



Sussex County Council Public/Media Packet

**MEETING:
APRIL 16, 2013**

****DISCLAIMER****

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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. DEAVER
VANCE PHILLIPS



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Sussex County Council

A G E N D A

APRIL 16, 2013

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Kelly Turner – Prevent Child Abuse Delaware Presentation

Todd Lawson, County Administrator

1. Proclamation – Fair Housing Month
2. Administrator's Report

Hal Godwin, Deputy County Administrator

1. Wastewater Agreements
 - A. Millville by the Sea, Sub-Phase 2B-2 North
2. Legislative Update

Brandy Nauman, Fair Housing Compliance Officer

1. Fair Housing Policy – Public Presentation Policy



Michael Izzo, County Engineer

1. Delaware Solid Waste Authority Lease

A. Long Neck Collection Station

Old Business

- 1. Conditional Use No. 1946 filed on behalf of Clean Delaware, LLC**
- 2. Conditional Use No. 1950 filed on behalf of Erlin I. Rivera**
- 3. Change of Zone No. 1724 filed on behalf of Central Storage at Harbeson, LLC**

Grant Requests

- 1. Woodland Ferry Association for festival expenses.**
- 2. Laurel Independence Day Committee for fireworks exhibit.**
- 3. Rehoboth Beach Little League for operating expenses.**

Introduction of Proposed Zoning Ordinances

Any Additional Business Brought Before Council

Executive Session – Job Applicants’ Qualifications, Personnel, Pending/Potential Litigation, and Land Acquisition pursuant to 29 Del. C. §10004(b)

Possible Action on Executive Session Items

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 April 9, 2013 at 5:15 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, APRIL 9, 2013

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, April 9, 2013, 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
Susan M. Webb	Finance Director
Everett Moore	County Attorney

**Call to
Order**

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

**M 163 13
Amend
and
Approve
Agenda**

Mr. Vincent called the meeting to order.

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to amend the Agenda by deleting "Job Applicants' Qualifications" under "Executive Session"; and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

Minutes

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

**Corre-
spondence**

The minutes of March 26, 2013 were approved by consent.

Mrs. Deaver read the following correspondence:

DEAN COSTAS, LEWES, DELAWARE.

RE: Request for noise control ordinance in Sussex County.

Mrs. Deaver commented that she serves on the Committee for Broadband Service in Delaware and she distributed brochures to the other Council members.

**The
Freeman
State at
Bayside/
Program
Update/
Request
for
Funding**

Patti Grimes, Executive Director, and Doug Phillips, Marketing Manager, of the Joshua M. Freeman Foundation presented a power point presentation to give the Council an update on The Freeman Stage at Bayside and the progress that they have made in bringing the arts to Sussex County.

As part of the Joshua M. Freeman Foundation, they are a public charity that partners to present memorable performances and provide inspired arts education for all. In 2012, approximately 40,000 residents and visitors visited the stage.

In 2010, they were able to expand their mission to include outreach programs to the underserved population and students of Sussex County through an off stage program. Ms. Grimes stated that, with the County Council's transportation grant in 2012, almost 10,000 children were able to come and see arts at the stage.

Since 2010, the Foundation has presented a small series of performances called the Off Stage Series. Most shows have been open to the public, but some are strictly for a specific outreach audience. The Freeman Stage at Bayside has reached out to partnership with Delaware Technical College and the local schools so that they can present quality arts and other venues year round.

Ms. Grimes stated that The Freeman Foundation could not promote the arts without funding support and she asked for the Council's continued financial support to be used for transportation funding.

**Employee
of the
Quarter**

The County Council recognized Lisa Walls, Sussex County Employee of the First Quarter. Lisa Walls has worked for the County since 2006 in the Utility Permits Department.

**Adminis-
trator's
Report**

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

1. Proclamation – Sussex County Library Week

Attached please find a Proclamation proclaiming the week of April 14-20, 2013, as "Sussex County Library Week."

The Proclamation entitled "PROCLAIMING THE WEEK OF APRIL 14-20, 2013 AS *SUSSEX COUNTY LIBRARY WEEK*" was presented to representatives of various libraries in the County.

2. Delaware State Police Activity Report – February 2013

Per the attached Delaware State Police activity report for February, there were 3,860 total traffic arrests and 1,909 total criminal arrests. Of that 1,909, 774 were felony and 1,135 were misdemeanor criminal arrests. Of the total hours on duty spent, 39 percent were spent on criminal investigations.

**Administrator's
Report
(continued)**

3. Substantial Completion

Per the attached Engineering Department Fact Sheet, Senators – Phase 1B received Substantial Completion effective March 28, 2013.

4. Sussex County Emergency Operations Center Call Statistics – March 2013

Attached please find the call statistics for the Fire and Ambulance Callboard for March 2013. There were 14,234 total calls handled in the month of March. Of those 9-1-1 calls in March, 75 percent were made from wireless phones.

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

**2013-2014
Health
Insurance
Renewal**

Susan Webb, Finance Director; Gina Jennings, Finance Director Appointee; and Chris Smith of Integra discussed the County's health insurance including: (1) renewal of the stop/loss insurance, (2) possible cost savings to the health insurance plan (spousal coordination of benefits and birthday rule), and (3) the future impact of the Affordable Care Act on Sussex County.

Mrs. Webb explained that the stop/loss insurance is insurance that covers the County's claims above the self-insurance limits and is renewed every year by May 1. Mrs. Webb noted that no changes are proposed to the deductible (\$285,000); after the \$285,000 (per person) and \$100,000 (overall) – once these limits are reached, then claims go to the stop/loss insurance/catastrophic insurance. It was noted that the total stop/loss insurance year is \$2 million annualized (per individual per year); however, next year under health reform, it will be unlimited. Currently, the County's stop loss insurance is with Companion Life. Integra obtained quotes for the renewal and Companion Life's quote came in \$36,000 lower on their premium while still meeting the County's requirements.

Mrs. Jennings discussed the Affordable Care Act and how it will impact the County:

- **Patient-Centered Outcomes Research Institute Fees - Starting July 31, 2013, research fees will be due to the IRS: \$1 per covered person for 2013 - \$1,200 and \$2 per covered person for 2014 - \$2,400. The amount for any year after 2014 will be increased by inflation. This fee has to be paid through 2019.**
- **Tax on plans to fund temporary reinsurance programs – contribution by fully insured and self-funded group health plans to help stabilize premiums in the exchange during the first three years. The County will be charged \$63.00 per covered person per year (an annual cost to the County of \$75,600).**

**2013-2014
Health
Insurance
Renewal
(continued)**

- After 2014, plans will be required to offer essential health benefits. The County already provides most of the services listed and therefore; the County should not see too much of an increase.
- With 2nd wave (plan years beginning on or after January 1, 2014, of the ACA, there will be no pre-existing condition exclusions, no annual dollar limit on essential health benefits, and a wellness rewards program. The County must provide affordable coverage (9.5 percent of an employee's household income – estimated in the State of Delaware at \$95.00 a month for employee only coverage.
- A penalty would apply for any month that an employer does not provide health insurance or one of the employees goes out to the exchange to buy insurance (this penalty is \$2,000 per employee). The County should not incur this penalty.
- Excise Tax – The ACA imposes an annual 40% excise tax on plans with premiums exceeding \$10,200 for individuals or \$27,500 for a family (not including vision and dental benefits) starting in 2018. The County's insurance plan was valued at \$25,194 for family and \$8,398 for individual in 2012. Assuming a 4 percent increase every year until 2018, the County would be taxed \$1,750 for each family coverage. The County has about 140 employees with family coverage (resulting in a \$245,000 excise tax on the County's plan).

Chris Smith of Integra offered some recommendations to help off-set some of the taxes:

- Spousal coordination of benefits – employee's spouse must take other coverage if is available. (Can stay on the County's plan, but the County's plan would be secondary). There would be a hardship exemption.
- Birthday Rule – Dependents must have primary coverage under the parent's insurance whose birthday comes first in the calendar year.

Mr. Smith noted that other State organizations and governments do this (State of Delaware and New Castle County).

Mrs. Webb and Mr. Smith presented information on a new network that Integra will be offering which will offer lower co-pays/deductibles for employees and lower discounts claims for the County. This is proposed to be offered in addition to the County's existing network; it will not take anything away from the current benefit plan. Mr. Smith stated that the new network would coexist with the existing network.

**M 164 13
Renew
Stop/Loss
Insurance**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, that the Sussex County Council renews its Stop Loss Insurance with the current carrier, Companion Life, for a fee of \$246,720.

Motion Adopted: 5 Yeas.

M 164 13 (continued)	Vote by Roll Call:	Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea
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Wastewater Agreements Hal Godwin, Deputy County Administrator, presented Wastewater Agreements for the Council's consideration.

<p>M 165 13</p> <p>Execute Agreement/Breakwater Estates</p>	<p>A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 895-2, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Breakwater, LLC, for wastewater facilities to be constructed in Breakwater Estates, Phase 4, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.</p>
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Motion Adopted: 5 Yeas.

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

<p>M 166 13 Execute Agreement/ Senators, Phase 1C</p>	<p>A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 766-5, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Senators Lewes, LP, for wastewater facilities to be constructed in Senators, Phase 1C, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.</p>
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Motion Adopted: 5 Yeas.

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

<p>M 167 13 Execute Agreement/ Senators/ Phase 1D</p>	<p>A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 766-6, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Senators Lewes, LP, for wastewater facilities to be constructed in Senators, Phase 1D, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.</p>
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Motion Adopted: 5 Yeas.

**M 167 13
(continued)**

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

**Legislative
Update**

Mr. Godwin provided a General Assembly legislative update. He noted that, since the last Legislative Update to the Council on March 26, the last day that the General Assembly met was March 28.

House Bill No. 27 - AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO STATE TAXES

Synopsis: 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.

This Bill is now on the House Ready List.

House Bill No. 63 – AN ACT PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION RELATING TO AGRICULTURE

Synopsis: 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.

This Bill is now on the House Ready List.

Bill Not Yet Introduced – This Act is the first leg of a constitutional amendment that will remove the offices of the Clerks of the Peace from the State Constitution and remove the requirement to elect the Clerks of the Peace.

There has been written opposition to this Bill from the New Castle County Clerk of the Peace and one sponsor has removed his sponsorship of the Bill.

**Draft
Ordinance
Relating
to Lot
Main-
tenance**

Eddy Parker, Director of Assessment, reviewed a Draft Ordinance that repeals Sussex County Code, Chapter 80, § 80-3, in its entirety. The Draft Ordinance also creates the minimum standards for lot maintenance pertaining to prohibited growth of grass and weeds and the penalties and enforcement procedures for failure to comply with the minimum standards of lot maintenance by amending Sussex County Code, Chapter 115, §115-191.4 and 115-191.5. Mr. Parker explained that, in 2008, amendments were made to Chapters 80 and 115 at which time some sections of Chapter 80 were moved to Chapter 115 in error. The Draft Ordinance will put the penalties back into Chapter 80.

Introduction of Proposed Ordinance/ Lot Maintenance	<p>Mrs. Deaver introduced the Proposed Ordinance entitled “AN ORDINANCE TO REPEAL CHAPTER 80, “LOT MAINTENANCE,” §80-3 IN ITS ENTIRETY AND AMEND CHAPTER 115, ARTICLE XXV, “SUPPLEMENTARY REGULATIONS,” §§ 115-191.4 AND 115-191.5 OF THE CODE OF SUSSEX COUNTY BY INCLUDING IN § 115-191.4 MINIMUM STANDARDS FOR LOT MAINTENANCE PERTAINING TO PROHIBITED ACCUMULATIONS OF OVERGROWN GRASS AND WEEDS AND TO INCLUDING FAILURE TO COMPLY WITH THE MINIMUM LOT MAINTENANCE STANDARDS PROHIBITING OVERGROWN GRASS AND WEEDS IN THE PENALTY AND ENFORCEMENT PROVISIONS OF § 115-191.5”. The Proposed Ordinance will be advertised for Public Hearing.</p>
Trash on Roadways	<p>Mr. Wilson commented on the amount of trash on Sussex County roads and the lack of action taken against offenders. A short discussion was held during which time Mr. Moore advised the Council that the matter should be placed on a future agenda for discussion.</p>
Summercrest/ Letter of Credit Agreement	<p>Michael Izzo, County Engineer, reported on the Summercrest Subdivision that was started in 2005. The original developer is no longer the owner of the project and a number of outstanding work items remain including roads, stormwater, and various amenities. In March 2012, the Council granted the developer an extension to August 1, 2012 to initiate the improvements. No action was taken by the developer and the Engineering Department acquired the \$312,500 in the Letter of Credit. Since that time, the Engineering Department has been moving forward to complete the improvements. However, in November 2012, the project was purchased by a new developer; the new developer has approached the County asking that the County hold off on completing the roads until more homes are constructed on the vacant lots (approximately 38 vacant lots exist). Mr. Izzo stated that the Engineering Department was reluctant to do so; however, in talking with the Homeowners Association, there were some benefits to the Association to delay completing the improvements. A meeting was held with the Developer, the Engineering Department, and the HOA and a 3-party agreement was worked out which includes various conditions for each one of the parties in the agreement, including the following:</p> <ul style="list-style-type: none">• The County will agree to delay the completion of the road improvements until after September of 2014.• The Developer will rerecord the existing subdivision plan dedicating the streets to public use (HOA would still have the responsibility for maintenance).• The Developer will immediately take action to have a building inspection performed upon the existing amenities (clubhouse, parking area, tennis court, fences, swimming pool and irrigation system) by an independent third party inspector. If any deficiencies are found, the Developer will take action to have the deficiencies corrected within 30 days of receiving the report from the inspection

**Summer-
crest/
Letter of
Credit
Agreement
(continued)**

agent.

- **The Developer will transfer ownership of all the amenities when the deficiencies are corrected.**
- **The Developer agrees to pay a pro-rata share of annual landscaping and streetlighting bills.**
- **Sussex County agrees not to hold back any building permits on the Developer in Summercrest.**

Neil Frock, President of the Homeowners Association, stated that the HOA is satisfied with the Agreement with the Developer and the County.

**M 168 13
Execute
Agreement/
Summer-
crest**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex County Council is authorized to execute the Agreement between Sussex County, Beacon Summercrest, LLC (the Developer), and Summercrest Maintenance Corp. (the HOA), which references the completion of improvements for the Summercrest Subdivision.

Motion Adopted: 5 Yeas.

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

**State
Retail
Supply
Contract
for
Electricity**

Gina Jennings, Finance Director Appointee, presented a Memorandum of Agreement (MOA) between Sussex County Council and the State of Delaware for the procurement of electricity supply. Sussex County first entered into the Aggregation Partnership through a MOA in 2006 and the County has saved approximately \$300,000. The current contract with (Washington Gas) expires on June 30, 2013. The MOA allows the State of Delaware Department of Management and Budget to bid and procure retail electricity supply on the County's behalf. The Estimated Cost Savings to Sussex County, through the process, should be approximately \$65,000 annually; this equals approximately a 4 percent savings on the annual \$1.65 million dollar expense.

**M 169 13
Approve
MOA/
Summer-
crest**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Council enter into a Memorandum of Agreement with the State of Delaware, becoming an Aggregation Partner, whose purpose is to purchase electricity from the deregulated electricity market.

Motion Adopted: 5 Yeas.

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

**EOC
Cooling
System**

Michael Izzo, County Engineer, presented Change Order No. 1 for the Emergency Operations Center Supplemental Cooling System. Mr. Izzo reported that the Change Order is a result of differing site conditions at a total cost of \$2,503.84. The new project completion date is June 10, 2013.

**M 170 13
Approve
Change
Order/
EOC
Supple-
mental
Cooling
System**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 1 with Gillis Gilkerson of Salisbury, Maryland, for Sussex County Project No. 12-03, Emergency Operations Center Supplemental Cooling System be approved, which increases the Contract Amount by \$2,503.84 for a new total of \$479,188.84 and increases the contract time by 6 days.

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. Webb presented grant requests for the Council's consideration.

**M 171 13
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$2,000.00 from Mr. Cole's Councilmanic Grant Account to the Lewes Rehoboth Canal Improvement Association to develop and construct a docking facility.

Motion Adopted: 5 Yeas.

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

**M 172 13
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give \$750.00 (\$500.00 from Mr. Wilson's Councilmanic Grant Account and \$250.00 from Mr. Phillips' Councilmanic Grant Account) to The Jefferson School for a scholarship fundraiser.

Motion Adopted: 5 Yeas.

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

**M 173 13
Council-
manic
Grant
Account**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$2,000.00 (\$400.00 from each Councilmanic Grant Account with Mrs. Deaver's grant to be allocated from her account on July 1, 2013) to the Del-Mar-Va Council Boy Scouts of America for camp scholarships.

Motion Adopted: 5 Yeas.

**M 173 13
(continued)**

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

**M 174 13
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$500.00 (\$250.00 each from Mr. Phillips' and Mr. Vincent's Councilmanic Grant Accounts) to the Greater Laurel Chamber of Commerce for the Broad Creek Byway Bike Tour.

Motion Adopted: 5 Yeas.

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

**M 175 13
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$500.00 (\$250.00 each from Mr. Phillips' and Mr. Vincent's Councilmanic Grant Accounts) to Kristi's Kats for cat rescue operating expenses.

