DELAWARE AGRICULTURAL LANDS PRESERVATION FOUNDATION

STATUTORY FOUNDATION: 3 Del. C. §904(a)(13)

NOTICE OF PUBLIC HEARING

The Delaware Agricultural Lands Preservation Foundation (the "Foundation"), pursuant to 3 Del.C. §928, will hold a public hearing to discuss proposed regulations relating to the administration of the Delaware Agricultural Lands Preservation Program established pursuant to 3 Del.C. §901. The Foundation was established by the Delaware Legislature pursuant to 3 Del.C. §903. The Foundation is responsible for, among other things, adopting criteria for the establishment and maintenance of Agricultural Preservation Districts and Forestland Preservation Areas and establishing criteria for the purchase of Agricultural Preservation Easements and Forestland Preservation Easements. To carry out its statutory responsibilities, the Foundation has been directed to, among other things, adopt rules of practice and procedure for the acquisition of Preservation Easements, including the process and timeframe for submitting applications for the sale of Easements, the establishment of the purchase price for the easements through the use of appraisal information, the manner in which offers to sell such easements are accepted, and the basis upon which offers for sale of such easements are accepted.

Pursuant to its statutory authority, the Foundation is proposing for adoption a comprehensive set of guidelines and regulations to be used for the administration of the agricultural lands preservation program. The proposed regulations will replace all of the existing regulations set forth in 3 Delaware Administrative Code, Part 701, Sections 1.0 through and including 30.0, including Appendix A through G, and will, among other things: (a) establish eligibility criteria, (b) establish application procedures, (c) establish criteria for the purchase of Agricultural Lands Preservation Easements and methods by which the purchase price will be determined, and (d) provide for additional means of creating priority for acquisition of preservation easements in designated areas which are near or adjacent to any growth zones that may be indicated by each of the three respective counties. No changes are being proposed to the Forestland Preservation regulations set forth in 3 Delaware Administrative Code, Part 702.

The public hearing will be on Wednesday, September 23, 2015 beginning at 10:00 a.m. and ending at 12:00 p.m. at the Foundation's office located at 2320 S. DuPont Highway, Dover, Delaware 19901.

Copies of the proposed regulations are available for review by contacting:

Rebecca Vaughn
Delaware Agricultural Lands Preservation Foundation
2320 S. DuPont Highway
Dover, DE 19901
(302) 698-4531
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Anyone wishing to present oral comments at this public hearing should contact the designated Hearing Officer, Mr. William A. Denman at (302) 678-3262 prior to the hearing. Oral comments and written comments may be presented at the hearing, and anyone wishing to

submit written comments as a supplement to, or in lieu of oral testimony, should submit such comments by October 1, 2015 to:

William A. Denman, Esquire
Parkowski, Guerke & Swayze, P.A.
116 W. Water Street
Dover, DE 19904
(302) 678-3262
Email: wdenman@pgslegal.com

EXHIBIT A

DELAWARE
AGRICULTURAL LANDS PRESERVATION FOUNDATION

PROPOSED REGULATIONS

The Agricultural Lands Preservation Act ("Act") was enacted on July 8, 1991 and provided for the creation of the Agricultural Lands Preservation Foundation ("Foundation"). The Foundation has been charged with the authority and responsibility of establishing and administering an extensive statewide program to preserve Delaware's farmlands and forestlands. Information relating to the Foundation and questions regarding the Foundation's operations may be obtained by contacting the Foundation by telephone at 302- 698-4530 or Toll Free in DE Only at 800-282-8685, or by visiting the office of the Foundation located at 2320 South DuPont Highway, Dover, DE 19901. Included in its responsibilities is the adoption of criteria for the establishment of and maintenance of Agricultural Preservation Districts ("Districts") and adoption of criteria for the purchase of agricultural lands preservation easements ("Preservation Easement") 3 Del.C. §904(a) and (b). These regulations are intended to provide guidelines and simplification regarding the manner in which the Agricultural Lands Preservation Program is administered.

1.0 Criteria for District Eligibility

1.1 In order to qualify for the Agricultural Lands Preservation Program, the lands proposed as an Agricultural Preservation District in the application must meet the following minimum criteria:

1.1.1 owner(s) shall hold fee simple title to all land to be placed in a District and must be actively using the property for "agricultural and related uses";

1.1.2 must constitute at least 200 acres of contiguous farmland or lesser acreage if the farmlands are located within three (3) miles of an established District;

1.1.3 shall be zoned for agricultural purposes and shall not be subject to any major subdivision plan;

1.1.4 applicant(s) including all fee simple title holders, must sign a written agreement committing to District restrictions set forth in this Section and 3 Del. C. §909 and other adopted requirements;

1.1.5 must be viable and productive agricultural land comprising a farm property unit and meet the minimum County Land Evaluation and Site Assessment (LESA) scoring requirements for eligibility as established by the Foundation; [3 Del. C. §908(a)(3)]

1.1.6 must include all of the eligible real property located in the tax parcel or tax parcels subject to application.

1.2 For the purposes stated in this chapter, the phrase "viable and productive agricultural land" is defined as land that qualifies under provisions of the Farmland Assessment Act. [9 Del. C. §8329 - 8333]

1.3 The minimum LESA score for an eligible District or Expansion shall be 170 points out of a possible 300 points for each county in the State as computed under the currently approved LESA program of the Delaware Department of Agriculture.

1.4 The LESA score for agricultural lands is the primary factor in evaluating the eligibility of agricultural lands for inclusion in Districts and expansions, including the eligibility for purchase of preservation easements.

2.0 Application Procedures

2.1 The Foundation will provide application forms on which applicants who volunteer to place their lands into an Agricultural Preservation District will provide such information as the Foundation deems appropriate.

2.2 The Foundation shall provide assistance to potential applicants in completing application forms when requested.

2.3 Foundation staff may conduct on-site inspections and/or phone interviews with the applicants to acquire data necessary to perform LESA analyses and write a staff report.

2.4 In conjunction with the application, all fee simple owners shall sign a District Agreement in such form as deemed acceptable by the Foundation and which serves as a declaration in recordable form of acknowledgment of the policies and restrictions that must be followed, and benefits realized in a District.

