

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 23, 2017

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, May 23, 2017, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
George B. Cole	Vice President
Robert B. Arlett	Councilman
Irwin G. Burton III	Councilman
Samuel R. Wilson Jr.	Councilman
Todd F. Lawson	County Administrator
Vince Robertson	Assistant County Attorney

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 235 17
Approve
Agenda**

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

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

Minutes

The minutes of May 16, 2017 were approved by consent.

**Public
Comments**

Public Comments

Karen Merry was in attendance on behalf of the American Legion Post 28 Auxiliary to present memorial poppies to the Council in remembrance of our Veterans. For more than 90 years, the American Legion Auxiliary has distributed the memorial poppy to remind Americans that millions sacrificed their lives and health to keep our nation free.

Paul Reiger commented on a recent Board of Adjustment meeting and matters relating to variances and fencing; he also questioned the Rules of Procedure of the Board.

Dan Kramer suggested changes/improvements to the Council Chambers to make it more handicap accessible.

Challenge to End Veteran Homelessness Rachel Stucker with Housing Alliance Delaware gave a presentation on the Delaware Challenge to End Veteran Homelessness. Also in attendance were Susan Kent, Director of LOVE, Inc., and Brandy Nauman, Sussex County Housing Coordinator & Fair Housing Compliance Officer.

Wastewater Agreement Mr. Lawson presented a Wastewater Agreement for the Council's consideration.

M 236 17 Execute Wastewater Agreement A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, for Sussex County Project No. 81-04, Wastewater Agreement 891-1, that Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and CMF Tidewater Landing LLC for wastewater facilities to be constructed in Tidewater Landing (aka Love Creek Landing) – Phase 1 (Plan Review and Construction Record) located in the West Rehoboth Expansion North Planning Area.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea

Administrator's Report Mr. Lawson read the following information in his Administrator's Report:
1. 2017 Delaware NAHRO Ambassador Award

I am pleased to announce that Brandy Nauman, the County's Housing Coordinator and Fair Housing Compliance Officer, has been selected to receive the 2017 Delaware National Association of Housing & Redevelopment Officials (NAHRO) Ambassador Award for her outstanding work in the housing field.

Brandy has been the driving force behind the County's very successful implementation of the Neighborhood Stabilization Programs, which assisted many of the County's low to moderate income households achieve the dream of home ownership. As the County's Housing Coordinator and Fair Housing Compliance Officer, Brandy has been instrumental in many changes to modernize the County's fair and affordable housing policies.

Brandy serves on the Board of Directors for Delaware NAHRO, Delaware Financial Literacy Institute, Continuum of Care, Community Development Network, the advisory board for Sussex County's Mayor's Challenge to End Veterans Homelessness, the Delaware Interagency Council on Homelessness, and the Sussex Housing work groups.

Brandy has provided outstanding leadership and efforts to assist the residents of Sussex County and the State of Delaware. Her dedication to serve the housing needs of all residents has been a shining example to all.

**Administrator's
Report
(continued)**

Brandy has also been elected as Vice President of the DE NAHRO Board. Congratulations, Brandy!

2. Memorial Day Holiday

Please note, County offices will be closed on Monday, May 29th, to observe the Memorial Day holiday. In addition, Council will not meet on Tuesday, May 30th. The next regularly scheduled Council meeting will be held on Tuesday, June 6th.

**Draft
Ordinance/
Commercial
Zoning
Districts**

Vince Robertson, Assistant County Attorney, and Janelle Cornwell, Director of Planning and Zoning, presented for the Council's consideration a Draft Ordinance relating to the establishment of new commercial zoning districts. A brief overview of the proposed new districts was presented and discussed.

