YOUNG CONAWAY STARGATT & TAYLOR, LLP
Attorneys at Law

WILMINGTON
GEORGETOWN
MIDDLETOWN
NEW YORK

Stephanie L. Hansen
P 302.571.6733
F 302.576.3519
shansen@ycst.com

November 27, 2013

ELECTRONIC TRANSMISSION AND FEDERAL EXPRESS OVERNIGHT
Ms. Barbara Delaney
(Barbara.R.Delaney@hud.gov)
Office of Fair Housing and Equal Opportunity
Philadelphia Center Director
100 Penn Square East - Wanamaker Building,
10th Floor
Philadelphia, PA 19107

Christopher J. Fregiato, Esq.
(Christopher.Fregiato@usdoj.gov)
Chief
Attn: DJ #175-15-46
Housing and Civil Enforcement Section
Civil Rights Division
United States Department of Justice
1800 G Street NW
Washington, DC 20006

Re: Second Semi-Annual Compliance Report Under the Sussex County Voluntary Compliance Agreement (HUD) and Consent Decree (USDOJ)

Dear Ms. Delaney and Mr. Fregiato:

This correspondence serves as Sussex County's second semi-annual compliance report ("Second Semi-Annual Compliance Report") as required under Section V(A)(1) of the Voluntary Compliance Agreement ("VCA") executed between Sussex County and the U.S. Department of Housing and Urban Development ("HUD") on November 28, 2012, and Section VI(18) the Consent Decree ("CD") executed between Sussex County and the U.S. Department of Justice ("USDOJ") on November 28, 2012, entered by the Court on December 19, 2012 (Civil Action No. 12-1591-MPT). Please note, however, that the County is expressly reserving its right to supplement this Second Semi-Annual Compliance Report up through December 19, 2013, with information regarding the requirements under the CD since December 19, 2013 is the due date for the Second Semi-Annual Compliance Report to USDOJ. Exhibits are attached as noted.

This correspondence expressly incorporates by reference all of the previous reporting information submitted to HUD and USDOJ in the County's correspondences dated December 28, 2012; March 28, 2013; May 28, 2013; July 2, 2013; July 23, 2013; August 5, 2013[1]; September 30, 2013; October 30, 2013; and November 7, 2013. For the sake of brevity and efficiency, when an item required under the CD or the VCA has been fulfilled and notice of the fulfillment of that requirement has been provided to USDOJ and HUD in one of these previous correspondences, we will simply note the requirement below and the correspondence in which it has been addressed instead of repeating that information in this compliance report.

I. Requirements Under the Consent Decree

The compliance status of each requirement under the CD is addressed below in the numerical order in which the requirement is found.

A. **Section I(8)(a) through (d)** – General Injunction. The County believes it is in compliance with the elements of the general injunction as set forth in this section.

B. **Section II** – Development of New Horizons by Diamond State CLT. With the exception of Subsection II(11)(a), the requirements of this section become active upon submission of an application by Diamond State CLT. Since no application has yet been received, the requirements have not been activated. With regard to Subsection II(11)(a), the County affirmatively states that it is in compliance with the requirements of this subsection which prohibit public disparagement of Diamond State CLT, the New Horizons development project, or the viability of the community land trust model for affordable housing development.

C. **Section III(12)** – Additional Provisions Related to Affordable and Fair Housing. This section requires certain notice to an applicant should the County decline, reject, or deny any type of request or application for zoning or land use approval related to an Affordable Housing proposal or a proposal processed under the Moderately Priced Housing Unit ("MPHU") program or the Sussex County Rental Program ("SCRP"). The County believes it has not declined, rejected, or denied any such request and, therefore, believes it is in compliance with this section.

D. **Section III(13)(a) through (d)** - Additional Provisions Related to Affordable and Fair Housing. This section requires the County to submit to USDOJ a draft Affordable and Fair

[1] The August 5, 2013 correspondence was sent solely to HUD in response to HUD's July 30, 2013 email request from Ms. Sharese Paylor for additional information on the County's interaction with DSHA and the Delaware Office of State Planning Coordination in drafting the AI Evaluation and Proposed Priority Fair Housing Plan.

Housing Marketing Plan ("Marketing Plan") inclusive of specific items within one hundred (100) days of the adoption of the CD. The one-hundred-day deadline was April 1, 2013. The County submitted its draft Marketing Plan in its correspondence to USDOJ and HUD dated March 28, 2013. USDOJ provided comments to the draft Marketing Plan by letter dated April 29, 2013, and the County submitted a revised Marketing Plan to USDOJ by letter dated May 13, 2013. The County submitted a second revised Marketing Plan in its correspondence to USDOJ on July 2, 2013 to incorporate "gender identity" as a new protected class in accordance with a new law recently enacted in Delaware. Subsequently, the County requested a date change for one of the items in the Marketing Plan (the date by which to hold the Homebuyer Fair) in its correspondence to USDOJ dated July 23, 2013, and with that correspondence, submitted another revised Marketing Plan showing the date change.

Under the provisions of this section, the County must proceed to implement the Marketing Plan within five (5) days upon its approval by USDOJ. Although the County is still awaiting USDOJ's formal notice of approval on the Marketing Plan, the County has proceeded to implement the elements of the Marketing Plan as those elements have come due. For a full listing of those elements and the County's actions, please see the County's correspondences to you dated July 2, 2013 and September 30, 2013. However, in order to explicitly resolve the issue of USDOJ approval, the County is affirmatively requesting approval from USDOJ on its Marketing Plan at this time.

