

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 19, 2013

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, November 19, 2013, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
George B. Cole	Councilman
Joan R. Deaver	Councilwoman
Vance Phillips	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

The Invocation and Pledge of Allegiance were led by Mr. Vincent.

Mr. Vincent announced that Mr. Wilson was not in attendance and that he had a procedure performed in the hospital on Monday.

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 540 13
Approve
Agenda**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to approve the Agenda, as posted.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Absent;
Mr. Vincent, Yea**

Minutes

The minutes of November 12, 2013 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

**DELAWARE HOSPICE, DOVER, DELAWARE.
RE: Letter in appreciation of grant.**

**Agenda
Item**

Anthony DiGiuseppe, Employee of the Quarter, was not in attendance and recognition was delayed pending his arrival.

**Adminis-
trator's
Report**

Mr. Lawson read the following information in his Administrator's Report:

A. Federal Emergency Management Agency Flood Map Meeting

As previously announced, Sussex County will join the Federal Emergency Management Agency in hosting a public meeting in early

**Adminis-
trator's
Report
(continued)**

December for property owners and residents to review proposed changes to federally-mandated flood plain maps that could have implications on future construction and homeowner insurance rates. At that meeting, representatives of County government, the Delaware Department of Natural Resources and Environmental Control, FEMA, and their mapping partners will be on hand to explain the proposed Flood Insurance Rate Maps (FIRM) for Sussex County.

The maps, which identify flood-prone areas within the County and have been updated for the first time since 2005 using modern mapping technology and improved information, are used by insurance companies to determine flood insurance rates for buildings and contents.

Sussex County is required to adopt updated maps to continue participating in the National Flood Insurance Program (NFIP) and make flood insurance available to the community.

The open house meeting will be held from 4 to 6 p.m. Monday, Dec. 2, at the CHEER Community Center, 20520 Sand Hill Road, in Georgetown.

Information is available now on the County's website at www.sussexcountype.gov/firm. Interactive mapping is also available at www.r3coastal.com. For more information, contact Sussex County Environmental and Flood Plain Manager Jeff Shockley at (302) 855-7884 or jcshocklev@sussexcountype.gov.

B. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Millville by the Sea – Sub-Phase 2B-2 North received Substantial Completion effective November 14, 2013.

C. William L. Reed

It is with sadness we inform you that former County employee William Reed passed away on November 12, 2013. Mr. Reed worked for Sussex County from March 2, 2006 until November 13, 2012. He worked in the Security Department as a part-time Security Guard. We would like to express our condolences to the Reed family.

[Attachments to the Administrator's Report are not attachments to the minutes.]

**FEMA
Flood
Maps**

Mrs. Deaver raised a question on the first item in the Administrator's Report, FEMA Flood Maps. She asked if the County will be required to adopt maps to match FEMA's maps. Mr. Lawson responded that the

FEMA Flood Maps (continued)	County will be required to amend ordinances to meet or reflect the new FEMA rules. Lawrence Lank, Director of Planning and Zoning, has contacted both the State and FEMA to have them review the County's current flood regulations and ask them for their suggestions. In conjunction with DNREC and FEMA, the County will draft ordinances for the Council's review and consideration; ordinances must be passed by August 2014.
Financial Report for the First Quarter Ending 9/30/13	Mrs. Jennings presented the Financial Report for the First Quarter ending September 30, 2013. Revenues are 8 percent over budget (\$1 million). Regarding expenses, most departments are under budget; however, Mrs. Jennings noted that most of this due to timing/contracts. Year-to-date, the County is running a \$2 million surplus. Over the last 2 years, the County has seen a substantial increase in building related revenues as activity has picked up in Sussex County.
Discussion on Gun Shops as a Special Use Exception	<p>Lawrence Lank, Director of Planning and Zoning, reviewed a history of ordinances relating to gun shops in Sussex County. Guns are considered sporting goods and sporting goods stores are permitted uses in B-1 Neighborhood Business, B-1 General Commercial, CR-1, Marine and LI-2 Districts, all permit uses listed under B-1 and C-1; therefore, sporting goods (guns/archery, etc.) are permitted uses as retail sales. There is also a provision in the Code that allows for home occupations for a salesman and in a lot of cases, there are individuals that offer catalog sales (no shop or displays). Gun shops as Conditional Uses would be allowed under AR, GR, B-1, C-1, CR-1, and Marine. Special Use Exceptions do not list retail as an option; however, something similar is referenced, i.e. archery ranges, rifle/pistol ranges, trap/skeet shooting (all of which are listed as Special Use Exceptions – but not in every District).</p> <p>Mr. Cole stated that the main concern is the location of a gun shop, i.e. Conditional Uses, and that some areas may not be appropriate. He also noted that stand-alone gun shops may be more of a concern than guns sold in a Walmart type business or in gun shops in shopping centers. Mr. Lank noted the possibility of an application being approved for a sporting goods store and the fact that guns could be sold in that store.</p> <p>The Council directed Mr. Lank and Mr. Moore to look at ways the County can address this issue for presentation at a future Council meeting.</p>
Public Hearing/ Proposed Ordinance Relating to Height Regulations	<p>A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXV, SECTION 115-179B OF THE CODE OF SUSSEX COUNTY, ENTITLED "HEIGHT REGULATIONS" IN REGARD TO THE HEIGHT OF CERTAIN BUILDINGS".</p> <p>This Ordinance would modify Section 115-179B of the Sussex County Zoning Code to only allow government buildings, hospitals, institutions and schools to be built to a maximum height of 60 feet when those structures are</p>

