

**Cheswold Police Department**  
 691 Main Street  
 Cheswold, DE 19904  
**Traffic Survey Summary**

Location: Commerce Street and School Lane  
 Start Date: 08/17/2015  
 End Date: 08/24/2015

Zone: Residential  
 Start Time: 10:44:40  
 End Time: 11:29:51  
 Travel Direction: N

Speed	1 - 19	20 - 21	22 - 23	24 - 25	26 - 27	28 - 29	30 - 31	32 - 33	34 - 35	36 - 37	38 - 39	40 - 999
Volume	1897	823	1310	1620	1312	786	459	289	164	118	82	97
% of Total	21.17%	9.18%	14.62%	18.08%	14.64%	8.77%	5.12%	3.22%	1.83%	1.31%	0.91%	1.08%
									Total Vehicles: 8957			

Speed Statistics		10 MPH Pace		Number Exceeding Limit				
Posted	25	Pace Speed	20 to 29	Speed	25+	35+	45+	Total
#At/Under Limit	5650	# in Pace	5851	Number	3010	271	26	3307
# Over Limit	3307	% in Pace	65.32%	Percent	33.6%	3.02%	0.29%	36.92%
Average Speed	23.15	85% Percentile	29					

**Cheswold Police Department**  
 691 Main Street  
 Cheswold, DE 19904  
**Traffic Survey Summary**

Location: Commece St / New Street  
 Start Date: 08/24/2015  
 End Date: 08/31/2015

Zone: Residential  
 Start Time: 14:58:00  
 End Time: 10:29:57  
 Travel Direction: S

Speed	1 - 19	20 - 21	22 - 23	24 - 25	26 - 27	28 - 29	30 - 31	32 - 33	34 - 35	36 - 37	38 - 39	40 - 999
Volume	11964	912	705	504	270	156	93	73	32	17	11	22
% of Total	81.06%	6.17%	4.77%	3.41%	1.82%	1.05%	0.63%	0.49%	0.21%	0.11%	0.07%	0.14%
									Total Vehicles: 14759			

Speed Statistics		10 MPH Pace		Number Exceeding Limit				
Posted	25	Pace Speed	6 to 15	Speed	25+	35+	45+	Total
#At/Under Limit	14085	# in Pace	9812	Number	624	42	8	674
# Over Limit	674	% in Pace	66.48%	Percent	4.22%	0.28%	0.05%	4.56%
Average Speed	13.76	85% Percentile	21					

**Cheswold Police Department**  
 691 Main Street  
 Cheswold, DE 19904  
**Traffic Survey Summary**

Location: Main Street / Holly Oak Dr  
 Start Date: 08/31/2015  
 End Date: 09/09/2015

Zone: Residential  
 Start Time: 11:21:18  
 End Time: 07:38:26  
 Travel Direction: E

Speed	1 - 19	20 - 21	22 - 23	24 - 25	26 - 27	28 - 29	30 - 31	32 - 33	34 - 35	36 - 37	38 - 39	40 - 999
Volume	4774	3205	5199	6138	4661	2274	885	347	146	54	33	30
% of Total	17.2%	11.55%	18.73%	22.12%	16.79%	8.19%	3.18%	1.25%	0.52%	0.19%	0.11%	0.1%
											Total Vehicles: 27746	

Speed Statistics		10 MPH Pace		Number Exceeding Limit				
Posted	25	Pace Speed	19 to 28	Speed	25+	35+	45+	Total
#At/Under Limit	19316	# in Pace	21491	Number	8313	106	11	8430
# Over Limit	8430	% in Pace	77.45%	Percent	29.96%	0.38%	0.03%	30.38%
Average Speed	23.02	85% Percentile	27					

# CHESWOLD ANNEXATION LETTER 09-09-2015

September 9, 2015

Honorable Mayor Donald F. Tinari  
Town of Cheswold  
691 Main Street  
Cheswold, DE 19936

Mayor Tinari,

At the public hearing held August 25, 2015, the Town Council of the Town of Cheswold heard public comments regarding the Annexation Application to annex certain lands into the Town of Cheswold. (Exhibit A) Despite having submitted the Annexation Application, we were not given an opportunity to speak as the applicants on behalf of the Annexation Application at the public hearing. Consequently, it seems appropriate that we be afforded the opportunity to submit written comments for inclusion in the public record.

