



# **Sussex County Council Public/Media Packet**

**MEETING:  
SEPTEMBER 11, 2012**

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**Sussex County Council  
2 The Circle | PO Box 589  
Georgetown, DE 19947  
(302) 855-7743**



# **SUSSEX COUNTY COUNCIL**

## **AGENDA**

**SEPTEMBER 11, 2012**

**10:00 A.M.**

**Call to Order**

**Approval of Agenda**

**Approval of Minutes**

**Reading of Correspondence**

**Todd Lawson, County Administrator**

1. Recognition of Employee of the Third Quarter – Louanne Rogers
2. Appointments - Advisory Committee for the Aging and Adults with Physical Disabilities
3. Delaware Department of Transportation 2013 – 2018 Capital Transportation Program Request (Draft)
4. Administrator's Report

**Susan Webb, Finance Director**

1. Extension of Public Works Agreement – Georgetown Airport Center

**Old Business**

Conditional Use No. 1936  
Chester Townsend, IV

**11:00 a.m. – Public Hearing**

Miller Creek Sanitary Sewer District – Dozer LLC Expansion

## **Grant Request**

1. Milton Historical Society for various programs.

## **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. 1938 filed on behalf of Karen Barwick**

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A THERAPIST OFFICE AND RESIDENCE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 22,161 SQUARE FEET, MORE OR LESS (Tax Map I.D. 3-34-12.00-85.00) (land lying north of Route 24 (John J. Williams Highway) 425 feet east of Road 275 (Plantation Road)

### **Conditional Use No. 1939 filed on behalf of Jacqueline Tyson – Hope**

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RECEPTION USE, I.E. WEDDINGS, BIRTHDAYS, RETIREMENTS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6.59 ACRES, MORE OR LESS (Tax Map I.D. 2-32-10.00-8.02) (land lying south of Bailey’s Landing Drive, 0.6 mile west of Road 487A (Beagle Club Road)

### **Conditional Use No. 1940 filed on behalf of Phil DePenna**

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PHYSICAL TRAINING STUDIO AND GYM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 33,418.9 SQUARE FEET, MORE OR LESS (Tax Map I.D. 1-32-12.00-20.00) (land lying east of Route 13A (Seaford Road) 1,000 feet north of Road 480 (Mount Zion Road)

\*\*\*\*\*

Sussex County Council meetings can be monitored on the internet at [www.sussexcountyde.gov](http://www.sussexcountyde.gov).

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In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on September 4, 2012 at 4:00 p.m., at the time it was prepared by the County Administrator and at least seven (7) days in advance of the meeting. This Agenda 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, AUGUST 21, 2012**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 21, 2012, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

<b>Michael H. Vincent</b>	<b>President</b>
<b>Samuel R. Wilson, Jr.</b>	<b>Vice President</b>
<b>George B. Cole</b>	<b>Councilman</b>
<b>Joan R. Deaver</b>	<b>Councilwoman</b>
<b>Vance Phillips</b>	<b>Councilman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>Susan M. Webb</b>	<b>Finance Director</b>
<b>David Rutt</b>	<b>Assistant County Attorney</b>

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

**Call to  
Order**

Mr. Vincent called the meeting to order.

**M 435 12  
Amend  
and  
Approve  
Agenda**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to amend the Agenda by deleting "Job Applicants' Qualifications", "Personnel", and "Land Acquisition" 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

**Minutes**

The minutes of August 14, 2012 were approved by consent.

**Corre-  
spondence**

Mr. Rutt read the following correspondence:

**PATRICIA D. BEEBE, PRESIDENT AND CEO, FOOD BANK OF  
DELAWARE, NEWARK, DELAWARE.**

**RE: Letter in support of the Food Bank of Delaware's hunger relief  
programs.**

**Delaware  
State  
Police  
Contract**

Mr. Lawson, presented a proposal to reinstate the County's contract with the Delaware State Police. He noted that, in Council packets, information was provided on the current contract that the County has with the Delaware State Police. Mr. Lawson stated that, during the State's budget process this year, members of the General Assembly, led by Representative Ruth Briggs King, approved the reinstatement of the terms of the contract and the allocation of State funding for additional troopers in Sussex County. If the Council agrees

**Delaware  
State  
Police  
Contract  
(continued)**

to reinstate the terms of the contract, four (4) troopers will be added to Sussex County's roster, totaling 44 additional troopers sponsored by the County. If the contract reinstatement is approved by the Council, the new troopers will begin training this Fall and will be on duty by Spring 2013. With this roster expansion, the County has also asked Delaware State Police to consider assigning an additional community liaison trooper to Sussex County.

Mr. Lawson reported that the County currently pays \$1.7 million for 40 troopers for \$42,843 per trooper. The State's request is for 4 additional troopers at the cost of \$49,082 per trooper, which decreases to \$44,016 by Year Three. The County's share of this contract only includes the troopers' salaries, benefits, outfitting and equipment costs. The Delaware State Police pays for all other operating costs.

Mr. Lawson compared what it costs New Castle County to have 44 troopers and he stated that the same coverage would cost Sussex County a total of \$124,497.00 per trooper. Since New Castle County's police department is already established, this amount does not include the start-up costs Sussex County would incur. In total, the annual budget of New Castle County's Police Department is approximately \$50 million.

Mr. Lawson stated that County Administration and the Finance Department highly recommend the reinstatement of the contract and the allocation of funding.

Colonel Robert Coupe was in attendance along with Delaware State Police staff representing Troops 4, 5 and 7. Colonel Coup stated that they are honored at the opportunity to resume this contract and increase the number of complimentary troopers in Sussex County. The Colonel expressed appreciation to Sussex County Council, State Legislators, and Sussex County residents for their support.

**M 436 12  
Restore  
Terms of  
MOU with  
Delaware  
State  
Police**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, that the Sussex County Council elects to restore the terms of the Memorandum of Understanding between the Department of Safety and Homeland Security, Division of State Police representing the State of Delaware and 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**

**DelDOT  
2013-2018  
CTP  
Request  
(Draft)**

Mr. Lawson presented a Draft of the DelDOT 2013 - 2018 Capital Transportation Program Request which will be presented in final form to DelDOT at a Public Workshop scheduled on September 13th from 4:00 to 7:00 p.m. at the DelDOT South District Office in Georgetown. Mr. Lawson reported that, as in previous years, the County will submit a request to the Delaware Department of Transportation for their consideration as they

**DelDOT  
2013-2018  
CTP  
Request  
(Draft)  
(continued)**

**decide on funding for various projects.**

**Mr. Lawson reviewed the Draft Report and noted that this year's requests have very few changes compared to last year and the focus is on the same priorities contained in previous years. He noted that some changes have been made to the request, i.e. improve the large traffic corridors including the east-west routes which have become increasingly congested and accident prone in recent years as well as the local roads, which continue to have increased use and deterioration. With the recent announcement of the Phase I Runway Expansion, the County remains supportive of the Airport's expansion as well as the inevitable realignment of Park Avenue, Truck Route 9 which will create a true bypass around the Town of Georgetown. Also, included again (at Mr. Cole's urging), are suggestions for improvements to the DART bus stop locations and improvements for the safety of bicyclists on County roadways. A number of comments were received from the public which the County intends to submit for the record with the final version of the CTP .**

**Mr. Lawson stated that the final draft will be prepared and submitted to the Council for approval on September 11th. He noted that if Council members wish to amend the draft presented on this date, to please let staff know as soon as possible. Any additional comments will be discussed at the September 11th meeting, prior to the submission of the final report to DelDOT on September 13th.**

**Adminis-  
trator's  
Report**

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

**1. Greenwood Library**

**The Greenwood Library will be closed beginning Monday, August 27, to prepare for the move to their temporary location at the site known to locals as "Hilltop" at the intersection of Route 13 South and Route 16. The move will take place the week of September 2. County and State Information Technology staff will ready the network, servers, and PC's the week of September 16.**

**The Greenwood Library is scheduled to reopen at the "Hilltop" location on Monday, October 1. However, if there are no glitches in the listed plans, it could reopen the last week in September.**

**We want to thank the public for their patience during this transition.**

**2. Delaware State Police Activity Report**

**Per the attached Delaware State Police activity report for July, there were 4,984 total traffic arrests and 1,584 criminal arrests. Of the 1,584 criminal arrests, 693 were felony and 891 were misdemeanor criminal arrests. Of the total hours on duty spent, 44 percent were**

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

spent on criminal investigations.

**3. Project Receiving Substantial Completion**

Per the attached Engineering Department Fact Sheet, Ferris Courtyard Subdivision reached Substantial Completion effective August 16, 2012.

**4. Holiday Schedule**

The Sussex County Council will not meet on August 28 or September 4 as a result of a summer holiday and in honor of the Labor Day holiday, respectively. The next regularly scheduled meeting of the Sussex County Council will occur on September 11, 2012.

County offices will be closed on Monday, September 3, for the Labor Day holiday.

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

**Pension  
and OPEB  
Fund  
Report  
and  
Recommen-  
dations**

Mrs. Webb reported that the Pension Fund Committee met on August 2, 2012. She noted that included in the Council packets for this meeting were performance reports as of June 30, 2012 for the Pension and the OPEB Plans as well as a report on an investment manager search.

Mrs. Webb reported that David Craik, Pension Administrator for the State of Delaware, was in attendance at the August 2nd meeting to provide an update on the State Pool, which is a large portion (over 30%) of the County's pension fund assets.

Mrs. Webb reported that the overall year-to-date return for the Pension Fund was 5.3 percent; that the fund continues to do very well, especially in down markets; that the State Pool had a strong performance; and that Vanguard Global was terminated which helped lower overall allocation to international stocks. The Total Plan Performance (page 10 of the report) shows that the County ranked in the top 8 percent of government pension plans for the past quarter. Mrs. Webb noted that no action was required on the Pension Fund at this time.

Mrs. Webb reported that the overall year-to-date return for the OPEB (Other Post Employment Benefit Fund) was 3.8 percent; Standard & Poor's was down 2.8 percent this quarter and the County's plan was down 2.5 percent; asset allocations were close to target; Allianz RCM Disciplined Equity was below benchmark (again); and Harding Loevner continues to do well. Mrs. Webb advised that, in reviewing the Allianz RCM Disciplined Equity, it continues to be below its benchmark and this has prompted the new investment manager search. Mrs. Webb explained that the OPEB Fund is a fund in which the County keeps health insurance benefits for the



**Pension  
and OPEB  
Fund  
Report  
and  
Recommen-  
dations  
(continued)**

pensioners.

Mrs. Webb recommended changes to the OPEB Fund for the investment managers which will decrease the volatility and compliment the other OPEB investments. The County's pension consultants are recommending that the County liquidate all assets of the Vanguard Value Index, liquidate the assets of the Allianz RCM Disciplined Equity and redeem \$1.6 million from Ridgeworth Small Cap Value; with the proceeds of those sales, purchase \$5 million of Vanguard Russell 1,000 Index, \$1 million of Fanguard Dividend Growth, and \$1 million of BlackRock Equity Dividend. This action will give the OPEB Fund more diversification and reduce the County's fees by approximately \$25,000; it will also provide better protection on the downside, lower volatility, complement the existing mangers, and add enhancement to the allocation of investments.

**M 437 12  
Approve  
Pension  
Fund  
Trans-  
actions**

Mrs. Webb reported that the Pension Committee discussed options presented by the Consultant and agreed to the Consultant's recommendations.

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex County Council approves the following pension transactions, all of the current value as of date: liquidate all assets of Vanguard Value Index, liquidate all assets of Allianz RCM Disciplined Equity, redeem \$1.6 million from Ridgeworth Small Cap Value; with the proceeds of the above sales, purchase \$5 million of Vanguard Russell 1000 Index, \$1 million of Vanguard Dividend Growth, and \$1 million of BlackRock Equity Dividend.

**Motion Adopted: 5 Yeas.**

**Economic  
Develop-  
ment  
Department  
Update**

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

Julie Wheatley, Director of Economic Development, presented an activity and business development update. She talked about jobs and housing, healthcare, quality of life, new business, business expansion, and financial assistance. She advised that a representative from HUD reported that, between April 2011 and 2012, 1,225 net new jobs were created in Sussex. These jobs were mainly in hospitality and healthcare. According to Trend MLS/Sussex County Association of Realtors (SCOAR), existing home sales are up 50.3 percent over June 2011 and year over year sales price is up 13.5 percent. On the health care side, there is a great collaboration between Beebe, BayHealth, and Nanticoke hospitals; they targeted to address disparities in health care across the county and also health education; they want to positively impact health behaviors, i.e. diabetes. In regard to Quality of Life, Sussex County was listed as No. 1 in water quality (beaches) in the nation by the Natural Resources Defense Council. Sussex County has been named by AARP, Wall Street Journal and the Where to Retire magazine as one of the places to retire

**Economic  
Develop-  
ment  
Department  
Update  
(continued)**

Mrs. Wheatley reported on new business in Sussex County: Binkley & Hurst, agricultural equipment retail and service center, The PeteStore, a Peterbilt Truck Dealership, and Tech World Industries – NasalCleanse Pharmaceuticals Corporate Offices. Business expansions in Sussex County are: Sea Watch International (new line of soups), Craig Technologies (60,000 SF expansion), and Cooper Bearings (Rail Suspension Systems).

Mrs. Wheatley reported on the financial assistance on the federal level: (1) the Small Business Administration recently put a representative in Sussex County and there have been 36 loans totaling over \$13 million, (2) the United States Army Corps of Engineers approved a \$1.8 million grant for the Nanticoke River Dredge Project; and FAA and DEDO grants (90-95 percent of the funding) for the Sussex County Airport runway extension.

Mrs. Wheatley reported on the recent improvements for economic development in Sussex County. There has been a new web design with County information on economic development and a new web portal to access the economic development options. There are two elements to the package: incentives and loans. The incentive package was announced on November 23, 2011; the County's goal is to provide incentives for businesses based on new employment. The amount of the incentive is based primarily on additional county revenues generated by the expansion of a business. The incentive amount is limited to a maximum of \$800 per new full time job and the company must provide a minimum of 10 new jobs to qualify. The incentives are: maximum of \$800 per new job created; minimum 10 full time jobs created; assistance offered such as graduated property tax abatement, possible school tax abatement, fee reduction, and expedited County reviews. The loan package is available to assist businesses with low-interest rate loans for the development of economically beneficial programs and in particular new job creation. The maximum amount to be loaned to any business or municipality would be \$250,000 per project. Assistance offered for the loan package is: favorable interest rate, expedited review, and up to \$250,000 per project. Mrs. Wheatley reviewed the application process for the loan package: (1) go to Economic Development website, (2) submit pre-application form, (3) Committee review and recommendation to County Council, and (4) County Council approval. Mrs. Wheatley explained that preliminary application can be submitted online and the full application for loans and incentives are available on the County's website. It is the County's goal that the new website will create jobs and stimulate economic development through new business recruitment, job retention, and business growth. It is the County's hope that the new website and web portal will get existing products out to the public, businesses, target markets, etc.

It was suggested that the County sponsor job fairs once or twice a year.

**Wastewater  
Agreement**

Mrs. Webb presented a wastewater agreement for the Council's consideration.

**M 438 12**  
**Approve**  
**Wastewater**  
**Agreement/**  
**Swann**  
**Cove**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 896, that the Sussex County Council, execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Swann Cove West LLC, for wastewater facilities to be constructed in Swann Cove, located in the Fenwick Island 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**

**Greenwood**  
**Library**  
**Project/**  
**Moving**  
**Services**  
**Proposal**

**Julie Cooper, Project Engineer, reported that the Greenwood Library Project has been bid and that the Engineering Department has recently put out a RFP for moving services for the purpose of moving the library to a temporary location during construction of the new building. Four proposals were received; the low bidder was Bates Moving & Storage Co., Inc. in the amount of \$28,662.00.**

**M 439 12**  
**Award**  
**Bid/**  
**Greenwood**  
**Library**  
**Moving**  
**Services**  
**Project**

**A Motion was by Mr. Phillips, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, that the bid for Sussex County Project 07-05, Greenwood Library Moving Services, be awarded to Bates Moving & Storage Co., Inc. of Salisbury, Maryland, at the bid amount of \$28,662.00.**

**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 440 12**  
**Council-**  
**manic**  
**Grant**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$500.00 from Mr. Cole's Councilmanic Grant Account to the Rehoboth Summer Children's Theatre for program 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 441 12**  
**Council-**  
**manic**  
**Grant**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500.00 from Mr. Cole's Councilmanic Grant Account to the Rehoboth Cooperative Preschool for operating expenses/field trip expenses.**

**M 441 12**  
**(continued)**      **Motion Adopted:      5 Yeas.**

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

**Additional Business**      **Under Additional Business, Dan Kramer referenced a discussion at the August 14th Council meeting regarding houses that need repairs and he commented that people should help their neighbors.**

**M 442 12**  
**Go Into**  
**Executive**  
**Session**      **At 11:00 a.m., a Motion was made by Mr. Phillips, seconded by Mr. Cole, to recess the Regular Session and to go into Executive Session for the purpose of discussing issues relating to Pending/Potential Litigation.**

**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 11:04 a.m., an Executive Session of the Sussex County Council was held in the Council Chambers for the purpose of discussing issues relating to pending/potential litigation. The Executive Session concluded at 11:44 a.m.**

**M 443 12**  
**Reconvene**  
**Regular**  
**Session**      **At 11:47 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Cole, 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**

**M 444 12**  
**Recess**      **At 11:48 a.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, 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 445 12**  
**Reconvene**      **At 1:35 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, to reconvene the Regular Session.**

**Motion Adopted:      5 Yeas.**

**M 445 12  
(continued)**

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

**Public  
Hearing/  
C/U  
No. 1933**

**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 A TOWING SERVICE AND LANDSCAPING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.374 ACRES, MORE OR LESS” (Conditional Use No. 1933) filed on behalf of Mark A. Giblin.**

**Shane Abbott, Assistant Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on July 26, 2012 at which time action was deferred. On August 9, 2012, the Commission recommended that the application be approved with the following conditions:**

- 1. The impound yard shall be surrounded by a fence with landscaping to screen it from neighboring and adjacent properties.**
- 2. No more than 18 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.**
- 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, vehicles that are being serviced, 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 service business hours of operation shall be limited to 7:00 a.m. to 6:00 p.m. Monday through Friday, and 8:00 a.m. to 12:00 noon on Saturdays, 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.**
- 11. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**See the minutes of the Planning and Zoning Commission dated July 26 and August 9, 2012.**

**Public  
Hearing/  
C/U  
No. 1933  
(continued)**

**Mr. Abbott reported that, following the Commission's Public Hearing, a letter was received from the Sussex Conservation District regarding soil types.**

**Mr. Abbott read a summary of the Commission's Public Hearing.**

**Mr. Abbott reported that, on August 1, 2012, an email was received from John Gilman, owner of the Roxana Athletic Club, in support of the application. The email was read into the record.**

**Mr. Abbott reported that, on August 9, 2012, a letter was received from James Mershon, owner of Jim's Bait & Tackle, in opposition to the application. The letter was read into the record.**

**It was determined that the Application was not in attendance. For this reason, the Council proceeded with the next Public Hearing with the understanding that the Public Hearing on Conditional Use No. 1933 would be continued at the end of the meeting.**

**M 446 12  
Defer  
Action on  
C/U  
No. 1933**

**A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to defer action on Conditional Use No. 1933 to see if the Applicant can be located.**

**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. 1935**

**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 A WORKSHOP FOR A FAMILY ELECTRICAL BUSINESS AND A BUTCHER SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.347 ACRES, MORE OR LESS" (Conditional Use No. 1935) filed on behalf of John Herholdt.**

**Shane Abbott, Assistant Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on July 26, 2012 at which time the Commission recommended that the application be approved with the following conditions:**

- 1. The butcher shop shall be seasonal, from September 1 through March 1.**
- 2. No retail sales shall occur from the butcher shop.**
- 3. There shall not be any outside storage of electrical equipment and all work shall occur inside.**
- 4. One lighted sign, not to exceed 32 square feet in size, shall be permitted.**

**Public  
Hearing/  
C/U  
No. 1935  
(continued)**

5. The hours of operation for the electrical business shall be Monday through Friday from 7:00 a.m. to 6:00 p.m.
6. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

See the minutes of the Planning and Zoning Commission dated July 26, 2012.

