



Sussex County Council Public/Media Packet

**MEETING:
April 1, 2014**

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



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Sussex County Council

A G E N D A

APRIL 1, 2014

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Jane Lord, Sussex County League of Women Voters – Sunshine Day Presentation

Todd Lawson, County Administrator

1. Employee of the First Quarter – Vanessa Pettyjohn
2. Discussion regarding the storage of waste materials including tires as it relates to County Code.
3. Consideration of Rules of Procedure amendment regarding Consent Agendas.
4. Administrator's Report

Hal Godwin, Deputy County Administrator

1. Legislative Update
2. Wetlands Advisory Committee Update and Possible Action
3. Wastewater Agreements
 - A. Hopkins-Pettyjohn Subdivision (AKA Red Mill Pond North) – Phase 3
West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District



**B. Bishop's Landing – Phase 3
Millville Expansion of the Bethany Beach Sanitary Sewer District**

John Ashman, Director of Utility Planning

1. Expansion of the Bay View Estates Sanitary Sewer District

A. Permission to Prepare and Post Notices

Grant Requests

- 1. John M. Clayton Elementary School for a Student Mentoring Program.**
- 2. Delaware 4-H Association for the Bridgeville Mustangs Club for conference expenses.**
- 3. American Cancer Society for Eastern/Coastal Relay for Life.**
- 4. Greenwood Police Department for National Night Out event.**
- 5. The Ladies Auxiliary of the Carlisle Fire Company for uniform shirts and aprons.**
- 6. Trap Pond Partners for the Healthy Kids Day event at Trap Pond State Park.**
- 7. Marine Corps League Foundation (Delaware Devil Dogs – Detachment 780) for a fundraiser for various community projects.**
- 8. Delaware Technical & Community College for Kids on Campus for summer classes/camp.**

Introduction of Proposed Zoning Ordinances

Any Additional Business Brought Before Council

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

Possible Action on Executive Session Items

1:30 p.m. Workshop on Building Height Limits

Location: Sussex County's West Complex, Route 113, Georgetown

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 March 25, 2014 at 4:55 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, MARCH 25, 2014

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, March 25, 2014, 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
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 128 14
Approve
Agenda**

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

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of March 18, 2014 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

SEAFORD COMMUNITY FOOD CLOSET, SEAFORD, DELAWARE.
RE: Letter in appreciation of grant.

Mrs. Deaver reported that she receives numerous emails regarding roads being littered with trash and regarding old buildings that are in ruins and need to be demolished. Mr. Phillips stated that he also receives correspondence on roads being littered with trash and he stated that he would be in favor of reviewing the County Code as it relates to this matter. Mr. Wilson warned that the State has closed roads due to littering problems.

**Valliant
Expansion/
DFSSD**

John Ashman, Director of Utility Planning, requested permission to prepare and post notices for a parcel requested to be annexed into the Dagsboro Frankford Sanitary Sewer District; it is a single parcel located on Honolulu

**Valliant
Expansion /
DFSSD
(continued)**

Road containing 15.66 acres. The County received a letter requesting that the single parcel be included in the sewer district; the owner wishes to begin the development planning process for single family homes on the parcel.

The parcel is currently served with a 6 inch lateral that was installed in 1992 as part of another project; this lateral is insufficient for development and this will be addressed at the time of the Concept Plan submittal. The owner of the parcel will be responsible for system connection charges in the amount of \$6,800.00 per EDU, based on current rates. A Public Hearing before the Council will be scheduled.

**M 129 14
Prepare
and Post
Notices/
Valliant
Expansion/
DFSSD**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex County Council authorizes the Engineering Department to prepare and post notices for the extension of the Dagsboro-Frankford Sanitary Sewer District boundary to include Parcel 4-33-6.11-6.0 owned by John Valliant, as presented on March 25, 2014.

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/
Sodium
Hypo-
chlorite**

Loran George, District Manager, South Coastal, presented the bid results for Sussex County Project No. 14-02, Bulk Delivery of Sodium Hypochlorite. The apparent low bidder was Coyne Chemical of Croydon, Pennsylvania at the Base Bid of \$1.078 (\$/gal).

**M 130 14
Award
Bid for
Bulk
Delivery
of
Sodium
Hypo-
chlorite**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Project No. 14-02, Bulk Delivery of Sodium Hypochlorite, be awarded to Coyne Chemical Co. of Croydon, Pennsylvania, for the time period of one year, beginning on July 1, 2014, at the bid amount of \$1.078 per gallon.

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/
Granular
Lime**

Loran George, District Manager, South Coastal, presented the bid results for Sussex County Project No. 14-03, Bulk Delivery of Granular Lime. The apparent low bidder was Greer Lime Company of Morgantown, West Virginia, at the Base Bid of \$175.00 (\$/ton).

- M 131 14 Award Bid/ Bulk Deliver of Granular Lime** **A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Project 14-03, Bulk Delivery of Granular Lime, be awarded to Greer Lime Company of Morgantown, West Virginia, for the time period of one year, beginning on July 1, 2014, at the bid amount of \$175.00 per ton.**
- Motion Adopted:** **5 Yeas.**
- Vote by Roll Call:** **Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea**
- FOIA Presentation** **Jason Staib, Deputy Attorney General, gave a presentation on Delaware's Freedom of Information Act (FOIA) including an overview of public records and open meetings rights and obligations. Information presented included the purpose of FOIA, open records provisions (what documents must be made available for public inspection), open meeting provisions (what meetings and discussions must be open to the public), implementing a FOIA Policy, statutory exemptions, and public meeting requirements including publications, agendas and minutes.**
- Questions were asked and discussions were held throughout the presentation. This presentation can be heard in its entirety on the audio recording of the meeting (Track 2); the audio recording is available on the County's website @ www.sussexcountype.gov. Additionally, a copy of the power point presentation is available upon request in the office of the Sussex County Council.**
- Library Advisory Board Vacancy** **Mr. Lawson reported that there is currently a vacancy on the County Library Advisory Board (District 5 Representative). Katherine Mento has agreed to serve in that role and to join the Board effective immediately; her term would last until June 30, 2016.**
- M 132 14 Appointment to Library Advisory Board** **A Motion was made by Mr. Phillips, seconded by Mr. Wilson, that the Sussex County Council approves the appointment of Cathy Mento to the Sussex County Library Advisory Board effective immediately, until such time as her term expires on June 30, 2016.**
- 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 C/Z No. 1737** **Mr. Lawson reported that a request has been received to withdraw the pending application, Change of Zone No. 1737, filed on behalf of Robert and Julie Norwood. Since a Public Hearing before the Council has been held and action deferred, a Motion approving the request is required by the Council.**

**M 133 14
Approve
Request to
Withdraw
C/Z
No. 1737**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, that the Sussex County Council approves the request to withdraw Change of Zone No. 1737 filed on behalf of Robert and Julie Norwood.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Procedure
for
Approval
of
Wastewater
Agreements**

Mr. Lawson discussed the wastewater agreements that come before the Council for approval and specifically, the need for the Council to hear each of the agreements individually. He advised that, following a discussion with the Engineering Department and the County's legal team, it was agreed that Council should still see and approve these wastewater agreements; however, procedure could be changed to include a Consent Agenda, whereby all the wastewater agreements are included in the Consent Agenda. The Consent Agenda would be considered and approved as presented and then voted on; if any members of Council wish to pull an agreement out of the Consent Agenda and consider it individually, the member would have the right to do that. Mr. Lawson noted that this procedure would require a change in the Council's Rules of Procedure, which can be placed on a future agenda for consideration. Mr. Phillips questioned if an individual member would have the unilateral authority to pull one for individual consideration. Mr. Moore responded that this could be considered in the drafting of the amended Rules of Procedure. Mr. Moore and Mr. Lawson were instructed to proceed with a proposal to amend the Rules of Procedure.

**Adminis-
trator's
Report**

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

1. Delaware State Police Activity Report – February 2014

Per the attached Delaware State Police activity report for February, there were 3,663 total traffic arrests and 1,313 total criminal arrests. Of that 1,313, 428 were felony and 885 were misdemeanor criminal arrests. Of the total hours on duty spent, 42 percent were spent on criminal investigations.

2. Sussex County Workshop on Building Height Limits – April 1, 2014

Sussex County Council will host a workshop to discuss the County's current limits on building heights on Tuesday, April 1, 2014, at 1:30 P.M. at the County's West Complex in Georgetown. The workshop will provide members of the Council, Board of Adjustment, and Planning & Zoning Commission an opportunity to discuss the topic and determine if the County Code should be amended. The workshop will feature presentations from county staff and DelDOT representatives.

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

Pension Committee Update Mrs. Jennings presented a report on the Pension Committee meeting held on February 20, 2014.

Pension Fund – The market value of the Pension Fund was \$69,649,239 as of December 31, 2013. The year-to-date gain was \$10.2 million, or 17.7 percent (net of investment fees). The fund's performance ranked in the top 29 percent for pension funds.

OPEB Fund – The market value of the OPEB Fund was \$31,028,918 as of December 31, 2013. The year-to-date return was \$4.1 million, or 16.0 percent, net of investment fees. The fund's performance ranked in the top 44 percent for OPEB funds.

OPEB Actuarial Assumptions – The Pension Committee is recommending adjustments to the OPEB assumptions as a result of a study performed by the County's actuary. The Council adopted similar changes to the Pension Fund in November. The new assumptions would lower the unfunded liability by \$658,000. This makes the funded percentage increase, bringing the funded percentage from 70.6 percent to 72.4 percent. The Committee is recommending the County change its payroll growth assumption to 0 percent, which ensures that the County amortizes its liability at a fixed 30 years. This assumption, combined with the other assumptions, increases the annual required contribution by \$135,000.

M 134 14 Approve OPEB Actuarial Assumption A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex County Council approves the OPEB Actuarial Assumptions as a result of the independent experience study and the recommendation by the Pension Committee.

Motion Adopted: 4 Yeas, 1 Absent.

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

Proposal for Pension Ordinance Amendment Mrs. Jennings presented a proposal for a Pension Ordinance Amendment. She reported that, in the FY2014 budget, the Council approved that new employees hired after January 1, 2014 would contribute 3 percent of their gross salary after the first \$6,000 is earned. The Pension Ordinance must be amended to reflect this change.

Mr. Timothy Snyder of Young, Conaway, Stargatt and Taylor was in attendance to discuss the changes and he presented a draft ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 26 OF THE CODE OF SUSSEX COUNTY RELATING TO PENSION BENEFITS FOR SUSSEX COUNTY EMPLOYEES".

**Proposal
for Pension
Ordinance
Amendment**

Synopsis: This Ordinance would amend Sussex County Code, Chapter 26, which governs employee pension benefits, by amending the following code provisions: “Allowable interruptions” as set forth in § 26-3 by adding a new paragraph F; “Eligibility” as set forth in § 26-6 by adding additional language to the end of paragraphs A and E; “Computation of benefits” as set forth in § 26-7 by adding new paragraphs E and F; and “Funding” as set forth in § 26-9 by adding new paragraphs F and G.

Mr. Snyder explained the draft ordinance and he stated that the adoption of this draft ordinance would be needed to effectuate the 3 percent contribution requirement.

**Introduction
of Proposed
Pension
Ordinance**

Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 26 OF THE CODE OF SUSSEX COUNTY RELATING TO PENSION BENEFITS FOR SUSSEX COUNTY EMPLOYEES”. The Proposed Ordinance will be advertised for Public Hearing.

**Legislative
Update**

Mr. Godwin presented the following legislative update:

House Bill No. 272 – “AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO PARAMEDIC SERVICES”

Synopsis: This Bill, modeled after similar legislation enacted in Pennsylvania and West Virginia, clarifies paramedic immunity when consent to render care is unable to be obtained.

Mr. Godwin read Paragraph (2) – No paramedic shall be subject to civil liability, based solely upon failure to obtain consent in rendering emergency medical services to any individual, regardless of age, where the person is unable to give consent for any reason, and where there is no other person reasonably available who is legally authorized to give or refuse to give consent, if the paramedic has acted in good faith and without knowledge of facts negating consent.

Mr. Godwin advised that he has asked the County’s Paramedic Department and Legal Counsel to review and comment on the new legislation. Mr. Schoonover in the Paramedic Department has stated that there is already an implied consent law that allows the paramedics to perform their services in the event they cannot gain consent from the patient. Mr. Godwin stated that this legislation may be a duplicate authorization of the same thing.

House Bill No. 243 – “AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO AGRICULTURAL LEASES”

Synopsis: Currently, possession actions involving rental of residential or commercial property fall within the exclusive jurisdiction of the Justice of the Peace Court. There is no clear statement of jurisdiction for agricultural leases, though the possession issues are similar. This legislation provides

**Legislative
Update
(continued)**

that the Justice of the Peace Court has exclusive jurisdiction over agricultural lease matters and requires that service of process for any such action shall be provided by either personal service or certified mail, return receipt requested.

This Bill was released by the House Committee and is on the House Floor on this date for consideration.

Mr. Godwin noted that the Council has not expressed any opposition to this legislation.

Senate Bill No. 160 – “AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO THE GROSS VEHICLE WEIGHT OF LIVE-HAUL POULTRY TRUCKS”

Synopsis: This Bill would increase the weight limit for live-haul poultry trucks operating on Delaware highways within 100 miles of the plant in order to accommodate the poultry industry and ensure public safety. In addition, the Bill would provide for a weight variance of 3 percent to account for variations in bird weight. Live haul poultry trucks are granted the increased weight limit and associated variance provided that these trucks are in compliance with several conditions aimed at ensuring public safety. Provided these conditions are met, this Bill would allow a live-haul poultry truck to weigh up to 92,700 pounds before any penalty is assessed for exceeding weight restrictions.

This Bill has passed the Senate and is now in the House Ag Committee.

The Council did not take a position on this proposed legislation.

**Grant
Requests**

Mrs. Jennings presented grant requests for the Council’s consideration.

**M 135 14
Countywide
Youth
Grant**

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to give \$1,000.00 from the Countywide Youth Grant Account to Delaware Ducks Unlimited for Annual Greenwing Event expenses.

Motion Adopted: 3 Yeas, 1 Nay, 1 Absent.

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

**M 136 14
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give \$500.00 from Mr. Phillips’ Councilmanic Grant Account to the Dagsboro Fire Department for the Alley Cat Competition Dance Troupe.

Motion Adopted: 4 Yeas, 1 Absent.

**M 136 14
(continued)**

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

**M 137 14
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give \$1,000.00 from Mr. Cole's Councilmanic Grant Account to the Millville Volunteer Fire Company for the purchase of a new Traffic Control Unit.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 138 14
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give \$500.00 from Mr. Vincent's Councilmanic Grant Account to the City of Seaford for Nanticoke Riverfest.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Additional
Business**

Under Additional Business, Mr. Phillips referenced concerns about tire piles that are located throughout the County and he stated that he would like this placed on a future agenda for discussion.

Under Additional Business, Mr. Phillips referenced the Ordinance that is on the books that charges a fee when developers want to increase density and he stated that he is interested in broadening this Ordinance to allow for more money to be garnered for conservation funding by looking at a fee for upzoning.

Under Additional Business, Mr. Phillips commented on the anniversary bonuses for employees that was discontinued and he asked that the Budget Committee revisit this.

Under Additional Business, Rocco Maielluno of Lewes told the Council about water problems he is having. He stated that there are no laws in the County that holds developers accountable for flooding someone else's property and he asked that the Council consider enacting such an ordinance.

**M 139 14
Recess**

At 12:34 p.m., a Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to recess and go into Executive Session.

Motion Adopted: 4 Yeas, 1 Absent.

- M 139 14 (continued)** **Vote by Roll Call:** **Mrs. Deaver, Yea; Mr. Cole, Absent; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea**
- Executive Session** **At 12:38 p.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing issues relating to personnel. The Executive Session concluded at 12:51 p.m.**
- M 140 14 Reconvene** **A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to reconvene the Regular Session at 12:52 p.m.**
- Motion Adopted:** **4 Yeas, 1 Absent.**
- Vote by Roll Call:** **Mrs. Deaver, Yea; Mr. Cole, Absent; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea**
- Action** **Mr. Moore announced that there was no action necessary on Executive Session items.**
- M 141 14 Recess** **At 12:52 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to recess until 1:30 p.m.**
- Motion Adopted:** **4 Yeas, 1 Absent.**
- Vote by Roll Call:** **Mrs. Deaver, Yea; Mr. Cole, Absent; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea**
- M 142 14 Reconvene** **A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to reconvene at 1:38 p.m.**
- Motion Adopted:** **5 Yeas.**
- Vote by Roll Call:** **Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea**
- Rules of Procedure** **Mr. Moore explained the rules of procedure of Public Hearings.**
- Public Hearing (C/U No. 1979)** **A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RETAIL PACKAGE STORE AND TAVERN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.033 ACRES, MORE OR LESS” (Conditional Use No. 1979) filed on behalf of Thomas and Judy Munce.**

**Public
Hearing
(C/U
No. 1979)
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on February 27, 2014 at which time action was deferred. On March 13, 2014, the Commission recommended that the application be approved with the following conditions:

- A. The use as a tavern shall occur between the hours of Noon and 1:00 a.m.**
- B. The hours of operation for the package store shall be between Noon and 1:00 a.m.**
- C. There shall be no restaurant or cooking facilities on the premises.**
- D. The use shall comply with all Sussex County parking requirements.**
- E. The existing signage shall be permitted.**
- F. Security lighting shall be provided. It shall be downward screened to provide safety but shall not shine on neighboring properties or roadways.**
- G. The structure shall exist in its current configuration. Any expansion shall require additional site plan approvals by the Sussex County Planning and Zoning Commission.**
- H. Any dumpsters on the site shall be screened from view of neighboring properties and roadways.**
- I. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated February 27 and March 13, 2014.)