E. **Section IV(14)** – Fair Housing Compliance Officer. This section required the County to designate a Fair Housing Compliance Officer ("FHCO"). As set forth in its correspondence to USDOJ and HUD dated December 28, 2012, the County believes it is in compliance with this requirement.

F. **Sections IV(15) and (16)** - Fair Housing Compliance Officer. These sections require the FHCO to receive and review all complaints of housing discrimination made against the County, to keep a written record of verbal complaints, and to provide HUD and USDOJ with a copy of the complaints received and the County's response. Since the County's First Semi-Annual Compliance Report dated May 28th, 2013, the County has received, reviewed and concluded a complaint from Mr. Joseph Meyer, and has forwarded all of the required information to USDOJ in correspondences dated October 30, 2013, and November 7, 2013. The County has received no other housing discrimination complaints since the First Semi-Annual Compliance Report.

G. **Section IV(17)** - Fair Housing Compliance Officer. This section requires the FHCO to maintain copies of the CD, the Fair Housing Policy, the HUD Complaint form and HUD pamphlet entitled "Are you a victim of housing discrimination?" (HUD official forms 903 and 903.1, respectively) and make these materials freely available to anyone, upon request, without charge, including all persons making fair housing complaints to the FHCO. The required materials are freely available, upon request, without charge, to anyone at the County's office of Community Development and Housing. As a result, the County believes it is in compliance with this section.

H. **Section IV(18)** - Fair Housing Compliance Officer. This section requires the FHCO to report to the County every six months on activities taken in compliance with this CD. Six months from the date of the CD is June 19, 2013. The FHCO reported to the County at the County Council meeting on June 11th, in compliance with this section. Documents associated with this reporting were submitted to your office via correspondence dated July 2nd, 2013. The date for compliance for the next update is December 19, 2013, and the FHCO is scheduled to present her next update to County Council on December 17, 2013.

I. **Section V(19)** – Fair Housing Policy. Among other things, this section requires the County to adopt a Fair Housing Policy with the text as set forth in the CD at Attachment A. The policy was so adopted and notice of the fulfillment of this requirement was sent to USDOJ and HUD in the County's correspondence dated December 28, 2012. The Fair Housing Policy has subsequently been revised to reflect new protected class status for gender identity in Delaware and to include the County's Anti-NIMBY language. Notice of each revision was sent to your office via correspondences dated July 2, 2013, and July 23, 2013.

This section also requires the County to include the Fair Housing Policy in all literature and information or application materials provided to residential developers, including developers of affordable housing. The County affirmatively states that it is inserting the Fair Housing Policy in its land use application material. Lastly, this section requires the County to include the Fair Housing Policy as a readily accessible link on the County's website. This link is currently active and can be found on the County's website and under the Community Development & Housing webpage. As a result, the County believes it is in compliance with this section.

J. **Section V(20)** – Fair Housing Policy. This section requires the County to place the "Equal Housing Opportunity" or fair housing logo on the County's website and on all future published notices and advertisements related to housing or residential development. As reported in the County's First Semi-Annual Compliance Report, this requirement has been fulfilled.

K. **Section VI(21) – (23)** – Training. As set forth in the County's correspondence to USDOJ and HUD dated March 28, 2013, the County has fulfilled all of the requirements for the initial, in-person training session required under Sections 21 through 23. But for one new employee (Joseph Wright), there have been no newly elected, appointed, or hired individuals requiring training under the Consent Decree since the County's First Semi-Annual Compliance Report. Attached as **Exhibit 1** please find the Certificate of Training and Receipt of Consent Decree for Mr. Wright.

L. **Section VII(24)(a) through (c)** – Reporting and Recordkeeping. The requirements of this section do not become active until Diamond State CLT submits its application. No application has been submitted as of this time, therefore the requirements have not become activated.

M. **Section VII(25)** – Reporting and Recordkeeping. This section requires the submission to DOJ of contact information for the FHCO, the adopted Fair Housing Policy, a

printout of the County's website showing the "Equal Opportunity Logo," the name of the fair housing trainer, and other information required by section 21(a). As set forth in the County's correspondences to USDOJ and HUD dated December 28, 2013, and March 28, 2013, the County has fulfilled the requirements of this section.

N. **Section VII(26)** – Reporting and Recordkeeping. This section required the County to submit the executed Certificates of Training and Receipt of Consent Decree, and the proposed Affordable and Fair Housing Marketing Plan, to USDOJ by April 1, 2013. These documents were submitted to USDOJ and HUD in the County's correspondence dated March 28, 2013. As a result, the County believes it has fulfilled the requirements of this section (also please see the County's response to Section VI(21) – (23) above).

O. **Section VII(27)(a) through (f)** – Reporting and Recordkeeping.

Webpage: This section requires the County to develop an Affordable Housing webpage and update the webpage twice annually with certain information. The County was required to post its first compliance report and notify USDOJ of such posting within six (6) months after entry of the CD (by June 19, 2013). The County launched the webpage on June 19, 2013, and the content of the webpage conforms to the requirements of this section and to the draft Marketing Plan.

