Sussex County Council
Public/Media Packet

MEETING:
SEPTEMBER 18, 2012

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Sussex County Council
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Georgetown, DE 19947
(302) 855-7743

SUSSEX COUNTY COUNCIL
AGENDA

SEPTEMBER 18, 2012

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Daughters of the American Revolution (DAR) – Constitution Awareness Week Proclamation

Decorating Delmarva – Mark Cathell

The Greater Lewes Community Village – Barbara Vaughn

Todd Lawson, County Administrator

1. **Administrator's Report**

Susan Webb, Finance Director

1. **Proposed Resolution authorizing and providing for the incurrence of indebtedness for the purpose of providing a portion of the cost of acquiring, constructing, enlarging, improving, and/or extending sewer.**

   A. **Johnson's Corner Sanitary Sewer District ($5,225,000)**

   B. **Millville Sewer Expansion ($4,000,000)**

2. **Proposed Resolution entitled "TO SUBMIT A REQUEST FOR A REGIONAL WASTEWATER PLANNING GRANT TO THE CLEAN WATER ADVISORY COUNCIL FOR MATCHING FUNDS TO FINANCE A WASTEWATER RATE STUDY FOR SUSSEX COUNTY"**

Tom Glenn, Director of Information Technology

1. **Website Redesign RFQ (Request for Quotes)**

Juel Gibbons, Project Manager

1. **Airport Wetland Mitigation Project – Contract No. 11-06**

   A. **Change Orders Nos. 3 and 4**

Old Business

Conditional Use No. 1941
Delaware Electric Cooperative, Inc.

Grant Requests

1. **Nanticoke River Arts Council for various programs.**

2. **Historic Lewes Farmers Market for operating expenses.**

3. **Town of Millville for festival expenses.**

Introduction of Proposed Zoning Ordinances

Any Additional Business Brought Before Council

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

Possible Action on Executive Session Items

1:30 p.m. Public Hearings

Conditional Use No. 1942 filed on behalf of Douglas L. Boozer
"AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE, MAINTENANCE AND GENERAL OFFICE FOR CONTRACTING/ EXCAVATING SERVICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 10.56 ACRES, MORE OR LESS" (Tax Map I.D. 2-35-24.00-39.13) (land lying south of Road 252 (Huff Road) 2,000 feet west of Route 30 (Gravel Hill Road)

Conditional Use No. 1943 on behalf of Charles L. Williams
"AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTOMOTIVE REPAIR SHOP/GARAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.565 ACRES, MORE OR LESS" (Tax Map I.D. 3-34-9.00-1.03) (land lying at the north end of Summer Place, a private road, 265 feet north of Road 291 (Martins Farm Road) and being approximately 3,000 feet east of Route 5 (Harbeson Road)

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

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In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on September 11, 2012 at 5:10 p.m., at the time it was prepared by the County Administrator and at least seven (7) days in advance of the meeting. This Agenda is subject to change to include the addition or deletion of items, including Executive Sessions, which arise at the time of the Meeting.

Agenda items listed may be considered out of sequence.

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 11, 2012

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 11, 2012, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

Moment of Silence

A Moment of Silence was observed on the 11th anniversary of the 9/11 terrorist attacks in New York City, Washington D.C. and Shanksville, Pennsylvania.

Call to Order

Mr. Vincent called the meeting to order.

M 453 12 Amend and Approve Agenda

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to amend the Agenda by deleting "Job Applicants′ Qualifications", "Personnel" and "Land Acquisition" under "Executive Session"; and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of August 21, 2012 were approved by consent.

Employee of the Quarter

The Council recognized Louanne Rogers, Employee of the Third Quarter, an employee in the Engineering – Administration Department who has worked for the County since June 1980.

Appointments/ Advisory Committee

Mr. Lawson stated that, in the Council packets, information was provided regarding appointments to the Advisory Committee on Aging and Adults with Physical Disabilities for Sussex County. This Committee is an 11-member panel established by the Sussex County Council to be an advocate for programs and policies that benefit older and disabled residents. The Committee's mission is to increase dialogue, make recommendations to Sussex

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Appointments/ Advisory Committee for the Aging and Adults with Physical Disabilities (continued)

County Council and to give support, assistance, and advice on significant issues and programs that may affect the lives of the County's senior and disabled communities. The Committee is voluntary and it meets bi-monthly.

Mr. Lawson presented Administration's and Council's recommended appointments to the Committee for a term of two years (7 current members and 4 new members).

Councilman Phillips stated that, in the interest of full disclosure, he has made a recommendation that Scott Phillips be appointed to the Committee and that Scott Phillips is his brother. Councilman Phillips stated that he believes his brother, Scott Phillips, will be an asset to the Committee and to the citizens of the County that the Committee represents. Councilman Phillips commented on Scott Phillips' vast experience (30 years) working for the rights of those with disabilities.

M 454 12 Approve Appointments to the Advisory Committee for the Aging and Adults with Physical Disabilities

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council approves the following appointments to the Sussex County Advisory Committee on Aging and Adults with Physical Disabilities, effective August 1, 2012 for a term of two years:

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

Motion Adopted: **5 Yeas.**

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

Draft DelDOT 2013-2018 CTP Request

Mr. Lawson stated that, at the August 21st Council meeting, the Draft of the DelDOT 2013 - 2018 Capital Transportation Program Request was presented for the Council's consideration. As stated on that date, the County's priorities remain: improve the large traffic corridors including the east-west routes which have become increasingly congested and accident prone in recent years as well as the local roads, which continue to have increased use and deterioration.

Mr. Lawson stated that the Draft CTP was amended at the request of Mrs. Deaver to emphasize enhancing bicycle safety which is paramount in light

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Draft DelDOT 2013-2018 CTP Request (continued)

of recent tragedies involving motorists fatally striking cyclists on SR 1; the County urges DelDOT to take the necessary steps now to make improvements along SR 1 to insure pedestrian and bicycle safety is among its highest priorities.

Additionally, Mr. Lawson noted that a number of public comments have been received which the County will submit for the record with the final version of the CTP.

Mr. Lawson advised that, with the Council's approval, the CTP will be presented in final form to DelDOT at a Public Workshop scheduled on September 13th from 4:00 to 7:00 p.m. at the DelDOT South District Office in Georgetown.

Mrs. Deaver distributed copies of articles reporting different accidents that have occurred on Route 1.

M 455 12 Approve DelDOT 2013-2018 CTP Request

A Motion was made by Mr. Cole, seconded by Mr. Phillips, that the Sussex County Council approves the DelDOT 2013 - 2018 Capital Transportation Program Request, as presented for submittal.

Motion Adopted: 5 Yeas.

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

Administrator's Report

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

1. <u>Advisory Committee on Aging and Adults with Physical Disabilities for Sussex County</u>

Please be advised the Advisory Committee on Aging and Adults with Physical Disabilities for Sussex County will meet September 17, 2012, at the Sussex County West Administrative Complex in Georgetown. A copy of the agenda is attached. The guest speaker at the meeting is Denise L. Weeks-Tappan, Esquire, Planning Supervisor, Delaware Division of Services for Aging and Adults with Physical Disabilities, where she will be speaking on "*The Delaware State Plan on Aging, 2012-2015.*"

2. <u>Sussex County Emergency Operations Center Call Statistics – August</u>

Attached please find the call statistics for the Fire and Ambulance Callboard for August 2012. There were 18,324 total calls handled in the month of August. Of those 9-1-1 calls in August, 78 percent were made from wireless phones.

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Administrator's Report (continued)

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

As you will see from the attached Engineering Department Fact Sheets, Bayville Shores South – Phase 2 and Warrington Creek – Phase 4 (a/k/a Sawgrass) reached Substantial Completion effective August 22 and September 4, 2012, respectively.

4. <u>Delaware Aviation Hall of Fame 2012 Inductees</u>

On September 29th the Delaware Aviation Hall of Fame will hold its 2012 inductee ceremony where Mr. E. Newt Tyndall of Georgetown will be honored. Newt Tyndall flew 25 combat missions during World War II in B-29 bombers as a navigator. Mr. Tyndall was also the lead navigator on the flight of 500 B-29's over the USS Missouri during the Japanese surrender. Members of Council and the public are invited to attend the ceremony which will be held at the University of Delaware's Clayton Hall in Newark. For more information, visit <u>dahf.org</u>.

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

Proposed Extension of Public Works Agreement/ Georgetown Airport Center

Susan Webb, Finance Director, presented a proposal to extend a Utility Service Agreement between Georgetown Airport Center LLC and Sussex County. The original Agreement was entered into in 2010 for a term of two years and was for the purpose of the County providing sewer service, water service, and fire protection service to the King Farm Industrial Park. In accordance with the Agreement, Sussex County will provide the services but will not own any of the facilities within the Industrial Park; however, the facilities to be built there in the future are required to be built to Sussex County standards and specifications. The County will not perform any maintenance at the King Farm; however, the County will read the meters. Mrs. Webb reported that when the County entered into this Agreement, the County Engineering and Finance Departments established the rates and fees that cover the County's costs. She reported further that the original term of the Agreement was two years and that both parties wish to extend the Agreement until September 29, 2014. The term of the Extension Agreement shall commence on the date of execution and terminate on September 29, 2014; all other terms and conditions contained in the original Agreement shall remain in force and effect. The Extension Agreement has been reviewed and prepared with the help of the County Attorney.

M 456 12 Authorize Extension of Public Works Agreement (King Farm)

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, that the Sussex County Council authorizes its President to execute the proposed Extension to the existing Public Works Agreement with Georgetown Airport Center LLC in order to continue to allow Georgetown Airport Center LLC to transmit sanitary sewage from the King Farm Industrial Park through the County sewer lines for treatment and disposal by the Town of Georgetown and to continue to provide water and fire protection services to the King Farm

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M 456 12 Extension of Public Works Agreement King Farm (continued)

Industrial Park, as submitted on this date.

Motion Adopted: **5 Yeas.**

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

Old Business/ C/U No. 1936

Under Old Business, the Council considered Conditional Use No. 1936 filed on behalf Chester Townsend IV.

The Planning and Zoning Commission held a Public Hearing on this application on July 26, 2012 at which time action was deferred. On August 9th, the Commission deferred action again. On August 23rd, the Commission recommended that the application be approved with the following conditions:

A. The use shall be limited to a take-out style seafood vendor. Other than the few picnic tables that currently exist on the site, no additional seating shall be installed for food service. The existing picnic tables shall be shown on the Final Site Plan.

B. The use shall be seasonal, operating from April 1 through November 1, with hours of operation as stated by the Applicant of Thursday, Friday and Saturday from 11:00 a.m. to 8:00 p.m.

C. There shall only be one lighted sign on the site not to exceed 32 square feet in size. This limitation on the number of signs includes a prohibition against sign cut-outs, pictures, or replicas of various types of seafood, including lobsters, crabs, shrimp, etc. No feather flags or free standing signs of any shape or size shall be permitted. The location of the 32 square foot sign shall be shown on the Final Site Plan for the property.

D. The entrance shall be approved by DelDOT and noted and depicted on the Final Site Plan.

E. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.

F. No parking in the front yard setback shall be allowed. The designated parking area shall be shown on the Final Site Plan and clearly marked on the site itself.

G. This recommendation is contingent upon the Sussex County Board of Adjustment approving the mobile home type structure for a business.

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

The Council held a Public Hearing on this application on August 21, 2012 at which time action was deferred.

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M 457 12 Amend Proposed Conditions/ C/U No. 1936

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend Condition G, as follows: This recommendation is contingent upon the Sussex County Board of Adjustment approving the mobile home type structure for a business. <u>The application to the Board of Adjustment shall be filed within 30 days of this approval.</u>

Motion Adopted: 5 Yeas.

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

M 458 12 Adopt Ordinance No. 2275 (C/U No. 1936)

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2275 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FOOD VENDOR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRES, MORE OR LESS" (Conditional Use No. 1936) filed on behalf of Chester Townsend IV, with the following conditions:

A. The use shall be limited to a take-out style seafood vendor. Other than the few picnic tables that currently exist on the site, no additional seating shall be installed for food service. The existing picnic tables shall be shown on the Final Site Plan.

