Sussex County Council
Public/Media Packet

MEETING:
JANUARY 15, 2013

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

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

A G E N D A

JANUARY 15, 2013

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Todd Lawson, County Administrator

1. **Finance Director Position**

2. **Administrator's Report**

Susan Webb, Finance Director

1. **2012 Private Activity Volume Cap Reassignment**

Hal Godwin, Deputy County Administrator

1. **Wastewater Agreement**

   A. **Millville Expansion of the Sanitary Sewer District – Barrington Park, aka Bishop's Landing**

Michael Izzo, County Engineer

1. **Airport Advisory Committee Appointments**

Old Business

1. **Conditional Use No. 1945 filed on behalf of Alfonso Matos**

2. **Conditional Use No. 1932 filed on behalf of Tanya Gibbs and Kimwuan Gibbs**

EQUAL HOUSING OPPORTUNITY

11:15 a.m. Public Hearings

"AN ORDINANCE PROVIDING FOR THE ADDITIONAL TEMPORARY EXTENSION OF TIME FOR SUBDIVISION APPLICATIONS, CONDITIONAL USE APPLICATIONS, AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS, WITH A PROVISION FOR FURTHER EXTENSION UPON WRITTEN REQUEST"

"AN ORDINANCE PROVIDING FOR THE ADDITIONAL TEMPORARY EXTENSION OF TIME FOR SUBDIVISION APPLICATIONS, CONDITIONAL USE APPLICATIONS, AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS"

Grant Requests

1. **Town of Georgetown for a playground.**
2. **Oak Orchard Riverdale American Legion Post #28 for sewer hook-up fees.**
3. **Rehoboth Beach Boys & Girls Club for operating costs.**
4. **Rehoboth Beach Historical Society Museum for programs and projects.**
5. **The Greater Lewes Community Village for operating costs.**

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 Item

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

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In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on January 8, 2013 at 4:50 p.m., and at least seven (7) days in advance of the meeting.

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

Agenda items listed may be considered out of sequence.

# # # #

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

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 8, 2013, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	**President**
Samuel R. Wilson, Jr.	**Vice President**
George B. Cole	**Councilman**
Joan R. Deaver	**Councilwoman**
Vance Phillips	**Councilman**
Todd F. Lawson	**County Administrator**
Susan M. Webb	**Finance Director**
Everett Moore	**County Attorney**

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

Call to Order

Mr. Vincent called the meeting to order.

M 001 13 Amend and Approve Agenda

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to amend the Agenda by deleting "Job Applicants′ Qualifications", "Pending/Potential Litigation", 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

M 002 13 Nominate President

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to nominate Michael Vincent to serve as President of the Sussex County Council.

Motion Adopted: 5 Yeas.

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

M 003 13 Nominate Vice President

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to nominate Samuel Wilson to serve as Vice President of the Sussex County Council.

Motion Adopted: 5 Yeas.

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M 003 13 (continued)

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

Appointments

Mr. Lawson reviewed Committee and Board appointments.

M 004 13 Council Appointments

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to appoint Michael Vincent as the Council's representative on the Delaware League of Local Governments; George Cole as the Council's representative on the National Association of Counties Board of Directors; Samuel Wilson as the Council's representative on the Sussex Conservation District Board of Directors; Samuel Wilson as the Council's representative on the Sussex County Airport Committee; and Joan Deaver and George Cole as the Council's representatives on the Sussex County Land Trust, for the calendar year 2013.

Motion Adopted: **5 Yeas.**

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

Mrs. Deaver noted that she is very interested in serving on the Sussex Conservation District Board of Directors.

Appointments

Mr. Lawson reviewed the legal appointments for the Calendar Year 2012.

M 005 13 Legal Appointments

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to reappoint the firm of Moore and Rutt, P.A. as the County's lead legal counsel; the firm of Griffin & Hackett, P.A. as counsel for Planning and Zoning; and the firm of Moore and Rutt, P.A. as counsel for the Board of Adjustment.

Motion Adopted: **5 Yeas.**

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

Rules of Procedure

Mr. Lawson reviewed the Council's Rules of Procedure and he referenced minor changes that are needed: the order of business of the Council meetings (pages 1-2) and the requirement of citizens wishing to participate in Additional Business (page 10). Mr. Lawson noted that in 2012, the Council approved the removal of the requirement that a subject be listed on the sign-in sheet for Additional Business and that only name and address are required.

Mr. Lawson noted that the proposed changes reflect current practice.

Draft

Rules (continued)

The proposed amendments are: (1) to amend Section 1.1 on Page 1 by moving "Invocation" and "Pledge of Allegiance" before "Call to Order" and (2) to amend the first sentence of Section 17.6.A on Page 10 to read "Each speaker shall place their name and address on a sign-up sheet".

M 006 13 Adopt Rules of Procedure With Amend-ments

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to adopt the Rules of Procedure (2013) with the amendments, as proposed.

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 December 4 and 11, 2012 were approved by consent.

Corre-spondence

Mr. Moore read the following correspondence:

GOOD SAMARITAN AID.
RE: Letter in appreciation of grant.

CHEER Senior Foundation.
RE: Letter in appreciation of grant.

OPEN ARMS FOOD MINISTRY.
RE: Letter in appreciation of grant.

BRIDGEVILLE SENIOR CENTER.
RE: Letter in appreciation of grant.

CHILDREN & FAMILIES FIRST.
RE: Letter in appreciation of grant.

SUSSEX COUNTY HABITAT FOR HUMANITY.
RE: Letter in appreciation of grant.

Employee of the Year

The Council recognized the Employee of the Year for 2012, Rodney T. Marvel, Jr. Mr. Marvel began his employment at the County in 1993 at the South Coastal Wastewater Facility and is currently the Assistant Director of Environmental Services.

Building Code Appeal Board Appoint-ments

Mr. Lawson announced that, under consideration on this date, is the reappointment of the following members of the Building and Housing Code Appeal Board: Mr. Vincent's reappointment of Arthur B. Marvel, Mr. Cole's reappointment of Bruce Mears, and Mrs. Deaver's appointment of Jim Clark. If approved, each member will serve a term of 4 years.

M 007 13

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council approves the appointments of Arthur Marvel, Jim Clark, and

Draft

M 007 13 Approve Appointments (continued)

Bruce Mears to the Sussex County Building and Housing Code Appeal Board, effective January 1, 2013 for a term of 4 years.

Motion Adopted: 5 Yeas.

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

Request to Withdraw/ Castaway's Bethany

Mr. Lawson reported that, on December 21, 2012, a letter was received from James A. Fuqua, Jr., Attorney for Castaway's Bethany, L.L.C., the applicant for Change of Zone No. 1719, Change of Zone No. 1720 and Conditional Use No. 1944. In his letter, Mr. Fuqua is requesting that these pending applications be withdrawn.

M 008 13 Approve Withdraw/ Castaway's Bethany

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, that the Sussex County Council approves the request of Castaway's Bethany, L.L.C. to withdraw Change of Zone No. 1719, Change of Zone No. 1720 and Conditional Use No. 1944.

Motion Adopted: 5 Yeas.

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

Administrator's Report

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

1. <u>Sussex County Emergency Operations Center Call Statistics – December 2012 and Year-End Totals</u>

Attached please find the call statistics for the Fire and Ambulance Callboard for the month of December and 2012 overall. There were 13,300 total calls handled in the month of December. Of those 9-1-1 calls in December, 74 percent were made from wireless phones.

In 2012, there was an increase in the number of 9-1-1 calls handled, as well as in the number of incidents dispatched. 9-1-1 calls increased from 105,356 in 2011 to 107,388 in 2012, and the number of cellular generated 9-1-1 calls increased from 78,168 in 2011 to 81,211 in 2012.

Total incidents dispatched increased from 28,070 in 2011 to 29,350 in 2012. Of the 29,350 incidents dispatched, 5,015 were fire incidents and 24,334 were EMS incidents.

2. <u>Delaware State Police Activity Report</u>

Per the attached Delaware State Police activity report for November

Draft

Administrator's Report (continued)

2012, there were 3,606 total traffic arrests and 1,089 total criminal arrests. Of that 1,089, 341 were felony and 748 misdemeanor criminal arrests. Of the total hours on duty spent, 36 percent were spent on criminal investigations.

3. <u>Project Receiving Substantial Completion</u>

Per the attached Engineering Department Fact Sheet, Americana Bayside Phase 6 – Partial, reached Substantial Completion effective December 26, 2012.

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

Bank Account Resolutions

Mrs. Webb announced that, since there was no change in the leadership of the Council, the bank account resolutions will remain the same and no action is necessary.

Oak Orchard SSD/ Contract 09-10

Michael Izzo, County Engineer, presented a Balancing Change Order for the Oak Orchard Sanitary Sewer District. Mr. Izzo stated that the Balancing Change Order, in the credit amount of $348,638.83, is for Contract No. 09-10, which includes Pump Stations 326 and 327, with Underground Utilities Corporation. The Change Order balances the quantities for the contract.

M 009 12 Approve Balancing Change Order/ Oak Orchard SSD

A Motion was made by Mr. Phillips, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the Balancing Change Order for Sussex County Project No. 09-10, Oak Orchard Expansion Area No. 1, Pump Station 326 and Pump Station 327, with Underground Utilities Corporation, in the credit amount of $348,638.83, thereby decreasing the contract amount from $6,229,500.00 to $5,880,861.17 and that final payment be made and any held retainage be released in accordance with the terms and conditions of the contract documents, pending the approval of the funding agency.

Motion Adopted: 5 Yeas.

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

Bid Results/ Annex Building

Brad Hawkes, Director of Utility Engineering, reported that, on November 13, 2012, he reviewed with the Council a project for building renovations at the West Complex Building. Since that time, the project was bid, seven bids were received, and the bids were evaluated. Mr. Hawkes recommended that the bid be awarded to John L. Briggs & Co.