Compliance Report Postings: This section also sets forth the information that should be posted on the webpage as part of the compliance report postings. In particular, the compliance report postings on the webpage should include: (a) copies of any letters of support by the County for New Horizons; (b) a summary of each zoning or land-use request or application related to Affordable Housing or housing being processed under the MPHU or SCRP programs and certain information related to those requests or applications; (c) representative copies of any published notices or advertisements containing the phrase "Equal Housing Opportunity" or the fair housing logo; (d) copies of any Certifications of Training and Receipt of Consent Decree signed since the preceding compliance report; (e) copies of any materials previously submitted to USDOJ if such materials have been substantially altered or amended since they were last submitted; and (f) copies of any changes to the County's zoning or land use laws, regulations, policies or procedures addressing the construction of or approval process for Affordable Housing or housing being processed under the MPHU or SCRP programs enacted since the previous compliance report was submitted.

The County states affirmatively that the above required information has been posted on the Affordable Housing webpage. Since the County's submission of the First Semi-Annual Compliance Report, the County states the following with respect to the items required above, each in the order as presented above:

(a) The County has not issued any letters of support for New Horizons and there is no active application for New Horizons in front of the County.

(b) There have been no zoning or land-use requests or applications related to Affordable Housing or housing being processed under the MPHU or SCRP programs. *With this Second Semi-Annual Compliance Report, the County is explicitly setting forth the USDOJ and County understanding that the phrase 'A summary of each zoning or land-use request or application related to Affordable Housing' refers to zoning or land use requests or applications for housing development projects intended or designed for households earning less than 80% of the Area Median Income ("AMI") as calculated by the U.S. Department of Housing and Urban Development. Such projects do not include requests or applications from individual homeowners seeking variances or special use exceptions from the County's Board of Adjustment. Instead, this provision is interpreted as applying to requests and applications from developers of residential housing projects. A residential housing project is interpreted as a project to construct housing in which more than one family is intended to be served and in which some portion of the project is specifically proposed by the developer as intended to serve households earning less than 80% AMI.*

(c) Attached are representative copies of published notices containing the phrase "Equal Housing Opportunity" (**see Exhibit 2**). These notices are the agendas of County Council, the Planning and Zoning Commission, and the Board of Adjustment.

(d) The County hired one new employee since the last First Semi-Annual Compliance report (Joseph Wright), and attached as **Exhibit 1** is the Certificate of Training and Receipt of Consent Decree for Mr. Wright. There have been no other newly elected, appointed, or hired individuals requiring training under the Consent Decree since the First Semi-Annual Compliance Report.

(e) There have been no materials altered or amended since such materials were last submitted to USDOJ.

(f) There have been no changes to the County's zoning or land use laws, regulations, policies or procedures addressing the construction of or approval process for Affordable Housing or housing being processed under the MPHU or SCRP programs enacted since the previous compliance report was submitted.

P. **Section VII(28)** – Reporting and Recordkeeping. This section requires the County to send to USDOJ any proposed change to the County's zoning or land-use laws, regulations, policies or procedures addressing the construction of or approval process for Affordable Housing or housing being processed under the MPHU or SCRP programs prior to the County's consideration. There have been no such proposed changes since the County's submission of the First Semi-Annual Compliance Report that have not otherwise been submitted to USDOJ in prior correspondences from the County. *With this Second Semi-Annual Compliance Report, the County is explicitly setting forth the USDOJ and County understanding that this section is meant*

to address proposed changes to laws, regulations, policies, or procedures that are intended to specifically address the construction of or approval process for Affordable Housing/MPHU/SCRP programs, not every change which implicates residential development in general.

Q. **Section VII(29)** – Reporting and Recordkeeping. This section requires the County to retain all records relating to any provision of the CD and gives USDOJ the opportunity to inspect and copy any such records. The County affirmatively states that it is in compliance with this section.

R. **Section VIII(30) – (31)** – Compensation of Aggrieved Persons. These sections require compensation to Diamond State CLT and set forth a procedure whereby, once the compensation is received, a release from Diamond State CLT ("Release") is obtained and sent to the County. The compensation has been received by Diamond State CLT and the Release has been received by the County via correspondence from USDOJ dated January 3, 2013. As a result, the County believes the requirements of these sections have been fulfilled.

S. **Section IX(32) – (33)** – Jurisdiction and Scope of Decree. These sections set forth the jurisdiction of the court in this matter and state that the CD is in effect for four (4) years. Nothing in these sections requires compliance on the part of the County.

T. **Section IX(34)** – Jurisdiction and Scope of Decree. This section states that modifications to the CD, other than a time limit for performance, will be effective upon the filing of a written agreement between the County and USDOJ with the Court. In order to modify the CD to include the agreement between USDOJ and the County regarding certain training provisions, calculations of deadlines, and posting of Certificates of Training and Receipt of Consent Decree as previously agreed upon between the County and USDOJ, the County submitted to USDOJ a draft Stipulation and Order for review with the First Semi-Annual Compliance Report. As per communication from USDOJ, it is the County's understanding that all of the terms in the Stipulation and Order are acceptable to USDOJ. Additionally, even though the Stipulation and Order have not been filed with the Court, the County and USDOJ are proceeding as though the Stipulation and Order have been properly filed. With this correspondence, the County renews its request that USDOJ execute the Stipulation and Order enclosed with the First Semi-Annual Compliance Report and resubmitted here as **Exhibit 3**.