B. The use shall be seasonal, operating from April 1 through November 1, with hours of operation as stated by the Applicant of Thursday, Friday and Saturday from 11:00 a.m. to 8:00 p.m.

C. There shall only be one lighted sign on the site not to exceed 32 square feet in size. This limitation on the number of signs includes a prohibition against sign cut-outs, pictures, or replicas of various types of seafood, including lobsters, crabs, shrimp, etc. No feather flags or free standing signs of any shape or size shall be permitted. The location of the 32 square foot sign shall be shown on the Final Site Plan for the property.

D. The entrance shall be approved by DelDOT and noted and depicted on the Final Site Plan.

E. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.

F. No parking in the front yard setback shall be allowed. The designated parking area shall be shown on the Final Site Plan and clearly marked on the site itself.

G. This approval is contingent upon the Sussex County Board of Adjustment approving the mobile home type structure for a business. The application to the Board of Adjustment shall be filed within 30 days of this approval.

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

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M 458 12 (continued)

Motion Adopted: **5 Yeas.**

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

Grant Request

Mrs. Webb presented a grant request for the Council's consideration.

M 459 12 Council-manic Grant

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give $2,000.00 from Mrs. Deaver's Councilmanic Grant Account to the Milton Historical Society for various programs.

Motion Adopted: **5 Yeas.**

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

Introduction of Proposed Ordinances

Mr. Vincent introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A LI-2 LIGHT INDUSTRIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.91 ACRES, MORE OR LESS" (Change of Zone No. 1722) filed on behalf of Robert and Patricia Robinson.

Mrs. Deaver introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PUBLIC SERVICE BUILDING/USE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 4.35 ACRES, MORE OR LESS" (Conditional Use No. 1947) filed on behalf of CHEER Delaware.

The Proposed Ordinances will be advertised for Public Hearing.

M 460 12 Recess

At 10:38 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, to recess the Regular Session until 11:00 a.m.

Motion Adopted: **5 Yeas.**

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

M 461 12 Reconvene

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to reconvene at 11:03 a.m.

Motion Adopted: **5 Yeas.**

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M 461 12 (continued)

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

Public Hearing/ Proposed Dozer LLC Expansion to the Miller Creek SSD

A Public Hearing was held to consider the expansion of the Miller Creek Sanitary Sewer District (Dozer LLC Expansion) to include the remaining portion of tax map and parcel 134-19.00-19.00, lands of Dozer LLC. The area to be added adjoins the existing sewer district and is located on the north side of Double Bridges Road, east of the intersection with Parker House Road.

Rob Davis and John Ashman, Engineering Department staff, presented the information.

Public comments were heard.

Harold Dukes, one of the owners of Dozer LLC, reported that, previously, the County approached them regarding a site to build a pump station. Dozer LLC did not charge anything for the pump station site in lieu of including the entire parcel in the sewer district; at that time, a portion of the parcel was inadvertently left out.

In response to questions, Mr. Ashman stated that the Engineering Department does not have any problems with the proposed expansion and that there is sewer capacity available.

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

M 462 12 Adopt R 014 12 (Dozer LLC Expansion)

A Motion was made by Mr. Cole, seconded by Mr. Phillips to Adopt Resolution No. R 014 12 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE MILLER CREEK SANITARY SEWER DISTRICT (MCSSD) TO INCLUDE THE REMAINING PORTION OF TAX MAP AND PARCEL 134-19.00-19.00, LAND NOW OR FORMERLY OF DOZER, LLC, SITUATED PRIMARILY TO THE NORTH SIDE OF DOUBLE BRIDGES ROAD, SITUATED IN BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE".

Motion Adopted: **5 Yeas.**

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

M 463 12 Recess/ Go Into Executive Session

At 11:11 a.m., a Motion was made by Mr. Cole, seconded by Mr. Wilson, to recess the Regular Session and to go into Executive Session (for the purpose of discussing pending/potential litigation).

Motion Adopted: **5 Yeas.**

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M 463 12 (continued)

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

Executive Session

At 11:15 a.m., an Executive Session of the Sussex County Council was held in the Council Chambers/Council Caucus Room for the purpose of discussing pending/potential litigation. The Executive Session was recessed at approximately 12:30 p.m. The Executive Session reconvened at 1:41 p.m. and then ended at 1:50 p.m.

M 464 12 Reconvene Regular Session

At 1:52 p.m., a Motion was made by Mr. Phillips, seconded by Mr. Wilson, to come out of Executive Session and to reconvene the Regular Session.

Motion Adopted: **5 Yeas.**

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

Executive Session Action

Mr. Rutt stated that, during Executive Session, the Council considered the suggestion to approve the Consent Decree (in the matter of Mullin v. Sussex County) put forth by Counsel Scott Shannon.

M 465 12 Accept Consent Decree (Mullin Case)

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to accept the Consent Decree (in the matter of Mullin v. Sussex County).

Motion Adopted: **3 Yeas, 2 Nays.**

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

Councilwoman Deaver left the room and did not participate in the Public Hearing on Conditional Use No. 1938.

Public Hearing/ C/U No. 1938

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 THERAPIST OFFICE AND RESIDENCE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 22,161 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1938) filed on behalf of Karen Barwick.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on August 9, 2012 at which time the Commission recommended that the application be deferred. On August 23, 2012, the Commission deferred action again. On September 6, 2012, the Commission recommended that

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Public Hearing/ C/U No. 1938 (continued)

the application be approved with the following conditions:

1. **The use shall be limited to small group therapy sessions in addition to the one-on-one therapy sessions permitted as a home occupation.**
2. **There shall be no more than seven (7) participants in any group therapy session on the premises. The group sessions will also be limited to two (2) group sessions per week.**
3. **The parking shall be reconfigured to contain only seven (7) spaces, with barriers to prohibit parking on grassy areas. The single parking space nearest the "do not enter" signs shall be eliminated. One additional parking space shall be provided for a handicap space. The Applicant shall also install signage notifying clients that parking on Collins Avenue is prohibited.**
4. **The Applicant shall post a sign at the Collins Avenue exit identifying the reduced speed on that residential roadway.**
5. **The Applicant shall contribute a prorata share of all upkeep and maintenance costs of Collins Avenue.**
6. **There shall also be one lighted sign along Route 24 to identify the practice and the entrance. The sign shall not exceed 32 square feet in size per side, and it shall not be illuminated between the hours of 9:00 p.m. and 6:00 a.m.**
7. **The hours of operation shall be between 7:00 a.m. and 8:00 p.m. Monday through Saturday.**
8. **There shall not be any parking in the front yard setback.**
9. **All entrances and improvements shall comply with all of DelDOT's requirements.**
10. **The use shall be served by County Sewer when that service becomes available and shall comply with the requirements of the County Engineering Department regarding any improvements to the system that are required to serve the property.**
11. **The Applicant shall submit a revised Preliminary Site Plan addressing the conditions of this approval.**
12. **This approval is linked to the Applicant's therapy home occupation. As a result, this Conditional Use shall automatically expire in the event the Applicant no longer resides in the property and the home occupation is no longer valid.**
13. **The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

See the minutes of the Planning and Zoning Commission dated August 9, August 23, and September 6, 2012.

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

Mr. Lank distributed a packet of information previously provided by the Applicant.

The Council found that Karen Barwick was present with James Fuqua, Jr., Attorney. They stated that the Conditional Use request is minimal and is

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Public Hearing/ C/U No. 1938 (continued)

compatible with the home occupation that Karen Barwick has on the site; that it is complicated by the fact that it has access to two roads - Route 24 and the subdivision road of Collins Avenue; that Route 24 is a busy road and Collins Avenue is a very quiet street; that DelDOT is placing restrictions on the Route 24 access; that the residents do not want to be inconvenienced by the use of the Collins Avenue access; that they have tried to do everything possible to minimize the impact of the proposed use; that the application site is located just west of the Beebe Medical Campus; that a recent application for a doctor's office was withdrawn at this same location; that the Applicant is a Certified Licensed Therapist; that the site suits the Applicant's need providing her a residence and a location to meet her clients; that there will not be any employees; that one of the limitations on a home occupation is it does not permit group instruction or assembly; that the practice would not be a high intensity use; that the Applicant has purchased the property; that the Applicant anticipates seeing six to seven clients per day; that she typically sees one client at a time; that sessions typically last one hour; that a home occupation approval was granted to the Applicant, with the understanding that she has no employees and that there will be no group activities or assembly; that part of her practice occasionally requires group sessions or workshops with clients, therefore the need for the Conditional Use consideration; that group sessions are not held every day; that they propose a maximum of 10 group sessions per month; that the Planning and Zoning Commission recommended a maximum of two sessions per week and that is acceptable to the Applicant; that the Commission recommended a maximum of 7 people per session; that 10 people in a group session is the minimum for the sessions to be effective and to service the clients; that reducing the number of people per session would have an adverse impact on some of the groups already established; that the suggested conditions of approval reference limitations for group sessions; that DelDOT will limit access to the site from the existing entrance on Route 24; that the entrance shall be for ingress traffic only and all egress movements shall be from the site to Collins Avenue to Plantation Road; that there are no deed restrictions for the street maintenance of Collins Avenue; that suggested conditions of approval provide that the Applicant shall share in the cost of maintenance and repair of Collins Avenue proportionately with other property owners on Collins Avenue; that the Applicant replaced the septic system; that the Applicant is requesting one lighted 32 square foot sign; that this request is a reasonable extension of the home occupation by allowing for group sessions; that the application meets the necessity of the Code for Conditional Uses; that the use will be compatible to the area; that the site is in close proximity to other business uses; that the site is located in a developing area; that adequate space is available on the site for parking; that the hours of operation proposed are from 9:00 a.m. to 8:00 p.m. Monday through Friday and 9:00 a.m. to 3:00 p.m. on Saturday and Sunday; that Sunday hours are important as that is the only convenient day for some people; and that the purpose of the Conditional Use is to permit group sessions as part of the home occupation.

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Public Hearing/ C/U No. 1938 (continued)

Mr. Fuqua asked that any previously submitted proposed conditions submitted on his behalf be disregarded and he distributed the following amended proposed conditions:

A. The use shall be limited to small group therapy sessions in addition to the one-on-one therapy sessions permitted as a home occupation.
B. There shall be no more than ten participants in any group therapy session on the premises and no more than two group therapy sessions shall be held per week.
C. Parking spaces shall be provided as shown on the parking exhibit (submitted as an attachment to the amended proposed conditions) with barriers to prohibit parking on the grassy areas. The Applicant shall also install signage notifying clients that parking on Collins Avenue is prohibited.
D. The Applicant shall post a sign at the Collins Avenue exit identifying the reduced speed on that residential roadway.
E. The Applicant shall contribute a prorata share of all upkeep and maintenance of Collins Avenue.
F. There shall also be one lighted sign along Route 24 to identify the practice and the entrance. The sign shall not exceed 32 square feet in size per side, and it shall not be illuminated between the hours of 9:00 p.m. and 6:00 a.m.
G. The group sessions shall be held between the hours of 9:00 and 8:00 p.m. Monday through Friday, and 9:00 a.m. and 3:00 p.m. on Saturday and Sunday.
H. Clients shall be advised that access to the site shall be from Route 24 but client egress from the site shall be by way of Collins Avenue to Plantation Road. Vehicles exiting the site will be staggered so that no more than two vehicles will exit at a time. No exiting is permitted onto Route 24.
I. All entrances and improvements shall comply with all of DelDOT's requirements.
J. The use shall be served by County Sewer when that service becomes available and shall comply with the requirements of the County Engineering Department regarding any improvements to the system that are required to serve the property.
K. This approval is linked to the Applicant's therapy home occupation. As a result, this Conditional Use shall automatically expire in the event the Applicant no longer resides on the property and the home occupation is no longer valid.

