Preliminary Land Use Service (PLUS) Application
Municipal Comprehensive Plans

Delaware State Planning Coordination
122 Martin Luther King, Jr. Blvd • Dover, DE 19901 • Phone: 302-739-3090 • Fax: 302-739-5661

Please complete this "PLUS application in its entirety. **All questions must be answered. If a question is unknown at this time or not applicable, please explain.** Unanswered questions on this form could lead to delays in scheduling your review. This form will enable the state staff to review the project before the scheduled meeting and to have beneficial information available for the applicant and/or developer at the time of review. If you need assistance or clarification, please call the State Planning Office at (302) 739-3090. Possible resources for completing the required information are as follows:

www.state.de.us/planning
www.dnrec.state.de.us/dnrec2000/
www.dnrec.state.de.us/DNRECeis/
datamil.delaware.gov
www.state.de.us/deptagri/

emailed PDF
FAXED 1-12-15
to Connie Holland & Dorothy Morris

Town of Henlopen Acres

104 Tidewaters
Henlopen Acres, Delaware 19971

302-227-6411
Fax: 302-227-3978

Mayor
Winnie Kee

Commissioners:
Andrew Brittingham
Frank Jamison
David Lyons
Joni Reich
Beatrix Richards
John Staffier

Town Manager:
Thomas Roth

Maintenance Manager:
Alex McClure

Security Supervisor:
Lee Stewart

Town Solicitor:
Glenn C. Mandalas, Baird, Mandalas, Brockstedt LLC

Member:
Association of Coastal Towns

Delaware League of Local Governments

Sussex County Association of Towns

Delaware Rural Water Association

January 12, 2015

Ms. Constance Holland, State Planning Director
Office of State Planning Coordination
122 William Penn Street, Suite 301
Dover, DE 19901

Re: Comprehensive Plan

Dear Ms. Holland:

The enclosed ten year update of the Comprehensive Plan of the Town of Henlopen Acres is hereby submitted to your office for PLUS review. The update was unanimously approved by the Planning Commission of Henlopen Acres at a public meeting on December 1, 2014, which you attended, and was thereafter unanimously approved by the Henlopen Acres' Board of Commissioners at a public meeting on December 12, 2014.

At the December 1 Planning Commission meeting, you indicated that you intended to reject the update because it does not provide for or recommend establishing a new zone for the Rehoboth Art League ("RAL"). The Town hopes that on reflection you will reconsider that position.

As the attached timeline and draft Memorandum of Understanding ("MOU") show, the Town has devoted considerable time and effort to resolving the RAL issue. At the June 27, 2014 Planning Board meeting which you attended, the RAL's representatives stated that the RAL has no desire to expand either its facilities or its activities in Henlopen Acres. Instead, what it wants and needs is clarification from the Town of what it can and cannot do and legal assurance that it will be able to re-build its structures in the event of a catastrophic loss. The draft MOU does not establish any new zoning regulations applicable to the RAL or modify any existing regulations. Instead, it was intended and designed to (1) clarify the scope of the RAL's existing, legal, grandfathered non-conforming use status, (2) provide reasonable assurance that the RAL will be able to rebuild its facilities in the event of a catastrophic loss, and (3) memorialize the RAL's "no expansion" position. The MOU, therefore, would effectively give the RAL what it said it wanted at the June 27 meeting and thereafter. The Town does not believe that establishment of a new zone is necessary or advisable to achieve those goals. The RAL's current, grandfathered non-conforming use status already provides it with the legal right to continue its ongoing activities

and to maintain its existing facilities in perpetuity. Confirmation of the RAL's right to rebuild in the event of a catastrophic loss can be provided by means other than a new zone.

As the attached timeline reflects, the draft MOU was provided to the RAL on October 21, 2014, but the RAL has not yet provided the Town with comments. The door remains open, however, and we hope that an agreement can ultimately be reached. As you were able to personally observe at the June 27 Planning Commission public meeting, and as has been subsequently reaffirmed in numerous meetings with the RAL and individual residents, a strong majority of the residents of Henlopen Acres want the RAL to continue to prosper, but do not want it to expand its facilities or activities in Henlopen Acres. Since that is the position publically stated by the RAL at the June 27 Planning Commission meeting and thereafter, an agreement along the lines of the draft MOU should be achievable. For now, however, the ball is in the RAL's court.

In light of the above, the Town hopes you will agree that rejection of the enclosed update to the Town's Comprehensive Plan because it does not call for a new zone for the RAL would clearly not be warranted. In any event, however, we must advise you that the Town does not believe that the comprehensive planning process was intended to usurp local authority over zoning issues or to provide a means by which local authorities could be coerced into adopting zoning changes they consider to be inadvisable. Similarly, it is the Town's view that your office is not entitled to reject or to decline to process a submitted Comprehensive Plan update merely because you disagree with some aspect of it. You can, of course, state and explain your opposition, but you must, in our view, continue to process the update as provided in Section 9103 of Title 29 of the Delaware Code. And under Subsection (f) of that section, "The final decision on the adoption of the comprehensive plan [or update thereof] is that of the municipality"...

We trust that you will fulfill your obligations in this regard and that you will review the Henlopen Acres update under the same guidelines and standards as apply to other towns of similar size, character and circumstances. We look forward to the comments on the update from your office and from other State agencies and will comment and incorporate as many as we feel are helpful and reasonable within the context of the Town's planning process.

Respectfully,

David F Lyons
President Pro-Tem

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Name of Municipality: Town of Henlopen Acres	
Address: 104 Tidewaters Henlopen Acres, DE 19971	Contact Person: Thomas Roth
	Phone Number: 302-227-6411
	Fax Number: 302-227-3978
	E-mail Address:townmgr@henlopenacres.com

Date of Most Recently Certified Comprehensive Plan: July 9, 2004

Information prepared by: Town of Henlopen Acres	
Address: 104 Tidewaters Henlopen Acres, DE 19971	Contact Person: Thomas Roth
	Phone Number: 302-227-6411
	Fax Number: 302-227-6411
	E-mail Address:townmgr@henlopenacres.com

Maps Prepared by: Institute for Public Administration	
Address: Institute for Public Administration University of Delaware 700 Pilottown Road Lewes, DE 19958	Contact Person: Nicole Minni, GISP
	Phone Number: 302-645-4353
	Fax Number: 302-645-4332
	E-mail Address: nminni@udel.edu

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General Plan Approval Process

Step 1: **Draft prepared by local government.**

Step 2: **Planning Commission and/or Legislative Body approves to send to PLUS at the time the plan is released for public review.**

Step 3: **PLUS meeting, application submitted by 1st business day of the month for that month's meeting.**

Step 4: **State comments submitted to local government within 20 business days of meeting.**

Step 5: **Local government replies to state comments in writing and submits revised plan to Office of State Planning Coordination (O S P C) for review.**

Step 6: **OSPC requires 20 working days to reply to revised plan. State sends a letter accepting changes or noting discussion items.**

Step 7: **Once you receive the Office of State Planning Coordination letter stating that all certification items have been addressed, your Planning Commission and Council should adopt the plan pending State certification. We strongly recommend that your Council adopt the plan by ordinance. The ordinance should be written so that the plan will go into effect upon receipt of the certification letter from the Governor.**

Step 8: **Send our office a copy of the ordinance (or other documentation) that formally adopts your plan along with an electronic or paper copy of the final plan. We will forward these materials to the Governor for consideration. At the discretion of the Governor a certification letter will be issued to your town. The plan is effective on the date of adoption.**

Step 9: **Once you receive your certification letter, please forward two (2) bound paper copies and one electronic copy of your plan to our office for our records. It is suggested that you incorporate a copy of the State's PLUS letter and the Governor's certification letter into the final comprehensive plan document.**

Comprehensive Plan / Amendment Checklist[1]

Please check yes or no as to whether the following information has or has not been included in the comprehensive plan and indicate page numbers where information may be found.

Public Participation	Yes	No	Page # / Sections
Public Participation Summary and Results	◉	○	1

Population Data and Analysis	Yes	No	Page #
Past Population Trends	◉	○	9
Population Projections	◉	○	9
Demographics	◉	○	10
Position on Population Growth	◉	○	11

Housing	Yes	No	Page #
Housing Stock Inventory	◉	○	10
Housing Pipeline	○	◉	
Housing Needs Analysis	○	◉	
Position on Housing Growth	◉	○	11
Affordable Housing Plan	○	◉	

Annexation	Yes	No	Page #
Analysis of Surrounding Land Uses	◉	○	12
Annexation Plan	◉	○	12

Redevelopment Potential	Yes	No	Page #
Identification of Redevelopment Areas and Issues	◉	○	11
Redevelopment Strategy	◉	○	11
Community Development Strategy	◉	○	11

[1] Please go to the following website for detailed checklist information: http://www.state.de.us/planning/services/circuit.shtml.