Motion Adopted: 5 Yeas.

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

**M 176 13
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$1,000.00 from Mr. Phillips' Councilmanic Grant Account to the Indian River Senior Center for event expenses.

Motion Adopted: 5 Yeas.

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

**Additional
Business**

Under Additional Business, Dan Kramer commented on Councilmanic Grant funding and he stated that the money comes from tax dollars.

**M 177 13
Go Into
Executive
Session**

At 11:34 a.m., a Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to recess the Regular Session and to go into Executive Session to discuss issues relating to personnel, pending/potential litigation and land acquisition.

Motion Adopted: 5 Yeas.

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

Executive Session **At 11:35 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing issues relating to personnel, pending/potential litigation and land acquisition. The Executive Session concluded at 12:18 p.m.**

M 178 13 Reconvene Regular Session **At 12:20 p.m., a Motion was made by Mr. Cole, seconded by Mr. Wilson, to come out of Executive Session and to reconvene the Regular Session.**

Motion Adopted: 5 Yeas.

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

Action **There was no action on Executive Session items.**

M 179 13 Adjourn **A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to adjourn at 12:21 p.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**



**PROCLAIMING THE MONTH OF APRIL
AS "FAIR HOUSING MONTH" IN SUSSEX COUNTY**

WHEREAS, April 11, 2013 marked the 45th anniversary of the passage of the U.S. Fair Housing Law, Title VIII of the Civil Rights Act of 1968, as amended, which enunciates a national policy of Fair Housing without regard to race, color, creed, national origin, sex, familial status, and handicap, and encourages fair housing opportunities for all citizens; and

WHEREAS, The Sussex County Council as well as the Sussex County Association of REALTORS®, are committed to highlight the Fair Housing Law, Title VIII of the Civil Rights Act of 1968, by continuing to address discrimination in our community, to support programs that will educate the public about the right to equal housing opportunities, and to plan partnership efforts with other organizations to help assure every American of their right to fair housing.

NOW, THEREFORE, BE IT RESOLVED by the Sussex County Council that April 2013 be declared "Fair Housing Month", commencing a year-long commemoration of the U.S. Fair Housing Law in Sussex County; and

BE IT FURTHER RESOLVED that the Sussex County Council urges all citizens to wholeheartedly recognize this celebration throughout the year.

Michael H. Vincent, President

ENGINEERING DEPARTMENT

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



Sussex County

DELAWARE
sussexcountyde.gov

MICHAEL A. IZZO, P.E.
COUNTY ENGINEER

BRAD HAWKES
DIRECTOR OF UTILITY ENGINEERING

April 05, 2013

FACT SHEET

SUSSEX COUNTY PROJECT 81-04
MILLVILLE BY THE SEA - SUB-PHASE 2B-2 NORTH
AGREEMENT NO. 856 - 1

DEVELOPER:

Mr. Charles Ellison
The Millville Group, LLC
32695 Roxana Road
Millville, DE 19945

LOCATION:

CORNER OF ROXANA RD. & BURBAGE RD.
FRANKFORD DE 19945

SANITARY SEWER DISTRICT:

Millville Expansion of the Bethany Beach Sanitary Sewer District

TYPE AND SIZE DEVELOPMENT:

Millville by the Sea
Sub-Phase 2B-2 North

SYSTEM CONNECTION CHARGES:

\$339,020.00

SANITARY SEWER APPROVAL:

Sussex County Engineering Department Plan Approval
01/14/13

Department Of Natural Resources Plan Approval

SANITARY SEWER CONSTRUCTION DATA:

Construction Days – 60
Construction Admin And Construction Inspection Cost – \$25,465.65
Proposed Construction Cost – \$169,771.00

ENGINEERING DEPARTMENT

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



Sussex County

DELAWARE
sussexcountyde.gov

MICHAEL A. IZZO, P.E.
COUNTY ENGINEER

BRAD HAWKES
DIRECTOR OF UTILITY ENGINEERING

April 16, 2013

PROPOSED MOTION

BE IT MOVED THAT BASED UPON THE RECOMMENDATION OF THE SUSSEX COUNTY ENGINEERING DEPARTMENT, FOR SUSSEX COUNTY PROJECT NO. 81-04, AGREEMENT NO. 856-1 THAT THE SUSSEX COUNTY COUNCIL EXECUTE A CONSTRUCTION ADMINISTRATION AND CONSTRUCTION INSPECTION AGREEMENT BETWEEN SUSSEX COUNTY COUNCIL AND "THE MILLVILLE GROUP, LLC", FOR WASTEWATER FACILITIES TO BE CONSTRUCTED IN "MILLVILLE BY THE SEA – SUB PHASE 2B-2 NORTH", LOCATED IN THE MILLVILLE EXPANSION OF THE BETHANY BEACH SANITARY SEWER DISTRICT.

ORDINANCE NO. 38
AGREEMENT NO. 856-1

TODD LAWSON
COUNTY ADMINISTRATOR



Sussex County Council

Delaware General Assembly Legislative Report

Prepared by:

Hal Godwin, Deputy County Administrator

April 16, 2013

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.	FYI
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.	We supported this legislation last year and it nearly passed. We requested it again this year and it has been introduced and released from Committee as of 3/13/13. ON HOUSE READY LIST
HB 44	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.	This legislation would circumvent local zoning laws.

House Bill No Number	This Act is the first leg of a constitutional amendment that will remove the offices of Clerks of the Peace from the State Constitution and remove the requirement to elect the Clerks of the Peace	Bill not introduced yet, item for our discussion
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
Senate Bill No Number	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.	This maybe contrary to our Clean Hands Act
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.	
HB No. 74	<p>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.</p> <p>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.</p> <p>Funding for the new health care system will be as follows:</p>	<p>This bill has been assigned to the House Economic Development/Banking/Insurance/Commerce Committee.</p> <p>This bill has not yet been scheduled for a Committee hearing.</p> <p>I will be certain to alert you of this date and time.</p> <p>Committee Members:</p> <p>Chairman: Byron H. Short</p> <p>Vice-Chairman: Dennis E. Williams</p> <p>Members: Paul S. Baumbach Andria L. Bennett Ronald E. Gray</p>

	<ol style="list-style-type: none"> 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. 	<p>Members (Cont.)</p> <p>S. Quinton Johnson Helene M. Keeley W. Charles Paradee Harold J. Peterman Michael Ramone Jeffrey N. Spiegelman</p>
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SPONSOR: Rep. Carson & Sen. Ennis
Reps. Briggs King, Kenton, Miro, Outten, Paradee,
Peterman, Ramone, D. Short, Spiegelman; Sens. Hall-
Long, Hocker, Pettyjohn

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 14

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO PERSONAL INCOME TAX.

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

Section 1. Amend §1110, Title 30 of the Delaware Code by making insertions as shown by underlining as follows:

(d) For tax years after December 31, 2012 a resident shall be allowed an exemption on all income and/or capital gains received from the sale or granting of an agricultural lands preservation easement pursuant to Chapter 9, Title 3 of this Code or from the sale or granting of an easement through any county, state or federal program in which land is preserved for agricultural purposes.

SYNOPSIS

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.

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House Bill # 14**[Home](#)**Bill Tracking****Senate**[Agenda](#)
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(in HTML format)[Email this Bill to a friend](#)**Full text of Legislation:** [Legis.Docx](#) (Microsoft Word is required to view this document.)
(in MS Word format)**Fiscal Notes/Fee Impact:** F/N (Complete)**Amendments:** [HA 1 to HB 14 - PWB](#)**Committee Reports:** House Committee Report 01/23/13 F=0 M=7 U=3---->
Fiscal Notes: Fiscal Note----->
Actions History:Jan 24, 2013 - Assigned to Appropriations Committee in House
Jan 23, 2013 - Reported Out of Committee (REVENUE & FINANCE) in House with 7 On Its Merits, 3 Unfavorable
Jan 22, 2013 - Amendment HA 1 - Introduced and Placed With Bill
Jan 10, 2013 - Introduced and Assigned to Revenue & Finance Committee in House

Bill Search:

Session ▼



SPONSOR: Rep. D. Short & Rep. Scott & Sen. Pettyjohn;
Reps. Briggs King, Dukes, Gray, Kenton, Miro, Smyk,
Spiegelman, Wilson, Baumbach, Bolden, Carson, Q.
Johnson, Keeley, Potter; Sens. Lavelle, Hocker, Lopez,
Peterson, Simpson, Sokola, Townsend

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 27

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO STATE TAXES.

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

Section 1. Amend § 545(b)(1), Title 30 of the Delaware Code by making insertions as shown by underlining as follows:

(b) Definitions. -- For purposes of this section:

(1) "Claimant agency" means:

a. Any department or agency of the State, including the University of Delaware, Delaware State University and Delaware Technical and Community College, ~~but not school districts of this state,~~ with respect to any debt owed to it and any political subdivision or school district of this State, with respect to property taxes owed to it; and

SYNOPSIS

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.

governing the time, place, size, number or manner of those displays. Unless the declaration provides otherwise during the first 2 years of the period of declarant control, no rule may prohibit the right of a unit owner to display a "For Sale" sign, measuring up to 12 inches by 18 inches (12"/" x 18"/"), on the exterior wall of the unit owner's unit or the limited common elements appurtenant to that unit. Unless the declaration provides otherwise, the "For Sale" sign shall be entitled "For Sale" and may contain such information as accurately describes the unit and any applicable names, addresses and phone numbers of the person or persons who are offering the unit for sale.

SYNOPSIS

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.



SPONSOR: Rep. Atkins

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 44

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO PROPERTY.

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

Section 1. Amend § 316, Title 25 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 316. Display of flags.

No restriction shall be enforceable with respect to real property which prohibits or limits the ability of a property owner or tenant to display the flag of the United States of America on a pole attached to the exterior of the property's building or structure or on a flagpole located within the property's boundaries, provided such flag's measurement does not exceed 3 feet by 5 feet; and such flagpole does not exceed 25 feet in height and conforms to all setback requirements.

Section 2. Amend § 2242, Title 25 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 2242. Display of flags.

Any unit owner shall have the right to display the flag of the United States of America, measuring up to 3 feet by 5 feet, on a pole attached to the exterior wall of the unit or the common elements proximate to the unit, provided such display conforms with § 316 of this title. This right may not be impaired by any state or private regulation or by any agreement, covenant or restriction whatsoever, including removal of property from the provisions of this chapter under subchapter VI of this chapter.

Unit owners may effect regulations consistent with this section.

Section 3. Amend § 81-320(c), Title 25 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 81-320. Rules.

(c) A rule regulating display of the flag of the United States must be consistent with federal law; and § 316 of this title, but the rule may not prohibit the right of a unit owner to display the flag of the United States, measuring up to 3 feet by 5 feet, on a pole attached to the exterior wall of that unit owner's unit or the limited common elements appurtenant to

23 that unit. Unless the declaration otherwise provides, no rule may prohibit the display on a unit or on a limited common
24 element adjoining a unit of a flag of this State, or signs regarding candidates for public office or ballot questions, but the
25 association may adopt rules governing the time, place, size, number or manner of those displays. Unless the declaration
26 provides otherwise during the first 2 years of the period of declarant control, no rule may prohibit the right of a unit owner
27 to display a "For Sale" sign, measuring up to 12 inches by 18 inches (12"/" x 18"/"), on the exterior wall of the unit owner's
28 unit or the limited common elements appurtenant to that unit. Unless the declaration provides otherwise, the "For Sale" sign
29 shall be entitled "For Sale" and may contain such information as accurately describes the unit and any applicable names,
30 addresses and phone numbers of the person or persons who are offering the unit for sale.

SYNOPSIS

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.



SPONSOR: Rep. Hudson

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO.

AN ACT PROPOSING AN AMENDMENT TO ARTICLE III, SECTION 22 OF THE DELAWARE CONSTITUTION OF 1897, AS AMENDED, RELATING TO CLERKS OF THE PEACE.

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

1 Section 1. Amend § 22, Article III of the Delaware Constitution of 1897, as amended, by making deletions as
2 shown by strikethrough as follows:

3 Section 22. The terms of office of ~~Clerks of the Peace~~, Registers of Wills, Recorders, and Sheriffs shall be 4
4 years. These officers shall be chosen by the qualified electors of the respective counties at general elections, and be
5 commissioned by the Governor.

6 Section 2. This Act shall be effective upon the end of the term of office for each Clerk of the Peace that has been
7 elected prior to this act.

SYNOPSIS

This Act is the first leg of a constitutional amendment that will remove the offices of Clerks of the Peace from the State Constitution and remove the requirement to elect the Clerks of the Peace.



SPONSOR: Rep. Atkins & Sen. Ennis

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 63

AN ACT PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION RELATING TO AGRICULTURE.

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

Section 1. Amend Article I of the Constitution of the State of Delaware by making insertions as shown by underlining as follows:

§21. Right to engage in agriculture.

The right of farmers and ranchers to engage in modern farming and ranching practices shall be forever guaranteed in this state. No law shall be enacted which abridges the right of farmers and ranchers to employ agricultural technology, modern livestock production and ranching practices.

SYNOPSIS

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.



SPONSOR: Sen. Peterson

DELAWARE STATE SENATE
147th GENERAL ASSEMBLY

SENATE BILL NO.

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO LOCAL SCHOOL TAXES.

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

- 1 Section 1. Amend §1917(4) d. of Title 14 of the Delaware Code by making insertions as shown by underlining and
2 deletions as shown by strikethrough as follows:
- 3 Right to claim credit under this subsection shall be withdrawn for the subsequent tax year from any taxpayer who
4 has not paid in full or entered into a payment plan to pay in full such taxpayer's property tax bill by the end of the tax year
5 for which a credit was reported for that taxpayer to the Secretary of Finance by the receiver of taxes and county treasurer.
6 Taxpayers who fail to pay in full their property tax bill by the end of the tax year for which a credit was reported for that
7 taxpayer to the Secretary of Finance by the receiver of taxes and county treasurer may qualify for credits under this
8 subsection in subsequent tax years upon the payment in full or upon entering into a payment plan for the payment in full of
9 property taxes and penalties owed prior to the beginning of the subsequent tax year.

SYNOPSIS

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 payment of taxes due.

Author: Senator Peterson



SPONSOR: Sen. Peterson

DELAWARE STATE SENATE
147th GENERAL ASSEMBLY

SENATE BILL NO.

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO DISABLED VETERANS.

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

Section 1. Amend Title 9 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strikethrough as follows:

§8157. Qualifications and amount of exemption.

(a) Every person, a resident of this State who is an eligible disabled veteran of military service residing in a dwelling house owned by the person which is a constituent part of the person's real property, shall be entitled, on proper claim being made therefor, to exemption from taxation on the real property. Nothing in this subchapter shall be construed to apply to ditch taxes and sewer taxes.

(b) An eligible disabled veteran is one who meets this criteria:

- a. Served during a specified wartime period, with at least 14 days service in a combat zone.
- b. Received an honorable discharge or under honorable conditions.
- c. Rated 100 percent permanent service-connected by the VA. The 100 percent rating cannot be temporary or as a result of hospitalization, surgery or recuperation.
- d. And one of the following criteria:
 - i. The veteran had to be rated 100 percent permanent VA service-connected prior to death. A spouse is not eligible if the veteran was rated less than 100 percent permanent service-connected, but died of that service- connected disability.
 - ii. The veteran died in active service during wartime in any branch of the United States Armed Forces.

(c) The surviving spouse of an eligible disabled veteran of military service shall be entitled, on proper claim made therefor, to exemption from taxation on the real property, if the surviving spouse meets the following criteria:

- a. The surviving spouse has not remarried; and

22 b. The eligible disabled veteran of military service received the real property tax exemption prior to
23 death; or

24 c. The eligible disabled veteran of military service would have been granted the exemption if the
25 application had been filed prior to death.

26 §8158. Application for exemption.

27 (a) No exemption from taxation on the valuation of real property as provided in this subchapter shall be allowed
28 except on written application therefor, which application shall be on a form prescribed by the governing bodies of the
29 respective counties and provided for the use of the claimants under this subchapter by the governing body of the taxing
30 district in which such claim is to be filed.

31 (b) An application for exemption under this subchapter shall be filed with the assessor of the taxing district by a
32 date determined by the taxing district, which shall not be earlier than 45 days prior to the last date of the pre tax year.

33 § 8159. Contents of application.

34 Every fact essential to support a claim for exemption under this subchapter shall exist on September 1 of the pretax year.

35 Every application by a claimant therefor shall establish that the applicant was, on September 1 of the pretax year:

36 (1) A resident of this State for the period required;

37 (2) An eligible disabled veteran of military service;

38 (3) The owner of a dwelling house which is a constituent part of the real property for which such exemption is
39 claimed;

40 (4) Residing in said dwelling house.

41 § 8160. Allowance of exemption.

42 If an application is approved by the assessor, the assessor shall allow an exemption from taxation against the assessed
43 valuation of the real property assessed to the claimant in the amount of the claim approved by the assessor.

44 § 8161. Continuance of exemption.

45 Any assessor may, at any time, require the filing of a new application or such proof as the assessor shall deem necessary to
46 establish the right of a claimant to continued exemption. A claimant shall inform the assessor of any change in the
47 assessor's status or property which may affect the assessor's right to continuance of exemption.

