



# **Sussex County Council Public/Media Packet**

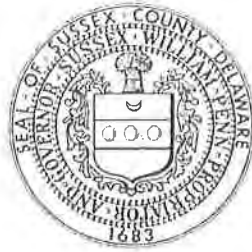
**MEETING:  
August 5, 2014**

**\*\*DISCLAIMER\*\***

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**Sussex County Council  
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Georgetown, DE 19947  
(302) 855-7743**

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



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# Sussex County Council

## AGENDA

AUGUST 5, 2014

10:00 A.M.

### Call to Order

### Approval of Agenda

### Approval of Minutes

### Reading of Correspondence

### First State Community Action Agency Presentation

### Todd Lawson, County Administrator

1. Administrator's Report

### Gina Jennings, Finance Director

1. Delaware Transit Reimbursement Program Request

### Hal Godwin, Assistant County Administrator

1. Wetlands Advisory Committee Update
2. Review of the Downtown Development District Program by the Office of State Planning Coordination

### Joe Wright, Assistant County Engineer

1. Sussex Shores Suburban Community Improvements, Project No. 14-13
  - A. Design Proposal and Contract for Placement of Underground Utilities



**John Ashman, Director of Utility Planning**

1. Angola North Design Contract

**Grant Requests**

1. Indian River Volunteer Fire Company for the Ladies Auxiliary's fundraiser for fire and rescue services.
2. Lewes Fire Department for uniforms for the Ladies Auxiliary.
3. Delmarva Clergy United in Social Action Foundation to support *The Griffin's Place*.
4. Fort Miles Historical Association for infrastructure improvements.

**Introduction of Proposed Zoning Ordinances**

**Any Additional Business Brought Before Council**

**Executive Session – Land Acquisition pursuant to 29 Del. C. §10004(b)**

**Possible Action on Executive Session Items**

**1:30 p.m. Public Hearings**

**Conditional Use No. 1988 filed on behalf of Zhenguo Zhang**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MEDICAL OFFICE CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.3522 ACRES, MORE OR LESS” (land lying southwest of Route One (Coastal Highway) 1,000 feet northwest of Road 258 (Hudson Road) - (Tax Map I.D. 235-16.00-64.00) - (911 Address: 14614 Coastal Highway, Milton)**

**Change of Zone No. 1751 filed on behalf of Peninsula at Long Neck, LLC**

**“AN ORDINANCE TO MODIFY CONDITION NO. 10(C) IMPOSED ON ORDINANCE NO. 2180 FOR CHANGE OF ZONE NO. 1697, THE APPLICATION OF PENINSULA AT LONG NECK, LLC FOR “THE PENINSULA”, A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY, TO EXTEND THE TIME TO CONSTRUCT AND OPEN FOR USE THE GOLF CLUBHOUSE FACILITY” (Tax Map I.D. 234-30.00-1.00 and others) (911 Address: None Available)**

**Change of Zone No. 1753 filed on behalf of Cadbury at Lewes, Inc.**

**“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS” (land lying northeast of Road 267 (Gills Neck Road) 1,100 feet east of Road 268 (Kings Highway) (Tax Map I.D. 335-8.00-37.00 (Part of) – (911 Address: 17028 Cadbury Circle, Lewes (expansion)**

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Sussex County Council meetings can be monitored on the internet at [www.sussexcountyde.gov](http://www.sussexcountyde.gov).

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In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on July 29, 2014 at 4:30 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, JULY 22, 2014**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, July 22, 2014, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

<b>Michael H. Vincent</b>	<b>President</b>
<b>Samuel R. Wilson, Jr.</b>	<b>Vice President</b>
<b>George B. Cole</b>	<b>Councilman</b>
<b>Joan R. Deaver</b>	<b>Councilwoman</b>
<b>Vance Phillips</b>	<b>Councilman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>Gina Jennings</b>	<b>Finance Director</b>
<b>Jamie Sharp</b>	<b>Assistant County Attorney</b>

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

**Call to  
Order**

Mr. Vincent called the meeting to order.

**M 352 14  
Amend  
and  
Approve  
Agenda**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to amend the Agenda by deleting "Approval of Minutes"; by deleting the item under Juel Gibbons, Project Engineer entitled "Pump Station 207 and Force Main, Bid Award"; and by deleting "Introduction of Proposed Zoning Ordinances"; and, to approve the minutes, as amended.

**Motion Adopted: 4 Yeas, 1 Absent.**

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

**Presen-  
tation/  
Delmarva  
Clergy  
United in  
Social  
Action  
Foundation**

Bishop Foster, CEO, Delmarva Clergy United in Social Action (DCUSA) and Keith Adams, COO, were present to update the Council on programs that have been formed by and are being managed by the Foundation: GED Program, computer classes, *Hope Makers*, Philadelphia Shelter Home (serving Kent and Sussex County), Food Program and Soup Kitchen, Clothes Closet, Childcare Center, *Griffin's Place* (transitional home for males aging out of foster care), Health Development Center (residential home for pregnant young women), Work Release/Pre-Release Program, workshops and mini-programs for a fatherhood initiative, Summer Enrichment Program, Summer Youth Working Program, and In-School Youth Program. DCUSA also offers support to Philadelphia Arms Townhomes (PAT), an affordable housing program working to help low income families become homeowners; PAT is soon to break ground for the first six townhouses. Future goals of DCUSA are a community recreational facility, senior citizen home, garage, and Women's Prisoner Re-Entry

**Presen-  
tation/  
Delmarva  
Clergy  
United in  
Social  
Action  
Foundation  
(continued)**

**Program.**

Mr. Adams stated that they are always looking for financial support and that any funding would be used for continuing their programs. He noted that they also seek non-monetary donations such as office equipment, classroom equipment, etc. Mr. Adams asked that the Council consider providing funding for the housing program with Philadelphia Arms Townhomes as the project is in need of infrastructure, i.e. sewer and roads. Council members raised questions regarding grant funding for sewer service. Mr. Lawson stated that there may be ways the County can assist and that the Council could consider funding under community development grant funding received from the federal government; however, it needs to be determined if the project qualifies.

(Mrs. Deaver joined the meeting during the presentation.)

**Presen-  
tation/  
Delaware  
Code of  
Ethics/  
Public  
Integrity  
Commission**

Deborah Moreau, Esq. representing the Public Integrity Commission (PIC) was in attendance to give a presentation on the State of Delaware Code of Ethics. She advised that PIC's basic jurisdiction extends over the Code of Conduct which regulates the behavior of State, County, and municipal employees under the Commission's jurisdiction. She noted that the Commission also covers financial disclosure of public officers, the Compensation Policy preventing double-dipping, and lobbyist registrations.

Ms. Moreau informed the Council that in 1992, the General Assembly drafted legislation [29 Del. C. § 5802(4)] in which it states that it is the desire of the General Assembly that all counties and municipalities adopt code of conduct legislation at least as stringent as this act to apply to their employees and elected and appointed officials. The following towns and counties have adopted their own Code of Ethics: Wilmington, Newark, Dover, New Castle County, Delaware City, Lewes, Millsboro, and Smyrna; Dewey Beach has had a Code of Ethics approved by the Public Service Commission but has not yet adopted it. She noted that Kent County's Code is grandfathered in as it was adopted in 1985. Any county, or municipality that does not have its own Code, falls under the jurisdiction of the State's Code.

Ms. Moreau reviewed the general prohibitions in the Code of Conduct. She noted that the General Assembly has its own Code of Ethics and its own Ethics Commission.

Ms. Moreau addressed the possibility of the County adopting its own Code of Ethics and she explained what the process is for doing that. She stated that any Code to be adopted by the County should be modeled after the State's Code and must be submitted to the Public Service Commission for approval. If a Code is adopted by Sussex County, a Board or Commission would have to be appointed to review issues that come up.

Council members discussed the pros and cons of Sussex County adopting its

(continued) own Code of Ethics.

In response to questions, Ms. Moreau offered to provide a formal training session on the State's Code of Ethics for Sussex County officials and staff.

Adminis-  
trator's  
Report

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

1. First State Animal Center & SPCA Activity Report

Please find attached the Activity Reports from the First State Animal Center and SPCA for the months of May and June 2014. Per the reports, there were 234 service calls and 59 bite case calls for a total of 293 in May, and there were 345 service calls and 82 bite case calls for a total of 427 in June.

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

CAFR  
Award/  
Fiscal  
Year  
Ended  
June 30,  
2013

Mrs. Jennings announced that the Sussex County Government has been awarded, for the twelfth consecutive year, the Certificate of Achievement for Excellence in Financial Reporting by the Government Finance Officers Association for its Comprehensive Annual Financial Report (CAFR). This award is the highest form of recognition in governmental accounting and financial reporting and its attainment represents a significant accomplishment by a government and its management. Mrs. Jennings recognized County employees Kathy Roth, Jeff James, Sylwia Wisniewska, and Traci Burton and the rest of the Accounting Division for their extra efforts in achieving this award.

Federal  
Payment  
in Lieu  
of Taxes

Andrea Wall, Accounting Manager, reported that a check in the amount of \$38,898 has been received from the United States Department of the Interior, Fish and Wildlife Service, as a federal payment in lieu of taxes for the Prime Hook National Wildlife Refuge. This check represents payments under the Refuge Revenue Sharing Act covering Fiscal Year 2013. The amount is calculated by the U.S. Fish and Wildlife Service by prorating the total funds available for payment. The check is funded through revenues generated from the Prime Hook National Wildlife Refuge and from a supplemental congressional appropriation. Sussex County may use these funds for any governmental purpose. The amount allocated to the County has been consistent the past three years. The recommendation is to allocate the funds in the same percentage as other County tax collections, as the County has done in the past.

M 353 14  
Allocation/  
Refuge  
Revenue  
Sharing  
Fund

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex County Council approves the recommended distribution of the Refuge Revenue Sharing Fund as follows: Milford School District - \$7,425.84; Cape School District - \$24,050.47; Sussex Technical School District - \$2,873.21; Sussex County - \$4,071.16; and Sussex County libraries - \$477.32.

**M 353 14  
(continued)**

**Motion Adopted: 5 Yeas.**

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

**Airport  
Project/  
Concrete  
Apron  
Repairs**

**Bob Jones, Project Engineer, presented a Balancing Change Order and request for Substantial Completion (as of June 17, 2014) for Sussex County Airport Project, Concrete Apron Repairs, Phase 2, Contract No. 13-13. The Change Order, in the credit amount of \$5,045.35, is to adjust bid quantities to actual final quantities and add a Catch Basin repair item.**

**M 354 14  
Approve  
C/O and  
Grant  
Substantial  
Completion/  
Airport  
Project/  
Concrete  
Apron  
Repairs**

**A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that the Balancing Change Order for Sussex County Contract No. 13-13, Concrete Apron Repairs, Phase 2, with Mitten Construction Company, be approved, which decreases the Contract by the amount of \$5,045.35 for a new contract total of \$165,199.65, and; Be It Further Moved that Substantial Completion be granted effective June 17, 2014 and that final payment be made and any held retainage be leased in accordance with the terms and conditions of the contract documents.**

**Motion Adopted: 5 Yeas.**

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

**Lochwood  
Subdivision  
Project**

**Bob Jones, Project Engineer, presented a Balancing Change Order and request for Substantial Completion (as of November 15, 2013) for Lochwood Subdivision Project, Contract No. 12-21. The Change Order, in the credit amount of \$78,682.11, is to adjust bid quantities to actual final quantities incorporated into the project and add driveways pipes pay item and time extension. Mr. Jones noted that there was a time extension of 8 calendars due to weather.**

**M 355 14  
Approve  
C/O and  
Grant  
Substantial  
Completion/  
Lochwood  
Subdivision  
Project**

**A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that the Balancing Change Order for Sussex County Contract No. 12-21, Lochwood Subdivision, with Jerry's Inc., be approved, which decreases the contract by the amount of \$78,682.11 for a new contract total of \$614,668.89; and, Be It Further Moved that the contract time be increased by 8 calendar days and Substantial Completion be granted effective November 15, 2013 and that final payment be made and any held retainage be released in accordance with the terms and conditions of the contract documents.**

**Motion Adopted: 5 Yeas.**

**M 355 14  
(continued)**

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

**Old  
Business/  
C/Z 1746,  
C/Z 1747  
and  
C/U 1986**

**The Council discussed Change of Zone No. 1746, Change of Zone No. 1747, and Conditional Use No. 1986 filed on behalf of Castaways Bethany Beach, LLC.**

**The Planning and Zoning Commission held a Public Hearing on the applications on April 24, 2014 at which time action was deferred. On May 22, 2014, the Commission recommended that the applications be approved.**

**On June 17, 2014, the County Council held a Public Hearing on the applications at which time action was deferred and the record was left open for the purpose of receiving documentation from DeIDOT as to the permitted location of the entrance.**

**Lawrence Lank, Director of Planning and Zoning, reported that a letter of response was received from DeIDOT. Mr. Lank reviewed DeIDOT's response: in summary, DeIDOT does not take issue with the entrance proposed by the Applicant.**

**M 356 14  
Adopt  
Ordinance  
No. 2357/  
C/Z 1746**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance 2357 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 9.45 ACRES, MORE OR LESS" (Change of Zone No. 1746) filed on behalf of Castaways Bethany Beach, LLC.**

**Motion Adopted: 5 Yeas.**

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

**M 357 14  
Adopt  
Ordinance  
No. 2358/  
C/Z 1747**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2358 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 17.80 ACRES, MORE OR LESS" (Change of Zone No. 1747) filed on behalf of Castaways Bethany Beach, LLC, with the following conditions:**

- A. There shall be no more than 45 lots within the RPC.**
- B. The Applicant shall form a homeowners' association responsible for the**

**M 357 14  
Adopt  
Ordinance  
No. 2358/  
C/Z 1747  
(continued)**

**perpetual maintenance of streets, roads, any buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas.**

- C. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.**
- D. All entrances shall comply with all of DelDOT's requirements, and an area for a school bus stop shall be established. The location of the school bus stop shall be coordinated with the local school district.**
- E. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.**
- F. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- G. A 20 foot forested agricultural buffer shall be shown along the perimeter of the entire residential development, including the area covered by Conditional Use #1986. The Final Site Plan shall also contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer area.**
- H. No wetlands shall be included within any lots.**
- I. The subdivision shall be served by Sussex County sewer.**
- J. As proffered by the Applicant, the developer shall construct all of the recreational amenities no later than the issuance of the 50<sup>th</sup> residential building permit for the entire project, including Conditional Use #1986.**
- K. Construction, site work, grading and deliveries of construction materials, landscaping materials and fill on, off or to the property shall occur from Monday through Saturday between the hours of 8:00 a.m. and 6:00 p.m.**
- L. This Preliminary Approval is contingent upon the Applicant submitting a revised Preliminary Site Plan either depicting or noting the conditions of this approval on it. The Staff shall approve the revised Plan upon confirmation that the Conditions of Approval have been depicted or noted on it.**
- M. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

**Motion Adopted: 5 Yeas.**

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

**M 358 14  
Adopt  
Ordinance  
No. 2359/  
CU 1986**

**A Motion was made by Mr. Cole, seconded Mrs. Deaver, to Adopt Ordinance No. 2359 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 11.56 ACRES, MORE OR LESS" (Conditional Use No.**

**M 358 14  
Adopt  
Ordinance  
No. 2359/  
CU 1986  
(continued)**

**1986) filed on behalf of Castaways Bethany Beach, LLC.**

- A. There shall be no more than 30 units within the Conditional Use area.**
- B. The Applicant shall form a homeowners' or condominium association responsible for the perpetual maintenance of streets, roads, any buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas.**
- C. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.**
- D. All entrances shall comply with all of DelDOT's requirements, and an area for a school bus stop shall be established. The location of the school bus stop shall be coordinated with the local school district.**
- E. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.**
- F. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- G. A 20 foot forested Agricultural Buffer shall be shown along the perimeter of the entire residential development, including the area covered by Change of Zone #1747 for the RPC portion of the development. The Final Site Plan shall also contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer area.**
- H. The project shall be served by Sussex County sewer.**
- I. As proffered by the Applicant, the developer shall construct all of the recreational amenities no later than the issuance of the 50<sup>th</sup> residential building permit for the entire project, including the RPC portion of the development covered by C/Z #1747.**
- J. Construction, site work, grading and deliveries of construction materials, landscaping materials and fill on, off or to the property shall occur from Monday through Saturday between the hours of 8:00 a.m. and 6:00 p.m.**
- K. This Preliminary Approval is contingent upon the Applicant submitting a revised Preliminary Site Plan either depicting or noting the conditions of this approval on it. The staff shall approve the revised plan upon confirmation that the conditions of approval have been depicted or noted on it.**
- L. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

**Motion Adopted: 5 Yeas.**

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

**Grant  
Requests**

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

**M 359 14 Councilmanic Grant**      **A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to grant \$500.00 from Mrs. Deaver’s Councilmanic Grant Account to the Lewes Public Library for their Annual Lewes Creative Writers’ conference.**

**Motion Adopted:      4 Yeas, 1 Absent.**

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

**M 360 14 Councilmanic Grant**      **A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to give \$750.00 (\$500.00 from Mr. Wilson’s Councilmanic Grant Account and \$250.00 from Mrs. Deaver’s Councilmanic Grant Account) to the Chamber of Commerce for Greater Milford for the Riverwalk “Freedom” Festival.**

**Motion Adopted:      4 Yeas, 1 Absent.**

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

**M 361 14 Councilmanic Grant**      **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$500.00 from Mr. Cole’s Councilmanic Grant Account to West Side New Beginnings for its anti-bullying program for at-risk youth.**

**Motion Adopted:      5 Yeas.**

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

**M 362 14 Councilmanic Grant**      **A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$750.00 (\$250.00 from Mrs. Deaver’s Councilmanic Grant Account and \$500.00 from Mr. Cole’s Councilmanic Grant Account) to Rehoboth Beach Film Society for the film festival.**

**Motion Adopted:      5 Yeas.**

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

**M 363 14 Councilmanic Grant**      **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$1,000.00 from Mr. Cole’s Councilmanic Grant Account to the Delaware Seashore Preservation Foundation to restore an historical tower.**

**Motion Adopted:      5 Yeas.**





**M 367 14  
(continued)**      **Vote by Roll Call:**    **Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**M 368 14  
Reconvene**      **At 1:32 p.m., a Motion was made by Mr. Cole, seconded by Mr. Wilson, to reconvene.**

**Motion Adopted:**    **4 Yeas, 1 Absent.**

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

**Mr. Phillips joined the meeting.**

**Public  
Hearing/  
C/U 1991**      **A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FACILITY FOR OUTDOOR ENTERTAINMENT EVENTS WITH TEMPORARY CAMPING FACILITIES DURING EVENTS ONLY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING APPROXIMATELY 500 ACRES, MORE OR LESS, OF TWO PARCELS CONTAINING 1,057.6 ACRES” (Conditional Use No. 1991) filed on behalf of Coolspring, LLC/Highway One.**

**The Planning and Zoning Commission held a Public Hearing on this application on July 10, 2014 at which time action was deferred.**

**(See the minutes the meeting of the Planning and Zoning Commission on July 10, 2014.)**

**Lawrence Lank, Director of Planning and Zoning, read a summary of the Planning and Zoning Commission’s Public Hearing.**

**Mr. Lank reported that additional correspondence has been received since the Commission’s Public Hearing: 2 letters/emails in support of the application, 58 letters/emails in opposition to the application, and a petition containing 90 signatures in opposition to the application.**

**Mr. Lank distributed a set of drawings that were submitted on this date by the Applicant showing the concept of the site plan, with attachments.**

**The Council found that Alex Pires was present representing the Applicant, Coolspring LLC/Highway One. Also present was Steve Spence, Attorney.**

**Mr. Spence distributed proposed conditions and google earth presentations as to the size of the site.**

**Public  
Hearing/  
C/U 1991  
(continued)**

**Mr. Spence gave a brief description of the Concept Plan that was submitted. He stated that according to the updated Comprehensive Plan, this application is consistent with and is promoting to particular goals of the plan, which are tourism and conserving the agriculture economy; that the events would be a job producer; that the event would be good for the County both in terms of the economic result and for the enjoyment of local people and people coming to the area; that the proposed use would be a very limited use of the property; that for the majority of the year, the property will be used for normal agriculture use as it has been for generations; that the proposed use will encourage further tourism; and that this site is large enough to handle the proposed use.**

**Mr. Pires stated that they have done a lot of research on the music festival business; that there are day festivals which are typically in cities and camping festivals that are in rural America; that, for the past two years, he has looked at sites in Sussex County; that the Baker site is the largest contiguous farm in Delaware; that he has signed a lease for 500 acres on the farm; that in the first two years, they would use approximately 200 to 300 acres of the 500 acre site; that he previously spoke to the County and was told that he could obtain a permit for a three-day event and hold the event; that he was asked to go through the Conditional Use process to hold the event(s); that they have enough land to camp everybody; that they will limit the number of cars of day-trippers to 2,000; that every facet of the event is either State or County regulated and he referenced DeDOT, the Office of the State Fire Marshal, State Police, State Department of Health, Delaware Alcohol & Tobacco Enforcement, etc.; that country music festivals are camping events and there are very few day-trippers; that he would like to see 20,000 attendees; that he hopes that 80% of the attendees come in RVs and he anticipates only 20% of the attendees to be day trippers; that there will be low traffic impact – once in / once out – since the majority of the attendees will stay on the site once their RVs are set up; that more traffic goes in and out of Independence than there will be at the festival; that they propose 2 events per year back-to-back; that there will be no events eleven months out of the year; that the events will last 3-4 nights for each event; that they have also included in their application a request for 3 charitable events which are 1-day events; that if the Council wants to exclude these from the application, they do not have an objection; that he is not asking for the 1-day events for a commercial purpose; that there will be 300 to 400 security people at each event – professionals and volunteers; that these events are big charity fundraisers; that he proposes a country festival and folk festival; that he anticipates that the first year budget will be in the range of \$5,000,000 to \$6,000,000; that he expects the impact on the County to be approximately \$10 million to \$12 million; that areas that have similar venues are Brooklyn, Michigan; Ft. Loramie, Ohio; and Manhattan, Kansas; that Highway One, LLC will be responsible for the events as the majority owner of Coolspring, LLC, the operator of the festival; that they are hoping to partner with Redlight Management/Starr Hill and Live Nation, some of the largest country music promoters; that they are hoping to have the first music festival on the first or second weekend of August**

**Public  
Hearing/  
C/U 1991  
(continued)**

**2015; and that he does not intend to use this site for Punkin Chunkin or any other use other than what is proposed.**

**Mr. Pires reviewed the following suggested voluntary conditions of approval for consideration if the requested conditional use is approved:**

**1) Number of Events:**

- a) **No more than 5 events may be held on the site in any 12-month period. Two of the events can be as long as four (4) days and four (4) nights, including camping for each event. The remaining three (3) events can be one (1) day and one (1) night of camping. There will be no events in 2014. (Mr. Pires noted that he would accept the approval of the 2 main events and the deletion of the three (3) charity events).**
- b) **Beginning in 2015, there may be no more than two (2) music festivals in a given year, one of which would be a country music event.**
- c) **No vehicle road races, dirt bike races, monster truck events or similar activities will be permitted.**

**2) Hours of Operation:**

- a) **The applicant shall be required to terminate live music performances by the performing artists by 12:00 Midnight.**
- b) **All stage lighting (except security lighting) shall be shut down by 12:30 a.m. each night.**

**3) Location of Staging, Vendors, Camping, Medical Tents, Bathroom and Shower Facilities and Parking:**

- a) **The location of the staging, vendors, camping, medical tents, and bathroom and shower facilities shall be designed by a professional festival planner and a Delaware licensed engineer or architect, and approved by the Delaware State Fire Marshal.**
- b) **The location of all internal roads and parking shall be approved by DelDOT.**

**4) Traffic, Camping, Parking:**

- a) **The applicant has and will continue to meet with DelDOT and comply with DelDOT's master traffic plans for all events.**

**Public  
Hearing/  
C/U 1991  
(continued)**

- b) **Camping: Motor homes, RV's, travel trailers, tents and related camping equipment will be permitted. Temporary gravel or stone roadways will be constructed and the layout and dimensions of individual lots for camping shall be prepared by a Delaware Registered Engineer or Architect and shall be approved by the Delaware State Fire Marshal's Office.**
- c) **Accordingly, as these multi-day events will primarily be composed of campers, parking for one day-trippers on any given day of a music festival will be limited to 2,000 cars on-site, exclusive of overnight campers.**

**5) Fencing/Location of Temporary Structures:**

- a) **Prior to any events being held at the site, the area of the site to be used for the event shall be fenced by temporary fencing. The temporary fencing will be removed by August 31<sup>st</sup> each year and erected again prior to each event.**
- b) **No temporary structures, except fencing, shall be erected within 100 feet of any adjacent property border and no stage area shall be located within 100 feet of any public road passing the site.**

**6) Safety/Vehicle Inspections:**

- a) **The Sussex County Public Safety Services Special Events Administration Procedures will be followed and if the expected attendance for any event will exceed 25,000 persons, the applicant will pay for all required services.**
- b) **At all events, the applicant shall employ a professional security company which must submit a security plan to the Delaware State Police at least thirty (30) days prior to each event. This plan shall include crisis management, radio support, and State Police communications and shall include an anti-drug detail.**
- c) **The security company shall provide, at the point of access of all vehicles to the campground areas, staff to conduct inspections of all vehicles for drugs, alcohol exceeding the ticketed limits, weapons, or other unsafe items.**

**7) Medical Services:**

- a) **Medical Services shall be provided on-site throughout any event consistent with County and State standards.**

**Public  
Hearing/  
C/U 1991  
(continued)**

**8) Fire Safety:**

- a) **Access and presence by local volunteer fire departments shall be approved by the State Fire Marshal.**

**9) Food and Beverages:**

- a) **All food and beverage purveyors shall be required to obtain Delaware business licenses.**
- b) **Food, beverage and supply vendors will be onsite to minimize the number of vehicle trips required by attendees to maintain their food and beverage supplies.**

**10) Trash, Water, Bathroom Facilities:**

- a) **All refuse and trash will be removed from the site daily during any events. The final cleanup shall be completed within two (2) days after the end of the event.**
- b) **All water distribution systems shall be temporary, and if any modifications are required, they must be approved by the County. Bathroom facilities shall be provided in accordance with applicable State and local public health standards.**

**Mark Baker, property owner and landlord, stated that this property has been owned by the Baker family for over 12 years; that they actively farm this parcel; that they did not make the decision lightly to enter into this agreement with Coolspring and Highway One; that one of the main reasons is the limited use of the property; that the lease caps at 11 days; that 97 percent of the year, there will be no events occurring on the property and it will remain in a natural state; that they plan to continue to use the land recreationally, i.e. to hunt, for horses, etc; that they have high standards for the maintenance of the property and that will not change; that he understands the traffic concerns but he does not think the impact will be as great as feared; that as a day-tripper to the Firefly festival in Dover, he encountered no traffic; that this is what he expects at this site; that the site is large enough to stack vehicles internally which will limit what happens on the external roads; that regarding the impact on the woodlands and tree removal, with or without this application's approval it is likely that a very large percentage of the pine trees will be cut down in the next year or two since it is an active pine forest and they are often thinned or clear-cut to further the growth of the pines; that active logging and tree-cutting will continue on the site regardless of whether or not this application occurs; that the concern about water run-off is unfounded – that the festivals will not use near the quantity of water that the current irrigation system uses; that the risk to the groundwater being removed or levels lowered are slim to none; that there will be little to no change to run-off; that it is all an impervious surface and will remain that way; that there are hundreds of**

**Public  
Hearing/  
C/U 1991  
(continued)**

acres to absorb any run-off; that regarding the small cemeteries on the site, they currently farm around them; that they have not disturbed, and there will not be any disturbances to, the cemeteries; that the cemeteries could be fenced off during the events; that regarding wildlife, there are no bald eagle nests on the farm; that the events will cause minimal disturbance; that the events will benefit many local businesses; and that he believes this is a positive for Sussex County.

In response to questions, Mr. Pires stated that the country music business is a June, July and August touring business; that businesses at the beach start dropping off in September and October; that shuttle services will be available; that he is willing to accept a condition requiring that shuttle services be available; that the events are primarily Friday, Saturday and Sunday; and that access to festival sites are normally the day before the event and exits a day after the event.

Mr. Phillips commented on the possibility of the Council revisiting the application after three (3) years; Mr. Pires stated that he no objection and that he is not objectionable to anything reasonable.

Mrs. Deaver commented on setbacks to protect area residents. Mr. Pires stated that they are proposing a 100 foot setback; however, they would agree to a 200 or 300 foot setback, if required by Council. Mr. Pires noted that homes on Lawson Road face the site and that Lawson Road will only be used as an access road for the artists and production crew.

Mr. Spence stated that, in response to comments by the Planning and Zoning Commission that the Concept Plan submitted was not sufficient, they have submitted a new plan. He noted that they are still of the view that it needs some refinement once the agencies review the plan/proposal; that if they receive approval of the application, they will have to go through the Fire Marshal staging process and site development for camping. He noted that, if they receive approval, they will have to do this for final site plan approval. He stated that, since there will be no permanent buildings or structures on the site and no sewer or water, only gravel roads, they weren't really sure what would be required on a site plan.

**Public comments were heard.**

**There were no public comments in support of the application.**

**Public comments were heard in opposition to the application.**

The Council found that Trudy Belloti, Sandi Campbell Nelson, Richard Coyne, William Nelson, Mike Falkenstein, Tim Riale, Gary Simone, Beverly Morgan, Evan Bush, Nathan Wise, Deborah Sundberg, Bill Ryon, Bill Oliva, Nikki Zangwill, Vincent Wilson, Margaret Foulk, Dan Fay, and Dominic Stimola were present and spoke in opposition to the application and expressed concerns about the impact on the residential area in close

**Public  
Hearing/  
C/U 1991  
(continued)**

proximity to the site; concerns about the poor condition of some of the local roads and stated that the local roads will not be able to handle the impact of the number of vehicles anticipated for the festival; that the area is agricultural and residential; that there are concerns about noise, trash, and traffic; that there are concerns about the impact on response time for emergency services in an emergency situation; that there are concerns about property damage; that insurance should be guaranteed; that the Harrington State Fairgrounds is a more appropriate location for this type of event; that the file lacks any record of a site plan that can be reviewed; that trees will be removed to locate campsites in the wooded areas causing a loss of forest land; that the site will have to be re-graded; that there are cemeteries on the site that will need to be protected; that wellheads in the area need to be protected; that the project will impact the environment, wetlands, groundwater recharge, and endangered species; that the file does not contain an environmental assessment; that the use is not in compliance with the requirements to establish a Conditional Use; that the use is not in compliance with the Comprehensive Land Use Plan; that bonding and insurance should be a mandatory requirement to protect the site and the adjacent properties; that there will be dust, trash and sanitary issues; that Avalon Woods Subdivision will be directly impacted by this proposal since the subdivision's entrance is within 540 feet of one of the main entrances to the project site; that there is concern about gridlock at the entrance to the site; that the area communities will be grid-locked; that DART services will not get through to the area and there are residents that use the service on a daily basis; that the residents of Avalon Woods are concerned about emergency services, both for the residents of Avalon Woods and the attendees at the event, since the roads in the area may be in gridlock due to the traffic to and from the project; that to date, neither DelDOT, the Emergency Operations Center, nor the State Police have any plans for the area based on the proposed events; that area residents are concerned about security, trespassing, and an increase in crime; that the use does not promote the health, safety, morals, convenience, order, prosperity and welfare of the residents of the area, it only benefits the developers; that there is no clear proposal in the file that depicts exactly how the site will be developed; that if the project is approved and becomes successful, it will increase in size in the future and create even more impacts on the area, especially traffic; that the roads in the area are local roads, not major roads; that the Punkin Chunkin event is just off of U.S. Route 13; that the Harrington State Fair faces U.S. Route 13; that the Dover Downs Nascar events and the Firefly Festival access U.S. Route 13 and Route One; that farm equipment will be traveling the same local roads; that the use does not benefit the residents of the area, but is an infringement upon each resident; that some area residents feel that there will be a lack of enforcement; that neighbors do not want to see a field full of porta-toilets; that there are too many inconsistencies in comparison to the statements made by the applicant and the minimal documentation in the record; that the roadways are not the best and will probably get worse based on the amount of traffic anticipated; that this type of temporary project will create erosion and run-off issues if the weather is not cooperative during the time of the events;



**Public  
Hearing/  
C/U 1991  
(continued)**

that the speed limit on Hollyville Road is 50 mph and a main entrance to the events is intended on Hollyville Road which would be dangerous; that the site is not appropriate for the use; that some of the local roads in the area are improved with surface treatment (tar and chip) which will fall apart after heavy usage; that no preliminary site plan was submitted and that the applicant, if approved, can submit for final site plan approval without a public hearing; that if the use is approved, a few individuals will make a lot of money; that they question how much money will go back into the community; that the region cannot handle the impact of this event; that there is concern that the campers will dump pollutants on the ground; that they question how the applicant will handle dumping; that there is a tax ditch near the gravel road; that they question how the applicant will keep flooding and pollutants out of the watershed and tax ditch; that the impact of the proposed use on this site will be more far reaching than just the Baker Farm; that a security fence will not keep trespassers off of private property; that they question how they will protect their communities; that the community has two protected well-heads and that fencing and lighting are needed at the wellheads; that they are concerned about the environmental impact on their wells; that the wetlands and habitat have not been adequately delineated; that they question the applicant's plan to manage sewage; that noise pollution is a concern; that there is a difference between music and noise pollution; that there will be an intrusiveness of noise on the area; that the noise pollution will affect wildlife; that there will be noise from generators; that it will take many days for campers and RVs to enter and exit the site; that the campers will not remain on the site all the time and will be travelling on the already congested roads; that if this application is approved, the roads will have to be expanded; that there is a discrepancy in Mr. Pires' comments on the number of people attending festivals; that there are major safety issues to consider, especially personal safety; that if the application is approved, a 2 year review is suggested instead of a 3 year review; that the landowner will not be able to continue to farm the land because there will be so much gravel used for the festival and camping; that after the festival, the land will not be able to be used for farmland; that the applicant has basically submitted only a business plan and did not speak to land use; and that they need specifics and answers.