3.0 Application Review Procedures

The Foundation has the authority to approve applications establishing Agricultural Preservation Districts and the authority to purchase preservation easements. [3 Del. C. §904]

3.1 The Foundation staff will review applications and determine whether or not the minimum eligibility requirements under Section 1.0 have been met.

3.2 If the minimum eligibility requirements have not been met, then the applicant will be notified by letter from the Foundation indicating that the application does not qualify for further review, and the reasons for ineligibility.

3.3 If an applicant excludes a portion of property otherwise includable in a proposed District, then the Foundation may deny the application, unless the property proposed for exclusion is not otherwise eligible for inclusion due to the use of the property at the time of the application.

3.4 Subject to Section 3.3 above, if the lands proposed as a District in the application (200 or more acres) meet minimum eligibility criteria, then the Foundation staff will submit to the Foundation, the County Farmland Preservation Advisory Board and the County Planning and Zoning Authority, applications and an indication that the application meets the minimum eligibility requirements.

3.5 If the applicant disagrees with the staff evaluation of the proposed District, then the applicant may contact the Foundation staff to discuss the application review. Foundation staff will meet with the landowner to discuss the review within thirty (30) days from receiving formal contact from the applicant.

3.6 If the issue is not resolved to the applicant's satisfaction, the applicant may request an administrative review with the Foundation by submitting a letter to the Foundation within fourteen days (14) of the applicant's last meeting with Foundation staff.

3.7 This letter must include reasons and documentation to justify the applicant's claim(s).

3.8 The Foundation will schedule a meeting and notify the applicant by certified letter of the date, time, and place of the meeting.

3.9 At the administrative review meeting, the applicant(s) shall present information or documentation as to how the proposed District satisfies the eligibility criteria.

3.10 The Foundation will render a decision within thirty (30) days from the administrative review meeting and notify the applicant in writing of its decision.

3.11 Owners of real property who have executed a District Agreement or a preservation easement that incorporate the restrictions in effect prior to the Senate

Bill No. 333 amendments and who elect to be released from the restrictions set forth in 9 Del. C. §909(a)(2)(b) pursuant to 9 Del. C. §909(a)(4)(c), shall comply with the following requirements:

3.11.1 Owners who have executed a district agreement and who wish to designate up to three residential lots shall designate the allowable residential acreage in sufficient detail to enable the Foundation to determine the location of the residential acreage, and while a survey may be submitted, a survey shall not be required. The Owner shall execute an amendment to the Owner's District Agreement in a form designated and acceptable to the Foundation, subjecting the real property to the restrictions set forth in 9 Del. C. §909(a)(1), (a)(2)(a), (a)(4)(a) and (a)(4)(b).

3.11.2 Owners who have executed a preservation easement and who wish to designate up to three residential lots shall designate the allowable residential acreage in sufficient detail to enable the Foundation to determine the location of the residential acreage and shall submit to the Foundation for its review and approval, at the Owner's expense, an amended survey in recordable form. The amended survey shall show the entire parcel subject to the preservation easement and the location of any residential lots. The Owner shall execute an amendment to the preservation easement in a form designated and acceptable to the Foundation, subjecting the real property to the restrictions set forth in 9 Del. C. §909(a)(1), (a)(2)(a), (a)(4)(a) and (a)(4)(b).

4.0 Creation of a District

4.1 To establish an Agricultural Preservation District, the application must be approved by two out of three of the entities listed under Section 3.4 of these regulations.
[3 Del. C. §907(c)]

4.2 After review by the Foundation, the application is subject to a review period of thirty (30) days in which the Secretary of Agriculture may reject the application. The application is officially approved at the end of the review period, if it is not rejected by the Secretary of Agriculture. [3 Del. C. §919]

4.3 The property legally becomes a District when the applicant and Foundation Chairperson (or designee) have signed the District Agreement and no rejection has been exercised by the Secretary of Agriculture, or the Secretary of Agriculture has waived the right of rejection.

4.4 Copies of the District Agreement shall be filed with the County Planning and Zoning and Tax Assessor's Offices and recorded in the Office of the Recorder of

Deeds. The Foundation shall require from these Offices proof of recording and/or receipt of the District Agreement.

4.5 The Foundation shall endeavor to provide written notification of the date of establishment of the Agricultural Preservation District and provide a copy of the District Agreement to the applicant, however, the failure of the Foundation to satisfy any formality following execution of a District Agreement shall not affect the validity of the District Agreement.

5.0 District Restrictions

5.1 Any rezoning or major subdivision of real property included in an Agricultural Preservation District is prohibited. [3 Del. C. §909(a)(1)]

5.2 The submission of applications or preliminary rezoning or subdivision plans for any property within an Agricultural Preservation District to a county or municipality shall be considered evidence of the intent to rezone or subdivide and no action shall be taken by any county or municipality on any such application until the expiration of the District Agreement.

5.3 During the term of the District Agreement, the property shall be used for "agricultural and related uses" and shall be used in such a way so that the property continues to qualify as "viable and productive agricultural land" as defined under provisions of the Farmland Assessment Act. [9 Del. C. §8329 - 8333] No more than 1 acre of land for each 20 acres of usable land, subject to a maximum of 10 acres, shall be allowed for dwelling housing. For purposes of calculating the number of acres allowable for dwelling housing, fractions of any acre shall not be allowed. By way of example, if a farm consists of 45 acres of usable farmland, the number of acres allowed for dwelling housing shall be 2, and not 2.25.

5.4 The phrase 'agricultural and related uses' shall have the meaning set forth in 3 Del. C. §909, as the same may be amended from time to time.

5.5 Excavation or filling, borrow pits, extraction, processing and removal of sand, gravel, loam, rock or other minerals is prohibited unless such action is currently required by or ancillary to any preparation for, or operation of any activities including, but not limited
to: aquaculture, farm ponds, cranberry operations, manure handling facilities, and other activities directly related to agricultural production.

5.6 Activities that would be detrimental to drainage, flood control, water conservation, erosion control or soil conservation are prohibited.