48 § 8162. Tenants in common or joint tenants.

49 (a) Where title to property on which an exemption is claimed is held by claimant and another or others, either as
50 tenants in common or as joint tenants, claimant shall not be allowed an exemption against the claimant's interest in said
51 property in excess of the assessed valuation of the claimant's proportionate share in said property, which proportionate

52 share, for the purposes of this subchapter, shall be deemed to be equal to that of each of the other tenants, unless it is shown
53 that the interests in question are not equal, in which event claimant's proportionate share shall be as shown.

54 (b) Nothing in this subchapter shall preclude more than 1 tenant, whether title be held in common or joint tenancy,
55 from claiming exemption against the property so held, but no more than the equivalent of 1 full exemption in regard to such
56 property shall be allowed in any year, and in any case in which the claimants cannot agree as to the apportionment thereof,
57 the exemption shall be apportioned between or among them in proportion to their interest. Property held by husband and
58 wife, as tenants by the entirety, shall be deemed wholly owned by each tenant, but not more than 1 exemption in regard to
59 such property shall be allowed in any year.

60 (c) Right to claim exemption under this subchapter shall extend to property the title to which is held by a
61 partnership to the extent of the claimant's interest as a partner therein, and by a guardian, trustee, committee, conservator or
62 other fiduciary for any person who would otherwise be entitled to claim exemption under this subchapter, but not to
63 property the title to which is held by a corporation.

64 § 8163. Rules and regulations.

65 The Department of Finance of New Castle County or Board of Assessments for Kent County or Board of Assessments for
66 Sussex County may promulgate such rules and regulations and prescribe such forms as they shall deem necessary to
67 implement this subchapter. They may, in their discretion, eliminate the necessity for sworn application, in which event all
68 declarations by the claimant shall be considered as if made under oath and the claimants, as to false declarations, shall be
69 subject to the penalties as provided by law for perjury.

70 § 8164. Oaths.

71 Each assessor and collector and his or her duly designated assistants may take and administer the oath, where required, on
72 any claim for exemption under this subchapter and no charge shall be made for the taking of any affidavit or the preparation
73 of any form required by this subchapter.

74 § 8165. Appeals.

75 An aggrieved taxpayer may appeal from the disposition of an exemption claim under this subchapter in the same manner as
76 is provided for appeals from assessments generally.

SYNOPSIS

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.

Author: Senator Peterson



SPONSOR: Rep. Kowalko & Rep. Jaques & Sen. McDowell
Reps. Baumbach, Keeley

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 74

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO HEALTH INSURANCE.

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

Section 1. Amend Title 31 of the Delaware Code by making insertions as shown by underlining as follows:

Chapter 16. DELAWARE HEALTH SECURITY ACT

§1601. Purpose of the Delaware Health Security Act.

The purpose of this Chapter is to:

(1) Guarantee every Delaware citizen, and out-of-state citizens who receive health care coverage from Delaware employers, all necessary health care services offered by the provider of each citizen's choice; and

(2) Replace the current mixture of private and public health care plans with a comprehensive single payer health care system available to every Delaware citizen.

§1602. Definitions.

The following words and phrases as used in this Chapter shall have the following meanings:

(1) "Authority Fund" means the Delaware Health Security Authority Fund established in §1616 of this Chapter.

(2) "Board" means the appointed members of the Delaware Health Security Authority, which is to administer the Delaware Health Security Act;

(3) "Executive Director" means the Executive Director of the Delaware Health Security Authority;

(4) "Health Care" means care provided to an individual by a licensed health care professional to promote physical or mental health, to prevent illness and injury and to treat illness and injury;

(5) "Health Care Authority" or "Authority" means the Delaware Health Security Authority established in §1603 of this Chapter;

(6) "Health Care Facility" means any facility or institution, whether private or public, nonprofit or proprietary, which offers diagnosis, treatment, inpatient or ambulatory care to two or more unrelated persons;

(7) "Health Care Provider" means a person, partnership, corporation or other business organization, other than a facility or institution, licensed, certified or authorized by law to provide professional health care services in the state to an individual;

(8) "Professional Advisory Committee" means a committee of advisors appointed by a Director of a Division of the Delaware Health Security Authority;

(9) "Resident" means a person who lives in Delaware as evidenced by an intent to continue to live in Delaware and to return to Delaware if temporarily absent, coupled with an act or acts consistent with that intent. The Authority shall adopt standards and procedures for determining whether a person is a resident and for determining out-of-state citizens' eligibility based on receiving health care coverage through their Delaware employers. Such rules and standards shall include:

(i) A provision requiring that the person seeking resident status has the burden of proof in such determination;

(ii) Reasonable durational domicile requirements not to exceed two years for long term care and 90 days for all other covered services;

(iii) A provision that a residence established for the purpose of seeking health care shall not by itself establish that a person is a resident of the state; and

(iv) A provision that, for the purposes of this Chapter, the terms "domicile" and "dwelling place" are not limited to any particular structure or in real property and specifically includes homeless individuals with the intent to live and return to Delaware if temporarily absent coupled with an act or acts consistent with that intent; and

(10) "Secretary" shall mean the Secretary of the Department of Health And Social Services.

§1603. Establishment of the Delaware Health Security Authority.

(a) There is hereby created a body corporate and politic to be known as the Delaware Health Security Authority hereinafter referred to as the Authority. The Authority is hereby constituted a public instrumentality of the state and the exercise by the Authority of the powers conferred by this Act shall be deemed and held the performance of an essential governmental function. The Authority is placed in the Department of Health and Social Services but shall not be subject to the supervision or control of said Department or of any Board, Bureau, Department or other agency of the state except as specifically provided by this Act.

(b) The Authority may purchase from, contract with or otherwise deal with any organization in which any Authority board member is interested or involved; provided, however, that such interest or involvement is

disclosed in advance to the Authority's board members and recorded in the minutes of the proceedings of the Authority; and provided, further, that any board member having such an interest or involvement may not participate in any debate or decision relating to such organization.

(c) All officers and employees of the Authority having access to its cash or negotiable securities shall give bond to the Authority, in such amount and with such surety as the Authority's board shall prescribe. The persons required to give bond may be included in one or more blanket or schedules' bonds.

(d) Board members, officers and advisors who are not regular, compensated employees of the Authority shall not be liable to the State, to the Authority or to any other person as a result of their activities, whether ministerial or discretionary, as such board members, officers or advisors except for willful dishonesty or intentional violations of law. The Board of the Authority may purchase liability insurance for board members, officers, advisors or employees and may indemnify said persons against the claims of others.

§1604. Powers of the Delaware Health Security Authority.

(a) The Authority shall have the following powers:

(1) To make, amend and repeal by-laws, rules and regulations for the management of its affairs;

(2) To adopt an official seal;

(3) To sue and be sued in its own name;

(4) To make contracts and execute all instruments necessary or convenient for carrying out the purposes of this Act;

(5) To acquire, own, hold, dispose of and encumber personal, real or intellectual property of any nature of any interest therein;

(6) To enter into agreements or transactions with any federal, state or municipal agency or other public institution or with any private individual, partnership, firm, corporation, association or other entity;

(7) To appear on its own behalf before boards, commissions, departments or other agencies of federal, state or municipal government;

(8) To appoint officers and to engage and employ employees, including legal counsel, consultants, agents and advisors and prescribe their duties and fix their compensation;

(9) To establish advisory boards and councils;

(10) To procure insurance against any losses in connection with its property in such amounts, and from such insurers, as may be necessary or desirable;

(11) To invest any funds held in reserves or sinking funds or any funds not required for immediate disbursement, in such investments as may be lawful for fiduciaries in the state;

(12) To accept, hold, use, apply and dispose of any and all donations, grants, bequests and devises, conditional or otherwise, of money, property, services or other things of value, which may be received from the United States or other agency thereof, any governmental agency, any institution, person, firm or corporation, private or public. Such donations, grants, bequests and devises may be held, used, applied or disposed for any and all of the purposes specified in this Act and shall be used in accordance with the terms and conditions of any such grant. Receipt of each such donation or grant shall be detailed in the annual report of the Authority, which shall include the identity of the donor, lender, the nature of each transaction and any conditions attached thereto; and

(13) To do any and all other things necessary to carry out the purposes of the Delaware Health Security Act.

§1605. Board of the Authority; Composition, Powers and Duties.

(a) There is hereby created a statewide Board that will govern the Delaware Health Security Authority. The Board will be comprised of fifteen members as follows:

- (1) Two members from the State Senate, each of whom shall be a member of the Senate Committee concerned with health care to be appointed by the President Pro Tempore;
- (2) Two members of the House of Representatives, each of whom shall be a member of the House Committee concerned with health care to be appointed by the Speaker of the House;
- (3) The Secretary of the Department of Health and Social Services;
- (4) Five representatives from different statewide Delaware health care professional organizations to be appointed on a rotating basis by the Governor and confirmed by the Senate with the requirement that two of these five appointed representatives will always be from the Medical Society of Delaware and the Delaware Nurses Association; and
- (5) Five members from statewide Delaware consumer groups on a rotating basis that have endorsed a single payer health care system at least five years prior to the enactment of this Chapter, to be appointed by the Governor and confirmed by the Senate.

(b) The Governor shall make appointments to the Board from nominations submitted by eligible organizations. Eligible organizations shall submit nominees to the Governor within one month of enactment of this Act. The Governor shall make Board appointments within two months of receiving these nominations.

111 (c) Each Board member shall serve a term of five years; provided, however, that in making the initial
112 appointments, five members shall serve three-year terms, five members shall serve four-year terms and five members shall
113 serve five-year terms. Any person appointed to fill a vacancy on the Board shall serve for the unexpired term of the
114 predecessor Board member. Any Board member shall be eligible for reappointment. Any Board member may be removed
115 from her/his appointment by the Governor for cause. Eight Board members shall constitute a quorum and the affirmative
116 vote of a majority of the members present and eligible to vote at a meeting shall be necessary for any action to be taken by
117 the Board. The Authority's Board shall meet at least ten times each year and have the final authority over the activities of
118 the Delaware Health Security Authority. The Board appointees shall annually elect a Chair and Vice-Chair from among
119 their membership. Board members shall serve without compensation, but each Board member shall be entitled to
120 reimbursement for actual and necessary expenses incurred in the performance of official duties.

121 §1606. Executive Director, Health Security Authority; Purpose and Duties.

122 (a) The Board of the Delaware Health Security Authority shall hire an Executive Director who shall be the
123 executive and administrative head of the Authority and shall be responsible for administering and enforcing the provisions
124 of law relative to the Authority.

125 (b) The Executive Director may as he or she deems necessary or suitable for the effective administration and
126 proper performance of the duties of the Authority and subject to the approval of the Board of the Authority, do the
127 following:

128 (1) Adopt, amend, alter, repeal and enforce, all such reasonable rules, regulations and orders as may be necessary;
129 and

130 (2) Appoint and remove employees and consultants; provided, however, that, subject to the availability of funds in
131 the Authority, at least one employee shall be hired to serve as Director of each of the Divisions created in §1607
132 through §1610 of this Chapter.

133 (c) The Executive Director shall:

134 (1) Negotiate or establish terms and conditions for the provision of health care services and rates of reimbursement
135 for such services on behalf of the citizens of the state;

136 (2) Negotiate or establish manufacturer discounts and rebates for covered prescription drugs and other health care
137 products;

138 (3) Develop prospective and retrospective reimbursement systems for covered services to provide prompt and fair
139 payment to eligible providers;

140 (4) Oversee preparation of annual operating and capital budgets for the statewide delivery of health care services;

141 (5) Oversee preparation of annual benefits reviews to determine the adequacy of covered services; and

142 (6) Prepare an annual report to be submitted to the Governor, President Pro Tempore of the Senate and Speaker of
143 the House of Representatives and to be easily accessible to every participating member and citizen in our state.

144 §1607. Administrative Division; Purpose and Duties.

145 (a) There shall be an Administrative Division within the Health Security Authority, which shall be under the
146 supervision and control of a Director. The powers and duties given the Director in this Act and in any other general or
147 special law shall be exercised and discharged subject to the direction, control and supervision of the Executive Director of
148 the Authority. The Director of the Administrative Division shall be appointed by the Executive Director of the Authority,
149 with the approval of the Board of the Health Security Authority, and may, with like approval be removed. The Director
150 may, at her or his discretion, establish a professional advisory committee to provide expert advice; provided, however, that
151 the committee shall have at least 33 percent consumer representation.

152 (b) The Administrative Division shall have day-to-day responsibility for:

153 (1) Making prompt payments to providers for covered services;

154 (2) Collecting reimbursement from non-eligible patients;

155 (3) Developing information management systems needed for provider payment, rebate collection and
156 utilization review;

157 (4) Investing Authority Fund assets consistent with state laws and §1616 of this Act;

158 (5) Developing operational budgets for the Authority; and

159 (6) Assisting the Planning Division develop capital budgets for the Authority.

160 §1608. Planning Division; Director; Purpose and Duties.

161 (a) There shall be a Planning Division within the Authority, which shall be under the supervision and control of a
162 Director. The powers and duties given the Director in this Act and in any other general or special law shall be exercised and
163 discharged subject to the direction, control and supervision of the Executive Director of the Authority. The Director of the
164 Planning Division shall be appointed by the Executive Director of the Authority, with the approval of the Board of the
165 Health Security Authority, and may, with like approval, be removed. The Director may, at her or his discretion, establish a
166 professional advisory committee to provide expert advice; provided, however, that such committee shall have at least 33
167 percent consumer representation.

168 (b) The Planning Division shall have day-to-day responsibility for coordinating health care resources to ensure all
169 eligible participants reasonable access to covered services.

170 (c) The Planning Division shall review annually the adequacy of health care resources throughout the State and
171 recommend changes as may from time to time be required. The Planning Division shall submit to the Board of the
172 Authority its final review and recommendations by October 1 of each year. Subject to Authority Board approval, the
173 Authority shall adopt the recommendations.

174 §1609. Quality Assurance Division; Director; Purpose and Duties.

175 (a) There shall be a Quality Assurance Division within the Authority, which shall be under the supervision and
176 control of a Director. The powers and duties given the Director in this Act and in any other general or special law shall be
177 exercised and discharged subject to the direction, control and supervision of the Executive Director of the Authority. The
178 Director of the Quality Assurance Division shall be appointed by the Executive Director of the Authority, with the approval
179 of the Board of the Health Security Authority, and may, with like approval be removed. The Director may, at her or his
180 discretion, establish a professional advisory committee to provide expert advice; provided, however, that this committee
181 shall have at least 33 percent consumer representation.

182 (b) The Quality Assurance Division shall review annually the quality of health care services and outcomes
183 throughout the state and submit such recommendations as may from time to time be required to maintain and improve the
184 quality of health care delivery and the overall health of Delaware citizens. The Division shall submit to the Board of the
185 Authority its final review and recommendations by October 1 of each year. Subject to Advisory Board approval, the
186 Authority shall adopt the recommendations.

187 §1610. Benefits Division; Director; Purpose and Duties.

188 (a) There shall be a Benefits Division within the Authority, which shall be under the supervision and control of a
189 Director. The powers and duties given the Director in this Act and in any other general or special law shall be exercised and
190 discharged subject to the direction, control and supervision of the Executive Director of the Authority. The Director of the
191 Benefits Division shall be appointed by the Executive Director of the Authority, with the approval of the Authority's Board,
192 and may, with like approval, be removed. The Director may, at her or his discretion, establish a professional advisory
193 committee to provide expert advice; provided, however, that such committee shall have at least 33 percent consumer
194 representation.

195 (b) The Benefits Division shall review annually the adequacy of covered benefits and recommend changes in
196 covered benefits as from time to time be required. The Division shall submit to the Board of the Authority its final review
197 and recommended changes by October 1 of each year. Subject to Board approval, the Authority shall adopt the
198 recommended changes.

199 §1611. Eligible Participants.

The following persons shall be entitled to benefits under this Chapter:

(a) All Delaware citizens;

(b) All non-residents who:

(1) Work 20 hours or more per week in Delaware, including legal non-resident aliens;

(2) Pay all applicable Delaware personal income and payroll taxes;

(3) Pay any additional premiums established by the Authority; and

(4) Have complied with requirements of this paragraph for at least 90 days; and

(c) All patients requiring emergency treatment for illness or injury; provided, however, that the Authority shall recoup expenses for such patients whenever possible.

§1612. Eligible Health Care Providers and Facilities.

(a) Eligible health care providers and facilities shall include an agency, facility, corporation, individual or other entity directly rendering any covered benefit to an eligible patient; provided, however, that it:

(1) Is licensed to operate or practice in the state;

(2) Furnishes a signed agreement that:

a. All health care services will be provided without discrimination on the basis of age, sex, race, national origin, sexual orientation, income status or pre-existing condition;

b. The provider will comply with all state and federal laws regarding the confidentiality of patient records and information;

c. No balance billing or out-of-pocket charges will be required for covered services unless otherwise provided in this Act; and

d. The provider will furnish such information as may be reasonably required by the Authority for making payment, verifying reimbursement and rebate information, utilization review analyzes, statistical and fiscal studies of operations and compliance with state and federal law. All such disclosures, however, should meet the strictest standards of privacy protection, as set forth in state or federal legislation or in the standards of professional practice associations, whichever is more protective of patient confidentiality and non-identifiable; and

(3) Meets whatever additional requirements that may be established by the Authority.