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Community Character	Yes	No	Page #
History of the Town or City	◉	○	2
Physical Conditions	◉	○	2
Significant Natural Features	◉	○	6
Community Character	◉	○	6
Historic and Cultural Resources Plan	◉	○	3
Community Design Plan	○	◉	
Environmental Protection Plan	◉	○	6

Land Use Plan	Yes	No	Page #
Existing Land Use	◉	○	11
Land Use Plan	◉	○	11

Critical Community Development and Infrastructure Issues	Yes	No	Page #
Review of Community Conditions	◉	○	16
Inventory of Community Infrastructure	◉	○	16
Inventory and Analysis of Community Services	◉	○	20
Water and Wastewater Plan	◉	○	16
Transportation Plan	◉	○	21
Community Development Plan	○	◉	
Community Facilities Plan	◉	○	19

Intergovernmental Coordination	Yes	No	Page #
Description of Intergovernmental Relationships	◉	○	26
Intergovernmental Coordination Strategy	◉	○	26
Analysis and Comparison of Other Relevant Planning Documents	◉	○	Map 4

Economic Conditions	Yes	No	Page #
Economic Base / Major Employers	○	◉	
Labor Market	○	◉	
Income and Poverty	◉	○	10
Economic Development Plan	○	◉	

Open Space and Recreation	Yes	No	Page #
Inventory of Open Space and Recreation Facilities	◉	○	20
Open Space and Recreation Plan	◉	○	20

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Implementation Strategies	Yes	No	Page #
Evaluation of Current Codes and Ordinances	◉	○	14
Zoning Map Revisions	○	◉	
Zoning and Subdivision Code Revisions	◉	○	15
Implementation Plan	◉	○	22
Coordination with Other Government Agencies	◉	○	26

Other State Programs, Policies, and Issues	Yes	No	Page #
Total Maximum Daily Loads	◉	○	17
Corridor Capacity Preservation Program	○	◉	
Agricultural Preservation Program	○	◉	
Sourcewater Protection	◉	○	16

Additional Comments:

Page numbers are listed where discussion of the topic appears. However, certain topics or issues recur throughout the document.

Included along with a cover letter are additional documents relevant to the issue of the Rehoboth Art League non-conformance.

Summary:

Please see cover letter.

Town of

Henlopen Acres

Comprehensive Plan

2014

Town of Henlopen Acres
Comprehensive Plan

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TOWN, COUNTY, AND STATE OFFICIALS

Town of Henlopen Acres

Mayor and Council	Mayor (vacant) David Lyons, President pro tempore Andrew Brittingham, Commissioner Frank Jamison, Commissioner Joni Reich, Commissioner Beatrix Richards, Commissioner John Staffier, Commissioner
Planning Committee	John Scheurer, Chairman Gordon Kaiser Mary Jane Lyons Robert Reed Richard Thompson
Town Solicitor	Glenn C. Mandalas, Esq. Baird Mandalas Brockstedt, LLC
Town Staff	Thomas Roth, Town Manager Lisa Michaels, Town Clerk R. Lee Stewart, Security Supervisor Alexander McClure, Public Works Manager

Sussex County

Council Representatives	The Honorable Michael H. Vincent, 1st District, President The Honorable Samuel R. Wilson, Jr., 2nd District, VP The Honorable Joan R. Deaver, 3rd District The Honorable George P. Cole, 4th District The Honorable Robert B. Arlett, 5th District
County Administrator	Todd Lawson

State of Delaware

Governor	The Honorable John A. Markell
Senate	Senator Ernesto B. Lopez, 6th District
House of Representatives	Representative Peter C. Schwartzkopf, 14th District
Office of State Planning Coordination	Constance S. Holland, AICP, Director

INSTITUTE FOR PUBLIC ADMINISTRATION

The original 2004 Comprehensive Plan was prepared by the Institute for Public Administration (IPA), a unit within the College of Human Services, Education & Public Policy at the University of Delaware. IPA links the research and resources of the University of Delaware with the management and information needs of local, state, and regional governments in the Delaware Valley. IPA provides assistance to agencies and local governments through direct staff assistance and research projects as well as training programs and policy forums. Jerome R. Lewis is the director of the Institute.

TOWN GOVERNANCE

The Town Charter provides for a Commission form of government with seven (7) members with one Commissioner elected to be the Mayor and President of the Commission. The Commissioners of Henlopen Acres hold quarterly meetings. Commissioners may either be bona fide residents or non-resident property owners of the Town of Henlopen Acres, however a majority of the Board must be residents. All property owners and residents are eligible to vote in municipal elections. All other offices are by appointment. -Appointments are made by the Mayor and approved by a majority of the Commissioners.

The Town Charter empowers the Town to provide government services to maintain its peace and order, its sanitation, beauty; the health, safety, convenience, comfort, and well-being of its population, and the protection and preservation of property, public and private. The Commissioners of Henlopen Acres have the power to annex additional territory adjoining the corporate limits of the Town.

The Mayor of the Town is the chief executive and presides at all meetings of the Commissioners. The Mayor executes on behalf of the Town, when authorized by the majority of the Commissioners, all agreements, contracts, bonds, deeds, leases, and other documents necessary to be executed. The Mayor has the power to appoint the other six Commissioners to be in charge of any departments or divisions of town government created by the Commissioners. The Commissioners of Henlopen Acres hire and empower a Town Manager with duties prescribed by the Commissioners. The fiscal year for the Town of Henlopen Acres is from July 1st of one year to June 30th of the next year.

COMPREHENSIVE DEVELOPMENT PLAN FOR THE TOWN OF HENLOPEN ACRES, DELAWARE OCTOBER 2014

Background

Delaware law requires that municipalities engage in comprehensive planning activities for the purpose of encouraging "the most appropriate uses of the physical and fiscal resources of the municipality and the coordination of municipal growth, development, and infrastructure investment actions with those of other municipalities, counties and the State." This plan was written to comply with the requirements of a municipal development strategy as described in the Delaware Code for towns with population of 2,000 or fewer.

The municipal comprehensive plan for small communities, such as the Town of Henlopen Acres, with fewer than 2,000 people is to be a "document in text and maps, containing at a minimum, a municipal development strategy setting forth the jurisdiction's position on population and housing growth within the jurisdiction, expansion of its boundaries, development of adjacent areas, redevelopment potential, community character, and the general uses of land within the community, and critical community development and infrastructure issues." In addition, the Town's comprehensive planning process shall demonstrate coordination with other municipalities, the county, and the state during plan preparation. (22 Del. C. 1953, § 702)

State law requires that planning be an ongoing process and that municipalities identify future planning activities. This document is the Town of Henlopen Acres' Comprehensive Plan as required by state law. It is intended to cover a ten-year planning period and be reviewed every five years.

Public Participation

In 2002, the Town of Henlopen Acres established a Planning Commission to develop the Town comprehensive plan. A draft of the plan was presented to the Town Commission in January 2004 for public review and comment. The plan was approved at the July 2004 Town Commission meeting and certified by the State of Delaware on July 9, 2004.

In 2011, the Planning Commission began work on the ten year comprehensive plan update holding 13 meetings between May 5, 2011 until May 5, 2014, a workshop on June 24, 2011, and two public hearings, the latest on June 27, 2014, in preparation for submission to the State of Delaware PLUS system. Residents and non-residents submitted written comments. In addition, members of the Planning Commission and at times accompanied by one or two Town Commissioners, met with an official or officials of the Rehoboth Art League 12 times from July 7, 2014 to October 27, 2014. Approximately 6 of the meetings were to discuss the RAL's activities and desires for a new Cultural Zone and 6 of the meetings were with immediate neighbors of the RAL. The meetings with the immediate neighbors were arranged so that the RAL could hear firsthand the thoughts of the immediate neighbors on the RAL's campus and activities. Universally, the immediate neighbors were concerned about the perceived growth of events on the RAL campus and the increased traffic. Generally everyone likes the RAL campus the way it is (i.e. no material change or expansion of facilities) and they do not want any additional activities or traffic creating events.

Community Overview

Location

The Town of Henlopen Acres, Delaware, is located in eastern Sussex County. It is north of the City of Rehoboth Beach, east of the Lewes and Rehoboth Canal, and west of the Atlantic Ocean.

History

The land comprising Henlopen Aces was first brought into legal jurisdiction in 1675 as part of the Young's Hope patent granted by Governor Sir Admond Andros of New York. It appears to have remained under that patent until 1743, when it passed to the Marsh family. The property again changed hands in 1871, when it came into the Dodd family. It was not again transferred until 1930, when W. S. Corkran took title and began development into a residential development. When he took over the old farm, one of the first questions to be settled was the selection of a suitable name. Inevitably, the old local name "Henlopen" came to mind as one of the greatest distinction[1]. Nothing could be more fitting than to name the development after that world-known old Henlopen Light, which had stood for 200 years within sight of the property and less than half-a-dozen miles away, across moorland and dunes. Having once decided upon "Henlopen," the word "Acres" naturally fell into place, for these lands have been real acres of peace and prosperity to their owners since 1675.

The initial residential plots laid out by Corkran himself, had a frontage of approximately 150 feet and depth of 170 feet. The variation in the lot sizes permitted the natural placement of roads and houses on the land in relation to the terrain, trees, and views, avoiding monotonous and unsightly rows of houses on a definite set-back line while ensuring ample spaces of light, air, and planting, permanently protected against encroachments. Each home site was planned as a park within a park. The advantages of the Henlopen Acres residential site developed in 1930 were defined by its owner as follows:

1. An exclusive residential park
2. A combined country and seashore community—a pinewoods setting on an ocean beach
3. It enjoys the pleasures of both sea and inland waters—bathing, sailing, motor boating, fishing, canoeing, etc.
4. Firmly protected by all essential restrictions of 1930—ample size of lots, with one family residence only on each lot, areas specified for community garage, stable, clubs, etc.

