TOWN OF BOWERS COMPREHENSIVE PLAN

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1. Background and Goals

1.1. Background

The Town of Bowers has historically been a small, overwhelmingly residential waterman's village located on a neck of habitable land lying between the Delaware Bay on the east, the St. Jones River on the North, and the Murderkill River on the South. This location is unsuitable for, and incapable of, sustaining significant development. However, in recent decades, the demand for resort and waterfront real estate has created pressures in the Town and along the bay for additional residential and resort development with its accompanying commercial development. In the face of this pressure for increased development, the Town Council has determined it should, as authorized by law, revise its Comprehensive Plan.

1.2. Goals

The general goals which this Comprehensive Plan is designed to achieve are:

1.2.1 To prohibit industrial, manufacturing, and large commercial development in the Town.

1.2.2 To strictly limit residential development, by allowing only those uses which are compatible with the character and history of the community and which are readily supportable by the natural environmental features and existing infrastructure.

1.2.3 To strictly control the number and types of commercial activities in order to provide only those which are necessary, appropriate and compatible with the character and location of the Town.

1.2.4 To protect and preserve the natural environment, wildlife, wetlands, and beaches and to permit, where appropriate, the agricultural use of land.

1.2.5 To preserve the tranquil bayfront community nature of the Town.

1.2.6 To prevent the overcrowding of land by imposing limits on the percentage of total lot area that can be built upon, and by requiring front, side, and rear yard setbacks.

1.2.7 To develop a means of balancing the competing interests of abutting waterfront property owners in maximizing their own enjoyment of the bay's view, light, and air.

1.3. Objective

The primary objective of this Comprehensive Plan is to examine and inventory the natural and man-made features of the Town to facilitate the continuing modification of the existing zoning and subdivision ordinance to reflect the changing needs of the community.

2. Profile

2.1. General Information

2.1.1. Location

Bowers Beach is located in South Murderkill Hundred, Kent County, Delaware. To the east of the town is the Delaware Bay, to the north the St. Jones River, and to the south the Murderkill River.

The only access to the Town is by way of Road 18 which leads eastward to the Town's western boundary from Delaware Rt. 1.

2.1.2. History/historical Demographics

Bowers Beach, one of the earliest settlements along the Delaware Bay, was named "Whitwells' Delight" in the late 1600's by Francis Whitwell. At that time, the tract contained 834 acres of woodland and 540 acres of meadow. In 1685, William Frampton acquired the property and called it "Dover Peers". Frampton died and the land was sold to William Bassett.

Later on, 420 acres of Whitwells' Delight was owned by Nathaniel and Mary Hunn. Nathaniel died, and in 1734 his children sold the 420 acres to John Bowers. Since then, August 16, 1734, the area "between the mouths of the St. Jones and Murderkill Rivers" has been known as Bowers' Beach.

The land passed to John Bowers' son and then to his granddaughter. She was the last person to own the land to carry the Bowers' name.

John Booth acquired part of the land in 1750, and sold that part the same year to Benjamin Chew. Joseph Wood owned the Bowers Beach properties by the 1800's. Eventually, the properties were sold to many owners.

Bowers was first incorporated on March 9, 1907, and was reincorporated in 1962.

Source: Montgomery, Gail Stewart, "Delaware Discovered Series, Vol. 1" (1974).

2.1.3. Population

The population of Bowers showed a decrease in population from 1960 to 1990. However, from 1990 to 2010, the population increased from 179 to 335 according to the 2010 census of the U.S. Census Bureau.

Population		Percentage of Change
1960	324	-----
1970	268	-17%
1980	198	-26%
1990	179	-10%
2000	305	+70%
2010	335	+11%

There has been an increase in part-time residents not reflected in the latest census. There has been an increase in renovation driven building permits indicating an upswing in property improvement. For the first time in this half-century the population exceeds what it was in 1960 after suffering a steady decline from 1960 to 1990 with 91% increase in the last two decades. This increasing trend is expected to continue as economic development strengthens.

Demographics

The current population reflects a stark increase in the amount of adults over 25 (77%) with 21% of them over the age of 65. Of the 335 residents of the Town of Bowers Beach, 246 (80.4%) are over the age of 18, but of the 248 who are 16 years or older, 158 are unemployed. Even assuming that all of those 65 or older (65) are part of the 158 unemployed, the calculations indicate unemployment at 37% for full time residents. However, the median family income has increase from $45,625.00 in 2000 to $74,167-an increase of 62%.

There appears from the data, that a major shift has taken place in the demographics over the last ten years, reflecting a trend from an economic foundation based on the fishing and agricultural industries to a primarily residential community. This trend is expected to continue.

All statistics were taken from the 2010 census from the United States Census Bureau.

3. Form of Government

3.1. Town Council

Bowers is governed by a Town Council consisting of four members and a mayor, who are chosen for two-year terms. The Council selects a Vice-Mayor, a Secretary, and a Treasurer from its own number.

3.2. Elections

Elections are held annually on the first Saturday in August, from 2:00 p.m. to 7:00 p.m.

3.3. Meetings

The Town Council meets monthly at 7:00 p.m. on the second Thursday of every month at the Town Hall.

3.4. Town Hall

The Town Hall is located at 3308 Main Street. The building is owned by the Bowers Fire Company and operates as a Town Hall under a Memorandum of Understanding between the Town of Bowers and the Bowers Fire Company. Public participation is encouraged at all meetings. One week prior to each meeting, an agenda is posted on the Town Bulletin Boards and places of business in the Town. This allows public discussion prior to motions made on the floor. The public is invited to request items be placed on the agenda. These requests can be made through the Mayor and/or up to one week prior to any meeting. Those items brought before council by the public at the meeting, will be placed on the agenda for the next meeting to encourage as much public input as possible. Any changes to the code, variances, appeals, and exceptional use petitions require a public hearing with due and proper notice as stated elsewhere in this plan and/or the zoning ordinance.

4. Revenues and Expenses

The Town is on a fiscal year which begins July 1 and runs through June 30.

The total assessed value of all taxable property in Bowers is $7,125,700; an increase in combined property value of 34% over the last decade indicating a trend in property upgrading and development of existing undeveloped lots . The Town has adopted the Kent County assessment, on which that figure is based, pursuant to 22 Del.C. Ch. 11.

The Town's annual tax rate is presently .60 per $100 of assessed valuation. Bowers also has a municipal tax of $100.00 which is imposed on all property.
In F.Y. 2011, the Town's revenues consisted of the following:

Municipal Street Aid	$ 11,180.88
1.5% Transfer Tax	$ 20,846.00
Property Tax @.~~30~~60	$ 42,754.20
Municipal Tax Improved	$ 35,900.00
Building Permits	$ 500.00
Interest on Accounts	$ 4,725.00
Total $115,905.20	

In fiscal year 2011,Town expenditures were estimated at the following:

Trash Removal	$36,000.00
Insurance	$ 2,100.00
General Maintenance	$ 3,300.00
Attorney Fees	$15,000.00
Security	$ 8,000.00
Tax Collector	$ 4,000.00
Street Lights	$11,000.00
Miscellaneous	$ 2,000.00
Town Hall	$10,000.00
Town Park	$ 8,000.00
Total $99,400.00	

This 2011 information is provided as an example and changes yearly.

