



Sussex County Council Public/Media Packet

**MEETING:
MARCH 19, 2013**

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**Sussex County Council
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MICHAEL H. VINCENT, PRESIDENT
SAMUEL R. WILSON JR., VICE PRESIDENT
GEORGE B. COLE
JOAN R. DEEVER
VANCE PHILLIPS



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Sussex County Council

A G E N D A

March 19, 2013

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Dean Swingle, Chairman of the Board, Sussex Preparatory Academy - Presentation

Carole Somers, Sussex County League of Women Voters - Sunshine Day Presentation

Todd Lawson, County Administrator

1. PATS Aircraft, LLC Lease Amendment
2. Administrator's Report

Susan Webb, Finance Director

1. Proposed Resolution Authorizing Payoff of Certain Outstanding West Rehoboth Revenue Bonds

Hal Godwin, Deputy County Administrator

1. Wastewater Agreement – Light House Carillon, LLC

10:30 a.m. Public Hearing

Bird Haven Suburban Community Improvement Project



John Ashman, Director of Utility Planning

1. Presentation of Public Hearing results for SR26, Phase III, Millville Sanitary Sewer District Expansion

Rodney Marvel, Assistant Director of Environmental Services

1. South Bethany Sewer Line Renovation
 - A. Bid Award

Jeffrey Christopher, Sheriff, and Dennis Lineweaver, Chief Deputy Sheriff

1. SoftCode, Inc. – Civil Process Software purchase

Old Business

1. Conditional Use No. 1943 filed on behalf of Charles L. Williams
2. Change of Zone No. 1721 filed on behalf of Captain's Way Development, LLC

Grant Requests

1. American Legion Post 19 for Veterans Day Parade expenses.
2. Seaford-Clarence Street Church of God for Annual Community Day expenses.
3. New Zion United Methodist for Basketball Tournament Fundraiser.
4. Sussex Academy of Arts and Sciences for Jerrica Robertson to attend the National Young Leaders Conference.
5. West Side New Beginnings for their Children and Youth Program expenses.
6. Laurel Extension Site Boys & Girls Club for youth development programs.
7. Western Sussex Farmers Market for operating expenses.

Introduction of Proposed Zoning Ordinances

Any Additional Business Brought Before Council

Executive Session – Job Applicants' Qualifications, Personnel, Pending/Potential Litigation, and Land Acquisition pursuant to 29 Del. C. §10004(b)

Possible Action on Executive Session Items

1:30 p.m. Public Hearings

Conditional Use No. 1952 filed on behalf of Clinton E. McCutchen

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR BOAT REPAIR, BOAT STORAGE, AND BOAT SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.36 ACRES, MORE OR LESS” (land lying southwest of Route 20 (Hardscrabble Road) at corner with and northeast of Road 473 (Messick Road); (Tax Map I.D. 2-32-2.00-21.00\22.00)

Conditional Use No. 1956 filed on behalf of Mark A. Giblin

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AUTO REPAIR AND SERVICE AS EXTENSION TO AN APPROVED TOWING SERVICE AND LANDSCAPING BUSINESS (CONDITIONAL USE NO. 1933) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.374 ACRES, MORE OR LESS” (land lying southeast of Route 17 (Roxana Road) 1,185 feet northeast of Road 382 (Zion Church Road); (Tax Map I.D. 5-33-6.00-60.02)

Conditional Use No. 1957 filed on behalf of George R. and Sandra L. Van Fleet

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR RENTAL AND PERSONAL STORAGE UNITS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.148 ACRES, MORE OR LESS” (land lying south of Route 54 1,550 feet northeast of Road 387 (Hudson Road); (Tax Map I.D. # 5-33-18.00-35.04)

Sussex County Council meetings can be monitored on the internet at www.sussexcountypa.gov.

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on March 12, 2013 at 4:00 p.m., and at least seven (7) days in advance of the meeting.

This Agenda was prepared by the County Administrator and is subject to change to include the addition or deletion of items, including Executive Sessions, which arise at the time of the Meeting.

Agenda items listed may be considered out of sequence.

###

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

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 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
Samuel R. Wilson, Jr.	Vice President
George B. Cole	Councilman
Joan R. Deaver	Councilwoman
Vance Phillips	Councilman
Todd F. Lawson	County Administrator
Susan M. Webb	Finance Director
J. Everett Moore, Jr.	County Attorney

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 074 13
Amend
and
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to amend the Agenda by deleting “Executive Session - Job Applicants’ Qualifications, Personnel, Pending/Potential Litigation, and Land Acquisition”; by deleting “Possible Action on Executive Session Items”; and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of February 5, 2013 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

**GREATER LEWES COMMUNITY VILLAGE, LEWES, DELAWARE.
RE: Letter in appreciation of grant.**

**LEWES IN BLOOM, LEWES, DELAWARE.
RE: Letter in appreciation of grant.**

**TOWN OF DELMAR, DELAWARE-MARYLAND.
RE: Letter in appreciation of the Council’s continued funding for local law enforcement.**

Corre-
spondence
(continued)

CAPE HENLOPEN SENIOR CENTER, REHOBOTH BEACH,
DELAWARE.
RE: Letter in appreciation of Human Service Grant.

Adminis-
trator's
Report

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

1. Sussex County Emergency Operations Center Call Statistics – January 2013

Attached please find the call statistics for the Fire and Ambulance Callboard for January 2013. There were 13,554 total calls handled in the month of January. Of those 9-1-1 calls in January, 73 percent were made from wireless phones.

2. Woodland Park Design Meeting

On Thursday, February 21st, Sussex County will hold a meeting to discuss the proposed Woodland Park west of Seaford. The workshop will provide the public an opportunity to review initial design plans for the park and submit feedback for the final design. The meeting will be held at 7:00 p.m. at the Nanticoke Senior Center at 1001 West Locust Street in Seaford. The public is encouraged to attend.

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

Investment
Portfolio
Analysis

Mrs. Webb introduced Dominick D'Eramo, Director of Fixed Income Management at Wilmington Trust. They discussed the County's investment portfolio (Sussex County Liquidity Reserve Account) including investments and earnings annual income (EAI). They also discussed influences on the County's portfolio, market performance, investment trends, and market forecasts.

Mrs. Webb noted that this investment portfolio was opened in October 2012, at which time the County amended its Investment Policy to reflect the current market by trying to gain a higher rate of return with minimal risk, as well as to take advantage of having a pooled cash approach.

Mr. D'Eramo reported that the investment portfolio opened in October is constructed with government agencies, including Fannie, Freddie, Farm Credit and Federal Home Loan Bank, which are supported by the U.S. Government. A report outlining all of the County's holdings was distributed. Mr. D'Eramo noted that the County's percentage of return was .764 (average weighted yield of 76 basis points); that it is providing an estimated annual income of \$529,879; and that it has a weighted average maturity of 4 years. He stated that it is a well-constructed laddered portfolio to meet the needs of the County in terms of liquidity; the portfolio is constructed foremost around safety of principal.

**Investment
Portfolio
Analysis
(continued)**

Mrs. Webb noted that, if the County had not changed its investment portfolio and maintained the funds in money market accounts, the estimated annual income would have been \$100,000.

Mrs. Webb discussed the County's collateral policy and she noted that the safety of public funds is one of the Finance Department's foremost objectives in cash management. Deposits are collateralized through the pledging of appropriate securities as a safeguard. She noted that all of the County's deposit accounts are collateralized (backed by the banks at 102 percent with U.S. Treasuries). Currently, the County allows collateral to be U.S. Treasuries and GHMAs, which are direct obligations of the U.S. government and backed by their full faith and credit. Mrs. Webb reported that a couple of banks have asked the County to change its Collateral Policy to allow Federal Home Loan Bank of New York Letters of Credit as collateral and possibly others options such as Freddie and Fannie Mae. The Federal Home Loan Bank of New York has an AAA credit rating; the State of Delaware and most municipalities use these Letters of Credit as collateral options. The Federal Home Loan Mortgage Corporation is a government-sponsored entity, commonly called a government agency. This is unlike U.S. Treasuries and GNMA's issued by the Government National Mortgage Association, which are direct obligations of the U.S. government and backed by their full faith and credit.

Mrs. Webb made a recommendation that the County change its collateral policy by allowing the use of Federal Home Loan Bank of New York Letters of Credit as collateral for deposit accounts. Mr. D'Eramo stated that, from a collateral perspective, it would be no different than the current collateral.

**M 075 13
Amend
Collateral
Policy
within the
Investment
Policy**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council amends its Collateral Policy within the Investment Policy to include government agencies as an acceptable form of collateral.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CDBG**

A Public Hearing was held on the development of a Community Development Block Grant application, which is to be submitted to the Delaware State Housing Authority. The Community Development Block Grant (CDBG) is a federal grant from the Department of HUD to the Delaware State Housing Authority (DSHA). Kent and Sussex Counties compete for the funding by making application to the DSHA.

Brad Whaley, Director of Sussex County Community Development & Housing, announced that the purpose of the Public Hearing is to give the citizens the opportunity to participate in the application process. Mr. Whaley stated that Sussex County's application will consist of projects in

Public
Hearing/
CDBG
(continued)

the County and in the municipalities. He reported that staff has met with all the municipalities who have asked for the County's assistance to make application to the DSHA.

Mr. Whaley reported that, over the past ten years, the County has received \$10,750,000 in Community Development Block Grant funding and has been able to assist over 1,200 households. The funds are to be used specifically for housing purposes which include safe affordable housing and living environments. The funds also provide economic opportunities as contractors and their employees are hired to do the work.

Mike Jones reported on work that was performed in Fiscal Year 2012. He reported that funding in the amount of \$1,159,790 was received last year (funding through the CDBG and HOME programs). He also reported that repairs/improvements have been made to over 150 homes. Mr. Jones noted that repairs to a home also help the community that the house is located in. Mr. Jones thanked the Council for the money it allocates for the housing repair program.

Mr. Whaley stated that, in order to qualify for the program, a household has to be below 80% of area median income (set by HUD annually).

Eligible applicants are units of general local governments in Sussex and Kent counties, the Kent County Levy Court and the Sussex County Council. Mr. Whaley reported that there is approximately \$1.65 million to \$1.75 million available for Sussex County, Kent County, and the municipalities. Eligible projects include housing rehabilitation, demolition and code enforcement, and infrastructure projects, with a priority towards housing rehabilitation.

Mr. Whaley reported that, currently there are 812 people on the County-wide waiting list and an additional 400+ people on a town/rural community waiting list.

Mr. Whaley noted that the public hearing on this date is the 14th public hearing that has been held to collect information to make application for funding; the majority of funding is to be used for housing rehabilitation and some demolitions and infrastructure. DSHA will score and review each project to see which ones will receive funding.

Mr. Whaley and Brandy Bennett reviewed a draft Resolution that listed the projects to be submitted to the Delaware State Housing Authority for CDBG funding, as follows:

Municipality Applications:

Blades (Rehab):	\$ 80,000.00
Blades (Demo):	\$ 15,000.00
Bridgeville (Rehab):	\$140,000.00
Bridgeville (Demo):	\$ 36,000.00

Public Hearing/ CDBG (continued)	Delmar (Rehab):	\$105,000.00
	Ellendale (Rehab):	\$ 80,000.00
	Frankford (Rehab):	\$ 80,000.00
	Greenwood (Rehab):	\$ 80,000.00
	Georgetown (Infrastructure):	\$103,460.00
	Georgetown (Rehab):	\$105,000.00
	Laurel (Rehab):	\$140,000.00
	Milford (Rehab):	\$140,000.00
	Milton (Rehab):	\$105,000.00
	Seaford (Rehab):	\$140,000.00
	Selbyville (Rehab):	\$140,000.00

County Application:

Scattered Rehab:	\$328,000.00
Scattered Demo:	\$ 46,000.00
Planning Study:	\$ 30,000.00
Scattered Emergency:	\$ 84,000.00
Scattered Hookups:	\$ 50,000.00
Cool Spring (Rehab):	\$ 80,000.00
Coverdale (Rehab):	\$ 80,000.00
Mount Joy (Rehab):	\$ 80,000.00
Rural Selbyville (Rehab):	\$ 80,000.00
West Rehoboth (Rehab):	\$ 80,000.00
Administration Funds:	\$162,000.00

Mr. Whaley stated that, in the past the County Council has provided funding for emergency projects and that in this year's budget the Council provided \$60,000.00. It was noted that, additional funding was approved at the February 5, 2013 Council meeting; on that date, the Council approved an additional allocation of \$150,000 to the emergency housing and repair program.

Public comments were heard.

Sandy Spence referenced the fact that more people have applied for assistance than the County has money for and she questioned how it is determined who gets the funding.

Mr. Whaley responded that, in accordance with federal guidelines, assistance is on a first come first served basis. He noted, however, that the County has emergency funding and that there is more flexibility in allocating that money for emergency repairs.

Ken Smith of the Delaware Housing Coalition commended the County on the good work it is doing with the little funding received from the federal government. He noted that, in 2007, a study was done on extremely low income households in the State (earning less than 3 percent of the median income); at that time, 28,000 households were both extremely low income and cost burdened, 14,000 of them were homeowners, and a good number of

**Public
Hearing/
CDBG
(continued)**

people cannot maintain their homes, probably due to fixed incomes, being elderly or disabled, etc. He noted that these people, regardless of what happens with the economy, will still need the program and he thanked the Council for the additional funding that was recently approved.

The Public Hearing was closed.

**M 076 13
Adopt
R 001 13**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Resolution No. R 001 13 entitled “ENDORISING PROJECTS TO BE SUBMITTED TO THE DELAWARE STATE HOUSING AUTHORITY FOR FUNDING FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND AUTHORIZING TODD F. LAWSON, COUNTY ADMINISTRATOR, TO SUBMIT APPLICATIONS”.

Motion Adopted: 5 Yeas.

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

**M 077 13
Adopt
R 002 13**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Resolution No. R 002 13 entitled “RECOGNIZING THE IMPORTANCE OF FAIR HOUSING FOR THE CITIZENS OF SUSSEX COUNTY”.

Motion Adopted: 5 Yeas.

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

**Wastewater
Agreements**

Mr. Godwin presented Wastewater Agreements for the Council’s consideration.

**M 078 13
Approve
Wastewater
Agreement/
Fairway
Village,
Phase 4A**

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 844-3, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Fairway Cap, L.L.C., for wastewater facilities to be constructed in Fairway Village – Phase 4A, located in the Bethany Beach Sanitary Sewer District.

Motion Adopted: 5 Yeas.

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

M 079 13

A Motion was made by Mr. Phillips, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, for Sussex

M 079 13
Approve
Wastewater
Agreement/
Fairway
Village,
Phase 4B
(continued)

County Project No. 81-04, Agreement No. 844-4, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Estates of Fairway Village, LLC, for wastewater facilities to be constructed in Fairway Village – Phase 4B, located in the Bethany Beach Sanitary Sewer District.

Motion Adopted: 5 Yeas.

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

M 080 13
Approve
Wastewater
Agreement/
Fairway
Village,
Phase 4C

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 844-5, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement, between Sussex County Council and Fairway Cap, LLC, for wastewater facilities to be constructed in Fairway Village – Phase 4C, located in the Bethany Beach Sanitary Sewer District.

Motion Adopted: 5 Yeas.

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

M 081 13
Approve
Wastewater
Agreement/
Vincent
Overlook,
Phase 3A

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No., 81-04, Agreement No. 843-3, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Vincent Overlook, LLC, for wastewater facilities to be constructed in Vincent Overlook – Phase 3A, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

Motion Adopted: 5 Yeas.

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

Oak Crest
Farms
Project/
Request
for
Matching
Grant

Julie Cooper, Project Engineer, explained that Oak Crest Farms is an existing 175 lot development on Beaver Dam Road which was constructed in three phases; however, Phase III was only 95% complete when the developer discontinued the work. Recently, the County's Engineering Department redeemed a Letter of Credit to complete the work, which is primarily stormwater management work. The project is in planning and preliminary design. The Delaware Clean Water Advisory Council is

(continued) offering matching planning grants and the Engineering Department is requesting Council's direction to submit a matching planning grant application.

M 082 13 A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to Adopt
Adopt Resolution No. R 003 13 entitled "TO SUBMIT A REQUEST FOR A
R 003 13/ SURFACE WATER MATCHING PLANNING GRANT TO THE
Request DELAWARE CLEAN WATER ADVISORY COUNCIL TO FINANCE
for Surface THE PLANNING PORTION OF THE OAK CREST FARMS
Water STORMWATER RETROFIT PROJECT".
Matching
Planning
Grant

Motion Adopted: 5 Yeas.

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

Grant
Requests Mrs. Webb presented grant requests for the Council's consideration.

M 083 13 A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$500.00
Council- (\$250.00 each from Mr. Phillips' and Mr. Vincent's Councilmanic Grant
manic Accounts) to Laurel Youth Sports Basketball for operating expenses.
Grant

Motion Adopted: 5 Yeas.

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

M 084 13 A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give
Council- \$1,000.00 (\$500.00 each from Mr. Phillips' and Mr. Vincent's
manic Councilmanic Grant Accounts) to Ducks Unlimited, Nanticoke Chapter, for
Grant conservation of wetlands.

Motion Adopted: 4 Yeas, 1 Nay.

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

M 085 13 A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give
Council- \$1,000.00 from Mrs. Deaver's Councilmanic Grant Account to the
manic Delaware River & Bay Lighthouse Foundation for restoration and
Grant maintenance of Harbor of Refuge.

Motion Adopted: 5 Yeas.

**M 085 13
(continued)**

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

**M 086 13
Council-
manic
Grant**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give \$500.00 from Mrs. Deaver's Councilmanic Grant Account to the Lewes Public Library for operating expenses.

Motion Adopted: 5 Yeas.

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

**M 087 13
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to give \$3,000.00 (\$1,000.00 from Mr. Wilson's Councilmanic Grant Account, \$500.00 from Mr. Cole's Councilmanic Grant Account, \$500.00 from Mrs. Deaver's Councilmanic Grant Account, \$500.00 from Mr. Vincent's Councilmanic Grant Account, and \$500.00 from Mr. Phillips' Councilmanic Grant Account) to the Sussex Preparatory Academy to help establish a high school facility.

Motion Adopted: 5 Yeas.

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

**M 088 13
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to the Delaware Police Chiefs' Council for meeting expenses.

Motion Adopted: 5 Yeas.

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

**M 089 13
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give \$125.00 (\$25.00 from each Councilmanic Grant Account) to Delaware Blue Hens Select 11U Baseball for tournament expenses.

Motion Adopted: 5 Yeas.

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

M 090 13 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend M 089 13 to increase the grant to Delaware Blue Hens Select 11U Baseball to \$250.00 (\$50.00 from each Councilmanic Grant Account).**

Motion Denied: 3 Nays, 2 Yeas.

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

Introduction of Proposed Ordinance **Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, INVOLVING TWO (2) PARCELS, CONTAINING 1.10 ACRE, MORE OR LESS” (Change of Zone No. 1727) filed on behalf of Louis D. O’Neal. The Proposed Ordinance will be advertised for Public Hearing.**

Additional Business **Under Additional Business, Dan Kramer of Greenwood, commented on the listing of delinquent tax accounts posted on the County’s website and he questioned why the listing does not include all taxpayers who are in arrears, especially those that have been in arrears for three years or more.**

Following a discussion on the Additional Business matter, Mr. Vincent suggested that the County’s tax collection policy be placed on a future agenda.

M 091 13 Recess **At 11:24 a.m., a Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to recess until 1:30 p.m.**

Motion Adopted: 5 Yeas.

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

M 092 13 Reconvene **At 1:37 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Phillips to reconvene.**

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
C/U
No. 1955**

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 DELDOT MAINTENANCE YARD TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 30 ACRES, MORE OR LESS” (Conditional Use No. 1955) filed on behalf of the State of Delaware (DelDOT).

The Planning and Zoning Commission held a Public Hearing on this application on January 24, 2013 at which time the Commission recommended that the application be approved with conditions.

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

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

Edwin Tennefoss was present on behalf of DelDOT and he stated that DelDOT is looking to create a new maintenance yard to replace the existing Seaford maintenance yard; that the existing maintenance yard located in Seaford does not have enough room for materials storage and the property has issues with flooding; that the site of the proposed use will be a more centralized location for service to meet the needs of the district; that the site allows for railroad access in the future; and that the number of employees will remain the same.

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

**M 093 13
Adopt
Ordinance
No. 2294
(C/U
No. 1955)**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2294 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR DELDOT MAINTENANCE YARD TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 30 ACRES, MORE OR LESS” (Conditional Use No. 1955) filed on behalf of the State of Delaware (DelDOT), with the following conditions:

- 1. The entrance shall be secured by a gate when the maintenance yard is not in use.**
- 2. One lighted sign, not to exceed 48 square feet per side, shall be permitted.**
- 3. Any dumpster pads shall be screened from view and shown on the Final Site Plan.**
- 4. Days and hours of operation shall be Monday through Friday, 7:00 a.m. to 3:00 p.m., except as emergency conditions dictate.**

**M 093 13
(continued)**

- 5. Any security lighting shall be downward focused so as to not impact neighboring properties.**
- 6. Areas designated for parking shall be shown on the Final Site Plan and shall be clearly marked on the site.**
- 7. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

Mr. Moore stated that the next two applications would be combined for the purpose of the public hearing and he noted that the Council would make a decision on each application independently.

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A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 74 ACRES, MORE OR LESS” (Change of Zone No. 1725) and the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RV RESORT AND CAMPGROUND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 162.424 ACRES, MORE OR LESS” (Conditional Use No. 1951) filed on behalf of Jack Lingo Asset Management, LLC.

The Planning and Zoning Commission held a Public Hearing on these applications on January 24, 2013 at which time the Commission deferred action for further consideration and left the record open for 15 days after the announcement of the receipt of DelDOT’s comments on the Traffic Impact Study and for any other written comments.

See the minutes of the Planning and Zoning Commission dated January 24, 2013.

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

Mr. Lank distributed Exhibit Books provided by the Applicant and he noted that the Exhibit Book was made a part of the record (since January 14, 2013). The Exhibit Book contains copies of the Preliminary Land Use Service (PLUS) comments and DelDOT’s comments.

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Mr. Lank reported that, as of the date of the Commission's Public Hearing held on January 24th, the following had been received: nine (9) letters in support of the applications, 528 signatures on petitions in opposition to the applications, and 111 letters/emails in opposition to the applications. He also reported that, just prior to the Commission's Public Hearing, two (2) letters and petitions containing an additional 89 signatures in opposition to the applications were received. He noted that the majority of the letters, emails, and petitions were signed by parties living in the Ward Road area, the Retreat at Love Creek, Briarwood Estates, Harts Landing, Webb's Landing, The Plantations, Sandy Brae, Henlopen Landing, Bay Front, and Mulberry Knoll. He noted that correspondence was also received from individuals in other projects and locations in the general area.

Mr. Lank reported that, in the record, is a letter from DelDOT dated May 17, 2012 making reference to a Traffic Impact Study being given consideration; DelDOT has not yet responded. It was noted that at the Public Hearing before the Commission, the Applicant stated that the Traffic Impact Study was submitted on January 11, 2013 and that they should receive DelDOT's response to the Traffic Impact Study by March.