Mr. Cole expressed concern about the enforcement of the conditions. He also questioned if the Applicant's share of the cost of road maintenance should be greater since she will have more people using the road compared to other residents.

Mr. Vincent questioned the Applicant's proposed conditions by referencing parking in the front of the house. Mr. Fuqua clarified that only the Applicant would park in the front; that there would be no client parking in

DRAFT

Public Hearing/ C/U No. 1938 (continued)

the front of the property.

Mr. Lank read into the record an email from Rose Imhof in opposition to the application.

Public comments were heard.

There were no public comments in support of the application.

Jesse Imhof, resident of Collins Avenue, spoke in opposition to the application. He stated that Collins Avenue is a narrow unpaved road; that he has been maintaining the road for the last 13 years with area residents helping to pay for maintenance costs; that he questions who will determine the amount each resident will pay for maintenance; that the Applicant will be operating a business and she should pay more; that the road already shows wear from existing traffic; that he is opposed to the business operating seven days a week; that he is opposed to the group session aspect of the application as it will have too great an impact on Collins Avenue; that traffic problems already exist; and that the road is a residential road.

William Blizzard, resident of Collins Avenue, spoke in opposition to the application. He stated that he has no issue with the use of her home as a home occupation; that he is opposed to the proposed use for group sessions; that the group sessions will increase the traffic on Collins Avenue; and that they already deal with traffic problems in the area, especially during the summer months.

The Public Hearing and the public record were closed.

Mr. Cole suggested that the Council defer action to consider the equitable use of Collins Avenue.

M 466 12 Defer Action on C/U No. 1938

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to defer action on Conditional Use No. 1938 filed on behalf of Karen Barwick.

Motion Adopted: 4 Yeas, 1 Absent.

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

Mrs. Deaver rejoined the meeting.

Public Hearing/ C/U No. 1939

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 RECEPTION USE, I.E. WEDDINGS, BIRTHDAYS, RETIREMENTS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY,

DRAFT

Public Hearing/ C/U No. 1939 (continued)

CONTAINING 6.59 ACRES, MORE OR LESS" (Conditional Use No. 1939) filed on behalf of Jacqueline Tyson-Hope.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on August 9, 2012 at which time the Commission recommended that the application be denied.

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

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

The Council found that Joseph Hope was present on behalf of the application and he stated that the intent is to have wedding receptions, anniversary parties and birthday parties approximately 4 times a year; that the road accessing the site is a private road; that one person lives behind his property and that they share in the costs for the road; and that he resides on the site.

Mr. Lank stated that the Bailey's Landing Subdivision (4 properties) has access across the H&H Brand Farms, Inc.; that the road is 12 foot wide until it gets to the Bailey's Landing property, then it is a 60 foot wide right-of-way within the subdivision.

Mr. Rutt stated that if someone is granted an easement, under law, that person should not do anything to increase the burden on the easement.

Mr. Lank stated that the existing 12 foot dirt road was established in the Court of Chancery by Civil Action 1658 and that the location of the road was established by survey as of April 7, 2000. Mr. Lank distributed a copy of Civil Action 1658.

Public comments were heard.

There were no public comments in support of the application.

Public comments were heard in opposition to the application.

Dennis Schrader, Attorney, was present in opposition to this application on behalf of Wright Properties, the adjacent landowner. He stated that the application is not typical; that there is no site plan showing parking, other activities, etc.; that there is no indication if there will be rooms for let for people to stay overnight; that he questions what kitchen facilities will be needed; that he questions if liquor service will be a part of the process; that there is no indication of any signage; that the greater concern is that the intention of the Comprehensive Land Use Plan limits uses that are adaptable to the designation given to this site; that the Plan states that this is a low density area that is intended for agricultural activities and single

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Public Hearing/ C/U No. 1939 (continued)

family detached homes; that, at times, businesses are permitted within a low density area but those are businesses that support the needs of agricultural activities or single family homes; that the site is in a Level 4 Area in the State Strategies for Spending Map; that there is no central water system on the site; that there is no central wastewater transmission or treatment facility intended or available in the area; that transportation infrastructure is an issue because there is only a 12 foot road that services the property; that there is a question as to whether this site can be safely used; that no comments have been received from the State Fire Marshal's office, the Health Department, the fire department, DNREC, Soil Conservation, etc.; that in the absence of the site plan and the inadequacy of septic and well, there is a question to be asked as to whether or not this site can be used for the proposed use at all; that the roads are not paved; and that there are no similar activities or commercial uses in the area.

Mr. Schrader distributed copies of the plot plan and copies of an aerial photo of the area.

Lawrence Steele, Attorney, spoke in opposition to the application on behalf of Jeffrey G. Hastings, President of H&H Brand Farms, Inc. He stated that there is in the file, and he asks that it be incorporated into this Public Hearing, a letter from Mr. Hastings, dated August 7, 2012, which indicates the nature of the easement and that he will not allow an expansion of the 12 foot road over his property; that in the file there is also a letter dated August 7, 2012 that he submitted setting forth the position of Mr. Hastings and certain objections; that there are actually 5 lots in Bailey's Landing Subdivision; that in Mr. Hastings' letter he stated that no additional width for this road will be allowed over lands owned by the Corporation and the Corporation will not allow the excess use of this woods road across its lands for the purpose proposed by the Applicant; that the Final Order of the Court of Chancery limiting this to a 12 foot wide road is recorded in the Office of the Recorder of Deeds; that the revised plot from 2007 is a matter of record; that safety issues are raised by the 12 foot road; that once the road leaves the subdivision it is 12 feet wide; that the road is 1,800 feet long; that this roadway does not provide an adequate roadway for anything of the type being requested in this application; and that emergency vehicles will have difficulty accessing this property – the road will not allow a fire truck going in and an ambulance going out at the same time. Mr. Steele referenced litigation in the Court of Chancery and he requested that the case and the final order be made a part of the record.

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

M 467 12 Approve C/U No. 1939 (DENIED)

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to approve Conditional Use No. 1939 filed on behalf of Jacqueline Tyson-Hope.

Motion Denied: 5 Nays.

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M 467 12 (continued) **Vote by Roll Call:** **Mrs. Deaver, Nay; Mr. Cole, Nay; Mr. Phillips, Nay; Mr. Wilson, Nay; Mr. Vincent, Nay**

Public Hearing/ C/U No. 1940

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 PHYSICAL TRAINING STUDIO AND GYM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 33,418.9 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1940) filed on behalf of Phil DePenna.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on August 9, 2012 at which time the Commission deferred action. On August 23, 2012, the Commission recommended that the application be approved with the following conditions:

A. The use shall be for a physical training studio and gym situated on the first floor of the existing building on the site.
B. One lighted sign, not to exceed 32 square feet in size, shall be permitted.
C. Parking for clients shall be clearly marked on the site and the location of the parking spaces shall be included on the Final Site Plan.
D. All entrances and roadway improvements shall be subject to the requirements of DelDOT.
E. 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 August 9 and 23, 2012.

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

The Council found that Phil DePenna was present and he stated that he is proposing a physical training studio and gym which he will operate with his son; that the facility is approximately 1,225 square feet; that they propose a membership of approximately 50 people; that they will live upstairs above the facility; that they propose the hours of operation to be 8:00 a.m. to 9:00 p.m. seven days per week; that they anticipate 6 or 7 clients in a class at one time; and that they believe the facility will be a benefit to the community.

Mr. DePenna distributed copies of a diagram of what he proposes at the facility.

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

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M 468 12 Adopt Ordinance No. 2276 (C/U No. 1940)

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2276 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PHYSICAL TRAINING STUDIO AND GYM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 33,418.9 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1940) filed on behalf of Phil DePenna, with the following conditions:

A. The use shall be for a physical training studio and gym situated on the first floor of the existing building on the site.
B. One lighted sign, not to exceed 32 square feet in size, shall be permitted.
C. Parking for clients shall be clearly marked on the site and the location of the parking spaces shall be included on the Final Site Plan.
D. All entrances and roadway improvements shall be subject to the requirements of DelDOT.
E. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion Adopted: 5 Yeas.

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

M 469 12 Adjourn

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to adjourn at 3:42 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

DRAFT

SUSSEX COUNTY COUNCIL

A PROCLAMATION TO DECLARE SEPTEMBER 17-23 AS CONSTITUTION WEEK

WHEREAS, the Sussex County Council wishes to recognize organizations for their contributions to the betterment of our community; and

WHEREAS, the Captain Jonathan Caldwell Chapter of the Daughters of the American Revolution of Milford and other DAR chapters across the United States serve as volunteer, patriotic organizations that promote education and historic preservation; and

WHEREAS, in support of its mission, the Daughters of the American Revolution will lead the country's celebration of Constitution Week from September 17, 2012, through September 23, 2012; and

WHEREAS, the United States of America functions as a republic under the Constitution, the oldest written national constitution still in active use, which outlines the self-government of a people; and

WHEREAS, this landmark idea that ordinary citizens had the inalienable right as individuals to be free, living their lives under their own governance, was the impetus of the American Revolution; and

WHEREAS, the tradition of celebrating the Constitution began more than 50 years ago by the Daughters of the American Revolution, when, in 1956, President Dwight D. Eisenhower officially declared September 17 through September 23 as Constitution Week; and

WHEREAS, the intent of the celebration is to emphasize citizens' responsibilities for defending, protecting and preserving the Constitution for posterity; to inform the people that the Constitution is the basis for America's great heritage and the foundation for our way of life; and to encourage the study of the historical events which led to the framing of the Constitution in 1787;

NOW, THEREFORE, BE IT RESOLVED that the Sussex County Council hereby declares September 17 through September 23 as Constitution Week in Sussex County, and be it further resolved that all citizens are encouraged to reflect on the duty committed to each of us by our forefathers – to preserve, protect and defend the Constitution, and the freedoms it guarantees, for generations to come.

DRAFT

_____

Michael Vincent, Council President

DECORATING DELMARVA

Holiday Festival of Lights

Uniting Communities Across the Shore

DECORATING DELMARVA

"HOLIDAY FESTIVAL OF LIGHTS"

Dear ***Councilman Michael Vincent and the Sussex County Council,***

We are Create 1 Dream Foundation of Seaford, Delaware and we would like to share an exciting opportunity coming to our area in **November, 2012**! **Decorating Delmarva *"Holiday Festival of Lights"*** is coming to the grounds of the *U.S. 13 Dragway and Delaware International Speedway.* This unique event will encompass 120 acres with an approximate 2 mile drive through holiday festival for all residents of the Delmarva Peninsula. A tour through the North Pole, various holiday displays, lights, music and more will dazzle the hearts of kids from 1 to 100! *"Creating Unity Back in our Communities"* is our slogan, for what we feel will become a new Eastern Shore Tradition.

This will be a charitable event benefiting local schools, non-profit organizations, churches, local non-profit clubs and volunteer fire departments across the entire peninsula. Proceeds from advanced ticket sales, contest, donations and sponsorships will stay right here on the Eastern Shore.

Our goal will be to include many area schools from *Sussex County*. The children are our future! We need to support our local educational institutions to ensure every child has the opportunity to receive a quality education. We also feel very strongly about recognizing charitable, non-profits, churches, volunteer fire companies and support organizations in the *Sussex County* area. We are committed to giving these groups the opportunity to raise additional monies to help them reach their goals.

The above stated goals are just a few examples of the opportunities *Sussex County* will receive while participating in our event. We feel our ability to incorporate *Sussex County* in every aspect and/or path we follow will not only bring positive acknowledgement and exposure to the County but a huge economic impact potential as well. We would appreciate your consideration in allowing us the opportunity to present to Council in the near future.