5. Public Services

5.1. Fire Protection

5.1.1. Service Area

The Bowers Fire Company serves the Town of Bowers, both sides of Bowers Beach Road (Kent Rd 18), Skeeter Neck Road (Rd 372), Mulberrie Point Road (Rd 373), Old Bowers Road (Rd 374), and Whitwells Delight Road (Rd 375). It also serves both sides of Delaware Rt. 1 from approximately 200 ft south to the old Conley's Hardware property line to a point just past High Point Park, which is now known as Buffalo Run Road (Rd 376). Responsibilities go approximately 2 miles west to the second sharp curve where there is an imaginary line that cuts across a field back to Bowers Beach Road (Kent Rd 18). Bowers Fire Company also serves both North and South bound portions of Bay Road and a small portion from the High Point traffic light to Buffalo Road which is known as Claphan Rd. This sets directly in front of High Point Park North and High Point Park South. The Bowers Fire Company also serves the Delaware Bay to the North, South and East to the cross over buoys which would be the New Jersey Line. Bowers Fire Company, inc. was organized on April 5, 1938 and the fire

station is located on Main Street. There are over 100 members. Of those members about 35 are active.

5.1.2. Equipment

The Fire Company owns an ambulance, brush truck, two pumpers, a tanker, two rescue boats, a Quint ladder truck and a command unit as well other support equipment.

5.2. Police Protection

Bowers has no police force of its own, but hires off-duty State Police troopers to provide police protection.

5.3. Schools

There are no public schools within the Town limits. Bowers is located in the Lake Forest School District. Bowers' students go to Chipman Jr. High School, Center and Dorman Streets, Harrington; and Lake Forest High School, Felton. Bowers students attend either Frederica East Elementary in Frederica or they attend Central Elementary in Felton.

6. Streets

6.1. Town-maintained streets

Bowers maintains 1.76 miles of streets within its limits. These streets are: Bay Shore Drive, Canal Street; Church Street; Cooper Avenue; Cross Lane; Davidson Street; Main Street; Maple Lane; Middle Drive; Mulberry Drive; Murderkill Avenue; South Flack Avenue; Williams Avenue; and Wyatt Street.

Bay Shore Drive. The surface width of Bay Shore Drive is 14 feet, and the roadway width is 20 feet. This street has asphalt pavement and is graded and drained.

Canal Street. The surface width is 14 feet and the roadway width is 18 feet. This street has bituminous surface treatment.

Church Street. The surface and roadway widths are 17 feet. The surface is asphalt pavement on surface treatment.

Cooper Avenue. The surface width is 14-20 feet, and the roadway width is 18-28 feet. Part of Cooper Avenue is bituminous surface treatment, but the street is mostly asphalt pavement on bituminous surface treatment.

Cross Lane. Cross Lane's surface is 10 feet wide. The roadway width is 14 feet. This street is bituminous surface treatment.

Davidson Street. This street is surfaced with bituminous

surface treatment and has a surface of 15 feet, a roadway width of 19 feet.

Main Street. The Town maintains Main Street from Flack Avenue (Road 18A) to 264 feet east of Flack Avenue. This street is asphalt pavement. The surface width of Main Street is 18 feet, and the *roadway width* (the right-of-way width)is 24 feet.

Maple Lane. According to the initial Comprehensive Plan adopted by the Town, this street once had surface and roadway widths of 40 feet, and was topped with asphalt pavement on bituminous surface treatment. The street has 10-foot surface and roadway width and was surfaced with bituminous surface treatment since the mid 1980's. The Town has no record of when and under what circumstances the street dimensions were changed.

Middle Drive. This street has a 12-foot surface of bituminous surface treatment. Its roadway width is 16 feet.

Mulberry Drive. The 12-foot surface of this street is bituminous surface treatment. Its roadway width is 16 feet.

Murderkill Avenue. The surface and roadway widths of Murderkill Avenue varies from 14-26 feet. Part of its surface is asphalt pavement on bituminous surface treatment, part only bituminous surface treatment.

South Flack Avenue. The Town maintains 792 feet of this street. Its bituminous surface treatment surface is 14 feet wide. The roadway width is 18 feet.

Williams Avenue. This street is surfaced with bituminous surface treatment. Part of this street has 16-foot wide surface and roadway. The remainder has a surface width of 14 feet, a roadway width of 16 feet.

Wyatt Street. Wyatt Street has a surface width of 16 feet and a roadway width of 28 feet. It is topped with bituminous surface treatment. (See Road Inventory Appendix "A")

6.2. State-maintained streets

The State of Delaware maintains 1.13 miles of streets in Bowers. These streets are North Flack Avenue (Road 18A), Hubbard Avenue, from Main Street to south of Murderkill

Avenue, and Main Street, from Atlantic Avenue to North Flack Avenue.

North Flack Avenue. (18A)
The State maintains the entire length of this street. It is topped with bituminous surface treatment, and has a surface width of 18 feet. The roadway width is 24 feet.

Hubbard Avenue. This street is maintained by the State from Main Street to south of Murderkill Avenue. Its surface width is 24 feet, the roadway width is 28 feet. The surface is bituminous surface treatment on concrete.

Main Street. The surface width of Main Street is 24 feet, the roadway width 40 feet. The surface is asphalt pavement on concrete. (See Road Inventory Appendix "A")

6.3. Roads outside of Town Limits

Road 18. Road 18 (Main Street in the Town) travels to the Town of Bowers directly from Delaware Rt. 1.

Road 18 is surfaced with asphalt pavement on concrete. The surface width of the road from the Town limits to Delaware Rt.1 is 22-24 feet.

7. Utilities

7.1. Water

The Town water is presently individual wells and based upon the present restrictions on growth sees no need to change the existing condition. Sewer is provided and regulated by Kent County sewer and upgrades are the county responsibility. The Town has no plans for changing the system as described elsewhere herein.

7.2. Electric

Electric service is provided to Bowers by Delmarva Power and Light Company. The capacity of the distribution line to the Town is 25,000 kilovolts. There are no transmission lines into the Town.

7.3. Sanitary Sewer

Bowers is connected to the Kent County Sewer System. A pumping station is located in Town. An auxiliary pumping station is located 3 miles from Town. Existing lines were updated within the last ten years and are sufficient for any minor additions to service possible within the confines as reported herein.

Two unincorporated areas - South Bowers and Bay View

Heights -- are located within the Bowers Sewer District and sewage from those areas is pumped through the two pumping stations noted.

