



Sussex County Council Public/Media Packet

**MEETING:
August 19, 2014**

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SAMUEL R. WILSON JR., VICE PRESIDENT
GEORGE B. COLE
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Sussex County Council

AGENDA

AUGUST 19, 2014

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Consent Agenda

1. Wastewater Agreement No. 856-4
Sussex County Project No. 81-04
Millville By The Sea – Summerwind Village, Phase 1
Millville Expansion of the Bethany Beach Sanitary Sewer District
2. Wastewater Agreement No. 990
Sussex County Project No. 81-04
Ocean View Beach Club
Bethany Beach Sanitary Sewer District

Todd Lawson, County Administrator

1. Library Advisory Board Appointment
2. Administrator's Report

Hal Godwin, Deputy County Administrator

1. Wetlands Advisory Committee Update



Juel Gibbons, Project Engineer

1. Pump Station 207 and Force Main, Contract 12-23
 - A. Construction Administration Agreement
2. Pump Station 22 Modifications
 - A. Bid Award

10:30 a.m. - Executive Session - Job Applicants' Interviews pursuant to 29 Del. C. §10004(b)

Old Business

Change of Zone No. 1751
Peninsula at Long Neck, LLC

Conditional Use No. 1991
Cool Spring, LLC / Highway One

Grant Requests

1. Delmarva Teen Challenge for a fundraising event.
2. Town of Bridgeville for the Police Department's "National Night Out" community event.

Introduction of Proposed Zoning Ordinances

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

Possible Action on Executive Session Items

Any Additional Business Brought Before Council

1:30 p.m. Public Hearing

Change of Zone No. 1754 filed on behalf of Bayshore Plaza Associates, LLC.
"AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A B-1 NEIGHBORHOOD BUSINESS DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.52 ACRES, MORE OR LESS" (land lying north of Route 54 (Lighthouse Road) 800 feet east of Road 381 (Old Mill Road) (911 Address: 36437 Lighthouse Road, Selbyville)

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

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on August 12, 2014 at 4:20 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, AUGUST 5, 2014

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 5, 2014, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

Joan R. Deaver, Councilwoman, was absent.

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 372 13
Amend
and
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to amend the Agenda by deleting “Executive Session – Land Acquisition pursuant to 29 Del. C. §10004(b)” and “Possible Action on Executive Session Items”; and to approve the Agenda, 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**

Minutes

The minutes of July 22, 2014 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

**KEITH ADAMS, CHIEF OPERATING OFFICER, DELMARVA
CLERGY UNITED IN SOCIAL ACTION.**

**RE: Letter in appreciation for the opportunity to give a presentation at the
July 22nd Council meeting.**

**First
State
Community
Action
Agency**

The Council presented a check in the amount of \$25,000 to Bernice Edwards, Executive Director of the First State Community Action Agency. The check represents the final \$25,000 payment (fourth year), totaling \$100,000.00. Ms. Edwards thanked the Council for its continued support.

**Administrator's
Report**

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

1. Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County Subcommittee Meeting

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County Conference Planning Subcommittee will meet on Tuesday, August 12, 2014, at 10:00 a.m. at the Sussex County Administrative Offices West Complex (2nd floor conference room), 22215 North DuPont Boulevard, in Georgetown. During the meeting, the Committee will continue discussion of its upcoming conference.

2. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, Americana Bayside-Sea Grass Bend received Substantial Completion effective July 25, 2014, and Americana Bayside-Phase 16, received Substantial Completion effective August 1, 2014.

3. 2014 Sussex County Tax Bills

Please be advised, the 2014 Sussex County tax bills are now available for review and payment online at www.sussexcountype.gov. Property owners will receive their traditional hard copies in the mail next week. This year, there were 171,000 bills generated with 42,700 sent electronically to mortgage lenders. The bills collect an estimated \$117 million in tax revenue. Eighty-eight percent of the tax revenue goes to the schools. The bills also collect ditch taxes for the Conservation District, annual assessment sewer charges, and other special assessments. All payments are due September 30th.

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

**Delaware
Transit
Reim-
bursement
Program
Request**

Mrs. Jennings reported that DART, a division of DelDOT, has allocated \$796,862 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 centers 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>

(continued)

TOTAL

\$ 796,862.00

**M 373 14
Approve
Funding/
Senior
Agencies**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, that the Sussex County Council approves the allocation of State funds to various senior agencies within Sussex County, as presented.

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**

**Wetlands
Advisory
Committee
Update**

Hal Godwin, Deputy County Administrator, presented an update on the progress of the Wetlands Advisory Committee (WAC). Mr. Godwin distributed a copy of the recommendations from DNREC and the Center for the Inland Bays and he asked the Council to review the information for discussion at a later date. Additionally, Mr. Godwin reported that he expects to receive any day a copy of the draft report that will be sent to the General Assembly and the Governor at the end of the year. Mr. Godwin noted that he will present this report to the Council once it has been received and Council can consider whether or not to support the recommendation. Mr. Godwin noted that the Committee meets again on Wednesday, August 13, 2014.

Marty Ross, a member of the Committee representing the Delaware Farm Bureau, was in attendance. Mr. Ross discussed the Delaware Farm Bureau's recommendation to modify the way the real estate tax (State's portion) is allocated and provided and he asked for the Council's support of that recommendation. He stated that the primary purpose for the real estate transfer tax was to have dedicated funding for farmland preservation and open space and in the current law, it says that \$10 million a year shall be provided to the Ag Land Preservation Foundation and \$10 million a year to open space. However, through the years, General Assemblies have used this fund to balance the budget and therefore; the law has been circumvented. The Farm Bureau would like to make it more difficult for the General Assembly to use this money for other uses not intended; and to allow the Department of Agriculture to develop rules and procedures to directly collect that money instead of it going to the Division of Revenue while still staying within the parameters of the law. Mr. Ross stated that forest land preservation does not have a dedicated funding source; the recommendation would allocate \$5 million to the Forest Land Preservation Foundation but it would not increase the real estate transfer tax. Mr. Ross noted that it is important to understand that, according to DNREC, about 85% of the forest land preserved are wetlands. Mr. Ross stated that the second component to the Farm Bureau recommendation is to have joint meetings between the Open Space Council, Farm and Forest Land Preservation foundations and pertinent federal agencies to encourage open space and to consider the flexibility allowed under the Open Space Law.

**Wetlands
Advisory
Committee
Update
(continued)**

He noted that the Open Space Law does not require public access, it requires public purpose. Mr. Ross asked that the Council give Mr. Godwin the direction to support the recommendation of the Wetlands Advisory Committee.

Jim McCulley, a member of the Committee representing the Homeowners Association, stated that DNREC is recommending a fee in-lieu program and that these programs never work and wetland mitigation banking is preferred over fee in-lieu. He also stated that DNREC wants to develop a delineator training program and a delineation registry; that a delineation registry is already available at the County; and that there is no need to spend extra money on these initiatives. Mr. McCulley also stated that the Association supports the Realty Transfer Tax going to its intended purpose and he asked the Council to vote against the recommendations of DNREC.

It was the consensus of the Council that Mr. Godwin support Mr. Ross' recommendation and that Mr. Godwin should, on behalf of the Council and as previously directed, continue to vote against the recommendations of DNREC (taking over more control of the wetlands).

**Downtown
Develop-
ment
District
Program
Review**

Hal Godwin, Deputy County Administrator, presented information on the new Downtown Development Districts Act. Included in the packet was Senate Bill No. 191 and a draft version of the Application for Designation as a District. Senate Bill No. 191 was signed into law by the Governor in June 2014.

The Act establishes Downtown Development Districts (DDD's), 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.

Mr. Godwin explained the details of the program which is available to all three counties and the municipalities in the State. He stated that this legislation has put aside \$5 million to be used for incentives. 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 Grants of up to 20 percent of their "hard costs" such as exterior, interior, and structural improvements.

As part of the application process, municipalities or counties must offer local incentives. The factors to be considered when applications are evaluated include, among others, (1) the municipality's or unincorporated area's need for District designation; (2) the quality of the District Plan; and

Downtown Development District Program Review (continued)	<p>(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 DDD's, and provide assistance to municipalities and counties during the application process.</p> <p>Mr. Godwin noted that the funding for this program will have to be approved by the General Assembly annually.</p>
Sussex Shores Suburban Community Improvements Proposal	<p>Joe Wright, Assistant County Engineer, presented for Council's consideration a Base Agreement (for engineering services) and Attachment A with George Miles & Buhr (GMB). Attachment A provides for design services for improvements to Sussex Shores through the County's Suburban Community Improvements Program (Chapter 96). Construction services will be provided through a separate amendment once the construction timeframe is better defined. The scope of services includes participation in a Value Engineering review. A separate independent firm (from list of miscellaneous engineering firms) will be selected to provide the Value Engineering review of GMB's work; the Value Engineering review would be a separate cost. The work includes: placing underground the existing Delmarva Power, Verizon, and Mediacom aerial lines and also, minor drainage improvements and the repavement of all community roads. GMB services include surveying, coordination with all utility companies, design, and preparation of bidding documents and related permits. The GMB contract cost is in an amount not to exceed \$165,636.00; the cost will be the responsibility of the residents of Sussex Shores. The County Council approved the Resolution to proceed with this project at the July 29th Council meeting.</p>
M 374 14 Approve Base Agreement/ Engineering Services/ Sussex Shores Suburban Community Improvements	<p>A Motion was made by Mr. Phillips, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the Base Agreement for Engineering Services with George, Miles & Buhr (GMB), along with Attachment A, for Design Services for Project 14-13, Sussex Shores Suburban Community Improvements, effective August 5, 2014.</p> <p>Motion Adopted: 3 Yeas, 1 Absent, 1 Abstention.</p> <p>Vote by Roll Call: Mrs. Deaver, Absent; Mr. Cole, Abstained; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea</p>
Angola North Design Contract	<p>John Ashman, Director of Utility Planning, presented for the Council's consideration Contract Amendment No. 4 to the North Coastal Planning Area with Whitman, Requardt & Associates, LLP (WR&A). This Amendment shall provide design services for the expansion of the Angola Neck Sanitary Sewer District, known as Angola North. WR&A is to provide project management, design, surveys, archaeological, preliminary engineering report, environmental assessment and active participation in the Value Engineering process by a firm included in the Miscellaneous</p>

**Angola
North
Design
Contract
(continued)**

Consulting Engineering Selection. Work will include the production of contract documents (plans and specifications) for one or more sub-regional pump stations, grinder pump stations, within Love Creek Woods and possibly in Fox Hollow, approximately 16,800 linear feet of gravity sewer and 12,000 linear feet of force main. The area serviced will be primarily along Route 24 (John J. Williams Highway) from Love Creek Bridge west to the area of Peddlers Village; the existing communities of Fox Hollow and Love Creek Woods, as well as Daniels and Woods Edge manufactured home parks along Route 24 are slated to be served. The cost is not to exceed \$377,670.00. Estimated construction costs for the project will be \$5,664,574.00. Construction is scheduled for Summer 2015 with completion in Summer 2016.

**M 375 14
Authorize
Contract
Amendment
for Angola
North
Expansion**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, based upon the recommendation of the Engineering Department, that the Sussex County Council President is hereby authorized to execute Amendment No. 4, dated July 31, 2014, to its contract with Whitman, Requardt & Associates, LLP, to provide design services for the Angola North Expansion at a cost not to exceed \$377,670.00, as presented on August 5, 2014.

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

**Grant
Requests**

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

**M 376 14
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$100.00 from Mr. Cole's Councilmanic Grant Account to the Indian River Volunteer Fire Company for the Ladies Auxiliary's fundraiser.

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

**Grant
Request
Deferred**

The grant request from the Lewes Fire Department was deferred until the August 12th Council meeting.

**M 377 14
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give \$1,000.00 (\$500.00 each from Mr. Wilson's and Mrs. Deaver's Councilmanic Grant Accounts) to Delmarva Clergy United in Social Action Foundation to support *The Griffin's Place*.

Motion Adopted: 4 Yeas, 1 Absent.

Mr. Cole introduced the Proposed Ordinance entitled “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

Introduction of Proposed Ordinances (continued) **REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 126.8795 ACRES, MORE OR LESS” (Change of Zone No. 1759) filed on behalf of Osprey Point D, LLC (Tax I.D. 334-18.00-83.00) (911 Address: 20836 Old Landing Road, Rehoboth Beach).**

Mr. Wilson introduced the Proposed Ordinance entitled “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” (Change of Zone No. 1760) filed on behalf of TD Rehoboth, LLC (Tax I.D. 235-23.00-1.00) (911 Address: None Available).

The Proposed Ordinances will be advertised for Public Hearing.

Additional Business **Under Additional Business, Paul Reiger commented on his complaints regarding violations that take place on the parcel adjacent to his property and he specifically referenced portable storage containers.**

Mr. Reiger was advised that County staff would look into his comments/concerns and get back with him.

Under Additional Business, Dan Kramer commented on grants.