§1613. Prospective Payments to Eligible Health Care Providers and Facilities.

(a) The Authority shall negotiate with eligible health care providers, health care facilities, or groups of providers or facilities, or establish prospective reimbursement schedules or rates for covered services. Such reimbursement schedules or

rates may be made on a capitated or fee-for-service basis and shall remain in effect for a period of 12 months unless sooner modified by the Authority. Except as provided in §1614 of this Chapter, reimbursement for covered services by the Authority shall constitute full payment for the services.

(b) Prospective payment rates and schedules shall be adjusted annually to incorporate retrospective adjustments.

§1614. Retrospective Payments to Eligible Health Care Providers and Facilities.

The Authority shall provide for retrospective adjustments of payments to eligible health care providers and facilities to assure that payments to such providers and facilities reflect the difference between actual and projected utilization and expenditures for covered services; and protect health care providers and facilities who serve a disproportionate share of eligible participants whose expected utilization of covered health care services and expected health care expenditures for such services are greater than the average utilization and expenditure rates for eligible participants statewide.

§1615. Covered Services.

(a) The Health Security Authority shall reimburse all professional services provided by eligible providers to eligible participants to:

(1) Provide appropriate and necessary health care services;

(2) Encourage reductions in health risks and increase use of preventive and primary care services; and

(3) Attempt to integrate physical health, mental health, emotional health and substance abuse services.

(b) Covered services shall include all health care determined to be necessary or appropriate by the Authority including, but not limited to the following:

(1) The prevention, diagnosis and treatment of illness and injury, including laboratory, diagnostic imaging, inpatient, ambulatory and emergency medical care, blood, dialysis, mental health services, dental care, acupuncture, optometric, chiropractic and pediatric services;

(2) The rehabilitation of sick and disabled persons (including addiction to all drugs), providing physical, psychological and other specialized therapies, and long term services in community-based and institutional settings;

(3) The provision of prescription drugs, therapeutic devices, prosthetics, eyeglasses, hearing aids and other health care supplies;

(4) The promotion and maintenance of individual good health through appropriate screening, counseling and health education;

(5) The provision of home health, personal care, hospice and service of nurse practitioners, nurse midwives, language interpretation and such other medical and remedial services as the Authority shall determine;

(6) Emergency and other medically necessary transportation; and

(7) Prenatal, perinatal and maternity care, family planning, fertility and reproductive health care.

§1616. Establishment of the Authority Health Care Fund.

There is hereby established the Authority Health Care Fund, hereinafter known as the Authority Fund, which shall be administered and expended by the Authority without further appropriation. The Fund shall consist of all revenue sources defined in §1618, and all properties and securities acquired by and through the use of monies deposited to the Authority Fund and all interest therein less payments therefrom to meet liabilities incurred by the Authority in the exercise of its powers and the performance of its duties under this Act. The Executive Director shall from time to time requisition from said Authority Fund such amounts as the Executive Director deems necessary to meet the current obligations for a reasonable period.

§1617. Purpose of the Authority Health Care Fund.

Amounts credited to the Authority Fund may be used for the following purposes:

(a) To reimburse eligible health care providers and facilities for covered services rendered to eligible patients;

(b) To pay for preventive care, educational and outreach programs and related health care activities;

(c) To supplement other sources of financing for health care education and research;

(d) To fund training programs and provide economic assistance for professional and non-professional workers in the health care sector displaced as a result of administrative streamlining gained by moving from a multi-payer to a single payer system and who choose to remain in the health care field to fill additional needed health care service positions; provided, however, that such funding shall end June 30 of the third year following full implementation of this Act;

(e) To fund a reserve account to finance anticipated long-term cost increases due to demographic changes, inflation or other foreseeable trends that would increase Authority Fund liabilities, and, for budgetary shortfalls, epidemics and other extraordinary events; and

(f) To pay the administrative costs of the Health Care Authority.

§1618. Health Security Authority's Funding Sources.

(a) The Authority Fund shall be a repository for all health care funds and related administrative funds from the following sources:

(1) All monies the state currently appropriates to pay for health care services or health insurance premiums, including, but not limited to, all current state programs which provide covered benefits and appropriations to cities, towns, counties and other government subdivisions to pay for health care services or health insurance premiums; provided, however, that the Authority shall then assume responsibility for all benefits and services previously paid for by the state with these funds. All current state health care programs which provide covered benefits shall be included in this requirement;

(2) All monies the state receives from the federal government to pay for health care services or insurance premiums; provided, however, that the Authority shall assume the responsibility for all benefits and services previously paid by the federal government with these funds. The Authority shall seek to maximize all sources of federal financial support for health care services in Delaware. Accordingly, the Executive Director of the Authority shall obtain waivers or exemptions so that all current federal payments for health care shall, consistent with federal law, be paid directly to the Authority Fund;

(3) Private individual and employer health insurance payments and out-of-pocket health care expenses will be replaced in this single payer Delaware Health Security Act as follows:

a. All employers shall pay a graduated payroll tax as follows:

(i) 4 percent for employers with less than ten employees;

(ii) 5 percent for employers with 10 to 24 employees;

(iii) 7 percent for employers with 25 to 49 employees; and

(iv) 9 percent for employers with 50 or more employees..

Single employers shall pay no payroll tax as each will pay according to paragraphs b. or c. of this subsection that applies.

b. All heads of households and persons subject to Delaware's income tax return shall pay an additional Health Security income tax of 2.5 percent of taxable income.

c. Persons filing a Delaware income tax return shall pay an additional Health Security income surtax of 2.5 percent on net taxable income in excess of \$250,000. Married couples filing a Delaware joint income tax return shall pay an additional income surtax of 2.5 percent on net taxable income in excess of \$500,000.

(b) The Authority Fund shall retain:

317 (1) Any charity donations, gifts, grants or bequests made to it from whatever source consistent with state and
318 federal law;
319 (2) Any rebates negotiated or established; and
320 (3) Income from the investment of Authority assets, consistent with state and federal law.
321 §1619. Insurance Reforms.
322 Insurers regulated by the Delaware Insurance Department are prohibited from charging premiums to eligible
323 participants for coverage of services already covered by the Health Security Authority. The State Insurance Commissioner
324 shall adopt, amend, alter, repeal and enforce all such rules and regulations and orders as may be necessary to implement this
325 section.

SYNOPSIS

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.

BRANDY BENNETT NAUMAN
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FAIR HOUSING COMPLIANCE OFFICER
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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, Vice President
The Honorable George B. Cole
The Honorable Joan R. Deaver
The Honorable Vance Phillips
Todd Lawson, County Administrator

FROM: Brandy Nauman, Fair Housing Compliance Officer

RE: **Fair Housing Policy**

DATE: April 12, 2013

On Tuesday, March 26, 2013, I presented several successful affordable housing strategies from other locales similar in jurisdiction and authority to Sussex County. After my presentation, Council suggested moving forward with the Anti-NIMBY policy. Below you will find an outline of the updates associated with the proposed policy.

- Amend the Rules & Procedures for Public Hearings of County Council, the Board of Adjustment, and the Planning & Zoning Commission to include the following:
 - “Sussex County, in its zoning and land use decisions, does not discriminate against persons based on race, color, religion, national origin, disability, familial status, sex, creed, marital status, age, or sexual orientation. Public comments made on the basis of bias and stereotype concerning people within these protected classes will not be taken into consideration by the County in its deliberations.”
- Legal counsel representing County Council, the Board of Adjustment, and the Planning & Zoning Commission will read the above statement prior to the start of any public hearing.
- Amend the County’s Fair Housing Policy (approved December 11, 2012) to:



COUNTY ADMINISTRATIVE OFFICES WEST COMPLEX
22215 DUPONT BOULEVARD | PO BOX 589
GEORGETOWN, DELAWARE 19947

- Add the additional four protected classes covered by the Delaware Fair Housing Act.
- Add the updated public hearing rule.

Thank you.

Cc: J. Everett Moore, Jr., Esquire
James P. Sharp, Esquire
Vince Robertson, Esquire
Lawrence Lank, Planning & Zoning
Robin Griffith, Clerk of Council

FAIR HOUSING POLICY

It is the policy of Sussex County to comply with the Fair Housing Act, as amended, (~~42~~ U.S.C. §§ 3601-3619) and the Delaware Fair Housing Act (6 Del. C. Ch. 46), by ensuring that its zoning and land use decisions do not discriminate against persons based on race, color, religion, national origin, disability, familial status ~~or~~, sex, creed, marital status, age, or sexual orientation. This policy means that, among other things, the County and all its officials, agents and employees will not discriminate in any aspect of housing based on these protected characteristics, including by:

- (a) making unavailable or denying a dwelling to any person based on a protected characteristic;
- (b) discriminating against any person in the terms, conditions or privileges of a dwelling, or in the provision of services or facilities in connection therewith based on a protected characteristic;
- (c) Making, printing, or publishing, or causing to be made, printed, or published any notice, statement, or advertisement, with respect to a dwelling that indicates any preference, limitation, or discrimination based on a protected characteristic;
- (d) Representing to persons because of a protected characteristic that any dwelling is not available when such dwelling is in fact so available;
- (e) interfering with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right protected by the Fair Housing Act;
- (f) interfering with the funding, development, or construction of any affordable housing units because of a protected characteristic; and
- (g) discriminating on the basis of race or color in any aspect of the administration of its zoning, land use, or building ordinances, policies, practices, requirements, or processes relating to the use, construction, or occupancy of dwellings.

Any person who believes that any of the above policies have been violated by the County may contact:

- Sussex County's Fair Housing Compliance Officer, Brandy Nauman, at bnauman@sussexcountype.gov or (302) 855-7777.
- the U.S. Department of Housing and Urban Development at 1-888-799-2085, or
- the U.S. Department of Justice at 1-800-896-7743 or (202) 514-4713.

It is also the policy of Sussex County to ensure that conduct at public hearings regarding land use and zoning adhere to the intentions of the Fair Housing Policy as outlined above. Legal

counsel representing County Council, the Board of Adjustment, and the Planning & Zoning Commission will read the following statement prior to the start of all public hearings:

- “Sussex County, in its zoning and land use decisions, does not discriminate against persons based on race, color, religion, national origin, disability, familial status, sex, creed, marital status, age, or sexual orientation. Public comments made on the basis of bias and stereotype concerning people within these protected classes will not be taken into consideration by the County in its deliberations.”

OLD BUSINESS
April 16, 2013

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

Respectfully submitted:
COUNTY PLANNING AND ZONING
COMMISSION OF SUSSEX COUNTY

Lawrence B. Lank
Director of Planning and Zoning

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

C/U #1946 – application of **CLEAN DELAWARE, LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for land application of class “B” sanitary waste, non-sanitary food processing residuals, and potable water iron residuals, to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 259.08 acres, more or less, lying on both sides of Road 201 (McColley Road) and north of and across from Road 202 (Shockley Road) (Tax Map I.D. 3-30-3.00-7.00 and 3-30-4.00-1.00, 1.01 to 1.04, 1.08 to 1.16, 19.00 and 21.00).

The Commission found that on November 5, 2012 the Applicants provided an Exhibit Packet which includes a DNREC letter, dated January 1, 2012; a DNREC Land Application Permit #AGU 1202-5-03 (Effective January 1, 2012); a Project Development Report prepared by Atlantic Resource Management, Inc., dated January 31, 2012; a Clean Delaware, LLC letter, dated August 13, 2012; and a series of location maps.

The Commission found that on November 14, 2012 the Sussex County Engineering Department Utility Planning Division provided comments in the form of a memorandum referencing that the site is located in the North Coastal Planning Area; that conformity to the North Coastal Planning Study will be required; that the proposed use is not in an area where the County has a schedule to provide sewer service; and that a concept plan is not required.

Mr. Lank advised the Commission that letters of support of this application have been received from Allen Harim Foods, LLC, Severn Trent Services for the Board of Public Works at Lewes, the Town of Bethany Beach, Artesian Resources, Tidewater Environmental Services, Inc., the

Town of Bridgeville, J. G. Townsend Jr., and Co., Eastern Shore Poultry, Ralph & Paul Adams, Inc., the Town of Selbyville, and Dogfish Head Craft Brewery.

Mr. Lank advised the Commission that letters or emails in opposition to this application have been received from Jim and Gerry Maher, Richard Watson, Lisa Morris, Carolyn and Robert Donovan, Laura and Stan Lavend, and Jeffrey A. Chorman referencing concerns about the placement of a dump so close to existing homes and land; smells and pest; the effect on the water table; the amount of increased traffic with large garbage trucks invading the quiet farm community; the impact on the small two lane roads that have no shoulders; odors and diseases; the impact on wells; the depreciation of property values; flies and gnats; that the use is not environmentally friendly and is hazardous to public health; that procedures used by sanitary facilities are unsustainable for the planet, unhealthy for ecosystems, not to mention the risk of contamination; that facilities with specific hazardous waste disposal procedures run the risk of inadvertently contaminating the ground water; that once groundwater is contaminated it is impossible to remove hazardous substances; that research indicates that the amount of waste produced by society is on the rise, that the population of the County is still growing, and that this facility will continue to dispose more and more waste materials over time; that the Applicants should be able to find a site that is less populated and desolated to operate the facility; noise pollution; ground and drinking water pollution; run-off of these materials into the Mispillion River and marsh area; that area residents are already putting up with the odors from the Blessings facility on Draper Road; and that the Applicant's current operations facility on Isaacs Road is currently emitting strong odors.

The Commission found that Gerry Desmond was present on behalf of Clean Delaware, LLC, with James Fuqua, Attorney with Fuqua, Yori and Willard, P.A., Laf Erikson, Soil Scientist with Atlantic Resource Management, Inc., and Chris McCabe of Coastal Compliance Solutions, and that they stated in their presentation and in response to questions raised by the Commission that rather than refer to all of the individual materials proposed to be applied to the property they are going to refer to those materials as bio-solids; that the bio-solids placed on the property are subject to State DNREC regulations; that the site is mostly tilled land and includes several poultry houses; that site evaluations were performed on several locations on the site; that the evaluation studied the topographic and geological conditions of the property; that it was found that the site is suitable for the requested use; that Clean Delaware, LLC has been in business for more than 20 years; that regulations on the use are subject to both State and Federal regulations; that a permit is required from DNREC for land treatment of bio-solids; that DNREC granted approval on January 1, 2012 to utilize all Clean Delaware, LLC sites; that they currently use three other sites for the same purpose; that the other three sites are located at (1) the northeast corner of Routes 30 and 16, (2) near Ellendale, and (3) southeast of Routes 5 and 9 near Harbeson; that the same application methods are proposed for this site; that a copy of the DNREC permit is included in the Exhibit Packet; that the permit references sludge, septage and waste application limitations, other limitations, groundwater limitations, monitoring requirements, stabilized septage, wastes, sludge stabilization process monitoring, vector attraction reduction, soil monitoring, groundwater monitoring, a schedule of compliance, bonding, monitoring, reporting, definitions, management requirements, responsibilities, and special conditions; that the reason for this application is that the Applicants need additional

acreage for bio-solids disposal; that Clean Delaware, LLC is approved to accept sludge, septage, and waste from Allen's Harim Foods, LLC (Harbeson Plant), Perdue Georgetown Sludge, the Town of Bridgeville, the City of Lewes, the Town of Milton, and the Town of Selbyville; approved to accept septage from Artesian Resources community wastewater systems, B. Brittingham, Dukes Septic Services, Harry Caswell, Inc., McMullen Septic Services, Inc., Midway Services, Inc., Mobile Gardens M.H. P., Service Energy, LLC, Tidewater Utilities community wastewater systems, and Street Sanitation Services; approved to accept non-sanitary wastes from Dogfish Head Craft Brewery (brewery waste water), Eastern Shore Poultry Products (food processed grease), J.G. Townsend, Inc. (vegetable processing waste water), iron sludge from water treatment plants, Perdue Farms, Georgetown (dewatered sludge cake), RAPA Scrapple, Inc. (grease by-products), restaurant grease trap waste (containing no sanitary waste), and Roos Foods, Inc. (dairy waste); that they are providing a service to businesses, industries, municipalities, and developments in Sussex County by reuse of beneficial food bio-products; that the company currently has 20 employees; that in 1989 the company received approval from DNREC for the use of the other three sites; that they do not dump raw waste or handle hazardous waste; that prior to receiving any products, DNREC must authorize use of the products for crop growth; that the property will continue to be farmed; that they are proposing to create six sections of the property into sections for land application; that the permitted crops in the sections will be corn, wheat, and soy-beans; that buffers (greater setbacks) will be established; that monitoring will be performed; that there will be two types of applications; the application of dry products and the application of wet products; that the dry products will be applied by spreader on a section of the fields and then disked into the soils; that the wet products are subsurface injected or spray applied on the fields; that there will not be any storage of equipment on the site other than normal farm equipment; that the equipment will be stored behind the poultry houses; that there will not be any wet product storage on the site; that all of the products have already been treated prior to land application; that very little odors are generated; that they have no plans on composting any products on the site; that they are offering some suggested proposed Conditions of Approval for consideration: 1) All activities shall be as authorized by and in compliance with Clean Delaware, LLC's DNREC permit "Authorization to Operate a Land Treatment System for the Agricultural Utilization of Sludge and Waste Products" (State Permit Number AGU 1202-5-03 and Amendments thereto); 2) This Conditional Use Approval shall remain valid and in effect for as long as the aforesaid DNREC permit exists for this site and shall automatically terminate in the event the DNREC permit expires or is terminated; 3) Land Application Activities shall be limited to the hours of 8:00 a.m. to 6:00 p.m. Monday through Friday; and 4) No Land Application Material shall be stockpiled longer than seven (7) days on site; that the site is zoned AR-1 Agricultural Residential, which has a stated purpose of providing for a full range of agricultural activities and to protect agricultural lands, as one of the County's most valuable natural resources, from the depreciating effect of objectionable, hazardous and unsightly uses; that the Agricultural Districts are established to protect established agricultural operations and activities; that this type of use is authorized for Conditional Use applications; that they believe that the use complies, provides a service, and benefits many Sussex County businesses and communities; that the process is reviewed, monitored, and controlled by DNREC, making the use appropriate and essential; that the buffer zones referenced are setbacks from dwellings, wells, property lines, streams, drainage ditches, etc.; that they are submitting a copy of the DNREC buffer zone references, which reference that the following setbacks are required for