**Introduction
of Proposed
Ordinance/
Commercial
Zoning
Districts**

Mr. Arlett introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES I, X, XIA, XX, XXI, XXIII, XXV AND XXVII BY AMENDING SECTIONS 115-4, 115-5, 115-75, 115-83.10, 115-156, 115-195.4, 115-159.5, 115-161.1, 115-170.1, 115-180, 115-194.1, AND 115-218, AND BY CREATING NEW ARTICLES XA, XB, XIB, XIC, XID, XIE, AND XIF AND ADDING NEW SECTIONS 115-75.1 THROUGH 115-75.13 AND 115-83.11 THROUGH 115-83.46 TO CREATE A NEW "B-2 BUSINESS COMMUNITY" DISTRICT; "B-3 BUSINESS RESEARCH" DISTRICT; "C-2 MEDIUM COMMERCIAL" DISTRICT; "C-3 HEAVY COMMERCIAL" DISTRICT; "C-4, PLANNED COMMERCIAL" DISTRICT; "C-5, SERVICE/LIMITED MANUFACTURING" DISTRICT, AND "I-1, INSTITUTIONAL" DISTRICT; AND TO CLOSE THE CR-1 AND B-1 DISTRICTS".

The Proposed Ordinance will be advertised for Public Hearing.

**Landfills/
Site Main-
tenance
Project/
Change
Order**

Hans Medlarz, County Engineer, presented Change Order No. 1 for Sussex County Landfills Site Maintenance Contract 17-13.

Mr. Medlarz referenced the five year landfill maintenance agreement and the County's recent acquisition of the King Farm property (Sussex County Business Park), and stated that the Engineering Department proposes to including the landscaping maintenance for the Business Park property into a new request to include the dredge site in Seaford and the access trails along Woodland. He noted, however, that there is a stop-gap need that can be filled by a Change Order with the contractor for the landfill maintenance. This one-time Change Order would roll into the landfill maintenance contract; however, in the future, it would become a stand-alone multi-year contract.

**M 237 17
Approve
Change
Order/
Landfills
Site Main-
tenance
Project**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, based on the recommendation of the Engineering Department, that Change Order No. 1 for Contract No. 17-13, Sussex County Landfills Site Maintenance Contract, be approved which increases the contract amount by \$3,600.00 for a new total of \$41,490.00.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**Middle
Creek
Preserve
Expansion/
Angola
Neck Area
of SCUSSD/
Request to
Prepare
and Post
Notices**

John Ashman, Director of Utility Planning, presented a request for permission to prepare and post notices for an expansion of the Sussex County Unified Sanitary Sewer District (Angola Neck Area) for a project known as Middle Creek Preserve (two parcels). The expansion was requested by Solutions IPEM, LLC for their client BDRP, LLC. The project consists of six parcels; the remaining four parcels are already part of the sewer district. The project is proposing 314 single family lots and a pool house. The project will be responsible for System Connection Charges in place at the time of connection. A Public Hearing is tentatively scheduled for June 20, 2017.

Hans Medlarz, County Engineer, clarified that the number of units quoted by Mr. Ashman is for the entire area.

**M 238 17
Authorize
Posting
Notices for
Middle
Creek
Preserve
Expansion
of SCUSSD/
Angola
Neck Area**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, that the Sussex County Council authorizes the Engineering Department to prepare and post notices for the Middle Creek Preserve Expansion of the Sussex County Unified Sanitary Sewer District (Angola Neck Area) to include Parcels 234-11.00-51.00 and 234-12.00-14.00, as presented.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**Grant
Requests**

Andrea Wall, Director of Accounting, presented grant requests for the Council's consideration.

**M 239 17
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$300.00 (\$100.00 each from Mr. Wilson's, Mr. Arlett's and Mr. Cole's Councilmanic Grant Accounts) to the American Legion Post 28 Auxiliary for their poppy fund.

Mr. Cole and Mr. Arlett withdrew their Motions.

M 240 17 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to the American Legion Post 28 Auxiliary for the poppy fund.**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

M 241 17 Councilmanic Grant **A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to give \$1,400.00 from Mr. Vincent's Councilmanic Grant Account to the Seaford Historical Society for the Western Sussex Tourism Project.**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

M 242 17 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$5,000.00 (\$1,250.00 each from Mr. Vincent's, Mr. Cole's, Mr. Arlett's, and Mr. Wilson's Councilmanic Grant Accounts) to the Home of the Brave Foundation for the Capital Campaign.**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

M 243 17 Councilmanic Grant **A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to give \$1,000.00 from Mr. Wilson's Councilmanic Grant Account to the Town of Greenwood for the Police Department's Night Out Against Crime.**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

M 244 17 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$5,000.00 (\$2,500.00 each from Mr. Cole's and Mr. Arlett's Councilmanic Grant Accounts) to the Bethany Beach Volunteer Fire Company for staffing.**

Motion Adopted: 5 Yeas.

