ to a point in the center of Brasure's Branch, being a common boundary corner between these lands, the Rickard's lands and the aformentioned Zinszer lands; Thence continuing with the center of the Branch and with the aforementioned Zinszer lands generally along the following course and distance, 20) N $50^{\circ} 45^{\prime} 09^{\prime \prime} \mathrm{W}$, a distance of $436.73^{\prime}$ to the point and place of beginning, containing 26.875 Acres of land, more or less.

BEING a part of the same lands and premises which William Zinszer and Donna M. Zinszer, by deed dated December 20, 2011 and recorded in the Office of the Recorder of Deeds in and for Sussex County in Deed Book 3958, Page 69, did grant and convey unto William Zinszer and Donna M. Zinszer, his wife and Jason W. Zinszer, as joint tenants with the right of survivorship and not as tenants in common. William Zinszer departed this life on October 14, 2012, as will more fully appear at the Office of the Register of Wills in and for Sussex County, Delaware, in Will Book 9572 leaving to survive him the said Donna M. Zinszer in whom title to the interest of William Zinszer in the above described lands and premises thereupon became vested absolutely as surviving tenant by the entirety.

SUBJECT to all easements, restrictions, reservations, agreements and covenants of record.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals.

Sealed and Delivered
In The Presence Of:

(SEAL)

STATE OF DELAWARE )
SS
$N_{\text {ene }}$ (mite COUNTY)
BE IT REMEMBERED, That on this $15^{\text {m }}$ day of January, 2019, personally came before me, the Subscriber, a Notarial Officer for the State and County aforesaid, Jason W. Zinszer, party to this Indenture, known to me personally to be such and he acknowledged this Indenture to be his act and deed.

GIVEN under my Hand and Seal of Office, the day and year aforesaid,


Notary Pubtic/DE Attorney at Law
Name Printed: $\qquad$
WHIDAH I. RHODUNDA, J.
Atom at At law Delaware
Nothal Omber Pursuant
65 Wa, C, Solon $4323(2)(3)$

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals.

Sealed and Delivered
In The Presence Of:


## STATE OF DELAWARE

 COUNTY
) SS )
BE IT REMEMBERED, That on this $/ 2^{\text {th }}$ day of December, 2018, personally came before me, the Subscriber, a Notarial Officer for the State and County aforesaid, Donna M. Zinszer, party to this Indenture, known to me personally to be such and she acknowledged this Indenture to be her act and deed.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.


GRANTEES' ADDRESS:
6726 Curran Street, $2^{\text {nd }}$ Floor
McLean, VA 22101






Aerial of Estuary Amenities


Front of Estuary Clubhouse


Estuary Clubhouse Interior


Back of Estuary Clubhouse


Estuary Pool Deck


Estuary Outside Pavilion


Estuary Outside Pavilion


Estuary Putting Green


Estuary Beach Area


Estuary Bocce Court


Estuary Beach and Fishing Pier

## STORMWATER <br> CONCEPTUAL APPROACH

GEORGE, MILES \& BUHR, LLC

ARCHITECTS ENGINEERS

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

SALISBURY
BALTIMORE
SEAFORD
www.gmbnet.com

JAMES H. WILLEY, JR., PE PETER A. BOZICK, JR., PE JUDY A. SCHWARTZ, PE CHARLES M. O'DONNELL, III, PE W. BRICE FOXWELL, PE A. REGGIE MARINER, JR., PE JAMES C. HOAGESON, PE STEPHEN L. MARSH, PE DAVID A. VANDERBEEK, PE ROLAND E. HOLLAND, PE JASON M. LYTLE, PE CHRIS B. DERBYSHIRE, PE W. MARK GARDOCKY, PE MORGAN H. HELFRICH, AIA KATHERINE J. MCALLISTER, PE

## JOHN E. BURNSWORTH, PE

 MICHAEL G. KOBIN, PE VINCENT A. LUCIANI, PE ANDREW J. LYONS, JR., PE W. NICHOLAS LLOYD AUTUMN J. WILLIS
## MEETING MINUTES

## Zinszer Property

A Pre-Application Meeting for the Zinszer Property Project took place on Friday March 15, 2019 at the Sussex Conservation District office in Georgetown Delaware.

## Those in attendance were:

Jessica Watson
Sussex Conservation District (SCD)
Valerie Thompson
Chris Pfeifer
Jon Soistman
Sean Kennedy

```
SCD
George, Miles, and Buhr, LLC. (GMB)
GMB
GMB
```


## Items of discussion were:

1. GMB gave an overview of the Zinszer Property Project, specifically the locations of stormwater management facilities and the location of the existing Brasures Branch Tax Ditch.
a. Property will consist of 34 single family lots, a road, and four (4) open areas for stormwater management.
2. The Zinszer Property will connect to Phase 1-D of the Estuary and will be annexed into the Estuary Community.
3. There is a 50 ' environmental buffer that runs parallel with the top of bank of the tax ditch where structures cannot be built. This area is not enforced by SCD and GMB is in the process of getting clarification on what work/improvements can occur within this buffer area.
4. GMB presented the idea of a flood plain enhancement along the buffer area.
a. There are currently no regulations which allow stormwater credit for this type of enhancement, should credits be needed via the enhancement a separate meeting with DNREC must take place.
b. SCD presented two previous projects that were done as constructed wetlands in the area of existing ditch banks.
5. SCD suggested that afforestation would be another potential BMP that could be used within the buffer area.
6. All wetland areas on site have been delineated by Ed Launay and will be represented on the plans.
7. Outside of the proposed floodplain enhancement, the remaining stormwater management facilities would be 48-hour extended detention.
a. A minimum of one (1) boring will be required per pond to determine seasonal high water table.
b. There are new testing procedures in the new regulations which need to be followed.
c. All ponds will require a forebay (including pipes that are fully submerged).
d. 48-hour ponds do not require a landscaping plan signed by a landscape architect.
e. Biodegradable matting should be used for all ponds.
i. A type of matting needs to be specified within the plans.
8. Existing runoff drains mostly to the Brasures Branch Tax Ditch with a small portion draining to a wetland area to the north of the site.
9. A model of the existing conditions for the 1,10 , and 100 -year storm will be provided within the stormwater management report.
a. GMB proposed during the meeting that these existing flowrates be used as the maximum allowable flowrates in the proposed condition, therefore not requiring the stormwater and HECRAS model from Phase 1 of the Estuary to be revised and updated.
i. SCD agreed that this seemed reasonable but wants to confirm with Jim Elliott (not in attendance) as he reviewed the Estuary Phase 1 project.
10. Silt fence should be installed at the back of all curbs.
11. All riprap shall have fabric underneath
a. This needs to be specified in all notes that show the riprap (plan view and profile view)
12. If a pond liner is needed the liner shall be shown in the pond profile.
13. A 15' maintenance buffer around all stormwater ponds is required.
14. A CCR will be required due to the size of the LOD for the project.

## UTILITY PROVIDERS

# SUSSEX COUNTY ENGINEERING DEPARTMENT <br> UTILITY PLANNING DIVISION <br> SEWER SERVICE CONCEPT EVALUATION (SSCE) 

Date 3/5/2019
Tax Map \& Parcel(s): 134-19.00-105.00
Sewer Tier: Tier 2 Sussex County Planning Area
Proposed EDUs: 35
Pump Station(s) Impacted:
MC-341
List of parcels to be served, created from the base parcel:
134-19.00-105.01, 105.02 \& 105.04 as well as lot 2 (indentified on the Preliminary Subdivision Plan).

List of additional parcels to be served (Parcels required for continuity must be served with infrastructure:N/A Connection Point(s): Current connection point is MH-B9 in Weathervane Way. Once future phases of the Estuary subdivision are complete the connection point could change.

Use of Existing Infrastructure Agreement required? Yes $\boxtimes$ or No $\square$
Maximum number of EDU's that can currently connect to existing infrastructure* As proposed?
Annexation Required? Yes $\boxtimes$ or No $\square$
Easements Required? Yes $\boxtimes$ or No
Fee for annexation (based on acreage):\$1,500 (10.00-150.00 Acres)
Current Zoning: AR-1 Zoning Proposed: AR-1
Acreage: $\mathbf{2 6 . 9 1 + / - ~}$
Additional Information: The proposed project parcel is not currently within the sewer district boundary. I have attached the "Policy for Extending District Boundaries".

## * No capacity is guaranteed until System Connection Fees are paid

All gravity sewers with three (3) or more minor branches designed at minimum slope and maximum depth.

Once Construction Drawings are completed with all of the above information satisfied please submit to:
Jordan Dickerson
Sussex County Engineering Department
22215 Dupont Blvd.
P.O. Box 589

Georgetown DE 19947

## Policy for Extending District Boundaries

1. Property owner (developer) and/or his representative shall make a request to the Utility Planning Division for a Sewer System Concept Evaluation.
2. Property owner (developer) and/or his representative shall meet with the applicable planning and zoning agency to determine if zoning is appropriate for the development being planned.
3. With appropriate zoning, property owner (developer) and/or his representative shall send a letter (with appropriate application fee as listed below) requesting the Sussex County Council to consider extending the water and/or sanitary sewer district boundaries. (Sussex County Code)

| Application Fees |  |
| :--- | :--- |
| Less than 2 acres | $\$ 500.00$ |
| $2.1-9.99$ acres | $\$ 750.00$ |
| $10-150.00$ acres | $\$ 1,500.00$ |
| Greater than 150.00 acres | $\$ 2,500.00$ |

4. The Sussex County Engineering Department shall present, for Sussex County Council's consideration, posting of notices for the proposed extension of the district boundaries.
5. The Sussex County Council approves posting notices for the proposed extension of the boundaries. (If approval to post the notices is not given, the appropriate fee is refunded.)
6. Within ninety days of the posting of the notices, the Sussex County Council approves/disapproves extending the boundaries.
7. The Sussex County Council approves/disapproves of the extension of the water and/or sanitary sewer pipelines under the appropriate Sussex County Ordinance.

## WETLANDS



Mr. Steve Marsh, P.E.
George, Miles \& Buhr, LLC.
206 West Main Street
Salisbury, MD 21801

## RE: Delineation of State \& Federally Regulated Wetlands \& Waters Zinszer Property <br> Tax Map Parcel 134-19.00-105.00 <br> Baltimore Hundred, Sussex County Delaware

Dear Mr. Marsh,

Environmental Resources, Inc. (ERI) has conducted a long term investigation of Tax Map Parcel 134-19.00-105.00 also known as the 26.87 acre Zinszer Property in order to delineate the extent of any state or federally regulated waters or wetlands. Our work included a detailed long term study of groundwater levels on the property during 2017 and 2018.

In regards to regulated waters, the property either borders or is bisected by a drainage channel which is a tax ditch maintained by the Brasures Branch Tax Ditch Association and managed by the Department of Natural Resources \& Environmental Control (DNREC) Drainage Section. The channel is illustrated on USGS topographic quadrangle maps. This channel was delineated and determined to be "Waters of the United States" subject to regulation by the Corps of Engineers Regulatory Program. The channel is also State regulated subaqueous lands regulated through DNREC's Wetlands \& Subaqueous Lands Section (WSLS). ERI believes that this portion of the Brasures Branch Tax Ditch exhibits perennial stream flow. As such, Sussex County Code requires a 50 foot buffer measured from the ordinary high water mark. Tax ditch channels on the property total 0.44 acres of the site.

Based upon review of DNREC's WSLS official wetlands maps, no state regulated wetlands occur on or near the Zinszer property. The southern border of the Zinszer property contains 7.77 acres of actively cultivated upland agricultural fields. Woodland consisting of mid to early successional oak pine forest surrounds the north, east and west borders of the agricultural fields. ERI determined 10.29 acres of upland forest surrounds the agriculture fields. Bordering this upland forest, the remainder of the site is occupied by 8.37 acres of palustrine nontidal wetlands which is subject to the Corps of Engineers Regulatory Program. These forested wetlands meet the soil, vegetation and hydrology parameters for wetlands as specified by the 1987 Corps of

Engineers Wetland Delineation Manual and associated guidance. Any development plan for this site should attempt to first avoid and then minimize any potential impacts to these wetlands. ERI has submitted the Wetland Delineation Plan prepared by GMB, LLC. and a detailed wetland report to the Corps of Engineers for their review and issuance of a Jurisdictional Determination approval letter.

Upon your review of this information if you have any questions, I am available at your convenience.


## THREATENED \& <br> ENDANGERED SPECIES



# United States Department of the Interior 

FISH AND WILDLIFE SERVICE<br>Chesapeake Bay Ecological Services Field Office<br>177 Admiral Cochrane Drive<br>Annapolis, MD 21401-7307<br>Phone: (410) 573-4599 Fax: (410) 266-9127<br>http://www.fws.gov/chesapeakebay/<br>http://www.fws.gov/chesapeakebay/endsppweb/ProjectReview/Index.html



In Reply Refer To:
March 01, 2019
Consultation Code: 05E2CB00-2019-SLI-0896
Event Code: 05E2CB00-2019-E-02037
Project Name: Zinser Property
Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

## To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. This species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations ( 50 CFR 402 et seq.), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2) (c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:
http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF
Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act ( 16 U.S.C. 668 et seq.), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/ eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (http://www.fws.gov/windenergy/) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: http:// www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm; http:// www.towerkill.com; and http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/ comtow.html.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List
- USFWS National Wildlife Refuges and Fish Hatcheries
- Wetlands


## Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:
Chesapeake Bay Ecological Services Field Office
177 Admiral Cochrane Drive
Annapolis, MD 21401-7307
(410) 573-4599

## Project Summary

Consultation Code: 05E2CB00-2019-SLI-0896
Event Code: 05E2CB00-2019-E-02037
Project Name: Zinser Property
Project Type: DEVELOPMENT
Project Description: Proposed residential development of upland portion of the property.
Project Location:
Approximate location of the project can be viewed in Google Maps: https:// www.google.com/maps/place/38.5021099664897N75.107379383118W


Counties: Sussex, DE

## Endangered Species Act Species

There is a total of 0 threatened, endangered, or candidate species on this species list.
Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries ${ }^{\underline{1}}$, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

1. NOAA Fisheries, also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

## Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

## USFWS National Wildlife Refuge Lands And Fish Hatcheries

Any activity proposed on lands managed by the National Wildlife Refuge system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

## Wetlands

Impacts to NWI wetlands and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local U.S. Army Corps of Engineers District.

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

## FRESHWATER FORESTED/SHRUB WETLAND

- PFO1B
- PFO1/3Ad
- PFO1/4C
- PFO1/4Cd
- PFO1Ad
- PFO1E
- PFO4/1B
- PFO4/1Cd
- PFO4B
- $\underline{\mathrm{PFO} 1 / 4 \mathrm{~B}}$

FRESHWATER POND

- PUBHx

RIVERINE

- R2UBH
- R2UBHx

Mr. Steve Marsh, P.E.
George, Miles \& Buhr, LLC.
206 West Main Street
Salisbury, MD 21801

RE: Presence of Rare, Threatened of Endangered Species<br>Zinszer Property<br>Tax Map Parcel 134-19.00-105.00<br>Baltimore Hundred, Sussex County Delaware

Dear Mr. Marsh,

Environmental Resources, Inc. (ERI) has conducted a long term investigation of Tax Map Parcel 134-19.00-105.00 also known as the Zinszer Property for the possible occurrence of any threatened or endangered species or their critical habitats or other species of concern such as the American Bald Eagle. Out investigations at the property began in March of 2017 and continues through the present time. I understand a development plan for the property is being submitted to the Sussex County Planning \& Zoning Department.

Based upon our reconnaissance of the property no threatened or endangered species, their critical habitats or other species of concern were found on this property. As part of our review, ERI also contacted the U.S. Fish \& Wildlife Service (USFWS) about any records they may have for the site. On March 1, 2019 the USFWS provided a letter (attached) which confirmed ERI's findings that there are no records of threatened or endangered species or their critical habitats on this property.

Upon your review of this information if you have any questions, I am available at your convenience.


## SUSSEX COUNTY <br> COMPREHENSIVE MAPS












# PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET Planning Commission Public Hearing Date March 28, 2019 

Application: CU 2163 William H. McQueen, Jr.

Applicant/Owner: William H. McQueen, Jr. 26285 Broadkill Road Milton, DE 19958

Site Location: 26285 Broadkill Road. North side of Broadkill Road, approximately 670 ft . west of Reynolds Road.

Current Zoning: AR-1 (Agricultural Residential District)
Proposed Use: Event Venue
Comprehensive Land
Use Plan Reference: Low Density Area
Councilmatic
District: Mr. Burton
School District: Cape Henlopen School District
Fire District: Milton Fire District
Sewer: Private, On-Site Septic
Water: Private, On-Site Well
Site Area: $\quad 1.6408 \mathrm{ac} .+/-$
Tax Map ID.: $\quad 235-15.00-4.01$

## Sussex County



## Sussex County



235-15.00-4.01
Owner Name
MCQUEEN WILLIAM H JR

Book
4885

Mailing Address 26285 BROADKILL RD
City MILTON
State DE
Description NW/RT 16
Description 2 650' SW/RD 233

Description 3 PARCELA
Land Code

## polygonLayer

Override 1
polygonLayer
Override 1
$\square$ Tax Parcels
Zoning
$\square$ Agricultural Residential - ARAgricultural Residential - AR-2 Medium Residential - MR

- General Residential - GR

High Density Residential - HR-1
High Density Residential - HR-2
High Density Residential - HR-2
Vacation, Retire, Resident - VRP
Neighborhood Business - B-
General Commercial - C-1
Commercial Residential - CR-1

Marine - M
Limited Industrial - LI-1
$-$
Limited Industrial - $\mathrm{LI}-2$
Heavy Industrial - HI-1
$\underset{0}{0}$



# Bussex County 

 sussexcountyde.gov
## Memorandum

To: Sussex County Planning Commission Members
From: Janelle Cornwell, AICP, Planning \& Zoning Director
CC: Vince Robertson, Assistant County Attorney and applicant
Date: March 20, 2019
RE: Staff Analysis for CU 2163 William H. McQueen, Jr.
This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2163 William H. McQueen, Jr. to be reviewed during the March 28, 2019 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for parcel 235-15.00-4.01 to allow for an event venue to be located at 26285 Broadkill Rd. The size of the property is $1.6408 \mathrm{ac} .+/-$.

The 2008 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the property has the land use designation Low Density Area.

The surrounding land use to the north, south, east and west is Low Density Area. The Low Density Area land use designation recognizes that the primary uses are agriculture and single family detached homes and that a business development should be largely confined to businesses that address the needs of single family residences and agriculture. It should also permit industrial uses that support or depend on agricultural uses. The focus of retail and office should provide convenience goods and services to nearby residents and should be limited in their location, size and hours of operation. The use as auto repair and gasoline sales, should be avoided in these areas.

The property is zoned AR-1 (Agricultural Residential District). The properties to the north, south and west are zoned. The properties to the east are zoned AR-1 (Agricultural Residential District), C1 (General Commercial District) and CR-1 (Commercial Residential District). There are no known Conditional Uses in the area. There is a Special Use Exception (11721) for a bed and breakfast.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow for an event venue could be considered consistent with the land use, area zoning and uses.

PLANNING \& ZONING
JANELLE M. CORNWELL, AICP DIRECTOR
(302) 855-7878 T
(302) $854-5079 \mathrm{~F}$

Sussex County
DELAWARE sussexcountyde.gov

Service Level Evaluation Request Form
This form shall be submitted to the Planning and Zoning Office and a response shall be received back from DelDOT prior to the applicant being able to submit an application to the Planning and Zoning Office.

Date: $10 / 15 / 18$
Site Information:
Site Address/Location: 26285 Broadkill Rd, Mi Hon, DE 19968

Tax Parcel Number: $\frac{235-15.00-4.01}{\text { ARt }}$
Current Zoning:
Proposed Zoning: Conditional
Land Use Classification: Wecioring Event, venue.
Proposed Use (s):


Square footage of any proposed buildings or number of units: $\qquad$

Applicant Information:
Applicant's Name: William H.McQueenJr

Applicant's Address: $\qquad$ 26285 Broadkill Rd
City: $\qquad$ milton $\qquad$
Applicant's Phone Number: $302-664-2540$
Applicant's e-mail address: info 2 mansion Form lnn.com


Entrance for Parking. Tented on Duty during All Events.
\#5 parking


#  <br> state of delaware <br> DEPARTMENT OF TRANSPORTATION 800 BAY ROAD <br> P.O. BOX 77 B <br> DOVER. DELAWARE 19903 

Ms. Janelle Cornwell, Director
Sussex County Planning \& Zoning
P.O. Box 417

Georgetown, DE 19947
Dear Ms. Cornwell:

The Department has completed its review of a Service Level Evaluation Request for the William H. McQueen, Jr. conditional use application, which we received on October 16, 2018. This application is for a 1.64-acre parcel (Tax Parcel: 235-15.00-4.01). The subject land is located on the northwest side of Delaware Route 16, approximately 700 feet southwest of the intersection of Delaware Route 16 and Reynolds Road (Sussex Road 233). The subject land is currently zoned AR-1 (Agricultural Residential), and the applicant is seeking a conditional use approval to utilize the existing facility for weddings and events.

Per the 2017 Delaware Vehicle Volume Summary, the annual average and summer average daily traffic volumes along the segment of Delaware Route 16 where the subject land is located, which is from Delaware Route 5 to Delaware Route 1 , are 6,488 and 8,537 vehicles per day, respectively.

The traffic impact of event and wedding venues necessarily varies with the frequency and size of the events and weddings. Generally, DelDOT bases its decision to require a Traffic Impact Study (TIS) on traffic volumes that recur on a daily or weekly basis. Special events, if large enough, may require coordination with our Transportation Management Center but cannot be properly addressed by the TIS process.

Regarding DelDOT's warrants for requiring a TIS, special events that would generate more than 50 vehicle trips in any hour and more than 500 vehicle trips per day would meet these warrants. Special events generating more than 200 vehicle trips in any hour and / or more than 2,000 vehicle trips per day would be considered to have a Major impact to local area roadways. Because we expect the typical event to generate no more than 50 vehicle trips in any hour and no more than 500 vehicle trips per day, we recommend that this conditional use application be considered without a TIS.

Ms. Janelle M. Cornwell
Page 2 of 2
November 15, 2018
Please contact Mr. Claudy Joinville, at (302) 760-2124, if you have questions concerning this correspondence.
T. William Brockenbrough, Jr. County Coordinator Development Coordination

## TWB:cjm

cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues William H. McQueen, Jr., Applicant
J. Marc Coté, Assistant Director, Development Coordination

Gemez Norwood, South District Public Works Manager, Maintenance and
Operations
Steven Sisson, Sussex County Subdivision Coordinator, Development Coordination
Derek Sapp, Subdivision Manager, Development Coordination
Brian Yates, Subdivision Manager, Development Coordination
Susanne Laws, Subdivision Manager, Development Coordination
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination

# SUSSEX COUNTY ENGINEERING DEPARTMIENT UTILITY PLANNING DIVISION <br> CIU \& C/Z COMMENTS 

TO: Janelle Cornwell
REVIEWER: Chris Calio
DATE: 3/12/2019
APPLICATION: CU 2163 William H. McQueen, Jr.
APPLICANT: William H. McQueen, Jr.
FILE NO: NCPA-5.03
TAX MAP \&
PARCEL(S): 235-15.00-4.01
LOCATION: 26285 Broadkill Road. North side of Broadkill Road, approximately 670 feet west of Reynolds Road.

NO. OF UNITS: Event Venue

GROSS
ACREAGE
1.6408

SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE: 2
SEWER:
(1). Is the project in a County operated and maintained sanitary sewer and/or water district? Yes $\square \quad$ No $\boxtimes$
a. If yes, see question (2).
b. If no, see question (7).
(2). Which County Tier Area is project in? Municipal Growth \& annexation Area
(3). Is wastewater capacity available for the project? N/A If not, what capacity is available? N/A.
(4). Is a Construction Agreement required? No If yes, contact Utility Engineering at (302) 855-7717.
(5). Are there any System Connection Charge (SCC) credits for the project? No If yes, how many? N/A. Is it likely that additional SCCs will be required? No If yes, the current System Connection Charge Rate is Click or tap to enter a fee per EDU. Please contact N/A at 302-855-7719 for additional information on charges.
(6). Is the project capable of being annexed into a Sussex County sanitary sewer district? NoAttached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.
(7). Is project adjacent to the Unified Sewer District? No
(8). Comments: The proposed CU is not in an area where the Sussex County Engineering Department has a schedule to provide sanitary sewer service. The proposed CU is within the Growth and Annexation Area of the Town of Milton
(9). Is a Sewer System Concept Evaluation required? No
(10). Is a Use of Existing Infrastructure Agreement Required? No


Xc: Hans M. Medlarz, P.E.
Jayne Dickerson
No Permit Tech Assigned



\#5 parking Clubhouses \& Resorts


Our team of expert's partner with you for a great timber frame experience

Full design and engineering services for any size project or budget

Every nut, bolt, piece of material delivered to site - no costly trips to the lumberyard

Practical construction knowledge and budgeting know how for insightful and quick quote turnaround

An on-site Normerica craftsman to guide and assist your installation Clubhouses \& Resorts

330 S. Lincoln Avenue, Suite 222, Steamboat Springs, CO 80487
Toll Free: 1-800-361-7449, 705-4314710, Fax 705-431-7275

November 8, 2018

## Contact: Will McQueen \& David Stiber

## Project: Mansion Farm Inn Wedding Pavilion

Dear Will and David,

Thank you for the opportunity to quote for this wonderful addition to your bed and breakfast.
Based on the drawings that we provided and our discussion we have put together the material pricing for the timber frame and all the associated fasteners, excluding post bases. We have provided nominal $1 \times 6$ T\&G pine decking for the roof. Below please find an overview of our pricing.

## Materials \& Services Included in the Normerica Package:

1. Foundation: Slab on Grade by others. Designed to bear timber loads.
2. Normerica Authentic Timber Frame: All timbers are nominal dimension, Eastern White Pine Included in this quote are: $8^{\prime \prime} \times 8^{\prime \prime}$ posts with $8^{\prime \prime} \times 14^{\prime \prime}$ beams and $4^{\prime \prime} \times 6^{\prime \prime}$ knee braces. There are two $6 \times 12$ valleys with $4 \times 12$ rafters for the entire roof at $2^{\prime}$ on center. All wood-to-wood fasteners for the timber frame but not post bases at this time.
3. Ceiling finish: 2115 square feet of nominal $1 \times 6$ T\&G pine for face nailing to the top of the timber rafters that are $2^{\prime}$ on center. This will provide enough decking to extend $6^{\prime \prime}$ past the outside face of the rafters on the gable ends and to the ends of the rafters on the eave edges. Since this material is typically installed with a pneumatic nail gun no fasteners are provided.
4. Overhangs: The timber rafters extend $2^{\prime}$ beyond the $32^{\prime} \times 50^{\prime}$ posting dimensions at both the eves and gables.
5. Normerica Technical Representative: The quote includes the services of an onsite Normerica Technical Representative to supervise and assist with the assembly of the timber frame, for a total of 4 days.
6. Shipping: Shipping is included to the jobsite Milton, DE. Offloading is the responsibility of the purchaser.

## DESIGN AND ENGINEERING

- We will provide Maryland sealed engineered timber shop drawings and all associated details.

PRICING USD\$ 71,226 FOB Jobsite.

- It is understood that this number has been calculated based on the drawings and preliminary sizing estimates, but timber sizes may change due to engineering requirements.
- All the above prices include freight to site and any associated Duties. Please note that any associated Local or State taxes and offloading are the responsibility of the customer.
- Price is good for acceptance within 30 days and delivery within 6 months.

Of note, we looked at a space planning website and did a review that indicates with an interior space of 1600 square feet will accommodate a wedding reception of up to 125 guests based on 12-15 SF per person.

It is our estimate that a crew of two carpenters and two helpers could, with the guidance and assistance of our technical representative for the installation of the timber frame, could have the materials we are providing installed in 5-7 days ( 224 manhours)

We look forward to hearing your thoughts and working with you on this permanent solution for your wedding venue (and covered parking for your motor coach when not hosting weddings).

Your Partner in Timber Frame,
NORMERICA BUILDING SYSTEMS INC.


Robert E. Pugsley Vice President of Sales, USA


Tracy Shepherd US Pricing and Sales Support

\#6

\# 8
New google Aerial

I John E Brandt \& John Franz give permission to Mansion Farm Inn to use property located at Map Id 235-15.00-26.06, Milton DE 19968 across the street from Mansion Farm Inn as in Event parking facility beginning January $1^{\text {st }}, 2019$.

All questions about the parking facility, its nature, risks have been discussed with the owners of the property to my satisfaction. The Mansion Farm Inn agrees to indemnify and save harmless the property owner from all damages and claims arising out of any act, omission or neglect by Mansion Farm Inn Guest.

AS the property owner I agree to notify Mansion Farm Inn of any chance in land owner ship or use 60 days to prior change and status.


## PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET Planning Commission Public Hearing Date March 28, 2019

| Application: | CU 2166 Deborah Townsend |
| :--- | :--- |
| Applicant: | Thomas P. Carney, Esquire c/o Deborah Townsend <br> 1413, Suite 1, Savannah Road <br> Lewes, DE 19958 |
| Owner: | Deborah A. Townsend, Trustee <br> 34745 Burbage Road <br> Frankford, DE 19945 |
| Site Location: | 34745 Burbage Road, Frankford. North side of Burbage Road <br> approximately 347 ft. west of Roxanna Road. |
| Current Zoning: | AR-1 (Agricultural Residential District) |

## Comprehensive Land

Use Plan Reference: Environmentally Sensitive Developing Area
Councilmatic
District: Mr. Hudson
School District: Indian River School District

Fire District: Millville Fire District

Sewer: unknown
Water: unknown

Site Area: $\quad 1.58 \mathrm{ac} .+/-$
Tax Map ID.: $\quad 134-11.00-226.01$

## Sussex County



## Sussex County



Sussex County
 sussexcountyde.gov


# Bussex County <br> DELAWARE 

## Memorandum

To: Sussex County Planning Commission Members
From: Janelle Cornwell, AICP, Planning \& Zoning Director
CC: Vince Robertson, Assistant County Attorney and applicant
Date: March 20, 2019
RE: Staff Analysis for CU 2166 Deborah Townsend
This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2166 Deborah Townsend to be reviewed during the March 28, 2019 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for parcel 134-11.00-226.01 to allow for a professional office, business services and residence to be located at 34745 Burbage Rd. The size of the property is 1.58 ac. +/-.

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

The surrounding land use to the north, south, east and west is Environmentally Sensitive Developing Area. The Environmentally Sensitive Developing Area land use designation recognizes that a range of housing types should be permitted including single-family, townhouses and multi-family and that office and retail uses are appropriate but larger shopping centers and office parks should be confined to access to an arterial road. It also recognizes that a careful mixture of homes with light commercial and institutional uses could be appropriate to provide for convenient services and let people work close to home.

The property is zoned AR-1 (Agricultural Residential District). The properties to the north are zoned AR-2 (Agricultural Residential District). The properties to the west are zoned AR-1 (Agricultural Residential District). The properties to the east and south are zoned AR-1 (Agricultural Residential District) and C-1 (General Commercial District). The site is near the Town of Millville. There are no known Conditional Uses in the area.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow for a professional office, business services and residence could be considered consistent with the land use, area zoning and uses.

Ms. Janelle Cornwell, Director
Sussex County Planning \& Zoning
P.O. Box 417

Georgetown, DE 19947
Dear Ms. Cornwell:
The Department has completed its review of a Service Level Evaluation Request for the Deborah A. Townsend conditional use application, which we received on August 7, 2018. This application is for a 1.58 -acre parcel (Tax Parcel: 134-11.00-226.01). The subject land is located on the north side of Burbage Road (Sussex Road 353), approximately 400 feet west of the intersection of Burbage Road and Delaware Route 17. The subject land is currently zoned as AR-1 (Agricultural Residential), and the applicant is seeking a conditional use approval to convert the interior of the existing residential unit into a shared office space. The applicant does not plan to make exterior renovations.

Per the 2017 Delaware Vehicle Volume Summary, the annual average and summer average daily traffic volumes along of Burbage Road where the subject land is located, which is from Omar Road (Sussex Road 54) to Delaware Road 17, are 1,466 and 1,929 vehicles per day, respectively.

Based on our review, we estimate that the proposed land use will generate fewer than 50 vehicle trips in any hour and fewer than 500 vehicle trips per day. These numbers of trips are DelDOT's minimum warrants for determining that a Traffic Impact Study (TIS) should be required for a particular development. Because the proposed land use would not meet these warrants, we consider the development's traffic impact to be negligible in the context of our agreement with the County regarding land development coordination and we do not recommend that the applicant be required to perform a TIS for the subject application. DelDOT's description of this application as negligible with regard to warranting a TIS does not mean that it is negligible in other respects. We recommend that the applicant not be required to perform a TIS for the subject application.


Ms. Janelle M. Cornwall
Page 2 of 2
September 4, 2018
Please contact Mr. Claud Joinville, at (302) 760-2124, if you have questions concerning this correspondence.

Sincerely,

T. William Brockenbrough, Jr. County Coordinator Development Coordination

TWB:cjm
cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues Deborah A. Townsend, Applicant
J. Marc Coté, Assistant Director, Development Coordination

Gemez Norwood, South District Public Works Manager, Maintenance and Operations
Steven Sisson, Sussex County Subdivision Coordinator, Development Coordination
Derek Sapp, Subdivision Manager, Development Coordination
Brian Yates, Subdivision Manager, Development Coordination
Susanne Laws, Subdivision Manager, Development Coordination
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination

## PLANNING \& ZONING COMIIMISSION

ROBERT C. WHEATLEY, CHAIRMAN MARTIN L. ROSS, VICE CHAIRMAN
R. KELLER HOPKINS DOUGLAS B. HUDSON KIM HOES STEVENSON


# sussex County 

DELAWARE
sussexcountyde.gov
302-855-7878 T
302-845-5079 F
JANELLE M. CORNWELL, AICP
DIRECTOR

## Service Level Evaluation Request Form

This form shall be submitted to the Planning and Zoning Office and a response shall be received back from DelDOT prior to the applicant being able to submit an application to the Planning and Zoning Office.

Date: $\qquad$
Site Information:

Site Address/Location:


Tax Parcel Number: $\square$
Current Zoning:
Proposed Zoning:


Land Use Classification:

Proposed Uses):

Square footage of any proposed buildings or number of units:

## Applicant Information:

Applicant's Name (hasech TOwnsend Trustee
Applicant's Address:
$\square$ State: DE Zip Code: $\qquad$
City:
 14445

Applicant's Phone Number: $\qquad$
Applicant's e-mail address:


Contacted on 2/28/2018 left messeaf $9 / 5 / 2018$

#  <br> State of delaware <br> DEPARTMENT OF TRANSPORTATION 

Ms. Janelle Cornwell, Director

Sussex County Planning \& Zoning
P.O. Box 417

Georgetown, DE 19947
Dear Ms. Cornwell:
The Department has completed its review of a Service Level Evaluation Request for the Deborah A. Townsend conditional use application, which we received on August 7, 2018. This application is for a 1.58 -acre parcel (Tax Parcel: 134-11.00-226.01). The subject land is located on the north side of Burbage Road (Sussex Road 353), approximately 400 feet west of the intersection of Burbage Road and Delaware Route 17. The subject land is currently zoned as AR-1 (Agricultural Residential), and the applicant is seeking a conditional use approval to convert the interior of the existing residential unit into a shared office space. The applicant does not plan to make exterior renovations.

Per the 2017 Delaware Vehicle Volume Summary, the annual average and summer average daily traffic volumes along of Burbage Road where the subject land is located, which is from Omar Road (Sussex Road 54) to Delaware Road 17, are 1,466 and 1,929 vehicles per day, respectively.

Based on our review, we estimate that the proposed land use will generate fewer than 50 vehicle trips in any hour and fewer than 500 vehicle trips per day. These numbers of trips are DelDOT's minimum warrants for determining that a Traffic Impact Study (TIS) should be required for a particular development. Because the proposed land use would not meet these warrants, we consider the development's traffic impact to be negligible in the context of our agreement with the County regarding land development coordination and we do not recommend that the applicant be required to perform a TIS for the subject application. DelDOT's description of this application as negligible with regard to warranting a TIS does not mean that it is negligible in other respects. We recommend that the applicant not be required to perform a TIS for the subject application.

Ms. Janelle M. Cornwell
Page 2 of 2
September 4, 2018
Please contact Mr. Claudy Joinville, at (302) 760-2124, if you have questions concerning this correspondence.

Sincerely,

T. William Brockenbrough, Jr. County Coordinator Development Coordination

## TWB:cjm

cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues Deborah A. Townsend, Applicant
J. Marc Coté, Assistant Director, Development Coordination

Gemez Norwood, South District Public Works Manager, Maintenance and Operations
Steven Sisson, Sussex County Subdivision Coordinator, Development Coordination
Derek Sapp, Subdivision Manager, Development Coordination
Brian Yates, Subdivision Manager, Development Coordination
Susanne Laws, Subdivision Manager, Development Coordination
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination


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$\square$ TaxParcels
Council Districts
$\square$ Fire Districts


County District 04
County District 05
County Boundaries
Schools/Libraries
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$\square$ DOE School Districts $\square$ DOE VoTech School Districts Hydrology
$\sim$ Streams / Rivers
Lakes, Ponds, Bays
Lakes, Ponds, Bays
Flood Zones
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#  <br> State of Delaware <br> DEPARTMENT OF TRANSPORTATION <br> 800 BAY ROAD <br> P.O. BOX 778 <br> DOVER, DELAWARE 19903 

Ms. Janelle Cornwell, Director
Sussex County Planning \& Zoning
P.O. Box 417

Georgetown, DE 19947
Dear Ms. Cornwell:
The Department has completed its review of a Service Level Evaluation Request for the Deborah A. Townsend, Trustee rezoning application, which we received on January 29, 2018. This application is for a 1.58 -acre parcel (Tax Parcel: 134-11.00-226.01). The subject land is located on the north side of Burbage Road (Sussex Road 353), approximately 400 feet west of the intersection of Burbage Road and Delaware Route 17. The subject land is currently zoned AR-1 (Agricultural Residential), and the applicant is seeking to rezone the land to CR-1 (Commercial Residential).

Per the 2016 Delaware Vehicle Volume Summary, the annual average daily traffic volumes on average day and on an average summer day along the segment of Burbage Road where the subject land is located, which is from Omar Road (Sussex Road 54) to Delaware Road 17, are 1,482 and 1,884 vehicles per day, respectively.

Based on our review, we estimate that the proposed land use could generate more than 50 vehicle trips in any hour or 500 vehicle trips per day, and could be considered to have a Major impact to the local area roadways. In this instance, the Department considers a Major impact to be when a proposed land use would generate more than 200 vehicle trips in any hour of the week and / or 2,000 vehicle trips per day. While it seems that the above criteria could be met, we presently cannot predict the site's trip generation with enough accuracy to make a TIS useful. Thus, we recommend that this rezoning application be considered without a TIS and that the need for a TIS be evaluated when a subdivision or land development plan is proposed.

Ms. Janelle M. Cornwell
Page 2 of 2
February 26, 2018
Please contact Mr. Claudy Joinville, at (302) 760-2124, if you have questions concerning this correspondence.

Sincerely,
T. William Brockenbrough, Jr.

County Coordinator
Development Coordination
TWB:cjm
cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues Deborah A. Townsend, Trustee, Applicant
J. Marc Coté, Assistant Director, Development Coordination

Gemez Norwood, South District Public Works Manager, Maintenance and Operations
Steven Sisson, Sussex County Subdivision Coordinator, Development Coordination
Derek Sapp, Subdivision Manager, Development Coordination
Joshua Johnson, Subdivision Manager, Development Coordination
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination

# SUSSEX COUNTY ENGINEERING DEPARTMENT UTILITY PLANNING DIVISION CIU \& C/Z COMMENTS 

TO: Janelle Cornwell
REVIEWER: Chris Calio
DATE: $\quad 3 / 12 / 2019$
APPLICATION: CU 2166 Deborah Townsend
APPLICANT: Deborah A. Townsend, Trustee
FILE NO: ..... S.P.S.-5.04
TAX MAP \&
PARCEL(S): $\quad$ 134-11.00-226.01
LOCATION: 34745 Burbage Road, Frankford. North side of Brubage Road,approximately 347 feet west of Roxanna Road.
NO. OF UNITS: Professional Office, Business Services and Residence
GROSS
ACREAGE: ..... 1.58SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE: 2
SEWER:
(1). Is the project in a County operated and maintained sanitary sewer and/or water district?

$$
\text { Yes } \square \quad \text { No } \boxtimes
$$

a. If yes, see question (2).
b. If no, see question (7).
(2). Which County Tier Area is project in? Tier 2
(3). Is wastewater capacity available for the project? N/A If not, what capacity is available? N/A.
(4). Is a Construction Agreement required? No If yes, contact Utility Engineering at (302) 855-7717.
(5). Are there any System Connection Charge (SCC) credits for the project? No If yes, how many? N/A. Is it likely that additional SCCs will be required? N/A If yes, the current System Connection Charge Rate is Click or tap to enter a fee per EDU. Please contact N/A at 302-855-7719 for additional information on charges.
(6). Is the project capable of being annexed into a Sussex County sanitary sewer district? NoAttached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.
(7). Is project adjacent to the Unified Sewer District? No
(8). Comments: The proposed CU is not in an area where Sussex County has a schedule to provide sanitary sewer service.
(9). Is a Sewer System Concept Evaluation required? No
(10). Is a Use of Existing Infrastructure Agreement Required? No

UTILITY PLANNING APPROVAL:


Director of Utility Planning

Xc: Hans M. Medlarz, P.E. Jayne Dickerson<br>No Permit Tech Assigned



# PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET 

Planning Commission Public Hearing Date March 28, 2019

| Application: | CZ 1868 Ronald Nanney |
| :--- | :--- |
| Applicant/Owner: | Ronald Nanney <br> 441 Howell School Road <br> Bear, DE 19701 |
| Site Location: | 18490 Harbeson Road, Milton. West side of Harbeson Road, <br> approximately 0.21 mile north of Lewes-Georgetown Highway. |
| Current Zoning: | AR-1 (Agricultural Residential District) |

## (8) Sussex County



## Sussex County



## Sussex County



## Memorandum

To: Sussex County Planning Commission Members
From: Janelle Cornwell, AICP, Planning \& Zoning Director
CC: Vince Robertson, Assistant County Attorney and applicant
Date: March 21, 2019
RE: Staff Analysis for CZ 1868 Ronald Nanney
This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1868 Ronald Nanney to be reviewed during the March 28, 2019 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for parcel 235-30.00-10.02 to allow for a change from AR-1 (Agricultural Residential District) to C-2 (Medium Commercial District) to be located at 18490 Harbeson Rd. The size of the property is $0.5588 \mathrm{ac} .+/-$.

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

The surrounding land use to the south and east is Developing Area. The land uses to the north are Developing Area and Low Density Area. The land uses to the west are Low Density. The Developing Area land use designation recognizes that a range of housing types should be permitted including single-family, townhouses and multi-family and that office and retail uses are appropriate in some areas. It also recognizes that a careful mixture of homes with light commercial and institutional uses could be appropriate to provide for convenient services and let people work close to home.

The property is zoned AR-1 (Agricultural Residential District). The properties to the north are zoned C-1 (General Commercial District) and AR-1 (Agricultural Residential District). The properties to the west are zoned AR-1 (Agricultural Residential District). The properties to the east and south are zoned AR-1 (Agricultural Residential District), C-1 (General Commercial District) and CR-1 (Commercial Residential District). There are no known Conditional Uses in the area.

Based on the analysis of the land use, surrounding zoning and uses, the Change of Zone to allow for a change from AR-1 (Agricultural Residential District) to C-2 (Medium Commercial District) could be considered consistent with the land use, area zoning and uses.


June 29, 2018

Ms. Janelle Cornwell, Director

Sussex County Planning \& Zoning
P.O. Box 417

Georgetown, DE 19947
Dear Ms. Cornwell:
The Department has completed its review of a Service Level Evaluation Request for the Ronald Nanney rezoning application, which we received on June 4, 2018. This application is for a 1.83 -acre assemblage of parcels (Tax Parcels: 235-30.00-10.01 \& 10.02). The subject land is located on the west side of Delaware Route 5, approximately 1,150 feet northwest of the intersection of US Route 9 and Delaware Route 5. The subject land is currently split-zoned AR-1 (Agricultural Residential, 0.55 acres) and C-1 (General Commercial, 1.28 acres), and the applicant is seeking to rezone the entire assemblage to C 2 (Medium Commercial).

Per the 2017 Delaware Vehicle Volume Summary, the annual average daily traffic volume along the segment of Delaware Route 5 where the subject land is located, which is from US Route 9 to Shingle Point Road, is 4,956 vehicles per day.

Our volume-based criteria for requiring a traffic impact study (TIS), addressed in Section 2.2.2.1 of the Development Coordination Manual, are that a development generates more than 500 trips per day or 50 trips during a weekly peak hour. While it seems that the above criteria could be met, we presently cannot predict the site's trip generation with enough accuracy to make a TIS useful. Thus, we recommend that this rezoning application be considered without a TIS and that the need for a TIS be evaluated when a subdivision or land development plan is proposed.

Ms. Janelle M. Cornwall
Page 2 of 2
June 29, 2018
Please contact Mr. Claudy Joinville, at (302) 760-2124, if you have questions concerning this correspondence.

Sincerely,

T. William Brockenbrough, Jr. County Coordinator Development Coordination

## TWB:cjm

cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues Ronald Nanney, Applicant
J. Marc Coté, Assistant Director, Development Coordination

Gemez Norwood, South District Public Works Manager, Maintenance and
Operations
Steven Sisson, Sussex County Subdivision Coordinator, Development Coordination
Derek Lap, Subdivision Manager, Development Coordination
Brian Yates, Subdivision Manager, Development Coordination
Susanne Laws, Subdivision Manager, Development Coordination
Troy Brestel, Project Engineer, Development Coordination
Claud Joinville, Project Engineer, Development Coordination

PLANNING 8 Z ZONING COMAIAISSION
ROBERT C. WHEATLEY, CHAIRMAN
MARTIN L. ROSS, VICE CHAIRMAN R. KELLER HOPKINS DOUGLAS B. HUDSON KIM HOE Y STEVENSON


DELAWARE sussexcountyde.gov 302-855-7878 T $302-845-5079 \mathrm{~F}$
JANELLE M. CORNWELL, AICP DIRECTOR

Service Level Evaluation $\mathbb{R}$ request $\mathbb{F o r m}$
This form shall be submitted to the Planning and Zoning Office and a response shall be received back from DelOS. prion to the applicant being able to submit an application to the Planning and Zoning Office.

Date:

$$
\frac{6 / 4 / 2018}{16}
$$

Site Information:

Site Address/Location:


Tax Parcel Number:

$$
235-30,00-10,00,235-30,00-10.01
$$

Current Zoning: AR2 AFicicultural Resident IA L
Proposed Zoning:

$$
\frac{C-2}{\text { Sing he GAMALy } C o T s}
$$

Proposed Use (s):
C-2use PotENTIAL SMALL PEQAR

Square footage of any proposed buildings of number of units: $\qquad$

Applicant Information:
Applicant's Name: $\qquad$ Romocto NanNy
Applicant's Address: $\qquad$ City: $\qquad$ State: Deil. Zip Code: $\qquad$

$$
199
$$

$\qquad$

Applicant's Phone Number: $302-420-41504$
Applicant's e-mail address: $\qquad$ Chnolys Nate a
Comeasto NET


# SUSSEX COUNTY ENGINEERING DEPARTMENT <br> UTILITY PLANNING DIVISION <br> C/U \& C/Z COMMENTS 

TO: Janelle Cornwell
REVIEWER: Chris Calio
DATE: 3/12/2019
APPLICATION: CZ 1868 Ronald Nanney
APPLICANT: Ronald Nanney
FILE NO: NPCA-5.03
TAX MAP \&
PARCEL(S): $\quad$ 235-30.00-10.02
LOCATION: 18490 Harbeson Road. West side of Harbeson Road, approximately 0.21 mile north of Lewes-Georgetown Highway.

NO. OF UNITS: Upzone from AR-1 to C-2

## GROSS

ACREAGE: 0.5588
SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE: 2

## SEWER:

(1). Is the project in a County operated and maintained sanitary sewer and/or water district? Yes $\square \quad$ No $\boxtimes$
a. If yes, see question (2).
b. If no, see question (7).
(2). Which County Tier Area is project in? Tier 3
(3). Is wastewater capacity available for the project? N/A If not, what capacity is available? N/A.
(4). Is a Construction Agreement required? No If yes, contact Utility Engineering at (302) 855-7717.
(5). Are there any System Connection Charge (SCC) credits for the project? No If yes, how many? N/A. Is it likely that additional SCCs will be required? N/A If yes, the current System Connection Charge Rate is Click or tap to enter a fee per EDU. Please contact N/A at 302-855-7719 for additional information on charges.
(6). Is the project capable of being annexed into a Sussex County sanitary sewer district? No

Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.
(7). Is project adjacent to the Unified Sewer District? No
(8). Comments: The proposed CZ is not in an area where the Sussex County Engineering Department has a schedule to provide sanitary sewer service.
(9). Is a Sewer System Concept Evaluation required? No
(10). Is a Use of Existing Infrastructure Agreement Required? No


Xc: Hans M. Medlarz, P.E.<br>Jayne Dickerson<br>No Permit Tech Assigned

PLAN DATA:
parcel I.D. No.
deed reference existing zoning owners
horizontal datum gross area

235-30.00-10.02

* DB 1621, PG 284

AR-1 (Agriculturalresidential)
RONALD NANNEY 441 HOWELL SCHOOL ROAD NAD 83(2011) Epoch 2010.00 $24,345 \mathrm{~s}, \mathrm{~F}$,

## ceneral notes

1. NO EASEMENTS PROVIDED OTHER THAN THOSE SHOWN.
2. this plan is valid only when signed in red ink and embossed with a raised IMPRESSION SEAL AND WAS PREPARED IN ACCORDANCE
3. BASIS OF BEARING: NAD 83(2011) Epoch 20100.00, DELAWARE STATE PLANE. MEANS, OR STORED, PROCESSED, OR TRANSMITTED IN OR BY ANY SYSTEMS WITHOUT THE PRIOR WRITIEN PERMISSION OF MERESTO COMPUTER OR OTHER COPIES OF THIS PLAN WITHOUT COLORED INK SIGNATURE AND A RAISED IMPRESSION
PROPERTY LINE
BUILDING SETBACK LINE
CENTERLINE ROAD
EASEMENT LINE
RIGHT-OF-WAY LINE
FENCE LINE
IRON PIPE FOUND
REBAR FOUND
CONCRETE MONUMENT FOUND
UTLITY POLE

LEGEND


## BOUNDARY SURVEY PLAN

FOR PROPERTY KNOWN AS:
PARCEL "A"
LANDS OF JIMMIE \& IRMA J. NANNEY
ALSO KNOWN AS
\#18490 HARBESON ROAD
PREPARED FOR:
RONALD NANNEY
SITUATE IN:
BROADKILL HUNDRED * SUSSEX COUNTY
STATE OF DELAWARE
TAX PARCEL \#: 235-30.00-10.02 SCALE: $1^{\prime \prime}=20^{\prime}$

FILE COPY




# PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET 

Planning Commission Public Hearing Date March 28, 2019
\(\left.\left.$$
\begin{array}{ll}\text { Application: } & \text { CZ 1869 WMF Watercraft and Marine } \\
\text { Applicant/Owner: } & \begin{array}{l}\text { WMF Watercraft and Marine } \\
\text { 27037 John J. Williams Highway } \\
\text { Millsboro, DE 19966 }\end{array} \\
\text { Site Location: } & \begin{array}{l}\text { 32676 Oak Orchard Road, Millsboro. Southwest side of Oak Orchard } \\
\text { Road, approximately 551 ft. north of River Road. }\end{array}
$$ <br>

Current Zoning: \& GR (General Residential District)\end{array}\right\} $$
\begin{array}{ll}\text { Proposed Zoning: } & \text { C-3 (Heavy Commercial District) }\end{array}
$$\right]\)| Comprehensive Land |  |
| :--- | :--- |
| Use Plan Reference: | Mixed Residential and Environmentally Sensitive Developing Areas |
| Councilmatic | Mr. Hudson |
| District: | Indian River School District |
| School District: | Indian River Fire District |
| Fire District: | Oak Orchard SSD |
| Sewer: | Tidewater Utilities |
| Water: | 1.19 ac. +/- |
| Site Area: | $234-34.08-45.00$ |
| Tax Map ID.: |  |

## Sussex County



| Book | 4638 |
| :--- | :--- |
| Mailing Address | 27037 JOHN J WILLIAMS HI |
| City | MILLSBORO |
| State | DE |
| Description | S/RT 5 APPROX 250' |
| Description 2 | NW OF DELAWARE ST |
| Description 3 | N/A |
| Land Code |  |

polygonLayerTax Parcels
911 Address

- Streets
$\square$ County Boundaries

| 0 | 0.0125 | 0.025 | 0.05 mi |
| :---: | :---: | :---: | :---: |
| 0 | 0.02 | 0.04 | 0.08 km |

## Sussex County


(3) Sussex County

(302) 855-7878 T


# Bussex County <br> DELAWARE sussexcountyde.gov 

## Memorandum

To: Sussex County Planning Commission Members
From: Janelle Cornwell, AICP, Planning \& Zoning Director
CC: Vince Robertson, Assistant County Attorney and applicant
Date: March 21, 2019
RE: Staff Analysis for CZ 1869 WMF Watercraft and Marine
This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1869 WMF Watercraft and Marine to be reviewed during the March 28, 2019 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for parcel 234-34.08-45.00 to allow for a change from GR (General Residential District) to C-3 (Heavy Commercial District) to be located at 32676 Oak Orchard Rd. The size of the property is $1.19 \mathrm{ac} .+/-$.