Michael Rivera, Special Events Manager, Traffic Safety Section, DelDOT, was present and at the request of Council, he commented on the proposed use. He clarified that DelDOT had a preliminary meeting with Mr. Pires and, to date, nothing has been approved officially; that, in theory, they can manage the event; that the Traffic Safety Section works with applicants and other agencies (Delaware State Police) to establish a traffic control plan.

Mr. Phillips questioned the number of entrances or improvements that will be needed for an event on this site and Mr. Rivera stated that DelDOT can analyze the entrance issue and report back to the Council; however, analyzing needed improvements could not be done in a time frame for the proposed events. Mr. Phillips questioned a way to get vehicles off the road and Mr. Rivera responded that this would be required, similar to the

**Public  
Hearing/  
C/U 1991  
(continued)**

**Firefly Festival in Dover, whereby stacking and queuing of vehicles and RV's will have to be done in the field to eliminate queuing on the roadway.**

**Mr. Phillips asked if Mr. Rivera could report back on the entrance issue at the July 29th Council meeting. Mr. Rivera indicated that he could meet that deadline for a report to Council on a recommendation as to what DelDOT would want to require of the organizer to safely move traffic in and out of the venue.**

**Mr. Cole questioned the involvement of the Sussex Conservation District in an application such as this. Mr. Lank responded that any application requires the approval of the Sussex Conservation District for stormwater management and erosion and sediment control.**

**Mr. Cole questioned if the application complies with the County's Comprehensive Plan and Mr. Lank responded that the site is located in a low density area in the AR-1 Agricultural Residential District; that the AR-1 District allows for certain conditional uses and this use is one of those; and therefore, the applicant has the right to apply for this type of use based on the conditional use listing.**

**Mr. Cole commented on an agriculture exemption on the Baker Farm and any impact on the County tax base. Mr. Lawson stated that more information is needed to respond to Mr. Cole's questions.**

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

**It was noted that a recommendation has not been received from the Planning and Zoning Commission.**

**M 369 14  
Leave the  
Record  
Open for  
DelDOT  
Comments  
on  
C/U 1991**

**A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to leave the record open on Conditional Use No. 1991 for the limited purpose of asking DelDOT to move forward with providing more detail on an ingress and egress plan to be presented to the Council at the July 29th meeting.**

**Motion Adopted: 5 Yeas.**

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

**M 370 14  
Defer  
Action on  
C/U 1991**

**A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to defer action on Conditional Use No. 1991 filed on behalf of Coolspring LLC/Highway One.**

**Motion Adopted: 5 Yeas.**

**M 370 14  
(continued)**

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

**M 371 14  
Adjourn**

**A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to adjourn at  
4:42 p.m.**

**Respectfully submitted,**

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

**DRAFT**


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



**Sussex County**  
DELAWARE  
sussexcountype.gov

**MEMORANDUM:**

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

FROM: Gina A. Jennings   
Finance Director

RE: **DELAWARE TRANSIT CORPORATION FUNDING BUDGET FOR FISCAL YEAR 2015**

DATE: July 28, 2014

DART, a division of DelDOT, has allocated \$796,862, again, for funding of transportation expenses for various senior centers in Sussex County. This amount has remained at the same level for a number of years. The County's responsibility is to approve a recommended funding amount for Fiscal Year 2015 as per State law. This is an allocation of State grant funds to various senior agencies for transportation purposes. The recommended funding for each agency is the same as in previous years:

Nanticoke Senior Center	\$ 44,959.30
Indian River Senior Center	2,100.00
Laurel Senior Center	99,082.94
Lewes Senior Center	27,120.41
Cape Henlopen Senior Center	43,065.65
CHEER, Inc.	<u>580,533.70</u>
<b>TOTAL</b>	<b>\$796,862.00</b>

Attached are copies of requests from each agency. At the August 5, 2014 County Council meeting, we will, again, recommend funding at the Fiscal Year 2015 level for each agency. Please feel free to contact me if you have any questions or concerns.

GAJ/nc

Attachments

pc: Mr. Todd F. Lawson



DELAWARE TRANSIT CORPORATION

SHAILEN P. BHATT  
Secretary of Transportation

JOHN T. SISSON  
Chief Executive Officer

July 9, 2014

Mr. Todd Lawson  
Sussex County Administrator  
2 The Circle, P.O. Box 589  
Georgetown, DE 19947



Dear Mr. Lawson,

The amount of money approved for the FY'15 Sussex County Reimbursable Program is \$846,862. However, the State's budget bill epilogue language states that "Section 1 of this Act makes an appropriation of \$1,494.3 TFO to the Delaware Transportation Authority (55-06-01) for Kent and Sussex Transportation "E&D". Of this amount, \$50.0 shall be allocated directly to the Sussex Cheer for transportation services." Therefore, you have a remaining \$796,862 to distribute.

Please determine the amount for each agency and write that amount on the attached budget forms. Please sign each form and mail to my attention at 119 Lower Beech St., Wilmington, DE 19805.

If you have any questions, I can be reached at 302-576-6113.

Sincerely,

Mary L. Wahl  
Fiscal Manager

KM:mlw  
Enclosures



**APPENDIX A - PAGE 2 OF 2**  
**Delaware Transit Corporation**  
**Reimbursable Transportation Program**  
**Proposed Program**  
**FY'2015**  
**JULY 1, 2014 – JUNE 30, 2015**

AGENCY'S NAME INDIAN RIVER SENIOR CENTER

ADDRESS: 214 Iron Avenue, Millsboro, DE 19966

CONTACT PERSON: Suzanne Frame

TELEPHONE #: (302) 934-8839 EMAIL ADDRESS INDIANRIVERSENIORCENTER@VERIZON.NET

Expense Category	Agency Request	Expense amount by category - to equal approved apportionment
<b>1. Client Transportation Expense</b>		
a. Purchased Client Transportation	\$ 2,500.00	\$
b. Personal Vehicle Reimbursement	\$	\$
c. Client Transportation Drivers	\$	\$
d. Fuel, Oil and Fluids	\$	\$
e. Client Vehicle Maintenance	\$	\$
f. Client Vehicle Insurance	\$	\$
g. Client Transportation Misc. Expense	\$	\$
<b>2. Admin. Wages &amp; Benefits (≤ 10% Total)</b>	\$	\$
<b>3. Overhead (≤ 2% Total)</b>	\$	\$
<b>4. Less Client Transportation Income</b>	(\$ )	(\$ )
<b>TOTAL</b>	\$ 2,500.00	\$

Funding: **Approved Sussex County Apportionment** \$ \_\_\_\_\_

Suzanne Frame 8/6/13  
 Ms. Suzanne Frame Date  
 Executive Director, Indian River Senior Center

JOHN T. SISSON \_\_\_\_\_  
 Chief Executive Officer, DTC Date

\_\_\_\_\_  
 Todd Lawson Date  
 Sussex County Administrator



**APPENDIX A – PAGE 2 OF 2**  
**Delaware Transit Corporation**  
**Reimbursable Transportation Program**  
**Proposed Program description**  
**FY' 2015**  
**JULY 1, 2014 – JUNE 30, 2015**

AGENCY'S NAME LAUREL SENIOR CENTER

ADDRESS: P.O. Box 64, 113. N. Central Avenue, Laurel, DE 19956

CONTACT PERSON Penelope Duncan

TELEPHONE# (302) 875-2536 \_ EMAIL ADDRESS: lsc5830@comcast.net

Expense Category	Agency Request	Expense amount by category- to equal approved apportionment
<b>1. Client Transportation Expense</b>		
a. Purchased Client Transportation	\$	\$
b. Personal Vehicle Reimbursement	\$	\$
c. Client Transportation Drivers	\$ 58441	\$
d. Fuel, Oil and Fluids	\$ 16500	\$
e. Client Vehicle Maintenance	\$ 15000	\$
f. Client Vehicle Insurance	\$ 13000	\$
g. Client Transportation Misc. Expense	\$ 1900	\$
<b>2. Admin. Wages &amp; Benefits (≤10% Total)</b>	\$ 10500	\$
<b>3. Overhead (≤2% Total)</b>	\$	\$
<b>4. Less Client Transportation Income</b>	(\$ )	(\$ )
<b>TOTAL</b>	\$ 115341	\$

**Funding:** Approved Sussex County Apportionment \$ \_\_\_\_\_

Penelope Duncan 7/24/2013  
 Ms. Penelope Duncan Date  
 Executive Director, Laurel Senior Center

JOHN T. SISON \_\_\_\_\_ Date  
 Acting director of Finance, DTC

\_\_\_\_\_  
 Todd Lawson Date  
 Sussex County Administrator





**APPENDIX A - PAGE 2 OF 2**  
**Delaware Transit Corporation**  
**Reimbursable Transportation Program**  
**Proposed Program Description**  
**FY '2015**  
**JULY 1, 2014 – JUNE 30, 2015**

AGENCY'S NAME CAPE HENLOPEN SENIOR CENTER

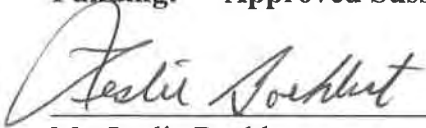
ADDRESS: 11 Christian Street, Rehoboth Beach, DE 19971

CONTACT PERSON: Leslie Boehlert

TELEPHONE #: (302) 227-2055 EMAIL ADDRESS: lesliechsc@aol.com

Expense Category	Agency Request	Expense amount by category - to equal approved apportionment
<b>1. Client Transportation Expense</b>		
a. Purchased Client Transportation	\$ 0	\$
b. Personal Vehicle Reimbursement	\$ 0	\$
c. Client Transportation Drivers	\$ 32,400.00	\$
d. Fuel, Oil and Fluids	\$ 8,000.00	\$
e. Client Vehicle Maintenance	\$ 3,000.00	\$
f. Client Vehicle Insurance	\$ 1,700.00	\$
g. Client Transportation Misc. Expense	\$ 700.00	\$
<b>2. Admin. Wages &amp; Benefits (&lt;= 10% Total)</b>	\$	\$
<b>3. Overhead (&lt;= 2% Total)</b>	\$	\$
<b>4. Less Client Transportation Income</b>	(\$ )	(\$ )
<b>TOTAL</b>	<b>\$ 45,800.00</b>	<b>\$</b>

Funding: **Approved Sussex County Apportionment** \$ \_\_\_\_\_



8-20-13

Ms. Leslie Boehlert  
 Executive Director, Cape Henlopen Senior Center

Date

JOHN T. SIBSON Date  
 Chief Executive Officer

Todd Lawson Date  
 Sussex County Administrator

**APPENDIX A - PAGE 2 OF 2**  
**Delaware Transit Corporation**  
**Reimbursable Transportation Program**  
**Proposed Program Description**  
**FY '2015**  
**JULY 1, 2014 - JUNE 30, 2015**

AGENCY'S NAME: CHEER, INC.

ADDRESS: 546 S. Bedford St, ext., Georgetown, DE 19947

CONTACT PERSON: Arlene S. Littleton

TELEPHONE #: (302) 856-5187 EMAIL ADDRESS: alittleton@cheerde.com

Expense Category	Agency Request	Expense amount by category - to equal approved apportionment
<b>1. Client Transportation Expense</b>		
a.) Purchased Client Transportation	\$ 5,000	\$
b.) Personal Vehicle Reimbursement	\$ 3,500	\$
c.) Client Transportation Drivers	\$ 376,407	\$
d.) Fuel, Oil and Fluids	\$ 90,000	\$
e.) Client Vehicle Maintenance	\$ 60,000	\$
f.) Client Vehicle Insurance	\$ 25,000	\$
g.) Client Transportation Misc. Expense	\$ 27,590	\$
<b>2. Admin. Wages &amp; Benefits (&lt;10% Total)</b>	\$ 106,446	\$
<b>3. Overhead (&lt; 2% Total)</b>	\$ 15,700	\$
<b>4. Less Client Transportation Income</b>	\$ -	\$
<b>TOTAL</b>	<b>\$ 709,643</b>	<b>\$</b>

**Funding: Approved Sussex County Apportionment** \$

Arlene S. Littleton  
 Ms. Arlene Littleton  
 Executive Director, CHEER, Inc.

8-2-13  
 Date

JOHN T. Sisson Date  
 Chief Executive Officer, DTC

Todd Lawson Date  
 Sussex County Administrator


HAL GODWIN  
DEPUTY COUNTY ADMINISTRATOR  
(302) 854-5060 T  
(302) 855-7749 F  
hgodwin@sussexcountyde.gov



**Sussex County**  
DELAWARE  
sussexcountyde.gov

MEMORANDUM:

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

FROM: Hal Godwin  
Deputy County Administrator 

RE: **WETLANDS ADVISORY COMMITTEE UPDATE**

DATE: July 31, 2014

Please review the attached five questions, which I would like to discuss with you at the August 5, 2014 Council meeting. Also attached for your review are notes from Marty Ross.

HG/nc

Attachments

Wetlands Advisory Committee  
Response to Questions Related to the Open Space Program

1. Property ranking process: Has this process been formally adopted by the Open Space Council and DNREC as required under Section 75061 of the Land Protection Act?

Answer: Section 7506(1) refers to criteria for delineation and dedication of open space. Section 7506(4) refers to a ranking system to establish land acquisition or permanent protection priorities. At the last Wetlands Advisory Committee meeting I provided copies of the Open Space Program Property Ranking Process. This was reviewed and adopted by the Open Space Council at its December 7, 2011 meeting. Attached is a copy of this document (new ranking). Also attached is a copy of the previously-used Open Space Rating Criteria (old rating). The old rating was adopted by the Open Space Council in 1991 and used through December 2011. The new ranking has been used from January 2012 forward.

2. How does the Delaware Ecological Network relate to the State's existing SRAs under Section 75072?

Answer: Section 7507(a) (2) states "A system for determining the existence and location of state resource areas; their degree of endangerment; an evaluation of their importance; and information related to their natural, historic or open space values;" The Delaware Ecological Network (DEN) is a science-based approach that identifies core areas and corridors on the Delaware landscape. Core areas contain fully functioning natural ecosystems and provide high-quality habitat for native plants and animals. Corridors link core areas together and allow for animal movement and seed and pollen transfer between core areas. The DEN analysis looks at core forests, core wetlands and core aquatic areas and the connecting corridors. To date this is an internal analysis conducted by The Conservation Fund for the Department over the past two years.

The Open Space Council may decide to use all, some or none of this analysis in any action related to Section 7507(a) (2). Also the State Resource Areas associated with the Open Space Council involve not just natural resource lands, but recreational and cultural lands also.

3. What has been the average score of the properties ranked and protected over the last five years by the Open Space Council?

Answer: Under the old rating (see #1 above) a property could receive a minimum score of zero to a maximum of 120. The old rating was used on 34 projects from July 1, 2009 through December 31, 2011. The average score was 36.94. Under the new ranking (see #1 above) a property could receive a minimum of zero to a maximum of 560. The new ranking was used on 22 projects from January 1, 2012 through June 30, 2014. The average score was 211.59.

4. How many times has the ranking process been used at an Open Space Council meeting to prioritize the selection of competing properties?

Answer: During Executive Session the Open Space Council reviews the specific properties for that quarterly meeting. The Council discusses each project on its merits and factors in the available funding for the program. It also considers that projects coming before the Council are typically priorities at that time for the qualifying land managing agencies that are eligible for Open Space Program funding (Division of Fish & Wildlife; Division of Parks & Recreation; Delaware Forest Service; Division of Historical & Cultural Affairs). The prioritization by the land managing agencies significantly reduces the "competition" discussion. Each agency is aware of funding constraints and works together to move projects through the process. The ranking process is a factor, just like other factors such as price, bargain sale, endowment, in-holding, and timing, to name a few.

5. Section 7507 of the Land Protection Act calls for the Open Space Council and DNREC to update the state resource area maps in consultation with county governments at least every five years. Currently DNREC is out of compliance with this legislative requirement. Does DNREC have a timeline for coming into compliance with this requirement that can be shared with the Committee and speak to how our Fresh Water Wetland concerns may be addressed in this update process?

Answer: In recent past meetings the Open Space Council briefly discussed the status of State Resource Area maps. The Council expressed a desire to have a more informed discussion. This will be an agenda item for the September 17, 2014 meeting. At that time it is anticipated that timelines may be established for addressing the issue of non-compliance. Also the concerns of the Wetlands Advisory Committee, particularly as it relates to Category I wetlands, will be presented as part of the discussion.

All,

The WAC has chosen to pursue an incentive based conservation approach to preserve wetlands. As I understand the numbers provided by DNREC and the Delaware Dept. of Agriculture the math works as follows in acres:

Privately Owned 404 regulated lands;	220,000
Privately owned non regulated Category I	4019
Privately owned buffer (minimum 50 ft.) for Cat I	13896
Privately owned buffers for 404 regulated lands	unknown
Total Privately owned wetlands	<b>237915</b>
Forested lands with conservation easements	31451
85% of forestland	26733
Wetlands available for conservation incentives	<b>211182</b>

Everyone can do their own math but I think we can agree it is a big number.

To date the WAC has adopted two incentive recommendations. One is to fund Forest preservation annually \$200,000 and the other is to modify the Conservation Tax Credit to hopefully make it functional. The tax credit financial impact is limited to \$1M/yr.

If we assume both of these are used entirely to preserve wetlands of one sort or another (not likely) and assume a discounted value presented to the committee of a round number of \$2000/acre; 600 acres per year will be preserved. This means that it will take 351 years to preserve all the wetlands in the State without further incentive recommendations from this committee.

The first Delaware Farm Bureau recommendation would, if adopted by the General Assembly, provide DDA the ability to collect \$15M of the Real Estate Transfer Tax directly from the counties. If a similar measure were adopted for Open Space in the amount of \$10M (DFB would support this) the total financial commitment toward resource preservation would be \$26M annually.

The bottom line is that by ensuring funding for AgLand Preservation and Forest Preservation the State would likely preserve 3500 acres per year of freshwater wetlands with these two programs alone; without making any changes to program selection criteria. This one change reducing the timeline for preservation of ALL wetlands from 351 years to 60 years.

A critical component to the financial commitment is the second recommendation of ensuring a venue for consideration of joint use of these funds. Any financial commitment by Open Space to leverage money with these two programs would obviously increase the annual resource protection acreage. Providing a forum for joint planning and coordinated use of committed funds will not only improve

efficiency but shore up support for resource preservation for years to come. Include consideration of federal programs and perhaps we can at least say we made meaningful incentive recommendations.

The Delaware Farm Bureau is asking the Committee to consider the following two recommendations.

**The Committee recommends that Title 30 Chapter 5426 be amended by making deletions as shown by strike through and insertions as shown by underline as follows;**

§ 5426 Farmland Preservation Fund receipt transfer.

On or before October 15 of each fiscal year, the State shall transfer \$10 million in receipts received under Chapter 54 of this title, to the Farmland Preservation Fund maintained under Chapter 9 of Title 3. Notwithstanding any law, code, ordinance, or regulation to the contrary, the Foundation shall be entitled to adopt and impose procedures and requirements under Title 29 chapter 101 to collect Fifteen million dollars from the respective county receiver of taxes, treasurer or director of finance as the Foundation's share of the Real Estate Transfer tax under Title 30 Chapter 54 and shall when collected and after deduction of the seven and a half percent administration charge, be transferred to the Foundation of which, ten million dollars will be allocated for Agland Preservation and five million dollars for Forestry Preservation for use in carrying out Title 3 Chapter 9.

Synopsis

Current law provides for the mandatory transfer of \$10 million annually from the Division of Revenue for the use by the foundation. The recommendation would require the foundation to adopt and impose procedures for the direct transfer of monies collected under the Real Estate Transfer tax, change the amount to \$15 million dollars, allocate \$10 million to farmland preservation and \$5 million dollars to forestland preservation.

**The Committee recommends that bi-annual meetings be held by the Ag. Preservation Foundation, Forest Preservation Foundation, Open Space Council and pertinent Federal agencies to identify opportunities for coordination and efficient use of funds.**

Regards to all,

Marty Ross

DFB Representative




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DEPUTY COUNTY ADMINISTRATOR  
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**Sussex County**  
DELAWARE  
sussexcountyde.gov

MEMORANDUM:

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

FROM: Hal Godwin  
Deputy County Administrator 

RE: **DOWNTOWN DEVELOPMENT DISTRICT – SENATE BILL NO. 191 AND APPLICATION**

DATE: July 31, 2014

I will attempt to explain the components of the new Downtown Development Districts Act at the August 5, 2014 Council meeting. Attached for your review are Senate Bill No. 191 and a draft version of the “Application for Designation as a District”.

HG/nc

Attachments



SPONSOR: Sen. Henry & Sen. Bushweller & Sen. Marshall & Rep.  
Keeley & Rep. Bolden & Rep. Scott  
Sens. Blevins, Ennis, McDowell, Sokola, Townsend;  
Reps. Bennett, Potter, Ramone, Spiegelman, Paradee, D.  
Short, D.E. Williams, Wilson

DELAWARE STATE SENATE  
147th GENERAL ASSEMBLY

SENATE BILL NO. 191

AN ACT TO AMEND TITLES 22, 29, 30, AND 31 OF THE DELAWARE CODE RELATING TO DOWNTOWN DEVELOPMENT DISTRICTS.

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

1 Section I. Amend Title 22 of the Delaware Code by inserting a new Chapter 19 therein and by making deletions  
2 as shown by strike through and insertions as shown by underline as follows:

3 Chapter 19. The Downtown Development Districts Act.

4 Subpart I. Establishment, Amendment, and Termination of Districts.

5 § 1901. Purpose. Healthy and vibrant downtowns are critical components of Delaware's economic well-being and  
6 quality of life. The purpose of this chapter is to leverage the resources of state government in a limited number of  
7 designated areas in Delaware's cities, towns, and unincorporated areas in a multifaceted effort:

8 (a) To spur private capital investment in commercial business districts and surrounding neighborhoods;

9 (b) To stimulate job growth and improve the commercial vitality of such districts and neighborhoods;

10 (c) To help build a stable community of long-term residents in such districts and neighborhoods by improving  
11 housing opportunities for persons of all incomes and backgrounds; increasing homeownership rates; building a diverse  
12 array of successful businesses; and reducing the number of vacant houses; and

13 (d) To help strengthen neighborhoods, while harnessing the attraction that vibrant downtowns hold for talented  
14 young people, innovative small businesses, and residents from all walks of life.

15 § 1902. Definitions. As used in this chapter:

16 (1) "Committee" means the Cabinet Committee on State Planning Issues established pursuant to 29 Del.C. §§  
17 9101 et seq.

18 (2) "District Plan" means the strategic plan or other detailed description of the overall strategy for the development  
19 of a proposed district submitted by the municipality or unincorporated area as part of its application for District designation.

20 (3) "DSHA" means the Delaware State Housing Authority.

21 (4) "Downtown" means that portion of a city, town, or unincorporated area that traditionally comprises its  
22 downtown or central business district, as determined by such city, town, or unincorporated area in accordance with  
23 guidelines promulgated by the Office.

24 (5) "Downtown Development District" or "District" means an area within a municipality or unincorporated area  
25 designated as a Downtown Development District in accordance with the provisions of this chapter.

26 (6) "Municipality" means any incorporated town or city of this State.

27 (7) "Office" means the Office of State Planning Coordination.

28 (8) "Unincorporated area" means an area of the State having a concentration of population that is not a  
29 municipality and that is eligible to apply for and receive District designation in accordance with rules promulgated by the  
30 Office.

31 § 1903. Applications for District designation.

32 (a) At the request of the Governor, the Office shall solicit applications from municipalities and unincorporated  
33 areas to have an area designated as a Downtown Development District. Such application shall include a description of the  
34 area to be included; the need for District incentives; the District Plan; local incentives offered; and such other information  
35 as may be required by the Office.

36 (b) The Office of State Planning Coordination shall administer the application process and establish criteria to  
37 determine what areas qualify as Downtown Development Districts. The Office is authorized to take such actions as may be  
38 necessary or convenient to fulfill its responsibilities hereunder, including but not limited to promulgating rules and  
39 regulations relating to the establishment, amendment, and termination of Districts and providing assistance to  
40 municipalities and unincorporated areas in connection with the application process.

41 (c) The criteria for designating areas as Downtown Development Districts shall include:

42 (1) The need and impact of such a designation for such area, including but not limited to income, unemployment  
43 rate, homeownership rate, and prevalence of vacant or abandoned housing units in such municipality or unincorporated  
44 area. Need and impact factors shall account for at least 50 percent of the consideration given to applications for District  
45 designation;

46 (2) The quality of the municipality's or unincorporated area's District Plan;

47 (3) The quality of the local incentives offered; and

48 (4) Such other criteria as may be determined by the Office.

49 § 1904. Review and approval of applications.



50 (a) Applications for District designation shall be evaluated by the Cabinet Committee on State Planning Issues,  
51 which shall recommend to the Governor those applications with the greatest potential for accomplishing the purposes of  
52 this chapter.

53 (b) Upon receipt from the Committee of any recommended application, the Governor (i) may designate  
54 immediately the recommended area as a District; (ii) may designate the recommended area as a District effective one year  
55 from the date of such determination by the Governor; or (iii) may deny such application.

56 (c) The initial round of applications shall result in the immediate designation of at least one but no more than three  
57 Districts.

58 § 1905. Designation, renewal, and amendment of Districts.

59 (a) No more than 15 Districts shall be designated at any one time. Designation of the first three Districts shall  
60 include one District in each county.

61 (b) Districts shall be designated for an initial 10-year period. Upon recommendation of the Committee, the  
62 Governor may renew Districts for up to two five-year renewal periods. Recommendations for renewals shall be based on  
63 the performance of District responsibilities by the municipality (or county in the case of an unincorporated area); the  
64 continued need for such a District; and its effectiveness in creating capital investment, increasing population, creating jobs,  
65 improving housing stock, providing enhanced retail and entertainment opportunities, and otherwise improving the quality  
66 of life within such District.

67 (c) Any municipality (or county in the case of an unincorporated area) having a District within its borders shall be  
68 responsible for providing the local incentives specified in its application, providing timely submission of reports and  
69 evaluations as required by rule or regulation, implementing an active local Development District program within the  
70 context of overall economic and community development efforts, and fulfilling such other responsibilities as may be  
71 required by law, rule, or regulation in connection with such District.

72 (d) Each District shall be required to submit regular reports and information to the Office as may be necessary to  
73 evaluate such District's effectiveness and compliance with this section.

74 § 1906. Local incentives.

75 (a) Any municipality or unincorporated area submitting an application for District designation shall propose local  
76 incentives that address local economic and community conditions, and that will help achieve the purposes set forth in §  
77 1901 of this chapter. Such local incentives may include but are not limited to a reduction in fees or taxes. In addition, the  
78 application may also contain proposals for regulatory flexibility, which may include but are not limited to permit process  
79 reforms, special zoning districts, or exemptions from local ordinances.

80 (b) All incentives proposed in the application shall be binding upon the municipality (or county in the case of an  
81 unincorporated area) upon designation of the District. The extent and duration of such incentives shall be consistent with  
82 the requirements of the Delaware Constitution and the United States Constitution.

83 (c) A municipality or county may establish eligibility criteria for local incentives that differ from the criteria  
84 required to qualify for the incentives provided in this chapter.

85 § 1907. Amendments to District boundaries and incentives.

86 A municipality or county may apply to the Office to amend the boundaries of the District or to amend one or more  
87 District incentives, provided that any revised incentive proposed by the municipality or county shall be equal or superior to  
88 the incentive for which the amendment is sought. All proposed amendments are subject to approval by the Committee.

89 § 1908. Formal Review and Termination of Districts.

90 (a) If a municipality (or a county in the case of an unincorporated area) fails to fulfill its obligations pursuant to §  
91 1905 or as otherwise set forth in this Act, then the Office may recommend to the Committee that the District be placed  
92 under formal review or that its District designation be terminated.

93 (b) Except in instances where a city, town, or municipality fails to provide local incentives in accordance with §  
94 1906 hereunder, the Office (1) may not recommend placing any District under formal review for at least 2 years following  
95 the initial designation of such District, and (2) may not recommend terminating the designation of any District for at least 1  
96 year following the placement of the District on formal review by the Committee.

97 (c) In no event shall the Office recommend formal review or termination of any District without providing  
98 sufficient notice and opportunity to be heard to such District.

99 (d) The Committee may approve any recommendation by the Office to place a District under formal review or to  
100 terminate a District's designation upon the affirmative vote of three-fifths of the members of the Committee.

101 (e) The Office may promulgate regulations to authorize the continuation of previously authorized District  
102 incentives for a reasonable period following termination of the District; provided, however, that no new incentives shall be  
103 authorized for any entity after the date of termination.

104 Subpart II. Downtown Development District Grants.

105 § 1921. Qualifications for Downtown Development District Grants.

106 (a) Subject to the limitations set forth in this subpart, any Qualified District Investor making a Qualified Real  
107 Property Investment in a District shall be entitled to a Grant in an amount up to 20 percent of the Qualified Real Property  
108 Investments made by such Qualified District Investor in excess of the Minimum Qualified Investment Threshold.

109 (b) For purposes of this chapter:



110 (1) "DDD Grant" or "Grant" shall mean a Downtown Development District Grant as set forth in paragraph (a)  
111 hereunder.

112 (2) "Facility" means a complex of buildings, co-located at a single physical location within a District, all of which  
113 are necessary to facilitate the conduct of the same residential, trade, or business use. This definition applies to new  
114 construction as well as to the rehabilitation and expansion of existing structures.

115 (3) "Minimum Qualified Investment Threshold" means the minimum level of Qualified Real Property Investments  
116 required to be made by a Qualified District Investor in a building or facility in order to qualify for a DDD Grant, as  
117 determined by DSHA. Notwithstanding the foregoing, for the fiscal year ending June 30, 2015, the Minimum Qualified  
118 Investment Threshold shall be \$25,000 with respect to a single residential or mixed-use building or a facility. No more  
119 often than once per year, DSHA may amend the Minimum Qualified Investment Threshold with respect to uses (residential,  
120 commercial, industrial, etc.), types of projects (rehabilitation, new construction, etc.), or other criteria determined by DSHA  
121 to be necessary or convenient to accomplish the purposes of this chapter.

122 (4) "Qualified District Investor" means an owner or tenant of real property located within a District who expands,  
123 rehabilitates or constructs such real property for residential, commercial, industrial or mixed use. In the case of a tenant, the  
124 amounts of qualified real property investment specified in this section shall relate to the proportion of the building or  
125 facility for which the tenant holds a valid lease. In the case of an owner of an individual unit within a common interest  
126 community, as such term is defined in 25 Del.C. § 81-103(11), the amounts of qualified real property investments specified  
127 in this chapter shall relate to that proportion of the building for which the owner holds title and not to common elements.