Mr. Lank reported that, as of this date, 11 letters of support have been received and 252 letters/emails in opposition have been received, and the signatures on petitions in opposition total 814. He noted that some of the letters/emails/petitions are duplications.

Nick Hammonds, Principal and Project Manager, was present on behalf of Jack Lingo Asset Management, LLC. Also present on behalf of the application were: Gene Bayard, Attorney; Zach Crouch, Davis, Bowen & Friedel; Ring Lardner, Professional Engineer; D.J. Hughes, Professional Engineer, Michael Wigley, Architect with Davis Bowen & Friedel, Inc.; and Ed Launay of Environmental Resources, Inc.

Mr. Bayard stated that although mobile homes, subdivisions, and mobile home parks are permitted as a matter of right in a GR zone, a RV Park and a campground are not; that the only zoning classification where a RV Park and campground may be placed is in an AR zone and that is the reason for the applications; that the site contains approximately 162 acres of a 324 acre tract owned by J.G. Townsend, Jr. & Company; that they are proposing to change 74 acres from GR General Residential to AR-1 Agricultural Residential; that the only zoning activity within a ½ mile of the Applicant's property (in the last 10 years) has been the application of Charles Moore for his Coastal Towing business and garage; that the only other zoning application within the last 10 years was the application of Caldera properties to develop the Retreat at Love Creek (2003); that within a radius of one mile, there is considerable residential activity ongoing; and that three of the projects total 900 residential lots within a mile of this property.

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Mr. Hammonds stated that the property has been owned by the Townsend family for many years and has been identified as a property that they wanted to develop in the near term; that a feasibility analysis was performed; that the property is located in a Tidewater Utilities franchise area; that the property is located in a County regional sewer district and that it has been determined that they would be able to be annexed into the County's sewer district by building a pump station on their property and a force main out to Plantation Road; that the GR portion of the property is capable of being subdivided into approximately 322 single family lots for manufactured/mobile homes; that the balance of the property, which is zoned AR-1, would yield an additional 191 units for a total of approximately 510 units; that a RV park/campground is needed in the area; that the proposed site was selected based on its natural habitat, wooded cover, and its proximity to Love Creek, shopping and the beach; that the developers held a public meeting on December 27, 2012 to present the project to area residents to obtain comments; that 80 to 100 people attended the public meeting and they raised several issues, included (1) a temporary access coming off of Ward Road to serve the first 200 units (this was eliminated from the plan), (2) cabins located close to Ward Road (these cabins were eliminated or relocated within the site and now the plan shows a forested buffer that totals nearly 300 feet from Ward Road to the nearest RV site); that some operational issues came up at the public meeting such as noise and pollution – in response to those concerns, he stated that the Applicant's interests are much aligned with those that are concerned and they are proposing a high end, highly amenitized, top notch, family facility to the area and a place with noise and pollution would not attract visitors; that, regarding traffic concerns, a 515 +/- subdivision would generate more traffic than the seasonal campground proposed; that, regarding environmental concerns, they have done everything possible to make this an environmentally responsible application including additional buffering; that the project will promote tourism, will create jobs (both construction and ongoing operational positions); that they propose to build most of the amenities up front (pool, clubhouse, fitness center, canoe and kayak launch); that the campground will be controlled very tightly with rules and regulations; that the campground project will be phased with the first construction phase in 2014 with an opening to campers in 2015; that additional construction phases would be every two years – in 2016 and 2018; that the campground will be seasonal – open from April 1 to October 31; that after October 31, RVs will be either stored on the site or will be asked to leave the site and utilities will be cut off; and that there will be no year round residents on the site.

Mr. Lardner stated that the site consists of 329.64 acres; that the Conditional Use application is for 162.42 acres; that Exhibit 1 in the Exhibit Book includes a flood plain map, wetlands map, sewer district map, County zoning map, State Strategies map, and the Comprehensive Plan Map; that this parcel is in Level 2 and 3 areas on the State Strategies maps with some out of play areas; that most of the area is in a Level 2 Area and that the Level 3 Areas will be protected with buffers; that the site is located in the

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Environmentally Sensitive Developing Area according to the Comprehensive Plan; that there are wetlands on the site – both State and Federal; that the wetlands have been delineated by Environmental Resources and they are currently in the process of obtaining jurisdictional determination from both agencies; that the wetlands will not be disturbed, however, there will be a road crossing in the non-tidal wetlands area; that a timber cruise has been completed to establish a minimization of tree removal; that a review of the Federal and State Endangered Species listing indicates that none were found or reported on the site; that there are no known burial sites on the site; that Delaware State Historic Preservation Office pointed out that there is a known archaeological site near Welsh's Pond and it will be preserved; that any archaeological features found on the site will be preserved; that the Beers Atlas of 1868 indicates that a dwelling existed on the site, but no structures have been found; that there are no historical sites referenced on the site that are included on the National Registry; that the soils on the site are well drained and there should be no issues relating to stormwater management of the site; that they are proposing a 50-foot wide buffer from all wetlands; that they attended the PLUS review and have responded to the comments received from PLUS; that those comments and responses are included in the Exhibit Booklet; that the project is compliant with County Ordinance 115-172; that cabins are permitted in this zoning classification as per Subparagraph 9 of Section 115-172-H for Parks and Campgrounds which states that "All units to be used for the purpose of human habitation shall be tents, travel trailers, recreational vehicles and equipment manufactured specifically for camping purposes."; that the cabins proposed will be manufactured specifically for camping purposes; and that an Environmentally Sensitive Developing District Overlay Zone Report was prepared, which was filed with the Planning and Zoning Department; and that there were no significant issues in the report.

Mr. Wigley reviewed the site plan, including the layout of the amenities in the project and he reviewed the various buffers that will be incorporated into the project: a 50 foot non-tidal wetlands buffer, a 50 foot landscaped buffer that is required along the property lines adjacent to other properties, a 100 foot campsite setback along various roadways, a 400 foot campsite setback from any residences not on this property, an average 300 foot buffer (undisturbed forest) along Ward Road to the nearest campsite; that the entrance and welcome center with related parking have been relocated to Cedar Grove Road; that the campground will be able to accommodate towable and motorized vehicles/RVs; that there will be a turn lane and the ability for 20 RVs and their towing vehicles to actually stack up before coming into the site and 8 more vehicles could stack, so there should be no problems at all along Cedar Grove Road; that the project will be a gated, secure campsite; that fencing and landscape screening will be provided; that the minimum size of a camping site per Code is 2,000 square feet and that they are proposing approximately 3,000 square feet per site; that they intend to preserve as many trees as possible; that bathhouses will be intermittently spaced throughout for convenience; that the stormwater

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management ponds are being designed as water features and will allow for recreational amenities; that trails and paths will be provided for interconnection throughout the park; that the amenities include an amphitheater/chapel, paddleboat launch, swimming pool, canoe/kayak launch and outfitter, dock bar; that the amenities are proposed for guests of the campground only; that security will be provided 24 hours/7 days per week; that no marina or boat ramp is proposed for motorized boats; and that there will be room for the storage of approximately 60 RVs/campers.

Mr. Hughes stated that he prepared the Traffic Impact Study, although DelDOT did not require a Traffic Impact Study (TIS) for the applications; that for site plan approval, they did the TIS, which was submitted on January 11, 2013; that the TIS addresses 628 RV lots and campsites; that the anticipated improvements required by DelDOT include a 310-foot left turn lane, 1,500 feet of resurfacing with 11 foot wide lanes with 5-foot shoulders, and participation in some signalization at other intersections; that DelDOT's response time is approximately 60 days from the receipt of a TIS; that DART has agreed that this site is a good candidate for a stop and they have agreed to look into coming into the welcome center and put a bus stop on site; and that they know they will need a Letter of No Objection from DelDOT as well as an entrance approval.

Mr. Launay summarized the environmental conditions of the property, discussed features on the site in relation to the proposed project, and reviewed recommendations about specific project elements and how these elements may be revised in future site plans to enhance the environmental sensitivity of the project. Mr. Launay's report states that the proposed project will meet or exceed all required environmental buffers for land development. Mr. Launay commented on the site description, total wetlands and uplands, environmental buffers, navigation and water access, wildlife habitat considerations, and design recommendations. Mr. Launay noted that there are no bald eagle nests on the property; that there are no rookeries for herons, egrets, and other colonial nesting bird species on the property; that there are no federally listed threatened, endangered species or critical habitats on the property as verified by letters received from the U.S. Fish and Wildlife Service; that there are 3 species of amphibians on the site which are rare to the State of Delaware and that these species occur in Welches Pond and buffering will be provided and no development activity is proposed in and around the pond. Mr. Launay's report was made a part of the record.

Mr. Launay referenced a letter from Collin O'Mara, Secretary of DNREC, regarding this project and he stated that a lot of the letter's focus was on Welches Pond. Secretary O'Mara recommended preservation of the site. Mr. Launay stated that he personally characterizes the Secretary's comments as somewhat of an overreach. Mr. Launay pointed out that Secretary O'Mara, through the Department of Parks and Recreation, is actually one of the largest campground operators in the State and each of the State parks is probably more environmentally sensitive than the

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proposed project site. Secretary O'Mara's letter, dated January 24, 2013, was made a part of the record.

Mr. Hammond and Mr. Bayard concluded by stating that Three Seasons Campground was open from 1978 to 2006; that prior to 1978, there was minimal development activity in the Rehoboth Beach Yacht and Country Club community; that after the campground was opened, the community grew to approximately 900 dwellings; that Treasure Beach Campground, near Fenwick Island, and Holly Lake Campground, near Route 24, are fully developed; that development in and around campgrounds and RV parks has occurred and that property values were not negatively impacted; and that J. G. Townsend owns much of the adjoining land in around this site and the Route 24 corridor, so if it was thought that the project would negatively impact property values, they would not develop the property as proposed. Mr. Bayard referenced the numerous emails, letters and petitions in opposition to this application; he noted, however, that land use decisions are not popularity contests. Mr. Bayard gave examples of other campgrounds and RV parks, the opposition to the projects, and Council's decisions and he stated that campgrounds and RV parks have peacefully coexisted with nearby and adjoining properties without negative impact on the environment or property values and the result will be the same here; that open space and the forest will be preserved; that the Applicant will provide voluntary buffers and mandatory setbacks, most of which would be lost by a by-right subdivision; that the proposed project will have substantially less impact on area infrastructure and roads; that there will be no impact on schools; that sewer and water will be paid for by the Applicant; that the proposed project complies with the County's Comprehensive Plan since it promotes tourism and economic development; that it complies with County Ordinance 115-172 and it complies with the requirements of the County's Environmentally Sensitive Developing District Overlay Zone; that it is in Level 2 and 3 areas of the State Strategies Maps where the State will make infrastructure investments; that the proposed project is more gentle and less impactful on the environment than a residential subdivision; and that tourism is the lifeblood of Lewes and Rehoboth Hundred and it is an important part of the County's Comprehensive Plan since it drives the local economy.

Public comments were heard.

James Bardsley of Briarwood Estates spoke in support of the application. He commented on the employment advantage, economic impact of the proposed project, and how much revenue will be brought into the County. Mr. Bardsley stated that there is a need for another RV resort in the area. Mr. Bardsley submitted written comments into the record.

The Council recessed for 5 minutes at 3:45 p.m.

The Council reconvened at 3:50 p.m.

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Public comments resumed.

Mary Schrider-Fox, Attorney with Steen, Waehler & Schrider-Fox, P.A., was present on behalf of a coalition of homeowners associations and residential communities that are located in the area surrounding the proposed project; that the coalition of homeowners associations are in opposition to the proposed project; that the communities that she represents total over 1,100 single family lots and include The Retreat at Love Creek, Hart's Landing; Briarwood Estates, Webb's Landing, Sandy Brae, Plantations East, Bayfront and homes on Ward Road; that some of the Associations' members and residents from some of the other communities were in attendance to directly express their concerns about and objections to the proposed project; that there are two parts to the applications, a rezoning request and a Conditional Use request; that the Applicants are seeking to rezone a portion of the site from GR to AR-1, which is arguably a less intense zoning classification; that it might not be any harm if the Applicant was requesting the change of zone in order to pursue a permitted use under the Zoning Code; that the reason for this rezoning is to develop the RV campground, which will eventually be the daily, weekly or seasonal vacation destination of 516 RV travelers, as well as campers sleeping in tents (30) and some sleeping in camp cabins (82), for a total of 628 groups of campers of various sorts and sizes; that this is not a permitted use, but one requiring a Conditional Use; that the Applicant's proposed use of the property and Conditional Use request are inextricably intertwined with the rezoning; that as the Court in Orchard Homeowners Association v. County Council said, rezoning the Applicant's proposed use of the property in question is very relevant to the propriety of the rezoning decision and that without a record as to how the Applicant plans to use the property, the court is not able to determine whether or not the rezoning decision is acceptable under the Comprehensive Plan, under the zoning statutes, and under relevant State law; that what the Applicant wants to do with the subject property matters; that this is mentioned because the primary objections to the rezoning are based on the proposed use of the subject property; that Section 6904 of Title 29 of the Delaware Code makes it clear that rezoning decisions shall be in accordance with the Comprehensive Plan and shall be for the purpose of promoting the health, safety, morale, convenience, order, prosperity or welfare of the present and future inhabitants of the County; that some of the specific things that Section 6904 references that must be considered are: the lessening of congestion in the streets, protection of the tax base, and securing safety from fire, flood or other dangers; that Section 6904 also states that reasonable consideration must be given to the character of the particular district involved, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building and population development; that the proposed project is problematic on all of these fronts; that the Future Land Use element of the County's Comprehensive Plan states that the future land use element "is probably the most influential part of this Comprehensive Plan"; that "the County's zoning regulations are intended to carry out the future land use plan"; that

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the Comprehensive Plan Future Land Use Map identifies that the property is located in an area slated for mixed residential use with an Environmentally Sensitive Developing Area overlay; that the rezoning will not be in keeping with the Future Land Use Map of the Comprehensive Plan if the rezoning sought is within the Mixed Residential Area; that State Law says that rezonings shall be in accordance with the Comprehensive Plan – there is no exception listed for downzonings to a less intense designation or for a downzoning for the purpose of trying to obtain a Conditional Use; that if the rezoning decision does not correspond with the Comprehensive Plan, then it must be denied; that the Future Land Use Element of the Comprehensive Plan references that the County’s zoning regulations are intended to carry out the Future Land Use Plan; that State law requires that all zoning regulations be in accordance with the Comprehensive Plan; that in Title 9 of the Delaware Code, in both Sections 6951 and 6959, it is clearly stated that the land use maps forming part of the Comprehensive Plan have the force of law and no development shall occur except in conformity with the Land Use Maps; that Section 6904 of the Delaware Code also presents problems for the Applicant, i.e. the character of the district in which the proposed project is to be located - much of the surrounding area consists of residential developments of various sorts; that the proposed campground is not residential in nature and rather, is a commercial venture designed to attract transient vacationing guests to the area; that when considering the well-being of the present residents in the immediately surrounding area, the pending application causes them great concern about their safety and convenience because of the condition of the existing roads, i.e. narrow, sharp turns, and largely without shoulders, and the idea of them being heavily travelled on a daily basis by hundreds of large RVs; that it causes the residents great concern about their prosperity in terms of their property values and how this kind of commercial venture located so nearby might affect them; that while the pending application may arguably be a good thing for residents of other parts of the County, the residents who are here, in the affected part of the County, disagree; that according to information submitted by the Applicant, the Level of Service for Plantation Road/Cedar Grove Road/Postal Lane intersection has an unacceptable “F” rating; that there are plans in the coming years to improve this intersection, but in the meantime, there is a known congestion problem which this different type of traffic (large RVs) will exacerbate; that if visitors are seasonal, an undetermined amount of daily trips will be made out into the community; that there is also a danger presented by having a campground located so close to so many residential communities in that campfires will be permitted according to the draft rules of the park on file; that campfires go hand in hand with camping and are part of the overall experience, but they make a campground like this unsuitable for a residentially developed area where the consequences could be severe; that the natural resources on and around the property are a concern; that DNREC expressed concerns about the protection of some quite rare animal species and unique habitats; that the Applicants environmental scientists have taken a different view; that the Council needs to give DNREC’s comments and concerns appropriate weight as a State agency that exists for

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the stated purpose of protecting the environment and our natural resources; that for these reasons the rezoning request is not appropriate and should be denied; that the Comprehensive Plan must be considered when deciding whether or not to grant the Conditional Use; that according to the Future Land Use Element, in Low Density Areas, business development should be confined to businesses addressing the needs of the primary uses of agricultural activities and single family detached homes; that retail and office uses should focus on providing convenience, goods and services to the nearby residents; that in the Environmentally Sensitive Developing Areas, a range of housing types are appropriate, as are retail and offices uses, or light commercial or institutional uses that provide convenient services and allow people to work close to home; that the pending Conditional Use application does not fit into any of those use categories; that this is not a residential project; that this project would offer a vacation destination for RV and camping enthusiasts; that any goods and services being provided within the park are being offered for the convenience of the visitors, not the surrounding neighborhoods and residents that live nearby; that Section 115-171 of the Zoning Code presents certain problems; that the Section states that conditional uses are to be “essential and desirable for the general convenience and welfare”; that for all of the reasons already stated, this project is for the convenience and welfare of people from other places, for the developer as a commercial venture, but not for the neighborhood in general and the many residents living in the nearby area; that Section 115-172.H. references campgrounds, and in subparagraph (9) thereof it states “All units to be used for the purpose of human habitation shall be tents, travel trailers, recreational vehicles and equipment manufactured specifically for camping purposes.”; that the only exception is one structure or manufactured home within the campground area that may be used by the park manager as a residence and/or office; that the proposed 82 cabins for human habitation clearly fall outside the scope of the subparagraph; that the Council is urged to carefully read through the various requirements of Subparagraph H and decide whether or not they have been specifically met by the proposal, i.e. the site must be from a public highway having a width of at least 50 feet, buffer requirements, requirements that the minimum campsite size is 2,000 square feet and a minimum width of 40 feet; that it is important to consider whether the proposed amenities are appropriate and in conformity to Section 115-172.H; that an amphitheater has been proposed, as well as swimming pools and a boat launch with a dock bar, all uses that are recreational, as opposed to retail, in nature; that while Section 115-172.H. permits the existence of small retail businesses in the park, such as a grocery store or an automatic laundry, it is silent with respect to these types of recreational facilities, that are not small retail businesses, being located in the park; that in other conditional use situations in Section 115-172, recreational space or facilities are specifically permitted and the requirements are described; that in the mobile home park context, recreational land is specifically contemplated in Subparagraph G; that in the swimming or tennis club context, outdoor recreational facilities are specifically permitted; that nothing similar is contained in or contemplated

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by Subparagraph H. for campgrounds; that this type of project, like others recently proposed by other developers, are simply beyond the scope of the more traditional campground project that is contemplated in 115-172.H.; and that for all the reasons stated and most importantly because of this project's non-conformance with the Comprehensive Plan, it is requested that the Council deny these applications.

Public comments in opposition to the applications were heard from Paul Hammesfahr, President of The Retreat at Love Creek Homeowners Association and speaker for the Homeowners Coalition representing over 1,000 homesites in the surrounding area of the proposed project. Also speaking in opposition were Charlie Tinache, Dick Snyder, Jim Schneider, Josh Miller, Greg Kordal, Dennis Fisher, Steve Britz, Everett Beach, Betty Deacon, Joanne Tromposch (speaking on behalf of Mona Schwartz), Chris Eggert, William Payne, Patricia Warden (reading testimony of Bill Zak), Janet Dorman, Dan Himmelfarb, David Racine, Hollis Provins, Chris Eggert, and Heather Gray.

Mr. Hammesfahr stated that 83 people sent in correspondence in opposition to the applications since they could not attend the meeting; that approximately 190 people are in attendance in opposition; and therefore, a total of almost 300 people would be in attendance in opposition if possible. Mr. Hammesfahr stated that the Coalition obtained over 800 signatures on petitions stating opposition to the applications. On behalf of the Coalition, Mr. Hammesfahr stated that there was no evidence by the developer to support why this land should be rezoned other than for business revenue from their proposed commercial land development project; that the proposed rezoning is inconsistent with the Future Land Use Map, especially as State Law requires that all zoning regulations be in accordance with the Comprehensive Plan; that this development will not be in keeping with the intent of the Delaware Code in promoting the health, safety, morale, convenience, order, prosperity or welfare of the present and future inhabitants of Sussex County.

Mr. Hammesfahr and other coalition members discussed and handed out material on: road and traffic impact, other infrastructure and safety impact, RV market analysis impact, economic analysis and impact, and environmental impact.

The speakers in opposition to the applications made the following comments and expressed the following concerns: the impact on the quality of life of the residents in the area; that traditionally, RV parks are not found in residential areas; that traffic congestion is at a high and that traffic signalization is needed in the area; questioning the occupancy rate of the existing campgrounds in the area; concerned about daily, weekly or seasonal rentals; concerned about the enforcement of laws and regulations; concerns about crime issues; the closeness of the dock/bar; concerned about kayakers since Love Creek is not always travelable due to the change of time, water depths, and the narrowness of the Creek; concern about open

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camp fires which will increase the risk of fire in the area; concern about trespassers on an adjacent family farm and a request for a perimeter fence condition if the application is approved; questioning the tax benefit of campsites v. homes; depreciation of property values; concerns about endangered species, i.e. salamanders and tree frogs on or near the site; that the Applicant should consider dedicating the site into conservation easements; that ponds are used for breeding; that the residents of the area overwhelmingly object to this project in a residential area; concerns about the size and number of RVs traveling the narrow roadways in the area; that there are no bike lanes on area roadways; noise and light pollution; that the use is not only a destination use as the visitors will still be traveling to stores, shops, and beaches in the area; concerns about historic gravesites in the area; concerns about the impact on emergency services, i.e. fire, police, paramedics; that twice as many EMS calls could occur in the high demand summer season; that with increased traffic congestion, the result can be a serious impediment to the response time for emergency services; that one entrance and exit will create a bottleneck for fire trucks to enter and vacationers to leave; that the realignment of Postal Lane and Cedar Grove Roads will not stop the cut-through traffic in Sandy Brae, which is a safety concern; that putting in an RV campground off of many back roads will compound the difficulty of evacuations in case of emergencies such as hurricanes; concern about the likelihood of more accidents from the RV traffic; that there will be increased traffic on Fridays, Saturdays, and Sundays during the worst time of the year in Lewes; that the use is not in character with the residential area; archaeological impacts on the site and area; environmental concerns, i.e. loss of wetlands and wildlife habitat; that roads anticipated to be utilized by visitors are not the same as the roads indicated on a GPS directional system; the lack of adequate roadways to and from the site, and causing further impacts on Route One, Route 24, Plantations Road, and other local roads; safety concerns for motorists due to the blind turns and curves on Cedar Grove Road; that a traffic light is requested at the entrance to Hart's Landing; the anticipation of traffic jams at intersections; concerns about the safety of children on school buses in the area; concerns that DelDOT did not require a Traffic Impact Study prior to this application being heard; that the Traffic Impact Study is flawed; that traffic patterns are changing; that traffic data referenced relates to 2005; that seasonal crime is a problem; concerns about noise travelling down Love Creek impacting residential areas; the impact on the 100 year flood plain; questioning the use of the remaining acreage of the property; questioning if there is a 400 foot setback from campsites to the homes in Briarwood Estates across Hettie Fisher Glade; questioning the amount of impervious surfaces; questioning what green infrastructures will be utilized to reduce the nutrient levels that may impact the waterways, i.e. nitrogen and phosphorous; questioning compliance with the Federal Cleanwater Act; that this area of Love Creek is a mudflat at low tide; that Love Creek is not feasible for canoeing and/or kayaking at low tide; that the insects/pests are terrible during warm weather; that campgrounds normally provide camping trails; that the number of proposed sites equal the size of the Town of Lewes which requires its own police, fire and EMS staff; that

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(continued)**

Bald Eagles and other wildlife species will be impacted; that the speed limit along Cedar Grove Road will need to be reduced; that there is no economic benefit to the citizens of the County; that courting and mating Great Blue Herons will be disturbed, thereby impacted; noise concerns since the County does not have a noise ordinance; that restrictions should be increased in the Environmentally Sensitive Developing Area; that this application is a threat to the Inland Bays; that changing the zoning to allow a densely built RV campground within the environmentally sensitive developing area would add irreparable stress to the ecosystem of Love Creek; that cutting a forest is among the highest levels of stress to streams and creeks; that the riverine wetlands received a low mark of D in the recent “wetland health report card”; that additional buffers are needed along tidal wetlands because the wetlands move landward as the sea rises; that the report shows groundwater carrying pollutants are filtered through the wetlands before going downstream; questioning where run-off will go, i.e. on-site or into Love Creek; that having only one entrance is a safety concern; that this application is the second of three applications to be considered in one year, and questioning the possible impact on the County; concerns about traffic on Mulberry Knoll Road; that the County only designed the sewer district out 50 years; that there could be a major impact on the aquifers in the area; that DelDOT has no plans for improvements to secondary roads; that this type of project should not be considered until all infrastructure is in place, i.e. roads, sewer, water; that the Applicant stated that there would be 515 houses built as part of an equivalent housing development when the actual number would be closer to 311 homes, resulting in significantly fewer motor vehicles than 628 RVs and campsites; that nine additional communities in the area are already approved and the stress on services will be exorbitant once all of them have been developed; that based on a recent survey of existing RV campgrounds (realizing that it is winter and some of the parks are closed), the best estimate is that there are over 5,000 available RV sites with more than half available for transient visitors; that the information was gathered from the web, brochures, site visits and interviews with representatives of 18 RV parks in a 20 mile radius; that the proposed project will result in an increase in the cost of services and an increase in cost to the County; that the revenue comparison submitted concludes that the proposal is adverse to Sussex County finances; that the RV proposal would deliver significantly lower revenues to the County than a single family home development; and that this is a proposal whereby one developer will profit at the expense of County residents.