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

The surrounding land use to the north and east is Mixed Residential and Environmentally Sensitive Developing Areas. The land uses to the south and west are Environmentally Sensitive Developing Areas. The Mixed Residential Areas recognizes that a full range of housing types are appropriate and that non-residential development is not appropriate. The Environmentally Sensitive Developing Area land use designation recognizes that a range of housing types should be permitted including single-family, townhouses and multi-family and that office and retail uses are appropriate but larger shopping centers and office parks should be confined to access to arterial road. It also recognizes that a careful mixture of homes with light commercial and institutional uses could be appropriate to provide for convenient services and let people work close to home.

The property is zoned GR (General Residential District). The properties to the north are zoned GR (General Residential District) and C-1 (General Commercial District). The properties to the west are zoned GR (General Residential District). The properties to the south are zoned GR (General Residential District) and MR (Medium-Density Residential District). The properties to the east are zoned C-1 (General Commercial District) and GR (General Residential District). There are no known Conditional Uses in the area.

Based on the analysis of the land use, surrounding zoning and uses, the Change of Zone to allow for a change from GR (General Residential District) to C-3 (Heavy Commercial District) could be considered consistent with the land use, area zoning and uses.

Ms. Janelle Cornwell, Director

Sussex County Planning \& Zoning
P.O. Box 417

Georgetown, DE 19947
Dear Ms. Cornwell:
The Department has completed its review of a Service Level Evaluation Request for the WMF Watercraft and Marine rezoning application, which we received on July 13, 2018. This application is for a 1.19-acre parcel (Tax Parcel: 234-34.08-45.00). The subject land is located on the southwest side of Oak Orchard Road (Sussex Road 297), approximately 4,700 feet southwest of the intersection of Oak Orchard Road and Chief Road (Sussex Road 311). The subject land is currently zoned GR (General Residential), and the applicant is seeking to rezone the land to C-3 (Heavy Commercial).

Per the 2017 Delaware Vehicle Volume Summary, the annual average and summer average daily traffic volumes along the segment of Oak Orchard Road where the subject land is located are 3,062 and 4,029 vehicles per day, respectively.

Our volume-based criteria for requiring a traffic impact study (TIS), addressed in Section 2.2,2.1 of the Development Coordination Manual, are that a development generates more than 500 trips per day or 50 trips during a weekly peak hour. While it seems that the above criteria could be met, we presently cannot predict the site's trip generation with enough accuracy to make a TIS useful. Thus, we recommend that this rezoning application be considered without a TIS and that the need for a TIS be evaluated when a subdivision or land development plan is proposed.

Ms. Janelle M. Cornwell
Page 2 of 2
August 10, 2018
Please contact Mr. Claudy Joinville, at (302) 760-2124, if you have questions concerning this correspondence.

Sincerely,
T, rithic Thw haberoyt if
T. William Brockenbrough, Jr. County Coordinator
Development Coordination

## TWB:cjm

cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues WMF Watercraft and Marine, Applicant
J. Marc Coté, Assistant Director, Development Coordination

Gemez Norwood, South District Public Works Manager, Maintenance and Operations
Steven Sisson, Sussex County Subdivision Coordinator, Development Coordination
Derek Sapp, Subdivision Manager, Development Coordination
Brian Yates, Subdivision Manager, Development Coordination
Susanne Laws, Subdivision Manager, Development Coordination
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination

#  <br> State of delaware <br> DEPARTMENT OF TRANSPORTATION boo bay road P.O. Box 778 <br> DOVER, DELAWARE 19903 

Ms. Janelle Cornwell, Director
Sussex County Planning \& Zoning
P.O. Box 417

Georgetown, DE 19947
Dear Ms. Cornwell:

This letter is to revise and replace my letter of May 6, 2016 regarding the WMF Watercraft and Marine rezoning application, submitted by Davis, Bowen, \& Friedel, Inc. The applicant has revised the application to remove Tax Parcel 234-29.00-63.00 and include Tax Parcel 234-29.00-65.00, and has sent us a revised Service Level Evaluation Request. We are writing to address that revised request. A copy of our May 6, 2016 is attached.

This revised application is for a 4.61-acre assemblage of parcels (Tax Parcels 234-29.00$64.00,64.01$, and 65.00 ). The subject land is located on the southeast side of Delaware Route 24 and northeast of Layton Davis Road (Sussex Road 312A), east of the Town of Millsboro. The subject land is currently zoned AR-1 (Agricultural Residential), and the applicant is seeking to rezone the land to CR-1 (Commercial Residential).

Per the 2015 Delaware Vehicle Volume Summary, the average daily traffic volumes on average day and on a summer average day along the segment of Delaware Route 24 where the subject land is located, which is from Delaware Route 30 (Sussex Road 248) to Delaware Route 5 (Sussex Road 297), are 20,676 and 27,098 vehicles per day, respectively. As the subject land also has frontage on its southwest side along Layton Davis Road, the annual average daily traffic volume on that road segment, which is from River Road (Sussex Road 312) to Delaware Route 24 (Sussex Road 24), is 1,032 vehicles per day.

Based on our review, we estimate that the proposed land use could generate more than 50 vehicle trips per daily peak hour or 500 vehicle trips per day, and could be considered to have a Major impact to the local area roadways. In this instance, the Department considers a Major impact to be when a proposed land use would generate more than 200 vehicle trips in any hour of the week peak hour and / or 2,000 vehicle trips per day. While it seems that the above criteria could be met, we presently cannot predict the site's trip generation with enough accuracy to make a TIS useful. Thus, we recommend that this rezoning application be considered without a TIS and that the need for a TIS be evaluated when a subdivision or land development plan is proposed.

Ms. Janelle M. Cornwell
Page 2 of 2
February 6, 2017

Please contact Mr. Claud Joinville, at (302) 760-2124, if you have questions concerning this correspondence.

Sincerely,

T. William Brockenbrough, Jr. County Coordinator Development Coordination

TWB:cjm
Enclosures
cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
J. Marc Coté, Assistant Director, Development Coordination

Gemez Norwood, South District Public Works Manager, Maintenance and Operations
Steven Sisson, Sussex County Subdivision Coordinator, Development Coordination
Derek Sapp, Subdivision Manager, Development Coordination
Scott Johnson, Subdivision Manager, Development Coordination
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination

#  <br> state of delaware <br> DEPARTMENT OF TRANSPORTATION <br> BOO EAY ROAD <br> P.O. BOX 778 <br> DOVER, DELAWARE 19903 

SECRETARY

Mr. Lawrence B. Lank, Director<br>Sussex County Planning \& Zoning<br>P.O. Box 417<br>Georgetown, DE 19947

Dear Mr. Lank:
This letter is to revise and replace my letter of August 26, 2015 regarding the WMF Watercraft and Marine rezoning application, submitted by Davis, Bowen, \& Friedel, Inc. The applicant has revised the application to remove Tax Parcel 234-29.00-65.00 and has sent us a revised Service Level Evaluation Request, a copy of which is enclosed. We are writing to address that revised request.

This revised application is for a 3.96-acre assemblage of parcels (Tax Parcels 234-29.00-63.00, 64.00 , and 64.01). The subject land is located on the southeast side of Delaware Route 24 and northeast of Layton Davis Road (Sussex Road 312A), east of the Town of Millsboro. The subject land is currently split-zoned AR-1 (Agricultural Residential, 3.01 acres) and C-1 (General Commercial, 0.95 acres), and the applicant is seeking to rezone the entire land to CR-1 (Commercial Residential).

Per the 2015 Delaware Vehicle Volume Summary, the average daily traffic volumes on average day and on a summer average day along the segment of Delaware Route 24 where the subject land is located, which is from Delaware Route 30 (Sussex Road 248) to Delaware Route 5 (Sussex Road 297), are 20,676 and 27,098 vehicles per day, respectively. As the subject land also has frontage on its southwest side along Layton Davis Road, the annual average daily traffic volume on that road segment, which is from River Road (Sussex Road 312) to Delaware Route 24 (Sussex Road 24), is 1,032 vehicles per day.

Based on our review, we estimate that the proposed land use could generate more than 50 vehicle trips per daily peak hour or 500 vehicle trips per day, and could be considered to have a Major impact to the local area roadways. In this instance, the Department considers a Major impact to be when a proposed land use would generate more than 200 vehicle trips in any hour of the week peak hour and / or 2,000 vehicle trips per day. While it seems that the above criteria could be met, we presently cannot predict the site's trip generation with enough accuracy to make a TIS useful. Thus, we recommend that this rezoning application be considered without a TIS and that the need for a TIS be evaluated when a subdivision or land development plan is proposed.

Mr. Lawrence B. Lank
Page 2 of 2
May 6, 2016
Please contact Mr. Claudy Joinville, at (302) 760-2124, if you have questions concerning this correspondence.

$$
\begin{aligned}
& \text { Sincerely, } \\
& \text { T. William Brockenbrough, Jr. } \\
& \text { County Coordinator } \\
& \text { Development Coordination }
\end{aligned}
$$

TWB:cjm
Enclosures
cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues Janelle Cornwell, Planning and Zoning Manager, Sussex County Planning and Zoning J. Marc Cote', Assistant Director, Development Coordination Gemez Norwood, South District Public Works Manager, Maintenance and Operations Steven Sisson, Sussex County Subdivision Coordinator, Development Coordination Derek Sapp, Subdivision Manager, Development Coordination
Scott Johnson, Subdivision Manager, Development Coordination
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination


Mr. Lawrence B. Lank, Director Sussex County Planning \& Zoning P.O. Box 417

Georgetown, DE 19947
Dear Mr. Lank:
Enclosed is a Support Facilities Report for the WMF Watercraft and Marime rezoning application, our application number S-15-08-03. The subject land is a 5.56 -acre assemblage of parcels (Tax Parcels: 234-29.00-63.00, 64.00, 64.01, 65.00) and is located on the southeast side of Delaware Route 24 (Sussex Road 24) and northeast of Layton Davis Road (Sussex Road 312A), east of the Town of Millsboro. The subject land is currently split-zoned AR-1 (Agricultural Residential, 4.61 acres) and C-1 (General Commercial, 0.95 acres), and the applicant is seeking to rezone the land to CR-1 (Commercial Residential).

Our volume-based criteria for requiring a traffic impact study (TIS), addressed in Section 2.2.2.1 of the Development Coordination Manual, are that a development generates more than 500 trips per day or 50 trips during a weekly peak hour. While it seems that the above criteria could be met, we presently cannot predict the site's trip generation with enough accuracy to make a TIS useful. Thus, we recommend that this rezoning application be considered without a TIS and that the need for a TIS be evaluated when a subdivision or land development plan is proposed.

Mr. Lawrence B. Lank
Page 2 of 2
August 26, 2015
Please contact Mr. Claud Joinville, at (302) 760-2124, if you have questions concerning this correspondence.

Sincerely,
T. William Brockenbrough, Jr. County Coordinator Development Coordination

TWB:cjm
Enclosures
cc: Constance C. Holland, State Planning Coordinator, Cabinet Committee on State Planning Issues
J. Marc Coté, Assistant Director, Development Coordination

Thomas Felice, Project Manager, Development Coordination
Gemez Norwood, South District Permit Supervisor, Maintenance and Operations
Steve Sisson, Sussex County Subdivision Coordinator, Development Coordination
John Fiori, Subdivision Manager, Development Coordination
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination

STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
Support Facilities Report

| Application \#: S-15-08-03 | SUSSEX COUNTY | Parcel \# 234-29.00-63.00 |
| :--- | ---: | ---: |
| Name: $\quad$ WMF Watercraft and Marine |  | $234-29.00-64.00$ |
| Received Date: $08 / 11 / 2015$ |  | $234-29.00-64.01$ |
| Approved Date: $08 / 24 / 2015$ |  | $234-29.00-65.00$ |

PART I - Preliminary Traffic Data
A. Estimated traffic generation for fully developed site:

1. Under Existing Zoning: Land use Business, Residential \& $F$

| Zoning classification | $\begin{gathered} \text { Average } \\ \text { daily } \\ \text { traffic } \\ \text { (estimated) } \end{gathered}$ | Projected hourly volume during the peak |  | a. $\qquad$ (Coincides with Highway Peak Hour) <br> b. Off Highway Peak Hour |
| :---: | :---: | :---: | :---: | :---: |
|  |  | A.M. Hour | P.M. Hour |  |
| AR-1 | 125 vpd | 16 vph | 13 vph |  |

Assumes development as 10.00 Single-Family Detached Housing (ITE Land Use Code 210) each generating as in "ITE Trip Generation".

| $\mathrm{C}-1$ | 676 vpd | 26 vph | 68 vph |
| :--- | :--- | :--- | :--- |

Assumes development as Shopping Center (ITE Land Use Code 820) generating on a per acre basis as in "ITE Trip Generation".

| Total | 801 vpd | 42 vph | 81 vph |
| :--- | ---: | ---: | ---: |

2. Under proposed Zoning: (maximum generation rate for zoning)

| Zoning classification | Averagedailytraffic(estimated) | Projected hourly volume during the peak |  | a. $\qquad$ (Coincides with Highway Peak Hour) <br> b. $\qquad$ (Off Highway Peak Hour) |
| :---: | :---: | :---: | :---: | :---: |
|  |  | A.M. Hour | P.M. Hour |  |
| C-1 | 3959 vpd | 154 vph | 400 vph |  |
| Assumes development as Shopping Center (ITE Land Use Code 820) generating on a per acre basis as in "ITE Trip Generation". |  |  |  |  |
| Total | 3959 vpd | 154 vph | 400 vph |  |

B. Existing Traffic Data

| Source | 3 | Traffic Surmary |
| :--- | :--- | :--- |
| Road 1 JOHN J. WILLIAMS HWY (DEL. $30, ~ R O A D ~ 248 ~ t o ~ D E L . ~ 5 ~ S ., ~ R O A D ~ 297) ~$ |  |  |
| Annual Average Daily Traffic (AADT) | 13276 vpd |  |
| Sunmer Average Daily Traffic (SADT) | 17347 vpd |  |
| Peak Hour Volume | 2380 vph |  |
| Year of Traffic Count | 1 |  |
| Road 2 IfAYTON DAVIS DR. (RIVER RD., RD. 312 to DEL. 24, RD 24) |  |  |
| Annual Average Daily Traffic (AADT) | 458 vpd |  |
| Summer Average Daily Traffic (SADT) | 458 vpd |  |
| Peak Hour Volume | 67 vph |  |
| Year of Traffic Count | 2 |  |

## DEPARTMENT OF TRANSPORTATION

Support Facilities Report

| Application \#: S-15-08-03 | SUSSEX COUNTY | Parcel \# 234-29.00-63.00 |
| :--- | ---: | ---: |
| Name: $\quad$ WMF Watercraft and Marine |  | $234-29.00-64.00$ |
| Received Date: $08 / 11 / 2015$ |  | $234-29.00-64.01$ |
| Approved Date: $08 / 24 / 2015$ |  | $234-29.00-65.00$ |

$\begin{array}{ll}\text { C. Projected traffic growth } E x \\ \text { County Planning Office (see } & \text { (Coincides with Highway Peak Hour) the } \\ \text { b No information reaeival } & \text { (Off Highway Peak Hour) }\end{array}$

| Road \# | ADT | Dem. Vol. |
| :--- | :--- | :--- |
| Road 1 |  |  |
| Road 2 |  |  |

D. Currently Planned Highway Improvements that will have an impact on this project (scheduled for completion in the Department of Transportation 6 year Capital Improvement Program or State Bond Bill):

1. Projects awarded and /or under construction:
2. Projects on current DelDOT CTP with anticipated completion:

PART II - Txaffic Analysis
These service volumes and levels of service are based on analyses 0 : highway segments without accounting for local intersection improvems Capacity is controlled by one or more intersections.
A. $\qquad$ The Proposed action will have no significant impact on traffic. The Department of Transportation recommends that a traffic impa study be done by the developer prior to any action on this rezo: application.
X A traffic impact study is not recommended. Continue with analys The need for a traffic impact study is addressed in a separate along with other issues relevant to this application.
B. Existing Conditions With No Development

| Road 1 | 2380 vph (one way) | E | a. X. (Coincides with Highway Peak Hour) |
| ---: | ---: | ---: | ---: | ---: |
| Road 2 | 67 vph (one way) | A | b.__(Off Highway Peak Hour) |

C. Existing Conditions With Development Under Existing Zoning

Existing peak hour traffic plus site generated traffic and projected level of service with no highway improvements during the peak hour. | Road 1 | 2461 vph (one way) | E | $\begin{array}{l}\text { a. X (Coincides with Highway Peak Hour) } \\ \text { Road 2 }\end{array}$ | 148 vph (one way) |
| :--- | ---: | ---: | :--- | :--- |
| A | (O.__(Off Highway Peak Hour) |  |  |  |

D. Existing Conditions With Development Under Proposed Zoning

Existing peak hour traffic plus committed development plus site generated traffic and projected level of service with no highway improvements during the peak hour.

| Road 1 | 2780 vph (one way) | E | a. X (Coincides with Highway Peak Hour) |
| :--- | ---: | ---: | :--- | :--- |
| Road 2 | 467 vph (one way) | B | b._ (Off Highway Peak Hour) |


| Application \#: S-15-08-03 | SUSSEX COUNTY | Parcel | \# 234-29.00-63.00 |
| :---: | :---: | :---: | :---: |
| Name: WMF Watercraft and Marine |  |  | 234-29.00-64.00 |
|  |  |  | 234-29.00-64.01 |
| Received Date: 08/11/2015 |  |  | 234-29.00-65.00 |
| Approved Date: 08/24/2015 |  |  | 234-29.00-65.00 |

## Comments:

None

PLANNING \& ZONING COMMISSION
ROBERT C. WHEATLEY, CHAIRMAN IRWIN G. BURTON, III MICHAEL B. JOHNSON

MARTIN L. ROSS
RODNEY SMITH
Commerial

## Bussex County



## Service Level Evaluation Request Form

This form shall be submitted to the Planning and Zoning Office and a response shall be received back from DelDOT prior to the applicant being able to submit an application to the Planning and Zoning Office.
$5-15-08-03$
Date: 8/11/15

## Site Information:

Site Address/Location: 27037 John J Williams Highway, Millsboto, DE 19966
Location: Southeast side of Delaware Route 24 (John J.
Williams Highway), northeast side of Layton Davis Road.
Tax Parcel Number: 2 2-34-29.00-63.00,64.00, 64.01, 65.00
Current Zoning: C-1 (0.95+/-Acres), and AR-1 (4.61+/-Acres)
Proposed Zoning: CR-1 (5.56+/-Acres)
Land Use Classification: Commercial Residential

Proposed Use(s): Existing use as watercraft services, with re-zoning for uniformity.

Square footage of any proposed buildings or number of units: No Proposed Buildings / Existing Building Remaining

## Applicant Information:

Applicant's Name: WMF Watercraft and Marine

Applicant's Address: 27037 John J. Williams Highway

City: | villlsboro | State: DE | Zip Code: 19966 |
| :--- | :--- | :--- |



# SUSSEX COUNTY ENGINEERING DEPARTMENT <br> UTILITY PLANNING DIVISION <br> C/U \& C/Z COMMENTS 

TO: Janelle Cornwell
REVIEWER: Chris Calio
DATE: 3/12/2019
APPLICATION: CZ 1869 WMF Watercraft and Marine
APPLICANT: WMF Watercraft and Marine
FILE NO: OM-19.04
TAX MAP \&
PARCEL(S): 234-34.08-45.00
LOCATION: 32676 Oak Orchard Road. Southwest side of Oak Orchard Road, approximately 551 feet north of River Road

NO. OF UNITS: Upzone from GR to C-3

## GROSS

ACREAGE:
1.19

SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE: 4

## SEWER:

(1). Is the project in a County operated and maintained sanitary sewer and/or water district? Yes $\boxtimes$ No
a. If yes, see question (2).
b. If no, see question (7).
(2). Which County Tier Area is project in? Tier 1
(3). Is wastewater capacity available for the project? Yes, As Proposed If not, what capacity is available? N/A.
(4). Is a Construction Agreement required? Yes If yes, contact Utility Engineering at (302) 855-7717.
(5). Are there any System Connection Charge (SCC) credits for the project? No If yes, how many? N/A. Is it likely that additional SCCs will be required? Choose an item.
If yes, the current System Connection Charge Rate is Unified $\$ 6,360.00$ per EDU. Please contact Nicole Bixby at 302-855-7719 for additional information on charges.
(6). Is the project capable of being annexed into a Sussex County sanitary sewer district? N/AAttached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.
(7). Is project adjacent to the Unified Sewer District? N/A
(8). Comments: If the current number of fixture units or use of existing building changes additional EDU's will be assessed.
(9). Is a Sewer System Concept Evaluation required? Yes, Contact Utility Planning at 302-855-1299 to apply
(10). Is a Use of Existing Infrastructure Agreement Required? Yes


Xc: Hans M. Medlarz, P.E.
Jayne Dickerson
Nicole Bixby









## Bussex County

## Memorandum

To: Sussex County Planning Commission Members
From: Janelle Cornwell, AICP, Planning \& Zoning Director
CC: Vince Robertson, Assistant County Attorney and applicant
Date: March 21, 2019
RE: Staff Analysis for Ord. 19-3 Determination of Uses
This memo is to provide background and analysis for the Planning Commission to consider as a part of application Ord. 19-3 Determination of Use to be reviewed during the March 28, 2019 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The proposed ordinance is to provide clarity on which body can make a determination regarding uses. Currently both the Board of Adjustment and the Planning Commission have the ability to determine if a use is similar to other uses permitted with a district. The Ordinance will remove the conflict by having only the Planning and Zoning Commission to make determination of uses. This will streamline the process for a determination as it remove the requirement of a public hearing.

ORDINANCE NO. $\qquad$

## AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES III AND XXVII, SECTIONS 115-15 AND 115-210 REGARDING A DETERMINATION BY THE SUSSEX COUNTY PLANNING \& ZONING COMMISSION AS TO PERMITTED USES.

WHEREAS, from time to time a use is proposed that is not listed as a "Permitted Use", but is similar or nearly identical to a use that is specifically identified as a "Permitted Use" in a given zoning district; and

WHEREAS, due to a change in terminology describing the use, or the evolution of the type of use since "Permitted Uses" were first identified in the Zoning Code of Sussex County, or due to other factors a determination is necessary as to whether the proposed use should be considered a "Permitted Use" in a given Zoning District; and WHEREAS, the Zoning Code of Sussex County needs to be consistent as to the method of determining whether a proposed use shall be in keeping with uses specifically identified as "permitted" in a given Zoning District; and

WHEREAS, by way of example, the Planning \& Zoning Commission is charged with making this determination in the LI-2 Zoning District, but the Board of Adjustment is also given this authority elsewhere in the Zoning Code of Sussex County; and

WHEREAS, Because the Planning \& Zoning Commission is charged with reviewing all changes in zone, conditional uses and commercial site plans, it is appropriate to provide that the Planning \& Zoning Commission shall have the authority to make this determination.

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

Section 1. The Code of Sussex County, Chapter 115, Article III, §115-15 "Prohibited Uses" is hereby amended by adding the italicized and underlined language:

## §115-15. Prohibited Uses.

For the purpose of this Chapter, permitted uses are listed for the various districts. Unless the contrary is clear from the context of the lists or other regulations of this chapter, uses not specifically listed are prohibited. The Commission shall have the
authority to determine whether a use shall be permitted because it is clear from the context of the lists or other regulations that it should be permitted due to its similarity to those uses that are listed as permitted.

Section 2. The Code of Sussex County, Chapter 115, Article XXVII, §115-210 "Special Exceptions" is hereby amended by deleting the language in brackets and re-lettering the subsections that follow:

## §115-210. Special Exceptions.

In order to provide for adjustments in the relative location of uses and buildings, to promote the usefulness of these regulations and to supply the necessary elasticity to their efficient operation, special use exceptions, limited as to locations described in this Article, and special yard and height, exceptions are permitted by the terms of these regulations. The following buildings and uses are permitted as special exceptions if the Board finds that, in its opinion, as a matter of fact, such exceptions will not substantially affect adversely the uses of adjacent and neighboring property.
A. Special Use Exceptions.
(3) Other special use exceptions as follows, which are specified in each district:
(a) Private garages for more than four automobiles and with floor area of more than 900 square feet in a residential district.
(b) Cemeteries for pets.
(c) Commercial greenhouses, wholesale or retail.
(d) Convalescent homes, nursing homes or homes for the aged.
(e) Day nurseries or child-care centers.
(f) (Reserved)
(g) Nurseries for growing of plants, trees and shrubs, including a building for sale of products produced on the premises.
(h) In any HI-1 Heavy Industrial District, those heavy industrial uses upon which the Board is required to pass under Article XV.
[(i) A determination, in cases of uncertainty, of the district classification of any use not specifically named in these regulations; provided, however, that such use shall be in keeping with uses specifically permitted in the districts in which such use is to be classified.]
[(j)](i) Telephone central offices, in any AR, MR, GR, HR, UR, RPC and VRP Districts, provided that all storage of materials, all repair facilities and all housing of repair crews are within a completely enclosed building.
$[(\mathrm{k})](\mathrm{j}) \quad$ Structures of mixed use, commercial and residential, in B-1 and UB Districts, subject to the provisions of Articles IV through XX and § 115219.
$[(1)](k) \quad$ (Reserved)
$[(\mathrm{m})](\mathrm{l}) \quad$ The alteration, extension or replacement of a nonconforming manufactured home, subject to the provisions of § 115-196.
$[(\mathrm{n})](\mathrm{m}) \quad$ More than one manufactured home may be permitted on a farm of 10 acres or more pursuant to $\S 115-21 \mathrm{~A}(5)$, provided that all manufactured homes or dwellings on the property are the primary place of residence for persons employed on the premises or immediate members of the family owning or operating the farm, and provided that the granting of this exception will not adversely affect the values or uses of adjacent properties.
$[(\mathrm{o})](\mathrm{n}) \quad$ Tourist home (also referred to as "bed-and-breakfast inns") in any AR, MR, GR, UR and B-1 Districts.
$[(p)]((\mathrm{o}) \quad$ In any C-1 General Commercial District, off-premises signs, not exceeding 600 square feet total, subject to the provisions of § $115-81 \mathrm{~A}(2)$.

[^4]$[(\mathrm{r})](\mathrm{q}) \quad$ A multisectional manufactured home as a detached single-family dwelling on individual lots of not less than $1 / 2$ nor more than $3 / 4$ acre, existing on the effective date of this ordinance and subject to the provisions of § 11520A(1)(a) through (g) inclusive.

Section 3. Effective Date.
This ordinance shall take effect upon the date of adoption by Sussex County Council.

## Memorandum

To: Sussex County Planning Commission Members
From: Janelle Cornwell, AICP, Planning \& Zoning Director
CC: Vince Robertson, Assistant County Attorney and applicant
Date: March 21, 2019
RE: Staff Analysis for Ord. 19-4 Assisted Living Facilities
This memo is to provide background and analysis for the Planning Commission to consider as a part of application Ord. 19-4 Assisted Living Facilities to be reviewed during the March 28, 2019 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The proposed ordinance is to provide clarify the process for assisted living facilities, convalescent homes, nursing homes or homes for the aged. Currently the Board of Adjustment can approve the aforementioned uses through the Special Use Exception process in the AR-1, MR, GR, UR, UB, B-1, C-1 and CR-1 Zoning Districts. As part of the new commercial districts the uses were included as part of institutional, residence, care, confinement and medical facilities. The terms were clarified and defined. The change in the ordinance would bring all of the terms into alignment with the new definitions. It would also change the approval process. The uses would be a Conditional Use within the AR-1, MR, GR, UR, and UB Zoning District. The uses would be a permitted use within the B-1, C-1 and CR-1 Zoning Districts. The uses as a permitted use in the B-1, C-1 and CR-1 Zoning District is in alignment with the permitted uses of the new commercial zoning districts.

# AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES IV, V, VI, VIII, IX, X, XI, XIA, AND XII, SECTIONS 115-22, 115-23, 115-31, 115-32, 115-39, 115-40, 115-55, 115-56, 11563, 115-64, 115-71, 115-72, 115-77, 115-80, 115-83.2, 115-83.6, 115-87 AND 11588. 

WHEREAS, the Zoning Code of Sussex County currently identifies "Convalescent homes, nursing homes or homes for the aged" as requiring a Special Use Exception approval from the Sussex County Board of Adjustment in several zoning districts; and

WHEREAS, "Convalescent homes, nursing homes or homes for the aged" are not defined terms in the Zoning Code of Sussex County; and

WHEREAS, the Zoning Code of Sussex County was recently amended to create and define more specific examples of these types of uses, including "Nursing and Similar Care Facilities", which incorporates "Assisted Living Facilities", "Extended Care Facilities", "Graduate Care Facilities", "Independent Care Facilities", "Intermediate Care Facilities", "Long Term Care Facilities" and other similar types of facilities within that definition; and

WHEREAS, Sussex County Council desires all such uses to be allowed either as a permitted use in a zoning district or as a conditional use following a hearing before both the Sussex County Planning and Zoning Commission and Sussex County Council; and

WHEREAS, these amendments affect the AR-1, MR, GR, UR, UB, B-1, C-1, CR-1 and M Districts where "Convalescent homes, nursing homes or homes for the aged" were previously listed as requiring a Special Use Exception.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Code of Sussex County, Chapter 115, Article IV, §115-22 "Conditional Uses" is hereby amended by inserting the following italicized and underlined language after "Manufactured home parks" and before "Parks or campgrounds for mobile campers, tents, camp trailers, touring vans and the like":
§115-22. Conditional Uses.

The following uses may be permitted as conditional uses when approved in accordance with the provisions of Article XXIV of this chapter:

## Nursing and similar care facilities

...

Section 2. The Code of Sussex County, Chapter 115, Article IV, §115-23 "Special Use Exceptions" is hereby amended by deleting the language in brackets and renumbering the subsequent items:

## §115-23. Special Use Exceptions.

Special use exceptions may be permitted by the Board of Adjustment in accordance with the provisions of Article XXVII of this chapter and may include:
$\qquad$
C. Other special use exceptions as follows:
(1) Private garages for more than four automobiles and with floor area of more than 900 square feet in a residential district.
(2) Cemeteries for pets.
(3) Commercial greenhouses, wholesale or retail.
[(4) Convalescent homes, nursing homes or homes for the aged.]
(4) [(5)] Day nurseries or child-care centers.
(5)[(6)] Garage/studio apartments, provided that at least one parking space for the exclusive use of the tenant is included on the premises.
(6)[(7)] Nurseries for growing of plants, trees and shrubs, including a building for sale of products produced on the premises.
(7)[(8)] Public telephone booths in residential areas.
(8)[(9)] Telephone central offices, provided that all storage of materials, all repair facilities and all housing of repair crews are within a completely enclosed building.

Section 3. The Code of Sussex County, Chapter 115, Article V, §115-31 "Conditional Uses" is hereby amended by inserting the following italicized and underlined language after "Multifamily dwelling structures, subject to the provisions of Articles IV through XX..." and before "Private clubs":

## §115-31. Conditional Uses.

The following uses may be permitted as conditional uses when approved in accordance with the provisions of Article XXIV of this chapter:
. . .

## Nursing and similar care facilities

. . .

Section 4. The Code of Sussex County, Chapter 115, Article V, §115-32 "Special Use Exceptions" is hereby amended by deleting the language in brackets:

## §115-32. Special Use Exceptions.

Special use exceptions may be permitted by the Board of Adjustment in accordance with the provisions of Article XXVII of this chapter and may include:
...
C. Other special use exceptions as follows:
[Convalescent homes, nursing homes or homes for the aged.]
...

Section 5. The Code of Sussex County, Chapter 115, Article VI, §115-39 "Conditional Uses" is hereby amended by inserting the following italicized and underlined language after "Multifamily dwelling structures, subject to the provisions of Articles IV through XX..." and before "Private clubs":

## §115-39. Conditional Uses.

The following uses may be permitted as conditional uses when approved in accordance with the provisions of Article XXIV of this chapter:
$\qquad$

## Nursing and similar care facilities

Section 6. The Code of Sussex County, Chapter 115, Article VI, §115-40 "Special Use Exceptions" is hereby amended by deleting the language in brackets:

## §115-40. Special Use Exceptions.

Special use exceptions may be permitted by the Board of Adjustment in accordance with the provisions of Article XXVII of this chapter and may include:
...
C. Other special use exceptions as follows:
...
[Convalescent homes, nursing homes or homes for the aged.]
...

Section 7. The Code of Sussex County, Chapter 115, Article VIII, §115-55 "Conditional Uses" is hereby amended by inserting the following italicized and
underlined language after "Multifamily dwelling structures, subject to the provisions of §115-219" and before "Private clubs":

## §115-55. Conditional Uses.

The following uses may be permitted as conditional uses when approved in accordance with the provisions of Article XXIV of this chapter:
...

## Nursing and similar care facilities

...

Section 8. The Code of Sussex County, Chapter 115, Article VIII, §115-56 "Special Use Exceptions" is hereby amended by deleting the language in brackets:

## §115-56. Special Use Exceptions.

Special use exceptions may be permitted by the Board of Adjustment in accordance with the provisions of Article XXVII of this chapter and may include:
...
C. Other special use exceptions as follows:
[Convalescent homes, nursing homes or homes for the aged.]

Section 9. The Code of Sussex County, Chapter 115, Article IX, §115-63 "Conditional Uses" is hereby amended by inserting a new subsection F. therein:

## §115-63. Conditional Uses.

The following uses may be permitted as conditional uses when approved in accordance with the provisions of Article XXIV of this chapter: ...
F. Nursing and similar care facilities.

Section 10. The Code of Sussex County, Chapter 115, Article IX, §115-64 "Special Use Exceptions" is hereby amended by deleting the language in brackets:

## §115-64. Special Use Exceptions.

Special use exceptions may be permitted by the Board of Adjustment in accordance with the provisions of Article XXVII of this chapter and may include:
...
C. Other special use exceptions as follows:
[Convalescent homes, nursing homes or homes for the aged.] ...

Section 11. The Code of Sussex County, Chapter 115, Article X, §115-71 "Conditional Uses" is hereby amended by inserting the following italicized and underlined language after "Multifamily dwelling structures, subject to the provisions of Articles IV through XX..." and before "Public or governmental buildings and uses, including parks, parkways playgrounds and public boat landings":

## §115-71. Conditional Uses.

The following uses may be permitted as conditional uses when approved in accordance with the provisions of Article XXIV of this chapter:

## Nursing and similar care facilities

Section 12. The Code of Sussex County, Chapter 115, Article X, §115-72 "Special Use Exceptions" is hereby amended by deleting the language in brackets:

## §115-72. Special Use Exceptions.

Special use exceptions may be permitted by the Board of Adjustment in accordance with the provisions of Article XXVII of this chapter and may include:
...
C. Other special use exceptions as follows:
[Convalescent homes, nursing homes or homes for the aged.]

Section 13. The Code of Sussex County, Chapter 115, Article XI, §115-77 "Permitted Uses" is hereby amended by inserting the following italicized and underlined language after "Multifamily dwelling dwellings and structures of mixed commercial and residential use, subject to the mixed use provisions of Articles XXII, XXIII" and before "Printing, publishing and engraving establishments":

## §115-77. Permitted Uses.

A. A building or land shall be used only for the following purposes:

## Nursing and similar care facilities

Section 14. The Code of Sussex County, Chapter 115, Article XI, §115-80 "Special Use Exceptions" is hereby amended by deleting the language in brackets:
§115-80. Special Use Exceptions.

Special use exceptions may be permitted by the Board of Adjustment in accordance with the provisions of Article XXVII of this chapter and may include:
...
C. Other special use exceptions as follows:
[Convalescent homes, nursing homes or homes for the aged.]

Section 15. The Code of Sussex County, Chapter 115, Article XIA, §115-83.2 "Permitted Uses" is hereby amended by inserting the following italicized and underlined language after "Monument sales establishments with incidental processing to order, but not including the shaping of headstones" and before "Printing, publishing and engraving establishments":

## §115-83.2. Permitted Uses.

A. A building or land shall be used only for the following purposes:

## Nursing and similar care facilities

Section 16. The Code of Sussex County, Chapter 115, Article XIA, §115-83.6 "Special Use Exceptions" is hereby amended by deleting the language in brackets:

## §115-83.6. Special Use Exceptions.

Special use exceptions may be permitted by the Board of Adjustment in accordance with the provisions of Article XXVII of this chapter and may include:
C. Other special use exceptions as follows:
[Convalescent homes, nursing homes or homes for the aged.]

Section 17. The Code of Sussex County, Chapter 115, Article XII, §115-87 "Conditional Uses" is hereby amended by inserting the following italicized and underlined language after "Marine or oceanographic laboratories or experimental stations" and before "Parks or campgrounds for mobile campers, tents, camp trailers, touring vans and the like":

## §115-87. Conditional Uses.

The following uses may be permitted as conditional uses when approved in accordance with the provisions of Article XXIV of this chapter:

## Nursing and similar care facilities

...

Section 18. The Code of Sussex County, Chapter 115, Article XII, §115-88 "Special Use Exceptions" is hereby amended by deleting the language in brackets:

## §115-88. Special Use Exceptions.

Special use exceptions may be permitted by the Board of Adjustment in accordance with the provisions of Article XXVII of this chapter and may include:
C. Other special use exceptions as follows:
[Convalescent homes, nursing homes or homes for the aged.]
$\qquad$

Section 19. Effective Date.
This ordinance shall take effect upon the date of adoption by Sussex County Council, but shall not apply to any completed applications previously made to the Sussex County Board of Adjustment for a Special Use Exception for "Convalescent homes, nursing homes or homes for the aged" as of the date of adoption.
sussexcountyde.gov

## Memorandum

To: Sussex County Planning Commission Members
From: Jamie Whitehouse, Planning and Zoning Manager; Lauren DeVore, Planner III; Samantha Bulkilvish, Planner I and Jenny Norwood, Planner I
CC: Vince Robertson, Assistant County Attorney
Date: March 22, 2019
RE: Other Business for March 28, 2019 Planning Commission Meeting
This memo is to provide background for the Planning Commission to consider as a part of the Other Business to be reviewed during the March 28, 2019 Planning Commission meeting.

## (2018-12) Sandhill Road Subdivision

KS
Final Subdivision Plan
This is a Final Subdivision Plan for the creation of a major subdivision of 8 single-family lots and related improvements. Preliminary Subdivision Plan approval was granted by the Commission at its meeting of September 13, 2018. The property is located west of Sand Hill Road (SCR. 319). The Final Subdivision Plan is in compliance with the Sussex County Zoning and Subdivision Code. Tax Parcel: 235-19.00-33.00. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

## EJF Real Estate

BM
Final Site Plan
This is a Final Site Plan for a proposed 7,500 sf. boat sales building, an existing repair shop and parking to be located off Cedar Neck Road. The preliminary site plan was given approval by the Planning and Zoning Commission on August 9, 2018. At that time the Commission asked to see interconnectivity between this site and the neighboring site which is commercially zoned. The applicant has supplied both photos to show why interconnectivity is not feasible at this time and a written intent to provide interconnectivity at the front of the property through a 50 ' easement if the neighboring property were to ever be redeveloped. This Site Plan is in compliance with the Sussex County Zoning Code. Tax Parcel: 134-9.00-25.00. Zoning District: C-1 (General Commercial District). Staff are in receipt of all agency approvals.

## Americana Bayside MR-RPC - Village C, Phase 2

This is a Revised Site Plan showing the addition of 2 single-family lots into the Americana Bayside Village C, Phase 2 Residential Planned Community (RPC). This Site Plan is in compliance with the Sussex County Zoning and Subdivision Code and all conditions of approval for the Residential Planned Community. Tax Parcel: 533-19.00-301.12. Zoning District: MR (Medium Residential). Staff are in receipt of all agency approvals.

## Hickman Beach Plaza West

Revised Site Plan
This is a Revised Site Plan for the replacement of a storage building and the renovation of two retail buildings and the relocation of some parking out of the front yard setback located off Coastal Hwy. (Rt. 1). This Site Plan is in compliance with the Sussex County Zoning Code. Tax Parcel: 134-17.0051.02. Zoning District: C-1 (General Commercial District). Staff are awaiting agency approvals.

Captain's Way RPC
Revised Site Plan
This is a Revised Site Plan for Captain's Way Manufactured Home Residential Planned Community to be located off of Milton Ellendale Hwy. (Rt. 16). The revisions include the relocation of several lots, the addition of a new road, and the addition of a clubhouse and pool and additional amenities. This Site Plan is in compliance with the Sussex County Zoning and Subdivision Codes. Tax Parcels: 235-13.00-2.00, 2.06, 2.07 \& 2.08. Zoning District: GR (General Residential District). Staff are awaiting agency approvals.

## Pugs Crossing

HW
Revised Preliminary Site Plan
This is a Revised Preliminary Site Plan for four (4) proposed retail buildings and two (2) proposed wholesale buildings and other site improvements to be located off of John J. Williams Hwy. (Rt. 24). This Site Plan is in compliance with the Sussex County Zoning Code. Tax Parcel: 234-32.00-36.00. Zoning District: C-1 (General Commercial Zoning District). Staff are awaiting agency approvals.

Lot 7 Nassau Commons
KS
Revised Preliminary Site Plan
This is a Revised Preliminary Site Plan for a proposed office and auto service building and other site improvements located off of Nassau Commons Blvd. The Planning Commission approved a Final Site Plan for this site on April 23, 2015 for a proposed office and warehouse that was never constructed. This Site Plan is in compliance with the Sussex County Zoning Code. Tax Parcel: 334-5.00-147.00. Zoning District: C-1 (General Commercial Zoning District). Staff is awaiting all agency approvals.

## Windswept at Lewes (FKA Windswept Meadows) RPC

BM
Revised Preliminary Site Plan
This is a Revised Preliminary Site Plan for the creation of a Residential Planned Community (RPC) to consist of 201 proposed residential lots and amenities to be located on the east side of Angola Beach Road and south of Angola Road (SCR. 277). A change of zone application to change the zoning of a portion of parcel 3.00 from Agricultural Residential (AR-1) to General Residential (GR) and create the additional use as a Residential Planned Community (RPC) was approved by the Planning and Zoning Commission on November 27, 2018 (C/Z 1859). The size of the stormwater management ponds have increased but no changes to the lot or open space layout have been made. The Site Plan is in compliance with the Sussex County Zoning and Subdivision Code and RPC Conditions of Approval. Tax Parcels: 234-12.00-3.00 \& 6.00. Zoning District: AR-1 (Agricultural Residential District) with a portion of parcel 3.00 being zoned GR (General Residential District). Staff are awaiting agency approvals.

This is a Preliminary Site plan for the creation of 24 (14 duplex unites) to be located off Gills Neck Road (SCR. 267). The site also lies within the Environmentally Sensitive Development District Overlay Zone (ESDDOZ). A change of zone was approved by the Planning and Zoning Commission on July 12, 2018 (C/Z 1851) through Ordinance No. 2593 to amend the comprehensive zoning map from AR-1 to MR (Medium Density Residential). Additionally, conditional use of the land for multifamily was approved by the Commission on the same date (C/U 2134) through Ordinance No. 2594. This Site Plan is in compliance with the Sussex County Zoning and Subdivision Code. Tax Parcel: 335-8.00-44.00. Zoning District: MR (Medium-Density Residential District). Staff is awaiting agency approvals.

## Lands of William G. Callaway

RW
Minor Subdivision off a 50 ' easement
This is a minor subdivision for the subdivision of 154.00 acres into 1 lot of $2.26+/-$ acres with a residual parcel of 151.4 acres and located off of a proposed 50 ft . ingress/access easement off of Callaway Road (SCR. 558). Tax Parcel: 531-2.00-10.00. Zoning District: AR-1 (Agricultural Residential District). Staff is awaiting all agency approvals.

## AP-19-1 LFW Delaware Holdings 2015, LLC <br> HW

An application to consider an Agricultural Preservation District in an Agricultural Residential Zoning District in Little Creek Hundred for one (1) parcel of land totaling 467.75 acres, more or less, located on the South side of Russell Road and Whitesville Road for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation. Tax Parcel: 532-23.00-1.00.




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610 PEOPLES PLAZA
NEWARK, DE 19702
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(410) 398-3800

FAX (302) 834-2282

Sussex County Planning Commission
2 The Circle
PO BOX 417
Georgetown, DE 19947

## Re: Response Letter for Interconnectivity Per Section 115-221b(18) of the Sussex County Zoning Code.

Dear members of the Sussex County Planning Commission,
We understand the comment for vehicular interconnectivity between parcel No. 134-9.00-25.00 (subject property) and the southern parcel No. 134-9.00-25.01 (Magnolia's at Bethany, LLC). Although a paved road would be ideal, it is our opinion that a physical "stub road" is not feasible given the existing conditions of the southern parcel. Currently, if the subject property proposed a 24 foot wide stub road to begin at the southern property line, its beginning point would have to intersect an existing entrance/exit for Magnolia's at Bethany, LLC for connectivity to be possible, which would also position the stub road very close to Cedar Neck Road. The safer option would be to propose a stub road further east along the southern property boundary, however, a retaining wall exists between these two properties and the change in grade increases as you move east causing too steep of a road for interconnectivity.

We would like to comply with Section $115-221 \mathrm{~b}(18)$, therefore, we are proposing a 50 foot wide easement, as shown on the attached plan, in the event, the the southern parcel redevelops and is designed to meet the grade of the subject parcel for safe interconnectivity.

Sincerely,


Michael R. Paraskewich Jr., PhD., P.E.

LEGAL DESCRIPTION-February 20, 2019
Project No. P-3652-Cedar Neck Road
Proposed Easement-EJF Real Estate, LLC

Description of a 50 feet wide Easement on property situate in Cedar Neck Hundred, Sussex County, State of Delaware, known as 30387 Cedar Neck Road, Ocean View, Delaware over property shown on a Preliminary Site Plan prepared for EJF Real Estate, LLC, prepared by The Pelsa Company for Project No. P-3652. The said Easement being more particularly bounded and described as follows to wit:

Beginning at a point on the Easterly side of Cedar Neck Road, County Road No. 357, at 50 feet wide, a common corner for the Easement herein being described lands of Magnolia's at Bethany, LLC, the point and place of Beginning;

Thence, from said point and place of Beginning, along the Easterly side of Cedar Neck Road, North 00 degrees 12 minutes 03 seconds East, 162.75 feet to a point;

Thence, leaving the Easterly side of Cedar Neck Road, into and through said lands of EJF Real Estate, LLC, by the following two (2) courses and distances: 1) South 89 degrees 47 minutes 57 seconds East, 50.00 feet to a point; and 2) South 00 degrees 12 minutes 03 seconds West, 168.19 feet to a point on the boundary line of said lands of Magnolia's at Bethany, LLC;

Thence thereby, North 83 degrees 35 minutes 12 seconds West, 50.30 feet to the point and place of Beginning.

Containing within said metes and bounds $8,273.5$ square feet ( 0.19 acre) of land be the same more or less.

Subject to the applicable notes and statements on the above mentioned Site plan and any and all applicable easements, agreements, right of ways and restrictions of Record.
$\qquad$


## Sam Bulkilvish

From:
Sent:
To:
Subject:

Follow Up Flag:
Flag Status:

PELSA Office [pelsaoffice@thepelsacompany.com](mailto:pelsaoffice@thepelsacompany.com)
Tuesday, February 12, 2019 8:36 AM
Sam Bulkilvish
Re: EJF Real Estate - Staff Review Letter - Check Print

Follow up
Completed

Hi Sam,

Thanks for getting back to me. I just want to make sure I am clear on comment No. 1. Looking at the screen shot below, there is a retaining wall and entrance/exit to the southern parcel that appears to be in the way of any proposed stub road. Do you agree?


Thank you,

Julian

On Mon, Feb 11, 2019 at 4:37 PM Sam Bulkilvish [sam.bulkilvish@sussexcountyde.gov](mailto:sam.bulkilvish@sussexcountyde.gov) wrote:

Hi Julian,

Attached is the Staff Review Letter for the Check Print for EJF Real Estate.

If you have any questions please let me know.

Best,

From:
Sent:
To:
Subject:
Attachments:
Follow Up Flag:
Flag Status:

PELSA Office [pelsaoffice@thepelsacompany.com](mailto:pelsaoffice@thepelsacompany.com)
Thursday, February 14, 2019 11:04 AM
Sam Bulkilvish
Re: EJF Real Estate - Staff Review Letter - Check Print
INTERCONNECTIVIY LETTER.pdf; P-3652_SITE PLAN.pdf
Follow up
Completed

Hi Samantha,

As requested we have attached a letter and a plan regarding the reasons we can not provide a stub road and are willing to provide an easement for future development in the event the parcel South of us gets redeveloped. When we last spoke you mentioned you would have a discussion with Janelle as we need this decision to be made before SCD give there approval, so we can address any stormwater concerns resulting from the stub road, if your department decides that as the best path.

During your discussion, please consider the following points as to why a stub road would not be feasible:

1. Grade change and retaining wall at southern property line
2. Stub road will have unsafe proximity to Cedar Neck Road and may confuse drivers heading northbound.
3. Stub road proximity to existing exit.
4. The proposed easement guarantees a future connection when it becomes more feasible.
5. See photo below:


Thanks for all of your help,

Julian A. Pellegrini, EI<br>The PELSA Company<br>610 Peoples Plaza<br>Newark, DE 19702-5600<br>302-834-3771 DE \& PA








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AMERICANA BAYSIDE
Couffor.freeman
SUSSEX COUNTY, DELAWARE
VILLAGE C PHASE 2 AMENDED FINAL SITE PLAN \& MR-RPC PLAT
ub flee no. 97068-J/1503a

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## IST OF DRAWINGS <br> 





LOCATION MAP
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SITE DATA:

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PRenous nube c Puce 2 neppown for 46 lots
DEVELOPER'S CERTIFICATION.


ENGINEER'S CERTIFICATION



ANUARY 2019








GR/RPC: CZ1721 - CONDITIONS


DELDOT RECORD PLAN NOTES



 Min



## CAPTAIN'S WAY SUBDIVISION

## 301 LOT GENERAL RESIDENTIAL/ RESIDENTIAL PLANNED COMMUNITY FINAL SITE PLANS

 BROADKILL HUNDRED, SUSSEX COUNTY, DELAWARE| SHEET NO.: |  |  |
| :---: | :--- | :--- |
| SITLE |  |  |
| S1 |  | COVER SHEET |
| S2 |  | RPC OWNERSHIP PLAT - § 115-122 |
| S3 |  | KEY PLAN |
| S4-S11 |  | FINAL SITE PLANS |
| S-12 |  | FINAL SITE PLAN / DELDOT RECORD PLAN |

GROUNDWATER RECHARGE AREA CALCULATIONS:


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## FIELDSTONE @ LEWES R.P.C. CHANGE OF ZONE \# 1859

INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE


# APPLICANT: <br> BOARDWALK DEVELOPMENT, LLC 

 LANDS OF:DAWN DORMAN, KELLY DORMAN \& MARLENE HARMON SUBMITTED OCTOBER15, 2018

PLANNING \&ZONING COMMISSION
OCTOBER 25, 2018
>AE AXIOM

SUSSEX COUNTY COUNCIL
NOVEMBER 27, 2018
MorrisJames
DELAWARE

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## 2017 AERIAL PHOTO OVERLAY \& EXECUTIVE SUMMARY

## EXECUTIVE SUMMARY -CHANGE OF ZONE \#1859

Boardwalk Development, LLC proposes 201 single-family dwellings on 7,500+sf lots on 60 acres (3.35 DU/ Ac.) on the southeast corner of the intersection of Angola Road and Angola Beach Road. One of the objectives of this application is to provide workforce/ moderate income housing in Eastern Sussex County. The proposal is consistent with the character and trend of development in the area and in particular its immediate neighbors (TAB 6- Zoning Map). The property is bordered as follows:

- North: Manufactured Homes on lands already zoned GR (TAB 7-Surrounding Property Photographs). Across Angola Road is the location of the proposed Hailey's Glen Subdivision 2017-17 of the Lands of David and Terry Kielbasa, which has been approved for 68 single family lots on 32.3 acres of which approximately $10 \%$ is wetlands. The Hailey's Glen community is an AR-1 Cluster subdivision and contains 7,500 sf lots.
- West: Across Angola Beach Road are the Angola Beach and Angola Estates manufactured home communities consisting of manufactured homes on leased lands. These communities are also zoned GR. Angola Beach is fully developed and has a density of 3.42 DU/Ac. Angola Estates is not completely developed, but has a permitted density of $4 \mathrm{DU} / \mathrm{Ac}$.. To the west of these communities is Angola by the Bay, which consists of 948 lots on 293 acres which is an approximate density of $3.24 \mathrm{DU} / \mathrm{AC}$.
- South: Bay Pointe Entrance Road and The Cove On Herring Creek Subdivision (AR-1) 86 lots on 68.2 acres with $1 / 2$ acre lots developed pre-sewer and water in the area.
- Southeast: Bay Pointe AR-1 Cluster Subdivision, 165 Iots on 78.15 Ac. 2.11 DU/ AC, 2.5 DU/ AC after deduction of wetlands. 7,500 sf lots.
- East: Village at Herring Creek Subdivision (AR-1, 20,000 sq. ft. lots) \& Manufactured homes on land zoned GR

Fieldstone at Lewes (TAB 11 -Site Data Table \& RPC Site Plan) will have $24 \%$ open space, including preservation of $60 \%(0.98$ acre) of the existing 1.63 acres of existing forest, the planting of 3.77 acres of forested buffer (TAB 12 - Landscape Plan), installation of over 2 miles of sidewalk along all streets, over 0.6 mile of shared use path (paved bike trail), over 0.3 mile of unpaved walking train, and construction of a clubhouse and community swimming pool. The project will be served by an Angola Neck Sanitary Sewer District (TAB 17) and Tidewater Utilities Water Company (TAB 18). The project is compliant with the County's Environmentally Sensitive Developing District Overlay Zone Ordinance and County Ordinance 99-9(c) (TAB 13). With the proffered covenants, restrictions and RPC conditions of approval (TAB $24 \& 25$ ), the project can be developed in character with the surrounding communities.