**M 244 17
(continued)**

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**Introduction
of Proposed
Zoning
Ordinances**

Mr. Arlett introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MULTI-FAMILY (62 DUPLEX UNITS) STRUCTURE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 13.33 ACRES, MORE OR LESS” (Conditional Use No. 2098) filed on behalf of Fenwick Commons, LLC (Tax I.D. No. 533-19.00-52.00) (911 Address: Not Available).

Mr. Arlett introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE OF CONSTRUCTION EQUIPMENT AND VEHICLES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 6.61 ACRES, MORE OR LESS” (Conditional Use No. 2101) filed on behalf of 1st State Paving (Tax I.D. No. 233-11.00-17.00 (portion of) (911 Address: 31005 Iron Branch Road, Dagsboro).

Mr. Vincent introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND C-1 GENERAL COMMERCIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 4.62 ACRES, MORE OR LESS, OF A 15.94 ACRE PARCEL” (Change of Zone No. 1826) filed on behalf of JKJ Properties, LLC (Tax I.D. No. 131-6.00-11.00 (portion of)) (911 Address: Not Available).

Mr. Arlett introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 13.33 ACRES, MORE OR LESS” (Change of Zone No. 1827) filed on behalf of Fenwick Commons, LLC (Tax I.D. No. 533-19.00-52.00) (911 Address: Not Available).

**Council
Members’
Comments**

Council Members’ Comments

Mr. Arlett commented on his participation at Career Day at Phillip Showell Elementary School, the State of Delaware’s financial decisions to be made, and the County’s collection of school taxes. Mr. Arlett also commented on

**Comments
(continued)**

Memorial Day and graduation ceremonies.

Mr. Cole commented on concerts scheduled at Hudson Fields and asked that this matter be placed on a future agenda.

**M 245 17
Recess**

At 11:22 a.m., a Motion was made by Mr. Arlett, seconded by Mr. Wilson, to recess until 1:30 p.m.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**M 246 17
Reconvene**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to reconvene at 1:33 p.m.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

Rules

Mr. Robertson read the Rules of Procedure for Public Hearings.

**Public
Hearing/
CZ 1818**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.18 ACRES, MORE OR LESS” (Change of Zone No. 1818) filed on behalf of Ocean Highway, LLC (Tax I.D. No. 334-6.00-497.08 (portion of) (911 Address: 34130 Citizens Drive, Lewes).

The Planning and Zoning Commission held a Public Hearing on this application on March 23, 2017 at which time action was deferred. On April 6, 2017, the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated March 23, 2017 and April 6, 2017.)

Janelle Cornwell, Director of Planning and Zoning, presented a summary of the Commission’s Public Hearing and recommendation of approval.

The Council found that Mark Davidson of Pennoni Associates was present with Joe Reed, owner of the property. They explained the purpose of the Change of Zone application, reviewed the location of the site, and referenced the buildings that currently exist on the site and the two businesses currently

**Public
Hearing/
CZ 1818
(continued)**

operating on the site. They stated that there is a small portion of the back of the shopping center that is zoned AR-1 and that it is a small strip of land that is approximately 80 feet wide (approximately 1.1 acres of the existing shopping center) and that are asking that this area be rezoned; that it is currently being used for personal storage; and that the reason for the zoning application is for the expansion of the Quality Roofing facility that currently exists on the site and to keep trucks from having to park on Dartmouth Drive. They stated that no new buildings are proposed; that a renovation of the existing storage building is proposed; that a portion of the building will be removed to allow for driveway access; and that an expansion of the storage yard is proposed. They stated that DelDOT did not require a Traffic Impact Study and that the zoning is in character with the area zonings.

Public comments were heard.

Kevin Mitchell of Quality Roofing spoke in support of the application and referenced deliveries to the site.

There were no public comments in opposition to the application.

The Public Hearing and public record were closed.

**M 247 17
Adopt
Ordinance
No. 2497/
CZ 1818**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt Ordinance No. 2497 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.18 ACRES, MORE OR LESS" (Change of Zone No. 1818) filed on behalf of Ocean Highway, LLC.