In 1970, the Charter of the Town of Henlopen Acres was approved by the State of Delaware. It has set forth the territorial limits of the Town as follows:
All three adjoining pieces or parcels of land and premises situate, lying, and being in Lewes and Rehoboth Hundred, Sussex County and State of Delaware, north of the City of Rehoboth Beach and east of the United States Inland Waterway known as the Lewes and Rehoboth Canal, bounded on the north by the lands of Daniel G. Anderson; on the northwest and west by lands of said United States Inland Waterway; and on the south and southeast, in part by the north boundary line of the City of Rehoboth Beach, in part by the north line of Henlopen Avenue, and in part by certain State lands; and on the east and northeast by the mean high-tide water line of the Atlantic Ocean. *(see Map 1.)*

Historic and Significant Properties[2]

Peter Marsh House or "Homestead"

The Peter Marsh House was listed on the National Register of Historic Places in November 1977. It is significant as an example of an eighteenth-century Sussex County farmhouse, which has retained much of its original detail.[3] As stated earlier, Peter Marsh built the Homestead around 1743 when he purchased portions of a tract of land called Young's Hope, originally granted in 1675 to George Young by the Duke of York and called it in the deeds, "The Mansion House of the Plantation". *(see Map 2.)*

Marsh was an ensign in the Sussex County Regiment for the southern district of Lewes and Rehoboth Hundred during the French and Indian wars. When he died in 1769, he left a large estate of more than 2,000 acres in Sussex County, to his son, Thomas Purnell, he left the tract of the land called Young's Hope and 300 acres. When Thomas Purnell died in 1821, he left the northwestern portion of his inherited tract of land, together with the mansion house, to his son, also named Thomas Purnell Marsh.

The house and surrounding land remained in the Marsh family until 1871, when it was sold to the Dodd family. During most of the Dodd ownership the house was occupied by tenants. In 1930, Colonel and Mrs. Wilbur Corkran purchased the house and restored it. Where original material was beyond salvage, they carefully replaced it with eighteenth-century building material from houses about to be demolished in the area. The house retained its original floor plan and exterior.

Henlopen Acres Beach Club

The Henlopen Acres Beach Club is located at the northern beachfront property. This property comprises 3.813 acres. The original deed that conveyed the property for the use of the Henlopen Acres Beach Club, Inc., set specific conditions on the use and regulation of the property for use as beach club for the enjoyment of its members who may be residents. The Commissioners of the Town of Henlopen Acres have the authority to regulate the erection, maintenance, and use of buildings, structures, or other erections in a manner consistent with the use of the property as a community beach club. The Henlopen Acres Beach Club property is Sussex County tax parcel number 3-34 14.05 121. The beach club assesses its own dues and initiation fees and pays County and Town taxes. The Plan recommends no changes to the use of the beach club.

Block W Property – Henlopen Acres Property Owners Association

The property commonly referred to as Block W is the oceanfront property south of the Henlopen Acres Beach Club. This property is Sussex County tax parcel identification number 3-34 14.05 120. The property comprises 8.82 acres.

The property is subject to the following deed conditions. The Henlopen Acres Property Owners Corporation (HAPOC) must be and remain a Delaware corporation, and all Henlopen Acres property owners are members. Property owners are, however, responsible for an assessment not to exceed one hundred dollars, to be used to maintain the property and defray administrative expenses. The Block W property must be kept tidy and in its natural state, and all federal and state filings must be completed annually and taxes paid if any. The HAPOC retains the enjoyment of this property as long as the conditions of the deed are met. If the HAPOC becomes defunct, or if it fails to file or pay the taxes on the property or fails to keep the property reasonably tidy, then ownership shall revert to the University of Delaware. If the conditions of the deed are not met, and the property transfers to the University of Delaware, the property cannot be transferred or sold and must be still kept in its natural state; the erection of a public bathhouse, restrooms, or other facilities can be done only with the approval of the HAPOC, which annually supplies a copy of tax filings to the Town to ensure compliance.

The Plan recommends no changes to the use of Block W or HAPOC and that the Town continue to encourage its maintenance and preservation.

Community Marina

The Town has a community marina on Tidewaters along the Rehoboth and Lewes Canal. This property is Sussex County tax parcel identification number 3-34 14.09 10.00 in Block Q, consisting of 2.38 acres. This property is operated for residents and non-residents as defined by the Henlopen Acres Board of Commissioners. A portion of the property designated in the 1930 deed has been subdivided into residential lots 3-34 14.09 10.01, 3-34 14.09 10.02, and 3-34 14.09 10.03. On October 21, 1998, a revision to the deed was filed changing the boundaries of the marina site. The Plan recommends no changes to the use of the Marina.

Rehoboth Art League and The Homestead

The Rehoboth Art League, Inc. (a 501(c)3 corporation) is located on Dodds Lane. It is a beautiful and historic area that occupies three and one-half acres and was founded by Louise Chambers Corkran, the wife of the founder of Henlopen Acres, Col. W.S. Corkran. It is comprised of five buildings including the Homestead. The League holds exhibits, classes and other activities. The use of the Homestead by the Rehoboth Art League, Inc., is governed by the covenants of 1930 and 1982, deed restrictions and by the Zoning Code and is considered a grandfathered non-conforming use.

The properties controlled by the Rehoboth Art League, Inc., are Sussex County tax parcels number 3-34 14.09 56.00, which is approximately 2.027 acres (Lot 1 Block J) and includes the Homestead and parcel number 3-34 14.09 57.00 which is approximately 1.661 acres (Lot 2 Block J) These properties are exempt from Sussex County and Town taxes. Upon Colonel Corkran's passing in 1962, Lot 1 was left to his wife Louise for the remainder of her life and upon her passing, to the University of Delaware to be used by it's President or faculty as a summer home and that the property would be maintained perpetually by the University in such condition as will respect its authentic character and furnishing as a colonial Sussex County Seat. On May 18, 1979, the Delaware Chancery Court approved the transfer of the Homestead property (Lot 1) to the Rehoboth Art League, Inc. because the University had been unable to use the property as Colonel Corkran had desired. The transfer was conditioned such that, if however the Rehoboth Art League should cease to exist, the property reverts to the University of Delaware. Lot 2 was transferred on September 26, 1947 to the Rehoboth Art League without restriction.

The plan recommends that both properties only be used as art gallery, art school, or community purpose, consistent with the covenants of the deeds of 1930 and 1982. The plan suggests evaluating the establishment of a historic district or zone for both Lot 1 and Lot 2. Lot 1 already has significant historic restrictions due to the Homestead and its status on the National Register of Historic Places and Lot 2 has many historic structures and landscaping elements. If the Rehoboth Art League, Inc. ceases to exist the properties should continue to have the same restrictions for use as set forth in the deeds of 1930 and 1982 which include residential. The Town further recommends that the Homestead, accessory structures, landscape, and gardens, consistent with restrictions imposed by the Chancery Court, not be modified significantly as to diminish the historic characteristics of the property or as a departure from the residential character of Henlopen Acres. In that regard, the RAL has recently confirmed that it has no intention or desire to change or expand the nature of its activities in Henlopen Acres, or to increase the frequency or intensity of its activities, compared to what they have been in prior years.

The RAL has also confirmed that it does not intend or desire to expand or change its facilities in Henlopen Acres, but wishes merely to be assured of its ability to maintain and update its facilities as necessary, without changing their size or use. There have been discussions about the RAL's use of its facilities and expansion of both facilities and uses since at least 1985. The minutes of a special meeting of the Commissioners on December 13, 1985 show that on that date the RAL requested authority to build a new building behind the Homestead because "The Rehoboth Art League is a rapidly growing organization that has outgrown the available space beyond everyone's expectations." There was debate and a suggestion that they fix up one of their existing buildings. Mrs. Caroline Harris of the RAL said at the time that "plans are being considered to farm out some of the activities to other locations." With these points in mind, and with input from the RAL and Town residents, the Town should attempt to (1) develop and clarify specific rules and regulations that will apply to the RAL and its activities going forward, and (2) explore methods to implement such rules and regulations. Several members of the Planning Commission have met 12 times (between July 7 and October 27, 2014) with Board members and management of the Rehoboth Art League, Inc. to discuss these issues and to try to find a mutually acceptable resolution to these issues.

Pioneer and Indian Cemetery

The Indian Cemetery is approximately 4000 sq. ft. and is located on Dodds Lane between Rolling Road and Pine Reach. It is bordered on the south and east sides by Lot 16, Block K and is owned by the Town and its history is somewhat anecdotal rather than having a proven history. The Plan recommends that the Pioneer and Indian Cemetery should remain in its natural, undeveloped and unspoiled state.

Bridle Paths

There are easements associated with specific properties in the Town of Henlopen Acres that are known as "bridle paths." These are easements that provide potential public access for Town residents. A barrier has been constructed at the terminus of Easton Street and First Street on the border between the Town of Henlopen Acres and the City of Rehoboth Beach to prevent through traffic.

The 1982 covenants state that "no modification or variation shall take place that will change the location of such "bridle paths" to any other location other than at the rear of the lot, unless the consent of a lot owner whose land is to be used for such relocated bridle path shall be first secured."[4]

Community Character, Natural Features and Environmental Concerns

Community Character and Design

Henlopen Acres is a small beach town with primarily residential properties. The community character of the Town should not change due to small size and limited availability of land for development. The Town wishes to maintain its current character and retain the current design of houses as the remaining undeveloped lots are built out. The Town has limited the height of buildings to 30 feet and two stories, restricted building area to 20 percent of lot area, limited dwelling unit size to 6,000 square feet, regulated obstructions of view on corner lots, and set a minimum of open space to 60 percent of lot area. The average lot size in the Town is approximately 19,929 sf, which is significantly larger than neighboring Rehoboth Beach. This along with our significant tree canopy of 43.2% provides a very special environment that needs to be preserved.

Map 3. Environmental Features, describes the location of the Town in relation to surrounding state and federally identified wetlands, Federal Emergency Management Agency (FEMA) 100-year flood plains, and hydrologic features.