Since the public hearing was held, I personally met with Representative Trey Paradee on August 28, 2015, and I personally met with the current residents of Noble's Pond at a community meeting held September 2, 2015. This letter is being submitted in order to memorialize representations made at both meetings.

The Noble's Pond development has been approved as a 55+ community and the "Master Declaration of Easements, Covenants and Restrictions for the Villages of Noble's Pond (Service Corporation)," of record in the Office of the Recorder of Deeds, in and for Kent County, at Book RE, Volume 5787, Page 178, as subsequently amended, expressly states in Article VI entitled "Use Restrictions" that Noble's Pond is to be a 55+ community in accordance with Federal and State law. (Exhibit B) Pending approval of the Annexation Application, Noble's Pond will be zoned R-5 Age-Defined Community in the Town of Cheswold, and there is no intention for the Annexed Property to ever be anything but a 55+ community.

Each time a new residential dwelling is sold in Nobles Pond, \$500 is collected at settlement that is deposited into a capital account, which capital account will be available for the Homeowners' Association to use for future capital improvements, including road maintenance and repairs. As of September 2, 2015, this capital account contained approximately \$61,461.64. I will not access this account for any reason, and the use of this account will be as determined by the Homeowners' Association.

The annexation will have no impact on the rights of the Noble's Pond property owners, whether those owners are located in Kent County or the Town of Cheswold, to use the Club Property as outlined in Article 12 of the "Master Declaration of Easements, Covenants and Restrictions for the Villages of Noble's Pond (Association)" of record in the Office of the Recorder of Deeds, in and for Kent County, at Book RE, Volume 5787, Page 98, as subsequently amended, and no one will have membership rights to use and access to the Club Property who would not qualify to live in a 55+ community. (Exhibit C) I have had no discussions with the owner of the Evans Jarrell parcel about acquiring the Evans Jarrell Farm, and I have no intention now or in the future of acquiring and developing the Evans Jarrell farm as part of the Noble's Pond development.

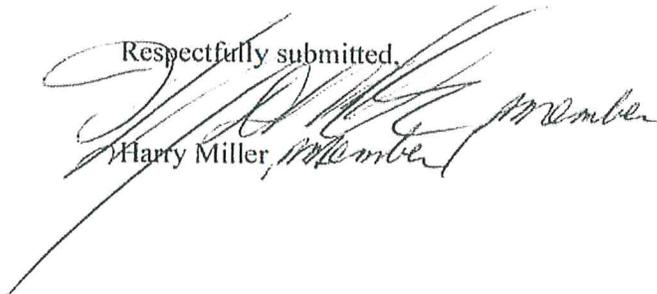
There are currently no plans to change the design of the residential dwellings that will be constructed in the Annexation Areas. However, as I mentioned at the recent community meeting with the Noble's Pond residents, although not anticipated, it is possible that the design of the residential dwellings within the Annexation Areas may change in the future depending on shifts in the housing market.

Nevertheless, if any unanticipated changes do occur, all dwellings would still be subject to the 55+ community requirement imposed on the Annexation Areas by the Deed Restrictions and the R-5 Age-Defined Community zoning classification.

Earlier in the annexation process, as authorized by section 3.2.8 of the Cheswold Town Charter, there were discussions with the Town of Cheswold regarding a potential donation of \$25,000 for public improvements as part of the annexation. However, at the request of the Town of Cheswold, this provision was not included in the final Annexation Agreement. (Exhibit D)

We appreciate the opportunity we've had to submit an Annexation Application with the Town of Cheswold, and we look forward to having a productive working relationship in the coming years.