Draft

M 010 12 Award Bid/ Annex Building

A Motion was made by Mr. Phillips, seconded by Mr. Cole, based upon the recommendation of the architects, Davis, Bowen & Friedel, Inc., and the Engineering Department, that Sussex County Project 12-20, Renovations to Sussex County Annex Building, be awarded to John L. Briggs & Co. of Georgetown, in the alternate bid amount of $75,230.00, which includes the base bid and with the inclusion of the bid alternates 1, 3, 6, and 7

Motion Adopted: 5 Yeas.

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

Draft Ordinance/ Sewer and Water Pipe Connections

Gary Tonge, Director of Utility Permits, presented a Draft Ordinance proposing a change to Chapter 110 of the Sussex County Code relating to applications for permits under the interim code for building sewer and water service pipe connections. Currently, the Code requires a plumber to come in person into the County building to apply for a water or sewer connection or disconnection permit. The Draft Ordinance would allow the County to accept applications in a manner other than in person, i.e. electronically, by mail). It was noted that the County is currently unable to consider these requests electronically; however, this ordinance would enable the County to do so.

Introduction of Proposed Ordinance

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 110 OF THE CODE OF SUSSEX COUNTY RELATING TO APPLICATIONS FOR PERMITS UNDER THE INTERIM CODE FOR BUILDING SEWER AND WATER SERVICE PIPE CONNECTIONS".

The Proposed Ordinance will be advertised for Public Hearing.

Grant Requests

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

M 011 13 Human Service Grant

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give $500.00 from Human Service Grants to the Pinetown Civic Association for internet service for the After School Enrichment Program.

Motion Adopted: 5 Yeas.

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

M 012 13 Council-manic Grant

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give $3,500.00 ($2,500.00 from Mr. Vincent's and $1,000.00 from Mr. Phillips' Councilmanic Grant Accounts) to the Laurel Little League for operating expenses.

Draft

M 012 13 (continued)

Motion Adopted: **5 Yeas.**

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

M 013 13 Council-manic Grant

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give $700.00 from Mrs. Deaver's Councilmanic Grant Account to the Mt. Joy Civic Association for a community event for youth.

Motion Adopted: **5 Yeas.**

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

M 014 13 Council-manic Grant

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give $1,000.00 from Mrs. Deaver's Councilmanic Grant Account to Clear Space Theatre Company for programming and development.

Motion Adopted: **5 Yeas.**

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

M 015 13 Council-manic Grant

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to give $700.00 ($500.00 from Mr. Vincent's Councilmanic Grant Account and $100.00 each from Mr. Phillips' and Mrs. Deaver's Councilmanic Grant Accounts) to Eastern Shore AFRAM Festival Committee for the Western Sussex M.L.K. Prayer Breakfast.

Motion Adopted: **5 Yeas.**

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

M 016 13 Council-manic Grant

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give $250.00 ($50.00 from each Councilmanic Grant Account) to Delaware Envirothon for education 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**

Draft

Introduction of Proposed Ordinances

Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AUTO REPAIR AND SERVICE AS EXTENSION TO AN APPROVED TOWING SERVICE AND LANDSCAPING BUSINESS (CONDITIONAL USE NO. 1933) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.374 ACRES, MORE OR LESS" (Conditional Use No. 1956) filed on behalf of Mark A. Giblin.

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR RENTAL AND PERSONAL STORAGE UNITS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.148 ACRES, MORE OR LESS" (Conditional Use No. 1957) filed on behalf of George R. and Sandra L. Van Fleet.

The Proposed Ordinances will be advertised for Public Hearing.

Corre-spondence

Mr. Moore read additional correspondence:

PRIMEROS PASOS.
RE: Letter in appreciation of grant.

MILFORD SENIOR CENTER.
RE: Letter in appreciation of grant.

LA RED HEALTH CENTER.
RE: Letter in appreciation of grant.

LAUREL COMMUNITY FOUNDATION.
RE: Letter in appreciation of grant.

CANCER SUPPORT COMMUNITY OF DELAWARE.
RE: Letter in appreciation of grant.

AUTISM DELAWARE.
RE: Letter in appreciation of grant.

DELAWARE LIONS FOUNDATION.
RE: Letter in appreciation of grant.

KENT-SUSSEX INDUSTRIES.
RE: Letter in appreciation of grant.

EASTER SEALS.
RE: Letter in appreciation of grant.

Draft

Corre-spondence (continued)

SUSSEX FAMILY YMCA.
RE: Letter in appreciation of grant.

SUSSEX PREGNANCY CARE CENTER.
RE: Letter in appreciation of grant.

YWCA DELAWARE
RE: Letter in appreciation of grant.

EL CENTRO CULTURAL.
RE: Letter in appreciation of grant.

BIG BROTHERS BIG SISTERS OF DELAWARE.
RE: Letter in appreciation of grant.

BOYS & GIRLS CLUB OF DELAWARE.
RE: Letter in appreciation of grant.

REHOBOTH BEACH BOYS & GIRLS CLUB.
RE: Letter in appreciation of grant.

DAGSBORO BOYS & GIRLS CLUB.
RE: Letter in appreciation of grant.

CATHOLIC CHARITIES.
RE: Letter in appreciation of grant.

CAPE HENLOPEN FOOD BASKET.
RE: Letter in appreciation of grant.

INDIAN RIVER SENIOR CENTER.
RE: Letter in appreciation of grant.

DELAWARE LIONS FOUNDATION.
RE: Letter in appreciation of grant.

SUSSEX COMMUNITY CRISIS HOUSING SERVICE.
RE: Letter in appreciation of grant.

JUNIOR ACHIEVEMENT OF DELAWARE.
RE: Letter in appreciation of grant.

SUSSEX COUNTY FOSTER PARENT ASSOCIATION.
RE: Letter in appreciation of grant.

NEW HOPE CENTER.
RE: Letter in appreciation of grant.

FAMILIES IN CRISIS CONFERENCE.

Draft

Corre-spondence (continued)

RE: Letter in appreciation of grant.

OCEAN VIEW HISTORICAL SOCIETY.
RE: Letter in appreciation of grant, notification that the house located at 39 Central Avenue has been accepted to be on the National Register of Historic Places, and notification that they have acquired the first free-standing post office in Ocean View, which they hope to restore.

There was no additional business.

M 017 13 Recess and Go Into Executive Session

At 10:43 a.m., a Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to recess the Regular Session and to go into Executive Session for the purpose of discussing issues relating to personnel.

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 10:46 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers to discuss personnel issues. The Executive Session concluded at 11:00 a.m.

M 018 13 Reconvene Regular Session

At 11:03 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, to come out of Executive Session and 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

Mr. Moore announced that no action was required on Executive Session items.

Public Hearing/ Draft Ordinance/ Architect and/or Engineer Seal

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 52, SECTION 52-18C. AND E. OF THE CODE OF SUSSEX COUNTY IN REGARD TO THE SEALING OF DRAWINGS, SPECIFICATIONS, ETC. BY AN ARCHITECT AND/OR ENGINEER".

Synopsis: In order to be in compliance with the Delaware Code, this Ordinance amends Chapter 52, Sections 52-18C. and E. to require that, among other things, prior to the issuance of a building permit, all drawings, specifications and accompanying data shall be sealed by an architect and/or engineer who is in compliance with the registration provisions of 24 Del. C., Chapter 3, or licensing requirement of 24 Del. C., Chapter 28, as the case may be.

Draft

Public Hearing/ Draft Ordinance/ Architect and/or Engineer Seal (continued)

Mr. Moore stated that there have been ongoing discussions with the Attorney General's Office and that this matter came to the Council from the Attorney General's Office, the Architects Board, and the Engineers Board. Mr. Moore also stated that, as a result of his conversations with the Attorney General's Office, he has been informed that the Proposed Legislation does not change anything that the County is currently doing in its Building Code office, except in cases where there is a requirement for an architect's plan or an engineer's plan, it must be a sealed plan by a Delaware licensed architect or engineer.

Public comments were heard.

Charles McAllister, President of the Delaware Association of Professional Engineers, stated that the proposed statutory amendment is not requiring anything new as to what needs to be filed with Sussex County. If an engineering drawing is not required or submitted, the proposed statutory amendment does not make any changes to the way matters are handled in Sussex County. If an engineering drawing is required or submitted to Sussex County, it has to be signed by a licensed Delaware engineer. Mr. McAllister stated that the proposed statutory amendment makes this clear.

Pat Ryan, Architect, spoke in support of the Proposed Ordinance. He stated that the statute governing architecture has several exemptions: single family residences of any size, duplexes of any size, and farm buildings and therefore; you can construct new, renovate, or add on to those buildings without having an architect involved. Mr. Ryan stated that the language the Board of Architects and Board of Engineers have adopted comes from national language that was required by the State legislature in the sunset process. Further, it is not something made up just for Delaware or Sussex County, it is national model language and this ordinance would bring Sussex County in compliance with those requirements.

In response to questions raised, Mr. Ryan stated that Landscape Architects are a separate profession and cannot sign plans per this ordinance. He also stated that there is no State statute referencing 5,000 square feet.

It was noted that the reference to 5,000 square feet is in the County's Code. Andy Wright, Chief of Building Code, stated that in accordance with the County Code, if a single family home is constructed and exceeds 5,000 square feet, an architect's or engineer's seal is required. Mr. Wright noted that some houses with less than 5,000 square feet can be very complicated and cut up and really should require a seal; in these cases, the Building Code Department can make a requirement that more structural examination needs to take place. It was noted that the 5,000 square foot requirement is derived from the Southern Building Code.