Wetlands

Federally identified wetlands may exist along the Rehoboth and Lewes Canal, (National Wetlands Inventory, Appendix A). Regulatory Protection of wetlands is mandated under Federal 404 provisions of the Federal Clean Water Act. Additionally, tidally-influenced wetlands are accorded additional regulatory protection under Title 7, Chapter 66 provisions of the Delaware Code. Compliance with these statutes may require an Army Corps of Engineers approved field wetlands delineation and/or Delaware Department of Natural Resources and Environmental Control, (DNREC), approval. Two properties along the north side of Tidewaters may include state-identified wetland areas and these properties are already developed residential. Conversely, under the U.S. Army Corps of Engineers 1987 method, an area is a wetland only when it meets, under normal circumstances, all three of the following criteria: wetland hydrology, the presence of hydric soils and the predominance of hydrophytic vegetation. The U.S. Dept. of Agriculture, Natural Resources Conservation Service in a 1974 Soil Survey[5] identified the soils of Henlopen Acres to consist of soil classes EvA, EvB, SaA, SaB and Ft. None of these classes comprise hydric soils. As such, areas of possible wetlands should be delineated by a licensed professional wetlands consultant in accordance with the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands".

Floodplains

The FEMA 100-year flood plain is a significant natural feature that covers the area from Zwaanendael to the beach and a portion of Broad Hollow and Tidewaters. Development within the FEMA 1% annual chance flood plain (also known as the 100-year flood plain) is governed by the flood plain regulations that the Town has adopted and agreed to enforce as a participating community in the National Flood Insurance Program. The Town has received and reviewed the preliminary revised Flood Insurance Rate Maps that reflect minor changes to the 100-year flood plain. These plans have been reviewed by the Town, residents and property owners have been notified and maps made available for public review. The potential effective date for these maps is March 2015. On October 10, 2014, the Board of Commissioners adopted a revised Floodplain Management ordinance to meet the FEMA recommended compliance requirements.

Key Wildlife Habitat[6]

Map No. 3, identifies Key Wildlife Habitat within the town limits of Henlopen Acres.
Construction within the areas identified as Key Wildlife Habitat is prohibited, with the exception of repair and upkeep of existing walking paths and structures or construction measures or practices endorsed by DNREC.

Endangered Species[6]

Tier 1 Species

Species that are most in need of conservation action in order to sustain or restore their populations.
The Delaware Wildlife Action Plan (DEWAP) focuses on Tier 1 species to analyze threats to their populations and habitats. Conservation actions should be developed to eliminate or minimize identified threats.

CLASS	Scientific Name	Common Name
Insect	Cicindela dorsalis media	white tiger beetle
Insect	Cicindela lepida	little white tiger beetle
Reptiles	Malaclemys terrapin terrapin	Northern diamondback terrapin
Birds	Charadrius melodus	piping plover
Birds	Haematopus palliates	American oystercatcher
Birds	Arenaria interpres	ruddy turnstone
Birds	Calidris canutus	red knot
Birds	Calidris alba	sanderling
Birds	Sterna hirundo	common tern
Birds	Rynchops niger	black skimmer
Birds	Chordeiles major	common nighthawk

Tier 2 Species

Species in need of conservation action but without the urgency of Tier 1 species.
Distribution of Tier 2 species help to determine where DEWAP conservation actions will be implemented.

CLASS	Scientific Name	Common Name
Insects	Cicindela dorasalis	Eastern beach tiger beetle
Insects	Cicindela hirticollis	beach-dune tiger beetle
Insects	Melitara prodenialis	a snout-moth
Insects	Drasteria graphica atlantica	Atlantic graphic moth
Insects	Schinia spinosae	a noctuid moth
Birds	Falco peregrinus	peregrine falcon
Birds	Pluvialis squatarola	black-bellied plover
Birds	Catoptrophorus semipalmatus	willet
Birds	Calidris pusilla	semipalmated sandpiper
Birds	Calidris maritime	purple sandpiper
Birds	Calidris alpine	dunlin
Birds	Larus marinus	great black-backed gull
Birds	Piplio erythrophthalmus	Eastern towhee
Birds	Passerculus sanwichensis	savannah sparrow

This plan recommends a strategy of education, outreach and enforcement by increasing public knowledge of wildlife conservation issues and an understanding of habitats, species of concern and conservation issues.

Air Quality

Henlopen Acres is primarily a residential community with a large percentage of the population participating in walking, jogging and cycling activities. Town functions including the town marina, Henlopen Acres Beach Club and the Rehoboth Art League are the only non-residential operations. The Plan recommends continuing to explore transportation alternatives and land use measures that will improve air quality and reduce air emissions.

The town already observes a no idling policy for all town vehicles. This plan recommends an ordinance be adopted expanding that policy to all commercial vehicles operating within town limits. The Plan also suggests evaluating a municipal trash and recycling service similar to neighboring municipalities. This could be the most "Green" initiative that the town could institute. It could reduce traffic (have one set of waste/recycling trucks instead of 4-5) reduce air pollution, and reduce noise pollution.

Tree Canopy

The Town of Henlopen Acres appreciates the importance of its natural resources and in particular its unique forested setting. The abundance of trees not only provides aesthetic beauty but provides numerous significant benefits including the reduction of ambient temperatures which results in energy savings, reduces pollutants by filtering the air and producing oxygen, reducing runoff and erosion, and the reduction of ultra-violet ray exposure.[7] In 2008, the Delaware Forest Service received a grant to study the municipal tree canopy throughout Delaware. The study determined the Town of Henlopen Acres possessed a tree canopy of 43.2%. In comparison, the surrounding cities of Lewes and Rehoboth have a tree canopy of 29.61% and 32.75%, respectively (*see Map 9*).

Periodically, the Delaware State Forest Service makes available tree planting and maintenance grants to municipal and community organizations. The Town of Henlopen Acres has participated in this grant program in 2004 and again in 2010 to improve and enhance the town's forested setting. The town will continue to participate in this program as the opportunity arises. Additionally, in 2008, The Town of Henlopen Acres amended the Code by adding restrictions to prevent land clearing of vacant lots without permission of the Town. The Plan recommends instituting some standard of minimum trees per lot, in particular on the 20 foot right of way owned by the Town. The Plan recommends studying the best trees for tree canopy development and come up with a plan to plant trees on all right of way areas that have insufficient trees.

Henlopen Acres Marina

Open Space, Marina, and Beach Club

The Town of Henlopen Acres is based on beach and water sport activities. Participants in the planning meetings indicated that the Town should continue its efforts to maintain the beachfront areas in cooperation with the Henlopen Acres Beach Club and Henlopen Acres Property Owners Corporation, (Block W). The maintenance of the groin (jetty) along the beachfront area is of special concern for all residents and users of the beach area and is an important issue for the Town.

POPULATION AND HOUSING

Demographics, Future Population, and Housing Growth

According to the 2010 Census, the Town of Henlopen Acres had a full-time population of 122 persons. This is a 12 percent decrease from the 2000 population of 139 persons, reflecting a decrease in growth that is lower than the growth rates of Sussex County as a whole. The full-time population is a function of variables significantly different from the surrounding cities of Rehoboth Beach and Lewes. Henlopen Acres is a Town of single-family detached homes used primarily for second homes or, secondarily, for retirement homes. There is limited number of full-time residents who are in the labor force. The fulltime population of Henlopen Acres will vary based on the decision of homeowners to claim their Henlopen Acres home as their primary residence. A better indication of the need for services and infrastructure is the number of homes and occupancy conditions. Table 1 outlines the change in population in Henlopen Acres, Rehoboth Beach, Lewes, Sussex County, and the State of Delaware.

Table 1: Population of Henlopen Acres Compared to Sussex County and the State of Delaware

Year	Delaware	Sussex County	Henlopen Acres	Rehoboth Beach	Lewes
1980	594,919	98,004	176	1,730	2,197
1990	666,168	113,229	108	1,327	2,331
2000	783,600	156,638	139	1,495	2,932
2010	885,122	197,145	122	1,327	2,747

Source: U.S. Census Bureau. Henlopen Acres, Rehoboth Beach, and Lewes population figures are based on primary residence claimed by individuals filling U.S. Census forms.

Table 2, provides a comparison of basic demographic data among Henlopen Acres, Sussex County, and the State of Delaware. Based upon population, Henlopen Acres is the third smallest town in Delaware, with only Farmington (110) and Hartly (74) having lower population with significantly lower number of homes. The full-time residents of Henlopen Acres are older and have a higher median income than residents of Sussex County and the State of Delaware as a whole. In 2010, the median age of Henlopen Acres fulltime residents was 66.1 years old, compared with Sussex County's 45.4 and the State of Delaware's 38.8. It is unknown if the part-time residents have significantly different age profile, but since the homes that are used as part-time residences are typically owned by working-age persons, the overall median ages of part-time and full-time residents may be lower than the 66.1 median age reported in the 2010 U.S. Census. Henlopen Acres' residents' median income is the highest for an incorporated town or city, but it is only slightly higher than those of South Bethany and Dewey Beach. The median income for Henlopen Acres is less than those of U.S. Census Designated Places of Hockessin and North Star in New Castle County.

Table 2: Profile of General Demographic Characteristics for Henlopen Acres, Sussex County, and Delaware 2010

	Delaware (2010)	Sussex County (2010)	Henlopen Acres (2010)
Total Population	897,934	197,145	122
Age			
Population 17 years and under	22.97%	20.4%	10.7%
Population 62 years and older	17.9%	25.7%	59.0%
Median Age (years)	38.8	45.4	66.1
Households			
Total Households	342,297	79,368	67
Households with children under 18 years	32.0%	26.4%	10.4%
Households 65 or older living alone	9.6%	12.1%	38.8%
Average household size (# people)	2.55	2.45	1.82
Housing Units			
Total Housing Units	405,885	123,036	195
Occupied units	84.3%	64.5%	34.4%
Vacant housing units	15.7%	35.5%	4.4%
Seasonal or recreational units	8.9%	28.3%	64.1%
Renter occupied units	27.9%	21.4%	3.0%
Units built before 1940	25.0%	13.0%	4.0%[9]
Units built before 1960	9.4%	5.6%	32.0%[9]
Units built before 1980	49.2%	32.8%	64.0%[9]
Units built before 2000	80.2%	70.7%	86.0%[9]
Income[1]			
Median Household Income	$57,599	$51,046	$122,433
Persons below poverty level	11.5%	12.9%	0%
Selected Characteristics[1]			
Population 25 & over, High School graduate or higher	88.5%	86.2%	*
Population 25 & over, Bachelor's Degree or higher	36.7%	30.3%	*
Population 16 and over in labor force	64.7%	58.6%	*
Population 5 & over who speak English less than very well	4.6%	5.2%	*

Source: **2010** U.S. Census, [1]American Community Survey, *=unknown

The earnings and retirement incomes are significantly higher in the Town compared to those of the state and county. The residents are more likely to have income from self-employment, and almost all of them have passive income. Reflecting the older population, the townspeople do receive a higher percentage of Social Security Income, but there is no supplemental Social Security income or public assistance for Town residents, for they are relatively affluent.