Mr. Abbott reported that, following the Commission's Public Hearing, a letter was received from the Sussex Conservation District regarding soil types.

Mr. Abbott read a summary of the Commission's Public Hearing.

John Herholdt was present on behalf of his application and he stated that he proposes (1) a storage area for generators and other items by himself and Satterfield Electric and (2) a seasonal butcher shop (deer butchering only). He stated that there would be no retail sales.

There were no public comments. The Public Hearing and public record were closed.

**M 447 12  
Adopt  
Ordinance  
No. 2274  
(C/U  
No. 1935)**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2274 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A WORKSHOP FOR A FAMILY ELECTRICAL BUSINESS AND A BUTCHER SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.347 ACRES, MORE OR LESS" (Conditional Use No. 1935) filed on behalf of John Herholdt, with the following conditions:

1. The butcher shop shall be seasonal, from September 1 through March 1.
2. No retail sales shall occur from the butcher shop.
3. There shall not be any outside storage of electrical equipment and all work shall occur inside.
4. One lighted sign, not to exceed 32 square feet in size, shall be permitted.
5. The hours of operation for the electrical business shall be Monday through Friday from 7:00 a.m. to 6:00 p.m.
6. 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**

**Public  
Hearing/  
C/U  
No. 1936)**

**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 A FOOD VENDOR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRES, MORE OR LESS” (Conditional Use No. 1936) filed on behalf of Chester Townsend.**

**Shane Abbott, Assistant Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on July 26, 2012 at which time the Commission deferred action; on August 9, 2012, the Commission deferred action again.**

**See the minutes of the Planning and Zoning Commission dated July 26 and August 9, 2012.**

**Mr. Abbott read a summary of the Commission’s Public Hearing.**

**Mr. Abbott reported that, following the Commission’s Public Hearing, a letter was received from the Sussex Conservation District regarding soil types.**

**Mr. Abbott reported that, following the Commission’s Public Hearing, a copy of a letter from DelDOT to the Applicant was received, stating that Tax Parcel No. 1-34-11.00-3.00 is being accessed without a valid entrance permit for the current use; that there is a business being run on the property; and that the property owners have not obtained a commercial entrance permit from DelDOT. The Department is giving the applicant 20 days from the date of receipt of the letter to submit a schedule to correct the violation. Failure to correct the violation within the time specified or to comply with DelDOT’s request shall cause the Department to seek compliance in accordance with the remedies permitted by Delaware Code, including closing the entrance.**

**Public comments were heard.**

**Shirley Townsend was present on behalf of the application and she stated that Chester Townsend is her husband; that they run the Fish Killers Lobster Shack in Dagsboro; that this will be their fourth summer season that they have conducted business in the area; that they operate a clean, safe business; that they were previously unaware of the problem with DelDOT and that they received the letter from DelDOT on this date; that she has contacted DelDOT and they are starting the process of obtaining an entrance permit; and that they do not need a Traffic Impact Study.**

**Mr. Cole questioned if the signage on the site is in compliance with County regulations and Mrs. Townsend was advised to contact the County Planning and Zoning Department.**



**Public  
Hearing/  
C/U  
No. 1936  
(continued)**

**It was noted that parking requirements will fall under site plan review.**

**There were no public comments in support of or in opposition to the application.**

**Mr. Abbott advised that, if the trailer currently on the site is used for the on-premise business, approval from the Board of Adjustment will be required.**

**The Public Hearing and the public record were closed.**

**M 448 12  
Defer  
Action on  
C/U  
No. 1936**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to defer action on Conditional Use No. 1936 filed on behalf of Chester Townsend.**

**Motion Adopted: 5 Years.**

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

**Public  
Hearing/  
C/U  
No. 1941**

**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 A SOLAR ELECTRIC GENERATION FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 40 ACRES, MORE OR LESS” (Conditional Use No. 1941) filed on behalf of Delaware Electric Cooperative.**

**Shane Abbott, Assistant Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on August 9, 2012 at which time the Commission recommended that the application be approved with the following conditions:**

- 1. No storage facilities shall be constructed on the site.**
- 2. Lighting on the facility will consist only of perimeter lighting for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- 3. One unlighted sign not to exceed 32 square feet in size, shall be permitted.**
- 4. The site shall be secured by fencing. A locked 38 foot wide gate will permit access to the site from East Trap Pond Road, with a Knox Box to accommodate emergency access by the local fire company.**
- 5. If the solar electric generation facility is non-operational for a period of 12 months, the Delaware Electric Cooperative, Inc. or assigns must return the site to its original state within a 12 month period.**
- 6. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**Public  
Hearing/  
C/U  
No. 1941  
(continued)**

**See the minutes of the Planning and Zoning Commission dated August 9, 2012.**

**Mr. Abbott read a summary of the Commission's Public Hearing.**

**Mr. Abbott distributed Exhibit Booklets submitted by the Applicant. He noted that he has been advised by the Applicant that there was an error on Page 35 of the Exhibit Booklet.**

**The Council found that Terry Jaywork, Attorney for the Delaware Electric Cooperative; Mark Neilson, Vice President of Staff Services at Delaware Electric Cooperative; Walt Hoey, Professional Engineer with Century Engineering; and Randall Handy, a certified real estate appraiser with Handy Realty; were present on behalf of the application.**

**Mr. Jaywork stated that the proposal is for a 40 acre parcel of a 163 acre tract that is currently owned by Heritage Lands LLC; that the property is located on both sides of E. Trap Pond Road; that the Heritage Farm tract straddles both sides of the road; that the proposed use is for the 40 acres on the east side; that the 40 acres that they propose to develop will be surrounding by open tilled farmlands and a small stretch of woods; that the Cooperative proposes to build a solar farm on the site; that the Renewable Energy Portfolio Standards Act (Title 26) requires the Cooperative to meet 25% of their overall demand with green infrastructure by the year 2025 and 3.5 percent must be coming from solar resources; that the schedule has a graduated compliance schedule so that each year electric suppliers have to move toward attaining the 2025 goal; that the proposed facility is one of the Cooperative's first steps to comply with the statute; that when the facility is fully built out, it will generate 7 megawatts of electricity (providing service to approximately 870 residential homes); that the proposal will result in environmental and economic benefits; that the solar panels are proposed to be manufactured in Newark and should create a minimum of 40 temporary full-time jobs; that the proposed use will have less impact on the surrounding properties than typical agricultural activities; that the solar farm will not require any chemical uses – no fertilizers or pesticides; that there will be no animal or plant waste; that the use should not create any dust, odors or noises once completed; that the Cooperative held a public meeting at the CHEER Center in Georgetown to get public comments from area residents; that the Cooperative sent out notices to all of the properties surrounding the entire 163 acre Heritage Farms tract; that only four area residents attended; and that once installed, the use is a totally passive operation.**

**Mr. Jaywork presented an Exhibit containing the mailing list of the people who were invited to the public meeting, a copy of the letter of invitation, and the sign-in sheet containing the signatures of the people that did attend. Additionally, he submitted a map of the area depicting properties owned by area residents that were invited and attended the public meeting. Mr. Jaywork reported that the few residents that did attend, after hearing and**

**Public  
Hearing/  
C/U**

**No. 1941  
(continued)**

reviewing the information presented, did not have any opposition to the project.

It was noted that the Exhibit Booklet and the information submitted by Mr. Jaywork were made a part of the record.

Mr. Nielson, Project Manager, reviewed the Exhibit Booklet and he outlined the site selection process: the site has to be in close proximity to their substation and Pepper Substation is located .5 mile away and the site must be cleared and available for purchase; that the Cooperative entered into a contract with the property owner. He stated that the project will be developed in two phases; that the first phase is 4 megawatts (approximately 16,000 solar panels); that the site will have a single entrance (30 feet wide) approved by DelDOT; that the site will be surrounded by an eight foot chain link fence with a barbed wire top; that the roads and turning radius have been approved by the Fire Marshal; that there will be some small transformers on the site (4 in Phase 1) and that they will not create any noise; that the first phase would be completed in 3 to 4 months; that the second phase will consist of the remainder of the property (3 megawatts – 12,000 solar panels); that the second phase should be completed in 5 years; that their building plans are subject to mandates of the Legislature (RPS requirements and requirements for solar) and whether requirements are decreased or increased; that there will not be any run-off into the tax ditch; that inspection/maintenance will take place approximately once a month; and that there will be no pollution, no dust, no noise, no emissions, and no dust.

Mr. Nielson introduced 3 new panel types into the record and he submitted copies to the Council and for the record. He stated that, at the Planning and Zoning Commission hearing, there were comments regarding the height of the panels; at that time, it was stated that they were going to be 5 feet 10 inches tall. Since that time, there has been a correction and the panels will actually be about 6 feet 4 inches.

Mr. Nielson referenced the corrections to the Exhibit Booklet: (1) the height of the solar panels will be about 6 feet 4 inches and (2) there will be no septic system on the site.

Mr. Nielson stated that one of the concerns expressed at the Hearing before the Planning and Zoning Commission was an increase of electro-magnetic fields. Mr. Nielson reviewed diagrams of and explained readings of examples of EMF (electric magnetic fields). He stated that the Cooperative proposes panels that are DC generated electricity panels; that there is nothing conclusive about what EMF may do to human health; that generally, people are exposed to more EMF inside their homes than they would with the solar farm; and that the nearest residence to the solar farm is approximately 682 feet away.

**Public  
Hearing/  
C/U  
No. 1941  
(continued)**

**Mr. Nielson stated that another concern expressed at the Hearing before the Planning and Zoning Commission was the distance and the visual and aesthetic impact of the view of the solar farm from the residential homes. Mr. Hoyer stated that, from a distance, the solar panels will be barely visible. Mr. Hoyer provided an illustration of the view of a solar farm from a distance of approximately 730 feet from the site, with the solar panels sitting at 6 foot 4 inches tall. Mr. Nielson presented a display board showing various measurements from the solar field to various residences and roads.**

**Mr. Handy commented on the impact of the proposed solar farm on the market value of nearby residential properties and he read his letter into the record. The letter stated that there are 5 residential properties in question; that the line of sight window of the solar panels will be quite narrow; that the potential visual impact of the proposed use would be inversely proportional to a distance from the subject property. He stated that he is not suggesting that the impact of the proposed solar farm on residential properties will be zero; however, in his professional opinion, the impact on property values will be minimal. He noted that the current zoning of the parcel is AR-1 and agricultural uses would be considered by most people to be more objectionable than a solar farm. He stated that, in his opinion, the low level of environmental impact and the low cost of a supplemental power source are very positive factors of the application.**

**Mr. Nielson stated that, during the Commission's hearing on the application, concern was expressed regarding leaching of lead from the solar panels into the groundwater. Mr. Nielson stated that there is some lead in the panels; however, the lead will be contained and the Cooperative will perform monthly inspections and will not let the panels deteriorate.**

**Public comments were heard.**

**John Sergovic, Attorney representing the seller, Heritage Lands, LLC, stated that his clients are in support of the application; that his clients will retain 120 acres; that his clients' intentions are to develop the land for residential housing when the market improves; and that his clients believe the solar farm will enhance their ability to market the property because of the environmental benefits that are perceived by solar panels.**

**Paul Reed, resident on Substation Road, spoke in opposition to the application. He referenced the notice of Public Hearing for the application and he stated that the sign was placed behind the large realtors sign in the weeds; that the only reason the area residents knew about the Public Hearing is because he moved the sign so that it would be visible; that the sign was visible for only one week before the Planning and Zoning Commission's meeting; that the use will bother people; that for the rest of his life, he will be looking at 28,000 solar panels in front of his house and a 10 foot chain link fence with barbed wire wrapped around it; that there are better and more suitable sites for a solar farm; that he spoke with everyone in the area and only one person received a letter from the Cooperative; that**

**Public  
Hearing/  
C/U  
No. 1941  
(continued)**

he never got an invitation to the workshop; that the proposed use will impact the value of area properties; that he questions how they can prove there will be no radiation and that there will be no leeching of lead; that it will cause cancer and lead poisoning; that it will affect area crops; and that he asks the Council members to go look at the site prior to making a decision on the application.

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

**M 449 12  
Defer  
Action on  
C/U  
No. 1941**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to defer action on Conditional Use No. 1941 filed on behalf of Delaware Electric Cooperative.

**Motion Adopted: 5 Yeas.**

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

**Continue  
Public  
Hearing  
on C/U  
No. 1933  
(Deferred  
earlier  
on this  
date to  
locate  
Applicant)**

The Council continued the Public Hearing on Conditional Use No. 1933 as it was determined that the Applicant, Mark A. Gilbin, was in attendance.

Mr. Gilbin stated that the business cannot be seen from Route 17; that he does not operate a repo business; that a sign would probably help direct people to his business; that one neighbor expressed concern that people turn into their driveway looking for the Applicant's business but he feels this is almost impossible since the neighbor has various signs in the front of the property, so he finds it hard to believe anyone would turn down that driveway thinking it is a towing company; that his neighbor has already placed a privacy fence along the majority of the property line and that the Applicant will finish the fence if his neighbor does not; that in regards to impounds, he does not release any vehicles after dusk (not after 5:00 p.m.); that he does operate a towing business 24 hours a day; that his tow truck drivers are not all stationed at his property – that are stationed at other locations; that his closest neighbor and he share a driveway and his neighbor does not have a problem with the application; that his neighbor across the street does not have a problem with the application; that they do not work on anything after 5:00 p.m.; that he has been operating the business for 8 to 10 years at this location with no complaints; that he has lived on this site for 17 to 18 years; that the impound yard is not surrounded by fencing but he is in the process of obtaining prices on fencing; that he tows for some area police departments; that he does operate an auto shop and towing business from the site; that the auto shop operates from 8:00 a.m. to 4:30 p.m.; and that his application is for towing, auto service, and landscaping.

**Continue  
Public**

Mr. Vincent raised the question that the title of the Proposed Ordinance, as advertised, states "... FOR A TOWING SERVICE AND LANDSCAPING" and that it doesn't mention anything about an impound yard or a service

Hearing  
on C/U  
No. 1933  
(Deferred  
earlier  
on this  
date to  
locate  
Applicant)  
(continued)

shop.

Mr. Gilbin stated that his original application stated towing, landscaping, and auto repair shop.

Mr. Abbott stated that the actual application filled out by the Applicant for the proposed Conditional Use states “towing, service and landscape business” and that in the notice of advertisement, there is not a comma between towing and service.

Mr. Cole asked for an opinion as to whether or not the application has been properly/correctly advertised.

Mr. Rutt stated that he believes the advertisement should have had a comma after “towing” and that an option would be to re-advertise it and hold new Public Hearings.

Public comments were heard.

There were no public comments in support of the application.

James Mershon, an adjacent property owner, was present and he stated that the Applicant has not lived on the site 17 or 18 years, that he has been there 10 or 11 years; that if you put the Applicant’s address in a GPS, it will give you his (Mershon’s) address; that they are performing auto service work on the site; that you cannot see the business from the road and the Applicant has been operating illegally for years; that he now wants 18 parking spaces and at the Public Hearing before the Planning and Zoning Commission he wanted 11 parking spaces; that the Applicant should be required to follow all regulations and obtain all permits to be able to operate his business; that the Applicant should not be allowed to operate an impound yard at a residence; that he (Mershon) should not be required to provide fencing for his and his family’s safety; that they are providing service center work on the site; that he is concerned that EPA standards are not being adhered to, i.e. removal of fluids, storage of chemicals, fumes, toxicity; that he is concerned about the soils and potential leaks; that he questions if the EPA and the fire company is aware of the business use on the site; that the Applicant hasn’t followed the law for 10 years; that the Roxana Athletic Club has not been built yet and that he questions letter of support from the Club; that the Applicant has been operating a towing service for 3 or 4 years; that there is a petition going around Roxana against an impound yard; that they already have a garage in the area – Roxana Automotive; that the illegal use has had a significant negative impact on his own business; that he is concerned about the safety of his children because the Applicant’s customers drive up his lane; that the use should not be located in a residential area; that he has no problem with a landscaping business (as long as it is run properly and there is no chemical runoff, etc.) and towing dispatch service on the site; and that he has a Jim’s Bait & Tackle sign because he is running a legal operation.