128 (5) "Qualified Real Property Investment" means the amount in excess of the Minimum Qualified Investment  
129 Threshold that is properly chargeable to a capital account for improvements to rehabilitate, expand or construct depreciable  
130 real property placed in service during the calendar year within a District. Specific inclusions and exclusions from the  
131 definition of "Qualified Real Property Investments" shall be determined by DSHA, but such definition shall generally  
132 include expenditures associated with (i) any exterior, interior, structural, mechanical or electrical improvements necessary  
133 to construct, expand or rehabilitate a building or facility for residential, commercial, industrial, or mixed use; (ii)  
134 excavations; (iii) grading and paving; (iv) installing driveways; (v) landscaping or land improvements; and (vi) demolition.  
135 Notwithstanding the foregoing, no investment in the rehabilitation, expansion, or construction of any building or facility in  
136 a District shall be a Qualified Real Property Investment unless it is performed in accordance with the District Plan.

137 § 1022. Limitations and Conditions.

138 (a) The availability of Downtown Development District Grants in any given year shall be subject to appropriation  
139 by the General Assembly.

140 (b) In addition to its other powers and responsibilities hereunder, DSHA is expressly authorized to establish such  
141 other limitations and conditions with respect to Grants as may be necessary or convenient to accomplish the purposes of  
142 this chapter, including but not limited to:

143 (1) Amending the Minimum Qualified Investment Threshold;

144 (2) Establishing caps or limits on DDD Grants available to any Qualified District Investor, alone or in combination  
145 with other local, state, or federal incentives for any individual building or facility (including but not limited to State  
146 Historic Preservation Tax Credits pursuant to Chapter 18 of Title 30);

147 (3) Establishing additional qualifying criteria with respect to uses (residential, commercial, industrial, etc.) or  
148 types of projects (rehabilitation, new construction, etc.);

149 (4) Incentivizing particular types of uses or projects in one or more Districts; and

150 (5) Establishing such other limitations and conditions in one or more Districts as DSHA shall determine from time  
151 to time.

152 (c) DSHA may establish or amend the foregoing limitations and conditions no more often than once per year.

153 § 1923. Policies and procedures for allocation of Downtown Development District Grants.

154 (a) Qualified District Investors shall be eligible to receive DDD Grant provided for in this chapter to the extent that  
155 they apply for and are approved for grant allocations through DSHA.

156 (b) The accuracy and validity of information on Qualified Real Property Investments shall be subject to  
157 verification procedures in accordance with rules promulgated by DSHA on forms supplied by DSHA and in accordance  
158 with dates specified by DSHA.

159 § 1924. Administration.

160 (a) DSHA shall have the primary responsibility for administering the DDD Grant program. In connection  
161 therewith, DSHA's powers and duties shall include but not be limited to the following:

162 (1) Adopting such rules and procedures as may be necessary or desirable to effectuate the provisions of this  
163 chapter;

164 (2) Administering, enforcing, and interpreting such rules and procedures;

165 (3) Allocating Grant funds in accordance with the provisions of this chapter; and

166 (4) Monitoring the implementation and operation of this subpart.

167 (b) Beginning no later than December 31, 2015, DSHA shall issue an annual report to the Governor and the  
168 General Assembly evaluating the effectiveness of the Grant program established hereunder.

169 (c) DSHA may delegate to, and receive assistance from, other entities including the Office, DEDO, and other state  
170 agencies in carrying out its responsibilities hereunder.

171 Section 2. Amend Title 29, § 9101(a) of the Delaware Code by making deletions as shown by strikethrough and  
172 insertions as shown by underline as follows:

173 § 9101 Cabinet Committee on State Planning Issues.

174 (a) A Cabinet Committee on State Planning Issues is established and shall serve in an advisory capacity to the  
175 Governor. It shall be comprised of the following members or their respective designees:

176 (1) The Secretary of the Department of Natural Resources and Environmental Control.

177 (2) The Secretary of the Department of Transportation.

178 (3) The Secretary of the Department of Agriculture.

179 (4) The Director of the Delaware Economic Development Office.

180 (5) The Director of the Delaware State Housing Authority.

181 (6) The Secretary of the Department of Safety and Homeland Security.

182 (7) Such others as the Governor may designate.

183 Section 3. Amend Title 29, § 9101(c) of the Delaware Code by making deletions as shown by strikethrough and  
184 insertions as shown by underline as follows:

185 (c) The Committee shall consider matters relating to the orderly growth and development of the State, including,  
186 but not limited to:

187 (4) Recommendations on land use planning actions that are subject to review and comment pursuant to Chapter 92  
188 of this title; ~~and~~

189 (5) Preparing the Strategies for State Policies and Spending document and maps, which shall serve as the primary  
190 policy guide that summarizes the State's land use goals, policies and strategies and directs state spending into investment  
191 levels that support the most efficient use of state resources, be they physical, fiscal, or natural, except that county and  
192 municipal governments shall retain their existing autonomy with respect to the land use designations set forth in their  
193 proposed and/or adopted comprehensive plans. The Strategies for State Policies and Spending shall be updated at least  
194 every 5 years, provided that the Governor may extend the deadline at his or her discretion.; and

195 (6) Performing such other duties and responsibilities with respect to Downtown Development Districts as set forth  
196 in Chapter 19 of Title 22.

197 Section 4. Amend Title 29, § 9101(h) of the Delaware Code by making deletions as shown by strikethrough and  
198 insertions as shown by underline as follows:



199 The Office of State Planning Coordination shall render local planning technical assistance. The Office of State  
200 Planning Coordination may serve as the lead agency to engage other state agencies, local governments, and other  
201 governmental and nongovernmental organizations for the purposes of coordinating planning activities, promoting liaison  
202 between various state agencies and local governments, building capacity through training and sharing of digital and other  
203 information, developing infrastructure plans and master plans, addressing specific growth and design issues, and such other  
204 actions as are appropriate to achieve the purposes of this chapter. The Office of State Planning Coordination shall develop  
205 and promote cooperation and coordination among state agencies and local governments to ensure effective and efficient  
206 planning and infrastructure investment. The Office of State Planning Coordination may make grants available to county and  
207 municipal governments to assist them in achieving any of the objectives outlined in this section, provided that funded  
208 activities and deliverables are in compliance and in harmony with the Strategies for State Policies and Spending. The Office  
209 of State Planning Coordination shall further have such authority and responsibility with respect to Downtown Development  
210 Districts as set forth in Chapter 19 of Title 22.

211 Section 5. Amend Title 30, § 1812(6) of the Delaware Code by making deletions as shown by strikethrough and  
212 insertions as shown by underline as follows and renumbering the remaining sections accordingly:

213 (6) "Downtown Development District" means an area of a city or town that has been designated by the Governor  
214 as a Downtown Development District in accordance with Chapter 19 of Title 22.

215 Section 6. Amend Title 30, § 1816(a) of the Delaware Code by making deletions as shown by strikethrough and  
216 insertions as shown by underline as follows:

217 (a) The maximum amount of credit awards under this chapter in any fiscal year shall not exceed \$5,000,000. One  
218 hundred thousand dollars of the credit awards in a fiscal year must be reserved for distribution to qualified resident curators.  
219 If in any fiscal year there are insufficient qualified resident curators to exhaust this allotment, the unused credit amount will  
220 be available in the next fiscal year for award to persons qualifying under § 1813(a)(1) or (2) of this title. In any ~~+~~ one year,  
221 ~~\$2,000,000~~ \$1,500,000 of tax credits shall be reserved for projects receiving a credit of not more than \$300,000. In  
222 addition, in any one year, \$1,500,000 of tax credits shall be reserved for projects located in Downtown Development  
223 Districts, of which \$500,000 shall be reserved for projects in such Districts receiving a credit of not more than \$300,000.  
224 On April 1 of each year, any unused balance of the ~~\$2,000,000 pool~~ foregoing pools of tax credits shall be available to any  
225 eligible project. However, should a credit award exceed the actual credit claimed, the amount of the excess credit award  
226 shall not be available for a subsequent award.

227 Section 7. Amend Title 31, § 4002(a) of the Delaware Code by making deletions as shown by strikethrough and  
228 insertions as shown by underline as follows:

229 § 4002 Purpose.  
230 (a) It is the purpose of this chapter that DSHA have the authority and capacity to:  
231 (9) Advise and inform the Governor and the public on the affairs and problems relating to housing and community  
232 development and revitalization, and make recommendations to the Governor for proposed legislation pertaining thereto;  
233 and  
234 (10) Administer such provisions of the Downtown Development District Act as set forth in Chapter 19 of Title 22;  
235 and  
236 (11) Operate DSHA's financial affairs in a prudent and sound manner.  
237 Section 8. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the  
238 invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision  
239 or application; and, to that end, the provisions of this Act are declared to be severable.

#### SYNOPSIS

Healthy and vibrant downtowns are critical components of Delaware's economic well-being and quality of life. The Downtown Development Districts Act is intended to leverage state resources to spur private investment in commercial business districts and surrounding neighborhoods; to improve the commercial vitality of our downtowns; and to increase the number of residents from all walks of life in downtowns and surrounding neighborhoods.

This Act establishes "Downtown Development Districts," a small number of areas in our cities, towns, and unincorporated areas that will qualify for development incentives and other state benefits. Municipalities must apply for District designation. In the case of unincorporated areas, counties must apply. Applications will be evaluated by the Cabinet Committee on State Planning Issues, which will make recommendations to the Governor. Following the initial round of applications, the Governor must designate at least 1 but no more than 3 Districts. Designation of the first 3 Districts must include 1 District in each county. Under the Act, no more than 15 Districts may be designated at any one time.

As part of the application process, municipalities or counties must offer local incentives. The factors to be considered by the Committee when evaluating applications include, among others, (1) the municipality's or unincorporated area's need for District designation; (2) the quality of the District Plan; and (3) the quality of the local incentives offered. The Office of State Planning Coordination will prepare applications, establish criteria to determine what areas qualify as DDDs, and provide assistance to municipalities and counties during the application process.

Under the Act, investors (both non-profit and for-profit) who make qualified real estate improvements in a District would be entitled to receive Downtown Development District (DDD) Grants of up to 20 percent of their "hard costs" such as exterior, interior, and structural improvements. The incentive is modeled after a similar program in Virginia, which has been extremely successful in leveraging significant amounts of private capital in under-served areas. Investors would need to invest at least \$25,000 in a building or facility to qualify, and the 20 percent incentive would only qualify with respect to investments above \$25,000. For example, an investor making \$45,000 worth of qualifying investments in a District would be entitled to a DDD Grant of up to \$4,000 (*i.e.*, 20% of \$20,000). The Act gives DSHA the authority to cap the amount of Grants and to establish further conditions and limitations.

In addition, because Delaware's Historic Preservation Tax Credit Program has proven to be a powerful tool both in preserving important historic structures and revitalizing neighborhoods, the Act also provides that 30% of the state's yearly allocation of HPTCs will be reserved for projects in Downtown Development Districts. If by April 1 of each year any such credits are not allocated to projects in DDDs, such credits will be made available to any eligible project statewide.

Author: Sens. Henry & Bushweller & Marshall



**DRAFT**

# Delaware Downtown Development District Program

## Application for Designation as a District

This is a **DRAFT** application form that has been released for public review. As a result of public comments this application form may be edited or altered before being released in its final form.





# Downtown Development Districts

## Application for Designation as a District

### Section I General Guidelines

The Downtown Development Districts Act of 2014 (the Act) was enacted by the General Assembly in order to:

- Spur private capital investment in commercial business districts and other neighborhoods;
- Stimulate job growth and improve the commercial vitality of such districts and neighborhoods;
- Help build a stable community of long term residents by improving housing opportunities; and
- Assist local governments in strengthening neighborhoods while harnessing the attraction that vibrant downtowns hold for talented people, innovative small businesses and residents from all walks of life.

Local governments<sup>1</sup> that wish to take advantage of this program must identify a downtown district in their community and apply for designation. To make an application for designation this form must be completed, supporting materials must be attached, and the entire packet submitted to the Office of State Planning Coordination as detailed herein in order for the request to be considered.

<sup>1</sup> Municipalities and counties are eligible to apply for Downtown District designation. Throughout this document, the terms “local government” and “applicant” refer to either the municipality or county that is presenting the application.

Completed applications will be considered by the Cabinet Committee on State Planning Issues (the Committee). The Committee will make recommendations to the Governor, who will then designate between one and three Downtown Development Districts in the current program year. Additional Districts may be designated in future program years. The number of Districts is limited to 15 at any one time. District designations last for 10 years, and the Committee can consider up to two five year extensions.

Selection as a Downtown Development District will entitle private construction projects within the identified District to receive grants to offset 20% of their capital construction costs. There are a host of other benefits that will be described in more detail in other materials. Grant funds will be administered by the Delaware State Housing Authority (DSHA).

Applications must be addressed to the Office of State Planning Coordination as follows:

Mrs. Constance C. Holland, AICP  
Director  
Office of State Planning Coordination  
122 Martin Luther King Jr. Blvd, S.  
Dover, DE 19901

Application Due Date for  
FY15 Cycle:  
**Month, Day, Year**



# Downtown Development Districts

## Application for Designation as a District

### Section II Specific Requirements

Local governments must identify proposed Downtown Development Districts in accordance with the Act. Districts must include a traditional mixed-use downtown area, commonly known as a Central Business District (CBD)<sup>2</sup>. Districts must be no more than 85 acres in area for jurisdictions with a population under 9,000<sup>3</sup> persons and no more than 170 acres in area for jurisdictions with a population over 9,000 persons. Applicants are encouraged to geographically concentrate the incentives to the greatest extent possible. As such, applications proposing Districts smaller in size than the maximums will be prioritized in the scoring of the application.

The size and shape of the proposed District must make sense from an urban planning and revitalization perspective. Guidelines for preparing District boundaries are found elsewhere in this application.

A map of the District is required as a part of this application. Local governments must also supply maps showing the future land use and zoning of the district area, and discuss how the

plan and land use regulations support the application for the District.

The Act identifies three components of the application for designation as a District:

- The need and impact of the District designation;
- The quality of the District Plan
- The quality of the local incentives offered

Each of these components will now be described in more detail.

**Need and Impact:** The applicant must describe the need for the economic incentives that will be available in designated District. The need must be documented the use of relevant data and other methods. The conditions of the local economy, income, poverty, homeownership rates, prevalence of vacant or abandoned buildings and other metrics may be used to make the case that the proposed District is in need of the incentives.

In addition, the applicant must describe the potential positive impacts that are likely to accrue due to designation as a District. Applicants are encouraged to describe the impacts using both data and other methods.

The **Need and Impact** section will account for 50% of the consideration given to scoring each application.

**District Plan** – The local government must present a District Plan that will be used to guide development activities and

<sup>2</sup> Central Business District: An area around the downtown portion of the city or town allowing for higher intensity residential uses as well as commercial, office, personal services, governmental, and similar uses intended to serve the community and surrounding areas of the city or town.

<sup>3</sup> Population to be based on the 2010 US Census.



# Downtown Development Districts

## Application for Designation as a District

revitalization efforts in the District. The District Plan is to be a detailed description of the overall strategy for the development of a proposed district.

The applicant must demonstrate that the District Plan is consistent with the local government’s certified Comprehensive Plan and the *Strategies for State Policies and Spending* and any other local planning documents or studies that are applicable. Additionally, if other governmental, non-governmental and/or quasi governmental organizations are involved with revitalization efforts in the downtown area they must be identified and it must be demonstrated that coordination of all activities will be part of the District Plan.

The District Plan should clearly and concisely describe the key actions and strategies that are in place and / or will be used to guide growth and revitalization efforts in the proposed District. The overall vision of the plan, the clarity of actions to be taken, and proof of the ability and the will of the municipality or county and other partners to implement the plan will be key considerations when evaluating this section of the application.

Changes to the District Plan must be reviewed by the Committee. District designation may be rescinded if the District Plan is not adhered to.

The quality of the **District Plan** will account for 30% of the consideration given to scoring each application.

**Local Incentives** – The local government must detail a package of local development incentives that will apply within the proposed District. These incentives may include, but are not limited to, a reduction in fees or taxes; regulatory flexibility; permit process and licensing reform; special zoning districts; or exemptions from local ordinances. These incentives may either be currently in place and in use by the municipality or county or they may be proposed for implementation upon designation as a District.

Upon designation as a District the local government is required to implement the incentive package as described and proposed for the duration of the District designation. Grant funds will not be available to projects until the incentive package is adopted by the local government and made available to the project developer. Changes to the incentive package must be approved by the Committee. The District designation may be rescinded by the Committee if these conditions are not adhered to.

The quality of the **Local Incentives** will account for 20% of the consideration given to scoring each application.

### Section III Application Instructions

**Check List** - self-explanatory.

**Information Sheet** - The local government must supply the jurisdiction's name, mailing address, and phone numbers. The applicant must provide the date of the last update of the



## *Downtown Development Districts*

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### **Application for Designation as a District**

comprehensive plan and briefly describe the District being proposed.

**Map of the Proposed District** – The local government must submit a map of the proposed District in sufficient detail to clearly identify the boundaries of the District and calculate its area. Maps should be created with GIS software, and the associated computer files should be made available to aid our review of the proposal. Districts must be contiguous, and be no more than 85 acres in area for local governments with a population under 9,000 and no more than 170 acres in area for local governments with a population over 9,000. There are guidelines detailed elsewhere in this application that must be followed when preparing the proposed District boundaries. Applicants must also supply maps showing the future land use and zoning of the district area, and discuss how the plan and land use regulations support the application for the District.

**Summary of Need and Impact** – The local government must complete this form to summarize the need for District designation and the potential positive impact of the district. Supporting documentation should be attached to this form.

**Summary of District Plan** – The local government must complete this form to summarize the District Plan for the proposed District. Copies of the District Plan or Plans must be attached to this form, along with any relevant supporting documentation.

**Written Documentation from Supporting Organizations** – The local government must supply written documentation from other organizations that will be relied upon to implement the District Plan. The documentation must be attached to the “Summary of District Plan” form.

**Summary of Local Incentives** – The local government must complete this form to summarize the local incentive package to be made available within the District upon designation. The local ordinances (or other regulations or documentation) enabling and governing these incentives must be attached to this form, along with any relevant supporting documentation. In the case of incentives proposed upon designation, the draft ordinances must be attached.

**Legislative Body Resolution** – The local government must attach an adopted resolution from the jurisdiction’s legislative body that indicates the local government’s desire to apply for designation as a District, and the local government’s willingness to adhere to the District Plan and the Local Incentives for the duration of the District designation.



## *Downtown Development Districts*

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Application for Designation as a District

# Application Cover Sheet and Check List

Jurisdiction Name:

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Date of Application \_\_\_\_\_ Date Received \_\_\_\_\_

### Check List for Application Materials

- Application Cover Sheet and Check List.**
- Information Sheet.**
- Map of the Proposed District (GIS files encouraged).**
- Map of Future Land Use in Proposed District (GIS files encouraged)**
- Map of Zoning in Proposed District (GIS files encouraged)**
- Summary of Need and Impact (with attachments).**
- Summary of District Plan (with attachments).**
- Written Documentation from Supporting Organizations.**
- Summary of Local Incentives (with attachments).**
- Legislative Body Resolution.**





## *Downtown Development Districts*

### Application for Designation as a District

### Information Sheet

Municipality / County: \_\_\_\_\_

Contact Person for Application	
Name: _____	
Address: _____	
_____	
Phone: _____	Email: _____
_____	
Signature _____	Date _____

Proposed District Administrator (if different)	
Name: _____	
Address: _____	
_____	
Phone: _____	Email: _____
_____	
Signature _____	Date _____

Date of certified Comprehensive Plan \_\_\_\_\_

Population of the municipality or county (as per 2010 US Census) \_\_\_\_\_

Population of proposed District (based on 2010 US Census Block data) \_\_\_\_\_

Area of proposed District in acres \_\_\_\_\_

Brief description of the proposed Downtown Development District (100 words or less)

Note: this description will be used as a summary for internal review and in printed materials

(box will expand as you type)
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## *Downtown Development Districts*

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### Application for Designation as a District

### Map of the Proposed Downtown Development District

**Instructions:** Prepare a map of the proposed Downtown Development District. The map must clearly show the boundaries of the District. The area of the proposed District, in acres, must be calculated from the boundaries designated on the map. The following guidelines must be adhered to when preparing the boundaries of the proposed District:

- The maximum size of the District is 85 acres for local governments with populations below 9,000 and 170 acres for local governments with populations over 9,000 (population as per the 2010 US Census).
- Districts must be contiguous.
- Districts must include the streets and right-of-ways within it. These count towards the maximum acreage.
- Enclaves within District boundaries are not acceptable.
- Phasing and timing of redevelopment activities in different geographic areas of the District is acceptable, and will be considered favorably when it can be demonstrated that this will concentrate the incentives to achieve specific revitalization goals.
- If proposing the maximum acreage, phasing and timing is preferable.

Attach a paper copy of the map to this form

Attach a map showing the future land use in the proposed District from the municipality's or county's certified Comprehensive Plan. Attach a map showing the zoning or land use regulations that apply to lands within the District. Discuss how the plan and land use regulations support the application for the District.

It is encouraged that the map(s) be created using GIS software. If the municipality or county is able to use this software, please submit digital files to our office to supplement the application and aid us in our review. Please contact OSPC if you need assistance and / or to arrange to electronically transfer the files.

District Boundaries Map Attached

GIS data is available and will be electronically transferred to OSPC

Name of person who created the map:

\_\_\_\_\_

Phone \_\_\_\_\_

Email \_\_\_\_\_



## *Downtown Development Districts*

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### Application for Designation as a District

#### **Map of the Proposed Downtown Development District - continued**

Additional information about the map or proposed District boundaries that we should know which will help us with our review:

(box will expand as you type)

Attach a map showing the future land use of the District from the local government's certified Comprehensive Plan.

- Map Attached
- GIS data is available and will be electronically transferred to OSCP

Attach a map showing the zoning or land use regulations that apply to lands within the District

- Map Attached
- GIS data is available and will be electronically transferred to OSPC



## ***Downtown Development Districts***

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Application for Designation as a District

### **Map of the Proposed Downtown Development District - continued**

Discuss how the plan and land use regulations support the application for the District (500 words or less)

(box will expand as you type)

Are there other special overlays, districts, or areas that intersect the proposed District? Examples of such special areas include historic districts, BID taxing districts, etc. Please describe any of these special areas and how they will interact with the proposed Downtown Development District. Include maps, if applicable. (500 words or less)

(box will expand as you type)



## *Downtown Development Districts*

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Application for Designation as a District

**Summary of Need and Impact**

**50%**

**Instructions:** Complete this form to document the need for the District designation and its potential to positively impact your community. Attachments of data and other documentation are required. There is no specific page or word limit on the information that can be attached, *however* please be aware that applications that provide clear and concise documentation that is directly related to the need and impact of the District proposal will be scored the highest.

Please describe the **need for the Downtown Development District** designation in your community (500 words or less)

(box will expand as you type)



## *Downtown Development Districts*

### Application for Designation as a District

### Summary of Need and Impact – continued 50%

Attach relevant data to that demonstrates and documents the **need** for the Downtown Development District designation.

The following table summarizes the **required** data from the US Census. Input the data into the attached spreadsheet, and attach any other written documentation that can summarize the data. Contact OSPC for assistance with the Census data, if needed.

#### Required Data from the US Census

The municipality or county as a whole			
Median Income	Poverty Rate	Age of Structures	% Homeownership
% Rental	Vacancy	Median Home Value	
The Census Tract(s) that contains the proposed District			
Median Income	Poverty Rate	Age of Structures	% Homeownership
% Rental	Vacancy	Median Home Value	% Low / Mod Income
The Census Block(s) that most closely correspond to the proposed District			
Total Population	% Homeownership	% Vacancy	

Summary spreadsheet and other documentation attached

Please provide any other data that support the municipality’s application for the District. The following table contains some **suggested** data sources that can serve to supplement the required data. Please attach any that apply, and any other data that is relevant. Cite the source for each dataset.

#### Suggested Data from a Variety of Sources

Blight	Condemned Properties	Code Violations
Crime Statistics	Economic Analysis	CDBG Program Statistics
Market Studies	Redevelopment Authority Activities	Public Works Projects
Education Data	Infrastructure Condition or Need	Other

Additional data and documentation attached



## *Downtown Development Districts*

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Application for Designation as a District

### **Summary of Need and Impact – continued 50%**

Describe how the attached data demonstrates the **need for** the Downtown Development District designation in your community (500 words or less).

(box will expand as you type)

Describe the potential positive impacts of the proposed Downtown Development District designation in your community. Impacts can include economic, social and / or cultural impacts among others. Attach supporting documentation if applicable. (500 words or less).

(box will expand as you type)



## *Downtown Development Districts*

---

Application for Designation as a District

### **Summary of District Plan**

**30%**

**Instructions:** through this application the municipality or county will be presenting the District Plan that will guide future revitalization, growth and development activities in the District. Upon designation, the local government will be required to adhere to the District Plan in order to qualify for grants and other incentives. Attach the District Plan, and summarize the content, goals, and objectives in the space provided.

The District Plan Checklist is provided as a separate document. The proposed District Plan must be prepared in accordance with the Checklist.

Attach the District Plan.

District Plan Attached.

Summarize the content, goals and objectives of the District Plan. (500 words or less).

(box will expand as you type)





## ***Downtown Development Districts***

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### **Application for Designation as a District**

### **Summary of District Plan 30%**

Please summarize how the local government envisions itself in a leadership role to guide the successful implementation of the District Plan (500 words or less).

(box will expand as you type)

List key implementation strategies for the District Plan. Please also list any known projects or proposals that can be underway within six to twelve months of District designation. Key Priority Projects<sup>4</sup> should be identified, if applicable (see Checklist for more details). (500 words or less)

(box will expand as you type)

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<sup>4</sup> Key Priority Projects are specific projects identified in the District Plan that are considered to be potential catalysts for other redevelopment activity and / or contribute to superior urban design or other benefits to the District.



## *Downtown Development Districts*

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**Application for Designation as a District**



## ***Downtown Development Districts***

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**Application for Designation as a District**

### **Summary of District Plan 30%**

List any other governmental, quasi-governmental or non-governmental organizations that will be involved in the creation and / or implementation of the District Plan. A Main Street organization would be an example of such an organization. For each organization, describe how the local government will coordinate their activities to encourage revitalization and economic development in the District.

(box will expand as you type)

Attach written documentation (in the form of letters of agreement, memorandums of understanding, board resolutions etc) from each of the above listed organizations indicating support for this application to be designated as a Downtown Development District and identifying a willingness to coordinate with the municipal government to implement the District Plan.

Written documentation attached from all other organizations



## *Downtown Development Districts*

---

Application for Designation as a District

### **Summary of District Plan 30%**

Describe how the District Plan is consistent with your certified Comprehensive Plan and the *Strategies for State Policies and Spending* (500 words or less)

(box will expand as you type)



# Downtown Development Districts

## Application for Designation as a District

### Summary of Local Incentives 20%

**Instructions:** The municipality or county must complete this form to summarize the local incentive package to be made available within the District upon designation. The local ordinances (or other regulations or documentation) enabling and governing these incentives must be attached to this form, along with any relevant supporting documentation. In the case of incentives proposed upon designation, the draft ordinances must be attached.

Attach the Local Incentives. The following table includes suggested local incentives. Please attach any that are relevant, and others that have not been listed.

#### Suggested Local Incentives

Fee or Tax Reductions	Regulatory Flexibility	Permit or Licensing Reform
Special Zoning Districts	Exemptions from Local Ordinances	Streamlined Permitting
Other		

Written documentation attached for all Local Incentives

For each Local Incentive to be provided, please describe the specifics of how the incentive works (details are needed), and how the incentive encourages economic development and revitalization in your community. ***If any incentives are proposed and not yet enacted, note that here along with the anticipated date of adoption.***

(box will expand as you type)



## *Downtown Development Districts*

---

Application for Designation as a District

### **Summary of Local Incentives - continued 20%**

For each incentive, identify whether it is specifically offered in the proposed Downtown Development District or if it is also available elsewhere in your community.

(box will expand as you type)

Summarize the package of Local Incentives, and describe how these incentives will work in concert with the Downtown Development District benefits to encourage revitalization and economic development in your proposed District (500 words or less).

(box will expand as you type)



## *Downtown Development Districts*

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**Application for Designation as a District**

### **Legislative Body Resolution**

**Instructions:** Attach a resolution that has been adopted by the legislative body of your municipality or county. The resolution must affirmatively indicate that the legislative body supports the application for designation as a Downtown Development District and is willing to adhere to the District Plan and the Local Incentives for the duration of the District designation.

Date of Resolution \_\_\_\_\_

Resolution Number \_\_\_\_\_

Resolution Attached.

AGREEMENT NO. \_\_\_\_\_  
PROJECT NO. \_\_\_\_\_  
AMENDMENT NO. \_\_\_\_\_

**Agreement Between**

**SUSSEX COUNTY**

**and**

**GEORGE, MILES & BUHR, LLC**

**for**

**Engineering Services for the**

**SUSSEX SHORES SUBURBAN COMMUNITY  
IMPROVEMENTS**

**SUSSEX COUNTY, DELAWARE**



THIS CONTRACT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ by and between Sussex County, a political subdivision of the State of Delaware, as First Party, hereinafter referred to as the COUNTY, and GEORGE, MILES & BUHR, LLC. a State of Maryland limited liability company as the Second Party, hereinafter referred to as the CONSULTANT, whose address is 400 High Street, Seaford, DE 19973.

WITNESSETH:

WHEREAS, the COUNTY has selected the CONSULTANT to perform engineering services for the Sussex Shores Suburban Community Improvements for Sussex County, Delaware, hereinafter referred to as the PROJECT.

WHEREAS, the CONSULTANT has agreed, and by these presents does agree with the COUNTY for the consideration hereinafter mentioned, to provide the services enumerated hereinafter and more specifically defined hereinafter so as to assure, insofar as it is reasonably within its power to do so, the satisfactory completion of the PROJECT for the COUNTY in accordance with the Scope of Work contained herein.

NOW, THEREFORE, for and in consideration of the mutual covenants, hereinafter stipulated to be kept and performed; it is mutually agreed between the parties as follows:

ARTICLE ONE  
DEFINITIONS

1.1 COUNTY means the Sussex County, a political subdivision of the State of Delaware created by Title 9, Delaware Code, Chapter 70.

1.2 CONSULTANT means George, Miles & Buhr, LLC, a State of Maryland limited liability company, which is contracted or to be contracted by the COUNTY to provide professional consultant services for the Sussex Shores Suburban Community Improvements.

1.3 PROJECT means Sussex Shores Suburban Community Improvements.

ARTICLE TWO  
SCOPE OF SERVICES

2.1 All work required of the CONSULTANT under the terms and conditions of this Agreement shall be the responsibility of the CONSULTANT, subject to the review and the approval of the COUNTY. The CONSULTANT shall perform services necessary to satisfactorily accomplish the work required to be performed under this Agreement.

2.2 All services performed by the CONSULTANT under this Agreement shall be subject to the approval of all applicable Federal, Regional, State, County, Municipal, and other public governmental agencies. Where the approval of the COUNTY is indicated herein, the approval of such agencies hereinbefore stated, including all applicable agencies of the COUNTY, shall be deemed to be required. The CONSULTANT shall prepare its work for the PROJECT in a professional manner, intended to obtain approval of such agencies. Close cooperation between such agencies hereinbefore stated and the CONSULTANT is intended in order that the interest of all agencies may best be served. The CONSULTANT shall confer when and where requested by the COUNTY with the COUNTY and with representatives of all such agencies hereinbefore stated. The CONSULTANT shall maintain continuing and close liaison with the COUNTY in order to resolve questions and attempt to obtain needed approvals from all such agencies hereinbefore stated so as to permit the work effort for the PROJECT to be uninterrupted. The CONSULTANT cannot and does not guarantee that the approval of any agency, public or private, will be secured; however the CONSULTANT will use professional skill and care to do so on behalf of the COUNTY.

2.3 The CONSULTANT shall perform all professional services assigned to it under the terms and conditions of this Agreement.

2.4 The CONSULTANT shall perform the Scope of Services attached hereto as Attachments \_\_\_\_\_  
A.

2.5 The CONSULTANT'S professional services shall consist performing Engineering Services as required for the Sussex Shores Suburban Community Improvements Project as attached hereto and made part of this Agreement as Attachment "A".

