



Sussex County Council Public/Media Packet

**MEETING:
February 18, 2014**

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

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



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Sussex County Council

AGENDA

February 18, 2014

1:00 P.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Todd Lawson, County Administrator

1. Board of Assessment Review Appointments
2. Administrator's Report

Hal Godwin, Deputy County Administrator

1. Legislative & Committee Action Update

Old Business

Conditional Use No. 1968
Ray Baker

Grant Requests

1. Delaware Community Foundation for Flags for Heroes 2014.
2. Nanticoke River Arts Council for Gallery 107 operating expenses.
3. Town of Bridgeville for Speed Warning Detection Systems.



Introduction of Proposed Zoning Ordinances

Any Additional Business Brought Before Council

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

Possible Action on Executive Session Items

1:30 p.m. Public Hearings

Change of Zone No. 1741 filed on behalf of Bay Forest Club, LLC

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO MR-RPC MEDIUM DENSITY RESIDENTIAL – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 30.695 ACRES, MORE OR LESS” (land lying east of White’s Neck Road (Road 347) ½ mile north of Old Mill Road (Road 349) (Tax Map I.D. 134-8.00 Parcels 17.00, 17.02, and 18.00)

911 Address: No 911 address available

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

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on February 11, 2014 at 4:15 p.m., and at least seven (7) days in advance of the meeting.

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

Agenda items listed may be considered out of sequence.

###

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 11, 2014

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 11, 2014, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 077 14
Amend
and
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to amend the Agenda by deleting "Discussion of Planning and Zoning Process" and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of February 4, 2014 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

LEWES IN BLOOM, LEWES, DELAWARE.

RE: Letter in appreciation of grant funding.

CALVARY CAFÉ AND COMMUNITY CLOTHES CLOSET, MILFORD, DELAWARE.

RE: Letter in appreciation of the County's past support of Calvary Café, which closed effective December 2013.

**Adminis-
trator's
Report**

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

1. **FOIA Roadshow Presentation**

**Administrator's
Report
(continued)**

In two weeks, on February 25, 2014, Deputy Attorney General Jason Staib will present information regarding the Freedom of Information Act, commonly known as FOIA. The AG's office is scheduled to present what they are referring to as their FOIA Roadshow to a number of Delaware municipalities in Sussex County.

The Attorney General's presentation will provide Council and staff the opportunity to learn how their office interprets the law's requirements and to ask specific questions regarding the County's efforts to remain compliant with FOIA.

2. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Millville by the Sea – Sub-phase 2C-2, received Substantial Completion effective February 6, 2014.

3. Sussex County Paramedics Compete in JEMS International Games Competition

We would like to congratulate the Sussex County EMS (SCEMS) Competition Team on their fourth place finish at this year's JEMS International Games Competition held in Washington, D.C. last week. The team, consisting of Drew Vickers, Kevin Erb, Jason Hanson, and Brandon Rogers, did an outstanding job as 19 teams from across the region, country, and the world (Australia and England) competed this year.

In the last 10 years SCEMS has competed in the JEMS Games, our competition teams have finished fifth or better every year and have won six medals in the 10 years SCEMS has competed.

4. Charles P. Spicer, Jr.

It is with sadness we inform you that Charles Spicer, County pensioner, passed away on February 8, 2014. Mr. Spicer served as Clerk of the Peace from January 1987 through 1994 and Sheriff from January 1995 until his retirement in 1999. We would like to express our condolences to the Spicer family. Information on Mr. Spicer's services is forth-coming.

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

**Wetlands
Ad-Hoc
Committee**

Mrs. Deaver referenced the wetlands committee meetings that Hal Godwin, Deputy County Administrator, attends and she stated that she would like to catch up on what they are doing. Mr. Lawson responded that Mr. Godwin is the County's appointed member to the Wetlands Ad-Hoc Committee and is in attendance at a meeting of that Committee on this date. Mr. Lawson

(continued) noted that Mr. Godwin will report to the Council on the Committee's activities.

Insurance Procurement Process Mrs. Jennings discussed the County insurance procurement process; every three years, the County bids its insurance package, including automobile, general liability, law enforcement, public officials, employment practices, workers compensation, umbrella, property, boiler & machinery, outfall pipeline, crime, and airport. Mrs. Jennings reported that the Request for Proposals (RFP) will be finalized the week of February 17th and will be advertised. Intents to bid are expected in March with final proposals to be received in May. The final results will be reported to the Council in June.

Financial Report for the Quarter Ending 12/31/13 Mrs. Jennings reviewed the Quarterly Financial Report as of December 31, 2013. She reported that revenues are positive; that the largest increase is transfer tax at 45 percent; that building and construction revenue is approximately 40 percent over budget; and that, overall, total revenues are 13 percent over budget. Mrs. Jennings reported that expenses are in line with or under budget. In regards to capital improvements, Mrs. Jennings reported that the County has spent \$4 million in projects so far this year, primarily airport projects. Mrs. Jennings also reported that the County is spending approximately \$1.8 million of appropriated reserves and there is \$5.3 million in the budget to be spent. In response to a question raised by Mrs. Deaver regarding the Pension Fund, Mrs. Jennings responded that \$1 million in additional funding has been added to the Pension Fund (in addition to the annual requirement).

Greenwood Library Project/Change Order Julie Cooper, Project Engineer, presented a request for a Change Order in the amount of \$1,622.50 for the Greenwood Library project. The Change Order is for a new yard drain added between the railroad tracks and the building entrance plaza to prevent ponding and water flow across the main entrance to the library.

M 078 14 Approve Change Order No. 5/ Greenwood Library Project A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, based upon the recommendation of the Consulting Architect, that Change Order No. 5 for Sussex County Project 07-05, Greenwood Library, be approved in the amount of \$1,622.50, thereby increasing the contract total from \$2,779,330.76 to \$2,780,953.26.

Motion Adopted: 5 Yeas.

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

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

M 079 14 Grant A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$700.00 (\$500.00 from Mr. Phillips' Councilmanic Grant Account and \$200.00 from Mr. Cole's Councilmanic Grant Account) to the Indian River High School

M 079 14 for the Indian River Soccer boosters to purchase championship rings.

**Council-
manic
Grant**

Motion Adopted: 5 Yeas.

(continued)

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

M 080 14 A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give \$3,500.00 from Mr. Wilson's Councilmanic Grant Account to the Town of Georgetown for the purchase of or construction of a stage.

**Council-
manic
Grant**

Motion Adopted: 5 Yeas.

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

M 081 14 A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$5,000.00 (\$3,000.00 from Mr. Vincent's Councilmanic Grant Account and \$2,000.00 from Mr. Phillips' Councilmanic Grant Accounts) to the Town of Laurel for building repairs to the Laurel Heritage Museum.

**Council-
manic
Grant**

Motion Adopted: 5 Yeas.

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

Introduction of Proposed Zoning Ordinances Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GENERAL RESIDENTIAL DISTRICT FOR ANTIQUE AUTO SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.18 ACRES, MORE OR LESS" (Conditional Use No. 1982) filed on behalf of Gary L. Ennis – Southern Delaware Classic Cars, LLC (Tax Map I.D. 532-19.00-54.07, part of).

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A FOOD VENDOR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 9.6 ACRES, MORE OR LESS" (Conditional Use No. 1983) filed on behalf of Gerald W. and Emily W. Hocker (Tax Map I.D. 134-12.00-330.01).

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A LANDSCAPING

Introduction of Proposed Zoning Ordinances (continued) **BUSINESS AND SUPPLY AREA TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.17 ACRES, MORE OR LESS” (Conditional Use No. 1984) filed on behalf of Burton Realty Long Neck, LLC (Tax Map I.D. 234-23.00-11.00)**

The Proposed Ordinances will be advertised for Public Hearing.

Additional Business **Under Additional Business, Dan Kramer of Greenwood, questioned why inspectors do not stop when they see violations and he questioned if the County’s complaint-driven policy is a written or verbal policy. Mr. Kramer stated that he wants to know what kind of policy it is.**

Public Hearing/ CDBG **A Public Hearing was held on the development of a Community Development Block Grant application, which is to be submitted to the Delaware State Housing Authority. The Community Development Block Grant (CDBG) is a federal grant from the Department of HUD to the Delaware State Housing Authority (DSHA). Kent and Sussex Counties compete for the funding by making application to the DSHA.**

Brad Whaley, Director of Sussex County Community Development & Housing, announced that the purpose of the Public Hearing is to give the citizens the opportunity to participate in the application process. Mr. Whaley stated that Sussex County’s application will consist of projects in the County and in the municipalities. He reported that staff has met with all the municipalities who have asked for the County’s assistance to make application to the DSHA.

Mr. Whaley reported that, over the past ten years, the County and the communities within the County have received over \$12.4 million in Community Development Block Grant and HOME funding and have been able to assist over 1,600 households; the projects include housing rehabilitation, demolition, infrastructure, and sewer and water hook-ups. The CDBG program uses funds that Congress allocates to the Department of Housing and Urban Development; these funds are specifically for housing purposes which include safe, affordable housing and living environments. The funds also provide economic opportunities as contractors and their employees are hired to do the work.

Mr. Whaley advised that part of the CDBG requirements is that a status report be given. Mr. Whaley reported where the funding was allocated during 2013.

Eligible applicants are units of general local governments in Sussex and Kent counties, the Kent County Levy Court and the Sussex County Council. Mr. Whaley reported that, this year, there should be approximately \$1.6 million available for CDBG funding and between \$700,000 and \$900,000 in HOME funding for Sussex County, Kent County, and the municipalities. Eligible projects include housing rehabilitation, demolition and code

**Public
Hearing/
CDBG
(continued)**

enforcement, and infrastructure projects, with a priority towards housing rehabilitation.

Mr. Whaley reported that, currently there are 812 people on the County-wide waiting list and an additional 400+ people on a town/rural community waiting list.

Mr. Whaley noted that the public hearing on this date is the 14th public hearing that has been held to collect information to make application for funding.

Mr. Whaley explained that they also take input from the First State Strong Communities Board, RC&D Board, and Sussex Housing Group. Suggestions are taken to an Advisory Board and the Board makes the final approval as to what areas will be applied for.

DSHA scores and reviews each project to see which ones will receive funding.

Mr. Whaley presented a list of the projects to be submitted to the Delaware State Housing Authority for CDBG funding, as follows:

Municipality Applications:

Blades (Rehab):	\$ 80,000.00
Bridgeville (Rehab):	\$140,000.00
Bridgeville (Demo):	\$ 36,000.00
Dagsboro (Rehab):	\$ 80,000.00
Delmar (Rehab):	\$ 80,000.00
Ellendale (Rehab):	\$ 80,000.00
Frankford (Rehab):	\$ 80,000.00
Greenwood (Rehab):	\$ 80,000.00
Georgetown (Infrastructure):	\$109,300.00
Georgetown (Rehab):	\$105,000.00
Laurel (Rehab):	\$140,000.00
Milford (Rehab):	\$105,000.00
Milton (Rehab):	\$105,000.00
Seaford (Rehab):	\$140,000.00
Selbyville (Rehab):	\$105,000.00

County Application:

Scattered Rehab:	\$400,000.00
Scattered Demo:	\$ 24,000.00
Scattered Emergency Rehab:	\$ 84,000.00
Scattered Hookups:	\$ 50,000.00
Cool Spring (Rehab):	\$ 80,000.00
Mount Joy (Rehab):	\$ 80,000.00
Rural Ellendale (Rehab):	\$ 80,000.00
Rural Millsboro/Dagsboro	\$ 80,000.00
West Rehoboth:	\$ 80,000.00
Administration	\$371,174.00

**Public Hearing/
CDBG
(continued)**

TOTAL REQUESTED \$2,794,474.00

Mr. Whaley reported that there are 804 people on the County-wide waiting list and 400 on the rural areas and the town list.