Continue  
Public

**Hearing  
on C/U  
No. 1933  
(Deferred  
earlier  
on this  
date to  
locate  
Applicant)  
(continued)**

Franklin Bennett of Ocean View spoke in opposition to the application. He stated that the Applicant has made many false statements; that he (Bennett) owns an impound yard and that if he tows a vehicle in from the Delaware State Police, DNREC, and other municipal police departments, the rules are that he has to give the person's car back no matter what time of day/night; that he was at the Applicant's property recently to tow a bus out of there and the Applicant runs an auto and truck repair business; that he has been told the Applicant runs a second shift diesel mechanic shift; that the property is in bad shape – it is junk yard – he saw over 100 used tires sitting outside, abandoned vehicles, wrecked vehicles and tall weeds; that impound yards have to deal with battery acid, oil, antifreeze and brake fluid leaks which contaminate the ground; that theft problems go along with impound yards; that you cannot have minimum lighting on an impound yard, security lighting is needed; that trucks go in and out of impound yards and the trucks have back-up alarms and lights; and that the site/Applicant has received many violations, i.e. from the Constables Office and the Planning and Zoning Office.

Charles Moore of Coastal Towing on Cedar Grove Road in Lewes was present in opposition to the application. He stated that the application did not mention (storage/impound); that he was at the site to pick up a wrecked vehicle and saw oil leaking on the ground; that an impound yard has to release a vehicle anytime of the day/night (24 hours a day, 7 days a week); that the Applicant should reapply and state specifically what he wants; that for 10 years the Applicant has not played by any rules; and that he questions if the Fire Marshal has been to the site.

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

**M 450 12  
Leave the  
Record  
Open on  
C/U  
No. 1933**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to leave the record open on Conditional Use No. 1933 filed on behalf of Mark A. Giblin for the purpose of receiving a report from the Planning and Zoning Department staff and the County Attorney regarding the advertisement issue.

**Motion Adopted: 5 Yeas.**

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

**M 451 12  
Defer  
Action on  
C/U 1933**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to defer action on Conditional Use No. 1933 filed on behalf of Mark A. Giblin.

**Motion Adopted: 5 Yeas.**

**M 451 12  
(continued)**

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

**M 452 12  
Adjourn**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to adjourn at  
3:46 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**



TODD F. LAWSON  
COUNTY ADMINISTRATOR




## Sussex County

ADMINISTRATIVE OFFICE BUILDING  
2 THE CIRCLE  
P.O. BOX 589  
GEORGETOWN, DELAWARE 19947  
TEL: 302-855-7742  
FAX: 302-855-7749  
tlawson@sussexcountype.gov  
sussexcountype.gov

### Memorandum

TO: Sussex County Council  
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: Todd F. Lawson  
County Administrator 

RE: ***APPOINTMENTS - ADVISORY COMMITTEE ON AGING  
AND ADULTS WITH PHYSICAL DISABILITIES FOR  
SUSSEX COUNTY***

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DATE: September 7, 2012

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In preparation for the September 11, 2012, Council meeting, I wanted to provide you with the following information. As you are aware, the County Council is required to appoint 11 members to the Advisory Committee on Aging and Adults with Physical Disabilities for Sussex County. This is an advisory group, appointed by Council, which meets every other month and serves as an advocacy and informational body to the senior and disabled communities.

On Tuesday's agenda, you will consider the appointment of both current and incoming members of the Advisory Committee. There are currently four vacancies on the Advisory Committee, and terms of the remaining members expired August 2012.

Administration is recommending the following appointments to the Advisory Committee on Aging and Adults with Physical Disabilities for Sussex County for a term of two years:

**Memo – Advisory Committee on Aging**

Page 2 of 2.

Sally Beaumont	District No. 5	Current Member
Ruth Beideman	District No. 2	Current Member
Jamie Magee	District No. 4	New Appointment
James Moseley	District No. 1	Current Member
Penny Orndorff	District No. 4	New Appointment
Scott Phillips	District No. 5	New Appointment
Larry Savage	District No. 3	New Appointment
Francine Shockley	District No. 3	Current Member
Anna Short	District No. 1	Current Member
Fran Smith	District No. 2	Current Member
John Williams	District No. 2	Current Member

Please find attached the professional biographies for new members Jamie Magee, Scott Phillips, Penny Orndorff, and Larry Savage.

Should you have any questions regarding these appointments, please let me know.

TFL/sww

Attachments

**Jamie A. Magee**  
26858 Mission Place  
Millsboro, Delaware 19966  
Home (302) 945-1121  
Work (302) 854-9788  
Cell (302) 245-2311  
[Jamie.Magee@alz.org](mailto:Jamie.Magee@alz.org)

**Objective**

To raise awareness of Alzheimer's disease and related disorders through educational services, and to provide support to the families affected by dementia.

**Experience**

2001 -to present                      Georgetown, DE  
**Alzheimer's Association Branch Office Coordinator**  
Operations of branch office and provide educational services for patients and families.

2001-2006                              Delaware Technical & Community College  
**Adjunct Instructor**

Taught various courses relating to the field of gerontology.

1999-2001                              **LifeCare at Lofland Park**  
Seaford, DE

**Social Worker                      Garden Unit**  
Admitted residents to the nursing home and worked with residents and families to assure a good quality of life.

1980-1994                              State Farm Insurance  
Georgetown, DE

**Office Manager                      Bruce Penuel, Agent**  
• Licensed Insurance Clerk  
• Supervised three other employees, and supervised the office in the owner's absence.

**Education**

1995-1997      Attended Delaware State University  
Georgetown, DE

- Attended Delaware Technical &  
                         Community College in
- Summer of 1996 and Summer and Fall of  
                         1997
- 1997-1999      Earned a Bachelor of Arts Degree with a  
                         Minor in Gerontology
- Salisbury State University  
                         Salisbury, MD
- 

**Interests**

Grandchildren, travel and gardening. I have traveled extensively throughout the United States, and visited border towns in Mexico. I also toured Austria, Germany, Italy, Hungary and Slovinia in Europe.

**Awards**

Graduated Summa Cum Laude from Salisbury State University.

## **PROFILE OF SCOTT D. PHILLIPS**

### ***Compiled for the Sussex County Council in Consideration of his appointment to the Advisory Committee on Aging and Adults with Physical Disabilities***

Scott D. Phillips: Age: 62; Hometown – Laurel, DE; Married 15 years; Wife – Darlene Phillips, RN; three (step)children; two grandchildren

Primary Residence: 24934 Patriots Way, Georgetown, DE 19947, 5<sup>th</sup> Sussex County Councilmanic District

Education: B.A. University of Delaware 1973 Major Psychology; Minor Sociology  
Graduate Work Salisbury State University 1974-1977 Special Education

Military Service: US Army – Delaware National Guard 1970–1973, Rank Spc 4, Honorable Discharge

Work: All Delaware Department of Health & Social Services (DHSS):  
  
**Stockley Center**, 1974-1981, Primary Care, Human Development Worker, Psychiatric Social Worker I & II  
  
**Community Mental Retardation Program (CMRP)**, 1982-1998, Case Manager, Case Manager Supervisor, Program Evaluator, Program Evaluator Supervisor  
  
**Division of Developmental Disabilities (DDDS)**, 1999-2008, Director  
Kent/Sussex Regional Quality Assurance Department, State Director DDDS Office of Quality Management  
  
**Retired**, 2008

Memberships: AARP, Long Neck Cheer Center, Greater Millsboro Kiwanis Club, American Legion Post 28, Salisbury Ski Club, Pot-Nets Homeowners Association, Delaware Manufactured Homeowners Association, Laurel Alumni Association, The Arc of Delaware

#### **Contributory Experiences:**

- Four years social work duties counseling/working with families;
- Ten years doing Case Management work helping families, MR/DD seniors and individuals with physical disabilities obtain community and state/federal services and resources;
- My whole 34 year career advocating for the rights of those with disabilities, including four years as Chairperson of the DDDS Human Rights Committee, and overseeing the Division's abuse/mis-treatment/exploitation investigative team.

- Served seven years as the Delaware representative on the National Core Indicators Project with MR/DD representatives from approx. 25 other states with the goal to set performance standards across states and objective measure them so as to effect improvement;
- Served nine years as the DDDS leader for its Commission for the Accreditation of Rehabilitation Facilities (CARF) certification efforts;
- Served ten years on the DDDS Director's Executive Staff management committee; served or chaired on a variety of other division committees including that of Risk Management, Mortality, Quality Improvement, Policy Development, Grant Development, Contractor RFP Approval, etc.
- Worked the last half of my career with federal funding and state licensing entities in their reviews of the Division and its component residential and day program facilities and contracted service providers;
- Wrote federal grant application and coordinated the resultant multi-year funded quality improvement project; served on inter-agency assistive technology grant-related committees;
- Recruited and oversaw the professional contracts of approx. 35 professional entities providing a variety of therapy, medical, dental, optometry, psychiatric, adult day care, etc. services to individuals served in the community;
- Authored a number of CMRP and Division policies and procedures;
- Developed a variety of surveys to measure division performance outcomes, consumer/family satisfaction, etc with accompanying software data collection and analysis tools;
- Prepared an almost countless number of reports and presentations on various survey findings. Presented such to advocacy groups, contracted service providers, Division Executive Staff, Governor's Advisory Council, and at national conferences.

## Susan W. Webb

---

**From:** Chip Guy  
**Sent:** Friday, September 07, 2012 1:05 PM  
**To:** Susan W. Webb  
**Subject:** Fwd: committee re aging and physical disabilities

Chip Guy  
Communications Director  
Sussex County Government  
2 The Circle | PO Box 589  
Georgetown, DE 19947  
(302) 854-5000  
[pio@sussexcountyde.gov](mailto:pio@sussexcountyde.gov)

Follow along on Facebook at  
[www.facebook.com/SussexCountyDE](http://www.facebook.com/SussexCountyDE) and on Twitter at  
[www.twitter.com/sussex\\_pio](http://www.twitter.com/sussex_pio)

----- Forwarded message -----

From: "[skipen@verizon.net](mailto:skipen@verizon.net)" <[skipen@verizon.net](mailto:skipen@verizon.net)>  
To: "Chip Guy" <[cguy@sussexcountyde.gov](mailto:cguy@sussexcountyde.gov)>  
Subject: committee re aging and physical disabilities  
Date: Fri, Sep 7, 2012 1:03 pm

Hello Mr. Guy,

My name is Penny Orndorff and I am interested in participating on the committee for aging and physical disabilities for sussex county council. I am in George Coles district and he asked me to contact you regarding my interest.

I am retired from the State of Delaware. I spent 22 years working for the Division of Developmental Disabilities. I started my career at the Stockley Center as an Activity Therapist and ended my career as the Director of Community Services for the Division. As Director, I was responsible for overseeing the provision of services for people with developmental disabilities throughout the state. I worked with a number of agencies who provided both residential and day services. In my role I also collaborated with other Divisions, including the Division of Aging and Physical Disabilities and the Division of Mental Health.

I have a Bachelors Degree in Education for Alderson-Broaddus College in Phillippi, WVA and Masters of Science in Human Resource Management for Wilmington College.

Please let me know if you need any additional information. I look forward to participating on this committee.

Thanks, Penny

Larry E Savage  
521 Mulberry Street  
Milton DE 19968

Home Phone: 302-684-3156

Cell: 302-542-9206

e-mail: [les521@netzero.net](mailto:les521@netzero.net)

**Employment History:**

Client Services Representative and Banking Officer - Retired after 39 years from the Wilmington Trust Company

**Past memberships:**

Board Member - Milton Zoning Board

Member - 36<sup>th</sup> Democratic District Committee

**Current Memberships:**

Deacon Board - Church of the Lord Jesus Christ (Ellendale DE)

Member - 20<sup>th</sup> Democratic District Committee

Board Member - Milton Community Foundation

Part time driver - Meals on Wheels for the Milton Cheer Center





# Sussex County 2013-2018 Capital Transportation Program Request

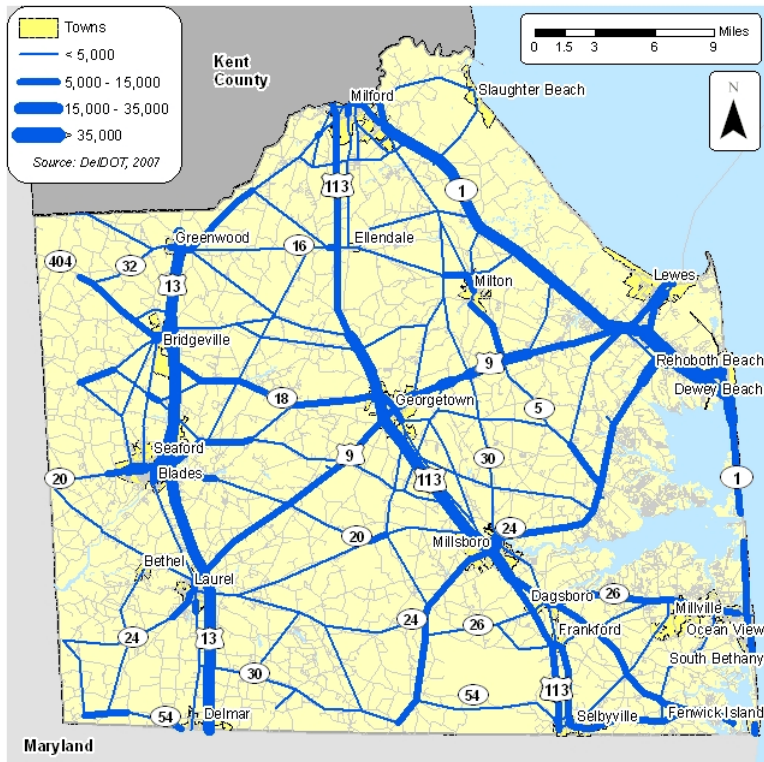


September 13, 2012

# Sussex County

## 2013-2018 Capital Transportation Program Request

### Average Annual Daily Traffic - 2005



Source: Sussex County 2007 Comprehensive Plan Update

Sussex County is Delaware's largest county, with 938 square miles of land within its borders. Within that broad expanse is more than 37 percent of the State's 6,281 miles of public roadway.

In Sussex County, the most heavily traveled roadways are US 13 and SR 1 (each carrying more than 30,000 vehicles daily), followed by US 113 with more than 24,000 vehicles daily. At the same time, the major east-west routes also are heavily traveled, though these are less capable of extensive traffic. Congestion due to the movement of summer visitors often compounds traffic problems.

As noted in the charts below, congestion is expected to worsen by 2030, even assuming currently planned projects are completed.

### 2000 and 2030 Year-Round Congestion (Volume to Capacity Ratio > 85%)



### 2000 and 2030 Summer Congestion (Volume to Capacity Ratio > 85%)



Source: Sussex County 2007 Comprehensive Plan Update



# Sussex County Priorities

## 2013-2018 Capital Transportation Program Request



The following items are Sussex County's transportation priorities for the 2013-2018 Capital Transportation Program. Each priority is explained in further detail in subsequent sections of this request:

- East-West Improvements
  - ❖ SR 24
  - ❖ SR 26
  - ❖ Routes 404/9
- North-South Highway Improvements
- SR 1 Improvements
- Sussex County Airport
- Local Roads
- Park Avenue/US 9 Truck Route
- Intersections, Signage & Signalization
- Bicycling/Walking Trails
- Alternative Transportation

# East–West Corridors

## 2013-2018 Capital Transportation Program Request

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The Capital Transportation Program budget in FY13 includes \$100 million in State and federal funding for a number of improvements to portions of the county's network of east-west arteries. Projects targeted for funding include preliminary engineering work on SR 24, completion of the SR 26 detour routes, and preliminary engineering, right of way acquisition and initial construction of the mainline SR 26 improvements.

Sussex County appreciates the State's attention to these very critical links to the transportation system by budgeting for these current and future long-term projects.