M 379 14 Recess **A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to recess until 1:30 p.m.**

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**

M 380 14 Reconvene **At 1:32 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Cole, to reconvene.**

Motion Adopted: 3 Yeas, 2 Absent.

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

Mr. Phillips joined the meeting.

**Public Hearing/
CU 1988** **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 MEDICAL OFFICE CENTER TO BE LOCATED ON A CERTAIN PARCEL OF**

**Public
Hearing/
CU 1988
(continued)**

LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.3522 ACRES, MORE OR LESS” (Conditional Use No. 1988) filed on behalf of Zhenguo Zhang (Tax Map I.D. 235-16.00-64.00) (911 Address: 14614 Coastal Highway, Milton).

The Planning and Zoning Commission held a Public Hearing on this application on June 12, 2014 at which time action was deferred. On July 24, 2014, the Commission recommended that the application be approved with conditions.

(See the minutes of the meeting of the Planning and Zoning Commission on June 12 and July 24, 2014.)

Shane Abbott, Assistant Director of Planning and Zoning, read a summary of the Planning and Zoning Commission’s Public Hearing.

The Council found that Zhenguo Zhang was present on behalf of his application and he stated that he is a licensed acupuncture practitioner; that he is applying to convert a dwelling into a medical office facility; that he may offer the facility for other medical office space; that he plans no expansions; and that he agrees to the conditions recommended by the Planning and Zoning Commission.

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

**M 381 14
Adopt
Ordinance
No. 2360
(C/U 1988)**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to Adopt Ordinance No. 2360 entitled “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” (Conditional Use No. 1988) filed on behalf of Zhenguo Zhang, with 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.**

**M 381 14
(continued)**

G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

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**

**Public
Hearing/
CZ 1751**

A Public Hearing was held on the Proposed Ordinance entitled “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” (Change of Zone No. 1751) filed on behalf of Peninsula at Long Neck, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on June 12, 2014 at which time action was deferred. On June 26 and July 17, 2014, the Commission deferred action again. On July 24, 2014, the Commission recommended that the application be approved with condition.

(See the minutes of the meeting of the Planning and Zoning Commission on June 12, June 26, July 17, and July 24, 2014.)

Shane Abbott, Assistant Director of Planning and Zoning, read a summary of the Planning and Zoning Commission’s Public Hearing.

The Council found that James Fuqua, Esquire, of Fuqua, Yori & Willard, P.A., was present with Daniel Bartak of Wells Fargo. They stated that the only outstanding issue/condition at The Peninsula is the design and construction of a private clubhouse facility; that they are requesting the amendment of Condition No. 10(c) of the RPC approval to provide the construction of the private clubhouse to commence by October 1, 2015 and it would be required to be completed and open for use within one year of that date; that Wells Fargo just acquired ownership in May and this would give them time to market the property, sell it to a new developer, and the new developer would design and actually build the clubhouse; that the Commission’s recommendation that Wells Fargo, through its subsidiary, submit a clubhouse concept design plan with estimated square footage costs and a revised Letter of Credit within 30 days of the concept design is inconsistent with the parties’ best interest and what is planned for the development; that this recommendation would be a waste of time and money and the Applicant thinks their request for a simple time extension is a more efficient and simple way to resolve the issue; that the recommendation of the Commission has the County becoming involved in

Public
Hearing/
CZ 1751
(continued)

the process of the private sector, requiring the construction of a certain building of a certain size, and that was never a part of the original approval and never a condition of approval; that the condition was that a clubhouse be built; that this is something the developer can make a commitment to but Wells Fargo, a bank, as the seller of the project, is not in a position to do that; that they request the Council's consideration for the condition as proposed by the Applicant; that the project is a 1,404 mixed unit residential use development with extensive amenities approved 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 the irrevocable letter of credit was issued by Parks Sterling Bank in the amount of \$1,375,000.00 and is valid through March 23, 2015; that if this application is approved, the letter of credit would be renewed through the completion of the construction of the clubhouse; that this was acceptable to the County when it was done; that construction of the Clubhouse has not yet been started; that this application was filed with the County on March 7, 2014; that the question is, why didn't the construction of the clubhouse commence within the 3 years; that Wells Fargo pursued foreclosure in both the Court of Chancery and the Delaware Superior Court; that the process involved litigation and through that process, Wells Fargo, through its subsidiary, is now the owner of the property (as of May 2014); that it is Wells Fargo's intention and they are now in the process of, finding a buyer for the development; that the buyer will take over the management and the completion of the development including the design and construction of the clubhouse; that Wells Fargo is actively marketing the development; that Wells Fargo expects to complete the process and sale this year; that the purchaser will be made aware of the obligation to construct the warehouse and it is intended that the final design and construction will include the input from the existing Peninsula owners; that by granting the 14 month extension they are requesting (construction to start no later than October 1, 2015), it will provide enough time for Wells Fargo to find a buyer, to complete the settlement, and to have the new developer to design the clubhouse with the input of the owners; 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 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

**Public
Hearing/
CZ 1751
(continued)**

bonding was based on an estimate on the size of the previous footprint for the Clubhouse.; that the County has already accepted the \$1,375,000 as the Letter of Credit amount; and that there is an escrow account in the amount of \$3 million for the Clubhouse and that funds are added to this account as new homes and lots are sold with a fee being paid by the homeowners.

Mr. Fuqua presented proposed conditions for consideration by the Council.

It was noted that the proposed condition number 10 (C), proposed by the Applicant, states that “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 completion of the Clubhouse within sixty (60) days of the date that Sussex County Council approves Change of Zone No. 1751.”

Public comments were heard.

John Gee, Chairman of the Peninsula Homeowners Action Committee (PHAC), was present on behalf of PHAC and he stated in his presentation and in response to questions from the Council that they are a community of 635 homeowners; that of the 635 homeowners, 462 homeowners (approximately 75%) are members of PHAC, which is a 50% increase in the number of owners since the last requested time extension; that whatever action the Council decides to take in response to the request for an additional extension to build the Clubhouse, will impact not only the present and existing homeowners as well as potentially 750 future homeowners, and also the bank and the new developer who purchases the property; that the PHAC fully and unequivocally endorses the Motion adopted by the Planning and Zoning Commission on July 24, 2014 pertaining to the design and construction of the Clubhouse and that they urge the Council to approve the Commission’s well developed and carefully timed plan for completion of the Clubhouse on or before December 1, 2016 including its stipulation that further extensions to build the clubhouse will not be entertained; that the Commission’s recommendation allows the owner and/or new developer sixty days to reach an agreement with the current homeowners on a concept and sketch of the clubhouse which must include both its size and an estimated construction and furnishing cost per square foot and thereafter, the owner/new developer would, according to the Motion approved by the Commission, be required to post a bond or letter of credit in an amount that is 125% of the total estimated cost of the building; that the Commission made clear that, if the owner and/or new developer did not comply with the Commission’s timetable, no new building permits would be issued for construction of new homes in The Peninsula; that the PHAC encourages the Council to approve these conditions which are entirely appropriate in the circumstances that now exist and which are also fully capable of being readily achieved; that the PHAC, with its 462 dues paying homeowners, is ready to perform responsibly and reasonably its role in evaluating and participating in the clubhouse design and

Public
Hearing/
CZ 1751
(continued)

budgeting process; that in conjunction with Wells Fargo, they obtained from The McMahon Group, one of the foremost clubhouse consulting firms in the United States, two separate size and cost estimates for a clubhouse based upon two scenarios: (1) the 1400 units authorized under the original and current Master Plan for this Community; or (2) a smaller number of units, 1000; that there is no legitimate reason for any dilution or delay in implementing the Commission's recommendation; that the PHAC will agree to an extension of the completion date until on or before December 1, 2016, only if they are assured that they will have a direct role in determining the design, size and cost of the clubhouse to be built and that real consequences will apply if the timetable for design and construction is not met; that they have been told repeatedly by Wells Fargo that it expects the sale of The Peninsula to occur in the fourth quarter of this year and that their Committee will be afforded a role in vetting the qualified buyers; that by establishing the square footage and cost requirements, potential buyers will be on a level playing field when submitting their bids; that this level playing field will also prevent the homeowners from being short changed by a buyer who promises one thing and delivers less; that the timetable established by the Commission will moreover allow the successful bidder at least six months to finalize the drawings and select a general contractor and an additional 16 to 18 months to complete the project; and that this is a very reasonable timetable; that while the ultimate size and cost of the facility to be constructed will, no doubt, be large, there are three important facts that the Council should take into consideration in resolving this matter: (1) Collectively, the current homeowners have invested well over a quarter of a billion dollars (more than \$250 million) in homes in this community, (2) the value of the properties has been depreciated by the repeated failures of the original developers and the Receiver to comply with this County's ordinances (and amendments to same) by refusing to timely build the centerpiece of this community, a large gathering place with great vistas and top-grade amenities; and (3) it must be emphasized that the cost of the Clubhouse is "not" a one-off expenditure that will never be recouped by either bank or the new developer for two separate reasons: First, the facility that is built will be owned by the new developer and it will retain its inherent value and likely appreciate over time. Second, the construction of the new clubhouse will enhance the value to the developer of all the remaining 651 unfinished lots, especially, the 70 lots in the Sanctuary Community bordering the Indian River Bay; that the carefully crafted process and timetable articulated by the Commission requires that the ultimate decision on the size and cost of the clubhouse will be made by the Bank or new developer and the homeowners; that this process and timetable sets a firm, immovable deadline for completion that neither party can ignore; that there is some uncertainty as to the clubhouse; that there have been various sketches of the proposed clubhouse; that the Commission's recommendation will provide some certainty to a process that, for the last 10 years, has not existed; and that, regarding the escrow account, it has accumulated itself to over \$3 million and the \$1,375,000 is a part of the \$3 million, which in effect secures the bond/letter of credit. In conclusion, Mr. Gee clarified that the PHAC approves the extension and

**Public
Hearing/
CZ 1751
(continued)**

agrees with the Planning and Zoning Commission's recommendation.

Mr. Gee previously submitted a written statement which was distributed to Council and made a part of the record. The written statement included a Clubhouse Needs Assessment Report prepared by the McMahon Group

There were no public comments in opposition to the application.

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

Mr. Phillips commented that this matter has been going on for 12 years and that strict limitations/provisions are needed that will force Wells Fargo to begin construction of a \$15 million clubhouse.

**M 382 14
Defer
Action/
CZ
No. 1751**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to defer action for two weeks (until August 19, 2014) on Change of Zone No. 1751 filed on behalf of Peninsula at Long Neck, LLC to give the Council the opportunity to consult with Planning and Zoning and Legal Counsel.

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**

**Public
Hearing/
CZ 1753**

A Public Hearing was held on the Proposed Ordinance entitled "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" (Change of Zone No. 1753) filed on behalf of Cadbury at Lewes, Inc. (911 Address: 17028 Cadbury Circle, Lewes) (Tax Map I.D. 3-35-8.00-37.00 - Part of).

The Planning and Zoning Commission held a Public Hearing on this application on June 12, 2014 at which time action was deferred. On June 26, 2014, the Commission recommended that the application be approved with conditions.

(See the minutes of the meeting of the Planning and Zoning Commission on June 12 and 26, 2014.)

Shane Abbott, Assistant Director of Planning and Zoning, read a summary of the Planning and Zoning Commission's Public Hearing.

**Public
Hearing/
CZ 1753
(continued)**

It was noted that the Applicant submitted Exhibit Books which were distributed to the Council.

The Council found that Carol Holzman, 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.

Mr. Gibbs stated 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 existing Cadbury project is an existing MR-RPC that was approved by Ordinance No. 1679 in April 2004; that the original MR-RPC approved 212 units and 215 were built; that the issue of the three additional units will be corrected with this proposed application because the 5 acres would actually support 32 units; that the project is currently at 90% 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; and that they have no objections to the conditions proposed by the Planning and Zoning Commission.

Mr. Lardner stated that the proposal is for four buildings; that two shared parking lots will be located on the side of the buildings; that the proposal will be harmonious with the existing buildings; that the landscaped buffer that currently exists will be relocated to form the western boundary of the property; that the property is currently split-zoned (AR and MR) and the request is to rezone the entire property to MR-RPC; that 2.9 acres is proposed to be open space; that a maintenance shed is also proposed with this expansion; that the project was reviewed by PLUS on April 23, 2014 and comments were received from the Office of State Planning Coordination on May 21, 2014; that DelDOT did not require a Traffic Impact Study; and that an Environmental Assessment and Public Facilities Report was prepared and included in the Exhibit Book.

There were no public comments and the Public Hearing and public record were closed.

**M 383 14
Adopt
Ordinance
No. 2361
(CZ 1753)**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to Adopt Ordinance No. 2361 entitled “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” (Change of Zone No. 1753) filed on behalf of Cadbury at Lewes, Inc., with the following

**M 383 14
Adopt
Ordinance
No. 2361
(CZ 1753)
(continued)**

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 Adopted: 4 Yeas, 1 Absent.