Sincerely,

Mark Cathell
CEO/Create 1 Marketing
Fonder/Create 1 Dream Foundation

call: 302.396.0831 11543 Baker Mill Rd. Seaford, DE 19973 Create 1 Marketing

Create 1 Dream Foundation
www.decoratingdelmarva.com

WHAT: Decorating Delmarva Holiday Festival of Lights

WHERE: U.S. 13 Dragway and Delaware International Speedway

WHEN: November 2012 –January 2013

WHO: Residents and guests of the Delmarva Peninsula

Coming this fall to Delmarva is "Decorating Delmarva Holiday Festival of Lights" presented by Peninsula Homes, Pepsi and Chick-Fil-A. This 36-night event will consist of six major parts on a 2 mile tour through an animated tour of the North Pole, holiday lights, and community built displays and will conclude in an area recognized as Santa's Village. In Santa's Village there will be nightly festival events held in an activity area for children including, Mr. & Mrs. Claus, holiday music, fire pits and nightly entertainment. The Delaware International Speedway and U.S.13 Dragway properties located in Delmar, Delaware with its 120 acre Motorsports Complex will be the location of this one of a kind event which should shortly become a new Eastern Shore Tradition and destination spot for Delmarva! The event will be hosted by the Create 1 Dream Foundation, a 501 C 3 Non-Profit organization located in Seaford, DE and founders Mark and Denise Cathell.

The show will operate every Thursday, Friday, Saturday, and Sunday evening beginning November 15, 2012 through December 23, 2012. On December 25, 2012 the event will be open consecutive nights until January 5, 2013. Gates will open week nights 6pm -10pm and weekends 6pm-11pm. We will have a New Years Eve celebration on December 31, 2012 with extended hours to 1am.

This charity event will support several groups on the Peninsula including, but not limited to, local schools, charity groups, non-profit organizations and clubs, churches and volunteer fire companies. These groups will be able to participate in a variety of ways. One way will be selling advanced tickets, event tickets will be priced at $15 per ***car load*** to the event and a ***$5.00 donation*** for each sale going back to each respective group from *Create 1 Marketing*.

They will participate in contests according to the age level of school or organization:

- Elementary students will participate in a coloring contest
- Middle school students will have a tree decorating contest
- High school students will show off their talents by preparing and building a holiday display to be showcased throughout the event route – maximum 50' x 20' x 12' display area for high school holiday display decorating contest
- Charity groups, Non-profit Clubs and Organizations, Churches and Volunteer Fire Companies will show off their talents by preparing and building a holiday display to be showcased throughout the event route –maximum 50' x 20' x 12' display area for holiday display decorating contest

Create 1 Marketing will be awarding **$2,500** to Elementary and Middle School contest winners. All outdoor Holiday Display winners will receive **$5,000** for the most popular display in each category. This totals over $35,000 in prize monies going back to the community.

By partnering with these groups and organizations, we feel they will see a tremendous return on the dollar. *Create 1 Marketing* hopes this event will bring something new and exciting for the area groups to utilize for fundraising campaigns. This will be a local event with resident's involvement showcasing their talents to be seen by thousands of residents of the Eastern Shore. Delaware Senator Robert Venables Sr. states, "Our communities have been in desperate need of an event like this for many years now."

We are expecting over 75,000 visitors to pass through our gates during this 36 night event. The exposure for your company, group or organization can be tremendous. Not only will you have the opportunity to reach residents from your local area, but the possibility of networking with folks from all across the peninsula. Contact Mark Cathell at 302-396-0831 or e-mail create1marketing@comcast.net to set up an appointment today! Check out our new website at **www.decoratingdelmarva.com**

GREATER LEWES COMMUNITY

Village

Greater Lewes Community Village

What is a village?

Villages are consumer-driven, grass-roots organizations that, through both volunteers and paid staff, coordinate access to affordable services including transportation, health and wellness programs, home repairs, social and educational activities, and other day-to-day needs enabling individuals to remain connected to their community throughout the aging process.

Examples of services offered by the Village:

⇒ Volunteer:
- Transportation
- Help with mail sorting and bill payments
- Minor home maintenance
- Friendly visits

⇒ Discounted Fee for Service (screened service vendors)
- Home modifications
- Lawn maintenance
- House Cleaning
- Plumbing
- Roofing
- Major Household repairs
- Pet Care
- Personal Care

⇒ Educational & Cultural Activities

⇒ Exercise Programs

⇒ And much more based on community needs

www.greaterlewescommunityvillage.com phone: 302-827-3452

THE GREATER LEWES COMMUNITY VILLAGE

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

Goals:

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

Accomplishments:

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

Future Tasks:

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

Prepare to launch

Position 5

RUS BULLETIN 1780-27

APPROVED
OMB. No. 0575-0015

(Automated 8-97)

LOAN RESOLUTION
(Public Bodies)

A RESOLUTION OF THE Sussex County Council

OF THE County Government

AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS Sewer Treatment Johnson's Corner Sanitary Sewer District

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the Sussex County Council
(Public Body)
(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of $2,000,000.00
pursuant to the provisions of the Title 9, Delaware Code; and

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning. financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of $10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction

COPY

11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities and replacement of short lived assets.
15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
17. To accept a grant in an amount not to exceed $ 1,570,000.00

    under the terms offered by the Government; that the President

    and County Council of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

The vote was: Yeas _____ Nays _____ Absent _____

IN WITNESS WHEREOF, the County Council of the

Sussex County has duly adopted this resolution and caused it

to be executed by the officers below in duplicate on this _____ , _____ day of _____

_____

(SEAL) By Michael H. Vincent

Attest: Title President, Sussex County Council

_____

Title Robin Griffin, Clerk of County Council

COPY

CERTIFICATION TO BE EXECUTED AT LOAN CLOSING

I, the undersigned, as Clerk of the Sussex County Council

hereby certify that the County Council of such Association is composed of

_____ members, of whom , _____ constituting a quorum, were present at a meeting thereof duly called and

held on the _____ day of _____ ; and that the foregoing resolution was adopted at such meeting

by the vote shown above, I further certify that as of _____ , the date of closing of the loan from the United States Department of Agriculture, said resolution remains in effect and has not been rescinded or amended in any way.

Dated, this_____ day of _____

_____

Title Clerk of the County Council

COPY

Position 5

RUS BULLETIN 1780-27

APPROVED
OMB. No. 0575-0015

(Automated 8-97)

LOAN RESOLUTION
(Public Bodies)

A RESOLUTION OF THE Sussex County Council

OF THE County Government

AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS Sewer Treatment Millville Sewer Expansion

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the Sussex County Council
(Public Body)
(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of $4,000,000.00

pursuant to the provisions of the Title 9, Delaware Code; and

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning. financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of $10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction

COPY

11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities and replacement of short lived assets.
15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
17. To accept a grant in an amount not to exceed $ 1,000,000.00

    under the terms offered by the Government; that the President

    and County Council of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

The vote was: Yeas _____ Nays _____ Absent _____

IN WITNESS WHEREOF, the County Council of the

Sussex County has duly adopted this resolution and caused it

to be executed by the officers below in duplicate on this _____ , _____ day of _____

(SEAL) By Michael H. Vincent

Attest: Title President, Sussex County Council

Title Robin Griffin, Clerk of County Council

COPY

CERTIFICATION TO BE EXECUTED AT LOAN CLOSING

I, the undersigned, as Clerk of the Sussex County Council

hereby certify that the County Council of such Association is composed of

_____ members, of whom , _____ constituting a quorum, were present at a meeting thereof duly called and

held on the _____ day of _____ ; and that the foregoing resolution was adopted at such meeting

by the vote shown above, I further certify that as of _____ , the date of closing of the loan from the United States Department of Agriculture, said resolution remains in effect and has not been rescinded or amended in any way.

Dated, this_____ day of _____

_____

Title Clerk of the County Council

COPY

RESOLUTION

TO SUBMIT A REQUEST FOR A REGIONAL WASTEWATER PLANNING GRANT TO THE CLEAN WATER ADVISORY COUNCIL FOR MATCHING FUNDS TO FINANCE A WASTEWATER RATE STUDY FOR SUSSEX COUNTY

WHEREAS, the Sussex County Council proposes to do a wastewater rate study to review existing sewer rates; and

WHEREAS, a review, update and revision to current methodology for connection charges, assessment rates and service charges are needed; and

WHEREAS, Sussex County proposes to enter into a contract with Municipal & Financial Services Group to prepare the rate study and make recommendations; and

WHEREAS, the Clean Water Advisory Council offers grants to assist in financing wastewater planning (including rate studies) that recognize and are consistent with the County's Comprehensive Plan and the goals of *Shaping Delaware's Future*; and

NOW, THEREFORE,

BE IT RESOLVED THAT the Sussex County Council of Sussex County, Delaware hereby directs the Finance Department to submit a Regional Wastewater Planning Grant application to the Clean Water Advisory Council for up to $25,000.00 in matching funds to assist in financing a sewer rate study.

September 18, 2012

DRAFT

SUSSEX COUNTY

Review of Sewer and Water Rates and Fees

GENERAL SCOPE: Review, update and suggest revisions (if appropriate) to methodology for calculation of connection charges and annual assessment charges for sewer and water; update annual service charges as needed.

THEME: Development of a long-term financial plan for the County's sewer and water utilities, based on solid, low-risk business practices that will provide quality service at low rates over time.

PROJECT WORKPLAN

1. Data Collection – compile, index and file (in an electronically accessible format) relevant documents and data needed to support cost of service, rates and fees for the County's sewer and water systems, including the versions of the models the County is now using (if changes were made internally to the models developed for the County several years ago). Information to be compiled and reviewed includes but is not limited to the following data:

- Engineering studies
- Capital improvement programs (CIPs)
- Financial statements (CAFR, fixed asset reports, MD&A, etc.)
- Official statements from bond sales (i.e., bond covenants, coverage ratios, etc.)
- Operating and capital budgets
- Policy and procedure manuals
- Existing financial models
- Inter-local agreements, if any
- Settlement agreements or consent decrees related to litigation
- Prior cost of service rate studies/projections (including 1989 study)
- Prior capital cost recovery fee (i.e., connection fee) studies or analyses
- Existing customer rate classes and the historical basis therefore
- Population data (census data, growth projections, etc.)
- Historical and projected usage and demand data
- Ordinances, resolutions or policy statements from the County Commissioners
- Detailed usage/flow data for customer classes and large/unique customers

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- Comprehensive plans, master plans, etc.

This data will be compiled, indexed and summarized for ease of use in this and subsequent updates.

2. Policy Reviews – review and discuss with County staff, then get concurrence from County Commissioners (if needed) to identify:

- Purpose of each type of charge (connection fee, annual service charge, annual assessment charge) – what costs are supposed to be included in each charge?
- Any desires to change the current rate designs (which is difficult to do absent readily accessible and formatted metered consumption data)
- Adequacy of reserves – too high, too low?
- Adequacy of reinvestment and maintenance budgets
- Number of different rate / fee schedules – simplify to maximum extent that is (1) legally permissible and (2) politically acceptable
- Alternative rate designs – based on bedrooms, square footage, etc.(if there is any desire to consider such alternatives)

There may be other policy issues that the County wants to be included in / excluded from the study.

3. Revenue Requirements – determine the total annual revenue needs of the wastewater utility, including funds to cover:

- Operating costs – based on approved or pending operating budget, plus agreed upon inflation rates going forward
- Existing debt service – how much is growth-related, how much is upgrades / replacements?
- Planned capital projects – growth vs. non-growth
- Reserves – in accordance with County policies / practices

4. Cost of Service – functionalize operating and capital costs, allocating each to components (customer costs, collection, treatment, disposal, etc.) and segregate into growth and non-growth categories.

5. Demand / Growth Projections – what growth rate for customers? What growth rate in sewer generation per customer? In water consumption per customer?

6. Rate Adequacy – compare projected revenue at current rates with projected expenses on a year-by-year basis for the next 5-10 years

7. Recommended Rates / Fees – based on projected growth-related capital costs, review / suggest revisions to connection charges; to the greatest practicable extent, suggest consolidation / simplification of connection charges. Based on projected non-growth related capital costs, including costs of system upgrades, major maintenance and reinvestment, review adequacy of

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annual assessment charges; to the greatest practicable extent, suggest consolidation / simplification of annual assessment charges. Review the adequacy of current annual service charges and suggest further simplification / consolidation as appropriate.

