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December 18, 2015

ELECTRONIC TRANSMISSION AND FEDERAL EXPRESS OVERNIGHT

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Office of Fair Housing and Equal Opportunity
Philadelphia Center Director
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Lori Wagner, Esq.
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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: Sixth Semi-Annual Compliance Report Under the Sussex County Voluntary Compliance Agreement (HUD) and Consent Decree (USDOJ)

Dear Ms. Delaney and Ms. Wagner:

This correspondence serves as Sussex County's sixth semi-annual compliance report ("Sixth 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). By email dated November 9, 2015, from Ms. Delaney to Stephanie Hansen, an extension until December 19th, 2015, was granted by HUD to submit this Sixth Semi-Annual Compliance Report. No extension was required by USDOJ under the CD because

submission of the Sixth Semi-Annual Compliance Report on or before December 19, 2015, is timely. 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; November 7, 2013, November 27, 2013; January 6, 2014; March 19, 2014; May 9, 2014[2]; June 19, 2014; December 19, 2014; June 19, 2015; September 21, 2015; and October 28, 2015.

I. Requirements Under the Consent Decree

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

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

B. **Section II** – Development of New Horizons by Diamond State Community Land Trust ("Diamond State CLT"). With the exception of Subsection II(11)(a), the requirements of this section become active only upon submission of an application by Diamond State CLT. Since no application has 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.

Subsection II(11)(b) states that the County shall, upon request by Diamond State CLT, provide letters from the County to actual or potential funders or any other governmental entity indicating the County's support for Diamond State CLT's New Horizons project. Since the County's Fifth Semi-Annual Compliance Report, there has been no such request by Diamond State CLT. As a result, the County believes it is in compliance with this requirement.

C. **Section III(12)** – Additional Provisions Related to Affordable and Fair Housing. This section requires certain notice to an applicant should the County Council or Planning and Zoning Commission decline, reject, or deny any type of request or application for zoning or land use

[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.

[2] The May 9, 2014 correspondence was sent solely to HUD in partial response to the HUD Review Letter (hereinafter defined).

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 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 of the Consent Decree, the County must proceed to implement the Marketing Plan within five (5) days upon its approval by USDOJ. The County nows considers its Marketing Plan approved by USDOJ. As mentioned within the County's Fourth Semi-Annual Compliance Report, the County asked one final time for approval from USDOJ on the Marketing Plan and stated that unless it was informed otherwise by USDOJ by January 1, 2015, it would consider the Marketing Plan approved. No such communication was received from USDOJ. Regardless, since the Marketing Plan was first submitted to USDOJ over two (2) years ago, the County has proceeded in good faith to implement the provisions of the Marketing Plan as those items have come due. Compliance with the Marketing Plan has been addressed in other correspondences to USDOJ dated July 2, 2013; September 30, 2013; January 6, 2014; September 21, 2015; and the County's Fourth and Fifth Semi-Annual Compliance Reports.

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 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 Fifth Semi-Annual Compliance Report dated June 19, 2015, the County has not received any complaints of housing discrimination. The County would like to note that its complaint form is available in Spanish on the County's website and in the County's offices.

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 continue to be freely available, upon request, without charge, to anyone at the County's office of Community Development and Housing and on the County's website. 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. The FHCO reported to the County at the County Council meeting held on December 15, 2015, in compliance with this section. Attached as **Exhibit 1** is the agenda from the County Council meeting showing the FHCO's presentation on the agenda and memorandum of the FHCO outlining the material presented.

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. As mentioned in the Fifth Semi-Annual Compliance Report, the County is inserting the Fair Housing Policy in its Application for Major Subdivision. This section also 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 at: http://www.sussexcountyde.gov/fair-housing-policy.

Lastly, the Fair Housing Policy is available in Spanish on the County's website and in the County's offices. 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. The County states affirmatively that this requirement continues to be fulfilled and includes the agendas from recent meetings of the Board of Adjustment, the Planning and Zoning Commission, and County Council as examples illustrating such compliance as **Exhibit 2**.

K. **Section VI(21) – (23)** – Training. As mentioned in the County's Interim Compliance Report dated September 21, 2015 ("Interim Report"), the County's third annual in-person

training was held on July 23, 2015. The trainer was Mr. Jeffrey May of the National Community Reinvestment Coalition and Mr. May's training materials were pre-approved by HUD and USDOJ. The training certificates of each of the County attendees were included as an exhibit within the Interim Report.

The CD and VCA require annual in-person training, but a due date for that training was not established. The first annual training was held on March 8, 2013; the second annual training was held on February 28, 2014; and the third annual training was held on July 23, 2015. As mentioned in the Fifth Semi-Annual Compliance Report, the third annual training was delayed to due to a change in the trainer and training material required by HUD and USDOJ, and the subsequent time required to address those changes. **In order to keep the training on an annual basis (with approximately one year between training seminars), the County anticipates arranging for the fourth annual training to occur in the Summer of 2016. If either HUD or USDOJ disagree with this approach, please contact the County's attorney, Stephanie Hansen, before January 1, 2016.**

New Employees: There have been two (2) new County employees since the submission of the Fifth Semi-Annual Compliance report whose employment positions the County believes are covered under the terms of the CD and who have received the fair housing training in compliance with the 30-day requirement in the CD. A third employee has been hired and will also be trained within the 30-day requirement which will run on January 6, 2016. The name of each employee, the date of hire, and the date of training are listed below. The training certificates for the employees are included in **Exhibit 3**.