James (Jim) Bardsley, Charles Tinacci, Jim Schneider, Dennis Fisher, Hollis Provins, Paul Hammesfahr, Steve Britz, Betty Deacon, Joanne Tromposch (on behalf of Mona Schwartz), Josh Miller, William Payne, Patricia Warden, and Dave Racine provided written comments relating to their presentations in opposition to these applications. In addition, a revenue comparison was submitted and videos of Cedar Grove Road and Mulberry Knoll Road were shown. All were made a part of the record.

At the conclusion of the Public Hearing, the County Attorney asked for a

**Public
Hearing/
C/Z
No. 1725
and
C/U
No. 1951
(continued)**

show of hands of those parties present in opposition to the application. There were approximately 116 people present in opposition. It was noted that some people had already left prior to the conclusion of the Public Hearing.

There were no additional public comments.

Mr. Cole requested that the public record remain open for the Traffic Impact Study from DelDOT and for the following additional information:

- are cabins permitted per the County's Land Use Plan and ordinances?
- is any part of the applications not in compliance with the County Land Use Plan and ordinances?
- ask DelDOT if there is a need for a Traffic Impact Study for Cedar Grove Road in both directions.
- what are the tax revenues from other campgrounds?

Mr. Vincent announced that the Public Hearing was closed and that the record would remain open for the Traffic Impact Study and for responses to Mr. Cole's questions.

**M 094 13
Defer
Action on
C/Z
No. 1725**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to defer action on Change of Zone No. 1725 filed on behalf of Jack Lingo Asset Management, LLC.

Motion Adopted: 5 Yeas.

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

**M 095 13
Defer
Action on
C/U
No. 1951**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to defer action on Conditional Use No. 1951 filed on behalf of Jack Lingo Asset Management, LLC.

Motion Adopted: 5 Yeas.

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

**M 096 13
Adjourn**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to adjourn at 6:18 p.m.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

Robin A. Griffith
Clerk of the Council

DRAFT

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 22, 2013

The Sussex County Council held a meeting with the Members of the Delaware General Assembly on Tuesday, February 22, 2013, at 8:00 a.m., at the Brick Hotel in Georgetown, Delaware.

Present from Sussex County:

Michael H. Vincent	President
Samuel R. Wilson, Jr.	Vice President
George B. Cole	Councilman
Vance Phillips	Councilman
Todd F. Lawson	County Administrator
Susan M. Webb	Finance Director
Gina Jennings	Finance Director Appointee
Hal Godwin	Deputy County Administrator
J. Everett Moore, Jr.	County Attorney
Vincent Robertson	Assistant County Attorney
Katrina Mears	Collections Manager
Chip Guy	Communications Director
Samantha Selby	Intern to Communications Director

Members of the General Assembly that were present:

Senator Gerald W. Hocker
Senator Ernesto B. Lopez
Senator Brian Pettyjohn
Senator Robert L. Venables
Representative John C. Atkins
Representative Timothy D. Dukes
Representative Ronald E. Gray
Representative Harvey R. Kenton
Representative Peter C. Schwartzkopf
Representative Daniel B. Short
Representative Steven T. Smyk
Representative David L. Wilson

President Vincent called the meeting to order.

A Motion was made by Councilman Phillips, seconded by Councilman Wilson, to approve the agenda, as posted.

Motion Adopted: 4 Yeas, 1 Absent.

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

Mr. Lawson stated that the purpose of the meeting was to discuss Sussex County's 2013 legislative priorities and to allow for an open discussion between legislators, County Council members, the County Administrator and County staff.

The following legislative priorities were discussed:

County Tax Collection – The County is requesting that the State expand its “tax intercept” program to allow public schools and local governments the ability to capture delinquencies from State income tax refunds.

Dog Licensing – The Senate Animal Welfare Task Force is considering expanding animal control duties beyond dogs; this would result in significant increased cost. The County is requesting that the State reject that expansion and resume dog control.

Board of Adjustment Standard – The County is requesting that the standards for all Boards of Adjustment in the State of Delaware (counties and municipalities) be uniform.

Communications Utilities Infrastructure Tax – The County is requesting that if the Legislature changes the taxation policies, it should be done in a way that protects the revenue stream to the counties.

Manufactured Housing Tax Liens – The County is requesting that the statute of limitations be extended.

Marriage License Fees – The County is requesting an amendment to State Code to remove the minimum fee requirement (Title 13 §108).

Tax Monitions Sales/Attorneys' Fees – The County is requesting an amendment to State Code to allow attorneys' fees to be collected in tax monitions sales.

EMS Funding – The County is requesting no further reduction to the cost-sharing agreement with the State. (The current cost-sharing formula is 70 percent County funded and 30 percent State funded for this critical life-saving service.)

Realty Transfer Tax (RTT) Funding – The County is requesting no change be made in the 50-percent split.

Freedom of Information Act (FOIA) – The County is requesting further clarification from the AG in the form of an advisory opinion or policy handbook to provide necessary guidance.

Mass Gatherings & Public Safety Policy – The County is requesting no action at this time; however, should the County need additional authority, the topic will have to be revisited accordingly. (The Department of Safety and Homeland Security (DSHS) has decided not to pursue a statewide public safety policy for mass gatherings. Each of the three counties must implement their own. Sussex is preparing to approve its own policy.)

At Motion was made by Councilman Sam Wilson, seconded by Councilman Vance Phillips, to adjourn at 9:37 a.m.

Motion Adopted: 4 Yeas, 1 Absent.

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

Respectfully submitted,

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

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 26, 2013

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 26, 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
Samuel R. Wilson, Jr.	Vice President
George B. Cole	Councilman
Joan R. Deaver	Councilwoman
Vance Phillips	Councilman
Todd F. Lawson	County Administrator
Susan M. Webb	Finance Director
Vincent Robertson	Assistant County Attorney

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 097 13
Amend
and
Approve
Agenda**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to amend the Agenda by deleting “Approval of Minutes”, by deleting “Sussex Conservation District Luncheon”, and by deleting “Job Applicants’ Qualifications” and “Personnel” under “Executive Session”; and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

**Corre-
spondence**

Mr. Moore read the following correspondence:

SEAFORD LIBRARY AND CULTURAL CENTER, SEAFORD, DELAWARE.

RE: Letter in appreciation of grant.

THE HOME OF THE BRAVE FOUNDATION, MILFORD, DELAWARE.

RE: Letter in appreciation of grant.

COMMUNITY FOOD PANTRY, SELBYVILLE, DELAWARE.

RE: Letter in appreciation of the food donation collected at the Caroling on The Circle event.

Mrs. Deaver commented on a study by the Caesar Rodney Institute called the Gray Wave, which was published in April 2011.

**Adminis-
trator's
Report**

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

1. County Council Meeting Schedule

Be advised, County Council will not meet on March 5th and March 12th, to attend the National Association of Counties Legislative Conference in Washington, D.C., and for the previously scheduled winter break respectively. The next regularly scheduled Council meeting will be held on March 19, 2013, at 10:00 a.m.

2. Substantial Completion

Per the attached Engineering Department Fact Sheet, Senators – Phase 1A received Substantial Completion effective February 25, 2013.

3. Harvey Brasure

It is with sadness we inform you that Harvey Brasure, County pensioner, passed away on February 18, 2013. Mr. Brasure worked for Sussex County from October 1980 until his retirement in October 2005. He retired from Engineering – SCRWF where he worked as a Purchasing Agent. We would like to express our condolences to the Brasure family.

4. County's Website Status

On February 19th the County's computer network incurred a serious virus attack that has affected both the public's access as well as the County's ability to perform some network functions. As of today, the Information Technology department reports the system is stable and working properly. I want to thank the public for its patience and recognize the efforts of the IT staff who worked long nights and through the weekend to get our system back online. Thank you to the staff for your dedication.

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

**Kronos
Time
and
Attendance
System/
Proposed
Purchase**

Gina Jennings, Finance Director Appointee, presented a request to purchase the Kronos time and attendance application at a cost of \$126,582.00. She explained that the largest operating expense of the County is employee salaries; this expense is over \$22 million annually for all employees; salary expense makes up 40 percent of the general fund operating budget. Mrs. Jennings noted that since it is such a large expense to the County, it is important to accurately manage this cost and she noted that the following objectives are expected by the purchase of a time and attendance system:

Kronos Time and Attendance System/ Proposed Purchase (continued)

- reduction in payroll inflation (overstatement of hours)
- improvement in employee utilization by having more data available about the workforce
- reduction in overtime
- improvement in productivity

Mrs. Jennings noted that the cost of \$126,582.00 was approved in the FY 2013 budget.

M 098 13 Approve Purchase of the Kronos System

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex County Council approves the purchase of the Kronos time and attendance system at a cost of \$126,582.00.

Motion Adopted: 5 Yeas.

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

RFP Results/ Airport Terminal Building Restaurant and Proposed Lease Agreement with Deli Days, LLC

Hal Godwin, Deputy County Administrator, reported that a Request for Proposals was issued for the lease and operation of the Sussex County Airport Terminal Building restaurant and that only one proposal was received, which was from Deli Days, LLC, operating as Arenas. Mr. Godwin reported that Deli Days is proposing to be open every day of the week serving a lunch and dinner menu, opening no later than 10:00 a.m. Monday through Friday, and opening at 8:00 a.m. on weekdays for a weekend breakfast buffet.

Mr. Godwin recommended that the County enter into a lease agreement with Deli Days, LLC for a term of 5 years with one renewable term. At the end of the five years, both parties would have to agree to an additional five years; however, at that time, the rent amount would be reopened and reconsidered. The rent amount would be based upon 3 percent of gross sales of the operation; a rent cap would be set based upon gross sales of \$500,000; therefore, rent would max out at \$15,000 annually through the term of the lease.

M 099 13 Add Addendum to Proposed Lease Agreement (Denied)

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to add an Addendum to the proposed Lease Agreement with Deli Days, LLC covering the County's responsibilities which are to be reconsidered after the first five year term of the lease: (1) facility - building footprint as outlined on floor plan, (2) heating and air conditioning equipment and operation and maintenance of the same, (3) all kitchen equipment in working order as per Exhibit B and one half the cost of annual service contract and any needed repairs; (4) water and wastewater service, (5) all building maintenance, including roof, doors, windows, and floors; and (6) propane gas for cooking and heating.

Motion Denied: 3 Nays, 2 Yeas.

M 099 13
(denied)

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

M 100 13
Approve
Lease
Agreement
with
Deli
Days, LLC

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, that the Sussex County Council approves a Lease Agreement, contingent on legal review, for the Sussex County Airport Terminal Restaurant facility located at 21553 Rudder Lane, Georgetown, Delaware, with Deli Days, LLC for a five year renewable term to commence on March 15, 2013.

Motion Adopted: 4 Yeas, 1 Nay.

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

Mr. Cole left the room due to a potential conflict of interest on Change of Zone No. 1724, the application of Central Storage @ Harbeson, LLC.

M 101 13
Bring
Application
off of the
Table/
C/Z
No. 1724

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to bring the zoning application, Change of Zone No. 1724 filed on behalf of Central Storage @ Harbeson, LLC, off of the table. (The Public Hearing was opened on February 5, 2013 and was tabled at that time, due to lack of a quorum.)

Motion Adopted: 4 Yeas, 1 Absent.

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

Continue
Public
Hearing
on C/Z
No. 1724

The Public Hearing was continued 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 CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 8.05 ACRES, MORE OR LESS” (Change of Zone No. 1724) filed on behalf of Central Storage @ Harbeson, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on January 10, 2013 at which time the Commission deferred action. On January 24, 2013, the Commission recommended that the application be approved based upon the record and for the following reasons:

1. The site currently has a Conditional Use approval as a central storage facility. The CR-1 zoning will be consistent with this existing business use.

**Continue
Public
Hearing
on C/Z
No. 1724
(continued)**

2. The property is in the immediate vicinity of the Route 9 and Route 5 intersection where a variety of small commercial enterprises already exist. This rezoning is consistent with the uses and trends in this area.
3. The rezoning is consistent with the guidelines in the current Sussex County Comprehensive Land Use Plan which permits retail and service uses in this area along Route 9.
4. The rezoning will not have an adverse impact on neighboring or adjacent properties or the community. There is also no indication that it will have an adverse impact on traffic.
5. The proposed rezoning promotes the orderly growth, convenience, prosperity, order and welfare of the present and future inhabitants of Sussex County.
6. Any proposed use on the site, including use as a mini-storage facility, would require site plan approval by the Sussex County Planning and Zoning Commission. Since the Applicant relied heavily on the proposed use as a mini-storage facility during its presentation, the Applicant should expect that the conditions imposed on that Conditional Use for the site would transfer to the site plan for such a use under this rezoning.

See the minutes of the Planning and Zoning Commission dated January 10 and 24, 2013.

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

Mr. Lank distributed Exhibit Booklets which were provided by the Applicant.

The Council found that Mark Schaeffer of Central Storage @ Harbeson, LLC was present with Eugene Bayard, Attorney. They stated in their presentation and in response to questions raised by the Council that Mr. Schaeffer has been involved with three (3) other storage projects (Dover, Long Neck, and Milford); that the site is currently an open overgrown field; that the site will be improved by the removal of some dilapidated old buildings; that no wetlands will be disturbed; that they anticipate 15 to 20 vehicle trips per day; that the Route 9 Corridor and particularly this intersection is trending commercial; that three homes exist across Beaverdam Branch; that the Sussex County Comprehensive Plan supports the rezoning; that the rezoning will enhance property values and bring development; that there are no stormwater issues; that a need exists for more storage units; that they are proposing to build approximately 60,000 square feet of storage space; that the number of vehicle trips anticipated will not negatively impact traffic; that DelDOT will require the deletion of the two existing entrances and the redevelopment of one entrance into both sites (this site and the neighbor's site); that they are in agreement with DelDOT for a restrictive covenant limiting trips per day (DelDOT has stipulated no more than 200 trips per day); that the project will be served

**Continue
Public
Hearing
on C/Z
No. 1724
(continued)**

with private well and septic; that eight (8) foot tall fencing will be provided and will include security gates and security cameras; that a landscaped buffer will be provided along the perimeter of the project; that the perimeter will be fenced and gated; that the buffer along the Wagner property will consist of magnolia trees, which have already been planted, per the Wagner's request; that they are prepared to do additional landscaping to satisfy the Wagners; that there will be only one sign on the site of no more than 32 square feet per side; that the driveway and parking areas outside of the storage area will be paved; that the project will require minimal lighting; that there will not be any pole lighting; that they are planning on having a resident manager on the site; that they had previously planted magnolia trees along the westerly boundaries; that the majority of the existing trees will be left undisturbed; that the original Conditional Use project was not developed due to the economic crash; that they cannot obtain funding for a Conditional Use project (letters submitted into the record from Fulton Bank and County Bank); that funds can be obtained for a commercially zoned property; that the zoning requested is the appropriate zoning for the use and the trend of development taking place in the area; that the project will be built in phases, as needed; that approximately one-half of the project will be climate controlled; that according to the State Strategies, the site is located in a Level 1 and Level 2 area; that DelDOT creates warrants of control on uses and any change of use will require further review by DelDOT; that the Applicant made an application with the Office of State Planning Coordination and a report from PLUS was received and responded to; and that a mini storage facility is a quiet, friendly use.

Public comments were heard.

Peter Lowenstein, partner in a firm (Compass Point Ventures and Compass Point Associates) located immediately west of the site of this proposed project, spoke in support of the project. He stated that the Applicant will clean up and improve the area, stabilize the entrance; the project will be in keeping with the general development trends in the area; and that it will be an asset to the County and the community. Mr. Lowenstein stated that there is a letter from his firm in the file in support of the application.

Jeanette Wagner, an adjacent property owner, stated that she was not opposed to the project because the Applicant is working with them and she believes the Applicant will continue to work with them. She stated that she is glad to hear that 50 foot buffers around the wetlands are planned (one of her big concerns) and that she wants the wetlands and forested area preserved. Mrs. Wagner did note that she is concerned about the storage of boats and RVs near her property line and that she would like for the storage to be in the back. Mrs. Wagner stated that she has submitted two letters into the record.

Dr. Robert McGuire expressed concern regarding the proposed zoning change and its effect on surrounding properties. He stated that he owns two

**Continue
Public
Hearing
on C/Z
No. 1724
(continued)**

lots, one of which is about 150 feet from the proposed project site; that he has visited several storage facilities in the County and observed that the facility located at an industrial park fit the area; that the facility located in a mixed residential commercial area did not blend in with the area and that vegetation near it was not controlled well; and that at another location in a rural area where there were trees along one section, one side was acceptable and the other three sides (with chain link fencing) were not pleasing to the eye. He stated that by changing the zoning, it benefits the Applicant but not the adjacent property owners and that he believes it will negatively impact his property values; and that he hopes the Council members will look at some of the storage facilities and how they are set up.

Jacqueline Conklin expressed concern that the property can be flipped and she stated that the proposal is subjective (landscape buffer); that storage units are unattractive; and that she would like to see the wetlands and forested area preserved.

Vince Robertson noted that the preservation of the trees in the wetlands is also governed by the County Code.

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

**M 102 13
Defer
Action on
C/Z
No. 1724**

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to defer action on Change of Zone No. 1724 filed on behalf of Central Storage @ Harbeson, LLC.

Motion Adopted: 4 Yeas, 1 Absent.

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

Mr. Cole rejoined the meeting.

**Bid Award/
Adminis-
tration
Building
Renovations**

Brad Hawkes, presented the bid results for the Administration Building Renovations Project. Five bids were received with the low bidder being Kent Construction of Smyrna, Delaware with a Base Bid of \$199,000. Mr. Hawkes noted that the proposed project was previously reviewed with the Council on January 22, 2013.

**M 103 13
Award Bid/
Adminis-
tration
Building
Project**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Architect, Davis, Bowen & Friedel, Inc., and the Engineering Department, that Sussex County Project 12-32, Sussex County Administration Office Building First Floor Renovations, be awarded to Kent Construction Company, Inc. of Smyrna, Delaware, at the base bid amount of \$199,000.00.

Motion Adopted: 5 Yeas.

**M 103 13
(continued)**

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

**Proposed
Oversizing
Credit
Agreement
with J. G.
Townsend
Jr. & Co.
and
Hawkseye,
LLC**

David Rutt, Assistant County Attorney, reported on an Oversizing Credit Agreement for the sewer system that was installed in the Gills Neck Area (approximately 10 to 12 years ago). The County has been in negotiations for over two years to come to this agreement. The Developer was required, under Sussex County Code, to oversize the facilities and an agreement was to be entered into by the Developer and the County for the recovery of the oversizing costs. Mr. Rutt reported that the Agreement was never entered into; however, the Developer did do the oversizing of the system (in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District). The County was approached by the Developer for the payment of the oversizing, initially requesting \$1.9 million. This amount was disputed by the County and all paperwork and costs were reviewed; it was determined that the total oversizing expense that would be the County's responsibility was \$1,207,963. An analysis was performed and it was determined that cash was collected and credits given, thereby reducing the total amount due to \$850,046.00. It was noted this amount due would be made strictly with credits, no cash payments.

**M 104 13
Approve
Oversizing
Credit
Agreement/
Townsend
and
Hawkseye**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, that the Sussex County Council approves the Oversizing Credit Agreement between Sussex County and J. G. Townsend, Jr. & Co. and Hawkseye LLC, as prepared by the Engineering Department (value of credits to be reimbursed is \$850,046).

Motion Adopted: 5 Yeas.

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

**Grant
Requests**

Mrs. Webb presented grant requests for the Council's consideration.

**M 105 13
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$3,500.00 (\$2,500.00 from Mr. Cole's Councilmanic Grant Account and \$1,000.00 from Mr. Phillips' Councilmanic Grant Account) to the Town of South Bethany for the Historic Society Committee (the Towns of Fenwick Island, South Bethany, Bethany Beach, Ocean View and Millville) for costs associated with hosting a Smithsonian exhibition.

Motion Adopted: 5 Yeas.

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

M 106 13 Councilmanic Grant **A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to give \$750.00 (\$250.00 from Mrs. Deaver's Councilmanic Grant Account and \$500.00 from Mr. Wilson's Councilmanic Grant Account) to the Chamber of Commerce for Greater Milford for expenses associated with the Riverwalk Freedom Festival.**

Motion Adopted: 5 Yeas.

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

M 107 13 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to Delaware Senior Olympics for the purchase of AED's and first aid kits.**

Motion Adopted: 5 Yeas.

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

M 108 13 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$1,000.00 (\$200.00 from each Councilmanic Grant Account) to the Delaware National Guard Youth Camp for operating expenses.**

Motion Adopted: 5 Yeas.

