

PLANNING & ZONING COMMISSION

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Sussex County

DELAWARE
sussexcountyde.gov
302-855-7878 T
302-854-5079 F
JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: April 22nd, 2021

Application: CZ 1926 CP Townhomes, LLC

Applicant: CP Townhomes, LLC
105 Foulk Road
Wilmington, DE 19803

Owner: Canal Pointe Maintenance Corporation
P.O. Box 594
Bethany Beach, DE 19930

Site Location: The community lies on the east side of Hebron Road approximately 0.19 mile southeast of Holland Glade Road (S.C.R 271)

Current Zoning: MR/RPC – Medium Density Residential, Residential Planned Community

Proposed Zoning: MR/RPC – Medium Density Residential, Residential Planned Community (Remove condition 15 of Ordinance 1700 (C/Z 1538))

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Schaeffer

School District: Cape Henlopen School District

Fire District: Rehoboth Beach Fire Department

Sewer: Sussex County

Water: Tidewater Utilities

Site Area: 180.60 acres +/-

Tax Map ID.: 334-13.00-334.00, 1448.00 through 1750.00



Sussex County



February 18, 2021

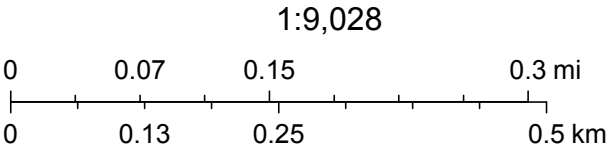
- Override 1

Streets

Municipal Boundaries
- Override 1

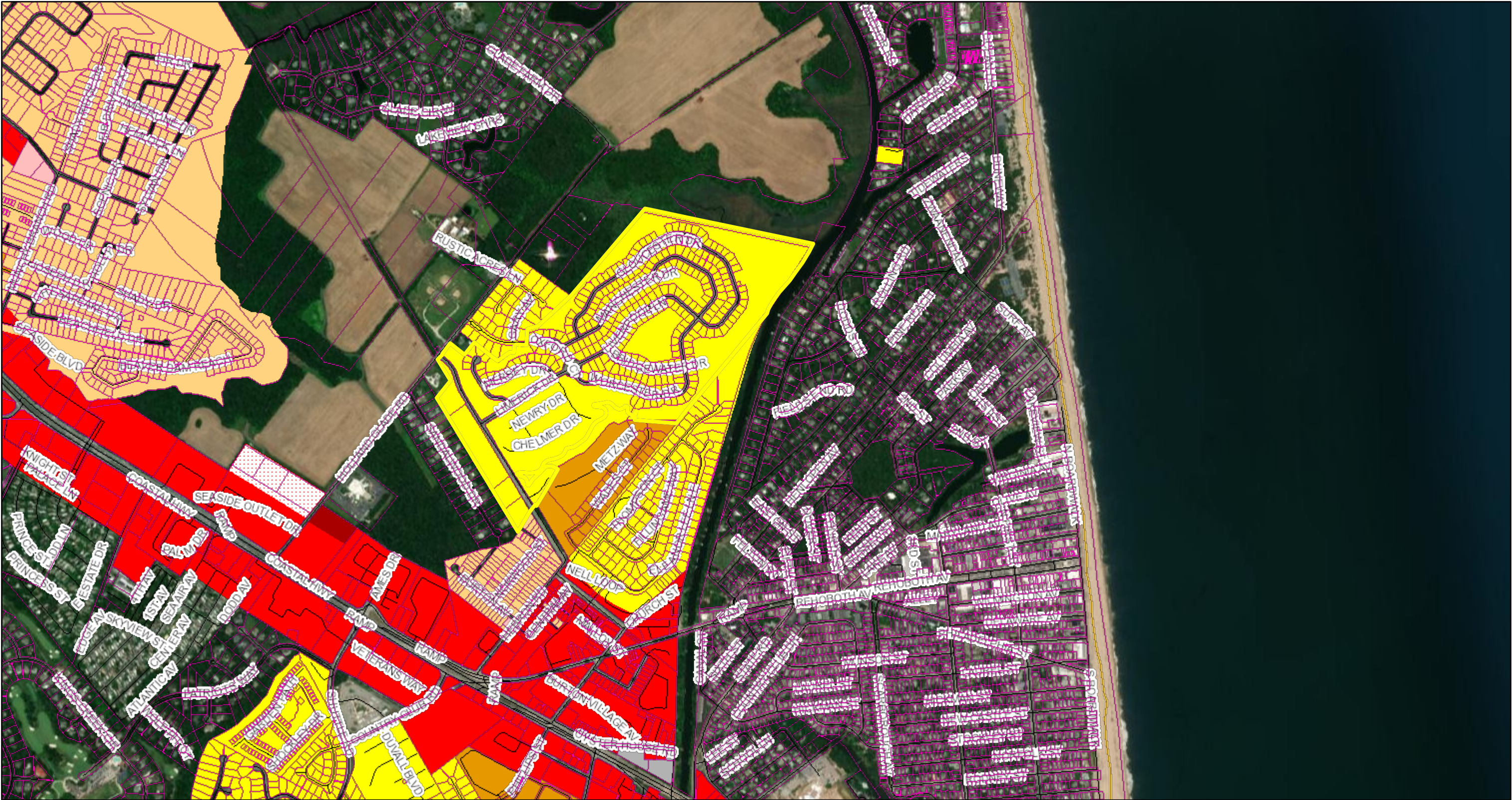
County Boundaries
- Tax Parcels

Extent of Right-of-Way



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, DNREC, Division of Watershed Stewardship, Drainage Program, john.inkster@state.de.us, Sussex County Government

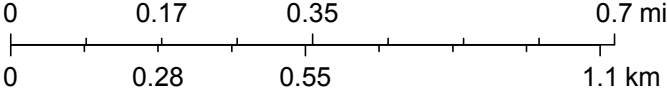
Sussex County



February 18, 2021

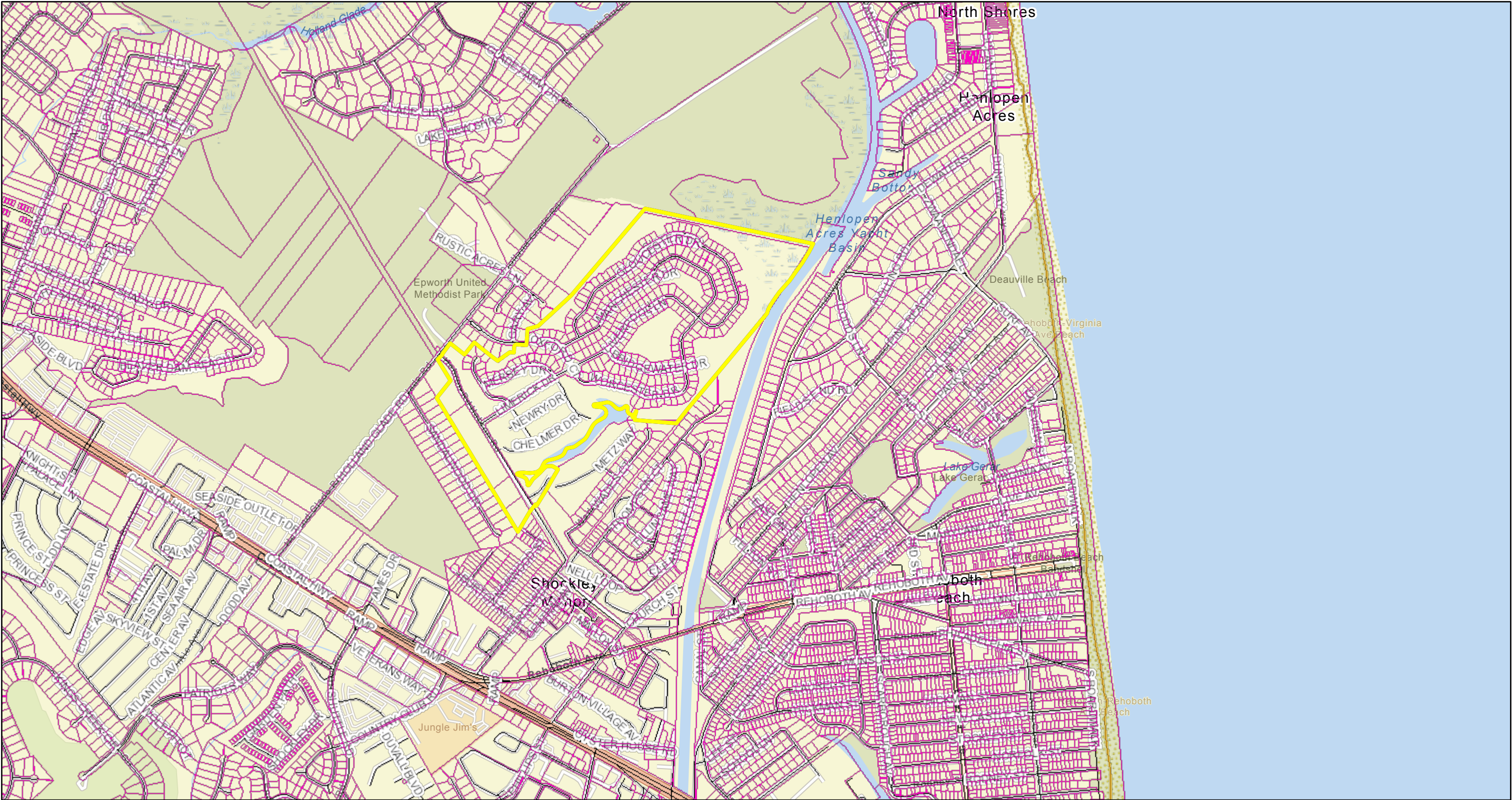


1:18,056



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, DNREC, Division of Watershed Stewardship, Drainage Program, john.inkster@state.de.us, Sussex County, Sussex County Government

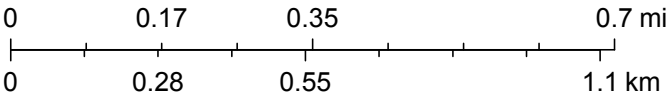
Sussex County



February 18, 2021

- Override 1
- Tax Parcels
- County Boundaries
- Override 1
- Streets
- Extent of Right-of-Way

1:18,056



DNREC, Division of Watershed Stewardship, Drainage Program, john.inkster@state.de.us, Sussex County Government, Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR
(302) 855-7878 T
(302) 854-5079 F
jamie.whitehouse@sussexcountye.gov



Sussex County

DELAWARE
sussexcountye.gov

Memorandum

To: Sussex County Planning Commission Members
From: Nicholas Torrance, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: April 15th, 2021
RE: Staff Analysis for CZ 1926 CP Townhomes, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1926 CP Townhomes, LLC to be reviewed during the April 22, 2021, 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 an Amendment to the Conditions of Approval for the existing Change of Zone (CZ 1538) for Rebay, LLC for a change of zone from AR-1 to MR/RPC on Tax Parcel 334-13.00-334.00. Specifically, the applicant is requesting an amendment to Condition "15" which requires the provision of "No piers, docks, boat ramps, or other water-related facilities shall be permitted" on the site. The applicant has suggested that this condition be struck from the Conditions of Approval and all other conditions would remain. The previous Change of Zone application was recommended for approval by the Planning and Zoning Commission at their meeting of Thursday, June 10th, 2004 and approved by the Sussex County Council at their meeting of Tuesday, June 29th, 2004 and the change of zone was adopted through Ordinance No. 1700. Copies of the Meeting Minutes from both of these meetings have been attached to this memo for circulation to members of the Commission and Council.

The community lies on the east side of Hebron Road approximately 0.19 mile southeast of Holland Glade Road (S.C.R 271). The property consists of 180.60 acres +/-.

The 2018 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 subject property has a land use designation of "Coastal Area."

The Coastal Area land use designation recognizes that a range of housing types should be permitted in Coastal Area, including single-family homes, townhouses, and multifamily units. Retail and office uses are appropriate but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should also be allowed. It also recognizes a careful mixture of homes with light commercial, office and institutional uses can be appropriate to provide convenient services and to allow people to work close to home.

Based on the analysis of the land use, surrounding zoning, and uses, an Amendment to Condition "15" of the previously approved Change of Zone (CZ 1538) could be considered as being consistent with the land use, area zoning, and surrounding uses.



