



**County Commissioners Hearing Room**  
**400 High Street**  
**Chestertown, Maryland**

**AGENDA**  
December 1, 2022  
1:30 p.m.

Members of the public are welcome to attend meetings in person or via conference call. Please note that the County’s live stream video is temporarily unavailable.

Public participation and audio-only call-in number:

1. Dial **1-872-239-8359**
2. Enter Conference ID: **202 737 959#**

Members of the public are asked to mute their phones/devices, until the Commission Chair opens the floor for comment.

**MINUTES**

November 3, 2022

**APPLICATIONS FOR REVIEW**

22-89 Town of Millington – Annexation  
Map 400, Parcel 258 near Millington – First Election District – Village (V).....PC Rec. to CC’s

**GENERAL DISCUSSION**

**STAFF REPORTS**

**ADJOURN**

Meetings are conducted in Open Session unless otherwise indicated. All or part of the Planning Commission meetings can be held in closed session under the authority of the MD Open Meetings Law by vote of the members. Breaks are at the call of the Chairman. Meetings are subject to audio and video recordings.

All applications will be given the time necessary to assure full public participation and a fair and complete review of all projects. Agenda items are subject to change due to cancellations.





# DRAFT

## Planning Commission Department of Planning, Housing, and Zoning

### MINUTES

November 3, 2022

1:30 p.m.

The Kent County Planning Commission met in regular session on Thursday, November 3, 2022, at 1:30 p.m. in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland. It was a hybrid meeting, and the following members were in attendance: Chair F. Joseph Hickman, Vice Chair Paul Ruge (remote), William Sutton, James Saunders, and County Commissioner P. Thomas Mason. Cynthia L. McCann, Esquire, Planning Commission Attorney, was in attendance. Staff in attendance were William Mackey, AICP, Director; Carla Gerber, AICP, Deputy Director; Mark Carper, LEED Green Associate, Associate Planner; Jamie Williams, CECD, Economic Development Director; Dawson Hunter, Housing and Transportation Coordinator; Shalyn Boulden, Administrative Specialist; and Campbell Safian, Planning Specialist.

Members of the public in attendance included Kevin Shearon, P.E., LEED AP, Principal of DMS & Associates; Harry Smith Jr., LS, Delmarva Survey; Buck Nickerson, LS of Extreme Measures, LLC; Mary Hurtt Tazewell; Margaret Hurtt; John Hickey; Russ Richardson; Karen Miller; Patricia Gore; Nona Porter; Nick Mirales; John Williamson; Joy Kim; George Dudek; Bill White; Mary White; Cindy Anderton (remote); Nancy Connolly; Catherine Durham; Allan Durham; Kyle Durham; Ed Breitenbach; Melanie Breitenbach; John Lysinger; Janet Christensen-Lewis; and Chip MacLeod, Esquire.

Chair Hickman called the meeting to order at 1:30 p.m.

### MINUTES

Ms. McCann requested that the sentence in the Staff Reports section of the October 6 minutes which reads "Ms. McCann introduced a workshop on motions which is pending for December", be changed to "Ms. McCann is coordinating with staff on a motions training for December."

Mr. Saunders moved to accept the minutes of October 6, 2022, with the correction. Mr. Sutton seconded the motion. The motion passed with all in favor.

### APPLICATIONS FOR REVIEW

22-65 Massey Aero, LLC (Robert Dierker) – Site Plan Amendment  
33541 Maryland Line Road, Massey – First Election District – Agricultural Zoning District (AZD)

The applicant is requesting an amendment to an approved final site plan for the removal of the landscaping requirement along Maryland Line Road. As a condition of site plan approval in 2017, the applicant was required to landscape an area equal to 15% of the disturbed area for the construction of a new hangar. The applicant planted 85 shrubs in 3 locations, however, the shrubs planted along Maryland Line Road did not survive due to site conditions. The property is located at 33541 Maryland Line Road, Massey, Maryland in the First Election District and is zoned Agricultural Zoning District (AZD).

Ms. Gerber presented the staff report, recommending approval. The Chair swore in Mr. Nick Mirales and Mr. John Williamson, owners of Massey Aero, LLC.

Mr. Mirales and Mr. Williamson presented their case as to the need for the site plan amendment. Mr. Mirales assured the Planning Commission that an effort was made in good faith by Massey Aero to fulfill the planting requirements of the 2017 site plan approval. The applicants informed the inspectors of the site's wet conditions. Mr. Mirales is of the opinion that if Massey Aero re-plants shrubs along Maryland Line Road, the plants will not survive.

Mr. Saunders noted the applicant's effort to fulfill the planting requirements of the site plan approval.

Chair Hickman spoke in agreement with Mr. Saunders, citing the precedent of the Planning Commission waiving planting requirements for applicants whose trees died due to the wet nature of their lots.

Mr. Saunders moved to grant approval of the site plan amendment for the Massey Aero, finding that the applicants made quality attempts to adhere to all of the landscaping requirements that were conditions of the site plan approval.

The motion was seconded by Mr. Sutton, and the motion passed unanimously, 4-0.

*22-54 Mary Lou Hurtt – Major Site Plan (Preliminary and Final)  
32762 Galena Sassafras Road – First Election District – Resource Conservation District (RCD)  
and Rural Residential (RR)*

The applicant is requesting preliminary and final site plan review for the adaptive reuse of a historic structure on Federal Hill Farm. On September 19, 2022, the Kent County Board of Appeals approved the special exception on the condition of site plan approval by the Planning Commission and that the adaptive reuse of the barn and granary exclusively for the selling of cut and pre-cut Christmas trees and holiday related items shall occur from 8:00 a.m. through 5:00 p.m. from the Friday after Thanksgiving and every Saturday and Sunday until Christmas Eve. The property is located at 32762 Galena Sassafras Road in the First Election District and is zoned Resource Conservation District (RCD) and Rural Residential (RR).

Mr. Carper presented the staff report, recommending approval. The Chair swore in Buck Nickerson, LS, Extreme Measures, LLC, and John Hickey, applicant representing the property.

Mr. Nickerson stated that he and Mr. Hickey analyzed traffic patterns and pedestrian movement. The site plan was revised to depict traffic flow and the locations of directional signs on the property. An overflow parking lot was added, as well as a fence to shield the private residence from the Christmas tree operation.