U. **Sections X (Enforcement of This Decree), XI (Costs and Fees) and XII (Termination of Litigation Hold)**– Nothing in these sections require compliance on the part of the County.

II. Requirements Under the Voluntary Compliance Agreement

A. **Section II** – General Provisions. The only provision in this section requiring compliance on the part of the County is Section II(7). This section requires that the County make a copy of the VCA available for review to any person, in accordance with the law. The County affirmatively states that it continues to be in compliance with this section as set forth in the First Semi-Annual Compliance Report.

B. **Section III(1)** – Corrective Actions. This section references the training requirements as set forth in Section VI(21)(a) through (c) of the CD. Note: The reference to Section VI(d) is in error. The proper notation is Section VI(21), and there is no Section VI(21)(d). As mentioned in the First Semi-Annual Compliance Report, the County has fulfilled all of the requirements for the initial, in-person training session required under sections 21 through 23 of the CD. As a result, the County believes it is in compliance with the initial, in-person training requirement of the VCA. No other training has been required since the First Semi-Annual Compliance Report.

C. **Section III(2)** – Corrective Actions. This section requires the County to address the decision to deny the New Horizons Cluster Subdivision proposal and reimbursement to Diamond State CLT as agreed upon in Sections II(10) and VIII of the CD. The requirements of Section II (including Section II(10)) become active upon submission of an application by Diamond State CLT. Since no application has yet been received, the requirements have not been activated. Regarding Section VIII of the CD, compensation has been received by Diamond State CLT and the Release has been received by the County via correspondence from USDOJ dated January 3, 2013. As a result, the County believes the requirements of Section VIII have been fulfilled.

D. **Section III(3)** – Corrective Actions. This section requires the County to limit the evaluation of future land use proposals to compliance with the County Code and State law. The County affirmatively states that it is in compliance with this section.

E. **Section III(4)** – Corrective Actions. This section requires the County to comply with guidance and instructions provided by the State of Delaware to affirmatively further fair housing, to the greatest extent feasible or practicable, contingent upon funding and the County's authority. The County believes it is in compliance with this section. The County sent its draft Sussex County AI Evaluation and Proposed Priority Fair Housing Plan ("Priority Plan") to the Delaware State Housing Authority ("DSHA") and HUD on March 28, 2013, and received comments back from the DSHA. In response to the comments from DSHA, the County revised the Priority Plan and sent the revised Priority Plan back to DSHA for any further comments. The County received a request for additional information from HUD (Ms. Sharese Paylor) regarding the County's interaction with DSHA and the Delaware Office of State Planning Coordination in drafting the Priority Plan via email on July 30, 2013, and responded back to HUD with the additional information by correspondence dated August 5, 2013. The County has received no further instructions from DSHA or HUD to date.

F. **Section III(5)** – Corrective Actions. This section requires the County to hire or appoint the FHCO and to notify HUD of the appointment within 30 days. As set forth in the County's correspondence to HUD and USDOJ dated December 28, 2012, the County is in compliance with this requirement.

G. **Section III(6)** – Corrective Actions. This section only becomes active if the FHCO resigns or is otherwise terminated prior to the expiration of the VCA. That situation has not arisen, so there is nothing in this section that requires compliance by the County at this time.

H. **Section III(7)** – Corrective Actions.

Section III(7)(a) requires that the County review and evaluate the 1998, 2003, and 2011 Analysis of Impediments, develop a proposed priority fair housing plan to address the identified impediments that continue to exist, and submit the plan to DSHA and HUD for review and approval within 120 days of the effective date of the VCA (by March 28, 2013). In response, the County performed the required review and evaluation, drafted the Priority Plan, and submitted the Priority Plan to HUD and DSHA for review and approval (see the discussion above regarding Section III(4)). At this time, we have received and addressed comments from both DSHA and HUD and the County believes it is in compliance with this section. Having received no further communication from HUD on the Priority Plan since July 30, 2013, and in order to explicitly resolve the issue of HUD approval, the County is affirmatively requesting approval from HUD on its Priority Plan at this time.

Section III(7)(a)(i) requires the Priority Plan to incorporate a strategy to increase housing opportunities throughout the County, taking into account the housing needs of African-Americans and Hispanic residents and it will develop mechanisms in which Sussex County will use CDBG and other funding to affirmatively further fair housing. The County believes that its draft Priority Plan is in compliance with this section.

Section III(7)(a)(ii) requires, in future planning efforts, Sussex County to collaborate with DSHA and the Office of State Planning and Coordination ("OSPC") to identify the County's priority actions to develop a strategy to integrate affordable housing that is fully available without regard to race or ethnicity into all communities throughout the County. To the extent that the County approves development outside designated growth areas, the provision of affordable housing shall be a consideration. In accordance with the discussion above regarding Sections III(4) and III(7), the County believes that it is in compliance with this section.