1. E.F. Quillen (hired 9/28/15, trained 10/5/2015)

2. Daniel Brandewie (hired 11/9/15, trained 12/7/2015)

3. Hans Medlarz (hired 12/9/15, training not yet completed)

L. **Section VII(24)(a) through (c)** – Reporting and Recordkeeping. The requirements of this section do not become active until Sussex County acts upon Diamond State CLT's preliminary subdivision plat application for New Horizons. Since no such application has been submitted as of this time, the requirements of this section have not been activated. Additionally, as mentioned in the Third Semi-Annual Compliance Report, Sussex County understands that Diamond State CLT will not be pursuing the development of the New Horizons project on the land that was the subject of the original application.

M. **Section VII(25)** – Reporting and Recordkeeping. This section requires the submission to USDOJ 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 previous correspondences, 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 for the initial in-person training, and the proposed 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. However, the County has gone above and beyond the requirement to update the webpage twice annually and, instead, updates the webpage on a continuous basis as new material related to affordable housing becomes available. For your reference, the web address to the County's Affordable Housing webpage is:

http://www.sussexcountyde.gov/affordable-and-fair-housing-resource-center

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 Fifth 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 on which County Council or the Planning and Zoning Commission have made a determination since the County's Fifth Semi-Annual Compliance Report. As reiterated in the County's Fifth Semi-Annual Compliance Report, USDOJ and the County have agreed 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) As mentioned earlier in this correspondence, the County has hired two new employees since the Fifth Semi-Annual Compliance report whose employment positions the County believes are covered under Sections VI(21) to (23) of the CD and who have completed the required training. Copies of their certificates of training will be posted on the County's website concurrent with the posting of this Sixth Semi-Annual Compliance Report.

(e) With the exception of the revised Priority Plan submitted to HUD and USDOJ on October 28, 2015, and the materials submitted to HUD and USDOJ in the interim compliance report dated September 21, 2015, 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 Fifth Semi-Annual Compliance Report. As reiterated in the Fifth Semi-Annual Compliance Report, USDOJ and the County understand 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 programs, or housing being processed under the MPHU or SCRP programs, not changes which implicate 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 after its entry. As the CD was entered by the Court on December 19, 2012, the date of its expiration is therefore December 19, 2016. 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, the County submitted to USDOJ a draft Stipulation and Order for review within the First Semi-Annual Compliance Report and reports thereafter. As per communication from USDOJ, it is the County's understanding that all of the terms in that 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. As with previous compliance reports, the County renews its request that USDOJ execute the Stipulation and Order as submitted within the Fourth Semi-Annual Compliance Report.

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

Since the submission of the County's Fifth Semi-Annual Compliance Report, the County and HUD met on July 16, 2015, to discuss their areas of disagreement. Such areas are further set forth in the County's Fourth and Fifth Semi-Annual Compliance Reports. Subsequently, HUD issued a letter to the County dated July 30, 2015 (the "July 2015 HUD Review Letter"), with a synopsis of HUD's requirements under the VCA and the County submitted two correspondences to HUD and USDOJ (dated September 21, 2015, and October 28, 2015) in an effort to address HUD's requirements in the July 2015 HUD Review Letter. With the addition of the information presented below, the County believes it is in compliance with the terms of the VCA and awaits HUD's further comments on its previous submissions.

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.

B. **Section III(1)** – Corrective Actions. This section references the training requirements set forth in Section VI(21)(a) through (c) of the CD. As mentioned earlier in this Sixth Semi-Annual Compliance Report, the County's annual training occurred on July 23, 2015. The July 2015 HUD Review Letter stated that the training was comprehensive and addressed all aspects of the CD and VCA, and once the training certificates were completed and submitted to USDOJ, the County would be in compliance with this section. The training certificates were completed and submitted to USDOJ and HUD in the Interim Report (dated September 21, 2015). As a result, the County believes that it is in compliance with this section.

C. **Section III(2)** – Corrective Actions. Under this provision in the VCA, the County is required to address the decision to deny the New Horizons Cluster Subdivision proposal and reimburse Diamond State CLT as agreed upon in Sections II(10) and VIII of the CD. As set forth in previous compliance reports, the County believes it is in compliance with this section. The July 2015 HUD Review Letter states that HUD agrees the County is in compliance with this section and recommends that the County "continue to engage with Diamond State CLT in identifying land for affordable housing opportunities, as this is comprehensively documented in the 2011 Analysis of Impediments." The County is continuing to engage in discussions with Diamond State CLT.

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 and the July 2015 HUD Review Letter states that this provision of the VCA is being met.

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 and the July 2015 HUD Review Letter states that this provision of the VCA is being met.

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. The July 2015 HUD Review Letter states that this provision of the VCA has been met.