Chair Hickman moved to grant preliminary and final site plan review approval for the adaptive reuse of a historic structure for the application of Mary Lou Hurtt, Trustee, for their ability to use the barn to sell Christmas trees and other holiday items. The proposal is consistent with the Comprehensive Plan. The applicants have addressed the means of vehicular and pedestrian traffic, and as well as the loading and off-loading of vehicles that will be servicing the operation. The proposal will not place demands on public services and will only be open for a little over a month. The proposal will not create problems for sewer and refuse. Because of the nature of the property, it will not disturb the neighboring properties with excessive or unreasonable noise, smoke, vapors, fumes, dust, glare, or stormwater runoff. The only vegetation to be removed will be when the trees are planted and removed, however, the trees will be replanted. For those reasons, Chair Hickman moved to grant preliminary and final site plan approval for this application.

The motion was seconded by Mr. Ruge, and the motion passed unanimously, 4-0.

*22-67 Everton Industrial – Major Site Plan (Concept)  
Map 31, Parcel 6, Part 1 – First Election District – Employment Center (EC)*

The applicant is requesting concept site plan review for two proposed manufacturing/warehouse buildings on newly created lots near the interchange of US 301 and MD 291. Lot 1 will be 26.942 acres and Lot 2 will be 26.604 acres. Both lots have frontage along Edge Road, and Lot 1 also has frontage on Chesterville Bridge Road. Both buildings will be 256,666 square feet. Parking will be phased and, ultimately, there will be over 200 employee/visitor parking spaces per building. Each building will have 66 loading dock spaces and separate trailer parking spaces. The property is located at Map 31, Parcel 6, Part 1 in the First Election District and is zoned Employment Center (EC).

Ms. Gerber presented the staff report, recommending that the Planning Commission consider approving the requested setbacks and waive the requirement that “curb cuts” be at least 3,000 feet apart. In order for the applicant to receive preliminary site plan approval, the applicant must address and/or submit the following outstanding items: a Citizen Participation Plan Report; preliminary sediment and erosion control and stormwater management plans; front, side, and rear elevations of all exterior walls; details on signs and lighting; and delineation of development staging. A letter received from a member of the public was read into the record.

The Chair swore in Kevin Shearon, P.E., LEED AP, DMS & Associates.

Mr. Shearon reported that the 114.5-acre property owned by Millington Crossing Associates One, LLC, is located in Kent County’s Designated Growth Area and the Priority Funding Area. Other than the applicant’s request for approval of the proposed setbacks and the waiver of the required distance apart for curb cuts, the Land Use Ordinance allows a development of this type to be approved in the Employment Center (EC) zoning district.

Mr. Shearon stated that the traffic study has not been completed at this time. Traffic Concepts, Inc. conducted a weekday peak hour trip generation calculation. The estimated number of trips for employees is 85 in the peak morning hour (between 7am-9am) and 88 trips in the peak afternoon hour (between 4pm-6pm). The calculation estimates 10 truck trips in the peak morning hour and 15 trips in the peak afternoon hour.

Chair Hickman asked which roads and intersections will be included in the traffic study. Mr. Shearon could not confirm the scope of the traffic study but is certain that the Chesterville Bridge Road and the interchange of US 301 and MD 291 will be included in the study.

Mr. Ruge expressed his concern over a tractor trailer truck’s ability to safely maneuver the ingress and egress of US 301 due to the sharp turns of the access roads.

Chair Hickman is of the opinion that a substantial traffic study needs to be completed.

Mr. Saunders asked what types of companies will utilize the warehouses. Mr. Shearon noted that the end-users who will utilize the warehouses have yet to be determined. All end-users will have to meet the industrial performance standards and be approved by Kent County in order to utilize the warehouse.

The Chair opened the floor for public comment.

Ms. Anderton questioned whether the warehouses would be successful, citing the closure of Amazon warehouses.

Ms. Catherine Durham spoke in opposition to the Everton Industrial proposal. Ms. Durham opined that the proposed warehouse buildings will create substantial amounts of environmental, noise, air, and light pollution.

Ms. Karen Miller expressed her concerns regarding the amount of truck traffic that will be drawn to Millington.

Mr. John Lysinger spoke in opposition to the Everton Industrial proposal. Mr. Lysinger believes that the proposal will negatively impact the Chesterville neighborhood and Chesterville Bridge Road.

Ms. Patricia Gore is of the opinion that Kent County residents are entitled to additional opportunities to voice their opinions about the proposal and have their questions answered by Millington Crossing Associates One.

Mr. Kyle Durham expressed his concern and opposition to the Everton Industrial proposal.

Ms. Janet Christensen-Lewis suggested that the application not move forward until the applicant has addressed the public's concerns.

Mr. Ed Breitenbach stated that the Everton Industrial proposal will negatively impact him and his family's quality of life.

Mr. Allan Durham expressed his concern that the approval of the Everton Industrial project will create a precedent for future warehouses to be developed in Kent County.

Mr. Shearon stated that Millington Crossing Associates One will work to complete the traffic study. Mr. Shearon reiterated that manufacturing/warehouse buildings are a permitted use in the Employment Center (EC) zoning district.

Chair Hickman suggested the traffic study evaluate multiple end-user types and analyze how each end-user type would affect traffic.

Mr. Saunders expressed that Millington Crossing Associates One did not inform enough members of the public about the proposal. Mr. Saunders suggested speaking to more of the Millington residents, and then bringing the proposal back to the Planning Commission.

Mr. Shearon responded, clarifying that two public meetings took place regarding this project: the required Citizen Participation Plan and the Town of Millington charrette. Millington Crossing Associates One incorporated the public's comments from the Citizen Participation Plan into the plans presented today, such as the landscape berm and the removal of access points on Chesterville Bridge Road.

Chair Hickman expressed his interest in reviewing additional information from the applicant, such as a traffic study, before voting whether to approve the requested setbacks and waive the requirement that curb cuts be at least 3,000 feet apart.

Mr. Sutton and Mr. Saunders spoke in agreement with Chair Hickman.

*22-80 Green's Septic and Excavation, LLC – Special Exception and Major Site Plan (Concept)  
10252 Fairlee Road – Sixth Election District – Village (V)*

The applicant is requesting a special exception to operate his septic maintenance and excavation business, except for the associated office uses, on a property zoned Village. A new pole building will be constructed to store equipment used for the business. The property is located at 10252 Fairlee Road in the Sixth Election District. The surrounding area is a mix of residential and agricultural uses.