Section III(7)(a)(iii) requires that within 120 days of the effective date of the VCA (March 28, 2013), the FHCO must identify successful models of affordable housing strategies used in other states, counties or localities similar in jurisdiction and authority to Sussex County to recommend to County Council, to assist the County in formulating an affordable housing policy as prescribed in the CD Section III.13(a)(v). As set forth in the County's correspondence to HUD and USDOJ dated March 28, 2013, the FHCO identified six successful strategies and presented those strategies to County Council on March 26, 2013. As a result of

this presentation, the County adopted Strategy #1 (the Anti-NIMBY Policy) at the County Council meeting held on April 16, 2013. Within the County's submission to USDOJ and HUD dated July 2, 2013, was a copy of the County's revised Fair Housing Policy incorporating the new Anti-NIMBYpolicy. As a result, the County believes it is in compliance with the requirements of this section.

Section III(7)(b) requires the County to amend the MPHU ordinance to include provisions that create access to persons that are between 50% and 120% of the County's median household income. The revised provisions must be posted on the County's website. The County amended the MPHU ordinance on April 23, 2013, and subsequently posted the revised provisions of the MPHU ordinance on its website and on the County's Community Development and Housing webpage. As a result, the County believes it is in compliance with the requirements of this section.

Section III(7)(c) requires the County to perform an internal evaluation of the Impacted Communities through the Strong Communities Initiative in order to determine investment strategies, priority designation of infrastructure and/or community development for those elements of infrastructure over which the County has primary governing authority. The County must also evaluate its past participation in providing secondary elements of infrastructure in the Impacted Communities with the goal of prioritizing the funding for such infrastructure improvements and formalizing an approval process for continued County participation in such infrastructure projects. The County has been in discussions with DSHA regarding the use of CDBG funds to assist in the collection of baseline data for the Impacted Communities. Once the data has been collected, the County anticipates performing the evaluation and drafting an approval process for future primary and secondary infrastructure projects. At this time, the County reports that it has received approval from DSHA for the CDBG funding and anticipates issuing a Request for Proposals ("RFP") to perform the data collection work by December 31st, 2013. The County is currently working with DSHA and the Sussex Housing Group to craft the survey document that will form the basis of the RFP. The County anticipates the data collection work to be completed by the end of June 2014.

I. **Section III(8)** – Corrective Actions. Following the internal evaluation and drafting of an approval process for future primary and secondary infrastructure projects, this section requires the County to provide such improvements and services so long as such assistance is consistent with the County's available resources, and is consistent with relevant statutes, rules, regulations and policies. The evaluation of the Impacted Communities, the approval process, and the approvals granted will be made publicly available on Sussex County's website on an on-going basis. Since the internal evaluation has not been completed and no approval process is yet in place, the requirements of this section have not yet been activated.

J. **Section III(9)** – Corrective Actions. This section requires the County to revise its methodology, as proposed by DSHA at the time the VCA was finalized, to target minorities with disproportionate housing needs to ensure that minorities are benefitting from all affordable housing programs supported by the County. Under the current system that exists in Delaware,

Sussex County does not have the ability to determine CDBG allocations. The County applies for funding on behalf of incorporated communities and rural residents and DSHA makes the funding determinations. The County then administers the projects resulting from those determinations. As a result, changes by DSHA to the methodology for allocating CDBG funding automatically are applied to applications for such funding from the County. However, in addition, the County continues to review its methodology and such review may lead to additional changes in the future.

K. **Section IV** – Public Notice. Under this section, the County must publish a Notice in a newspaper of general circulation and on its website regarding the VCA within 30 days of the effective date of the VCA or the CD, whichever is later As mentioned in the County's correspondence to USDOJ and HUD dated December 28, 2012, the requirements of this section have been satisfied.

L. **Section V** – Reporting and Compliance Requirements. Under Section A(1), the County must submit semi-annual reports to HUD for the duration of the CD. Under Section A(2) the reports must contain information on each corrective action (progress made, work remaining, reasons for any delay, dates of completion or proposed completion), and must be signed and certified as accurate by the FHCO. This correspondence from the County is meant to satisfy the requirements of these sections for the Second Semi-Annual Compliance Report.

M. **Section VI** – Recordkeeping Requirements. This section requires the County to maintain adequate files along with all materials relating to the County's implementation of the VCA. The County asserts that it is in compliance with this section.

No other provisions of the VCA have action items that are required to be reported upon for inclusion within this Second Semi-Annual Compliance Report. This concludes the County's Second Semi-Annual Compliance Report. Please feel free to contact me with any questions or comments.

Sincerely yours,

Stephanie L. Hansen

cc: Alice Hung (via email at Alice.Hung@usdoj.gov)
Ms. Melody Taylor-Blancher (via email at Melody.C.TaylorBlancher@hud.gov)
Ms. Sharese Paylor (via email at Sharese.C.Paylor@hud.gov)
Mr. Todd Lawson (via email at tlawson@sussexcountyde.gov)
Mr. Brad Whaley (via email at bwhaley@sussexcountyde.gov)

I attest that the material presented in this Second Semi-Annual Compliance Report is accurate to the best of my knowledge as the Sussex County Fair Housing Compliance Officer.

_____

Brandy A. Nauman
Sussex County Fair Housing Compliance Officer

Exhibit List

Exhibit 1 - Certificate of Training and Receipt of Consent Decree for JosephWright.