Mr. Moore clarified that the draft ordinance only affects drawings, specifications, etc. that already requires a seal in accordance with County ordinance; this draft ordinance will require that the drawings,

Draft

Public Hearing/ Draft Ordinance/ Architect and/or Engineer Seal (continued)

specifications, etc. be sealed by a Delaware architect and/or engineer.

Dan Kramer of Greenwood stated that the draft ordinance has to do with commercial buildings, 5,000 square feet or less, and he commented that buildings of this size have not fallen down even though no architect was involved. Mr. Kramer stated that the draft ordinance puts more regulations on and creates a burden for small businesses. Mr. Kramer expressed his opposition to the Attorney General's opinion on this matter.

Howard Fortunato, Executive Vice President of the Home Builders Association, stated that he opposes the Proposed Ordinance as written as it applies to residential and he asked that it be clarified for the record that it does not apply to: (1) both the architecture requirement and engineering requirement and (2) all homes, decks, sheds, and everything that needs a building permit.

Mr. Fortunato submitted his written comments into the record and he noted that attached to his comments is a copy of a letter, dated January 4, 2012, from State Representative Stephanie Bolden to the Attorney General stating that "I cannot see how Sussex County Code Section 52-18 can be found to be, legally or practically, in violation of the provisions of the Delaware Code as it relates to the construction of a structure that is 5,000 square feet or less".

Mr. Ryan clarified and stated that "if an engineering drawing is required and submitted to Sussex County, it has to be signed by a licensed Delaware engineer" and that the proposed ordinance only applies if a seal is already required by the County.

Mr. Wright stated that, as the ordinance is currently written, for any home that is 5,000 square feet or larger, the County would require a structural analysis; however, there may be other instances where the County's inspectors cannot review something (determined on a case by case basis), then an architect or an engineer's seal would be required, and in accordance with the Proposed Ordinance, the seal would have to be from a licensed architect or engineer.

Mr. Wilson questioned the Building Code Department's ability to require, on a case by case basis, an architect's or engineer's seal and the County's potential liability for actions of the Department.

Mr. Wright responded that decisions are made based on the County Code, not on his opinion.

Mark Grahne of Atlantic Homes stated that he is still confused about the Proposed Ordinance since it eliminates Section E of 52-18 that specifically says that "Nothing in this section is to be construed as a requirement that an architect or engineer is required to develop drawings and/or specifications of less than five thousand (5,000) square feet in area." Mr.

Draft

Public Hearing/ Draft Ordinance/ Architect and/or Engineer Seal (continued)

Grahne questioned that if the exemption is eliminated, how does the exemption still exist for residential? Mr. Grahne stated that he has no opposition to the Proposed Ordinance from an engineering standpoint or a commercial standpoint. He stated that his concern is what is in the Code that will permit the submittal of plans to Mr. Wright's Department without a seal on them if this Proposed Ordinance is adopted. Mr. Grahne stated that would like to see some clarification in the Code that will still allow the residential exemption.

Mr. Moore suggested that the Council leave the record open on the Proposed Ordinance so that issues such as the one raised by Mr. Grahne can be addressed.

Mrs. Deaver stated that she would like to see a list of the changes (in layman's language) that would occur as a result of adopting the Proposed Ordinance.

Wayne Erickson, Licensed Professional Mechanical Engineer, commented on the confusion surrounding the 5,000 square feet and he referenced the State statute and language defining the practice of architects and engineers. He noted that the statute for architects exempts the use of architects for residential construction and that the Delaware Professional Engineers Act strictly applies to public and private buildings entered by the public.

Kathy Kelly, a homeowner in Breakwater in Lewes, told the Council about problems she has had with trusses and lateral bracings on her single family home. Ms. Kelly commented on sealed drawings and inspections by the County. She commented that many other houses, possibly in 10 communities, could have the same problem that she has; that there is nothing in the County's inspection record that the trusses failed; that County inspectors need to do their job; that the County needs more inspectors; and that this matter is a public interest and public safety matter.

Michael and Josephine Hyland stated that their home has building code violations and that they have "gone through four years of rotten unmitigated behavior by this builder". Mr. Hyland discussed the building code violations and the lack of action by the County's Building Code Department.

Mr. Wright responded for the record that this issue does not pertain to the Proposed Ordinance and Public Hearing, and that this is not a Building Code issue.

Mr. Moore also stated that the Hyland's comments do not pertain to the Proposed Ordinance and Public Hearing.

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

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M 019 13
Defer Action on Proposed Ordinance/ Architect and/or Engineer Seal

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to defer action and to leave the record open for two weeks, until the close of business on January 27, 2013 for written comments on the Proposed Ordinance.

Motion Adopted: **5 Yeas.**

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

Mr. Cole commented on the home inspections issue and he asked that this issue be placed on a future agenda for discussion and possible action.

M 020 13
Adjourn

At 11:56 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, to adjourn.

Motion Adopted: **5 Yeas.**

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

Respectfully submitted,

Robin A. Griffith
Clerk of the Council

Draft

SUSAN M. WEBB, CPA
FINANCE DIRECTOR

Sussex County

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

MEMORANDUM:

TO: The Honorable Michael H. Vincent
President, Sussex County Council

The Honorable Samuel R. Wilson, Jr.
Vice President, Sussex County Council

The Honorable George B. Cole
Sussex County Councilman

The Honorable Vance Phillips
Sussex County Councilman

The Honorable Joan R. Deaver
Sussex County Councilwoman

FROM: Susan M. Webb, CPA SMW
Finance Director

RE: ***PRIVATE ACTIVITY BOND REASSIGNMENT***

DATE: January 11, 2013

As a result of the County not using its allocation for Private Activity Bonds, the State would like the County to reassign our allocation back to them. Typically, every year at this time, we reassign any unused portion of our volume cap to the State for their use. Please see the attached email from the Department of Finance.

I will be bringing this recommendation to Council on Tuesday, January 15, 2013. If you would like further information, please give me a call.

SMW/nc

Attachment

xc: Todd F. Lawson

Susie M. Webb

From: Scola Stephanie (Finance) <stephanie.scola@state.de.us>
Sent: Tuesday, December 18, 2012 8:30 AM
To: Susie M. Webb
Subject: Private Activity Volume Cap

Happy Holidays Susan, I hope all is well.

Once again, it's time for our annual discussion about private activity volume cap re-assignment. Last year, Sussex County reassigned the County's 2011 allocation back to the State for re-allocation to the Delaware State Housing Authority. Similarly, I ask if any portion of the $28.455 million in 2012 volume cap can be re-assigned this year. Conversely, if any portion of the volume cap has been used or identified for carryforward by the County, please let me know.

This reassignment is made pursuant to 29 Del. Code §5091(f) by drafting a letter to the Secretary of Finance reassigning the unused dollar amount. Since we must file with the U.S. Treasury by mid-February, I hope you can put it on the council's agenda and provide notice of reassignment so that we can have an Executive Order signed by the end of January. Sussex County's 2013 allocation will be about $29.19 million. Let me know if you have any questions or if you'll have a problem with the timing of the notice.

Thank you,
Stephanie M. Scola, Director of Bond Finance
State of Delaware, Department of Finance
820 N. French Street, 8th floor
Wilmington, DE 19801
PH: 302-577-8988
Fax: 302-661-7263
stephanie.scola@state.de.us

Sussex County
Engineering Department

MICHAEL A. IZZO, P.E.
County Engineer

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

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

Fax: 302-855-7799

January 15, 2013

PROPOSED MOTION

BE IT MOVED THAT BASED UPON THE RECOMMENDATION OF THE SUSSEX COUNTY ENGINEERING DEPARTMENT, FOR SUSSEX COUNTY PROJECT NO. 81-04, AGREEMENT NO. 733-2, THAT THE SUSSEX COUNTY COUNCIL EXECUTE A CONSTRUCTION ADMINISTRATION AND CONSTRUCTION INSPECTION AGREEMENT BETWEEN SUSSEX COUNTY COUNCIL AND "DOVE BARRINGTON DEVELOPMENT,L.L.C," FOR WASTEWATER FACILITIES TO BE CONSTRUCTED IN "BARRINGTON PARK" (A/K/A – BISHOPS LANDING), LOCATED IN MILLVILLE EXPANSION OF THE BETHANY BEACH SANITARY SEWER DISTRICT.

ORDINANCE NO. 38
AGREEMENT NO. 733-2

TODD LAWSON
COUNTY ADMINISTRATOR

Engineering Department

MICHAEL A. IZZO, P.E.
County Engineer

P.O. BOX 589
GEORGETOWN, DELAWARE 19947

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Records Management	302-854-5033
Utility Engineering	302-855-7717
Utility Permits	302-855-7719
Utility Planning	302-855-1299

Fax: 302-855-7799

December 06, 2012

FACT SHEET

SUSSEX COUNTY PROJECT 81-04
BARRINGTON PARK, AKA/ BISHOP'S LANDING
AGREEMENT NO. 733 - 2

DEVELOPER:

Mr. Steven Brodbeck
Dove Barrington Development, L.L.C.
8965 Guilford Road Suite 290
Columbia, MD 21046

LOCATION:

Southwest corner of Road 353 and Road 352 intersection

SANITARY SEWER DISTRICT:

Millville Expansion of the Bethany Beach Sanitary Sewer District

TYPE AND SIZE DEVELOPMENT:
Subdivision consisting of (206) Single Family Homes and (251) Townhomes, w/amenities to include clubhouse, pool, tennis court, dog park, etc. 191 units in this phase

SYSTEM CONNECTION CHARGES:
$1,177,324.00

SANITARY SEWER APPROVAL:
Sussex County Engineering Department Plan Approval
06/11/12

Department Of Natural Resources Plan Approval
08/23/12

SANITARY SEWER CONSTRUCTION DATA:

Construction Days – 100
Construction Admin And Construction Inspection Cost – $116,140.80
Proposed Construction Cost – $774,272.00

//west-fs1/Engineering/99110/agr_num733/agr_num733-2/UCD_Construction_Fact_Sheet_1.rtf
12/06/2012

TODD F. LAWSON
COUNTY ADMINISTRATOR

(302) 855-7742 T
(302) 855-7749 F
tlawson@sussexcountyde.gov

Sussex County
DELAWARE
sussexcountyde.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: ***2013 AIRPORT ADVISORY COMMITTEE APPOINTMENTS***

DATE: January 11, 2013

During Tuesday's meeting you will consider the 2013 appointments to the Airport Advisory Committee. The Advisory Committee members are appointed by Council for a term of one year.