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. Because that situation has not arisen, there is nothing in this section that requires compliance by the County at this time. The July 2015 HUD Review Letter states that this provision of the VCA is not applicable at this time. However, for your information, FHCO Brandy Nauman will be on maternity leave beginning at the end of December (the exact date has not been determined) for approximately three (3) months. In her absence, the current Director of Community Development and Housing for Sussex County, Brad Whaley, will temporarily assume her role.

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

1. **Section III(7)(a)** requires that the County review and evaluate the 1998, 2003, and 2011 Analysis of Impediments ("AI's"), 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.

In the April HUD Review Letter, HUD listed eight separate recommendations that it believed the County needed to address in order to be in compliance with the VCA under Section III(7)(a). All of the recommendations involved changes to the County's Priority Plan. There has been much correspondence between HUD and the County regarding these eight recommendations and, for the sake of efficiency, the entirety of the substance of those correspondences will not be repeated in this Sixth Semi-Annual Compliance Report. A large portion of the meeting between HUD and the County on July 16, 2015, was devoted to the discussion of these recommendations. The July 2015 HUD Review Letter encapsulated HUD's subsequent requirements for addressing the recommendations and, in response, the County submitted its Interim Report (dated September 21, 2015) and its revised Priority Plan (dated October 28, 2015). At this point, the County is awaiting HUD's response to the revised Priority Plan.

Without waiving any of the County's general or specific objections to the eight recommendations as set forth in previous compliance reports, the County's response to each of the eight recommendations as presented in the July 2015 HUD Review Letter is presented below.

a. HUD Recommendation No. 1 and 2

According to the July 2015 HUD Review Letter, the outstanding action item that HUD is requiring to be in the Priority Plan in order for the County to be in compliance with these recommendations is "a timeline for the strategy of meeting with housing advocates to explore options for increasing the supply of accessible, affordable housing, including what outreach will be performed to housing advocates, how will suggestions be compiled, how will the Recipient assess these suggestions, and how long does the Recipient anticipate the process will take (HUD's recommendation in the November 2014 letter). As stated during the meeting, the Department is seeking timelines and what the County will use to measure outcomes of its strategies/action in the Priority Plan."

County's Response: The County's response to each element of HUD's action item mentioned above is found in the revised Priority Plan within Item 2, under "Actions to be Pursued by County" and specifically the subsection titled "Meeting with housing advocates to explore options for increasing the supply of accessible and affordable housing."

b. HUD Recommendation No. 3

According to the July 2015 HUD Review Letter, HUD has reviewed the County's prior response and determined this recommendation to be complete. As there are no outstanding items regarding this recommendation, it will not be further discussed.

c. HUD Recommendation No. 4

According to the July 2015 HUD Review Letter, HUD has reviewed the County's prior response and determined this recommendation to be complete. As there are no outstanding items regarding this recommendation, it will not be further discussed.

d. HUD Recommendation No. 5

According to the July 2015 HUD Review Letter, HUD would like the County to "make clear in its response how deferring sewer impact fees actually acts as a financial incentive for affordable housing organizations, like community land trust models. Additionally, the County should describe how it will assess if the strategy it is utilizing is succeeding, how the expansion of other financial incentives could assist in increasing affordable housing in the Balance of the State, and how it will make the cost offset allocations and density bonus incentives explicit in materials promoting the SCRP and MPHU programs and in the application materials for those programs. Finally, all actions should be included in the Priority Plan with estimated timelines for completion of the actions and what results will be measured for each action to determine if the actions were successful."

County's Response: The County's response to the action items presented above are found within Items 2, 8, 16, 17, 18, and 23 in the revised Priority Plan under "Actions to be Pursued by County." For clarity in this Sixth Semi-Annual Compliance Report, all of the pertinent information within Items 2, 8, 16, 17, 18, and 23 is combined below:

It was determined by meeting with the housing advocacy groups that the cost of the sewer impact fee was a significant factor affecting the development of affordable housing. The sewer impact fee deferral will act as a financial incentive for affordable housing organizations by reducing the upfront costs of developing each dwelling unit. The impact fee would not be collected until the land upon which the dwelling unit is located is sold. In the case of a community that was developed utilizing a community land trust model, the land is not sold, only the dwelling unit, so the cost of the sewer impact fee is not paid. Yearly beginning in July 2016, the County will determine whether any non-profit developers, community land trust developers, or for-profit affordable housing developers have utilized the impact fee deferral and if, at the end of the assessment period (July 2018), the deferral option has been utilized the County will determine this strategy to be successful.

In the meantime, the County will add the availability of the sewer deferment incentive to the existing Affordable Housing Support Policy in order to raise public awareness of this incentive and encourage its use. In addition, the County will develop a fact sheet that will set forth the cost offset allocation and density bonus incentives within the MPHU and SCRP programs and insert the fact sheet into the application materials for these programs.

Lastly, the County will continue to implement its new Affordable Housing Support Policy and utilize its Template Support Letter. The County intends to assess the success of this new policy concurrent with the assessment of the impact fee deferral incentive (July 2015 – July 2018). Afterwards, and if warranted, the County will pursue new financial incentives for affordable housing development which may include formalizing a package of incentives to be offered to developers of affordable housing communities that can provide a guarantee to the County of the ultimate affordability of the units.

e. HUD Recommendation No. 6

Within the July 2015 HUD Review Letter, HUD requested a copy of the County's LEP Plan to review and provide comments. HUD stated that the comments, if

any, will not become part of the approval of the Priority Plan, but rather will be for technical assistance for the County. This is the only outstanding action item within this recommendation.

