

Sussex County Council Public/Media Packet

**MEETING:
October 1, 2013**

****DISCLAIMER****

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

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



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Sussex County Council

AGENDA

OCTOBER 1, 2013

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Presentation by David Arthur, Delaware Sports Commission – “New” Slam Dunk to the Beach Basketball Tournament

Todd Lawson, County Administrator

1. Administrator’s Report

Michael Izzo, County Engineer

1. Angola Sanitary Sewer District, Contract 11-11

A. Substantial Completion

Old Business

Conditional Use No. 1965
Southern Delaware Botanic Gardens, Inc.

Conditional Use No. 1967
Tidewater Environmental Services, Inc.



Grant Requests

1. **Olde Tymers Softball League for operating expenses.**
2. **Boys to Men for 100 Wave Challenge event.**
3. **Good Samaritan Aid Organization for Christmas Basket Program.**

Introduction of Proposed Zoning Ordinances

Any Additional Business Brought Before Council

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

Possible Action on Executive Session Items

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

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on September 24, 2013 at 4:50 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, SEPTEMBER 17, 2013

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 17, 2013, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 424 13
Amend
and
Approve
Agenda**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to amend the Agenda by deleting "Approval of Minutes"; and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

**Corre-
spondence**

Mr. Moore read the following correspondence:

DELMARVA TEEN CHALLENGE, SEAFORD, DELAWARE.

RE: Letter in appreciation of the Council's sponsorship of the Fifth Annual Crab Feast and Watermelon Extravaganza.

**DNREC
Presentation**

Frank Piorko, Division Director, DNREC Division of Watershed Stewardship, was in attendance to share revisions to Delaware Sediment & Stormwater Regulations. The following overview was presented to Council.

- **History of Regulation Revisions**
 - **Governor's Task Force – April 2005**
 - **RAC first meeting – October 2007**
 - **First Public Hearing – March 1, 2012**
 - **Second Public Hearing – April 23, 2013**
 - **Regulations Issued – July 18, 2013**
 - **Effective Date – January 1, 2014**

**DNREC
Presentation
(continued)**

- **Outreach**
 - **Regulatory Advisory Committee Meetings: 9**
 - **Subcommittee Meetings: 37**
(Technical Subcommittee: 20 meetings)
 - **Interested Parties: 235**
- **Comments – Prior to first Public Notice Period:**
 - **700+ comments received and considered**
 - **Tracked in a database**
 - **Responses provided**
- **Comments – Following first Public Notice Period:**
 - **200+ comments on regulation language received & considered**
 - **300+ comments on Technical Document received & considered**
- **Scope of Regulation Revisions**
 - **5,000 sf disturbance threshold – unchanged**
 - **No new groups to be regulated**
 - **Modified compliance requirements**
 - **Post construction stormwater management**
- **Grandfathering**
 - **Plans in Review**
 - **18 months to gain approval**
 - **Approved by July 1, 2015**
 - **Approved Projects**
 - **6 years to commence construction**
 - **Construction start no later than January 1, 2020**
- **Commencement of Construction**
 - **Utilities**
 - **Roadways**
 - **Stormwater management facilities**
 - **General earthmoving alone does not qualify**
- **Extensions to Expired Plans**
 - **Construction or not**
 - **Owner may resubmit plan for re-approval prior to January 1, 2014**
 - **Sussex Conservation District notifying owners and consultants**
- **Compliance Criteria – New Development**
 - **Current Regulations**
 - **4 Regulatory Storm Events**
 - **Water Quality (2" rainfall)**
 - **2-year**
 - **10-year**
 - **100-year**
 - **Revised Regulations**
 - **3 Regulatory Storm Events**
 - **Resource Protection Event**
- 1 year
 - **Conveyance Event**
- 10 year
 - **Flooding Event**

**DNREC
Presentation
(continued)**

- 100 year

- **Stormwater Quality Management**
 - **1-year Storm event (~2.7" rainfall)**
 - **Optimize for runoff reduction**
 - **10-year, 100-year (State-wide)**
 - **Analyze post condition only**
 - **Optimize for "no adverse impact"**
- **Offset Process**
 - **Plan Review Process Indicates Site May Qualify for Offset**
 - **Stormwater Assessment Report (SAR) contains multiple "Significant" ratings**
 - **Analysis indicates on-site compliance may be an inferior solution**
 - **Preliminary Sediment & Stormwater Plan (H&H study) indicates on-site compliance costs may exceed Maximum Extent Practicable (MEP)**
- **SB 64 – Floodplain and Drainage Advisory Committee**
 - **Adopted July 2011**
 - **Governor signed into law August 2011**
 - **Committee began meeting September 2011**
 - **7 Committee Meetings**
 - **Report to the General Assembly**
 - **Several rounds of local government outreach**
- **SB 64 Process**

Mr. Piorko stated that what is critically important in respect to local government is how this information is going to be utilized. Converging with the culmination of this report is also some new Federal requirements from FEMA as a result of a state wide mapping update that FEMA is going to require local governments to review their Ordinance/Code language and make some modifications. In anticipation, DNREC has been working with County technical staff as well as FEMA staff on what effect this will have at the local level and what level of assistance can be provided. DNREC will be meeting with every municipality in the State over the next 12 months to discuss their specific Ordinance/Code language and what mandatory changes will be necessary from FEMA's standpoint and what recommended improvements DNREC would like to see at a local level.

Mr. Phillips asked if there is a technical document in regards to stormwater management available for review; where can the technical document be found; and has it been registered with the Register of Regulations.

Mr. Piorko responded that there is a companion document to the regulations which is a technical document that encompasses erosion and sediment control standards and specifications as well as the stormwater technical standard and specifications to accompany the regulations. The technical document can be found on the DNREC website and it has not been registered with the Register of Regulations as it is not part of the regulations that was promulgated.

**DNREC
Presentation
(continued)**

There was further discussion by Council and Mr. Piorko on whether the County or State could monitor construction in subdivisions to ensure that developers follow the approved drainage plans which could alleviate some drainage issues in the future.

**Adminis-
trator's
Report**

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

1. Sussex County Emergency Operations Center Call Statistics – August 2013

Attached please find the call statistics for the Fire and Ambulance Callboard for August 2013. There were 10,873 total calls handled in the month of August. Of those 9-1-1 calls in August, 79 percent were made from wireless phones.

2. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Hopkins-Pettyjohn Subdivision (aka Red Mill Pond North) – Phase 2 reached Substantial Completion effective September 11, 2013.

3. Delaware Department of Transportation – US 113 Millsboro-South Area Public Hearings

The Delaware Department of Transportation will hold public hearings this week for the US 113 North/South Study for the Millsboro-South Area. This section of the project encompasses more than 14 miles of US 113 and includes the towns of Millsboro, Dagsboro, Frankford, and Selbyville.

On Wednesday, September 18th the first hearing will be held at the Millsboro Civic Center, and on Thursday, September 19th the second hearing will be held at the Selbyville Fire Hall. Each event will be held in two parts, beginning at 4:00 PM. From 4:00 – 6:00 PM, the public can review maps of the alternative routes, interact with DelDOT officials, and provide private testimony to a stenographer. From 6:00 – 8:00 PM, the public will be permitted to provide testimony for those who wish to speak.

All comments are due to DelDOT on the proposals by Friday, October 4, 2013.

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

**Easter
Annexation/
Extension of
the MCSSD/
Request to
P&P Notices**

John Ashman, Director of Utility Planning Division, requested permission to prepare and post public hearing notices for the extension of the Miller Creek Sanitary Sewer District (Easter Annexation). The parcel requesting annexation is located on the north side of County Road 363 in Baltimore Hundred. The expansion is based on a written request from the land owners citing a failing on-site system as their reason for the request. The

Easter Annexation (continued) property is able to gain sewer service by extending sewer lines from a connection point in Malcom's Manor through an easement from the adjacent property owner. The parcel consists of approximately 1.46 acres more or less. The property owners will be subject to system connection charges of \$5,248.00 per EDU based on July 1, 2013-June 30, 2014 rate.

M 425 13 Authorize Notices/MCSSD Extension/Easter Annexation A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Engineering Department is authorized to prepare and post notices for the extension of the Miller Creek Sanitary Sewer District to include parcel 134-19.00-75.03 lands of Thomas and Megan R. Easter, as presented on September 17, 2013.

Motion Adopted: 5 Yeas.

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

Homestead B&B Annexation/ Extension of the MCSSD/ Request to Prepare and Post Notices John Ashman, Director of Utility Planning Division, requested permission to prepare and post public hearing notices for the extension of the West Rehoboth Sanitary Sewer District (Homestead B&B Annexation). The parcel requesting annexation is located at the corner of Warrington Road and Old Landing Road being operated as Homestead Bed & Breakfast. The expansion is based on a written request from the land owners stating they have recently found out that their current cesspool is operating as a non-conforming system per DNREC and the parcel cannot be sold as is. The property is able to gain sewer service by connecting to an existing sewer lateral previously placed at the property's right-of-way. The parcel consists of approximately 2.00 acres more or less. The property owners will be subject to system connection charges of \$4,822.00 per EDU based on July 1, 2013 – June 30, 2013 rate.

M 426 13 Authorize Notices/WRSSD Extension/Homestead B&B Annexation A Motion was made by Mrs. Deaver, seconded by Mr. Cole, that the Sussex County Engineering Department is authorized to prepare and post notices for the extension of the West Rehoboth Sanitary Sewer District to include parcel 334-12.00-121.01 lands of Judith K. Hedrick and Mary J. Ford, as presented on September 17, 2013.

Motion Adopted: 5 Yeas.

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

Air Methods Inc.-LifeNet/ Lease Agreement Jim Hickin, Airport Manager, presented a request for approval of a three year extension of the LifeNet lease under the parent company Air Methods, Inc. The LifeNet operation provides 15-20 jobs, pays reasonable rent and provides good paying jobs in the County.

M 427 13 **A Motion was made by Mr. Cole, seconded by Mr. Wilson, that the Sussex County Council approve the second extension to the lease agreement with Air Methods Corporation for Lot A2 at the Sussex County Airport, dated September 5, 2007.**

Approve Lease Agreement/ Air Methods Inc.- LifeNet **Motion Adopted: 5 Yeas.**

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

Airport Concrete Apron Repairs/ Substantial Completion **Bob Jones, Project Engineer, requested that Substantial Completion be granted for the project known as the Sussex County Airport, Concrete Apron Repairs, Phase 1 (Contract No. 12-28). Mr. Jones stated that the Balancing Change Order addressed the final quantities of the contract. The original contract was awarded for \$69,750.00 and this Change Order decreases the amount by \$10,052.05 for a final cost of \$59,697.95.**

M 428 13 **A Motion was made by Mr. Phillips, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that the Balancing Change Order for Sussex County Contract No. 12-28, Concrete Apron Repairs, Phase 1, with Mitten Construction Company, be approved, which decreases the contract by the amount of \$10,052.05 for a new contract total of \$59,697.95; that Substantial Completion is granted effective August 12, 2013; and that final payment be made and any held retainage be released in accordance with the terms and conditions of the contract documents.**

Grant Substantial Completion and Approve Balancing Change Order/ Concrete Apron Repairs **Motion Adopted: 5 Yeas.**

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

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

M 429 13 **A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give Youth Activity Grant \$2,500.00 from the Countywide Youth Activities Grant to the Georgetown Little League for Delaware District III Girls' Softball Big League World Series Champion rings and jackets.**

Motion Adopted: 5 Yeas.