Residential Housing Stock

All the houses in Henlopen Acres are detached units, while in the state and county single-family homes represent 74% and 70% of all housing structures respectively. The Town's homes are mostly for seasonal use. The median value of owner-occupied housing units in Henlopen Acres is significantly higher than the median for Sussex County and the State of Delaware.

Table 3. Composition of Housing Stock of Henlopen Acres, Sussex County, and Delaware in 2010

Housing Type	Henlopen Acres[1]	% of total	Sussex County	% of total	Delaware	% of total
Single-Family	195	100	86,863	70.4	301,946	74.3
Multi-Family	0	0	11,796	9.6	66,717	16.4
Manufactured Homes	0	0	24,714	20.0	37,745	9.3
Total	195	100	93,070	100	343,072	100

Source: American Community Survey, [1]Town of Henlopen Acres

Table 4: Value of Homes

Financial	Delaware	Sussex	Henlopen Acres[1]
Median Home Value	$239,900	$225,000	$1,000,000+
Percent with Mortgage Outstanding	70.0%	40.8%	23.2%

Source: 2013 Delaware State Housing Authority, [1]Town of Henlopen Acres

Population Projections and Growth

U.S. Census estimates project an increase in population over the next five years of less than 1%. Growth of the full-time population and housing in Henlopen Acres will depend primarily on the decision of homeowners to live full-time in Henlopen Acres, due to the limited availability of land for new construction.

Redevelopment

The Town of Henlopen Acres does not have traditional redevelopment opportunities. The potential for redevelopment within the Town limits of Henlopen Acres could occur in two forms. The first opportunity for redevelopment would be the replacement of existing homes with new structures. There exists the possibility that these new houses could be substantially larger than existing houses. The Town has set a series of restrictions to limit the size of new homes through height, size, and set-backs. The average residential lot is 20,000 square feet and vacant lot is 25,000 square feet. The lot coverage limit and the limit of 6,000-square-foot dwelling unit will keep houses from being built out of character.

Redevelopment Recommendations

The plan recommends that all vacant or redeveloped property within the Town be developed as residential and in character with existing houses. *Map 7. Future Land Use,* describes the recommended future land use pattern for the Town. Properties that are not to be developed as residential include the Henlopen Acres Beach Club, the Block W Property, the Indian and Pioneer Cemetery, and the Henlopen Acres Marina Property.

The plan recommends that the Peter Marsh House ("The Homestead") at 10 Dodd's Lane be provided with all possible protection as a structure on the National Register of Historic Places. The current Zoning Code does not provide for a specific historic preservation district but does require the submission of a complete and comprehensive set of plans to the Environmental Approval Committee for review prior to construction or reconstruction beyond the usual and necessary repairs. The plan also recommends that those properties currently used by the Town of Henlopen Acres as a town hall and for the provision of public water remain in public use as long as those functions are deemed necessary. If the property on Pine Reach, which is now part of the public-water system, is no longer needed for this use, the land use recommended for this site is residential

LAND USE PLANNING AND REGULATION PROCESS

The Town's overall vision is to remain a well-planned resort and residential community that maintains it's recreational and natural resources while providing public services to its residents.

Community Design

The participants in the planning meetings indicated a strong desire to maintain the type of development that currently exists within the Town. Housing in the Town is single-family detached. The Town has also had a strong commitment to preserving the Homestead property while maintaining its historic integrity.

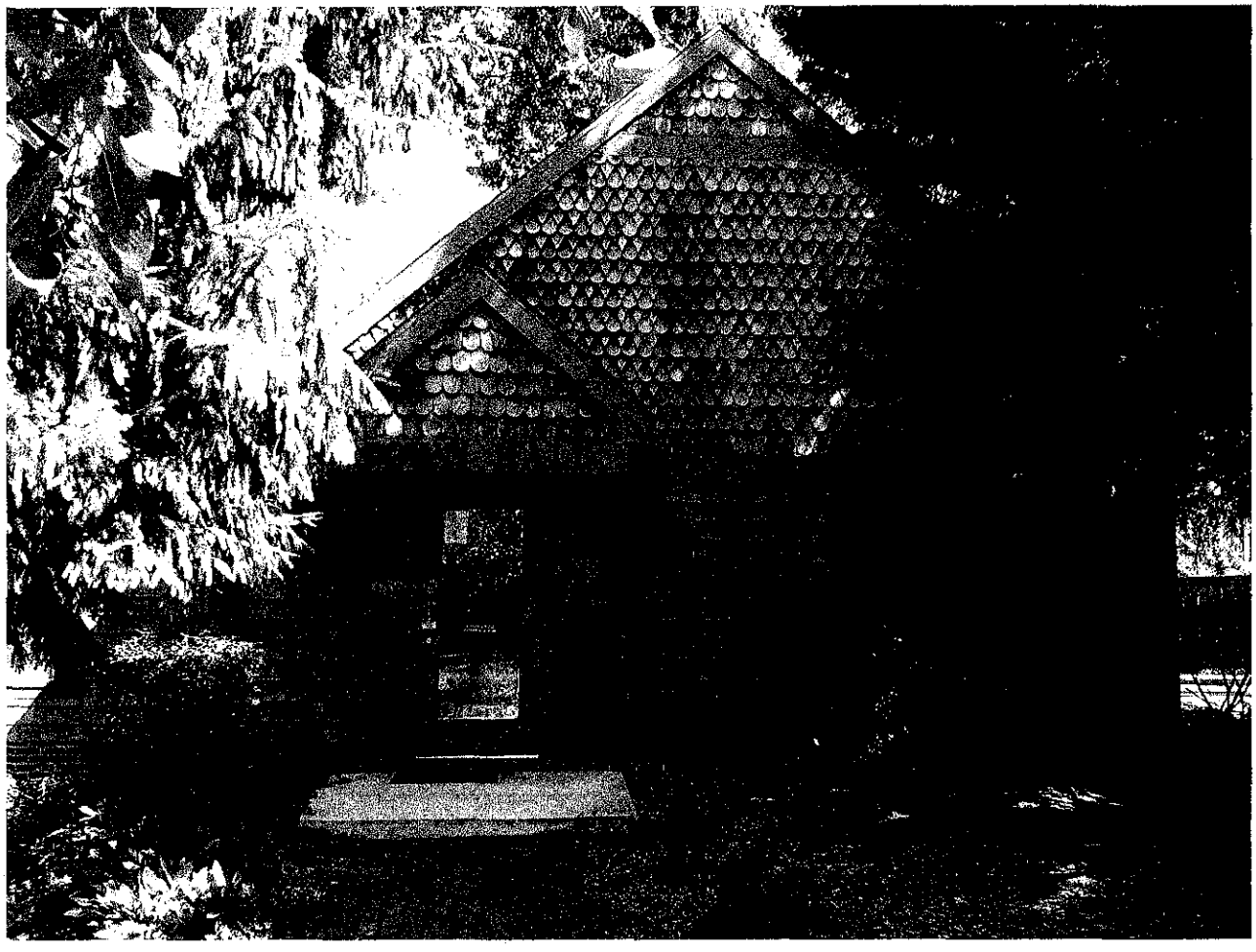
Land Use and Annexation

The Town of Henlopen Acres will remain a primarily residential town with open space, recreation, and limited institutional uses. While the Town has no interest in annexation at this time, land use concerns for Henlopen Acres do extend beyond the limits of the Town. Participants in planning meetings have indicated that the preservation of wetlands along the west side of the Lewes and Rehoboth Canal are important. The use and maintenance of the Deauville Beach Park owned by the State of Delaware and used by the City of Rehoboth Beach is of particular concern. The Town recommends that the property immediately adjacent to Town limits on Pine Reach across Surf Avenue from the Deauville Beach Park entrance, remain as passive open space without any improvements, as currently zoned by the City of Rehoboth Beach.

The Town of Henlopen Acres was developed as a residential community. Of the 219 parcels, 211 are residential or vacant residential properties. Table 1 lists the current land use for the Town and the approximate acreage. *Map 6. Existing Land Use,* provides an overview of the pattern of current land use. The Rehoboth Art League uses the Peter Marsh House, also known as the "Homestead," on Dodds Lane as an art gallery and art instruction facility. The property is zoned residential and is currently an existing non-conforming use. The original deed restrictions for the Town allow for the institutional use on the property such as art galleries, art education facilities, or other art related uses upon approval of a Special Exception by the Board of Adjustment.