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

Mr. Lank reported that a letter of support was received from Jerry Brittingham and Karen Emory Brittingham.

The Council found that Mr. and Mrs. Munce were in attendance. They stated that they want to reopen the package store/tavern that has historically existed at this site; that they plan to hire 2 or 3 employees; that they are not planning on cooking any foods on premise; that they will be offering snack foods; and that DelDOT has reviewed their entrances and no changes have been determined.

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

**M 143 14
Amend
Conditions
for C/U
No. 1979**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend the conditions recommended by the Planning and Zoning Commission by deleting Conditions A, B, and C.

Motion Adopted: 4 Yeas, 1 Abstention.

**M 143 14
(continued)**

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

**M 144 14
Adopt
Ordinance
No. 2341
(C/U
No. 1979)**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2341 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RETAIL PACKAGE STORE AND TAVERN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.033 ACRES, MORE OR LESS” (Conditional Use No. 1979) filed on behalf of Thomas and Judy Munce, with the following conditions:

- A. The use shall comply with all Sussex County parking requirements.**
- B. The existing signage shall be permitted.**
- C. Security lighting shall be provided. It shall be downward screened to provide safety but shall not shine on neighboring properties or roadways.**
- D. The structure shall exist in its current configuration. Any expansion shall require additional site plan approvals by the Sussex County Planning and Zoning Commission.**
- E. Any dumpsters on the site shall be screened from view of neighboring properties and roadways.**
- F. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Abstention.

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

**Public
Hearing
(C/Z
No. 1740)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.3522 ACRES, MORE OR LESS” (Change of Zone No. 1740) filed on behalf of Zhenguo Zhang.

The Planning and Zoning Commission held a Public Hearing on this application on February 27, 2014 at which time action was deferred. On March 13, 2014, the Commission recommended that the application be denied based on the following reasons:

- 1. Although this site is located along State Route One, it is in an area that has not developed with other commercial or business zoned properties. As a result, the rezoning to CR-1 would create a stand-**

**Public
Hearing
(C/Z
No. 1740)
(continued)**

alone 2.35 acre parcel that is not compatible with the adjacent or surrounding properties.

2. The recent applications for properties in this general area have sought Conditional Use or B-1 approvals, not rezonings to CR-1. This property should be treated in a similar way.
3. The Applicant presented this rezoning request for a specific use that does not appear to require CR-1 Zoning. Instead, it could be operated under a Conditional Use approval or possible B-1 Zoning.
4. The property is not located in a developing area according to the Sussex County Comprehensive Plan.
5. If the Applicant chooses to pursue a Conditional Use, the application fees for doing so should be waived by the County.

(See the minutes of the Planning and Zoning Commission dated February 27 and March 13, 2014.)

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

The Council found that Miaohou Xu was present on behalf of the application and she stated that Mr. Zhang is a practicing Acupuncturist; that he needs an office in this area for his patients; that he has offices in Dover and Lewes; that he purchased this property so that he can develop an office on the premises; and that he plans to use part of the office and to rent some of the space to other businesses.

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

**M 145 14
Adopt
Proposed
Ordinance
(C/Z
No. 1740)

DENIED**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.3522 ACRES, MORE OR LESS" (Change of Zone No. 1740) filed on behalf of Zhenguo Zhang.

Motion Denied: 3 Nays, 2 Yeas.

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

**Reasons
for
Denial**

Mrs. Deaver, Mr. Cole, and Mr. Vincent agreed with the reasons of the Planning and Zoning Commission to include the waiving of the fee if the Applicant reapplies for a Conditional Use for the use on this site.

**Public
Hearing
(C/Z
No. 1743)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 18,886 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1743) filed on behalf of Charles and Cristy Greaves.

The Planning and Zoning Commission held a Public Hearing on this application on February 27, 2014 at which time the Commission recommended that the application be approved.

(See the minutes of the Planning and Zoning Commission dated February 27, 2014.)

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

The Council found that Charles Greaves was present on behalf of the application and he stated that the previous owner was unable to sell the property as residential and the property fell into foreclosure; that the residence is non-conforming with the community surrounding it; that he would like to reinstitute value for the property; that an auto repair service is on one side of the property, maintenance/construction storage units in the back of the property, and commercial storage units on the other side of the property; that across the street is also commercial; that they hope to open an antique shop on the site; that he currently has ingress and egress on the site; that it has a commercial 40 foot apron at the highway; that there is 12 car parking available; that they have restored the residential section of the structure but their preference is to have an antique store; that there would be no cooking or food service other than ice cream; that if successful, they may rent out office space in the back; and that he lives in the community.

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

**M 146 14
Adopt
Ordinance
No. 2342
(C/Z
No. 1743)**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2342 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 18,886 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1743) filed on behalf of Charles and Cristy Greaves.

Motion Adopted: 5 Yeas.

**M 146 14
(continued)**

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

**Public
Hearing
(C/Z
No. 1744)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 4.85 ACRES, MORE OR LESS” (Change of Zone No. 1744) filed on behalf of Phillip Cross and Prentice Watkins.

The Planning and Zoning Commission held a Public Hearing on this application on February 27, 2014 at which time the Commission recommended that the application be approved.

(See the minutes of the Planning and Zoning Commission dated February 27, 2014.)

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

The Council found that Phillips Cross was present on behalf of the application and he stated that the property currently has a Conditional Use (for a farmers market and greenhouses – known as the Veggie Shack); that the property is currently for sale; that they currently live on the property; that they would like a Change of Zone to commercial so as not to limit the property; that they paid DelDOT \$40,000 for a commercial entrance; and that other commercial uses and zonings exist in the immediate area.

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

**M 147 14
Adopt
Proposed
Ordinance
(C/Z
No. 1744)**

A Motion was made by Mrs. Deaver to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 4.85 ACRES, MORE OR LESS” (Change of Zone No. 1744) filed on behalf of Phillip Cross and Prentice Watkins.

The Motion Died for the Lack of a Second.

**M 148 14
Adjourn
DENIED**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to adjourn.

Motion Denied: 3 Nays, 2 Yeas.

**M 148 14
(continued)**

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

**M 149 14
Defer
Action
(C/Z
No. 1744)**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to defer action on Change of Zone No. 1744 filed on behalf of Phillip Cross and Prentice Watkins.

Motion Adopted: 5 Yeas.

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

**M 150 14
Adjourn**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adjourn at 2:40 p.m.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

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

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: COUNTY ATTORNEY

J. Everett Moore

RE: Tire Pile on Tax Parcel No. 135-14.00-65.00

DATE: March 28, 2014

Background

This issue is regarding a pile of tires on private property located in the unincorporated area of Sussex County on Tax Parcel No. 135-14.00-65.00, which is owned by Cox 107 Georgetown, LLC ("Property"). According to a recent News Journal article, the site was formerly operated by a tenant, "Master Tires," but business operations have ceased and the tire pile is now abandoned scrap tires. In 2013, County Council granted a conditional use approval for used car sales on the Property subject to seven conditions, including a requirement for fencing the tires. The tires are not fenced in accordance with the conditional use approval.

The County sent violation notices to the property owner as early as 2009. Prior to the conditional use approval, the Property was cited for violations associated with its commercial use on AR-1 zoning district. The conditional use for used car sales was approved on July 16, 2013. After this approval, violations were issued based upon the failure to meet the condition of fencing the tires. The most recent violation notice sent on March 20, 2014 cited the Property for both the failure to fence the tires and the accumulation of waste materials.

This memorandum discusses the options available to the County to remediate the violations.

Alleged Violations of Sussex County Code

If the tires are considered abandoned waste material, the County may determine that the tire pile is an accumulation of rubbish or waste, in violation of *Sussex County Code*. To investigate these conditions, I suggest conducting site inspections and interviews of relevant parties (if available), taking photographs and soliciting statements from the State Fire Marshall, DNREC or other agencies regarding any public health or safety hazards.¹

I. Violation of Section 115-191.4

Assuming the presence of these conditions, the property owner may be cited for a violation of Section 115-191.4, which provides as follows:

“The purpose of this section is to prevent the accumulation of rubbish, trash or waste material so as to create an unsightly condition and/or a nuisance detrimental to the use or value of adjoining properties and/or to create a potential fire or safety hazard that could endanger the safety of the owner, possessor or other persons. In that regard:

A. No person, being the owner or possessor of improved or unimproved lands or premises that are not used for bona fide agricultural purposes shall permit refuse, rubbish, trash or other waste material to be placed or to accumulate upon such lands or premises.” *Sussex County Code* §115-191.4.

II. Violation of Section 115-191.6

In addition, Section 115-191.6 prohibits rubbish and waste accumulation outside of commercial establishments:

“No refuse, rubbish, trash or other waste materials shall be deposited by any person on land or improved premises outside of any commercial establishment, except that such refuse, rubbish, trash or other waste material shall be placed in a metal or heavy-duty rigid plastic container having a secure lid that will prevent the spillage of the contents or the opening of the container and spreading of the contents by animals or rodents. ...” *Sussex County Code* §115-191.6.

III. Conditional Use Violation

Ordinance No. 2315 permits the conditional use of used car sales on the Property, conditioned upon the requirement that the tires are fenced or enclosed so that they cannot be seen from roadways or neighboring properties. In violation of the conditional use, the tires on the Property have not been fenced and are clearly visible from the roadway. Although business operations appear to have ceased, this violation may continue to be relevant until documented evidence of the current status of operations is available.

¹ An additional violation notice may be necessary.

IV. Remedies

The County has several options in determining the remedies to pursue.

1. Section 115-191.5 allows the County, after ten days' prior notice, to hire a third party contractor to clean up the rubbish and charge the property owner for the costs associated therewith. Those costs may then be imposed as a lien.²
2. Section 115-191.2 permits bringing suit in the Justice of the Peace Court for a misdemeanor and fines.
3. Section 115-191.2 also authorizes suit in a court of law or equity to restrain, correct, abate or enjoin the violation or require removal of the offending condition. Under the common law, a public nuisance action may also be alleged.
4. Section 115-191.6 states that the County may apply to the Chancery Court for injunctive relief against the property owner or possessor to prevent, enjoin, or abate any continuing violation of the provisions of Section 115-191.
5. Additional remedies may be associated with the conditional use violation, if applicable.

One or more of these remedies may be pursued in order to address these violations.

Conclusion

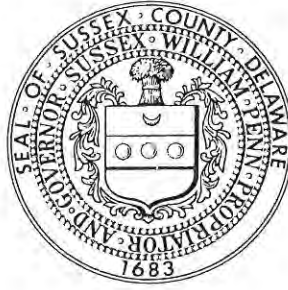
In considering the above remedies, the question is whether the County would like to use its administrative procedures to address the tire pile or to avail itself of the judicial remedies. If the County decides to step in and clean up the tires,³ it risks a court overturning its action and becoming liable for the clean-up costs and any damages to the property. If the County brings a court action to require the property owner to clean up the tires or allow the County to clean up the tires, the County has less risk, since its actions will be pursuant to court order after a full judicial proceeding.⁴ Based upon this direction, the County may proceed to address the violations as noted above.

² Additional steps may be advisable to strengthen the County's position.

³ See Footnote 2.

⁴ As noted in *McQuillin, The Law of Municipal Corporations*, it states "proceedings by municipalities and their officials to summarily abate nuisances should be taken cautiously in view of the danger of liability for damage where that abated as a nuisance in fact is viewed by the courts not to be of such character." 6A *McQuillin Mun. Corp.* §24:73 (3d ed.).

DAVID B. BAKER
COUNTY ADMINISTRATOR




Sussex County

ADMINISTRATIVE OFFICE BUILDING
2 THE CIRCLE
P.O. BOX 589
GEORGETOWN, DELAWARE 19947
TEL: 302-855-7742
FAX: 302-855-7749
E-MAIL: dbaker@sussexcountye.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: David B. Baker 
County Administrator

RE: **RULES OF PROCEDURE – DRAFT AMENDMENT**

DATE: June 24, 2011

Attached is a revised Rule 17.6 as proposed by David Rutt, Esquire.
This is a draft for your consideration. Please contact Mr. Rutt or me if
you have any questions or concerns.

DBB/sww

Attachment

pc: J. Everett Moore, Jr., Esquire
David N. Rutt, Esquire
Mr. Chip Guy

RULE 17.6

- 17.6 Although the Freedom of Information Act does not require Council to allow public comment during a Council meeting, if Council includes Additional Business on the agenda for one or more of its regular or special meetings, the right to make public comment shall be subject to the following procedures, which shall be enforced by the presiding officer of Council:
- A. Each speaker shall place their name, address and subject to be addressed and shall only speak from the podium after being recognized and shall first identify themselves and give their residence address within the County. Each speaker shall be limited to 3 minutes. At the end of that time the presiding officer will either inform the speaker that their time is up or grant the speaker up to an additional 2 minutes.
 - B. Each speaker shall confine his or her comments to matters appearing on the meeting agenda which are clearly within the jurisdiction of Council and are matters of legitimate County business.
 - C. Public comment is not intended to provide a means for a member of the public to appeal a decision made by a County employee or subcontractor during the course of their official duties. Matters of that nature must be brought to the attention of the County Administrator or his or her designee.
 - D. Public comment shall be addressed to the Council as a body and not to a specific member of Council. After a person is recognized and allowed to speak, they should not be interrupted except by the presiding officer whose purpose is to enforce these policies. The presiding officer shall have the discretion to stop a speaker from further comment if the speaker digresses from the restrictions as to time or matters within the County's business or jurisdiction or if the speaker becomes so willfully and seriously disruptive as to prevent Council from accomplishing its business in a reasonable manner.
 - E. The presiding officer may, but is not required to, respond to a speaker or to a question or an issue raised by the speaker. In situations where the presiding officer responds, the response shall not indicate the position of Council as a body and to the extent possible be limited to informing the speaker if appropriate of the proper person within the County government to whom their concerns should be addressed.
 - F. Nothing in this Rule shall be construed to prohibit Council from seeking comments from persons with particular knowledge on a matter before them and to prohibit public comment if Additional Business is not included on the agenda.

Proposed Amendment to the Rules of Procedure

New Rule 4A

Rule 4A. – Consent Agenda

4A.1 The County Administrator or any member of the County Council may propose any matter that would be considered on an agenda for the inclusion on a Consent Agenda. The Consent Agenda shall list the matters so included and a brief description of each.

4A.2 An item may be removed from a Consent Agenda if any member of the County Council requests that it be given separate individual consideration. If an item is removed from the Consent Agenda, it shall be considered as a separate item under the appropriate section of that meeting's agenda.

4A.3 All items on a Consent Agenda shall be read and voted on as a single group.