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

Introduction of Proposed Ordinance **Mrs. Deaver introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM RESIDENTIAL DISTRICT FOR A MULTI-FAMILY DWELLING STRUCTURE (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 9,044 SQUARE FEET, MORE OR LESS (Conditional Use No. 1959) filed on behalf of Kenneth A. Simpler. The Proposed Ordinance will be advertised for Public Hearing.**

Additional Business **Under Additional Business, Mr. Phillips commented on the Gray Wave discussed by Mrs. Deaver during the reading of correspondence. He commented that Mrs. Deaver stated that the County needs a Planner for this and that he believes the County is doing a very adequate job in planning for the Gray Wave. Mrs. Deaver responded that she was talking about some proactive ordinances to promote small clustered communities (village concept). Mr. Phillips questioned if the County has anything in its**

**Additional
Business
(continued)**

Code/Ordinances that permit this type of development. Mr. Robertson responded that the County has a clustered subdivision process and a Residential Planned Community (RPC) process. He also noted that an application for this type of development could be made through the conditional use process.

Under Additional Business, Daniel Kramer commented on (1) the building the County is proposing to repair and (2) the expense of \$100,000 for new fobs.

**M 109 13
Go Into
Executive
Session**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to recess the Regular Session and to go into Executive Session for the purpose of discussing issues relating to pending litigation and land acquisition.

Motion Adopted: 5 Yeas.

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

**Executive
Session**

At 11:35 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 issues relating to pending/potential litigation and land acquisition. The Executive Session concluded at 11:53 a.m.

**M 110 13
Reconvene
Regular
Session**

At 11:54 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, to come out of Executive Session and to reconvene the Regular Session.

Motion Adopted: 5 Yeas.

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

There was no action on Executive Session items.

**M 111 13
Adjourn**

At 11:55 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, to adjourn.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

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

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 8, 2013

Members of the Sussex County Council hosted and attended a Fair Housing Training Seminar on Friday, March 8, 2013, at 10:00 a.m., at the First State Community Action Agency in Georgetown, Delaware.

The following were in attendance:

Sussex County Council

Michael H. Vincent	President
Samuel R. Wilson, Jr.	Vice President
George B. Cole	Councilman
Joan R. Deaver	Councilwoman
Vance Phillips	Councilman
Robin Griffith	Clerk of the Council

Planning and Zoning Commission

Michael Johnson	Commissioner
Martin Ross	Commissioner
Rodney Smith	Commissioner
Robert Wheatley	Commissioner

Board of Adjustment

Norman (Bud) Rickard	Commissioner
Brent Workman	Commissioner
Dale Callaway	Commissioner
Jeffrey Hudson	Commissioner
John Mills	Commissioner

Attorneys

J. Everett Moore, Jr.	County Attorney
Vincent Robertson	Assistant County Attorney
Jamie Sharp	Assistant County Attorney
Stephanie Hansen	Attorney

Administration

Todd F. Lawson	County Administrator
Hal Godwin	Deputy County Administrator

Planning and Zoning Department

Lawrence Lank	Director
Shane Abbott	Assistant Director
Steve Hickman	
Kelly Passwaters	
Dean Pettyjohn	
Stacie Rogers	
Jeff Shockley	
Melissa Thibodeau	

Assessment

Jenn Jackson

Building Code

**Andy Wright
James Jackson
Ken Morley
Roger Smith**

Chief of Building Code

Community Development

**Brad Whaley
Brandy Nauman
Nicole Riddick
William Mike Jones
Dale McDowell, Sr.**

**Director of Community Development
Housing Coordinator & Fair Housing Compliance Officer**

Engineering

**Gary Tonge
John Ashman**

Economic Development

Julie Wheatley

Director

Also in attendance were: Sharese Paylor, HUD-FHED; Mary Jean Carabello, HUD-FHED; and Nicholas Mirro, Director of Human Relations.

Council President Vincent called the meeting to order.

A Motion was made by Councilman Phillips, seconded by Councilman Wilson, to approve the Agenda, as posted.

Motion Adopted: 5 Yeas.

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

County Administrator Lawson announced that the training seminar is required by the language and the intent of the Consent Decree that resolved the ongoing litigation between the United States of America and Sussex County and the Planning and Zoning Commission of Sussex County.

It was noted that the purpose of the training seminar is not to argue the merits of the underlying case, or question why it was resolved by this method. The purpose of the training seminar is to learn how to comply with the requirements of the Consent Decree and with the requirements of the Fair Housing Act.

Michael P. Morton, principal of the Firm of Michael P. Morton, P.A., conducted the training session.

Mr. Morton reviewed the requirements/elements of the Consent Decree between Sussex County Council and the Sussex County Planning and Zoning Commission and the United States Department of Justice, Housing and Civil Enforcement Section.

A copy of the Consent Decree was distributed to all in attendance.

Mr. Morton reviewed the Fair Housing Act, with relevant application to the activities of the County and its offices and officials.

At 11:59 a.m., a Motion was made by Councilman Phillips, seconded by Councilman Wilson, to recess for lunch.

Motion Adopted: 5 Yeas.

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

[Prior to reconvening, there was an informal question and answer period.]

At 12:55 p.m., a Motion was made by Councilman Phillips, seconded by Councilman Wilson, to reconvene.

Motion Adopted: 5 Yeas.

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

Mr. Morton continued his review of the Fair Housing Act, with relevant application to the activities of the County and its offices and officials.

Following a question and answer period, a Motion was made by Councilman Phillips, seconded by Councilwoman Deaver, to adjourn at 2:40 p.m.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

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

Note: The training seminar was video recorded and a copy of that recording will be maintained as well as the written materials used for the training.

SUSAN M. WEBB, CPA
FINANCE DIRECTOR



Sussex County

ADMINISTRATIVE OFFICE BUILDING
2 THE CIRCLE
P.O. BOX 589
GEORGETOWN, DELAWARE 19947
TEL: 302-855-7741
FAX: 302-855-7749
E-MAIL: smwebb@sussexcountype.gov

MEMORANDUM:

TO: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable Samuel R. Wilson, Vice President
The Honorable George B. Cole
The Honorable Joan R. Deaver
The Honorable Vance Phillips

FROM: Susan M. Webb, CPA *SmW*
Finance Director

RE: **RESOLUTION AUTHORIZING PAY-OFF OF CERTAIN
OUTSTANDING WEST REHOBOTH REVENUE BONDS**

DATE: March 14, 2013

On Tuesday, March 19, 2013, I will be discussing a Resolution to authorize a pay-off of certain outstanding West Rehoboth Revenue Bonds. When the West Rehoboth Sewer District was built, \$19,000,000 of Wastewater Revenue Bonds, Series 1994 were sold to help finance the \$76 million cost of construction. In 1995 and again in 2005, these bonds were refinanced for cost savings. We now have the opportunity to refinance or pay off the debt entirely.

I will be recommending that we pay off this revenue debt, which has an outstanding balance of approximately \$13.8 million. Listed below are the benefits to the County for paying these bonds off at this time.

- bond's interest rate will increase over the next 12 years from 3.75 percent up to 4.5 percent;
- sufficient cash is available for the pay-off;
- pay-off of these revenue bonds will lift the covenant restrictions associated with these revenue bonds;
- West Rehoboth will now be able to be accounted for through the budget and accounting process with the uniform district;

- West Rehoboth Sewer District will add 18,700 EDUs to the uniform sewer district;
- economies of scale will be realized by pooling more EDUs into the uniform rate for service charge;
- simplification of accounting process;
- one sewer budget; and
- West Rehoboth Sewer District will see a decrease in assessment rates

The funds that are available to pay this bond off are in trust accounts with Wilmington Trust. The Series 1994 Bonds were special limited obligations of the County, payable solely from and secured by a pledge of the Gross Revenues of the collection, transmission and treatment facilities of the West Rehoboth Sewer District. These funds were accounted for in a very unique way.

Tuesday's discussion will center around these bonds, available funds, and future needs of the West Rehoboth Sewer District.

SMW/nc

ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
ENVIRONMENTAL SERVICES	(302) 855-7730
PUBLIC WORKS	(302) 855-7703
RECORDS MANAGEMENT	(302) 854-5033
UTILITY ENGINEERING	(302) 855-7717
UTILITY PERMITS	(302) 855-7719
UTILITY PLANNING	(302) 855-1299
FAX	(302) 855-7799



Sussex County

DELAWARE
sussexcountyde.gov

MICHAEL A. IZZO, P.E.
COUNTY ENGINEER

BRAD HAWKES
DIRECTOR OF UTILITY ENGINEERING

February 28, 2013

FACT SHEET

SUSSEX COUNTY PROJECT 81-04
CARILLON SQUARE
AGREEMENT NO. 987

DEVELOPER:

Mr. Robert Sipple
Light House Carillon. LLC
8 William Beaser Drive
Garnet Valley, PA 19061

LOCATION:

+/- 575 South of Intersection with SR 24

SANITARY SEWER DISTRICT:

Long Neck Sanitary Sewer District

TYPE AND SIZE DEVELOPMENT:

Proposed 14,673 sf Rite Aid Pharmacy

SYSTEM CONNECTION CHARGES:

\$18,555.00

SANITARY SEWER APPROVAL:

Sussex County Engineering Department Plan Approval
10/26/12

Department Of Natural Resources Plan Approval
11/07/12

SANITARY SEWER CONSTRUCTION DATA:

Construction Days – 45
Construction Admin And Construction Inspection Cost – \$11,845.31
Proposed Construction Cost – \$78,968.75

ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
ENVIRONMENTAL SERVICES	(302) 855-7730
PUBLIC WORKS	(302) 855-7703
RECORDS MANAGEMENT	(302) 854-5033
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Sussex County

DELAWARE
sussexcountyde.gov

MICHAEL A. IZZO, P.E.
COUNTY ENGINEER

BRAD HAWKES
DIRECTOR OF UTILITY ENGINEERING

March 19, 2013

PROPOSED MOTION

BE IT MOVED THAT BASED UPON THE RECOMMENDATION OF THE SUSSEX COUNTY ENGINEERING DEPARTMENT, FOR SUSSEX COUNTY PROJECT NO. 81-04, AGREEMENT NO. 987 THAT THE SUSSEX COUNTY COUNCIL EXECUTE A CONSTRUCTION ADMINISTRATION AND CONSTRUCTION INSPECTION AGREEMENT BETWEEN SUSSEX COUNTY COUNCIL AND "LIGHT HOUSE CARILLON, LLC", FOR WASTEWATER FACILITIES TO BE CONSTRUCTED IN "CARILLON SQUARE ", LOCATED IN THE LONG NECK SANITARY SEWER DISTRICT.

ORDINANCE NO. 38
AGREEMENT NO. 987

TODD LAWSON
COUNTY ADMINISTRATOR

**Sussex County
Engineering Department**

MICHAEL A. IZZO, P.E.
County Engineer



2 THE CIRCLE
P.O. BOX 589
GEORGETOWN, DELAWARE 19947

Administration	302-855-7718
Airport & Industrial Park	302-855-7774
Environmental Services	302-855-7730
Public Works	302-855-7703
Records Management	302-854-5033
Utility Engineering	302-855-7717
Utility Permits	302-855-7719
Utility Planning	302-855-1299

Fax: 302-855-7799

February 26, 2013

TO: **ALL BIRD HAVEN PROPERTY OWNERS**

RE: **NOTICE OF PUBLIC HEARING
SUSSEX COUNTY PROJECT # 12-18
BIRD HAVEN CHAPTER 96 SUSSEX COMMUNITY IMPROVEMENTS (SCI)**

Dear Owners:

Please be advised that a **Public Hearing** has been scheduled for **Tuesday, March 19, 2013**, in the Sussex County Council Chambers. The Council Chambers are located within the Sussex County Administrative Office Building on 2 The Circle, in Georgetown, Delaware. The Public Hearing will be held at **10:30 a.m.** A copy of the Public Hearing Notice is attached.

The Hearing is to allow the property owners of the Bird Haven SCI Project an opportunity to comment on the final assessment to be levied against each lot or parcel to finance the project. After all comments are made at the Hearing, the Sussex County Council will vote on whether or not to adopt this final Assessment Roll.


An Assessment Roll is on file for viewing in the office of the Sussex County Engineering Department, located on the third floor of the Sussex County Administrative Office Building, as required by Sussex Code, County Chapter 96. However, for your convenience, I am including a copy of the Assessment Roll with this mailing.

Enclosed is a copy of the final cost sheet for the project. After subtracting Representative Hocker's contribution of \$15,000.00 towards the project costs, the final annual assessment rate for **ten (10) years** is determined to be **\$ 116.46 per property, or a one-time lump sum payment of \$ 1,046.09.**

If you have questions concerning the enclosed information, please feel free to contact Mrs. Patricia L. Deptula, of my staff, between the hours of 8:30 a.m. and 4:30 p.m. at (302) 855-7815.

Thank you very much.

Sincerely,
SUSSEX COUNTY ENGINEERING DEPARTMENT


Michael A. Izzo, P.E.
Sussex County Engineer

Enclosures: 3
MAI/PLD/pld

Cc: The Honorable Gerald W. Hocker
Todd F. Lawson
Amanda M. Bennett
Patricia L. Deptula

The Honorable George B. Cole
Susie M. Webb
Jeffrey E. James
Andrea Wall

**SUSSEX COUNTY COUNCIL
NOTICE OF PUBLIC HEARING**

**Bird Haven
Chapter 96 Sussex Community Improvement Project
Sussex County Project # 12-18**

NOTICE IS HEREBY GIVEN that a Public Hearing will be held in accordance with Sussex County Code, Chapter 96 - Sussex Community Improvements.

An Assessment Roll showing the Annual Assessment for every real property owner within the project boundaries has been completed, based on the final costs of all improvements constructed in accordance with the **Bird Haven Chapter 96 Sussex Community Improvement Project, Sussex County Project # 12-18**, and may be examined by any interested party at the offices of the Sussex County Engineering Department, 2 The Circle, Georgetown, Delaware.

This Public Hearing is being held to provide an opportunity for the real property owners of the community to make comments on the rates determined on the Assessment Roll. Sussex County Council will hear and consider any objections which may be made to the Assessment Roll.

The Public Hearing will be held at 10:30 a.m., local time, on **Tuesday, March 19, 2013**, in the Sussex County Council Chambers, located at the Sussex County Administrative Office Building, 2 The Circle, Georgetown, Delaware.

Any questions regarding this project shall be directed to the Sussex County Engineering Department, to Patricia L. Deptula, Director of Special Projects, at (302) 855-7815.

BY: Michael A. Izzo, P.E.
Sussex County Engineer

SUSSEX COMMUNITY IMPROVEMENT PROJECT

BIRD HAVEN

FINAL COSTS

2/22/2013

I. CONSTRUCTION COSTS

	Actual
<i>Subtotal Construction Estimate</i>	-
10% Contingency	-
<i>Bid Received</i>	\$ 25,950.00
<i>Contingent Items Not Used</i>	\$ 350.00
Total Construction Costs	\$ 25,600.00

II. CONTRIBUTIONS *

Representative Hocker Legislative Funding	\$ 15,000.00
---	--------------

II. PROJECT COSTS +

Total Construction Estimate	10,600.00
County Administrative Costs	907.00
	\$ 11,507.00

III. FRONT FOOTAGE ASSESSMENT

Total Project Cost	\$11,507.00
Total Buildable Parcels in Community	11.00
Interest Rate	2.00%

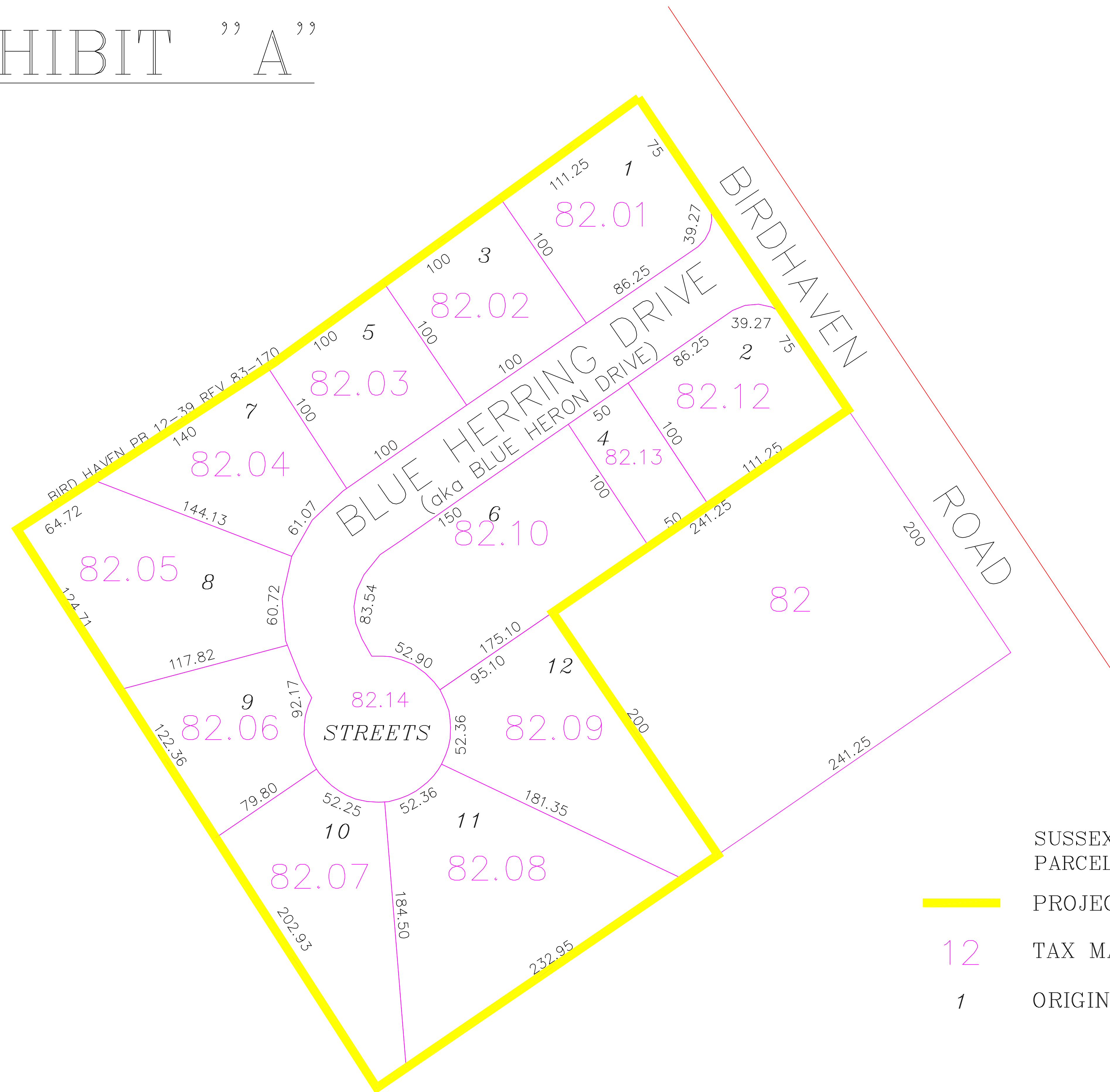
Lump Sum Repayment Cost 1046.09 Per buildable parcel

10 Year Repayment Period Cost 116.46 Per buildable parcel

Michael A. Izzo, P.E.
County Engineer

ASSESSMENT ROLL for BIRD HAVEN			
CHAPTER 96 SUSSEX COMMUNITY IMPROVEMENT PROJECT			
10-YEAR REPAYMENT PERIOD			
TAX MAP 1-34-8 PARCEL	LOT #	OWNER	ANNUAL ASSESSMENT \$116.46
82.01	1	SHAPIRO	\$116.46
82.02	3	SHAPIRO	\$116.46
82.03	5	GOMLICK	\$116.46
82.04	7	GRUZENSKI	\$116.46
82.05	8	KOLAKOWSKI	\$116.46
82.06	9	WALSH	\$116.46
82.07	10	DATILES	\$116.46
82.08	11	DOLAN	\$116.46
82.09	12	GOMLICK	\$116.46
82.10	6 & 1/2 of Lot 4	GARUFI	\$116.46
82.12	2	OLSON	\$116.46

EXHIBIT "A"



KEY

- SUSSEX COUNTY TAX MAP 1-34-8.00
- PARCELS 82.01 - 82.13
- PROJECT BOUNDARY AREA
- 12 TAX MAP PARCEL NUMBER
- 1 ORIGINAL LOT NUMBER