5.7 Any other activity that might negatively affect the continued agricultural use of the land is prohibited.

5.8 The term "usable land owned in the district" [3 Del. C. §909(a)(2)], shall be defined as any land meeting the requirements for agricultural, horticultural or forest land in the Farmland Assessment Act of 1968 [9 Del. C., Chapter 83] and [3 Del. C. §403] or criteria for farm definition as established by the National Agricultural Statistics Service.

5.9 The District Agreement and District requirements and benefits shall be binding on the heirs, successors and assigns of property owners of lands within a District. A property owner in a District shall provide written notice to the Foundation of any proposed transfer of property subject to the District Agreement at least ten (10) days in advance of the transfer, and shall give written notice to any successor or assign at least ten (10) days in advance of the date of transfer of the property that the property is subject to District restrictions. The party taking title shall execute a document as required by 3 Del. C. §909(a)(2)(c) acknowledging the acreage allowed for dwelling housing and the restrictions which apply to the property. The failure of the property owner to notify the transferee as provided herein shall not affect the transferee's obligation to comply with the terms and conditions of the District Agreement upon the transfer of title.

5.10 Under 3 Del. C. §909(a)(3), all restrictions shall be covenants which run with and bind the lands in the District for a minimum of ten (10) years, beginning when the District Agreement takes effect as specified in the District Agreement.

6.0 Continuation of a District

6.1 All properties are to remain in an Agricultural Preservation District for at least ten (10) years, subject to the allowance of hardship exceptions for exclusion of dwelling housing pursuant to 3 Del. C. §909(a)(2)(b) and Section 9 of these guidelines.

6.2 If a landowner wishes to withdraw from, or terminate a District, then the Foundation must receive a written notice of intent to withdraw no less than six (6) months prior to the ten (10) year anniversary date of initial establishment of the District. [3 Del. C. §909(b)]

If the Foundation does not receive a written notification of the landowner's intent to withdraw from the District six (6) months prior to the ten (10) year anniversary date of that District, then the land shall remain in the District for an additional five (5) year period unless and until notice of intent to withdraw shall be given six months prior to the end of each additional five-year period.

7.0 Expansion of a District

7.1 An Agricultural Preservation District can be expanded for the purpose of preserving additional lands. Lands added to a District may be under 200 acres.[3 Del. C. §907(d)]

7.2 Land which is less than 200 usable acres, yet meets the other criteria established by the Foundation, is eligible to be an expansion ("Expansion") of an Agricultural Preservation District if it is within three (3) miles of any portion of an established Agricultural Preservation District. [3 Del. C. §907(a)]

8.0 Inspection of Districts

The Foundation has the authority to enter upon lands as may be necessary to perform surveys, appraisals, and investigations to accomplish the purpose of the program, consistent with applicable statutes.
[3 Del. C. §904(b)(14)]

8.1 The Foundation or its designee reserves the right to inspect restricted land and enforce agreements on its own behalf.

8.2 If any violations of the terms and the conditions of the District Agreement occur, the Foundation may institute proceedings in the appropriate court to enforce the terms and seek appropriate relief. [3 Del. C. §920(a)]

9.0 Dwelling Property Hardship Exceptions

Except as set forth in Section 9.7 hereof, owners of real property who have executed a District Agreement or a preservation easement that incorporate the restrictions in effect prior to the Senate Bill No. 333 amendments are entitled to apply to the Foundation for a hardship exception allowing for the transfer of dwelling property to parties who are not otherwise entitled to residential use of the dwelling property under the District Agreement or Preservation Easement, subject to the provisions of 3 Del. C. §909(a)(2)(b) and the following requirements.

9.1 An applicant for a hardship exception shall submit the following information in writing to the Foundation:

9.1.1. name and property interest of applicant in the dwelling property;

9.1.2 acreage of the dwelling property subject to application;

9.1.3 date on which the District was established;

9.1.4 number of dwellings and acreage of residential use currently on the property in the District;

9.1.5 the nature of the hardship condition and reasons justifying the granting of a hardship exception;

9.1.6 the extent to which the hardship condition is unavoidable.

9.2 The Foundation shall consider hardship conditions involving the following circumstances:

9.2.1 the sale or transfer of the dwelling property compelled by foreclosure, court order, or marital property division agreement;

9.2.2 the sale or transfer of the dwelling property compelled by job transfer;

9.2.3 the sale or transfer of the dwelling property compelled by health conditions;

9.2.4 the sale or transfer of the dwelling property required to avoid insolvency or bankruptcy; and

9.2.5 other circumstances of an unusual and extraordinary nature which pose a practical hardship to continued ownership of the dwelling property and which are unavoidable.

9.3 Hardship exceptions will not be granted when no real hardship exists and the primary consequence of the sale or transfer of the dwelling property is financial gain.

9.4 The applicant shall bear the burden of establishing the existence of hardship circumstances, and shall provide to the Foundation documentation in support of the application, and any documentation requested by the Foundation, provided however, that documentation involving privileged information may be submitted on a confidential basis.

9.5 The Foundation may require the applicant for a hardship exception to appear before the Foundation Board to present the application, and an applicant shall be entitled to appear before the Board to make a presentation by submitting a written request to the Foundation.

9.6 The granting of a hardship exception by the Foundation shall be subject to the following conditions:

9.6.1 the dwelling property following transfer shall be used only for residential purposes;

9.6.2 the transferred property shall not qualify for District benefits or benefits of Preservation Easements;

9.6.3 if the transferred property is subject to a Preservation Easement prior to transfer, payment shall be made to the Foundation in an amount equal to twenty-five (25) percent of the current fair market value of the land subject to transfer;

9.6.4 the transferee shall execute a Declaration in recordable form as prescribed by the Foundation which includes the acreage allowed for dwelling housing and the restrictions which apply to the real property;

9.6.5 the Foundation may require the transferor to execute a Declaration in recordable form as prescribed by the Foundation to evidence the status of allowable dwelling housing property on lands retained by the transferor which are in the District or subject to a Preservation Easement; and

9.6.6 such other terms and conditions considered necessary by Foundation to address the nature of the hardship condition.