## 2008 COMPREHENSIVE PLAN FUTURE LAND USE MAP \& COMP PLAN EXCERPTS

## Growth Areas

## Municipality

## Town Center

## Developing Area

## Environmentally Sensitive

 Developing Area
## Mixed Residential Areas

Highway Commercial Areas
Planned Industrial Areas

## Rural Areas

Low Density Area
Protected Lands
(All Federal lands, State lands, agricultural easements, private conservancy lands, major wetlands and lands preserved by other conservation easements)

## Agricultural Preservation Districts

Under the State Program
(A voluntary program. Only a very limited number of homes allowed on a tract under State regulations during the time of an agreement. Participating landowners are eligible to sell development rights to the State.)



# EXCERPTS FROM THE COMPREHENSIVE PLAN <br> ADOPTED 2008 

## HOUSING ELEMENT

Both full-time and seasonal residents continue flocking to Sussex County to take advantage of the area's outdoor attractions, low real estate taxes, and high quality of life. This influx has fueled prosperity in the County's real estate market, hospitality industry, and related economic sectors. While the County strives to accommodate the housing needs, it is also committed to preserving agricultural lands and open space. Limited by Federal, State and County resources, Sussex County's Community Development and Housing Division works diligently to satisfy the housing expectations of the State and the housing needs of its residents.

An overview of Sussex County's present housing situation:
Table 14
Summary of 2006 Sussex County Housing Statistics

|  | NUMBER | PERCENT |
| :---: | ---: | ---: |
| Total Housing Units | 111,606 | - |
| Occupied Units | 73,397 | 66.0 |
| Vacant Units | 38,209 | 34.0 |
| Owner-Occupied | 59,422 | 81.0 |
| Renter-Occupied | 13,975 | 19.0 |
| Age of Housing Units |  |  |
| 2005 or later | 5,106 | 4.6 |
| 2000 to 2004 | 19,704 | 17.6 |
| 1990 to 1999 | 21,654 | 19.4 |
| 1980 to 1989 | 23,073 | 20.7 |
| 1970 to 1979 | 16,963 | 15.2 |
| 1960 to 1969 | 7,434 | 6.7 |
| 1950 to 1959 | 7,132 | 6.4 |
| 1940 or earlier | 10,540 | 9.4 |
| Housing Units by Structure |  |  |
| Single-Family Detached | 66,138 | 59.3 |
| Single-Family Attached | 5,321 | 4.8 |
| 2-4 Units | 3,833 | 3.4 |
| 5+ Units | 9,640 | 8.6 |
| Mobile Homes | 26,674 | 23.9 |

Source: U. S. Census Bureau, 2006 American Community Survey
Note: Vacant units include both unsold and unused structures.

## Housing Affordability

On the down side, the County's strong housing market has driven up home prices and apartment rentals to new highs. Sussex County's low to moderate income working households are hit hardest by these cost increases because their incomes typically do not keep pace with the cost of living, especially the cost of housing.

## The Moderately Priced Housing Unit Program

In January 2006, Sussex County Council introduced the Moderately Priced Housing Unit (MPHU) Program. This initiative is a tangible step towards creating more moderately priced housing by providing incentives for developers to build these types of units. The program also envisions the use of deed restrictions to guarantee the re-sale prices of these homes remain affordable for a 20 -year period.

The MPHU Program offers expedited review and density bonuses to developers who build homes affordable to people within $80 \%$ and $125 \%$ of the area's median income, established yearly by HUD. Depending on the specific income level targeted, developers of approved projects can build between $20 \%$ and $30 \%$ more units than otherwise allowed. The projects must be: a) owneroccupied housing; b) located in a town center, developing area or environmentally sensitive developing area, or land that is designated on a town's comprehensive plan as lying within the town's growth and future annexation area; c) have a minimum of 35 units and submit $15 \%$ of the total units to the program; and d) connect with public water and sewer facilities. Home buyers must live and work in Sussex County for at least one year and be income-eligible to participate. The County will partner with the Delaware State Housing Authority for first-time homeowner assistance with down payment and settlement costs.

The MPHU Program is voluntary and individual projects subject to County approval. To date, Sussex County has received five development applications for a total of 541 affordable units. These applications are now under review. The County wants this program to meet the needs of low to moderate income people in Sussex County, but also to entice young professionals to stay in Sussex County. With increased housing options for the rising professional sectors, we hope to see more employment opportunities in such fields. In addition to credit for addressing housing costs, the MPHU Program has received praise for its potential to create housing close to work, thereby contributing to reduced commuter costs and less traffic. Sussex County views MPHU as a pilot program that the County will evaluate for possible refinements at the end of a two-year trial period.

## Cooperation with Non-Profit Housing Entities

In November 2006, Sussex County Council approved a $\$ 50,000$ Community Investment Grant to the Diamond State Community Land Trust(DSCLT). This non-profit corporation partners with the State, local governments, housing advocates and others to expand home-ownership opportunities for Delaware's low to moderate income households. Among other activities, DSCLT undertakes several types of projects on behalf of existing and prospective low to moderate income home buyers. Since January 2006, the County has given a total of $\$ 37,500$ to the West Rehoboth Land Trust.

Both DSCLT and the West Rehoboth Land Trust advocate community land trust homes as an effective way to expand the permanent supply of affordable housing. Under their model, low to moderate income buyers own their home but lease the underlying land for a nominal fee from the community land trust. At resale, the homeowners keep only a certain portion of the appreciation. The remainder stays "with the home" in order to make that home affordable to the next buyer.

The Sussex County Council has authorized grants over the past five years to several other nonprofit agencies in the County to assist with housing programs. The County has contributed $\$ 40,000$ to NCALL Research, Inc., $\$ 52,500$ to Interfaith Mission, $\$ 149,357$ to First State Community Action, $\$ 35,000$ to First State RC\&D, $\$ 1000$ to Milford Housing Development Corporation, and $\$ 121,500$ to Sussex County Habitat for Humanity. In addition, Sussex County donated homes to Habitat for Humanity that were purchased through the Airport Expansion Project. Sussex County provides administrative space for Habitat for Humanity operations near Lewes.

## Housing Goals, Objectives, and Strategies

## Goal

Facilitate decent, safe, and sanitary housing for low and moderate income people throughout Sussex County.

## Objective 1

Provide affordable housing options to the County's workforce earning $80 \%$ to $125 \%$ of HUD's Area Median Income.

Strategy: Support and evaluate Sussex County's new Moderately Priced Housing Unit (MPHU) Program. The program's pre-established two-year initial trial period ends in January 2008 and any alterations to the program will be determined at that time. For example, the Diamond State Community Land Trust suggests making the MPHU Program mandatory and modifying its rules and regulations to ensure MPHU homes are permanently priced at affordable housing levels. Also, modifying the program to include existing new developments in the program will be considered. These developments may not receive the benefit of expedited review or bonus density, but may be included in the MPHU program on a voluntary basis. The appropriateness of these and other potential changes to the MPHU Ordinance can be fully assessed at that time.

## Objective 2

Encourage manufactured homes as an affordable housing tool.
Strategy: Sussex County will continue to support manufactured homeownership throughout the County as an affordable housing alternative. Based on their vote to lower the minimum lot size requirements ( 5 acres to $3 / 4$ acre), County Council will continue to evaluate the benefits of such changes toward manufactured home restrictions. The County understands the advantage of spending less on the purchase of acreage, in order to make homeownership a possibility. In addition, by comprehensively reviewing Sussex County's Zoning Ordinance, Subdivision Code and other relevant County regulations, provisions could be revised that may unduly constrain the development of well-designed
manufactured housing communities. The County will encourage local municipalities to review these codes as well.

## Objective 3

Encourage private for-profit developers to undertake affordable housing projects.
Strategy: In 2006, Capstone Homes cooperated with Sussex County Council to formulate a workforce housing project. In this case, workforce housing discounts were offered on a first-come-first-served basis. While the homes involved are not aimed at low to moderate income buyers, the project is one example of what private developers can do to help stabilize the price of market rate housing in Sussex County. Capstone homes is also in discussions to build cooperative relationships with certain major Sussex County employers to offer discounts on housing prices in a range of $\$ 5,000$ to $\$ 10,000$ to that employer's workforce in exchange for that employer providing marketing assistance to Capstone Homes. There is a significant gain to be seen if private developers assist Sussex County Council and non-profit housing advocates to provide affordable housing options. In addition to their ability to stabilize market rate housing prices, these projects will help to attract more highly-skilled professional workers to Sussex County. Sussex County Council will continue to expand relationships with private developers to promote the concept.

## Objective 4

Decrease substandard housing and preserve the affordable housing stock in Sussex County.
Strategy: Since 2003 Sussex County's Community Development and Housing Division has worked hard to keep up with the rehabilitation and demolition necessary to prevent an increase in the number of substandard homes in the County. The Department utilizes its Federal, State, and County funding as efficiently as possible to try and satisfy the 700+ names on their waiting list. For the upcoming fiscal year, the Department has applied for $\$ 2,700,000$ in competitive grant funding from the Delaware State Housing Authority. The Department applies for funding on behalf of local municipalities who request assistance from the County. Pending the approval of funding, the following towns will see financial assistance towards rehabilitating and demolishing substandard housing: Blades; Bridgeville; Georgetown; Greenwood; Laurel; Milford; Ocean View; Selbyville; Coverdale Crossroads; Rural Lincoln; Rural Millsboro / Dagsboro; and Rural Selbyville/Polly Branch. Sussex County Council and the local shares, will commit to $\$ 588,000$ as a match to the State's CDBG funds.

## Objective 5

Create a Moderately Priced Rental Unit Program to support the growing rental demand throughout Sussex County.

Strategy: Presently Sussex County's Community Development and Housing Division is focusing on its pilot Moderately Priced Housing Unit Program. Pending the evaluation at the end of the test period for the MPHU Program, the Department will determine the best

$$
\begin{gathered}
\text { EXCERPTS FROM THE } \\
\text { COMPREHENSIVE } \\
\text { PLAN UPDATE } \\
2018 \text { DRAFT }
\end{gathered}
$$

Table 8.2-3 Summary of 2015 Sussex County Housing Statistics

|  | Number | Percent |
| ---: | ---: | ---: |
| 1960 to 1969 | 8,773 | $6.9 \%$ |
| 1950 to 1959 | 5,596 | $4.4 \%$ |
| 1940 to 1949 | 2,895 | $2.3 \%$ |
| 1939 or earlier | 6,530 | $5.1 \%$ |
| Housing Units by Structure |  |  |
| Single-Family Detached |  |  |
| Single-Family Attached | 79,408 | $62.2 \%$ |
| $2-4$ Units | 9,957 | $7.8 \%$ |
| 5+ Units | 3,747 | $2.9 \%$ |
| Mobile Homes | 11,331 | $8.9 \%$ |
| Boat, RV, van, etc. | 23,178 | $18.2 \%$ |
|  | 59 | $0.0 \%$ |

Source: U.S. Census Bureau, 2015 ACS; GCR Incorporated, Delaware Statewide Housing Needs Assessment 2015-2020
Note: Vacant units include both unsold and unused structures

### 8.2.1 Housing Affordability

The strong demand for housing has driven up home prices and apartment rentals to new heights. Sussex County's low- to moderate-income households are hit hardest by these price increases due to the disparity between the slower rise in household incomes as compared to increases in the overall cost of living, especially the cost of housing. The shortage of affordable housing remains a very real problem for low to moderate income households in Sussex County, including many with full-time, year-round jobs.

The housing market in eastern Sussex County is the fastest growing and most expensive housing market in the State. The Delaware State Housing Authority (DSHA) Needs Assessment defines eastern Sussex as those Census tracts that include the beach communities as well as more inland communities that are capturing much of the retiree market, including, Millsboro and Milton. Approximately 40 percent of the population is over 55 years of age in eastern Sussex.

Almost half of the homes in eastern Sussex County are valued at more than $\$ 300,000$ (DSHA, 2014). As eastern Sussex County is a tourism hub, it relies on workers in the service and retail industries. According to the Delaware Housing Needs Assessments, some of Delaware's strongest industries (health care, tourism and retail) have many low and moderate wage workers, creating a demand for workforce housing. The report found that there is a shortage of housing affordable to workers within these industries, particularly in the high-growth areas of eastern Sussex County. As a result, these workers are required to commute further distances from areas in western Sussex County where housing is more affordable. This leads to increasing transportation costs and creates dependency on automobile travel.

### 8.3.2 Property Maintenance and Substandard Housing

Multiple departments in the County play a role in property maintenance and substandard housing issues. The Constable's Office responds to resident complaints of substandard rental housing conditions. In the fall of 2015, the Constable's Office condemned and placed Corrective Action Plans on two housing units, which prompted the development of a formal Rental Unit Complaint Process. The new Complaint Process allows the County to receive and respond to complaints regarding substandard rental housing standards, and work closely with the owner/landlord to ensure that repairs are made. As this is a new process, it may be unfamiliar to many residents. As a result, the County will engage in additional education and outreach efforts to spread information about the program.

While the Rental Unit Complaint Program is designed to assist tenants in reporting substandard rental housing conditions, the County is considering measures to assist landlords in improving housing before it reaches substandard conditions. The County will consider development of a process to work with landlords who have limited access to resources to bring properties up to code in a manner that supports, rather than penalizes, those seeking assistance to improve their housing stock.

There are also some housing situations in the County where changes to County Code may be necessary in order to ensure the provision of safe and decent housing for County residents. For example, the County may wish to consider an ordinance with rules and regulations governing campgrounds as there have been instances in the County where seasonal campgrounds have become locations of permanent housing with people living in substandard conditions. This would fall under the purview of the Planning and Zoning Department and Zoning Code.

There are also many dilapidated and abandoned structures within the County that not only are aesthetically unpleasing but also pose a safety risk. It is unknown how many of these structures exist and their locations. As a result, the County may consider developing a method to identify and track these dilapidated and abandoned structures.

Furthermore, there are cases where the ownership structure of a property that is in disrepair is unclear present challenges to home repair through the County's existing resources. In these situations, it may be costlier to clear title than it would be to perform the repairs. Therefore, the County is considering ways to facilitate home repairs and maintenance on properties with these challenges.

### 8.3.3 Homeownership and Rental Programs

The County has two voluntary inclusionary zoning programs that it uses to further promote more affordable housing and promote a wider range of housing options.

### 8.3.3.1 Sussex County Moderately Priced Housing Unit (MPHU) Program

In January 2006, the Sussex County Council introduced and approved the Moderately Priced Housing Unit (MPHU) Program. The MPHU was amended in 2007 and again in 2013. This initiative provides incentives for developers to build moderately priced housing units, including

The main focus of the County's affordable housing efforts has been through incentives. Although the MPHU and SCRP have not been taken advantage of by many developers to date, the County will continually work to improve these programs to properly reflect the housing market and incentivize developers to participate in the provision of affordable housing. The County may also consider exploring additional ways for private developers to provide more multi-family and affordable housing opportunities. One method could be requiring a certain percentage to be affordable. Another method could be by broadening the product type in zoning that allows feewaivers for affordable housing to include multi-family housing. This could be beneficial to multifamily rental developments using state and federal resources that have affordability restrictions as they could apply for reduced fees (building permits, sewer hook-up fees, etc.).

Additionally, the County may consider development of a Community Development Fund or similar funding mechanism to provide affordable housing assistance, creation, and preservation. Such funding could be used to create new programs and tools such as a loan fund to provide low interest financing for affordable housing providers and developers to assist with creation of affordable housing projects/ventures. Another tool that could be considered is development of a Down Payment and Closing Cost Assistance Program to provide assistance to income-qualified homebuyers. Furthermore, the fund could be used to develop financial literacy scholarships so that low and moderate income individuals that receive County funding can attend HUD-approved housing counseling.

Cooperation with non-profit housing entities and advocacy groups will play a critical role in helping the County achieve its affordable and fair housing objectives as they have local ties with the community and those populations most in need of affordable housing. For example, the County actively coordinates with the Sussex County Advisory Committee on Aging and Adults with Physical Disabilities. This committee can play an important role in determining barriers and opportunities for the expansion of housing opportunities for persons with disabilities and the aging. One opportunity can be through encouraging universal design principles in new home construction and rehabilitation. Universal design focuses on making a house safe and accessible for everyone, regardless of age, physical ability, or stature.

The County can also partner with non-profit advocacy groups to help determine barriers and opportunities for the expansion of housing opportunities for English as a Second Language (ESL) populations. This is particularly important as the County population is expected to grow and diversify through 2045. As discussed in the Population and Demographics Chapter, it is estimated that there will be almost 39,000 people of Hispanic ethnicity living in Sussex County by 2045, which will represent approximately 15 percent of the total population. Partnerships with advocacy groups as well as implementation of the County's Language Plan will help provide resources and assistance to ESL populations.

### 8.4 HOUSING GOALS, OBJ ECTIVES, AND STRATEGIES

The County is committed to ensuring that residents have access to safe, decent, and affordable housing. As described above, the County has a number of housing initiatives and partnerships

Strategy 8.2.5.2 Continue to implement the County's Language Plan.
Objective 8.2.6 Create more opportunities for new types of housing when compatible with surrounding land use and development.

Strategy 8.2.6.1 Review zoning code to determine if modifications are needed to permit new styles of housing such as tiny house or co-housing construction to be developed in the code as they appear.

## Goal 8.3: Affirmatively further fair housing choice in the County.

Objective 8.3.1 Ensure that the County's zoning and land use decisions do not discriminate against persons based on race, color, religion, national origin, disability, familial status, sex, creed, marital status, age, or sexual orientation.

Strategy 8.3.1.1 Evaluate current County code on an on-going basis to determine if any regulatory barriers exist that impede the development of multi-family and affordable housing.

Strategy 8.3.1.2 Continue to collaborate with developers through the County Planning Office's pre-submission meetings to support the expansion of affordable housing.

Strategy 8.3.1.3 Promote the use of the DSHA's Areas of Opportunity maps when making land use decisions and identifying housing strategies for different areas of the County.

Strategy 8.3.1.4 Encourage members of appointed boards and commissions, elected officials, and County staff to attend fair housing training.

Strategy 8.3.1.5 Partner with stakeholders to provide training and technical assistance to municipal leaders and others about fair and affordable housing.

Strategy 8.3.1.6 Market available programs such as connection fee deferrals for non-profit affordable housing projects.

Strategy 8.3.1.7 Increase diversity in appointments for land-use boards, commissions, and advisory groups.

## OCTOBER 3, 2018 CAPE GAZETTE ARTICLE

# Affordable, workforce housing problems outweigh solutions <br> federal representatives about the 

## Panelists: lack of economical rental, for-sale properties going to get worse

By Ellen Driscoll
ellen@capegazette.com
More problems than solutions were revealed at an affordable housing town hall meeting Sept. 11.

A major problem is defining criteria for workforce and affordable housing, said panelist and Sussex County Councilman I.G. Burton. "'ve been on county council for two years and I'm just getting the definitions of what we're talking about," he said. "I think I'm talking about workforce housing, but I'm actually talking about affordable housing. We need to simplify it, then talk about zoning and goals."

Burton said county council is not currently doing anything to address the program. "We've never really looked at if from a county perspective," he said. "I'm here tonight and on council now to try to change that because it's only going to get worse."
"WE'VE NEVER REALLY
LOOKED AT IF FROM A
COUNTY PERSPECTIVE. I'M HERE TONIGHT AND ON COUNCIL NOW TO TRY TO CHANGE THAT BECAUSE IT'S ONLY GOING TO GET WORSE."

- SUSSEX COUNTY

COUNCILMANI.G. BURTON
Burton was joined by developer Preston Schell, Discover Bank Assistant Community Reinvestment Act Director Amy Walls, and Delaware State Housing Authority Director of Policy and Planning Marlena Gibson on a panel held by the Southern Delaware Alliance for Racial Justice at Trinity Faith Christian Center in Lewes. Gibson said the last health and needs assessment conducted by the Delaware State Housing Authority showed significant demand for rental housing and home ownership in Sussex County.
Walls agreed, and said some


Developer Preston Schell said people in eastern Sussex County shouldn't find affordable places to live.
developers have built rental properties under federal programs for lower-income families in eastern and western Sussex counties, but they have not built many for-sale affordable homes. "They can't find properties to buy in Sussex County for people at lower income levels," she said. "They're just not there."
Schell said very few programs support developing workforce housing in Sussex County. "In the beach area, it's gone," he said. "County needs to act, or it's only going to get worse."
Schell said workforce and affordable housing should be near public transportation, shopping, sewer and water districts, and job centers. "But when you find properties like that, you have neighbors and they show up at hearings to say it's a horrible location," he said. "When you ask for a non-horrible location, there's silence, or they tear into you."
Schell said people in eastern Sussex County shouldn't be pushed farther and farther west to find affordable places to live. "We need to have these people live close to where they work," he said.
"Every time I sell a property to a wealthy retiree from out of state, I'm indirectly stabbing myself in the back."
Schell said he was generalizing, but after many people move to Sussex County and buy their homes, they do not want anyone else to do the same. "They don't see the hypocrisy," he said.
Schell said he is open to ideas and financing strategies to target local workforce housing.
He said he is currently developing workforce housing on a Savannah Road property in Lewes.
Burton said providing workforce housing will keep the county vibrant, but he sees difficulty in developing a plan for a county so divided. "County sees it as a needful thing to do, but hasn't defined either workforce or affordable housing," he said. "The county is divided, and we need to develop a plan for both, but that's difficult because property and income levels are so different."
During a question-and-answer session, audience members said people released from jail have difficulty finding affordable housing because criminal backgrounds are often seen as risks by lenders and government programs. Attendees said housing programs for those with disabilities are also needed.
Walls and Gibson told the audience to contact state and
lack of affordable and workforce housing. "Your voice needs to be strong and heard from repeat edly," Walls said.


ELIEN DRISCOL Photos MODERATOR Drew McKay, center, posed questions to panelists (l-r) I.G. Burton, Marlena Gibson, Amy Walls and Preston Schell.


A free service that navigates senior housing options. We provide personalized resources and tour communities to find the "right" fit.
$\checkmark$ A face to face consultation \& assessment
$\checkmark$ A tour of senior living communities such as: In-Home Care | Independent Living Assisted Living | Residential Homes | Memory Care
$\checkmark$ Help navigate funding options, benefits \& community resources
$\checkmark$ Help coordinate transitions between home, hospital and rehab
(4) wnw.OasisSeniorAdvisors.com/Delaware


## WORK FORCE HOUSING DEFINITION, COUNTY POLICY \& SUPPORTING DATA

## Workforce housing

Workforce housing is a term that is increasingly used by planners, government, and organizations concerned with housing policy or advocacy. It is gaining cachet with realtors, developers and lenders. Workforce housing can refer to any form of housing, including ownership of single or multi-family homes, as well as occupation of rental units. Workforce housing is generally understood to mean affordable housing for households with earned income that is insufficient to secure quality housing in reasonable proximity to the workplace.

## Contents

## Overview

History
A critical problem
Study and policy
Legislation and projects
See also
References
External links

## Overview

Consideration of workforce housing includes these four principal factors: ${ }^{[1]}$

## Workforce

The term "workforce" is meant to connote those who are gainfully employed, a group of people who are not typically understood to be the target of affordable housing programs. Workforce housing, then, implies an altered or expanded understanding of affordable housing. Workforce housing is commonly targeted at "essential workers" in a community i.e. police officers, firemen, teachers, nurses, medical personnel. Some communities define "essential" more broadly to include service workers, as in the case of resort communities where one finds high real estate costs and a high number of low-paying service jobs essential to the local economy. Workforce housing may be targeted more generally at certain income levels regardless of type of employment, with definitions ranging from $50 \%$ to $120 \%$ of Area Median Income (AMI).

## Affordability

Mortgage lenders typically impose a limit of $28 \%$ to $36 \%$ of household income allowable for principal, interest, taxes and insurance (PITI). Pricing calculations aimed at renters, who represent approximately one third of US households, define a desirable workforce housing cost as at or below $30 \%$ of household income. Affordability is a function of the relationship between one's income and the housing costs of the area, which leads to variation in the percentage of AMI that may be used to describe people who might need workforce housing. ${ }^{[2]}$

## Proximity

## Bussex County

DELAWARE sussexcountyde.gov

June 7, 2018

Mr. Kenneth Christenbury
Axiom Engineering, LLC
18 Chestnut Street
Georgetown, DE 19947
RE: PLUS Review (PLUS 2018-05-12)
Dear Mr. Christenbury,
Sussex County endeavors to promote non-discrimination and affordable housing whenever possible throughout the County. In this regard, the developer and associated financial institutions are encouraged to provide and finance affordable housing opportunities to Sussex County residents in all new developments, and affirmatively market those affordable housing units to diverse populations.

For questions about opportunities available for affordable housing projects within Sussex County, please consult Sussex County's "Affordable Housing Support Policy". The policy along with other resources are available on the County's Affordable \& Fair Housing Resource Center website: www.sussexcountyde.gov/affordable-and-fair-housing-resource-center. The County's Community Development \& Housing Department can advise about existing affordable housing opportunities in Sussex County and the appropriate County Department to contact regarding specific development issues concerning future affordable housing projects within Sussex County.

The Community Development \& Housing Department can also explain and assist with any financial support or incentives that may be available to a project from federal, state and county sources, as well as private funding sources that also promote affordable housing in Sussex County.

Please understand that all residential projects, including Affordable Housing Projects are subject to the applicable provisions of the Sussex County Subdivision and Zoning Codes, and the approval processes set forth in those Codes.

On behalf of Sussex County, we look forward to cooperating with you and your project as it moves forward.

Thank you,


Brandy B. Nauman
Housing Coordinator \&
Fair Housing Compliance Officer

# COMMUNITY <br> DEVELOPMENT \& HOUSING <br> BRAD D. WHALEY <br> DIRECTOR <br> (302) 855-7777 T <br> (302) 854-5397 F 

## Sussex County

DELAWARE
sussexcountyde.gov

## Affordable Housing Support Policy

## I. Mission Statement

It is Sussex County's mission to promote non-discrimination and affirmatively further fair and equal housing opportunities for all, and further, to inform housing developers and the general public that the County supports the development of affordable housing opportunities in Sussex County.

## II. Affordable Housing Subdivisions

Sussex County promotes racially/ethnically diverse, mixed income, affordable housing in all areas under its jurisdiction. Accordingly, Developers are encouraged to provide affordable housing opportunities to Sussex County residents in all new developments, affirmatively market those affordable housing units to diverse populations, and meet with the surrounding residents early in the development approval process.

## III. Affordable Housing Defined

a. Homeownership: Sussex County considers an affordable housing project to be a housing project in which any portion thereof is designed or intended to serve households earning less than 125 percent of the Area Median Income for Sussex County as calculated by the U.S. Department of Housing and Urban Development annually, and which is comprised of at least one of the following elements:
i. Seeking participation in Sussex County's Moderately Priced Housing Unit (MPHU) Program
ii. Applying for funding by the Delaware State Housing Authority's (DSHA) Housing Development Fund (HDF)
iii. Applying for HOME Investment Partnerships (HOME) funding through DSHA
iv. Applying for a Section 523 or 524 Rural Housing Site Loan through the U.S. Department of Agriculture (USDA) Rural Development
v. Sussex County Habitat for Humanity
vi. Milford Housing Development Corporation
vii. Community Land Trust
viii. Other elements which, in the County's discretion, meet the goals and objectives set forth in the Affordable Housing Support Policy Mission Statement.
b. Rental: Sussex County considers an affordable rental housing project to be a rental housing project in which any portion thereof is designed or intended to serve households earning less than 80 percent of the Area Median Income for Sussex County as calculated by the U.S. Department of Housing and Urban Development annually, and which is comprised of at least one of the following elements:
i. Seeking participation in the Sussex County Rental Program (SCRP)
ii. Applying for funding by the Delaware State Housing Authority's (DSHA) Housing Development Fund (HDF)
iii. Applying for HOME Investment Partnerships (HOME) funding through DSHA
iv. Applying for funding by DSHA's Low Income Housing Tax Credits (LIHTC) program
v. Applying for Multi-Family Mortgage Revenue Bond Program (MFMRB) financing through DSHA
vi. Applying for a Rural Rental Housing Loan through USDA Rural Development
vii. Applying for a Guaranteed Rental Housing Loan through USDA Rural Development
viii. Community Land Trust
ix. Other elements which, in the County's discretion, meet the goals and objectives set forth in the Affordable Housing Support Policy Mission Statement.

## IV. Affordable Housing Project Support

a. Letter of Support

Sussex County will provide conditional letters of support to developers of affordable housing projects seeking financing opportunities, provided that the project qualifies under the definitions above. Further, support letters for affordable rental housing projects will only be authorized if the project is proposed in an Area of Opportunity, as defined by DSHA in Exhibit A. For further information regarding impacted areas versus areas of opportunity, please contact Karen Horton with DSHA at (302) 739-4263. Note: Letters of support do not exempt the developer from the County's planning and zoning process, nor guarantee approval through that process.

## b. Deferral of Fees

Sussex County desires to encourage the construction of affordable housing for lowand moderate-income households. The County finds that the up-front payment of sewer impact fees for affordable residential housing development creates a barrier to such development and desires to ease the barrier by deferring the time for payment of the fees.

Projects must qualify under Sussex County Code (§110-94) and Delaware State Code (Title 9, Chapter 81 , Sections 8105,8106 , and 8110 ). Qualifying projects will not be assessed connection charges for County sewer. However, once the property is
transferred or sold to a non-qualifying buyer, those deferred charges will be immediately due and payable within 30 days.

It is incumbent upon the affordable housing developer to submit evidence of their qualifying status to the County's Assessment Department to ensure that they benefit from this affordable housing incentive.



# Qualified Allocation Plan (QAP) <br> 2018 Balanced Housing Opportunities Map 

Reference Guide

## OVERVIEW

In order to balance housing investments and encourage the creation of affordable housing opportunities within the State of Delaware in areas that contain little or no affordable housing, but which may offer economic opportunity, proximity to the workplace, high performing schools, or supportive infrastructure, DSHA uses the QAP to incentivize development in Areas of Opportunity.

| AREA | INDICATORS | HOUSING STRATEGY |
| :--- | :--- | :--- |
| Areas of <br> Opportunity | Delaware Market Areas*A, B, and C or <br> Wilmington Market Areas A and B <br> Strong School Proficiency | Strong, high value markets, <br> many with high performing <br> schools, where new affordable <br> housing opportunities should <br> be supported. |
| Stable | Delaware Market Areas* D, E, and F or <br> Wilmington Market Areas C, D, and E | Areas where a balance of <br> market rate with subsidized <br> housing should be supported |
| Distressed | 'Racially/Ethnically Concentrated Areas of <br> Poverty' (R/ECAP) <br> Delaware Market Areas* G and H or <br> Wilmington Market Areas F, G, and H <br> Strong Communities or Impacted Rural <br> Communities | These are areas where <br> development that furthers <br> highly concentrated areas of <br> minorities or poverty should <br> be limited. These same areas <br> should encourage sustainable <br> homeownership. |

## Note regarding State Strategies for Policies and Spending

DSHA promotes the use of the State Strategies by tailoring programs based on its identified Investment Levels. For example: in order for a developer to apply for Low Income Housing Tax Credits, it is a threshold requirement that proposals for newly constructing or rehabilitating affordable rental communities be located in Investment Levels 1, 2, or 3. The Areas shown on the Balanced Housing Opportunities Map and listed above are only those located within Investment Levels 1, 2, and 3.

Delaware Market Areas *excluding City of Wilmington

- As identified in the Market Valuation Analysis, developed by the Reinvestment Fund (TRF), and included in the Delaware Housing Needs Assessment, 2015 - 2020


## Wilmington Market Areas

- As identified in the Wilmington Market Valuation Analysis, developed by the Reinvestment Fund (TRF) in 2015.


## ‘Racially/Ethnically Concentrated Areas of Poverty’ (R/ECAP)

- As defined by U.S. Department of Housing and Urban Development, census tracts with:
- A family poverty rate $>=40 \%$ or
- A family poverty rate $>=300 \%$ of the metro tract average* (whichever is lower)
- AND a majority nonwhite population ( $>50 \%$ )

The map reflects HUD-defined R/ECAPS as of November, 2015.

## Strong Communities or Impacted Rural Communities

- Highly distressed predominantly minority communities located in Kent and Sussex Counties typically in isolated areas.


## Strong School Proficiency

- Areas where students are attending schools achieving a proficiency of $90 \%$ or higher, according to the School Attendance Boundary Information System (SABINS), 2011. Values are percentile ranked and range from 0 to 100 . The higher the score, the higher the quality of the school system in a neighborhood. This dataset is maintained by the Minnesota Population Center and the College of William \& Mary, and contains school proficiency information on all school districts in Delaware to the Census block-group level. HUD has determined this source as a valid indicator of school performance and contributing factor to a neighborhood's quality.


## POPULATION AND HOUSING UNITS

## TOTAL POPULATION, 2010¹

Projected Population, $2025^{2}$
TOTAL HOUSEHOLDS, 2010 ${ }^{1}$
Projected Households, $2025^{2}$
HOUSING UNITS, 2016¹
Vacant
OCCUPIED HOUSING UNITS, $2016{ }^{1}$
Owner-Occupied
Renter-Occupied
Single-Family
Multi-Family
Manufactured Homes
Assisted Rental Units, $2014^{3}$
ESTIMATED SUBSTANDARD UNITS, $2010^{3}$
Owner-Occupied
Renter-Occupied

197,145
240,292
79,368
95,567
129,362
45,975 (35.5\%)
83,387
64,802 (77.7\%)
18,585 (22.3\%)
91,495 (70.7\%)
15.122 (11.6\%)

22,694 (17.5\%)
2,989
4,097
3,209
888


## MEDIAN HOURLY WAGE

2017 Housing Wage for a 2 Bedroom Apartment in Sussex County ${ }^{6}$ : $\$ 17.60$


## INCOME AND HOUSING COST

HUD AREA MEDIAN FAMILY INCOME, 2017 ${ }^{\text { }}$
Annual Median Home Sales Price, $2017^{12}$
FAIR MARKET RENTS, 2017 ${ }^{\mathbf{5}}$ :
1-Bedroom Unit
\$688
2-Bedroom Unit
3-Bedroom Unit
\$915
\$1,304
HOUSING WAGE, $2017^{6}$ :
1-Bedroom Unit
\$13.23
2-Bedroom Unit
\$17.60
3-Bedroom Unit


## KEY HOUSING FACTS

- A minimum wage worker in Delaware (\$8.25) would need to work 85 hours per week to afford the 2-bedroom Fair Market Rent (FMR) ${ }^{6}$ of $\$ 915$ in Sussex County.
- An annual income of $\$ 36,600$ is needed to afford the 2bedroom FMR ${ }^{6}$ of $\$ 915$ in Sussex County.
- The National Low Income Housing Coalition estimates that the rent affordable at mean renter wage in Sussex County is $\$ 629 .{ }^{6}$
- In East Sussex County, the majority of rental demands is from incomes greater than 80\% Annual Median Income (AMI) (522 units) while the majority of demand for homeownership is above $120 \%$ AMI (1,297 units). In West Sussex County, the majority of demand for rental units is from incomes less than $50 \% \mathrm{AMI}$ ( 360 units) while the majority of homeownership demand is from above 80\% AMI (975 units). ${ }^{3 .}$



## Foreclosure Filings and Sheriff Sales ${ }^{9}$



## POVERTY AND HOMELESSNESS

## POVERTY-LEVEL INCOME, 1 PERSON, 2017

 (U.S.) ${ }^{8}$4 Person Household
NUMBER HOMELESS ANNUALLY (DE) ${ }^{13} \quad 3,000$
INDIVIDUALS WITH INCOME BELOW POVERTY LEVEL, $2016{ }^{1}$

23,844 (11\%)
Children (<18) 9,260 (23\%)
HOUSEHOLDS WITH INCOME <\$25,000 16,360 (20\%)

## HOUSING PROBLEMS

HOUSEHOLD HAS AT LEAST 1 OF 4 HOUSING PROBLEMS ${ }^{11}$

Owner
Renter
HOUSEHOLD HAS AT LEAST 1 OF 4 SEVERE HOUSING PROBLEMS ${ }^{11}$

Owner
Renter

25,370

17,210 (29\% of owners)
8,160 ( $45 \%$ of renters)

12,420

7,840 (12\% of owners)
4,580 ( $24 \%$ of renters)

## NOTES AND SOURCES

1. U.S. Bureau of the Census, 2010 and 2016 American Community Survey Estimates.
2. Delaware Population Consortium, 2017 Population Projections.
3. GCR Incorporated, Delaware Statewide Housing Needs Assessment 2015-2020.
4. U.S. Department of Housing and Urban Development (HUD) Area Median Income.
5. U.S. Department of Housing and Urban Development (HUD) Fair Market Rent.
6. National Low-Income Housing Coalition, Out of Reach 2017.
7. Delaware Department of Labor, Office of Occupational \& Labor Market Information. Delaware Wages 2016.
8. U.S. Bureau of the Census, 2017 Poverty Thresholds.
9. File \& ServeXpress, LLC, SalesWeb, and County Sheriff Sale Records. Compiled by the Delaware State Housing Authority.
10. Affordable Home Price based on median wages as reported by Delaware Wages 2016. Formula assumes $4.25 \% 30$-year fixed rate mortgage, $\$ 200$ monthly taxes and insurance, and other debt of $12 \%$.
11. U.S. Department of Housing and Urban Development, 2010-2014 CHAS data, compiled by DSHA. The four housing problems are: incomplete kitchen facilities, incomplete plumbing facilities, more than 1 person per room, and cost burden greater than $30 \%$. The four severe housing problems are: incomplete kitchen facilities, incomplete plumbing facilities, more than 1 person per room, and cost burden greater than $50 \%$. Cost burden is the ratio of housing costs to household income. For renters, housing cost is gross rent (contract rent plus utilities). For owners, housing cost is "select monthly owner costs", which includes mortgage payment, utilities, association fees, insurance, and real estate taxes.
12. MarkeTrac© by CoreLogic
13. Housing Alliance Delaware, The State of Housing \& Homelessness in The First State, 2017 Joint Report

## AFFORDABILITY REVIEW OF EXISTING HOUSING IN PROJ ECT AREA

## MLS Search

## September 20, 2018

## Search Criteria:

- Cape Henlopen School District
- Lewes address
- Single Family homes
- Age 2005-2018
- Under \$275,000


## Results: 3 properties

Residential
Active
[1 $\$ 234,900$


MLS \#: 1001893834 Beds: 3
Tax ID \#: 334-05.00-197.00 Baths: 2
MLS Area: Lewes Rehoboth Hundred - AbvGrd Fin SqFt: 1,222
Sussex, DE County (31009)
Schl District:
Subdiv/Neigh:
Garage: 2

| Cape Henlopen | Acres/Lot SF: | .31 |
| :--- | :--- | :--- |
| None Available | Lot Dim: | $53 \times 252$ |

Listing Agent: Listing Office:

2 Parking:
KATHLEEN CRAMER (Lic\# 33553 - MD)
Concrete Driveway DOM/CDOM:
Agent Phone: (302) 236-5630
Office Phone: (302) 539-2145

18478 Canter Avenue, Lewes, DE 19958
Residential
Active
II $\$ 255,000$


[^5]
## ANGOLA BEACH COMMUNITY



Primary Year

2014
\$32,385

2015
\$20,000

2016
\$35,869

2017
\$37,675

## Search Criteria

Time frame is from Jan 2014 to Dec 2017
Subdivision County State is 'Angola Beach (Sussex, DE)'


Primary Year
Sale Price, Average

2014
\$96,600

2015
\$79,625

2016
\$72,889

2017
\$71,685

## Search Criteria

Time frame is from Jan 2014 to Dec 2017
Subdivision County State is 'Angola Estates (Sussex, DE)'


## Search Criteria

Time frame is from Jan 2014 to Dec 2017
Subdivision County State is 'Angola Neck Park (Sussex, DE)'

## ANGOLA BY THE BAY



Primary Year

2014
\$195,079

2015
\$197,408

2016
\$202,329

2017

## Search Criteria

Time frame is from Jan 2014 to Dec 2017
Subdivision County State is 'Angola By The Bay (Sussex, DE)'


## Search Criteria

Time frame is from Jan 2014 to Dec 2017
Subdivision County State is 'Cove On Herring Creek (Sussex, DE)'

BAY RIDGE WOODS


Primary Year
Sale Price, Average

2014
\$351,500

2015
\$360,750

2016
$\$ 367,450$

2017

## Search Criteria

Time frame is from Jan 2014 to Dec 2017
Subdivision County State is 'Bay Ridge Woods (Sussex, DE)'


## Search Criteria

Time frame is from Jan 2014 to Dec 2017
Subdivision County State is 'Bay Pointe (Sussex, DE)'

VILLAGES AT HERRING CREEK


Primary Year
Sale Price, Average

2014
\$456,250

2015
\$427,350

2016
\$486,250

2017
\$430,333

## Search Criteria

Time frame is from Jan 2014 to Dec 2017
Subdivision County State is 'Villages At Herring Creek (Sussex, DE)'

## ZONING MAP




## J UNE 2018 SATELLITE IMAGE AND SURROUNDING PROPERTY PHOTOGRAPHS




PHOTO \#1 33238 Angola Road (parcel 4)


PHOTO \#2 33238 Angola Road (parcel 4)


Photo \#3 33224 Angola Road (Parcel 4.03)


Photo \#4
33252 Angola Road (Parcel 4.05)


Photo \#5 22562 Camp Arrowhead Road (Parcel 4.02)


Photo \#6


Photo \#7 33199 Angola Road (directly across Angola Road)


Photo \#8 - East side of property - Road and existing mature buffer in Villages of Herring Creek


Photo \#9 - 22666 Camp Arrowhead Road


Photo \#10 - 22738 Camp Arrowhead Road


Photo \#11 - Angola Crest 1 MHP


Photo \#12 - Angola Crest 1 MHP


Photo \#13 - Angola Crest II MHP


Photo \#14 Angola Crest II MHP


Photo \#15 - Angola Neck Park


Photo \#16 - Angola Neck Park


Photo \#17 - Angola Neck Park


Photo \#18 - Angola Neck Park


Photo \#19 - Angola Neck Park


Photo \#20 - Angola Neck Park


Photo \#21 - Angola Neck Park


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Photo \#22 - Angola Beach Mobile Home Park Entrance


Photo \#23 - Angola Beach Mobile Home Park


Photo \#24 - Angola Beach Mobile Home Park


Photo \#25 - Angola Beach Mobile Home Park


Photo \#26 View north of property from Bay Pointe entrance road


Photo \#27 SWM flow of water from Dorman farm under Bay Pointe Road


Photo \#28


Photo \#29 Kelli Krueger property (driveway adjacent to community SWM area)


Photo \#30 - Bay Pointe Subdivision Entrance Monument (developed by Joseph P. Reed)


Photo \#31 - Bay Pointe Subdivision Entrance Monument (developed by Joseph P. Reed)


Photo \#32 - Bay Ridge Woods (Developed by Joseph P. Reed et. al.)


Photo \#33 - Bay Pines Cluster Subdivision (Developed by Joseph P. Reed)

SIDEWALK STUDY AND DEVELOPER RESUME

## Angola Area Sidewalk Study

| COMMUNTIY | CURBS | SIDEWALKS |
| :--- | :---: | :---: |
| Angola Beach | NO | NO |
| Angola Estates | NO | NO |
| Bay Pointe | YES | YES (one side) |
| Cove on Herring Creek | NO | NO |
| Bayfront at Rehoboth | NO | NO |
| Bay Pines | YES | YES (one side) |
| Bay Ridge Woods | YES | YES (one side) |
| Villages of Herring Creek | NO | NO |
| Angola Neck Park (dirt roads) | NO | NO |
| Angola By The Bay | NO | NO |
| Woods on Herring Creek | NO | NO |

Note: Joseph P. Reed was a partner in Bay Ridge Woods (Recorded 2002) Bay Pointe (Recorded 2007), and Bay Pines (Recorded 2014)

## About the Developer

## Boardwalk Development, LLC is owned by J oseph P. Reed

- Resides in Lewes with his wife and children. Wife, Maria Reed, is a local pediatrician and practices as Dr. Maria Childers at Pediatric \& Adolescent Center in Milton.
- Lifelong Sussex County resident. Native of Rehoboth Beach. Born at Beebe Hospital in 1965.
- Graduated from Cape Henlopen High School in 1983.
- Graduated with honors from University of Delaware in 1987 with B.S. in Accounting. Son Brent is currently a finance major and tight-end on football team at University of Delaware.
- 6 children. 4 biological and 2 step-children (ages 13-29). 1 granddaughter.
- Founded RE/MAX Realty Group at 317 Rehoboth Avenue, Rehoboth Beach, Delaware in 1991. As broker/owner, ran the daily operations and grew the business to over 70 agents and over $\$ 400,000,000$ in annual sales. Sold the brokerage business in 2003 to focus on real estate development activities and have weekends with family.
- Broker/Owner of the Year, 2001, RE/MAX Pennsylvania \& Delaware Region.
- RE/MAX Platinum Club Member, 1996-2003
- 2 term Board of Directors member, Rehoboth Beach Chamber of Commerce
- Development partner in several residential communities in Sussex County including such communities as Estates at Bridle Ridge, Henlopen Landing, Mills Chase, Retreat at Millstone, Bay Ridge Woods, Cannery Village, Holland Mills, Preserve on the Broadkill, Bay Pointe and Bay Pines.
- Owner of Henlopen Plaza (anchored by HomeGoods, Citizen's Bank, Cape Wine \& Spirits, Kitchen \& Co, and Citizen's Bank) and several other smaller commercial properties in Sussex County. Partner in Peninsula Crossing shopping center (500,000 +/- sf anchored by Lowe's, B] 's, Petsmart, McDonalds, Burger King, Chick-fil-A, Royal Farms, Peninsula Medical Center and numerous other tenants).
- Founding partner of Capstone Homes in 2005. Builder of 80-100 homes per year in eastern Sussex County. Managing partner is Jake Booth.


## PROJ ECT CONCEPTION BACKGROUND

## Project Conception Background

## By: Joe Reed, Boardwalk Development LLC

In the summer/fall of 2017, the Dorman family received multiple unsolicited offers from developers for their 60 acre parcel despite the property not being listed for sale. Hal Dukes at Tunnell \& Raysor was representing the family and reviewing the contracts for the sellers. After several rounds of negotiations, I was able to emerge as the winning bidder in part due to my being a local developer with a proven track record and in part because I had already developed the adjacent Bay Pointe community on land formerly owned by seller's father and uncle.

During my due diligence, I considered multiple ideas for this property and came across a few articles about the extreme need for workforce/moderate income housing close to the beaches. I have 24 and 29 year old daughters working and living in the area and witnessed first-hand the challenges for them (and their local friends) to find opportunities to purchase a decent house near the beaches and in the Cape Henlopen School District. Many of these young adults, including my daughters, grew up in the area, graduated from Cape Henlopen High School, attended college and returned home to decent jobs but then can't find an opportunity to purchase a home because all the new communities are being targeted towards more affluent retirees. Many of these young adults work as nurses, teachers, police officers, medical personnel, store managers, construction industry employees, hospitality industry employees, etc.

At the same time while I was reviewing the Comp plan, zoning map and aerials of the Angola area -- a light bulb went off in my head that this is the perfect place for a quality workforce housing community that would be specifically targeted towards these younger families that have historically been priced out of the market. The property is already partially zoned GR and is sandwiched between other GR zoned lands that permit 4 units/acre. In addition the surrounding area already has a diverse mix of density, price ranges and housing type. For example, a 700+ unit mobile home park sits adjacent to the property and many other lower priced trailers adjoin the land. The property is in the development district, served by County sewer, served by central water from Tidewater and is in the Areas of Opportunity zone of DSHA that encourages support for new affordable housing opportunities. It is located less than 3.5 miles from Love Creek Elementary and Beacon Middle School. I could not think of a better suited property for workforce housing. The final piece was figuring out if such a project would be financially feasible at the market price of the subject parcel.

I did a lot of research on workforce housing and met with several builders. I attended the Governor's Conference on Housing and a panel on affordable/workforce housing sponsored by SDARJ. I learned that the largest builder in Sussex County and Delaware, Ryan Homes, has a product line of houses geared specifically towards workforce/moderate income families. Ryan Homes is part of NVR Corporation and purchases more building permits in Sussex County than anyone else -- over 750 permits in 2017 alone. NVR builds over 17,000 homes per year nationally and enjoys many economies of scale and a buying power that allows them to construct the houses more cost effectively. In order to reach the price points necessary to make
these homes affordable to Sussex County residents earning 80-120\% of AMI, I learned that I needed to sell NVR finished lots for about $60 \%$ of the going rate for 7,500 sf lots in the immediate area. My land cost, engineering, development costs, impacts fees, DelDOT improvements, etc are not any less than the 7,500 sf lots being developed in the $\$ 400,000+$ retiree buyer communities. Farmers aren't selling the land to developers for less per acre because their plan is to develop workforce housing. After researching and learning that there are not any financial incentives (such as impact fee waivers, inspection fee waivers, building permit waivers, less DeIDOT improvements, etc) for developing workforce housing, it quickly became clear that this idea was not financially feasible at 2.2 unit/acre. Moreover, I learned that the only other workforce housing proposed in the Lewes area is a condo project near Cape Henlopen High School by Preston Schell at a density of over 20 units/acre. After much financial modeling, I reached the conclusion that three items were needed to make the goal of providing non-subsidized, single-family, workforce housing a reality on this parcel: (1) Density would need to be at least 3.35 units per acre (2) The developer would need to assume more risks and work on a significantly smaller ROI (3) The builder would need economies of scale, a series of costeffective workforce house plans, and need to work on a tighter profit margin.

In order to make this 201-lot workforce housing community a reality and meet the clearly stated objectives in the 2008 Comprehensive Plan and draft 2018 Sussex Plan, it is going to take a collaborative effort between the developer, the builder and Sussex County. I am delivering the developer and builder in this application, approval from Sussex County is the only thing standing between this opportunity for 201 young families to realize the American Dream. If approved, I will do my best to make this community a success and will provide the County Administrator an annual summary of the results. I believe this site is an ideal location for workforce housing and that this application represents good land use planning, even absent the benefit of providing much needed workforce housing. The proposed use and density are consistent with the surrounding neighborhoods. I'm confident the project will be successful and will not negatively impact property values. I'm putting "my money where my mouth is" by risking millions of dollars in an endeavor to make workforce housing a reality instead of taking the proven route with the retiree buyer. Furthermore, I still personally own numerous properties (most are waterfront) in the adjacent communities and I'm certain this application will not negatively impact the value of my investments or anyone else's investment in the area.

I look forward to the opportunity to develop a workforce housing community that can serve as a model for future projects in eastern Sussex County. Thank you for your consideration.

## BUYER DATA SHEET

Fieldstone at Lewes
Lewes, Delaware

| Date of Settlement |  |
| :--- | :--- |
| Lot Number |  |
| Property Address |  |
| Final House Price |  |
| Household Income |  |
| Income as \% of AMI |  |
| Down Payment |  |
| Monthly Mortgage Payment |  |
| Number of Years Living in Sussex County |  |
| Family Size |  |
| Age of Borrowers |  |
| Occupations |  |
| Place of Employment |  |

Developer to provide a summary of this data for each sale to Sussex County Council on an annual basis beginning one year after the first sale.

## ARCHITECTURAL ELEVATIONS "SIMPLY RYAN"

Fieldstone at Lewes
Housing Affordability Analysis September 27, 2018

| House Plan | Purchase Price | 3.5\% Down | Monthly P\&I 4.38\%/30 years | Monthly Taxes \& HOA fees | Total Monthly Payment | Annual Income Needed for Payment @ 30\% of Income | \% AMI Needed to Purchase |
| :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: |
| 1440 | \$244,990 | \$8,575 | \$1,181 | \$153 | \$1,334 | \$53,360 | 77.67\% |
| 1296 | \$249,990 | \$8,750 | \$1,205 | \$155 | \$1,360 | \$54,400 | 79.18\% |
| 1680 | \$254,990 | \$8,925 | \$1,229 | \$157 | \$1,386 | \$55,440 | 80.70\% |
| 1918 | \$269,990 | \$9,450 | \$1,302 | \$164 | \$1,466 | \$58,640 | 85.36\% |
| 2203 | \$279,990 | \$9,800 | \$1,350 | \$168 | \$1,518 | \$60,720 | 88.38\% |

* Sussex County 2018 Average Median Income (AMI) is \$68,700


UPPER LEVEL


Ryan




UPPER LEVEL


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## ZONING APPLICATION, SITE DATA TABLE, REZONING \& RPC SKETCH PLAN

# Planning \& Zoning Commission Application Sussex County, Delaware <br> Sussex County Planning \& Zoning Department <br> 2 The Circle (P.O. Box 417) Georgetown, DE 19947 <br> 302-855-7878 ph. 302-854-5079 fax 

Type of Application: (please check applicable)
Conditional Use $\qquad$
Zoning Map Amendment $\curvearrowleft$
Site Address of Conditional Use/Zoning Map Amendment
Southeast of intersection of SCR 277 \& SCR 278
Type of Conditional Use Requested:

Tax Map \#: 234-12.00-3.00 \& 6.00 Size of Parcel(s): 60.00 ac .