8. Report / Presentations – document all work performed during the project in a draft final report; revise the draft report based on comments from the County; develop a formal presentation of the study's results and recommendations for use at public hearings. Working with County staff, conduct meetings with stakeholder groups (developers, citizen / taxpayer groups, senior citizens, chamber of commerce, etc.). If desired, conduct a workshop for elected officials; train County staff in the use of models developed/upgraded during the staff.

ESTIMATED SCHEDULE & COSTS

Draft report in eight weeks, assuming that needed data is available. Estimated cost will not exceed $50,000, assuming at least some consolidation/simplification of rates and only minor changes to the structure of current rate and fee designs. Schedule assumes a meeting with the County attorney very early in the project, to determine legal constraints and restraints on consolidation / simplification of fees and rates.

DRAFT

TODD F. LAWSON
COUNTY ADMINISTRATOR

Sussex County

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

Memorandum

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

FROM: Todd F. Lawson
County Administrator

RE: ***SUSSEX COUNTY WEBSITE PROJECT***

DATE: September 14, 2012

During the Tuesday, September 18th Council meeting, you will hear an update and the results of the Request for Quotes from Tom Glenn concerning the initiative to upgrade the County's website.

As you know, enhancing the County's virtual presence remains one of my top priorities, and the focal point for this effort is the County's website. The FY 2013 budget was approved with funding specifically for this project. It is my goal to enhance our efficiency and effectiveness when it comes to providing customer service and accessing information through our web portal. As I often say, if we can provide a service to a citizen that allows them to receive that service without having to drive to Georgetown, both parties benefit.

In my view, the website also serves as the virtual "face" for the County, and it is in need of a drastic facelift. With this example in mind, when people are researching the County to plan a visit or to determine if they want to locate a business here, the website is always the first point of reference. If our website is not up to the level of performance that is required or desired, we are losing economic opportunities.

Finally, the website the public will see and use is also the "backbone" of our internal upgrades that are currently being implemented through the ERP and Tyler Technology project. As you know, Council previously approved the Tyler project, and aspects of this extensive upgrade are already being used. A new website design is imperative to being able to realize the full capacity of the Tyler improvements.

If you have any questions, please don't hesitate to contact me.

TFL/sww

pc: Ms. Susan M. Webb, CPA
Ms. Gina A. Jennings
Mr. Thomas E. Glenn

CONTRACT 11-06 AIRPORT WETLAND MITIGATION PROJECT

CHANGE ORDERS NOS. 3 AND 4

Contractor: Bunting and Murray Construction Corporation

Original Contract Amount: $420,813.00

Change Order #3

String line trimming/mowing to remove invasive plant species……$6,980.66

Change Order #4

Herbicide treatment……$5,790.00

Total for Change Orders 3 and 4……$12,770.66

Contract Price with previous change orders……$429,037.58

Contract Price incorporating current change orders……$441,808.24

OLD BUSINESS
September 18, 2012

This is to certify that on August 9, 2012 the Sussex County Planning and Zoning Commission conducted a public hearing on the below listed application for Conditional Use. At the conclusion of the public hearing, the Commission moved and passed that this application be forwarded to the Sussex County Council with the recommendations as stated.

Respectfully submitted:

COUNTY PLANNING AND ZONING
COMMISSION OF SUSSEX COUNTY

Lawrence B. Lank
Director of Planning and Zoning

The attached comments relating to the public hearing are findings of the Planning and Zoning Commission based on a summary of comments read into the record, and comments stated by interested parties during the public hearing.

C/U #1941 – application of **DELAWARE ELECTRIC COOPERATIVE, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a solar electric generation facility, to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 40 acres, more or less, lying southeast of Trap Pond Road (Route 62) approximately 840 feet northeast of Road 518 (Substation Road)(Tax Map I.D. 1-35-22.00-23.00 (Part of).

The Commission found that the Applicants submitted surveys/site plans of the property and project along with an Exhibit Booklet with their application, and that the Exhibit Booklet contains a summary of proposed construction, references to existing site conditions, references to a wetlands and water of the United States investigation, agency review coordination, an aerial map of existing conditions, a photo location map, photos of the site, a minor subdivision plan, a preliminary site plan depicting proposed construction, solar panel information sheets, photos of similar solar electric sites, a letter from DNREC Division of Soil and Water Conservation, a letter from DNREC Division of Water, a letter from the U.S. Army Corps. of Engineers, an aerial map of the Water of the United States, and suggested proposed Findings of Fact and Conditions of Approval.

Mr. Lank advised the Commission that an email was received from the Applicant's Attorney, Terry Jaywork, advising that there is an error on Page 35 of the Exhibit Booklet in reference to the number of homes that could be served by the project, and that Phase I of the project could serve the referenced 500 homes, and that a total of 870 homes could be served by Phase I and Phase II of the project; that the Cooperative held an open house on July 30, 2012 to provide information to the residents of the area; that invitations were sent to approximately 37 property owners, and that only 4 property owners attended; and that no one expressed any opposition.

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

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

The Commission found that Terry Jaywork, Attorney for the Delaware Electric Cooperative, Inc., Mark Neilson, Vice President of Delaware Electric Cooperative, Inc., and Walt Hoey, Professional Engineer with Century Engineering, were present on behalf of this application and stated in their presentations and in response to questions from the Commission that the site is surrounded by farm land and a small tract of woodland; that the renewable energy statute mandates that the Cooperative meet 25% of their overall demand with green infrastructure; that the project should provide for good environmental use of the site and should be good for the economy; that the solar panels are proposed to be manufactured in Newark and should create a minimum of 40 jobs; that the solar farm will be less impacting on the area residents than agricultural uses; that the solar farm will not require any chemical uses, and should not create any dust, odors or noises once completed; that the Cooperative held a public meeting at the Cheer center on July 30, 2012 to get comments from area residents; and that they had sent out notices to approximately 37 landowners, but only four area residents attended.

Mr. Jaywork presented the Commission with a map of the area depicting parcels in colors for properties owned by area residents that were invited and attended the workshop; property owners that were invited to the workshop; property owners that were within 200 feet of the solar farm site that were invited and attended or did not attend; a copy of the list of 37 property owners that

were invited; a draft copy of the letter sent to the 37 property owners notifying them of the workshop; and a copy of the sign-in sheet for attendance at the workshop.

Mr. Jaywork asked that their Exhibit Booklet, surveys/site plans, and the information and map relating to the workshop be made a part of the record for this public hearing.

The Commission found that Mr. Jaywork, Mr. Hoye, and Mr. Neilson continued with the presentations and stated that the Cooperative is only purchasing 40 acres of the larger acreage tract; that the site is approximately 0.5 mile from a Cooperative substation; that the use will create minimal impact on the area; that the project will be developed in two phases; that the first phase will include 16,000 solar panels on approximately 20 acres with access roads throughout; that the second phase will include 12,000 solar panels on 20 acres with additional access roads; that the phases will be fenced with chain-link fencing with barbwire on the top; that low growing plants will be planted for ground cover to eliminate weeds and help control grasses; that a similar solar farm exists in Kent County; that once completed, there should only be one maintenance vehicle checking the site per week; that there will be some small transformers on the site which may create a humming noise that should not be heard outside of the boundaries of the site; that two finger ditches on the site will be filled; that 6 ditches exists and are not jurisdictional; that there is a tax ditch on the farm, but it is outside of the construction area; that the first phase should require approximately 3 to 4 months of construction activities; that they hope to have the first phase completed by early 2013; that the second phase should be started within five years; that grasses and weeds will be maintained in the area of the solar panels and along fencing; and that the fence will be gated for access.

The Commission found that John Sergovic, Attorney with Sergovic, Carmean & Weidman, P.A. was present in support on behalf of his client, Heritage Lands, LLC, and stated that the contract allows the seller to possibly develop the residual lands for residential uses; that this facility should enhance the development of the residual lands due to the green infrastructure proposed.

The Commission found that Sondra Ware, Real Estate Broker, was present in support and stated that the use supports good stewardship of the land; that other project types could be detrimental to the area; that the green effect of solar panels creates an economic benefit for the area; and that there will be minimal run-off from the project.

The Commission found that Paul Reed, Donna Atkinson, and Carol Reed were present in opposition to this application and expressed concerns that they did not get notice of this public hearing; that they live within 200 feet of the property; that the use will destroy their property values; that they will lose the value on their homes; that they do support green energy; that the use will create a fenced-in eyesore; that there are other areas more suitable for this type of use, i.e. an industrial park; questioning the size of the transfer boxes referenced on the site plan; expressing concerns about lead leaching into the groundwater; questioning if a substation will be

located on the site; questioning what happens if the project is abandoned; expressing concerns about the possible impact on health issues since there are records that indicate that electrical facilities cause cancers; and questioning what the four red poles are along Substation Road.

The Commission found that Mr. Neilson responded that the transformers on site measure approximately 4' by 4' and are 3' or 4' tall and will be set on concrete slabs; that the transformers are all located to the interior of the site; that there are four proposed transformers in the first Phase and three in the second Phase; that the red poles are location markers for future poles, or guide wires, that will support larger conductors; that solar panels create direct current and do not pose any hazards to area residents; that the height of the solar panels proposed are 5 feet 10 inches from grade to the top of the panel; and that they reviewed a number of sites for the solar farm, and that this site was chosen because it is within close proximity to a Cooperative substation.

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

Mr. Lank advised the Commission that the Applicants provided the list of property owners within 200' of the specific application site, not the entire property, which meets the requirement of the application process.

Mr. Ross stated that he would move that the Commission recommend approval of C/U #1941 for the Delaware Electric Cooperative, Inc. for a solar electric generating facility in an AR-1 District based upon the record made at the public hearing and for the following reasons:

1) The proposed facility is a public utility use under the Sussex County Zoning Code and it meets the purposes of a Conditional Use in that it is of a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.

2) The proposed use will not have any adverse impact on the neighboring or adjacent properties. It is bordered on the East by a collector ditch and an unoccupied wooded area, on the South by a tax ditch and a large tract of tilled agricultural land, on the West by East Trap Pond Road and another large tract of tilled agricultural land, and on the North by yet another large tract of tilled agricultural land. The nearest residence to the proposed use, which appears to be unoccupied and abandoned, is approximately 0.1 mile from the proposed use. The nearest occupied residence is approximately 0.2 mile from the site.

3) The proposed solar electric generation facility will be constructed in two phases. The first phase will generate four megawatts of solar electric power and a second phase will add an additional three megawatts of solar electric power. The combined total of these two phases will provide sufficient renewable green energy for approximately 870 homes.

4) The proposed solar generation facility will not result in a noticeable increase in traffic on adjacent and neighboring roadways. It is expected that only one vehicle trip per week on average is anticipated for inspections, maintenance and repair of the solar panels.

5) The Delaware Department of Transportation has reviewed the proposed plan and has issued a "letter of no objection" with regard to the plan.

6) The facility will be "eco-friendly". In its first year of operation, it will decrease approximately 12, 641 pounds of carbon-based generated electricity. This is the equivalent of taking 1, 239 automobiles off the road.

7) This recommendation is subject to the following conditions:

   A. No storage facilities shall be constructed on the site.

   B. Lighting on the facility will consist only of perimeter lighting for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.

   C. One unlighted sign, not to exceed 32 square feet in size, shall be permitted.

   D. The site shall be secured by fencing. A locked 38 foot wide gate will permit access to the site from East Trap Pond Road, with a "Knox Box" to accommodate emergency access by the local fire company.

   E. If the solar electric generation facility is non-operational for a period of 12 months, the Delaware Electric Cooperative, Inc. or assigns must return the site to its original state within a 12 month period.

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

Motion by Mr. Ross, seconded by Mr. Smith, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 4 – 0.