9.7 The hardship provisions set forth herein shall not apply to the owners of real property who, pursuant to 3 Del. C. §909(a)(4)(c), have elected to be released from the restrictions of 3 Del. C. §909(a)(2)(b).

10.0 Delaware Farmland Preservation Fund

The Delaware Farmland Preservation Fund, hereinafter referred to as the "Fund", was enacted under 3 Del. C. §905 for the exclusive application by the Foundation to achieve the desired goals of preserving viable agricultural lands and conducting the business of the Foundation.

11.0 Sources of Funding

11.1 The Foundation may accept donations, property, or development rights as gifts and monetary gifts from any source, public or private.

11.2 Monies not needed on a current basis by the Foundation may be invested with the approval of the Board of Trustees.

11.3 The Fund is subject to an annual audit to be prepared by an independent, certified public accountant. The findings of all audits shall be presented to the Board.

11.4 The Foundation shall manage the monies appropriated to it by the General Assembly in accordance with the terms of the appropriations.

12.0 Criteria for Purchase Agricultural Lands Preservation Easements

12.1 The criteria for eligibility of acquisition of a Preservation Easement shall be the same as the criteria for district eligibility. In addition, offered preservation easement lands shall be in an established district and in compliance with district requirements to be eligible. The Foundation shall have the right, in its sole discretion, to acquire a Preservation Easement on only a part of the property included within the District Agreement.

12.2 The prioritization and selection of properties for the purchase of preservation easements shall be as set forth in Sections 13 thru 20 inclusive hereof.

13.0 Matching Contributions to the Program

The Foundation may establish a reserve or set aside of available funds for the matching of federal, county, local, or private funds for the preservation of farmland. The Foundation may allow the entity providing matching funding to select the qualified properties for purchases of easements using the matching funding not withstanding provisions of these regulations regarding selections. The Foundation has the discretion, but is not required, to match contributions.

14.0 Schedule for Acquisition of Agricultural Lands Preservation Easements

14.1 Application and funding cycles will take place on schedules established by the Foundation.

14.2 Applications for the purchase of Preservation Easements in Rounds of Purchases shall be subject to deadlines established by the Foundation.

14.3 For each Round of Preservation Easement Purchases the Foundation shall arrange for the appraisal of the Preservation Easement value of those properties under consideration.

14.4 Upon completion, the appraisals shall be provided to the landowners, and procedures set forth herein involving offers for the sale of preservation easements under Option Agreements shall be initiated.

14.5 Offers received shall be held confidential until all offers are received after which the Foundation shall review the offers and announce the selections.

14.6 Following the selection of properties for acquisition of Preservation Easements, the Foundation shall arrange for surveys of the properties to be conducted, and proceed to settlement under the terms of the Option Agreements, subject to the availability of funding and satisfaction of regulatory, financial or other restrictions or limitations.

14.7 The Foundation is under no obligation to purchase a Preservation Easement which is offered for sale. [3 Del.C. §913.]

15.0 Application Procedures

15.1 A separate application shall be required for each farmland tract (operating farm unit) offered for Preservation Easement purchase. The Foundation shall not be obligated to process any incomplete application.

15.2 The Foundation shall develop, and make available to landowners or other interested parties, an application form for use in offers to sell Preservation Easements.

15.3 The Foundation shall review the application to determine if it is complete.

16.0 Appraisals [3 Del. C. §916]

16.1 An offer to purchase a Preservation Easement shall be based upon one or more appraisal reports which estimate the full market value of the land under its agricultural zoning designation and the agriculture-only value of the farmland tract. The agricultural only value shall be based on an income capitalization methodology. Any appraisal obtained by the Foundation shall constitute the property of the Foundation and may not be used by the property owner for tax or other purposes. All categories of land located in the farmland tract shall be eligible for easement purchase and shall be appraised

16.2 The value of buildings or other improvements on the farmland tract shall not be considered in determining the Preservation Easement value. Excluded from the value of the Preservation Easement shall be any acreage designated or eligible to be designated by the owner for residential use pursuant to 3 Del. C. §909(a)(4)(a), provided however, the landowner shall have the right to waive eligible residential usage in which case the development rights value of the waived acreage shall be included.

16.3 The appraiser shall be:

16.3.1. An independent, licensed real estate appraiser who is qualified to appraise a property for easement purchase. An appraiser shall be selected on the basis of experience, expertise and professional designation; and

16.3.2. A member of an organization which subscribes to the "Uniform Standards of Professional Appraisal Practice" published by the Appraisal Standards Board of the Appraisal Foundation, and shall follow their ethical and professional standards.

16.4 The appraiser shall supply a narrative report which shall contain such information as required by the Foundation.

17.0 Agricultural Lands Preservation Easement Value and Purchase Price

17.1 The value of a Preservation Easement in perpetuity shall be the difference between the full market value and the agriculture-only value contained in the appraisal report.

17.2 The price paid by the Foundation for the purchase of a Preservation Easement may not exceed, but may be less than, the value of the Preservation Easement. [3 Del. C. §916(a)]

17.3 If the applicant is not satisfied with the appraisal provided by the Foundation, the applicant shall be entitled to have an independent appraisal performed at the applicant's expense by a qualified appraiser as specified in Section 16.3. The alternative appraisal shall be prepared in the same format as the Foundation's appraisal and shall be submitted to the Foundation within forty-five (45) days of the applicant's date of receipt of the appraisal provided by the Foundation. The forty-five (45) day period may be extended by the Foundation, provided the time extension does not delay the time frame established by the Foundation for making selection and acquisition decisions.

17.4 The review of the alternative appraisals by the Foundation shall be based on written submissions under such procedures as specified by the Foundation. The maximum adjusted Preservation Easement value which the Foundation will accept is the difference between the agriculture-only value and the full market value, determined as follows:

17.4.1 The agriculture-only value shall equal the sum of:

i. The agriculture-only value determined by the applicant's appraiser; and

ii. Up to one-half of the positive difference between the agriculture-only value determined by the Foundation's appraiser and his/her values which exceed those determined by the applicant's appraiser.