Table 5. Current Land Use[8]

Land Use	Number of Parcels	Approximate Acreage
Beach Uses	2	12.63
Marina	1	2.40
Government and Cemetery	3	1.06
Rehoboth Art League	2	3.69
Residential	201	92.19
Vacant (undeveloped)	10	5.43
Streets, Alleys, Easements, Watercourses		38.60
Total	*219*	*156*



Deed Restrictions and Conditions

The deed of sale of the property of Henlopen Acres, dated July 22, 1930, sets a series of restrictions concerning property use and transaction, (the covenants). These provisions were updated by the deed dated July 6, 1982.[4] The deeds restrict the construction of properties within the Town to single-family residences. The Town has a right of first refusal on the sale of any property or any interest in any property. The property owner is also required to give notice to the Town Commissioners prior to any sale. The deed of sale also requires the review of any building or land development by the Environmental Approval Committee. The deed also stipulates how a property can be reviewed and what conditions the Environmental Approval Committee can require. The Zoning Code further defines this process of site plan review.

Land Uses Prohibited by Deed

The following land uses are prohibited by covenants within the limits of the Town: manufacturing; crematory or graveyard (except existing Indian and Pioneer burial ground on Dodd's Lane); hospitals; penal institution; agricultural uses; automobile storage or junkyard; and advertising signage. The covenants also limit any noxious or offensive uses.

Future Land Use

Goals:

- Manage the future development and redevelopment to maintain the Town's well-planned resort and residential community character.
- Support the preservation and maintenance of the Town's historic homes, structures, and resources.
- Maintain and improve the building and zoning Codes and development processes to ensure that all new development and redevelopment enhances the Town's well-planned resort and residential community character.

Review of the Zoning Code

The Town of Henlopen Acres has an adopted Zoning Code and an official Zoning map. The zoning specifies four districts: R-Residential; B- Recreational; M-Marine; and G-Government. The Code details permitted and special exception land uses and specifies lot size, lot coverage, setbacks, and height limits. The Code provides for a Zoning Inspector to enforce the regulations. The Code establishes an Environmental Approval Committee that has the power to review a site plan and approve or reject it. The Code establishes an appeal process for decisions made by the Zoning Inspector and to hear special exceptions of the Zoning Code. The Code also provides for special exception for the use of residential properties as art studios, art museums, theaters, or theater schools. *Map 5. Zoning,* delineates the current zoning designation. The plan currently recommends no change in zoning for the Town.

At present, the Zoning Code does not provide for a named zoning commission. The Code vests many of the planning and site-plan review decisions in the Environmental Approval Committee. Only a limited number of re-zonings have occurred, from residential to government, as new Town facilities have been built on vacant lots. The Environmental Approval Committee reviews the site plan prior to the issuance of a building permit. The Environmental Approval Committee acts in the role of a site-plan review committee.

The Zoning Code establishes the Board of Adjustment. The Code states that the Board of Adjustment shall consist of three to five members who are residents of the Town and shall not be Town Commissioners or Town employees. The members are appointed by the Mayor and confirmed by the Commissioners. The Board of Adjustment (1) hears and decides upon appeals of the Zoning Inspector's decision and Environmental Approval Committee's decision based on alleged error; (2) determines special exceptions listed in the Zoning Code; and (3) authorizes variances from the Zoning Code based upon either unnecessary hardship for use variances or exceptional practical difficulty for dimensional variances, not of the making of the property owner. The current Code uses the Board of Adjustment as the means to implement the special exception process. Neither the Environmental Approval Committee nor the Town Commissioners reviews these planning decisions. The next level of review would be an appeal to Superior Court.

The plan suggests a review of the Zoning Code to evaluate separating the legislative planning and zoning administration function from the quasi-judicial variance process.

The original comprehensive plan of 2004 suggested that the special exception process for allowing land use activities in addition to those land uses by right be replaced by a Conditional Use process. The Conditional Use permit would be required for land use activities not allowed by right. The Conditional Use process would have allowed the Town Commissioners to (1) set conditions on how the property will be used, limits on changes to the property and structure and (2) require review if the property owner changes or the organization engaged in the use changes.

Such revisions were drafted by the Board of Commissioners in conjunction with the Planning Commission. After holding public hearings where it was met with overwhelming opposition, the Board did not adopt the revisions.

Additionally, the plan as originally adopted, suggested that the fence review process be changed from an exceptional-practical-difficulty review by the Board of Adjustment, to a permitting process administered by the Zoning Inspector and reviewed and approved by the Environmental Approval Committee and the Town Commissioners. This process has been revised to a permitting process when a fence is erected in conjunction with an approved swimming pool, consistent with Sussex County ordinances. All other fences are reviewed for a variance by the Board of Adjustment.

The Board of Adjustment reviews only appeals in administration of the Zoning Code and variances based on exceptional, practical difficulty, where literal interpretations of the Zoning Code currently prevent or impede the owner of the property from using the property in a manner consistent with the Code.

COMMUNITY INFRASTRUCTURE

Water Supply

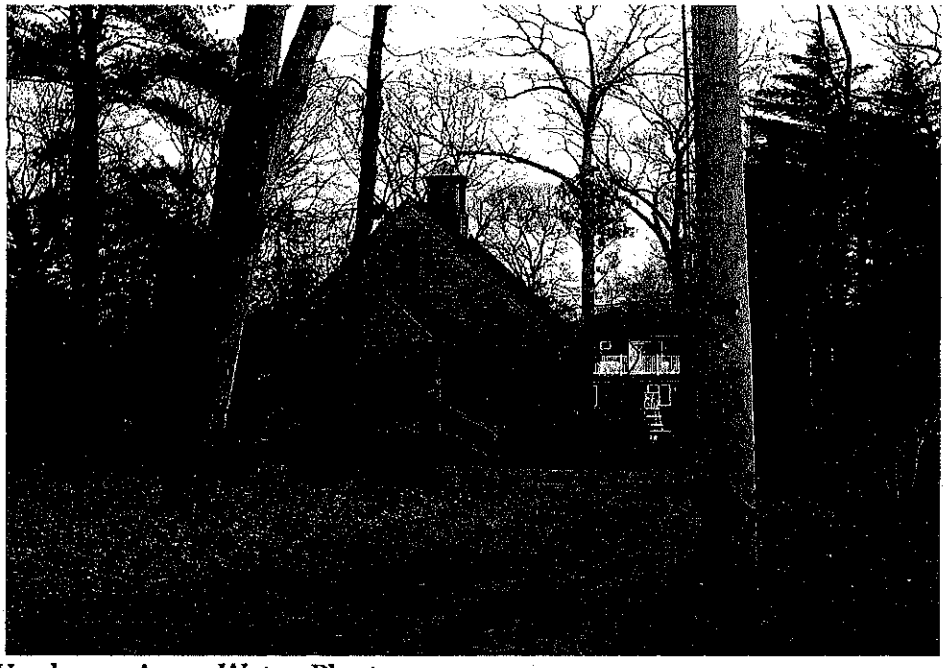
The Town of Henlopen Acres provides public water to its residents. The water system was updated in 1993 with new PVC piping and an automated treatment facility. The Town has 11 wells, *(see Map 8)*, that were drilled from 1991 to 1993 to replace earlier wells. These wells have a combined pumping capacity of 200 gallons-per-minute. The water system capacity is 80,000 gallons-per-day. The usage varies by season. In the summer, usage can reach 80,000 gallons-per-day in July or August and can be as low as 10,000 gallons-per-day during winter months. The Town has an allocation from the (DNREC) to withdraw up to 31,190,400 gallons-per-year. Previous usage levels indicate that the Town has used up to 15,000,000 gallons per year of their allocation. The Town wells are shallow and thus may be vulnerable to contamination. The Town continues to monitor water-quality issues. The Town of Henlopen Acres has a Certificate of Public Convenience and Necessity to provide water throughout its municipal limits.

Public water is currently available for all single-family homes, the "Homestead," the Rehoboth Art League, the Beach Club, and Town facilities. Using a national average usage rate of 300 gallons-per-day for a typical single-family home, the residential usage can be expected to amount to 63,600 gallons-per-day. The maximum usage rate of 80,000 gallons-per-day and the typical year-round usage for residential properties of 63,600 is significantly less than the design capacity of the system. With a limited development potential of perhaps 11 new homes in Henlopen Acres, the water system is adequate for current and future needs. The Town limits the use of public water for irrigation purposes, prohibits fixed-irrigation systems from using public water, and requires the landowner to dig an on-site well for fixed-irrigation systems.

The Town Charter grants the commissioners of Henlopen Acres the full power and authority to provide an ample supply of pure water for the Town. The Town has the authority to purchase, acquire by grant or gift, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, and control wells, reservoirs, pumping machines and stations, tanks, standpipes, water mains, fire hydrants, and all other instruments for collection, storage, purification, conveyance, and distribution of water, over, on, under, or through the lands controlled by the Town Commissioners or belonging to private individuals. The commissioners have power to enact ordinances, rules, and regulations in regard to the use for public or private purposes of water furnished by the Town, the amounts to be paid by the users, the fixing of fines and penalties; to make contracts for the purchase of water with any responsible person or corporation; and to distribute the same to users.

Wellhead protection is a growing concern. Wells are located within residential areas. These areas may be subject to contamination due to growing use of residential pesticides and fertilizers. Additionally, the Town has attempted to catalog all underground storage tanks. In the near future the Town will need to address the risks and develop a policy or ordinance for the purpose of well head protection.

The Plan recommends completing the well head protection plan to maintain the water quality and further evaluate as a back-up plan the costs and benefits to connecting to the Rehoboth Beach Water System.



Henlopen Acres Water Plant

Stormwater

The Town of Henlopen Acres is within the Inland Bay watershed and is affected by the Total Maximum Daily Load (TMDL) regulations set by DNREC for managing discharges into bodies of water. Section 303(d) of the Federal Clean Water Act (CWA) requires states to develop a list (303(d) List) of bodies of water for which existing pollution control activities are not sufficient to attain applicable water-quality standards and to develop TMDLs for pollutants of concern. A TMDL sets a limit on the amount of a pollutant that can be discharged into bodies of water, such that water-quality standards are met. The water of the Indian River, Indian River Bay, and Rehoboth Bay are over-enriched in nitrogen and phosphorous from point and non-point sources, according to the DNREC's 1998 final regulations.