8. Housing Summary

RESIDENTIAL

1-Unit, detached	174	73.7%
1-Unit, attached	20	8.5%
2-Units	15	6.4%
3 or 4 Units	0	0
5 to 9 Units	2	.8%
10-19 Units	0	0
Mobile Homes	25	10.6%
Total	236 Units	
OCCUPIED	145	61.4%
SEASONAL	91	38.6%

HOUSING PIPELINE

2010 Census housing mix showed that 7.1% of the houses had a value of less than $50,000 and 8.1% had a value of less than $100,000. The Median Value of Owner-Occupied units has increased to $215,000. This coupled with an over 50% decrease in the number of mobile homes indicates a trend in refurbishing existing properties and replacement of trailers and vacation cottages with permanent dwelling units. The number of families at or below poverty income levels has decreased from 9% to 4.5% in the last decade. However, the median family income is $74,167; $16,568 over the Kent County Average. With the continuing trends toward a commuting population of higher wage earners, an increase in recreational usage, and retirees, it is the Town's position that no special provisions for affordable housing are required.

All statistics were taken from the Selected Housing Characteristic 2010 American Community Survey 5-year estimate and the Selected Economic Characteristic 2010 American Community Survey Selected Population Tables.

(See Map of Existing Uses Exhibit 1)

9. Soil Conditions

The soil conditions in the Town of Bowers include: Tidal Marsh; Fallsington Sandy Loam; Sassafras Sandy Loam, 0-2 percent slopes; Sassafras Sand Loam, 2-5 percent slopes; Coastal Beaches (sand); and Fallsington Loam.

9.1. Tidal Marsh

Tidal marsh has a cover of salt tolerant vegetation, and at

times is covered by a brackish water. Because of tidal flooding, Tidal Marshlands are severely limited for all uses. Tidal Marsh comprises a large area in the northern part of the Town, and also an area in the southern part of Town.

9.2. Fallsington Sandy Loam

This soil has a surface layer of dark grayish-brown sandy loam, and a subsurface of grayish-brown sandy loam. It retains moisture and is easy to work. It is poorly drained and has a water table near its surface unless drained artificially. Due to its high water table, Fallsington Sandy Loam is severely limited for disposal fields for septic tank systems, foundations for homes, roads and streets, parking lots, gardens and cemeteries.

This type of soil can be found in an area north of the Murderkill River and west of the beach.

9.3. Sassafras Sandy Loam

0-2% slopes and 2-5% slopes.

These well-drained soils have a surface layer of dark grayish-brown sandy loam and a subsurface layer of brown sandy loam. There are few limitations on this soil for farm or non-farm uses. Sassafras Sandy Loam, 0-2 percent slopes can be found in the western part of Bowers, running from a little south of Main Street to an area north of that street. A small area of Sassafras Sandy Loam, 2-5 percent slopes, lies within that area.

9.4. Coastal Beach

The soil in this area is loose sand, which is salty and very dry and arid. The vegetation which grows in this area is limited to salt tolerant species. Because of these soil conditions, there are severe limitations for general community development and recreational uses in the coastal beach area, which lies in the eastern part of Bowers, along the Delaware Bay.

9.5. Fallsington Loam

This soil is gray on the surface, poorly drained and moderately permeable. There are severe limitations for septic tank disposal fields, as well as for basements, lawns and most community development and recreational uses. The soil is well suited to general farming if the land is drained. A small area of Fallsington Loam can be found just north of the center of Town.

Source: United States Department of Agriculture, Soil Conservation Service Soil Survey, Kent County, Delaware

(see Appendix "C").

10. Statutory, Environmental Concerns

10.1. Beach Preservation Act (7 Del. C. Ch.68)

Delaware's Beach Preservation Act was enacted "to enhance, preserve and protect the public and private beaches of the State (and) to mitigate beach erosion." 7 Del.C. §6801. The Department of Natural Resources and Environmental Control (DNREC) has the authority to protect the beaches within the State, and has prepared maps designating a "building line", which is "a line generally paralleling the coast, seaward of which construction of any kind shall be prohibited without a permit or letter of approval from the Department." 7 Del.C. §6802(4).

"Beach" under the Act includes the area "which extends from the mean high water line of the Atlantic Ocean and Delaware Bay landward 1,000 feet and seaward 2,500 feet, respectively", and encompasses "that area from the Delaware/Maryland line at Fenwick Island to the Old Marina Canal immediately north of Pickering Beach." 7 Del.C., §6802(1). The Beach Preservation Act declares these beaches to be "valuable natural features" and "an important economic resource for the people of the State." Further, the Act states that "development and habitation of beaches must be done with due consideration given to the natural forces impacting upon them and the dynamic nature of those natural features." 7 Del.C. §6801.

The Town of Bowers is within this beach area of Delaware and thus is subject to the Beach Preservation Act. The building line for the Town is shown on DNREC's Pickering Beach to Cape Henlopen maps, drawing no. 15479-19555-B, Sheets no. 72 and 73 (September 1979). (See Appendix "D"). Under the Act, a permit or letter or approval is required before any construction is undertaken on any beach seaward of the building line. Also, prior to construction landward of the building line, a letter of approval is needed from DNREC. "Construction" under the Act "includes any work or activity which is likely to have material physical effect on existing coastal conditions or natural shore and inlet processes." 7 Del.C. §6802(5).

It is the policy Town Council to work closely with DNREC is management of the beach, dunes, and other flood mitigation measures as well as wetland and habitat preservation. All construction within the town limits must comply with Kent

County and DNREC regulations.

10.2. Wetlands

10.2.1. State Wetlands

Part of the incorporated limits of Bowers contain wetlands, and thus the Wetlands Act (7 Del.C. Ch. 66) regulates activities within some areas of the Town. The Department of Natural Resources and Environmental Control has inventoried the Wetland areas in the State, and has prepared photo/maps showing these areas. The Wetland areas of Bowers are shown on DNREC photo/maps nos. 19-16 and 21-14. (See Appendix "E"). As seen therein the following plants grow, or are capable of growing, in Bowers: saltmarsh cordgrass, marsh elder, saltmarsh grass, saltmarsh hay,and switch grass.

The Wetlands Act declares the wetlands to be "in jeopardy of being lost or despoiled" by unregulated dredging, dumping, filling, and similar activities; the purpose of the Act is to protect the wetlands and prevent their destruction and despoilation. 7 Del.C., §6602.

A permit is required from DNREC for any activity in the wetlands. Under the Wetlands Act, "activity" is defined as "any dredging, draining, filling, bulkheading, construction of any kind, including but not limited to, construction of a pier, jetty, breakwater, boat ramp, or mining, drilling or excavation." 7 Del.C. §6603. A permit is also needed to expand or extend a pre-existing use. In addition to a permit from DNREC, one seeking an extension or expansion of a pre-existing use must have municipal or county approval through zoning procedures. 7 Del.C. §6605.
Several factors are used by DNREC to determine whether or not a permit should be granted. These factors are: the environmental impact of the activity on the wetlands; the aesthetic effect; the number and type of public and private supporting facilities required for the activity and impact of such facilities; local comprehensive plans for development and/or conservation; and the activity's economic effect (jobs created and potential tax revenues). 7 Del.C. §6604(b)(1)(6).
Some activities are exempt from permit requirements. These activities are: mosquito control; construction of directional aids to navigation; duck blinds; foot bridges; the placing or boundary stakes; wildlife nesting structures; the grazing or domestic animals; haying; hunting; fishing and trapping. 7 Del.C. §6606.