CONSENT AGENDA PROCESS

- 1. The next item on our Agenda is the Consent Agenda. By now, each of you has had an opportunity to review the items set forth on the Consent Agenda.**
- 2. Are there any items that any of the Council members would like to have removed from the Consent Agenda for discussion as an individual item? *If any Council member wants any of the items removed from the Consent Agenda, they would be discussed as a separate item immediately after consideration of the Consent Agenda.***
- 3. Is there a Motion to approve the Consent Agenda as modified? *A motion and second to approve the modified Consent Agenda is required. (This approves the agenda, not the items on it.)***
- 4. Is there a Motion and a Second to approve the items on the Consent Agenda? *There must be a motion and a second, and any discussion. (This motion is for approval of all the items on the Consent Agenda).***
- 5. All those in favor of approving the items on the Consent Agenda say “Aye”.**
- 6. Then, continue with the remainder of the regular Agenda, addressing any items that were not included within the Consent Agenda where appropriate.**



Sussex County Council

Delaware General Assembly Legislative Report

Prepared by:

Hal Godwin, Deputy County Administrator

April 1, 2014

Bill No.	Description and Purpose	Action
2013-2014 BILLS		
HB 14	This bill provides that any income and/or capital gain received from easements preserving agricultural land shall not be taxed for purposes of Delaware personal income taxes.	Assigned to the House Appropriations Committee 1/24/13, no further action. Tabled in Committee
HB 27	This bill allows school taxes and property taxes to be collected by tax intercept. The current law specifically prohibits school taxes from being collected by tax intercept. Currently millions of dollars of property taxes are owed to school districts and local governments and such taxes are difficult to collect. Tax intercept programs have been successful in collecting child support and other obligations owed the State and will help collections for education and other taxes.	6/11/13 passed the House Assigned to Senate Finance Committee 6/13/13 I have contacted Senator McDowell the Committee Chair explaining our support. I am assembling a group to apply pressure on Committee Chair McDowell
HB No. 63	This bill is the first leg of a constitutional amendment that forever guarantees the right of farmers to engage in modern farming and ranching practices.	On House Ready List
SB No. 58	This Bill allows Delaware residents 65 years of age and older to qualify for the "Senior School Property Tax Credit Program" upon entering into a payment plan for the taxes due.	We are currently compliant with this proposed Bill. On Senate Ready List

<div>HB No. 74</div>	<div><p>This Delaware Health Security Act will provide a cost effective single payer health care system for the State of Delaware. The Act will provide comprehensive health care coverage to all Delawareans without any extra health insurance or out-of-pocket-expense. The system will save money currently wasted on administrative/overhead costs and will provide a stable funding structure.</p><p>This Act creates the Delaware Health Security Authority. The authority will be governed by a 15-member Delaware Health Security Board comprised as follows: the Secretary of Health and Social Services, two members from both the State House of Representatives and State Senate Committees concerned with health care issues, five members from state health professional organizations, and five members from eligible consumer organizations in our state.</p><p>Funding for the new health care system will be as follows:</p><div><div>1.</div><div>All state and federal funds available for health and health care costs in Delaware.</div></div><div><div>2.</div><div>Employer and employee graduated payroll tax from 4 percent for employers with less than ten employees to 9 percent for employers with 50 or more employees.</div></div><div><div>3.</div><div>A Health Security tax of 2.5 percent on net taxable income (after deductions) for all heads of households and persons subject to Delaware’s income tax; and</div></div><div><div>4.</div><div>An additional Health Security income surtax on net taxable income of 2.5 percent for persons filing a Delaware income tax return in excess of \$250,000. Married couples filing a joint Delaware income tax return shall pay an additional income surtax of 2.5 percent on net taxable income in excess of \$500,000.</div></div></div>	<div><p>This bill has been assigned to the House Health & Human Development Committee</p><p>This bill has not yet been scheduled for a Committee hearing.</p><p>I will be certain to alert you of this date and time.</p><p>Committee Members:</p><div><div>Chairman:</div><div>Michael a. Barbieri (302) 368-7257 Michael.barbieri@state.de.us</div></div><div><div>Vice-Chairman:</div><div>Rebecca Walker (302) 293-2356 Rebecca.walker@state.de.us</div></div><p>Members:</p><div><div><div>Donald A. Blakey (302) 697-6723 Donald.Blakey@state.de.us</div><div>Timothy D. Dukes (302) 280-6344 Timothy.Dukes@state.de.us</div><div>S. Quinton Johnson (302) 378-2681 Quinton.johnson@state.de.us</div></div><div><div>Ruth Briggs-King (302) 856-2772 ruth.briggsking@state.de.us</div><div>Earl G. Jaques, Jr. (302) 834-9231 earl.jaques@state.de.us</div><div>John A. Kowalko, Jr. (302) 737-2396 john.kowalko@state.de.us</div></div></div></div>
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<p>HB No. 74 (continued)</p>		<p>Joseph E. Miro (302) 454-1840 Joseph.miro@state.de.us Edward.osienski@state.de.us</p> <p>Edward S. Osienski (302) 292-8903</p> <p>Charles Potter, Jr. (302) 762-8322 Charles.Potter@state.de.us</p> <p>Darryl M. Scott (302) 735-1781 Darryl.Scott@state.de.us</p> <p>Kimberly Williams (302) 577-8476 kimberly.williams@state.de.us</p> <p>* Federal Health Care Legislation requires all citizens be covered – the new tax will fund</p> <p>* Delaware is currently establishing exchanges to provide coverage for all residents to comply with Federal requirements</p> <p>* HB74 is introduced to cover all Delawareans – doesn't appear to be part of the State or Federal exchange plan</p>
<p>HB No. 135</p>	<p>This Act seeks to create jobs and new sources of revenue for the State of Delaware by, among other means, authorizing the addition of two new video lottery agents, one in Sussex County and one in New Castle County, through an application process conducted by a Lottery Economic Development Committee. This Act creates a nine member, politically-balanced Committee with financial, accounting, or banking experience to select the sites and licensees. This Act also increases the number of required racing days to reflect the current amount of racing, and prevents the addition of video lottery agents from triggering a reduction in the minimum number of days that existing harness tracks must offer harness racing. Finally, this Act also expresses the intent of the General Assembly that the new video lottery casinos will be subject to a one-time license fee and ongoing license fees, as well as such fees as are necessary to</p>	<p>Introduced 5/9/13 - This Bill intends to add a casino in Sussex County.</p> <p>Assigned to House Gaming and Parimutuels Committee</p> <p>6/12/13 Tabled in Committee</p> <p>6/11/13 County Council voted to oppose this Bill.</p> <p>I have notified all Committee Members of our opposition.</p>

HB No. 135 (continued)	create a level playing field for competition with video lottery agents who operate horse racing or harness racing, and directs the Department of Finance to prepare legislation implementing that intent.	
HB No. 137	This Bill expands and promotes unity in the options for survivor pension payout choices for retired participants in the State pension programs, the State Employees' Pension Plan, the County and Municipal Employees' Pension Plan, the County and Municipal Police/Firefighter Pension Plan, the State Judiciary Pension Plan, and the State Police Pension Plan. There is no reduction for the 50% survivor benefit, a 2% reduction for a 66.67% survivor benefit, 3% reduction for a 75% survivor benefit, and 6% reduction for a 100% survivor benefit.	Introduced 5/14/13 - This Bill may cause changes in our pension calculations. 6/6/13 Passed the House Assigned to Senate Finance Committee
HA No. 1 to HB No. 137	This technical amendment changes the term "employer" to "employee" and corrects a cross-reference.	
HA No. 2 To HB No. 137	This amendment makes the following technical changes: 1) the term "employer" is corrected to "employee"; a cross-reference is added for a newly added paragraph; internal cross-references are corrected; and the judiciary's option of a 6% reduction in exchange for 100% survivor benefit is added.	
HA No. 1 To HA No. 2 To HB No. 137	This amendment to House Amendment No. 2 makes the provisions of this legislation effective for those retiring with an effective date of retirement of July 1, 2014, in order to allow for necessary administrative and systems changes.	
SB No. 78 + SA-1	This legislation establishes a Wetlands Advisory Committee to develop comprehensive recommendations for conserving and restoring non-tidal wetlands in Delaware, including evaluating national best practices and standards, evaluating incentive-based programs, and reviewing state and federal wetland permitting processes to identify opportunities to improve efficiency and eliminate redundancy. The Secretary will provide a final report of recommendations to the General Assembly no	Signed into Law 7/31/13

<p>SB No. 78 + SA-1</p>	<p>later than December 31, 2014.</p> <p>The bill also amends Title 7 Del C. Chapter 66, §6607 and §6617 and Title 7 Del C. Chapter 72, §7205 and §7214 to expedite resolution of violations by allowing the use of administrative procedures and penalties to resolve wetland and subaqueous lands violations and by minimizing the use of civil or criminal prosecution to resolve violations. The bill also allows the Secretary to issue after-the-fact permits and assess administrative penalties as appropriate.</p>	
<p>SR No. 8</p>	<p>The Resolution urges the United States Congress to support efforts to reinstate the separation of commercial and investment banking functions in effect under the Glass-Steagall Act and supporting H.R. No. 129. <i>(See attached documentation)</i></p>	<p>This is a Resolution only; to demonstrate Delaware State support for Federal Legislation.</p> <p>State Senator Venables is requesting our endorsement.</p> <p>SR No. 8 demonstrates Delaware support for US House of Representative Resolution No. 129 which would support re-enacting Glass-Steagall Act adopted by Congress in 1933 to protect the public interest regarding banking regulations.</p> <p>Congress repealed this law in 1999 which many believe led to the 2nd Great Depression in America. Some members of Congress would like to reinstate the Glass-Steagall Act.</p>
<p>HB No. 167</p>	<p>This bill would prohibit a public employer from inquiring into or considering the criminal record, criminal history or credit history or score of an applicant before it makes a conditional offer to the applicant. It would permit inquiry and consideration of criminal background after the conditional offer has been made. The bill specifies that once a background check is conducted an employer shall only consider felonies for 10 years from the completion of sentence, and misdemeanors for 5 years from the completion of sentence. Further, employers are required to consider several enumerated factors when deciding whether to revoke a conditional offer based on the results of a background check. Police forces, the Department of Corrections and other</p>	<p>Amended by Amendments No. 1, Amendment 1 to No. 1 which were grammatical & House Amendment No. 2 which aligns with County Council's request to eliminate the 5 & 10 year look back limitations.</p> <p>See Synopsis on Attachment House Amendment No. 2 To House Bill No. 167</p> <p>Passed the House 1/28/14</p> <p>Assigned to the Senate Labor and Industrial Relations</p>

HB No. 167 (continued)	positions with a statutory mandate for background checks are excluded from these provisions. The bill also requires contractors with State agencies to employ similar policies where not in conflict with other State or federal requirements.	Committee 1/29/14 Released from Committee 3/26/14
SB No. 159	This legislation provides clarification with respect to the placement, installation and maintenance of gateway signs to boundaries of political subdivisions and established non-incorporated areas of the State.	Passed the Senate 1/30/14
HB No. 243	Currently possession actions involving rental of residential or commercial property fall within the exclusive jurisdiction of the Justice of the Peace Court. There is no clear statement of jurisdiction for agricultural leases, though the possession issues are similar. This legislation provides that the Justice of the Peace Court has exclusive jurisdiction over agricultural lease matters and requires that service of process for any such action shall be provided by either personal service or certified mail, return receipt requested.	Introduced in the House 1/30/14 Passed the House 3/25/14 Assigned to the Senate Judiciary Committee 3/27/14
HB No. 159	This bill prohibits a person from running as a candidate for more than one state, county or municipal office in the same election.	County Council supports this legislation. Passed the House & passed the Senate 3/26/14
SB No. 160	The bill would increase the weight limit for live-haul poultry trucks operating on Delaware highways within 100 miles of the plant in order to accommodate the poultry industry and ensure public safety. In addition, the bill would provide for a weight variance of 3 percent to account for variations in bird weight. Live-haul poultry trucks are granted the increased weight limit and associated variance provided that these trucks are in compliance with several conditions aimed at ensuring public safety. Provided these conditions are met, this bill would allow a live-haul poultry truck to weigh up to 92,700 pounds before any penalty is assessed for exceeding weight restrictions. This weight variance provided for in this bill is the same weight variance granted to vehicles used for farm operations by § 4502(c)(9) of Title 21.	Passed the Senate 3/18/14 Assigned to the House Ag Committee which will meet and consider this Bill 4/2/14

SB No. 166	This bill defines “industrial landfill” in conformity with the Department of Natural Resources and Environmental Control’s <i>Regulations Governing Solid Waste</i> . This bill also establishes a height restriction, or vertical limit, for an industrial landfill at 130 feet above the mean sea level of the area.	Introduced in the Senate 1/29/14 Assigned to Senate Natural Resources and Environmental Committee
HB No. 272	This Bill, modeled after similar legislation enacted in Pennsylvania and West Virginia, clarifies paramedic immunity when consent to render care is unable to be obtained.	Our EMS Department is currently reviewing
SB No. 157	The bill adds sales and leases to the current language regarding publicly capital improvement.	This Bill allows public bodies to meet in Executive Session when considering sales or leases of real property

SPONSOR: Rep. Briggs King & Sen. Pettyjohn;
Reps. D. Short, Hudson, Outten, Ramone, Smyk,
Carson, Mitchell; Sens. Hocker, Simpson

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 272

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO PARAMEDIC SERVICES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 98, Title 16 of Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 9813 Liability; limitations.

(a) *Physician instructions*. — No emergency physician or designee of such physician who in good faith gives instructions to a paramedic shall be liable for any civil damages which may occur as the result of issuing such instructions; unless the conduct of the physician or the designee of such physician in issuing such instructions rises to the level of willful and wanton, reckless or grossly negligent conduct.

(b) *Paramedics*. — (1) No paramedic who in good faith attempts to render or facilitate emergency medical care authorized by this chapter shall be liable for any civil damages which occur as a result of any act or omission of the paramedic in the rendering of such care; unless such paramedic is guilty of ~~wilful~~ willful and wanton, reckless or grossly negligent conduct.

(2) No paramedic shall be subject to civil liability, based solely upon failure to obtain consent in rendering emergency medical services to any individual, regardless of age, where the person is unable to give consent for any reason, and where there is no other person reasonably available who is legally authorized to give or refuse to give consent, if the paramedic has acted in good faith and without knowledge of facts negating consent.

SYNOPSIS

This Bill, modeled after similar legislation enacted in Pennsylvania and West Virginia, clarifies paramedic immunity when consent to render care is unable to be obtained.



SPONSOR: Sen. Bushweller & Rep. Scott
Sens. Peterson, Simpson, Pettyjohn; Reps. Baumbach,
Carson, Paradee, Bennett

DELAWARE STATE SENATE
147th GENERAL ASSEMBLY

SENATE BILL NO. 157

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO OPEN MEETINGS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Amend § 10004, Title 29 of the Delaware Code by making insertions as shown by underlining and deletions as
2 shown by strike through as follows.

3 § 10004. Open meetings [Effective Sept. 16, 2013]

4 (b) A public body may call for an executive session closed to the public pursuant to subsections (c) and (e) of this
5 section, but only for the following purposes:

6 (2) Preliminary discussions on site acquisitions for any publicly funded capital improvements, or sales or leases of
7 real property;

SYNOPSIS

The bill adds sales and leases to the current language regarding publicly funded capital improvements.

Author: Senator Bushweller

HAL GODWIN
DEPUTY COUNTY ADMINISTRATOR
(302) 854-5060 T
(302) 855-7749 F
hgodwin@sussexcountype.gov



Sussex County
DELAWARE
sussexcountype.gov

Memorandum

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

Todd F. Lawson
County Administrator

FROM: Hal Godwin
Deputy County Administrator

RE: ***WETLANDS ADVISORY COMMITTEE UPDATE***

DATE: April 1, 2014

Please review attached questions proposed from the Wetlands Advisory Committee. I need your direction on how to address these questions at the Committee's next meeting April 9, 2014.

I will attempt to present details regarding these issues and answer your questions. Todd provided material to you in your March 18, 2014 Council packet which is very relevant to this study.

Please let me know if you have any questions.

HG/kac

Attachment

WETLANDS ADVISORY COMMITTEE QUESTIONS

1. Does the Committee recommend that DNREC be given the authority to adopt a freshwater wetland program to protect Category I wetlands that are currently regulated by the Corps assuming federal nationwide permit authority is delegated to DNREC?
2. Does the Committee recommend that DNREC be given the authority to adopt a freshwater wetland program to protect Category I wetlands that are not currently regulated by the Corps?
3. Does the Committee recommend that DNREC be given authority to adopt a freshwater wetlands program to protect all federally regulated wetlands which are subject to federal nationwide permit authority assuming federal nationwide permit authority is delegated to DNREC?
4. Does the Committee recommend that a consistent source of funding be provided for the purchase of forestland preservation easements in the forestland preservation program established under Subchapter V of Chapter 9 of Title 3 of the Delaware Code?
5. Does the Committee recommend that the availability and limits of tax credits provided under the Delaware Land and Historic Resources Protection Incentives Act of 1999 (Subchapter I, Chapter 18, Title 30 of the Delaware Code) be amended and expanded to create greater incentives to private landowners to protect and preserve freshwater wetland and adjacent natural resource areas?

Below please find brand new information you may want to review:

EPA released a proposed Waters of the US rule this week which can be found here: <http://www2.epa.gov/uswaters>

ENGINEERING DEPARTMENT

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



Sussex County

DELAWARE
sussexcountyde.gov

MICHAEL A. IZZO, P.E.
COUNTY ENGINEER

BRAD HAWKES
DIRECTOR OF UTILITY ENGINEERING

March 11, 2014

FACT SHEET

SUSSEX COUNTY PROJECT 81-04
HOPKINS - PETTYJOHN SUBDIVISION (AKA RED MILL POND NORTH) - PHASE 3
(REVISED CONSTRUCTION PLAN AND CONSTRUCTION RECORD)
AGREEMENT NO. 446 - 4

DEVELOPER:

Mr. Shawn Smith
Sweetbriar, LLC
172 Center St., Suite 204
P.O. Box 7003

Jackson, WY 83001

LOCATION:

North East of Intersection Route 9 and Route
261

SANITARY SEWER DISTRICT:

West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District

TYPE AND SIZE DEVELOPMENT:

Plan Approved for phase 3 revises sewer and
stormwater from the original plan approved
10/26/13.
54 Single family lots in this phase

SYSTEM CONNECTION CHARGES:

\$260,388.00

SANITARY SEWER APPROVAL:

Sussex County Engineering Department Plan Approval
11/27/13

Department Of Natural Resources Plan Approval
12/8/06

SANITARY SEWER CONSTRUCTION DATA:

Construction Days – 55
Construction Admin And Construction Inspection Cost – \$24,774.90
Proposed Construction Cost – \$165,166.00

ENGINEERING DEPARTMENT

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

April 1, 2014



Sussex County

DELAWARE
sussexcountype.gov

MICHAEL A. IZZO, P.E.
COUNTY ENGINEER

BRAD HAWKES
DIRECTOR OF UTILITY ENGINEERING

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. 446-4 THAT THE SUSSEX COUNTY COUNCIL EXECUTE A CONSTRUCTION ADMINISTRATION AND CONSTRUCTION INSPECTION AGREEMENT BETWEEN SUSSEX COUNTY COUNCIL AND "SWEETBRIAR, LLC", FOR WASTEWATER FACILITIES TO BE CONSTRUCTED IN "HOPKINS – PETTYJOHN SUBDIVISION (AKA RED MILL POND NORTH) – PHASE 3 (REVISED CONSTRUCTION PLAN AND CONSTRUCTION RECORD)", LOCATED IN THE WEST REHOBOTH EXPANSION OF THE DEWEY BEACH SANITARY SEWER DISTRICT.