Attached you will find a list of the committee positions and the individuals who have agreed to serve.

If you have any additional questions, please don't hesitate to contact me, Mike Izzo, or Jim Hickin.

TFL/sww

Attachment

pc: Mr. Michael A. Izzo, P.E.
Mr. James A. Hickin

2013 Airport Advisory Committee Appointments

1.	One representative of the Fixed Base Operator	Garrett Dernoga
2.	One non-commercial Airport tenant	Larry Kelley
3.	One commercial Airport tenant	Jeff Reed
4.	Two Airport-based aircraft owners	Rick Garner
		Gus Croll
5.	One Industrial Park tenant representative	Mark Ryan
6.	One representative at large	Richard Wilson
7.	County Council Representative	Sam Wilson (Appointed Jan 8, 2013)

OLD BUSINESS
January 15, 2013

This is to certify that 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 the 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 #1945 – application of **ALFONSO MATOS** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a small storage facility, to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 14,964 square feet, more or less, lying southwest of Route 20 (Concord Road) 392 feet southeast of Haven Drive, the entry into Broad Acres Subdivision, approximately 1.0 mile east of U. S. Route 13 (Tax Map I.D. 1-32-2.00-133.00).

The Commission found that DelDOT provided comments in the form of a Support Facilities Report, dated May 7, 2012, referencing that a traffic impact study was not recommended, and that the current Level of Service "C" of Route 20 will not change as a result of this application.

The Commission found that the Sussex Conservation District provided comments in the form of a memorandum, dated September 17, 2012, referencing that the soils on site are mapped as Henlopen – Rosedale – Urban and Runclint loamy sand; that with respect to erosion and sediment control practices during construction and to maintain vegetation after construction; that the soils are Prime and other Important Farmlands; that no storm flood hazard area or tax ditch is affected; and it is not likely that it will be necessary for any on-site or off-site drainage improvements.

The Commission found that the Sussex County Engineering Department Utility Planning Division provided written comments dated September 11, 2012 advising that the site is not located in a proposed or current County operated and maintained sanitary sewer district; that the

site is located in the Blades Planning Area #1; that it is not in an area where Sussex County currently has a schedule to provide sewer service; and that a concept plan in not required.

Alfonso and Miguel Matos were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that they agree with the intent of the application; that they are proposing a small storage facility for boxes of clothing that will be shipped to the Dominican Republic; that no new buildings are proposed; that there will not be any retail conducted at the site; that the clothing items will be delivered by truck; that the boxes are loaded then shipped from the site; that there will be an office for paper work and preparing items for customs; that there are two entrances to the site, one from Route 20 and one from Cassell Lane; that there is a church, convenience store and package store in close proximity to the site; that no one resides on the site; that there is a need for clothing in "3rd world countries"; that this use is prominent in New York City; that they have owned the property for 9 years; that the existing buildings will be remodeled and there will be an addition connecting the front and rear buildings; that the old cars and boats on the site will be removed; that they would like to have a sign on the property; that the hours of operation will be from 8:00 a.m. to 6:00 p.m. Monday through Friday; that there would be 3 employees at the site at this time; that there may be a need for more employees in the future; that there is a septic system on the site; and that the site was previously used as a grocery store and as a tire business.

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

Michael Cotton, Christy Mulford King and Ruth Mulford, area residents, were present in opposition to this application and advised the Commission that they applaud the applicant's intentions but this is not a suitable site due to the size of the parcel; that it appears that the garage has been used as a hobby garage; that if the use is approved, it will depreciate property values; that the tractor trailers will not be able to enter and exit the site due to the lot size; that there are more suitable sites in the area for this use; that the area is predominantly residential; that the property should be cleaned up; that the site was an old fish market approximately 35 years ago; that the site is in disrepair; that the adjacent church is located on a large parcel; that other commercial uses in the area are approximately ¾ mile away; that they have safety concerns for children in the area; that Route 20 has a posted speed limit of 35 miles per hour; and that the proposed use will have negative impacts on the area.

On September 20, 2012 the Commission deferred action for further consideration. Motion carried 4 – 0. Mr. Burton was absent.

On October 11, 2012 the Commission discussed this application under Old Business and again deferred action for further consideration. Motion carried 5 – 0.

On October 25, 2012 the Commission discussed this application under Old Business.

Mr. Smith stated that he would move that the Commission recommend denial of C/U #1945 for Alfonso Matos for a conditional use to operate a storage facility based upon the record made at the public hearing and for the following reasons:

1) Although advertised as a "small Storage Facility", the proposed operation is really a sorting facility for the collection and shipment of clothing and other goods out of this country with regular tractor-trailer pickups and deliveries.
2) Mr. Smith is not satisfied that this property is configured in such a way that permits the safe entrance and exit of tractor trailers. For example, the applicants stated that they would be using a private road for tractor trailer access, without providing any proof that such a use was permitted on this private road.
3) Although the property has been historically used for small-scale commercial purposes such as a grocery or a fish market, all of these have been in support of, or not detrimental to, the surrounding community. The proposed use as a warehouse, sorting, packing and shipping facility is not consistent with the surrounding properties and uses.
4) The size of the parcel, at 14,964 square feet, is too small for the proposed use and the tractor trailers that would serve it.
5) This is the type of use that is more suited to existing commercially or industrially zoned properties, where there is sufficient space for the proposed operation and the trucks that will serve it.
6) Several parties appeared in opposition to the proposed use, expressing concerns about the incompatibility of the use; the applicant's ongoing failure to maintain the property in a neat and orderly manner which raised concerns about the future use and maintenance of the property; safety concerns about truck traffic trying to get in and out of such a small parcel; and that it should be located somewhere else that is more appropriate for the use.

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

*The County Council held a public hearing on this application on October 9, 2012. Council requested that Mr. Matos suggest some Conditions of Approval that he would support. The Planning and Zoning Department received suggestions from Mr. Matos on October 12, 2012 and I forwarded the suggestions on October 12, 2012 to Council. On December 11, 2012 the Council discussed this application under Old Business and asks that I prepare some suggested Findings of Fact and some suggested Conditions for future consideration. I forward suggested Findings of Fact and suggested Conditions on December 26, 2012 to Council for consideration.

C/U #1932 – application of **TANYA A. GIBBS AND KIMWUAN L. GIBBS** to consider Conditional Use of land in a GR General Residential District for an automotive sales lot to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 27,250 square feet, more or less, lying southeast of Road 285 (Beaver Dam Road), 2,500 feet south of Road 287 (Kendale Road)(Tax Map I.D. 2-34-6.00-13.00).

The Commission found that the Applicants submitted a survey depicting the improvements on the lot and a proposed area for displaying 4 or 5 vehicles for sale.

The Commission found that on April 5, 2011 DelDOT had 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 Beaverdam Road will not change as a result of this application.

The Commission found that on July 9, 2012 the County Engineering Department Utility Planning Division had provided comments in the form of a memorandum which references that the site is located in the North Coastal Planning Area; that use of an on-site septic system is proposed; that conformity to the North Coastal Planning Study will be required; that the proposed use in not in an area where the County currently plans to provide sewer service; and that a concept plan is not required.

The Commission found that Tanya Gibbs was present and stated in her presentation and in response to questions raised by the Commission that they are proposing used car sales for additional income; that the Department of Motor Vehicles requires a dealer's license if you sell more than 4 vehicles per year; that her property is close to a welding shop at Kendale Road, and a couple of day care facilities; that she also operates a day care in her home; that they have no objection to a restriction being placed on the application limiting the number of vehicles that can be displayed; that there is adequate space on the lot to display vehicles; that their intent is to display the vehicles in the rear yard; that the car sales will not interfere with the day care business since they anticipate most of the car sales will occur on Saturdays when her husband is available ; that there will not be any auto repairs performed on the site; that they have no intent to provide lighting on the display area; that she now cares for 9 children in the day care; and that her husband will oversee the car sales business, if approved.

Mr. Robertson advised the Commission that an individual that sells more than 5 vehicles needs a dealer's license per State regulations.

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.

Mr. Johnson stated that he has some concerns about the location and the lack of other business activities in the immediate area.