Mr. Whaley stated that, in the past, the County Council has provided funding for emergency projects and in 2013, the Council provided \$230,000; with that funding, the Department was able to assist an additional 48 homes. In the current year (2014) the Council has allocated \$250,000 for emergency projects. To date, the Department has been able to help 41 households and should be able to assist another 15-20 households. Funding from the emergency project fund was also provided to the Hampton Circle relocation project (approved at the February 4, 2014 Council meeting).

Public comments were heard.

Dan Kramer of Greenwood questioned if the program pays for repairs to manufactured homes and Mr. Whaley responded “yes”. Mr. Kramer also questioned if the program provides funding for homeless programs in churches. Mr. Whaley responded that CDBG funding does not go to churches.

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

**M 082 14
Adopt
R 002 13/
Submit
CDBG
Applications**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Resolution No. R 002 13 entitled “AUTHORIZATION TO SUBMIT (COMMUNITY DEVELOPMENT BLOCK GRANT) APPLICATIONS”.

Motion Adopted: 5 Yeas.

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

**M 083 14
Adopt
R 003 13/
Fair
Housing**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to Adopt Resolution No. R 003 13 entitled “RECOGNIZING THE IMPORTANCE OF FAIR HOUSING FOR THE CITIZENS OF SUSSEX COUNTY”.

Motion Adopted: 5 Yeas.

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

**Next
Council
Meeting**

Mr. Lawson reported on the lack of agenda items for the Regular Session of the February 18th Council meeting and suggested that the Council convene at 1:00 p.m. with a Public Hearing scheduled at 1:30 p.m.

**M 084 14
Amend
Time of
2/18/14
Council
Meeting**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to amend the time of the February 18, 2014 Council meeting to: 1:00 p.m. – Regular Session and 1:30 p.m. – Public Hearing.

Motion Adopted: 5 Yeas.

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

**M 085 14
Adjourn**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to adjourn at 10:54 a.m.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

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


TODD F. LAWSON
COUNTY ADMINISTRATOR
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Sussex County
DELAWARE
sussexcountyde.gov

Memorandum

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

FROM: Todd F. Lawson
County Administrator 

RE: **BOARD OF ASSESSMENT REVIEW APPOINTMENTS**

DATE: February 14, 2014

During Tuesday's meeting, you are scheduled to appoint two members of the Board of Assessment Review.

As you know, the Board of Assessment Review meets the first 15 working days of March each year to consider property assessment appeals.

Appointments to the Board are made by the Council and run for a term of 5 years.

Councilman Wilson's current appointment is Mr. Lester Beachy and his term expires this month. Mr. Beachy has agreed to serve another 5 years.

Councilman Cole's current appointment of Mr. Ron Patterson has asked to no longer serve. Mr. Cole would like to appoint Mr. Harry Kreger to serve the balance of the term, which expires in February 2017.

Should you have any questions, please don't hesitate to contact my office.

TFL/kac





Sussex County Council

Delaware General Assembly Legislative Report

Prepared by:

Hal Godwin, Deputy County Administrator
February 18, 2014

Bill No.	Description and Purpose	Action
2013 BILLS		
HB 14	This bill provides that any income and/or capital gain received from easements preserving agricultural land shall not be taxed for purposes of Delaware personal income taxes.	Assigned to the House Appropriations Committee 1/24/13, no further action.
HB 27	This bill allows school taxes and property taxes to be collected by tax intercept. The current law specifically prohibits school taxes from being collected by tax intercept. Currently millions of dollars of property taxes are owed to school districts and local governments and such taxes are difficult to collect. Tax intercept programs have been successful in collecting child support and other obligations owed the State and will help collections for education and other taxes.	6/11/13 passed the House Assigned to Senate Finance Committee 6/13/13 I have contacted Senator McDowell the Committee Chair explaining our support.
HB 44 & HA No. 2	This bill permits a real property owner or tenant to display an American flag on a pole attached to the exterior of the property's structure or on a flagpole located within the property's boundaries, provided the flagpole does not exceed 25 feet in height and conforms to all setback requirements. Any and all community restrictions to the contrary will not be enforceable.	Signed into Law 7/3/13
SA No. 2 To HB No. 44	This amendment clarifies that tenants may not install a pole on the exterior of the property's structure unless the tenant has a leasehold interest in the exterior of the structure.	

HB No. 63	This bill is the first leg of a constitutional amendment that forever guarantees the right of farmers to engage in modern farming and ranching practices.	On House Ready List
SB No. 58	This Bill allows Delaware residents 65 years of age and older to qualify for the "Senior School Property Tax Credit Program" upon entering into a payment plan for the taxes due.	We are currently compliant with this proposed Bill. On Senate Ready List
Senate Bill No Number	This Bill provides for property tax exemption for the dwelling of military veterans who are disabled and for their spouses, if the veteran is deceased.	Not introduced, we have been asked for our comments. Our plan currently reduces property taxes for people with disabilities; however this bill would completely eliminate property taxes for disabled veterans.
HB No. 150	This Bill is considered the Raw Milk Bill. This Bill would establish a permit processes to allow farmers to sell raw milk from their farms.	Voted down in the House
REPORT CONTINUED ON FOLLOWING PAGE		

HB No. 74

This Delaware Health Security Act will provide a cost effective single payer health care system for the State of Delaware. The Act will provide comprehensive health care coverage to all Delawareans without any extra health insurance or out-of-pocket-expense. The system will save money currently wasted on administrative/overhead costs and will provide a stable funding structure.

This Act creates the Delaware Health Security Authority. The authority will be governed by a 15-member Delaware Health Security Board comprised as follows: the Secretary of Health and Social Services, two members from both the State House of Representatives and State Senate Committees concerned with health care issues, five members from state health professional organizations, and five members from eligible consumer organizations in our state.

Funding for the new health care system will be as follows:

1. All state and federal funds available for health and health care costs in Delaware.
2. Employer and employee graduated payroll tax from 4 percent for employers with less than ten employees to 9 percent for employers with 50 or more employees.
3. A Health Security tax of 2.5 percent on net taxable income (after deductions) for all heads of households and persons subject to Delaware's income tax; and
4. An additional Health Security income surtax on net taxable income of 2.5 percent for persons filing a Delaware income tax return in excess of \$250,000. Married couples filing a joint Delaware income tax return shall pay an additional income surtax of 2.5 percent on net taxable income in excess of \$500,000.

This bill has been assigned to the House Health & Human Development Committee

This bill has not yet been scheduled for a Committee hearing.

I will be certain to alert you of this date and time.

Committee Members:

Chairman: Michael a. Barbieri
(302) 368-7257

Michael.barbieri@state.de.us

Vice-Chairman: Rebecca Walker
(302) 293-2356

Rebecca.walker@state.de.us

Members:

Donald A. Blakey Ruth Briggs-King
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S. Quinton Johnson John A. Kowalko, Jr.
(302) 378-2681 (302) 737-2396
Quinton.johnson@state.de.us john.kowalko@state.de.us

<p>HB No. 74 (continued)</p>		<p>Joseph E. Miro (302) 454-1840 Joseph.miro@state.de.us Edward.osiensi@state.de.us</p> <p>Edward S. Osienski (302) 292-8903</p> <p>Charles Potter, Jr. (302) 762-8322 Charles.Potter@state.de.us</p> <p>Darryl M. Scott (302) 735-1781 Darryl.Scott@state.de.us</p> <p>Kimberly Williams (302) 577-8476 kimberly.williams@state.de.us</p> <p>* Federal Health Care Legislation requires all citizens be covered – the new tax will fund</p> <p>* Delaware is currently establishing exchanges to provide coverage for all residents to comply with Federal requirements</p> <p>* HB74 is introduced to cover all Delawareans – doesn't appear to be part of the State or Federal exchange plan</p>
<p>HB No. 95 w/ HA No. 2</p>	<p>This Act provides the Department of Natural Resources and Environmental Control with the authority to impose environmental liens on real property in an effort to recover taxpayers' money expended by the State in order to investigate and clean up contaminated properties in circumstances where the property owners who caused the contamination have failed to do so. This bill originates from a recommendation made by the 2003 Metachem Task Force, chaired by the Honorable William T. Quillen. As the Task Force Report noted, currently at least thirty-four states (including all of our neighboring states) and the federal government have statutory authority to impose environmental liens. Besides bringing Delaware law in line with the vast majority of our sister states and the United States, this Act provides an important means of protecting the public treasury while holding responsible property owners accountable</p>	<p>Signed into law</p>

HB No. 95
w/ HA No. 2
(continued)

for the environmental harm they cause.

Section 1 of the Act provides DNREC with authority to impose an environmental lien when a violation of the Delaware Hazardous Substance Cleanup Act (HSCA) has resulted in the expenditure of State funds to protect human health and the environment. Specifically, if DNREC must perform a remedy at a property using public funds, it can impose an environmental lien in order to attempt to recover the State's costs provided it gives prior notice to the property owner who has failed to perform or pay for the required remedial activities. An environmental lien when filed will have priority over subsequently filed liens. Such a lien will be discharged upon full satisfaction by the property owner of the liability for the remediation costs incurred by the State. A property owner who seeks to challenge the filing of an environmental lien can contest the imposition of the lien before the Environmental Appeals Board subject to the applicable statutory procedures contained in 7 Del. C. §6008. Additionally, if DNREC determines that the imposition of an environmental lien will be insufficient to enable it to recover its costs of performing a remedy in a particular case, it can petition the Delaware Court of Chancery to seek the imposition of an additional lien or liens on any other Delaware real property owned by the same person or persons as the property where the remediation activities occurred.

Section 2 of the Act extends the same provisions applicable to a violation of HSCA to a violation of the Delaware Underground Storage Tank Act (7 Del. C. Chapter 74). As is the case with the other provisions of the Underground Storage Tank Act, certain agricultural, residential and non-commercial underground storage tanks are exempted from the provisions of this Act.

Section 3 of the Act extends the same provisions applicable to a violation of HSCA and the Delaware Underground Storage Tank Act to the Jeffrey Davis Aboveground Storage Tank Act (7 Del. C. Chapter 74A). As is the case with the other provisions of the

HB No. 95 w/ HA No. 2 (continued)	Aboveground Storage Tank Act, certain agricultural, residential and non-commercial aboveground storage tanks are exempted from the provisions of this Act.	
	Section 4 of the Act provides that its provisions are severable.	
HB No. 135	This Act seeks to create jobs and new sources of revenue for the State of Delaware by, among other means, authorizing the addition of two new video lottery agents, one in Sussex County and one in New Castle County, through an application process conducted by a Lottery Economic Development Committee. This Act creates a nine member, politically-balanced Committee with financial, accounting, or banking experience to select the sites and licensees. This Act also increases the number of required racing days to reflect the current amount of racing, and prevents the addition of video lottery agents from triggering a reduction in the minimum number of days that existing harness tracks must offer harness racing. Finally, this Act also expresses the intent of the General Assembly that the new video lottery casinos will be subject to a one-time license fee and ongoing license fees, as well as such fees as are necessary to create a level playing field for competition with video lottery agents who operate horse racing or harness racing, and directs the Department of Finance to prepare legislation implementing that intent.	Introduced 5/9/13 - This Bill intends to add a casino in Sussex County. Assigned to House Gaming and Parimutuels Committee 6/12/13 Tabled in Committee 6/11/13 County Council voted to oppose this Bill. I have notified all Committee Members of our opposition.
HB No. 137	This Bill expands and promotes unity in the options for survivor pension payout choices for retired participants in the State pension programs, the State Employees' Pension Plan, the County and Municipal Employees' Pension Plan, the County and Municipal Police/Firefighter Pension Plan, the State Judiciary Pension Plan, and the State Police Pension Plan. There is no reduction for the 50% survivor benefit, a 2% reduction for a 66.67% survivor benefit, 3% reduction for a 75% survivor benefit, and 6% reduction for a 100% survivor benefit.	Introduced 5/14/13 - This Bill may cause changes in our pension calculations. 6/6/13 Passed the House Assigned to Senate Finance Committee
HA No. 1 to HB No. 137	This technical amendment changes the term "employer" to "employee" and corrects a cross-reference.	