File #: C12 1926
202008240

Planning & Zoning Commission Application Sussex County, Delaware

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

RECEIVED

JUL 20 2020

SUSSEX COUNTY
PLANNING & ZONING

Type of Application: (please check applicable)

Conditional Use ☐

Zoning Map Amendment ☒

Site Address of Conditional Use/Zoning Map Amendment

Limerick Drive, Canal Point Open Space Areas

Type of Conditional Use Requested:

Amendment to Condition 15 of Ordinance 1700 (C/Z No. 1538)

Tax Map #: 3-34-13.00-1745.00

Size of Parcel(s): 36.61

Current Zoning: RPC

Proposed Zoning: RPC

Size of Building: Varies

Land Use Classification: Mixed Use Residential

Water Provider: Tidewater Utilities, Inc.

Sewer Provider: Sussex County

Applicant Information

Applicant Name: CP Townhomes, LLL (Bill Krapf)

Applicant Address: 105 Foulk Road

City: Wilmington

State: DE

Zip Code: 19803

Phone #: _____

E-mail: bkrampf@capanoinc.com

Owner Information

Owner Name: Canal Pointe Maintenance Corporation (Melissa Donnelly)

Owner Address: PO Box 594

City: Bethany Beach

State: DE

Zip Code: 19930

Phone #: _____

E-mail: MelissaGCP@comcast.net

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: Davis, Bowen & Friedel, Inc. (Ring W. Lardner, P.E.)

Agent/Attorney/Engineer Address: 1 Park Avenue

City: Milford

State: DE

Zip Code: 19963

Phone #: (302) 424-1441

E-mail: rwf@dbfinc.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 building(s), 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
- ☒ **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.**
- ☐ **DeIDOT Service Level Evaluation Request Response**
- ☐ **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.

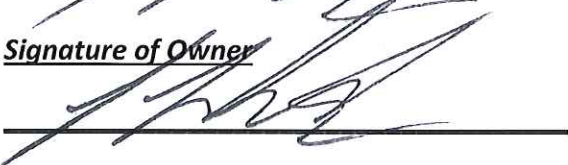
I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future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

Signature of Applicant/Agent/Attorney



Date: 7/9/20

Signature of Owner



Date: 7/9/20

For office use only:

Date Submitted: _____

Fee: \$500.00 Check #: _____

Staff accepting application: _____

Application & Case #: _____

Location of property: _____

Subdivision: _____

Date of PC Hearing: _____

Recommendation of PC Commission: _____

Date of CC Hearing: _____

Decision of CC: _____

REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
PHILADELPHIA DISTRICT CORPS OF ENGINEERS
WANAMAKER BUILDING, 100 PENN SQUARE EAST
PHILADELPHIA, PENNSYLVANIA 19107-3390

OCT 02 2017

Regulatory Branch
Applications Section I

SUBJECT: CENAP-OP-R-2017-537-85 (LOP)
DDNREC #:
Lat./Long.: 38.72540°N/-75.08925°W

Evelyn M. Maurmeyer, Ph.D.
Coastal & Estuarine Research, Incorporated
Marine Studies Complex
Post Office Box 674
Lewes, Delaware 19958

Dear Dr. Evelyn Maurmeyer:

This is in regard to your application on behalf of The Grande at Canal Pointe Maintenance Corporation for a Department of the Army permit dated July 7, 2017, under provision of Section 10 of the Rivers and Harbors Act of March 3, 1899. The Grande at Canal Pointe Corporation is authorized by the Secretary of the Army to install an 8' x 30' floating dock, a 10' x 6' floating pier, a 12' x 3' gangway and an 18' x 6' fixed pier in The Grande at Canal Pointe community, Tax Map Parcel Number 3-34-13.00-1745.00 on the Lewes and Rehoboth Canal in Rehoboth Beach, Sussex County, Delaware. This activity shall be conducted in accordance with the enclosed plans (Enclosure 1) and subject to the enclosed conditions (Enclosure 2). The stated purpose of this project is to provide a kayak/canoe launching facility for the residents in The Grande at Canal Pointe.

Carefully review all the terms and conditions of the Department of the Army permit and understand them fully. Performing any work not specifically authorized by the permit or failing to comply with its conditions may subject you and/or your contractor to the enforcement provisions of our regulations. If a contractor performs the work for you, both you and the contractor are responsible for assuring the work is done in conformance with the conditions and limitations of this permit. Please be sure the person who will do the work has read and understands the conditions of the permit.

This letter contains a proffered letter of permission for your proposed project. If you object to this decision, you may request an administrative appeal under Corps regulations at 33 CFR 331. Enclosed you will find a combined Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form (Enclosure 3). If you request to appeal this decision, you must submit a completed RFA form to the North Atlantic Division Office at the following address:

Mr. James W. Haggerty
Regulatory Program Manager (CENAD-PD-OR)
U.S. Army Corps of Engineers
Fort Hamilton Military Community
301 General Lee Avenue
Brooklyn, New York 11252-6700

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by **DEC 04 2017**

It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this letter. Enclosed is your notice of authorization, ENG FORM 4336 (Enclosure 4), which must be conspicuously displayed at the site of work. The issuance of this permit does not obviate you from your responsibility to obtain any other Federal, State or local approvals required by law for this work.

This office shall be notified of the commencement and completion of the permitted work. To assist you in meeting this requirement, enclosed is a Notification/Certification of Work Commencement Form (Enclosure 5) for you to fill out and return to us at least 10 days prior to the time you intend to begin work. Similar notification is required each time any maintenance work is to be done under this permit. In addition, the enclosed Notification/ Certification of Work Completion/Compliance (Enclosure 6) should be signed and returned to this office within 10 days after the permitted work is completed. Also enclosed is a pre-addressed postal card (Enclosure 7) soliciting your comments on the processing of your permit. Any comments, positive or otherwise, on the procedures, timeliness, fairness, etc., may be made on this card. You may forward your comment card along with the signed Notification/Certification of Work Commencement Form.

Additional information concerning this permit may be obtained by writing to Michael D. Yost at the above address, by email at michael.d.yost@usace.army.mil or calling (267) 240-5278.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

A handwritten signature in dark ink, appearing to read "Edward E. Bonner". The signature is fluid and cursive, with the first name "Edward" and last name "Bonner" clearly distinguishable.

Edward E. Bonner
Chief, Regulatory Branch
for Kristen N. Dahle
Lieutenant Colonel, Corps of Engineers
District Commander

Enclosures

PROPOSED COMMUNITY KAYAK/CANOE LAUNCH:
8' X 6' RAMP; 18' X 6' FIXED WALKWAY/PIER; 12' X 3' GANGWAY;
10' X 6' FLOATING PIER; AND 8' X 30' FLOATING DOCK

IN: Lewes and Rehoboth Canal

AT: Community open space off of Gloucester Drive,
 The Grande at Canal Pointe

Rehoboth Beach, Sussex County, DE 19971

(Tax Map Parcel #3-34-13.00-1745.00)

APPLICANT: GCPMC (Grande at Canal Pointe Maintenance Corp.)

DATE: July 7, 2017

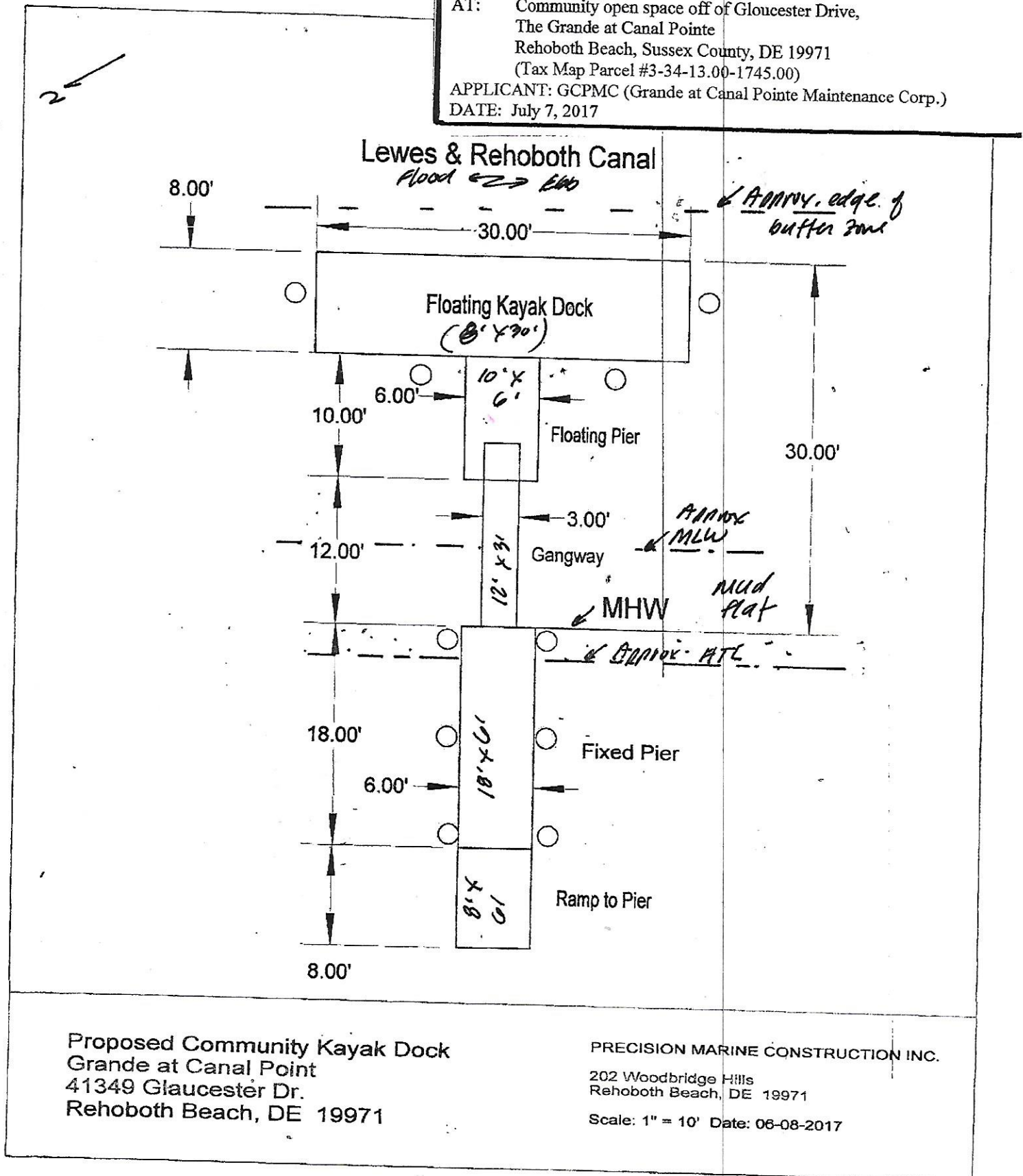
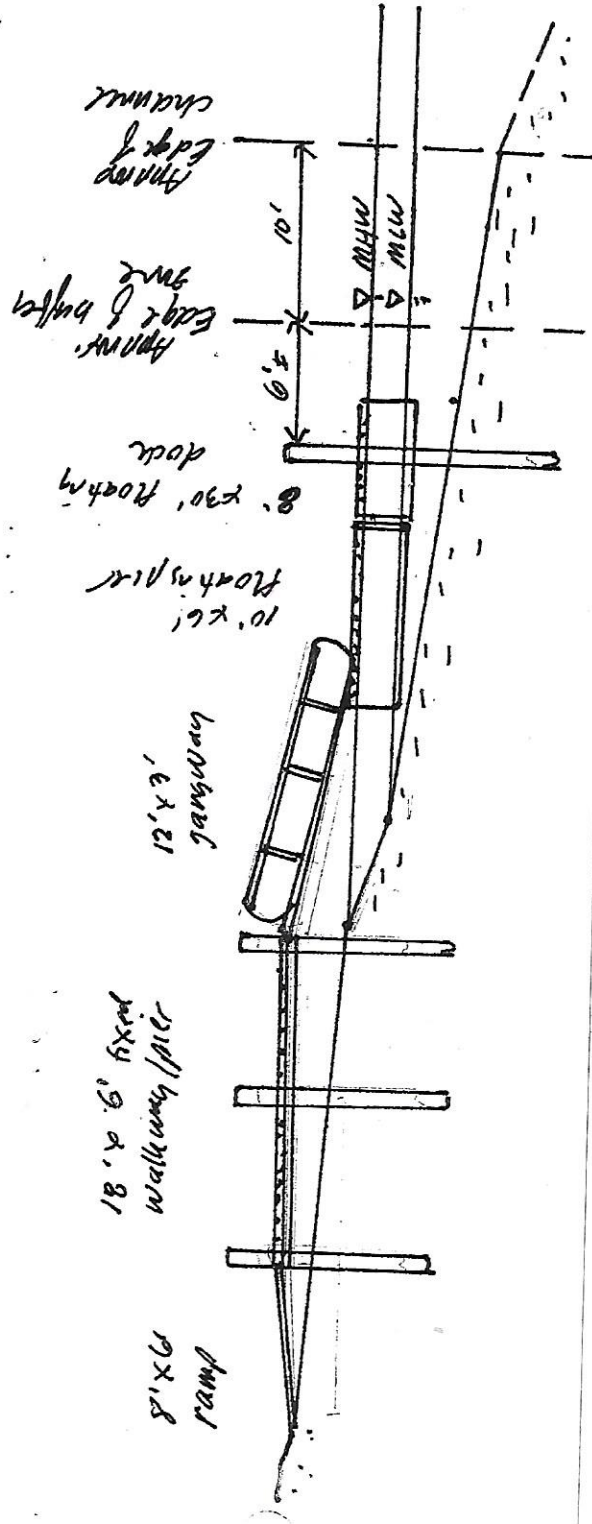


Figure 8. Plan view of proposed project (prepared by Precision Marine Construction, Inc.).