However, substantially more funding will be needed in the years ahead, particularly for rights of way acquisitions, so improvements on other major east-west arteries can occur across the entire network. These improvements would include:

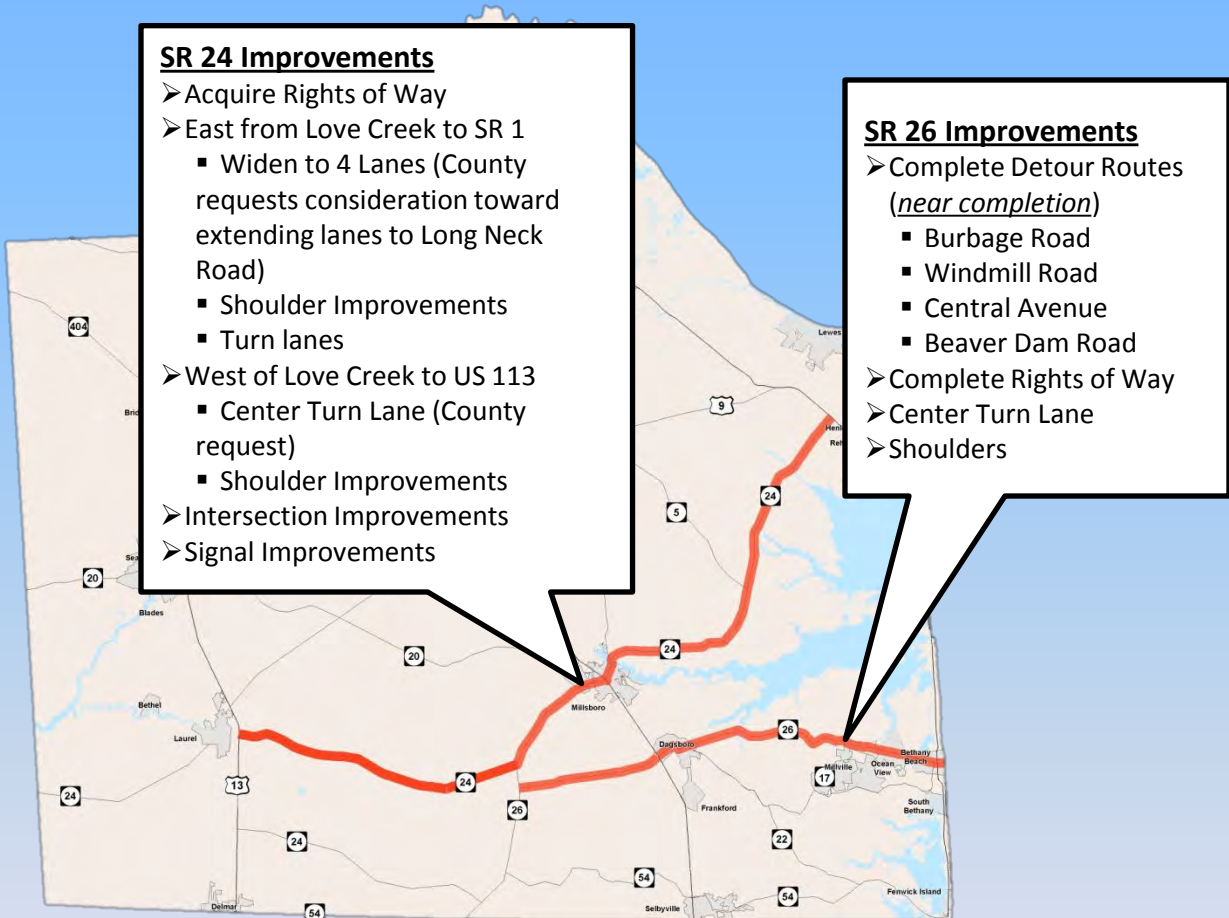
- Widening corridors to accommodate increased traffic volume;
- Resurfacing of shoulders to highway standards;
- Intersection upgrades such as the addition of left-turn lanes, increased illumination, and directional signage;
- Better coordination of traffic signals at identified choke points.

If current travel patterns continue as predicted, increased and frequent congestion will further interfere with local residents' mobility in many areas. Anticipating and funding necessary improvements such as these across the county's entire network of east-west arteries will better meet the travel needs of local residents and visitors for decades to come.

# East–West Corridors

## 2013-2018 Capital Transportation Program Request

State Routes 24 and 26 are two of Sussex County's primary east-west corridors, allowing entry and egress from coastal communities. These routes are critical to allowing local motorists and destination drivers access to homes and commercial centers in the resort area. The routes in their current configuration, both two-lane roads, are currently insufficient to safely and efficiently move traffic into and out of the area, particularly during peak summer months and evacuations.





# East–West Corridors

## 2013-2018 Capital Transportation Program Request

The SR 404/18 corridor, which connects with US 9 at Georgetown, is the principal means of east-west movement in Sussex County. This route, which connects to Route 404 in Maryland, is the gateway for beach-bound traffic during summer months. High traffic volume often limits this two-lane road's capacity; Maryland is widening its portion of the route to accommodate east-west traffic to and from Delaware.

### SR 404/SR 18 Improvements

- Increase Capacity for SR 404/SR 18 from Maryland east to Georgetown
  - Conduct comprehensive corridor review to identify and prioritize key intersections for improvement
- Consider use of center, right turn lanes at potential 'choke points' to improve traffic flow

### US 9/SR 404/SR 18 Improvements

- Increase Capacity for US 9/SR 404/SR 18 from Georgetown east to SR 1
  - Conduct comprehensive corridor review to identify and prioritize key intersections for improvement
- Consider use of center, right turn lanes at potential 'choke points' to improve traffic flow



# Sussex County Airport

## 2013-2018 Capital Transportation Program Request



The Sussex County Airport near Georgetown is a critical link in Southern Delaware's transportation system, and the facility is equally vital to the local economy.

The airport records approximately 40,000 landings and takeoffs each year, and is home to a vibrant economic and educational base, including PATS Aircraft and its auxiliary fuel tank installation business and the DelTech airframe maintenance training program.

Currently, there are 16 employers and more than 900 jobs at the Sussex County Industrial Airpark, with an annual payroll of more than \$36 million. Planned improvements, notably the extension of the main runway from 5,000 feet to 6,000 feet, will help retain well-paying jobs and attract new opportunities to the Sussex County Airport and the greater community.

Sussex County government estimates expenditures of more than \$25 million from FY12 to FY16 for the Sussex County Airport & Industrial Park. The County estimates the local share of costs for the planned 1,000-foot runway extension to be approximately \$12 million. This includes \$6 million for the actual runway extension, and an additional \$6 million for the necessary realignment of Park Avenue (see Page 7).

In August 2012, Sussex County broke ground on the first 500-foot extension, and is already planning for the second 500-foot extension to begin by 2014.

The County urges the Council on Transportation, the Department, and the State to continue their work with the County and Delaware's Congressional delegation to secure the necessary federal and state funding for the full 1,000-foot runway extension, which is critical to ensuring aviation safety and continued economic opportunities in Sussex County.



# Park Avenue/US 9 Truck Route

## 2013-2018 Capital Transportation Program Request



As part of the planned main runway extension project at the Sussex County Airport, portions of Park Avenue – also known to travelers as the US 9 Truck Route – on the southeastern side of Georgetown would require relocation. Park Avenue is a local bypass for trucks, designated by the Department of Transportation, and is the sole route to the Sussex County Industrial Airpark. It also serves as a popular local route for motorists as they navigate through the Georgetown area.

As part of the road relocation project, the southern end of Park Avenue would shift from its current terminus at South Bedford Street to approximately one-half mile southward, to the intersection of South Bedford Street and Arrow Safety Road. The relocation is necessary to accommodate the County's goal of extending by 1,000 feet the main runway at the Sussex County Airport, as well as to provide a safer, more efficient route around Georgetown.

This project, estimated at approximately \$6 million, would present an opportunity for other long-needed improvements to be made to Park Avenue, including the addition of shoulders and installation of turn lanes, as well as intersection modifications at Arrow Safety Road and US 113. State lawmakers budgeted \$800,000 in this year's Bond Bill for DelDOT to begin design work in anticipation of this project.

County government requests that the Council on Transportation give thoughtful consideration toward allocating additional long-term funding for Park Avenue's realignment and other improvements, all of which would enable the runway project to move forward and guarantee a safer route for the traveling public.



# Bicycling/Walking Trails

## 2013-2018 Capital Transportation Program Request

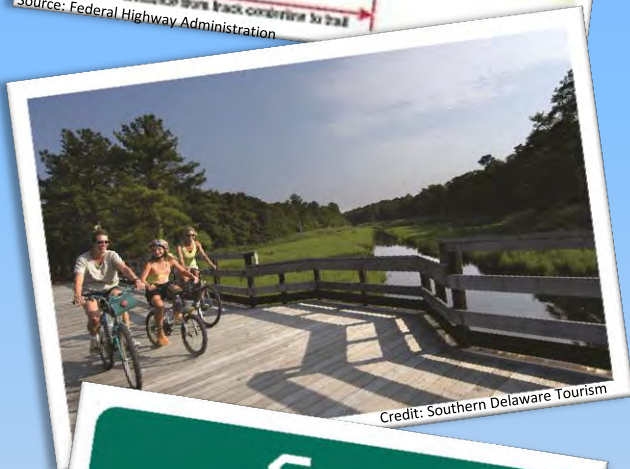
Sussex County supports the recent attention placed on efforts to bring new Rails with Trails pathways to Southern Delaware.

In the 2013 State budget, the Delaware General Assembly set aside \$13 million in funding for a new trails initiative that will link communities, parks, and other points of interest in the First State. One potential project that could benefit from this funding is the long proposed Georgetown-to-Lewes Rail Trail, which would stretch 17 miles alongside the Delaware Coastline Railroad line from the county seat to the beaches.

This proposed multi-use path would provide an alternate means for residents and visitors alike to navigate Sussex County, to access other trails, such as the Breakwater & Junction Trail between Lewes and Rehoboth Beach, and would promote a healthier lifestyle for users young and old. It could also retain the current rail line, providing a critical link for businesses to move products and keep the local economy strong.

Sussex County requests that the Council on Transportation and the Department evaluate proposals such as the Georgetown-to-Lewes Rail Trail when deciding how to allocate Delaware's annual share of federal matching funds, such as the Congestion Mitigation and Air Quality (CMAQ) and Surface Transportation Program (STP) grants.

Those dollars, in conjunction with the \$13 million set aside in the 2013 State budget, could make alternative, multi-use paths a reality for bicyclists and pedestrians who want to connect with their communities and the natural beauty that makes Sussex County so special.



# North-South Hwy Improvements

## 2013-2018 Capital Transportation Program Request



Improvements to Sussex County's major north-south corridors, specifically US 113, remain a significant transportation need in order to address local traffic requirements, seasonal demands and interstate travel. Public sentiment to preserve the existing highway with the least amount of impacts on properties has compelled the State to re-evaluate planned upgrades to this corridor.

US 113 is fed by SR 1 from the north, SR 404 from the west and the Maryland portion of US 113 from the south. Many travelers to the coastal areas of Sussex County already utilize US 113 to bypass the often congested SR 1 corridor.

Users have distinct, and in some cases, conflicting operational requirements. Local users prefer access to properties with relatively simple and safe traffic patterns. Trucks, vacationers, and long-distance commuters, on the other hand, desire high-speed traffic patterns with minimal interruptions. Intersection upgrades, additional travel lanes, and other modifications could satisfy travelers' needs, and ease demand on other north-south arteries, such as US 13 and SR 1.

Because of the project's potential costs and effects, the County believes improvements should be phased in, based on public consensus, and given high priority to move the project from concept to reality.





# Del. Route 1 Improvements

## 2013-2018 Capital Transportation Program Request

Improvements along SR 1, especially near the beach area, must continue for the sake of improving safety and aiding in the reduction of traffic congestion.

### ➤ **Five Points Intersection/US 9 Realignment**

Improvements are needed at the Five Points intersection to reduce accidents at this gateway to the resort area, which is often congested and confusing to motorists. Realignment of the US 9 connection at Five Points could help ease congestion .



SR 1 at Nassau Bridge, Five Points

### ➤ **Intersections at SR 16 near Milton and SR 30 near Milford**

Overpasses with exits at these intersections would improve safety. These are accident-prone and dangerous intersections. Overpasses also would eliminate the need for traffic signals.



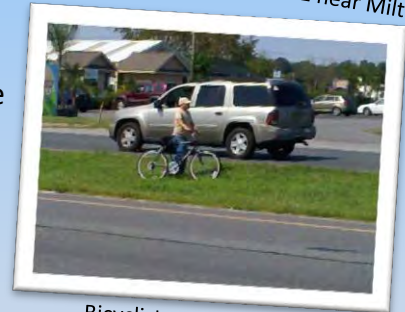
Intersection of SR 16 and SR 1 near Milton

### ➤ **Sidewalks**

Additional sidewalks along SR 1, particularly in gaps that exist between Five Points to Dewey Beach, would improve safety for pedestrians and encourage walking to and from this busy commercial area.

### ➤ **Pedestrian Bridges and Crosswalks**

Pedestrian/bicycle crosswalks at key locations would improve safety. Pedestrian bridges would further improve safety for those walking near the retail outlets by moving them above traffic.



Bicyclist crossing SR 1

### ➤ **Pedestrian/Bicycling Paths**

Expanding the popular Rails with Trails concept along railway corridors, particularly between Georgetown and Lewes, could improve alternative movement to and along the SR 1 corridor. Additionally, dedicated pathways, improved lighting, more visible signage and crossings, and education outreach efforts to visitors could enhance bicycling safety, which is paramount in light of recent tragedies involving motorists fatally striking cyclists on SR 1.

### ➤ **Commercial Properties Interconnectivity**

Connecting entrances/exits between adjoining commercial properties should be a priority, where possible, along the SR 1 corridor. This would allow those visiting stores the ability to move among the properties without having to re-enter and exit the highway. Such connectivity also should be used in commercial areas along the US 13 and US 113 corridors.



Sidewalk ends along SR 1

# Local Roads

## 2013-2018 Capital Transportation Program Request

Routes such as SR 1, US 113 and US 13 serve as the major arteries of Sussex County's transportation network. Local roads, however, are the vessels that move traffic throughout all parts of the body.

The Sussex County Council submits the following list of local roads as those that should be targeted for upgrade and expansion. These roads are currently or soon will serve a growing population, which will result in added traffic. Many of these roads, either by State designation or through motorists' preference, are used as alternate routes for major thoroughfares.

Upgrades of these roadways includes paving of the surface, widening shoulders and/or installing turn lanes, as indicated. Upgrades also should include marking bicycle and pedestrian lanes, and illuminating key intersections.

The County recognizes it may be impractical to abandon the use of 'tar and chip' treatments on some roads. The County, however, encourages DelDOT to continue pursuit of its 10-year goal to pave all 'tar and chip' roads with an annual average daily traffic (ADT) count greater than 500 vehicles.



Double Bridges Rd.



'Tar & Chip' roadway west of Georgetown

# Local Roads

## 2013-2018 Capital Transportation Program Request

### **Bethany Beach**

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- RD 360 – Fred Hudson Road  
(Flooding)
- RD 363 – Double Bridges Road  
(Shoulders)

### **Blades**

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- RD 490 – River Road  
(Shoulders)

### **Bridgeville**

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- RD 40 – Redden Road  
(Shoulders)
- RD 525 – Coverdale Road  
(Shoulders)
- RD 583 – Adams Road  
(Shoulders; Turn lane at RD 585)
- RD 585 – Woodbridge Road  
(Widen; Turn lane at sports complex)
- RD 594 – Oak Road  
(Pave)

### **Dagsboro/Frankford**

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- RD 336 – Piney Neck Road  
(Shoulders)
- RD 402A – Fox Run Road  
(Pave)
- US 113 – DuPont Boulevard at Cricket Street  
(Median crossover for EMS)

### **Georgetown**

---

- RD 48 – Zoar Road/Hollyville Road  
(Shoulders; Intersections at Avalon Road and Hurdle Ditch Road)
- RD 62 – East Trap Pond Road  
(Shoulders)
- RD 249 – Shingle Point Road  
(Left-turn lane from US 9)
- RD 318 – Park Avenue (Truck Route 9)  
(Shoulders; Left-turn lane from US 9)
- RD 324 – Railroad crossing on Sussex Pines Road  
(Improve grade at crossover)

### **Georgetown (cont.)**

---

- RD 527 – Wilson Hill Road  
(Pave)
- US 113 – DuPont Boulevard at E. Trap Pond Road  
(Median crossover for EMS)
- US 113 – DuPont Boulevard at Speedway Road  
(Intersection)

### **Greenwood**

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- DE 36 – Scotts Store Road  
(Widen shoulders)
- RD 594 – Webb Farm Road  
(Flooding at sharp turn)

### **Laurel**

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- RD 446 – Beaver Dam Branch Road  
(Pave & Widen)
- RD 515 – Bacons Road  
(Pave; Shoulders)





# Local Roads

## 2013-2018 Capital Transportation Program Request

### **Lewes**

- RD 88 – Cave Neck Road  
(Lengthen left-turn lane from SR 1)
- RD 266 – New Road  
(Shoulders; Bike path)
- RD 270 – Wolfe Neck Road/Munchy Branch Road  
(Bike/pedestrian path)
- RD 275 – Plantations Road/Postal Lane  
(Intersection signalization)

### **Millsboro**

- RD 288A – Dorman Road  
(Pave)
- RD 313 – Gull Point Road  
(Flooding; Intersection)
- RD 328A – Godwin School Road  
(Pave)

### **Millville/Ocean View**

- RD 84 – Central Avenue  
(Shoulders)
- RD 349 – Old Mill Road  
(Pave; Shoulders)
- RD 350 – Railway Road  
(Widen shoulders)

### **Milton**

- RD 38 – Prime Hook Road  
(Flooding; Pave & Widen)
- RD 88 – Cave Neck Road  
(Widen shoulders)

### **Seaford**

- RD 535 – Middleford Road  
(Gateway improvements)
- US 13A – Bridgeville Highway  
(Sidewalk connectivity)



# Local Roads

## 2013-2018 Capital Transportation Program Request

Items highlighted in **RED** correspond with road improvement requests listed on Pages 12 and 13 of the Sussex County 2013-2018 Capital Transportation Program request.





# Intersections, Signage & Signalization

## 2013-2018 Capital Transportation Program Request

Like a chain, a transportation network is only as strong as the intersections, signage and traffic signals that connect together the system of roads and highways. Routes that easily clog because of limited capacity, poorly timed signals and inadequate signage can impede the flow of traffic.



The County encourages the State to continue evaluating intersections along major routes, such as the US 9 corridor between Georgetown and Lewes, to determine the best means for improving traffic flow. The County supports the State's current effort to improve US 9 intersections at Gravel Hill, Hudson and Sweetbriar roads. Improvements at these and other intersections could include the installation of dedicated turn lanes and better coordination of traffic signals.

The County also encourages the State to improve signage along and near roads, such as SR 30 and SR 5 from Milford to Long Neck, that could serve as local bypass routes, thereby alleviating congestion on major highway corridors, including SR 1 and US 113.

An additional suggestion to improving mobility is to incorporate blinking red arrow, left-turn signals at key intersections. This type of signal, found in areas of Kent and New Castle counties, could ease congestion at Sussex intersections, such as those along SR 1, US 9, US 13 and US 113.





# Transportation Alternatives

## 2013-2018 Capital Transportation Program Request

As high energy costs and economic uncertainty continue to weigh on household budgets, Delaware has the opportunity now to expand its transportation alternatives – particularly mass transit – to meet public demand, conserve resources and lessen the burden on highways. Stronger consideration toward various options, such as those listed below, could reduce traffic congestion on Sussex County's network of roads.