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

M 430 13 **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give Councilmanic Grant Accounts) to the Apple-Scrapple Festival for festival**

Councilmanic **\$1,500.00 (\$500.00 each from Mr. Vincent's, Mr. Phillips' and Mr. Wilson's**

**M 430 13
Grant
(continued)**

expenses.

Motion Adopted: 5 Yeas.

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

**Additional
Business**

Under Additional Business, Dan Kramer commented on the presentation given by Frank Piorko, DNREC Division of Watershed Stewardship, regarding Sediment & Stormwater Regulations.

Mr. Cole asked if there is any way the County could flag subdivisions with a known history of drainage problems and direct concerns to Soil Conservation to ensure approved drainage plans are implemented. Mr. Vincent requested that Mr. Lawson further discuss this issue with Engineering, Planning & Zoning and Soil Conservation District and report back to Council at a later date.

**M 431 13
Adjourn**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to adjourn at 11:03 a.m.

Motion Adopted: 5 Yeas.

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

Respectively submitted

**Kelly A. Collins
Administrative Secretary**

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 24, 2013

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 24, 2013, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 432 13
Amend
and
Approve
Agenda**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to approve the Agenda, as posted.

Motion Adopted: 5 Yeas.

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

The minutes of September 10, 2013 were approved by consent.

Minutes

Mr. Moore read the following correspondence:

**Corre-
spondence**

**CHAMBER OF COMMERCE FOR GREATER MILFORD, MILFORD,
DELAWARE.
RE: Card in appreciation of grant.**

**LIVE
Conference**

Sally Beaumont, Chairperson, Advisory Committee on Aging and Adults with Physical Disabilities for Sussex County, presented information on the Live Conference scheduled for October 9, 2013 from 9:00 a.m. to 4:00 p.m. at the CHEER Community Center in Georgetown, Delaware. For additional information and/or tickets, interested parties can visit the following website: <https://sussexcountyliveconference.eventbrite.com>.

**Adminis-
trator's
Report**

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

1. Sussex County Airport Advisory Committee Meeting

**Administrator's
Report
(continued)**

The Sussex County Airport Advisory Committee is scheduled to meet on Wednesday, September 25, at the Sussex County Emergency Operations Center at 6:00 p.m. Included with this report is a copy of the agenda for the meeting.

2. **Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County**

Per the attached Media Release, the Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County will be hosting The LIVE Conference: Live Healthy...Live Active...Live at Home from 9:00 a.m. to 4:00 p.m. on Wednesday, October 9, at the CHEER Community Center on Sand Hill Road in Georgetown. The conference will feature a variety of panel discussions focused on the Affordable Care Act, aging at home versus a nursing facility, and how to live a more active, healthier lifestyle. The Sussex County Council and Delaware Division of Services for Aging and Adults with Physical Disabilities are co-sponsoring the event.

3. **Capital Transportation Program Public Hearings**

Public hearings jointly sponsored by the Council on Transportation and the Delaware Department of Transportation (DelDOT) are being held to discuss the State's six-year Capital Transportation Program for Fiscal Years 2015-2020. The Sussex County public hearing will be held on Wednesday, September 25, from 4:00 to 7:00 p.m. at the DelDOT South District Administration Building, 23697 DuPont Boulevard in Georgetown. The hearing will provide an opportunity to review current and suggested transportation projects, as well as capital investments for DART First State public transit. Project information will be displayed, and there will be opportunities for discussion with DelDOT and County representatives. Interested persons are encouraged to attend or submit written comments during the public hearing process.

4. **Project Receiving Substantial Completion**

Per the attached Engineering Department Fact Sheet, Shoal Harbor reached Substantial Completion effective September 19, 2013.

5. **Delaware State Police Activity Report – August 2013**

Per the attached Delaware State Police activity report for August, there were 4,048 total traffic arrests and 2,015 total criminal arrests. Of that 2,015, 945 were felony and 1,070 were misdemeanor criminal arrests. Of the total hours on duty spent, 43 percent were spent on criminal investigations.

6. **Sussex County Annual Property Taxes Due September 30th**

On Monday, September 30th, the 2013 annual Sussex County property taxes are due. Any citizen who still needs to pay their tax

**Adminis-
trator's
Report
(continued)**

bill may do so on the 30th at the County Administrative Building located at 2 The Circle in Georgetown. County staff will be on hand one hour early at 7:30 a.m. and remain one hour late to 5:30 p.m. to accept payments in person. Citizens are reminded to also access the County's website at sussexcountyde.gov to pay their bills on-line.

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

As an addition to the Administrator's Report, and also in regards to the Airport, as of 6:28 p.m. last night (September 23rd), Runway 4-22 at the Sussex County Airport has been extended to 5,500 feet. Instrument approaches remain unchanged; the run-up area for Runway 4 will remain but the end of Taxiway A that connected Runway 4 has been removed. Taxiway A now extends to the end of the new pavement. The Runway edge light circuits have been replaced and the lights have been converted to LED; the PAPI lights for both ends of the Runway 4-22 are in the original position and are all operational. There is still a little bit of work to be done, some landscaping, seeding and mulching; the old Runway lighting circuits will be removed and the work area needs to be cleaned up. As of now, Runway 4-22 is 5,500 feet and fully functional and at 8:30 this morning, the first PATS Boeing Business Jet took off.

**SCRWF/
Pump
Station
No. 30
Regional
Forcemain
Project**

Michael Izzo, County Engineer, presented information on the Pump Station No. 30 Upgrade. The County had a contract with Bunting & Murray to extend a new Force Main from Pump Station 30 to the South Coastal Regional Wastewater Facility. The County previously granted Substantial Completion for this project; however, the County still needed to process final payment requisitions and process the final Balancing Change Order. That Change Order is a credit to the County in the amount of \$50,311.68 and adds 14 days of contract time to the contractor.

**M 433 13
Approve
Balancing
Change
Order/
SCRWF/
Pump
Station
No. 30
Regional
Forcemain
Project**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, based upon the recommendation of the Consulting Engineers and the Sussex County Engineering Department, that the Sussex County Council approves the Final Balancing Change Order for Sussex County Project No. 10-03, entitled "South Coastal Regional Wastewater Facilities" (SCRWF) Pump Station No. 30 Regional Force Main" with Bunting & Murray Construction Corporation in the credit amount of \$50,311.68, thereby decreasing the contract amount from \$3,595,651.00 to \$3,545,339.32 and extending the Contract term by 14 days.

Motion Adopted: 5 Yeas.

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

**Marina
at Pepper
Creek/
Oversizing
Agreement**

John Ashman, Director of Utility Planning, presented for the Council's consideration an Oversizing Agreement between Sussex County and HKSIV, LLC for credits for oversizing of regional infrastructure for a project known as the Marina at Pepper Creek in the Dagsboro Frankford Sanitary Sewer District. Mr. Ashman reported that the Engineering Department has been working with the developers on this project to reach an Oversizing Agreement for regional infrastructure that they will be required to install as part of their project. Since the extent of the oversizing exceeds the amount of transmission charges that the County can give credit for, the Engineering Department considered waiving review and inspection fees for the pumping station and force main, on-site inspection fees were applied to their oversizing credit to provide an early cost benefit, and the Department allowed for the delay of the installation of the generator for the pump station to a later phase of their project. The Developers have agreed and executed the Agreement and the estimated oversizing totals \$441,430.00; the final number will be established once construction costs receipts are submitted as agreed upon by the County's Oversizing Committee. Approximately \$277,589 will come in the way of transmission system connection charges for the remaining 131 lots in the marina, \$43,000 in sewer inspection fees and any balance remaining will be made available in the form of a transmission oversizing credit for the neighboring project that is also owned by the developers.

**M 434 13
Execute
Marina
at Pepper
Creek
Oversizing
Agreement**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, that the Sussex County Council President is authorized to execute the Marina at Pepper Creek Oversizing Agreement between Sussex County and HKSIV, LLC as presented on September 24, 2013.

Motion Adopted: 5 Yeas.

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

**EOC
Supple-
mental
Cooling
System/
Geothermal
Presen-
tation**

Steve Hudson, Director of Technical Engineer, and Jay Egg of Egg Geothermal presented a geothermal upgrade report regarding measures taken to correct the geothermal HVAC problems at the Sussex County Emergency Operations Center. Mr. Egg discussed the emergency measures taken (cooling tower) and the current operation of the system: pump to re-injection well system, close loop well system, cooling tower (emergency backup), or any combination of the three.

Jack DiEnna, Executive Director of the Geothermal National and International Initiative congratulated the County on this project. He stated that they have about 2 million geothermal applications from throughout the United States; however, those applications are mostly concentrated on the east coast.

Mr. Hudson recognized David Wootten for his assistance with this project.

**M 435 13
Grant
Substantial
Completion
and approve
Balancing
Change
Order/
EOC
Supple-
mental
Cooling
System**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department that Substantial Completion be granted to Gillis Gilkerson, Inc. of Salisbury, Maryland for Sussex County Project 12-03, Emergency Operations Supplemental Cooling System and a Balancing Change Order (Change Order No. 2) be approved for \$717.71, which increases the contract amount total to \$479,906.55 and increases the contract time by two days.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
Blades
Sanitary
Sewer
District/
Concord
Road
Annexation**

A Public Hearing was held to consider extending the boundary of the Blades Sanitary Sewer District (BLSSD) to include the lands of 37 parcels located west of State Route 13, east of the Town of Blades, contiguous to the BLSSD, lying and being in Broad Creek Hundred, Sussex County, Delaware; the expansion will consist of +/- 55.5 acres. The parcels are located primarily along County Road 20 (Concord Road) and are contiguous to the existing district. The primary reason for this request is that the Town of Blades has identified the area along Concord Road for consideration of annexation into the town. They are proposing to annex the area into the town and to provide water service to this area. They have requested that the County consider a concurrent project that would provide sewer service as well. The parcel will be responsible for system connection charges of \$3,162.00 per EDU based on rates from July 1, 2011 until June 30, 2012.

A Public Meeting was held in conjunction with the Town on August 8th; the meeting was well attended and only one person in attendance spoke in opposition to the proposal and it was later determined that that person's property was already included in the sewer district.

Rates proposed for the project are as follows: estimated service charge of \$289.82 per EDU, a front foot assessment of \$4.24 per front foot; a one-time permit fee of \$100.00, and a system connection charge of \$0 or \$3,322.00 (for existing homes, the system connection charge will be included in the project financing; new homes constructed after the August 9, 2013 Public Meeting would pay the \$3,322.00.

In response to questions, Mr. Ashman and Michael Izzo, County Engineer, explained that there is available capacity at the City of Seaford's treatment plant. Mr. Izzo explained that, currently, the City is only at 50 percent of their plant's capacity. Mr. Izzo noted that would thing that could affect this is the TMDLs in the Chesapeake Bay and Seaford's ability to continue to discharge into the Nanticoke River.

**Public
Hearing/
Blades
Sanitary
Sewer
District/
Concord
Road
Annexation
(continued)**

Mr. Cole stated that municipal wastewater systems give the towns the advantage when they want to grow as they have something to offer.

Mr. Wilson expressed concern about municipal systems maxing out.

Public comments were heard.