Respectfully submitted,

  
Harry Miller, *Member*

ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT (hereinafter referred to as "Agreement"), is made and is effective on this \_\_\_ day of \_\_\_\_\_, 2015, by and between the TOWN OF CHESWOLD, DELAWARE, a municipal corporation organized and existing under and by virtue of the laws of the State of Delaware (hereinafter referred to as "Town") by and through Town Council, Regal Contractors, LLC ("Regal"), Eddie Evans Farm, Phase I, LLC, a Delaware limited liability company ("Eddie Evans I"), Eddie Evans Farm, Phase II, LLC, a Delaware limited liability company ("Eddie Evans II"), Eddie Evans Farm, Phase V, LLC, a Delaware limited liability company ("Eddie Evans V"), Eddie Evans Farm, Phase VI, LLC, a Delaware limited liability company ("Eddie Evans VI"), Eddie Evans Farm, Phase VII, LLC, a Delaware limited liability company ("Eddie Evans VII"), Eddie Evans Farm, Phase VIII, LLC, a Delaware limited liability company ("Eddie Evans VIII"), Eddie Evans Farm, Phase IX, LLC, a Delaware limited liability company ("Eddie Evans IX" and collectively with Regal, Eddie Evans I, Eddie Evans II, Eddie Evans V, Eddie Evans VI, Eddie Evans VII, and Eddie Evans VIII the "Eddie Evans Group") and Evans Jarrell, LLC ("Jarrell" and collectively with the Eddie Evans Group, the "Petitioners"). Each of the Town, the Eddie Evans Group and Jarrell may also be individually referred to herein as a "Party" or any two or more thereof as the "Parties."

WITNESSETH:

WHEREAS, the Town is a municipal corporation organized and existing under the laws of the State of Delaware; and

WHEREAS, Jarrell is the owner of record of certain real property more fully described on Exhibit A attached hereto and incorporated herein by reference (hereinafter referred to as the "Jarrell Property"), which property is contiguous to, but not within, the corporate limits of the Town; and

WHEREAS, Eddie Evans Group is the owner of record of certain real property more fully described in Exhibit B attached hereto and incorporated herein (hereinafter referred to as "Eddie Evans Property"), which property is not, absent annexation of Jarrell Property, contiguous to and is not located within the corporate limits of the Town; and

WHEREAS, the Petitioners have filed a Petition for Annexation ("Petition") with the Town seeking the annexation of the Jarrell Property and the Eddie Evans Property (collectively, the "Annexed Property") into the Town.

WHEREAS, the Petitioners and the Town desire to address matters that are or may be relevant to the Annexed Property including, but not limited to, zoning of the Annexed Property, public utilities, public services, storm water management, compliance with existing recorded subdivision plans, and future subdivision approvals.

WHEREAS, the Petition is contingent upon the adoption and approval of this Agreement by Town Council; and

WHEREAS, the Petition is also contingent upon the adoption by Town Council of an ordinance adopting an amendment to the Town's Land Use Ordinance, adopted April, 2005, as amended from time to time ("Land Use Ordinance") which, among other things, creates a new zoning district to be known as the "R-5 Age-Defined Community" zoning district (the "R-5 Zoning Amendment").

NOW, THEREFORE, for and in consideration of the promises, covenants and agreements herein contained, the Parties hereto agree as follows:

1. **Applicable Law.** This Agreement is made pursuant to and in accordance with the provisions of Section 3.2.8 of the Town's Charter entitled "Annexation Agreements". The preceding "Whereas" clauses are hereby made a part of this Agreement and incorporated herein as if fully set forth.
2. **Annexation Procedure.** The Petition shall be considered by Town Council in accordance with the rules and procedures mandated by Section 3 of the Town's Charter and notwithstanding anything that may be contained herein to the contrary, nothing in this Agreement shall alter such rules and procedures. Upon acceptance of the Petition by Town Council, Town Council shall adopt a resolution notifying the property owners and the residents of the Annexed Property and the Town of the proposed annexation by the Town of the Annexed Property, and shall fix a time and place for the public hearing on such proposed annexation. At the public hearing, Town Council shall hear comments and opinion from any concerned party regarding the proposed annexation. The Town Council may, either at the public hearing or within thirty (30) days thereafter, pass a resolution ordering a special election to be held regarding the proposed annexation of the Annexed Property, which action shall be considered the determination by the Town Council to proceed with the Petition and the proposed annexation of the Annexed Property.
3. **Zoning Ordinance.** Upon a favorable vote to the proposed annexation at the special election, the Town Council shall at its first meeting following the special election, consider the R-5 Zoning Amendment. Nothing in this Agreement shall require or otherwise bind the Town and/or its Town Council to approve the R-5 Zoning Amendment. In the event that Town Council does not adopt the R-5 Zoning Amendment, the Petition shall automatically be deemed withdrawn by the Petitioners. In the event that Town Council adopts the R-5 Zoning Amendment, the Eddie Evans Property (if annexed) shall be zoned R-5 Age-Defined Community effective immediately upon annexation, and the Jerrell Property (if annexed) shall be zoned R-3 Multi-Family and Townhouse Residential effective immediately upon annexation.
4. **Annexation Ordinance.** Upon a favorable vote to the proposed annexation at the special election and the adoption by Town Council of the R-5 Zoning Amendment, Town Council shall at its first meeting following the special election adopt a resolution annexing the Annexed Property (hereinafter referred to as the "Annexation Resolution") and including it within the limits of the Town. The Annexation Resolution shall be signed by the Mayor and certified by the Secretary with the municipal seal affixed, together with a plot of the Annexed Property and shall be forthwith filed for record in the Office of the Recorder of Deeds in and for Kent County, Delaware. Recording shall take place no more than twenty (20) days after the enactment of the

Annexation Resolution. The Town shall send all notices required by law, if any, to be sent in connection with the enactment of such Annexation Resolution.

5. **Services to Annexed Property.** The Town will provide fire, rescue and police services to the Annexed Property. Petitioners acknowledge and agree that the Town has not agreed to provide, and will not at this time provide, any public utility or other utility-type services at this time to the Annexed Property including, but not limited to, water, stormwater management, sewer, road maintenance, electric, and/or solid waste removal services; provided, however, that nothing herein shall prevent the Town from choosing to provide such service in the future to the Annexed Property, and at such time as the Town provides distribution of these services through a municipal or municipally approved operation, the Petitioner will obtain these services pursuant to Town Codes, Ordinances and operating practices, with all costs to transfer such services already being provided to the Annexed Property being at the sole expense of the Town. Petitioners acknowledge and agree that any streets located within the Annexed Property that are dedicated to public use shall be maintained by the owner of such streets (including, but not limited to, any homeowner's association or maintenance corporation charged with such obligation) and not the Town.

6. **Compliance with Ordinances.** Petitioners agree to comply with all ordinances of the Town in effect at the time of annexation of the Annexed Property unless expressly waived or varied in this Agreement or pursuant thereto. Effective immediately upon annexation of the Annexed Property into the Town, the provisions of the Land Use Ordinance shall be applicable to and govern any use of the Annexed Property including, but not limited to, zoning, subdivision, permitting, inspection, fees, stormwater management, drainage, erosion and sediment control, streets, sidewalks, parking, signs, landscaping and active open space. Notwithstanding anything herein to the contrary, all structures and uses existing on the Annexed Property at the time of annexation that do not comply with any Town ordinances or regulations shall be deemed legal non-conforming structures and uses that shall be permitted to exist in the condition and intensity in which they are annexed into the Town.