PROPOSED COMMUNITY KAYAK/CANOE LAUNCH:
 8' X 6' RAMP; 18' X 6' FIXED WALKWAY/PIER; 12' X 3' GANGWAY;
 10' X 6' FLOATING PIER; AND 8' X 30' FLOATING DOCK.
 IN: Lewes and Rehoboth Canal
 AT: Community open space off of Gloucester Drive,
 The Grande at Canal Pointe
 Rehoboth Beach, Sussex County, DE 19971
 (Tax Map Parcel #3-34-13.00-1745.00)
 APPLICANT: GCPMC (Grande at Canal Pointe Maintenance Corp.)
 DATE: July 7, 2017

LEWES AND REHOBOTH CANAL



SCALE: 1"=10' ±

Figure 9. Cross-section of proposed project (for permit application purposes only).

CONDITIONS FOR
DEPARTMENT OF THE ARMY PERMITS

GENERAL CONDITIONS

1. The time limit for completing the work authorized ends on December 31, 2020. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided on page 3 of this document and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

SPECIAL CONDITIONS

1. All work performed in association with the above noted project shall be conducted in accordance with the project plan prepared by Precision Marine Construction Incorporated, dated June 8, 2017, entitled: *PROPOSED COMMUNITY KAYAK DOCK~GRANDE AT CANAL POINT~41349 GLAUCESTER DR.~REHOBOTH BEACH, DE 19971*, Figure 8 and the plan prepared by Coastal & Estuarine Research, Incorporated, dated July 7, 2017, entitled: *PROPOSED COMMUNITY KAYAK/CANOE LAUNCH:~8' X 6' RAMP; 18' X 6' FIXED WALKWAY/PIER; 12' X 3' GANGWAY;~ 10' X 6' FLOATING PIER; AND 8' X 30' FLOATING DOCK*, Figure 9.
2. Construction activities shall not result in the disturbance or alteration of greater than 0.007 acre of waters of the United States.
3. Any deviation in construction methodology or project design from that shown on the above noted drawings must be approved by this office, in writing, prior to performance of the work. All

modifications to the above noted project plans shall be approved, in writing, by this office. No work shall be performed prior to written approval of this office.

4. This office shall be notified at least 10 days prior to the commencement of authorized work by completing and signing the enclosed *Notification/ Certification of Work Commencement Form* (Enclosure 5). This office shall also be notified within 10 days of the completion of the authorized work by completing and signing the enclosed *Notification/Certification of Work Completion/Compliance Form* (Enclosure 6). All notifications required by this condition shall be in writing and shall be transmitted to this office by registered mail. Oral notifications are not acceptable. Similar notification is required each time maintenance work is to be done under the terms of this Corps of Engineers permit.

5. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

6. Representatives of the U.S. Army Corps of Engineers shall be permitted to inspect the project during its phase of construction, and to collect any samples, or to conduct any tests deemed necessary.

7. The permittee is responsible for ensuring that the contractor and/or workers executing the activity(s) authorized by this permit have knowledge of the terms and conditions of the authorization and that a copy of the permit document is at the project site throughout the period the work is underway.

8. The Special Conditions imposed by the Delaware Department of Natural Resources and Environmental Control (DDNREC) on your DDNREC Section 401 WQC and/or DDNREC CZM concurrence shall also be conditions to this Department of the Army permit.

9. Prior to construction, the permittee shall obtain a Real Estate instrument from the Baltimore District, U.S. Army Corps of Engineers, ATTN: CENAB-RE-C, P.O. Box 1715, Baltimore, Maryland (410) 962-4649. All work shall be performed in accordance with the terms and conditions of the Real Estate instrument.

10. Boats moored to the authorized structure shall not encroach or extend into the buffer of the Federal navigation channel as depicted on the approved plans.

11. If in the opinion of the District Commander or his authorized representative, any portion of the dock or boat moored thereto interfere at any time with Federal dredging operations or general navigation, the permittee shall at his own expense take any and all steps to eliminate such interference for whatever duration is deemed necessary.

12. This permit does not authorize any dredging activities.

13. This permit does not authorize any wetland impacts.
14. This permit does not authorize any discharges of dredged or fill material into waters of the United States.
15. The mechanical equipment used to execute the work authorized shall be operated in such a way as to minimize turbidity that could degrade water quality and adversely affect aquatic plant and animal life.
16. The disposal of trees, brush and other debris in any stream corridor, wetland or surface water is prohibited.
17. This permit does not obviate the permittee from obtaining any State or local assent required by law for the activity authorized.

FURTHER INFORMATION

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
2. Limits of the Authorization.
 - a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See Item 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

7. Transference. When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(Transferee)

(Date)



This notice of authorization must be
conspicuously displayed at the site of work.

United States Army Corps of Engineers

OCT 02 2017

A permit to install an 8'x30' floating dock, a 10'x6' floating pier, a 12'x3' gangway
and an 18'x6' fixed pier

at The Grande at Canal Pointe Community, Sussex County Delaware

has been issued to Evelyn M. Maurmeyer on OCT 02 2017

Address of Permittee Post Office Box 674, Lewes, Delaware 19958

Permit Number

CENAP-OP-R-2017-0537-85

Edward E. Bonner
Chief, Regulatory Branch

District Commander

for: Kristen N. Dahle
Lieutenant Colonel, US Army
District Commander

ENG FORM 4336 , Jul 81 (ER 1145-2-303) EDITION OF JUL 70 MAY BE USED

(Proponent: DAEN-CWO)

NOTIFICATION/CERTIFICATION OF WORK COMMENCEMENT FORM

Permit Number: CENAP-OP-R-2017-537-85 (LOP)
State Permit #:
Name of Permittee: Grande at Canal Pointe Maintenance Corporation
Project Name: Grande at Canal Pointe Dock SX
Waterway: Lewes and Rehoboth Canal
County: Sussex State: Delaware
Compensation/Mitigation Work Required: Yes ☐ No ☒

TO: U.S. Army Corps of Engineers, Philadelphia District
Wanamaker Building - 100 Penn Square East
Philadelphia, Pennsylvania 19107-3390
Attention: CENAP-OP-R

I have received authorization to install an 8' x 30' floating dock, a 10' x 6' floating pier, a 12' x 3' gangway and an 18' x 6' fixed pier in The Grande at Canal Pointe community, Tax Map Parcel Number 3-34-13.00-1745.00 on the Lewes and Rehoboth Canal in Rehoboth Beach, Sussex County, Delaware.

The work will be performed by:

Name of Person or Firm _____

Address: _____

I hereby certify that I have reviewed the approved plans, have read the terms and conditions of the above referenced permit, and shall perform the authorized work in strict accordance with the permit document. The authorized work will begin on or about _____ and should be completed on or about _____.

Please note that the permitted activity is subject to compliance inspections by the Army Corps of Engineers. If you fail to return this notification form or fail to comply with the terms or conditions of the permit, you are subject to permit suspension, modification, revocation, and/or penalties.

Permittee (Signature and Date)

Telephone Number

Contractor (Signature and Date)

Telephone Number

NOTE: This form shall be completed/signed and returned to the Philadelphia District Office a minimum of 10 days prior to commencing work.

NOTIFICATION/CERTIFICATION OF WORK COMPLETION/COMPLIANCE FORM

Permit Number: CENAP-OP-R-2017-537-85 (LOP)
State Permit #:
Name of Permittee: Grande at Canal Pointe Maintenance Corporation
Name of Contractor:
Project Name: Grande at Canal Pointe Dock SX
County: Sussex State: Delaware
Waterway: Lewes and Rehoboth Canal

Within 10 days of completion of the activity authorized by this permit, please sign this certification and return it to the following address:

U.S. Army Corps of Engineers, Philadelphia District
Wanamaker Building - 100 Penn Square East
Philadelphia, Pennsylvania 19107-3390
Attention: CENAP-OP-R

Please note that the permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to return this notification form or fail to perform work in compliance with the permit, you are subject to administrative, civil and/or criminal penalties. Further, the subject permit may be suspended or revoked.

The authorized work was commenced on _____.

The authorized work was completed on _____.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the above noted permit.

Signature of Contractor

Address: _____

Telephone Number: _____

Signature of Permittee

Address: _____

Telephone Number: _____

Nick Torrance

From: Brian Nafzinger <brian_nafzinger@comcast.net>
Sent: Tuesday, April 13, 2021 9:54 AM
To: Planning and Zoning
Subject: Canal Pointe Dock Proposal

Categories: Nick

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Hello - I was provided this email address for sharing comments on the proposed dock at Canal Pointe. I am unable to attend the public hearing, but as a resident of Canal Pointe I would like to register my strong support of this project.

Thank you

Sent from my iPhone

SUPPORT EXHIBIT

Nick Torrance

From: Morgen Busch <morgen74@hotmail.com>
Sent: Tuesday, April 13, 2021 6:11 PM
To: Planning and Zoning
Subject: C/Z 1926-zoning change in Canal Pointe

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Please forward this email to Jamie Whitehouse.

My name is Morgen Busch. My husband and I are owners in Grand at Canal Pointe and we are in full support of the zoning change proposed to remove language on the master plan that prohibits water access. Thank you for your consideration and please note our full support of this change.

Best,

Morgen John Busch

SUPPORT EXHIBIT

Nick Torrance

From: Chris M. DeClark <cmfmep@comcast.net>
Sent: Monday, April 5, 2021 6:18 PM
To: Planning and Zoning
Subject: C/Z 1926 - CP Townhomes, LLC (Canal Point RPC)

Categories: Nick

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Dear Planning and Zoning Commission and County Council,
We are not able to attend the public hearings scheduled for April 22, 2021 and June 15, 2021 regarding the above mentioned subject matter, but would like to voice our opinion via this email.

We, the owners and residents of 41279 Gloucester Drive, Rehoboth Beach, De 19971, support amending the conditions of approval of CZ 1538 (ordinance 1700) in relation to piers, docks, boat ramps and other water related recreational facilities.

If you need additional information from us, you may contact us using one of the following means:
302-249-8477
cmfdldc@gmail.com

Sincerely,
Chris and David DeClark

SUPPORT EXHIBIT

Nick Torrance

From: lgkessler@aol.com
Sent: Monday, April 12, 2021 8:26 PM
To: Nick Torrance
Subject: Re: C/Z 1926 - CP Townhomes, LLC (Canal Point RPC)

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

How do I go on record for not completely striking "Condition 15"?

I am not opposed to a kayak launch from a common area to access a public waterway as long as it is for the provision of the general public and is not limited to the HOA.

Please note that there are no public kayaking access points to this area that I am aware of so perhaps this could be beneficial to the general public if limited to kayaking and canoes only.

Thank you so much.

Lisa Kemp
17 Richardson Way
Canal Corkran

301-473-2256

-----Original Message-----

From: Nick Torrance <nicholas.torrance@sussexcountyde.gov>
To: lgkessler@aol.com <lgkessler@aol.com>
Sent: Mon, Apr 12, 2021 9:18 am
Subject: RE: C/Z 1926 - CP Townhomes, LLC (Canal Point RPC)

Good Morning Ms. Kemp,

I have been working with the HOA of Grand at Canal Pointe for about a year on this. Their stated purpose of this application is to completely strike "Condition 15" from the Conditions of Approval from Ordinance No. 1700. "Condition 15" states "No piers, docks, boat ramps, or other water-related recreation facilities shall be permitted."