### ➤ **Bus Service**

- *Fixed Route Service*

Extending DART First State service to other areas, such as Selbyville, Millsboro, Long Neck and other job centers (based on requests)

- *Private Partnerships*

Encourage private mass transit providers to offer bus routes between urban centers and Sussex beaches

- *Signage and Stops*

Current bus stops should be evaluated to ensure pick-up and drop-off locations are optimal and not placed at out-of-the-way sites; larger signs at those locations could better draw public attention and boost ridership

- *Coordinated ParaTransit Services*

Helps the growing senior and disabled population with more efficient service

### ➤ **Passenger Rail Service**

The County supports the ongoing effort by Delaware and Maryland to study the concept of passenger rail service on the Delmarva Peninsula

### ➤ **Expanded Park & Ride System**

Offer public additional park & ride locations to encourage carpooling, improve use of mass transit

### ➤ **Bicycle and Pedestrian**

Complement the popular Junction and Breakwater Trail with other rail trails (e.g. Georgetown to Lewes, as well as Ellendale to Milton); such interconnectivity of trails could allow cyclists to commute safely between coastal and inland portions of the county (see Bicycling/Walking Trails slide on Page 8).



# Closing Remarks

## 2013-2018 Capital Transportation Program Request

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Sussex County Council thanks the Department of Transportation and the Council on Transportation for considering its request for the 2013-2018 Capital Transportation Program.

As limited transportation funding is appropriated for various projects throughout the State of Delaware, particularly in these difficult economic times, the County Council trusts that DelDOT and the Council on Transportation recognize how vital the County's recommendations are to accommodating an increasing population, expansive geography and local economy.

Sussex County encompasses the largest geographic area in Delaware, occupying more than 46 percent of the area in the state. Additionally, nearly 37 percent of all State-maintained roads are in Sussex.

The Delaware Population Consortium estimates Sussex County's population will grow approximately 30 percent between 2010 and 2025. Despite a weaker national economy, tourism continues to thrive in Southern Delaware, and that causes additional demands on our transportation system.

Residents of Sussex County continue to express concerns regarding the maintenance and improvements needed to the local road system. As the county grows, these concerns will only increase. Waiting to plan and make needed roadway improvements after the fact will only make these improvements more expensive and difficult to implement.

Sussex County requests the State of Delaware weigh these factors as it allocates transportation funds. The State should also consider the economic impact as it relates to the County's request.

# Closing Remarks

## 2013-2018 Capital Transportation Program Request

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As noted in previous years, County Council encourages the State to consider adequate funding for needed improvements to the County's transportation system. Sussex County urges DelDOT to take the necessary steps now to make essential projects, particularly improvements to the network of east-west arteries, as well as improvements along SR 1 to ensure pedestrian and bicyclist safety, among its highest priorities.

In addition to improving mobility and safety, enhancing economic development opportunities in Sussex County should be a factor in determining transportation priorities and funding.

Rerouting Park Avenue and extending the main runway at the Sussex County Airport may preserve existing jobs at the County's Industrial Park, and spawn new employment opportunities in the near future. Meantime, providing a walking/bicycling trail between Georgetown and Lewes would increase tourism opportunities, especially in central Sussex County.

Overall improvements to the County's transportation system will ensure Sussex County and the State of Delaware can continue to serve our population, as well as attract and accommodate the millions of visitors who come to our state each year.

Again, Sussex County Council thanks the Department of Transportation and the Council on Transportation for allowing the County the opportunity to submit its yearly requests for the Capital Transportation Program. We expect this report will assist the Department in prioritizing which projects earn funding from DelDOT's limited resources.



**Sussex County Council  
2 The Circle  
PO Box 589  
Georgetown, DE 19947**

**[www.sussexcountyde.gov](http://www.sussexcountyde.gov)**

Prepared by:  
Wilson, Halbrook and Bayard, P.A.  
PO Box 690  
Georgetown, DE 19947  
Tax Map No.: 1-35-15.00-138.00

Return to:  
Sussex County Engineering Department  
2 The Circle  
P.O. Box 589  
Georgetown, DE 19947

### **UTILITY SERVICE AGREEMENT**

**THIS AGREEMENT**, made this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2010,

by and between:

**GEORGETOWN AIRPORT CENTER, LLC** 300 Water Street, Suite 300,  
Wilmington DE 19801, and their successors and assigns, hereinafter "GAC".

**AND**

**SUSSEX COUNTY**, a political subdivision of the State of Delaware, of P.O.  
Box 589, Georgetown, DE 19947, hereinafter "County",

**WHEREAS**, GAC is the owner of the real property described in Exhibit A,  
attached hereto, adjacent to the Sussex County Airport.

**WHEREAS**, the property of GAC is to be connected to the sanitary sewerage  
collection and transmission system of the County for purpose of permitting GAC to  
discharge its sanitary sewerage and wastewater into the Town of Georgetown's  
(hereinafter "Town") Sanitary Sewer System for treatment and disposal; and

**WHEREAS**, the property of GAC is to be connected to the water and fire  
protection services provided by the County at the Sussex County Airport;

**WHEREAS**, the term of this agreement shall be for two years from the date of  
execution at which time a new agreement will be considered unless this agreement is  
extended by mutual written agreement of both parties.

**NOW, THEREFORE, WITNESSETH:** that for and in consideration of the  
mutual covenants hereinafter expressed, the parties hereto agree as follows:



## **A. SANITARY SEWER SERVICE**

1. County agrees to allow GAC, and GAC agrees to accept from County, the right to connect to the County's sanitary sewer service for the collection and transmission of GAC's sanitary waste, subject to the terms and conditions hereinafter set out. County and GAC acknowledge that the Town will treat and dispose of GAC's waste that is transmitted through the County's system.

2. GAC, at its expense, shall plan, design, construct and own a sanitary waste collection and transmission system (hereinafter "the system") of sufficient capacity to collect and transmit the sanitary waste generated by the contemplated uses and occupancies of its properties to the treatment and disposal system of the Town through the collection and transmission systems of County. The connection point for sanitary service shall be located on Baltimore Avenue in the Sussex County Industrial Park. The GAC property referred to herein contains 74.04 acres, more or less, is located on Park Avenue, in Georgetown Hundred, Sussex County, Delaware, and is known and designated as "King Farm Industrial Park", as more particularly described in Exhibit A, attached hereto and made a part hereof. GAC shall retain ownership of the system to the point of connection described herein.

3. GAC shall design and construct the system in accordance with all requirements of the County and state or federal agency having jurisdiction over sanitary sewage collection and transmission.

4. All design and construction by GAC of the system shall be subject to inspection and approval by the County and its consulting engineers. Upon review and approval by the County and its consulting engineers, GAC will be given notice to proceed with the construction in accordance with the approved plans, specifications, and construction documents and subject to all permits and approvals. GAC shall complete construction of phase one within twenty-four (24) months of the execution of this agreement on a best efforts basis.

5. GAC shall cause all of the foregoing work to be performed in a good and workmanlike manner consistent with all requirements of the approved drawings, specifications and permits. GAC shall be responsible, at its sole cost and expense, for any damage, repair, replacements or upgrades to the County's transmission and collection system caused by GAC's connection to the County's system. GAC further agrees to be responsible, at its sole cost and expense, for all necessary repairs of roads directly disturbed or damaged as a result of their construction of the system and shall cause restoration of any portion of any property that is damaged or disturbed in the exercise of the rights granted under this Agreement as nearly as practicable to the condition that existed immediately prior to such damages or disturbances.

6. The sewerage facilities are intended solely for the purpose of disposing of sanitary sewerage from the lands subject to this Agreement. GAC, for itself, its

successors, assigns, transferees, and its lessees, as well as those occupying properties covered by this Agreement, shall not dispose of or otherwise introduce into the sanitary sewerage system any wastes other than sanitary sewage in accordance with the rules, regulations and procedures of the County, and in accordance with the joint Sussex County/Town of Georgetown wastewater agreement. Failure on the part of GAC, its successors, assigns, transferees, and its lessees, or any user, to comply with the provisions of this paragraph shall be cause for either disconnection from the system or installation of a pre-treatment system, and the party responsible for the introduction of such unauthorized waste shall be liable to the party of the first party for all damages resulting from such action. GAC and any user shall hold Town and County harmless and indemnify them against all claims, causes of action, costs and expenses, including reasonable attorney's fees, incurred by them as a result of the act or actions of the user in introducing unauthorized waste into the sanitary sewerage facilities. The GAC, its successors, assigns, transferees, and its lessees, and the users of the sanitary sewerage facilities agree to abide by the established rules and regulations of the County or Town for the proper use and protection of the sewerage system. It is specifically agreed and understood by and between the parties that this agreement is for sanitary waste and that there shall be no industrial discharges permitted on the subject premises. In addition to the foregoing, GAC shall conform to the Wastewater Quality Criteria attached hereto as Exhibit C, as may be modified from time to time by the Town (with any such modifications automatically incorporated into this Agreement without further consent from the parties hereto).

7. It is agreed that the County has allocated 61 EDU's of conveyance of wastewater for the entire property of GAC (being the equivalent of 13,725 gallons per day). If additional capacities are required by GAC, then those additional capacities shall be applied for to Town in accordance with its Agreement with County and its ordinances, rules and regulations, and GAC shall be subject to any additional fees or costs as may be applicable at the time of the request; including, but not limited to costs of upgrading County's system to handle and transmit any additional capacity granted to GAC. The calculation of said EDU's shall be based upon methodology outlined in the Code of the Town of Georgetown, Chapter 176, Sewers.

8. GAC agrees that authorized agents or representatives of Town or County shall be permitted to enter into or upon the premises owned by GAC, its successors, assigns, transferees, and its lessees, and served by this Agreement at a reasonable time to inspect the fixtures and to insure that the rules and regulations duly enacted or adopted by Town relating to the use of the sanitary sewer system are being complied with.

9. GAC shall pay to County those sewer rates and sewer impact fees as detailed in the attached Exhibit B.

## **B. WATER SERVICE**

10. County agrees to provide to GAC, and GAC agrees to accept from the County, water service for domestic consumption, subject to the terms and conditions hereinafter set forth.

11. GAC, at its expense, shall plan, design, construct and own a water distribution system, including the installation of water meters (hereinafter "the water system"), of sufficient capacity to provide water for domestic consumption for the contemplated uses and occupancies of its properties. The connection point for water service shall be located on Baltimore Avenue in the Sussex County Industrial Park. Said plans and design are subject to the review and approval of the County and its consulting engineers.

12. All water to be supplied to structures situated on the above described property shall be metered and such meters shall be provided and installed by GAC in meter pits in accordance with County's standards and or specifications to permit the determination of water consumption from the exterior of the structures. GAC and its lessee's, users and assigns hereby grants permission to the County to come upon its property for the purpose of inspecting and reading said meters.

13. If any additional water service upgrades shall be required by GAC, it shall bear the costs of any capital improvements to the infrastructure necessary to provide the same.

14. GAC shall pay to County those water rates and water impact fees as detailed in the attached Exhibit B.

#### **C. FIRE PROTECTION SERVICE**

15. County agrees to provide to GAC, and GAC agrees to accept from the County, water service for fire protection and safety purposes, subject to the terms and conditions hereinafter set forth.

16. GAC, at its expense, shall plan, design, construct and own a water distribution system for fire service of sufficient capacity to provide water for fire service for the contemplated uses and occupancies of its properties. The connection point for sanitary service shall be located on Baltimore Avenue in the Sussex County Industrial Park. Said plans and design are subject to the review and approval of the County and its consulting engineers.

17. If any additional upgrades for fire service shall be required by GAC for fire service and safety protection, it shall bear the costs of any capital improvements to the County's infrastructure necessary to provide the same.

18. GAC shall pay to County a fire protection impact fee as detailed in the attached exhibit B.

#### **D. GENERAL TERMS**



19. GAC agrees that as part of its Phase I construction to remove any trees that represent obstructions to air navigation, as defined by Title 14 Code of Federal Regulations, Part 77. If the obstruction removal is not accomplished within 6-months of the date of execution of this agreement, GAC agrees that authorized representatives of Sussex County shall be permitted to enter into or upon the premises owned by GAC and remove said trees.

20. It is mutually agreed that this Agreement shall be binding not only on the parties hereto, but their successors or assigns, users, lessees or transferees and shall bind and run with the lands described herein. This Agreement shall be governed by the laws of the State of Delaware.

21. This Agreement shall be recorded in the Office of the Recorder of Deeds, in and for Sussex County.

22. The term of this Agreement shall be for a period of two (2) years, commencing on the date of execution of this Agreement, unless extended by mutual written agreement of the parties hereto.

23. This Agreement shall not be amended except by written agreement of the parties hereto.

24. This Agreement shall be contingent upon approval and execution of an Amendment to the Wastewater Agreement dated the 23<sup>rd</sup> day of April, 2008 between Sussex County and The Town of Georgetown.

**IN WITNESS WHEREOF**, the parties hereto have hereunto caused this Agreement to be signed by their proper officers the day and year aforesaid.

[Signatures of authorized persons on behalf of the parties shall appear next.]

In Witness Whereof, the parties hereto have set their hands and seals this 28th day of September, 2010.

SUSSEX COUNTY

By:

Vance Phillips  
Vance Phillips, President  
Sussex County Council

Attest:

Robin Griffith  
Robin Griffith, Clerk  
Sussex County Council

APPROVED AS TO FORM

VG Robertson  
Vincent G. Robertson, Esquire  
Assistant County Attorney

Georgetown Airport Center, LLC

By:

[Signature] (seal)  
Authorized Member

STATE OF DELAWARE  
COUNTY OF SUSSEX

BE IT REMEMBERED, that on this 9<sup>th</sup> day of Nov, 2010, personally appeared before me, Timothy L. Jones, Authorized Member of the Georgetown Airport Center, LLC, know personally to be such and acknowledged said Indenture to be his act and deed and the act and deed of the said Georgetown Airport Center, LLC.

Michelle J. Mulrine  
Notary

My Commission Expires:

10/13/14



STATE OF DELAWARE :  
: Ss.  
COUNTY OF SUSSEX

BE IT REMEMBERED, that on this 28 day of September 2010, personally appeared before me the subscriber, a Notary Public for the State and County aforesaid, Vance Phillips President of the Sussex County Council for Sussex County, Delaware, a political subdivision of the State of Delaware, party to the foregoing Indenture, known to me personally to be such, and acknowledged said Indenture to be his act and Deed and the act and Deed of the said political subdivision; that the signature of the President thereto is in his own proper handwriting; that the seal affixed is the common and corporate seal of the political subdivision, duly affixed by its authority; and that his act of signing, sealing, acknowledging and delivering said Indenture was first duly authorized by Sussex County Council.

Given under my hand and seal of office the day and year aforesaid.

Jacqueline Clark  
Notary Public  
Jacqueline Clark  
Printed Name of Notary

My Commission Expires:

Jacqueline D. Clark  
Notary Public  
State of Delaware  
Commission Expires 11/11/11

## EXHIBIT "A"

### PROPERTY DESCRIPTION

All that certain tract, piece or parcel of land, lying and being situate in Georgetown Hundred, Sussex county, Delaware, and lying west of Park Avenue (State Truck Route 9), south of the railroad and 0.7 mile south of Route 9 and being more particularly described as follows: Beginning at a concrete monument on the westerly right-of-way of Park Avenue, a corner for these lands and lands now or formerly of Marguerite Wilson Alves; thence south  $07^{\circ}27'40''$  west 1,306.33 feet along the westerly right-of-way of Park Avenue; thence south  $85^{\circ}59'07''$  west 600.17 feet along lands now or formerly of Regina L. Holland to a point; thence by and along lands of Sussex County (Sussex County Airport) the following six (6) courses: north  $26^{\circ}31'02''$  west 541.21 feet to a concrete monument; south  $75^{\circ}42'07''$  west 48.41 feet to a concrete monument; south  $80^{\circ}56'47''$  west 110.98 feet to an iron pipe; north  $06^{\circ}41'31''$  east 346.65 feet to an iron pipe; south  $73^{\circ}08'19''$  west 41.62 feet to a concrete monument; north  $26^{\circ}56'41''$  west 2,038.50 feet to a concrete monument on the southerly right-of-way of the railroad; thence north  $67^{\circ}44'49''$  east 1,471.96 feet along the southerly right-of-way of the railroad to a concrete monument; thence by and along lands now or formerly of Marguerite Wilson Alves, the following three (3) courses: south  $03^{\circ}16'17''$  east 687.07 feet to a concrete monument; south  $08^{\circ}51'24''$  east 1,160.98 feet to a concrete monument; and north  $89^{\circ}03'51''$  east 512.10 feet to the point and place of beginning, said Parcel containing 74.04 acres, more or less.

**EXHIBIT "B"**  
**RATE CHARGES**

**SEWER**

- **IMPACT FEES**

GAC agrees to pay to the County Town of Georgetown sewer impact fees of \$7,277.00 per EDU, or the current Town of Georgetown's existing rate, as may be established by the Town in accordance with its policies and procedures from time to time, at the time a building permit is granted. GAC agrees to pay to the County \$2,528 per EDU or the current County existing rate, as may be established by the county in accordance with its policies and procedures from time to time, at the time a building permit is granted.

- **OPERATIONS AND MAINTENANCE CHARGES**

GAC agrees to pay to the Town of Georgetown, as billed by the Town, the current in-Town rate for sewer service charge.

GAC agrees to pay to the County \$4.57/1,000 gallons billed quarterly, or the current rate, as may be established by the County in accordance with its policies and procedures from time to time, upon connection to the County water system.

**WATER**

- **IMPACT FEES**

GAC agrees to pay the County \$2,754.71 per EDU or the current rate, as may be established by the County in accordance with its policies and procedures from time to time, at the time a building permit is granted. system.

- **WATER CHARGES**

GAC agrees to pay the County \$6.85/1,000 gallons with an availability rate of \$35.00, billed quarterly, or the current rate, as may be established by the County in accordance with its policies and procedures from time to time, upon connection to the County water system.