Exhibit 2 –Representative copies of agendas from the meetings of County Council, the Planning and Zoning Commission, and the Board of Adjustment

Exhibit 3 – Stipulation and Order

Exhibit 1

ATTACHMENT B

CERTIFICATION OF TRAINING AND RECEIPT OF CONSENT DECREE

On 6/10/13, I attended training on the federal Fair Housing Act. I have had all of my questions concerning these topics answered to my satisfaction.

I also have been given and I have read a copy of the Consent Decree entered in United States v. Sussex County, Delaware, et al., Case No. 12-1591-MPT (D. Del.). I understand my legal responsibilities and will comply with those responsibilities. I further understand that the Court may impose sanctions on Sussex County or the Planning and Zoning Commission of Sussex County if I violate any provision of this Decree.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Joseph Wright
Signature

JOSEPH WRIGHT
Print Name

6/10/13
Date

ASS'T. COUNTY ENGINEER
Position with Sussex County

36350 TARPON DRIVE
Home Street Address

LEWES, DE. 19958
City, State, Zip

302-645-8277
Home Telephone Number

"I was unable to attend the live-training session due to:

_____ I was a member of the 25% of my department's staff that was required to report to work on the day of the training.

_____ Traveling either out of State, or out of the Country.

_____ Illness

✓ Other: NEW HIRE AS OF 6/10/13

01:12731981.2

Exhibit 2

MICHAEL H. VINCENT, PRESIDENT
SAMUEL R. WILSON JR., VICE PRESIDENT
GEORGE B. COLE
JOAN R. DEAVER
VANCE PHILLIPS

2 THE CIRCLE | PO BOX 589
GEORGETOWN, DE 19947
(302) 855-7743 T
(302) 855-7749 F
sussexcountyde.gov

Sussex County Council

AGENDA

NOVEMBER 5, 2013

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Todd Lawson, County Administrator

1. **Proclamation – Pancreatic Cancer Awareness Month**
2. **2014 Holiday Schedule and County Council Schedule**
3. **Administrator's Report**

Gina Jennings, Finance Director

1. **Fiscal Year 2014 Human Service Grants Award**
2. **Dental & Vision Plan Recommendations**

Hal Godwin, Deputy County Administrator

1. **Wastewater Agreement**
   - **A. Hunter's Walk**

10:30 a.m. Public Hearing

Miller Creek Sanitary Sewer District – Easter Annexation

EQUAL HOUSING OPPORTUNITY

Michael Izzo, County Engineer

1. **Pump Station 30 Improvements**

   A. **Change Order No. 2**

Juel Gibbons, Project Engineer

1. **Airport Wetland Mitigation Project – Contract 11-06**

   A. **Final Change Order**

   B. **Substantial Completion**

Julie Cooper, Project Engineer

1. **Greenwood Library Project 07-05**

   A. **Change Order No. 2**

Grant Requests

1. **Changing Fates Equine Rescue of Delaware for operating expenses.**

Introduction of Proposed Zoning Ordinances

Any Additional Business Brought Before Council

Executive Session – Personnel and Land Acquisition pursuant to 29 Del. C. §10004(b)

Possible Action on Executive Session Items

****

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

****

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on October 29, 2013 at 3:15 p.m., and at least seven (7) days in advance of the meeting.

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

Agenda items listed may be considered out of sequence.

####

ROBERT C. WHEATLEY, CHAIRMAN
IRWIN G. BURTON III
MICHAEL B. JOHNSON
MARTIN L. ROSS
RODNEY SMITH

2 THE CIRCLE | PO BOX 417
GEORGETOWN, DE 19947
(302) 855-7878 T
(302) 854-5079 F
sussexcountyde.gov

Sussex County Planning & Zoning Commission

AGENDA

NOVEMBER 14, 2013

6:00 P.M.

Call to Order

Approval of Agenda

Approval of Minutes – October 24, 2013

Old Business

Change of Zone #1737 Robert & Julie Norwood **MJ**
Application of **ROBERT & JULIE NORWOOD** to amend Comprehensive Zoning Map from AR-1 Agricultural Residential District to a CR-1 Commercial Residential District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 24,205 square feet, more or less, lying at the northwest corner of Route 24 and Retz Lane (a private street) 280 feet southwest of Road 284 (Mulberry Knoll Road) (Tax Map I.D. # 3-34-12.00-25.00 & 26.00).

Change of Zone #1738 Atlantic Community Thrift Shop, Inc. **RS**
Application of **ATLANTIC COMMUNITY THRIFT SHOP, INC.** to amend Comprehensive Zoning Map from AR-1 Agricultural Residential District to a B-1 Neighborhood Business District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.46 acres, more or less, lying at the south of Route 26 (Atlantic Avenue) 100 feet southeast of Road 348 (Irons Lane) (Tax Map I.D. # 1-34-11.00-184.02 & 185.00).

Subdivision #2013-9 Louis J. & Antoinette Perri **MR**
Application of **LOUIS J. & ANTOINETTE PERRI** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Little Creek Hundred, Sussex County, by dividing 5.00 acres in 4 lots, and a waiver from the street design and forested buffer requirements, located north of Road 64 and across from Road 454 C (Tax Map I.D. 5-32-7.00-27.14).