7. **Existing Final Recorded Subdivision Plans.** The Eddie Evans Property is subject to existing final recorded subdivision plans recorded in the Office of the Recorder of Deeds in and for Kent County on December 10, 2009 in Plot Book 108, Page 4 and on April 26, 2011 in Plot Book 113, Page 60 ("Recorded Plans"), copies of which are attached hereto as Exhibit C and incorporated by reference as if set forth fully herein, which were approved by Kent County prior to annexation. Nothing in this Agreement (or by virtue of the annexation of the Eddie Evans Property) shall relieve the owners of the Eddie Evans Property from compliance and adherence to the Recorded Plans, including all notes on the Recorded Plans. The Eddie Evans Property shall be annexed subject to all approvals that have been granted by Kent County, and all approvals granted by Kent County for the Eddie Evans Property, including but not limited to subdivision approvals and approvals of improvements that have been installed, shall be binding on the Town, and the Town shall not require any additional approvals for the Eddie Evans Property that have already been granted by Kent County; provided, however, that, following annexation of the Eddie Evans Property, the development of the Eddie Evans Property shall be subject to the requirements of the Land Use Ordinance including, but not limited to, any plans, permits, inspections, fees, procedures and/or other requirements that may be contained therein. To the extent that there is a conflict between the Recorded Plans and the Land Use Ordinance, the more stringent of the two will apply.

Nothing in this Agreement shall be deemed to relinquish any duties, rights, or obligations of any other applicable governing authority or agency (i.e., DelDot, Kent County Conservation District, etc.) with respect to the Recorded Plans.

8. **Bonds and Guaranties.** To the extent that a Petitioner has previously posted a bond or guaranty of the type required by the Land Use Ordinance prior to the annexation of the any of the Annexed Property that remains open on the date of annexation, the Petitioner shall be required to take all requisite steps necessary to name the Town as the beneficiary of such bond or guaranty within ninety (90) days of the final annexation of the Annexed Property. Prior to transferring the bond, Petitioner shall be permitted to have the bond amount reduced by the amount of all bonded improvements that have been completed by Petitioner. The Town may, in its sole discretion, require additional bonds and guaranties in accordance with the provisions of the Land Use Ordinance.

9. **Tax Abatement.** The Town does hereby waive real property taxes for the Annexed Property for seven years from the date the Annexed Property is annexed into the Town. If, prior to the expiration of the seven years, any portions of the Annexed Property are transferred to new owners, the tax waiver shall continue with respect to those transferred portions for the remainder of the seven years.

10. **Enforcement of Agreement.**

10.1 Upon a breach of this Agreement, any of the Parties, in any court of competent jurisdiction, by an action or proceeding at law or in equity, may secure the specific performance of the covenants and agreement herein contained, or may be awarded damages for failure of performance; provided, however, that the Petitioners shall not be entitled to disconnect any portion of the Annexed Property previously annexed to the Town. No action taken by any party hereto pursuant to the provisions of any other Article of this Agreement shall be deemed to constitute an election of remedies and any remedies set forth in this Agreement shall be cumulative and nonexclusive of any other remedy either set forth herein or available to any party at law or in equity.

10.2 In the event of a material breach of this Agreement, the Parties agree that the Party alleged to be in breach shall have thirty (30) days after written notice of said breach to correct the same prior to the non-breaching Party's seeking of any remedy provided for herein, provided, however, that said thirty (30) day period shall be extended if the defaulting Party has initiated the cure of said default and is diligently proceeding to cure the same or if weather conditions are such as to make such period unreasonable.

10.3 If any of the Parties shall fail to perform any of its obligations hereunder, and the Party affected by such default shall have given written notice of such default to the defaulting Party, and such defaulting Party shall have failed to cure such default within thirty (30) days of such default notice, provided, however, that said thirty (30) day period shall be extended if the defaulting Party has initiated the cure of said default and is diligently proceeding to cure the same or if weather conditions are such as to make such period unreasonable, then, in addition to any and all other remedies that may be available, either in law or equity, the Party affected by such

default shall have the right, but not the obligation, to take such action as in its reasonable discretion and judgment shall be necessary to cure such default. In such event, the defaulting Party hereby agrees to pay and reimburse the Party affected by such default for all reasonable costs and expenses, including reasonable expert witness fees and attorney's fees, incurred by it in connection with action taken to cure such default.