Robert Atkinson, member of the Blades Town Council and the Water Commission, spoke in support of the extension and stated that the Nanticoke River is a tributary of the Chesapeake Bay and it is part of the Chesapeake Bay Watershed; that they have seen new restrictions on land use and new requirements for the landowners throughout the watershed area. The extension of the sewer system along Concord Road will offer property owners a viable alternative and some protection against future regulation that could affect the land along the Nanticoke River.

The Public Hearing was closed.

**M 436 13
Adopt
R 013 13**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to Adopt Resolution No. R 013 13 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE BLADES SANITARY SEWER DISTRICT (BLSSD) TO INCLUDE PARCELS OF LAND WEST OF SUSSEX HIGHWAY, EAST OF THE TOWN OF BLADES, CONTIGUOUS TO THE BLSSD, LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, DELAWARE”.

Motion Adopted: 5 Yeas.

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

Mr. Phillips expressed concern that this water is going into the Nanticoke River.

**Old
Business/
C/Z
No. 1732**

Under Old Business, the Council considered Change of Zone No. 1732 filed on behalf of Herola Family, LLC and Artisan’s Bank.

The Planning and Zoning Commission held a Public Hearing on this application on August 8, 2013 at which time action was deferred. On August 22, 2013, the Commission recommended approval. The County Council held a Public Hearing on this application on August 20, 2013 at which time action was deferred and the record was left open for the submission of a letter from the Applicant. Lawrence Lank, Director of Planning and Zoning, advised that the letter requested was to respond in reference to the construction of and the approval of the relief route for the interconnection from Route 24 to Old Landing Road at the intersection with Airport Road.

**Old
Business/
C/Z
No. 1732
(continued)**

Mr. Lank reported that a letter dated August 23, 2013 was received from James Fuqua, Attorney for the applicant. The letter stated “Please allow this letter to confirm for the record representations I made on behalf of the Applicants in the above matter at the public hearing before the Sussex County Council on August 20, 2013. As explained in the letter of T. William Brockenbrough, Jr. of DelDOT dated October 1, 2012, a new road connecting Route 24 and Old Landing Road has been proposed and approved by DelDOT. The Applicants represent and proffer that any development of the Herola Site, for which CR-1 rezoning is being requested, will include construction of the Route 24/Old Landing Road connection road and will comply with the following: A) Any future plans submitted for review by the Sussex County Planning and Zoning Commission will include and indicate the location of the connection road, B) The property owner, its successors or assigns will dedicate appropriate easements to DelDOT for the physical location of the connection road, C) The property owner, its successors and assigns will construct the connection road to DelDOT standards and with DelDOT approval, D) Upon completion of the property owner, its successors or assigns will transfer the connection road to DelDOT for use by the public and, E) The property owner, its successor or assigns shall cooperate and coordinate with the adjacent property owner, J.C. Townsend, Jr. and Co., to insure completion of the connection road. The representations are intended to be binding on the property owner, its successors or assigns and shall not be amended or modified without the approval and consent of the Sussex County Council and DelDOT.”

Mr. Cole questioned if the letter, in its entirety, be referenced in the Findings. Mr. Moore stated that, yes; it can be incorporated in the Findings.

In response to questions raised by Mrs. Deaver, Mr. Lank stated that one of the Findings of the Planning and Zoning Commission was that any proposed use of the property will be subject to site plan approval.

**M 437 13
Adopt
Ordinance
No. 2318
(C/Z
No. 1732)**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2318 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.4219 ACRES, MORE OR LESS” (Change of Zone No. 1732) filed on behalf of Herola Family, LLC and Artisan’s Bank.

Motion Adopted: 5 Yeas.

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

**Findings
of Fact/
C/Z
No. 1732**

The Council found that the Change of Zone was appropriate legislative action based on the following Findings of Fact:

- 1. Based on the record, the site is located in a County operated and maintained sanitary sewer district; the parcel is capable of being annexed into the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; and conformity to the West Rehoboth Expansion Area Capacity Evaluation and the North Coastal Area Planning Study will be required.**
- 2. The land is appropriate for CR-1 zoning because the property is located, according to the Strategies for State Policies and Spending documents, in an Investment Level 2; that Investment Level 2 reflects areas where growth is anticipated by local, County, and State plans in the near term future; that State investments will support growth in these areas; and that the Office of State Planning and Coordination has no objection to the proposed rezoning of this project in accordance with the relevant County Codes and Ordinances.**
- 3. The project is located in the Environmentally Sensitive Developing District according to the Sussex County Comprehensive Plan.**
- 4. The site is located in an area where a general mixture of commercial and service activities currently exist including the Rehoboth Mall, Beebe Medical Center, Delaware Eye Institute and numerous other commercial and service businesses on Route 24, Route One, and Old Landing Road; that the site adjoins other lands zoned commercial on the south, east and north and the Beebe Medical Center, a conditional use, on the west; that other commercially zoned land is located in the immediate area; and that this rezoning will be consistent with the surrounding zoning.**
- 5. Based on the record, the Applicant and adjacent property owner worked with DelDOT on a study of the impact of the development of their properties referred to as the Old Landing Road Traffic Study; that, as part of DelDOT's ongoing plans to create a relief route from Route 24 to Airport Road, the Applicant has agreed to provide lands for the construction of the route, and the development of this site will incorporate this new road; that DelDOT is satisfied that the affected intersections will operate at an acceptable level; and the letter from James Fuqua of Fuqua, Yori and Willard, dated August 23, 2013, is incorporated by reference.**
- 6. This property will be served by central water and by County sewer as part of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.**
- 7. The proposed CR-1 zoning classification is consistent with the purposes of the Sussex county Zoning Ordinance and the Comprehensive Land Use Plan by promoting the orderly growth, convenience, order, prosperity and welfare of the county; that it will encourage commercial activity where substantial commercial activity exists and continues to grow; that the site is located near**

**Findings
of Fact/
C/Z
No. 1732
(continued)**

the intersection of two major thoroughfares, Route One and Route 24; that the CR-1 zoning classification is in character with the surrounding area and is consistent with the trends of development in this area of the Route One corridor; that Route One is designated as a major arterial roadway under the County Code; and that this Change of Zone application is an infill rezoning and CR-1 is the appropriate zoning classification.

- 8. Any proposed use on the property will be subject to site plan review by the Sussex County Planning and Zoning Commission.**

Mrs. Deaver stated that she is aware of the concerns about where the road is going to go; however, she noted that the placement of the road is not a County matter, it is up to DelDOT.

**Grant
Requests**

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

**M 438 13
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to the Delaware Police Chiefs Council for conference expenses.

Motion Adopted: 5 Yeas.

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

**M 439 13
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$1,500.00 (\$500.00 from Mr. Cole's, \$500.00 from Mrs. Deaver's, \$200.00 from Mr. Phillips' and \$300.00 from Mr. Vincent's Councilmanic Accounts) to Epworth United Methodist Church (Rehoboth Beach) for a skate board park project for public use.

Motion Adopted: 5 Yeas.

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

**M 440 13
Council-
manic
Grant**

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

Motion Adopted: 5 Yeas.

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

**M 441 13
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$500.00 from Mr. Phillips' Councilmanic Grant Account to the Northeast Rally Club 2014 Great Race expenses.

Motion Adopted: 5 Yeas.

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

**M 442 13
Council-
manic
Grant**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$500.00 (\$250.00 each from Mr. Cole's and Mrs. Deaver's Councilmanic Grant Accounts) to Coastal Concerts for program expenses.

Motion Adopted: 5 Yeas.

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

**M 443 13
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$2,000.00 (\$1,500.00 from Mr. Cole's Councilmanic Grant Account and \$500.00 from Mrs. Deaver's Councilmanic Grant Account to the Delaware Celebration of Jazz for Rehoboth Beach Jazz Festival expenses.

Motion Adopted: 5 Yeas.

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

**Under
Additional
Business**

Under Additional Business, Paul Reiger of Deer Forest in Georgetown read a statement prepared by himself and his neighbors referencing their concerns and complaints about a neighbor that has pigs, pig septic tanks, ducks, sheep, goats, a tom turkey, hens, a chicken coup, tractor trailer storage areas, and 30+ tractor tires; in addition he slaughters pigs on the property and he has a gated fence that does not allow the Zoning Department to come on his property for an inspection. Mr. Rieger stated that the property consists of 4 acres and is located in a deed restricted development. The deed restrictions state that the property owner cannot have the swine - the County says he can have eight and DNREC says he can have up to 8,000 pounds. Mr. Lawson stated that the County is aware of this situation and is investigating the complaint. Mr. Moore noted that the County does not enforce deed restrictions. Mr. Wilson stated that he has already had the Department of Agriculture and DNREC at the site.

Under Additional Business, Mrs. Deaver asked if the Council can discuss, at a future meeting, the permitted uses in a CR-1 District.

**Additional Business
(continued)**

Under Additional Business, Mr. Cole questioned if an extension of sewer service can be tied to the annexation to a municipality, if feasible. He stated that his concern is that municipalities need to grow and build a tax base.

**M 444 13
Go Into
Executive
Session**

At 11:45 a.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to pending/potential litigation and land acquisition.

Motion Adopted: 5 Yeas.

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

**Executive
Session**

At 11:49 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing matters relating to pending/potential litigation and land acquisition. The Executive Session concluded at 12:04 p.m.

**M 445 13
Reconvene
Regular
Session**

At 12:04 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, to come out of Executive Session and to reconvene the Regular Session.

Motion Adopted: 5 Yeas.

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

**M 446 13
Pursue
Possible
Purchase
of Certain
Real
Estate**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to authorize the County Administrator to pursue the possible purchase of certain real estate and to execute and explore the possible execution of a contract to pursue and satisfy contingencies, perform due diligence and any other acts necessary to consummate closing on the potential real estate purchase.

Motion Adopted: 5 Yeas.

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

**M 447 13
Recess**

At 12:05 p.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to recess until 1:30 p.m.

Motion Adopted: 5 Yeas.

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

**M 448 13
Reconvene**

At 1:31 p.m., a Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to reconvene the meeting.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
C/U
No. 1968**

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 MICRO-DISTILLERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.06 ACRES, MORE OR LESS” (Conditional Use No. 1968) filed on behalf of Ray Baker.

The Planning and Zoning Commission held a Public Hearing on this application on September 12, 2013 at which time the Commission deferred action.

See the minutes of the Planning and Zoning Commission dated September 12, 2013.