surface application: 200 feet from occupied off-site dwellings; 100 feet from occupied on-site dwellings and potable wells; 25 feet from non-potable wells and public roads; 50 feet from bedrock outcrops, streams, tidal waters, and other water bodies; 25 feet from drainage ditches; that the following setbacks are required for subsurface injection: 100 feet from occupied off-site dwellings and potable wells; 50 feet from occupied on-site dwellings; 25 feet from non-potable wells; 15 feet from public roads; and 25 feet from bedrock outcrops, streams, tidal waters, other water bodies, and drainage ditches; that the products are tested by the clients, then approved by DNREC, and then they can be applied on the farm; that there may be 2 to 6 trucks per day; that the DNREC approval for this site is on hold until the Conditional Use is approved; that the site is viable for the use; that the soils are well drained with fine textured soils; that that have established all well sites in the area; that there are no public wells in the area; that 9 hand auger borings and 10 test pits were conducted to characterize the soil properties on the project area; that DNREC requires bonding and that they are currently bonded; that Nutrient Management Plans are required by DNREC; that the poultry house on the site are in production; that the litter from the poultry houses will not be applied to this site; that a porta-toilet will be located on the site; that there will not be an office or scales located on the site; that the dry product is not a dusty product; that the dry product will be stored in a manure storage type structure or on a concrete pad; that a portion of the farm is irrigated, and that they will not be adding any irrigation; that all setback buffers will be complied with; and that there will be no hauling of dump materials, only approved bio-products.

The Commission found that Brian Churchill, Environmental Scientist with DNREC, stated that he is in charge of the Bio-Solids Program for DNREC; that the Applicant has detailed and described the process; that DNREC supports the benefit of the use as an agricultural application; that the Town of Georgetown, the City of Rehoboth Beach, and Pinnacle Foods also apply bio-solids; that this operation is different from the Blessing composting operation near Primehook Road; and that the use is essential to the County.

The Commission found that there were no area residents present in support of this application.

The Commission found that David Hitchens, State Representative Harvey Kenton, Glenn Watson, Jr., Mary Sue Sharp, David Grant, Neil Shockley, Neil Moore, George Jester, Robert Donovan, Jim Hammond, Charles Moore, Alan Mills, Phillip Bradley, Jason Donovan, Norman Wilfong, Lloyd Webb, Bill Hopkins, Bill Pfaffenhauser, Tracy Ingram, and Wayne Hurd were present and spoke in opposition to this application expressing concerns that the location was not an appropriate location due to the close proximity to the Mispillion River and Flood Plain; that the site is only 0.5 mile from the city limits of the City of Milford and two (2) miles from up-town Milford; that the site is the wrong location for all the right reasons; that the river and wetlands need to be protected; that sludge has heavy metals; that the eco-system along the river needs to be preserved; that several acres of the site flood on occasion; that residents have expressed concerns about additional truck and equipment traffic, noise, odors, well problems, run-off into the river and/or across property lines, depreciation of property values, and insect infestation; that area residents are concerned that zinc, iron, and other chemicals may neutralize adjoining farms resulting in low crop yields; that the use could impact tourism in the area and along the river; questioning if the bio-products will be applied on the same day that they are

brought onto the site or within seven (7) days; that school buses travel these public roads two or three times per day; that the roads are very narrow with no shoulders; that DNREC promotes tourism and should be separating tourism from sludge application sites; that the bonding requirement is not adequate to protect the area residents if they should lose the potable wells by intrusion of bio-products; that groundwater contamination, lower crop yields, and the impact on wildlife habitat should be a concern; that there is no benefit to area residents by approval of this use; questioning why the property owner did not want his home farm location included in the application; that the supporters are mid-sized and large businesses and industries, not area residents; questioning the integrity of the providers of the bio-products; that the run-off from the site could impact vegetable growers and crops on adjacent farms; questioning if scrubbers will be required to clean the tires on the trucks and equipment entering at the dirt entrance from dragging mud and bio-products onto the public roads; that there have been issues with run-off impacting the roads in the area; that some of the owners are concerned about impacts on their shallow wells; that all four of the families that surround the site are opposed to the application; that this is a daily use, not a seasonal use like most farm tilling operations; that the public road at this location is not wide enough for two passing vehicles, much less large trucks and school buses; that erosion is a concern; that the use could impact poultry operations in the area; that the water table is rising and this use could impact all wells; that the County needs to be good stewards of the land and should protect this area; questioning if area residents will be notified if any problems occur by DNREC; questioning who monitors the test wells, how often they are monitored, and the creditability of the examiner; questioning if test results are made public; questioning if buffers are vegetated; that untreated litter from the poultry houses could be picked up and carried into the fields; that the price of well water is more expensive than gasoline; and that the fields are sandy and will be impacted by the bio-solid products, causing more run-off, not percolation.

The Commission found that the Applicant or his representatives responded to questions raised by the Commission and stated that there are some areas of the site that are within flood zone boundaries; that they will be applying bio-products in different sections of the site, not in the same section all of the time; that they will be applying bio-products five (5) days per week, when weather permits, in one section or another; that on this site they anticipate approximately 35% of the application to be on this site in any given year; that disking is not performed in one location continuously, it is performed on multiple locations; that portions of the site are listed as areas to avoid due to flooding or high water tables; that typically the application area is tilled the same day as the bio-products is spread; that they will be utilizing the best soils to eliminate erosion and run-off; that pathogens die in unsaturated soils; that some of the buffers may contain bio-swales and filter strips to prevent run-off to adjacent crop lands; that they have test wells on one of their farms and observation wells on other farms; that they will be converting to monitoring wells; that the fly activity on the Milton farm is due to a dumpster in use, not the application of bio-products; that they have a budget item for fly prevention; that the Ellendale farm has always been monitored and tested, and that no substantial change has been established; that buffers will be grassed and not tilled; and that the monitoring well testing is performed by independent laboratories.

The Commission found that Mr. Churchill added that he needs to review the regulations more closely; that a hydrologist will be assigned to the project; that DNREC will be required to notify neighbors; that buffer requirements can be increased; and that more specific buffer requirements can be included in the permit.

The Commission found that Mr. Fuqua stated that the Applicant can provide copies of testing reports to the neighbors.

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

On November 15, 2012 there was a motion by Mr. Burton, seconded by Mr. Smith, and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

On December 6, 2012 the Commission discussed this application under Old Business and again deferred action for further consideration. Motion carried 5 – 0.

On January 10, 2013 the Commission discussed this application under Old Business.

Mr. Burton asked for an open discussion on this application.

Mr. Johnson stated that he was not present during the public hearing, but has had the opportunity to review the record and the file; noted that as the County grows, how do we disperse materials; that the State DNREC controls and supervises the process; and that proper safeguards and protection is a necessity of life.

Mr. Smith questioned if the site and use is appropriate at this location; acknowledged that the use may be essential; that the site location causes concerns; that he had participated in previous applications for similar use at other locations; that he is concerned about the amount of bonding necessary to protect the site and the neighboring properties; that DNREC does oversee this type of project; and expressed concerns about where the materials are being hauled from.

Mr. Ross stated that there is a need for this type of site; that the Commission has to make a decision based on land use; that the environmental issues are addressed by DNREC; that even if we approve the use, DNREC may not; that DNREC has specific criteria that the applicant must follow; and again the question relates to land use.

Mr. Burton stated that he feels that a need exists for a site that can accommodate this type of use; that Clean Delaware, LLC has a good record; that he is concerned about the site location due to the close proximity to neighbors and the Mispillion River; and that he is prepared to make a motion.

Mr. Burton stated that he would move that the Commission recommend denial of Conditional Use No. 1946 for Clean Delaware, LLC for land application of Class “B” sanitary waste, non-sanitary food processing residuals, and potable water iron residuals based upon the record made at the public hearing and for the following reasons:

- 1) It is evident from the record that the applicant chose this site because it was available, and not because it is the most suitable site for this type of operation.
- 2) There were many concerns raised during the public hearing about the impact of this proposed use on the Mispillion River, which is an important environmental and ecological resource for Kent and Sussex Counties. I am not satisfied that the applicant has adequately addressed these concerns, and there are other agricultural areas within Sussex County which do not have such environmental and ecological concerns where this type of use would be more appropriate.
- 3) I am not satisfied that the topography of this site lends itself to the application of sludge materials. As described in the Applicant's Project Development Report, the topography of the site is moderately sloping towards the Mispillion River, and surface and groundwater drainage is generally directed toward the River. The applicant has not adequately addressed these factors that are unique to this site, especially when there are other lands in the County that do not have such limiting factors.
- 4) In addition to the topography and proximity to the River, the applicant has also stated that there are some areas of the site that are within flood zone boundaries and that areas of the site are listed as areas to avoid due to flooding or high water tables. I am not satisfied that a site with these characteristics is appropriate for the application of sludge, and there are certainly other locations where flooding, flood zones and high water tables do not exist which would be more appropriate for sludge application.
- 5) Several adjacent landowners and farmers testified in opposition to the project stating concerns about the effect of the use on crops that grow for human consumption. While crops for human consumption cannot be grown on this land while sludge operations are ongoing, I am not satisfied that the applicant has adequately addressed how to protect adjacent farmers from adverse effects of the use on their own crops.
- 6) Although DNREC regulates this site, I am not satisfied that there are adequate measures in place to protect neighboring properties or the Mispillion River. For example, the record referenced that while DNREC requires a bond as part of the Permit, it is only in the amount of \$45,000 which is not nearly sufficient to address any environmental concerns that may develop or the loss of potable wells on adjacent properties due to the use.
- 7) In summary, while this type of use may be necessary in Sussex County, this is not the most appropriate site for it. Other more appropriate sites would include those that are flatter without drainage, flooding or runoff concerns; sites that are not adjacent to the primary environmental feature such as the Mispillion River; sites that are part of a larger tract of land under common ownership to insulate the use from properties of other ownership; sites that are not surrounded on at least one side by residential lots; or sites that do not contain other limiting factors like those that exist on this site.

Motion by Mr. Burton, seconded by Mr. Smith, and carried 2 – 3 to deny this application for the reasons stated. Mr. Johnson, Mr. Ross, and Mr. Wheatley opposed the motion. The motion was rejected.

Vote by roll call on the motion to deny this application: Mr. Burton – yea, Mr. Johnson – nay, Mr. Smith – yea, Mr. Ross – nay, and Mr. Wheatley – nay.

Mr. Ross stated that he would move that the Commission recommend approval of Conditional Use No. 1946 for Clean Delaware, LLC for land application of Class “B” sanitary waste, non-sanitary food processing residuals, and potable water iron residuals based upon the record made at the public hearing and for the following reasons:

- 1) This is a farm that has been in agricultural production for many years, and it will continue to be in agricultural production as part of this use. The application of materials by the applicant is not unlike the application of soil additives and fertilizer materials that occur in ordinary farming operations, and it will be monitored to the same or greater extent than regular farming operations.
- 2) The proposed use is consistent with the underlying AR-1 agricultural zoning of the property, and it is essentially a fertilizer that will supplement the farmer’s own fertilizing plan,
- 3) The application is subject to the DNREC application, permitting and monitoring process under Clean Delaware, LLC’s DNREC permit “Authorization to Operate a Land Treatment System for the Agricultural Utilization of Sludge and Waste Products” (State Permit Number 1202-5-03 as amended).
- 4) The use serves a public purpose by serving many municipalities, public utilities and businesses, as confirmed by letters supporting the proposed use contained in the record.
- 5) As stated by the applicant, all of the materials are tested at the source before acceptance and delivery to the applicant for disposal on the subject property.
- 6) This site is one of several utilized by the applicant for land application of sludge materials, and this property will be part of the rotation of these properties. As stated by the applicant, there will not be regular ongoing applications of materials on this site. Instead, the application of materials will alternate with other existing sites operated by the applicant.
- 7) While there were concerns expressed by neighbors and others about the proposed use, DNREC has the ultimate control and jurisdiction over the process and the application of the materials on the site. DNREC will also monitor ongoing operations on the site through inspections and monitoring wells. In addition, this recommendation includes several conditions to address many of the concerns raised during the public hearing.
- 8) This recommendation is subject to the following conditions:
 - A. All activity shall be as authorized by and in compliance with Clean Delaware, LLC’s DNREC permit “Authorization to Operate a Land Treatment System for the Agricultural Utilization of Sludge and Waste Products” (State Permit No. AGU 1202-5-03 as amended).
 - B. This approval shall automatically terminate in the event the DNREC Permit referenced in Condition “A” expires, terminates, or is found in non-compliance.
 - C. Land Application activities shall be limited to the hours of 8:00 a.m. to 6:00 p.m. Monday through Friday.
 - D. No Land Application materials shall be stockpiled longer than 7 days on the site.
 - E. The sources of materials shall be limited to those identified in DNREC’s letter to the applicant dated January 1, 2012. Those sources shall be identified on a revised Preliminary Site Plan and the Final Site Plan for the project.

- F. Buffer areas for surface application shall include the following as required by DNREC, and those buffer areas shall be shown on the Final Site Plan:
 - a. 200 feet from occupied off-site dwellings of which 50 feet will be vegetated.
 - b. 100 feet from occupied on-site dwellings and potable wells.
 - c. 25 feet from non-potable wells and public roads.
 - d. 50 feet from bedrock outcrops, streams, tidal waters, and other water bodies.
 - e. 25 feet from drainage ditches.
 - f. The vegetated buffer requirement referenced in “a” above are overlaid by the Sussex County Planning and Zoning Commission on the DNREC buffer requirement.
- G. Buffer areas for subsurface injection shall include the following as required by DNREC, and those buffer areas shall be shown on the Final Site Plan:
 - a. 100 feet from occupied off-site dwellings of which 50 feet will be vegetated.
 - b. 50 feet from occupied on-site dwellings and potable wells.
 - c. 25 feet from non-potable wells.
 - d. 15 feet from public roads.
 - e. 25 feet from bedrock outcrops, streams, tidal waters, other water bodies and drainage ditches.
 - f. The vegetated buffer requirement referenced in “a” above are overlaid by the Sussex County Planning and Zoning Commission on the DNREC buffer requirement.
- H. The Final Site Plan shall show all avoidance areas due to flooding or high water tables.
- I. In addition to the buffers required above by DNREC, there shall be a buffer of at least 100 feet between any lands where materials are applied and any adjacent lands used for agricultural production. As proposed by the applicant, this buffer area shall contain bio-swales or filter strips to prevent run-off onto adjacent crop lands. This buffer area and the bio-swales or filter strips shall be shown on the revised Preliminary Site Plan and Final Site Plan.
- J. All entrances and roadway improvements shall be constructed in accordance with DelDOT requirements.
- K. All entrances shall be improved and stabilized with pavement, crusher run or similar materials to decrease dust or other materials on county roadways.
- L. The location for the temporary stockpile of materials shall be shown on the site plan. It shall be located on the site to minimize any impacts on residences, neighboring properties, and the Mispillion River.
- M. Because the Mispillion River has an important environmental, ecological and eco-tourism role in Sussex County, there shall be a planted vegetated buffer between the area used for land application and the River to screen the use from the River. This vegetated buffer can coincide with the separation buffers required by DNREC.
- N. There shall be means and methods in place to eliminate pest and insect infestation that may result from this use.
- O. The applicant shall submit a revised Preliminary Site Plan to the Office of Planning and Zoning incorporating or listing these conditions on it.

- P. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Ross, seconded by Mr. Johnson, and carried 3 – 2 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 3 – 2, with Mr. Burton and Mr. Smith opposing the motion.

Vote by roll call on the motion to approve the application: Mr. Burton – nay, Mr. Johnson – yea, Mr. Smith – nay, Mr. Ross – yea, and Mr. Wheatley – yea.

C/U #1950 – application of **ERLIN I. RIVERA** to consider the Conditional Use of land in an AR-1 Agricultural Residential District and a GR General Residential District for parking commercial tractor trailers, to be located on a certain parcel of land lying and being in Nanticoke Hundred, Sussex County, containing 9.59 acres, more or less, lying west of Road 516 (Concord Pond Road) 600 feet south of Road 525 (King Road)(Tax Map I.D. 2-31-12.00-152.00).