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

**M 384 14
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to adjourn at 2:50 p.m.

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**

Respectfully submitted,

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

ENGINEERING DEPARTMENT

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



Sussex County

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MICHAEL A. IZZO, P.E.
COUNTY ENGINEER

BRAD HAWKES
DIRECTOR OF UTILITY ENGINEERING

August 11, 2014

FACT SHEET

SUSSEX COUNTY PROJECT 81-04
MILLVILLE BY THE SEA - SUMMERWIND VILLAGE, PHASE 1
AGREEMENT NO. 856 - 4

DEVELOPER:

Mr. Chuck Ellison
Millville Town Center, L.L.C.
32965 Roxana Road
Millville, DE 19967

LOCATION:

Town of Millville
Substation and Burbage Roads

SANITARY SEWER DISTRICT:

Millville Expansion of the Bethany Beach Sanitary Sewer District

TYPE AND SIZE DEVELOPMENT:

22 Single Family

SYSTEM CONNECTION CHARGES:

\$121,000.00

SANITARY SEWER APPROVAL:

Sussex County Engineering Department Plan Approval
05/28/14

Department Of Natural Resources Plan Approval
07/03/14

SANITARY SEWER CONSTRUCTION DATA:

Construction Days – 24
Construction Admin And Construction Inspection Cost – \$12,607.57
Proposed Construction Cost – \$84,050.45

ENGINEERING DEPARTMENT

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

August 19, 2014



Sussex County

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MICHAEL A. IZZO, P.E.
COUNTY ENGINEER

BRAD HAWKES
DIRECTOR OF UTILITY ENGINEERING

PROPOSED MOTION

BE IT MOVED THAT BASED UPON THE RECOMMENDATION OF THE SUSSEX COUNTY ENGINEERING DEPARTMENT, FOR SUSSEX COUNTY PROJECT NO. 81-04, AGREEMENT NO. 856-4 THAT THE SUSSEX COUNTY COUNCIL EXECUTE A CONSTRUCTION ADMINISTRATION AND CONSTRUCTION INSPECTION AGREEMENT BETWEEN SUSSEX COUNTY COUNCIL AND "MILLVILLE TOWN CENTER, LLC", FOR WASTEWATER FACILITIES TO BE CONSTRUCTED IN "MILLVILLE BY THE SEA – SUMMERWIND VILLAGE, PHASE 1", LOCATED IN THE MILLVILLE EXPANSION OF THE BETHANY BEACH SANITARY SEWER DISTRICT.

ORDINANCE NO. 38
AGREEMENT NO. 856-4

TODD LAWSON
COUNTY ADMINISTRATOR

ENGINEERING DEPARTMENT

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



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MICHAEL A. IZZO, P.E.
COUNTY ENGINEER

BRAD HAWKES
DIRECTOR OF UTILITY ENGINEERING

August 06, 2014

FACT SHEET

SUSSEX COUNTY PROJECT 81-04
OCEAN VIEW BEACH CLUB
AGREEMENT NO. 990

DEVELOPER:

Mr. Colby Cox
Windansea, LLC
172 Center St., Suite 204
P.O.Box 1686
Jackson Hole, WY 83001

LOCATION:

North side of Muddy Neck Road East of
Beaver Dam Road

SANITARY SEWER DISTRICT:

Bethany Beach Sanitary Sewer District

TYPE AND SIZE DEVELOPMENT:

Residential Planned Community - Town of
Ocean View 124 units in phase 1

SYSTEM CONNECTION CHARGES:

\$627,000.00

SANITARY SEWER APPROVAL:

Sussex County Engineering Department Plan Approval
07/19/13

Department Of Natural Resources Plan Approval
07/29/13

SANITARY SEWER CONSTRUCTION DATA:

Construction Days – 100
Construction Admin And Construction Inspection Cost – \$33,483.56
Proposed Construction Cost – \$223,223.75

ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
ENVIRONMENTAL SERVICES	(302) 855-7730
PUBLIC WORKS	(302) 855-7703
RECORDS MANAGEMENT	(302) 854-5033
UTILITY ENGINEERING	(302) 855-7717
UTILITY PERMITS	(302) 855-7719
UTILITY PLANNING	(302) 855-1299
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MICHAEL A. IZZO, P.E.
COUNTY ENGINEER

BRAD HAWKES
DIRECTOR OF UTILITY ENGINEERING

Aug 19, 2014

PROPOSED MOTION

BE IT MOVED THAT BASED UPON THE RECOMMENDATION OF THE SUSSEX COUNTY ENGINEERING DEPARTMENT, FOR SUSSEX COUNTY PROJECT NO. 81-04, AGREEMENT NO. 990 THAT THE SUSSEX COUNTY COUNCIL EXECUTE A CONSTRUCTION ADMINISTRATION AND CONSTRUCTION INSPECTION AGREEMENT BETWEEN SUSSEX COUNTY COUNCIL AND "WINDANSEA, LLC", FOR WASTEWATER FACILITIES TO BE CONSTRUCTED IN "OCEAN VIEW BEACH CLUB", LOCATED IN BETHANY BEACH SANITARY SEWER DISTRICT.

ORDINANCE NO. 38
AGREEMENT NO. 990

TODD LAWSON
COUNTY ADMINISTRATOR

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



Sussex County
DELAWARE
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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: August 15, 2014

The Committee met Wednesday, August 13, and reviewed three presentations.

First, we decided not to include the recommendations from the Center for the Inland Bays (enclosed), mostly because it proposed a new Executive Order that was deemed inappropriate under the Committee's mission. Senate Bill No. 78, the Committee's Charter, provides the Committee with direction to advise the Secretary of the Department of Natural Resources and Environmental Control (DNREC) in his report to the General Assembly only, NOT the Governor directly as this Executive Order would suggest.

Secondly, we decided not to include the new recommendations from DNREC (enclosed) as they have been discussed earlier by the Committee and turned down as I pointed out at the last Council meeting on August 12.

The Committee did, however, unanimously support the recommendation from the Farm Bureau regarding the changes to State Code, Title 30, Chapter 5426 that would help ensure funding for the Agland Preservation Fund as Marty Ross explained to us; his letter is enclosed.

A draft of the Secretary's report to the Delaware legislature will be sent to me by September 15 to share with you. The Committee will review and comment on the final report by the end of September.

HG/nc

Enclosures



DELAWARE CENTER FOR THE
INLAND BAYS
Research Educate Restore

July 22, 2014

Members of the Delaware Wetlands Advisory Committee:

This letter is written in response to the call for new recommendations from Committee Members as requested by Chairman Parkowski.

From 1992 to 2007, the Inland Bays watershed lost 1,077 acres of natural freshwater wetlands. These losses are cause for great concern given the regulatory protections for wetlands that were in place and given the impaired status of the Inland Bays for nutrient pollution. Freshwater wetlands reduce nutrient loads to waterways through the microbially-mediated removal of nitrogen, the trapping of nutrients and sediments, and through hydrologic storage. They also reduce flooding, support critical wildlife habitat, and are of great economic value to the people of Delaware.

The original 1995 Inland Bays Comprehensive Conservation and Management Plan included actions to "Provide maximum protection of waterways, groundwater, natural areas, open space, and tidal and non-tidal wetlands," and to "Develop and implement a no net loss of wetlands policy." The 2012 Addendum to the CCMP includes an objective to "Halt the continued loss of wetlands and reverse these loss trends by promoting projects to mitigate for previously lost wetlands."

In addition to these CCMP actions, DNREC's 2008 Inland Bays Pollution Control Strategy contains actions to restore 4,147 acres of wetlands and establish buffers on mapped freshwater streams and ditches. Buffers of such water features would provide additional protection to streamside wetlands. Unfortunately, little progress has been documented on the former action and the latter action was stricken from regulation as the result of a lawsuit.

I recommend the following actions regarding freshwater wetlands protection. These actions are in my opinion priority for implementing the Inland Bays CCMP. Some of these actions have been recommended as a part of the DNREC's Wetland Protection Strategic Plan (2013) and Wetland Program Review (2010). Importantly, most of the actions should be able to be accomplished within the existing authorities of the State and under existing regulations.

1. Request a new Executive Order on Freshwater Wetlands. An order similar to Executive Order 56, issued by Governor Castle in 1988, should reaffirm the importance of freshwater wetlands and the commitment of all state agencies to avoid and minimize impacts to these resources. Such an order should also include 1) a policy for no-net loss of wetlands or a policy of reversal of wetland loss trends and 2) the requirement for a multi-agency action plan to achieve such a policy over a given period.

As an example of how this could be effective, the reissuance of this Order might encourage DelDOT to reconsider its preferred alternative to the Route 113 Millsboro South Transportation Study. This study by DelDOT has recommended a bypass highway around Millsboro that includes a bridge across Indian River and crossings of 11 other waterways. DelDOT estimates that this will impact 19,246 linear feet of streams, 20,851 linear feet of subaqueous lands, 14,482 linear feet of tax ditches, and impact 30.8 acres of wetlands. With such an Executive Order in place, perhaps DelDOT would have the incentive to reconsider the practicable on-alignment alternative to the bypass, which is based upon improving the existing highway, is less expensive, and results in less than half of the proposed bypass's impacts to wetlands alone.

2. Update State wetlands regulatory maps and include those freshwater wetlands that meet the definition established in the 1973 Wetlands Act. DNREC's wetlands regulatory maps have not been updated for approximately 25 years. An update is overdue considering that tidal wetlands of the Inland Bays have been found to move inland from an average of 0.8 to 6.1 feet per year. Updated maps will regulate significant areas of tidal wetlands that have formed via wetland migration since the last maps were adopted.

The Wetlands Act under Sec. 6603 also defined wetlands to include "those lands not currently used for agricultural purposes containing 400 acres or more of contiguous nontidal swamp, bog, muck or marsh exclusive of narrow stream valleys where fresh water stands most, if not all, of the time due to high water table, which contribute significantly to ground water recharge, and which would require intensive artificial drainage using equipment such as pumping stations, drain fields or ditches for the production of agricultural crops." These wetlands were never included in regulatory maps. An attached analysis conducted by the Center has found that 28 individual contiguous non-tidal wetlands blocks that are over 400 acres and not used for agricultural purposes exist in the State; and in total they include 22,750 acres. Assuredly, some of this acreage will not meet the above definition upon scrutiny. In particular, some blocks may or may not be considered exclusive of narrow stream valleys and may or may not have standing water most of the time. However, it is very likely that a reasonable, criteria-based definition applied to these blocks would result in increased protection for many thousands of acres of important freshwater wetlands.

3. Utilize Clean Water Act (CWA) Section 401 certification authority to help reverse losses of wetlands in watersheds with waters that do not meet State Water Quality Standards and in watersheds having waters with Exceptional Ecological and Recreational Significance (ERES) designations. Under section 401 of the CWA, a federal agency cannot issue a permit for an activity that may result in a discharge to waters of the US until the State has granted or waived certification. Given the inability of so many of the State's waters to meet water quality standards for nutrients and dissolved oxygen and given the aforementioned rates of wetlands loss, DNREC has justification to develop and implement a certification process for all permits in watersheds with waters that do not meet water quality standards and in watersheds having ERES waters. This would include increased review of permits by the State (including nation-wide permits) for avoidance and minimization of impacts, additional limitations and conditions

for permits, and the requirement for increased mitigation ratios based on freshwater wetlands restoration plans developed in response to an Executive Order. General certification conditions could be developed related to project impacts, buffers, wetland types, and sub-watersheds so that all projects are held to the same standards and level of scrutiny. The EPA's 2010 publication Clean Water Act Section 401 Water Quality Certification: A Water Quality Protection Tool for States and Tribes provides an overview of considerations for utilizing this approach.

4. Utilize the Policies for ERES Waters in the State Water Quality Standards to reduce impacts to wetlands. ERES Waters policies require the following for Waters of the State, of which freshwater wetlands are included by definition:

Section 5.2. ...Further the Department shall assure that there shall be achieved...all reasonable best management practices for nonpoint source control.

Section 5.6.1.3 Discharges to ERES waters shall be avoided to the maximum extent practicable. In order to be permitted, a discharge must be the least environmentally damaging practicable alternative.

Section 5.6.3.5 Best Management Practices. The Department may adopt pursuant to 7 Del. Code 6010, best management practices for selected sources of pollution to ERES waters. Best management practices identified by the Department pursuant to this subsection shall provide a standard for the control of the addition of pollutants which reflects the greatest degree of pollutant reduction achievable including, where practicable, a standard requiring no discharge of pollutants.

These policies could be used to justify utilization of Section 401 certification authority. Further, DNREC intends to review the Inland Bays Pollution Control Strategies in 2018 to assure progress towards achieving water quality standards. If it is determined that adequate progress is not being achieved, ERES policies could be used to justify inclusion of freshwater wetlands regulation into a revision of the Pollution Control Strategies.

Thank you for your consideration of these recommendations.