Current Zoning: GR\&AR1 Proposed Zoning: GR/RPC Size of Building: $\qquad$
Land Use Classification: ESDOZ - Mixed Residential Areas \& Low Density
Water Provider: Tidewater
Sewer Provider: Sussex County

## Applicant Information

Applicant Name: Boardwalk Development, LLC - C/O Joseph Reed
Applicant Address: 317 Rehoboth Avenue
City: Rehoboth Beach $\qquad$ State: DE ZipCode: 19971
Phone \#:(302) 430-4060 E-mail: jreedre@gmail.com

## Owner Information

Owner Name: Dawn Dorman, Kelly Dorman \& Marlene Harmon
Owner Address: 22542 John J. Williams Highway

| City: Lewes | State: DE | Zip Code: 19958 |
| :--- | :--- | :--- |
| Phone\#: | E-mail:__ |  |

## Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: Axiom Engineering, LLC - C/O Kenneth R. Christenbury, P.E.
Agent/Attorney/Engineer Address: 18 Chestrut Street

| City: Georgetown | State: $\mathbf{D E}$ | Zip Code: 19947 |
| :--- | :--- | :--- |
| Phone \#:(302)855-0810 | E-mail: $\mathbf{\text { ken@axeng.com }}$ |  |

## Check List for Sussex County Planning \& Zoning Applications

The following shall be submitted with the application
Completed Application
Provide eight (8) copies of the Site Plan or Survey of the property

- Survey shall show the location of existing or proposed buildings), building setbacks, parking area, proposed entrance location, etc.
- Provide a PDF of Plans (may be e-mailed to a staff member)
- Deed or Legal description
$\checkmark$ Provide Fee \$500.00
Optional - Additional information for the Commission/Council to consider (ex. architectural elevations, photos, exhibit books, etc.) If provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.
Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.
$\checkmark$ DelDOT Service Level Evaluation Request Response
$\checkmark$ PLUS Response Letter (if required)

The undersigned hereby certifies that the forms, exhibits, and statements contained in any papers or plans submitted as a part of this application are true and correct.

I also certify that I or an agent on by behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future needs, the health, safety, morals, convenience, order, prosperity, and general welfare of the inhabitants of Sussex County, Delaware.

## Signature of Applicant/Agent/Attorney



Date:


For office use only: Date Submitted: Staff accepting application:


Location of property:

## Subdivision:

Date of PC Hearing: $\qquad$ Recommendation of PC Commission: $\qquad$
Date of CC Hearing: $\qquad$ Decision of CC: $\qquad$







## LANDSCAPE PLAN








## ESDDOZ NARRATIVE \& CHAPTER 99 COMPLIANCE STATEMENT

Boardwalk Development, LLC is proposing the development of 201 new detached single family lots. The project is currently split zoned AR-1, Agricultural-Residential and GR, General Residential (Tab 6 - Zoning Map). Furthermore, the property is located in the Environmentally Sensitive Developing District Overlay Zone (Tab 2 2008 Comp Plan Map).

Change of Zone \#1859 includes a request for a change of zone for the AR-1 portion of the property to GR - General Residential District with a Residential Planned Community overlay for the entire 60.00 acre property (Tab 23 - current Survey and Deed) with 201 residential lots. (Tab 11 - Zoning Application, Site Data Table \& RPC Sketch Plan). On May 24, 2018, the project was the subject of a Preliminary Land Use Service (PLUS) review. The project is located in a Level 3 area for State Strategies for Policies and Spending review. AXIOM submitted written responses to the PLUS comments on September 17, 2018 (Tab 15 - PLUS Response letter).

## Environmentally Sensitive Development District <br> Overlay Zone (ESDDOZ) Considerations

Fieldstone at Lewes development strategy regarding ESDDOZ considerations includes the following design approaches:

1. Stormwater-the stormwater management includes an extended detention wet stormwater management pond to be equipped with an aeration fountain for both aesthetic and environmental enhancement. Downstream property owners will be protected from increases in peak discharge to the 10-year and 100-year stormwater discharges, in accordance with DNREC criteria. Final Site Plan approval shall be subject to Sussex Conservation District review and approval.
2. Water Supply - Tidewater Utilities has indicated that they are ready and willing to provide central water to the property. (Tab 18)
3. Wastewater treatment- the Sussex County Engineering Department Technical Advisory Committee comments indicate that the property is located in the Angola Neck Sanitary Sewer District, that capacity for the site is available, that the design assumption for the infrastructure was 4 dwelling units per acre, which exceeds the 3.4 DU/ AC. Proposed in the GR-RPC application. (Tab 17)
4. Traffic - A service Level Evaluation Request was filed with the Delaware Department of Transportation. On May 14, 2018 DeIDOT's response indicated that the project was eligible to submit a fee to DELDOT for an area-wide study in lieu of completing a Traffic Impact (Tab 14). The area-wide study fee does not eliminate the need to construct and/ or contribute to off-site improvements. Both DELDOT's J une 21, 2018 PLUS comments (Tab 15) and their J uly 2, 2018 TAC comments (Tab 16) indicated a combination of 3 things:
a. Improvements to the Angola Road and Angola Beach Road intersection to be coordinated with the proposed entrance for Hailey's Glen Subdivision.
b. Improvements to Angola Beach Road from the improved intersection to the project entrance.
c. A cash contribution from the developer for the upcoming construction of improvements to the Route 24 intersections with Angola Road and Camp Arrowhead Road. (See Cape Gazette Article, last page in TAB 13.
5. Endangered Species and Habitat- the applicant is not aware of any endangered species or habitat on the property. PLUS Comments did not indicate the presence of endangered species (Tab 15).
6. Wetlands- Coastal Soil Consultants reviewed the property for the presence of hydric soils that could indicate federal or state regulated wetlands. The conclusions of their investigation is that the site is free of hydric soils, and therefore free of regulated wetlands (Tab 22).
7. Agricultural and Forest - the site for the proposed Fieldstone at Lewes Residential Planned Community is currently an agricultural property with the majority of the acreage tilled cropland. Only 1.63 acres of the site is presently wooded. The site plan indicates $60 \%$ ( 0.98 ac.) will be preserved, and 3.77 acres of forest buffer will be planted for the project. The landscape plan (TAB 12) includes 461 deciduous trees, 12 flowering trees and 176 evergreens.
8. According to the Delaware Environmental Navigator, the site contains no Excellent Recharge Areas and a very small portion of Wellhead Protection Area in the southwest corner of the site.

9. Infrastructure- Roads, stormwater management and open space for this proposed project shall all be maintained by a homeowners association in perpetuity. Utilities are to be maintained by the entities that own the respective utility.
10. The site design includes several amenities. The project's internal streets include sidewalks that tie in to the project's open space community area with a club house and community swimming pool. The frontage of the site includes a shared use path to allow a variety of transportation options within the development.

## SUMMARY

The subject parcel is well suited to the proposed development. Central water and sewer are available to the property. The site is free of regulated wetlands or floodplains, utilizing Sussex Conservation District approved Best Management Practices for stormwater management the development of this parcel can proceed in an environmentally sensitive manner. The project has been designed in accordance with Chapter 99 of the Sussex County Code regarding subdivision (Tab 13), and the proposed construction is compatible with surrounding land uses (Tab $6 \& 7$ ). Draft Covenants and Restrictions have been provided to ensure the on-going needs of residents are addressed (Tab 24). Proposed Findings of Fact and Conditions of approval have been provided for the County's consideration of this zoning request (Tab 25).

Compliance with Subdivision Ordinance § 99-9C

In the design and layout of Fieldstone at Lewes Residential Planned Community, the following items have been considered as required by the Subdivision Ordinance:
§ 99-C(1) Integration of the proposed subdivision into existing terrain and surrounding landscape: Fieldstone at Lewes Residential Planned Community is located across Angola Beach Road from existing mobile home park, and single family homes that consist of a variety of housing styles and price points. All of the adjacent properties are screened by a $20^{\prime}$ wide forest buffer in compliance with § 99-5 Forest buffer definition (TAB 12 -Landscape Plan).
§ 99-C(2) Minimal use of wetlands and floodplains: The property is free of regulated wetlands or floodplains (TAB 22 - Wetlands Study).
§ 99-C(3) Preservation of natural and historical features: $60 \%$ ( 1 ac .) of existing forest is to remain, and shall serve as a portion of the site's forest buffer, to be placed in common ownership for maintenance by the community homeowner's association (Tab 12 - Landscape Plan).
§ 99-C(4) Preservation of open space and scenic views: By utilizing the Residential Planned Community overlay, $24 \%$ of the property shall remain as open space for the project. The addition of an extended detention wet pond located adjacent to the community pool and other open space will create a scenic view on what is presently a tilled field.
§ 99-C(5) Minimization of tree, vegetation and soil removal and grade changes: The proposed design allows for the conservation of $60 \%(1 \mathrm{ac}$.) of the existing forest land. The property naturally drains to the south. This general drainage pattern will be followed by the site's stormwater management design. As such, the pond is bring placed at the southern, downstream end of the property. Soil removal and grade changes will be minimized during the final design to be limited only to that which is needed to provide positive drainage and proper cover over proposed utilities.
§ 99-C(6) Screening of objectionable features from neighboring properties and roadways: The stormwater management pond will be equipped with an aeration fountain, and will not appear objectionable. As detailed above, the site will be buffered on all sides.
§ 99-C(7) Provision for water supply: Tidewater Utilities shall provide central water to the project (TAB 18).
§ 99-C(8) Provision for sewage disposal: The project is located in the Angola Neck Sanitary Sewer District, central sewer is presently available (TAB 17).
§ 99-C(9) Prevention of pollution of surface and groundwater: The project site shall include Best Management Practices (BMPs) that will enhance surface water quality. At this time it is anticipated that the site will include a wet extended detention basin and other Sussex Conservation District (SCD) accepted facilities. In addition, the development of the site with central sanitary sewer to be provided by Sussex County minimizes negative environmental impacts.
§ 99-C(10) Minimization of erosion and sedimentation, minimization of changes in groundwater levels, minimization of increased rates of runoff, minimization of potential for flooding and design of drainage so that groundwater recharge is maximized: During construction, SCD approved erosion and sediment control measures shall be implemented to limit sediment laden runoff from leaving the project site. The wet pond shall be fitted with a drawdown skimmer to allow the basin to serve as a sediment trap during construction. Silt fence, erosion control matting and other measures shall be utilized to control erosion. Final Approval will be contingent upon receipt of a Sussex Conservation District approved Sediment and Stormwater Management Plan.
§ 99-C(11) Provision for safe vehicular and pedestrian movement within the site and to adjacent ways: Sidewalks have been proposed for the project streets, which connects to the project's open space pedestrian trail and road frontage shared use path.
§ 99-C(12) Effect on area property values: The development of Fieldstone at Lewes with quality attached single family homes, recreational facilities and infrastructure
will increase the value of the subject property, thereby likely increasing the value of surrounding property. Also, the planting of the perimeter forest buffer as open space will likely improve their values as well. The price point targeted for Fieldstone at Lewes falls well within the range of home values surrounding Fieldstone at Lewes (TAB 5 \& 9)
§ 99-C(13) Preservation and conservation of farmland: The property is located on a peninsula that has been converting from agricultural land use to residential. The development of this parcel delays the demand to develop other agricultural properties in the county into residential properties.
§ 99-C(14) Effect on schools, public buildings and community facilities: One or more school bus stop shelters will be provided if requested by the school district. The 201 lots are likely to have a positive effect on the school district by increasing property taxes.
§ 99-C(15) Effect on area roadways and public transportation: A service Level Evaluation Request was filed with the Delaware Department of Transportation. On May 14, 2018 DelDOT's response indicated that the project was eligible to submit a fee to DELDOT for an area-wide study in lieu of completing a Traffic Impact (TAB 14). The area-wide study fee does not eliminate the need to construct and/ or contribute to off-site improvements. Both DELDOT's J une 21, 2018 PLUS comments (TAB 15) and their J uly 2, 2018 TAC comments (TAB 16) indicated a combination of 3 things:
a. Improvements to the Angola Road and Angola Beach Road intersection to be coordinated with the proposed entrance for Hailey's Glen Subdivision.
b. Improvements to Angola Beach Road from the improved intersection to the project entrance.
c. A cash contribution from the developer for the upcoming construction of improvements to the Route 24 intersections with Angola Road and Camp Arrowhead Road (See Cape Gazette Article, next page)
§ 99-C(16) Compatibility with other area Iand uses: Fieldstone at Lewes Subdivision, as proposed, is consistent with other existing land uses in the vicinity, which are a mix of single family subdivisions and mobile home parks (TAB 7).
§ 99-C(17) Effect on area waterways: The conversion of agricultural land to single family residential land use will reduce fertilized runoff and treat the runoff on-site before discharging downstream. The use of Sussex Conservation District Best Management Practices will enhance the quality of both surface and groundwater discharges from the site.

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## Get ready: DeIDOT ramps up Cape Region work

Five Route 24 projects, trails, signals, intersection improvements on schedule


Get used to seeing orange barrels and cones in the Cape Region as DelDOT has a series of projects on the books over the next five years.
By Ron MacArthur September 28, 2018
Get used to seeing orange cones and barrels on Cape Region roads. Over the next five years, DelDOT has scheduled major road, trail and bridge projects totaling more than $\$ 250$ million. Among those projects are new roundabouts, traffic signals, intersection upgrades and three Route 1 interchange projects.
"We are so far behind," said Delaware Department of Transportation Planning Director Drew Boyce. "You'll see projects coming one after another."


Five projects are planned for the busy Route 24 corridor, including a widening project from Route 1 to Love Creek bridge.


## DELDOT SLER RESPONSE LETTER

Bussex County
DELAWARE
sussexcountyde.gov 302-855-7878 T 302-845-5079 F
LAWRENCE B. LANK DIRECTOR

## Service Level Evaluation Request Form

This form shall be submitted to the Planning and Zoning Office and a response shall be received back from DelDOT prior to the applicant being able to submit an application to the Planning and Zoning Office.

Date: $4 / 23 / 18$

## Site Information:

Site Address/Location: Southeast Comer of Angola Road \& Angola Beach Roa

Tax Parcel Number: $234-12.00-3.00 \& 6.00$
Current Zoning: GRAR
Proposed Zoning: GRPC
Land Use Classification: Mixed Residential

Proposed Use(s): Single Family Detached Dwellings

Square footage of any proposed buildings or number of units: 201

## Applicant Information:

Applicant's Name: Boardwalk Development - Joe Reed
Applicant's Address: 317 Rehoboth Avenue
City: Rehoboth Beach $\quad$ State: DE Zip Code: 19971

Applicant's Phone Number: (302) 430-4060
Applicant's e-mail address: jreedre@gmail.com


JENNIFER COHAN
SECRETARY
May 14, 2018
Ms. Janelle Cornwell, Director
Sussex County Planning \& Zoning
P.O. Box 417

Georgetown, DE 19947
Dear Ms. Cornwell:

The Department has completed its review of a Service Level Evaluation Request for the Boardwalk Development - Joe Reed rezoning application, which we received on April 23, 2018. This application is for a 60.70 -acre assemblage of parcels (Tax Parcels: $234-12.00-3.00 \& 6.00)$. The subject land is located on the southeast corner of the intersection Angola Road (Sussex Road 277) and Angola Beach Road (Sussex Road 278). The subject land is currently split-zoned as AR (Agricultural Residential) and GR (General Residential), and the applicant is seeking to rezone the land to GR (General Residential) with a Residential Planned Community overlay to develop 201 single-family detached houses.

Per the 2016 Delaware Vehicle Volume Summary, the annual average daily traffic volumes on an average day and on an average summer day along the segment of Angola Road where the subject land is located, which is from Camp Arrowhead Road (Sussex Road 279) to Delaware Route 24, are 3,930 and 5,148 vehicles per day, respectively. As the subject land also has frontage along Angola Beach Road, the annual average daily traffic volumes on an average day and on an average summer day along that road segment, which is from Herring Creek to Angola Road, are 765 and 1,002 vehicles per day, respectively.

Based on our review, we estimate that the proposed land use will generate more than 50 vehicle trips per a weekly peak hour or 500 vehicle trips per day, and would be considered to have a Minor impact to the local area roadways. In this instance, the Department considers a Minor impact to be when a proposed land use would generate more than either 50 vehicle trips per a weekly peak hour and / or 500 vehicle trips per day but less than 200 vehicle trips per a weekly peak hour and 2,000 vehicle trips per day. Because of this impact, we recommend that the applicant be required to perform a Traffic Impact Study (TIS) for the subject application. However, our Development Coordination Manual provides that where a TIS is required only because the volume warrants are met, and the projected trip generation will be less than 200 vehicle trips per a weekly peak hour and less

than 2,000 vehicle trips per day, DelDOT may permit the developer to pay an Area-Wide Study Fee of $\$ 10$ per daily trip in lieu of doing a TIS. For this application, if the County were agreeable, we would permit the developer to pay an Area-wide Study Fee.

According to the Institute of Transportation Engineers (ITE) Trip Generation Manual, a development of 201 single-family detached houses would generate 1,976 vehicle trips per day, 148 vehicle trips during the morning peak hour, and 199 vehicle trips during the afternoon peak hour. As stated above, because this development would generate fewer than 2,000 vehicle trips per day and fewer than 200 vehicle trips during a weekly peak hour, the applicant has the option to pay the Area-Wide Study Fee in lieu of doing a TIS. The Area-Wide Study Fee for the proposed development would be $\$ 19,760.00$. Payment of the Area-Wide Study Fee does not relieve a developer from having to make or participate in off-site improvements.

Because the site would generate more than 200 vehicle trips per day, a Traffic Operational Analysis (TOA) may be required as part of the site plan review, in accordance with Chapter 2 of the Development Coordination Manual.

In addition, DelDOT has an active project near the subject land. It is a project under DelDOT's Hazard Elimination Program (HEP), formerly known as the Highway Safety Improvement Program (HSIP), that will improve the intersections of Delaware Route 24 and Angola Road / Robinsonville Road (Sussex Road 277), and Delaware Route 24 and Camp Arrowhead Road / Fairfield Road. For more information on this project, the applicant should contact Mr. Jeffrey VanHorn, Project Manager within Project Development - South section. Mr. VanHorn may be reached by phone at (302) 760-2363 or email at Jeffrey.VanHorn@state.de.us.

Please contact Mr. Claudy Joinville, at (302) 760-2124, if you have questions concerning this correspondence.

> Sincerely,


> T. William Brockenbrough, Jr. County Coordinator Development Coordination

[^6]
## STATE STRATEGIES MAP, PLUS APPLICATION \& RESPONSE TO PLUS COMMENTS

## Preliminary Land Use Service (PLUS)

Delaware State Planning Coordination
122 William Penn Street • Dover, DE 19901 • Phone: 302-739-3090 • Fax: 302-739-5661
Purpose of PLUS . -The PLUS process is intended to provide consolidated State comments regarding the proposed project. The Applicant is encouraged to submit the application during the concept stages of planning as this process often offers recommendations for changes to the plan. The application should be submitted after the pre-application meeting with the local jurisdiction but before formal application is made.

Please complete this PLUS application in its entirety. All questions must be answered. If a question is unknown at this time or not applicable, please explain. Unanswered questions on this form could lead to delays in scheduling your review. This form will enable the state staff to review the project before the scheduled meeting and to have beneficial information available for the applicant and/or developer at the time of review. If you need assistance or clarification, please call the State Planning Office at (302) 739-3090.

PLUS Number (to be completed by OSPC): Investment Level Per Strategies for State Policies and Spending (to be determined by OSPC): $\qquad$

1. Project Title/Name: Henlopen Meadows
2. Location ( please be specific): Southeast of intersection of SCR 277 \& SCR 278
3. Parcel Identification \#: 234-12-3.00 \& 6.00
4. County or Local Jurisdiction Name: where project is located: Sussex
5. If contiguous to a municipality, are you seeking annexation: N/A
6. Owner's Name: Dawn Dorman, Kelly Dorman \& Marlene Harmon

Address: 22542 John J. Williams Highway

| City: Lewes | State: DE | Zip: 19958 |
| :--- | :--- | :--- |
| Phone: | Fax: | Email: |

7. Equitable Owner/Developer (This Person is required to attend the PLUS meeting):

Address: Boardwalk Development, LLC - C/O Joseph Reed - 317 Rehoboth Avenue

| City: Rehoboth Beach | State: DE | Zip: 19971 |
| :--- | :--- | :--- |
| Phone: $302-430-4060$ | Fax: | Email: jreedre@gmail.com |

8. Project Designer/Engineer: Kenneth R. Christenbury, P.E.

Address: Axiom Engineering, LLC - 18 Chestnut Street

| City: Georgetown | State: DE | Zip: 19947 |
| :--- | :--- | :--- |
| Phone: 302-855-0810 | Fax: 302-855-0812 | Email: ken@axeng.com |

9. Please Designate a Contact Person, including phone number, for this Project: Kenneth R. Christenbury, P.E.


25．Please estimate How many vehicle trips will this project generate on an average weekday？A trip is a vehicle entering or exiting．If traffic is seasonal，assume peak season：

What percentage of those trips will be trucks，excluding vans and pick－up trucks？ $1 \%$

26．Will the project connect to state maintained roads？回 Yes $\square$ No
27．Please list any locations where this project physically could be connected to existing or future development on adjacent lands and indicate your willingness to discuss making these connections．

Walking trail can be interconnected，vehicular traffic N／A
28．Are there existing sidewalks？$\square$ Yes $\square$ No；bike paths $\square$ Yes $\square$ No
Are there proposed sidewalks？$\square$ Yes $\square \mathrm{No}$ ；bike paths $\square \mathrm{Yes}$ $\qquad$
Is there an opportunity to connect to a larger bike，pedestrian，or transit network？$\square$ Yes $\square$ No
29．To your knowledge，is this site in the vicinity of any known historic／cultural resources or sites？$\square$ Yes 圆 No
Has this site been evaluated for historic and／or cultural resources？$\square$ Yes $\quad$ No
Would you be open to a site evaluation by the State Historic Preservation Office？回 Yes $\square$ No
30．To promote an accurate review of your parcel＇s features，would you permit a State agency site visit？Yes $\square$ No
Person to contact to arrange visit：
K．Christenbur phone number：
－302－855－0810
31．Are any federal permits，licensing，or funding anticipated？$\square$ Yes $\square$ No
I hereby certify that the information on this application is complete，true and correct，to the best of my knowledge．

（If different than property owner）
Signed application must be received before application is scheduled for PLUS review．
This form should be returned to the Office of State Planning electronically at PLUS＠state．de．us along with an electronic copy of any site plans and development plans for this site．Site Plans，drawings，and location maps should be submitted as image files （JPEG，GIF，TIF，etc．）or as PDF files．GIS data sets and CAD drawings may also be submitted．If electronic copy of the plan is not available，contact the Office of State Planning at（302）739－3090 for further instructions．A signed copy should be forwarded to the Office of State Planning， 122 William Penn Street，Dover，DE 19901．Thank you for this input．Your request will be researched thoroughly．Please be sure to note the contact person so we may schedule your request in a timely manner．


September 18, 2018
Office of State Planning Coordination
122 William Penn Street - Suite 302
Dover, DE 19901
Attn: Constance C. Holland, AICP
RE: PLUS review 2018-05-12; Fieldstone @ Lewes RPC- (F.K.A. Henlopen Meadows)
Dear Ms. Holland:
Axiom Engineering is in receipt of comments resulting from our May 24, 2018 meeting with State agency planners. Comments received are shown in black, Axiom Engineering's responses are shown underlined and printed in red.

## Code Requirements/Agency Permitting Requirements

## Department of Transportation - Contact Bill Brockenbrough 760-2109

- The site access on Angola Beach Road (Sussex Road 278) must be designed in accordance with DelDOT's Development Coordination Manual, which is available at http://www.deldot.gov/Business/subdivisions/index.shtml?dc=changes.
- Pursuant to Section P. 3 of the Manual, a Pre-Submittal Meeting is required before plans are submitted for review.

The developer and Axiom attended a pre-development meeting لanuary 25, 2018.

- Section P. 5 of the Manual addresses fees that are assessed for the review of development proposals. DelDOT anticipates collecting the Initial Stage Fee when the record plan is submitted for review and the Construction Stage Fee when construction plans are submitted for review.
- Per Section 2.2.2.1 of the Development Coordination Manual, Traffic Impact Studies (TIS) are warranted for developments generating more than 500 vehicle trip ends per day or 50 vehicle trip ends per hour in any hour of the day. The PLUS application states that the proposed development would generate 1,918 vehicle trip ends per day, a number that may have been generated for Saturday conditions DelDOT calculates that the development would generate 1,976 vehicle trip ends per day on weekdays. Regardless, the 500 vehicle trip ends per day criterion would be exceeded, so a TIS is warranted.

Per Section 2.2.2.2 of the Manual, developments generating fewer than 2,000 vehicle trip ends per day and fewer than 200 vehicle trip ends per hour in any hour of the day may be eligible to pay a fee, the Area Wide Study Fee, in lieu of doing a TIS. The fee is calculated as $\$ 10$ times the Average Daily Traffic volume shown on the site plan and is payable with the Initial Stage submission. Payment of the fee does not exempt the developer from responsibility to make off-site improvements or from preparing a Traffic Operational Analysis (TOA) if DelDOT identifies a need for a TOA in the plan review process.

## The developer is considering the Area Wide Study fee option in lieu of a Traffic

 Impact Study.Three off-site improvements that DelDOT can readily identify without a TIS or TOA are as follows:
o Improvements to Angola Road, including an eastbound right turn lane and a westbound left turn lane at Angola Beach Road and widening to provide 11-foot lanes and 5 -foot shoulders within the limits of those lanes. These improvements will need to be coordinated with the entrance improvements for the Hailey's Glen subdivision which development is planned opposite Angola Beach Road. DelDOT's Subdivision Section has already had initial discussions with both developers in this regard but much remains to be resolved.

## The developer met with the Department regarding the coordination of

 improvements at the intersection of Angola Road, Angola Beach Road and the entrance to Hailey's Glen subdivision. It is our understanding that the Hailey's Glen Subdivision has received preliminary approval and is likely preparing and submitting construction plans for their entrance and other infrastructure. Please advise us when their first draft plans are available so we may review the proposed improvements.o Improvements to Angola Beach Road, from Angola Road to the site entrance, to meet DelDOT local road standards, including the entrance construction but also widening to provide 11 -foot lanes and 5 -foot shoulders on both sides for the length of the site frontage.
o A contribution to a DelDOT project on Delaware Route 24. The DelDOT project is a safety improvement that will add and lengthen turning lanes at the Camp Arrowhead/Fairfield Road and Robinsonville Road/Angola Road intersections. It is presently scheduled for construction in Fiscal Years 2021 with a total cost of $\$ 4,607,347$. More information on the project is available at https://www.deldot.gov/information/projects/SR24CampArrowHead/. This development's contribution would be proportional to its contribution to traffic in the affected area.


- Section 3.2.4.2 of the Manual addresses the placement of right-of-way monuments (markers) along the roads on which a property fronts, in this case Angola Road and Angola Beach Road. Monuments sufficient to re-establish the permanent rights-of-way after the dedication discussed below should be shown on the plan and provided in the field in accordance with this section.
- As necessary, in accordance with Section 3.2.5 and Figure 3.2.5-a of the Manual, DelDOT will require dedication of right-of-way along the site's frontage on Angola Road and Angola Beach Road. By this regulation, this dedication is to provide a minimum of 30 feet of right-of-way from the physical centerline of both roads. The following right-of-way dedication note is required, "An X-foot wide right-of-way is hereby dedicated to the State of Delaware, as per this plat."
- In accordance with Section 3.2.5.1.1 of the Manual, if this development is proposing a neighborhood sign/structure, then a permanent easement shall be established at the site entrance. The easement shall be located outside of any existing and/or proposed right-of-way. It will also need to be verified that the sign/structure does not pose a sight distance and/or safety hazard.
- In accordance with Section 3.2.5.1.2 of the Manual, DelDOT will require the establishment of a 15 -foot wide permanent easement across the property frontage on Angola Road and Angola Beach Road. . The location of the easement shall be outside the limits of the ultimate right-of-way. The easement area can be used as part of the open space calculation for the site. The following note is required, "A 15-foot wide permanent easement is hereby established for the State of Delaware, as per this plat."
- In accordance with Section 3.4 of the Manual, a record plan shall be prepared prior to issuing "Letter of No Objection". The record plan submittal shall include the items listed on the Critical Items for Acceptance: Record Plan document available on the DelDOT website at https://www.deldot.gov/Business/subdivisions/pdfs/Critical-Items-Record-Subdivision.pdf?09222017.
- Referring to Section 3.4.2.1 of the Manual, the following items, among other things, are required on the Record Plan:

0 A Traffic Generation Diagram. See Figure 3.4.2-a for the required format and content.
o Depiction of all existing entrances within 450 feet of the proposed entrance on both roads.
o Notes identifying the type of any off-site improvements, agreements (signal, letter) contributions and when the off-site improvements are warranted.

- Section 3.5 of the Manual provides DelDOT's requirements with regard to connectivity. The requirements in Sections 3.5.1 through 3.5.3 shall be followed for all development projects having access to state roads or proposing DelDOT-maintained public streets for subdivisions. Private or municipal streets should follow the County's requirements for connectivity.
- Section 3.5.4.2 of the Manual addresses requirements for shared-use paths and sidewalks. Referring to Section 3.5.4.2.A of the Manual, developments in Level 3 and 4 Areas are required to install a sidewalk or Shared Use Path if the project abuts to an existing facility; otherwise it is at DelDOT's discretion. Because this part of the County appears to be developing rapidly, DelDOT anticipates requiring a Shared Use Path along the development frontage.
- Referring to Section 3.5 .5 of the Manual, existing and proposed transit stops and associated facilities as required by the Delaware Transit Corporation (DTC) or DelDOT shall be shown on the Record Plan.
- In accordance with Section 3.8 of the Manual, storm water facilities, excluding filter strips and bioswales, shall be located a minimum of 20 feet from the ultimate State right-of-way along both Angola Road and Angola Beach Road.
- Referring to Section 4.3 of the Manual, an entrance plan shall be prepared prior to issuing entrance approval. The entrance plan submittal shall include the items listed on the Critical Items for Acceptance: Entrance/Construction/Subdivision Set Plan document available on the DelDOT website at https://www.deldot.gov/Business/subdivisions/pdfs/CriticalItems Entrance Construction Subdivision.pdf?09222017.
- In accordance with Section 5.2.5.6 of the Manual, a separate turning template plan shall be provided to verify vehicles can safely enter and exit the site entrance. As per Section 5.2.3 of the Manual, the entrance shall be designed for the largest vehicle using the entrance.
- In accordance with Section 5.2.9 of the Manual, the Auxiliary Lane Worksheet should be used to determine whether auxiliary lanes are warranted at the site entrances and how long those lanes should be. The worksheet can be found at http://www.deldot.gov/Business/subdivisions/index.shtml.
- In accordance with Section 5.4 of the Manual, sight distance triangles are required and shall be established in accordance with American Association of State Highway and Transportation Officials (AASHTO) standards. A spreadsheet has been developed to assist with this task. It can be found at http://www.deldot.gov/Business/subdivisions/index.shtml.
- In accordance with Section 5.14 of the Manual, all existing utilities must be shown on the plan and a utility relocation plan will be required for any utilities that need to be relocated.
- Because the proposed development would not have State-maintained streets, Section 6.4.3 of the Manual, which pertains to the inspection and acceptance of commercial entrances, applies. Construction inspection responsibilities shall be in accordance with Figure $6.4 .3-\mathrm{a}$. DelDOT's preliminary reading of this figure is that the project requires Level I inspection and that a construction inspection agreement will not be needed.
- Section 7.7.2 of the Manual addresses the need to provide 20-foot wide drainage easements for all storm drainage systems, open or closed, that fall outside the existing right-of-way or the drainage/utility easement. In accordance with this section, metes and bounds and total areas need to be shown for any drainage easements. The easements should be shown and noted on the record plan.


## It is understood that site access shall be subject to DELDOT review and approval.

## Department of Natural Resources and Environmental Control - Contact Michael Tholstrup 735-3352

- The Department of Natural Resources and Environmental Control did not submit comments regarding this application. If the development of this property requires permits from a DNREC section, please contact the DNREC regulatory agency directly.


## State Historic Preservation Office - Contact Carlton Hall 736-7404

- There was a known archaeological complex (S02941) known as the Dorman Agricultural Complex that is no longer on the landscape of the parcel. The Beers' Atlas of 1868 lists the owner as S. Parsons. Although the complex was demolished, there may be archaeological resources associated with it and there is potential for historic archaeological site data to be present.
- If any project or development proceeds, the developer should be aware of the Unmarked Human Burials and Human Skeletal Remains Law. Prior to any demolition or ground-disturbing activities, the developer should hire an archaeological consultant to examine the parcel for archaeological resources, including unmarked human burials or human skeletal remains, to avoid those sites or areas.

Abandoned or unmarked family cemeteries are very common in the State of Delaware. They are usually in rural or open space areas, within or near the boundary, of a historic farm site. Even a marked cemetery can frequently have unmarked graves or burials outside of the known boundary line or limit. If there is a discovery of any unmarked graves, burials or a cemetery, it is very costly to have them archaeologically excavated and the burials moved. The Division of Historical \& Cultural Affairs recommends that owners and/or developers have a qualified archaeological consultant investigate their project area, to the full extent, to see if there is any unmarked cemetery, graves, or burial sites. In the event of

such a discovery, the Division of Historical \& Cultural Affairs will recommend that the plans be re-drawn to leave the full extent of the cemeteries or any burials on its own parcel or in the open space area of the development, with the responsibility for its maintenance lying with the landowner association or development. If you would like to see more information, please review the following websites:
www.history.delaware.gov/preservation/umhr.shtml and
www.history.delaware.gov/preservation/cemeteries.shtml.

## Acknowledged.

- If there is federal involvement, in the form of licenses, permits, or funds, the federal agency, often through its client, is responsible for complying with Section 106 of the National Historic Preservation Act (36 CFR 800) and must consider their project's effects on any known or potential cultural or historic resources. Owners and developers who may plan to apply for an Army Corps of Engineers permit or for federal funding, such as HUD or USDA grants, should be aware of the National Historic Preservation Act of 1966 (as amended). Regulations promulgated for Section 106 of this Act stipulate that no ground-disturbing or demolition activities should take place before the Corps or other involved federal agency determines the area of potential effect of the project undertaking. These stipulations are in place to allow for comment from the public, the Delaware State Historic Preservation Office, and the Advisory Council for Historic Preservation about the project's effects on historic properties. Furthermore, any preconstruction activities without adherence to these stipulations may jeopardize the issuance of any permit or funds. If you need further information or additional details pertaining to the Section 106 process and the Advisory Council's role; please review the Advisory Council's website at the following: www.achp.gov

No federal permits are anticipated.

## Recommendations/Additional Information

This section includes a list of site specific suggestions that are intended to enhance the project. These suggestions have been generated by the State Agencies based on their expertise and subject area knowledge. These suggestions do not represent State code requirements. They are offered here in order to provide proactive ideas to help the applicant enhance the site design, and it is hoped (but in no way required) that the applicant will open a dialogue with the relevant agencies to discuss how the suggestions can benefit the project.

## Department of Transportation - Contact Bill Brockenbrough 760-2109

- Section 3.2.4.1 of the Manual addresses the placement of right-of-way monuments (markers) along subdivision streets. DelDOT recommends that monuments be furnished and placed along the proposed streets in accordance with this section.
- The applicant should expect a requirement that any substation and/or wastewater

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facilities will be required to have access from an internal street or driveway with no direct access to Angola Road or Angola Beach Road.

- The applicant should expect a requirement that all PLUS and Technical Advisory Committee (TAC) comments be addressed prior to submitting plans for review.
- Please be advised that as of August 1, 2015, all new plan submittals and re-submittals, including major, minor and commercial plans, shall now be uploaded via the PDCA (Planning Development Coordination Application) with any review fee paid online via credit card or electronic check. Guidance on how to do this is available on our website at http://www.deldot.gov/Business/subdivisions/index.shtml.
- Please be advised that the Standard General Notes have been updated and posted to the DelDOT website. Please begin using the new versions and look for the revision date of December 8, 2017. The notes can be found at http://www.deldot.gov/Business/subdivisions/index.shtml.


## Acknowledged.

In addition to the comments above our office has received a letter from Brandy Nauman, Sussex County Housing Coordinator \& Fair Housing Compliance Officer. A copy of that letter is enclosed with this letter.

## Sussex County Housing Coordinator \& Fair Housing Compliance Officer <br> \section*{- Contact Brandy Nauman 855-7777}

- Sussex County endeavors to promote non-discrimination and affordable housing whenever possible throughout the County. In this regard, the developer and associated financial institutions are encouraged to provide and finance affordable housing opportunities to Sussex County residents in all new developments, and affirmatively market those affordable housing units to diverse populations.
- For questions about opportunities available for affordable housing projects within Sussex County, please consult Sussex County's "Affordable Housing Support Policy". The policy along with other resources are available on the County's Affordable \& Fair Housing Resource Center website: www.sussexcountyde.gov/affordable-and-fair-housing-resource-center. The County's Community Development \& Housing Department can advise about existing affordable housing opportunities in Sussex County and the appropriate County Department to contact regarding specific development issues concerning future affordable housing projects within Sussex County.
- The Community Development \& Housing Department can also explain and assist with any financial support or incentives that may be available to a project from

federal, state and county sources, as well as private funding sources that also promote affordable housing in Sussex County.
- Please understand that all residential projects, including Affordable Housing Projects are subject to the applicable provisions of the Sussex County Subdivision and Zoning Codes, and the approval processes set forth in those Codes.

The applicant appreciates the opportunity to work with Sussex County's Housing Coordinator and Fair Housing Compliance Officer. The intent of this application is to provide work-force housing in Eastern Sussex County. It is our understanding that this housing need has grown significantly, and that projects of this nature are desired by Sussex County government and residents.

If there are any questions regarding the attached, do not hesitate to contact me at the above number or by e-mail: ken@axeng.com

Sincerely,

Kenneth R. Christenbury, P.E. President, Axiom Engineering, LLC

CC: J anelle Cornwell, AICP, Director, Sussex County Planning and Zoning

## TAC COMMENTS AND RESPONSE TO PLANNING AND ZONING COMMENTS

October 8, 2018
Sussex County Planning and Zoning
2 The Circle
PB. Box 417
Georgetown, DE 19947
Attn: J amie Whitehouse, Planning and Zoning Manager ¡amie.whitehouse@sussexcountyde.gov

RE: Response to review letter for Fieldstone @ Lewes RPC- (F.K.A. Henlopen Meadows)

Dear Mr. Whitehouse:
Axiom Engineering is in receipt of your comment letter dated Setpember 29, 2018. Comments, which are shown below in black, Axiom Engineering's responses are shown underlined and printed in red.

I have separated my comments to reflect the stages of the RPC application process:

## Change of Zone to GR-RPC Zoning District

1. Staff Notes that the submitted plan is conceptual for the Change of Zone application (CZ 1859). If the Change of Zone application is granted then a Site Plan shall be submitted to the Planning Office to be forwarded to the Planning and Zoning Commission for their consideration. This letter does not approve or endorse the proposed Change of Zone application.
Acknowledged.
2. Add a general note explaining that drawings CZ-1, CZ-2 and CZ-3, CZ-4 and CZ-5, when considered together, constitute a 'Sketch Plan' for the purposes of $\S 115-217$. B of the Zoning Ordinance and that, if the proposed Change of Zone to GR-RPC is approved by the County Council, that a Preliminary Site Plan and a Final Site Plan will be required to be submitted and approved.
General Note 9 has been added.
3. The application does not appear to be supported by an environmental assessment and public facility evaluation report, as required by $\$ 115-217 . B$.
The Environmental Assessment and Public Facility Report will be filed by October 15, 2018.
4. Alongside the geographical location plan shown on the title sheet of the sketch plan, add a separate plan with the zoning boundaries for the existing zoning districts $\S 115-220 . \mathrm{B}(2)$. This may be shown on a separate drawing.
The zoning map has been included in the Environmental Assessment and Public Facility Report in TAB 6.
5. Add a geographic location plan to the title sheet showing the proposed change in zoning $\int 115-220 . \mathrm{B}(3)$. Illustrate whether the proposed change in zoning is to apply to the entire site. This may be shown on a separate drawing.
General Note 9 now indicates that the GR-RPC application applies to the entire 60 acre parcel.

## Preliminary and Final Site Plans

6. The Preliminary and Final Site Plans will be subject to further Staff Review if the Change of Zone application is approved.
The applicant acknowledges that further review will be required prior to Final approval.
7. Please note that the car park adjacent to Lot 106 is required to be screened with a solid barrier or similar feature due to its proximity to the neighboring lot.
The applicant will address this comment at Final submittal.
8. Please show setbacks on all lots, and annotate lot widths. The applicant will address this comment at Final submittal.
9. Please show the front corner setback of 15 ' on all corner lots. The applicant will address this comment at Final submittal.
10. The applicant shall install a forested and/or landscaped buffer as defined in $\$ \subseteq \underline{99-5}$ and 99-6D of the Subdivision Ordinance. Show the locations of such a buffer on the Preliminary and Final Site Plans. If existing trees are being retained to form the buffer, please clearly show the locations of existing trees on the site plan.
The 20' wide forest buffer is indicated on sheets CZ-2 to CZ-5. Only 1.63 acres of the 60 acre parcel is presently wooded, all of which appears on sheet CZ-5. $60 \%(0.98 \mathrm{ac})$ of the existing forest is to remain in project open space. The forest buffers provided will result in the planiting of 3.77 additional acres of forest. A landscape plan has been included in the exhibit book - TAB 12.

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11. The Preliminary Plat shall provide all the pertinent information on existing site conditions. §99-23. Show the existing topography of the site and the extent of any forested areas. It appears that only proposed topography is currently shown.
The sketch plan indictes existing conditions topography. Grading plans will be prepared with Construction Drawings to be prepared after zoning approval.
12. All Preliminary Site Plan drawings and Final Site Plan drawings must clearly show whether any adjoining parcels contain active agricultural lands within 300 feet of the boundary of the proposed subdivision. $\int 99-23(\mathrm{O})$. It appears that the parcel to the west is within active agricultural west parcel. If this site would be constructed in phases, please confirm whether agriculture would continue on any lands whilst other phases are constructed.
The applicant will address this comment at Final submittal.
13. Show the flood zone boundaries on the drawing and add a legend.

General Note 3 indicates that the entire parcel is in an unshaded Zone $X$, and does not have any regulated floodplains. A copy of Flood Insurance Rate Map 10005 C 0431 K is included in the exhibit book TAB 20.
14. Amend the Site Data Column to address the following:
a. On the Final Site Plan - please show the total breakdown of all areas of open space.
The sketch plan includes the breakdown of open space, a copy of the site data table has been enlarged in TAB 11:
15. Title Sheet:
a. A list of all conditions of approval shall be added to the title sheet prior to any approval of the Final Site Plan.
b. Prior to submission of any Final Site Plan, add a wetlands certification panel to the title sheet.
c. Prior to submission of any Final Site Plan, add an owners/developers certification panel to the title sheet.
d. Prior to submission of any Final Site Plan, add a signature Panel for Sussex Conservation District.
e. Prior to submission of any Final Site Plan, add a signature panel for County Council President.
f. Prior to submission of any Final Site Plan, add a signature panel for Sussex County Engineering.
The applicant will address this comment at Final submittal.
16. On any proposed Final Site Plan show the location, height and material of all fences, walls, screen planting and landscaping.
The applicant will address this comment at Final submittal.
17. Prior to approval of any Final Site Plans, a Landscaping Plan shall be submitted and shall be certified by a licensed Landscape Architect. The Landscaping Plan shall comply with the requirements of $\int 99-5$ under the "Forested and/or Landscaped Buffer Strip" definition.
A landscape plan has been included in the exhibit book - TAB 12.
18. Add a general note/statement explaining how and when the applicant proposes to provide for the perpetual maintenance of forested buffer strips. $\int 99-24$. The perpetual maintenance of the buffer plantings by a homeowners' association shall be assured through the restrictive covenants and/or homeowners' association documents. Confirm as a general note on the Final Landscape Plan that the forested and/or landscape buffer shall be installed within 18 months from the date site work is authorized to commence. For subdivisions that are approved to be constructed in phases, the buffer for each phase must be completed before County approvals or permits will be granted to construct the next phase.
Note 1 indicates that the forest buffer strips are to be maintained by the Developer until the HOA can provide for maintenance.
19. Staff notes there are opportunities to provide additional sustainability improvements or amenities to this project such as:
a. A children's equipped play area
b. Bike racks,
c. A trail system around the site perimeter.
d. Bus shelters for school pick-up and drop-off.

A tot lot and bike rack have been added at the project club-house. Bus shelters shall be located at the discretion of the Cape Henlopen School District.
20. Prior to approval of the Final Site Plan, approval letters from the following agencies shall be submitted to the Sussex County Planning and Zoning Department:
a. Sussex Conservation District
b. Office of the State Fire Marshal
c. Sussex County Department of Engineering
d. Sussex County Mapping and Addressing
e. DelDOT

The applicant will address these agency's requirements in detail subsequent to zoning approval.

If there are any questions regarding the attached, do not hesitate to contact me at the above number or by e-mail: ken@axeng.com

Sincerely,

Kenneth R. Christenbury, P.E. - President, Axiom Engineering, LLC

## PLANNING \& ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN KIM HOEY STEVENSON, VICE-CHAIRMAN DOUGLAS B. HUDSON R. KELLER HOPKINS HOLLY J. WINGATE

# Bussex County 

DELAWARE
sussexcountyde.gov 302-855-7878 T 302-854-5079 F
JANELLE CORNWELL, AICP
DIRECTOR
September 28, 2018
Kenneth R. Christenbury P.E
Axiom Engineering LLC
18 Chestnut Street
Georgetown, DE, 19947
RE: Review of Conceptual Plan for Henlopen Meadows RPC (Residential Planned Community), to construct 201 single family lots with improvements and amenities on a 60.00 acre parcel, in association with proposed ordinance to amend the comprehensive zoning map from an AR-1 (Agricultural Residential) Zoning District and GR (General Residential) - to GR-RPC (C/Z 1859) located off Angola Beach Road (SCR. 278)

Tax Parcel: 234-12.00-3.00 and 6.00
Dear Mr. Christenbury,
The Planning and Zoning Department has reviewed the submitted Conceptual Plan for Henlopen Meadows for compliance with the Zoning Code and Subdivision Code and has the following comments:

I have separated my comments to reflect the stages of the RPC application process:

## Change of Zone to GR-RPC Zoning District

1. Staff Notes that the submitted plan is conceptual for the Change of Zone application (CZ 1859). If the Change of Zone application is granted then a Site Plan shall be submitted to the Planning Office to be forwarded to the Planning and Zoning Commission for their consideration. This letter does not approve or endorse the proposed Change of Zone application.
2. Add a general note explaining that drawings CZ-1, CZ-2 and CZ-3, CZ-4 and CZ-5, when considered together, constitute a 'Sketch Plan' for the purposes of $\$ 115-217$. B of the Zoning Ordinance and that, if the proposed Change of Zone to GR-RPC is approved by the County Council, that a Preliminary Site Plan and a Final Site Plan will be required to be submitted and approved.
3. The application does not appear to be supported by an environmental assessment and public facility evaluation report, as required by $\$ 115-217 . B$.
4. Alongside the geographical location plan shown on the title sheet of the sketch plan, add a separate plan with the zoning boundaries for the existing zoning districts $\S 115-220 . \mathrm{B}(2)$. This may be shown on a separate drawing.
5. Add a geographic location plan to the title sheet showing the proposed change in zoning §115-220.B(3). Illustrate whether the proposed change in zoning is to apply to the entire site. This may be shown on a separate drawing.

## Preliminary and Final Site Plans

6. The Preliminary and Final Site Plans will be subject to further Staff Review if the Change of Zone application is approved.
7. Please note that the car park adjacent to Lot 106 is required to be screened with a solid barrier or similar feature due to its proximity to the neighboring lot.
8. Please show setbacks on all lots, and annotate lot widths.
9. Please show the front corner setback of 15 ' on all corner lots.
10. The applicant shall install a forested and/or landscaped buffer as defined in $\iint 99-5$ and 996D of the Subdivision Ordinance. Show the locations of such a buffer on the Preliminary and Final Site Plans. If existing trees are being retained to form the buffer, please clearly show the locations of existing trees on the site plan.
11. The Preliminary Plat shall provide all the pertinent information on existing site conditions. $\int 99-23$. Show the existing topography of the site and the extent of any forested areas. It appears that only proposed topography is currently shown.
12. All Preliminary Site Plan drawings and Final Site Plan drawings must clearly show whether any adjoining parcels contain active agricultural lands within 300 feet of the boundary of the proposed subdivision. $\int 99-23(\mathrm{O})$. It appears that the parcel to the west is within active agricultural west parcel. If this site would be constructed in phases, please confirm whether agriculture would continue on any lands whilst other phases are constructed.
13. Show the flood zone boundaries on the drawing and add a legend.
14. Amend the Site Data Column to address the following:
a. On the Final Site Plan - please show the total breakdown of all areas of open space.
15. Title Sheet:
a. A list of all conditions of approval shall be added to the title sheet prior to any approval of the Final Site Plan.
b. Prior to submission of any Final Site Plan, add a wetlands certification panel to the title sheet.
c. Prior to submission of any Final Site Plan, add an owners/developers certification panel to the title sheet.
d. Prior to submission of any Final Site Plan, add a signature Panel for Sussex Conservation District.
e. Prior to submission of any Final Site Plan, add a signature panel for County Council President.
f. Prior to submission of any Final Site Plan, add a signature panel for Sussex County Engineering.
16. On any proposed Final Site Plan show the location, height and material of all fences, walls, screen planting and landscaping.
17. Prior to approval of any Final Site Plans, a Landscaping Plan shall be submitted and shall be certified by a licensed Landscape Architect. The Landscaping Plan shall comply with the requirements of $\int 99-5$ under the "Forested and/or Landscaped Buffer Strip" definition.
18. Add a general note/statement explaining how and when the applicant proposes to provide for the perpetual maintenance of forested buffer strips. $\int 99-24$. The perpetual maintenance of the buffer plantings by a homeowners' association shall be assured through the restrictive
covenants and/or homeowners' association documents. Confirm as a general note on the Final Landscape Plan that the forested and/or landscape buffer shall be installed within 18 months from the date site work is authorized to commence. For subdivisions that are approved to be constructed in phases, the buffer for each phase must be completed before County approvals or permits will be granted to construct the next phase.
19. Staff notes there are opportunities to provide additional sustainability improvements or amenities to this project such as:
a. A children's equipped play area
b. Bike racks,
c. A trail system around the site perimeter.
d. Bus shelters for school pick-up and drop-off.
20. Prior to approval of the Final Site Plan, approval letters from the following agencies shall be submitted to the Sussex County Planning and Zoning Department:
a. Sussex Conservation District
b. Office of the State Fire Marshal
c. Sussex County Department of Engineering
d. Sussex County Mapping and Addressing
e. DelDOT

The items in bold shall be addressed prior to consideration by the Planning and Zoning Commission. Following any approval of the proposed Change of Zone, please submit seven (7) copies (11" by 17 ") of Preliminary Site Plans a minimum of ten days prior to the Planning \& Zoning Commission Meeting that you would wish your application to go to. It is recommended that two full-sized 'check print' copies are submitted beforehand for further staff review.

This department is in receipt of TAC comments, copies of which have been sent to you by email.
Please feel free to contact me with any questions during business hours $8: 30 \mathrm{am}-4: 30 \mathrm{pm}$
Monday through Friday at 302-855-7878.

Sincerely,


Jamie Whitehouse
Planning \& Zoning Manager


# Buswex County 

DELAWARE sussexcountyde.gov

## Memorandum

To: Sussex County Technical Advisory Committee
From: Jennifer Norwood, Planning Technician
Date: May 15, 2018


RE: Residential Planned Community
The Sussex County Planning and Zoning Office has received one (1) application for a Residential Planned Community that require review by the Sussex County Technical Advisory Committee. Please review the application and provide comments back to the Planning and Zoning Office on or before Monday, July 2, 2018.
1.) Henlopen Meadows - This is a Residential Planned Community. The Residential Planned Community is for the creation of two-hundred and one (201) single family lots with private roads and open space. The property is located southeast of Angola Road (Rd 277) and Angola Beach Road (RD 278). Tax Parcels: 234-12.00-3.00 \& 6.00 Zoning: Proposed GR (General Residential) RPC (Residential Planned Community). Owner: Dawn Dorman, Kelly Dorman, and Marlene Harmon.

Please feel free to send your comments via e-mail. Please feel free to contact me with any questions at (302) 855-7878 during notmal business hours 8:30am-4:30pm Monday through Friday or e-mail me at jnorwood@sussexcountyde.gov.

Bussex County
DELAWARE
sussexcountyde.gov 302-855-7878 T 302-845-5079 F
LAWRENCE B. LANK DIRECTOR

## Service Level Evaluation Request Form

This form shall be submitted to the Planning and Zoning Office and a response shall be received back from DelDOT prior to the applicant being able to submit an application to the Planning and Zoning Office.