**Public
Hearing/
Proposed
Ordinance
Relating
to Height
Regulations
(continued)**

permitted in the underlying zoning district. Churches and Temples are unaffected by this amendment. It applies to any new building not currently approved with a valid Sussex County Building Permit.

The Planning and Zoning Commission held a Public Hearing on this Proposed Ordinance on November 14, 2013 at which time the Commission deferred action. (See the minutes of the meeting dated November 14, 2013.)

Lawrence Lank, Director of Planning and Zoning, reviewed some of the comments made and questions raised by the Commission members: that buildings 60 feet tall have more recently become attractive for construction consideration by developers; that there is a mechanism for the consideration of increased height through the Board of Adjustment; that there is not a loop-hole in the Code to allow buildings to be built to 60 feet; that the referenced section of the Code has just not been utilized; questioning how the height of a building will impact public sewer; questioning uses v. measurements in reference to Equivalent Dwelling Units; questioning why a 60 foot motel creates such controversy; that there may be a better solution, but one has not yet been determined; that further study may be necessary; that the most floors in a 60 foot tall building will be a tight six (6) floors; that there are a lot of cost issues for increased height; that a 60 foot height might help reduce sprawl; that the County should take a more comprehensive look at the issue, including appropriate locations for taller buildings, separation from roadways and waterways and other factors; and that more time might be necessary prior to making a recommendation on this ordinance amendment. Planning and Zoning Commission Chairman Wheatley questioned if a workshop of the Commission and the County Council would be appropriate.

Mr. Lank noted that the paragraph that is being considered for amendment has been in the Code since January 1979 and that its existence in the Code has been known; however, for the most part it has not been used with the exception of being used for a couple of motels and the project known as The Vineyards.

Mr. Cole questioned the past interpretation of the 42 foot height limit as being the County's policy.

Vince Robertson, Assistant County Attorney, explained that Section 115-179B of the Code establishes a separate height limit for certain buildings; that the section says that, except in airport approach zones defined by the FAA, "public and semi-public, or public service buildings, hospitals, institutions or schools, when permitted in a district, may be erected to a height not exceeding 60 feet..." Mr. Robertson then explained that public and public services uses include storage facilities, offices, trash disposal companies, propane services, water towers, boat storage, etc. – a wide variety of things. Mr. Robertson stated that he does not want there to be an impression or interpretation regarding the County's height regulations. Mr. Robertson stated that the question for the Council to consider in

**Public
Hearing/
Proposed
Ordinance
Relating
to Height
Regulations
(continued)**

regards to the Draft Ordinance is does the County want to limit the 60 foot height regulation to government buildings, hospitals, institutions and schools, and to take out the existing myriad of uses. Mr. Robertson noted that setback requirements would still have to be met.

Mr. Cole stated that, even with a 42 foot height limit, there is a method by which applicants can seek a higher height limit - application can be made to the Board of Adjustment.