Sincerely,



Chris Bason
Executive Director

encls. (1)

Large Continuous Freshwater Wetland Block Identification

July 17, 2014

Delaware Center for the Inland Bays

In an effort to identify large continuous or uninterrupted blocks of wetland, which are classified as non-tidal and non-riverine in setting, a GIS analysis was conducted using the 2007 Delaware Wetlands layer. This data layer was allocated directly from the DNREC Watershed Assessment Section, to assure the most up-to-date layer was used for the analysis. The Wetlands layer was created by Virginia Tech's Conservation Management Institute in partnership with the U.S. Fish and Wildlife Service, National Wetlands Inventory (NWI) and the Delaware Department of Natural Resources and Environmental Control (DNREC). DNREC's Watershed Assessment Section updated the existing USFWS National Wetlands Inventory (NWI) and Delaware Statewide Wetland Mapping Project (SWMP) data to meet or exceed NWI procedures and the guidelines of the Federal Geographic Data Committee's Wetland Mapping Standard. The minimum mapping unit (MMU) for this data set was 0.5 acres, as identified in the layers metadata.

The minimum size of the continuous blocks to be identified was set at uninterrupted 400 acres. To conduct this identification, a GIS analysis was conducted using ArcMap 10.1. To start the analysis; all tidal, riverine, and standing water bodies (i.e. ponds and lakes) were excluded from the wetland layers. This was done by using a definition query to only include wetlands with an attribute modifier starting with L2 (Littoral Lacustrine) or P (Palustrine) only. The remaining blocks of lacustrine and Palustrine wetlands were then evaluated to identify continuous reaches of non-tidal wetlands that were uninterrupted by changes in land cover or transected by human structures (i.e. roads). Wetland polygons that were uninterrupted and had neighboring polygon features, which intersected them (or had shared borders), were grouped together, using a selection function (select feature by polygon). The selected polygons then had their aggregate area calculated using the sum statistics within the attribute table (using the acreage column). If the continuous selected aggregate area exceeded 400 acreages, the identified (e.g. selected) non-tidal wetland polygons were merged. The individual wetland polygon borders were dissolved to form a continuous block. In all, 28 continuous non-tidal wetland (either Palustrine or Lacustrine, or a combination of both) blocks were identified (Figure 1). Southern New Castle County contained two continuous blocks (Figure 2); Kent County contained 14 continuous blocks (Figure 2); and Sussex County contained 12 continuous blocks (Figure 3). The size of the blocks ranged from 401.56 acres to 3331.42 acres (mean size of 812.48 acres with a Standard deviation of 718.22 acres; Table 1). The total acreage of the 28 identified continuous non-tidal wetland blocks was 22,749.51 acres.

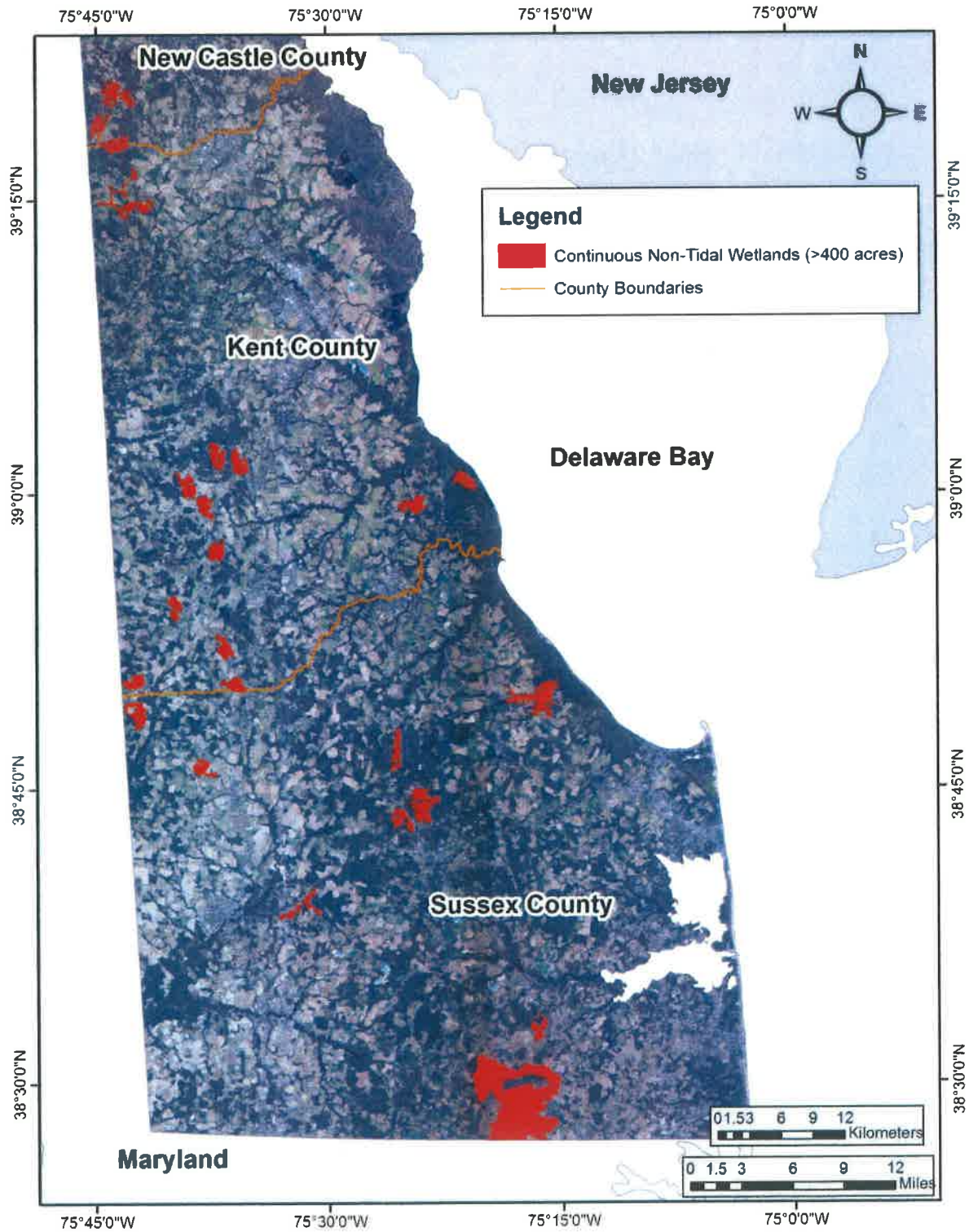


Figure 1. Map of the State of Delaware illustrating the location of the 28 identified continuous non-tidal wetland blocks, greater than 400 acres in aggregate size.

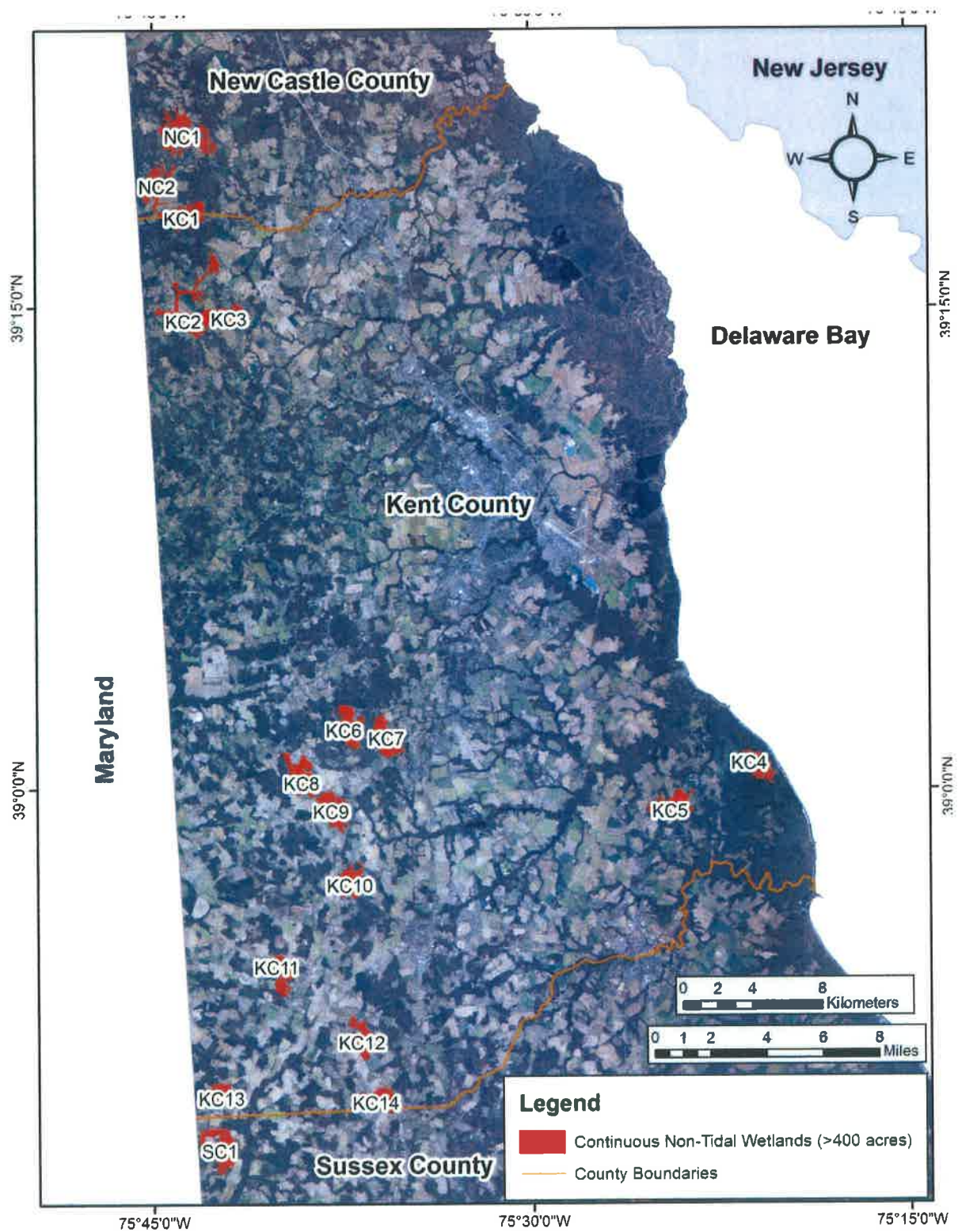


Figure 2. Map of extreme southern section of New Castle County and Kent County, where continuous non-tidal wetland blocks, greater than 400 acres in aggregate size, were identified.

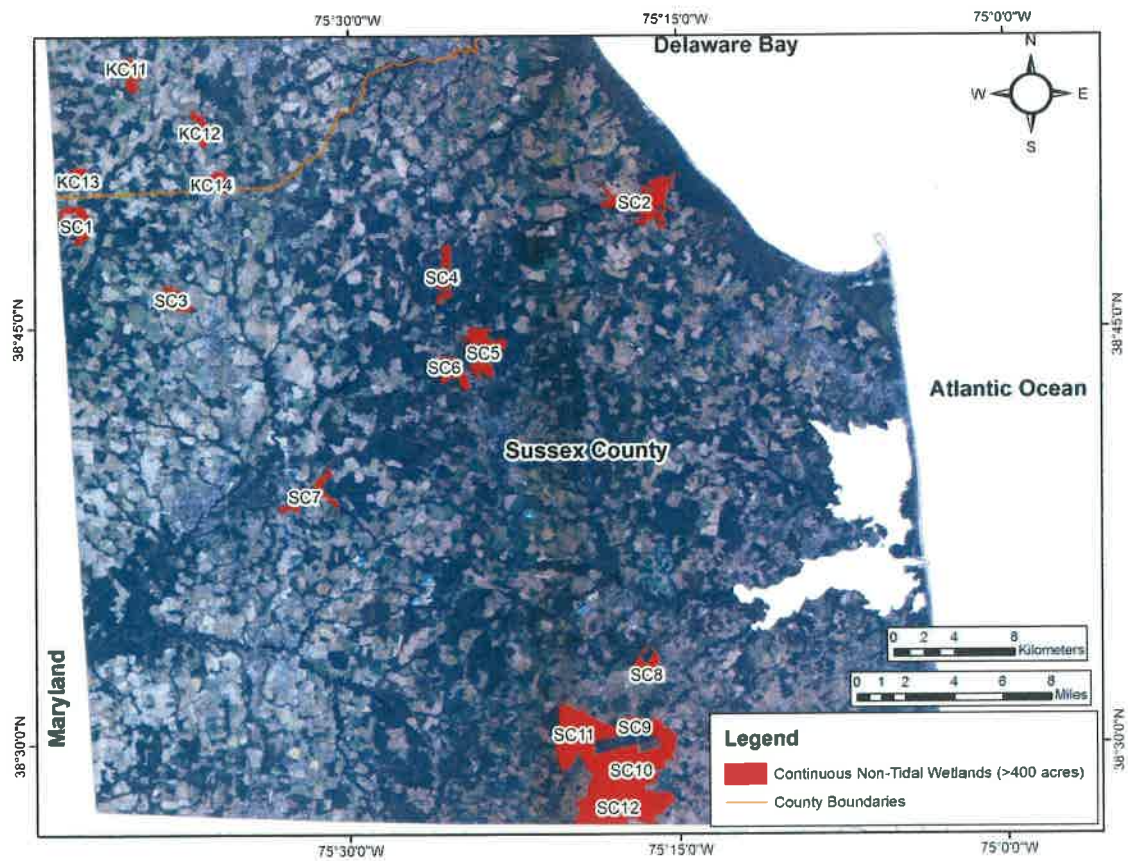


Figure 3. Map of the Sussex County's 12 identified continuous non-tidal wetland blocks, greater than 400 acres in aggregate size.