The Commission found that the Applicant had submitted a survey and site plan with his application; that the survey depicted an area to be set aside for a parking area; and a reduced boundary for the limits of the Conditional Use, 1.40 acres.

Mr. Lank advised the Commission that this application was received after the Applicant was given notice that the use was in violation of the Zoning Code; that a letter was sent to the Applicant on December 14, 2011; and that notices of violation were sent on January 20, 2012 and on September 10, 2012.

The Commission found that on February 8, 2012 DelDOT provided comments that a traffic impact study was not recommended and that the current Level of Service “C” for Concord Road will not change as a result of this application. On February 16, 2012 DelDOT provided additional comments in the form of a letter which referenced that the Department has since spoken with the Applicant and were advised that the Applicant may want to have more than ten trucks per day to and from the site; that a traffic impact study would be warranted if more than 400 vehicles trips are generated per day (200 entering and 200 exiting or 50 trips per hour); that their expectation is that both the maximum number of trucks that the Applicant may want to park on the site and the maximum number of trucks that the County might find appropriate to this rural area are far lower than the DelDOT warrants; and that if the County finds that the proposed use to be otherwise acceptable, and can reach agreement with the Applicant on maximum numbers of truck trips per day and per hour that does not exceed DelDOT warrants, then the Department recommends that the County include those limits in their approval and proceed without a traffic impact study.

The Commission found that the Department had received an email voicing opposition to this application from Clementine L. Allen-Frazier voicing strong opposition to the application and referencing that this area is mainly a residential neighborhood and the noise of the tractors running all night disturbs the ability to sleep for those who reside here and need to go to work

after a sleepless night; that even though the area is considered Agricultural Residential there is no disturbance during sleeping hours from the agricultural tasks; and that refrigerated trucks are loud and disturbing.

The Commission found that Erlin I. Rivera was present with Doug Williams, Surveyor with George William Stephens, Jr. and Associates, Inc. and that they stated in their presentations and in response to questions raised by the Commission that the site is intended for the parking and storage of trucks and trailers; that no refrigerated trailers are stored running on the site; that the applicant contracts for Allen Foods and other poultry operations; that they anticipate 10 to 12 trips per day; that the applicant currently has 6 trucks and trailers, and that the total number of trucks and trailers will not exceed 10 each; that the business operates seven (7) days per week; that no dumpster is needed on the site; that there is no need for septic or a porta-toilet; that there is no dwelling on the site; that no security is provided; that no signage is intended; that they deliver goods throughout the Mid-Atlantic region; that there will not be any scrap tires stored on the site; that they plan on keeping the site free of debris and dilapidated vehicles; that the trucks are not serviced on the site, they are currently service off-site; that the trucks are cleaned at plant sites; that the use will be limited to a 1.4 acre portion of the 9.59 acre site; that Apple Orchard Lane serves another property and this site; that the maximum number of drivers will not exceed 10 drivers; and that Mr. Williams confirmed that he is a licensed surveyor in Delaware and several other states and that he is the manager of the Georgetown office for the firm.

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

The Commission found that Edward Winder, an adjacent property owner, was present in opposition to this application and expressed concerns on behalf of his tenant that the tenant is complaining about noise, trucks running at all hours, doors slamming, music blaring, and that the tenant cannot sleep due to the noise.

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

On January 10, 2013 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 January 24, 2013 the Commission discussed this application under Old Business.

Mr. Smith stated that the Applicant is operating a business which serves the agricultural industry, and that there was one party present in opposition expressing concerns about noise.

Mr. Johnson stated that he would request additional time for further consideration of this application.

Mr. Burton and Mr. Ross agreed.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

On February 14, 2013 the Commission discussed this application under Old Business.

Mr. Ross stated that he would move that the Commission recommend approval of C/U #1950 for Erlin I. Rivera for a Conditional Use for parking commercial tractor trailers based upon the record made at the public hearing and for the following reasons:

- 1) The Conditional Use is set on a parcel of land containing 1.40 acres of a 9.59 acre tract owned by the Applicant.
- 2) The Applicant has stated that his tractor trailer company provides a service to the Sussex County Agricultural Industry and this site is centrally located for this purpose and the Applicant's customers.
- 3) The Applicant has stated that the site is intended for parking only and there will not be any truck or trailer maintenance or repairs on site.
- 4) The use promotes the orderly growth and economic development of Sussex County.
- 5) The use, with the conditions and stipulations placed upon it will not have any adverse impact on neighboring properties, roadways or traffic.
- 6) This recommendation is subject to the following conditions:
 - A. There shall be no more than 10 trucks and/or trailers on the site at any one time.
 - B. All trucks and trailers on the site must be operable and have valid registrations.
 - C. No service, repairs or other types of maintenance shall occur on the site.
 - D. The parking areas and spaces shall be clearly designated on the Final Site Plan. The parking areas shall also be clearly marked on the actual site.
 - E. There shall be a 100 foot setback from the entire perimeter boundary of the Conditional Use. No parking of trucks or trailers shall be allowed in this setback area. The setback area shall be shown on the Final Site Plan and also clearly marked on the Site with post and rail fencing or a similar barrier. If this setback area eliminates the Applicant's ability to reasonably park the trucks and trailers, the Applicant may apply for an expansion of the Conditional Use onto the remaining property owned by him. If such an application is required, but only in the event that it is necessary due to this setback requirement, it should be considered on an expedited basis without an additional application fee. Any such expansion shall only include the minimal area needed to comply with this setback requirement.
 - F. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - 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.

C/Z #1724 – application of **CENTRAL STORAGE @ HARBESON, LLC** to amend the Comprehensive Zoning Map from AR-1 Agricultural Residential District to a CR-1 Commercial Residential District, to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 8.05 acres, more or less, lying north of Route 9 (Lewes Georgetown Highway) 500 feet west of Route 5 (Harbeson Road) and 700 feet east of Road 254 (Prettyman Road)(Tax Map I.D. 2-35-30.00-8.02).

The Commission found that on December 27, 2012 the Applicants provided an Exhibit Booklet which included a copy of the application form; a copy of the Deed to the property; a copy of the Beers Atlas map of Broadkill Hundred; a copy of a page from the Zoning Ordinance referencing permitted uses in the CR-1 Commercial Residential District; a map of the Harbeson area depicting zoning classifications; a copy of the PLUS comments and responses; a reference to the Principals of Central Storage @ Harbeson, LLC; a site plan; support letters from Compass Point Associates and Community Bank; and proposed suggested Findings of Fact for this application.

The Commission found that on July 23, 2012 DelDOT provided comments referencing that the Department had originally recommended that a traffic impact study be performed; that the basis for that requirement was due to the potential increase in trip generation as a result of rezoning the 8.05 acre parcel to Commercial Residential; that the Department has had further discussions with the Applicant and has learned that the Applicant wishes to only develop a portion of the site for 60,000 square feet of mini-storage space, which would generate 142 vehicle trips per day and 15 vehicle trips during the p.m. peak hour; that the Department would not require a traffic impact study be performed if the applicant is willing to place a deed restriction on the property, such that a traffic impact study would be required if the proposed development would cause the property's total trip generation to exceed 400 vehicle trips per day and/or 50 trips during any hour of the day; that an amendment or removal of the deed restriction would have to require DelDOT's concurrence; and that absent these conditions, DelDOT would recommend that the County require a traffic impact study to be performed for this application.

The Commission found that on January 4, 2013 the County Engineering Department Utility Planning Division provided comments referencing that the site is located in the North Coastal Planning Area; that wastewater capacity is not available; that the project is not capable of being annexed into a County operated Sanitary Sewer District; that conformity to the North Coastal Planning Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer service; and that a concept plan is not required.

The Commission found that the Department received three letters in opposition to this application. The letters, from Alva and Jeanette Wagner, John and Carol Kane, and Jacqueline Conklin, expressed concerns about the zoning changing; that they realize that once rezoned anything permitted in the commercial zoning would be permitted on this site; that they are concerned about the depreciation of property values; that the number of units have increased over the previous Conditional Use site plan; that one of the road locations should be moved from the perimeter to the interior between buildings; that lighting should be installed between units making lighting less offensive to neighbors; that the original Conditional Use did not permit outside storage of boats and RVs; that storage of boats and RVs is still a concern; that they

would like to request that a landscaping plan be required, including tall fencing, to screen the adjacent residential property from the view of the mini-storage facility, which would be a safety feature benefitted by the owners and the neighbors; that the natural habitat area is beautiful and that they hope it can be preserved; that they hate to see trees removed; that the site is in an area with major traffic issues and it is anticipated that there will be more traffic issues; that DelDOT needs to do a major traffic study at this location before any action is taken on this application; and that landscape buffering should be included on the final site plan.

The Commission found that Mark Schaeffer of Central Storage @ Harbeson, LLC, and as a Licensed Real Estate Broker, was present with Eugene Bayard, Attorney of Morris, James, Wilson, Halbrook and Bayard, P.A., and that they stated in their presentation and in response to questions raised by the Commission that Mr. Schaeffer has been involved with three (3) other storage projects, one in Dover, one in Long Neck, and one in Milford; that the site will be improved by removal of some dilapidated old buildings; that no wetlands will be disturbed; that they anticipate 15 vehicle trips per day, considered to be a good day in storage facilities for vehicle trips; that three (3) homes exist across Beaverdam Branch; that the Sussex County Comprehensive Plan supports the rezoning; that the rezoning will enhance property values; that there are no stormwater issues; that a need exist for more storage units; that they are proposing to build approximately 60,000 square feet of storage space; that the number of vehicle trips anticipated will not negatively impact traffic; that DelDOT will require deletion of one of the existing entrances; that they are in agreement with DelDOT for a restrictive covenant limiting trips per day; that the project will be served will private well and septic; that eight (8) foot tall fencing will be provided and will include security gates and security cameras; that landscaping will be provided; that the project will require minimal lighting; that there will not be any pole lighting; that they are planning on having a resident manager on the site; that they had previously planted magnolia trees along the westerly boundaries; that the majority of the existing trees will be left undisturbed; that the original Conditional Use project was not developed due to the economic crash; that they cannot obtain funding for a Conditional Use project; that funds can be obtained for a commercially zoned property; that the zoning requested is the appropriate zoning for the use, and the trend of development taking place in the area; that the project will be built in phases, as needed; that approximately one-half of the project will be climate controlled; that according to the State Strategies the site is located in a Level 1 and Level 2 area; and that DelDOT creates warrants of control on uses and any change of use will require further review by DelDOT.

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 January 10, 2013 there was a motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

On January 24, 2013 the Commission discussed this application under Old Business.

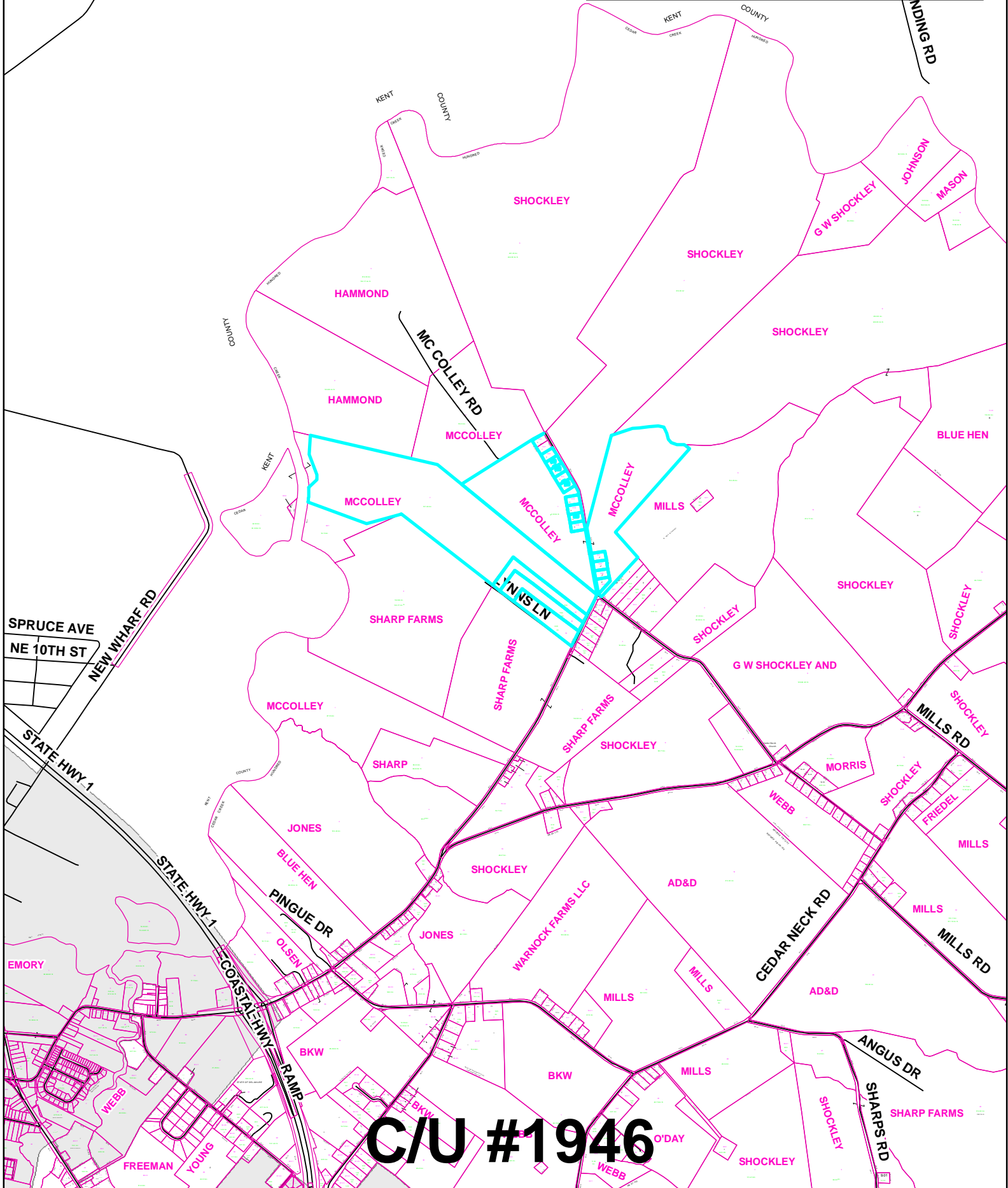
Mr. Johnson stated that he would move that the Commission recommend approval of C/Z #1724 for Central Storage @ Harbeson, LLC from AR-1 to CR-1 based upon the record made at the public hearing and for the following reasons:

- 1) The site currently has a Conditional Use approval as a central storage facility. The CR-1 zoning will be consistent with this existing business use.
- 2) The property is in the immediate vicinity of the Route 9 and Route 5 intersection where a variety of small commercial enterprises already exist. This rezoning is consistent with the uses and trends in this area.
- 3) The rezoning is consistent with the guidelines in the current Sussex County Comprehensive Land Use Plan which permits retail and service uses in this area along Route 9.
- 4) The rezoning will not have an adverse impact on neighboring or adjacent properties or the community. There is also no indication that it will have an adverse impact on traffic.
- 5) The proposed rezoning promotes the orderly growth, convenience, prosperity, order and welfare of the present and future inhabitants of Sussex County.
- 6) Any proposed use on the site, including use as a mini-storage facility, would require site plan approval by the Sussex County Planning and Zoning Commission. Since the Applicant relied heavily on the proposed use as a mini-storage facility during its presentation, the Applicant should expect that the conditions imposed on that Conditional Use for the site would transfer to the site plan for such a use under this rezoning.