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

The Council found that Ray Baker was present. He stated that his mission is to capitalize on newly enacted Delaware Laws aimed at the micro-distillery market; that recently, it was enacted to allow micro-distilleries which have a ceiling of 750,000 gallons; that the capacity he is proposing is nowhere near that; that he will be using select grains and fruits from Sussex County growers as the primary ingredients for the products; the product; that he wants to create a responsible and respectable product line that is crafted for the mature connoisseur of hand crafted spirits; that Plant #1 will house all aspects of the five year business model, i.e. manufacturing, finishing, barrel aging, packaging, and shipping; that while the new laws allow for the public to visit the facility for tastings, the manufacturing facility does not accommodate taking advantage of this option for public tastings; that Plant #1 will concentrate only on creating a flagship brand and is expected to take two (2) years; that no new road construction is required for entrances; that increased UPS deliveries are expected to increase by about two (2) per week; that ingredient deliveries will be by standard passenger trucks; that start-up materials will be purchased from local suppliers in 50 pound sacks where possible; that grains will be purchased directly from farmers when possible; that season permitting, fruits will be purchased directly from local orchards; that for waste management, waste streams of grains will be sold as livestock supplements directly to local livestock farmers; that there is no intent to press fruits and

**Public
Hearing/
C/U
No. 1968
(continued)**

there will be no fruit pulp waste, which will reduce the waste generation and disposal costs; that processed cooling water will be collected in dedicated closed loop recirculating system; that processed waste water will be collected and treated off-site by a third party; that the third party has not yet been identified; that in order for a third party to access the waste stream, a representative sample must be supplied for testing; that until all licenses are obtained and permission to operate has been granted representative samples cannot be generated; that the distilling process will use an immersion heater to heat the product up to vaporization temperatures; that distillation columns have 3/8" atmospheric vents which will vent vapors from the room; that current projections are that the distillery will generate over \$203,000.00 in new tax revenue; that his proposal will utilize four (4) 26-gallon stills; that the product line he is looking to do are whiskey, bourbon, and straight bourbon; that the business is not currently operational; that no new structures are planned; that no new entrances are proposed and there are no issues for DelDOT to consider; and that no expanded wastewater facilities are needed.

Mr. Cole questioned if there are any deed restrictions on the lot. The Applicant responded that he did not know of any deed restrictions but that he will have to look into it.

There were no public comments.

Mr. Baker was directed to send a copy of his deed to Mr. Moore.

The record of the Public Hearing was left open for the purpose of checking the deed for restrictions.

**M 449 13
Defer
Action
on C/U
No. 1968**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to defer action on Conditional Use No. 1968 filed on behalf of Ray Baker (and to leave the record open for the purpose of checking the deed for restrictions).

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
C/Z
No. 1733**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.29 ACRE, MORE OR LESS" (Change of Zone No. 1733) filed on behalf of Rehoboth Appraisal Group, LLC d/b/a First State Appraisal, Inc.

**Public
Hearing/
C/Z
No. 1733
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on September 12, 2013 at which time the Commission recommended that the application be approved.

See the minutes of the Planning and Zoning Commission dated September 12, 2013.

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

Mr. Lank distributed an Exhibit Booklet that previously provided by the Applicant.

The Council found that Stephen White was present on behalf of the Rehoboth Appraisal Group, LLC with Heidi Gilmore, Esquire, of Tunnell and Raysor, P.A. and Mark Davidson, of Pennoni Associates, Inc. They stated in their presentation and in response to questions raised that they are requesting rezoning from GR General Residential to B-1 Neighborhood Business; that the building on the site was approved for offices as a conditional use in 2004; that conditional uses are difficult to finance since the economic environment has changed; that a change of zoning is preferred; that the size of the parcel is limiting and therefore many of the uses permitted in the B-1 zoning would not apply; that there were no objections from DelDOT; that they have no intent to change the use; that the site plan will remain the same; that the use is in harmony with the neighborhood; that the predominant use of properties along Hebron Road and Route One is commercial and/or business use; that the site is located at the entrance to the West Rehoboth community; that the building was designed and built to appear as a residential use; that all infrastructure exists; that the site is a desirable location for professional uses; that the use is consistent with the trend of development taking place in the area; that the site is too small to impact the area; that retail, business, and commercial uses exists throughout the area; that the site is located in an Investment Level 1 Area according to the State Strategies for Policies and Spending; that the site is located in the Environmentally Sensitive Developing District Overlay Zone according to the County Comprehensive Land Use Plan; that C-1 General Commercial or CR-1 Commercial Residential zoning would be out of character with the existing use and community; that the proposed rezoning will be consistent with the Comprehensive Land Use Plan and the Zoning Ordinance; that First State Appraisal, Inc. utilizes the first floor of the building, and an Architect rents the second floor; that they have no intent to change the uses or expand the business on site; and that the primary reason for applying is financial purposes.

Mr. Cole expressed concern about the uses permitted in the B-1 District, which could include a gun shop/any retail shop. He noted that a Conditional Use is a better transition into the West Rehoboth community. Mr. Cole also stated that the Applicant did not show a need to change the zoning. He also commented on the preservation of West Rehoboth and he

**Public
Hearing/
C/Z**

**No. 1733
(continued)**

started that the use of the property could change thereby changing its impact as well as setting a precedent.

Mrs. Gilmore stated that B-1 zoning would enable the Applicant to be fully supportive and enable them to acquire financing, if needed. She noted that the Applicant previously tried to obtain bank financing and was unable to since banks do not like conditional uses.

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

**M 450 13
Adopt
Ordinance
No. 2319
(C/Z
No. 1733)**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2319 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.29 ACRE, MORE OR LESS” (Change of Zone No. 1733) filed on behalf of Rehoboth Appraisal Group, LLC d/b/a First State Appraisal, Inc.

Motion Adopted: 3 Yeas, 2 Nays.

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

**Public
Hearing/
C/Z
No. 1734**

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 CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 9.33 ACRES, MORE OR LESS” (Change of Zone No. 1734) filed on behalf of American Legion Post #28.

The Planning and Zoning Commission held a Public Hearing on this application on September 12, 2013 at which time the Commission recommended that the application be approved.

See the minutes of the Planning and Zoning Commission dated September 12, 2013.

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

The Council found that Michael Cotton, Professional Engineer with Cotton Engineering, LLC, was present on behalf of the American Legion Post #28. He gave a background on the American Legion and he stated that the purpose of this request is to increase the value of this parcel; that the Post

**Public
Hearing/
C/Z
No. 1734
(continued)**

survives and thrives on their financial resources; that, last year, they did refinance their facility; that the parcel in question is 9.3 acres and is out in front; that if the parcel had been zoned commercial, they would have been able to obtain a higher value for their loan and a better financing rate; that the Legion owns three (3) properties; that one property is improved with the Legion Post buildings; that one property is improved with the parking lot; and this site is improved with a pavilion building and storage buildings; that the property is grassed and has been used for carnivals, car shows, circuses, picnics, and other functions for fund raising for veteran charities; that they are requesting rezoning to CR-1 Commercial Residential for future use of the site; that this rezoning will put them one step ahead in the financial process; that the site is located in a Level 2 Expansion Area; that when this parcel was allocated EDUs for public sewer service, it was allocated 38 EDUs, which limits what they can do with this parcel; that at this time, there are no future plans to develop this parcel; that the rezoning will make it more valuable, potentially, to types of projects that could go there; that an easement exists on the westerly property line for utilities; that central water is provided by Tidewater Utilities; that the site is adjacent to other commercial and business uses; that within two (2) miles of the site there are many commercial and business uses, i.e. retail, offices, a museum, churches, storage facilities, restaurants, etc.; that there should be no impact on residential properties in the area or roadways; that DelDOT is doing a design study for the area and may limit access to the site from Legion Road; and that this property has approximately 286 feet of frontage along Legion Road.

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

**M 451 13
Adopt
Ordinance
No. 2320
(C/Z
No. 1734)**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to Adopt Ordinance No. 2320 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 INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 9.33 ACRES, MORE OR LESS” (Change of Zone No. 1734) filed on behalf of American Legion Post #28.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
C/Z
No. 1735**

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 AND A C-1 GENERAL COMMERCIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX

**Public
Hearing/
C/Z**

**No. 1735
(continued)**

COUNTY, CONTAINING 2.47 ACRES, MORE OR LESS” (Change of Zone No. 1735) filed on behalf of Holt’s Dispensary, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on September 12, 2013 at which time the Commission recommended that the application be approved.

See the minutes of the Planning and Zoning Commission dated September 12, 2013.

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

The Council found that Kimberly Billings, Vice President, Secretary, and Treasurer for Holt’s Dispensary, Inc., was present. She stated that the property contains 2.47 acres; that the use has been a family owned business for many years (since the 1950s); that they are trying to get conforming zoning for the entire parcel for the existing use on the property; that approximately half of the property is zoned for agriculture and half of the property is commercially zoned; and that there are many commercial/business uses in the area.

Public comments were heard.

Carl Gootee, a resident of Holt’s Acres, spoke and he stated that he is not totally opposed to the proposed Change of Zone; however, he is in opposition of setting a precedent. He stated that there is a 500 foot commercial boundary near the front of his property; that his property is 600 feet off of the road; that he has a 100 foot buffer due to the location of his property line; that there is no purpose for rezoning the property; and that he continues to press the point that the 500 feet is very important.

Mr. Cole noted that the property has had Holt’s Dispensary on it for a long history and that if the rezoning is approved, it will not be any further back than the 500 feet; and that if the Council approves the application, it would not be setting a precedent of violating the 500 foot buffer for commercial.

Mr. Lank advised the Council that when the zoning map was adopted and effective in 1971, there were no property maps; that the zonings created were sometimes dimensional; that at this location, the lines drawn were 500 feet north and parallel to Route 26; and that this property was split by the westerly boundary of the commercial zoning established.

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

M 452 13

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2321 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN

M 452 13
Adopt
Ordinance
No. 2321/
C/Z
No. 1735
(continued)

AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.47 ACRES, MORE OR LESS” (Change of Zone No. 1735) filed on behalf of Holt’s Dispensary, Inc.

Motion Adopted: 5 Yeas.

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

M 453 13
Adjourn

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to adjourn at 2:54 p.m.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

Robin A. Griffith
Clerk of the Council

Executive Committee

Dr. Matthew Robinson, Chairman
University of Delaware, Sports Management

Martin Donovan, President
Community Bank Delaware

Cindy Small, Vice President
Kent County CVB

Mark Rossel, Secretary
Dover Motorsports

Jerry DuPhilly, Treasurer
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Andrew Bero
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Kevin Charles
Delaware Interscholastic Athletic Association

Dr. Li Chen
Delaware State University

Bob Ciento
Cape Henlopen High School

Artie Kempner
NFL/NASCAR, Fox Sports

Joe McDonald
Delaware Stadium Corporation

Bill Neaton
Downtown Dover Partnership

Linda Parkowski, Past Chair
Delaware Tourism Office

Kevin Reilly
former Philadelphia Eagle

Michael Pettit de Mange
Kent County Levy Court

Terry Rubritz
AAA Mid-Atlantic

Kendall Sommers
DNREC

Bill Sullivan
Delaware Hotel and Lodging Association

Scott Thomas
Southern Delaware Tourism

Mike Whittaker
Potter, Anderson, Corroon LLP

Sarah Willoughby
Greater Wilmington CVB

Robert Wirth
DuPont Country Club

Eric Zlady
University of Delaware

Advisory Members

Quinn Johnson
State Representative

Valerie Longhurst
State Representative

Eric Buckeon
Kent County Levy Court

Dick Cathcart
Delaware City

Jason Anderson, Sponsorship Chair
Dover Motorsports

Amy Colbourn, Marketing Chair
The Star Group

Kim Gomes, Legislative Chair
The Byrd Group

Jeff Robinson, Events Chair
Forewinds Hospitality

Victor Schimp, Membership Chair
Sheraton Dover Hotel



Delaware Sports Commission
99 Kings Highway
Dover, Delaware 19901

Sept. 20, 2013

The Honorable Todd Lawson
Sussex County Administrator
2 The Circle
Georgetown, DE 19947

Dear Mr. Lawson,

The Delaware Sports Commission recently announced its commitment to bring the Slam Dunk to the Beach high school basketball tournament back to Sussex in 2014 after a 10-year hiatus. We strongly believe the "new" Slam Dunk will put the national spotlight on Sussex, and help attract more visitors to our beaches during the month of December.