17.4.2 The full market value shall equal the sum of:

i. The full market value determined by the Foundation's appraiser; and

ii. Up to one-half of the positive difference between the full market value determined by the applicant's appraiser and his/her values which exceed those determined by the Foundation's appraiser.

18.0 Offer of Purchase by the Foundation

18.1 The Foundation has the authority to incorporate bidding and/or negotiation as part of the procurement process. [3 Del. C. §915]

18.2 In reviewing the offers of applicants to sell Preservation Easements to the Foundation, the Foundation shall, subject to consideration of any alternative criteria by the Foundation to satisfy special objectives, select those offers providing the highest level of percentage donation or percentage discount to the

finally appraised value of the Preservation Easement, in accordance with the procedures and requirements of this Section. As an additional incentive, if any part of the applicant's property subject to the offer is located in whole or in part within one-half (1/2) mile completely outside of any growth zone of the County in which the Property is located, or in whole or in part within one-half (1/2) mile completely outside of the boundary of an incorporated town, municipality or city, for the sole purpose of ranking said application, the Foundation shall increase the offered percentage discount by five percent (5%). By way of example, if an applicant's offer includes a discount of sixty percent (60%), and the applicant's property is located in whole or in part within one-half (1/2) mile completely outside of the specified areas, for ranking purposes, the applicant's discount shall be deemed to be sixty-five percent (65%). If the applicant's property is selected for purchase of a preservation easement, the purchase price for the preservation easement shall incorporate a discount of only sixty percent (60%). The locations of the growth zones referenced by the Counties and the one-half (1/2) mile surrounding areas are as shown in Appendix "A" attached hereto.

18.3 The Foundation shall entertain offers in the form of Option Agreements from all eligible applicants who wish to submit offers, and after all offers are received, list the offers with the highest to the lowest level of percentage donation or percentage discount to the finally appraised value of the Preservation Easement with any adjustment to the offered donation or percentage discount as specified in Section 18.2 above.

18.4 Prior to releasing information to the public regarding the percentage of any discount or donation provided by a landowner the Foundation shall notify the landowner, identifying the requesting party, and obtain permission from the landowner prior to releasing the requested information. Otherwise, the information shall not be disclosed.

18.5 The Foundation may, but shall not be required to, allow a property owner in a District to submit an offer to sell a preservation easement on a portion of the real property in a District.

19.0 The Agricultural Lands Preservation Easement

19.1 The owners of the subject farmland tract shall execute a document conveying the Preservation Easement which document shall be in a form which contains conditions contained in Option Agreements executed by landowners.

19.2 The document shall be in recordable form and contain:

19.2.1. A legal description setting forth the metes and bounds of the farmland tract subject to the Preservation Easement.

19.2.2. At least one course and distance referencing a fixed marker or monument of a type commonly placed in the field by a surveyor.

19.2.3 The legal description shall not contain a closure error greater than one foot per 200 linear feet in the survey.

19.2.4 The survey of the farmland tract on which a Preservation Easement is to be purchased shall show each of the residential lots, if any, designated by the owner pursuant to 9 Del. C. §909(a)(4)(a).

20.0 Title Quality

The Preservation Easement conveyed to the Foundation shall be unencumbered except for standard exceptions and be capable of being insured as such by an established and recognized title insurance company doing business in the State of Delaware. Any title defects, liens, survey discrepancies, boundary line disputes, or similar title issues shall be resolved by the property owner, at the property owner's sole expense. If subsequent to the purchase of a Preservation Easement it is determined that the amount of acreage is less than as reflected on the survey used by the Foundation for purposes of calculating the purchase price for the Preservation Easement, the property owner shall be required to refund to the Foundation any excess funds paid in reliance upon the inaccurate survey.

21.0 Residential Lots

Senate Bill 333 imposes alternative restrictions on the limited residential use of property subject to a District Agreement or Preservation Easement by replacing the unlimited number of residential dwellings allowed for owners, relatives of owners, and farm labor, with a total limit of three dwellings which can be occupied by any person. The overriding limitation of residential use of 1 acre for 20 acres of usable farmland (subject to a maximum of 10 acres) was left unchanged. Accordingly, owners can now designate up to three residential lots on District Property or Preserved Property. With respect to the designation of the residential lots allowed under Senate Bill 333, the following additional guidelines shall apply:

21.1 The acceptance by the Foundation of the designation of a residential lot does not mean that the location of the lot and proposed residential use complies with any applicable zoning rules or regulations, or that a lot is suitable for residential use. Owners are encouraged to conduct such investigations and perform such tests as they deem appropriate to ascertain whether or not any designated lot will be suitable for residential use and complies with all applicable land use regulations, including zoning laws.

21.2 The Foundation recognizes that at times, due to circumstances beyond the control of the owner, it may be necessary for the owner to change the location of a lot. As a matter of policy, the Foundation will allow such changes subject to the following requirements:

21.2.1 No change in the location of a lot or size of a lot shall be allowed which would cause the number of lots or amount of residential acreage to be in excess of that otherwise allowed under the terms of the District Agreement or Preservation Easement.

21.2.2 With respect to property subject to a Preservation Easement, the owner shall cause to be prepared, at the owner's expense, an amended plot plan showing the entire parcel subject to the Preservation Easement and the location of each residential lot.

21.2.3 The owner shall execute an amendment to the District Agreement or Preservation Easement, which amendment shall reflect the change in the location or size of the residential lots, and which shall reference the amended plot plan.