County's Response: The County submitted its LEP Plan to HUD within its September 21, 2015, Interim Report.

f. HUD Recommendation No. 7

Within the July 2015 HUD Review Letter, HUD noted that the County reviewed the report previously required by HUD (titled "April 2012, Community and Choice: Housing Needs for People with Disabilities in Delaware") and developed a number of actions. HUD stated that the recommendation is completed, except that "these actions should be incorporated into the Priority Plan, be given an estimated timeline for completion, and be aligned with measurable results the County plans to use to analyze the success of the actions."

County's Response: The County's response to each of HUD's requirements mentioned above is found in the revised Priority Plan within Item 2, under "Actions to be Pursued by County" and specifically the subsection titled "Actions to be taken as a result of the review of the April 2012 Community and Choice document."

g. HUD Recommendation No. 8

Within the July 2015 HUD Review Letter, HUD suggested discussing the prior recommendation (that the County support legislative protection for borrowers to mitigate the impacts of foreclosure) with the third-party contractor, DSHA, and/or Kent County to determine what types of actions were anticipated by the third-party contractor or those that were developed by DSHA or Kent County to address the issue of foreclosure rates in those areas.

County's Response: The County discussed this recommendation with DSHA and the Office of State Planning and Coordination at a meeting held on October 29, 2015. DSHA did not recall this as being part of the 2011 Analysis of Impediments ("AI") nor a requirement of the County by DSHA. DSHA pointed out that Delaware is a judicial foreclosure state, which already puts us several steps above other states and we already have an existing framework in place with strong protections for homeowners (for example, required mediation). Nonetheless, in order to address this recommendation, the County has proposed in its revised Priority Plan to

send a letter to State legislators in Sussex County making them aware of the County's requirement under this AI and expressing general support for future legislation addressing this issue. The County is hopeful that this action will satisfactorily address this recommendation.

Within the July 2015 HUD Review Letter, HUD noted that the County provided information on numerous actions two (2) of which did not seem to fit within the above eight HUD recommendations and HUD requested that the two actions be included in the revised Priority Plan. Those two actions were:

1. The County is a member of the Sussex Housing Group ("SHG"), which includes as its members the Delaware State Housing Authority, Milford Housing Development Corporation, Sussex County Habitat for Humanity, Delaware Community Reinvestment Action Council, Sussex Unity, Delaware Housing Coalition, First State Community Action, Discover Bank, NCALL Research, and Delaware Manufactured Homeowners Association. The Sussex Housing Group met on September 30, 2014 to discuss impacted communities in Sussex County and decided that a focused approach on a single community would be an excellent project for the group to work on over the next couple of years. Subsequently, Group met on March 18th to review and rate proposals submitted by impacted communities interested in participating. The community of Pinetown was chosen by the SHG, though Sussex County abstained from voting. Sussex County is anticipating its work in Pinetown to consist of 4 to 6 owner-occupied rehabilitation projects and is awaiting confirmation from DSHA regarding the Fiscal Year 2015 grant award on its use of CDBG funds to do so. The Sussex Housing Group expects the focus project for Pinetown to run from June 2015 through May 2016. It should be noted that the County previously installed the sewer system in Pinetown.

2. The County met with a number of the civic leaders from some of the unincorporated communities at the end of April to hear their concerns about issues that plague their neighborhoods. A number of the communities are listed as Impacted Communities in the VCA. As a result of the meeting, the County is spearheading a joint County/State initiative to address their grievances. An early step has been the creation of a guide by the County, which has now been distributed to over 100 property owners, residents, and tenants in the Cool Spring community, instructing them on various Code enforcement matters.

The County does not believe that the two actions listed above fit snugly within the confines of the revised Priority Plan. Instead, these are actions that the County has undertaken and which will become part of the County's internal evaluation of its past participation in providing infrastructure in the Impacted Communities (of which Pinetown and Cool Spring were added) as required in **Section III(7)(c)**, and as more fully discussed below.

2. **Section III(7)(a)(i)** – This section 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."[3]

In order for the requirements of this section to be met, in the July 2015 HUD Review Letter, HUD reiterated is position that its recommendations for the County Priority Plan must be incorporated into the Priority Plan. With the submission of the revised Priority Plan, the Interim Report, and the information included within this Sixth Semi-Annual Compliance Report, the County believes it is now in compliance with this requirement.

3. **Section III(7)(a)(ii)** requires, "in future planning efforts, Sussex County shall collaborate with DSHA and the Office of State Planning and Coordination 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."[4] The July 2015 HUD Review Letter and the November HUD Review Letter state that this provision of the VCA has been met.

4. **Section III(7)(a)(iii)**. In an effort to Affirmatively Further Fair Housing, the County agreed that within 120 days of the effective date of the VCA, the Fair Housing Compliance Officer ("FHCO") would 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 Consent Decree. In order to meet this requirement, the FHCO presented six strategies to County Council on March 26, 2013, and Council adopted Strategy #1 (the Anti-NIMBY policy). As a result, the July 2015 HUD Review Letter and the November HUD Review Letter state that this provision of the VCA has been met.