Ms. Gerber presented the staff report. Staff has no recommendation at this time, based on the information presented in the application.

The Chair swore in Harry Smith Jr., LS, Delmarva Survey. Mr. Smith presented his case as to the need for the special exception. Mr. Smith noted that shutters will be added to the windows and trees will be planted in between the windows to off-set the building's scale.

Mr. Ruge is of the opinion that this lot should not be zoned in the Village (V) district. Mr. Ruge further explained his preference in seeing this lot be used for a residential use and does not agree with the use being permitted in all of the County's Village zoning districts.

Chair Hickman noted the lack of public water and sewer in Melitota, which limits the area's potential for residential developments.

Mr. Smith reported that the lot is not suitable for a septic system and is best suited for business purposes.

Chair Hickman moved to send a favorable recommendation to the Board of Appeals for the special exception of Green's Septic and Excavation, LLC, at 10252 Fairlee Road, zoned Village (V). The proposal fits with the nature of the area and will have a minimal impact on traffic patterns. In the surrounding area, there are buildings, surrounded by woodland and open farmland. The proposal will not impact dwellings, houses of worship, public facilities, or historic landmarks. It follows the intent of the ordinance, and will not impact water quality, fish, or wildlife habitat. The proposal will not be intrusive and will likely enhance the neighborhood. All equipment will be stored inside the building. All fencing, landscaping, and plans will be approved by the Planning Commission as part of the final site plan approval. For those reasons, a favorable recommendation will be sent to the Board of Appeals.

The motion was seconded by Mr. Saunders, and the motion passed unanimously, 4-0.

**GENERAL DISCUSSION**

Mr. Mackey noted a letter of resignation received from Tyler Brown. Secondly, Mr. Mackey informed the Planning Commission of the upcoming Comprehensive Rezoning Update Public Forum on December 14 at 6 pm.

**STAFF REPORTS**

**ADJOURN**

Chair Hickman moved to adjourn. Mr. Saunders seconded. The meeting adjourned at approximately 4:06 pm.

\_\_\_\_\_  
Francis J. Hickman, Chair

/s/ Campbell Safian  
Campbell Safian, Planning Specialist



**To:** Kent County Planning Commission  
**From:** Carla Gerber, Deputy Director  
**Meeting:** December 1, 2022  
**Subject:** 2022 Millington Annexation Proposal  
Mountaire Farms of Delaware Inc. Property

## Executive Summary

### **Request by Applicant**

Mountaire Farms of Delaware, Inc., is requesting that Map 400, Parcel 258 be annexed into the Town of Millington. The Town has prepared an Annexation Resolution for consideration by the Mayor and Council.

### **Summary of Staff Report**

Mountaire Farms of Delaware, Inc., owns a grain facility in Millington that is located on two parcels. One parcel is within the town limits and the other parcel is not. The parcel that is not within the Town is almost completely surrounded by the Town. The parcel is within the Town's growth area and is a priority for annexation.

The County's role in an annexation application review is to assess the zoning in accordance with the 5-year rule and to find consistency with the Comprehensive Plan. The town isn't requesting a waiver of the 5-year rule. The proposal is consistent with the goals and strategies in the Comprehensive Plan.

### **Staff Recommendation**

Staff recommends forward a favorable recommendation to the County Commissioners. Although the Town is not requesting a waiver of the 5-year rule for zoning, it may be appropriate for the Commissioners to grant a waiver.

PRELIMINARY STAFF REPORT

TO: Kent County Planning Commission  
SUBJECT: 2022 Millington Annexation Proposal  
Mountaire Farms of Delaware Inc. Property  
DATE: November 23, 2022

**DESCRIPTION OF PROPOSAL**

The Town of Millington has forwarded for County review the 2022 Millington Annexation Proposal. The proposed annexation is for a 2.00± acre property owned by Mountaire Farms of Delaware, Inc., that is located on east side of Delaware Railroad Avenue. It is zoned Village and is improved with two grain tanks. The rest of the grain facility is located on a separate parcel that is already within the town limits. This parcel is entirely surrounded by land within the town limits and is only connected to unincorporated land via the railroad right-of-way.

The annexation parcel is included within the Municipal Growth Element of the Millington Comprehensive Plan and is considered a priority for annexation. The parcel is not currently planned for water or sewer service. The Town is not requesting a waiver of the 5-year rule. The County Zoning will remain as an interim zoning, and after five years, the parcel will be zoned Light Industrial. There is no proposed change in the use of the property.

**RELEVANT ISSUES**

A. Comprehensive Plan:

*Growth in Towns*

The five incorporated towns of Betterton, Chestertown, Galena, Millington, and Rock Hall are the County's principal residential, commercial, and business centers. These towns are the best locations for future growth and development....Given this goal of focusing growth in existing population centers, the County will coordinate and support town efforts to manage growth. To this end, Kent County will also coordinate its planning efforts with the towns' growth aspirations. (Page 23)

*Develop Designated Growth Areas in cooperation with the towns*

The County will work with interested incorporated towns to identify and map County designated growth areas for the towns consistent with municipal growth areas. In 2006, the State adopted HB 1141, the Local Government Planning Act which requires municipalities to include a municipal growth element in their comprehensive plans. These elements are intended to provide a formal process for assessing growth potential, identifying future growth locations within the jurisdiction (municipal growth areas) along with future annexation sites...

When approved by both the County and the towns, the designated growth areas will be incorporated into both the town and County comprehensive plans. This strategy will create a system of town growth boundaries that are the dividing line between areas planned for community development and green-belt areas planned for resource-based uses such as agriculture, forestry and limited development designed to maintain the rural edge of each town.

B. Applicable Law:

In 2006, the Maryland General Assembly passed specific guidance for annexation. Most of the changes dealing with annexation apply to town requirements for annexation. However, a change to the “5-year rule” is applicable to the County comments on annexation. This standard applies to annexation projects that prohibit any annexation that proposes different uses or substantially higher densities than that permitted by the existing county zoning for five years unless the county grants a waiver.

C. Staff Comments:

The town is not requesting a waiver of the 5-year rule, and the proposal is consistent with Kent County’s goals to work with towns to focus growth in existing population centers.

**STAFF RECOMMENDATION**

The proposed annexation is consistent with the Kent County Comprehensive Plan strategies relative to growth in Towns and designating growth areas in cooperation with Towns.