Date: $4 / 23 / 18$

## Site Information:

Site Address/Location: Southeast Comer of Angola Road \& Angola Beach Roa

Tax Parcel Number: $234-12.00-3.00 \& 6.00$
Current Zoning: GRAR
Proposed Zoning: GRPC
Land Use Classification: Mixed Residential

Proposed Use(s): Single Family Detached Dwellings

Square footage of any proposed buildings or number of units: 201

## Applicant Information:

Applicant's Name: Boardwalk Development - Joe Reed
Applicant's Address: 317 Rehoboth Avenue
City: Rehoboth Beach $\quad$ State: DE Zip Code: 19971

Applicant's Phone Number: (302) 430-4060
Applicant's e-mail address: jreedre@gmail.com

RECEIVED

Ms. Janelle Cornwell, Director
Sussex County Planning \& Zoning
P.O. Box 417

Georgetown, DE 19947
Dear Ms. Cornwell:
The Department has completed its review of a Service Level Evaluation Request for the Boardwalk Development - Joe Reed rezoning application, which we received on April 23, 2018. This application is for a 60.70 -acre assemblage of parcels (Tax Parcels: 234-12.00-3.00 \& 6.00). The subject land is located on the southeast corner of the intersection Angola Road (Sussex Road 277) and Angola Beach Road (Sussex Road 278). The subject land is currently split-zoned as AR (Agricultural Residential) and GR (General Residential), and the applicant is seeking to rezone the land to GR (General Residential) with a Residential Planned Community overlay to develop 201 single-family detached houses.

Per the 2016 Delaware Vehicle Volume Summary, the annual average daily traffic volumes on an average day and on an average summer day along the segment of Angola Road where the subject land is located, which is from Camp Arrowhead Road (Sussex Road 279) to Delaware Route 24, are 3,930 and 5,148 vehicles per day, respectively. As the subject land also has frontage along Angola Beach Road, the annual average daily traffic volumes on an average day and on an average summer day along that road segment, which is from Herring Creek to Angola Road, are 765 and 1,002 vehicles per day, respectively.

Based on our review, we estimate that the proposed land use will generate more than 50 vehicle trips per a weekly peak hour or 500 vehicle trips per day, and would be considered to have a Minor impact to the local area roadways. In this instance, the Department considers a Minor impact to be when a proposed land use would generate more than either 50 vehicle trips per a weekly peak hour and / or 500 vehicle trips per day but less than 200 vehicle trips per a weekly peak hour and 2,000 vehicle trips per day. Because of this impact, we recommend that the applicant be required to perform a Traffic Impact Study (TIS) for the subject application. However, our Development Coordination Manual provides that where a TIS is required only because the volume warrants are met, and the projected trip generation will be less than 200 vehicle trips per a weekly peak hour and less

Ms. Janelle M. Cornwall
Page 2 of 2
May 14, 2018
than 2,000 vehicle trips per day, DelDOT may permit the developer to pay an Area-Wide Study Fee of $\$ 10$ per daily trip in lieu of doing a TIS. For this application, if the County were agreeable, we would permit the developer to pay an Area-wide Study Fee.

According to the Institute of Transportation Engineers (ITE) Trip Generation Manual, a development of 201 single-family detached houses would generate 1,976 vehicle trips per day, 148 vehicle trips during the morning peak hour, and 199 vehicle trips during the afternoon peak hour. As stated above, because this development would generate fewer than 2,000 vehicle trips per day and fewer than 200 vehicle trips during a weekly peak hour, the applicant has the option to pay the Area-Wide Study Fee in lieu of doing a TIS. The Area-Wide Study Fee for the proposed development would be $\$ 19,760.00$. Payment of the Area-Wide Study Fee does not relieve a developer from having to make or participate in off-site improvements.

Because the site would generate more than 200 vehicle trips per day, a Traffic Operational Analysis (TOA) may be required as part of the site plan review, in accordance with Chapter 2 of the Development Coordination Manual.

In addition, DelDOT has an active project near the subject land. It is a project under DelDOT's Hazard Elimination Program (HEP), formerly known as the Highway Safety Improvement Program (HSIP), that will improve the intersections of Delaware Route 24 and Angola Road / Robinsonville Road (Sussex Road 277), and Delaware Route 24 and Camp Arrowhead Road / Fairfield Road. For more information on this project, the applicant should contact Mr, Jeffrey VanHorn, Project Manager within Project Development - South section. Mr. VanHorn may be reached by phone at (302) 760-2363 or email at Jeffrey.VanHorn@state.de.us.

Please contact Mr. Claudy Joinville, at (302) 760-2124, if you have questions concerning this correspondence.

Sincerely,
T. William Brockenbrough, Jr. County Coordinator Development Coordination

[^7]DOVER, DELAWARE 19903

Ms. Jennifer Norwood
Planning Technician, Sussex County Planning \& Zoning Department
Sussex County Administration Building
P.O. Box 417

Georgetown, DE 19947

## SUBJECT: July T.A.C. MEETING

Dear Ms. Norwood:
The Department has reviewed the information for the above referenced meeting and offers these comments on the following sites:

1. Henlopen Meadows

Tax Map \#234-12.00-3.00 \& 6.00 Review Coordinator: Steve Sisson, see attachment.

As always, should you have any questions, please feel free to give me a call.
Sincerely,

Brian K. Yates, Jr.
Sussex County Reviewer
Attachment
cc: Hans Medlarz, Sussex County Engineer
Joe Wright, Assistant Sussex County Engineer
Gemez W. Norwood, South District Public Works Manager
William C. Kirsch, South District Entrance Permit Supervisor
James Argo, South District Subdivision Manager
Stephen M. Sisson, Sussex County Review Coordinator

# DEPARTMENT OF TRANSPORTATION <br> COMMENTS FOR <br> TAC MEETING 

OF July 2, 2018
Tax Map \# 234-12.00-3.00 \& 6.00
SCR 277 (Angola Road) \& SCR 278 (Angola Beach Road)
Sussex County

## Henlopen Meadows

1. Please refer to the "Development Coordination Manual" manual for the design of the subdivision streets and/or entrance. The website for the manual is the following;
http://www.deldot.gov/Business/subdivisions/index.shtml?dc=changes
2. For all projects, any sub-station and/or wastewater facilities will be required to have access from the internal subdivision street with no direct access to the State maintained highway.
3. For all projects, a 20 -foot wide buffer will be required from the edge of the stormwater management pond to the ultimate right-of-way of the County road. The ultimate right-of-way is based on the functional classification of the road.
4. Referring to the "Development Coordination Manual", Chapter 3 - Record Plan Design, Section 3.2.5.1.2: Frontage Easements, a 15 -foot wide permanent easement will need to be established across the property frontage. The location of the easement shall be outside the limits of the ultimate right-of-way for this road. The following note is required, "A 15-foot wide permanent easement is hereby established for the State of Delaware, as per this plat."
5. Referring to the "Development Coordination Manual", Chapter 3 - Record Plan Design, Section 3.2.5: Dedication of Right-Of-Way and Easements, Figure 3.2.5-a Minimum Standards for Total Roadway Right-Of-Way, the project shall be subject to dedicate right-of-way in accordance to the minimum standards. Angola Road \& Angola Beach Road are Local Roads, a 30' dedication of Right-Of-Way from centerline of road will be required, along both roads.
6. Referring to the "Development Coordination Manuals", Chapter 3 - Record Plan Design, Section 3.2.4.1: Subdivision Street Right-Of-Way Monuments, right-of-way monuments are recommended to be furnished and placed along the private subdivision street.
7. Referring to the "Development Coordination Manual", Chapter 3 - Record Plan Design, Section 3.2.4.2; Frontage Road Right-of-Way Monumentation, concerning the right-of-way markers being placed to provide a permanent reference for reestablishing the right-of-way and property corners along frontage roads. Due to the right-of-way dedication, show and note the property corners markers that will need to be installed.
8. Referring to the "Development Coordination Manual", Chapter 3 - Record Plan Design, Section 3.5.5: Transit Facilities, transit facilities requirements shall be followed as required by DTC or DelDOT.
9. Referring to the "Development Coordination Manual", under Chapter 3; Record Plan Design, Section 3.2.5.1.1 - Easements, if this development is proposing a neighborhood sign/structure, then a permanent easement shall be established at the entrance. The easement shall be located outside of any existing and/or proposed right-of-way. It will also need to be verified that the sign/structure does not pose a sight distance and/or safety hazard.
10. Metes and bounds and total areas need to be shown for any drainage easements. A minimum 20 -foot wide drainage easement must be provided for storm drainage systems, open or closed, that fall outside the existing right-of-way or the drainage/utility easement. These easements shall be shown and noted on Record Plan.
11. Referring to the "Development Coordination Manual", Chapter 3 - Record Plan Design, Section 3.5: Connectivity, connectivity requirements shall be followed for all development projects having access to state roads or proposing DelDOT maintained public road for subdivisions. Private or municipal streets should follow the local land use agency's requirements for connectivity.
12. Referring to the "Development Coordination Manual", Chapter 3 - Record Plan Design, Section 3.4.2.1: Record Plan Content, the traffic generation diagram is required. See Figure 3-4-2-a: Traffic Generation Diagram for what is required.
13. Referring to the "Development Coordination Manual", Chapter 3 - Record Plan Design, Section 3.4.2: Record Plan Submittal Requirements, adjacent existing features are required to be shown in accordance with Figure 3.4.2-b.
14. It will need to be noted on the Record Plan the type of off-site improvements and when the off-site improvements are warranted for this project.
15. Per Section 2.2.2.1 of the Development Coordination Manual, Traffic Impact Studies (TIS) are warranted for developments generating more than 500 vehicle trip ends per day or 50 vehicle trip ends per hour in any hour of the day. The PLUS application states that the proposed development would generate 1,918 vehicle trip ends per day, a number that may have been generated for Saturday conditions. DelDOT calculates that the development would generate 1,976 vehicle trip ends per day on weekdays.

Regardless, the 500 vehicle trip ends per day criterion would be exceeded, so a TIS is warranted.
a. Per Section 2.2.2.2 of the Manual, developments generating fewer than 2,000 vehicle trip ends per day and fewer than 200 vehicle trip ends per hour in any hour of the day may be eligible to pay a fee, the Area Wide Study Fee, in lieu of doing a TIS. The fee is calculated as $\$ 10$ times the Average Daily Traffic volume shown on the site plan and is payable with the Initial Stage Fee submission. Payment of the fee does not exempt the developer from responsibility to make off-site improvements or from preparing a Traffic Operational Analysis (TOA) if DelDOT identifies a need for a TOA in the plan review process.
16. Three off-site improvements that DelDOT can readily identify without a TIS or TOA are as follows:
a. Improvements to Angola Road, including an eastbound right turn lane and a westbound left turn lane at Angola Beach Road and widening to provide 11foot lanes and 5 -foot shoulders within the limits of those lanes. These improvements will need to be coordinated with the entrance improvements for the Hailey's Glen subdivision which development is planned opposite Angola Beach Road. DelDOT's Subdivision Section has already had initial discussions with both developers in this regard but much remains to be resolved.
b. Improvements to Angola Beach Road, from Angola Road to the site entrance, to meet DelDOT local road standards, including the entrance construction but also widening to provide 11 -foot lanes and 5 -foot shoulders on both sides for the length of the site frontage.
c. A contribution to a DelDOT project on Delaware Route 24. The DelDOT project is a safety improvement that will add and lengthen turning lanes at the Camp Arrowhead/Fairfield Road and Robinsonville Road/Angola Road intersections. It is presently scheduled for construction in Fiscal Years 2021 with a total cost of $\$ 4,607,347$. More information on the project is available at https://www.deldot.gov/information/projects/SR24CampArrowHead. This development's contribution would be proportional to its contribution to traffic in the affected area.
17. As per the Delaware State Strategies for Policy and Spending Map, this project is located within Investment Level III or Level IV. Referring to the Departments Shared-Use Path/Sidewalk Policy a project an all Level III and Level IV areas are required to install a path/sidewalk along the property frontage if the project abuts to an existing facility. If the project does not abut an existing facility, it will be at the Subdivision Engineer's discretion.
a. DeIDOT anticipates requiring a Shared Use Path along the site frontage.
18. Referring to the "Development Coordination Manual" under Chapter 5; Design Elements, Section 5.2.5 - Subdivision and Commercial Entrance Design Guidelines Intersection Corner Radii, a separate turning template plan shall be provided to verify vehicles can safely enter/exit the entrance. The entrance shall be designed for the largest vehicle using the entrance.
19. Please check to determine if any utilities will need to be relocated as part of this project.
20. Standard General Notes have been updated and posted to the DelDOT Website. Please begin using the new versions and look for the revision date of December 8 , 2017. The notes can be found at the following website under the Guidance tab;
http://www.deldot.gov/Business/subdivisions/index.shtml
21. All PLUS/TAC comments shall be addressed prior to submitting the plans for review.
22. Referring to the "Development Coordination Manual", Chapter 6 - Construction Administration, Section 6.4.3: Commercial Entrances - Inspection and Acceptance, Figure 6.4.3-a: Construction Inspection Responsibilities, determine if the project is a Level 1 or Level 2 project and if an inspection agreement will be required.
23. The Auxiliary Lane Spreadsheet has been posted to the DelDOT website. Use this spreadsheet to determine if auxiliary lanes are warranted. The Auxiliary Lane Spreadsheet can be found at the following website under the Forms tab; http://www.deldot.gov/Business/subdivisions/index.shtml
24. Referring to the "Development Coordination Manual" under Chapter 5; Design Elements, Section 5.4 - Sight Distance, a sight distance triangle is required. A spreadsheet has been developed to assist with this task and can be found on the following website under the Forms tab;
http://www.deldot.gov/Business/subdivisions/index.shtml
25. Please refer to the "Development Coordination Manual" Chapter 3; Record Plan Design, Section 3.4.1 Commercial or Major Residential Subdivisions - Record Plan Application Process, concerning if a pre-submittal meeting is required.
26. Effective August 1, 2015, all new and resubmittals shall be uploaded via the PDCA with any fees paid online via credit card or electronic check (ACH). The design firm making the submittal must create the project in the PDCA and upload all the required items to allow DelDOT to start the review process. Our website offers more detailed information, including links to guidance about creating PDCA submittals. This information can be found at the following website under the PDCA section;
http://www.deldot.gov/Business/subdivisions/index.shtml
27. Referring to the "Development Coordination Manual", Chapter 3 - Record Plan Design, Section 3.4.2: Record Plan Submittal Requirements, an Initial Stage review fee shall be assessed to this project.
28. Referring to the "Development Coordination Manual", Chapter 3 - Record Plan Design, Section 3.4: Commercial or Major Residential Subdivisions, a record plan shall be prepared prior to issuing "Letter of No Objection". The Record plan submittal shall include the items listed on the Critical Items for Acceptance: Record Plan document that can be found at the following website under the Guidance tab;
https://www.deldot.gov/Business/subdivisions/index.shtml
29. Referring to the "Development Coordination Manual", Chapter 4 - Construction Plans, Section 4.3: Subdivision Construction Plan Submittal Requirements, the Construction Stage review fee shall be assessed to this project.
30. Referring to the "Development Coordination Manual", Chapter 4 - Construction Plans, a subdivision/entrance plan shall be prepared prior to issuing subdivision/entrance approval. The Entrance/Construction/Subdivision plan submittal shall include the items listed on the Critical Items for Acceptance: Entrance/Construction/Subdivision Set Plans document that can be found at the following website under the Guidance tab;
https://www.deldot.gov/Business/subdivisions/index.shtml

Sussex County, Delaware<br>Technical Advisory Committee

## Comment Sheet

DATE OF REVIEW: May 21, 2018


REVIEWING AGENCY: Delaware State Fire Marshal's Office, Sussex Office
INDIVIDUAL REVIEWERS: Duane T. Fox, CFPS, CFPE, CFI, Asst. Chief Technical Services Dennett E. Pridgeon, CFPS, CFPE, CFI, Sr. Fire Protection Specialist Jefferson L. Cerri, CFI, Sr. Fire Protection Specialist Joseph Moran, CFI, Sr. Fire Protection Specialist Desiree B. McCall, Fire Protection Specialist

AGENCY PHONE NUMBERS: 302-856-5298, Fax: 302-856-5800

RE: HENLOPEN MEADOWS

The reasons and conditions applied to this project and their sources are itemized below:

At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):
a. Fire Protection Water Requirements:
$>$ Water distribution system capable of delivering at least 1000 gpm for 1 -hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers. (Poolhouse)
$>$ Where a water distribution system is proposed for single-family dwellings it shall be capable of delivering at least 500 gpm for 1-hour duration, at 20-psi residual pressure. Fire hydrants with 1000 feet spacing on centers are required. (One \& Two- Family Dwelling)
$>$ Where a water distribution system is proposed for the site, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.
b. Fire Protection Features:
> All structures over 10,000 sqft aggregate will require automatic sprinkler protection installed.
$>$ Buildings greater than 10,000 sqft, 3 -stories or more, over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements.
$>$ Show Fire Department Connection location (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.
> Show Fire Lanes and Sign Detail as shown in DSFPR

## c. Accessibility

$>$ All premises, which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from Angola Beach Rd must be constructed so fire department apparatus may negotiate it.
$>$ Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft . of the front door.
$>$ Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-desac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
$>$ The use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.
$>$ The local Fire Chief, prior to any submission to our Agency, shall approve in writing the use of gates that limit fire department access into and out of the development or property.
d. Gas Piping and System Information:
$>$ Provide type of fuel proposed, and show locations of bulk containers on plan.
e. Required Notes:
$>$ Provide a note on the final plans submitted for review to read " All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations"
> Proposed Use
$>$ Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
$>$ Square footage of each structure (Total of all Floors)
> National Fire Protection Association (NFPA) Construction Type
$>$ Maximum Height of Buildings (including number of stories)
$>$ Note indicating if building is to be sprinklered
$>$ Name of Water Provider
$>$ Letter from Water Provider approving the system layout
$>$ Provide Lock Box Note (as detailed in DSFPR) if Building is to be sprinklered
> Provide Road Names, even for County Roads
Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: www.statefiremarshal.delaware.gov, technical services link, plan review, applications or brochures.

State of Delaware
Department of Agriculture

Jennifer Norwood
Planning and Zoning Manager
Planning and Zoning Commission
PO Box 417
Georgetown, Delaware 19947
Subject: Henlopen Meadows
Dear Ms. Norwood,
Thank you for submitting the site plan for Henlopen Meadows subdivision submitted by Axiom Engineering Inc. The Sussex County Planning and Zoning Forested Buffer Ordinance Number 1984 Section 99-5 requires 20 feet buffer, Henlopen Meadows meets the requirements for this buffer as required by the ordinance..

Sussex County Planning and Zoning Forested Buffer Ordinance Number 1984 Section 99-5 also requires a planting list which is to follow $70 \%$ deciduous and $30 \%$ evergreens to be planted in the buffer strip which was not provided in the plans. A comprehensive display of plantings in the buffers should be included with species being used for review. We recommend a planting list to be provided for review as well as planting specifications.

If you have any more questions please feel free to contact me 302.659 .6704 or email me at Michael.Martini@state.de.us

Sincerely,
Tidal Mutate

Michael Martini
Urban Forestry Program
Delaware Forest Service

Natural Resources
Conservation
Service
Georgetown
Service Center
21315 Berlin Road
Unit 3
Georgetown, DE
19947
Voice 302.856 .3990
Fax 855,306.8272

June 19, 2018

Janelle M. Cornwell, Director<br>Sussex County Planning \& Zoning<br>Sussex County Courthouse<br>Georgetown, DE 19947

## RE: Henlopen Meadows Lewes and Rehoboth Hundred 201 single family lots

Dear Ms. Cornwell:
Soils within the delineated area on the enclosed map are:
DoA Downer sandy loam, 0 to 2 percent slopes
HnA Hammonton sandy loam, 0 to 2 percent slopes
HuA Hurlock loamy sand, 0 to 2 percent slopes
PyA Pineyneck loam, 0 to 2 percent slopes

Soil Interpretation Guide

Buildings

| Map <br> Symbol | Urbanizing <br> Subclass | With <br> Basement | Without <br> Basement | Septic Filter <br> Fields |
| :---: | :--- | :--- | :--- | :--- |
| DoA | G1 | Not limited | Not limited | Not limited |
| HnA | Y2 | Very limited | Somewhat <br> limited | Very limited |
| HuA | R2 | Very limited | Very limited | Very limited |
| PyA | Y2 | Very limited | Somewhat <br> limited | Very limited |

Definition of soil limitation ratings classes:
Rating class terms indicate the extent to which the soils are limited by all of the soil features that affect building site development.
"Not limited" indicates that the soil has features that are very favorable for the specified use. Good performance and very low maintenance can be expected.
"Somewhat limited" indicates that the soil has features that are moderately favorable for the specified use. The limitations can be overcome or minimized by special planning, design, or installation. Fair performance and moderate maintenance can be expected.
"Very limited" indicates that the soil has one or more features that are unfavorable for the specified use. The limitations generally cannot be overcome without major soil reclamation, special design, or expensive installation procedures. Poor performance and high maintenance can be expected.

## G1:

These soils are on nearly level to strongly sloping ( $0-10 \%$ slopes), well drained, mostly permeable soils. As sites for large commercial, industrial, institutional, and residential developments, these soils have fewer limitations than any other soils in the state. Slopes are favorable, and grading can be done without difficulty. Foundation conditions are generally good. Grasses, trees, and do well. Principal soil limitations: No apparent soil limitations for conventional uses.

## R2:

The soils in this classification are nearly or gently sloping, very poorly, poorly, and somewhat poorly drained. Seasonal high water tables, local ponding, and high potential frost action severely limit these soils for residential developments. The principal soil limitations are: 1) soil is highly susceptible to frost action, 2) excavations are likely to fill with water in late winter or early spring, 3) wet foundations or basements probable, and 4) hazard of temporary ponding of water in areas lacking outlets. Loose running sand commonly encountered in deep excavations.

## Y2:

The soils in this classification are nearly level or gently sloping, moderately well drained or well drained with ground water between four to six feet from the surface, and are subject to seasonal high water tables. Seasonal wetness and seepage around foundations moderately limits these soils for residential use. The principal soil limitations are: 1) lateral seepage in subsoil causes concentration of water around foundations, 2 ) soil is highly susceptible to frost action, 3) excavations are likely to fill with water in late winter or early spring, and 4) wet basements or foundations are probable.

The soil interpretations above do not eliminate the need for detailed investigations at each proposed construction site. However, the interpretations can serve as a guide to planning more detailed investigations. No consideration was given in these interpretations regarding the size and shape of the soil area; nor to the pattern they form with other soils in the landscape. Also, because of the scale of the maps used, small areas of other kinds of soils may be included within some delineations of the soil map. Thus, an individual lot or building site could occupy a small area that would not fit the interpretations given for the soils symbol representing the entire delineation of the map. Interpretations apply to the soils in their natural state and not for areas that may have been altered through grading, compacting, and the like.

Sincerely,


Thelton D. Savage
District Conservationist
USDA, Natural Resources Conservation Service
TDS/bh


TM \# 234-12.00-3.00 \& 6.00 Henlopen Meadows


TM \# 234-12.00-3.00 \& 6.00 Henlopen Meadows

May 21, 2018

Ms. Jennifer Norwood
Sussex County Planning \& Zoning Commission
PO Box 417
Georgetown, DE 19947
Re: Sussex County Technical Advisory Committee
Dear Ms. Norwood:
The Division of Public Health Office of Engineering is in receipt of the following application:

## 1. Application: Henlopen Meadows

This application indicates central water will be supplied by Tidewater Utilities, Inc. This project requires an Approval to Construct and an Approval to Operate from the Office of Engineering when constructing a new water system or altering an existing water system. In order to obtain an Approval to Construct, plans and specifications must be prepared by a registered Delaware professional engineer. Plans for the system, including water mains or extensions thereto, storage facilities, treatment works, and all related appurtenances, must be approved by the Office of Engineering prior to construction. It is the owner's responsibility to ensure as-built drawings are maintained throughout all phases of construction.

Prior to receiving an Approval to Operate for this project, the Office of Engineering requires one set of as-built drawings, including profile markups, for all plans approved for construction. An Approval to Operate will be issued after all applicable requirements are met.

Please do not hesitate to contact me at 302-741-8646 with questions or comments.

Engineer III
Office of Engineering

Telephone: (302) 739-9402
Fax No.: (302) 739-3106

May $29^{\text {th }}, 2018$
Ms. Jennifer Norwood
Sussex County Planning and Zoning
Sussex County Courthouse
PO Box 417
Georgetown, DE 19947
RE: Henlopen Meadows
Dear Ms. Norwood,
The Division of Air Quality (DAQ) appreciates the opportunity to comment on the Henlopen Meadows development. According to the document, the applicant is requesting a site plan review of a Residential Planned Community. The project will include parcel numbers \#234-12.00-3.00 and 6.00 and is for the creation of 201 single family lots with private roads and open space. The parcel to be developed consists of 60.00 project acres and is located southeast of Angola Road (County Road 277) and Angola Beach Road (County Road 278). This parcel is currently used for agricultural purposes. The proposed use of the parcel is as a single family detached housing development. The zoning of said parcel is currently Agricultural Residential District (AR-1) but will be rezoned to General Residential Planned Community (GR-1, RPC).

## Emissions Impact of Henlopen Meadows

Based on the information provided, the three air emissions components (i.e., area, electric power generation, and mobile sources) were quantified. Table 1 - Projected Air Quality Emissions represents the potential impact the Henlopen Meadows development may have on air quality.

## Table 1: Projected Air Quality Emissions for Henlopen Meadows

| Emissions Attributable to <br> Henlopen Meadows <br> (Tons per Year) | Volatile <br> Organic <br> Compounds <br> (VOC) | Nitrogen <br> Oxides <br> $(\mathrm{NOx})$ | Sulfur <br> Dioxide <br> $\left(\mathrm{SO}_{2}\right)$ | Fine <br> Particulate <br> Matter <br> $\left(\mathrm{PM}_{2.5}\right)$ | Carbon <br> Dioxide <br> $\left(\mathrm{CO}_{2}\right)$ |
| :--- | :---: | :---: | :---: | :---: | :---: |
| Area source emissions | 6.2 | 0.7 | 0.6 | 0.7 | 25.2 |
| Power emissions | $*$ | 2.5 | 8.6 | $*$ | $1,265.1$ |
| Mobile emissions | 9.2 | 9.6 | 0.3 | 0.1 | $5,940.6$ |
| Total emissions | 15.4 | 12.8 | 9.5 | 0.8 | $7,230.9$ |

(*) Indicates data is not available.
Note that emissions associated with the actual construction of the subdivision, including automobile and truck traffic from working in, or delivering products to the site, as well as site preparation, earth moving activities, road paving and other miscellaneous air emissions, are not reflected in the table above.

The applicant shall comply with all applicable Delaware air quality regulations. Please note that the following regulations in Table 2 - Potential Regulatory Requirements may apply to your project:

| Regulation | Requirements |
| :---: | :---: |
| 7 DE Admin. Code 1106 Particulate Emissions from Construction and Materials Handling | - Use dust suppressants and measures to prevent transport of dust off-site from material stockpile, material movement and use of unpaved roads. <br> - Use covers on trucks that transport material to and from site to prevent visible emissions. |
| 7 DE Admin. Code 1144 - <br> Control of Stationary Generator Emissions | - Ensure that emissions of nitrogen oxides $\left(\mathrm{NO}_{\mathrm{x}}\right)$, nonmethane hydrocarbons (NMHC), particulate matter (PM), sulfur dioxide $\left(\mathrm{SO}_{2}\right)$, carbon monoxide $(\mathrm{CO})$, and carbon dioxide $\left(\mathrm{CO}_{2}\right)$ from emergency generators meet the emissions limits established. (See section 3.2). <br> - Maintain recordkeeping and reporting requirements. |
| 7 DE Admin. Code 1145 Excessive Idling of Heavy Duty Vehicles | - Restrict idling time for trucks and buses having a gross vehicle weight of over 8,500 pounds to no more than three minutes. |

For a complete listing of all Delaware applicable regulations, please look at our website: http://www.awm.delaware.gov/AQM/Pages/AirRegulations.aspx.

DNREC's Division of Air Quality encourages planners, developers and builders to consider all sustainable growth practices in future development. We further believe that all air quality impacts should be completely considered as new developments are considered by your town. New developments may emit, or cause to be emitted, additional air contaminants into Delaware's air, which will negatively impact public health, safety and welfare. These negative impacts are attributable to:

- Emissions that form ozone and fine particulate matter;
- The emission of greenhouse gases which are associated with climate change, and
- The emission of air toxics.

Air emissions generated from new development include emissions from the following activities:

- Area sources such as painting, maintenance equipment and the use of consumer products like roof coatings and roof primers.
- The generation of electricity, and
- All transportation activity - such as increased vehicular traffic.


## General Recommendations:

The DAQ would like to provide the following sustainable development recommendations/offsets in order to assist the Ashton Oaks subdivision in lessening its impact on existing air quality levels.

DAQ encourages sustainable growth practices that:

- Control sprawl;
- Preserve rural and forested areas;
- Identify conflicting land use priorities;

Ms. Jennifer Norwood
May $29^{\text {th }}, 2018$
Page 3

- Encourage growth on previously developed sites and denser communities while at the same time protect our diminishing land base;
- Coordinate transportation, housing, environment, and climate protection plans with land use plans; and
- Demonstrate that communities can achieve the qualities of privacy, community, and contact with nature without degrading the natural environment or generating unacceptable environmental costs in terms of congestion, use of natural resources, or pollution.


## Site-specific recommendations for this project are as follows:

- Use only the minimum number of parking spaces needed for this facility in order to facilitate the push from vehicle-centric travel to other modes (walking, biking, transit, etc.)
- Planting of native, low VOC emitting shade trees in parking areas to clean the air of localized pollutants and cut down on energy/cooling costs.
- Inclusion of bike racks in common areas and expansion of the bicycle/pedestrian network through sidewalks and bike lanes which also promote alternative forms of transportation.


## -Currently, the closest Connector Bike Route is located off of Angola Road to the north.

- The closest bus service is Bus Route 215 Outbound at the intersection of Delaware Route 24 and Holly Lake Camp.
- The use of reclaimed asphalt pavement (RAP) with an open-grade aggregate. Open-grade aggregates reduce heat island effects on paved surfaces. The use of RAP reduces landfill waste, is a sustainable pavement and more economically feasible than other pavement types. Sustainable pavements (or cool pavement choices with higher albedo) reflect $40 \%$ more sunlight than warm pavements which only reflect 10\%.
- Use of energy efficient products in construction to lessen the power source emissions of the project and costs.
- Take advantage of compact building design to preserve open space. Open space protects animals and plants and conserves their habitat as well as moderates temperatures and combats air pollution.
- Including electric vehicle (EV) charging in the homes. This could be marketed as a unique selling feature.
- Beautification and landscaping to generate a context-sensitive design that would blend in well with surrounding land uses while also helping to mitigate the pollution potential of the project.


## Tree Buffer or Canopy:

Some green streetscape elements that the Henlopen Meadows project could incorporate area tree buffer or expansion of the City of Lewes's tree canopy. According to the Delaware Forest Service, in 2014, the City of Lewes's tree canopy percentage was $34.2 \%$.

- Native, low VOC emitting trees reduce emissions by trapping dust particles and replenishing oxygen.
- Trees also reduce energy emissions by cooling during the summer and by providing wind breaks in the winter, whereby reducing air conditioning needs by up to 30 percent and saving 20 to 50 percent on fuel costs.
- All urban trees that are selected should be native to Delaware and preferably low VOC emitting trees.
- Every tree has a different biogenic emissions rate by which they release VOC's into our atmosphere. VOC's are a component of smog and when mixed with other gases in the atmosphere (nitrogen oxide or NOx) in the presence of sunlight can contribute to air pollution risks.

As a general reminder, the best trees to plant are those that have a large leaf surface area at maturity, contain leaf characteristics that are amenable to particle collection from particulate matter (PM) such as those that have hairy or sticky leaves and have high transpiration rates which result in relatively high temperature reduction. White pines, Heritage River Birch, and American Beech fall within these categories and contain these characteristics and are mentioned in the landscaping plan. The following trees native to Delaware contain one or both of these characteristics

| Low VOC Emitting Trees Native to Delaware |  |  |  |
| :--- | :--- | :--- | :--- |
| American Elm * (DED Resistant) | Dogwood | Redbud (Eastern) | Swamp White Oak |
| Ulmus americana | Cornus florida | Cercis candensis | Quercus bicolor |
| Basswood | Hackberry | Sand Hickory | Sweet Gum |
| Tilia americana | Celtis occidentalis | Carya pallida | Liquidambar |
| Beech Tree | Hornbeam | Sassafras | styraciflua |
| Fagus grandifolis | Carpinus caroliniana | Sassafras albidum | Sweet Leaf |
| Bitternut Hickory | Fringetree | Scarlet Oak | Symplocos tinctoria |
| Carya cordiformis | Choinanthus virginicus | Quercus coccinea | Sycamore |
| Black Cherry | Large-Tooth | Service Berry | Platanus occidentalis |
| Prunus serotina | Cottonwood | Amelanchier arborea | Tulip Tree |
| Black Gum | Populus grandidentata | Shagbark Hickory | Liriodendron |
| Nyssa sylvatica | Mockernut Hickory | Carya ovata | tulipfera |
| Blackjack Oak | Carya tomentosa | Small-Fruited Hickory | Water Oak |
| Quercus marilandica | Northern Red Oak | Carya glabra | Quercus nigra |
| Black Oak | Quercus rubra | Southern Red Oak | White Oak |
| Quercus velutina | Persimmon | Quercus falcata | Quercus alba |
| Black Walnut | Diospyros virginiana | Spice Bush |  |
| Juglans nigra | Pignut Hickory | Lindera benzoin |  |
| Black Willow | Carya glabra | Swamp Black Gum |  |
| Salix nigra | Post Oak | Nyssa sylvatica |  |
| Chestnut Oak | Quercus stellata | Swamp Chestnut Oak |  |
| Quercus prinus | Red Maple | Quercus michauxii |  |
| Choke Cherry | Acer rubrum |  |  |
| Prunus virginiana |  |  |  |


| Low VOC Emitting Trees Not Native to Delaware, But Not Invasive |  |  |  |
| :--- | :--- | :--- | :--- |
| Crape Myrtle <br> Lagerstroemia | English Walnut <br> Juglans regia | Golden Chain Tree <br> Laburnum | Japanese Zelkova <br> Zelkova serrata |

PLEASE NOTE: * If the American Elm is selected for urban tree planting, it is advised that the developer choose to plant only American Elm's that are of the Dutch Elm Disease (DED) resistant variety or appropriate hybrid thereof. American Elms are particularly susceptible to the negative effects of Dutch elm disease. DED is a fungal disease spread by the elm bark beetle and has devastated native populations of elms that did not have resistance to the disease.

The above list has been reviewed and approved by arborists of the Delaware Forest Service Urban and Community Forestry Program as well as Botanists with DNREC's Division of Fish and Wildlife for consistency and tree-selection guidance. Although the second list still contains sustainable alternatives for planting, it is still recommended that every effort be made to ensure that trees planted are of the native variation.

## Energy Efficient Options:

Constructing with only energy efficient products can help your housing units immensely, not only in terms of environmental sustainability but financially.

- Energy Star qualified products are up to $30 \%$ more energy efficient. Savings come from building envelope upgrades, high performance windows, controlled air infiltration, upgraded heating and air conditioning systems, tight duct systems and upgraded water-heating equipment.
- Every percentage of energy efficiency translates into a percent reduction in pollution. The Energy Star Program is an excellent way to save on energy costs and reduce air pollution.
- Some approaches may include architectural devices, vegetation, or solar panels.

Providing shade for parking areas helps to reduce heat island impacts, and, by extension, helps to minimize the potential for localized ground-level ozone formation. Such measures can also have the additional benefit of channeling or infiltrating storm water. For more about energy efficient options, please see: https://www.energystar.gov/ or https://www.epa.gov/greeningepa/energy-efficiency-epa.

## Multi-modal travel:

A component of improving existing air quality levels is to maximize multi-modal travel through bike lanes, sidewalks and convenient access to transit opportunities. DAQ encourages the developer to incorporate sidewalks and crosswalks and to add sharrows or bike lanes where needed to encourage multi-modal travel opportunities. (Sharrows and striping are the easiest and most cost effective option.) This includes attempting to address any gaps in the current bicycle and pedestrian network for increased connectivity. This development has the potential for connection to a Connector Bike Route off of Angola Road. It is recommended the applicant pursue the opportunity to connect "broken links" in the existing bicycle/pedestrian and sidewalk network in the near future in order to promote alternative travel methods in the area that reduce dependency on vehicular travel and encourage multi-modal transportation efforts. Multi-modal travel can significantly reduce mobile source emissions. For every vehicle trip that is replaced by the use of a sidewalk or bike path, 7 pounds of VOC and 11.5 pounds of NOx are reduced each year. DNREC was pleased to see the inclusion of a mulch walking trail in the plan as well as sidewalks.

Transit is also an important component of multimodal travel opportunities. GIS evaluation of the area has concluded that the closest transit route is Bus Route 215 on Route 14.

For more information on DART Bus Routes in your area, please visit: www.dartfirststate.com.
Also, for more information on the impacts of multimodal access on air quality please see the EPA's website at: https://www3.epa.gov/otaq/

## Electric Vehicle Deployment:

This measure helps to reduce localized air pollution by supporting the use of electric vehicle charging. It would be ideal to include electric vehicle (EV) charging outside of the homes or in common areas such as outside of the clubhouse.

For a site map of local alternative fueling sites, please visit the Department of Energy's "Alternative Fuels Data Center" website here: http://www.afdc.energy.gov/locator/stations/.

Ms. Jennifer Norwood
May 29 ${ }^{\text {th }}, 2018$
Page 6

## Facility Beautification:

The developer is encouraged to beautify the site with landscaping that would not only make the local subdivision more attractive but also help to clean the air of any pollutants that could be emitted or transported by sources around the development area such as pollutants from mobile sources, construction or neighboring activities. This would reduce air quality impacts on local residents while also incorporating a context-sensitive design that blends well with the surrounding development and existing land uses.

Should the developer have any more questions or concerns, the DAQ point of contact is Lauren DeVore, and she may be reached at (302) 739-9437 or lauren.devore@state.de.us. The applicant is encouraged submit a plan to the DNREC DAQ which address the emission mitigation measures that will be incorporated into the Henlopen Meadows subdivision. We look forward to working together with you on this project to achieve our shared air quality goals!

Sincerely,

Valerie A. Gray
Planning Supervisor

## Regulations/Code Requirements

DNREC's Site Investigation and Restoration Section (SIRS) has reviewed the proposed project.

- If it is determined by the Department that there was a release of a hazardous substance on the property in question and the Department requires remediation pursuant to the Hazardous Substance Cleanup Act, the provisions of 7 Del.C. Chapter 91, Delaware Hazardous Substance Cleanup Act and the Delaware Regulations Governing Hazardous Substance Cleanup shall be followed."
- There are no SIRS sites found within a $1 / 2$-mile radius of the proposed project.


## Suggestions

- SIRS strongly recommends that the land owner performs appropriate environmental due diligence as necessary of the property.
- Additional remediation may be required if the project property or site is re-zoned by the county or state.
- Should a release or imminent threat of a release of hazardous substances be discovered during the course of development (e.g., contaminated water or soil), construction activities should be discontinued immediately and DNREC should be notified at the 24 -hour emergency number (800-662-8802). SIRS should also be contacted as soon as possible at 302-395-2600 for further instructions.

| From: | Dickerson, Troy [tdickerson@delaware.coop](mailto:tdickerson@delaware.coop) |
| :--- | :--- |
| Sent: | Monday, May 21, 2018 11:07 AM |
| To: | Jennifer Norwood |
| Subject: | RE: TAC Review for Henlopen Meadows |

Good Morning,

Henlopen Meadows is located within DEC's service territory and we have facilities in the area to serve the proposed development.

Thanks!


This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, copy, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

From: Jennifer Norwood [mailto:jnorwood@sussexcountyde.gov]
Sent: Monday, May 21, 2018 9:52 AM
To: Brad Hawkes [bhawkes@sussexcountyde.gov](mailto:bhawkes@sussexcountyde.gov); C. Daniel Parsons [dparsons@sussexcountyde.gov](mailto:dparsons@sussexcountyde.gov); Dickerson, Troy [tdickerson@delaware.coop](mailto:tdickerson@delaware.coop); Fox, Duane T. (FireMarshal) [Duane.Fox@state.de.us](mailto:Duane.Fox@state.de.us); Butler, Eileen M. (DNREC) [Eileen.Butler@state.de.us](mailto:Eileen.Butler@state.de.us); dholden@chpk.com; John J. Ashman [jashman@sussexcountyde.gov](mailto:jashman@sussexcountyde.gov); Fleming, Kate M. (DNREC) [Kate.Fleming@state.de.us](mailto:Kate.Fleming@state.de.us); Terri Dukes [tdukes@sussexcountyde.gov](mailto:tdukes@sussexcountyde.gov); Melendez, Milton (DDA) [milton.melendez@state.de.us](mailto:milton.melendez@state.de.us); Rob Davis [rdavis@sussexcountyde.gov](mailto:rdavis@sussexcountyde.gov); Sisson, Steven (DelDOT) [Steven.Sisson@state.de.us](mailto:Steven.Sisson@state.de.us); Mike Brady [MBRADY@sussexcountyde.gov](mailto:MBRADY@sussexcountyde.gov); Crystall, Meghan (DNREC) [Meghan.Crystall@state.de.us](mailto:Meghan.Crystall@state.de.us); Jessica.Watson@state.de.us; Susan Isaacs [sisaacs@sussexcountyde.gov](mailto:sisaacs@sussexcountyde.gov); Subdivision (MailBox Resources) [Subdivision@state.de.us](mailto:Subdivision@state.de.us); Vince Robertson [vrobertson@pgslegal.com](mailto:vrobertson@pgslegal.com); Hayes, John G. (DNREC) [John.Hayes@state.de.us](mailto:John.Hayes@state.de.us); john.martin@state.de.us; DeVore, Lauren (DNREC) [Lauren.Devore@state.de.us](mailto:Lauren.Devore@state.de.us);
john.kennel@state.de.us; michael.Tholstrup@state.de.us
Subject: RE: TAC Review for Henlopen Meadows

Good Morning,

I apologize for not including the attachments in the last email.

Jenny

Temrifer Norwood
Planning Technician
Planning \& Zoning Dept.
Sussex County Government
PO Box 417
2 The Circle
Georgetown, DE 19947
302-858-5501
inorwood@sussexcountyde.gov

From: Jennifer Norwood
Sent: Friday, May 18, 2018 11:26 AM
To: Brad Hawkes [bhawkes@sussexcountyde.gov](mailto:bhawkes@sussexcountyde.gov); C. Daniel Parsons [dparsons@sussexcountyde.gov](mailto:dparsons@sussexcountyde.gov); 'Dickerson, Troy' [TDickerson@decoop.com](mailto:TDickerson@decoop.com); 'Fox, Duane T. (FireMarshal)' < Duane.Fox@state.de.us>; 'Butler, Eileen M. (DNREC)' [Eileen.Butler@state.de.us](mailto:Eileen.Butler@state.de.us); 'dholden@chpk.com' [dholden@chpk.com](mailto:dholden@chpk.com); John J. Ashman
[jashman@sussexcountyde.gov](mailto:jashman@sussexcountyde.gov); 'Fleming, Kate M. (DNREC)' [Kate.Fleming@state.de.us](mailto:Kate.Fleming@state.de.us); Terri Dukes [tdukes@sussexcountyde.gov](mailto:tdukes@sussexcountyde.gov); 'Melendez, Milton (DDA)' [milton.melendez@state.de.us](mailto:milton.melendez@state.de.us); Rob Davis [rdavis@sussexcountyde.gov](mailto:rdavis@sussexcountyde.gov); 'Sisson, Steven (DeIDOT)' [Steven.Sisson@state.de.us](mailto:Steven.Sisson@state.de.us); Mike Brady [MBRADY@sussexcountyde.gov](mailto:MBRADY@sussexcountyde.gov); 'Crystall, Meghan (DNREC)' [Meghan.Crystall@state.de.us](mailto:Meghan.Crystall@state.de.us);
'Jessica.Watson@state.de.us' [Jessica.Watson@state.de.us](mailto:Jessica.Watson@state.de.us); Susan Isaacs [sisaacs@sussexcountyde.gov](mailto:sisaacs@sussexcountyde.gov); Subdivision (MailBox Resources) [Subdivision@state.de.us](mailto:Subdivision@state.de.us); Vince Robertson [vrobertson@pgslegal.com](mailto:vrobertson@pgslegal.com); 'Hayes, John G. (DNREC)' [John.Hayes@state.de.us](mailto:John.Hayes@state.de.us); 'john.martin@state.de.us' < john.martin@state.de.us>; 'DeVore, Lauren (DNREC)' [Lauren.Devore@state.de.us](mailto:Lauren.Devore@state.de.us); 'john.kennel@state.de.us' [john.kennel@state.de.us](mailto:john.kennel@state.de.us); 'michael.Tholstrup@state.de.us' [michael.Tholstrup@state.de.us](mailto:michael.Tholstrup@state.de.us)
Subject: TAC Review for Henlopen Meadows

Good Morning,

Sussex County Planning Office has received one (1) application that requires TAC review. Attached is a memo regarding each application and a PDF of the plans submitted.

Please provide comments on or before Monday, July 2, 2018

Please feel free to contact me with any questions.

Thanks, Jenny

Sennifer Norwood
Planning Technician
Planning \& Zoning Dept.
Sussex County Government
PO Box 417
2 The Circle
Georgetown, DE 19947
302-858-5501
jnorwood@sussexcountyde.gov

| From: | Hayes, John G. (DNREC) [John.Hayes@state.de.us](mailto:John.Hayes@state.de.us) |
| :--- | :--- |
| Sent: | Monday, May 21, 2018 11:13 AM |
| To: | Jennifer Norwood |
| Subject: | RE: TAC Review for Henlopen Meadows |

Good morning Jenny,
The Groundwater Discharges Section has no comment on Henlopen Meadows since it is proposed to utilize public sewer. Thank you.

Jack

John G. "Jack" Hayes, Jr.
Environmental Program Manager
Delaware Department of Natural Resources and Environmental Control
Groundwater Discharges Section
89 Kings Highway
Dover, DE 19901
John.hayes@state.de.us
(302) 739-9327
(302) 739-7764 Fax

From: Jennifer Norwood [mailto:jnorwood@sussexcountyde.gov]
Sent: Monday, May 21, 2018 9:52 AM
To: Brad Hawkes; C. Daniel Parsons; Dickerson, Troy; Fox, Duane T. (FireMarshal); Butler, Eileen M. (DNREC); dholden@chpk.com; John J. Ashman; Fleming, Kate M. (DNREC); Terri Dukes; Melendez, Milton (DDA); Rob Davis; Sisson, Steven (DelDOT); Mike Brady; Crystall, Meghan (DNREC); Watson, Jessica (DNREC); Susan Isaacs; Subdivision (MailBox Resources); Vince Robertson; Hayes, John G. (DNREC); Martin, John (DNREC); DeVore, Lauren (DNREC); Kennel, John M. (DNREC); Tholstrup, Michael S. (DNREC)
Subject: RE: TAC Review for Henlopen Meadows
Good Morning,
I apologize for not including the attachments in the last email.

Jenny

```
Thumforen Norwood
Planning Technician
Planning & Zoning Dept.
Sussex County Government
PO Box 417
2 \text { The Circle}
Georgetown, DE }1994
- 302-858-5501
inorwood@sussexcountyde.gov
```


## Sussex County

May 21, 2018

Axiom Engineering LLC.
Attn: Kenneth R. Christenbury,P.E.
18 Chestnut St
Georgetown, De. 19947

## RE: Proposed Subdivision Name(s)

I have reviewed the name(s) submitted for your proposed subdivision, which is located in Lewes (234-12.00-3.00 \& 6.00). In reviewing the proposed name(s) the following has been denied for this subdivision:

## HENLOPEN MEADOWS

Should you have any questions please contact the Sussex County Addressing Department at 302-853-5888 or 302-855-1176.

Sincerely,

## Terri QLOUnkes

Terri L. Dukes
Addressing Technician II
CC: Jennifer Norwood
Planning \& Zoning

## Sussex County

July 9, 2018

Axiom Engineering
ATT: Kenneth R. Christenbury P.E
18 Chestnut Street
Georgetown, De. 19947
RE: Proposed Subdivision Name(s)
I have reviewed the name(s) submitted for your proposed subdivision Fieldstone at Lewes, which is located in Lewes (234-12.00-3.00 \& 6.00). In reviewing the proposed name(s) the following has been approved for this subdivision:

## Fieldstone at Lewes

Should you have any questions please contact the Sussex County Addressing Department at 302-853-5888 or 302-855-1176.

Sincerely,

## Yexri QLOUntes

Terri L. Dukes
Addressing Technician II
CC: Jennifer Norwood Planning \& Zoning

## SUSSEX COUNTY ENGINEERING DEPARTMENT SEWER AVAILABILITY

DELAWARE sussexcountyde.gov

HANS M. MEDLARZ, P.E. COUNTY ENGINEER

MICHAEL E. BRADY DIRECTOR OF PUBLIC WORKS

REF:

## T. A. C. COMMENTS HENLOPEN MEADOWS <br> ANGOLA NECK SANITARY SEWER DISTRICT SUSSEX COUNTY ENGINEERING DEPARTMENT SUSSEX COUNTY TAX MAP NUMBER <br> 234-12.00 PARCELS 3.00 \& 6.00 <br> PROJECT CLASS-1 <br> AGREEMENT NO. 1099



The following comments are the result of the Sussex County Engineering Department's review of the preliminary site plan for the above referenced project:

## PUBLIC WORKS DIVISION COMMENTS

1. Proposed developments with private roads or projects required by the County to conform to or exceed the County street design requirements shall be regulated by and conform to Sussex County Code and the comments here listed.
2. It is suggested that a second entrance tot eh development be provided at Reed Path and lots 182 and 183. Given the significant number of proposed lots, a second entrance would reduce traffic at the Meadow Way Entrance.
3. Project Construction Drawings shall show, in detail, the proposed improvements. The work required includes preparation and delivery of an AutoCAD 2012 digitized plan showing existing and proposed lines, grades, topography and features in a given area, which was utilized in preparing plans for construction. The individual sheet types will be in a separate design to show plan views on sheets separate from profile views. In addition, each sheet of the plans shall be submitted in a PDF format.
4. All work shall be geo-referenced to the Delaware State Grid System NAD-83 (HARN) and provided in an AutoCAD 2012 format. North will always be shown in an up direction on all plans.
5. Topographic contours at one-foot intervals shall be shown and referenced to United States Geological Survey Mean Sea Level Datum NAVD 1988 Datum.
6. The plans shall be provided on $24^{\prime \prime} \times 36$ " drawing sheets at a scale of 1 " $=50^{\prime}$.

The plans shall show and address the following items at minimum:
7. The project requires professional land surveying services to accurately delineate, and show the following items but is not limited to the following: all property and right-of-

COUNTY ADMINISTRATIVE OFFICES WEST COMPLEX
22215 DUPONT BOULEVARD | PO BOX 589
GEORGETOWN, DELAWARE 19947
way lines, established at a minimum, two (2) horizontal and vertical control concrete project benchmarks, survey monuments, easements, existing and proposed topographic contours at 1-foot vertical intervals and spot elevations as necessary to establish grades, the locations of all existing structures, highway and roadway pavements, shoulders, curbs, driveways, sidewalks, lighting structures, traffic control signs, and all public and private utilities, including, but not limited to, electric power and telephone lines, poles and boxes, underground electric, telephone, and communication lines, potable water lines, fire hydrants and valve boxes, gas lines, wells, sanitary sewers including septic systems, rim and invert elevations of manholes and cleanouts, and the rims and invert elevations and type of storm water structures, drainage ditches, ponds, streams and waterways, flood zones and flood zone boundaries and elevations, and State and Federal wetlands, trees, cemeteries and historic features, and the finished floor elevations of buildings.
8. Plans shall show the seal and signature of a registered Delaware land surveyor or registered Delaware professional engineer.
9. The plan requires a Certification Signature and/or a Certification Block for the Delaware Professional Engineer or Delaware Land Surveyor.
10. The plan requires a Certification Signature and/or a Certification Block for the Owner or Representative of the Owner.
11. The plan requires a Certification Signature and/or a Certification Block for the Professional Wetlands Delineator.
12. The name, address, phone number and contact person's name of the Owner of Record, the Developer and the Engineer or Surveyor preparing the plan.
13. Indicate the location of all wetlands (both state and federal), in order to facilitate compliance with County, State and Federal requirements.
14. Define the courses and distances of the property perimeter and the approximate acreage contained therein. Establish and set in the field two (2) CONCRETE MONUMENT project bench marks, preferably at property perimeter corners, georeferenced to the Delaware State Plane Coordinate system NAD 83 and show the location including the North and East coordinates of the marks on the plans.
15. Indicate the development construction phases proposed showing the boundaries of each phase. Phasing boundaries shall include buildings, residential units, amenities, roads, storm water management facilities, wastewater systems and all other improvements and utilities required to service each phase.
16. Show the layout, width and names of all streets, alleys, crosswalks and easements proposed to be dedicated for private or public use. Street names shall not duplicate nor closely resemble existing street names in the same hundred or postal district, except for extensions of existing streets.
17. When on site individual septic tank systems are to be used and the lot topography is to be modified by cuts and fills it is required that the Design Engineer contact the Delaware Department of Natural Resources and Environmental Control, Division of Groundwater Water Discharge Section, 20653 DuPont Boulevard, Unit 5,

Georgetown, DE 19947 phone number 302-856-4561 subject to mass grading operations for documented approval.
18. Provide the limits and elevations of the one-hundred (100) year flood. This may require the design engineer to complete an analysis and provide a report including the depiction of the subject watershed(s), calculations and other technical data necessary to determine the limits and elevations base flood. The design engineer must resolve discrepancies, if any, between surveyed topography and the FEMA Flood Insurance Rate Maps.
19.
20. The right-of-way of all cul-de-sacs shall be no less than 106 feet in diameter.
21. False berms shall not be utilized to create roadside drainage swale back slopes.
22. For parking lots and drives, provide spot elevations at the edge of pavement, right-ofway or travel way centerline, at changes in grade, and high points and low points, to the nearest drainage facilities. Show the limits of the various surface materials and provide construction sections.
23. Provide and show the locations and details of all ADA compliant accessible walks and ramp features.
24. If the site has a cemetery located on it the Developer shall contact the Delaware State Historic Preservation Office, and satisfy the requirements of that Office prior to beginning any construction activity. This area shall not be disturbed by this project. Adequate access to the site and buffers to protect the site, shall be provided.
25. Private rights-of-way adjacent to and abutting parcels not part of the project shall be located and designed to provide adequate buffer so that construction activities do not encroach onto adjacent properties.
26. Provide statements explaining how and when the developer proposes to provide and install the required water supply, sewers or other means of sewage disposal, street pavement, drainage structures and any other required improvements.
27. Provide statements concerning any proposed deed restrictions to be imposed by the owner.
28. Where special physical conditions exist, which may act as constraints on normal development or may preclude development, the developer may be required to submit special technical data, studies or investigations. This information must be prepared by individuals technically qualified to perform such work. Additional information may include but is not limited to the following: on-site sanitary sewage disposal feasibility, water supply surveys, such as test well drilling, storm water runoff computations and identification of areas subject to periodic flooding.
29. If special conditions are found to exist, the Engineering Department may elect to withhold approval of a construction plan until it is determined that it is technically feasible to overcome such conditions. The Engineering Department may then require the developer to incorporate specific improvement design criteria into the plat as a condition to its approval.
30. When special studies or investigations pertain to a regulatory program of another public agency, the developer shall submit the results of these studies or investigations to said public agencies for technical review and approval. Approvals and/or written comments from these agencies shall be supplied to Sussex County by the developer.