ORDINANCE NO. 38
AGREEMENT NO. 446-4

TODD LAWSON
COUNTY ADMINISTRATOR

ENGINEERING DEPARTMENT

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



Sussex County

DELAWARE
sussexcountysde.gov

MICHAEL A. IZZO, P.E.
COUNTY ENGINEER

BRAD HAWKES
DIRECTOR OF UTILITY ENGINEERING

March 12, 2014

FACT SHEET

SUSSEX COUNTY PROJECT 81-04
BISHOP'S LANDING - PHASE 3
AGREEMENT NO. 733 - 5

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. 75 Single Family units in this phase

SYSTEM CONNECTION CHARGES:

\$479,104.00

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 – 50
Construction Admin And Construction Inspection Cost – \$25,222.80
Proposed Construction Cost – \$168,152.00

ENGINEERING DEPARTMENT

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



Sussex County

DELAWARE
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MICHAEL A. IZZO, P.E.
COUNTY ENGINEER

BRAD HAWKES
DIRECTOR OF UTILITY ENGINEERING

April 1, 2014

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. 733-5 THAT THE SUSSEX COUNTY COUNCIL EXECUTE A CONSTRUCTION ADMINISTRATION AND CONSTRUCTION INSPECTION AGREEMENT BETWEEN SUSSEX COUNTY COUNCIL AND "DOVE BARRINGTON DEVELOPMENT, LLC", FOR WASTEWATER FACILITIES TO BE CONSTRUCTED IN "BISHOP'S LANDING – PHASE 3", LOCATED IN MILLVILLE EXPANSION OF THE BETHANY BEACH SANITARY SEWER DISTRICT.

ORDINANCE NO. 38
AGREEMENT NO. 733-5

TODD LAWSON
COUNTY ADMINISTRATOR

March 18, 2014

Sussex County
Utility Planning
P.O. Box 853
Georgetown, De 19947

RE: W/Rd 395 Lot 4 Williamsville Road Selbyville, De 19975
Tax ID/Parcel # 5-33 19.00 289.09

Sussex County Council:

This letter is intended to receive county sewer. I bought the property on March 13, 2014 and plan to place a home there in 4 to 5 weeks. I am requesting to be annexed into the Bayview Estates sanitary sewer district.

If there is anything further I need to do at this time please contact me. Please note the address below is not the same address for the property I am requesting the annexation; it is only my temporary address until my home is on the property.

Please note a check of \$500 is included with this letter for the annexation fee.

Thank You,

A handwritten signature in black ink, appearing to read "David Kohout", written over a circular stamp or mark.

David Kohout
35651 Williamsville Road
Selbyville, DE 19975
301-938-0770

Expansion of the Bay View Estates Sanitary Sewer District



April 1, 2014

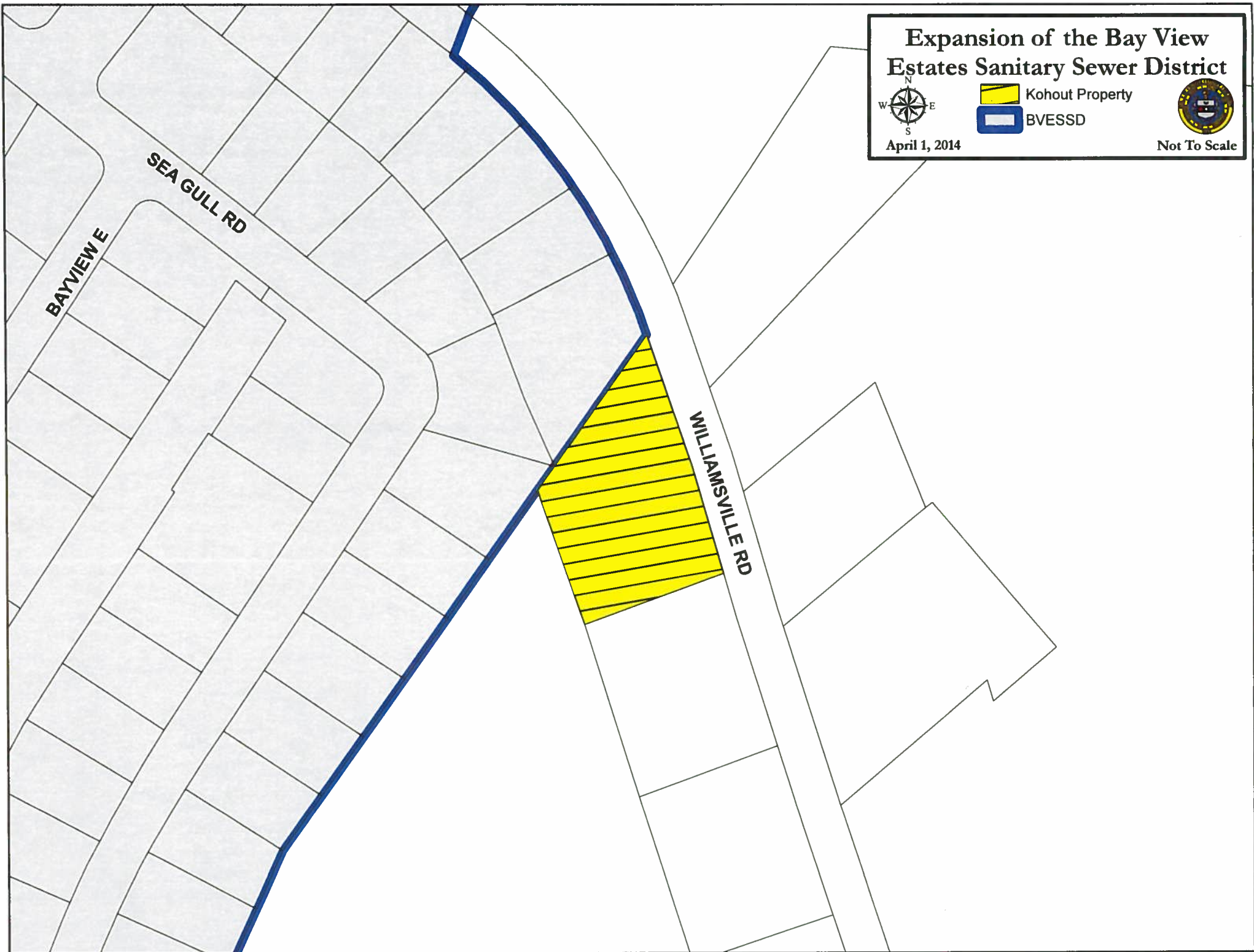


Kohout Property

BVESSD



Not To Scale



March 20, 2014

Councilman Phillips
Sussex County Council
PO Box 589
Georgetown, DE 19947

Councilman Phillips,

The Student Mentoring Program at John M. Clayton Elementary School is a grant-funded program that provides academic support to targeted students. For the 2013-2014 school year, we have approximately 60 mentors meeting with over 90 students. Mentors meet with each of their assigned students during a specified day and time each week, for 45 minutes. Mentoring begins in October and ends in May.

Our mentoring program is available for students enrolled at John M. Clayton Elementary School, which educates children from all across the county. The vast majority of our students live in Dagsboro, Frankford and Selbyville. However, some of our students have addresses in other areas of the county...Millsboro, Ocean View, Laurel, Seaford, Lewes, Lincoln, Georgetown, Bethany Beach, Delmar.

In May 2013 we were awarded only one small grant, which limited our funds for this year's mentoring program. Unfortunately we have almost depleted our available funding for this school year. Therefore, mentoring will have to end in mid-April, instead of mid-May. Our last day of mentoring will likely be Wednesday, April 16th, about one month earlier than our usual ending date.

I am writing to request funding through any county grants that might be available. Additional funding will allow us to extend our mentoring program so that we can continue to provide academic support to our students. If you have any questions, I can be reached at lisa.ashman@irsd.k12.de.us or 732-1520.

Lisa Ashman
Mentoring Program Coordinator
John M. Clayton Elementary School



303 Market Street, Bridgeville, DE 19933

March 5, 2014

Sussex County Council
2 The Circle
P.O. Box 589
Georgetown, DE 19947

Re: Leadership Washington Focus

Dear Sussex County Council:

Please consider this request for sponsorship on behalf of the Bridgeville Mustangs 4-H Club to send five middle school youth to the first Leadership Washington Focus (LWF) to take place at the National 4-H Youth Conference Center on July 15 - 19, 2014. Delegates will build confidence in their ability to motivate and direct others in meaningful action; practice effective communication with others through group discussion and public speaking; work with others to create and accomplish goals; develop an understanding of their own personal leadership style; exchange ideas, practice respect and form friendships with other 4-Hers from across the nation; and experience hands-on learning in Washington, D.C. The cost is \$565.00 per youth and includes lodging, meals, site visits, motivational speakers, educational workshops, and transportation.

Delaware 4-H Association is the main non-profit organization.
A letter to Delaware 4-H must be sent to them with the
check telling them these funds are for the Bridgeville
Mustangs Club chapter.

Thanks,
Gina

March 5, 2014

Page 2

Our club is the largest in Sussex County, with youth from ages 5 to 18. We pledge our head to clearer thinking, our heart to greater loyalty, our hands to larger service and our health to better living for our club, our community, our country and our world. As leaders, we strive to provide our youth with opportunities to promote citizenship, parliamentary procedure, public speaking. Our youth participate in various projects including dairy, poultry, foods and nutrition, health, small engines, archery, robotics, woodscience, wildlife, clothing and textiles, electricity, and more.

Please consider sponsoring this opportunity for Meredith Carey, Secretary, Jenna Anger, Reporter, Tanner LeCates, Treasurer, and two other middle school youth to attend the first annual Leadership Washington Focus.

If you have any questions, please feel free to contact me anytime at (302) 542-2520.

Sincerely,



Tammy LeCates
Co-Leader

am, thank you for helping. Feel free to read this bio. on me if you think it will help. I would like the council to donate a nice amount or individual council members.
P.S. FORMS FOR CANCER SURVIVORS IF NEEDED

My name is Walt Godwin. I am a brother of nine siblings, six of which have died from cancer and I am a father who, last year, buried my beloved 47 year old daughter from cancer and I am also a prostate cancer survivor myself. These are the most important reasons why I am a proud and passionate volunteer for the American Cancer Society and this year I am the Chair of the Eastern/Coastal Relay for Life in Sussex County.

Relay is a twelve hour walking event and is a celebration of life which honors cancer survivors and caregivers and memorializes cancer victims. It is the American Cancer Society's premier fundraising event and since its inception in 1985 has raised more than \$5 billion dollars. Funds generated by this event are used by the Society for an array of services from providing a toll free 24 hour a day cancer information hotline (1-800-227-2345), patient services, education and most importantly research dollars for better treatments and ultimately the cure. Just imagine a world that is cancer free. Relay is working toward that goal and your donations to the event are tax deductible!

I have "relayed" for almost 20 years and I can personally assure you that if you relay one time you will be hooked. I have found Relay to be an emotional outlet for all the frustration I feel as a caregiver. It makes me feel empowered to make a difference against the disease that has taken my loved ones from me. One of the dollars I raise might be the one dollar that funds the cure!



100 West Market Street
P.O. Box 208
Greenwood, DE 19950

We Serve With Pride and Integrity

Phone: (302) 349-4822
Fax: (302) 349-4870

February 27, 2014

Councilman Sam Wilson
Sussex County Council
2 The Circle
P.O. Box 589
Georgetown, DE

Councilman Wilson,

I am writing on behalf of the Greenwood Police Department. We are planning our 2014 National Night Out event to be held on Tuesday, August 12th. One of the many reasons to hold a Night Out event is to strengthen neighborhood spirit and police-community partnership. We would like to first Thank you for your generous contribution last year and request any financial assistance that you could offer for this year's event. We strive to give our citizens a night of fun, food, crime prevention and safety awareness.

Our event would not be possible without the support of our community leaders such as you.

Thank you in advance for your consideration.

Sincerely,

Mark B. Anderson
Chief of Police

The Ladies Auxiliary Of
THE CARLISLE FIRE COMPANY, INC.
P.O. BOX 131
MILFORD, DELAWARE 19963



March 24, 2014

Mr. Sam Wilson
Sussex County Council

Dear Mr. Wilson,

On behalf of the Carlisle Ladies Auxiliary I would like to thank you for considering us for a grant from yourself & the Sussex County Council.

As you saw on Saturday, March 15, 2014 our Auxiliary celebrated 50 years of service to the Carlisle Fire Company. Our primary objective has always been to promote friendliness and support between the ladies and the members of the Carlisle Fire Company. We very much enjoy supporting our firefighters who protect our community and work very hard at raising funds for them. We also continuously strive to provide a professional service to those who request us. We have wanted to purchase matching uniform shirts and aprons for our members for some time now. These would be worn while serving public functions. The monies from your grant would make that purchase possible.

Again, thank you so much for your thoughtfulness. I look forward to hearing from you in the near future.

Sincerely,

A handwritten signature in cursive script that reads "Sharon Smith". The ink is dark and the signature is fluid.

Sharon Smith
President, Carlisle Ladies Auxiliary

March 14, 2014

Mike Vincent
Council President
Sussex County Council
2 the Circle, Box 589
Georgetown, DE 19947

Dear Mr. Vincent;

The Trap Pond Partners are again requesting financial assistance with our Healthy Kids Day Event at Trap Pond State Park. This year's event will take place Thursday May 8th. Thanks to the county's generous support we broke a record last year with over 1,100 fourth graders attending.

You and the council are well aware of the importance of promoting a healthy lifestyle to the County's youth. 2016 will mark a milestone in this event. In two short years, the 4th graders that attended the first annual Healthy Kids Day will be seniors in High School. We will have reached the vast majority of Sussex County students, sparking an interest in healthy lifestyles, physical activity and ownership in our public lands that will last a lifetime. The value of this event cannot be underestimated.

The Trap Pond partners are a non-profit group that assists and supports Trap Pond State Park. Our Friends group is classified as a 501C(3) organization.

The actual expenses for the event are approximately \$3,500 (besides all the staff costs). If possible, \$1,000 will help cover the program, food, porto-johns, and other miscellaneous costs.

Regardless of your financial assistance we would like to give an open invitation to you and all of the council members to attend the event and see personally just what a difference Healthy Kids Day makes in the lives of our children.

Thank you for your and the County Council's consideration. Please call or contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Betty Grossman".

Betty Grossman
President
Trap Pond Partners
(302) 875-5088



Commandant
Jack Flood, Jr.
Bridgeville, DE 19933
302.337.9091
jflood56@verizon.net

Sr. Vice Commandant
William (Mike) Fleetwood
Millsboro, DE 19966
302.934.1966
mikefleetwood@verizon.net

Jr. Vice Commandant
David L. Jacobs
Millsboro, DE 19966
302.245.4958
davej775@hotmail.com

Judge Advocate
Charles H. Landon
Nassau, DE 19969
302.542.1082
chas2508@gmail.com

Adjutant
A. Noble Callaway, III
Bridgeville, DE 19933
302.337.8161
mncallaway@aol.com

Paymaster/Newsletter Editor
Diane L. George
Seaford, DE 19973
302.629.2225
dgeorge53@comcast.net

Chaplain
Vaughn B. Russell
Seaford, DE 19973
302.344.8149
vaughn31j@gmail.com

Sergeant-At Arms
David C. Buck
Harrington, DE 19952
302.382.0088
buckster@comcast.net

Jr. Past Commandant
Frank D. Tulley
Seaford, DE 19973
302.536.7200
tulley.frank0865@gmail.com

Meetings
First Thursday—1830
VFW Virgil Wilson Post 4961
9767 Middleford Road
Seaford, DE 19973

DELAWARE DEVIL DOGS • DETACHMENT 780

February 18, 2014

Prospective Sponsors:

Our Marine Corps League Detachment is having a fund raising 2nd annual golf tournament on May 9, 2014 at the Heritage Shores Golf Club in Bridgeville, Delaware. This annual event is a county wide tournament which will generally change locations from year to year. The monies we raise will help fund the various projects to support our community. Some of those are Boy Scouts, Toys for Tots, Young Marines, and Wounded Warriors to name a few.