HA No. 2 To HB No. 137	This amendment makes the following technical changes: 1) the term “employer” is corrected to “employee”; a cross-reference is added for a newly added paragraph; internal cross-references are corrected; and the judiciary’s option of a 6% reduction in exchange for 100% survivor benefit is added.	
HA No. 1 To HA No. 2 To HB No. 137	This amendment to House Amendment No. 2 makes the provisions of this legislation effective for those retiring with an effective date of retirement of July 1, 2014, in order to allow for necessary administrative and systems changes.	
SB No. 78 + SA-1	<p>This legislation establishes a Wetlands Advisory Committee to develop comprehensive recommendations for conserving and restoring non-tidal wetlands in Delaware, including evaluating national best practices and standards, evaluating incentive-based programs, and reviewing state and federal wetland permitting processes to identify opportunities to improve efficiency and eliminate redundancy. The Secretary will provide a final report of recommendations to the General Assembly no later than December 31, 2014.</p> <p>The bill also amends Title 7 Del C. Chapter 66, §6607 and §6617 and Title 7 Del C. Chapter 72, §7205 and §7214 to expedite resolution of violations by allowing the use of administrative procedures and penalties to resolve wetland and subaqueous lands violations and by minimizing the use of civil or criminal prosecution to resolve violations. The bill also allows the Secretary to issue after-the-fact permits and assess administrative penalties as appropriate.</p>	Signed into Law 7/31/13
HB No. 160	Delaware is the only state on the East Coast of the United States that does not have a shellfish aquaculture industry. Shellfish aquaculture can provide significant economic benefits to coastal communities while improving the water quality and enhancing the habitat value of Delaware’s most imperiled estuaries, the Inland Bays. This bill is designed to minimize conflicts with existing uses of the Inland Bays. It authorizes the Department of Natural Resources and Environmental Control to direct and control the shellfish aquaculture activities within the	Signed into Law 8/28/13

HB No. 160 (Continued)	<p>Inland Bays and to set criteria for the approval of lease sites and applications for leasing. The legislation also gives the Department the authority to collect fees for lease applications and to administer a harvester license. The Bill sets lease fees and harvester license fees, establishes term limits on leases, sets penalties for non-compliance with the provisions of the bill, defines illegal gear, stipulates what is to be the disposition of abandoned lease sites, and defines what would constitute theft or tampering with gear legally set on leased sites. The legislation also authorizes the Department to promulgate regulations on issuing and administering leases, including the revocation of leases for cause. It further gives the Department regulatory authority over determining; what species may be cultured and where, adding acreage to approved lease sites, the required marking and inspection of lease sites, limits on the type and nature of gear that may be used on lease sites, what would constitute abandonment of lease sites and disposition of gear left on abandoned sites, seasonal restrictions on working on lease sites, prevention and control of shellfish-borne diseases, and criteria for importation of shellfish to be used for aquaculture purposes in order to protect wild shellfish. The legislation also clarifies the authority of the Department of Agriculture to coordinate activities in closed-system aquaculture only and deletes reference to the Department's Delaware Aquaculture Council, which is not active and is no longer needed given the clarification of authority.</p>	
HA No. 1 To HB No. 160	<p>This amendment changes the vote requirement for this bill to a two-thirds vote.</p>	
SR No. 8	<p>The Resolution urges the United States Congress to support efforts to reinstate the separation of commercial and investment banking functions in effect under the Glass-Steagall Act and supporting H.R. No. 129. <i>(See attached documentation)</i></p>	<p>This is a Resolution only; to demonstrate Delaware State support for Federal Legislation.</p> <p>State Senator Venables is requesting our endorsement.</p> <p>SR No. 8 demonstrates Delaware support for US House of Representative Resolution No. 129 which would support re-enacting Glass-Steagall Act adopted by Congress in</p>

SR No. 8 (Continued)		1933 to protect the public interest regarding banking regulations. Congress repealed this law in 1999 which many believe led to the 2 nd Great Depression in America. Some members of Congress would like to reinstate the Glass-Steagall Act.
HB No. 190	This Bill would facilitate the growth of Delaware licensed farm wineries, brewery-pubs, microbreweries, and craft distilleries by allowing them to expand their businesses within and outside of the State, provided they continue to meet the production limitations set forth in the statutes. It would also permit brewery-pubs to distill products which are not malt-based.	Signed into Law 8/5/13
HA No. 1 To HB No. 190	This amendment removes the limitation of 14% or less ethyl alcohol for a licensed farm winery to manufacture, ferment, blend, age, store, and bottle wine.	
SB No. 97	This Act adds the term “gender identity” to the already-existing list of prohibited practices of discrimination and hate crimes. As such, this Act would forbid discrimination against a person on the basis of gender identity in housing, employment, public works contracting, public accommodations, and insurance, and it would provide for increased punishment of a person who intentionally selects the victim of a crime because of the victim’s gender identity.	Signed into Law 6/19/13
HA No. 1 To SB No. 97	This amendment clarifies that gender identity may be demonstrated by consistent and uniform assertion of the identity of other evidence that it is part of a person’s core identity, and explicitly provides that places of public accommodation may provide reasonable accommodations on the basis of gender identity in areas of facilities where disrobing is likely, such as separate or private areas for the use of persons whose gender-related identity, appearance or expression is different from their assigned sex at birth.	
HA No. 1 To HA No. 1 To SB No. 97	This amendment to the amendment corrects the references to Senate Bill No. 97, as opposed to House Bill No. 97	

SB No. 6	Except as may otherwise be provided under this chapter, every employer shall pay to every employee in any occupation wages of a rate i) not less than \$7.75 per hour effective June 1, 2014 and ii) not less than 8.25 per hour effective June 1, 2015. Upon the establishment of a federal minimum wage in excess of the State minimum wage, the minimum wage in this State shall be equal in amount to the federal minimum wage, except as may otherwise be provided under this chapter.	Signed into 1/30/14
HB No. 167	This bill would prohibit a public employer from inquiring into or considering the criminal record, criminal history or credit history or score of an applicant before it makes a conditional offer to the applicant. It would permit inquiry and consideration of criminal background after the conditional offer has been made. The bill specifies that once a background check is conducted an employer shall only consider felonies for 10 years from the completion of sentence, and misdemeanors for 5 years from the completion of sentence. Further, employers are required to consider several enumerated factors when deciding whether to revoke a conditional offer based on the results of a background check. Police forces, the Department of Corrections and other positions with a statutory mandate for background checks are excluded from these provisions. The bill also requires contractors with State agencies to employ similar policies where not in conflict with other State or federal requirements.	Amended by Amendments No. 1, Amendment 1 to No. 1 which were grammatical & House Amendment No. 2 which aligns with County Council's request to eliminate the 5 & 10 year look back limitations. See Synopsis on Attachment House Amendment No. 2 To House Bill No. 167
SB No. 159	This legislation provides clarification with respect to the placement, installation and maintenance of gateway signs to boundaries of political subdivisions and established non-incorporated areas of the State.	Passed the Senate 1/30/14
HB No. 243	Currently possession actions involving rental of residential or commercial property fall within the exclusive jurisdiction of the Justice of the Peace Court. There is no clear statement of jurisdiction for agricultural leases, though the possession issues are similar. This legislation provides that the Justice of the Peace Court has exclusive jurisdiction over agricultural lease matters and requires that service of process for any such action shall be provided by either personal service or certified mail, return receipt requested.	Introduced in the House 1/30/14 Assigned to the House Judiciary Committee

HB No. 159	This bill prohibits a person from running as a candidate for more than one state, county or municipal office in the same election.	County Council supports this legislation. Passed the House – currently on the Senate’s Ready List
SB No. 160	The bill would increase the weight limit for live-haul poultry trucks operating on Delaware highways within 100 miles of the plant in order to accommodate the poultry industry and ensure public safety. In addition, the bill would provide for a weight variance of 3 percent to account for variations in bird weight. Live-haul poultry trucks are granted the increased weight limit and associated variance provided that these trucks are in compliance with several conditions aimed at ensuring public safety. Provided these conditions are met, this bill would allow a live-haul poultry truck to weigh up to 92,700 pounds before any penalty is assessed for exceeding weight restrictions. This weight variance provided for in this bill is the same weight variance granted to vehicles used for farm operations by § 4502(c)(9) of Title 21.	Introduced 1/14/14, Assigned to the Senate Highway and Transportation Committee
SB No. 166	This bill defines “industrial landfill” in conformity with the Department of Natural Resources and Environmental Control’s <i>Regulations Governing Solid Waste</i> . This bill also establishes a height restriction, or vertical limit, for an industrial landfill at 130 feet above the mean sea level of the area.	Introduced in the Senate 1/29/14, Assigned to Senate Natural Resources and Environmental Committee



SPONSOR: Sen. Venables & Rep. Atkins
Sens. Ennis, Henry, Hocker, Lawson, Lopez, Pettyjohn,
Simpson; Reps. Briggs King, Dukes, Kenton, Paradee,
Peterman, Ramone, Wilson

DELAWARE STATE SENATE
147th GENERAL ASSEMBLY

SENATE BILL NO. 160

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO THE GROSS VEHICLE WEIGHT OF LIVE-HAUL POULTRY TRUCKS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 4501(f), Title 21 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 4501. Size and weight of vehicles generally.

4 (f) Except as otherwise provided in this chapter, it shall be unlawful to operate any vehicle at a gross weight which
5 exceeds the weight for which it is registered and provided further that:

6 (1) ~~The Except as otherwise provided in this paragraph, the~~ total gross weight including load, of a
7 combination of a truck tractor and semitrailer having a total of 5 or more axles shall not exceed 80,000 pounds. For a
8 live-haul poultry truck traveling less than 100 miles from the farm to the plant, the total gross weight including load of
9 a combination of a truck tractor and semitrailer having a total of 5 or more axles shall not exceed 90,000 pounds.
10 However, such a live-haul poultry truck may exceed the established weight limit by no more than 3 percent to account
11 for variations in bird weight due to bird size, moisture retention caused by precipitation, or other unanticipated
12 conditions. For the 90,000 pound weight limit and associated 3 percent variance to apply to a live-haul poultry truck,
13 the following conditions must exist:

14 a. The live-haul poultry truck must be subject to the Delaware Motor Carrier Safety Assistance Program
15 (MCSAP).

16 b. The live-haul poultry truck must adhere to all bridge weight limits.

17 c. The live-haul poultry truck must not use the interstate highway system.

18 d. The axels on a live-haul poultry truck must be a minimum of 96 inches apart no later than one year
19 after enactment.