EQUAL HOUSING OPPORTUNITY

Public Hearings

Conditional Use #1973 Sandhill Homes, LLC **MJ**

Application of **SANDHILL HOMES, LLC** to consider the Conditional Use of land in a MR Medium Density Residential District for a multi-family dwelling structure (2 units) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 8,277 square feet, more or less, lying at the southwest of Silver Lake Drive 650 feet south of Robinson's Drive 780 feet northwest of Pine Lane (Tax I.D. # 3-34-20.09-120.00).

Subdivision #2013-10 David Green **MJ**

Application of **DAVID GREEN** to consider the Subdivision of land in a AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 32.06 acres into 5 lots, located east of Coolspring Road (Road 290) 4,000 feet north of Stockley Road (Road 280) (Tax Map I.D. 2-34-5.00-38.00).

Subdivision #2013-11 Joseph J. & Jo Ann Tittermary **IGB**

Application of **JOSEPH J. & JO ANN TITTERMARY** to consider the Subdivision Of land in a GR General Residential Zoning District in Broadkill Hundred, Sussex County, by dividing 29,629 square feet into 2 lots, located south of Bayshore Drive (Road 16 A) and being Lot 2 of Subdivision of Lands of Jennie H.J. Layton, et al (Tax Map I.D. 2-35-10.00-1.06).

AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXV, SUBSECTION 115-179B OF THE CODE OF SUSSEX COUNTY, ENTITLED "HEIGHT REGULATIONS" IN REGARD TO THE HEIGHT OF CERTAIN BUILDINGS.

AN ORDINANCE TO AMEND CHAPTER 99 OF THE CODE OF SUSSEX COUNTY, ENTITILED "SUBDIVISION OF LAND" IN ORDER TO EXTEND THE TIMEFRAME IN WHICH LANDOWNERS MAY PERFORM SITE WORK OR CONSTRUCT CERTAIN IMPROVEMENTS WITHOUT POSTING A BOND OR PERFORMANCE GUARANTY.

AN ORDINANCE TO AMEND CHAPTER 90 OF THE CODE OF SUSSEX COUNTY, ENTITLED "SEDIMENT CONTROL AND STORMWATER MANAGEMENT" AND CHAPTER 99 OF THE CODE OF SUSSEX COUNTY, ENTITLED "SUBDIVISION OF LAND" IN REGARD TO THE BONDING AND GUARANTIES REQUIRED FOR SURFACE DRAINAGE FACILITIES UNDER THE JURISDICTION OF THE SUSSEX COUNTY CONSERVATION DISTRICT.

Other Business

Nassau Feed & Grain, Inc. **IGB**
Preliminary Commercial Site Plan – Nassau Road

Atlantic Coast Inn **RS**
Preliminary Commercial Site Plan – Route 54

****

Planning & Zoning Commission meetings can be monitored on the internet at www.sussexcountyde.gov.

****

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on October 29, 2013, at 3:00 p.m., 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.

####

DALE A. CALLAWAY, CHAIRMAN
JEFFREY M. HUDSON
JOHN M. MILLS
NORMAN C. RICKARD
E. BRENT WORKMAN

2 THE CIRCLE | PO BOX 417
GEORGETOWN, DE 19947
(302) 855-7878 T
(302) 854-5079 F
sussexcountyde.gov

Sussex County Board of Adjustment

REVISED AGENDA

NOVEMBER 4, 2013

7:00 P.M.

Call to Order

Approval of Agenda

Public Hearings

Case No. 11274 Laf & Gundula Erickson
northeast of Wingate Road (Road 343) 975 feet northwest of Omar Road (Road 54) (Tax Map I.D. 1-34-10.00-62.09).
A variance from the minimum lot width requirement for a parcel.

Case No. 11286 Gary & Veronique Liska
Southeast corner of Bay Shore Drive and Flounder Avenue (a pedestrian access) and 0.7 mile southeast of Route 16 (Broadkill Road) and being Lot 17 and ½ Lot 18 Old Inlet Beach Section of Broadkill Beach (Tax Map I.D. 2-35-10.06-28.00).
A variance from the front yard setback requirement.

Case No. 11287 Norman Cohen
south of Angola Road (Road 277) and being east of Oak Street East 650 feet south of Woodland Circle and also being Lot 34 Angola-By-The- Bay (Tax Map I.D. 2-34-17.08-196.00).
A variance from the front yard and side yard setback requirement.

Case No. 11288 Edward Mulhern
south of Angola Road (Road 277) and being east of Oak Street East 430 feet south of Woodland Circle and also being Lot 30 Angola-By-The-Bay (Tax Map I.D. 2-34-17.08-200.00).
A variance from the rear yard setback requirement.

Case No. 11289 Lucienne Wolfe
east of Plantation Road (Road 275) and being northeast of Lakeside Drive 380 feet north of Plantations Boulevard and being Lot 81 Plantation East development (Tax Map I.D. 3-34-6.00-1196.00).
A variance from the sideyard setback requirement.

EQUAL HOUSING OPPORTUNITY

Case No. 11290 Michael Golding
west of Road 357 (Cedar Neck Road) 107 feet north of Wood Lane (a private street) approximately 1.0 mile north of Road 358 (Sandy Cove Road) (Tax Map I.D. 1-34-5.00-230.00).
A variance from the front yard setback requirement.

Case No. 11291 Lisa Driscoll & James Truett Jr.
south of Road 277 (Angola Road) being southwest of Poplar Drive 380 feet northwest of Woodland Circle and also being Lot 43 Angola-By-The-Bay (Tax Map I.D. 2-34-11.20-122.00).
A variance from the front yard setback requirement.