## **FIRE PROTECTION**

- **IMPACT FEES**

GAC agrees to pay the County \$.44 cents/square foot or the current rate, as may be established by the County in accordance with its policies and procedures from time to time, upon connection to the County water system.

- **SERVICE CHARGES**

GAC agrees to pay the County \$150.00 per quarter, billed on the water bill, for fire protection services if connected to the dedicated fire protection line, or the current rate, as may be established by the County in accordance with its policies and procedures from time to time, upon connection to the County water system.

## EXHIBIT C

### WASTEWATER QUALITY CRITERIA

All wastewater delivered to the Owner by the user shall be subject to the following standards:

- a. No storm water, surface water, ground water, cooling water or other unpolluted waters shall be discharged to Owner's facilities.
- b. Average biochemical oxygen demand (BOD) shall not exceed 300 parts per million.
- c. Average Total Suspended Solids (TSS) shall not exceed 240 parts per million.
- e. Average pH shall range between 6 s.u. and 8 s.u. and shall never be less than 5 s.u. or greater than 9 s.u.
- f. Average temperature shall range between 50 degrees F. and 70 degrees F., with maximum instantaneous temperature never to exceed 104 degrees F.
- g. Grease, oil, fats, and wax shall not exceed 30 parts per million average and 100 parts per million peak.
- h. The following substances are prohibited:
  - i. Hauled waste – including septage, portable toilet waste, and industrial waste.
  - ii. Gasoline or any other flammable or explosive liquid, solid or gas- none.
  - iii. Malodorous or toxic gases or vapors - none.
  - iv. Garbage - only portions which pass through pump station.



- v. Solid, semi-solid, or viscous substances capable of obstructing pipelines or interfering with treatment processes - none.
- vi. Pickling wastes or plating solutions - none.
- h. Minerals - only to the extent tolerable to the normal treatment process.
- i. Radioactive materials – none.
- j. Toxic substances shall not exceed the Local Limits concentrations as adopted by the owner. The owner shall provide timely updates or revisions to these limits as they are adopted. The current monthly average concentration limits are:

Cadmium	0.05 mg/L
Chromium, as Cr (Hexavalent)	1.71 mg/L
Copper, as Cu	1.40 mg/L
Lead	0.43 mg/L
Nickel	0.73 mg/L
Cyanide, Total	0.32 mg/L
Zinc, Zn	1.48 mg/L
Silver	0.24 mg/L
Mercury	0.10 mg/L
Arsenic	1.00 mg/L
Selenium	0.05 mg/L

- k. Any other solid, liquid or gaseous substances which has an adverse effect on transmission, treatment, or disposal of wastewater or is in violation of State or Federal Statutes or regulations - none.
- l. Average chlorine demand shall not exceed 15 ppm. Peak chlorine demand shall not exceed 30 ppm.

"Average," as used hereinbefore, shall be defined as the monthly mean value, as determined by totaling the individual sampling results and dividing that value by the number of samples taken during the month in question. "Peak," as used hereinbefore, shall be defined as a parameter value which has duration of 15 minutes or longer on any given day, as determined by sampling and testing.



Prepared by:  
Moore & Rutt, P.A.  
122 W. Market Street  
P.O. Box 554  
Georgetown, DE 19947  
Tax Map No. 1-35-15.00-138.00

Return to:  
Sussex County Engineering  
P.O. Box 589  
Georgetown, DE 19947

### **EXTENSION OF UTILITY SERVICE AGREEMENT**

**GEORGETOWN AIRPORT CENTER, LLC**, a limited liability company of the State of Delaware, with an address of 300 Water Street, Suite 300, Wilmington DE 19801, their successors and assigns (hereinafter "GAC").

**AND**

**SUSSEX COUNTY**, a political subdivision of the State of Delaware, with an address of P.O. Box 589, Georgetown, DE 19947 (hereinafter "County").

**WHEREAS**, the parties entered into a Utility Service Agreement in 2010, a copy of which is attached hereto as Attachment A and is incorporated herein by reference (the "Agreement"); and

**WHEREAS**, the original Agreement contained a two (2) year term; and

**WHEREAS**, the parties desire to extend the Agreement until September 29, 2014.

**NOW, THEREFORE**, for sum of One Dollar (\$1.00) in hand paid and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

The last "Whereas" clause in the Agreement shall be deleted in its entirety and the following language shall be inserted in its place and stead:

**"WHEREAS**, the term of this Agreement shall commence on the date of execution and terminate on September 29, 2014, at which time a new

agreement will be considered unless this Agreement is extended by mutual written agreement of both parties."

All other terms and conditions contained in the original Agreement shall remain in full force and effect.

This Extension of Utility Service Agreement shall be incorporated into the original Agreement and made a part thereof as though fully set forth therein.

**IN WITNESS WHEREOF**, the parties, through their authorized officers, have executed this Extension of Utility Service Agreement on the respective dates below.

**GEORGETOWN AIRPORT CENTER, LLC**

8/16/12  
Date

By: [Signature] (SEAL)  
TIMOTHY L. JONES, Authorized Member

**SUSSEX COUNTY COUNCIL**

\_\_\_\_\_  
Date By: \_\_\_\_\_ (SEAL)  
Michael H. Vincent, President

Attest: \_\_\_\_\_ (SEAL)  
Robin Griffith, Clerk of the  
County Council

**Approved as to Form:**

\_\_\_\_\_  
J. Everett Moore, Jr., Esquire  
County Attorney

\_\_\_\_\_  
Date

STATE OF DELAWARE

NEW CASTLE  
COUNTY OF SUSSEX

BE IT REMEMBERED, that on this 16<sup>th</sup> day of AUGUST, 2012, personally appeared before me, TIMOTHY L. JONES Authorized Member of Georgetown Airport Center, LLC, a limited liability company of the State of Delaware, known personally to be to be such, and acknowledged said Indenture to be his act and deed and the act and deed of the said Georgetown Airport Center, LLC.

Michelle T. Mulrine  
Notary Public

Michelle T. Mulrine  
Printed Name of Notary

My Commission Expires: 10/13/2014



STATE OF DELAWARE

COUNTY OF SUSSEX

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2012, personally appeared before me the subscriber, a Notary Public for the State and County aforesaid, Michael H. Vincent, President of the Sussex County Council for Sussex County, Delaware, a political subdivision of the State of Delaware, party to the foregoing Indenture, known to me personally to be such, and acknowledged said Indenture to be his act and Deed and the act and Deed of the said political subdivision; that the signature of the President thereto is in his own proper handwriting; that the seal affixed is the common and corporate seal of the political subdivision, duly affixed by its authority; and that his act of signing, sealing, acknowledging and delivering said Indenture was first duly authorized by Sussex County Council.

Given under my hand and seal of office the day and year aforesaid.

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

\_\_\_\_\_  
Printed Name of Notary

My Commission Expires: \_\_\_\_\_

OLD BUSINESS  
September 11, 2012

This is to certify that on July 26, 2012 the Sussex County Planning and Zoning Commission conducted a public hearing on the below listed application for Conditional Use. At the conclusion of the public hearings, the Commission moved and passed that this application 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 hearing 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 hearing.

C/U #1936 – application of **CHESTER TOWNSEND, IV** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a food vendor to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.0 acre, more or less, lying north of Route 26, 0.2 mile northeast of Road 342 (Sandy Lane Road)(Tax Map I.D. 1-34-11.00-3.00).

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

Mr. Lank advised that Commission that this application originated due to a violation being issued for the business activities on the site. Letters of violation were forwarded on March 30, 2012 and on June 19, 2012.

The Commission found that on May 1, 2012 DelDOT submitted comments 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 “D” of Vines Creek Road (Route 26) will not change as a result of this application.

The Commission found that on July 19, 2012 the County Engineering Department Utility Planning Division submitted comments in the form of a Memorandum which references that the site is located in the Vines Creek Planning Area: that use of an on-site septic system is proposed; that when the County provides sewer service, connection to the system is mandatory; that the

County does not have a firm schedule to provide sewer service at this time; and that a concept plan is not required.

The Commission found that Shirley Townsend was present on behalf of the application and stated in her presentation and in response to questions raised by the Commission that this will be their 4<sup>th</sup> summer season that they have conducted business in the area; that they originally setup on a commercial site near the Vines Creek Bridge; that they operate a neat/clean business; that Chester is a fisherman and enjoys cooking seafood; that they recently purchased this site; that the business is seasonal and that they are only open on Thursday, Friday and Saturday from 11:00 a.m. until 8:00 p.m.; that the business is primarily carry-out; that they have placed a few picnic tables outside; that restrooms are available; that no one occupies the dwelling on site, it is only used for storage, not a restaurant; that they live within one mile of the site; that other business uses in the area include, but is not limited to, landscaping, restaurant equipment sales, day care, etc.; and that they sell lobsters, soft crab, chicken and fish products.

Mr. Lank advised the Commission that the use of the trailer for the on-premise business, will require approval from the Board of Adjustment; that the 32 square foot requirement for signs with Conditional Use applications is actually a policy and not a regulation; that the Code would allow up to 200 square foot of signage for an on-premise ground sign for a Conditional Use; and that if the dwelling is converted to a restaurant for the business, a new Conditional Use application would be required.

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 July 26, 2012 there was a motion by Mr. Ross, seconded by Mr. Burton, and carried with three (3) votes to defer action for further consideration. Motion carried 3 – 0. Mr. Smith was absent during the vote.

On August 9, 2012 the Commission discussed this application under Old Business.

Mr. Smith asked the Commission if they had any concerns; added that the business has been given a violation for this site and a previous site; that the Applicant filed this application to bring the business into compliance; that he is concerned about signage advertising the business in the area, with small signs along roadways and even in the marsh near Vines Creek Bridge; and that he is concerned about parking in the front yard setback.

Mr. Ross asked Mr. Smith if he needed more time to work on a motion.

The Commission discussed signage.

On July 26, 2012 there was a motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

On August 23, 2012 the Commission discussed this application under Old Business.

Mr. Smith stated that he would move that the Commission recommend approval of C/U #1936 for Chester Townsend, IV for a food vendor in an AR-1 Agricultural Residential District based upon the record made at the public hearing and for the following reasons:

- 1) This project is located on Route 26, which is appropriate for a small take-out vendor of the type proposed by the Applicant.
- 2) It is in the vicinity of other business uses in the area including landscaping, restaurant equipment sales, daycares and similar businesses.
- 3) The use will be limited to take-out seafood. The Applicant is a local commercial fisherman and this proposed use is an extension of his commercial fishing operation.
- 4) This is the fourth summer season that the Applicant has conducted business in the area. They originally set up a commercial site near the Vines Creek Bridge and desire to relocate their business onto the property owned by them that is the subject of this application.
- 5) This recommendation is subject to the approval of the Board of Adjustment for the use of the mobile home type trailer for business purposes.
- 6) This recommendation will allow the Applicant to continue his local business with conditions and stipulations regulating the use so that it does not have an adverse impact upon neighboring properties, the community or area roadways.
- 7) This recommendation is subject to the following conditions:
  - A. The use shall be limited to a take-out style seafood vendor. Other than the few picnic tables that currently exist on the site, no additional seating shall be installed for food service. The existing picnic tables shall be shown on the Final Site Plan.
  - B. The use shall be seasonal, operating from April 1 through November 1, with hours of operation as stated by the Applicant of Thursday, Friday and Saturday from 11:00 a.m. to 8:00 p.m.
  - C. There shall only be one lighted sign on the site not to exceed 32 square feet in size. This limitation on the number of signs include a prohibition against sign cut-outs, pictures or replicas of various types of seafood, including lobsters, crabs, shrimp, etc. No feather flags or free standing signs of any shape or size shall be permitted. The location of the 32 square foot sign shall be shown on the Final Site Plan for the property.
  - D. The entrance shall be approved by DelDOT and noted and depicted on the Final Site Plan.
  - E. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
  - F. No parking in the front yard setback shall be allowed. The designated parking area shall be shown on the Final Site Plan and clearly marked on the site itself.
  - G. This recommendation is contingent upon the Sussex County Board of Adjustment approving the mobile home type structure for a business.

H. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

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 approved for the reasons and with the conditions stated. Motion carried 4 – 0, with Mr. Johnson abstaining.

## **Dozer LLC Expansion**

### **Expansion of the Miller Creek Sanitary Sewer District**

- The public hearing will consider a request to annex a portion of a parcel of land into the Miller Creek Sanitary Sewer District. The area adjoins the existing sewer district.
- The area to be added is located on the north side Double Bridges Road, east of the intersection with Parker House Road. Plantations Park and Malcolm's Manor are north and Plantation Park Marina is to the southwest.
- The area includes the remaining portion of parcel 134-19.00-19.00.
- A public hearing notice is attached and the area to be added is shown crosshatched on the attached map.
- The western portion of the parcel is in the Miller Creek Sanitary Sewer District.



**PUBLIC NOTICE**  
**EXPANSION OF THE MILLER CREEK SANITARY SEWER DISTRICT**  
**BALANCE OF TAX MAP AND PARCEL NUMBER 134-19.00-19.00**  
**LANDS OF DOZER, LLC**  
**FILE NUMBER: MC-10.02**

**NOTICE IS HEREBY GIVEN** that the Sussex County Council voted on July 17, 2012, to consider expanding the boundary of the Miller Creek Expansion of the Bethany Beach Sanitary Sewer District to include the remaining portion of tax map and parcel 134-19.00-19.00, land now or formerly (N/F) of Dozer, LLC, situated primarily to the north side of Double Bridges Road. The parcel is located in the Baltimore Hundred, Sussex County, Delaware and recorded in the Office of the Recorder of Deeds, in and for Sussex County, Delaware.

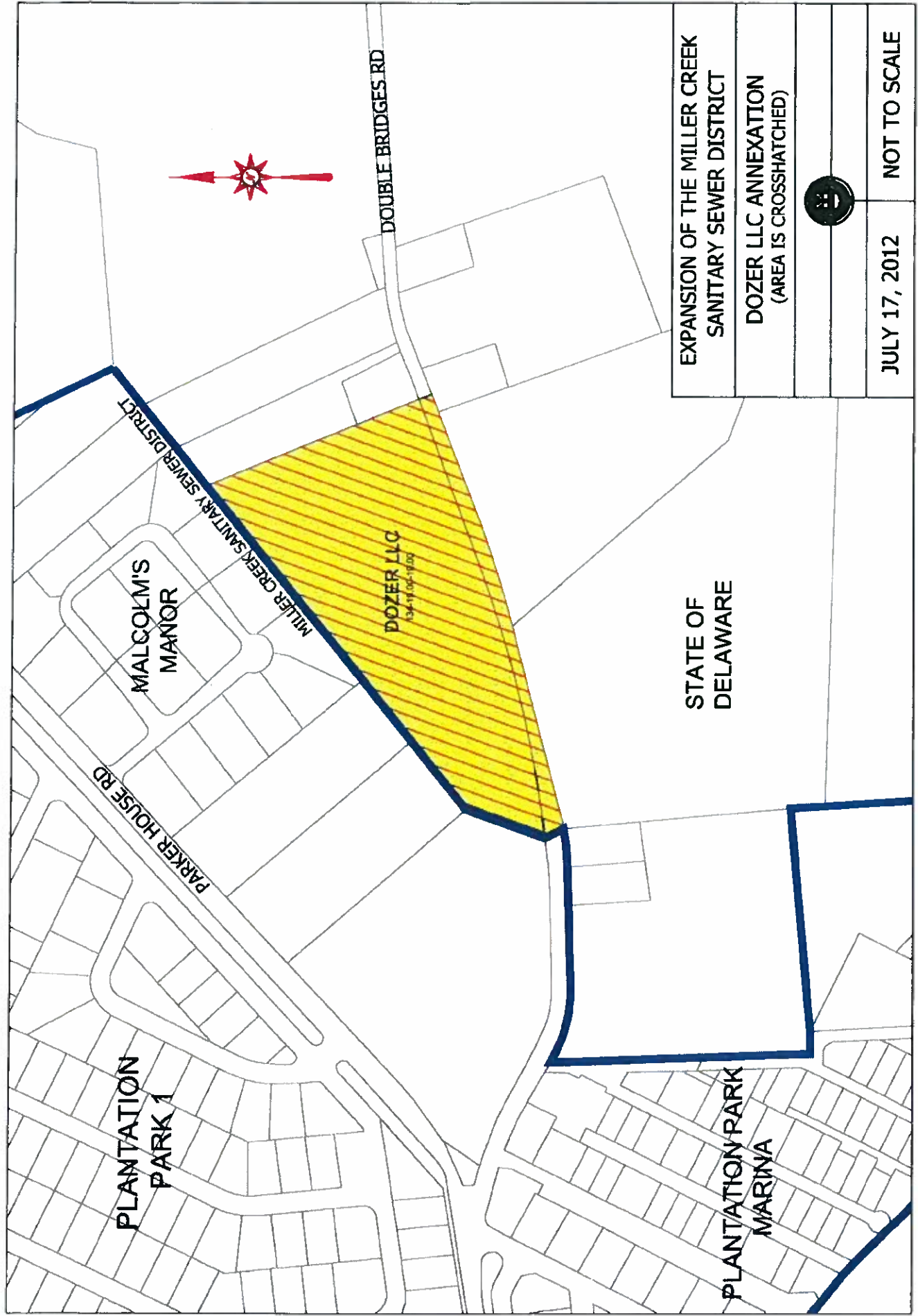
**BEGINNING** at a point, said point being the intersection of the southern right of way (ROW) of Double Bridges Road and the northeasternmost corner of lands N/F of Charles L. and Bertha M. Payton, and a point on the existing boundary of the Miller Creek Sanitary Sewer District (MCSSD), thence by and with said MCSSD boundary in a northwesterly direction  $\pm 62.43$  feet crossing the ROW of Double Bridges Road to a point on the boundary of lands N/F of Dozer, LLC, thence by and with said MCSSD boundary and said lands of Dozer, LLC in a northeasterly direction  $\pm 209.84$  feet to a point, said point being the southwesternmost corner of lands N/F of Susan R. and Christopher J. Pleasanton, thence by and with the MCSSD boundary and said lands of Dozer, LLC in a northeasterly direction  $\pm 1023.51$  feet to a point, said point being a point on the MCSSD boundary and the northwesternmost corner of lands N/F of Thomas and Megan R. Easter, and the northeasterlymost corner of said lands of Dozer, LLC; thence by and with said lands of Dozer, LLC  $\pm 566.62$  feet in a southeasterly direction to a point, said point being the southeasterlymost corner of land of Dozer, LLC and a point on the northern ROW of Double Bridges Road, then crossing the ROW of Double Bridges Road  $\pm 62.43$  feet in a southerly direction to a point, said point being a point on the southern ROW of Double Bridges Road, thence by and with said ROW  $\pm 1125.14$  feet in a westerly direction to a point, said point being that of the **BEGINNING**.