Block ID	Block Size (Acres)	Individual Wetland Polygon per Block
KC1	526.60	121
KC2	476.97	52
KC3	423.40	35
KC4	420.14	45
KC5	554.74	22
KC6	507.85	26
KC7	521.22	63
KC8	549.28	32
KC9	481.40	15
KC10	494.04	26
KC11	401.56	18
KC12	479.18	8
KC13	452.16	14
KC14	465.47	11
NC1	749.11	121
NC2	436.96	71
SC1	647.66	28
SC2	1392.15	139
SC3	445.70	42
SC4	468.55	31
SC5	1003.27	52
SC6	460.97	30
SC7	496.64	48
SC8	419.91	37
SC9	1356.29	67
SC10	2587.03	45
SC11	2199.82	90
SC12	3331.42	80

Table 1. Aggregate size, in acres, and total number of individual non-tidal wetland polygons for each identified continuous non-tidal and non-riverine wetland block, over 400 acres in aggregate size.

DNREC Wetlands Protection Recommendations

8-4-14

DNREC proposes the following recommendations to the Wetlands Advisory Committee for incentives and other mechanisms for wetlands conservation and protection in the future. Several ideas have already been mentioned during Wetlands Advisory Committee meetings. A few of these have become recommendations. Some have not been yet been discussed due to lengthy discussion of other recommendations and time constraints.

Coordinate state and federal wetlands protection responsibilities. In consideration of diminished Corps resources, DNREC could work with the Corps to identify program areas where improved coordination and wetland management could occur including: verifications, permitting, and enforcement. Additionally, DNREC would like to develop a Statewide Programmatic General Permit for common activities undertaken by state agencies in tidal wetlands, and investigate potential for special expedited permits for the similar activities in non-tidal wetlands. The Corps would provide technical support and training to DNREC in order to ensure consistency between the two agencies. More State and federal staff in the field could improve efficiencies in the permitting process and could help prevent unpermitted loss of all wetland types. Such coordination could be memorialized in a Memorandum of Agreement.

Develop a wetland fee in-lieu program. An integral part of an enhanced wetlands protection program would be an fee in-lieu program to offset impacts due to unavoidable losses of wetlands. The State would use the revenues generated by in-lieu fees to create, restore or enhance wetlands necessary to offset impacts. In most cases, the State can facilitate more ecologically functional wetlands than can be achieved by the individual permittee on the parcel being impacted due to site constraints. DelDOT has stated during committee meetings that a fee in-lieu would be very beneficial, and it could also assist other State agencies, and the regulated public.

Use outreach and education to increase wetland stewardship and protection. Education efforts should inform landowners of wetland values and conservation options. Outreach should also include working more closely with county land use planning personnel. This could be done with a landowner contact program or possibly through the Adopt-A-Wetland program, and would highlight incentive recommendations already approved by the Wetlands Advisory Committee.

Develop a state wetland delineator training program and delineation registry. Similar to the sediment and stormwater program, and land surveyors, this would provide for consistency across the state for delineations, allow for Delaware-specific on-the-ground conditions to be incorporated into the process, and provide a mechanism for consultants/delineators to stay current on delineation criteria. The Corps would assist with training Delaware personnel and private delineators. This recommendation would also provide the opportunity for a central repository of delineations completed on parcels throughout Delaware.

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.

SMI
The Committee recommends that 15 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

SCOPE OF SERVICES

CONSTRUCTION ADMINISTRATION (CA) AND CONSTRUCTION COORDINATION (RPR)

This attachment outlines the required Scope of Services for the **Pump Station 207 and Force Main: Construction Administration and Project Inspection**. This work effort will generally include services during the Construction Phase of the Project for Contract Administration, Submittal Reviews, Observation of the Work, and Resident Project Representation. This proposal assumes the contract will be administered and inspected over the project's 270 day project duration from September 2014 through May 2015, with one additional month allowed for close-out.

PART A – CONSTRUCTION ADMINISTRATION

1. **General Construction Administration.** GMB will consult with Sussex County and act as the County's representative during the duration of the construction project. This effort involves day to day coordination of in-house and field personnel during the construction phase. Also includes coordination and assistance, when requested by Sussex County, of issues that may arise with the Maintenance of Traffic plans, easement acquisition for locations noted in the Contract Documents, Lewes Crossing design coordination as it relates to the force main and gravity sewer shown on the Contract Drawings and review of developer's cost estimates, and coordination with newly installed, or to be installed, utilities, namely Chesapeake Gas and Tidewater.
2. **Preconstruction and Monthly Progress Meetings.** GMB will prepare meeting agendas, conduct monthly progress meetings and issue minutes. It is assumed there will be one (1) pre-construction meeting, nine (9) progress meetings, at one (1) meeting per month for the contract duration, and one (1) project closeout meeting.
3. **Construction Schedule Review.** GMB will review the Contractor's preliminary Construction Schedule, monthly Construction Schedule, and Schedule of Values and issue written comments to the Contractor and Sussex County.
4. **Specialized Site Visits.** During the construction phase, GMB will make visits to the site by specialized trades (civil, mechanical, electrical, surveying, etc.). These periodic visits will be to assist site personnel with resolution of contractual issues, discrepancies, coordination items, witness equipment start-up and testing, and/or review general progress of the work. Such visits and observations by GMB are not intended to be exhaustive or to extend to every aspect of the Work in Progress, but rather are to be limited to spot-checking and general observation of the Work.
5. **Request for Information (Clarifications).** When requested by Sussex County, respond to Request for Information (RFIs) relating to the Contract Documents. GMB will provide copies of the responses to Sussex County. This proposal assumes no more than ten (10) RFIs will be required.

6. **Change Orders and Work Change Directives.** Upon request of Sussex County, GMB will review Contractor change order requests. GMB will document its findings to Sussex County regarding the applicability of the claim, the proposed method of resolution of the addressing issue, and the proposed cost. It is assumed that no more than five (5) change order requests in total (including the final balancing change order) will be submitted by the Contractor.
7. **Shop Drawings.** GMB will review and approve or take other appropriate action with respect to Shop Drawings, Samples, Survey Stake-outs, and other data which the Contractor is required to submit for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed project as functioning whole as indicated in the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incidental thereto.
8. **Applications for Payment.** Based on GMB's observations and on a review of the Contractor's Monthly Applications for Payment and accompany supporting documentation, determine the amounts that GMB recommends the Contractor be paid by Sussex County. Such observations and review, mean that, to the best of GMB's knowledge, information and belief, the Contractor's work has progressed to the point indicated, the quality of such work is generally in accordance with the Contract Documents, subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, and the conditions precedent to the Contractor's being entitled to such payment appears to have been fulfilled insofar as it is GMB's responsibility to observe the Contractor's Work. In the case of unit price work, GMB recommendations of payment will include final determinations of quantities and classifications of Contractor's Work (subject to any subsequent adjustments allowed by the Contract Documents).
9. **Operation and Maintenance Manuals.** This involves reviewing Contractor's submitted draft and final O&M manuals for required equipment, and issuing written review comments to the Contractor.
10. **Contractor's Completion Documents.** At the completion of the Construction Phase, GMB will transfer all recorded changes from the Contractor's Record Drawings and produce a set of reproducible record drawings in an AutoCAD Version 2010 or 2013 format and provide two (2) paper hard copies of all record drawings.

11. Substantial Completion and Final Notice of Acceptability of the Work. At the request of the County, GMB will assist the County in conducting a walk through inspection to determine if the Work is Substantially Complete and to assist with the development of a punchlist for work items. GMB will also assist the County in conducting a final inspection to determine if the completed Work of the Contractor is acceptable for release of final payment to the Contractor including preparation and documentation.

PART B – RESIDENT PROJECT REPRESENTATION

GMB shall furnish one Resident Project Representative (RPR) for the project's duration. The RPR duties will be those as identified in the EJCDC E-500 (2014), Exhibit D – Resident project Representative. The RPR will observe the work done by the Contractor and promptly inform the County of any deviations from the Contract Documents. The RPR will serve as the County's representative in the field, providing information on the daily progress of the job to technical personnel. It is assumed that the RPR will be full-time and will work an average of 45 hours per week for the approximate 270 consecutive calendar day (198 working days) duration, with four (4) additional weeks for project closeout.

PROGRAM MANHOUR ESTIMATES, DIRECT EXPENSES, SUBCONTRACTS & FIXED FEE

PART 1 - GENERAL

1. Grantee Sussex County, Delaware		2. Grant Number	
3. Name of Consultant George, Miles & Buhr, LLC		4. Date of Proposal 5-Aug-14	
5. Address of Consultant 206 West Main St Salisbury,, MD 21801-4907		6. TYPE OF SERVICE TO BE FURNISHED Pump Station #207 and Force Main West Rehoboth Expansion of the Dewey Beach SSD Sussex County Project No . 12-23	

PART II - COST SUMMARY

7. DIRECT LABOR	ESTIMATED HOURS	HOURLY RATE	ESTIMATED COST	TOTALS
Project Director	30	\$ 58.30	\$ 1,749.00	
Project Manager	280	\$ 48.65	\$ 13,622.00	
Construction Manager	80	\$ 45.43	\$ 3,634.40	
Sr. Project Engineer	80	\$ 44.50	\$ 3,560.00	
Project Engineer	585	\$ 38.25	\$ 22,376.25	
Project Coordinator	160	\$ 24.00	\$ 3,840.00	
CADD /Technician	120	\$ 18.00	\$ 2,160.00	
RPR	1935	\$ 28.25	\$ 54,663.75	
DIRECT LABOR TOTAL:	3270			\$ 105,605
8. INDIRECT COSTS	RATE	x BASE =	ESTIMATED COST	
Overhead and Fringe	1.64	\$ 105,605.40	\$ 173,193	
INDIRECT COSTS TOTAL:				\$ 173,193
9. OTHER DIRECT COSTS				
a. TRAVEL			ESTIMATED COST	
(1) TRANSPORTATION	mileage	6,000 mi @ \$0.48/mi	\$ 2,880.00	
(2) PER DIEM	meals			
TRAVEL SUBTOTAL:			\$ 2,880.00	
b. EQUIPMENT, MATERIALS, SUPPLIES			ESTIMATED COST	
	plots/prints	600 \$ 3.00	\$ 1,800.00	
	copies	200 \$ 0.20	\$ 40.00	
	postage	1 \$ 200.00	\$ 200.00	
	other		\$ -	
EQUIPMENT SUBTOTAL:			\$ 2,040	
c. SUBCONTRACTS				
SUBCONTRACTS SUBTOTAL:			\$ -	
OTHER DIRECT COSTS TOTAL:				\$ 4,920
10. ESTIMATED COST				\$ 283,718
11. FIXED FEE 10% of Direct Labor and Indirect Costs (7 + 8)				\$ 27,880
12. TOTAL ESTIMATED COST PLUS FIXED FEE				\$ 311,598

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

Pump Station 22
Contract No. 14-07
Bid Results

BID OPENING – August 11, 2014

	BIDDER	Base Bid
1.	Kuhn Construction Hockessin, DE	\$427,340.00
2.	Mid-Atlantic Dismantlement Dover, DE	454,320.00
3.	JJID, Inc. Bear, DE	562,270.00
	Engineers Estimate	\$563,456.00