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

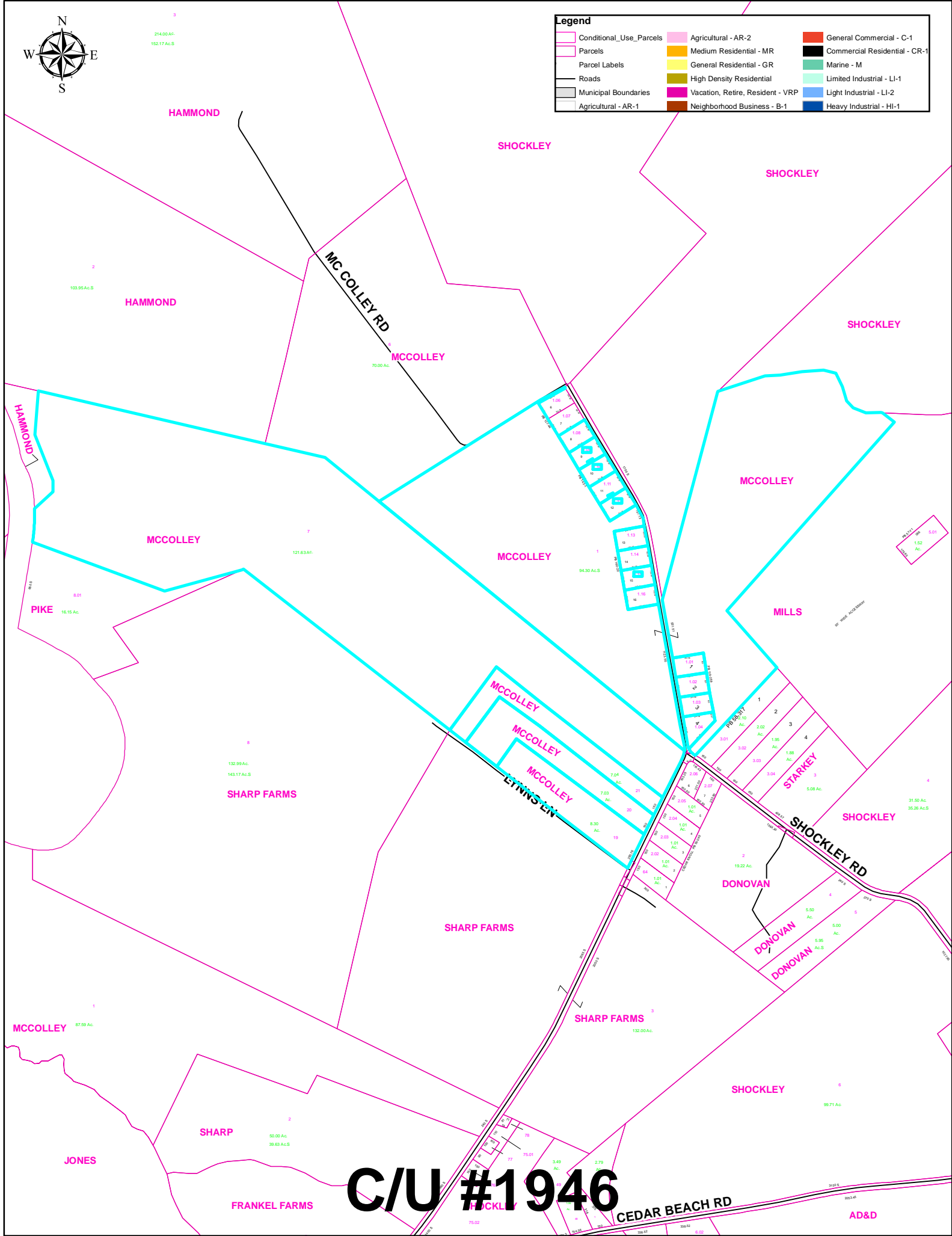


Legend		
Conditional_Use_Parcels	Agricultural - AR-2	General Commercial - C-1
Parcels	Medium Residential - MR	Commercial Residential - CR-1
Parcel Labels	General Residential - GR	Marine - M
Roads	High Density Residential	Limited Industrial - LI-1
Municipal Boundaries	Vacation, Retire, Resident - VRP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



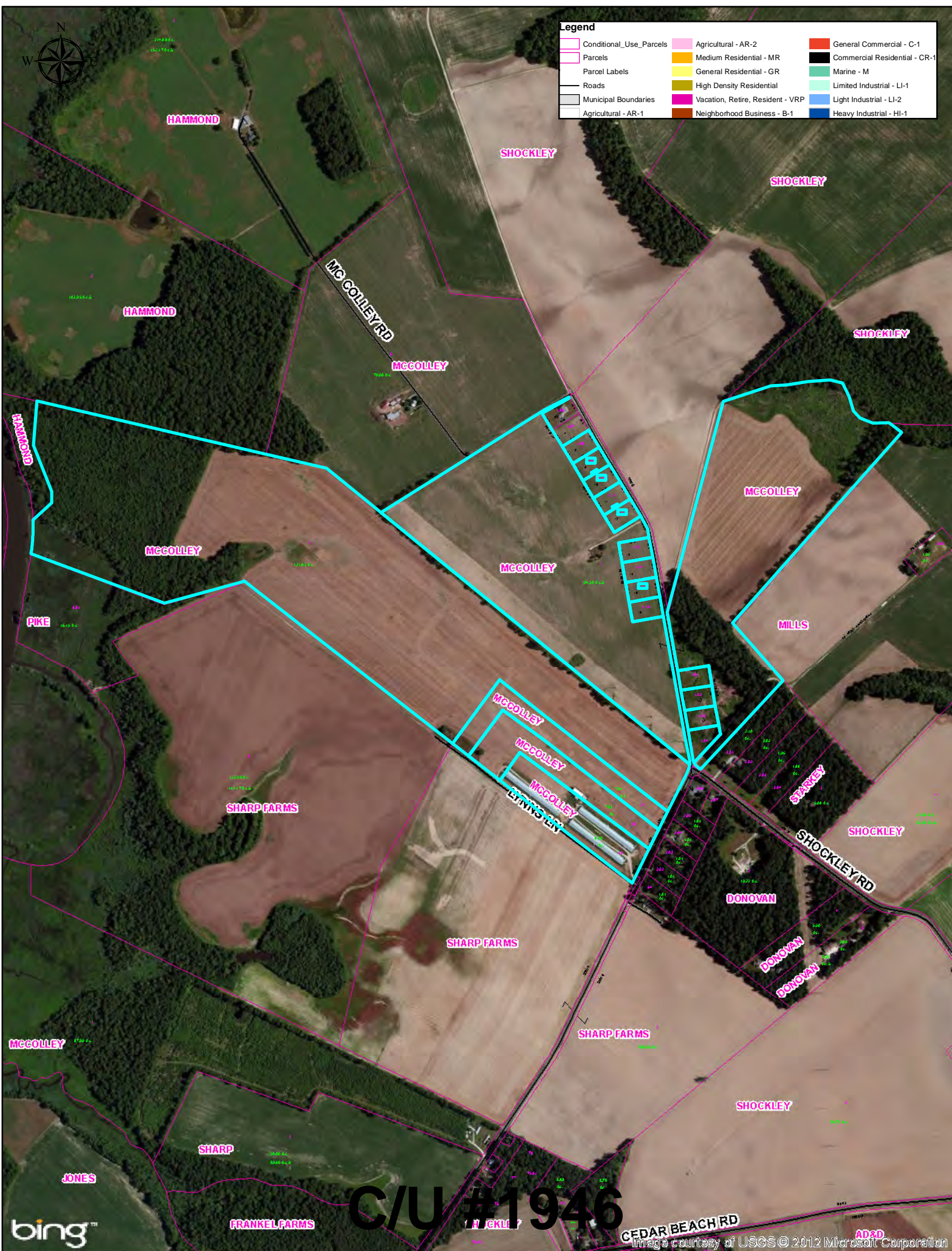


Legend		
Conditional_Use_Parcel	Agricultural - AR-2	General Commercial - C-1
Parcels	Medium Residential - MR	Commercial Residential - CR-1
Parcel Labels	General Residential - GR	Marine - M
Roads	High Density Residential	Limited Industrial - LI-1
Municipal Boundaries	Vacation, Retire, Resident - VRP	Light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

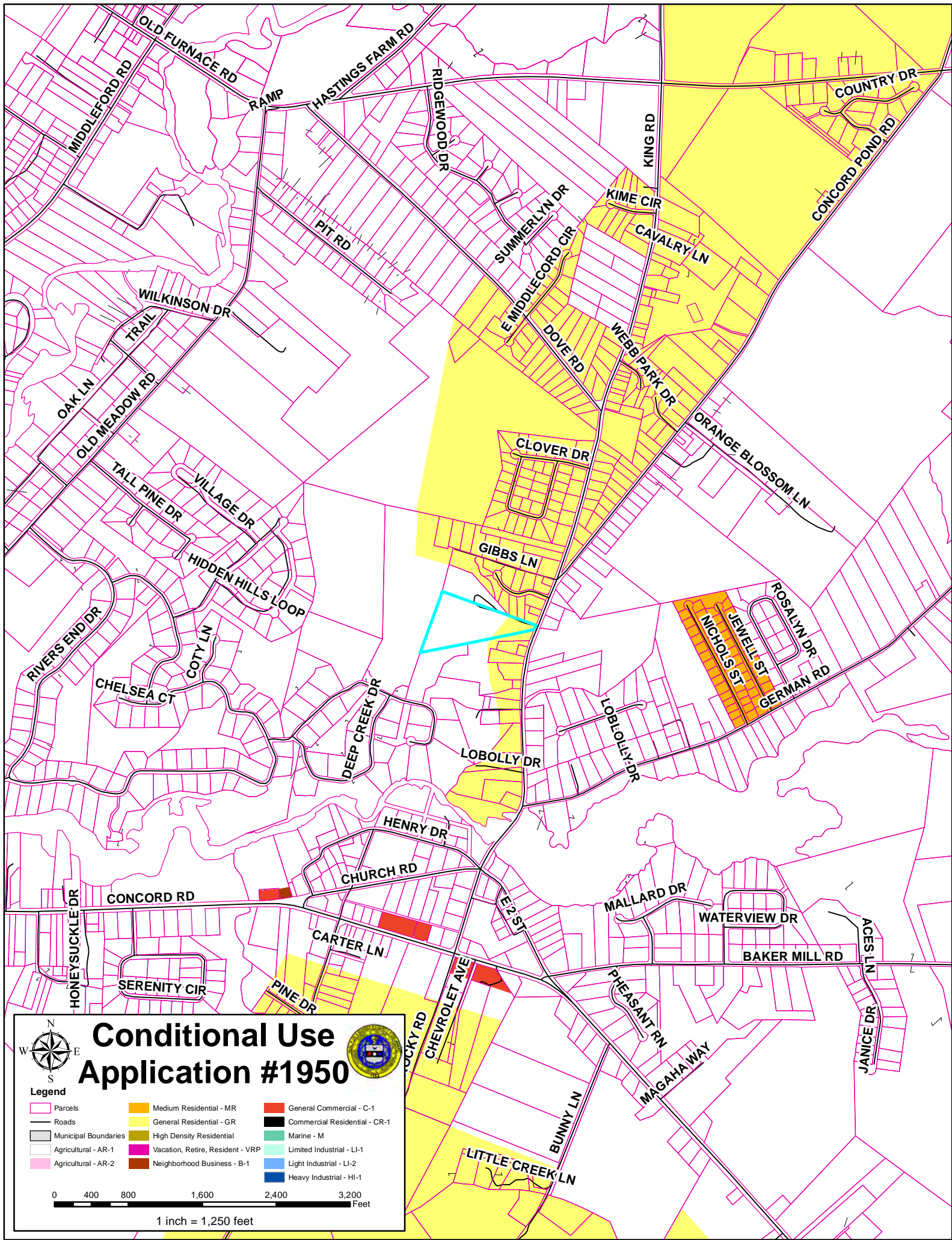


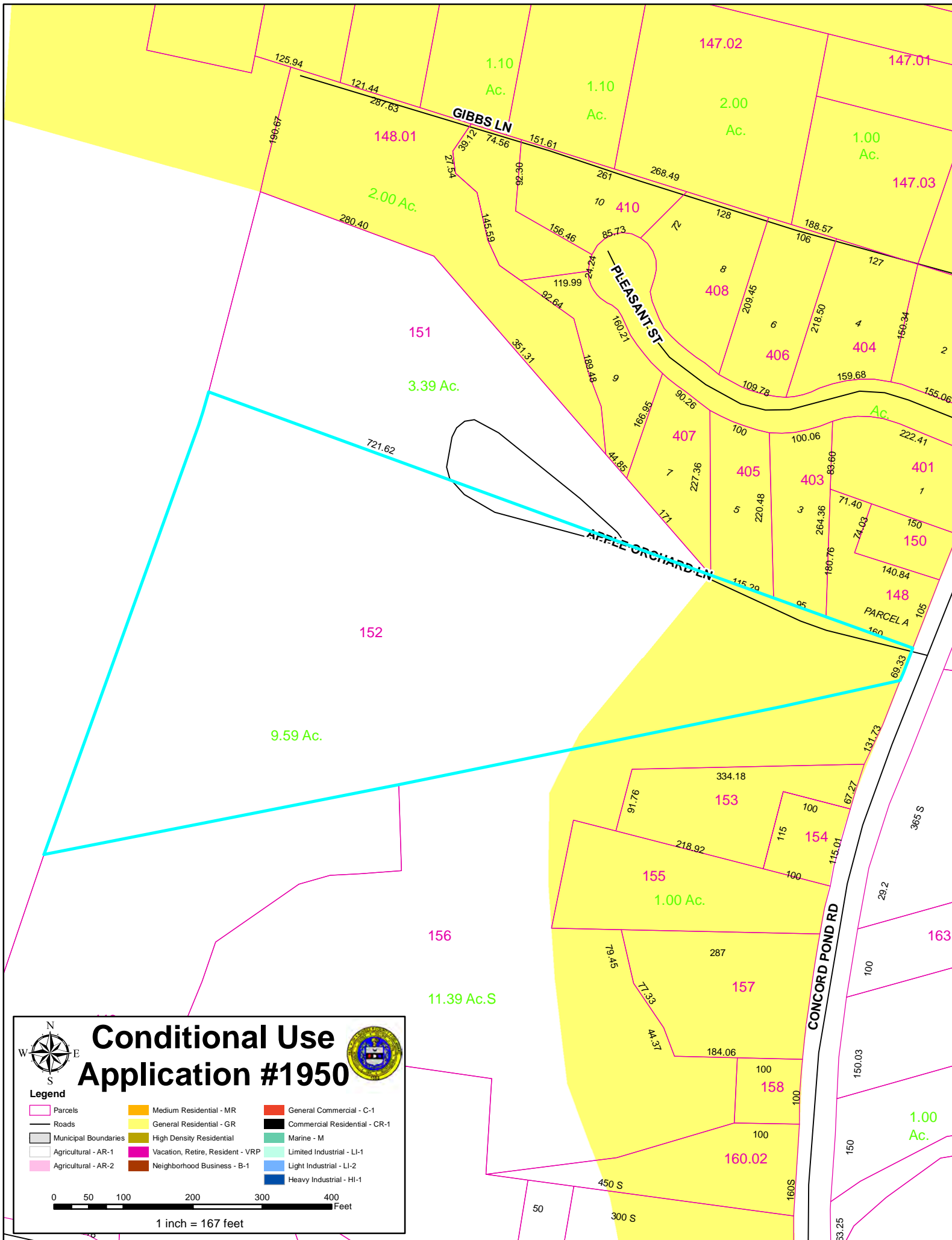


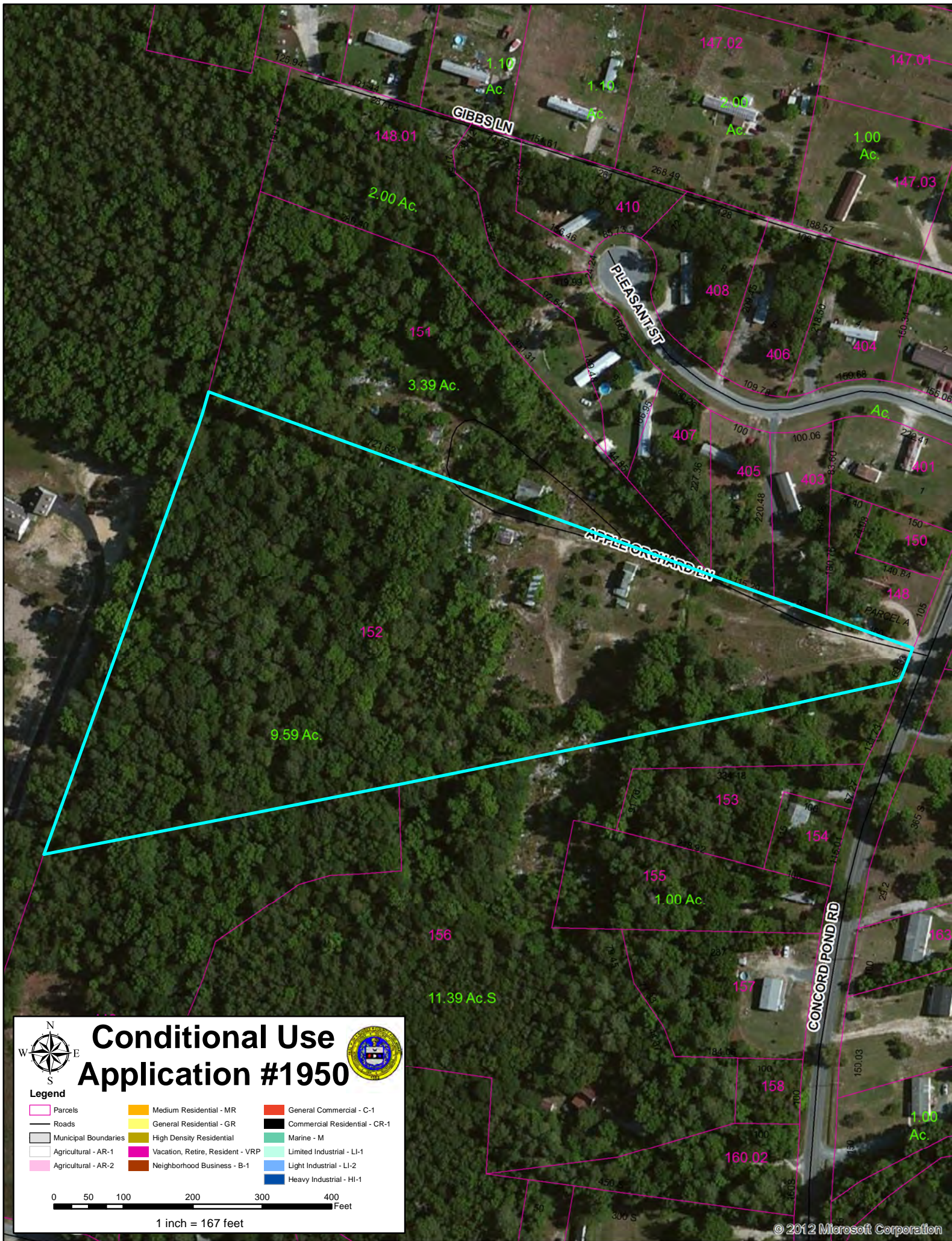
Legend		
Conditional_Use_Parcel	Agricultural - AR-2	General Commercial - C-1
Parcels	Medium Residential - MR	Commercial Residential - CR-1
Parcel Labels	General Residential - GR	Marine - M
Roads	High Density Residential	Limited Industrial - LI-1
Municipal Boundaries	Vacation, Retire, Resident - VRP	Light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