From my understanding, they are trying to plan a kayak launch from a common area on the northeast side of the property. That is what they have discussed with me about their plans. Now striking the condition completely gives them the flexibility to do other things as well. They have not stated that is the choice, nor have I seen any plans of such but the way this application was written, was to strike that condition and not seek an amendment to the condition to allow one launch site if that makes sense.

As per the use of this by the public, this will have to be controlled by the HOA of Canal Point. They would likely place something in their restrictive covenants that prohibit the use to the general public. However, I am not aware of how they are planning on handling this.

Please let me know if you have any questions.

Nick Torrance
Planner I
Department of Planning and Zoning

Jamie Whitehouse

From: Thomas Roth <noreply@forms.email>
Sent: Monday, April 12, 2021 1:56 PM
To: Jamie Whitehouse
Subject: Contact Form: Public Hearing for C/Z 1926

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Name: Thomas Roth
Email: townmgr@henlopenacres.com
Phone: 3022276411
Subject: Public Hearing for C/Z 1926

Message: Mr. Whitehouse, I am writing to in regards to the hearing for C/Z 1926 CP Townhomes. In the advertisement the listed parcel number appears to be incorrect. It reads 334-13.00-334.00 1448 through 1750. The parcel should be 334-13.00-1745.00.

Although the Town of Henlopen Acres has no standing in this matter, numerous property owners have concerns. Are there drawings available to review, prior to this hearing.

Thanks, Tom

Nick Torrance

From: sunseeher9@aol.com
Sent: Tuesday, April 13, 2021 10:07 AM
To: Planning and Zoning
Subject: C/Z 1926

Categories: Nick

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

I am worried about the zoning change to allow for a pier to be built in the newly created Canal Pointe Park. My concerns are related to the cost of upkeep, liability and enforcement of HOA established rules.

Will this dock be for public use or just limited to our community? Will small motorized craft be allowed? Should we be checking with our neighbors across the water for their input?

We voted on making this change last year before the Pandemic and so much has changed in our community since then.

There are so many launching docks in Rehoboth and Lewes already, putting another one in a private community just seems absurd.

Thank you for your time
Constance Montalbano

Ring Lardner

From: Melissa Donnelly <MelissaGCP@comcast.net>
Sent: Tuesday, January 14, 2020 10:17 PM
To: Todd Moyer
Subject: Final Vote on Special Ballot

Hi Todd,

We have the final results of the Special Ballot required to Finalize the Landscape Site Plans filed with Sussex County by the Developer in 2004. Voting officially ended on January 10, 2020. A total of 180 owners voted and based on a total 288 total homes, the majority threshold of 51% (147 owners) was achieved on all three ballot questions. Here are the detailed results for each question:

Eliminate from the landscape site plan the planting of new trees around the storm water management pond.

Approve - 151

Oppose – 29

Eliminate from the landscapes site plan the trail off the parking lot on Gloucester between lots 45 and 46.

Approve - 162

Oppose – 18

Removal of Ordinance 1700 Conditions, item number 15, from the Record Plan which states "No piers, docks, boat ramps, or other water related recreational facilities shall be permitted."

Approve - 163

Oppose – 17

Could you please let me know your progress on updating the Site Plans on file with Sussex County Planning and Zoning. Also, now that we have the vote results in, can we move forward and process the payment for the \$17K reimbursement to GCP Maintenance Corp. related to the first ballot question involving removing the trees around the storm water management pond.

Thank you,
Melissa Donnelly
Board President of the GCP Maintenance Corporation

Request to Remove Condition #15 from Ordinance 1700

This request is filed by the Board of Directors of GCP Maintenance Corp, the Home Owner's Association ("HOA"), which represents the single family homeowners of The Grande at Canal Pointe ("Canal Pointe"), located in Rehoboth Beach. On behalf of a majority of homeowners, the HOA hereby supports the request filed by CP Townhomes LLC (Canal Point RPC) ("Developer") [Case No. C/Z 1926] to amend Ordinance 1700 to remove condition #15, ("Condition 15"), which states that " –No piers, docks, boat ramps, or other water related recreational facilities shall be permitted."

After discussions with the Developer and a search of all documents filed with Sussex County Planning and Zoning ("P&Z")pertaining to Canal Pointe, the HOA has found no explanation for why Condition 15 was added to Ordinance 1700.

In 2020 a majority of the homeowners at Canal Pointe voted to request removal of Condition 15, with 90% of those submitting a ballot voting to request removal of Condition 15. Voting results are included in this package submitted to the commission.



The Grande at Canal Point is located on the west side of the Rehoboth / Lewes Canal, North of Canal Corkran, and across from Henlopen Acres. Numerous docks line both sides of the Lewes and Rehoboth Canal (“Canal”). The light yellow circle at the upper right corner of the area outlined in red is the planned location for a dock and launch facility.



In the back of the Canal Pointe community is a private common area known as Canal Park, owned by the HOA, which abuts a marsh area and the Canal. Off-street parking is available.



The concrete walkway depicted above was constructed when development of the community first started, and leads to the Canal in the area of Canal Park designated to be a future launch (if approved).

In 2017, after control of the HOA was turned over from the Developer to the residents of Canal Pointe, the HOA began the process of planning for a dock and acquiring the necessary permits from the Delaware Department of Natural Resources and Environmental Control (DNREC) and the Army Corps of Engineers (“Army Corps”). At the time, the HOA was unaware of Condition 15. DNREC and the Army Corps both issued permits to install the dock. Copies of the permits are included in this package submitted to the commission. Those permits expired December 31, 2020, because once the HOA became aware of Condition 15 for the first time in 2018, in the context of other activities related to HOA/Developer turnover, all efforts to fund and build a dock were halted. The HOA had hoped to have a hearing on this issue before the permits expired, but COVID-19 intervened.



If approved, the HOA plans to install one recreational dock/pier for the community to launch small, non-motorized watercraft, such as kayaks, canoes and paddle boards and for fishing. The HOA has no intent, and does not herein seek, to use the dock/pier for launching or parking of motorized watercraft. Removal of Condition 15 would not permit individual homeowners of Canal Pointe to construct a dock/pier, as no individual homeowner owns land adjacent to the canal – all such land in Canal Pointe bordering the canal is the property of the HOA, and designated as common area for the community.

The HOA is not aware of any other communities having county restrictions against building docks on the canal. Docks line both sides of the canal.



The lack of a dock, pier, or other facility also creates a safety issue for Canal Pointe residents. The photograph above shows the bank of the Canal, where residents so inclined might otherwise launch kayaks, canoes and paddle boards into the canal, absent a proper facility to do so. The land in this location is muddy and unstable, especially at low tide. The HOA believes that providing safe and secure access to the Canal for its homeowners will not only be safer for its residents, but will also help preserve at least this portion of the bank of the Canal from further erosion from the wake created by motorized watercraft that already traverse the canal regularly.

The HOA currently lacks the necessary DNREC and Army Corps permits to construct the dock, because those permits expired after the HOA became aware of the need to first remove Condition 15. The HOA respectfully requests the removal of Condition 15 from Ordinance 1700 as a first step to begin the process again of seeking to enhance this amenity for the Sussex County homeowners we represent.

Attachments:

- Ordinance 1700,
- Community vote results.
- DENREC building permit.
- Army Corp of Engineers permit with dock plans.

ORDINANCE NO. 1700

With Conditions

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR. MEDIUM DENSITY RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 180.60 ACRES, MORE OR LESS

WHEREAS, on the 27th day of August, 2003, a zoning application, denominated Change of Zone No. 1538, was filed on behalf of Rebay, LLC; and

WHEREAS, on the 6th day of May 2004, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 10th day of June 2004 said Planning and Zoning Commission recommended that Change of Zone No. 1538 be approved with conditions; and

WHEREAS, on the 25th day of May 2004, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County;

NOW, THEREFORE,

THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning

classification of [MR Medium Density Residential District] and adding in Heu thereof the designation of MR Medium Density Residential District-Residential Planned Community as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying southeast of Route 271 (Holland Glade Road), 3,150 feet northeast of Route One, and being more particularly described in legal description provided by Davis, Bowen & Friedel, Inc., said parcel containing 180.60 acres, more or less.

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

This Ordinance was adopted subject to the following conditions:

1. The maximum number of residential units shall not exceed 617 units as follows: 310 Single Family Lots and 307 Multi-Family or Townhouse Units.
1. There shall not be any multi-family or townhouse units within 300 feet of the Henlopen Keys development
2. The reference to "County Service Area" must be deleted from the Final Site Plan.
3. Site plan review shall be required for each phase of development
4. All entrance, intersection, interconnection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's requirements, or in accordance with any further modifications by DelDOT.
5. Recreational facilities and amenities shall be constructed and open to use by residents of the development within two years of the issuance of the first building permit.
6. The development shall be served as part of the West Rehoboth Sanitary Sewer District in accordance with Sussex County Engineering Department specifications and regulations.
7. The MR-RPC shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
8. Stormwater management and erosion and sediment control facilities shall be constructed in accordance with applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices (BMPs).

9. The interior street design shall be in accordance with or exceed Sussex County street design requirements and/or specifications. Street design shall include sidewalks on both sides of the streets and street lighting.
10. The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.
11. Construction, site work, grading, and deliveries of construction materials, landscaping materials and 1111 on, off or to the property shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. and 6:00 p.m.

13. The applicant shall cause to be formed a homeowners or condominium association to be responsible for the maintenance of the streets, roads, buffers, open spaces, stormwater management facilities and other common areas.

14. State wetlands shall not be included in any individual lots. Federal and State wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State permit.

15. No piers, docks, boat ramps, or other water related recreational facilities shall be permitted.

16. The proposed senior center, based on the testimony by the applicant and supporters of the project, shall be located on at least six acres of land and shall be on the west side of the connector road. It shall include parking in accordance with County requirements for a large-scale center such as the one proposed for a capacity of at least 500 people, as stated during the public hearing. This parking shall be shown on the final site plan.

17. There shall be no commercial uses in the project, including the area adjacent to Sandalwood, with the limited exception of a sales facility for the duration of the development of the project and located within the project east of the connector road and not adjacent to Sandalwood.

1. Only townhouse-design buildings or single-family units shall be located adjacent to the existing pond between this project and Canal Corkran.
2. Any residential uses between Sandalwood and the Connector Road, also known as Hebron Road, shall be limited to single family lots.
3. Addressing and street naming shall be reviewed and approved by the Sussex County Mapping and Addressing Division.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY
OF ORDINANCE NO. 1700 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON
THE 29TH DAY OF „TUNE 2004.

ROBIN A. GRIFFI
CLERK OF THE COUNCIL

A handwritten signature in black ink, appearing to read "Robin A. Griffi", written over a horizontal line.

The County Council found that the change of zone was appropriate legislative action based on the following findings of fact:

1. The proposed rezoning was requested to allow a Residential Planned Community in a MR Medium Density Residential District on a parcel of land containing 180.60 acres lying southeast of Holland Glade Road and northeast of Route 1, north of Rehoboth Beach.
2. The majority of the site was previously zoned MR and under the present MR zoning would allow for the development of four single family dwelling units per acre.
3. As originally proposed, the RPC was to have six acres of commercial use with approximately 1 1/2 acres dedicated to the Rehoboth Beach Senior Center and the remainder dedicated to an area that would contain County service uses.
4. Approval of the project would benefit the area by the creation of a connector road that would connect Rehoboth Avenue Extended to Holland Glade Road and provide another means of public access to and from Rehoboth Beach.
5. Following the public hearings and during the period while the record remained open, the applicant modified its plan to eliminate the proposed commercial and County service area uses and to transfer the area formerly reserved for those purposes to the Rehoboth Beach Senior Center.
6. The applicant proposed to develop single family lots, townhouses and condominiums in a planned environment that would include active and passive recreational facilities.
7. The property is located in an area designated as a development district under the Comprehensive Land Use Plan Update.

8. The proposed RPC meets the purposes of the zoning ordinance in that it promotes orderly growth of the County in an area designated for development.
9. Sewer service will be provided as part of the County operated sanitary sewer district and adequate wastewater capacity is available for the project.
10. The development will contain a diversity of housing types and multi-modal transportation improvements and will promote the interconnection between this area and surrounding developments and the City of Rehoboth Beach.