NANTICOKE RIVER Art

September 3, 2012

To: President Mike Vincent and members of the Sussex County Council

The Nanticoke River Arts Council continues to work tirelessly to promote downtown Seaford and bring to the community cultural and artistic experiences. This year we have participated in the opening of the western Sussex Farmer's Market and provided free face painting for their Kid's Day; participated in Riverfest, also offering free face painting for children and adults; have hosted groups from the Nanticoke Senior Center, the Red Hat's, and the Methodist Manor House; provided a speaker for the Widowed Persons Service and upcoming in September for the Kiwanis Club. We have held art classes in a variety of art mediums for children and adults, including Art Camps during the summer for children.

Sussex County Council has generously supported us in the past, and we again ask that you do so this year with $1,000 to help offset expenses. We are an all-volunteer group of artists and friends dedicated to our community. Our upcoming events include our annual Garden Party on September the 15th in the backyard of Act II Florist on High Street, and our first ever juried show at Gallery 107 on October the 5th. We are very proud of our new location at 324 High Street. You are invited to stop by and see for yourself, during open hours or by appointment, what we are all about. If there are any questions, please do not hesitate to contact me.

Thank you,
Christina Darby
President, Nanticoke River Arts Council

4408 Woodland Church Rd., Seaford, DE 19973 **Ph.302-629-4321**

March 13, 2012

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

Re: Request for Donation to Historic Lewes Farmers Market

Dear Councilperson Deaver:

I write to you as the Chairman of the Board of Directors of the Historic Lewes Farmers Market (HLFM) about funding for important initiatives to expand the availability of fresh, wholesome farm products to Sussex County residents.

As you know, the HLFM is a Sussex County-based, volunteer-run organization that serves Sussex County citizens and visitors. The HLFM's mission, unique in Sussex County, is to support sustainable agriculture through its 36-vendor market, educational programs (including demonstrations and informational lectures), website (historiclewesfarmersmarket.org) offering useful and timely information about sustainable agriculture and nutrition, children's programs, sale of discounted books on sustainable agriculture, and grants to Delaware and other Delmarva farmers to enhance their knowledge of sustainable agriculture practices.

The HLFM is the most well-established and successful market in Sussex County. The popularity of the HLFM has grown steadily each year over the HLFM's six years of operation. This past market season, Memorial Day through October 2011, the HLFM attracted between 2,000 and 3,000 patrons each week. As Delaware's Secretary of Agriculture Ed Kee has noted, the HLFM "has become part of the [the region's] fabric and traditions in just a few short years." This year, the HLFM's patrons, including a multitude of Sussex County citizens and visitors, showed their overwhelming support for the HLFM by voting the HLFM as "America's Favorite Farmers Market" in the medium market category in a national contest run by the American Farmland Trust, as well as by selecting the HLFM's market as a Delaware's Favorite in Delaware Today's contest.

As the most visible and viable farmers market in Sussex County, the HLFM has provided invaluable advice and counsel to other communities and organizations seeking to establish a local farmers market. For example, the HLFM has advised the Rehoboth and Bethany Beach farmers markets. Furthermore, many of the Delmarva farmers supported by the HLFM now are able to provide their produce at these other farmers markets, in addition to the HLFM, thereby broadening the availability of fresh, nutritious, and responsibly grown farm products to Sussex County residents.

The HLFM applauds the Sussex County Council's recent decision to provide a grant of $2,500 to the City of Millville to assist Millville's efforts to establish a farmers market. The Millville market master recently attended the HLFM's farmers market workshop, and we support and are available to assist that market and others.

While the HLFM is very successful, the HLFM keeps its fees to vendors at a minimum and remains financially viable largely through its fundraising efforts. The HLFM could, and would, do even more to bring fresh produce and expand education about sustainable agriculture in Sussex County if it had additional funds. Most significantly, this funding would assist the HLFM to introduce Supplemental Nutritional Assistance Program (SNAP) through Electronic Benefits Transfer (EBT) into our market. As you know, the SNAP program provides subsidies for

the purchase of food to the elderly and disabled through EBT. The HLFM is very interested in having the means to acquire and implement EBT at our Market. With the ability of the HLFM to offer EBT to SNAP recipients, the economically disadvantaged seniors and disabled residents of Sussex County would have greater access to the nutritious, wholesome foods available at our farmers market. More generally, additional funding would enable the HLFM to continue and enhance our outreach and support of local farmers.

We believe that the HLFM makes a meaningful and important contribution to Sussex County. A grant from the Sussex County Council would enable us expand our contribution. For these reasons, we ask that you consider making a grant of $1,000 to the HLFM. We would be happy to discuss this request with you and provide any additional materials concerning the HLFM's mission and operations. The HLFM contact is HLFM Board member Bonnie Osler who can be reached at 302 645 4853.

Thank you for your consideration of this request.

Sincerely,

Hattie Allen
Chairman
Board of Directors
Historic Lewes Farmers Market
(302) 644 1436

29 August 2012

George B. Cole
Sussex County Councilman
29271 Woods Edge Drive
Ocean View, DE 19970

Dear George,

It's that time of year again when I solicit funding for our annual "Millville Great Pumpkin Festival." This year marks our 4th year bringing the community together for a day of fun which will be held on October 6th, 11 till 4.

The citizens of Millville and the Town Council would be most appreciative if the Sussex County Council could donate monies to us once again as you have done in the past to keep economic development alive in Millville. You've always found our projects worthy of your consideration and I hope you will continue.

I would like to share with you that the Millville Farmer's Market has had a stellar year and the farmer's want to join our October festival. The Department of Agriculture has been more than pleased with our numbers each week.

Once again, thanks in advance if you will be able to help us out!

Respectfully,

Deborah Y. Botchie
Town Manager

To Be Introduced 9/18/12

District 3

ORDINANCE NO. ___

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LAND APPLICATION OF CLASS "B" SANITARY WASTE, NON-SANITARY FOOD PROCESSING RESIDUALS, AND POTABLE WATER IRON RESIDUALS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 259.08 ACRES, MORE OR LESS (Tax Map I.D. 3-30-3.00-7.00, and 3-30-4.00-1.00, 1.01 to 1.04, 1.08 to 1.16, 19.00, and 21.00)

WHEREAS, on the 12th day of September 2012, a conditional use application, denominated Conditional Use No. 1946 was filed on behalf of Clean Delaware, LLC; and

WHEREAS, on the _____ day of _____ 2012, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 1946 be _____; and

WHEREAS, on the ____ day of _____ 2012, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1946 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, Delaware, and lying on both sides of Road 201 (McColley Road) and north of and across from Road 202 (Stockley Road) and being more particularly described as 17 parcels of land owned by Lynn A. McColley and Karen K. McColley, said parcels containing 259.08 acres, more or less.

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

DRAFT

PUBLIC HEARINGS

September 18, 2012

This is to certify that on August 23, 2012 the Sussex County Planning and Zoning Commission conducted public hearings on the below listed applications for Conditional Use. At the conclusion of the public hearings, the Commission moved and passed that these applications be forwarded to the Sussex County Council with the recommendations as stated.

Respectfully submitted:

COUNTY PLANNING AND ZONING
COMMISSION OF SUSSEX COUNTY

Lawrence B. Lank
Director of Planning and Zoning

The attached comments relating to the public hearings are findings of the Planning and Zoning Commission based on a summary of comments read into the record, and comments stated by interested parties during the public hearings.

C/U #1942 – application of **DOUGLAS L. BOOZER** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for storage, maintenance and general office for contracting/excavating services, to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 10.56 acres more or less, lying south of Huff Road (Road 252) 2,000 feet west of Route 30 (Tax Map I.D. 2-35-24.00-39.13).

The Commission found that on August 13, 2012 the Applicant provided an Exhibit Packet for consideration. The Packet includes an aerial photograph of the site; a listing of Key Personnel of Pennoni Associates, Inc.; qualifications of Mark H. Davidson and Douglas D. Barry, P.E. of Pennoni Associates, Inc.; a copy of the site plan for the project; a copy of the application form; a copy of the deed to the property; a copy of the survey to the property; a copy of the Service Level Evaluation Request sent to DelDOT; a DelDOT Support Facilities Report, dated October 10, 2011, on the site; a Site Evaluation Report from Atlantic Resource Management, Inc. submitted to DNREC; a copy of the Tax Map of the area; suggested proposed Findings of Fact; suggested proposed Conditions of Approval; a copy of a letter from Robin West in support of the application; and a fax from Richard L. Malone in support of the application.

Mr. Lank advised the Commission that a letter from James Cassidy was received in support of the application referencing that the use will have no negative effect on the surrounding area and that the business has had a positive effect on the area during extreme weather events such as heavy snow fall in recent years.

The Commission found that Douglas Boozer was present with Mark Davidson of Pennoni Associates, Inc. and that they stated in their presentation and in response to questions raised by the Commission that the site is predominantly wooded except for the area around the building; that the driveway and entrance already exists; that according to the State Strategies the site is located in a Level 4; that the Applicant has lived along Huff Road for approximately 19 years; that the Applicant lives across from the site; that Mr. Davidson has a Conditional Use on his property for his surveying business; that the Applicant is a licensed septic installer; that the Applicant has been in the installation and excavating business for approximately 12 years; that that site is located in a Low Density Area according to the Comprehensive Plan; that the Applicant performs lot clearing and digs footers, foundations, basements, underground storage tanks, test pits, and installs septic systems; that the Applicant also uses his equipment for snow removal; that currently the Applicant has five (5) employees; that the site will provide an area for storage of his equipment so that employees can access the office and equipment to go to job sites; that a security gate already exists; that the storage building is approximately 450 feet from Huff Road; that they are proposing to include an office, storage bins for materials, and six (6) parking spaces for employees; that there is adequate space available for parking for additional vehicles, if needed; that an on-site well exists; that a septic system approval has been issued; that they currently do not have a need for the septic system, so a porta-toilet is utilized; that they will comply with all Sussex Conservation District requirements; that they have offered suggested proposed Conditions of Approval and Findings of Fact in the Exhibit Packet; that they are proposing greater setbacks that those required; that the building is screened from view from Huff Road; that all repair work will be performed inside the building; that the closest residence is approximately 600 feet away; that the driveway will be increased to 24 feet width; and that a 50-foot wide buffer will be depicted on the site plan.

Mr. Davidson added that, personally and as a neighbor, he and his neighbors appreciate the snow and tree removal performed by the Applicant during extreme winter events in the past.

The Commission found that there were no parties present in support of or in opposition to this application.

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

On August 23, 2012 there was a motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

On September 13, 2012 the Commission discussed this application under Old Business.

Mr. Smith stated that he would move that the Commission recommend approval of C/U #1942 for Douglas Boozer for storage, maintenance and a general office for contracting and excavating services based upon the record made at the public hearing and for the following reasons:

1) The proposed Conditional Use will provide a service to Sussex County residents and businesses. In addition to contracting and excavating, the Applicant is a licensed septic installer. He also provides snow removal services for County businesses and residents.

2) The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community. It is in the center of a predominantly wooded area and there are no houses in close proximity to the use.

3) The operation of the business will not generate a significant increase in traffic or noise, since the majority of the work will be conducted off-site.

4) No parties appeared in opposition to the Application, and there were actually several letters in support of it.

5) This recommendation for approval is subject, however, to the following conditions and stipulations:

   A. There will only be one unlighted sign on the premises that shall not exceed 32 square feet on each side.

   B. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on neighboring properties.

   C. The hours of operation shall be 6:00 a.m. to 6:00 p.m., Monday through Friday, and 7:00 a.m. to 2:00 p.m. on Saturday.

   D. All loading areas, storage areas and trash container areas shall be screened by the existing wooded vegetation currently located on the site, with a minimum vegetated buffer of at least 50 feet from all property lines. The buffer area shall be shown on the Final Site Plan.

   E. As stated by the Applicant, all repair work shall be performed inside of the building.

   F. All entrances and roadway improvements required by DelDOT shall be completed by the Developer as required by DelDOT.

   G. Stormwater management and erosion and sediment control facilities shall be constructed in accordance with all applicable State and County requirements and shall be maintained utilizing best management practices.

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

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions and stipulations stated. Motion carried 3 – 0. Mr. Burton and Mr. Johnson were absent.