Motion Adopted: 5 Years.

Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea

**Public
Hearing/
CU 2072**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (20 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.1 ACRES, MORE OR LESS" (Conditional Use No. 2072) filed on behalf of KHM Ventures DE, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on April 20, 2017 at which time action was deferred. On May 18, 2017, the Commission recommended approval with the following

**Public
Hearing/
CU 2072
(continued)**

conditions:

- A. The maximum number of residential units shall not exceed 20 units.**
- B. All entrance, intersection, roadway and multi-modal improvements required by DeDOT shall be completed by the Applicant in accordance with DeDOT's determination.**
- C. The project will be served by a County Sewer District. It must be constructed in accordance with the requirements of the Sussex County Engineering Department, including any offsite upgrades necessary to provide service to the project.**
- D. The project shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.**
- E. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable state and county requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of the stormwater management system.**
- F. The interior street design shall be in accordance with or exceed Sussex County street design requirements. As proffered by the Applicant, sidewalks shall be installed along both sides of all streets.**
- G. The Applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design, as well as buffers along the upland perimeter of the project.**
- H. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur between the hours of 7:00 a.m. and 6:00 p.m., Monday through Saturday.**
- I. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.**
- J. The Final Site Plan for the development shall be subject to approval of the Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated April 20 and May 18, 2017.)

Janelle Cornwell, Director of Planning and Zoning, read a summary of the Commission's Public Hearing.

The Council found that Jim Fuqua, Attorney, was present with Frank Kea, member of KMH Ventures DE, LLC; Jason Palkiewicz with Solutions IPEM; and Ed Launey with Environmental Resources, Inc. They discussed the proposed use of the property for 20 single family detached residential condominium units; densities of other properties in the area; mixed residential uses in the area and commercial uses in the area; delineated wetlands; stormwater management; negligible traffic impact; layout of the site including streets, parking, buffers, setbacks and a community gathering area; and estimated price range of the condominium units. It was noted

**Public
Hearing/
CU 2072
(continued)**

that DelDOT did not require a Traffic Impact Study.

An Exhibit Booklet was previously submitted by the Applicant and distributed to the Council.

Public comments were heard.

Paul Reiger commented on the GR General Residential District versus the AR-1 Agricultural Residential District.

Fran Haneschlager spoke in opposition to the application and stated his concern about traffic (automobile, pedestrian and bicycle) on Munchy Branch Road, one of the main routes to Wolfe Neck State Park. He also stated concerns about the lack of bike paths and shoulders on the road, and the fact that the property backs up to wetlands. (Mr. Haneschlager submitted his comments in writing into the record including pictures and a map.)

There were no additional public comments.

The Public Hearing and public record were closed.

**M 248 17
Adopt
Ordinance
No. 2498/
CU 2072**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to Adopt Ordinance No. 2498 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (20 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.1 ACRES, MORE OR LESS" (Conditional Use No. 2072) filed on behalf of KHM Ventures DE, LLC, with the following conditions:

- A. The maximum number of residential units shall not exceed 20 units.**
- B. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's determination.**
- C. The project will be served by a County Sewer District. It must be constructed in accordance with the requirements of the Sussex County Engineering Department, including any offsite upgrades necessary to provide service to the project.**
- D. The project shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.**
- E. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable state and county requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of the stormwater management system.**

**M 248 17
Adopt
Ordinance
No. 2498/
CU 2072
(continued)**

- F. The interior street design shall be in accordance with or exceed Sussex County street design requirements. As proffered by the Applicant, sidewalks shall be installed along both sides of all streets.**
- G. The Applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design, as well as buffers along the upland perimeter of the project.**
- H. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur between the hours of 7:00 a.m. and 6:00 p.m., Monday through Saturday.**
- I. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.**
- J. The Final Site Plan for the development shall be subject to approval of the Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CU 2074**

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 COMMERCIAL USE AS A THERAPY AND FITNESS CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 6.113 ACRES, MORE OR LESS” (Conditional Use No. 2074) filed on behalf of Quail Valley 1525, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on April 6, 2017 at which time action was deferred; on May 11, 2017, the Commission recommended that the application be approved with the following conditions:

- a. The project shall be served by a central sewer system in accordance with the Sussex County Engineering Department specifications and in conformity with all DNREC regulations as part of the Sussex County West Rehoboth Expansion of the Dewey Beach Sanitary Sewer System.**
- b. The project shall be served by a publicly regulated central water system providing drinking water and fire protection as required by applicable regulations through Tidewater Utilities, Inc.**
- c. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements including the requirements of the Sussex Conservation District and the Inland Bays Pollution Control Strategy. The Applicant, its successors and assigns, shall operate the stormwater management facilities using Best Management Practices and Best**

**Public
Hearing/
CU 2074
(continued)**

Available Technologies.

- d. All entrances, intersections, roadway improvements, and multi-modal facilities required by DeIDOT shall be completed by the Applicant as required by DeIDOT.**
- e. A landscape buffer of Leyland Cypress or similar vegetation shall be maintained or planted along the boundaries of the property adjacent to any residential properties so that the facility will be screened from view from any residential properties. The landscape buffer must be located on the project site. Final Site Plan shall contain a landscape plan showing the planned vegetation within this buffer area.**
- f. An 8 foot tall fence shall be constructed along the boundaries of the project adjacent to any residential properties.**
- g. The proposed therapy and fitness center shall be set back at least 40 feet from all property lines.**
- h. The number of parking spaces required for this proposed project is clearly excessive and unreasonable. Accordingly, the number of parking spaces required shall be modified and reduced. The proposed project shall have 200 parking spaces. All vehicle parking areas shall be clearly shown on the Final Site Plan and clearly marked on the site itself.**
- i. Any security lighting shall be low-level lighting on a timer and downward screened so that it does not shine onto neighboring properties or roadways.**
- j. Hours of operation shall be between 5:00 a.m. and 9:00 p.m., Monday through Friday and between 5:00 a.m. and 5:00 p.m. (Saturday and Sunday).**
- k. 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 April 6 and May 11, 2017.)

Janelle Cornwell, Director of Planning and Zoning, presented a summary of the Commission's Public Hearing and recommendation of approval.

Ms. Cornwell reported that, since the Public Hearing before the Commission, the Planning and Zoning Department received the following: an additional letter from the Applicant, 9 additional letters in opposition to the application, 5 letters requesting certain conditions of approval, and 8 additional letters in support of the application.

The Council found that Glenn Mandalas, Attorney, was present with Zach Crouch of Davis Bowen & Friedel, Inc., and Rich Garrett and Janet Hohnholt, Principals of Quail Valley 1525, LLC.

Mr. Mandalas presented a revised Exhibit Book and a revised site plan, both received by the Planning and Zoning Department on May 22, 2017.

**Public
Hearing/
CU 2074
(continued)**

Mr. Mandalas and Mr. Crouch described the project known as Gateway Motion and Fitness and provided information for the Conditional Use application including size of the project, buffers and fencing, parking areas, setbacks, stormwater management, hours of operation, surrounding land uses and zonings including 28 Conditional Uses, renderings of the proposed building, site layout, compatibility with the area, Mr. Garrett's and Ms. Hohnholt's ties to the area, estimated number of cars per day, and DelDOT's study and contribution requirements. They stated that the revised plan proposes a 56,626 square foot building which is approximately a 10,000 square foot reduction in size in comparison to the proposal presented to the Planning and Zoning Commission; additionally, the building height has been reduced from 40 feet to 32 1/2 feet, a 20 foot wide thick vegetative buffer from the Village of Five Points and Covey Creek; a 20 foot vegetative buffer from all the residential communities around the parcel; an 8 foot fence around the perimeter (material to be specified); reduction in the parking from 322 to 200 spaces, which would allow them to move the building and parking further away from the property lines thereby providing more pervious space. They also stated that the facility will house Gateway Motion & Fitness and also the Cape Center for Movement Disabilities. Facilities proposed are a gym, wellness center, therapy center to help those with disabilities and especially for people with Parkinson's Disease, a community center, racquetball courts, pool, therapy pool, and functional fitness arena. It was noted that the business is currently known as Midway Fitness Center and that the business has outgrown the facility.