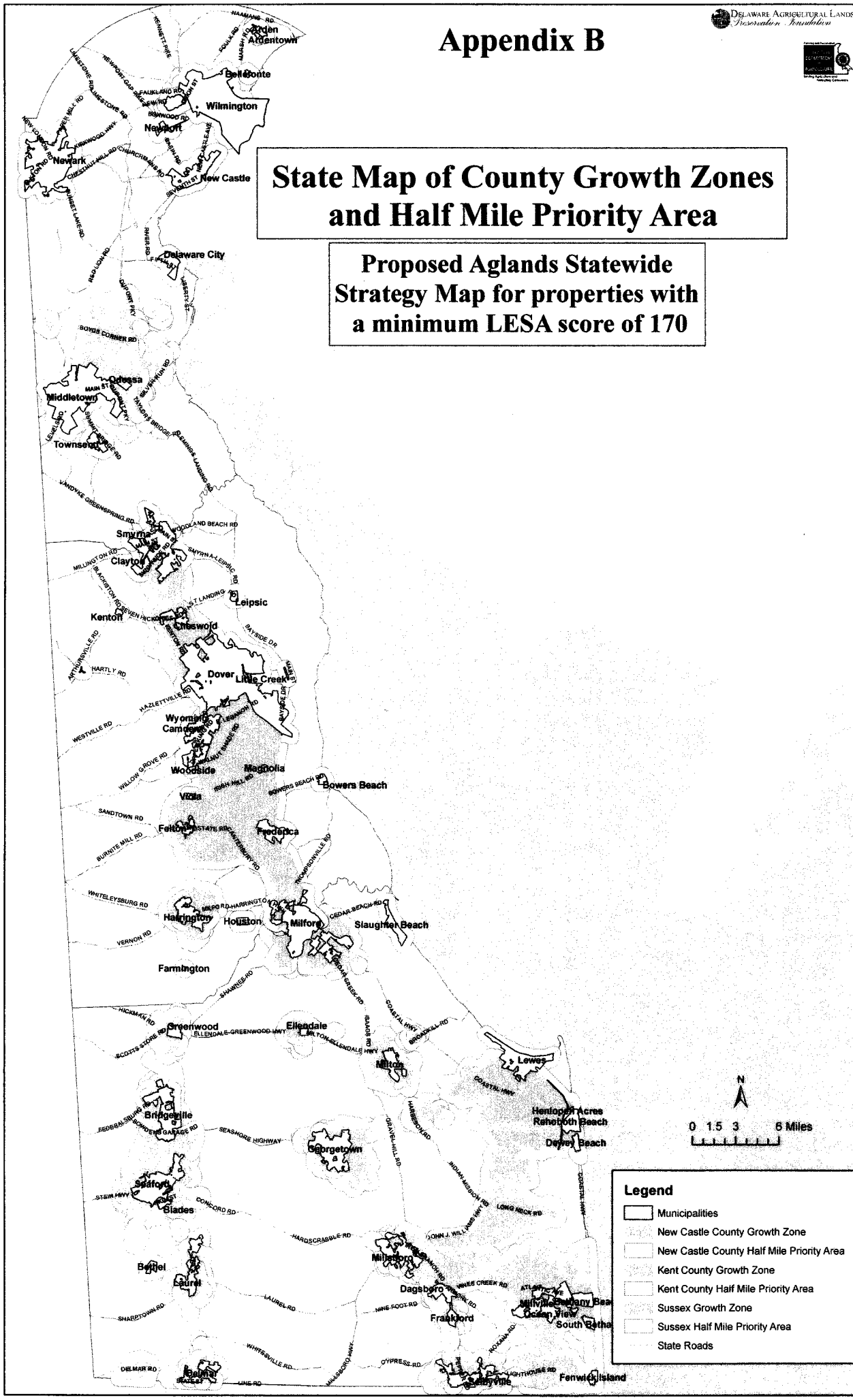
22.0 Strategy Map

The farm lands shown on the Strategy Map attached hereto as Appendix "B" which have a LESA Score of at least 170 are targeted for inclusion in Districts, and those qualified farms located in whole or in part one-half (1/2) mile completely outside of any growth zones designated under these regulations shall be further prioritized by the donation or discount advantage for such properties provided under Section 18.2 of these regulations.