Our detachment is very committed to supporting our community and we enjoy a good reputation supporting our community. Many of our members are combat veterans ranging from Afghanistan to World War II. We are a proud bunch.

We would certainly appreciate your organization supporting us as box/hole sponsors where signs are placed on the golf course holes advertising your organization for \$100.00 a sign or donated monies, gift cards, merchandise as prizes, or both.

Respectably,

William M. Fleetwood
Senior Vice Commandant
Delaware Devil Dogs

10/29



SECOND ANNUAL GOLF TOURNAMENT

HERITAGE SHORES CLUB

One Heritage Shores Circle

Bridgeville, DE 19933

Friday - May 9, 2014

\$340.00 per foursome

8:00-8:45 a.m. - Registration, Coffee and Doughnuts

9:00 a.m. - Shotgun start

Scramble format

Prizes based on team gross scores

Closest to the Pin

Longest Drive

Hole in One

Putting Contest

Contact Personnel for Teams:

Frank Tulley-302.536.7200

Chuck Landon-302.542.1082

Jack Flood-301.461.7785

Mike Fleetwood-302.228.4856

Registration Deadline May 2, 2014

REGISTRATION ON REVERSE SIDE

DELAWARE
TECHNICAL COMMUNITY
COLLEGE

March 11, 2014

Sussex County Council
2 The Circle, P.O. Box 589
Georgetown, DE 19947

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

Dear Council,

Re: Community Grant Request for Kids on Campus Scholarship at Delaware Tech

Kids on Campus offers a wide variety of courses for ages 3-16 years old. With lots of new topics to choose from, children can improve their art skills, explore career options, whip up a tasty dish, participate in theatrical performances, learn how to be a better environmental steward, blast off a rocket, show off their sports abilities or have fun with iPads. We also have Brain Builder sessions to help improve their English, Reading and Math skills.

In 2009, Kids on Campus hosted 481 attendees (\$9,370 available for scholarships). In 2010, that number dropped to 335 attendees (\$7,147 available for scholarships) and then in 2011, we hosted 280 participants (\$4,022 in scholarships). During the summer of 2012, we hosted 697 participants (\$14,500 available for scholarships). Most recently, this past summer of 2013, we hosted 787 participants (\$28,385 available for scholarships). We know that there is a direct correlation to the number of attendees and the amount of scholarship funds that are available.

We request a grant of \$1,000 to allow approximately 10 more children to attend a week-long summer class or camp.

Our goals are (1) provide a high quality camp experience, (2) offer scholarships to allow more low to moderate income students to experience the benefits of a summer camp and (3) increase the number of children that have a positive summer camp experience and connecting them to Delaware Tech as a future provider of post-secondary education.

Thank you for considering our grant request.

Sincerely,


Chris Moody
Corporate and Community Programs, Director

JACK F. OWENS CAMPUS

21179 College Drive, Georgetown, DE 19947 | 302.259.6000 | www.dtcc.edu

An Equal Opportunity/Affirmative Action Institution

Sussex County Council



Building Height
Workshop



April 1, 2014

TODD F. LAWSON
COUNTY ADMINISTRATOR
(302) 855-7742 T
(302) 855-7749 F
tlawson@sussexcountype.gov




Sussex County
DELAWARE
sussexcountype.gov

Memorandum

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

Planning & Zoning Commission
Robert C. Wheatley, Chairman
Rodney Smith, Vice Chairman
Michael B. Johnson, Commissioner
Martin L. Ross, Commissioner
Irwin G. Burton, III, Commissioner

Board of Adjustment
Dale A. Callaway, Chairman
John M. Mills, Vice Chairman
Jeffrey M. Hudson, Member
E. Brent Workman, Member
Norman Richard, Member

FROM: Todd F. Lawson
County Administrator 

RE: **SUSSEX COUNTY BUILDING HEIGHT WORKSHOP – BRIEFING BOOK**

DATE: March 28, 2014

In preparation for Tuesday's building height workshop, I have prepared the attached briefing book for your review.

The briefing book contains materials such as the Power Point presentation and background documents specific to this discussion. I hope you find it helpful as you prepare for the workshop.

As a reminder, the workshop will take place at the County's West Complex, located at 22215 Dupont Hwy, Georgetown at 1:30 PM.

Should you have any questions or want information not contained in this material, please let me know.

Thank you.

TFL/kac

pc: J. Everett Moore, Esq.
Vince Robertson, Esq.
Jamie Sharp, Esq.

Michael Izzo, County Engineer
Lawrence Lank, Director of Planning & Zoning





SUSSEX COUNTY BUILDING HEIGHT WORKSHOP
APRIL 1, 2014

Tab 1 – Building Height Workshop Presentation

Tab 2 – Sussex County and Municipal Height Limits

Tab 3 – Sussex County Engineering Documents

Tab 4 – Memos on Building Height Issue

Tab 5 – Pending Building Height Ordinance

1

SUSSEX COUNTY COUNCIL WORKSHOP

BUILDING HEIGHT LIMITATIONS

April 1, 2014

WORKSHOP DISCUSSION

- Why are we here?
- How did we get to this point?

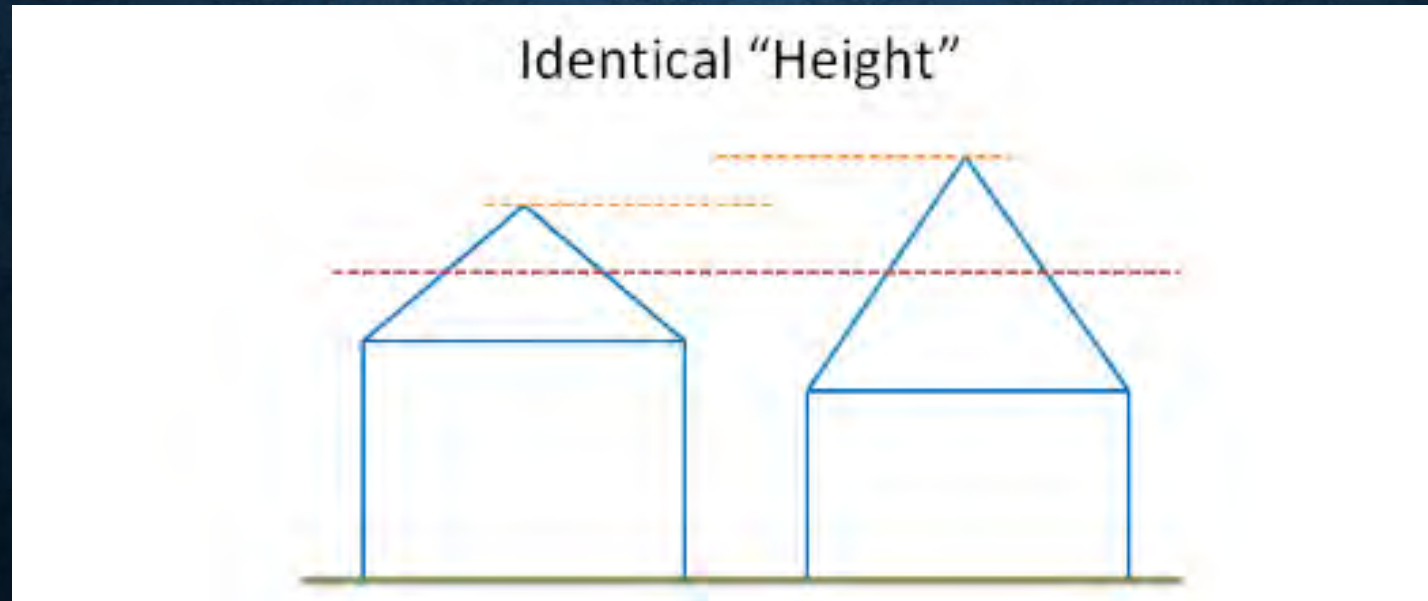
PLANNING AND ZONING DISCUSSION

- Review the County Code
- List of height limits
- Illustration of actual buildings

OVERVIEW OF COUNTY CODE

What is the County's method of measurement?

For zoning purposes, inspectors measure from the average grade to the highest point.



OVERVIEW OF COUNTY CODE

- Two sources within the Code that regulate building height:
 1. Article XXV – Supplementary Regulations. Specifically §115-179B.
 2. Zoning Districts in Chapter 115 (e.g., AR-1, GR, HR-1, etc.)

OVERVIEW OF COUNTY CODE

Article XXV – Supplementary Regulations. Height Regulations (§115-179B)**

*Except within an area defined as an airport approach zone by the Federal Aviation Administration, **public and semipublic or public service buildings, hospitals, institutions or schools, when permitted in a district, may be erected to a height not exceeding 60 feet and churches and temples may be erected to a height not exceeding 75 feet** when the required side and rear yards are each increased by at least one foot for each one foot of additional building height above the height regulations for the district in which the building is located (emphasis added).*

**This language has been in the Code since 1971.

OVERVIEW OF COUNTY CODE

Article I – General Provisions. Definitions and word usage (§115-4)

Definition of Public:

Open to common use-, whether or not public ownership is involved.

Examples of facilities open to common use could include shopping centers, hotels, restaurants, museums, sports facilities, grocery stores or any number of buildings and uses where the public is invited.

For instance, our Zoning Code defines a 'Hotel' in part by stating that “it is open to the public, in contradiction to a boarding-, rooming or lodging house or an apartment house,....”

SUSSEX COUNTY HEIGHT LIMITS PER ZONING DISTRICTS**

DISTRICT	USE	HEIGHT
AR-1 Agricultural Residential	Single Family	42'
MR Medium-Density Residential	Single Family	42'
GR General Residential	Single Family	42'
HR-1 AND HR-2 High-Density Residential	Single Family & Multifamily	52'
UR Urban Residential	Single Family	42'
UB Urban Business	Single Family & Other	42'
B-1 Neighborhood Business	Single Family & Other	42'
C-1 General Commercial	All Uses	42'
CR-1 Commercial Residential	All Uses	42'
M Marine	Single Family & Multifamily & Other	42' & 45'
LI-1 Limited Industrial	All	42'
LI-2 Light Industrial	All	52'
HI Heavy Industrial	All	125' (50' next to residential)
RPC Residential Planned Community	All	No limit listed. Discretion based on design ingenuity. (Section 115-125A)
Section 115-179B	Semipublic or public uses	60' (with yard setbacks per foot over 42')

**Amended last in 1995.

OVERVIEW OF COUNTY CODE

Article XVI – Residential Planned Community District. Review Standards; conditions. (§115-125A)

Review Standards; conditions:

The minimum lot and yard requirements and maximum height requirements of the zoning district in which the development is located need not apply, except that the Commission shall ensure an appropriate relationship between uses of high intensity or height within the RPC District and uses of low intensity or height, existing or future, outside the proposed RPC District and to this end may require that the regulations for minimum lots and yards and maximum height shall be complied with inside of and near the boundaries of the RPC District.

OTHER MUNICIPAL HEIGHT LIMITS

		Residential	Agricultural	Commercial	Industrial	Restricted Commercial Activity
Kent County, DE						
	Height Restriction	50' (RM) 35' (AC, AR, RS1, RS5, RMH) 25' (BN-1)	By general exception of §205-23 (C) (3) 80' (AC, AR)	35' (BN, BG, OC) 25' (BN-1)	75' (IL) 70' (IG)	60' (RS5, RM) 35' (RMH, OC)
New Castle County, DE						
	Height Restriction	60' (NC); 40' (SR, SE, S) 35' (ST, TN, MM, ON)	By general exception of §40.04.110 (E) (3)	180' (CR) 140' (I) 35' (CN)	140' (BP, I) 90' (HI) 60' (EX)	180' (OR, CR*) 50' (SR) 45' (TN*) 40' (ST) * = Mixed use only
Seaford, DE						
	Height Restriction	60' (R4) 35' (R1, R2, R3)	By general exception of §15-72	45' (C1) 35' (C2)	70' (M2) 60' (M1)	
Rehoboth, DE						
	Height Restriction	35' (all districts)	35'	42' or 35' depending upon tier	42'	

**COMFORT
SUITES**

SEAFORD, DE

**HEIGHT=
50'**



Height measured between eaves and ridge for gable, hip, and gambrel roofs.
Towers and spires are not included in building height definition.

**HOLIDAY INN
EXPRESS**

SEAFORD, DE

**HEIGHT=
46'**



Height measured between eaves and ridge for gable, hip, and gambrel roofs.
Towers and spires are not included in building height definition.

VINEYARDS AT NASSAU

HEIGHT=
60'



Construction plans verify height of 59' 6 5/8". Chimneys exceed but permitted.
Side and rear setbacks increased per Ordinance.

HAMPTON INN

ROUTE 1

**HEIGHT=
47.83'**



Board of Adjustment Variance provided in 1999.

**HERITAGE
INN**

ROUTE 1

**HEIGHT=
45'**



Board of Adjustment Variance provided in 1999.

**“HUDSON’S
HOTEL”**

ROUTE 1

HEIGHT=
52’
(DESIGN)



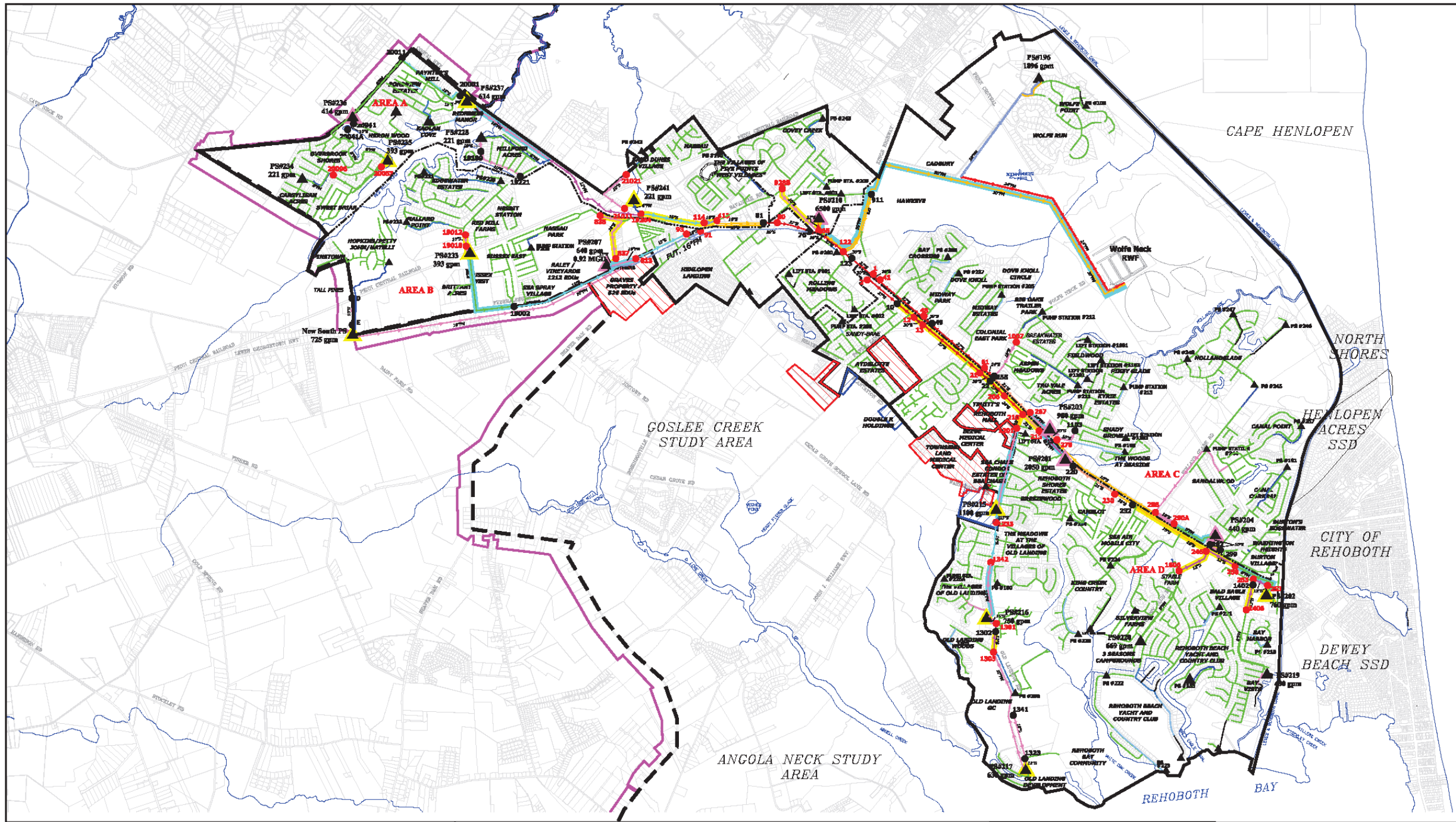
Approved height design; construction plans calls for 52' highest point.
Side and rear setbacks increased per Ordinance.