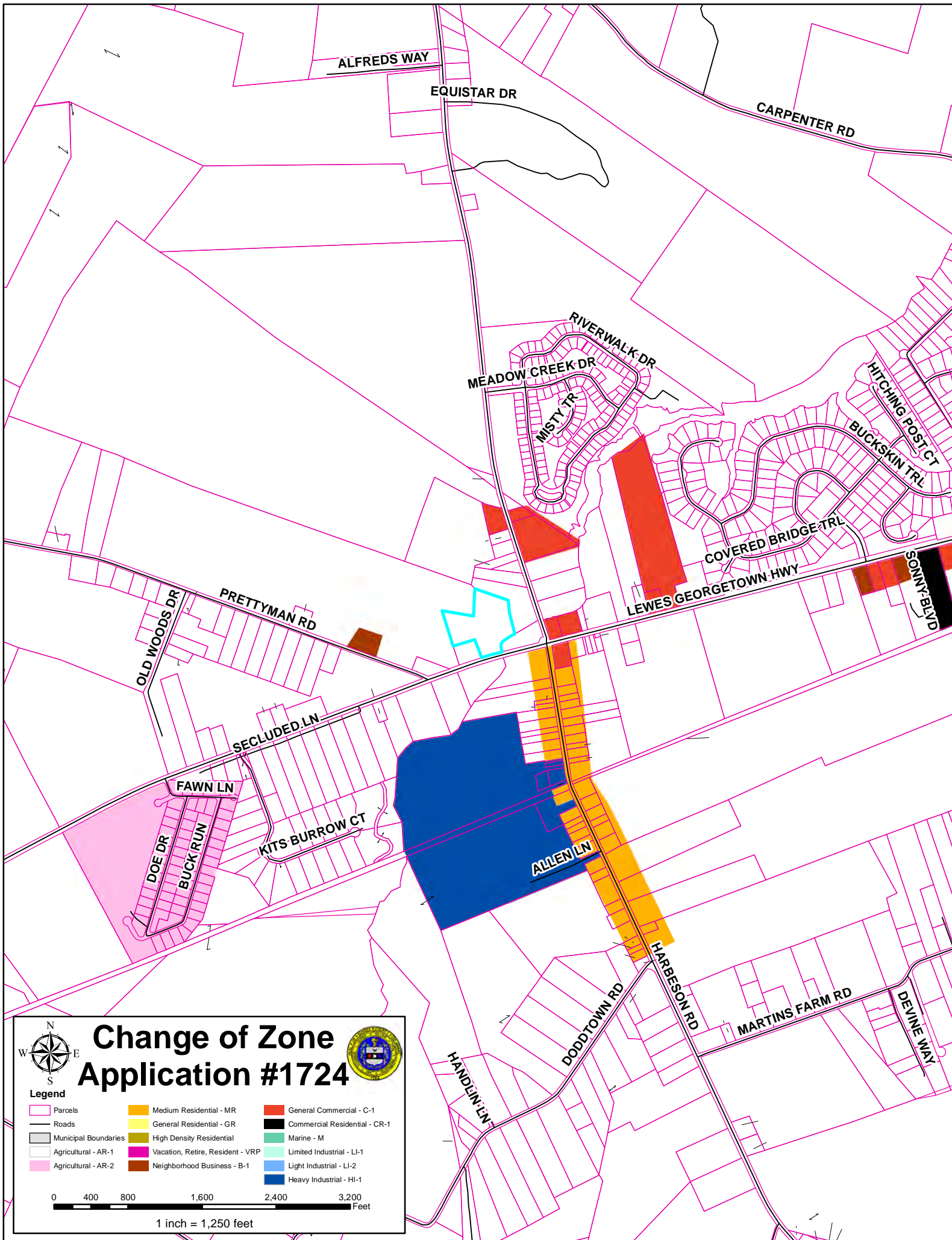


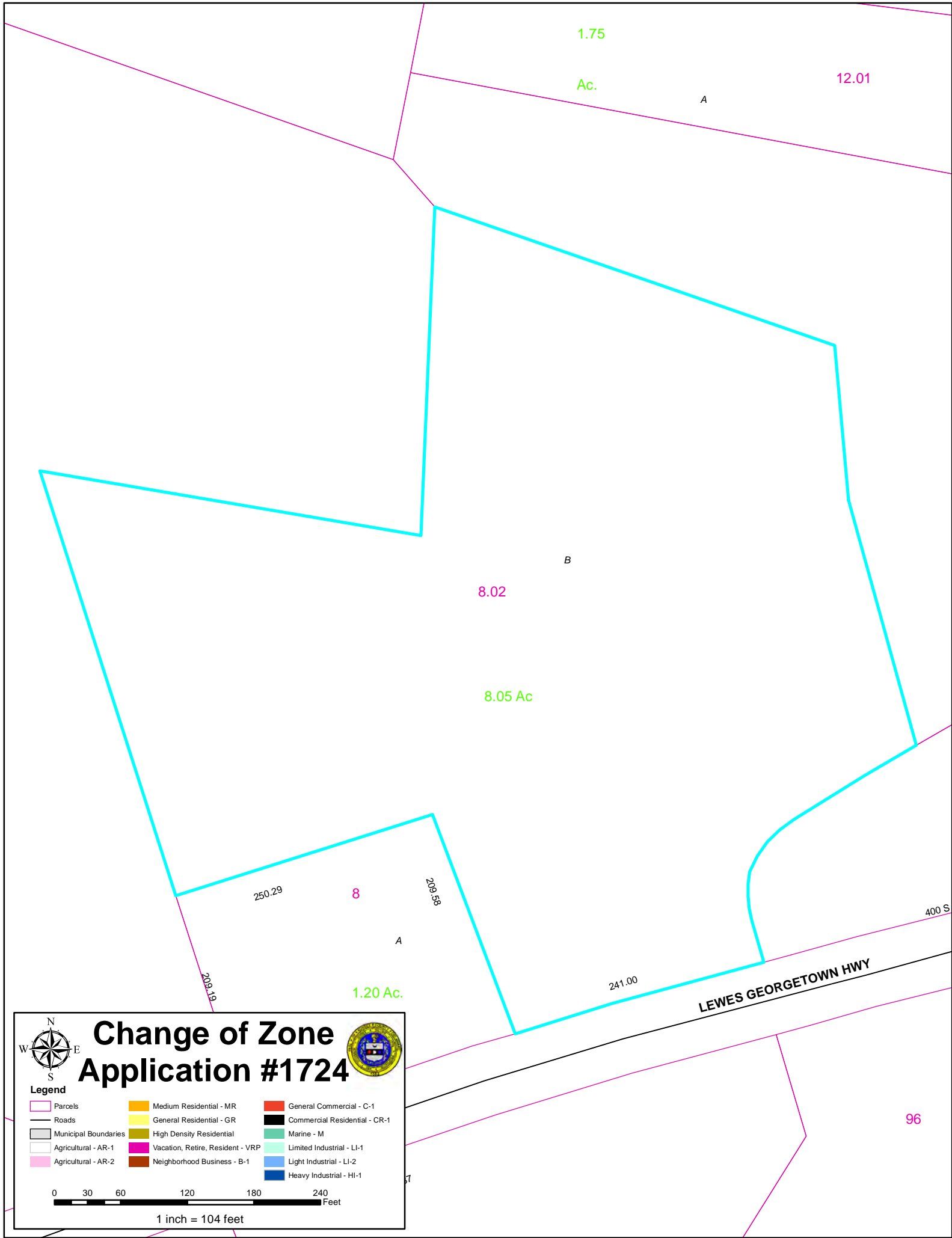
C/U #1946











Change of Zone Application #1724

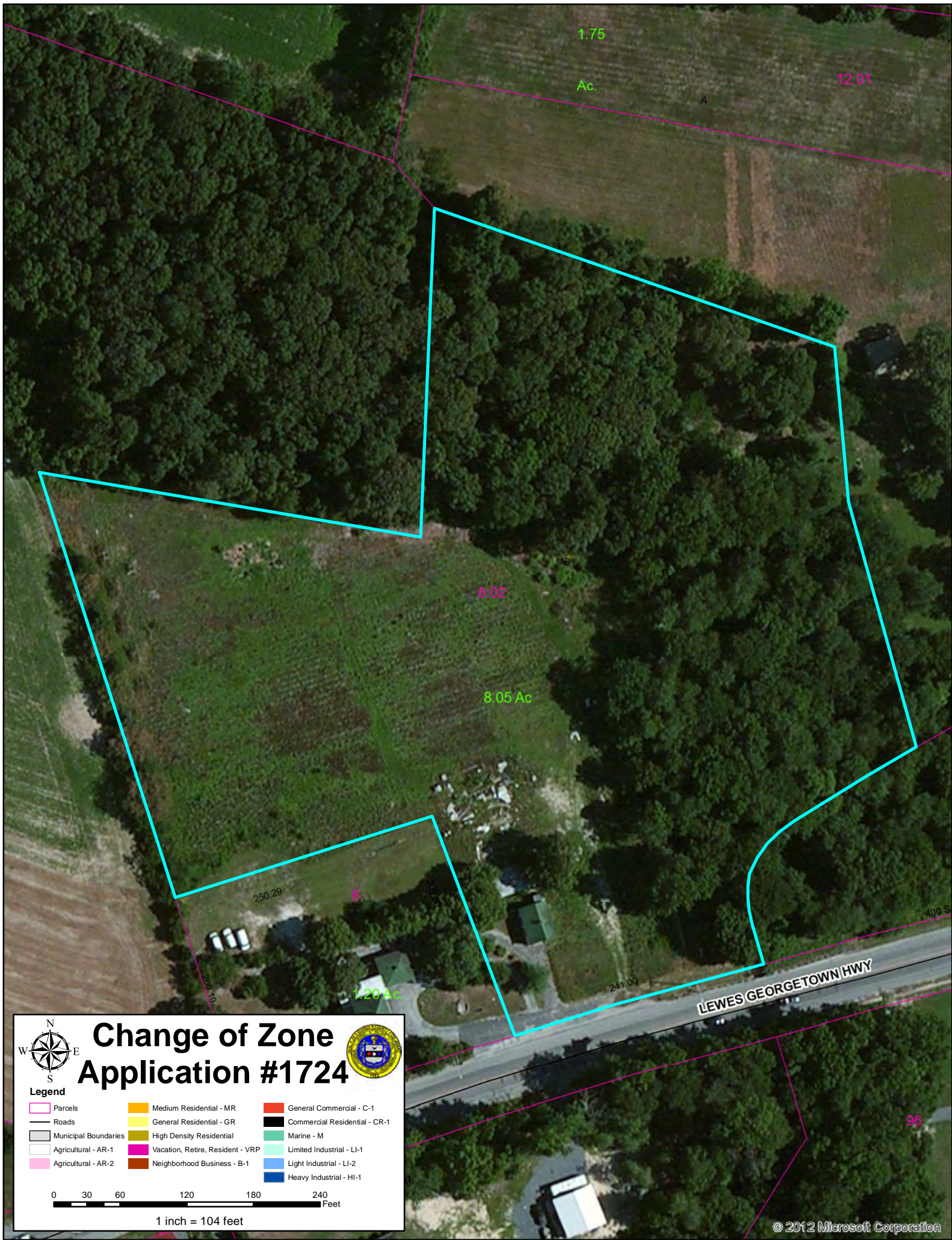


Legend

- | | | |
|----------------------|----------------------------------|-------------------------------|
| 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 |

0 30 60 120 180 240 Feet

1 inch = 104 feet



Change of Zone Application #1724



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 |

0 30 60 120 180 240 Feet

1 inch = 104 feet

WOODLAND FERRY ASSOCIATION

Woodland, DE 19973

302-629-8077

2 The Circle
P O Box 589
Georgetown DE 19947

26767 Malihorn Dr.
Seaford DE 19973

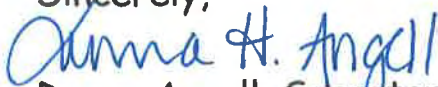
April 3 2013

Dear President Vincent,

On behalf of the Woodland Ferry Association I am writing to inform the Sussex County Council of our upcoming festival Saturday September 14th. As you know, our last festival was held in 2009 and several of our new members feel it is time to revive it again. Woodland has been in the news with focus on the new walking trails soon to be implemented at the old golf park and plans being laid for the future scenic by-way trails.

We have much to do and plan for the big day. We are asking if our group could receive any funding from the SCC? Any amount would be greatly appreciated. If you or anyone has any questions, please do not hesitate to call me (629-8077) or our President Rodger Hamrick (cell:381-6184).

Sincerely,



Donna Angell, Secretary WFA



Laurel Independence Day Committee

Sponsored by The Town of Laurel
201 Mechanic Street, Laurel, De 19956
302-875-2277 - laurelop@comcast.net

Mike Vincent, Sussex County Council
P. O. Box 589
Georgetown, Delaware 19947

Dear Friend

I am writing you today to ask your support for the "Laurel Fireworks Celebration" taking place on Thursday, July 4, 2013 (rain date Friday, July 5, 2013). For fourteen years now Laurel is Delmarva's down home place for Independence Day Fireworks.

Again this year, our town will exhibit the finest fireworks show on Delmarva. That's right; our display will again surpass the fireworks in Dover and the beaches.

Laurel is one of the only a few towns that cherishes its heritage by having this Independence Day Celebration.

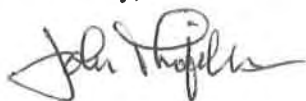
Please help us by supporting this event again this year. Our costs are reduced by early payment, so please give this your immediate consideration, I have outlined a support structure below, but ANYTHING YOU CAN DO WILL BE GREATLY APPRECIATED!

SPONSORSHIP SUGGESTIONS

PLATINUM SPONSOR	\$3,000.00
MAJOR SPONSOR	\$2,000.00
GOLD SPONSOR	\$1,500.00
SILVER SPONSOR	\$1,000.00
BRONZE SPONSOR	\$ 500.00
BUSINESS SPONSOR	\$ 400.00
PATRON SPONSOR	\$ 200.00

Please let me thank you in advance for "The Laurel Independence Day Committee" and "The Town of Laurel" for your support.

Sincerely,



John Theofiles
Fireworks Coordinator



Jamie Smith
Fireworks Co-Coordinator

Please Remit Contributions To:
Laurel Independence Day Committee
201 Mechanic Street
Laurel, Delaware 19956



Rehoboth Beach Little League

PO Box 909

Rehoboth Beach DE 19971-0909

www.rehobothbeachll.com

Honorable George Cole
Sussex County Council
2 The Circle, P.O. Box 589
Georgetown, DE 19947

March 7, 2013

Dear Honorable George Cole:

I am writing on behalf of all the children and families that are part of the Rehoboth Beach Little League. We are gearing up for our 52th Baseball Season. As you may not know we do not have our fields maintained, water or electric paid for, or taxes covered by the city or state. We operate strictly on the support we get from volunteers, sponsors, registration, fund raising, snack bar sales and most importantly from occasional support from the Council or government officials.

Each year the Rehoboth Beach Little League hosts the Cape Jr/Sr Little League and our fields are used for inter-league play with Milton, Lewes, Georgetown, Lower Sussex and Woodbridge Little Leagues. We also allow the Cape Pop Warner League, Adult softball league, Scout Groups and area groups to use our Complex. Also several ASA Softball Tournaments are held, bringing thousands of visitors to our area. These tournaments not only provide critical funding to our Little League but also help our community. The ASA has stated that we could host even more tournaments throughout the year if we moved our fence in the outfield. Over the past 18 years we have maintained our new complex on Glade Road and are now working on a major fence repair, replacement and move project.


The cost of moving the fences, replacing damaged or rusted fencing and post, fence safety top caps on all the fields, field preparation, and general updating of the complex, so that we can dually utilize the field will cost approximately \$20,000. We are respectfully asking for your support to secure any amount of funding that would help us attain that goal of \$20,000.

On behalf of all the families and friends of Rehoboth Beach Little League and the surrounding area & people whom use the complex, I want to say thank you for your consideration. Without occasional support from you and other government officials we would not be able to make capital improvements to sustain our league.

Again, we thank you for your support. Rehoboth Beach Little League is a 501(c) 3 organization. Our tax id # is 51-0316891, Federal Group Exemption NO. 3158 of Little League Baseball Incorporated.

We are always looking for volunteers and support to make our organization stronger. If you are interested in becoming more involved or if you have any questions, please email rbllpres@gmail.com and I will get back to you.

Sincerely,


Mike Simpler

Rehoboth Beach Little League President