Mr. Phillips noted that applications for a variance (Board of Adjustment) require that a hardship exists and that there may be a legal impediment for applications seeking buildings with a height up to 60 feet.

Mr. Phillips referenced complaints received in opposition to sprawl and he stated that the 60 foot height allowance can help address that, as well as address the need for mass transit since greater heights allow for more people to live in a close geographic area.

Mr. Robertson noted that by requesting a workshop with the County Council, it is not the Planning and Zoning Commission's intention to delay making a recommendation on this Proposed Ordinance.

Public comments were heard.

Kathleen Baker, a resident of Sterling Crossing, spoke in favor of the Proposed Ordinance and she stated that over 100 residents of Sterling Crossing endorse her statement. She stated that living across from a 6-story apartment building, hotel, or shopping center is "to be affronted, visually, sonically, viscerally". She stated that 60 is not the new 42 and she asked that the Council approve the amendment and to let developers make their individual cases for a 60' high building.

Dan Kramer of Greenwood stated that sprawl will cover everything up and that land will be saved if you build up. Mr. Kramer spoke in support of property rights.

In response to questions raised by Mr. Cole regarding structures being permitted up to a height of 60 feet, a possible proliferation of 60 foot buildings, and how that might affect sewer planning studies, Michael Izzo, County Engineer, stated that if commercial lots develop out at 12 EDUs per acre and AR lots develop out at 4 EDUs per acre, upgrades will have to be made to sewer systems, i.e. new lines and new pump stations.

There were no additional public comments and the Public Hearing was closed.

M 541 13

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to defer action on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXV, SECTION 115-179B OF THE CODE OF

M 541 13
Defer
Action on
Proposed
Ordinance
Relating to
Height
Regulations

SUSSEX COUNTY, ENTITLED “HEIGHT REGULATIONS” IN REGARD TO THE HEIGHT OF CERTAIN BUILDINGS”.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Absent;
Mr. Vincent, Yea**

Public
Hearing/
Extend
Timeframe
to Perform
Work
Without
Posting a
Bond

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 99 OF THE CODE OF SUSSEX COUNTY, ENTITLED “SUBDIVISION OF LAND” IN ORDER TO EXTEND THE TIMEFRAME IN WHICH LANDOWNERS MAY PERFORM SITE WORK OR CONSTRUCT CERTAIN IMPROVEMENTS WITHOUT POSTING A BOND OR PERFORMANCE GUARANTY”.

This Proposed Ordinance would modify Section 99-32 of the Sussex County Code in order to extend the time period to January 1, 2015 in which landowners may perform site work and construct certain improvements without posting a bond or other guaranty, subject to the conditions contained therein.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on November 14, 2013 and recommended approval with a further recommendation that the time frame be extended to January 1, 2016 (instead of January 1, 2015) in order to match the current time extension ordinance (which relates to subdivisions, Residential Planned Communities, and Conditional Uses). (See the minutes of the Planning and Zoning Commission dated November 14, 2013.)

The Council discussed the Proposed Ordinance. Mrs. Deaver spoke in opposition. Mr. Robertson clarified that the only way a No Bond Process can be used is if a Developer does not sell anything (lots or homes) in the development to a Third Party. Mr. Robertson also stated that, in any situation, there will always be the same level of inspection by the County.

In response to questions regarding infrastructure in a No Bonding situation, Michael Izzo, County Engineer, stated that, once the County finds that a project is substantially completed and the Developer can begin selling the lots, the County must obtain a Warranty Bond, which will cover all improvements. Mr. Izzo noted that a Warranty Bond is only for a year.

Mrs. Deaver noted that Hal Godwin, Deputy County Administrator, distributed information on what other Counties do with bonds and she questioned why this information is not being considered.

It was noted that the Proposed Ordinance would only extend the timeframe.