GEORGE, MILES & BUHR, LLC

Tabulation of Bids

PROJECT NAME: Pump Station No. 22 Modifications

CONTRACT NO.: 14-07

GMB JOB NO.: 140059

BIDS OPENED: 8/11/14, 2:00PM

Item No.	Bid Item Description	Size	Units	Est. Qty.	Kuhn Construction Co.		Mid-Atlantic Dismantlement Corp.		JJID, Inc.	
					Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
SCHEDULE A - PUMP STATION NO. 22 MODIFICATIONS										
A1	Mobilization	--	LS	1	\$ 12,000.00	\$ 12,000.00	\$ 20,000.00	\$ 20,000.00	\$ 28,000.00	\$ 28,000.00
A2	Traffic Control	--	LS	1	\$ 15,000.00	\$ 15,000.00	\$ 11,000.00	\$ 11,000.00	\$ 15,000.00	\$ 15,000.00
A3	Bypass Pumping	--	Week	10	\$ 5,000.00	\$ 50,000.00	\$ 3,300.00	\$ 33,000.00	\$ 8,000.00	\$ 80,000.00
A4	Pump Station #22	--	LS	1	\$ 270,000.00	\$ 270,000.00	\$ 340,800.00	\$ 340,800.00	\$ 360,000.00	\$ 360,000.00
A5	Furnish and Install Manhole Frames & Covers	-	EA	1	\$ 450.00	\$ 450.00	\$ 1,100.00	\$ 1,100.00	\$ 850.00	\$ 850.00
A6	Furnish and Install Doghouse Manhole	4' Dia	VF	6	\$ 3,000.00	\$ 18,000.00	\$ 500.00	\$ 3,000.00	\$ 1,000.00	\$ 6,000.00
A7	Furnish and Install Fence	8'	LF	52	\$ 85.00	\$ 4,420.00	\$ 125.00	\$ 6,500.00	\$ 100.00	\$ 5,200.00
A8	Wet Well Concrete Wall Demo and Repair	--	SF	700	\$ 43.00	\$ 30,100.00	\$ 16.00	\$ 11,200.00	\$ 50.00	\$ 35,000.00
A9	Wet Well Concrete Wall & Base Slab Leveling Mortar	--	SF	700	\$ 20.00	\$ 14,000.00	\$ 16.00	\$ 11,200.00	\$ 24.00	\$ 16,800.00
A10	Miscellaneous Existing Reinforcing Prep and Anti-Corrosion Coating	--	LF	50	\$ 17.00	\$ 850.00	\$ 18.00	\$ 900.00	\$ 18.00	\$ 900.00
A11	Preventative Maintenance for Existing Pumps	--	LS	1	\$ 10,000.00	\$ 10,000.00	\$ 13,100.00	\$ 13,100.00	\$ 12,000.00	\$ 12,000.00
SUBTOTAL SCHEDULE A -A1 THRU A11						\$ 424,820.00		\$ 451,800.00		\$ 559,750.00
SCHEDULE B - CONTENGENT BID ITEMS										
B1	Furnish and Place 4,000 psi Concrete	--	CY	10	\$ 150.00	\$ 1,500.00	\$ 150.00	\$ 1,500.00	\$ 150.00	\$ 1,500.00
B2	Excavation Below Subgrade	--	CY	10	\$ 11.00	\$ 110.00	\$ 11.00	\$ 110.00	\$ 11.00	\$ 110.00
B3	Furnish and Place Gravel Bedding	--	CY	10	\$ 25.00	\$ 250.00	\$ 25.00	\$ 250.00	\$ 25.00	\$ 250.00
B4	Furnish and Place Special Backfill (Type "C")	--	CY	10	\$ 16.00	\$ 160.00	\$ 16.00	\$ 160.00	\$ 16.00	\$ 160.00
B5	Miscellaneous Excavation and Backfill	--	CY	10	\$ 50.00	\$ 500.00	\$ 50.00	\$ 500.00	\$ 50.00	\$ 500.00
SUBTOTAL SCHEDULE B - B1 THRU B5						\$ 2,520.00		\$ 2,520.00		\$ 2,520.00
TOTAL BASE BID (SCHEDULE A PLUS SCHEDULE B)						\$ 427,340.00		\$ 454,320.00		\$ 562,270.00

OLD BUSINESS

AUGUST 19, 2014

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

The attached comments relating to the public hearing 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.

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 is 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.

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

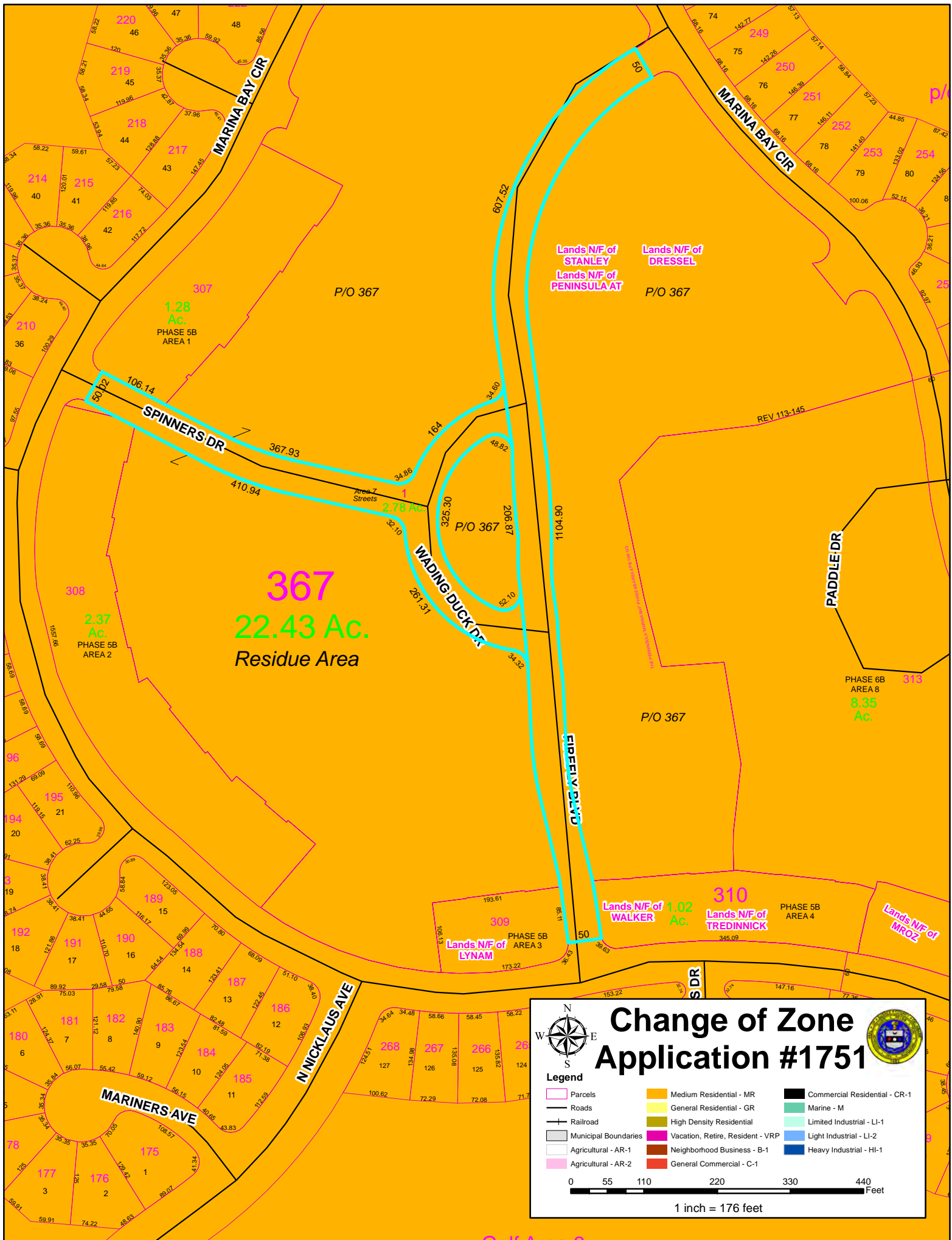
WHEREAS, on the ____ day of _____ 2014, a Public Hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Commission recommended that Change of Zone No. 1751 be _____; and

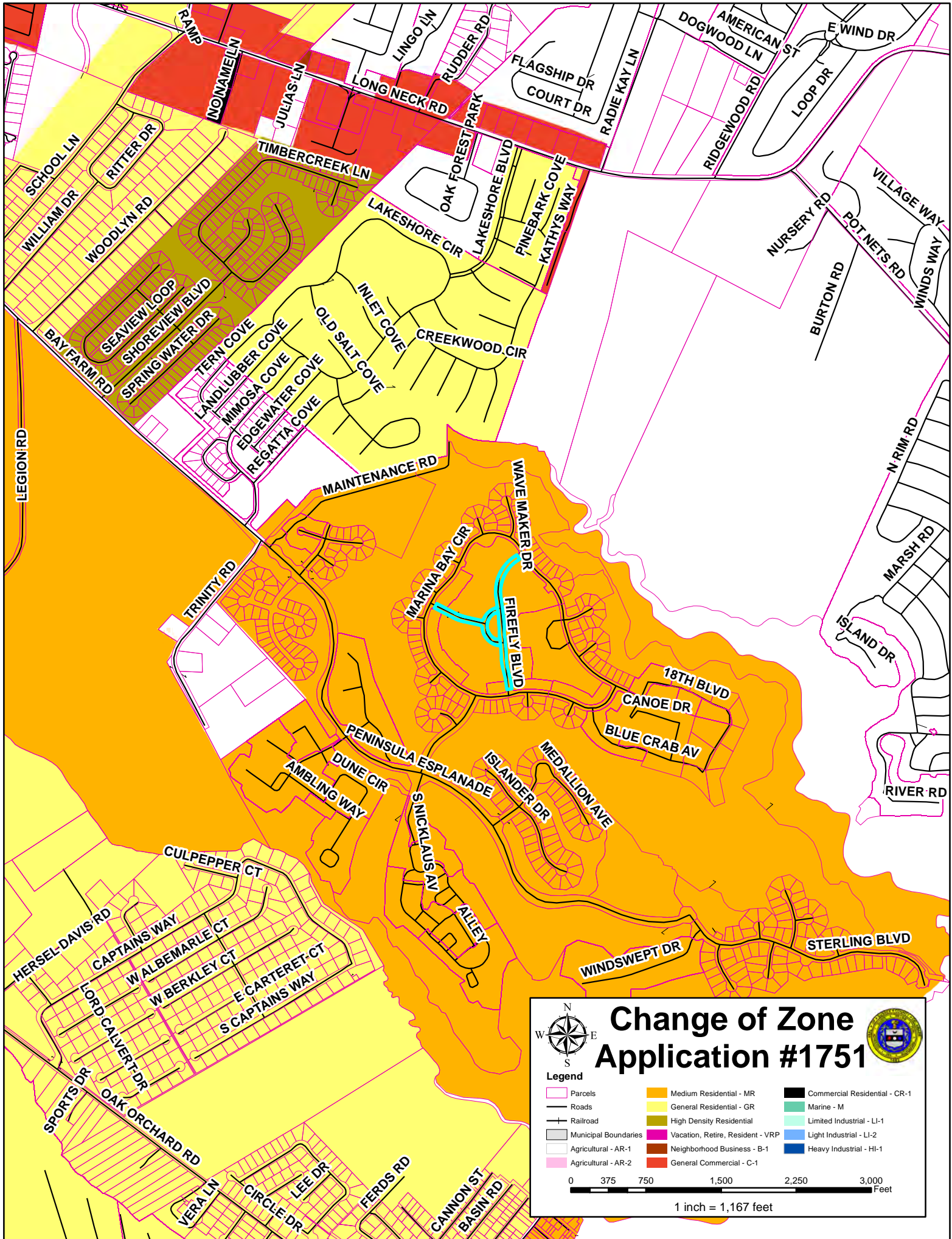
WHEREAS, on the ____ day of _____ 2014, a Public Hearing was held, after notice, before the County Council of Sussex County and the County Council has determined, based on the Findings of Fact, that said Change of Zone is in accordance with the Comprehensive Development Plan and promotes the health, 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.





OLD BUSINESS

This is to certify that on July 10, 2014 the Sussex County Planning and Zoning Commission conducted a public hearing on the below listed application for Conditional Use. At the conclusion of the public hearing, the Commission moved and passed that the application be forwarded to the Sussex County Council with the recommendations as stated.

Respectfully submitted:

COUNTY PLANNING AND ZONING
COMMISSION OF SUSSEX COUNTY

Lawrence B. Lank

Director of Planning and Zoning

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

Conditional Use #1991 – Coolspring, LLC/Highway One

Application of **COOLSPRING, LLC/HIGHWAY ONE** to consider the 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, land lying north of Road 302A (Avalon Road), west of Road 48 (Hollyville Road), south of Road 47 (Johnson Road), and east of Road 296 (Lawson Road) (911 Address – 23430 Hollyville Road, Harbeson, Delaware) (Tax Map I.D. #2-34-15.00-22.00 and 2-34-9.00-34.00).

The Commission found that the Applicant submitted copies of two surveys of the property, one of which contains 835.02 acres, and the other which contains 222.617 acres; a copy of the lease for approximately 500 acres of the property; a listing of property owners within 200 feet of the site intended; a conceptual layout of the buildings and parking areas, showing ingress/egress to public roads; and noting that they are not proposing any permanent buildings; that with respect to ingress/egress there is a dirt road entrance from Avalon Road and a dirt road from Lawson Road that will be expanded to connect to the Avalon Road access; and noting that due to the nature of the music festivals and overnight camping there could be parking throughout the 500 acres.

The Commission found that the Applicant provided a second letter which had attached two different versions of the plan for the site, labeled A and B, and that they are inclined to use plan A. Plan A is a rendering showing areas of the property intended for a stage, the main arena, camping areas, parking areas, intended drive locations, and intended entrance locations. Plan B is a rendering showing the same information in different locations on the site.