10.2.2. Federal Wetlands Regulations

10.2.2 Federal Wetlands Regulations
Pursuant to §404 of the Clean Water Act (33 U.S.C. §1344), the United States Army Corps of Engineers has jurisdiction over navigable waters as to the discharge of dredged or fill material. The Corps of Engineers regulations promulgated under the authority of §404 uses the term "waters of the United States" instead of "navigable waters." 33 C.F.R. §328.1. "Waters of the United States" is defined in the regulations at 33 C.F.R. §328.3(a) and includes "wetlands." "Wetlands are defined as "those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas." 33 C.F.R. §328.3(b).

§404 allows the Secretary of the Army, acting through the Chief of Engineers, to "issue permits, after notice and opportunity for public hearings for the discharge of dredged or fill material into the navigable waters at specified disposal sites." Regulations promulgated under §404 require a permit for the "discharge of dredged or fill material into the waters of the United States." 33 C.F.R. §323.3(a). Under these regulations, "dredged material" is "material that is excavated or dredged from waters of the United States." "Discharge of dredged material" is defined as "any addition of dredged material into the waters of the United States." The term includes run-off or overflow from a contained land or water disposal area, but does not include plowing, cultivating, seeding and harvesting for the production of food, fiber, and forest products, nor does the term include de minimis incidental soil movement occurring during normal dredging operations. 33 C.F.R. S323.2(d).

"Fill material" is "any material used for the primary purpose of replacing an aquatic area with dry land or of changing the bottom elevation of an (sic) waterbody." The term does not include a pollutant discharged into water to dispose of waste. That activity is regulated under §402 of the Clean Water Act. 33 C.F.R. §323.2(e). The "discharge of fill material" is the "addition of fill materials into waters of the United States." This term includes, but is not limited to, placement of fill needed for construction of a structure in

a water of the United States; the building of a structure or impoundment requiring rock, sand or other material for its construction; site-development fills for recreational, industrial, commercial, residential and other uses; causeways or road fills; dams and dikes; artificial islands; property protection and/or reclamation devices (i.e., riprap, groins, seawalls, breakwaters, and revetments); beach nourishment; levees; intake and outfall pipes associated with power plants and subaqueous utility lines; and artificial reefs. The term does not include plowing, cultivating, seeding and harvesting for the production of food, fiber and forest products. 33 C.F.R. §323.2(f).

The following discharges do not require a permit:

Any discharge resulting from normal farming, silviculture, and ranching activities such as plowing, seeding, cultivating, minor drainage and harvesting for the production of food, fiber, and forest products, or upland water and soil conservation.
To fall under this exemption, the activity must be an established farming, silviculture, or ranching operation.
Maintenance and emergency reconstruction of recently damaged parts of currently serviceable structures such as dikes, dams, levees, riprap, etc.

Construction or maintenance of farm or stock ponds or irrigations ditches, or the maintenance of drainage ditches.

Construction of temporary sedimentation basins on a construction site which does not include the placement of fill in waters of the United States.

An activity with respect to which a state has an approved program under the Clean Water Act.

Construction or maintenance of farm roads, forest roads, or temporary roads if such roads are constructed in accordance with best management practices.

Any discharge of dredged or fill material which contains a toxic pollutant requires a §404 permit. (See National Wetlands Map Appendix "F")

10.3. Coastal Zone Act

Bowers is located within the coastal zone of Delaware, and

thus is subject to the Delaware Coastal Zone Act (see map appendix G). Because "the coastal areas of Delaware are the most critical areas for the future of the State in terms of the quality of life in the State," the purpose of the Coastal Zone Act is "to control the location, extent and type of industrial development in Delaware's coastal areas." 7 Del.C. §7001. By controlling industry in the coastal areas, "the State can better protect the natural environment of its bay and coastal areas and safeguard their use primarily for recreation and tourism." 7 Del.C. §7001.

The Coastal Zone Act prohibits the construction of new heavy industry in the coastal area. Some examples of heavy industry are oil refineries, steel manufacturing plants, chemical plants. Examples of what is not considered heavy industry include automobile assembly plants, leather goods manufacturing establishments, garment factories. If a heavy industry use was not in operation on June 28, 1971, such use is prohibited by the Coastal Zone Act and no permit will be issued for such use.
Also prohibited in the coastal zone are offshore gas, liquid or solid bulk product transfer facilities which were not in operation on June 28, 1971. The Coastal Zone Act does not prohibit public sewage treatment or recycling plants.

Manufacturing uses are not prohibited by the Coastal Zone Act, but are allowed by permit. A permit is also required for expansions or extensions of non-conforming heavy industry uses, i.e., those in operation on June 28, 1971.

The Coastal Zone Act defines "manufacturing" as "the mechanical or chemical transformation of organic or inorganic substances into new products, characteristically using power-driven machines and materials handling equipment, and including establishments engaged in assembling component parts of manufactured products, provided the new product is not a structure or other fixed improvement." 7 Del.C. §7004(a). Once approval is obtained from the proper county or municipal authorities, the Department of Natural Resources and Environmental Control and the State Coastal Zone Industrial Control Board will then determine whether to grant or deny a permit. In passing on a request for a permit, these two authorities consider such factors as: environmental impact of the proposed use (air and water pollution, destruction of

wetlands, noise, vibration, odors, etc.); economic effect; aesthetic effect; effect on neighboring land uses; and comprehensive plans of counties and municipalities for developing and/or conserving their jurisdictions.

Residential, agricultural, warehousing, retail or wholesale commercial uses and recreational uses are not regulated under the Coastal Zone Act. The Coastal Zone Act overrules local zoning if the zoning allows any industry which is prohibited by the Act. However, if the local zoning code does not allow a manufacturing use permitted by the Coastal Zone Act, no permit can be granted under the Act.

Source "Delaware Coastal Zone Act: Everything you Want to Know" (DNREC)

10.4. Coastal Barrier Resources Act

The Town of Bowers is not included in the Coastal Barrier. However, the lands north and south of the Town are included in the Coastal Barrier. In those areas federal financial assistance is unavailable for the construction of new structures or roads. Federal flood insurance is not available for new structures in those area.

10.5. Flood Insurance regulation

Bowers is located in a coastal flood plain area and the properties therein are subject to National Flood Insurance Regulations. (See: Flood Insurance Rate Map, published by the Federal Emergency Management Agency, appendix "H"). Coastal flood plain areas are those areas which are subject to inundation by the flood waters of a one hundred year flood. A "one hundred year flood", or "base flood", is a flood that, on the average, is likely to occur once every 100 years, i.e., a flood that has a 1% chance of occurring each year.

The coastal flood plain is further divided into two areas: the coastal high hazard areas and the general flood plain area.

Coastal high hazard areas are those areas in the one hundred year flood plain subject to high velocity waters (hurricane, wave wash, tsunamis, etc.), while general flood plain areas are those areas in the one hundred year flood plain not in the coastal high hazard areas.