- (continued) **There were no public comments and the Public Hearing was closed.**
- M 542 13** **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to amend the**
Amend **Proposed Ordinance by changing the sunseting/expiration date from**
Date in **January 1, 2015 to January 1, 2016.**
Proposed
Ordinance **Motion Adopted: 3 Yeas, 1 Nay, 1 Absent.**
- Vote by Roll Call: Mrs. Deaver, Nay; Mr. Cole, Yea;**
 Mr. Phillips, Yea; Mr. Wilson, Absent;
 Mr. Vincent, Yea
- M 543 13** **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to Adopt**
Adopt **Ordinance No. 2325 “AN ORDINANCE TO AMEND CHAPTER 99 OF**
Ordinance **THE CODE OF SUSSEX COUNTY, ENTITLED “SUBDIVISION OF**
No. 2325 **LAND” IN ORDER TO EXTEND THE TIMEFRAME IN WHICH**
 LANDOWNERS MAY PERFORM SITE WORK OR CONSTRUCT
 CERTAIN IMPROVEMENTS WITHOUT POSTING A BOND OR
 PERFORMANCE GUARANTY”, as amended.
- Motion Adopted: 3 Yeas, 1 Nay, 1 Absent.**
- Vote by Roll Call: Mrs. Deaver, Nay; Mr. Cole, Yea;**
 Mr. Phillips, Yea; Mr. Wilson, Absent;
 Mr. Vincent, Yea
- Public** **A Public Hearing was held on the Proposed Ordinance entitled “AN**
Hearing/ **ORDINANCE TO AMEND CHAPTER 90 OF THE CODE OF SUSSEX**
Bonding **COUNTY, ENTITLED “SEDIMENT CONTROL AND STORMWATER**
Guaranties **MANAGEMENT” AND CHAPTER 99 OF THE CODE OF SUSSEX**
Required **COUNTY, ENTITLED “SUBDIVISION OF LAND” IN REGARD TO**
by the **THE BONDING AND GUARANTIES REQUIRED FOR SURFACE**
Sussex **DRAINAGE FACILITIES AND EROSION AND SEDIMENTATION**
Conser- **CONTROL FACILITIES UNDER THE JURISDICTION OF THE**
vation **SUSSEX CONSERVATION DISTRICT”.**
District
- This Proposed Ordinance modifies Sections 90-8 and 99-32 of the Sussex**
 County Code in order to remove the provision that Sussex County will
 require bonding and guaranties for surface drainage facilities and erosion
 and sedimentation control facilities required by the Sussex Conservation
 District.
- The Planning and Zoning Commission held a Public Hearing on the**
 Proposed Ordinance on November 14, 2013 and the Commission
 recommended approval. (See the minutes of the meeting of the Planning
 and Zoning Commission dated November 14, 2013.)
- Lawrence Lank, Director of Planning and Zoning, read a summary of the**
 Planning and Zoning Commission’s Hearing.

**Public
Hearing/
Bonding
Guaranties
Required
by the
Sussex
Conser-
vation
District
(continued)**

Mr. Lank and David Rutt, Assistant County Attorney, discussed the Proposed Ordinance and answered questions raised by the Council.

Mr. Rutt stated that, regarding the approval of plans, the County sees that all plans for stormwater drainage, roadways, and landscaping are part of Final Site Plan approval; however, under Delaware Code, DNREC has the obligation to approve all stormwater management and erosion and sediment control and that statute has set up a procedure whereby they establish Soil Conservation Districts and DNREC can delegate that obligation to the Soil Conservation Districts. The County itself has no authority to approve erosion or sediment control outside of the right-of-ways. Mr. Rutt stated that the County should not be holding a bond for work that it has no control over and therefore, should not assume that obligation. It was noted that the County held these bonds in the past since the Sussex Conservation District did not have a bonding process. Mr. Rutt stated that it is recommended that the bonding process be separated and that the Soil Conservation District should hold and enforce their own bonds.

Public comments were heard.

William Carroll of Bethany Beach stated that he attended a meeting in Long Neck about flooding (when there was flooding in the area) and that at that meeting, State legislators and representatives from DelDOT, DNREC and Soil Conservation were in attendance. At that meeting, all of the agencies said that the floods were because of inaction by Sussex County Council. Mr. Carroll noted that the County Council was the only entity without representation at the meeting. Mr. Carroll also stated that there is a greater issue here than the bonding and that is there has to be more communication between Sussex County Council and the elected officials in Dover because the elected officials are unaware of the fact of how subdivisions get approved and they don't know that DNREC has a responsibility for flooding problems. He stated that, while it makes sense to not have the bonding in the name of the Council, there is a responsibility that the Council has to take because it is "being laid at your feet".