In response to questions raised by Council, Mr. Mandalas referenced the revised Exhibit Booklet and the revised Site Plan. He stated that he would review and compare the two plans; that the new plan meets all the conditions recommended by the Planning and Zoning Commission, with the exception of two. He noted that all the changes are directly related to the conditions recommended by the Commission. He also noted that they did not receive the written conditions until very recently and this is the reason for the delay in submitting the revised Exhibit Book and revised site plan.

Mr. Mandalas stated that the revised plan meets all of the conditions recommended by the Planning and Zoning Commission with the exception of two of them: a 40 foot setback from all property lines and the hours of operation (5:00 a.m. to 9:00 p.m. Monday through Friday and 5:00 a.m. to 5:00 p.m. Saturdays and Sundays).

He stated that they have achieved the 40 foot setback from all property lines except for at the rear of the building, which has a 30 foot setback.

In regard to the hours of operation, to be competitive they would like to operate from 5:00 a.m. to 11:00 p.m. Monday through Friday and 8:00 a.m. to 8:00 p.m. Saturdays and Sundays.

**Public
Hearing/
CU 2074
(continued)**

In conclusion, Mr. Mandalas stated that, since this type of facility is appropriate on this site as long as the Applicant meets the requisite standards and the Code, it should be approved with conditions to address any health, safety and welfare concerns. Mr. Mandalas referenced the application's compliance with the Comprehensive Development Plan and referenced the Planning and Zoning Director's staff analysis.

Public comments were heard.

Beatrix Richards, Carol Wayne and Sue Fegan spoke in support of the application and referenced the quiet nature of the business, the compatibility of the business with the area, and the services provided including classes for people with Parkinson's Disease and other disabilities.

The following people spoke in opposition to the application: Jan Allmaras, Rob Coupe, Carole Kohr, Vance Parker, Barry Segel, Shellace James, Robert Viscount, Mark Angeline, James Walpole, and Michael Elrod. It was noted that Jan Allmaras spoke on behalf of a group of residents from The Villages of Five Points, Covey Creek and the single family homes along Savannah Road. Ms. Allmaras stated that on May 16th she delivered a letter and information to the Council about the group and the group's efforts as well as an Analysis of Consistency with Existing Professional and Medical Office Buildings in the Area, including additional recommended conditions for commercial use to ensure consistency with existing professional and medical office buildings in the area. Ms. Allmaras presented information on the location, size, and height of existing professional and medical buildings in the area and perspectives on the size of the proposed Quail Valley building.

Those in opposition expressed concerns about the inconsistency of the proposed building with the area; the size and scope of the building; the project's proximity to residences; insufficient setbacks; inconsistent hours with medical/professional offices in the area; a premanufactured steel building being out of character with the area; the need for a solid fence; noise; the large traffic burden to an area that already has traffic problems and resulting safety hazards; financial impact to the community including property values; the unsuitability of this location; the proposed conditions not addressing the enormous building proposed; project is out of character with the area; increased traffic affecting Beebe Medical Center, emergency response vehicles, school buses, and the fire department; the lack of room for future growth; and the uncertainty of what the building will look like.

Mr. Walpole referenced the minutes of the Planning and Zoning Commission Public Hearing and stated that "it appears that there are many disputed facts in the Commission's Administrative Record". (Mr. Walpole submitted his letter with attachments into the record.)

The Public Hearing was closed.

(continued) The Council discussed leaving the record open due to the recent submittal of the revised Exhibit Book and revised site plan.

M 249 17 **A Motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action on**
Defer **Conditional Use No. 2074 filed on behalf of Quail Valley 1525, LLC and to**
Action on **leave the public record open for written comments only, until June 20, 2017.**
CU 2074

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
 Mr. Wilson, Yea; Mr. Cole, Yea;
 Mr. Vincent, Yea

M 250 17 **A Motion was made by Mr. Cole, seconded by Mr. Arlett, to adjourn at**
Adjourn **4:55 p.m.**

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
 Mr. Wilson, Yea; Mr. Cole, Yea;
 Mr. Vincent, Yea

Respectfully submitted,

Robin A. Griffith
Clerk of the Council

{An audio recording of this meeting is available on the County's website.}