On July 12, 2012 there was a motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

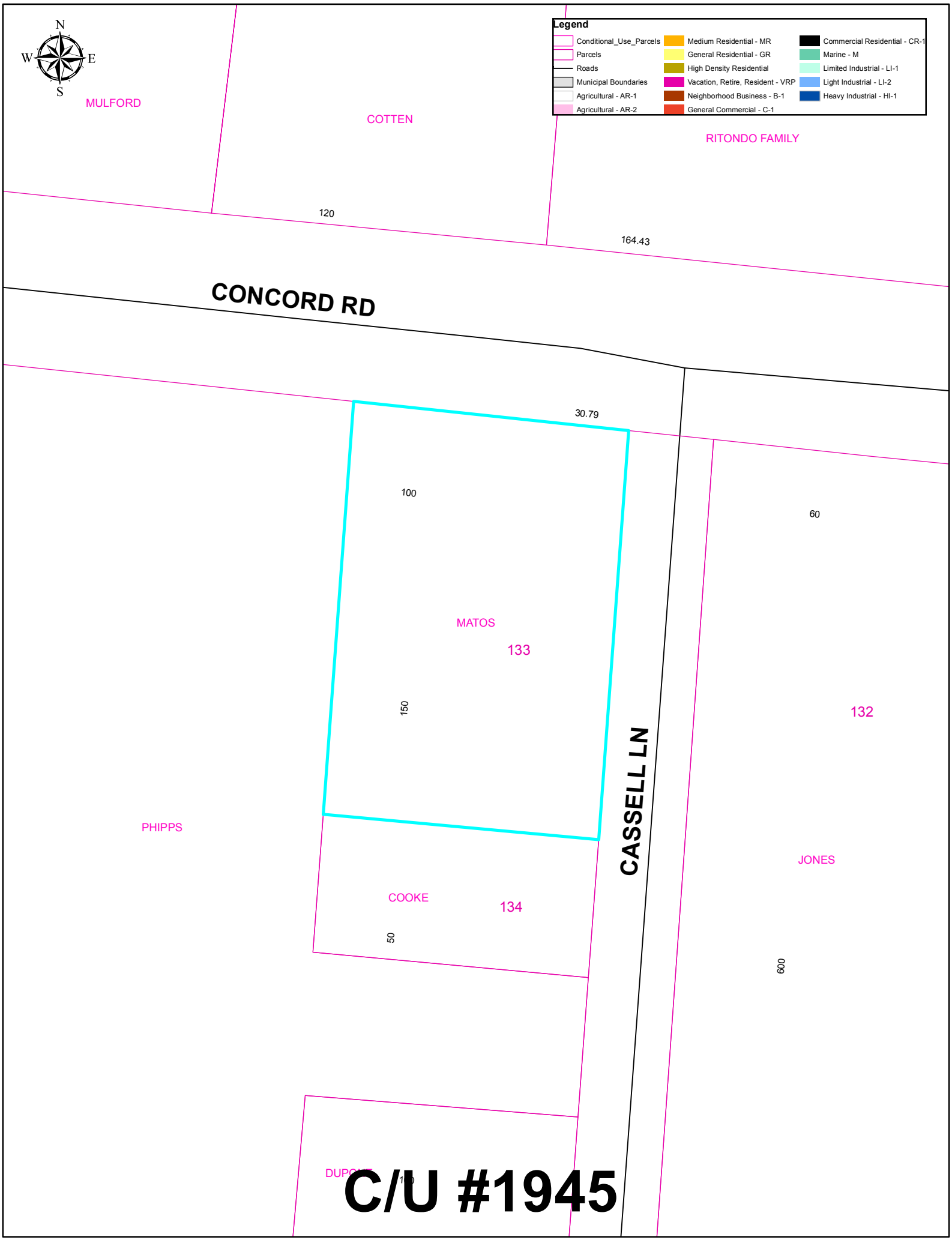
On August 23, 2012 the Commission discussed this application under Old Business.

It is noted that this application was deferred for further consideration after the public hearing on July 12, 2012, and again under Old Business on July 26, 2012 and August 9, 2012.

Mr. Johnson stated that he would move that the Commission recommend denial of C/U #1932 for Tanya A. Gibbs and Kimwuan L. Gibbs for an automotive sales lot based upon the record made during the public hearing and for the following reasons:

1) At this point, the application is too speculative. The Applicants did not provide enough detail about their plans for the use, how many cars would be offered for sale, how the sales would be conducted, where customers would park, etc.
2) The proposed use is incompatible with the surrounding area. There are no other uses as intensive as a used car lot in the vicinity of this site.
3) The proposed use is inconsistent with the Applicant's current use of the site as a day care center. Mixing small children and parent pickups, with used car sales and the traffic generated by a used car lot, could lead to a dangerous situation on the site or adjacent roadways.
4) This proposed use is better suited for a location where the proper zoning already exists, or along a major arterial roadway.
5) In summary, I am not satisfied that the Applicant made a sufficient record to support the approval of this application in this location.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to forward this application to the Sussex County Council with the recommendation that this application be denied for the reasons stated. Motion carried 5 – 0.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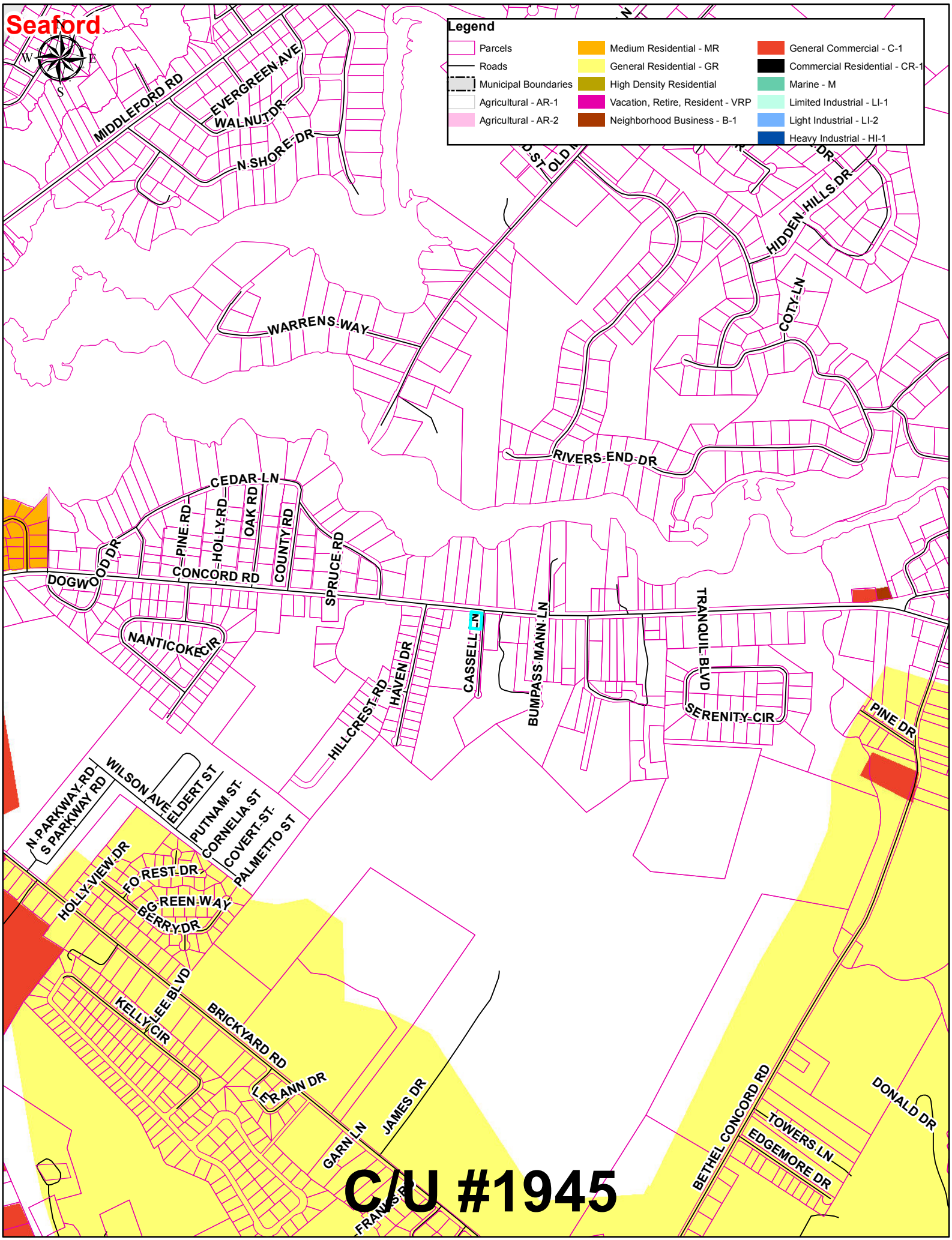
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RIVERS END DR
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PINE RD
HOLLY RD
OAK RD
COUNTY RD
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DOGWOOD DR
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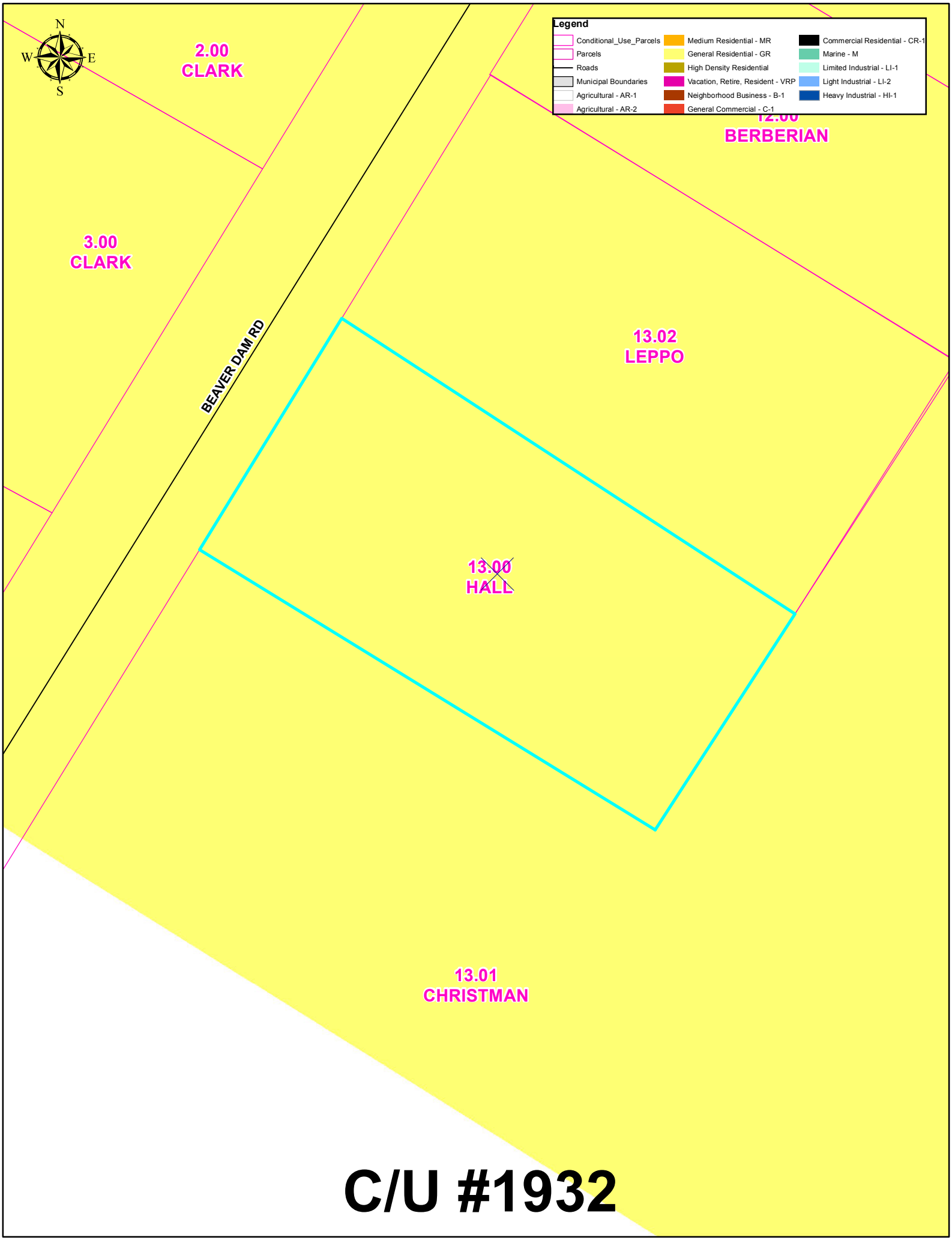
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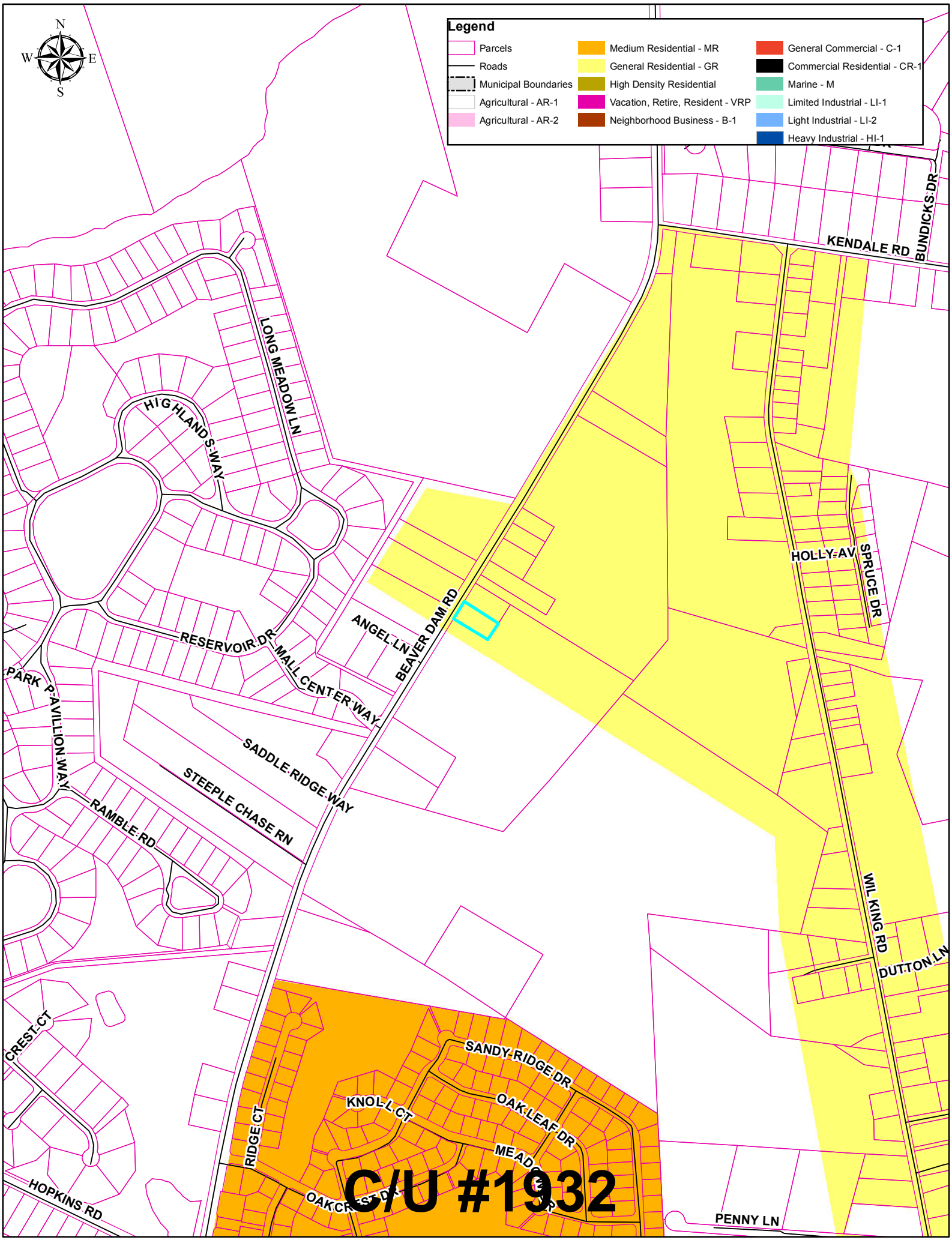
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C/U #1932