2.5.1 The CONSULTANT shall meet with the COUNTY and all applicable agencies required to permit the satisfactory completion of the PROJECT.

ARTICLE THREE  
PROJECT SCHEDULE

3.1 The CONSULTANT shall start work immediately after receiving the Notice to Proceed. The CONSULTANT shall complete all of the work required of it under Article Two of this Agreement by the respective dates as required by the COUNTY. The COUNTY will adjust the time of completion because of additional work or unavoidable delays due to changes requested or approved by the COUNTY. The CONSULTANT shall not be responsible for delays that are beyond its reasonable control.

ARTICLE FOUR  
FEE STRUCTURE

4.1 The CONSULTANT represents that the CONSULTANT has used professional skill and care to investigate the COUNTY'S requirements and the CONSULTANT shall claim no compensation in addition to the amounts set forth in this Agreement for work as set forth in this Agreement except in cases where it is mutually agreed through changes in scope or conditions.

4.2 For all work which may be subcontracted by the CONSULTANT, and upon the prior written approval by the COUNTY, the COUNTY will make reimbursement for only the actual costs incurred by the CONSULTANT for payments to the subcontractor for the work specified based on verified subcontractor invoices for the work performed.

4.3 The COUNTY shall pay the CONSULTANT for the satisfactory completion of the Scope of Services specified hereinbefore in Attachments A of this Agreement based on and limited to the following method of determination:

4.3.1 Direct payroll costs actually paid to productive technical employees while performing work on the PROJECT. Such costs shall be derived from the hourly rate paid to each productive technical employee multiplied by the actual hours of productive work on the PROJECT. The direct wages and salaries shall include all salaries and wages of productive technical employees who are assigned to the performance of services under this Agreement, whether such performance is at the CONSULTANT'S local project office or at the regularly established offices, plus

4.3.2 Actual overhead and fringe benefit costs shall be submitted annually during the term of the Agreement. Attachments for individual work tasks will be based on the previous year's audited overhead rate when available but in no case later than April 1<sup>st</sup> of the subsequent year. The cumulative total of all Attachments at the end of the CONTRACT shall not exceed 164.0 percent of

the actual payroll costs billed as set forth in Article 4.3.1, plus.

4.3.3 Out-of-pocket expenses, at cost, which are directly chargeable to the PROJECT and which are not provided as a part of the CONSULTANT'S overhead costs; such expenses shall be limited to the following:

4.3.3.1 Express Mail Charges/Courier Service charges.

4.3.3.2 Meal expenses and lodging costs for overnight travel required by the PROJECT, costs not to exceed I.R.S. regulations on deduction meal and lodging cost for overnight travel.

4.3.3.3 Payment at a rate not to exceed -forty eight cents per mile for use of motor vehicles operated in accordance with the CONSULTANT'S established policy for such expenses, plus

4.3.4 A Fixed Fee which shall be calculated by multiplying the sum of the Actual Direct Payroll Costs (4.3.1) and Actual overhead and fringe benefit costs (4.3.2) by a factor of ten percent (10%). The COUNTY will pay the CONSULTANT the fixed fee according to the percentage of the work which is satisfactorily completed and accepted by the COUNTY, not to exceed 90%. The remaining 10% will be paid at project completion.

4.4 In accordance with the method of fee determination described in Articles 4.3.1, 4.3.2, 4.3.3 and 4.3.4 of this Agreement, the total compensation and reimbursement obligated and to be paid the CONSULTANT by the COUNTY for the CONSULTANT's Scope of Services as described in Article Two of this Agreement shall not exceed \$ 165,636.00 dollars (\_\_\_\_\_). In the event of any discrepancy or inconsistency between the amount sets forth in this Article 4.4 and any appendices, exhibits, attachments or other sections of this Agreement, the amounts set forth in this Article 4.4 shall govern.

4.5 The CONSULTANT shall submit to the COUNTY its vouchers or bills incurred in performance of the work every four (4) weeks. Such vouchers or bills shall be submitted in the form and substantiated as required and directed by the COUNTY. The vouchers and/or bills shall bear the written approval of the COUNTY before being paid. The CONSULTANT shall maintain current

monthly records of cost information adequate to reflect the cost of performing the work at all times while the work is in progress and shall prepare and furnish to the COUNTY such written estimates of cost and information in support thereof as the COUNTY may reasonably request, but in no event less often than every four (4) weeks.

4.6 For the Scope of Services for which the fee structure of Article 4.4 of this Agreement hereinbefore stated is applicable, the COUNTY will make payments within 30 days of receipt of an accurate and correct invoice. The COUNTY will not deduct any retainage from the total amount invoiced.

4.7 The CONSULTANT shall take and afford the COUNTY the advantage of all cash and trade discounts, rebates, allowances, credits, salvage, commissions and modifications available to the CONSULTANT from parties other than the COUNTY with respect to items of expense reimbursed under Article 4.3.3 of this Agreement.

4.8 If this Agreement is either terminated upon completion of any stage and/or phase of a stage of the CONSULTANT'S services or terminated during any phase of the work, the CONSULTANT shall be paid for services actually performed during such stage and/or phase of a stage in accordance with Articles 4.3.1, 4.3.2, 4.3.3, and 4.3.4 of this Agreement and all prior monthly progress payments to constitute the total payment for services rendered directly by the CONSULTANT. Upon termination, the CONSULTANT shall immediately suspend all subcontract work under this Agreement. The CONSULTANT shall submit to the COUNTY verified subcontractor invoices for the work performed prior to termination which shall constitute the total payment for subcontract services rendered. The CONSULTANT shall receive no other compensation.

4.9 It is mutually agreed between the COUNTY and the CONSULTANT that no review, approval, acceptance and/or payment made under this Agreement shall be conclusive evidence of the performance of this Agreement, either wholly or in part, and that no review, approval, acceptance and/or payment shall be construed to be an acceptance of defective work by the COUNTY, nor in any way relieve the CONSULTANT of its responsibility for the adequacy of its work.

#### ARTICLE FIVE CONSULTANT'S RESPONSIBILITIES

5.1 The CONSULTANT shall employ only Registered Architects recognized in the State of Delaware in responsible charge of any architectural work required for the Scope of Services specified in Article 2.4 of the Agreement. Any and/or all plans and specifications containing architectural

work shall be stamped with the seal of a Registered Architect registered in the State of Delaware.

5.2 The CONSULTANT shall employ only Registered Professional Engineers recognized in the State of Delaware in responsible charge of any engineering work required for the Scope of Services stages specified in Article 2.4 of the Agreement. Any and/or all plans and specifications containing engineering work shall be stamped with the seal of a Professional Engineer registered in the State of Delaware.

5.3 The CONSULTANT shall employ only Registered Professional Land Surveyors recognized in the State of Delaware in responsible charge of any survey work required for the Scope of Services stages specified in Article 2.4 of the Agreement. Any and/or all plans and specifications containing survey work shall be stamped with the seal of a Professional Land Surveyor registered in the State of Delaware.

5.4 The CONSULTANT agrees to indemnify and hold COUNTY, its appointed and elected officials, employees, agents, directors, and officers harmless from damages, costs (including the reasonable costs of defense) and losses arising out of personal injury or death and property damage arising out of and/or resulting from CONSULTANT'S negligence or the negligence of any subcontractor, agent, or other entity which CONSULTANT retains to perform Work on the PROJECT in performing or furnishing services under this AGREEMENT to the extent and in proportion to CONSULTANT'S or its subcontractor's, agent's, or other entity's comparative degree of fault.

5.5 The CONSULTANT warrants that the CONSULTANT has not employed or retained any person, company, corporation, individual or firm, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this Agreement, and that the CONSULTANT has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty the COUNTY shall have the right to terminate this Agreement without liability, and, at its discretion to deduct from the fee structure specified in Article 4 of this Agreement or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or any other consideration.

5.6 Upon satisfactory completion of the work performed hereunder and prior to final payment under this Agreement, and as condition precedent thereto, the CONSULTANT shall execute and deliver to the COUNTY a release of all claims against the COUNTY arising under or by virtue of this Agreement, other than such claims, if any, as may be specifically exempted by the



CONSULTANT from the operation of the release in stated amounts to be set forth therein.

5.7 In the performance of this Agreement, the CONSULTANT shall, to the extent practicable, provide for maximum use of structures, machines, materials, construction methods, and equipment which are readily available through competitive procurement, or through standard or proven production techniques, methods, and processes.

5.8 The CONSULTANT shall not, in the performance of the work called for by this Agreement, produce a design or specification such as to require the use of structures, machines, materials, construction methods, equipment, or processes which are known by the CONSULTANT to be available only from a sole source, unless such use had been adequately justified in writing by the CONSULTANT and approved in writing by the COUNTY.

5.9 The CONSULTANT shall report in writing to the COUNTY any sole-source or restrictive design or specification giving the reason or reasons why it is considered necessary to restrict the design or specification. CONSULTANT shall not incorporate such sole-source or restrictive design or specification until written approval from the COUNTY is received.

5.10 CONSULTANT must satisfy the following:

5.10.1 General Insurance Requirements

- A. CONSULTANT shall not commence services or work until CONSULTANT has obtained, at CONSULTANT'S own expense, all of the insurance as required hereunder and such insurance has been approved by the COUNTY; nor shall CONSULTANT allow any subcontractor to commence services or work on any subcontract until all insurance required of the subcontractor has been so obtained and approved by CONSULTANT. Approval of insurance required of CONSULTANT will be granted only after submission to COUNTY of original certificates of insurance in the most current ACORD format evidencing the required liability insurance, signed by authorized representatives of the insurers or, at COUNTY'S request certified copies of the required liability insurance policies.
- B. All insurers underwriting CONSULTANT'S or SUBCONTRACTOR's insurance must be allowed to do business in the state of Delaware and acceptable to COUNTY. The insurers must have a financial rating of A- or better, and a financial size of "Class VIII" or higher in the latest evaluation by A.M. Best Company, unless COUNTY grants specific approval for an exception.

- C. Liability insurance as required hereunder shall be in force throughout the term of the CONTRACT and for three (3) years after the date of final payment by the COUNTY for CONSULTANT'S services under this CONTRACT. Original certificates of insurance signed by authorized representatives of the insurers or, at COUNTY'S request, certified copies of insurance policies, evidencing that the required liability insurance is in effect, shall be maintained with COUNTY throughout the term of this CONTRACT and for three (3) years after final payment by the COUNTY for CONSULTANT'S services under this CONTRACT.
- D. CONSULTANT shall require all subcontractors to maintain during the term of CONTRACT, commercial general liability insurance, business auto liability insurance, workers compensation and employers liability insurance and umbrella excess liability insurance to the same extent required of CONSULTANT in 5.10.2.A., 5.10.2.B., 5.10.2.C., 5.10.2.D and 5.10.2.E. CONSULTANT shall furnish subcontractor's certificates of insurance to COUNTY.
- E. All insurance required hereunder shall be endorsed to provide that the policy is not subject to cancellation, non-renewal, or any material change or reduction in coverage until thirty (30) days prior written notice has been given to COUNTY.
- F. No acceptance and/or approval of any insurance by COUNTY shall be construed as relieving or excusing CONSULTANT from any liability or obligation imposed upon either or both of them by the provisions of this CONTRACT.
- G. If CONSULTANT or any subcontractor does not meet the insurance requirements of this CONTRACT, CONSULTANT shall forward a written request to COUNTY for a waiver in writing of the insurance requirements(s) not met or approval in writing of alternate insurance coverage or self-insurance arrangements. If COUNTY denies the request, CONSULTANT or subcontractor must comply with the insurance requirements as specified herein.
- H. Any deductibles or retentions of \$25,000 or greater shall be disclosed by CONSULTANT, and are subject to COUNTY'S written approval. Any deductible or retention amounts elected by CONSULTANT or its subcontractors or imposed by CONSULTANT'S or subcontractor's insurer(s) shall

be the sole responsibility of the CONSULTANT, and are not chargeable as expenses. Nothing herein shall be construed as permitting a lapse or delay in acquiring and maintaining the insurance required by this Agreement.

- I. If the COUNTY is damaged by the failure or neglect of the CONSULTANT to purchase and maintain insurance as described and required herein, without so notifying the COUNTY, then the CONSULTANT shall bear all costs properly attributable thereto.

#### 5.10.2 CONSULTANT'S Liability Insurance

CONSULTANT shall purchase and maintain such liability and other insurance coverages for not less than the limits as is specified below or required by law, whichever is greater. The insurance as specified on the Certificate of Insurance shall provide coverage for the services or work to be performed under the contract whether it is to be performed by the CONSULTANT, or any subcontractor or supplier or anyone directly or indirectly employed by any of them to perform any of the work, or by anyone for whose acts any of them may be liable.

- A. Commercial general liability insurance which insures against claims for bodily injury including loss of use, personal injury, advertising injury and property damage arising out of or in connection with services under this CONTRACT. The minimum limits of liability for this insurance are as follows:

\$1,000,000 combined single limit - each occurrence  
\$1,000,000 combined single limit – personal and advertising injury  
\$2,000,000 combined single limit - general aggregate  
\$2,000,000 combined single limit – products/completed operations  
aggregate

This insurance shall include coverage for all of the following:

1. Any general aggregate limit shall apply per project or per location basis;
2. Liability arising from premises and operations;
3. Liability arising from the actions of independent contractors;
4. Liability arising from completed operations with such coverage to be maintained for three (3) years after completion of project or longer if the statute of limitations or repose is of a greater duration ;
5. CONTRACTUAL liability including protection for CONSULTANT from bodily injury and property damage claims arising out of liability

assumed under this CONTRACT;

6. Liability arising from the explosion, collapse and underground (XCU) hazards;
7. Waiver of subrogation in favor of the COUNTY; and
8. The COUNTY will be named as additional insured.

B. Commercial auto liability insurance:

\$1,000,000 combined single limit or split liability limits of bodily injury at \$1,000,000 each person, \$1,000,000 each accident and property damage of \$1,000,000 each accident.

This insurance shall include coverage for all of the following:

1. Liability arising out of the ownership, maintenance or use of any auto;
2. CONTRACTUAL liability including protection for CONSULTANT from bodily injury and property damage claims arising out of liability assumed under this CONTRACT.
3. Waiver of subrogation in favor of the COUNTY; and
4. The COUNTY will be named as an additional insured.

C. Workers compensation insurance with statutory benefits as required by any state or Federal law, including standard "other states" coverage and employer's liability insurance with minimum limits:

\$100,000 each accident for bodily injury by accident;  
\$100,000 each employee for bodily injury by disease; and  
\$500,000 policy limit for bodily injury by disease.

CONSULTANT and all subcontractors shall waive all rights against COUNTY and its elected or appointed officials, officers, directors, employees, agents and consultants, for any and all loss of or damage which is in any way related to the Contract.

D. Umbrella excess liability or excess liability insurance with minimum limits of:

\$5,000,000 each occurrence;  
\$5,000,000 aggregate other than completed operations and auto liability;  
\$5,000,000 completed operations aggregate, and including all of the following coverages on the applicable schedule of underlying insurance:

1. commercial general liability;
2. commercial auto liability; and

3. employers liability.

The COUNTY and its elected and appointed officials, officers, directors, employees, agents and consultants shall be named as additional insureds on the CONSULTANT'S commercial general liability and umbrella excess or excess liability insurance policies with respect to liability arising out of the CONSULTANT'S services provided under this CONTRACT. Such coverage shall extend to cover the additional insured(s) for liability arising out of the following:

1. On-going operations;
  2. Bodily injury or property damage claims related to the COUNTY'S general supervision of services as provided by the CONSULTANT under this CONTRACT; and
  3. Completed operations.
- E. Engineers' and architects' professional liability insurance which insures against errors and omissions in rendering or failure to render engineers' and architects' professional services, including construction management if applicable, required under this CONTRACT. A minimum annual aggregate limit of \$2,000,000 per claim is required. Certificates of insurance shall evidence a retroactive date no later than the beginning of CONSULTANT'S services under this CONTRACT.
- F. Insurance provided to COUNTY and its appointed and elected officials, directors, officers, employees, agents and consultants under CONSULTANT'S or subcontractor's liability insurance as specified herein, including, but not limited to, umbrella and/or excess liability policies, shall apply separately to each insured against whom claim is made or suit is brought, with respect to the limits of insurance. Any cross suits or cross liability exclusion shall be deleted from CONSULTANT'S liability insurance policies required herein.
- G. Insurance provided to COUNTY and its appointed and elected officials, directors, officers, employees, agents and consultants as specified herein shall be primary, and any other insurance, coverage or indemnity available to COUNTY and its appointed and elected officials, directors, officers, employees, agents and consultants shall be excess of and non-contributory with insurance provided to COUNTY and its appointed and elected officials, directors, officers, employees, agents and consultants as specified herein.
- H. If any liability insurance purchased by CONSULTANT or by any subcontractor has been issued on a "claims- made" basis, CONSULTANT must comply with the following

additional conditions. The limits of liability and the extensions to be included remain the same.

1. The retroactive date (if any) of such “claims-made” coverage can be no later than the earlier of the date of this CONTRACT or the commencement of the CONSULTANT’S services under this CONTRACT.
2. The CONSULTANT or subcontractor shall agree to provide certificates of insurance evidencing the above coverages for a period of three (3) years after final payment by the COUNTY for the CONSULTANT’S or subcontractor’s services or work under this CONTRACT. Such certificates shall evidence a retroactive date no later than the earlier of the date of this CONTRACT or the commencement of the CONSULTANT’S services under this CONTRACT; or
3. The CONSULTANT or subcontractor shall purchase an extended (minimum three (3) years) reporting period endorsement for each such “claims-made” policy in force as of the date of final payment by the COUNTY for the CONSULTANT’S services under this CONTRACT and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself. Such certificate or copy of the endorsement shall evidence a retroactive date no later than the earlier of the date of this CONTRACT or the commencement of the CONSULTANT’S or subcontractor’s services under this CONTRACT.

#### 5.10.3 Acceptance of Insurance: Option to Replace

If CONSULTANT fails to provide evidence of required liability insurance as required in 5.10.1 and 5.10.2, the COUNTY shall be permitted, without prejudice to any other right or remedy, to obtain equivalent insurance to protect COUNTY’S interests, at the expense of CONSULTANT.

#### 5.10.4 Contractor’s Tools and Equipment:

All contractors and subcontractors are responsible for their owned tools and equipment.

#### 5.10.5 Pollution Liability Insurance:

If and when required based on the decision of the COUNTY, CONSULTANT will purchase the necessary pollution liability insurance with limits as required by COUNTY.

5.11 The CONSULTANT shall secure, maintain and furnish the COUNTY copies of its State of Delaware business license and its Delaware Association of Professional Engineer Certificate of Authorization. The CONSULTANT shall also furnish the COUNTY with such copies of licenses and authorizations for its agents and subcontractors.

5.12 The CONSULTANT shall comply with all Federal, Regional, State, County, Municipal and/or all other laws applicable to the work to be done by the CONSULTANT under this Agreement in effect at the time the services are performed.

5.13 The CONSULTANT shall make no charges or claims for damages for any delays or hindrances from any cause. In the COUNTY'S sole discretion such delays and hindrances may be compensated for by the extension of time in the PROJECT schedule as defined in Article 3 of this Agreement with the written prior approval of the COUNTY.

5.14 The CONSULTANT shall notify the COUNTY in writing if the CONSULTANT is of the opinion that any work is beyond the Scope of Services specified in Article 2 of this Agreement. The COUNTY shall render the final decision after reviewing the CONSULTANT'S written opinion.

5.15 The CONSULTANT shall meet with the COUNTY in the event that any matter cannot be resolved in a mutually satisfactory manner. All interested parties shall be present with the COUNTY hearing all arguments and rendering the final decision.

5.16 The CONSULTANT shall provide all labor, all services, all materials and the like necessary to satisfactorily complete the Scope of Services contained in Article 2 of this Agreement for the PROJECT, except as otherwise provided herein.

5.17 All tracings, plans, maps, descriptions, specifications, records and documentation prepared, obtained, or kept under this Agreement by the CONSULTANT, including drafts or incomplete documents, shall be delivered to and become the property of the COUNTY after the final acceptance of the PROJECT or if earlier terminated, upon the date of termination..

5.18 No director, officer, partner, member, manager, shareholder, employee, representative or agent of the CONSULTANT or its subconsultants shall have any individual liability to the COUNTY unless he or she engaged in willful or wanton misconduct or actions.



ARTICLE SIX  
COUNTY'S RESPONSIBILITIES

6.1 The COUNTY shall furnish the CONSULTANT with any pertinent information that is available to the COUNTY and applicable to the PROJECT. On request from the CONSULTANT, the COUNTY shall provide the CONSULTANT with one (1) copy of such pertinent information without cost.

6.2 The COUNTY shall as far as possible and practical, cooperate with the CONSULTANT in making necessary arrangements with public and/or private agencies.

6.3 The COUNTY shall designate a person to act with authority on its behalf in respect of all aspects of the PROJECT.

6.4 The COUNTY shall respond to the CONSULTANT'S requests for reviews and approvals of its work, and to its requests for decisions related to the prosecution of the PROJECT.

ARTICLE SEVEN  
INDEPENDENT CONTRACTOR

7.1 The CONSULTANT is an independent contractor and this Agreement shall not constitute the COUNTY a partner or agent of the CONSULTANT.

ARTICLE EIGHT  
SUBCONTRACTS

8.1 All SUBCONTRACTS proposed to be entered into by the CONSULTANT pursuant to this Agreement shall be subject to the prior written approval of the COUNTY.

ARTICLE NINE  
AMENDMENT OF AGREEMENT

9.1 This Agreement may only be amended, modified, or extended by prior written approval signed by both the COUNTY and the CONSULTANT.

ARTICLE TEN  
SUCCESSORS AND ASSIGNMENTS

10.1 The COUNTY and the CONSULTANT each binds itself, its successors, legal representatives and assigns, to the other party of the Agreement, and to the successors, legal representatives and assigns of such other party in respect of all covenants to this Agreement. Except as hereinbefore mentioned, the CONSULTANT shall not assign, sell, mortgage, or transfer its interest in this Agreement without the prior written consent of the COUNTY.

ARTICLE ELEVEN  
NON-DISCRIMINATION

11.1 In connection with the carrying out of this Agreement the CONSULTANT shall not discriminate against any employee because of race, creed, color, sex or national origin. The CONSULTANT shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, creed, color, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or terminations; rates of pay or other forms of compensation; and selection or training including apprenticeship.

ARTICLE TWELVE  
RECORDS AND AUDIT

12.1 The CONSULTANT shall maintain such records and require maintaining in similar manner such records of its subcontractors with respect to wages and salaries used for computing amounts payable under Article 4.3.1 of this Agreement and the items reimbursable under Articles 4.3.3.1, 4.3.3.2 and 4.3.3.3 of this Agreement, and such records shall be supported by properly executed payrolls, invoices, contracts, agreements, or vouchers evidencing in proper detail the nature and propriety of the charges. The cost item under Article 4.3.2 of this Agreement shall be the CONSULTANT'S actual cost during the term of this Agreement with the total at the end of the CONTRACT not exceeding the fixed limit as specified. All checks, payrolls, invoices, contracts, agreements, vouchers or other accounting documents pertaining in whole or in part to the work shall be clearly identified, readily accessible and to the extent feasible, kept separate from all other such documents. Supporting documentation shall be included with the monthly invoice as a detailed description of cost items. The CONSULTANT shall cause or provide free access, to the proper officers of the COUNTY at all times to such books and records and the right to examine and audit the same and to make transcripts therefrom as necessary to allow inspection of all work data, documents, proceedings and activities related to this Agreement. The CONSULTANT shall permit

the authorized representative of the COUNTY to inspect and audit all data and records of the CONSULTANT relating to the carrying out of this Agreement. The CONSULTANT shall include similar provisions of this Article in all cost reimbursable subcontracts which it negotiates with respect to the work. In the event expenditures paid to the CONSULTANT under this Agreement are subsequently and properly disallowed by the COUNTY through the findings of an independent audit, the CONSULTANT agrees to refund the properly disallowed amounts to the COUNTY for credit to its appropriate account of fund.

ARTICLE THIRTEEN  
TERMINATION

13.1 If, for any reason or cause, conditions are encountered by the COUNTY which require termination of the Agreement and any modifications hereof, such determination to rest solely in the judgment of the COUNTY, this Agreement and any modifications hereof may be terminated in whole or in part upon thirty (30) days written notice to the CONSULTANT. Upon such termination, the CONSULTANT shall render a final terminal report and shall be due only that payment of fees specified in Article 4.8 of this Agreement. The ENGINEER shall immediately transfer to the COUNTY in a neat and orderly manner the ownership of all documents relating to the PROJECT as specified in Article 5.17 of this Agreement.

13.2 In the case of receipt of a notice of termination of this Agreement and any modifications hereof, the CONSULTANT shall take all reasonable steps to minimize the further incurring of fees under this Agreement.

ARTICLE FOURTEEN  
INCORPORATED DOCUMENTS

14.1 This Agreement incorporates the following appendices:

14.1.1 Attachment A: CONSULTANT'S Scope of Engineering Services for Sussex Shores-Design Phase Services.

14.1.2 Attachment B: Certification of Consultants Direct Payroll Cost Multiplier

IN WITNESS WHEREOF, the parties hereunto have caused this Agreement to be executed on the day and year first written hereof by their duly authorized officers.

SEAL

FOR THE COUNTY:  
SUSSEX COUNTY

\_\_\_\_\_  
President, Sussex County Council

APPROVED AS TO FORM:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Assistant Sussex County Attorney

ATTEST:

\_\_\_\_\_  
Clerk of the Sussex County Council

FOR THE CONSULTANT:  
George, Miles, & Buhr, LLC

WITNESS:

\_\_\_\_\_

**ATTACHMENT A**  
**SCOPE OF SERVICES**  
**DESIGN PHASE SERVICES**

**CONSULTANT'S PROPOSAL**  
**SCOPE OF SERVICES AND FEES**  
**UNDERGROUNDING OF UTILITIES AT SUSSEX SHORES COMMUNITY**  
**DESIGN PHASE SERVICES**

This Scope of Services outlines the design phase services necessary for the undergrounding of overhead utilities within the Sussex Shores community. The undergrounding work includes ductbank installation necessary for the relocation of Delmarva power lines, Verizon communication lines and Mediacom cable TV lines; road repaving; drainage improvements and miscellaneous work associated with undergrounding third party owned utilities.

The design work includes performing survey work; preparation of base map; coordination of designs by Delmarva, Verizon and Mediacom; preparing construction documents (plans, specifications, bidding documents), and making permit applications based upon the design concept accepted by Sussex County. In addition, GMB will participate in a Value Engineering process arranged by Sussex County.

**BACKGROUND**

Since 2001 the Sussex Shores Beach Association (SSBA) members have explored the feasibility of conversion of all of the overhead electrical, telephone and cable lines within the community to underground locations. The SSBA had established an Underground Utility Committee to investigate the scope and cost of this effort. That committee had contracted with GMB in 2007 to provide preliminary engineering services relating to defining the scope of work, obtaining conceptual designs, preparing a utility coordination plan and acquiring cost proposals from the various utility companies. However, due to economic considerations, the SSBA members had decided not to complete the work at

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that time.

In late 2013, the SSBA continued to pursue its desire to convert the utilities to underground and retained GMB to update its previous work particularly with regards to the cost estimates for the work. At that same time the SSBA made a request to Sussex County to complete the work through the Sussex County Improvement Program (SCI). The SCI program provides a means for communities to obtain community improvements with the help of County financing and technical expertise.

In March, 2014, the residents of the community were petitioned as to their desire to pursue the project and the County received the required number of forms verifying that interest. In May, 2014 a community meeting was held and a presentation was provided by the County outlining the scope of the project. On July 12, there was a community vote and greater than 50% of the voters elected to pursue the project.

### **SCOPE OF THE WORK**

The work includes the following:

#### **PART A: PROJECT COORDINATION AND PROGRAM MANAGEMENT**

1. Conduct design progress meetings for the purpose of project coordination and assist the COUNTY in project/program management. Task assumes a total of twelve (12) anticipated meetings as follows: six (6) design meetings with the utility companies; four (4) progress meetings with Sussex County Engineering Department; one (1) pre-design meeting; and one (1) community meeting. GMB will prepare and distribute minutes for each meeting.
2. Prepare and monitor project design schedules for all three (3) utility corporations (Delmarva, Verizon and Mediacom) for compliance with meeting milestone dates.
3. Respond to questions from Delmarva, Verizon and Mediacom with the intent of maximizing the uniformity and consistency of design for all three (3) contracts to best serve the interests of the COUNTY.





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4. Will actively participate in a Value Engineering process arranged by Sussex County with the understanding that substantial modifications of the design after the project has reached 65% design completion shall be considered additional services and subject to an amendment to this agreement.

## **PART B: DESIGN AND BIDDING**

1. Provide field investigations and topographic survey of the Sussex Shores community:
  - a. Locate edge of road, utility poles, underground utilities and other pertinent features within an area 10 feet beyond Right-of-Way (ROW) and any other proposed ductbank corridors.
  - b. Locate corners of all existing homes within the community and identify location of existing electric, phone and cable meter/service locations.
  - c. Establish benchmarks in construction areas.
  - d. Prepare base map.
2. Prepare utility ductbank drawings for relocation of electric (Delmarva), phone (Verizon) and cable TV (Mediacom). Included will be proposed location of various electric, phone and cable equipment such as transformers, pedestals, junction boxes, etc. as provided by utility companies. Work will include the following:
  - a. Develop preliminary layout of ductbank and electrical equipment after consultation with utility companies. Submit 30% plans with preliminary ductbank alignments for COUNTY review. The 30% plans shall include design concepts for drainage improvements in selected areas.
  - b. Submit 60% for COUNTY review. Provide concepts for repaving and a preliminary construction cost estimate.
  - c. Submit 90% contract documents (Plans and Specifications) for COUNTY review.

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- d. Incorporate SCED review comments into final plans, specifications and bidding documents.
  - e. Incorporate COUNTY review comments into final contract documents.
  - f. Provide construction cost estimate.
3. Prepare the following permits for submission on behalf of the COUNTY (including permit fees as a reimbursable expense). Permits to include:
    - a. Sediment and Erosion Control Permit (1)
    - b. Stormwater Management Waiver Request (1)
    - c. DeIDOT Utility Construction Permit and/or Franchise Agreement
  4. The following services will be provided during the advertising and bidding phase of the project:
    - a. Prepare and submit advertisements to newspaper. (Invoices submitted to COUNTY for direct payment).
    - b. Reproduce contract documents for bidding with costs of reproduction recovered through the sales of the plans and specifications.
    - c. Attend pre-bid meeting.
    - d. Prepare Addendum based upon questions from bidders. Assumes two (2) addendums.
    - e. Maintain bidders list.
    - f. Attend the bid opening with the COUNTY, tabulate the bid proposals, make an analysis of the bids, and make a recommendation for awarding contract for construction.
  5. Assist the COUNTY with preparation of exhibits and attendance at public information workshop meeting. One (1) meeting is assumed.

**FEE**

We propose to charge for our services on the basis of our cost plus fixed fee for the scope of work described above. A breakdown of the budgeted hours for each of the phases of work is attached hereto as Exhibit A. We have estimated 1,785 man-hours to complete the design phase services. **The estimated cost plus fixed fee is \$165,636.**

**SCHEDULE**

It is our understanding the design is to be completed prior to January 1, 2015. We request a schedule of approximately twenty (20) weeks after the notice to proceed to accomplish this work. We are open to an alternate schedule should this be necessary.

**ACCEPTED:**

FOR THE CONSULTANT:

GEORGE, MILES & BUHR, LLC

FOR THE COUNTY:

SUSSEX COUNTY ENGINEERING DEPT.