## UTILITY PLANNING DIVISION COMMENTS

REVIEWER: ROB DAVIS<br>APPLICATION: Henlopen Meadows<br>APPLICANT: Dawn, Kelly and Marlene Dorman<br>FILE NO: ANG-4.06<br>TAX MAP \&<br>PARCEL(S):<br>\section*{234-12.00 Parcels 3 and 6}<br>LOCATION: Southeast pf Angola Road (Road 277) and Angola Beach Road (Road 278).<br>NO. OF UNITS: 201<br>GROSS<br>ACREAGE: $\quad \mathbf{6 0 . 7 0 ~ + / - ~}$<br>SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE: 4.0<br>\section*{SEWER:}

(1). Is the project in a proposed or current County operated and maintained sanitary sewer and/or water district?

$$
\text { YesX } \quad \text { No }
$$

a. If yes, see question (2).
b. If no, see question (7).
(2). Which planning area or sewer district is it in? Angola Neck Sanitary Sewer District.
(3). Is wastewater capacity available for the project? Yes, capacity is available at this time. If not, what capacity is available? $\qquad$ .
(4). Is a construction agreement required? Yes. If yes, contact Utility Engineering at (302) 855-7717.
(5). Are there any System Connection Charge (SCC) credits for the project? Yes. If yes, how many? 1.0. Is it likely that additional SCCs will be required? Yes. If yes, the current System Connection Charge Rate is $\$ 6,360.00$ per EDU. Please contact Ms. Nicole Bixby at $\mathbf{3 0 2} \mathbf{8 5 4 - 5 0 8 7}$ for additional information on charges.
(6). Location and size of lateral(s) or connection point(s):

Parcel 6 has been provided with an 8 -inch terminal cleanout located on the parcel near its northwesterly corner. Sewer service has not been extended to parcel 3, but a connection point has been provided with an 8-inch terminal cleanout located near the parcel's northeasterly corner. A privately obtained easement is required to reach the parcel.
(7). Is the project capable of being annexed into a County operated Sanitary Sewer District? N/A.
_ Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.
(8). Which sewer district is it adjacent to: N/A.
(9) Other: The proposed project is within the boundaries of the Sussex County Unified Sanitary Sewer District (Angola Neck Area) and connection to the system is mandatory.

Sussex County requires design and construction of the collection and transmission system to meet Sussex County Engineering Department's sewer standards and specifications. The Sussex County Engineer must approve the connection point. An extension of gravity sewer and installation of sewer laterals at the developer's expense will be required. An approved Use of Existing Infrastructure Agreement will be required. Capacity is not guaranteed or reserved until System Connection Fees have been paid for the project.
(10) A Sewer System Evaluation must be requested.

If the above items, as applicable, are incorporated into the development plans, then preliminary approval is recommended. However, final plan approval should be withheld pending the approval of the construction plans by the Sussex County Engineering Department.

## TIDEWATER UTILITIES - READY TO SERVE LETTER

UTILITIES, INC.
A Middlesex Water Company Affiliate

September 7, 2018
Mr. Ken Christenbury, P.E.
Axiom Engineering, LLC
18 Chestnut Street
Georgetown, DE 19947

## RE: Willing \& Able Letter - Henlopen Meadows

Dear Mr. Hease:
Tidewater Utilities, Inc. (TUI) is willing and able to serve public water, including fire protection, to the following parcels identified as Tax Map \& Parcel 234-12.00-3.00 and 234-12.00-6.00 based on the terms and conditions of a water service agreement to be negotiated and agreed upon by TUI and the owners of these parcel(s). These parcels are located within TUI's Certificate of Public Convenience and Necessity (CPCN) franchised area.

Water service will be provided under the conditions and terms stated in the water service agreement between TUI and the parcel owners. TUI will evaluate the most economically feasible method of providing domestic and fire protection water service to this project. Once the method of water service is determined, TUI will conduct a cost analysis that will determine the financial terms of the water service agreement.

Please send a preliminary site plan and construction schedule to TUI. For planning purposes, I also need to know when you expect you will need the first draft of the water service agreement from TUI. Please feel free to contact me at 302-747-1334 if you have any questions or concerns regarding this matter. Tidewater looks forward to meeting the water needs of this project.

Sincerely,

## TIDEWATER UTILITIES, INC.


cc: Kirsten E. Higgins, Tidewater Utilities, Inc.

## STATE OF DELAWARE REGIONAL TOPOGRAPHY MAP



## FEMA - FLOOD INSURANCE RATE MAP



## NRCS SOIL MAP OVERLAID ONTO PROJ ECT SITE, NRCS SOIL MAP \& REPORT



Hydrologic Soil Group-Sussex County, Delaware
(0233-1702 Dorman Farm Subdivision)


## Hydrologic Soil Group

| Map unit symbol | Map unit name | Rating | Acres in AOI | Percent of AOI |
| :---: | :---: | :---: | :---: | :---: |
| DoA | Downer sandy loam, 0 to 2 percent slopes, Northern Tidewater Area | A | 83.9 | 24.0\% |
| FhA | Fort Mott-Henlopen complex, 0 to 2 percent slopes | A | 171.5 | 49.0\% |
| FhB | Fort Mott-Henlopen complex, 2 to 5 percent slopes | A | 22.3 | 6.4\% |
| FmB | Fort Mott loamy sand, 2 to 5 percent slopes | A | 4.0 | 1.1\% |
| HmA | Hammonton loamy sand, 0 to 2 percent slopes | B | 2.2 | 0.6\% |
| HnA | Hammonton sandy loam, 0 to 2 percent slopes | B | 9.6 | 2.7\% |
| HpA | Henlopen loamy sand, 0 to 2 percent slopes | A | 25.3 | 7.2\% |
| HpB | Henlopen loamy sand, 2 to 5 percent slopes | A | 13.6 | 3.9\% |
| HuA | Hurlock loamy sand, 0 to 2 percent slopes | A/D | 11.3 | 3.2\% |
| PyA | Pineyneck loam, 0 to 2 percent slopes | C | 5.7 | 1.6\% |
| W | Water |  | 0.5 | 0.2\% |
| Totals for Area of Interest |  |  | 349.9 | 100.0\% |

## Description

Hydrologic soil groups are based on estimates of runoff potential. Soils are assigned to one of four groups according to the rate of water infiltration when the soils are not protected by vegetation, are thoroughly wet, and receive precipitation from long-duration storms.

The soils in the United States are assigned to four groups (A, B, C, and D) and three dual classes (A/D, B/D, and C/D). The groups are defined as follows:

Group A. Soils having a high infiltration rate (low runoff potential) when thoroughly wet. These consist mainly of deep, well drained to excessively drained sands or gravelly sands. These soils have a high rate of water transmission.

Group B. Soils having a moderate infiltration rate when thoroughly wet. These consist chiefly of moderately deep or deep, moderately well drained or well drained soils that have moderately fine texture to moderately coarse texture. These soils have a moderate rate of water transmission.

Group C. Soils having a slow infiltration rate when thoroughly wet. These consist chiefly of soils having a layer that impedes the downward movement of water or soils of moderately fine texture or fine texture. These soils have a slow rate of water transmission.

Group D. Soils having a very slow infiltration rate (high runoff potential) when thoroughly wet. These consist chiefly of clays that have a high shrink-swell potential, soils that have a high water table, soils that have a claypan or clay layer at or near the surface, and soils that are shallow over nearly impervious material. These soils have a very slow rate of water transmission.

If a soil is assigned to a dual hydrologic group (A/D, B/D, or C/D), the first letter is for drained areas and the second is for undrained areas. Only the soils that in their natural condition are in group D are assigned to dual classes.

## Rating Options

Aggregation Method: Dominant Condition
Component Percent Cutoff: None Specified
Tie-break Rule: Higher

## WETLAND STUDY E-MAIL FROM COASTAL SOIL CONSULTANTS



Ken Christenbury

| From: | Jay Duke [jayduke@comcast.net](mailto:jayduke@comcast.net) |
| :--- | :--- |
| Sent: | Tuesday, February 20, 2018 1:48 PM |
| To: | ken@axeng.com |
| Cc: | Joe Reed; Don Dorsey |
| Subject: | Re: 0233-1702 Dorman Farm |
| Attachments: | $02-20-2018(3)$. pdf |

Ken,
We conducted 8 soil borings on the 2 parcels on Angola Beach Road. No hydric soils were encountered . Please find attached invoice and approximate soil boring locations.

Thanks,

## Jay Duke



25092 Oak Road
Phone \& Text: (302) 629-2989
Seaford, DE 19973 Email: jayduke@comcast.net

Virus-free. www.avg.com

On 2/9/2018 9:58 AM, Ken Christenbury wrote:
Jay,
This is the lowest part of the property, and it appears to all be tilled.
https://www.google.com/maps/@38.6676004,-
$75.1633984,3 \mathrm{a}, 75 \mathrm{y}, 94.43 \mathrm{~h}, 85.12 \mathrm{t} / \mathrm{data}=!3 \mathrm{~m} 6!1 \mathrm{e} 1!3 \mathrm{~m} 4!1 \mathrm{sMZIQGvtUQG9INVPfIbsLSg!2e0!7i1}$ 3312!8i6656?hl=en

Don Dorsey from my office will be sending you 2' topo contours and the NRCS soil map and water table data for the property later today.

Can you direct your invoice directly to Boardwalk Development, C/O Joe Reed.

Thank you,

Ken

Kenneth R. Christenbury, P.E.
President, Axiom Engineering, LLC
18 Chestnut Street
Georgetown, DE 19947
(302) 855-0810

Fax 855-0812
ken@axeng.com
www.axeng.com

18 Chesthut Street
Georgetown, DE 19947 Kenneth R. Phone: 302.855 .0810 Christenbury, P.E.
Fax: 302.855 .0812
E-mail: ken@axeng.com www.axeng.com

## BOUNDARY AND TOPOGRAPHIC SURVEY DEEDS OF RECORD



## 410989



Tax Parcel \# 2-34-18.00-3.00 \& 6.00 Prepared by: David W. Baker, Esq., P.A. P O Box 551, 109 S. Race St. Georgetown, Delaware 19947 Return to: DAWN R. DORMAN

MARLENE D. HARMON
KELLY L. DORMAN
22542 John J. Williams Highway Lewes, Delaware 19958

## NO TITLE OR LIEN SEARCH

 PEREORMED - NONE REOUESTED
## This 艮en, made this 16 m day of

Octople , in the year of our Lord Two Thousand Twelve.

Between $K \& P$ DORMAN FARMS LIMITED PARTNERSHIP, a Delaware Limited Partnership, PATSEY S. DORMAN, TERESA A. ROGERS, MARLENE D. HARMON, DAWN R. DORMAN, KELLY L. DORMAN, and KENNETH RAY DORMAN, II, individually and as General Partners of $K \& P$ DORMAN FARMS LIMITED .PARTNERSHIP, of 22542 John J. Williams Highway, Lewes, Delaware 19958, parties of the first part,
-and-

DANN R. DORMAN, MARLENE D. HARMON, and KELLY L. DORMAN, of 22542 John J. Williams Highway, Lewes, Delaware 19958, parties of the second part, As Tenants In Common And Not As Joint Tenants With Rights Of Survivorship,

Witnesseth, that the said parties of the first part, for and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, lawful money of the United States of America, the receipt whereof is hereby acknowledged, hereby grant and convey the hereinafter described property unto the said parties of the second part, their Heirs and Assigns, As Tenants In Common And Not As Joint Tenants With Rights Of Survivorship;

PARCEL ONE:
ALL that certain tract, piece and parcel of land, situate lying and being in Indian River Hundred, Sussex county, Delaware, more fully described as follows to wit:

BEGINNING, at a concrete monument set in a line of the lands of Martin Codel which is a corner for these lands and other lands

of the grantor; thence South four degrees fifty-one minutes West (S 4 degrees 51 minutes $W$ ) along and with a line of the lands of Martin Codel seventeen hundred forty-one and sixty-seven hundredths feet (1741.67') to a stone, a corner for these lands and lands of Martin Codel; thence North eighty-four degrees forty-five minutes West (N 84 degrees 45 minutes $W$ ) along and with a line of the lands of Martin Codel and Anna May Davidson, six hundred thirteen and ninety-one hundredths feet (613.91') to a stone, a corner for these lands and lands of Anna May Davidson; thence North three degrees fifteen minutes East (N 3 degrees 15 minutes $E$ ) along and with a lire of the lands of Anna May Davidson, ten hundred fifty-six feet (1056.01) to a corner; thence still with the Davidson lands, North nine degrees fiftynine minutes East (N 9 degrees 59 minutes $E$ ) seven hundred sixtyone and fifty-two hundredths feet to a concrete marker, a corner for these lands and other lands of the grantor; thence South seventy-seven degrees thirty minutes East (S 77 degrees 30 minutes E) along with other lands of the grantor, five hundred eighty and eighty-five hundredths feet (580.85') back to the place of beginning, containing twenty-five and three hundred sixty-seven thousandths acres ( 25.367 acres) more or less. All bearings refer to 1961 Magnetic North.

EXCEPTING AND RESERVING THEREFROM all previous out conveyances.

PARCEL TWO:
ALil that certain piece and parcel of land, situate in Angola Neck, Indian River Hundred, Sussex County, Delaware, more fully described as follows to wit:

BEGINNING, at a post standing on the South side of the Neck road twenty five feet from a red oak, the said oak being an original corner of the said tract of land, also being a corner of Joseph Dodd's land, formerly the property of Robert Long, (Deceased), thence with the fence long, the private road South five degrees West one hundred and eighty-one and a half perches to a post twenty-five feet from a Dogwood, the said Dogwood being an original corner of the said tract of land, thence South seventy-nine and three quarters degrees East fifty-eight and a half perches to a post in a Jine of Will.iam S. Robinson's land, (Deceased), thence North a half degree West forty-seven perches to a post, thence North eighty-nine and a half degrees West twenty-four perches to a stone near by a small scrub oak, thence North one and a half degree West sixty- four perches, thence North one and a half degree East eighty-four perches, thence with a right line home to the place of beginning, containing thirtysix and one quarter acres of land, more or less.


EXCEPTING therefrom a parcel or tract of land located at the southerly most point of said lands and north of the boundary line of those lands designated as The Cove Subdivision, said parcel or tract being one hundred feet (100') in width and extending from the easterly right of way line of County Road 278 to other lands of this grantor and grantee as shown in Deed of Record in the Office of the Recorder of Deeds for Sussex County, Delaware, in Deed Book 1387, Page 49 (Tax Map 2-34-18-22) and being immediately North and parallel to the boundary line of those lands designated as The Cove, be the contents what they may.

ALs out conveyances.

This conveyance is subject to all rights of way, restrictions, covenants and easements of record, including those depicted on the aforesaid plot. No title search performed, as none was requested.

BEING Tract one of the same lands conveyed unto $K \& P$ DORMAN FARMS LIMITED PARTNERSHIP, a Delaware Limited Partnership, by Deed of PATSEY S. DORMAN, TERESA A. ROGERS, MARLENE D. HARMON, DAWN R. DORMAN, KELLY L. DORMAN and KENNETH RAY DORMAN, II, dated the $2^{\text {nd }}$ day of March, 2006 and filed of record in the Office of the Recorder of Deeds, in and for Sussex County, State of Delaware in Deed Book 3277, at page 132.

IN WITNESS WHEREOF, The said parties of the first part have hereunto set their hands and seals, the day and year aforesaid.

SIGNED, SEALED, DELIVERED, and Witnessed in the presence of
$K \& P$ DORMAN FARMS LIMITED PARTNERSHIP


BE IT REMEMBERED, that on this /hm day of ocher in the year of our Lord Two Thousand Twelve personally came before me, a Notary Public in and for the state and County aforesaid, PATSEY S. DORMAN, TERESA A. ROGERS, MARLENE D. HARMON, DAWN R. DORMAN, KELLY L. DORMAN, and KENNETH RAY DORMAN, II, individually and as General Partners of $K \& P$ DORMAN FARMS LIMITED PARTNERSHIP, a Delaware Limited Partnership, parties to this Indenture, known to me personally to be such, and acknowledge this Indenture to be their Deed.

GIVEN under my hand and seal of office, the day and year aforesaid.

DAVID W. BAKER ATTORNEY AT LAW NOTARY PUBLIC - STATE OF DELAWARE My Commission Has No Exploration 29 Del. C. § $4323(\mathrm{a})(3)$


Consideration:

County . 010
State . 00
Town Total 00
Received: Her's W Nov 1.4,2012

## RECITED

NOV 142012



Romordar of Deeds Scott Daley Hov 14:2012 02:24F Sussex County Down Surcharge Paid

## 

in the year of our Lord Two Thousand Six.
BETWEEN PATSEY S. DORMAN, TERESA A. ROGERS, MARLENE D. HARMON, DAWN R. DORMAN, KELLY L. DORMAN, and KENNETH RAY DORMAN, II, of 22542 John J. Willliams Highway, Lewes, Delaware 19958, parties of the first part,

- and-
$K$ \& $P$ DORMAN FARMS LIMITED PARTNERSHIP, a Delaware Limited Partnership, of 22542 John J. Williams Highway, Lewes, Delaware 19958, party of the second part,

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of One Dollar (\$1.00) lawful money of the united states of America, the receipt whereof is hereby acknowledged, hereby grant and convey unto the party of the second part, its successors and Assigns,

TRACT ONE:
PARCEL ONE:
2-34-18.00-0003.00
ALL that certain tract, piece and parcel of land, situate lying and being in Indian River Hundred, Sussex county, Delaware, more fully described as follows to wit:

BEGINNING, at a concrete momument set in a line of the lands of Martin Codel which is a corner for these lands and other lands of the grantor; thence South four degrees fifty-one minutes West (S 4 degrees 51 minutes $W$ ) along and with a line of the lands of Martin codel seventeen hundred forty-one and sixty-seven hundredths feet (1741.67') to a stone, a corner for these lands and landa of Martin Codel; thence North eighty-four degrees forty-five minutes West (N 84 degrees 45 minutes $W$ ) along and
Consideration: Se.00 Exempt Code: A

| Cbunty |  | State |
| :---: | :---: | :--- |
| 0.090 | Cotal |  |
| counter | Date: $03 / 03 / 2006$ | 0.00 |

with a line of the lande of Martin Codel and Anna May Davidson, six hundred thirteen and ninety-one hundredths feet (613.91') to a stone, a corner for these 1 ands and lands of Anna May Davidson; thence North three degrees fifteen minutes East (N 3 degrees 15 minutes $E$ ) along and with a lire of the lands of Anna May Davidson, ten hundred fifty-six feet (1056.0') to a comer; thence still with the Davidson lands, North nine degrees fiftynine minutes East (N 9 degrees 59 minutes $E$ ) seven hundred sixtyone and fifty-two hundredths feet to a concrete marker, a corner for these lands and other lands of the grantor; thence South seventy-seven degrees thirty minutes East (s 77 degrees 30 minutes $E$ ) along with other lands of the grantor, five hundred eighty and eighty-five hundredths feet (580.85') back to the place of beginning, containing twenty-five and three hundred sixtymseven thousandths acres (25.367 acres) more or lesa. All bearings refer to 1961 Magnetic North.

PARCEL TWO:
2-34-18.00-0006.00
ALI that certain piece and parcel of land, situate in Angola Neck, Indian River Hundred, Sussex County, Delaware, more fully deacribed as follows to wit:

BEGINNING, at a post standing on the South side of the Neck road twenty five feet from a red oak, the said oak being an original comer of the said tract of land, also being a corner of Joseph Dodd's land, formerly the property of Robert Irong, (Deceased), thence with the fence long, the private road south five degrees west one hundred and eighty-one and a half perches to a poat twenty-five feet from a Dogwood, the said Dogwood being an original corner of the said tract of land, thence south seventy-nine and three quarters degrees East fifty-eight and a half perches to a post in a line of william $s$. Robinson's land, (Deceased), thence North a half degree West forty-seven perches to a post, thence North eighty-nine and a half degrees West twenty-four perches to a stone near by a small scrub oak, thence North one and a half degree West aixty four perchea, thence North one and a half degree East eighty-four perches, thence with a right line home to the place of beginning, containing thirty six and one quarter acres of land, more or less.

EXCEPTING therefrom a parcel or tract of land located at the southerly most point of said lands and north of the boundary line of those lands designated as The Cove Subdivision said parcel or tract being one hundred feet (100') in width and extending from the eastarly right of way line of County Road 278 to other lands of this grantor and grantee as shown in Deed of Record in the Office of the Recorder of Deeds for Sussex County, Delaware, in

Deed Book 1387, Page 49 (Tax Map 2-34-18-22) and being immediately North and parallel to the boundary line of those lands desigmated as The Cove, be the contents what they may.

This conveyance is subject to all rights of way, restrictions, covenants and easements of record, including those depicted on the aforesaid plot. No title search performed, as none was requested.

HXCEPTING AND RESERVING THEREFROM all outconveyances from the aforementioned property made by the party of the first part.

TRACT TNO:
2-34-15.00-0020.10

ALL that certain lot, piece or parcel of land, situate, lying and being in Indian River Hundred, Sussex County, state of Delaware, and being known and designated as LOT NO. NINE (10), LANDS OF PARK RIDGE, L.L.C., as shown on a Plot of LANDS OF PARK RIDGE, L.L.C., dated January 10,2003 , and of record in the office of the Recorder of Deeds, in and for sussex County, Georgetown, Delaware in Plot Book 78, Page 172 and as revised by Plot Book Bo, Page 147 dated June 2, 2003.

THIS LOT IS CONVEYED SUBJECT TO the Restrictive Covenants for the LIANDS OF PARK RIDGE, L.I.C, of record in the office of the Recorder of Deeds, in and for sussex County, Georgetown, Delaware, in Deed Book 2827, Page 302. Such Restrjctive Covenants shall run with and bind the land herein comveyed and all subsequent owners thereof.

SUBJECT to any and all other restrictions, reservations, conditions, easements and agreements of record in the office of the Recorder of Deeds in and for sussex county, Delaware as pertaining to Park Ridge, L.L.C.

This property is located in the vicinity of land used primarily fos agricultural purposes on which normal agricultural useg and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future involve noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities.

EXCEPTING AND RESERVING THEREFROM all outconveyances from the aforementioned property made by the party of the first part.

BEING the same lands conveyed unto PATSEY S. DORMAN, TERESA A. ROGERS, MARLENE D. HARMON, DAWN R. DORMAN, KELLY L. DORMAN, and KENNETH RAY DORMAN, II, by deed OF PATSEY S. DORMAN, ADMINISTRATRIX FOR THE ESTATE OF KENNETH RAY DORMAN, dated the /1th day of CRerleff, A.D. 2005, and filed of record in the Office of the Recorder of Deeds, in and for sussex County, state of Delaware, in Deed Book 3277, at Page127.

## TRACT THREE

2-34-15.00-0033.01
ALI that certain piece and parcel of land located, lying and being in Indian River Hundred, Sussex County, Delaware and ghown in and designated as Parcel Number 2 on a certain boundary survey and minor subdivision plan for lands of Carlton o. Dorman and Kenneth Ray Dorman by Ramesh C. Batta Associates, P.A. Land Surveyors dated April 30, 2004 and revised September 7, 2004 and September 21, 2004 gaid survey being of record in the office of the Recorder of Deeds in and Eor Sussex County, Delaware in Plot 88. Page 72 and more particularly described as follows, to wit:

BEGINNING at a concrete monument found on the southerly right-of-way line of state Route $302-\mathrm{A}$ ( 50 foot row) at the intersection between these lands and those now or formerly of Avalon Park (Plot Book 8, page 751); thence from said point and place of beginning, turning and running along the dividing line between thesse lands and those now or formerly of Avalon Park the following five (5) courses and distances: Soutr 34 degrees 38 minutes 40 seconds Weat 581.29 feet to a concrete monument; thence North 64 degrees 46 minutes 20 seconds West 205.50 feet to a concrete monument; thence south 20 degrees 23 minutes 40 seconds West 914.00 feet to a concrete monument; thence South 63 degrees 23 minutes 30 seconds East 752.67 feet to a concrete moriument; thence North 84 degrees 02 minutes 32 seconds East 1079.62 feet to a concrete monument found at the intersertion of these lands, those now or formerly of Avalon Park and those now or formerly of Vincent George Tecce; thence along lands now or formerly of Tecce South 46 degrees 20 minutes 18 geconds East 992.06 feet to a concrete monument found on the right-of-way line of slate Route 48 ( 60 foot row): thence along said right-of-way line South 53 degrees 53 minutes 11 seconds West 613.84 feet to a point; thence continuing along a curve having a radius of 1115.92 feet a delta of 23 degrees 21 minutes 00 seconds, an arc distance of 454.78 feet; thence continuing along said right-of-way line South 77 degrees 14 minutes 11 seconds West 746.82 feet to set iron pipe; thence leaving said right-of-way line and turning and running along a new dividing line between this parcel and parcel 1 North 38 degrees 57 minutes 48 seconds West, 1345.64 feet to a
set iron pipe; thence North 26 degrees 05 minutes 26 seconds West, 519.88 feet to a set iron pipe; thence North 03 degrees 22 minutes 10 seconds West 1278.60 feet to a set iron pipe; thence North 40 degrees 15 minutes 35 seconds East 532.28 feet to a iron pipe set on the right-of-way line of state Route $302-\mathrm{A}$ (a/k/a Avalon Road) thence along said right-of-way line South 67 degrees 41 minutes 46 seconds East, 794.61 feet to said iron pipe; thence along a curve having a radius of 500 feet a delta of South 71 degrees 49 minutes 41 seconds East, an arc distance of 70.63 feet home to the point and place of beginning said to contain 77.3967 acres plus or minus.

SUBJEC'I, however, to the reservations, restrictions, conditions and covenants of record and subject to such state of facts as an accurate survey and/or inspection of the lands and premises will disclose, the operation and effect of any zoning laws, and building restrictions imposed by public authority; and easements and public utility grants of record;

By this conveyance there is a reservation of a five foot (5.0) wide strip reserved for future Del-Dot road improvements. This is a reservation and not a designation and more particularly described on the aEoresaid plot.

EXCEPTING AND RESERVING THEREFROM all outconveyances from the aforementioned property made by the party of the firgt part.

BEING the same lands conveyed unto PATSEY S. DORMAN, THERESA A. ROGERS, DAWN R. DORMAN, MARLENE D. HARMON, KELLY DORMAN and KENNETH $R$. DORMAN, by deed of CARLTON $O$. DORMAN and PATSEY $S$. DORMAN, ADMINISTRATRIX OF THE ESTATE OF KENNETH RAY DORMAN, THERESA A. ROGERS, DAWN R. DORMAN, MARLENE D. HARMON, KELLY DORMAN and KENNETH R. DORMAN, dated July 5, 2005, and filed of record in the Office of the Recorder of Deeds, in and for Sussex County, state of Delaware, in Deed Book 3204, at Page 178.

IN WITNESS WHEREOF，The said parties of the first part have hereunto set their hands and seals，the day and year aforesaid．


STATE OF DELAWARE SUSSEX COUNTY：

BE IT REMEMBERED，that or this 2 Mes day of Maュール，in the year of our Lord Two Thousand six personally came before me，a Notary Public in and for the state and County aforesaid，PATSEY S． DORMAN，party to this Indenture，known to me personally to be such，and acknowledge this Indenture to be her Deed．

GIVEN under $m y$ hand and seal of office，the day and year aforesaid


DAVID W．BAKER ATTORNEY AT LAW NOTARY PUBLIC－STATE OF DELAWARE My Commission Has No Expiration 29 Del．C．§ $4323(\mathrm{a})(3)$

## ※03277 : 138


 the year of our Lord Two Thousand six personally came before me, a Notary Public in and for the state and County aforesaid, MARIENE D. HARMON, party to this Indenture, known to me personally to be such, and acknowledge this Indenture to be her Deed.

GIVEN under my hand and seal of Office, the day and year aforesaid.
STATE OF DELAWARE $:$ : ss.


BE IT REMEMBERED, that on this $\mathcal{Z}$, $\qquad$ , in the year of our Lord Two Thousand six personaliy came before me, a Notary Public in and for the state and County aforesaid, DAWN $R$. DORMAN, party to this Indenture, known to me personally to be such, and acknowledge this Indenture to be her Deed

GIVEN under my hand and seal of office, the day and year aforesaid.


STATE OF DEIAAWARE :
SUSSEX COUNTY

日里.

BE IT REMEMBERED, that on this 2no day of the year of our Lord rwo Thousand six personally Notary Publit in and for the state and County aforesaid, KELLY L. DORMAN, party to this Indenture, known to me personally to be guch, and acknowledge this Indenture to be her Deed.

GIVEN under my hand and seal of Office, the day and year aforeaaid.


BE IT REMEMBERED, that on this 2~0 day of , in the year of our Lord Two Thousand six personally came before me, a Notary Public in and for the state and County aforesaid, KENNETH RAY DORMAN, II, party to this Indenture, known to me personally to be such, and acknowledge this Indenture to be his Deed.

GIVEN under my hand and seal of office, the day and year aforesaid.


DAVID W. BAKER
ATTORNEY AT LAW
NOTARY PUPLLC - STATE OF DELAWARE My Commigsion Itas No Expiration 20 Del. C. $\$ 4323(\mathrm{a})(3)$


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## Received

MAR 062006<br>ABSESEMENT DIVISION OF SUSSEX CTY

Tax Parcel\# 2-34-18.00-0003.00 2-34-18.00-0006.00 2-34-15.00-0020.10<br>Prepared by: David. W. Baker, Esq.. P.A.<br><br>Geor. 551, los S. Race St.<br>Georgetown, Delaware 19947 Return to: PATSEY S. DORMAN<br>22542 John J. Williams Highway Lewes, Delaware 1995 g

## (Thtur Bren, made thita

in the year of our Lord Two Thousand Five.
BEIWEEN PATSEY S. DORMAN, ADMINISTFATRIX EOR THE ESTATE OF KEHNETH RAY DORMAN, OE 22542 John J. Williams Highway, Lewes, Delaware 1995日, party of the first part,
-and-
PATSEY S. DORMAN, TERESA A. ROGERS, MARLENE D. HARMON, DAWN R. DORMAN, KELLY L. DORMAN, and KENNETH RAY DORMAN, II, Of 22542 John J. Williams Highway, Lewes, Delaware 19958, parties of the second part.

WITNESSETH, That the said party of the first part, for and in comsideration of the sum of One Dollar (\$1.00) lawful money of the United states of America, the receipt whereof is hereby acknowledged, hereby grant and convey unto the parties of the second part, their Heirs arnd Assigns,

TRACT ONE:
PARCEL ONE:
2-34-18.00-0003.00
ALI that certain tract, piece and parcel of land, situate lying and being in Indian River Hundred, Sussex county, Delaware, more fully described as follows to wit:

BEGINNING, at a concrete monument set in a line of the lands of Martin Codel which is a corner for these lands and other Iands of the grantor; thence south four degrees fiftyoone minutes West (S 4 degrees 51 minutes $W$ ) along and with a line of the lands of Martin Codel seventeen hundred forty-one and sixty-seven hundredths feet (1741.67') to a stone, a corner for these lands
Conaideration: $\quad 90.00$ Exempt Code: A

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and lands of Martin Codel; thence North eighty-four degrees forty-five minutes West (N 84 degrees 45 minutes $W$ ) along and with a line of the lands of Martin Codel and Anna May Davidson, six hundred thirteen and ninety-one hundredthe feet (613.91') to a stone, a corner for these lands and lands of Anna May Davidson; thence North three degrees fifteen minutes East (N 3 degrees 15 minutes E) along and with a lire of the lands of Anna May Davidson, ten hundred fifty-six feet (1056.0') to a corner; thence atill with the Davidson landa, North nine degrees fiftynine minutes East ( $N 9$ degrees 59 minutes $E$ ) seven hundred aixtyone and fifty-two hundredths feet to a concrete marker, a corner for these lands and other lands of the grantor; thence South seventy-severn degrees thirty minutes East (S 77 degrees 30 minutes $E$ ) along with other lands of the grantor, five hundred eighty and eighty-five hundredths feet (580.85\%) back to the place of beginning, containing twenty-five and three hundred sixty-seven thousandths acres (25.367 acres) more or less. All bearings refer to 1961 Magnetic North.

PARCEL TWO:
2-34-18.00-0006.00
ALL that certain piece and parcel of land, situate in Angola Neck, Indian River Hundred, Sussex County, Delaware, more fully described as follows to wit:

BEGINNING, at a post standing on the South side of the Neck road twenty five feet from a red oak, the said oak being an original corner of the said tract of land, also being a corner of Joseph Dodd's land, formerly the property of Robert Long, (Deceased), thence with the fence long, the private road South five degrees west one hundred and eighty-one and a half perches to a post twenty-five feet from a Dogwood, the said Dogwood being an original corner of the gaid tract of land, thence South seventy-nine and three quarters degrees East fifty-eight and a half perches to a post in a line of William s. Robinson's land, (Deceased), thence North a half degree West forty-seven perches to a post, thence North eighty-nine and a half degrees West twenty four perches to a stone near by a small scrub oak, thence North one and a half degree weat sixty- four perches, thence North one and a half degree East eighty-four perches, thence with a right line home to the place of beginning, containing thirtysix and one quarter acres of land, more or less.

EXCEPTING therefrom a parcel or tract of land located at the southerly most point of said lands and morth of the boundary line of those lands designated as The Cove Subdivision, said parcel or tract being one hundred feet (100') in width and extending from the easterly right of way line of County Road 278 to other lands
of this grantor and grantee as ahown in Deed of Record in the Office of the Recorder of Deeds for Sussex County, Delaware, in Deed Book 1387, Page 49 (Tax Map 2-34-18-22) and being immediately North and parallel to the boundary line of those lands designated as The Cove, be the contents what they may.

This conveyance is subject to all rights of way, reatrictions, covenants and easements of record, including those depicted on the aforeaaid plot. No title search performed, as none was requested.

EXCEPTING AND RESERVING THEREFROM all outconveyances from the aforementioned property made by the party of the first part.

BeING the same lands conveyed unto KENNETH RAY DORMAN, by deed of CARIITON O. DORMAN and KENNETH RAY DORMAN, dated February 13, 2003, and filed of record in the office of the Recorder of Deeds, in and for Sussex County, state of Delaware, in Deed Book 2945, at Page 40. The aaid KENNETH RAY DORMAN died intestate on or about the $2^{\text {nd }}$ day of December, A.D. 2004 and the aforementioned property is being devised to his wife and children pursuant to the intestate laws of the state of Delaware.

TRACrH THO:
2-34-15.00-0020.10
ALL that certain lot, piece or parcel of land, situate, lying and being in Indian River Hundred, Sussex County, state of Delaware, and being known and designated as LOT NO. NINE (10), LANDS OF PARK RIDGE, L.L.C., as showm on a Plot of LANDS OF PARK RIDGE, L.L.C., dated January 10,2003 , and of record in the Office of the Recorder of Deeds, in and for sussex County, Georgetown, Delaware in Plot Book 78, Page 172 and as revised by Plot Book 80, Page 147 dated Jume 2, 2003.

THIS LOT IS CONVEYED SUBUECT TO the Restrictive Covenants for the LANDS OF PARK RIDGE, L.L.C, of record in the office of the Recorder of Deeds, in and for sussex County, Georgetown, Delaware, in Deed Book 2827, Page 302. Such Restrictive Covenants shall run with and bind the land herein conveyed and all subsequent owners thereof.
sUBJECT to any and all other restrictions, reservations, conditions, easements and agreements of record in the office of the Recorder of Deeds in and for Sussex County, Delaware as pertaining to Park Ridge, L.L.C.

This property is located in the vicinity of land used primarily for agricultural purposea on which normal agricultural
uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future involve noise, dugt, manure and other odors, the use of agricultural chemicals and nighttime farm operations. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uges and activities.

EXCEPTING AND RESERVING THEREFROM all outconveyances from the aforementioned property made by the party of the first part.

BEING the same lands conveyed unto KENNETH RAY DORMAN by deed of PARK RIDGE, L.L.C., a Delaware Limited Liability Company, dated April 5, 2004, and filed of record in the office of the Recorder of Deeds, in and for Sussex County, state of Delaware, in Deed Book 2970, at Page 6. The baid KENNETH RAY DORMAN died intestate on or about the $2^{\text {nd }}$ day of December, A.D. 2004 and the aforementioned property is being devised to his wife and children pursuant to the intestate laws of the state of Dejaware.

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IN WITNESS WHEREOF, The said party of the first part has hereunto set her hand and seal, the day and year aforesaid.

SIGNED, SEALED, DELIVERED, and Witnessed in the presence


STATE OF DELAWARE
SUSSEX COUNTY
BE IT REMEMBERED, that on this //m day of harem, in the year of our Lord Two Thousand Five personally came before me, a Notary Public in and for the state and County aforesaid, PATSEY S. DORMAN, ADMINISTRATRIX FOR THE ESTATE OF KENNETH RAY DORMAN, party to this Indenture, known to me personally to be such, and acknowledge this Indenture to be her Deed.

GIVEN under my hand and seal of office, the day and year aforesaid.


RECORDER OF DEEDS
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doc. SURCharge paid

Received<br>MAR 062006<br>ASSESSMENT DIVISION OF SUSSEXCTY

THIS DEED, made this $13^{\text {th }}$ day of Felruecey, in the year of our Lord 2003.

BETWEEN: CARLTON O. DORMAN and KENNETH RAY DORMAN of RD 1, Box 137A, Lewes Delaware 19958, parties of the first part,

- AND -

KENNETH RAY DORMAN of RD 1, Box 138, Lewes Delaware 19958, party of the second part.

WITNESSETH, that the said parties of the first part, for and in consideration of the sum of ONE DOLLAR (\$1.00) and other good and valuable consideration, Current Lawful money of the United States of America, the receipt whereof is hereby acknowledged, hereby grant and convey unto the said parties of the second part, their heirs and assigns:

Parcel I ALL that certain tract, piece and parcel of land, situate lying and being in Indian River Hundred, Sussex county, Delaware, more fully described as follows to wit:

BEGINNING, at a concrete monument set in a line of the lands of Martin Codel which is a comer for these lands and other lands of the grantor; thence South four degrees fifty-one minutes West ( S .4 degrees 51 minutes W.) along and with a line of the lands of Martin Codel seventeen hundred forty-one and sixty-seven hundredths feet (1741.67) to a stone, a corner for these lands and lands of Martin Codel; thence North eighty-four degrees forty-five minutes West (N. 84 degrees 45 minutes W.) along and with a line of the lands of Martin Codel and Anna May Davidson, six hundred thirteen and ninety-one hundredths feet (613.91') to a stone, a comer for these lands and lands of Anna May Davidson; thence North three degrees fifteen minutes East (N. 3 degrees 15 minutes E.) along and with a lire of the lands of Anna May Davidson, ten hundred fifty-six feet (1056.0') to a corner; thence still with the Davidson lands, North nine degrees fifty-nine minutes East (N. 9 degrees 59 minutes E.) seven hundred sixty-one and fiftytwo hundredths feet to a concrete marker, a corner for these lands and other lands of the grantor; thence South seventy-seven degrees thirty minutes East (S. 77 degrees 30 minutes E.) along with

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other lands of the grantor, five hundred eighty and eighty-five hundredths feet ( $580.85^{\prime}$ ) back to the place of beginning, containing twenty-five and three hundred sixty-seven thousandths acres ( 25.367 acres) more or less. All bearings refer to 1961 Magnetic North.

Parcel II ALL that certain piece and parcel of land, situate in Angola Neck, Indian River Hundred, Sussex County, Delaware, more fully described as follows to wit:

BEGINNING, at a post standing on the South side of the Neck road twenty five feet from a red oak, the said oak being an original corner of the said tract of land, also being a corner of Joseph Dodd's land, fornnerly the property of Robert Long, (Deceased), thence with the fence long, the private road South five degrees West one hundred and eighty-one and a half perches to a post twenty-five feet from a Dogwood, the said Dogwood being an original comer of the said tract of land, thence South seventy-nine and three quarters degrees East fifty-eight and a half perches to a post in a line of William S. Robinson's land, (Deceased), thence North a half degree West forty-seven perches to a post, thence North eighty-nine and a half degrees West twentyfour perches to a stone near by a small scrub oak, thence North one and a half degree West sixtyfour perches, thence North one and a half degree East eighty-four perches, thence with a right line home to the place of beginning, containing thirty-six and one quarter acres of land, more or less.

EXCEPTING there from a parcel or tract of land located at the southerly most point of said lands and north of the boundary line of those lands designated as The Cove Subdivision, said parcel or tract being one hundred feet ( $100^{\prime}$ ) in width and extending from the easterly right of way line of County Road 278 to other lands of this grantor and grantee as shown in Deed of Record in the Office of the Recorder of Deeds for Sussex County, Delaware, in Deed Book 1387, Page 49 (Tax Map 2-34-18-22) and being immediately North and parallel to the boundary line of those lands designated as The Cove, be the contents what they may.

BEING, part of the same lands conveyed unto Carlton O. Dorman and Kenneth Ray Dorman by Deed of Almeta M. dorman dated October 8, 1984 and of record in the Office, aforesaid, in Deed Book 1296, Page 151.

This conveyance is subject to all rights of way, restrictions, covenants and easements of record, ineluding those depicted on the aforesaid plot. No title search performed, as none was requested.

## ๙02945 20042

IN WIT'NESS WHEREOF, the said party of the first part has hereunto set his hand and -


STATE OF DELAWARE
)
) ss.
COUNTY OF Suss sex
)

BE IT REMEMBERED, that on this 24 day of August, 2002, personally came before me, the Subscriber, a Notary Public for the State and Countylaforesaid, Carlton O. Dorman, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his Deed.

GIVEN under try hand and seal of Office, the day and year aforesaid.

DANIEL P. MYERS, I NOTARIAL OFFICER PURSUANT TO 29 DEL. CODE SECT. 4323 (3) ATTORNEY AT LAW -DELAWARE ID * 2885
Print Nate: $\qquad$

Comission Expires: $\qquad$

## ※02945:043

IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand and seal the day of the year aforesaid.


## STATE OF DELAWARE

COUNTY OF SUSSEX

BE IT REMEMBERED, that on this $\sqrt{3^{2}}$ day of febouccy, 2003, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, Kenneth Ray Dorman, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his Deed.

GIVEN under my hand and seal of Office, the day and year aforesaid.


Print Name: Saneixe J. Heacosin
Commission Expires: oflichy


## Received

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OF SUSSEXCTY
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 $8^{\text {th }}$ nayn OotrtesBFTHFEN: ALMETA M. DORKAN of Sussex County, Delaware, party of the first part,

- AND -
CARTATON O. DORHAN and KENNETH RAY DORMAN,
of R.D. 2 Box 140, Lewes, Delaware, parties of the fecond part as Tenants in Common and not as Joint Tenants,

Ifthe firit part, for and in matiderotios of the sum of ONE DOLLAR ( $\$ 1.00$ )

party if the mumed mat.
Parcel 11:
ATITI that certain tract, piece and parcel of land, situate, lying and being in lewes and Rehoboth Hundred, Sussex County, Delaware, more fully described as follows, to wit:
BEGINNING at a point in a line of the lands of the heirs of Alphonso Hazzard presently a corner for the lands of the grantors (Charles Mills and Mary Esther Mills) and lands of the grantees in this deed (Carlton Dorman and Almeta M. Dorman) thence with a common line for the lands of the grantors and grantees, South 69 degrees 03 minutes East 139.3 .93 feet to a concrete marker, a new corner for the lands of the grantors and grantees; thence with a new line through lands of the gaid Charles Mills, North 66 degrees 53 minutes West 1360.68 feet to a concrete marker which is a new corner for lands of the grantors and grantees and also is a corner for lands of the heire of Alphonso Hazzard; thence with a line which presently divides lands of the grantors and lands of the heirs of Alphonso Hazzard, South 57 degrees 11 minutes West 66.00 feet back to the place of beginning, containing 0.85 acres, more or less, all bearings refer to 1960 magnetic North.
BEING the same land conveyed to Carlton Dorman and Almeta $M$. Dorman, his wife, by deed of Charles Mills and Mary Esther Mills, hia wife, dated December 30, 1960, and filed for record in the office of the Recorder of Deeds, Geargetown, Delaware, in Deed Book 534, page 115.
ALL that certain tract, piece and parcel of land, gituate, lying and being in Indian River Hundred, Sussex County, Delavare, more fully described as follows:


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BEGINMING at oonerete marker in the northwestern right of way line for gtate Highway Route 24, a new cormer these lands and lands concurrently to be deeded to William C. Dorman, Jr, and Alice L. Dorman; thence with three linet dividing theee lands and those of William C. Dorman, Jr. etux, north 58 degrees 56 minutes West 632.75 feet to a conorete marker, North 31 degrees 04 minutes East 430.00 feet to a concrete marker and North 57 degrees 31 minutes West 2504.15 feet to a concrete marker in a line of the lands of the heirs of Alphonoso Hazzard; thence along and with a inne of the Hazzard lands, north 57 degrees il minutes East 1043.40 feet to a point which is a corner for these lands and lands of Charlea Mills; thence along and with a line of the lands of Charles Mills, south 69 degrees 03 minutes East 1427.06 feet to an Iron bolt driven in the blacktop roadbed of county Road No. 277 which is a corner for these lands and those of Charles Mills and is in a line of the lands of Charles Marsh; thence along and with three ifnes of the lands of Charles Marsh, south 23 degrees 03 minutes East 1097.15 feet to an old growth white oak tree, south 33 degrees 36 minutes East280.5 feet to a concrete marker, and south 20 degrees 06 minutes East 100.70 feet to a concrete marker in the northwestern right of way line of state Highway Route 24 ; thence along and with said right of way inne across the right of way for county road 277, south 31 degrees 04 minutes West B53.57 feet back to the place of beginning, containing 68.76 acres, more or less excluding the right of way for County Road No, 277, as surveyed by Perry T. Burton on June ilth, 1960, all hearings refer to 1960 Magnetic North.

BEING the same lands conveyed to CARLTON DORMAN and ALMETA M. DORMAN by deed of MARGARET DUNNING, dated the 29 th day of July, 1960 and of record in the office of the Recorder of Deeds, Georgetown, Delaware in Deed Book 523, page 305.

The sadd Carlton Dorman departed this life leaving Almeta $\mathrm{K}_{\text {. }}$ Dorman the sole owner of these premises.

PARCEL 12
ALL that certain tract, piace
and parcel of land, gituate, lying and being in Indian River Hundred, Sussex County, Delaware, more fully degcribed as follows, to wits

BEGINNING at a stone which is a corner for those lsids and other lands of the grantees, in line of other lands of the grantors, thence along and with other lands of the grantees, north eighty-eight degreas forty-five minutes west (N. 88 degreas 45 minutes $\left.W_{*}\right)$ two hundred eighteen and forty-aix hundredths feet (218.46') to a atone which is corner for these lands and lands of Anna May Davidson in line of other lands of the grantees; thence along and with four lines of the lands of Anna May Davidson: south six degrees elght minutes west (S. 6 degrees 8 minutes $W_{\text {. }}$ ) three hundred and ninety-aix hundredths feet ( $300.96^{\prime}$ ) to a point, gouth eighty-two degrees fifty-nine minutes east ( 5.82 degrees 59 minutes $E$. ) one hundred forty-ond and twenty-four hundredthe feet (141.24') to a point, south aix degrees eight minutes west ( 5.6 degrees og minutes H .) one hundred sixty-six and sixty-five hundredths feet (166.65') to a point and south eighty-three degrees twenty nine minutes east (S. 83 degrees 29 minutes $E$ ) eighty-five and seventy-geven hundredths feet ( $85.77^{\prime \prime}$ ) to a stone; thence by a new inne between these lands and other lands of the grantors, north four degrees fiftymone minutes east ( $N .4$ degrees 51 minutes $E$ ) four hundred geventy-idx

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and sixty-four hundredths feet (476.64') back to the place of beginning, containing one and eight hundred seventy-two thousandths acres ( 1.872 acres) be the same more or less, all bearings refer to 1961 Magnetic North.
BEING the same lands conveyed to CARLTON DORMAN and AIMETA M. DORMAN, his wife by deed of Martin Codel and Ella A. Codel, his wife, dated the 7th day of September, 1962 and of record in the office of the Recorder of Deeds, Georgetown, Delaware in Deed Book 552 page 372. The said Carlton Dorman departed this life leaving the said Almeta M. Dorman as sole owner of the these premises.
ALL that certain tract, piece and parcel of land, situate lying and being in Indian River Hundred, Sussex County, Delaware, more fully described as follows to wit:
BEGINNING, at a concrete monument set in a line of the lands of Martin Codel which is a corner for these lands and other lands of the grantor; thence south four degrees fifty-one minutes west (S. 4 degrees 51 minutes $W$.) along and with a line of the lands of Martin Codel seventeen hundred forty-one and-sixtyseven hundredths feet (1741.67') to a stone, a corner for these lands and lands of Martin Codel; thence north eighty-four degrees forty-five minutes west (N. 84 degrees 45 minutes $W$.) along and with a line of the lands of Martin Codel and Anna May Davidson, six hundred thirteen and ninety-one hundredths feet (613.91') to a stone, a corner for these lands and lands of Anna May Davidson; thence north three degrees fifteen minutes east ( $N .3$ degrees 15 minutes E.) along and with a lire of the lands of Anna May Davidson, ten hundred fifty-six feet (1056.00') to a corner; thence still with the Davidson lands, north nine degrees fiftynine minutes East ( N . 9 degrees 59 minutes $E$. ) seven hundred sixty-one and fifty-two hundredths feet to a concrete marker, a corner for these lands and other lands of the grantor; thence south seventy-seven degrees thirty minutes east ( S . 77 degrees 30 minutes E) along and with other lands of the grantor, five hundred eighty and eighty-five hundredths feet (580.85') back to the place of beginning, containing twenty-five and three hundred sixty-seven thousandths acres ( 25.367 acres) more or less, All bearings refer to 1961 Magnetic North.
BEING the lands conveyed to CARLTON DORMAN and ALMETA M. DORMAN by deed of John Collins and Hannah M. Collins, dated the 28th day of April, 1961 and of record in the office of the Recorder of Deeds, Georetown, Delaware in Deed Book 534 at page 117. The said Carlton Dorman departed this life leaving the said Almeta $M$. Dorman as sole owner of these premises.
Parcel 13 ALL that certain piece and parcel
of land, situate in Angola Neck, Indion River Hundred, Sussex County, Delaware, more fully described as follows to wit:
BEGINNING at a post standing on the South side of the Neck road twenty five feet from a red oak the said oak being an original corner of the said tract of land, also being a corner of Joseph Dodd's land, formerly the property of Robert Long, (Deceased), thence with the fench long, the private road South five degrees West one hundred and eighty-one and a half perches to a post twenty-five feet from a dogwood the said dogwood being an original corner of the said tract of land thence south seventy-nine and three quarters degrees East fifty-eight and a half perches to a post in a line of William S. Robinson's land (deceased) thence North a half degree West forty-seven perches to a post thence North eighty nine and half degrees West twenty four perches to a stone near by a small scrub oak, thence North one and a half degree west eixty-four perches, thence north one and a half degree East

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elghty-four perches, thonoe with a right line home to the place of beginning, containing thirty-nix and onc quartar acrea of land, more or less.
aEING the same land conveyed to JOHN O. DAVIDSON, by deed of Annie M. Robinson dated April 9, 1920, and of record in the office of the Recorder of Deeds, Georgetown, Delaware in Deed nook 218 at page 535. The said John 0 . Davidson departed this iife on october 13, 1944, leaving the said preperty to his wife, listed in his Last Will and Testament as Almeta May Davidson, and should have read his wife, Anna May Davidson, for her lifetime, and at her death, to their surviving children, of which there was one, the grantor herein.
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ATMETA R. DORHAN
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## DRAFT HOA COVENANTS AND RESTRICTIONS

## Prepared by and return to:

Boardwalk Development, LLC
317 Rehoboth Avenue
Rehoboth Beach, DE 19971

## DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR

FIELDSTONE AT LEWES

This Declaration of Covenants, Conditions, Easements and Restrictions is made this $\qquad$ day of $\qquad$ , 2019, by Boardwalk Development, LLC, a Delaware corporation (hereinafter referred to as "Developer").