PUBLIC HEARINGS
January 15, 2013

This is to certify that on January 10, 2013 the Sussex County Planning and Zoning Commission conducted public hearings on the below listed Ordinances. At the conclusion of the public hearings, the Commission moved and passed that these Ordinances 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.

Mr. Robertson suggested that due to the similarity of the Ordinances scheduled for public hearings that the Commission hold one public hearing to discuss the Ordinances and then act on the Ordinances individually.

There was a consensus of the Commission to hold one public hearing and then to act on each Ordinance individually.

Mr. Wheatley introduced the titles of the following Ordinances:

AN ORDINANCE PROVIDING FOR THE ADDITIONAL TEMPORARY EXTENSION OF TIME FOR SUBDIVISION APPLICATIONS, CONDITIONAL USE APPLICATIONS AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS.

AN ORDINANCE PROVIDING FOR THE ADDITIONAL TEMPORARY EXTENSION OF TIME FOR SUBDIVISION APPLICATIONS, CONDITIONAL USE APPLICATIONS AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS, WITH A PROVISION FOR FURTHER EXTENSION UPON WRITTEN REQUEST.

Mr. Robertson stated that the current time extension Ordinance No. 2208 granted time extensions to January 1, 2013; that the County Council had three basis options: (1) do nothing and let them all lapse; (2) grant an additional uniform time extension of a certain length (for example, one or two years) to every application within this group; or (3) come up with a process to only allow an extension of a certain length (for example, one or two years) to viable applications, whereby the applicant must report back to the County seeking an extension; of the options referenced, (1) and

(2) are self-explanatory; that if the Commission choses to adopt another extension, the extension should be retroactive back to January 1, 2013; that option (3) gives everyone a blanket extension (for example, six months) to give everyone an opportunity to request, in writing, an additional longer extension; if a developer wants the additional extension, they would have to request it in writing to Planning and Zoning and include certain information detailing the status of the development and grounds for the request; the Commission would determine the level of information a developer should be required to provide with their request; that we took on the task of reviewing some other jurisdictions and that each municipality does it differently; and that it seems that there are projects that will go forward and some projects that will never develop.

The Commission discussed the ordinances; referenced proposed time frames of 1, 2, or 3 year extensions; that there may need to be administrative changes; and that there may need to be other ordinance changes.

Mr. Lank advised the Commission that since August of 2012 the Department has received 14 time extension requests for subdivisions, three (3) time extension requests for Conditional Uses, and one (1) time extension request for a residential planned community; that none of the requests could be granted since they fell under the conditions of Ordinance No. 2208, the time extension ordinance, which dead-ended on January 1, 2013; that the first five (5) of those requests were responded to and advised that neither the staff or the Commission had the authority to grant a time extension since Ordinance No. 2208 was in effect; that subdivision applications reviewed prior to the adoption of Ordinance No. 2208 included all major subdivisions applied for from January 1, 2001 through December 2011, a total of 478 projects; that approximately 100 of those applications could be affected without an additional time extension; that conditional use applications reviewed prior to the adoption of Ordinance No. 2208 included approximately 190 applications for many types of uses; that 49 conditional use applications may have terminated on January 1, 2013 without an additional time extension; that residential planned community applications were reviewed back to the 1970s; that there have been approximately 140 residential planned community applications, of which 16 applications may have terminated on January 1, 2013 without an additional time extension; that in all cases, if an application had preliminary approval and the term of the preliminary approval terminated on January 1, 2013 the applications could be considered void; that if the applications had received final approval the project would have to be substantially underway on or before January 1, 2013, unless the project had a later termination date, since final approvals of subdivisions and residential planned communities have five (5) years to be substantially underway; conditional use have three (3) years to be substantially underway; that several projects have been purchased by adjoining property owners; one or two project have reverted back to farmland and have been approved for agricultural preservation through the Delaware Agricultural Lands Preservation Foundation; and other projects are intended to be farmed, not developed.