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Judy A. Schwartz, P.E.  
Senior Vice President

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Michael A. Izzo, P.E.  
County Engineer

# EXHIBIT A

**PROGRAM MANHOOR ESTIMATES, DIRECT EXPENSES, SUBCONTRACTS & FIXED FEE**

**PART A & B - PROJECT COORDINATION, PROJECT MANAGEMENT, DESIGN AND BIDDING**

1. <i>Grantee</i> <b>Sussex County, Delaware</b>		2. <i>Grant Number</i>	
3. <i>Name of Consultant</i> <b>George, Miles &amp; Buhr, LLC</b>		4. <i>Date of Proposal</i> <p align="right">14-Jul-14</p>	
5. <i>Address of Consultant</i> 400 High Street Seaford, Delaware 19973		6. <i>TYPE OF SERVICE TO BE FURNISHED</i> <b>Sussex Shores Community - Undergrounding of Utilities Sussex Shores, Delaware</b>	

**PART II - COST SUMMARY**

7. <i>DIRECT LABOR</i>	<i>ESTIMATED HOURS</i>	<i>HOURLY RATE</i>	<i>ESTIMATED COST</i>	<i>TOTALS</i>
Project Director	60	\$ 56.15	\$ 3,369.00	
Sr Project Manager	355	\$ 45.95	\$ 16,312.25	
Project Engineer	265	\$ 31.50	\$ 8,347.50	
Sr Designer	345	\$ 24.90	\$ 8,590.50	
Project Coordinator	320	\$ 23.00	\$ 7,360.00	
CADD /Technician	140	\$ 20.00	\$ 2,800.00	
RPR	0	\$ 24.00	\$ -	
Surveyor	300	\$ 30.75	\$ 9,225.00	
<b>DIRECT LABOR TOTAL:</b>	1785			\$ 56,004
8. <i>INDIRECT COSTS</i>	<i>RATE</i>	<i>x BASE =</i>	<i>ESTIMATED COST</i>	
Overhead and Fringe	1.64	\$ 56,004.25	\$ 91,847	
<b>INDIRECT COSTS TOTAL:</b>				\$ 91,847
9. <i>OTHER DIRECT COSTS</i>				
a. <i>TRAVEL</i>			<i>ESTIMATED COST</i>	
(1) <i>TRANSPORTATION</i> mileage	1,000	mi @ \$0.48/mi	\$ 480.00	
(2) <i>PER DIEM</i> meals				
<b>TRAVEL SUBTOTAL:</b>			\$ 480.00	
b. <i>EQUIPMENT, MATERIALS, SUPPLIES</i>			<i>ESTIMATED COST</i>	
plots/prints	500	\$ 3.00	\$ 1,500.00	
copies	1,000	\$ 0.20	\$ 200.00	
postage	2	\$ 200.00	\$ 400.00	
other	1	\$ 420.00	\$ 420.00	
<b>EQUIPMENT SUBTOTAL:</b>			\$ 2,520	
c. <i>SUBCONTRACTS</i>				
<b>SUBCONTRACTS SUBTOTAL:</b>			\$ -	
<b>OTHER DIRECT COSTS TOTAL:</b>				\$ 3,000
10. <i>ESTIMATED COST</i>				\$ 150,851
11. <i>FIXED FEE</i> 10% of Direct Labor and Indirect Costs (7 + 8)				\$ 14,785
12. <i>TOTAL ESTIMATED COST PLUS FIXED FEE</i>				\$ 165,636

**ATTACHMENT B**  
**CERTIFICATION OF CONSULTANTS DIRECT PAYROLL COST MULTIPLIER**



GEORGE, MILES & BUHR, LLC  
OVERHEAD AND FRINGE BENEFIT COST INCURRED JANUARY 1, 2013 THROUGH  
DECEMBER 31, 2013 AS A PERCENTAGE OF PROJECT PAYROLL

FRINGE BENEFITS

1. Workers' Compensation Insurance	0.0041
2. Group Medical, Dental, Life & Disability Insurance	0.2157
3. FICA Insurance	0.1285
4. Unemployment Taxes	0.0220
5. Pension Expense	0.0362


OVERHEAD

1. General & Business Development Salaries	0.8720
2. Business Development Expenses	0.0189
3. Rent, Utilities and Maintenance	0.1396
4. Expendable Materials and Services	0.0335
5. Depreciation	0.0383
6. Other Overhead (see tabulation)	<u>0.1288</u>
Percentage of Project Payroll	1.638 = 164%

Tabulation of Item 6, Other Overhead

6a. Personal Property and Other Taxes	0.0046
6b. Auto Expense	0.0049
6c. Dues & Subscriptions	0.0089
6d. Taxes - General	-
6e. License Fees	0.0012
6f. Legal & Professional	0.0101
6g. Telephone	0.0184
6h. Travel Exp. - General	0.0089
6i. Insurance - Professional Liability & Other	0.0220
6j. Interest Expense	0.0340
6k. Job Placement Fee & Other Employee Benefits	<u>0.0159</u>
	0.1288

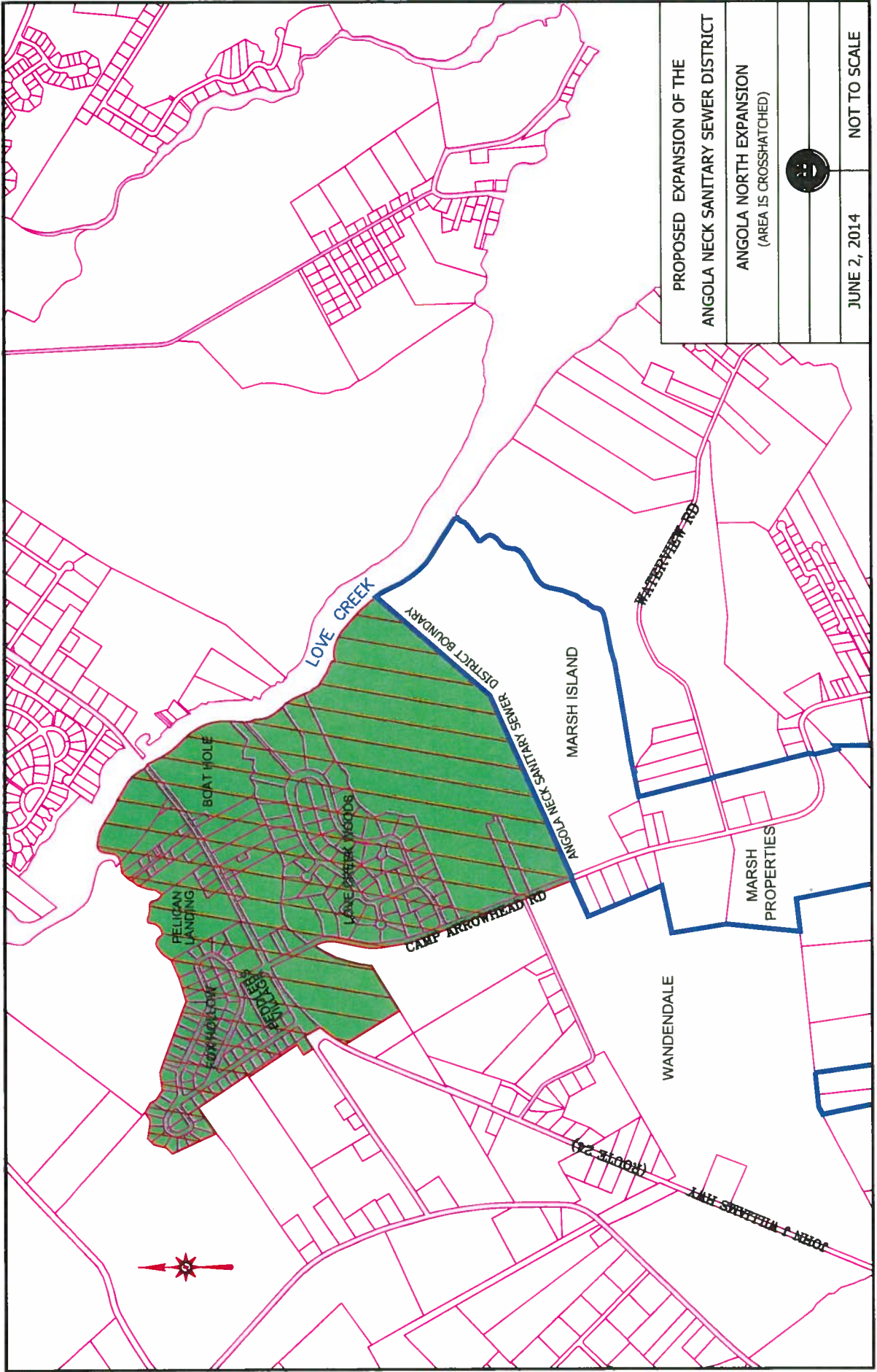
CERTIFIED CORRECT:


  
Autumn J. Burns, Controller

3/19/2014  
Date

**Angola North Contract Amendment #4**  
**Council Fact Sheet**

- This amendment shall provide design services for the expansion of the Angola Neck Sanitary Sewer District, known as Angola North.
- WR&A to provide Project Management, Design, Surveys, Archeological, Preliminary Engineering Report, Environmental Assessment and active participation in the **Value Engineering** process by a firm included in the Miscellaneous Consulting Engineering Selection.
- Work includes the production of contract documents (plans & specifications) for one or more sub-regional pumpstations, grinder pump stations within Love Creek Woods, approximately 16,800 LF of gravity sewer and 12,000 LF of Forcemain.
- The area served will be primarily along Route 24 (John J. Williams Hwy) from Love Creek Bridge west to the area of Peddlers Village, the existing communities of Fox Hollow & Love Creek Woods, as well as Daniels and Woods Edge along Route 24 are slated to be served. See attached map.
- Cost not to exceed \$377,670.00
- Estimated Construction costs for the project \$5,664,574.00. Construction is scheduled for Summer 2015 with completion Summer 2016.



<p><b>PROPOSED EXPANSION OF THE ANGOLA NECK SANITARY SEWER DISTRICT</b></p>	
<p><b>ANGOLA NORTH EXPANSION (AREA IS CROSSHATCHED)</b></p>	
	
<p>JUNE 2, 2014</p>	<p>NOT TO SCALE</p>



**NORTH COASTAL PLANNING AREA**

**SUSSEX COUNTY, DELAWARE**

**CONTRACT AMENDMENT NO. 4**

This contract amendment, **Contract Amendment No. 4** dated **July 31, 2014** amends our original contract dated January 14, 2014 between Sussex County, a political subdivision of the State of Delaware, as First Party, hereinafter referred to as the COUNTY and Whitman, Requardt and Associates, LLP, a State of Maryland Limited Liability Partnership, as the Second Party, hereinafter referred to as the CONSULTANT, whose address is 801 South Caroline Street, Baltimore, Maryland 21231. Except as specifically amended herein, the provisions of the existing engineering services agreement dated January 14, 2014 remain in effect and fully valid. By execution of this amendment, the following sections delete the existing Section 4.4 and replace with below Section 4.4

**ARTICLE FOUR**

**FEE STRUCTURE**

- 4.4 In accordance with the method of fee determination described in Articles 4.3.1, 4.3.2, 4.3.3, and 4.3.4 of this Agreement, the total compensation and reimbursement obligated and to be paid the CONSULTANT by the COUNTY for the CONSULTANT's Scope of Services for **Angola Neck Sanitary Sewer District (ANSSD) Northern Expansion Pump Station, Force Main, and Gravity Sewers** as set forth in **Attachment A**, which is attached hereto and incorporated by reference, shall not exceed **Three Hundred and Seventy Seven Thousand, Six Hundred and Seventy (\$377,670.00)**. In the event of any discrepancy or inconsistency between the amounts set forth in this Article 4.4 and any appendices, exhibits, attachments or other sections of this Agreement, the amounts set forth in this Article 4.4 shall govern.

**Attachment "A"**

Consultant's Scope of Services, **Angola Neck Sanitary Sewer District (ANSSD) Northern Expansion Pump Station, Force Main, and Gravity Sewers** with Man-hour spreadsheets.

IN WITNESS WHEREOF, the parties hereunto have caused this Amendment No. 4 to this Agreement to be executed on the day and year first written hereof by their duly authorized officers.

SEAL

FOR THE COUNTY:  
SUSSEX COUNTY

\_\_\_\_\_  
President, Sussex County Council

APPROVED AS TO FORM:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Assistant Sussex County Attorney

ATTEST:

\_\_\_\_\_  
Clerk of the Sussex County Council

FOR THE CONSULTANT:

WHITMAN, REQUARDT and ASSOCIATES, LLP

\_\_\_\_\_  
Dennis J. Hasson, P.E., Partner

WITNESS:

\_\_\_\_\_



## ATTACHMENT A

### SCOPE OF SERVICES

#### **ANGOLA NECK SANITARY SEWER DISTRICT (ANSSD) NORTHERN EXPANSION PUMP STATION, FORCE MAIN, AND GRAVITY SEWERS**

This attachment outlines the required Scope of Services for the Final Design of the **Angola Neck Sanitary Sewer District (ANSSD) Northern Expansion Pump Station, Force Main, and Gravity Sewers**. This work effort includes the production of contract documents (plans and specifications) for the **Angola Neck Sanitary Sewer District** Northern Expansion involving the construction of the one sub-regional pump station (Boathole PS), one grinder pump station (Love Creek Woods PS), approximately 16,800 linear feet (LF) of gravity sewer, 12,000 LF of force main in the Fox Hollow, Love Creek Woods, and Peddlers Village developments and along John L. Williams Highway (S.R. 24). WR&A will actively participate in a Value Engineering process arranged by Sussex County and incorporate selected options into Final Design.

This project involves the preparation of the contract documents (plans and specifications), permit forms, and easement descriptions. It is assumed that this project will be bid as one contract. The Derivation of Man-hours and Estimated Fee for these tasks are provided in summary spreadsheets included with this document. Also included with this document is a list of drawings.

#### **PART A: PROJECT MANAGEMENT**

1. Prepare Project Management Plan for distribution to Sussex County and in-house disciplines.
2. Conduct peer review sessions for the preliminary, 60%, 90%, and final design submittals.
3. Update Project Cost Estimates, Project Schedules, and Project Accountability Logs.
4. Attend Project Progress Meetings (Assumes five (5) meetings for the Project Manager and Project Engineer) and generate meeting minutes.
5. Attend one (1) Delaware Department of Transportation (DelDOT) Coordination meeting.
6. Attend one (1) Utility Coordination meeting to determine and verify existing utilities within the pipeline corridors.
7. Actively participate in a Value Engineering process arranged by Sussex County and incorporate selected options into Final Design

#### **PART B: SURVEYS**

1. Aerial topography for the Study Area previously flown for the Goslee Creek Planning Area will be processed under this contract. The following additional survey work will be necessary as part of this contract.

Survey Field Work:

- a. Extend horizontal and vertical controls.
- b. Perform supplemental topography for gravity sewers and force mains.
  - i. Location of storm drains, stream crossings, underground utilities, and other pertinent features in the pipeline corridors.
  - ii. Establish benchmarks in construction areas.
  - iii. Stakeout boring locations (66 borings).
  - iv. Supplemental topo for the pump station sites
- c. Collect property evidence for plats.

2. Survey Office Work:

- a. Prepare plats and descriptions for one (1) fee simple property for the grinder pump station in Love Creek Woods.
- b. Prepare plats and descriptions for twenty seven (27) utility easements to be acquired along John L. Williams Highway.

*Assumption:*

*This proposal assumes the County will be responsible for all plat/deed research and that the fee simple acquisition for the Boathole Pump Station and forcemain easements to get to Love Creek Woods will be provided by the developer.*

**PART C: SUBSURFACE INVESTIGATION**

1. Determine boring locations. One boring will be taken at each of the proposed pumping station locations (2 total) and twenty eight (28) additional borings will be taken along the pipeline alignments.
2. Write performance specifications for boring subcontractor. Solicit and review bids from three boring subcontractors and make recommendation to Sussex County for approval.
3. Administer contract with boring subcontractor and coordinate activities.
4. Review soil borings for determination of soil types, depth to ground water, dewatering suitability of soils for backfill material, and geotechnical recommendations.



**PART D: FINAL DESIGN PUMP STATIONS**

1. Perform preliminary hydraulics. Perform preliminary hydraulics for the pumping station after final force main alignment has been determined.
2. Prepare 60% contract documents (plans and specifications). Plans will include preliminary electrical and mechanical layouts. Submit to Sussex County for review.
3. Incorporate Sussex County 60% review comments. Prepare 90% contract documents.
4. Incorporate Sussex County 90% review comments. Prepare final contract documents.

*Assumption:*

*All pump stations will be the County standard submersible station with no pump station superstructure with precast concrete wetwell.*

**PART E: FINAL DESIGN PIPELINES**

1. Prepare 30% plans. Plans will include preliminary pipeline alignments. Submit to Sussex County for review.
2. Prepare 60% contract documents (plans and specifications). Plans will include gravity sewer and forcemain plan and profile. Submit to Sussex County for review.
3. Incorporate Sussex County 60% review comments. Prepare 90% contract documents.
4. Incorporate Sussex County 90% review comments. Prepare final contract documents.

*Assumption:*

*Traffic study for SR 24 will not be required as work will be performed outside of SR 24 travelway.*

**PART F: PERMITTING**

1. Permits will be prepared for submission by the Sussex County Engineering Department. The following permit applications will be prepared:
  - a. DNREC Construction permit
  - b. Sediment and Erosion Control permit
  - c. Stormwater (SWM) Management Waiver Request
  - d. DelDOT Construction Permits
2. Perform non-tidal wetlands delineation within pipeline corridors and on pump station sites and prepare Joint Permit Application.

*Assumptions:*

801 South Caroline Street, Baltimore, Maryland 21231 www.wrallp.com Phone: 410.235.3450 Fax: 410.243.5716

Baltimore, MD • Georgetown, DE • Wilmington, DE • Ellsworth, ME • Philadelphia, PA • Pittsburgh, PA • York, PA • Houston, TX  
Blacksburg, VA • Fairfax, VA • Fredericksburg, VA • Lynchburg, VA • Newport News, VA • Richmond, VA • Virginia Beach, VA

- *No threatened or endangered species impacts.*
- *No stormwater management required.*
- *All fees associated with permits to be paid for by the County.*

**PART G: ADVERTISE/BIDDING SERVICES**

The following items will be performed during the Advertise and Bidding Phase of each contract for the project:

1. Reproduce contract documents for bidding. Reproduction costs for all bidders will be included in the sale of the plans and specifications.
2. Attend pre-bid meeting.
3. Prepare Addendum based on questions from Contractors. It is assumed that only one addendum will be required per contract.
4. Maintain bidders list.
5. Review bids and make recommendations to Sussex County for award of bid.

**PART H: ARCHEOLOGICAL/HISTORICAL SURVEYS****Whitman Requardt and Associates, LLP will:**

1. Prepare 1" = 400' plan depicting pipeline alignments, pumping station locations, and roads constructed to state and local standards for the County's Historic Preservation Planner.
2. Administer the Archeological Contract. WR&A will coordinate all contractual efforts with the subconsultant.

**The County's Historic Preservation Planner will:**

- a. Prepare archaeological sensitivity maps for the Delaware State Historic Preservation Office, Sussex County Engineering Department, Delaware Parks and Recreation and Whitman, Requardt and Associates, LLP.
- b. Review and monitor field work.
- c. Review products produced as a result of field work.

**Assumptions:**

- *Approximately 50% of the project area will not require archeological testing, for various reasons.*

- *The determination of where archeological survey takes place is based on a field view with the project team, County and State agencies.*
- *There is no historical architectural evaluation or assessment required.*
- *A Phase I archaeological survey will only be required (essentially determining presence or absence of archaeological materials). Evaluation of National Register eligibility will not be required.*
- *Archeology services will be limited tasks necessary to complete a Phase I survey to DE State standards. Tasks include background research, field survey, artifact analysis and cataloging, report preparation, and contract administration.*

## **PART I – Preliminary Engineering Report and Environmental Assessment**

1. **Background Data Collection** – WR&A will conduct a collection of background environmental data required for the environmental assessment.
2. **Purpose and Need/Alternatives Definition** – WR&A will assess and define the purpose and need of the proposed expansion and provide various alternatives for its completion.
3. **Inter-agency Correspondence** – WR&A will prepare correspondence on behalf of Sussex County for inter-agency review.
4. **USDA Environmental Assessment Forms** – WR&A will complete the required forms for the environmental assessment on behalf the County. This includes the environmental screening checklist.
5. **Environmental Impacts Analysis** – WR&A will investigate the impacts of the proposed expansion on the surrounding environment.
6. **Categorical Exclusion Report Documentation** – This effort will involve development of the low-level Environmental Assessment documentation to reflect the potential environmental impacts of the proposed action. Documents will be developed in a format consistent with USDA National Environmental Policy Act (NEPA) guidelines, and will include documentation of potential impacts, support maps, and inter-agency correspondence.
7. **Preliminary Engineering Report and Environmental Assessment**. Prepare Preliminary Engineering Report and combine with Environmental Assessment (Part I) for submission to RUS and/or DNREC.

### *Assumptions:*

- *Field studies and survey services are not required. There are no historical/archeological resources, coastal zone consistency, floodplain, or rare, threatened or endangered species concerns.*
- *The activity will require the level of documentation appropriate for a finding of no significant impact.*
- *This report does not include a discussion of indirect and cumulative impacts, required to assess*



*future trends, regional development, or proposed activities outside of the County/State right-of-way.*

7/31/2014

		PROJECT NAME	Angola Neck Sanitary Sewer District Northern Expansion Pump Stations, Force Mains and Gravity Sewers
TASK	Project Budget Input Form		
	SUMMARY		Total
			Dollars
	Phase A - Project Management		\$21,965
	Phase B - Surveys		\$77,486
	Phase C - Subsurface Investigation		\$19,464
	Phase D - Final Design Pump Stations		\$60,796
	Phase E - Final Design Pipelines		\$125,286
	Phase F - Permits		\$16,917
	Phase G - Advertise-Bidding Services		\$5,577
	Phase H - Archeological/Historical Surveys		\$27,186
	Phase I - Preliminary Engineering Report and Environmental Assessment		\$22,995
	<b>PROJECT TOTAL</b>		<b>\$377,670</b>

<b>Estimated Subcontracts included in above project total</b>		
Borings (TBD)		\$14,000
Surveys (Adams Kemp of Georgetown, DE)		\$65,000
Environmental Services (ERI of Selbyville DE)		\$8,000
Aerial Processing of Topo (Axis Geospatial)		\$10,000
Archeology (John Milner)		\$25,000
<b>Total Subcontracted</b>		<b>\$122,000</b>



## Indian River Volunteer Fire Company

Serving Oak Orchard, Riverdale, Long Neck and Vicinity

Station One  
32628 Oak Orchard Road  
Millsboro, Delaware 19966  
(302) 945-2800  
(302) 945-1130 (fax)

Station Two  
25375 Banks Road  
Millsboro, Delaware 19966  
(302) 945-2801  
(302) 947-9447 (fax)

Monday, July 14, 2014

Dear Sir/Madam:

The members of the Ladies Auxiliary of the Indian River Volunteer Fire Company are, again, hosting their Annual Longaberger Basket BINGO to raise funds to support the fire and rescue services provided to our community.

A Longaberger Basket Sponsorship is being offered in exchange for advertising during this event. The event is similar to regular BINGO; however, the prize is a basket rather than monetary awards. This sponsorship opportunity will feature local business and community entrepreneurs within our area.

The Ladies Auxiliary of the Indian River Volunteer Fire Company is offering local business the opportunity to acquire a Longaberger Basket Sponsorship. The sponsorships are available at a cost of \$75.00.

The Annual Basket BINGO event will be held at the fire station banquet hall in Oak Orchard on 8/5/2014. This is an excellent opportunity to showcase your community support of the local volunteer firemen as well as the fire and rescue services.

If you are interested in acquiring a basket sponsorship, please complete the attached sponsorship form and mail it along with your check made out to Indian River Ladies Auxiliary to:

Linda Cullen  
24669 Banks Road  
Millsboro, DE 19966

Thank you for your continued support and cooperation.

Sincerely,

Linda Cullen  
Ladies Auxiliary President  
Indian River Volunteer Fire Company



AUXILARY

July 28, 2014

Dear Joan Deaver,

The Lewes Fire Department Auxiliary and myself would like to thank you for considering us for a grant from yourself and the Sussex County Council.

Our primary goal is to support the Lewes Fire Department and our community. We would like to be able to participate in the fire department events such as funerals for deceased members and parades. To do this we need proper attire.

We are a new auxiliary and don't have considerable funds available for uniforms. We have contacted the local uniform store and it will cost us about \$400.00 for each member to have a uniform. We have approximately 20 members. The monies from your grant will make the purchase of uniforms possible.

Thanks again for considering this project for a grant.

Sincerely,

A handwritten signature in cursive script that reads 'Pat Jones'.

Pat Jones

President of the Lewes Fire Department Auxiliary



## *Delmarva Clergy United in Social Action Foundation*

July 22, 2014

*Bishop M. Foster*  
**President/CEO**

*Dr. Aaron Green*  
**Board Member**

*Harold Truxon*  
**Board Member**

*Elder William Downing*  
**Board Member**

*Bessie Andrews*  
**Board Member**

*Diaz Bonville*  
**Board Member**

*Sam Brooks*  
**Board Member**

*Juanita Gill*  
**Board Member**

*Sandra Green*  
**Board Member**

*Barbara Gibbs*  
**Board Member**

*Anthony Taylor*  
**Board Member**

*Carl Godwin*  
**Board Member**

Sam Wilson  
15376 Wilson Neal Road  
Georgetown, DE 19947

Dear Mr. Wilson:

Founded in 1986, Delmarva Clergy United in Social Action Foundation (DCUSA), is a group of people from all ages and religious affiliations that strive to develop and cultivate the human potential of self-esteem and dignity for all people. We practice the principles of love, caring, inclusiveness, justice and peace to enhance the emotional, physical and social well being of individuals and families in our communities.

On behalf of the Board of Directors and staff, I respectfully submit this request for funding in the amount of, **\$5,249.00** in support of one of many programs that DCUSA offers to the community, The Griffin's Place of DCUSA. Over the years, more than fifteen programs have been created and successful in assisting families within the community and its surrounding areas.

DCUSA has established The Griffin's Place of DCUSA, which focuses on the needs of young men between the ages of 18 through 21 years old that have exit out of foster care. By providing educational training, safe and stable housing and life skill resources, the young mean will have the necessary skills to become productive members of society.

Your consideration of this request for funding will aid in the purchase of carpet for our new facility. Without the generosity of such organizations as your own, the dream of providing a safe haven for these young men will never come to fruition. It is our hope that you will assist in making this dream a reality.

Sincerely,

  
Helena Gibbs  
Executive Director

  
Dr. Bishop Major Foster  
President/CEO





## ***Fort Miles Historical Association***

120 E Wild Rabbit Run  
Lewes, DE 19958  
302.645.0753  
<http://www.fortmiles.org>

July 25, 2014

Mr. Samuel R. Wilson  
Sussex County Council  
P. O. Box 589  
Georgetown, DE 19947

Dear Sam:

When the Fort Miles Historical Association asked for Sussex County's help saving the barrel from the U.S. Missouri your organization gave us much needed help.

The Fort Miles Museum has been making great strides since that event and asks for your support, once again.

Since then, we've completed our strategic planning and are actively working on the infrastructure improvements that are necessary. Our next projects involve the creation of the artillery park, completion of the HVAC system within Battery 519 and providing bathrooms and an eating area for groups (principally schools) who visit Fort Miles.

Within the next sixty days the remaining parts for the 16" gun will arrive. This will allow us to build the 16" gun with the U.S. Missouri barrel, which will be the feature piece in the artillery park outside the new entrance to our Fort Miles Museum, overlooking the Delaware coast,

Completing the HVAC system will guarantee that we can control the humidity and temperature in Battery 519. Maintaining these air quality issues is essential for the safety of our museum's artifacts.

The number one issue we've heard from schools considering trips to Fort Miles is that we need bathrooms adjacent to the museum, so they aren't wasting their limited trip time going to multiple locations. Since we want to become a destination for DE school kids, this new Visitors Center inside the Fort Miles Historical Area is very important.

We've received support from the Delaware Legislature, but are also seeking funds from other Governmental Agencies, Foundations and Individuals to allow us to complete these necessary improvements. These projects will cost approximately \$600,000.

We ask that the Sussex County Council approve a grant to FMHA for \$10,000.00.





***Fort Miles Historical Association***

120 E Wild Rabbit Run  
Lewes, DE 19958  
302.645.0753  
<http://www.fortmiles.org>

We stand ready to make a presentation to the council or to answer your questions and we thank you for your support of the Fort Miles Museum.

Sincerely,



Dr. Gary D. Wray  
President, Fort Miles Historical Association



To Be Introduced 08/05/14

Council District: Phillips – District 5  
Tax I.D. No. 533-4.00-13.00  
911 Address: 34892 DuPont Boulevard, Frankford, DE 19945

ORDINANCE NO. \_\_\_\_

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A FOOD VENDOR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 15,285 SQUARE FEET, MORE OR LESS

WHEREAS, on the 28<sup>th</sup> day of July 2014, a conditional use application, denominated Conditional Use No. 1996 was filed on behalf of Hector Patraca Carmona; and

WHEREAS, on the \_\_\_ day of \_\_\_\_\_ 2014, a public hearing was held, after notice before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 1996 be \_\_\_\_\_; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article XI, Subsection 115-79, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1996 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying west of U.S. Route 113 (DuPont Boulevard) 800 feet south of Road 380 (Parker Road) and being more particularly described as follows:

BEGINNING at an iron pipe on the westerly right-of-way of U.S. Route 113, a corner for these subject lands and lands of Parker Farm Properties, LLC; thence North 24°13'04" West 266.72 feet along Parker lands to a concrete monument, thence South 84°34'52" East 131.89 feet along lands, now or formerly, of Clarence E. and Donna L. Drummond, to a concrete monument, and thence South 05°25'08" West 231.83 feet along the westerly right-

of-way of U.S. Route 113 to the point and place of beginning, and containing 15,285 square feet, more or less.

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

FOR INTRODUCTION

Council District – Wilson - District No. 2  
Tax I.D. No. 133-11.00-1.00  
911 Address: None Available

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL PROPANE/STORAGE AND CNG/PROPANE DISPENSING OFFICE/WAREHOUSE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 15.00 ACRES, MORE OR LESS”**

WHEREAS, on the 28th day of July 2014, a conditional use application, denominated Conditional Use No. 1997 was filed on behalf of Skipjack, Inc.; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2014, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 1997 be \_\_\_\_\_; and

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

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

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1997 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Dagsboro Hundred, Sussex County, Delaware, and lying at the northwest corner of DuPont Boulevard (U.S. Route 113) and East Piney Neck Road (Road 329) and being more particularly described as:

BEGINNING at a point on the westerly right-of-way of U.S. Route 113, a corner for these subject lands and lands of Citation 49 Farms, LLC; thence South 36°27'37" East 893.45 feet along the westerly right-of-way of U.S. Route 113 to a point; thence South 24°58'32" West 47.81 feet along the corner cut for the intersection of U.S. Route 113 and Road 329 to a point; thence South 86°24'41" West 418.52 feet; South 86°17'30" West 433.60, and

South 86°31'01" West 115.26 feet along the northerly right-of-way of Road 329 to a point; thence by and along a tree line near Mirey Branch northerly the following four (4) courses: North 26°27'33" West 155.03 feet, North 14°34'15" West 125.82 feet, North 23°53'44" West 197.51 feet, and North 43°51'02" West 73.97 feet to a point; thence North 53°31'48" East 715.84 feet, South 36°27'37" East 143.84 feet, and North 53°32'23" East 31.73 feet along lands of Citation 49 Farms, LLC to a point on the westerly right-of-way of U.S. Route 113, the point and place of beginning and containing 15.00 acres, more or less.

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

FOR INTRODUCTION

Council District – Phillips - District No. 5  
Tax I.D. No. 134-19.00-19.00 (Part of)  
911 Address: None Available

ORDINANCE NO. \_\_\_\_

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 7.2035 ACRES, MORE OR LESS

WHEREAS, on the 14th day of July 2014, a zoning application, denominated Change of Zone No. 1758 was filed on behalf of Dozer, LLC, c/o Hal Dukes; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2014, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1758 be \_\_\_\_\_; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2014, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying north of Double Bridges Road (Road 363) east of Parker House Road (Road 362) and being more particularly described per the attached legal description prepared by Axiom Engineering, LLC and containing 7.2035 acres, more or less.