With the tournament now officially scheduled, we at the Delaware Sports Commission would like to request the opportunity to formally bring the Council up to date on our efforts to revive the Slam Dunk to the Beach basketball tournament. We're excited about the potential it brings to Sussex County, and eager to be included on the agenda of an upcoming council meeting, at your convenience.

Presenting our progress to Council will be David Arthur, executive director of the Delaware Sports Commission, and Matthew Robinson, who is chairman of the Sports Commission and of the tournament itself.

We look forward to the opportunity to meet with you and council members. Don't hesitate to call if you have any questions.

Thank you.

A handwritten signature in black ink that reads "David Arthur". The signature is fluid and cursive, with a large, sweeping "A" at the end.

David Arthur
Executive Director
Tel: (302) 672-6832
Cell: (302) 222-0175
Fax: (302) 739- 5749
Email: darthur@delawaresports.org
Website: www.delawaresports.org

PROJECT FACT SHEET

Project name Angola Neck Sanitary Sewer District
Angola Beach Road Grinder Pump System and
Villages of Herring Creek Improvements

Funded by: USDA Rural Utility Service

Contract # 11-11

Bid date: April 11, 2013

Lower bidder /bid amount: Harry Caswell, Inc. / \$137,706.00

Notice of Award: June 5,2013

Notice to Proceed: July 18, 2013

Construction time: 60 consecutive calendar days

Substantial Completion: September 19, 2013

Warranty dates: November 18, 2013 through November 17, 2014.

Final balancing CO: TBD

GENERAL NOTES:

A small punch list of restoration items will be completed within the 30-day conditional acceptance period. Record Drawings are being reviewed to finalize and balance all quantities used to construct the project.

OLD BUSINESS
October 1, 2013

This is to certify that on July 11, 2013 the Sussex County Planning and Zoning Commission conducted a public hearing on the below listed application for Conditional Use.. At the conclusion of the public hearing, the Commission moved and passed that 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 on a summary of comments read into the record, and comments stated by interested parties during the public hearing.

Conditional Use #1965 - Application of **SOUTHERN DELAWARE BOTANIC GARDENS, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for botanic gardens and related visitor center, conservatory, theater, nature center and parking, to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 36.99 acres, more or less, lying south of Piney Neck Road (Road 336) 0.5 mile west of Bunting Road (Road 335)(Tax Map I.D. 2-33-6.00-116.10).

Mr. Lank reminded the Commission that they had previously received a copy of the Exhibit Booklet and survey/site plan for the project.

The Commission found that on April 24, 2013 DelDOT provided a Support Facilities Report which references that a traffic impact study is not recommended, and that the current Level of Service "A" of Piney Neck Road will not change as a result of this application.

The Commission found that on July 9, 2013 the County Engineering Department Utility Planning Division provided a Memorandum which references that the site is located in the Dagsboro Frankford Sanitary Sewer District; that wastewater capacity is available to serve the project; that Ordinance 38 construction will be required; that the location and size of laterals and/or connection points will have to be determined; that connection to the sewer system is mandatory; that the site resides within a recent expansion area and while a sanitary sewer connection point is not currently extended to the parcel, the County is currently working with a developer of a project located east of the site that will construct a regional pumping station and force-main that is scheduled to be completed in the next 12 months; that an opportunity exists for the Applicants to make use of this infrastructure although there may be some costs associated

with said use; that the County Engineering Department will assist with coordinating this effort; and that a concept plan is required.

Mr. Lank advised the Commission that he has received 16 emails in support of this application.

The Commission found that Michael J. Zajic, President of the Board of Directors for Southern Delaware Botanic Gardens, Inc., was present with Mark Davidson, Project Manager, and Carlton Savage, Professional Engineer, of Pennoni Associates, Inc. and stated in their presentation and in response to questions raised by the Commission that they have received a total of 181 signatures in support of the botanic gardens proposal to date; that the land is proposed to be leased from the Sussex County Land Trust; that the site is currently tilled with some woodlands and wetlands; that the site is located within an Environmentally Sensitive Area according to the 2008 Comprehensive Land Use Plan; that the site is located within an Investment Level 2 according to the State Strategies; that the site is approximately one mile from the town limits of the Town of Dagsboro; that they have established a Memorandum of Understanding with the Sussex County Land Trust; that they are scheduled to meet with the Preliminary Land Use Service on July 24, 2013; that they have been working on this project for approximately two years; that they are planning features for all ages; that the design calls for garden parking areas that break up the sight of other parking spaces; that the project includes, but not limited to, a visitor center, a nature center, gardens (vegetable, bog, flower, woodland, vernal pool, and sand), a conservatory, covered walkways with a living roof, trams for accessibility, ponds and meadows, a 0.5 mile canal through the gardens for tours, waterfalls and bridges, a café along Pepper Creek, floating docks for tours out into the Inland Bays estuary, classrooms, greenhouses, and many other features; that the Southern Delaware Botanic Gardens, Inc. is a non-profit corporation organized by local citizens with more than 500 supporters and members and is staffed by volunteers that will be conducting public education programs; that the mission of the corporation is to create inspirational, educational, and sustainable public gardens in southern Delaware for the benefit and enjoyment of the public; that the project is proposed to be installed in phases over a five to eight year period; that the corporation is dedicated to: nature's beauty, native plants and habitats of southern Delaware, colorful garden displays and garden information, public education and enjoyment, and ecological appreciation; that they are proposing a public garden because Delaware has no flagship public garden, an important educational and museum institution; that Phase I is planned to start simple, grow in stages with a horticulturist and volunteers, with grants from County, State, and private donors, and to build berms, deer fences, the entry drive, parking lots, and temporary structures with the help of local contractors; that they will begin planting trees, shrubs, perennials, meadow and other permanent plantings; that they hope to have Phase I completed in several years; that Phase II is planned to build buildings and garden features as underwriting comes in for each feature and includes: beginning existing forest restoration, removing invasive alien plants like Phragmites, restoring the vernal pool, restoring the shoreline with native plants, planting new forest areas, and labeling plants; that Phase III should complete the project and will serve visitors who wish to see the gardens and plants, visiting school children, garden clubs, photographers, and artists, farmers, vegetable gardeners, ornamental gardeners, and everyone through education on our habitats, and plants through plant labels, classes, tours, and research; that the public garden lands will be held by a long term lease; that the design, with minimal infrastructure and temporary buildings will be secured by grants and

gifts; that the garden features shall be designed, engineered, and built by private, business, and public underwriting; that the garden operations shall be self-sustaining by income generating activities; that they are planning to create: a children's adventure garden; an outdoor amphitheater; a modern teaching vegetable garden; a Labyrinth for meditation and exercise; a bog garden, our rarest habitat, will shelter endangered native plants including Sundews, Pitcher Plants, and other plants, accessed by a board walk; a Hummingbird, Butterfly, and pollinators' garden; an arboretum of Delaware's trees; a large meadow garden for grasses, wildflowers and birds; flower gardens for all seasons; special features for wildlife: birdhouses, eagle trees, feeders, Osprey poles, turtle logs, and more; that ecological sustainability will be maintained by integrated pest management, organic fertilizers, and limited irrigation; that the design concept for the garden's buildings shall be compatible with the site, complementary, sustainable, durable, beautiful, and low profile; that Delaware is rich in natural treasures – animals, plants, habitats, all of great beauty, best enjoyed, studied, and preserved in an educational public botanic garden designed for that purpose; that the stormwater design for the site will primarily be contained on-site and a quantity waiver will be requested due to the proximity of the tidal waters of Pepper Creek to mitigate the normal impacts of the development on the natural water balance; that this will be done by turning water that would normally become surface runoff into a resource that waters trees and recharges groundwater; that bio-retention systems, filter strips and rain gardens will improve water quality by removing nutrients; that the engineers will work with the Sussex Conservation District and DNREC to achieve the best management practices for the project; that a nutrient budget will be prepared per DNREC's Nutrient Protocol; that approximately 2,000 new trees, mostly native, will be planted and a landscape buffer around the entire boundary will be furnished; that Tidewater Utilities, Inc. will provide the necessary domestic and fire protection water needed; that agricultural irrigation wells will be used to irrigate gardens, etc.; that the project will be served by central sewer from the Dagsboro Frankford Sanitary Sewer District; that DelDOT did not recommend a traffic impact study; that by comparing this project with similar projects in other states, approximately 83,495 people are expected to visit the site annually once the project is completed; that wetlands will be further delineated through the permitting process with DNREC and the Army Corps. of Engineers; that there is no known presence of any historic or cultural resources on the site; that the plans and application is being submitted through the PLUS process for their review; that in addition to the new trees referenced earlier, they plan to add approximately 8,000 shrubs, 150,000 perennial plants, 600,000 bulbs and tubers, and 100,000 native plants; that the bio-diversity of the site may increase from approximately 150 species to 2,000 species; that the project will fix many more tons of carbon and remove 30 percent more air pollutants than it did as a farm; that the new canal and pond will also fix carbon and add oxygen; that the new bog will protect many species and propagate many highly endangered Delaware native plants; that the restored Vernal Pools will provide habitat for breeding frogs, skinks, and salamanders, all endangered; that the animal population will increase by 10,000 percent; that they anticipate approximately 394 jobs with 110 part-time jobs; that the Exhibit Booklet contains some suggested Findings of Fact and suggested Conditions of Approval for consideration; that they have met with the Town Council of Dagsboro; that they held a public meeting at the Dagsboro Fire Hall; that there will be a gift shop in the visitor center; that they will raise funds with membership drives, fund raisers, etc.; that they estimate a \$33,000,000 benefit to the County and State annually once the project is established; that they requests permission to utilize the B-1 Neighborhood Business regulations for signage; that they may use

mobile home type structures temporarily for offices, classrooms, etc.; that the proposed piers are not intended for public use; that parking shall be subject to site plan review; that the Sussex County Land Trust and the Applicants are working out the lease arrangement and a business plan is being prepared; that the equipment shed is planned to house the tour boats and for assembly areas for garden displays for special feature events; that they have spoken, and will continue to speak to, all State Representatives, Town Councils, most County and State Agencies, and garden clubs, and have not heard any negativity.

Mr. Robertson advised those present that the project, if approved, needs to be substantially underway within three (3) years of receiving approval from the County Council.

Mr. Robertson added that light displays or similar activities may require additional public hearings.

The Commission found that Harry Hayman, a resident of Holly Cove near Dagsboro, was present in support and stated that their plans are nice and that the use is needed in the area.

Several parties raised their hands in support of the application.

There were no parties present in opposition to this application.

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

On July 11, 2013 there was a motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to defer action for further consideration, and to leave the record open until receipt of the PLUS comments. Motion carried 5 – 0.

On August 22, 2013 the Commission was provided with a copy of the PLUS comments.

On September 12, 2013 the Commission discussed this application under Old Business.