5. **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 and to post the revised provisions 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 July 2015 HUD Review Letter and the November HUD Review Letter state that this provision of the VCA has been met.

6. **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

[3] VCA, Section III(7)(a)(i).

[4] VCA Section III(7)(a)(ii).

investment strategies, priority designation of infrastructure and/or community development for those elements of infrastructure over which the County has primary governing authority. This section also requires the County to 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.

HUD Recommendation: "The Department is aware of the County's update of the Impact Study during the July 16, 2015 meeting that GCR has been contracted to complete the assessment work of the survey data collected. The County stated to the Department that GCR is well-versed in fair housing and had completed the Delaware Statewide Needs Assessment. The County also stated that the intern that has been completing the majority of the surveying is bilingual and the County has a new part time bilingual staff person. The Department requests an update on the preliminary results of the Impact Study in the County's next submission."

County's Response: The County awarded the contract to complete the Impacted Communities Study to GCR Inc. in June 2015, and the County has now completed a community meeting in all fourteen (14) of the Impacted Communities. Note that the VCA listed only ten (10) Impacted Communities; however, the County expanded this list to fourteen (14) in order to reach additional communities that the County believes may be home to significant numbers of low to moderate income families. The County is continuing to survey the individual homes within the Impacted Communities and distribute the resulting information to GCR. At this point, GCR has gathered pertinent data related to infrastructure from the Sussex County Engineering Department, private water companies, the Delaware Department of Transportation, and Sussex County's Mapping and Assessment Departments. Other information has been obtained from the U.S. Census and the 2009-2013 American Community Survey. Under the structure of the RFP, the Impacted Communities Study involves four sections: (1) Community Defined; (2) Individual Residents; (3) Collective Community Needs; and (4) LMI Determinations. As of this time, GCR has provided an initial draft of the Community Defined section and the County is working with GCR to complete this section. Under the terms of the RFP, the Impacted Communities Study must be completed by April 15, 2016.

Also, as mentioned above after the eight (8) HUD recommendations, the County has undertaken two actions regarding Pinetown and Cool Spring which will become part of the County's internal evaluation of its past participation in providing infrastructure in the Impacted Communities.

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. As mentioned by HUD in the July 2015 HUD Review Letter, this provision of the VCA is open and ongoing.

J. **Section III(9)** – Corrective Actions. Under this provision in the VCA, the County is required to revise its methodology, as currently proposed by DSHA, to target minorities with disproportionate housing needs to ensure that minorities are benefiting from all affordable housing programs supported by the County. Within the County's Fifth Semi-Annual Compliance Report, the County attached documentation from past DSHA CDBG Quarterly Status Reports to show that its methodology does target minorities with disproportionate housing needs. Within the July 2015 HUD Review Letter, HUD agreed that the CDBG reports show that minorities are targeted for funding. However, HUD further stated that "as the Recipient plans to incorporate the Impacted Community Study into the targeting process, this provision remains open while the Study is completed."

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. The July 2015 HUD Review Letter concurs that this provision of the VCA has 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 Sixth 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.

N. **Sussex County Fair Housing Marketing Plan** – HUD included questions relating to the Sussex County Fair Housing Marketing Plan in the April and November HUD Review Letters. In particular, HUD posed questions related to the Citizen Participation Plan. The County provided responses to HUD's questions in its Fourth Semi-Annual Compliance Report. Within the July 2015 HUD Review Letter, HUD states that the County's responses have satisfied HUD's inquiry into the Citizen Participation Plan.

This concludes the County's Sixth Semi-Annual Compliance Report. Please feel free to contact me with any questions or comments.

Sincerely yours,

Stephanie L. Hansen

Alice Hung (via email at Alice.Hung@usdoj.gov)
Ms. Melody Taylor-Blancher (via email at Melody.C.TaylorBlancher@hud.gov)
Ms. Mary Jean Carabello (via email at MaryJean.Carabello@hud.gov)
Ms. Danielle.L.Sievers (via email at Danielle.L.Sievers@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 Sixth Semi-Annual Compliance Report is accurate to the best of my knowledge as the Sussex County Fair Housing Compliance Officer.

Brandy B. Nauman
Sussex County Fair Housing Compliance Officer

Exhibit List

Exhibit 1 - County Council Agenda for December 15, 2015, and the FHCO Memorandum.