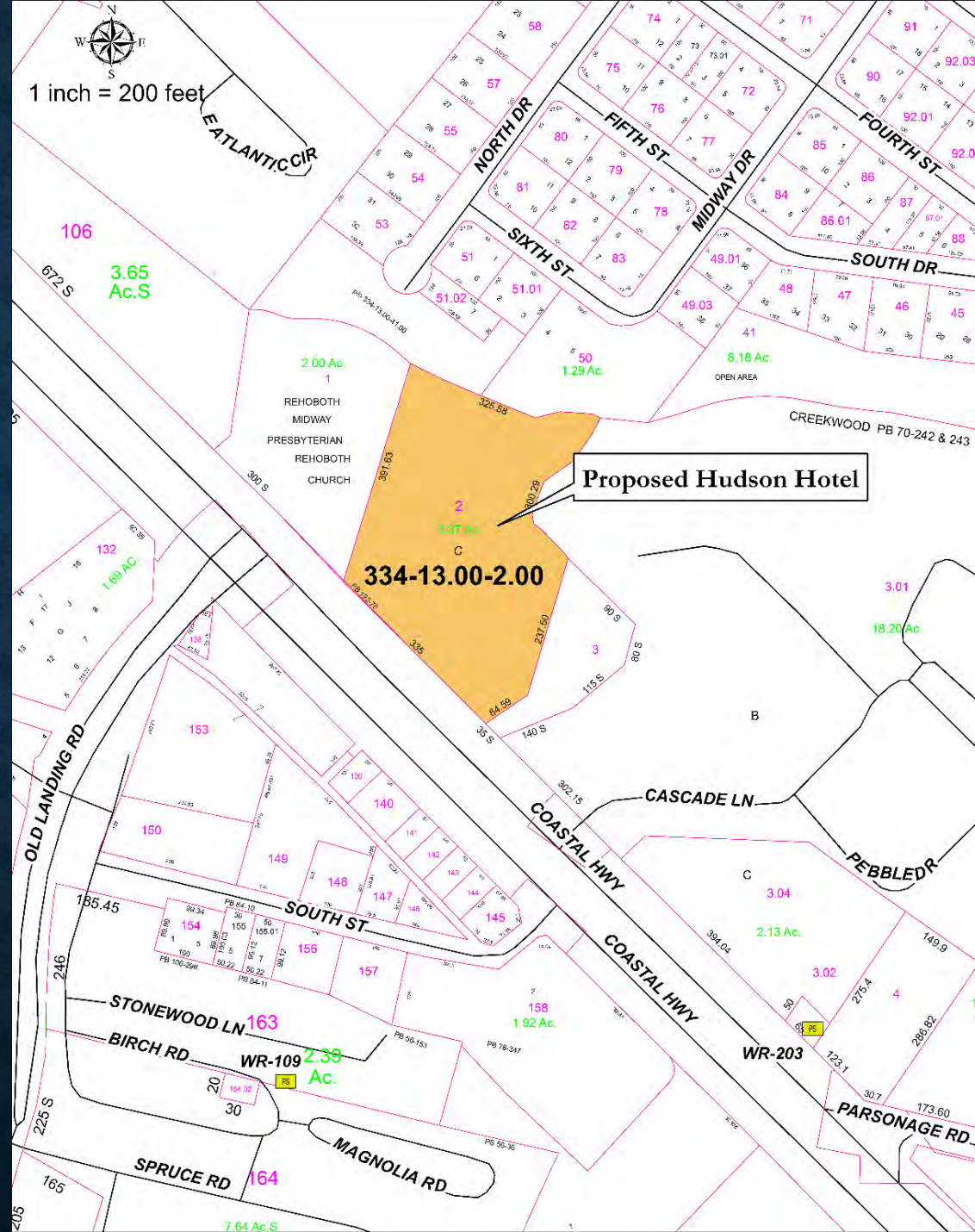
ENGINEERING DISCUSSION

- Illustrate West Rehoboth Sewer District
- Explanation of Sewer Capacity Calculation
- Capacity Calculation of the Hudson Hotel
- Additional Points:
 - West Rehoboth Sewer District designed to existing zoning at the time.
 - Engineering Department's planning study based on current land-use plan.

MAJOR DENSITY ASSUMPTIONS FOR BUILD-OUT EDUS

- Future residential development in the ESDA is allocated 4 EDUs/Acre.
- **Marine, HR-1, HR-2, C-1 & CR-1 zoned parcels are allocated 12 EDUs/Acre.**
- B-1 parcels are allocated 6.67 EDUs/Acre.
- Existing AR & MR zoned parcels less than 1 acre are allocated 1 EDU.
- Existing subdivisions would not be further subdivided.
- Tidal Wetlands will be deducted from the gross acreage of the parcel.





West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District (WRE DBSSD)

Manhole	Manhole	Tax Map District	Map	Name of Subdivision/Parcel	Acreege (Ac)	Assigned Density	Existing EDUs	Buildout EDUs	Design EDUs	Platted Parcels	Grav y Sewer	Zoning Code	Comments
1103	270	334	13	7	0.34	12	1	4.08	4.08			C1	
1103	270	334	13	8.05	4.53		72	72	72	72		C1	BEACHAVEN CONDO - page 11 from GMB 99 report
1103	270	334	13	8	4.55	12	38	54.6	39.31			HR2	page 11 from GMB 99 report - SEABRIGHT - 4.55 AC
1103	270	334	13	8.04	0.66	12	1	7.92	7.92			C1	
1103	270	334	13	8.03			0	1	1	1			
1103	270	334	13	8.02			1	1	1	1			
1103	270	334	13	8.01			1	1	1	1			
1103	270	334	13	DELPHANY STREET			16	17	17	17			parcels 10 - 26
1103	270	334	13	9			1	1	1	1			
1103	270	334	7	43	12.83		0	5	5				Truitt Parcel - State Park
1103	270	s	b				515	664	639	520			
270	PS#203			From 288 to 270			1522	3941	3634	1022			
270	PS#203			From 1103 to 270			515	664	639	520			
270	PS#203	334	13	3.04	2.13		31.22	31.22	31.22	31.22		C1	CREEKWOOD ANNEX - 2.13 AC
270	PS#203	334	13	4	0.93	12	8.47	11.16	11.16			C1	
270	PS#203	334	13	3.02	1	0	0	0	0	0		C1	PUMP STATION #203
270	PS#203	ps	b				2077	4648	4315	1574			
267	258			From 270 to PS#203			2077	4648	4315	1574			
267	258	334	13	3.01	18.2		152	152	152	152			CREEKWOOD - 18.20 AC
267	258	334	13	3.01	1.73	12	2.92	20.76	20.76			C1	POOL HOUSE
267	258	334	13	1	2	12	0	24	24	24		C1	PRESBYTERIAN CHURCH
267	258	334	13	2	3.96	12	16.33	47.52	47.52			C1	COLONIAL OAKS CONDO - 3.96 AC
267	258	334	13	3	0.41	12	0	4.92	4.92			C1	
267	258	334	12	105.04	2.24	12	5.63	26.88	26.88			C1	Wawa Store
267	258	334	12	105.05	1	12	0	12	12			C1	
267	258	334	12	105	3.22	12	48	48	48			C1	SANDPIPER VILLAGE - 4.92 AC
267	258	334	12	105.03	1.25	12	0	15	15			C1	

PROPOSED HUDSON HOTEL TAX MAP NO. 3-34 13.00 (2.00)			1 ST FLOOR:		
DESCRIPTION	FIXTURE UNITS	EDUS	BREAKFAST BAR/FOOD PRE AREA		
BASEMENT Pool Backwash 60gpm x 1 minute / 1 day = 60 gpd		.20	1-Hand Sink @ 1	1	
EMPLOYEE BREAKROOM 1 – Kitchen Sink @ 2	2		1-Prep Sink @ 1	1	
1 – Toilet @ 2	2		1-Mop Sink @ 1	1	
1 – Hand Sink @ 1	1		1-3 Bin Sink @ 3	3	
LAUNDRY/HOUSEKEEPING AREA 2 Commercial Size Washers @ 1.00 EDU each (1- 60 lb capacity, 1 – 80 lb capacity)		2.00	WOMEN'S RESTROOM 1-Toilet @ 2	2	
1– Mop Sink @ 1	1		1-Hand Sink @ 1	1	
1 - 2 Bin Sink @ 1	2		MEN'S RESTROOM 1-Toilet @ 2	2	
MEN'S RESTROOM 1-Toilet @ 2	2		1-Hand Sink @ 1	1	
1-Hand Sink @ 1	1		ICE/VENDING AREA 1-Mop Sink @ 1	1	
WOMEN'S RESTROOM 1-Toilet @ 2	2		MOTEL ROOMS 16 ÷ 3 =		5.33
1-Hand Sink @ 1	1		2ND FLOOR:		
KITCHEN AREA 1-3 Bin Sink @ 3	3		ICE/VENDING AREA 1-Mop Sink @ 1	1	
MEN'S RESTROOM 2-Toilets @ 2	4		GUEST LAUNDRY AREA 1-Domestic Washer @ 1	1	
2-Urinals @ 1	2		MOTEL ROOMS 26 ÷ 3		8.67
2-Hand Sinks @ 1	2		3RD FLOOR:		
WOMEN'S RESTROOM 3-Toilets @ 2	6		ICE/VENDING AREA 1-Mop Sink @ 1	1	
3-Hand Sinks @ 1	3		GUEST LAUNDRY AREA 1-Domestic Washer @ 1	1	
BAR AREA 1-Hand Sink @ 1	1		MOTEL ROOMS 26 ÷ 3		8.67
1-3 Bin Bar Sink @ 2	2		4TH FLOOR:		
			ICE/VENDING AREA 1-Mop Sink @ 1	1	
			GUEST LAUNDRY AREA 1-Domestic Washer @ 1	1	

MOTEL ROOMS		8.67
26 ÷ 3		
CALCULATION OF FIXTURE UNITS	56	
56 ÷ 6* =		9.33
*6 FIXTURE UNITS = 1.0 EDU		
TOTAL EDU ASSESSMENT		42.87
NOTES: Every 3 Motel Rooms = 1.0 EDU Commercial Washer Based on Size = 1.0 EDU each Pool Backwash EDUs based on GPD calculation		

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

MEMORANDUM

TO: Shane Abbott
Assistant Director of Planning & Zoning

FROM: Rob Davis 
Senior Planner, Utility Planning Division

REF: WEST REHOBOTH EXPANSION OF THE
DEWEY BEAC SANITARY SEWER DISTRICT
PROPOSED HUDSON HOTEL
TAX MAP 334-13.00 PARCEL 2
FILE NO. OM-9.04.44

RECEIVED

FEB 15 2013

PLANNING & ZONING
COMM. OF SUSSEX COUNTY

DATE: February 13, 2013

The Sussex County Engineering Department has no objection to the proposed 94 room hotel on the above noted parcel. The Colonial Oaks Motel was formerly on the site. The parcel is served with one 8-inch sanitary sewer lateral, which is adequate for the proposed building.

Should you have questions please do not hesitate to contact me.

cc: Michael A. Izzo, P.E.
John J. Ashman
Christine Fletcher
Anthony DiGiuseppe, Jr.
Don Pogwist

DELDOT DISCUSSION

- [PLACE HOLDER]

OPTIONS TO CONSIDER

- Approve Pending Ordinance

The pending Ordinance amends §115-179B to allow 60' buildings for government buildings, hospitals, and schools when permitted in a district.

- Amend County Code

Amend the height limits within a specific Zoning District.

- Variance Request

Require all buildings over height limits to apply for variance.

- Other Considerations?

SUSSEX COUNTY COUNCIL WORKSHOP

BUILDING HEIGHT LIMITATIONS

Questions & Comments

2

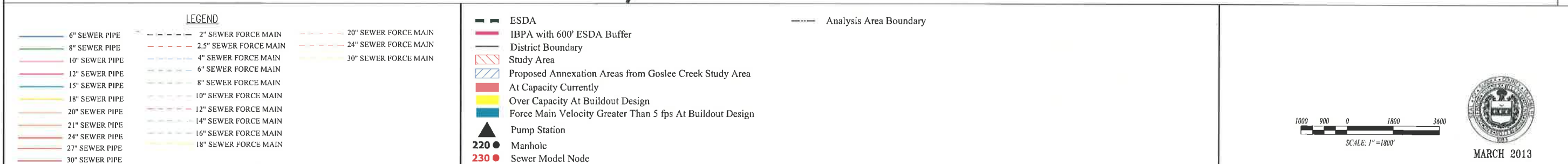
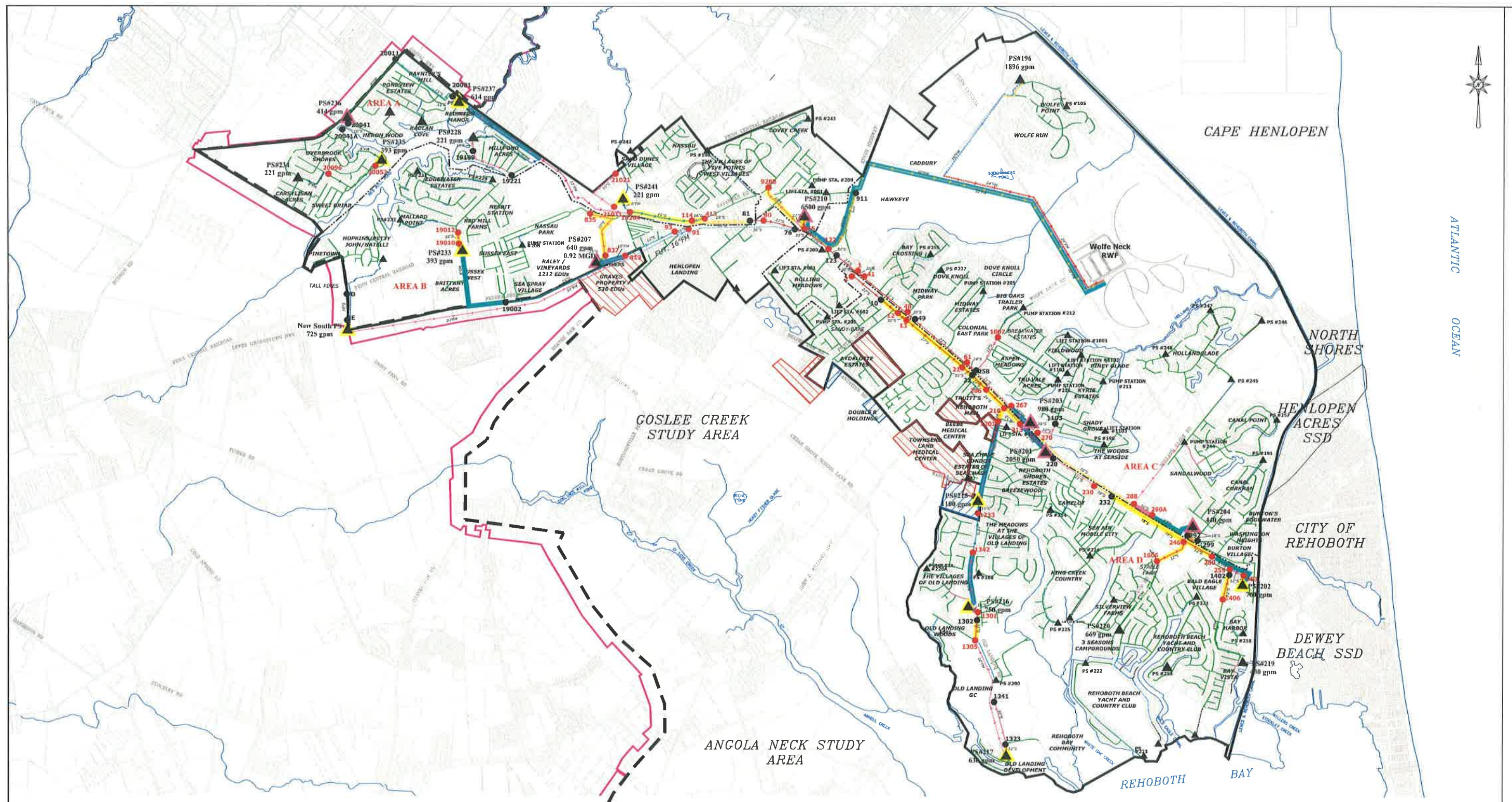
**SUSSEX COUNTY HEIGHT LIMITS
PER ZONING DISTRICT
(UPDATED 1995)**

DISTRICT	USE	HEIGHT
AR-1 Agricultural Residential	Single Family	42'
MR Medium-Density Residential	Single Family	42'
GR General Residential	Single Family	42'
HR-1 AND HR-2 High-Density Residential	Single Family & Multifamily	52'
UR Urban Residential	Single Family	42'
UB Urban Business	Single Family & Other	42'
B-1 Neighborhood Business	Single Family & Other	42'
C-1 General Commercial	All Uses	42'
CR-1 Commercial Residential	All Uses	42'
M Marine	Single Family & Multifamily & Other	42' & 45'
LI-1 Limited Industrial	All	42'
LI-2 Light Industrial	All	52'
HI Heavy Industrial	All	125' (50' next to residential)
RPC Residential Planned Community	All	No limit listed. Discretion based on design ingenuity. (Section 115-125A)
Section 115-179B	Semipublic or public uses	60' (with yard setbacks per foot over 42')