## RECITALS

WHEREAS, the Developer is the fee simple owner of certain real property located in Sussex County, State of Delaware, said property being more particularly described in Exhibit "A" attached hereto as a part hereof, also being lots 1 to 201 shown on that certain plat of the $\qquad$ recorded in the Office of the Recorder of Deeds of Sussex County in Georgetown, Delaware, in Plot Book $\qquad$ Pages $\qquad$ ; and said real property being hereinafter referred to as the "Property"; and

WHEREAS, the Developer proposes to create on the Property a planned community by subdividing the area into lots for single family detached houses together with certain interests set forth below in easements, leases and licenses; and

WHEREAS, the Developer imposes these covenants and restrictions in order efficiently to preserve the values and amenities in said community; and establishes the authority of a corporation to which will be delegated and assigned the powers of maintaining and administering any community facilities, common lands and recreation amenities and administering and enforcing the covenants and restrictions and levying, collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, the Developer will incorporate under the laws of the State of Delaware, as a non-profit corporation, Fieldstone at Lewes Homeowners Association, Inc., or a similarly named corporation, for the purpose of exercising the functions aforesaid; and

WHEREAS, the Developer plans to set aside certain interests in the Property and, except as may otherwise herein be provided, impose upon certain portions of the Property the conditions that they be held as common areas, (i.e. entrance areas, common areas, roadways, etc.) in which owners of home lots will have rights and easements of use and enjoyment therein in common with others, the ultimate title of which shall be placed in the Fieldstone at Lewes Homeowners Association, Inc. or its assigns, and

WHEREAS, the Developer desires to provide a flexible and reasonable procedure for the overall development of the Property and to establish a method for the administration, maintenance, preservation, use and enjoyment of such Property, which is now submitted to this Declaration.

NOW THEREFORE, the Developer hereby declares that all of the Property, subjected to this Declaration hereafter, shall be held, mortgaged, transferred, sold, conveyed, leased, occupied and used subordinate and subject to all easements, rights of way and restrictions previously placed upon the Property as recorded in the Office of the Recorder of Deeds, in and for Sussex County, Delaware, by the Developer or its predecessors in title and to the following easements, restrictions, covenants, conditions, liens and charges set forth herein, which are for the purpose of protecting the value and desirability of and which shall run with the real property submitted to this Declaration and which shall be binding upon all parties having any right, title, lien or other interest in the described property or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof.

## ARTICLE I

## DEFINITIONS

Words and terms shall have the meaning set forth below for all purposes of this Declaration unless the context shall require otherwise, and such definitions shall apply to the singular and plural forms of any such word or term.

ASSESSMENT - Shall mean an Owner's share of the Common Expenses and funding reserves.

ASSOCIATION - Shall mean Fieldstone at Lewes Homeowners Association, Inc., a Delaware membership, non-profit, non-stock corporation, its successors and assigns.

BOARD OF DIRECTORS - Shall mean the governing body of the Association, also referred to as "Board."

BY-LAWS - Shall mean the By-Laws of the Association as amended from time to time.

COMMON AREA - Shall mean all real and personal property in the Development now or hereafter owned or leased by the Association or otherwise held for the common use and enjoyment of the Owners. The Developer shall have the right from time to time to designate as Common Area any portion of the Development and to withdraw property from such designation. Common Area is not intended for, or dedicated to, use by the general public, and the general public shall have no right to use or enjoyment thereof, provided, however, that nothing herein contained, nor any recorded plat, shall be deemed to prohibit the Developer, in its sole and absolute discretion, from conveying same to a federal, state or municipal government or to any body or agency thereof. Specifically included in the Common Area are Utility Systems not dedicated to a governmental agency or to another entity, maintenance areas, roads not dedicated to a governmental agency, swales, parking lots and spaces, green areas, fencing, sidewalks, signage, site lighting, street lighting, ponds, easement areas designated as Common Area, access easements across other real property, parks and Recreational Facility (as hereinafter defined), such other lands and/or improvements as the Developer may, in its absolute and sole discretion, make subject to this Declaration and designate as Common Area by subsequent amendment or supplement. Nothing herein contained, nor any recorded plat shall be deemed to create a Common Area, nor shall the Association or any Owner be entitled to any right, title or interest in any of the Developer's property unless and until Developer shall formally include such property in the Common Area by a supplemental or amended Declaration.

COMMON EXPENSES - Shall mean and include the actual and estimated expenses incurred by or on behalf of the Association in accordance with the provisions and intent of this Declaration and shall include amounts necessary to establish and maintain any reserve fund(s) determined to be necessary and appropriate by the Board of Directors.

DECLARATION - Shall mean this Declaration and all supplements and amendments to this Declaration recorded in the Office of the Recorder of Deeds, in and for Sussex County, Delaware.

DEVELOPER - Shall mean Boardwalk Development, LLC, a Delaware corporation, and the successors and assigns as to all or any portion of the interests of Boardwalk Development, LLC, in the Property and the Development. By specific amendment of this Declaration, the Developer may designate the Association as its successor from such time and for such purposes as shall be stated in such amendment.

DEVELOPER'S UTILITY RIGHTS - Shall mean those legal rights to provide for utility infrastructure for the Development including the right to identify, locate, place, operate and maintain the utility infrastructure for the Development and specifically including the right to dedicate, bargain and sell and/or grant easements to affect the same.

DEVELOPMENT - Shall mean with an initial capital letter, the Property, together with all appurtenant easements, leases and licenses as they are described in this

Declaration and as are enlarged, diminished or otherwise modified at any time and from time to time by amendment of this Declaration duly recorded.

DEVELOPMENT PLAT - Shall mean any plat for any portion of the Property and any such plat or amended plat which the Developer from time to time causes to be recorded in the Office of the Recorder of Deeds for Sussex County; specifically, the first plat of the Property as recorded in the Office of the Recorder of Deeds of Sussex County, at Georgetown, Delaware, in Plot Book 198 at page 90.

FORECLOSURE - Shall mean a conveyance of property pursuant to judicial foreclosure of a Mortgage or by a deed given in lieu of a judicial foreclosure.

LEASE - Shall mean any agreement for the use of property in the Development, whether oral or written, whether in exchange for payment of rent or for other or no consideration, and whether for a term of hours, days, months or years.

LOT - Shall mean and refer to any plot of land (with the exception of the Common Area), regardless of size, whether vacant or improved with a single-family detached dwelling, shown upon any recorded subdivision plat or map of the property.

MEMBER - Shall mean and refer to all of those Owners who are members of the Association as provided in Article III, Section 3.1 of this Declaration.

MORTGAGE - Shall mean a Mortgage to a person, bank, trust company, insurance company, pension fund, other commercial lender (whether organized as a corporation, partnership, or otherwise), or to an organization such as, but not limited to, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, which participates in any way in a secondary market for mortgages.

MORTGAGEE - Shall mean, when spelled with an initial capital letter, a holder of a Mortgage.

OCCUPANT - Shall mean, any person, including, without limitation, any Owner, member of an Owner's immediate family, guest, tenant or other lawful user of a Lot in the Development.

OWNER - Shall mean, when spelled with an initial capital letter, the Developer and any one or more persons or entities holding fee-simple title of record in a Lot in the Development.

PARTICIPATING BUILDER - Shall mean an entity other than the Developer that, in the ordinary course of such entity's business, constructs residential structures on any portion of the Development, including the Lots.

PROFESSIONAL MANAGEMENT AGENT - Shall mean a professionally licensed individual or organization whose primary business is management of residential properties and who shall be capable of being bonded.

PROPERTY - Shall mean the "Property" as defined in the first Recital paragraph of this Declaration.

RECREATIONAL FACILITY - Shall mean that part of the Common Areas as will be described on a plot.

SUBDIVISION - Shall mean and refer to the Development.
UTILITY SYSTEM(S) - Shall mean and refer to the utilities, including but not limited to sewer lines, mains and appurtenances; the water mains, water laterals, valves, meter pits and meters, and appurtenances; stormwater drainage culverts, swales, pipes, and appurtenances, including specifically, any siltation and/or retention ponds as required by any federal, state or local agency; irrigation well, distribution lines, sprinkler heads and appurtenances; television cable and its various attendant services, telephone service to include teletype, computer, telex, news service, or computer or any like instrument used in the transmission, reception or retrieval of messages, facts, or information, gas, or other utility lines and wires.

## ARTICLE II

## PLAN OF DEVELOPMENT

## Section 2.1. Plan of Development.

2.1.1. The Development shall consist of all the Property described in Exhibit " $A$ " attached hereto. All property within the Development shall be subject to the covenants, easements and restrictions set forth in this Declaration. For so long as Developer owns any lot or any interest in the Property, Developer shall have the right, but not the obligation, to make improvements and changes to the Common Area and to any or all Lots or any other property owned by Developer, including but not limited to the following: (1) installation and maintenance of any improvements in and to any Common Area or Recreational Facility, (2) changes in the location of the boundaries of the Common Area, any Utility System, any Recreational Facility and any Lot owned by Developer, (3) installation and maintenance of the whole or parts of any utility system or facility; and (4) installation of security and/or refuse facilities. The Developer or Association shall have the right to collect reasonable fees and charges for activities or the use of its facilities.
2.1.2. Except as otherwise expressly stated in this Declaration, Developer reserves the right to plan, design, develop, construct, maintain and manage, as Developer deems appropriate for its purposes, the Common Area and Developer-owned Lots. This reservation of right includes, without limitation, the right to change the number, shape,
size and location of Lots, the shape, size and location of Common Area, Utility Systems, Recreational Facility or any part thereof.
2.1.3. Developer shall have the right, in its sole discretion, at any time and from time to time, to convey to the Association any Common Area and any other property owned by the Developer contained within the Property or any portion or portions thereof, and such property shall be subject to the lien of taxes not yet due and payable, all easements and restrictions of record, utility easements serving or otherwise encumbering the Property and any exceptions which would be disclosed by an accurate survey or physical inspection of such parcel(s).
2.1.4. The Declarant shall retain control of such Common Areas until such time as the Declarant transfers control of the Association to the Class A Members.

Section 2.2. Plan of Development of Annexed Property. Not Applicable.
Section 2.3. Interest Subject to Plan of Development. Every grantee of a Lot or any other portion of the Development shall purchase such Lot or other property, and every holder of a mortgage or other lien, or a security interest in, a Lot or other portion of the Development shall take such title, lien or security interest with notice of the Developer's plan of development as set forth herein and other provisions of this Declaration, and no conveyance of, lien on, or security interest in a Lot or other portion of the Development shall have any effect on the right of the Developer to convey any interest therein by deed, lease, declaration, mortgage or other means or instrument to a purchaser, lender, or other party. Any provision of this Declaration to the contrary notwithstanding, the provisions of this Article II may not be abrogated, modified, rescinded, supplemented or amended or otherwise affected, in whole or in part except by Developer or with the written consent of Developer.

Section 2.4. Utilities and Related Facilities. Developer, any affiliate of Developer or contractor of Developer, may own any Utility Systems or any part of them, serving the Development. Notwithstanding the foregoing, Developer, or any affiliate, owning such system and facilities, or any part of them, shall have the right but not the obligation, to make any part or all of any such system and facilities a part of the Common Area or, at any time and from time to time, convey any part or all of any such system and facilities to the Association, a club, a municipality, public authority, governmental agency, public service district or a public or private utility operator.

## ARTICLE III

## THE ASSOCIATION; MEMBERSHIP AND VOTING RIGHTS

Section 3.1. Membership. Every person or entity who is an Owner of a Lot shall be a member of the Association and shall enjoy all of the benefits of such membership. Membership shall be appurtenant to, and may not be separated from, ownership of a Lot.

Conveyance of a Lot shall, without need to specifically provide therein, terminate membership of the grantor in the Association with respect to the Lot conveyed; and, by accepting the conveyance, the grantee shall be deemed to accept membership in the Association.

Section 3.2. Transfer of Membership. Every conveyance of a Lot, without need for any provision therein, shall transfer the Association membership of the grantor with respect to that Lot; and, by accepting such conveyance, the grantee shall accept Association membership with respect to that Lot. It shall be the express responsibility of the grantee to provide all required documentation, including but not limited to name, address and settlement sheet, to the Association upon acceptance of the conveyance of any Lot.

## Section 3.3. Voting Rights.

3.3.1. Class A members shall be all of the owners except the Developer. Class A members shall have one vote for each Lot owned; the owners of a Lot with more than one owner shall share a single vote.
3.3.2. The sole Class B member shall be the Developer. The Class B member shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership under Section 3.1. above. Class B membership shall be converted to Class A membership upon the earlier of (1) the Developer owning no Lots, or (2) December 31, 2020.
3.3.3. A vote assigned to a Lot shall be cast by one natural person, as a block, and without splitting. A corporation or other entity shall vote by a person named in a certificate signed by the President, Vice-President or person with authority, attested by the Secretary or an Assistant Secretary, and with the corporate or appropriate seal affixed. A partnership shall vote by a person named in a certificate signed by all of the general partners. In the case of a Lot with more than one party holding record title, the vote shall be cast by a person designated in a certificate signed by all of the holders of record title. No vote shall be cast by a person named in a certificate given pursuant to this paragraph until the certificate is filed with the Secretary of the Association. Such a certificate shall remain in effect until a new certificate is filed.
3.3.4. Members may vote by a written proxy which shall be good only for the single meeting being held, and any recess or adjournments thereof, at the place and time, and on the date, stated in the proxy, and the proxy shall be filed with the Secretary before the meeting is called to order. Every proxy shall be revocable and shall automatically cease upon conveyance of the Member's Lot.

Section 3.4. Incorporation. The Developer shall establish the Association by the filing of a Certificate of Incorporation of the Association when the Developer, at its sole
discretion, deems the creation of such Association is appropriate, except that the Certificate of Incorporation shall be filed by the Developer.

Section 3.5. Responsibilities of the Association. The Developer has established the Association for the purpose of maintaining and administering the Common Area; providing common services; administering and enforcing covenants, conditions and restrictions contained herein; adopting and enforcing rules and regulations; and levying, collecting and disbursing the Assessments and other charges provided for herein. The Association shall also have the power to provide, and shall provide the following:
3.5.1. Operation, care and maintenance of all Common Area, Utility Systems and Recreational Facility;
3.5.2. Insect and pest control to the extent that the Board of Directors deems it necessary or desirable, and whether or not it supplements any service provided by any government or other agency;
3.5.3. Enforcement of all covenants and restrictions affecting the Development;
3.5.4. Establish and operate the Fieldstone at Lewes Architectural Board;
3.5.5. Management, legal, accounting, information about membership and other services as may be required to achieve the highest integrity of the Association and a high level of informed participation by members;
3.5.6. Prudent insurance coverage, either independently or in common with the Developer, of the Association, of the Common Areas, of the actions taken on behalf of the Association by its directors and officers, and of such other persons, properties, and activities as the Board of Directors shall deem appropriate.
3.5.7. Maintain and preserve wooded areas, if any, in the Common Area.
3.5.8. And perform any of the functions or services delegated to the Association in any instrument applicable to the Development;
3.5.9. Any and all other services the Board of Directors deems necessary or desirable to further the interests of the Development, of the Owners, or of both.

Section 3.6. Board of Directors. Prior to full completion of the Development, the Board of Directors shall consist of three (3) directors as shall have been designated by the Developer. When one hundred percent ( $100 \%$ ) of the proposed Lots in the Development are constructed and settled, or until December 31, 2024, whichever is sooner, the Board of Directors shall consist of five (5) directors, all of whom shall be Owners, and all of whom shall be elected at large, as established in the Bylaws of the Association. The Board of Directors shall have the power to perform all rights and duties of the Association unless
otherwise specifically reserved to the Association membership in this Declaration or in the Articles of Incorporation or Bylaws of the Association.

Section 3.7. Rules and Regulations. The Board of Directors of the Association may from time to time adopt rules and regulations governing the use of Common Area, of Lots and of the Recreational Facility.

Section 3.8. Managing Agent. The Association may employ a Professional Managing Agent at a compensation to be established by the Board of Directors to perform such duties as the Board of Directors shall authorize, except that making assessments and rules and providing that any action by managing agent with respect to hiring and dismissal of personnel, opening bank accounts and designating signatories there to and enforcing rules by legal action shall require the prior written consent thereto of the Board of Directors.

## Section 3.9. Limitations.

3.9.1. The Board of Directors shall have the exclusive right to initiate any form of Legal Proceedings as it deems necessary and appropriate related to the use, operation or maintenance of the Common Area, or on behalf of the Association and the welfare of the Owners, subject to the following requirements.
3.9.2. "Legal Proceedings", as used in this Article, shall mean the institution of any form of action or suit, except the filing and enforcement of liens, the initiation of legal action for routine common expense assessment collection matters, legal actions required to enforce provisions of the Declaration, rules and regulations with respect to the Common Area or enforcement of service contracts between the Association and non-Developer contractors.
3.9.3. All claims, counterclaims, disputes and other matters in question between the Association or the Owners with the Developer arising out of or relating to the obligations of the Developer under the Declaration or any other statute, regulation, ordinance or the defense of any claims or actions relating the Common area or the breach thereof shall be decided by arbitration in accordance with the Arbitration Rules of the American Arbitration Association then obtaining, subject to the limitations and restrictions stated in paragraphs 3.9 .5 below. This Agreement so to arbitrate and any other agreement or consent to arbitrate entered into in accordance herewith as provided in this paragraph will be specifically enforceable under the laws of the State of Delaware.
3.9.4. Notice of demand for arbitration must be filed in writing with the other parties to the Declaration and with the American Arbitration Association. The demand must be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event may the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.
3.9.5. All demands for arbitration and all answering statements thereto which include any monetary claim must contain a statement identifying the total sum or value in controversy as alleged by the party making such demand or answering statement and the arbitrators will not have jurisdiction, power or authority to render a monetary award in response thereto against any party which totals more than such stated amount (exclusive of interest and costs).
3.9.6. The limitations and restrictions contained in paragraph 3.9.5. may be waived in whole or in part upon written consent of the Association and Developer as to any claim, counterclaim, dispute or other matter specifically described in such consent. No consent to arbitration in respect of a specifically described claim, counterclaim, dispute or consent to arbitrate any other claim, counterclaim, dispute or other matter in question will constitute consent to arbitrate any other claim, counterclaim, dispute or other matter in question which is not specifically described in such consent or which is with any party not specifically described therein.
3.9.7. The award rendered by the arbitrators shall be final; judgment may be entered upon it in any court having jurisdiction thereof, and will not be subject to modification or appeal except to the extent permitted by Section 10 and 11 of the Federal Arbitration Act (9 U.S. C. Sections 10 and 11).
3.9.8. Due to the potential adverse financial impact of pursuing Legal Proceedings, the decision to initiate any Legal Proceedings must be made by a resolution duly adopted at a properly noticed regular or special meeting of the Association held for such purpose. Such resolution shall require the affirmative vote of the Lot owners representing not less than sixty-seven (67\%) of the Class A Members and their mortgagees. If the Association shall incur or potentially be obligated as a result of such resolution to incur attorney's fees, expert fees or other costs associated with such legal proceedings totaling in excess of $\$ 25,000$ or if the amount recoverable by an attorney for the Association pursuant to a contingency fee agreement shall exceed $\$ 50,000$, then such resolution shall require the affirmative vote of the Lot owners representing not less than seventy-five ( $75 \%$ ) of the Class A Members and their mortgagees. Neither the Board, the Association nor the Owners shall borrow on behalf of the Association nor use any funds from reserves of the Association to pay such legal costs, but the same shall be paid from and limited to the amounts provided in the annual budget for such expenditures for the fiscal year or shall be raised by special assessment levied against the Owners for such purpose. If such Legal Proceedings are not concluded within 1 year of the date of such resolution, the continued prosecution of such Legal Proceedings beyond such period must be reaffirmed annually at a special meeting held for such purpose by the percentage vote of the Association as was required to adopt the original resolution. If the continued prosecution of such Legal Proceedings is not reaffirmed, the action shall be discontinued and the Board shall have no further authority to act as the attorney-in-fact for the Association in the further prosecution or defense of such Legal Proceedings but may, with the affirmative vote of a majority of the vote in the Association, act as its attorney-in-fact with respect to any settlement or compromise of such Legal Proceedings; provided the same is completed
with six (6) months thereafter. If the Association, by resolution approved in accordance with this section, authorizes the Board to initiate Legal Proceedings, then the decisions relating to the conduct of the Legal Proceedings shall be made by the Board for such purposes. Any action regarding the conduct of the Legal Proceedings shall be approved by a percentage vote of seventy-five ( $75 \%$ ) or more of the Board. Decisions regarding the conduct of any Legal Proceedings are non-delegable. Notwithstanding anything contained herein on in the Declaration to the contrary, the provisions of this Section shall not be modified or amended without Developer's written consent so long as Developer owns any property within the Development; thereafter this Section shall not be modified or amended except by a written instrument, executed by the Owners representing not less than eightyfive ( $85 \%$ ) of the Class A Members and their mortgagees, and be recorded among the land records of Sussex County.

Section 3.10. Assignment of Obligations. At the request of the Developer, the Association shall accept assignment and delegation of any or all rights and obligations of the Developer under this Declaration.

Section 3.11. Fines. In addition to the means for enforcement provided elsewhere in this Declaration, the Association shall have the right to levy fines against an Owner or such Owner's guests, relatives, lessees or invitees, in the manner set forth herein, and such fines shall be collectible in the same manner as any other assessment such that the Association shall have a lien against the Lot, as provided in this Declaration, and the Bylaws and the Certificate of Incorporation of the Association and such fine(s) shall also become the binding personal obligation of such Owner.


Section 4.1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:
4.1.1. The right of the Developer or the Association to charge reasonable admission and other fees for the use of any facility which may be situated upon the Fieldstone at Lewes Common Area from time to time;
4.1.2. The right of the Developer or the Association to suspend a Lot or Owner's voting rights and right to use any of the Fieldstone at Lewes Common Area for a period in which the Owner is in default in the payment of any assessment, fee, penalty, interest or any other charge outstanding. Additionally, such rights may be suspended by notice from the Board of Directors for such a period not to exceed ninety (90) days for any single and nonrecurring infraction of the Association's published rules and regulations or breach of or default under any of the covenants or provisions of the Declaration. If any such
infraction, breach or default is continuous or recurring, then such rights may be suspended for a period commencing on the date the owner is given notice of the cause for such suspension and ending not more than ninety (90) days after the date such infraction, breach or default ceases or is remedied;

### 4.1.3. The Developer's Utility Rights;

4.1.4. The right of the Association, subject to the Developer's Utility Rights, to dedicate or transfer all or any part of the Fieldstone at Lewes Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members of the Association. No such transfer or dedication except for the dedications or transfer of utility easements by the Association or any dedication or transfer made in the exercise of the Developer's Utility Rights, shall be effective unless approved by more than sixty-seven percent ( $67 \%$ ) of the votes entitled to be cast by all of the members of the Association;
4.1.5. The right of the Association to limit the number of guests, visitors, licensees, invitees, or lessees of Owner utilizing such Common Areas;
4.1.6. The right of the Developer and the Association to establish uniform rules and regulations pertaining to the use of such Common Areas;
4.1.7. The right of the Association, in accordance with its Certificate of Incorporation and Bylaws, and with the consent of the Declarant (for so long as the Declarant shall own any portion of the Property or Development) and two-thirds (2/3) of the total votes of the Members, to borrow money for the purpose of improving such Common Areas in a manner designed to promote the enjoyment and welfare of the Members and in aid thereof after conveyance of title therein to the Association, to mortgage any portion of such Common Areas;
4.1.8. The right of the Association to take such steps as are reasonable necessary to protect the property of the Association against mortgage default and foreclosures; provided, however, that the same are in conformity with the other provisions of this Declaration;
4.1.9. The right of the Association, acting by and through the Board, to grant easements, licenses or other rights of use of such Common Areas to persons or entities that are not Members of the Association for such consideration and on such terms and conditions as the Board may from time to time consider appropriate or in the best interest of the Association, Property or Development;
4.1.10. The rights of parties holding rights under easements reserved; and
4.1.11. Other rights of the Developer set forth in this Declaration.

Section 4.2. Title to Common Area. The Developer hereby may convey to the Association, in such portions as may be convenient to the Developer, by limited warranty deed or deeds, any title in fee simple to the Common Area then retained by the Developer, subject, however to liens of unpaid taxes not then due and payable, to liens and encumbrances of record, to conditions shown by a survey, to conditions shown by an inspection thereof, and to the terms and provisions of this Declaration.

Section 4.3. Restrictions Upon Owners' Rights. All titles, leaseholds, and other interests in, and all liens upon, property in the Development shall be held subject to the following:
4.3.1. The right of the Developer, and of the Association, to dedicate, transfer or convey all or any of the Common Area, with or without consideration, to any successor association, governmental body, district, agency or authority, or to any public or private utility, provided that it shall promote the interests of the Owners;
4.3.2. Easements and rights-of-way through, under, over and across the Common Area, for the installation, maintenance and inspection of lines and appurtenances for the Utility Systems including but not limited to utilities, signage, wastewater collection, treatment and disposal system, public or private water, storm sewer, drainage, electric, fuel oil, gas and other utilities and services, specifically including any telephone, television, irrigation or lawn-sprinkler systems or facility, and the right of the Developer to grant and reserve easements and right-of-way through, over and upon and across the Lots and/or Common Area for the completion of the Development, for the operation and maintenance of the Common Area, and for the benefit of the Owners;
4.3.3. The right of invitees of the Developer or an Owner to use the parking lots and other necessary portions of the Common Area for ingress and egress;
4.3.4. The right of the Association to provide penalties and suspend the rights of any Owner for any period during which any Assessment remains unpaid and for any infraction of this Declaration or the Associations' published rules and regulations;
4.3.5. The right of the Developer and the Association, respectively and from time to time, to fix and collect assessments, and to fix fees, charges and penalties.

Section 4.4. Additional Structures. Neither the Association nor any Owner or any group of Owners shall, without the prior written approval of Developer and the Fieldstone at Lewes Architectural Board, allow or cause any structure or other improvement to be placed in or on the Common Area.

Section 4.5. Easements for Developer. During the period that Developer owns any Common Area, or owns any Lot primarily for the purpose of sale or that any Participating Builder has any building or improvements under construction, or has any constructed home on a Lot not sold to an independent third party home purchaser, Developer and/or

Participating Builder, as applicable, shall have an alienable and transferable right and easement on, over, through, under and across the Common Area for the purpose of constructing or improving Lots, any improvements to the Common Area, and for installing, maintaining, repairing and replacing such other improvements to the Development (including the Recreational Facility and other portions of the Common Area) as are contemplated by this Declaration or as Developer or Participating Builder, in its absolute and sole discretion, deems in the best interest of the Development, including without limitation any improvements or changes permitted and described in this Declaration, and for the purpose of doing all things reasonably necessary and proper in connection therewith, provided that in no event shall Developer have the obligation to do any of the foregoing.

Section 4.6. Changes in Boundaries; Additions to Common Area. Developer shall have the right to change and realign the boundaries of the Common Area, any Lot or other portion of the Development owned by Developer, including the realignment of boundaries between adjacent Lots and Common Area.

Section 4.7. Easement for Utilities/Utility Systems. There is hereby reserved for the benefit of Developer and the Association the power to grant and accept easements to and from any private or public authority, agency, public service district, public or private utility or other person upon, over, under and across (1) all the Common Area or (2) an area on any Lot intended for improvement as a single-family dwelling ten feet (10') in width along the interior side of the perimeter boundary lines of the subdivision, and five feet (5') in width along the boundary lines of each Lot for a total easement width of at least ten feet ( $10^{\prime}$ ) along a lot line common to two (2) Lots, for the purpose of installing, replacing, repairing, maintaining and using Utility Systems. For so long as Developer or any Participating Builder owns any portion of the Common Area or owns any Lot or has a home under construction primarily for the purpose of sale, the Association may not grant or accept any such easement without the prior written consent of Developer and Participating Builder. To the extent feasible, all systems, utilities and facilities in the Development shall be located underground. All of such easements shall be deemed to include permission (1) to erect and maintain pipes, lines, manholes, pumps and other necessary equipment and facilities, (2) to cut and remove any trees, bushes or shrubbery, (3) to grade, excavate or fill, or (4) to take any other similar action reasonably necessary to provide economical and safe installation, maintenance, repair, replacement and use. No building, structure or other permanent obstruction of any kind whatsoever shall be placed on or in the easement described above.

Section 4.8. Sales Offices, Rental Offices, Property Management Offices and Construction Offices. Notwithstanding any provisions or restrictions herein to the contrary, there is hereby reserved for the benefit of Developer and Participating Builder, until the Developer owns no Lots or until December 31, 2030, whichever is sooner, the perpetual, alienable and transferable right and easement in and to the Development for the maintenance of signs, sales offices, rental offices, property management offices, construction offices, business offices and model or sample homes, together with such
other facilities as in the sole and absolute discretion of Developer or Participating Builder may be convenient or necessary to the completion, management, rental, improvement and/or sale of homes, Lots or Common Area.

## Section 4.9. Easements for Annexed Property. Not Applicable.

Section 4.10. Dedication of Roads and Alleys. The Developer may cause some or all of the roads and alleys in the Development to be dedicated to the State of Delaware as public roads and alleys at such time, and on such terms and conditions, as the Developer, in its sole and absolute discretion, deems in the best interests to the Development. Until such time as all streets, roads and alleys are dedicated as public roads, and such dedication is accepted by the State, if ever, all deeds to lots in the Development shall comply with Section 9623 of Title 9 of the Delaware Code by containing a statement that such private streets and roads are not maintained by the State.

Section 4.11. Delegation of Owner's Rights. An Owner may delegate to the Owner's family members, tenants, and invitees, in accordance with the By-Laws and the Rules and Regulations established by the Developer or Association and not otherwise, the Owner's respective right to enjoyment of the Common Area.

Section 4.12. Access. All Owners, by accepting title to Lots conveyed subject to this Declaration, waive all rights of uncontrolled and unlimited access, ingress and egress to and from such Lots and acknowledge and agree that such access, ingress and egress to and from such streets, sidewalks, and walkways, and trails located within the Development from time to time, provided that pedestrian and vehicular access to and from all Lots shall be permitted at all times, subject to the rules and regulations provided for herein.

Section 4.13. Easements for Association. The Association shall have a general right and easement for the benefit of the Association, its directors, officers, agents and employees, including but not limited to any Professional Managing Agent employed by the Association and any employees of such manager, to enter upon and into any Lot or any portion thereof in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to the Owner or occupant, as the case may be.

Section 4.14. Maintenance Easement. Subject to the other terms of this Declaration, the Developer or the Association shall have the right and easement to enter upon any unimproved portions of any Lot for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds, stumps or other unsightly growth and removing trash, so as to maintain reasonable standards of health, fire safety and appearance within the Development; provided that such easements shall not impose any duty or obligation upon the Developer or the Association to perform any such actions. Furthermore, there is hereby reserved for the benefit of the Developer and the Association an easement, but not an obligation, to enter upon any unimproved portions of Lots located within twenty feet
(20') from the water's edge of any pond or other body of water within the Development for the purpose of mowing such area and keeping same clear and free from unsightly growth and trash, as well as for the purpose of maintaining such body of water, such maintenance to include, without limitation, dredging and the maintenance of reasonable water quality standards.

Section 4.15. Environmental Easement. The Developer or the Association shall have an alienable, transferable and perpetual right and easement on, over and across all unimproved portions of the Common Area and Lots for the purposes of taking any action necessary to effect compliance with environmental rules, regulations and procedures from time to time promulgated or instituted by the Board of Directors or by any governmental entity, such easement to include without limitation the right to implement erosion control procedures and practices, the right to drain standing water and the right to dispense pesticides.

Section 4.16. Wells and Effluent. The Developer or the Association shall have an alienable, transferable and perpetual right and easement to (1) pump water from ponds and other bodies of water located within the Development for the purpose of irrigating any portions of the Development, for fire control and for other purposes, (2) drill, install, locate, maintain and use wells, pumping stations, water towers, siltation basins and tanks and related water and sewer treatment facilities and systems within the Common Area.

Section 4.17. No Partition. There shall be no judicial partition of the Development or any part thereof, nor shall any person acquiring any interest in the Development or any part thereof seek any such judicial partition unless the Development has been removed from the provisions of this Declaration.

Section 4.18. Jurisdiction. Notice is hereby given of the restriction that as to any portion of any Lot within the Development which may contain submerged land or other critical areas, all activities on or over and all uses of such land or other critical areas are subject to the jurisdiction of the U.S. Army Corps of Engineers and/or the State of Delaware. An Owner is liable for any damages to, any inappropriate or unpermitted uses of, and any duties or responsibilities concerning any portion of the Owner's respective property which is submerged land, wetlands or other critical area.

## ARTICLE V

## MAINTENANCE

## Section 5.1. Association's Responsibility.

5.1.1 Subject to the Developer's rights otherwise provided in this document, the Association shall have the right to make or cause to be made alterations, modifications, improvements, repairs, maintenance and replacements to the Common Area, and to portions of buildings and lots designated herein. The cost thereof shall be assessed as

Common Expenses and collected from the Owners according to their respective interests in the Common Area.
5.1.2 Except as may be herein otherwise specifically provided, the Association shall maintain, keep in good repair and replace as needed all portions of the Common Area including but not limited to, (1) all Common Area, ponds, landscaped areas, natural areas, buffer areas, stormwater management areas, surface drainage facilities, erosion and sedimentation control facilities, the Recreational Facility and all other improvements situated within the Development, (2) such Utility Systems and facilities which are a part of the Common Area and which are not maintained by the Developer, a public authority, public service district, or another public or private party. The Association shall not be liable for injury or damage to any person or property (1) caused by any cause or act of God, or an Owner or any other person, (2) resulting from any rain or other surface water which may leak or flow from any portion of the Common Area, or (3) resulting from any failure or neglect of repair by the Association. The Association shall not be liable to any Owner or invitee of an Owner for loss or damage, by theft or otherwise, of any property stored or left in or upon any portion of the Common Area or any other portion of the Development. No diminution or abatement of Assessments or any dues or charges payable to the Association shall be claimed or allowed by reason of any alleged failure of the Association to take some required action or to perform some required function, or for inconvenience or discomfort arising from the Association making improvements or repairs or from the Association taking any action to comply with any law, ordinance, order or other directive of any court or other governmental authority, the obligation to pay such Assessments being a separate and independent covenant on the part of each Owner.
5.1.3 In the event that any maintenance, repair or replacement performed by the Developer or the Association arises out of any failure of an Owner to perform the obligations imposed by Section 5.2 or arises out of any willful or negligent act of an Owner, of a member of an Owner's family, of an Owner's invitee, or tenant, and is not covered or paid for by insurance in whole or in part, then, in either event, the Developer or the Association, may charge such Owner and all other persons responsible with the expenses, including reasonable attorney's fees and costs, incurred together with a reasonable amount to cover the cost of the time spent by the personnel of the Developer, the Association, or a property manager in arranging such maintenance, repair or replacement. No such maintenance, repair or replacement shall be undertaken by the Developer or Association, except in an emergency, without giving the Owner notice of the action required and an opportunity to undertake such action. The Developer need not undertake any such action, but may do so. In the event that the Developer undertakes such action, the Association shall promptly reimburse the Developer for the Developer's costs and expenses. The Association shall have a lien on the Lot of the responsible Owner for all such charges, costs and expense.

## Section 5.2. Owner's Responsibility.

5.2.1. All maintenance and repair of structures, grass, landscaping and other improvements which are not Common Area shall be the responsibility of the Owner thereof.
5.2.2. Cutting and fertilization of the grass on the Lots shall be the responsibility of the Owner. Maintenance, repair and replacement of the irrigation system, landscape beds, flowers, shrubs and trees on the Lots shall be the responsibility of the Owner thereof.
5.2.3. The maintenance and repair of all Common Areas (including the Recreational Facility, if any, and Utility Systems) shall be the responsibility of the Association.
5.2.4. Developer shall be responsible for the maintenance and repair of structures, lawns, landscaping and other improvements on Developer-owned portions of the Property which are not Common Area.
5.2.5. The Association shall provide maintenance and repair which an Owner fails to provide and shall charge the respective Owner for the cost thereof, including an amount determined by the Association, in its sole and absolute judgment, to reimburse the Association for the time spent in arranging such maintenance or repair by personnel of the Association or of any property manager retained by the Association as well as reasonable attorney's fees and costs incurred. The Association shall have a lien on the Lot of the responsible Owner for all such charges, costs and expense. No Owner shall (1) decorate, relocate or otherwise alter the exterior or any portion of the exterior of any structure without the prior written approval of the Fieldstone at Lewes Architectural Board, or (2) do any work which, in the reasonable opinion of the Fieldstone at Lewes Architectural Board, will jeopardize the soundness and safety of the Development, reduce the value thereof, or impair any easement or hereditament thereto, without the prior written approval of the Fieldstone at Lewes Architectural Board.
5.2.6. All maintenance of the surface area, lawns, landscaping and wooded areas, if any, in the easement areas shall be the responsibility of the Owner thereof.
5.2.7. No Owner shall modify the irrigation system on any Lot without the prior written approval of the Fieldstone at Lewes Architectural Board. The cost of any and all modifications shall be the responsibility solely of the Owner of the said Lot.

## ARTICLE VI

## ASSESSMENTS

Section 6.1. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Property, the provision of services and facilities authorized by the Board of Directors, taxes and other expenses of the Association, and for the improvement, maintenance, repair and replacement of the Common Areas located in the Property, and
for services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas; the payment of taxes and insurance premiums for the Common Areas, utility services used in or for the Common Areas; for the cost of labor, equipment, materials, management and supervision thereof; and for operating reserve funds and reserve funds for repair and replacement of the Common Areas and facilities thereon and other contingencies. Assessments also may be levied to accomplish the purpose and duties of the Association and all other costs and expenses incurred by the Association in the proper conduct of its activities; including but not limited to the maintenance, repair or replacement of any property or facilities serving or appurtenant to the Development that the Association is obligated or elects to maintain, whether or not such property or facilities are owned by the Association or are located within the Development.

Section 6.2. Creation of Lien and Personal Obligation of Assessments. The Developer, for itself and its successors and assigns, and for each Lot within the Development, hereby covenants, and each Owner of any Lot, by acceptance of a deed or other transfer document therefor, whether or not it shall be expressly established in such Deed or other transfer document, hereby covenants and agrees to pay the Association: (1) annual assessments or charges; (2) special assessments (including but not limited to "initial assessments" provided for below) for capital improvements, operations, repair, replacement and reserve funds, such assessments to be fixed, established and collected as hereinafter provided; and (3) fees established by the Board of Directors. The annual and special assessments and fees, together with penalties, interest, costs and reasonable attorney's fees, shall be a charge on the land, and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment or fee, together with penalties, interest, costs, and reasonable attorney's fees, for the collection thereof, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. A personal obligation for any delinquent assessment shall not pass to the Owner's successor in title (other than as a lien on the land), unless expressly assumed by them. No assessments shall be due from any Lots owned by the Developer or any Participating Builder.

## Section 6.3. Computation of Assessment.

6.3.1. Until the beginning of the next fiscal year of the Association following the first conveyance of a Lot to a Class A Member, the applicable annual assessment (if any) shall be the amount established by the Developer in its sole discretion. Thereafter, it shall be the duty of the Board of Directors, at least sixty (60) days before the beginning of the fiscal year and thirty (30) days prior to the annual meeting, to prepare a budget and determine the annual assessment covering the estimated costs of operating the Association during the coming year. The Board shall cause a copy of the budget and the amount of the annual assessment to be levied against each Lot for the following year to be delivered to each Owner at least fifteen (15) days prior to the meeting. The budget shall be approved by majority vote of the Board of Directors; provided, however, that any budget under consideration by the Board of Directors pursuant to this Section 6.3.1. that would result in an increase in the annual assessments payable by the Members in excess of the amounts
permitted under Section 6.3.6. below, shall be approved by the affirmative vote of Members entitled to cast not less than sixty-seven percent (67\%) of the votes of the Members present, in person of by proxy, and voting at the annual meeting or any meeting of the Association duly called for this purpose.
6.3.2. Notwithstanding the foregoing, however, in the event the Board of Directors disapproves the proposed budget or the Board of Directors fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the then current year shall continue for the succeeding year or years.
6.3.3. All assessments shall be allocated equally among all Lots excepting exempt lands as hereinafter provided.
6.3.4. The initial assessments shall be as provided in Section 6.8.
6.3.5. In addition to the Annual Assessment authorized by Section 6.2. hereof, the Board of Directors of the Association may levy in any assessment year one or more special assessments applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement upon or in the Common Areas, including the necessary fixtures and personal property related thereon, and for operating the Common Areas, for which a reserve fund does not exist or is not adequate, and including operating cost overruns due to extraordinary conditions; provided that any such assessment shall have the assent of a majority of a quorum of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose and such assessments shall be subject to the limitations set forth in Section 6.3.10 of this Declaration.
6.3.6. In the year Developer withdraws from control of the Association, the Board of Directors may increase the annual assessment without limit. In subsequent years, the Board of Directors may, without the consent of the members, increase the annual assessment in an amount not to exceed twenty percent (20\%) of the annual assessment for the preceding fiscal year plus the amount by which any ad valorem real estate taxes and insurance premiums payable by the Association have increased over the amount payable for the same or similar items for the previous year.
6.3.7. The maximum annual assessment may be increased above twenty percent ( $20 \%$ ) upon approval of sixty-seven percent ( $67 \%$ ) of the votes of the then Class A members and sixty-seven ( $67 \%$ ) of the votes of the then Class B members, in person or by proxy at a meeting duly called for this purpose.
6.3.8. The Board of Directors may from time to time fix the annual assessment at an amount not in excess of the maximum.
6.3.9. The Board of Directors shall establish and maintain a reserve fund for replacements of the Common Area by the allocation and payment to such reserve fund of an amount to be designated from time to time by the Board of Directors. Such fund shall be conclusively deemed to be a common expense of the Association and may be deposited in any banking account institution, the accounts of which are insured by any state or an agency of the United States of America or may, in the discretion of the Board of Directors, be invested in obligations of, or fully guaranteed as to principal by the United States of America. The reserve for replacements of the Common Areas may be expended only for the purpose of effecting the replacement of the Common Areas, Utility Systems, and/or major repairs to any equipment or replacement thereof, and for start-up expenses and operating contingencies of a nonrecurring nature relating to the Common Areas. The Association may establish such other reserves for such other purposes as the Board of Directors may from time to time consider necessary or appropriate. The proportional interest of a member in any such reserve shall be considered an appurtenance of his Lot and shall not be separately withdrawn, assigned or transferred or otherwise separated from the Lot to which it ascertains and shall be deemed to be transferred with such Lot.
6.3.10. In no event shall an annual assessment or special assessment include any amount for "Community Amenities" (as such term is used in the context of 25 Del. C. Section 317) that have not been opened or made available for Class A Members and that are intended for the use of the Class A Members.
6.3.11. The Association may also levy a special assessment against any Owner to reimburse the Association for costs incurred in bringing the Owner or such Owner's Lot into compliance with the provisions of this Declaration, or the Certificate of Incorporation, Bylaws and rules and regulations of the Association, or any applicable Laws; provided such special assessment may only be levied upon the affirmative vote of a majority of the Board of Directors, after notice and an opportunity for a hearing has been provided to the Owner.
6.3.12. Notwithstanding anything contained in this Declaration to the contrary, in addition to any other rights and remedies available to the Association as provided herein, or at law or in equity, the Association shall have the right (but not the obligation or duty) to discontinue all or a portion of the services provided to any such Owner by the Association until such time as full payment is received as provided herein above.

Section 6.4. Effect of Nonpayment of Assessment; The Personal Obligation of the Owner; The Lien; Remedies of the Association. If any Assessment is not paid on the date when due as hereinabove provided, then such Assessment shall be deemed delinquent and together with such interest and cost of collection thereof, including reasonable attorney's fees, as hereinafter provided, continue as a lien on the Lot and any structure built thereon which shall bind such Lot in the hands of the then Owner. In addition to such lien rights, the personal obligation of the then Owner to pay such Assessment, however, shall remain his personal obligation and shall not pass to his successors in title (other than as a lien on the land) unless expressly assumed by them. If the Assessment is
not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the legal interest rate authorized by 6 Del. C., Section 2301, as amended, and the Association may bring a legal action against the Owner personally obligated to pay the same or may enforce or foreclose the lien against the Lot, and in the event a judgment is obtained, such judgment shall include interest on the assessment above provided and reasonable attorney's fees, together with the costs of the action. No Owner of a Lot may waive or otherwise escape liability or the Assessment provided for herein by non-use of the Common Areas or abandonment of said Lot.

Section 6.5. Assessment Lien. The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage on the Lot. Sale or transfer of any Lot shall not affect the assessment lien. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, provided that no Participating Builder shall be subject to any assessment.

Section 6.6. Exceptions for Assessments. The following property subject to this Declaration shall be exempt from the assessments, charges and liens created herein:
6.6.1. All properties dedicated to and accepted by a governmental body, agency or authority and devoted to public use;

### 6.6.2. All Common Areas;

6.6.3. All vacant Lots owned by the Developer, any successor Developer or Joseph P. Reed, and not sold or leased to third persons.
6.6.4. Section 6.7. Uniform Rate of Assessment. Both annual and special Assessments must be fixed for each Lot at the same amount as for every other Lot, and shall be collected in one installment or more, as the Board of Directors may from time to time decide.

Section 6.8. Initial Assessment. At the time the Developer conveys a Lot to the first buyer of the Lot after its construction; such first buyer shall pay to the Association an Initial Assessment set by the Developer. Initial Assessments shall be used by the Association as working capital to insure availability of cash for expected and unexpected expenditures, or to acquire equipment or service deemed necessary by the Association. Initial Assessments shall be paid in addition to regular Assessments. With respect to assessments related to "Community Amenities" (as such term is used in the context of 25 Del. C. Section 317) initial assessments may be imposed as a special assessment hereunder upon such Common Amenities becoming open or available for use by Class A Members, and may at such time include amounts for operating and replacement reserves. This section shall not apply to any Participating Builder.

## ARTICLE VII

## ARCHITECTURAL CONTROL

Section 7.1. Authority. The Developer or Board of Directors shall have the authority and standing, on behalf of the Association to enforce in courts of competent jurisdiction decisions of the Board established in Section 7.2 of this Article. This Article may not be amended without the Developer's written consent so long as the Developer owns any property within the Development. No alteration, modification or construction, which term shall include within its definition, changing the exterior appearance of any building, wall, fence or other structural improvement, staking, clearing, excavation, grading and other site work or removal of plants, trees or shrubs, shall take place except in strict compliance with this Article, until the requirements thereof have been fully met, and until the approval of the Fieldstone at Lewes Architectural Board ("FALAB") has been obtained.

## Section 7.2. Fieldstone at Lewes Architectural Board.

(a) The Fieldstone at Lewes Architectural Board shall have exclusive jurisdiction over all original construction, modifications, additions or alterations made on or to all existing improvements and the open space, if any, appurtenant thereto, on all property within the Development, including landscaping and grading. In order to protect the visual integrity, architectural spirit and long-term property values of the Development, the Fieldstone at Lewes Architectural Board shall prepare and, on behalf of the Developer or Board of Directors, shall promulgate design and development guidelines and application and review procedures, all as part of the Fieldstone at Lewes Design Standards and Guidelines ("Fieldstone at Lewes Standards") and may establish reasonable fees for review, provided that such fees shall not be applicable to construction or alterations by a Participating Builder. Fieldstone at Lewes Standards shall incorporate all restrictions and guidelines relating to development and construction contained in this Declaration as well as restrictions and guidelines with respect to location of structures upon property, foundations, size, length, design of structures, driveway and parking requirements and landscaping requirements. Copies shall be available from the Fieldstone at Lewes Architectural Board for review. Unless otherwise provided in this Declaration, the guidelines and procedures shall be those of the Developer or Association and the Fieldstone at Lewes Architectural Board shall have sole and full authority to prepare and to amend the Fieldstone at Lewes Standards. The Fieldstone at Lewes Architectural Board shall make Fieldstone at Lewes Standards available to owners.
(b) The Fieldstone at Lewes Architectural Board shall initially consist of three (3) members, all appointed by the Developer, and who shall serve until such time as their successors are designated by the Developer or Board of Directors as provided below. Declarant may remove with or without cause any Fieldstone at Lewes Architectural Board member appointed by Declarant at any time by written notice to such member. At such time as Developer deems appropriate, the Board of Directors of the Association shall have the right to appoint a maximum of two (2) additional members. At no time shall the Fieldstone at Lewes Architectural Board have less than three (3) members nor more than five (5) members. At such time as one hundred percent (100\%) of all property within the

Development has been developed, improved or conveyed to purchasers in the normal course of development and sale, the Board of Directors shall appoint all members of the Fieldstone at Lewes Architectural Board. Thereafter, the regular term of office for each Fieldstone at Lewes Architectural Board member appointed by the Board of Directors shall be one (1) year, measured fro the date of such member's appointment. Upon death or resignation of any such member, a successor or successors appointed by the Board of Directors to fill such a vacancy shall serve the remainder of the term of the former member. The Fieldstone at Lewes Architectural Board shall select its own Chairman and he, or in his absence the Vice Chairman, shall be presiding officer of its meetings. The Developer may, at its option, delegate to the Board of Directors, its right to appoint one (1) or more members of the Fieldstone at Lewes Architectural Board. Anything elsewhere contained herein to the contrary notwithstanding, the Developer shall retain an absolute veto over any decision by the Fieldstone at Lewes Architectural Board so long as Developer owns any Lot or Common Area within the Development.

Section 7.3. Meeting and Decisions of the Board. The Fieldstone at Lewes Architectural Board shall establish times, dates and frequency of meetings. A quorum of a simple majority of the members shall be required to review and take action on applications for approval. The Board shall appoint a secretary who shall prepare minutes of each Board meeting including all decisions of the Board. If the Fieldstone at Lewes Architectural Board fails to approve or deny an application within thirty (30) days of receipt of the complete application by and payment of fees to the Board, the party making the submission for approval shall deliver written notice to the Fieldstone at Lewes Architectural Board of its failure to act, and, if approval is not granted or denied within fifteen (15) days thereafter, the plans and specifications shall be deemed to be denied. It is further specifically provided that if any proposed application for action will affect drainage of stormwater, such application shall include a certification of non-effect of said plans from a professional engineer licensed in the State of Delaware.

Section 7.4. No Waiver of Future Approvals. The approval of the Fieldstone at Lewes Architectural Board of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Board, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specification, drawings, or matter subsequently or additionally submitted for approval or consent.

Section 7.5. Variance. The Fieldstone at Lewes Architectural Board may authorize variances from compliance with any of the provisions of the Fieldstone at Lewes Standards when circumstances such as topography, natural obstructions, hardship or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of the Declaration, or (c) prevent the Fieldstone at Lewes Architectural Board from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any
permit, or the terms of any financing shall not be considered a hardship warranting a variance.

## Section 7.6. Review and Control by the Fieldstone at Lewes Architectural Board.

7.6.1. No building, outside attached shower, fence, wall, deck, patio, bulkhead, retaining wall, swimming pool, tennis court, septic system, parking area, garage, and/or paving for driveways or garages, or other any other structure of any kind shall be erected, placed or altered nor shall a building permit from Sussex County for such improvement or construction for such improvement be applied for on any improved or unimproved property in the Development until all fees to the Association have been paid and complete sets of building plans and elevations, specifications, and site plan (showing the proposed location of such building, drives and parking areas, etc.) shall have been reviewed and approved in writing by the Fieldstone at Lewes Architectural Board. The number of plans required shall be established by the Fieldstone at Lewes Architectural Board with the intention that there shall be at least one (1) complete set of plans and specification for each member of the Fieldstone at Lewes Architectural Board and one (1) additional set for the Association's files. In reviewing such materials, the Fieldstone at Lewes Architectural Board shall consider such things as aesthetic appearance, harmony with surrounding improvements, compliance with this Declaration and any additional criteria adopted by the Fieldstone at Lewes Architectural Board as part of the Fieldstone at Lewes Standards. Approval or disapproval of plans, locations or specifications may be based by the Fieldstone at Lewes Architectural Board upon any ground incorporated within the Fieldstone at Lewes Standards including purely aesthetic considerations, which in the sole discretion of the Fieldstone at Lewes Architectural Board, shall be sufficient. No painting, staining, changes in color, finish materials or alteration to the exterior facade of any structure shall be undertaken until approval has been obtained in writing from the Fieldstone at Lewes Architectural Board. This provision shall not apply to repainting the same color. There shall be no submission review fees required of Developer or any Participating Builder.
7.6.2. No completed structure shall be deemed to be in compliance with this Declaration unless and until a Certificate of Compliance has been issued by the Fieldstone at Lewes Architectural Board. A Certificate of Compliance will not be unreasonably withheld if the structure is completed pursuant to the approved plans.
7.6.3. Neither Developer nor any member of the Fieldstone at Lewes Architectural Board shall be responsible or liable in any way for any defects in any plans or specifications approved by the Developer or the Fieldstone at Lewes Architectural Board, nor for any structural defects in any work done according to such plans and specifications approved by the Developer or the Fieldstone at Lewes Architectural Board. Further, neither Developer nor any member of the Fieldstone at Lewes Architectural Board shall be liable for damages to anyone submitting plans or specifications for approval under this Section, or to any owner of property affected by this Declaration by reason of mistake in judgment, negligence, or non-feasance arising out of or in connection with the approval or
disapproval of or failure to approve or disapprove of any such plans or specifications. Every person who submits plans or specifications, and every Owner of any Lot agrees, that such Owner will not bring any action or suit against Developer, or any member of the Fieldstone at Lewes Architectural Board, to recover for any such damage. No approval of plans, location or specification shall be construed as representing or implying that such plans, specification or standards will, if followed, result in a properly designed residence. Such approvals and standards shall in no event be construed as representing or guaranteeing that any residence or improvement hereto will be built in a good workmanlike manner. The property owner shall have sole responsibility for compliance with approved plans and does hereby hold the Fieldstone at Lewes Architectural Board and the Developer harmless for any failure thereof caused by the property owner's architect or builder.
7.6.4. Architectural and design review shall be directed towards attaining the following objectives for the Development, and the Developer or Association may adopt reasonable standards, rules, and regulations deemed necessary or convenient in attaining such objectives:
7.6.4.1. Preventing excessive or unsightly grading, indiscriminate earth moving or clearing of property, or removal of trees and vegetation which could cause disruption of natural water courses or alter natural or designed land forms.
7.6.4.2. Ensuring that the location and configuration of structures are visually harmonious with the terrain, with the vegetation of the residential Lot and with surrounding residential lots and structures, and do not unnecessarily block scenic views from existing structures, walks or roads or tend to dominate any general development or natural landscape.
7.6.4.3. Ensuring that the architectural design of structures and their materials and colors are visually harmonious with the Development's overall appearance, history and cultural heritage, with surrounding development, with natural land forms and native vegetation, and with development plans approved by the Developer, or by a governmental or public authority, if any, for the areas in which the structures are proposed to be located.
7.6.4.4. Ensuring that the Development structure, building or landscaping complies with the provisions of this Declaration.
7.6.4.5. Promoting building design and construction techniques that respond to energy consumption and environmental quality considerations such as heat loss, air emissions and run-off water quality.
7.6.5. The approval of the Fieldstone at Lewes Architectural Board shall not be required for matters of interior decoration only.