The Commission found that Joseph Conaway, present on behalf of SEDAC, the Sussex County Development Action Committee, and Rodney Wyatt, Director of Operations for Artesian Resources, were present in support of the adoption of a time extension ordinance that will provide additional time extension for developers, small business operators, utility companies, and others to get their projects substantially underway, and referenced that thousands of lots

could be lost; that the economy is not back, but it is improving; that the demand is growing; that permits have increased; that a time extension ordinance will save a lot of projects and the cost to reapply; that other agencies impact projects by the cost and time it takes to get through the other agency processes; that the economy has impacted developers, buyers, the service industries, and retailers; that prior to introduction of these time extension ordinance proposals, SEDAC asked the County Council to consider a time extension of at least two (2) years; that some commercial projects have disappeared; that some farmers have purchased projects that have not developed; that sunsetting of projects was originally supported and is not impacting projects that can't get started due to the cost and the economy; that SEDAC urges the Commission to support one of these two ordinances; that an ordinance, if adopted, should be retroactive back to January 1, 2013; that a time extension will allow utility companies to continue projects to serve the public with water, sewer, gas, electric and other infrastructure; that utilities have to plan ahead prior to developments taking place so that services can be provided; that it may take three years to plan ahead for infrastructure services; and that the utility companies support the need for more time.

Mr. Robertson also added that if the Commission is concerned about having to make decisions on whether a developer has done enough according to their written request, there could be a recommendation to modify the proposed ordinance. For example, an applicant would still be required to submit a written request with the information outlined in Section 4 A, B, C, and D, but there would not be any evaluation of that information. To accomplish this, the final paragraph of Section 4 would be modified to state "The Planning and Zoning Commission shall approve any written request submitted pursuant to this Ordinance at any regular meeting." The sentence that follows would be deleted. In other words, if an applicant submits a request in writing it would be granted, and all of the projects that are dead and no requests are made would come off of the County's books.

Mr. Robertson noted that, in summary, projects depend on the utility companies and the utility companies depend on the projects; that utilities plan on building in reasonable phases to serve the growing needs in areas developing; that the utilities look at regional areas with 10 years to 20 years growth projections; and that if projects sunset it impacts the utilities.

Mr. Conaway agreed and added that too many "paper" lots and the continued existence of lots on the County's records that will never really get built (for example where the land has returned to agricultural production) has not been an issue to the members of his group in Sussex County.

Mr. Wyatt agreed and noted that on some of their project they have put in the required improvements for DelDOT, but is still dealing with DNREC trying to obtain approvals.

The Commission discussed the proposed Ordinances and there was a consensus of the Commission to support a blanket ordinance.

In reference to **AN ORDINANCE PROVIDING FOR THE ADDITIONAL TEMPORARY EXTENSION OF TIME FOR SUBDIVISION APPLICATIONS, CONDITIONAL USE APPLICATIONS AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS:**

Mr. Johnson stated that he would move that the Commission recommend a revision to the drafted ordinance with an additional time extension to January 1, 2016 and that the ordinance be retroactive back to January 1, 2013.

Motion by Mr. Johnson, seconded by Mr. Ross, and carried unanimously to forward this Ordinance Amendment to the Sussex County Council with a recommendation that the Ordinance Amendment be approved with a revision that an additional time extension go to January 1, 2016 and be retroactive back to January 1, 2013. Motion carried 5 – 0.

In reference to **AN ORDINANCE PROVIDING FOR THE ADDITIONAL TEMPORARY EXTENSION OF TIME FOR SUBDIVISION APPLICATIONS, CONDITIONAL USE APPLICATIONS AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS WITH A PROVISION FOR FURTHER EXTENSION UPON WRITTEN REQUEST.**
Mr. Smith stated that he would move that the Commission recommend denial of this drafted ordinance due to the administrative burden on the staff and the Commission.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to forward this Ordinance Amendment to the Sussex County Council with a recommendation that the Ordinance Amendment be denied for the reasons stated. Motion carried 5 – 0.

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE ADDITIONAL TEMPORARY EXTENSION OF TIME FOR SUBDIVISION APPLICATIONS, CONDITIONAL USE APPLICATIONS, AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS, WITH A PROVISION FOR FURTHER EXTENSION UPON WRITTEN REQUEST.

WHEREAS, the Sussex County Council has the power to develop, adopt, amend, and revise its Subdivision and Zoning Ordinances as it shall deem necessary in order to preserve and protect the public health, safety, morals, beauty and good appearance of Sussex County and to provide for the orderly growth thereof; and

WHEREAS, the Sussex County Council has adopted Subdivision and Zoning Ordinances and a Comprehensive Land Use Plan in order to provide for the regulation and orderly approval of residential, commercial, and industrial uses with Sussex County; and

WHEREAS, on August 9, 2011, the Sussex County Council adopted Ordinance No. 2208, which extended all subdivision, Residential Planned Community and Conditional Use approvals as set forth therein; and

WHEREAS, the Sussex County Council continues to be concerned that the approvals and/or permits that have been granted by it and the County Planning and Zoning Commission may lapse due to the current economic crisis, and drastic recession affecting this County, the State and the United States, and severely impacting the County's banking, real estate, construction, and building materials businesses and employment in Sussex County; and

WHEREAS, the process of obtaining approvals and/or permits can be difficult, time consuming, and expensive for both the applicants and the County Government; and

WHEREAS, approvals and/or permits could be difficult to extend, renew, or re-obtain once lapsed or expired; and

WHEREAS, the Sussex County Council deems it appropriate to implement a temporary general extension of approvals and/or permits for Subdivision and Residential Planned community approvals, and Conditional Uses to allow all such projects that remain viable to seek, in writing, an additional time extension of their approval; and

WHEREAS, the Sussex County Council is of the opinion that the granting of such extensions is appropriate in order to avoid unnecessary administrative issues related to repetitive applications for extensions of time for approvals and/or permits or rehearing previously approved applications, and to otherwise provide for the orderly growth of Sussex County.

Proposed

NOW, THEREFORE, THE SUSSEX COUNTY COUNCIL HEREBY ORDAINS:

Section 1: Notwithstanding the time limits for validity set out in Chapter 99 of the Sussex County Code, any preliminary subdivision plat under Section 99-9 B, and any recorded subdivision plat valid under Section 99-11 and Section 99-40, with a date of approval of January 1, 2009 or later shall be valid until June 1, 2013 or the expiration of the current approval, whichever is later.

Section 2: Notwithstanding any other provisions of Chapter 115 of the Sussex County Code for any Residential Planned Community valid under Article XVI and outstanding as of January 1, 2009 or later shall be valid until June 1, 2013 or the expiration of the current approval, whichever is later.

Section 3: Notwithstanding any other provisions of Chapter 115 of the Sussex County Code for any Conditional use action approved pursuant to the provision of Article XVI, Article XXIV, and Article XXVIII of Chapter 115 of the Sussex County Code valid and outstanding as of January 1, 2009 or later, and relating to new residential, commercial, or industrial developments, shall be valid until June 1, 2013 or the expiration of the current approval, whichever is later.

Section 4: Any applicant holding a valid approval as set forth in the preceding Sections 1, 2 or 3 may request an additional extension of time for the validity of said approval until June 1, 2013. Such a request must be in writing, delivered to the Director of Planning and Zoning on or before June 1, 2013. At a minimum, the written request must include the following information:

A. A development schedule or phasing plan for the project.

B. The minimum percentage of the project that the applicant expects to complete during the first five years after the Final Site Plan is approved.

C. A list of all governmental agency approvals that have been obtained, and for any that remain outstanding, the anticipated time frame for obtaining them.

D. A detailed explanation of the grounds, and reasons in support of the applicant's request for the time extension.

The Planning and Zoning Commission shall consider any written request submitted pursuant to this Ordinance at any regular meeting. Requests for time extensions shall be granted by the Planning and Zoning Commission only upon a finding that all of the information required herein has been supplied and that there is good cause for the granting of the requested extension.

Section 5: This Ordinance shall apply retroactively to any approval valid on or before January 1, 2013.

Section 6: This Ordinance shall become effective upon its adoption by a majority of all members elected to the County Council of Sussex County.

Proposed

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE ADDITIONAL TEMPORARY EXTENSION OF TIME FOR SUBDIVISION APPLICATIONS, CONDITIONAL USE APPLICATIONS, AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS.

WHEREAS, the Sussex County Council has the power to develop, adopt, amend, and revise its Subdivision and Zoning Ordinances as it shall deem necessary in order to preserve and protect the public health, safety, morals, beauty and good appearance of Sussex County and to provide for the orderly growth thereof; and

WHEREAS, the Sussex County Council has adopted Subdivision and Zoning Ordinances and a Comprehensive Land Use Plan in order to provide for the regulation and orderly approval of residential, commercial, and industrial uses with Sussex County; and

WHEREAS, on August 9, 2011, the Sussex County Council adopted Ordinance No. 2208, which extended all subdivision, Residential Planned Community and Conditional Use approvals as set forth therein; and

WHEREAS, the Sussex County Council continues to be concerned that the approvals and/or permits that have been granted by it and the County Planning and Zoning Commission may lapse due to the current economic crisis, and drastic recession affecting this County, the State and the United States, and severely impacting the County's banking, real estate, construction, and building materials businesses and employment in Sussex County; and

WHEREAS, the process of obtaining approvals and/or permits can be difficult, time consuming, and expensive for both the applicants and the County Government; and

WHEREAS, approvals and/or permits could be difficult to extend, renew, or re-obtain once lapsed or expired; and

WHEREAS, the Sussex County Council deems it appropriate to implement a temporary general extension of approvals and/or permits for Subdivision and Residential Planned community approvals; and

WHEREAS, the Sussex County Council is of the opinion that the granting of such extensions is appropriate in order to avoid unnecessary administrative issues related to repetitive applications for extensions of time for approvals and/or permits or rehearing previously approved applications, and to otherwise provide for the orderly growth of Sussex County.