C/U #1943 – application of **CHARLES L. WILLIAMS** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an automotive repair shop/garage, to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.565 acres, more or less, lying north end of Summer Place, a private road, 265 feet north of Road 291 (Martins Farm Road) and being approximately 3,000 feet east of Route 5 (Tax Map I.D. 3-34-9.00-1.03).

Mr. Lank reminded the Commission that they had been provided with a copy of a letter from the Applicant which concluded with his reasons for requesting a Conditional Use, and the potential concerns with a Conditional Use.

The Commission found that DelDOT provided comments in the form of a Support Facilities Report, dated July 5, 2012, referencing that a traffic impact study was not recommended, and that the current Level of Service "A" of Road 291 will not change as a result of this application.

Mr. Lank advised the Commission that on May 12, 2012 he had sent the Applicant a letter in reference to activities in the garage; that he could not receive any goods, services, or payment from anyone or it will be considered that a business is being operated from the garage/property; that he is not operating a business from the garage, only providing a location where friends and neighbors can gather socially and enjoy a hobby of doing repair work on their vehicles using his lift and tools; that he could not receive payment for his services for assisting friends and neighbors in doing repair work or for the use of his lift and/or tools, or garage; that we had been receiving complaints about the possibility of a business being operated; that the Department would be periodically checking the property for compliance with the regulations; that the County reserves the right to pursue any appropriate remedies to enforce a violation of any County Codes; and offering an explanation of the requirements for a Conditional Use for an auto repair shop.

Mr. Lank provided the Commission with copies of his letter which responded to a letter from the Applicant. The Applicants letter, dated April 13, 2012, was also provided.

Mr. Lank provided an aerial photograph of the site for the Commissions review.

Mr. Lank provided the Commission with a packet of photographs of the site, the easement to the site, the garage, the interior of the garage, and signage placed along Martin Farm Road for review.

Mr. Lank provided the Commission with a packet of seven (7) letters in support of the application for review.

Mr. Lank provided the Commission with a packet of 64 letters in opposition to the application for review, and advised the Commission that 34 of the letters were based on a form letter, 15 of the letters were based on another form letter, five (5) of the letters were submitted by one of the neighbors; and 10 of the letters were submitted by individuals.

Mr. Lank advised the Commission that copies of all of the correspondence would be made available to the Commission upon their request.

The Commission found that Charles Williams was present with John Brady, Attorney, and that they stated in their presentation and in response to questions raised by the Commission that the Applicant is not eligible to receive payment for services due to his disability insurance; that the Applicant is asking for the opportunity to have a mechanic on site to provide the repair services and be paid by the vehicle owner for those services; that the Applicant has lived on the site for approximately 12 years; that this application is for a Conditional Use that can have stipulations and conditions imposed, not a change of zoning; that the Applicant built the garage so that he could socialize with friends while working on cars; that normal hours would be from 9:00 a.m. to 8:00 p.m. Monday through Saturday; that there would not be any Sunday hours since the Applicant is an Assistant to a Pastor of one of the churches in the County; that no signage is proposed; that there are at least six (6) other businesses along this area of Martins Farm Road, i.e. lawn maintenance, contractors, small engine repair, etc.; that the Applicant could assist the mechanic by going to local parts stores for parts; that no additional buildings are proposed with this application; that the Applicant basically has a hobby that he shares with others; that the Applicants goal is to be at peace with his neighbors; that he wants to provide a service to area residents; that he does not work on cars; that he was forced to file this application because of the complaints; that he has allowed his friends to work on their vehicles for approximately four (4) years; that they leave the garage doors open when working on engines to release exhaust fumes; that he is willing to provide exhaust hosing to release the fumes so that the doors can be closed; that the compressor noise can be remedied by moving the compressor to the rear of the building and building an enclosure around the compressor; that the noise created is no greater than a typical lawnmower; that some of the neighbors have fired firearms on their properties which has startle the Applicant and probably the horses on the neighboring property; that access to the site is through an easement across the front lot owned by Robert Walker, Jr.; that the driveway was recently paved to repair the driveway after damages from moving a modular home; that the Applicant had met with Robert Walker, Jr., the property owner in front of his property, and

shook hands on the driveway repairs; that the Applicant is willing to post signage about the safety of children in the area; that the number of vehicles being repaired at any one time will not exceed two (2) vehicles; that the garage can tightly store six (6) vehicles; that there will be no more than two (2) vehicles stored on the site, other than the Applicant's personal vehicles; and that this application is not a zoning change, it is a Conditional Use application for a specific use.

The Commission found that Mr. Brady submitted some hand written suggested Conditions of Approval and a copy of the tax map of the area for reference purposes.

Mr. Griffin advised the Commission that the survey does show that an easement exists to serve the site.

The Commission found that Robert Remondi, a neighbor, Wayne Miller, a friend, Frank Murphy, a friend, Nina Bennett, a friend, Steve Scarfo, a nearby resident, Chris Bennett, a friend, Joseph Harris, a nearby resident, Allen Sheldon, the mechanic, Pastor Allen Miller, and Robert Rankin, a nearby resident, were present and spoke in support of the application referencing that the Applicant has always offered his tools for use by neighbors and friends; that the use has been a benefit to the neighbors; that the use has been operated as a hobby; that there is not disturbing noise from the shop; that the Applicant does not charge for use of his tools or lift; that the Applicant is always helpful to his neighbors and friends, the community, and members of his church; that the Applicant's medical condition does not allow him to work; that the fellowship activity is essential for the Applicant's health and wellbeing; that the garage is well kept and maintained; that there are other businesses in the area; that there should be no negative impact on the area; that the garage has two large doors on the front and one large door on the back; that the rear door could be left open for ventilation; that one of the supporters has offered to provide air conditioning for the building so that the doors could remain closed during activities; that parts are not throw about; that the site is well maintained; that the work performed is typically performed by vehicle owners and friends; that some of the vehicles repaired are custom cars or hot rods; that those vehicles emit no more noise that the motorcycles owned by neighboring property owners; and that the Applicant only wants to be a good neighbor and work with his neighbors.

The Commission found that Robert Walker, Jr., Luther Layton, Louis Capano, John and Patricia Reimer, John and Gladys Kane, Margaret Foulke, George DeFrehn, and Marlene Henry were present and spoke in opposition to this application expressing concerns about property values; care and maintenance of the private access to the site; noise; use and smell of petroleum products; air and ground pollution; signage; the impact on the quality of life and privacy; depreciation of property values; traffic on a private easement; trespassing; children's safety; the lack of safety signage; the loss of privacy; vandalism to mailboxes in the area; personal threats; the impact on the residential area; abandoned vehicles; tow trucks and delivery trucks to and from the site; the impact on the agricultural area, including the impact on farming operations, i.e.

poultry farms, horse farms, and other farm activities; increased traffic, noise and safety concerns along Martins Farm Road; that hiring a mechanic is not a hobby use; that a need was not shown for a repair shop; the number of vehicles waiting for repair; that the lot is small compared to other parcels in the area and the garage, by comparison, is large; that most of the supporters are not area residents; that there are no restrooms available; that work has been performed on vehicles outside of the garage; concerns about the S-curves on Martins Farm Road; that horses are ridden along Martins Farm Road; that the Fire Marshal has concerns about the close proximity between the house and the garage on the site; that the use does not appear to be a hobby due to the number of vehicles to and from the site, including multiple parts vehicles, the late hours of operation, and the open door activities; that the Applicant was cited for junk and/or abandoned vehicles being on the site, and that those vehicles were removed and relocated to other properties in the area and elsewhere; that the building permit issued was for a pole building, not an auto repair garage; that they are concerned about the lack of fencing and the amount of impervious surfaces; that the use does not meet the standards of the Comprehensive Plan for permitted uses in a Low Density Area; that the use does not meet the standards for a Conditional Use in the Zoning Code; that a precedent may be set for other similar uses in the area; that the Applicant's friends should be working on their own vehicles on their own property to see if their neighbors object, not impact neighbors in this area; that there is no benefit or need for this use in this neighborhood; that horses have been spooked from activities at the garage; that fences have had to be repaired from activities on the site; that the Applicant has been seen working on as many as 15 to 20 vehicles per day; that the neighbors are opposing this application and any future business activities in the area; and that the use negatively impacts the quality of life for the residents in the area.

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

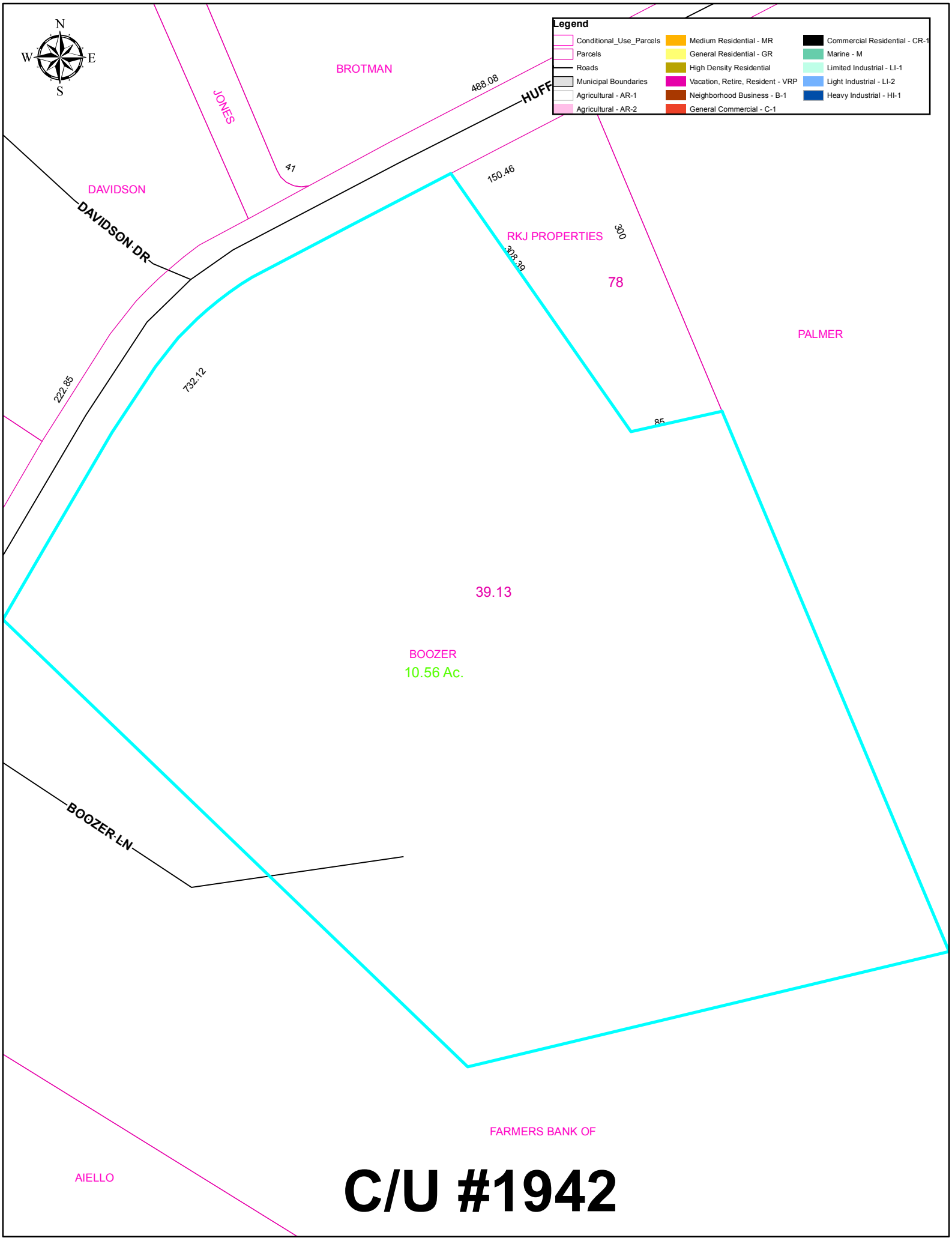
On August 23, 2012 there was a motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

Mr. Lank advised the Commission that he could have staff copy all of the comments received to date and forward them to the Commission for review.