11. With the conditions placed on the approval, the RPC designation is appropriate in that the purpose of an RPC is to encourage large scale development as a means of creating superior living environments and the use of design ingenuity while protecting existing and future uses.
12. The project will have a net density of 3.5 units per acre, which is consistent with the existing MR zoning of the majority of the property.
13. The Council found that the conditions placed on the project will protect the adjoining single family subdivisions known as the Sandalwood and Henlopen Keys developments.
14. The projects will be served by amenities located on-site, which include, but are not limited to, a swimming Pool and walking trails.
15. The applicant established by substantial evidence that the proposed use would not have an adverse impact on the character of the neighborhood, property values, traffic or the environment.
16. The Council found that DelDOT and the Office of State Planning Coordination did not oppose the application, as approved by Council.
17. The change of zone is subject to twenty conditions, which will serve to minimize any potential impacts on the surrounding area.

**The Grande at Canal Pointe Maintenance Association
2019 Special Ballot Regarding Modifications to the Canal Pointe Plans - 2004**

The Grande at Canal Pointe Maintenance Association ("HOA") Board held a community vote on modifications to Grande at Canal Pointe Record and Landscape Site Plans originally filed with Sussex County by the Developer in 2004.

As of January 10, 2020, a total of (180) owners have voted either by paper or electronic ballot and the results are listed below.

Based on total number of homes of (288), the majority threshold of 51% or (147) owners has been achieved in all categories and questions.

1. Eliminate from the developer's landscape site plan the planting of trees around the storm water management pond bounded by Worcester, Bridgewater, and Liverpool.
 - (151) Owners APPROVE the proposed modification to the Landscape Site Plan
 - (29) Owners OPPOSE the proposed modification to the Landscape Site Plan

2. Eliminate from the developer's landscape site plan the trail off the parking lot on Gloucester between lots 45 and 46.
 - (162) APPROVE the proposed modification to the Landscape Site Plan
 - (18) OPPOSE the proposed modification to the Landscape Site Plan

3. Removal of Ordinance 1700 item number 15 which states "no piers, docks, boat ramps, or other water related recreational facilities shall be permitted."
 - (163) APPROVE the proposed modification to the Landscape Site Plan
 - (17) OPPOSE the proposed modification to the Landscape Site Plan



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL
OFFICE OF THE SECRETARY

DELAWARE COASTAL
MANAGEMENT PROGRAM

100 W. WATER STREET, SUITE 7B
DOVER, DELAWARE 19904

Phone: (302) 739-9283

Fax: (302) 739-2048

October 9, 2017

Evelyn M. Maurmeyer, Ph. D.
Coastal & Estuarine Research, Inc.
P.O. Box 674
Lewes, DE 19958

***RE: Delaware Coastal Management Federal Consistency Certification
The Grande at Canal Pointe Community Kayak/Canoe Launch (FC# 2017.0112)***

Dear Dr. Evelyn M. Maurmeyer,

The Delaware Coastal Management Program (DCMP) has received and reviewed your consistency determination for The Grande at Canal Pointe Community Kayak/Canoe Launch (FC# 2017.0112). The project includes the construction of a community kayak/canoe launching facility consisting of 8' x 6' ramp; 18' x 6' fixed walkway/pier, 12' x 3' gangway; 10' x 6' floating pier; and 8' x 30' floating dock in the Lewes and Rehoboth Canal on Gloucester Drive, The Grande at Canal Pointe, Rehoboth Beach, Sussex County, Delaware; to provide kayak/canoe launching facilities for residents of the community. Based upon our review and pursuant to National Oceanic & Atmospheric Administration regulations (15 CFR 930), this project is consistent with the policies of the DCMP.

If you have any questions please contact me or Nicole Rodi of my staff at (302) 739-9283.

Sincerely,

Kimberly B. Cole, Administrator
Delaware Coastal Management Program

KC/nr

cc: File (FC 2017.0112)
Matt Jones – DNREC Wetlands and Subaqueous Lands
Mike Yost – USACE- Philadelphia District

REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
PHILADELPHIA DISTRICT CORPS OF ENGINEERS
WANAMAKER BUILDING, 100 PENN SQUARE EAST
PHILADELPHIA, PENNSYLVANIA 19107-3390

OCT 02 2017

Regulatory Branch
Applications Section I

SUBJECT: CENAP-OP-R-2017-537-85 (LOP)
DDNREC #:
Lat./Long.: 38.72540°N/-75.08925°W

Evelyn M. Maurmeyer, Ph.D.
Coastal & Estuarine Research, Incorporated
Marine Studies Complex
Post Office Box 674
Lewes, Delaware 19958

Dear Dr. Evelyn Maurmeyer:

This is in regard to your application on behalf of The Grande at Canal Pointe Maintenance Corporation for a Department of the Army permit dated July 7, 2017, under provision of Section 10 of the Rivers and Harbors Act of March 3, 1899. The Grande at Canal Pointe Corporation is authorized by the Secretary of the Army to install an 8' x 30' floating dock, a 10' x 6' floating pier, a 12' x 3' gangway and an 18' x 6' fixed pier in The Grande at Canal Pointe community, Tax Map Parcel Number 3-34-13.00-1745.00 on the Lewes and Rehoboth Canal in Rehoboth Beach, Sussex County, Delaware. This activity shall be conducted in accordance with the enclosed plans (Enclosure 1) and subject to the enclosed conditions (Enclosure 2). The stated purpose of this project is to provide a kayak/canoe launching facility for the residents in The Grande at Canal Pointe.

Carefully review all the terms and conditions of the Department of the Army permit and understand them fully. Performing any work not specifically authorized by the permit or failing to comply with its conditions may subject you and/or your contractor to the enforcement provisions of our regulations. If a contractor performs the work for you, both you and the contractor are responsible for assuring the work is done in conformance with the conditions and limitations of this permit. Please be sure the person who will do the work has read and understands the conditions of the permit.

This letter contains a proffered letter of permission for your proposed project. If you object to this decision, you may request an administrative appeal under Corps regulations at 33 CFR 331. Enclosed you will find a combined Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form (Enclosure 3). If you request to appeal this decision, you must submit a completed RFA form to the North Atlantic Division Office at the following address:

Mr. James W. Haggerty
Regulatory Program Manager (CENAD-PD-OR)
U.S. Army Corps of Engineers
Fort Hamilton Military Community
301 General Lee Avenue
Brooklyn, New York 11252-6700

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by **DEC 04 2017**

It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this letter. Enclosed is your notice of authorization, ENG FORM 4336 (Enclosure 4), which must be conspicuously displayed at the site of work. The issuance of this permit does not obviate you from your responsibility to obtain any other Federal, State or local approvals required by law for this work.

This office shall be notified of the commencement and completion of the permitted work. To assist you in meeting this requirement, enclosed is a Notification/Certification of Work Commencement Form (Enclosure 5) for you to fill out and return to us at least 10 days prior to the time you intend to begin work. Similar notification is required each time any maintenance work is to be done under this permit. In addition, the enclosed Notification/ Certification of Work Completion/Compliance (Enclosure 6) should be signed and returned to this office within 10 days after the permitted work is completed. Also enclosed is a pre-addressed postal card (Enclosure 7) soliciting your comments on the processing of your permit. Any comments, positive or otherwise, on the procedures, timeliness, fairness, etc., may be made on this card. You may forward your comment card along with the signed Notification/Certification of Work Commencement Form.

Additional information concerning this permit may be obtained by writing to Michael D. Yost at the above address, by email at michael.d.yost@usace.army.mil or calling (267) 240-5278.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

A handwritten signature in dark ink, appearing to read "Edward E. Bonner". The signature is fluid and cursive, with the first name "Edward" and last name "Bonner" clearly distinguishable.

Edward E. Bonner
Chief, Regulatory Branch
for Kristen N. Dahle
Lieutenant Colonel, Corps of Engineers
District Commander

Enclosures

PROPOSED COMMUNITY KAYAK/CANOE LAUNCH:
8' X 6' RAMP; 18' X 6' FIXED WALKWAY/PIER; 12' X 3' GANGWAY;
10' X 6' FLOATING PIER; AND 8' X 30' FLOATING DOCK

IN: Lewes and Rehoboth Canal

AT: Community open space off of Gloucester Drive,
 The Grande at Canal Pointe

Rehoboth Beach, Sussex County, DE 19971

(Tax Map Parcel #3-34-13.00-1745.00)

APPLICANT: GCPMC (Grande at Canal Pointe Maintenance Corp.)

DATE: July 7, 2017

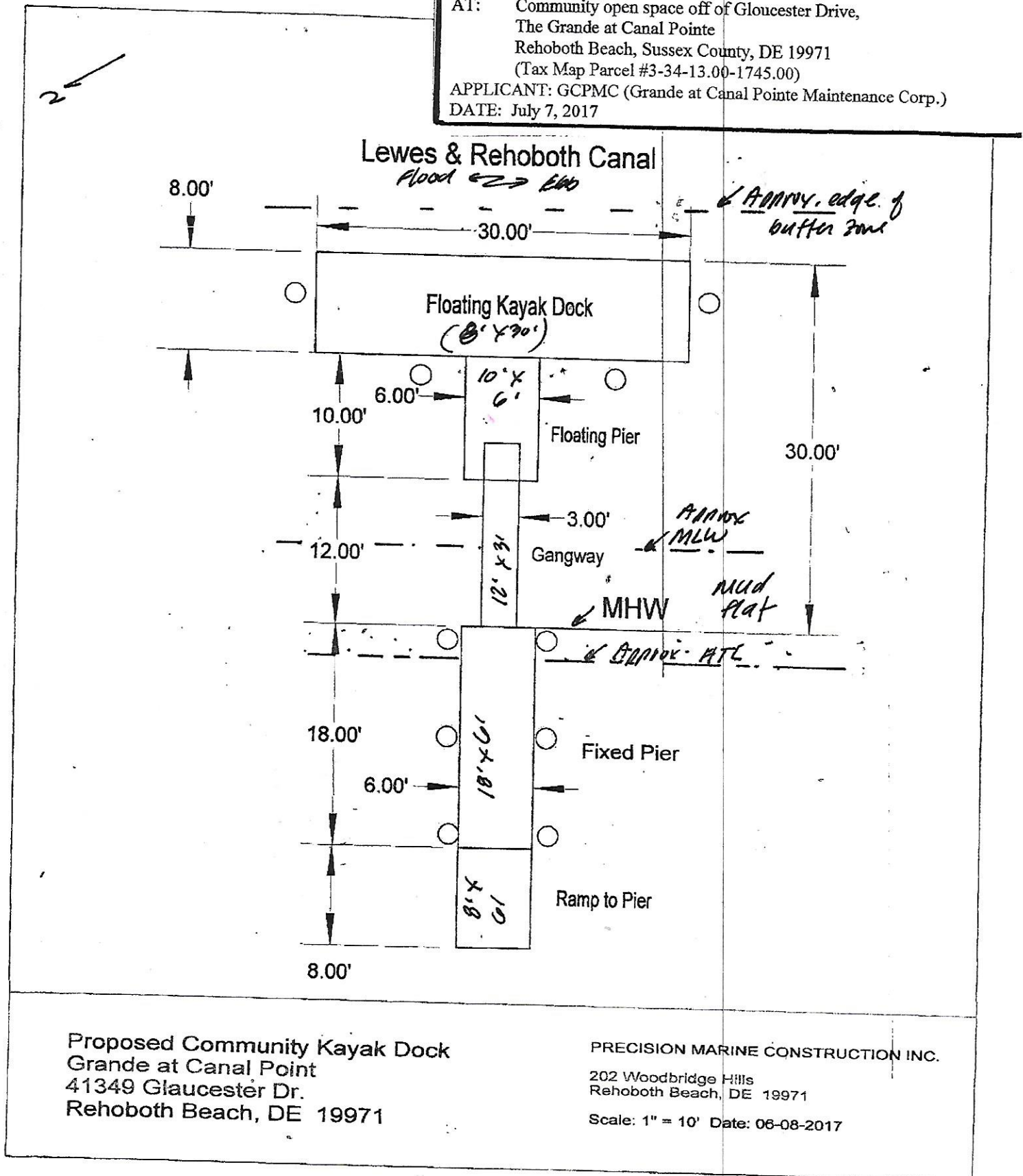
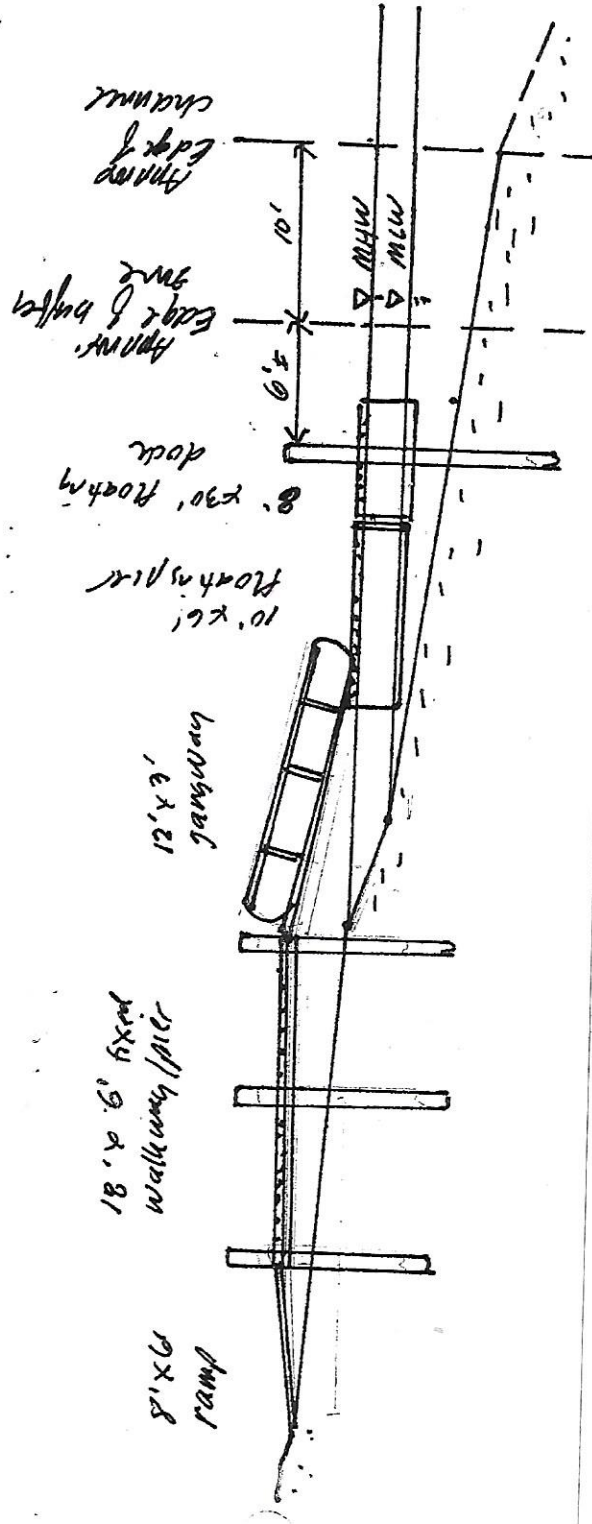