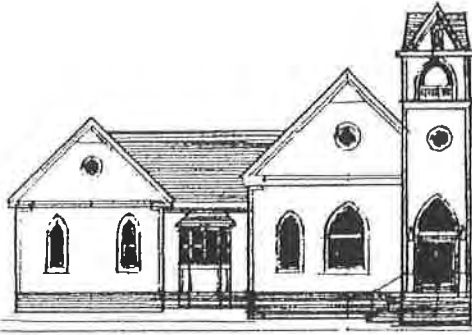
A map outlining and describing the extension to the Miller Creek Expansion of the Bethany Beach Sanitary Sewer District is attached. The area involved is crosshatched.

**The public hearing will be held on this issue at 11:00 am on September 11, 2012 in the Sussex County Council Chambers.** All interested persons, officials, residents, voters, taxpayers, property owners, or corporations in any way affected by this boundary extension are welcome to attend. There will be an opportunity for questions and answers. The Sussex County Council following the hearing, at one of their regularly scheduled meetings, will make the final decision on the boundary extension.

For further information, please call or write the Sussex County Engineering Department, 2 The Circle, Post Office Box 589, Georgetown, DE 19947 – (302) 855-1299.

Michael A. Izzo, P.E.  
County Engineer





August 7, 2012

Mrs. Joan R. Deaver, Councilwoman  
Sussex County Council  
2 The Circle  
P. O. Box 589  
Georgetown, DE., 19947

*Milton Historical Society  
P.O. Box 112  
Milton, Delaware 19968*

Dear Councilwoman Deaver:

Thank you very much for your generous contribution to the 7<sup>th</sup> Annual Milton Historical Society Auction. Proceeds from that event are used to support the Society's preservation and presentation of the history of Milton and the Broadkill Hundred, the well-received lecture and film series hosted at the museum, and a variety of highly regarded museum, school, and community education programs. Our programs have been presented at public schools and to home schooled children; to CHEER organizations and to pre-school groups; to organizations addressing the special needs of those dealing with the complications of autism and of advancing years. While the auction raises much needed funds, and we are fortunate to have raised substantial funds from our Auction and to have seen attendance grow to more than 400 people, our needs annually exceed our resources:

The community support we have received has been matched by our efforts to serve the community. Annual visitorship to the Milton Historical Society has risen to nearly 10,000 people and membership in the Society now numbers nearly 500 full-time and part-time residents. More than 2,000 young people have visited our museum or have taken part in our presentations. The cost of providing these entertaining, educational, and exciting programs and events has also risen steadily. Therefore, the Milton Historical Society would be honored if Sussex County Council would actively support our efforts by providing funding in the amount of \$3,500.00. That funding would not only support the continuation of existing programs and complement funds raised from other sources, it would also allow us to expand our programming and to provide programs to populations beyond those we currently serve.

If you have any questions, please call me at the Milton Historical Society at 302-684-1010 or email at [info@historicmilton.org](mailto:info@historicmilton.org). The Milton Historical Society is a 501(c)(3) non-profit charitable organization. The Tax ID number is 23-7158119.

Thank you for your consideration of this request. Please join us in our efforts to preserve and present the history of Milton, the Broadkill Hundred, and Sussex County.

Sincerely,

John F. Bushey  
President

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PUBLIC SERVICE BUILDING/USE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 4.35 ACRES, MORE OR LESS (Tax Map I.D. 2-35-14.00-122.02 and 122.04)**

**WHEREAS, on the 31st day of August 2012, a conditional use application, denominated Conditional Use No. 1947 was filed on behalf of Cheer Delaware; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2012, 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. 1947 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2012, 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. 1947 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 south of Broadkill Road (Route 16) 800 feet east of Country Road (Road 22A) and being more particularly described per the attached legal description, said parcel containing 4.35 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.**

LEGAL DESCRIPTION  
LANDS OF  
COUNTY BANK

August 28, 2012

ALL that piece or parcel of land, hereinafter described, situate, lying and being on the northerly side of Route 16 and being located in Broadkill Hundred, Sussex County, Delaware, as shown on a plat entitled "Boundary Survey of the lands of County Bank," completed by Davis Bowen & Friedel, Inc., dated August 2012; said piece or parcel of land being more particularly described as follows:

**BEGINNING** at a concrete monument found at a point formed by the intersection of the northerly right-of-way line of Route 16, with the westerly line of lands of, now or formerly, Connie L. & William J. Lynch, as recorded in the Office of the Recorder of Deeds in and for Sussex County and the State of Delaware in Deed book W-566, Page 229, thence running,

1) leaving said Lynch lands and running by and with said right-of-way line of Route 16, the following 2 courses and distances, South 79 degrees 45 minutes 19 seconds West 279.82 feet to an iron rod found at a point, thence running,

2) along a curve to the right, having a radius of 1590.36 feet, an arc length of 150.00 feet and a chord bearing and distance of South 82 degrees 27 minutes 15 seconds West 149.95 feet to an iron rod found at a point on the easterly side of lands of, now or formerly, Connie L. & Thomas W. Lynch, III, as recorded in said Office of the Recorder of Deeds in Deed Book 2327, Page 236, thence running,

3) leaving said right-of-way line of Route 16 and running by and with said other Lynch lands, the following 3 courses and distances, North 10 degrees 14 minutes 40 seconds West 387.41 feet to an iron rod found at a point, thence running,

4) North 79 degrees 45 minutes 20 seconds East 149.78 feet to an iron rod found at a point, thence running,

5) North 10 degrees 14 minutes 40 seconds West 152.66 feet to an iron rod and cap set at a point on the southwesterly line of lands of, now or formerly, Truitt W. Jefferson, Trustee, as recorded in said Office of the Recorder of Deeds in Deed Book 3526, Page 192, thence running,

6) leaving said other Lynch lands and running by and with said Jefferson lands, South 70 degrees 26 minutes 44 seconds East 322.46 feet to an iron pipe found at a point on the westerly line of said Lynch lands, thence running,

7) leaving said Jefferson lands and running by and with said Lynch lands, South 10 degrees 14 minutes 40 seconds East 386.88 feet to the point and place of beginning;  
**CONTAINING 4.348 acres of land, more or less.**



**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A LI-2 LIGHT INDUSTRIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.91 ACRES, MORE OR LESS**

**WHEREAS, on the 20th day of August 2012, a zoning application, denominated Change of Zone No. 1722 was filed on behalf of Robert and Patricia Robinson; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2012, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1722 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2012, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone 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,**

**NOW, THEREFORE,**

**THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of LI-2 Light Industrial District and adding in lieu thereof the designation AR-1 Agricultural Residential District 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 (Seaford Road) 1,300 feet north of Road 488 (Johnson Road) and being more particularly described in Deed Book 1517, Page 146 in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 1.91 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

September 11, 2012

This is to certify that on August 9, 2012 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.

C/U #1938 – application of **KAREN BARWICK** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a therapist office and residence to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 22,161 square feet, more or less, lying north of Route 24 (John J. Williams Highway) 425 feet east of Road 275 (Plantation Road)(Tax Map I.D. 3-34-12.00-85.00).

The Commission found that on July 26, 2012 the Applicant provided an Exhibit Packet of information for consideration by the Commission which includes a series of Google Earth aerial photographs of the site and the area around the site; a copy of an Insert from the Tax Map depicting the Midway Acres subdivision; a copy of the survey/site plan; a copy of a May 15, 2012 letter from DelDOT; a copy of a June 2, 2012 letter from the Planning and Zoning Department in reference to a home occupation approval; and some suggested proposed Conditions of Approval for consideration.

The Commission found that on August 3, 2012 the Department received comments from the County Engineering Department Utility Planning Division which reference that the site is located in the South Planning Area of the West Rehoboth Expansion Area; that wastewater capacity is available for the project if the proposed use does not exceed 2.0 EDU (office of 2,000 square feet or less); that the planning study assumption for the parcel is 1.0 EDU; that the parcel is comprised of two lots; that Ordinance 38 construction is not required; that central sewer service is not available to the parcel at this time; that an on-site septic system is being utilized currently; that the project is not capable of being annexed into a County operated Sanitary Sewer District at

this time; that conformity to the North Coast Planning Study will be required; that the parcel is located within a planning area of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that the County does not have a schedule to provide central sewer service to the parcel at this time; and that a concept plan is not required.

The Commission found that on August 6, 2012 the Sussex Conservation District provided comments in the form of a memorandum which references that the site contains one soil type; that the Applicant will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that Karen Barwick was present with James Fuqua, Jr., Attorney with Fuqua, Yori and Willard, P.A., and that they stated in their presentations and in response to questions raised by the Commission that the application site is located just west of the Beebe Medical Campus; that a recent application for a doctor's office was withdrawn at this same location; that the Applicant is a Certified Licensed Therapist; that the site suits the Applicant's need providing her a residence and a location to meet her clients; that there will not be any employees; that the Applicant has purchased the property; that the Applicant anticipates seeing six to seven clients per day; that she typically sees one client at a time; that sessions typically last one hour; that a home occupation approval has been granted to the Applicant, with the understanding that she has no employees and that there will be no group activities or assembly; that part of her practice occasionally requires group sessions or workshops with clients, therefore the need for a Conditional Use consideration; that the suggested conditions of approval submitted include references to limitations for group sessions; that DelDOT will limit access to the site from the existing entrance on Route 24; that the entrance shall be for ingress traffic movements only and all egress movements shall be from the site Collins Avenue to Plantation Road; that there are no deed restrictions for street maintenance of Collins Avenue; that suggested condition of approval #4 provides that the Applicant shall share in the cost of maintenance and repair of Collins Avenue proportionately with other property owners on Collins Avenue; that the Applicant just recently replaced the septic system; that the Applicant is requesting one lighted 32 square foot sign; that this request is a reasonable extension of the home occupation by allowing for group sessions; that the application meets the necessity of the Code for Conditional Uses; that the use will be compatible for the area; that the site is in close proximity to other business uses; that the site is located in a developing area; that adequate space is available on the site for parking; that there are no deed restrictions relating to the use of the property; that the one parking space between the residence and the garage is being set aside for handicap parking; that the application includes reference to a therapist office and residence; that if the home occupation were to close the Conditional Use becomes void; and that the Applicant is planning a garden outside for meditation and quiet sessions with clients.

The Commission found that Rose Imhof was present and expressed concerns, not in opposition to the use, but about traffic on Collins Avenue; that she stated that there are five homes along Collins Avenue; that her husband has maintained the street; and that Collins Avenue cannot support the traffic due to the narrowness of the avenue.

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

Mr. Wheatley stated that the use will create additional traffic on a private road, and that, if necessary, group sessions could be held off-site.

On August 9, 2012 there was a motion by Mr. Burton, seconded by Mr. Smith, and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

On August 23, 2012 the Commission discussed this application under Old Business.

There was a motion by Mr. Smith that the Commission recommends denial of C/U #1938 for Karen Barwick for a therapist office and a residence based upon the record made at the public hearing and for the following reasons:

- 1) The site is located in an area on the north side of Route 24 that is entirely residential. While the site has vehicular access to Route 24, DeIDOT has directed that all vehicles must exit via Collins Avenue, which is a private residential street. The proposed use of the property for group therapy sessions is not compatible with this site under these traffic limitations.
- 2) The site does not provide a safe means of ingress, egress, internal maneuvering or parking. The internal roadways and parking areas are very confined and do not appear suitable for large group meetings.
- 3) There are other locations, including churches and meeting halls in the vicinity, that are more suitable for the types of group meetings that the Applicant wants to conduct.
- 4) This recommendation does not affect the Applicant's primary service of providing one-on-one therapy sessions with single clients while she resides in the home. This use, as a home occupation, is permitted on the site. It is only the larger therapy sessions, which are incompatible with the surrounding residential character, that should occur elsewhere.

Motion died for the lack of a second.

Mr. Johnson stated that he has not reviewed the record; that he is not in the position to vote; and that he is willing to review the record so that he may participate in the vote at a later meeting.

Mr. Smith stated that he is willing to defer action to allow Mr. Johnson time to review the record, and noted that the Applicant purchased the property knowing that the home occupation could be approved.

Mr. Ross stated that he understands Mr. Smith's concerns about parking, group sessions, and that a limitation on the number of participants in a group session could be stipulated.

Mr. Burton agreed that the number of participants in a group session could be stipulated.

Mr. Smith expressed concerns about outside activities on site.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to defer action for further consideration and to allow Mr. Johnson time to review the record so that he may participate in the vote on this application. Motion carried 5 – 0.

**This application is on the Commission agenda for September 6, 2012 under Old Business. The Commission may or may not make a recommendation that evening. We will provide an update on Tuesday, September 11, 2012 if there is a recommendation.**

C/U #1939 – application of **JACQUELINE TYSON-HOPE** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a reception use, I.E. weddings, birthdays, retirements, to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 6.49 acres, more or less, lying south of Bailey's Landing Drive, 0.6 mile west of Road 487A (Beagle Club Road)(Tax Map I.D. 2-32-10.00-8.02).

The Commission found that the Applicant provided a copy of the deed to the property and a survey of the property showing the dwelling and other improvements on the property.

The Commission found that DelDOT provided comments in the form of a Support Facilities Report, dated May 2, 2012, which references that a traffic impact study is not recommended, and that the current Level of Service will not change as a result of this application.

The Commission found that the County Engineering Department Utility Planning Division provided comments on August 3, 2012 in the form of a memorandum referencing that the site is located in the Western Sussex Planning Area #4; that an individual on-site septic system is proposed; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer service; and that a concept plan is not required.

The Commission found that on August 6, 2012 the Sussex Conservation District provided comments in the form of a memorandum which references that the site contains three soil types; that the Applicant will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; and that it may not be necessary for any on-site or off-site drainage improvements.

Mr. Lank advised the Commission that an email had been received from Vincent and Christina Perrotta stating that they are absolutely against making any part of Bailey's Landing commercial; that they are against any rezoning/Conditional Use of the land at this time; that the four sites for homes are all next to each other on the Broad Creek; that all four homes/building sites can be seen from their property; that they are all in close proximity to each other; that the proposal would adversely affect the quality of life; that there is only one single lane dirt road coming in and out of Bailey's Landing; that the property, in front of Bailey's Landing, is owned by Jeff Hastings; that Mr. Hastings has allowed the subdivision use of the right-of-way to their properties via a single lane road; that Mr. Hastings is concerned about the heavy traffic this proposed use would bring to this quiet area of Bethel; that they are asking DelDOT to come

before County Council and comment on their findings regarding the use; that they are asking that this proposal remain public record until DelDOT and all other agencies involved submit their findings to the County Council; that when they purchased this property in 1998-2000 they, along with Michael Hubbard and Frank Rodriquez signed a restrictive covenant and boundary line agreements; and that Section 13 of those restrictive covenants clearly state that “all of the land shall be used only for single family residential purposes”. This email was copied to Gary and Jackie Calloway, land owners in Bailey’s Landing, and the Honorable Vance Phillips, County Councilman.

Mr. Lank advised the Commission that on August 8, 2012 Lawrence B. Steele, III, Esquire, submitted a letter and attachments on behalf of Jeffrey G. Hastings, President of H & H Brand Farms, Inc. objecting to the granting of this application and expressing concerns that the Applicant’s access is across said lands by a 12’ wide “woods road” which is 797.77 feet long; that the attachments include a letter from Mr. Hastings, copies of the survey for “Bailey’s Landing” depicting the referenced 12’ road, and copies of two Court of Chancery Documents on Civil Action No. 1658 between H & H Farms, Inc. v. Theodore B. Simpler and Edward J. Kaye; that one of the documents is a Memorandum Opinion and the other is the Final Order for Injunctive Relief; that the Applicant’s filing does not show this limited 12’ access to her parcel; that it shows only the private interior Bailey’s Landing road which adjoins her parcel; that this omission by her, which could lead the Commission to believe she has a continuous 60’ entrance right-of-way to Road 487A to be, at best, disingenuous; that the location, size, and limited use of this woods road was determined by the Court of Chancery per the copies submitted; that the prior owners of the Applicant’s parcel attempted to enlarge the 12’ woods road to a much larger size; that the Court found that they could not and the road was Ordered returned to its original 12’ width; that the Order is still in effect; that H & H Brand Farms, Inc. will not allow additional width to this 800’ long woods road and will not allow the additional traffic across its land which the Applicant’s requested usage contemplates; that the 12’ woods road is barely functional for one vehicle’s use; that two way traffic cannot operate within its width; that any emergency requiring fire trucks, EMS, ambulances, or other similar first responders trying to pass each other in opposite directions will cause chaos; that to access the woods road, you must use Road 487A (Beagle Club Road) which, although paved, is a poorly maintained, unmarked, twisting country lane; that Road 487A contains many turns and curves from the north from Route 78, and narrow unmarked streets from the east from the Town of Bethel; that the streets in Bethel are clearly not designed to accommodate 50 to 100 vehicles full of party goers going to and from a reception; that Road 487A is woefully inadequate for the intended use; and requesting that the application be denied.