On September 13, 2012 the Commission discussed this application under Old Business.

Mr. Smith stated that the Commission had received a lot of information and testimony both for and against this application.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to defer action for further consideration. Motion carried 3 – 0. Mr. Burton and Mr. Johnson were absent.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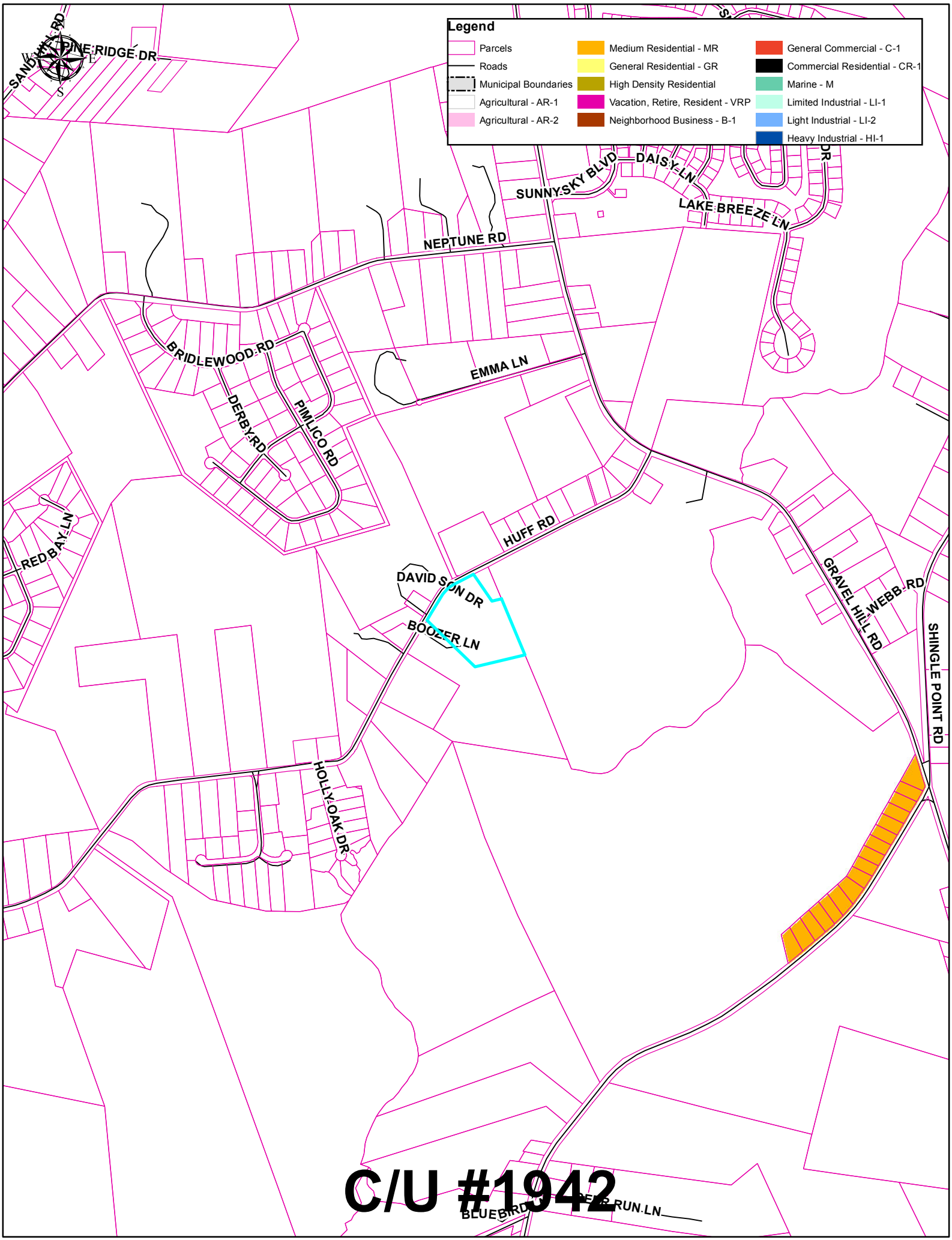
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NEPTUNE RD
BRIDLEWOOD RD
EMMA LN
DERBY RD
PIMLICO RD
RED BAY LN
HUFF RD
DAVID SON DR
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HOLLY OAK DR
BLUEBIRD
DEER RUN LN

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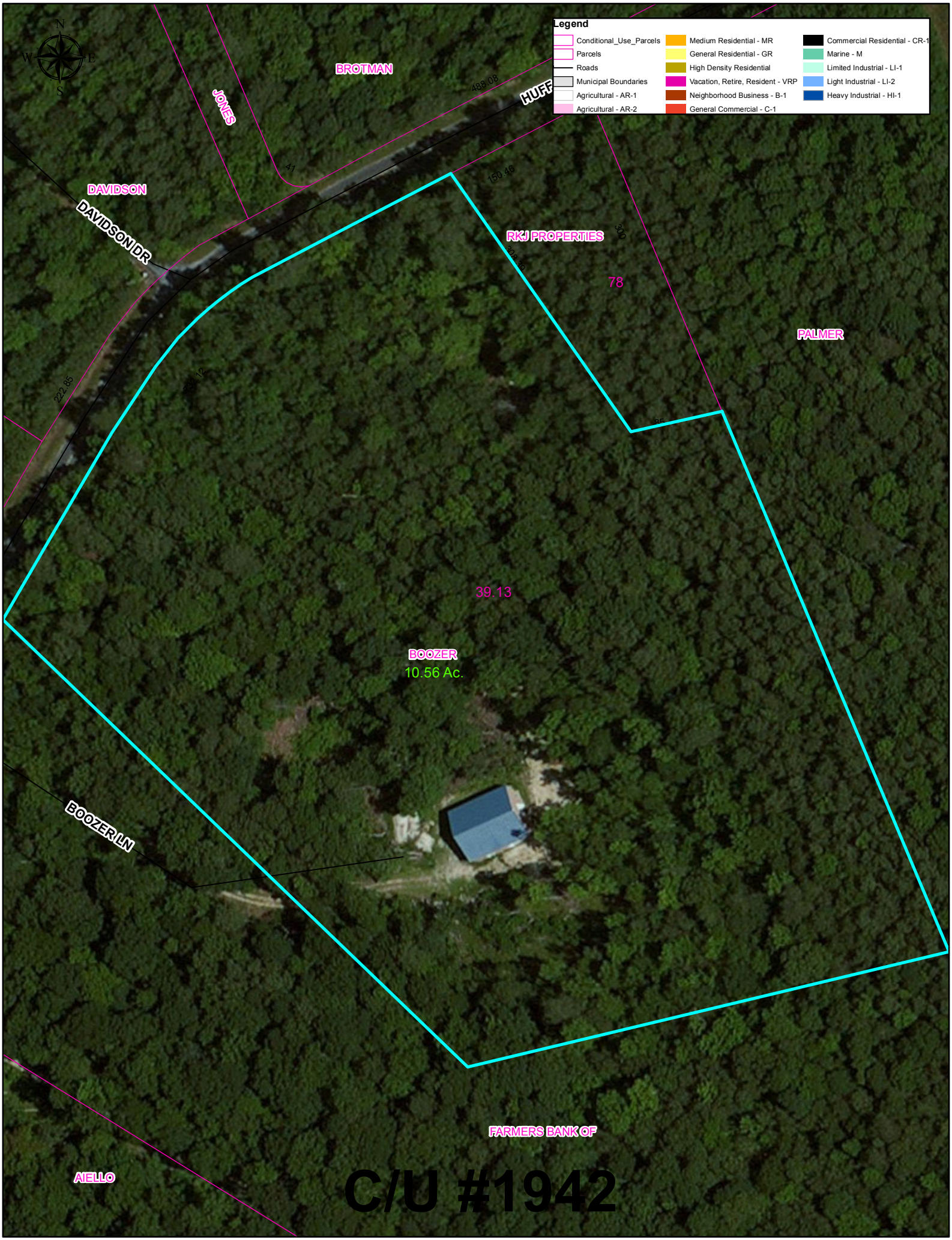
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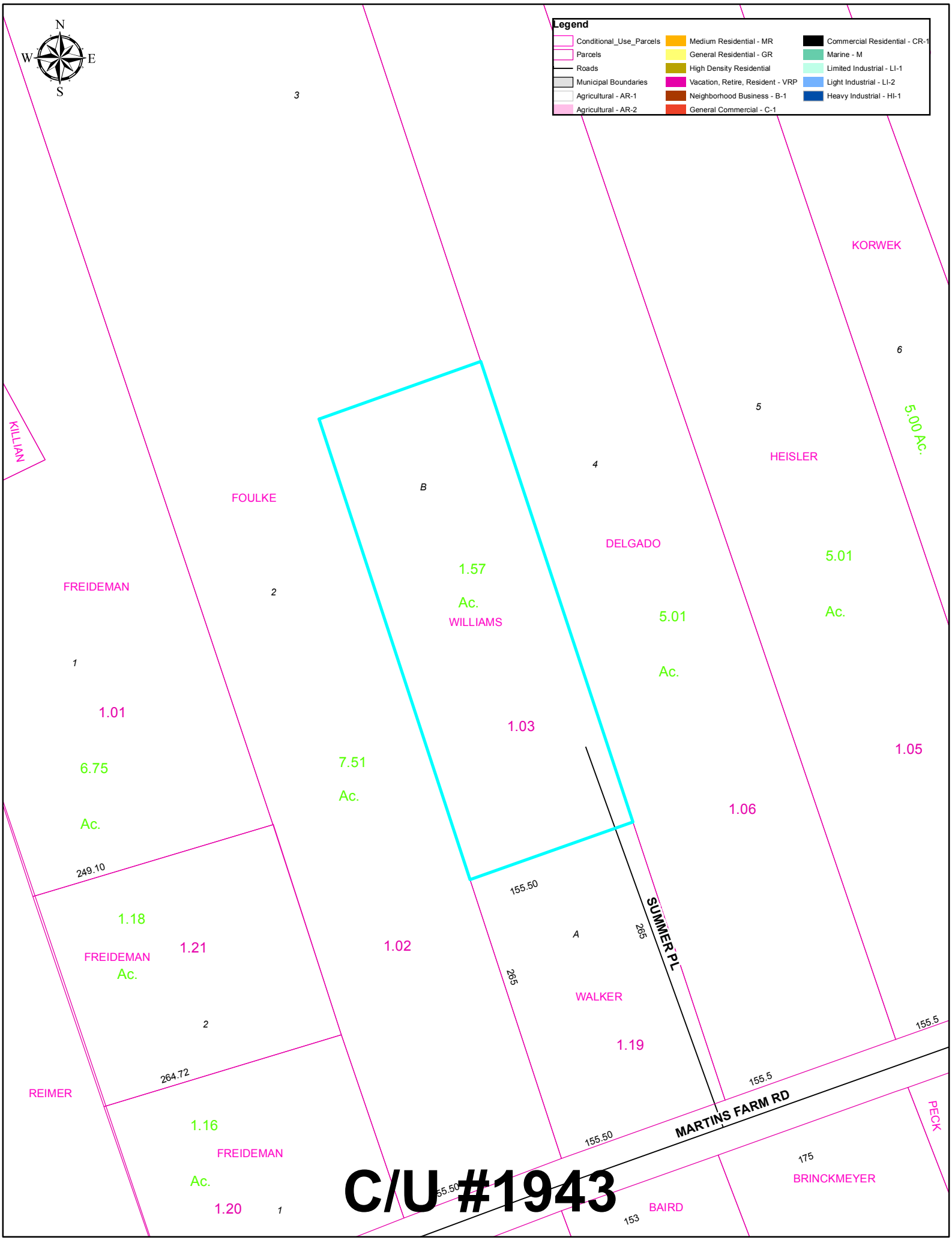
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