The County’s role in an annexation application review is to assess the zoning in accordance with the 5-year rule and to find consistency with the Comprehensive Plan. The town isn’t requesting a waiver of the 5-year rule. The proposal is consistent with the goals and strategies in the Comprehensive Plan and is consistent with the Kent County Comprehensive Water and Sewerage Plan.

Staff recommends forward a favorable recommendation to the County Commissioners. Although the Town is not requesting a waiver of the 5-year rule for zoning, it may be appropriate for the Commissioners to grant a waiver.

**Attachments**

- Applicant’s submittal
- Staff prepared zoning map and aerial map

# Town of Millington

Incorporated 1890

P. O. Box 330 - Millington, Maryland 21651

Phone: (410) 928-3880 Fax: (410) 928-5764

Website: millingtonmd.us

November 14, 2022

Kent County Planning & Zoning  
400 High Street  
Chestertown, Maryland 21620

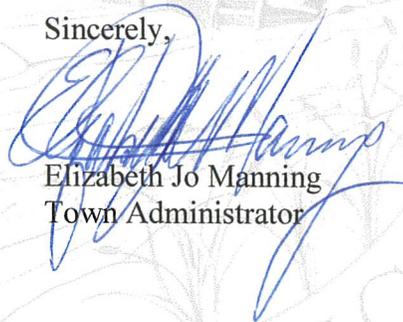
Re: Annexation of Mountaire property  
Millington, Maryland

Honorable Planning & Zoning Members:

Enclosed are documents pertaining to the future annexation of the land owned by Mountaire Farms of Delaware, Inc. into the Town of Millington. The Millington Council introduced Resolution 2022-10 for this annexation at its meeting on November 9, 2022. The public hearing is scheduled for December 13, 2022 at 6:30 PM during the regular Council meeting.

Do not hesitate to contact me with any questions or concerns. Thank you for your consideration in this matter.

Sincerely,



Elizabeth Jo Manning  
Town Administrator

Enclosures

Kevin Hemstock, Mayor  
Michelle Holland, Council      Mark Linton, Council  
Zita Seals, Council              Wayne Starkey, Council

DEPARTMENT OF  
PLANNING, HOUSING & ZONING  
RECEIVED

11/17/22  
*blg*

# **TOWN OF MILLINGTON PUBLIC NOTICE PUBLIC HEARINGS**

**The Mayor and Council for the Town of Millington will be holding a Public Hearing to consider Resolution 2022-10 to approve the Annexation of 2.00± Acres of Land located at the East Side of Delaware Railroad Avenue, Millington, Maryland. Further described as beginning for the same at a concrete monument located on the Southwest corner of the lot hereby conveyed and on a boundary line between this property and the property of or formerly of Robert G. O'Dell et al, Inc. and running thence by and with the property line as aforesaid North 74 degrees 00 minutes West 173.06 feet to an iron pipe; running thence still with the property line of Robert G. O'Dell et al, Inc. North 05 degrees 20 minutes West 128.8 feet to an iron pipe located on the line of the Pennsylvania Railroad property; running thence by and with said Railroad property North 17 degrees 30 minutes East 286.63 feet to an iron pipe located on the Northwest corner of the lot herein conveyed; running thence South 74 degrees 18 minutes East 232.24 feet to an iron pipe; and running thence with the property line of or formerly of James V. Reynolds South 18 degrees 47 minutes West 408.20 feet to a concrete monument and the place of beginning (see plat files in E.H.P. No. 64, folio 181).**

**Being the same property conveyed unto Central Grain, Inc., a corporation duly formed under the laws of the State of Delaware by Davis Concrete Co., Inc., a corporation duly formed under the laws of the State of Maryland, by deed dated November 13, 1990 and recorded among the land records of Kent County in Liber EHP 299, folio 57.**

**The Public Hearing will take place  
on Tuesday, December 13, 2022 at 6:30 PM**

**By Order of  
Mayor and Council of Millington  
410-928-3880  
townadmin@millingtonmd.us**

**RESOLUTION 2022-10**  
**A RESOLUTION TO APPROVE ANNEXATION of**  
**2.00± ACRES OF LAND AS DESCRIBED IN LOCATED**  
**AT THE EAST SIDE OF DELAWARE RAILROAD AVENUE,**  
**MILLINGTON, MD, MAP 0400, PARCEL 0258**

**WHEREAS**, the Mayor and Council of Millington is granted the authority to annex land pursuant to Article 11-3 of the Constitution of the State of Maryland, and Section 19 or Local Government Article of the Annotated Code of Maryland, 1975 Edition, as amended, entitled "Municipal Corporations" , and

**WHEREAS**, the Mayor and Council of Millington has determined the proposed annexation will not create any unincorporated area which is bounded on all sides by real property presently within the corporate limits of the town, or real property proposed to be within the corporate limits of the Town as a result of the annexation, or any combination of such properties, and

**WHEREAS**, the Mayor and Council of Millington have received consent from the owners of more than 25% of the assessed value of the area to be annexed; and

**WHEREAS**, an annexation plan has been promulgated and is available for public review and discussion at public hearings to be held;

**NOW THEREFORE BE IT RESOLVED** that the Mayor and Council amend the Charter of Millington by adding a new section of Millington described as follows:

Beginning for the same at a concrete monument located on the Southwest corner of the lot hereby conveyed and on a boundary line between this property and the property of or formerly of Robert G. O'Dell et al, Inc. and running thence by and with the property line as aforesaid North 74 degrees 00 minutes West 173.06 feet to an iron pipe; running thence still with the property line of Robert G. O'Dell et al, Inc. North 05 degrees 20 minutes West 128.8 feet to an iron pipe located on the line of the Pennsylvania Railroad property; running thence by and with said Railroad property North 17 degrees 30 minutes East 286.63 feet to an iron pipe located on the Northwest corner of the lot herein conveyed; running thence South 74 degrees 18 minutes East 232.24 feet to an iron pipe; and running thence with the property line of or formerly of James V. Reynolds South 18 degrees 47 minutes West 408.20 feet to a concrete monument and the place of beginning (see plat files in E.H.P. No. 64, folio 181).

Being the same property conveyed unto Central Grain, Inc., a corporation duly formed under the laws of the State of Delaware by Davis Concrete Co., Inc., a corporation duly formed under the laws of the State of Maryland, by deed dated November 13, 1990 and recorded among the land records of Kent County in Liber EHP 299, folio 57.