Mr. Smith stated that he would move that the Commission recommend approval of Conditional Use No. 1965 for Southern Delaware Botanic Gardens, Inc. to operate a Botanic Gardens and related visitor center, conservatory, theater and nature center based on the record made during the public hearing and for the following reasons:

- 1) The site is zoned AR-1 Agricultural Residential. The use as a botanic garden is compatible with the underlying agricultural zoning of the property.
- 2) The site is in the Environmentally Sensitive Developing District Overlay Zone, and the use for public gardens and environmental education is appropriate for this zone.
- 3) The intended use will be served by central sewer as part of the County's Dagsboro/Frankford Sanitary Sewer District.
- 4) The proposed use is an appropriate conditional use since it has a public character; it protects the natural, cultural, agricultural and recreational resources through inspirational, educational, and sustainable public gardens for the benefit and enjoyment of the public.

- 5) The use will have little or no impact on traffic or the nearby roadways. It will also not have an adverse impact on neighboring or adjacent properties.
- 6) The proposed use meets the purpose of the Zoning Code in that it promotes the orderly growth, convenience, order, prosperity and welfare of the County.
- 7) No parties appeared in opposition to this application.
- 8) This recommendation for approval is, however, subject to the following conditions:
 - a. The site shall be surrounded by a landscaped berm and heavy vegetation to screen it from neighboring properties. The location of the berm and the type of vegetation on the berm shall be shown on the Final Site Plan.
 - b. The hours of public access to the operation shall be Monday through Sunday, 8:00 a.m. to dusk, with the exception of 11:00 p.m. closing times as appropriate for special events.
 - c. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - d. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
 - e. All entrances, intersections, roadway improvements, etc. as required by DeIDOT shall be completed by the applicant as required by DeIDOT.
 - f. All parking shall comply with the requirements set forth in the Sussex County Zoning Code, with all necessary parking contained completely on the site.
 - g. Stormwater management and erosion and sediment control shall be constructed in accordance with all applicable State and County requirements and shall be operated using best management practices to provide a positive groundwater recharge. The Final Site Plan shall contain the approval of the Sussex Conservation District.
 - h. The applicant stated during its presentation that the use would be funded through Federal, State and County funding sources. As part of any approval, Sussex County Council should consider a statement that the approval of the Conditional Use Ordinance should not be deemed by the applicant to be a commitment to financial support by Sussex County.
 - i. Any major change in the use shall require a new public hearing.
 - j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

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 and with the conditions stated. Motion carried 5 – 0.

As a reminder of the Sussex County Council actions taken, be advised that on August 6, 2013 the Council deferred action and left the record open for 30 days for the applicants to provide a Business Plan.

In reference to the requested Business Plan, Delaware Botanic Gardens provided a cover letter and a Business Plan on August 30, 2013. The Business Plan was forwarded to the County Administration Office for distribution to the Council.

Conditional Use #1967 – Application of **TIDEWATER ENVIRONMENTAL SERVICES, INC.** to consider the Conditional Use of land in an MR Medium Density Residential District for a wastewater treatment plant to treat offsite waste, to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 10.26 acres, more or less, lying south of Road 283 (Cedar Grove Road) and east of Road 277 (Robinsonville Road)(Tax Map I.D. #3-34-11.00 – 83.00 and 84.00)

Be advised that the Commission discussed this application on September 25, 2013 as Old Business.

Mr. Robertson, Assistant County Attorney, advised that Commission that an issue has come to the attention of the County as to whether the applicant had standing to apply for the Conditional Use on the subject property, or stated another way, whether the County has jurisdiction to consider the applicant's Conditional Use for this property; and that while legal staff continues to review the issue, he asked that the matter be deferred for receipt of a legal opinion on the issue.

There was a motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action pending the legal opinion from County Council. Motion carried 5 – 0.

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR BOTANIC GARDENS AND RELATED VISITOR CENTER, CONSERVATORY, THEATER, NATURE CENTER AND PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 36.99 ACRES, MORE OR LESS (Tax Map I.D. 2-33-6.00-116.10)

WHEREAS, on the 1st day of May 2013, a conditional use application, denominated Conditional Use No. 1965 was filed on behalf of Southern Delaware Botanic Gardens, Inc.; and

WHEREAS, on the ____ day of _____ 2013, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 1965 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1965 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Dagsboro Hundred, Sussex County, Delaware, and lying south of Piney Neck Road (Road 336) 0.5 mile west of Bunting Road (Road 335) and being more particularly described in Deed Book 3336, Page 168 in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 36.99 acres, more or less.

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

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A WASTEWATER TREATMENT PLANT TO TREAT OFFSITE WASTE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 10.26 ACRES, MORE OR LESS (Two Tracts) (Tax Map I.D. 3-34-11.00 Parcels 83.00 and 83.04)

WHEREAS, on the 17th day of May 2013, a conditional use application, denominated Conditional Use No. 1967 was filed on behalf of Tidewater Environmental Services, Inc.; and

WHEREAS, on the ____ day of _____ 2013, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 1967 be _____; and

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

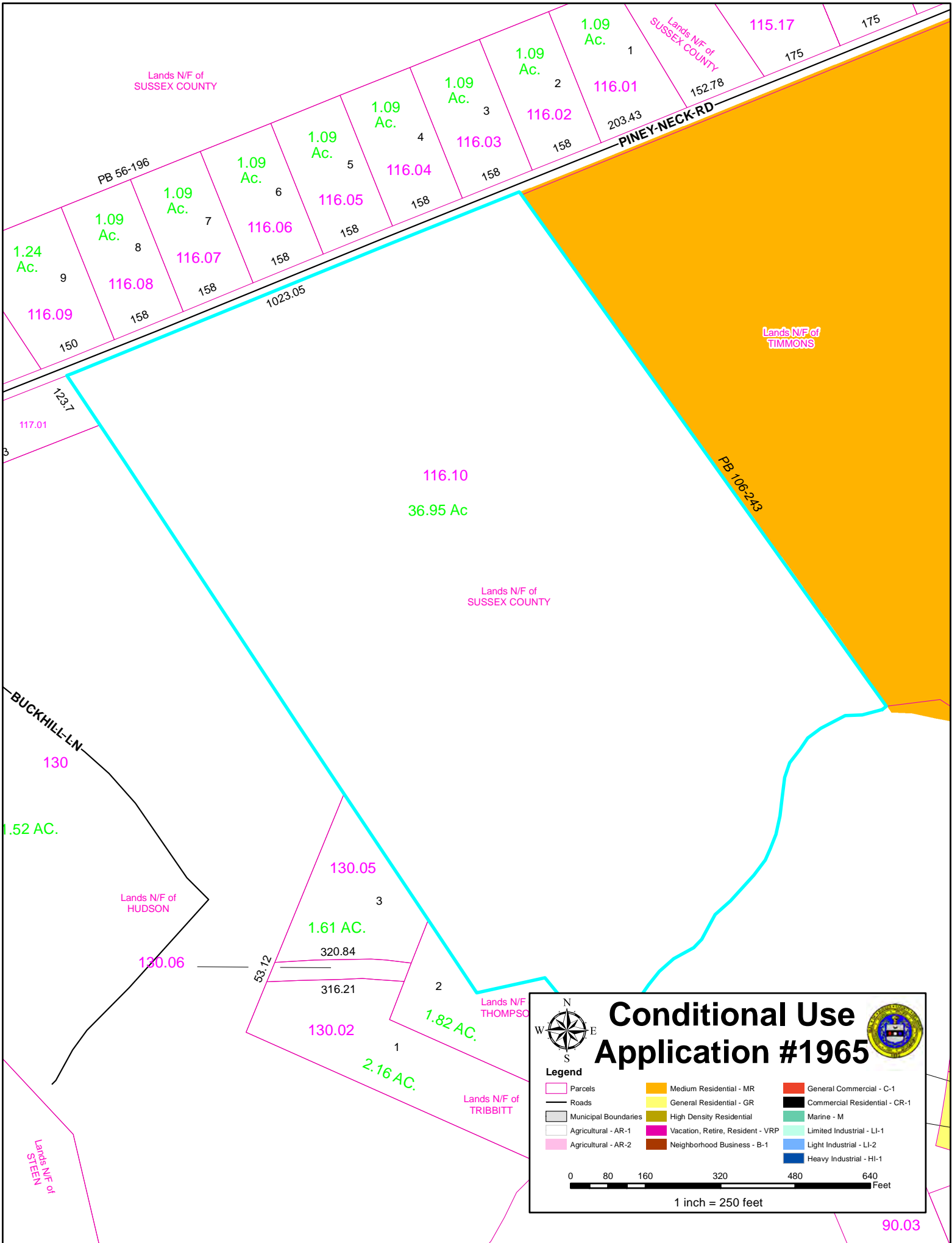
NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article V, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1967 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying south of Road 283 (Cedar Grove Road) and east of Road 277 (Robinsonville Road) and being more particularly described per the attached legal descriptions, said parcel containing 2 tracts for a total of 10.26 acres, more or less.