20 Section 2. Amend § 4502(c), Title 21 of the Delaware Code by making deletions as shown by strike through and
21 insertions as shown by underline as follows:

22 § 4502. Size and weight of vehicles except on interstate highways and United States numbered routes.

23 (c)(6) The Except as otherwise provided in this paragraph, the total gross weight of a combination tractor and
24 semitrailer having a total of 5 or more axles shall not exceed 80,000 lbs. or combined manufacturer's gross vehicle
25 weight rating whichever is less. For a live-haul poultry truck traveling less than 100 miles from the farm to the plant,
26 the total gross weight including load of a combination of a truck tractor and semitrailer having a total of 5 or more
27 axles shall not exceed 90,000 pounds. However, such a live-haul poultry truck may exceed the established weight limit
28 by no more than 3 percent to account for variations in bird weight due to bird size, moisture retention caused by
29 precipitation, or other unanticipated conditions. For the 90,000 pound weight limit and associated 3 percent variance to
30 apply to a live-haul poultry truck, the following conditions must exist:

31 a. The live-haul poultry truck must be subject to the Delaware Motor Carrier Safety Assistance Program
32 (MCSAP).

33 b. The live-haul poultry truck must adhere to all bridge weight limits.

34 c. The live-haul poultry truck must not use the interstate highway system.

35 d. The axels on a live-haul poultry truck must be a minimum of 96 inches apart no later than one year
36 after enactment.

SYNOPSIS

The bill would increase the weight limit for live-haul poultry trucks operating on Delaware highways within 100 miles of the plant in order to accommodate the poultry industry and ensure public safety. In addition, the bill would provide for a weight variance of 3 percent to account for variations in bird weight. Live-haul poultry trucks are granted the increased weight limit and associated variance provided that these trucks are in compliance with several conditions aimed at ensuring public safety. Provided these conditions are met, this bill would allow a live-haul poultry truck to weigh up to 92,700 pounds before any penalty is assessed for exceeding weight restrictions.

The weight variance provided for in this bill is the same weight variance granted to vehicles used for farm operations by § 4502(c)(9) of Title 21.

Author: Senator Venables



SPONSOR: Sen. McBride & Rep. J. Johnson
Sens. Blevins, Bushweller, Ennis, Hall-Long, Henry,
Marshall, McDowell, Peterson, Poore, Townsend,
Venables; Reps. Barbieri, Bennett, Blakey, Bolden,
Brady, Carson, Heffernan, Jaques, Q. Johnson, Keeley,
Kowalko, Longhurst, Mulrooney, Osienski,
Schwartzkopf, M. Smith, Viola, Walker, D.E. Williams

DELAWARE STATE SENATE
147th GENERAL ASSEMBLY

SENATE BILL NO. 166

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO ENVIRONMENTAL CONTROL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 6002, Title 7 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows and by redesignating accordingly:

3 § 6002. Definitions.

4 The following words and phrases shall have the meaning ascribed to them in this chapter unless the context clearly
5 indicates otherwise:

6 (27) "Industrial landfill" means a land site at which industrial waste is deposited on or into the land as fill for the
7 purpose of permanent disposal, except that it will not include any facility that has been approved for the disposal of
8 hazardous wastes under the Delaware Regulations Governing Hazardous Wastes.

9 Section 2. Amend § 6003, Title 7 of the Delaware Code by making deletions as shown by strike through and
10 insertions as shown by underline as follows:

11 § 6003. Permit -- Required.

12 (c) The Secretary shall grant or deny a permit required by subsection (a) or (b) of this section in accordance with
13 duly promulgated regulations ~~and~~ provided that:

14 (1) No permit may be granted unless the county or municipality having jurisdiction has first approved the
15 activity by zoning procedures provided by law; ~~and~~ .

16 (2) No permit may be granted to any incinerator unless:

17 a. The property on which the incinerator is or would be located is within an area which is zoned
18 for heavy industrial activity and shall be subject to such process rules, regulations or ordinances as the
19 county, municipality or other government entity shall require by law, such as a conditional use, so that

20 conditions may be applied regarding the health, safety and welfare of the citizens within the jurisdiction;
21 and

22 b. Every point on the property boundary line of the property on which the incinerator is or would
23 be located is:

24 1. At least 3 miles from every point on the property boundary line of any residence;

25 2. At least 3 miles from every point on the property boundary line of any residential
26 community; and

27 3. At least 3 miles from every point on the property boundary line of any church,
28 school, park, or hospital.

29 (3) No permit or modification to a permit may be granted for an industrial landfill that authorizes a
30 maximum height, including the cap and cover vegetation, of more than 130 feet above the mean sea level of the
31 area.

SYNOPSIS

This bill defines “industrial landfill” in conformity with the Department of Natural Resources and Environmental Control’s *Regulations Governing Solid Waste*. This bill also establishes a height restriction, or vertical limit, for an industrial landfill at 130 feet above the mean sea level of the area.

Author: Senator McBride



SPONSOR: Rep. J. Johnson

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 2

TO

HOUSE BILL NO. 167

1 AMEND House Bill No. 167 by striking lines 30 through 45 in their entirety and substituting in lieu thereof the
2 following:

3 “(2) If an applicant is otherwise qualified, a public employer may inquire into or consider an applicant’s criminal
4 record, criminal history, credit history or credit score after the completion of the first interview.

5 (3) A public employer may disqualify an applicant from employment based on criminal history where the
6 exclusion is job related for the position in question and consistent with business necessity. The public employer shall
7 consider the following factors in its hiring decision:

8 (a) The nature and gravity of the offense or conduct;

9 (b) The time that has passed since the offense or conduct and/or the completion of the sentence; and

10 (c) The nature of the job held or sought.”.

11 FURTHER AMEND House Bill No. 167 by striking lines 51 through 57 in their entirety and substituting in lieu
12 thereof the following:

13 “The State shall include in all formal solicitations a section stating the State does not consider the criminal record,
14 criminal history, credit history, or credit score of an applicant for State employment during the initial application process
15 unless otherwise required by state and/or federal law, and vendors doing business with the State are encouraged to adopt
16 similar policies.”.

17 FURTHER AMEND House Bill No. 167 by inserting, after line 57, the following:

18 “Section 4. This Act becomes effective 180 days following its enactment into law.”.

SYNOPSIS

This amendment replaces proposed 19 Del. C. § 711(g)(2) and (3) as articulated in the original House Bill 167. It eliminates the 5 and 10 year look back limitations contained in previous paragraph 2 to allow for more individualized consideration of criminal records. It also replaces the previous factors for consideration with those articulated in the

Federal EEOC Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964. Available at: http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm. The amendment clarifies that a public employer may inquire into an applicant's criminal history after the first interview, eliminating an inconsistency in the original bill which referred to an allowable inquiry after a "conditional offer" in paragraph 2. Additionally, this amendment replaces the mandate that the State do business only with vendors who employ substantially similar employment practices with a requirement that the State include language encouraging similar employment practices in all business solicitations. Finally, an effective date of 180 days after enactment has been added to allow public employers time to bring forms and practices into compliance.

HAL GODWIN
DEPUTY COUNTY ADMINISTRATOR
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Sussex County
DELAWARE
sussexcountype.gov

Memorandum

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

Todd F. Lawson
County Administrator

FROM: Hal Godwin
Deputy County Administrator

RE: WETLANDS ADVISORY COMMITTEE UPDATE

DATE: February 14, 2014

During Tuesday's Council meeting, I will be updating you on the Wetlands Advisory Committee and what has been established since our monthly meetings began in September 2013.

The following have been established

- Voting rules for the twenty eight (28) members
- What establishes a wetland
- How many acres of wetlands there are in our state
- Who currently regulates tidal and non-tidal wetlands

On January 14, 2014, I provided Council an illustrated wetlands book for your review. I intended to deliver an updated presentation to Council today but to date I have not yet received the final documents from Committee Chairman, Mike Parkowski. These documents should be provided to me in the next few weeks.

Should you have any questions, please don't hesitate to contact my office.

HG/kac

OLD BUSINESS
February 18, 2014

This is to certify that on September 12, 2013 the Sussex County Planning and Zoning Commission conducted a public hearing on the below listed application for Conditional Use. At the conclusion of the public hearing, the Commission moved and passed that this application be forwarded to the Sussex County Council with the recommendations as stated.

Respectfully submitted:

COUNTY PLANNING AND ZONING
COMMISSION OF SUSSEX COUNTY

Lawrence B. Lank
Director of Planning and Zoning

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

Conditional Use #1968 Ray Baker

Application of **RAY BAKER** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a micro-distillery, to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 4.06 acres, more or less, lying at the intersection northwest of Road 506 (Shockley Road) and northeast of Road 505 (Rider Road) and 730 feet south of Route 24 (Sharptown Road) (Tax Map I.D. 5-32-1.00-6.00).

The Commission found that the Applicant provided surveys/site plans with his application when it was submitted on June 28, 2013.

The Commission found that DelDOT provided comments in the form of a memorandum on June 12, 2013 which state that a Traffic Impact Study is not recommended, and that the existing Level of Service "A" for Rider Road (Road 505) and Shockley Road (Road 506) will not change as a result of this application.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum on September 11, 2013 which state that the site is located in the Western Sussex Planning Area #4; that an individual on-site septic system is proposed; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer service; and that a concept plan is not required.

The Commission found that Ray Baker was present and stated in his presentation and in response to questions raised by the Commission that his mission is to capitalize on newly enacted Delaware Laws aimed at the micro-distillery business; that he will be using select grains and fruits from Delaware growers; that the County has every ingredient required to produce the product; that he wants to create a responsible and respectable product line that is crafted for the mature connoisseur of hand crafted spirits; that Plant #1 will house all aspects of the five year business model, i.e. manufacturing, finishing, barrel aging, packaging, and shipping; that while the new laws allow for the public to visit the facility for tastings, the manufacturing facility does not accommodate taking advantage of this option for public tastings; that Plant #1 will concentrate only on creating a flagship brand and is expected to take two (2) years; that no new road construction is required for entrances; that increased UPS deliveries are expected to increase by about two (2) per week; that ingredient deliveries will be by standard passenger trucks; that start-up materials will be purchased from local suppliers in 50 pound sacks where possible; that grains will be purchased directly from farmers when possible; that season permitting, fruits will be purchased directly from local orchards; that for waste management, waste streams of grains will be sold as livestock supplements directly to local livestock farmers; that there is no intent to press fruits in Plant #1, which will reduce the waste generation and disposal costs; that processed cooling water will be collected in dedicated closed systems and recirculated; that processed waste water will be collected and treated off-site by a third party; that the third party has not yet been identified; that in order for a third party to access the waste stream, a representative sample must be supplied for testing; that until all licenses are obtained and permission to operate has been granted representative samples cannot be generated; that the distilling process at Plant #1 will use an immersion heater to heat the product up to vaporization temperatures; that distillation columns have 3/8" atmospheric vents which will vent vapors from the room; that current projections are that the distillery will generate \$203,196.00 in new revenue from assumed taxes for the State of Delaware; that his proposal will utilize four (4) 26-gallon stills; that he has no intent to allow public access for tasting; that he has no intent to mash fruits on site, so he will be utilizing locally produced fruit juices; that he will be residing on the premises; that each building will have double locked doors; that he does not object to fencing the buildings utilized for the distilling and storage; that he has no plans for any employees in Plant #1; that delivery and pickup hours will be limited to Monday through Friday from 8:00 a.m. to 4:30 p.m.; that he has on-site water available; that he does not feel that signage is needed; that there will be no on-site sales; that there will be no tavern or public tasting on the site; that once he receives approval from the County he may make application to the State ABC; that once the State ABC approves the use he can apply for Federal permits; that the site is approximately eight (8) minutes from the closest fire station; that once approval is granted, all entrances and access to buildings will be camera monitored; that Federal and State laws require that the buildings be secured; that he will be bottling on the premises; that bottles will be prepared to orders, and it is not his intent to be storing bottled products; that barrels will be stored for two (2) years for the processing of Bourbon; that he has the potential of processing 150,000 gallons per year; that the product is market driven; that the bonded area of the facility will be 1,859 square feet of the manufacturing floor; that the un-bonded area of the facility will be the 2,400 ground floor level; and that he hopes that the Commission will support his application.