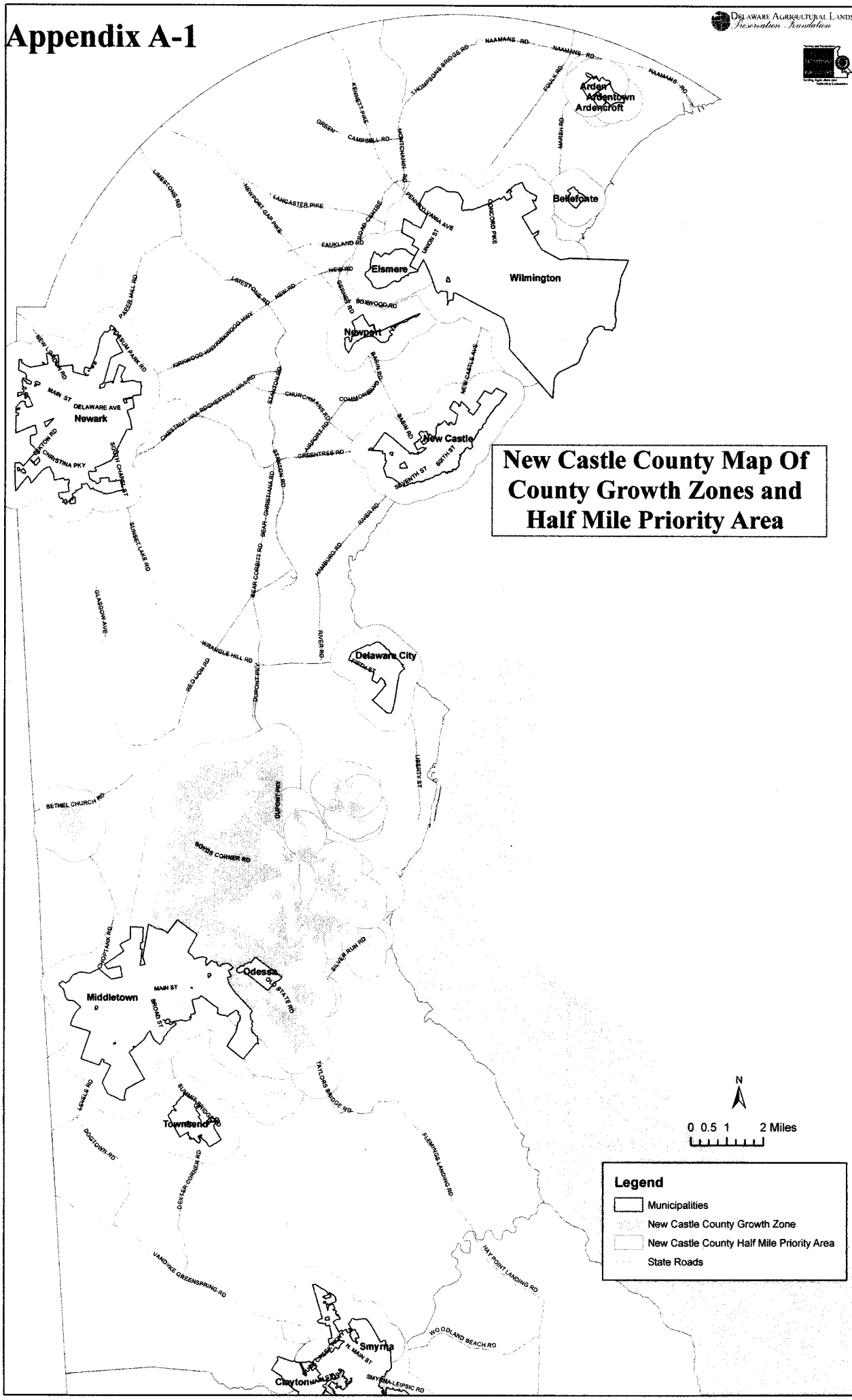
Appendix B

State Map of County Growth Zones and Half Mile Priority Area

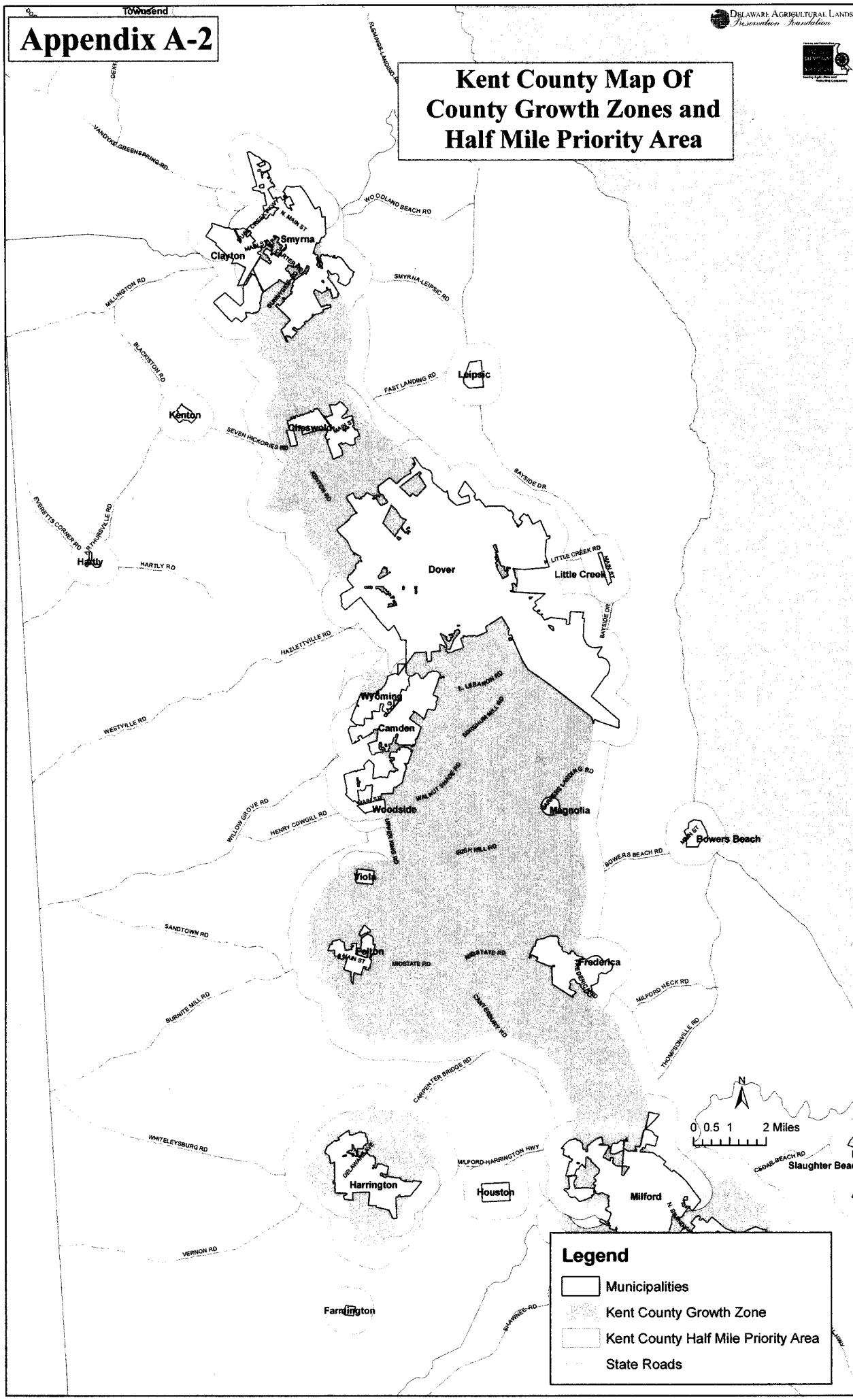
Proposed Aglands Statewide Strategy Map for properties with a minimum LESA score of 170