David Baird of the Sussex Conservation District reported on the District's position regarding the Proposed Ordinance and that is, the District is supportive of it. He stated that, in regards to the District's role on plan review and stormwater management, the District reviews the plans that are submitted to determine compliance with regulations; however, the District does not design the plans or prepare the plans. Further, in regards to drainage, the District does not have any formal authority – that stays within DNREC's purview. The District does assist with technical assistance on drainage issues in the County, mostly at the County's request.

There were no additional public comments and the Public Hearing was closed.

**M 544 13
Adopt
Ordinance
No. 2326**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2326 entitled “AN ORDINANCE TO AMEND CHAPTER 90 OF THE CODE OF SUSSEX COUNTY, ENTITLED “SEDIMENT CONTROL AND STORMWATER MANAGEMENT” AND CHAPTER 99 OF THE CODE OF SUSSEX COUNTY, ENTITLED “SUBDIVISION OF LAND” IN REGARD TO THE BONDING AND GUARANTIES REQUIRED FOR SURFACE DRAINAGE FACILITIES AND EROSION AND SEDIMENTATION CONTROL FACILITIES UNDER THE JURISDICTION OF THE SUSSEX CONSERVATION DISTRICT”.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Absent;
Mr. Vincent, Yea**

**Grant
Requests**

Mrs. Jennings presented grant requests for the Council’s consideration.

**M 545 13
Council-
manic
Grant**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$500.00 (\$250.00 each from Mr. Cole’s and Mrs. Deaver’s Councilmanic Grant Accounts) to Clear Space Productions for programming and development costs.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Absent;
Mr. Vincent, Yea**

**M 546 13
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$250.00 from Mr. Cole’s Councilmanic Grant Account to the Town of Ocean View for Homecoming Event expenses.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Absent;
Mr. Vincent, Yea**

**M 547 13
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$2,500.00 from Mr. Cole’s Councilmanic Grant Account to the Rehoboth Beach Historical Society for renovations to the museum building.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Absent;
Mr. Vincent, Yea**

Workshop Suggestions	Under Additional Business and as a follow-up to the discussion during the Public Hearing relating to height regulations, Mr. Cole suggested that a workshop of the Sussex County Council, the Planning and Zoning Commission, and the Board of Adjustment be scheduled in early 2014 to discuss the following topics: height regulations, permitted uses in the AR District for livestock, campgrounds (definition), stormwater, etc. Mrs. Deaver requested that the following topic also be added: definition of a manufactured home as a dwelling.
Agenda Item	Mr. Lawson referenced the Agenda item “Employee of the Quarter” and he stated that Anthony DiGiuseppe will be recognized at the December 3, 2013 meeting.
Proposed Change in Time of Meeting on December 3	Mr. Lawson referenced the lack of agenda items for the December 3rd meeting and the fact that four (4) Public Hearings are scheduled at 1:30 p.m. on that date. With no objection from Council, it was decided that the meeting on December 3rd would begin at 1:00 p.m., unless it becomes necessary to add more agenda items.
M 548 13 Go Into Executive Session	At 11:56 a.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to go into Executive Session for the purpose of discussing matters relating to pending/potential litigation and land acquisition. Motion Adopted: 4 Yeas, 1 Absent. Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Absent; Mr. Vincent, Yea
Executive Session	At 11:58 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing matters relating to pending/potential litigation and land acquisition. The Executive Session concluded at 12:30 p.m.
M 549 13 Reconvene	At 12:32 p.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to come out of Executive Session and to reconvene the Regular Session. Motion Adopted: 4 Yeas, 1 Absent. Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Absent; Mr. Vincent, Yea
Action	There was no action on Executive Session items.
M 550 13 Recess	At 12:32 p.m., a Motion was made by Mr. Cole, seconded by Mr. Phillips, to recess to 1:30 p.m. Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Absent;
Mr. Vincent, Yea**

M 551 13
Reconvене

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to reconvene at 1:37 p.m.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Absent;
Mr. Vincent, Yea**

**Public
Hearing/
C/U
No. 1970**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 1.033 ACRES, MORE OR LESS (Tax Map I.D. 1-35-10.00-56.03) (Conditional Use No. 1970) filed on behalf of Matthew A. Carr.