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

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

On September 12, 2013 there was a motion by Mr. Ross, seconded by Mr. Smith, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

On September 26, 2013 the Commission discussed this application under Old Business.

Mr. Ross stated that he would move that the Commission recommend approval of Conditional Use #1968 for Ray Baker for a micro-distillery based on the record made during the public hearing and for the following reasons:

1. The applicant lives on this property, and desires to start a small distillery in the existing outbuildings on the site.
2. The use is consistent with the underlying AR-1 Agricultural Zoning.
3. The use will incorporate locally grown agricultural products, including grains and fruits.
4. The applicant has stated that this is the initial phase of his distillery project. There will be no retail sales from this site or public access to the site. If the operation requires significant expansion, the applicant has stated that he will move to a different site.
5. The use will not have an adverse effect on neighboring properties, public facilities or roadways.
6. The application is being made under newly enacted Delaware Legislation permitting micro-distilleries. Micro-distilleries will be reviewed, approved and regulated by the Office of the Delaware Alcoholic Beverage Control Commissioner.
7. No parties appeared in opposition to the project.
8. This recommendation is subject to the following conditions:
 - a. All processed wastewater must be collected and treated off-site by a third party.
 - b. That all operations shall be contained within existing structures on the site.
 - c. No on-site sales shall be permitted.
 - d. No taverns or public tastings shall be permitted from the site.
 - e. As stated by the applicant, there shall not be any employees in the micro-distillery other than the applicant and his family.
 - f. Delivery of materials to and from the site shall occur between the hours of 8:00 am and 4:30 pm.
 - g. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

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

Also be advised that on September 24, 2013 the Sussex County Council held a public hearing on this application; that the Applicant was present and made a presentation and responded to questions raised by the Council; that there were no parties present in support of or in opposition

to the application; and that the Council deferred action and left the record open for the purpose of checking the deed for restrictions.

Also be advised that on October 7, 2013, J. Everett Moore, Jr., Sussex County Attorney, provided a memorandum advising that he had reviewed the deed to Ray J. Baker in Deed Book 4026, Page 245 for the above-referenced parcel and did not find any restrictions on his use of the property; that he had also reviewed the plot referenced in the aforesaid deed, entitled, "Plot for Minor Subdivision of Claudia T. Bennett", which is dated January 11, 2007 and of record in Plot Book 113, Page 313; and that he did not find any references thereon, including the Notes, which restrict the use of the property in any manner.

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MICRO-DISTILLERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.06 ACRES, MORE OR LESS (Tax Map I.D. 5-32-1.00-6.00)

WHEREAS, on the 20th day of June 2013, a conditional use application, denominated Conditional Use No. 1968 was filed on behalf of Ray Baker; and

WHEREAS, on the ____ day of _____ 2013, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 1968 be _____; and

WHEREAS, on the ____ day of _____ 2013, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

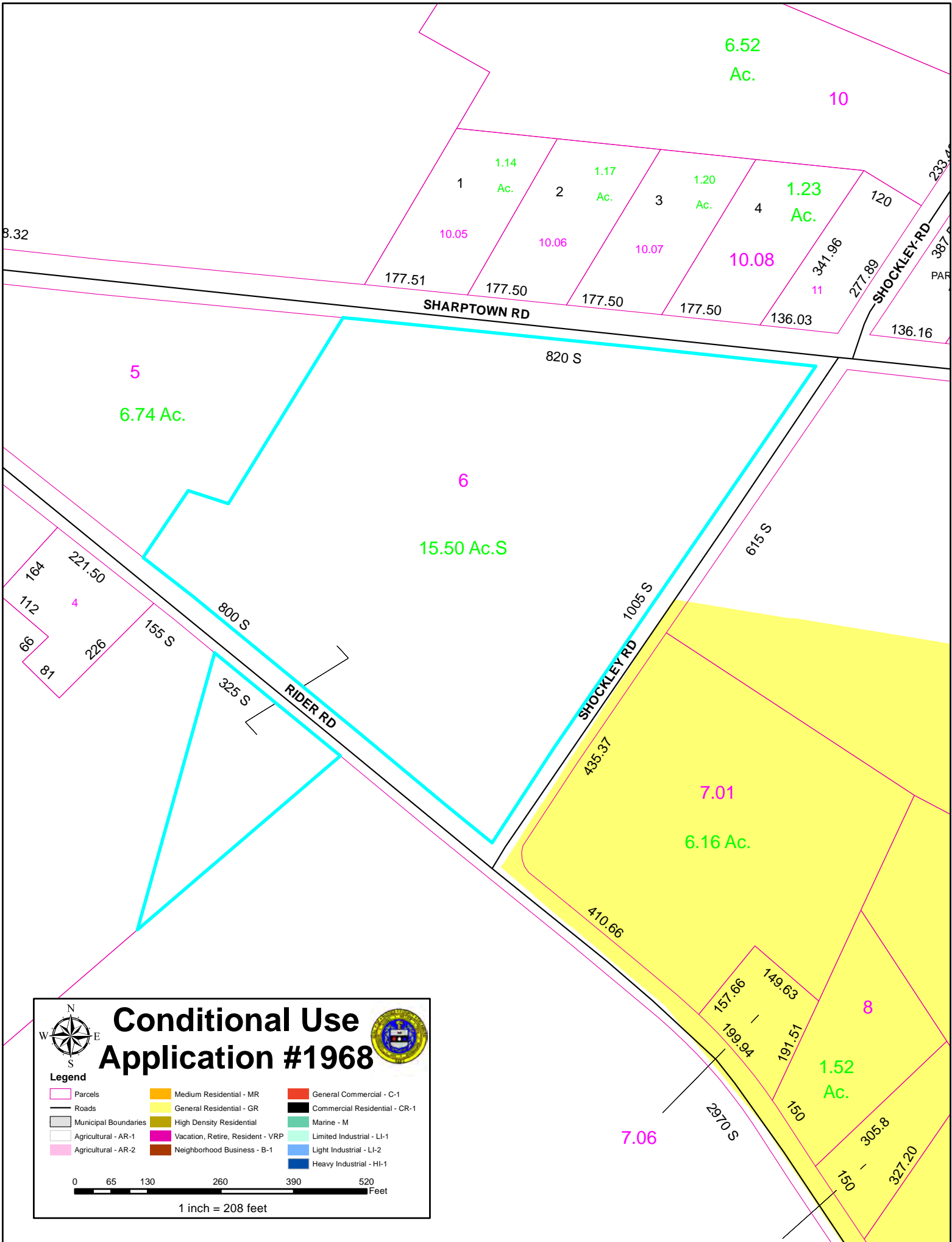
NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1968 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 Little Creek Hundred, Sussex County, Delaware, and lying at the intersection northwest of Road 506 (Shockley Road) and northeast of Road 505 (Rider Road) and 730 feet south of Route 24 (Sharptown Road) and being more particularly described as the residual lands of the minor subdivision of lands of Claudia T. Bennett as recorded in Plot Book 113 Page 313 in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 4.06 acres, more or less.