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



Lands N/F of
SUSSEX COUNTY

Lands N/F of
SUSSEX COUNTY

115.17

175

1.09
Ac.

116.01

152.78

1.09
Ac.

116.02

203.43

1.09
Ac.

116.03

PINEY-NECK-RD

PB 56-196

1.09
Ac.

1.09
Ac.

1.09
Ac.

1.09
Ac.

1.09
Ac.

116.04

158

116.05

158

1.09
Ac.

116.06

158

1.09
Ac.

116.07

158

1.24
Ac.

116.08

158

116.09

150

1023.05

Lands N/F of
TIMMONS

116.10

36.95 Ac

Lands N/F of
SUSSEX COUNTY

PB 106-243

BUCKHILL-LN

130

1.52 AC.

Lands N/F of
HUDSON

130.06

130.05

1.61 AC.

320.84

316.21

130.02

1.82 AC.

2.16 AC.

Lands N/F
THOMPSON

Lands N/F of
TRIBBITT

Lands N/F of
STEEN

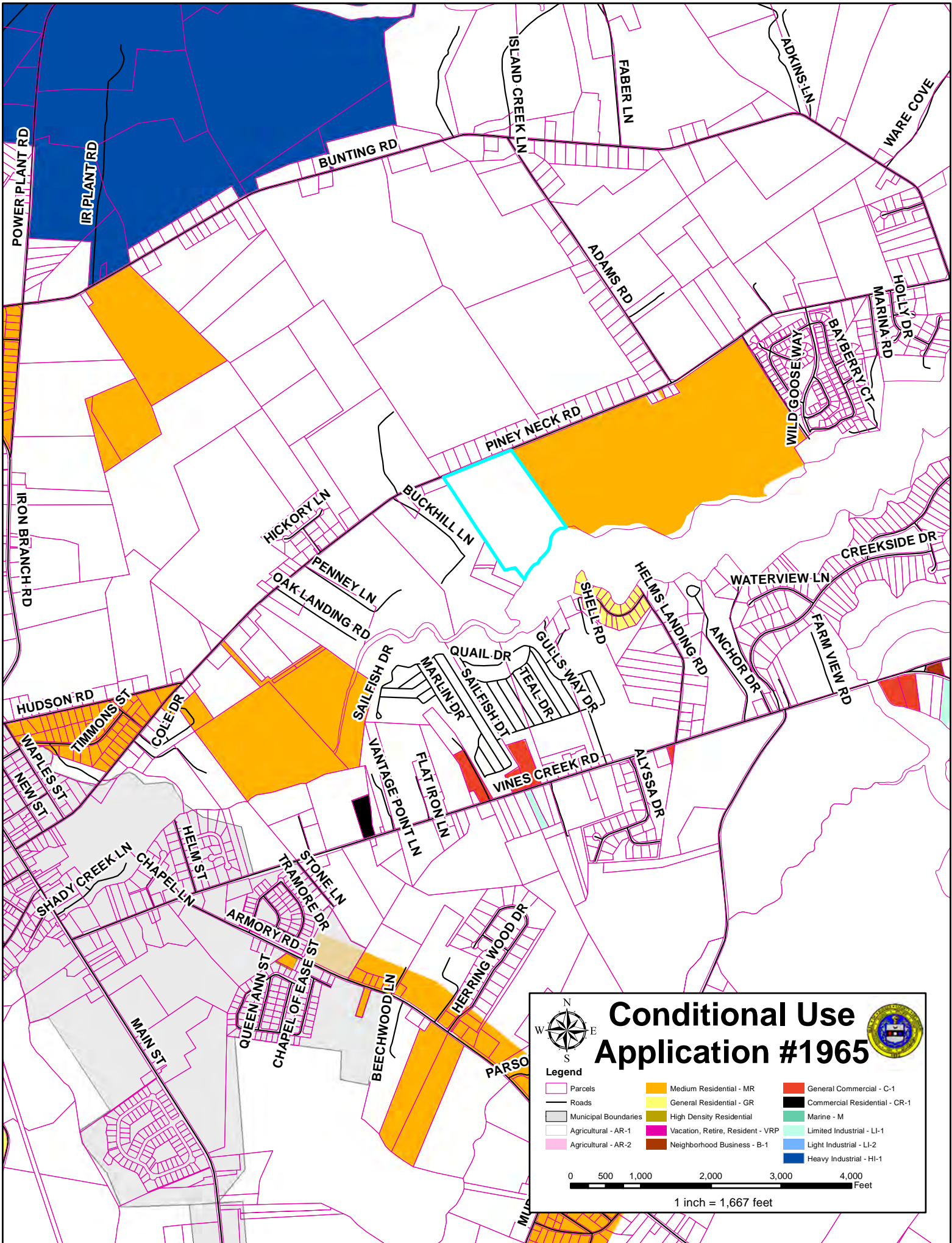
90.03

Conditional Use Application #1965


Legend

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


1 inch = 250 feet



Conditional Use Application #1965



Legend



<ul style="list-style-type: none"> Parcels Roads Municipal Boundaries Agricultural - AR-1 Agricultural - AR-2 	<ul style="list-style-type: none"> Medium Residential - MR General Residential - GR High Density Residential Vacation, Retire, Resident - VRP Neighborhood Business - B-1 	<ul style="list-style-type: none"> General Commercial - C-1 Commercial Residential - CR-1 Marine - M Limited Industrial - LI-1 Light Industrial - LI-2 Heavy Industrial - HI-1
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0 500 1,000 2,000 3,000 4,000
Feet