**OTHER MUNICIPAL
HEIGHT LIMITS**

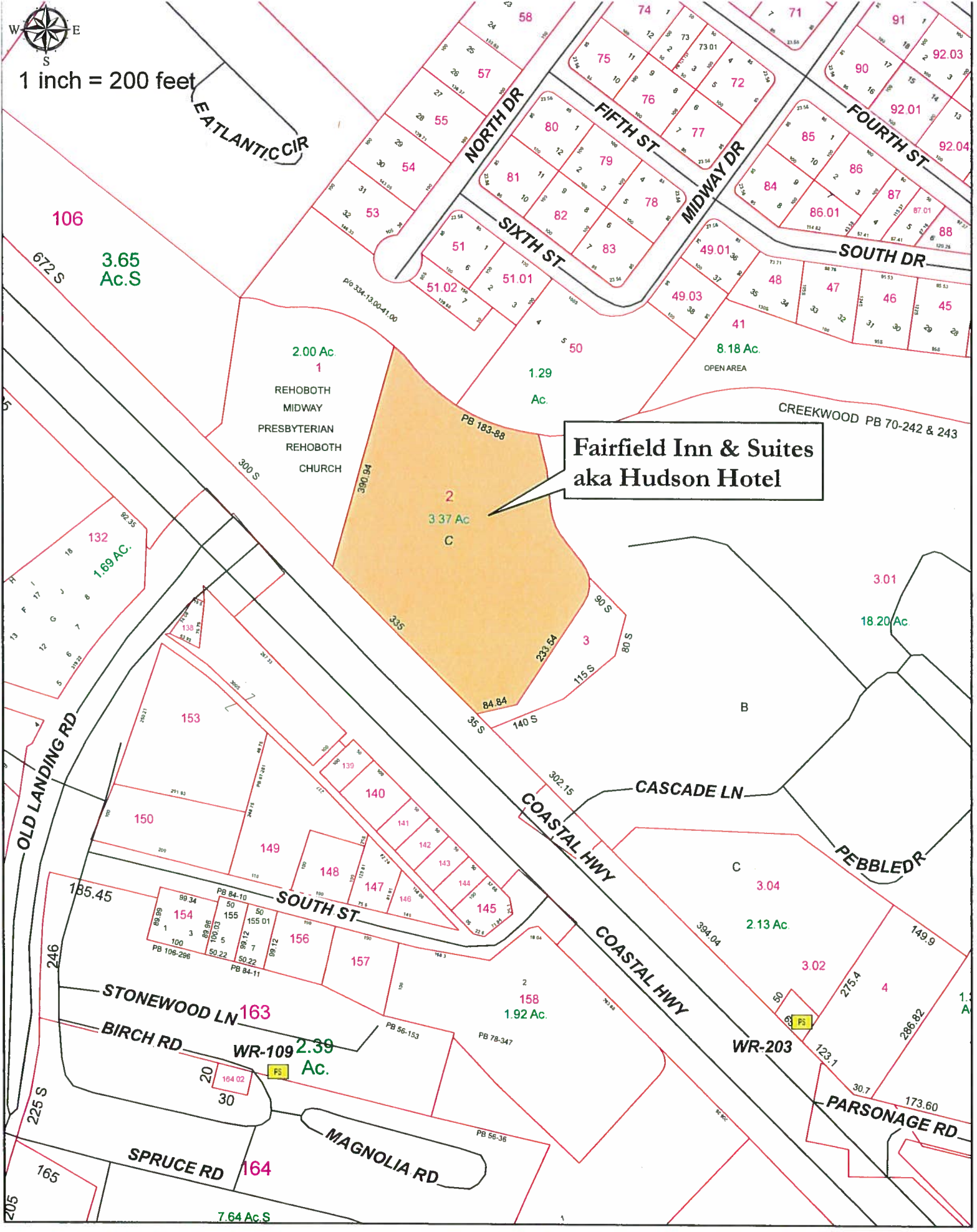
		Residential	Agricultural	Commercial	Industrial	Restricted Commercial Activity
Kent County, DE						
	Height Restriction	50' (RM) 35' (AC, AR, RS1, RS5, RMH) 25' (BN-1)	By general exception of §205-23 (C) (3) 80' (AC, AR)	35' (BN, BG, OC) 25' (BN-1)	75' (IL) 70' (IG)	60' (RS5, RM) 35' (RMH, OC)
New Castle County, DE						
	Height Restriction	60' (NC); 40' (SR, SE, S) 35' (ST, TN, MM, ON)	By general exception of §40.04.110 (E) (3)	180' (CR) 140' (I) 35' (CN)	140' (BP, I) 90' (HI) 60' (EX)	180' (OR, CR*) 50' (SR) 45' (TN*) 40' (ST) * = Mixed use only
Seaford, DE						
	Height Restriction	60' (R4) 35' (R1, R2, R3)	By general exception of §15-72	45' (C1) 35' (C2)	70' (M2) 60' (M1)	
Rehoboth, DE						
	Height Restriction	35' (all districts)	35'	42' or 35' depending upon tier	42'	

3





1 inch = 200 feet



West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District (WRE DBSSD)

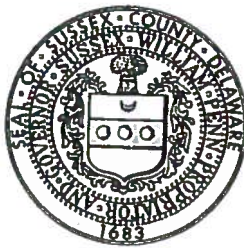
Manhole	Manhole	Tax Map District	Map	Name of Subdivision/Parcel	Acreage (Ac)	Assigned Density	Existing EDUs	Buildout EDUs	Design EDUs	Platted Parcels	Grav. Sewer	Zoning Code	Comments
1103	270	334	13	7	0.34	12	1	4.08	4.08			C1	
1103	270	334	13	8.05	4.53		72	72	72	72		C1	BEACHAVEN CONDO - page 11 from GMB 99 report
1103	270	334	13	8	4.55	12	38	54.6	39.31			HR2	page 11 from GMB 99 report - SEABRIGHT - 4.55 AC
1103	270	334	13	8.04	0.66	12	1	7.92	7.92			C1	
1103	270	334	13	8.03			0	1	1	1			
1103	270	334	13	8.02			1	1	1	1			
1103	270	334	13	8.01			1	1	1	1			
1103	270	334	13	DELPHANY STREET			16	17	17	17			parcels 10 - 26
1103	270	334	13	9			1	1	1	1			
1103	270	334	7	43	12.83		0	5	5				Trullit Parcel - State Park
1103	270	a	b				515	664	639	520			
270	PS#203			From 288 to 270			1522	3941	3634	1022			
270	PS#203			From 1103 to 270			515	664	639	520			
270	PS#203	334	13	3.04	2.13		31.22	31.22	31.22	31.22		C1	CREEKWOOD ANNEX - 2.13 AC
270	PS#203	334	13	4	0.93	12	8.47	11.16	11.16			C1	
270	PS#203	334	13	3.02	1	0	0	0	0	0		C1	PUMP STATION #203
270	PS#203	a	b				2077	4848	4315	1574			
267	258			From 270 to PS#203			2077	4648	4315	1574			
267	258	334	13	3.01	18.2		152	152	152	152			CREEKWOOD - 18.20 AC
267	258	334	13	3.01	1.73	12	2.92	20.76	20.76			C1	POOL HOUSE
267	258	334	13	1	2	12	0	24	24	24		C1	PRESBYTERIAN CHURCH
267	258	334	13	2	3.96	12	16.33	47.52	47.52			C1	COLONIAL OAKS CONDO - 3.96 AC
267	258	334	13	3	0.41	12	0	4.92	4.92			C1	
267	258	334	12	105.04	2.24	12	5.63	26.88				C1	Wawa Store
267	258	334	12	105.05	1	12	0	12	12			C1	
267	258	334	12	105	3.22	12	48	48	48			C1	SANDPIPER VILLAGE - 4.92 AC
267	258	334	12	105.03	1.25	12	0	15	15			C1	
267	258	334	12	106	4.63	12	2.53	55.56	55.56			C1	PEP-UP & CHURCH HALL
267	258	a	b				2304	5054	4722	1750			
1007	258	334	12	100	1	0	0	0	0	0		C1	CEMETERY - 6.79 AC
1007	258	334	12	101.01	0.44	12	1	5.28	5.28			C1	
1007	258	334	12	101	0.33	12	1	3.96	3.96			C1	
1007	258	334	12	102			1	1	1	1			
1007	258	334	12	103			1	1	1	1			
1007	258	334	12	104			1	1	1	1			
1007	258	334	12	105.02	8.35		104.83	104.83	104.83	104.83		C1	APARTMENTS - 8.35 AC
1007	258	334	12	105.01	45.96		202.66	204	204	204			ASPEN MEADOWS - 45.96 AC
1007	258	334	13	FIELDWOOD			109	109	109	109			parcels 103-103.17 and 620-713
1007	258	334	13	101			1	1	1	1			
1007	258	334	13	102			1	1	1	1			
1007	258	334	13	103	4.84	4	0	19.36	13.94				Munchy Branch
1007	258	334	13	TRU VALE ACRES			105	105	105	105			parcels 35-99.02
1007	258	334	13	32	2.99	12	1	35.88	35.88			C1	
1007	258	334	13	32.01	0.04	0	0	0.48	0.48	0		C1	PUMP STATION # 211
1007	258	334	13	32.02	1.04	12	1	12.48	12.48			C1	
1007	258	334	13	33	0.89	12	0	10.68	10.68			C1	
1007	258	334	13	33.04	0.73	12	0	8.76	8.76			C1	
1007	258	334	13	33.03			1	1	1	1			
1007	258	334	13	33.02			1	1	1	1			
1007	258	334	13	33.01			1	1	1	1			
1007	258	334	13	34			1	1	1	1			
1007	258	334	13	104			1	1	1	1			
1007	258	334	13	105.01	1.31	4	1	5.24	3.77				
1007	258	334	13	105	1.21	4	1	4.84	3.48				
1007	258	334	13	105.02	1.66	4	1	6.64	4.78				

FAIRFILED INN & SUITES TAX MAP NO. 3-34 13.00 (2.00) AUGUST 21, 2013		
DESCRIPTION	FIXTURE UNITS	EDUS
BASEMENT		
Pool Backwash 60gpm x 1 minute / 1 day = 60 gpd		.20
EMPLOYEE BREAKROOM		
1 – Kitchen Sink @ 2	2	
1 – Toilet @ 2	2	
1 – Hand Sink @ 1	1	
LAUNDRY/HOUSEKEEPING AREA		
2 Commercial Size Washers @ 1.00 EDU each (1- 60 lb capacity, 1 – 80 lb capacity)		2.00
1– Mop Sink @ 1	1	
1 - 2 Bin Sink @ 1	2	
MEN'S RESTROOM		
1-Toilet @ 2	2	
1-Hand Sink @ 1	1	
WOMEN'S RESTROOM		
1-Toilet @ 2	2	
1-Hand Sink @ 1	1	
KITCHEN AREA		
1-3 Bin Sink @ 3	3	
MEN'S RESTROOM		
2-Toilets @ 2	4	
2-Urinals @ 1	2	
2-Hand Sinks @ 1	2	
WOMEN'S RESTROOM		
3-Toilets @ 2	6	
3-Hand Sinks @ 1	3	
BAR AREA		
1-Hand Sink @ 1	1	
1-3 Bin Bar Sink @ 2	2	

MOTEL ROOMS 26 ÷ 3		8.67
CALCULATION OF FIXTURE UNITS 56 ÷ 6* = <i>*6 FIXTURE UNITS = 1.0 EDU</i>	56	9.33
TOTAL EDU ASSESSMENT		42.87
NOTES: Every 3 Motel Rooms = 1.0 EDU Commercial Washer Based on Size = 1.0 EDU each Pool Backwash EDUs based on GPD calculation		

**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

MEMORANDUM

TO: **Shane Abbott**
Assistant Director of Planning & Zoning

FROM: **Rob Davis** *RW*
Senior Planner, Utility Planning Division

REF: **WEST REHOBOTH EXPANSION OF THE
DEWEY BEAC SANITARY SEWER DISTRICT
PROPOSED HUDSON HOTEL
TAX MAP 334-13.00 PARCEL 2
FILE NO. OM-9.04.44**

RECEIVED

FEB 15 2013

**PLANNING & ZONING
DEPT. OF SUSSEX COUNTY**

DATE: **February 13, 2013**

The Sussex County Engineering Department has no objection to the proposed 94 room hotel on the above noted parcel. The Colonial Oaks Motel was formerly on the site. The parcel is served with one 8-inch sanitary sewer lateral, which is adequate for the proposed building.

Should you have questions please do not hesitate to contact me.

cc: Michael A. Izzo, P.E.
John J. Ashman
Christine Fletcher
Anthony DiGiuseppe, Jr.
Don Pogwist

4

MEMO

TO: Lawrence Lank

FROM: Andrew J. Dolby, Planning & Zoning Intern

RE: Building height restrictions

DATE: March 21, 2014

This memo addresses the means by which several jurisdictions in the region regulate building height.

Maximum Building Heights

The below table summarizes maximum allowable by-right building heights in the 4 study jurisdictions. The table is not perfect because categories of permitted uses and definitions of particular uses do not always translate across jurisdictions but it should serve as a general guide as to the character of what is currently permitted in each of the jurisdictions. The “Restricted Commercial Activity” column includes building height restrictions that apply only to a very restrictive list of permitted uses.

		Residential	Agricultural	Commercial	Industrial	Restricted Commercial activity
Kent County, DE						
Height Restriction		50' (RM); 35' (AC, AR, RS1, RS5, RMH); 25' (BN-1)	by general exception of §205-23 (C) (3); 80' (AC, AR)	35' (BN, BG, OC); 25' (BN-1)	75' (IL), 70' (IG)	60' (RS5, RM), 35' (RMH, OC)
New Castle County, DE						
Height Restriction		60' (NC); 40' (SR, SE, S); 35' (ST, TN, MM, ON)	by general exception of §40.04.110 (E) (3)	180' (CR), 140' (I); 35' (CN)	140' (BP, I); 90' (HI); 60' (EX)	180' (OR, CR*); 50' (SR); 45' (TN*); 40' (ST);
Rehoboth, DE						
Height Restriction		35' (all districts)	35'	42' or 35' depending upon tier	42'	
Seaford, DE						
Height Restriction		60' (R4); 35' (R1, R2, R3)	by general exception of §15-72	45' (C1); 35' (C2)	70' (M2); 60' (M1)	

* = mixed use only

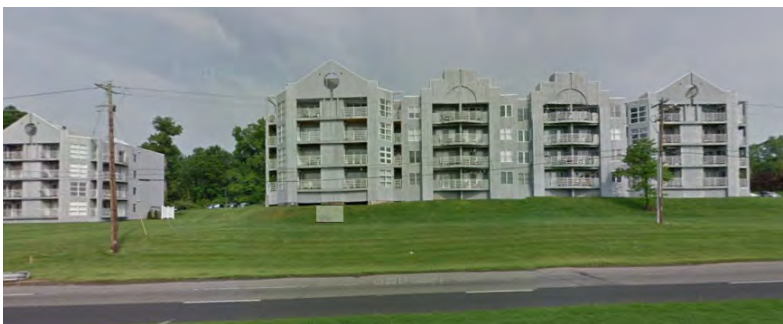
*See endnotes for a table of zoning districts and abbreviations by jurisdiction



An example of multifamily housing near the Dover AFB zoned RM with a max permissible height of 50'.



In Seaford the highest permissible residential use is found in the Institutional Residential District (60'). The zoning map shows us that hospital system buildings occupy all of the land with this zoning classification.



Multifamily housing, visible from 495, north of Wilmington, New Castle County. This district has a maximum height limit of 60' for multifamily housing.



New Castle County. Commercial office buildings in district OR can have a maximum height of 180'. This picture is taken from outside a restricted access business park North of Wilmington on 141. These tall buildings are not visible from any road because of berms and landscaping.

Note:

Although maximum height restrictions in many of the above cited districts are relatively high, it is difficult to find an example of structures that take advantage of the full allowable height. As noted, these jurisdictions tend to allow tall buildings in locations identified for offices, business parks and multi-family housing. Additionally, the lot area requirements also tend to be higher in these districts and they tend to be farther away from town centers, attractions and high value real estate. The result is that although tall buildings are permitted, there is little need to actually take advantage of that because land is (relatively) cheap and plentiful and the added expense of elevators is often not justified.

Pressure from market forces for tall buildings exists where lots are small and land is becoming scarce. Zoning for high buildings in any other location is somewhat pointless. And not zoning for high buildings where market pressure clearly exists for such development is an exercise in futility- the result will be negative externalities such as sprawl, traffic jams or shortages of housing or commercial space.

Exemptions

All 5 jurisdictions provide exemptions intended to allow public, institutional and religious uses to exceed district specific height restrictions. The respective sections follow below for the purpose of comparison.

Kent

§205-23 (C) (3)

(3) Height limits.

(a) Except within an Airport Approach Zone, the height limitations specified in this chapter do not apply to:

[1] Flagpoles.

[2] Church spires.

[3] Belfries.

[4] Cupolas.

[5] Domes not used for human occupancy.

[6] Chimneys, ventilators, sky lights, water tanks, windmills, solar collectors or similar roof features.