The Planning and Zoning Commission held a Public Hearing on this application on October 10, 2013; on that date, the Commission deferred action. On October 24, 2013, the Commission recommended that the application be approved with the following conditions:

- A. The use shall be limited to an automobile repair facility, with repairs to agricultural equipment, as needed. There shall not be any boat repair or large truck repairs permitted on the site.**
- B. No towing operations shall occur from the site.**
- C. No junked, permanently inoperable, or unregistered vehicles shall be stored on the site.**
- D. No more than four (4) vehicles awaiting repair shall be stored outside on the site at any one time, other than the owner's personal vehicles. Any vehicles awaiting repair shall be either in the building or located behind it.**
- E. All repairs shall occur within the building.**
- F. The application shall comply with all State and Federal requirements regarding the storage, use and disposal of all fluids associated with the use.**
- G. One lighted sign shall be permitted, not to exceed 32 square feet per side.**
- H. The hours of operation shall be from 8:00 a.m. to 7:00 p.m. Monday through Friday, and 8:00 a.m. to 12:00 Noon on Saturday.**
- I. All dumpsters or trash receptacles shall be screened from view of neighboring properties or roadways.**
- J. The Final Site Plan shall show the location of all parking areas, dumpster areas, outside containers, and screening required by this**

**Public
Hearing/
C/U
No. 1970
(continued)**

- approval.**
- K. No used car sales or retail operations shall be conducted from the site.**
 - L. The Final Site Plan will be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated October 10 and 24, 2013.)

Lawrence Lank, Director of Planning and Zoning, provided a summary of the Commission's Public Hearing.

The Council found that Tim Willard, Attorney, was present with Matthew A. Carr on behalf of the application. Mr. Willard distributed Exhibit Booklets including an updated site plan and photographs. They stated that the application is for a small car repair business out of an existing garage; that previously, Richard Lankford operated a sign business on the property; that since purchasing the property, he has added a dwelling; that the size of the building is now 56.4 by 30.2 – so 16 feet was added to one end of the building, as reflected on the updated site plan; that the addition became a dwelling for Mr. Carr; that the garage building can house five vehicles; that all work on the vehicles will take place inside the building; that no more than four (4) vehicles awaiting service will be stored; that there is ample parking for at least four (4) vehicles; that the parking area is not visible from the road; that the use would not adversely affect the neighborhood as it is surrounded by woods; that the use will not change the character of the neighborhood; that although the Commission recommended approval of one unlighted sign, the Applicant does not intend to have a sign at this time; that the Applicant does own the lot to the north and that, long range, he intends to move or construct a house on that one-acre parcel; that he proposes to operate the business part-time; that all conditions recommended by the Commission are acceptable to the Applicant; and that an outside dumpster is not proposed as everything will be contained inside.

Mr. Cole suggested that the conditions recommended by the Commission be amended to restrict any signage to "unlighted".

There were no public comments in support of the application.

Patricia Huff, Sandhill Road, was present in opposition to the application. She expressed the following concerns: setting a precedent, causing a negative impact on property values in the area; signage; and that the site is located in a rural area and that the use would be out of character with the area. Ms. Huff referenced that there is existing shrubbery that helped conceal the previous business. Ms. Huff referenced the petition, containing three signatures, which was submitted into the record at the Public Hearing before the Planning and Zoning Commission.

- Public Hearing/
C/U
No. 1970
(continued)**
- Mr. Phillips asked Ms. Huff if she was comfortable with the application going forward with the conditions recommended and Ms. Huff stated that “yes, I feel better about that”.**
- Mrs. Deaver recommended an additional condition that the existing landscaping buffer be maintained.**
- There were no additional public comments and the Public Hearing was closed.**
- M 552 13
Amend
Condition**
- A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend Condition G to read as follows: One un-lit sign shall be permitted, not to exceed 32 square feet per side.**
- Motion Adopted: 4 Yeas, 1 Absent.**
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Absent;
Mr. Vincent, Yea**
- M 553 13
Amend
Condition**
- A Motion was made by Mrs. Deaver, seconded by Condition J to read as follows: The Final Site Plan shall show the location of all parking areas, dumpster areas, outside containers, and screening required by this approval. The existing landscape screening shall be maintained and replaced as necessary.**
- Motion Adopted: 4 Yeas, 1 Absent.**
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Absent;
Mr. Vincent, Yea**
- M 554 13
Adopt
Ordinance
No. 2327/
C/U
No. 1970**
- A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2327 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 1.033 ACRES, MORE OR LESS (Tax Map I.D. 1-35-10.00-56.03) (Conditional Use No. 1970 filed on behalf of Matthew A. Carr, with the following conditions, as amended:**
- A. The use shall be limited to an automobile repair facility, with repairs to agricultural equipment, as needed. There shall not be any boat repair or large truck repairs permitted on the site.**
 - B. No towing operations shall occur from the site.**
 - C. No junked, permanently inoperable, or unregistered vehicles shall be stored on the site.**
 - D. No more than four (4) vehicles awaiting repair shall be stored**