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

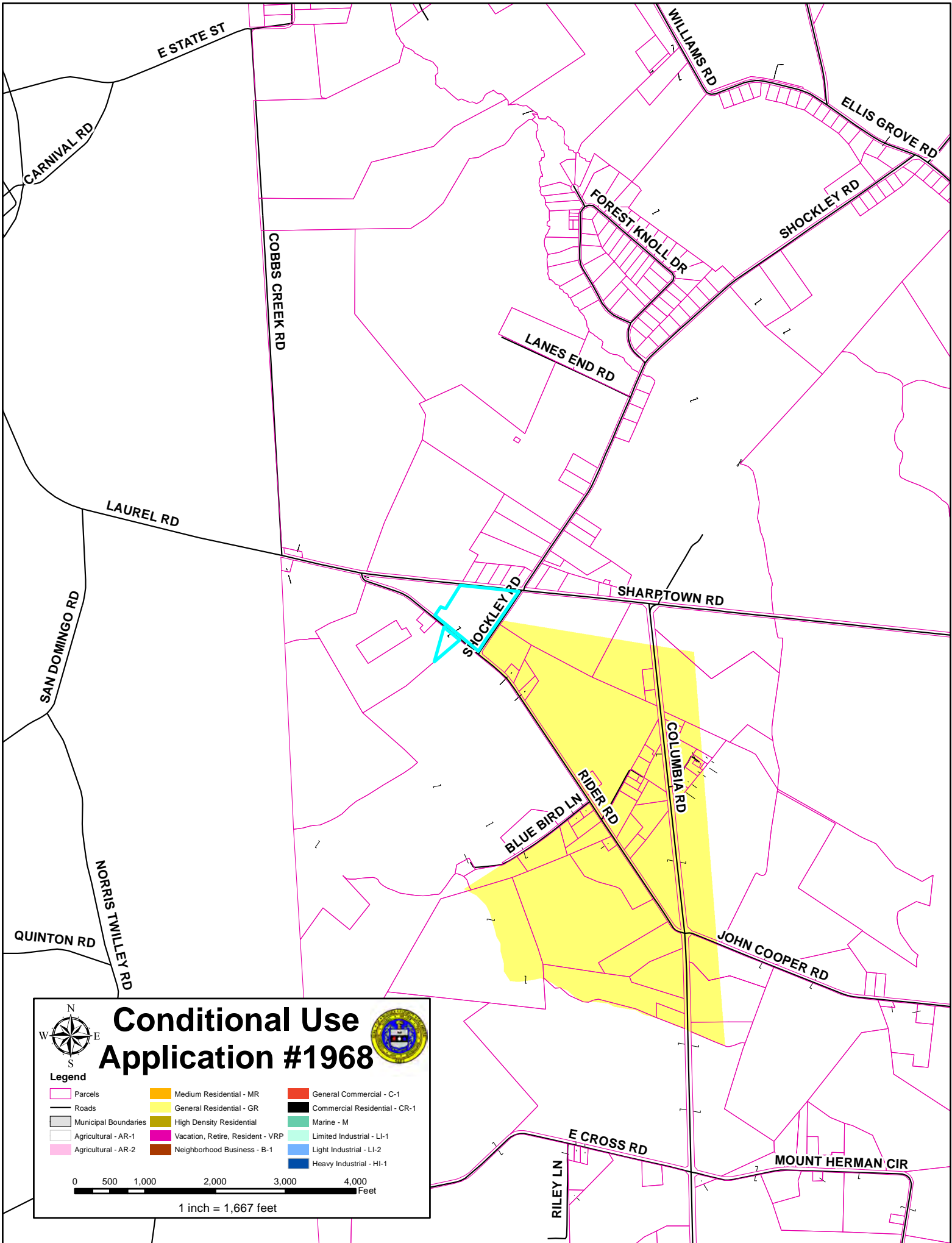


Conditional Use Application #1968

Legend

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

1 inch = 208 feet

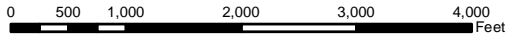


Conditional Use Application #1968

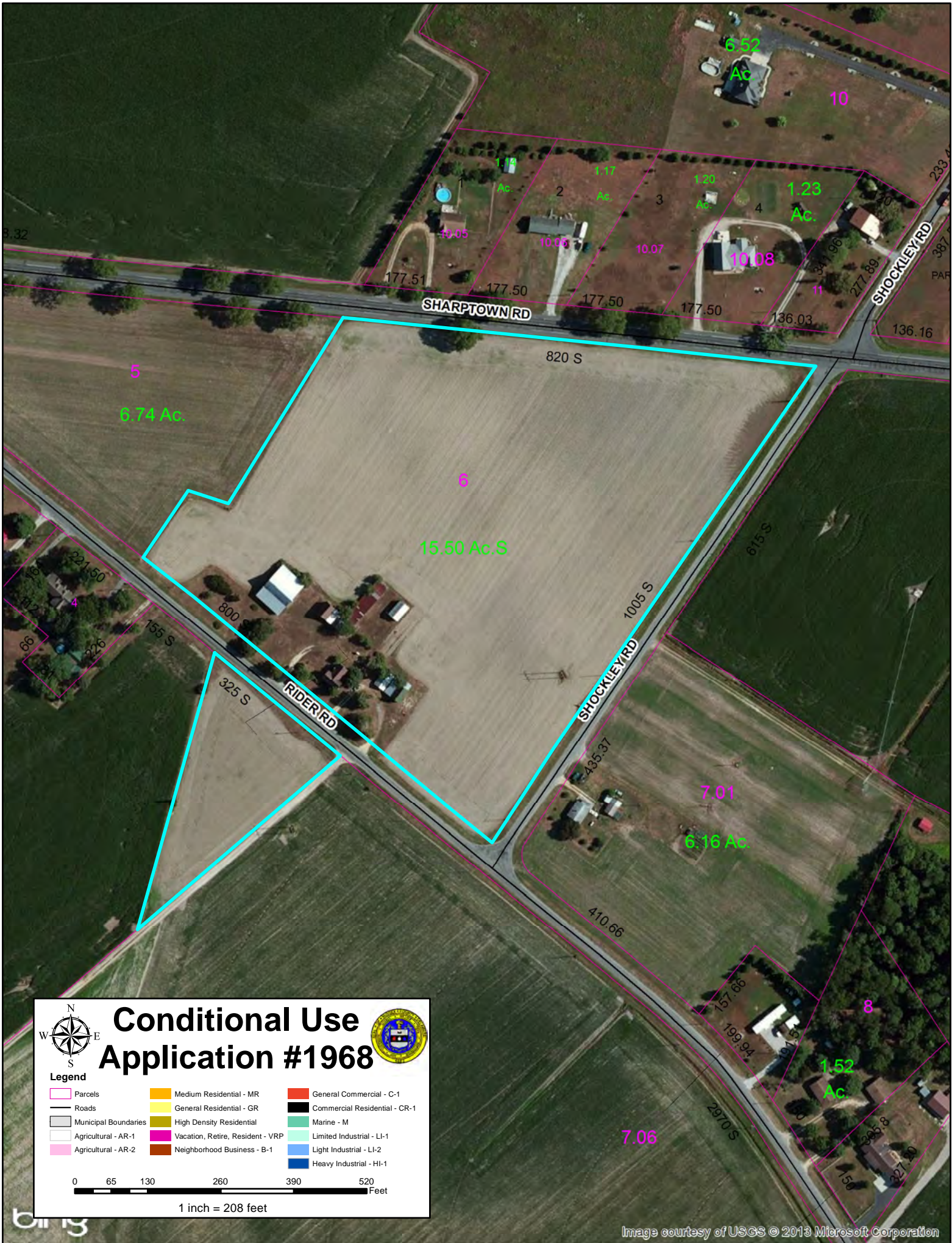


Legend

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



1 inch = 1,667 feet

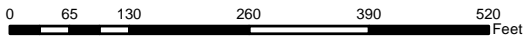


Conditional Use Application #1968



Legend

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



TOWN OF BRIDGEVILLE

If you lived here, you would be home now.

February 6, 2014

Councilman Michael Vincent
Sussex County Council
734 Ivy Drive
Seaford, Delaware 19973

Dear Councilman Vincent:

The Commissioners of Bridgeville, along with the Town's service organizations, would like to place Speed Warning Detection Systems (SWDS) in the Town of Bridgeville. In order to provide safer primary streets within our Town, we would like to secure a total of five systems (two on Main Street, two on Market Street and a portable one).

The budget for this project is approximately \$22,000 and includes the purchase of four Safety in a Box Solar TC-5005 systems and one TC-400 portable system. The portable system would allow the Bridgeville Police Department the capability of multiple placement options, as needed. Enclosed you will find detailed information about the units we hope to install, as well as the guidance document provided by the Delaware Department of Transportation regarding the installation and use of the units.

Both Main and Market Streets are marked as State Route 404 and are posted with 25 mph primary sections throughout Town. It would be our intention to place the SWDS devices within these 25 mph zones to provide safer crossings for our children and their families, as well as to slow the traffic within our downtown (Market St.) and residential (Main St.) areas to the posted speed limit.

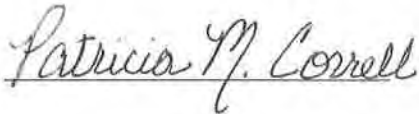
We are requesting your support of this project through your councilmanic funds. In addition, we are requesting support from our state legislators and our local service organizations.

Councilman Michael Vincent
February 6, 2014
Page 2

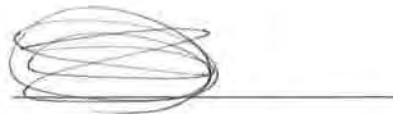
We realize you receive many requests for the use of your councilmanic funds; however, we believe making roads safer for all our Bridgeville residents deserves to be a high priority. We hope that you will give consideration to this important request.

Thank you in advance for any support you can give to this project. If you have any questions, please feel free to contact any of us at the phone numbers provided.

Sincerely,



Patricia M. Correll
Commission President
302-337-7783



Jesse Savage
Town Manager
302-337-7135



Robert Longo
Bridgeville Chief of Police
302-337-8305



Kevin Carson
Bridgeville Kiwanis Club
302-337-8881

cc: Commissioners of Bridgeville
Jesse Vanderwende, Bridgeville Kiwanis Club
Vic Williamson, Bridgeville Lions Club

NANTICOKE RIVER Arts COUNCIL

February 9, 2014

Christina Darby
4408 Woodland Church Rd.
Seaford, DE 19973

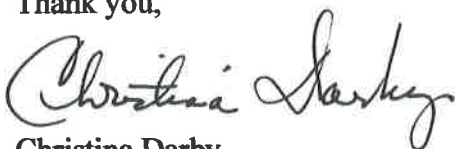
Councilman Mike Vincent
Sussex County Government
2 The Circle | PO Box 589
Georgetown, DE 19947

Dear Mr. Vincent,

Gallery 107 continues to operate and serve our community as we have done since our inception. Classes for adults and children are increasingly popular and often filled to capacity. Many of our members are also members of the Seaford Enhancement Team (SET), which strives in an effort to revitalize our downtown. Downtown revitalization is part of the mission statement of the Nanticoke River Arts Council. Our expenses are met almost solely due to the classes, art sales, and member dues, with little funding from outside sources. The money from the Sussex County Council aids in our efforts to bring cultural experiences and education to western Sussex County.

If there are any questions and/or additional information is required, please do not hesitate to contact me. Again, we encourage all Sussex County members to visit the gallery and allow us to show what we are accomplishing.

Thank you,



Christina Darby
President, Nanticoke River Arts Council
EIN # 74-3259770



Georgetown-Millsboro Rotary Club Flags for Heroes 2014



Sponsor a Flag for \$50.

Honor a military, first responder, or other hero (past or present), by sponsoring a flag. Flags will be proudly displayed around the Circle in Georgetown, along Rt. 404 at Delaware Technical Community College, and on Rt. 113 at the Millsboro VFW on Memorial Day Weekend 2014. Proceeds support local youth programs, scholarships, and Rotary's community projects.

Sponsor Name _____

Address _____ State ____ Zip _____

Phone _____ - _____ Email Address _____

Number of sponsorships: ____ Total contribution (\$50/flag): \$ _____

Name of Hero(es) _____

Make checks payable to: Delaware Community Foundation (makes your contribution tax-deductible). Please write G-M Rotary Flags on the memo line. Mail to: Flags for Heroes, P.O. Box 164, Georgetown, DE 19947

The Georgetown-Millsboro Rotary Club Thanks:

Sponsor _____

Number of sponsorships ____ x \$50 Total Amount \$ _____

Cash ____ Check # _____

Sold by (Rotarian) _____ Date ____ / ____ / ____



ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A STORAGE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 11.6327 ACRES, MORE OR LESS (Tax Map I.D. 134-15.00-118.00 part of)

WHEREAS, on the 10th day of February 2014, a conditional use application, denominated Conditional Use No. 1985 was filed on behalf of Eugenia Athan; and

WHEREAS, on the ____ day of _____ 2014, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 1985 be _____; and

WHEREAS, on the ____ day of _____ 2014, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1985 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying southeast of Route 17 (Roxanna Road) 3,200 feet northeast of Road 365 (Peppers Corner Road) and being more particularly described as follows:

BEGINNING at a point on the easterly right of way of Rt. 17, at the centerline of Beaver Dam Ditch, the dividing line between these subject lands and lands now or formerly of Millville Town Center, LLC; thence following the right of way line south 37°36'31" west 684.18 feet to a point; thence departing the right of way south 82°15'26" east 842.21 feet to a

point; thence north 71°24'00" east 189.98 feet to a point; thence north 65°10'31" east 306.32 feet to a point that makes the division line of these lands and lands now or formerly of Millville Town Center, LLC; thence north 10°26'14" west 150.04 feet to a concrete marker; thence continuing north 10°26'14" west 20.17 feet to the center point of Beaver Dam Canal; thence with the center of Beaver Dam Canal in a north-westerly direction, the following fourteen courses, north 61°00'09" west 32.23 feet to a point; thence north 49°30'00" west 78.29 feet to a point; thence north 68°20'49" west 61.11 feet to a point; thence north 76°39'51" west 99.67 feet to a point; thence north 69°28'23" west 101.94 to a point; thence north 83°49'22" west 72.58 feet to a point; thence north 55°20'15" west 55.45 to a point; thence south 88°58'56" west 29.10 feet to a point; thence south 64°54'43" west 77.26 feet to a point; thence north 82°17'58" west 67.20 feet to a point; thence north 81°25'47" west 62.89 feet to a point; thence north 65°58'55" west 62.71 feet to a point; thence north 29°56'16" west 72.54 feet to a point; thence north 60°40'41" west 78.21 feet to the point and place of beginning and containing 11.6327 acres, more or less, as surveyed by Vista Design, Inc., dated February 12, 2014.

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

PUBLIC HEARING
February 18, 2014

This is to certify that on January 23, 2014 the Sussex County Planning and Zoning Commission conducted a public hearing on the below listed application for Change of Zone. At the conclusion of the public hearing, the Commission moved and passed that this application be forwarded to the Sussex County Council with the recommendation as stated.