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

Exhibit 3 - Certificates of Training

Exhibit 1

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

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Sussex County Council

AGENDA

DECEMBER 15, 2015

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. **Proclamation – Cape Henlopen Field Hockey Team**
2. **Delaware Coastal Airport Sign Project Update**
3. **Administrator's Report**

Gina Jennings, Finance Director

1. **Clean Water and Flood Abatement Task Force Update**

10:30 a.m. Public Hearings

Kings Highway De-Annexation from the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District

Pine Country Condo, Unit 1 Annexation – West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District

Brandy Nauman, Housing Coordinator & Fair Housing Compliance Officer

1. **Fair Housing Update**

EQUAL HOUSING OPPORTUNITY

10:45 a.m. Public Hearing

"AN ORDINANCE TO AMEND CHAPTERS 99 AND 115 OF THE CODE OF SUSSEX COUNTY TO ALLOW APPLICANTS TO SEEK AN EXTENSION OF TIME FOR APPROVALS FOR SUBDIVISION APPLICATIONS, CONDITIONAL USE APPLICATIONS, AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS UPON WRITTEN REQUEST"

Joe Wright, Assistant County Engineer

1. Pump Station #210 Force ~~Main to~~ Indian ~~Bays Regional~~ Wastewater Facility: Indian Mission and Beaver Dam Roads (Contract 15-08A)

   A. Bid Award

John Ashman, Director of Utility Planning

1. Saddle Ridge Oversizing Agreement

Old Business

Conditional Use No. 2025
Rudy South, c/o T & C Properties, LLC

Conditional Use No. 2026
Cristian Omar Hernandez Perez and Terri L. Martin

Change of Zone No. 1769
Ocean Atlantic Communities, LLC

Conditional Use No. 2012
Ocean Atlantic Communities, LLC

Change of Zone No. 1783
Cauthen Ventures DE, LLC

Conditional Use No. 2028
Cauthen Ventures DE, LLC

Introduction of Proposed Zoning Ordinances

Council Members' Comments

Executive Session – Pending Litigation pursuant to 29 Del. C. §10004(b)

Possible Action on Executive Session Items

1:30 P.M. Public Hearings

Conditional Use No. 2034 filed on behalf of Beachfire Brewery Co. LLC
"AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RESTAURANT AND BREWERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.99 ACRES, MORE OR LESS" (located on the north side of Beaver Dam Road (Road 285) south of Lewes Georgetown Highway (Route 9) (Tax I.D. No. 334-5.00-215.00, 215.01, 216.00, 217.01, 218.00 & 219.00) (911 Address: 32490 Lewes Georgetown Highway, Lewes)

Conditional Use No. 2035 filed on behalf of Synagro Central, LLC
"AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LAND APPLICATION OF BIO-SOLIDS AS AGRICULTURAL FERTILIZER FOLLOWING DNREC APPROVAL TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 203.0 ACRES, MORE OR LESS" (located on both sides of Zoar Road, northeast of the Railroad tracks, southwest of Patriot's Way, and on both sides of Governor Stockley Road (Tax I.D. No. 133-3.00-4.00 and 133-7.00-1.00, 4.00, 11.00 and 12.10 (all of or parts of) (911 Address: None Available)

Adjourn

****

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 December 8, 2015 at 5:20 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.

####

BRANDY BENNETT NAUMAN
HOUSING COORDINATOR &
FAIR HOUSING COMPLIANCE OFFICER
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bnauman@sussexcountyde.gov

Sussex County
DELAWARE
sussexcountyde.gov

MEMORANDUM

TO: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable Samuel R. Wilson, Vice President
The Honorable George B. Cole
The Honorable Joan R. Deaver
The Honorable Robert B. Arlett
Todd Lawson, County Administrator

FROM: Brandy Nauman, Fair Housing Compliance Officer

RE: Fair Housing Update

DATE: December 11, 2015

During Tuesday's Council meeting, I will provide you with a brief update on actions taken in compliance with the U.S. Department of Justice and U.S. Department of Housing & Urban Development fair housing settlement agreements over the last six months in order to comply with Section IV(18) of the Consent Decree. Below you will find an outline of the items I will be discussing. Please note that no action is required of Council; this is simply an update.

U.S. Department of Justice Consent Decree

- Section III(13)(a-d) – Affordable and Fair Housing Marketing Plan
  - o 2nd Annual Sussex County Homebuyer Fair – September 26, 2015
- Sections IV(15) and (16) – Housing Discrimination Complaints
  - o None
- Section VI(18) – Submission of Sixth Semi-Annual Compliance Report
  - o In process
- Section VI(21 – 23) and VII(26) – Fair Housing Training
  - o July 23, 2015
  - o Additional 2 new employees trained since live training
- Section VII(27)(a) through (f) – Affordable Housing Webpage

U.S. Department of Housing & Urban Development Voluntary Compliance Agreement

- Section III(7)(a)(i-iii) – Sussex County Analysis of Impediments Evaluation and Proposed Priority Fair Housing Plan
    - HUD Meeting on July 16, 2015
    - Revised Priority Plan Submission
    - LEP Plan Submission
- Section III(7)(c) – Strong Communities Initiative
    - Study Status & Estimated Release Date
- Section V – Submission of Sixth Semi-Annual Compliance Report

If you have any questions, please do not hesitate to ask. Thank you.