Congress enacted the National Flood Insurance Act of 1968 (42 U.S.C. §4001 et seq.) as "a reasonable method of sharing the risk of flood losses." In order for a community

to qualify for the sale of this federally subsidized insurance, the community must adopt flood plain management regulations designed to avoid future damages from flooding. FEMA has set forth the minimum requirements for such regulations (See: 44 C.F.R., Part 60). In addition to the minimum requirements, FEMA has set forth planning considerations which should be adopted in flood-prone communities, but are not required. (See: 44 C.F.R. §60.22).

Two reasons for the enactment of the National Flood Insurance Act are (1) encourage State and local government to make appropriate land use adjustment to constrict the development of land which is exposed to flood damage and to minimize flood damage; and (2) to guide the development of proposed future construction, where practicable, away from locations which are threatened by flood hazards. 42 U.S.C. §4001(e).

The Town of Bowers adopted a new Flood Ordinance February 10, 2011 in full compliance with FEMA and NFIP regulations.

10.6. Total Maximum Daily Loads

Presently the Jones and Murderkill Rivers are being monitored for the presence of elevated TMDLs and the source has been isolated to nutrient infiltration. DNREC is working with Kent County Sewer and other sources to mitigate these elevations through a Tributary Action Team. The Town has no industry or large scale agricultural areas and does not intend at any time to install its own waste water treatment plant and sees no need to initiate any mitigation plan at this time. However, the Town is seeking to go forward with repurposing of the large parking lot in the center of town to enhance water quality in the Town.

10.7. Agricultural Preservation

In order to encourage the Agricultural Areas within the Town limits, the Town designated under the original Zoning Ordinance and Comprehensive Plan, areas that are restricted in use to farming, recreation, and game preserve use. The specific restrictions are found in the Zoning Ordinance under Chapter 11. The stated purpose of these C/A (Conservation/Agricultural) areas is to permanently preserve the Town’s wetlands, wildlife areas, and areas of special environmental quality, recreational potential, natural beauty, ecological importance, and areas needing special protection from erosion and pollution, protect flood plains from inappropriate development, and encourage

agricultural use of productive soils.

11. Summary and Conclusions

The data compiled in this Comprehensive Plan reveals and establishes the following:

11.1. Community Character Design Plan

The Town has historically been a small, sparsely populated bay front waterman's and fishing boat village that consisted overwhelmingly of small residential dwellings and seasonal cottages on small lots (i.e. less than 75' frontage). There have never been any manufacturing or heavy industrial uses in the Town and the few commercial uses were small operations [package store, groceries, boat supplies, restaurant, bars, and commercial fishing boats (head boats and charter boats)]. It is the intent of the Town to preserve the historical character of the Town as a working maritime town. However, social/economic as well as environmental pressures have forced the Town to reevaluate the extent and location of the areas available to businesses that would enhance and expand on the present maritime industries and would be supported by the changing demographics. To that end, the Town seeks to make changes that would make it a prime access for the ecotourism industry, thereby attracting those businesses, visitors, and permanent residences that would provide economic development and employment that would also maintain the rich heritage of Bowers based on the maritime industries. The Town anticipates zoning changes that would move portions of the commercial district to Main Street, away from chronic flooding problems in the current area. The Town also anticipates a higher density for shops in this area to make the square footage costs more attractive to small start-up business.

11.2. Position on Population and Housing Growth

The Town foresees a continuation of the gradual change in demographics from a split between vacation/tourist residents and residents working in the local industries to a retirement and permanent resident community and with it a gradual upgrade of existing properties. The present population trends and the economic opportunities afforded by the Delaware Bayshore Initiative indicate that the need to expand the physical and/or social infrastructure presently in place may be necessary to attract and accommodate the ecotourism trade . The two Town parks and recreation areas experience ever increasing use. The Town

sees a need for a "Town Center" and is looking to make the existing large parking area owned by Delaware Fish and Wildlife dual purpose by making it an attractive park-like area that serves the beach, water sports, ecotourism, and future businesses.

11.3. Streets/Transportation

The present system of roads seems adequate for any planned changes anticipated in this plan. The sizes and structure of the streets and roads within the Town for the residential and commercial uses presently in place as well as the limited expansion anticipated are also deemed adequate with regular maintenance that is presently being performed.

No statistics were available regarding commuting families other than average mileage. However, there has been no indication to Town Council that a significant need for public transportation exists to make such service practical.

11.3.1. Outside Town Limits

The Town has only one means of ingress and egress and although this is a state-maintained hard-surface road, it is only two lanes. This road is subject to flooding at various points during some times of the year. This road is not suitable or adequate to accommodate heavy industrial or commercial truck traffic or an inordinately large volume of automobile and boat trailer traffic. This main artery is prone to flooding outside of the Town Limits and concerns for egress during major storms is a concern to the Town the amount of permanent residences increases. In F.Y. 2012, the Town looks to develop a plan to meet with DelDOT, FEMA, and Homeland Security in order to make provision for reliable egress from the Town in the event of an emergency.

11.3.2. Within Town Limits

The inventory of town streets reveals that most of the Town's streets are inadequate for large volumes of traffic except on the state maintained roads. Additionally, the streets within large areas of the town are not well-suited to accommodate a significant amount of on-street parking. The present Zoning Ordinances allow for this condition in restricting uses in these areas. The Code also addresses off-street parking in its application. It is noteworthy that enhancements to the aforementioned parking lot would expand on the area as public parking while providing an attractive area for families to enjoy the resources the Town has to offer.

Flooding of roads in the center of Town and near the Murderkill River is a continuing problem. Upgrades to the closed storm system have been completed by DelDot and upgrades to the open storm water system have been engineered and the Town is presently working with DNREC and USDA to fund these changes.

11.4. Public Safety

11.4.1. Fire

Although the Town has its own resident volunteer fire company which appears adequately equipped to handle present residential development in the Town, it is questionable whether the fire company could provide adequate fire protection for any large industrial, manufacturing, or commercial development, or even for a large townhouse project. The Town has no fire hydrants. However, the fire company has received grant money for a new fire boat with a pumping system that could distribute river water throughout the Town. This may make an affordable hydrant system possible and the Town will invstigate this option further when the boat is delivered.

11.4.2 Police

The Town has no police force and must depend on contracting for police services from off-duty state police. The Town's financial statement reveals that police protection is a major expenditure for the Town that greatly exceeds any revenues from fines. Consequently, the Town relies heavily on the State Police.

11.5. Housing

A review of all the parcels within the Town confirms that the lands in the town consist overwhelmingly of: (a) large undeveloped tracts of wetlands and environmentally sensitive areas or (b) lots laid out and developed for single family residential dwellings. There are only a dozen commercial uses in the Town, most of which are located along the Murderkill River. The vast majority of building lots in the Town consist of separately owned lots of less than 75-foot frontage. In order to limit density (because of the numerous reasons evident in this comprehensive plan), the Town favors 75-foot frontage, 7,500 square-foot area lots. However, the Town Council recognizes that it is not sound land use planning, and creates undue and unfair hardships, to impose an unreasonably restrictive lot size requirement on those areas of the Town which already have been developed and have long existed as sub-75-foot

frontage lots.