Figure 8. Plan view of proposed project (prepared by Precision Marine Construction, Inc.).

PROPOSED COMMUNITY KAYAK/CANOE LAUNCH:
8' X 6' RAMP; 18' X 6' FIXED WALKWAY/PIER; 12' X 3' GANGWAY;
10' X 6' FLOATING PIER; AND 8' X 30' FLOATING DOCK.
IN: Lewes and Rehoboth Canal
AT: Community open space off of Gloucester Drive,
 The Grande at Canal Pointe
 Rehoboth Beach, Sussex County, DE 19971
 (Tax Map Parcel #3-34-13.00-1745.00)
APPLICANT: GCPMC (Grande at Canal Pointe Maintenance Corp.)
DATE: July 7, 2017

LEWES AND REHOBOTH CANAL



SCALE: 1" = 10' ±

Figure 9. Cross-section of proposed project (for permit application purposes only).

CONDITIONS FOR
DEPARTMENT OF THE ARMY PERMITS

GENERAL CONDITIONS

1. The time limit for completing the work authorized ends on December 31, 2020. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided on page 3 of this document and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

SPECIAL CONDITIONS

1. All work performed in association with the above noted project shall be conducted in accordance with the project plan prepared by Precision Marine Construction Incorporated, dated June 8, 2017, entitled: *PROPOSED COMMUNITY KAYAK DOCK~GRANDE AT CANAL POINT~41349 GLAUCESTER DR.~REHOBOTH BEACH, DE 19971*, Figure 8 and the plan prepared by Coastal & Estuarine Research, Incorporated, dated July 7, 2017, entitled: *PROPOSED COMMUNITY KAYAK/CANOE LAUNCH:~8' X 6' RAMP; 18' X 6' FIXED WALKWAY/PIER; 12' X 3' GANGWAY;~ 10' X 6' FLOATING PIER; AND 8' X 30' FLOATING DOCK*, Figure 9.
2. Construction activities shall not result in the disturbance or alteration of greater than 0.007 acre of waters of the United States.
3. Any deviation in construction methodology or project design from that shown on the above noted drawings must be approved by this office, in writing, prior to performance of the work. All

modifications to the above noted project plans shall be approved, in writing, by this office. No work shall be performed prior to written approval of this office.

4. This office shall be notified at least 10 days prior to the commencement of authorized work by completing and signing the enclosed *Notification/ Certification of Work Commencement Form* (Enclosure 5). This office shall also be notified within 10 days of the completion of the authorized work by completing and signing the enclosed *Notification/Certification of Work Completion/Compliance Form* (Enclosure 6). All notifications required by this condition shall be in writing and shall be transmitted to this office by registered mail. Oral notifications are not acceptable. Similar notification is required each time maintenance work is to be done under the terms of this Corps of Engineers permit.

5. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

6. Representatives of the U.S. Army Corps of Engineers shall be permitted to inspect the project during its phase of construction, and to collect any samples, or to conduct any tests deemed necessary.

7. The permittee is responsible for ensuring that the contractor and/or workers executing the activity(s) authorized by this permit have knowledge of the terms and conditions of the authorization and that a copy of the permit document is at the project site throughout the period the work is underway.

8. The Special Conditions imposed by the Delaware Department of Natural Resources and Environmental Control (DDNREC) on your DDNREC Section 401 WQC and/or DDNREC CZM concurrence shall also be conditions to this Department of the Army permit.

9. Prior to construction, the permittee shall obtain a Real Estate instrument from the Baltimore District, U.S. Army Corps of Engineers, ATTN: CENAB-RE-C, P.O. Box 1715, Baltimore, Maryland (410) 962-4649. All work shall be performed in accordance with the terms and conditions of the Real Estate instrument.

10. Boats moored to the authorized structure shall not encroach or extend into the buffer of the Federal navigation channel as depicted on the approved plans.

11. If in the opinion of the District Commander or his authorized representative, any portion of the dock or boat moored thereto interfere at any time with Federal dredging operations or general navigation, the permittee shall at his own expense take any and all steps to eliminate such interference for whatever duration is deemed necessary.

12. This permit does not authorize any dredging activities.

13. This permit does not authorize any wetland impacts.
14. This permit does not authorize any discharges of dredged or fill material into waters of the United States.
15. The mechanical equipment used to execute the work authorized shall be operated in such a way as to minimize turbidity that could degrade water quality and adversely affect aquatic plant and animal life.
16. The disposal of trees, brush and other debris in any stream corridor, wetland or surface water is prohibited.
17. This permit does not obviate the permittee from obtaining any State or local assent required by law for the activity authorized.

FURTHER INFORMATION

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
2. Limits of the Authorization.
 - a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See Item 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

7. Transference. When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(Transferee)

(Date)



This notice of authorization must be
conspicuously displayed at the site of work.

United States Army Corps of Engineers

OCT 02 2017

A permit to install an 8'x30' floating dock, a 10'x6' floating pier, a 12'x3' gangway
and an 18'x6' fixed pier

at The Grande at Canal Pointe Community, Sussex County Delaware

has been issued to Evelyn M. Maurmeyer on OCT 02 2017

Address of Permittee Post Office Box 674, Lewes, Delaware 19958

Permit Number

CENAP-OP-R-2017-0537-85

Edward E. Bonner
Chief, Regulatory Branch

District Commander

for: Kristen N. Dahle
Lieutenant Colonel, US Army
District Commander

ENG FORM 4336 , Jul 81 (ER 1145-2-303) EDITION OF JUL 70 MAY BE USED

(Proponent: DAEN-CWO)

NOTIFICATION/CERTIFICATION OF WORK COMMENCEMENT FORM

Permit Number: CENAP-OP-R-2017-537-85 (LOP)
State Permit #:
Name of Permittee: Grande at Canal Pointe Maintenance Corporation
Project Name: Grande at Canal Pointe Dock SX
Waterway: Lewes and Rehoboth Canal
County: Sussex State: Delaware
Compensation/Mitigation Work Required: Yes ☐ No ☒

TO: U.S. Army Corps of Engineers, Philadelphia District
Wanamaker Building - 100 Penn Square East
Philadelphia, Pennsylvania 19107-3390
Attention: CENAP-OP-R

I have received authorization to install an 8' x 30' floating dock, a 10' x 6' floating pier, a 12' x 3' gangway and an 18' x 6' fixed pier in The Grande at Canal Pointe community, Tax Map Parcel Number 3-34-13.00-1745.00 on the Lewes and Rehoboth Canal in Rehoboth Beach, Sussex County, Delaware.

The work will be performed by:

Name of Person or Firm _____

Address: _____

I hereby certify that I have reviewed the approved plans, have read the terms and conditions of the above referenced permit, and shall perform the authorized work in strict accordance with the permit document. The authorized work will begin on or about _____ and should be completed on or about _____.

Please note that the permitted activity is subject to compliance inspections by the Army Corps of Engineers. If you fail to return this notification form or fail to comply with the terms or conditions of the permit, you are subject to permit suspension, modification, revocation, and/or penalties.

Permittee (Signature and Date)

Telephone Number

Contractor (Signature and Date)

Telephone Number

NOTE: This form shall be completed/signed and returned to the Philadelphia District Office a minimum of 10 days prior to commencing work.

NOTIFICATION/CERTIFICATION OF WORK COMPLETION/COMPLIANCE FORM

Permit Number: CENAP-OP-R-2017-537-85 (LOP)
State Permit #:
Name of Permittee: Grande at Canal Pointe Maintenance Corporation
Name of Contractor:
Project Name: Grande at Canal Pointe Dock SX
County: Sussex State: Delaware
Waterway: Lewes and Rehoboth Canal

Within 10 days of completion of the activity authorized by this permit, please sign this certification and return it to the following address:

U.S. Army Corps of Engineers, Philadelphia District
Wanamaker Building - 100 Penn Square East
Philadelphia, Pennsylvania 19107-3390
Attention: CENAP-OP-R

Please note that the permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to return this notification form or fail to perform work in compliance with the permit, you are subject to administrative, civil and/or criminal penalties. Further, the subject permit may be suspended or revoked.

The authorized work was commenced on _____.

The authorized work was completed on _____.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the above noted permit.

Signature of Contractor

Address: _____

Telephone Number: _____

Signature of Permittee

Address: _____

Telephone Number: _____



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION

800 BAY ROAD
P.O. Box 778
DOVER, DELAWARE 19903

NATHAN HAYWARD III
SECRETARY

May 4, 2004

Mr. Lawrence B. Lank
Director
Sussex County Planning & Zoning Commission
P.O. Box 417
Georgetown, DE 19947

Dear Mr. Lank:

The Department has completed its review of the Traffic Impact Study (TIS) prepared by Ramcsh C. Batta, P.A. (Batta) for the Canal Point mixed-use development dated April 7, 2004. The development is proposed to be located on a 180.6-acre parcel west of Rehoboth Beach. The development would be composed of 283 single-family detached houses, 82 townhouses, 252 condominiums, 4.5 acres of commercial space, a 1.5 acres senior center, and 5 acres for an undetermined use by local government. Access to the development would be provided from Canal Crossing Boulevard, a new roadway, which would connect Holland Glade Road and Church Street. Batta prepared the report in a manner generally consistent with DelDOT's Rules and Regulations for Subdivision Streets. Details of our findings are enclosed.

The TIS analyzed an additional case, not included in the minutes of the TIS scoping meeting, namely Case 5, which recommended intersection improvements along Delaware Route 1. The key improvements recommended by Batta in that case are breaking the Delaware Route 1 median at Holland Glade Road, constructing southbound Delaware Route 1 and westbound Holland Glade Road left-turn lanes, and signalizing the intersection. DelDOT is currently engaged in the Rehoboth Beach Area Improvement Program study, which is developing alternatives for improving transportation in the area. Additional signalized intersections in this already heavily traveled corridor are not an improvement under consideration. The existing traffic signals are already closely spaced, and the introduction of another signal would further degrade our ability to coordinate the signal timing. As a part of this TIS review we have not recommended these improvements be considered for the above reasons.