Section 7.7. Application Fees. The Board of Directors of the Association shall have the right to set and charge a reasonable fee for applications for home improvement alterations,
additions, construction of accessory structures, garages or fences to defray architectural review costs. Participating Builder shall not be subject to such fees.

Section 7.8. Entry on a Property. The Fieldstone at Lewes Architectural Board or any of its representatives shall have the right to enter any improved lot or unimproved lot within Fieldstone at Lewes for the purpose of determining compliance with these covenants and the Fieldstone at Lewes Standards, and with decisions of the Fieldstone at Lewes Architectural Board, pending or completed, which affect that property. Entering a property for this purpose shall not be deemed trespass.

## ARTICLE VIII <br> USE RESTRICTIONS

In order to protect the appearance and beauty of the vegetation, topography or other natural features within Fieldstone at Lewes, the following controls are hereby established.

## Section 8.1. Residential Use Only.

The Owners of Lots in the Development acknowledge and recognize that Fieldstone at Lewes is a community planned to achieve the goals and objectives of providing an environment for families to live and enjoy the peace and quiet of an attractive and distinctive residential community. In order to achieve a neighborhood of serenity and peaceful use, the Owners agree and covenant that the homes in the Development shall only be used for single-family residential purposes exclusively. No groups, except families shall reside, occupy, rent or use a dwelling in the Development. No business activity of any kind, including by example but not limited to, rooming house, boarding house, gift shop, antique shop, professional office or beauty/barber shop or the like or any trade of any kind whatsoever including yard sales, garage sales or the like shall be carried on upon any Lot or in any structure on a Lot; provided, however, that nothing contained herein shall be construed so as to prohibit home offices so long as no stock in trade is kept or commodities sold, there are no employees, patrons, customers or clients and no signs. Nothing herein shall be construed to prevent the Developer or a Participating Builder from constructing dwellings to be sold or leased, from showing Lots, dwellings or models for the purpose of selling or leasing a Lot or dwelling shown for another or from placing and maintaining signs, structures, storage places, facilities and offices it deems necessary.

Section 8.2. Fences, Boundary Wall, Boundary Line Hedge and Shrubbery. Fences, boundary walls, boundary line hedges and shrubberies shall only be permitted if the following requirements are met:
8.2.1. Fences, boundary walls, boundary line hedges and shrubberies shall be prohibited within the front yard area of the lots and in general, shall not be closer to the front of the lot than the front of the dwelling unit. The height of any such fence, boundary wall, boundary line hedge or shrubbery along the side of a unit shall not exceed six feet ( $6^{\prime}-0^{\prime \prime}$ ). Material, color, type and style of fence and boundary wall shall be limited to those which are viewed by the Fieldstone at Lewes Architectural Board to be aesthetically pleasing when installed in a residential setting. The Fieldstone at Lewes Architectural Board shall endeavor to maintain consistency in fence design and appearance within the Development.
8.2.2. Prior written approval shall be obtained from the Fieldstone at Lewes Architectural Board.
8.2.3. Any fence, boundary wall, boundary line hedge or shrubbery along the side or rear of any Lot shall not extend over any Utility System or easement on said Lot, and shall not exceed six feet ( $6^{\prime}$ ). The heights or elevations of any fence or wall shall be measured from the existing elevations of the Lot.

Section 8.3. Pools, Hot tubs. No above-ground swimming pools whatsoever shall be erected or allowed to remain in the Development. "Hot tubs", "jacuzzis" and the like shall be prohibited except when placed in the area at the rear of a dwelling and within lines measured and running in a parallel line from each rear corner of such dwelling to the rear Lot lines and only after obtaining prior written approval of the Fieldstone at Lewes Architectural Board.

Section 8.4. Temporary Structures, Vehicles, Boats and Trailers. Except as may otherwise be provided in this Declaration, no structure of a temporary character shall be placed upon any Lot at any time; provided, however, that this prohibition shall not apply to shelters or other structures constructed or used by a Participating Builder, or approved by the Developer and used by a contractor during construction of a dwelling, it being clearly understood that the latter temporary shelters may not, at any time, be used for residence or remain on the Lot after completion of construction. Except for construction related trailers used by Participating Builder, no trailer, mobile home, double-wide, park model trailer, motor home, tent, barn, camper, bus, or other similar vehicle, out-building, structure, horse/livestock trailer, boat or trailer shall be placed, kept or parked on any Lot or on any portion of the Common Area, except as may be stored within the enclosed garage, at any time either temporarily or permanently unless the Developer or the Association designates one or more areas in the development for regulated storage and long-term parking.

Section 8.5. Mining and Drilling Prohibition. No oil or natural gas drilling, refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, and no derrick or other structure designed for use in boring for oil or natural gas shall be stored, erected, maintained or permitted in the Development.

Section 8.6. Use and Height Restrictions. No structure shall be erected, placed or permitted to remain on any Lot in excess of three (3) stories in height, and in no instance shall any structure exceed forty-two feet (42') in height above the first floor finished elevation.

Section 8.7. Setbacks and Building Lines. Each dwelling which shall be erected on any Lot shall be situated on such Lot in accordance with the building and setback lines established by Developer and authorized by Sussex County zoning regulations. No structure shall be placed on or over any easement on any Lot. Developer shall determine, at its sole discretion, placement of all dwellings, garages and accessory uses. The Developer shall have the power and authority to promulgate and publish setback requirements for each Lot. In certain cases, the Developer may require an Owner to seek a variance from Sussex County Zoning Ordinance if necessary to protect important trees, vistas or to preserve aesthetic value.

## Section 8.8. Restriction on Materials.

8.8.1. All structures constructed or placed on any Lot shall be built of good quality and new material, and no used structures or old buildings or parts thereof shall be relocated or placed on any such Lot.
8.8.2. No structures constructed or placed on any Lot shall have an exterior finish of cinder block, grooved plywood, T-111, or plywood above grade.
8.8.3. All roofing shall be made of tile, architectural grade asphalt shingles or a material similar thereto which has been approved by the Fieldstone at Lewes Architectural Board. The minimum roof pitch shall be $5 / 12$.
8.8.4. All driveways and parking areas shall have a hard, dustless surface, such as asphalt, concrete, brick, paver or such similar material as may be approved by the Fieldstone at Lewes Architectural Board.

Section 8.9. Mobile Home Restriction. Except for construction related trailers used by Participating Builder, no mobile home, trailer, doublewide, manufactured, or similar type structure shall be permitted, placed or constructed on any Lot in the Development.

Section 8.10. Re-Building Requirement. Any dwelling or out-building on any Lot which may be destroyed in whole or in part by fire, windstorm or any other cause or act of God must be rebuilt and the structure restored to a natural condition, within nine (9) months or such shorter period of time as may be reasonable; all debris must be removed within fourteen (14) days.

Section 8.11. Elevation and Drainage Changes. No changes in the elevation, topography or drainage characteristics of the Development by any Owner other than a

Participating Builder shall be made so as to materially affect the surface elevation or natural drainage of surrounding Lots and without the prior written approval of the Developer or Fieldstone at Lewes Architectural Board. Nor shall any fill be used to extend any property into any state or federal wetlands, to increase the size of a Lot by filling in water it abuts, or to fill in any waterway, wetland or storm drainage area of the Development for any purpose whatsoever.

Section 8.12. Tree Removal. The removal of trees, shrubs and other plant material shall be limited to removal of those materials essential for house construction and driveway installation only. The Fieldstone at Lewes Architectural Board shall further have the authority to require any Owner removing a tree in violation of this clause to replace the same with a tree of the same species or a different species with a caliper of two inches (2") or greater at such Owner's cost and expense.

Section 8.13. Clotheslines. No clothesline or drying yards shall be located upon any Lot in the Development, nor shall towels, blankets or the like be hung or placed on the front or rear porch, decks, railing or fences or any dwelling or Lot, except with the written permission of the Developer or Fieldstone at Lewes Architectural Board. Permission may be granted by the Developer or Fieldstone at Lewes Architectural Board when the clothesline, drying yard, or other exposure of clothes to the air for drying can be effected behind shrubbery, trellis or another type of screen so as not to be seen from another Lot or Common Area, including, but not limited to, streets or roadways in the Development.

Section 8.14. Sewer and Water System. No surface toilets or septic tanks shall be permitted in the Development (other than those utilized by the Developer or any Participating Builder). A purchaser of a Lot assumes responsibility for attaching water connections, plumbing fixtures, dishwashers, toilets and sewage disposal system to the central sewer and water systems of the Development.

Section 8.15. Garbage/Trash Disposal. Each Owner shall provide garbage and trash receptacles or similar facilities in accordance with reasonable standards established by the Developer or the Association, which receptacles shall be placed only at the front of the dwelling in an enclosure approved by the Developer or Association and placed adjacent to the driveway for the dwelling in a location approved by the Developer or Association. If an Owner does not have a receptacle or similar facility approved by the Developer or Association, all garbage and trash must be kept in the Owner's garage and may only be placed outside on the designated trash pick-up day for Owner's Lot. The Developer or Association may from time to time adopt rules and regulations for the sorting of garbage and trash into separate receptacles or other handling according to the nature of the materials or otherwise to aid in recycling or other processes with beneficial impact on the environment. No garbage or trash incinerator shall be permitted. No burning, burying or other disposal of garbage or trash on any Lot or within the Development shall be permitted. The Developer or Association may from time to time adopt rules and regulations, including designation of the persons and methods, for garbage/trash collections and disposal, and all Owners shall be bound thereby. Owners and the

Association shall use professional commercial garbage and trash removal services. Notwithstanding the foregoing, the provisions of this Section 8.15 shall not apply to any Participating Builder.

Section 8.16. Sign Controls. No signs of any character shall be erected on any Lot, placed in the window of any dwelling or structure located on a Lot, or displayed to the public in any manner on any Lot. This restriction shall not apply to signs used by the Developer or Participating Builder to identify and advertise the subdivision as a whole, nor to Developer's or Participating Builder's signs for selling Lots and/or houses.

Section 8.17. Natural Buffer Zone. No Lot Owner and no Lot Owner's family, guests, tenants, agents or employees shall disturb any natural buffer zone in any manner and/or for any reason. Owners of Lots adjoining and/or including a natural buffer zone shall be responsible for advising their contractor or subcontractors of the natural buffer zone and will ensure no encroachment or clearing of said area. If a natural buffer zone is disturbed, the Lot Owner responsible shall be required to pay all costs incurred by the Developer and the Association, including reasonable attorney's fees and costs, as a result of its attempt to restore the area to its natural state.

Section 8.18. Exclusion of Above Ground Utilities. All electrical service, wires, pipes, lines, telephone, cable television (CATV) lines and utility services of any type shall be placed in appropriate conduit underground as possible and no outside electrical lines shall be placed overhead. No exposed or exterior radio or television transmission or receiving antenna shall be erected, placed or maintained on any part of the Development except those master facilities approved by the Developer, provided, however, that the normal service pedestals, etc., used in conjunction with such underground utilities shall be permitted within the Development. Overhead utilities shall be permitted during the construction period and until utility companies can place them underground.

Section 8.19. Junk or Disabled Vehicles. No stripped, partially wrecked, unlicensed or invalidly licensed, disabled or junk motor vehicle or part thereof, shall be permitted to be parked or kept in the Development. The following activities are prohibited: vehicle repair, bodywork, oil change, engine maintenance and the like except cleaning and washing Owners' own vehicles; no vehicles shall be maintained on jacks or blocks except temporary usage for emergency tire change.

Section 8.20. Perimeter Access. There shall be no access to any Lot on the perimeter of the Development except from designated roads within the development; provided, however, that Developer and Participating Builder reserves the right to construct and operate temporary construction roads during the construction and development period.

Section 8.21. Rentals. The Developer or Association may from time to time adopt rules and regulations pertaining to the rental of dwellings. Owners of rented dwellings shall be personally liable for the failure of a tenant or any invitee of a tenant to abide by rules and regulations pertaining to the use or occupancy of the Development.

## Section 8.22. Accessory Structures.

8.22.1 No accessory structure shall be constructed upon any Lot, except an exterior attached shower, a shed, mailbox, doghouse, birdhouse, garage, swing set or similar play structure, or to a free-standing pole or individual flagpole of aluminum, fiberglass or other material approved by the Developer or Association which has been approved in writing by the FALAB prior to installation or construction.
8.22.2 All mailboxes shall be as designed and installed by the Developer. Mailbox structures may be found acceptable, by special exception, only if they are uniform and after concise plans for same have been submitted to and reviewed by the Fieldstone at Lewes Architectural Board.
8.22.3. Detached garages, exterior attached showers, and sheds shall conform in appearance to the style of the dwelling and shall be constructed with the same exterior siding and roofing materials and colors as the dwelling.
8.22.4. No such structure except a mailbox and/or flagpole shall be placed closer to the front Lot boundary than the closer of the rear line of the dwelling or of the front line of the garage.
8.22.5 A flagpole shall not exceed twenty four feet ( $24^{\prime}$ ) in height.

Section 8.23. Landscaping. Owners are encouraged to provide landscaping for their Lots; provided, however, that Developer reserves the right to reasonably restrict the placement of landscaping, fences or other impediments to the enjoyment of views. No vegetable garden shall be located in the area between the front lot line and the front of the dwelling. Grasses, lawn growth or weeds shall be limited to a maximum of four inches $(4 ")$ in height. Developer reserves the right to enter onto any Lot after notice and an opportunity to maintain landscaping and grass height, and cut any grass or weeds which continue to exceed four inches (4") in height after said notice, and to assess the cost to the Owner thereof, pursuant to Section 5.1.3.

Section 8.24. Special Hazards. Each Owner accepts and assumes all the risks and hazards of ownership or occupancy attendant to the ownership of such Owner's Lot, including but not limited to its proximity to any Recreational Facility or Common Area or any bodies of water in or near the Development, and agrees hereby to hold the Developer and the Association harmless and shall indemnify the Developer or the Association for all losses, costs and expenses, including attorney's fees for all such risks and hazards. Specifically, the Developer does hereby disclaim any and all liability for any property damage or personal injury resulting from acts, activity or erosion along the bank of all ditches, streams, other bodies of water or watercourses located in the Development.

Section 8.25. Traffic Regulations. The Developer and the Association may from time to time adopt additional rules and regulations pertaining to vehicular and pedestrian traffic in the Development as it or they deem appropriate and necessary.

Section 8.26. Alteration of Common Area. No person shall alter in any way any Common Area except with the written permission of the Developer or Association.

Section 8.27. Easements and Encroachments. No building or part of a building, including porches or projections of any kind, shall be erected so as to extend over or across any of the building lines as hereinafter established. Provided, however, if any portion of any Common Area unintentionally encroaches upon a Lot or any part thereof, whether by settlement or otherwise, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. If any portion of improvements to a Lot or Lots unintentionally encroaches upon a Lot or any portion thereof, whether by settlement or otherwise, a valid easement for encroachment and for the maintenance of same, so long as it stands, shall and does exist. In the event any improvement or part thereof is partially or totally destroyed and then rebuilt, any encroachment of any Common Area upon a Lot or Lots or encroachment of a Lot or Lots upon any Common Area or upon an adjoining Lot or Lots resulting because of such rebuilding, shall be permitted, and a valid easement shall exist for the maintenance of such encroachments so long as the same stand. Such encroachments and easements shall not be considered or determined to be encumbrances either on any Common Area or any Lot or Lots, and no Owner shall be entitled to damages or injunctive relief because of the construction, re-construction or maintenance thereof.

Section 8.28. Alteration of Building Lines in the Best Interest of Development. Where because of size, natural terrain, or other reason it is in the best interest of the Development that any building lines be altered, the Developer may make such alteration in its sole and absolute discretion. The Developer specifically reserves the right to assign to the Fieldstone at Lewes Architectural Board this right to alter building lines.

Section 8.29. Developer, Participating Builder and Association Exempt. None of the foregoing restrictions shall be applicable to the activities of: (a) the Developer or Participating Builder, its officers, employees, agents or assigns, in the development, marketing and sale of Lots or other parcels within the Project; or (b) the Association, its officers, employees and agents in connection with the proper maintenance, repair, replacement and improvement of the Utility Systems and/or Common Areas.

Section 8.30. Pets. No animals, livestock, birds, or fowl shall be kept or maintained on any part of the Development except animals commonly recognized as domestic pets, such as dogs, cats, pet fish and birds, which may be housed on a Lot in reasonable numbers (not to exceed three) as pets for the pleasure and use of the Owner but not for any commercial use or purpose. All animals must be fenced or shall be kept on a lead or leash when they are off the Owner's Lot and must be under the Owner's control at all times. No animal shall become a nuisance to other resident by barking or other acts and the Owner is
responsible for removing his or her animal from the property of another. The Owner of any animal is responsible for and liable for any happenstance or accident which may occur in connection with or arising from a loose, uncontrolled or vicious animal. Non-owners (e.g. renters or lessees) may not keep any pets without the prior written approval of the Owner and any such approval must be filed with the Association.

Section 8.31 Storage of Toxic or Hazardous Materials. No toxic or hazardous substances as defined by environmental law shall be used, disposed, stored or released on any Lot or in the Development except for use with an outdoor grill in a tank holding thirty (30) pounds or less of natural gas or propane.

Section 8.32 Antennae and Satellite Dishes/Receivers. - Installation of antennas, including satellite dishes and receivers, shall be governed by this Section and such other additional reasonable rules and regulations regarding the location and screening of any such items that the Board shall impose from time to time. The Federal Communications Commission (the "FCC") adopted a rule effective October 14, 1996 (the "FCC Rule"), preempting certain restrictions concerning the installation, maintenance, and use of direct broadcast satellite, television broadcast, and multipoint distribution service antennas (collectively, "Antennas"). The requirements set forth in this Section are generally consistent with the FCC Rule; however, because the FCC Rule is subject to change or modification, the Board reserves the right to amend or modify any requirements governing installation, maintenance, and use of Antennas, which may be more restrictive than as set forth herein and which may, in the discretion of the Board, be applied retroactively. Antennas not covered by the FCC Rule, including satellite dishes in excess of one (1) meter in diameter, shall not be installed on the exterior portions of any Lot or Common Facility without prior written approval as required by Article XIII. Antennas covered by the FCC Rule, including satellite dishes of one (1) meter or less in diameter, are permitted within a Lot, provided such Antennas shall not be visible from the front elevation of the Lot; provided, however, that nothing herein requires installation of such an Antenna in a location from which an acceptable quality signal cannot be received, as certified in writing by a licensed installer.

Section 8.33. Completion of Construction. Except for construction by a Participating Builder, once the construction of any building or structure on a Lot has commenced, such construction shall be proceed without delay and shall be completed in accordance with the time line established by the Owner and the Fieldstone at Lewes Architectural Board, except where such completion is impossible or would result in great hardship to the owner of builder due to strikes, fires or national emergencies or natural calamities. Cessation of work, whether such work be construction or demolition work, once started and before completion thereof for a continuous period of sixty (60) days shall be prima facie evidence of an intent to abandon the work in its partially completed or demolished state and shall be deemed to be a public and private nuisance. The Developer and Fieldstone at Lewes Architectural Board shall have the power to seek and demand an injunction from the Court of Chancery of the State of Delaware to compel the completion or demolition of the work within sixty (60) days.

Section 8.34. Agricultural Notice. This property is located in the vicinity of land used primarily for agricultural purposes on which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future involve noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities.

Section 8.35. Wetlands Notice. This site contains regulated wetlands. Activities within these wetlands may require a permit from the U.S. Army Corps of Engineers and/or the State of Delaware.

## ARTICLE IX

## INSURANCE

## Section 9.1. Required Coverage.

9.1.1. The Developer or the Board of Directors of the Association, or its duly-authorized agent, shall be required to obtain, maintain and pay the premiums, as a common expense, upon a special form policy of property insurance covering all the Common Areas and Utility Systems, _including fixtures and building service equipment, to the extent that they are a part of the Common Areas of the Association, as well as common personal property and supplies.
9.1.2. The insurance policy shall afford, as a minimum, protection against loss or damage by fire and other perils which are customarily covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard "All Risk" endorsement, where such is available. The policy shall be in an amount equal to one hundred percent $(100 \%)$ of the current replacement cost of the Common Areas (less a deductible deemed reasonable by the Board of Directors) and shall name the Association as the named insured.

Section 9.2. Individual Insurance. By virtue of taking title to a Lot, each Owner covenants and agrees with all other Owners and with the Developer and the Association that each Individual Owner shall carry blanket all-risk casualty insurance on the Lot and structures constructed on the Lot in accordance with the standards set forth in this Article. Each individual Owner further covenants and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction to the Lot and structures constructed on the Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structures in a manner consistent with the original construction. In the event that a detached single-family dwelling is totally destroyed and the Owner determines not to
rebuild or to reconstruct, the Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction of the dwelling. The Board of Directors may impose more stringent requirements regarding the standards for rebuilding or reconstructing structures on the Lot and the standard for returning the Lot to its natural state in the event the Owner decides not to rebuild or reconstruct.

## ARTICLE X

## CONDEMNATION

Section 10.1 Award. Whenever all or any part of the Common Area shall be taken by any authority having the power of condemnation or eminent domain (or conveyed in lieu of or under threat of condemnation), each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as Trustee for all Owners to be disbursed as follows:

Section 10.2. Approval. If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Developer and at least seventy-five percent (75\%) of the Class "A" Members of the Association shall otherwise agree, the Association shall restore or replace such improvement so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the above provisions in Article IX hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

## ARTICLE XI

## MORTGAGEES RIGHTS

Section 11.1. Changes Required by Lenders. Notwithstanding any provision to the contrary contained in the Articles of Incorporation or By-Laws of the Association or this Declaration, the Developer shall have and hereby reserves the right to make modifications, additions or deletions to the Declaration, the Certificate of Incorporation and the By-Laws of the Association if such modifications, additions or deletions are required by the Veterans Administration, Federal Housing Administration, Federal Home Loan Mortgage Corporation or Federal National Mortgage Association. The Developer further reserves the right to waive in writing any exemption, right or privilege granted or reserved to the Developer by this Declaration or the Certificate of Incorporation or the ByLaws of the Association.

Section 11.2. Developer Reserved Rights. No amendment to this Declaration may remove, revoke or modify any right, reservation or privilege of the Developer without the prior written consent of the Developer.

Section 11.3. Failure to Respond. Any Mortgagee who receives a written request to approve any additions or amendments who fails to submit a response within thirty (30) days shall be deemed to have approved such request.

## Section 11.4. Additional Rights of Mortgagees - Notice.

11.4.1. The Association shall promptly notify all Mortgagees who hold first mortgages on any Lot for which any assessment levied pursuant to the Declaration, or any installment thereof, becomes delinquent for a period in excess of sixty (60) days and the Association shall promptly notify said Mortgagee with respect to which any default in any other provision of this Declaration remains uncured for a period in excess of sixty (60) days following the date of such default. Any failure to give any such notice shall not affect the validity or priority of any first mortgage on any unit and the protection extended in this Declaration to the holder of any such mortgage shall not be altered, modified or diminished by reason of such failure.
11.4. 2. No suit or other proceeding may be brought to foreclose the lien for any assessment levied pursuant to this Declaration except after ten (10) days written notice to the holder of the first mortgage on the Lot which is the subject matter of such suit or proceeding.
11.4. 3. Any first mortgagee of any Lot may pay any taxes, utility charges or other charges or other charge levied against the Common Areas which are in default and which may or have become a charge or lien against any of the Common Areas and any such first mortgagee may pay any overdue premiums on any hazard insurance policy or secure new hazard insurance coverage on the lapse of any policy, with respect to the Common Areas. Any first mortgagee who advances any such payment shall be due immediate reimbursement of the amount so advanced from the Association.

## ARTICLE XII

## GENERAL PROVISIONS

Section 12.1. Enforcement. The Developer, the Association, and any Owner shall have the right to enforce, by any proceedings at law or in equity, all of the restrictions, conditions, covenants, easements, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure of the Developer, the Association, or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed as a waiver of the right to do so thereafter. The Developer and the Association shall have the right to adopt reasonable rules and regulations for enforcing the provisions
hereof or any other rule or regulation, including the right to set and collect fines which shall be liens against Lots.

Section 12.2. Severability. Invalidation of any covenants or restrictions or any term, phrase or clause of this Declaration by the adjudication of any court or tribunal shall in no way affect the other provision hereof which are hereby declared to be severable and which shall remain in full force and effect.

Section 12.3. Assignment and Delegation. The Developer shall have the right to assign to any one (1) or more persons, firms, corporations, partnerships or associations any and all rights, powers, titles, easements and estates reserved or given to the Developer in this Declaration. Further, the Developer reserves the right to convey, assign or delegate to the Association, and the Association shall accept, any or all of the Developer's rights and obligations set forth in this Declaration.

Section 12.4. Irrevocable Power of Attorney. The Developer is hereby granted an irrevocable power of attorney coupled with an interest to amend this Declaration as provided in this Section and to take all other action convenient or necessary to give effect to any or all of the rights reserved to Developer in this Declaration. Every party accepting an interest in any part of the Property, whether it be title, a lien, or any other interest, and whether it be transferred by a deed, a mortgage, a judgment, a last will and testament, or otherwise, shall thereby specifically accept the reservation of Developer's rights as provided in this Declaration, and shall also thereby grant to Developer this irrevocable power of attorney coupled with an interest. The Developer may require that a party accepting any such interest in the Property shall execute a separate and written power of attorney coupled with an interest and record it in the Office of the Recorder of Deeds of Sussex County, Delaware. However, the power of attorney coupled with an interest provided by this paragraph shall be deemed fully granted to Developer when any such interest is acquired, whether or not such separate and written power of attorney coupled with an interest is executed and recorded.

## Section 12.5. Rights and Liabilites of Participating Builder.

(a) Participating Builder does not and shall not assume or be responsible for any liabilities, warranties or obligations which have or may accrue to Developer, including, but not limited to, any liabilities, warranties or obligations concerning any Lots, the Common Areas or Recreational Facilities, any buildings or other improvements constructed, or to be constructed, by or on behalf of, Developer.
(b) No Participating Builder makes any representation or warranty whatsoever, whether express or implied, with respect to any Lots, Common Areas, Recreational Facilities, buildings or other improvements constructed or sold by parties other than the Participating Builder, nor has any Participating Builder authorized any other party to make any such representation or warranty, and such other parties are without legal authority to enforce or make any such representation or warranty. No Participating Builder shall
assume or be responsible for, and each Owner of any Lot expressly waives any all claims against each Participating Builder for any liabilities, warranties or obligations which may accrue to Developer or any assignee under the Declaration or pursuant to law in connection with Developer's or any assignee's status as Developer under this Declaration.

## Section 12.6. Duration and Amendments.

12.6.1. Except as may otherwise be provided in this Declaration, the Restrictions of this Declaration run with and bind the Property and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors or assigns, as the case may be, in perpetuity; subject, however, to the provision that the Developer, until all Lots in the Development have been conveyed by the Developer and the Developer has withdrawn from control of the Association, shall have the power to waive, abandon, terminate, modify, alter, change, amend, eliminate or add to these restrictions and this Declaration. Upon the Developer's conveyance of its last Lot and/or upon its withdrawal from the control of the Association, the Association or its successors, by with the vote or written consent of sixty-six percent $(66 \%)$ of the then Owners of Lots, shall have the power to waive, abandon, terminate, modify, alter, change, amend, eliminate or add to these restrictions and this Declaration at any time hereafter. Any such waiver, abandonment, termination, modification, alteration, change, amendment, elimination, or additions shall take effect when a copy thereof, executed and acknowledged by the Association or its successors in accord with the usual form of execution and acknowledgment of deeds, together with the written consents of the requisite number of owners or by a certificate by the Association verified under oath by the President thereof, or in the case of his/her absence or inability, by any Vice President thereof, setting forth the time, manner and result of the taking of the vote of the members, have been filed for record in the Office of the Recorder of Deeds, in and for Sussex County, and the same shall thereafter remain in effect in perpetuity unless otherwise provided.
12.6.2. Any amendment made pursuant to this Section shall be certified by Developer as having been duly approved by Developer and, if any, by the Owners and shall be effective only upon recordation or at such alternate date as shall be specified in the amendment. Every Owner or occupant, by accepting a conveyance or occupancy of a Lot shall be deemed to have agreed to be bound by such amendments as are permitted hereby, and to agree further that, if requested to do so by Developer, such will consent to the amendment of this Declaration or any other instruments relating to the Development.
12.6.3. Developer is hereby granted an irrevocable power of attorney coupled with an interest to amend this Declaration as provided in this Section and to take all other action convenient or necessary to give effect to any or all of the rights reserved to Developer in this Declaration. Every party accepting an interest in any part of the Property, whether it be title, a lien, or any other interest, and whether it be transferred by a deed, a mortgage, a judgment, a last will and testament, or otherwise, shall thereby specifically accept the reservation of Developer's rights as provided in this Declaration, and shall also thereby
grant to Developer this irrevocable power of attorney coupled with an interest. The Developer may require that a party accepting any such interest in the Property shall execute a separate and written power of attorney coupled with an interest in a form acceptable to Developer and record it in the Office of the Recorder of Deeds of Sussex County, Delaware. However, the power of attorney coupled with an interest provided by this paragraph shall be deemed fully granted to Developer when any such interest is acquired, whether or not such separate and written power of attorney coupled with an interest is executed and recorded.

Section 12.7. Dedication of Common Area. Except as may otherwise be provided in this Declaration, every road, body of water, Common Area, Utility System, and other amenity within the Development is private, and neither the Developer's recording of any instrument or plan, or any other act of the Developer with respect to the Property is, or is intended to be, or shall be construed to be, a dedication to the public of any part of the Development except as may otherwise be provided herein. The use and enjoyment of every part of the Development is reserved to the Developer, to those who, from time to time, are Owner members of the Association and to the invitees thereof. Such use shall be subject to such rules and regulations as may be prescribed by the Developer or the Association, as the case may be.

Section 12.8. Time is of the Essence. It is agreed that time is of the essence with regard to the provisions of this Declaration.

Section 12.9. Remedies for Violation of Restrictions. Except as may otherwise be provided in this Declaration, in the event of a violation or breach of any of these restrictions by an Owner or agent of an Owner, by an occupant or agent of an occupant, or by another party, then the Owners of Lots in the Development, the Developer and the Association, or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel compliance therewith, or to prevent the violation or breach thereof. In addition to the foregoing, the Developer and the Association shall have the right, whenever any improvement or structure is built or placed in violation of this Declaration, to enter upon the property where such violation exists, and summarily abate or remove the same at the expense of the Owner, if after thirty (30) days written notice of such violation, it shall not have been corrected by the Owner. The Association is hereby granted a perpetual easement across each Lot for the purpose of enforcing its right under this Section, and no such entry and abatement or removal shall be deemed a trespass. The Association may also maintain such watchmen and erect, maintain and control, at its discretion, such gate houses, or adopt at its discretion other measures to enforce the rights mentioned in this Declaration, and such watchmen or gate houses shall not constitute the creation or maintenance of a nuisance or obstruction nor constitute any limitation or annulment of the grant of free and uninterrupted use of the Common Areas, including streets and roadways, of Owners. The failure to enforce any rights, reservation, restriction or condition contained in this Declaration, however long continued, shall not be deemed a waiver of the right to do so thereafter as to the same breach or as to a breach occurring prior to or subsequent thereto and shall not bar or affect its enforcement. Should any
person employ counsel to enforce any of the foregoing covenants, conditions, reservations or restrictions, because of a breach of the same, all costs incurred in such enforcement, including a reasonable fee for counsel, shall be paid by the Owner of such Lot or Lots in breach thereof. The Developer shall not in any way or manner be liable or responsible for any violation of these restrictions by any person other than itself.

Section 12.10. Rule Against Perpetuities. In the event that any of the provisions hereof are declared void by a court of competent jurisdiction by reason of the period of time herein stated for which the same shall be effective, then in that event such term shall be reduced to a period of time which shall not violate the rule against perpetuities or any other law of the State of Delaware, and such provision shall be fully effective for said reduced period of time.

Section 12.11. Binding Effect. This Declaration shall bind, and inure to the benefit of, the respective heirs, devisees, representatives, successors, successors in title and/or assigns of anyone or anything who/which purchases or takes any interest in any property which is subject to this Declaration.

IN WITNESS WHEREOF, the Developer has hereunto set its hand and seal the day and year aforesaid.


BE IT REMEMBERED, That on this $\qquad$ day of $\qquad$ , A.D. 2019, personally came before me, The Subscriber, a Notary Public for the State and County aforesaid, Joseph P. Reed, managing member of Boardwalk Development, LLC, a limited liability company of the State of Delaware, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his act and Deed, and the act and the Deed of the said limited liability company; that the signature of the Manager is in his own proper handwriting; and that the act of signing, sealing, acknowledging and
delivering the said Indenture was first duly authorized by resolution of the members of the said limited liability company.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.

## NOTARY PUBLIC

COMMISSION EXPIRES:
TYPE OR PRINT NAME OF NOTARY

## EXHIBIT A

* LEGAL DESCRIPTION TO BE ATTACHED

FINDINGS OF FACT \& PROPOSED CONDITIONS
OF APPROVAL

Finding of Fact<br>Fieldstone at Lewes (formerly Henlopen Meadows)<br>Residential Planned Community<br>CZ \#1859

1. This is an application to amend the Comprehensive Zoning Map from a split zoned GR-General Residential and AR-1 Agricultural Residential District to a GR/RPC General Residential District with a Residential Planned Community overlay for a parcel of land containing 60.00 acres more or less located in Indian River Hundred on the southeast corner of Angola Road and Angola Beach Road, also being known as Sussex County Tax Map 234-12.00-3.00 \& 6.00 (the "Property").
2. The Applicant is the contract purchaser of the Property. Currently the Property is owned and farmed by members of the Dorman family. The Dorman family has owned the Property since the early 1960's.
3. A portion of Sussex County Tax Map 234-12.00-3.00 is currently zoned GR and the balance of the two parcels are zoned AR-1.
4. In addition to the current GR Zoning for part of the Property, the surrounding area has been in General Residential use for over 3 decades. More specifically, Iands to the north, east and west are zoned GR. The application represents infill of a zone that has been present in the Angola Neck area for decades.
5. The Property is bordered by roads on all 4 sides with the exception of some manufactured homes on the north and northeast corner (Angola Road to the north, Angola Beach Road to the west, Bay Pointe's entrance road to the south, and the Villages of Herring Creek's buffer and road to the east).
6. The project to be built on the site will be known as Fieldstone at Lewes, a Residential Planned Community. The plan for the community is for 201 detached single family residential units, a housing type consistent with the character in trend of development in the area.
7. The applicant has responded to the Preliminary Land Use Service and has provided an ESDDOZ report.
8. The change of zone is consistent with the residential density of the immediate area.
9. The Delaware State Housing Authority has identified the Angola Peninsula as an "Area of Opportunity" on their Qualified Allocation Plan - 2018 Balanced Housing Opportunities Map. The project proposes moderately priced workforce housing to provide for the needs of employees working in the eastern half of Sussex County, the location of many employment centers and opportunities. As a result, the approval of this change of zone promotes and protects the health, safety, convenience, orderly growth and welfare of the inhabitants of Sussex County.
10. The Property is located in an area that has transitioned from an agricultural area to a residential area involving a variety of housing types and price ranges.
11. With the conditions imposed by the Residential Planned Community overlay, the development will be designed in accordance with the County zoning ordinance and subdivision ordinance.
12. The project has a proposed density of 3.35 units per acre, less than the density anticipated in the Angola Neck Sanitary Sewer District design assumptions.
13. The 2015 Delaware Strategies for State Policies and Spending identify the Property as Investment Level III.
14. In the 2008 Sussex County Comprehensive Plan update, the Property is identified for purposes of future land use as a Mixed Residential Area in an Environmentally Sensitive Developing Area.
15. Potable water will be provided by Tidewater Utilities.
16. Sewer will be provided by Sussex County.
17. The project will have a homeowners association for the maintenance of common areas, e.g., open areas, amenities, streets, etc., in compliance with DUCIOA.
18. The items listed in Section 99-9C of the Subdivision Ordinance have been satisfactorily addressed, in that:

- The subdivision will be integrated into the existing terrain and surrounding landscape with the maintenance of open space, trees and buffers;
- There will be no impact on wetlands as the property is free of regulated wetlands;
- There will be a forested buffer that meets the requirements §99-5.
- The development design will preserve a significant amount of open space;
- The developer will provide assurances that tree, vegetation and soil removal will be minimal and enhanced through landscaping features;
- Through the establishment of a stormwater management plan approved by the Sussex Conservation District, erosion and sedimentation and pollution of surface and groundwater will be minimized on site;
- The project will provide for safe vehicular and pedestrian movement within the site and onto connecting roadways;
- Area property values will not be negatively affected by development of the project;
- The project will not adversely affect the preservation and conservation of farmland;
- The project will have a positive benefit on schools by generating economic benefits in the form of increased revenues through property taxes. The developer will consult with School District to determine whether a school bus shelter will be provided;
- The Delaware Department of Transportation indicated that the project qualifies to fund an area-wide traffic impact study in lieu of completing a project specific traffic impact study. Off-site improvements required by DELDOT will include improvements to the Angola Road and Angola Beach Road intersection, improvements to Angola Beach Road, and funding for two Route 24 intersection improvements;
- The project will be compatible with other area land uses, including residential development in the vicinity. In addition, the project has been designed to minimize any adverse impacts on properties that are adjacent to it;
- The project will not adversely affect area waterways in that the surface and stormwater management plan will provide containment and treatment on site, stormwater discharges will be regulated in accordance with DNREC requirements.

The proposed application is projected to generate the following revenue to Sussex County and the State of Delaware:

| Initial transfer tax on land: | $\$ 120,000$ |
| :--- | ---: |
| Inspection fees of infrastructure: | $\$ 460,000$ |
| Initial transfer tax on homes: | $\$ 2,010,000$ |
| Sewer impact fees: | $\$ 1,278,360$ |
| Building permit fees: | $\$ 120,000$ |
| TOTAL ONE-TIME FEES | $\$ 3,988,360$ |

Recurring annual property taxes:
\$201,000

## CONDITIONS OF APPROVAL - CZ \#1859

This approval is subject to the following conditions:

1. The maximum number of dwelling units shall not exceed 201.
2. Final site plan review by Planning and Zoning shall be required.
3. Building setbacks shall be as follows:
a. Front yard $=25$ feet
b. Side yard $=8$ '
c. Rear yard = 10'
d. Corner yard = 15'
4. Interior street design shall comply with or exceed Sussex County standards and shall include sidewalks on one side of the street and street lighting.
5. All entrances, intersections, roadway improvements, and multi-modal facilities required by DeIDOT shall be completed by the applicant as required by DeIDOT and within the time periods required.
6. The project's amenity package shall be complete prior to the issuance of the $75^{\text {th }}$ certificate of occupancy.
7. All dwelling units shall be served by a central potable drinking water system designed and constructed to State standards.
8. Storm water management and erosion and sediment control shall be constructed in accordance with all applicable state and county requirements and shall be operated utilizing best management practices to provide positive groundwater recharge.
9. No wetlands shall be impacted by the project.
10. A homeowner's association shall be formed to provide for the perpetual maintenance, repair and replacement of buffers, stormwater management facilities, streets, recreational facilities and other common areas, in compliance with DUCIOA.
11. Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.
12. Forest buffers have been provided as required by Chapter 99 of Sussex County code.
13. The applicant shall coordinate and cooperate with the School District's transportation manager to establish a school bus stop area, if the school district requires.
14. The community will not contain any mobile homes or trailers.
15. The community will be marketed as "workforce housing" and the target market will be local families earning 80-120\%Sussex County median income. The developer will complete a Buyer Data Sheet for each home sale and use that data to formulate a report to the County Administrator on an annual basis to analyze the success of the project as workforce housing.





| QTY | SYMBOL | SCIENTIFIC NAME | COMMON NAME | SIZE | BALL |
| :---: | :--- | :--- | :--- | :--- | :--- |
| 155 | AR | ACER RUBRUM | RED MAPLE | $1.5^{\prime \prime}$ CALIPER | B\&B |
| 126 | $I O$ | ILEX OPACA | AMERICAN HOLLY | $5^{\prime}$ HT | B\&B |
| 100 | JV | JUNIPERUS VIRGINIANA | EASTERN RED CEDAR | $5^{\prime}$ HT | B\&B |
| 146 | QP | QUERCUS PHELLOS | WILLOW OAK | $1.5^{\prime \prime}$ CALIPER | B\&B |
| 131 | TA | TILIA AMERICANA | BASSWOOD | $1.5^{\prime \prime}$ CALIPER | B\&B |
| 100 | LT | LIRIODENDRON TULIPFERA | YELLOW POPLAR | $1.5^{\prime \prime}$ CALIPER | B\&B |
| 98 | PO | PLATANUS OCCIDENTALIS | SYCAMORE | $1.5^{\prime \prime}$ CALIPER | B\&B |
| 52 | PT | PINUS TAEDA | LOBLOLLY PINE | $5^{\prime}$ HT | B\&B |
| 91 | QA | QUERCUS ALBA | WHITE OAK | $1.5^{\prime \prime}$ CALIPER | B\&B |
| 12 | CC | CERCIS CANADENSIS | EASTERN REDBUD | $1.5^{\prime \prime}$ CALIPER | B\&B |

CHAPTER 99 BUFFER STRIP REQUIREMENTS

1. CHAPTER 99-5 SUBSECTION F - THE FORESTED AND/OR LANDSCAPE BUFFER SHALL BE INSTALLED WITHIN 18 MONTHS FROM THE DATE SITE WORK IS FROM THE COMMISSION. FOR SUBDVVISONS THAT ARE APPROVED TO BE CONSTRUCTED I PHASES, THE BUFFER FOR EACH PHASE MUST BE COMPLETED
BEFORE COUNTY APPROVALS OR PERMITS WIL BE GRANTED TO CONSTRUTT THE NEXT PHASE.
2. CHAPTER 99-5 SUBSECTION G -THE LAND DEVELOPER SHALL BE HELD RESPOLSIBLE FOR THE HEALTTH AND SURIVAL OF THE TREES, INCLUD
REGUAR NEESARY WATRING FOR A MINIUMM OF TWO YERS OR UNTL SUCH LATER DATE AS THE MAINTENANCE RESPONSIBLILTIES ARE TRANSFERRED TO A HOMEOWNERS' ASSOCIATION; PROVIDED, HOWEVER, THAT THE DEVELOPER SHAL
REPLACE ANY TREES THAT DIE DURING THE MINIMUM TWO-YEAR DEVELOPER MAINTENANCE PRIOR TO TRANSFERRING MAINTENANCE RESPONSIBLILTIES TO A
HOMEOWNERS' ASSOCIATION.
3. CHAPTER 99-5 SUBSECTION H-THE PERPETUAL MAINTENANCE OF THE BUFFER PLANTINGS BY A HOMEOWNERS' ASSOCIATION SHALL BE ASSURED
THROUGH THE RESTRICTVE COVENANTS AND/OR HOMEOWNERS' ASSOCIATION THROUGH THE RESTRICTIVE COVENANTS AND/OR HOMEOWNERS' ASSOCIATION REQUIREMENT THAT ANY TREES THAT DIE MUST BE REPLANTED WITH TREES OF THE SAME TYPE AND SPECIES AND N ACCORDANEE WITT THE ORIGINAL LANDSCAPE PLAN APPROVED BY THE COUNTY. THE PERPETUAL MAINTENANCE
PLAN SHALL ALSO INCLUDE A REQUIREMENT THAT THE FORESTED BUFFER AR
 THE FORESTRY INDUSTRY. THE RESPPONSIBIITTY FOR THE PEREETUAL THROUGH RESTRICTIVE COVENANTS WHICH ARE OBLIGATORY UPON THE PURCHASERS THROUGH ASSESSMENTS BY THE HOMEOWNERS' ASSOCIATION. THE APPLICANT AND/OR LAND DEVELOPER MUST PROVIDE THE COMMIISSION WITH MAINTENANCE PLAN W DEVELOPER DURING THE MINIMUM TWO-YEAR PERIOD DESCRIBED IN SUBSECTION G ABOVE AND THEREAFTER BY THE HOMEOWNERS' ASSOCIATION. THE COMMISSION
AND ITS ATTORNEY SHALL REVIEW AND APPROVE THE PERPETUAL MAINTENANCE PLAN PRIOR TO THE RESTRICTIVE COVENANTS BEING RECORDED AND PRIOR TO GRANTING FINAL SITE PLAN APPROVAL.


DECIDUOUS/EVERGREEN TREE PLANTING
WITH STAKE AND WIRE TIE - HEAVY DUTY not to scale

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3. CCCOVATE TEMPORARY SWALES WHERE INOICCTED.



SEDIMENT AND STORMWATER CONSTRUCTION NOTES



 5. AL EROSION \& SEDMENTCONTROL PRCCTCES SHAL COMPYY WTH THE DEAWARE SEDMENT CONRBOL HANDBOOK, LATEST EDITOV.

7. APRROVED PLANS SHALL REMMIN VAID FORS YEARS FROM THE DATE OF APRROVAL.





































(a) PARTIAL FIRST FLOOR PLAN OPT. OWNERS SUTTE PATIO


Evergrenmes

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A SECOND FLOOR PLAN PARTAL OPT. SHOWER


MCINITY MAP


Standard Notes:



4. Entrance Geometncis's shall Coniorm to Del-Ot Standard Constroctoon Detall C-3

Supplemental Notes:

- An Entrance Pement must be obtaned for the Del-Dot Distrnct Permut Supernsor

2. Sussex County Imsoin for Del-Dot Eitrance Permits 1-302-553-1342

SITE DATA
General notes

1. THIS SUVVEY HAS BEN REPARED WTHOUT BENEFT OF A FORMAL TTLE REPORT. EASEMENTS,




Serbacks
wıயam g. Calaway

 | feDERALSBURG MD |
| :--- |
| 21632 | Sulveyor

 and
Tax Map

Site Area
(LOT I) New Area 98,750 5.f. $\pm$ or 2.2669 Acres $\pm$

FloodZonc

Zoning Information
EXISTING ZONNG:
LAND USE: $\underset{\text { AR-I }}{\text { RESIDENTAL, SINGLE DWEUNG LOT }}$
Purpose Statement
 ACCORDING TO IAW.
 THE PARCCL LIS SUBDIIDED INTO NO MORE TAAN 2 PARCELS WHICH WLL BE CONTINUED
TOBE USEC AS A ARM OR FARMLAND, OR
 ITilhe \&. Calloway $\xrightarrow{\text { opaction }}$

Notes:

2. LOT IS SERVED BY PRVATE WATER AND SEMER.
3. AL ENTRANCES SHALL CONFORM TO DEL-DOTS DEVELOPMENT COORTINATION MANUAL IDCMM AND SHALL BE SUBUECT TO TTS APPROVAL.

5. IF THE RESIDENTIAL LANDS OF THE APPLCACAT ARE EVER DEVELOPED ITO A MAOR SUBDIVIION, THEN THE ACCESS TO THE PACCELS SHAALL BE FROM AN .NTERVNL SUBDIMIION STREET.

 2. NO POSTED SPEED LMMT SIGN FOR SCR \#556. FIITY (50) MPH USED FOR UNDIVIED RURAL LOCAL ROUTES
7. NO POSTED SPEED LIMT SIGN FOR SCR \#558, FIFTY (5) MPI USED FOR UNDIIIDED RURAL LLCCAL ROUTES.
8. ENTRANCE PPEE IS TO BE FU

| SURVEYORS CERTITCATION |  |
| :---: | :---: |
|  <br>  <br>  |  |
| Fras ${ }^{\text {a }}$ | 2/8/19 |
| DOMIIC L AGRESTA LINT PROFESSIONAL LAND SURVEYOR REGISTATION \#SG-0000757 REGIRATION \#6-OOOOTST | DATE |


| OWUERS CERTIFICATION |  |
| :---: | :---: |
| 1. WLHAM G. CALAWAY THE UNDERIIGNED D OWNER OF THE LANDS DEFICTED ON THIS PLA MY DIRECTION AND THATI ACKNOW LEDGE TH PLAN TO BE DEVELOPED AS SHOWN IN ACCO AND REGUIATONS, AND RGURTIONS. | $T / A M T H E$ WAS MADE AT AN DESRE THE CABLE LAWS |
| Withan \&. Esllaway 2578 HILTOP ROAD FEDERALSBURG MD 21632 | $\frac{02-08-19}{\text { DATE }}$ |




## 






## AGRICULTURAL PRESERVATION DISTRICT APPLICATION

Return to:
The Delaware Agricultural Lands Preservation Foundation

2320 S DuPont Highway, Dover, DE 19901

Phone (302)698-4530, or Toll Free in DE Only (800)282-8685

Name of Petitioner(s) LFW DELAWARE HOLDINGS 2015, LLC
Email Address: TOM@OACOMPANIES.COM
Mailing Address 18949 COASTAL HIGHWAY, SUITE 301 REHOBOTH BEACH, DE 19971

Primary Contact Person TOM TIPTON Preferred Contact Number: 302-227-3573
Farm Location SUSSEX
Total Acreage of Farm 467.75
Adjoining Roads WHITESVILLE \& LINE ROADS
County Tax Parcel Number(s) 532-23.00-1.00

Zoning Designation AR1
(call County Planning for zoning designation)

Type of Farm Operation: WOODS

Type of Land Usє Crop Land
Woodland 467.75
Farmland Structures
Residence

| Acres | Aquaculture | Acres |
| :--- | :--- | :--- |
| Acres | Pasture Land | Acres |
| Acres | Tidal Wetlands | Acres |
| Acres | Other (specify) | Acres | \# Of Dwelling Units: NONE Occupant's Name(s) \& Relationship

Easements/Rights-of-Way (if any) NONE
Does the farm have a certified nutrient management plan? $\square$ Yes X No
Is any portion of the proposed District/Expansion currently subject to subdivision? $\square$ Yes $X$ No Is the property land locked? (no road frontage) $\square$ Yes X No If yes please provide access rights documentation District Name You Would Prefer: LFW DELAWARE HOLIDINGS 2015 DISTRICT

Monitor Zone 3 Do you wish to have your farm appraised for the next round of Aglands easement selections? X Yes $\square$ No







[^0]:    Office of engineering - Edgehill sloping Center • 43 South Dupont Highway • Dover, Delaware •

[^1]:    Pc: Janell Cornwall, Sussex County Planning \& Zoning Department Manager

[^2]:    Office of engineering - Edgehill sloping Center • 43 South Dupont Highway • Dover, Delaware •

[^3]:    Pc: Janell Cornwall, Sussex County Planning \& Zoning Department Manager

[^4]:    $[(q)](\mathrm{p}) \quad$ A manufactured home, used as a single-family dwelling, and originally placed and permitted on a property of five acres or more prior to March 25, 1997, may be permitted on a property of less than five acres pursuant to Article IV, § 115-23C.

[^5]:     for the purpose of marketing, may not be exact, and should not be relied upon for loan, valuation, or other purposes. Copyright 2018. Created: 09/20/2018 11:02 AM

[^6]:    TWB:cjm
    cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
    Boardwalk Development - Joe Reed, Applicant
    J. Marc Coté, Assistant Director, Development Coordination

    Gemez Norwood, South District Public Works Manager, Maintenance and Operations
    Jeffrey VanHorn, Project Manager, Project Development - South Section, DOTS
    Steven Sisson, Sussex County Subdivision Coordinator, Development Coordination
    Derek Sapp, Subdivision Manager, Development Coordination
    Susanne Laws, Subdivision Manager, Development Coordination
    Troy Brestel, Project Engineer, Development Coordination
    Claud Joinville, Project Engineer, Development Coordination

[^7]:    TWB:cjm
    cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
    Boardwalk Development - Joe Reed, Applicant
    I. Marc Coté, Assistant Director, Development Coordination

    Gemez Norwood, South District Public Works Manager, Maintenance and Operations
    Jeffrey VanHorn, Project Manager, Project Development - South Section, DOTS
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