11.6. Future Land Use Plan

The future land use plan for the town consists of the Future Land Use Map and the text in this section. In practice and use neither the map nor the text in this section shall be relied upon without consulting the other. This section provides a discussion of the land uses anticipated in each of the categories, and some examples of zoning districts that would be compatible in the respective land use categories. The zoning district examples are mentioned for guidance only, and nothing precludes the town from enacting new or revised zoning districts or other land use regulations as long as the regulations are compatible with the purpose and intent of the future land use categories described here and shown on the Future Land Use Map.

- **Conservation / Agricultural**. The purpose of this land use category is to preserve the Town's wetlands, wildlife areas and areas of special environmental quality, recreational potential, natural beauty, ecological importance, areas needing special protection from erosion and pollution, to protect flood plains from inappropriate development, and, where appropriate, to encourage agricultural use of productive soils.
    - Examples of compatible zoning districts:
        - C/A Conservation / Agriculture

- **Commercial**. The purpose of this land use category to provide for a variety of light commercial uses which are consistent with the Town's essential character as a primarily residential community with roots in the commercial fishing industry and a resort / recreational / retirement community and which will serve the immediate needs of the community giving due recognition to major commercial business establishments in Dover and Milford. The light commercial uses should not detract from the character of the Town.
    - Examples of compatible zoning districts:
        - C-R Commercial Residential
        - R-C Riverfront Commercial

        - The Town plans to introduce a new commercial zoning district that will allow a higher density of select shops to encourage developers and start up businesses by making the development cost effective.

- **Residential**. The purpose of this land use category is to protect and support the character of existing residential neighborhoods, and provide for residential development and a limited number of other uses which will complement the existing neighborhoods and the character of the Town.

    - Examples of compatible zoning districts:
        - R-1 Residential, 50’ Frontage
        - R-2 Residential, 75’ Frontage
        - R-3 Residential Townhouse

- **Public Utilities.** The purpose of this land use category is to provide suitable locations in the Town for public utility infrastructure which is essential to the public health, safety, welfare and continued viability of the Town as a place of residence and commerce.

    - Examples of compatible zoning districts:
        - Town, County, State Lands, Public Service Corporations

- **Recreation.** The purpose of this land use category is to provide for both passive and active recreational facilities that serve the residents of the town as well as the region as a whole.

    - Examples of compatible zoning districts:
        - Town, County, State Lands, Public Service Corporations

- **Institutional.** The purpose of this land use category is to provide locations in the town for public services, non-profit agencies, churches, governmental agencies and other similar uses that provide needed services to the community and the region as a whole.

    - Examples of compatible zoning districts:

- Town, County, State Lands, Public Service Corporations

11.7. Annexation

Recognizing the possibility areas of land outside of the Town Limits within properties that are split by the Town line could possibly have an impact on the Town's comprehensive plan, the Town has seen a necessity to annex some of these properties in order to better control conformance to the spirit of the Comprehensive Plan. Any use of the areas annexed would be within the present land use of that part of the property presently within the Town Limits. The properties under consideration would fall under residential or agricultural use. Said annexation plan would not permit additional development which is restricted by the present zoning ordinances. Additionally, it may be necessary to consider annexation of a large state owned property in the center of Town presently used for recreational parking for the purpose of enhancing the municipal services, environmental, ground water, and water recharging conditions within the Town.

(An Annexation Plan reflecting those properties that have been annexed since the last update is included in Appendix 1)

11.8. Redevelopment Strategy

It is quite clear that the developable land in the Town is surrounded on all sides by environmentally protected and environmentally sensitive areas. Large areas of the Town are either within or bordered by lands subject to the Delaware Beach Preservation Act, the Delaware Wetlands Act, the Delaware Subaqueous Lands Act, the Delaware Coastal Zone Act, the Federal Coastal Barrier Resources Act, the Federal Clean Water Act, and the National Flood Insurance Act.

All of these statutes underscore the delicate environment in which the Town exists and dictates that the Town's zoning severely restrict and control development. Consequently and in keeping with the Kent County Comprehensive Plan regarding the environmentally sensitive areas, the Town of Bowers is committed to maintaining land use at its present level with no expansion into any adjacent areas except as previously addressed under annexation. It is the Town's position to remain steadfast in limiting further development to only those areas so designated on the Future Land Use and Annexation Maps.

There are no areas presently considered for large scale redevelopment. The Town relies upon the growing economic strength of its residents as has been the trend over the past ten years and that these upgrades will be completed within the confines of the Zoning Ordinance. Further, properties in need of upgrades are not confined to one specific area, but rather scattered throughout the community making designation of a redevelopment area impractical if not impossible.

Those areas shown on the Future Land Use Map attached as Exhibit 2 represent proposed changes to the zoning districts on Main Street and Hubbard Avenue to relocate part of the business district to a more suitable area.

While there are no contiguous redevelopment areas, the Town's redevelopment strategy includes taking action on a parcel by parcel basis to redevelop and remedy buildings in disrepair by encouraging voluntary upgrade of residential properties. None the less, the Town may consider stricter codes that would require repairs of properties where the condition impacts quality of life and/or safety of the Town residents.

11.9. Public Utilities

11.9.1. Water

Domestic water in the town is mainly supplied by individual private wells. It is evident that any substantial increase in residential development, or any large industrial or commercial use drawing large volumes of water could threaten existing water supplies and hasten salt water intrusion from the adjoining bay.

The Town of Bowers presently has three wells that are deemed public water systems by the Delaware Department of Natural Resources. These serve the fire house, condominium units, and a small development respectively. The revised zoning ordinance will incorporate language that requires the present extent of impervious cover within 150' radius not be extended. A reference to the DNREC well head protection plan will also be incorporated once that plan has been issued.

11.9.2. Septic

The Town has a central sanitary sewage system provided by Kent county.

11.9.3. Storm Sewer/Drainage

Bowers has a few storm drains located on Main Street, near the church, and also near the corner of Main and Hubbard Avenue.
Some storm drains are also located on Hubbard Avenue.
The Town did have more storm drains but they were removed when the sanitary sewer was installed. Storm water still tends to lay in parts of the Town, and many streets up to a block away from the Murderkill River are flooded with several feet of water during flood tides. As previously mentioned, alleviation of these conditions that have existed since prior to the Town's original Comprehensive Plan would require extensive outside resources, which the Town is well on its way to securing.

11.9.4. Electric

The Town has more than ample service from Delmarva Power and Light.

11.10. Intergovernmental Coordination

It is evident in the reevaluation of the Comprehensive Plan that as the demographics of the Town change and as the societal changes in the surrounding area impact the Town of Bowers, the necessity to interact with other government agencies has increased. The Town must now look at items such as emergency response, environmental impacts, public services, health, and welfare in terms of the Town as a microcosm of the county, state, and federal governments and adjust accordingly. The Town recognizes the need, but is realistic in the anticipated time frame within which such a change can take place without disrupting the character of the Town and its residents. The Town sees the development of these relationships as gradual and necessary for the fulfillment of its Comprehensive Plan. The Town presently interacts with DelDOT, Kent County, FEMA, DNREC and other agencies on an as needed basis, but recognizes the need for establishing long term relationships with these and other agencies. The Town considers the Kent County comprehensive plan and the Delaware Strategies for Policy and Spending a relevant planning documents to the development and implementation of this plan.