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

LEGAL DESCRIPTION - A portion of the Residual Lands of Dozer, LLC to be re-zoned from AR-1 to MR, medium density residential

Commencing at an iron pipe found on the north right-of-way for Double Bridges Road (SCR 363), located approximately 2,100' east of SCR 363 intersection with Parker House Road (SCR 362), on a corner common to the lands of Mary L. Hentgen, as described in Deed Book 1145, Page 33, and the north Right-Of-Way of SCR 363,

; thence N.20°33'00"W., a distance of 15.31 feet between the lands of Mary L. Hentgen and the dedicated Right-of-Way of SCR 363 to the POINT OF BEGINNING; thence the following courses and distances by and with the subject property and the north right-of-way line for SCR 363:

S.68°41'16"W., a distance of 121.36 feet; thence  
S.70°08'04"W., a distance of 257.46 feet

to a point of curve to the right having a radius of 2,727.00 feet and a central angle of 04°06'43"; thence westerly along the arc a distance of 195.70 feet, with a chord bearing S72°11'25"W a distance of 195.66 feet ;

thence departing from the Right-of-Way for SCR 363 and proceeding between the lands being described and Parcel A of the lands of Dozer, LLC, said parcel being described in the records of the Sussex County Recorder of Deeds in Plat Book 200 – Page 43

N31°54'52"W, a distance of 17.14 feet; thence  
S76°24'48"W, a distance of 350.63 feet; thence  
N26°03'05"W, a distance of 26.39 feet; thence departing from Parcel A of the lands of Dozer, LLC, and bisecting the residual lands of Dozer, LLC into lands to be re-zoned MR and lands to remain zoned AR-1

N31°45'51"W, a distance of 78.46 feet to an iron pipe found at the common corner of the lands being described, the residual lands of Dozer, LLC to remain zoned AR-1, and the lands of Susan R. & Christopher J. Pleasanton, as described in Deed Book 3916, Page 70; thence running by and with the lands of Susan R. & Christopher J. Pleasanton, the Lands of Stephen D. & Mary E. Murray, deed book 2117, page 107 and Malcolms Manor, Lots 6 – 9, Plat Book 40, Page 254

N48°29'44"E, a distance of 1,010.25 feet to a concrete monument found at the corner of the lands being described, Lot 9 Malcolms Manor, and the lands of Thomas & Megan R. Easter, described in deed book 3660, page 37; thence

S20°33'00"E, a distance of 377.14 feet to a concrete monument found at a corner common to the lands being described, the lands of Thomas & Meagan R. Easter, and the lands of Mary L. Hentgen; thence

S20°33'00"E, a distance of 172.82 feet to the POINT OF BEGINNING.  
Containing 313,783.73 square feet or 7.2035 acres, more or less.

END OF DESCRIPTION.

JUL 31 2014

PLAT NAME & NUMBER  
2014.07.01.11.11



To Be Introduced 08/05/14

**Council District: Cole – District 4  
Tax I.D. No. 334-18.00-83.00  
911 Address: 20836 Old Landing Road, Rehoboth Beach, DE**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENISTY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 126.8795 ACRES, MORE OR LESS**

**WHEREAS, on the 17<sup>th</sup> day of July 2014, a zoning application denominated Change of Zone No. 1759 was filed on behalf of Osprey Point D, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2014, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1759 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2014, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said Change of Zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County;**

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

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

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece or parcel of land lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying west of Old Landing Road (Road 274) 1.2 miles south of Warrington Road (Road 275) and being more particularly described per the attached legal description provided by Davis, Bowen & Friedel, Inc, said parcel containing 126.8795 acres, more or less.**

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

LEGAL DESCRIPTION

ROBERT A. MARSHALL

TAX PARCEL #3-34-18.00-83.00

July 14, 2014

ALL that piece or parcel of land, hereinafter described, situate, lying and being on the westerly side of County Road #274 (50 feet wide) and being located in Lewes and Rehoboth Hundred, Sussex County, Delaware; said piece or parcel of land being more particularly described as follows:

**BEGINNING** at an iron pipe found at a point formed by the intersection of the westerly right-of-way line of County Road #274 with the northerly line of Lot 2 of "Willowmere Subdivision", as recorded in the Office of the Recorder of Deeds in and for Sussex County and the State of Delaware in Plot Book 36, Page 129; said beginning point lying approximately 1,043 feet northerly from the centerline of Arnell Road, thence,

- 1) leaving said County Road #274 and running by and with said Lot 2, South 69 degrees 56 minutes 15 seconds West 150.00 feet to an iron pipe found at a point, thence,
- 2) leaving said Lot 2 and running a new line through the lands of Robert A. Marshall, South 74 degrees 59 minutes 41 seconds West 450.55 feet to a point at the northeasterly corner of Lot 1 of a plot of "Old Landing Woods Subdivision, Addition 1", as recorded in said Office of the Recorder of Deeds in Plot Book 28, Page 17, thence running,
- 3) by and with said Lot 1 of said plot of "Old Landing Woods Subdivision, Addition 1", South 51 degrees 54 minutes 12 seconds West 200.20 feet to an iron pipe found at a point on the easterly right-of-way line of Arnell Road, thence,
- 4) leaving said Lot 1 and running by and with said Arnell Road, the following two courses and distances, North 38 degrees 05 minutes 48 seconds West 82.58 feet to a point, thence running,
- 5) North 15 degrees 48 minutes 34 seconds East 118.94 feet to a point, thence,
- 6) continuing by and with said Arnell Road and also running by and with lands of, now or formerly, Rayburn H. and Madeline A. Nelson, as recorded in said Office of the Recorder

①

of Deeds in Deed Book D-956, Page 318 North 56 degrees 49 minutes 56 seconds West 197.29 feet to a point on the low water mark of Arnell Creek passing over an iron pipe found, 29 feet, more or less, reversely, from the end of said course, thence,

7) leaving said lands of Nelson and running by and with the low water line of said Arnell Creek, the following thirty-six courses and distances, North 02 degrees 56 minutes 03 seconds East 80.39 feet to a point,

8) North 20 degrees 50 minutes 48 seconds West 184.57 feet to a point, thence running,

9) North 65 degrees 40 minutes 20 seconds West 116.14 feet to a point, thence running,

10) North 11 degrees 23 minutes 18 seconds East 54.39 feet to a point, thence running,

11) North 30 degrees 26 minutes 07 seconds West 255.31 feet to a point, thence running,

12) North 89 degrees 48 minutes 15 seconds West 77.07 feet to a point, thence running,

13) North 27 degrees 04 minutes 54 seconds West 162.10 feet to a point, thence running,

14) North 50 degrees 03 minutes 59 seconds West 169.04 feet to a point, thence running,

15) North 08 degrees 54 minutes 07 seconds West 65.04 feet to a point, thence running,

16) North 54 degrees 10 minutes 58 seconds West 51.49 feet to a point, thence running,

17) North 86 degrees 45 minutes 54 seconds West 71.03 feet to a point, thence running,

18) South 68 degrees 05 minutes 54 seconds West 15.35 feet to a point, thence running,

19) North 69 degrees 08 minutes 58 seconds West 57.28 feet to a point, thence running,

20) North 39 degrees 26 minutes 17 seconds West 12.79 feet to a point, thence running,

21) North 74 degrees 05 minutes 51 seconds West 21.99 feet to a point, thence running,

22) North 14 degrees 02 minutes 38 seconds West 28.89 feet to a point, thence running,

23) North 21 degrees 14 minutes 48 seconds East 33.26 feet to a point, thence running,

24) North 45 degrees 23 minutes 08 seconds West 54.42 feet to a point, thence running,

25) North 14 degrees 43 minutes 31 seconds West 30.51 feet to a point, thence running,

26) North 81 degrees 51 minutes 55 seconds West 52.91 feet to a point, thence running,

- 27) North 33 degrees 25 minutes 51 seconds West 27.33 feet to a point, thence running,
- 28) North 44 degrees 38 minutes 53 seconds East 21.66 feet to a point, thence running,
- 29) North 79 degrees 00 minutes 14 seconds West 95.84 feet to a point, thence running,
- 30) North 52 degrees 18 minutes 31 seconds West 111.20 feet to a point, thence running,
- 31) North 27 degrees 20 minutes 54 seconds West 140.92 feet to a point, thence running,
- 32) North 15 degrees 00 minutes 51 seconds West 81.99 feet to a point, thence running,
- 33) North 06 degrees 13 minutes 03 seconds East 232.42 feet to a point, thence running,
- 34) North 34 degrees 28 minutes 36 seconds East 242.67 feet to a point, thence running,
- 35) North 11 degrees 12 minutes 30 seconds East 156.70 feet to a point, thence running,
- 36) North 24 degrees 05 minutes 48 seconds East 115.17 feet to a point, thence running,
- 37) North 10 degrees 36 minutes 11 seconds East 71.57 feet to a point, thence running,
- 38) North 09 degrees 20 minutes 06 seconds West 123.76 feet to a point, thence running,
- 39) North 18 degrees 35 minutes 07 seconds East 51.50 feet to a point, thence running,
- 40) North 35 degrees 27 minutes 12 seconds East 36.52 feet to a point, thence running,
- 41) North 18 degrees 28 minutes 33 seconds East 46.62 feet to a point, thence running,
- 42) North 12 degrees 44 minutes 06 seconds West 18.94 feet to a point on the southerly line of other lands of, now or formerly, Robert A. Marshall, as recorded in said Office of the Recorder of Deeds in Deed Book D-1788, Page 142, thence,
- 43) leaving said Arnell Creek and running by and with said Robert A. Marshall lands, the following four courses and distances, North 62 degrees 11 minutes 30 seconds East 285.00 feet to a point, thence,
- 44) continuing by and with said Robert A. Marshall lands, by and with a new line of division, the following three courses and distances, North 06 degrees 45 minutes 36 seconds East 176.94 feet to a point, thence running,
- 45) North 32 degrees 52 minutes 18 seconds West 405.85 feet to a point, thence running,
- 46) North 84 degrees 44 minutes 50 seconds West 36.39 feet to a point on the northerly right-of-way line of Clubhouse Drive, thence,

47) leaving said Robert A. Marshall lands and running by and with said Clubhouse Drive, the following six courses and distances, by and with a curve, deflecting to the left, having an arc length of 106.88 feet, a radius of 50.00 feet and a chord bearing and distance of North 85 degrees 19 minutes 22 seconds West 87.66 feet to an iron pipe found at a point of reverse curvature, thence running,

48) by and with a curve, deflecting to the right, having an arc length of 30.77 feet, a radius of 25.00 feet and a chord bearing and distance of South 68 degrees 42 minutes 11 seconds West 28.87 feet to a point, thence running,

49) North 76 degrees 01 minutes 57 seconds West 225.62 feet to a point of curvature, thence running,

50) by and with the arc of a curve, deflecting to the right, having an arc length of 41.13 feet, a radius of 26.78 feet and a chord bearing and distance of North 32 degrees 01 minutes 57 seconds West 37.21 feet to a point, thence running,

51) North 11 degrees 58 minutes 03 seconds East 83.21 feet to an iron pipe found at a point on the southerly line of Lot 5 of "Old Landing Woods Subdivision, Section E", as recorded in said Office of the Recorder of Deeds in Plot Book 8, Page 845, thence,

52) leaving said Clubhouse Drive and running by and with said Lot 5, the following five courses and distances, South 78 degrees 01 minutes 57 seconds East 104.29 feet to a point, thence running,

53) North 06 degrees 57 minutes 03 seconds East 35.00 feet to a point, thence running,

54) North 61 degrees 57 minutes 03 seconds East 68.00 feet to a point, thence running,

55) North 11 degrees 57 minutes 03 seconds East 46.00 feet to a point, thence running,

56) North 31 degrees 18 minutes 56 seconds East 82.03 feet to an iron pipe found at a point on the easterly line of Lot 4 of said "Old Landing Woods Subdivision, Section E", thence,

57) leaving said Lot 5 and running by and with said Lot 4, and also running by and with Lots 3, 2 and 1 of said "Old Landing Woods Subdivision, Section E", North 26 degrees 39 minutes 56 seconds West 305.00 feet to a point, thence,

58) continuing by and with said Lot 1, the following two courses and distances, North 56 degrees 49 minutes 39 seconds West 249.93 feet to a point, thence running,

59) South 62 degrees 08 minutes 35 seconds West 37.02 feet to a concrete monument found at a point on the aforementioned northerly right-of-way line of Clubhouse Drive, thence,

60) leaving said Lot 1 and running by and with said Clubhouse Drive, the following two courses and distances, North 27 degrees 53 minutes 08 seconds West 251.14 feet to a point curvature, thence running,

61) by and with the arc of a curve, deflecting to the left, having an arc length of 140.20 feet, a radius of 325.00 feet and a chord bearing and distance of North 40 degrees 14 minutes 37 seconds West 139.11 feet to a point on the easterly line of the lands of, now or formerly, Sussex County, as recorded in said Office of the Recorder of Deeds in Deed Book D-2229, Page 298, thence,

62) leaving said Clubhouse Drive and running by and with said Sussex County lands, the following two courses and distances, North 32 degrees 11 minutes 52 seconds East 51.36 feet to a concrete monument found at a point, thence running,

63) North 57 degrees 47 minutes 51 seconds West 30.15 feet to an iron pipe found at a point on the easterly line of Lot 6 of "Old Landing Woods Subdivision, Section B", as recorded in said Office of the Recorder of Deeds in Plot Book 8, Page 845, thence,

64) leaving said Sussex County lands and running by and with said Lot 6, North 21 degrees 44 minutes 38 seconds West 271.93 feet to an iron pipe found at a point on the southerly line of Lot 4 of said "Old Landing Woods Subdivision, Section B", thence,

65) leaving said Lot 6 and running by and with said Lot 4, North 32 degrees 05 minutes 44 seconds East 65.83 feet to an iron pipe found at a point on the southerly line of Lot 3, thence,

66) leaving said Lot 4 and running by and with said Lot 3, the following two courses and distances, South 57 degrees 47 minutes 25 seconds East 5.00 feet to an iron pipe found at a point, thence running,

67) North 37 degrees 35 minutes 25 seconds East 138.64 feet to a point on the westerly line of Lot 1 of said "Old Landing Woods Subdivision, Section B", thence,

68) leaving said Lot 3 and running by and with said Lot 1, the following two courses and distances, South 57 degrees 45 minutes 42 seconds East 106.98 feet to an iron rod found at a point, thence running,

69) North 42 degrees 30 minutes 28 seconds East 140.25 feet to an iron pipe found at a point on the southerly right-of-way line of Fairway Drive, thence,

70) leaving said Lot 3 and running by and with said Fairway Drive, South 57 degrees 49 minutes 33 seconds East 1451.37 feet to an iron pipe found at a point on the aforementioned westerly right-of-way line of County Road #274, thence,

71) leaving said Fairway Drive and running by and with said Country Road #274, the following seven courses and distances, South 13 degrees 13 minutes 14 seconds East 173.50 feet to a point of curvature, thence,

72) running by and with a curve, deflecting to the left, having an arc length of 380.48 feet, a radius of 1375.00 feet and a chord bearing and distance of South 21 degrees 12 minutes 16 seconds East 379.26 feet to an iron pipe found at a point, thence running,

73) South 28 degrees 39 minutes 26 seconds East 933.75 feet to an iron pipe found at a point of curvature, thence,

74) running by and with a curve deflecting to the right, having an arc length of 175.86 feet, a radius of 1295.00 feet and a chord bearing and distance of South 23 degrees 13 minutes 26 seconds East 175.72 feet to an iron pipe found at a point of compound curvature, thence,

75) running by and with a curve, deflecting to the right, having an arc length of 246.55 feet, a radius of 435.00 feet and a chord bearing and distance of South 03 degrees 06 minutes 17 seconds East 243.27 feet to an iron pipe found at a point, thence running,

76) South 13 degrees 06 minutes 20 seconds West 681.25 feet to an iron pipe found at a point of curvature, thence,

77) running by and with a curve deflecting to the left, having an arc length of 218.75 feet, a radius of 375.00 feet and a chord bearing and distance of South 03 degrees 40 minutes 46 seconds East 215.66 feet to a point, thence running,

78) South 20 degrees 17 minutes 55 seconds East 1342.86 feet to the point and place of beginning; **CONTAINING** 126.8795 acres of land, more or less.

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FOR INTRODUCTION

6

**To Be Introduced 08/05/14**

**Council District: Deaver – District 3  
Tax I.D. No. 235-23.00-1.00  
911 Address: None Available**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 114.4821 ACRES, MORE OR LESS**

**WHEREAS, on the 29th day of July 2014, a zoning application denominated Change of Zone No. 1760 was filed on behalf of TD Rehoboth, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2014, a public hearing was held, after notice before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1760 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2014, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County;**

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

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

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece or parcel of land lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying on the northeast side of Route One (Coastal Highway) across from Route 88 (Cave Neck Road) and being more particularly described per the attached legal description provided by Frederick Ward Associates, said parcel containing 114.4821 acres, more or less.**

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





FREDERICK WARD ASSOCIATES



P.O. Box 727, 5 South Main Street  
Bel Air, Maryland 21014-0727  
410-879-2090  
410-893-1243 fax

www.frederickward.com



MAR 23 2008

August 4, 2008

PLANNING & SURVEYING  
FREDERICK WARD ASSOCIATES

**Part of Parcel No. 2-35 23.00 1.00**

114.4821 Acre Parcel of Land, Land of Overbrook Acres, LLC, Located on Delaware Route One Opposite Cave Neck Road and Red Fox Lane, Broadkiln Hundred, Sussex County, Delaware

BEGINNING for the same at the beginning of Lot D, No. 3 as shown on a plat recorded in the Orphans Court Docket X, folio 41 and 42 and in the second or North  $13^{\circ}07'27''$  East 1072.50 feet course of that tract or parcel of land conveyed by Susabar Limited Partnership to Susabar, LLC by a deed dated March 22, 2002 as recorded in the Office of the Recorder of Deeds of Sussex County in Liber 2689, folio 023. Thence, from the point of beginning, binding reversely on the said second course of the last mentioned deed as shown on a plat entitled "Lands of Joseph R. Hudson" as recorded in the Office of the Recorder of Deeds of Sussex County Plot Book 34, page 289 and binding on the South  $12^{\circ}\frac{3}{4}'$  West 12 perches line of the said Lot D, No. 3, as now surveyed,

1) South  $09^{\circ}50'10''$  West 193.04 feet to a concrete monument heretofore set. Thence, binding reversely on the first or North  $48^{\circ}37'33''$  West 771.375 feet line of the conveyance unto Susabar, LLC and on the South  $49^{\circ}\frac{1}{4}'$  East  $46^{\frac{3}{4}}$  perch course of the said Lot D, No. 3,

2) South  $51^{\circ}54'50''$  East 771.42 feet to an oblong shaped stone heretofore set lying North  $53^{\circ}47'35''$  East 0.80 feet from a 4" by 4" stone heretofore set. Said oblong shaped stone lies in the ninth or South  $39^{\circ}14'39''$  West 618.56 feet line of that tract or parcel of land conveyed by Thomas P. Robinson to Thomas P. Robinson and Alice P. Robinson by a deed dated December 11, 1998 as recorded in the Office of the Recorder of Deeds of Sussex County in Liber 2370, folio 283. Thence, binding in part on the said ninth course and in part on the fourth or South  $39^{\circ}14'39''$  West 2266.19 feet line of that tract or parcel of land described in the paragraph numbered 3 of the Final Decree in Partition in the matter of Albert F. Peters, Petitioner versus Thomas P. Robinson, Thomas P. Robinson, Jr., and Robert H. Robinson, CM# 1130 G-129 as recorded in the Office of the Recorder of Deeds of Sussex County in Miscellaneous Book 400, folio 318 and on the northwesterly outlines of Parcel C and Parcel B as shown on a plat entitled "Survey Plat, Lands of Thomas Peter Robinson, Robert Houston Robinson and Albert F. Peters (for life)" as recorded in the Office of the Recorder of Deeds of Sussex County in Plot Book 51, Page 315 and on the South  $39^{\circ}\frac{1}{4}'$  West 206 perches courses of the aforesaid Lot D, No. 3,

3) South  $36^{\circ}03'34''$  West, passing over, at 618.37 feet, and iron pipe heretofore set at division line between the said Parcel C and Parcel B and, continuing for a total distance of 2884.64 feet to intersect the northwesterly right of way line of Delaware Route 1, Coastal Highway at a point lying North  $36^{\circ}03'34''$  East 544.12 feet from a stone heretofore set at the end of said South  $39^{\circ}\frac{1}{4}'$  West 206 perches course. Said point also lying North  $49^{\circ}51'25''$  West 0.24 feet from an iron pipe heretofore set. Thence, binding on said right of way as conveyed by Fred A. Chappel and Catherine L. Chappel to the State of Delaware by a deed dated April 30, 1958 as recorded in the Office of the Recorder of Deeds of Sussex County in Liber 490, folio 454,

4) North 49°51'25" West 1850.22 feet to a point lying approximately thirteen feet southeasterly of utility pole number 87292. Thence, leaving Delaware Route One and binding on the "Occupation Line" as shown on a plat set entitled "Perimeter Survey, Lands of John David Vincent, Trustee" as recorded in the Office of the Recorder of Deeds of Sussex County in Plot Book 62, Page 192, et seq. (intending to be the division line between the land conveyed by Frederick A. Chappel, Sr. and Frederick A. Chappel, Jr. to Overbrook Acres, LLC by a deed dated July 24, 2002 as recorded in the Office of the Recorder of Deeds of Sussex County in Liber 2732, folio 006 and the land conveyed by Ruth E. Wilkins to Carlton Paynter Warrington Vincent and Lillian Vincent by a deed dated February 5, 1980 as recorded in the Office of the Recorder of Deeds of Sussex County in Liber 994, folio 213,, the four following courses;

- 5) North 34°28'24" East 1927.82 feet,
- 6) North 82°20'20" East 625.33 feet,
- 7) North 78°14'00" East 84.88 feet,
- 8) North 81°11'46" East 752.98 to the point of beginning hereof.

CONTAINING 114.4821 acres (4986840 square feet) of land, more or less.

BEING a part of that tract or parcel of land conveyed by Frederick A. Chappel, Sr. and Frederick A. Chappel, Jr. to Overbrook Acres, LLC by a deed dated July 24, 2002 as recorded in the Office of the Recorder of Deeds of Sussex County in Liber 2732, folio 006.



**PUBLIC HEARINGS**  
**August 5, 2014**

**This is to certify that on June 12, 2014 the Sussex County Planning and Zoning Commission conducted public hearings on the below listed applications for Conditional Use and Change of Zone. At the conclusion of the public hearings, the Commission moved and passed that the applications be forwarded to the Sussex County Council with the recommendations as stated.**

**Respectfully submitted:**  
**COUNTY PLANNING AND ZONING**  
**COMMISSION OF SUSSEX COUNTY**

**Lawrence B. Lank**  
**Director of Planning and Zoning**

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

**Conditional Use #1988 – Zhenguo Zhang**

Application of **ZHENGUO ZHANG** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a medical office center to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 2.3522 acres, more or less, land lying southwest of Route One (Coastal Highway) 1,000 feet northwest of Road 258 (Hudson Road) (911 Address – 14614 Coastal Highway, Lewes, Delaware) (Tax Map I.D. # 2-35-16.00-64.00).

Mr. Lank reminded the Commission that they had previously reviewed the property as Change of Zone No. 1740 to change from AR-1 to CR-1 on February 27, 2014; that on March 13, 2014 the Commission recommended that the application be denied with reasons, including that if the Applicant chooses to pursue a Conditional Use the application fee for doing so should be waived by the County; and that on March 25, 2014 the County Council denied Change of Zone No. 1740 based upon the Commission's recommendation.

The Commission found that on September 17, 2013 DelDOT provided comments on Change of Zone No. 1740 in the form of a letter and memorandum referencing that the Department recommends that this rezoning application be considered without a Traffic Impact Study and that the need for a Traffic Impact Study will be evaluated when a subdivision or land development plan is proposed; that the property owner can develop a rights-in / rights-out access to Delaware Route One for a site generating an average of 40 vehicle trips per day; and that the current Level of Service "E" of Route One will not change as a result of this application.

The Commission found that on May 28, 2014 the County Engineering Department Utility Planning Division provided comments in the form of a memorandum referencing that the site is not in a proposed or current County operated and maintained sanitary sewer and/or water district; that the site is located in the North Coastal Planning Area; that an on-site septic system is proposed; that conformity to the North Coastal Planning Study will be required; that the proposed use is not in an area where the County has a schedule to provide sewer service at this time; and that a concept plan is not required.

The Commission found that on January 17, 2014 the Office of State Planning Coordination provided comments in the form of a letter referencing that the Applicant met with State agency planners on December 18, 2013 for a Preliminary Land Use Service (PLUS) meeting and that this letter provides comments on the Strategies for State Policies and Spending, and comments on Code Requirements and Agency Permitting Requirements from DelDOT, the Department of Natural Resources and Environmental Control, and referencing that the Applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not, and the reason therefore.

The Commission found that on June 6, 2014 the Sussex Conservation District provided comments in the form of a memorandum referencing that there are three (3) soil types on this parcel; that the Applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation after construction; that there are no storm flood hazard areas affected; that it is not likely that the project will necessitate any off-site drainage improvements; that it is possible that the project will necessitate on-site drainage improvements, and that there are no tax ditches affected.

The Commission found that Zhenguo Zhang was present on behalf of his application and stated in his presentation and in response to questions raised by the Commission that he is a licensed acupuncture practitioner and is applying to convert a dwelling into a medical office facility; that he may offer the facility for other medical office space; that he anticipates that business hours would be sometime between 8:00 a.m. and 8:00 p.m. Monday through Saturday; that signage would not be lighted; that he does not anticipate any building expansions at this time; that he requests that the previous record for Change of Zone No. 1740 be a part of the record for this application; that the previous record included: that he needs an office in this area for his patients; that he purchased the property so that he can develop an office on the premises; that he may also offer massage therapy and chiropractic services; that he has offices in Dover and Lewes; that he will be open at this location three (3) times per week seeing approximately five (5) patients per day; and that other commercial zoning and uses exist in the immediate area.

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.

Mr. Burton stated that he would move that the Commission recommend approval of Conditional Use #1988 for Zhenguo Zhang for a medical office center based on the record made during the public hearing and for the following reasons:

- 1) This Applicant originally sought CR-1 zoning for this property, which was not appropriate. Instead, a Conditional Use, with conditions and limitations on the use is appropriate for this site.
- 2) A Conditional Use for a medical office center is a limited use that will not adversely affect neighboring properties, roadways, traffic, or community facilities.
- 3) The use as a medical office center has a public character that promotes the health, safety, welfare and general convenience of Sussex County and its residents.
- 4) This recommendation is subject to the following conditions:
  - A. The use shall be limited to medical office uses, which may include acupuncture, massage therapy, and chiropractic services, as suggested by the Applicant.
  - B. The use shall occur within the existing structures on the property. Any expansion of those structures shall require site plan approval by the Planning and Zoning Commission, and possibly a new Conditional Use application depending on the extent of any expansion.
  - C. One un-lighted sign, not to exceed 32 square feet per side, shall be permitted.
  - D. Hours of operation shall be between 8:00 a.m. to 8:00 p.m. Monday through Saturday.
  - E. The use shall comply with all Sussex County parking requirements. The required parking shall be shown on the Final Site Plan and shall be clearly marked on the site itself.
  - F. The Applicant shall comply with all DelDOT requirements.
  - G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Burton, seconded by Mr. Johnson, 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.

### **Change of Zone #1751 – Peninsula at Long Neck, LLC**

Application of **PENINSULA AT LONG NECK, LLC** – an Ordinance to modify Condition No. 10 (C) imposed on Ordinance No. 2180 for Change of Zone No. 1697, the application of Peninsula at Long Neck, LLC for “The Peninsula”, a MR-RPC Medium Density Residential District – Residential Planned Community, to extend the time to construct and open for use the golf clubhouse facility (911 Address – None Available) (Tax Map I.D. #2-34-30.00-1.00 and others).

Mr. Lank advised the Commission that the Applicants did not submit an Exhibit Booklet with the application, but did provide a comparison of the current Condition No. 10 C and the Applicants proposed amended Condition No. 10 C as follows: Current Condition: “Construction of the Clubhouse shall commence no later than three (3) years from the date the Sussex County Council approves Change of Zone No. 1697, with construction to be completed 12 months thereafter. A bond, cash bond, or letter of credit shall be provided to Sussex County in the amount of 125% of the cost of completion of the Clubhouse within sixty (60) days of the date that Sussex County

Council approves Change of Zone No. 1697”; and Proposed Condition: “Construction of the Clubhouse shall commence no later than October 1, 2015, with construction to be completed 12 months thereafter. A bond, cash bond, or letter of credit shall be provided to Sussex County in the amount of 125% of the cost of construction of the Clubhouse within 60 days of the date that Sussex County Council approves Change of Zone No. 1697”; a copy of the Minutes of Sussex County Council meeting for March 22, 2011 approving Change of Zone No. 1697; a copy of Irrevocable Letter of Credit and Extension from Park Sterling Bank of Charlotte, North Carolina; and a copy of the Sheriff’s Deed to REDUS Peninsula Millsboro, L.L.C. (REDUS), a wholly owned subsidiary of Wells Fargo Bank (Wells Fargo) as recorded.

The Commission found that the County Engineering Department Utility Planning Division provided comments on May 28, 2014 in the form of a memorandum which references that the project is located in the Long Neck Sanitary Sewer District; that wastewater capacity is available for the project; that Ordinance 38 construction is not required; that the current System Connection Charge Rate is \$3,795.00 per EDU; that conformity to the North Coastal Planning Study will be required; that the proposal is to modify Condition No. 10 as set forth in C/Z #1697 by requesting an additional time extension for the commencement of the clubhouse; that the approval of a time extension would not have a significant impact on the sewer system and the Department does not object to the proposal; and that a concept plan is not required.

The Commission found that the Sussex Conservation District provided comments on June 9, 2014 in the form of a memorandum which references that there are three (3) soil types on the site location; that the Applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after construction; that no storm flood hazard areas are affected; that it may be possible that off-site drainage improvements will be necessary; that on-site drainage improvements will be necessary; and that no tax ditches are affected.

Mr. Lank advised the Commission that 602 mailings were sent out and that 18 mail returns have been received to date.

Mr. Lank added that the Department has received a note on one of the mailings stating that we need to hold off on the clubhouse until we see what the needs will be and until we have the resources to pay for it; and that if constructed now, the rise in dues would be prohibitive for some owners. The note was signed by Ronald Weiner.

Mr. Lank provided the Commission with comments and photographs from John Gee, Chairman of the Peninsula Homeowners Action Committee (PHAC) providing a short history of the actions taken about the proposed clubhouse; emphasizing that the new owner/developer individually, and not the club members, will own the clubhouse when it is finally built; and recommending that the Commission should recommend approval of the 18 month extension as requested by Wells Fargo and REDUS; that PHAC reserves the right to request that the Commission and the Sussex County Council condition such approval upon Wells Fargo and REDUS providing sufficient security to insure the construction of this long-overdue facility as was envisioned when this Master Planned Community was first authorized in the event that the PHAC are unable to reach a satisfactory agreement with Wells Fargo.

The Commission found that James Fuqua, Esquire, of Fuqua, Yori & Willard, P.A. was present with Daniel Bartoh of Wells Fargo and that they stated in their presentations and in response to questions raised by the Commission that the application was filed on behalf of Peninsula at Long Neck, LLC through Land Tech Receiver Services; that the property has been acquired and is owned by REDUS; that this application is only for a time extension for the construction of the clubhouse; that the project was originally approved for 1402 units in 2002; that the majority of the amenities have been completed, except for the clubhouse; that in 2010 a time extension was granted for the construction of the clubhouse; that the County Council in approving the time extension required in Condition of Approval No. B that “The Nature Center shall be constructed and open to use by September 30, 2011”; that the Nature Center has been completed; that the County Council also required in Condition of Approval No. C that “Construction of the Clubhouse shall commence no later than three (3) years from the date Sussex County Council approves Change of Zone No. 1697, with construction to be completed 12 months thereafter. A bond, cash bond, or letter of credit shall be provided to Sussex County in the amount of 125% of the cost of completion of the Clubhouse within sixty (60) days of the date that Sussex County Council approves Change of Zone No. 1697”; that a bond for \$1,375,000.00 was provided; that construction of the Clubhouse has not yet been started; that they are requesting that a time extension be granted so that they can start construction no later than October 1, 2015 with completion of the construction within one (1) year; that REDUS is actively searching for a purchaser for the project; that the purchaser will be well aware that they must build the Clubhouse; that the owners (residents) are supportive of the application; that the existing facilities on the site are currently adequate to serve the existing residents; that the requested start date for construction in the requested time extension is appropriately scheduled in October after the summer golf season; that they are requesting an extension to the previously approved time extension; that one of the financial securities is the bonding of 125% of the construction cost currently being held by the County; that if the time extension is not granted, the County Council could call the bond and proceed with the construction of the Clubhouse; that REDUS and Wells Fargo are not developers; that the purchaser will have to work with the residents of the project to determine the needs of the community for the Clubhouse; that the \$1,375,000.00 bonding was based on an estimate on the size of the previous footprint for the Clubhouse; that REDUS has owned the property since May 2, 2014; and that the lender and the residents agree that the new developer shall build the Clubhouse.