Case No. 11292 Gregory & Rita Stevens
south of Road 284 (Mulberry Knoll Road) and being south of East Lane which is 1,800 feet south of State Maintenance of Mulberry Knoll Road and Bay Shore Drive and also being Lots 6 and 7 Bay Shore Hills (Tax Map I.D. 3-34-18.00-49.01).
A variance from the front yard and rear yard setback requirement.

Case No. 11293 Concrete Building Systems of Delaware Inc.
north of Road 502 (Racetrack Road) ¼ mile west of Route 13A (Bi-State Boulevard) (Tax Map I.D. 5-32-20.00-12.01).
A special use exception to retain a manufactured home type structure as an office.

Case No. 11294 James Paoli & Nello Paoli
northeast of Route 1 (Coastal Highway) 100 feet northwest of Cullen Street (Tax Map I.D. 3-34-20.13-45.01).
A variance from the front yard setback requirement.

Case No. 11295 Bruce & Maryanne Kauffman
west of Route One, northwest of Andrew Avenue 200 feet southwest of Bayard Avenue and 600 feet northeast of Dodd Avenue and also being Lot 6 Block D of Ann Acres Development (Tax Map I.D. 3-34-20.13-140.00).
A variance from the front yard setback requirement.

Old Business

Case No. 11281 Mr. & Mrs. Ali Kazemzadeh
southwest corner Dune Road and Short Road within Middlesex Beach east of Route One Road) (Tax Map I.D. 1-34-17.16-52.00).
A variance from the corner front yard setback requirement.

Case No. 11285 Barry & Wendy Peterman
southeast of Road 625 (Clendaniel Road) 1,700 feet northeast of Road 42 (North Union Church Road) (Tax Map I.D. 2-30-12.00-69.00).
A special use exception for a rifle/pistol range.

****

Board of Adjustment meetings can be monitored on the internet at www.sussexcountyde.gov.

****

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on October 16, 2013, at 9:00 A.M., 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.
Revised: October 22, 2013 (to include Old Business Case Nos. 11281 & 11285)

####

Exhibit 3

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA, Plaintiff, v. SUSSEX COUNTY, DELAWARE, AND PLANNING AND ZONING COMMISSION OF SUSSEX COUNTY, Defendants.	Civil Action No. 12-1591-MPT CONSENT DECREE

STIPULATION AND ORDER

WHEREAS, the parties in the above-captioned action have agreed to certain modifications the Consent Decree; and

WHEREAS, some of these modifications do not implicate a time limit for performance; and

WHEREAS, the Consent Decree states that modifications which do not implicate a time limit for performance will be effective upon filing of the written agreement with this Court.

IT IS HEREBY STIPULATED AND AGREED, by and between the parties hereto, through their respective counsel and subject to the approval of the Court, that the modifications of the Consent Decree which do not implicate a time limit for performance are as follows:

1. When the in-person training required by the Consent Decree would cause any given County department to operate with less than 25% of its regular employees for the duration of the training, then up to 25% of that department's staff may be considered to have good cause to be trained by video instead of in-person, provided that no individual asserts this basis for good

cause in any two consecutive years.

2. Training will be scheduled so as to maximize the number of required individuals who can attend in person.

A. Any elected, appointed, or hired individual who, for good cause, cannot attend the initial, in-person training may satisfy the initial training requirement by viewing the videotape of the live training within 90 days of entry of the decree, provided that any person who completes the video training in lieu of live training will report the reason on his/her training certification form (Attachment B of the Consent Decree) that will be submitted to the Department of Justice.

B. Any elected, appointed, or hired individual who, for good cause, cannot attend the annual, in-person training may satisfy the annual training requirement by viewing the videotape of the live training within 90 days after the live training, provided that any person who completes the video training in lieu of live training will report the reason on his/her training certification form (Attachment B of the Consent Decree) that will be submitted to the Department of Justice.

3. The parties will adhere to Federal Rule of Civil Procedure 6(a) in calculating deadlines in the Consent Decree.

4. The parties agree that home addresses and home telephone numbers of the trainees required to be trained under Section VI of the Consent Decree that appear on the Certifications of Training and Receipt of Consent Decree ("Certifications") may be redacted before the Certifications are posted on the County's website.

IT IS SO ORDERED:

This _____ day of _____, 2013.

_____

United States Magistrate Judge

The undersigned hereby consent to the entry of this Stipulation and Order:

UNITED STATES OF AMERICA
DEPARTMENT OF JUSTICE

_____

Steven H. Rosenbaum
Rebecca B. Bond
Christopher J. Fregiato
950 Pennsylvania Ave., N.W.
Northwestern Building, 7th Floor
Washington, D.C. 20530
(202) 305-0022
Christopher.Fregiato@usdoj.gov

Attorneys for the Plaintiff

YOUNG CONAWAY STARGATT &
TAYLOR, LLP

_____

Barry M. Willoughby (No. 1016)
Stephanie L. Hansen (No. 4101)
1000 North King Street
Wilmington, DE 19801
(302) 571-6600
bwilloughby@ycst.com
shansen@ycst.com

Attorneys for the Defendants

Dated: May 17, 2013_____