11.11. Government and Finances

In the past, the Town skimped along with a skeletal form of government and minimal finances and resources.
Historically, the Town has had very few contested elections, largely because it has been difficult to get individuals to run for these unpaid elective offices. It

has been equally difficult to fill the appointed offices. One reason for the historic lack of interest in the Town government is probably the seasonal nature of the community. Beginning in August of 2008,the following committees were formed by resolution: Planning, Budget, Parks & Recreation, and Streets. This increased citizen involvement has spawned an increased interest in public service.

The Town recently increased its taxes for the first time since 1982 increasing the rate from $.30 to $.60 per $100.00 of assessed value and increasing the base tax of $25.00 on unimproved lots to $100.00. This increase took the vulnerability and uncertainty out of the tax base which previously was held captive to the housing market as a hefty portion of the Town's revenue was based on property transfer tax. This increase allows the use of the property transfer tax to expand or improve the Town's existing municipal services.

The limited amount of land available for development is reserved for low density residential development. This limitation is presently a natural restraint on population growth as it has been for the last twenty years. A reasonably anticipated increase in the population would be estimated to be less than 100 persons based on approximately 20 new homes with families of four at each residence. However, the Towns commitment to strengthening its economic landscape will create a need for increased services as the appeal of the Town as a prime ecotourism destination increases. It is the goal of the town to encourage the continuing improvement of the existing residential properties in a manner consistent with the Zoning ordinances and the historic nature of the Town. But the Town also plans to relocate a portion of its business district to an area along East Main Street that is more resilient to coastal storms and is more convenient to the beaches, rivers, and wetlands. The Town does not plan to increase the size of the business district, only the location and plans to rezone some of the business district as R-1 to compensate for the additional business areas on Main Street.

For the foregoing reasons, the Town Zoning Commission and Town Council have concluded that the Town Zoning Ordinance should prohibit industrial development and strictly limit

commercial and dense residential development. Only those uses consistent with the unique and fragile nature of this small community should be allowed, subject to appropriate regulations.

Approved by the Town Council of the Town of Bowers Beach on _____.

_____Mayor

_____Council Member

_____Council Member

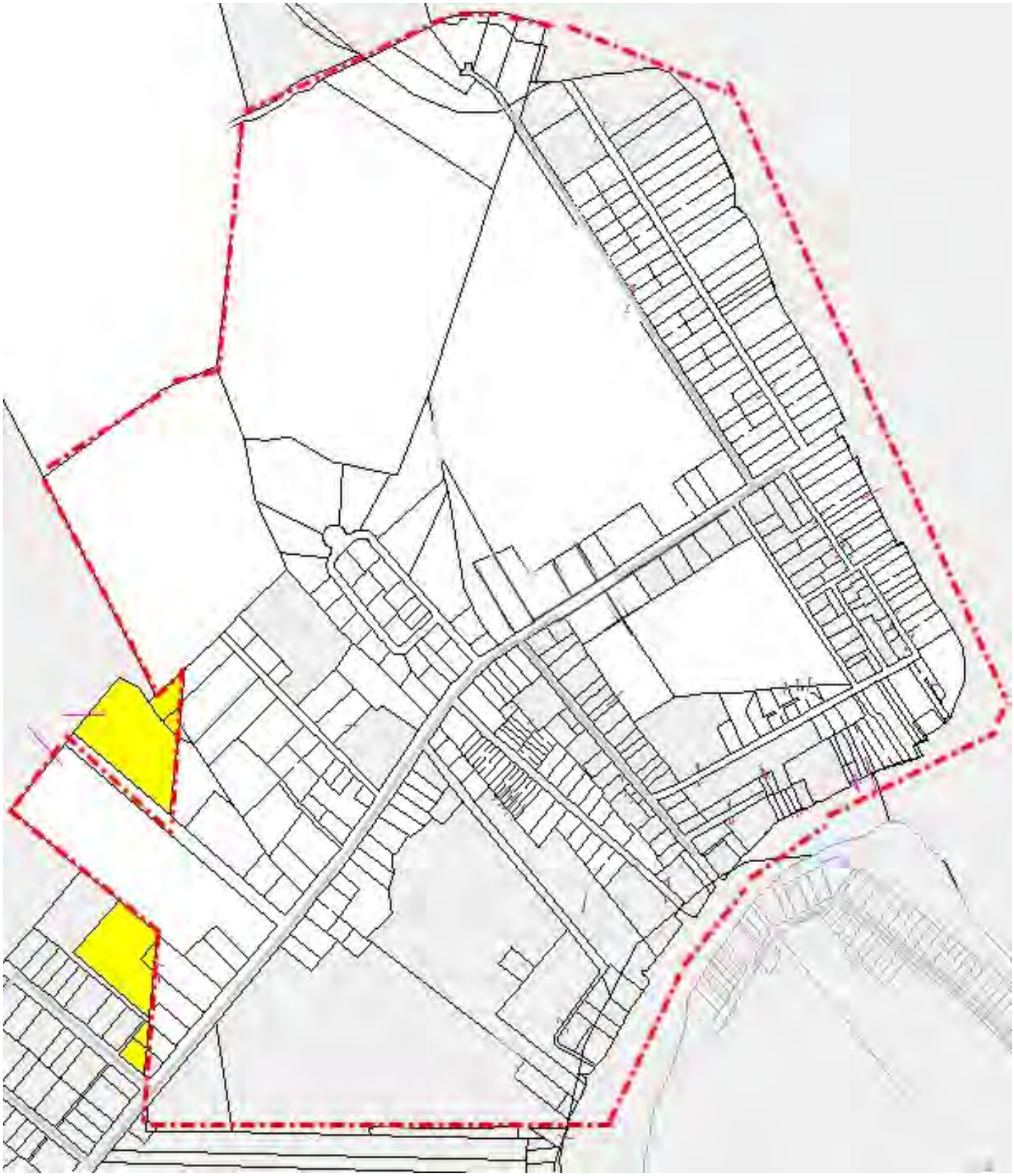
_____Council Member

_____Council Member

Appendix 1-Revision 01-12-13

ANNEXATION PLAN

(Areas in Yellow may be considered for annexation in the future)