The Commission found that DelDOT provided comments on April 24, 2014 in the form of a Support Facilities Report referencing that a traffic impact study was not recommended.

The Commission found that the County Engineering Department provided comments on July 7, 2014 in the form of a memorandum referencing that the site is not located 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 conformity to the North Coastal Planning Study will be required; that the parcels for the proposed use are 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.

Mr. Lank advised the Commission that, to date, the Department has received 5 letters/emails in support of the application.

Mr. Lank advised the Commission that, to date, the Department has received 51 letters/emails and 462 signatures on petitions in opposition to the application.

Mr. Lank provided the Commission with copies of all letters/emails received to date.

The Commission found that Alex Pires were present with Steve Spence, Esquire, and stated in his presentation and in response to questions raised by the Commission that they own eight (8) businesses in the area; that he and his wife have researched music festivals for two years throughout the United States; that he has signed a lease for 500 acres on the farm; that he has spoken to the Harrington State Fair for a possible backup site, if this application fails; that he spoke to the County and was asked not to seek a three day special event permit under the Code and to apply for a Conditional Use; that country music festivals can be family events, with less people than most state fair events; that he would like to see 20,000 attendees; that he hopes that 80% of the attendees come in RVs and anticipates 20% of the attendees to be day trippers; that he anticipates that the first year budget will be in the range of \$5,000,000 to \$6,000,000; that these are family based events; that low traffic impact is anticipated since the majority of the attendees will stay on the site once their RVs are setup; that the Punkin' Chunkin' event is almost totally day trippers; that the parking area plans on no more than 2,000 day tripper vehicles daily; that every facet of the event is either State or County regulated, referencing DelDOT, the Office of the State Fire Marshal, State Police, State Health, Delaware ABC, etc.; that he prefers Rendering A provided by Starr Hill showing three entrance locations, one for RVs on Hollyville Road, one for day tripper parking on Avalon Road, and one for artist and production access; that it should take approximately 2 weeks to setup an event, and approximately a couple of days to breakdown an event; that they are hoping to set up stages near wooded areas to reduce noise; that the property is a beautiful 1,200 acre farm and that they plan on utilizing 500 acres of which 200 acres are wooded; that the State Fairgrounds contain 190 acres; that the Punkin' Chunkin' site in Bridgeville contained 600 acres; that the Firefly site contains 350 acres; that a couple of

small cemeteries exists on the site which will be protected with fencing; that there are 31 country music festivals in the United States and Canada, most of which are in rural areas; that a typical country music camping festival generates 20,000 or more attendees; 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 2015; that they are offering the following suggested proposed 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. 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. b) Camping: Motor homes, RV's, travel trailers, tents and related camping equipment will be permitted. Temporary gravel and 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 31st 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, 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. 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; that it is estimated that most RVs, motor homes and travel trailers will contain 4 to 5 attendees; that there may be a total of six (6) areas set aside for camping; that 200 acres of woodlands are available for camping purposes; that the woodland areas already have trails, originally established for horseback riding and carriages; that he does not want to limit the number of campers; that most festivals have from 20,000 to 25,000 campers; that he does not want to limit the number of camping spaces because they do not want attendees to have to come and go from the site; that there are three (3) lowland areas on the site which will be fenced; that the site is an irrigated farm; that a wetlands report can be made available; that shuttle services will be available; that shuttle services usually sell out for carrying day trippers; that he is willing to accept a condition requiring that shuttle services be available; that the events are primarily Friday, Saturday and Sunday; that access to the sites are normally a day before the event and exiting a day after the event; that the economic benefit could be tax support by creating \$10,000,000 or more based on gas sales, motel/hotels, restaurants, jobs, etc...; and that typically there will be three (3) stage areas, one for the main event, one being a smaller stage, and one being for local artist.

The Commission found that Marc Cote' of DelDOT was present and stated that the Department provided a Support Facilities Report; that a traffic impact study was not warranted since the proposal is a temporary event, which requires a specialized analysis; that the Department works with other agencies; and that the Traffic Section of DelDOT works with the applicant and other agencies to establish a traffic control plan, similar to the plans created for the Firefly Festival, Nascar races, and the Harrington State Fair.

The Commission found that Jim Allen, Pat Wright, Dan McCann, Tom Diluzio, Dale McAllister, Cindy Issel, and John DePlant were present and spoke in support of the application and stated that the use will be an economic benefit to Sussex County; that traffic control will be assisted by shuttle services; that within a few days of an event, the property will again be a farm; that development of the property would create more daily traffic than this event; that the property will continue to be farmed when there are no events on the site; that Sussex County needs an event of this type similar to the State Fair; that all events of this type seem to be held in Dover or Kent County; that the County is centralized with a large population of people within a four (4) hour range from Richmond, Washington D.C., Baltimore, Wilmington, and Philadelphia areas; that local civic groups will benefit by providing volunteer services; that only a portion of this farm will be utilized for the event, and the remainder of the farm will continue to be farmed; and that there would be support for any business benefit for small businesses.

The Commission found, by a show of hands in support, that 116 people were present in support.

The Commission took a five (5) minute recess.

The Commission reopened the public record and continued the public hearing.

The Commission found that Trudy Belotti, Gary Simone, Willie Nelson, Nikke Zangriech, Peter Lucuk, Tim Raile, Beverly Morgan, Margaret Foulke, Stan Schultheis, Richard Coyne, Peter Zoll, Steve Friend, Evan Bush, Nathan Wise, Richard Belotti, and Bill Ryan were present and spoke in opposition to this application and expressed concerns about the impact on the residential area in close proximity to the site; concerns about the poor condition of some of the local roads and that the local roads will not be able to handle to 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, air quality, trash and sanitary issues by approval of this application; that Avalon Woods Subdivision will be directly impacted by this proposal since the subdivisions entrance is within 540 feet of one of the main entrances to the project site; 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, trespass, and possible crime increasing; 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; and that the Dover Downs Nascar events and the Firefly Festival access U.S. Route 13 and Route One; that if the use is approved, 1) the number of attendees should be limited; 2) the permitted vehicle trips per day should be based on recommendations from DelDOT based on the ability of the roads to support the traffic; that the applicant should be responsible for all costs related to road improvements recommended by DelDOT; 3) that the applicant should be responsible for all costs for police and emergency services that affect residents on boundary roads; 4) that setup

times for each event should be limited to no more than two (2) days; that the applicant should be required to provide \$10,000,000 bond/insurance for each of the referenced suggested conditions 1 through 4 above; that farm equipment will be traveling these same local roads; that the use does not benefit the residents of the area, but is an infringement placed 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 of the statements made by the applicant and the minimal documentation in the record/file; 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; that the speed limit on Hollyville Road is 50 MPH and a main entrance to the events is intended on Hollyville Road which could be considered an accident waiting to happen; that this site is not appropriate for the use; that the Harrington Fairgrounds site is more suitable for such an event; 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, but questioning how much money will go back into the community; and that the area is generally quiet most of the time, and that they can only imagine the change during an event.

The Commission found, by a show of hands in opposition, that 79 people were present in opposition.

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

There was some consensus of the Commission that it is the applicant's duty to present a record in compliance with the Zoning Ordinance and the Comprehensive Land Use Plan; that members of the Commission noted that they are making a land use decision; that while a good business plan may have been submitted, they questioned whether sufficient land use and information required by the Zoning Code were supplied; and that more information should be presented at the next hearing on the application.

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

On July 24, 2014 the Commission discussed this application which has been deferred since July 10, 2014 under Old Business.

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

On August 7, 2014 the Commission discussed this application which has been deferred since July 10, 2014.

The Commission expressed concerns that there was not a significant record in advance for something of this size; that the file did not have much information for the public in regards to a site plan layout and design; that during the public hearing, only general information was

provided, not specific information; that the County Code requires a detailed preliminary site plan when applying for a conditional use; that without reviewing a detailed site plan, it is difficult to determine any potential negative impacts on the immediate and surrounding areas; that the presentation made during the public hearing lacked sufficient detail; that the Commission's recommendation is a land use decision; that the applicant did not create a record of support for this application; that a detailed site plan is needed; that the project could be a benefit to the County; that this application created a lot of interest both for and against; that the proposed project could possibly work with conditions placed upon it; that the County has lost the Pumpkin Chunkin event; that the Ordinance is very clear in regards to the criteria that needs to be submitted to evaluate an application; and that the presentation lacked substance.

Mr. Johnson stated that he would move that the Commission recommend denial of Conditional Use #1991 for Coolspring, LLC/Highway One based upon the lack of a sufficient record made during the public hearing.

Mr. Johnson stated that the applicant did not supply a site plan with the detail required by Section 115-220 of the Sussex County Code. Information required by that Code Section includes the location of all proposed buildings and structures, with setbacks and heights shown; the location of parking and loading areas; and it must be signed and sealed by a Delaware Surveyor or Engineer. The only depiction of the project that the applicant provided was aerial photograph with some very general information shown on it. Without the detail required in Section 115-220, Mr. Johnson does not believe that the Commission has enough information to understand the project, how it relates to the area, and whether it is an appropriate use.

Mr. Johnson stated that there were many components of the use that were discussed generally during the hearing, but few details were offered. For example, it is unclear where the campground portions of the use would be located; how they would be laid out; how close they would be to neighboring properties or roadways. Although the use is proposed to be temporary, the applicant did not substantiate how the proposed land use conforms with the Comprehensive Land Use Plan as supported and defined by Chapter 115 of the County Code.

Mr. Johnson stated that it may be that this project is an appropriate land use that will benefit Sussex County. But, based on the lack of information in the record before the Planning and Zoning Commission, that determination cannot be made. As a result Mr. Johnson recommends denial of Conditional Use Number 1991 based on the insufficient record presented to the Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Burton and carried 4 votes to 1, with Mr. Smith opposed, to forward this application to the Sussex County Council with the recommendation that it be denied for the reasons stated. Motion carried 4 – 1.

911 Address: 23430 Hollyville Road, Harbeson, DE

ORDINANCE NO. ____

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 (Tax Map I.D. 234-15.00-22.00 and 234-9.00-34.00)

WHEREAS, on the 24th day of April 2014, a conditional use application, denominated Conditional Use No. 1991 was filed on behalf of Cool Spring, LLC / Highway One; 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. 1991 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.

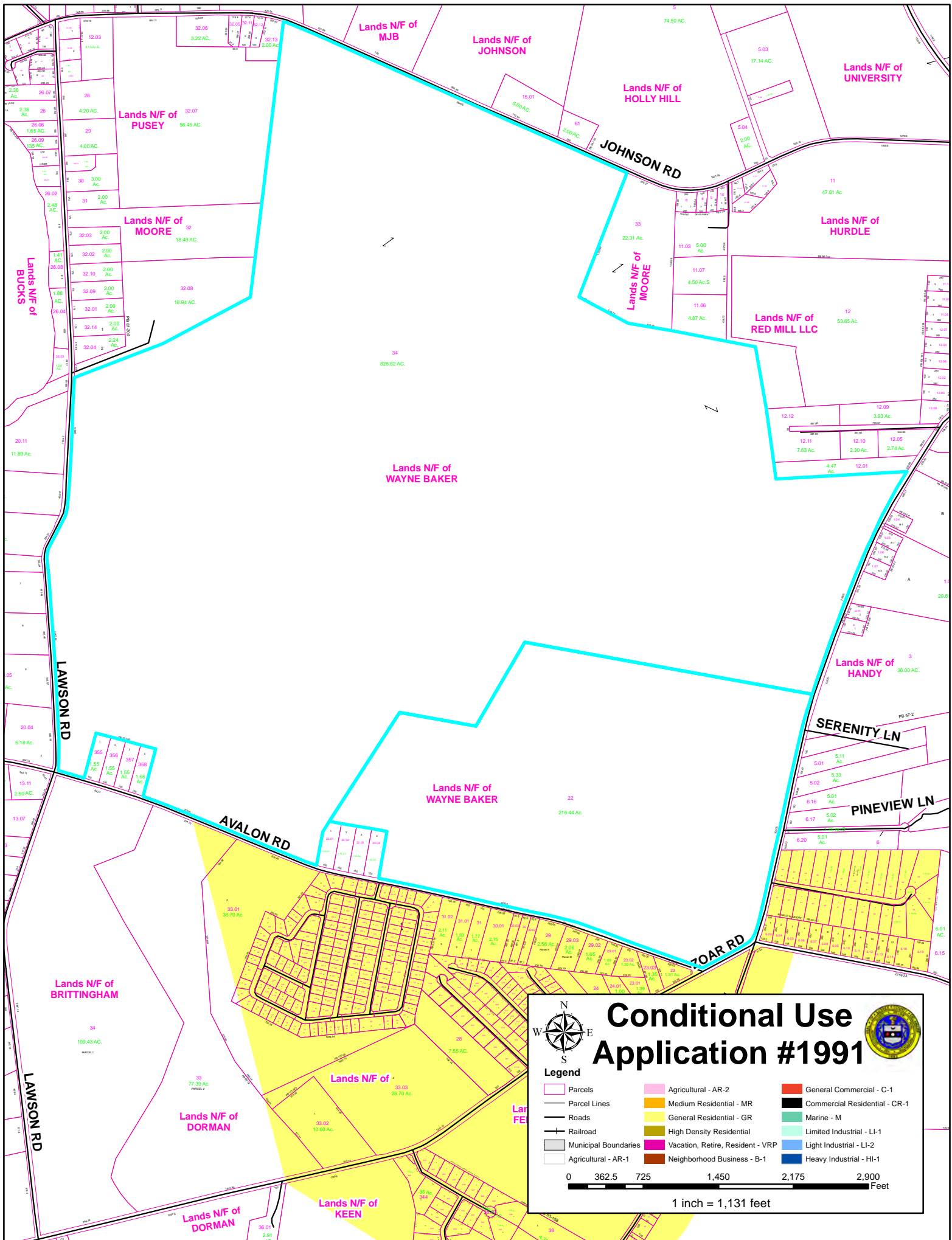
NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