NO.	DESCRIPTION	DATE

SUSSEX COUNTY ENGINEERING DEPARTMENT
BIRD HAVEN SUBDIVISION
PROPOSED SUSSEX COMMUNITY IMPROVEMENT PROJECT

NOT TO SCALE

SEAL

SUSSEX COUNTY ENGINEER

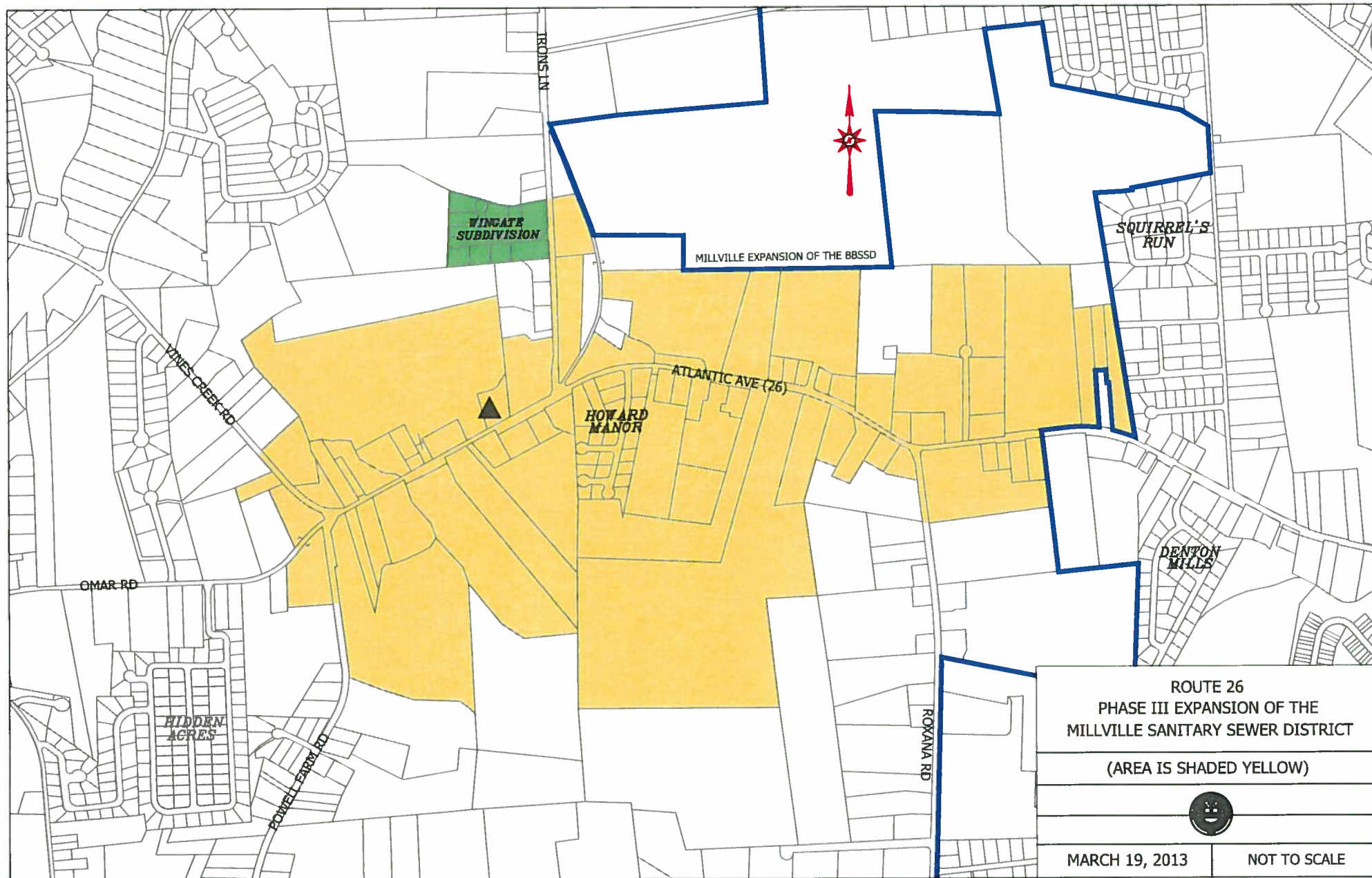
MICHAEL A. IZZO, P.E.
DATE: _____

DRAWN BY:
TINA STEINER
1-23-2012

**SCHEDULE FOR:
EXTENSION OF THE MILLVILLE SANITARY SEWER DISTRICT
ROUTE 26, PHASE III ANNEXATION
2nd Public Hearing**

October 2, 2012	APPROVAL FROM COUNCIL TO PREPARE & POST NOTICE
December 14, 2012	PREPARE NOTICE & SEND TO LEGAL
December 21, 2012	APPROVAL FROM LEGAL ON NOTICE
February 18, 2013	POST NOTICES (MINIMUM OF 4 IN THE EXPANSION AREA AND 4 IN THE EXISTING DISTRICT – BOTH AREAS)
February 18, 2013	MAIL/FAX NOTICES <ul style="list-style-type: none"> • Wave • Web Page • Representative Ron Gray • Senator Gerald Hocker • Councilmen Vance Phillips
February 19, 2013	PREPARE AFFIDAVIT
February 19, 2013	PREPARE RESOLUTION
February 20, 2013	SUBMIT RESOLUTION FOR LEGAL REVIEW
February 27, 2013	ADVERTISE
March 6, 2013	ADVERTISE
March 7, 2013	PUBLIC HEARING: 6:00 PM IN THE MILLVILLE TOWN HALL, MILLVILLE, DE
March 8, 2013	APPROVAL OF RESOLUTION FROM LEGAL
March 19, 2013	PRESENTATION OF PUBLIC HEARING RESULTS TO COUNTY COUNCIL IN SUSSEX COUNTY COUNCIL CHAMBERS
March 20, 2013	NOTIFY ASSESSMENT DIVISION AND PERMIT TECHNICIAN OF CHANGE TO BOUNDARIES IF APPROVED BY COUNCIL

cc: David Rutt
Michael A. Izzo, P.E.
John J. Ashman
Gary Tonge
Denise Burns
Penny Massey
Jayne Dickerson
Chip Guy
File: NM-4.01-H



**SOUTH BETHANY
SEWER LINE RENOVATIONS
Contract No. 12-29
Bid Results**

BID OPENING – March 8, 2013

	BIDDER	Base Bid
1.	Tri-State Grouting, LLC. Bear, DE	\$66,000.00
2.	Harry Caswell, Inc. Millsboro, DE	\$ 192,900.00
3.	AM Liner East, Inc. Berryville, VA	Bid Rejected*
	Engineers Estimate	\$ 180,000.00

* The bid from AM Liner East, Inc. was rejected due to irregularities of the bid submittal.



**SUSSEX COUNTY SHERIFF'S
OFFICE
SHERIFF, JEFF CHRISTOPHER**

P.O. Box 948
Georgetown, Delaware 19947
Phone 302-855-7830
Fax 302-855-7832
www.sussexcountyde.gov

To: The Honorable Michael H. Vincent, President
The Honorable Samuel R. Wilson, Jr., Vice President
The Honorable George B. Cole
The Honorable Joan R. Deaver
The Honorable Vance C. Phillips

From: Sheriff Jeff Christopher

Date: March 8, 2013

Subject: Softcode Software Recommendation

During Tuesday, March 19, 2013 Council meeting, I will request the purchase of the Softcode Civil Processing System. Sheriff Sales are one of the County's largest contributions to funds received. Our current system is over 11 years old and is unsupported. This new processing system is already used and endorsed by Kent and New Castle Counties.

The following objectives are expected by the purchase of a new civil processing system:

- Improvement in productivity
- Backup system available (current system has no back up)
- Ability to do multiple functions with one system
- Already used and endorsed by New Castle and Kent Counties
- Able to be accessed by Attorneys
- Able to use this system to complete Sheriff Sale notices, input banking deposits, see every transaction that has occur with a case with one click, able to print invoices, info linked directly to website and create reports in a more timely fashion
- Deputies able to view same info as off ice staff
- Live info updated immediately

Softcode Software will greatly improve the functions and processing of work within the Sheriff's Office. The application costs \$78,153.80 for both hardware, instillation of office and mobile units, training and warranty.

Please call me if you have any questions

OLD BUSINESS
March 19, 2013

This is to certify that the Sussex County Planning and Zoning Commission conducted public hearings on the below listed applications for Conditional Use and Change of Zone. At the conclusion of the public hearings, the Commission moved and passed that these applications be forwarded to the Sussex County Council with the recommendations as stated.

Respectfully submitted:

COUNTY PLANNING AND ZONING
COMMISSION OF SUSSEX COUNTY

Lawrence B. Lank
Director of Planning and Zoning

The attached comments relating to the public hearings are findings of the Planning and Zoning Commission based on a summary of comments read into the record, and comments stated by interested parties during the public hearings.

C/U #1943 – application of **CHARLES L. WILLIAMS** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an automotive repair shop/garage, to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.565 acres, more or less, lying north end of Summer Place, a private road, 265 feet north of Road 291 (Martins Farm Road) and being approximately 3,000 feet east of Route 5 (Tax Map I.D. 3-34-9.00-1.03).

Mr. Lank reminded the Commission that they had been provided with a copy of a letter from the Applicant which concluded with his reasons for requesting a Conditional Use, and the potential concerns with a Conditional Use.

The Commission found that DelDOT provided comments in the form of a Support Facilities Report, dated July 5, 2012, referencing that a traffic impact study was not recommended, and that the current Level of Service “A” of Road 291 will not change as a result of this application.

Mr. Lank advised the Commission that on May 12, 2012 he had sent the Applicant a letter in reference to activities in the garage; that he could not receive any goods, services, or payment from anyone or it will be considered that a business is being operated from the garage/property; that he is not operating a business from the garage, only providing a location where friends and neighbors can gather socially and enjoy a hobby of doing repair work on their vehicles using his lift and tools; that he could not receive payment for his services for assisting friends and neighbors in doing repair work or for the use of his lift and/or tools, or garage; that we had been receiving complaints about the possibility of a business being operated; that the Department would be periodically checking the property for compliance with the regulations; that the County

reserves the right to pursue any appropriate remedies to enforce a violation of any County Codes; and offering an explanation of the requirements for a Conditional Use for an auto repair shop.

Mr. Lank provided the Commission with copies of his letter which responded to a letter from the Applicant. The Applicants letter, dated April 13, 2012, was also provided.

Mr. Lank provided an aerial photograph of the site for the Commissions review.

Mr. Lank provided the Commission with a packet of photographs of the site, the easement to the site, the garage, the interior of the garage, and signage placed along Martin Farm Road for review.

Mr. Lank provided the Commission with a packet of seven (7) letters in support of the application for review.

Mr. Lank provided the Commission with a packet of 64 letters in opposition to the application for review, and advised the Commission that 34 of the letters were based on a form letter, 15 of the letters were based on another form letter, five (5) of the letters were submitted by one of the neighbors; and 10 of the letters were submitted by individuals.

Mr. Lank advised the Commission that copies of all of the correspondence would be made available to the Commission upon their request.

The Commission found that Charles Williams was present with John Brady, Attorney, and that they stated in their presentation and in response to questions raised by the Commission that the Applicant is not eligible to receive payment for services due to his disability insurance; that the Applicant is asking for the opportunity to have a mechanic on site to provide the repair services and be paid by the vehicle owner for those services; that the Applicant has lived on the site for approximately 12 years; that this application is for a Conditional Use that can have stipulations and conditions imposed, not a change of zoning; that the Applicant built the garage so that he could socialize with friends while working on cars; that normal hours would be from 9:00 a.m. to 8:00 p.m. Monday through Saturday; that there would not be any Sunday hours since the Applicant is an Assistant to a Pastor of one of the churches in the County; that no signage is proposed; that there are at least six (6) other businesses along this area of Martins Farm Road, i.e. lawn maintenance, contractors, small engine repair, etc.; that the Applicant could assist the mechanic by going to local parts stores for parts; that no additional buildings are proposed with this application; that the Applicant basically has a hobby that he shares with others; that the Applicants goal is to be at peace with his neighbors; that he wants to provide a service to area residents; that he does not work on cars; that he was forced to file this application because of the complaints; that he has allowed his friends to work on their vehicles for approximately four (4) years; that they leave the garage doors open when working on engines to release exhaust fumes; that he is willing to provide exhaust hosing to release the fumes so that the doors can be closed; that the compressor noise can be remedied by moving the compressor to the rear of the building and building an enclosure around the compressor; that the noise created is no greater than a typical lawnmower; that some of the neighbors have fired firearms on their properties which has

startle the Applicant and probably the horses on the neighboring property; that access to the site is through an easement across the front lot owned by Robert Walker, Jr.; that the driveway was recently paved to repair the driveway after damages from moving a modular home; that the Applicant had met with Robert Walker, Jr., the property owner in front of his property, and shook hands on the driveway repairs; that the Applicant is willing to post signage about the safety of children in the area; that the number of vehicles being repaired at any one time will not exceed two (2) vehicles; that the garage can tightly store six (6) vehicles; that there will be no more than two (2) vehicles stored on the site, other than the Applicant's personal vehicles; and that this application is not a zoning change, it is a Conditional Use application for a specific use.

The Commission found that Mr. Brady submitted some hand written suggested Conditions of Approval and a copy of the tax map of the area for reference purposes.

Mr. Griffin advised the Commission that the survey does show that an easement exists to serve the site.

The Commission found that Robert Remondi, a neighbor, Wayne Miller, a friend, Frank Murphy, a friend, Nina Bennett, a friend, Steve Scarfo, a nearby resident, Chris Bennett, a friend, Joseph Harris, a nearby resident, Allen Sheldon, the mechanic, Pastor Allen Miller, and Robert Rankin, a nearby resident, were present and spoke in support of the application referencing that the Applicant has always offered his tools for use by neighbors and friends; that the use has been a benefit to the neighbors; that the use has been operated as a hobby; that there is not disturbing noise from the shop; that the Applicant does not charge for use of his tools or lift; that the Applicant is always helpful to his neighbors and friends, the community, and members of his church; that the Applicant's medical condition does not allow him to work; that the fellowship activity is essential for the Applicant's health and wellbeing; that the garage is well kept and maintained; that there are other businesses in the area; that there should be no negative impact on the area; that the garage has two large doors on the front and one large door on the back; that the rear door could be left open for ventilation; that one of the supporters has offered to provide air conditioning for the building so that the doors could remain closed during activities; that parts are not throw about; that the site is well maintained; that the work performed is typically performed by vehicle owners and friends; that some of the vehicles repaired are custom cars or hot rods; that those vehicles emit no more noise that the motorcycles owned by neighboring property owners; and that the Applicant only wants to be a good neighbor and work with his neighbors.

The Commission found that Robert Walker, Jr., Luther Layton, Louis Capano, John and Patricia Reimer, John and Gladys Kane, Margaret Foulke, George DeFrehn, and Marlene Henry were present and spoke in opposition to this application expressing concerns about property values; care and maintenance of the private access to the site; noise; use and smell of petroleum products; air and ground pollution; signage; the impact on the quality of life and privacy; depreciation of property values; traffic on a private easement; trespassing; children's safety; the lack of safety signage; the loss of privacy; vandalism to mailboxes in the area; personal threats; the impact on the residential area; abandoned vehicles; tow trucks and delivery trucks to and from the site; the impact on the agricultural area, including the impact on farming operations, i.e.

poultry farms, horse farms, and other farm activities; increased traffic, noise and safety concerns along Martins Farm Road; that hiring a mechanic is not a hobby use; that a need was not shown for a repair shop; the number of vehicles waiting for repair; that the lot is small compared to other parcels in the area and the garage, by comparison, is large; that most of the supporters are not area residents; that there are no restrooms available; that work has been performed on vehicles outside of the garage; concerns about the S-curves on Martins Farm Road; that horses are ridden along Martins Farm Road; that the Fire Marshal has concerns about the close proximity between the house and the garage on the site; that the use does not appear to be a hobby due to the number of vehicles to and from the site, including multiple parts vehicles, the late hours of operation, and the open door activities; that the Applicant was cited for junk and/or abandoned vehicles being on the site, and that those vehicles were removed and relocated to other properties in the area and elsewhere; that the building permit issued was for a pole building, not an auto repair garage; that they are concerned about the lack of fencing and the amount of impervious surfaces; that the use does not meet the standards of the Comprehensive Plan for permitted uses in a Low Density Area; that the use does not meet the standards for a Conditional Use in the Zoning Code; that a precedent may be set for other similar uses in the area; that the Applicant's friends should be working on their own vehicles on their own property to see if their neighbors object, not impact neighbors in this area; that there is no benefit or need for this use in this neighborhood; that horses have been spooked from activities at the garage; that fences have had to be repaired from activities on the site; that the Applicant has been seen working on as many as 15 to 20 vehicles per day; that the neighbors are opposing this application and any future business activities in the area; and that the use negatively impacts the quality of life for the residents in the area.

At the conclusion of the public hearings, the Commission discussed this application.

On August 23, 2012 there was a motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

Mr. Lank advised the Commission that he could have staff copy all of the comments received to date and forward them to the Commission for review.

On September 13, 2012 the Commission discussed this application under Old Business.

Mr. Smith stated that the Commission had received a lot of information and testimony both for and against this application.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to defer action for further consideration. Motion carried 3 – 0. Mr. Burton and Mr. Johnson were absent.

On October 11, 2012 the Commission discussed this application under Old Business.

Mr. Johnson opened the floor for a discussion of this application and advised the Commission that he is not sure that this is a Conditional Use needing approval; that a lot of individuals work on vehicles as a hobby, such as restoring antique vehicles, working on race cars, etc.; that if this

is a business, he would oppose the use due to the location and the sharing of a driveway; that the application is not capable of working on vehicles due to a disability and is proposing to rent the building to a mechanic; and that if this were a business, the use would have a negative impact on the area.

Mr. Wheatley agreed with Mr. Johnson and advised the Commission that a Conditional Use may solve the problem; that the building has access from a shared driveway; and that the building was built as an accessory building only for the owner and not as a business.

Mr. Smith agreed and advised the Commission that the use of the property is in question and that the intended use exceeds a hobby.

Mr. Wheatley advised the Commission that this is a land use decision, not a neighbor versus neighbor popularity contest.

Mr. Burton advised the Commission that the Commission has to look at this application as a Conditional Use and determine if it is an appropriate use.

Mr. Ross advised the Commission that the applicant can continue using the property for his personal use.

Mr. Robertson advised the Commission that the applicant allows friends and neighbors to work on their vehicles in his garage, which is still a personal use and hobby.

Mr. Johnson advised the Commission that whether the application is approved or denied, some of the neighbors will continue to complain; and that he does not believe that the use should be approved.

Mr. Ross advised the Commission that if the application is approved with stiff restrictions, this may be appropriate than denying the application.

Mr. Wheatley reminded the Commission that it is still a land use question that must be addressed.

Mr. Johnson advised the Commission that the Commission should not start a precedent and questioned how this project will impact the neighborhood; and asked that this item be moved to the end of Old Business.

It was the consensus of the Commission to table this application to the end of Old Business.

At the conclusion of Old Business, the Chairman referred back to this application.

Mr. Johnson stated that he would move that the Commission recommend denial of Conditional Use No. 1943 for Charles L. Williams, based on the record made at the public hearing, and

because he feels that the property's location in an AR-1 District is not appropriate for an automotive repair shop and that he bases this motion on the following reasons:

- 1) Mr. Johnson does not want to establish a precedent that a homeowner, who invites friends to his property to work on cars, street rods, race cars, etc. should require some zoning approval from Sussex County. This type of use is incidental to the primary use of the property as Mr. Williams' home, and he does not believe there is anything in the Code which prohibits friends and neighbors getting together to socialize and work on their cars.
- 2) Mr. Johnson does not want to establish the precedent that a Conditional Use is appropriate for this neighborhood. If the County approves this use as a conditional use, Mr. Johnson is concerned that some later applicant would argue that it creates a valid precedent for some type of intensive conditional use or rezoning in the area. If this applicant is not operating a business, Mr. Johnson does not want to create a conditional use just to regulate him and then run the risk of an unintended consequence that an actual business use would seek zoning approval in this area.
- 3) Mr. Johnson is satisfied that the applicant understands the position he is in, and the limitations that exist as to what he can do and not do on his property without further approvals from Sussex County. Mr. Johnson is also satisfied that both neighbors and Code Enforcement Officials will be monitoring the use to ensure that it does not exceed what is currently happening there.
- 4) The property does not have direct access to Martin's Farm Road and uses a road which is essentially a shared driveway with a residence.
- 5) In summary, this motion for denial should not be seen as putting a stop to what Mr. Williams and his friends can do on the property. Instead, Mr. Johnson feels that their current activities do not necessarily require County regulation in the form of a Conditional Use, so the Commission should not impose one upon them, unless the character and nature of the use that can occur on the property by the property owner and his friends should change.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried 4 votes to 1, with Mr. Ross opposed, to forward this application to the Sussex County Council with the recommendation that it be denied for the reasons stated. Motion carried 4 – 1.

C/Z #1721 – application of **CAPTAIN'S WAY DEVELOPMENT, LLC** to amend the Comprehensive Zoning Map from AR-1 Agricultural Residential District to a GR/RPC General Residential District/Residential Planned Community to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 154.90 acres, more or less, lying north of Route 16, south of Road 231 (Reynolds Pond Road) and 2,400 feet east of Road 226 (Holly Tree Road)(Tax Map I.D. 2-35-5.00-5.00 and 2-35-13.00-2.00).

The Commission found that on September 7, 2012, the applicants submitted an Exhibit Booklet that contains the following: a map of Area Mobile Homes, the recorded Final Subdivision Plan recorded in Plot Book 157 Page 15, Sussex County Planning and Zoning final record plan approval letter dated January 31, 2011, Department of Agriculture approval letter dated June 30, 2005, Office of the State Fire Marshal approval letter dated July 7, 2010, DelDOT No Objection to Record letter dated September 22, 2010, DelDOT entrance plan approval letter dated

September 22, 2010, Office of Drinking Water approval letter dated May 10, 2010, Sussex County Engineering Department super elevated road plan approval letter dated June 11, 2008, Sussex County Engineering Department approval letter dated December 14, 2010, Sussex Conservation District approval letter dated May 11, 2012, Qualifications of Pennoni Associates, Inc., Qualifications of Mark Davidson and Douglas Barry, Sussex County Planning and Zoning Rezoning Application, Rezoning Plans, DelDOT Support Facilities Report dated January 12, 2012, Sussex County Service Level Evaluation Request form, DelDOT Traffic Impact Study dated February 6, 2006, Final Traffic Impact Study, PLUS Application, PLUS Review February 22, 2012, PLUS Review Comments March 12, 2012, response to 99-9C, and response to 99-9C, updated.

The Commission found that the Sussex County Engineering Department Utility Planning Division provided written comments dated September 11, 2012, advising that the site is not located in a proposed or current County operated and maintained sanitary sewer district; that the site is located in the North Coastal Planning Area; that conformity to the North Coastal Planning Study or undertaking an amendment will be required; that the project proposes to develop using a central community wastewater system handled by Tidewater Environmental Services, Inc.; that they recommend that the wastewater system be operated under a long-term contract with a capable wastewater utility; that in addition, they recommend they have a wastewater utility provider prior to approving the project; that the proposed project is located outside of the Environmentally Sensitive Developing Area or growth area where Sussex County expects to provide sewer service; that Sussex County requires design and construction of the collection and transmission system to meet Sussex County sewer standards and specifications; that review and approval of the treatment and disposal system by the Sussex County Engineering Department is also required and plan review fees may apply; that if Sussex County ever provides sewer service and the project has a CPCN, it is recommended that the treatment system be abandoned and a direct connection made to the County system at the developer's and/or owner's expense; that if Sussex County ever provides sewer service and the project does not have a CPCN, it is required that the treatment system be abandoned and a direct connection made to the County system at the developer's and/or owner's expense; and that a concept plan is not required.

The Commission found that the Sussex Conservation District provided written comments in the form of a memorandum referencing that the soils mapped on site are Fallsington sandy loam, Fort Mott loamy sand, Hurlock sandy loam, Longmarsh and Indiantown soils, Mullica mucky sandy loam, Rosedale loamy sand and Woodstown sandy loam; that with respect to erosion and sedimentation control, the applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after construction; that the farmland ratings of the soils are Prime and other important Farmlands; that a storm flood hazard area could be affected depending on the construction limits and that low lying areas are subject to flooding; that a tax ditch is affected since there is a tax ditch that runs down the middle of the property; that there is the potential to have impacts on the tax ditch; that it is not likely that any off-site drainage improvements will be required; and that it would be necessary for on-site drainage improvements.

The Commission found that a letter in opposition was received from Kyle Smith and a letter was received from John Herbert along with 27 other signatures in opposition to this application and that the letters are a part of the record.