The Commission found that Joseph Hope was present on behalf of this application for a reception use, and stated that the intent is to have wedding receptions, birthday parties, banquets and gatherings at their home; that he anticipates 30 to 35 quests per activity; that no alcoholic beverages are intended to be served or allowed; that typically the activities would be scheduled between 4:00 p.m. and 11:00 p.m.; that music entertainment, if any, would be provided through record players, or similar electronic equipment, not bands; that the home contains approximately 8,000 square feet; that receptions would be held downstairs; that catering would be provided by



the party giver; that there are adequate restrooms on the premises; and that the parcel contains approximately six acres of land, with adequate space for parking.

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

The Commission found that Dennis Schrader, Attorney with Wilson, Halbrook & Bayard, P.A., was present in opposition to this application on behalf of Wright Properties, an adjacent landowner, and stated that he is in agreement with the opposition comments summarized by Mr. Lank; that the site is adjacent to the Broad Creek; that the site is zoned AR-1 and in close proximity to the Town of Bethel; that the use is a form of spot zoning since there are no commercial activities in the area; that the home was intended to be a residence, not a banquet hall; that a preliminary site plan has not been submitted, only a survey showing the existing improvements on the property; that the survey does not include a plan showing the intended parking or activity areas; that catering requires refrigeration and cooking facilities; that some caterers offer alcoholic beverages; that he questions if the septic system is designed for such an activity; that he questions if the Office of the State Fire Marshal has reviewed the facility; that he questions if there is adequate water capacity for fire protection; that he questions if the State Health Department has reviewed the necessary kitchen facilities; that he questions if the Sussex Conservation District has considered the impacts on stormwater and erosion and sediment control; that DelDOT comments only relate to the entrance on Beagle Club Road, not the impact on the 12-foot lane; that one of the accesses to the site is from Vines Street within the Town of Bethel; that traffic should be a concern due to the limitations of a 12-foot wide single-lane road; that the site is a significant distance from Beagle Club Road; that there is no record of any restrictive covenants on maintenance of Bailey's Landing Drive; that the Sussex County Comprehensive Land Use Plan references that this site is located in a Low Density area, where agricultural and single family residential uses are permitted; that the State Strategies Map depicts this site in a Level 4 area where this type of use is not typically encouraged; that there is no record of support for the application or information that there is adequate water, sewer, or transportation infrastructure to support the use; that he questions if there may be any overnight guests; that he acknowledges that agency comments are very limited; and that his client requests that the application be denied.

Mr. Schrader submitted a copy of a portion of the survey to the Bailey's Landing subdivision showing the location of the 12-foot wide lane, and a copy of a Google aerial showing the location of the site and the area.

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

Motion by Mr. Ross, seconded by Mr. Smith, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be denied due to the lack of adequate record to support the application. Motion carried 4 – 0.

C/U #1940 – application of **PHIL DePENNA** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a physical training studio and gym, to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing

33,418.9 square feet, more or less, lying east of Route 13A (Seaford Road) 1,000 feet north of Road 480 (Mount Zion Road)(Tax Map I.D. 1-32-12.00-20.00).

The Commission found that the Applicant submitted copies of a survey/site plan for his application.

The Commission found that on June 1, 2012 DelDOT provided comments 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 “C” of Route 13A (Seaford Road) will not change as a result of this application.

The Commission found that the County Engineering Department Utility Planning Division provided comments on August 3, 2012 in the form of a memorandum referencing that the site is located in the Western Sussex Planning Area #4; that an individual on-site septic system is proposed; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer service; and that a concept plan is not required.

The Commission found that on August 6, 2012 the Sussex Conservation District provided comments in the form of a memorandum which references that the site contains one soil type; that the Applicant will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that Phil DePenna was present and stated in his presentation and in response to questions raised by the Commission that he is proposing a training studio which will be operated by he and his son; that they will live upstairs above the facility; that they will be providing exercise classes and one-on-one training sessions; that the use should benefit the area residents and students; that access to the facility will be provided to membership with access by way of a keycard; that a maximum of 50 members is anticipated; that he or his son will be available at all times; that they would like to erect an on-premise ground sign to advertise the location; that he anticipates that there would be 5 or 6 clients present at any one time; that the building was formerly used as a church; that the building contains 1,225 square feet on the first floor and includes a restroom; that there is a two bedroom apartment on the second floor; that there may be some activities held outside when weather permits; that the closest fire station is in the Town of Blades; and that the closest medical facility is the Nanticoke Hospital.

The Commission found that Chester Porches, the land owner, was present and stated that the site has previously been used for recap tire sales and service, a sandwich shop, and a church; and that other business type uses in the area include a bait and tackle shop, an auto service garage, car sales, and a skating rink.

The Commission found that there were no parties present in opposition to the application.

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

Mr. Wheatley stated that there should be minimal impact on the area.

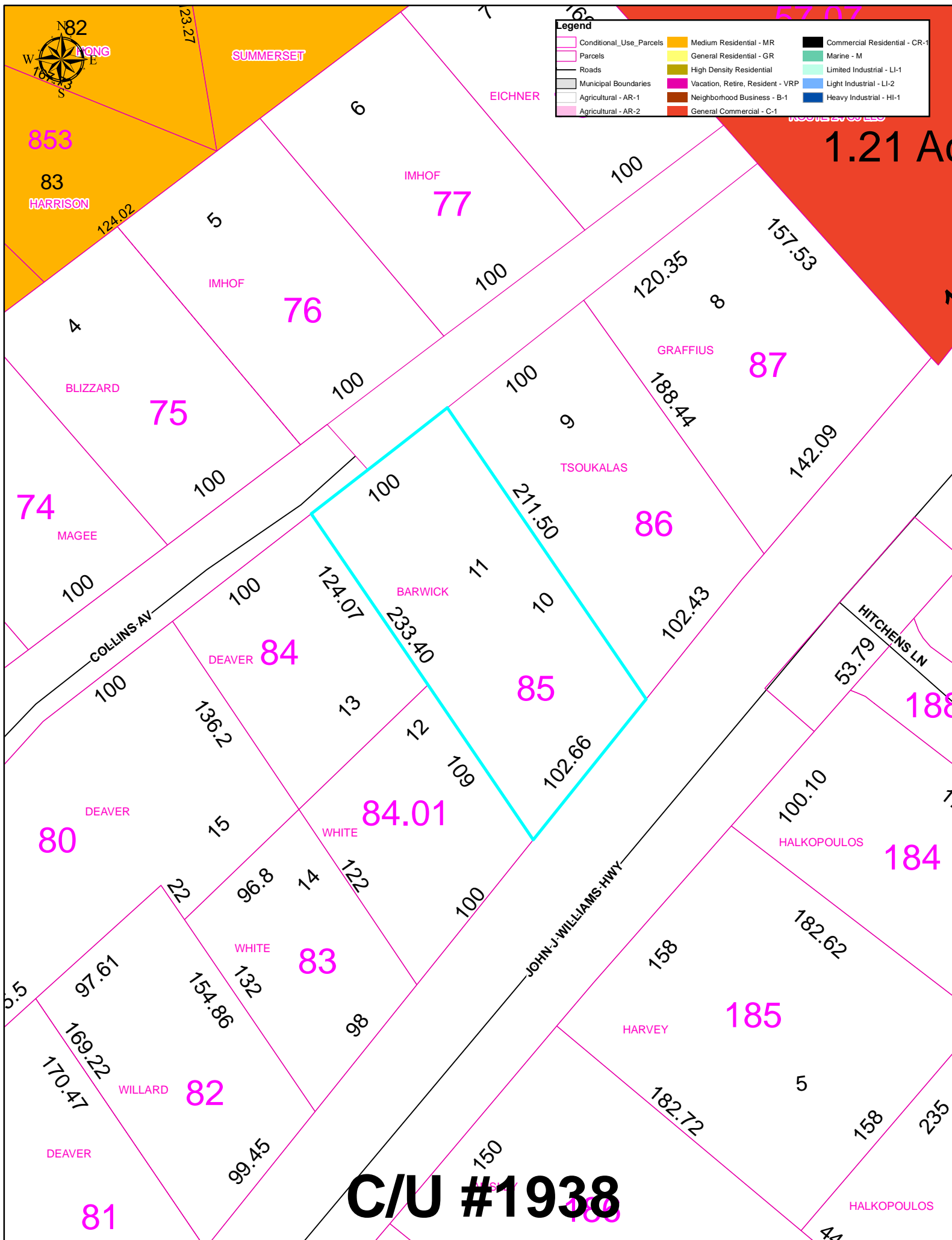
On August 9, 2012 there was a motion by Mr. Ross, seconded by Mr. Smith, and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

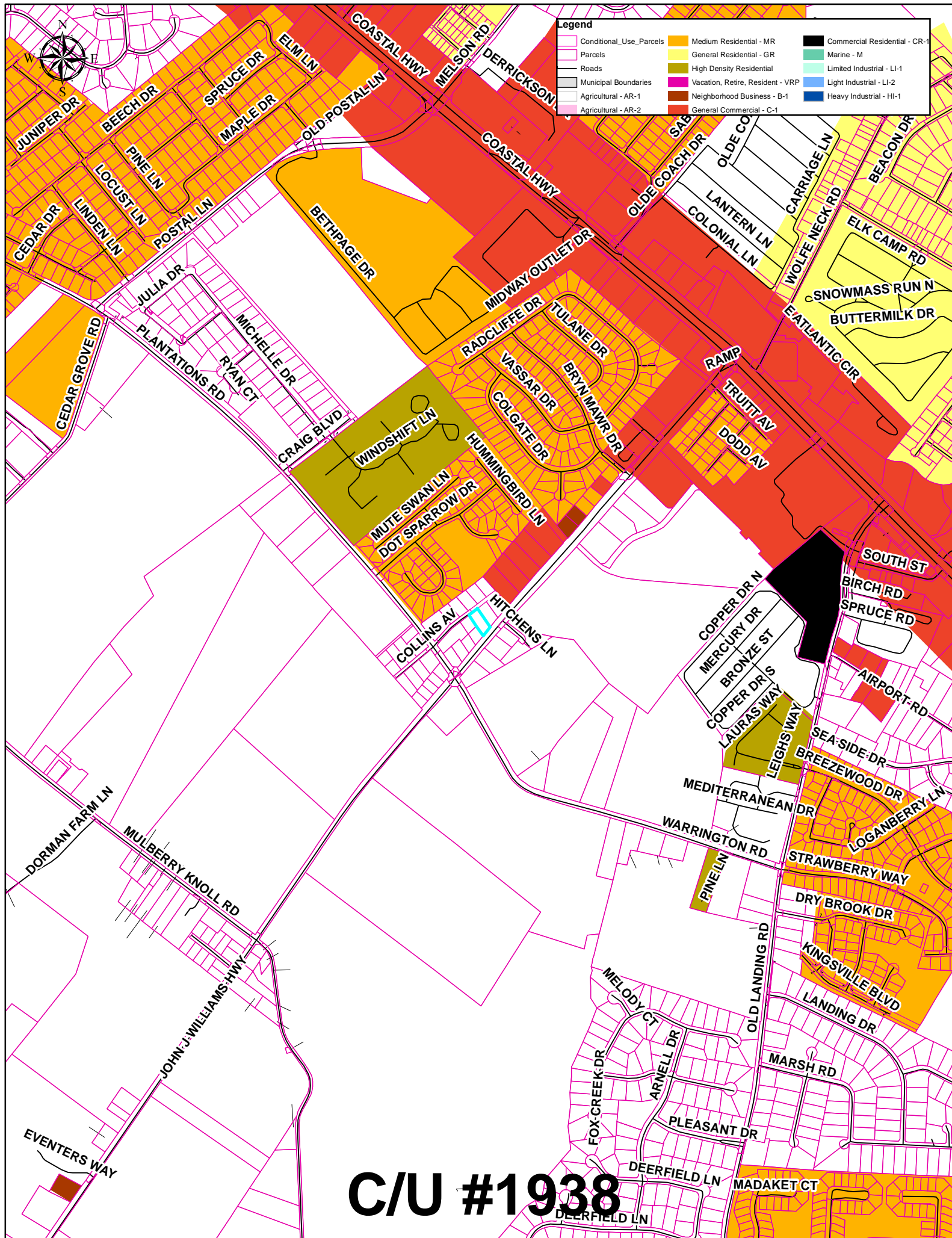
On August 23, 2012 the Commission discussed this application under Old Business.

Mr. Ross stated that he would move that the Commission recommend approval of C/U #1940 for Phil DePenna for a physical training studio and gym in an AR-1 Agricultural Residential District based upon the record made during the public hearing and for the following reasons:

- 1) The use will be very limited in scope and is situated in a property that has historically been used for commercial purposes. There was testimony that it has been used for a recap tire sales and service shop, a sandwich shop, and a church. This proposed use will be consistent with the history of the property.
- 2) The Applicant intends to reside upon the property and will control its use.
- 3) The use will be a benefit to the health, safety, and welfare of Sussex County residents because it will provide a gym and physical training studio for residents in the Seaford and Laurel areas.
- 4) The proposed use will not have any adverse impact on traffic or on adjacent and neighboring properties.
- 5) The proposed use is consistent with other small businesses in the area, including a bait and tackle shop, garages, car sales, and a skating rink.
- 6) This recommendation is subject to the following conditions:
  - A. The use shall be for a physical training studio and gym situated on the first floor of the existing building on the site.
  - B. One lighted sign, not to exceed 32 square feet in size, shall be permitted.
  - C. Parking for clients shall be clearly marked on the site and the location of the parking spaces shall be included on the Final Site Plan.
  - D. All entrances and roadway improvements shall be subject to the requirements of the Delaware Department of Transportation.
  - E. 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. Smith, and carried with four (4) votes to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 4 – 0, with Mr. Johnson abstaining.









Legend		
Conditional Use Parcels	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 #1938



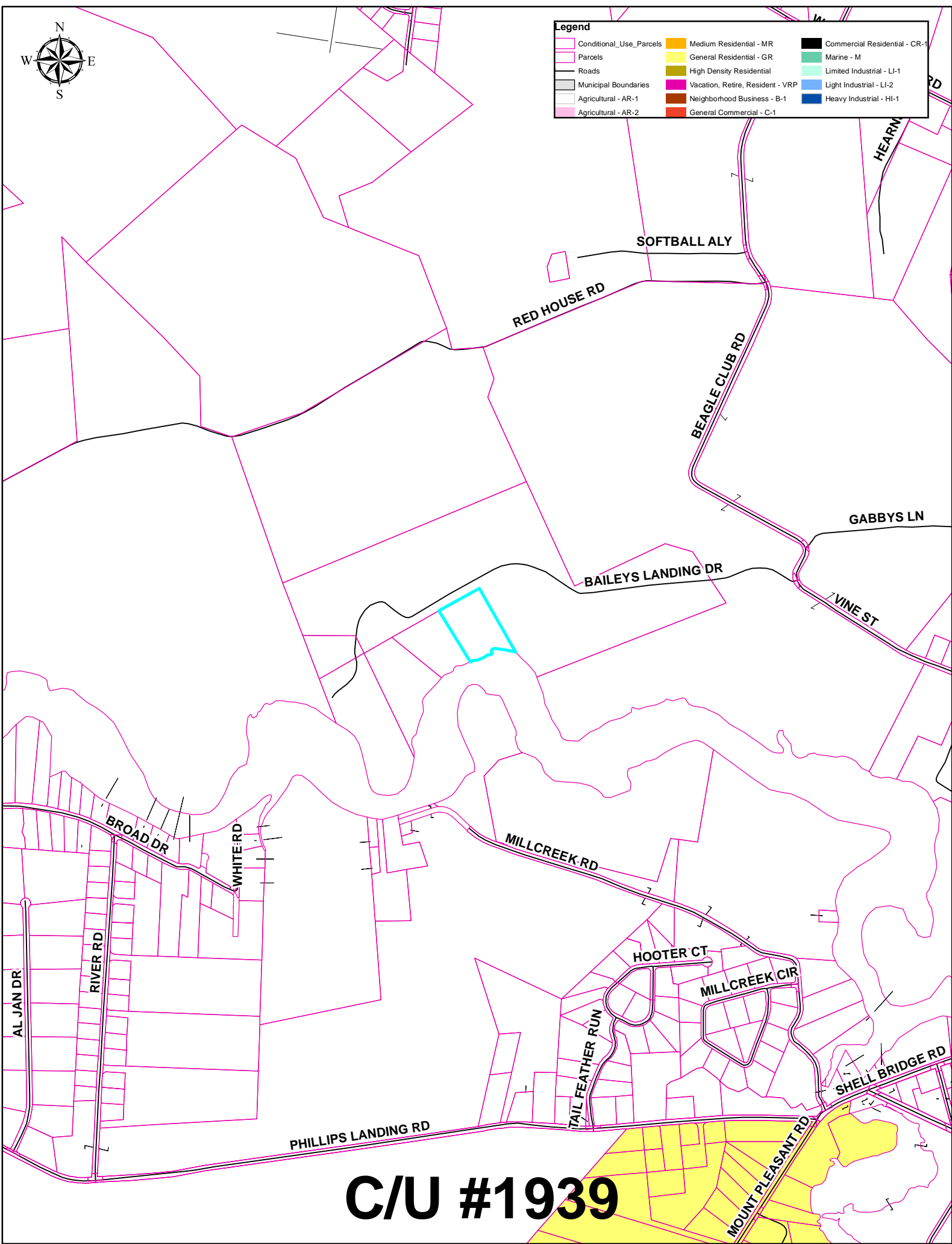


Legend		
Conditional_Use_Parcels	Medium Residential - MR	Commercial Residential - CR-1
Parcels	General Residential - GR	Marine - M
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Agricultural - AR-2	General Commercial - C-1	





Legend		
Conditional_Use_Parcels	Medium Residential - MR	Commercial Residential - CR-1
Parcels	General Residential - GR	Marine - M
Roads	High Density Residential	Limited Industrial - LI-1
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Agricultural - AR-1	Neighborhood Business - B-1	Heavy Industrial - HI-1
Agricultural - AR-2	General Commercial - C-1	



**C/U #1939**