Similarly, we expect to implement improvements in this area, whichever alternative we select, relatively quickly. Depending on the complexity of the work, construction of various sections should start between 2005 and 2007. These improvements would eliminate the need for additional lanes on northbound Route 1 that Batta recommends. Therefore, we are not recommending the improvements that Batta recommends on Route 1 either.



12.00 3027332201 DELDOT PLANNING PAGE 03/26

Mr. Lawrence B. Lank
May 4, 2004
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Should the County choose to approve the Canal Point development, the following items should be incorporated into the site design and reflected on the record plan:

- 1) Prior to the issuance of building permits, the developer should be required to enter into an agreement with DelDOT, whereby the developer would fund all costs associated with a traffic signal at the Delaware Route 1A (Rehoboth Avenue) and Church Street intersection. The costs should include pedestrian signals, crosswalks and interconnection with other adjacent Delaware Route 1 traffic signals at DelDOT's discretion. DelDOT would install this signal at its discretion when it finds that the appropriate warrants from the Manual of Uniform Traffic Control Devices are met.

- 2) Prior to the issuance of certificates of occupancy, the developer should be required to design and build Canal Crossing Boulevard (CCB) from Corkran Boulevard to Holland Glade Road in a manner acceptable to DelDOT.

From Corkran Boulevard to Hebron Road, CCB should be designed and built as an extension of the existing road between Corkran Boulevard and Church Street.

From Hebron Road to Holland Glade Road, CCB should be designed and built to meet DelDOT's local road standards and include a five-foot bicycle lane in each direction, sidewalks on both sides, and crosswalks.

- 3) Prior to the issuance of certificates of occupancy, the developer should be required to improve Holland Glade Road between Route 1 and Canal Crossing Boulevard in a manner acceptable to DelDOT. These improvements should be designed to meet DelDOT's local road standards as nearly as possible within the existing right-of-way. They may include increasing lane widths and adding shoulders.
- 4) The plan should include street connections to Henlopen Keys and stub streets to adjacent lands that front on Holland Glade Road.
- 5) The plan should include pedestrian trails and paths throughout the development to encourage pedestrian and bicycle activities within the development and between it and the Henlopen Keys and Canal Corkran subdivisions.
- 6) The plan should include placement of bicycle racks or storage facilities at the entrance to all commercial buildings and the proposed senior center.

Mr. Lawrence B. Lank
May 4, 2004
Page 3 of 3

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

Sincerely,



T. William Brockenbrough, Jr.
County Coordinator

TWB:rr

Enclosures

cc with enclosures: Ms. Constance C. Holland, Office of State Planning Coordination
Mr. Stephen A. Raign, Ramesh C. Batta Associates, P.A.
Mr. Erich J. Hizer, DMJM+HARRIS
DelDOT Distribution



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

May 3, 2004

Mr. Lawrence Lank
Sussex County Planning
P.O. 417
Georgetown, DE 19947

RE: IUPA 04-07-04-04; Rebay, LLC (Previously Canal Point)

Dear Mr. Lank:

The State has reviewed the proposed rezoning of 180.60 acres located on the southeast side of Holland Glade Road, 3,150 feet northeast of Route One and west of Rehoboth Beach from AR-1 to MR/RPC for the purpose of developing a 617 unit residential planned community. It should be noted that the State agencies originally commented on this project on January 10, 2004, after a December 17, 2004 PLUS meeting regarding this site. (copy attached)

In our response letter, several State agencies commented regarding this project. The purpose of this letter is to inform the County of any changes to our original comments.

Department of Transportation

In our January letter, DelDOT commented that the traffic impact study was in the process but they had no comments at that time. DelDOT expects to have the TIS completed during the first week of May, 2004, and will comment directly to the County. Until that study is completed and recommendations are made, DelDOT has noted that their comments are still valid, as follows:

- DelDOT recommended that the County make an extra effort to obtain input on this application from the residents of West Rehoboth.

LUPA 04-07-04-04

Rebay, LLC

Page 2 of 3

- DelDOT asked that the developer consider providing street connections to Henlopen Keys and stub streets to adjacent lands that front on Holland Glade Road. The State is unsure if the developer has included this in his site plan due to the fact that they have not a revised plan.

State Historic Preservation

The State Historic Preservation Office has been in contact with the developer to visit the site and determine the archaeological sites on the property that are known to exist. They met, on site on February 24, 2004 but because of ground conditions and overgrowth, the sites could not be located. The SHPO followed up with a letter requesting additional access to the site once it had been plowed; however, the developer responded that they did not plan to plow the fields. The SHPO responded that they would like Dan Griffith, Director of Historic and Cultural Affairs, to visit the site, as he was one of the archaeologists who surveyed the property in the 1970s when the known sites were studied.

The State Historic Preservation Office would like to visit the project site before any construction begins so that they can document the archaeological sites before they are potentially harmed. The State asks that the County require the developer to have these sites marked before development of the property.

Department of Agriculture

In January the Department of Agriculture recommended a forest mitigation plan to preserve trees during the construction process when possible and allow for improved home design and construction to enhance the resource. Further, the developer was encouraged to provide a diverse landscape plan that includes native trees and shrubs and the DDA extended its services to assist the developer with the project.

It is unclear at this time if the developer has planned a forest mitigation plan; however, we would still recommend that it be done.

Department of Natural Resources and Environmental Control

In the January letter, we provided five pages of comments (see attached) regarding natural areas, sediment and stormwater management, water supply, wetlands, TMDLs, nutrient management, soils, natural heritage and endangered species, ERES waters, and habitat. These comments included issues regarding the development, site plan suggestions, and regulatory comments.

The Department of Natural Resources and Environmental Control has stated, through the LUPA process, that they have had no further contact with the developer regarding this site and no new site plans were provided. Therefore, our DNREC comments given in the January 10, 2004 letter stand as written.

LUPA 04-07-04-04

Rebay, LLC

Page 3 of 3

State Fire Marshals Office comments that were given in January were advisory comments regarding what information would be needed on the final submittals. These comments also still stand.

Thank you for the opportunity to review this rezoning proposal. We encourage the County to consider the comments given to the developer through the PLUS process. Once a decision is reached regarding this proposal, please contact this office so that our records may be updated reflecting your decision.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Constance C. Holland".

Constance C. Holland
Director



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

January 10, 2004

Mr. Zachary Crouch
Project Manager
Davis, Bowen & Friedel, Inc.
23 North Walnut Street
Milford, DE 19963

RE: Preliminary Land Use Service (PLUS) – Canal Point

Dear Mr. Crouch:

Thank you for meeting with State agency representatives on December 17, 2003 to discuss the Canal Point project. This project is the rezoning and subdivision of a 180.6 acre assemblage of parcels on the southeast side of Holland Glade Road, northwest of Rehoboth Beach to create a residential development. It is our understanding that 283 single family detached houses, 82 townhouses and 252 apartments are planned for the site.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the State agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that, if annexed, Sussex County is the governing authority over this land; the developers will need to comply with any and all regulations/restrictions set forth by the County.

State Agency comments are as follows:

Department of Transportation – Contact: Bill Brockenbrough 760-2166

Contrary to the Request for Review information, the traffic impact study (TIS) for this development has not been submitted yet although DelDOT stated they understand that it is in process. When they have reviewed it, they anticipate commenting to Sussex County on their findings and recommendations.

PLUS Meeting
Canal Point
Page 2 of 10

Hebron Road presently serves as the only access to a low-income neighborhood known as West Rehoboth. Most of the developed properties are rental housing owned by people who live elsewhere. Because it is relatively isolated, this neighborhood has continued to exist despite rising real estate prices in the surrounding area. While the TIS will address traffic issues associated with the effects of connecting Hebron Road to Canal Crossing Boulevard, there are also social and economic issues associated with such a connection. The County should consider taking additional steps to receive input from the residents of West Rehoboth, recognizing that something more than the normal notification and public hearing process is appropriate. Additional measures could include a hearing at a location in or near West Rehoboth and local postings of the hearing notices.

The developer should consider providing street connections to Henlopen Keys and stub street connections to adjacent lands that front on Holland Glade Road. If street connections are not feasible, bicycle and pedestrian connections should be considered.

State Historic Preservation Office (SHPO) – Contact: Anne McCleave 739-5685

There is a farm complex consisting of a house and outbuildings on the proposed development parcels. There are also known archaeological sites (at least 8) throughout the development area and a high probability for other historic and prehistoric archaeological sites. The applicant or developer should contact Anne McCleave to allow SHPO to document the historic buildings before they are demolished and to set up a meeting with the archaeologists in their office to discuss ways to avoid or minimize any effects to the archaeological sites.

If there is any federal involvement, in the form of licenses, permits, or funds, the federal agency must comply with Section 106 of the National Historic Preservation Act and consider any effects the project will have on historic resources. The applicants should also be aware of the Delaware Unmarked Human Remains Act (7 Del. Code 54) and contact Faye Stocum in the SHPO office if any human remains are discovered.

Department of Agriculture – Contact: Bryan Hall 739-4811

No forest buffer would be required for this site to allow for separation of active agricultural activities. However, the site is heavily forested and inter mixed with forested wetlands. The developer should consider a forest mitigation plan to preserve trees during the construction process when possible and allow for improved home design and construction to enhance the resource. I would encourage the developer to consider connectivity of the green infrastructure to allow for additional recreational opportunities and potential tie-ins to other future development sites. The developer should consider a diverse landscape plan one that includes native trees and shrubs. Finally, the DE Forest service extends its services to assist the developer with this project.

PLUS Meeting
Canal Point
Page 3 of 10

Department of Natural Resources and Environmental Control

Sediment and Stormwater Management – 856-7219

A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site. The plan review and approval as well as construction inspection will be coordinated through Sussex Conservation District. Contact Jessica Watson, Program Manager, for details regarding submittal requirements and fees.

It is strongly recommended contacting Sussex Conservation District to schedule a pre-application meeting to discuss the sediment and erosion control and stormwater management components of the plan. The site topography, soils mapping, pre and post development runoff, and proposed method(s) and location(s) of stormwater management should be brought to the meeting for discussion.

A Notice of Intent (NOI) for Stormwater Discharges Associated with Construction Activity must be submitted to DNREC Division of Soil and Water Conservation along with the \$195 NOI fee prior to plan approval.

Applying practices to mimic the pre development hydrology on the site, promote recharge, maximize the use of existing natural features on the site, and limit the reliance on structural stormwater components, such as maintaining open spaces, should be considered in the overall design of the project as a stormwater management technique.

Each stormwater management facility should have an adequate outlet for release of stormwater. Any drainage conveyed onto this site from neighboring properties must be adequately conveyed through the site to the discharge point without interruption.

A Certified Construction Reviewer (CCR) will be required for the site during construction. Contact Sussex Conservation District for details regarding the CCR requirement.

Natural Areas - 739-3423

This parcel does contain natural areas listed on the State's Natural Areas Inventory and is within an identified State Resource Area. The entire project area lies within the Cape Henlopen State Resource Area. The forested buffers along the eastern and southern sides of the parcel are part of the Cape Henlopen Natural Area.

The preliminary plan does not provide adequate buffering between the development and the adjacent wetland resources. According to the Statewide Wetlands Mapping Project GIS layer this site contains estuarine and palustrine emergent and palustrine forested wetlands. It is recommended that all lot lines be at least 100 feet from the wetlands on this site. Lots 6 to 9, 14 to 25, 57 – 62 and 68 to 77 all encroach too closely to the wetland resources on and adjacent to this site.

PLUS Meeting
Canal Point
Page 4 of 10

The Department does not feel that forest should be destroyed to create storm water management ponds. This proposal shows two storm water management ponds in what are currently forested areas. The worse of the two is the small dogleg-shaped pond on the southeast side of the development, adjacent to an isolate palustrine emergent wetland. This wetland probably provides breeding habitat for several amphibian species as well as habitat for a number of other species of flora and fauna. It is recommended that DNREC's Division of Soil and Water Conservation and the Sussex Conservation District Office be consulted regarding the practicality of alternative stormwater management practices on this site.

Water Supply - 739-3665

The project information sheets state water will be provided to the project by City of Rehoboth Beach via a central water system. Our records indicate that the project is located within the public water service area granted to City of Rehoboth Beach under Certificate of Public Convenience and Necessity 99-CPCN-04.

Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.

All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.