Pret Dyer and Scott Dailey of Captain's Way Development, LLC and Mark Davidson of Pennoni Associates, Inc. were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that the proposed application is for a GR/RPC; that the site contains 154.9 acres; that the site is currently an approved recorded 301-lot cluster subdivision; that by rezoning the property, the applicants will have an opportunity to provide affordable housing for work force residents; that the aerial photograph in the Exhibit Booklet depicts manufactured housing located in the area; that the area is a mixture of single and double wide manufactured homes; that a rezoning to GR is appropriate due to the number of manufactured homes in the area; that the site is surrounded by manufactured housing; that Route 16 is a major east and west collector road; that Route 16 provides access to both Delaware Route One and U.S. Route 113; that the approved record plan has an area for a DART bus pick up; that a residential planned community encourages a means of superior living environment; that if requested and approved, residential planned communities are permitted 1 acres of commercial use for every 100 lots; that they are requesting a 3 acre area for commercial use; that the commercial area would be for a sales office for manufactured housing, a possible convenience store to serve the residents and services marketed to the community; that public transportation is available in the area; that the items referenced in Section 99-9C of the Subdivision Code have been addressed and are referenced in the Exhibit Booklet; that they currently have approval to construct a 301-lot cluster subdivision; that there are not any tax ditches on the site; that there is not an revisions to the proposed plan from the recorded plan except for the commercial area; that manufactured home parks generate less traffic than residential developments; that DelDOT did not require a traffic impact study for the rezoning; that the minimum lot size is 7,500 square feet; that the developers are requesting a 12-foot front yard setback, a 10-foot side yard setback and a 5-foot rear yard setback for the single-wide homes and a 25-foot front yard setback, a 5-foot side yard setback and a 10-foot rear yard setback for the double wide homes; that this application was reviewed by PLUS and the applicant's response to the PLUS comments are noted in the Exhibit Booklet; that the Comprehensive Land Use Plan recognizes the cost of stick-built homes; that these homes grow in value; that there is a strong market for work force housing in the County; that manufactured homes are permitted on 0.75-acre lots in the County; that manufactured housing is a means of affordable housing; that these are quality homes that provide for low to moderate income families; that the Plan encourages affordable housing; that the homes must comply with federal law for building standards; that the project will provide open space; that potential owners would have the option of owning their home on rented land or they could lease the ground and the unit on the site; submitted a breakdown of stick-built homes compared to manufactured housing; submitted proposed findings of fact; that the project will not alter the character of the area; that there is a minimum 100-foot buffer from most of the adjoining properties; that there is a plan to convey a 26 acre tract to the Nature Conservancy or State; that the project will not have any negative impacts to adjoining properties; that there is a gas station in the area; that there will not be any disturbance to the wetlands; that there is a 60-foot buffer from the wetlands; that 2 bridge crossing are proposed; that density is not being increased; that the market will dictate the absorption rate of the project; that the design meets the objectives of the County's

moderately priced housing program; that the DART bus stop is located on the west side of the entrance to the project; that the approved amenities package for the recorded plan will be the same for this project; that the proposed conservation easement is the buffer area around the perimeter of the project and contains approximately 26 acres; that sidewalks on one side of all streets will be provided; that a pump station is proposed near the clubhouse and sewage will be pumped to the Town of Milton; that Tidewater Environmental Services holds a CPCN for the area; that the agricultural use protection notice will be provided in the leases; that a majority of the lots abut open space; and that the homes will have to meet setback requirements to comply with the Office of the State Fire Marshal regulations.

The Commission found that no parties appeared in support of this application.

John Herbert, a resident of Orchard Road, was present in opposition to this application and advised the Commission that there are too many unanswered questions; raised questions about what is permitted in the commercial area; that there are not that many manufactured homes in the area; that the area is predominately agricultural and protected lands; that the project is out of character with the area; that New Market Village was created prior to zoning and that there are currently 39 vacant lots in that park; that lot rent keeps escalating; that there are no jobs in a 10 mile radius that the average salary is \$42,000; that a 26 acre buffer is not preservation of land; that the project will cause increases to traffic and crime; that fire and police protection is not adequate; that there are no manufacturers of manufactured homes in Delaware; that the project will not increase jobs; that the developers should sell the property to the State; and that he could be a negotiator between the applicant and the State.

At the conclusion of the public hearings, the Commission discussed this application.

On September 20, 2012 there was a motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to defer action for further consideration. Motion carried 4 – 0. Mr. Burton was absent.

On October 11, 2012 the Commission discussed this application under Old Business.

Mr. Wheatley advised the Commission that this application addresses affordable housing, which is referenced in the Comprehensive Land Use Plan.

Mr. Johnson advised the Commission that the application addresses transit accessibility.

Mr. Burton stated that he would move that the Commission recommend approval of C/Z #1721 for Captain's Way Development, LLC for a change in zone from AR-1 to GR/RPC based upon the record made at the public hearing and for the following reasons:

1. This project represents the same site plan that received preliminary subdivision approval from the Commission on March 23, 2006.

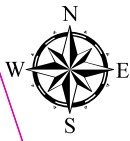
2. GR Zoning is appropriate for this site, since the purpose of the GR Zone is to provide for medium density residential use, including manufactured housing. This site, with the RPC overlay and proposed infrastructure, meets these purposes.
3. With the conditions placed upon this project, the RPC designation is appropriate for this parcel of land. The purpose of an RPC is to encourage large scale development as a means to create superior living environments and the use of design ingenuity while protecting existing and future uses.
4. This project promotes affordable housing in Sussex County, and the Applicants have explained that it is in an area where suitable infrastructure for such housing exists or will be constructed, such as public transportation routes and central water and sewer.
5. The project is in close proximity to a Developing Area according to the Sussex County Land Use Plan and is near the Towns of Milton and Ellendale.
6. As this Commission determined in 2006, the project will not have an adverse impact on the neighboring properties or the community, and substantial buffers have been established along the Nature Conservancy boundary and other adjacent properties.
7. The project promotes the Housing Element of the County's Comprehensive Plan. One of the Plan's goals is to provide housing for all Sussex County residents and particularly workforce housing and housing for lower and moderate income County Residents. The Plan also supports manufactured housing as proposed by the applicant as an affordable housing alternative.
8. The project is located along Route 16, which is recognized by DelDOT as a major collector road. It also is close by an existing mobile home park and gas station, which are compatible with the GR Zoning and the proposed RPC development.
9. Although this is a change in zone application, the proposed use remains a subdivision. Mr. Burton is satisfied that the applicant has addressed all of the items in Section 99-9C of the Subdivision Code.
10. The reduced setbacks proposed by the applicant are appropriate for this project. They will permit alternating home placements within the project and promote design ingenuity.
11. This recommendation is subject to the following conditions:
 - A. The maximum number of lots shall not exceed 301 lots.
 - B. The interior street design shall be in accordance with or exceed Sussex County street design requirements.
 - C. A multi-modal path shall be included on at least one side of all streets.
 - D. Street lighting shall be included throughout the subdivision. The location of all streetlights shall be shown on the Final Site Plan.
 - E. All entrances, intersections, roadway improvements and multi-modal facilities required by DelDOT shall be completed by the Applicant as required by DelDOT.
 - F. All amenities shall be clearly shown on the Final Site Plan and they shall be open and available to use by residents prior to the construction of the second phase of the development.
 - G. The project shall be served by a publicly regulated central sewer system defined by the County Ordinance and shall be incorporated into a regional wastewater treatment system if at all possible. The operation of the sewer system shall be subject to the Delaware Public Service Commission and all applicable State and County regulations.

- H. The project shall be served by central water.
- I. Storm water management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements and shall be operated using Best Management Practices to provide ground water recharge.
- J. No wetlands shall be included within any lots. Wetlands shall be maintained as non-disturbance areas, except where authorized by a Federal or State Permit.
- K. All reforestation areas shall be shown on a landscape plan submitted as part of the Final Site Plan review process. In addition, as required by the approvals for Subdivision #2005 – 24 on this site, the proposed conservation easement areas shall specifically be referenced on the Final Site Plan.
- L. The Applicant shall form a Homeowners' Association to be responsible for the maintenance of the streets, roads, buffers, storm water management facilities and other common areas.
- M. Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.
- N. Because the project will be for moderate income families, additional tot lots shall be included within the site. The location of these tot lots shall be spread throughout the project and shown on the Final Site Plan.
- O. The commercial areas associated with this RPC approval shall be clearly shown on the Final Site Plan. The proposed uses for these areas shall be limited to the Permitted Uses identified for B-1 Zoning Districts and for the display and sale of manufactured homes.
- P. Areas to be used as a DART bus stop and school bus shelter with parking for 5 vehicles shall be set aside near the entrance to the project. The areas for the bus stops shall be constructed at the time the DelDOT entrance is also constructed.
- Q. As required by the approval for Subdivision #2005 – 24 on this site, a fence shall be installed on the east side of the project as stated by the Applicant and shown on the Final Site Plan.
- R. The buffer areas shall be clearly marked on the site, with the location and type of marker shown on the Final Site Plan. In addition, the Restrictive Covenants and any lot leases must contain a notice describing the buffers and prohibiting any disturbance of them.
- S. The setbacks for lots with single-wide manufactured homes shall be 12 feet for the front yard, 10 feet for the side yards, and 5 feet for the rear yard. The setbacks for lots with double-wide manufactured homes or stick built homes shall be 25 feet for the front yards, 5 feet for the side yards, and 10 feet for the rear yard. In addition, the project must comply with any more stringent setback or separation requirements established by the Delaware State Fire Marshal.
- T. The Final Site Plan shall contain the approval of the Sussex Conservation District.
- U. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

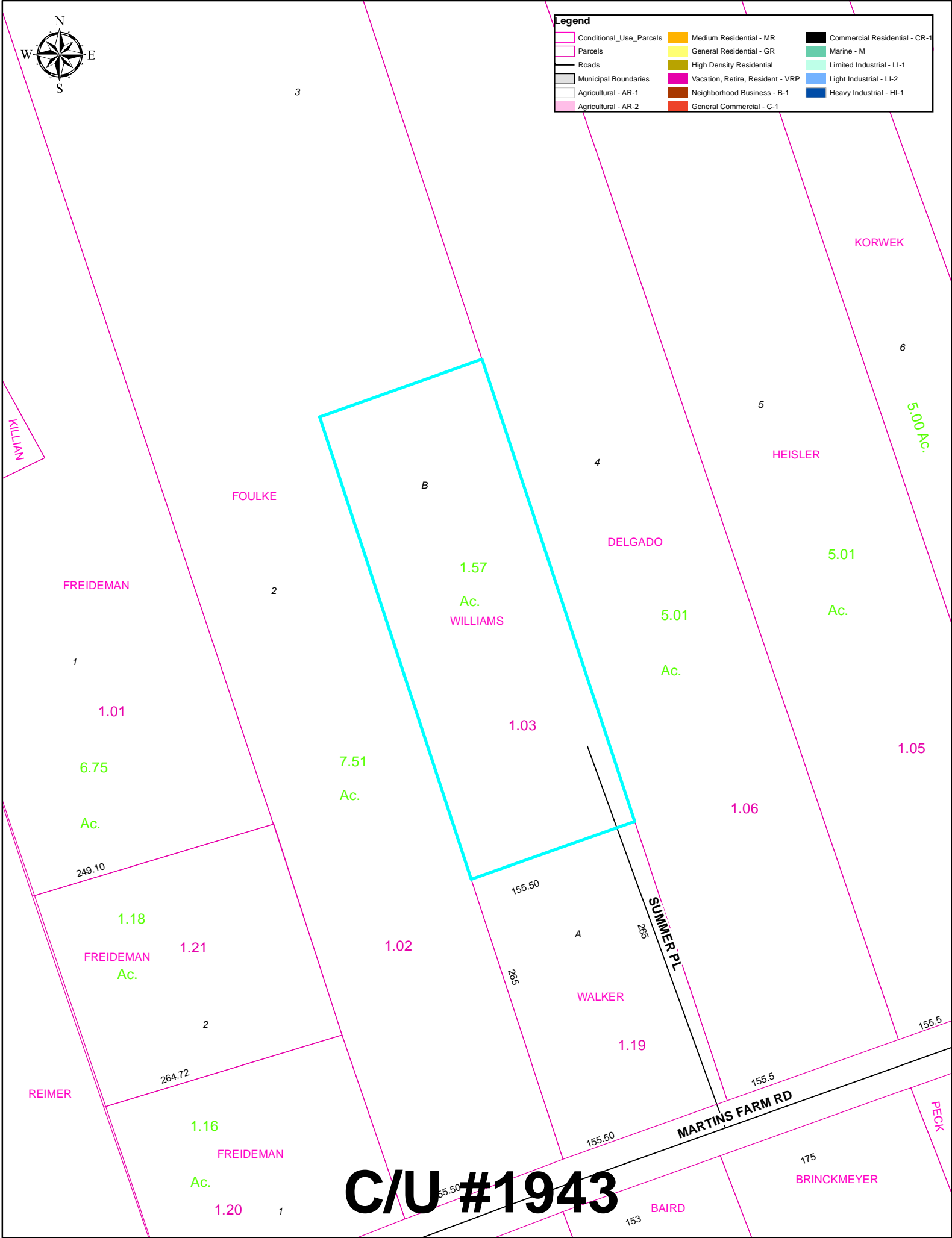
Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved, for the reasons, and with the conditions stated. Motion carried 5 – 0.



C/U #1943



Legend		
Conditional_Use_Parcel	Medium Residential - MR	Commercial Residential - CR-1
Parcels	General Residential - GR	Marine - M
Roads	High Density Residential	Limited Industrial - LI-1
Municipal Boundaries	Vacation, Retire, Resident - VRP	Light Industrial - LI-2
Agricultural - AR-1	Neighborhood Business - B-1	Heavy Industrial - HI-1
Agricultural - AR-2	General Commercial - C-1	



C/U #1943



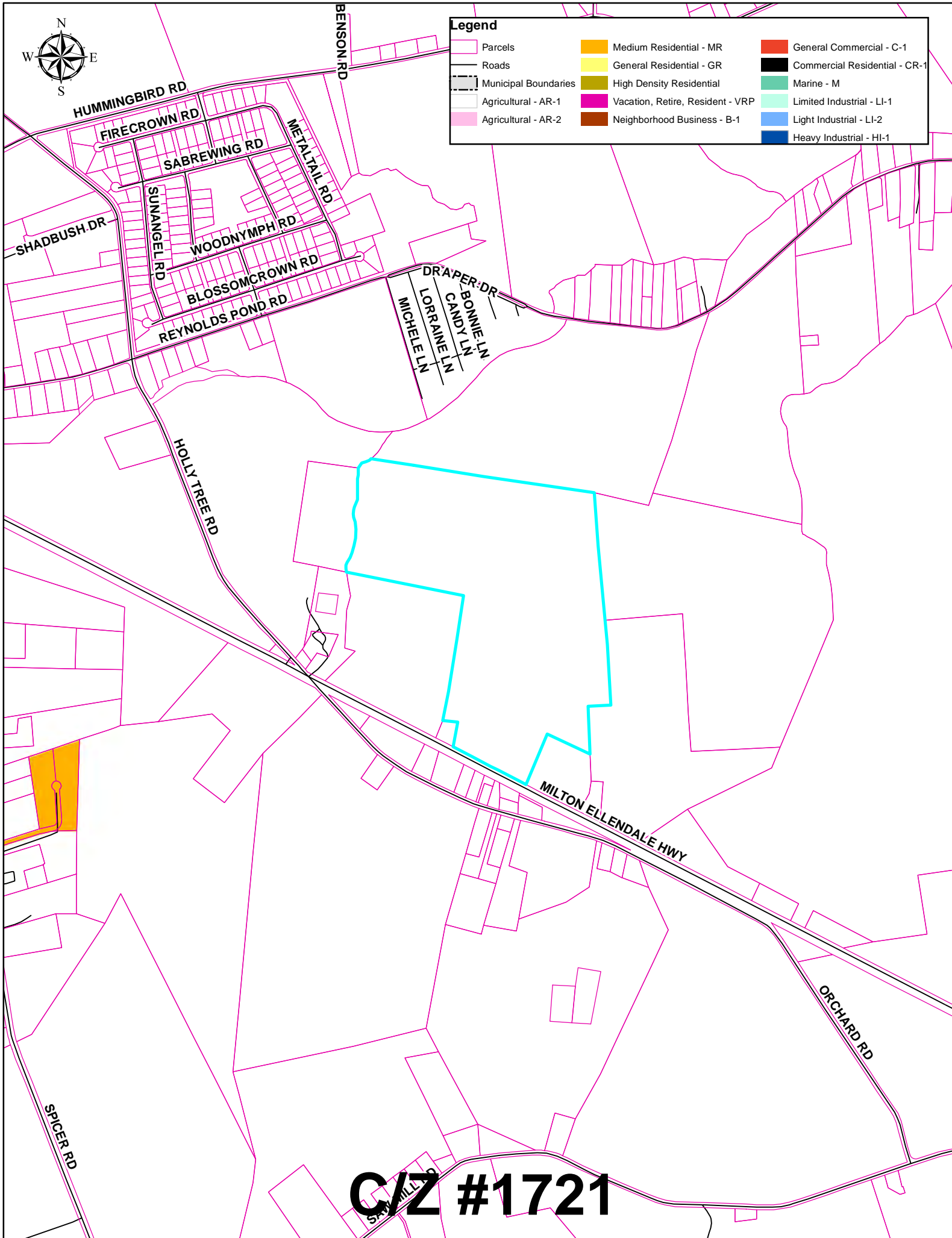
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Agricultural - AR-2	General Commercial - C-1	





Legend

Parcels	Medium Residential - MR	General Commercial - C-1
Roads	General Residential - GR	Commercial Residential - CR-1
Municipal Boundaries	High Density Residential	Marine - M
Agricultural - AR-1	Vacation, Retire, Resident - VRP	Limited Industrial - LI-1
Agricultural - AR-2	Neighborhood Business - B-1	Light Industrial - LI-2
		Heavy Industrial - HI-1



C/Z #1721



J L CARPENTER SR

SMITH

Legend

Conditional_Use_Parcel	Medium Residential - MR	Commercial Residential - CR-1
Parcels	General Residential - GR	Marine - M
Roads	High Density Residential	Limited Industrial - LI-1
Municipal Boundaries	Vacation, Retire, Resident - VRP	Light Industrial - LI-2
Agricultural - AR-1	Neighborhood Business - B-1	Heavy Industrial - HI-1
Agricultural - AR-2	General Commercial - C-1	

5

FLEMING

1.01 AC.

9

FLEMING

DAHLOF

10

41.92 AC.

CAPTAIN'S

2

141.79 AC.

MILTON ELLENDALE HWY

ORCHARD RD

CHALHOUB

14

5.00 AC.

PURDY

1.53 AC.

FLEMING

13

2.31 AC.

1.38 AC.

13.01

100.1

201.68

289.16

200.23

101.8

13.02

7.01

27.2

300.33

209.6

300.08

100.01

242.80

205.12

109.91

109.91

284

11.01

136.5

234

12.01

70

546.14

1.93 AC.

ROCKSWITCH

2.01

8.69 AC.

HERBERT

HERBERT

3.01

1.83 AC.

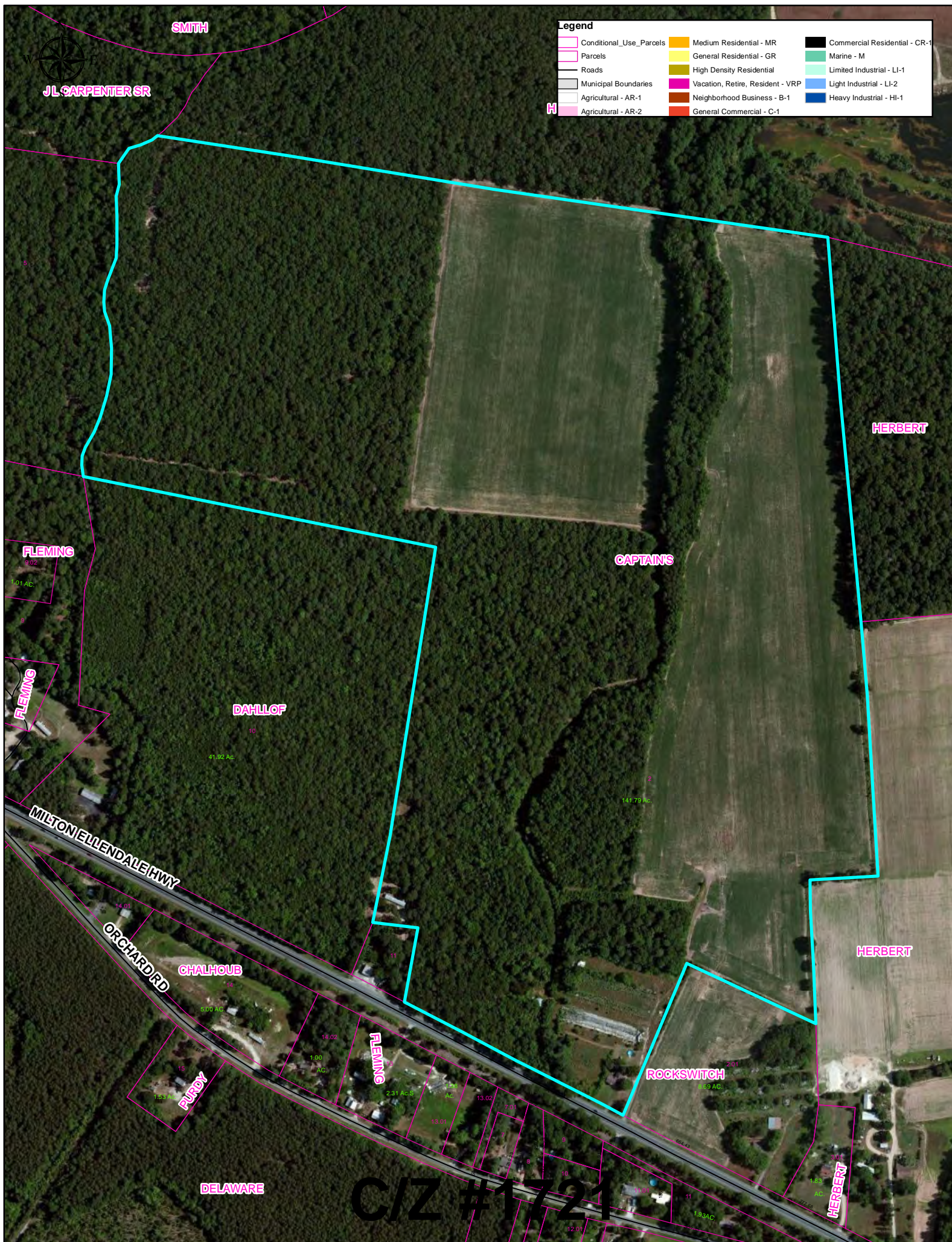
277.68

DELAWARE

C/Z #1721

Legend

	Conditional_Use_Parcel		Medium Residential - MR		Commercial Residential - CR-1
	Parcels		General Residential - GR		Marine - M
	Roads		High Density Residential		Limited Industrial - LI-1
	Municipal Boundaries		Vacation, Retire, Resident - VRP		Light Industrial - LI-2
	Agricultural - AR-1		Neighborhood Business - B-1		Heavy Industrial - HI-1
	Agricultural - AR-2		General Commercial - C-1		



Donald Carmean
22465 Candle Light Rd.
Millsboro, De. 19966



**American Legion Post 19
12168 Laurel Road
Laurel Delaware 19956**

To: The Honorable Sussex County Council

The Laurel American Legion Post 19 is planning to host a community parade in the Town of Laurel on 9 November 2013 to celebrate Veterans Day. Historically across the country American heroes who served their duty to country were honored in such a manner and we believe that returning to the tradition of a community parade is an excellent way to show our respect.

The purpose of this letter is to invite you to participate in the parade and ask for your support to include, if possible, a donation to help offset expenses. We have received a tremendous amount of interest from military and veteran organizations to participate but have also been asked by them to help by providing lunches or other travel costs. With the recent limitations on our fundraising abilities at the Laurel American Legion Post we must now ask for help.

If you have any questions the POC for this is Donald Carmean at (302) 841-5795 or you can call me at (302) 745-0459. Thank you for anything you may be able to do in helping us with this.

A handwritten signature in black ink, appearing to read 'Richard G Banks'.