10.4 The failure of the Parties to insist upon the strict and prompt performance of the terms, covenants, agreements and conditions herein contained, or any of them, upon any other Party imposed, shall not constitute as a waiver or relinquishment of any Party's right thereafter to enforce any such term, covenants, agreement or condition, but the same shall continue in full force and effect.

10.5. If any provision of this Agreement is held invalid, such provisions shall be deemed to be excised therefrom and the invalidity thereof shall not affect any of the other provisions contained in this Agreement.

11. Omitted.

12. Binding Effect of Agreement; Recording. This Agreement shall inure to the benefit of, and be binding upon, successors of Petitioners and their respective successors, grantees, lessees, and assigns, and upon successor corporate authorities of the Town and successor municipalities, and notwithstanding anything that may be contained in the Town's Charter to the contrary, shall not expire and shall constitute a covenant running with the land. If a portion of the Annexed Property is sold, the seller shall be deemed to have assigned to the purchaser any and all rights and obligations the seller may have under this Agreement that affect the portion of the Annexed Property sold or conveyed and thereafter the seller shall have no further obligations under this Agreement as it relates to the portion of the Annexed Property conveyed. Within thirty (30) days after the execution of this Agreement, the text of this Agreement, or a suitable memorandum hereof, shall be recorded at the sole cost and expense of the Petitioners in the Office of the Recorder of Deeds in and for Kent County, Delaware.

13. Conflicts. In the event of any conflict or inconsistency between the terms and provisions of this Agreement and any existing or hereafter adopted resolutions, ordinances, codes or regulations by the Town, the terms and provisions of this Agreement shall supercede and control.

14. Severability. If any term, provision, covenant, or condition of this Agreement is held to be invalid or unenforceable by a court of law, such term, provision, covenant, or condition shall be severed and the remainder of this Agreement hereof shall be binding on the Parties and remain in full force and effect to the extent permitted by law.

[INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the above-mentioned date.

TOWN OF CHESWOLD

Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor Donald Tinari (SEAL)

STATE OF DELAWARE :  
: SS  
COUNTY OF \_\_\_\_\_:

BE IT REMEMBERED that on this \_\_\_\_ day of \_\_\_\_\_, A.D., 2015, personally came before me, a Notary Public for the State of Delaware, Donald Tinari, Mayor of the Town of Cheswold, party to this Indenture, known to me personally to be such, and has acknowledged the signature hereon as his own lawful signature and that his act of executing, sealing, and delivering this Indenture is the duly-authorized act of the Town Council of the Town of Cheswold.

GIVEN under my hand and Seal of Office, the day and year aforesaid.

\_\_\_\_\_  
Notary Public



IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the above-mentioned date.

REGAL CONTRACTORS, LLC  
EDDIE EVANS FARM, PHASE I, LLC,  
EDDIE EVANS FARM, PHASE II, LLC  
EDDIE EVANS FARM, PHASE V, LLC  
EDDIE EVANS FARM, PHASE VI, LLC  
EDDIE EVANS FARM, PHASE VII, LLC  
EDDIE EVANS FARM, PHASE VIII, LLC  
EDDIE EVANS FARM, PHASE IX, LLC

Date: 3/25/15

Mary Field, Manager (SEAL)  
Mary Field, Manager

BE IT REMEMBERED that on this 25<sup>th</sup> day of March, A.D., 2015, personally came before me, a Notary Public for the State of Delaware, Mary Field, Manager of Regal Contractors, LLC, Eddie Evans Farm, Phase I, LLC, Eddie Evans Farm, Phase II, LLC, Eddie Evans Farm, Phase V, LLC, Eddie Evans Farm, Phase VI, LLC, Eddie Evans Farm, Phase VII, LLC, Eddie Evans Farm, Phase VIII, LLC, Eddie Evans Farm, Phase IX, LLC, parties to this Indenture, known to me personally to be such, and has acknowledged the signature hereon as her own lawful signature and that her act of executing, sealing, and delivering this Indenture is the duly-authorized act of the herein-referenced limited liability companies.

GIVEN under my hand and Seal of Office, the day and year aforesaid.



D. Barrett Edwards, IV  
Notary Public