CC: Brad Whaley, Director of CD&H
Stephanie Hansen, Esquire
Robin Griffith, Clerk of Council

Exhibit 2

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

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Sussex County Council

AGENDA

DECEMBER 15, 2015

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. **Proclamation – Cape Henlopen Field Hockey Team**
2. **Delaware Coastal Airport Sign Project Update**
3. **Administrator's Report**

Gina Jennings, Finance Director

1. **Clean Water and Flood Abatement Task Force Update**

10:30 a.m. Public Hearings

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Pine Country Condo, Unit 1 Annexation – West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District

Brandy Nauman, Housing Coordinator & Fair Housing Compliance Officer

1. **Fair Housing Update**

EQUAL HOUSING OPPORTUNITY

10:45 a.m. Public Hearing

"AN ORDINANCE TO AMEND CHAPTERS 99 AND 115 OF THE CODE OF SUSSEX COUNTY TO ALLOW APPLICANTS TO SEEK AN EXTENSION OF TIME FOR APPROVALS FOR SUBDIVISION APPLICATIONS, CONDITIONAL USE APPLICATIONS, AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS UPON WRITTEN REQUEST"

Joe Wright, Assistant County Engineer

1. **Pump Station #210 Force Main to Indian Bays Regional Wastewater Facility: Indian Mission and Beaver Dam Roads (Contract 15-08A)**

   A. **Bid Award**

John Ashman, Director of Utility Planning

1. **Saddle Ridge Oversizing Agreement**

Old Business

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Rudy South, c/o T & C Properties, LLC

Conditional Use No. 2026
Cristian Omar Hernandez Perez and Terri L. Martin

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Ocean Atlantic Communities, LLC

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Adjourn

****

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****

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on December 8, 2015 at 5:20 p.m., and at least seven (7) days in advance of the meeting.

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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

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Sussex County
Planning & Zoning Commission

AGENDA

December 10, 2015

6:00 P.M.

Call to Order

Approval of Agenda

Approval of Minutes – November 19, 2015

Old Business

C/U #2021 VIII P-Loan Portfolio Holding, LLC **MJ**

An Ordinance to grant a Conditional Use of land in a CR-1 (Commercial Residential District) and an AR-1 (Agricultural Residential District) for multi-family dwelling structures to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 29.66 acres, more or less. The property is located at the southwest corner of the intersection of John J. Williams Hwy. (Rt. 24) and Autumn Rd. (Rd. 299). (911 Address: None Available) Tax Map I.D. 234-23.00-115.00

C/U #2034 Beachfire Brewery Co., LLC **MJ**

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a restaurant and brewery to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.99 acres, more or less. The properties are located on the north side of Beaver Dam Rd. (Rd. 285) south of Lewes Georgetown Hwy. (Rt. 9). (911 Address: 32490 Lewes Georgetown Hwy., Lewes). Tax Map I.D. 334-5.00-215.00, 215.01, 216.00, 217.01, 218.00 & 219.00

C/U #2035 Synagro Central, LLC **MJ**

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for land application of bio-solids as agricultural fertilizer following DNREC approval to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 203.0 acres, more or less. The properties are located on both sides of Zoar Rd., northeast of the Railroad tracks, southwest of Patriot's Way, and on both sides of Governor Stockley Rd. (911 Address: None Available). Tax Map I.D. 133-3.00-4.00 and 133-7.00-1.00, 4.00, 11.00 and 12.10 (all of or parts of)

C/Z #1787 BDRP, LLC MJ

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a MR (Medium Density Residential District) for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County containing 19.52 acres, more or less. The property is located south of Beaver Dam Rd. (Rd. 285) 2,500 ft. west of Plantations Rd. (Rd. 275). (911 Address: None Available) Tax Map I.D. 334-5.00-222.01

C/U #2033 BRDP, LLC MJ

An Ordinance to grant a Conditional Use of land in a MR (Medium Density Residential District) for multi-family dwelling structures to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 19.52 acres, more or less. The property is located south of Beaver Dam Rd. (Rd. 285) 2,500 ft. west of Plantations Rd. (Rd. 275). (911 Address: None Available). Tax Map I.D. 334-5.00-222.01

Public Hearings

AN ORDINANCE TO AMEND CHAPTER 99 AND 115 OF THE CODE OF SUSSEX COUNTY TO ALLOW APPLICANTS TO SEEK AN EXTENSION OF TIME FOR APPROVALS FOR SUBDIVISION APPLICATIONS, CONDITIONAL USE APPLICATIONS, AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS UPON WRITTEN REQUEST.

C/U #2036 Jimi Kellogg

an Ordinance to grant a Conditional Use of land in a GR (General Residential District) for parking of employee vehicles and vans for a cleaning service business to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 22,323 square feet, more or less. The property is located northeast of Field Ln. a subdivision street, 200 ft. southeast of Munchy Branch Rd. (Rd. 270-A). (911 Address: 36181 Field Ln., Rehoboth Beach). Tax Map I.D. 334-13.00-873.00

C/U #2037 Gilbert J. Bernoski, Jr.

an Ordinance to grant a Conditional Use of land in a GR (General Residential District) for an auto repair shop to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.101 acres, more or less. The property is located northeast of Mount Joy Rd. (Rd. 297) 0.4 mile east of Gravel Hill Rd. (Rt. 30). (911 Address: 26371 Mount Joy Rd., Millsboro). Tax Map I.D. 234-21.00-50.00