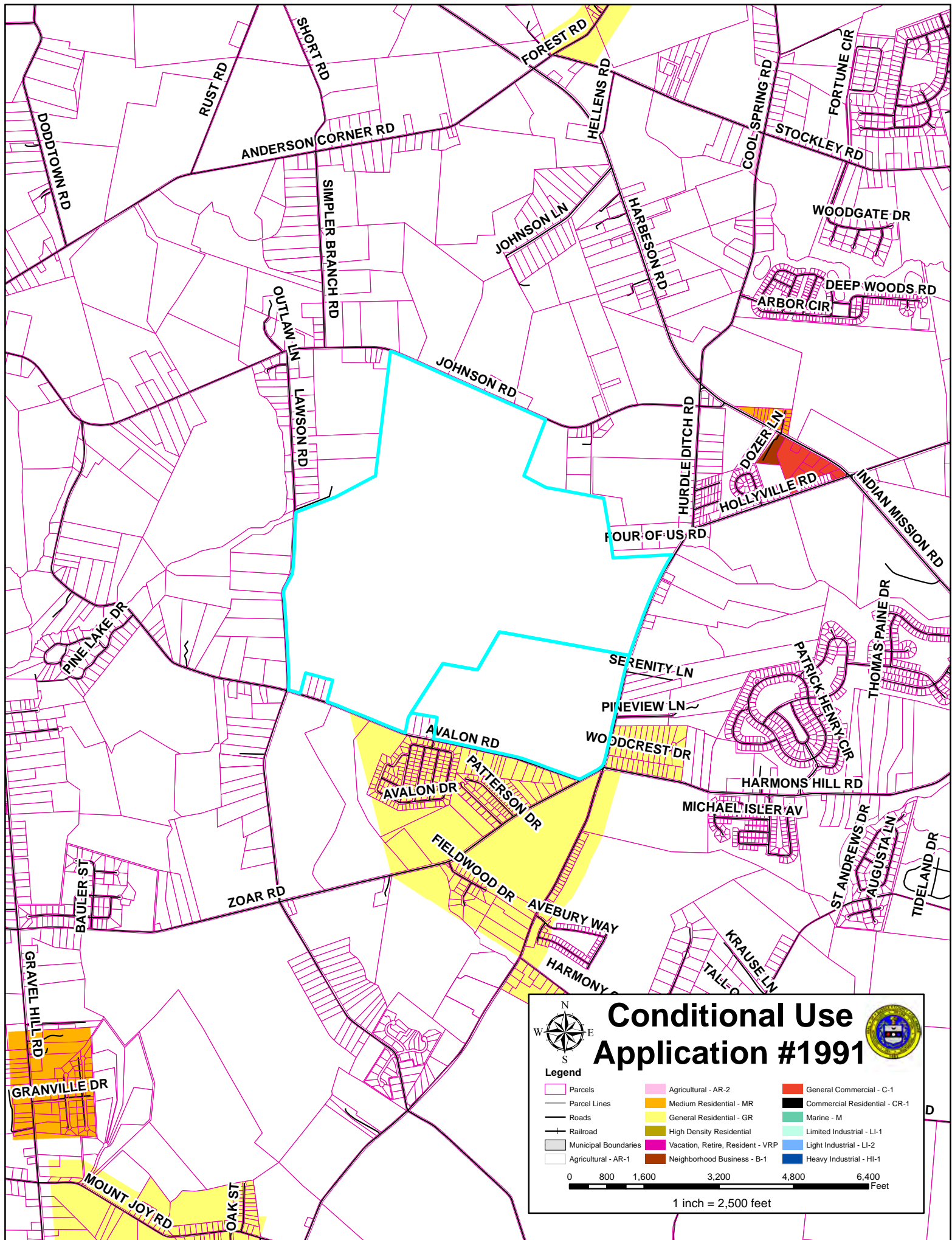
Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1991 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying north of Road 302A (Avalon Road), west of Road 48 (Hollyville Road), south of Road 47 (Johnson Road), and east of Road 296 (Lawson Road) with the acreage being more particularly described in Plot Book 48, Page 254 and Plot Book 63, Page 96, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing approximately 500 acres of the described 1,057.6 acres referenced in the referenced Plot Books.

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







July 31st, 2014

Host Committee

Rep. Ruth Briggs King

Marlene Elliott Brown

Senator Bob Venables

Rep. Danny Short

Rep. Tim Dukes

Rep. Dave Wilson

Councilman Mike Vincent

Councilman Vance Phillips

Councilman Sam Wilson

Mayor David Genshaw

Councilman Dan Henderson

Dale Dukes

Joe Conaway

Dear Friends,

The Sixth Annual Friends of Delmarva Teen Challenge Crab Feast and Watermelon Extravaganza is coming up fast. It promises to be even better than last year's. Again, all proceeds from this year's event will benefit Delmarva Teen Challenge.

It's been your generosity in the past that has helped DTC to become a bright hope for those struggling with life-controlling issues. Since it began here in Delaware in November 2008, 150-graduates have had life-changing experiences of renewal and restoration. They continue to grow.

Back by popular demand, this year promises gospel music favorites from "The Reminders." This trio of singers includes Dove Award winner / songwriter John W. Thompson as well as local talent Ed Shockley and Kevin Short. Shockley, also a songwriter, was recently presented an "Ambassador of Music" award while Kevin Short brings his special technical expertise as well as a unique voice into the mix.

Finally, we are blessed to have an incredible host committee of community leaders joining us again this year. We cannot thank them enough. I hope you will consider joining as a **Table Sponsor or Attendee** and be included on the invitations set to go out in early August. Sponsors will also be mentioned on WGMD's remote broadcast and in the event's program. Again, all profits will go to Delmarva Teen Challenge and donations will be tax-deductible.

The Crab Feast will begin at 3 PM on Saturday, August 23rd at Trap Pond State Park's beautiful Cypress Point pavilion. Jimmy's Grill will again be catering. Please return the enclosed sponsorship card with your check and become a partner in this exciting and enriching experience.

Sincerely,

Bob

Bob Carey
Executive Director

Bridgeville Police Department



302 Market St. Bridgeville, Delaware 19933

Office (302) 337-8302

Fax: (302) 337-8359

Emergency 911

June 12, 2014

Dear Councilman Michael Vincent,

Once again, it is time for our annual "National Night Out" in Bridgeville, Delaware. The National Night Out focuses on a positive atmosphere that is an effort to promote a Police-Community partnership through prevention of crime, drugs, and violence. We are looking forward to another successful National Night Out.

This year's National Night Out will be held on Thursday, September 18, 2014, between the hours of 5 pm and 8 pm behind the Bridgeville Fire Department. The Bridgeville Police Department is asking for any assistance and/or donations for catering to our expected guests. I have reached out to a number of local businesses in the community for their support to help make this community function a huge success. Please consider this our invitation to you and the entire Sussex County Council members to attend the event.

Our costs to host this community event comes in the manner of refreshments, hot dogs, hot dog rolls, cookies, bags of charcoal, tent rentals, parking signs, entertainment, etc. As always, thank you very much for your support. We are looking to make this the best National Night Out yet.

Thank You,

A handwritten signature in cursive script, appearing to read "J. Wechtenhiser".

Patrolman Justin Wechtenhiser
Bridgeville Police Department
Justin.wechtenhiser@cj.state.de.us

Please send donations to:
Bridgeville Police Department
302 Market St.
Bridgeville, DE 19933
Attn: Ptlm. Wechtenhiser

PUBLIC HEARING

August 19, 2014

This is to certify that on June 26, 2014 the Sussex County Planning and Zoning Commission conducted a public hearing on the below listed application for a Change of Zone. At the conclusion of the public hearings, the Commission moved and passed that the application be forwarded to the Sussex County Council with the recommendation as stated.

Respectfully submitted:

COUNTY PLANNING AND ZONING

COMMISSION OF SUSSEX COUNTY

Lawrence B. Lank

Director of Planning and Zoning

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

Change of Zone #1754 – Bayshore Plaza Associates, LLC

Application of BAYSHORE PLAZA ASSOCIATES, LLC to amend the Comprehensive Zoning Map of Sussex County from a B-1 Neighborhood Business District to a CR-1 Commercial Residential District to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 0.52 acre, more or less, land lying north of Route 54 (Lighthouse Road) 800 feet east of Road 381 (Old Mill Road) (911 Address: 36437 Lighthouse Road, Selbyville, Delaware) (Tax Map I.D. 5-33-12.00-77.00 & 76.03).

The Commission found that the application included a survey of the application site which includes two properties intended for expansion of the existing C-1 General Commercial District surrounding the site.

The Commission found the DelDOT provided comments in the form of a memorandum on February 28, 2014 referencing that a traffic impact study was not recommended and that the current Level of Service “E” of Lighthouse Road will not change as a result of this application.

The Commission found that the Sussex Conservation District provided comments in the form of a memorandum on June 17, 2014 referencing that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas are affected; that no off-site drainage improvements will be necessary; that it is not likely that on-site drainage improvements will be necessary; and that no tax ditches are affected.

The Commission found that Pret Dyer was present on behalf of Bayshore Plaza Associates, LLC and stated in his presentation and in response to questions raised by the Commission that they are proposing to change the zone from B-1 Neighborhood Business to CR-1 Commercial Residential as an extension to the C-1 General Commercial zoning that surrounds the site; that CR-1 Commercial Residential is more compatible to the uses permitted in C-1 General Commercial, in example: boat sales; that the site is located in the Environmentally Sensitive Developing Area according to the Comprehensive Development Plan; that the site is located in an Level 2 area according to the State Strategies; that with the property extended to the adjoining C-1 zoned property, access will be from the existing entrance from Route 54 that serves the adjoining C-1 zoned property, not this site; that the entrance to the adjoining C-1 zoned property now exists, since it was built along with the Route 54 DelDOT improvements; that the property lines for this site will be eliminated once the property extension is recorded; that they were not required to submit to the PLUS process; that this rezoning is basically an in-fill; and that combining the properties creates a more effective use of land.

Mr. Dyer submitted an area map showing other commercial zoning in the area along Route 54.

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. Smith stated that he would move that the Commission recommend approval of Change of Zone #1754 for Bayshore Plaza Associates, LLC for a change in zone from B-1 to CR-1 based on the record made during the public hearing and for the following reasons:

- 1) This application will bring the entire parcel under a consistent commercial zoning classification. It is basically an in-fill rezoning.
- 2) Access to this property will be from an existing commercial entrance on the adjacent property.
- 3) The site is within a Developing District according to the Sussex County Comprehensive Development Plan.
- 4) The rezoning will not adversely affect neighboring properties or area roadways.
- 5) No parties appeared in opposition to this application.

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

Council District – District No. 5
Tax I.D. No. 533-12.00-77.00 & 76.03
911 Address: 36437 Lighthouse Road, Selbyville, DE 19975

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A B-1 NEIGHBORHOOD BUSINESS DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.52 ACRES, MORE OR LESS

WHEREAS, on the 2nd day of April 2014, a zoning application, denominated Change of Zone No. 1754 was filed on behalf of Bayshore Plaza Associates, 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. 1754 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 [B-1 Neighborhood Business 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 Baltimore Hundred, Sussex County, Delaware, and lying north of Route 54 (Lighthouse Road) 800 feet east of Road 381 (Old Mill Road) and being more particularly described as follows:

BEGINNING at a point on the northerly right-of-way of Route 54 (Lighthouse Road) approximately 800 feet east of Road 381 (Old Mill Bridge Road), said point being a corner of these lands and lands of PGSD, LLC; thence South 58°07'14" west 140.29 feet along the northerly right-of-way of Route 54 to a point; thence by and along lands of PGSD,

LLC the following three (3) courses: North 36°29'44" West 165.29 feet to a point; South 54°17'44" West 140.01 feet to a point; and South 36°33'14" East 155.93 feet to a point on the northerly right-of-way of Route 54, the point and place of beginning, and containing 0.52 acres, more or less, as surveyed by Pennoni Associates, Inc.

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

Proposed