Mr. Robertson stated that the County will guarantee the construction by holding the bonding.

The Commission found that John Gee, Chairman of the Peninsula Homeowners Action Committee (PHAC) was present on behalf of PHAC and stated that there are over 600 homeowners currently in the project; that over 400 homeowners are members of PHAC, which is a 50% increase in the number of owners since the last requested time extension; that PHAC has been working actively with Wells Fargo and that their sense is that they will be able to reach a solution that will satisfy the homeowner’s concerns regarding the Clubhouse; that a majority of the homeowners have waited 6 to 8 years for this construction to begin; that collectively, the homeowners have invested well over a quarter of a billion dollars (more than \$250,000,000) in their homes in this community; that the value of their properties has been depreciated by the repeated failure of the original developers and the Receiver to comply with County Ordinances and amendments, by refusing to timely build the centerpiece of the community, a large gathering

place with great vistas and top-grade amenities; that if this extension is approved the homeowners are entitled to be assured that when the Clubhouse is built by the new owner/developer it will be substantial, of high quality, and commensurate with the value of the homes already built and to be built; that it must be emphasized that the new owner/developer individual, and not the club members, will own the clubhouse when it is finally built; that the Commission should recommend approval of the 18 month extension as requested by Wells Fargo and REDUS; that the homeowners reserve the right to request that the Commission and the Sussex County Council condition such approval upon Wells Fargo and REDUS providing sufficient security to insure the construction of this long-overdue facility as was envisioned when this Master Planned Community was first authorized in the event that the homeowners are unable to reach a satisfactory agreement with Wells Fargo and REDUS; that the homeowners have met many times with Wells Fargo and support this proposal; that Dennis Silicato, a member of this Committee, also agrees; that all members are finally aware of the Boards support; that a clubhouse designer has estimated that the cost of construction should equal \$12,000,000; that the Board feels that the estimate should market at between \$5,000,000 and \$12,000,000 for a 25,000 to 38,000 square foot facility.

The Commission found that John Shanaphy, a homeowner, agreed with Mr. Gee's comments and added that some of the homeowners are concerned about the dues increasing.

The Commission found that Mr. Fuqua added that the Declaration of Restrictions provides for the creation of a Homeowners Association; that the Homeowners Association is currently controlled by Wells Fargo; and that the PHAC is an independent committee of the homeowners.

The Commission found that Daniel Bartoh of Wells Fargo added that there is no prohibition on Wells Fargo financing the future developer; that there is currently approximately \$3,000,000 in escrow for the construction of the clubhouse established and based on property sales deposits; and that they hope to have a contract to sell the property by the end of 2014.

The Commission found that Mr. Fuqua added that the official Homeowners Association agrees with this time extension request.

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

On June 12, 2014 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 June 26, 2014 the Commission discussed this application under Old Business.

The discussion included references that the proposal was supported by the residents of "The Peninsula" project; that there should be something firm on the design, square footage, and cost estimates on the clubhouse; that the residents and the Bank should be in agreement; that the County could call the bond or hold building permits; questioning what was proposed to be built and when construction would start; that there is a need for a time line to establish when the clubhouse would be built for the benefit of the residents; questioning if there is some way to get the developers to provide a plan for the clubhouse that has been approved by the residents prior to taking action; noting that the residents have not gotten what they were proffered; that they



were impressed by the support of the residents; and questioning if we can require a submittal of the necessary plans for the clubhouse with an accurate cost estimate.

Mr. Robertson stated that a Condition of Approval is requested to be changed; that the Commission has been asked to amend the Ordinance which required the Conditions of Approval; that the Commission can require that new Conditions be imposed; that a cost estimate should be required to establish any bonding requirements; and that it sounds like the Commission wants the developer to provide a site plan for the clubhouse and area, which is a normal requirement of development, noting the square footage, with a cost estimate.

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

On July 17, 2014 the Commission discussed this application under Old Business.

The Commission expressed concerns about how and when the clubhouse would be built; that bonding and securities are needed to guarantee construction of the clubhouse to protect the residents of the project; that someone suggested an amount of \$10,000,000 to complete the clubhouse and the area around it; that an estimate is needed to make that determination; that a base square footage is needed to calculate an estimate; that there is a need for predictability; that if the modification is approved there needs to be conditions and safeguards; that the residents spoke in support; that the residents purchased their properties expecting a clubhouse; and that the full Commission should be present when the application is reviewed again.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

On July 24, 2014 the Commission discussed this application under Old Business.

The discussion included concerns about how much time it will take to complete the clubhouse; that conceptual plans should be submitted for the clubhouse; that a cost estimate, based on the cost of construction, is needed to determine the amount of bonding necessary to protect the residents; that time is needed to allow the developer time to meet with the residents of the project to determine the size of the clubhouse; and that time is needed to acquire a bonding method to guarantee the construction of the clubhouse.

Mr. Johnson stated that he would move that the Commission recommend a conditional approval of the modification of Condition 10 (C) imposed by C/Z #1697 and Ordinance No. 2180 for “The Peninsula”. After considering the information presented, including the current owner’s position and the general approval from those who spoke in favor of the condition, it is appropriate to extend the time period for constructing The Peninsula Golf Course Clubhouse. But, this extension should give the County and everyone involved an opportunity to clarify the size and scale of the clubhouse and to obtain an appropriate bond guarantying completion of it. Also, because this is the latest in a series of delays in the construction of the clubhouse, it must be the last extension granted by the Commission.

As a result, Condition 10 (C) of C/Z #1697 in Ordinance No. 2180 is modified to extend the time period for constructing the clubhouse until December 1, 2016. However, this extension is contingent upon the following events occurring: 1) Within 60 days of the approval of this Ordinance Amendment, the developer shall submit to the Sussex County Planning and Zoning Commission a sketch or concept plan of the proposed clubhouse with the estimated square footage of the structure. The developer shall consult with the homeowners regarding the design in the sketch plan and the proposed square footage of the clubhouse; 2) At the same time the concept or sketch plan and square footage are submitted, the developer shall submit an estimated cost per square foot to construct the proposed clubhouse; 3) Within 30 days of the approval of the concept or sketch plan and square footage by the Sussex County Planning and Zoning Commission, the developer shall submit a Bond or Letter of Credit acceptable in form by the Sussex County Attorney in the amount of 125% of the estimated cost to construct the proposed clubhouse; 4) If the developer does not submit a new Bond or Letter of Credit as required, Sussex County shall prohibit the issuance of any further residential building permits within The Peninsula until the new Bond or Letter of Credit is submitted to Sussex County; and 5) No further extensions will be granted.

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

#### **Change of Zone #1753 – Cadbury at Lewes, Inc.**

Application of **CADBURY AT LEWES, INC.** to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a MR-RPC Medium Density Residential District – Residential Planned Community to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 5.0 acres, more or less, land lying northeast of Road 267 (Gills Neck Road) 1,100 feet east of Road 268 (Kings Highway) (911 Address: 17028 Cadbury Circle, Lewes, Delaware) (Tax Map I.D. 3-35-8.00-37.00 (Part of).

Mr. Lank reminded the Commission that they had previously been provided with copies of an Exhibit Booklet, copies of the Revised Site Plan, PLUS response comments, comments on the 99-9C requirements, copies of an Environmental Assessment and Public Facilities Evaluation Report, and Technical Advisory Committee comments.

The Commission found that the Sussex Conservation District provided comments on June 9, 2014 in the form of a memorandum which references that the Applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that there are no storm flood hazard areas affected; that the project will likely necessitate off-site drainage improvements; that the project will necessitate on-site drainage improvements; and that no tax ditches are affected.

Mr. Lank advised the Commission that on June 10, 2014 the Applicants provided suggested proposed Findings of Fact and proposed Conditions of Approval for consideration. Copies of the

suggested Findings of Fact and proposed Conditions of Approval were provided to the Commission.

Mr. Lank provided the Commission with a copy of Ordinance No. 1679 for Change of Zone No. 1528, the original application filed on behalf of Cadbury Senior Services, Inc.

The Commission found that Carol Holden, representing Cadbury at Lewes, Inc., was present with Robert Gibbs, Esquire, of Morris, James, Wilson, Halbrook & Bayard, LLP, and Ring Lardner, Professional Engineer, of Davis, Bowen & Friedel, Inc., and that they stated in their presentations and in response to questions raised by the Commission that the site is located just off Gills Neck Road to the rear of the existing Cadbury project; that the parcel contains 5.0 acres and is being purchased from the Mitchell property for expansion of the existing assisted/independent living project; that the project is currently at 88% capacity; that they are proposing 29 additional apartment type units on this site and three (3) units within the existing project; that the current project includes independent cottages, apartments, assisted living quarters, and nursing/rehabilitation facilities; that this proposal is intended to be an expansion, not a separate application site; that the site is located in a Level 1 Area according to the 2010 State Strategies Map; that the site is located in a Low Density Residential Area within the Environmentally Sensitive Developing Area according to the 2008 Comprehensive Land Use Plan Update; that proposed parking lots are located between buildings; that sidewalks are proposed to connect the buildings to one another and the parking lots; that a maintenance shed is also proposed with this expansion; that the project was presented to PLUS on April 23, 2014 and comments were received from the Office of State Planning Coordination on May 21, 2014; that the site does not contain any wetlands and is not within a flood area; that the expansion will relocate the 30 foot buffer from its current location to the perimeter of this site; that there are no historic or cultural resources listed on this parcel; that DeIDOT did not require a Traffic Impact Study; that the project will use the existing roadways to serve the expansion; that drinking water and fire protection will be provided by Tidewater Utilities, Inc.; that the project will be served by County sewer service; that stormwater management will meet or exceed all State, County, and Sussex Conservation requirements and be maintained utilizing Best Management Practices; that the project will comply with all requirements of the Subdivision Ordinance Section 99-9C; that a small portion of the parcel is within a groundwater recharge area and that a wet pond will not be located within this area; and that there are no commercial uses intended.

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 June 12, 2014 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 June 26, 2014 the Commission discussed this application under Old Business.

Mr. Johnson stated that he would move that the Commission recommend approval of Change of Zone #1753 for Cadbury at Lewes, Inc. for a Change in Zone from AR-1 to MR-RPC Medium

Density Residential – Residential Planned Community based upon the record made during the public hearing and for the following reasons:

- 1) This is a five (5) acre expansion of the existing Cadbury at Lewes Senior Residential project. It will consist of 4 new residential buildings with a total of 29 units in the new area and three (3) units in the existing facility. It will be consistent with the overall density of the existing Cadbury facility.
- 2) The rezoning will not adversely affect neighboring communities and roadways in the area.
- 3) This expansion of Cadbury promotes the health, safety and welfare of Sussex County and its residents by providing additional Senior Housing opportunities for Sussex County residents.
- 4) The site is in a developing area under the Sussex County Comprehensive Development Plan and the rezoning is consistent with the Plan.
- 5) The rezoning is consistent with the existing Cadbury project as well as the nearby residential development on Gill's Neck Road.
- 6) No parties appeared in opposition to the Application.
- 7) The project will be served by central water and Sussex County sewer.
- 8) This recommendation is subject to the following conditions:
  - a. The total number of units permitted by this application shall be 32. This includes 29 new units in the rezoning area and three (3) units within the existing Cadbury project.
  - b. The property that is covered by this application shall be incorporated into the entire Cadbury at Lewes project.
  - c. The existing 30 foot landscaped buffer located along the western boundary of Cadbury shall be relocated to the western boundary of the expansion area.
  - d. With the exception of the number of units, the conditions imposed on Ordinance No. 1679 shall apply to this approval.
  - e. The Final Site Plan for this MR-RPC shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

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

911 Address: 14614 Coastal Highway, Milton, DE 19968

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MEDICAL OFFICE CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.3522 ACRES, MORE OR LESS (Tax Map I.D. 235-16.00-64.00)**

**WHEREAS, on the 2nd day of April 2014, a conditional use application, denominated Conditional Use No. 1988 was filed on behalf of Zhenguo Zhang; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2014, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 1988 be \_\_\_\_\_; and**

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

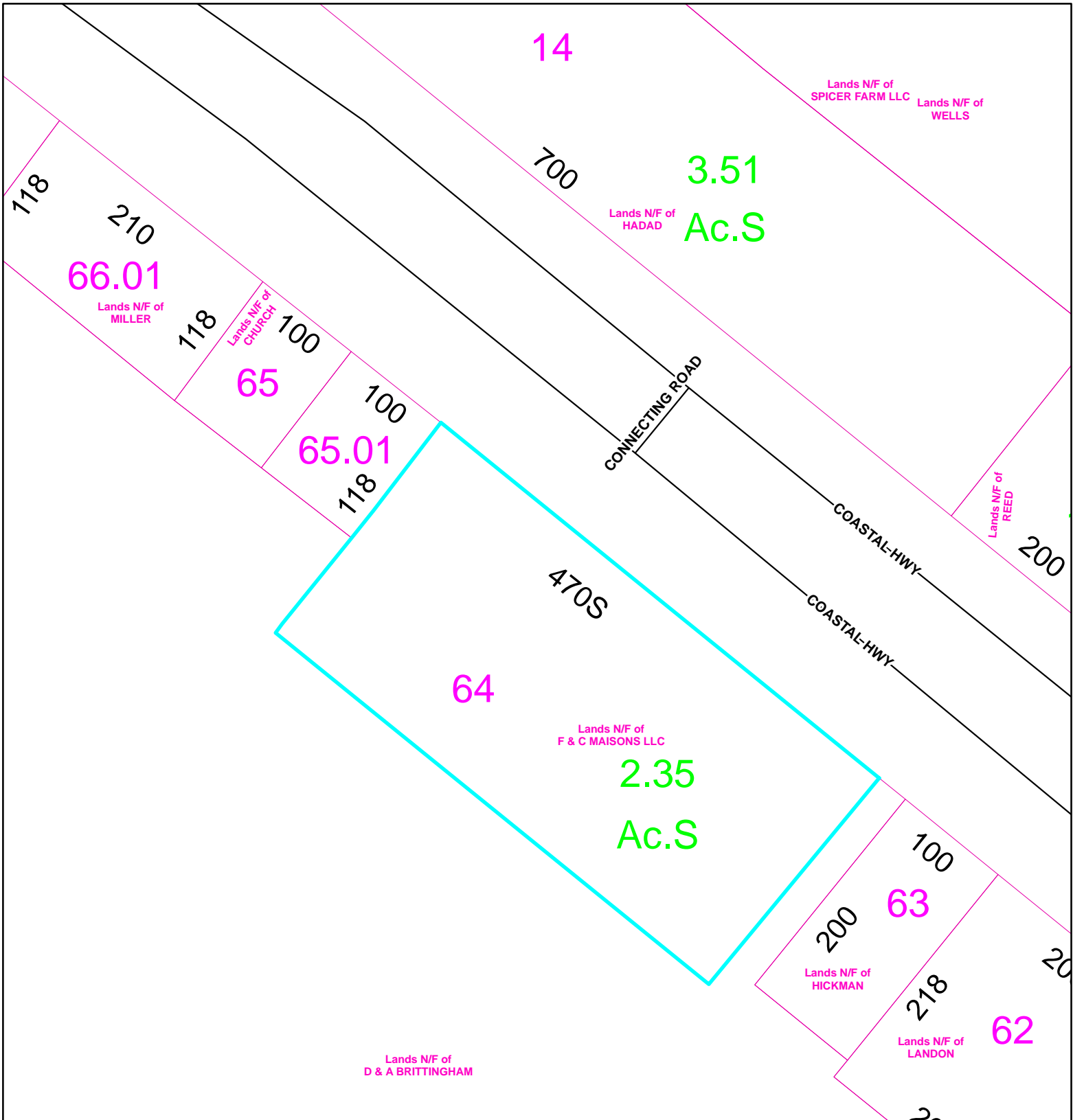
**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1988 as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece or parcel of land, lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying southwest of Route One (Coastal Highway) 1,000 feet northwest of Road 258 (Hudson Road) and being more particularly described in Deed Book 4164, Page 308, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 2.3522 acres, more or less.**

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

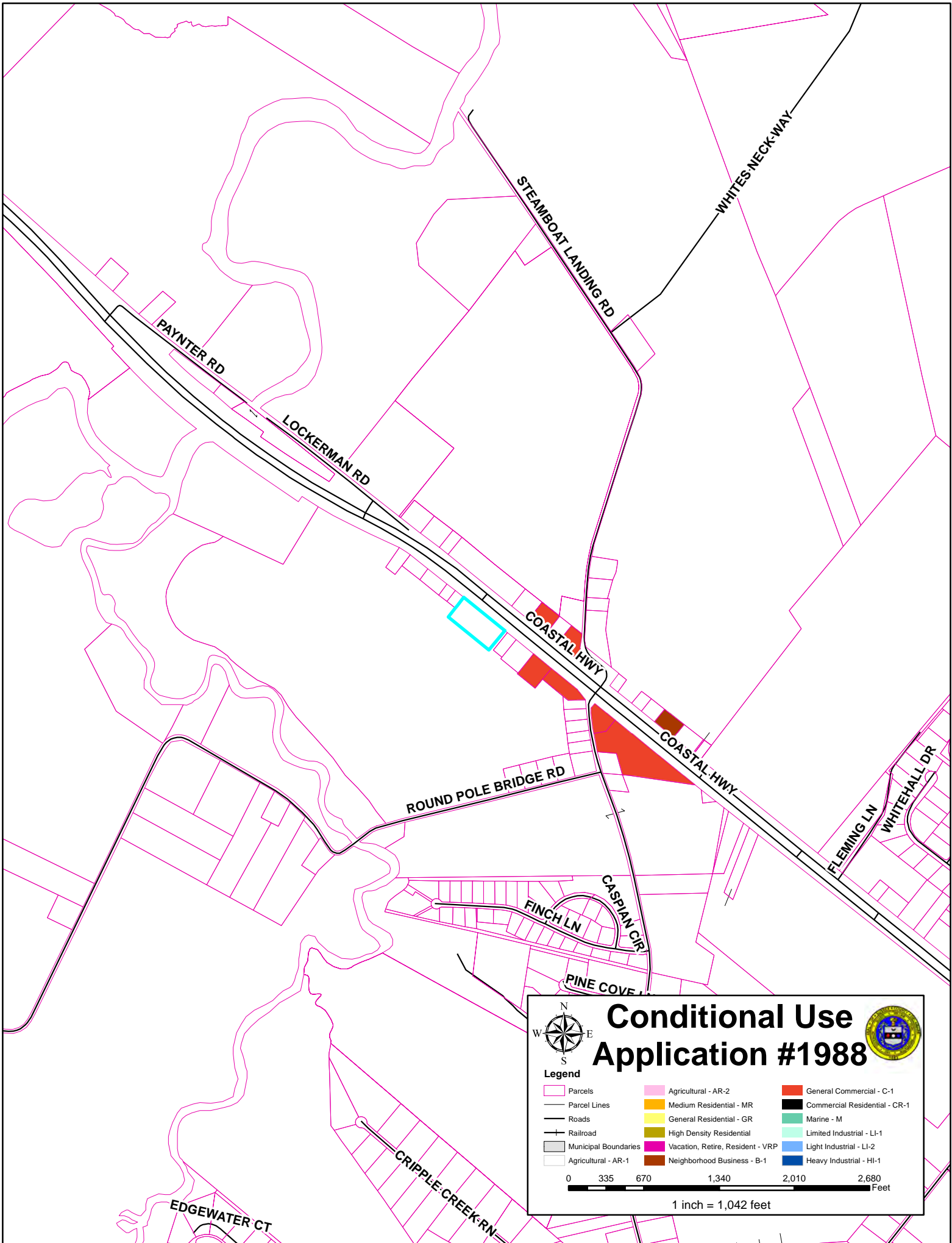


## Conditional Use Application #1988


**Legend**

<ul style="list-style-type: none"> <li><span style="border-bottom: 1px solid black; width: 20px; display: inline-block;"></span> Parcels</li> <li><span style="border-bottom: 1px solid black; width: 20px; display: inline-block;"></span> Parcel Lines</li> <li><span style="border-bottom: 1px solid black; width: 20px; display: inline-block;"></span> Roads</li> <li><span style="border-bottom: 1px solid black; width: 20px; display: inline-block;"></span> Railroad</li> <li><span style="border-bottom: 1px solid black; width: 20px; display: inline-block;"></span> Municipal Boundaries</li> <li><span style="border-bottom: 1px solid black; width: 20px; display: inline-block;"></span> Agricultural - AR-1</li> </ul>	<ul style="list-style-type: none"> <li><span style="background-color: #FFC0CB; width: 15px; height: 10px; display: inline-block;"></span> Agricultural - AR-2</li> <li><span style="background-color: #FFD700; width: 15px; height: 10px; display: inline-block;"></span> Medium Residential - MR</li> <li><span style="background-color: #FFFF00; width: 15px; height: 10px; display: inline-block;"></span> General Residential - GR</li> <li><span style="background-color: #90EE90; width: 15px; height: 10px; display: inline-block;"></span> High Density Residential</li> <li><span style="background-color: #FF00FF; width: 15px; height: 10px; display: inline-block;"></span> Vacation, Retire, Resident - VRP</li> <li><span style="background-color: #8B4513; width: 15px; height: 10px; display: inline-block;"></span> Neighborhood Business - B-1</li> </ul>	<ul style="list-style-type: none"> <li><span style="background-color: #FF4500; width: 15px; height: 10px; display: inline-block;"></span> General Commercial - C-1</li> <li><span style="background-color: #000000; width: 15px; height: 10px; display: inline-block;"></span> Commercial Residential - CR-1</li> <li><span style="background-color: #008080; width: 15px; height: 10px; display: inline-block;"></span> Marine - M</li> <li><span style="background-color: #ADD8E6; width: 15px; height: 10px; display: inline-block;"></span> Limited Industrial - LI-1</li> <li><span style="background-color: #6495ED; width: 15px; height: 10px; display: inline-block;"></span> Light Industrial - LI-2</li> <li><span style="background-color: #00008B; width: 15px; height: 10px; display: inline-block;"></span> Heavy Industrial - HI-1</li> </ul>
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1 inch = 110 feet



## Conditional Use Application #1988



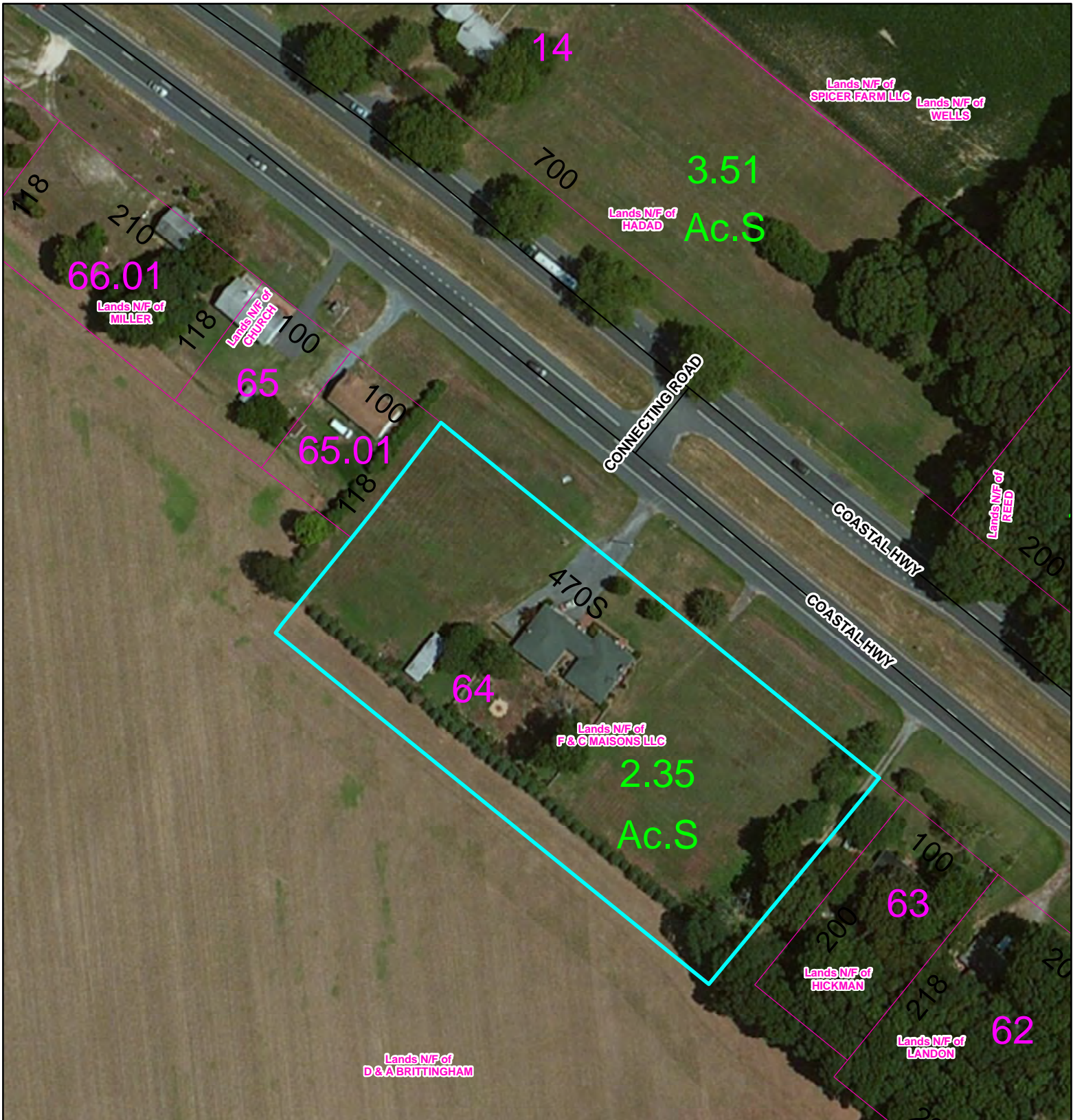
**Legend**

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

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

1 inch = 1,042 feet





## Conditional Use Application #1988

**Legend**

<ul style="list-style-type: none"> <li><span style="border: 1px solid pink; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Parcels</li> <li><span style="border-bottom: 1px solid black; width: 15px; margin-right: 5px;"></span> Parcel Lines</li> <li><span style="border-bottom: 2px solid black; width: 15px; margin-right: 5px;"></span> Roads</li> <li><span style="border-bottom: 1px dashed black; width: 15px; margin-right: 5px;"></span> Railroad</li> <li><span style="border-bottom: 1px solid black; width: 15px; margin-right: 5px;"></span> Municipal Boundaries</li> <li><span style="border: 1px solid black; width: 15px; height: 10px; margin-right: 5px;"></span> Agricultural - AR-1</li> </ul>	<ul style="list-style-type: none"> <li><span style="background-color: #FFC0CB; width: 15px; height: 10px; margin-right: 5px;"></span> Agricultural - AR-2</li> <li><span style="background-color: #FFD700; width: 15px; height: 10px; margin-right: 5px;"></span> Medium Residential - MR</li> <li><span style="background-color: #FFFF00; width: 15px; height: 10px; margin-right: 5px;"></span> General Residential - GR</li> <li><span style="background-color: #90EE90; width: 15px; height: 10px; margin-right: 5px;"></span> High Density Residential</li> <li><span style="background-color: #FF00FF; width: 15px; height: 10px; margin-right: 5px;"></span> Vacation, Retire, Resident - VRP</li> <li><span style="background-color: #8B4513; width: 15px; height: 10px; margin-right: 5px;"></span> Neighborhood Business - B-1</li> </ul>	<ul style="list-style-type: none"> <li><span style="background-color: #FF4500; width: 15px; height: 10px; margin-right: 5px;"></span> General Commercial - C-1</li> <li><span style="background-color: #000000; width: 15px; height: 10px; margin-right: 5px;"></span> Commercial Residential - CR-1</li> <li><span style="background-color: #008080; width: 15px; height: 10px; margin-right: 5px;"></span> Marine - M</li> <li><span style="background-color: #ADD8E6; width: 15px; height: 10px; margin-right: 5px;"></span> Limited Industrial - LI-1</li> <li><span style="background-color: #6495ED; width: 15px; height: 10px; margin-right: 5px;"></span> Light Industrial - LI-2</li> <li><span style="background-color: #00008B; width: 15px; height: 10px; margin-right: 5px;"></span> Heavy Industrial - HI-1</li> </ul>
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1 inch = 110 feet

Source: Esri, DigitalGlobe, GeoEye, Earthstar, USDA, USGS, AEX, Geomatics, Aerogrid, IGN, ICP, swisstopo, and the GIS User Community



Council District – District No. 4  
Tax I.D. No. 234-30.00-1.00 and others  
911 Address: None Available

(Change of Zone No. 1751)

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO MODIFY CONDITION NO. 10(C) IMPOSED ON ORDINANCE NO. 2180 FOR CHANGE OF ZONE NO. 1697, THE APPLICATION OF PENINSULA AT LONG NECK, LLC FOR “THE PENINSULA”, A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY, TO EXTEND THE TIME TO CONSTRUCT AND OPEN FOR USE THE GOLF CLUBHOUSE FACILITY**

**WHEREAS, on the 15th day of April 2002, a zoning application, denominated Change of Zone No. 1475, was filed on behalf of Ribera-Odyssey, LLC; and**

**WHEREAS, on the 22nd day of August 2002, a Public Hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 12th day of September 2002, said Commission recommended that Change of Zone No. 1475 be approved with conditions; and**

**WHEREAS, on the 10th day of September 2002, a Public Hearing was held, after notice, before the County Council of Sussex County and the County Council determined, based on the Findings of Fact, that said Change of Zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County; and**

**WHEREAS, on the 19th day of November 2002, the County Council of Sussex County adopted Ordinance No. 1573 for Change of Zone No. 1475, with conditions; and**

**WHEREAS, on the 12th day of February 2008, an application was filed to modify Condition No. 10 imposed on Ordinance No. 1573 to extend the time to construct and open for use the golf clubhouse and nature center facilities; and**

**WHEREAS, on the 10th day of July 2008, a Public Hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 20th day of August 2008, said Commission recommended that Change of Zone No. 1657 be denied; and**

**WHEREAS, on the 29th day of July 2008, the County Council of Sussex County considered a request of Peninsula at Long Neck, LLC to modify Condition No. 10 imposed in Ordinance No. 1573 for Change of Zone No. 1475 and it was determined, based on the Findings of Fact, that Change of Zone No. 1657 is in accordance with the Comprehensive Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the**

present and future inhabitants of Sussex County; and

WHEREAS, on the 7th day of June 2010, a zoning application denominated Change of Zone No. 1697 was filed on behalf of Land Tech Receiver Services, LLC; and

WHEREAS, on the 18th day of November 2010, a Public Hearing was held, after notice, before the Planning and Zoning Commission of Sussex County, and on the 27th day of January 2011, said Commission recommended that Change of Zone No. 1697 be approved, as modified; and

WHEREAS, on the 7th day of December 2010, a Public Hearing was held, after notice, before the County Council of Sussex County, and on the 22nd day of March 2011, the County Council decided, based on the Findings of Fact, that to modify Condition No. 10 imposed on Ordinance No. 1573 for Change of Zone No. 1475, the application of Ribera-Odyssey, LLC, as amended by Ordinance No. 2018 for Change of Zone No. 1697, the application of Peninsula at Long Neck, LLC is in accordance with the Comprehensive Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County; and

WHEREAS, on the 7th day of March 2014, a zoning application, denominated Change of Zone No. 1751 was filed on behalf of Peninsula at Long Neck, LLC; and

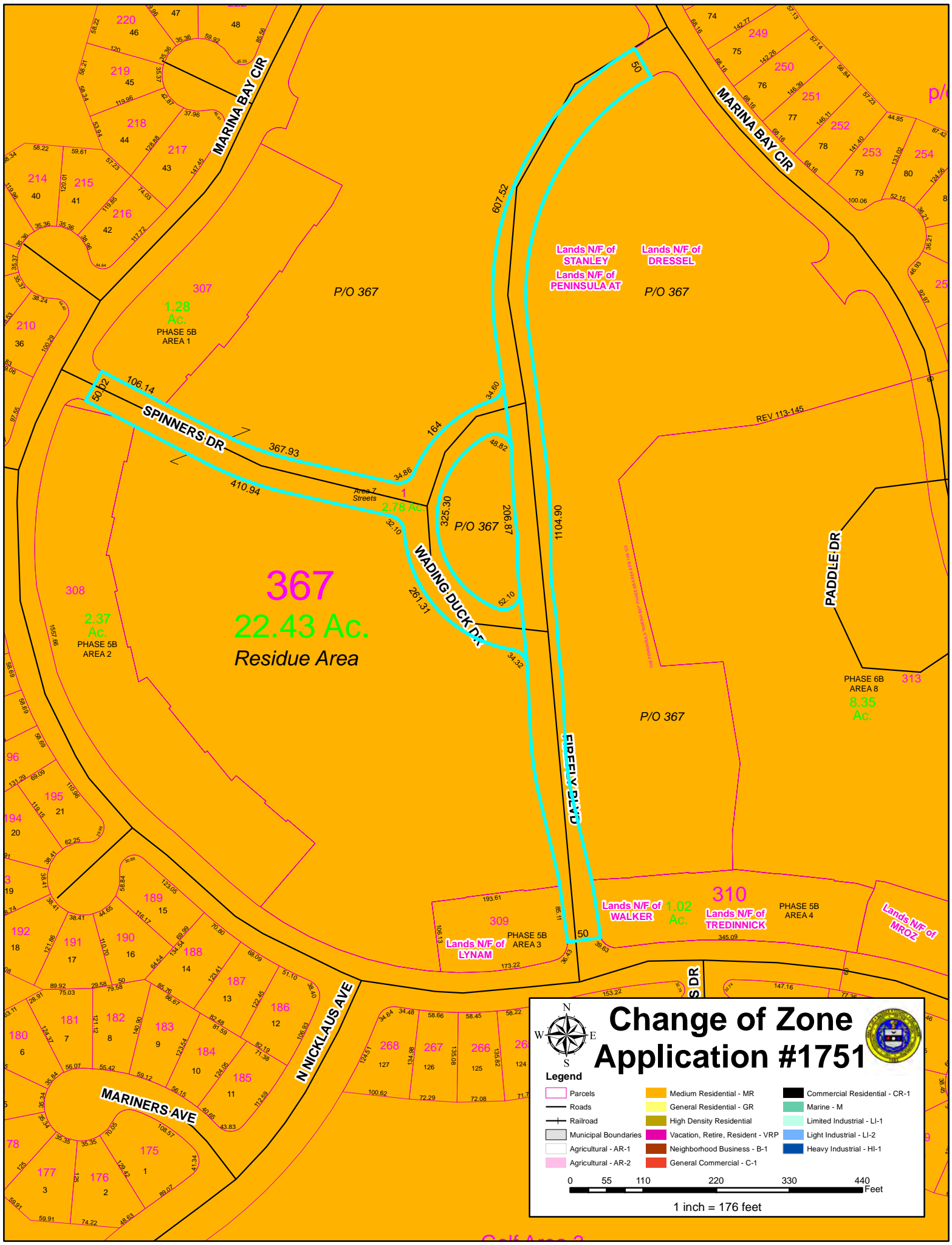
WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2014, a Public Hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Commission recommended that Change of Zone No. 1751 be \_\_\_\_\_; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2014, a Public Hearing was held, after notice, before the County Council of Sussex County and the County Council has determined, based on the Findings of Fact, that said Change of Zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County;

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

Section 1. That Condition No. 10(C) be modified to read: “Construction of the Clubhouse shall commence no later than October 1, 2015, with construction to be completed 12 months thereafter. A bond, cash bond or letter of credit shall be provided to Sussex County in the amount of 125 percent of the cost of completion of the Clubhouse within 60 days of the date that the Sussex County Council approves Change of Zone No. 1751.”