[7] Lightning rods.

(b) The features enumerated in Subsection C(3)(a) of this section shall be created only to a height necessary to accomplish the purpose intended and in no event more than 15 feet above the lowest point of contact with the roof.

(c) Roof features such as water tanks, cooling towers, air-conditioning units, elevator shafts and bulkheads shall be enclosed within the walls of the structure and designed in harmony with the main walls of the structure on which they are located.

(4) A public governmental building, place of worship or hospital may be erected to a greater height than otherwise permitted, provided that the front, side and rear setbacks are increased not less than one foot for each foot by which the structure exceeds the height limitation established for the district in which the structure is located.

(5) Unless otherwise provided in Subsection C(3) of this section, a parapet wall may extend not more than five feet above the height limit for the district in which it is located.

New Castle

§40.04.110 (E) (3)

Height exceptions. **Height** limits in this Article shall not apply to the following or similar structures: spires on churches, cupolas, belfries, chimneys, smokestacks, flag poles, water tanks or towers, fire towers, observation towers, lighthouses, transmission towers, windmills, silos, antennae (including amateur radio antennae), manufacturing or mechanical equipment and its necessary supports including but not limited to HVAC equipment, or elevator enclosures.

Rehoboth, DE

§270-20 (A)

⁴A dome, spire, cupola, belfry, chimney or pinnacle serving as an architectural embellishment and not for occupancy or storage may be erected to a height in excess of that authorized in this subsection for the district in which the building concerned is located, provided that the aggregate of the bases of all such structures does not exceed 10% of the building's ground floor area. The total height of a building with such embellishments shall not exceed 50 feet.

Seaford, DE

§15-72.

The height limitations of this Chapter shall not apply to church spires, belfries, domes, monuments, observation towers, radio and television towers, windmills, chimneys, smokestacks, flag poles, masts and aerals, barns and silos, elevators, tanks and other projections neither intended nor used for human occupancy.

(Zoning Ord., 502.4, 9/23/69)

Method of Measurement

Some jurisdictions measure to the topmost point on the structure with exclusions for chimneys and antennas, etc., and some jurisdictions measure to a point between the eaves and the peak of the roof.



New Castle County, DE measures to the highest point on the structure:

New Castle §33.300

HEIGHT, BUILDING

The maximum height of a building permitted on a lot. Building height is determined from the vertical distance as measured from the median level of the finished grade adjacent to the exterior walls of the building to the highest point of the building, excluding chimneys and antenna. See Section 40.04.110 .(*Amended September 22, 1998 by Ordinance 98-080; amended July 13, 2004 by Ordinance 04-059*)

Rehoboth also measures building height in this manner:

Rehoboth §270-4

HEIGHT

The height of a building measured from a point where the center line of the building to be erected intersects with the center line of the street on which the building will front to the highest point on the roof, its parapet walls or any feature which extends above the roof.

[Amended 8-7-2006 by Ord. No. 0806-1]

Other jurisdictions utilize a definition that measures from a point between the eaves and the ridgeline of the roof. Kent County, DE is an example of this:

Kent §205-6

BUILDING, HEIGHT OF

The vertical distance from the average finished grade at the front building line to the highest point of the coping of a flat roof, or to the deck line or highest point of coping or parapet of a mansard roof, or to the mean height level between eaves and ridge for gable, hip, shed and gambrel roofs. When the highest wall of a building with a shed roof is within 35 feet of a street, the height of such building shall be measured to the highest point of coping or parapet. See Appendix E.

Editor's Note: Appendix E is included at the end of this chapter.

Seaford also uses the mean distance between eaves and ridge method:

Seaford §15-7 (A) (47)

Height of Building shall mean the vertical distance measured from the average elevation of the proposed finished grades at the front of the building to the highest point of the roof for flat roofs; to the deck line of mansard roofs and to the main height between eaves and ridge for gable, hip, and gambrel roofs; provided that chimneys, spires, towers, mechanical penthouses, tanks and similar projections of the building not intended for human occupancy shall not be included in calculation the height. If there are two or more separate roofs on a single building, the height of such building shall be calculated from the highest roof.

Alternate Methods of Regulating Building Height

All 5 jurisdictions studied above utilize zoning district specific setbacks from property lines and maximum building heights. As an alternative to prescriptive regulation of the site planning process, many jurisdictions (especially in office, mixed-use and multifamily residential districts) have chosen to encourage innovative site design by regulating Floor Area Ratio.

The FAR specifies a ratio between the square footage allowable in a building and the square footage of the building lot. A FAR of 2:1, for example, allows two square feet of building for each square foot of the lot.

Typically, the FAR is utilized in order to limit the total mass and scale of a neighborhood and allow developers to work with constrained sites without bogging down the variance process. As certain areas of the County become increasingly urbanized an FAR approach may arise as a way to encourage developers of large structures to place them in areas identified for this type of development, to make redevelopment of old sites more attractive, and to generally prevent unnecessary sprawl by identifying a place for high density development and simultaneously preserving sunlight, views and open space.

Conclusion

In all 5 jurisdictions investigated for this memo the typical maximum allowable building height is in the range of 35'-45' for commercial and residential uses. Zoning is used to create exceptions to this rule typically for the purpose of providing a space for or encouraging the development of multifamily housing, apartment blocks, assisted living

facilities, hospitals and similar uses. Districts with these zoning classifications tend to make up a minimal and insignificant portion of the landmass of the jurisdiction. Furthermore, general exceptions are provided to height restrictions in all these jurisdictions that permit institutional, religious and government entities to exceed the height restriction in all other zoning districts.

For the regulation of single family homes and typical roadside commercial development this approach is appropriate. When land becomes scarce and prices climb other problems arise such as how to increase the housing supply by increasing the density of development, how to encourage redevelopment of constrained and difficult commercial and industrial sites, and how to nudge new development into those areas where infrastructure exists or is planned. Accomplishing these goals may require increasing building heights through overlay districts, providing an alternative maximum building height for uses that help the county to meet a goal (i.e. assisted care facilities, affordable housing, etc.), or introducing an alternative method of regulating height such as the Floor Area Ratio method. These are all options that the County will likely be forced to investigate after the next real estate and construction boom cycle.

Notes

Table of Zoning Districts and Abbreviations by Jurisdiction

Kent County, DE Zoning Districts

AC	Agricultural Conservation
AR	Agricultural Residential
RS1	Single-family Residential
RS5	Medium-Density Residential
RMH	Residential Manufactured Home
RM	Multifamily Residential
BN	Neighborhood Business
BC	Business Complex
BG	General Business
IL	Limited Industrial
IG	General Industrial

New Castle County, DE Zoning Districts

TN	Traditional Neighborhood District
ST	Suburban Transition District
MM	Manufactured Mobile Home District
ON	Office, Neighborhood
OR	Office, Regional
CR	Commercial Regional District
BP	Business Park District

I	Industrial District
CN	Commercial Neighborhood District
S	Suburban District
SE	Suburban Estate District
SR	Suburban Reserve District
NC	Neighborhood Conservation District
HI	Heavy Industry District
EX	Extraction District
H	Historic Overlay District
HT	Hometown Overlay District

Seaford, DE Zoning Districts

R-1	Low Density Residential District
R-2	Medium Density Residential District
R-3	High Density Residential District
R-4	Institutional Residential District
C-1	General Commercial District
C-2	Highway Commercial District
C-3	Riverfront Enterprise District
M-1	Light Industrial District
M-2	Heavy Industrial District
FP-	Flood Plain District

Rehoboth Beach, DE Zoning Districts

R-1(S)	Special Single-Family Residence District
R-1	Single-Family Residence District
R-2	General Residence District
C-1	Central Commercial District
C-2	Commercial-Amusement District
C-3	Secondary Commercial District
ER	Educational/Residential District
CM	Cemetery District
O-1	Open Space District

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MEMORANDUM

TO: Sussex County Council

FROM: Vincent G. Robertson, Esquire
Assistant Sussex County Attorney

RE: Zoning Code Height Limits

DATE: October 3, 2013

I have been asked to provide an explanation of what the County's Code says with regard to height.

As many of you are aware, the individual Zoning Districts in Chapter 115 of the Sussex County Code typically reference a 42 foot height limit. Presumably, that is where most people look to locate the applicable height, and then look no further in the Code.

However, there is an entirely separate section governing height found in the Supplementary Regulations set forth in Chapter XXV of the Zoning Code. Specifically, Section 115-179B of the Code establishes a separate height limit for certain buildings. That section says that except in airport approach zones defined by the FAA, "public and semi-public, or public service buildings, hospitals, institutions or schools, when permitted in a district, may be erected to a height not exceeding 60 feet..." Under that section of the Code, there are several classifications or groupings of buildings that are entitled to utilize the 60 foot limit: public and semi-public buildings; public service buildings; hospitals; institutions or schools. These classifications or groupings are further limited to those types of buildings that are permitted in the specific district where they are intended to be located.

If the 60 foot height limit is applied, Section 115-179B also requires that the side and rear yard setbacks must be increased by one foot for each foot of height over and above the height regulation set forth in the applicable zoning district (again typically 42 feet).

To determine what is meant by a "public and semi-public" building, we must look to Section 115-4 of the Code for the definition of the term "public". "Public" is simply defined in Section 115-4 as "open to common use-, whether or not public ownership is involved." This is a very broad definition of the term "public". Something open to common use could include shopping centers, hotels, restaurants, museums, sports facilities, grocery stores or any number of buildings and uses where the public is invited. Again, it is still subject to the limitation in Section 115-179 regarding whether the proposed use or building is permitted in the specific zoning district.

The definition of "public and semi-public" must also be considered in the context of Conditional Uses. Under the Zoning Code, Conditional Uses must be generally of a "public or semi-public character" and are approved that way by the County all of the time for all sorts of business ventures. So again, the terms are broadly defined and broadly used in the Sussex County Zoning Code.

The question on this subject previously arose with regard to a proposed hotel in the Vineyards. An opinion was issued as to hotels specifically, since that was the proposed use for the Vineyards site which is zoned C-1. The analysis tracked the fact that a hotel is a permitted use in the C-1 District and it is a public or semi-public building under the County's Zoning Code. Therefore, under Section 115-179B of the Zoning Code, the 60 foot height limitation applied, subject to the increased setbacks described above.

Based upon the explanation set forth herein, as it is currently worded, the Code is clear as to the 60 foot height limit. The 60 foot height limitation is not based upon some stretched interpretation of the Code but is instead based upon the plain wording of the Code. Therefore, a Code change is necessary if Council desires to address the 60 foot limitation.

I will be available at County Council on Tuesday, October 8, 2013 to answer any questions.

Cc: Todd Lawson
J. Everett Moore
Jamie Sharp
Lawrence Lank
Shane Abbott

VGR:ssj

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GRIFFIN & HACKETT, P.A.

Fax

To:	DAVE BAKER	From:	JIM GRIFFIN
Fax:	855-7749	Pages:	2
Phone:		Date:	2007*
Re:	HEIGHT LIMIT FOR HOTELS AND MOTELS	CC:	Lawrence B. Lank, P & Z (854-5079) Shane Abbott, P & Z Vincent G. Robertson, Esquire

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

This memo follows our conference of today's date regarding a request that Council consider amending its zoning ordinance to allow Council to approve hotels and motels at a height of up to 60 feet as a conditional use.

Following our meeting and a discussion on this issue with Shane Abbott, we agreed that a need did not exist to ask Council to consider the requested amendment because hotels, motels and motor lodges can be approved at heights of up to 60 feet as a permitted use under the existing ordinance.

Under our current zoning ordinance, hotels, motels and motor lodges are listed as "permitted uses" in the C-1, CR-1, Marine District, LI-1, HR-1, and HR-2 zoning districts. Although it was not relevant to our discussion, hotels and motels can also be approved in the UB and AR-1 and AR-2 zoning districts as conditional uses under the "catch all" clause.

Because hotels and motels can be approved in 6 of our existing zoning districts as permitted uses, the height of those buildings can exceed the 42 foot limit currently applicable to other types of structures under the height regulations appearing in Section 115-179.B. which provides as follows:

"Except within an area defined as an airport approach zoned by the Federal Aviation Administration, public and semi-public or public services buildings, hospitals, institutions or schools, when permitted in a district, may be erected to a height not exceeding 60 feet and churches

and temples may be erected to a height not exceeding 75 feet when the required side and rear yards are increased by at least one foot for each one foot of additional building height above the height regulations for the district in which the building is located.”

Since the County has treated hotels and motels as public or semi-public service buildings, if a hotel, motel or motor lodge is proposed on land located in a C-1, CR-1, Marine District, LI-1, HR-1 or HR-2 district where they are listed as permitted uses, then the above quoted exception from the height regulation appearing in Section 115-179.B. can be used to allow the building to be constructed at a height not exceeding 60 feet, without a variance. Since most hotels, motels or motor lodges would be located on existing C-1 lands or on CR-1 lands and could also be located on lands in a marine district, LI-1, HR-1 or HR-2, there is no apparent need for Council to consider creating a specific conditional use for hotels, motels or motor lodges.

Based on this analysis and agreement between those participating in the discussion, a decision was made to remove this item from the agenda on Tuesday, June 5, 2007.

J.D.G.

*Original document utilized auto-date feature. Memo was drafted in 2007 and I edited to reflect the year.

-Todd F. Lawson (3.28.2014)

5

ORDINANCE NO. ____

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

WHEREAS, Sussex County Code, Chapter 115, Article XXV, Section 115-179B currently permits (except in airport approach zones defined by the FAA) "public and semi-public, or public service buildings, hospitals, institutions and schools, when permitted in a district" to be constructed to a height not exceeding 60 feet; and

WHEREAS, Sussex County Code, Chapter 115, Article I, Section 115-4 defines "Public" as merely "open to common use- whether or not public ownership is involved" and said definition is very broad and would apply to many different types of buildings where the public is invited when applied to Section 115-179B of the Sussex County Zoning Code; and

WHEREAS, Sussex County Council desires to amend the Sussex County Code, specifically Section 115-179B thereof, to state that only government buildings, hospitals, institutions and schools may be constructed to a height of 60 feet when those uses are permitted in a district and are not located in an airport approach zone.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Code of Sussex County is hereby amended by deleting the phrase "public and semi-public, or public service buildings" from Section 115-179B as shown in brackets and adding the phrase "buildings owned by a political subdivision of the State of Delaware, the Federal Government or any agency thereof" as shown underlined:

§ 115-179. Height Regulations.

B. Except within an area defined as an airport approach zone by the Federal Aviation Administration, [public and semipublic or public service buildings,] buildings owned by a political subdivision of the State of Delaware, the Federal Government or any agency thereof, hospitals, institutions or schools, when permitted in a district, may be erected to a height not exceeding 60 feet and churches and temples may be erected to a height not exceeding 75 feet when the required side and rear yards are each increased by at least one foot for each one foot of additional building height above the height regulations for the district in which the building is located.

Section 2. This Ordinance shall take effect upon its adoption by Sussex County Council. It shall not apply to any structures or buildings exceeding 42 feet that have a valid Building Permit issued by Sussex County prior to the adoption of this Ordinance.

Synopsis

This Ordinance modifies Section 115-179B of the Sussex County Zoning Code to only allow government buildings, hospitals, institutions and schools to be built to a maximum height of 60 feet when those structures are permitted in the underlying zoning district. Churches and Temples are unaffected by this amendment. It applies to any new building not currently approved with a valid Sussex County Building Permit.

Deleted text is shown in brackets, additional text is underlined.

Sussex County Planning & Zoning Commission

April 1, 2014



DIVISION OF PLANNING

DelDOT Division of Planning

Development Coordination Section

Marc Cote
Assistant Director

2

Core Objectives

- ☐ Conduct Subdivision Street and Site Plan Reviews
- ☐ Perform Subdivision & Commercial Entrance Reviews
- ☐ Participate in the Preliminary Land Use Service (PLUS) Development Review Process
- ☐ Manage the Traffic Impact Study Review Process
- ☐ Manage the Corridor Capacity Preservation Program
- ☐ Coordinate Transportation Issues with Local Land Use Agencies

Overview



- ❑ DelDOT analyzes the impact of the proposed project with respect to traffic.
- ❑ A trip generation for the project is established according to the ITE Trip Generation Manual that takes into account the type of land use.
- ❑ Each land use codes has its own unique trip generation.
- ❑ Example a hotel is calculated by the number of rooms.

Overview



- ❑ Higher building heights allow for more mixed use type of designs.
- ❑ Reduced trips are a benefit to mixed use.
- ❑ Services are co-located near where people live.
- ❑ Greater density allows for infrastructure to serve more people. Transit is more viable.
- ❑ Aging population often needs more services and desires shorter trips.



Thank You!

Please contact Marc Cote at (302)760-2122 or marc.cote@state.de.us with any questions or comments.

View our Development Coordination regulations at [http://www.deldot.gov/information/pubs_forms/manuals/subdivisions/pdf/Subdivision Manual Revision 1 proposed 060110.pdf](http://www.deldot.gov/information/pubs_forms/manuals/subdivisions/pdf/Subdivision%20Manual%20Revision%201%20proposed%20060110.pdf)