The town will work with the State, Sussex Conservation District and other agencies to try and identify strategies that will work with the goals of the Town as well as with the needs of the surrounding ecosystems. The town should also consider requiring developers to use Best Management Practices to meet the required TMDLs for the affected watershed.

The Town Charter provides the Commissioners of Henlopen Acres with the power to manage the drainage of all water within the limits of the Town and the authority to pass ordinances for the opening of gutters, surface-water and underground drains, and sewers. The Town also has the power to regulate, maintain, clean, and keep the natural watercourses, runs, and rivulets within the Town limits open, clean and unobstructed.

Stormwater management is an important factor in protecting our water quality. There is a direct relationship between the percentage of impervious cover and water quality. As impervious cover increases, stormwater runoff increases. The increased runoff that comes into contact with pollutants transfers them into the waterways. Pollutants that accumulate due to runoff include nutrients such as nitrogen and phosphorus or organic chemicals such as oil and gas.

In 2000, the Town realized the need for a stormwater management plan. The Town employed Soulé and Associates of Salisbury, Maryland, to conduct a survey analyzing need and to propose an implementation plan for the Town. As a result the Town adopted a multi-phase plan to interconnect various areas of concern within the town. The build-out was completed in 2005 with additional tie-ins completed in 2010. The Town does not foresee the necessity for a stormwater utility or additional drainage easements, as no further major development within the town is possible. Future construction and site development will be limited to single parcels, the great majority of which will be under one-half acre. Administration of best management practices can be accomplished through periodic maintenance and plan review on a case by case basis.

The Town has recently improved its stormwater management system to reduce the negative impacts of runoff. The plan also recommends that the Town institute appropriate regulations to reduce the impact of residential land use on run off. This can be accomplished through improvements that buffer run-off into waterbodies such as the Canal and other best management practices to reduce non-point sources of nutrients. These actions, along with the town's existing open space requirements, may aid in the improvement of the water quality in the Lewes and Rehoboth Canal.

Wastewater

The Town's wastewater system is connected to the Rehoboth Beach facility at Wolf's Neck and the Town's wastewater accounts for approximately 4% of the flow, similar to North Shores. Dewey Beach represents approximately 36% of flow with the balance from Rehoboth Beach. This facility uses a land-application method involving spray irrigation and it does not discharge into the Inland Bay waterbodies. DNREC's report on the Inland Bay watershed indicates that municipalities can assist in the reduction of non-point discharges by improving stormwater-management policies that facilitate better managing runoff through detention or retention mechanisms, better manage floodwater storage, improved street-cleaning practices, buffer strips, grassed waterways, sediment traps, vegetative stabilization, and streamside-management zones.

Solid Waste Disposal

Property owners within Henlopen Acres arrange solid-waste disposal and recycling on an individual basis but the Plan is recommending a municipal managed solid waste disposal and recycling system as previously stated in the Air Quality section. Currently, approximately 5 different solid waste vendors with numerous trucks, travel the roads of Henlopen Acres on a weekly basis.

Maintenance of Marinas, Piers, Jetties, and Bulkheads

Henlopen Acres has a significant interest in and investment to preserve and properly manage the beach improvements. The Town is particularly concerned about the continued maintenance of protective groins located on the beach on the Henlopen Acres Beach Club property. This groin extends perpendicular from the beach approximately 320 feet. A second, adjacent groin extends approximately 148 feet parallel to the beachfront. The properties that constitute the beach of Henlopen Acres are owned by the Henlopen Acres Beach Club, Inc. and the Henlopen Acres Property Owners Corporation.

Chapter 29 of the Town Charter empowers the Board of Commissioners to "construct, widen, extend, improve, repair, vacate or abandon jetties." Any issues arising with regard to the existing jetty will be coordinated between the Town, the Henlopen Acres Beach Club and the State of Delaware, Department of Natural Resources and Environmental Control.

PUBLIC SAFETY

Police Services

The Town of Henlopen Acres maintains a security service. The Town has authorized a four full-time security-officer patrol to provide this security service. The security officers are Town employees and are not required to be accredited police officers. The security officers do not have the power to make arrests and contact the Delaware State Police as needed. The Town provides security patrols to North Shores under a contract with the North Shores Homeowners Association.

The Town Charter provides the Town Commissioners with the powers to make rules and regulations as necessary for the organization, government, and control of a police force. The Charter also empowers the Town Commissioners to organize a beach patrol that would enforce regulatory measures ordained by the Commissioners with respect to the cleanliness, usage, and enjoyment of the Town beachfront subject to cooperation with the Henlopen Acres Beach Club, Inc. and the Henlopen Acres Property Owners Corporation.

Fire Protection

The Rehoboth Beach Volunteer Fire Company (RBVFC) provides fire protection to Henlopen Acres. Station 1, on Rehoboth Avenue, is the closest fire station to Henlopen Acres. RBVFC confirmed adequate water supply for fire suppression by accessing the Rehoboth-Lewes Canal and fire hydrants located on Henlopen Avenue. RBVFC recommends the Town review visibility of house numbers for quick response of emergency vehicles. Sussex County provides advanced life support through its Office of Emergency Services. The closest paramedics station is Station 104, located in Midway on State Route 1. The Plan recommends further study of connecting to the Rehoboth Beach Water System as to costs and benefits, one of which may be the ability to install fire hydrants to better protect residences against fire.

COMMUNITY SERVICES

The Town is serviced by the post office in nearby City of Rehoboth Beach, Delaware, which is located at 179 Rehoboth Avenue.

There are no health facilities within Henlopen Acres, although there is one located ten miles away in Lewes. The Beebe Medical Center, located at 424 Savannah Road in Lewes, Delaware, operates a full service hospital, an emergency center, and a wide range of in and outpatient services. There are also two health clinics within three miles of the Town.

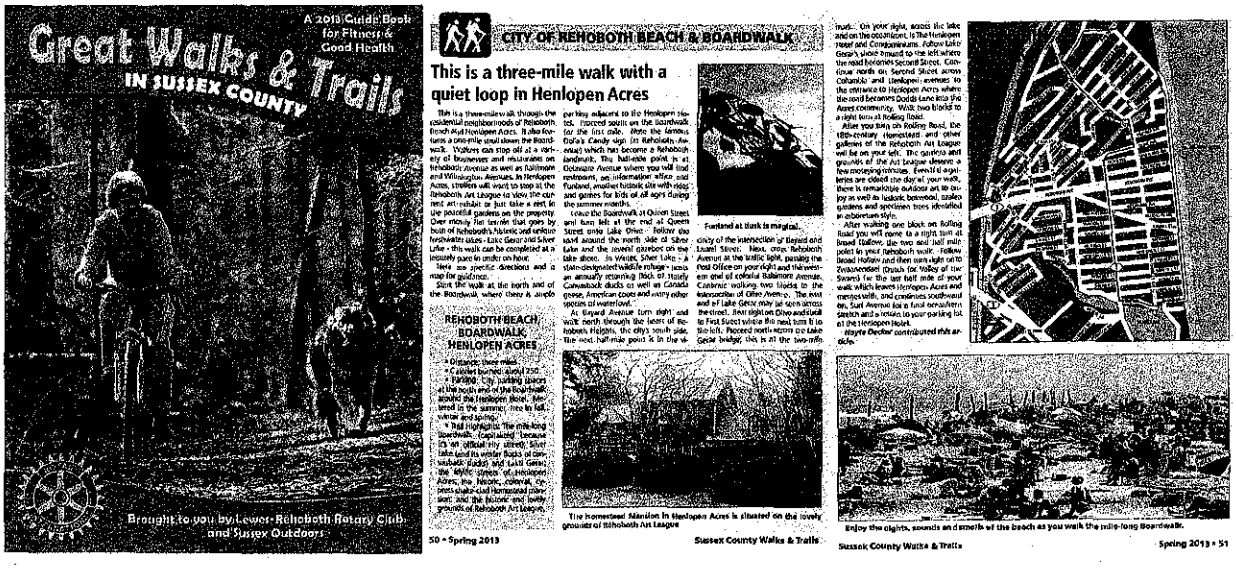
There is no library in Henlopen Acres. The Rehoboth Beach Public Library, at 226 Rehoboth Avenue in Rehoboth Beach, and the Lewes Public Library, at 111 Adams Street in Lewes, serve the Town.

There is no senior center in Henlopen Acres. Cape Henlopen Senior Center, a nonprofit senior center, located at 11 Christian Street in Rehoboth Beach, Delaware, provides a variety of services for seniors in the Town of Henlopen Acres as well as other nearby areas of the Sussex County.

Recreation

Henlopen Acres has significant recreation beach and water-sports facilities. The beach within the Town limits is divided into two properties. The southern property, 8.82 acres, is known as Block W and is owned by the Henlopen Acres Property Owners Corporation. This area of the beach is accessible to all residents of Henlopen Acres. At the north end of the oceanfront, the Henlopen Acres Beach Club owns and manages a 3.81 acre property. The Beach Club maintains facilities that include tennis courts, a clubhouse, and guarded swimming area. The Town maintains a marina at 47 Tidewaters, which has access to the Lewes and Rehoboth Canal. In 2011, the town added access and storage for kayaking at the marina. Immediately south of the Block W beach property along the oceanfront is the Deauville Beach Park, operated by the city of Rehoboth Beach. The State of Delaware owns this property. The property includes the portion of land to the west of Henlopen Avenue and bordering the Town of Henlopen Acres.