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



**367**  
**22.43 Ac.**  
*Residue Area*

1.28  
 Ac.  
 PHASE 5B  
 AREA 1

2.37  
 Ac.  
 PHASE 5B  
 AREA 2


PHASE 6B  
 AREA 8  
 8.35  
 Ac.

Lands N/F of  
 WALKER  
 1.02  
 Ac.

Lands N/F of  
 TREDINICK


Lands N/F of  
 LYNAM

Lands N/F of  
 MIROZ



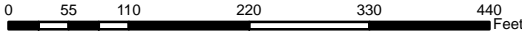
W N E  
S

# Change of Zone Application #1751



**Legend**

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



0 55 110 220 330 440 Feet

1 inch = 176 feet

Lands N/F of  
 STANLEY  
 Lands N/F of  
 PENINSULAAT

Lands N/F of  
 DRESSEL  
 P/O 367

PHASE 5B  
 AREA 3

PHASE 5B  
 AREA 4

MARINERS AVE

N NICKLAUS AVE

SPINNERS DR

WADING DUCK DR

FIBERNA BLVD

MARINA BAY CIR

MARINA BAY CIR

PADDLE DR

P/O 367

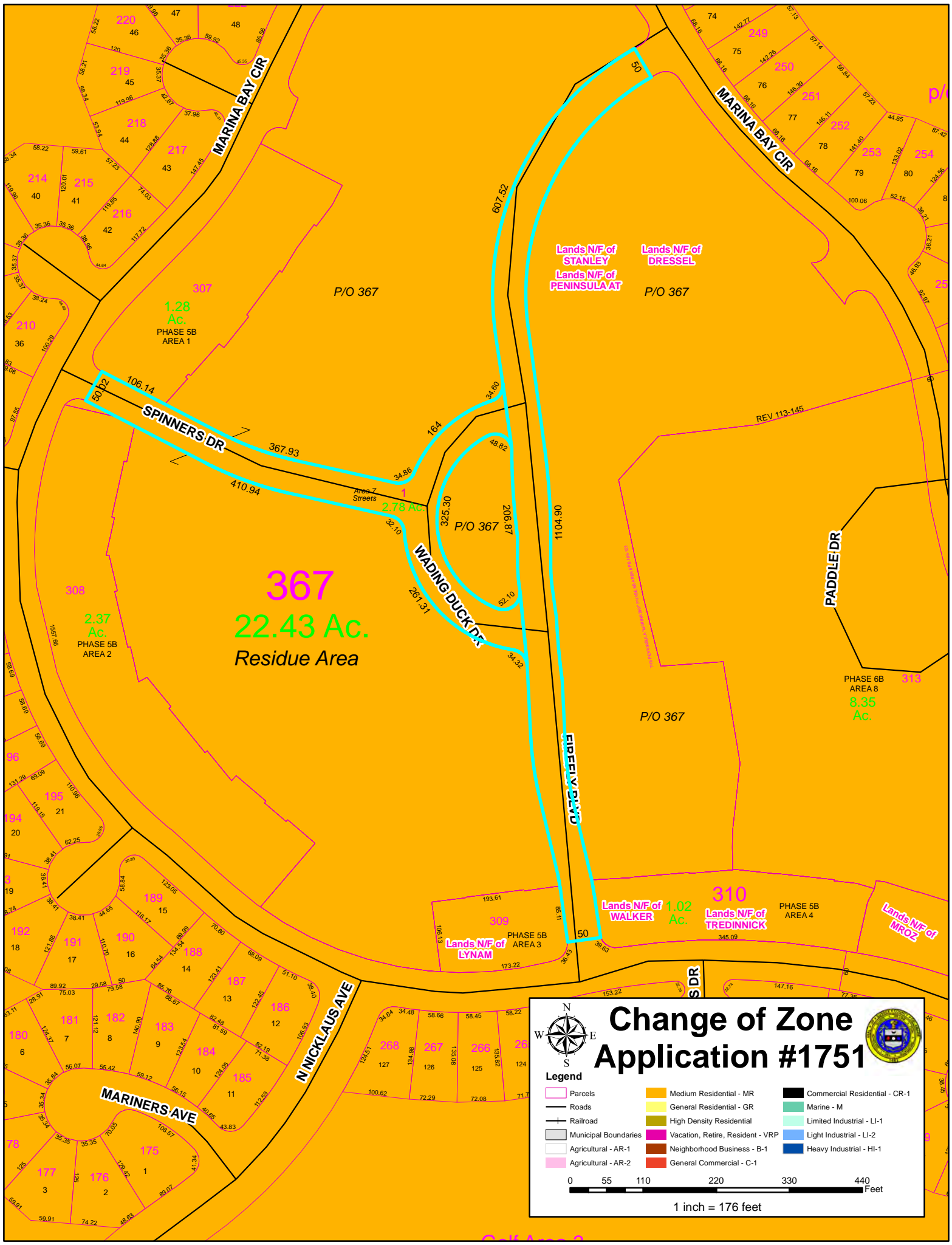
P/O 367

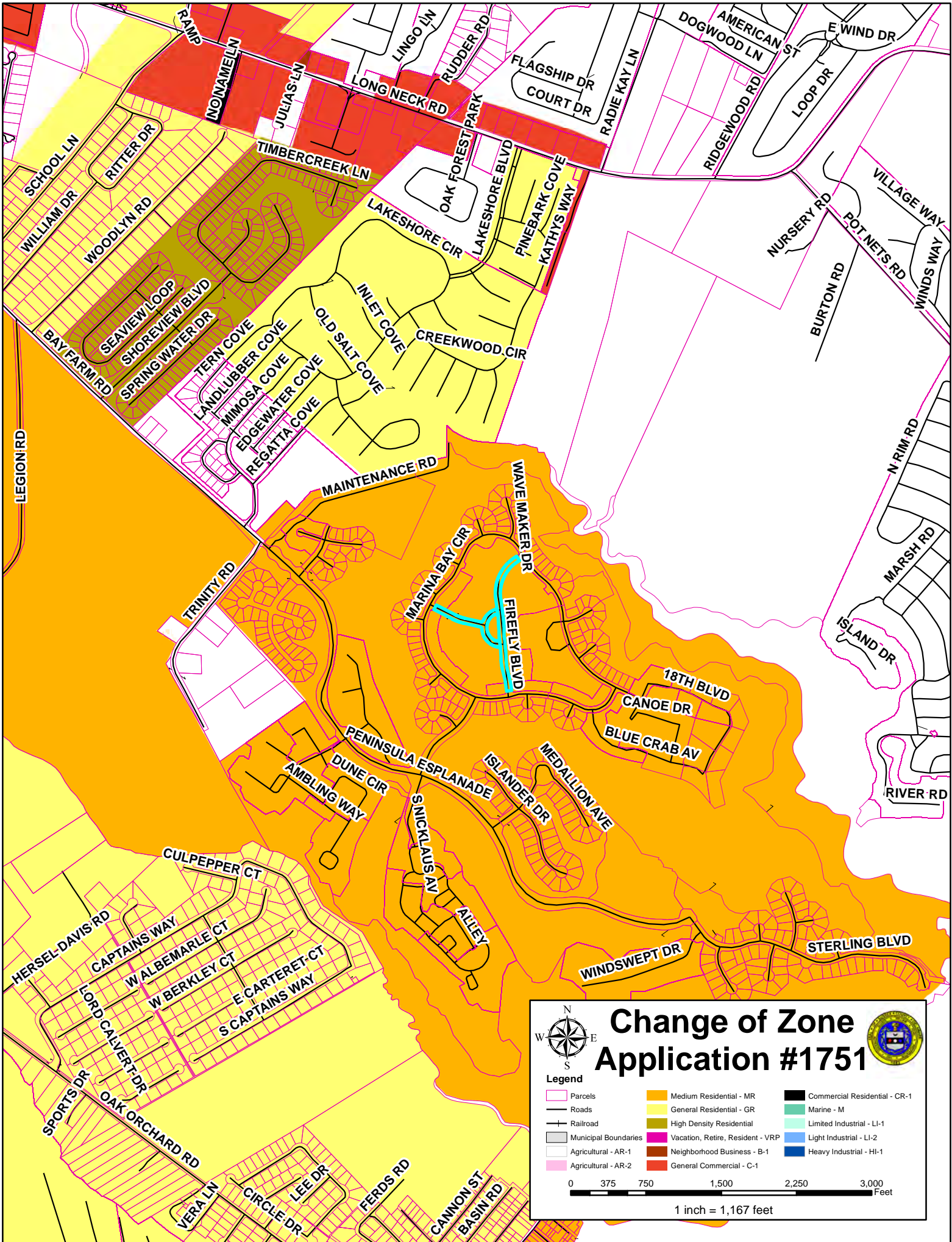
P/O 367

SDR

REV 113-145

Area 7  
 Streets

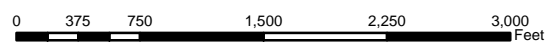




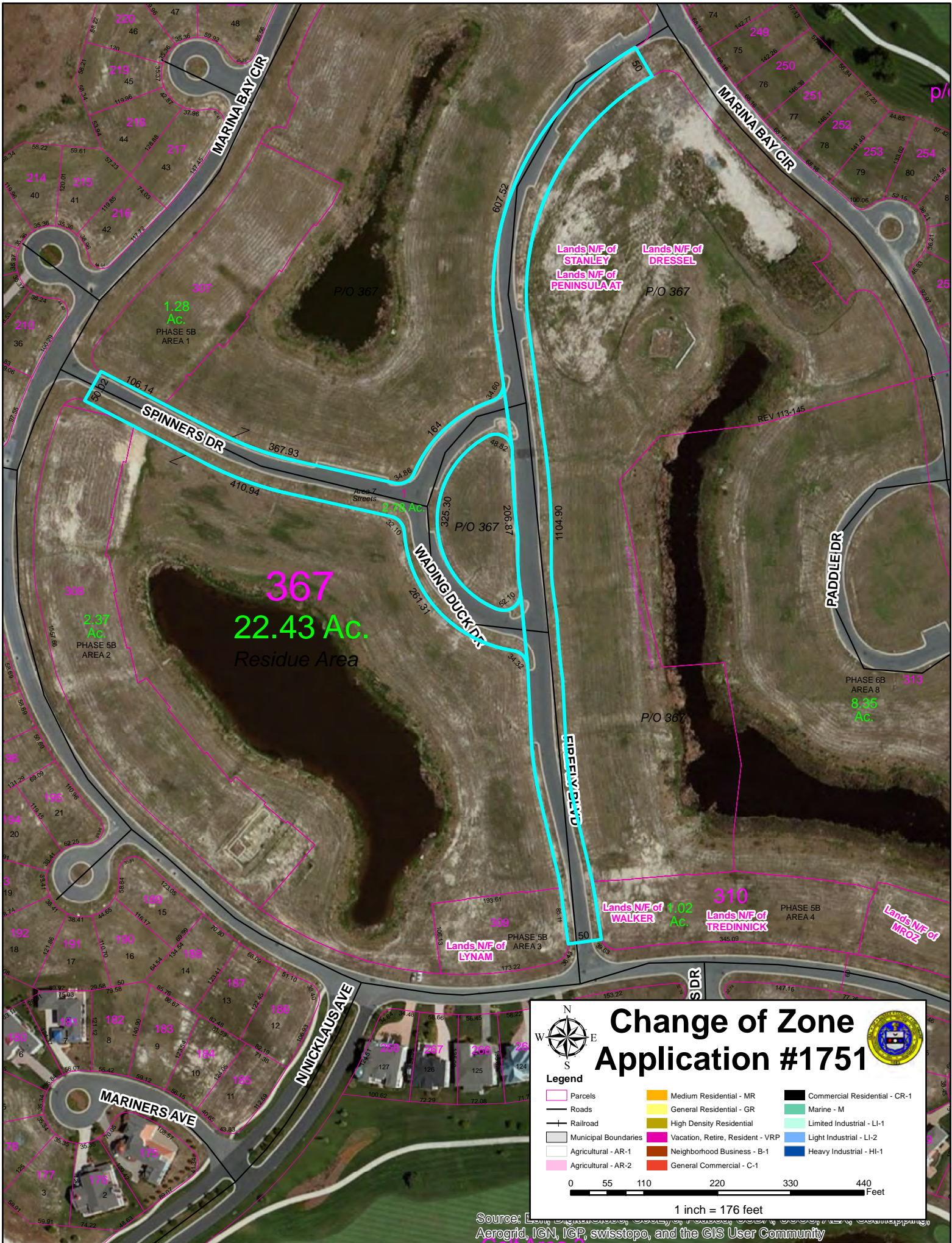
# Change of Zone Application #1751



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








**367**  
**22.43 Ac.**  
*Residue Area*


Lands N/F of  
**STANLEY**  
 Lands N/F of  
**PENINSULA AT**

Lands N/F of  
**WALKER**  
 Lands N/F of  
**TREDNICK**



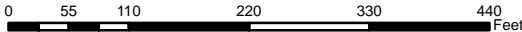
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## Change of Zone Application #1751



**Legend**

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



0 55 110 220 330 440 Feet

1 inch = 176 feet

Source: Esri, DeLorme, GeoEye, IGN, IPC, swisstopo, and the GIS User Community



Council District – District No. 3  
Tax I.D. No. 335-8.00-37.00 (Part of)  
911 Address: 17028 Cadbury Circle, Lewes, DE 19958 (expansion)

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS**

WHEREAS, on the 31st day of March 2014, a zoning application, denominated Change of Zone No. 1753 was filed on behalf of Cadbury at Lewes, Inc.; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2014, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1753 be approved; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2014, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,

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

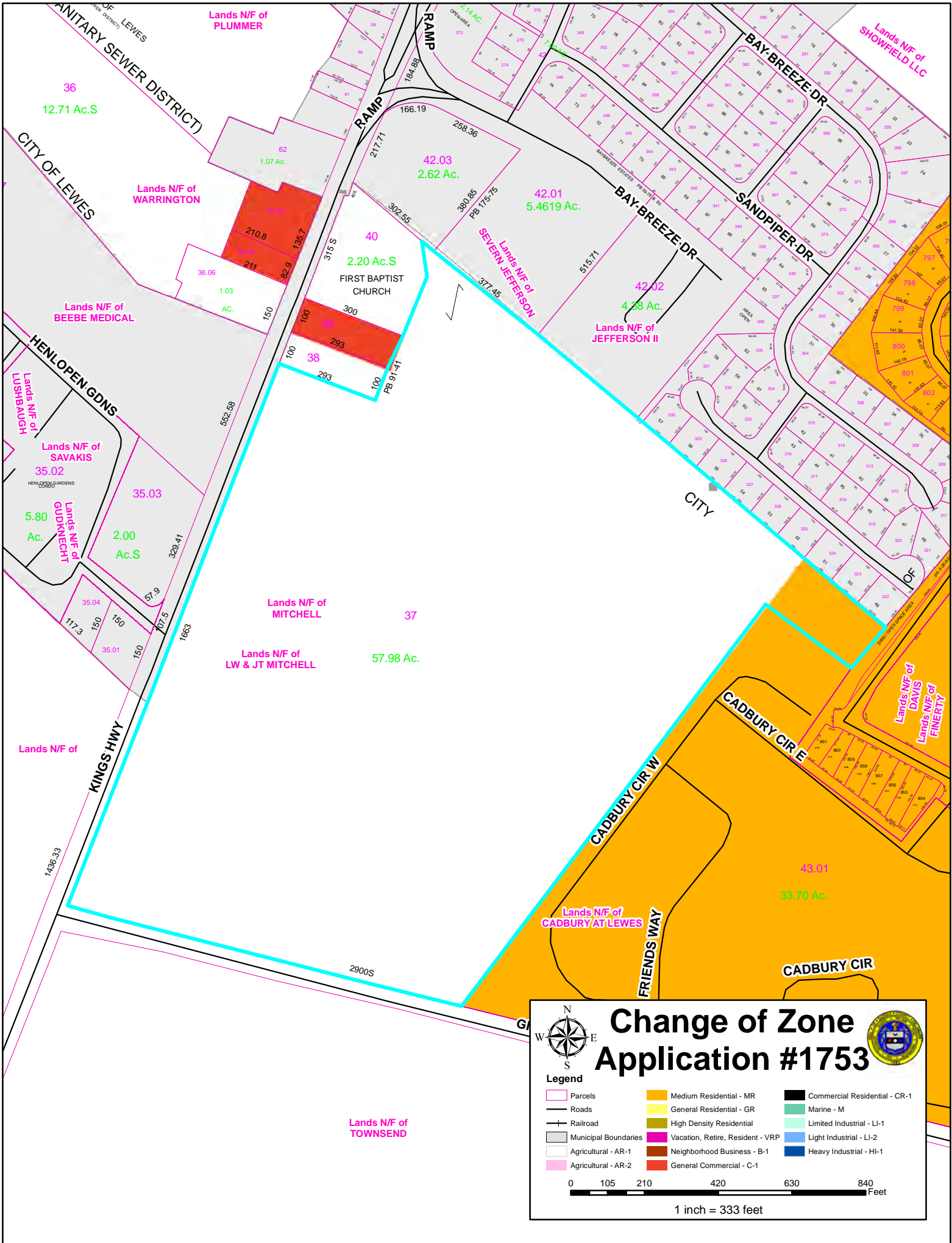
**Section 1.** That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District] and adding in lieu thereof the designation MR-RPC Medium Density Residential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

**Section 2.** The subject property is described as follows:

**ALL** that certain tract, piece or parcel of land lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying northeast of Road 267 (Gills Neck Road) 1,100 feet east of Road 268 (Kings Highway) and being more particularly described as follows:

**BEGINNING at a point on the northeasterly right-of-way of Road 267 (Gills Neck Road), a corner for these subject lands and other lands of Cadbury at Lewes, Inc.; thence North 46°00'00" East 1,447.04 feet along other lands of Cadbury at Lewes, Inc. to a point; thence South 42°31'46" East 320.00 feet along other lands of Cadbury at Lewes, Inc. to a point; thence North 47°09'56" East 155.00 feet along Breakwater Development to a point; thence North 40°48'38" West 425.39 feet along the boundary line of the City of Lewes to a point; thence South 46°00'00" West 1660.82 feet across lands of L.W. and J.T. Mitchell Family Limited Partnership to a point on the northeasterly right-of-way of Road 267 (Gills Neck Road); thence easterly approximately 110.00 feet along the northeasterly right-of-way of Road 267 (Gills Neck Road) to the point and place of beginning, said parcel containing 5.00 acres, more or less.**

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



Sanitary Sewer District  
 City of Lewes  
 12.71 Ac.S

Lands N/F of Warrington  
 Lands N/F of Beebe Medical  
 36.06  
 1.03 Ac.

Henlopen Gdns  
 Lands N/F of Lushbaugh  
 Lands N/F of Savakis  
 35.02  
 Lands N/F of Gudknecht  
 5.80 Ac.  
 35.03  
 2.00 Ac.S

Lands N/F of Kings Hwy  
 1436.33  
 117.3  
 150  
 150  
 35.04  
 35.01  
 150  
 1683

Lands N/F of Townsend  
 2900S

Lands N/F of Plummer  
 62  
 1.07 Ac.  
 210.8  
 35.05  
 211  
 82.9  
 135.7  
 315 S  
 302.55  
 166.19  
 258.36  
 217.71  
 RAMP  
 184.88  
 2.14 AC. OPEN AREA

40  
 2.20 Ac.S  
 FIRST BAPTIST CHURCH  
 39  
 300  
 293  
 100  
 100  
 293  
 100  
 PB 91-41  
 377.45  
 Lands N/F of Severn Jefferson

42.03  
 2.62 Ac.  
 42.01  
 5.4619 Ac.  
 515.71  
 42.02  
 4.38 Ac.  
 Lands N/F of Jefferson II  
 37  
 57.98 Ac.  
 Lands N/F of Mitchell  
 Lands N/F of LW & JT Mitchell

38  
 293  
 100  
 100  
 293  
 100  
 PB 91-41  
 377.45  
 500S

Lands N/F of Cadbury at Lewes  
 2900S

Lands N/F of Showfield LLC  
 Bay Breeze Dr  
 Sandpiper Dr  
 City  
 43.01  
 33.70 Ac.  
 Lands N/F of Davis  
 Lands N/F of Finerty

Cadbury Cir W  
 Friends Way  
 Cadbury Cir E  
 Cadbury Cir  
 43.01  
 33.70 Ac.  
 Lands N/F of Davis  
 Lands N/F of Finerty

## Change of Zone Application #1753

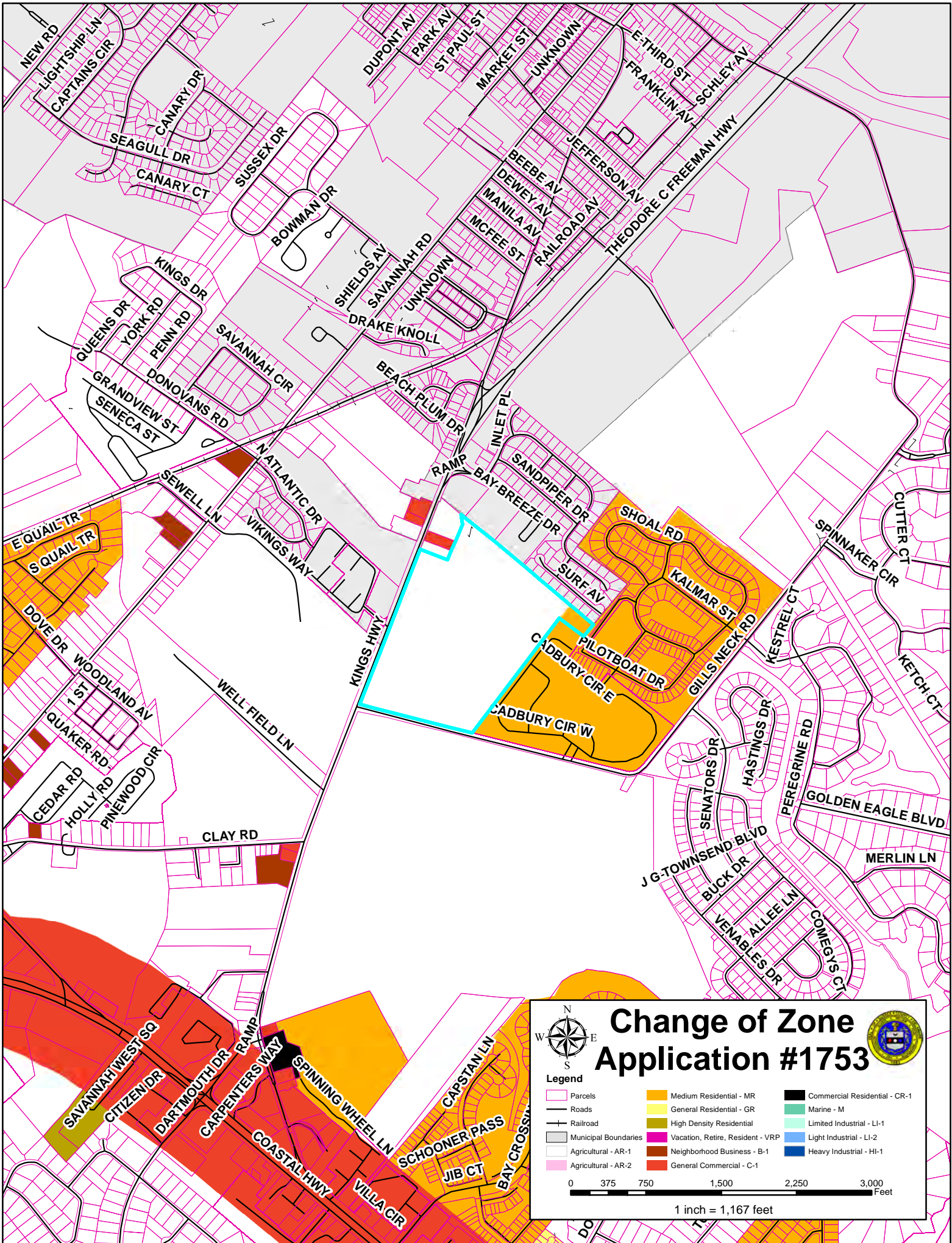
**Legend**

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

0    105    210    420    630    840    Feet

1 inch = 333 feet

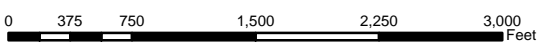




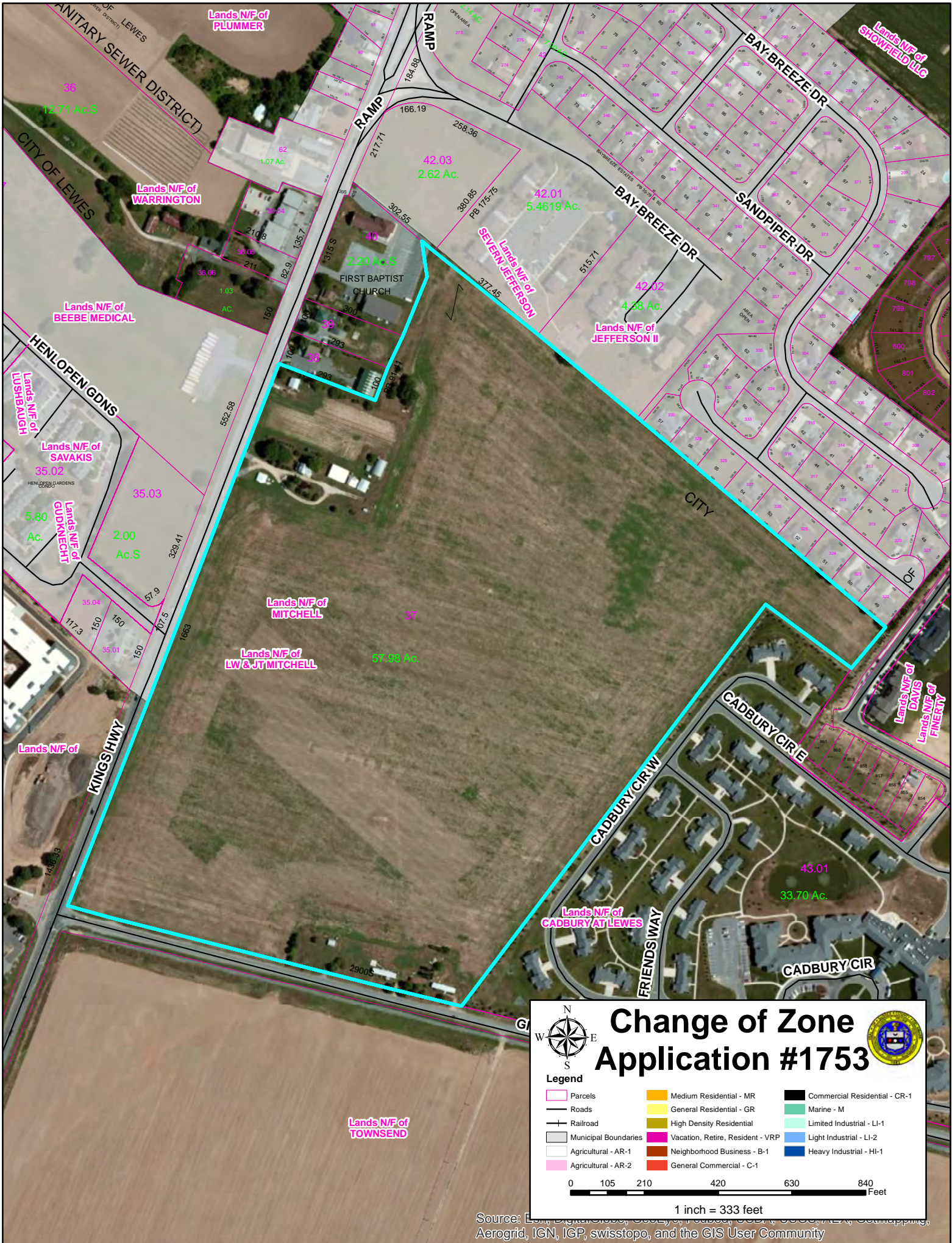
# Change of Zone Application #1753



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







Lands N/F of PLUMMER

Lands N/F of SHOWFIELD LLC

Lands N/F of WARRINGTON

Lands N/F of BEEBE MEDICAL

Lands N/F of LUSHBAUGH

Lands N/F of SAVAKIS

Lands N/F of GUDKNECHT

Lands N/F of MITCHELL

Lands N/F of LW & JT MITCHELL


Lands N/F of

Lands N/F of TOWNSEND

Lands N/F of CADBURY AT LEWES

Lands N/F of DAVIS  
Lands N/F of FINERTY

**Change of Zone Application #1753**



**Legend**

Parcels	Medium Residential - MR	Commercial Residential - CR-1
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Source: Esri, DigitalGlobe, GeoEye, Earthstar (United States), CNES/Airbus DS, USDA, AeroGRID, IGN, IGP, swisstopo, and the GIS User Community