C/U #2039 Performance Injection Equipment Co., LLC

an Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for manufacturing and installation of performance automotive parts and accessories to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 34,740 square feet, more or less. The property is located northeast corner of DuPont Blvd. (U.S. Rt. 113) and Betts Ln. (911 Address: 24994 Betts Ln., Georgetown). Tax Map I.D. 133-6.00-110.00

C/Z #1789 Good Earth Market, LLC

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 Baltimore Hundred, Sussex County containing 10.17 acres, more or less. The property is located south of Atlantic Ave. (Rt. 26) approximately 1,800 ft. west of Roxana Rd. (Rt. 17). (911 Address: 31806 Good Earth Ln., Ocean View) Tax Map I.D. 134-11.00-181.00, 181.01, 181.02, & 181.03

C/U #2038 Good Earth Market, LLC

an Ordinance to grant a Conditional Use of land in a CR-1 (Commercial Residential District) for multi-family dwelling structures to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 4.75 acres, more or less. The property is located south of Atlantic Ave. (Rt. 26) approximately 1,800 ft. west of Roxana Rd. (Rt. 17). (911 Address: 31806 Good Earth Market Ln., Ocean View). Tax Map I.D. 134-11.00-181.03

Other Business

Lands of Joseph Roger off Delmar Rd. Minor Subdivision with 50' easement	MR
Lands of Ghabour off Gravel Hill Rd. Minor Subdivision with 50' easement	MJ
C/U #2031 East Coast Auto, Inc. Preliminary Site Plan	RW
Creative Assemblies Preliminary Site Plan	RW

****

Planning and Zoning Commission 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 November 30, 2015, at 10:15 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.

####

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

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Sussex County Board of Adjustment

REVISED AGENDA

DECEMBER 14, 2015

7:00 P.M.

Call to Order

Pledge of Allegiance

Approval of Agenda

Approval of Minutes for October 19, 2015

Approval of Finding of Facts for October 19, 2015

Approval of Minutes for November 2, 2015

Approval of Finding of Facts for November 2, 2015

Public Hearings

Case No. 11674 – Joseph Soriano, Jr. and Maryellen Soriano seek variances to reduce the rear yard, side yard, and front yard setbacks (Section 115-25C, 115-183C, and 115-185F of the Sussex County Zoning Ordinance). The property is located on the west side of Taft Ave. approximately 50 ft. south of Lighthouse Rd. 911 Address: 38808 Taft Ave., Selbyville. Zoning District AR-1. Tax Map: 533-20.14-73.00

Case No. 11675 – Mary Jean Owens seeks a variance to reduce the side yard setback (Section 115-42B and 115-183C of the Sussex County Zoning Ordinance). The property is located on the east side of E Lagoon Rd. approximately 780 ft. north of Falling Point Rd. 911 Address: 30864 E. Lagoon Rd., Dagsboro. Zoning District: GR. Tax Map: 134-6.00-143.01

Case No. 11676 – Robert Lesher seeks a special use exception to place a billboard (Section 115-80C and 115-210A(3)(p) of the Sussex County Zoning Ordinance). The property is located on the south side of Long Neck Rd. across from Lingo Ln. 911 Address: 32564 Long Neck Rd., Millsboro. Zoning District: C-1. Tax Map: 234-23.00-311.10

EQUAL HOUSING OPPORTUNITY

Case No. 11677 – BAR-SGR, LLC, Cellco Partnership d/b/a Verizon Wireless seeks a special use exception to place a telecommunication tower (Section 115-23C(17) and 115-194.2A of the Sussex County Zoning Ordinance). The property is located on the northwest corner of Zoar Rd. and Lawson Rd. 911 Address: 24296 Lawson Rd., Georgetown. Zoning District: AR-1. Tax Map: 234-15.00-10.00

Case No. 11678 – Gumboro Volunteer Fire Co. Inc., Cellco Partnership d/b/a Verizon Wireless seeks a special use exception to place a telecommunication tower (Section 115-194.2A of the Sussex County Zoning Ordinance). The property is located on the southwest corner of Millsboro Hwy. and Shell Station Rd. 911 Address: 37030 Millsboro Hwy., Millsboro. Zoning District: C-1. Tax Map: 333-11.00-23.00

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Board of Adjustment 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 November 19, 2015, at 8:49 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: November 30, 2015 (to include Minutes and Finding of Facts for October 19, 2015).
Revised: December 4, 2015 (to include Minutes and Finding of Facts for November 2, 2015).

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Exhibit 3

ATTACHMENT B

CERTIFICATION OF TRAINING AND RECEIPT OF CONSENT DECREE

On Oct. 5 2015, 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.

E.F. Quillen
Signature

E.F. Quillen
Print Name

10-5-2015
Date

P+Z. Inspector
Position with Sussex County

[redacted]

"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 training.

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

_____ Illness

_X_ I was hired by the County, or transferred departments, after the date of the training."

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ATTACHMENT B

CERTIFICATION OF TRAINING AND RECEIPT OF CONSENT DECREE

On Dec 7, 2015, 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.

Daniel L Brandewie
Signature

DANIEL L BRANDEWIE
Print Name

12-7-2015
Date

Planner II P & Z Dept.
Position with Sussex County

[redacted]

"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 training.

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

_____ Illness

__✓__ I was hired by the County, or transferred departments, after the date of the training."