Respectfully submitted:

COUNTY PLANNING AND ZONING
COMMISSION OF SUSSEX COUNTY

Lawrence B. Lank
Director of Planning and Zoning

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

Change of Zone #1741 Bay Forest Club, LLC

Application of **BAY FOREST CLUB, LLC** to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a MR/RPC Medium Density Residential District/Residential Planned Community for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 30.695 acres, more or less, land lying east of White's Neck Road (Road 347) ½ mile north of Old Mill Road (Road 349). Tax Map I. D. #1-34-8.00-17.00, 17.02 and 18.00.

The Commission found that the applicants submitted a copy of the legal descriptions for the three parcels, a copy of the site plan for the Jim's Hide – Away infill phase, a copy of the approved MR/RPC of Bay Forest Club, a list of all property owners within 200 feet of the subject site, a copy of a colored rendering of the Conceptual Site Plan infill area, a copy of an Environmental Assessment and Public Facility Evaluation Report, a copy of the PLUS comments and the applicant's response, and copies of wetland determinations, wetlands jurisdictional determinations, a letter regarding threatened and endangered species, a copy of a Nutrient Reduction Report, a copy of a Phase 1 Environmental Assessment Report, and a copy of the proposed master plan including the infill site.

The Commission found that on January 13, 2014 the applicants submitted an Executive Summary.

The Commission found that on October 4, 2013 DelDOT issued a Letter of No Objection for recordation for the project and that the approval is valid for a five-year period.

The Commission found that on January 9, 2014 the Sussex County Engineering Department Utility Planning Division provided comments referencing that the site is located in the Millville Expansion Area of a County operated and maintained sanitary sewer district; that wastewater capacity is available for the project; that Ordinance 38 is required; that there are no System Connection Charge credits for the project; that additional System Connection Charge credits will be required; that the current System Connection Charge Rate is \$6,304.00 per EDU; that the parcels will receive sewer service through an extension of existing sewers within the existing Bay Forest Club; that the developer will undertake construction necessary extensions at their costs; that conformity to the South Coastal Area Planning Study, 2005 Update or undertaking an amendment will be required; that the project is within the boundary of the Millville Expansion of the Bethany Beach Sanitary Sewer District and connection to the sewer system is mandatory; that the proposed project is in a recent expansion areas and sanitary sewer service is available to the parcels; that the proposed project is within planning study assumptions for sewer service and there will be adequate capacity for the project as proposed lots; that Sussex County requires design and construction of the collection and transmission system to meet Sussex County Engineering Department's requirements and procedures; that the Sussex County Engineer must approve the connection point; that a sewer concept plan has been submitted for review and must be approved prior to any sewer construction; and that a checklist for preparing sanitary sewer concept plans has been provided.

Jim Fuqua, Attorney, Tom Natelli, and Ken Usab, P.E. with Morris Ritchie Associates, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that this is an application to amend Change of Zone #1526, Bay Forest Club; that the Bay Forest Club development is an approved and under construction Medium Density Residential/Residential Planned Community; that this application is for an additional 30.695 acres to be included in the existing project; that the proposed plan is consistent with the existing project; that this site is located east of White's Neck Road and north of Millville; that this site contains three parcels; that the majority of the site is the former Jim's Hide – Away campground, which contained 188 campsites and other buildings; that the proposed project is for 84 additional units; that the site is an in-fill site; that the existing residential planned community was approved in March of 2004 with 21 conditions; that the existing conditions will remain the same with the exception of the total number of units; that the existing project was approved for 808 units; that if this application is approved, the developers will submit a revised master plan with minor modifications to include this area; that over 50% of the existing project has been built; that the developers went through the Preliminary Land Use Services process and responded to the comments; that an Executive Summary was submitted into the record; that according to the State's Strategies Map, the site is located in a Level 3 Investment Area; that according to the Comprehensive Land Use Plan, the site is located in an Environmentally Sensitive Developing Area which is designated as a growth area; that central water will be provided by Tidewater Utilities and central sewer will be provided by Sussex County; that adequate sewer capacity is available according to the County Engineering Department; that a sewer concept plan has been approved by the Engineering Department; that the concept plan was approved for 120 units and that only 84 units are proposed; that DelDOT has issued a Letter of No Objection; that the developer has an agreement with DelDOT for off-site improvements; that the proposed utilities will be the same as the existing development; that the site is surrounded by an existing residential

planned community; that Phase 1 is completed; that Phases 2 .1 and 2.2 and under construction; that if this site is approved, there will be interconnections to the existing residential planned community; that no homes are proposed off of the main boulevards into the site; that each phase contains a community center; that the project is designed to create communities within the overall residential planned community; that emergency access has been provided; that there are pedestrian connections throughout the project; that the project's design includes greenway areas; that the entrance to Jim's Hide – Away will be removed; that enhanced buffers are provided along White's Neck Road; that there will not be any negative impacts to the wetlands; that the existing campground is close to the wetlands; that there will be buffers from the wetlands; that all storm water management areas will comply will all State regulations; that Collins Creek will be preserved; that extensive landscaping will be provided; that each community will have a green area for greenhouses and herb gardens; that sidewalks will be provided; that the design creates a sense of privacy for the homeowners' that the developers intend on creating a nice community in which owners take pride in; that this expansion will be the same as the existing project; that if the application is approved, the developers are requesting that the existing conditions of approval be incorporated into this application with the exception of the total number of units permitted; that the project will be phased; that the project will not have a negative effect on traffic; that property values will not be negatively affected; that the project will help the county's tax base; that a 100-foot buffer from Collins Creek is proposed; that the buffers are a part of the open space and will be maintained by the homeowners' association; that multi-modal paths connect to other developments in the area; that the wetlands on the site will be marked; that the existing campground is in the process of being demolished; that the campground was not open in 2013; that the proposed project will have the same restrictions and covenants as the existing development; that the plans were submitted to the existing residents for their review; that the mailbox areas are centralized; that additional amenities are proposed; that there are separate pools for adults and children; that the findings of fact for the existing residential planned community were referenced and a proposed amendment to condition of approval # 1 was submitted .

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

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

On January 23, 2014 there was a motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

On February 13, 2014 the Commission discussed this application under Old Business.

Mr. Smith stated that he would move that the Commission recommend approval of Change of Zone #1741 for Bay Forest Club, LLC from AR-1 Agricultural Residential to an MR/RPC based upon the record made during the public hearing and for the following reasons:

1. MR Zoning is appropriate for the site because medium density development is appropriate in areas where central water and sewer are available. In this case, sewer service will be provided as part of a County operated Sanitary Sewer District, and

adequate wastewater capacity is available for the project. Central water service will be provided by Tidewater Utilities, Inc.

2. The proposed MR-RPC project meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County because this proposed project is in a Developing Area as established by the Sussex County Comprehensive Plan.
3. This application is an extension of the existing Bay Forest RPC development (filed under CZ #1526) that is currently underway. It covers an area of land that is adjacent to, and nearly surrounded by, the existing development. It will be incorporated into that existing development.
4. Adding this tract of land to the existing RPC will allow for an improved design of the overall development plan, including the layout of lots and homes, open spaces, community areas and roadways.
5. The project is in an area that already has similar development, and this development is consistent with other uses in the area, including Bay Colony, Seagrass RPC, Denton Woods and Denton Manor, Banks Acres and Banksville Park, Mill Run, Whites Creek Manor, West Ocean Farms, Blackwater Village and Blackwater Cove. There are also B-1 and C-1 properties in close proximity.
6. With the conditions that are placed upon this project, the RPC designation is appropriate for this parcel of land in that the purpose of a RPC is to encourage large scale development as a means to create superior living environments and the use of design ingenuity while protecting existing and future uses.
7. This recommendation for change of zone is subject to the following conditions:
 - A. That the conditions imposed by Ordinance #1670 for Change of Zone #1526 shall apply to this application, with the exception of the so noted total number of units. The property that is the subject of this application shall be integrated into the overall development scheme of the Bay Forest project, and as a result those conditions shall apply equally to this tract as part of the overall development.
 - B. The number of units associated with this application shall be 84.
 - C. As a result of this application, the total maximum number of units for the entire Bay Forest Club project shall be 892 units so designated as follows:
 - 151 – 85 foot single family lots
 - 14 – 75 foot single family lots
 - 216 – 70 foot single family lots
 - 7 – 65 foot single family lots
 - 93 – 28 foot by 42 foot cottages
 - 109 – 34 villas
 - 302 – 30 foot attached/detached villas
 - 892 – Total Residential Units
 - D. Any wetlands on the area shall be marked appropriately by “Carsonite Markers” for the information of residents and the homeowners’ association.
 - E. Before proceeding with any construction involving the land that is the subject of this application, the applicant shall submit a revised Master Plan combining under both CZ #1526 and CZ #1741 integrating this land into the entire Bay Forest Development.

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

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO MR-RPC MEDIUM DENSITY RESIDENTIAL – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 30.695 ACRES, MORE OR LESS (Tax Map I.D. 134-8.00 Parcels 17.00, 17.02, and 18.00 – no 911 address available)

WHEREAS, on the 4th day of November 2013, a zoning application, denominated Change of Zone No. 1741 was filed on behalf of Bay Forest Club, LLC; and

WHEREAS, on the ____ day of _____ 2014, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1741 be _____; and

WHEREAS, on the ____ day of _____ 2014, 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,

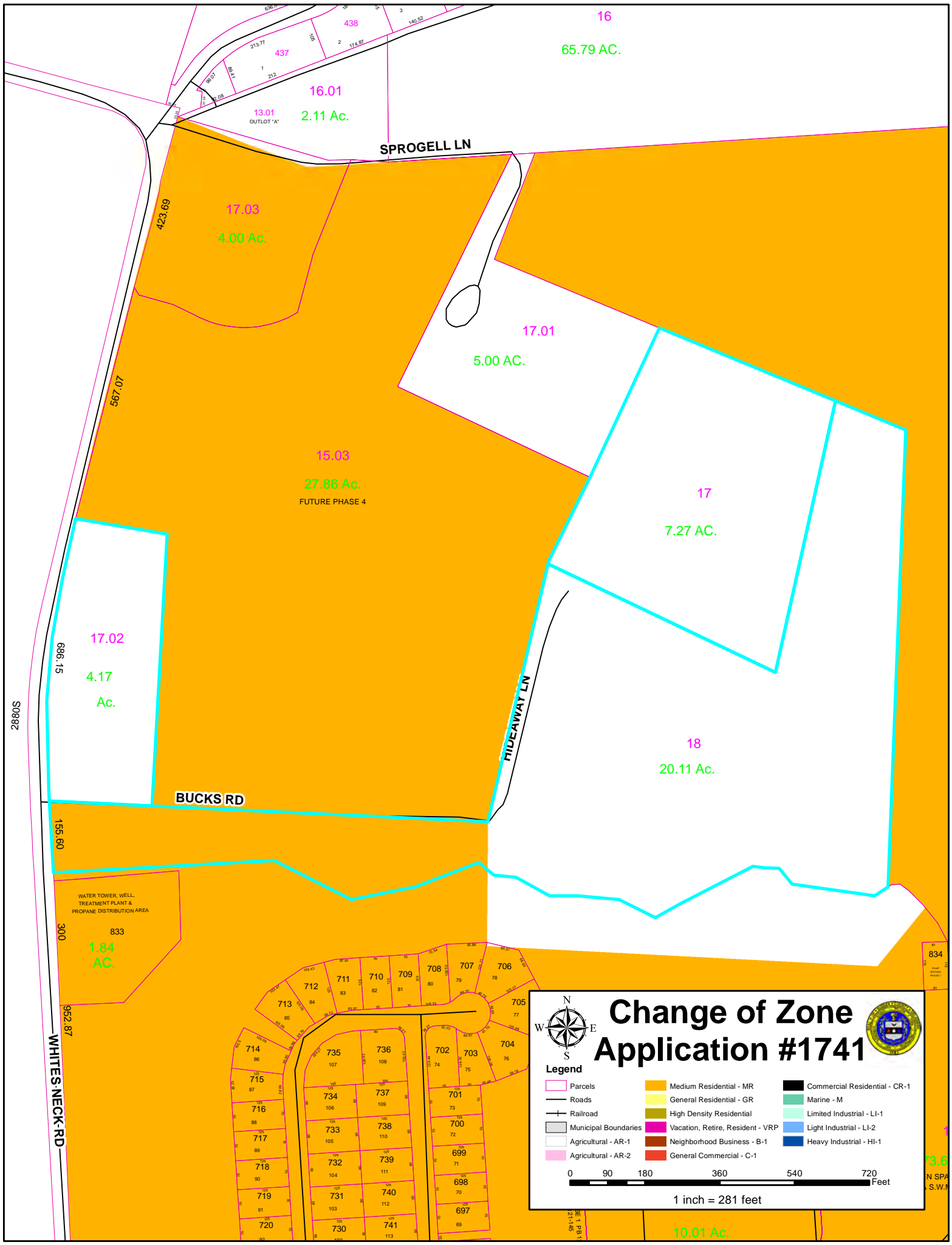
THE COUNTY OF SUSSEX HEREBY ORDAINS:

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 [AR-1 Agricultural Residential District] and adding in lieu thereof the designation MR-RPC 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 Baltimore Hundred, Sussex County, Delaware, and lying east of White’s Neck Road (Road 347) ½ mile north of Old Mill Road (Road 349) and being more particularly described per the attached legal description by Morris & Ritchie Associates, Inc. and containing a total of 30.695 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.



16
65.79 AC.

16.01
2.11 Ac.
13.01
OUTLOT "A"

17.03
4.00 Ac.
423.69

17.01
5.00 AC.

15.03
27.86 Ac.
FUTURE PHASE 4


17
7.27 AC.

17.02
4.17
Ac.

18
20.11 AC.

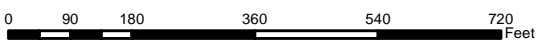
833
1.84
AC.

Change of Zone Application #1741




Legend

- Parcels
- Roads
- Railroad
- Municipal Boundaries
- Agricultural - AR-1
- Agricultural - AR-2
- Medium Residential - MR
- General Residential - GR
- High Density Residential
- Vacation, Retire, Resident - VRP
- Neighborhood Business - B-1
- General Commercial - C-1
- Commercial Residential - CR-1
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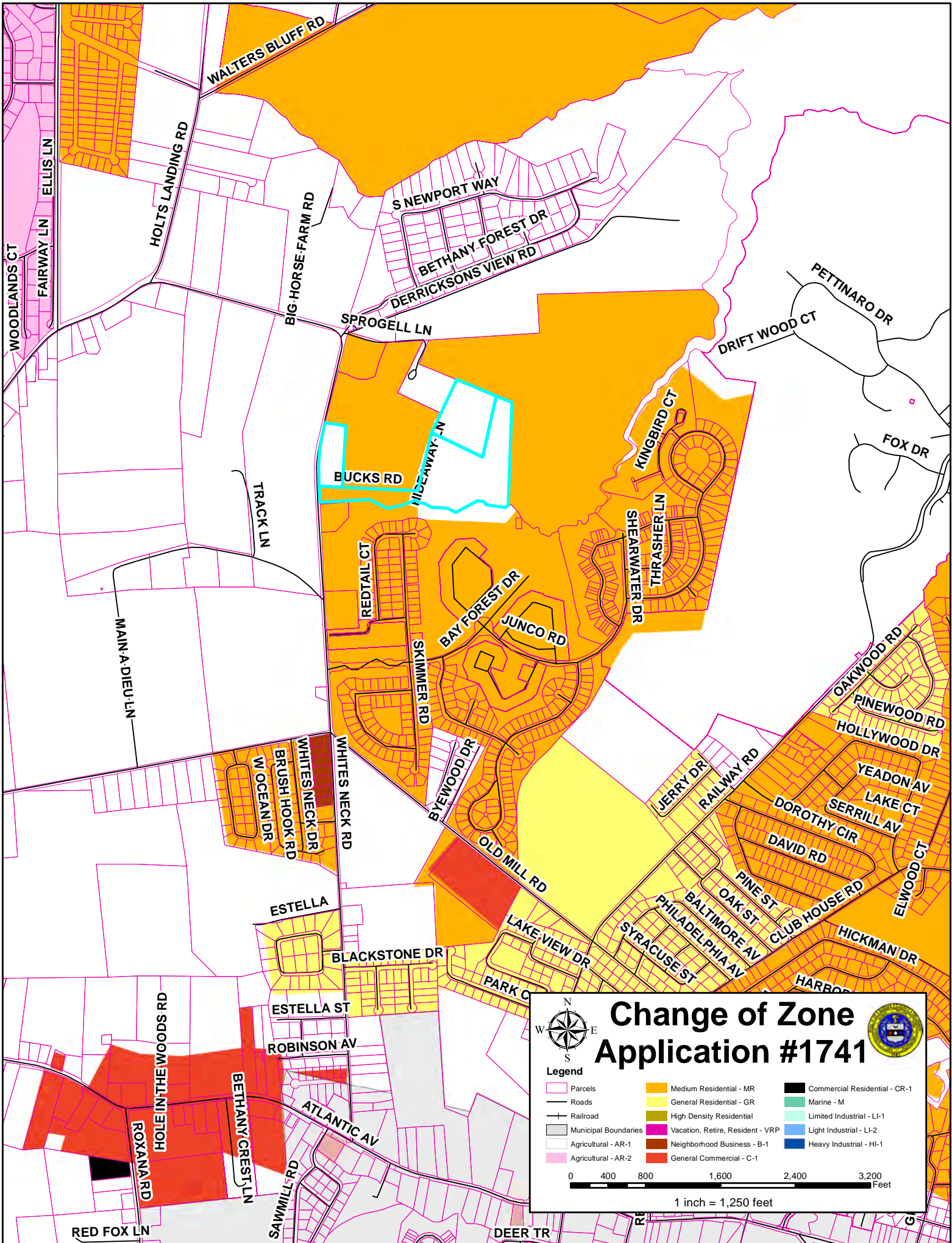
0 90 180 360 540 720 Feet

1 inch = 281 feet




10.01 AC.

3.6
N SPA
S.W.




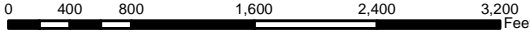
Change of Zone Application #1741



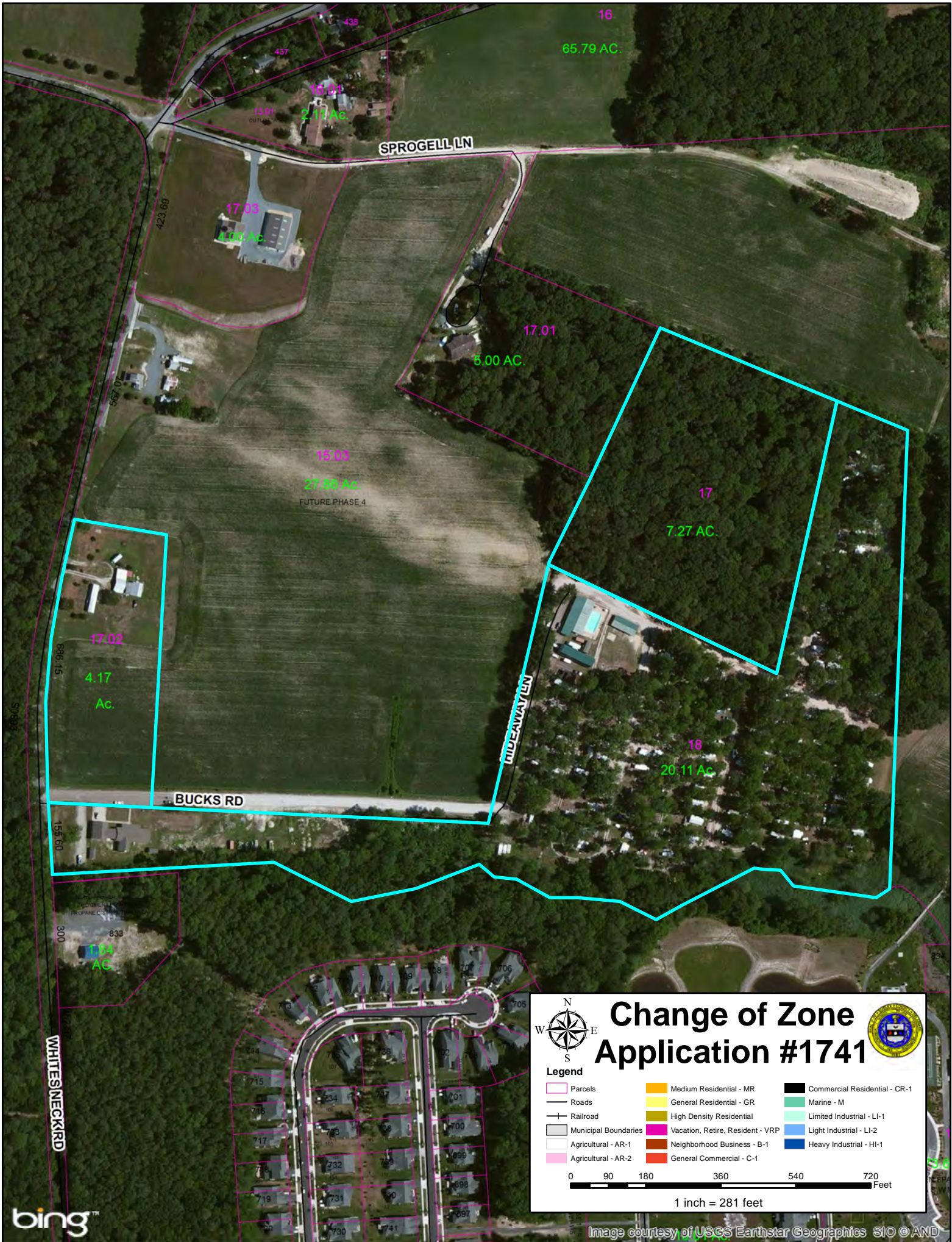
Legend

- Parcels
- Roads
- Railroad
- Municipal Boundaries
- Agricultural - AR-1
- Agricultural - AR-2
- Medium Residential - MR
- General Residential - GR
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- Commercial Residential - CR-1
- Marine - M
- Limited Industrial - LI-1
- Light Industrial - LI-2
- Heavy Industrial - HI-1





1 inch = 1,250 feet

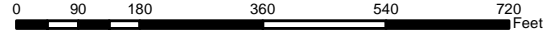


Change of Zone Application #1741



Legend

- Parcels
- Roads
- Railroad
- Municipal Boundaries
- Agricultural - AR-1
- Agricultural - AR-2
- Medium Residential - MR
- General Residential - GR
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- Commercial Residential - CR-1
- Marine - M
- Limited Industrial - LI-1
- Light Industrial - LI-2
- Heavy Industrial - HI-1



1 inch = 281 feet