**BE IT PROVIDED** that the area to be annexed will become part of the Town of Millington and that persons residing in the area, and their property, and the owners of the property herein, shall be subject to the provisions of the Charter of Millington and its Municipal Ordinances and Resolutions, and that such persons and their property shall be subject to municipal taxation and entitled to municipal services and facilities equal to such taxation imposed and such services and facilities provided to the other residents and property owners of Millington, subject to the provisions contained herein, and

**BE IT FURTHER PROVIDED**, that the property being annexed shall be zoned in compliance with the Millington Comprehensive Plan and ratified by Kent County.

**BE IT FURTHER RESOLVED**, provided further that there shall have been published in the Kent County News, a newspaper of general circulation serving the community of Millington, once in each of the four weeks commencing November 17, 2022, a brief and accurate description of the area to be annexed and the conditions and circumstances applicable thereto, including notice of a public hearing to be held by the Mayor and Council on the proposed annexation on December 13, 2022, provided further that such public hearing shall have been held, and unless a proper petition for referendum shall have been filed as provided by Section 19 of Local Government Article of the Annotated Code of Maryland prior to such effective date.

**AND BE IT FURTHER RESOLVED**, that the Mayor of Millington is hereby specifically directed to carry out the provision of the above section hereof regarding the giving of notice by publication of the material directed therein to be published, and as evidence of that compliance, the Town Manager shall cause to be affixed to the Annexation Resolution a certificate of the publication of the newspaper in which such material shall have been published, and the Mayor, if there is no petition for referendum, shall declare the Annexation Resolution to be effective on the effective date herein provided, by affixing his/her signature here to in the space provided below the effective date hereof.

**AND BE IT FURTHER RESOLVED**, that, if a proper petition for referendum on the Annexation Resolution herein proposed is filed, the Mayor and Council and other proper officials of the Town of Millington shall comply with the provisions set forth in Section 19, Local Government Article of the Annotated Code of Maryland.

**AND BE IT FURTHER RESOLVED**, that as soon as the Annexation Resolution hereby made shall become effective, either as herein provided or following a referendum, the Mayor of Millington shall promptly register both the original boundaries and the new boundaries with the Town Manager and the Clerk of the Court of Kent County, Maryland, and shall send separately by registered mail to the Secretary of State of Maryland, the Director of the Hall of Records, the State Law Library, and to the Department of Legislative Reference of Maryland, a complete certified copy of the text of this Resolution, the date of the referendum, if any is held, a certificate showing the number of Council members voting for and against it, and a report on the votes cast for or against the amendment hereby enacted and any referendum hereon and the effective date of the Annexation Resolution.

This resolution introduced this 9<sup>th</sup> day of November 2022. Public Hearing held December 13, 2022. Approved for adoption, this 13<sup>th</sup> day of December, 2022.

**Mayor and Council of Millington**

Attest to All

\_\_\_\_\_  
Elizabeth Jo Manning, Town Administrator

\_\_\_\_\_  
Kevin Hemstock, Mayor

\_\_\_\_\_  
Michelle Holland, Council

\_\_\_\_\_  
Mark Linton, Council

\_\_\_\_\_  
Zita Seals, Council

\_\_\_\_\_  
Wayne Starkey, Council

The Charter Amendment passed by the foregoing Resolution on December 13, 2022.  
Effective 45 days thereafter.

\_\_\_\_\_  
Elizabeth Jo Manning, Town Administrator

## ANNEXATION AGREEMENT

This Annexation Agreement (the Agreement) is made this 9<sup>th</sup> day of November 2022, between the Town of Millington (the “Town”) and Mountaire Farms of Delaware, Inc. (“Mountaire Farms”) for property located at the east side of Delaware Railroad Avenue, Millington, Maryland, listed in Maryland Department of Assessments as Map 0400, parcel 0258, Account #01-018659.

- A. Mountaire Farms is the fee simple owner of a particular tract or parcel of land (from now on referred to as the “Annexation Property”) located adjacent to the Millington corporate boundary and more particularly described in a deed recorded in the records of Kent County as MLM 00197/00088 (see Addendum A).
- B. The Annexation Property consists of 2.00± acres of land, more or less, adjacent to and contiguous with a portion of the northern boundary of the Town.
- C. The Annexation Property is considered “Storage of goods or materials used in or produced by permitted commercial and industrial uses and related activities subject to application district regulations” and use for Annexation Property will be authorized when zoned Light Industrial. No variance is intended as the Town is not denying the usage or requesting a change in the degree of traffic.
- D. The Town has submitted an annexation proposal that complies with the Land Use Article and the Local Government Article of the Annotated Code of Maryland.
- E. The Town wishes to annex the property based on specific aims about anticipated town zoning, the future availability of public utilities and services, and future economic development.
- F. The Town desires to control the growth that will occur in its designated growth areas and intends explicitly that development in annexation areas not result in more substantial Municipal and County expenditures than anticipated revenues, which would indirectly burden existing Town or County residents with the costs of services or facilities to support the area annexed. Accordingly, the costs of providing roads, utilities, parks, and other community services will be borne by the Town and its developers of future projects in this location.

NOW, THEREFORE, in consideration of the above recitals and representations, and mutual interests, covenants, agreements, and undertakings set forth herein, and the mutual promises and covenants herein contained, the sufficiency of which is expressly acknowledged, the County and the Town mutually agree as follows:

### **SECTION 1. Property.**

The property subject to this Annexation Agreement is identified in the tax records of Kent County, Maryland as Parcel 258 on Tax Map 400 and is shown on the Annexation Plat (see attached Addendum B), which is incorporated by reference as a part hereof.

## **SECTION 2. Consistency with the Comprehensive Plan**

The Annexation Property is located within an area designated as the Town's future annexation area in the Growth Management Element of the Town's Comprehensive Plan. The Millington Comprehensive Plan states: "... all annexations must be consistent with the Town's municipal growth element," and requires that any "future annexation will include a detailed 'Annexation Agreement' between the landowner(s) and the Town".

## **SECTION 3. Land Use/Zoning**

Existing Use.

- 3.1 At present the 2± acres located on the east side of Delaware Railroad Avenue is improved by two (2) grain storage bins. This property is currently zoned Village in the Kent County Land Use Ordinance.
- 3.2 The Town agrees that all existing land uses of the Annexation Property may continue after annexation subject to all applicable ordinances and regulations in the Code of the Town of Millington, including Chapter 80 Zoning.