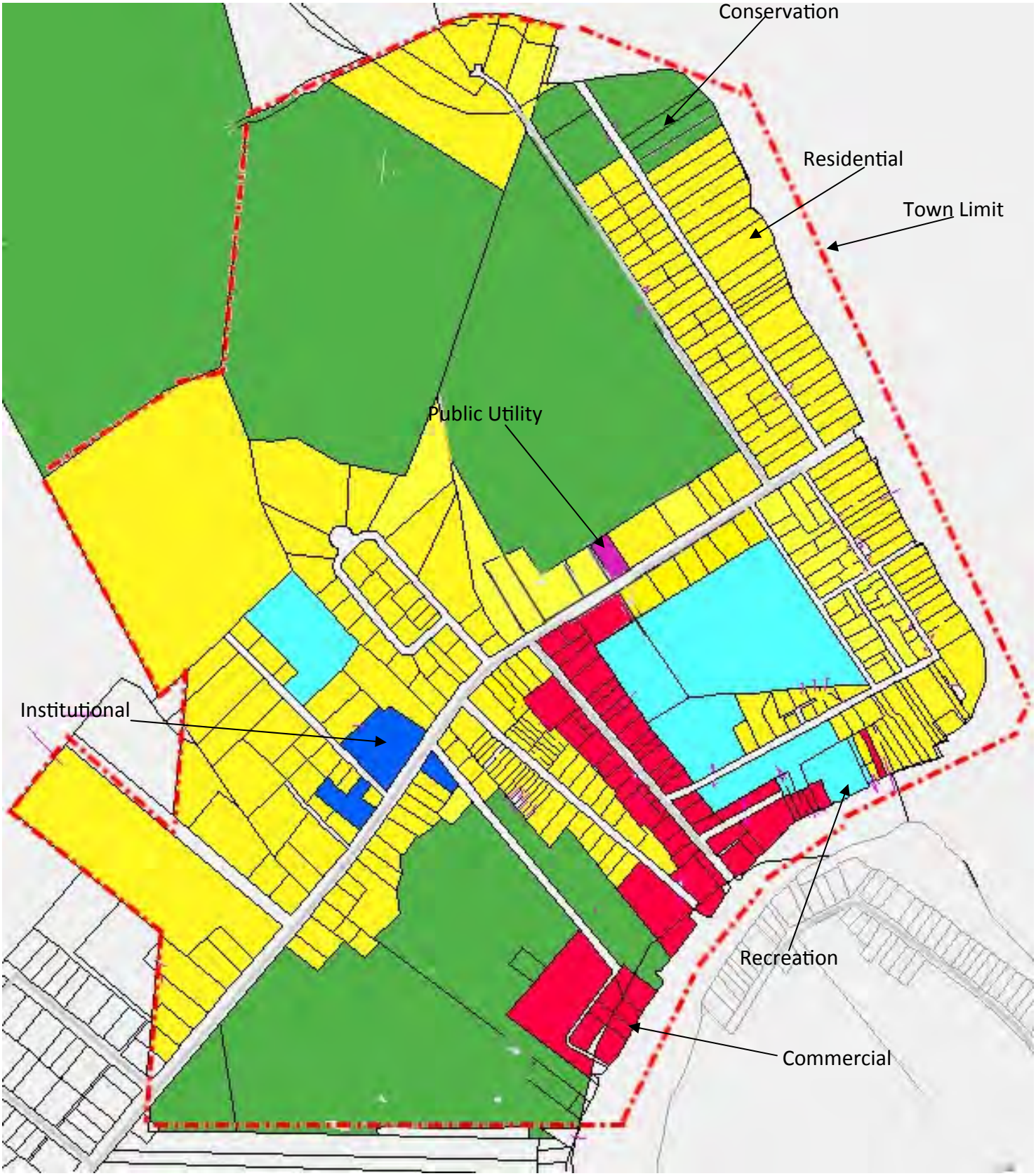


MAP OF EXISTING USES

(Not to be used as an official zoning map)

Town of Bowers

Exhibit 1-2012 Revision



FUTURE LAND USE PLAN

(Not to be used as an official zoning map)

Town of Bowers

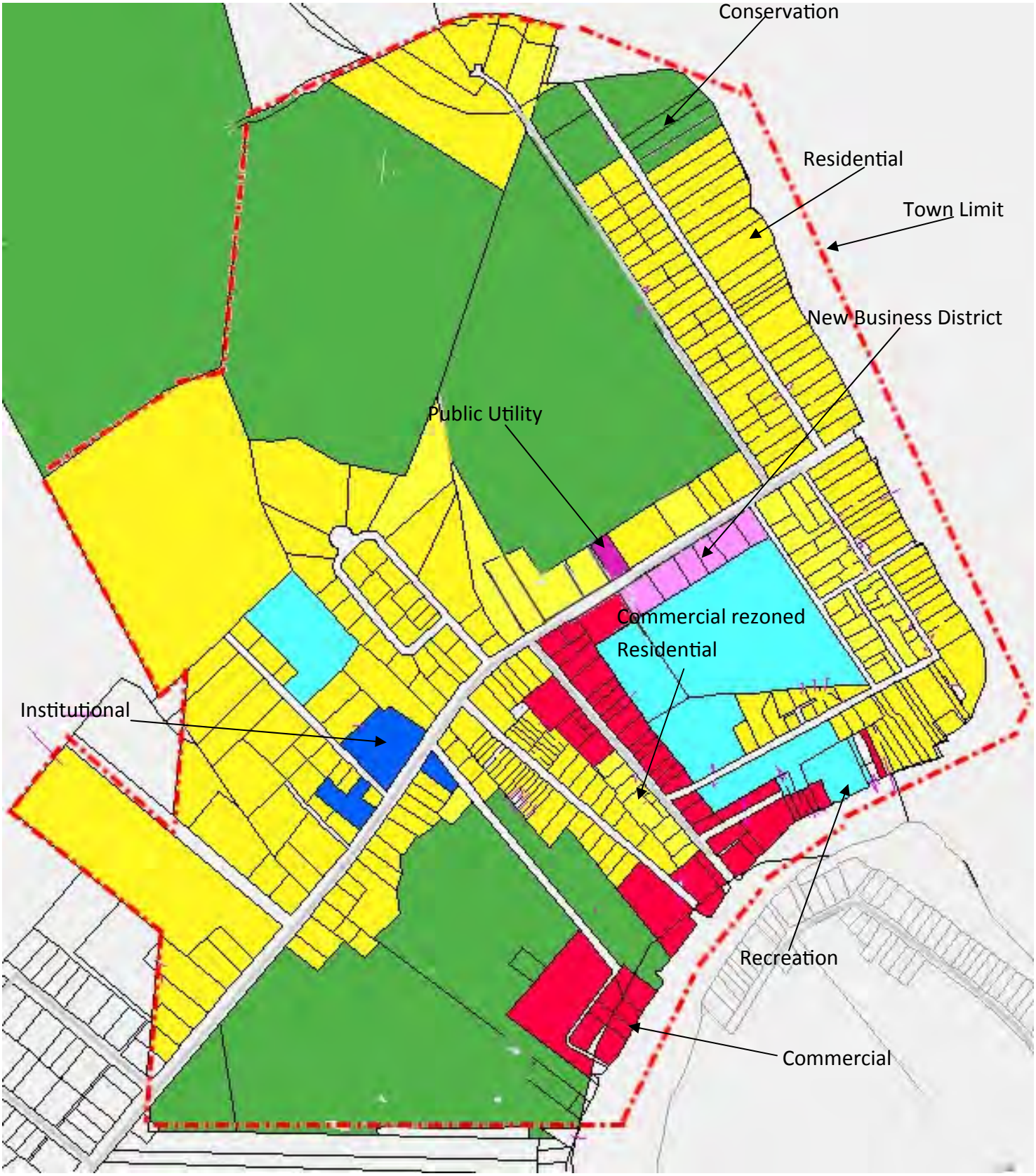



Exhibit 2-2012 Revision