Richard "Gary" Banks
Commander, AL Post 19



Seaford-Clarence Street Church of God

743 East Clarence Street

P.O. Box 817

Seaford, Delaware 19973

Office Phone: 302-629-9443

Res. Phone: 302-628-0760

Cell: 302-448-0852/54

Fax: 302-628-0787

cancarl03@comcast.net

Senior Pastor

Carlton L. Cannon, Sr.

February 18, 2013

Mr. Michael Vincent
Sussex County Council
P.O. Box 598
Georgetown, DE 19947

Dear Mr. Vincent:

This is a request for your department's support and participation in the Clarence Street Church of God 9th Annual Community Day Event on Saturday, May 18, 2013.

We look forward to your presence and the Council's continued support of this effort to bring the community together for a day of free food, fun, and games. In addition to the fun, this event is a vehicle to provide health, education, and resource information to the public. Representatives from health organizations, the local library, and various others will be on hand to educate and inform.

The Seaford Police Department and Delaware State Police (Troop 5) will also be participating, in addition to several other public service agencies. It will be great to have all these agencies working in partnership with each other.

Thank you for in advance for your support and participation this year. Please contact me at 302.448.9711, if you have any questions or need additional information regarding this event.

Sincerely,

Fay L. Smack
Clarence Street Church of God
Community Events Liaison

"Setting the Captives Free"



NEW ZION UNITED METHODIST
428 WEST SIXTH STREET
LAUREL, DELAWARE 19956
302-875-0727

Dear Honorable Michael Vincent:

The Youth Outreach Team of New Zion United Methodist Church is hosting its 9th Annual "Balling for God" Basketball Tournament and Community Awareness Day on Saturday, June 1, 2013. This is a day where the community especially the children come together to enjoy a day of fun and basketball while learning about some of the major health issues that plague our community: HIV, AIDS, Drugs, Diabetes, etc... As an outreach team, we feel it is important to educate the community and provide awareness as well as intervention.

The success of this day largely depends upon donations and contributions from sponsors like you. This is where you can help us by giving back to the community. There are several levels of sponsorship: \$100, \$150, \$200, etc... Your contribution will be used to purchase trophies, medals, to rent children's entertainment, and games.

As a sponsor, your organization/business will receive the exposure it deserves. Your organization/business' name will be printed on a banner/sign that will be displayed during the tournament. Your business will also be highlighted during the opening ceremony and throughout the day. You and any representative are welcome to attend so that we can personally thank you for your sponsorship.

We thank you for your time and look forward to hearing from you. If you have any questions, please contact Amy Handy at 302-875-4263, or the church – 302-875-0727.

Sincerely,

The Youth Outreach Team
Reverend Elaine B. Ayres - Pastor



Jerrica Robertson
32494 Whaleys Way
Laurel, DE
19956

February 14, 2013

Administrative Office Building
2 The Circle
Georgetown, DE 19947

Dear Councilman Michael Vincent:

I am a seventh grader at Sussex Academy of Arts and Sciences, and have been nominated to represent my school and community as an alumni member of the National Young Leaders Conference in Boston, MA.

The Congressional Youth Leadership Council nominates exceptional students from around the country to attend an experiential educational program. I have enclosed a sample of our itinerary for your review. As you can see, this will be a powerful experience, enabling me to interact with many prominent men and women whom most of us only read about in the news.

Attending this program will enable me to further my interest in the field of animal research, and reach my career goals of becoming a veterinarian. I maintain Honor Roll status, am involved in community service through the Laurel Library, Whimsical Animal Rescue, and Bayshore Community Church. I am currently working on a project for the "Do Something Awards", in order to earn money for community improvement in my local town of Laurel, DE.

Imagine if you had been given this opportunity for a life-changing experience when you were in school, and were unable to participate for lack of funds. That is why I am writing to you today.

My participation in the conference depends on whether I can raise \$1,880, in sponsorships. (The conference tuition is \$2,050.) I am investing every dollar I can of my own money to make sure I don't miss out on this unique experience, and am also taking on extra jobs to raise the funds I need. In addition, through my family, friends and

neighbors, I have already raised \$170.

That leaves me with a balance of \$ 1,830, and I am hoping that you will consider assisting me with some of these costs. I am also contacting other businesses in the area to ask for donations. My tuition must be paid no later than March 18, 2013.

Your support for my sponsorship request would be greatly appreciated.

I have enclosed background materials on the Conference to answer your questions and help you make your decision. Please contact me at 302-381-3068, or you may contact the Junior National Young Leaders Conference at 866-800-6953 for any further information. You can also visit their website at www.jrnylcalumni.org

Sincerely,

A handwritten signature in blue ink that reads "Jerrica Robertson". The signature is written in a cursive, flowing style.

Jerrica Robertson

West Rehoboth Children and Youth Program
West Side New Beginnings
19801 Norwood Street
Rehoboth Beach, Delaware 19971

February 7, 2013

Mr. Todd Lawson, Sussex County Administrator
Office Bldg., 1st Floor
2 The Circle, P. O. Box 589
Georgetown, 19947



Dear Mr. Lawson:

Over the ten years of our children's program's existence, Sussex County Council has often helped with our funding needs. However, due in no small part to the financial crisis, in recent years we have not received funding from the Council. We are hoping that this year the Council will once again be able to assist us.

The West Rehoboth Children and Youth Program (WRCYP) consists of a six week summer program and a twice a week after school program for 35 students. The program provides mentoring and tutoring and stresses literacy and achievement in school. Since the program began in 2002, a majority of the students have improved their grades, and now almost 40% of the children are on the honor roll. In this community, one of the poorest in Delaware, this is quite an achievement. Brenda Milbourne, Executive Director, and Diaz Bonville, Program Director, have received local and state recognition for their accomplishments with the children.

I serve as Chair of the WRCYP Advisory Committee. We receive some funding from the Lewes Rehoboth Association of Churches and have received some grants as well. However, we are always in need of additional support.

The Advisory Committee is very proud of the program and its accomplishments. We hope Sussex County Council will be able to once again contribute to this needy program. Thank you for the consideration I know you will give this request.

Sincerely yours,

Waveline T. Starnes, Chair

Advisory Committee

West Rehoboth Children and Youth Program



Laurel Extension Site - Laurel Extension Site Boys & Girls Club

310 Virginia Avenue
Seaford, Delaware 19973
Office (302) 628-3789 Fax (302) 628-9939
ccouch@bgclubs.org

February 6, 2013

Michael Vincent
734 E. Ivy Drive
Seaford, De 19973

Dear Michael Vincent and Sussex County Council:

Thank you for your recent visit to the Western Sussex Boys and Girls Club during the recent Governor's "Week of Service". The support was tremendous and the outcome of the kick-off event will be a benefit to many youth who walk through our doors everyday.

As you may know, the Western Sussex Boys and Girls Club Laurel site has been selected to go through the Delaware Stars program. Delaware Stars is a voluntary quality rating and improvement system with a systematic approach to assess, improve, and communicate the level of quality in early and school-age care and education programs. By participating in Delaware Stars we have made a commitment to our members, families, and the community to continue to improve quality at our Western Sussex Boys and Girls Club sites.

Since June of 2001 the Laurel Extension Site has been providing positive educational and recreational programming opportunities for youth. On behalf of the Laurel Extension Site, I would like to request \$3,000 to help us continue to provide positive youth development programming. The \$3,000 funding request will be used for direct program supplies and does not include administrative and overhead type expenditures.

Specifically the Delaware Stars program has a focus on the learning environment and program materials. The recent painting, building of learning centers, and donation of books during the Governors "Week of Service" has helped to move our Laurel Club forward. However, we are still in need of many items to ensure that the Clubs continue to provide quality service. The funding provided would go directly towards program supplies such as, math/reasoning manipulative, dramatic play materials, science and nature supplies, furniture, storage for materials, tables, afterschool curriculum resource books, board games, and technology software.

We cannot begin to thank you enough for the support we have already received from the Sussex County Council; however, great programs continue to require great involvement of the community in terms of both human and fiscal resources. We are hopeful that you will be able to help us continue this great initiative to reach out to the kids who need us the most.

Sincerely,

Chris Couch,
Executive Director

Western Sussex Farmers' Market
P.O. Box 1060
Seaford, DE 19973

February 18, 2013

To the Sussex County Council: The Honorable Michael Vincent, The Honorable Vance Phillips, The Honorable Joan Deaver, The Honorable George Cole and The Honorable Samuel Wilson

The Western Sussex Farmers' Market will begin its fourth season this summer. We will be open Saturdays, June 15 - September 7, 8:30 A.M. to 12 P.M. Thanks to the generosity of the Western Sussex Boys and Girls Club, the market will once again be located on their premises at 310 Virginia Avenue in Seaford.

The Western Sussex Farmers' Market is a public service whose goal is to support local agriculture, while providing educational opportunities on the benefits of eating fresh, local produce in order to lead and maintain a healthy lifestyle.

In 2012 the Market set forth to implement a plan to bring SNAP (Supplemental Nutrition Assistance Program) formerly known as the Food Stamp Program to our Market. In doing so, we are the first Farmers' Market in Sussex County to reach out to low income families, offering a variety of local food that is the basis for better nutrition.

In 2013 we will partner with The Delaware Food Bank to bring SNAP eligibility screening to the Market. Statistics show that there are approximately 10,000 senior Delawareans that are eligible for SNAP, but they are unaware that they could be utilizing this benefit.

As we continue to meet our goals, we are asking for your support and partnership. We are respectfully requesting an \$800.00 grant. This would assist us to continue to offer a venue for the purchase of some of the freshest produce in our area, while educating our children on where their food comes from and to have the opportunity to meet the farmers that grow it.

During our first three years, we have laid a foundation on which to establish ourselves as an integral part of our community. Below are some of the ways we have and/or will continue to achieve this goal.

- We work diligently to add more vendors and to increase the variety of Delaware value-added products. As we make the market more attractive to consumers as well as vendors, it enables us to contribute to the local economy and educate even more of the public on the benefits of buying local and eating healthy.
- In 2012 we focused on bringing SNAP (Supplemental Nutrition Assistance Program) benefits to the Market.
- We collaborate with Nanticoke Health Services, Nemours Health and Prevention Services, the Western Sussex Boys and Girls Club and the Sussex County Health Promotion Coalition to provide educational activities, and healthy food samplings/tastings to the Market.

As we continue to grow, Your support through grant funding is a key factor in maintaining the Market, which has become an asset to the community. We hope you will continue to support our efforts.

On behalf of the Board, (Laura Marie Kramer, Erroll Mattox, Faith Robinson, Chef George Turner and Cathy VanSciver,) thank you for your consideration.

Respectfully,



Ricky Robinson
Western Sussex Farmers' Market, President

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO MODIFY THE BOUNDARIES OF EXISTING CONDITIONAL USE NO. 1699 (ORDINANCE NO. 1936) FOR A GO-KART TRACK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.24 ACRES, MORE OR LESS (Tax Map I.D. 2-35-6.00-10.00 & 10.05)

WHEREAS, on the 5th day of March 2013, a conditional use application, denominated Conditional Use No. 1960 was filed on behalf of Harry H. Isaacs, Jr./Farm Boys, LLC; and

WHEREAS, on the ____ day of _____ 2013, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 1960 be _____; and

WHEREAS, on the ____ day of _____ 2013, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1960 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying north of Reynolds Pond Road (Road 231) and 520 feet west of Route 30 and being more particularly described as follows:

BEGINNING, at an iron pipe on the northerly right-of-way of Reynolds Pond Road, a corner for these lands and lands, now or formerly, of Farm Boys, LLC; thence north 07°50'26" east 193.06 feet along said Farm Boys, LLC lands to an iron pipe; thence north 77°50'41" west 200.02 feet along said Farm Boys, LLC lands to a point; thence north 12°09'19" east 210.48 feet and south 77°51'49" east 390.52 feet along lands of Harry H. Isaacs, Jr. to a tree; thence easterly and southerly along lands of Farm Boys, LLC the following six (6) courses: south 77°51'49" east 70.15 feet, south 02°37'00" west 95.48 feet, south 07°55'49" west

77.27 feet, south 09°51'02" west 133.35 feet, south 77°41'22" east 20.21 feet, and south 12°18'38" west 98.61 feet to a point on the northerly right-of-way of Reynolds Pond Road; and thence north 77°50'41" west 220.94 feet along Reynolds Pond Road to the point and place of beginning, said parcel containing 3.24 acres, more or less, as plotted by Adams-Kemp Associates, Inc.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

PROPOSED

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.997 ACRE, MORE OR LESS (Tax Map I.D. 2-34-11.00-56.09)

WHEREAS, on the 8th day of March 2013, a conditional use application, denominated Conditional Use No. 1961 was filed on behalf of Rendell Whibley and Ann Marie Whibley; and

WHEREAS, on the ____ day of _____ 2013, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 1961 be _____; and

WHEREAS, on the ____ day of _____ 2013, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1961 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the southwesterly side of Angola Road (Road 277) approximately 300 feet southeast of John J. Williams Highway (Route 24) and being more particularly described in Deed Book 4031, Page 164 in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 0.997 acre, more or less, per survey by Pennoni Associates, Inc.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMPOSTING FACILITY AS AN EXTENSION TO CONDITIONAL USE NO. 1314 AND CONDITIONAL USE NO. 1691 (A MICRO-NUTRIENT PLANT WITH RELATED TRUCK ENTRANCE AND RAIL SPUR FOR THE PROCESSING AND HANDLING OF POULTRY LITTER) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 228.88 ACRES, MORE OR LESS (Tax Map I.D. 1-32-6.00-88.01 AND 95.00 and Tax Map I.D. 1-32-11.00-41.00)

WHEREAS, on the 5th day of March 2013, a conditional use application, denominated Conditional Use No. 1962 was filed on behalf of Chesapeake AgriSoil, LLC; and

WHEREAS, on the ____ day of _____ 2013, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 1962 be _____; and

WHEREAS, on the ____ day of _____ 2013, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1962 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Broad Creek Hundred, Sussex County, Delaware, and lying west of Route 13A and north of Road 485 and being more particularly described as:

BEGINNING at a point on the westerly right of way of U.S. Route 13A, a corner for these subject lands and lands now or formerly of Victor E. Moore; thence south $85^{\circ}45'06''$ west 250.23 feet, south $86^{\circ}46'11''$ west 1068.22 feet and south $07^{\circ}53'54''$ west 1,495.60 feet along lands of Victor E. Moore to a point; thence southerly along these lands and lands now or formerly of Victor E. Moore the following courses: south $24^{\circ}14'37''$ east 92.40 feet, thence south $09^{\circ}17'37''$ east 899.25 feet, thence south $05^{\circ}00'23''$ west 313.50 feet, thence south $05^{\circ}14'37''$ east 198.00 feet, thence south $09^{\circ}59'37''$ east 610.94 feet to the northerly right of way of Road 465; thence westerly 505.15 feet along the northerly right of way of Road 485 to the centerline of Gum Branch; thence northwesterly along the meandering centerline of Gum Branch approximately 2,200.00 feet to a point, a corner for these lands and lands now or formerly of Stephen C. Glenn; thence south $16^{\circ}46'19''$ west 354.98 feet along said Glenn property to a point; thence north $78^{\circ}57'47''$ west 318.35 feet along lands now or formerly of Frederick M. O'Neal (Trustee) to a point; thence north $09^{\circ}16'05''$ east 297.01 feet and north $04^{\circ}55'59''$ east 817.39 feet along lands now or formerly of Ronald W. and Ruth M. Conaway to a point; thence north $86^{\circ}05'12''$ east 396.08 feet and north $04^{\circ}18'33''$ west 1,168.72 feet along lands now or formerly of Donald R. Eisenbrey to a point; thence north $79^{\circ}02'14''$ east 2,055.56 feet and north $34^{\circ}54'37''$ west 384.45 feet along lands now or formerly of Ralph H. and Jane L. Givens to a point; thence north $49^{\circ}05'23''$ east 1,384.35 feet along lands now or formerly of Ralph H. Givens, lands now or formerly of Ronald G. Fensick, and lands now or formerly of Edward N. Dickerson to a point; thence south $45^{\circ}47'19''$ east 717.20 feet along lands now or formerly of George D. Elzey, Jr. to a point; thence north $68^{\circ}08'07''$ east 504.34 feet and south $79^{\circ}42'15''$ east 619.83 feet along lands of Florence E. Johnson and Sussex Manor to a point; thence south $06^{\circ}25'19''$ west 261.98 feet to a point; thence north $87^{\circ}41'15''$ east 351.14 feet to a point on the westerly right of way of U.S. Route 13A; thence 1,036.47 feet along the westerly right of way of U.S. Route 13A to the point and place of beginning and containing 228.88 acres, more or less.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

PUBLIC HEARINGS
March 19, 2013

This is to certify that on February 14, 2013 the Sussex County Planning and Zoning Commission conducted public hearings on the below listed applications for Conditional Use. At the conclusion of the public hearings, the Commission moved and passed that these applications be forwarded to the Sussex County Council with the recommendations as stated.

Respectfully submitted:

COUNTY PLANNING AND ZONING
COMMISSION OF SUSSEX COUNTY

Lawrence B. Lank
Director of Planning and Zoning

The attached comments relating to the public hearings are findings of the Planning and Zoning Commission based on a summary of comments read into the record, and comments stated by interested parties during the public hearings.

Conditional Use No. 1952 – application of **CLINTON E. MCCUTCHEN** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for boat repair, boat storage, and boat sales, to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 2.36 acres, more or less, lying southwest of Route 20 (Hardscrabble Road) at corner with and northeast of Road 473 (Messick Road)(Tax Map I.D. 2-32-2.00-21.00/22.00).

The Commission found that the Applicant submitted a survey and site plan with his application on October 24, 2012.

The Commission found that the Applicant submitted an Exhibit Booklet on January 30, 2013, and that the Booklet contains: a project description; some site data; a copy of the application form; a copy of the deed to the property, which includes a survey; a site plan; zoning information from the County Web Site; an aerial map depicting the site and surrounding area; a copy of DelDOT comments, dated June 1, 2012; suggested Conditions of Approval; and suggested Findings of Fact.

The Commission found that DelDOT provided comments on June 5, 2012 in the form of a Support Facilities Report which references that a Traffic Impact Study is not recommended, and that the current Level of Service “A” for Road 473 and the current Level of Service “A” for Route 20 will not change as a result of this application.

The Commission found that the County Engineering Department Utility Planning Division provided comments on February 11, 2013 in the form of a memorandum which references that

the site is located in the Western Sussex Planning Area #5; that use of an on-site septic system is proposed; that the project is not capable of being annexed into a County operated Sanitary Sewer District; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where the County has a schedule to provide sewer service at this time; and that a concept plan is not required.

The Commission found that Clinton E. McCutchen was present with Heidi Gilmore, Attorney with Tunnel and Raysor, P.A. and stated in their presentations and in response to questions raised by the Commission that Mr. McCutchen wants to operate a boat repair, boat storage and boat sales business; that he lives on the premise; that they request that the Exhibit Booklet be made a part of the record; that the area is considered a Low Density Area; that on-site well water and septic exists on the site; that the site is in close proximity to Messick Supply Store and the Horsey borrow pits; that the building will be used for repairs; that a boat hoist will be available for use; that the area will be fenced with chain-link fencing; that access is intended from Messick Road subject to DelDOT approval; that his engineers are working with DelDOT to obtain a Letter of No Objection; that there should be no adverse impact on the community; that no employees are intended immediately; that as business improved he would hope to have no more than two (2) employees; that since he is starting as a one man operation living on the premises, he would like to be able to operate seven (7) days per week with no limitation on hours; that he has not received any violations; that the use cannot be considered a home occupation since he does repairs for others; that the fenced area will be gated; that the gate will be locked when not in use; that dumpsters will be screened; that due to the size of some boats, he will be doing some repairs outside, but only on the existing concrete pad; that most of the repair work will be performed indoors; that waste oils will be removed by licensed handlers; that he will be working on all types of water craft, i.e. boats, jet-skis, etc.; that all boats moved to and from the site will be moved by the Applicant; that boats for sale would include boats owned by the Applicant and boats on sale for consignment; and that he should be able to store 30 to 40 boats on the site.

The Commission found that there were no parties present in support of or in opposition to this application.

At the conclusion of the public hearings, the Commission discussed this application.

On February 14, 2013 there was a motion by Mr. Ross, seconded by Mr. Smith, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

On February 28, 2013 the Commission discussed this application under Old Business.

Mr. Ross stated that he would move that the Commission recommend approval of C/U #1952 for Clinton E. McCutchen for boat repair, boat storage and boat sales based upon the record made at the public hearing and for the following reasons:

- 1) The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.
- 2) The location, surrounded by Hardscrabble Road, Messick Road and a DPL power line right-of-way is appropriate for this proposed use.

- 3) The use, as a boat storage facility, is of a public or semi-public character and is desirable for the general convenience and welfare of the area.
- 4) The Applicant intends to continue using the property as his primary residence while this use is underway.
- 5) This recommendation for approval is subject to the following conditions and stipulations:
 - A. The boat storage facility will be open during daylight hours only.
 - B. The perimeter of the site shall be fenced and gated with a 7-foot high chain linked type of fencing.
 - C. All persons visiting the site shall be accompanied by representatives of the Applicant.
 - D. This approval is for boats (including personal watercraft) only, not the storage, sales and maintenance of vehicles and RVs.
 - E. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
 - F. Security lighting shall be provided on the site and shall be directed away from neighboring properties and roadways.
 - G. Any dumpsters shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.
 - H. All repairs shall be performed either indoors or on an impervious surface on the site.
 - I. No unregistered or permanently inoperable boats, watercraft or trailers shall be stored on the site.
 - J. No more than 40 boats (including personal watercraft) shall be stored on the site at any one time.
 - K. All parking and storage areas shall be clearly depicted on the Final Site Plan and also physically identified on the site itself.
 - L. The site shall be subject to all DelDOT entrance and roadway requirements.
 - M. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Ross, seconded by Mr. Johnson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions and stipulations stated. Motion carried 4 – 0.

Conditional Use No. 1956 – application of **MARK A. GIBLIN** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for auto repair and service as extension to an approved towing service and landscaping business (Conditional Use No. 1933), to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 3.374 acres, more or less, lying southeast of Route 17 (Roxana Road) 1,185 feet northeast of Road 382 (Zion Church Road)(Tax Map I.D. 5-33-6.00-60.02).

The Commission found that the Applicant submitted a survey/site plan with his application.

Mr. Lank advised that Commission that comments were not requested from DelDOT since the Department had already responded to the application for Conditional Use No. 1933.