### Existing Zoning

- 3.3 According to the Zoning District Map of Kent County, Maryland, this Annexation Property is zoned Village.

Proposed Zoning

- 3.4 The zoning classifications for the Annexation Property shown on the Zoning District Map of Kent County, Maryland, will be the interim zoning designation that will apply until that date being five (5) years from the time of annexation unless waived by the Commissioners of Kent County, MD.
- 3.5 After five (5) years from the date of annexation the property will be zoned Light Industrial as then provided under the provisions of Chapter 80, Code of the Town of Millington.

## **SECTION 4. Conditions**

Except for the expense reimbursement provisions and indemnities in this section, which are continuing obligations of the Town, this Agreement is contingent in its entirety upon successful and final annexation of the Annexation Property into the Town. The annexation will not become effective until all requirements of such annexation have been satisfied and the annexation approved in the manner established by statute. These conditions should not affect or otherwise diminish the Town's right to be a party to and participate in all legal proceedings as well as initiate legal proceedings against a third party.

## **SECTION 5. Mutual Assistance**

Mountaire Farms and the Town shall do all things reasonably necessary or appropriate, and in compliance with the Town's standard practices and procedures, to carry out and to expedite the terms and provisions of this Agreement and as may be necessary to give effect to the terms and objectives of this Agreement and the intentions of the parties. The parties will assist each other in carrying out the terms and provisions of this Agreement such as by holding public hearings, giving notice, and other actions as may be necessary to enable the parties to comply with the terms and provisions of this Agreement.

The County and the Town agree to promptly execute its part in all permit applications needed by the Town from: the Maryland Department of the Environment, the Maryland State Highway Administration, Kent County and its various agencies and departments, or any other public agencies from which a permit is required to develop the Annexation Property. All such permit applications shall be prepared in accordance with applicable rules, regulations, and laws, and the Millington Comprehensive Plan and the parties further agree to cooperate in the securing of such permits or approvals from such agencies.

## **SECTION 6. Other Provisions.**

- 6.1 **Applicable Law.** It is the intention of the parties that all questions concerning the construction of this Agreement and the rights and liabilities of the parties hereunder shall be determined in accordance with the laws of the State of Maryland.
- 6.2 **Entire Agreement, Future Documents.** This Agreement embodies and constitutes the entire understanding between the parties with respect to the transactions contemplated herein, and all prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement.
- 6.3 **Headings.** Descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement.
- 6.4 **Binding Effect.** Subject to the provisions of this paragraph, the terms of this Agreement shall be binding upon and shall inure to the benefit of the parties, any successor municipal authorities of the Town, successor of record of the Annexation Property and the successors and assigns of the County. It is expressly understood and agreed that the County may assign its benefits, rights, duties, and obligations either as part of the conveyance of the Annexation Property as entirety or severally as part of conveyances of portions of the Annexation Property.

It is expressly agreed by all parties and their successors of that portion of the Annexation Property shall have no contractual rights to control, approve or otherwise direct the size, density, proposed uses, style, arrangement, timing, phasing, or any other aspect of development of the remainder of the Annexation property that the petitioner does own. No provision of this Agreement shall create any third-party beneficiary rights or other rights in any person or entity, not a party hereto.

- 6.5 **Severability.** In case any single or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof; and this Agreement

shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

6.6 Enforceability. This Agreement shall be specifically enforceable in any court of competent jurisdiction by any of the parties hereto by any appropriate action or suit at law or in equity to secure the performance of the covenants herein contained, subject to the indemnity provisions of Section 5 of this Agreement.

6.7 Exhibits. Attached to this Agreement are exhibits in support of or for clarification.

6.8 Recording. This Agreement shall be recorded in the land records of Kent County at the expense of the Town.

**IN WITNESS WHEREOF**, the parties have executed and sealed this Agreement as of the day and year first above written, provided, however, that for the purposes of determining the date hereof, as used in this Agreement, such date shall be the last date any of the parties hereto executes this Agreement.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mountaire Farms of Delaware, Inc.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Town of Millington

Addendum A – Recorded Deed MLM 00197/00088

Addendum B – Annexation Plat and Legal Description

Richards, Layton & Finger, P.A.  
One Rodney Square  
P.O. Box 551  
Wilmington, DE 19899

FILED  
CLERK OF CIRCUIT COURT  
KENT COUNTY

LIBER 0197 FOLIO 088

'00 MAY 15 AM 10 22

THIS DEED, made this 12<sup>th</sup> day of May, 2000, by CENTRAL GRAIN, INC., a Delaware corporation, of the first part, Grantor, and MOUNTAIRE FARMS OF DELAWARE, INC., a Delaware corporation, of the second part, Grantee.

WITNESSETH:

THAT FOR AND CONSIDERATION of the sum of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) and other good and valuable consideration, in hand paid, the receipt of which is hereby acknowledged, the said CENTRAL GRAIN, INC., a Delaware corporation, does hereby grant and convey unto the said MOUNTAIRE FARMS OF DELAWARE, INC., a Delaware corporation, its successors and assigns, forever in fee simple, all the hereinafter described property:

ALL that lot or parcel of land situate, lying and being in the First Election District of Kent County, Maryland, and more particularly described in Exhibit "A" attached hereto

BEING the same property conveyed unto Central Grain, Inc., a Delaware corporation, by Robert O'Dell and Gladys O'Dell, by Deed dated September 17, 1975, and recorded among the Land Records of Kent County, Maryland in Liber EPH 64, folio 775.

BEING the same property conveyed unto Central Grain, Inc., a Delaware corporation, by Davis Concrete Company, Inc., a Maryland corporation, by Deed dated November 13, 1990, and recorded among the Land Records of Kent County, Maryland in Liber EPH 299 folio 150.

BEING the same property conveyed unto Central Grain, Inc., a Delaware corporation, by Robert W. Blanchette et al., by Deed dated September 13, 1978, and recorded among the Land Records of Kent County, Maryland in Liber EPH 84, folio 274.

TOGETHER with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said tract of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said MOUNTAIRE FARMS OF DELAWARE, INC., a Delaware corporation, its successors and assigns, forever in fee simple. SUBJECT, HOWEVER, to all easements, right-of-way and utility rights of way of record and the restrictions and conditions of record.