Wetlands - 739-4590

A wetland delineation should be conducted and verified. It appears that impacts to tidal wetlands may occur due to a trail system located internally within the development. Impacts to waters of the U.S., including impacts to "isolated wetlands" are protected and regulated by the U.S. Army Corps of Engineers (USACE). Tidal wetlands and subaqueous land impacts are regulated by the State Division of Water Resources, Wetlands and Subaqueous Land Section. Individual permits and certain Nationwide Permits from the USACE also require 401 Water Quality Certification from the Wetland and Subaqueous Land Section and Coastal Zone Federal Consistency Certification from the Division of Soil and Water Conservation, Delaware Coastal Programs Section. Each of these certifications represents a separate permitting process. To find out more about permitting requirements, the applicant is encouraged to attend a Joint Permit Process Meeting. These meetings are held monthly and are attended by federal and state resource agencies responsible for wetland permitting.

PLUS Meeting
Canal Point
Page 5 of 10

The current plan also shows impacts to wetlands resulting from stormwater facility construction near the existing pond. Stormwater facilities must be relocated to avoid this wetland and provide appropriate buffers. The developer is also strongly encouraged to move stormwater management facilities outside of forested areas to minimize forest losses. Construction of alternative stormwater facilities would further allow the developer to redesign portions of the project, moving some lots away from waterbodies, increasing buffer widths, preserving a larger portion of forest while maintaining the planned number of lots.

Buffers of 100' or more from waterbodies and wetlands should be employed throughout the site for water quality and habitat benefits. The buffers shown in the site plans in most cases do not meet this criterion, particularly in the northwestern and southern portions of the project site. Further, lot lines should not include any portion of wetlands or their buffer areas. Homeowners are often unaware of laws protecting wetlands and proper permitting channels and unknowingly fill or degrade wetlands within their property boundaries, contributing to cumulative wetland loss. The developers should also strongly consider putting riparian buffers and conservation areas into a permanent conservation easement and clearly marking their boundaries to prevent encroachment.

Habitat - 739-3423

The open space and perimeters could be better designed to reduce fragmentation by connecting islands and perimeter habitats with travel corridors for wildlife.

Storm water management facilities could be designed to provide aquatic habitats for biodiversity. Large shallow water areas are preferable to small deep ponds.

Buffer strips at least 100 feet wide around storm water facilities and the perimeter of developments will provide habitats for wildlife. These buffer strips should be planted with vegetation that is wildlife friendly and reduce maintenance costs for homeowner associations.

This project represents a major loss of forested wetlands and increases fragmentation of protected state lands in the area. It is, therefore, particularly important that the proposed islands of open space be connected to each other and to the perimeter of the development by travel corridors. Wide buffers of warm season grasses and shrubs around the perimeter of the development are very important.

TMDLs - 739-4590

With the adoption of Total Maximum Daily Loads (TMDLs) as a "nutrient-runoff-mitigation strategy" for reducing nutrients in the Inland Bays Watershed, reduction of nitrogen and phosphorus loading will be mandatory. A TMDL is the maximum level of pollution allowed for a given pollutant below which a "water quality limited waterbody" can assimilate and still meet water quality standards to the extent necessary to support

PLUS Meeting
Canal Point
Page 6 of 10

use goals such as, swimming, fishing, drinking water and shell fish harvesting. Although TMDLs are authorized under federal code, states are charged with developing and implementing standards to support those desired use goals. The Jurisdictional authority for attaining these use goals will fall under the auspices of Section 11.5 of the State of Delaware's Surface Water Quality Standards (as amended August 11, 1999), and will be achieved via nutrient reductions referred to as "pollution control strategies."

Nutrient Management Issues 739-4590

Most of the soils occurring on the Southern Coastal Plains of Delaware have sandy surface and/or subsurface horizons. Such soils have rapid permeabilities with little or no phosphorus/nitrogen adsorption capacity; therefore, increased nutrient pollutant loads from such inputs will likely leach into receiving waters of the watershed. This process is further intensified in those soils containing shallow water tables.

The developer is encouraged to select BMPs that provide nutrient control for stormwater and open spaces. Vegetative buffers that require little to no management are recommended. A riparian corridor along streams that is outside of the individual lot lines is encouraged and should be managed through the civic association. Education of the landowners as to proper lawn and landscaping management should be made part of each lot transfer.

Nutrient reductions prescribed under TMDLs are assigned on basis of water quality concerns -- that is, the those regions deemed to be of greatest environmental concern will require correspondingly higher levels of nutrient reduction than those regions deemed less environmentally sensitive. In this watershed, these regions are demarcated as high and low reduction zones. The high reduction zone corresponds to the western portion of the watershed, and requires a reduction of nitrogen and phosphorus by 85 and 65 percent, respectively. The low reduction zone corresponds to the eastern portion of the watershed, and requires a reduction of nitrogen and phosphorus by 40 percent.

This project is proposed within the low nutrient reduction zone.

In order for the applicant to verify compliance with the TMDL mandate, a full nutrient accounting process known as a nutrient budget should be prepared. The developer/consultant should contact Lyle Jones (302-739-4590) in the Department's Watershed Assessment Section for further information regarding the acceptable protocol for calculating a nutrient budget.

It should also be noted that a significant portion of subject parcel ($\approx 1/3$ to $1/2$ of parcel) is heavily forested. Forested lands have been consistently shown to be far more effective agents for adsorbing nutrients and other pollutants. Removal of forest cover will almost certainly increase pollutant loading into the Inland Bays and make it more difficult for Delaware to comply with TMDL nutrient load reduction requirements. **From the information presented at the Request for Review meeting on December 17, 2003,**

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and the Nutrient Protocol beta Model, Canal Point as presented would increase the nutrient load to the Inlands Bays Watershed.

Soils

According to the recent soil survey update, the soils in the vicinity of the proposed construction are mapped as Greenwich and Downer. Both Downer and Greenwich are well-drained upland soils. Delineated wetlands are outside the proposed construction area.

Natural Heritage and Endangered Species

A review of our database indicates that the following rare, threatened or endangered species and/or unique natural communities may be found at or adjacent to the project site:

Scientific Name	Common Name	Taxon	State Rank	State Status	Global Rank	Federal Status
<i>Callophrys irus</i>	Frosted elfin	Butterfly	S1	E	G3	
<i>Libytheana carinenta</i>	American snout	Butterfly	SH		G5	

The Frosted elfin is not only state-rare; it is listed as State Endangered and is considered Globally Rare (fewer than 100 known locations remaining worldwide). Records for these species at or near this site are now considered historical (last observed >20 years old), primarily because we have never searched the area where the specimens were reportedly found. Due to the lack of specific information associated with the specimens (from University of Delaware specimen collection), we are uncertain precisely where these species were observed. Frosted elfin larvae feed exclusively on a state-rare plant (*Lupinus perennis*; purple lupine), which typically grows in dry upland forests with open canopy sunny or partial shade conditions or right-of-ways. Division biologists have never visited this property to search for the host plant or adult butterflies. **The Natural Heritage Program has requested permission to evaluate whether habitat for these species, particularly Frosted elfin and its foodplant, exists on this site.** Surveys cannot be conducted until the spring; more detailed information on survey timing will be provided.

The loss of upland forest is a concern given the close proximity to protected lands owned by the Division of Parks and Recreation. Although the applicant indicates on the form that "all upland woods will remain...", it appears that only trees may be left to stand with houses in most of the understory. This is no longer forest habitat, but instead is wooded suburban landscaping. The wooded lots will not serve as habitat equivalent to an intact, undisturbed forest. Though the area is nearly surrounded by development and, except for protected State Park land, essentially fragmented from larger contiguous blocks of forest, coastal habitats (including forest and shrub-scrub) are very important stopover sites for birds that follow coastlines during migration¹. This project, if completed as designed,

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will result in loss of forest habitat for many wildlife species. Impacts may be lessened to a small degree by preserving and maintaining forest-like habitat completely surrounding homes, including understory shrub and herb layers typical of surrounding forest habitats. The developer is encouraged to explore ways to ensure that community residents will maintain their properties as native woodland, rather than manicured landscaping. The north side of Rehoboth Beach should be evaluated as an example of how woodland habitat can surround homes and lend character to the community.

¹ Mabey, S.E., J. McCann, L.J. Niles, C. Bartlett, P. Kerlinger. 1993. The neotropical migratory songbird coastal corridor study: Final report. A report to the Virginia Department of Environmental Quality to the National Oceanic and Atmospheric Administration's Office of Ocean and Coastal Resource Management pursuant to NOAA Award No. NA90AA-H-CZ839. 72 pp.

ERES Waters

The Inland Bays and its tributaries are designated as waters having Exceptional Recreational or Ecological Significance (ERES). ERES waters are recognized as special assets of the State, and shall be protected and/ or restored, to the maximum extent practicable, to their natural condition. Provisions in Section 11.5 of Delaware's "Surface Water Quality Standards" (as amended August 11, 1999), specify that all designated ERES waters and receiving tributaries develop a "pollution control strategy" to reduce non-point sources of nutrient runoff through implementation of Best Management Practices (BMPs). Best Management Practices as defined in subsection 11.5(e) of this section, expressly authorizes the Department to provide standards for controlling the addition of pollutants and reducing them to the greatest degree practicable, or where attainable, a standard requiring no discharge of pollutants.

State Fire Marshals Office 856-5298

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.
- Where a water distribution system is proposed for (business/educational/assembly/healthcare/multi-family) sites, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.
- 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.

- Where a water distribution system is proposed for townhouse type dwellings it shall be capable of delivering at least 1000 gpm for 1-hour duration, at 20-psi residual pressure. Fire hydrants with 800 feet spacing on centers are required.

b. **Fire Protection Features:**

- All structures over 10,000 Sq. Ft. aggregate will require automatic sprinkler protection installed.
- Buildings greater than 10,000 sq.ft., 3-stories of more or 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 Hebron St. 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-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.
- If the use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.

d. **Gas Piping and System Information**

- Provide type of fuel proposed, and show locations of bulk containers on plan.

d. **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


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- 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.delawarestatefiremarshal.com, technical services link, plan review, applications or brochures.

Again, thank you for meeting with State agencies regarding this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,


Constance C. Holland, AICP
Director

CC: Lawrence Frank



STATE OF DELAWARE
DIVISION OF HISTORICAL AND CULTURAL AFFAIRS
DELAWARE STATE HISTORICAL PRESERVATION OFFICE
21 THE GREEN, SUITE A
DOVER • DE • 19901-3611

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MAR 10 2004

PLANNING & ZONING
COMM. OF SUSSEX COUNTY

TELEPHONE: (302) 739-5685

FAX: (302) 739-5660

March 8, 2004

W. Zachary Crouch
Project Manager
Davis, Bowen & Friedel, Inc.
23 N. Walnut Street
Milford, DE 19963

RE: Canal Point and Archaeological Sites

Dear Mr. Crouch:

Thank you for allowing me and two archaeologists, Craig Lukezic and Chuck Fithian, to visit the site of the proposed Canal Point development project on February 28th. Though we have no authority to approve or disapprove the development plans, the LUPA (now PLUS) process allows our office to provide comments to applicants and developers about historic and cultural resources within and near their proposed development projects and advise ways to lessen any effects the projects may have on such resources. In my comments following the pre-LUPA meeting in December 2003, and as Craig and Chuck explained during the site visit last week, there are known Indian archaeological sites within the development area and the probability is high that there are additional sites that could provide important information about the Indian inhabitants of what is now Delaware. Collections made at these sites nearly 30 years ago show the Indian occupation in this area began as early as 500 B.C.

Due to the surface conditions of the land during our site visit, we were unable to precisely locate and determine the boundaries of the known sites. On March 4, Craig and I met with Dan Griffith, director of Historical and Cultural Affairs, and discussed the importance of these archaeological sites and the other probable sites throughout the entire project area and the importance of the information these sites could yield. Therefore, we would like to request additional access to the project area, which includes the previously cultivated and wooded areas, and ask that the previously cultivated land be plowed beforehand. Once the land is plowed, we will be able to determine the archaeological site locations and boundaries, evaluate the sites, and gather information. We would also like to request a copy of the construction timeline for the development project, which will help us determine a good time to schedule a visit to the development site.

Again, we appreciate your and the owners' willingness to cooperate with us and to allow access to the property. Please feel free to contact me at 302-739-5685 if you have any questions, concerns, or would like to schedule a time we can visit the site.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anne', followed by a long horizontal flourish.

Anne M. McCleave
Architectural Historian

Cc: Dan Griffith, Division of Historical & Cultural Affairs
Craig Lukezic, State Historic Preservation Office
Chuck Fithian, State Museums
Connie Holland, Office of State Planning Coordination
Ann Marie Townsend, Office of State Planning Coordination
Lawrence Lank, Sussex County Planning & Zoning