**M 554 13
Adopt
Ordinance
No. 2327/
C/U
No. 1970
(continued)**

outside on the site at any one time, other than the owner's personal vehicles. Any vehicles awaiting repair shall be either in the building or located behind it.

- E. All repairs shall occur within the building.**
- F. The application shall comply with all State and Federal requirements regarding the storage, use and disposal of all fluids associated with the use.**
- G. One un-lit sign shall be permitted, not to exceed 32 square feet per side.**
- H. The hours of operation shall be from 8:00 a.m. to 7:00 p.m. Monday through Friday, and 8:00 a.m. to 12:00 Noon on Saturday.**
- I. All dumpsters or trash receptacles shall be screened from view of neighboring properties or roadways.**
- J. The Final Site Plan shall show the location of all parking areas, dumpster areas, outside containers, and screening required by this approval. The existing landscape screening shall be maintained and replaced as necessary.**
- K. No used car sales or retail operations shall be conducted from the site.**
- L. The Final Site Plan will be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Absent;
Mr. Vincent, Yea**

**Public
Hearing/
C/Z
No. 1736**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.24 ACRES, MORE OR LESS" (Tax Map I.D. 3-34-10.00-199.00) (Change of Zone No. 1736) filed on behalf of Judith B. Demeno, Trustee.

The Planning and Zoning Commission held a Public Hearing on this application on October 10, 2013 at which time the Commission recommended that the application be approved.

(See the minutes of the meeting of the Planning and Zoning Commission dated October 10, 2013.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing.

**Public
Hearing/
C/Z
No. 1736
(continued)**

Mr. Lank noted that this site has been approved for two previous Conditional Uses – one to create a gift shop and one to expand it (within the same year – 1974).

Exhibit Books were distributed to Council members.

The Council found that Eugene Bayard, Attorney, was present with the Applicant, Judith Demeno. They stated that, according to the State Strategies Map, the site is located in an Investment Level 4 Area, just outside of an Investment Level 3 Area; that the neighborhood is an active neighborhood business area and the site has a history of commercial and business uses (since 1974); that they believe that the position of PLUS is inflexible and unreasonable; that the character and trend of development along Route 9 in this area has been changing to business and commercial uses; that Ms. Demeno purchased the property in 2005; that no improvements to the property are planned; that she has been in the retail clothing business for over 25 years; that the Applicant proposes to lease the house on the property for the operation of a day spa; that DelDOT limited the use to 200 vehicle trips per day; that her business may have 25 trips per day; that DelDOT did not request any entrance improvements; that there are no wetlands on the property; that the site is served by an on-site septic system and a private well; that the Applicant wrote letters to her neighbors regarding the proposed rezoning and that she received only one response which was in support of her proposal; that the use will not have a negative impact on property values; that the use is in character with the developing nature of the area; that the use will have no adverse impact on neighboring or adjacent properties in the area; and that the area has had neighborhood commercial uses for many years. Mr. Bayard reviewed other uses in the area and distributed copies of zoning classifications in the area.

There were no public comments and the Public Hearing was closed.

**M 555 13
Adopt
Ordinance
No. 2328/
C/Z
No. 1736**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2328 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.24 ACRES, MORE OR LESS (Change of Zone No. 1736) filed on behalf of Judith B. Demeno, Trustee.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Absent;
Mr. Vincent, Yea**

**M 556 13
Adjourn**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adjourn at 2:21 p.m.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Absent;
Mr. Vincent, Yea**

Respectfully submitted,

**Robin A. Griffith
Clerk of the Council**