1 inch = 1,667 feet

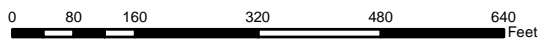


Conditional Use Application #1965

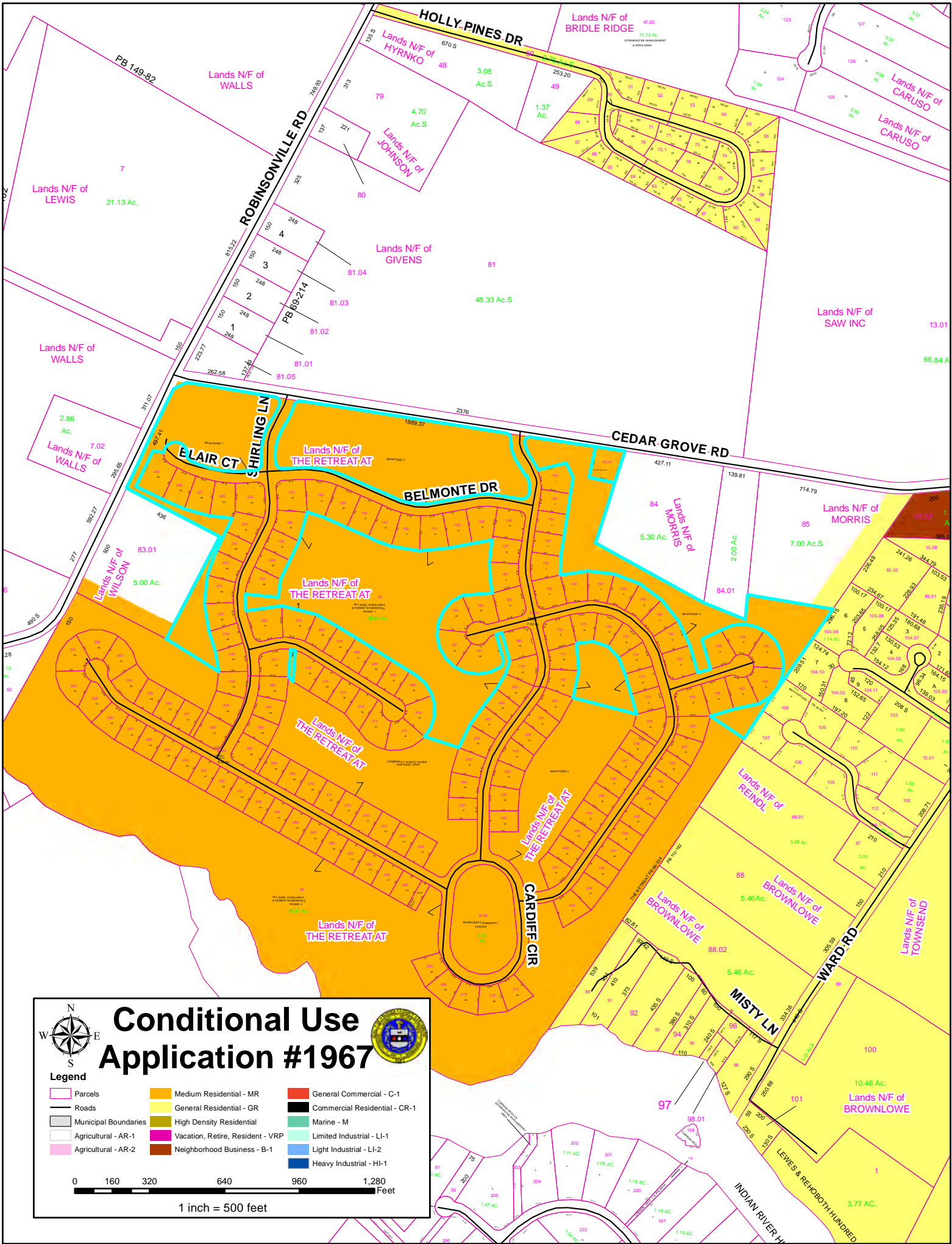


Legend

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



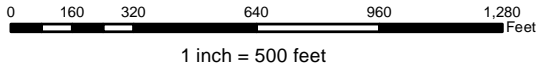
1 inch = 250 feet

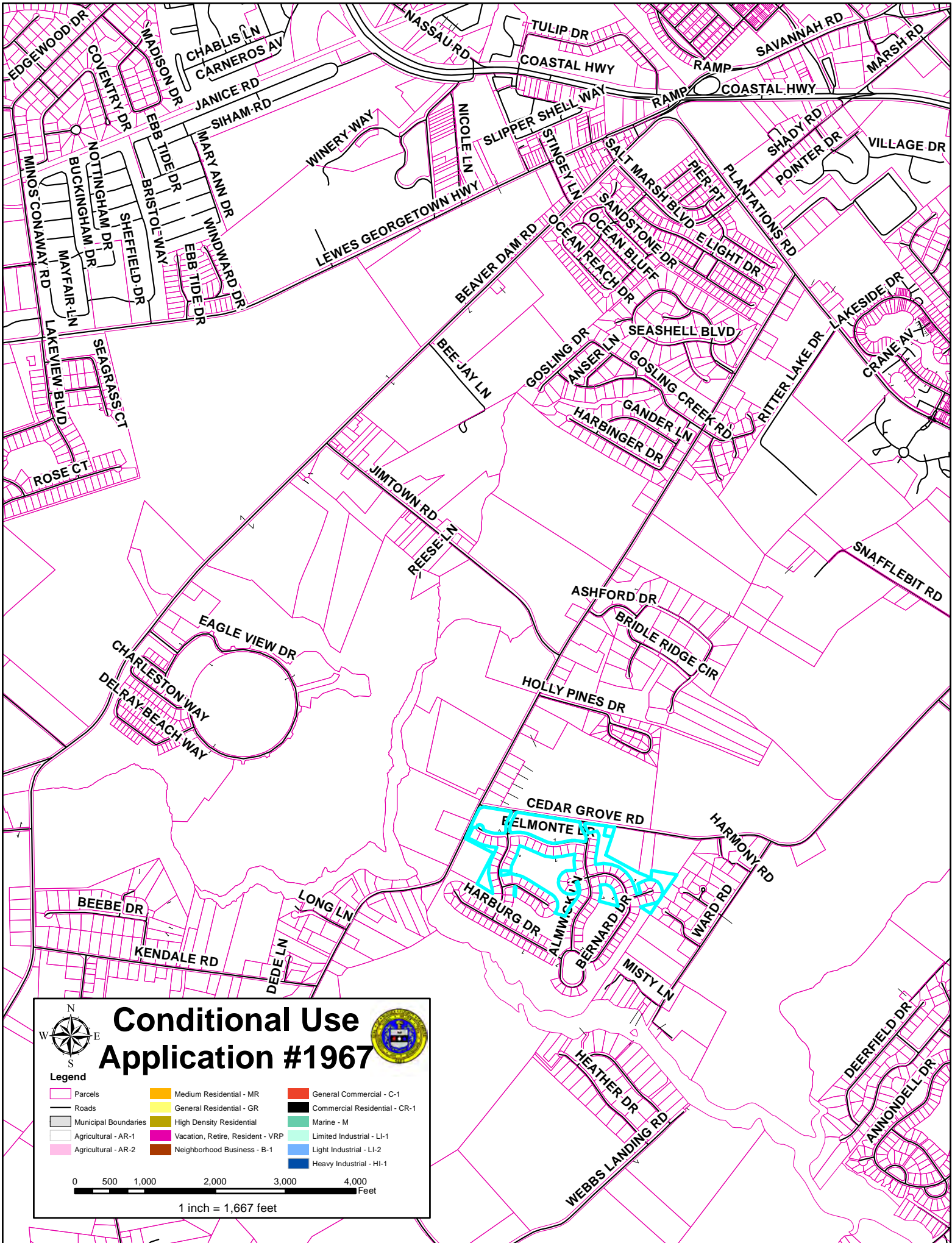


Conditional Use Application #1967

Legend

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



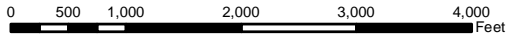


Conditional Use Application #1967

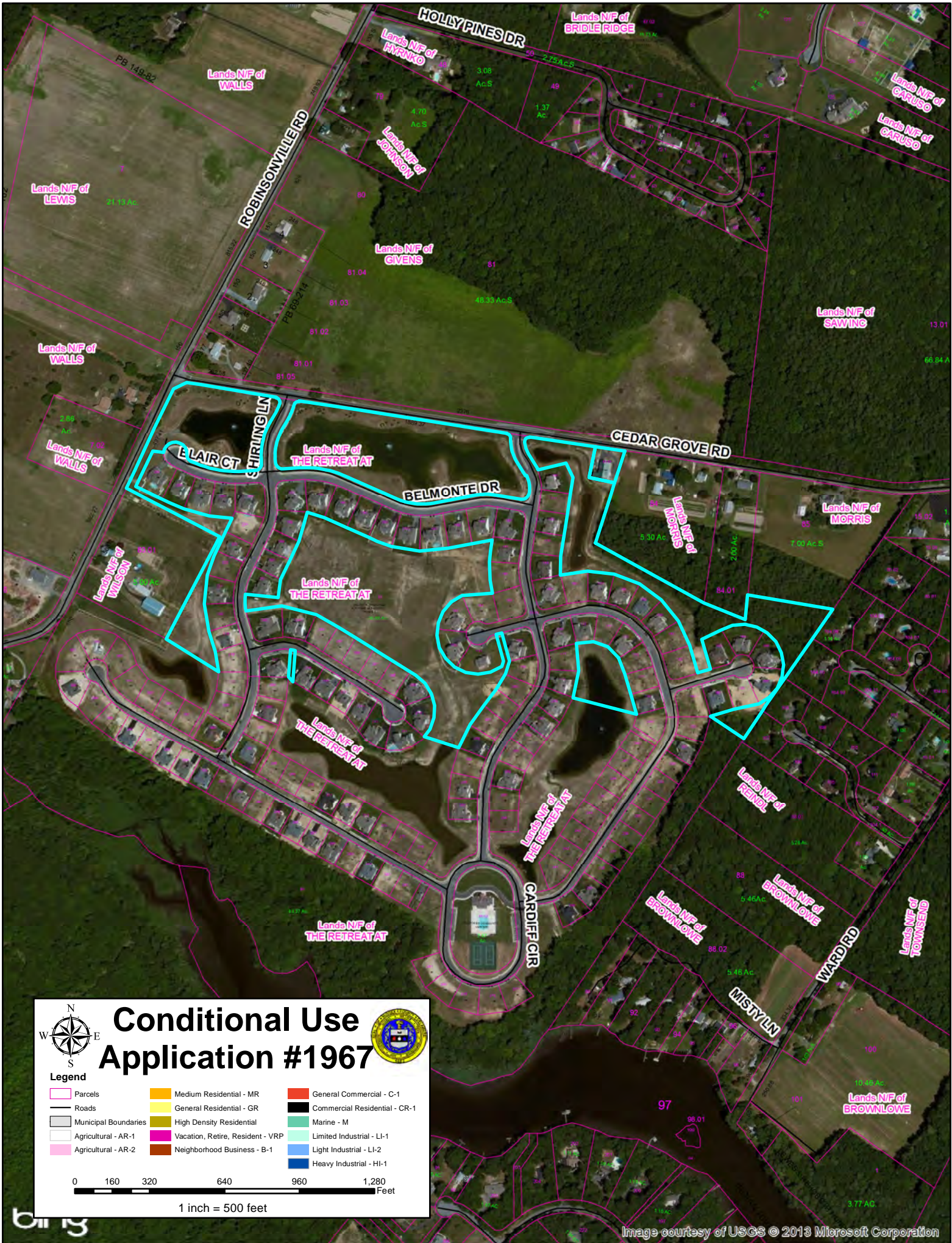


Legend

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



1 inch = 1,667 feet

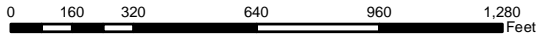


Conditional Use Application #1967



Legend

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





OLDE TYMERS SOFTBALL LEAGUE OF SUSSEX COUNTY, DELAWARE

(Est. 1998) – P.O. Box 251 – Dagsboro, DE 19939

August 1, 2013

Mr. Todd Lawson, Administrator
Sussex County Administrative Office Building
2 The Circle – First Floor
P.O. Box 589, Georgetown, DE 19947

Dear Mr. Lawson:

I am writing to request the County's continued support and financial assistance for maintaining the basic operations of Sussex County's Senior Softball League. Olde Tymers Softball ("OTS") is host to over 150 year-round participants, 55 years of age and older.

Through the generosity of your past funding, and ongoing support of twelve team sponsors, the players themselves and their families, OTS has provided a full range of important benefits:

Scheduled summer, fall and winter games twice a week, plus weekly practice and coaching sessions, provide Sussex senior men and women players with truly exceptional opportunities to gain the benefits of regular outdoor exercise, physical skill refinement, competitive spirit and extraordinary levels of camaraderie. Many OTS players have also been enabled to participate in Delaware's Senior Olympics.

As you may recall, non-existent County field availability prompted us to construct and maintain two fields on The Church of Christ property in Dagsboro . . . also used by Boys and Girls Clubs.

We built our own fields, backstops, safety fences, shade dugouts, spectator areas, equipment sheds, partial fencing, underground water lines for sprinklers, and specialized field surfaces. Volunteers maintain these fields and parking areas (including grass-cutting), first aid supplies/equipment, trash removal, and portable toilets. We also train our own umpires and first-aiders.

Our players help offset costs that exceed sponsor contributions (e.g., equipment, uniforms, membership fees for those who cannot afford them). Player and sponsor contributions—plus past Council funding—allowed us to re-surface both infields and construct one outfield fence at a cost of \$13,000. All labor, tools and equipment were supplied by league team-members.

We now greatly need capital funds to cover the costs of improving our grounds for safer use by OTS senior players and the youngsters who share the fields with us, and to erect another outfield fence to qualify for hosting upstate teams to participate in Sussex County tournaments.

Our players and sponsors are from every Council Member's district. We seek County financial

support in the amount of \$1500. Whatever financial assistance you may be able to offer will be greatly appreciated by all of our membership and families, sponsoring organizations, and the youth organizations involved.

You and the Council have, of course, a standing invitation to visit our games and see firsthand the results of our labors and of past County generosity in the support of Sussex County Senior Citizens. FYI, a recent (July 26, 2013) *Coastal Point* article about our league is attached.

Thank you very much for your time and consideration. We look forward to hearing back from you shortly. Please don't hesitate to call if you should have any questions: 302.945.1849.

Sincerely and respectfully yours,

A handwritten signature in black ink that reads "Charles 'Bo' Wood". The signature is written in a cursive style with a loop for the letter 'C' and a distinct 'Bo' in quotes.

"Bo" Wood
President – OTS
306 Island Road
Millsboro, DE 19966

Cc: Members of the Sussex County Council

Good afternoon Honorable Vance Phillips,

Chris Clark, one of our supporting surfers, has contacted us letting us know that you would like to sponsor him in our 100 Wave Challenge event for Boys to Men Mentoring Network.

We greatly appreciate you supporting Chris in his belief of our program and what he sets out to do this coming Saturday. Our boys will be even more grateful that the program will continue to come to their middle schools, high schools, and foster care facilities.

I have attached our event donation form that you can use to submit your donation. Our Tax ID# is noted on the bottom of the form.

We greatly appreciate your support and because of you the Boys to Men Mentoring program will continue to reach more parent deprived boys.

Thank you,
Rose Courtney



100 wave challenge

DONATION FORM

Please fill out all the blank spaces and make sure that the participant you are sponsoring is listed correctly to be sure that the money is applied to their fundraising goal.

My Pledge is Sponsoring (surfer name): _____

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email Address: _____

PAYMENT INFORMATION:

Enclosed is my check in the sum of \$ _____

Please make check(s) payable to: *Boys to Men*

Please charge my donation to:

Check one: Visa Mastercard AMEX

Check *Check number:* _____

Credit Card Account Number: _____

Name (As it appears on credit card): _____

Card Security Code: _____ *Expiration Date:* ____/____

(usually the 3-4 digits on the security panel)

Please Note: The address above must match the address that is associated with your credit card.

Please add me to your mailing list Please add me to your email list

Please mail this form and your check(s) to:

Boys to Men
9587 Tropic Drive
La Mesa, CA 91941

Boys to Men Mentoring Network is a 501(c)(3) non-profit organization, Tax ID# 33-0800308.
All donations are tax-deductible to the full extent of the law.

9587 Tropic Drive, La Mesa, California 91941 Phone 619-469-9599
www.boystomen.org email 100wave@boystomen.org

**Good Samaritan Aid Organization Inc.
P. O. Box 643
Laurel, DE 19956**

The Honorable Michael H. Vincent and
The Honorable Vance C. Phillips
Sussex County Council
2 The Circle
P. O. Box 589
Georgetown, DE 19947

Dear Mr. Vincent and Mr. Phillips:

The Good Samaritan Aid Organization Inc. (Tax ID # 51-0303717) of Laurel, DE operates as a 501(c) 3 non-profit organization with a mission of providing financial assistance to the most needy individuals and families in the Laurel community. The organization operates a thrift store in Laurel utilizing a totally volunteer staff to sell donated items and clothes. The monies raised at the thrift store are used to provide financial assistance to individuals referred by the local churches, Laurel school nurses and the state service center. Our organization is vital to the survival of the neediest families in the Laurel community.


Good Samaritan also sponsors an annual Christmas Basket program created to ensure that all families enjoy a Christmas meal, and every child in town receives a Christmas gift. In 2012, the program delivered food baskets and Food Lion gift cards to 273 families and provided gifts to over 600 children in the Laurel community.

The economic environment has taken a toll on our organization. The revenue generated from the thrift stores is barely able to produce the free cash flow necessary to assist the ever increasing number of needy individuals in our community. Prior to 2009, the Christmas Basket program was funded almost entirely by fundraising at the local Food Lion. In 2009, Food Lion withdrew its support of our solicitation effort. Since that time, we are totally reliant upon cash donations to fund the annual program.

Our annual Christmas Basket program is in jeopardy of being drastically reduced at a time when the economic need is at a very high level. Our organization would like to request a donation from the Sussex County Council in the amount of \$1,000. The funds will be used to purchase Food Lion gift cards and toys for the Christmas Basket program in 2013.

Thank you for your consideration of our request. I can be reached during business hours at 302/875-0355 if you should need any additional information.

Sincerely,



Melinda R. Tingle
President

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MULTI-FAMILY DWELLING STRUCTURE (2-UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 8,277 SQUARE FEET, MORE OR LESS (Tax Map I.D. 3-34-20.09-120.00)

WHEREAS, on the 4th day of September 2013, a conditional use application, denominated Conditional Use No. 1973 was filed on behalf of Sandhill Homes, LLC; and

WHEREAS, on the ____ day of _____ 2013, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 1973 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article V, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1973 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying southwest of Silver Lake Drive 650 feet south of Robinson's Drive and 780 feet northwest of Pine Lane and being more particularly described as:

BEGINNING at a point on the southwesterly right-of-way of Silver Lake Drive, a corner for these lands and lands now or formerly of Teenin, LLC; thence south 62°39'05" west 160.79 feet along said Teenin, LLC lands to a point; thence continuing along other Teenin, LLC lands north 04°28'47" east 64.00 feet to a point; thence north 55°28'42" east 124.61 feet to

a point on the southwesterly right-of-way of Silver Lake Drive; thence south 30°08'15" east 70.02 feet along the southwesterly right-of-way of Silver Lake Drive to the point and place of beginning. Said parcel containing 8,277 square feet, more or less as surveyed by Adams-Kemp 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.

Draft