The Town is adjacent to the beaches of the Atlantic Ocean, close to Cape Henlopen State Park. The many cultural and recreational activities offered by the neighboring Cities of Rehoboth Beach and Lewes can be enjoyed by the residents of Henlopen Acres. Henlopen Acres has long been recognized as a remarkable walking area. Streets are shared equally between cars, bikes and walkers. Henlopen Acres is included in Sussex Outdoors' Guide Book for Fitness & Good Health[9] as part of a three mile loop including Rehoboth Beach and the Boardwalk.



Transportation

The primary means of transportation for Town residents is private automobile, biking or walking. The Delaware Transit Corporation or DART First State provides bus service to Rehoboth Beach that connects Lewes, Georgetown, Rehoboth Beach, Dewey Beach, Bethany Beach, and Ocean City, Maryland. Bus service can be accessed at stops at the Rehoboth Beach boardwalk and at the Park-and-Ride facility on State Route 1 near Rehoboth Beach. Most beach-area transit service is seasonal, with limited cross-county service to Rehoboth Beach operating throughout the year. DART First State also provides para-transit services that Henlopen Acres residents may be eligible to use. Current information on transit and para-transit services should be obtained from the Delaware Transit Corporation.

The State of Delaware maintains the Dune Way (otherwise known as Ocean Drive). The Town maintains and has authority to regulate all other streets using Town funds or Municipal Street Aid funds that are provided by the state. In 2014, the Town maintained 3.61 miles of public roads. In 2012, the Town completed the fourth of a five phase street resurfacing project. The Town maintains a pedestrian friendly atmosphere that equally accommodates both bicycle and car.

The Homestead, circa 1930

IMPLEMENTATION

Overall Goals

- Manage the future development and redevelopment to maintain Town's well-planned resort and residential community character.
- Support the preservation and maintenance of the Town's historic homes, structures, and resources.
- Minimize the impact of beach traffic on residents and work to improve the safety of and access to pedestrian facilities.
- Preserve the beach as a resource for all Town residents.
- Assist in the continued operation and preservation of beachfront recreation facilities, the Town's marina, and other open space.
- Maintain and improve the municipal building and zoning Codes and a development process to ensure that all new development and redevelopment enhances the Town's well-planned resort and residential community character.
- Ensure that utilities, community services and facilities are adequate to serve the existing community as well as future development of vacant lots.

The implementation plan for the Town of Henlopen Acres focuses on management and investment, since there are limited land use changes recommended by the plan. The pattern of land use is set in the Town of Henlopen Acres by both deed and zoning ordinance. The limited number of vacant lots will be developed as residential, and the Town has no plans for annexation at this time. The Town infrastructure for public water, wastewater and stormwater has reached complete build out status. Tie-in of remaining properties will be completed as vacant lots are developed. The Town does face issues related to the pattern of use. In Sussex County existing homes are increasingly being converted from second or resort homes to full-time permanent residences. The impact on Henlopen Acres may be the increased use of water and wastewater in the winter months, changes in security needs, and a possible increased demand for other municipal services throughout the year.

The Town of Henlopen Acres does not expect any significant growth in housing. The trend in Sussex County has been that beach-area homes are increasingly becoming full-time residences. The Town will continue to monitor the usage of public services to determine if year-round living impacts the water, sewer, or security services. The plan recommends that the Town not annex at the present time and that land use within the Town remain residential. The Town is concerned with specific properties surrounding the Town, including the Rehoboth and Lewes Canal and the state Division of Parks and Recreation property that now contain the Rehoboth Beach Deauville Park. The plan recommends retaining the small beach town character and particularly the new and redeveloped properties to continue the current character of development.

The Town does have significant responsibilities for the preservation of its recreational and historic resources. The plan suggests that the Town continue to investigate methods to maintain the beachfront area and work in coordination with appropriate state and federal agencies to lead the process of improving the groin on the beach in front of the Henlopen Acres Beach Club. The plan also recommends the Town strive to assure the preservation of the historic Peter Marsh House ("The Homestead") and express its authority to review any plans to alter or renovate same.

RECOMMENDATIONS

1. The Rehoboth Art League Properties: The plan recommends that both properties only be used as art gallery, art school, or community purpose, consistent with the covenants of the deeds of 1930 and 1982. The plan suggests evaluating the merits of establishing an historic district or zone for both Lot 1 and Lot 2. Lot 1 already has significant historic restrictions due to the Homestead and its status on the National Register of Historic Places and Lot 2 has many historic structures and landscaping elements. If the Rehoboth Art League, Inc. ceases to exist the properties should continue to have the same restrictions for use as set forth in the deeds of 1930 and 1982, which include residential. The Plan further suggests that the Homestead, accessory structures, landscape, and gardens, consistent with restrictions imposed by the Chancery Court, not be modified significantly as to diminish the historic characteristics of the property or as a departure from the residential character of Henlopen Acres. In that regard, the RAL has recently confirmed that it has no intention or desire to change or expand the nature of its activities in Henlopen Acres, or to increase the frequency or intensity of its activities, compared to what they have been in prior years. The RAL has also confirmed that it does not intend or desire to expand or change its facilities in Henlopen Acres, but wishes merely to be assured of its ability to maintain and update its facilities as necessary, without changing their size or use. With these points in mind, and with input from the RAL and Town residents, the Town should attempt to (1) develop and clarify specific rules and regulations that will apply to the RAL and its activities going forward, and (2) explore methods to implement such rules and regulations, which may include a trial agreement (Memorandum of Understanding) to further clarify and identify any issues.

2. The Pioneer and Indian Cemetery: The Pioneer and Indian Cemetery is approximately 4,000 sq.ft. and is located on Dodds Lane between Rolling Road and Pine Reach. It is owned by the Town and its history is somewhat anecdotal rather than having a proven history. The Plan recommends that the Pioneer and Indian Cemetery should remain in its natural, undeveloped and unspoiled state.

3. Air Quality and Municipal Refuse: The town already observes a no idling policy for all town vehicles. The plan recommends an ordinance be adopted expanding that policy to all commercial vehicles operating within town limits. The Plan also suggests evaluating a municipal trash and recycling service similar to Rehoboth Beach. This could be the most "Green" initiative that the town could institute. It could reduce traffic (have one set of waste/recycling trucks instead of 4-5) reduce air pollution, and reduce noise pollution.

4. Tree Canopy: The Plan recommends instituting some standard of minimum trees per lot, in particular on the 20 foot right of way owned by the Town. The Plan recommends studying the best trees for tree canopy development and come up with a plan to plant trees on all right of way areas that have insufficient trees.

5. Water Supply: The Plan recommends completing the well head protection plan to maintain the water quality and further evaluate as a back-up plan the costs and benefits to connecting to the Rehoboth Beach Water System.

6. Fire Protection: The Plan recommends further study of connecting to the Rehoboth Beach Water System as to costs and benefits, one of which may be the ability to install fire hydrants to better protect residences against fire.

7. The Marina: The Town should continue to investigate remedies to silting in the Marina which requires dredging every eight to ten years. Dredging was completed in the fall of 2012 at an approximate cost of $200,000 taking a little over one year to complete. The process results in a major disruption to the Marina area and neighboring properties. At issue is not only the cost of dredging, but the frequency of dredging and the lengthy and unsightly process.

8. Traffic Study: The Town should consider a traffic study to provide baseline information for cars, pedestrians and bicycles covering one year to include summer months and off season. The study should differentiate traffic for residential, commercial/construction, and the Rehoboth Art League.

ADDITIONAL CONSIDERATIONS

The Planning Commission and the Board of Commissioners should consider a review all zoning ordinances to determine enforceability and ease of compliance. Upon completion of the Comprehensive Plan, the Planning Commission will make a continuing effort to simplify the Code for easier understanding to facilitate compliance. As part of the planning process it was noted that the current building requirements tend to discourage residents from building garages and that this should be reviewed to reverse this trend.

The Town holds several leases with the Army Corps of Engineers for use of property adjacent to the Lewes and Rehoboth canal. These leases were reviewed for continued compliance by all parties.

The Zoning Code requires that 60% of a lot remains green cover. The Planning Commission discussed this requirement and impervious versus pervious ground cover issues and resolved that these requirements would remain unchanged although new pervious materials would be considered. During the process we found that Rehoboth Beach considers pervious materials to be included in the "green cover".

Renewable Energy was discussed and the Town should encourage its use.

Bridle Paths were discussed in that the original purpose as horse paths has long since passed. They are restricted to resident and utility use only but enforcement is difficult. Additional restrictions were considered and resolved to erect additional signage and study the issue further.

The Plan suggests additional study around excluding at least one garage bay (approximately 10' x 25') from the square feet included in the lot restrictions so as to encourage the storage of bicycles, toys, cars, scooters and other items.

COORDINATION

The Town will continue to collaborate with the Office of State Planning Coordination, to coordinate with the state agencies, and participate on appropriate state committees as needed. The Town holds a Memorandum of Understanding with Sussex County to coordinate with the County on issues related to land use planning, traffic impact and public services. The Town should also coordinate with the City of Rehoboth Beach on land use decisions along the Town's southern border. Particular attention should be paid to the use of Deauville Park and the property across the road from the Deauville Park entrance. The plan recommends that this property, immediately adjacent to the Town remain as passive open space. The Town has contacted the neighboring jurisdictions of Sussex County and the Cities of Rehoboth Beach and Lewes with regard to updates and revisions to the Comprehensive Plan. In addition, neighboring jurisdictions were notified of public hearings and opportunities to comment on revisions. The Planning Commission of Rehoboth Beach reviewed our plan and made numerous comments and the Chairman of the Planning Commission of Rehoboth Beach met with our Chairman. Those were the only comments from neighboring jurisdictions.