AND the said Grantor does hereby covenant that it has not done or suffered to be done any act, matter or thing whatsoever to encumber the property hereby conveyed; that it will

KENT COUNTY CIRCUIT COURT, DEPT. OF RECORDS & TAXATION  
TAXES FOR 1999-2000 AND ALL PRIOR YEARS HAVE BEEN PAID.  
01-004574  
DATE AVAILABLE TO THE PUBLIC: PRINTED 09/21/2022.  
STATE DEPARTMENT OF ASSESSMENTS & TAXATION FOR KENT COUNTY

IMP. FID. SURV. & 5.00  
RECORDING FEE 20.00  
RECORDATION T 660.00  
TR TAX COUNTY 500.00  
CORPORATION 500.00  
17685.00  
Rest KT01 Rcpt \$ 31412  
MLM SH Blk \$ 715  
MAY 15, 2000 10:36 am

Robert W. Williams  
TREASURER OF KENT COUNTY

TAXES FOR 2000 AND ALL PRIOR YEARS HAVE BEEN PAID  
MAY 15 2000  
TOWN OF KENT, WILMINGTON, MD.

RLP1-2154846-1



EXHIBIT A  
Legal Description**PARCEL A**

ALL that parcel or tract of land situate and lying in or near the Town of Millington in the First Election District of Kent County, Maryland, more particularly described as follows:

BEGINNING at a point in the northerly line of Back Street distant one hundred forty two feet measured south seventy-four degrees thirty minutes East along the said northerly line of Back Street from a point in the line established as the center line of railroad of The Delaware Railroad Company known as the Centreville Branch; from the said point of beginning the following seven courses and distances, the first three thereof being land of said The Delaware Railroad Company: (1) North no degrees 42 minutes East three hundred ten feet and fifty two one hundredths of a foot to a point; (2) Northwardly, having the said last described courses as tangent on a curve to the right having a radius of 449 feet, the chord of which bears North nine degrees six minutes east for a length of one hundred thirty-one feet and eighteen one hundredths of a foot, an arc length of one hundred thirty-one feet and sixty-five one hundredths of a foot to a point distant thirty-three feet measured eastwardly and at right angles from the said center line of railroad; (3) North seventeen degrees thirty minutes East, tangential to the said last described curve, on a line parallel with and distant thirty-three feet measured eastwardly, and at right angles from said center line of railroad, ninety-one feet fifty-eight one hundredths of a foot to a point in a westerly line of land of Edward W. Vansant; (4) South five degrees twenty minutes East, by said last mentioned land one hundred twenty-eight feet and eight-tenths of a foot to a point; (5) South seventy-four degrees East, partly by said last mentioned land and partly by land now or formerly of the Hurlock Estate two hundred thirty-two feet, more or less, to a point in a northwesterly corner of land now or formerly of the estate of Fred Numbers; (6) South sixteen degrees West, by said last mentioned land, four hundred feet to a point in the said northerly line of Back Street; and thence; (7) North seventy-four degrees thirty minutes West along the said northerly line of Back Street one hundred eighty-eight feet, more or less, to the place of beginning; containing two acres and twenty-seven one hundredths of an acre, more or less.

BEING the same property which was conveyed unto Central Grain, Inc., a body corporate of the State of Delaware, by Robert G. O'Dell and Gladys J. O'Dell, his wife, by deed dated September 17, 1975 and recorded among the land records of Kent County, Maryland in Liber EHP64, folio 775.

**PARCEL B**

ALL that lot or parcel of ground, situate, lying and being in the First Election District of Kent County, in or near the Town of Millington, and described as follows, that is to say:

BEGINNING for the same at a concrete monument located on the Southwest corner of the lot hereby conveyed and on a boundary line between this property and the property of or formerly of Robert G. O'Dell et al, Inc. and running thence by and with the property line as aforesaid North 74 degrees 00 minutes West 173.06 feet to an iron pipe; running thence still with the property line of Robert G. O'Dell et al, Inc. North 05 degrees 20 minutes West 128.8 feet to an iron pipe located on the line of the Pennsylvania Railroad property; running thence by and with said Railroad property North 17 degrees 30 minutes East 286.63 feet to an iron pipe located on the Northwest corner of the lot herein conveyed; running thence South 74 degrees 18 minutes East 232.24 feet to an iron pipe; and running thence with the property line of or formerly of James V. Reynolds South 18 degrees 47 minutes West 408.20 feet to a concrete monument and the place of beginning. (See plat files in E.H.P. No. 64, folio 181).

BEING the same property conveyed unto Central Grain, Inc., a corporation duly formed under the laws of the State of Delaware by Davis Concrete Co., Inc., a corporation duly formed under the laws of the State of Maryland, by deed dated November 13, 1990 and recorded among the land records of Kent County in Liber EHP 299, folio 57.

**PARCEL C**

ALL that parcel of land situate in Millington, County of Kent, and State of Maryland, bounded and described according to a plan of a survey made by Ervin Engineering, dated April 21, 1978 as follows; VIZ:

BEGINNING at a point marked by an iron pipe now set at the intersection of the easterly right of way line of The Delaware Railroad Company with the northerly right of way line of Back Street, said street having a 33 foot wide right of way, said point of beginning also being located 33.00 feet distant southeasterly, measured at right angles, from the centerline of the

LIBER 0197 FOLIO 91

main track of the railroad, said centerline of track also being the centerline of the 66 foot wide railroad right of way; thence with the easterly right of way line of said Railroad North 17 degrees 36 minutes 00 seconds East, a distance of 430.45 feet to an iron pipe now set marking a corner to land, now or formerly of Central Grain, Inc., as recorded in Liber 064 folio 775 among the land records of Kent County, Maryland; thence with the westerly line of said land now or formerly of Central Grain, Inc., the following two courses and distances: (1) Southwardly, along a curve to the left having a radius of 449.00 feet, a chord length of 131.18 feet along a chord bearing of South 09 degrees 11 minutes 59 seconds West, an arc distance of 131.65 feet to an iron pipe now set; thence (2) South 00 degrees 48 minutes 00 seconds West, a distance of 307.54 feet to an iron pipe now set on the northerly right of way line of Back Street; thence with the northerly right of way line of Back Street, North 75 degrees 42 minutes 54 seconds West, a distance of 108.23 feet to the point and place of beginning. Containing 19,887 square feet, or 0.4565 of an acre, more or less.