Proposed

NOW, THEREFORE, THE SUSSEX COUNTY COUNCIL HEREBY ORDAINS:

Section 1: Notwithstanding the time limits for validity set out in Chapter 99 of the Sussex County Code, any preliminary subdivision plat under Section 99-9 B, and any recorded subdivision plat valid under Section 99-11 and Section 99-40, valid as of January 1, 2013 shall remain valid until January 1, 2014 or the expiration of the current approval, whichever is later.

Section 2: Notwithstanding any other provisions of Chapter 115 of the Sussex County Code for any Residential Planned Community valid under Article XVI and valid as of January 1, 2013 shall remain valid until January 1, 2014 or the expiration of the current approval, whichever is later.

Section 3: Notwithstanding any other provisions of Chapter 115 of the Sussex County Code for any Conditional use action approved pursuant to the provision of Article XVI, Article XXIV, and Article XXVIII of Chapter 115 of the Sussex County Code valid as of January 1, 2013, and relating to new residential, commercial, or industrial developments, shall be valid until January 1, 2014 or the expiration of the current approval, whichever is later.

Section 4: This Ordinance shall apply retroactively to any approval valid on or before January 1, 2013.

Section 5: This Ordinance shall become effective upon its adoption by a majority of all members elected to the County Council of Sussex County.

Proposed

TOWN OF GEORGETOWN
PLAYGROUND COMMITTEE
PLAYGROUND BUILDING FUND
39 THE CIRCLE
GEORGETOWN, DE 19947

December 13, 2012

TODD LAWSON
SUSSEX COUNTY
2 THE CIRCLE
GEORGETOWN, DE 19947

Dear ~~Business Owner~~ Todd,

The children of Georgetown have been dreaming of a playground—a safe and fun place for all kids to play and for families to gather. Let's work together to make a playground dream a reality for Georgetown! We need your financial support to make it happen.

The support you lend to our new playground is not counted in dollars and cents but in the "spirit of community." However, your donation of dollars makes sense in what it means to the youth and families of our community. That is truly priceless, both now and in our future.

Our group has been working very hard for the past few months to bring a playground to Georgetown.

We are asking for a donation preferably for one of the listed levels:

$10,000.00+	Founder
$5,000 -- $9,999	Benefactor
$1,000 -- $4,999	Investor
$500 -- $999	Supporter
$1.00 -- $499	Contributor

That would make a huge difference in our efforts, and bring us that much closer to our goal! Your contribution will be recognized! We will proudly display your name on our custom playground sign for a donation from Investor and up. Your name will be in our grand opening program, and you will have a front-row seat for the ribbon cutting.

Please consider making this important investment in our future. A playground provides a safe and challenging place for children and our community to grow!

Once again, thank you for supporting our community. Please make your donation check payable to the Town of Georgetown. In the memo section of your check put Playground Building Fund. Your contribution is tax deductible. For more information or if you have any questions please feel free to call me at 302-236-9955 or email me at bwest@georgetowndel.com.

Sincerely,

Bill West

Mr. Bill West
Georgetown Playground Building Fund
Fundraising Committee

OAK ORCHARD-RIVERDALE POST #28 of the AMERICAN LEGION
31768 Legion Road
MILLSBORO, DE 19966
302-945-1673

Honorable George B. Cole
Sussex County Council
2 The Circle, PO Box 589
Georgetown, DE 19947

December 13, 2012

Dear Councilman Cole:

The Oak Orchard Riverdale American Legion Post 28 has recently been directed by the Department of Natural Resources and Environmental Control (DENREC) that the Post is required to connect to the recently installed public sewer system and terminate the use of the Post septic system.

In accordance with that letter, Post 28 solicited competitive bids from certified and licensed plumbing companies to determine the best price for the connection and the termination of the septic system. Three companies responded with the request for proposal and Harry Caswell's price was the lowest and most competitive. Their price is $9,400.00

The instructions in the DENREC letter informed the Post that the switchover must be completed by April 17, 2013.

As Commander of Post 28, I am trying to minimize the impact on the Post and our ability to support our veterans and those in our community who are in need. $9,400.00 is a lot of money especially at this time when our future is uncertain and the economy is in the woeful condition that it is in. I say that our future is uncertain because of the situation with the video machines and we do not know when that will be rectified.

As Commander, I am requesting any assistance that County Council may be able to provide to help us complete this project in accordance with the instructions and deadline set by DENREC.
The completion of this project will further enable us to be an emergency shelter for the community in the event of n emergency. In the past, if we were to lose electricity, the pumps for the septic system could not work, thus preventing us from providing that service.

I ask that you please consider our request for assistance and know that any assistance provided will enable us to continue to serve our veterans and our community. Please advise if it is necessary I appear before County Council to support this request.

For God and Country,

James H. Gallagher
Commander, Post 28

Rehoboth Beach HISTORICAL SOCIETY and MUSEUM

December 12, 2012

Councilman George Cole
P.O. Box 589
Georgetown, DE 19947

Dear ~~Councilman Cole,~~ George,

I want to thank you for the past support we have received from the Sussex County Council. Your generosity to the Rehoboth Beach Historical Society has helped in achieving our goal to preserve the character of the community. Here are some of this year's achievements:

- This year's exhibit, WWII: Rehoboth Beach and its programs drew a record number of visitors. We had to turn people away for some of our lectures due to lack of space.
- We now have more than 200 children visit our galleries annually. A mural has been added to the children's room and children's activities have been created.
- The alumni of Rehoboth High School have raised nearly $26,000 toward the installation of an elevator, which will allow us to move to the second floor and expand our exhibits.

We have begun conversations with donors and foundations to complete the second floor and are finalizing construction drawing to maximize the use of space.

I write now to ask that you renew your support of the Rehoboth Beach Historical Society. I know that funds are extremely limited in the current economic climate. However, a Councilmanic grant of $5,000 again this year would certainly be appreciated and would be matched by our anonymous donor.

As always, you have a personal invitation to tour the Museum and I would be happy to host your family. Please call me at (302) 430-8484 if you have any questions.

~~Sincerely,~~

Paul Kuhns
President

THANK YOU FOR YOUR CONSIDERATION
YOUR HELP IN THE PAST
HAS BEEN SO
INSTRUMENTAL
TO OUR ORGANIZATION.

A Project of the Rehoboth Beach Historical Society
511 Rehoboth Avenue, Rehoboth Beach, DE 19971
(302) 227–7310
rbhistoricalsociety@verizon.net

THE GREATER LEWES COMMUNITY VILLAGE

Mission Statement: The Greater Lewes Community Village is a non-profit organization of residents to provide neighbors 50 and older living in the Lewes area the services, expertise, social interaction, and practical means to remain independently and safely in their homes as they age in place.

Goals:

- The Village will provide members with up to date information and access to a wide variety of home services such as transportation, home repair, concierge services, and home health care.
- Cost savings for members through group purchases of these and other amenities and services will be sought.
- Membership will be open to all households with anyone 50 years or older living in the Lewes area.
- A membership program will be created to offer residents of modest means a reduced membership rate with credits for activities and services.

Accomplishments:

- Identified and invited 10 additional members of the Lewes community to join the founders in forming a working Board
- Developed a business plan
- Pursued Incorporation, EIN, and 501©3 status
- Wrote and adopted by-laws
- Developed partnerships with Beebe Medical Center, University of Delaware SeaGrant Program, local legal folks and fund raisers

Future Tasks:

- Develop a marketing plan
- Finalize and send out survey to folks in the Census Tract 509 area
- Write a Case Statement and develop a brochure
- Write job descriptions
- Develop volunteer applications and training program
- Commence fund raising
- Recruit service providers
- Draft application and member contract

Prepare to launch

To Be Introduced 1/15/13

District 3

ORDINANCE NO. ___

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 7.57 ACRES, MORE OR LESS (Tax Map I.D. 2-35-30.00-26.00)

WHEREAS, on the 4th day of January 2013, a zoning application, denominated Change of Zone No. 1726 was filed on behalf of Robert M. & Sandra E. Davidson; and

WHEREAS, on the ____ day of _____ 2013, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1726 be _____; and

WHEREAS, on the ____ day of _____ 2013, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County 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 [AR-1 Agricultural Residential District] and adding in lieu thereof the designation CR-1 Commercial 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 Broadkill Hundred, Sussex County, Delaware, and lying north of Route 9 approximately 800 feet east of Route 5 at Harbeson and being more particularly described as follows:

BEGINNING at a point on the northerly right-of-way of Route 9, approximately 884 feet east of Route 5, a corner for these subject lands and lands, now or formerly, of Gary L. Hudson, Trustee; thence north 13˚45´00˝ west 1,282.00 feet along said Hudson lands to the centerline of Beaverdam Branch; thence southwesterly along the meandering centerline of

Beaverdam Branch to a point, a corner with lands, now or formerly, of Alva O. Wagner; thence north 74°00′00″ 288.00 feet along lands of Delmarva Power & Light Co. to a point; thence continuing along lands of Delmarva Power & Light Co. south 13°45′00″ east 348.00 feet to the northerly right-of-way of Route 9; and thence north 76° 15′ 00″ east 90.00 feet along the northerly right-of-way of Route 9 to the point and place of beginning, and containing 7.57 acres, more or less, per survey by Pennoni Associates, Inc.

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