Mr. Lank advised the Commission that the County Council approved the original application for Conditional Use No. 1933, towing service and landscaping, on December 11, 2012 with the

following conditions: 1) The impound yard shall be surrounded by a fence with landscaping to screen it from neighboring and adjacent properties, to be constructed on or before June 1, 2013; 2) No more than 18 impounded vehicles shall be permitted on the property besides the Applicant's own vehicles; 3) No permanently disabled or abandoned vehicles shall be allowed to remain on the property. All existing and abandoned vehicles shall be removed within 90 days; 4) There shall be one lighted sign which shall not exceed 32 square feet in size to identify the towing service and the impound lot. The sign shall include a phone number to call for information about vehicles impounded and for other information about the service; 5) No vehicles shall be displayed for sale; 6) All security lighting shall be downward screened so that it does not shine on neighboring or adjacent properties; 7) The Final Site Plan shall clearly depict the areas set aside for parking of impounded vehicles and towing equipment; 8) The area set aside for the landscaping business, including equipment storage and any bins for materials such as topsoil, mulch, etc. shall clearly be depicted on the Final Site Plan; 9) The landscaping business hours of operation shall be limited to 7:00 a.m. to 6:00 p.m. Monday through Saturday with no Sunday hours; 10) The Final Site Plan shall include a landscaping plan for the area surrounding the impound yard screening it from neighboring or adjacent properties; and 11) The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

The Commission found that the County Engineering Department Utility Planning Division provided comments on February 11, 2013 in the form of a memorandum which references that the site is located in the Roxana Planning Area; that use of an on-site septic system is proposed; that conformity to the South Coastal Area Planning Study, 2005 Update, will be required; that the proposed use is not in an area where the County has a schedule to provide sewer at this time; that when the County provides sewer service, it is required that the on-site system be abandoned and a connection made to the central sewer system; and that a concept plan is not required. The Commission found that Mark A. Giblin was present and stated in his presentation and in response to questions raised by the Commission that he agrees with the conditions imposed on his original application for towing and landscaping; that he thought that he had originally included service work; that he services vehicles for several police departments and other services; that he does not do any work on vehicles owned by the public; that his requested hours for the service/repair business are seven (7) days per week from 8:00 a.m. to 8:00 p.m.; and that customers normally pickup their vehicles on the same day as serviced.

The Commission found that there were no parties present in support of this application.

The Commission found that Franklin Bennett of Ocean View was present in opposition to this application and referenced that there is too much going on at the property; that he has seen repair work being performed on buses, commercial business vehicles, i.e. furniture trucks, heavy equipment; and that the site does not comply with regulations.

At the conclusion of the public hearings, the Commission discussed this application.

On February 14, 2013 there was a motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

On February 28, 2013 the Commission discussed this application under Old Business.

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1956 for Mark A. Giblin for auto repair and service as an extension to C/U #1933 based upon the record made at the public hearing and for the following reasons:

- 1) This is an extension for Conditional Use. No. 1933 granted to the Applicant for a towing service and landscaping business. As part of that approval, the Commission found that the use was consistent with other small scale businesses in that area, including a bait and tackle shop, HVAC business, and other similar uses in the vicinity.
- 2) Auto repair and service is a natural extension of the approved towing service.
- 3) The auto repair and service use will provide a public service to residents of the area and Sussex County in general. It also promotes the orderly growth, convenience and welfare of Sussex County and its residents.
- 4) The use, with the existing conditions required in C/U #1933 and with those imposed on this recommendation, will not have any adverse impact on neighboring properties, roadways or public facilities.
- 5) This recommendation is subject to the following conditions:
 - A. The Conditions imposed upon C/U #1933 shall remain in effect.
 - B. Condition "B" of C/U #1933 is modified so that no more than 18 vehicles shall be permitted on the property besides the Applicant's own vehicles.
 - C. The hours of operation of the auto repair and service activities shall be from 8:00 a.m. to 8:00 p.m. seven (7) days a week.
 - D. All liquids, oils, and similar materials shall be disposed of in accordance with all State and Federal requirements.
 - E. Parking areas for vehicles and customers associated with the service and repair component of this use shall be clearly shown on the Final Site Plan and marked on the site itself.
 - F. The Applicant shall comply with all DelDOT entrance requirements.
 - G. The Final Site Plan showing this use and the use of Conditional Use No. 1933 shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Ross, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions and stipulations stated. Motion carried 4 – 0.

Conditional Use No. 1957 – application of **GEORGE R. AND SANDRA L. VANFLEET** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a rental and storage units, to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.148 acres, more or less, lying south of Route 54 1,550 feet northeast of Road 387 (Hudson Road)(Tax Map I.D. 5-33-18.00-35.04).

The Commission found that the Applicant provided a survey/sketch of the proposed use of the property.

The Commission found that DelDOT provided comments in the form of a Support Facilities Report, dated February 10, 2012 which referenced that a Traffic Impact Study was not recommended and that the current Level of Service “C” of Route 54 will not change as a result of this application.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum, dated February 11, 2013, which references that the site is located in the Roxana Planning Area; that use of an on-site septic system is proposed; that conformity to the South Coastal Area Planning Study, 2005 Update, will be required; that the proposed use is not in an area where the County has a schedule to provide sewer at this time; that when the County provides sewer service, it is required that the on-site system be abandoned and a connection made to the central sewer system; and that a concept plan is not required.

The Commission found that George R. Van Fleet was present and stated in his presentation and in response to questions raised by the Commission that the existing building on the premise is used for personal use; that he has outgrown the building and hopes to construct another building; that to off-set cost he is proposing to rent out the front of a building; that the surrounding area includes farming activities across Route 54, residential to the east, and farming to the south and west; that approximately 1 mile to the east is a similar use; that approximately 0.75 mile to the west is a similar use; that the proposed building to the rear of the property could be completed by the end of summer 2013; that he has spoken to one of his neighbors to the east and heard no opposition; that he has not contacted any franchise storage business; that he anticipates no more than 20 to 25 rental storage units; that he has security lighting on the existing building and is proposing to add additional lighting and cameras; that he has not had any contact with the Sussex Conservation District; that he will provide dumpsters; that there will not be an office on the site; that the type and size of the units depends on the market; that the units may be dual sided or through units; that he will not have any employees; that he does not live on the site; that he will fence the site, if required; that all storage will be indoors; and that he does not plan on storing any boats, RVs or travel trailers.

The Commission found that there were no parties present in support of this application.

The Commission found that John Sergovic, Attorney with Sergovic, Carmean and Weidman, P.A. was present in opposition on behalf of Lynch Farm Farmers, LLC and stated that his clients lands basically surround this site; that his clients lands are slated for residential improvements within the Town of Selbyville; that this project will have a negative impact on the residential improvements proposed; that the use is not in character with the area; that there is no need for additional storage units in the area; and that there is no market for such units.

Mr. Sergovic submitted a letter from Williamsville Industrial Park referencing that the rental market for these types of units is saturated; that the Williamsville Industrial Park has not been able to complete their storage project; that they still have 36 units to be built; that the rental market has not recovered since the economic downturn and the per square foot rental price for

units has been reduced by 30%; and that more supply at this point can only harm this already fragile market.

The Commission found that Kathy Chabou, a Real Estate Marketer and Licensed Realtor, was present in opposition on behalf of The Refuge project in Selbyville for Lynch Farm Farmers, LLC and stated that the use jeopardizes property values for adjacent residential uses, and that in her opinion it could cause depreciation of property values.

Mr. Wheatley announced that he will be abstaining from participating in this public hearing realizing that he may have a conflict of interest.

Mary Schrider-Fox, Attorney with Steen, Waehler & Schrider-Fox, LLC was present in opposition as Town Solicitor for the Town of Selbyville and stated that the Town of Selbyville has a Memorandum of Understanding (MOU) with the County for Land Planning Coordination; that the MOU calls for the Town and the County to cooperate in the land planning process and to communicate with one another about the implementation of their respective land plans, particularly concerning the Intergovernmental Coordination Zone; that such intergovernmental coordination has been encouraged by the State in its dealings with the Town; that the Town's Comprehensive Plan, approved by the State, tasks the Town with participating in the County land planning decisions when the areas surrounding or near the Town's boundaries are concerned; that the Town strongly opposes this application; that according to the Town's Comprehensive Plan, the site is located within the Intergovernmental Coordination Zone and in the Town's planning area; that the site is in an area targeted for annexation; that the site is located in a small enclave that is largely surrounded by property already annexed into and located with the Town; that the Town's Comprehensive Plan references that such enclaves are a priority for annexation into the Town in the future; that the location of the site on Route 54 makes it an annexation priority according to the Town's Comprehensive Plan; that the Town's Engineers have prepared a zoning map of the Town, the site, as well as the zoning of the property that surrounds this area; that the surrounding property is zoned R-4, a residential designation that allows for low-density residential development of single family dwellings; that commercial storage facilities are not listed as a permitted use, conditional use or special use exception in the Town's R-4 zoning district; that the R-4 zoning district is the only district in the Town that is eligible to seek a Residential Planned Community (RPC) overlay designation under the Town's regulations; that storage facilities are not listed as a possible permitted use in an RPC district in Town; that in view of the likely annexation of the site by the Town, in accordance with its Comprehensive Plan, and the existence of residentially zoned property, that does not allow for storage facilities, located within the Town surrounding the site, the Town feels that approval of this conditional use request will interfere with and place the land planning efforts of the Town in jeopardy; therefore, the Town of Selbyville strongly opposes this application and respectfully requests that the Commission recommend denial.

At the conclusion of the public hearings, the Commission discussed this application.

Mr. Smith stated that the Applicant's presentation was somewhat vague.

On February 14, 2013 there was a motion by Mr. Smith, seconded by Mr. Ross, and carried with 4 votes to defer action for further consideration. Motion carried 4 – 0. Mr. Wheatley did not participate in the discussion.

On February 28, 2013 the Commission discussed this application under Old Business.

Mr. Ross suggested that the application be deferred since Mr. Wheatley had abstained during the public hearing, and since Mr. Smith was absent.

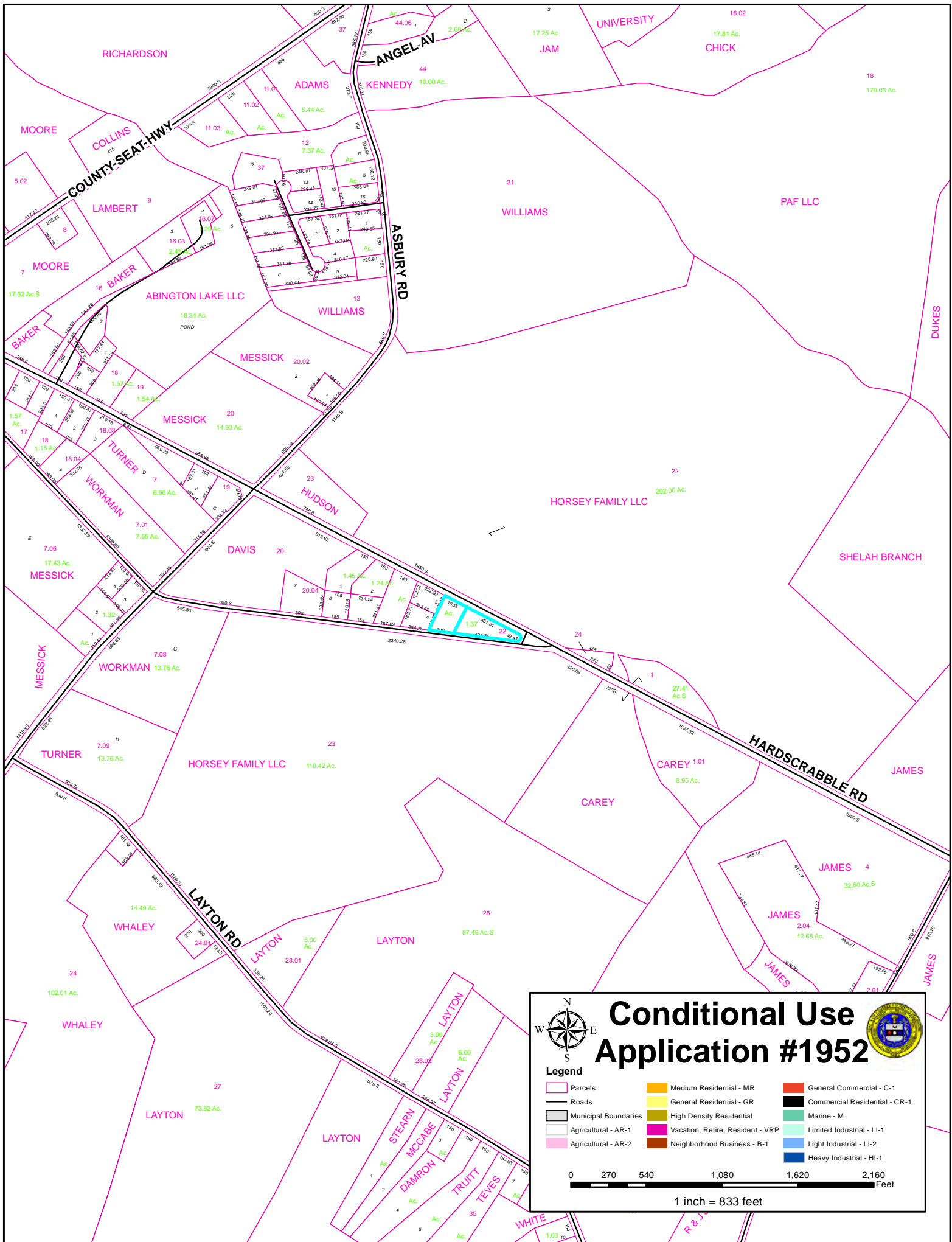
Motion by Mr. Johnson, seconded by Mr. Ross, and carried unanimously to defer action for further consideration. Motion carried 3 – 0, with Mr. Wheatley abstaining.

On March 14, 2013 the Commission discussed this application under Old Business.

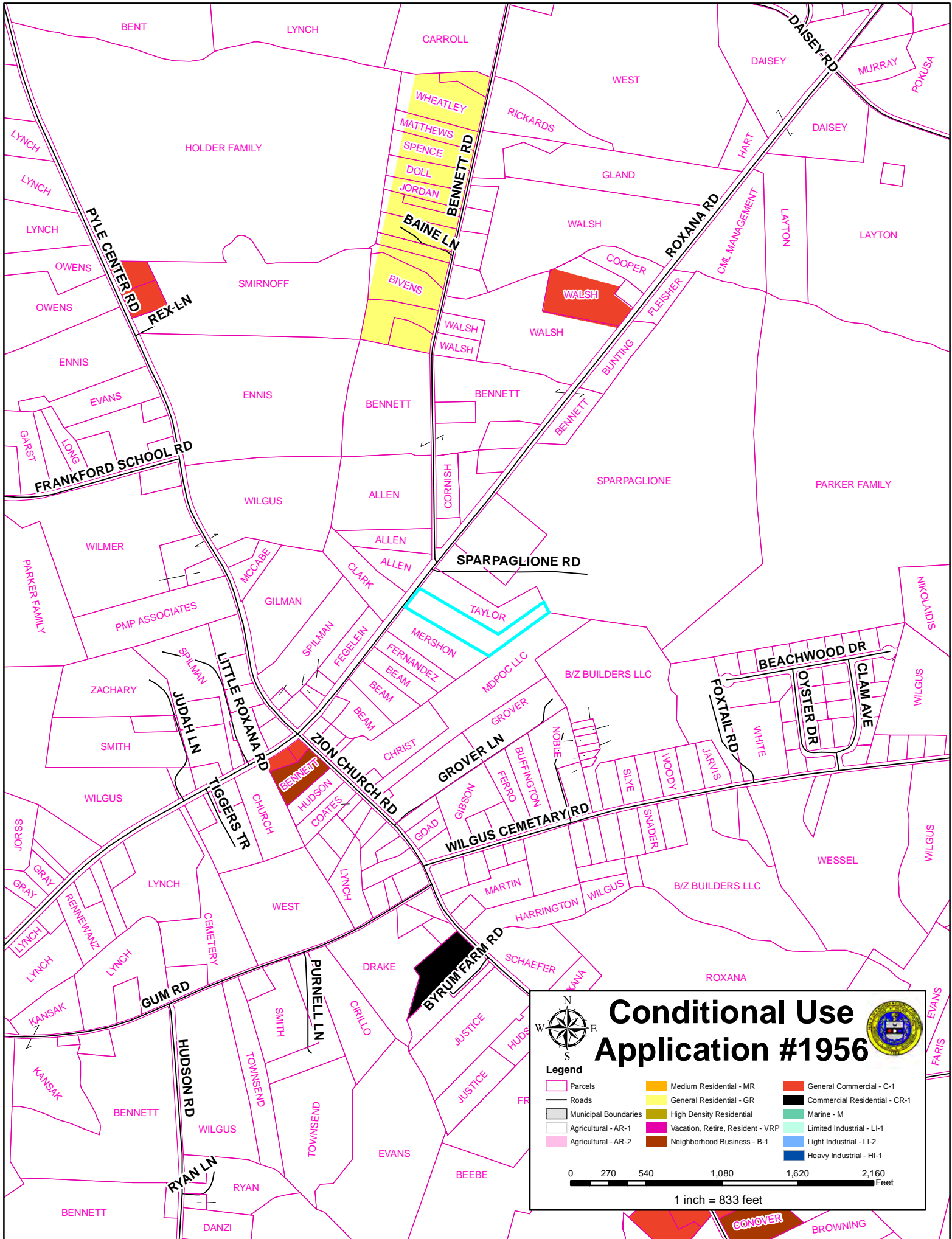
Mr. Smith stated that he would move that the Commission recommend denial of Conditional Use No. 1957 for George R. and Sandra L. Van Fleet for rental and storage units based on the lack of record made during the public hearing and for the following reasons:


- 1) The Applicant's presentation was too vague and did not provide sufficient details as to the proposed use the buildings and storage units that would be built, or the effect on the community or roadways.
- 2) The preliminary site plan is too informal and does not contain the necessary detail for the Commission to evaluate the proposed use on the site.
- 3) The Town of Selbyville opposes the project. The site is in an area targeted for annexation by the Town and is nearly surrounded by the Town's limits, with R-4 Residential Town zoning. The proposed use is not permitted in the Town's R-4 zoning. The Town also stated that approval sought by this application is contrary to the Town's Comprehensive Plan, and that Plan's future zoning of this property.
- 4) In summary, Mr. Smith does not believe that there was an adequate record made in support of this application, so his motion is for the recommendation of denial.

Motion by Mr. Smith, seconded by Mr. Ross, and carried with four (4) votes to forward this application to the Sussex County Council with the recommendation that the application be denied for the reasons stated. Motion carried 4 – 0, with Mr. Wheatley abstaining.


























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Conditional Use Application #1956

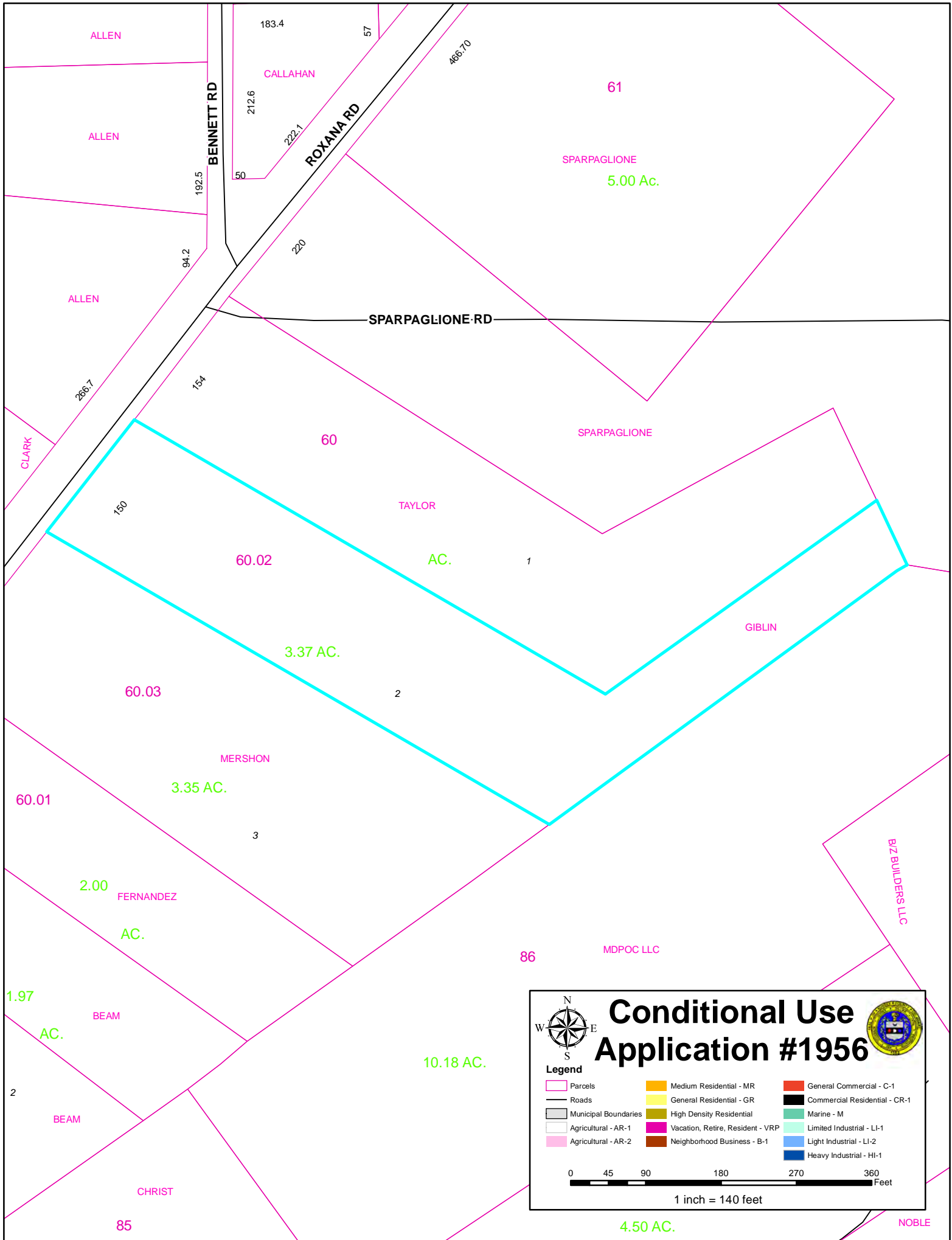



Legend

 Parcels	 Medium Residential - MR	 General Commercial - C-1
 Roads	 General Residential - GR	 Commercial Residential - CR-1
 Municipal Boundaries	 High Density Residential	 Marine - M
 Agricultural - AR-1	 Vacation, Retire, Resident - VRP	 Limited Industrial - LI-1
 Agricultural - AR-2	 Neighborhood Business - B-1	 Light Industrial - LI-2
		 Heavy Industrial - HI-1

0 270 540 1,080 1,620 2,160 Feet


1 inch = 833 feet





W N E S

Conditional Use Application #1956




Parcels	Medium Residential - MR	General Commercial - C-1
Roads	General Residential - GR	Commercial Residential - CR-1
Municipal Boundaries	High Density Residential	Marine - M
Agricultural - AR-1	Vacation, Retire, Resident - VRP	Limited Industrial - LI-1
Agricultural - AR-2	Neighborhood Business - B-1	Light Industrial - LI-2
		Heavy Industrial - HI-1

04590180270360


Feet

1 inch = 140 feet





Conditional Use Application #1956



Legend

Parcels	Medium Residential - MR	General Commercial - C-1
Roads	General Residential - GR	Commercial Residential - CR-1
Municipal Boundaries	High Density Residential	Marine - M
Agricultural - AR-1	Vacation, Retire, Resident - VRP	Limited Industrial - LI-1
Agricultural - AR-2	Neighborhood Business - B-1	Light Industrial - LI-2
		Heavy Industrial - HI-1

0 45 90 180 270 360
Feet

1 inch = 140 feet