RESERVING, however, unto the said Grantor, the existing railroad track and appurtenances thereto, located upon the premises hereinabove described, together with the right, but not the obligation to enter upon the premises for a period of 180 days after the date of delivery hereof, for the purposes of removing said track and appurtenances.

SUBJECT, however, to the state of facts disclosed by the survey hereinabove mentioned.

BEING the same property conveyed unto Central Grain, Inc. by deed from Robert W. Blanchette, et. al. dated September 13, 1978 and recorded among the land records of Kent County, Maryland in Liber EHP 84, folio 274.

5-15-00 THE FOREGOING Deed FILED  
FOR RECORD AND IS ACCORDINGLY RECORDED AMONG  
THE LAND RECORDS OF KENT COUNTY, MARYLAND, IN  
LIBER MLM NO. 197 FOLIOS 88-91  
Mark L. Newland CLERK

KENT COUNTY CIRCUIT COURT (Land Records) MLM 197, p. 0091, MSA\_CE57\_693. Date available 02/14/2006. Printed 09/21/2022.

State of Maryland Land Instrument Intake Sheet

[ ] Baltimore City [ X ] County: KENT

Information provided is for the use of the Clerk's Office and State Department of Assessments and Taxation, and the County Finance Office only. (Type or Print in Black Ink Only--All Copies Must Be Legible)

Space Reserved for Circuit Court Recording

Form with sections 1-11: 1. Type(s) of Instruments; 2. Conveyance Type; 3. Tax Exemptions; 4. Consideration and Tax Calculations; 5. Fees; 6. Description of Property; 7. Transferred From; 8. Transferred To; 9. Other Names to Be Indexed; 10. Contact/Mail Information; 11. IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER

KENT COUNTY CIRCUIT COURT (Land Records) MLM 197, p. 0092, MSA\_CE57\_693. Date available 02/14/2006. Printed 09/21/2022.

Space Reserved for County Validation

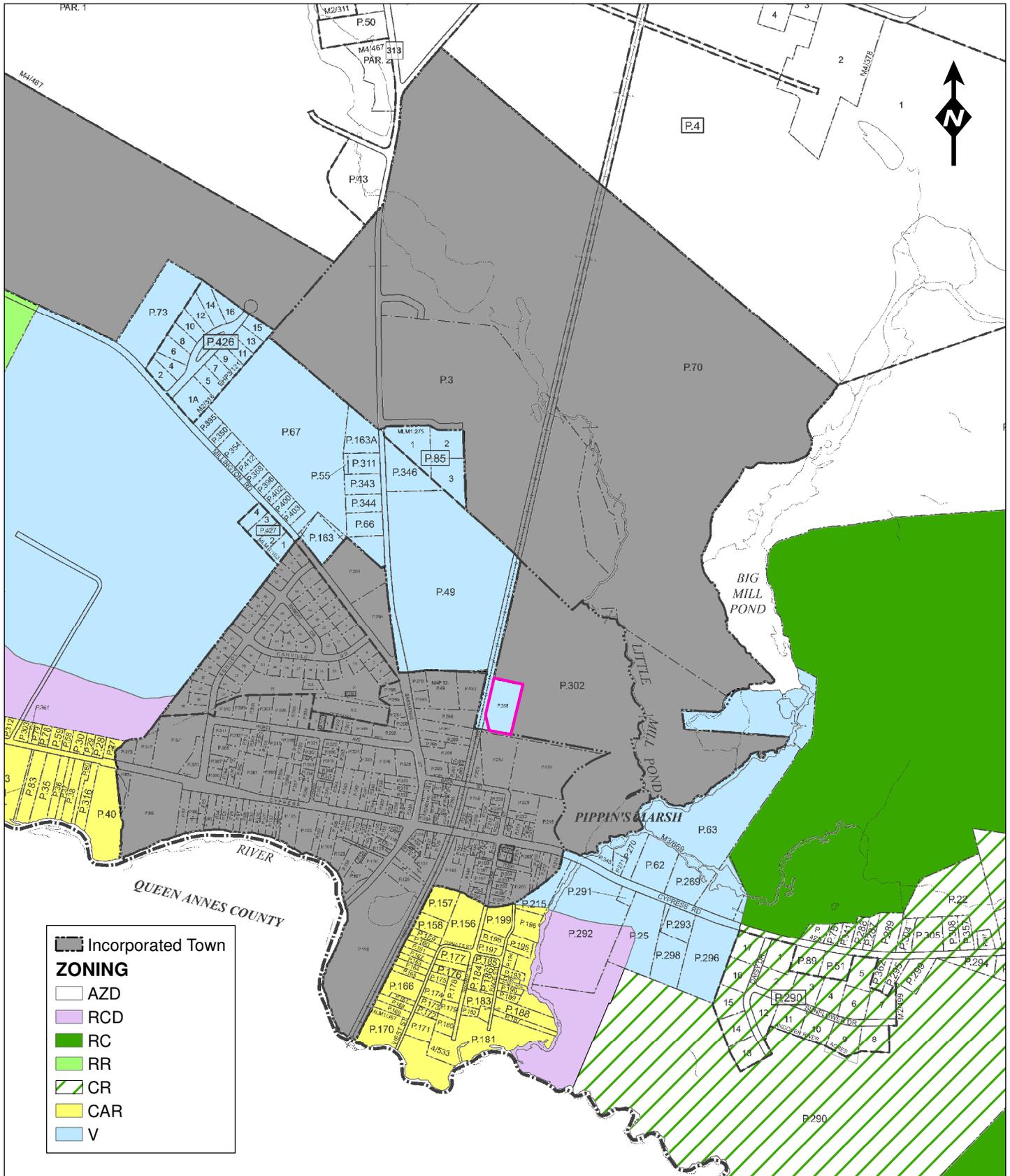
2022 Millington Annexation Proposal  
Mountaire Farms of Delaware Inc. Property  
Map 400, Parcel 258



Source: Kent County Department of Planning, Housing, and Zoning.  
Aerial taken Spring 2019. Map prepared November, 2022.

1 inch = 200 feet

2022 Millington Annexation Proposal  
 Mountaire Farms of Delaware Inc. Property  
 Map 400, Parcel 258



Source: Kent County Department of Planning, Housing, and Zoning.  
 Map prepared November, 2022.

1 inch = 1,000 feet