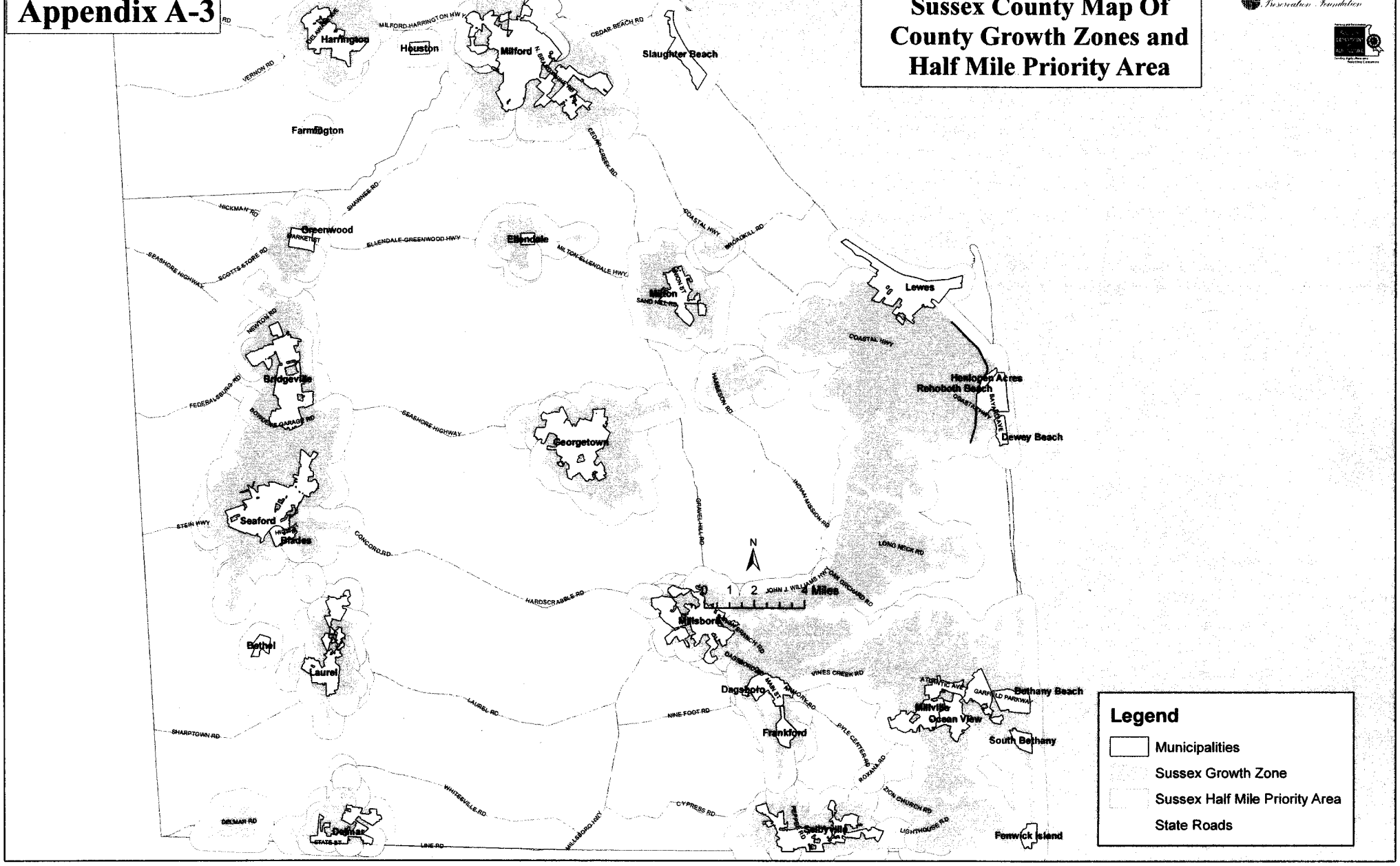


Appendix A-1


Delaware Agricultural Lands Preservation Foundation
New Castle County Map Of County Growth Zones and Half Mile Priority Area
Arden
Ardentown
Ardencroft
Bellefonte
Wilmington
Elsmere
Newport
Newark
New Castle
Delaware City
Odessa
Middletown
Townsend
Smyrna
Clayton
NAAMANS RD
THOMPSONS BRIDGE RD
KENNETT PIKE
GREEN
CAMPBELL RD
MONTCHANIN RD
FOULK RD
MARSH RD
LIMESTONE RD
NEWPORT GAP PIKE
LANCASTER PIKE
PENNSYLVANIA AVE
CONCORD PIKE
UNION ST
FAULKLAND RD
NEW RD
BOXWOOD RD
PAPER MILL RD
KIRKWOOD HWY
CHESTNUT HILL RD
STANTON RD
CHURCHMANS RD
COMMONWEALTH
BASIN RD
NEW CASTLE AVE
MAIN ST
DELAWARE AVE
CHRISTINA PKY
SOUTH CHAPEL ST
GREENTREE RD
SEVENTH ST
SIXTH ST
SUNSET LAKE RD
BEAR CORBIT RD
BEAR - CHRISTIANA RD
HAMBURG RD
RIVER RD
GLASGOW AVE
WRANGLE HILL RD
RED LION RD
DUPONT PKY
LIBERTY ST
BETHEL CHURCH RD
MIDDLETOWN
BOYDS CORNER RD
CHOPTANK RD
SILVER RUN RD
OLD STATE RD
BROAD ST
TAYLORS BRIDGE RD
LEGELE RD
SUMMIT BRIDGE RD
DOGTOWN RD
DEXTER CORNER RD
FLEMINGS LANDING RD
VANDYKE GREENSPRING RD
HAY POINT LANDING RD
WOODLAND BEACH RD
N. MAIN ST
SMYRNA-LEIPSIC RD
N
0 0.5 1 2 Miles
Legend
Municipalities
New Castle County Growth Zone
New Castle County Half Mile Priority Area
State Roads

Appendix A-2


Kent County Map Of County Growth Zones and Half Mile Priority Area
Delaware Agricultural Lands Preservation Foundation
Townsend
Smyrna
Clayton
Leipsic
Kenton
Cheswold
Dover
Little Creek
Hartly
Wyoming
Camden
Woodside
Magnolia
Bowers Beach
Viola
Felton
Frederica
Harrington
Houston
Milford
Slaughter Beach
Farmington
N
0 0.5 1 2 Miles
Legend
Municipalities
Kent County Growth Zone
Kent County Half Mile Priority Area
State Roads

Appendix A-3

Sussex County Map Of County Growth Zones and Half Mile Priority Area